



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

REPLY TO
ATTENTION OF

MAR 24 2016

CECW-P

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Implementation Guidance for Section 5056 of the Water Resources Development Act of 2007 (WRDA 2007), as amended by Section 4006 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014).

1. Section 5056 of WRDA 2007, as amended by section 4006 of WRRDA 2014, (Section 5056) authorizes the Secretary to carry out for the Rio Grande Basin, located in and along the headwaters and tributaries in Colorado, New Mexico, and Texas, an Environmental Management Program (EMP) for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement; and implementation of a long-term monitoring, computerized data inventory and analysis, applied research, and adaptive management program, in consultation with the States of Colorado, New Mexico, and Texas, and other appropriate entities. It allows for interagency agreements with the Secretary of State and the Secretary of the Interior to provide for the direct participation of, and transfer of funds, to agencies and bureaus of the Department of the Interior or the U.S. Section of the International Boundary and Water Commission for the planning, design, implementation, and evaluation of programs under this authority. Section 5056 includes reporting requirements. Further, Section 5056 provides that operation and maintenance costs of a habitat project located on Federal, State or local government land are the responsibility of the agency which has jurisdiction over fish and wildlife activities on that land. It provides that nothing in Section 5056 shall be construed to preempt any State water law and that the Secretary will comply with the Rio Grande Compact and applicable court decrees or Federal and State laws affecting water or water rights in the Rio Grande Basin. It provides that there is authorized to be appropriated \$15,000,000 for each fiscal year 2008 through 2019 to carry out this section. A copy of Section 5056 of the Water Resources Development Act of 2007, as amended by Section 4006 of WRRDA 2014, is enclosed.

2. If funds are specifically appropriated, the South Pacific Division (SPD), in consultation with the Southwestern Division (SWD), may develop a comprehensive program management plan (PgMP) for the planning, construction, and evaluation of measures for fish and wildlife habitat and enhancement in the Rio Grande Basin. Development of the PgMP will be cost shared 50% Federal and 50% non-Federal. The PgMP will articulate the strategic and collaborative vision and establish the framework for the management of an EMP, including planning, evaluation, cost management, quality management, monitoring, adaptive management, and communications. Goals and objectives for the PgMP will be developed through collaborative engagement with affected Federal, State, and local entities. The PgMP will include a preliminary assessment of potential projects with the objective of identifying and prioritizing high potential studies for budgeting. The SPD Division will submit the PgMP to HQUSACE for review and approval. Upon approval of the PgMP and subject to the availability of funds, the feasibility of individual

SUBJECT: Implementation Guidance for Section 5056 of the Water Resources Development Act of 2007 as amended by Section 4006 of the Water Resources Reform and Development Act of 2014.

projects will be evaluated and cost shared 50% Federal and 50% non-Federal and may be implemented in accordance with the general policies and procedures for the Continuing Authorities Program as described in Appendix F of ER 1105-2-100 for projects under Section 206 of WRDA 96, as amended. Project implementation will be cost shared 65% Federal and 35% non-Federal. The cost of O&M shall be 100% non-Federal sponsor responsibility, except the O&M of a project located on Federal land, or land owned or operated by a State or local government shall be borne by the Federal, State or local agency that has jurisdiction over fish and wildlife activities on the land. Projects less than \$10 million may be approved by SPD in consultation with SWD. Projects exceeding \$10 million must be submitted to HQUSACE for review and approval.

3. Individual projects will be monitored and adaptively managed consistent with existing guidance to ensure projects are functioning as intended, any long-term monitoring, computerized data inventory and analysis, applied research, and adaptive management program (LTCAMP) will be developed and implemented only to the extent funds are appropriated for such activities. To the extent possible, any LTCAMP efforts will leverage the resources and expertise of Federal and non-Federal partners including a standardized methodology for collection, processing, and distribution of information to assure accessibility to partners, stakeholders, and the public.

4. To the extent funds are specifically provided for a feasibility study prior to the approval of the PgMP, the feasibility study may be initiated by the appropriate District in accordance with ER 1105-2-100 and other applicable planning regulations. The study will be cost shared 50% Federal and 50% non-Federal. The study will follow SMART Planning principles, and be in compliance with the 3X3X3 rule unless an exemption to the policy is provided by the Assistant Secretary of the Army for Civil Works. The study will ensure appropriate consultation with Federal and non-Federal stakeholders and the public. In compliance with existing policy, any proposed recreation features will be passive and compatible with, and not adversely affect, the ecosystem restoration. Provided that the feasibility study meets the geographic and other requirements of Section 5056, a proposed project will not require additional Congressional construction authorization or a Civil Works Review Board. The feasibility report will be submitted to HQUSACE for review and approval and preparation of a Director's Report. Upon completion and approval of a feasibility report that identifies feasible measures, such measures may be considered for construction funding in accordance with existing budgetary policies and procedures. Project implementation will be cost shared 65% Federal and 35% non-Federal. The cost of O&M shall be 100% non-Federal sponsor responsibility, except the O&M of a project located on Federal land, or land owned or operated by a State or local government shall be borne by the Federal, State or local agency that has jurisdiction over fish and wildlife activities on the land. Any proposed monitoring or adaptive management will be consistent with the implementation guidance for Section 2039 of WRDA 2007.

SUBJECT: Implementation Guidance for Section 5056 of the Water Resources Development Act of 2007 as amended by Section 4006 of the Water Resources Reform and Development Act of 2014.

5. In accordance with Section 5056, and at such time that funds are appropriated for the development of a comprehensive program, the SPD shall prepare the required reports, in consultation with SWD, Department of the Interior, States, Tribes, and others as appropriate. SPD must submit the first report to HQUSACE not later than 30 October of the year of initial funding of the program and then not later than 30 October of every sixth year thereafter.

6. Section 5056 (c) (2) as amended authorizes the Secretary to enter into interagency agreements with the Secretary of State and Secretary of the Interior to provide for the direct participation of, and transfer of funds to, the United States Fish and Wildlife Service and any other agency of the Department of the Interior or the U.S. Section of the International Boundary and Water Commission for the planning, design, implementation, and evaluation of the Rio Grande EMP. The USACE will continue to coordinate with these agencies through existing processes as appropriate. Funding for any direct transfer to these agencies must be specifically appropriated.

Encl


THEODORE A. BROWN, P.E.
Chief, Planning and Policy Division
Directorate of Civil Works

DISTRIBUTION:
COMMANDER, SOUTH PACIFIC DIVISION, CESP
COMMANDER, SOUTHWESTERN DIVISION, CESWD

SUBJECT: Implementation Guidance for Section 5056 of the Water Resources Development Act of 2007 as amended by Section 4006 of the Water Resources Reform and Development Act of 2014.

Section 5056 of WRDA 2007, as amended by Section 4006 of WRRDA 2014.

**SEC. 5056. RIO GRANDE ENVIRONMENTAL MANAGEMENT PROGRAM,
COLORADO, NEW MEXICO, AND TEXAS.**

(a) Definitions- In this section, the following definitions apply:

(1) RIO GRANDE COMPACT- The term 'Rio Grande Compact' means the compact approved by Congress under the Act of May 31, 1939 (53 Stat. 785), and ratified by the States.

(2) RIO GRANDE BASIN- The term 'Rio Grande Basin' means the Rio Grande (including all tributaries and their headwaters) located--

(A) in the State of Colorado, from the Rio Grande Reservoir, near Creede, Colorado, to the New Mexico State border;

(B) in the State of New Mexico, from the Colorado State border downstream to the Texas State border; and

(C) in the State of Texas, from the New Mexico State border to the southern terminus of the Rio Grande at the Gulf of Mexico.

(3) STATES- The term 'States' means the States of Colorado, New Mexico, and Texas.

(b) Program Authority-

(1) IN GENERAL- The Secretary shall carry out, in the Rio Grande Basin--

(A) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement; and

(B) implementation of a long-term monitoring, computerized data inventory and analysis, applied research, and adaptive management program.

(2) REPORTS- Not later than December 31, 2014, and not later than December 31 of every sixth year thereafter, the Secretary, in consultation with the Secretary of the Interior and the States, shall submit to Congress a report that--

(A) contains an evaluation of the programs described in paragraph (1);

(B) describes the accomplishments of each program;

(C) provides updates of a systemic habitat needs assessment and an assessment of needs for other related purposes in the Rio Grande Basin, including flood damage reduction; and

(D) identifies any needed adjustments in the authorization of the programs.

(c) State and Local Consultation and Cooperative Effort- For the purpose of ensuring the coordinated planning and implementation of the programs described in subsection (b), the Secretary shall--

(1) consult with the States, and other appropriate entities in the States, the rights and interests of which might be affected by specific program activities; and

(2) enter into 1 or more interagency agreements with the Secretary of State and Secretary of the Interior to provide for the direct participation of, and transfer of funds to, the United States Fish and Wildlife Service and any other agency or bureau of the

SUBJECT: Implementation Guidance for Section 5056 of the Water Resources Development Act of 2007 as amended by Section 4006 of the Water Resources Reform and Development Act of 2014.

Department of the Interior or the U.S. Section of the International Boundary and Water Commission for the planning, design, implementation, and evaluation of those programs.

(d) Operation and Maintenance- The costs of operation and maintenance of a project located on Federal land, or land owned or operated by a State or local government, shall be borne by the Federal, State, or local agency that has jurisdiction over fish and wildlife activities on the land.

(e) Effect on Other Law-

(1) WATER LAW- Nothing in this section shall be construed to preempt any State water law.

(2) COMPACTS AND DECREES- In carrying out this section, the Secretary shall comply with the Rio Grande Compact, and any applicable court decrees or Federal and State laws, affecting water or water rights in the Rio Grande Basin.

(f) Authorization of Appropriations- There is authorized to be appropriated to the Secretary to carry out this section \$15,000,000 for each of fiscal years 2008 through 2019.