



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

CECW-ZB

FEB 02 2018

MEMORANDUM FOR COMMANDERS, MAJOR SUBURDINATE COMMANDS

SUBJECT: Implementation Guidance for Section 1122(a-h) of the Water Resources Development Act of 2016(WRDA 2016), Beneficial Use of Dredged Material

1. Section 1122(a-h) of WRDA 2016 was completed and signed on 3 January 2018. The implementation guidance is posted in the U.S. Army Corps of Engineers website: <http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/>.
2. Questions regarding this implementation guidance should be directed to Sheryl Carrubba, Acting Chief, Navigation and Operations Branch, at (202) 761-8648 or Sheryl.A.Carrubba@usace.army.mil.

A handwritten signature in blue ink, appearing to read "J. Dalton".

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

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DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
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JAN - 3 2018

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

SUBJECT: Implementation Guidance for Section 1122(a)-(h) of the Water Resources Development Act (WRDA) of 2016, Beneficial Use of Dredged Material

1. Section 1122 of WRDA 2016 (a-h) directs the Secretary to establish a pilot program consisting of 10 projects for the beneficial use of dredged material for certain specified purposes. It provides for the establishment of regional beneficial use teams to identify and assist in implementation of projects under the pilot program. It includes reporting requirements and provides that the pilot program shall terminate after completion of the 10 pilot projects. Separate guidance will be provided for Section 1122(i), which further amends Section 204 of WRDA 1992 (33 U.S.C. 2326) dealing with the Continuing Authorities Program (CAP) for beneficial use of dredged material, and for Section 1122(j), which further amends Section 156 of WRDA 1976 (42 U.S.C. 1962d-5f). Section 1122(a) through (h) of WRDA 2016 is enclosed. (Enclosure 1)
2. The beneficial use of dredged material pilot program identification and selection process will be initiated using existing funds. Major Subordinate Commands (MSC) and Headquarters staff will use Expenses funding for Pilot Project identification. Regional Sediment Management expertise and limited funds will be made available to districts to assist MSC and Headquarters U.S. Army Corps of Engineers (HQUSACE) in identifying pilot projects.
3. HQUSACE has established a website for WRDA 2016 Implementation Guidance, which will include general information about Section 1122, the criteria as per Section 1122(b)(3) and further described in Enclosure 3 for pilot projects, an email link to submit comments and questions, and instructions on preparing and submitting a pilot proposal with a link to the pdf proposal form (Enclosure 2). The website is located at: <http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/WRDA2016>. HQUSACE will publish a notice in the Federal Register with instructions for submitting project proposals. The notice will request that all proposals be submitted within 30 days of the notice's publication date.
 - a. A proposal must be submitted to HQUSACE via email or regular mail using the proposal form (Enclosure 2). All submittals by regular mail must be postmarked no later than the last day of the 30 day project proposal submittal period.

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b. All information provided in the proposal is public information. Therefore, information that is confidential business information, information that should not be disclosed because of statutory restrictions, or other information that a non-federal interest would not want to appear publicly should not be included in the submittal.

4. Proposals will be provided to the MSCs for developing the list of eligible pilot project(s), as outlined in Paragraph 5 below. Each MSC shall establish a Regional Team (RT) to review proposals, and develop a list of eligible projects for further consideration by HQUSACE. The enclosed Pilot Project Checklist is provided to assist in selecting eligible projects for submittal. The relevant MSC commander will head each RT and include representatives, as appropriate, from each MSC and district, including participation from the National Regional Sediment Management (RSM) team, other federal agencies, and state and local governmental agencies. Each MSC will ensure, to the extent practicable, consultation with relevant state agencies for all potential eligible projects. For each eligible project, the MSCs will utilize available data and analytical tools to conduct a preliminary analysis of the federal interest and the rough order of magnitude costs, environmental impacts, and monetary and non-monetary economic, environmental, and social benefits (Enclosure 3). The RTs will also complete a pilot project fact sheet for each eligible project using the attached fact sheet template (Enclosure 4). Each MSC commander will submit their list of eligible projects and the Pilot Project Proposal Checklist and a Pilot Project Fact Sheet to HQUSACE, Attention: CECW-CO. HQUSACE will convene a pilot project evaluation board consisting of Business Line Managers and technical experts as appropriate. The board will recommend no more than 10 pilot projects based on the environmental, economic and social benefits, including monetary and nonmonetary benefits, and diversity of project types and geographical project locations in accordance with Section 1122(b)(3) and information and analyses provided by the MSCs.

5. There is no limit on how many eligible projects a MSC can evaluate, however, each MSC will strive to identify at least 3 eligible projects that, to the extent practicable, are located in different geographic areas of responsibility and serve different purposes, as identified in Section 1122(a) and listed below:

- a. Reducing storm damage to property and infrastructure;
- b. Promoting public safety;
- c. Protecting, restoring, and creating aquatic ecosystem habitats;
- d. Stabilizing stream systems and enhancing shorelines;
- e. Promoting recreation;
- f. Supporting risk management adaptation strategies; and

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g. Reducing the costs of dredging and dredged material placement, such as projects that use dredged material for:

- 1. Construction or fill material;**
- 2. Civic improvement objectives; and**
- 3. Other innovative uses and placement alternatives that produce public economic or environmental benefits.**

To be considered eligible for implementation as part of the pilot program, a project must use dredged material from a federal or non-federal navigation channel for one of the purposes specified above. The project must also have a willing and capable non-Federal sponsor if one is required to provide a share of project costs and/or lands, easements, rights-of-way, and relocations. The MSCs shall provide a description of any proposed projects determined to be ineligible, to include the reasons why the project was determined to be ineligible, when submitting the list of eligible projects for further consideration by HQUSACE. Special attention will be given by the MSCs to identifying projects that would serve purposes outside the scope of, or underrepresented in, the Section 204 Continuing Authorities Program (CAP) or that would demonstrate the feasibility and benefits of innovative uses of dredged material.

6. If more than 10 eligible projects are identified cumulatively by the MSCs, HQUSACE will prepare a programmatic NEPA document detailing the evaluation of the projects proposed, to include a recommendation of 10 projects. The programmatic NEPA document, if required, will be prepared at the headquarters level and will document the evaluation and selection process used to determine what 10 projects to recommend for inclusion in the pilot program. The programmatic NEPA document should address the broad environmental consequences of each proposed project with sufficient detail to foster informed decision-making but recognizing that selection for the pilot program is not a decision to implement specific actions and that site-specific tiered NEPA compliance will be done before a project is implemented. If a programmatic NEPA document is prepared and finds that the selection of ten projects for inclusion in the pilot program would not have a significant impact on the environment, then the draft environmental documentation does not need to be circulated for public comment pursuant to paragraph 11 of ER 200-2-2. In such a case, the Assistant Secretary of the Army for Civil Works (ASA(CW)) will make the final FONSI available to the public upon making a decision.

7. The Director of Civil Works will submit the recommended projects along with supporting documentation, to include the programmatic environmental compliance documentation, and the Administrative Record for the projects that were proposed and screened out by the MSC's and the HQ to the ASA(CW) for a decision. The submittal will take into account the following: diversity of purpose and geographic location, estimated project costs, and impacts and benefits of each project. Per Section 1122(d), to the extent practicable, the pilot program will be carried out to maximize the beneficial

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placement of dredged material from both federal and non-federal navigation channels; incorporate two or more federal navigation, flood control, storm damage reduction, or environmental restoration projects; maximize savings and efficiencies for mobilization and demobilization of dredges and related equipment, including through the use of such efficiencies in contracting and environmental compliance as can be implemented under existing laws and regulations; foster federal, state, and local collaboration; implement best practices to maximize the beneficial use of dredged sand and other sediments; and ensure that the use of dredged material is consistent with all applicable environmental laws.

8. In general, Section 1122 provides that projects under the pilot program will be cost shared in accordance with the cost sharing requirements for projects carried out under the Section 204 CAP. However, for projects under the pilot program that utilize dredged material from federal navigation projects, Section 1122(e)(2) provides that the incremental costs above the Federal Standard for transporting and depositing such dredged material will be borne entirely by the federal government. If such pilot projects involve additional activities other than transportation and placement of dredged material, such as wetland plantings or mechanical shaping of dunes and beach berms, those costs shall be shared in accordance with the cost sharing requirements of Section 204. If additional material is dredged from a federal navigation project solely for purposes of a pilot project, the costs associated with the additional dredging will be cost shared with the non-federal sponsor of the pilot project in accordance with Section 204. If a pilot project relies on dredged material from a non-federal navigation project, the dredging and transportation costs will be 100 percent non-federal; all other costs associated with the pilot project will be cost-shared in accordance with Section 204.

9. Pilot Project Implementation.

a. For each selected pilot project, HQUSACE will provide guidance in consultation with the ASA(CW) on the appropriate source of funding for further planning and implementation. Subject to the availability of appropriate funding, analyses of the ten projects selected for the pilot program will be undertaken in accordance with the cost sharing guidance in the preceding paragraph and result in a decision document reflecting compliance with NEPA and other applicable environmental laws that is appropriately scaled to the size and complexity of the proposed project, assessing the factors identified in paragraph 5 above and the attached checklist. The minimum decision document and supporting documentation requirements are as follows:

1. Clear description of the recommended plan;
2. Demonstration of the project justification based on standard Corps project justification criteria for the particular project purpose, in accordance with the general guidance applicable to the project purpose(s);

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3. Documentation of compliance with appropriate federal, State, and local environmental and regulatory requirements such as NEPA, and other applicable environmental laws, normally included in a feasibility study specifically authorized by the Congress;
 4. Documentation of compliance with policies applicable to Section 204 of the Continuing Authorities Program.
 5. Completed Real Estate Plan consistent with the requirements of Chapter 12, ER 405-1-12;
 6. The non-federal sponsor financial analysis and financing plan at a level of detail appropriate to the scale of the project.
 7. District Real Estate certification that the non-federal sponsor has the capability to acquire and provide the required real estate interests;
 8. Detailed description of the non-federal sponsor's local cooperation requirements;
 9. Identification of the anticipated operation, maintenance, repair, replacement, and rehabilitation activities, including estimated costs;
 10. District Counsel statement of legal sufficiency for the decision documentation and compliance with NEPA and other applicable environmental laws.
 11. Approval of the report and the environmental compliance decision documents are delegated to the MSC commander.
- b. HQUSACE will post on the Civil Works Agreements website the template for the agreements for implementation of a pilot project under Section 1122. The website link is <http://www.usace.army.mil/Missions/Civil-Works/Project-Partnership-Agreements/>. The MSC commander is delegated authority to approve use of the agreement, including non-substantive deviations to the template agreement. Division counsel concurrence that the agreement does not deviate from the template, or includes acceptable non-substantive deviations, and that the agreement is appropriate for use for the particular project, is required prior to approval. Authority to execute an agreement may be delegated to the district commander after its approval by the MSC commander.
- c. The decision document and environmental compliance documents must be approved, and any required Memorandum of Agreement must be executed prior to implementing the pilot project.

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11. Questions regarding this implementation guidance may be directed to Gib Owen, at gib.a.owen.civ@mail.mil or 703-695-4641. Technical questions can be directed to the HQUSACE Navigation Branch Chief, Operations and Regulatory Division.



RYAN A. FISHER
Acting Assistant Secretary of the Army
(Civil Works)

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SEC. 1122. BENEFICIAL USE OF DREDGED MATERIAL.

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a pilot program to carry out projects for the beneficial use of dredged material, including projects for the purposes of—

- (1) reducing storm damage to property and infrastructure;
- (2) promoting public safety;
- (3) protecting, restoring, and creating aquatic ecosystem habitats;
- (4) stabilizing stream systems and enhancing shorelines;
- (5) promoting recreation;
- (6) supporting risk management adaptation strategies; and
- (7) reducing the costs of dredging and dredged material placement or disposal,

such as projects that use dredged material for—

- (A) construction or fill material;
- (B) civic improvement objectives; and
- (C) other innovative uses and placement alternatives that produce public economic or environmental benefits.

(b) **PROJECT SELECTION.**—In carrying out the pilot program, the Secretary shall—

- (1) identify for inclusion in the pilot program and carry out 10 projects for the beneficial use of dredged material;
- (2) consult with relevant State agencies in selecting projects; and
- (3) select projects solely on the basis of—
 - (A) the environmental, economic, and social benefits of the projects, including monetary and nonmonetary benefits; and
 - (B) the need for a diversity of project types and geographical project locations.

(c) **REGIONAL BENEFICIAL USE TEAMS.**—

(1) **IN GENERAL.**—In carrying out the pilot program, the Secretary shall establish regional beneficial use teams to identify and assist in the implementation of projects under the pilot program.

(2) **COMPOSITION.**—

(A) **LEADERSHIP.**—For each regional beneficial use team established under paragraph (1), the Secretary shall appoint the Commander of the relevant division of the Corps of Engineers to serve as the head of the team.

(B) **MEMBERSHIP.**—The membership of each regional beneficial use team shall include—

- (i) representatives of relevant Corps of Engineers districts and divisions;
- (ii) representatives of relevant State and local agencies; and
- (iii) representatives of Federal agencies and such other entities as the Secretary determines appropriate, consistent with the purposes of this section.

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(d) CONSIDERATIONS.—The Secretary shall carry out the pilot program in a manner that—

- (1) maximizes the beneficial placement of dredged material from Federal and non-Federal navigation channels;
- (2) incorporates, to the maximum extent practicable, 2 or more Federal navigation, flood control, storm damage reduction, or environmental restoration projects;
- (3) coordinates the mobilization of dredges and related equipment, including through the use of such efficiencies in contracting and environmental permitting as can be implemented under existing laws and regulations;
- (4) fosters Federal, State, and local collaboration;
- (5) implements best practices to maximize the beneficial use of dredged sand and other sediments; and
- (6) ensures that the use of dredged material is consistent with all applicable environmental laws.

(e) COST SHARING.—

(1) **IN GENERAL.**—Projects carried out under this section shall be subject to the cost-sharing requirements applicable to projects carried out under section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326).

(2) **ADDITIONAL COSTS.**—Notwithstanding paragraph (1), if the cost of transporting and depositing dredged material for a project carried out under this section exceeds the cost of carrying out those activities pursuant to any other water resources project in accordance, if applicable, with the Federal standard (as defined in section 335.7 of title 33, Code of Federal Regulations), the Secretary may not require the non-Federal interest to bear the additional cost of such activities.

(f) REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—

- (1) a description of the projects selected to be carried out under the pilot program;
- (2) documentation supporting each of the projects selected;
- (3) the findings of regional beneficial use teams regarding project selection; and
- (4) any recommendations of the Secretary or regional beneficial use teams with respect to the pilot program.

(g) TERMINATION.—The pilot program shall terminate after completion of the 10 projects carried out pursuant to subsection (b)(1).

(h) EXEMPTION FROM OTHER STANDARDS.—The projects carried out under this section shall be carried out notwithstanding the definition of the term “Federal standard” in section 335.7 of title 33, Code of Federal Regulations.

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**Beneficial Use of Dredged Material
Section 1122 of the Water Resources Development Act of 2016
Pilot Project Proposal Form**

1. Name and location of the proposed project.
2. Purpose of the proposed project (see paragraph 5 of the Implementation Guidance).
3. Description of the proposed project, including more detail on how material will be used beneficially to meet project purposes identified in 2 above
4. The name of all non-federal interests planning to act as the sponsor, including any non-federal interest that has contributed to or is expected to contribute toward the non-federal share of the proposed beneficial use project.
5. List the authorized U.S Army Corps of Engineers (Corps) water resources development project(s) that the proposed beneficial use project is associated with.
6. Provide an estimate, to the extent practicable, of the total beneficial use project cost, and the federal and non-federal share of those costs.
7. Describe, to the extent practicable, an estimate of the anticipated monetary and non-monetary benefits of the proposed beneficial use project with regard to the environmental, economic, and social benefits of the project.
8. Describe if local support exists for the proposal.
9. Statement of the non-federal interest's financial ability to provide a share of the project costs.

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**Beneficial Use of Dredged Material
Section 1122 of the Water Resources Development Act of 2016
Pilot Project Proposal Checklist**

Project Name and Location:

USACE MSC (Division) and MSC POC:

USACE District and POC:

Congressional Representative(s) and District(s):

Beneficial Use Project Purpose(s) (from Paragraph 5 of the Implementation Guidance):

Project Description: [Please provide a brief 1-paragraph narrative that describes the project]

Per WRDA 2016 Sec 1122(b)(3), projects will be selected on the basis of environmental, and Social benefits, both non-monetary and monetary, and selections will be of diverse project purpose as well as geographic distribution.

For all categories of benefit, provide the greatest level of detail available.

Environmental

If applicable, describe the ecological, cultural, and aesthetic resources and benefits of the project, including the approximate size and type of habitat (and scarcity) to be created with the beneficial project (50 words or less).

Describe the extent to which the habitat created will restore hydrologic character and geomorphic processes in the system and be self-sustaining (Positive/Neutral/Negative + 50 words or less).

Describe impacts or benefits to Federally listed threatened and endangered species, and historic or culturally significant resources. (Positive/Neutral/Negative + 50 words or less).

Describe any known or potential contaminated sediments or Hazardous, Toxic, or Radioactive Waste concerns at or adjacent to the project area and the beneficial use placement area.

Does this project contribute to a local, state, or Federal restoration plan or strategy? If so, state the name and describe the contribution.

Economics:

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If a cost effectiveness and incremental cost analysis has been completed on the proposed project, please describe/insert results, or indicators used.

National economic benefit:

Flood or coastal storm damage reduced (If economic analysis is not complete describe intended benefit using indicator values, such as # structures inundated)

Regional economic impact: Describe changes in labor distribution, income, and employment within the region as a result of the project, if the information is available:

Social:

Describe the benefit to public health and safety and other non-monetary benefits that are relevant to the proposed project but not described in the other categories above (i.e. community impacts, life safety, displacement, etc.)

If your proposed project contains additional Environmental, Social, or Economic benefits that are not described above you may include an attachment with a brief description of those benefits (not to exceed 200 words) for each of the categories.

Project costs:

Please provide the Estimated Cost, Total Project Cost, and Project First Cost and the basis for how those costs were developed. Indicate the cost for necessary studies and environmental compliance, mitigation, LERRDs, OMRR&R, and contingency. For coastal storm damage reduction, indicate the total nourishment cost. Report the price level with all costs provided. If the costs are unknown, estimate the magnitude of the project cost and indicate the uncertainty in the estimate:

Section 1122(d) also requires the Secretary to consider other factors when carrying out the pilot program. Please address these factors in the following questions:

1. To what extent does the project maximize the beneficial placement of dredged material from Federal and non-Federal navigation channels?

1a. List Federal and non-Federal Channels:

Channel	Fed or non-Fed

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1b. Total volume to be removed (in cy):

1c. Total volume to be beneficially used(in cy):

1d. Will the removal and/or placement be a repeated action?

Yes No

1e. If yes, what is the recurrence interval in years and total duration? (Annual, biannual, 7 years, etc.

1f. Approximate volume to be beneficially used per event _____cy

2. Will the project incorporate 2 or more Federal Navigation, Flood Risk Management, or Aquatic Ecosystem Restoration projects or combination of these? Yes No If Yes, answer 2a:

2a. List Federal Navigation, FRM, AER projects:

Federal Project	Business Line

3. Does the project coordinate the mobilization of dredges and related equipment, and or other efficiencies in contracting and environmental permitting?

Briefly describe the efficiency:

Yes No

3a. If Yes, quantify approximate savings in terms of mobilizations avoided, design costs avoided, contracting costs avoided, etc. Quantify Federal and non-Federal savings separately. Attach worksheet documenting savings.

Federal Savings _____ Non Federal Savings _____

4. Does the project foster Federal, State, and local collaboration?

Yes No

If Yes, answer 4a:

4a. List Federal, State, and local collaborators:

Collaborators	Letter of Support attached (Y or N)	Willing cost share sponsor? Y or N

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4b. Attach letters of support including letters of intent to act as cost share sponsor where applicable for beneficial use costs in excess of the Federal standard. This is only applicable if the pilot project is not associated with construction or maintenance dredging of a Federal navigation channel. For pilot projects associated with construction or maintenance dredging of a Federal navigation channel, a letter of intent may be required if the project requires the provision of LERRs.

5. Will the project implement and document best practices (e.g., leveraging of authorities and funding sources), value engineering, innovation, industry collaboration, and lessons learned applied as well as commitment to external review during design phase?

Yes No

5a. Please include any documentation describing planned leveraging of authorities and funding sources.

5b. Please submit a draft schedule for implementation including funding requirements.

5c. Describe how the project is innovative and will help inform future beneficial use projects.

5d. How could the project leverage existing or new research and development to inform future project design or to evaluate project performance?

6. Will the District establish a monitoring plan designed to collect data that documents expected benefits and commit to developing two Technical Notes focusing on: (1) project design and construction and (2) benefits and post construction performance (not to exceed 10 pages each) to be published by the RSM program to ensure Corps-wide and national dissemination of information, best practices, and lessons learned?

Yes No

7. Any known or potential reasons the use of the dredged material would be inconsistent with all applicable environmental laws?

Yes No

8. Does the project comply with policies applicable to Section 204 of the Continuing Authorities Program?

Yes No

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District Concurrences:

_____ **Date:** _____
Deputy District Engineer

_____ **Date:** _____
Chief, Operations

List of attachments:

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Date
xxx Division
xxx District

SECTION 1122 MSC PROJECT FACT SHEET

1. Name of Pilot Project
2. Associated Federal Project
 - Project Name
 - P2 Project Number
 - xxx is in the x Congressional Districts of State.
3. Authority – cite authority of associated Federal project
4. Location– Include map(s) and describe location
5. Beneficial Use Project Purpose: Reference 3a of Implementation Guidance: (Reducing storm damage to property and infrastructure; Promoting public safety; Protecting, restoring, and creating aquatic ecosystem habitats; Stabilizing stream systems and enhancing shorelines; Promoting recreation; Supporting risk management adaptation strategies; and Reducing the costs of dredging and dredged material placement.)
6. Problems Opportunities and Constraints- Describe problem to be solved or opportunities that may be realized through beneficial use
 - a. Objectives to Solve Problems or Realize Opportunities:
 -
 -
 -
7. Beneficial Use Measures That Are Proposed – *(please describe if and how these measures are innovative)*(Figures should be used as needed)
8. Views of Federal, State, and Regional Agencies – *(provide letters, emails, Memoranda for Record of meetings, Memo of Phone Conversation, or other documentation indicating that agencies have been contacted and, if available, responses received)*
9. Significant Effects of the Proposed Beneficial Use – *(both positive and negative, monetary and non-monetary)*
 - Economic
 - Social
 - Environmental

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10. Rough Order Magnitude (ROM) costs:

- a. Study Costs -
- b. Project Costs – Include estimated cost of authorized project within the Federal standard plus additional ROM cost (if any) of proposed beneficial use

11. Supplemental Information

- a. Real Estate Summary – concise summary description of requirements and potential issues
- b. Estimated Monitoring Period and Monitoring and O&M costs - *(If not applicable, include explanation. Monitoring period should be no more than 5 years.)*
- c. Existing environmental compliance documentation
- d. Project Specific Legislation and/or Report Language *(if applicable)* –

12. Recommendations