



State of New Jersey

Department of Environmental Protection

Natural & Historic Resources
Office of Engineering & Construction

JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

May 5, 2006

Jonathan Oldham, Mayor
Borough of Harvey Cedars
P.O. Box 3185
Harvey Cedars, NJ 08008

Re: Long Beach Island Storm Damage Reduction Project
Revised Easement

Honorable Mayor Oldham:

I am providing you with the revised easement (enclosed) required for the Long Beach Island Beach Replenishment Project. We revised the easement based on information received from the US Army Corps of Engineers (USACE), the municipalities through municipal engineer Frank Little, and the public.

The signed easements must be returned to this office by June 15, 2006 for your municipality to be considered for phase one construction anticipated to begin September 2006. The state can not authorize the USACE to bid this project without all required easements from your municipality.

The major revisions and clarifications are summarized below.

- Clarified: The easement is specific to the Long Beach Island Storm Damage Reduction Project as defined in the August 17, 2005 Project Cooperation Agreement, enclosed. No other construction can be performed.
- Clarified: After initial construction the beach and dune are subject to the forces of nature and will continue to erode and accrete.
- Revised: Removed the one dollar consideration in favor of benefits received from the project.
- Clarified: The easement language states that equipment and supplies may be temporarily stored, but does not define what can be stored. This construction typically includes staging

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and storing heavy construction equipment, construction materials, and dredge pipeline. It is not practical to list in the easement all types of equipment and supplies. Also, construction methods and materials may change over the life of the project.

- Clarified: The easement reserves the right to construct a private dune walkover in accordance with any applicable laws or regulations.
- Revised: The easement can be released if the project is not constructed. The time frame referenced was provided by the USACE and represents the worst case scenario for when all initial construction can be done for the entire island due to budget constraints.
- Revised: The easement does not impact or reduce land area for local zoning square footage calculations.
- Revised: The wording indicating that the Grantor participated in the drafting of the easement has been removed.

Unchanged: The easement remains a perpetual easement even though the project plan calls for a 50-year replenishment. There is more than one issue involved in the requirement for a perpetual land interest for this and any other federally funded project. Before any project is approved for federal funding, the USACE must determine whether or not there is a federal interest in the project.

Part of the criteria for the determination of federal interest is economic. In order to complete an economic analysis for a project, a reasonable, finite time period is selected. In this case, due to the nature of the project, the time period selected was 50 years. However, once Congressionally authorized, a project is in motion until it is de-authorized. That period may last well beyond the 50-year economic analysis and project cycle length used to determine federal interest. There is no proposed actual end to the project itself, as the project requires Operation and Maintenance attention for as long as it remains authorized.

Once a project is determined to have a federal, state, and therefore public, interest, the government requires that a suitable public interest in the project property be maintained to safeguard the project work and funds expended. Since the public at large is providing funding for a particular project, items constructed and covered by the project must contain a perpetual public interest. For cost-shared projects, that interest is obtained and is vested in the non-federal sponsor.

The municipality's cost incurred to implement this new easement will be credited toward the municipality's share of the project's initial construction cost. The municipality's share of the project is 8.75 percent of the total project cost. When the project is bid, this office will advise the municipality of its share based on the bid results.

As we agreed in our conference call on May 5, 2006, you will provide a cover letter to the property owners to accompany this easement. The letters will provide language informing the property owners that under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17), and the Uniform Regulations contained in 49 C.F.R. Part 24, the Grantor (property owner) of the

easement has various rights, including a right to receive just compensation for the property. However, the Grantor by signing the easement is donating the property in accordance with the terms of the Deed of Easement. Also, a statement in the letter of your support for the project and its benefits to the property owners and municipality would be appropriate and facilitate the process of obtaining signed easements.

This office is willing to meet with property owners as a group or individually to assist your efforts. Please call me at (609) 292-9236 if there is anything more I can do to assist you. Thank you for your patience.

Sincerely,



David Rosenblatt
Administrator

Enclosures

C: Rep. James Saxton, US Congress
Keith Watson, USACE Project Manager
Frank Little, Municipal Engineer
John Garofalo, Manager, BCE