



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

REPLY TO
ATTENTION OF

CEMP-CR

05 SEP 2013

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Implementation Guidance for Oakland Inner Harbor Tidal Canal, California, Sections 3182(b) and (k) of WRDA 2007

1. This memorandum provides implementation guidance on Sections 3182(b) and (k) of 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. The exact acreage for each conveyance shall be determined by a survey that is satisfactory to the Secretary of the Army ("Secretary"). Land conveyed to the city of Oakland or the city of Alameda must be within the city's respective boundaries. Land conveyed to the adjacent land owners must be located within the boundaries of the city in which the adjacent land is located.
2. At the Secretary's discretion, a conveyance made under this section may be in the form of an easement. For any property on which an easement is granted, the holder of the easement shall have the right of first refusal to the property without cost or consideration. The Secretary may reserve and retain from any conveyance under this subsection a right-of-way or other rights as determined by the Secretary to be necessary for the operation and maintenance of the authorized Federal channel in the Canal Property. A right-of-way should be reserved if necessary to ensure that the conveyance will not affect the Corps' ability to operate and maintain the authorized channel.
3. In accordance with Section 3182(k)(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, as well as costs incurred due to requests from a non-Federal entity for additional analysis or documentation.
4. In accordance with Section 3182(k)(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 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. For each conveyance, an appraisal report and a Disposal Report shall be completed with appropriate environmental documentation to support the National Environmental Policy Act, the

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Comprehensive Environmental Response, Compensation, and Liability Act; and other applicable laws. Screening for further federal use of any of the land to be conveyed is not required. All conveyances will be by quitclaim deed and will be executed by the Director of Real Estate, HQ USACE.

6. 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.

7. Any questions regarding this guidance should be addressed to Brenda Johnson-Turner, CEMP-CR, at 202-761-5222 or Mayely Boyce, CECC-R, at 202-761-7696.

FOR THE COMMANDER:

Encls


SCOTT L. WHITEFORD
Chief, Real Estate Division
Directorate of Military Programs

DISTRIBUTION:
COMMANDER,
SOUTH PACIFIC DIVISION (CESPD-PDS-R AND CECC-SPD)

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SEC. 3182. LAND CONVEYANCES

(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, 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 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 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

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or consideration.

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

(k) GENERALLY APPLICABLE PROVISIONS:—

(1) SURVEY TO OBTAIN LEGAL DESCRIPTION.—The exact acreage and the legal description of any real property to be conveyed 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 appropriate and necessary 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.