

DEPARTMENT OF THE ARMY
Corps of Engineers, Omaha District
215 North 17th Street
Omaha, Nebraska 68102-4978

*DM 1130-2-5
Change 2

CEMRO-PD-A/
CEMRO-OP-N/CEMRO-RE-M

Memorandum
No. 1130-2-5, Change 2

20 July 1990

Project Operations
OUTGRANT MANAGEMENT

1. This change to DM 1130-2-5, dated 6 October 1980, adds Appendix D. This change establishes policy on the placing of cottage structures on project lands leased for private recreational purposes.
2. Substitute the attached pages as shown below.

Remove pages

13 and 14

Insert pages

13 and 14
D-1 and D-2

3. File this change sheet in front of the publication for reference purposes.

FOR THE COMMANDER:


DONALD E. NEEDHAM
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DEPARTMENT OF THE ARMY
Corps of Engineers, Omaha District
215 North 17th Street
Omaha, Nebraska 68102-4978

DM 1130-2-5
Change 1

CEMRO-OP-N

Memorandum
No. 1130-2-5, Change 1

15 March 1989

Project Operations
OUTGRANT MANAGEMENT

1. This change to DM 1130-2-5, dated 6 October 1980, adds Appendix C. This change establishes an Oil and Gas Policy.

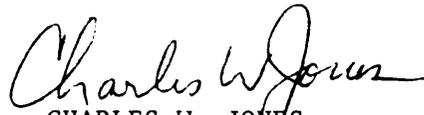
2. Add attached pages as shown below.

Remove pages
13 and 14

Insert pages
13 and 14
C-1 thru C-25

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DEPARTMENT OF THE ARMY
Omaha District, Corps of Engineers
6014 U.S. Post Office and Courthouse
Omaha, Nebraska 68102

DM 1130-2-5

MROOP-R
MRORE-M

Memorandum
No. 1130-2-5

6 October 1980

Project Operations
OUTGRANT MANAGEMENT

1. Purpose. The purpose of this memorandum is to provide the coordination procedures necessary for the proper and timely management of lake project lands outgranted via lease, license, permit, right of entry and easement to private and public entities.
2. Applicability. This memorandum applies to these civil works lake projects: Fort Peck Lake, Lake Sakakawea, Lake Oahe, Lake Sharpe, Lake Francis Case, Lewis and Clark Lake, Pipestem Lake, Bowman-Haley Lake, Cold Brook Lake, Cottonwood Springs Lake, Cherry Creek Lake, Chatfield Lake, Bear Creek Lake, Salt Creek Lakes, and the Papio Lakes.
3. References.
 - a. ER 405-1-750.
 - b. ER 405-1-800.
 - c. ER 405-1-830.
 - d. ER 405-2-835.
 - e. ER 405-1-840.
 - f. ER 405-1-860.
 - g. ER 1120-2-400.
 - h. ER 1130-2-400.
 - i. ER 1105-2-460.
 - j. ER 1130-2-406.
 - k. EP 405-1-2-Real Estate Handbook.

This memorandum supersedes DM 1130-2-5 dated 10 August 1976.

1. TWX OCE 11 July 1979, Resolution of Conflicting Guidance Between RE and Civil Works Regulations.

4. Policy. Real Estate outgrants are tools used to achieve specific land management objectives on civil works projects. These objectives are detailed in the Project Plan for Resource Use (PPRU) and Operational Management Plan (OMP). (ER 1130-2-400). The procedures outlined herein establish the method and responsibilities of District elements in effecting full outgrant compliance and, therefore, implementation of a portion of the PPRU.

5. Definitions.

a. Lease. A lease is a contract which grants the right of possession and exclusive use or occupation of real property to the lessee for a specified period of time for all purposes not prohibited by its terms, in consideration of monetary rental or other recompense. All Department of Army leases are revocable at will or as otherwise provided in the contract.

b. Easement. An easement is a grant of an estate in real property for the purpose or purposes specified in the grant (e.g. roads, utility lines, pipelines, railroad rights-of-way, flumes, ditches, canals, tunnels, etc.) thereby transferring the interest specified in the instrument. An easement may be granted for a specified term or in perpetuity. The purposes and conditions upon which the Army may grant easements affecting its real property generally are limited by statutes authorizing said easements.

c. License. A license is a bare authority to perform a specified act or series of acts upon the land of the licensor without acquiring any real estate interest therein. A license, by definition, is revocable at will by the licensor and nontransferable or assignable.

d. Permit. A permit is the temporary authority conferred on one Government agency to use property under the jurisdiction of another Government agency, and it is revocable at will by the agency conferring the authority. A permit may be relinquished by the permittee at any time by giving a written notice of relinquishment.

e. Right of Entry. A right of entry is a grant of permission prior to the final execution of a formal instrument (e.g., lease, easement, license) thereby authorizing the grantee to enter upon the real property described in said right-of-way.

f. Consent to Easement Structures. A consent to easement structures is an agreement in which the Government, as owner of less than the fee simple

interest in the lands upon which the structure will be located, consents to the granting of an easement by the owner of the underlying fee, subject to whatever conditions are required to protect the Government's interest.

NOTE: Structures include any appurtenance or improvements in, under, above, upon, or across the land.

g. Project Plan for Resource Use (PPRU). Replaces Project Master Plans. The PPRU establishes the policies, objectives, and programs for the preservation, enhancement, development, maintenance, administration and management of all resources and provides resources, facilities, and opportunities for public enjoyment.

h. Operational Management Plan (OMP). Replaces the appendices to the Master Plan. The OMP outlines in detail the specific operation and administration requirements for recreation and natural resource management consistent with the approved project plan.

6. Responsibilities.

a. Real Estate Division. The Real Estate Division is charged with the administration of all outgrants on civil works projects. It is this Division's function and responsibility to: maintain records; submit periodic reports, inspect to insure compliance with terms and conditions, and proper utilization and/or development of the outgranted premises; collect payments; and complete termination or revocation actions. Outgrant administration by Real Estate Division will exemplify and conform to management policies and procedures detailed in the PPRU and OMP.

b. Real Estate Field Office.

(1) The Real Estate Field Office is a support group for Real Estate Division. They assist in accomplishing the management responsibilities of the District office in civil works activities.

(2) There are three field offices located at Riverdale, North Dakota; Pierre, South Dakota; and Denver, Colorado.

c. Project Office. The Area Engineer or Project Engineer/Manager is responsible for the management of civil works projects within the geographic boundaries of his/her respective Area or Project. Included responsibilities are:

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(1) Management and development of lake projects excluding operation of project structures and powerplants, and is accomplished pursuant to regulatory permits, PPRU and OMP.

(2) Development of the OMP.

(3) Receives request for use of lands and/or facilities and recommends availability for outgranting.

(4) Conducts routine inspections on outgranted lands for compliance and participates in annual Real Estate compliance inspections as necessary.

(5) Development of land use regulations for agricultural leases.

d. Operations Division. Operations Division performs the corresponding management responsibilities as the Project Offices, but at the District level. Specific responsibilities are:

(1) Provides guidance and assistance to the Project Offices on development of the OMP and agricultural lease land use regulations.

(2) Reviews and evaluates the project's management program pursuant to the PPRU and OMP.

(3) Coordinates development of OMPs and agricultural leasing program with other District elements.

(4) Determines availability of all project lands and/or facilities for outgrants.

(5) Reviews and approves land use regulations.

(6) Conducts inspections of project lands to assess implementation of PPRU and OMP.

(7) Makes recommendations as to conditions of proposed outgrants and agrees to those conditions prior to start of negotiation.

e. Planning Division. Planning Division provides their expertise as required. They are responsible for reviewing outgrants for environmental, historical and archeological concerns as well as compliance with recreational and land use development.

f. Engineering Division. Engineering Division will be called upon as required to review outgrants for feasibility of design and will comment on

impacts a proposal may have regarding the operation and maintenance of mechanical, structural, and physical aspects of the project.

7. Availability of Project Lands and/or Facilities for Real Estate Outgrants.

a. General. Before issuance of any outgrant, affected project lands and/or facilities must be determined available for the proposed uses. Policies governing private development on Corps lands for public use are detailed in Appendix A.

b. Staffing Procedure for Availability on Outgranted Lands and/or Facilities Previously Outgranted.

(1) Renewal.

(a) Real Estate Division will be the initial point of contact for the grantee. Information will be compiled by the Real Estate Field Office concerning any current restrictions on involved lands and/or facilities and the basic limits and conditions of the required outgrant. The information will then be forwarded to the Project Office.

(b) The Project Office assesses the effect of the proposed use of project lands and/or facilities, determines if the use is consistent with the PPRU and OMP, recommends availability and forwards the information to Omaha Real Estate Division.

(c) Real Estate Division will assemble the data necessary to make an outgrant and initiate simultaneous appraisal and mapping requirements. The entire package will be forwarded to Operations Division with recommendations for an environmental assessment.

(d) Operations Division will consider the comments furnished and will obtain further information from other District elements as required.

(e) Planning Division will determine if an assessment and/or an Environmental Impact Statement is required based on environmental data provided by the Project Manager. The proposed use will be evaluated relative to the PPRU.

(f) Engineering Division will be asked to comment on proposed outgrant when their expertise is required.

(g) If Operations Division deems the land available, the final outgrant document will then be prepared and executed by Real Estate Division. See Chart 9.

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(2) Expired Outgrants. All lands and/or facilities on which the instruments have expired and previously have been made available for the proposed use will be staffed according to 7b(1) when they are requested for outgranting. See Chart 9.

c. Staffing Procedure for Determining New Availabilities. Lands not previously outgranted, lands requested for a new purpose or have not been outgranted for one year or more are staffed as follows.

(1) Initial contact by the party requesting use of Government lands and/or facilities will be with the Project Office. The Project Office determines if the proposed use is consistent with the PPRU, OMP, and compatible with Corps policies and regulations. These considerations will be discussed with the applicant at this time. Information will be requested from Real Estate when necessary. The Project Office will recommend availability of lands and/or facilities and forward proposal to Operations Division with copy furnished to District Real Estate.

(2) Operations Division will coordinate the proposal through other District elements when necessary and determine preliminary availability. When preliminary availability is determined, Operations will return the proposal to the Project Office for further action with copy of comments furnished to Real Estate Division. See Chart 10.

(3) The Project Office will staff the outgrant proposal in accordance with Chart 10.

8. Recreation Leases.

a. Types. The four types of recreation leases are defined as:

(1) Public Park and Recreation - Lease to nonfederal government agencies for management of public recreation areas as designated in the PPRU.

(2) Commercial Concession - Lease to private individual(s) or organization to provide needed services and facilities at reasonable charges to the public at designated public recreation areas.

(3) Quasi-Public - Lease to a nonprofit organization to provide service of a character-building nature not otherwise available at public recreation areas.

(4) Private Recreation - Lease to private individual(s) for their exclusive use; i.e., boat or yacht clubs, cabin sites, colony sites.

b. Administration by Reports and Inspections. Real Estate Division will insure compliance with the terms of the leases through required periodic reports from the lessee and the annual compliance inspections. Project Office personnel will assist in insuring compliance through interim inspections while in the field during their normal course of duties. The following table lists the forms used in administration of the recreation leases. MRO Forms 1181, 1218, 985, and 1251 are completed by the lessee; the other forms are completed by District personnel.

Form No.	Form Title	*PP	CC	QP	PR
MRO 1181	Annual Management Program	X			
MRO 1218	Schedule of Prices and Rates	X	X		
MRO 985	Annual Statement of Receipts & Expenditures	X	X		
MRO 1251	Construction Details				X
MRO 1244	Inspection of Property	X	X	X	X
ENG 3964-R	Compliance Check List	X	X	X	
ENG 3131	Report of Compliance				
ENG 3560	Inspection	X	X	X	X

*PP - Public Park and Recreation
QP - Quasi Public

CC - Commercial Concession
PR - Private Recreation

c. Form Submittal.

(1) All public park and recreation lessees must submit the Annual Management Program, MRO Form 1181, for each calendar year by 15 March or as otherwise specified in the lease. The lessee is required to set forth planned management activities for the leased premises including any capital improvements, and funding data for implementation of proposed plan.

(2) A Schedule of Prices and Rates, MRO Form 1218, must also be submitted for each calendar year before 15 April, by Public Park and Commercial Concession lessees. The prices and rates for services, products, or facility use require approval each year.

(3) An Annual Statement of Receipts and Expenditures, MRO Form 985, (calendar or fiscal year) must also be submitted by Public Park and Commercial Concession lessees yearly.

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(4) Construction Details, MRO Form 1251, is used only on leased cabin-site areas. The lessee must submit construction details before approval is granted for construction.

(5) Public Park and Recreation, Commercial Concession and Quasi-Public lessees must submit construction plans in detail before approval is granted for construction.

(6) Use of above material assists:

(a) The lessee in planning for future management and development.

(b) The inspector in compliance and utilization inspections by providing a baseline against which realized levels of management and development can be compared.

(c) The Corps in making certain that proper use is made of Government land.

d. Compliance Inspections. Compliance inspections must be made annually by Real Estate Division to insure that the lessee is complying with the specified terms and conditions of each particular lease. ENG Form 3964-R is used by Real Estate Division to determine discriminatory practices at leased areas. MRO Form 1244 is a checklist for various types of outgrants, that in tabular form reflects the administrative status of the outgrants. These two forms are aids for determining and recording noncompliance and are used at discretion of the inspector. Outgrants are listed on ENG Form 3560 and those that are in compliance are so noted. Those indicated as not in compliance are also noted and in addition, ENG Form 3131 is prepared describing in detail the terms of the outgrant that are not in compliance. Routine ranger inspections on outgrant recreation areas provide the essential supplementary surveillance to insure compliance throughout the year. Rangers will be familiar with outgrants in their resource districts in order to validly apprise their supervisor of noncompliance of lessees.

e. Coordination Procedures.

(1) All responsible elements of the District participate in the decision-making process relative to recreation outgrants. To assure the necessary coordination, a prescribed routing or input procedure has been established for the lease administration process. In Appendix B, Charts 1-4 outline the general staffing process for the administrative forms discussed in paragraph 8b.

(2) When possible the Chief of Recreation-Resources Management Branch at the Project will schedule meetings with Public Park and Recreation lessees to aid and discuss management and development of each leased area by assisting lessee in completion of MRO Forms 1181 and 1218 (Chart 1). Information on the Annual Management Program and Schedule of Prices and Rates is submitted to Real Estate Division by the lessee for approval prior to 15 March and 15 April respectively of each year. These two forms are routed in accordance with Chart 1. Operations Division will request comments from Planning and Engineering Divisions when their expertise is required in the decision-making process. The District Real Estate Division will take action as requested by Operations Division.

(3) Copies of the Statement of Annual Receipts and Expenditures (MRO Form 985) are sent to the Finance and Accounting, Project Office, Real Estate Field Office, and Operations Division for their records (Chart 2).

(4) Construction details for cabin sites (MRO Form 1251) shall be submitted and routed as shown on Chart 3.

(5) Approval for construction on other recreation outgrants follows the routing procedure as shown on Chart 3. Comments will be requested from Planning and Engineering Divisions when their functional expertise is required.

f. Compliance Inspection Procedures. See paragraph 11, Outgrant Compliance Procedure.

g. Management Considerations.

(1) Management of outgrant recreation areas will typify proper park and recreation management practices. Often the lessee does not possess the expertise or the funds to enable him/her to manage the area as required. However, through frequent contact and information exchange between the lessee and the Recreation-Resources Management staff, and in appropriate cases the Real Estate Division staff, a degree of management can be obtained that is feasible and agreeable to both parties.

(2) The Annual Management Programs (MRO Form 1181) are proposed plans only; fiscal circumstances may change for the lessee, thereby affecting proposals for recreation area. Sufficient time will be allowed for lease development considering unforeseen circumstances that may arise. However, the lessee is committed to the development stated in the development plan submitted and approved when the lease was granted. If over a reasonable period of time, the lessee has not, and has no immediate plans to fulfill the terms of the lease, the Project Manager may recommend such leases be terminated and the land be programmed for more beneficial uses via ER 1120-2-400.

9. Fish and Wildlife, Licenses, and Permits.

a. General. Lands allocated for Fish and Wildlife Management in the Project Plan for Resource Use and dedicated in General Plans will be managed for that purpose by either the Project, or a capable local, State, or Federal agency. Permits are granted other Federal agencies for fish and wildlife management, e.g., U.S. Fish and Wildlife Service; and licenses are granted to State and local agencies. Regardless of the type of outgrant, administrative procedures are the same.

b. Natural Resource Management, Operational Management Plan. This portion of the OMP sets goals and methods for management of fish, wildlife, and land resources. The Annual Management Plan will reflect the goals of the OMP.

c. Compliance Inspections. Inspections are the same as for recreation leases, paragraph 8d. For compliance inspections procedures see paragraph 11, Outgrant Compliance Inspections.

d. Coordination Procedures. The Project Manager will coordinate with the grantee as necessary during plan development stages so that a mutually acceptable plan is submitted. Plans will be routed in accordance with Chart 5. Operations Division will assess the plan as it relates to the Project Plan for Resource Use and Operational Management Plan. Real Estate Division will act on the basis of Operations Division's comments.

10. Agricultural Leases.

a. General. Agricultural use of project lands is not a project purpose (ER 1120-2-400). Agricultural outgrants are used as management tools to achieve specified objectives stated in the PPRU and OMP. Outgrant instruments will incorporate specific land management conditions in the interest of resource management.

b. Types of Agricultural Leases. Agricultural leases are awarded through competitive bidding and normally issued as follows.

(1) Agricultural Crop. Crop production can be limited as specified in individual leases which may include haying.

(2) Grazing. Land is managed solely for livestock grazing and cannot be broken for crop production.

(3) Haying. Land is managed for hay cutting and cannot be broken for crop production.

(4) Agricultural Crop/Grazing. Crop production, haying or grazing will be allowed in accordance with terms of the lease and land use regulations.

c. Priority Lease. Priority is given to former owners or tenants; the type of agriculture performed on lands prior to acquisition may be continued until the land is required for project purposes.

d. Land Use Regulations. Land use regulations shall be incorporated into all agricultural leases. The regulations will be determined for each management unit and will reflect specific conservation requirements. The management units will have been previously developed within the OMP. Land use regulations will include: map of leased area; soil and water conservation practices; required development and management practices. These regulations will be submitted for review in accordance with Chart 6.

e. Hay Contracts. Though hay contracts are not Real Estate outgrants, they are a method for disposal of hay on a short-term basis. Project Managers will develop haying plans and forward them to the Project Real Estate Office as early as possible in the spring. Operations Division will approve proposed haying plans and forward to Real Estate Division for contract development and execution. See Chart 7 for routing.

f. Compliance Inspections. Generally, inspection procedures are the same as for recreation leases, paragraph 8d. However, only ENG Forms 3131 and 3560 are utilized for reporting purposes. See paragraph 11 for Outgrant Compliance procedures.

g. Coordination Procedures. (See Charts 6 and 8).

(1) Project Office.

(a) Recommend availability of project lands for leasing, and furnish appropriate land use regulations.

(b) Annually document the accomplishments of the leasing program relative to the OMP.

(2) Operations Division.

(a) Provides guidance and assistance to the Project Offices in development of land use regulations for agricultural leases.

(b) Reviews and evaluates the project's management program pursuant to the PPRU and OMP.

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- (c) Coordinates development of the OMP, and agricultural leasing program with other District elements.
 - (d) Determines availability of project lands for agricultural use.
 - (e) Forwards land use regulations to Real Estate Division for development of appropriate outgrants.
 - (f) Conducts inspections of project lands to assess implementation of the PPRU and OMP.
- (3) Real Estate Division.
- (a) Coordinates and reviews information for invitation of bids.
 - (b) Writes and executes real estate outgrant.
 - (c) Prepares and executes hay contracts.

11. Compliance Procedures.

a. The Project Manager is the staff element most directly concerned with routine lessee performance and compliance. The Project Manager will maintain close contact with individual lessees to assist him/her, answer questions, and do whatever is reasonable and necessary to accomplish lease compliance. Significant contacts made with lessees relative to lease compliance will be recorded as "Memo to File" with copies furnished to the appropriate Real Estate Field Office.

b. In the event an individual lessee will not comply after repeated contacts with the Project Manager, the Project Manager will contact the Real Estate Field Office. This office will notify the lessee of his/her noncompliance with the lease provisions, and also notify the Project Manager and Real Estate Division to keep them apprised of corrective action requested. If unsuccessful, the Chief, Real Estate Division will correspond with the lessee by letter requiring lease compliance. If the lessee still does not comply, revocation of the lease and/or other appropriate action will be initiated by Real Estate Division.

c. The District or Real Estate field offices will supply the Project Offices with a tentative schedule for compliance inspections. A Project representative will accompany Real Estate Division personnel on these inspections, insofar as possible. The rangers charged with surveillance and inspection responsibilities in these areas (as prescribed in the Operational Management Plan), the Park Manager, the Chief of Recreation-Resources Management Branch, or the Project Manager will accompany Real Estate Division personnel. The Real

* Estate inspector will hold an exit interview with the Project Manager, if possible. If not possible, a copy of ENG Form 3560 (paragraph 8d) will be sent to the Project Office summarizing the inspections with a detailed account of noncompliance on ENG Form 3131 indicating the actions taken to secure compliance and the inspector's recommendation (Chart 4). For leases found in noncompliance, the District or Real Estate field office will send letters to lessees requiring that corrective action be taken. Letter copies will be furnished to appropriate District elements.

d. When noncompliance is found by a ranger or compliance inspector, the following procedures will be used as a guide to report and resolve the problem.

(1) Minor Violations. Problems such as poor grounds maintenance, non-rotation of salt blocks, unsanitary toilet facilities, etc., that occur infrequently which require little effort to correct, will be verbally brought to the attention of the lessee by the patrolling ranger or compliance inspector. Of all Corps elements, they are the most familiar with the management and the managers of the area and thus can tactfully advise the lessee of the violation(s). Significant conversations with lessee will be recorded as "Memos to File", and copies furnished to Operations and/or Real Estate elements.

(2) Major Violations. Problems such as safety, overgrazing, unapproved construction in progress, or discriminatory management by sex, age, or race, etc., will be handled by the ranger or compliance inspector who will verbally notify the lessee of the violation. The Project and Real Estate Field Offices will be notified of the violation. The Real Estate Field Office will send a letter to the lessee, as necessary, to obtain compliance. If the Real Estate Field Office cannot obtain compliance, the Chief, Real Estate Division will notify lessee by letter of the violation and require corrective action be taken. Real Estate will allow the lessee adequate time to comply with the lease and appropriate actions will be taken.

e. All Corps representatives who contact lessees formally or informally should strive to develop a relationship with each lessee based on mutual trust and respect. Lessees will be more receptive and more apt to comply with their leases if they trust the Corps' representative and understand the "why" behind the lease provisions.

f. An ADP printout (ENG Form 3560) is kept current on all outgrants by Real Estate Division and distributed quarterly whenever required for field inspector's use. Project Office personnel may request printouts through Operations Division.

g. Encroachments found during these inspections or in the normal course of daily activities will be reported and handled in accordance with the Missouri River Division Encroachment Handbook. Coordination will be made with the Real Estate Field and Project Offices as well as appropriate District elements.

*

* 12. Utilization Inspection. The overall outgrant management program for each project is reviewed annually as a part of a District Utilization Report and Survey. The Utilization Report is submitted to the Missouri River Division (MRD) for approval as a District report and is reviewed for consistency with Division policy and practices. A Utilization Report is prepared for each project and is a review of real property holdings for the purposes of identifying property that is not needed, underutilized, or not being put to optimum use. Some of the information necessary to complete the Utilization Report is a field survey, Compliance Inspections, Project Plan for Resources Use (PPRU) and Operational Management Plan (OMP), engineering data related to pool operations and various reports from Operations Division. Real Estate Division is responsible for coordinating with all District elements and submitting the report to MRD.

13. Summary. This memorandum provides coordination procedures for the proper and timely management of lake project lands which are outgranted to private or public entities. District elements most directly involved are Operations and Real Estate Divisions and their respective field offices. Other District elements may become involved when their functional expertise is required as part of the decision-making process. The primary goal is protection and management of public lands in such a manner as to provide a quality resource for future generations.

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FOR THE COMMANDER:

- 4 Appendices
- APP A - Policies Governing
Private Development
on Corps Lands
- APP B - Coordination Procedures
- APP C - District Oil and Gas
Policy
- * APP D - District Cottage Site
Policy


DONALD E. NEEDHAM
LTC, EN
Deputy Commander

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APPENDIX A

POLICIES GOVERNING PRIVATE DEVELOPMENT ON CORPS
WATER RESOURCE PROJECT LANDS FOR PUBLIC USE

1. Purpose. This fact sheet provides procedural guidance to personnel involved with the early coordination of proposed private development on Corps lands to be outgranted for public use.
2. Applicability. The procedures and conditions outlined below apply to all elements of the Omaha District with Civil Works responsibilities.
3. References.
 - a. ER 1130-2-400.
 - b. DM 1130-2-1.
4. General Concept. The implementation of this type of outgrant requires thorough coordination with the applicant prior to making the formal outgrant request. The applicant will be advised of the extensive internal review required and the license conditions that must be complied with. These built-in safeguards were formulated to protect against indiscriminate proliferation of private outgrants. It is the objective of the Corps to manage private development on public property in a manner to gain maximum recreational benefits for the general public.
5. Responsibilities. The Area Engineer or Project Engineer/Manager is the initial point of contact. That office is responsible for coordinating all informal inquiries and advising the applicant of policy requirements. During this preliminary contact phase it is also the Project Office's function to discuss the feasibility of the potential license as it relates to the PPRU, Lakeshore Management Plan, cultural and environmental resources, and regulatory permits. Consultation with Real Estate field office elements may also be appropriate at this time. When a plan, mutually agreeable to both the Project Office and the applicant, has been formulated and preliminary availability has been approved, the applicant will submit a formal request to Real Estate Field Office for processing through channels.
6. Basis for Participation. Applicant must agree to the following conditions to qualify for license processing:
 - a. Concur in license term of five (5) years renewable upon agreement by both parties.
 - b. Provide public road access to the site from an established public road system.

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c. Agree to provide all maintenance, including road maintenance, needed to keep facilities in accessible and operable condition.

d. The licensee assures that the access road, constructed parking area, and recreation facilities shall, at all times, be open to free and unobstructed use by the public.

e. That the licensee shall not discriminate against any person or persons because of race, creed, color, sex, or national origin in the conduct of its operations.

f. That the United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the construction, maintenance, and use of the facilities constructed by the licensee on the said premises.

g. That this license may be terminated by the licensee any time by giving to the Secretary of the Army at least ten (10) days' notice in writing; provided that, in case of such termination, no refund by the United States of any rental theretofore paid shall be made.

h. The applicant agrees to pay annually and in advance fair market value for use of project land.

i. In most cases the outgrants will require a bond in an amount to be determined by the extent of the development proposed. The bond will assure compliance with the maintenance, repair, and installation requirements of the outgrant.

7. Planning Process. To determine tentative land availability, the Area Engineer or Project Engineer/Manager will assess the proposed development plans for compatibility and compliance with:

- a. PPRU land allocations and authorized project purposes.
- b. Lakeshore Management Plan.
- c. Cultural resources surveys.
- d. Environmental considerations.
- e. Existing real estate outgrants or land restrictions.

8. Submittal.

a. When the Project Office has received the preliminary availability (See Chart 10) they will instruct the applicant to send a formal request

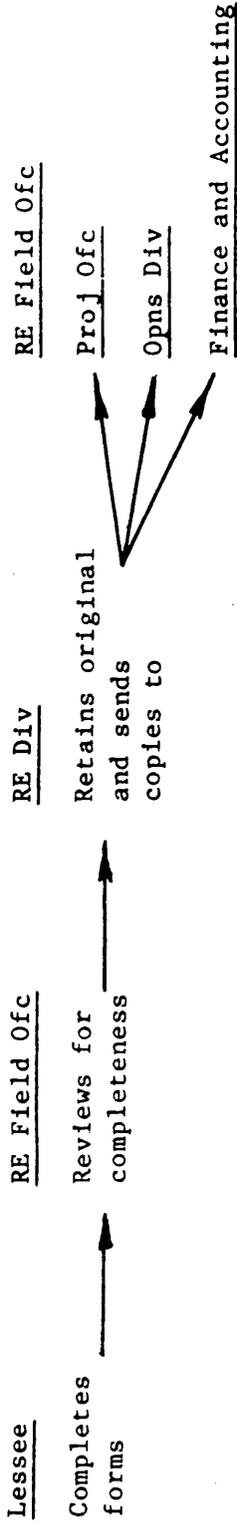
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package, including development plan, to Real Estate Field Office for staffing in accordance with Chart 9.

b. If the proposed development plan comprises an activity requiring a Section 10 and/or Section 404 permit, the outgrant proposal shall include appropriate permit applications and environmental data forms. No final action will be taken to issue a permit until the real estate outgrant is completed.

9. Cost-Share (Code 710) Alternative. Where an applicant is unable to meet all of the conditions in paragraph 6 above, private parties should be encouraged to work through local governmental entities to cost-share recreation facility development. Under the Federal Water Recreation Act of 1965 (P.L. 89-72), as amended, cost-sharing sponsors agree to provide 50 percent of the facility cost and assume all cost for managing recreation.

Coordination Procedure for MRO 985, Annual Statement of Receipts and Expenditures



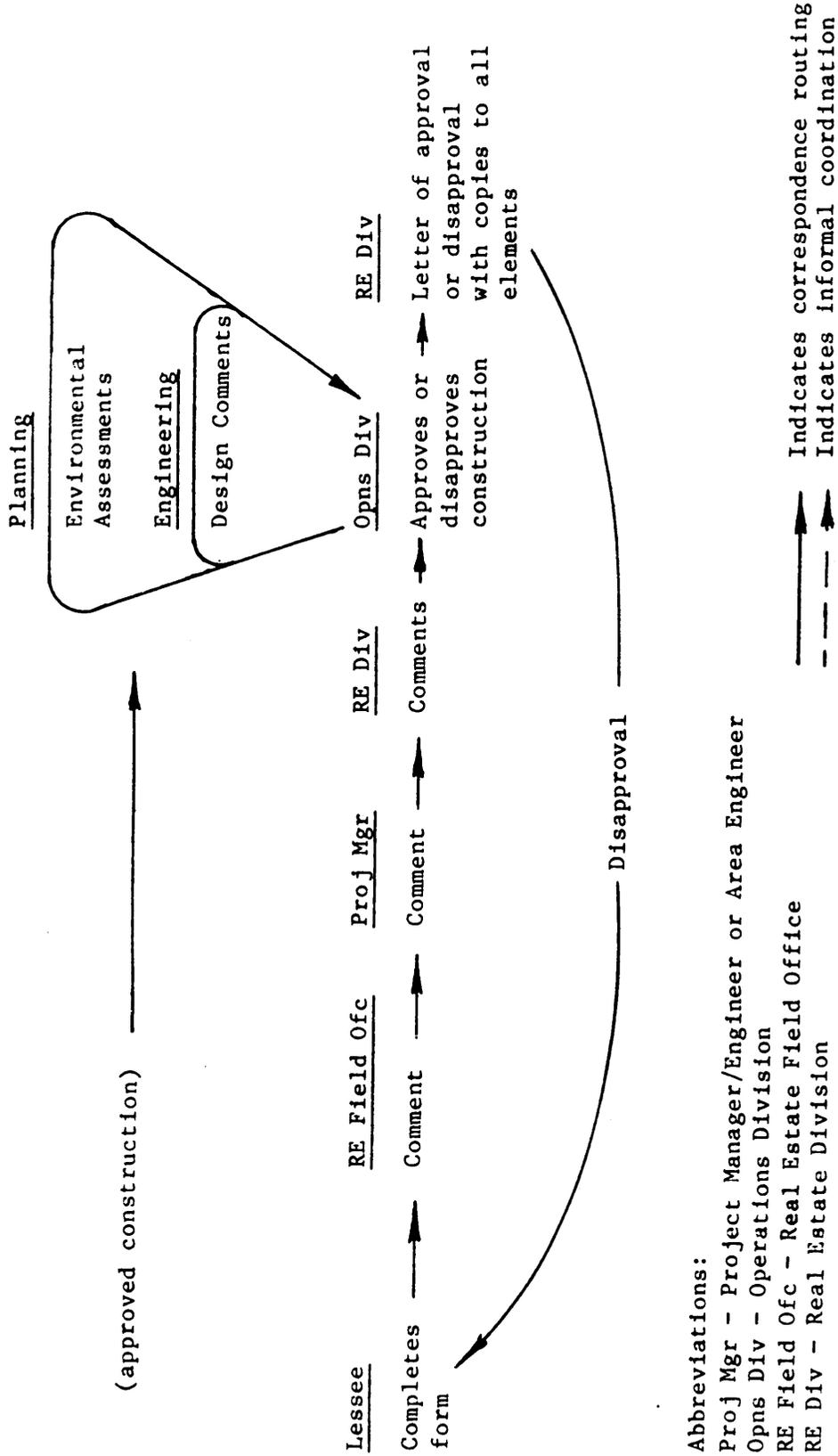
Abbreviations:

- Proj Ofc - Project Manager/Engineer or Area Engineer
- Opns Div - Operations Division
- RE Field Ofc - Project Real Estate Field Office
- RE Div - Real Estate Division

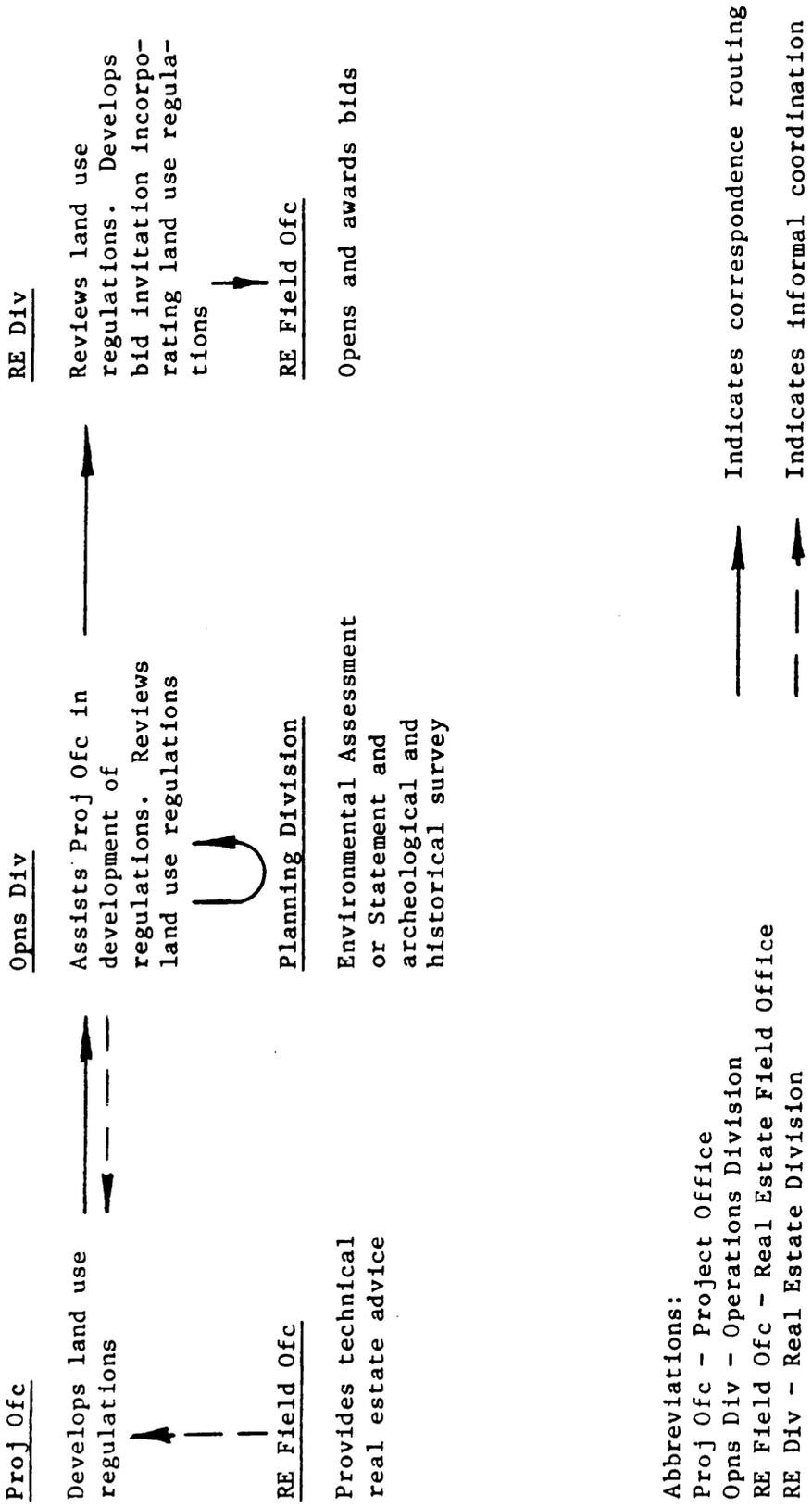
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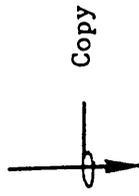
MRO 1251, Construction Details and All Other Construction Plans



Land Use Regulations for Agricultural Leases



Hay Contracts



RE Div

Abbreviations:

- Proj Ofc - Project Office
- Opns Div - Operations Division
- RE Field Ofc - Real Estate Field Office
- RE Div - Real Estate Division

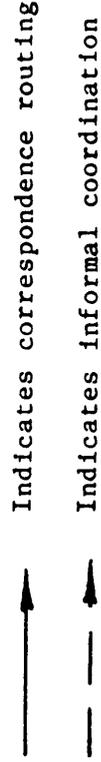
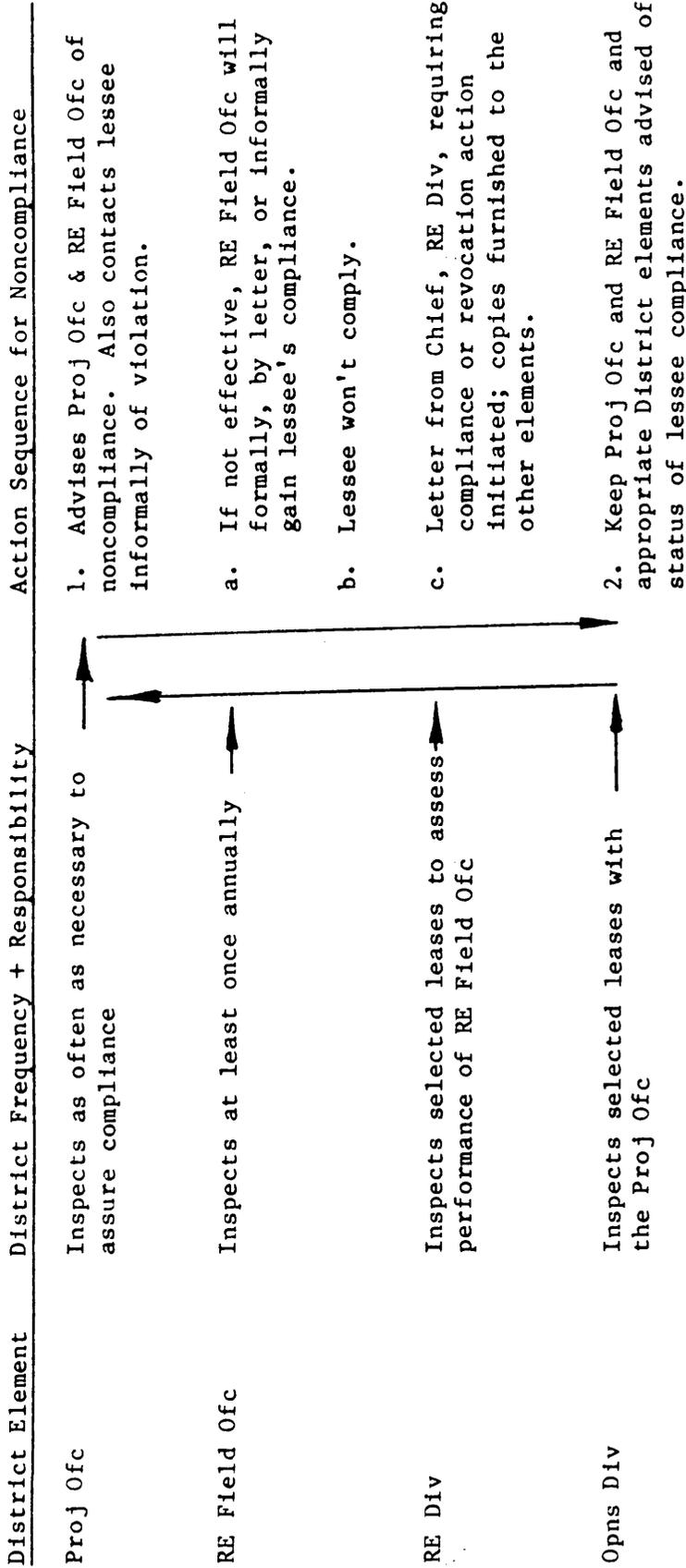


Chart 7

Agricultural Outgrant Compliance Procedures



Abbreviations:

Proj Ofc - Project Office

Opns Div - Operations Division

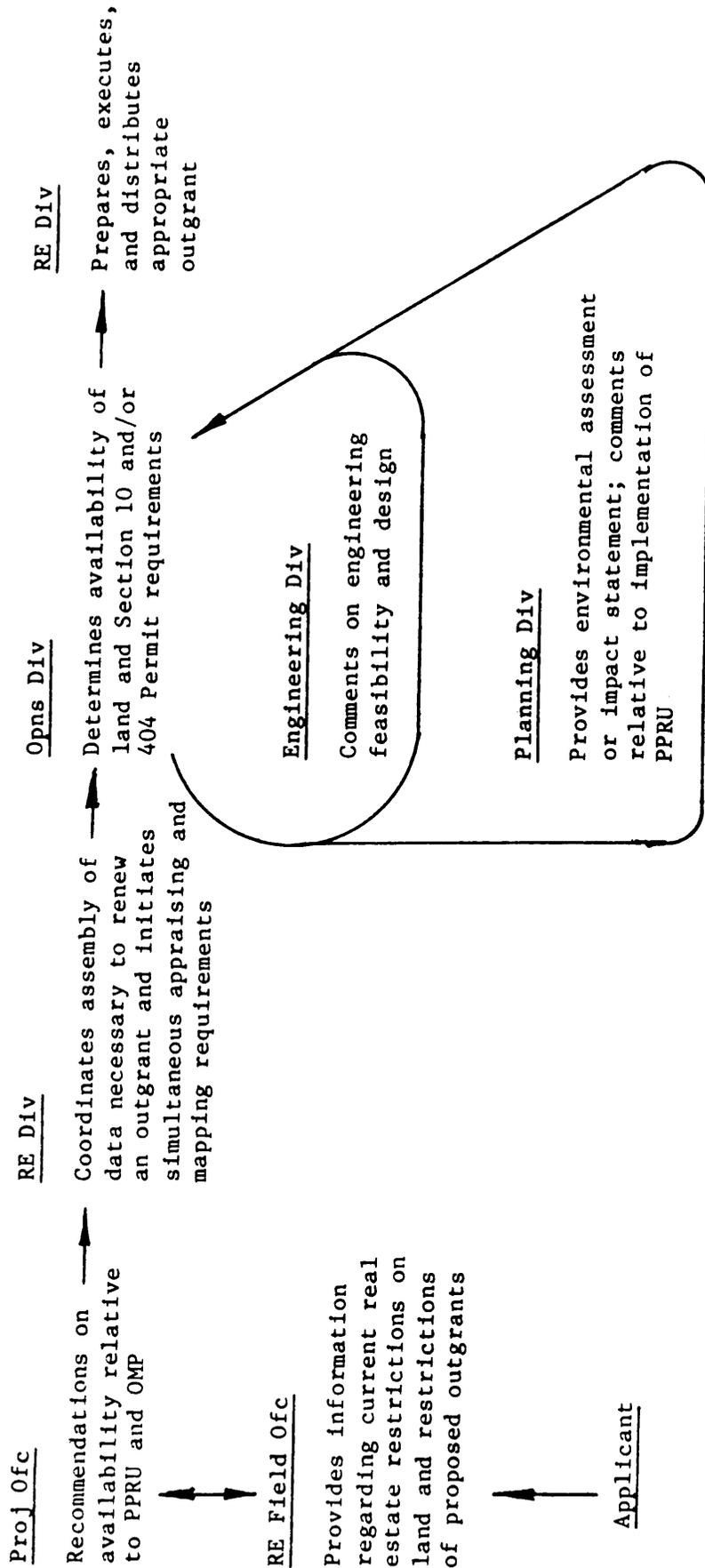
RE Field Ofc - Real Estate Field Office

RE Div - Real Estate Division

—————> Indicates correspondence routing

- - - - -> Indicates informal coordination

Procedure for Determining Availability of
Project Lands for Real Estate Outgrant Renewals



Abbreviations:
 Proj Ofc - Project Office
 Opns Div - Operations Division
 RE Field Ofc - Real Estate Field Office
 RE Div - Real Estate Division

—————> Indicates correspondence routing
 - - - - -> Indicates informal coordination

New Availabilities

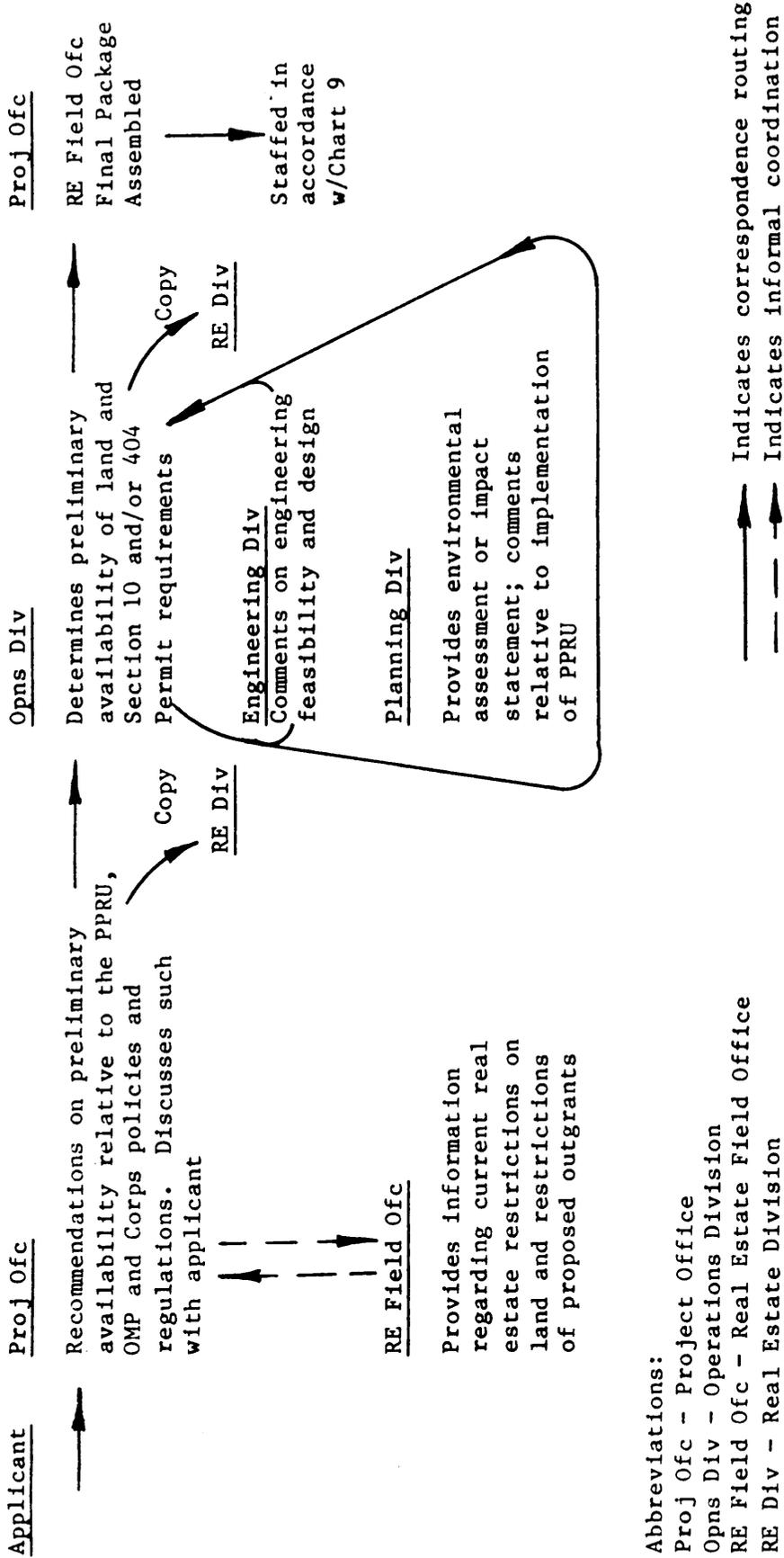


Chart 10

APPENDIX C
DISTRICT OIL AND GAS POLICY

- * 1. Purpose. The purpose of this Appendix is to establish a policy for oil and gas development on District civil works projects. Adequate guidance is readily available in references cited below for the development of Government-owned leasable minerals underlying lands controlled by the Department of Defense (DOD). This guidance is summarized in paragraph 4. However, there is a necessity for guidance which specifically addresses reserved minerals underlying DOD-controlled lands. This appendix promulgates a District policy addressing this situation.
2. Applicability. All District civil works projects.
3. References.
- a. DOD Directive 4700.3, Mineral Exploration and Extraction on DOD Lands.
 - b. AR 405-30, Mineral Exploration and Extraction.
 - c. 43 CFR 3160, Oil and Gas Operations - General.
 - d. DOI/DOD Memorandum of Understanding for the Onshore Oil and Gas Geothermal Program (43 CFR Parts 3000, 3100, 3200), January 1984.
 - e. ER 405-1-12, paragraphs 8-24, 8-35, and 8-63.
 - f. Mineral Leasing Act of 25 February 1920, as amended (30 U.S.C. 181 et seq.)
 - g. Mineral Leasing Act for Acquired Lands of 7 August 1947 (30 U.S.C. 352 et seq.)
4. Federally-Owned Minerals on District Civil Works Projects.
- a. Leasing.
 - (1) Army Minerals Policy. It is the policy of the Department of the Army to make the maximum amount of land available for mineral leasing as is consistent and compatible with military operations, national defense activities, and Corps of Engineers (COE) civil works requirements.
 - (2) Administration. Federal mineral leases are granted and administered by the Department of Interior (DOI) through the Bureau of Land Management (BLM). Although federally-owned minerals are under the administrative jurisdiction of BLM, consent from the surface managing agency must be obtained prior to granting a lease. A 1984 Memorandum of Understanding between DOD and DOI establishes coordination procedures and responsibilities for each agency. DOD's responsibility has been delegated to the District Engineer (DE).

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* (3) Procedure. BLM will notify the District which tracts are being considered for leasing through Title Report Requests. The District will provide site-specific tract information, verify or correct BLM's title information, provide cultural resource information, and determine surface availability. BLM will include a set of standard land use stipulations (Figure 1-4) with all leases involving COE controlled surfaces. Additional stipulations, if justifiable, may be included to protect project resources. For example, it may be necessary to restrict time of operations, prohibit surface occupancy of certain acreages within the lease, or control access routes. Stipulations may apply to geophysical exploration as well as oil and gas operations. An opportunity to comment on extraction procedures will be provided after it has been determined to drill a well.

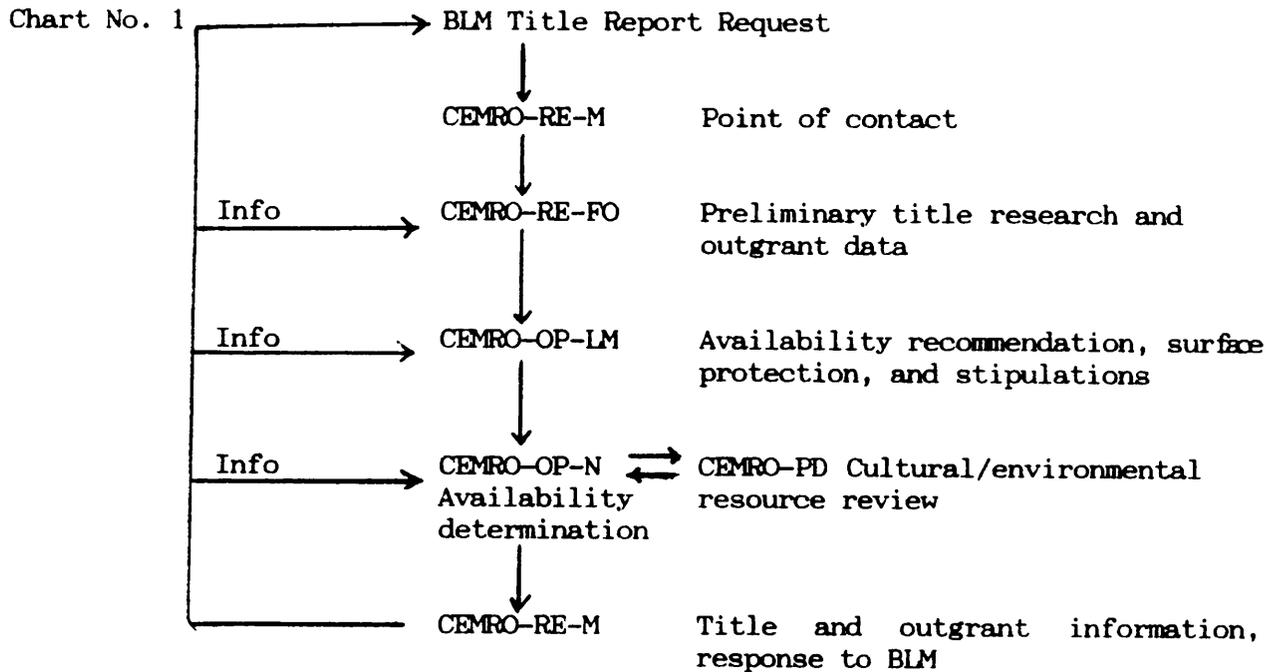
(4) District Policy. The District will respond to BLM's Title Report Request with site-specific concerns. Stipulations will be clearly written so that potential mineral lessees are made aware of all surface use restrictions which apply to the particular lease. Stipulations should not repeat the standard conditions attached to the BLM lease.

(5) Denial of Leasing. Denial of the District's consent to leasing is in conflict with the Department of the Army's leasing policy. It is possible to deny surface occupancy (with justification) and still make the minerals available for leasing through directional (angled) drilling from a nearby suitable location. Withholding of consent to lease is elevated to the Secretariat level, with final authority vested in the Assistant Secretary of the Army (Installations and Logistics).

(6) Staffing. See Chart No. 1 below. Turnover time between offices should be held to a maximum of 10 working days.

Note: Throughout this appendix, CEMRO-RE-FO refers to the Real Estate Division field office, and CEMRO-OP-LM refers to the Lake Manager's office.

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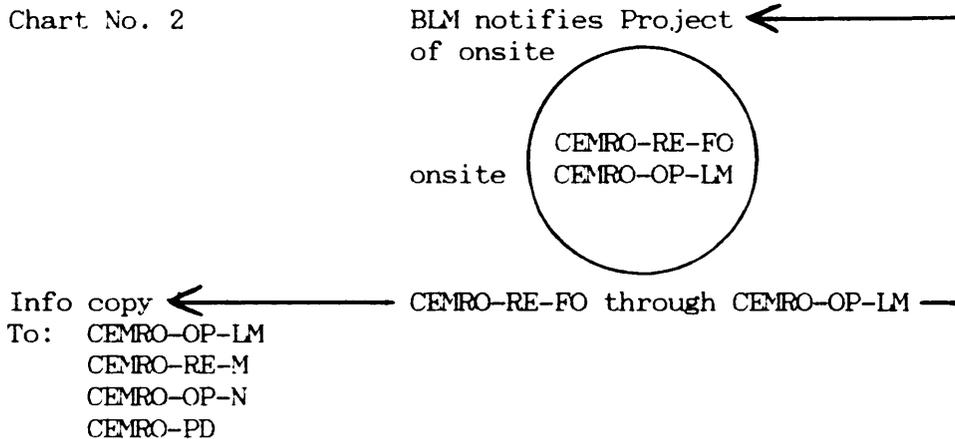
b. Lease Development/Extraction.

(1) On-Site. The District's role is confined to providing comments to BLM, which is responsible for monitoring development of Federal minerals. Comments will be provided directly to the BLM by field elements within 7 working days of the onsite. Comments will include a request that BLM provide the Corps (CEMRO-OP-N, copies to be distributed) a copy of both the environmental assessment and the approving instrument. The meeting will be attended by BLM and Corps personnel, Corps lessee, if appropriate, the mineral lessee, and/or his operator. BLM approval of the Application for Permit to Drill (APD) will incorporate Corps comments. Successive leasehold developments will be accomplished through sundry notice approval based in part on Corps comments.

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- * (2) Staffing. See Chart 2 below. Field elements will coordinate with the District (CEMRO-OP-N) through electronic mail prior to submitting comments to BLM.

Chart No. 2



- (3) Monitoring. Field elements will monitor drilling and production activities as necessary. Problems observed should be brought to the attention of the BLM point of contact.

c. Abandonment.

(1) Procedure. The lessee must obtain BLM approval to abandon a location. BLM will not approve abandonment until the District indicates site reclamation is satisfactory. BLM will notify the District of a lessee's intention to abandon a location. CEMRO-OP-LM will develop reclamation standards and monitor reclamation through completion. On location, meetings with the lessee's rehabilitation contractor will be conducted by CEMRO-OP-LM as necessary. Memorandum For Record (MFR) documentation should be used to track these meetings and reclamation progress. Upon determination of satisfactory reclamation, the Project will provide written notification to BLM of the same, with information copies going to CEMRO-RE-FO, CEMRO-RE-M, and CEMRO-OP-N.

5. Reserved Minerals Underlying Federal Surface.

a. Background. Mineral interests were not always purchased when land was acquired for some civil works projects. By purchasing less than fee simple title, the Government has indicated that control of the mineral estate is not requisite to the operation of the reservoir. Where a split estate does occur, the Government is obliged to allow the mineral holder use of the surface of the land in such ways and at such locations as may be reasonably necessary to develop his minerals, or the Government must be willing to pay fair market value to extinguish this interest through acquisition or Subordination Agreements. (Subordination Agreements do presently exist for a limited number of tracts at

*

Garrison. When a proposal is received, acquisition data must be evaluated to determine if a Subordination Agreement exists which could preclude mineral development.) This obligation is a result of the law's treatment of the mineral interest as the dominant estate and the surface of the land as being subservient to the mineral holder's right to use it.

b. District Responsibilities. Unlike the situation described in paragraph 4, BLM does not have regulatory jurisdiction because the Federal Government does not own the minerals. A state agency (example: North Dakota Industrial Commission) will have regulatory responsibility for monitoring drilling activity and procedures. The mineral owner and/or his operator must coordinate with the District to use the federally-controlled surface. As described in paragraph 5a, the mineral owner's "right" to use the surface already exists. The District, however, is responsible for protection of Government interests in the use of surface and near-surface lands and waters. The District will protect these interests with stipulations incorporated into a Letter Grant which serves as the permitting instrument. Stipulations may not make an otherwise economical project uneconomical. In the absence of a Subordination Agreement, the District cannot categorically deny reserved mineral development. However, a project can be denied if it conflicts with Federal statutory requirements (e.g., The National Historic Preservation Act, 16 U.S.C. 470 et. seq.; The Endangered Species Act, 16 U.S.C. 1531 et seq.; or The Clean Water Act, 33 U.S.C. 1251 et. seq.)

c. Surface Availability/Application Package.

(1) Preliminary Contact. Inquiries concerning surface availability will be directed to CEMRO-RE-FO. CEMRO-RE-FO will notify CEMRO-OP-LM that a new well location is being considered, as well as request the proponent contact the Lake Manager prior to entering Government land for survey purposes. CEMRO-RE-FO will provide the following information to the proponent:

(a) A letter detailing information to be included in the application package.

(b) Contacts to be made in scheduling a predrill on-site and the requirement to prepare a site reclamation plan for discussion at the onsite.

(c) "Guidelines for Preparing a Surface Use Program," as taken from Onshore Oil and Gas Order No. 1.

(d) Appropriate offices to receive a copy of the application package: CEMRO-RE-FO and CEMRO-RE-M.

(e) If a bottomland location is proposed, an outline of the District's diking policy (see 5g(10)(k)) will be provided to the proponent.

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- * (2) Application Package. The application package submitted by the oil company will provide the following information:
- (a) Applicable state permits, including bonding in the event of claims.
 - (b) A cultural resources review, including the results of both a literature search and a pedestrian survey (or reference to a previous survey of the area) performed by an accredited archeologist for all land in question.
 - (c) The name and phone numbers of responsible point of contact in the main office and field locations.
 - (d) An Application for Permit to Drill (U.S. Department of Interior Form 3160-3) with appropriate exhibits to include, but not limited to:
 - Survey plat of proposed well location, including preconstruction elevation at the bore hole.
 - A 7.5 min quadrangle (1:24,000 scale) showing the well location, prepared access routes (including drainage structures) and source(s) of fresh water.
 - Cut and fill diagrams for the proposed pad and new access roads.
 - A scale map of the proposed well site layout, as well as a map detailing pad reduction, elevation, and facility locations, etc., if a well is made. North should be indicated.
 - A Multi-Point Drilling Plan, as contained in Onshore Oil and Gas Order No. 1, with detailed description of blowout and spill protection, as well as contingency plans for both.
 - A Multi-Point Surface Use and Operations Plan, as taken from Order No. 1.
 - (e) A contingency plan for shutting in the well in the event of a flood (bottomland locations only). Include names of responsible parties, time-frames, procedures, and method of monitoring river levels during the spring flood season.
 - (f) A report of any "hazardous materials," as defined by OSHA (e.g., chromate additives to drilling fluids) that will be used during any phase of the operation. If none are to be used, this should be indicated. The District will be notified in writing prior to the use of any hazardous material not included in the original report.

*

* d. On-site Meeting. A mandatory on-site meeting will be scheduled at the earliest convenience of all parties involved. The District will not review the application package until after an on-site takes place. It is the responsibility of the proponent to schedule the meeting and ensure all parties are contacted.

(1) Necessary Preparations. Before the on-site is held the proponent will have the location surveyed. The bore hole will be clearly identified, as well as pad corners, reserve pit location, and center line of any proposed lease roads. Surface elevation at the bore hole will be indicated on the center stake on bottomland locations. It is not necessary to have a completed application package at this time. However, the proponent will be directed to prepare a reclamation outline (site-specific practices and time tables) for discussion during the onsite.

(2) Necessary Attendance. Those attending the onsite will include: the Corp's representative(s); proponent's representative(s); Government lessee, if appropriate; and prospective dirt contractors.

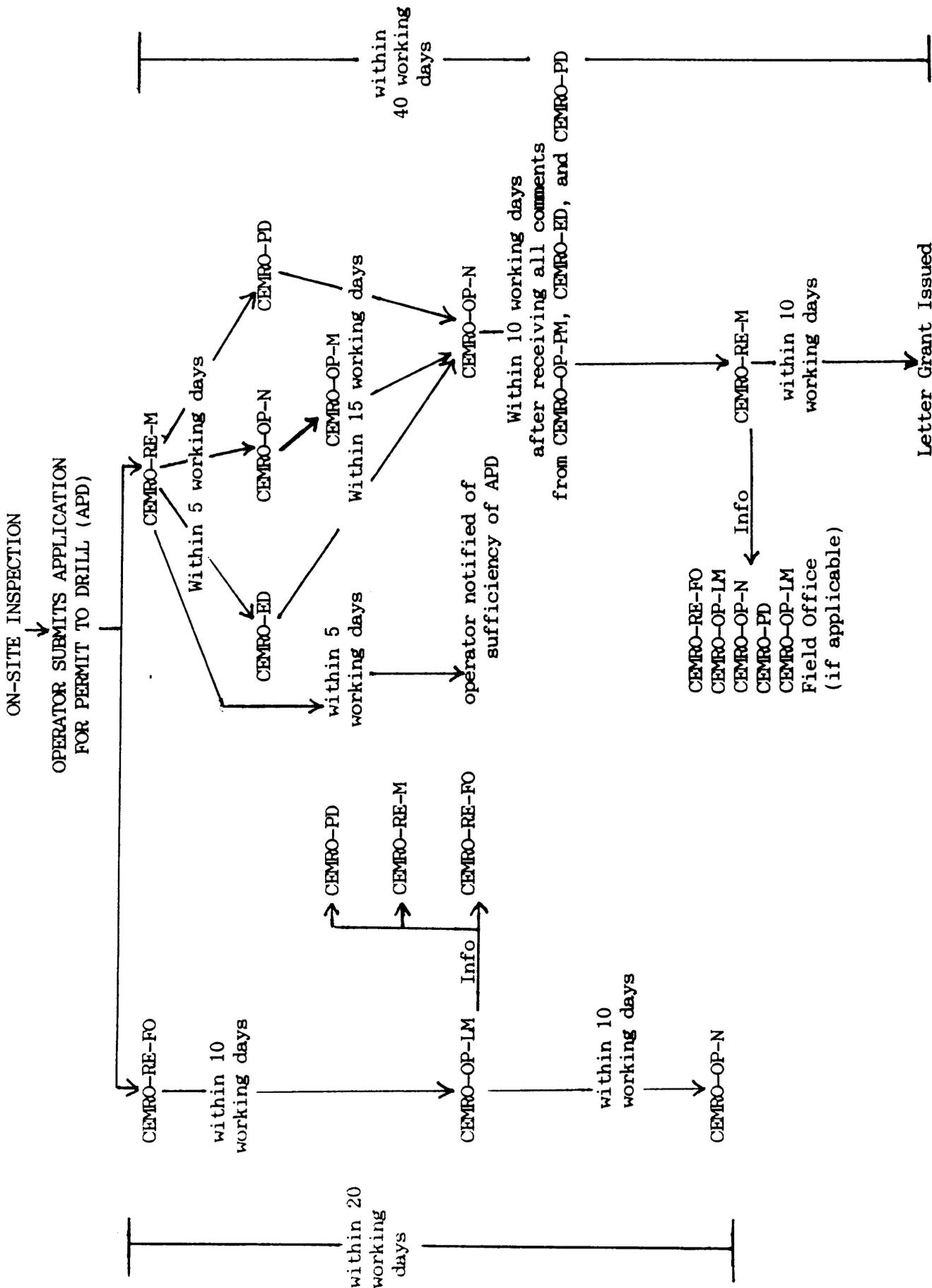
(3) Purpose. The on-site will provide an opportunity to view the proposed location, review District policy, answer questions, identify reclamation requirements, and make necessary site layout modifications with the proponent. Projected flood elevations will be discussed if relevant. Environmental features and any off-location damage from the survey will be noted. CEMRO-OP-LM will chronicle the discussion and subsequent resolutions in a MFR. The MFR and location photographs will be included in CEMRO-OP-LM's comments on the application package.

e. Staffing. Oil company submittals will be staffed for review as shown on Chart No. 3.

f. Conflict Resolution. Any item of disagreement with conditions set forth at the on-site or in the District Oil and Gas Policy must be resolved prior to issuing a letter grant. The District review element negotiating with the proponent will chronicle all discussions and resolutions in an MFR to be attached to the correspondence chain. Any element involved in the review process may impose additional stipulations. CEMRO-OP-N will discuss any stipulations imposed during the review process with the proponent prior to submitting final comments to CEMRO-RE-M. Items of disagreement will be resolved in the manner described above prior to final availability determination.

g. Drilling and Production Policy. Outlined below is District policy as applied to drilling and production activities.

*



LETTER GRANTS
 OIL/GAS DRILLING REQUESTS

• (1) Planned Access Roads.

(a) Road location, design, and construction will require efforts to protect the environment. This includes minimal clearing and disposal of vegetation, least practicable amount of excavation, erosion control during and after road construction, protection of natural and developed drainages, and other efforts as required.

(b) CEMRO-OP-LM can require that any access road designated by the Project for public access be upgraded to minimum standards set forth by the state highway department.

(c) Turnouts may be required by CEMRO-OP-LM on single lane roads greater than .5 miles in length on any road designated for public access.

(d) On any road designated for public access, the maximum size of pit run scoria will be 4 inches and the maximum size of pit run aggregate will be 3 inches.

(e) Surfacing material must remain confined to the road bed. CEMRO-OP-LM can require that any side cast material be removed.

(f) A 3-inch gravel top dressing can be required for all access roads and the production pad.

(g) Only one access road will be allowed. Once constructed, the location of the road will not be changed.

(h) CEMRO-OP-LM can require improvements be made immediately to any new or existing project roads damaged by drilling or production activities. Dust control measures are included in this provision.

(i) If roads are to be constructed in a floodway, they should not be built any higher than the adjacent flood plain so a flood obstruction is not created.

(2) Location and Type of Water Supply.

(a) The location of fresh water supplies must be indicated in the application package. Locations on project land must be approved by CEMRO-OP-LM.

(b) Freshwater may be obtained by placing a temporary line from project waters to the location. Intake placement and route of the aboveground line will be approved by CEMRO-OP-LM. A permit pursuant to Section 10 of the Rivers and Harbors Act will be required if construction activities take place below the normal high water line of a river channel, or the normal operation •

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- * pool of the reservoir, and involve placement of structures, alter flow configurations, or otherwise impede navigation. A permit pursuant to Section 404 of the Clean Water Act will be required if construction activities involve placement of fill or dredge material into rivers, streams, lakes, or other wetlands (whether permanent or temporary).

(3) Construction Materials.

(a) All construction material will be obtained from a source free of noxious weeds.

(b) Construction material will be obtained from a private source. CEMRO-OP-LM may allow use of project construction materials if a project purpose is fulfilled in doing so.

(4) Methods of Handling Waste Disposal.

(a) Reserve pits on District lands will be lined with an industrial strength impervious liner of at least 12 mils thickness and 140 psi burst strength. Locations on bottomland sites are required to have a liner of at least 20 mils thickness and 200 psi burst strength. The heavier liner is also required on upland locations built on sand or gravel.

(b) All reserve pits will be lined even if the pit is designated for freshwater drilling only.

(c) The reserve pit bottom will be no closer than 1 foot to the maximum water table elevation anticipated during pit operation. On bottomland locations a test hole will be dug at the center of the reserve pit 24 hours prior to pit excavation. Before the pit is excavated, CEMRO-OP-LM's representative must be afforded an opportunity to observe the water level in the test hole. The test hole will disturb a minimum amount of ground.

(d) The entire capacity of the pit will be below the as-built surface.

(e) Uncontaminated cuttings from freshwater drilling may be incorporated into the pad material.

(f) All fluids and cuttings contaminated by noxious fluids will be properly disposed of off Government land. This requirement includes the pit liner. CEMRO-OP-LM may allow on-location disposal by trenching on upland locations if it is determined migration will not occur. There will be no exceptions on bottomlands. Before trenching is allowed, a pit sample will be analyzed by a qualified independent laboratory for the presence of organics, salts, and heavy metals. Results will be made available to CEMRO-OP-LM and CEMRO-OP-N.

* (g) The pit will be fenced and flagged on three sides during drilling. A good three strand wire fence is the minimum required. Upon drilling completion, the fourth side will be fenced and remain so until reclaimed.

(h) The liner and all fluids and deposits in the reserve pit will be removed from bottomland locations by 1 March if CEMRO-OP-LM feels a location is subject to spring flooding.

(i) All sewage will be collected in chemical toilets and removed from Government land.

(j) Absolutely no garbage will be placed in the reserve pit. Trash will be placed in appropriate containers or trash/burn pits. All unburned trash will be removed from Government land upon completion of drilling. Pits will be covered with wire mesh at all times while in use. Pits will be backfilled upon completion of drilling.

(5) Well Site Locations. As discussed in 5a and 5b above, the Corps has limited discretion in precluding development of reserved minerals. However, since some lands have a greater resource value, and since it is possible to move well locations (within restrictions imposed by petroleum reservoir geology and state spacing requirements), or directionally drill from adjacent lands, certain areas should be avoided, if possible. If an impasse is reached on the location of a site, it will be necessary to evaluate the District's position in light of statutory authority and legal precedent. It is incumbent upon field and District personnel to be flexible and innovative in discovering and presenting acceptable alternatives to unsuitable locations. The following list, while not all-inclusive, describes areas in which drilling should be discouraged or avoided, if possible.

(a) Any elevation below the normal operating pool of the reservoir or below the high water line of river channels. Regulatory permits must be obtained for any construction work below these elevations.

(b) Below dam tail water elevations for full powerhouse discharge under ice-affected conditions.

(c) Wetlands (as determined by CEMRO-OP-R).

(d) High Intensity Recreation Areas, Project Operations Areas, and Natural Areas, as defined by the Project Master Plan.

(e) Within 2,000 feet of a major structure or 500 feet of a minor structure (as defined by CEMRO-OP-M).

(f) In areas that disturb the habitat of a threatened or endangered (state or federally listed) plant or animal species.

- * (g) Any location within a 100-year floodway.
- (h) Any location with known cultural resource sites.
- (i) In areas with valuable woody vegetation.
- (j) Badlands or other areas with steep (>30%) slopes.
- (k) Within 500 feet of permanent water or a major drainage.

(6) Time of Operation. CEMRO-OP-LM may restrict drilling activity that coincides with spring ice breakup on flood plain locations as reserve pits are a potential source of pollution during flood events. CEMRO-OP-LM may also delay drilling activities to mitigate wildlife or recreation conflicts. Delays will not be possible if the proponent's mineral lease is near expiration. If this claim is made, the proponent should be able to provide documentation supporting it.

(7) Well Site Layout and Construction.

(a) Topsoil will be stripped to a depth specified at the on-site and stockpiled. This applies to lease roads also.

(b) When fragile soils, frozen ground conditions, or a near surface water table exists, it may be necessary to require a location and corresponding lease road be built on a textile construction liner. Vegetation will be stripped at the ground surface and the liner laid directly over the prepared surface. The site will be developed with construction material obtained off Government land. Cut and fill will be held to the absolute minimum. CEMRO-OP-LM can still require that stripping of topsoil be attempted during pit excavation.

(c) CEMRO-OP-LM can allow deferment of road and pad upgrading (i.e., build pad up to final elevation, graveling, etc.) until after the hole is determined to be a producer. The topsoil resource will be protected from degradation at all times, however.

(d) Subsurface material from pit excavation will be stockpiled and kept free of contaminants. Said material will not be used for construction purposes.

(e) Saltwater storage tanks and test tanks will be located so that any leakage drains into the reserve pit. Tanks will not be placed on soil stockpiles.

(f) Drill sites will be constructed so as to drain internally into the reserve pit. During drilling the location will be protected so that spilled oil, brine, and other noxious fluids will not migrate off location.

(g) CEMRO-OP-LM will be immediately notified of any spilled hydrocarbon or other noxious fluid. The proponent will immediately begin cleanup operations and remove the spilled fluid and any contaminated soil from the site. Disposal will be at an approved location off Corps lands.

(h) If surface flow from slopes above the location will cause erosion on the area disturbed by construction, contour trenches will be built to divert this flow around the location. Contour trenches will also be constructed if construction fill is placed in a natural drainage.

(i) Off location ancillary facilities are to be discouraged. The proponent must demonstrate the absolute necessity of such facilities before additional land will be made available.

(8) Notification Points. The proponent will notify CEMRO-OP-LM at the following check points during drilling/reclamation activities:

- (a) One working day prior to commencement of pad construction.
- (b) One working day prior to spreading.
- (c) Upon completion of drilling activities.
- (d) When the reserve pit has been emptied, prior to backfilling.

(9) Reclamation.

(a) Reclamation details may be agreed to at the on-site and recorded in the MFR, or determined after a well has been made (or a dry hole is declared), with a separate MFR recorded at this time. If the latter course is followed, a general outline of reclamation requirements will be made during the on-site.

(b) Reclamation plans will address removal of excess construction fill, recontouring, tree and shrub replacement, seed bed preparation, seed mixtures, erosion control measures, soil amendments, etc. The proponent will be made aware that satisfactory reclamation entails successful implementation of all required measures.

(c) If a well is made, that portion of the drill pad not needed for production will be reclaimed within 1 year of the spudding date. Depending on the time of year the well is completed and the complexity of the restoration

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* program, it may be reasonable to extend the 1-year deadline so as to include two growing seasons, allow additional time for settling, etc. As stated in paragraph 5g(4)(h), reserve pits will be emptied by 1 March at locations prone to flooding. CEMRO-OP-LM will approve pit cleanup before it is backfilled.

(d) If the hole is dry the entire location will be reclaimed within 1 year of the spudding date. Lease roads compatible with project management may remain in place, otherwise they will be reclaimed.

(e) If a well is made, the topsoil stockpile reserved for reclamation of production facilities will be seeded per CEMRO-OP-LM's recommendations to prevent erosion.

(f) All construction material that is no longer needed will be removed from Government land. Unneeded material may be used to elevate production equipment or construct a location dike if this is required.

(g) CEMRO-OP-LM will require woody vegetation be reestablished if any is lost during any phase of the operation. Reestablishment will be at a 1:1 ratio (area or individual basis), however, this may require significantly higher planting ratios. Successful establishment will be considered a 5-year survival period. In order to commence with reestablishment prior to the end of the well's life, woody vegetation reestablishment may be concentrated on that portion of the pad not required for production. If a suitable location exists nearby, CEMRO-OP-LM (through CEMRO-OP-N) may make this land available for any additional woody vegetation reestablishment still required. This will, however, make CEMRO-OP-LM responsible for future revegetation of the production pad at an area for area ratio when the well site is reclaimed.

(10) Production Facilities.

(a) Producing wells will be signed in a conspicuous location detailing the name of the operator, well name, and surveyed location.

(b) The oil company is responsible for controlling weeds on lease roads and all production facilities to the satisfaction of CEMRO-OP-LM.

(c) CEMRO-OP-N will be immediately notified of any spilled hydrocarbon or other noxious fluid. The proponent will immediately begin cleanup operations and remove the spilled fluid and any contaminated soil from the site. Disposal will be at an approved location off Corps lands.

(d) As is practicable, tank batteries will be placed on cut portions of cut and fill operations.

* (e) Construction material for battery/treater/location dikes will be obtained off Government land. Construction materials for dikes shall ensure impermeability.

(f) Tank batteries will be diked to 150 percent of capacity.

(g) The distal end of load (sales) lines will terminate inside battery dikes until such time that the entire location is diked.

(h) The lines between the treater and battery will either be diked or buried.

(i) The treater will be diked.

(j) The ground surface will be ripped prior to dike construction when frozen ground conditions exist.

(k) Production locations below the maximum flood pool elevation or the 100-year flood elevation in riverine backwaters will need to be protected from flood conditions. Any facilities and/or equipment which can be damaged by floodwaters, or which may be a source of water pollution, and which cannot be readily moved, will be protected. Protection is required for an elevation equal to the maximum flood pool or 100-year flood elevation, whichever applies, plus freeboard of wind setup and wave runup computed according to ETL 1110-2-221 for a 1-year, 1-hour duration wind. The standard method of protection will be to increase the pad elevation with construction fill and/or construction of earthen dikes. Dikes must be continuous around the entire location. Construction material will be obtained off Government land. The dike will consist of compacted earth (90-percent compaction) and have a maximum slope of 2:1. Pad buildup/diking will occur prior to the ensuing flood season. If a location dike is constructed prior to dikes detailed in (e), (h), and (i) above, these dikes are no longer required. Adequacy of facility and resource protection must be demonstrated by the proponent if alternative flood proofing methodology is proposed.

(l) All free flowing wells on bottomland locations will be equipped with a manual device to shut in the well at the tubing head.

(m) The District may require additional measures to protect well heads if the area is subject to ice flows. Removable pipe barriers anchored in larger diameter pipe is an example of the type of protection that may be required.

(n) All production equipment will be the same flat earthtone color.

(o) CEMRO-OP-LM can require fencing and/or gates to control public access on lease roads where such access is undesirable from a project management standpoint.

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(p) CEMRO-OP-LM will require an electric motor be used on pumped wells in areas with significant recreation or wildlife values if electricity is reasonably available. Electric lines will be buried. Use of electric pumps should be agreed to at the on-site. Line routes can be agreed to at this time or after a well is made. Pumped wells will be electrically powered within 6 months of well completion. The proponent will be responsible for contacting the electricity supplier. The electricity supplier will be responsible for securing necessary real estate instruments.

(q) In wildlife management and recreation areas, hydrocarbons will be removed via pipeline if a main trunk line serves the field being produced and the product is of a nature that allows pipeline transport. The proponent will have 1 year from commencement of production to get the location on line. The pipeline company will discuss routes with CEMRO-OP-LM and obtain necessary real estate instruments.

(r) A Murphy Switch will be installed on all pumped wells to kill the pump if line pressure to the treater either drops or builds to excessive levels.

(11) Brine Water Disposal Wells. This type of facility will not be located on District lands.

h. Damages. In most cases, CEMRO-RE-FO will calculate damages to any affected Government lessee and direct the proponent to make compensation on that basis. If state law precludes this option, CEMRO-RE-FO will advise the proponent to negotiate and settle damages directly with the Government lessee. In both cases the proponent must provide evidence that compensation for damages has been satisfied.

i. Inspections. CEMRO-OP-LM and CEMRO-RE-FO will coordinate inspections of the drilling and production operations to determine if the terms of the letter grant are being upheld. Pad construction, drilling, production startup and reclamation will all require close scrutiny. Items of noncompliance will be documented in an MFR. Informal communication at the field level should be used to resolve any discrepancies noted. Items of noncompliance that cannot be resolved in the field should be elevated to CEMRO-OP-N/CEMRO-RE-M.

6. Indian Minerals. Temporarily reserved (seeking guidance from Headquarters, USACE).

7. Flowage Easements. Drilling activity on flowage easement land requires Corps approval in the form of a consent to easement. The flowage easement interest acquired by the Government is limited and generally provides as follows:

• "A perpetual right and easement to occasionally overflow, flood and submerge the land as described. . . , subject to existing easements . . . , reserving, however, to the owners of the described lands all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby taken; provided that no structure for human habitation shall be constructed or maintained on the described lands and provided further, that with respect to said described lands, the written consent of the representative of the United States in charge shall be obtained for the type and location of any structure and/or appurtenances thereto now existing or to be erected or constructed in connection with said reserved rights and privileges."

Recognizing the Government's restricted interest in these lands, District concerns should be limited to protection of the lake and adjoining Government property from pollution.

8. Geophysical Exploration. Geophysical exploration is the common method of exploring for an oil-bearing formation. This process involves recording artificially generated seismic waves as they "bounce" off various geologic strata. These waves are generated by various methods at periodic intervals along predetermined lines. The artificial seismic waves are most commonly created using explosives or specially adapted machinery which vibrates the ground. Programs that enlist the use of explosives do so by: (1) placing charges in shallow holes ("shot holes") drilled 25 to 50 feet in depth through soil horizons and unconsolidated overburden, (2) suspending charges 3 to 4 feet above ground on wood lath, and (3) laying charges in direct contact with the ground's surface (generally a specially designed cord incorporating evenly spaced charges called "primacord"). The unconsolidated materials comprising the overburden and soil horizons can distort or otherwise affect accuracy. For this reason, of the three methods, "shot holes" are generally preferred among geophysical companies. The latter alternative referred to as "vibroiseis" enlists the use of a truck or piece of other large equipment possessing a large gross vehicle weight and a specially adapted foot. When in use, the vehicle's weight is displaced from the tires to the foot which is then activated in a manner that shakes or thumps the ground. This method is attractive to geophysical companies as it eliminates preliminary field work needed to initiate other programs and drastically reduces cleanup and restoration of an area upon project completion.

a. District Responsibility. The District's role in regulating geophysical activity is essentially the same as outlined for oil and gas production. The guidance promulgated below primarily applies to reserved minerals.

b. Surface Availability. Inquiries will be referred to CEMRO-RE-FO. CEMRO-RE-FO will inform CEMRO-OP-LM that a geophysical program is being considered. The following information will be provided in writing by CEMRO-RE-FO to the proponent.

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- * (1) Name, phone number, and address of _____ offices to receive a copy of the application package (CEMRO-RE-FO, CEMRO-RE-M).
- (2) Name, phone number, and address of field contact (CEMRO-OP-LM).
- (3) The requirement to flag proposed survey lines/shot-holes on the ground for evaluation by CEMRO-OP-LM (the proponent should notify CEMRO-OP-LM prior to entering Government land). CEMRO-OP-LM will not forward comments until they have field-inspected the proposed line(s).
- (4) Inform proponent of CEMRO-OP-LM's authority to halt operations (see paragraph 8h).
- (5) Items to be included in the application package:
- (a) Proposed routes for all lines on project lands on a USGS 7.5 min. quadrangle (1:24,000 scale). Shothole location will be included if appropriate.
- (b) A cultural resources review, including the results of both a literature search and a pedestrian survey (or reference to prior survey(s) of the area(s)) performed by an accredited archeologist for all lands in question.
- (c) The name and phone numbers of responsible parties in the main office and field locations.
- (d) An outline of the methods and equipment (including gross vehicle weights) to be used.
- (e) Project commencement and termination date.
- (f) Applicable state and county permits, including proof of bonding, in the event of claims against the company.

c. Staffing. The application package will be reviewed as illustrated in Chart No. 4. Processing time is not shown as complexity of geophysical requests varies greatly due to line length and environmental features.

d. Joint Inspection. Prior to forwarding comments to CEMRO-OP-N, CEMRO-OP-LM will conduct a field inspection of the proposed line with the proponent's representative. The primary purpose of the inspection is to determine which areas along the proposed route are to be closed to vehicular traffic. Alternatives such as rerouting the line, hand held equipment, and stacking (constricted spacing of shot holes on either side of an inaccessible area) will be considered and agreed to. Reclamation requirements should also be discussed at this time. Any environmental damage resulting from the line survey will be noted at this time. Such damage will become part of the proponent's reclamation

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* responsibility. A Memorandum For Record detailing the results of this meeting will be included in CEMRO-OP-LM's comments to CEMRO-OP-N.

e. Restricted Areas. The District's ability to exclude certain areas from geophysical exploration is limited by the same constraints as outlined in paragraphs 5a and 5b. However, not all geophysical exploration is commissioned by the mineral owner or leaseholder. Geophysical companies may engage in speculative exploration, after which their results are for sale to interested parties. In this latter case, the District has greater authority to restrict operations. Decisions to exclude areas from exploration will, therefore, need to be made on a case by case basis. Also, the ground disturbance associated with different exploration techniques varies. Examples of areas where ground disturbance or detonation of explosives should be avoided include:

(1) High Intensity Recreation Areas or Natural Areas, as designated in the Project Master Plan.

(2) The habitat of threatened or endangered plant or animal species.

(3) Within 500 feet of engineered structures.

(4) Within 1/4 mile of water wells or springs.

(5) Areas with cultural resource significance.

(6) Areas with valuable wildlife habitat.

f. Timing of Use. Geophysical activity may be delayed to avoid seasonal use conflicts with wildlife (nesting seasons, etc.) or recreational activity. The nature and duration of proposed activities will determine if this is necessary.

g. Aquatic Exploration. If geophysical exploration involves prospecting in water bodies containing viable fisheries, airguns will be used to generate seismic waves. Season of use may need to be restricted if spawning areas are involved.

h. Authority to Halt Operations. During exploration, CEMRO-OP-LM may halt operations whenever excessive or unwarranted environmental damage is occurring.

i. Reclamation.

(1) Conditions. CEMRO-OP-LM will discuss reclamation conditions with the geophysical companies representative during the joint inspection. Reclamation conditions will include (but not limited to):

*

- * (a) Removal of all lath and survey flags.
- (b) Regrading impacted roads.
- (c) Complete removal from Government land of all cuttings (except those used to backfill shot holes), and packing and wires associated with shot holes. All shot holes will be backfilled to the original surface. No surface plugs will be installed.
- (d) Revegetation, if necessary.
- (e) Site-specific requirements.

All reclamation details agreed to during the joint inspection should be included in the Memorandum For Record.

(2) Satisfactory Reclamation. The proponent will contact CEMRO-OP-LM upon completion of reclamation. CEMRO-OP-LM will inspect the line to determine if reclamation is satisfactory. This may be a joint inspection if both parties feel this is warranted. If reclamation is satisfactory, a MFR so stating will be filed, with copies going to CEMRO-RE-FO, CEMRO-RE-M, and CEMRO-OP-N. If reclamation is unsatisfactory, a MFR so stating will be forwarded to the afore-listed offices detailing what work remains to be accomplished. CEMRO-RE-M will terminate the letter grant upon receiving notice of satisfactory reclamation.

j. Outgranted Areas. Geophysical operations on outgranted areas will be approved in the manner described herein. The grantee's representative(s) will be asked to participate in field inspections.

k. Damages. CEMRO-RE-FO will identify lessees and, depending on state law, will either calculate damages to the lessee and advise the proponent to make the necessary compensation, or advise the proponent to contact our lessee and directly negotiate damages.

(Serial Number)

OIL AND GAS LEASE STIPULATIONS

ESTHETICS—To maintain esthetic values, all surface-disturbing activities, semipermanent and permanent facilities may require special design including location, painting and camouflage to blend with the natural surroundings and meet the intent of the visual quality objectives of the SMA.

EROSION CONTROL—Surface disturbing activities may be prohibited during muddy and/or wet soil periods. This limitation does not apply to operation and maintenance of producing wells using authorized roads.

CONTROLLED OR LIMITED SURFACE USE STIPULATION—This stipulation may be modified by special stipulations which are hereto attached or when specifically approved in writing by the Bureau of Land Management with concurrence of the SMA. Distances and/or time periods may be made less restrictive depending on the actual onground conditions. The prospective lessee should contact the SMA for more specific locations and information regarding the restrictive nature of this stipulation.

The lessee/operator is given notice that the lands within this lease may include special areas and that such areas may contain special values, may be needed for special purposes, or may require special attention to prevent damage to surface and/or other resources. Possible special areas are identified below. Any surface use or occupancy within such special areas will be strictly controlled, or if absolutely necessary, excluded. Use or occupancy will be restricted only when the Bureau of Land Management and/or the surface management agency demonstrates the restriction necessary for the protection of such special areas and existing or planned uses. Appropriate modifications to imposed restrictions will be made for the maintenance and operations of producing oil and gas wells.

After the SMA has been advised of specific proposed surface use or occupancy on the leased lands, and on request of the lessee/operator, the Agency will furnish further data on any special areas which may include:

100 feet from the edge of the rights-of-way from highways, designated county roads and appropriate federally-owned or controlled roads and recreation trails.

500 feet, or when necessary, within the 25-year flood plain from reservoirs, lakes, and ponds and intermittent, ephemeral or small perennial streams; 1,000 feet, or when necessary, within the 100-year flood plain from larger perennial streams, rivers, and domestic water supplies.

500 feet from grouse strutting grounds. Special care to avoid nesting areas associated with strutting grounds will be necessary during the period from March 1 to June 30. One-fourth mile from identified essential habitat of state and federal sensitive species. Crucial wildlife winter ranges during the period from December 1 to May 15, and in elk calving areas, during the period from May 1 to June 30.

300 feet from occupied buildings, developed recreational areas, undeveloped recreational areas receiving concentrated public use and sites eligible for or designated as National Register sites.

Seasonal road closures, roads for special uses, specified roads during heavy traffic periods and on areas having restrictive off-road vehicle designations.

On slopes over 30 percent, or 20 percent on extremely erodable or slumping soils.

(Date)

(Signature)

See Notice On Back

MT-3109-1 (July 1984)

NOTICE

CULTURAL AND PALEONTOLOGICAL RESOURCES—The Federal Surface Management Agency (SMA) is responsible for assuring that the leased lands are examined to determine if cultural resources are present and to specify mitigation measures. Prior to undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or operator, unless notified to the contrary by the SMA, shall:

1. Contact the appropriate SMA to determine if a site specific cultural resource inventory is required. If an inventory is required, then;
2. Engage the services of a cultural resource specialist acceptable to the SMA to conduct a cultural resource inventory of the area of proposed surface disturbance. The operator may elect to inventory an area larger than the area of proposed disturbance to cover possible site relocation which may result from environmental or other considerations. An acceptable inventory report is to be submitted to the SMA for review and approval no later than that time when an otherwise complete application for approval of drilling or subsequent surface disturbing operation is submitted.
3. Implement mitigation measures required by the SMA. Mitigation may include the relocation of proposed lease-related activities or other protective measures such as testing salvage and recordation. Where impacts to cultural resources cannot be mitigated to the satisfaction of the SMA, surface occupancy on that area must be prohibited.

The lessee or operator shall immediately bring to the attention of the SMA any cultural or paleontological resources discovered as a result of approved operations under this lease, and not disturb such discoveries until directed to proceed by the SMA.

ENDANGERED OR THREATENED SPECIES—The SMA is responsible for assuring that the leased land is examined prior to undertaking any surface-disturbing activities to determine effects upon any plant or animal species, listed or proposed for listing as endangered or threatened, or their habitats. The findings of this examination may result in some restrictions to the operator's plans or even disallow use and occupancy that would be in violation of the Endangered Species Act of 1973 by detrimentally affecting endangered or threatened species or their habitats.

The lessee/operator may, unless notified by the authorized officer of the SMA that the examination is not necessary, conduct the examination on the leased lands at his discretion and cost. This examination must be done by or under the supervision of a qualified resources specialist approved by the SMA. An acceptable report must be provided to the SMA identifying the anticipated effects of a proposed action on endangered or threatened species or their habitats.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Serial Number

STIPULATION FOR LANDS UNDER JURISDICTION
OF DEPARTMENT OF THE ARMY,
CORPS OF ENGINEERS

Name of Project

The lands embraced in this lease issued under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U.S.C. 181 *et seq.*), as amended, or the Mineral Leasing Act for Acquired Lands of August 7, 1947 (61 Stat. 913; 30 U.S.C. 351 *et seq.*) being under the jurisdiction of the Department of the Army, Corps of Engineers, the lessee hereby agrees:

(1) That *all* rights under this lease are subordinate to the rights of the United States to flood and submerge the lands, permanently or intermittently, in connection with the operation and maintenance of the above-named project.

(2) That the United States shall *not* be responsible for damages to property or injuries to persons which may arise from or be incident to the use and occupation of the said premises, or for damages to the property of the lessee, or for injuries to the person of the lessee (if an individual), or for damages to the property or injuries to the person of the lessee's officers, agents, servants, or employees, or others who may be on said premises at their invitation or the invitation of any one of them arising from or incident to the flooding of the said premises by the Government or flooding from any other cause, or arising from or incident to any other governmental activities; and the lessee shall hold the United States harmless from any and all such claims.

(3) That the work performed by the lessee on the lands shall be under the general supervision of the District Engineer, Corps of Engineers, in direct charge of the project, and subject to such conditions and regulations as may be prescribed by him, and the plans and location for all structures, appurtenances thereto, and work on said lands shall be submitted to the said District Engineer for approval, in advance, of commencement of any work on said lands. The District

Engineer shall have the right to enter on the premises, at any time, to inspect both the installation and operational activities of the lessee.

(4) That no structure or appurtenance thereto shall be of a material or construction determined to create floatable debris.

(5) That the construction and operation of said structures and appurtenances thereto shall be of such a nature as not to cause pollution of the soils and the waters of the project.

(6) That the United States reserves the right to use the land jointly with the lessee in connection with the construction, operation, and maintenance of the Government project and to place improvements thereon or to remove materials therefrom, including sand and gravel and other construction material, as may be necessary in connection with such work, and the lessee shall not interfere, in any manner, with such work or do any act which may increase the cost of performing such work. If the cost of the work performed by the Government at and in connection with the project, including work performed on lands outside the property included in the lease, is made more expensive by reason of improvements constructed on the leased property by the lessee, the lessee shall pay to the United States money in an amount, as estimated by the Chief of Engineers, sufficient to compensate for the additional expense involved.

(Signature of Lessee)

REQUIRED STIPULATIONS IN MINERAL LEASES
ON ARMY-CONTROLLED REAL PROPERTY

1. The Secretary of the Army or designee reserves the right to require cessation of operations in a national emergency or if the Army needs the premises for a use incompatible with lease operations. On approval by higher authority, the commander will notify the lessee in writing or, if time permits, request the BLM to notify the lessee. The lessee understands that rights granted by this lease do not include the period of any such cessation, and the United States has no obligation to compensate the lessee for damages or contractual losses resulting from exercise of this stipulation. The lessee shall include this stipulation in contracts with third parties to supply oil and gas. This stipulation shall not affect the lessee's right to seek suspension of the lease term from BLM.
2. If the commander or the commander's authorized representative finds an imminent danger to safety or security for which there is no time to consult the BLM, that person may order an immediate stop of such activities. The regional director of BLM will be notified immediately, will review the order, and will determine the need for further remedial action.
3. The operator will immediately stop work if contamination is found in the operating area and ask the commander or the commander's authorized representative for help.
4. Lessee liability for damage to improvements shall include improvements of the Department of Defense.
5. Prior to commencement of drilling operations, the lessee must consult with any third parties authorized to use real estate in the leased area and to take into consideration programs for which the third party grantee has contractual responsibility.
6. A license to conduct geophysical tests on the leased area must be separately obtained from the installation commander or the District Commander.

APPENDIX D
DISTRICT COTTAGE SITE POLICY

1. Purpose. The purpose of this Appendix is to establish a policy regarding the placement of cottage structures on cottage sites leased for private recreational purposes on District civil works projects.

2. Applicability. All District civil works projects.

3. Policy.

a. New cottage site construction should be limited to the fundamental concept of a cottage.

b. Travel-trailers and small or average quality mobile homes of a transient nature, with the ability to remove within hours, will not be allowed on cottage site lots. The use of permanent cottages or permanent alternatives such as modular, kit, or prefabricated structures, are encouraged in lieu of an average or even a high quality mobile home.

c. In the interest of stewardship of the land around our lakes and to safeguard the investments made on adjacent sites, approval of mobile homes will be on a case by case basis by the Lake Manager. Any mobile home exception will have to meet the appearance and construction guidelines listed below and the standards desired for the whole community.

d. The following guidelines will be used in determining approval of all future cottage site construction:

(1) Structure design and location must have prior written approval of the Corps of Engineers.

(2) Structures placed on a leased lot must contain a minimum of 500 square feet of floor space. Trailers placed on a leased lot must contain a minimum of 700 square feet.

(3) The building must be neat in appearance and structurally sound. Structural material must be of adequate integrity to last for the term of the lease with reasonable care and maintenance. If a mobile home structure is proposed, it must present a permanent nontrailer appearance, such as by use of a doublewide design; a pitched and shingled roof; architectural additions and landscaping.

(4) The building must be placed on a permanent foundation. Trailers must also be placed on a permanent foundation which wraps around the entire base of the structure. A crawl space for maintenance is allowable, but shall be covered by an entrance door. Foundations shall be constructed of wood, concrete block or poured concrete.

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(5) The building must be placed only on already platted and available lots, with no increase in available lots.

(6) Trailers must be anchored to the permanent foundation by use of a non-visible method and trailer tongues will be removed or enclosed to project a more permanent look or status.

(7) Sanitary, water, and electrical facilities must comply with all state and local codes, laws, and regulations at the time of completion.

(8) Any additions or appendages must be constructed of the same or similar materials as the basic structure.

(9) Structures must comply with local zoning ordinances.

(10) Structures must be limited to one single family structure per lot.

(11) Construction must be completed within two years after the effective date of the lease.

e. Replacement structures will fall under the same policy guidelines, all structures are to be permanent and placed on a permanent foundation.

4. Responsibilities.

a. Cottage construction details and mobile home placement will be reviewed by the Lake Office having jurisdiction over the lands on which the cottage lease is located. If the design improvements are adequate and acceptable to the Lake Manager, a Notice of Approval will be issued to the Chief, Riverdale Real Estate Office, with comments, concerns or conditional requirements considered appropriate and/or necessary to protect project lands. Henceforth, the duties of Contracting Officer in this regard are delegated to the Chief, Riverdale Real Estate Office, who accordingly will assume the responsibility for responding to the cottage lot lessees with letters granting approval based on comments provided by the Lake Manager.

b. The District Office will be available for guidance or for response to the cottage lot lessee in cases where a particular component of the field/project office is uncomfortable or unable to respond or in cases where denial of a particular request is recommended by any element of the review. (In this context, insufficient or poorly submitted plans should be returned to the lessee for further action and not considered a denial or disapproval as referred to above.)