

FLOOD & STORMWATER MANAGEMENT UPDATE

May 23, 2006

House to Consider Energy and Water Appropriations Bill

The House of Representatives is expected to take up the FY 2007 Energy and Water Appropriations bill (H.R. 5427) beginning May 24 or 25, with the goal of having the bill approved before the impending Memorial Day Recess set to begin on Friday, May 26. The bill provides funding for the U.S. Army Corps of Engineers and the Bureau of Reclamation projects and activities.

The funding bill was reported out of the full House Appropriations Committee on May 17 (H. Rept. 109-474). Under the pending House legislation, the Corps of Engineers would receive \$345 million less than the current fiscal year's enacted level, after adjustment for emergency supplemental spending, and the Bureau of Reclamation would receive \$114 million less in funding than its current fiscal year enacted level. Included in the bill is \$6 million in funding to assess existing and future flood risks in the California Bay-Delta area near Sacramento as well as a number of policy provisions.

Among the policy directives included in the FY 07 bill are provisions to clarify restrictions on the Corps use of reprogramming to move funds between the agency's programs and projects (an action that follows up on provisions in the FY06 Appropriations bill) and language addressing the Corps continuing contract authority.

In the Senate, Energy and Water Appropriations Subcommittee staffers are currently working on that chamber's draft version of the bill, with subcommittee consideration expected to begin in June.

EPA FY07 Funding Bill Approved By House

In other House action, the bill providing funds for the U.S. Environmental Protection Agency (EPA) and Department of Interior programs for the upcoming fiscal year that will begin October 1, 2006, was approved May 18 by a vote of 293-128 (H.R. 5386). The Interior and Environment Appropriations bill was reported by the full Appropriations Committee on May 11 (H. Rept. 109-465).

As approved by the House, the Interior spending bill comes in well under the enacted level for the current fiscal year, with U.S. EPA and the Department of Interior both facing substantial cuts in funding from this year's levels. The Department of Interior's funding level under this legislation would come in at \$211 million below this year's appropriation and EPA's funds would fall short of this year's funding levels by \$55 million. In addition, funding for EPA's State, Tribal Assistance Grant program, one of the few grant programs available from the agency to fund state and local water quality activities and projects, was slashed substantially in the House-approved bill, coming in at \$207 million below last year's enacted levels.

Comment Period on Proposed Wetlands Compensatory Mitigation Rule Extended 30 Days

EPA and the Army Corps of Engineers announced in today's Federal Register that the comment period on the March 28, 2006, proposed rulemaking on wetlands compensatory mitigation would be extended for 30 days. Comments are now due to the agencies by June 30, 2006.

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For more information on the March 28 proposed rulemaking, please contact David Olson at 202-761-4922 or email at david.b.olson@usace.army.mil, or Mr. Palmer Hough at mitigationrule@epa.gov. Information can also be found at EPA's compensatory mitigation Web page at www.epa.gov/wetlandsmitigation.

NAFSMA will be submitting comments on the proposed rulemaking on behalf of the membership.

Proposed Wetlands Rule to be Subject of NAFSMA Flood Management Committee Conference Call

NAFSMA has scheduled a conference call to discuss the compensatory mitigation proposed rulemaking with U.S. Army Corps of Engineers Regulatory Chief, Mark Sudol, for Friday, June 2, 2006, at 11 a.m. Eastern Standard Time. This will be the first quarterly call of the Flood Management Committee. All interested NAFSMA members are urged to participate in this important discussion. Additional key matters, including the pending Water Resources Development Act, Energy and Water Development Appropriations, levee inventory legislation and reauthorization of the Dam Safety Program, will be discussed on the June 2 call. **To call in, please dial 1-866-393-8073. The meeting number is *6467322*.**

Please send suggestions of topics that you would like to see addressed in the call to Executive Director Susan Gilson at sgilson@carmengroup.com.

This Flood Management Committee conference call follows an informative and timely call held by the Stormwater Management Committee on April 25, 2006. At that time a number of critical issues were discussed including a recent DC Court of Appeals decision on monitoring for Total Maximum Daily Loads and the anticipated release of the Stormwater General Permit for Phase II Municipalities in Texas. Another Stormwater Management Conference call is expected to be announced in the near future.

NAFSMA Participates in Corps of Engineers National Planning Conference

NAFSMA had the unique opportunity on May 9-11, 2006, to participate in the Corps National Planning Conference in San Francisco. This unique and timely conference, which included more than 200 headquarters, district, and division representatives of the Corps from throughout the country provided a tremendous opportunity for NAFSMA to share the association's perspectives on key non-federal sponsor policy issues with the Corps. As the immediate past president of NAFSMA, Pete Rabbon made a presentation on the association's behalf. Executive Director, Susan Gilson, also participated in the meeting.

NAFSMA greatly appreciates this invitation and looks forward to continued discussions with the Corps on the key issues addressed at the meeting titled "Collaboration for Integrated Water Resources Management."

EPA Outlines Qualifying Local Programs Provisions for Construction Site Stormwater Runoff

Staff in EPA's Office of Wastewater Management recently shared a letter signed by the agency's Assistant Administrator Ben Grumbles (attached) and sent to each of the state water directors and EPA Regional Administrators that allows for streamlining of requirements for construction site stormwater runoff. According to the letter and attached documents, a strong municipal program for construction site stormwater site runoff, that meets the same basic provisions as the state program, can be recognized in the state's Construction General Permit. These municipal programs become the primary regulatory authority for construction site operators in that area and thereby eliminate duplication of efforts in the program.

EPA has requested NAFSMA to share the information with our membership. Please let us know if you have comments or questions on the attached documents by sending them to sgilson@carmengroup.com.

WRDA Still Awaits Senate Action

Senate action on the pending Water Resources Development Act (S. 728), which was reported by the Senate Environment and Public Works Committee last spring, may finally see floor consideration in early June following the impending Memorial Day Recess. We will keep NAFSMA members apprised of any new developments on this key legislation that authorizes the projects and activities of the Corps of Engineers. The House approved its version of the bill last fall, which means that the bill would go to a conference committee following Senate approval of the legislation. Please contact Susan Gilson at sgilson@carmengroup.com with questions on the pending Senate bill.