

2016 Report to Congress on Future Water Resources Development

February 2016

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This 2016 Report to Congress on Future Water Resources Development (Annual Report) is in response to section 7001 of the Water Resources Reform and Development Act (WRRDA) of 2014, which requires that the Secretary of the Army submit an annual report to Congress that identifies potential future water resources development through feasibility reports, proposed feasibility studies, and proposed modifications to authorized water resources development projects or studies.

Section 7001 requires a notice to be published in the Federal Register requesting proposals for proposed feasibility studies and proposed modifications to authorized water resources development projects and feasibility studies to be submitted by non-Federal interests. This report reflects information provided by non-Federal interests in response to that notice as well as the inclusion of feasibility reports that have signed Chief's Reports.

The section also directs that “the Secretary shall include in the annual report only those feasibility reports, proposed feasibility studies, and proposed modifications to authorized water resources development projects and feasibility studies that:

- (i) are related to the missions and authorities of the Corps of Engineers;
- (ii) require specific congressional authorization, including by an Act of Congress;
- (iii) have not been congressionally authorized;
- (iv) have not been included in any previous annual report; and
- (iv) if authorized, could be carried out by the Corps of Engineers.”

On May 26, 2015, the United States Army Corps of Engineers (Corps) published in the Federal Register (<https://www.federalregister.gov/articles/2015/05/26/2015-12626/proposals-by-non-federal-interests-for-feasibility-studies-and-for-modifications-to-an-authorized>), a notice for proposals from non-Federal interests for the 2016 Annual Report. The deadline for submitting proposals was September 23, 2015. All submitted proposals were evaluated against the five criteria set forth in section 7001 and are presented in one of two tables in the 2016 Annual Report. The first table, included in this main report, contains feasibility reports and proposals that meet the criteria. The second table, included as an appendix, contains proposals that did not meet those criteria. In order to provide more transparency to non-federal interests, the notice in the May 26, 2015, Federal Register sought to clarify the process under which proposals would be evaluated against the criteria in developing the 2016 Annual Report. This information is provided below.

Criteria 1. Related to the missions and authorities of the Corps

For the purposes of this report, proposals are generally considered related to the missions and authorities of the Corps when they involve a proposed or existing Corps water resources project or effort where the primary purpose involves flood and storm damage reduction, commercial navigation, or aquatic

ecosystem restoration. Proposals for related purposes, such as recreation, hydropower, or water supply, are eligible if undertaken in conjunction with a project or effort involving one or more of those primary purposes.

Criteria 2. Require specific congressional authorization, including by an Act of Congress

Proposals are considered to require congressional authorization in the following cases:

- Proposals Seeking Construction Authorization
 - Signed Chief's Reports or non-Federal feasibility reports submitted to the Secretary of the Army for review under Section 203 of WRDA 1986, as amended, under review,
 - Signed Chief's Report or completed non-Federal feasibility reports not yet submitted to the Secretary of the Army under Section 203 of WRDA 1986, as amended,
 - Ongoing feasibility studies that are expected to result in a Chief's Report or on-going non-Federal feasibility studies that have not yet been submitted to the Secretary of the Army under Section 203 of WRDA 1986, as amended
 - Proposed modifications to authorized water resources development projects requested by non-Federal interests through the WRRDA 2014 Section 7001 process.

- Proposals Seeking Study Authorization
 - New feasibility studies proposed by non-Federal interests through the WRRDA 2014 Section 7001 process will be evaluated by the Corps to determine whether or not there is existing study authority, and
 - Proposed modifications to studies requested by non-Federal interests through the WRRDA 2014 Section 7001 process.

As stated in the May 26, 2015, Federal Register Notice, the following types of proposals are not considered eligible to be included in the Annual Report, although they will be included in the appendix for transparency:

- Proposals for modifications to non-Federal activities where the Corps has provided previous assistance. Authorization to provide assistance does not provide authorization of a water resources development project.
- Proposals for construction of a new (projects unrelated to currently authorized water resource development projects) water resources development project that is not the subject of a complete or ongoing, feasibility study.

Criteria 3. Have not been congressionally authorized

Criteria 4. Have not been included in the report table of any previous Annual

Report to Congress on Future Water Resources Development

Proposals included in the report table in a previous Report to Congress on Future Water Resources Development are not eligible to be included in the table included in this report. Proposals previously included in an appendix may be re-submitted for consideration for inclusion in subsequent reports.

Criteria 5. If authorized, could be carried out by the CORPS

Whether following the traditional Corps Chief's Report process, or Section 7001 of WRRDA 2014, a proposal for a project or a project modification would need a current decision document to provide updated information on the scope of the potential project and demonstrate a clear Federal interest. This determination would include an assessment of whether the proposal is:

- Technically sound, economically viable and environmentally acceptable.
- Compliant with environmental and other laws including but not limited to National Environmental Policy Act, Endangered Species Act, Coastal Zone Management Act, and the National Historic Preservation Act.
- Compliant with statutes related to Water Resources Development including but not limited to the various water resources provisions pertaining to the authorized cost of projects, level of detail, separable elements, fish and wildlife mitigation, project justification, matters to be addressed in planning, and the 1958 Water Supply Act.

The Federal Register notice (May 26, 2015) identified specific requirements that all water resources development projects must generally meet before the Corps can proceed to construction. These requirements include: (1) that the project is authorized for construction by Congress; (2) that the Secretary, or other appropriate official, has approved a current decision document with the Administration's position on the project (this may occur prior to or subsequent to authorization) and, if appropriate, has transmitted that report to Congress; and (3) that funds for construction have been appropriated for the project. The second of these requirements is important for section 7001 proposals because a current decision document is the basis for Administration support for budgeting decisions for projects. While under the traditional authorization process, the Chief's Report serves as the current decision document that is transmitted to Congress prior to authorization, projects authorized based on a proposal submitted under Section 7001 will not have a completed Corps decision document and, therefore, would lack a basis for Administration support for implementation. Clearly identifying these requirements allows for a more transparent process should any of the non-Federal proposals become authorized based on this annual report.

The Federal Register notice also noted two other important considerations for non-Federal sponsors preparing proposals. First, if Congressional authorization of a new feasibility study results from inclusion in this report, it is anticipated that such authorization would be for the study only and not for construction. Second, a Post Authorization Change Report (PACR) is required to be completed to support potential project modifications, updates to project costs, and increases to the maximum

cost of a project established by section 902 of WRDA 1986, as amended (902 limit). Although PACRs may not include feasibility analysis because these PACRs support project modifications, they may be considered for inclusion in the report if the recommendations require authorization.

Of the 61 proposals submitted for the 2016 Annual Report, 25 were proposals for new feasibility studies, 34 were proposals for modifications to existing projects or changes to legislation, and 2 were proposals for a study modification. Of these proposals, 30 met the criteria and are listed in the Annual Report Table. The remaining 31 proposals that did not meet the criteria are captured in the Appendix with an explanation of which specific criteria were not met. (All 61 proposals provided by non-Federal interests for the 2016 Annual Report are available at <http://www.Corps.army.mil/Missions/CivilWorks/ProjectPlanning/LegislativeLinks.aspx>.) The two primary reasons proposals are included in the Appendix are that either authority already exists to perform the requested work or the proposal did not fit within the identified Corps core mission areas. It is important to note that where authority already exists to undertake the efforts described in the proposals, inclusion in the Appendix to the 2016 Annual Report does not preclude the Army from carrying out either the study or construction.

In light of the change to a more expansive evaluation process this year, the Secretary undertook a one-time review of proposals that were submitted for the 2015 Annual Report and subsequently included in the Appendix. Of the 95 proposals included in the Appendix to the 2015 Annual Report, 21 of the proposals were resubmitted by non-Federal interests for the 2016 Annual Report and were evaluated with all new proposals. Of the remaining 74 proposals, 31 were included in the main report table of the 2016 Annual Report identified in the category column as “Current Re-evaluation of Proposal submitted for the 2015 Annual Report.” (All proposals provided by non-Federal interests for the 2015 Annual Report are available at <http://www.Corps.army.mil/Missions/CivilWorks/ProjectPlanning/LegislativeLinks.aspx>.)

All feasibility reports with signed Chief’s Reports that have not been authorized or previously included in an annual report are included in this report. The report distinguishes those for which Army review has been completed from those currently under Army review. Since submission of the 2015 Annual Report on January 30, 2015, twelve unauthorized feasibility reports have completed Army review and either have been officially transmitted to Congress by the Secretary or transmission is in progress: Calcasieu Lock, Louisiana; Portsmouth Harbor and Piscataqua River, New Hampshire and Maine; Manhattan, Kansas; Central Everglades Planning Project, Florida; Leon Creek, Texas; Charleston Harbor, South Carolina; Port Everglades, Florida; Upper Des Plaines, Illinois and Wisconsin; Hereford Inlet, New Jersey; Edisto Beach, South Carolina; Bogue Banks, North Carolina; and Flagler Beach, Florida. In order for these proposed projects to proceed to construction, Congress must authorize and fund these projects. Three of the twelve Chief’s Reports that have completed Army review were also the subjects of proposals from non-Federal interests for the 2015 or 2016 Annual Report (or both): Charleston Harbor, South Carolina; Port Everglades, Florida; and Leon Creek, Texas.

Ten feasibility reports have signed Chief's Reports and are under Army review. All meet the five criteria and are accounted for in the Report table. In order for these proposed projects to proceed to construction, Congress must authorize and fund these projects. Three of the eleven Chief's Reports under Army review: South San Francisco Bay Shoreline, California; the Armourdale and Central Industrial District Levee Units, Kansas City, Kansas; and Brazos Island Harbor, Texas were also the subject of proposals from non-Federal interests for the 2015 or 2016 Annual Report (or both).

The Army completed two additional Chief's Report since the submission of the 2015 Annual Report that are not included in this report table. The first, Orestimba Creek, California, was transmitted to Congress on 01/29/2016 and authorized in WRDDA 2014. The second is a disposition study for Green River Locks and Dams 3, 4, 5 and 6 and Barren River Lock and Dam 1, Kentucky. The Chief's Report was completed on April 30, 2015 and recommends deauthorization of the project. Since the Green and Barren River Chief's Report is not recommending authorization or modification of a water resources project, it does not meet the requirements for inclusion in this annual report and was not included in the report tables.

The Assistant Secretary of the Army (Civil Works) certifies that, based on the information received from the non-Federal interests, each proposed feasibility study and proposed modification to an authorized water resources development project or feasibility study included in this main report meets the criteria established in WRRDA 2014 Section 7001. The information contained in proposals provided by non-Federal interests has not been revised or developed by the Corps or Army and the proposals are not endorsed by the Corps or Army. This report is in response to the requirements of Section 7001 only, and does not reflect program, policy, or budgeting priorities.