

Comment # 77

February 21, 2016

Ms. Jennifer Jacobson
US Army Corps of Engineers
Mobile District, Planning & Environmental Division
Coastal Environment Team
PO Box 2288
Mobile, Alabama 36628-0001

RE: Public Notice: FP15-MH01-10

Dear Ms. Jacobson:

This letter is an update to my previous two letters dated February 8, 2016 and January 22, 2016. I have attached both letters for reference. I have not included the enclosures previously provided, but will be happy to provide if needed again.

The Supplemental Environmental Impact Statement (EIS) must consider:

1. The effect of boat wake of ships, on shoreline erosion of Dauphin Island, that navigate the Mobile Ship Channel; and as stated in my previous letters:
2. The effect of maintenance dredging and the new dredging to widen and deepen the Mobile ship channel to its authorized limits on adjacent shorelines as required by the 1935 federal law and all other federal laws and Corps manuals to mitigate the damages to the adjacent beaches caused by the Corps dredging of a Federal Navigation Project for a deep draft channels,
3. The Environmental Impact Statement must also address the historical sand deficit caused by the dredging of the Mobile Harbor Navigation channel as a result of the Corps of Engineers depositing of dredged sand in the Open Gulf of Mexico.

All three of the above listed erosion impacts must become an integral component of the EIS and appropriate mitigation plans must be put in place to prevent shoreline erosion from occurring in the future.

Sincerely,



Enclosures: Letter, January 22, 2016
Letter, February 8, 2016

January 22, 2016

Colonel Jon Chytka
District Commander
US Army Corps of Engineers
Mobile District
P.O. Box 2288
Mobile, Alabama 36628-0001

ATTEN: CESAM-PD-EC

RE: Public Notice: FP15-MH01-10

On January 12, 2016 I attended the Public Scoping Hearing to learn about and provide my public comments in preparation of the US Army Corps of Engineering developing an Environmental Impact Statement (EIS) to evaluate the impact of the proposed Widening and Deepening of the Mobile Harbor Federal Navigation Channel from its present 47 ft. deep X 600 ft. wide to the authorized 57 ft. deep X 700 ft. wide dimensions. Initially, I would like to comment that the public scoping hearing that was setup was not conducive for effective public input. There should have been at the outset of the hearing an initial period of time for the Corps representatives to explain the process and to allow for public comment/questions. This approach restricts effective and important public comment.

1. A fact unknown to me, and others of the public, was revealed by two Corps representatives: Elizabeth Godsey and Justin McDonald. Both Corps representatives stated that the SEIS of the General Re-evaluation Report (GRR) study does not and will not consider or address the historic sand losses/sand deficit caused by the Corps maintenance dredging practices of the Mobile Harbor Shipping Channel. Initially, the dredged sand from the Mobile Ship Channel was deposited in the EPA approved open water disposal site. From 1974 to 2000 the amount of dredged sand deposited in the open Gulf was over 20,000,000 cu yds. If you go back prior to 1974, the amount of dredged sand in the open water site would be greater going back to 1904 o 47 million cu yds. The historical sand loss/deficit must be addressed as an integral component of the GRR/ EIS. This loss sand to **Dauphin Island** must be replenished as part of the project.
2. One of the placards? states "The SEIS prepared in the study will review and update the findings of the existing Environmental Impact Statement (EIS) "Mobile Harbor Channel Improvements, Mobile County, Alabama" prepared for the current Mobile Harbor authorization in October 1980..." The referenced October 1980 Corps EIS that was prepared to analyze the environmental effects of deepening and widening the ship channel **gave no consideration at all to the potential environmental impacts to Dauphin Island of the project and specifically on the erosion of Dauphin Island.** Since there are no impacts provided, there must be a **new Environmental Impact Statement** that addresses the historic sand deficit and the potential impact caused by the proposed dredging to the new authorized limits on the erosion of Dauphin Island. The EIS must address the effect of dredging to the shoreline for 10 miles on both sides of the Mobile Ship Channel, as required by the 1935 Federal Law.

1935 Section 5 of Public Law 409, 74th Congress, approved August 30, 1935, Section 5 of this law required that all reports dealing with improvements at a river mouth or inlet contain "information concerning the configuration of the shoreline and the probable effect thereon" that might result if the improvements under consideration were built. *Particular reference was to be given to erosion and*

accretion "for a distance of not less than *ten miles on either side of the said entrance.*" Because of its *concern with erosion problems....associated with the Corps of Engineers' harbor activities*, 33 U.S. Code § 546a.

Also, the November 1985 "Final Supplemental Environmental Impact Statement Mobile Harbor, Alabama, Channel Improvements Offshore Dredged Material Disposal" also stated no impacts to the potential effects of erosion on Dauphin Island.

Since neither 1980 Corps EIS and the 1985 Supplemental EIS for the Widening and Deepening of the Mobile Ship Channel provides no consideration to the effects of erosion on Dauphin Island nor addresses sand deficit, **it is imperative that an Environmental Impact Statement be conducted to address erosion of Dauphin Island and the sand deficit caused by dredged sand historically being deposited in the open waters of the Gulf.**

3. **September 1978 Feasibility Report for Beach Erosion Control and Hurricane Protection.** This Corps study stated sand should be placed closer to Dauphin Island, but the Study recommendation were never followed and implemented. **This study should be considered as the basis for the EIS.** The 1978 study was primarily concerned with an investigation of the cause of beach erosion within Mobile County including Dauphin Island, and a determination of the economic, social and environmental feasibility of controlling this erosion. Hurricane protective measures were a secondary consideration. The depth and detail of the study were commensurate with the objectives of selecting the most suitable plan and establishing its feasibility and acceptability.

The findings of the 1978 shoreline erosion study of Dauphin Island concluded that maintenance dredging of the Outer Bar channel was contributing to the erosion of the island's Gulf shoreline by disposing of sand materials in deeper water offshore. To mitigate for those offshore impacts, the Corps' 1978 report proposed a plan that would deposit sand "in an area about 2 miles long and 900 feet wide at about the 28-foot depth in the Gulf of Mexico south of Dauphin Island." "The selected plan can be accomplished under the existing authority of the Chief of Engineers for maintenance of Mobile Harbor"

"...provides for placing this material offshore in an area extending west about 2 miles from longitude 88° 7.8'. The shoreward and seaward boundary of the dumping area would be about the existing 26-foot depth contour and the 30-foot depth contour, respectively."

The 1978 Corps report concluded that the "Nearshore Nourishment Plan" warranted implementation. The report also stated that "...there is no more appropriate alternative ... that could more meaningfully address the [shoreline erosion] problems of the area at this time. The report "...recommended that the Chief of Engineers modify the present maintenance dredging practice for the entrance channel to Mobile Harbor to conform to the Nearshore Plan as soon as practical." It is important to note that this plan can be implemented:

"...under the existing operation and maintenance authority of the Chief of Engineers for the existing Federal Navigation Project for Mobile Harbor, subject to EPA approval of site selection, without further action by Congress. All that would be required would be to determine the entity that would have to pay the increased differential cost to modify the existing disposal operations."

Pertinent Sections of the 1978 Study:

183. The principal causes of shore erosion along the westernmost 11 miles of Dauphin Island are attributable to rise in *sea* level and maintenance dredging of the Mobile Bay entrance channel....

204. Studies *herein* indicate that the only acceptable measures that would be economically feasible that would partially resolve any of the flooding or erosion problems of the area would be the nearshore Nourishment Plan defined herein as The Selected Plan.

176. The Nearshore Nourishment Plan should significantly reduce the present rate of erosion along the western 11 miles of Dauphin Island...

Note: 10.3 ft. a year of Dauphin Island shoreline lost to erosion

4. It has been learned at an ACCP public meeting from statements made by Dr. Susan Rees that the Byrnes' (the Corps Lawsuit Principal Investigator) 2008 Study will be used as the baseline study for the Dauphin Island Restoration Assessment study (funded by National Fish & Wildlife). Per Elizabeth Godsey and Justin McDonald, and the Corps Mobile Harbor PACR Schedule – Risk-By Down Plan, the Dauphin Island Barrier Island Restoration Assessment Study's data collection, modeling, and analysis will be applied to the Widening and Deepening Project. Robert Dean respectfully dissented from concurring "that the Corps' construction, operation and Maintenance Dredging Practices of and at the Channel have not resulted in at least Minimum Measurable Erosion of Dauphin Island's shoreline." In the Judges' final Order it stated "Dr. Dean dissented and indicated that the Final Report was fundamentally flawed, not reliable and at best inconclusive." Dr. Dean in his concluding report:

"However, my Draft Report review and the review herein have raised valid questions regarding some of the arbitrary methodology applied and findings to the degree that I regard the findings inconclusive with regard to any impact of dredging and channel maintenance of Mobile Bay Entrance. Thus, I respectfully dissent from concurring "that the Corps' construction, operation and Maintenance Dredging Practices of and at the Channel have not resulted in at least Minimum Measurable Erosion of Dauphin Island's shoreline."

In addition and per a Corps December 2011 memorandum, the Corps Byrnes 2008 Final Report and Corps 2010 study had flawed data. Using the Corps 2008 Byrnes final report/study as a base line for the Dauphin Island Barrier Island Restoration Assessment and inclusion for the EIS would be a conflict of interest. Since this Coastal Engineer and the 2008 Study were integral in the DIPOA vs Corps lawsuit, his participation and its inclusion in the GRR/EIS should be considered as a conflict of interest.

"USACE (Justin McDonald): Stated that the USACE surveys that were provided for the sediment budget analysis were incorrect. They have been corrected and a comparison of the corrected and uncorrected surveys is being performed to determine the magnitude of the difference. The results will be provided to Mark Byrnes so that he can decide if any additional analysis is needed to correct for the "busted" USACE surveys."

5. **The Corps needs to following all of the following Federal Laws listed below and an laws that apply :**

The 1935 Federal Law: Shoreline Changes. Pursuant to Section 5 of the River and Harbor Act of 1935, each investigation on navigation improvements potentially affecting adjacent shoreline will include analysis of the probable effects on shoreline configurations. A distance of not less than ten miles along the shore on either side of the improvement should be analyzed. The public needs to be assured that the 1935 law is referenced and followed. Other specific policies and laws that applicable to using dredged material for shoreline nourishment and restoration. Excerpts of these policies and laws are provided below. The public needs to also be assured that these policies and laws are followed in the GRR/EIS process:

1971 USACE Manual 1110-2-38 Policy: Maintenance and improvement of the environment--including avoidance of destruction or degradation, preservation, and enhancement (including restoration)--in a manner calculated to foster and promote the general welfare, allow man and nature to exist in productive harmony, and fulfill social, economic, and other requirements of present and future generations of Americans, is established by PL 91-190 as a valid objective of Federal programs. Therefore, it shall be treated equally with other established objectives in the design of Civil Works projects.

... Specific ecological considerations include actions to preserve or enhance critical habitats of fish and wildlife; accomplish sedimentation and erosion control,

1976 The Water Resources Development Act (WRDA) of 1976, Public Law (PL) 94-587, enacted October 22, 1976 contains the first congressional authorization specifically providing the Secretary of the Army with discretionary authority to use dredged material for beach nourishment purposes, although the Secretary's use of that authority was conditioned on several requirements; namely, a State must request the work, it must be in the public interest, and non-Federal interests must pay the added costs for beach placement. A complete reading of Section 145 of PL 94-587 is as 1976 Water Resources Development Act 1976 Authorizing the construction, repair, and preservation of certain public works Oct. 22, 1976 on rivers and harbors for navigation, flood control, and for other purposes

SEC. 145. Beaches 33 USC 426: The Secretary of the Army, acting through the Chief of Engineers, is authorized upon request of the State, *to place on the beaches of such State beach-quality sand which has been dredged in constructing and maintaining navigation inlets and channels adjacent to such beaches*, if the Secretary deems such action to be in the public interest and upon payment of the increased cost thereof above the cost required for alternative methods of disposing of such sand.

1984 SHORE PROTECTION MANUAL VOLUME I, Coastal Engineering Research Center Waterways Experiment Station, Corps of Engineers: Man-induced erosion occurs when human endeavors impact on the natural system. Much of the man-induced erosion is caused by a lack of understanding and can be successfully alleviated by good coastal zone management. However, in some cases coastal erosion can be due to construction projects that are of economic importance to man. *When the need for such projects is compelling, the coastal engineer must understand the effects that the work will have on the natural system and then strive to greatly reduce or eliminate these effects through designs which work in harmony with nature.*

2. Man- Induced Causes: b. *Interruption of Material in Transport.* This factor is probably the most important cause of man-induced erosion. Improvement of inlets by both channel dredging and channel control and by harbor structures impounds littoral material ... Often, the material is permanently lost from the down coast beach regime either by the deposition of dredged material outside of the active littoral zone... This can be mitigated by sand-bypassing systems. Realignment of the shoreline by the use of such structures as groins also interrupts the transport of littoral material. These structures may not only reduce the rate of a longshore transport but also may reduce littoral material reaching down coast beaches by entrapment.

1986 The Water Resources Development Act of 1976 (P.L. 94-587), section 145 covering the placement of sand dredged during maintenance activities on adjacent beaches;

Section 1135, 1986 Water Resources Development Act of 1986 (PL-104-303), Project Modification for Improvements to the Environment: Under this authority, if the construction or operation of a USACE project has contributed to the degradation of the quality of the environment, measures for restoration through modification of the structure or operation of the structure may be undertaken at the project site if such measures do not conflict with the authorized project purposes. A nonfederal sponsor for projects implemented under this authority must pay 25 percent of project construction costs,

1987 Environmental Engineering for Deep-Draft Navigation Projects Manual No. 1110-2-1202

Environmental Engineering for Deep-Draft Navigation Projects

Chapter 6 Mitigation Decision Analysis:

6-1. Policy...Damage from Federal navigation work along the shorelines of the United States must be prevented or mitigated

1987 Sand Island Bar, AL Test: Beneficial Uses of Dredged Material: Mobile District

This test, conducted in 1987 offshore of Sand Island, Alabama, expands experience using fine sand in intermediate depths, i.e., below depths where onshore transport has already been demonstrated, but shallow enough for potential movement. **The major question is whether sand at this depth will be retained in the nearshore zone or lost seaward. The berm showed indications of migrating northwest. It was too far offshore to directly influence beach volumes, but the sand was apparently becoming part of the littoral system.**

1990 Results of Monitoring the Disposal Berm at Sand Island, Alabama Technical report DRP-90-2

A presently underway deepening operation will expand these dimensions to 47 by 600 ft. at the entrance ...***The bar channel traps littoral drift.*** Historically, hopper dredges remove an average of 324,000 cu yd. of material annually.

...Historically, ***material from the bar channel has been placed in an open-water site outside the active zone of littoral transport.***

First, SAM wants to evaluate the feasibility of conserving clean sands dredged to maintain the navigation channel into Mobile Bay. Conventionally, this sand would be disposed of in a designated offshore open-water site seaward of the littoral zone. Retention of the material in the nearshore sand prism or placement in the westward moving littoral stream may help alleviate regional erosion problems. Returning sand to the littoral system is a fairly simple task from the technical standpoint. **The challenge is to accomplish the task without increasing the cost of channel maintenance.**

.... Coastal erosion occurs where sand is removed faster than it is replaced. ***Such imbalance often causes problems which can be reduced by placement of new material in the shore compartment.*** The value of such action will depend on the nature of the local problem plus the location, quantity, and rate of sand replacement. Man's concerns are usually at the shoreline.

The bar channel traps littoral drift. Historically, hopper dredges remove an average of 324,000 cu yd. of material annually. Historically, material from the bar channel has been placed in an open-water site outside the active zone of littoral transport.

Note: In 1935, the U.S. Army Corps of Engineers (USACE) built a sand bar along the 6.7-m contour off the updrift end of eroding beaches south of Santa Barbara, California. The intent of this bar was to alleviate severe coastal erosion downdrift of the harbor. After 21 months, with no measurable movement of the bar and no alleviation of the shore erosion, **the USACE began pumping sand directly onto the beach** (U.S. Congress 1948).

1990 Beach And Nearshore Placement Of Material Dredged: From Federally Authorized Navigation Projects U.S. Army Engineer Institute For Water Resources Water Resources Support Center

"The latter is comprised of authorities given by the Congress to the Secretary of the Army, acting through the Chief of Engineers, to investigate and construct certain types of small projects. Accordingly, there are a number of authorities which provide a broad base of alternatives to beneficially use dredged material for the nourishment of beaches when placement of the materials does not constitute the least costly and approved dredged material disposal, or the material is not placed under the authority of Section 145, WRDA 1976 as amended. These alternative authorities and possibilities are enumerated below."

"If an existing **Federal navigation project is identified** as the causal factor of a quantifiable degree of **erosion** and attendant damage **along an adjacent shore**, placement of dredged material could be used as a corrective measure under authority of Section 111, RHA 1968, as amended by Section 940, WRDA 1986."

With respect to the execution of legislative authority provided by **Section 933, WRDA 1986, ER 1165-2-130** contains the following guidance: It is Corps policy to accomplish construction and maintenance dredging in the least costly and most environmentally sound manner possible (ER 1130-2-307).

If placement of dredged material on a beach or beaches is determined by the Corps to be the least costly acceptable means for disposal of the material, then such placement should be considered integral to accomplishment of the project work and not subject to any special non-Federal cost sharing requirements.

Most of the navigation projects using dredged material for beach nourishment are located in the Jacksonville, Mobile, Los Angeles and Detroit Districts.

* Most uses of dredged material for beach nourishment do not involve financial participation by entities other than the Corps.

1990 Water Resources Development Act of 1990 §2316. Environmental protection mission
(a) General rule: The Secretary shall include environmental protection as one of the primary missions of the Corps of Engineers in planning, designing, constructing, operating, and maintaining water resources projects.

1992 Water Resources Development Act of 1992 (P.L. 102-580), as amended-Beneficial Uses of Dredged Material Section 204..... Project costs consist of the incremental costs of the beneficial use as compared to the disposal plan that would have otherwise been used. A nonfederal sponsor is responsible for paying 25 percent of these costs, including LERRD.The total federal costs associated with a beneficial use of sediments project shall not exceed \$5 million. This cost limit refers to the incremental cost over the Base Plan. There is authorized to be appropriated not to exceed \$15 million annually to carry out this section. Such sums remain available until expended.

1996 Water Resources Development Act of 1996 (P.L. 104-303), Sec. 204. Restoration Of Environmental Quality.

“(C) Restoration Of Environmental Quality -- If the Secretary determines that construction of a water resources project by the Secretary or operation of a water resources project constructed by the Secretary has contributed to the degradation of the quality of the environment, the Secretary may undertake measures for restoration of environmental quality and measures for enhancement of environmental quality that are associated with the restoration, through modifications either at the project site or at other locations that have been affected by the construction or operation of the project, if such measures do not conflict with the authorized project purposes. 33 USC 2215

‘SEC. 207. BENEFICIAL USES OF DREDGED MATERIAL.

“(e) **SELECTION OF DREDGED MATERIAL DISPOSAL METHOD.**— In developing and carrying out a project for navigation involving the disposal of dredged material, the Secretary may select, with the consent of the non-Federal interest, a disposal method that is not the least-cost option if the Secretary determines that the incremental costs of such disposal method are reasonable in relation to the environmental benefits, including the benefits to the aquatic environment to be derived from the creation of wetlands and control of shoreline erosion. The Federal share of such incremental costs shall be determined in accordance with subsection (c).”.

SEC. 302. MOBILE HARBOR, ALABAMA.

The undesignated paragraph under the heading “MOBILE HARBOR, ALABAMA” in section 201(a) of the Water Resources Development Act of 1986 (100 Stat. 4090) is amended by striking the 1st semicolon and all that follows and inserting a period and the following: “In disposing of dredged material from such project, the Secretary, after compliance with applicable laws and after opportunity for public review and comment, may consider alternatives to disposal of such material in the Gulf of Mexico, including environmentally acceptable alternatives for beneficial uses of dredged material and environmental restoration.”.

1998 Transmittal of the National Dredging Team Guidance Close coordination and planning at all governmental levels, and with all aspects of the private sector, are essential to developing and maintaining the Nation's ports and harbors in a manner that will increase economic growth and protect, conserve, and restore coastal resources. Dredged material is a resource, and environmentally sound beneficial use of dredged material for such projects as wetland creation, beach nourishment, and development projects must be encouraged

1998 Title I Department Of Defense—Civil

Department Of The Army Corps Of Engineers—Civil General Investigations

Congressional Record, House

September 25, 1998

The summary tables at the end of this title set forth the conference agreement with respect to the individual appropriations, programs, and activities of the Corps of Engineers. Additional items of conference agreement are discussed below. <http://www.gpo.gov/fdsys/pkg/CREC-1998-09-25/pdf/CREC-1998-09-25-pt1-PgH8842-2.pdf>

The conferees recognize the serious erosion problems being experienced on the east end of Dauphin Island, Alabama. To counter this threat to property and habitat, the conferees urge the U.S. Army Corps of Engineers, acting in coordination with non-Federal interests, to initiate a small beach restoration project on the east end of Dauphin Island, Alabama, utilizing alternative sand recapture technologies.

1998 "USACOE Coastal Engineering Research Committee Meeting on Dauphin Island, recommended the creation of a Regional Sediment Management plan to replace the ad hoc individual site approaches."

1999 Regional Sediment Management Plan (RSMP) adopted by Mobile Office, covering the Coast from St Marks to Miss off shore Islands. (Town of Dauphin Island Erosion Task Force Report) 2 miles east of Fort Morgan Pt. to the west end of Dauphin Island

"The demonstration initiatives identified within the Sub-Regions are:

1. Mobile Bay/Dauphin Island

2000 Action on Mobile Bay/Dauphin Island Demonstration Initiative by the USACE suspended.

6. **Erosion Control Measures:** In the past, particularly prior to passage of the WRDA of 1986, beach fill or beach restoration was frequently considered an erosion control measure, and erosion control was treated as a project output or project purpose. **As a result of enactment of the law, however, erosion control has no separate status as a project purpose or as a project output. Thus, erosion control measures (e.g., beach**

fill) shall be treated as means to the ends of hurricane and storm damage reduction, ecosystem restoration, or recreation; similar to breakwaters or revetments. We need to be assured that Erosion Control Measures are included in the GRR/EIS for Dauphin Island.

7. The Public Scoping Notice states that the purpose of the study will be to determine improvements for safety and efficiency of the harbor users. It does not state that the purpose of the study will address the effects of dredging on Dauphin Island and this objective must also be included in the GRR/EIS.
8. The Mobile District has continually stated that Sand deposited in the SIBUA makes its way to Dauphin Island. The EIS must document and prove that the sand (dredged) deposited in the SIBUA makes it to Dauphin Island. The EIS must address where the dredged sand is to be deposited to maximize shoreline erosion with proof and facts that this is true.
9. There needs to be a Citizen Advisory Committee for the public to participate in the GRR/EIS process.
10. **Dr. Susan Rees expert testimony Corps Lawsuit:** Dr. Rees was an expert witness for the Corps and gave testimony on 9-15-09 at the Corps Lawsuit Fairness Hearing. Her testimony is applicable to the Corps plans as public input for the Widening and Deepening of the Mobile Harbor. Dr. Rees testimony **must be considered and followed by the Corps in the development of the GRR/EIS for Dauphin Island and Mobile harbor.**

Below are Excerpts of the Testimony of Dr. Susan Ivester Rees: September 15, 2009 Fairness Hearing, Mobile, Alabama; Questioned by Wells D. Burgess, US Department of Justice.

Q= Question. A = Answer

Q. And could you briefly state your employment history?

A. I have been employed with the Mobile District Corps of Engineers since 1981. Since that time I've held a number of positions with the Corps. Primarily in what is called the Coastal Environment Section of the Planning Division. The **duties** of that section are to **ensure** the environmental compliance of all of the federally authorized projects and military activities that are undertaken by the district.

Q. What are your current responsibilities?

A. Currently, I'm the program manager for the Mississippi Coastal Improvements Program.

Q. Are you familiar with the Corps' dredging operations on what we call the outer bar channel?

A. Yes, I am. The Mobile Harbor Project was one of the projects that I was responsible for.

Q. So I and the Court and everybody else understands this, are you telling us, then, if you increase the channel over what it's currently maintained, the State is going to have to pick up half the footing -- half the bill?

A. That's correct

Q. And that includes construction and maintenance?

A. That's correct.

Q. Thank you, Dr. Rees. I'm going to ask you now that are going to basically -- there's been some suggestion here that the Corps already has the funds to do this and it can just go out and basically start digging. And I need you to take the Court and also the class members here through the process that you believe needs to happen or that you know needs to happen based on your knowledge of the regulations and your experience and your current position before this additional dredging could occur.

A. **Engineering regulation 1105-2-100, Chapter 4**, dictates that for post-authorization projects -- and in this case if we were to try to deepen Mobile Harbor that would be considered post-authorization -- that we have to do a re-evaluation report utilizing current planning criteria and current policy and regulations.

There are two types of reports that you can do. And basically the period of time that has elapsed since the original report was done and a consideration of whether conditions have changed since that original report was done, those two factors drive the level of reporting that is required.

For the case of Mobile Harbor, we would have to do what is called a general re-evaluation report. That basically brings all up to current condition. It looks project is still justified or not.

If you take Mobile Harbor specifically, it was originally authorized on the coal trade and the use of the McDuffie Coal Terminal. Today, the through-port and the port is vastly different from what it was in the late '80s, so there's **different economics** obviously, the cost of dredging and the placement of dredge material has changed significantly and the environment has changed. **And so we would have to take into consideration all of those aspects in preparing that general re-evaluation report.**

And as far as the environmental compliance goes, because of the age of the original EIS we would have to do a supplement to that EIS.

Q. And I had asked you before, did I not, obviously you have years of experience with the National Environmental Policy Act compliance; is that correct?

A. Yes, I do.

Q. Now, would that also take into account engineering feasibility?

A. Yes.

Q. And economic benefit?

A. That's correct.

Q. And the cost benefit ratio?

A. Yes.

Q. I understand has that changed?

A. The cost benefit ration for a budgetable project changed last year.

Q. Now, how about would you have to have a new project agreement with the State?

A. If the findings of the general re-evaluation report were in the affirmative, prior to any construction activities, we would have to have a new partnership agreement with the State and the State Port Authority that would detail their costs for the initial construction and for the future maintenance as well as their other responsibilities.

Q. And is it correct to say -- I'll probably let the State speak to this, but the State would have to figure out how -- whether they could shoulder this additional expense; is that correct?

A. Well, they would have to figure out that and then they would also have to work with the Congressional delegation to get the Corps the money as well.

Q. You mentioned that an environmental impact statement would be issued if there was any expansion over the current -- currently maintained dredging depths and width. Would that environmental impact statement examine the impact on Dauphin Island of any expansion?

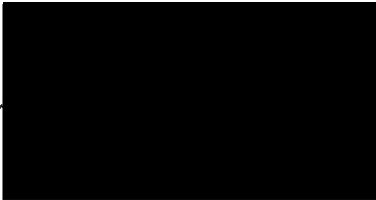
A. It would definitely examine the impacts to the coastal processes of the entire region, not just Dauphin Island.

Q. But including Dauphin Island?

A. Definitely.

Having knowledge of the public input at the January 12th Public Scoping Hearing is important and critical to understanding the concerns of those individuals present at the hearing. Some attendees to the hearing provided written input and some provided verbal input. I was told that 48 concerned citizens signed the attendance form. Please advise me by e-mail at sgraves1@bellsouth.net how to obtain copies of the written and transcribed comments. In addition, since the date for submission of public comments, please advise how to obtain copies of future comments. Please provide me with a copy of all public comments.

Sincerely,



Enclosures

Cc:

Senator Richard Shelby
Senator Jeff Sessions
Congressman Bradley Byrne
Lt. General Thomas P. Bostick
Brigadier General C. David Turner
State Senator Bill Hightower
State Representative David Sessions
Jeff Collier, Mayor, Dauphin Island & Town Council
Dom Carlucci, President, DIPOA
EPA/NEPA - Southeast

January 22, 2016

Colonel Jon Chytka
District Commander
US Army Corps of Engineers
Mobile District
P.O. Box 2288
Mobile, Alabama 36628-0001

ATTEN: CESAM-PD-EC

RE: Public Notice: FP15-MH01-10

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1. A fact unknown to me, and others of the public, was revealed by two Corps representatives: Elizabeth Godsey and Justin McDonald. Both Corps representatives stated that the SEIS of the General Re-evaluation Report (GRR) study does not and will not consider or address the historic sand losses/sand deficit caused by the Corps maintenance dredging practices of the Mobile Harbor Shipping Channel. Initially, the dredged sand from the Mobile Ship Channel was deposited in the EPA approved open water disposal site. From 1974 to 2000 the amount of dredged sand deposited in the open Gulf was over 20,000,000 cu yds. If you go back prior to 1974, the amount of dredged sand in the open water site would be greater going back to 1904 o 47 million cu yds. The historical sand loss/deficit must be addressed as an integral component of the GRR/ EIS. This loss sand to **Dauphin Island** must be replenished as part of the project.
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1935 Section 5 of Public Law 409, 74th Congress, approved August 30, 1935, Section 5 of this law required that all reports dealing with improvements at a river mouth or inlet contain "information concerning the configuration of the shoreline and the probable effect thereon" that might result if the improvements under consideration were built. *Particular reference was to be given to erosion* and

accretion "for a distance of not less than *ten miles on either side of the said entrance.*" Because of its *concern with erosion problems....associated with the Corps of Engineers' harbor activities*, 33 U.S. Code § 546a.

Also, the November 1985 "Final Supplemental Environmental Impact Statement Mobile Harbor, Alabama, Channel Improvements Offshore Dredged Material Disposal" also stated no impacts to the potential effects of erosion on Dauphin Island.

Since neither 1980 Corps EIS and the 1985 Supplemental EIS for the Widening and Deepening of the Mobile Ship Channel provides no consideration to the effects of erosion on Dauphin Island nor addresses sand deficit, **it is imperative that an Environmental Impact Statement be conducted to address erosion of Dauphin Island and the sand deficit caused by dredged sand historically being deposited in the open waters of the Gulf.**

3. **September 1978 Feasibility Report for Beach Erosion Control and Hurricane Protection.** This Corps study stated sand should be placed closer to Dauphin Island, but the Study recommendation were never followed and implemented. **This study should be considered as the basis for the EIS.** The 1978 study was primarily concerned with an investigation of the cause of beach erosion within Mobile County including Dauphin Island, and a determination of the economic, social and environmental feasibility of controlling this erosion. Hurricane protective measures were a secondary consideration. The depth and detail of the study were commensurate with the objectives of selecting the most suitable plan and establishing its feasibility and acceptability.

The findings of the 1978 shoreline erosion study of Dauphin Island concluded that maintenance dredging of the Outer Bar channel was contributing to the erosion of the island's Gulf shoreline by disposing of sand materials in deeper water offshore. To mitigate for those offshore impacts, the Corps' 1978 report proposed a plan that would deposit sand "in an area about 2 miles long and 900 feet wide at about the 28-foot depth in the Gulf of Mexico south of Dauphin Island." "The selected plan can be accomplished under the existing authority of the Chief of Engineers for maintenance of Mobile Harbor"

"...provides for placing this material offshore in an area extending west about 2 miles from longitude 88° 7.8'. The shoreward and seaward boundary of the dumping area would be about the existing 26-foot depth contour and the 30-foot depth contour, respectively."

The 1978 Corps report concluded that the "Nearshore Nourishment Plan" warranted implementation. The report also stated that "...there is no more appropriate alternative ... that could more meaningfully address the [shoreline erosion] problems of the area at this time. The report "...recommended that the Chief of Engineers modify the present maintenance dredging practice for the entrance channel to Mobile Harbor to conform to the Nearshore Plan as soon as practical." It is important to note that this plan can be implemented:

"...under the existing operation and maintenance authority of the Chief of Engineers for the existing Federal Navigation Project for Mobile Harbor, subject to EPA approval of site selection, without further action by Congress. All that would be required would be to determine the entity that would have to pay the increased differential cost to modify the existing disposal operations."

Pertinent Sections of the 1978 Study:

183. The principal causes of shore erosion along the westernmost 11 miles of Dauphin Island are attributable to rise in *sea* level and maintenance dredging of the Mobile Bay entrance channel....

204. Studies *herein* indicate that the only acceptable measures that would be economically feasible that would partially resolve any of the flooding or erosion problems of the area would be the nearshore Nourishment Plan defined herein as The Selected Plan.

176. The Nearshore Nourishment Plan should significantly reduce the present rate of erosion along the western 11 miles of Dauphin Island...

Note: 10.3 ft. a year of Dauphin Island shoreline lost to erosion

4. It has been learned at an ACCP public meeting from statements made by Dr. Susan Rees that the Byrnes' (the Corps Lawsuit Principal Investigator) 2008 Study will be used as the baseline study for the Dauphin Island Restoration Assessment study (funded by National Fish & Wildlife). Per Elizabeth Godsey and Justin McDonald, and the Corps Mobile Harbor PACR Schedule – Risk-By Down Plan, the Dauphin Island Barrier Island Restoration Assessment Study's data collection, modeling, and analysis will be applied to the Widening and Deepening Project. Robert Dean respectfully dissented from concurring "that the Corps' construction, operation and Maintenance Dredging Practices of and at the Channel have not resulted in at least Minimum Measurable Erosion of Dauphin Island's shoreline." In the Judges' final Order it stated "Dr. Dean dissented and indicated that the Final Report was fundamentally flawed, not reliable and at best inconclusive." Dr. Dean in his concluding report:

"However, my Draft Report review and the review herein have raised valid questions regarding some of the arbitrary methodology applied and findings to the degree that I regard the findings inconclusive with regard to any impact of dredging and channel maintenance of Mobile Bay Entrance. Thus, I respectfully dissent from concurring "that the Corps' construction, operation and Maintenance Dredging Practices of and at the Channel have not resulted in at least Minimum Measurable Erosion of Dauphin Island's shoreline."

In addition and per a Corps December 2011 memorandum, the Corps Byrnes 2008 Final Report and Corps 2010 study had flawed data. Using the Corps 2008 Byrnes final report/study as a base line for the Dauphin Island Barrier Island Restoration Assessment and inclusion for the EIS would be a conflict of interest. Since this Coastal Engineer and the 2008 Study were integral in the DIPOA vs Corps lawsuit, his participation and its inclusion in the GRR/EIS should be considered as a conflict of interest.

"USACE (Justin McDonald): Stated that the USACE surveys that were provided for the sediment budget analysis were incorrect. They have been corrected and a comparison of the corrected and uncorrected surveys is being performed to determine the magnitude of the difference. The results will be provided to Mark Byrnes so that he can decide if any additional analysis is needed to correct for the "busted" USACE surveys."

5. **The Corps needs to following all of the following Federal Laws listed below and an laws that apply :**

The 1935 Federal Law: Shoreline Changes. Pursuant to Section 5 of the River and Harbor Act of 1935, each investigation on navigation improvements potentially affecting adjacent shoreline will include analysis of the probable effects on shoreline configurations. A distance of not less than ten miles along the shore on either side of the improvement should be analyzed. The public needs to be assured that the 1935 law is referenced and followed. Other specific policies and laws that applicable to using dredged material for shoreline nourishment and restoration. Excerpts of these policies and laws are provided below. The public needs to also be assured that these policies and laws are followed in the GRR/EIS process:

1971 USACE Manual 1110-2-38 Policy: Maintenance and improvement of the environment--including avoidance of destruction or degradation, preservation, and enhancement (including restoration)--in a manner calculated to foster and promote the general welfare, allow man and nature to exist in productive harmony, and fulfill social, economic, and other requirements of present and future generations of Americans, is established by PL 91-190 as a valid objective of Federal programs. Therefore, it shall be treated equally with other established objectives in the design of Civil Works projects.

.... **Specific ecological considerations include actions to preserve or enhance critical habitats of fish and wildlife; accomplish sedimentation and erosion control,**

1976 **The Water Resources Development Act (WRDA) of 1976**, Public Law (PL) 94-587, enacted October 22, 1976 contains **the first congressional authorization specifically providing the Secretary of the Army with discretionary authority to use dredged material for beach nourishment purposes**, although the Secretary's use of that authority was conditioned on several requirements; namely, a State must request the work, it must be in the public interest, and non-Federal interests must pay the added costs for beach placement. A complete reading of Section 145 of PL 94-587 is as 1976 Water Resources Development Act 1976 Authorizing the construction, repair, and preservation of certain public works Oct. 22, 1976 on rivers and harbors for navigation, flood control, and for other purposes

SEC. 145. Beaches 33 USC 426: The Secretary of the Army, acting through the Chief of Engineers, is authorized upon request of the State, *to place on the beaches of such State beach-quality sand which has been dredged in constructing and maintaining navigation inlets and channels adjacent to such beaches*, if the Secretary deems such action to be in the public interest and upon payment of the increased cost thereof above the cost required for alternative methods of disposing of such sand.

1984 **SHORE PROTECTION MANUAL VOLUME I, Coastal Engineering Research Center** Waterways Experiment Station, Corps of Engineers: Man-induced erosion occurs when human endeavors impact on the natural system. Much of the man-induced erosion is caused by a lack of understanding and can be successfully alleviated by good coastal zone management. However, in some cases coastal erosion can be due to construction projects that are of economic importance to man. *When the need for such projects is compelling, the coastal engineer must understand the effects that the work will have on the natural system and then strive to greatly reduce or eliminate these effects through designs which work in harmony with nature.*

2. Man- Induced Causes: b. *Interruption of Material in Transport.* This factor is probably the most important cause of man-induced erosion. Improvement of inlets by both channel dredging and channel control and by harbor structures impounds littoral material ... Often, the material is permanently lost from the down coast beach regime either by the deposition of dredged material outside of the active littoral zone... This can be mitigated by sand-bypassing systems. Realignment of the shoreline by the use of such structures as groins also interrupts the transport of littoral material. These structures may not only reduce the rate of a longshore transport but also may reduce littoral material reaching down coast beaches by entrapment.

1986 The Water Resources Development Act of 1976 (P.L. 94-587), section 145 covering the placement of sand dredged during maintenance activities on adjacent beaches;

Section 1135, 1986 Water Resources Development Act of 1986 (PL-104-303), Project Modification for Improvements to the Environment: Under this authority, if the construction or operation of a USACE project has contributed to the degradation of the quality of the environment, measures for restoration through modification of the structure or operation of the structure may be undertaken at the project site if such measures do not conflict with the authorized project purposes. A nonfederal sponsor for projects implemented under this authority must pay 25 percent of project construction costs,

1987 Environmental Engineering for Deep-Draft Navigation Projects Manual No. 1110-2-1202

Environmental Engineering for Deep-Draft Navigation Projects

Chapter 6 Mitigation Decision Analysis:

6-1. Policy...Damage from Federal navigation work along the shorelines of the United States must be prevented or mitigated

1987 Sand Island Bar, AL Test: Beneficial Uses of Dredged Material: Mobile District

This test, conducted in 1987 offshore of Sand Island, Alabama, expands experience using fine sand in intermediate depths, i.e., below depths where onshore transport has already been demonstrated, but shallow enough for potential movement. **The major question is whether sand at this depth will be retained in the nearshore zone or lost seaward. The berm showed indications of migrating northwest. It was too far offshore to directly influence beach volumes, but the sand was apparently becoming part of the littoral system.**

1990 Results of Monitoring the Disposal Berm at Sand Island, Alabama Technical report DRP-90-2

A presently underway deepening operation will expand these dimensions to 47 by 600 ft. at the entrance ...*The bar channel traps littoral drift.* Historically, hopper dredges remove an average of 324,000 cu yd. of material annually.

...Historically, *material from the bar channel has been placed in an open-water site outside the active zone of littoral transport.*

First, SAM wants to evaluate the feasibility of conserving clean sands dredged to maintain the navigation channel into Mobile Bay. Conventionally, this sand would be disposed of in a designated offshore open-water site seaward of the littoral zone. Retention of the material in the nearshore sand prism or placement in the westward moving littoral stream may help alleviate regional erosion problems. Returning sand to the littoral system is a fairly simple task from the technical standpoint. **The challenge is to accomplish the task without increasing the cost of channel maintenance.**

... Coastal erosion occurs where sand is removed faster than it is replaced. *Such imbalance often causes problems which can be reduced by placement of new material in the shore compartment.* The value of such action will depend on the nature of the local problem plus the location, quantity, and rate of sand replacement. Man's concerns are usually at the shoreline.

The bar channel traps littoral drift. Historically, hopper dredges remove an average of 324,000 cu yd. of material annually. Historically, material from the bar channel has been placed in an open-water site outside the active zone of littoral transport.

Note: In 1935, the U.S. Army Corps of Engineers (USACE) built a sand bar along the 6.7-m contour off the updrift end of eroding beaches south of Santa Barbara, California. The intent of this bar was to alleviate severe coastal erosion downdrift of the harbor. After 21 months, with no measurable movement of the bar and no alleviation of the shore erosion, **the USACE began pumping sand directly onto the beach** (U.S. Congress 1948).

1990 Beach And Nearshore Placement Of Material Dredged: From Federally Authorized Navigation Projects U.S. Army Engineer Institute For Water Resources Water Resources Support Center

"The latter is comprised of authorities given by the Congress to the Secretary of the Army, acting through the Chief of Engineers, to investigate and construct certain types of small projects. Accordingly, there are a number of authorities which provide a broad base of alternatives to beneficially use dredged material for the nourishment of beaches when placement of the materials does not constitute the least costly and approved dredged material disposal, or the material is not placed under the authority of Section 145, WRDA 1976 as amended. These alternative authorities and possibilities are enumerated below."

"If an existing **Federal navigation project is identified** as the causal factor of a quantifiable degree of **erosion** and attendant damage **along an adjacent shore**, placement of dredged material could be used as a corrective measure under authority of Section 111, RHA 1968, as amended by Section 940, WRDA 1986."

With respect to the execution of legislative authority provided by **Section 933, WRDA 1986, ER 1165-2-130** contains the following guidance: It is Corps policy to accomplish construction and maintenance dredging in the least costly and most environmentally sound manner possible (ER 1130-2-307).

If placement of dredged material on a beach or beaches is determined by the Corps to be the least costly acceptable means for disposal of the material, then such placement should be considered integral to accomplishment of the project work and not subject to any special non-Federal cost sharing requirements.

Most of the navigation projects using dredged material for beach nourishment are located in the Jacksonville, **Mobile**, Los Angeles and Detroit Districts.

* Most uses of dredged material for beach nourishment do not involve financial participation by entities other than the Corps.

1990 Water Resources Development Act of 1990 §2316. Environmental protection mission

(a) General rule: The Secretary shall include environmental protection as one of the primary missions of the Corps of Engineers in planning, designing, constructing, operating, and maintaining water resources projects.

1992 Water Resources Development Act of 1992 (P.L. 102-580), as amended-Beneficial Uses of Dredged Material Section 204..... Project costs consist of the incremental costs of the beneficial use as compared to the disposal plan that would have otherwise been used. A nonfederal sponsor is responsible for paying 25 percent of these costs, including LERRD.The total federal costs associated with a beneficial use of sediments project shall not exceed \$5 million. This cost limit refers to the incremental cost over the Base Plan. There is authorized to be appropriated not to exceed \$15 million annually to carry out this section. Such sums remain available until expended.

1996 Water Resources Development Act of 1996 (P.L. 104-303), Sec. 204. Restoration Of Environmental Quality.

“(C) Restoration Of Environmental Quality -- If the Secretary determines that construction of a water resources project by the Secretary or operation of a water resources project constructed by the Secretary has contributed to the degradation of the quality of the environment, the Secretary may undertake measures for restoration of environmental quality and measures for enhancement of environmental quality that are associated with the restoration, through modifications either at the project site or at other locations that have been affected by the construction or operation of the project, if such measures do not conflict with the authorized project purposes. 33 USC 2215

‘SEC. 207. BENEFICIAL USES OF DREDGED MATERIAL.

“(e) **SELECTION OF DREDGED MATERIAL DISPOSAL METHOD.**— In developing and carrying out a project for navigation involving the disposal of dredged material, the Secretary may select, with the consent of the non-Federal interest, a disposal method that is not the least-cost option if the Secretary determines that the incremental costs of such disposal method are reasonable in relation to the environmental benefits, including the benefits to the aquatic environment to be derived from the creation of wetlands and control of shoreline erosion. The Federal share of such incremental costs shall be determined in accordance with subsection (c).”.

SEC. 302. MOBILE HARBOR, ALABAMA.

The undesignated paragraph under the heading “MOBILE HARBOR, ALABAMA” in section 201(a) of the Water Resources Development Act of 1986 (100 Stat. 4090) is amended by striking the 1st semicolon and all that follows and inserting a period and the following: “In disposing of dredged material from such project, the Secretary, after compliance with applicable laws and after opportunity for public review and comment, may consider alternatives to disposal of such material in the Gulf of Mexico, including environmentally acceptable alternatives for beneficial uses of dredged material and environmental restoration.”.

1998 Transmittal of the National Dredging Team Guidance Close coordination and planning at all governmental levels, and with all aspects of the private sector, are essential to developing and maintaining the Nation's ports and harbors in a manner that will increase economic growth and protect, conserve, and restore coastal resources. Dredged material is a resource, and environmentally sound beneficial use of dredged material for such projects as wetland creation, beach nourishment, and development projects must be encouraged

1998 Title I Department Of Defense—Civil

Department Of The Army Corps Of Engineers—Civil General Investigations

Congressional Record, House

September 25, 1998

The summary tables at the end of this title set forth the conference agreement with respect to the individual appropriations, programs, and activities of the Corps of Engineers. Additional items of conference agreement are discussed below. <http://www.gpo.gov/fdsys/pkg/CREC-1998-09-25/pdf/CREC-1998-09-25-pt1-PgH8842-2.pdf>

The conferees recognize the serious erosion problems being experienced on the east end of Dauphin Island, Alabama. To counter this threat to property and habitat, the conferees urge the U.S. Army Corps of Engineers, acting in coordination with non-Federal interests, to initiate a small beach restoration project on the east end of Dauphin Island, Alabama, utilizing alternative sand recapture technologies.

1998 "USACOE Coastal Engineering Research Committee Meeting on Dauphin Island, recommended the creation of a Regional Sediment Management plan to replace the ad hoc individual site approaches."

1999 Regional Sediment Management Plan (RSMP) adopted by Mobile Office, covering the Coast from St Marks to Miss off shore Islands. (Town of Dauphin Island Erosion Task Force Report)
2 miles east of Fort Morgan Pt. to the west end of Dauphin Island

"The demonstration initiatives identified within the Sub-Regions are:

1. Mobile Bay/Dauphin Island

2000 Action on Mobile Bay/Dauphin Island Demonstration Initiative by the USACE suspended.

6. **Erosion Control Measures:** In the past, particularly prior to passage of the WRDA of 1986, beach fill or beach restoration was frequently considered an erosion control measure, and erosion control was treated as a project output or project purpose. **As a result of enactment of the law, however, erosion control has no separate status as a project purpose or as a project output. Thus, erosion control measures (e.g., beach**

fill) shall be treated as means to the ends of hurricane and storm damage reduction, ecosystem restoration, or recreation; similar to breakwaters or revetments. We need to be assured that Erosion Control Measures are included in the GRR/EIS for Dauphin Island.

7. The Public Scoping Notice states that the purpose of the study will be to determine improvements for safety and efficiency of the harbor users. It does not state that the purpose of the study will address the effects of dredging on Dauphin Island and this objective must also be included in the GRR/EIS.
8. The Mobile District has continually stated that Sand deposited in the SIBUA makes its way to Dauphin Island. The EIS must document and prove that the sand (dredged) deposited in the SIBUA makes it to Dauphin Island. The EIS must address where the dredged sand is to be deposited to maximize shoreline erosion with proof and facts that this is true.
9. There needs to be a Citizen Advisory Committee for the public to participate in the GRR/EIS process.
10. **Dr. Susan Rees expert testimony Corps Lawsuit:** Dr. Rees was an expert witness for the Corps and gave testimony on 9-15-09 at the Corps Lawsuit Fairness Hearing. Her testimony is applicable to the Corps plans as public input for the Widening and Deepening of the Mobile Harbor. Dr. Rees testimony **must be considered and followed by the Corps in the development of the GRR/EIS for Dauphin Island and Mobile harbor.**

Below are Excerpts of the Testimony of Dr. Susan Ivester Rees: September 15, 2009 Fairness Hearing, Mobile, Alabama; Questioned by Wells D. Burgess, US Department of Justice.

Q= Question. A = Answer

Q. And could you briefly state your employment history?

A. I have been employed with the Mobile District Corps of Engineers since 1981. Since that time I've held a number of positions with the Corps. Primarily in what is called the Coastal Environment Section of the Planning Division. The **duties** of that section are to **ensure** the environmental compliance of all of the federally authorized projects and military activities that are undertaken by the district.

Q. What are your current responsibilities?

A. Currently, I'm the program manager for the Mississippi Coastal Improvements Program.

Q. Are you familiar with the Corps' dredging operations on what we call the outer bar channel?

A. Yes, I am. The Mobile Harbor Project was one of the projects that I was responsible for.

Q. So I and the Court and everybody else understands this, are you telling us, then, if you increase the channel over what it's currently maintained, the State is going to have to pick up half the footing – half the bill?

A. That's correct

Q. And that includes construction and maintenance?

A. That's correct.

Q. Thank you, Dr. Rees. I'm going to ask you now that are going to basically -- there's been some suggestion here that the Corps already has the funds to do this and it can just go out and basically start digging. And I need you to take the Court and also the class members here through the process that you believe needs to happen or that you know needs to happen based on your knowledge of the regulations and your experience and your current position before this additional dredging could occur.

A. **Engineering regulation 1105-2-100, Chapter 4**, dictates that for post-authorization projects -- and in this case if we were to try to deepen Mobile Harbor that would be considered post-authorization -- that we have to do a re-evaluation report utilizing current planning criteria and current policy and regulations.

There are two types of reports that you can do. And basically the period of time that has elapsed since the original report was done and a consideration of whether conditions have changed since that original report was done, those two factors drive the level of reporting that is required.

For the case of Mobile Harbor, we would have to do what is called a general re-evaluation report. That basically brings all up to current condition. It looks project is still justified or not.

If you take Mobile Harbor specifically, it was originally authorized on the coal trade and the use of the McDuffie Coal Terminal. Today, the through-port and the port is vastly different from what it was in the late '80s, so there's **different economics** obviously, the cost of dredging and the placement of dredge material has changed significantly and the environment has changed. **And so we would have to take into consideration all of those aspects in preparing that general re-evaluation report.**

And as far as the environmental compliance goes, because of the age of the original EIS we would have to do a supplement to that EIS.

Q. And I had asked you before, did I not, obviously you have years of experience with the National Environmental Policy Act compliance; is that correct?

A. Yes, I do.

Q. Now, would that also take into account engineering feasibility?

A. Yes.

Q. And economic benefit?

A. That's correct.

Q. And the cost benefit ratio?

A. Yes.

Q. I understand has that changed?

A. The cost benefit ration for a budgetable project changed last year.

Q. Now, how about would you have to have a new project agreement with the State?

A. If the findings of the general re-evaluation report were in the affirmative, prior to any construction activities, we would have to have a new partnership agreement with the State and the State Port Authority that would detail their costs for the initial construction and for the future maintenance as well as their other responsibilities.

Q. And is it correct to say -- I'll probably let the State speak to this, but the State would have to figure out how -- whether they could shoulder this additional expense; is that correct?

A. Well, they would have to figure out that and then they would also have to work with the Congressional delegation to get the Corps the money as well.

Q. You mentioned that an environmental impact statement would be issued if there was any expansion over the current -- currently maintained dredging depths and width. Would that environmental impact statement examine the impact on Dauphin Island of any expansion?

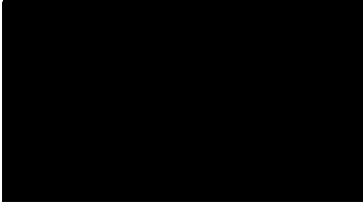
A. It would definitely examine the impacts to the coastal processes of the entire region, not just Dauphin Island.

Q. But including Dauphin Island?

A. Definitely.

Having knowledge of the public input at the January 12th Public Scoping Hearing is important and critical to understanding the concerns of those individuals present at the hearing. Some attendees to the hearing provided written input and some provided verbal input. I was told that 48 concerned citizens signed the attendance form. Please advise me by e-mail at sgraves1@bellsouth.net how to obtain copies of the written and transcribed comments. In addition, since the date for submission of public comments, please advise how to obtain copies of future comments. Please provide me with a copy of all public comments.

Sincerely,



Enclosures

Cc:

Senator Richard Shelby
Senator Jeff Sessions
Congressman Bradley Byrne
Lt. General Thomas P. Bostick
Brigadier General C. David Turner
State Senator Bill Hightower
State Representative David Sessions
Jeff Collier, Mayor, Dauphin Island & Town Council
Dom Carlucci, President, DIPOA
EPA/NEPA - Southeast

Ms. Jennifer Jacobson
US Army Corps of Engineers
Mobile District, Planning & Environmental Division
Coastal Environment Team
PO Box 2288
Mobile, Alabama 36628-0001

Comment # 78

February 20, 2016

Dear Ms. Jacobson

I am writing to share my concerns regarding the General Reevaluation Study and Environmental Impact Statement to deepen and widen the Mobile Harbor Ship Channel. In response to the Corps of Engineers Public Scoping Meeting held January 12, I have a number of concerns and ask that you take the below items into consideration.

- If the Corps plans to dispose of dredged material in Mobile Bay (i.e., thin layer spreading, island creation, etc.) removed during initial deepening and widening of the ship channel and future maintenance, the Corps should prepare a Dredged Material Disposal Master Plan for Mobile Bay and make it part of the Study and EIS. Information should be made available to the public in a timely manner, allowing for public involvement and feedback throughout the process.
- The Corps should no longer purposefully exclude Dauphin Island from its "Regional Sediment Management Strategy (RMS)" for Mobile Bay. Instead, the Study should incorporate Dauphin Island in the existing RMS approach because the island's erosion is affected by maintenance of the Outer Bar Channel. The Corps should devote major attention to the beneficial use of dredged sands to counter erosion.
- Comply with Section 5 of the River and Harbor Act of 1935 that requires every Corps report involving an "improvement" to an inlet (i.e., Mobile Harbor Outer Bar Channel through Mobile Pass) to evaluate shoreline erosion for a distance of not less than ten miles on either side of the inlet channel. The Corps' 1980 report and EIS did not comply with that law.
- Thoroughly address the cumulative historical sand losses to Dauphin Island dating back to at least 1958 that correspond with increasing deepening of the Outer Bar Channel according to U.S. Geological Survey's 2007 report. This analysis is needed to establish the historical and baseline and projected future conditions to describe the No Action Alternative against which the deepening and widening alternatives will be compared. The Corps cannot ignore the losses in millions and millions of littoral drift sands due to its maintenance practices and the erosion of Dauphin Island that occurred over time.
- Explain why the Corps no longer agrees with the agency position stated in its draft 1978 report on Dauphin Island's beach erosion that concluded maintenance of the Outer Bar Channel is contributing to at least 40% of Dauphin Island's erosion problem. Document why the findings and conclusions of that report are now considered to be invalid? The Corps not only ignores its own 1978 report now, but is of the new position that maintenance dredging of the channel has no impact on the erosion of Dauphin Island. How can the Corps expect the public to believe the results of the impending Study and EIS, when its change in position on the erosion issue appears to have been influenced by its desire to win the 2000-2009 lawsuit with the Dauphin Island Property Owners Association and by the desire keep the non-federal share of the costs borne by the Alabama State Port Authority to maintain the Mobile Harbor project as low as possible?
- The scientific literature is replete with numerous examples where navigation channels dredged through coastal inlets have interrupted the littoral drift of nearshore sands along the beach, causing beaches downdrift of the inlets to erode. This phenomenon is common along the entire US Gulf Coast, the rest of the nation, and around the world. Yet, the Mobile District has maintained this scientific model widely accepted by coastal scientists and engineers does not apply to dredging the Outer Bar Channel through the Mobile Pass Inlet and the erosion of Dauphin Island. The General Evaluation Study and EIS must devote considerable attention to this issue and provide convincing information to support whatever conclusion the Corps develops.
- The Corps has dumped dredged sands in the Sand Island Beneficial Use Area (SIBUA) south of the lighthouse for years with the position being that these sands are moved by currents to Dauphin Island to counter erosion. However, the observed evidence indicates most of the sands are not moved, but accumulate at that location, while Sand Island has almost disappeared and Dauphin Island continues to erode. This leads to the conclusion that the SIBUA is failing to meet its intended purpose. The General Reevaluation Study and EIS should thoroughly evaluate why the SIBUA fails to meet its purpose.
- In lieu of continuing to use the SIBUA, the Corps should adopt the same shallow water (<10 to 15 feet) deposition methods the Mobile District has recently recommended be used to build back Petit Bois Island's eroded Gulf shoreline west of Dauphin Island.

- Establish a Citizen Advisory Committee that will meet at least two to four times a year with the Corps to assess how public concerns are being addressed in the General Reevaluation Study and EIS. The next time the public hears from the Corps should not be when Draft EIS is released for review at the end of the 4-year study.

In conclusion, as a Dauphin Island property owner, I expect the study to be conducted objectively and in a manner that will assure all concerned interests are given equal consideration and not just the views of the Alabama State Port Authority. Thank you for your time and consideration.

Sincerely,

A large black rectangular redaction box covering the signature area.

Ms. Jennifer Jacobson
US Army Corps of Engineers
Mobile District, Planning & Environmental Division
Coastal Environment Team
PO Box 2288
Mobile, Alabama 36628-0001

Comment # 79

February 20, 2016

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Sincerely,

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Ms. Jennifer Jacobson
US Army Corps of Engineers
Mobile District, Planning & Environmental Division
Coastal Environment Team
PO Box 2288
Mobile, Alabama 36628-0001

Comment # 80

February 20, 2016

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Comment # 82

February 20, 2016

Dear Ms. Jacobson

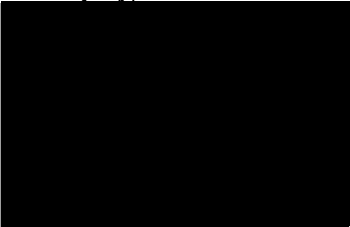
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Comment # 83

February 20, 2016

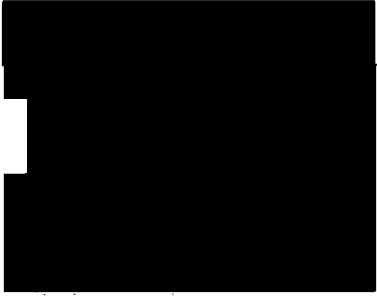
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PO Box 2288
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Comment # 84

February 20, 2016

Dear Ms. Jacobson

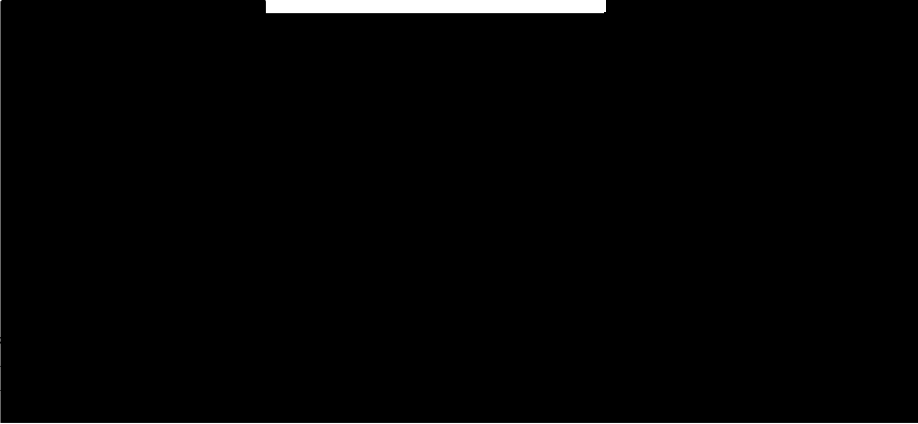
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Comment # 86

February 20, 2016

Dear Ms. Jacobson

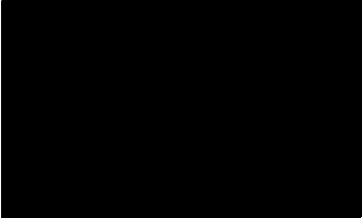
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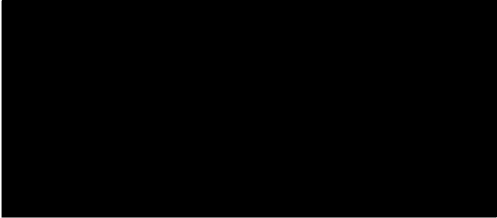
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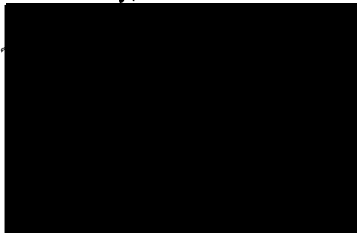
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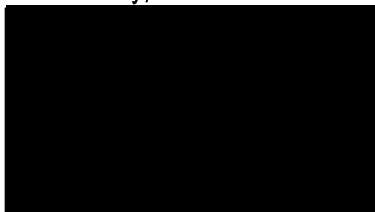
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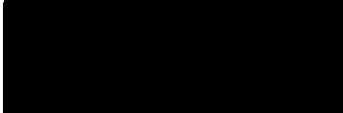
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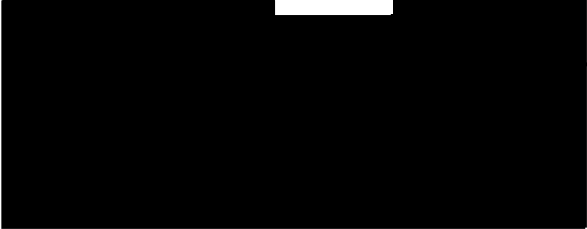
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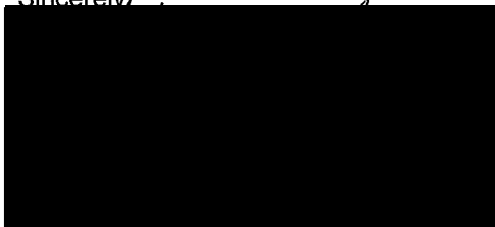
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Comment # 93

February 20, 2016

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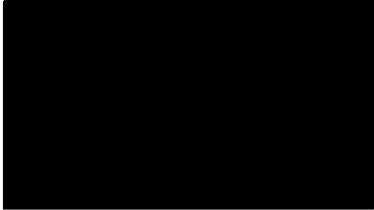
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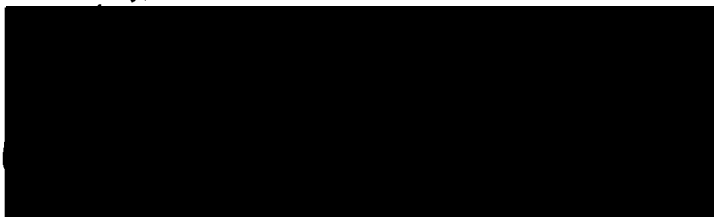
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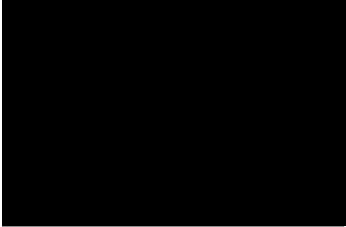
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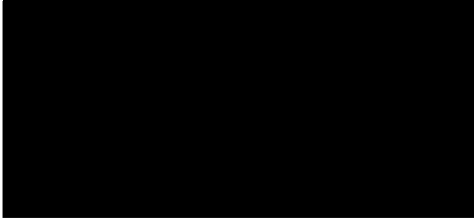
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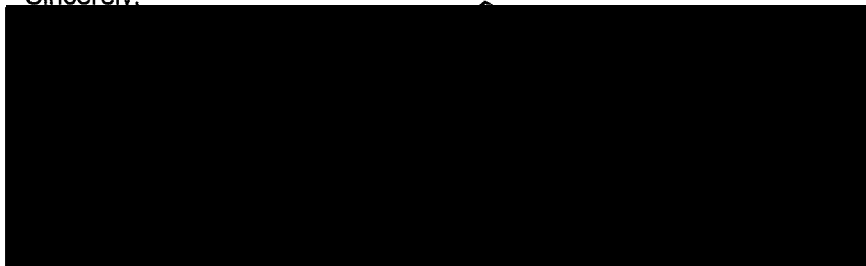
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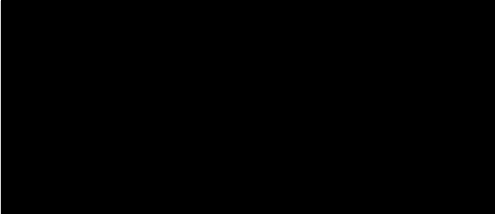
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US Army Corps of Engineers
Mobile District, Planning & Environmental Division
Coastal Environment Team
PO Box 2288
Mobile, Alabama 36628-0001

Comment # 99

February 20, 2016

Dear Ms. Jacobson

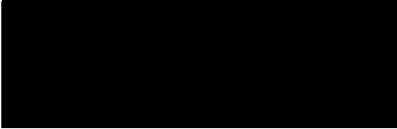
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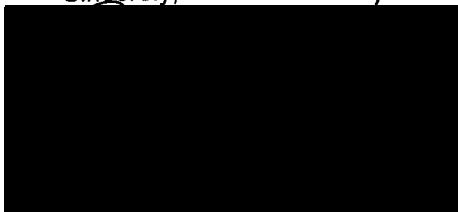
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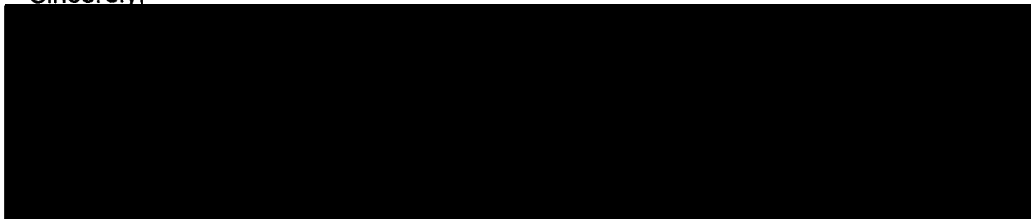
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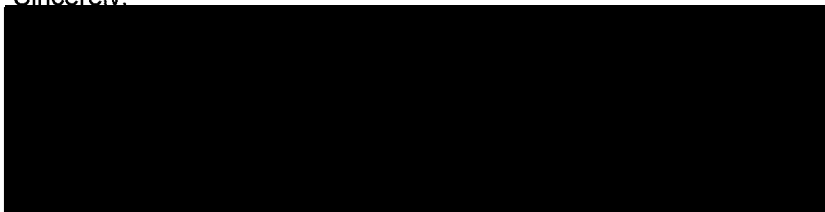
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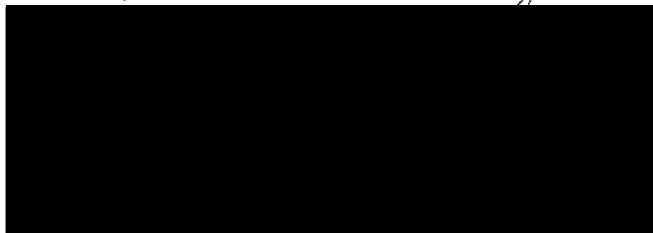
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please help save our beach and our homes!

Comment # 104

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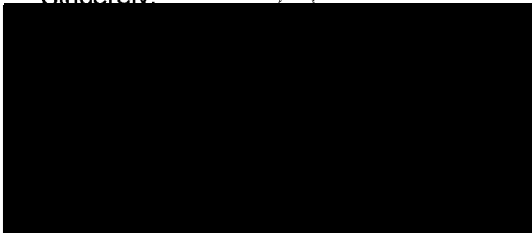
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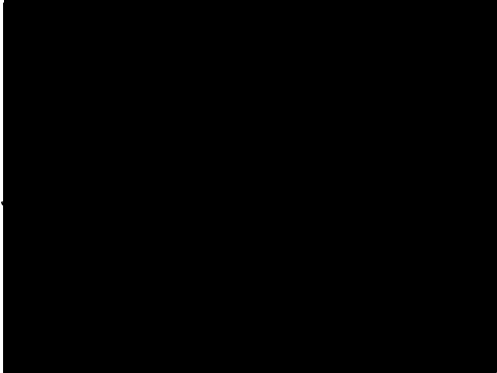
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Coastal Environment Team
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Comment # 106

February 20, 2016

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Comment # 107

February 20, 2016

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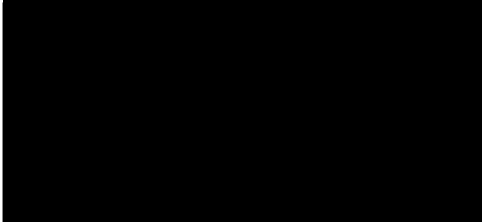
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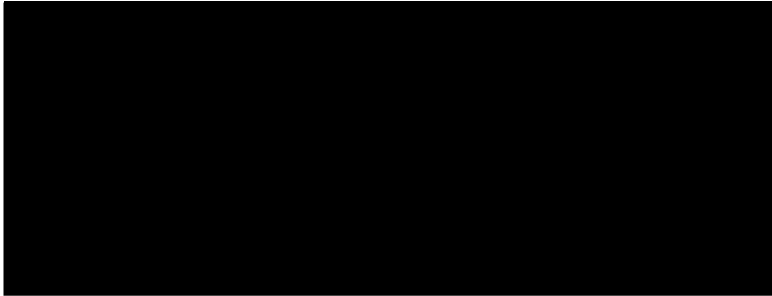
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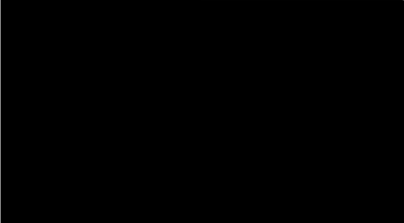
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Sincerely,



Ms. Jennifer Jacobson
US Army Corps of Engineers
Mobile District, Planning & Environmental Division
Coastal Environment Team
PO Box 2288
Mobile, Alabama 36628-0001

Comment # 112

February 20, 2016

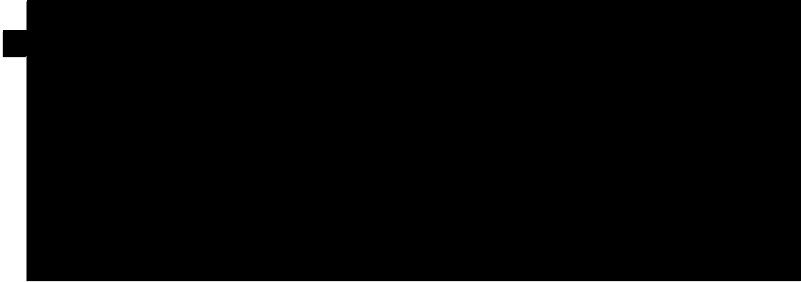
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Comment # 113

February 20, 2016

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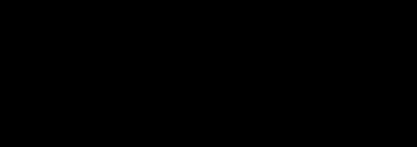
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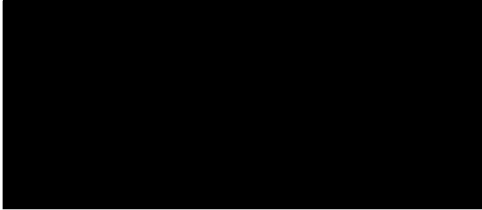
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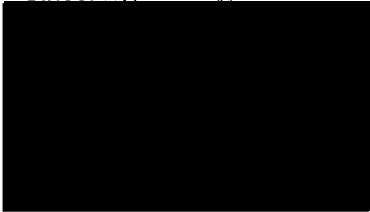
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