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

Reply to
Attention of:

JUN 12 2009

CEMP-SWD

MEMORANDUM FOR COMMANDER, Southwestern Division (CESWD-PDP)

SUBJECT: Implementation Guidance for Section 3147 of the Water Resources Development Act of 2007 (WRDA 2007) – Cedar Bayou, Texas

1. Section 3147 of WRDA 2007 amends the project authorized by Section 349(a)(2) of WRDA 2000 to reduce the project's authorized channel dimensions to ten feet deep by 100 feet wide. In addition, Section 3147 provides authority for the Secretary to credit, in accordance with Section 221 of the Flood Control Act of 1970 (hereinafter "Section 221"; 42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project for the costs for planning and design work carried out by the non-Federal interest for the project before the date of the partnership agreement (PPA) for the project. A copy of Section 3147 and the previous legislation as amended by Section 3147 is enclosed for information.

2. The project is located in Texas within Chambers, Harris and Liberty Counties. The channel extends from the Houston Ship Channel near Mile 25, eastward across Galveston Bay, to a point 11.0 miles above the mouth of Cedar Bayou, at approximately highway 146. The non-Federal sponsor conducted the feasibility study and the feasibility report was approved by the ASA(CW) in July 2006. The project, authorized by Section 349 of WRDA 2000 as amended by Section 3147 of WRDA 2007, consists of improving 8 miles of channel (from mile 3 to mile 11) to ten feet deep by 100 feet wide.

3. Planning and design work performed prior to the execution of the PPA and determined to be integral to the project will be considered eligible for credit. The guidance and procedures contained in Engineering Circular No. 1165-2-208, In-Kind Contribution Provisions of Section 221, dated 6 June 2008, will be used to determine eligibility of credit for such planning and design work (such as, any planning and design work undertaken after execution of WRDA 2007 but prior to execution of the PPA will not be eligible for credit if such work is carried out prior to execution of an In-Kind MOU (see paragraph 4 and Table 1 of the EC) and determined to be integral to the project (see paragraph 6 and Table 2 of the EC)). The actual value of the eligible work and amount of credit afforded will be determined in accordance with the terms and conditions of the PPA for the project. The total amount of credit for in-kind contributions shall not exceed the non-Federal cash requirement for the project. Reimbursement for in-kind contributions that exceed the non-Federal sponsor's cash requirement for the project is not authorized. Further, cost sharing for construction and operation and maintenance of the project shall be in accordance with section 101 of WRDA 86.

4. Section 3147 does not provide authority to afford credit for: 1) construction work carried out prior to execution of the PPA; or 2) planning, design or construction work carried out after the date of execution of the PPA. Furthermore, no work may be undertaken on this project until such time as funds are approporiated.

FOR THE COMMANDER:

Encl.

STEVEN L. STOCKTON, P.E.
Director of Civil Works