

TIMOTHY H. BISHOP
1ST DISTRICT, NEW YORK

COMMITTEE ON THE BUDGET

COMMITTEE ON EDUCATION
AND LABOR

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE

Congress of the United States
House of Representatives
Washington, DC 20515-3201

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The Honorable James L. Oberstar
Chairman
House Transportation and
Infrastructure Committee
2165 Rayburn HOB
Washington, D.C. 20515

The Honorable John L. Mica
Ranking Member
House Transportation and
Infrastructure Committee
2163 Rayburn HOB
Washington, D.C. 20515

Dear Chairman Oberstar and Ranking Member Mica,

As the Transportation and Infrastructure Committee moves to consider the Water Resources Development Act, I respectfully ask for your support and assistance in including the attached projects and policy requests that are important to my district and Long Island, New York.

For your reference, I have attached suggested language for inclusion of these requests in the committee's draft of the legislation. If I can provide you with any more information, please feel free to contact Mark Copeland of my staff at 5-3826. Thank you for your attention and consideration of these requests.

Sincerely,



Timothy Bishop
Member of Congress

TB:mc
Attachments

Tim Bishop Project Requests:

Project Request #1 – Mattituck Harbor, Section 111:

It is possible that the cost of Mattituck Harbor, Section 111 will exceed the \$5 million limit for the total project cost (33 U.S.C. 426i), based upon Corps interpretation of cost allocation. According to the Army Corps, the draft Detailed Project Report and Environmental Assessment is scheduled for release in late 2009. Congressional authorization would facilitate the Corps' ability to proceed with design and construction.

Proposed Language:

Section ____.

(a) IN GENERAL.—Notwithstanding the requirements of Section 111(c) of the River and Harbor Act of 1968 (33 U.S.C. 426i), the Secretary is authorized and directed to implement the project for mitigation of shore damages from Federal projects at Mattituck Harbor, New York, substantially as described in the report of the District Engineer entitled “Mattituck Inlet, New York, Section 111 Detailed Project Report.”

(b) MAXIMUM FEDERAL EXPENDITURES.—The maximum amount of Federal funds that may be expended for the project shall be \$10,000,000

Project Request #2 – North Atlantic Coastal and Marine Management Plan:

This proposed initiative would complete a comprehensive, partnership-based plan for wise investment in restoration and stewardship of North Atlantic coastal and marine ecosystems and allow the Corps to better plan for hazard mitigation, ecosystem restoration, natural shorelines management, and prevention of hardened shorelines. The proposal would also prepare the Corps to face challenges associated with climate change such as identifying, restoring and/or properly managing areas key for improving ecological resiliency to sea level rise.

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The proposal would give authority for North Atlantic Division of the Army Corps to complete a Coastal/Marine Management Plan for ecosystem restoration in North Atlantic region and implement the plan's top projects. The North Atlantic Coastal and Marine Management Plan would authorize up to \$15 million per year to complete the plan and implement projects consistent with that plan. A 35 percent cost-share would be in place and not more than \$5 million in federal funds may be allocated per project at a single locality.

Proposed Language:

Section ____.

IN GENERAL. — The Secretary shall plan, design and construct projects to improve aquatic resources within the northeastern US coastal waters from Virginia to Maine including associated bays, estuaries and critical riverine areas.s from Virginia to Maine including associated bays, estuaries and critical riverine areas.

Project Request #3 – Sewer District #1, Port Jefferson, New York:

Suffolk County is planning to eliminate emergency responses to a failing infrastructure in Port Jefferson, New York. An interceptor sewer in Sewer District #1 – Port Jefferson has been in need of replacement due to numerous emergency response activities associated with the potential for sanitary sewer overflows. In order to properly resolve the situation, the interceptor would be replaced and a small pumping station constructed in order to convey the sewage to the system leading to the wastewater treatment facility. The project is in the planning phase and is estimated that the replacement and construction costs are \$2 million.

Project Request #4 – Flood Control and Aquatic Ecosystem Restoration, City of Glen Cove, New York:

The City of Glen Cove is a waterfront community on the North Shore of Long Island, twenty-seven miles east of New York City. In the East Island area of the coastal waterfront, there are major needs for replacement and rehabilitation of bulkheads, seawalls, and tidal flood gates and sluiceways. These assets are almost a century old and are in a serious state of disrepair. These structures control the flow of and provide oxygenation to the natural tides from the Long Island Sound to Dosoris Pond on shoreline. This pond contains environmentally sensitive wetlands and functions both as a breeding area for fish and wildlife and also as a flood control and watershed for upstream properties. The island is subject to significant erosion during any severe storm as is the municipal beach directly to its east, which also requires evaluation and possible repositioning or reconstruction of a man made pier. The City seeks \$3 million in authorization.

Tim Bishop Policy Requests:

Policy Request #1 – Temporary Suspension of Cost Sharing:

New York and many other states across the nation are facing dire fiscal conditions due to the economic downturn. In fact, in the next fiscal year states will face an estimated combined deficit of \$150 billion. In most areas, Corps projects have stalled due to a lack of funds by the local cost share partner. Many of these projects are vital to the safety of communities and the protection of assets yet have not moved forward due to cost-share problems. At this time, many communities cannot shoulder the additional burden of increased local taxes to pay for much needed coastal repairs. It is absolutely necessary for a temporary suspension of cost share requirements.

Proposed Language:

Section ____ - Cost Sharing of Civil Works Projects

- a. Temporary Suspension of Cost Sharing – in the case of Civil Works projects for which for which a feasibility cost sharing agreement has been signed after the date of enactment of this Act, or in the case of a project undertaken or to be undertaken pursuant to the Continuing Authorities Program, for which a Project Partnership Agreement has been signed after the date of enactment of this Act, the provisions relating to cost sharing by a non-federal interest of 33 U.S.C. 2211, 33 U.S.C. 2213, 33 U.S.C. 2215, 33 U.S.C. 2218 and in all study or project authorities in which cost sharing is required by statute shall not apply, and in every such case, the federal share shall be 100%.
- b. Cost Sharing Regulations and Policy - to the extent that they implement the provisions of 33 U.S.C. 2211, 33 U.S.C. 2213, 33 U.S.C. 2215, and 33 U.S.C. 2218, and to no further extent, the operation of all federal regulations and policies of the Corps of Engineers related to cost sharing shall be suspended as of [date of enactment].
- c. Agreements –
 1. except with respect to cost sharing, nothing in this provision shall be construed to affect the requirements of 42 U.S.C. 1962d-5b, 33 U.S.C. 2211(e), or 33 U.S.C. 2213(k) with respect to agreements.
 2. this provision shall be construed to suspend cost sharing in all agreements, by whatever name, as between the Government and a non-federal interest that bear on the sharing of costs of study, design, implementation, construction, continuing construction, modification, or operation and maintenance of civil works projects.
 3. this provision shall not be construed to apply to agreements pursuant to the IIS program or the planning assistance to states program.
- d. Termination of Suspension – Suspension of cost sharing agreements under this section shall not exceed five years after the date of enactment of this Act.

Policy Request #2 – Regional Sediment Management:

Section 2037 of the WRDA of 2007 made a major step toward providing the Corps with a RSM authority to accomplish the objectives of coordinating projects and their impacts. However, it is severely limited in that it only applies only to where there is a Federal navigation project, and where there is sufficient sand available from the dredging of that project to meet the regional water resource planning and management needs.

This restriction hamstrings non-Federal interests and the Corps in making sure the multiple purposes of reducing coastal hazards, using adaptive management for existing projects, coordinating new and existing water resource projects to save significant taxpayer costs, and assuring that the impacts of planned or existing projects have a beneficial, rather than a harmful, impact on environmental resources.

The restriction contained in Section 2037 also limits affected stakeholders from having input into the planning and management of Federal water resource projects. Furthermore, it inadvertently reduced the Federal cost-share for projects whose purpose is aquatic and related habitat protection, restoration or creation. With your help, ASBPA has submitted language to correct this issue.

Proposed Language Alternative to Section 2037:

Sec. _____ REGIONAL SEDIMENT MANAGEMENT PLANS.—

(a) IN GENERAL. – The Secretary may conduct studies to develop Regional Sediment Management Plans that outline strategies for identifying and addressing integrated sediment management needs and opportunities in a region including needs and opportunities relating to –

- (1) Federal navigation, flood risk management projects, storm damage reduction, and recreation projects and associated maintenance and re-nourishment activities,
- (2) beneficial uses of dredged material,
- (3) dredged material management
- (4) state and local water resources projects.
- (5) ecosystem restoration

(b) REGIONAL SEDIMENT MANAGEMENT PLANS - Regional Sediment Management Plans may include –

- (1) sediment needs assessments;
- (2) identification and quantification of sediment transport pathways;
- (3) recommendations of measures to enhance effective and efficient management of Federal, state and local projects, including measures related to monitoring, adaptive management, data collection, and information gathering;
- (4) recommendations on measures to restore littoral processes consistent with regional sediment goals.
- (5) recommendations for environmental ecosystem restoration.

(c) CREDITS AND CONTRIBUTED FUNDS –

(1) In carrying out a Regional Sediment Management Study under subsection (a) the Secretary may accept contributions, in cash or in kind, from Federal, Tribal, State, interstate, and local governmental agencies and entities to the extent that the Secretary determines that the contribution will facilitate completion of the Regional Sediment Management Study.

(2) The Secretary may credit toward the non-Federal share of the construction of a project under this section the cost of services, material, supplies, or other in-kind contributions provided by the non-Federal interests for the study. The Secretary is authorized to receive contributed funds from a non-Federal interest to pay all or a portion of the Federal share of the construction cost of a project under this section.

(d) COST- SHARING REQUIREMENTS.

(1) STUDY COST. – Any Regional Sediment Management Study carried out under the authority of this section shall be at full Federal cost.

(2) CONSTRUCTION COST. – The non-Federal share of the construction cost of a project under this section shall be determined as provided in subsections (a) through (d) of Section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213).

(e) STATE AND REGIONAL PLANS - The Secretary may—

- (1) cooperate with any State in the preparation of a comprehensive State or regional sediment management plan within the boundaries of the State;
- (2) encourage State participation in the implementation of the plan; and

(3) submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out the plan.

(f) AUTHORIZATION OF APPROPRIATIONS. – There is authorized to be appropriated to carry out this section \$50,000,000 annually.

(g) BENEFICIAL USE OF DREDGED MATERIAL FOR AQUATIC AND RELATED HABITAT PROTECTION, RESTORATION OR CREATION. – Section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326) is amended to insert at the end of subsection (c) (1) (B) (i) “except that the non-Federal share of a project for the protection, restoration, and creation of aquatic and ecologically related habitats, including wetlands shall be 25 percent.”

Policy Request #3 - Amend Section 206 to Include Periodic Renourishment Projects:

Section 206 of WRDA 1992 provides a procedure for non-Federal interests to assume responsibility for constructing a beach nourishment project and to seek reimbursement for the Federal share of the cost thereof through the regular appropriations process. The current language of Section 206 does not clearly convey its intention to apply to both initial construction and periodic renourishment. While I have received informal opinions that it does apply to both phases of a beach nourishment project, there is a need for statutory language to assure there is no confusion on this subject.

Proposed Language:

Section ____.

The Secretary shall apply the terms of Section 206 of the Water Resources Development Act of 1992 (33 U.S.C. 426i-1) to both the initial construction and periodic nourishment of an authorized shore protection project and shall enter into an agreement with the non-Federal interest in accordance with the procedures established there under.

Policy Request #4 – Prioritization of Beach Nourishment Projects:

Previous Administration policies have reduced or excluded beach nourishment projects in the President’s budget leading to a situation in which the Appropriations Committees are not provided with the information they need in order to make well-informed funding decisions, the most recent example of which was seen during the debate and implementation of the American Recovery and Reinvestment Act. While there is a process in place to assure that these requests are within the capability of the Army Corps, there is no process that enables the Corps to provide Congress with information that would prioritize beach nourishment projects based on factors such as public safety, sea level rise, environmental resources, etc.

Proposed Language:

Section (XX) Report on Prioritization of Beach Nourishment Projects. – The provision for Federal Aid in Protection of Shores, 33 USC 426e is amended to add the following at the end thereof:

(xx) The Secretary, acting through the Chief of Engineers, shall provide Congress within 12 months of the date of enactment a report on those factors Congress should use to prioritize the funding of beach nourishment projects, provided that administration budgetary policies not be included among the recommended factors, and provided further that the recommendations of this report are deemed to be advisory only.

(yy) The factors to be considered in the preparation of the report authorized by Section (xx) shall include, but not be limited to, the following:

- (1) Severity of the erosion of the coastline;
- (2) The risk of such erosion to –
 - (a) Public safety
 - (b) Public and private infrastructure
 - (c) Environmental resources
- (3) The extent to which –
 - (a) damage to the coastline has been caused by a Federal water resources project;
 - (b) non-Federal interests have taken actions to –
 - (i) Reduce the risks described in subsection (2)
 - (ii) Increase public access
 - (iii) Employ a regional or watershed approach to plan and/or manage the project
 - (iv) Monitor cumulative environmental impacts
 - (v) Evaluate the impacts of a project on recreational, commercial and environmental stakeholders; and
- (4) The relationship of the project to other regional water resources.

(zz) The report shall also include an analysis of any factors in the current Federal shore protection program that may serve to discourage non-Federal interests from taking actions that reduce the risks described in subsection (2)

(abc) In preparing the report, the comments and recommendations of professional experts and stakeholders shall be solicited.