

MEMORANDUM FOR THE RECORD

SUBJECT: Dauphin Island Shoreline Erosion

1. In considering in potential applicability of Section 111, River and Harbor Act of 1968 to the solution of shoreline erosion problems currently being experienced at Dauphin Island, there are several issues that should be taken into account.

a. The erosion problems have been investigated under Section 14 of the Flood Control Act of 1946. Accordingly, there have been no investigations that would establish whether or not the Mobile Harbor navigation project is in any way contributing to the erosion. Moreover, in preparing the Section 14 reports, which are presently in draft form, CESAM technical experts concluded that the current erosion problem is not related to the navigation project. To revise those reports to now suggest that the navigation project may contribute to the erosion problem would require these technical experts to compromise their professional integrity and to take a position that they cannot defend.

b. The "conversion" of the draft Section 14 reports to Section 111 reports would produce reports that do not answer all the relevant questions in the level of detail that is customary for reports of this type, i.e., the cause/effect relationship between the navigation project and the erosion problem. This deficiency would likely be revealed during technical review at CESAD and HQUSACE.

c. Perhaps the most serious concern regarding use of Section 111 in this case is that it would set a precedent. Accordingly, any future erosion problem on Dauphin Island would likely be considered the public, the State of Alabama, and others to be attributable to the navigation project. If two specific problem areas are remedied using Section 111, there may be other problem areas in the future. Without a definitive investigation clearly establishing a cause/effect relationship to the navigation project, the District would be unable to argue that any other problem in the future is not related to the navigation project. Further, should any future solution involve the disposal of dredged material on the shoreline, the costs for maintaining the Mobile Harbor project, which are already high, would be even higher.

d. It is our observation that Section 111 has been judiciously used in the past. ER 1105-2-100 describes in Chapter 3 the criteria for problems that may be remedied under authority of Section 111. The problems at Dauphin Island do not seem to

fit the criteria. Accordingly, use of Section 111 for these problems seems inconsistent with longstanding policy.

2. CESAM does not believe that the erosion problems at Dauphin Island are attributable to the navigation problem. Accordingly, the problems were investigated under what we believe is a more appropriate authority, Section 14. In a meeting last week with representatives of the Alabama Department of Economic and Community Affairs (ADECA), we understand that ADECA will seek State funding in FY 1994 through the legislature now in session. Should ADECA be successful, these projects can be implemented under Section 14 and the problems mentioned above would be avoided.

3. The CESAM Executive Office concurs that use of Section 111 would set a precedent and create problems for the District in the future.