

FLOOD & STORMWATER MANAGEMENT UPDATE

June 17, 2005

House Subcommittee Approves Water Resources Development Act

The House Transportation and Infrastructure Committee's Water Resources and Environment Subcommittee on June 16 approved its version of the Water Resources Development Act of 2005 (WRDA), which authorizes projects and policy for the U.S. Army Corps of Engineers. The bill (H.R. 2864) is now ready for consideration by the full committee, which is expected to happen on Wednesday, June 22, 2005.

H.R. 2864 was introduced on June 13 by rep. Don Young (R-AK), Chairman of the Transportation and Infrastructure Committee; Rep. James Oberstar (D-MN); Rep. John Duncan (R-TN), Chairman of the Water Resources and Environment Subcommittee; and Eddie Bernice Johnson (D-TX); Ranking Water Resources Subcommittee Member.

The bill provides authorizations for 30 projects with new favorable reports from the Corps for flood damage reduction, navigation, hurricane and storm damage reduction and environmental restoration. In addition, 150 environmental restoration studies or projects are either authorized or modified in the bill. Another 217 projects and studies for flood damage reduction, streambank and shoreline protection and hurricane damage reduction are included in the bill as authorizations or modifications to existing projects.

Of special interest to NAFSMA members are also a number of the policy changes that would be provided under Title II's general provisions in the House bill.

Partnership Agreement

Section 2006 of the bill revises the project cooperation agreement to better reflect the partnership that has developed between the Corps and its non-federal partners by changing the name of the agreement to the Partnership Agreement, a change that NAFSMA has been actively seeking since we began work with Corps to revisit what was then the Local Cooperation Agreement back in the early 1990s. The House bill also calls for policies and guidance delegating the signing of the Partnership Agreements to the district engineers to be issued no later than September 30, 2006. The language outlines cases in which the district engineer should have delegation, but also provides the Assistant Secretary of the Army (Civil Works) with the opportunity to notify the appropriate District Engineer within 30 days of authorization of a project that the ASA would like to retain the prerogative to the sign the partnership agreement for this particular project.

Compilation of Applicable Water Resource Laws

Under Section 2008, the Secretary and the Chief of Engineers are directed to compile all of the laws of the United States related to the improvement of rivers and harbors, flood control, beach erosion and other water resources development enacted after November 8, 1966. Copies of this volume of information are required to be transmitted to Congress by December 1, 2006. Bill language also directs that this information be made available to the public through electronic means, including the internet.

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Expedited Actions for Emergency Flood Damage Reduction

Section 2018 of the bill calls for the Secretary to expedite any authorized planning, design and construction of any project for flood damage reduction in an area that within the preceding five years has been subject to flooding that resulted in the loss of life and caused damage of sufficient severity and magnitude to warrant a declaration of a major disaster by the President under the Stafford act.

Independent Peer Reviews

Provisions for independent peer review of controversial projects are included in H.R. 2864 for projects \$50,000,000 and over, as well as other projects that are identified as controversial under Section 2030 of the bill.

Credit for Nonconstruction Services

Section 2022 of the bill also provides the non-federal sponsor credit towards its share of project costs for the cost of materials and in-kind services, including design and management services, but not including construction, provided by the non-federal sponsor to carry out the project.

H.R. 2864 is currently available on Thomas as introduced for subcommittee markup this week. The national office also has an electronic version of the managers amendment adopted by the Water Resources panel during markup. Please contact Susan Gilson as sgilson@carmengroup.com if you're interested in obtaining a copy.

NAFSMA members will be updated on new WRDA details as they develop.

S. 728, the Senate version of WRDA that was reported by the Environment and Public Works Committee in April is still awaiting floor consideration.

Appropriations - Overview

The appropriations process continues to make good progress as the House Appropriations Committee is on track to approve all of their spending bills by the Independence Day recess, with the full committee this week approving the Labor-HHS-Education and Legislative Branch bills as well as subcommittee approval of the Transportation-Treasury-HUD-Judiciary-District of Columbia. The Senate Committee has gotten off to a quick start, approving its version of the Interior spending bill last week and this week approving Energy and Water and Homeland Security appropriations. The Senate Committee has all but four spending bills scheduled for markup in June with the others to see action in July.

Energy and Water (Funds U.S. Army Corps of Engineers and Bureau of Reclamation)

The Senate Appropriations Committee approved their version of the Energy and Water funding measure this week by unanimous consent. The bill provides a total of \$31.245 billion for agencies under its jurisdiction for Fiscal Year 2006 which exceeds both the President's recommendation and the House total by \$1.49 billion.

The Senate bill funds the Army Corps of Engineers at a level of \$5.92 billion, a \$1.2 billion increase from the House-approved level of \$4.7 billion. The bill also exceeds the President's recommendation. The Senate version provides greater flexibility to the Corps to transfer funding from one project to another than its House counterpart, which includes language limiting the Corps' ability to "reprogram" funds.

The bill also makes available \$1.08 billion for the Bureau of Reclamation, a number \$977 million above the House funding level and \$130 million over the President's request. The Senate price tag also exceeds current funding by \$63.5 million. The Water 2025 program is funded at its current year level of \$ 20 million and the CalFed initiative is funded at \$35 million, the level of the President's budget request.

It is not known when the full Senate will consider the measure as that chamber's debate of the energy bill is expected to continue next week.

The House passed its version of the Energy and Water funding bill (H.R. 2419 and H. Rept. 109-86) on May 24, as reported in the May 27 weekly report.

Homeland Security (Includes funding for FEMA)

The House approved its version of the Homeland Security Appropriations bill for the fiscal year that begins this October 1 on May 17 (HR 2360 and H. Rept. 109-79). Included in the House-passed version is \$200 million in funding for FEMA's Flood Map Modernization Program, the same level as provided for the program last year. It is also important to note that the House included the following language addressing the issue that some maps will be merely be converted to a digital format, rather than updated. *The Committee understands that this 5-year, \$1,000,000,000 program will not update all flood maps; some maps will merely be converted to a digital format. The Committee is concerned that this program was originally portrayed as a means to update all of the Nation's flood maps. Because this is not the case, the Committee directs EP&R to provide a report, no later than January 16, 2006, on the percentage of maps that will be updated, not merely transferred to a digital format, and the percentage of population that the updated maps cover.*

The Senate Appropriations Committee approved its version of the Homeland Security spending bill this week. The bill recommends \$30.8 billion in discretionary spending as outlined by full committee Chairman Thad Cochran (R-MS). The discretionary level is a \$1.2 billion increase over the President's discretionary spending request and \$1.4 billion over the fiscal 2005 enacted level, excluding emergency supplemental funding and advance appropriations for Project BioShield.

It is expected that the Senate reported bill will include \$200 million for FEMA's map modernization program, but we will confirm the number for NAFSMA members once the report is available.

NAFSMA Reviews Corps Owner's Manual for Levees, Floodwalls & Other Flood Control Works

NAFSMA will be holding a conference call on **Monday, June 20 at 10 a.m. Eastern** to discuss the Corps draft manual for levees, floodwalls and other flood control works. The manual is intended to cover general maintenance concerns, flood preparedness, flood fighting operations on levees, details of the Corps' repair and inspection program and other USACE emergency authorities under PL 84-89.

If you would like to join Monday's discussion, please dial in on 866-393-8073 to discuss the draft manuals. The meeting # is *6467322*.

Please contact Susan Gilson via e-mail at sgilson@carmengroup.com if you would like more details concerning the call.