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

Reply to
Attention of:

JUN 12 2009

CEMP-SWD

SUBJECT: Implementation Guidance for Section 3148 of the Water Resources Development Act of 2007 (WRDA 2007) – Freeport Harbor, Texas

1. Section 3148 of WRDA 2007 modifies the project for navigation, Freeport Harbor, Texas, authorized by section 101 of the River and Harbor Act of 1970 (84 Stat. 1818), to provide that all project costs incurred as a result of the discovery of the sunken vessel COMSTOCK be the responsibility of the Federal government and that the Secretary shall not seek any further obligation or responsibility for removal of the vessel COMSTOCK, or costs associated with a delay due to the discovery of the sunken vessel COMSTOCK from the Port of Freeport. A copy of Section 3148 is enclosed for information.

2. The COMSTOCK was a hydraulic hopper dredge built for the U.S. Army Corps of Engineers in 1895. In 1913, the vessel caught fire, burned to the water line and sank. The Local Cooperation Agreement was executed on 26 June 1986 with four subsequent modifications which were executed on 19 March 1987, 19 July 1991 (two modifications executed on same day), and 15 July 1997. In 1987, the wreck was discovered during construction of the jetties associated with the authorized project. Construction was stopped while the wreck was excavated and relocated. The cost of the removal of the wreck along with costs associated with delay of the ongoing construction contract was included in the total project costs and shared accordingly.

3. The costs associated with salvage of the COMSTOCK and associated project delay costs shall be 100 percent Federal. The District shall prepare, in accordance with current policies and procedures, an amendment to the previously amended LCA. The amendment will require approval by ASA(CW). The district shall revise the cost accounting for the Freeport Harbor work to remove the costs associated with salvage of the COMSTOCK and associated project delay costs from the cost shared work and allocate the work at 100 percent Federal cost. In the event the revised cost accounting determines that a refund is due to the non-Federal sponsor and sufficient funding is not available, the amount necessary will be requested in accordance with current budget procedures and guidelines. However, no refund of excess non-Federal cash contributions shall be made until an amendment to the LCA is executed to reflect the change in the cost sharing responsibilities and Federal funds are available for such purpose.

FOR THE COMMANDER:

Encl.

STEVEN L. STOCKTON
Director of Civil Works

SUBJECT: Implementation Guidance for Section 3148 of the Water Resources Development Act of 2007 (WRDA 2007) – Freeport Harbor, Texas

Enclosure

Water Resources Development Act of 2007, Section 3148.
Freeport Harbor, Texas

SEC. 3148. FREEPORT HARBOR, TEXAS.

(a) IN GENERAL.—The project for navigation, Freeport Harbor, Texas, authorized by section 101 of the River and Harbor Act of 1970 (84 Stat. 1818), is modified to provide that—

(1) all project costs incurred as a result of the discovery of the sunken vessel COMSTOCK of the Corps of Engineers are a Federal responsibility; and

(2) the Secretary shall not seek further obligation or responsibility for removal of the vessel COMSTOCK, or costs associated with a delay due to the discovery of the sunken vessel COMSTOCK, from the Port of Freeport.

(b) COST SHARING.—This section does not affect the authorized cost sharing for the balance of the project described in subsection (a).