



DEPARTMENT OF THE ARMY
ASSISTANT SECRETARY OF THE ARMY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

JUN 20 2019

MEMORANDUM FOR THE COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

SUBJECT: Additional Guidance for Rough River Lake Flowage Easement Encroachment Resolution

1. Purpose. This memorandum clarifies the direction I provided on 7 December 2018 for resolving flowage easement encroachments under Scenario A at Rough River Lake, Kentucky and provides direction on addressing undeveloped tracts above 534' Mean Sea Level (m.s.l.).

2. Background. On 7 December 2018 I lifted the moratorium, issued on 3 May 2018, on resolving requests for release from human habitation restrictions at Rough River Lake. In doing so, I directed that no flowage easement rights shall be extinguished by the U.S. Army Corps of Engineers (Corps), to include developed flowage easement areas above 534' Mean Sea Level (m.s.l.) under Scenario A, as well as flowage easement areas above 534' m.s.l. on undeveloped tracts. I directed that the Rough River Lake Flowage Easement Encroachment Resolution Plan (Encroachment Resolution Plan), approved by the Assistant Secretary of the Army for Civil Works on 3 January 2017, shall be followed with two exceptions: 1) the Corps shall not charge or collect any administrative fees from property owners and shall refund any administrative fees paid by property owners for encroachment resolution; and 2) for Scenario A properties, the Corps shall only process a release of the human habitation restriction.

3. Implementation of Scenario A. At the request of a Scenario A property owner, the Corps shall release the human habitation restriction over the entire tract above elevation 534' m.s.l. while still maintaining the flowage easement rights. Any human habitation restriction release will, at a minimum, contain the following restrictions:

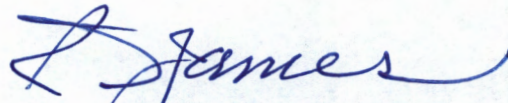
- An indemnification and hold harmless clause releasing the Government of any and all liability associated with the flooding of the property.
- Any other restriction considered appropriate by the District Commander.

4. Undeveloped tracts above 534' m.s.l. The Encroachment Resolution Plan does not address vacant land located above 534' m.s.l. that is encumbered by a flowage easement. However, at the land owner's request, the Corps shall address vacant land above 534' m.s.l. in the same manner as Scenario A and release the human habitation restriction over the entire tract above elevation 534' m.s.l. while still maintaining the flowage easement rights. Any human habitation restriction release will, at a minimum, containing the following restrictions:

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- An indemnification and hold harmless clause releasing the Government of any and all liability associated with the flooding of the property.
- Any other restriction considered appropriate by the District Commander.

5. Questions regarding this guidance should be directed to Sharron Dacosta-Chisley, Office of the Assistant Secretary of the Army for Civil Works at sharron.h.dacosta-chisley.civ@mail.mil or 703-695-6789.



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cf: MG Scott Spellmon, Deputy Commanding General, Civil and Emergency Operations
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