DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

CECW-NWD

AUG 21 2008

MEMORANDUM FOR COMMANDER, Northwestern Division (CENWD-PDD)

SUBJECT: Implementation Guidance for Section 5153 of the Water Resources Development Act of 2007 (WRDA 2007) – Willapa Bay, Washington

1. Section 5153 of WRDA 2007 amends Section 545 of WRDA 2000 by striking "may construct" and inserting "shall construct," and by inserting "and ecosystem restoration" after "erosion protection" each place it appears in Section 545. A copy of Section 545, as amended by Section 5153, is enclosed for reference.

2. Section 5153 adds ecosystem restoration as a study purpose in addition to coastal erosion protection. Prior to this amendment, a study was initiated using funds provided by Congress to evaluate the provision of erosion protection for the Shoalwater Bay Tribe reservation. Information available from that study demonstrates that the proposed coastal erosion protection project can be formulated independently of ecosystem restoration measures. Further, an erosion protection project would not adversely affect the selection of ecosystem restoration measures, and would probably facilitate equally any restoration plan developed in the area. Therefore the ongoing erosion protection study may proceed ahead of and independently from any ecosystem restoration studies. An ecosystem restoration plan will also be formulated and evaluated in accordance with the Corps ecosystem restoration policy and guidance. The objective of ecosystem restoration will be to restore degraded ecosystem structure, function, and dynamic processes to a less degraded, more natural condition within the boundaries of the Shoalwater Bay Indian Reservation.

3. The FY 2002 Energy and Water Development Appropriations Act (P.L. 107-66) included direction that "all studies for the Shoalwater Bay Shoreline project shall be cost shared in the same proportion as the construction implementation costs," which are 100% Federal. This is inconsistent with water resources studies cost sharing policy. Continued work on the erosion protection study and new studies for ecosystem restoration will be subject to funds being appropriated for such work. Both reports addressing shoreline erosion and ecosystem restoration will be submitted for Secretarial approval in accordance with processing requirements in Appendix H of ER 1105-2-100.

4. Section 5153 modifies the prior discretionary authority of the Secretary to implement this project and directs that a project shall be constructed and maintained at Federal expense if the

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Secretary determines it is (A) a cost-effective means of providing erosion protection and ecosystem restoration; (B) is environmentally acceptable and technically feasible; and (C) will improve the economic and social conditions of the Shoalwater Bay Tribe. However, no work may proceed on construction of erosion control or ecosystem restriction features unless funds are specifically appropriated for the work.

FOR THE COMMANDER:

Encl

EDWARD J. HECKER
Chief, Northwestern Division
Regional Integration Team
Directorate of Civil Works

Section 545 of WRDA 2000, as amended by Section 5153 of WRDA 2007

SECTION 545. WILLAPA BAY, WASHINGTON.

(a) STUDY.— The Secretary shall conduct a study to determine the feasibility of providing coastal erosion protection and ecosystem restoration for the tribal reservation of the Shoalwater Bay Tribe on Willapa Bay, Washington.

(b) PROJECT.

(1) IN GENERAL.— Notwithstanding any other provision of law (including any requirement for economic justification), the Secretary shall construct and maintain a project to provide coastal erosion protection and ecosystem restoration for the tribal reservation of the Shoalwater Bay Tribe on Willapa Bay, Washington, at Federal expense, if the Secretary determines that the project –

(A) is a cost-effective means of providing erosion protection and ecosystem restoration;

(B) is environmentally acceptable and technically feasible; and

(C) will improve the economic and social conditions of the Shoalwater Bay Tribe.

(2) LANDS, EASEMENTS, AND RIGHTS-OF-WAY.— As a condition of the project, described in paragraph (1), the Shoalwater Bay Tribe shall provide lands, easements, rights-of-way, and dredged material disposal areas necessary for implementation of the project.

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