

To: The Honorable Vince Tutiakoff Sr.
The Unalaska City Council
Erin Reinders, City Manager

From: Brad Gilman, Rick Marks, & Sebastian O’Kelly

Re: Washington Update

Date: July 2, 2020

This report encompasses information that would have normally been in our first and second quarter community reports as well any updates from our previous memoranda on the Federal response to the CV-19 crisis.

1. Unalaska Harbor: The Senate WRDA bill has been reported from the Environment & Public Works Committee. It includes the following project authorization for the harbor channel dredging -- Unalaska, Dutch Harbor Channels, February 7, 2020, Federal: \$26,202,750 Non-Federal: \$8,734,000 Total: \$34,937,000. The date refers to the Chief of Engineers report favorably recommending the project. Rep. Young has submitted the project request to the House Transportation & Infrastructure Committee for inclusion in the House WRDA bill. The bill is still under development but may go to markup later this month.

2. Unalaska Airport: The Dept of Transportation has announced grant awards of airport projects nationwide through a combination of CARES Act emergency transportation relief and regular FAA Aircraft Improvement Program funding. Listed is \$750,000 for Master Plan for the airport. Separately, the NTSB has not yet issued its final report on the Rav’n Air accident but is expected to do so soon.

3. CARES Act 2.0/HEROES Act: The Senate Majority Leader has indicated that the Senate’s legislative response to the House-passed HEROES Act (see our memo dated May 19th for a discussion of provisions contained in the legislation) will be considered in the latter part of July. Additionally, the Federal Reserve Chairman has been encouraging Congress to pass additional legislation to provide further fiscal stimulus to the economy. Trump Administration officials have been quoted as supporting \$2 trillion in further legislative relief while the Majority Leader has stated a preference for \$1 trillion. The HEROES Act provided over \$3 trillion in CV-19 relief, including nearly \$1 trillion to State, local and tribal (SALT) governments and flexibility in use of those funds to backfill foregone revenue. A bipartisan group of Senators has introduced a bill providing \$500 billion in SALT funds. Associations representing SALT governments continue to write letters urging relief.

We believe that a final bill will include significant SALT relief along with flexible funding use. Other issues the Senate will consider in its legislative package include – continuation and revision of the Payroll Protection Program (the Program’s loan authority expired June 30 with approximately \$135 billion remaining unspent. Congress may enact a short-term extension this week); lawsuit liability protections for employers provided Federal and

State CV-19 protection guidance was followed; unemployment insurance extension (the current Federal supplemental payment of \$600/week expires at the end of the month); Postal Service relief; additional health care provider relief; more funding for CV-19 testing, research and equipment; and other matters.

4. CARES Act – SALT Stabilization Payment Guidance FAQs: As we have reported earlier, legislation is pending that would provide greater SALT government flexibility in use of these funds. Otherwise and until there is a change in law, the Treasury Department continues to update its FAQs on permissible uses of SALT stabilization payments. The most recent update was June 24 with link below. Recent updates include a requirement that recipients comply with the Federal Single Audit Act. Also, for purposes of the CARES Act’s “claw-back” requirements, the Treasury Department has determined that for any misspent or unspent funds, the State or local government that received the funds directly, as opposed to indirectly or through a pass-through process, is responsible for paying back the funds. In Alaska, given that all of its boroughs and municipalities received their stabilization payments from the State, any misspent or unspent funds at the local level would be the responsibility of the State to pay back to the Treasury. <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>

5. CARES Act – Tribal Payments: Litigation concerning eligibility of Alaska Native Corporations has been settled, with the Court determining they can receive CARES Act tribal payments but did not determine amount. Two sets of payments have already been awarded to Federally-recognized tribes using formulas based on population and employment/expenditures. It is now up to the Treasury Dept. to determine ANC awards from the remaining funds it has on hand from the original \$8 billion in the Act.

6. FY 2021 Appropriations: The House Appropriations Committee will begin marking up its FY 2021 appropriations bills after the July 4th holiday, with floor action scheduled for all 12 individual bills in the latter half of the month. The Senate Appropriations Committee is proceeding more slowly with no markups scheduled at the moment. Already enacted in law is an agreement on “top-line” appropriations for FY 2021 that increases spending by a modest amount (less than one percent) for all Federal agencies. While having agreement on a “top-line” number is a positive development toward enactment of the annual appropriations bills, this year we are likely to see a short-term Continuing Resolution enacted in the fall, with the appropriations bills lumped together in an Omnibus Appropriations Bill or series of “Minibuses” to be considered in a post-election lame duck session or early 2021.

7. Infrastructure: The House has passed on a largely party-line vote a \$494 billion, five year transportation reauthorization bill (The Invest in America Act). It also includes multiple new environmentally-focused initiatives. The bill has been folded into a larger \$1.5 trillion five year public infrastructure bill (HR 2 --The Moving America Forward Act) that also includes -- \$130 billion for school infrastructure; \$100 billion for broadband; \$65 billion for drinking and wastewater infrastructure; \$75 billion for renewable energy; \$10 billion for child care facilities; \$100 billion for affordable housing infrastructure; \$30 billion to upgrade hospitals, community health centers, clinical laboratories and Native American health facilities; and \$25 billion for equipment upgrades for the U.S. Postal Service. The Invest in America Act includes--

- **Harbor Construction & Dredging** – Appropriates \$10 billion and \$5 billion, respectively, for Army Corps of Engineers harbor construction and dredging projects. These amounts represent significant increases above the Corps’ annual budget.
- **Highways & Bridges:** \$319 billion, with priority given to repairing existing highways and bridges over new projects. Funding is provided to build alternative fuel charging stations.
- **Transit Investments:** \$105 billion. Increases funding for transit agencies to add new routes and provide more reliable service. Increases investment in zero-emission buses.
- **Rail Investments:** \$60 billion. Triples funding for Amtrak to \$29 billion over five years. Creates a new \$19 billion program, the Passenger Rail Improvement, Modernization and Expansion (PRIME) grant program for passenger rail improvements and expansion, with 40 percent of the funding reserved for projects in the Northeast Corridor. Increases funding for the Consolidated Rail Infrastructure and Safety Improvements (CRISI) grant program to \$7 billion to fund passenger and freight rail projects.

The total amount of the transportation sections of the bill is about 50 percent above projected levels under the current surface transportation authorization formulas. The bill does not include any “pay-fors”, such as an increase in the Federal gas tax. \$81 billion is set aside to fund shortfalls in State and local transportation budgets due to the CV-19 crisis. The White House has threatened a veto of the measure and is reportedly working on releasing a revision of previously proposed infrastructure plans.

The Senate surface transportation reauthorization bill spends significantly less (\$287 billion over five years, roughly 5 percent annual increases), focuses on traditional surface transportation programs, and has bipartisan support. It also lacks a “pay for” and has been pending for some time. There is some discussion of bringing it to the Senate floor sometime this summer. Given the differences with the House, the press of other legislative business, and the short legislative window before the election, enactment of a bill this year will be a major challenge.

8. PILT: The Department of Interior has announced PILT funding awards for FY 2020. The City should receive its payment shortly. To put the program on a more stable and long-term footing, there is some discussion in the Senate on a multi-year reauthorizations of PILT for inclusion in the next CV-19 relief bill, but no consensus proposal has emerged yet. Senator Wyden (D-OR) continues to strongly advocate for his proposal to set up a large endowment fund that would provide public lands payments as well as fund other activities.

9. Great America Outdoors Act: The Senate has passed bi-partisan legislation that would fully fund the Land & Water Conservation Fund as well as address the multi-billion dollar backlog of maintenance projects at the Federal land management agencies. Versions of this measure have been debated for over a decade, with Senate passage the most significant progress to date (both Alaska Senators voted favorably). The House is expected to pass the bill and the

Administration has expressed its support. Dropped from the measure were provisions to expand OCS oil exploration and revenue-sharing due to strong objections from the Democrats and the environmental community.

10. Arctic Issues: The FY 2021 Senate National Defense Authorization Act includes a number of provisions authored by Senator Sullivan to address national security-related concerns in the Arctic. They include – an authorization to establish the Ted Stevens Center for Arctic Security Studies to conduct academic and other research on Arctic security issues; an authorization of \$46 million for developing an Arctic satellite capability; a report on modernizing the North Warning System; a report on the effect of warming permafrost on defense infrastructure; and establishment of a DOD-led taskforce to improve interagency coordination in the region. The Trump Administration has issued a Presidential Memorandum that Presidential Memorandum -- *Safeguarding U.S. National Interests in the Arctic and Antarctic Regions* – that emphasizes deployment of a full polar security icebreaking fleet by 2029. Separately, the Army Corps of Engineers has issued a favorable Chief’s Report recommending construction of an Arctic port in Nome at a cost of \$491 million. A provision authorizing the project is pending in the Senate WRDA Bill.

11. Fisheries & Oceans--

- **Payroll Protection Program (PPP) – 1099 Fishermen Crew Fix:** At the urging of the AK Delegation, the Treasury Department modified the requirements of the Payroll Protection Program to allow fishing vessel owners to count captain and crew paid as individual contractors via 1099 payments as payroll for purposes for qualifying for loan forgiveness in the PPP, provided that those captain/crew did not receive individual PPP loans themselves. However, the change was made just a few days before the program’s loan authority expired on June 30 and many fishing vessel owners were unable to submit applications with their banks in time. The Senate and House have passed legislation extending the deadline to August 8th and the President is expected to sign it. The pace of borrowing in the program has slowed in recent weeks, with \$135 billion left for future loans.
- **CARES Act Fisheries Disaster Relief** – NOAA has announced the State allocations for the \$300 million the bill contained in CV-19 fisheries disaster relief for affected commercial fishermen, processors, charterboat operators, certain aquaculture operations, tribes and subsistence users. Alaska received \$50 million, the maximum allowable under the formula. Applicants must show at least a 35 percent revenue loss versus their annual average for the last five years. This requirement is in the statute. It is unclear yet if applicants will need to show their tax returns. We have heard that NOAA is considering the use of a sworn affidavit with specific references to the civil and criminal penalties for providing false information. Linked below is NOAA's guidance on distribution of the CV fisheries disaster relief. The FAQs are periodically updated and should be refreshed (last updated on 6/26).

<https://www.fisheries.noaa.gov/feature-story/commerce-secretary-announces-allocation-300-million-cares-act-funding>

The sectoral allocation within Alaska's share will be determined by the expenditure plan submitted by the Alaska Dept of Fish & Game (a process similar to traditional fisheries relief). The West Coast States funds will be awarded as a grant to Pacific States Marine Fisheries Commission (next link) for distribution to affected individuals. The Commission will develop an application and award process that will track the State's expenditure plan. This page should also be bookmarked and checked periodically. No application form is available yet.

<http://www.psmfc.org/cares-act-the-coronavirus-aid-relief-and-economic-security-act>

- **Coast Guard Reporting – Port & Facility Operations:** The Coast Guard has issued revised guidance on various inspections, security and reporting responsibilities to allow greater use of electronic reporting and signatures in order to promote safe social distancing. The details are at the link.
<https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/MSIB/2020/MSIB-07-20-Change-2.pdf?ver=2020-05-08-151601-887>
- **Coastal Resiliency Grants Bill:** Representatives Young and Debbie Mucarsel-Powell (D-FL) have introduced the Shovel-Ready Restoration Grants for Coastlines and Fisheries Act of 2020. The bill establishes a \$3 billion NOAA grant program within NOAA for shovel-ready projects that restore or improve coastal habitats, resiliency, and the economy. Priority projects would provide compensation to fishermen for either their labor or use of their fishing vessel.

12. Miscellaneous

- **Fishery Finance Program:** NOAA Fisheries has withdrawn its proposed rule which would have made the NMFS Title XI loan guarantee program available for new vessel construction and major reconstruction. The program remains available for shore-based facility modernization and financing IFQ acquisitions.
- **Immigration Executive Order:** On June 22, the White House issued an executive order restricting nonimmigrant work visas. The order provides an exemption for seasonal workers who provide temporary labor or services essential to the U.S. food supply chain. This includes foreign workers being brought to the U.S. under the H2-B visa program for the seafood processing industry.
- **Executive Order on Seafood Competitiveness:** In May, the President issued an executive order to promote U.S. seafood competitiveness and economic growth. The EO seeks to expand U.S. seafood production by making permitting for aquaculture more efficient; promoting research and product development; seeking changes to regulations to maximize commercial fishing; and restricting seafood imports that do not meet U.S. standards. This effort will also include the establishment of a Seafood Trade Task Force by the Secretary of Commerce. The objective is to develop a trade strategy to improve access to foreign markets through

trade policy; resolve technical barriers to U.S. seafood exports; and promote free and fair access for U.S. seafood products.

- **Marine Monuments:** On June 5, President Trump issued an executive order reversing a decision of the Obama Administration that restricted commercial fishing in the Northeast Canyons and Seamounts Marine National Monument (off the coast of New England). The Center of Biological Diversity has sued to nullify the executive order.
- **High Risk Wildlife Markets:** S. 3759 has been introduced by Senators Chris Coons (D-DE) and Lindsey Graham (R-SC). The bill would require the Federal Government to enter into negotiations with other nations to close high risk wildlife markets that contribute to emerging infectious diseases. The bill would authorize the use of sanctions for refusal to close these markets, including prohibiting imports of products from the offending nation; freezing assets of governmental officials; and imposing travel bans and visa restrictions.