

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Water, Bureau of Flood Protection and Dam Safety
625 Broadway, Albany, New York 12233-3504
P: (518) 402-8185 | F: (518) 402-9029
www.dec.ny.gov

October 18, 2016

Colonel Caldwell
Commander
U.S. Army Corps of Engineers
New York
26 Federal Plaza
New York, NY, 10278-0090

Re: Asharoken Coastal Storm Management Feasibility Study

Dear Colonel Caldwell:

The New York State Department of Environmental Conservation (DEC) is in receipt of your September 22, 2016 and August 5, 2016 letters requesting a letter of support for the Asharoken Project and raising a number of other points. In order for the DEC to take on the role of the Non-Federal Sponsor (Chapter 7 of Title 4 of the New York State Unconsolidated Laws of 1945) and participate in a project to arrest erosion and alleviate or prevent damage resulting from storms, DEC must have a local sponsor that will share in the Non-Federal Sponsor's costs and obligations. It is anticipated that the Village of Asharoken will fulfill this role for the design and construction phase of this Project, but the Town of Huntington and Suffolk County are also potential municipalities that could fulfill this role.

Army Corps' Engineering Regulation, ER 1105-2-100, 4-3 (c)(6)(a) states: "If the non-Federal sponsor wishes to continue the feasibility study under the terms of the FCSA, continuation will be considered on a case-by-case basis." In accordance with this regulation, the DEC requests that the Corps reconsider its intent to terminate this feasibility study (FS) due to the inability of the Non-Federal Sponsor, at this time, to commit to all provisions cited in your letters. DEC respectfully notes that this ER directs the District Commander to stop all work only when there is "no potential for a federally implementable plan." DEC is of the opinion that there is a reasonable potential for a federally implementable plan to go forward.



Department of
Environmental
Conservation

During the Tentatively Selected Plan (TSP) meeting, DEC expressed its support for the Corps moving forward with the FS process. DEC remains committed to continuing the

FS process and supporting the Corps' efforts to complete the FS. The full extent of the project plan, including the identification of the exact real estate that will be required, will not be known until the FS is completed. The Village of Asharoken has expressed interest in reviewing the final FS as part of their decision-making process. The final FS is also needed to present to other local governments who could potentially serve as the local sponsor. DEC believes that Asharoken or one of the other potential local sponsors may be in a position, after reviewing the FS, to support the project. As long as this potential exists, DEC respectfully submits that the Corps is authorized to continue forward with the FS process.

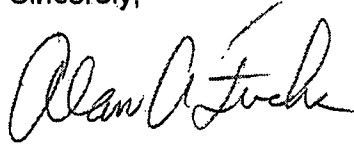
The FS is approximately 95% complete, has cost over \$4,000,000 in federal, state, and local funds to develop, and has been in development for over eight years. Terminating the FS at this point in the process would mean that these tax payer dollars were spent in vain. Based on the schedule provided at the Corps' TSP meeting, DEC understands that the final draft of the FS can be readily completed by the Corps within two months of an Agency Decision Milestone. This would allow for a Chiefs Report by September 2017. DEC believes that completing the FS process could help to ensure that the tax payer dollars spent to date are not wasted. However, if the Corps, after considering DEC's reasons for completing the FS, decides to terminate the FS process, DEC respectfully requests that the Corps provide a full accounting of the funds used to date and an estimate of the funds necessary to complete the FS.

DEC strongly supports completing the FS. This letter is not a commitment to provide funding, real estate or operation and maintenance for the Project. That commitment can only be made when a Project Partnership Agreement (PPA) with the USACE is executed by DEC and approved by the Office of the State Comptroller. DEC commits to providing staff resources to finalize the FS, negotiate the PPA and complete the associated documents in order to move this Project to implementation. DEC also supports the process moving forward to identify and describe the final selected plan by the Corps that will be included in the final FS report. DEC will also need to have a formal local cost share agreement executed with a local sponsor before entering into a PPA with the Corps.

DEC also confirms its support for the public access plan submitted by the Village in November of 2014, with the modification that the proposed pull offs to drop off beach goers will be converted to a parking space in order to meet the Corps parking requirements.

DEC looks forward to our continuing work on this Project with you and your staff in order to complete the Feasibility Study. If you have any questions or need to discuss further please contact me at the above number.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan A. Fuchs". The signature is fluid and cursive, with the first name "Alan" and last name "Fuchs" clearly distinguishable.

Alan A. Fuchs, P.E.
Director,
Bureau of Flood Protection & Dam Safety

cc: Mayor Greg Letica
Steve Couch
Jim Tierney
Carrie Meeks-Gallagher
Sue McCormick