



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

JUL 06 2009

CECW-PB

MEMORANDUM FOR COMMANDER, South Pacific Division (CESPD-DE)

SUBJECT: Implementation Guidance for Section 3020 of the Water Resources Development Act of 2007 (WRDA 2007) – Kaweah River, California

1. The project for flood control, Terminus Dam, Kaweah River, California, was originally authorized by Section 101(b)(5) of the Water Resources Development Act of 1996 (110 Stat. 3658). Section 3020 directs the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project, or provide reimbursement not to exceed \$800,000, for the costs of any work carried out by the non-Federal interest for the project before the date of the project partnership agreement. Section 128 of the Consolidated Appropriations Act, 2008 (Public Law 110-161) amended Section 3020 by inserting "or after" following the word "before." A copy of Section 3020 as amended is enclosed.
2. The Kaweah project is budgeted, and funding in the amount of \$957,000 was provided in the FY 2009 Omnibus Appropriations Bill (P.L. 111-8). Language accompanying the Act directed the Secretary to reimburse, within the funds provided, the non-Federal sponsor for a portion or all of the reimbursable work carried out by the sponsor. A copy of the Omnibus bill language is enclosed.
3. Section 3020 specifically states that credit be afforded in accordance with Section 221 of the Flood Control Act of 1970. Engineering Circular No. 1165-2-208, In-Kind Contribution Provisions of Section 221, contains the guidance and procedures to be used to determine eligibility of such work. The actual value of the eligible work will be determined in accordance with the terms and conditions of the Project Partnership Agreement for the project.
4. If the actual creditable value of the eligible work exceeds the total non-Federal share of the project (not including the 5% cash requirement), reimbursement not to exceed \$800,000 may be provided. The work must be determined to be integral to the project as set out in paragraph 6 of EC 1165-2-208. Once the integral determination has been approved by the ASA(CW), a modification to the PPA should be prepared and submitted to the SPD-RIT for further processing to ASA(CW) for approval.

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5. The actual amount of reimbursement will be determined in accordance with the terms and conditions of the PPA for the project, and will be subject to availability of Federal funding and the limitation of Section 102 of the Energy and Water Development Appropriations Act, 2006, Public Law 109-103. The Government will process reimbursement payments based on invoices submitted by the non-Federal sponsor in accordance with the provisions of the PPA for the project.

FOR THE COMMANDER:

Encl



SCOTT L. WHITEFORD
Chief, SPD-Regional Integration Team
Directorate of Military Programs

WRDA 2007 AUTHORIZING LANGUAGE (AS AMENDED BY Section 128 of PL 110-161)

SEC. 3020. KAWEAH RIVER, CALIFORNIA.

The project for flood control, Terminus Dam, Kaweah River, California, authorized by section 101(b)(5) of the Water Resources Development Act of 1996 (110 Stat. 3658), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project, or provide reimbursement not to exceed \$800,000, for the costs of any work carried out by the non-Federal interest for the project before or after the date of the project partnership agreement.

CONSOLIDATED APPROPRIATIONS ACT, 2008 (Public Law 110-161)

SEC. 128. Section 3020 of the Water Resources Development Act of 2007, Public Law 110-114, is amended by inserting “or after” following the word “before”.

LANGUAGE FROM FY 2009 OMNIBUS APPROPRIATIONS BILL (P.L. 111-8)

Kaweah River, California.—Within the funds provided for the Terminus Dam, Kaweah River project, the Secretary is directed to reimburse the non-federal sponsor for a portion or all of the reimbursable work carried out on the project and to ensure that the non-federal sponsor is fully reimbursed not later than March 1, 2010.

Enclosure