



THE SECRETARY OF THE INTERIOR
WASHINGTON

NOV 04 2019

The Honorable David Rouzer
U.S. House of Representatives
Washington, DC 20515

Dear Representative Rouzer:

Thank you for your letter dated October 25, 2019, regarding the Coastal Barrier Resources Act (CBRA). In your letter, you asked the following:

Does the Department [of the Interior] take the view that, if otherwise consistent with the purposes of the Act, Sec. 6(G) of CBRA applies to any “non-structural projects for shoreline stabilization that are designed to mimic, enhance, or restore a natural stabilization system,” including those outside of a system unit?

The answer to your question is yes, application of the statutory exception is not limited to within a unit.

In particular, you raised concerns with a 1994 legal memorandum interpreting a section of the law that provides exceptions to limitations on Federal expenditures for shoreline stabilization projects. You note this flawed interpretation of the law has prevented a number of coastal storm damage reduction projects that would further the purposes of the statute as declared by Congress.

Based on the concerns raised in your letter and those of other members of Congress, I asked the Department of the Interior’s (Department) Office of the Solicitor to review the 1994 opinion referenced to determine whether section 6 of CBRA permits Federal funding for utilizing sand removed from a unit of the Coastal Barrier Resources System (System) to renourish beaches located outside the System. After considering the plain language of the law and the legislative history, the Office of the Solicitor determined that the exemption in section 6 is not limited to shoreline stabilization projects occurring within the System. I personally reviewed the matter and agree.

In 1982, when Congress passed CBRA (which established the John H. Chafee Coastal Barrier Resources System), it found that coastal barriers contain significant cultural and natural resources—including wildlife habitat—and function as natural storm protective buffers. Congress found that coastal barriers are generally unsuitable for development. To achieve the purposes of the Act, “to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damage to fish, wildlife, and other natural resources associated with coastal barriers,” CBRA prohibits new Federal financial assistance incentives that encourage development of coastal barriers. Section 6 of the Act establishes exceptions to this restriction, including “[n]onstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore a natural stabilization system.” Within the Department, the U.S. Fish and Wildlife Service is responsible for maintaining and updating the official maps of the System.

The 1994 legal memorandum interpreting section 6 that you referenced in your letter contained no analysis but summarily concluded that the exemption for shoreline stabilization projects applies only to projects designed to stabilize the shoreline of a System unit and not to projects to renourish beaches outside the System, even when those projects benefit coastal barriers within the System. Closely evaluating the text, I do not find this was a permissible reading of the statute. The language is not ambiguous.

Even if some ambiguity could be identified in section 6, after reviewing the language of the Act and the legislative history, the more reasoned interpretation is that Congress did not intend to constrain the flexibility of agencies to accomplish the CBRA's broader purposes of protecting coastal barrier resources by requiring beach renourishment to occur "solely" within the System. Thus, even to the extent the statutory language could be considered ambiguous, it should be interpreted in a way that furthers Congress' stated purpose of protecting coastal barrier resources. As a consequence, sand from units within the System may be used to renourish beaches located outside of the System, provided the project is consistent with the purposes of the Act.

Thank you for highlighting the issues in your letter. The Department is committed to ensuring that we do not needlessly burden people or communities beyond the parameters Congress has determined to be appropriate. I welcome the opportunity to discuss these efforts with you going forward.

A similar letter has been sent to each of your cosigners, and I have directed the U.S. Fish and Wildlife Service to bring its communications into compliance with the statute.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bruce Babbitt". The signature is written in a cursive style with a large, looping initial "B".

Secretary of the Interior