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

JUN 1 2 2009

CECW-PB

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

SUBJECT: Implementation Guidance for Section 5041 of the Water Resources Development Act of 2007 (WRDA 2007) – Cambria, California

1. Section 5041 of WRDA 2007 modifies Section 219(f)(48) of WRDA 1992 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 not to exceed $3,000,000 for the cost of planning and design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project. A copy of Section 5041 and Section 219(f)(48), as amended, is enclosed .

2. The project for desalinization infrastructure, Cambria, California, was originally authorized by section 108(d) of Division B of H.R. 5666 (Appendix D), P.L. 106-554, the Consolidated Appropriations Act, 2001 (114 Stat. 2763A–220), which added paragraph (48) Cambria, California, to Section 219(f) of the Water Resources Development Act of 1992. A letter report was approved by the South Pacific Division Commander on 23 May 2005. Subsequently a Project Cooperation Agreement for the design and construction of the Seawater Desalination Project, Cambria, California, was executed on 27 March 2006.

3. In order to afford credit for work accomplished by the non-Federal sponsor pursuant to Section 5041, such work must be determined to be integral to the Cambria desalinization infrastructure project. The integral determination must be made prior to approval of the amended PCA (now a PPA). The procedures and guidance contained in paragraph 6 and Appendix D of EC 1165-2-208 will be used in preparation of and review of the document supporting the integral determination. The integral determination shall be provided to the SPD-RIT for coordination and processing to obtain approval from the ASA(CW). Upon ASA(CW) approval of the integral determination, provided that all or a portion of the work is determined to be integral, the District shall prepare an amendment to the PPA and include the appropriate language regarding determining the value of and affording credit for work accomplished by the non-Federal sponsor prior to execution of the PPA. This amendment to the PPA will require approval by ASA(CW). Close coordination with the Vertical Team should be maintained in developing this non-standard agreement.

4. Credit afforded for work accomplished by the non-Federal sponsor prior to execution of the PPA that is determined to be integral to the project will not exceed the lesser of $3,000,000 or the non-Federal cash requirement for the project. The actual value of the eligible in-kind contributions will be determined in accordance with the terms and conditions of the PPA. Reimbursement for in-kind contributions that exceed the non-Federal sponsor's cash requirement for the project is not authorized.

5. No work may be undertaken under this authority until such time as funds are specifically appropriated by Congress for the project.

FOR THE COMMANDER:

Encl

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

WRDA 2007 AUTHORIZING LANGUAGE

SEC. 5041. CAMBRIA, CALIFORNIA.

Section 219(f)(48) of the Water Resources Development Act of 1992 (114 Stat. 2763A–220) is amended—
(1) by striking ''$10,300,000'' and inserting the following:
''(A) IN GENERAL.—$10,300,000'';

(2) by adding at the end the following:
''(B) CREDIT.—The Secretary shall 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 not to exceed $3,000,000 for the cost of planning and design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.'';

and (3) by aligning the remainder of the text of subparagraph (A) (as designated by paragraph (1) of this section) with subparagraph (B) (as added by paragraph (2) of this section).

**Per the changes in Section 5041, Section 219(f)(48) now reads as follows:**

(f) ADDITIONAL ASSISTANCE- The Secretary may provide assistance under subsection (a) and assistance for construction for the following:

(48) CAMBRIA, CALIFORNIA.—

(A) IN GENERAL.—$10,300,000 for desalination infrastructure, Cambria, California.

(B) CREDIT.—The Secretary shall 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 not to exceed $3,000,000 for the cost of planning and design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.