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

JUL 2 2008

S: 30 July 2008

CECW-CO

MEMORANDUM FOR COMMANDER, NORTHWESTERN DIVISION

SUBJECT: Implementation Guidance for Section 2047(b), Federal Hopper Dredges, of the Water Resources Development Act of 2007 (WRDA 2007)

1. The purpose of this memorandum is to provide guidance on implementing Section 2047(b), Federal Hopper Dredges, of WRDA 2007, which exempts the U.S. Army Corps of Engineers hopper dredges Essayons and Yaquina from the dredging work restrictions imposed by Section 237 of WRDA 1996, which amended Section 3(c)(7)(B) of the Act of 11 August 1888.

2. Background: Public Law 95-269 directed the Corps to use private industry when it has the capability to do dredging work at reasonable prices and in a timely manner, and to reduce the Corps dredge fleet to the minimum necessary to carry out emergency and national defense work and to ensure sufficient Federal and private dredge capacity to carry out the dredging workload. The Corps dredge fleet was reduced from 36 dredges to 11 dredges since enactment of PL 95-269. Section 237 of WRDA 1996 directed the Corps to place the hopper dredge Wheeler in ready reserve status, and to not assign any greater quantity of dredging work to any Federal hopper dredge in active status than was assigned to that dredge in the average of the three prior fiscal years (FY 2004-2006). This effectively restricted the hopper dredge Essayons to working approximately 192 days per year and restricted the hopper dredge Yaquina to working approximately 179 days per year

3. You are therefore permitted to work the hopper dredges Essayons and Yaquina additional days beyond the restrictions described in paragraph 2 above. Based on the historic hopper dredging workload in the Pacific, it is very likely that the use of both Corps and industry hopper dredges will be required. Therefore, your annual budgeting and planning of the hopper dredge workload for the Essayons and Yaquina, must consider productively using industry dredges in accordance with PL 95-269. Your analysis should consider the most cost-effective and timely means of performing the required dredging work with both USACE and industry dredges.

4. Please submit your plan for future utilization of industry and Corps dredges to this office no later than 30 July 2008. Questions regarding this matter should be directed to Mr. James E. Walker, Chief, Navigation Branch, at (202) 761-8648.

FOR THE COMMANDER:

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

(1) in the first sentence—

(A) by striking "two years" and inserting "year"; and

(B) by striking "7" and inserting "5";

(2) in the last sentence by striking "30 months after the date" and inserting "the last date of the fiscal year following the fiscal year in which"; and

(3) in the last sentence by striking "such 30 month period" and inserting "such period".

SEC. 2047. FEDERAL HOPPER DREDGES.

(a) HOPPER DREDGE MCFARLAND.—Section 563 of the Water Resources Development Act of 1996 (110 Stat. 3784) is amended to read as follows:

"SEC. 563. HOPPER DREDGE MCFARLAND.

"(a) PLACEMENT IN READY RESERVE STATUS.—Not before October 1, 2009, and not after December 31, 2009, the Secretary shall—

"(1) place the Federal hopper dredge McFarland (referred to in this section as the 'vessel') in a ready reserve status; and

"(2) use the vessel solely for urgent and emergency purposes in accordance with existing emergency response protocols.

"(b) ROUTINE TESTS AND MAINTENANCE.—

"(1) IN GENERAL.—The Secretary shall periodically perform routine underway dredging tests of the equipment (not to exceed 70 days per year) of the vessel in a ready reserve status to ensure the ability of the vessel to perform urgent and emergency work.

"(2) MAINTENANCE.—The Secretary—

"(A) shall not assign any scheduled hopper dredging work to the vessel other than dredging tests in the Delaware River and Bay; but

"(B) shall perform any repairs, including any asbestos abatement, necessary to maintain the vessel in a ready reserve fully operational condition.

"(c) ACTIVE STATUS FOR DREDGING.—The Secretary, in consultation with affected stakeholders, shall place the vessel in active status in order to perform dredging work if the Secretary determines that private industry has failed—

"(1) to submit a responsive and responsible bid for work advertised by the Secretary; or

"(2) to carry out a project as required pursuant to a contract between the industry and the Secretary.".

(b) HOPPER DREDGES ESSAYONS AND YAQUINA.—Section 3(c)(7)(B) of the Act of August 11, 1888 (33 U.S.C. 622; 25 Stat. 423), is amended by adding at the end the following: "This subparagraph shall not apply to the Federal hopper dredges Essayons and Yaquina of the Corps of Engineers.".

TITLE III—PROJECT-RELATED PROVISIONS

SEC. 3001. BLACK WARRIOR-TOMBIGBEE RIVERS, ALABAMA.

Section 111 of title I of division C of the Consolidated Appropriations Act, 2005 (118 Stat. 2944) is amended to read as follows: