

Office Memorandum
No. 1125-2-7

12 July 1991

Plant
LOAN OF GOVERNMENT-OWNED FLOATING PLANT
TO ORGANIZATIONS OUTSIDE THE CORPS OF ENGINEERS

1. Purpose. This office memorandum provides the policies, responsibilities, and procedures concerning the loan of Little Rock District Government-owned floating plant to organizations outside the Corps of Engineers. This memorandum applies to only Government-owned floating plant; i.e., towboats, inspection barges, etc., and all equipment and accessories that are attached to or a part of the floating plant.

2. Applicability. This office memorandum applies to all organizational elements of Little Rock District.

3. References.

- a. AR 700-131
- b. AR 600-50.
- c. ER 1125-2-305
- d. SWDR 600-1.

4. Responsibilities.

a. The District Engineer is the approval authority for use of Little Rock District Government-owned floating plant by organizations outside the Corps of Engineers.

b. Chief, Construction-Operations Division, is responsible for reviewing all requests for use of Little Rock District Government-owned floating plant and is the point of contact to assist the District Engineer in determining those activities which serve the best interests of the Government. Chief, Construction-Operations Division, is responsible for this office memorandum and will update the memorandum as necessary to stay current with SWD, USACE, and DA regulatory guidance.

5. Policy.

a. Little Rock District will support requests for use of Government-owned floating plant by organizations outside the Corps of Engineers when the activity is official Government business or is in the best interests of the Government.

b. The Government will be reimbursed for costs that are in addition to normal operating expenses.

c. The borrower will be liable to the Government for damages to the Government owned floating plant. The borrower will present evidence of insurance covering personal property. The borrower will hold the Government free from all liability for damage to property or injury to persons. A Government representative will give a safety briefing prior to use of Government owned floating plant. Persons may be required to sign an Agreement to Release and Waiver of Liability (see example Appendix C).

d. The following conditions must be applied when considering requests for support with Little Rock District floating plant:

(1) The use of the floating plant must not interfere with the mission of Little Rock District.

(2) There must be no potential danger to private property or to private persons that could result in a claim against the Government.

(3) Little Rock District must retain control over the floating plant to include:

(a) Retention of property accountability.

(b) A reasonable degree of supervision.

(c) The right to immediate repossession of the floating plant.

(4) Loan will not be in competition with local private enterprise operations offering the same service for fees or rental.

(5) A loan agreement will be prepared using the format prescribed in reference 3.a.

e. Use of facilities, supplies, and services in conjunction with the use of the floating plant will be paid for by the organization and not the U.S. Government.

f. Use of floating plant in an emergency to save life and property is described in reference 3.c.

6. Procedures.

a. Any Little Rock District organizational element that receives a request from an organization to use Government-owned floating plant will forward that request to the District Engineer, ATTN: CESWL-CO.

b. The request will also be staffed through the Logistics Management Office, Public Affairs Office, Office of Counsel, and Resource Management Office for review prior to submission to the District Engineer for approval.

c. As criteria to determine the best interests of the Government, the objectives and purpose of the organization and the planned activity will be evaluated. Little Rock District, Corps of Engineers, is limited by its resources to the performance of its assigned operational missions. To avoid interference with operational missions, Little Rock District is only able to support organizations whose objectives and purposes support the accomplishment of these missions. These objectives and purposes must not only be stated in a formal charter, but also must be regularly practiced. The organization must be well established and must have documentation of its activities in support of Corps of Engineers missions.

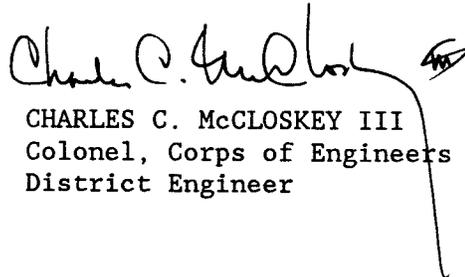
d. The nature and character of the activity location will also be judged as criteria. The Corps of Engineers and Little Rock District are organizations of public service employees who are required to maintain the highest standards of ethical conduct. All aspects of the planned activity, to include the location of that activity, must be of such a nature that even the appearance of unacceptable behavior and conduct can be avoided.

e. Little Rock District participation and support of any organization may be authorized only if admission, seating, and other accommodations connected with the activity are available to all without regard to sex, race, creed, color, or national origin.

f. Little Rock District participation and support is not authorized for events clearly designed or conducted for the primary benefit of commercial interests. Examples of non-supportable events are events staged to stimulate sales or increase business traffic.

g. No Little Rock District employee will realize a monetary profit or accept a gratuity or remuneration in any form not provided for by public law or DA regulations. In order to avoid the appearance of any such remuneration, employees should also apply this policy to the members of the employees' immediate families.

h. Figure 1 is a decision chart that presents the requirements stated above in a question and answer format.


CHARLES C. McCLOSKEY III
Colonel, Corps of Engineers
District Engineer

APPENDIXES:

- A - Request Procedures for Government and Non-Government Operation of Loaned Floating Plant
- B - Example Procedures for Loan of Plant - Government Operated
- C - Example Agreement to Release and Waiver of Liability (Adult Release)

DISTRIBUTION A

12 Jul 91

APPENDIX A
REQUEST PROCEDURES FOR GOVERNMENT AND
NON-GOVERNMENT OPERATION OF LOANED FLOATING PLANT

Procedures for requesting the loan of floating plant are the same for either case and are described in paragraph 6 of this SWLOM. Liability insurance requirements are the same for either government operated or non-government operated floating plant.

1. GENERAL PROCEDURES

a. A written request must be prepared and submitted to the District Engineer. This request should identify the organization and the objectives and purpose of the organization. The request should describe the planned activity and locations involving the requested floating plant. The request should also state that the organization will pay for all additional costs to the government incurred to support the loan of the floating plant and should state that the organization will provide the required liability and damage insurance.

b. The District Engineer will answer the request and give tentative approval subject to the organization providing assurance that the required liability and damage insurance is given in a confirmation letter to the District Engineer. A loan agreement will also be provided.

c. An authorized officer of the organization signs the loan agreement and provides assurance that the required liability and damage insurance will be in effect.

2. GOVERNMENT OPERATED

a. Borrowing organization will have to pay the additional cost incurred as a result of operating the floating plant.

b. Borrowing organization will provide an individual to be the organization's point of contact to the government. This individual must have authority to make decisions for the organization concerning the planned activity.

c. The government will provide an individual to be point of contact during the planned activity with authority over the floating plant.

3. NON-GOVERNMENT OPERATED

a. Borrowing organization will have to comply with the regulatory conditions specified for operation of the floating plant (See Example: a towboat pilot pushing the SWL inspection barge must be a Master).

b. The names of all operators must be provided in sufficient time for their qualifications to be verified.

SWLOM 1125-2-7

12 Jul 91

c. A government representative will be on site to provide a point of contact for the borrowing organization. This requirement can only be waived by the District Engineer.

d. Insurance or bonds sufficient to cover the total value of the floating plant must be provided by the borrower.

12 Jul 91

APPENDIX B
EXAMPLE SITUATION FOR LOAN
OF FLOATING PLANT
GOVERNMENT OPERATED

FLOATING PLANT: Inspection barge.

SITUATION: An organization that does not have a towboat or qualified towboat pilot to push the inspection barge. The organization must either hire a towboat and qualified pilot or request the government to provide a towboat and qualified pilot. In this example, the government will provide the towboat and qualified pilot.

DISCUSSION:

The inspection barge is considered a passenger barge for the purpose of United States Coast Guard (USCG) certification/inspection. The US Army Corps of Engineers will comply with USCG regulations pertaining to carrying passengers for hire on this barge. Also the towboat that pushes the barge must meet USCG regulations that pertain to pushing a passenger barge. The towboat pilot must be a Master and must be familiar with and experienced with pushing on the McClellan-Kerr Arkansas River Navigation System. The Little Rock District passenger barge is the only such type of barge on the McClellan-Kerr Arkansas River Navigation System. The only towboat pilot master with passenger barge experience operates the U.S. Army Corps of Engineers M/V Shorty Baird. Therefore, it is appropriate to provide the M/V Shorty Baird to push the inspection barge for borrowing organizations that do not have a towboat or qualified towboat pilot.

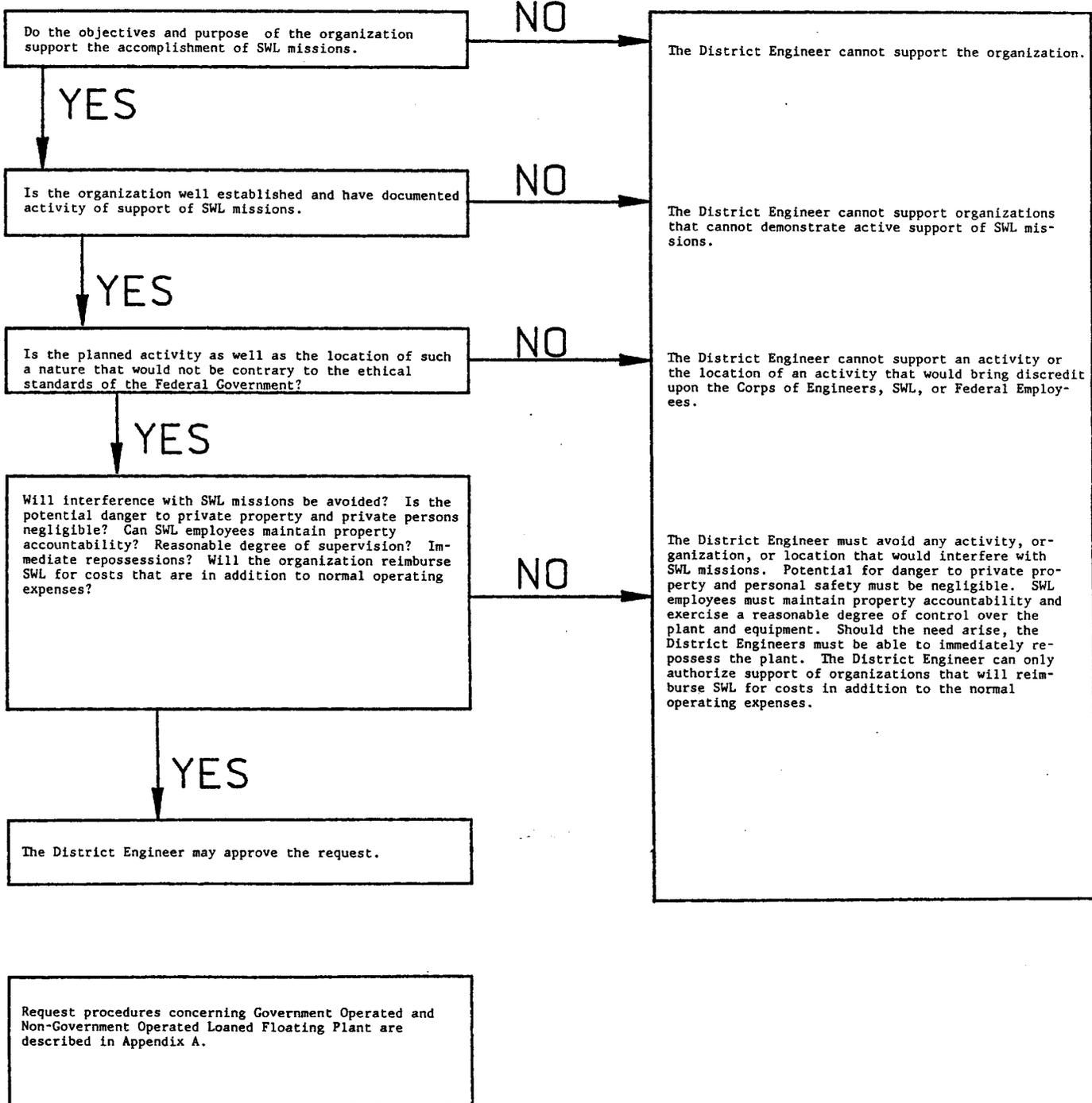
Additional costs will include the cost of operating the towboat during the period of the planned activity, and clean-up costs.

FIGURE 1

DECISION CHART

REQUESTS FOR LOAN OF GOVERNMENT OWNED FLOATING PLANT

"No to any of the questions below means that the organization, planned activity or location cannot be supported by SWL."



APPENDIX C
BLANK WORKSHEET
AGREEMENT TO
RELEASE AND WAIVER
OF LIABILITY
(ADULT RELEASE)

In consideration of and for being allowed to observe, work for, or any purpose or in any way participate _____

_____ on the McClellan-Kerr Arkansas River Navigation System, I release, waive, discharge, and covenant not to sue the United States Government, its employees, agents, and its volunteers for any or all liability, loss, or damage due to negligence which might occur before, during, or after _____.

In addition, I assume full responsibility for and risk of bodily injury, death, or property damage due to the negligence of the United States Government, its employees, agents, or its volunteers while I am in any way _____ for any purpose or in any way participating in _____.

I expressly acknowledge that the activities comprising _____ and its related events pose the danger of possible injury, death, or property damage. However, due to the benefits to be derived from my participation _____ any purpose or in any way _____

_____, I agree to indemnify and save and hold harmless the United States Government, its employees, agents, or volunteers from any liability, loss, or damage which may occur due to my presence _____

_____ regardless of whom is the cause of the negligence resulting in the liability, loss, or damage.

I further expressly agree that this release, waiver, discharge, covenant and indemnity agreement is intended to be as broad and inclusive as is permitted under the law of the State or States in which _____ will take place, and should any portion of this agreement be held invalid, it is agreed that the balance shall continue in full legal force and effect.

I HAVE READ, UNDERSTOOD, AND VOLUNTARILY SIGN THIS AGREEMENT.

PRINT NAME

SIGNATURE

DATE

PRINT ADDRESS