



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229
GALVESTON, TEXAS 77553-1229

REPLY TO
ATTENTION OF:

August 18, 1993

Coastal Planning Branch

Armin

Ms. Sally Davenport
Texas General Land Office
1700 North Congress Avenue
Austin, Texas 78701-1495

Dear Ms. Davenport:

This is in response to your verbal request made at the Galveston Coastal Workshop for information regarding possible State involvement in initiating studies for restoring Galveston's beaches.

At this time there appears to only be three authorities under which the Galveston District can investigate the shore erosion problem and participate in remedial work. These authorities are discussed in the following paragraphs. Any request by the State to initiate studies under any of these authorities must identify the State political subdivision that will be the study sponsor, and must include a letter from that political subdivision stating that they are willing and able to make the financial commitment to share in the costs of the study and the resulting project. Any request which does not include this information will not be favorably received.

Section 111 Authority. The Section 111 authority was established to prevent or mitigate shoreline damages attributable to Federal navigation works. Studies under this authority are carried out under our Continuing Authorities Program which is administered by our Southwestern Division office. A brochure on the Continuing Authorities program is provided as Enclosure 1. Even though the Section 111 authority is not specifically discussed in the brochure, the information on the overall process is still pertinent.

To initiate a Section 111 study, the District must request permission and funds from the Division office. For this request to be approved by the Division, it must include a letter from the study sponsor which states that the sponsor understands that cost sharing is required for both the project construction and the feasibility phase of the study and that the sponsor has the capability to participate in the cost-shared study.

The reconnaissance phase of the study will be accomplished at full Federal expense. The purposes of this study phase are to determine whether the Federal navigation project is causing or contributing to the shoreline erosion problem, to determine whether a cost-effective solution potentially exists, and to develop the scope and cost of the feasibility study phase. At the end of the reconnaissance phase, an agreement for the sponsor to pay 50 percent of the cost of the feasibility study phase must be signed by the study sponsor for the study to continue.

If the study results in the implementation of remedial measures, the project sponsor must share in the construction costs, provide all necessary lands, easements, and rights-of-way, and operate and maintain the completed project. Additional information on Section 111 projects is contained in the information paper provided as Enclosure 2.

Section 933 Authority. The Section 933 authority provides for Federal sharing of the additional cost for placing beach quality sand dredged from Federal navigation channels on beaches instead of using the most cost-effective disposal method. These studies are funded at the District level using Operations and Maintenance funds, if funds are available. Studies pursuant to this authority must be requested by the State; however, a political subdivision of the State can provide the cost-sharing and other local cooperation requirements.

In order for the Federal government to share the increased disposal cost, the economic benefits generated by the placement of the material on the beaches must equal or exceed the additional costs, and at least half of the benefits must be attributable to a reduction in storm damages. Additional information on disposal of dredged materials on beaches is contained in the information paper provided as Enclosure 3.

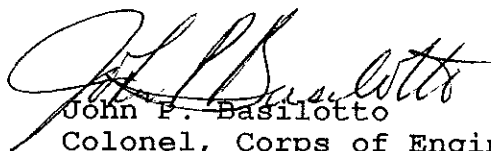
Galveston County Shore Erosion Study. This feasibility-level study was completed in 1985 and recommended beach nourishment in the Galveston groinfield and at the west end of the seawall. The recommendations in this report were not acted upon by the Congress because Galveston County withdrew its support for the recommended project due to the high non-Federal cost requirements.

The Water Resources Development Act of 1986 was passed after the local sponsor withdrew support for the project. This Act specified cost sharing that would reduce the non-Federal share of the cost for storm damage reduction measures. Under these revised cost-sharing rules, the non-Federal share of the project at the west end of the seawall would be reduced. The groinfield portion of the project was based on recreational benefits which continue to be a low budget priority.

Any request to re-activate this study and take advantage of the more favorable cost-sharing requirements would need to include a statement by the political subdivision desiring to sponsor the study that it is willing to make the long-term financial commitments necessary to construct the project.

I hope this letter provides you with the information you currently need to plan your future actions. If you should have additional questions pertaining to this matter, please feel free to call on Mr. Martin Howland at (409) 766-3140.

Sincerely,



John F. Basilotto
Colonel, Corps of Engineers
District Engineer

Enclosures

SECTION 111 PROJECTS

Section 111 of the River and Harbor Act of 1968 (82 Stat. 735, 33 U.S.C. 426i), as amended by Section 204 of Public Law 99-662 dated November 1986, reads as follows:

"SEC. 111. The Secretary of the Army is authorized to investigate, study, plan, and implement structural and nonstructural measures for the prevention or mitigation of shore damages attributable to Federal navigation works, if a non-Federal public body agrees to operate and maintain such measures, and, in the case of interests in real property acquired in conjunction with nonstructural measures, to operate and maintain the property for public purposes in accordance with regulations prescribed by the Secretary. The costs of implementing measures under this section shall be cost-shared in the same proportion as the cost-sharing provisions applicable to the project causing the shore damage. No such project shall be initiated without specific authorization by Congress if the Federal first cost exceeds \$2,000,000."

The guidance for conducting studies and implementing measures under this authority is provided in the U.S. Army Corps of Engineers Engineering Regulation (ER) 1105-2-100, Section 3-22. This guidance is as follows:

a. Definitions.

(1) Federal navigation works. A project or feature of a project that has been specifically authorized by the Congress in a River and Harbor Act or authorized pursuant to Section 201 of the Flood Control Act of 1965, or approved by the Chief of Engineers under the authority of Section 107 of the River and Harbor Act of 1960, as amended. This shall include projects or project features built by others and adopted as Federal navigation projects.

(2) Beach protection project. A project that has been specifically authorized by the Congress in a River and Harbor Act or pursuant to Section 201 of the Flood Control Act of 1965, or approved by the Chief of Engineers under the authority of Section 103 of the River and Harbor Act of 1962, as amended.

(3) Mitigation of shore damages. The implementation of structural or non-structural measures to reduce erosion-type damages by shoreline stabilization. The target degree of mitigation is the reduction of erosion or accretion to the level which would have existed without the influence of navigation works, at the time such navigation works were accepted as a Federal responsibility. The Section 111 authority is to be used to provide a justified level of damage reduction; it is not meant to restore shorelines to historic dimensions.

b. General.

(1) This Act, as amended, authorizes the study, design, and construction of work for prevention or mitigation of damages to both non-Federal public and privately owned shores to the extent that such damages can be directly identified and attributed to Federal navigation works located along the coastal and Great Lakes shorelines of the United States.

(2) This authority will not be used:

(a) To construct works for prevention or mitigation of shore damages such as those caused by river bank erosion or vessel generated wave wash.

(b) To modify authorized, but not constructed, navigation projects that contain features for prevention or mitigation of shore damages or to change the responsibility for maintenance or to modify portions of constructed navigation projects that contain features for prevention or mitigation of shore damages.

(c) To prevent or mitigate shore damages caused by non-Federal navigation projects.

(d) To construct, maintain, modify or change the cost sharing of Congressionally authorized shore protection or combined shore and hurricane protection projects, or portions thereof, located adjacent to Federal navigation projects. However, when it is determined that shore damage to a portion of a Congressionally authorized shore protection project is attributable to the navigation project, mitigation measures may be accomplished under the Section 111 authority, only to the extent of damages that can be directly identified and attributed to the navigation project.

(3) Where shore damages attributable to a Federal navigation project consist only of a portion of the total beach damages in a specific area and cannot be considered as a separable reach for effective mitigation measures, a Section 111 project cannot be implemented unless:

(a) There is an authorized hurricane or storm damage reduction project for the area with which the Section 111 mitigation measures could be combined to become effective.

(b) A Congressionally authorized study of the entire problem area is made and leads to the development of an authorized hurricane or storm damage reduction project.

(c) Local interests indicate a willingness to pay the costs to remedy problems beyond the physical scope of the Section 111 solution.

(4) When the shore subject to damage as a consequence of a Corps navigation project is controlled by another Federal agency, mitigation of the damages will not be addressed under the Section 111 authority; mitigation or corrective measures will be undertaken by the Corps at the concerned agency's request on a reimbursable basis. That agency would be responsible for maintenance of the project measures. If the Federal lands represent only a minor, but integral, part of the overall shore subject to damage, Section 111, with civil works funding, may be used to provide comprehensive mitigation, subject only to provision, from some non-Corps source, of any required proportionate cost sharing and subsequent maintenance.

(5) Periodic Nourishment.

(a) Periodic nourishment of beach front materials during the period of project evaluation may be included as a construction feature of a Section 111 project when it is a more economical means for addressing the shore damage problem than one-time permanent measures.

(b) Prior to each nourishment increment, an analysis shall be done to document the continued justification for proceeding with the nourishment.

(6) The period of analysis for a Section 111 project shall be at least 10 years.

c. Cost Limitations.

(1) Section 111 provides the Secretary of the Army the authority to implement projects for which the estimated Federal first cost is \$2 million or less. If the Federal share of implementation costs for a Section 111 project, including periodic nourishment during the period of analysis, exceed \$2,000,000, the project may not proceed as a Federal undertaking without specific Congressional authorization. This provision applies even if the local project sponsor is willing to be responsible for the amount of the Federal share exceeding \$2,000,000.

(2) If at any time up through opening of bids for the initial installation it becomes apparent that the Federal share of implementation costs would definitely exceed \$2,000,000, the Section 111 works may not proceed as a Federal undertaking without specific Congressional authorization.

(3) The project must be planned as a complete unit and not broken into reaches or stages for cost limitation purposes.

d. Reconnaissance Phase. In satisfying the requirements of the reconnaissance phase set forth in ER 1105-2-100, the reconnaissance report will document whether or not Federal navigation works are responsible for causing or contributing to the erosion problem.

e. Feasibility Phase. In satisfying the requirements of the feasibility phase set forth in ER 1105-2-100, the DPR will document the extent of the area affected by the navigation works, total area experiencing significant damages, and the approximate percentage of the total erosion damage in a specific area that is attributable to the navigation works.

f. Local Cooperation.

(1) Project Solely for Mitigation of Damages Caused by a Federal Navigation Project.

(a) Implementation costs for Section 111 measures will be shared in the same proportion as implementation costs (including LERRD) for the navigation project or project modification which caused the shore damage (not just the specific component of the project or modification most readily identified as the basic root of the problem) were shared. Implementation costs subject to cost

sharing includes periodic nourishment during the period of project evaluation.

(b) The sponsor for the Section 111 proposal does not have to be the original sponsor for the navigation project causing the damage, as long as it is willing and able to provide the local cooperation requirements.

(c) Although Federal implementation efforts may include LERR responsibilities, the Federal Government will not incur costs for access rights over or on properties a Section 111 proposal is designed to protect.

(d) The local sponsor must agree to operate and maintain the structural and nonstructural measures of the project. All required efforts subsequent to the initial installation, except for periodic nourishment where clearly adopted as an element of approved measures, are considered to be operation and maintenance. In the case of real property acquired in conjunction with nonstructural measures, the sponsor must agree to operate and maintain the property for public purposes in accordance with procedures established by the Secretary.

(2) Project Addresses Work for Mitigation and Erosion from Other Causes, No Authorized Erosion/Hurricane and Storm Damage Reduction Project. Costs associated with mitigation will be shared as in subparagraph (1), and remaining costs will be 100% non-Federal.

(3) Project Addresses Work for Mitigation and Shore Damages from Other Causes as Part of an Authorized Erosion/Hurricane and Storm Damage Reduction Project. Costs associated with mitigation will be shared as in subparagraph (1), and remaining costs will be in accordance with the authorized cost sharing procedures.