

**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

August 10, 2016

**Greg Letica**  
Mayor  
Village of Asharoken  
1 Asharoken Avenue  
Asharoken, New York 11768

**Re: Asharoken Storm Damage Reduction Project Public Access**


**Dear Mayor Letica:**

Please see the enclosed letter from Colonel David Caldwell of the United States Army Corps of Engineers (Corps) to Alan Fuchs, Director of the New York State Department of Environmental Conservation Bureau of Flood Protection and Dam Safety. The letter provides responses to questions raised by the Village of Asharoken regarding the public access requirements for the Asharoken Coastal Storm Risk Management Project.

As agreed upon during our July 15, 2016 meeting, please review the enclosed letter and respond as to whether or not the Village of Asharoken can commit to providing five public access points, located approximately every half mile along the length of the Project, by September 7, 2016.

If you have any questions, please do not hesitate to call me at (518) 402-8185.

Sincerely,



**Matthew Chlebus**  
Environmental Engineer  
Coastal Erosion Management

**Enclosure: Corps letter on Asharoken Public Access dated August 5, 2016**

**ec: Alan Fuchs - NYSDEC**  
**Susan McCormick – NYSDEC**  
**Eric Star – NYSDEC**  
**Anthony Ciorra – USACE**  
**Steve Couch – USACE**

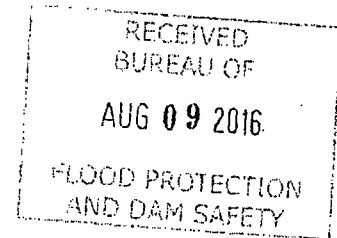


Department of  
Environmental  
Conservation



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT  
JACOB K. JAVITS FEDERAL BUILDING  
26 FEDERAL PLAZA  
NEW YORK NY 10278-0090

August 5, 2016



Mr. Alan A. Fuchs  
New York State Department of Environmental Conservation  
Division of Water  
Bureau of Flood Protection and Dam Safety  
625 Broadway  
Albany, New York 12233-3504

Dear Mr. Fuchs:

This letter is in reference to the ongoing discussions about the Asharoken, New York Coastal Storm Risk Management Feasibility Study. As you are aware, my staff is continuing its coordination with USACE North Atlantic Division and HQUSACE regarding multiple aspects of the project. Specifically, we aim to ensure the proposed project is compliant with Engineering Regulation (ER) 1105-2-100 "Planning Guidance Notebook" dated April 22, 2000, and ER 1165-2-130 "Federal Participation in Shore Protection" dated June 15, 1989. The guidance contained in these regulations is based upon 33 U.S. Code 426e(d), which specifically states that, "shores other than public will be eligible for Federal assistance if there is benefit such as that arising from public use or from the protection of nearby public property or if the benefits to those shores are incidental to the project, and the Federal contribution to the project shall be adjusted in accordance with the degree of such benefits." The regulations that interpret this law require a public access plan to be developed that is consistent with the expected recreational use of the area; access points located every one-half mile for the extent of the project; and parking consistent with the expected recreational use.

A public access plan prepared by the Village of Asharoken dated November 18, 2014 has been the basis for discussions with USACE North Atlantic Division and HQUSACE related to compliance with ER 1105-2-100 and ER 1165-2-130. The plan includes a proposal for five 6-foot wide access ways approximately every one-half mile for the extent of the 2.4-mile project beach. The plan also provides for the public use of the project beach. Based on recent guidance from USACE North Atlantic Division and HQUSACE, I would like to clarify policy requirements as they relate to public access and parking for the proposed project.

Regarding public access, Paragraph 6.h.3 of ER 1165-2-130 requires that, "reasonable public access must be provided in accordance with the recreational use objectives of the particular area. However, public use is construed to be effectively limited to within one-quarter mile from available points of public access to any particular shore. In the event public access points are not within one-half mile of each other, either an item of local cooperation specifying such a requirement and public use throughout

the project life must be included in project recommendations or the cost sharing must be based on private use."

a. Number of required access points. Public access points are required to be located within approximately one-half mile of each other for the extent of the project. At least five access points are required for the project.

b. Public crossovers. A public pedestrian dune crossover is required at each access point to facilitate public access of the project beach from the road, and save vegetation and wearing down of the dune.

c. Private crossovers. There are currently a number of private dune crossovers located in the project area. These structures were built by and are maintained by local landowners and homeowners. The crossovers will be removed during project construction. In order to maintain required access to the constructed dune, not all of the private crossovers need to be replaced. We will continue coordination with your office and the Village of Asharoken to determine the appropriate number and location of private crossovers that would allow for successful project operation.

Regarding parking, Paragraph 6.h.2 of ER 1165-2-130 states that, "lack of sufficient parking facilities for the general public (including non-resident users) located reasonably nearby, and with reasonable public access to the project, will constitute de facto restriction on public use, thereby precluding eligibility for Federal participation. Generally, parking on free or reasonable terms should be available within a reasonable walking distance of the beach."

As stated in the November 18, 2014 public access plan, expected usage of the project is low. The USACE agrees with this determination based on current usage of the area beaches.

a. Required parking lots / spaces. Public parking facilities are required for this project. Parking spaces may be made available at parking lots, or along the extent of Asharoken Avenue close to the project. It is a project requirement that the parking lots / spaces be located for the extent of the project, not just at its termini. This will allow for evenly-spaced access to the project beach. The parking lots / spaces should be made available for free or a reasonable fee.

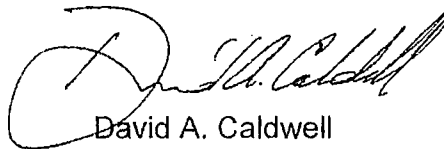
b. USACE guidance allows for project-specific determinations of the appropriate number of required parking spaces. My office is currently reviewing data provided by the Town of Huntington, in which the Village of Asharoken is located, related to parking at and usage of nearby beaches in order to inform a decision about

the appropriate number of parking spaces needed for the project. My office will continue to coordinate this matter with your staff.

c. Alternatives to parking. In lieu of all or some required parking spaces, a public shuttle service may be provided in order to allow public access of the project beach. Such a service should have designated pick-up and drop-off points for beach users. The shuttle service should be made available for free or a reasonable fee.

Please respond as to whether the non-Federal sponsor can commit to providing five public access points, located approximately every one-half mile along the project length, within 30 days of this letter. Thank you for working with my staff as we continue to coordinate this study. Please do not hesitate to contact Mr. Stephen Couch, Chief, Sandy Planning Branch, at (917) 790-8707 if you should require more information.

Sincerely,

A handwritten signature in black ink, appearing to read "D. A. Caldwell". The signature is stylized with a large, looping initial "D" and a long, sweeping underline.

David A. Caldwell  
Colonel, U.S. Army  
Commander