



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

CECW-P

APR 25 2019

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Revised Implementation Guidance for Section 1133 of the Water Resources Development Act (WRDA) of 2018, Columbia River

1. The Assistant Secretary of the Army, Civil Works approved on 18 April 2019 Section 1133 of WRDA 2018. The attached implementation guidance is posted for internal and external use on the U.S. Army Corps of Engineers official WRDA website:
<http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/>.
2. Please ensure wide dissemination of this guidance. Questions regarding this implementation guidance should be directed to the Headquarters POC, Steven Kopecky, Deputy Chief, Northwestern Regional Integration Team, at (202) 761-4527 or 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
ASSISTANT SECRETARY OF THE ARMY
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WASHINGTON DC 20310-0108

APR 18 2019

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

SUBJECT: Implementation Guidance for Section 1133 of the Water Resources Development Act of 2018, Columbia River

1. Sections 1133 of the Water Resources Development Act of 2018 (WRDA 2018) directs the Secretary, in consultation with the Secretary of the Interior, to examine and assess the extent to which Indians¹ have been displaced as a result of the construction of the Bonneville and John Day Dams on the Columbia River, Washington and Oregon. The Secretary, in consultation with the Secretary of the Interior, shall complete and carry out a village development plan (VDP) for any Indian village submerged as a result of the construction of the Dalles Dam, Columbia River, Washington and Oregon, as authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 179). Section 1133 is enclosed.

2. This implementation guidance supersedes the implementation guidance for Section 1178(c) of the Water Resources Development Act of 2016 (WRDA 2016), Columbia River, Tribal Assistance, dated 5 March 2018.

3. Bonneville Dam, Washington and Oregon and John Day Dam, Washington and Oregon. Subject to Investigations funds being made available to implement this section:

a. The U.S. Army Corps of Engineers (Corps) Portland District Commander, in consultation with the Department of the Interior, shall develop scopes of works for studies to complete the evaluations and assessments of the extent to which Indians have been displaced as a result of the construction of the Bonneville Dam and the John Day Dam. Prior to preparing the scopes of work, the District Commander shall review the results of completed studies and incorporate into the scopes of work only those investigations necessary to provide the missing or incomplete information needed to complete the evaluations and assessments of the extent of

¹ For purposes of this guidance, the term "Indians," as used in Section 1133(a) and (b), shall include members of 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 that are members of an Indian Tribe as defined in Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).

SUBJECT: Implementation Guidance for Section 1133 of the Water Resources Development Act of 2018, Columbia River

displacement. The scopes of work will include a detailed description of any remaining assessments required, a cost estimate for the studies, and schedule for their completion. The District Commander will follow normal programming procedures to seek funds to prepare the scopes of work and to complete the remaining assessments.

b. The studies will be completed at full federal expense and investigate the current needs of Indians in any identified areas of displacement along the Columbia River in Washington and Oregon, and develop a plan for the provision of assistance that is commensurate in scope and scale to the impacts of any identified initial displacement. If the District Commander makes preliminary determinations that assistance is warranted, the studies will include a recommended plan for providing assistance based on an analysis of reasonable alternatives.

c. The District Commander will complete the studies and plan with his recommendations and submit a report through the Major Subordinate Command (MSC) Commander to the Director of Civil Works (DCW) for review. Before the DCW transmits the report and recommendation to the Assistant Secretary of the Army for Civil Works ASA(CW), the ASA(CW) will be briefed. The DCW then will transmit the report and recommendation to the (ASA(CW)) for review and approval.

d. If assistance as authorized by Section 1178(c) of the Water Resources Development Act of 2016, is approved, the District Commander may seek funding to provide the assistance through the normal programming procedures. If additional authority is required, no planning, design, or construction may occur without Congressional action.

e. Section 1178(c) of WRDA 2016 authorizes the provision of assistance to displaced Indian tribes on lands transferred from the Department of the Army to the Department of the Interior. Eligible lands include the five "In-Lieu Sites" at Cascade Locks, Wind River, Cooks, Underwood, and Lone Pine, and the six "treaty fishing access sites" (TFAS) at Bonneville, Wyeth, White Salmon, Stanley Rock, Lyle, and Dallesport. On the In-Lieu Sites, assistance may include improved infrastructure for permanent residency and/or infrastructure for temporary or seasonal use. On TFAS, assistance is limited to infrastructure for temporary or seasonal use. Provision of assistance is subject to completion of a scope of work and execution of a Memorandum of Agreement between the Secretary of the Interior and the ASA(CW). Depending on the availability of funding and the results of consultation with the Department of the Interior, the Corps may provide assistance under this

SUBJECT: Implementation Guidance for Section 1133 of the Water Resources Development Act of 2018, Columbia River

authority prior to completion of the studies described in paragraph 3a of this guidance. In that case, the studies will focus on identifying what additional assistance, if any, is warranted to address the impacts of displacement.

4. The Dalles Dam, Washington and Oregon.

a. The District Commander, in consultation with the Department of the Interior, shall complete the VDP to define and support a budget submission for the construction of a tribal village to replace the Indian villages submerged as a result of the construction of The Dalles Dam, as authorized by Section 204 of the Flood Control Act of 1950. If insufficient funds are currently programmed to the project to complete the VDP, the District Commander will follow normal programming procedures to seek additional funds. At a minimum, the VDP shall include the following:

(1) The identification of reasonable alternatives to include existing public lands and those lands that can be acquired from willing landowners. Upon completion of the analysis, a tentatively-selected site for the location of the village will be developed that can sufficiently accommodate and sustain the village; the tentatively selected site may consist of multiple properties, provided that those properties are close enough in proximity to form one village.

(2) A conceptual plan of the village, to include the housing and communal facilities;

(3) The estimated cost for the construction of the village; and

(4) A tentative timeline for the construction of the village.

b. If required to support a conceptual plan for the development of a village, approval of the VDP's land acquisition strategy, to include any special requirements enabling the land acquisition completion, shall be provided by the Director of Real Estate, headquarters and the DCW. Before the Director of Real Estate and the DCW determine a recommended course of action, the ASA(CW) will be briefed.

c. The District Commander shall submit a proposed VDP with a recommendation through the MSC Commander to the DCW for review. The DCW will submit the proposed VDP along with a recommendation, within 60 days of receipt to the

SUBJECT: Implementation Guidance for Section 1133 of the Water Resources Development Act of 2018, Columbia River

ASA(CW) for review and approval. If additional construction authority is required no planning, design, or construction may occur without Congressional action.

5. This guidance shall be transmitted to the appropriate Corps Division and District Commanders and posted to the Corps' WRDA website within five business days of receipt (written or electronic) from this office. Guidance shall be transmitted and posted as is and without additional guidance attached.

6. Questions regarding this implementation guidance should be directed to Stacey Jensen at stacey.m.jensen.civ@mail.mil or 703 695 6791.



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

Enclosure

cf: MG Scott Spellmon, Deputy Commanding General, Civil and Emergency Operations
James Dalton, Director of Civil Works

Water Resources Development Act of 2018, Section 1133 - Columbia River

(a) BONNEVILLE DAM, OREGON.

(1) **IN GENERAL.** The Secretary, in consultation with the Secretary of the Interior, shall examine and assess the extent to which Indians (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)) have been displaced as a result of the construction of the Bonneville Dam, Oregon, as authorized by the first section of the Act of August 30, 1935 (49 Stat. 1032) and the first section and section 2(a) of the Act of August 20, 1937 (16 U.S.C. 832, 832a(a)).

(2) **INCLUSION.** The examination and assessment under paragraph (1) may include assessments relating to housing and related facilities.

(3) **ASSISTANCE.** If the Secretary determines, based on the examination and assessment under paragraph (1), that assistance is required or needed, the Secretary may use all existing authorities of the Secretary, including under this Act, to provide assistance to Indians who have been displaced as a result of the construction of the Bonneville Dam, Oregon.

(4) **TRIBAL ASSISTANCE.** Section 1178(c)(1)(A) of the Water Resources Development Act of 2016 (130 Stat. 1675) is amended by striking "Upon the request of the Secretary of the Interior, the Secretary may provide assistance" and inserting "The Secretary, in consultation with the Secretary of the Interior, may provide assistance."

(b) JOHN DAY DAM, WASHINGTON AND OREGON.

(1) **IN GENERAL.** The Secretary, in consultation with the Secretary of the Interior, shall examine and assess the extent to which Indians (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)) have been displaced as a result of the construction of the John Day Dam, Oregon, as authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 179).

(2) **INCLUSION.** The examination and assessment under paragraph (1) may include

(A) assessments relating to housing and related facilities; and

(B) the study required by section 1178(c)(2) of the Water Resources Development Act of 2016 (130 Stat. 1675).

(3) **ASSISTANCE.**—If the Secretary determines, based on the examination and assessment under paragraph (1), that assistance is required or needed, the Secretary may use all existing authorities of the Secretary, including under this Act, to provide assistance to Indians who have been displaced as a result of the construction of the John Day Dam, Oregon.

(c) DALLES DAM, WASHINGTON AND OREGON.

(1) **IN GENERAL.** The Secretary, in consultation with the Secretary of the Interior, shall complete and carry out a village development plan for any Indian village submerged as a result of the construction of the Dalles Dam, Columbia River,

Washington and Oregon, as authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 179).

(2) ASSISTANCE. The Secretary may acquire land from willing land owners in carrying out a village development plan under paragraph (1).

(3) REQUIREMENTS. A village development plan completed under paragraph (1) shall include, at a minimum, an estimated cost and tentative schedule for the construction of a replacement village.