

AGREEMENT
AMONG
THE DEPARTMENT OF THE ARMY,
THE TOMBIGBEE RIVER VALLEY WATER
MANAGEMENT DISTRICT, AND
LAMAR COUNTY, ALABAMA
FOR CONSTRUCTION OF THE
LUXAPALILA CREEK FLOOD CONTROL PROJECT, MISSISSIPPI
AND ALABAMA

THIS AGREEMENT is entered into this 13th day of September, 1992, among the DEPARTMENT OF THE ARMY (hereinafter referred to as the "Government") acting by and through the Assistant Secretary of the Army (Civil Works), and the TOMBIGBEE RIVER VALLEY WATER MANAGEMENT DISTRICT (hereinafter referred to as the "TRVWMD"), acting by and through its President, and LAMAR COUNTY, ALABAMA (hereinafter referred to as the "County"), acting by and through the Chairman of the Lamar County Commission, for construction of the Luxapalila Creek Flood Control Project.

WITNESSETH THAT:

WHEREAS, construction of the Luxapalila Creek Flood Control Project, Mississippi and Alabama (hereinafter referred to as the "Project," as defined in Article I.a. of this Agreement) was authorized in the Flood Control Act of 1958, Public Law 85-500, in accordance with the recommendations of the Chief of Engineers in House Document 167, Eighty-fourth Congress, First Session; and,

WHEREAS, the TRVWMD passed a resolution of local cooperation in support of the overall Tombigbee River and Tributaries Project on August 23, 1963; and,

WHEREAS, the State of Alabama passed a resolution of local cooperation in support of the overall Tombigbee River and Tributaries Project on April 18, 1968; and,

WHEREAS, construction of the lower 2.1 miles of channel works for the Project was completed in 1973, and a construction contract for the remaining channel work on the Project was advertised and awarded in 1975; and,

WHEREAS, an environmental lawsuit, State of Alabama Ex Rel. Baxley v. Corps of Engineers, 411 F. Supp. 1261 (1976) was filed on April 14, 1976, which resulted in an injunction halting the remaining construction of said Project; and,

WHEREAS, the Project was reformulated subsequent to this lawsuit, since project land use, real estate development, and hydrologic conditions had changed, with new technical study and planning processes being adopted since the initial studies conducted in the 1960's; and,

WHEREAS, the lawsuit was later dismissed, and a new plan approved for continuation of construction of the Project; and,

WHEREAS, the cost sharing requirements applicable to the Project are specified in a Memorandum from the Assistant Secretary of the Army

(Civil Works) to the Director of Civil Works, dated November 28, 1989, subject: Construction of the Luxapalila Creek Flood Control Project, Mississippi and Alabama; and,

WHEREAS, Section 221 of the Flood Control Act of 1970, Public Law 91-611, as amended, provides that the construction of any water resources project by the Secretary of the Army shall not be commenced until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the Project; and,

WHEREAS, the TRVWMD and the County have the authority and capability to furnish the cooperation hereinafter set forth and are willing to participate in cost-sharing and financing in accordance with the terms of this Agreement;

NOW, THEREFORE, the parties agree as follows:

ARTICLE I - DEFINITIONS

For purposes of this Agreement:

a. The term "Project" shall mean that work in Mississippi and Alabama that is described in Plan 27M in "Tombigbee River and Tributaries, Mississippi and Alabama, Supplement to Design Memorandum No. 2, General Design for Luxapalila Creek, Lowndes County, Mississippi, and Lamar County, Alabama, and Supplement to the Environmental Impact Statement," dated December, 1985 and approved February 1, 1989. The Mississippi work includes a 75-foot wide channel from Mile 2.1 to Waterworks Road (Mile 6.2), slope

protection, bridge protection, an upstream grade control structure, modification to the City of Columbus water intake, selective clearing and snagging from Waterworks Road to the State line, and a beaver trapping program from Steens, Mississippi, to the State line. Fish and wildlife mitigation in Mississippi consists of five notched sills between Mile 4.9 and Mile 6.2., and 150 acres of separable lands. The Alabama work includes selective clearing and snagging from the State line to Mile 28.4, lateral channels from Mile 24.6 to 28.4, beaver trapping from the State line to Millport, Alabama, with fish and wildlife mitigation being ten notched sills and a sediment trap near Millport.

b. The term "period of construction" shall mean the time from the advertisement of the first construction contract to the time of acceptance of the Project by the Contracting Officer.

c. The term "Contracting Officer" shall mean the U. S. Army Engineer for the Mobile District, or his designee.

d. The term "highway" shall mean any highway, thoroughfare, roadway, street, or other public road or way.

e. The term "relocations" shall mean the preparation of plans and specifications for, and the accomplishment of, all alterations, modifications, lowering or raising in place, and/or new construction related to, but not limited to, existing: railroads, highways, bridges, railroad bridges and approaches thereto, pipelines, public utilities (such as municipal water and sanitary sewer lines, telephone lines, and storm drains), aerial utilities, cemeteries, and other facilities, structures, and improvements determined by the Government to be necessary for the construction, operation and maintenance of the Project.

f. The term "fiscal year" shall mean one fiscal year of the United States Government, unless otherwise specifically indicated. The Government fiscal year begins on October 1 and ends on September 30.

g. The term "involuntary acquisition" shall mean the acquisition of lands, easements, and rights-of-way, including suitable borrow and dredged material disposal areas, by eminent domain.

h. The term "functional portion of the Project" shall mean a completed portion of the Project as determined by the Contracting Officer to be suitable for tender to the TRVWMD or the County to operate and maintain in advance of completion of construction of the entire Project.

ARTICLE II - OBLIGATIONS OF PARTIES

a. The Government, subject to and using funds provided by the TRVWMD and the County and appropriated by the Congress of the United States, shall expeditiously construct the Project (including relocations of railroad bridges and approaches thereto), applying those procedures usually followed or applied in Federal projects, pursuant to Federal laws, regulations, and policies. The TRVWMD and the County shall be afforded the opportunity to review and comment on all contracts, including relevant plans and specifications, prior to the issuance of invitations for bid. To the extent possible, the TRVWMD and the County will be afforded the opportunity to review and comment on modifications and change orders prior to the issuance to the contractor of a Notice to Proceed. The Government will consider the comments of the TRVWMD and the County, but award of contracts, modifications or change orders, and performance of all work on the Project (whether the work is performed under contract or by Government personnel), shall be

exclusively within the control of the Government. The Government will inform the TRVWMD and the County of any changes in cost estimates. Notwithstanding the above, if the award of any contract for construction of the Project would result in total obligations for construction of the Project at the time of award exceeding \$22,450,000, the award of that contract and subsequent contracts shall be deferred until such time as both parties to this Agreement agree to resume construction of the Project.

b. When the Government determines that the Project or a functional portion of the Project is complete, the Government shall turn the completed Project or functional portion over to the TRVWMD or the County, which shall accept the Project or functional portion and be solely responsible for operating, maintaining, repairing, replacing, and rehabilitating the Project or functional portion in accordance with Article VII hereof.

c. The Government shall pay for all of the costs of the downstream channel work in the Columbus Reach, except for relocations otherwise covered by Article III.

d. The TRVWMD and the County shall pay for all of the costs of the upstream wildlife mitigation and flood reduction, as specified in Article V.d.1.

e. The Government and the TRVWMD shall be responsible for the costs of fishery mitigation as is specified in Article V.d.2.

f. As further specified in Article III hereof, the TRVWMD and the County shall provide all lands, easements, and rights-of-way, including suitable borrow and dredged material disposal areas, and perform all relocations (excluding railroad bridges and approaches thereto) determined by the Government to be necessary for construction, operation and maintenance of the Project.

g. No Federal funds may be used to meet the TRVWMD's and the County's share of total project costs under this Agreement unless the expenditure of such funds is expressly authorized by statute as verified in writing by the Federal granting agency.

h. The TRVWMD and the County agree to comply with the requirements of applicable Federal flood plain management and flood insurance programs.

ARTICLE III - LANDS, FACILITIES, AND PUBLIC LAW 91-646 RELOCATION ASSISTANCE

a. The TRVWMD and the County shall furnish to the Government all lands, easements, and rights-of-way, including suitable borrow and dredged material disposal areas, as may be determined by the Government to be necessary for construction, operation, and maintenance of the Project, and shall furnish to the Government evidence supporting the TRVWMD's and the County's legal authority to grant rights-of-entry to such lands. The necessary lands, easements, and rights-of-way may be provided incrementally, but all lands, easements, and rights-of-way determined by the Government to be necessary for work to be performed under a construction contract must be furnished prior to the advertisement of that construction contract.

b. The TRVWMD and the County shall pay for all costs of retaining dikes, wasteweirs, bulkheads, and embankments, including all monitoring features and stilling basins, that may be required at any dredged material disposal areas necessary for construction, operation, and maintenance of the Project.

c. Upon notification from the Government, the TRVWMD and the County shall accomplish or arrange for accomplishment at no cost to the Government all relocations (excluding railroad bridges and approaches thereto)

determined by the Government to be necessary for construction, operation, and maintenance of the Project.

d. The TRVWMD and the County shall comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way for construction and subsequent operation and maintenance of the Project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

ARTICLE IV - CONSTRUCTION PHASING AND MANAGEMENT

a. To provide for consistent and effective communication among the TRVWMD, the County, and the Government during the period of construction, the TRVWMD, the County, and the Government shall appoint representatives to coordinate on scheduling, plans, specifications, modifications, contract costs, and other matters relating to construction of the Project.

b. The representatives appointed above shall meet as necessary during the period of construction and shall make such recommendations as they deem warranted to the Contracting Officer.

c. The Contracting Officer shall consider the recommendations of the representatives in all matters relating to construction of the Project, but the Contracting Officer, having ultimate responsibility for construction of the Project, has complete discretion to accept, reject, or modify the recommendations.

ARTICLE V - METHOD OF PAYMENT AND COST APPORTIONMENT

a. The TRVWMD and the County shall provide, during the period of construction, such cash payments as are necessary to meet their obligations under Article II of this Agreement. Total project costs are currently estimated to be \$22,450,000, which reflects past Project expenditures of \$6,594,000 and estimated costs of \$15,856,000 for completing the remaining work. The dollar amounts set forth in this Article are based upon the Government's best estimates which will reflect projections of costs, price level changes, and anticipated inflation. Such cost estimates are subject to adjustments based upon costs actually incurred and are not to be construed as the total financial responsibilities of the Government, the TRVWMD, and the County.

b. For project work constructed by the Government, the TRVWMD, and the County shall provide their required cash contribution in accordance with the following provisions:

1. For purposes of budget planning, the Government shall notify the TRVWMD and the County by 1 October of each year of the estimated funds that will be required from the TRVWMD and the County to meet their shares of total project costs for the upcoming fiscal year.

2. No later than 60 calendar days prior to the award of the first construction contract, the Government shall notify the TRVWMD and the County of the TRVWMD's and the County's shares of total project costs, including the share of costs attributable to the Project incurred prior to the initiation of construction, for the first fiscal year of construction. No later than 30 calendar days thereafter, the TRVWMD and the County shall provide the Government the full amount of the required contribution by

delivering a check payable to "FAO, USAED, Mobile District" to the Contracting Officer representing the Government.

3. For the second and subsequent fiscal years of project construction, the Government shall, no later than 60 days calendar days prior to the beginning of the fiscal year, notify the TRVWMD and the County of the TRVWMD's and the County's shares of total project costs for the fiscal year. No later than 30 calendar days prior to the beginning of the fiscal year, the TRVWMD and the County shall make the necessary funds available to the Government as specified above in Article V.b.2. As construction of the Project proceeds, the Government shall adjust the amounts required to be provided under this paragraph to reflect actual costs.

4. If at any time during the period of construction the Government determines that additional funds will be needed from the TRVWMD or the County, the Government shall so notify the TRVWMD or the County. The TRVWMD or the County, no later than 45 calendar days from receipt of such notice, shall make the necessary funds available to the Government as specified above in Article V.b.2.

c. Upon completion of the Project and resolution of all relevant claims and appeals, the Government shall compute the total project costs and tender to the TRVWMD and the County a final accounting of the TRVWMD's and the County's shares of total project costs. In the event the total contribution by the TRVWMD or the County is less than its minimum required share of total project costs, the TRVWMD or the County shall, no later than 90 calendar days after receipt of written notice, make a cash payment to the Government of whatever sum is required to meet its minimum required share of total project costs.

d. 1. The TRVWMD and the County are responsible for all of the upstream costs for wildlife mitigation and flood damage reduction. The estimated percentages of cost assigned to the TRVWMD and the County are as follows:

a. Beaver trapping is to be apportioned 71% to the TRVWMD and 29% to the County; and,

b. Lateral channels are to be apportioned 71% to the TRVWMD and 29% to the County; and,

c. Clearing and Snagging is to be apportioned 85% to the TRVWMD and 15% to the County; and,

d. Sediment trap costs which are assigned to flood damage reduction are 40%; this percentage is to be apportioned 71% to the TRVWMD and 29% to the County.

2. The Government and the TRVWMD are responsible for all of the costs of fish mitigation. Such costs are to be apportioned 93% to the Government and 7% to the TRVWMD. 60% of the cost of the sediment trap and all of the costs of the fish sills are assigned to fish mitigation.

e. The Government will draw on the funds provided by the TRVWMD and the County such sums as the Government deems necessary to cover contractual and in-house fiscal obligations attributable to the Project as they are incurred, as well as costs incurred by the Government prior to the initiation of construction.

ARTICLE VI - DISPUTES

Before any party to this Agreement may bring suit in any court concerning an issue relating to this Agreement, such party must first seek

in good faith to resolve the issue through negotiation or through other forms of nonbinding alternative dispute resolution mutually acceptable to the parties.

ARTICLE VII - OPERATION, MAINTENANCE, REPAIR, REPLACEMENT, AND
REHABILITATION

a. After the Government has turned the completed Project, or functional portion of the Project, over to the TRVWMD or the County, the TRVWMD or the County shall operate, maintain, repair, replace, and rehabilitate the completed Project, or functional portion of the Project, in accordance with regulations or directions prescribed by the Government. The TRVWMD shall be responsible for operation, maintenance, repair, replacement and rehabilitation of project features in the State of Mississippi. The County shall be responsible for operation, maintenance, repair, replacement and rehabilitation of project features in the State of Alabama.

b. The TRVWMD and the County hereby give the Government a right to enter, at reasonable times and in a reasonable manner, upon land which the TRVWMD or the County owns or controls for access to the Project for the purpose of inspection, and, if necessary, for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the Project. If an inspection shows that the TRVWMD or the County for any reason are failing to fulfill their obligations under this Agreement without receiving prior written approval from the Government, the Government will send a written notice to the TRVWMD or the County. If the TRVWMD or the County persist in such failure for 30 calendar days after receipt of the notice, then the Government shall have a right to enter, at reasonable times and in a reasonable manner, upon lands the TRVWMD or the County owns or

controls for access to the Project for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the Project. No completion, operation, maintenance, repair, replacement, or rehabilitation by the Government shall operate to relieve the TRVWMD or the County of responsibility to meet its obligations as set forth in this Agreement, or to preclude the Government from pursuing any other remedy at law or equity to assure faithful performance pursuant to this Agreement.

ARTICLE VIII - RELEASE OF CLAIMS

The TRVWMD and the County shall hold and save the Government free from all damages arising from the construction, operation, maintenance, repair, rehabilitation and replacement of the Project, except for damages due to the fault or negligence of the Government or its contractors.

ARTICLE IX - MAINTENANCE OF RECORDS

The Government, the TRVWMD, and the County shall keep books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to this Agreement to the extent and in such detail as will properly reflect total project costs. The Government, the TRVWMD, and the County shall maintain such books, records, documents, and other evidence for a minimum of three years after completion of construction of the Project and resolution of all claims arising therefrom, and shall make available at their offices at reasonable times, such books, records, documents, and other evidence for inspection and audit by authorized representatives of the parties to this Agreement.

ARTICLE X - GOVERNMENT AUDIT

The Government shall conduct an audit when appropriate of the records of the TRVWMD and the County for the Project to ascertain the allowability, reasonableness, and allocability of their costs for inclusion as credit against the non-Federal share of total project costs.

ARTICLE XI - FEDERAL AND STATE LAWS

In acting under their rights and obligations hereunder, the TRVWMD and the County agree to comply with all applicable Federal and State laws and regulations, including Section 601 of Title VI of the Civil Rights Act of 1964, Public Law 88-352, and Department of Defense Directive 5500.II issued pursuant thereto and published in Part 300 of Title 32, Code of Federal Regulations, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army."

ARTICLE XII - RELATIONSHIP OF PARTIES

The parties to this Agreement act in an independent capacity in the performance of their respective functions under this Agreement, and no party is to be considered the officer, agent, or employee of the other.

ARTICLE XIII - OFFICIALS NOT TO BENEFIT

No member of or delegate to the Congress, or resident commissioner,

shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom.

ARTICLE XIV - COVENANT AGAINST CONTINGENT FEES

The TRVWMD and the County warrant that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the TRVWMD and the County for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this Agreement without liability, or, in its discretion, to add to the Agreement or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XV - TERMINATION OR SUSPENSION

a. If at any time the TRVWMD or the County fail to make the payments required under this Agreement, the Assistant Secretary of the Army (Civil Works) shall terminate or suspend work on the Project until the TRVWMD and the County are no longer in arrears, unless the Assistant Secretary of the Army (Civil Works) determines that continuation of work on the Project is in the interest of the United States or is necessary in order to satisfy agreements with any other non-Federal interests in connection with the Project. Any delinquent payment shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the

average bond equivalent rate of the 13-week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3-month period if the period of delinquency exceeds 3 months.

b. If the Government fails to receive annual appropriations for the Project in amounts sufficient to meet project expenditures for the then-current or upcoming fiscal year, the Government shall so notify the TRVWMD and the County. After 60 calendar days any party may elect without penalty to terminate this Agreement pursuant to this Article or to defer future performance hereunder; however, deferral of future performance under this Agreement shall not affect existing obligations or relieve the parties of liability for any obligation previously incurred. In the event that any party elects to terminate this Agreement pursuant to this Article, all parties shall conclude their activities relating to the Project and proceed to a final accounting in accordance with Article V. of this Agreement. In the event that any party elects to defer future performance under this Agreement pursuant to this Article, such deferral shall remain in effect until such time as the Government receives sufficient appropriations or until any party elects to terminate this Agreement.

ARTICLE XVI - NOTICES

a. All notices, requests, demands, and other communications required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally, given by prepaid telegram, or mailed by first-class (postage prepaid), registered, or certified mail, as follows:

If to the TRVWMD:

Mr. Robert S. Weir, Executive Director
Tombigbee River Valley Water Management District
City and County Building
Post Office Box 616
Tupelo, Mississippi 38802

If to the County:

Lamar County Board of Commissioners
c/o Judge Ted Boyett
Office of the Judge of Probate
Lamar County Courthouse
P. O. Box 338
Vernon, Alabama 35592

If to the Government:

U. S. Army Corps of Engineers, Mobile District
P. O. Box 2288
Mobile, Alabama 36628-0001

b. A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

c. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at such time as it is personally delivered or seven calendar days after it is mailed, as the case may be.

ARTICLE XVII - CONFIDENTIALITY

To the extent permitted by the law governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE XVIII - HAZARDOUS SUBSTANCES

a. After execution of this Agreement and upon direction by the Contracting Officer, the TRVWMD and the County shall perform, or cause to be performed, such environmental investigations as are determined necessary by the Government, the TRVWMD, or the County to identify the existence of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 USC 9601-9675, on lands necessary for Project construction, operation, and maintenance. All actual costs incurred by the TRVWMD and the County which are properly allowable and allocable to performance of any such environmental investigations shall be included in total project costs and cost shared as a construction cost in accordance with Section 101 of Public Law 99-662.

b. In the event it is discovered through an environmental investigation or other means that any lands, easement, rights-of-way, or disposal areas, including suitable borrow and dredge material disposal areas, to be acquired or provided for the Project contain any hazardous substances regulated under CERCLA, the TRVWMD, the County and the Government shall provide prompt notice to each other, and the TRVWMD and the County shall not proceed with the acquisition of lands, easements, rights-of-way, or disposal areas, including suitable borrow and dredge material disposal areas, until mutually agreed.

c. The Government, the TRVWMD, and the County shall determine whether to initiate construction, or if already in construction, to continue with construction of the Project, or to terminate construction of the Project for the convenience of the Government in any case where hazardous substances regulated under CERCLA are found to exist on any lands necessary for the

Project. Should the Government, the TRVWMD, and the County determine to proceed or continue with construction after considering any liability that may arise under CERCLA, the TRVWMD and the County shall be responsible, as between the Government, the TRVWMD, and the County, for any and all necessary cleanup and response costs, to include the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall not be considered a part of total project costs as defined in this Agreement. In the event the TRVWMD or the County fail to provide any funds necessary to pay for cleanup and response costs or to otherwise discharge their responsibilities under this paragraph upon direction by the Government, the Government may either terminate or suspend work on the Project or proceed with further work as provided in Article XV of this Agreement.

d. The TRVWMD, the County, and the Government shall consult with each other under the Construction Phasing and Management Article of this Agreement to assure that responsible parties bear all necessary cleanup and response costs as defined in CERCLA. Any decision made pursuant to paragraph c of this Article shall not relieve any party from any liability that may arise under CERCLA.

e. The TRVWMD and the County shall operate, maintain, repair, replace, and rehabilitate the Project in a manner so that liability will not arise under CERCLA.

ARTICLE XIX - OBLIGATION OF FUTURE APPROPRIATIONS

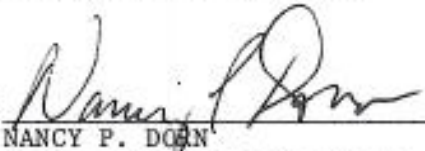
Nothing herein shall constitute, nor be deemed to constitute, an obligation of future appropriations by the legislature of the State of

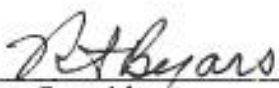
Mississippi when such obligation would be inconsistent with the State's Constitutional or Statutory limitations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the Assistant Secretary of the Army (Civil Works).

THE DEPARTMENT OF THE ARMY

TOMBIGBEE RIVER VALLEY WATER MANAGEMENT DISTRICT

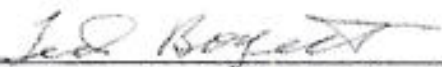
BY: 
NANCY P. DOAN
Assistant Secretary of the Army
(Civil Works)

BY: 
Its President

DATE: 1 Sept 92

DATE: 23 JUL 1992

LAMAR COUNTY, ALABAMA

BY: 
Chairman, Lamar County Commission

DATE: August 10, 1992

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

TOMBIGBEE RIVER VALLEY WATER MANAGEMENT
DISTRICT

BY: 

LAMAR COUNTY, ALABAMA

BY: 

CERTIFICATE OF AUTHORITY

I, Gary Carnathan, do hereby certify that I am the principal legal officer of the TOMBIGBEE RIVER VALLEY WATER MANAGEMENT DISTRICT; that the TOMBIGBEE RIVER VALLEY WATER MANAGEMENT DISTRICT is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the TOMBIGBEE RIVER VALLEY WATER MANAGEMENT DISTRICT in connection with the Project, and to pay damages, if necessary, in the event of the failure to perform, in accordance with Section 221 of Public Law 91-611, and that the persons who have executed this Agreement on behalf of the TOMBIGBEE RIVER VALLEY WATER MANAGEMENT DISTRICT have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification
this 4th day of August, 1992.


TITLE

CERTIFICATE OF AUTHORITY

I, Alex Brown, do hereby certify that I am the principal legal officer of LAMAR COUNTY, ALABAMA; that LAMAR COUNTY, ALABAMA is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and LAMAR COUNTY, ALABAMA in connection with the Project, and to pay damages, if necessary, in the event of the failure to perform, in accordance with Section 221 of Public Law 91-611, and that the persons who have executed this Agreement on behalf of LAMAR COUNTY, ALABAMA have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification
this 10th day of August, 1992.



TITLE

CERTIFICATION OF LEGAL REVIEW

The Local Cooperation Agreement for construction of the Luxapalila Creek Flood Control Project, Mississippi and Alabama, has been fully reviewed by the Office of Counsel, USAED, Mobile.



District Counsel