



April 4, 2018

Headquarters: U.S. Army Corps of Engineers
ATTN: CECW-CE/3E62
441 G St. NW
Washington DC 20314-1000

Re: Docket ID COE-2018-0003, Comments on EC 1165-2-220

Dear Sir or Madam:

The Association of Metropolitan Water Agencies (AMWA) is an organization representing CEOs and general managers of the largest publicly owned drinking water utilities in the U.S. Many of our members interact with the U.S. Army Corps of Engineers (USACE) on issues of water supply, water infrastructure and other USACE projects. Changes to USACE guidance documents have the opportunity to greatly impact our members. Therefore, AMWA thanks USACE for the opportunity to comment on the draft Engineering Circular (EC) 1165-2-220 that will provide the policies and procedures related to how USACE will process certain requests by others to alter a USACE civil works project pursuant to Section 14 of the Rivers and Harbors Act of 1899 (more commonly referred to as Section 408). AMWA submits the following remarks for consideration.

AMWA commends USACE on its emphasis of concurrent coordination between USACE offices and agency actions. The permitting and approval process for large-scale projects is complicated and time-consuming and efficient organization should be encouraged whenever possible. Under the section for coordination, the new guidance document (EC 1165-2-220) highlights that the determination of a lead district for the purposes of reviewing a Section 408 request may be different than the lead district assigned to review other permitting matters (i.e. Section 404 of the Clean Water Act/Section 10 of the Rivers and Harbors Act of 1899). AMWA strongly encourages USACE to avoid separating the review of a single project between districts. USACE should maintain one lead district for all permitting and approval actions whenever possible or sufficiently explain to interested parties the necessity of splitting lead authorities between districts when consolidation is not possible. These actions will help to avoid confusion and help USACE's goal of achieving efficient and timely reviews of Section 408 requests.

AMWA encourages USACE to ensure that the new policy document clearly identifies the situations for when work on a project triggers a review under 33 USC 408. Specifically, under EC 1165-2-220 Section 8, *Determining When Procedures in this EC Apply*, USACE should better define what constitutes a "use" of lands and waters occupied by a USACE project, as well as under what circumstances the agency would consider a project having "the potential to impair the usefulness" of an existing USACE project. A

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CHIEF EXECUTIVE OFFICER
Diane VanDe Hei

clearer definition of these terms will help to avoid confusion and manage the expectations of interested parties as to when a 408 approval will be required.

AMWA commends USACE for strongly encouraging districts to adopt and/or incorporate by reference any NEPA documentation that may already exist for the federal projects. AMWA agrees and encourages USACE to incorporate any documentation that already exists whenever possible in order to avoid unnecessary duplication and burden on the time and money of both the interested parties and USACE.

Finally, AMWA appreciates the work that USACE has done to outline clear expectations under EC 1165-2-220 Section 11, *USACE Review Requirements*. One of the continued frustrations among many of our members is the inconsistency in implementation of USACE policies, procedures, and communication between USACE divisions and districts. AMWA understands the need for flexibility within regions and districts as well as among projects, but encourages USACE to ensure that districts are reviewing and analyzing submittals in a consistent manner to the maximum extent possible.

AMWA appreciates the opportunity to comment and looks forward to continuing to work with USACE in the future. If you have any questions, please contact Stephanie Hayes Schlea (schlea@amwa.net), AMWA's Manager of Regulatory and Scientific Affairs.

Sincerely,



Diane VanDe Hei
Chief Executive Officer