REPLY TO
ATTENTION OF

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

CECW-CO

NOV 09 2015

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Implementation Guidance for Section 1008 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) – Expediting Hydropower at Corps of Engineers Facilities

1. Section 1008(a) of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) declares that it is the policy of the United States that the development of non-Federal hydroelectric power at Corps of Engineers USACE) civil works projects, including locks and dams shall be given priority; that USACE approval of non-Federal hydroelectric power at USACE civil works projects including permitting required under Section 14 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 408), shall be completed by the USACE in a timely and consistent manner; and that approval of hydropower at USACE civil works projects shall in no way diminish the other priorities and missions of the Corps of Engineers, including authorized project purposes and habitat and environmental protection.

2. Section 1008 (b) of WRRDA 2014 requires the Secretary to submit a report no later than 2 years after the date of enactment of WRRDA, and biennially thereafter, to the Senate Committee on Environment and Public Works and the House of Representatives Committee on Transportation and Infrastructure. At a minimum the report shall include a description of initiatives carried out by the Secretary to encourage the development of hydroelectric power by non-Federal entities at USACE civil works projects; a list of all new hydroelectric power activities by non-Federal entities approved at USACE civil works projects in that fiscal year, including the length of time the Secretary needed to approve those activities; a description of the status of each pending application from non-Federal entities for approval to develop hydroelectric power at USACE civil works projects; a description of any benefits or impacts to the environment, recreation, or other uses associated with USACE civil works projects at which non-Federal entities have developed hydroelectric power in the previous fiscal year; and the total annual amount of payments or other services provided to the USACE, the Treasury, and any other Federal agency as a result of approved non-Federal hydropower projects at USACE civil work projects. A copy of Sections 1008 (a) and 1008 (b) of WRRDA 2014 is enclosed.

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3. Each MSC that operates non-powered dams or other facilities with the potential for generating hydroelectric power will appoint a Federal Energy Regulatory Commission (FERC) Coordinator at the MSC and district level. The district level FERC Coordinator will be the point of contact for all FERC project specific hydropower related activities. This includes coordination with FERC regarding the licensing process of a non-federal entity and with the FERC licensee or preliminary permit holder (non-federal entity) regarding all aspects of non-federal hydropower development on a USACE dam or facility. Non-federal entities are defined as a self-sustaining non-federal person or organization operated by individuals acting outside the scope of any official capacity as officers, employees, or agents of the Federal Government. In addition, the FERC coordinator will be responsible for working with the district 408 coordinator to ensure timely completion of the 408 permitting process in accordance with the Memorandum of Understanding between the Corps and FERC signed in March 2011. In addition, the HQUSACE and FERC will continue to engage in discussions facilitated by the Department of Energy to better understand each agency's processes and streamline the licensing and 408 decision-making process by eliminating duplicate requirements and redundancies for non-federal hydropower developers.

4. Each MSC will submit to Headquarters a report on their non-federal hydropower development activities. The first report will be submitted electronically to CECW-CO no later than 1 January 2016 and will be based on FY 2015 information. The report will contain the information described in paragraph 2 above and, to the extent possible, will be based upon the information within the FERC Hydropower database within Operations and Maintenance Business Information Link (OMBIL). Information required for the report not contained within OMBIL will be provided separately to CECW-CO by the MSC for inclusion within the consolidated report. Further, each MSC will track and report on the processing time for all documents associated with non-federal hydropower development and ensure that current data on all non-federal hydropower activities are maintained in the OMBIL FERC Hydropower database as well as report on lessons learned and best practices associated with non-Federal hydropower development. Funding for the districts to prepare reports will come from the Maintenance and Operations of Dams account. No new appropriations are anticipated.

5. The information provided by each MSC will be consolidated by the USACE National Hydropower Business Line Manger into the final report to Congress. The report will be reviewed and approved by HQUSACE prior to its submittal to the ASA (CW) for transmittal to Congress. The first biennial report is due to Congress by 10 June 2016 and every two years thereafter.

6. My point of contact is Mr. Kamau Sadiki, National Hydropower Business Line Manager, Kamau.B.Sadiki@usace.army.mil (202) 761-4889

Encl

EDWARD E. BELK, P.E.

Chief, Operations and Regulatory Division
Directorate of Civil Works

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SECTION 1008 OF WRRDA 2014. EXPEDITING HYDROPOWER AT CORPS OF ENGINEERS FACILITIES.

(a) POLICY.—Congress declares that it is the policy of the United States that—

(1) the development of non-Federal hydroelectric power at Corps of Engineers civil works projects, including locks and dams, shall be given priority;

(2) Corps of Engineers approval of non-Federal hydroelectric power at Corps of Engineers civil works projects, including permitting required under section 14 of the Act of March 3, 1899 (33 U.S.C. 408), shall be completed by the Corps of Engineers in a timely and consistent manner; and

(3) approval of hydropower at Corps of Engineers civil works projects shall in no way diminish the other priorities and missions of the Corps of Engineers, including authorized project purposes and habitat and environmental protection.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act and biennially thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report that, at a minimum, shall include—

(1) a description of initiatives carried out by the Secretary to encourage the development of hydroelectric power by non-Federal entities at Corps of Engineers civil works projects;

(2) a list of all new hydroelectric power activities by non- Federal entities approved at Corps of Engineers civil works projects in that fiscal year, including the length of time the Secretary needed to approve those activities;

(3) a description of the status of each pending application from non-Federal entities for approval to develop hydroelectric power at Corps of Engineers civil works projects;

(4) a description of any benefits or impacts to the environment, recreation, or other uses associated with Corps of Engineers civil works projects at which non-Federal entities have developed hydroelectric power in the previous fiscal year; and

(5) the total annual amount of payments or other services provided to the Corps of Engineers, the Treasury, and any other Federal agency as a result of approved non-Federal hydropower projects at Corps of Engineers civil works projects.