

**MEMORANDUM FOR MAJOR SUBORDINATE COMMANDS AND DISTRICT  
COMMANDS**

**SUBJECT: Policy Guidance Letter (PGL) No. 40, Development and Financing of  
Dredged Material Management Studies**

1. Purpose. This PGL sets forth U.S. Army Corps of Engineers policy regarding development and financing of studies required or dredged material management at existing Federal navigation harbor and inland harbor) projects. This policy is applicable to all Federal navigation projects maintained by the Corps which are eligible for reimbursement of operation and maintenance costs from the Harbor Maintenance Trust Fund. This guidance is not applicable to the inland waterways subject to the waterway user fuel taxes under PL 95-502, as amended.

2. General Dredged Material Management Policy.

a. Management plans. Dredged material management plans (management plans) for existing Federal projects or groups of interrelated projects shall identify specific measures necessary manage the volume of material likely to be dredged over a twenty year period. In those cases where two or more Federal projects are physically interrelated (share a common disposal or a common channel) or are economically complementary, one management plan may encompass that group of projects. Non-Federal permitted dredging within the related geographic area shall be considered in formulating management plans to the extent that disposal of material from these sources affects the size and capacity of disposal areas required for the Federal project(s).

b. Study Authorities. Management plan studies for existing projects shall be conducted pursuant to existing authorities for individual project operation and maintenance, as provided in public laws authorizing specific projects. These specific project authorities are supplemented by general authorities relating primarily to beneficial uses of dredged material. Where management plan studies disclose the need to consider expanding or enlarging existing projects, such studies may only be pursued under specific study authority or under Section 21G of the Flood Control Act of 1970.

c. Management Plan Study Components.

(1) . Continuing Economic Justification. The first step in dredged material management planning is a confirmation of the economic justification for continuing maintenance of the project or increments of the project based on a review of appropriate indicators. If this review indicates that economic justification for continued maintenance is questionable, a more detailed analysis must be made. Continued economic justification must also be demonstrated when management plan studies identify the need for any major new investments or other significant increase in maintenance cost (for example the provision of a new confined disposal facility or use of a more distant ocean disposal site).

Where projects or increments of projects are not justified for continued maintenance, the management plan shall provide for appropriate adjustments in the maintenance program which could include deferral of dredging, maintenance to lesser project dimensions or the orderly curtailment of maintenance.

(2). Alternatives. Management plans shall consider the full range of measures for dredged material management including measures to reduce dredging requirements, management of existing disposal sites to extend their life, and various combinations of new disposal sites involving different disposal methods, disposal area locations, and periods of use.

(3). Base Plan. The Federal interest in continued operation and maintenance of an existing Federal project for its navigation purpose is defined by the least cost plan for dredged material management that is consistent with sound engineering practice and meeting the environmental standards established by Section 404 of the Clean Water Act of 1972 or Section 103 of the Marine protection, Research, and Sanctuaries Act of 1972, as amended. Therefore, each management plan must establish this base plan using the procedures in 33 CFR Parts 335, 336, 337 and 333.

(4). Beneficial Uses. Each management plan study shall include an assessment of potential beneficial uses of dredged material for meeting non-navigation objectives, including fish and wildlife habitat restoration, hurricane and storm damage reduction, and recreation. Where a beneficial use is part of the base plan for navigation purposes, it shall be treated as a general navigation operation and maintenance component. Beneficial uses which are not part of the base plan for the navigation purpose will be considered separable elements of the management plan and will be pursued under relevant authorities and separate funding sources. However, even though funded from different sources, the beneficial use planning effort must be pursued in conjunction with the overall management plan effort to assure the timely availability of dredged material for the beneficial use project and the availability of the beneficial use project site to meet maintenance dredging disposal needs.

(5) Environmental Consistency. Management plan studies shall address the requirements of all applicable environmental statutes for all disposal options considered including the requirements of the National Environmental Policy Act, Section 404 of the Clean Water Act, Section 103 of the Marine protection, Research and Sanctuaries Act, and the Coastal Zone Management Act.

### 3. Dredged Material Management Study Financing.

a. General. The costs of management plan studies for continued maintenance of existing Federal navigation projects are operation and maintenance costs and shall be federally funded and reimbursable from the Harbor Maintenance Trust Fund subject to the following:

(1). Project sponsors, port authorities and other project users, are partners in dredge

material management and must pay the costs of their participation in the dredged material management studies including participation in meetings, providing information and other coordination activities.

(2). Budgeting priority for the navigation purpose is limited to the least cost plan that is consistent with sound engineering practice and meeting the environmental standards established by Section 404 of the Clean Water Act of 1972 or Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended. Therefore, the cost for any component of a management plan study attributable to meeting local or state environmental standards that are not provided for by the requirements of Federal laws and regulations, shall be a non-Federal cost, and not be recoverable from the Harbor Maintenance Trust Fund.

(3). Study activities related to dredged material management for the Federal project but not required for continued maintenance dredging and dredged material disposal, will not be funded from the Harbor Maintenance Trust Fund and will not be included in dredged material management studies unless funded by others. Such activities would include contamination source identification and studies leading to the control of non-point sources of pollution.

(4). Studies of project modifications needing congressional authorization, including dredged material management requirements related to the modification, will be pursued as cost shared feasibility studies with General Investigations funding. Where the need for such modifications are identified as part of dredged material management studies, operation and maintenance funding for the study of the modification should be terminated and a new feasibility study start sought through the budget process under the authority of Section 216 of the Water Resources Development Act (WRDA) of 1970.

b. Beneficial Uses. Costs for beneficial uses that are consistent with and part of the base plan are operation and maintenance costs and the costs of studies pursuant to these beneficial uses are Federal cost, recoverable from the Harbor Maintenance Trust Fund. However, study costs for beneficial uses which are not part of base plan, beyond those reconnaissance level studies needed to identify these potential uses as part of management plan studies, are either a non-Federal responsibility or are a shared Federal and non-Federal responsibility depending on the type of beneficial use, as follows:

(1). Restoration and Protection of Environmental Resources. The incremental costs above the base plan for the use of dredged material to restore and protect environmental resources, pursuant to Section 1135 of the WRDA 86 as amended, and/or Section 204 of the WRDA 92 must be shared on a 75% Federal and 25% non-Federal basis with a qualified non-Federal sponsor. Incremental costs for planning, design and implementation for environmental restoration and protection are not navigation operation and maintenance costs and the Federal portion of such costs are not recoverable from the Harbor Maintenance Trust Fund. If a potential restoration beneficial use project exceeds the cost limitations of section 1135 or section 204, it may be pursued as a cost shared

feasibility study leading to specific authorization.

(2). Placement of Material on Beaches. The Corps will participate in the additional costs of placing clean sand or other suitable material, dredged by the Corps during construction or maintenance of Federal navigation projects, onto adjacent beaches or near shore waters, if the added cost of placement is justified primarily by the benefits associated with hurricane and storm damage protection provided by such beach or beaches and the beach involved is open to the public with public access. Under the authority of Section 145 of the 76, WRDA as amended by Section 933 of WRDA 86, and Section 207 of WRDA 92, the cost sharing for the placement of the sand is 50 percent Federal and 50 percent non-Federal. The non-Federal sponsor must provide 50 percent of the incremental study costs at the time of construction.

(3). Other Beneficial Uses. Other potential beneficial uses include placement of dredged material for land creation or land enhancement for development purposes, placement of dredged material on beaches not meeting the criteria for Corps participation, and environmental enhancement projects not meeting the criteria for Corps participation. In these cases all incremental study costs and implementation costs above the cost required for the base plan must be paid by non-Federal interests.

#### 4. Budgeting and Funding.

a. General. Study activities required to develop management plans shall be funded in the Operation and Maintenance account and recovered from the Harbor Maintenance Trust Fund. Management Plan studies that are estimated to cost in excess of \$100,000 total cost will require specific budgetary approval. A justification statement for the study must accompany the budget submission. An important consideration for study approval will be a demonstration that the study will have the active interest and participation of project sponsors, port authorities and other project users. Guidance on the specific requirements for budgetary submissions will be issued in the Fiscal Year 1995 annual program and budget request guidance.

b. Beneficial Uses. Studies for beneficial uses involving increments of costs over the base plan shall be pursued using the programmatic funding of the Section 1135 (Construction, General) or Section 33 (Operation and Maintenance, General), as applicable. Programmatic funding under the section 204 authority was not appropriated for Fiscal Year 93 but will be requested for Fiscal Year 94. If a potential restoration beneficial use project exceeds the cost limitations of section 1135 or section 204, it may be pursued as a cost shared feasibility study leading to specific authorization.

5. Ongoing Studies. Ongoing operation and maintenance studies at Federal navigation projects for planning, managing or regulating dredging and dredged material disposal activities will be phased into conformity with the policies set forth in this PGL. This applies to any operation and maintenance studies of disposal options including studies of alternative open water disposal sites or studies of sites for new confined disposal facilities. Continuation of ongoing dredged material management studies is

conditioned on a confirmation that continued maintenance is warranted. Therefore, for each ongoing study, a review of indicators of continued economic justification must be conducted.

FOR THE COMMANDER:

STANLEY G. GENEGA  
Brigadier General (P), USA  
Director Of Civil Works