



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
441 G STREET, NW  
WASHINGTON, DC 20314-1000

CECW-EC

JUL 03 2017

MEMORANDUM FOR COMMANDERS, MAJOR SUBORDINATE COMMANDS

SUBJECT: Implementation Guidance for Section 1115 of the Water Resources Development Act of 2016 (WRDA 2016), Reservoir Sediment

1. Section 1115 of WRDA 2016 amends Section 215 of the Water Resources Development Act of 2000 (33 U.S.C. 2326c) and directs the Secretary to establish, using available funds and after public notice, a pilot program to accept services provided by non-federal interests or commercial entities for removal of sediment captured behind up to 10 dams owned or operated by the United States and under the jurisdiction of the Secretary for the purposes of restoring the authorized storage capacity of the project concerned. In exchange for providing the service, the non-federal interest or commercial entity is authorized to retain, use, recycle, sell or otherwise dispose of any sediment removed in connection with the service and the U.S. Army Corps of Engineers (Corps) may not seek any compensation for the value of the sediment. Section 1115 is enclosed.

2. The pilot program will be implemented with available operations and maintenance appropriated funds. In addition, the cost of coordination and oversight will be borne by the project for which the dredging service is being provided. Districts shall provide to CECW-CO through division a list of dam projects under their jurisdiction where authorized storage capacity has been reduced due to captured sediment. The district submittals must include the following information on each dam project:

a. An estimate of the amount, quality and characteristics of sediment available for removal, appropriate methods of removal, and other general conditions necessary to insure that removal of the sediment is consistent with the authorized purposes of the project;

b. The non-federal interests or commercial entities, if any, who have expressed interest in removing sediment;

c. Whether the sediment is likely to have commercial value;

d. The real property interests or other rights pursuant to which the Corps may authorize removal of the sediment; and

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e. An evaluation of whether accepting sediment removal services from a non-federal interest or commercial entity will be advantageous to the United States. The Corps will only consider acceptance of services under this section to remove sediment with commercial value as advantageous to the United States if the federal interest in restoring storage capacity cannot be adequately accommodated through disposal of the sediment as excess real property under the provisions of Chapter 5 of Subtitle I of the United States Code ("the Property Act").

3. CECW-CO shall provide written notice to the Assistant Secretary of the Army (Civil Works) (ASA(CW)) of the proposals that will be solicited under the pilot program. The ASA(CW) shall provide the written notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate. If the Corps determines that soliciting proposals for services at any dam project whose authorized storage capacity has been reduced by captured sediment is not in the best interest of the United States, then CECW-CO shall inform the ASA(CW), who shall provide to the aforementioned committees written notice describing the reasoning for the determination.

4. CECW-CO shall evaluate the list of dam projects provided by districts and select up to 10 dam projects suitable for acceptance of sediment removal services under this section. CECW-CO shall then publish a notice in the Federal Register informing interested parties that districts will solicit proposals from non-federal interests and commercial entities for sediment removal services at the selected dam projects. The Federal Register notice shall inform interested parties that indemnification of the United States for any adverse impacts to the dam project that result from the services provided and performance of pre-and post-services sediment surveys to determine the sediment profile, quantities, and sediment quality will be required.

5. For the 10 dams identified for the pilot program, each district will issue a public notice to solicit proposals for sediment removal services for the dam(s) located within its Civil Works boundaries. Acceptance of services to remove sediment may be accomplished through a no cost contract or through the issuance of a license or easement for no consideration. Normal procurement and real property procedures shall be followed to insure compliance with all applicable regulatory requirements and to solicit proposals. The non-federal entity will be responsible for obtaining any permits required under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899 for the sediment removal activity. Contracts and real estate outgrants must require indemnification of the United States for any adverse impacts to the dam project that result from the services provided and performance of pre- and

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post-services sediment surveys to determine the sediment profile, quantities, and sediment quality.

6. Upon completion of the pilot program, CECW-CO shall prepare a report for ASA(CW) approval and transmittal to the aforementioned committees. CECW-CO shall make the report publicly available on the Corps' website.

7. Questions regarding the pilots under this implementation guidance should be directed to Sean Smith, Principal Hydrologic and Hydraulic Engineer, Engineering and Construction Division, at 202-761-0301 or Sean.L.Smith@usace.army.mil



JAMES C. DALTON, P.E.  
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Encl

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## **SEC. 1115. RESERVOIR SEDIMENT.**

(a) IN GENERAL.—Section 215 of the Water Resources Development Act of 2000 (33 U.S.C. 2326c) is amended to read as follows:

### **“SEC. 215. RESERVOIR SEDIMENT.**

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Water Resources Development Act of 2016 and after providing public notice, the Secretary shall establish, using available funds, a pilot program to accept services provided by a non-Federal interest or commercial entity for removal of sediment captured behind a dam owned or operated by the United States and under the jurisdiction of the Secretary for the purpose of restoring the authorized storage capacity of the project concerned. ‘

‘(b) REQUIREMENTS.—In carrying out this section, the Secretary shall—

“(1) review the services of the non-Federal interest or commercial entity to ensure that the services are consistent with the authorized purposes of the project concerned;

“(2) ensure that the non-Federal interest or commercial entity will indemnify the United States for, or has entered into an agreement approved by the Secretary to address, any adverse impact to the dam as a result of such services;

“(3) require the non-Federal interest or commercial entity, prior to initiating the services and upon completion of the services, to conduct sediment surveys to determine the pre- and post-services sediment profile and sediment quality; and

“(4) limit the number of dams for which services are accepted to 10.

“(c) LIMITATION.—

“(1) IN GENERAL.—The Secretary may not accept services under subsection (a) if the Secretary, after consultation with the Chief of Engineers, determines that accepting the services is not advantageous to the United States.

“(2) REPORT TO CONGRESS.—If the Secretary makes a determination under paragraph (1), the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate written notice describing the reasoning for the determination.

“(d) DISPOSITION OF REMOVED SEDIMENT.—In exchange for providing services under subsection (a), a non-Federal interest or commercial entity is authorized to retain, use, recycle, sell, or otherwise dispose of any sediment removed in connection with the services and the Corps of Engineers may not seek any compensation for the value of the sediment.

“(e) CONGRESSIONAL NOTIFICATION.—Prior to accepting services provided by a non-Federal interest or commercial entity under this section, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate written notice of the acceptance of the services.

“(f) REPORT TO CONGRESS.—Upon completion of services at the 10 dams allowed under subsection (b)(4), the Secretary shall make publicly available and

submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report documenting the results of the services.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Water Resources Development Act of 2000 is amended by striking the item relating to section 215 and inserting the following:

“Sec 215. Reservoir sediment”.