Since Last Year’s Conference in Grand Rapids

After ASFPM’s 2016 annual conference, only a couple of weeks of legislative activity remained before the July 4 Recess, followed shortly by a 7 week long summer recess. That incorporated the usual August Recess along with time for the Republican and Democratic party conventions. Then Congress was in session for only 3 weeks in September before again being in recess for all of October and half of November to allow members to campaign before the November elections. The year ended with a lame duck session in the remainder of November and part of December. So there wasn’t much time for extensive consideration of legislation and completion of action on appropriations for Fiscal Year 2017, which began Oct. 1.

During the early part of the summer, the Appropriations Committees in the House and Senate continued work on the 12 regular appropriations bills in the hope of actually completing action under “regular order” rather than throwing them all into another huge omnibus bill or relying on a Continuing Resolution funding the government at the previous fiscal year levels. For the second year in a row, all 12 bills were successfully reported out of the House and Senate committees. Eventually, only one – Military Construction/VA – would pass and be signed into law.

Also during the early summer a bill to allow the establishment of several joint task forces at the Department of Homeland Security was reported out of the Senate Committee on Homeland Security and Governmental Affairs. ASFPM worked with a group of other organizations to clarify that such an arrangement would not interfere with the authority or mission of FEMA. The Senate passed the Waterfront Revitalization and Resiliency Act (S. 1955), a bill introduced by Sen. Tammy Baldwin (D-WI).

Legislation to promote development of a private market for flood insurance had passed the House unanimously in the spring and ASFPM became concerned that the bill could be brought up in the Senate under a fast-track procedure known as “unanimous consent or UC.” Work began to develop several proposed amendments and to explain concerns to Senate staff. Additionally ASFPM refined its principles and priority recommendations for NFIP reauthorization and met with pertinent staff on the Hill to discuss those. A similar bill was introduced in the Senate (S. 1679) by Senators Heller (R-ID) and Tester (D-MT).

Even before the House bill passed, ASFPM had expressed concerns about the potential effect of the legislation on the future stability of the NFIP. The NFIP is much more than an insurance program. It is a flood risk reduction program. Some of those additional elements (mapping, floodplain management), which save the taxpayers Disaster Relief funds, are funded by the policy fee associated with NFIP policies. ASFPM has proposed that private policies include a policy fee, which would be contributed to supporting the NFIP’s mapping and floodplain management functions since private insurance companies benefit from those risk reduction and identification functions. Since House
passage, ASFPM has developed a number of recommendations for modification of the private bills. A document titled, “Proposed Amendments to the Flood Insurance Market Parity and Modernization Act” is on the ASFPM website. Additionally, the Consumer Mortgage Association has detailed concerns that the bill could interfere with the current authorities to monitor loans for appropriate insurance coverage.

Although the primary focus of the September 2016 session was provision for appropriations in FY17, the session was full of hearings and floor action dealing with flood and water resources issues.

The House and Senate passed their separate versions of a Water Resources Development Act in an effort to keep their commitments to restoring WRDA bills to an every two years cycle. Because of significant differences and some points of contention, a final compromise agreement would have to wait until after the next recess.

Throughout September and the rest of the fall, there were indications from the House Financial Services Committee’s Subcommittee on Housing and Insurance that a draft bill to reauthorize the NFIP would be released soon. The Ranking Democrat on the committee, Rep. Maxine Waters (D-CA) introduced a bill to forgive the NFIP’s debt to the U.S. Treasury.

Hearings were held in the House on the flooding around Baton Rouge on Army Corps of Engineers Chief’s Reports and on “FEMA’s Limited Role in Local Land Use Development Decisions.” On the Senate side, hearings were held on the recommendations of the Technical Mapping Advisory Council and on the flooding in Louisiana. ASFPM submitted written testimony for the TMAC hearing.

The Congress did resort to a Continuing Resolution to fund the government (other than the appropriations for Military Construction/VA) until Dec. 9. Differences over the overall budget levels for the bills stalled the process of acting on individual appropriations bills. The CR included flood recovery funds for Louisiana, West Virginia, Maryland and Texas.

The Federal Insurance Office at the U.S. Treasury and FEMA held an NFIP stakeholder session in September called, “The Customer Experience and Incentivizing Community Resilience.” ASFPM participated in the session.

Then there was the lame duck session. That was entirely thrown off balance by the election results. So many of the expectations for dealing with appropriations and other agenda elements had been predicated on widespread expectations of an incoming Democratic presidency and a Democratic majority in the Senate. Calculations and plans were altered significantly by the election of a Republican president whose decisions are difficult to anticipate and by the retention of a Republican majority in the Senate.

During the lame duck session, the political parties elected their leadership for the new 115th Congress. WRDA was finalized as the Water Improvements for the Nation Act (WINN) (S. 612), authorizing funds for water projects, drought provisions and assistance
for Flint, Michigan’s lead pipe replacement. Legislation (H.R. 1561) was passed to improve weather data, warnings and forecasts. The outgoing administration finalized action on many rulemaking actions and took steps to fill numerous staff vacancies at federal agencies.

Instead of draft legislation to reauthorize the NFIP, the House Financial Services Committee released its Draft Principles for NFIP Reauthorization. It remains unclear how much those will be reflected in the eventual draft legislation since the Subcommittee has a new Chairman, Rep. Sean Duffy (R-WI).

The Digital Coast Act, codifying the Digital Coast Program at NOAA (S. 2325) passed the Senate and was sent to the House. Unfortunately, in the flurry of activity at the end of the session, the measure was not brought to the House floor. As an active member of the Digital Coast Partnership, ASFPM had worked with other partners to urge House consideration of the bill.

Since the incoming administration indicated its preference for another CR rather than final action of FY17 appropriations, so that it could have input once in office, Congress passed another CR funding the government until April 28.

As the new Congress convened in January, new committee and subcommittee chairmanship and ranking minority member positions had to be decided, along with committee assignments. Committees held organizational meetings to adopt rules, formalize leadership, finalize membership and consider agenda priorities. Some confirmation hearings began for new Cabinet appointees.

Early in the new Congress, the Digital Coast Act was re-introduced in the Senate, now S. 110, and has already been reported out of committee. ASFPM was invited to brief staff of members of the Senate Banking Committee on ASFPM recommendations for NFIP reauthorization. About 20 staff attended the briefing by ASFPM Chair Ceil Strauss and Executive Director Chad Berginnis.

Currently - Much Activity on Flood Insurance and Budget Issues Loom

We knew that reauthorization of the NFIP would focus congressional attention on flood insurance this spring, but the momentum has built up more quickly and earlier than anticipated. Two hearings have already been held in the House and one on the Senate side with more anticipated.

Budget matters will proceed on an irregular and somewhat unpredictable path this spring. The budget blueprint, or “skinny” budget for FY18 released March 16 has unleashed strong reactions on both sides of the political aisle. It outlines a proposed major shift toward defense spending and away from many, many elements of domestic spending. Some of the responses are to the overall shift, while many are reacting to budget cuts to specific programs. For ASFPM, the proposal to eliminate all appropriated funds for flood risk mapping and the proposal to significantly reduce or eliminate the Pre-Disaster Mitigation program are causes for alarm. The proposed dramatic shift in
budget priorities will present major challenges for congressional leadership and the
Budget and Appropriations Committees.

The Budget and Appropriations

This spring and summer, Congress will be dealing with budgets for FY17 and FY18. The
government is currently operating under a CR that expires April 28. The full budget
request for FY18 will not be released until mid-May or even later. Before then, Congress
may or may not attempt to put together and pass a Budget Resolution to guide the
appropriations process.

An already unclear path forward has become more foggy after the failure of legislation
to “repeal and replace” Obamacare. This leads to recalculations on the budget math
as well as on strategy.

With regard to action on FY17 appropriations, since all of the appropriations
subcommittees had taken action on their bills last year, it is possible that differences
between House and Senate bills could be resolved and an omnibus bill could be
passed. It is also possible that Congress will instead pass another CR covering the rest of
the fiscal year. Appropriations staff and members are already engaged in negotiations
to resolve differences. Time is a factor, however. Congress returns from a 2 week recess
April 25, so April 28 will come quickly. As this report is being written, there is more and
more indication that Congress will pass a short term (1 week? 2 weeks?) CR with the
hope of passing an omnibus bill for the rest of the fiscal year. The process between the
House and Senate seems to have been proceeding well except for complications due
to requests from the new administration – such as funds for the wall between the U.S.
and Mexico – which skew previous budget calculations.

Overall, the budget blueprint calls for about 11% cuts to FEMA’s FY18 budget. It would
reduce funds for PDM grants in addition to eliminating the appropriated funds for flood
risk mapping.

The budget plan states:
“Restructure selected user fees for TSA and NFIP to ensure the cost of government
services is not subsidized by taxpayers who do not directly benefit from these
programs...The budget proposes eliminating the discretionary appropriations for the
NFIP’s Flood Hazard Mapping Program, a savings of $190 million, to instead explore
other more effective and fair means of funding flood mapping efforts.”

This request is based on the erroneous idea that flood maps only serve NFIP
policyholders. To the contrary, flood maps are widely used to assist in flood loss
reduction by promoting land use management, informing development and
infrastructure planning and decisions as well as helping in location and design of critical
facilities and assisting emergency management and evacuation planning.

Map funding for almost two decades has been supported by two revenue streams.
One portion comes from NFIP policy fees. In recent years, that has generated about $120 million/year. The other portion comes from appropriated (taxpayer) funds. The highest level for appropriated funds was $220 million in FY10. From FY12-FY15 the numbers ranged from $95 million to $100 million. The FY16 level was $190 million. So far in FY17, the level is $190 million since FEMA is operating under the CR. The amount authorized (not appropriated, but authorized) in the Biggert-Waters 2012 flood insurance legislation was $400 million/year.

ASFPM's 2013 “Flood Mapping for the Nation” estimated the cost of remaining unmet mapping needs to range between $4.5 billion - $7.5 billion. At a level of $400 million/year, maps could be completed and updated in 10-11 years. ASFPM intends to update that study, given reduced costs for LiDAR and projects that costs will be lower due to improved technology and techniques.

The Ranking Democrat on the House Financial Services Committee, Rep. Maxine Waters (D-CA) is likely to soon circulate a letter for signing by other members of Congress calling for $1.5 billion/year to complete the basic mapping task more expeditiously. She circulated such a letter last year and it was signed by 43 other members.

Communication with senators and representatives (by email or phone calls) to explain the many uses of flood risk maps that benefit all taxpayers, not just NFIP policyholders, would be extremely helpful so that they are better informed as they make decisions about appropriations. ASFPM will submit Outside Witness Testimony to the Appropriations Subcommittees in support of map funding. That testimony will suggest appropriations at the authorized $400 million level, but will urge that, at the very least, the current level of $190 million be maintained.

**NFIP Reauthorization**

Movement toward reauthorization legislation is happening at a fast pace in the House and Senate committees. It is likely that the House Financial Services Committee will release a draft bill at the end of April or in early May.

The House Financial Services Committee’s Subcommittee on Housing and Insurance began in 2016 to study the NFIP more deeply and to prepare for reauthorization in 2017. The subcommittee released draft principles for reauthorization in December 2016. With a new Congress opening in January, the Subcommittee now has a new Chairman (Rep. Sean Duffy R-WI) and the extent to which he will revise those principles is not yet clear. The Ranking Democrat is Rep. Emanuel Cleaver (D-MO). The Subcommittee is off to a fast start with flood insurance legislation being #1 on its list of priority legislation for the year. According to the chairman, he and his staff have met with over 50 groups and interested parties already. Two hearings were held March 9 and 16. Roy Wright, FEMA Acting Associate Administrator for Insurance and Mitigation, was the only witness. Chad Berginnis testified at the March 16 hearing along with three other witnesses. The subcommittee hopes to have an internal discussion draft bill ready by the end of this month and to move to subcommittee action in April.
The Senate Banking Committee has a new Chairman this year, Senator Michael Crapo (R-ID). The Ranking Democrat is still Senator Sherrod Brown (D-OH). That committee too has been moving quickly to prepare for flood insurance reauthorization. It is not clear at this point if the Senate Banking Committee will develop its own bill or wait to act on a House bill. That committee held a hearing March 14 and is planning on future hearings.

**Hearings Summary**

**House March 9 Hearing**

The hearing lasted two and a half hours with many subcommittee members participating in asking questions. Some of the questioning was a bit contentious. Although the chairman and ranking member mentioned concern about affordability in their opening statements, there was little focus on that during the rest of the hearing.

There was considerable focus on compliance with the mandatory purchase requirement and on growth of a private market for flood insurance. Additionally, subcommittee members and Roy Wright all agreed on the need for a multi-year authorization. Roy Wright’s testimony and responses to questions included support for expansion of private flood insurance because of the importance of additional coverage options and getting more properties insured. He cautioned, however, about the need to assure sufficient revenue for the NFIP to maintain its sustainability and support for its functions other than insurance—mapping, floodplain management and hazard mitigation. He indicated support for improvements to the Increased Cost of Compliance policy component. He also noted FEMA’s progress in purchasing reinsurance for the NFIP.

**House March 16 Hearing**

This hearing titled, “Flood Insurance Reform: A Community Perspective,” included four witnesses: Melissa Luckman, a law professor and Director of the Disaster Relief Clinic at Touro Law Center; Aram Terchunian, a coastal geologist and President of First Coastal Corporation; Chad Berginnis; and Evan Hecht, CEO or The Flood Insurance Agency. According to the subcommittee, “Witnesses will provide a community level perspective on flood insurance, including reforms to the NFIP that would provide more transparency in claims processes and payments, better encourage flood resiliency and further develop a private flood insurance market that complements or exceeds the current NFIP model.” The hearing was very well attended, indicating considerable interest among subcommittee members. Many questions were asked about the proposed budget cut for flood risk mapping. The proposed budget had just been released that morning.

Luckman primarily addressed claims issues. She recommended standardized education and certification for all actors associated with the insurance component of the NFIP. She advocated policyholder acknowledgement of property inspection and a baseline photographic record for future claims purposes. She urged use of the additional authorized triggers for ICC, especially for mitigation without a substantial damage determination.
Terchunian spoke about the importance of identifying and mitigating coastal risk. He discussed the need to convert more pre-PIRM structures into compliance with newer, higher standards.

Berginnis made the point that the NFIP is much more than an insurance program, but is really a flood risk reduction program. He urged forgiveness of the program’s debt – now at $24.6 billion, noting that servicing the debt prevents the NFIP from functioning as designed. He advocated an enhanced mapping effort. He noted the importance of the mitigation aspects of the NFIP – particularly pre-disaster and advocated expansion of ICC. He supported growth of private insurance options, but urged several steps to protect the continued viability of the risk reduction elements of the NFIP. He suggested private policies include a fee equivalent to the NFIP Policy Fee, which supports floodplain management and mapping. He urged community participation in the NFIP’s flood risk reduction aspects be maintained by requiring that policies issued to meet the mandatory purchase requirement only be sold in NFIP participating communities.

Additionally, he suggested that private policies should continue to offer coverage comparable to ICC as they do now.

Hecht said that he is the largest seller of private flood insurance and that it is his mission to make affordable flood insurance available to as many people as possible. He has sold $3.5 billion in coverage to 18,500 consumers. His policies are apparently identical to NFIP policies. He expressed support for the legislation promoting growth of the private market, but indicated strong support for a fee on private policies equivalent to the NFIP Policy Fee. He was asked if he would be able to write policies to insure everyone who now has an NFIP policy. He replied that, in that case, the premiums would not be competitive. He said a viable NFIP should remain.

Senate March 14 Hearing
This hearing, too, had only one witness – Roy Wright. The back and forth touched on a variety of subjects, but unlike the House hearing, the focus was not on mandatory purchase compliance although there was some discussion of claims issues in questions. There was discussion of timing for the affordability framework required by the previous legislation. Wright indicated it would be at least late summer before that could be produced. He noted that the Technical Mapping Advisory Council has recommended moving toward property-specific rating and noted the importance of LiDAR data collection as well as the horizontal LiDAR in use in North Carolina. He again talked about his support for growth of private flood insurance, but noted the importance of maintaining and funding the other legs of the NFIP stool. Towards the end of the hearing, Wright complimented Congress on establishing the Office of Flood Insurance Advocate, indicating this was an especially important contribution.

Senate March 1 Hearing
This hearing was held by the Senate Environment and Public Works Committee and was titled: “Flood Control Infrastructure: Safety Questions Raised by Current Events." Larry Larson, ASFPM Senior Policy Advisor and Director Emeritus testified along with Lt. General Todd Semonite, Chief of Engineers, US Army Corps of Engineers, the Chairman
of Washakie County Commissioners, the Mayor of Cedar Rapids, Iowa and the Deputy Secretary of the California Natural Resources Agency

There was considerable discussion about mapping residual risk areas below dams and behind levees. Due to Department of Homeland Security concerns about security and possible terrorism, there are problems with publication of dam inundation areas on publicly available maps. There seemed to be agreement that public safety information about possible dam breaches and failures should be available.

**Upcoming hearings and Activity**

As Congress returns during the week of April 25, the primary focus will be on appropriations for FY17 since the CR is set to expire April 28. Despite indications that agreement is close on an omnibus bill, it is still likely that a short-term CR will be needed while Congress negotiates with the White House over new funding requested by the president.

The full budget request for FY18 is expected in late May. Congress will then be way behind schedule in holding hearings with the departments and agencies about their budget requests and in producing appropriations bills.

Two hearings are scheduled on water and hazard mitigation topics.

**April 26**
Senate Committee on Environment and Public Works
Hearing on the “technical, scientific and legal basis for the Waters of the U.S. (WOTUS) rule”

**April 27**
House Transportation and Infrastructure Committee, Subcommittee on Economic Development, Public Buildings and Emergency Management
Hearing on “How to Protect Infrastructure from Disasters, both Natural and Manmade”

**Other Legislation**

A variety of other bills have been introduced in this Congress dealing with the flood insurance program and natural disasters. Many could be considered during committee work on flood insurance reauthorization and potentially folded into that legislation. Some of the bills are listed below:

H.R. 1422 Market Parity and Insurance Modernization Act
Introduced by Rep. Dennis Ross (R-FL) and Rep. Kathy Castor (D-FL)
The measure would promote development of a private insurance market.
Referred to House Financial Services Committee
S. 563 Market Parity and Insurance Modernization Act
Introduced by Sens. Dean Heller (R-NV), Jon Tester (D-MT), Marco Rubio (R-FL)
Same as the above House bill.
Referred to Senate Banking Committee

H.R. 1401 Flood Insurance Fairness Act
Introduced by Rep. Carlos Curbelo (R-FL)
“To ensure fairness in premium rates for residences and business properties"
Referred to House Financial Services

H.R. 879 Flood Insurance Integrity Act
Introduced by Rep. Gus Bilirakis (R-FL)
Requires the GAO to periodically review flood insurance rates and rate maps
Referred to House Financial Services

H.R. 1233 Emergency Flood Response Act
Introduced by Rep. Jerry McNerney (D-CA)
To establish at FEMA and emergency flood pilot program to assist response to levee failures or potential failures
Referred to House Transportation & Infrastructure

H.R. 1423 National Flood Insurance Reauthorization and Improvement Act
Introduced by Rep. Nydia Velazquez (D-NY)
Reauthorizes the NFIP and provides for properties with pre-existing conditions, provides penalties for fraud and makes claims adjustment improvements
Referred to House Financial Services

H.R. 1558 Repeatedly Flooded Communities Preparation Act
Introduced by Reps. Ed Royce (R-CA) and Earl Blumenauer (D-OR)
Ensures community accountability for areas repeatedly damaged by floods
Referred to House Financial Services

Two bills have already passed the House. Both passed March 7.

H.R. 1214 Disaster Simplified Assistance Value Enhancement Act
Introduced by Rep. Lou Barletta (R-PA)
Simplifies some procedures for post-disaster Public Assistance

H.R. 1117
Introduced by Rep. Vicky Hartzler (R-MO)
Requires FEMA to report on certain post-disaster grant assistance

Two potential bills are in development.

One would address the map appeal processes. Another would “improve the surveying and mapping data needed to provide more accuracy.” ASFPM has been asked to provide comments by the potential sponsors of both bills and by others involved in their development.
Coalitions

ASFPM participates in a number of coalitions of groups and organizations focusing on issues of common interest.

Stafford Coalition
This group includes such organizations as NEMA, IAEM (local emergency managers), Big City Emergency Managers, NACo, Conference of Mayors, League of Cities, Red Cross, Nat’l Assn. of Fire Chiefs, NAFSMA and others. The group has met once already this year and will meet again March 30 – largely to discuss the budget cuts.

USGS Coalition
Among the members of this group are a range of scientific organizations, earthquake organizations and geological organizations. The group meets to hear from congressional staff and USGS officials. It produces annual comments on the USGS budget and submits outside witness testimony on appropriations for USGS. It also sponsors an annual congressional reception at which it honors a member of Congress and a senator for support of USGS activities.

Streamgage Coalition
The lead organization has been the Interstate Council on Water Policy. The group produces letters to Congress supporting funding for the USGS National Water Monitoring Network. Led by ICWP, meetings are held with congressional staff. Over 30 organizations representing engineering, navigation, environmental, recreational, water quality and water hazards interests join in these efforts.

Congressional Hazards Caucus Alliance
This is a loose network of groups interested in various aspects of natural hazards that sponsors briefings for congressional staff. In the past, ASFPM has taken the lead for briefings on flood hazard mitigation, flood risk mapping.

SmarterSafer Coalition
The membership of this group includes insurance organizations, reinsurance interests, environmental groups, some scientific organizations and a taxpayer protection group. ASFPM is an “affiliated organization,” but not a member.

Legislation referenced can be read by going to www.Congress.gov and typing in the bill number.

The hearings discussed are archived on the committee websites and can be viewed in their entirety. For these hearings, the websites are: www.financialservices.house.gov; www.banking.senate.gov; and www.epw.senate.gov.

Read congressional testimony by Chad Berginnis (March 16) and Larry Larson (March 1).