



DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

CERE-MC

15 October 1993

MEMORANDUM FOR MAJOR SUBORDINATE COMMANDS AND DISTRICT COMMANDS

SUBJECT: Fees Charged at Leased Recreation Sites

1. In 1986, we furnished you a legal opinion which addressed the question as to whether a state, local entity or private lessee could collect user fees for facilities developed in whole or in part with Federal funds in instances where the Corps would be prohibited from collecting user fees under 16 U.S.C. 4601-6a(b). The legal opinion concluded that state, local entity and private lessees do not have any greater rights than the Corps where the facilities are wholly or partially federally funded.
2. On 10 August 1993, President Clinton signed into law the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66. Section 5001 of the Public Law authorizes the establishment and collection of fees for the use of developed recreation sites and facilities. The law enlarges the spectrum of fees which the Corps may now charge and thus the lessee could now charge similarly. For your information, a copy of Section 5001 is enclosed. Section 5001 has the effect of repealing 16 U.S.C. 4601-6a(b) with respect to the Corps of Engineers.
3. In view of the change in the law, I refer to Condition 11 of the lease forms furnished to you by letter dated 23 March 1993, Subject: Recreation Policy Letter 93-07--Revisions to Park and Recreation Lease Form. Condition 11 of the lease forms should be amended as follows: "Fees may be charged by the lessee for the entrance to or use of the premises or any facilities, however, no user fees may be charged by the lessee or its sublessees for use of facilities developed in whole or part with Federal funds if prohibited by 16 U.S.C. 460d-3, as amended." Condition 8b of the commercial concession lease form furnished to you by Recreation Policy Letter 93-08, dated 23 March 1993, should be similarly amended.

010/20/93


Bruel

CERE-MC

SUBJECT: Fees Charged at Leased Recreation Fees

4. It is not necessary to amend existing leases or pro-actively advise lessees of the change in the law. However, if any concession or park lessee wishes to charge fees now allowed, e.g. boat ramps, that will require a supplement to correct the citation.

Encl


S. JANICE HOWELL
Chief, Management and Disposal
Division
Directorate of Real Estate

DISTRIBUTION:

LOWER MISSISSIPPI VALLEY DIVISION, ATTN: CELMV-RE
MISSOURI RIVER DIVISION, CEMRD-RE
NEW ENGLAND DIVISION, ATTN: CENED-RE
NORTH ATLANTIC DIVISION, ATTN: CENAD-RE
NORTH CENTRAL DIVISION, ATTN: CENCD-RE
NORTH PACIFIC DIVISION, ATTN: CENPD-RE
OHIO RIVER DIVISION, ATTN: CEORD-RE
PACIFIC OCEAN DIVISION, ATTN: CEPD-RE
SOUTH ATLANTIC DIVISION, ATTN: CESAD-RE
SOUTH PACIFIC DIVISION, ATTN: CESP-RE
SOUTHWESTERN DIVISION, ATTN: CESWD-RE
MEMPHIS DISTRICT, ATTN: CELMM-RE
NEW ORLEANS DISTRICT, ATTN: CELMN-RE
ST. LOUIS DISTRICT, ATTN: CELMS-RE
VICKSBURG DISTRICT, ATTN: CELMK-RE
KANSAS CITY DISTRICT, ATTN: CEMRK-RE
OMAHA DISTRICT, ATTN: CEMRO-RE
BALTIMORE DISTRICT, ATTN: CENAB-RE
NEW YORK DISTRICT, ATTN: CENAN-RE
NORFOLK DISTRICT, ATTN: CENAO-RE
CHICAGO DISTRICT, ATTN: CENCC-RE
DETROIT DISTRICT, ATTN: CENCE-RE
ROCK ISLAND DISTRICT, ATTN: CENCR-RE
ST. PAUL DISTRICT, ATTN: CENCS-RE
ALASKA DISTRICT, ATTN: CENPA-RE
PORTLAND DISTRICT, ATTN: CENPP-RE
SEATTLE DISTRICT, ATTN: CENPS-RE
WALLA WALLA DISTRICT, ATTN: CENPW-RE
HUNTINGTON DISTRICT, ATTN: CEORH-RE
LOUISVILLE DISTRICT, ATTN: CEORL-RE

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such first plan year.
A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

Subtitle E—Fee Increase

Exports and
imports.

SEC. 4401. FEE INCREASE.

The Tea Importation Act (21 U.S.C. 41 et seq.) is amended—

(1) by inserting the 4th undesignated paragraph under the center heading "FOOD AND DRUG ADMINISTRATION" of title II of the Labor-Federal Security Appropriation Act, 1942 (21 U.S.C. 46a) as a new section 13 of the Tea Importation Act, and

(2) by amending such new section 13 to read as follows:

"SEC. 13. No tea or merchandise described as tea shall be examined for importation into the United States, or released by the Customs Service, under the Tea Importation Act unless the importer or consignee of such tea or merchandise has paid, before the examination, a fee in an amount equal to—

"(1) 10 cents for each hundred weight or fraction thereof of the tea or merchandise; or

"(2) the approximate cost of the examinations; whichever amount is less. Such fee shall be deposited into the Treasury of the United States as miscellaneous receipts."

21 USC 46a.

TITLE V—TRANSPORTATION AND PUBLIC WORKS PROVISIONS

SEC. 5001. RECREATIONAL USER FEES.

(a) IN GENERAL.—Section 210 of the Flood Control Act of 1968 (16 U.S.C. 460d-3) is amended—

(1) by striking "SEC. 210. No entrance" and inserting the following:

"SEC. 210. RECREATIONAL USER FEES.

"(a) PROHIBITION ON ADMISSIONS FEES.—No entrance";

(2) by striking the second sentence; and

(3) by adding at the end the following new subsection:

"(b) FEES FOR USE OF DEVELOPED RECREATION SITES AND FACILITIES.—

"(1) ESTABLISHMENT AND COLLECTION.—Notwithstanding section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(b)), the Secretary of the Army is authorized, subject to paragraphs (2) and (3), to establish and collect fees for the use of developed recreation sites and facilities, including campsites, swimming beaches, and boat launching ramps but excluding a site or facility which includes only a boat launch ramp and a courtesy dock.

"(2) EXEMPTION OF CERTAIN FACILITIES.—The Secretary shall not establish or collect fees under this subsection for the use or provision of drinking water, wayside exhibits, roads, scenic drives, overlook sites, picnic tables, toilet facilities, sur-

face wa:
or gener
"(3)

for use
site or
is charg
the enac
or facilit
more th
\$3 per di
annually
Index of
Labor St.

"(4)
under th
account
of the L
U.S.C. 46

(b) CONF
the Land an
460l-6a(b)) is

TITLE
ING A
PROVI

SEC. 6001. TRA

(a) AME
Information
seq.) is amenc

(1) b
following:

"PAF

(2) b
151 throu
(3) b:

"PAR

"SEC. 111. DEF

"As used
"(1)

Table of
the purp
services.

"(2)

to a stat
"(3)

Act of 193

retroactively to the
e of the enactment
ar.

operated in accord-
y because it operates

base

: seq.) is amended—
ed paragraph under
ISTRATION" of title
ation Act, 1942 (21
Sea Importation Act,

to read as follows:
ed as tea shall be
ates, or released by
ation Act unless the
dise has paid, before

at or fraction thereof

nations;
e deposited into the
receipts."

TION AND SIONS

d Control Act of 1963

ce" and inserting the

to entrance";

d
wing new subsection:
CREATION SITES AND

ON.—Notwithstanding
nservation Fund Act
etary of the Army is
(3), to establish and
ation sites and facili-
nes, and boat launch-
(which includes only

TIES.—The Secretary
r this subsection for
yside exhibits, roads,
, toilet facilities, sur-

face water areas, undeveloped or lightly developed shoreland,
or general visitor information.

"(3) PER VEHICLE LIMIT.—The fee under this subsection
for use of a site or facility (other than an overnight camping
site or facility or any other site or facility at which a fee
is charged for use of the site or facility as of the date of
the enactment of this paragraph) for persons entering the site
or facility by private, noncommercial vehicle transporting not
more than 8 persons (including the driver) shall not exceed
\$3 per day per vehicle. Such maximum amount may be adjusted
annually by the Secretary for changes in the Consumer Price
Index of All Urban Consumers published by the Bureau of
Labor Statistics of the Department of Labor.

"(4) DEPOSIT INTO TREASURY ACCOUNT.—All fees collected
under this subsection shall be deposited into the Treasury
account for the Corps of Engineers established by section 4(i)
of the Land and Water Conservation Fund Act of 1965 (16
U.S.C. 4601-6a(i))."

(b) CONFORMING AMENDMENT FOR CAMPSITES.—Section 4(b) of
the Land and Water Conservation Fund Act of 1965 (16 U.S.C.
4601-6a(b)) is amended by striking the next to the last sentence.

TITLE VI—COMMUNICATIONS LICENS- ING AND SPECTRUM ALLOCATION IM- PROVEMENT

SEC. 6001. TRANSFER OF AUCTIONABLE FREQUENCIES.

(a) AMENDMENT.—The National Telecommunications and
Information Administration Organization Act (47 U.S.C. 901 et
seq.) is amended—

(1) by striking the heading of part B and inserting the
following:

"PART C—SPECIAL AND TEMPORARY PROVISIONS";

(2) by redesignating sections 131 through 135 as sections
151 through 155, respectively; and

(3) by inserting after part A the following new part:

"PART B—TRANSFER OF AUCTIONABLE FREQUENCIES.

"SEC. 111. DEFINITIONS.

"As used in this part:

"(1) The term 'allocation' means an entry in the National
Table of Frequency Allocations of a given frequency band for
the purpose of its use by one or more radiocommunication
services.

"(2) The term 'assignment' means an authorization given
to a station licensee to use specific frequencies or channels.

"(3) The term 'the 1934 Act' means the Communications
Act of 1934 (47 U.S.C. 151 et seq.).

106 Stat. 3540;
47 USC 394: 42
USC 254r note:
106 Stat. 3542.

47 USC 921.