

PROJECT MODIFICATIONS FOR THE IMPROVEMENT OF THE ENVIRONMENT

Section 1135(b) of the Water Resources Development Act of 1986



Flood control projects, such as this drop structure, are designed to reduce flood hazards by improving the flow rate of the stream. However, in this case, the vertical drop prevents fish from migrating upstream to spawn. The Corps will modify the structure to accommodate fish passage as part of the Section 1135 – Anacostia River Restoration Project.

Authority and Scope. Section 1135 (b) of the Water Resources Development Act of 1986, as amended, provides authority for the Corps of Engineers to investigate, study, modify, and construct projects for the restoration of fish and wildlife habitats where degradation is attributable to water resource projects previously constructed by the Corps of Engineers. Project modifications are limited to a Federal cost of \$5 million per project. The program limit for Section 1135 is \$25 million.

How to Request Assistance. The Corps will initiate a preliminary investigation of a potential project after a letter from a prospective sponsoring agency is received. The sponsor must be fully empowered under State law to provide the required local cooperation. A sample letter of request is shown on the reverse side of this paper.

Funding. The sponsor is required to contribute 25 percent of the total project costs. All lands, easements, rights of way, relocations and dredged material placement areas (LERRD) necessary for construction of the project are the responsibility of the local sponsor. The value of LERRD may be credited towards the sponsor's share of project costs; however, the sponsor must contribute a minimum of 5 percent of the total project costs in cash.

Local Cooperation. Formal assurance of local cooperation must be furnished by a local sponsoring agency, as defined in the letter of request. During the planning phase, the sponsor will be required to demonstrate financial capability to fulfill all items of local cooperation.

SAMPLE LETTER OF REQUEST

(Type on Letterhead Paper)

(DATE)

District Engineer
U.S. Army Engineer District, Baltimore
P.O. Box 1715
Baltimore, Maryland 21203-1715

Dear Sir:

In accordance with the provisions of Section 1135 (b) of the Water Resources Development Act of 1986, as amended, which authorizes the Federal government to review the structural operation of water resources projects constructed by the Army Corps of Engineer to determine the need for modifications in the interests of improving the quality of the environment, the *[cooperating agency]* makes formal application for a study of *[waterway or locality, County, State]*.

[Insert paragraph giving a brief description of problem].

The *[cooperating agency]* understand(s) that the investigation will result in the preparation of a Ecosystem Restoration Report, the cost of which will be shared between the *[cooperating agency]* and the Corps of Engineers. The *[cooperating agency]* must provide 25 percent of the project cost. Of this 25 percent share, the *[cooperating agency]* may provide up to 80 percent in in-kind services.

The *[cooperating agency]* can provide the following local cooperation and participation:

1. Provide without cost to the United States all lands, easements, rights-of-way, and relocations, including suitable borrow and dredged material placement areas (LERRD), as determined by the Federal government to be necessary for the construction of the project. The value of LERRD will be included in the total project costs and credited towards the sponsor's share of project costs, as defined in the local cooperation agreement.
2. Hold and save the United States free from claims for damages that may result from the construction and subsequent maintenance of the project, except damages due to the fault or negligence of the United States or its contractors.
3. Assume responsibility for all costs in excess of the Federal cost limitation of \$5 million.
4. Ensure maintenance and repair of the project during the useful life of the works as required to serve the project's intended purpose, with no additional cost to the Federal government.
5. Provide a cash contribution of 5 percent of the project cost.
6. If the value of the sponsor's contribution above does not exceed 25 percent of the project cost, provide a cash contribution to make the sponsor's total contributions equal to 25 percent.

SIGNATURE OF COOPERATING AGENCY