Senate EPW Committee Advances 2020 WRDA Bill

Convening for the first time since returning to Washington after nearly six weeks, on May 6 the U.S. Senate Environment and Public Works (EPW) Committee unanimously passed a pair of water resources bills, advancing the measures for consideration by the full Senate. The committee, led by Chairman John Barrasso (R-Wyo.) and Ranking Member Tom Carper (D-Del.), voted 21-0 in favor of the America’s Water Infrastructure Act of 2020 (S. 3591/AWIA 2020), the committee’s 2020 version of a Water Resources Development Act (WRDA). Concurrently, the committee also passed the Drinking Water Infrastructure Act of 2020 (S. 3590) as amended.

Sen. Barrasso said the bills are “critical to our economic recovery after the immediate pandemic response is behind us.” Sen. Carper noted the widespread bipartisan support, as well as the more than 150 letters of support from industry stakeholders, including one from NWC.

As part of the mark-up, the committee agreed to the Barrasso-Carper substitute, which does not differ significantly from the original text unveiled in April. Instead, the amended text makes technical corrections, expands consultation provisions and includes an updated Chief’s Report. There were a few new provisions added, notably, Sec. 1106, entitled Backlog Prevention, which would deauthorize projects after ten years of receiving no federal funds or modifications. Recent WRDAs have included similar provisions, useful in the bill’s scoring. In addition, in the text covering drinking water, Sec. 2014 would amend the Water Infrastructure Finance and Innovation Act (WIFIA) provisions included in the Water Resources Reform and Development Act (WRRDA 14) relating to scoring and local issuance of bonds, for purposes of budgetary treatment under the Federal Credit Reform Act of 1990. This provision may be helpful to the Corps as it continues to develop its WIFIA program.

Provisions of Interest in AWIA 2020

• Includes studies and reports:
  - The bill includes provisions for Upper and Lower Missouri River and Great Lakes comprehensive

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Message from NWC about Coronavirus (COVID-19)/ Status of NWC’s 60th Annual Meeting

NWC is committed to ensuring the health and safety of its members and staff. Given efforts to control the virus in the D.C. metro area, all NWC staff is teleworking. As always, staff remains reachable by normal methods (email, phone, etc.) and is working to continue normal operations. The association has put a hold on travel, as well as in-person meetings, for the near future.

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flood protection studies and authorizes further studies under the auspices of the North Atlantic Coast comprehensive study. Additionally, the bill requires the agency to give annual reports to Congress on outstanding authorized projects that have not been funded (Sec. 1013).

Under Sec. 1013, non-federal interests would submit those studies and projects that have been authorized but not appropriated to the Corps, who would then compile the report. The following section, Sec. 1014, allows the Secretary to look at regional and local benefits, in addition to national benefits, as a potential way to navigate around the Corps' and the White House's Office of Management and Budget's Benefit Cost Ratio policy.

Other sections encourage the Corps to finish reports (i.e. Corps flood policy within urban areas), require the Corps to report on its projects that are over budget and behind schedule, study the barriers to infrastructure development at U.S. ports, look at data for water allocation, supply and demand, and assess federally-owned reservoirs for “divestment, breaching or removal.”

- Requires the Corps to consult with non-federal sponsors and stakeholders: There are numerous sections of the bill that require the agency to consult with Congress, non-federal interests and stakeholders for studies, projects and contracts such as Sec. 1013. Another example is in Sec. 1028 on Coastal Storm Damage Reduction Contracts (CSDR), the Secretary is instructed to seek input from the community (or communities) where the project is located. Under Sec. 1047 on Levee Safety, it requires the Corps to identify specific engineering and maintenance deficiencies in the levee system, as well as the costs to fix and convey this information to non-federal interests, who have opportunity to comment on the findings.

- Aims to cut red tape: AWIA 2020 sets an ambitious two-year goal for the Corps to finish feasibility studies, reducing the agency’s current three-year goal, included in its 3x3x3 initiative that was codified in WRRDA 14.

NWC Weighs in on AWIA 2020

Prior to the markup, NWC sent a letter that asked the committee to consider strengthening and/or clarifying the Corps consulting requirements on guidance, 

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2020 NWC Legislative Summit Highlights the Importance of Water Resource Infrastructure

NWC’s Legislative Summit, held March 9–11 in Washington, D.C., opened with a keynote address from Sen. Tom Carper (D-Del.), ranking member of the Senate Environment and Public Works Committee. Carper talked broadly about water resource issues such as the Water Resources Development Act (WRDA) that Congress hopes to act on this year. He also outlined some of his priorities for inclusion in WRDA including reforming the process by which the U.S. Army Corps of Engineers (USACE/Corps) calculates costs and benefits for water resource projects.

Carper was followed by Rep. Salud Carbajal (D-Calif.), a previous Santa Barbara County, Calif. county supervisor. As vice chair of the House of Representatives Transportation and Infrastructure Committee (T&I), Carbajal stressed his commitment to work across party lines to address water infrastructure needs. He talked about the impact of the 2017 Thomas Fire in Santa Barbara County. After a heavy rainstorm hit the fire-ravaged area in January 2018, 23 people died and over 160 were injured as a result of a devasting mudslide in the area. Through his work on the T&I Committee, he wants to highlight the threat of extreme weather events as well as future investment needs in water infrastructure.

Ryan Fisher, principal deputy assistant secretary of the army (Civil Works) kicked off Day Two of the Summit. He discussed some high-level work that the Corps is doing with other federal agencies on water-related issues including the Environmental Protection Agency, and the departments of Agriculture, Interior, Energy, and Commerce. Called the “Water Subcabinet,” the agencies have been meeting regularly to discuss water quality and quantity issues and how to best coordinate activities and challenges early. For example, through the Water Subcabinet, the Corps has been working with the Bureau of Reclamation on dumping versus holding water respectively in the arid West.

Fisher also talked about how the Corps is looking to delegate more authority to district commanders to give them the ability to respond quickly to local issues. Additionally, Fisher mentioned that the Corps is working to improve its Continuing Authorities Program (CAP) to determine how the districts can partner more efficiently with communities for smaller projects within the $10 million–$15 million range. The Corps is currently assessing whether smaller CAP projects need headquarters reviews or whether they can be approved solely by the district offices. Fisher briefly touched on the “Waters of the U.S.” rule before moving to the ongoing mitigation bank rulemaking efforts. Finally, the agency continues to work on how to fund the inland waterways system. There will potentially be a listening session this summer as part of regional stakeholder meetings.

Al Lee, the new director of civil works at USACE kicked off the panel, “Be in the Know: Updates from the Corps.” Prior to his appointment in
Waters of the U.S. Rule Effective June 22: Lawsuits Anticipated

On April 22, the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers' (Corps) final “Navigable Waters Protection Rule,” to revise the definition of “Waters of the U.S.” (WOTUS) within the Clean Water Act (CWA), was published in the Federal Register. The rule will take effect on June 22, 2020, 60 days after its publication.

The term “Waters of the U.S.” has been around since the 1890s but in 1972 was added to the CWA to differentiate which waters fall under federal versus solely state permitting authority. However, due to several Supreme Court decisions, the definition has become murky, leading to confusion in the field about the scope of federal authority.

In 2015, the Obama administration came out with a controversial new WOTUS definition that was immediately challenged in the courts. As a result, late last year almost half of the county was under the 2015 WOTUS rule and the other half under the pre-2015 rule.

Under the final definition, four categories of waters are federally regulated:

- Territorial seas and traditional navigable waters;
- Certain lakes, ponds and impoundments; and
- Wetlands adjacent to jurisdictional waters.
- Tributaries are jurisdictional if they are perennial (run year-round) or are intermittent (run consistently at certain times of the year and contribute surface flow to a traditional navigable water (i.e. river) in a typical year. A typical year is based on a 30-year rolling average of weather conditions.

The 340-page rule also includes 12 categories of exclusions, i.e.

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Water Supply Rule Is Officially Withdrawn

During the NWC Legislative Summit, NWC members met with U.S. Army Corps of Engineers (Corps) staff, senior policy advisor Amy Frantz and senior counsel member Aaron Hostyk, to discuss the Corps intended withdrawal of the Water Supply Rule, which was originally proposed in 2016 to clarify the agency’s stance on reservoirs.

Frantz gave an overview of the Corps engagement with stakeholders to date and indicated the Corps heard loud and clear the challenges to implement a national rule. Some of the issues raised by stakeholders included differences in state laws; inconsistent pricing methodologies; return flows challenges; and regional differences in water management.

According to Frantz and Hostyk, the Corps is assessing next steps. Instead of doing a one-size-fits-all rule, the Corps may instead move forward with smaller, non-controversial pieces of the rule, in conjunction with interested stakeholders.

The "Use of the U.S. Army Corps of Engineers Reservoir Projects for Domestic, Municipal & Industrial Water Supply" (known as the Water Supply Rule), was officially withdrawn on March 24. To see the Federal Register notice, click here. To read the U.S. Army’s original notice of the withdrawal, click here. •
Corps Releases Guidance on Levee Safety
Comment Period Extended Until July 27

The U.S. Army Corps of Engineers (Corps) released a draft guidance on the agency’s Levee Safety Program, Feb. 25. The public comment period was previously scheduled to close on April 27, however, due to ongoing concerns related to COVID-19, the comment period has been extended to July 27.

The Levee Safety Program, Engineer Circular (EC) 1165-2-218 is intended to clearly lay out the roles of both the nonfederal sponsor and the Corps in the protection of levee safety. Of most interest to NWC are proposed policy revisions for levee inspection protocol and considerations on how to better incorporate risk threats into levee safety.

Unlike other ECs that are intended to be used for internal communications, this EC focuses on both internal and external communications for levee safety. Laid out in four volumes, the document covers 1) Introduction to Levee Safety; 2) Sponsor’s Role in Levee Safety; 3) Corps Role in Levee Safety; and 4) How Other Organizations Use the Corps Levee Safety Information. The guidance would be valid for two years after which the agency plans to issue permanent guidance based on lessons learned and stakeholder input.

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President’s Corner
Julie A. Ufner, President, National Waterways Conference

“Toto, I’ve got a feeling we’re not in Kansas anymore.” —Wizard of Oz

For those of you who do not know me, I started as NWC president last November. Hitting the ground running, on days two and three, Amy Larson (the previous NWC president), Carole Wright (NWC director of operations), and I were in Houston for a 2020 annual meeting site visit. On day 10, I was testifying on NWC’s behalf before the U.S. House of Representatives Transportation and Infrastructure Committee’s Water Resources and Environment Subcommittee on how resiliency should be incorporated in the next Water Resources Development Act (WRDA) package. From there, it was a host of Hill and agency meetings, as well as member-related travel.

The beginning of 2020 started much of the same, with me jumping from conference to conference as well as NWC member-related travel, and ending with NWC’s successful Legislative Summit in March. Then, COVID-19 hit, which changed the world as we know it. Handshakes, travel, and face-to-face meetings are gone but work still must get done, both at NWC and elsewhere, and we are working to navigate the new normal.

Congress is also facing a new reality. In January, Congress moved into the second half of the 116th Congress. Historically, the second half is always fast and furious since it is an election year and members have a limited amount of time to get bills done before they must hit the campaign trail. By Sept. 30, Congress must act on FY 2021 appropriations, as well as on surface transportation authorization (FAST Act), National Defense Authorization and the National Flood Insurance Program, as well as other authorizations and reauthorizations. But, COVID-19 has complicated the timeline.

Both the House and Senate are still figuring out how to move forward in a COVID-19 world. In early May, the Senate returned, as did the House the following week. While there is disagreement between the House and Senate on whether a fifth coronavirus-related stimulus package is needed, both chambers continue to move full steam ahead on WRDA (see “WRDA bill” on p. 1).

As Congress and the rest of the country, NWC is moving forward. As of right now, we plan to hold our 60th Anniversary Annual Meeting in Houston, Texas, Sept. 23–25. Registration will open in July. There is a lot of uncertainty with COVID-19. If we need to cancel, we will let you know as soon as we can.

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Visit us at waterways.org. Have a story idea for the next newsletter? We want to hear from you at info@waterways.org.
About the National Waterways Conference

The National Waterways Conference (NWC) is the only national organization that represents a full spectrum of water resource stakeholders, including navigation, inland and deep draft ports and waterways, flood control agencies, levee boards, waterways shippers and carriers, industry and regional associations, shipyards, dredging contractors, regional water supply districts, hydropower producers, engineering consultants, state and local governments and more.

Many of our members are non-federal sponsors of U.S. Army Corps of Engineers civil works studies and projects, as well as provide ongoing financial commitments for the construction and maintenance of this infrastructure.

Our members work diligently and collaboratively with our federal partners and each other to ensure the nation can reap the multiple benefits provided by these investments.

For over 60 years, NWC has proudly represented its members before the administration, federal agencies and Congress on water resource issues. For more information about NWC membership, click here.

Thank You to the Sponsors of NWC's 2020 Legislative Summit for a Successful Meeting!

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Port of Memphis  
Red River Waterway Commission  
Tarrant Regional Water District  
Trinity River Authority of Texas

“UPDATE ON LEVEE SAFETY GUIDANCE” FROM PAGE 5

During the original 60-day public comment period, the Corps had planned five listening sessions nationally. However, these sessions have been postponed indefinitely.

For any updates throughout the public comment period, refer to the Corps Levee Safety Program website at: https://www.usace.army.mil/Missions/Civil-Works/Levee-Safety-Program.

A subgroup within NWC’s Legislative Policy Committee (LPC) will be reviewing the EC and writing comments on behalf of NWC. The LPC is charged with vetting and determining consensus-based positions for NWC.

If you are interested in serving on LPC, please contact Julie Ufner, NWC president.

Visit us at waterways.org. Have a story idea for the next newsletter? We want to hear from you at info@waterways.org.
January, Lee had served in numerous Corps offices from the Transatlantic, South Atlantic, and Mississippi Valley divisions, among others. He said there will be numerous staff changes at the agency over the next several months, the largest being Gen. Todd Semonite, the current Corps Chief, who was originally scheduled to leave May 19 (refer to story on p. 13).

Additionally, seven of the Corps nine district commanders are changing this summer. Lee said the agency continues to focus on its “Revolutionize” efforts to deliver better products and services, and accelerate project delivery. Finally, the Corps is looking at its lessons learned from its emergency supplemental work. The agency wants to highlight the “pockets of excellence” in the district offices and share those examples across Corps offices.

Eddie Belk, the previous Corps chief of the program integration division, reviewed funding trends under current and past administrations and Congress. The agency is an infrastructure-heavy organization, and Congress is funding infrastructure through investments in annual appropriations and supplemental packages.

Stacey Brown, Corps planning and policy chief, mentioned that even though this was her first time addressing NWC members, she is not new to the agency and saw a lot of familiar faces in the audience. Brown’s current focus, she said, is on implementation of previous WRDAs and working on potential new WRDA packages.

In the last two years, her department has completed 237 pieces of guidance for previous WRDA legislation and helped to draft 220 proposals for upcoming WRDA measures on Capitol Hill. Concurrently, the Corps is working to complete as many feasibility reports as possible before new WRDA legislation moves in Congress.

Phoebe Percell talked about the latest on levee safety and Section 408 permissions as the chief of the dam and levee safety branch. One of her top priorities is the draft Levee Safety Engineering Circular (EC), which is open to public comment now. Originally, the Corps was scheduled to have five public hearings across the country in March and April on the EC. However, due to COVID-19, those hearings have been postponed until June at the earliest. For more information on EC please see "Levee Safety" on p. 5. On Section 408, the Corps is looking at how to legally implement categorical permissions agency-wide, which are already being used in some district offices.

Richard Balzano, deputy administrator of the Maritime Administration (MARAD) at the U.S. Department of Transportation, highlighted the role that MARAD plays in keeping the American maritime industry strong. MARAD works to promote the benefits of waterborne transportation and ensures that waterways infrastructure connects with other forms of transportation.

Balzano went on to say that a key priority for MARAD is the Marine Highways Program, which underlines the importance of connecting landside to multimodal options. He announced that $225 million in grant...
NWC’s WRDA 101 Briefing Was a Success!

On Friday, January 31, NWC hosted a packed “WRDA 101” briefing for U.S. House of Representatives (House) staff, in partnership with the House Transportation and Infrastructure Committee. Speaking to a packed house, our expert panel gave their insights about the mission of the U.S. Army Corps of Engineers (Corps), how the Corps studies water resources projects and the process by which Congress authorizes Corps projects and provides policy direction.

David Wethington, chief of the future directions branch of the Corps, gave a comprehensive overview of the Corps processes and stressed that the first step of addressing every local problem starts with a discussion at the local Corps office. He further explained to participants that getting the project or study authorized is only the first step of the process; the project will need to receive funding through the federal appropriations process.

Geoff Bowman, vice president of Van Scoyoc Associates, stressed the invaluable experience he gained as the staff director for the House Transportation and Infrastructure Committee’s Water Resources and Environment Subcommittee. Bowman clarified how both the agency and Congress determine which projects get funded. Furthermore, he stressed that traditionally the Water Resources Development Act (WRDA) is a bipartisan bill.

That means that both the majority and minority work hand in hand to write the bill. His advice to the staffers: engage the committee early on your priorities so the committee can include those issues in WRDA, or if more appropriate, assist in resolving those issues with the Corps.

Jason Albritton, director of U.S. climate and energy policy at The Nature Conservancy, also brought a unique perspective to the table. Previously, Albritton served as the senior policy advisor for the U.S. Senate Committee on Environment and Public Works (EPW). He explained how the Senate works a little differently by getting feedback from all of their members early on. While the committee worked to include all the provisions they could, not all requests could be honored. Sometimes, requests from individual senators were not within the Corps mission area, the requests were earmarks and did not comply with the process, the proposed policy already existed, or the request was against existing policy. Albritton’s message to staffers: be flexible. There is a desire to get everyone behind the bill to develop a bipartisan consensus.

Both the Senate and the House are planning to move separate WRDA packages this summer.
Supreme Court Sets New Test on Groundwater Discharges to Navigable Waters

On April 23, the U.S. Supreme Court released a decision in a long-awaited case, County of Maui, Hawaii v. Hawaii Wildlife Fund, on whether a pollutant that travels through groundwater to a “water of the U.S.” requires a federal permit. In a 6-3 decision, the justices said that a permit is required “when there is a direct discharge from a point source into navigable waters or when there is a functional equivalent of a direct discharge.” This decision may be relevant for water supply operators, wastewater treatment, flood control, and stormwater management agencies that own and manage water storage and treatment infrastructure.

The case in question involves Maui County, Hawaii’s practice of injecting millions of gallons of treated sewage wastewater into four underground wells. The county has been using this process since the mid-1970s and previously had not been required to obtain a Clean Water Act (CWA) permit. However, Hawaii Wildlife Fund challenged this approach, arguing the county should be required to obtain a CWA National Pollution Discharge Elimination System (NPDES) permit since partially treated wastewater eventually discharges into the Pacific Ocean through a groundwater conduit.

The court agreed, with the caveat that “time and distance” are equally important. The example used in the decision stated that when a “pipe emits pollutants that travel a few feet through groundwater…” a NPDES permit is clearly required. However, the decision also states, if a “pipe ends 50 miles from navigable waters…” and pollutants “travel with groundwater” to “navigable waters…many years later,” a NPDES permit is likely not required.

County of Maui, Hawaii v. Hawaii Wildlife Fund has been remanded back to the 9th Circuit Court. The court is instructed to use the new test to determine liability.

To read the Supreme Court’s decision click here.


"WATERS OF THE U.S." FROM PAGE 4

those waters not considered WOTUS, including ephemeral features, groundwater, certain ditches, prior converted cropland, and waste treatment systems.

This rule is part of the two-step process that the Trump administration made to withdrawal and rewrite the 2015 WOTUS rule. Step one—to withdrawal the 2015 rule and recodify the 1986 WOTUS regulations—became effective on December 23, 2019. The Navigable Waters Protection Rule, once finalized, will replace the December 2019 WOTUS definition.

As with the 2015 rule, there are legal challenges. To date, numerous environmental groups (Natural Resources Defense Council, Conservation Law Foundation, National Wildlife Federation, American Rivers and et. al.), as well as 18 states and two cities (City of New York and the District of Columbia), have filed suits against the rule in at least three district courts, potentially leading to split district and appeals court decisions. As a result, it is likely that the U.S. Supreme Court will have to weigh in sooner rather than later on the fate of the 2020 WOTUS rule.
In Loving Memory of Lew Meibergen, One of Our Inland River Industry Leaders

Tribute by Dede Smith, deputy director, Inland Rivers, Ports and Terminals, Inc.

Lew Meibergen, age 88, former chairman of the board and president of Johnston Enterprises, died April 16, at home in Enid, Oklahoma. Johnston Enterprises was founded by his grandfather, W.B. Johnston, after the Cherokee Strip Land Run in 1893. Under Lew’s leadership, W. B. Johnston Grain Company (WBJ), now Johnston Enterprises, became the largest independent grain company in the State of Oklahoma.

In 1983, after railroad rate structures made getting wheat to market difficult, Lew drew up a contract on a napkin, while sitting at a table in the OSU Student Union, with majority owner, Veldo Brewer, to purchase a port facility on the McClellan-Kerr Arkansas River Navigation System (MKARNS) off of what was then Old State Highway 33.

This gave wheat farmers the means to economically ship wheat and other grains to overseas markets and subsequently bring fertilizer upriver at a largely reduced rate. Lew’s insight resolved the shipping issues with the railroad, and his vision had ultimately increased the farmers’ net profits in the Four-State Area, and as far north as the Canadian border for years. Decades later, Johnston’s Port 33 became the largest bulk handling port in the state.

In 1960, Gov. Henry Bellmon appointed Lew to serve as the Oklahoma commissioner of agriculture. “Mr. Lew,” as those who knew him affectionately called him, served four years as the director of the National Grain and Feed Association; served as a commissioner of the Kansas-Oklahoma-Arkansas River Association; was inducted into the Oklahoma Agriculture Hall of Fame in 2010; inducted into the OSU Alumni Association Hall of Fame in 2011; received the Citizen of the Year by the Greater Enid Chamber in 2020; served on the State Chamber and Cherokee Strip Regional Heritage Center boards; was a member of the Board of Directors for the National Waterways Conference; and served on the Oklahoma Department of Transportation Waterways Advisory Board.

Lew Meibergen has been a pioneer for the inland river industry. For years, he tirelessly carried the message to Oklahoma’s Congressional delegation, “hitting the Hill” for much needed funding for reliability of the infrastructure. U.S. Rep. Frank Lucas said it well, “For nearly his entire life, he was bigger than life. He was a leader at WBJ and in early years as Gov. Bellmon’s first agriculture secretary. Between his involvement in the political process and his agriculture legacy, he will always be remembered for his outstanding leadership in Oklahoma’s agriculture community.” There were many times U.S. Sen. Jim Inhofe and Lew would debate issues involving the navigation industry, grain industry and transportation issues.

Steve Taylor, retired president of Johnston’s Port 33 said, “After working for Lew for almost 40 years, he was the most respectful man I have ever met. He managed business with his heart and treated his employees like family. It was a great family to work for.”
President’s FY 2021 Budget Released for Army Corps of Engineers

On February 10, President Trump released his annual budget request. This document lays out the Administration’s spending priorities for Fiscal Year (FY) 2021 which starts on October 1, 2020. The $4.8 trillion budget addresses all of the President’s wish list items for FY 2021.

Highlights of the U.S. Army Corps of Engineers budget, relevant to NWC members, are below:

U.S. Army Corps of Engineers (Corps): The Administration’s FY 2021 budget includes $5.967 billion for the Corps civil works portfolio, approximately $1.7 billion or 22 percent, below FY 2020. This funding is derived from $4.897 billion from the General Treasury Fund, $1.015 million from the Harbor Maintenance Trust Fund (HMTF), and $54 million from “Special Recreation User Fees” on Corps recreational sites (i.e. daily user, camping, recreational, and annual pass fees). The Corps primary mission is ensuring navigation, flood control, and ecosystem restoration.

- **Investigations:** The President’s budget funds Investigations at $102.6 million, $48.4 million below the FY 2020 appropriated amount. This includes $6 million from the Mississippi Rivers and Tributaries (MR&T) account. The Investigations account will fund one feasibility study; seven disposition studies; eight dam safety modification studies; and five preconstruction engineering and design efforts.

- **Construction:** The FY 2021 budget request is funded at $2.173 billion, $51 million below FY 2020 enacted levels. The Construction budget includes monies for 12 commercial navigation projects; seven flood risk management projects; and four aquatic ecosystem restoration programs. This account is dedicated to fund the construction, replacement, rehabilitation, and expansion of water resource projects that provide commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration. Of note, the Construction budget reserves $250 million for WRRDA 2014 Section 1043 Non-Federal Construction of Federal Projects which allows nonfederal sponsors to take the lead on Corps construction projects. Moreover, the budget proposes to extend the program’s authority which expired in June 2019. Furthermore, the Administration’s request includes $250 million for the

CONTINUED ON PAGE 12
Innovative Funding Partnership program, where nonfederal interests pay more than the statutory cost share to jump the line and accelerate completion of projects. This provision was rejected by Congress in the FY 2020 appropriations.

**Inland and Coastal Navigation Projects:** The President’s budget includes $2.397 billion for the study, design, construction, operation, and maintenance of inland and coast navigation projects. This includes seven construction projects for four commercial navigations projects, two dam safety projects and one deficiency correction.

**Operations and Maintenance (O&M):** The O&M program is funded at $1.996 billion, $1.79 billion below FY 2020 numbers. For O&M, the focus will be on supporting current traffic levels and coastal harbors and inland waterways with the most commercial traffic. Additionally, it provides for the maintenance of channels at small ports that focus on commercial fishing, subsistence or public transportation benefits. Furthermore, it focuses on the highest hazard federal dams and levees, based on risk.

**Flood Control and Coastal Emergencies:** Under the President’s budget, the flood risk management program is funded at $77 million to prepare for and support emergency operations for flooding events. However, the budget clarifies that $27 million is dedicated to preparedness and training activities while the remaining $50 million is solely for emergency response work, including temporary measures to reduce ongoing flooding in communities where a disaster declaration has occurred.

**Harbor Maintenance Trust Fund:** The Administration’s budget recommends $1.015 billion for the HMTF; this is a $61 million cut below the FY 2020 enacted budget. The Administration’s budget recommends that the monies support the 50 largest U.S. coastal ports for the transport of cargo.

**Inland Waterways Trust Fund (IWTF):** The President’s budget proposes to fund no projects from the IWTF. Instead, the budget yet again proposes to revamp the program to add a new user fee, in addition to the current diesel fuel excise tax, to fund the IWTF. The Administration estimates that the proposal would raise about $1.8 billion over a 10-year window.

**Mississippi River and Tributaries:** The Administration’s budget provides $209.9 million for the MR&T. While the President’s budget is typically dead on arrival on Capitol Hill, it is essentially the “on” button to signal to Congress to start working on the coming year’s budget. In typical years, House and Senate appropriators would be actively holding hearings to question top Administration officials about the funding priorities of federal agencies before drafting the 12 FY 2021 appropriations packages. However, due to coronavirus, many hearings have been put on hold until after Congress comes back. As a result, top appropriators on the House side have said that FY 2021 funding levels may be similar to FY 2020 levels.

While House Majority Leader Steny Hoyer (D-Md.) said that the House plans to move all 12 appropriations bills by the end of June, this may be difficult for Congress to accomplish, even without a pandemic. In recent years, Congress has rarely passed free-standing appropriations bills due to controversial riders. As a result, Congress will likely be required to pass a continuing resolution to keep the government open past October 1st to avoid a federal shutdown.

*President’s Corner*

Like other groups, we are assessing the best path forward to serve you, the members, during this time. We want to thrive, learn, and evolve with you. Since NWC focuses on many of the issues facing all water resource stakeholders, we are in this together, and by working together, we are stronger.

In the words of Helen Keller, “Alone we can do so little; together we can do so much.” Please do not hesitate to reach out with comments, ideas, and thoughts on how we can make each other stronger. We look forward to moving forward together.
Corps Names New Officer and Position Assignments

There have been, and will continue to be, some major changes at the U.S. Army Corps of Engineers (USACE/Corps) both within headquarters and out in the region and district offices. These changes are relevant to NWC members who work with Corps officials on a daily basis.

Lt. Gen. Todd Semonite, the current Army chief of engineers and USACE commanding general was originally scheduled to leave his post on May 18. However, President Donald Trump has extended Semonite’s term until the next chief is confirmed by the U.S. Senate. We now know that Maj. Gen. Scott Spellmon, who is currently the Corps deputy commanding general for civil and emergency operations, has been nominated by President Trump to become the 55th chief after Semonite.

Before officially taking the post though, Spellmon must be vetted by the Senate Armed Forces Committee and confirmed by the full Senate. Timing on this is uncertain due to COVID-19. If confirmed, Spellmon would become the 55th Chief of the Army Corps of Engineers. Maj. Gen. William H. Graham Jr. has been named to replace Spellmon as deputy. Graham has been serving as deputy commanding general for I Corps at the Joint Base Lewis-McChord in Washington state.

Other new Corps assignments include:

- **Mr. Al Lee** was named as the new director of civil works earlier this year. Lee has served in numerous Corps offices from the Transatlantic, South Atlantic and Mississippi Valley Divisions, to name a few. He served in the Army from August 1985-September 2011.

- **Maj. Gen. David C. Hill**, Deputy Commanding General, United States Army Central, Shaw Air Force Base, South Carolina will be coming to USACE-HQ to serve as the Deputy Chief of Engineers/Deputy Commanding General of USACE.

- **Maj. Gen. Diana M. Holland**, commanding general, South Atlantic Division, USACE, Atlanta, Ga. to commanding general, Mississippi Valley Division, USACE, Vicksburg, Miss.

- **Maj. Gen. Jeffrey L. Milhorn**, commanding general, North Atlantic Division, USACE, Brooklyn, N.Y. to deputy commanding general for Military and International Operations at USACE-HQ.


- **Brig. Gen. Kimberly M. Colloton**, Commanding General, South Pacific Division, United States USACE, San Francisco, Calif. to Commander, Transatlantic Division, USACE, Winchester, Va.

- **Brig. Gen. Paul E. Owen**, Commanding General, Southwestern Division, USACE, Dallas, Texas will be the Commanding General, South Pacific Division, USACE, San Francisco, Calif.

- **Brig. Gen. Thomas J. Tickner**, commanding general, Pacific Ocean Division, USACE, Fort Shafter, Hawaii to commanding general, North Atlantic Division, USACE, Brooklyn, N.Y.

- **Colonel (Promotable) Christopher G. Beck**, Commander, Transatlantic Division, USACE, Winchester, Virginia will be the Commander, Southwestern Division, USACE, Dallas, Texas.
funds are available through MARAD’s Port Infrastructure Development Program. Applications are due May 18.

Finally, he urged members to keep pressure on Congress to fund programs such as MARAD. He said, members “need to continue to be a squeaky wheel in Congress… Otherwise, you will just fade away.”

For the last session of the Summit, three Senate and House Committee staffers discussed the next steps for WRDA’s biennial authorization cycle. Brian Clifford, majority deputy staff director for the Senate Environment and Public Works Committee (EPW), said EPW has been working on a WRDA package since last year. Some of the issues Sen. John Barrasso (R-Wyo.), EPW chair, cares about include compensation of nonfederal sponsors for funds already spent and expanded water storage opportunities. The committee anticipates Senate floor action this summer.

John Kane, EPW senior minority policy advisor, echoed Clifford’s timeline, and stated that it is their intent to stay on schedule. Victor Sarmiento, minority staff for the House Transportation and Infrastructure Committee (T&I) explained that the committee is just starting its work. T&I has held several hearings, including a member’s day at the end of February. To learn about the Senate WRDA bill see "WRDA Bill" on p. 1.

House Poised to Introduce its WRDA Bill

Concurrently, the U.S. House of Representatives is working to craft its WRDA 2020 package. The House Transportation and Infrastructure Committee (T&I) has held several hearings in 2019 and 2020, as well as a member’s day in February. T&I accepted member requests until May 1 and plans to release a bill in early June, with potential floor action in July.

NWC will continue to work with the Legislative Policy Committee on issues of importance and continue efforts with both the Senate and the
Industry Events

July 14-16, 2020
Warrior Tombigbee
Waterway Association
Point Clear, Ala.
www.warriortombigbee.com

August 5-7, 2020
Gulf Intracoastal Canal Association
New Orleans, La.
www.gicaonline.com

August 10-13, 2020
National Association of Flood and Stormwater Management Agencies Conference
Park City, Utah
www.nafmsa.org

August 25-27, 2020
Tennessee Tombigbee Waterway Development
Point Clear, Ala.
www.tenntom.org

September 13-16, 2020
American Association of Port Authorities
Quebec, Canada
www.aapa-ports.org

September 29-October 1, 2020
Waterways Journal, Inland Marine Expo
St. Louis, Mo.
www.inlandmarineexpo.com

October 7-9, 2020
Pacific Northwest Waterways Association
Vancouver, Wash.
www.pnwa.net

October 14-16, 2020
American Waterways Operators
Pittsburgh, Pa.
www.americanwaterways.com

October 21-23, 2020
Texas Water Conservation Association
San Antonio, Texas
www.twca.org

November 11-13, 2020
Waterways Council, Inc.
Las Vegas, Nev.
www.waterwayscouncil.org

December 3-5, 2020
85th Anniversary
Mississippi Valley Flood Control Association
New Orleans, La.
Email mvfca@att.net for information

What is WRDA?

WRDA is not a funding bill. It is authorizing legislation that approves—typically on a biannual basis—U.S. Army Corps of Engineers (Corps) civil works projects for navigation, flood control and ecosystem restoration, among other projects. Once studies and projects are authorized, the monies must be allocated through the annual Congressional appropriation process.

WRDA also sets policy direction to the Corps’ oversight and development of civil works facilities and infrastructure. Since NWC members own, operate, or utilize ports, inland waterways, flood control channels, levees, dams, hydropower, and other infrastructure, they are directly impacted by WRDA proposed studies, projects and policy changes.

Resources:

• Read text of AWIA 2020 substitute amendment here.
• Read the summary of Barrasso and Carper’s amendment to AWIA 2020 here.
• Read text of the Drinking Water Infrastructure Act of 2020 substitute amendment here.
• Read summary of Barrasso and Carper’s amendment to the Drinking Water Infrastructure Act of 2020 here.

Upcoming NWC Events

September 23-25, 2020
60th Anniversary Annual Meeting
Houston, Texas
*Registration open in early July

March 8-10, 2021
Legislative Summit
Washington, DC

*Due to coronavirus, schedules may change. Please check organizational websites for the latest on meetings.

“NEW WRDA BILL” FROM PAGE 14
House as legislation in both chambers advances.

Visit us at waterways.org. Have a story idea for the next newsletter? We want to hear from you at info@waterways.org.