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

CECW-P

JUN 17 2016

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Implementation Guidance for Section 1016 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) – Operation and Maintenance of Certain Projects

1. Reference is made to Engineer Regulation (ER) 1165-2-211, dated 4 February 2016, Operation and Maintenance of Improvements Carried Out by Non-Federal Interests to Authorized Harbor or Inland Harbor Projects.

2. Section 1016 of WRRDA 2014 provides that the Secretary may assume responsibility for operation and maintenance in accordance with section 101(b) of the Water Resources Development Act (WRDA) of 1986, as amended (33 U.S.C. 2211(b)), for improvements to a federally authorized harbor or inland harbor that are carried out by a non-federal interest prior to December 31, 2014 if the Secretary determines that the requirements of paragraphs 2 and 3 of section 204(f) of WRDA 1986, (33 U.S.C.2232(f)), are met. A copy of section 1016 is enclosed.

3. To be considered under Section 1016, a non-federal interest must provide a written request to the appropriate U.S. Army Corps of Engineers District Commander and provide a report which demonstrates that the improvements were constructed in accordance with applicable permits and appropriate engineering and design standards and that the improvements are economically justified and are consistent with the other Federal policies described in ER 1165-2-211. Operation and maintenance funds for the underlying Federally authorized project may be used by the Corps District to review the request.

4. Once the District Commander is satisfied that the report demonstrates that the improvements meet the requirements described in paragraph 3, above, the request will be forwarded through the Division to the Headquarters Regional Integration Team (RIT). The Division will review the District's submittal and provide its concurrence, as appropriate, prior to submitting the request to Headquarters. Upon completion of Headquarters review, the Headquarters RIT will forward the request to the Assistant Secretary of the Army (Civil Works) (ASA(CW)) for decision. Upon a favorable ASA(CW) decision, execution of a written agreement with the non-federal interest is required prior to the Corps of Engineers undertaking operation and maintenance of the improvements.

5. If at any time the ASA(CW) determines that the maintenance of the improvements is no longer economically justified or environmentally acceptable, responsibility for O&M shall cease except that the ASA(CW) may choose to maintain a lesser depth in lieu of completely discontinuing maintenance activities. The appropriate Corps District office will notify the non-federal interest if maintenance of the improvements will be discontinued or if the improvement will be maintained to a lesser depth.

6. Funding for O&M of the improvements will be subject to existing budgetary policy and will need to compete for funding during the annual budget process.

Encl

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

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SECTION 1016. OPERATION AND MAINTENANCE OF CERTAIN PROJECTS.
The Secretary may assume responsibility for operation and maintenance in accordance with section 101(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(b)) (as amended by section 2102(b)) for improvements to a federally authorized harbor or inland harbor that are carried out by a non-Federal interest prior to December 31, 2014, if the Secretary determines that the requirements under paragraphs (2) and (3) of section 204(f) of the Water Resources Development Act of 1986 (33 U.S.C. 2232(f)) are met.