



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

Commander

FEB 18 2020

Mr. Alan 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:

As you are aware, the New York District (District), New York State Department of Environmental Conservation (NYSDEC), Town of Huntington and Village of Asharoken have been coordinating on an appropriate path forward for the Asharoken, New York Coastal Storm Risk Management Feasibility Study (Feasibility Study). The discussions were a result of your February 11, 2019 letter, which specifically requests resumption and an analysis of a Locally Preferred Plan (LPP) to protect a critical section of Asharoken Avenue/Eaton's Neck Road.

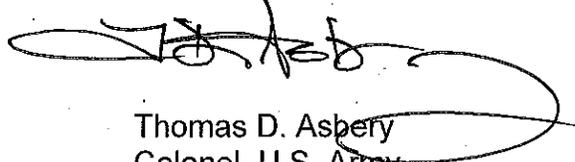
On August 28, 2019, the District submitted a Request for Exemption from the 3x3x3 Rule, which included a cost and schedule to complete the feasibility study analysis for the LPP. The request was not approved in a letter from Headquarters USACE (HQUSACE) in September 2019. Direction from HQUSACE at the time was to seek other authorities and options to address the local concerns.

Additional discussions have determined that there is no alternative that is feasible to move the current study forward. The National Economic Development (NED) Plan was not supported by the local community and an LPP that doesn't provide a sustainable comprehensive solution was not supported by our agency. As recently as December 2019, we discussed the attached multiple other courses of action (COA) that the Village, DEC or other State agencies may want to pursue to assist in providing a CSRSM solution for the Village of Asharoken and the Town of Huntington. USACE offered an opportunity to revisit the NED plan that provides a comprehensive CSRSM solution to the area, but such path was rejected by the Village leadership due to lack of support for public access for the 2.5 mile long project, a position that remains unchanged since 2016. Thus, no feasible COA that is within the Federal Government's interest has been identified. The District has exhausted numerous possible pathways under our current study authority for both the Sandy Supplemental and regular Civil Works Program. In accordance with the terms of our FCSA, this letter hereby acknowledges my termination of this study agreement and subsequent amendment. Upon your confirmation of receipt, and in accordance with our guidance, I will inform our

Division and HQ offices and the congressional representatives of the conclusion of the Corps' effort to pursue a resumption of the previously terminated study.

We recognize and thank you for your agencies participation to find a solution to the problems that continue to face these communities. Although this is an unfortunate outcome from our efforts, I value your partnership and look forward to continued coordination with you and your team. Please do not hesitate to contact Mr. Clifford S. Jones, Chief, Planning Division, at (917) 790-8700 if you should require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Asbery', with a large, sweeping flourish underneath.

Thomas D. Asbery
Colonel, U.S. Army
Commander

Encl

Potential COA's discussed during December 2019 phone call:

COA1: Bring the current unfinished Feasibility study effort to a logical stopping point and subsequently provide a copy of all of the existing analyses to the Non-Federal sponsor for their use and consideration.

COA2. US Department of Housing and Urban Development (HUD) Community Development Block Grant Program - The Community Development Block Grant (CDBG) program is a flexible program that provides communities with resources to address a wide range of unique community development needs. Not sure of the appropriateness of this program for this community as the program has historically been focused on urban, less affluent areas of the country, but the Village may investigate this option directly with the agency for any flexibility in addressing their specific eligibility.

COA3. USDOT, Federal Highway Administration - Grants for highway and road improvement projects. The program requires the Village to pursue eligibility and participation directly through the State DOT. Please note, as with many Federal programs, there are cost sharing requirements associated with this program.

COA4. New York State DOT - A quick scan of the NYSDOT website lists a number of programs that may be applicable to the current situation at Asharoken. Many programs, if not all, appear to be partially or fully subsidized by the Federal government. For example, one of the programs, The New York state FFY2017-2020 Statewide Transportation Improvement program (STIP), makes available approximately \$12.5 billion in federal aid to address highway safety, bridge and highway infrastructure, public transportation infrastructure, and bicycle and pedestrian enhancements. The Village can assess its eligibility and program requirements directly with the State.

COA5. FEMA Hazard Mitigation Grant Program (HMGP) - This program is intended to help people in communities reduce their losses from natural hazards. To support this approach, FEMA funds three Hazard Mitigation Assistance (HMA) grant programs. The HMGP supports cost-effective post-disaster projects and is the longest running mitigation program among FEMA's three grant programs. FEMA provides up to 75 percent of the funds for mitigation projects. The remaining 25 percent can come from a variety of sources. A cash payment from the state, local government or in some cases directly from the individual is the most direct option. The Village may contact FEMA directly for this option.

COA6. Section 203 of WRDA 1986, as amended – Studies of Water Resources Development Projects by Non-Federal Interests: This authority provides for the provision of technical assistance requested by a non-Federal interest undertaking a feasibility study if the non-Federal interest pays all costs of providing such assistance. Technical assistance in accordance with Section (e)(2) includes activities such as providing factual or technical information, running models, and providing information on how the U.S. Army Corps of Engineers (Corps) conducts its project formulation process. Technical assistance is not turnkey report preparation by the Corps or completion of

components/chapters of the study. Nor does it include inherently governmental functions such as the National Environmental Policy Act or consulting with federal resource agencies under Section 7 of the Endangered Species Act, State Historic Preservation Officers under Section 106 of the National Historic Preservation Act, or Tribal consultation. The Corps may provide technical assistance in the development of environmental documents that can be used by the Assistant Secretary of the Army for Civil Works (ASA(CW)) in completing the Federal environmental compliance requirements. It is important to ensure that nothing in the provision of technical assistance by the Corps could be considered as an endorsement or approval of the non-Federal feasibility study or as affecting the impartial decision making of the ASA(CW), either substantively or procedurally. Once the ASA(CW) submits the report to Congress, no further technical assistance using Section 203(e) may be provided. Authority to approve the provision of technical assistance to include the scope of work, and the associated Memorandum of Agreement (MOA), is delegated to the Major Subordinate Command (MSC) Commander, with no further delegation authorized. Upon approval of an MOA, the MSC Commander may delegate the execution of the MOA to the appropriate District Commander. A template MOA is posted on the Corps Headquarters' agreements website.