



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

MAY 12 2017

CEMP-CR

MEMORANDUM FOR COMMANDER, SOUTHWESTERN DIVISION

SUBJECT: Water Resources Development Act of 2016 (WRDA 2016), Implementation Guidance for Section 1317, Land Transfer and Trust Land for Muscogee (Creek) Nation

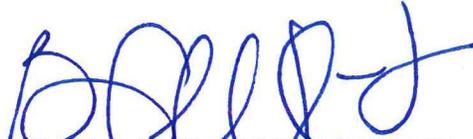
1. This memorandum provides implementation guidance on Section 1317 of the WRDA 2016. Section 1317 directs the Secretary to transfer approximately 18.38 acres at Eufaula Lake, OK, to the Secretary of the Interior to be held in trust for the benefit of the Muscogee (Creek) Nation (Tribe). Section 1317 is enclosed.
2. CESWT-RE shall complete a Disposal Report. The Disposal Report must include the following documentation: an Environmental Condition of Property Report and other documentation sufficient to satisfy the requirements of the National Environmental Policy Act, the Comprehensive Environmental Response, Compensation, and Liability Act, the National Historic Preservation Act, and other applicable environmental and historic preservation laws; a title report; and an appraisal report. The Disposal Report must also identify any terms and conditions necessary and appropriate to ensure the continued operation of the Eufaula Lake Project or any other authorized civil works project, including restrictions on the construction of habitable structures. If only some of the transferred lands will remain subject to flooding after transfer, sufficient monumentation and surveying to delineate those boundaries will be required prior to transfer, at the expense of the Tribe. No gaming activities may be conducted on the land transferred under this subsection.
3. To carry out a conveyance under Section 1317, CESWD-PDR will submit a disposal package to CEMP-CR for review and submission to the DASA (IH&P), coordinated through the ASA(CW). The disposal package will include a CESWT-OD transfer approval memorandum, a Determination Approving Transfer of Real Property prepared for Chief of Operations and Regulatory signature, and a Letter of Transfer (LOT) for the DASA (IH&P)'s signature. The district shall advise the Tribe and DOI that DASA (IH&P) will have final approval of the conveyance documents and terms of disposal. The USACE vertical team led by CEMP-CR, shall apply due diligence to coordinate and agree on the form of the LOT and other terms of the disposal prior final submission. The final LOT and disposal package shall be reviewed by district and division offices and coordinated with CEMP-CR. CEMP-CR will coordinate with CECC-R.

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4. An appraisal report shall be used to establish fair market value for the property, with such payment of monetary consideration required under subsection (c)(1). Funds received under this subsection may be accepted and expended by the Secretary, and will not be submitted to miscellaneous receipts.
5. In accordance with subsection (c)(2), the Tribe shall be responsible for all administrative costs and expenses associated with the transfer, including all survey, monumentation of the new USACE project boundary, environmental, and appraisal expenses.
6. Questions regarding this implementation guidance should be directed to Theodore Nettles, Real Estate Specialist, Real Estate Division, at (202) 761-5542, Theodore.L.Netttles@usace.army.mil.

Encl



BRENDA JOHNSON-TURNER  
Chief, Real Estate Division  
Directorate of Military Programs

**SEC. 1317. LAND TRANSFER AND TRUST LAND FOR MUSCOGEE (CREEK) NATION.**

**(a) TRANSFER.—**

(1) **IN GENERAL.**—Subject to paragraph (2) and for the consideration described in subsection (c), the Secretary shall transfer to the Secretary of the Interior the land described in subsection (b) to be held in trust for the benefit of the Muscogee (Creek) Nation.

(2) **CONDITIONS.**—The land transfer under this subsection shall be subject to the following conditions:

**(A) The transfer—**

(i) shall not interfere with the Corps of Engineers operation of the Eufaula Lake Project or any other authorized civil works project; and

(ii) shall be subject to such other terms and conditions as the Secretary determines to be necessary and appropriate to ensure the continued operation of the Eufaula Lake Project or any other authorized civil works project.

**(B) The Secretary shall retain the right to inundate with water the land transferred to the Secretary of the Interior under this subsection as necessary to carry out an authorized purpose of the Eufaula Lake Project or any other civil works project.**

**(C) No gaming activities may be conducted on the land transferred under this subsection.**

**(b) LAND DESCRIPTION.—**

(1) **IN GENERAL.**—The land to be transferred pursuant to subsection (a) is the approximately 18.38 acres of land located in the Northwest Quarter (NW 1/4) of sec. 3, T. 10 N., R. 16 E., McIntosh County, Oklahoma, generally depicted as “USACE” on the map entitled “Muscogee (Creek) Nation Proposed Land Acquisition” and dated October 16, 2014.

(2) **SURVEY.**—The exact acreage and legal description of the land to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary and the Secretary of the Interior.

**(c) CONSIDERATION.**—The Muscogee (Creek) Nation shall pay—

(1) to the Secretary an amount that is equal to the fair market value of the land transferred under subsection (a), as determined by the Secretary, which funds may be accepted and expended by the Secretary; and

(2) all costs and administrative expenses associated with the transfer of land under subsection (a), including the costs of—

**(A) the survey under subsection (b)(2);**

**(B) compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and**

**(C) any coordination necessary with respect to requirements related to endangered species, cultural resources, clean water, and clean air.**