

**Legislative Committee Breakout Summary
Great Lakes Dredging Team Annual Meeting
June 4, 2015, 7:30-9:00 a.m.
Board Room – The District Event Center, Green Bay, WI**

*This is a summary of the discussion that took place during the committee breakout session

Attendees

Danielle Chesky, Northeast-Midwest Institute (chair)
Sheri Walz, WI Department of Natural Resources
Tom Rayburn, Lake Carriers Association
Larry Karnes, MI Department of Transportation
Marie Strum, U.S. Army Corps of Engineers – Detroit District
Elisha DeFrain, MI Department of Transportation
Jan Miller, U.S. Army Corps of Engineers – Great Lakes and Ohio River Division
Ron Kozlowski, U.S. Army Corps of Engineers – Buffalo District
Kristy Meyer, Ohio Environmental Council
Karl Gebhardt, Ohio Environmental Protection Agency
Kurt Princic, Ohio Environmental Protection Agency
Jim Sartucci, K&L Gates
Tom Crane, Great Lakes Commission (staff support)

Welcome and Introductions

Danielle Chesky welcomed the group. She introduced Jim Sartucci, lobbyist with the Lake Carriers Association, who was participating remotely.
Chesky reviewed the agenda and asked Jan Miller to review the draft committee work plan. Miller introduced the workplan and reviewed the workplan elements with the group. He covered the items in the following order:

Workplan update

Legislative Priorities

The Water Resources Reform and Development Act (WRRDA) was signed into law in 2014. The Corps is still waiting on guidance for implementation. The budget for dredging will be assembled differently based on the new provisions of the Act. There are new funding guidelines for commercial, low use and emerging ports.

The Great Lakes Ecological and Economic Protection Act (GLEEPA) was not passed by Congress in 2014. Bills have been reintroduced in this congress. GLEEPA will authorize the Great Lakes Restoration Initiative among other things.

Bundling of Dredging Projects for Cost Efficiency

Bundling of dredging projects has been discussed as a way to extend dredging dollars and allow more projects to be funded. The concept is related to and supported by the Corps' P3 initiative. The Corps has bundled dredging contracts in the past. Small business set asides are required.

Mining of dredge material from CDFs

There are potentially conflicting Corps policies between districts. There are also areas of uncertainty regarding policies and authority. Erie Pier is a good example. Material is washed – sand settles out and is used beneficially.

There are issues to be understood surrounding CDF capacity. The Corps manages material within CDF. Dyke rising can be considered part of dredge material management but more than 1 to 2 years capacity addition is considered building a new CDF. Any new CDF requires 35% non-federal cost share.

Shore protection

The issue of Corps authority for beneficial use was discussed. Up to 65% of the cost delta (extra cost) over the least cost alternative can be paid by the Corps. The Corps has studied a lot of shore protection and habitat restoration options. Feasibility studies are conducted to help determine the cost differential. Beach nourishment (111 authority) does not have to involve dredge material.

Brownfields redevelopment

Legal liability is an issue with regard to brownfields redevelopment using dredge material. The policy (not the regulatory issues) need to be better understood. We know it can be done but obstacles may need to be overcome.

Federal Standard

Understanding the role and application of the federal standard is essential. The Federal Standard, under which the Corps operates, is the dredged material disposal alternative or alternatives identified by the Corps which represent the least costly alternatives consistent with sound engineering practices and meeting the environmental standards established by the 404(b)(1) evaluation process under the Clean Water Act. Both legislation and policy elements need to be understood. Flexibility in the application of the Federal Standard needs to be defined and understood. Sensitivity analysis requires numerous alternatives and ranges. There may be flexibility on the cost side. One area where there may be flexibility is under the Coastal Zone Management Act.

Action: The workplan was accepted as presented with minor modifications and the inclusion of examining legislation that addresses what types of funds can be used for federal cost share.

Legislation and Appropriations

Chesky then directed discussion toward legislation and legislative developments. Jim Sartucci, Government Affairs Councilor with K&L Gates, was asked to provide an update on appropriations for the WRRDA. Sartucci mentioned that we haven't seen implementation guidance but need it for FY 2017 request. The harbor maintenance trust fund is suggested for a 10% increase for FY 2015.

Sartucci recapped FY 2015 \$1.166 billion on harbor maintenance fell short of this target but the overall trend is good. WRRDA will increase each year as a percentage of income.

Chesky talked about policy provisions especially related to open water placement (OWP) policy. There is a house bill introduced by Representative Latta that prohibits OWP in Lake Erie. The

House language is directly in the bill. The Senate language is included in report language. Report language (highly suggested recommendations) implies Congressional intent.

Chesky talked about cost-savings language. Corps has to maintain its long-standing role in dredge material management. If a State says no to OWP does the Corps have to continue managing dredge material? The bill language is vague.

Under WRRDA, Congress might add money above the President's request that increase could be generally used for Great Lakes navigation purposes. Not likely going to have one big number for Great Lakes navigation. \$50 million is to be provided for donor ports in FY 15 under the Senate appropriations bill. No donor ports are part of the Great Lakes system. Discussion occurred regarding using these funds for rebating harbor maintenance taxes. How much going into Corps O&M budget? No donor ports (or energy transfer ports) in the Great Lakes. Senate has not passed its bill yet.

State Updates

Sheri Walz, Wisc. DNR, talked about the work of the Wisc. Commercial Ports Association. The group is working on assets inventory. Second phase looking at commodities that can be efficiently moved by water. There is recognition that state and federal dollars are decreasing.

She mentioned the State harbor assistance program for maintenance, dredging and infrastructure. Funding is typically \$12 million every two years and has been a line item in the state budget. The funding is used primarily for commercial ports but threshold is low (1,000 tons of cargo moved). Governor Walker zeroed out the program recently. There is currently \$1.3 million available in grants. There seems to be bi-partisan support for trying to bring the program back. The transportation portion of the state budget is still being worked on. Wisconsin is also part of several regional discussions including Governors' Maritime Initiative.

Larry Karnes, Michigan DOT, provided an update. The overall transportation budget is an issue for Michigan. Currently, the state can't meet federal match requirements for road improvements without going into general fund. Ports are looking to develop some type of marine program funding, similar to Wisconsin's.

Michigan took one time action three years ago for emergency funding for dredging due to low waters. No continuation of this program is expected. The Line item in the budget for work at the Wayne Co Port authority is about \$400 K.

There are O&M funds used for ferry funding and services to and from islands with year round populations. Service has to be provided by public entity.

Karl Gephardt, Ohio EPA gave an update for Ohio. He mentioned two budgets; the capital budget and operations budget which is passed every two years. Several dredging-related demonstration projects are underway; one in Toledo looking at agricultural demonstrations using dredge material as a beneficial use. The goal is to ultimately find ways to get the material back on the farmsteads. The project has combined nutrient reduction and sediment management goals.

Another demonstration is in Cleveland; material is used different based on its quality. Senate Bill 1 (SB1) passed this year. Among other things, it prohibits OWP in 2020. There are some off ramps that provide discretion to the ODNR and OEPA directors to work with ports and the Corps if the OWP ban cannot be met. SB1 is also a driver for beneficial use. The state is serious about coming up with beneficial use initiatives. Budget has to be completed by June 30. Senator Gardiner interested in holding a ports conference to look at alternative funding opportunities for Ohio ports.

Kurt Princic, Ohio EPA, provided an additional Cleveland update. Cleveland is implementing two projects; the first is a bedload interceptor that will be located upstream from the channel. The project began last week right before big weekend storms. The heaviest sediment falls out first. The second project is looking at beneficial uses for materials stored in CDFs – including soil washing and sediment separation. The plan is to remove the material for beneficial uses such as road construction projects using dredge material.

Chesky concluded the session by talking about the Corps policy related to advancing beneficial use. Opportunities exist under WRRDA in the P3 and DMMP (dredge material management plan) provisions. Discussion ensued regarding opportunities under the GLRI and looking outside the boundaries of the federal channel. Can green infrastructure be looked at as a model? Have to show cost savings in order to make it work. May need to look beyond the authority and work of the Corps? How can EPA (FWS) be involved under the GLRI.