

DEPARTMENT OF THE ARMY  
SAVANNAH DISTRICT, CORPS OF ENGINEERS  
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SAVANNAH, GEORGIA 31402-0889

DISTRICT REGULATION  
NO. 1130-2-4

11 August 1989

Project Operations  
PROCESSING OF WATER SUPPLY REQUESTS FOR J. STROM THURMOND,  
RICHARD B. RUSSELL, AND HARTWELL RESERVOIRS

1. Purpose. To establish responsibilities and procedures to be followed by District elements in processing requests for municipal and industrial water supply in J. Strom Thurmond, Richard B. Russell, and Hartwell Reservoirs.

2. Applicability. This regulation applies all District elements involved in the preparation of, or input to, local and state requests for water supply from J. Strom Thurmond, Richard B. Russell, and Hartwell Reservoirs.

3. References.

a. ER 1105-2-100 - Planning Guidance Notebook, (being published - replaces ER series 1105-2-10 thru 1105-2-60.

b. DR 10-1-1 - Mission and Function Statements, 1 February 1989.

c. DR 405-2-1 - Acquiring, Managing and Disposing of Civil Works Real Estate, 23 October 1984.

d. DR 130-2-3 - Management of Civil Works Multipurpose Projects, 1 April 1985.

e. DR 1145-1-1 - Case Documents for Regulatory Permits, Outgrants, and Exchange Actions, 21 August 1978.

f. CECW-PS Memorandum, 14 April 1989, subject: Delegation of Authority to Approve Water Supply Contracts.

g. CESAD-RE-M Memorandum, 28 April 1989, subject: Delegation of Authority to approve Water Supply Contracts.

#### 4. Background.

a. A recent Army General Counsel opinion negated use of water withdrawal contracts prepared under Section 501 of the Independent Offices Appropriations Acts of 1952 (31 U.S.C. 9701). ER 1105-2-100 directs that existing contracts under this authority should be allowed to expire under the terms of the contracts. If further water supply is required by the user, a new contract is to be executed for reallocation of storage under the Water Supply Act of 1958, as amended. This applies to new requests for water supply as well.

b. Use of the Water Supply Act of 1958, as amended, is the preferred method to contract for water supply. However, Section 6 of the 1944 Flood Control Act provides sufficient authority and discretion to allow use of water in Corps reservoirs deemed surplus. Surplus water is classified as either: water stored in a Department of Army reservoir which is not required because the authorized need never developed or the need is reduced by changes which have occurred since authorization or construction; or, water which would be more beneficially used as municipal and industrial water than the authorized purpose and which, when withdrawn, would not significantly affect authorized purposes over some specified time period. Surplus water withdrawal/storage contracts will normally be for small amounts of water and/or temporary use as opposed to storage reallocations and a permanent right to that storage. Normally they will not be written for periods greater than 5 years. Use of Section 6 should be encourage only where non-Federal interests do not want to buy storage because the use is for short term needs, or the use is temporary pending development of the authorized use. Additionally, surplus water declarations will only be made when related withdrawals or storage reallocations would not significantly affect authorized purposes.

c. The 1958 Water Supply Act, as amended, gives the Assistant Secretary of the Army (Civil Works) authority to modify authorized projects to provide for water supply, provided that the authorized project purposes are not seriously affected and major structural or operational changes are not required. Exercise of this authority is dependent on making a determination that the modification of the project for water supply is in the Federal interest. This is accomplished through the preparation of a reallocation report, which contains the results of our studies and a recommendation of the District

Engineer. These reallocation reports are considered to be authorizing documents and address the technical, financial, economic, and environmental aspects of the proposed reallocation. These reports are prepared by Planning Division in coordination with other District elements and are submitted, together with the draft water supply contract, through South Atlantic Division (SAD) to HQUSACE for approval. Reference f. delegates approval for certain reallocation reports and contracts to the District Engineer or the Division Engineer, if the contracts are within certain limits.

d. The Chief of Engineers has imposed a discretionary limit on insignificant storage reallocations. For Lakes Thurmond and Hartwell this limit is 50,000 acre-feet; for Lake Russell, Savannah District has recommended that the discretionary limit be no greater than 9,300 acre-feet. Any reallocation of storage greater than these limits may be considered to have significant impact on other purposes and may require Congressional authorization. Should it be determined that the request will result in significant impacts, all action will cease under this regulation.

e. Execution of either a water withdrawal or water storage contract is an appropriate Real Estate instrument which should be prepared, processed, and administered by Real Estate specialists in the Real Estate Division.

f. The provision of water supply will affect the management, operation and maintenance of Civil Works projects in the District. Implementation of the action may also require a Department of the Army permit, easements, and rights-of-entry.

5. Responsibilities. Any request for water supply at one of the District's reservoirs will be processed under a two-phase process, which will consist of preparation of a reallocation report and draft water supply contract (Phase 1), and finalization, execution, and administration of a water supply contract (Phase 2).

a. The Planning Division is responsible for Phase 1, which consists of the overall water supply reallocation approval process, and will manage all associated actions, and prepare and submit, after proper evaluation, the reallocation report for approval and, subsequently, defend the report during review. During this phase a sample draft contract in a form comparable with contracts listed in Appendix K of reference a. will be included for discussion. Any perceived changes will be

identified by Real Estate Division and so noted as an attachment to the draft contract.

(1) Economics and Social Analysis Branch, Planning Division, is responsible for scheduling, coordinating, and managing the District's evaluation process, and preparing and coordinating the allocation report. Furthermore, the Branch is responsible for evaluating the various water supply pricing mechanisms and recommending the appropriate pricing mechanism for each contract. The Branch is also responsible for the updating and running of the POWRSYM model for determining the value of the energy component associated with hydropower losses or gains, and the determination of value of the capacity component associated with hydropower losses or gains due to the reallocation of hydropower storage to water supply. Upon contract execution by Real Estate Division, the Branch will notify the Southeastern Power Administration of any necessary adjustments to be made to the power accounts. They will also notify the Hydraulics and Hydrology Branch when the contract has been approved, so the inventory of storages they maintain can be updated.

(2) The Environmental Resources Branch, Planning Division, will be responsible for determining the environmental impacts associated with the proposed action, determining if an Environmental Assessment or Environmental Impact Statement is required, and prepare, coordinate, and file the appropriate environmental document.

b. The Operations Division is responsible for determining affects on project operations and consistency of the action with lake management and the Department of the Army permit program.

(1) The Natural Resources Management Branch, Operations Division, will be responsible for determining if the proposed action is consistent with the appropriate lake shore management plan and coordinate any necessary actions for approvals required under the lake shore management plan.

(2) The Regulatory Branch, Operations Division, will be responsible for determining if the proposed action will require any U.S. Army permits for associated structures, intakes, etc. and will be the point of contact for any necessary permit actions.

c. The Real Estate Division will be responsible for Phase 2, which consists of preparing, negotiating, and submitting for

approval all legal instruments to accomplish the proposed action to include the water supply contract, and any easements, rights of entry, etc. In addition, during Phase 1, Real Estate Division will suggest any changes that may be required to the draft sample contract.

d. The Engineering Division, Hydrology and Hydraulics Branch, will be responsible for determining the amount of reservoir storage required to satisfy the water supply request, and the impacts of the proposed action on the authorized purposes of the project, to include capacity and energy losses, if appropriate. The will also be responsible for maintaining an inventory of reallocated amounts of storage in order to determine if the aggregate amount of storage for water supply exceeds the limits for discretionary water supply storage reallocation.

e. The Resource Management Office will be responsible for establishing the proper control numbers and reports for billing and accounting for contract payments.

6. Procedures:

a. The Economics and Social Analysis Branch, Planning Division will, on an annual basis, update information pertaining to the POWRSYM model and the water supply pricing methods. This information will be combined with an update by Hydrology and Hydraulics Branch, Engineering Division, of the inventory of reallocated amounts of storage. From this, unit costs of water supply storage will be calculated and prices set for each reservoir each year. These prices will apply to all requests received during the year. This combined data will be made available in the form of an information package to various District elements and the Resource Managers of each lake. The Environmental Resources Branch, Planning Division, will determine the environmental impacts associated with the proposed action, determining if an Environmental Assessment or Environmental Impact Statement is required, and prepare, coordinate, and file the appropriate environmental document.

b. The Resource Managers, the Real Estate Division, or the Planning Division will furnish requesters of initial inquiries for water supply contracts with the annual updated information package. If the requesting party desires to discuss development of a water supply contract, they will be referred to the District Real Estate Division, as point of contact. Real Estate Division will request Planning Division to initiate Phase 1.

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Upon approval of the reallocation report, Real Estate Division will initiate Phase 2, and will negotiate and execute the final water supply contract.

c. Correspondence concerning the development and approval of the water supply contract will be maintained in a contract file by Real Estate Division. Once the contract is in effect, all official correspondence will remain with the contract file. Real Estate Division will provide copies of all correspondence to PD, OP, EN, and the Resource Managers.

d. Appendix A is a detailed list of functions which indicate the main element in the District responsible for performing the functions along with the coordinating responsibility of other elements.

1 Appendix  
as

/s/  
Ralph V. Locurcio  
Colonel, Corps of Engineers  
Commanding

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APPENDIX A

P = **Primary**  
 C = **Coordination**  
 ( ) = **Explanatory Note**

<u>FUNCTION</u>	<u>RESPONSIBLE ELEMENT</u>			
	<u>PD</u>	<u>OP</u>	<u>RE</u>	<u>EN</u>
1. <u>Phase 1</u> : Processing Reallocation Report	P	C	C	C
a. Determine amount storage	C			P
b. Determine amount of capacity and energy losses	C			P
c. Determine contract pricing	P			
d. Determine environ- mental impacts	P	C		
e. Preparation and coordination of Reallocation Report	P	C	C	C
f. Preparation and coordination of Environmental Documentation	P			
g. Review draft sample contract and iden- tify changes	C		P	
h. Consistency with Lakeshore Mgmt Plan	C	P		
2. <u>Phase 2</u> : Processing of Water Supply Contract	C	C	P	C