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

Reply to
Attention of:

CECW-CO/CEMP-SWD

24 OCT 2008

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Implementation Guidance for Section 3134 of WRDA 2007 – Oklahoma Lakes Demonstration Program, Oklahoma

1. Section 3134 of WRDA 2007 provides for the implementation of an innovative 10 year program at lakes located primarily in the State of Oklahoma that are part of an authorized civil works project under the administrative jurisdiction of the Corps of Engineers for the purpose of demonstrating the benefits of enhanced recreation facilities and activities at those lakes. The section establishes the requirements for the program and provides for the issuance of guidelines to be developed in coordination with the State of Oklahoma, submission of reports to Congress, and termination of the authority. A copy of Section 3134 is enclosed.

2. Consistent with authorized project purposes, the Secretary shall implement an innovative program at lakes located primarily in Oklahoma, that will pursue strategies to enhance, to the maximum extent practicable, recreation experiences at lakes included in the program; use creative management strategies that optimize recreational activities; and ensure continued public access to recreation areas located on or associated with the affected civil works project. Any strategy developed and implemented under this section shall comply with all current laws and policies, including the Recreation Development Policy for Outgranted Corps Lands dated December 6, 2005, and the Tulsa District Policy on Land Use for Recreation Outgrants dated May 22, 2006. However, a specific waiver of policy may be justified if it is identified by the Corps as necessary for implementation of any strategy under this section and is requested and approved through normal channels. Only those portions of Lake Texoma located within the boundaries of the State of Oklahoma shall be eligible for inclusion in this program.

3. Guidelines for the implementation of this program will be developed in coordination with the State of Oklahoma. Through the use of the Oklahoma State Comprehensive Outdoor Recreation Plan, project master plans and demographic information, the Corps and the State will identify recreational demands, the types of facilities needed, and potential sites on lakes located primarily in Oklahoma to meet current and future recreation demands. The Corps will develop strategies to enhance recreational facilities, meet recreational demand, and ensure public access to recreation areas located on or associated with the civil works project. The State and the Corps will establish a prioritized list for future development and set forth criteria for the selection of any project or activity to be implemented under the demonstration program in accordance with developed guidelines. These guidelines will include a requirement for full and open competition for leases, appropriate provisions to insure continued public access, and periodic public interest

reviews. No specific project or activity shall be implemented under the demonstration program until such guidelines have been developed and approved by the Division Commander. Development of these guidelines may be funded from available operation and maintenance funds.

4. No funding is available to implement any specific project or activity under the demonstration program. Accordingly, SWD will follow normal budgeting procedures to request funding to support a specific project or activity under the demonstration program. Funds will not be expended for the implementation of any specific project or activity under the demonstration program at any Corps project until such time as funds are specifically appropriated for such project or activity.

5. In implementing any specific project or activity under the demonstration program, the District should explore all available leasing authorities, engage to the maximum extent practicable all stakeholders in the implementation of the project, and actively develop and market the opportunity for proposals nationwide to secure the best proposals and associated recreational facilities for this program. If any recreational development proposed under this section requires an Environmental Assessment, an Environmental Impact Statement or an Updated Shoreline Management Plan, no lease may be entered upon until these have been completed.

6. Not later than September 7, 2009, the District Engineer shall submit a progress report describing the results of the program to HQUSACE for review and ultimate transmittal to Congress by the Assistant Secretary of the Army (Civil Works) after clearance by the Office of Management and Budget. If funds have been appropriated for this program, this report shall include to the extent possible, an estimate of the change in any related recreational opportunities, a description of any leases entered into including the parties involved and the financial conditions used to justify the leases, information on the economic benefits to the region as a result of any development under the program and any other pertinent information. After transmittal to Congress this report shall be made available to the public in written and electronic formats. The demonstration program authorized under this section shall terminate on November 9, 2017.

7. Any questions regarding the implementation of Section 3134 of WRDA 2007 or this guidance should be addressed to Tim Toplisek at 202-761-4259 or Clayton Redmond at 202-761-1548.

FOR THE COMMANDER:

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

Encl.

DISTRIBUTION
COMMANDER,
SOUTHWESTERN DIVISION (CESWD-PDS-R AND CECC-SWD)

Establishment.

(1) IN GENERAL.—In accordance with the Federal Advisory Committee Act (5 U.S.C. App.), the Secretary shall establish an advisory committee for the Lake Eufaula, Canadian River, Oklahoma project authorized by the first section of the River and Harbor Act of July 24, 1946 (60 Stat. 635).

(2) PURPOSE.—The purpose of the committee shall be advisory only.

Recommendations.

(3) DUTIES.—The committee shall provide information and recommendations to the Corps of Engineers regarding the operations of Lake Eufaula for the project purposes for Lake Eufaula.

(4) COMPOSITION.—The Committee shall be composed of members that equally represent the project purposes for Lake Eufaula.

(c) REALLOCATION STUDY.—

(1) IN GENERAL.—Subject to the appropriation of funds, the Secretary shall perform a reallocation study, at Federal expense, to develop and present recommendations concerning the best value, while minimizing ecological damages, for current and future use of the Lake Eufaula storage capacity for the authorized project purposes of flood control, water supply, hydroelectric power, navigation, fish and wildlife, and recreation.

(2) FACTORS FOR CONSIDERATION.—The reallocation study shall take into consideration the recommendations of the Lake Eufaula Advisory Committee.

(d) POOL MANAGEMENT PLAN.—

Deadline.

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, to the extent feasible within available project funds and subject to the completion and approval of the reallocation study under subsection (c), the Tulsa district engineer, taking into consideration recommendations of the Lake Eufaula Advisory Committee, shall develop an interim management plan that accommodates all project purposes for Lake Eufaula.

(2) MODIFICATIONS.—A modification of the plan under paragraph (1) shall not cause significant adverse impacts on any existing permit, lease, license, contract, public law, or project purpose, including flood control operation, relating to Lake Eufaula.

SEC. 3134. OKLAHOMA LAKES DEMONSTRATION PROGRAM, OKLAHOMA.

Deadline.

(a) IMPLEMENTATION OF PROGRAM.—Not later than one year after the date of enactment of this Act, the Secretary shall implement an innovative program at the lakes located primarily in the State of Oklahoma that are a part of an authorized civil works project under the administrative jurisdiction of the Corps of Engineers for the purpose of demonstrating the benefits of enhanced recreation facilities and activities at those lakes.

(b) REQUIREMENTS.—In implementing the program under subsection (a), the Secretary, consistent with authorized project purposes, shall—

(1) pursue strategies that will enhance, to the maximum extent practicable, recreation experiences at the lakes included in the program;

(2) use creative management strategies that optimize recreational activities; and

(3) ensure continued public access to recreation areas located on or associated with the civil works project.

(c) GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue guidelines for the implementation of this section, to be developed in coordination with the State of Oklahoma. Deadline.

(d) REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the results of the program under subsection (a).

(2) INCLUSIONS.—The report under paragraph (1) shall include a description of the projects undertaken under the program, including—

(A) an estimate of the change in any related recreational opportunities;

(B) a description of any leases entered into, including the parties involved; and

(C) the financial conditions that the Corps of Engineers used to justify those leases.

(3) AVAILABILITY TO PUBLIC.—The Secretary shall make the report available to the public in electronic and written formats.

(e) TERMINATION.—The authority provided by this section shall terminate on the date that is 10 years after the date of enactment of this Act.

SEC. 3135. OTTAWA COUNTY, OKLAHOMA.

(a) IN GENERAL.—There is authorized to be appropriated $30,000,000 for the purposes set forth in subsection (b).

(b) PURPOSES.—Notwithstanding any other provision of law, funds appropriated under subsection (a) may be used for the purpose of—

(1) the buyout of properties and permanently relocating residents and businesses in or near Picher, Cardin, and Hockerville, Oklahoma, from areas determined by the State of Oklahoma to be at risk of damage caused by land subsidence and remaining properties; and

(2) providing funding to the State of Oklahoma to buyout properties and permanently relocate residents and businesses of Picher, Cardin, and Hockerville, Oklahoma, from areas determined by the State of Oklahoma to be at risk of damage caused by land subsidence and remaining properties.

(c) LIMITATION.—The use of funds in accordance with subsection (b) shall not be considered to be part of a federally assisted program or project for purposes of Public Law 91–646 (42 U.S.C. 4601 et seq.), consistent with section 2301 of Public Law 109–234 (120 Stat. 455).

(d) CONSISTENCY WITH STATE PROGRAM.—Any actions taken under subsection (b) shall be consistent with the relocation program in the State of Oklahoma under 27A O.S. Supp. 2006, sections 2201 et seq.