



**TO:** MICHAEL CURLEY  
TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION

**FROM:** MIKE MCINTYRE

**SUBJECT:** AUGUST MONTHLY LEGISLATIVE UPDATE

**DATE:** AUGUST 25, 2016

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## MONTHLY LEGISLATIVE UPDATE

In August, the House and Senate continued their extended summer recess. Both chambers will return September 6 for several weeks of work before breaking from early October through the November elections. Both chambers will return after Veteran's Day through mid-December for a three-week work period to close out business in the 114<sup>th</sup> Congress.

Due to the shortened work period because of elections, lawmakers have a packed legislative agenda when they return to Washington in September. Although both House and Senate Appropriations Committees have reported all 12 of their respective spending bills, Congress will likely have to pass a stopgap appropriations measure by September 30 in order to stave off a shutdown of the federal government. On September 6, the Senate will resume consideration of the spending bill that includes funding to combat the Zika virus, in addition to the FY 2017 Defense Appropriations bill. Congress will also likely consider the House-Senate conference report for the "Energy Policy Modernization Act of 2016," the House-Senate conference report for the FY 2017 "National Defense Authorization Act, the Trans-Pacific Partnership free trade agreement, and numerous other legislative items.

## STATUS OF REQUESTED AMERICAN LAW DIVISION LEGAL OPINION

We continue to await a response from the American Law Division of the Congressional Research Service on the requested legal opinion on behalf of North Topsail Beach regarding the potential misinterpretation of the statute and corresponding regulations by the U.S. Fish and Wildlife Service as applied to the infrastructure of North Topsail Beach. The letter was sent on June 15, at our request, by Senator Thom Tillis (R-NC), Senator Richard Burr (R-NC) and Congressman Walter Jones (R-NC-3).

We are pleased Joe Nolan, Senior Legislative Assistant for Senator Tillis, is able to attend the August TISPC meeting as planned. Mr. Nolan will provide an update to the Commission at the meeting on the requested American Law Division legal opinion if an update is available.

## HOUSE AND SENATE 2016 WATER RESOURCES DEVELOPMENT ACT BILLS

According to Senate Environment and Public Works Committee (EPW) majority staff, the Senate is expected to begin consideration of its 2016 WRDA bill the week of September 12. EPW majority and

minority staff met for several hours on August 9 to consider member requests to the reportedly hefty manager's amendment package. Majority staff has indicated that the manager's amendment will not impact the Congressional Budget Office (CBO) score but will significantly increase the size of the bill. Staff also said that some parts of the manager's amendment are not controversial, but others are much more controversial and not under the jurisdiction of EPW. The committee expects to finalize the manager's amendment by the second week of September.

Majority staffs from the House Transportation and Infrastructure Committee (T&I) and the Senate EPW Committee, the committees with jurisdiction over WRDA, have met several times in recent weeks to get a jump-start on resolving differences between the House and Senate WRDA bills in preparation for September. The sections of each bill dealing with the Army Corps of Engineers are not significantly different. However, the inclusion of clean water and drinking water provisions in the Senate bill, which are not included in the House version, will continue to be the main focus of pre-conference discussions.

It is still not clear if the House will begin consideration of its WRDA bill in September as well. It is possible that the House WRDA bill will not receive floor time until the lame-duck session in November and December.

#### WATER INFRASTRUCTURE FINANCE AND INNOVATION ACT PROGRAM

In early August, the Environmental Protection Agency (EPA) sent its interim final rule establishing credit assistance guidelines under the Water Infrastructure Finance and Innovation Act (WIFIA) program to the White House Office of Management and Budget (OMB) for review. Such a review normally takes about 90 days. EPA announced earlier this year that the agency would finalize a WIFIA implementation rule by the end of the year, but the rule sent to OMB this month is an interim final rule. An interim final rule is one that is adopted without prior public comment and which is made effective immediately, although federal agencies typically request comments on the rule and will alter the interim rule after the fact if warranted by public comments.

The WIFIA program was authorized by the 2014 Water Resource Reform and Development Act (WRRDA) for the purpose of providing long-term, low-interest federal loans and loan guarantees from the U.S. Treasury for up to 49 percent of the total cost of large water and wastewater infrastructure projects. WIFIA works separately from, but in coordination with, the Drinking Water and Clean Water State Revolving Fund (SRF) programs to provide subsidized financing for large dollar-value projects (greater than \$20 million). Eligible projects include:

- Clean Water SRF eligible projects;
- Drinking Water SRF eligible projects;
- Projects for enhanced energy efficiency at drinking water and wastewater facilities;
- Brackish or seawater desalination project, an aquifer recharge project, or water recycling project;
- Acquisition of property if it is integral to the project or will mitigate the environmental impact of a project;
- Bundled SRF projects submitted under one application by an SRF program; and
- A combination of projects secured by a common security pledge.

EPA staff said they are looking for potential projects to be in-the-que to receive funding under the first WIFIA solicitation, which is expected in 2017, to ensure the first solicitation is efficient and successful. If the Commission would like to discuss projects that may be eligible for WIFIA and would like to know how to best prepare for the first solicitation in 2017, more information can be provided at the Commission's request.