



REPLY TO
ATTENTION OF

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

MAR 20 2015

CEMP-CR

MEMORANDUM THRU COMMANDER, U.S. Army Corps of Engineers, South Pacific Division, ATTN: CESPD-PSD-R (Ms. Mary L. Gillespie), 1455 Market Street, San Francisco, CA 94103-1399

FOR COMMANDER, U.S. Army Corps of Engineers, Sacramento District, ATTN: CESPK-RE (Ms. Sharon K. Caine) 1325 J Street, Sacramento, CA 95814-2922

SUBJECT: Implementation Guidance for Sections 6005(a) and (g) of the Water Resources Reform and Development Act (WRRDA) 2014, Oakland Inner Harbor Tidal Canal, California

1. Reference:

- a. Implementation Guidance for Oakland Inner Harbor Tidal Canal, California, Sections 3182(b) and (k) of WRDA 2007, dated 05 September 2013.

2. This memorandum and reference 1a. provide implementation guidance on Section 3182(b) of Water Resources Development Act (WRDA) 2007 as amended by Sections 6005(a) and (g) of WRRDA 2014. Under the WRDA 2007, the Corps is authorized to convey by quitclaim deed approximately 86 acres of upland, tideland, and submerged land, commonly referred to as the Oakland Inner Harbor Tidal Canal, California ("Canal Property") to the Cities of Oakland and Alameda, without consideration, and to the owners of lands adjacent to the Canal Property, or to a public entity created by or designated by one or more of the adjacent land owners that are eligible to hold title to real property, at fair market value. WRRDA 2014 amends authorized recipients to include multicounty public entities that are eligible to hold title to real property. Ensure that these additional potential grantees are included in future negotiations for property disposal, as required. A copy of Section 3182(b) as amended by Sections 6005(a) and (g) are enclosed.

3. In accordance with Section 6005(g)(4), the non-Federal entity to which a conveyance is made is responsible for all reasonable and necessary costs, including the real estate transaction and environmental documentation costs, associated with each conveyance. Reasonable and necessary costs may include costs incurred prior to the enactment of Section 3182(b), as well as costs incurred due to requests from a non-Federal entity for additional analysis or documentation.

4. In accordance with Section 6005(g)(5), all non-Federal entities to which a conveyance is made shall hold the United States harmless from any liability with respect to any activities carried out

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on or after the date of the conveyance of any property and the United States shall remain responsible for any liability with respect to activities carried out before the date of conveyance of the real property.

5. Until the conveyances authorized under section 3182(b) are complete, the Secretary is required to submit an annual report, not later than November 30 of each year to the Committee on Environment and Public Works of the Senate and Committee on Transportation and Infrastructure of the House of Representatives that describes the efforts to complete conveyances during the previous fiscal year. The South Pacific Division should submit a report to HQUSACE, CEMP-CR not later than November 1 of each year for review and further processing.

6. Any questions regarding this guidance should be addressed to Theodore Nettles, CEMP-CR, at 202-761-5542.

FOR THE COMMANDER:



BRENDA M. JOHNSON-TURNER
Chief, Real Estate Division
Directorate of Military Programs

Encl

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SEC. 3182 of WRDA 2007, as amended by SEC. 6005 of WRRDA 2014

(b) OAKLAND INNER HARBOR TIDAL CANAL, CALIFORNIA.—

(1) IN GENERAL.—The Secretary may convey, by separate quitclaim deeds, as soon as the conveyance of each individual portion is practicable, the title of the United States in and to all or portions of the approximately 86 acres of upland, tideland, and submerged land, commonly referred to as the “Oakland Inner Harbor Tidal Canal”, California (referred to in this section as the “Canal Property”), as follows:

(A) To the city of Oakland or to a multicounty public entity that is eligible to hold title to real property, without consideration, the title of the United States in and to all or portions of that part of the Canal Property that are located within the boundaries of the City of Oakland.

(B) To the city of Alameda, or to a multicounty public entity or other public entity created by or designated by the city of Alameda that is eligible to hold title to real property, without consideration, the title of the United States in and to all or portions of that part of the Canal Property that are located within the boundaries of the city of Alameda.

(C) To the owners of lands adjacent to the Canal Property, or to a multicounty public entity or other public entity created by or designated by one or more of the adjacent land owners that are eligible to hold title to real property, at fair market value, the title of the United States in and to all or portions of that part of the Canal Property that are located within the boundaries of the city in which the adjacent land is located.

(2) REQUIREMENT.—The Secretary may reserve and retain from any conveyance under this subsection a right-of-way or other rights as the Secretary determines to be necessary for the operation and maintenance of the authorized Federal channel in the Canal Property.

(3) ANNUAL REPORTS.—Until the date on which each conveyance described in paragraph (1) is complete, the Secretary shall submit, by not later than November 30 of each year, to the Committee on Environment and Public Works of the Senate and Committee on Transportation and Infrastructure of the House of Representatives an annual report that describes the efforts of the Secretary to complete that conveyance during the preceding fiscal year.

(4) FORM.—A conveyance made under this subsection may be, in whole or in part, in the form of an easement.

(5) RIGHT OF FIRST REFUSAL.—For any property on which an easement is granted under this subsection, should the Secretary seek to dispose of the property, the holder of the easement shall have the right of first refusal to the property without cost or consideration.

(6) REPEAL.—Section 205 of the Water Resources Development Act of 1990 (104 Stat. 4633; 110 Stat. 3748) is repealed.

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SEC. 6005 of WRRDA 2014

(a) OAKLAND INNER HARBOR TIDAL CANAL, CALIFORNIA.—Section 3182(b)(1) of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1165) is amended—

- (1) in subparagraph (A) by inserting “, or to a multicounty public entity that is eligible to hold title to real property” after “To the city of Oakland”; and
- (2) in subparagraphs (B) and (C) by inserting “multicounty public entity or other” before “public entity”.

(g) GENERALLY APPLICABLE PROVISIONS.—

- (1) SURVEY TO OBTAIN LEGAL DESCRIPTION.—The exact acreage and the legal description of any real property to be conveyed H. R. 3080—168 under this section shall be determined by a survey that is satisfactory to the Secretary.
- (2) APPLICABILITY OF PROPERTY SCREENING PROVISIONS.—Section 2696 of title 10, United States Code, shall not apply to any conveyance under this section.
- (3) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require that any conveyance under this section be subject to such additional terms and conditions as the Secretary considers necessary and appropriate to protect the interests of the United States.
- (4) COSTS OF CONVEYANCE.—An entity to which a conveyance is made under this section shall be responsible for all reasonable and necessary costs, including real estate transaction and environmental documentation costs, associated with the conveyance.
- (5) LIABILITY.—An entity to which a conveyance is made under this section shall hold the United States harmless from any liability with respect to activities carried out, on or after the date of the conveyance, on the real property conveyed. The United States shall remain responsible for any liability with respect to activities carried out, before such date, on the real property conveyed.