



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

CECW-P

MAR 20 2018

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Implementation Guidance for Section 1178(c) of the Water Resources Development Act of 2016 (WRDA 2016), Tribal Assistance

1. Section 1178(c) of WRDA 2016 was completed and signed on 5 March 2018. The implementation guidance is posted in the U.S. Army Corps of Engineers website: <http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/>.
2. Questions regarding this implementation guidance should be directed to Steven Kopecky, Deputy Chief, Northwestern Division Regional Integration Team, at (202) 761-4527 or [Steven.Kopecky@usace.army.mil](mailto:Steven.Kopecky@usace.army.mil).

A handwritten signature in blue ink, appearing to read "J. Dalton".

JAMES C. DALTON, P.E.  
Director of Civil Works

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DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
CIVIL WORKS  
108 ARMY PENTAGON  
WASHINGTON, DC 20310-0108

MAR - 5 2018

MEMORANDUM FOR COMMANDING GENERAL U.S. ARMY CORPS OF ENGINEERS

SUBJECT: Implementation Guidance for Section 1178(c) of the Water Resources Development Act (WRDA) 2016, Columbia River, Tribal Assistance

1. Section 1178(c) of WRDA 2016 (Public Law 114-332) authorizes the Secretary of the Army to assist tribes displaced by the construction of federal dams on the Columbia River, Oregon and Washington. Upon request from the Secretary of the Interior, Section 1178(c)(1) authorizes the Secretary of the Army to provide assistance on land transferred by the Department of the Army to the Department of the Interior pursuant to Title IV of Public Law 100-581 to Indian tribes displaced as a result of the construction of Bonneville Dam, Oregon and Washington. Section 1178(c)(2) directs the Secretary of the Army to conduct a study of the impacts to Indian tribes as result of the construction of the John Day Dam, Oregon and Washington. Section 1178(c) is enclosed.

2. Bonneville Dam, Oregon and Washington.

a. Tribal Assistance.

(1) Upon request of the Secretary of the Interior, the Assistant Secretary of the Army for Civil Works (ASA(CW)) may provide assistance on land transferred by the Department of the Army to the Department of the Interior, for Tribes displaced as a result of the construction of Bonneville Dam, Oregon and Washington. Those Tribes are the Confederated Tribes of the Warm Springs Indian Reservation of Oregon, the Confederated Tribes and Bands of the Yakama Nation, Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, and other Columbia River Indians.

(2) The Department of the Interior and the U.S. Army Corps of Engineers (Corps) will develop a scope of work for the requested Corps assistance. The agreed upon scope of work will be documented in a Memorandum of Agreement (MOA) to be approved and executed by the Secretary of Interior and ASA(CW). The scope of work will include a detailed description of the specific activities that the Corps will undertake to assist the Tribes, a schedule for completion and an estimate of costs for the Corps to complete the agreed upon work.

(3) Corps assistance to the Department of the Interior under this section may only be provided on those lands transferred to the Department of the Interior under title IV of Public Law 100-581 (102 Stat. 2944; 110 Stat. 766; 110 Stat. 3762; 114 Stat. 2679; 118 Stat. 544), as follows:

SUBJECT: Implementation Guidance for Section 1178(c) of the Water Resources Development Act (WRDA) 2016, Columbia River, Tribal Assistance

(a) Transferred lands at the five In-Lieu Sites on the Bonneville pool: Cascade Locks, Wind River, Cooks, Underwood, and Lone Pine. In accordance with judicial interpretation of the authorizing legislation for the in-Lieu sites, permanent tribal residency on these sites is allowed.

(b) Treaty Fishing Access Sites (TFAS). The six TFAS were built to provide access to the river for treaty fishing. The TFAS on Bonneville pool are: Bonneville, Wyeth, White Salmon, Stanley Rock, Lyle and Dallesport.

(4) The types of assistance that the Corps may provide at In-Lieu and TFAS under Section 1178(c), paragraph (1)(B)(i), will be dependent on details of a request for assistance from the Secretary of Interior and are subject to negotiation during development of the MOA.

(5) As discussed under Section 1178(c), paragraph (1)(B)(ii), any assistance provided by the Corps should be based on information known or studies undertaken by the Secretary prior to the date of enactment of this subsection. On the In-Lieu sites, assistance may include improved infrastructure for permanent residency, and/or infrastructure for temporary or seasonal use. On TFAS, assistance may include infrastructure for temporary or seasonal use. In no case should assistance at any of the sites include routine site management activities. Any permanent residences constructed as part of the assistance under Section 1178(c)(1)(A) will be applied to the total housing provided for Indian tribes displaced as a result of construction of Bonneville Dam.

b. Additional Studies.

(1) The Secretary of the Army is authorized to undertake additional studies determined necessary to further examine any impacts to Indian tribes displaced as a result of the construction of the Bonneville Dam.

(2) If the Corps determines that additional studies should be undertaken pursuant to this authority, the Corps will submit a Letter Report describing such studies, their scope and estimated costs, to the ASA(CW) for review and approval. If additional studies are approved, new start study approval will be obtained, if appropriate before executing a study agreement. The Corps will seek funding through normal programming procedures. The Letter Report and studies may be conducted at full Federal expense using Investigations funding or through a different account at the direction of the ASA(CW) in writing.

3. John Day Dam, Oregon and Washington.

a. The Corps will seek new start study approval, if appropriate before executing a study agreement. The Corps will seek funding through normal programming procedures, using Investigations funding or through a different account at the direction of the ASA(CW) in writing to conduct a study at full federal expense of the Indian tribes displaced by the construction of John Day Dam.

b. The study may include, but not necessarily be limited to, the following elements:

SUBJECT: Implementation Guidance for Section 1178(c) of the Water Resources Development Act (WRDA) 2016, Columbia River, Tribal Assistance

(1) An assessment of the number of Indians displaced by the construction of John Day Dam;

(2) A review of known information and existing studies that address impacts to Indians displaced by construction of John Day Dam;

(3) A review of previous federal actions undertaken to address impacts to tribes displaced by construction of John Day Dam;

(4) An analysis of the type of assistance that may be provided.

(5) A plan and recommendations for further actions and/or assistance associated with the displaced Indians, to include an Micro-Computer Aided Cost Engineering System level 5 cost estimate showing the range of potential impletation cost; and

(6) Depending on the recommendations of this study, additional analysis and/or authorization that may be required for implementation.

c. The report resulting from the study will be submitted to the Assistant Secretary of the Army (Civil Works) for approval. The approved report will be submitted to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate prior to the implementation of any further actions.

4. Questions regarding this implementation guidance may be directed to Gib Owen, Office of the Assistant Secretary of the Army for Civil Works at, [gib.a.owen.civ@mail.mil](mailto:gib.a.owen.civ@mail.mil) or 703-695-4641. Technical questions may be directed to Steven Kopecky, Deputy Chief, Northwestern Regional Integration Team, at (202) 761-4527 or [steven.kopecky@usace.army.mil](mailto:steven.kopecky@usace.army.mil).



R. D. JAMES  
Assistant Secretary of the Army  
Civil Works

Encl

SEC. 1178(c). TRIBAL ASSISTANCE.

(c) TRIBAL ASSISTANCE.

(1) ASSISTANCE AUTHORIZED.

(A) IN GENERAL. Upon the request of the Secretary of the Interior, the Secretary may provide assistance on land transferred by the Department of the Army to the Department of the Interior pursuant to title IV of Public Law 100-581 (102 Stat. 2944; 110 Stat. 766; 110 Stat. 3762; 114 Stat. 2679; 118 Stat. 544) to Indian tribes displaced as a result of the construction of the Bonneville Dam, Oregon.

(B) CLARIFICATION.

(i) IN GENERAL. The Secretary is authorized to provide the assistance described in subparagraph (A) based on information known or studies undertaken by the Secretary prior to the date of enactment of this subsection.

(ii) ADDITIONAL STUDIES. To the extent that the Secretary determines necessary, the Secretary is authorized to undertake additional studies to further examine any impacts to Indian tribes identified in subparagraph (A) beyond any information or studies identified under clause (i), except that the Secretary is authorized to provide the assistance described in subparagraph (A) based solely on information known or studies undertaken by the Secretary prior to the date of enactment of this subsection.

(2) STUDY OF IMPACTS OF JOHN DAY DAM, OREGON. The Secretary shall

(A) conduct a study to determine the number of Indian tribes displaced by the construction of the John Day Dam, Oregon; and

(B) recommend to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a plan to provide assistance to Indian tribes displaced as a result of the construction of the John Day Dam, Oregon.