

Testimony of Rep. Anna Paulina Luna
Member of Congress on behalf of Florida's Thirteenth Congressional District
Committee on Transportation and Infrastructure 2024 Member Day Hearing
Thursday, January 11th, 2024, at 10:00 a.m.

Hello Chairman Graves, Ranking Member Larson, and distinguished Members of the Committee.

My district is home to many pristine beaches along the Gulf of Mexico. It is my utmost priority to ensure beach renourishment continues in my community. That is why I am before you today.

For the entirety of last year, my office has been fighting the Army Corps of Engineers over their decision not to move forward with the renourishment of the Sand Key Beach Project in Pinellas County. The initial construction effort for Sand Key was completed in 1993. Successive nourishments in 1999, 2006, 2012, and 2018 have significantly repaired and built up the beach, with the shoreline now about 200 feet from the seawall. Renourishment needs to be placed every six years. The next renourishment cycle would need to begin in 2024 to stay on schedule and not risk beach erosion that would degrade the progress made over the last three decades.

However, the Army Corps has informed Pinellas County that local officials must obtain perpetual public access easements along the length of the project from 100 percent of property owners, regardless of whether sand is being placed on their private property, in order to proceed with the next renourishment cycle. This attempted power grab seeks to strip property rights from homeowners where easements are not needed to complete the next renourishment cycle.

Despite perpetual easements not being required by law, the U.S. Army Corps of Engineers insists they must be acquired to move forward with ANY beach renourishment project. This now affects not only Sand Key but also Treasure Island and Long Key projects, which were previously given the green light in Pinellas County. It does not end there; the Corps' policy will halt beach renourishment projects in over nine counties throughout Florida.

For previous nourishments, Pinellas County property owners were allowed to sign temporary construction easements to allow the Army Corps to do its work. Army Corps stated that the agency intends to start enforcing this new policy, purportedly from 1996 but not enforced for the past two decades. It is a flawed requirement to require perpetual public access easements on private properties, especially those that will not have sand placed. For obvious reasons about half of private property owners have declined to give such an easement.

Section 103(d) of the 1986 Water Resources Development Act (WRDA) requires the local sponsor to pay for sand placed on private property. The Army Corps of Engineers new interpretation of this 40-year-old law is that they will not place sand on the public side of the beach, which is *seaward* of the erosion control line, unless a perpetual public access easement is acquired from the private property owners on the *landward* side of the erosion control line unless the local sponsor pays 100% of the cost. The Army Corps ridiculously maintains this position even when sand is not being placed in front of the private property.

The Corps cites section 103d of 1986 WRDA, which prohibits federal funding of benefits to privately owned shores where use is **limited** to private interest, as the reason for their unattainable perpetual easement policy. The Corps does not take into account that beaches in Florida are already public beaches, established by the erosion control line, and that beach renourishment projects with temporary construction easements do not violate 1986 WRDA.

The Corps is interpreting the law incorrectly to fit their policy wants, not, as they claim, to comply with the law. Therefore, we need to clarify in existing law that the Corps cannot abuse its power with this interpretation and stretch its interpretation of the law with no legal or statutory authority to do so.

We must rein in the Army Corps of Engineers and modify the requirements in WRDA relating to easements for beach renourishment projects and measures in the State of Florida. This policy clarification would state that a public access or use easement or perpetual property right shall not be required to be provided for any privately owned land that is located landward of the erosion control line (as determined by the State of Florida) and that the Corps may only require a temporary easement or other property right to be provided for the purpose of performing pre-construction, construction, or post construction activities for the project of measure (including maintenance and monitoring activities).

The Corps' one size fits all approach regarding their easement policy does not take into account the vast differences in state laws when it comes to public versus private property. For instance, Florida law has an erosion control line that delineates public beach versus private land. For the purposes of federal cost sharing, Florida's beaches are already considered publicly accessible shores which satisfy the WRDA 1986 requirement.

Without renourishment, Pinellas County will be more prone to future hurricanes and flood damage, which will negatively impact the entire county's economy. Without this scheduled 2024 nourishment, the beach will dissipate and erode, demolishing many habitats to endangered species and threatened wildlife. Specifically, Loggerhead Sea Turtles, Piping Plover Shorebird, West Indian Manatee, Eastern Black Rail, Red Knot, Wood Stork, American Crocodile, Eastern Indigo Snake, Green Sea Turtle, Hawksbill Sea Turtle, and the Leatherback Sea Turtle are federally classified as endangered or threatened species and reside in and/or around the Sand Key region. Without renourishment to preserve the habitats of our endangered species, they will be placed at greater risk. The Army Corps is under an obligation to exercise its authority to further the conservation of endangered and threatened species. In this case, Army Corps action that reimagine the 1986 WRDA statute will devastate such species.

It is my top priority for WRDA 2024 to ensure that Army Corps proceeds as planned with already authorized beach renourishment projects in Florida. While this new Army Corps policy is very personal to me and my constituents in Pinellas County, I'm sure you will hear from my colleagues that this new policy is threatening many other projects throughout Florida. I respectfully request your assistance in correcting the wayward Army Corps of Engineers and ensure that Florida beach renourishment projects move forward on schedule.

Thank you. I yield back.