



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

CECW-NWD

APR 28 2010

MEMORANDUM FOR COMMANDER, Northwestern Division (CENWD-PDD)

SUBJECT: Implementation Guidance for Section 3111 of the Water Resources Development Act of 2007 (WRDA 2007) (P.L. 110-114), as modified by Section 117 of the Energy and Water Development and Related Agencies Appropriations Act, 2010 (FY 2010 E&WDAA) (P.L. 111-85) – Antelope Creek, Lincoln, Nebraska

1. Section 3111 of WRDA 2007 directs 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 the cost of design and construction work carried out by the non-Federal sponsor prior to the date of the partnership agreement for the project. Section 117 of the FY 2010 E&WDAA amends Section 3111 to include credit for design and construction work carried out by the non-Federal sponsor on and after the date of the partnership agreement. In addition, Section 3111 authorizes the non-Federal sponsor to use, and directs the Secretary to accept, funds provided under any other Federal program to satisfy, in whole or in part, the non-Federal share of the project if the Federal agency that provides such funds determines that the funds are authorized to be used to carry out the project. A copy of Section 3111, as amended by the FY 2010 E&WDAA, is enclosed for your information.

2. The Project Cooperation Agreement (PCA) for the Antelope Creek project was executed on October 21, 2002. It was amended on March 22, 2005 to allow credit for non-Federal sponsor work following execution of the amendment in accordance with Section 215 of the Flood Control Act of 1968. However, prior to the execution of the amendment, the non-Federal sponsor had already undertaken certain work, estimated at approximately \$160,000. Section 3111 of WRDA 2007, as amended, allows the non-Federal sponsor to receive credit for the Section 215 work undertaken prior to execution of the PCA amendment as well as for that work undertaken on or after the date of execution of the amendment. The District should develop a PCA amendment that allows for credit, in accordance with the procedures in the existing PCA, for the Section 215 work undertaken prior to execution of the March 2005 amendment. The District should submit the PCA amendment through the MSC to the Headquarters for review and submission to ASA(CW) for approval.

3. In addition, Section 3111 provides that the non-Federal sponsor may use funds provided under any other Federal program to satisfy non-Federal cost share requirements if the Federal agency providing such funds determines that those funds are authorized to carry out the Corps project. The non-Federal sponsor may utilize U.S. Department of Transportation (USDOT) funds to fund in part the relocations of bridge replacements for

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which it will receive credit subject to the non-Federal sponsor providing a letter from the USDOT confirming that such funds may be used for the Corps project. A copy of this letter should also be provided to the MSC.

FOR THE COMMANDER:

Encl



THEODORE A. BROWN, P.E.  
Chief, Planning and Policy Division  
Directorate of Civil Works

**Section 3111 of WRDA 07 as amended by Section 117 of the Energy and Water Development and Related Agencies Appropriations Act, 2010 (Public Law 111-85)**

The project of flood damage reduction, Antelope Creek, Lincoln, Nebraska, authorized by Section 101(b) (19) of the Water Resources Development Act of 2000 (114 Stat. 2578), is modified -

- (1) 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 the cost of design and construction work carried out by the non-Federal interest for the project before, on or after the date of the partnership agreement for the project; and
- (2) to allow the non-Federal interest for the project to use, and to direct the Secretary to accept, funds provided under any other Federal program to satisfy, in whole or in part, the non-Federal share of the project if the Federal agency that provides such funds determines that the funds are authorized to be used to carry out the project.