DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

DEC 08 2008

REPLY TO
ATTENTION OF

CECW-NWD

MEMORANDUM FOR Commander, Northwestern Division (CENWD-PDD)

SUBJECT: Implementation Guidance for Section 3070 of the Water Resources Development Act of 2007 (WRDA 2007), Rathbun Lake, Iowa

1. Section 3070 of WRDA 2007 directs the Secretary, in accordance with the recommendations in the July 22, 1985, Rathbun Lake Reallocation Report, to provide the Rathbun Regional Water Association (RRWA) with the right of first refusal to contract for or purchase any increment of the remaining allocation of 8,320 acre-feet of water supply storage at Rathbun Lake, Iowa. The RRWA shall pay the cost of any water supply storage allocation for which they contract. A copy of Section 3070 is attached for information.

2. Water supply storage, in the amount of 15,000 acre-feet was made available as a result of the Rathbun Lake Reallocation Report. Currently, the RRWA has contracted for a total of 6,680 acre-feet of the storage under contracts DACW41-86-C-0114 and DACW41-89-C-0092 (3,340 AF under each contract), leaving 8,320 acre-feet available for contracting. Purchase of water supply storage must be accomplished in accordance with the requirements of the Water Supply Act of 1958, as amended (43 U.S.C. 390b), through a water supply contract approved by the Assistant Secretary of the Army for Civil Works, or by the Chief of Engineers if so delegated.

3. The Corps of Engineers shall provide the RRWA the right of first refusal to contract for or purchase any portion of the remaining 8,320 acre feet of water supply storage. In the event that another entity expresses a desire to contract for the storage space and but for section 3070 of WRDA 2000 such contract would be approved, such contract will not be approved or awarded until RRWA has had an opportunity for right of first refusal on the storage space in question as follows. Kansas City District, Corps of Engineers, shall provide written notice to RRWA. RRWA shall then have 120 days to respond, in writing, as to whether it intends to exercise its refusal right and initiate a water supply contract action or decline to contract for the storage space. If RRWA either doesn't respond within the 120 days, or responds that it does not intend to contract for the remaining storage space, the Corps of Engineers may move forward with contracting for storage by the other entity.

If RRWA elects to contract for the remaining storage or the designated portion thereof, it shall initiate the formal process of development of a water supply contract. The Kansas City District shall respond accordingly in writing to the other requesting entity.

FOR THE COMMANDER:

Encl

EDWARD J. HECKER
Chief, Northwestern Division
Regional Integration Team
Directorate of Civil Works

SEC. 3070. RATHBUN LAKE, IOWA.

(a) RIGHT OF FIRST REFUSAL.—The Secretary shall provide, in accordance with the recommendations in the Rathbun Lake Reallocation Report approved by the Chief of Engineers on July 22, 1985, the Rathbun Regional Water Association with the right of first refusal to contract for or purchase any increment of the remaining allocation of 8,320 acre-feet of water supply storage in Rathbun Lake, Iowa.

(b) PAYMENT OF COST.—The Rathbun Regional Water Association shall pay the cost of any water supply storage allocation provided under subsection (a).