

## **SECTION 10.0 COSTS AND FUNDING -- COMMITTING RESOURCES TO GET THE JOB DONE**

This plan is designed to accomplish an integrated harbor-wide assessment that makes maximum use of site-specific information, yet fills in data gaps and uses tools to provide a full picture of Portland Harbor. Significant resources will be required. This section describes those costs and planned funding sources. DEQ acknowledges that securing adequate funding is necessary to complete the investigation and perform necessary cleanup in the Harbor. The State is committed to exploring all funding options to ensure that the RI/FS and subsequent cleanup work are fully funded.

### **10.1 Estimated Costs for Harbor-Wide RI/FS**

The harbor-wide RI/FS will include studies of the benthic community, fish species, wildlife utilization, fish consumption, selection of reference areas, and the development of sediment and tissue quality guidelines. The estimated cost for implementing the Harbor and reference areas work is approximately \$2.2 to 3.8 million for contractor costs only. It does not include DEQ oversight costs. Site-specific activities will be performed and funded by responsible parties.

### **10.2 Sources of Funding and Funding Mechanisms**

As more fully described in Section 4, Oregon's Environmental Cleanup Law holds responsible parties strictly liable for remedial action costs and for injury or destruction of natural resources caused by a release of a hazardous substance. These statutory authorities allow DEQ to require potentially responsible parties to perform necessary investigative or remedial activities. DEQ's cleanup authorities are also applicable to releases of petroleum. Work performed under a voluntary agreement or consent order is funded by the responsible party, and DEQ recovers oversight costs.

In cases where DEQ determines that a responsible party is unknown, unwilling, or unable to undertake the required actions, DEQ may use funds from the Orphan Site Account to perform investigation and remedial activities. This statutory authority is significant because it provides DEQ alternative funding authority to address contaminant sources for recalcitrant responsible parties or where viable parties are not found. DEQ may use litigation to recover its costs from recalcitrant parties. Oregon's Orphan Site Account is funded by selling long-term bonds. Since 1992, DEQ has issued bonds totaling \$20.4 million. Debt on the bonds is repaid with a variety of funds, including lottery dollars, state general fund, and hazardous substance possession fees. In the past 4 years, DEQ has recouped over \$7 million, almost half of which was returned to the Orphan Site Account, from responsible parties and by reaching agreements with persons who wish to purchase orphan sites. DEQ currently anticipates that about \$9 million of Orphan Account Funds will be available in the 1999-2001 biennium. It is projected that funds needed for existing orphan sites and new orphan sites during the 1999-2001 biennium will be about \$4.5 to \$6.5 million. Therefore, sufficient funds will be available to provide a state contribution, as needed, of up to \$1 million for programmatic work in Portland Harbor. Programmatic elements include development of sediment quality guidelines, tissue guideline development, and reference area selection. It is not unusual for DEQ to spend \$1 million or more on one site. In the 1993-1995 biennium, DEQ spent over \$1 million at Fashion Cleaners, and in the 1995-1997 biennium, DEQ spent almost \$2 million of orphan site funds at Nu-Way Oil.

State statute prohibits the obligation of more than 25 percent of the Orphan Site Account to remedial action at facilities determined to have an unwilling responsible party, without legislative approval. DEQ expects to be able to cost recover a significant portion of any funds used in the harbor-wide investigation. Therefore, this limitation should not affect the State's access to the account.

As discussed previously, some site-specific work will be performed as part of the larger harbor-wide effort. A cooperative agreement between some of the known sites in the Harbor and DEQ is being negotiated to serve as the funding mechanism for Phase I. The agreement is intended to cover the development of a work plan for the needed programmatic tools, the harbor-wide RI, additional site discovery and identification of responsible parties, and negotiation of an enforceable consent decree to be signed in Fall

1999 to address remaining harbor-wide cost. The cooperative agreement will outline the amount that each source will contribute toward the harbor-wide analysis. Existing voluntary cleanup agreements and consent orders will be amended to allow the collection of harbor-wide data. For the portion of Phase I costs not funded by the cooperative agreement or other funding sources, the state may use Orphan Site Account funds. As additional responsible parties are identified, DEQ may recover its costs from these parties as well. In any event, using available state resources and existing state statutes, DEQ will ensure that Portland Harbor does not pose a threat to human health or the environment.

Other sources of funding may be available and will be researched by DEQ. For example, the Corps of Engineers has authority for ecosystem restoration as authorized under the Water Resources Development Act (WRDA) of 1990. In particular, Section 312 of WRDA 90, as amended, authorizes removal of contaminated sediments from navigable waters either as part of operation and maintenance of the federal authorized navigation project channel or for the purposes of environmental enhancement and water quality to meet the requirements of the Clean Water Act. Criteria for obtaining funds for this authority include:

- A non-federal sponsor who agrees to share 50 percent of the cost of removal and 100 percent of the cost for disposal must request use of this authority.
- Planning for potential removal and/or remediation is done in consultation with EPA and other federal, state and local resource agencies.
- Where used as part of operation and maintenance of the existing navigation channel, the Corps must demonstrate that the costs of removal and remediation, as appropriate, of contaminated sediment are economically justified based on savings in future operation and maintenance costs.
- Where used for the purposes of environmental enhancement, this authority may apply if it is consistent with current program and budgeting priorities. The national yearly maximum federal expenditures may not exceed \$20 million. National funding priority is currently given to five specific projects. The Willamette River may be added as a priority project.

Other potential sources of funding to augment responsible party and DEQ resources may include:

- National Estuary Program Funding
- Clean Water Act
- Endangered Species Act