



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

CECW-P

MAY 06 2019

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Revised Implementation Guidance for Section 1174 of the Water Resources Development Act (WRDA) of 2018, Middle Rio Grande Peak Flow Restoration

1. The Assistant Secretary of the Army, Civil Works approved on 2 May 2019 Section 1174 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, Bradd Schwichtenberg, Deputy Chief, South Pacific Division Regional Integration Team, (202) 761-1367 or [bradd.r.schwichtenberg@usace.army.mil](mailto:bradd.r.schwichtenberg@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  
CIVIL WORKS  
108 ARMY PENTAGON  
WASHINGTON DC 20310-0108

MAY -2 2019

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

SUBJECT: Implementation Guidance for Section 1174 of the Water Resources Development Act of 2018 (WRDA 2018), Middle Rio Grande Peak Flow Restoration

1. Section 1174 of the Water Resources Development Act of 2018 (WRDA 2018) directs the Secretary to restart the temporary deviation in the operation of Cochiti Lake and Jemez Canyon Dam that was carried out between 2009 and 2013 in order to continue to evaluate the effects of the deviation. Restarting the deviation is contingent upon first obtaining written approval, as required under the applicable water control manuals, from the Pueblo de Cochiti, the Pueblo of Santa Ana and the Rio Grande Compact Commission (Commission), and upon consulting to the maximum extent practicable with the existing Cochiti Lake Environmental Resources Team. The authority to conduct the deviation shall terminate 5 years after the date on which the Secretary restarts the temporary deviation. Section 1174 is enclosed.
2. For purposes of this guidance, the phrase the temporary deviation in the operation of Cochiti Lake and Jemez Canyon Dam, that was initiated in 2009 and terminated in 2013 (hereinafter, the deviation) is interpreted to mean the proposed action described in the final Environmental Assessment for a Temporary Deviation in the Operation of Cochiti Lake and Jemez Canyon Dam, Sandoval County, New Mexico (March 2009) ("2009 EA") and adopted in a Finding of No Significant Impact dated March 26, 2009. The deviation included two potential actions, either of which would be implemented annually during the deviation period only if hydrologic conditions allowed, as determined through annual coordination between the U.S. Army Corps of Engineers (Corps), a number of federal, tribal, and state agencies, and other stakeholders, as described more fully in the 2009 EA. The deviation was also contingent on provision of supplemental water from U.S. Bureau of Reclamation reservoir projects to offset certain depletions resulting from the deviation, pursuant to a Memorandum of Understanding between the Corps and the New Mexico Interstate Stream Commission. No funds have been appropriated, and the Department of the Army has not budgeted, for any additional costs that may be associated with restarting the deviation.
3. No work shall be undertaken to restart the deviation until the Pueblo de Cochiti, the Pueblo of Santa Ana, and the Commission provide unconditional written approval to restart the deviation as described in the 2009 EA. In order to obtain this approval, the Corps Albuquerque District Commander shall, subject to the availability of funds:

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- a. Develop and send written notices to the Pueblo de Cochiti and the Pueblo of Santa Ana notifying them of Section 1174 and requesting a statement from each Pueblo of whether they approve of restarting the deviation as described in the 2009 EA. The District Commander is encouraged to coordinate the development of the written notices with the Major Subordinate Command and the Corps Headquarters.
  - b. Develop and send a written notice to the Commission requesting written confirmation of whether it approves of restarting the deviation as described in the 2009 EA, and whether that approval is subject to the satisfaction of the conditions identified in its February 8, 2019 letter commenting on Section 1174, or any other conditions. The District Commander is encouraged to coordinate the development of the written notice with the Major Subordinate Command and the Corps Headquarters.
4. If the Pueblo de Cochiti, the Pueblo of Santa Ana, and the Commission all provide unconditional approval to restart the deviation, the Albuquerque District Commander shall, subject to availability of funds:
- a. Develop a plan to implement and evaluate the effects of the deviation of the operation of Cochiti Lake and Jemez Canyon Dam. The plan will specify that the purpose of restarting the deviation is to comply with Section 1174; identify required actions to restart the deviation and study its effects, including execution of agreements or acquisition of necessary land and water rights, and any additional authority or funding necessary to implement the deviation; identify requisite data points for collection; include a timeline for execution (not to exceed five years after initiation of a deviation); and provide a cost estimate for restarting the deviation.
  - b. To the maximum extent practicable, in developing this plan, consult with the existing Cochiti Lake Environmental Resources Team, which includes other Federal agencies, and landowners in the region.
  - c. Submit the plan through the MSC Commander and the Regional Integration Team (RIT) to the Director of Civil Works (DCW). The DCW will transmit the plan along with any recommendations within 30 days of receipt of the MSC Commanders memorandum to the Assistant Secretary of the Army for Civil Works (ASA(CW)) for review and action. No further work shall be undertaken to implement the deviation until the plan has been reviewed and approved by ASA(CW).
5. If the Pueblo de Cochiti, the Pueblo of Santa Ana, or the Commission disapprove the deviation or place conditions on their approval that would result in changes to the deviation described in the 2009 EA, or that would require additional authority or funding to satisfy, the Corps' Albuquerque District Commander shall undertake no further work to restart the deviation, but instead shall submit a report documenting and evaluating

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those responses through the MSC Commander and the RIT to the DCW, within 15 days of the decision to disapprove the deviation. The DCW will transmit the report along with any recommendations within 15 days of receipt of the District Commanders memorandum, to the ASA(CW) for review and action.

6. If the deviation is approved and implemented, at the conclusion of the deviation, the District Commander shall prepare a report to document the effects of the temporary deviation, the analysis of the impacts of the deviation, and any recommendations on future operation of the Cochiti Lake and Jemez Canyon Dam. The District Commander shall provide the report through the MSC Commander and the RIT to the DCW within 15 days of the completing the report. The DCW will transmit the report along with any recommendations within 30 days of receipt of the District Commanders memorandum, to the ASA(CW) for review and action.

7. 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.

8. Questions regarding this implementation guidance should be directed to Stacey Jensen, Office of the Assistant Secretary of the Army for Civil Works, at [stacey.m.jensen.civ@mail.mil](mailto:stacey.m.jensen.civ@mail.mil) or 703-695-6791.



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 1174. Middle Rio Grande Peak Flow Restoration**

(a) **RESTARTING OF TEMPORARY DEVIATION.** Subject to subsection (b), the Secretary shall restart the temporary deviation in the operation of Cochiti Lake and Jemez Canyon Dam, that was initiated in 2009 and terminated in 2013, to continue to evaluate the effects of the deviation.

(b) **APPROVAL AND CONSULTATION.** Before restarting the temporary deviation under subsection (a), the Secretary shall, as required under the applicable water control manuals

(1) first obtain approval from

(A) Pueblo de Cochiti;

(B) Pueblo of Santa Ana; and

(C) the Rio Grande Compact Commission established by the compact approved by Congress under the Act of May 31, 1939 (53 Stat. 785, chapter 155)

(2) to the maximum extent practicable, consult with the existing Cochiti Lake Environmental Resources Team, which includes other Federal agencies and landowners in the region.

(c) **SUNSET.** The authority to conduct the temporary deviation described in subsection (a) shall terminate on the date that is 5 years after the date on which the Secretary restarts the temporary deviation under such subsection.