
CHAPTER EIGHT

PROJECT

IMPLEMENTATION

8. PROJECT IMPLEMENTATION

8.1 Identification of Sponsors

The existing Columbia and lower Willamette Rivers Navigation Channel Project encompasses a two state area. As such, the coalition of six supportive lower Columbia River ports has identified that two non-federal project sponsors will sign the new Project Cooperation Agreement (PCA) and act as co-sponsors for the project. The Port of Vancouver will serve as the Washington non-federal sponsor and act on behalf of the Washington ports (Vancouver, Woodland, Kalama, and Longview). The Port of Portland will serve as the Oregon non-federal sponsor act on behalf of the Oregon ports (Portland and St. Helens). It is intended that the two co-sponsors will jointly serve as the legal entity that acts as local sponsor for the proposed channel improvement project to deepen the Columbia and lower Willamette Rivers Navigation Channel to 43 feet.

To date, the six lower Columbia River ports have entered into an intergovernmental agreement which requires member ports to confer upon their representative non-federal sponsor the authority necessary to perform duties of a non-federal sponsor as required by the PCA. This intergovernmental agreement was signed by the six port directors/executive managers on February 25, 1999, and delineates financial responsibilities and duties to be performed by their representative co-sponsors. The coalition of six supportive ports indicated that when the two non-federal sponsors fall short of providing all required real estate acquisition capability, sub-agreements with the Washington Department of Transportation will be developed whereby the collective rights and powers required of the co-sponsorship are provided.

The co-sponsors will sign the PCA, agreeing to cost share the construction of the general navigation features and ecosystem restoration components, as well as items to be provided by the sponsors. The general navigation features include those design and construction portions of the project that meet the requirements for federal participation. For the proposed plan, these include the federal navigation channel and the construction and/or site preparation for the upland disposal sites.

8.2 Cost Allocation and Apportionment

Implementation costs are the costs, both federal and non-federal, of all work associated with the next phase of design (PED) and construction of the proposed plan. These include costs for real estate acquisition, mitigation, add-ons such as incremental costs for the locally preferred plan, engineering and design, and supervision and administration. Implementation costs are synonymous with the fully funded cost estimate. This cost estimate forms the basis for local decisions on project commitment and financing as well as the basis for developing budget requests. Section 902 of Public Law 99-662, the *Water Resource Development Act (WRDA) of 1986*, limits the authorization of projects to no more than a 20 percent increase in the fully funded cost estimate (with increases due to inflation and increased requirements of law as allowed).

Table 8-1 is developed from the *Executive Cost Summary* for the baseline cost estimate prepared for the proposed action and the government's least cost plan. The fully funded cost estimate for the project includes an estimate of inflation based on the Office of Management and Budget guidelines and the tentative construction schedule. The federal and non-federal shares for the cost of the construction are derived from the fully funded cost estimate from both the least cost plan and the locally preferred plan. The least cost plan is used to establish the threshold for federal participation. Any costs above the federal share of the least cost plan are financed entirely by the local sponsor.

Table 8-1. Executive Fully Funded Cost Summary

Least Cost Disposal Plan (in \$1,000s)	
General Navigation Features (GNF) - Cost Shared	Total
Channel and Turning Basins	\$89,092
Rock	\$40,511
Mitigation Construction	\$597
Contingency	\$20,886
Engineering and Design	\$2,460
Supervision and Administration	\$8,945
Total GNF	\$162,490
Non-Federal	
Berths	\$1,364
LERRD*	\$19,384
Utilities (to be paid by the permit applicant)	\$17,234
Total Non-Federal	\$37,981
10% GNF = \$16,249 < LERRD = \$19,384 No Extra 10%	
GNF	
Federal Share (75% GNF = \$162,490 x 0.75)	\$121,868
Non-Federal Share (25% \$40,623 + \$20,747)	\$61,370
Ecosystem Restoration	\$5,560 (No LERRD)
Federal Share (65% = \$5,560 x 0.65)	\$3,614
Non-Federal Share (35% = \$5,560 x 0.35)	\$1,946
<i>Per Section 210 of WRDA 1996, the non-federal cost for ecosystem restoration projects is 35 percent of all construction costs, including LERRD, and 100 percent of OMRR&R.**</i>	
Total Federal Cost (\$121,868 + \$3,614)	\$125,482
Total Non-Federal (\$61,370 + \$1,946)	\$63,316
Total Least Cost Plan (less Utilities)	\$188,798

*LERRD =lands, easements, rights-of-way, relocation, and disposal sites

**OMRR&R = operation, maintenance, repair, replacement, and rehabilitation

Table 8-1 (continued). Executive Fully Funded Cost Summary

Locally Preferred Disposal Plan (LPP – Proposed Action, in \$1,000s)		
LLP Cost	\$195,930	
Federal	\$125,482	NED Cap on Federal Interest = 64.0%
Non-Federal	\$70,448	(\$180,711-\$117,522) = 36.0%
Non-Federal	\$70,448	
Berths	\$1,364	
Real Estate Already Owned	\$9,649	
Cash	\$59,435	
State of Washington	\$26,820	
State of Oregon	\$32,614	

In addition, the non-federal sponsor would be responsible for \$564,500 per year to be provided to the Federal Government to cover incremental O&M costs for the Locally Preferred Disposal Plan.

8.3 Non-Federal Cost Sharing

As provided in Section 101 of WRDA 1986, the non-federal sponsor share consists of 25 percent of the costs for design and construction of the project to be paid during the construction, and an additional 10 percent in cash less any LERRD to be paid over a period not to exceed 30 years and at an interest rate pursuant to Section 106 of WRDA 1986. It is estimated that there would be no additional cash required because the cost of the LERRD exceeds 10 percent of the costs for the general navigation features (GNF). The fully funded cost estimate for the proposed action, including the ecosystem restoration component, is \$195,930,000. The non-federal sponsor is also responsible for 100 percent of the costs for features or development in excess of that required for the NED plan, such as a deeper or wider channel, changes in upland disposal sites, or modification in the use of disposal sites. The ecosystem restoration component of the project will be cost shared in accordance with applicable law and Department of the Army policy. The cost sharing for the construction of the ecosystem restoration component is 65 percent federal and 35 percent non-federal.

8.4 Division of Responsibilities

In addition to the cost sharing responsibilities already discussed, the following paragraphs outline the additional federal and non-federal responsibilities in connection with development of general navigation and ecosystem restoration projects, as mandated by the WRDA of 1986, other pertinent laws, and Department of the Army policy.

8.4.1 Federal Responsibilities

The Federal Government (Corps of Engineers) will be responsible for preparing detailed plans and specifications necessary to award all construction contracts, and for construction of the proposed plan. The Federal Government also will be responsible for maintaining the

general navigation features of the new project. Congress would authorize the project and appropriate the federal funds necessary for further design and construction. Region 10 of the EPA will be responsible for new ocean disposal site designation (see Section 8.7).

8.4.2 Non-Federal Responsibilities

The following list of items constitutes the non-federal cooperation elements that would be required for project implementation.

8.4.2.1 General Navigation Features

(1). Provide without cost to the United States, all lands, easements, and rights-of-way, and perform or ensure performance of all relocations determined by the Federal Government to be necessary for the construction, operation, maintenance, repair, replacement, and rehabilitation of the general navigation features (including all land, easements, and right-of-way, and relocations necessary for dredged material disposal facilities).

(2). The value of any lands, easements, and right-of-way, including upland dredge material disposal sites, (if needed) provided by the sponsor would be credited towards their additional 10 percent payment. The non-federal sponsor will be given a pro-rated share of the value of LERRD for disposal sites in common between the DMMP and the construction and maintenance of the new project. The pro-rated value will be based on the actual proportionate use of disposal site capacity for the maintenance of the existing project under the DMMP (prior to construction of a new project) versus the projected capacity to be used for the construction, maintenance and operation of the new project. All additional sites not part of the DMMP will be treated as never previously provided, and will be credited accordingly. These sites are identified in the feasibility report and the value to be credited to the 43-foot project will be based on the total capacity of the site compare to the capacity remaining at the disposal site.

a. Use of Dredged Material by the Ports. Where dredged material is placed on port property it will be placed in a confined disposal area. The non-federal sponsor would receive credit against the 10 percent additional share for the value of the LERRD needed for the disposal facility. Dredged material from the disposal facility would be available for subsequent use by the port in port development. It has been determined that there is no "land enhancement" benefit under these circumstances but that the sponsor is receiving some value from use of the dredged material. The value is the avoided cost of obtaining fill material from an alternative source. However, the cost sharing implications of the use of the dredged material are much more complex since the ports, as the non-federal sponsor, would have shared in the costs of dredging and transportation for new work dredging and in the costs of disposal facilities. It is proposed that where disposal facilities are located on port property, the disposal facility operations, maintenance and management be accomplished at non-federal costs without reimbursement. In other words, the sponsor will operate, maintain, and manage the disposal facilities in exchange for the opportunity to beneficially use the dredge material.

b. Where private property owners propose to use dredged material deposited on their property, the potential value obtained for use of the material will be reflected in the payment for the real estate interest for use of the property.

c. Sale of Dredged Material from Disposal Areas by Non-Federal Sponsor (Ports). The ports, as non-federal sponsor, propose to operate, maintain and manage all disposal facilities. It is proposed that when the non-federal sponsor sells material from a disposal facility, the proceeds from the sale, less any state royalties, be deducted from the federal payment for operation, maintenance and management of the disposal facilities.

d. Use of Commercial Sand and Gravel Properties for Dredged Material Disposal. The non-federal sponsor believes that there may be opportunities to dispose of dredged material at commercial sand and gravel operations (mining or storage sites) at no disposal facility cost and no land costs (no disposal fee charged). It was concluded that this was an ideal disposal alternative as long as there was no windfall to the commercial operator. It was generally agreed that windfall gains to commercial operations were not likely in this situation. It was also noted that the Corps has authority to cost share in fees for the use of private disposal facilities if that emerges as a disposal option. For each site, it is proposed that LERRD credit be limited to the actual local sponsor costs for real property interests provided.

(3). Provide, operate, maintain, repair, replace and rehabilitate, at the sponsors' own expense, the local service facilities. Provide berthing areas, floats, piers, slips, and similar marinas facilities as needed for transient and local vessels, as well as necessary access roads, parking areas, and other public use shore facilities open and available to all on equal terms. Compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government.

(4). Give the Government the right to enter, at reasonable times and in a reasonable manner, upon land which the local sponsor owns or controls for access to the project for the purpose of inspection, and, if necessary, the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the project.

(5). Provide, during the period of construction, a cash contribution equal to, the following percentage of the total cost of construction of the general navigation features (which include the construction of land based dredged material disposal facilities that are necessary for the disposal of dredged material requires for project construction, operation or maintenance and for which a contract for the facility's construction or improvement was not awarded on or before October 12, 1996;): 25 percent of the cost attributable to dredging to a depth in excess of 20 feet but not in excess of 45 feet.

(6). Pay with interest, over a period not to exceed 30 years following completion of the period of construction of the project, up to an additional 10 percent of the total cost of construction of general navigation features. The value of land, easements, right-of-way, and relocation provide by the non-Federal sponsor for the general navigation features,

described below, may be credited towards this required payment. If the amount of credit exceeds 10 percent of the cost of the general navigation features, the non-Federal sponsor shall not be required to make a cash contribution under this paragraph, nor shall it be entitled to any refund for the value of land, easements, right-of-way, and relocation in excess of 10 percent of the total cost of construction of the general navigation features.

(7). Comply with Section 221 of Public Law 91-661, Flood Control Act of 1970, as amended, and Section 103 of the Water Resource Development Act of 1986, Public Law 99-662, as amended, which provides the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the non-federal sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element.

(8). Hold and save the Government free from all damages arising from the construction, operation, maintenance, repair, replacement, and rehabilitation of the project and any project-related betterments, except for damages due to the fault or negligence of the Government or the Government's contractors.

(9). Keep and maintain books, record, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project to the extent and in such detail as will properly reflect total project costs.

(10). Perform, or cause to be performed, any investigation for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substance regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 42, USC 9601-9675, that may exist in, on, or under lands, easements, or rights-of-way necessary for the construction, operation, and maintenance of the project; except that the non-Federal sponsor shall not perform such investigations on lands, easements, or rights-of-way that the Government determines to be subject to navigation servitude without prior specific written direction by the Government.

(11). Assume complete financial responsibility for all necessary cleanup and response costs of any CERCLA regulated material located in, on, or under land, easements, or rights-of-way that the Government determines necessary for the construction, operation, or maintenance of the project.

(12). To the maximum extent practicable, perform its obligations in a manner that will not cause liability to arise under CERCLA.

(13). Comply with the applicable provisions of the Uniform Relocation Assistance and Real Estimate Property Acquisition Policies Act of 1970, Public Law 91-646, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17), and the Uniform Regulation contained in 49 Code of Federal Regulations, Part 24, in acquiring lands, easements, and rights-of-way, and performing relocations for construction, operation, and maintenance of the project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said act.

(14). Not use Federal funds to meet the non-Federal sponsor's share of total project costs unless the Federal granting agency verifies in writing that the expenditure of such funds is authorized.

(15). Comply with all applicable Federal and State law and regulations, including Section 106 of the Civil Rights Act of 1964, public Law 88-352, and Department of Defense Directive 5500.11 issued pursuant thereto, as the Army regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of Army.

(16). As a general policy, the non-federal sponsor will be responsible to pay any cost increase between the least cost plan and the sponsors' plan on a life cycle basis.

(17). The non-federal sponsor will assist in the work of maintaining the main ship channel in the Columbia and Willamette River by loaning the United States a suitable pipeline dredge in good operating condition, with full crew and equipment, without charge other than reimbursement for the full operating cost of the dredge on a basis approved by the Chief of Engineers, said operating costs to include proportionate maintenance costs based on the period of time the dredge is in use for the United States.

8.4.2.2 Environmental Restoration

(1). Provide 35 percent of the separable project costs allocated to environmental restoration as further specified below.

(2). Provide, all lands, easements, and right-of-way, including all suitable borrow and dredged material disposal areas or excavated material disposal areas, and perform or assure performance of all relocations determined by the Government to be necessary for the construction, operation, maintenance of the environmental restoration features of the project.

(3). Provide or pay the Government the cost of providing all retaining dikes, waste weirs, bulkheads, and embankments, including all monitoring features and stilling basins, that must be required at any dredged or excavated material disposal areas required for the construction, operation, and maintenance of the environmental restoration of the project.

(4). Provide, during construction, any additional costs as necessary to make its total contribution equal to 35 percent of the separable project costs allocated to environmental restoration.

(5). Provide for the operation, maintenance, repair, rehabilitation, and replacement of the ecosystem restoration component.

(6). Any post construction monitoring of the ecosystem restoration component will be cost shared 65 percent federal/35 percent non-federal.

8.4.2.3 General

- (1). Enter into an agreement which provides, through the execution of the project cooperation agreement, 25 percent of design costs.
- (2). Provide, during construction, any additional funds needed to cover the non-Federal share of design costs.

8.5 Sponsor's Support

The six lower Columbia River ports support implementation of the 43-foot channel improvement alternative and anticipate an expedited processing towards authorization and construction. The sponsoring ports have provided a letter of intent and a preliminary financing plan for their project share (Exhibit A). The ports have been actively involved in the feasibility study from its inception. The ports indicate they are clearly financially capable and fully prepared to perform the responsibilities as the non-federal sponsor as prescribed in the feasibility report and the draft PCA. The ports have provided a statement of financial capability and a preliminary financing plan. The plan has been reviewed and found to be in compliance with requirements for ensuring that the non-Federal sponsors have a reasonable plan for meeting its financial commitment for cost sharing the proposed project, including environmental restoration. The non-Federal sponsor's plan for financing the project includes funds from the States of Oregon and Washington, as well as general obligation bonds, tax revenues and cash reserves. To date, the states of Oregon and Washington have committed up to \$37.7 million dollars towards the local sponsors' share to deepen the Columbia River Navigation Channel. The non-Federal sponsors will seek remaining funding of approximately \$16 million through the states. An additional \$6.3 million will be sought from the State of Oregon for funding of the Willamette River portion of the project at such time as this portion of the project is ready to proceed.

8.6 Implementation Process

Figure 8-1 shows the major milestones and assumptions for project implementation. The *Division Engineer's Public Notice* prepared in August 1999 would transmit the feasibility report to Washington D.C. for circulation of the final EIS for a 45-day public review. It is anticipated that a *Record of Decision* for the final EIS would be issued in February 2000. All documents should be completed and available for project authorization in the proposed WRDA of 2000.

Region 10 of the EPA will adopt this feasibility report and EIS, including appropriate appendices, *Columbia River Dredged Material Disposal Sites*, as documentation in support of ocean disposal site selection and designation. This site designation process is specified in Section 102(c) of the Marine Protection, Research and Sanctuaries Act. The timeframe for implementation of formal EPA rulemaking is as follows:

1. After issuance of this EIS, EPA will publish a *Draft Rule* in the Federal Register with 45-day comment period.

