



US Army Corps  
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# **Appendix G**

## **DRAFT REAL ESTATE PLAN**

### **IN SUPPORT OF**

#### **Puget Sound and Adjacent Waters**

#### **Spencer Island Ecosystem Restoration Project**

#### **Snohomish County, Washington**

Real Estate Division

U.S. Army Corps of Engineers – Seattle District

4735 East Marginal Way South, Seattle, WA 98134-2385

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**APPENDIX G**

**REAL ESTATE PLAN**

**Puget Sound and Adjacent Waters**

**Spencer Island**

**Draft Integrated Feasibility**

**Report/Environmental Assessment Report**

THIS REAL ESTATE PLAN IS WRITTEN IN COMPLIANCE WITH ER 405-1-12. IT IS CONSISTENT WITH THE LEVEL OF DETAIL CONTAINED IN THE PUGET SOUND AND ADJACENT WATERS SPENCER ISLAND DRAFT INTEGRATED FEASIBILITY REPORT/ENVIRONMENTAL ASSESSMENT.

**1. Introduction**

The U.S. Army Corps of Engineers, Seattle District (USACE) is undertaking this feasibility study to develop and evaluate alternatives for ecosystem restoration in the Snohomish River Delta at Spencer Island in Snohomish County, Washington. USACE is undertaking this action in partnership with the Washington Department of Fish and Wildlife (WDFW), the study's non-Federal sponsor (NFS).

Spencer Island is located between Union and Steamboat Sloughs near Everett, WA in the Snohomish River Estuary. The primary problem identified at Spencer Island is lack of connectivity between aquatic habitats.

Historically the Snohomish River was an extensive forested wetland tidal swamp, but this type of habitat has become increasingly rare because of human activities. Spencer Island was diked in the late 1800s and used primarily for grazing. Over the past two decades, some of the dikes around Spencer Island have been breached to restore diked freshwater and estuarine intertidal wetlands on the island. The proposed restoration would expand on those past efforts by further breaching and lowering the dikes to allow more tidal flow to reach the interior of the island. The project restoration would create rearing habitat for salmon as they move through the Snohomish River Estuary.

Spencer Island was purchased in partnership by WDFW and Snohomish County in 1989 when the land was fully surrounded by a perimeter dike. The southern half of the island is owned by Snohomish County and the northern half is the Spencer Island Unit of the Snoqualmie Wildlife Area, owned and managed by WDFW.

In 1994, Snohomish County implemented a project to return approximately 80 acres of the southern portion of the island to tidal influence resulting in one of the first estuary restoration projects in Puget Sound. At the time of restoration, WDFW prioritized its property for freshwater wetland habitat primarily for waterfowl forage and hunting. To separate the new tidal restoration from freshwater wetlands, a dike was built across the site on Snohomish County property. In 2005 a portion of the dike along Steamboat Slough on the northeast side of the island failed. The breach has expanded over the years. The cross-dike built by Snohomish County was also breached to increase connectivity between the restored south end and the now-inundated north end. In 2008, the Union Slough dike on the northwest side of the island was breached in one location in a project managed by Ducks Unlimited.

### **1.1. Real Estate Plan Purpose (REP)**

This Real Estate Plan (REP) is developed in support of the Puget Sound and Adjacent Waters, Spencer Island Integrated Feasibility Report and Environmental Assessment (FR/EA). This feasibility study evaluates significant aquatic ecosystem degradation at Spencer Island and analyzes proposed measures to restore ecosystem processes, structure, and function of the natural environment.

This REP identifies and describes the preliminary real estate requirements for the Lands, Easements, Rights-of-Ways, Relocations, and Disposal (LERRD) areas required to support the construction, operation, and maintenance of the recommended features for the proposed Tentatively Selected Plan (TSP) Alternative. This REP is tentative in nature. It is for planning purposes only and both the final real property acquisition lines and real estate cost estimates provided are subject to change based on the final project design.

### **1.2. Study Authority**

This project is authorized under the Puget Sound and Adjacent Waters program (PSAW), Section 544 of the Water Resources Development Act of 2000 (Public Law 106-541) (Sec 544), which implements restoration projects with immediate ecosystem benefits by using existing plans to the maximum extent practical. The Spencer Island project was specifically selected for implementation through the

PSNERP General Investigation as documented in the 2016 FR/EIS, Chief's Report, and Record of Decision signed January 19, 2017.

The United States Congress' explanatory statement accompanying its fiscal year 2022 appropriations act specifies funding for this project. It encourages USACE to proceed with the tiered implementation strategy developed with the PSNERP study using all existing authorities, and it directs USACE to recognize the PSNERP study as the feasibility component for the purposes of Sec 544.

### **1.3. Tentatively Selected Plan**

USACE is proposing to implement aquatic ecosystem restoration at Spencer Island in the Snohomish River Delta based on the findings of stressors and process degradation in the nearshore zone during the PSNERP feasibility study. The types of measures proposed for implementation in the study area include options for levee breaching, levee elevation lowering, filling agricultural drainage ditches, and excavating tidal channels. The proposal for a federal action requires analysis under the National Environmental Policy Act (NEPA).

### **1.4. General Project Location and Description**

The study area is within the Whidbey Subbasin of Puget Sound in western Washington. Spencer Island is in the Snohomish River Estuary which is the second largest estuary in Puget Sound. The site is approximately at river mile 3.8 between Union and Steamboat Sloughs near Everett, Washington. The island was purchased in 1989 by Snohomish County and Recreation Department and WDFW. WDFW owns the north portion of the island, managing the area for recreation, including waterfowl hunting. This ownership encompasses most of the proposed restoration site. The County manages the south half of the island for recreation.

Historically, the Snohomish River delta hosted large areas of intertidal wetlands estimated at 29 square miles (76 sq. km) of vegetated estuarine wetlands. Since the late 1800s, much of the land area was converted to other uses by filling and diking areas, then carving drainage ditches. Most of the former wetland areas were converted to agricultural lands.

## **2. Disposal**

Material removed during construction will be characterized for its physical characteristics and contaminants. If material is suitable, it will be used for construction activities. Contaminated material (if any) will be disposed at a contracted site designated for disposal of contaminated material, as part of the

construction costs of the project. No real estate interest acquisitions are anticipated for disposal site purposes.

### **3. Lands, Easements, Rights-of-Way, and Disposal (LERRD)**

The NFS must provide appropriate real property interest in the lands defined by the Government for the construction, operation, and maintenance of the project. The NFS shall also prepare or ensure the preparation of plans and specifications for and perform or ensure the performance of all utility relocations the Government determines to be necessary.

The total acreages of the improved and vacant properties used in this report total 838.44 acres, with the project area affecting 329.58 acres.

The land was purchased with state conservation funding and has encumbrances that restrict future use to conservation purposes. Recreation and Conservation Office (RCO) Aquatic Lands Enhancement Account (ALEA) funds combined with WDFW State Migratory Bird Stamp Funds were used to acquire the properties for WDFW and Snohomish County Properties. RCO Development grant funds were used to create dike top trails, install the bridge, and the interpretative signage on the Snohomish County Property. The ALEA Grant program was established by the Washington State Legislature in 1984 to ensure that money generated from aquatic lands was used to enhance these lands. ALEA Grants may be used for the acquisition, improvement, or protection of aquatic lands for public purposes. They may also be used to provide or improve public access to the waterfront.

### **4. Standard/Non-Standard Estates**

This project will utilize standard estates as published in Real Estate Policy Guidance Letter #35 dated October 27, 2023. The following estates and languages must be made available to the Government by the NFS prior to advertising for construction of the proposed TSP Alternative measures. Non-Standard Estates are not anticipated at this time. Depending on final implementation of proposed project Alternatives, the following estates are anticipated:

#### **4.1. Fee**

The fee simple title to (the land described in Schedule A) (Tract Nos. \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_), subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

#### **4.2. Temporary Work Area Easement**

A temporary easement and right-of-way in, on, over and across (the land depicted in Exhibit A) (Tract Nos. \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_), for a period not to

exceed \_\_\_\_\_, beginning with date possession of the land is granted to the NFS, 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 Spencer Island Ecosystem Restoration 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.

#### **4.3. Flowage Easement (Perpetual)**

The perpetual right, power, privilege and easement permanently to overflow, flood the project, may be detrimental to the project, together with all right, title and interest in and to the timber, structures and improvements situate on the land (excepting \_\_\_\_\_, (here identify those structures not designed for human habitation which the District Engineer determines may remain on and submerge (the land depicted in Exhibit A) (Tract Nos. \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_), in connection with the operation and maintenance of the project as authorized by the Act of Congress approved \_\_\_\_\_, and the continuing right to clear and remove brush, debris and natural obstructions which, in the opinion of the representative of the United States in charge of the land)); provided that no structures for human habitation shall be constructed or maintained on the land, that no other structures shall be constructed or maintained on the land except as may be approved in writing by the representative of the United States in charge of the project, and that no excavation shall be conducted and no landfill placed on the land without such approval as to the location and method of excavation and/or placement of landfill; the above estate is taken subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used and enjoyed without interfering with the use of the project for the purposes authorized by Congress or abridging the rights and easement hereby acquired; provided further that any use of the land shall be subject to Federal and State laws with respect to pollution.

#### **4.4. Channel Improvement Easement**

A perpetual and assignable right and easement to construct, operate, and maintain channel improvement works on, over and across (the land described in Schedule A) (Tract Nos. \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_) for the purposes as authorized by the Act of Congress approved \_\_\_\_\_, including the right to clear, cut, fell, remove and dispose of any and all timber, trees, underbrush, buildings, improvements and/or other obstructions therefrom; to excavate: dredge, cut away, and remove any or all of said land and to place thereon dredge or spoil material; and for such other purposes as may be required in connection with said work of improvement; reserving, however, to the owners, 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.

#### **5. LERRD Owned by the Non-Federal Sponsor**

The non-Federal sponsor, WDFW, owns most of the lands likely needed for the project. A decision on agencies included on the PPA is expected during February 2026.

#### **6. Existing Federal Projects:**

There are no existing Federal Projects within the proposed Project footprint.

#### **7. Federally Owned Lands**

There are no federally owned lands within the proposed Project footprint.

#### **8. Navigational Servitude**

The Federal Navigational Servitude doctrine arises from two related components: navigation power which is derived from the commerce clause of the U.S. Constitution giving Congress regulatory power over navigable waters; and navigational servitude which provides that certain private or state owned property may be taken without compensation to the landowner if the taking is necessary to exercise the navigation power. Private or state ownership of land below navigable or tidal waters is utilized for project purposes without compensation under the dominant public right of navigation. This dominant public right may be exercised by Congress without giving rise to a compensable taking. The exercise of the Government's Navigational Servitude rights is not anticipated.



## **9. Real Estate Maps**

A real estate map, depicting the TSP including the LERRD required to support the project will be included in the LERRD package to the NFS along with a landowner table identifying estates and acreages. Both the real estate map, the anticipated inundation footprint, and landowner table will be further refined as needed during the design and implementation phase of this project.

## **10. Induced Flooding by Construction or Operations and Maintenance**

Based on a preliminary takings analysis, the project will increase inundation in areas already experiencing flooding events as well as creating new inundation. As a result of the inundation created by the project, NWS Real Estate recommends the inclusion of flowage easements over areas experiencing increased flooding. The necessity for these easements will be verified during PED based on review of additional information and modeling, a refined takings analysis, and the possible implementation of design controls. As design controls are considered and the takings analysis is finalized, the REP will be updated accordingly.

## **11. Base Cost Real Estate Estimate (BCERE)**

A valuation was completed by an NWS Review Appraiser November 2025. The total land and administrative costs is estimated to be \$3,320,000.

An Administrative Adjustment and update will be made to the existing Brief Gross Appraisal to assess changes in the market conditions and to account for any changes in the footprint, due to either a change in project needs or the refinement of the takings analysis. An Administrative Adjustment may be required during the PED phase to account for any additional market changes and an Administrative Adjustment is expected to be completed once project approval is secured and additional funding is made available. Following the completion of any Administrative Adjustment this section of the REP will be updated accordingly.

## **12. Public Law 91-646, Title II, as amended, and Relocation Assistance Benefits**

The Uniform Act (Public Law 91-646, Title II, as amended) passed by Congress in 1970, is a federal law that establishes minimum standards for Federally funded programs and projects that require the acquisition of real property or displacement of persons from their homes, businesses, or farms. The Uniform Act's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for Federal or Federally funded

projects.

The project partnership agreement will require that the NFS comply with the procedural parts of PL 91-646. There are no known persons, farms, or businesses that will be temporarily or permanently displaced by the proposed project. Therefore, PL 91-646 relocation benefits are not anticipated.

### **13. Mineral Interests**

There are no known outstanding mineral interests or active mining operations in the project area that may affect the project's implementation.

### **14. NFS Real Estate Acquisition Capability Assessment**

A sponsor acquisition capability assessment is completed in coordination with the NFS. NWS Real Estate has rated them as "Fully Capable" per the guidelines in the sponsor acquisition capability assessment.

### **15. Zoning**

No zoning ordinances are proposed in lieu of or to facilitate acquisition in connection with the proposed project. There is no re-zoning anticipated at this time.

According to the Snohomish County GIS system, the project area and the surrounding area are zoned as A-10 – Agriculture. The purpose of the agriculture zoning is:

- (i) To implement the goals and objectives of the County GMA Comprehensive Plan which include the goals of protecting agricultural lands and promoting agriculture as a component of the County economy;
- (ii) To protect and promote the continuation of farming in areas where it is already established and in locations where farming has traditionally been a viable component of the local economy; and
- (iii) To permit in agricultural lands, with limited exceptions, only agricultural land uses and activities and farm-related uses that provide a support infrastructure for farming, or that support, promote or sustain agricultural operations and production including compatible accessory commercial or retail uses on designated agricultural lands.

Activities allowed on agriculture zoning include but are not limited to are described in the Snohomish County codes. All activities and allowed uses must comply with the following standards:

- (A) The uses shall be compatible with resource land service standards.
- (B) The allowed uses shall be located, designed and operated so as not to interfere with normal agricultural practices.
- (C) The uses may operate out of existing or new buildings with parking and other supportive uses consistent with the size and scale of agricultural buildings but shall not otherwise convert agricultural land to non-agricultural uses.

## 16. Acquisition Schedule

The project has reached the TSP milestone of the Feasibility Study. A detailed acquisition schedule will be developed during the Design and Implementation Planning Stage. The acquisition schedule with target dates will be coordinated between the Project Manager, NFS, and USACE NWS Real Estate Division during the development of a final schedule containing milestones.

PPA Execution	September 2026
Sponsor Coordination - until 65% Design	3 months
Sponsor Acquisition of LERRD Requirements	6 months
Real Estate Land Certification	3 months

## 17. Facility and Utility Relocations

Title I of Water Resources Development Act of 1986 (WRDA 86) describes the general cost sharing responsibilities of the NFS by type of authorized civil works projects. Responsibilities of the NFS as defined in WRDA 86 include that all LERRD required for the project must be provided by the NFS. If relocations are needed for the project, it is the NFS responsibility to perform the relocations or ensure that any relocations required for the project will be performed. Facility/utility relocations are classified as cash/real time expenses. The NFS is entitled to credit for the LERRD provided and the value of relocations required for the project (Per ER 405-1-12 paragraph 12-35(a)).

An underground gas pipeline passes under the north end of Spencer Island outside of the project footprint. The project construction footprint maintains a 400-foot buffer of space from the pipeline. Due to the distance from the pipeline, it is not anticipated that the project will require a relocation.

Snohomish Public Utility District No.1 holds a perpetual easement for the

rights, privileges, and authority to construct, erect, alter, improve, repair, and maintain underground electric transmission and distribution lines. The NFS will determine whether the lines remain active or if they have been abandoned. The subject electrical transmission and distribution lines appear to be within the project footprint. Any lines identified by the NFS may need to be relocated.

Facility and utility relocation requirements will be refined during design and implementation planning stage. A Final Attorney's Opinion of Compensability will be secured during design and implementation should the Project require facility or utility relocations.

**ANY CONCLUSION OR CATEGORIZATION CONTAINED IN THIS REPORT THAT AN ITEM IS A UTILITY OR FACILITY RELOCATION TO BE PERFORMED BY THE NON-FEDERAL SPONSOR AS PART OF ITS LERRD RESPONSIBILITIES IS PRELIMINARY ONLY. THE GOVERNMENT WILL MAKE A FINAL DETERMINATION OF THE RELOCATIONS NECESSARY FOR THE CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE PROJECT AFTER FURTHER ANALYSIS AND COMPLETION AND APPROVAL OF FINAL ATTORNEY'S OPINIONS OF COMPENSABILITY FOR EACH OF THE IMPACTED UTILITIES AND FACILITIES.**

#### **18. Hazardous, Toxic, and Radioactive Waste (HTRW)/Environmental**

Contaminant thresholds were found to be below all relevant state criteria and are therefore not material to planning considerations.

Effects on the real estate acquisition process and the LERRD value estimate due to known or suspected presence of contaminants will be revisited during the PED planning stage. The current valuation and schedule assume the project lands are free of contaminants.

#### **19. Landowner's Views and Public Opposition**

Stakeholders have been consulted, no concerns about project execution or perception have been shared at this time. USACE is not aware of any opposition to this project at this time.

USACE Planning Policy and the National Environmental Policy Act (NEPA) emphasize public involvement in government actions affecting the environment by requiring the benefits and risks associated with the proposed actions be assessed and publicly disclosed. In accordance with NEPA public involvement requirements (40 C.F.R. § 1506.6) and USACE Planning policy (ER 1105-2-100), USACE will present opportunities for the public to provide comments, with respect specifically to any potential impacts of the project, potentially affected resources, environmental issues to be considered, and the agency's approach to the analysis.

The project has held technical working group meetings to evaluate and screen the array of design options proposed for the project. Participants in attendance included representatives from USACE as well as external participants from resource agencies, the local Tribe, and other regional stakeholder groups. The NFS has hosted events for public communication and community meetings.

## **20. NFS Acquisition Risk Assessment Notifications**

The NFS is aware of the risks associated with acquiring real property interests prior to receipt of a formal notice to proceed issued by NWS Real Estate. A risk letter provided written notice detailing the risks associated with securing real estate interests prior to the execution of a PPA. The letter was sent to the NFS on 5 November 2025. A copy of the letter will be included in the official real estate project file.

## **21. Other Issues relevant to LERRD Requirements**

Due to the preliminary nature of the current project phase, updated title reports have not been requested or reviewed. Previously received title reports were reviewed at their issuance in 2023. Title for any parcels potentially affected by induced flooding and parcels with required acquisitions have not been reviewed. The final project footprint will be completed during the design and implementation phase. Once the footprint is finalized, property ownership and any required acquisitions will be requested in the LERRD package provided to the NFS.