



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

CECW-P

APR 25 2019

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Revised Implementation Guidance for Section 1168 of the Water Resources Development Act (WRDA) of 2018, Disposition of Projects

1. The Assistant Secretary of the Army, Civil Works approved on 18 April 2019 Section 1168 of WRDA 2018. The attached implementation guidance is posted for internal and external use on the U.S. Army Corps of Engineers official WRDA website:  
<http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/>.
2. Please ensure wide dissemination of this guidance. Questions regarding this implementation guidance should be directed to the Headquarters POC, Ada Benavides, Senior Policy Advisor, Planning and Policy Division, at (202) 761-0415 or [ada.benavides@usace.army.mil](mailto:ada.benavides@usace.army.mil).

JAMES C. DALTON, P.E.  
Director of Civil Works

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DEPARTMENT OF THE ARMY  
ASSISTANT SECRETARY OF THE ARMY  
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APR 18 2019

MEMORANDUM FOR THE COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

SUBJECT: Implementation Guidance for Section 1168 of the Water Resources and Development Act of 2018, Disposition of Projects

1. Reference.
  - a. Memorandum, Subject: Interim Guidance on the Conduct of Disposition Studies, 22 August 2016.
  - b. Engineer Regulation 1105-2-100, Planning Guidance Notebook, dated 22 April 2000.
  - c. ER 200-2-2, Procedures for Implementing NEPA, dated 4 March 1988.
  - d. ER 1165-2-119, Modifications to Completed Projects, dated 20 September 1982.
2. Section 1168 of the Water Resources Development Act of 2018 (WRDA 2018) directs the Secretary, in carrying out a disposition study for a U.S. Army Corps of Engineers (Corps) project or a separable element of such a project, to consider modifications that would improve the overall quality of the environment in the public interest, including removal of the project or separable element of a project. Section 1168(b) directs the Secretary to conduct the study in a transparent manner. Section 1168(c) endorses removal of a project or separable element of a project in partnership with other federal agencies and non-Federal entities, to the extent permitted under existing authorities, when the Secretary determines that a Federal interest no longer exists and recommends removal. Section 1168 of WRDA 2018 and reference 1a are enclosed.
3. Section 1168(a) directs the Secretary to consider modifications that would improve the overall quality of the environment in the public interest, including removal of the project or separable element of a project, when conducting a disposition study. When modification of a project or removal of project features and improvements is likely to be more costly than continued operation and maintenance but may be justified based on ecosystem restoration benefits, the Corps will continue to follow existing guidance in reference 1a. That guidance allows modifications to projects, including removal of

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project features and improvements, for ecosystem restoration purposes to be further investigated in a feasibility study if a non-Federal interest is willing to share in the study costs. While disposition studies will not be utilized to formulate construction recommendations to modify projects for ecosystem restoration purposes, the Corps will continue to use disposition studies to explore opportunities for other Federal agencies and non-Federal entities to assume jurisdiction over or ownership of project features and improvements that no longer provide the benefits for which they were authorized. Subject to deauthorization of the project by Congress, such opportunities may ultimately result in modification of the project or removal of project features by entities other than the Corps to benefit the quality of the environment.

4. Section 1168(b) requires the disposition study process to be transparent. The disposition study process already includes opportunities for public input in accordance with the Corps' procedures for complying with the National Environmental Policy Act described in Engineer Regulation (ER) 1105-2-100 and ER 200-2-2. The Corps publishes final disposition study decision documents on the responsible Corps District's webpage.

5. Subsection (c) of Section 1168 endorses removal of a project or separable element of a project in partnership with other federal agencies and non-Federal entities, to the extent permitted under existing authorities, when the Secretary determines that a federal interest no longer exists and recommends removal. Because Congress has not granted the Secretary with the authority to deauthorize a completed water resources development project whose operations no longer meet the authorized purpose, structural elements that are required for a project's authorized purpose cannot be removed prior to enactment of legislation deauthorizing the project. Only structural elements of a project that are excess to the project's authorized purpose may be removed under existing authorities.

6. This guidance shall be transmitted to the appropriate Corps Division and District Commanders and posted to the Corps' WRDA website within five business days of receipt (written or electronic) from this office. Guidance shall be transmitted and posted as is and without additional guidance attached.

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7. Questions regarding this implementation guidance should be directed to Gib Owen, Office of the Assistant Secretary of the Army for Civil Works at [gib.a.owen.civ@mail.mil](mailto:gib.a.owen.civ@mail.mil) or 202 520 4867.

A handwritten signature in black ink, appearing to read "R. D. James", with a stylized flourish at the end.

**R. D. JAMES**  
Assistant Secretary of the Army  
(Civil Works)

Enclosure

cf: MG Scott Spellmon, Deputy Commanding General, Civil and Emergency Operations  
James Dalton, Director of Civil Works

## **Water Resources Development Act of 2018, Section 1168 - Disposition of Projects**

(a) **IN GENERAL.** In carrying out a disposition study for a project of the Corps of Engineers, or a separable element of such a project, including a disposition study under section 216 of the Flood Control Act of 1970 (33 U.S.C. 549a), the Secretary shall consider modifications that would improve the overall quality of the environment in the public interest, including removal of the project or separable element of a project.

(b) **DISPOSITION STUDY TRANSPARENCY.** The Secretary shall carry out disposition studies described in subsection (a) in a transparent manner, including by

- (1) providing opportunities for public input; and
- (2) publishing the final disposition studies.

(c) **REMOVAL OF INFRASTRUCTURE.** For disposition studies described in subsection (a) in which the Secretary determines that a Federal interest no longer exists, and makes a recommendation of removal of the project or separable element of a project, the Secretary is authorized, using existing authorities, to pursue removal of the project or separable element of a project in partnership with other Federal agencies and non-Federal entities with appropriate capabilities to undertake infrastructure removal.