

**§ 701b-16. Management of flood risk reduction projects**

**(a) In general**

If 2 or more flood control projects are located within the same geographic area, the Secretary shall, at the request of the non-Federal interests for the affected projects, consider those projects as a single program for budgetary or project management purposes, if the Secretary determines that doing so would not be incompatible with the authorized project purposes.

**(b) Cost share**

**(1) In general**

If any work on a project to which subsection (a) applies is required solely because of impacts to that project from a navigation project, the cost of carrying out that work shall be shared in accordance with the cost-sharing requirements for the navigation project.

**(2) Use of amounts**

Work described in paragraph (1) may be carried out using amounts made available under subsection (a).

(Pub. L. 113-121, title III, § 3012, June 10, 2014, 128 Stat. 1284.)

**Statutory Notes and Related Subsidiaries**

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

**§ 701b-17. Corps of Engineers Western Water Cooperative Committee**

**(a) Establishment**

**(1) In general**

Not later than 90 days after December 23, 2022, the Secretary shall establish a Western Water Cooperative Committee (referred to in this section as the “Cooperative Committee”).

**(2) Purpose**

The purpose of the Cooperative Committee is to ensure that Corps of Engineers flood control projects in Western States are operated consistent with congressional directives by identifying opportunities to avoid or minimize conflicts between the operation of Corps of Engineers projects and water rights and water laws in such States.

**(3) Membership**

The Cooperative Committee shall be composed of—

- (A) the Assistant Secretary of the Army for Civil Works (or a designee);
- (B) the Chief of Engineers (or a designee);
- (C) 1 representative from each of the Western States, who may serve on the Western States Water Council, to be appointed by the Governor of each State;
- (D) 1 representative with legal experience from each of the Western States, to be appointed by the attorney general of each State; and
- (E) 1 employee from each of the impacted regional offices of the Bureau of Indian Affairs.

**(4) Meetings**

**(A) In general**

The Cooperative Committee shall meet not less than once each year in one of the Western States.

**(B) Available to public**

Each meeting of the Cooperative Committee shall be open and accessible to the public.

**(C) Notification**

The Cooperative Committee shall publish in the Federal Register adequate advance notice of a meeting of the Cooperative Committee.

**(5) Duties**

**(A) In general**

The Cooperative Committee shall develop and make recommendations to avoid or minimize conflicts between the operation of Corps of Engineers projects and the water rights and water laws of Western States.

**(B) Limitation**

In carrying out subparagraph (A), the Cooperative Committee shall—

- (i) make recommendations that only apply to Western States; and
- (ii) ensure that any recommended changes or modifications to policy or regulations for Corps of Engineers projects would not adversely affect water resources within the State of Missouri.

**(6) Status updates**

**(A) In general**

On an annual basis, the Secretary shall provide to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written report that includes—

- (i) a summary of the contents of meetings of the Cooperative Committee;
- (ii) any legislative proposal from a Western State proposed to the Cooperative Committee; and
- (iii) a description of any recommendations made by the Cooperative Committee under paragraph (5), including actions taken by the Secretary in response to such recommendations.

**(B) Comment**

**(i) In general**

Not later than 45 days following the conclusion of a meeting of the Cooperative Committee, the Secretary shall provide to members of the Cooperative Committee an opportunity to comment on the contents of the meeting and any recommendations made under paragraph (5).

**(ii) Inclusion**

Comments provided under clause (i) shall be included in the report provided under subparagraph (A).

**(7) Compensation**

**(A) In general**

Except as provided in subparagraph (B), the members of the Cooperative Committee shall serve without compensation.

**(B) Travel expenses**

The members of the Cooperative Committee shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5.

**(8) Maintenance of records**

The Cooperative Committee shall maintain records pertaining to operating costs and records of the Cooperative Committee for a period of not less than 3 years.

**(9) Savings provisions****(A) No additional authority**

Nothing in this section provides authority to the Cooperative Committee to affect any Federal or State water law or interstate compact governing water.

**(B) Other States**

Nothing in this section may be interpreted, by negative implication or otherwise, as suggesting that States not represented on the Cooperative Committee have lesser interest or authority, in relation to Western States, in managing the water within their borders or in vindicating State water rights and water laws.

**(b) Definition of Western States**

In this section, the term “Western States” means the States of Alaska, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

(Pub. L. 117–263, div. H, title LXXXI, §8158, Dec. 23, 2022, 136 Stat. 3738.)

**Statutory Notes and Related Subsidiaries****“SECRETARY” DEFINED**

Secretary means the Secretary of the Army, see section 8002 of Pub. L. 117–263, set out as a note under section 2201 of this title.

**§ 701c. Rights-of-way, easements, etc.; acquisition by local authorities; maintenance and operation; protection of United States from liability for damages; requisites to run-off and water-flow retardation and soil erosion prevention assistance**

After June 22, 1936, no money appropriated under authority of section 701f of this title shall be expended on the construction of any project until States, political subdivisions thereof, or other responsible local agencies have given assurances satisfactory to the Secretary of the Army that they will (a) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the project, except as otherwise provided herein; (b) hold and save the United States free from damages due to the construction works; (c) maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of the Army: *Provided*, That the construction of any dam authorized herein, may be undertaken without delay when the dam site has been acquired and the assur-

ances prescribed herein have been furnished, without awaiting the acquisition of the easements and rights-of-way required for the reservoir area: *And provided further*, That whenever expenditures for lands, easements, and rights-of-way by States, political subdivisions thereof, or responsible local agencies for any individual project or useful part thereof shall have exceeded the present estimated construction cost therefor, the local agency concerned may be reimbursed one-half of its excess expenditures over said estimated construction cost: *And provided further*, That when benefits of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, the Secretary of the Army with the consent of the State wherein the same are located may acquire the necessary lands, easements, and rights-of-way for said project or part thereof after he has received from the States, political subdivisions thereof, or responsible local agencies benefited the present estimated cost of said lands, easements, and rights-of-way, less one-half the amount by which the estimated cost of these lands, easements, and rights-of-way exceeds the estimated construction cost corresponding thereto: *And provided further*, That the Secretary of the Army shall determine the proportion of the present estimated cost of said lands, easements, and rights-of-way that each State, political subdivision thereof, or responsible local agency should contribute in consideration for the benefits to be received by such agencies: *And provided further*, That whenever not less than 75 per centum of the benefits as estimated by the Secretary of the Army of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, provision (c) of this section shall not apply thereto; nothing herein shall impair or abridge the powers now existing in the Department of the Army with respect to navigable streams: *And provided further*, That nothing herein shall be construed to interfere with the completion of any reservoir or flood control work authorized by the Congress and now under way.

(d) As a condition to the extending of any benefits, in prosecuting measures for run-off and water-flow retardation and soil erosion prevention authorized by Act of Congress pursuant to the policy declared in section 701a of this title, to any lands not owned or controlled by the United States or any of its agencies, the Secretary of Agriculture may, insofar as he may deem necessary for the purposes of such Act, require—

(1) The enactment and reasonable safeguards for the enforcement of State and local laws imposing suitable permanent restrictions on the use of such lands and otherwise providing for run-off and waterflow retardation and soil erosion prevention;

(2) Agreements or covenants as to the permanent use of such lands; and

(3) Contributions in money, services, materials, or otherwise to any operations conferring such benefits.

(June 22, 1936, ch. 688, §3, 49 Stat. 1571; Aug. 28, 1937, ch. 877, §4, 50 Stat. 877; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)