The 112th Congress, Second Session – So Far

As this Congress nears the mid-term of its second and final session, time is already growing short for meaningful legislative activity. This is because it is a Presidential election year which lends more than the usual jockeying for partisan advantage to the atmosphere and which means the regular session will be shorter, followed by a Lame Duck session after the election. So progress on all legislative and appropriations activity must be viewed in this context.

Back in January
When the second session began in January, there were two active versions of flood insurance reauthorization and reform legislation – one which had passed the House and one which had been reported out of the Senate Banking Committee. The National Flood Insurance Program (NFIP) was operating under an extension of authority until May 31st. The Federal Emergency Management Agency (FEMA) and the Administration were completing final reviews of a major “Re-Thinking the NFIP” project making recommendations for reforms.

The Congress was operating under the guidance of budget numbers adopted last summer during difficult debate over the debt ceiling.

There were hopes for legislative activity during the second session on a new Water Resources Development Act (WRDA) and there were expectations of completing action on a 2012 Farm Bill.

Now in May
There are still two active versions of flood insurance reauthorization and reform legislation. The NFIP is still operating under an extension of authority until May 31st. FEMA and the Administration have not yet released the results of the “Re-Thinking the NFIP” project.

The House has passed its own Budget Resolution which sets a spending ceiling for FY 2013 that is $19 billion below the level agreed to last summer and the level at
which the Senate continues to operate. The differing ceilings are reflected in the ceiling allocations to each House and Senate appropriations subcommittee. This will create complications for resolving differences between House and Senate appropriations bills.

Appropriations bills for those bills deemed least controversial are being marked up and will be soon or are already ready for floor consideration. These include the Energy and Water bills (Corps of Engineers), Homeland Security bills (FEMA) and Commerce, Justice, Science bills (NOAA, NSF). One bill (CJS) has passed the House and three more are ready for the floor. Six bills are ready for the floor in the Senate. There are 12 regular appropriations bills.

No action has been taken on a new WRDA bill in either the House or Senate, although committee staff still hope that their committees can still consider draft legislation. Significant progress has been made toward producing a 2012 Farm Bill.

**Flood Insurance**

Authorization for the National Flood Insurance Program (NFIP) is fast approaching its latest expiration date of May 31st. The path forward is not at all clear.

With two weeks left before the NFIP could, once again, expire, the manner of providing for continued operation is not yet clear. Both the House Committee on Financial Services and the Senate Banking Committee had been optimistic that they could complete action on the reauthorization and reform bills that have been working their way through the legislative process (H.R. 1309 and S. 1940).

Meanwhile, FEMA’s Administrator, Craig Fugate, sent a letter to the committee Chairmen and Ranking Minority Members on April 23rd asking for a two year clean reauthorization of the program. Senator David Vitter (R-LA) introduced bills providing for a 7 month program extension (S. 2344), a 60 day extension and a 30 day extension. In the House, Rep. Judy Biggert (R-OH) introduced a bill (H.R. 5740) providing for a 30 day extension and including the private sector provisions from the larger reform bill.

Senator Majority Leader Harry Reid (D-NV) tried to bring up the 7 month extension for a vote on May 15th, but an objection was raised by Senate Tom Coburn (R-OK). Under Senate rules, only one Senator’s objection can stop a bill’s consideration. Senator Coburn said he would rather have the program lapse than approve an extension without at least removing the subsidies from the program. The House is scheduled to vote on May 16th on Rep. Biggert’s 30 day extension bill.

It is now evident that completing action on the reauthorization and reform bills is not possible before May 31st. The House passed its bill last summer and passed it again in April as part of a budget reconciliation package. The Senate Banking Committee reported out its bill, but it has not yet been considered on the Senate
To wrap up the work on those bills would necessitate Senate passage followed by House-Senate Conference committee deliberations to resolve differences, acceptance of the Conference Report on the House and Senate floors and then the President's signature. With completion of action on these bills so close at hand, neither House nor Senate committees were willing to consider the 2-year extension requested by FEMA and the Administration. A major effort was launched by many interested parties to "Flood the Hill" with requests to bring S. 1940 to the floor. Majority Leader Reid has been reluctant to do so because of concerns about the number and nature of possibly unrelated amendments that could be offered. Based on a Senate floor colloquy on May 15th, it appears that Senator Coburn and Senator Reid will work together to limit the number and nature of amendments so that Leader Reid can bring up the bill. This would still not allow time for completion of action before the end of the month as the Senate is in recess the week of May 28th, so some extension is necessary to avoid a lapse.

Both of the larger bills would provide for a 5-year program reauthorization along with a number of reforms. Many of those reforms are very similar and even identical in both bills, but other reform measures are very different. A notable example is that the Senate bill provides for mandatory purchase of flood insurance in residual risk areas behind levees while the House bill (through an amendment) directs that FEMA not map residual risk areas behind levees.

During visits with committee staff and staff of committee members on April 26th, ASFPM representatives urged that the program not be permitted to lapse, noting the difficulties caused for the housing, building, insurance and real estate industries as well as for state and local officials when the program has endured several periods of hiatus in the recent past. It was clear that committee staff and other Congressional staff are very much aware of the importance of avoiding yet another program lapse. Whether or not a lapse can be avoided now depends on agreements among Senators.

**Appropriations**

The bills ready for House floor consideration are the Energy and Water bill (H.R. 5325), Homeland Security (no number yet) and Military Construction/Veterans (no number yet). The Commerce, Justice, Science bill (H.R. 5326) passed the House on May 10th. Those ready for Senate floor consideration are the Agriculture bill (S. 2375 and S. Rept. 112-163), the Energy and Water bill (S. 2465 and S. Rept. 112-164), the Commerce, Justice, Science bill (S. 2323 and S. Rept. 112-158), the Transportation/HUD bill (S. 2322 and S. Rept. 112-157) the Homeland Security bill (no number yet) and the Military Construction/Veterans bill (no number yet).

ASFPM submitted Outside Witness Testimony on the budget proposal for FEMA. That testimony, as well as Outside Witness Testimony on the Corps of Engineers budget request, is posted on the ASFPM website. ASFPM also joined a number of
other organizations in providing commentary in support of streamgage funding to the House and Senate Interior Appropriations Subcommittees.

On the DHS/FEMA request, ASFPM’s testimony made 4 points:

1. great concern about yet another reduction in the flood mapping budget, noting the essential importance of risk identification to flood hazard mitigation and the flood insurance program
2. strong objection to elimination of the Pre-Disaster Mitigation program
3. concern about folding 16 grant programs ranging from terrorism to mitigation into one large National Preparedness Grant Program (NPGP), about the lack of detail accompanying the plan and about the lack of consultation with stakeholder groups
4. appreciation for doubling funds available from the National Flood Insurance Fund for the Flood Mitigation Assistance, Severe Repetitive Loss and Repetitive Flood Claims programs.

During visits with committee staff and personal staff of committee members, it seemed apparent to ASFPM representatives that there is considerable hesitation across party lines about approving the proposed NPGP, at least without considerable further development of the details.

On the Army Corps of Engineers request, ASFPM’s testimony focused on support for programs which can bring Corps technical assistance to states and communities such as Planning Assistance to States, Flood Plain Management Services and Silver Jackets. The testimony also expressed the importance of continued progress on the national levee inventory, to include Corps built but locally maintained and operated levees.

**Army Corps of Engineers**
The full House Appropriations Committee marked up the Energy and Water Appropriations bill on April 25th. That bill provides funds for the Army Corps of Engineers as well as the Department of Energy. The full Senate Appropriations Committee approved its Energy and Water bill on April 26th. Overall, the House bill provides $32.1 billion and the Senate bill provides $33.4 billion. The House committee approved, by a 29-20 vote, an amendment offered by Rep. Denny Rehberg (R-MT) which would prevent the Corps from finalizing guidance jointly developed by the Corps and EPA clarifying the definition of “navigable waters” under the Clean Water Act. It is anticipated that a similar amendment will be offered to the Interior and Environment Appropriations bill which funds EPA, The Senate bill does not include such an amendment. That bill includes an amendment offered by Senators Sherrod Brown (D-OH) and Dan Coats (R-IN) Support Corps efforts to develop ways to prevent Asian Carp entrance into the Great Lakes. The committee defeated, on the vote of 14-15, an amendment by Senator Roy Blunt (R-MO) to shift $40 million from Missouri River environmental conservation and habitat restoration to flood control construction projects.
The House provided $4 million for Planning Assistance to States (PAS) and the Senate provided $4.5 million. The budget request was $4 million. The House provided $9.5 million for Flood Plain Management Services and the Senate did the same. The budget request was $9.5 million. Apparently about $3 million of that will contribute toward an overall funding level of about $6 million for Silver Jackets, but that total is only approximate. Both the House and Senate provided the budget request of $550,000 to contribute toward the streamgaging programs at U.S.G.S. The House provided the budget request of $4.034 million for Section 206 Aquatic Ecosystem Restoration, while the Senate provided $8 million. The House provided $9.650 million for the National Levee Inventory although the budget request was $10 million. The Senate provided the $10 million.

FEMA
The House Appropriations Homeland Security Subcommittee marked up its bill on May 9th and the full Appropriations Committee held its mark-up on May 16th. The measure provides $92.1 million for mapping (RiskMAP) which is an increase from the budget request of $89.3 million, but a decrease from the FY ’12 level of $97.7 million. The bill also provided $14.3 million for Pre-Disaster Mitigation, an important increase from the budget request of $0, but less than the FY ’12 funding of $35 million. The bill did not provide approval for the consolidation of grant programs into the National Preparedness Grant Program (NPGP). It did approve the doubling of funds from the National Flood Fund for the streamlines FMA, SRL and RFC programs.

The Senate Homeland Security Subcommittee marked up its bill on May 15th and it will be considered in full committee on May 17th. That bill provides $97 million for RiskMAP and $35 million for PDM. Other details are not yet available.

Other Legislation to Watch

Farm Bill
The Senate Agriculture Committee marked up its 2012 Farm Bill on April 26th after being postponed for a day in an effort to address regional crop differences and issues. The House Agriculture Committee has launched a series of hearings in preparation for marking up its version.

The Senate Farm bill as reported out of committee would save $23 billion over 10 years and reauthorize Agriculture programs for 5 years. Current authorization is set to expire on September 30th. The bill restructures commodity programs and farm subsidies, consolidates 23 conservation programs into 13 (reducing spending by $6 billion over 10 years) and eliminates almost 100 program authorizations. More information about the Farm Bill, including the text, is available by going to: www.agriculture.senate.gov and going to the Farm Bill page.
The House Agriculture Committee held a hearing on the conservation programs of the Department of Agriculture on April 26th.

**FEMA Reauthorization**
The House Transportation and Infrastructure reported out a bill (H.R. 2903) on March 8th which reauthorizes the Federal Emergency Management Agency (FEMA) for the next two years. Title II of the bill focuses on amendments to the Stafford Act (disaster assistance). Among its other provisions, it reauthorizes the emergency management assistance compact grants (EMAC) and reauthorizes the National Dam Safety Program. It also requires FEMA to establish criteria within 180 days for state administration of the Hazard Mitigation Grant Program (HMGP). Additionally, it sets up a pilot program for revised procedures for Public Assistance (Section 406 of the Stafford Act). Committee staff have indicated their expectation that this bill could be considered soon on the House floor.

**Flood Insurance for Farmers Act**
H.R. 4020, introduced in late February by Representative John Garamendi (D-CA), would create a new agricultural zone for flood insurance purposes. It would allow premiums at a Zone X rate in agricultural areas where levees are not accredited. It would also eliminate flood proofing building standards in the new zone. The bill has been referred to the House Committee on Financial Services. Committee staff doubt that the measure can be taken up during this session because it was introduced after the House had already passed its flood insurance bill.

**Levees on FEMA Buy-Out Land**
Senator John Hoeven (R-ND) introduced S. 2039, a bill to allow a state or local government to construct levees on land bought out under FEMA hazard mitigation programs and designated as open space. After being introduced in February, the bill was almost immediately brought up on the Senate floor and passed under Unanimous Consent. The measure is now awaiting consideration by the House Transportation and Infrastructure Committee. ASFPM has sent a letter to the Chairman and Ranking Minority Member of the Committee expressing concern about the bill and explaining the reasons for concern.

**Halting Guidance on Definition of “Navigable Waters”**
Chairman John Mica (F-FL) of the House Transportation and Infrastructure Committee along with Ranking Member Nick Rahall (D-WVA), Water Resources Subcommittee Chairman Bob Gibbs (R-OH), Agriculture Committee Chairman Frank Lucas (R-OK) and Ranking Member Collin Peterson (D-MN) introduced H.R. 4965. The measure would halt finalization of joint guidance from the Army Corps of Engineers and EPA on the definition of “navigable waters” under the Clean Water Act. The proposed guidance is under consideration at the Office of Management and Budget at present. A similar bill was introduced in the Senate (S. 2245).
Coalitions

Most coalitions in which ASFPM participates have been actively meeting as Congressional activity has moved into high gear.

**Congressional Hazards Caucus Alliance**
The Alliance has met several times this year and has already sponsored several Congressional briefings on various disaster related topics. The Alliance is interested in working with ASFPM and the American Society of Civil Engineers (ASCE) to sponsor a briefing on levee issues later this spring.

**Flood Map Coalition**
The coalition met on April 12th for a full briefing on the status of the RiskMAP program and future plans.

**Stafford Coalition**
The Stafford Coalition has met twice so far this year. Most recently, the coalition met with Republican and Democratic staff of the House Transportation and Infrastructure to discuss the FEMA Reauthorization bill, H.R. 2903.

**USGS Coalition**
The coalition has met several times this year, most recently to discuss development of outside witness testimony on the USGS budget request. USGS Director Marcia McNutt met with the coalition on May 9th.

All legislation referenced can be read by going to: [http://thomas.loc.gov](http://thomas.loc.gov) and typing in the bill number.