

Status of Corps Funding A Strategic Focus

Managing Port Navigation Systems within an inadequately funded Civil Works Program

Harbors & Navigation Committee
February 12, 2014

Frank L Hamons,
Senior Associate
Gahagan & Bryant Associates



PRESENTATION OUTLINE

- Implications of Corps Civil Works Program Funding Shortfalls
- Corps Civil Works Budget Constraints
- Corps Civil Works Program Transformation
- Port DMMP Strategic Recon Analysis, Living With The Transformation
- Federal Authorities Available For Port/Corps Partnerships For Port Implemented Projects

2014 VS. 2005 NAVIGATION APPROPRIATIONS

Fiscal Year	Investigations	Construction	O&M	Total Nav
FY 14*	\$36	\$474	\$1,697	\$2,272**
FY 05	\$91	\$1,422	\$1,926	\$3,439

FY 05 (inflated to 2014)***	\$119	\$1,867	\$2,529	\$4,515
FY 14 vs FY 05 inflated	-70%	-75%	-33%	-50%

* FY 14 Includes increases from Omnibus Appropriation Bill

** \$65M MR&T included in this total

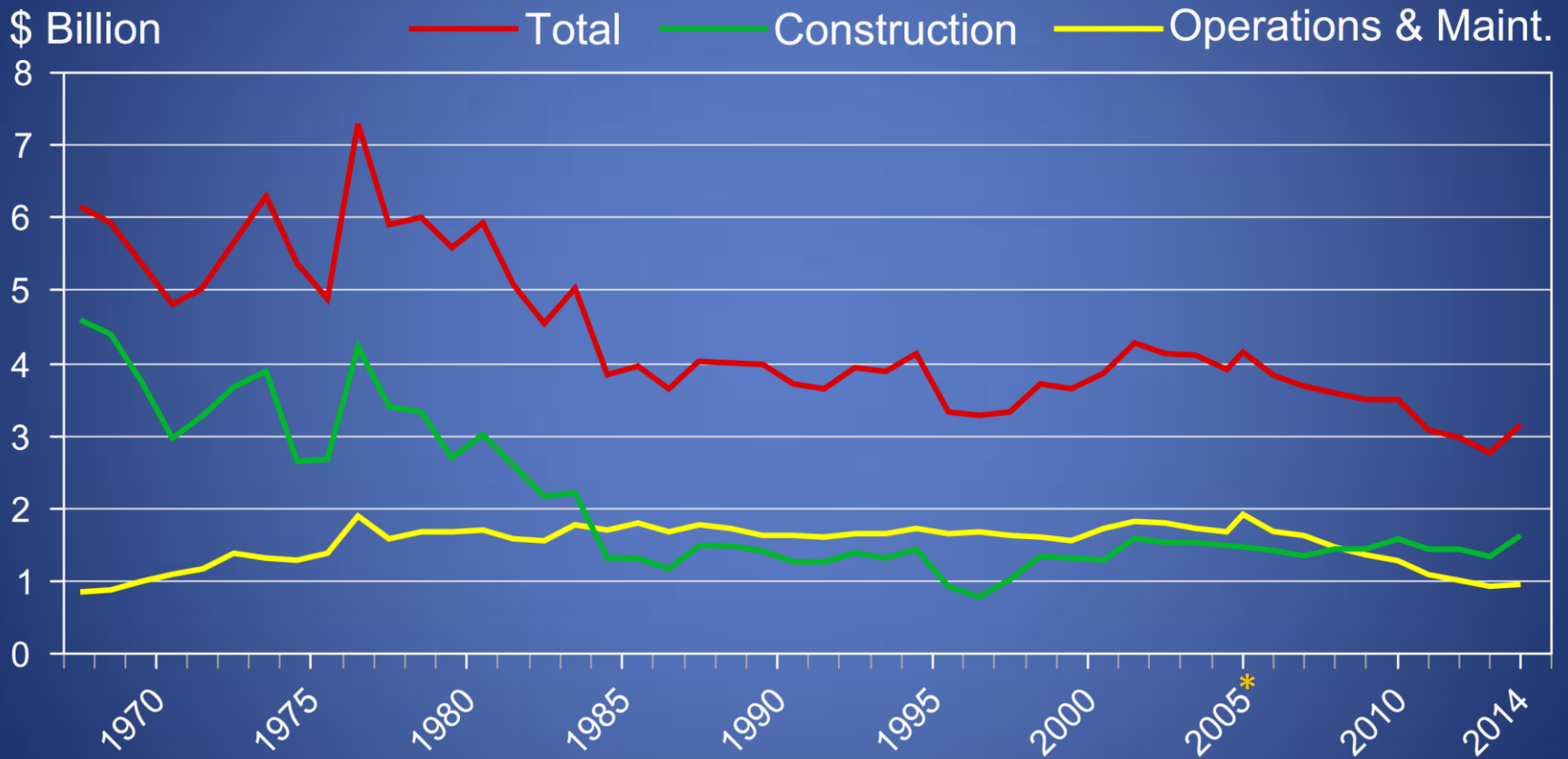
*** Numbers inflated using Corps Civil Works Construction Cost Index System (CWCCIS) Tables as of September 2013.

IMPLICATIONS OF REDUCED CORPS CIVIL WORKS FUNDING

- Budgetary constraints are adversely affecting the Corps ability to satisfy the nation's navigation needs in a timely manner.
- The Corps is engaged in a process to transform its Civil Works program to better meet these and future challenges by addressing key areas in its Civil Works program.
- Many port administrators and managers have not fully considered or implemented a comprehensive strategy or plan to ensure their navigation needs are met in a timely manner within a transformed Civil Works program.

CORPS CIVIL WORKS APPROPRIATIONS, 1967-2014

CONSTANT (FY 96) \$ BILLIONS



Note: Original graph (1967 through 2004) produced by Corps, 2005 to 2014 values from OMB.

CORPS RESPONSE TO BUDGET CONSTRAINTS - CIVIL WORKS TRANSFORMATION

- Excerpts from Engineer Update, “Army Corps of Engineers to transform civil works program”, posted 1/8/2013 by John Prettyman, Sacramento District.
- “Too costly. Too slow. Both phrases are often used to describe today's U.S. Army Corps of Engineers civil works program. Leadership has taken notice and is implementing a transformation program that is already beginning to change the way the Corps does business.”
 - From a port perspective: Means what it says; the Civil Works Program isn't performing well, the Corps is in the process of changing the program to speed up project delivery and reduce costs.
- Steve Stockton, Director of Civil Works, U.S. Army Corps of Engineers headquarters, “Our fiscal climate is very constrained, expectations are high and we don't have enough federal resources to do all that is expected from us. These are only a couple of challenges we are facing.”
 - From a port perspective: The Corps doesn't have the funding to do everything ports need and expect to get from the Corps, some projects/activities aren't going to be funded.
- “To meet these current and future challenges, the Corps has targeted four key areas in its civil works program for improvement: the project planning process, budget development, infrastructure strategy and methods of delivery.”
 - From a port perspective: Everything in the Corps' Civil Works system is being considered for change, you should expect that your port's interests will be affected in some way.

CORPS RESPONSE TO BUDGET CONSTRAINTS - CIVIL WORKS TRANSFORMATION

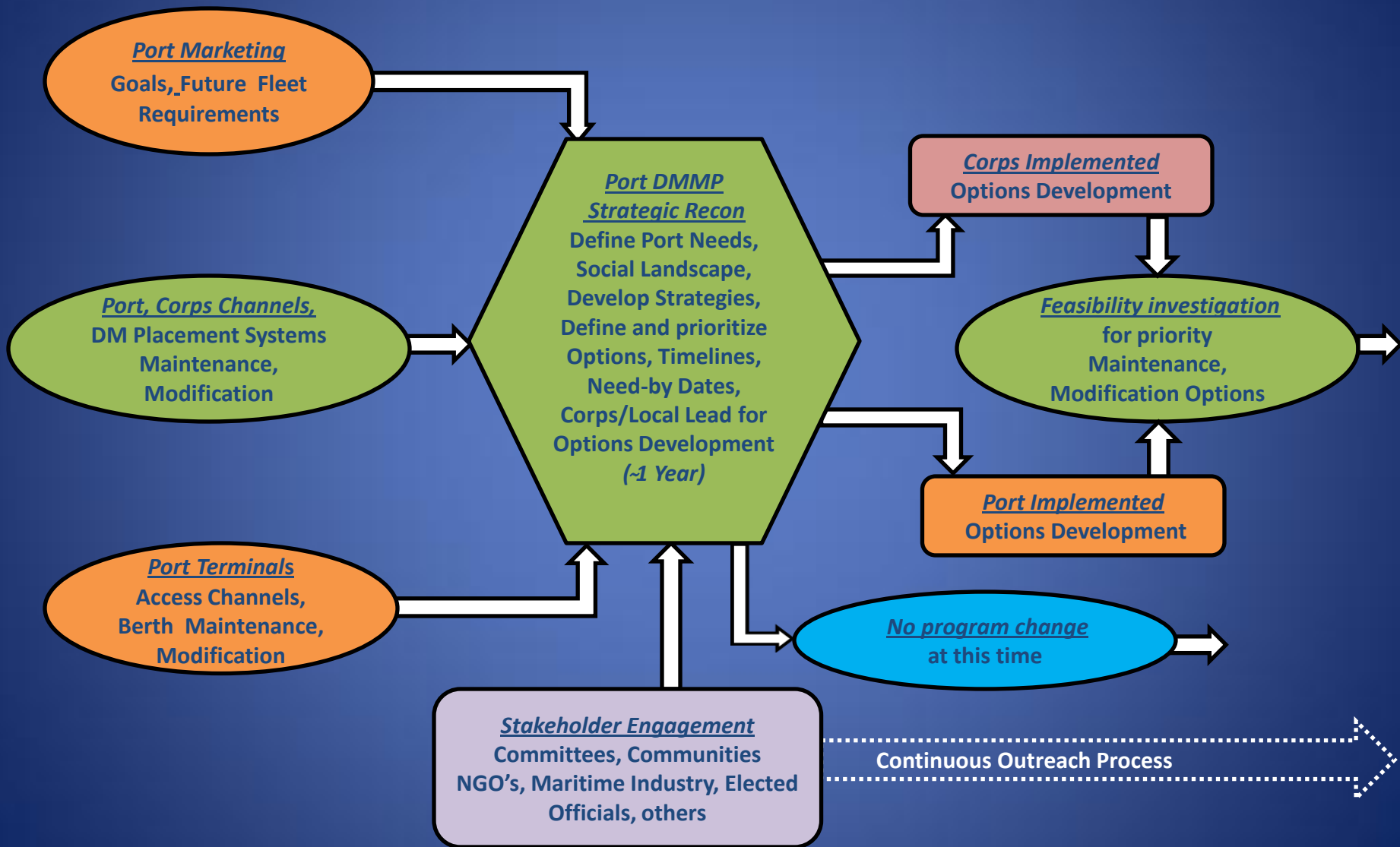
- One aspect of the strategy for modernizing the project planning process has been nicknamed "3x3x3," which means studies will be completed in less than three years; cost no more than \$3 million; and reinforce early involvement of the three levels of the Corps (district, division and headquarters)."
 - From a port perspective: Affects the feasibility study phase of project development only; with "3x3x3" a 14 to 16 year Corps project development timeline becomes an 11 to 13 year timeline by reducing feasibility study time to 3 years from a typical 5 to 6 years or more.
- "The next target area in the transformation is the budget development process. Projects will be evaluated and prioritized based on their system-wide benefits as opposed to stand-alone projects. The Corps will develop a common operating picture of all projects within a watershed (federal, state, local, tribes, nongovernmental organizations) and collaborate with its partners to understand their priorities."
 - From a port perspective: Any Corps implemented port project may be judged against the merits of other Corps projects within a given "system" (region, watershed), and within the landscape of project activity of any and all jurisdictions and interests operating in that system. This could include projects from other Corps business lines, e.g. a port project could lose to a flood control project, particularly if that project is complimentary to a project being performed by a local interest.

CORPS RESPONSE TO BUDGET CONSTRAINTS - CIVIL WORKS TRANSFORMATION

- “The next element of the transformation involves developing a robust infrastructure strategy to ensure our infrastructure is sustainable and reliable. Our portfolio of assets is being evaluated within a systems-based process that includes looking at financing alternatives to support the right infrastructure investments.”
 - From a Port Perspective: The Corps can’t fund every port’s projects, so they may look for other funding sources, including local stakeholders, e.g. your port may have to find ways to cost-share or to fund its own projects.
- The final target area for Civil Works is improving methods of delivery, which means many engineering services such as dam safety production centers, inland navigation design, and deep-draft navigation economics will be managed at a regional or enterprise level instead of at the districts.
 - From a port perspective: This could benefit ports by bringing higher levels of expertise to bear on a given port project, and more consistency to Corps responses to stakeholder interests, district to district. It could also become a serious bottleneck to projects if the center isn’t adequately staffed and funded.

LIVING WITH CORPS CW PROGRAM TRANSFORMATION

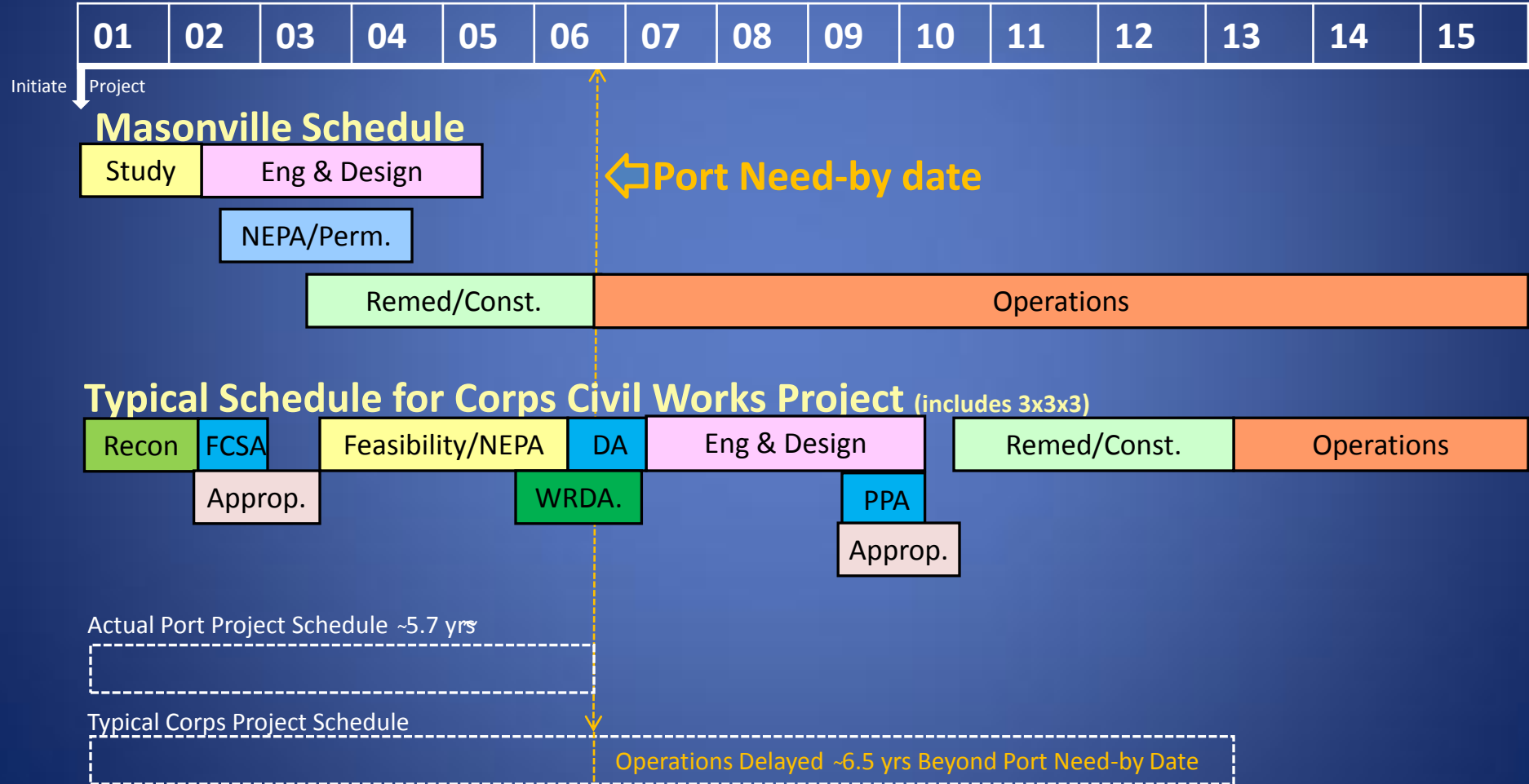
PORT DMMP STRATEGIC RECON PROCESS



WHY CONSIDER PORT IMPLEMENTED PROJECTS? MASONVILLE VS. TYPICAL CORPS PROJECT SCHEDULE

(Includes 3x3x3)

Calendar Years



WHY DO STAKEHOLDER ENGAGEMENT?

Two Projects, One Port

*MASONVILLE (2004/2010) - Strong Stakeholder Engagement Program: communities, local gov't, activists, industry, NGO's; from problem ID to options selection, design, operations. No opposition - 6 Years, concept to operations.



**HART - MILLER ISLAND (1970/1984) - Performed NEPA Required Outreach: plans, specs before outreach, 5 year delay in permit issuance by local/political opposition, 4 year litigation to U.S. Supreme Court. Delayed 9 years by opposition – 14 years, concept to operations.

AVAILABLE AUTHORITIES, PORT/ CORPS PARTNERSHIPS FOR IMPLEMENTATION, FUNDING OF NAVIGATION PROJECTS

- Section 203 of the Water Resources Development Act of 1986 (WRDA 86)
- Section 204 (e) of WRDA 86
- Section 11, River and Harbor Act of 1925 (33 U.S.C. 561)
- Section 4 of the River and Harbor Act of 1915 (33 U.S.C. 560)
- Section 2003 of the Water Resources Development Act of 2007
(Amendment to Section 221 of the Flood Control Act of 1970) (42 U.S.C. 1962-5b)
- Section 204(f) of the Water Resources Development Act of 1986
- Section 217 (c) of the Water Resources Development Act of 1996

AVAILABLE AUTHORITIES CONTINUED

SECTION 203 OF WRDA 86

- Provides authority for Non-Federal interests to accomplish feasibility studies and submit them to Congress for authorization of the project. Secretary of the Army (Assistant Secretary of the Army (Civil Works)) (ASA (CW)) must review the report for compliance with Federal laws and regulations before submittal, and report results of the review to the Congress.
- If a project is authorized based on the feasibility study, the non-Federal interests is credited with the Federal share (50%) of the feasibility study toward the non-Federal share of construction of the project.

SECTION 204 (e) OF WRDA 86

- Provides authority for non-Federal construction of **authorized** navigation projects and reimbursement of the Federal share of the cost. Secretary of the Army (ASA(CW)) must approve a plan of construction.
- Non-Federal sponsor and ASA (CW) enter into reimbursement agreement before construction. Secretary of the Army monitors work to assure construction in accordance with the Plan of Construction.

AVAILABLE AUTHORITIES CONTINUED

SECTION 11, RIVER AND HARBOR ACT OF 1925 (33 U.S.C. 561)

- Authorizes the Secretary of the Army to accept funds advanced by non-Federal interests for authorized river and harbor projects, a reimbursement agreement is required. This authority has only been used for authorized projects and cannot be used for studies.
- Reimbursement aspects presents difficulty because of low budget and appropriation priority for reimbursements, Congressional limits on appropriations for credits and reimbursements, and earmark ban.

SECTION 4 OF THE RIVER AND HARBOR ACT OF 1915 (33 U.S.C. 560)

- Authorizes the Secretary of the Army to accept contributions of funds (without provision for reimbursements) for non-Federal interests for authorized rivers and harbor projects. Can be used for construction or maintenance, requires a simple contributed funds agreement.
- This authority has only been used for authorized projects and cannot be used for studies. A modification of the authority for use in feasibility studies would be beneficial to the Ports and the Corps.

AVAILABLE AUTHORITIES CONTINUED

SECTION 2003 OF THE WATER RESOURCES DEVELOPMENT ACT OF 2007 (Amendment to Section 221 of the Flood Control Act of 1970) (42 U.S.C. 1962-5b)

- Provides for work-in-kind by non-Federal interests to be credited against the non-Federal share for design and construction of authorized Federal projects. Credit is limited to the non-Federal share, Corps needs to certify that the work is integral to the project.
- Need a Crediting Agreement before the work is initiated. Actual crediting is implemented in a Design Agreement or Project Partnership Agreement

AVAILABLE AUTHORITIES CONTINUED

SECTION 204(f) OF THE WATER RESOURCES DEVELOPMENT ACT OF 1986

- Provides for Federal maintenance of non-Federally constructed navigation projects. Secretary of the Army (ASA(CW)) must find that the work is economically justified, environmentally acceptable, compatible with Corps navigation policies before construction.
- Approval is based on a non-Federally prepared report or non-Federally funded and Corps prepared report. The provisions of Section 204(b) of WRDA 86 apply and the Corps can do reimbursable work in support of the Federal assumption of maintenance report and non-Federal construction.
- ASA(CW) approval is required, close coordination and review by the Corps is required. There is no reimbursement for the construction. This is only for Federal maintenance after construction.

AVAILABLE AUTHORITIES CONTINUED

SECTION 217(c) of WRDA 96

- Provides authority for public/private partnerships in facilities for placement of dredged material. “Private” includes non-Federal public bodies like port authorities. The Federal share of the placement facility plus a reasonable return on investment is recovered through a tipping or user fee paid by the Corps for placement of material from authorized projects.
- Need a Corps decision document like a Dredged Material Management Plan (DMMP) or DMMP Addendum demonstrating that the tipping fee is the least cost acceptable placement and documenting the calculation of the tipping fee. Implemented through a tipping fee agreement with the Corps.
- Tipping fee paid through Construction and Operation and Maintenance appropriations.

SUMMARY

- Corps Civil Works budget trend indicates continued flat or declining funding.
- Corps transformation of their Civil Works Program is proceeding, with a focus on a watershed or regional approach in contrast to traditional project budgeting.
- As a port, your needs may be affected, some positively, some adversely by the transformation. A DMMP Strategic Recon can help you identify, select and schedule channel system management options in an ever changing civil works environment.
- A strong outreach program can save you time, reduce opposition, project delay and costs and increase your near and long term benefits.
- Federal authorities are available that provide options for port project implementation. **Support AAPA's QPI Workgroup efforts to improve these options.**

MANAGING PORT CHANNEL SYSTEMS WITH LESS CIVIL WORKS FUNDING

END