
APPENDIX M

Real Estate Plan

REAL ESTATE PLAN (REP)
POPLAR ISLAND EXPANSION PROJECT
TALBOT COUNTY, MARYLAND

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1. GENERAL

This REP supports the Poplar Island Expansion Study General Reevaluation Report (GRR) in Talbot County, Maryland. This study is authorized by Section 537 of the Water Resources Development Act (WRDA) of 1996, as modified by Section 318 of the WRDA of 2000. The purpose of the GRR is to investigate modifications to the existing Poplar Island Environmental Restoration Project to evaluate opportunities for increased dredged material placement capacity and additional environmental enhancements. As with the Poplar Island Environmental Restoration Project, the Non-Federal Sponsor (NFS) will continue to be the Maryland Department of Transportation (MDDOT). The MDDOT is an umbrella organization that includes the Maryland Port Administration (MPA). The MPA will be the primary point-of-contact for work conducted under the Project Cooperation Agreement (PCA).

2. REAL ESTATE REQUIREMENTS

a. Description of Land, Easements, Rights-of-Way, Relocations, and Disposal Areas (LERRD's) for the Project:

The recommended expansion plan in the GRR proposes a northern alignment from the original Poplar Island Environmental Restoration Project, with a lateral expansion of 575 acres on open waters of the Chesapeake Bay, consisting nominally of 29 percent wetland habitat, 47 percent upland habitat, 24 percent open water, and a vertical expansion component consisting of a 5 foot raising of the upland cells of the existing Poplar Island Environmental Restoration Project. The recommended plan also includes potential outdoor recreational and/or environmental education and research components associated with the expansion. The perimeter dikes for both the lateral and vertical expansion will be constructed with fine sand obtained from borrow areas located within the footprint of the upland cell of the proposed lateral alignment as well as areas immediately adjacent to the Project. No standard or non-standard estates are required for construction, operation or maintenance of the Project, since the Government will exercise its right of navigational servitude. As with the expansion area, all borrow areas are also located in areas of navigational servitude, so these will not add to LERRD costs. However, it is helpful to note that the State of Maryland owns the Bay bottom in fee simple, so no acquisition would be necessary by the NFS were there no navigational servitude. The navigation channels from which the dredged material will come to fill the expansion will be from separate navigation projects around the Bay and are not considered an official part of the Poplar Island Expansion Project. No additional real estate will have to be acquired for other dredging projects in conjunction with the expansion.

b. Standard Estates

A standard Fee estate would be required for construction, operation and maintenance of the ecosystem sites. However, as explained above, because the navigational servitude is being invoked, and because the NFS owns the Bay bottom lands in fee, no fee acquisition is necessary.

c. Non-Standard Estates:

No non-standard estates will be necessary for this Project.

d. Current Ownership:

There is 1 tract of 575 acres of Chesapeake Bay bottom necessary for construction of the Project, currently owned by the State of Maryland.

e. Real Estate Mapping:

A map showing the tentatively selected northern alignment in relation to the original Poplar Island Environmental Restoration Project is shown in Exhibit "A".

3. FEDERALLY-OWNED LANDS AND EXISTING FEDERAL PROJECTS

The Government currently owns no lands at the expansion site and the only federal project is the adjacent Poplar Island Environmental Restoration Project. Dredged material utilized for the expansion will be utilized primarily from maintenance of the federal Baltimore Harbor and Channels Project, Maryland and also from the Chesapeake & Delaware (C&D) Canal Project approach channels.

4. LANDS OWNED BY THE NON-FEDERAL SPONSOR

The State of Maryland owns the Chesapeake Bay bottom anywhere below the mean high water mark, where the expansion is to be constructed. The State of Maryland also owns the Poplar Island remnant islands and the Bay bottom where the current Poplar Island Environmental Restoration Project is located. Once new Project lands have been created above mean high water and the Project is completed, ownership of the Bay bottom and the new land will remain under the ownership of the State of Maryland, which will be responsible for operation and maintenance.

5. NAVIGATIONAL SERVITUDE

The entire northern alignment expansion site and borrow areas are under navigational servitude, justified by the Projects support of navigation through the beneficial use of dredged material from shipping channels. Therefore, no acquisition is required for Government purposes, nor are additional rights-of-entry needed from the NFS for use of the property.

6. INDUCED FLOODING

The proposed Project features will not cause induced flooding.

7. BASELINE COST ESTIMATE FOR REAL ESTATE

Due to the nature of this Project being under navigational servitude and already owned by the NFS, there will be no LERRD costs or credits, so no MCACES estimate for real estate has been developed.

8. PUBLIC LAW 91-646 RELOCATIONS

There will be no Project features that will require relocations of any persons, farms or businesses in the subject area as would be required under Public Law 91-646, as amended.

9. TIMBER RIGHTS AND MINERAL ACTIVITY

There are no known timber rights or mineral activity in the area that will impact the Project site.

10. ASSESSMENT OF NON-FEDERAL SPONSOR ACQUISITION CAPABILITY

The NFS is MPA, which will be responsible for the acquisition of all necessary real estate interests required for this Project. Although no real estate acquisition is needed for this Project, the NFS is fully capable of acquiring property should it become necessary. An Assessment of Non-Federal Sponsor's Real Estate Acquisition Capability is included as Exhibit "B" to this plan.

11. ZONING

The enactment of zoning ordinances is not proposed to facilitate acquisition at Project sites.

12. ACQUISITION SCHEDULE

Since the Government will invoke navigational servitude, no acquisition or schedule is necessary.

13. UTILITY AND FACILITY RELOCATIONS

There are no utility or facility relocations required in connection with this Project.

14. ENVIRONMENTAL CONCERNS

Hazardous, toxic, and radioactive waste (HTRW) investigations have been performed on the proposed expansion area and none have been identified as a known or potential HTRW site. However, there was a recent discovery of small unexploded ordnance (UXO) on Poplar Island, as a result of dredged material placement into Cell 2, identified as WWI and WWII hand grenades. A total of 63 UXO were found in the south end of Cell 2, while excavating oyster shell from the inflow point. In such cases, the Government and NFS coordinate and perform their responsibilities as provided in the Project Cooperation Agreement under Article XV – Hazardous Substances and the Comprehensive Ecosystem Response, Compensation, and Liability Act (CERCLA)

15. ATTITUDES OF THE LANDOWNERS

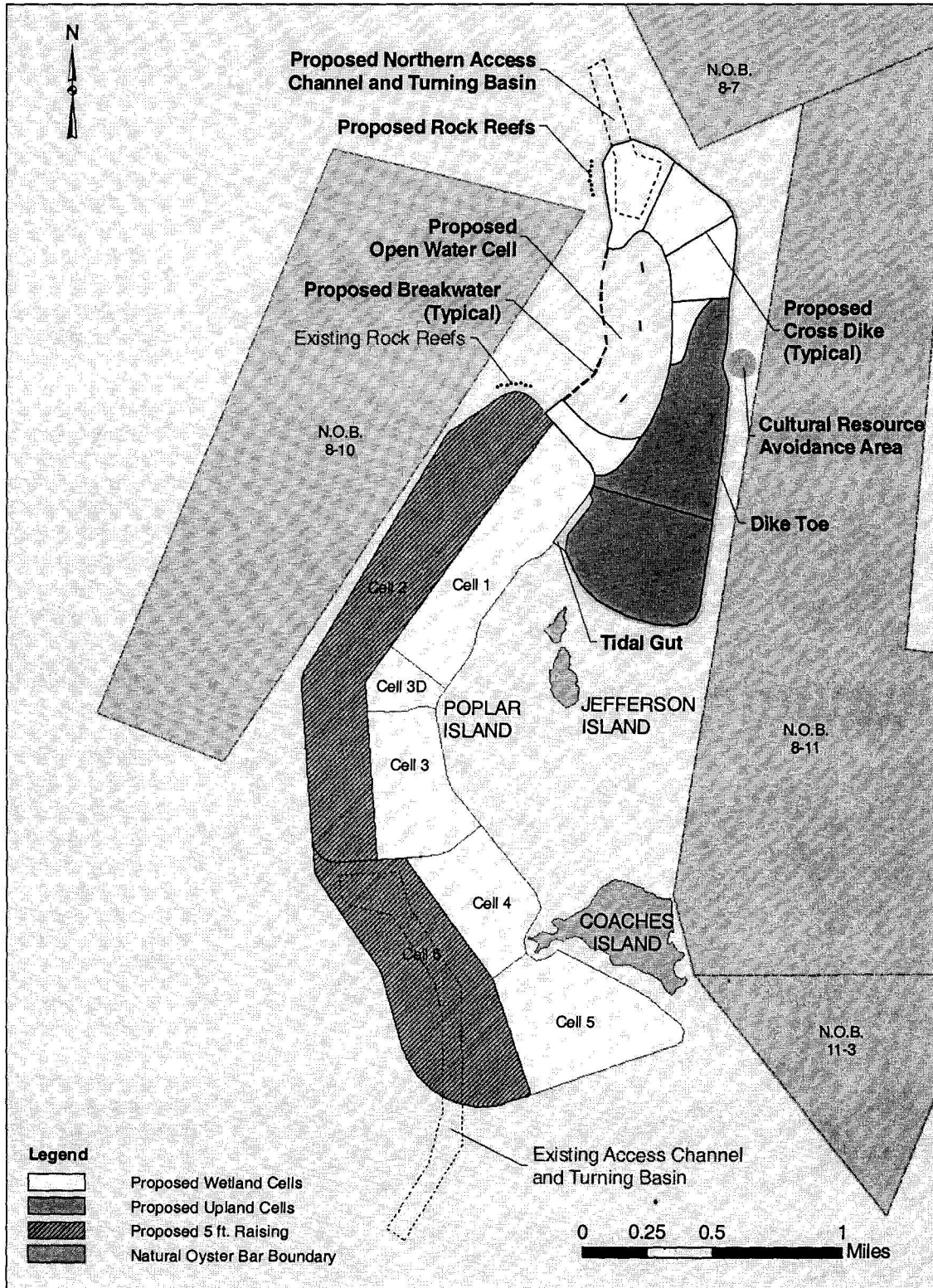
Local public agencies and organizations have been advised of the plan and are very supportive of the Project and the environmental benefits it will produce. Landowners of Jefferson Island and Coaches Island, the only adjacent private properties, have also been advised of the plan. The owners of Jefferson Island (Jefferson Island L.L.C.) have formally submitted comments regarding the Project, and the Corps has responded to their comments within the GRR/SEIS (Appendix J). The Jefferson Island owners allege potential negative impacts to Jefferson Island are improperly addressed in the GRR/SEIS.

16. NOTIFICATION TO NON-FEDERAL SPONSOR

The NFS has been given notice of their responsibility for cost sharing, real estate acquisition, and operations and maintenance for the Project through their involvement with the Poplar Island Environmental Restoration Project.

17. RISK ANALYSIS

For the NFS, this will be a continuation of the existing Poplar Island Environmental Restoration Project. Since the NFS already owns the real estate and it is under navigational servitude, there is little risk of any real estate issues holding up the Project.



Recommended Plan showing the 575 acre proposed expansion on the northern end of the current Poplar Island.

EXHIBIT A

ASSESSMENT OF NON-FEDERAL SPONSOR'S
REAL ESTATE ACQUISITION CAPABILITY

Project: Poplar Island Expansion Project, Maryland

Non-Federal Sponsor: Maryland Department of Transportation under the administration of the Maryland Port Administration

I. Legal Authority:

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? Yes
- b. Does the sponsor have the power of eminent domain for this project? Yes
- c. Does the sponsor have "quick-take" authority for this project? No
- d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? No
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? No

II. Human Resource Requirements:

- a. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including P.L. 91-646, as amended? No
- b. If the answer to II.a. is "yes", has a reasonable plan been developed to provide such training?
- c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? Yes
- d. Is the sponsor's projected in-house staffing level sufficient considering its other work load, if any, and the project schedule? Yes
- e. Can the sponsor obtain contractor support, if required, in a timely fashion? Yes
- f. Will the sponsor likely request USACE assistance in acquiring real estate? No

III. Other Project Variables:

- a. Will the sponsor's staff be located within reasonable proximity to the project site? Yes
- b. Has the sponsor approved the project/real estate schedule/milestones? Yes


IV. Overall Assessment:

- a. Has the sponsor performed satisfactorily on other USACE projects? Yes
- b. With regard to this project, the sponsor is anticipated to be fully capable.

V. Coordination:

- a. Has this assessment been coordinated with the sponsor? Yes
- b. Does the sponsor concur with this assessment? Yes

Prepared by:


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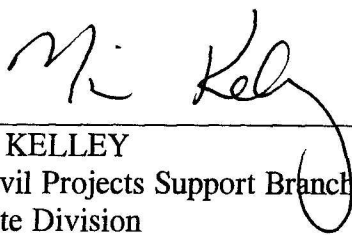

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EXHIBIT B