CECW-PE March 24, 2000

MEMORANDUM FOR MAJOR SUBORDINATE COMMANDS

SUBJECT: Planning Guidance Memorandum 99-03: WRDA 99 Implementation Guidance for the Continuing Authorities Program

1. Purpose: The purpose of this memorandum is to provide guidance on provisions of the Water Resources Development Act of 1999 (WRDA 99) which relate to the Continuing Authorities Program (CAP). The following provisions took effect upon enactment 17 August 1999. The guidance contained in this memorandum will enable studies and projects to proceed with minimum disruption.

2. Sections 102(a), 103, 104, 105, 106, 512, 525, and 554. These studies and projects will follow normal CAP procedures. Division Commanders will consider and fund the initiation, continuation, or implementation of any of the listed activities based on the availability of MSC planning, design, and construction funds, compliance with CAP guidance, and their priority relative to other unstarted or continuing work. More detailed guidance on these provisions is found in enclosure 1.

3. Sections 102(b), 201, 226, 302, 332 generally relate to project funding limits. Detailed guidance is discussed in enclosure 1.

4. Section 214 amends Section 111 of the River and Harbor Act of 1968, Mitigation of Shore Damage Due to Federal Navigation Projects. More detailed guidance can be found in enclosure 1.

5. Section 321. This provision relates to section 14 projects whose study has not been initiated because the purposes are not authorized under the section 14 authority. Fiscal Year 1999 directions provided in the VTC process were to not fund this project. This provision is problematic in that subsection (a) notes that the "maximum total expenditure for the project" shall be $7,800,000, while subsection (b) references a change in Federal participation under subsection (a). Language in subsection (a) is operable, and section 321 established a limit on the maximum total expenditure for the project. If total costs are expected to exceed this limit, Headquarters should be contacted for guidance. Section 321 is not legally sufficient to satisfy the potential sponsor's desire for implementation of non-water resource based facilities and non-standard project cost sharing procedures.

Without additional Congressional authorization and specific appropriation by Congress, this project will not be funded unless a sponsor is willing to participate in a project within the statutory authority of the Corps.

6. Title IV. Any ongoing CAP activities not under construction which are eventually funded under the Title IV provisions will be terminated. All available information developed during the CAP study will be used to the extent practicable in the authorized studies.

7. Section 519. Section 519 provides specific authorization for two projects formerly in the section 205 continuing authority program. Detailed guidance is in enclosure 1.

8. Section 589. This provision directs the use of Section 906(b) of WRDA86 to complete the Numana Dam Fish Passage, Nevada, Section 1135 project. Action will not be taken on this provision unless specifically directed and funded by the Congress. Further guidance, either through the authorization or appropriation decision making process, will be issued if further legislative action is taken.

/s/

Encls

HANS A. VAN WINKLE
Major General, USA
Deputy Commander for
Civil Works

DISTRIBUTION:

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ENCLOSURE 1

WRDA 1999 GUIDANCE

Sections 102(a), 103, 104, 105, 106, 512, 525, and 554

1. Ineligible Activities. For listed activities that are not eligible for implementation in accordance with existing CAP guidance, no further action should be taken unless funds are specifically appropriated, or appropriations act report language directs such work. In these cases, specific directions will be provided as part of the decision making process for responding to appropriations act provisions.

2. Specifically Authorized Activities:

(a) Authorized Studies. If any listed activity is being conducted under specific study authorization, ongoing work may be continued under the specific authorization. The decision whether to implement under CAP or to seek specific project authorization will be made at the appropriate time, as provided for in current CAP guidance.

(b) Authorized Projects. For listed projects which are also specifically authorized by Congress for construction, existing CAP guidance in paragraph 3-5d(1) of ER 1105-2-100 (28 Dec 90) should be followed.

3. Priority Considerations. In order to expeditiously plan, design, and implement needed projects, and in recognition that the listed activities may increase pressure on statutory CAP program limits, consideration should be given to prosecuting listed activities under specific authorization instead of using a CAP authority. The language contained in the listed provisions is permissive, not directive, and should therefore not be construed to be directing work under CAP.

Sections: 102(b), 201, 226, 302, 332

1. Sections 102(b), 302, and 332 authorize increases in the Federal project funding limit for Festus and Crystal City, Missouri, section 205 project ($10,000,000); Ouzinkie Harbor, Alaska, section 107 project ($8,500,000); and Bois Brule Drainage and Levee District, Missouri, section 205 project ($15,000,000).

2. Section 201(1) amends Section 205 of the Flood Control Act of 1948 to clarify that non-structural projects are authorized under this authority. The amendment reflects our longstanding

practice of considering and implementing non-structural projects, and no further action is required.

3. Sections 201(2) and 226 increase the U.S. Army Corps of Engineers per project funding limits for sections 205 and 103 from $5,000,000 and $2,000,000 to $7,000,000 and $3,000,000, respectively. The increased project limits apply to all section 205 and 103 projects whose initial Federal construction contract is awarded on or after 17 August 1999.

4. Actions Required (All projects listed in this paragraph). Division Commanders are authorized, based on formal review by division counsel, to amend the approved or executed project cooperation agreement (PCA) for the subject projects to reflect the increased per project limit without further Headquarters approval. Only deviations that are required to reflect the increased limits are authorized. This authority may be further delegated to the District Commander, with formal review by district counsel. The attached enclosures (2-4) provide sample draft PCA amendments for your use in addressing changes discussed above. Nevertheless, implementation of sections 102(b), 302, and 332, are dependent on the availability of funds for such purpose.

Section 214

1. General Guidance.

(a) The authority under section 111 is amended to specifically include shore damage attributable to the Atlantic Intracoastal Waterway and the Gulf Intracoastal Waterway.

(b) The Federal first cost below which the Corps may implement section 111 projects without specific Congressional authorization has been increased from $2,000,000 to $5,000,000. The new limit applies to section 111 projects whose initial construction contract award date is on or after 17 August 1999.

(c) Specific coordination is legislatively required by the addition of the following:

(1) The Secretary shall coordinate the implementation of the measures under this section with other Federal and non-Federal shore protection projects in the same geographic area.

(2) The Secretary shall to the extent practicable, combine mitigation projects with shore protection projects in the same area into a comprehensive regional project.

2. Actions Required. Division Commanders will incorporate the increased Federal project limit in future draft PCA's submitted to Headquarters and ASA(CW) for approval. All projects under consideration for specific Congressional authorization with Federal first costs below the new $5,000,000 limit will be processed under the section 111 authority. District Commander is responsible for coordinating the implementation of section 111 projects with other Federal and

non-Federal agencies, and, to the extent practicable, developing comprehensive regional projects (initial construction and/or periodic nourishment). The results of such coordination, and steps taken to develop a comprehensive regional project should be documented in decision documents.

Section 519

1. Elba Levee. Planning and design work directed in the Fiscal Year 1998 Emergency Supplemental Appropriations Act will proceed under the Section 205 program pursuant to the directions given in previous guidance. Further action on this project will depend on finding a willing project sponsor and appropriation of Construction, General (CG) funds.

2. Geneva Levee. Work on this project under section 205 has been terminated, and there is no Congressional direction to accomplish further work under the section 205 authority. Any further planning, design, or construction work will be accomplished through funds specifically appropriated for this project. Further guidance, either through the authorization or appropriation decision making process, will be issued if further legislative action is taken.

ENCLOSURE 2

SECTION 103 SAMPLE AMENDMENT

GENERAL NOTES:

1. REMOVE ALL BOLD TYPE NOTES FROM THE AMENDMENT PRIOR TO SIGNATURE BY THE SPONSOR.

2. THE NUMBER ASSIGNED SHOULD SEQUENTIALLY FOLLOW THE NUMBER OF THE LAST EXECUTED AMENDMENT TO THE PCA FOR THIS PROJECT. EXAMPLE; TWO PREVIOUSLY EXECUTED AMENDMENTS – THIS SHOULD BE AMENDMENT 3.

3. IF ONLY ONE PROJECT SPONSOR, USE VERSION 1 OF FIRST PARAGRAPH. IF THE PCA HAD MULTIPLE SPONSORS, EACH SPONSOR SHOULD BE A PARTY TO THE AMENDMENT. TO INCLUDE MULTIPLE SPONSORS:

A. USE VERSION 2 OF FIRST PARAGRAPH.

B. EACH OCCURRENCE OF "NON-FEDERAL SPONSOR" SHOULD BE REVISED TO "NON-FEDERAL SPONSORS".

C. A CERTIFICATE OF AUTHORITY AND LOBBYING CERTIFICATE SHOULD BE PREPARED FOR EACH SPONSOR.

4. INCLUDE WHEREAS CLAUSE IDENTIFYING AMENDMENTS ONLY IF THE PCA HAS BEEN AMENDED PREVIOUSLY. DO NOT INCLUDE THIS CLAUSE IF THIS IS AMENDMENT NO. 1.

A. INCLUDE A WHEREAS CLAUSE FOR EACH PREVIOUSLY EXECUTED AMENDMENT TO THE PCA FOR THIS PROJECT. SAMPLE LANGUAGE SHOWN.

B. THE LAST TWO OCCURRENCES OF "AGREEMENT" SHOULD BE REVISED TO "AGREEMENT, AS AMENDED."

5. VERIFY THE LOCATION OF THE LANGUAGE IN YOUR PCA, WHICH IS TO BE AMENDED. OTHER CLAUSES SPECIFIC TO YOUR PROJECT COULD ALTER ITS LOCATION SLIGHTLY. THE LANGUAGE WHICH IS TO BE AMENDED IS USUALLY LOCATED IN THE FOURTH WHEREAS AND ARTICLE XIX OF THE

CECW-PE
SUBJECT: Planning Guidance Memorandum 99-03 WRDA 99 Implementation Guidance for the Continuing Authorities Program
PCA. CORRECT REFERENCES TO THE NUMBER OF THE WHEREAS CLAUSE OR ARTICLE NUMBER, AS NECESSARY.

AMENDMENT NO. **[INSERT NUMBER - SEE GENERAL NOTE - 2]**
TO
PROJECT COOPERATION AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
[FULL NAME OF NON-FEDERAL SPONSOR(S) AS SHOWN ON EXECUTED PCA]
FOR THE CONSTRUCTION OF THE
[FULL NAME OF PROJECT AS SHOWN ON EXECUTED PCA]

[SEE GENERAL NOTE – 3]

THIS AMENDMENT NO. **[INSERT NUMBER]** is entered into this _____ day of _____, _____, by and between the DEPARTMENT OF THE ARMY (hereinafter the "Government"), represented by the U.S. Army Engineer, _____ District (hereinafter the "District Engineer"), and the **[FULL NAME OF NON-FEDERAL SPONSOR AS SHOWN ON EXECUTED PCA]** (hereinafter the "Non-Federal Sponsor"), represented by the **[TITLE OF NON-FEDERAL SPONSOR REPRESENTATIVE SIGNING THIS AGREEMENT]**.

THIS AMENDMENT NO. **[INSERT NUMBER]** is entered into this _____ day of _____, _____, by and between the DEPARTMENT OF THE ARMY (hereinafter the "Government"), represented by the U.S. Army Engineer, _____ District (hereinafter the "District Engineer"), the **[FULL NAME OF FIRST NON-FEDERAL SPONSOR AS SHOWN ON EXECUTED PCA],** and the **[FULL NAME OF SECOND NON-FEDERAL SPONSOR AS SHOWN ON EXECUTED PCA]** (hereinafter the "Non-Federal Sponsors"), represented by the **[TITLE OF FIRST NON-FEDERAL SPONSOR REPRESENTATIVE SIGNING THIS AGREEMENT]** and the **[TITLE OF SECOND NON-FEDERAL SPONSOR REPRESENTATIVE SIGNING THIS AGREEMENT],** respectively.

WITNESSETH, THAT:

WHEREAS, the Government and the Non-Federal Sponsor entered into a Project Cooperation Agreement on _____ (hereinafter the "Agreement") for construction of the **[FULL NAME OF PROJECT AS SHOWN ON EXECUTED PCA]** (hereinafter the "Project");

[SEE GENERAL NOTE – 4]

WHEREAS, the Government and the Non-Federal Sponsor entered into an Amendment to the Agreement on _____;

WHEREAS, Section 226 of the Water Resources Development Act of 1999, Public Law 106-53, amends Section 3 of the Act of August 13, 1946, (33 U.S.C. 426g), as amended, to increase the Government's financial participation in the Project from $2,000,000 to $3,000,000.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree to amend the Agreement as follows:

[SEE GENERAL NOTE – 5]

1. The Fourth Whereas Clause is amended by deleting "2,000,000" and substituting "$3,000,000".

2. Article XIX – LIMITATION ON GOVERNMENT EXPENDITURES is amended by deleting "$2,000,000" and substituting "$3,000,000".

3. All other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. **[INSERT NUMBER]** which shall become effective upon the date it is signed by the District Engineer.

THE DEPARTMENT OF THE ARMY THE NON-FEDERAL SPONSOR

BY:_____ BY:_____

DATE:_____ DATE:_____

CERTIFICATE OF AUTHORITY

I, _____, do hereby certify that I am the principal legal office of the **[FULL NAME OF NON-FEDERAL SPONSOR AS SHOWN ON EXECUTED PCA]**, that the **[FULL NAME OF NON-FEDERAL SPONSOR AS SHOWN ON EXECUTED PCA]** is a legally constituted public body with full authority and legal capability to perform the terms of Amendment No. **[INSERT NUMBER]**, between the Department of the Army and the **[FULL NAME OF NON-FEDERAL SPONSOR AS SHOWN ON EXECUTED PCA]** in connection with the **[FULL NAME OF PROJECT AS SHOWN ON EXECUTED PCA]**, and to pay damages in accordance with the terms of Amendment No. **[INSERT NUMBER]**, if necessary, in the event of the failure to perform, as required by section 221 of Public Law 91-611 (42 U.S.C. Section 1962d-5b), and that the persons who have executed Amendment No. **[INSERT NUMBER]** on behalf of the **[FULL NAME OF NON-FEDERAL SPONSOR AS SHOWN ON EXECUTED PCA]** have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this _____ day of _____, _____.

_____
NAME
TITLE

[NOTE: THE PERSON SIGNING THE CERTIFICATE OF AUTHORITY CAN NOT BE THE SIGNATORY TO THE PCA. THE PERSON SIGNING THE CERTIFICATE OF AUTHORITY IS CERTIFYING THAT THE SIGNATORY TO THE PCA HAS THE AUTHORITY TO OBLIGATE THE NON-FEDERAL SPONSOR.]

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____
NAME
TITLE OF SIGNATORY TO AMENDMENT

DATE:_____

ENCLOSURE 3

SECTION 205 SAMPLE AMENDMENT

GENERAL NOTES:

1. REMOVE ALL BOLD TYPE NOTES FROM THE AMENDMENT PRIOR TO SIGNATURE BY THE SPONSOR.

2. THE NUMBER ASSIGNED SHOULD SEQUENTIALLY FOLLOW THE NUMBER OF THE LAST EXECUTED AMENDMENT TO THE PCA FOR THIS PROJECT. EXAMPLE; TWO PREVIOUSLY EXECUTED AMENDMENTS – THIS SHOULD BE AMENDMENT 3.

3. IF ONLY ONE PROJECT SPONSOR, USE VERSION 1 OF FIRST PARAGRAPH. IF THE PCA HAD MULTIPLE SPONSORS, EACH SPONSOR SHOULD BE A PARTY TO THE AMENDMENT. TO INCLUDE MULTIPLE SPONSORS:

A. USE VERSION 2 OF FIRST PARAGRAPH.

B. EACH OCCURRENCE OF "NON-FEDERAL SPONSOR" SHOULD BE REVISED TO "NON-FEDERAL SPONSORS".

C. A CERTIFICATE OF AUTHORITY AND LOBBYING CERTIFICATE SHOULD BE PREPARED FOR EACH SPONSOR.

4. INCLUDE WHEREAS CLAUSE IDENTIFYING AMENDMENTS ONLY IF THE PCA HAS BEEN AMENDED PREVIOUSLY. DO NOT INCLUDE THIS CLAUSE IF THIS IS AMENDMENT NO. 1.

A. INCLUDE A WHEREAS CLAUSE FOR EACH PREVIOUSLY EXECUTED AMENDMENT TO THE PCA FOR THIS PROJECT. SAMPLE LANGUAGE SHOWN.

B. THE LAST TWO OCCURRENCES OF "AGREEMENT" SHOULD BE REVISED TO "AGREEMENT, AS AMENDED,".

5. VERIFY THE LOCATION OF THE LANGUAGE IN YOUR PCA WHICH IS TO BE AMENDED. OTHER CLAUSES SPECIFIC TO YOUR PROJECT COULD ALTER ITS LOCATION SLIGHTLY. THE LANGUAGE WHICH IS TO BE AMENDED IS LOCATED IN THE FOURTH WHEREAS AND ARTICLE XIX OF THE SECTION 205

MODEL PCA. CORRECT REFERENCES TO THE NUMBER OF THE WHEREAS CLAUSE OR ARTICLE NUMBER, AS NECESSARY.

AMENDMENT NO. **[INSERT NUMBER - SEE GENERAL NOTE - 2]**
TO
PROJECT COOPERATION AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
[FULL NAME OF NON-FEDERAL SPONSOR(S) AS SHOWN ON EXECUTED PCA]
FOR THE CONSTRUCTION OF THE
[FULL NAME OF PROJECT AS SHOWN ON EXECUTED PCA]

[SEE GENERAL NOTE – 3]

THIS AMENDMENT NO. **[INSERT NUMBER]** is entered into this _____ day of _____, _____, by and between the DEPARTMENT OF THE ARMY (hereinafter the "Government"), represented by the U.S. Army Engineer, _____ District (hereinafter the "District Engineer"), and the **[FULL NAME OF NON-FEDERAL SPONSOR AS SHOWN ON EXECUTED PCA]** (hereinafter the "Non-Federal Sponsor"), represented by the **[TITLE OF NON-FEDERAL SPONSOR REPRESENTATIVE SIGNING THIS AGREEMENT]**.

THIS AMENDMENT NO. **[INSERT NUMBER]** is entered into this _____ day of _____, _____, by and between the DEPARTMENT OF THE ARMY (hereinafter the "Government"), represented by the U.S. Army Engineer, _____ District (hereinafter the "District Engineer"), **[FULL NAME OF FIRST NON-FEDERAL SPONSOR AS SHOWN ON EXECUTED PCA]**, and the **[FULL NAME OF SECOND NON-FEDERAL SPONSOR AS SHOWN ON EXECUTED PCA]** (hereinafter the "Non-Federal Sponsors"), represented by the **[TITLE OF FIRST NON-FEDERAL SPONSOR REPRESENTATIVE SIGNING THIS AGREEMENT]** and the **[TITLE OF SECOND NON-FEDERAL SPONSOR REPRESENTATIVE SIGNING THIS AGREEMENT]**, respectively.

WITNESSETH, THAT:

WHEREAS, the Government and the Non-Federal Sponsor entered into a Project Cooperation Agreement on _____ (hereinafter the "Agreement") for construction of the **[FULL NAME OF PROJECT AS SHOWN ON EXECUTED PCA]** (hereinafter the "Project");

[SEE GENERAL NOTE – 4]

CECW-PE
SUBJECT: Planning Guidance Memorandum 99-03 WRDA 99 Implementation Guidance for the Continuing Authorities Program

WHEREAS, the Government and the Non-Federal Sponsor entered into an Amendment to the Agreement on _____;

WHEREAS, Section 201(2) of the Water Resources Development Act of 1999, Public Law 106-53, amends Section 205 of the Flood Control Act of 1948, as amended, to increase the Government's financial participation in the Project from $5,000,000 to $7,000,000.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree to amend the Agreement as follows:

[SEE GENERAL NOTE – 5]

1. The Fourth Whereas Clause is amended by deleting "5,000,000" and substituting "$7,000,000".

2. Article XIX – LIMITATION ON GOVERNMENT EXPENDITURES is amended by deleting "$5,000,000" and substituting "$7,000,000".

3. All other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. **[INSERT NUMBER]** which shall become effective upon the date it is signed by the District Engineer.

THE DEPARTMENT OF THE ARMY	THE NON-FEDERAL SPONSOR
BY:_____	BY:_____
DATE:_____	DATE:_____

CERTIFICATE OF AUTHORITY

I, _____, do hereby certify that I am the principal legal office of the **[FULL NAME OF NON-FEDERAL SPONSOR AS SHOWN ON EXECUTED PCA]**, that the **[FULL NAME OF NON-FEDERAL SPONSOR AS SHOWN ON EXECUTED PCA]** is a legally constituted public body with full authority and legal capability to perform the terms of Amendment No. **[INSERT NUMBER]**, between the Department of the Army and the **[FULL NAME OF NON-FEDERAL SPONSOR AS SHOWN ON EXECUTED PCA]** in connection with the **[FULL NAME OF PROJECT AS SHOWN ON EXECUTED PCA],** and to pay damages in accordance with the terms of Amendment No. **[INSERT NUMBER]**, if necessary, in the event of the failure to perform, as required by section 221 of Public Law 91-611 (42 U.S.C. Section 1962d-5b), and that the persons who have executed Amendment No. **[INSERT NUMBER]** on behalf of the **[FULL NAME OF NON-FEDERAL SPONSOR AS SHOWN ON EXECUTED PCA]** have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this _____ day of _____, _____.

_____
NAME
TITLE

[NOTE: THE PERSON SIGNING THE CERTIFICATE OF AUTHORITY CAN NOT BE THE SIGNATORY TO THE PCA. THE PERSON SIGNING THE CERTIFICATE OF AUTHORITY IS CERTIFYING THAT THE SIGNATORY TO THE PCA HAS THE AUTHORITY TO OBLIGATE THE NON-FEDERAL SPONSOR.]

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____
NAME
TITLE OF SIGNATORY TO AMENDMENT

DATE:_____

ENCLOSURE 4

For Project specific changes specified by WRDA 99.

Festus and Crystal City, Missouri (Section 102(b) of WRDA 99)

1. Use sample 205 amendment.

2. Replace the last Whereas Clause of the sample amendment with the following:

"WHEREAS, Section 102(b) of the Water Resources Development Act of 1999, Public Law 106-53, increases the Government's financial participation in the Project from $5,000,000 to $10,000,000."

3. Replace paragraph 1 of the sample amendment with the following:

"1. Delete the Fourth Whereas Clause of the Agreement."

4. Replace paragraph 2 of the sample amendment with the following:

"2. Delete the text of Article XIX – LIMITATIONS ON GOVERNMENT EXPENDITURES of the Agreement and replace with the following:

In accordance with Section 205 of the Flood Control Act of 1948, as amended, and as further modified by Section 102(b) of the Water Resources Development Act of 1999, Public Law 106-53, the Government's financial participation in the Project is limited to $10,000,000 which shall include all Federal funds expended by the Government for planning, design, and implementation of the Project except for coordination account funds expended prior to the first work allowance for study initiation. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall be responsible for all costs in excess of this amount."

For Project specific changes specified by WRDA 99.

Bois Brule Drainage and Levee District, Missouri (Section 332 of WRDA 99)

1. Use sample 205 amendment.

2. Replace the last Whereas Clause of the sample amendment with the following:

"WHEREAS, Section 332 of the Water Resources Development Act of 1999, Public Law 106-53, increases the Government's financial participation in the Project from $5,000,000 to $15,000,000."

3. Replace paragraph 1 of the sample amendment with the following:

"1. Delete the Fourth Whereas Clause of the Agreement."

4. Replace paragraph 2 of the sample amendment with the following:

"2. Delete the text of Article XIX – LIMITATIONS ON GOVERNMENT EXPENDITURES of the Agreement and replace with the following:

In accordance with Section 205 of the Flood Control Act of 1948, as amended, and as further modified by Section 332 of the Water Resources Development Act of 1999, Public Law 106-53, the Government's financial participation in the Project is limited to $10,000,000 which shall include all Federal funds expended by the Government for planning, design, and implementation of the Project except for coordination account funds expended prior to the first work allowance for study initiation. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall be responsible for all costs in excess of this amount."

For Project specific changes specified by WRDA 99.

Ouzinkie Harbor, Alaska (Section 302 of WRDA 99)

1. Use sample 205 amendment.

2. Replace the last Whereas Clause of the sample amendment with the following:

"WHEREAS, Section 302 of the Water Resources Development Act of 1999, Public Law 106-53, increases the Government's financial participation in the Project from $4,000,000 to $8,500,000."

3. Replace paragraph 1 of the sample amendment with the following:

"1. Delete the Third Whereas Clause of the Agreement."

4. Add the following as paragraph 2 of the Project specific amendment.

"2. Delete the text of Article VIII.B. and replace with the following:

B. The Government, as it determines necessary, shall operate and maintain the general navigation features and shall be responsible for all financial obligations for operation and maintenance of the general navigation features of the Project."

4. Replace paragraph 2 of the sample amendment with the following:

"3. Delete the text of Article XIX – LIMITATIONS ON GOVERNMENT ALLOTMENTS OF FUNDS FOR CONSTRUCTION of the Agreement and replace with the following:

In accordance with Section 107 of Public Law 86-645, as amended, and as further modified by Section 302 of the Water Resources Development Act of 1999, Public Law 106-53, the Government's financial participation in the Project is limited to $8,500,000 which shall include all Federal funds expended by the Government for planning, design, and implementation of the Project except for costs incurred on behalf of the Non-Federal Sponsor pursuant to Articles II.B. and II.D. of this Agreement. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall be responsible for all costs in excess of this amount."

5. Renumber remaining paragraphs of the sample amendment.