

APPENDIX D

Real Estate

REAL ESTATE PLAN
SMITH ISLAND ENVIRONMENTAL RESTORATION and PROTECTION PROJECT
SOMERSET COUNTY, MARYLAND
FEASIBILITY STUDY

1. GENERAL

This Real Estate Plan is for the Feasibility Study of the Smith Island Environmental Restoration and Protection Project. This area was part of a preliminary evaluation of various plans for environmental restoration, navigation improvement, and erosion protection projects for Smith Island, documented in the reconnaissance report, dated May 1997. The study is being conducted under the authority of a resolution of the Committee on Public Works and Transportation of the United States House of Representatives on September 28, 1994, in which the Secretary of the Army was requested to review pertinent reports with emphasis on providing improvements on Smith Island, Maryland and Virginia, in the interest of navigation, flood control, erosion control, environmental restoration, wetlands protection, and other purposes. The Non-Federal Sponsors (NFS) for the study are the State of Maryland and Somerset County. The State of Maryland will be the NFS for project implementation.

The major elements of this project consist of off-shore breakwater/stone sill structures with back-filling behind each section for wetland creation. Smith Island, Maryland, the last inhabited Chesapeake Bay island, is located 12 miles west of Crisfield, Maryland, 95 miles south of Baltimore, Maryland. The island is approximately 8,000 acres in area and is 8 miles long by 4 miles wide.

2. REAL ESTATE REQUIREMENTS: The project will be located on Federal lands or on State owned lands below the mean high water line (MHWL). If the Federal lands were privately-owned, a Temporary Work Area Easement (Estate No. 15) containing approximately 8.88 acres, parcel 21, would be required for a staging area with standard estate as follows:

TEMPORARY WORK AREA EASEMENT (TWAE) (Estate No. 15) A temporary easement and right-of-way in, on, over and across the land described in Schedule A, Tract Nos. _____, _____ and _____, for a period not to exceed two years, beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a work area, including the right to move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the Smith Island Environmental Restoration and Protection Project, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Since the area required to be used for a TWAE is owned by the United States and managed by the Fish & Wildlife Service (USFWS), a Federal entity, the NFS will need to obtain a permit from USFWS to utilize these lands for project purposes. A Cooperative Agreement has been prepared between the USFWS and State of Maryland Department of Natural Resources (MDDNR) to identify responsibilities of the parties as it pertains to the Smith Island study. It is anticipated that the permit will be an appendix to the above-mentioned agreement.

3. DESCRIPTION OF NFS' EXISTING OWNERSHIP: The NFS owns the lands below the MHWL in Fee simple subject to navigational servitude. This estate is adequate for project purposes.

4. RECOMMENDED ESTATES, NON-STANDARD: The permit to utilize lands managed by the USFWS will be considered a non-standard estate. A sample permit is attached as Exhibit A. Due to the land being owned by the United States, the normal practice of acquiring a standard TWAE is not possible. A permit from the USFWS will be adequate for project purposes.

5. EXISTING FEDERAL PROJECTS: There are Federal navigation projects in the proposed project area including several channels along Twitch Cove on Tangier Sound through Big Thorofare, Ewell (with an anchorage basin), Levering Creek, Swan Island (with twin jetties), Tyler Creek (with an anchorage basin), Shanks Creek (with an anchorage basin), Big Thorofare River to Tylerton, and Rhodes Point to Tylerton through Sheep Pen Gut. These are Federally maintained navigation projects constructed under navigational servitude with no non-Federal sponsor.

6. EXISTING FEDERAL OWNERSHIP: There is Federal ownership of land within the proposed project area. Swan Island, parcel 21 is owned by USFWS.

7. NAVIGATION SERVITUDE: Determination of the applicability of navigational servitude is currently under review. The real estate mapping and MCASES assume navigational servitude is applicable to the project; however, if it is determined that navigational servitude is not applicable to this project, real estate mapping and MCASES will be modified accordingly.

8. REAL ESTATE MAPPING: Real Estate mapping showing the project area is attached as Exhibit B.

9. INDUCED FLOODING: There will be no induced flooding as a result of the construction or the operation and maintenance of the project.

10. BASELINE COST ESTIMATE FOR REAL ESTATE: The Real Estate Cost Estimate in MCACES format is attached as Exhibit C.

11. PUBLIC LAW 91-646 RELOCATIONS: There are no Public Law 91-646 relocations required in connection with the proposed project.
12. MINERAL/TIMBER ACTIVITY: There is no present or anticipated mineral or timber harvesting activity in the vicinity of the proposed project.
13. ASSESSMENT OF NFS' REAL ESTATE ACQUISITION CAPABILITIES: An assessment of the Non-Federal Sponsor's acquisition capabilities is attached as Exhibit D.
14. ZONING CHANGES: There are no zoning ordinances proposed in connection with the project that will result in a taking of a real property interest.
15. ACQUISITION SCHEDULE: Since the NFS will need to obtain a permit to utilize lands owned by the USFWS, which is a Federal entity, the permit will be appended to the cooperative agreement between USFWS and the State of Maryland Department of Natural Resources (MDDNR). The Cooperation Agreement sets forth the responsibilities of the parties, including the real estate requirements, as they pertain to the Smith Island study. Because the special use permit from USFWS is expected to be executed by March 2001, all real estate will be available upon execution of the PCA. The effective date of the special use permit will be two years from the date of the contract award. The PCA is scheduled to be executed in December 2004.
16. FACILITY/UTILITY RELOCATIONS: There are no utility or facility relocations required in connection with this project.
17. HAZARDOUS, TOXIC, AND RADIOACTIVE WASTE: There are no known potential hazardous, toxic, and radioactive waste (HTRW) sites or other contaminants located in, on, under, or adjacent to the LER required for the project.
18. LANDOWNER SENTIMENT: Smith Island landowners are in support of the project to prevent further erosion of the island.
19. NOTIFICATION OF NFS: The NFS has been notified about the risks associated with real estate acquisition prior to execution of the Project Cooperation Agreement.