



DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

24 FEB 2000

REPLY TO
ATTENTION OF:
CECW-PC

MEMORANDUM FOR Commander, Great Lakes and Ohio River Division

SUBJECT: Nine Mile Run, Allegheny County, Pennsylvania - Guidance for Implementation of Section 349 of the Water Resources Development Act (WRDA) of 1999

1. Citation. Section 349 of WRDA 1999 reads as follows:

SEC. 349. NINE MILE RUN, ALLEGHENY COUNTY, PENNSYLVANIA.

If the Secretary determines that the documentation is integral to the project, the Secretary shall credit against the non-Federal share such costs, not to exceed \$1,000,000, as are incurred by the non-Federal interests in preparing the environmental restoration report, planning and design-phase scientific and engineering technical services documentation, and other preconstruction documentation for the habitat restoration project, Nine Mile Run, Pennsylvania.

2. Background. The subject project is being considered for implementation under the continuing authority of section 206 of WRDA 1996, as amended. Funding was appropriated and congressional direction to proceed with the project was included in the House Report accompanying the Fiscal Year 1999 Energy and Water Development Appropriations Act. Headquarters approved the Preliminary Restoration Plan on 20 January 1999 as a basis for proceeding to the feasibility phase [i.e., Ecosystem Restoration Report (ERR)] of the project. Section 349 of WRDA 1999 directs the Secretary to afford credit, up to \$1 million, for planning, design, and other preconstruction work accomplished by non-Federal interests, if the work is determined by the Secretary to be integral to the project.

3. Guidance.

a. Review and approval of planning and design phase decision documents, including independent technical review and legal review shall follow normal continuing authority procedures. Work on the ERR may proceed pending ASA(CW) approval of credit to be afforded for non-Federal work.

b. The Pittsburgh District shall prepare a crediting plan as a basis for ASA(CW) approval of credit to be afforded for non-Federal work. The crediting plan will consist of two parts. The first part will be a Project Management Plan that defines the scope, schedule, cost, and division of responsibilities for preparation of the ERR. The estimated value of the work already accomplished or to be accomplished by non-Federal interests in conjunction with the ERR shall be negotiated. The second part of the crediting plan will document all other work already accomplished or to be performed by non-Federal interests that is integral to the planning and design of the project. The District will conduct a review of documents, products, and management activities performed by non-

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Federal interests and associated financial records. This part of the crediting plan will describe the work already accomplished or to be done by the sponsor, document the necessity of the work to project implementation, and provide an estimate of its value. The total amount of credit for non-Federal work identified in the crediting plan shall not exceed \$1,000,000 nor shall it exceed 35 percent of the total project cost. The crediting plan will be submitted to Headquarters (CECW-P) for review and approval by ASA(CW).

c. The draft PCA must be submitted to CECW-AR for Washington-level review and ASA(CW) approval. The decision document accompanying the draft PCA will be the ERR approved by CELRD. The ERR will include documentation of the costs incurred by the non-Federal interests for work accomplished that was integral to the preparation of the ERR. The ERR will also provide a current estimate of the value of non-Federal work that will be integral to the design phase of the project and a current estimate of the total amount of credit to be afforded. The draft PCA will cite the current estimate of the total amount of credit to be afforded and will contain language indicating that the actual amount of credit to be afforded is subject to audit and shall not exceed \$1,000,000 nor shall it exceed 35 percent of the total project cost.

d. The value of non-Federal work that is integral to the project shall be included in total project costs. In accordance with section 206, non-Federal interests shall provide 35 percent of total project costs including all lands, easements, rights-of-way, and necessary relocations (LERR). If the value of non-Federal work plus LERR are less than 35 percent of total project costs, the non-Federal sponsor will be required to make a cash contribution such that the non-Federal share of total project costs equals 35 percent. If the value of non-Federal work plus LERR are greater than 35 percent of total project costs, subject to appropriations, the Government will finance or pay the non-Federal sponsor for a portion of the LERR such that the non-Federal share of total project costs equals 35 percent.

FOR THE COMMANDER:



HANS A. VAN WINKLE
Major General, USA
Deputy Commander for Civil Works

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