DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
441 G Street N.W.
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

MAY 16 2008

CECW-P

MEMORANDUM FOR Commanders, Major Subordinate Commands

SUBJECT: Implementation Guidance for Section 2011 of the Water Resources Development Act of 2007 (WRDA 2007), Tribal Partnership Program

1. Section 2011 of WRDA 2007 amends Section 203 of WRDA 2000 to modify the Tribal Partnership Program (TPP) by: expanding the types of activities that can be conducted under this program to include watershed assessment and planning activities; increasing the geographic area where such activities may be conducted; and increasing the length of time during which funds may be appropriated for these activities from 2006 to 2012. A copy of the amended act language is enclosed.

2. The modifications included in section 2011 permit the Secretary to carry out water-related planning activities, including conducting watershed assessments and planning activities that do not necessarily lead to development of a project for implementation. In addition, studies may now be conducted on lands that are within the jurisdictional area of an Oklahoma Indian tribe, as determined by the Secretary of the Interior, and are recognized by the Secretary of the Interior as eligible for trust land status under part 151 of title 25, Code of Federal Regulations.

3. Implementation Guidance.

a. Water Resources Development Projects. Previous implementation guidance for the TPP was provided by the CECW-PG Memorandum for Commanders, Major Subordinate Commands and District Commanders dated 8 January 2002, subject: Implementation Guidance for Section 203 of the Water Resources Development Act of 2000 (WRDA 2000), Tribal Partnership Program. This existing guidance for program management and budgeting shall continue to be followed for undertaking studies under the TPP leading to recommendations for water resources development projects. Nothing in the revised authority provides authority for implementing projects; therefore, congressional construction authority will be required to implement a project.

b. Watershed Assessments and Planning Activities. Guidance for conducting watershed assessments is provided in CECW-BW Memorandum for Commanders, Major Subordinate Commands dated 29 May 2001, Subject: Implementation Guidance for Section 202 of the Water Resources Development Act (WRDA) 2000, Watershed and River Basin Assessments, which Amends Section 729, WRDA 86, Study of Water Resources Needs of River Basins and Regions. Supplemental guidance is provided in CECW-PB Memorandum for Commanders, Major Subordinate Commands dated 7 March 2008, Subject: Implementation Guidance for Section

2010 of the Water Resources Development Act of 2007 ((WRDA 2007)—Watershed Authorities and River Basin Assessments. Watershed assessments and planning activities conducted under the TPP will follow the guidance in these two memorandums. Program management and budgeting for watershed studies will be subject to the same procedures as provided for studies for water resources projects under the TPP.

FOR THE COMMANDER:

Encl

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

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Section 203 of the Water Resources Development Act of 2000, as amended by Section 2011 of the Water Resources Development Act of 2007

SEC. 203. TRIBAL PARTNERSHIP PROGRAM.

(a) DEFINITION OF INDIAN TRIBE.—In this section, the term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) PROGRAM.—

(1) IN GENERAL.—In cooperation with Indian tribes and the heads of other Federal agencies, the Secretary may carry out water-related planning activities and study and determine the feasibility of carrying out water resources development projects that—

(A) will substantially benefit Indian tribes; and

(B) are located primarily within Indian country (as defined in section 1151 of title 18, United States Code, and including lands that are within the jurisdictional area of an Oklahoma Indian tribe, as determined by the Secretary of the Interior, and are recognized by the Secretary of the Interior as eligible for trust land status under part 151 of title 25, Code of Federal Regulations) or in proximity to Alaska Native villages.

(2) MATTERS TO BE STUDIED.—A study conducted under paragraph (1) may address—

(A) projects for flood damage reduction, environmental restoration and protection, and preservation of cultural and natural resources;

(B) watershed assessments and planning activities; and

(C) such other projects as the Secretary, in cooperation with Indian tribes and the heads of other Federal agencies, determines to be appropriate.

(c) CONSULTATION AND COORDINATION WITH SECRETARY OF THE INTERIOR.—

(1) IN GENERAL.—In recognition of the unique role of the Secretary of the Interior concerning trust responsibilities with Indian tribes and in recognition of mutual trust responsibilities, the Secretary shall consult with the Secretary of the Interior concerning studies conducted under subsection (b).

(2) INTEGRATION OF ACTIVITIES.—The Secretary shall—

(A) integrate civil works activities of the Department of the Army with activities of the Department of the Interior to avoid conflicts, duplications of effort, or unanticipated adverse effects on Indian tribes; and

(B) consider the authorities and programs of the Department of the Interior and other Federal agencies in any recommendations concerning carrying out projects studied under subsection (b).

(d) COST SHARING.—

(1) ABILITY TO PAY.—

(A) IN GENERAL.—Any cost-sharing agreement for a study under subsection (b) shall be subject to the ability of the non-Federal interest to pay.

(B) USE OF PROCEDURES.—The ability of a non-Federal interest to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

(2) CREDIT.—The Secretary may credit toward the non-Federal share of the costs of a study under subsection (b) the cost of services, studies, supplies, or other in-kind contributions provided by the non-Federal interest if the Secretary determines that the services, studies, supplies, and other inkind contributions will facilitate completion of the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (b) $5,000,000 for each of fiscal years 2002 through 2012, of which not more than $1,000,000 may be used with respect to any 1 Indian tribe.