

05/07/93

DISPOSAL OF DREDGED MATERIALS ON BEACHES

Legislation

The placement of sand dredged in constructing and maintaining navigation inlets and channels adjacent to State beaches was first authorized by Section 145 of PL 94-587 (Water Resources Development Act (WRDA) of 1976). This Act authorized the Secretary of the Army, acting through the Chief of Engineers, to place beach-quality sand, which has been dredged in constructing and maintaining navigation inlets and channels, onto adjacent beaches if: (a) such action is requested by the state; (b) the Secretary deems such action to be in the public interest; and (c) upon payment of the cost above the cost required for alternative methods of disposing of such sand.

Section 933 of PL 99-662 (WRDA'86) amended Section 145 of PL 94-587 to increase to 50 percent the proportion that may be borne by the Federal government of the additional costs, above that required for alternative least-cost method for disposal for placement of material dredged during the construction and maintenance of navigation inlets onto adjacent beaches. In other words, it provides for 50-50 cost sharing, Federal and non-Federal.

Section 207 of PL 102-580 (WRDA'92) further amended Section 145 to allow the Secretary of the Army to enter into an agreement with a political subdivision of the State if requested by the State.

Section 145, as amended, reads as follows:

"The Secretary of the Army, acting through the Chief of Engineers, is authorized upon request of the State, to place on the beaches of such State beach-quality sand which has been dredged in constructing and maintaining navigation inlets and channels adjacent to such beaches, if the Secretary deems such action to be in the public interest and upon payment by such State of

50 percent of the increased cost thereof above the cost required for alternative methods of disposing of such sand. At the request of the State, the Secretary may enter into an agreement with a political subdivision of the State to place sand on the beaches of the political subdivision of the State under the same terms and conditions required in the first sentence of this section; except that the political subdivision shall be responsible for providing any payments required under such sentence in lieu of the State. In carrying out this section, the Secretary shall give consideration to the schedule of the State, or the schedule of the responsible political subdivision of the requesting State, for providing its share of funds for placing such sand on the beaches of the State or the political subdivision and shall, to the maximum extent practicable, accommodate such schedule.

Policy

It is Corps policy to accomplish construction and maintenance dredging in the least costly and most environmentally sound manner possible. If placement of dredged material on a beach or beaches is determined by the Corps to be the least costly acceptable means for disposal of the material, then such placement should be considered integral to accomplishment of the project work and not subject to any special non-Federal cost-sharing requirements (unless benefits from the on-beach placement are required for project justification and those benefits are of a kind with which special cost sharing is associated).

Existing shore erosion control authority provides for "restoration" and "protection." It does not provide for Federal cost sharing in extending a beach beyond its historic shoreline unless the extension is needed for engineering reasons to provide protection from erosion or as otherwise specifically authorized under public law.

It is Corps policy to participate in the additional costs for placing clean sand or other suitable material dredged by the

Corps during construction or maintenance of Federal navigation projects onto adjacent beaches or nearshore waters subject to the following:

- (a) Placement of the material on a beach or beaches and Federal participation in the costs must be requested by the state in which the beach or beaches are located.
- (b) The added cost of such disposal must be justified by the benefits associated with protection of such beach or beaches.
- (c) The storm damage reduction benefits resulting from the beach protection must exceed 50 percent of the total benefits, unless the placing of the dredged material is economically justified based on storm damage reduction benefits alone.
- (d) The beaches involved must be open to the public.
- (e) Local interests must pay 50 percent of the added cost of disposal above the alternative least costly and environmentally sound method of disposal.
- (f) Local interests must provide (without cost sharing) any necessary additional lands, easements, rights-of-way, and relocations.

Should all of the foregoing conditions not pertain, it is Corps policy to place beach-quality sand or other suitable material, dredged by the Corps during construction and maintenance of Federal navigation projects, onto beaches or nearshore waters, even though more costly than alternative means of disposal, subject to the following:

- (a) Placement on a beach or beaches must be requested by the state in which the beach (or beaches) is located.
- (b) A finding can be made that, regardless of evaluated benefits, protection of the beaches involved is in the public interest.

- (c) The placement must be environmentally acceptable, pursuant to all applicable statutes and regulations.
- (d) Local interests must pay 100 percent of the added cost of disposal above the alternative least costly method of disposal.
- (e) Local interests must provide any necessary additional lands, easements, rights-of-way, and relocations.

Procedure

When a state request for placement of dredged materials on a beach or beaches is received by the District Engineer, a formal evaluation and report are prepared. This report, with the Division Engineer's recommendation, is forwarded to Headquarters, US Army Corps of Engineers, for review and preparation of a recommendation to the Assistant Secretary of the Army for Civil Works (ASA(CW)) for a decision. If the Division Engineer recommends that dredged material should be placed on beaches and ASA(CW) approves the evaluation report, a draft Project Cooperation Agreement (PCA) is then developed with the State or a political subdivision of the State. All draft PCAs are written for signature and execution by the ASA(CW).

The District may proceed with the necessary studies using available funds for the project improvements involved, but with the condition that the actual costs be separately accounted for. The cost of preparing the evaluation report will be added to the separable construction costs for placement of dredged material on the beaches, and cost shared accordingly. In the event that the Corps-financed studies do not result in placement of material on beaches as requested by the State, the study costs will be absorbed by the Federal government.

Text taken generally from paper by John Housley presented at the 55th meeting of the Coastal Engineering Research Board, 30 October - 1 November 1991; EP 1165-2-1, 15 February 1989, "Digest of Water Resources Policy and Authorities 1989", and Citation for 33 USCA s 426j.