Reviewing 2022's Finish

Examining the end of the 117th Congress for coastal Louisiana

NEAL MCMILLIN, DIRECTOR OF FEDERAL AFFAIRS

GOVERNOR'S OFFICE OF COASTAL ACTIVITIES

Water Resources Development Act (WRDA) 2022

On December 23, 2022, President Biden signed the Fiscal Year 2023 National Defense Authorization Act (NDAA).

The FY23 NDAA included the Water Resources Development Act of 2022.

WRDA has now passed on a biannual cycle for the 5th Congress in a row. A decade of consistency.

"This WRDA will be more valuable to the sustainability of our coast than any other such bill in over a decade," said Louisiana Coastal Protection and Restoration Authority Chairman Chip Kline.

"It not only clarifies roles and funding responsibilities for long-standing commitments to coastal protection and restoration, but also initiates new projects and policies that will provide major benefits to communities in Louisiana. I commend our entire federal Congressional delegation for their outstanding efforts."

Notable Louisiana Provisions in WRDA 2022 - Authorizations

Provision	Outcome
Sec. 8401. Project Authorizations: Upper Barataria Basin	Authorized. Federal: $1,184,472,250 Non-Federal: $637,793,750 Total: $1,822,265,000
Sec. 8401. Project Authorizations: South Central Coastal	Authorized. Federal: $809,297,450 Non-Federal: $435,775,550 Total: $1,245,073,000
Sec. 8202. Expedited Completion: St. Tammany Parish, Louisiana	The Army Corps is instructed to expedite the completion of the St. Tammany feasibility study. If the project is determined to be justified, the Army Crops can proceed directly to preconstruction planning, engineering, and design (PED).

Notable Louisiana Provisions in WRDA 2022 – Cost Share

Provision	Outcome
Sec. 8341. Mississippi River Gulf Outlet, Louisiana	The cost share for the ecosystem restoration of the MRGO shall be 100% full federal expense.
Sec. 8343. Lower Mississippi River Comprehensive Management Study	The cost share of the Lower Mississippi River Comprehensive Management Study shall be 100% full federal expense.
Sec. 8340. Algiers Canal Levees, Louisiana	The Army Corps shall resume operation, maintenance, repair, rehabilitation, and replacement (OMRR&R) responsible for the Algiers Canal Levees at 100% full federal expense.
Sec. 8149. Use of other Federal funds	Allows the non-Federal sponsor to use other federal funds to satisfy the non-Federal cost share for a study or project. Previously, the non-Federal sponsor would need the federal agency disbursing the funds to determine that it would be eligible. Now, so long as the funds are not expressed prohibited from being a cost share and the funds are eligible for such a purpose, the funds can be used for the non-Federal cost share. This provision clarifies that revenue sharing federal funds, like those from GOMESA, could be used as a cost share for Army Corps projects.

Notable Louisiana Provisions in WRDA 2022 – HSDRRS

Provision	Outcome
Sec. 8203. Expedited Modifications of Existing Feasibility Studies: LPV	The Army Corps is instructed to expedite the completion of the Lake Pontchartrain and Vicinity, Louisiana feasibility study for investigating increasing the scope of the project to provide protection against a 200-year storm event. If the project is determined to be justified, the Army Crops can proceed directly to preconstruction planning, engineering, and design (PED).
Sec. 8382. General Reauthorizations	The extension allows the Army Corps to continue to rehabilitate existing levees to address subsidence, settlement, sea level rise, and other factors to maintain the authorized level of protection for HSDRRS through 2028.
Sec. 8383. Transfer of Excess Credit	Extends authority for the Army Corps to accept a non-Federal sponsor's crediting request through 2028. CPRA is negotiating with the Army Corps on certain projects that could be credited towards the HSDRRS project on the basis of this authority.
Sec. 8384. Treatment of Credit Between Projects	Allows accepted excess credit to be applied to the LPV and WBV projects for when levee heights are raised to maintain a 100-year level of protection.
Sec. 8386. Coastal Community Flood Control	Extends the timeline for the third HSDRRS payment from 2023 to June 1, 2032. The provision expands the repayment options to clearly allow the non-Federal interest to satisfy payments through the provision of fish and wildlife mitigation type projects that are "integral" to the project, if the costs exceed the required non-Federal contribution on mitigation.

Notable Louisiana Provisions in WRDA 2022 – Policies & Other Matters

Provision	Outcome
Shoreline and Riverbank Protection and Restoration (*Provisions from the SHORRE Act are found throughout WRDA 2022*)	Provisions elevate the priority of coastal ecosystem restoration as a mission of the Army Corps. The SHORRE Act was sponsored by Sen. Carper, Sen. Cassidy, Rep. Rochester, and Rep. Graves
Sec. 8102. Emergency Response to Natural Disasters	Allows the Corps to rebuild hurricane risk reduction or shoreline protection projects to a improved status, if able, rather than just to the previous status.
Sec. 8235. Report to Congress on Easements Related to Water Resource Development Projects	Directs the Army Corps review and report to Congress on its requirements related to covered easements. In the past, the Army Corps has insisted on using fee title for restoration projects. The full fee requirement has stymied coastal restoration projects as landowners are often willing to provide easements, often at minimal cost, but not willing to sell outright.
Sec. 8152. Rehabilitation of Pump Stations	The Army Corps is allowed to rehabilitate pump stations that are a feature of a federal coastal storm risk management project, even if the pump station was not built by the Army Corps. The Army Crops is to prioritize rehabilitation projects that would benefit disadvantaged communities. An example of an eligible station would be the Pointe Celeste Pumping Station along the New Orleans to Venice (NOV) project in Plaquemines Parish.
Sec. 8145. Lower Mississippi River Basin Demonstration Program	Requires the Army Crops to establish an assistance program for projects focused on flood or coastal storm risk management or aquatic ecosystem restoration in the Lower Mississippi River.
Sec. 8137. Reforestation	Allows the Army Corps to consider measures to restore swamps and wetlands forests in ecosystem restoration or coastal storm risk management projects.

Reauthorization of the EPA's Lake Pontchartrain Basin Restoration Program

Reauthorization: Also in the NDAA, Congress included a clean water section that dealt with the Regional Waters Program at EPA. Congress established two new regional water programs in San Francisco Bay, CA, and Puget Sound, WA, and reauthorized the Lake Pontchartrain Basin Restoration Program in LA and MS.

Statutory Changes: The Lake Pontchartrain Basin Restoration Program will have to review and revise its comprehensive conservation and management plan (CCMP) every 5 years. Funded projects must be consistent the contents identified in such a plan. Administrative expenses were capped at 5 percent. Additionally, the scope of the program was broadened from 5,000 square miles to 10,000 square miles.

IIJA Funding: Congress provided $53 million to this program from the infrastructure law. Before that, the program received approximately $1 million a year, recently.

Active Proposal Period for CCMP: Currently, the program has invited interested parties to submit written proposals to revise the CCMP. The goal is to combine and revise the 1995 CCMP and 2006 Comprehensive Management Plan (CHMP). Eligible applicants include units of government, regional water pollution control agencies, and other nonprofits. Proposals are due on **February 10, 2023**.

UNO Research and Technology Foundation has been the grants administrator since 2002. For questions, reach out to Blair Bourgeois at PRPgrant@unofoundation.org.

FY 2023 Omnibus Appropriations Bill

<u>Omnibus</u>: The law included all of the twelve appropriations bills that combined into one package, called an omnibus, as well as other measures.

<u>Timing of Enactment</u>: Congress passed the $1.7 trillion FY2023 omnibus appropriations bill on December 23rd. President Biden signed the bill into law on December 29, 2022.

<u>Additional Items</u>: Congress included items in addition to the appropriations bill within the omnibus, called the "ash and trash" in Hill terms. Notable items include:

- $45 billion in supplemental funding to Ukraine
- $38 billion in disaster relief
- Electoral Count Reform and Presidential Transition Improvement
- No Tiktok on Government Devices
- Aviation, Oceans, Water, Public Land Management, Financial Services, and Agriculture related matters
- Retirement legislation
- Veterans benefits legislation

"THEY'LL COME AROUND BEFORE CHRISTMAS."

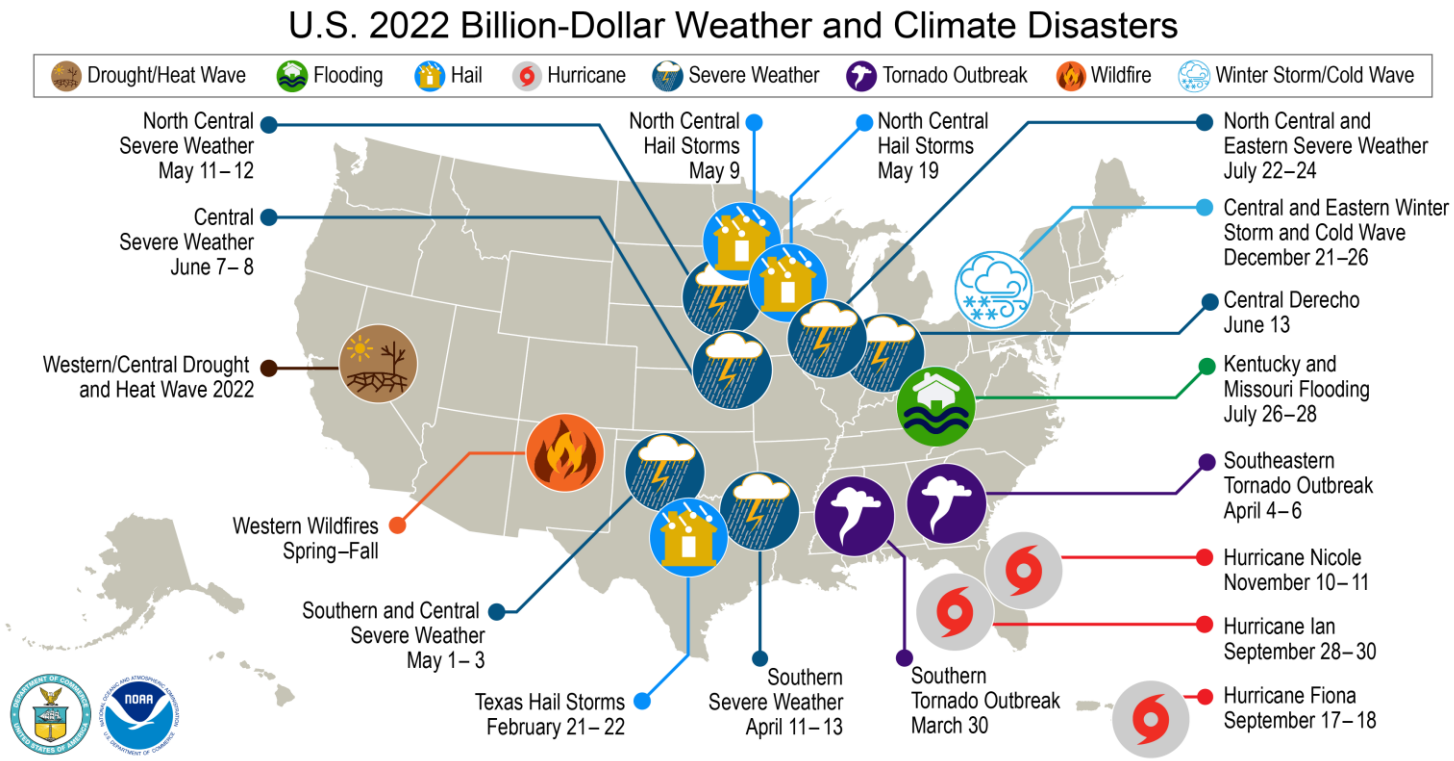
Attribution: Fiscal 2023 Omnibus Spending Bill Takes Flight by R.J. Matson, Portland, ME

Disaster Relief Supplemental Appropriations Act, 2023

Included in the omnibus was a $38 billion disaster supplemental, inspired by the damages from Hurricanes Ian, Nicole, and Fiona to Florida and Puerto Rico.

<u>Selected Items of Note</u>:

- $925 million to the USDA NRCS Emergency Watershed Protection Program
- $500 million for Economic Development Administration (EDA) grants to communities impacted by hurricanes, wildfires, flooding, and other natural disasters in calendar years 2021 and 2022
- $40 million to National Institute of Standards and Technology (NIST) to develop resilience standards with regard to weather and climate disasters
- $300 million for fishery disasters
- $1.4 billion to Army Corps for states damaged by Hurricane Ian, Fiona, and Nicole



Enacted FY 2023 USACE Funding

Program	President's Budget	FY23 Enacted	Increase from President's Budget
USACE Topline	$6.6 B	$8.6 B	+ $2 B
Construction	$1.3 B	$1.8 B	+ $500 M
O&M	$4.4 B	$5 B	+ $600 M
MR&T	$230 M	$370 M	+ $140 M
Investigations	$116 M	$172.5 M	+ 56.5 M

Specifically for Louisiana's Coast

Project	Amount	Delegation or Administration Support	Budget Line
Morganza to the Gulf	$31 M	Scalise, Graves, Cassidy	MR&T
Atchafalaya Basin	$16.5 M	President's Budget	MR&T
Southwest Coastal	$10 M	Higgins, Cassidy	Construction
Calcasieu River & Pass	$9 M	Higgins, Cassidy	Construction
Louisiana Coastal Area Ecosystem Restoration	$4.5 M	President's Budget	Construction
Houma Navigation Canal	$2.5 M	Graves, Scalise	Investigations
Port Fourchon Belle Pass Channel	$1.5 M	Scalise	Investigations
Port of Iberia	$1.2 M	Higgins	Investigations
Lower MS River Comprehensive Mgmt. Study	$1 M	President's Budget	MR&T Investigations
Lafitte Area Flood Risk Mgmt.	$500,000	President's Budget	MR&T Investigations

Revenue Sharing Remains Unchanged

- Neither the RISEE Act nor the BREEZE Act was included in the omnibus appropriations bill. Although the RISEE Act was an active item of discussion, Congressional leadership did not clear it for passage.

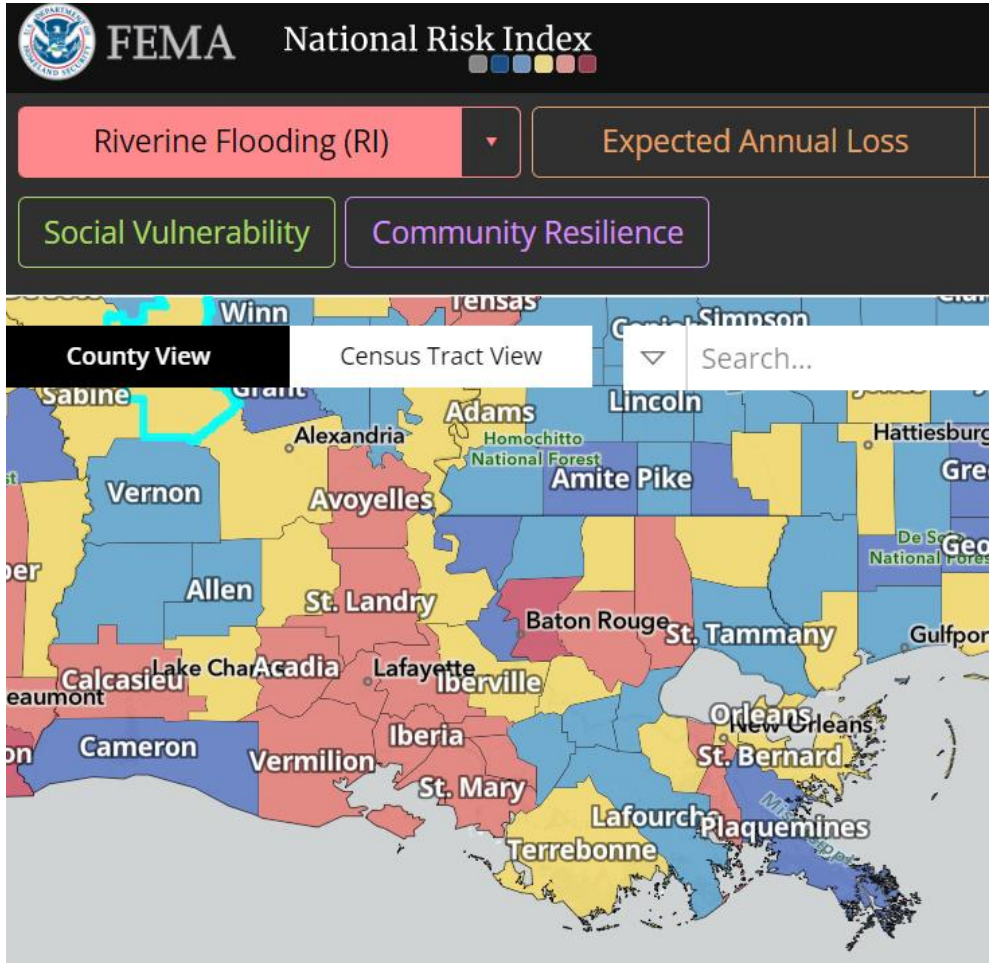
- Identified hurdles to passage include:
  - High cost. RISEE had an $11.6 billion Congressional Budget Office score
  - Lack of an identified "pay-for" to offset the score. Finding an agreeable pay-for that would raise billions is notoriously difficult and contentious.
  - Compressed time frame for negotiations. Since Congress waited until after the mid-term elections and Thanksgiving to pass the yearly budget, time was short to deal with the top issues – much less additional measures like revenue sharing. This hindered the ability to negotiate a pay-for or scaled down RISEE Act.
  - House Republicans absent from omnibus negotiations.
  - Modest, late-blooming support in House. Percentage-wise, the RISEE Act was most widely supported in the Senate, though the House companion bill was rapidly adding support towards the end.
  - Opposition from committee of jurisdiction. The House Natural Resources Chairman and Democratic committee staff opposed the RISEE Act. Proponents were not able to override that position.

Finally Tally of Support on Revenue Sharing Bills

Bill	Cosponsors	Rs	Ds	States
RISEE Act, S. 2130	24	8	16	16 CA, CO, CT, DE, HI, LA, MD, ME, MS, MT, NH, NM, NY, RI, SC, VA
RISEE Act, H.R. 9049	34	5	29	12 CA, DC, LA, MD, MI, NV, NY, RI, SC, TN, TX, VA
BREEZE Act, H.R. 8437	2	1	1	1 LA

Community Disaster Resilience Zones Act

- Became Public Law 117-255 after President Biden signed it on December 20th.
- Makes FEMA's National Risk Index permanent. The index is a tool that uses data to identify communities that are most vulnerable to 18 types of natural hazards. Measured hazards include coastal flooding, heat waves, hurricanes, riverine flooding, strong winds, tornados, and more.
- Requires FEMA to use the index to establish Community Disaster Resilience Zones (CDRZ) to designate communities across the nation that are in most need of mitigation projects, thereby improving access to federal funding and support.
- CDRZs are identified for the top 50 at-risk census tracts nationwide per hazard, as well as not less that 1 percent of the highest risk tracts in each state.
- Census tracts identified as a CDRZ would receive a 90% federal cost share for the FEMA Pre-Disaster Mitigation Program under Sec. 203 of the Stafford Act. Currently, the standard cost share is 75% federal/25% local.



EPA Announces $100 Million for Environmental Justice Grants

- Funding from the Inflation Reduction Act (IRA)
- Largest amount of EPA funding ever dedicated to environmental justice (EJ).
- Aligned with President Biden's Justice40 Initiative and executive order, *Tackling the Climate Crisis at Home and Abroad*
- For projects in underserved and overburdened communities, with special emphasis on projects that address:
  - Climate change
  - Disaster resiliency
  - Emergency preparedness
  - Rural areas
  - Health Impact Assessments
- Two funding opportunities:
  - Environmental Justice Collaborative Problem Solving Program Cooperative Agreement Program (EJCPS)
  - Environmental Justice Government-to-Government Program (EJG2G)
- Applications due **April 10, 2023**. Projects should begin on **October 1, 2023**.

U.S. Environmental Protection Agency

EJCPS

- $30 million available to community-based nonprofit organizations to address local environmental and/or public health issues.
- $5 million reserved for nonprofits with 5 or fewer employees.
- Intended to help nonprofits build partnerships with other stakeholders on EJ issues.
- EPA anticipates granting fifty $500K awards and thirty $150K awards.

EJG2G

- $70 million available to states ($20M), local govt. ($20M), tribal nations ($20M), and territories ($10M) in partnership with community-based organizations.
- Goal is to create model state activities that lead to measurable environmental or public health results, including making tools and processes that incorporate EJ into government.
- EPA anticipates funding seventy $1 million 3-year projects.