

CHAPTER 6 EMERGENCY WATER ASSISTANCE

Section I - Emergency Water Assistance Due to Contaminated Water Source

6-1. Policy - Emergency Water Assistance Due to Contaminated Water Source.

USACE may provide water to any locality confronted with a source of contaminated water causing or likely to cause a substantial threat to the public health and welfare of the inhabitants of the locality. In addition to the policy of Chapter 2, the following criteria and conditions must be met to provide the assistance.

a. **Written Request.** A written request for assistance is required from the governor or his/her authorized representative.

b. **Determination of Contamination.** Contamination, whether it is deliberate, accidental, or natural, will be established by one or more of the following:

(1) The maximum contaminant level or treatment technique of any contaminant, as established by the EPA pursuant to the Safe Drinking Water Act, is exceeded.

(2) The water supply has been identified as a source of illness by a state or Federal public health official. The specific contaminant or pathogen does not have to be identified.

(3) An emergency has occurred that has resulted in either one or more contaminants entering the source on a sufficient scale to endanger health, or has made inoperable the equipment necessary to remove known contaminants. Examples of this type of emergency are flooding and chemical spills.

(4) The presence of a contaminant is indicated on the basis of other information available.

c. **Scope and Approval of USACE Assistance.** USACE assistance may only supplement state and/or local efforts to provide water for human consumption for the benefit of public health and welfare. Assistance may be provided to localities whose publicly or privately owned water and/or distribution system services a community. A CA is required for USACE assistance to be provided. Water will not be provided for livestock.

d. **Standard of USACE Assistance.** USACE assistance will normally be temporary to meet the immediate threat. Removal of any temporary work will be the responsibility of the local interests. The permanent restoration of safe water supplies is the responsibility of local interests. USACE assistance will not be used to accomplish deferred or deficient maintenance.

e. **Limitation on Time for USACE Assistance.** USACE assistance is limited to 30 days, or until FEMA undertakes the provision of emergency water under its own authorities (with a reasonable allowance of time to transition from USACE PL 84-99 assistance to FEMA Stafford Act assistance), whichever is earlier. HQUSACE may extend this time limit provided there is adequate justification and explanation why state and local governments cannot provide water within 30 days. Such extension requires a CA (new, or by amending the previous one) between the state and USACE, covering specified services and providing a firm timetable for local interests to provide normal supplies.

f. **Multiple Sources of Water.** If a locality has multiple sources of water and some are contaminated, no assistance will be provided if the remaining non-contaminated sources, with reasonable conservation measures, can supply the minimum need. However, if the remaining non-contaminated sources cannot provide the minimum need after conservation measures have been instituted, then assistance can be provided to supplement the supply to meet the minimum need.

g. **Loss of Water Supply.** Loss of supply cases (e.g., a lake level drops below existing water intake levels for the water treatment plant) are not eligible for assistance. However, if supply is lost in some, but not all, of a multiple source system, and part of the remaining source becomes contaminated, then paragraph 6-1.f. above applies. If the loss of supply is due to drought, refer to Section II of this chapter.

h. **Water for Businesses.** Water will not be furnished to a business or firm for use in its processes, except as incidental to the use of existing distribution systems. This does not prohibit the furnishing of water for drinking by employees and on-site customers.

i. **Liability and Legal Action.** Cases involving deliberate or accidental contamination will be coordinated with the EPA for determination of liability and possible legal action. However, the primary concern of USACE is protecting the public health and welfare. If necessary, USACE will provide assistance and later seek recovery of costs through legal action.

j. **Eligibility for Assistance.** A qualified Indian tribe, Alaska Native Corporation, or tribal organization is also eligible for assistance. Assistance will not be provided to military bases and other Federal lands under this authority.

k. **Drought Considerations.** Contamination due solely to drought would be handled under the drought assistance authorization, Section II of this chapter.

l. **Water Quality Testing.** Districts shall ensure that the contractor transporting bulk water tests the water at the pickup and delivery points to verify compliance with applicable water quality standards, or that a suitable substitute system is employed.

6-2. Provision of Emergency Water Assistance - Contaminated Water Source.

USACE assistance under this authority may include, but is not limited to, purchase of water, transport of water to local water points, delivery of bulk or bottled water to community-level distribution points, temporary connection of a new supply to the existing distribution system, installation of temporary filtration, or use of military units with water purification/storage/distribution capability.

a. Provision of Assistance. District engineers will determine the quantity of water, type (bulk and/or bottled) of water, and the means of distribution needed after considering both the needs of the individual situation and the cost effectiveness of the available options.

b. Sale of Water. Section 6 of the 1944 Flood Control Act (PL 78-534) provides authority to allow the sale of water stored in USACE reservoirs deemed surplus. Procedures for the sale of surplus water are included in ER 1105-2-100, Chapter 4.

c. Cooperation Agreement Requirement. A CA is required in order to obtain USACE emergency water assistance. The format is in EP 500-1-1, Chapter 6, Figure 6-3.

6-3. Funding. ER 11-1-320 prescribes funding procedures for emergency water assistance activities.

6-4. Procedures. Refer to EP 500-1-1, Chapter 6, Section I, for PIR preparation, processing procedures, and CA format.

Section II - Emergency Water Assistance Due to Drought

6-5. Policy - Emergency Water Assistance Due to Drought. USACE may provide temporary emergency water assistance for human consumption/usage to a drought distressed area to meet minimum public health and welfare requirements. USACE assistance is supplemental to state and local efforts. Long term solutions to water supply problems are the responsibility of state and local interests. In addition to the policy of Chapter 2, the following criteria and conditions must be met to provide the assistance.

a. Governor's Request. A written request for assistance is required from the governor or his/her authorized representative. An applicant submitting a request directly to USACE will be referred to the State Emergency Management Agency or equivalent office.

b. Drought Distressed Area. A drought distressed area is one that the Director of Civil Works or the ASA(CW) determines to have an inadequate water supply that is causing, or is likely to cause, a substantial threat to the health and welfare of the inhabitants of the area,

including the threat of damage or loss of property. There must be a definable need in the immediate future that cannot be met totally by state and local actions underway or planned. Where reasonable conservation measures will ensure adequate supplies to meet the need for public health and welfare, there should be no need for a detailed evaluation or assistance by USACE. A credible plan for providing a long-term solution must be developed by the local and state governments and executed expeditiously. If a long-term solution is not expeditiously pursued, USACE assistance is not permitted.

c. Evaluating Potential Drought Distressed Areas. In evaluating a potential "drought distressed" area, consideration must be given to both the measurements used to define the drought and the magnitude of the impacts of the drought on the area under investigation. Therefore, the investigation must indicate that a shortage of water exists, and that the shortage is severely affecting the health and welfare of a major segment of the population in the area proposed for designation as "drought distressed."

d. Limitations of Provision of Water. Water for livestock, irrigation, recreation, or commercial/industrial processing will not be provided under this authority.

e. Non-USACE Expenses. The purchase or acquisition of the water and the storage facility at the terminal point are non-USACE expenses.

f. Permanent Facility. Where the recommended option for transporting water includes a permanent facility, there must be clear justification for such an action. Costs for such a permanent facility will be borne by the public sponsor.

g. Sale of USACE Water. Section 6 of the 1944 Flood Control Act (PL 78-534) provides authority to allow the sale of water stored in USACE reservoirs deemed surplus. When appropriate, this source of water should be considered in providing emergency water assistance. Procedures for the sale of surplus water are included in ER 1105-2-100, Chapter 4.

h. Transportation Costs and Water Testing. Any costs associated with transportation of water will be funded by USACE. Districts will ensure that the contractor transporting bulk water tests the water at the pickup and delivery points to verify compliance with applicable water quality standards.

i. Wells. USACE may construct wells only when commercial or other sources cannot construct it within a reasonable time. Federally owned well drilling equipment can only be used when commercial firms cannot provide comparable service within the time needed to prevent the applicant from suffering increased hardships from the effects of an inadequate water supply.

j. Payment for Wells. Wells constructed by USACE will be paid for by the applicant, and will be the lesser of:

(1) USACE actual cost to construct well(s), exclusive of the cost of transporting equipment used in the construction of wells and the cost of investigation; or,

(2) The cost to a private business to construct such well(s).

k. For wells constructed by USACE, the applicant must enter into an agreement to pay to the United States either:

(1) the reasonable cost of the construction prior to commencement of construction, or,

(2) the reasonable cost of the construction, with interest, over a period of years, not to exceed 30 years, as the Chief of Engineers deems appropriate. The rate of interest charged the applicant will be that rate that would apply if the amount to be repaid was a loan pursuant to Section 7(b)(2) of the Small Business Act, PL 85-536 (15 U.S.C. 636). Eligibility criteria for a loan will be in accordance with the practices of the SBA. Repayment will be in accordance with the established procedures by Finance and Accounting elements.

l. Permits. The applicant is required to obtain all necessary Federal, state, and local permits, and provide all necessary lands, easements, rights-of-way, and rights-of-entry.

m. Stafford Act Mission. A mission under the Stafford Act to address this type of emergency normally obviates the need for PL 84-99 assistance.

6-6. Provision of Emergency Water Assistance- Drought. USACE assistance under this authority may include, but is not limited to, transport of water to local water points, distribution of bottled water, temporary connection of a new supply to the existing distribution system, installation of temporary filtration, or use of military units with water purification/storage/distribution capability. USACE assistance will be at 100 percent Federal cost.

a. Level of Assistance. Commanders will determine the quantity of water, type (bulk and/or bottled) of water, and the means of distribution needed after considering both the needs of the individual situation and the cost effectiveness of the available options.

b. Cooperation Agreement. A CA is required to obtain USACE assistance. This format is in EP 500-1-1, Chapter 6, Figure 6-6.

6-7. Funding. ER 11-1-320 prescribes funding procedures for emergency water activities.

6-8. Procedures. Refer to EP 500-1-1, Chapter 6, Section II, for PIR preparation, processing procedures, and CA format.