



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

CEMP-CR

JUL 14 2017

MEMORANDUM FOR COMMANDER, NORTHWESTERN DIVISION

SUBJECT: Implementation Guidance for Section 1307 of the Water Resources Development Act of 2016 (WRDA 16), Port of Cascade Locks, Oregon

1. This memorandum provides guidance on section 1307 of the WRDA 16. Section 1307 extinguishes the flowage easements identified as Tracts 302E-1 and 304E-1 on the easement deeds described in subsection (c) above 82.2 feet (NGVD89), the ordinary high water line, with respect to the properties identified in subsection (b). Section 1307 of WRDA 16 is enclosed.
2. Extinguishment of the flowage easements shall be memorialized through execution and recordation of a quitclaim deed or deeds. Each deed shall reflect state law and shall be carefully drafted to release only the portions of the easements extinguished by section 1307. In accordance with subsection (e), all remaining right or interest of the U.S. Army Corps of Engineers in the affected properties shall be expressly reserved. In accordance with subsection (d), the owner of the affected properties shall expressly indemnify and hold harmless the United States against any injury caused by extinguishment of the easements. The deed or deeds shall be reviewed by District and Division offices and approved by CEMP-CR. CEMP-CR will coordinate with CECC-R.
3. As allowed under 10 U.S.C. 2695, the owner of the affected properties is responsible for all administrative costs to execute, update government historical files, and record the releases of the flowage easements referred to within this section. The owner of the affected properties is not required to pay consideration.
4. The Portland District shall review the operation of the project for which the flowage easements were acquired to assure that the affected properties are no longer subject to project-induced flooding that rises to the level of a taking under the Fifth Amendment of the U.S. Constitution, and will report back to the ASA (CW) within 30 days of approval of this guidance if any operational issues are found that will impact the operation of the authorized project.

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5. Questions regarding this implementation guidance should be directed to Theodore Nettles, Real Estate Specialist, at (202) 761-5542 or Theodore.L.Nettles@usace.army.mil.



Encl BRENDA M. JOHNSON-TURNER
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SEC. 1307. PORT OF CASCADE LOCKS, OREGON.

(a) EXTINGUISHMENT OF PORTIONS OF EXISTING FLOWAGE EASEMENT.-

With respect to the properties described in subsection (b), beginning on the date of enactment of this Act, the flowage easements described in subsection (c) are extinguished above elevation 82.2 feet (NGVD29), the ordinary high water line.

(b) AFFECTED PROPERTIES.-The properties described in this subsection, as recorded in Hood River County, Oregon, are as follows: (1) Lots 3, 4, 5, and 7 of the "Port of Cascade Locks Business Park" subdivision, Instrument Number 2014-00436.

(2) Parcels 1, 2, and 3 of Hood River County Partition, Plat Number 2008-25P.

(c) FLOWAGE EASEMENTS.-The flowage easements described in this subsection are identified as Tracts 302E-1 and 304E-1 on the easement deeds recorded as instruments in Hood River County, Oregon, and described as follows:

(1) A flowage easement dated October 3, 1936, recorded December 1, 1936, book 25, page 531 (Records of Hood River County, Oregon), in favor of the United States (302E-1-Perpetual Flowage Easement from 10/5/37, 10/5/36, and 10/3/36; previously acquired as Tracts OH-36 and OH-41 and a portion of Tract OH-47).

(2) A flowage easement dated October 5, 1936, recorded October 17, 1936, book 25, page 476 (Records of Hood River County, Oregon), in favor of the United States, affecting that portion below the 94-foot contour line above main sea level (304 E1-Perpetual Flowage Easement from 8/10/37 and 10/3/36; previously acquired as Tract OH-042 and a portion of Tract OH-47).

(d) FEDERAL LIABILITIES; CULTURAL, ENVIRONMENTAL, AND OTHER REGULATORY REVIEWS.-

(1) **FEDERAL LIABILITY.-**The United States shall not be liable for any injury caused by the extinguishment of an easement under this section.

(2) **CULTURAL AND ENVIRONMENTAL REGULATORY ACTIONS.-**Nothing in this section establishes any cultural or environmental regulation relating to the properties described in subsection (b).

(e) EFFECT ON OTHER RIGHTS.-Nothing in this section affects any remaining right or interest of the Corps of Engineers in the properties described in subsection (b).