

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: October 13, 2020

1. Unalaska Harbor: The House of Representatives has passed a version of the Water Resources Development Act reauthorization (“WRDA”). The Senate WRDA bill has been reported from the Environment & Public Works Committee. Both bills include 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. The Army Corps just submitted a supplemental report to the Congress indicating that the cost share of the project is 80% Federal/20% non-federal. The House and Senate committee staffers are in informal negotiations to try and arrive at a compromise WRDA bill to be passed during the lame duck session of the Congress after the elections. Since the Unalaska provision is identical in both bills, we expect it to be included in the final version of the bill. If a WRDA bill is enacted into law, the next step is to seek construction funding in the Fiscal Year 2022 appropriation process.

2. Unalaska Airport/Air Service: U.S. DOT received two offers in response to its Request for Proposal for an Essential Air Service designation for Unalaska. The new Ravn Air Service has offered to provide air service at the EAS minimum levels or better for no subsidy payments. The minimum levels are six flights per week during peak and five flights per week during off-peak. This would involve direct service between Anchorage and Unalaska. The second offer proposes using Kodiak as a hub in providing service to Unalaska. The EAS Program does not currently recognize Kodiak as a hub. The combination of subsidy-free service and direct service from Anchorage makes Ravn the leading candidate for the Essential Air Service designation. Ravn has been waiting on approvals from both the FAA (the adequacy of safety protocols and pilot fitness) and US DOT (financial fitness review). We do not expect the EAS Branch to make any decision on the EAS designation until the FAA and US DOT finish their reviews. The Alaska Congressional Delegation continues to remind US DOT of the need to restore direct service to Unalaska.

3. FY 2021 Appropriations: The House passed 10 of the 12 appropriations bills over the summer, while the Senate failed to pass any. As a result, Congress has passed a short-term Continuing Resolution to keep Federal agencies and programs operating at existing funding levels through Dec. 11. Congress is planning a post-election lame duck session to begin in mid-November to consider the appropriations bills and other remaining legislation to close out the 116th Congress. We are likely to see an Omnibus Appropriations Bill or series of “Minibuses” voted on by the end of 2020 or in the early part of 2021.

The Senate is in pro-forma session this week while Judiciary Committee hearings are underway to consider the nomination of Amy Barrett to the Supreme Court. The full Senate will reconvene the week of October 19th to vote on her nomination. The House has adjourned until after the election but the Speaker has told Members to be ready to return to Washington should vital legislation require a vote. All these plans are tentative and subject to change.

4. Further CV-19 Legislative Relief – State, Local, Territorial & Tribal Government

(SALT) Assistance: Negotiations continue on the next round of CV legislative relief. Negotiations on behalf the Trump Administration have been led by Dept of Treasury Secretary Mnuchin, with Speaker Pelosi leading them on behalf of Congressional Democrats. Senate Majority Leader McConnell has been more in the background during these discussions as there are splits among Senate Republicans on the need for and amount of relief. The prospects for agreement on a final package are difficult to forecast as of the date of this report. If a final deal is reached, we will send an additional report with the details.

The Administration had issued a counteroffer amount of \$1.8 trillion to the House Democratic proposal of \$2.2 billion (see below analysis of the “revised” HEROES Act). Secretary Mnuchin has indicated a willingness to accept additional SALT relief in the amount of \$300 billion, a lesser amount than in the “revised” HEROES Act (\$436 billion). There is general bi-partisan agreement on issues such as further relief to schools; extension of the Payroll Protection Program; further individual stimulus checks; and additional airline industry relief. The main issues of outstanding disagreement, in addition to overall bill cost and the amount of SALT assistance, include the levels of unemployment funding; liability protections for employers; CV-19 testing, PPE, contract tracing funding and planning; and childcare funding and tax credits.

At the beginning of the month, the House passed on a largely party-line vote, a “revised” or “updated” HEROES Act that drops the cost of the earlier-passed HEROES Act from \$3.4 trillion to \$2.2 trillion. The “revised” HEROES Act includes \$436 billion in SALT relief. By way of comparison, the earlier version provided \$915 billion while the CARES Act included \$150 billion. The new bill provides separate funding streams to States, counties/boroughs, municipalities, territories, tribes, and multistate transportation entities. The House formula for distribution in the funding streams is population-based and will generally favor more populous States, counties and municipalities.

- **States** – \$238 billion. Each State would receive an amount based on the ratio of the State’s unemployed to the national number of unemployed, with each State receiving a minimum floor payment of \$500 million. By way of comparison, the CARES Act provided minimum State payments of \$1.25 billion, the amount that the State of Alaska received.
- **Counties (includes Boroughs)** – \$89.5 billion, with each county’s award based on its population relative to all counties nationally. The distribution would come directly from the Treasury Department to the counties/boroughs.

- **Municipalities** – \$89.5 billion, of which \$26.85 billion would go to municipalities of populations less than 50,000. For the <50,000 municipalities funds, the allocation each State receives is based on the ratio of the population of all its <50,000 municipalities versus the population of all same-sized municipalities nationally. Once a State allocation is made it is further divided for award to each <50,000 municipality in the State as a proportion of its population relative to all <50,000 municipalities in that State. A State must make the distributions within 30 days. Failure to distribute funds by a State in that period results in the responsibility reverting to the Treasury.
- **Tribes** – \$9.5 billion. Alaska Native/Village Corporations are prohibited from receiving any relief.
- **Territories** – \$9.5 billion.
- **Multistate transportation entities** -- \$100 million.

The “revised” HEROES Act includes language extending the deadline on use of SALT funds from the CARES Act to Dec. 31, 2021 and provides greater flexibility in the use of those funds to make up for foregone revenue as a result of the pandemic. Further, the bill provides broad flexibility in the use of the new funding to replace foregone revenue with no deadline on when those funds must be spent.

5. CARES Act – SALT Stabilization Payment Guidance/FAQs: The Treasury Department continues to update its guidance on permissible uses of SALT stabilization payments. The most recent update was September 2nd with link below as well as to the accompanying FAQs. The recent additions are more favorable to SALT use of CARES Act stabilization funds. The most important determination is that a SALT can use the funds for full payroll and benefits costs (including hazard and overtime pay but not bonuses) of public health and safety personnel from March 1 to December 30 if those personnel have been “substantially dedicated” to responding to and mitigating the CV pandemic, with the presumption that all SALT health and safety personnel meet that standard unless the SALT’s chief executive determines otherwise. Furthermore, the guidance and FAQs allow for the designation of time/expense by other SALT personnel on CV-19-related work provided it is properly documented. There remains, however, a statutory requirement that stabilization payments must be spent by the end of the calendar year.

Guidance -- <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>

FAQS -- <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>

6. 2020 Federal Election: The following reflects a summation of what many non-partisan analysts are assessing as possible outcomes for the Presidential, Senate and House elections in November. They reflect trends present at this time and are subject to change (and most likely will) as we get closer to November 3rd.

- **Presidential:** Aggregate averaging of the major national polls over the latter half of the summer had former Vice President Biden up by 6 to 7 points over President Trump, but that gap has widened in the last 2-3 weeks and is at 10-11 points at the start of this week. His average polling lead nationally is about 4 points above the advantage Hillary Clinton had during the same time period in 2016. Biden holds a lead in a number swing states (Arizona, North Carolina, Wisconsin, Pennsylvania, Michigan and Iowa) that the President won in 2016. The average polling differential in several of those states is within the statistical margin of error of 5 points while others (Michigan, Pennsylvania and Wisconsin) are in the 5 to 10 point range. The key bellwether states of Florida and Ohio are polling so tightly that they are too close to make a forecast. The bases of both parties will be highly motivated but turnout may also be affected by pandemic fears and closing or consolidation of many polling places. Those constraints, however, will be mitigated in many states by the greater availability of early or mail in voting than in 2016.
- **Senate:** The Republicans currently control the Senate 53-47, with 23 Republican and 12 Democratic-held seats up for election. For the Democrats to gain control of the Senate, they must have a net gain of 4 seats, or 3 seats and the Presidency (the Vice President acting as tiebreaker). There are 10 closely contested seats held by Republicans and 2 held by Democrats. It is expected that Republicans will lose seats in Arizona and Colorado. Democrats currently have the polling edge in Maine, North Carolina and Iowa as well. Republicans are expected to gain a seat in Alabama and challenge in the Michigan race. They hold slight edges for incumbent seats in Georgia (2) and South Carolina but those races are now tightening. The other Democratic and Republican seats facing election are not expected to change hands.
- **House:** The Democrats currently control the House by 232 to 198. There is 1 Libertarian (former and retiring Republican Rep. Justin Amash from Michigan) and 4 vacancies (3 Republican seats and 1 Democratic seat) due to recent resignations or death. There are 11 seats currently held by Democrats that are considered “toss ups” by the non-partisan Cook Political Report. These include multiple freshmen that captured seats in the 2018 mid-term elections that put the Democrats in control of the chamber, with a number of these districts voting in favor of President Trump in 2016. Eight of these districts supported him with a 10 percentage point or greater advantage. There are 4 Republican-held seats that are favored to flip to the Democrats (this includes two recently redrawn seats in North Carolina due to court-ordered redistricting that are now very blue districts and persuaded the Republican incumbents to retire), while there are 14 Republican-held seats that are considered “toss ups.” Almost all non-partisan election analysts forecast that the House will remain under Democratic control, with the vast majority of Democratic- and Republican-held seats considered safe for the incumbent party. As a result, the net shift in seats from one party to the other in either direction is likely to be less than a dozen seats, with the probabilities showing the Democrats more likely to secure a slight net gain.

7. Earmarks: The House Select Committee on Modernization of Congress has issued its final bipartisan recommendations on ways to improve the functions and operations of Congress. Included in its recommendations is the return to the practice of Congressionally-directed spending, otherwise known as earmarking. Earmarking has been prohibited since 2011, although in the last few years there has been increased discussion within both parties about resuming the practice. The recommendation will be considered as part of a package of House procedural and other rule changes considered by the House Rules Committee to go into effect for the 117th Congress. Under the recommendation, Congressionally-directed spending will be restricted to SALT governments and non-profits. If the recommendation is adopted, it might apply to the FY 2022 appropriations bills, surface transportation/public infrastructure legislation, and other project-related bills. Both the House Majority Leader and Whip, the number 2 and 3 positions in the House Democratic Leadership, have endorsed resumption of the practice.

8. Infrastructure Investment: There have been no significant developments on this issue since our last report. There is bi-partisan support on this issue, with some legislative progress (bills passing the House and through Senate committee) in the 116th Congress that will hopefully carry over in the next Congress.

9. Payroll Protection Program (PPP): The deadline for applying for a PPP loan closed August 8 but Congress is considering providing additional funding and extending that time period as part of the next CV-19 relief package as well as allowing for a second loan under certain conditions. Separately, the Treasury Department and SBA have given the go-ahead for lender approval of PPP loan forgiveness applications. This includes a simplified forgiveness application for those who received less than \$50,000. Instructions and applications are at the link -- <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program#section-header-5>

10. Port Investment Toolkit: The Federal Maritime Administration has released a port investment toolkit to give guidance to those communities seeking Federal funding for maritime/port infrastructure projects through a number of Dept. of Transportation grant programs. The toolkit is at the link -- <https://aapa.cms-plus.com/files/PDFs/Toolkit/PPIT%20Marine%20Highway%20Module%20Final.pdf>

11. CARES Act – Economic Development Administration Assistance: The EDA has issued a notice of funding availability for economic development projects funded by the CARES Act. The range of individual funding for a project is \$100,000 to \$30 million with EDA anticipating making 3,000 awards with a Federal cost share from 80 to 100 percent. Applications can be submitted on a rolling basis with details at the link -- <https://www.grants.gov/web/grants/view-opportunity.html?oppId=321695>

12. Fisheries & Oceans

- **CV-19 & Fisheries Management:** Every aspect of fisheries management has been impacted by the mitigation measures and shelter-in-place restrictions imposed by Federal, State, and Local authorities in response to the pandemic. Actions taken include—
 - The Regional Fishery Management Councils have shifted from in-person meetings to meetings held electronically through telecommunication media.
 - NOAA Fisheries has cancelled 55 fishery surveys around the Nation. NOAA has indicated that these surveys account for approximately 1,380 lost planned days-at-sea between March 20 and July 20, 2020. NOAA is shifting its focus to its unmanned wind and solar powered surface vessels and underwater ocean gliders to collect fishery and ocean condition data. The unmanned surface vessels will be deployed in the Bering Sea to conduct an emergency survey of the walleye pollock resource. Four unmanned surface vessels will also be deployed in the Arctic to continue the planned mapping of the Arctic North Slope.
 - NOAA issued an emergency order providing its Regional Administrators with the authority to waive fishery observer requirements on a case-by-case basis. These waivers will be granted if there are travel restrictions in place which impede the placement of observers, or when there are insufficient qualified observers available due to health, safety, or training issues related to CV-19.
 - Senator Murkowski has sent a bipartisan letter with 18 other Senators (including Senator Sullivan) to NOAA raising concern about the prospects for future fisheries surveys. The letter urges NOAA to emulate steps taken by the Navy and Coast Guard to conduct successful research cruises during the pandemic. It requests that NOAA develop a written plan for next year's surveys to be submitted by December 15.

- **CARES Act -- Fisheries Disaster Relief:** Twelve States have submitted their CV-fisheries disaster relief spend plans and gotten NMFS approval. The State of Alaska has just released its expenditure plan for the \$50 million share it received from the total \$300 million that was provided in the Act. Public comments are due by Oct 19. Once it is finalized and approved by NOAA, the Pacific States Marine Fisheries Commission will handle the processing of applications and awarding of funds to eligible individuals/businesses. Applicants must sign a sworn attestation that their revenue losses exceed 35 percent when compared to the average annual year from 2015 to 2019. The sum of the amount they apply for plus any funds they receive from other CV-19 Federal relief (such as the Payroll Protection Act) and revenues derived from 2020 fishing cannot exceed their annual average revenues from the prior five years. Application forms and directions can be found at the links along with Alaska's plan.

Alaska draft expenditure plan --

https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=199692&utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=

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

- **USDA Seafood Trade Relief:** The USDA has announced the award of \$530 million to go to certain fisheries that have been negatively impacted by unfair trade and tariff practices by China and the European Union. Eligible commercial fishermen (processors are not eligible under this program) include those that participated in the following fisheries – salmon, cod, pollock, crab (Dungeness, king, snow and southern tanner), sablefish, and Atka mackerel. Total payments per recipient are capped at \$250,000 with application deadline of December 14th. Details on the program are below.

Guidance, Application Forms & Payment Formulas --
<https://www.farmers.gov/sites/default/files/2020-09/strp/STRP%20Application%20Packet%20v3.pdf>

Webinar -- <https://globalmeetwebinar.webcasts.com/viewer/event.jsp?ei=1372014>

FAQS -- <https://www.farmers.gov/seafood/strp-faq>

- **Magnuson-Stevens Act (MSA):** The last time Congress updated the law was in 2006. We are due for reauthorization but this is an issue that will be pushed into the 117th Congress. Only one bill (H.R. 3697, from Rep. Young) was introduced in the 116th Congress that would amend the MSA in a comprehensive manner. There are approximately 32 other House bills that would amend the MSA to a far lesser degree. House Water Oceans & Wildlife Subcommittee Chairman Jared Huffman (D-CA) has conducted multiple MSA listening sessions around the country. He did not hold one in Alaska but has stated he will do so. The Senate held no MSA hearings and no Senate “discussion drafts” or actual reform bills were offered in the 116th Congress. We think MSA legislative activity will pick up in both bodies in the next Congress.
- **Pink Salmon Migration Study:** The Alaska Fisheries Science Center has issued a report indicating climatic shifts in pink salmon migratory patterns northward, highlighting the future opportunities for this fishery in the Norton Sound -- <https://www.fisheries.noaa.gov/feature-story/pink-salmon-may-benefit-pacific-arctic-warms>
- **National Commercial Fishing Safety Advisory Committee Openings:** The Coast Guard is seeking applicants to fill 18 openings (some will likely be reappointments) on its outside advisory committee on commercial fishing safety. Ten members must come from the commercial fishing industry. Applications are due Dec. 14, with details at the link -- <https://www.federalregister.gov/documents/2020/10/13/2020-22571/national-commercial-fishing-safety-advisory-committee-vacancy>
- **Marine Mammal Interactions in Fisheries:** NMFS has published its annual list for public comment that categorize U.S. fisheries into three tiers based on the observed level of past marine mammal interactions. It also includes additions of certain marine

mammals that those fisheries must account for and report on. Changes include -- the BSAI Pacific Cod pot fishery has been elevated from Category III to Category II due to a 2017 entanglement of a humpback whale. The Aleutian Island stock of harbor seals has been added to the list for the Category II BSAI Rockfish trawl fishery based on a 2014 observed mortality and to the Category III Alaska BSAI Atka Mackerel trawl fishery due to an observed mortality in 2016. Cook Inlet harbor seals were added to the Category III Gulf of Alaska halibut longline fishery. A number of species were removed from different North Pacific fisheries as well. Separately, NMFS has issued the list of foreign fisheries and nations with significant marine mammal interactions, with links to both lists below.

U.S -- <https://www.federalregister.gov/documents/2020/09/21/2020-20709/list-of-fisheries-for-2021>

Foreign -- <https://www.govinfo.gov/content/pkg/FR-2020-10-08/pdf/2020-22290.pdf>

- **Aquaculture:** In August, the U.S. 5th District Court of Appeals upheld a 2018 lower court ruling that NOAA lacks the legal authority to permit aquaculture activities in the EEZ. This ruling is expected to directly impact the first major net pen operation currently in the permit approval stage to raise Almaco jacks off the coast of Central Florida in the Gulf of Mexico. The ruling is also expected to put added pressure on Congress to pass national aquaculture legislation to authorize the permitting of offshore aquaculture operations in the EEZ. In September, Senator Wicker, Chairman of the Senate Commerce, Science, and Transportation Committee, reintroduced the AQUAA Act (S. 4723) to establish a management and permitting framework for offshore aquaculture facilities. Earlier in the year, Rep. Collin Peterson (D-MN) introduced the counterpart House bill (HR 6191). The bills provide the authorization to allow aquaculture in the EEZ off the coastlines of States that otherwise restrict or prohibit aquaculture in their own waters, such as is the case with Alaska's finfish aquaculture. This federalism issue has been a major sticking point in the movement of the AQUAA Act previously, along with concerns over the socio-economic, biological, and management impacts on wild-caught species. We anticipate a more serious effort to move legislation in the 117th Congress.
- **Mariculture Permitting:** The Army Corps has issued a proposed rule for public comment to establish a new nationwide permit (NWP) that authorizes structures anchored to the seabed in Federal waters over the outer continental shelf for seaweed mariculture activities. The Corps is also proposing to include multi-trophic mariculture activities, if the mariculture operator wants to cultivate other species such as bivalve shellfish with the seaweed. The rule vests much of the permitting authority with the Corps district engineers. Full rule is at the link with comments due by Nov. 16 -- <https://www.govinfo.gov/content/pkg/FR-2020-09-15/pdf/2020-17116.pdf>
- **Revised HEROES Act – Fisheries Disaster Relief:** The bill includes an additional \$250 million in additional CV-19 related fisheries disaster relief. \$25 million of the amount is set aside for tribal fisheries. The bill language otherwise does not alter the

criteria set in the CARES Act. The earlier HEROES Act provided \$100 million while the two Senate CV-19 relief bills from earlier in the summer each included \$500 million.

- **Save Our Seas Act:** This bill, sponsored by Reps. Young and Bonamici (D-OR) in the House and Senators Sullivan and Whitehouse (D-RI) in the Senate, has now passed the House. If it clears the Senate it will go directly to the President and he is expected to sign it. Among other measures, the legislation establishes or requires -- a Marine Debris Response Trust Fund to combat marine debris events; a prize for innovation in capturing or preventing plastic waste; a strategy by EPA to reduce plastic from entering the waste stream and improve recycling; and engagement by the U.S. in negotiating further international agreements to reduce marine debris.
- **World Trade Organization (WTO) Negotiation On Fishing Subsidies:** WTO negotiations for a text eliminating harmful subsidies continued in September. The WTO's goal is to secure an agreement by the end 2020 to curb illegal, unreported and unregulated fishing and prohibit certain forms of fisheries subsidies that lead to overcapacity and overfishing, with differential treatment for developing countries. The WTO did not release the draft text. At the last meeting there was discussion on delaying a final agreement until next year due to the impacts on the pandemic.
- **Implementation of Seafood Promotion Executive Order:** At the annual national meeting of the Regional Fishery Management Councils, senior NMFS officials discussed implementation of the President's E.O. -- Promoting American Seafood Competitiveness and Economic Growth. Among the items being considered include re-establishing the National Seafood Council with possibly a 17 member board and upwards of a \$25 million annual budget to promote U.S. seafood exports and competitiveness.
- **Digital Coast Act:** Legislation sponsored by Senators Baldwin (D-WI) and Murkowski -- S. 1069, the Digital Coast Act -- to improve the digitization of U.S. coastal mapping has now passed the Senate. The bill seeks greater use and deployment of advanced remote sensing and geospatial imaging by NOAA, in partnership with other Federal agencies, State and local governments and the private sector, with the goals of better mapping of coastal infrastructure, elevation, land use/cover, living resources and habitat, and human uses.
- **DESCENDS Act:** The House has passed legislation that requires recreational and commercial fishermen in the Gulf of Mexico to use a venting or descending device to reduce barotrauma to released deep water reef species and improve survival rates. The legislation does not extend to other regions, leaving it to the discretion of the regional fishery management councils on whether use of this equipment is appropriate for their fisheries.