

Appendix D – Real Estate Plan

Aquatic Ecosystem Restoration for Gulf Intracoastal Waterway (GIWW) – Beneficial Use of Dredged Material, Texas

Section 204

Draft Integrated Detailed Project Report and Environmental Assessment

February 2024



**US Army Corps
of Engineers**

Galveston District

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This Real Estate Plan has been prepared in accordance with ER 405-1-12 dated 1 May 1998.

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1 General Background

This Real Estate Plan (REP) is the work product of the U.S. Army Corps of Engineers (USACE), Galveston District, Real Estate Division that supports the Detailed Project Report and Environmental Assessment (DPR/EA) for the Gulf Intracoastal Waterway (GIWW) – Beneficial Use of Dredged Material CAP 204 Study. It identifies and describes the lands, easements, rights-of-way, relocations, and disposals (LERRD) required for the construction, operation and maintenance of the proposed project, including those required for relocations (i.e., P.L. 91-646 relocations and utility/facility relocations), borrow material, and dredged or excavated material disposal. Furthermore, the REP describes the estimated LERRD value, together with the estimated administrative and incidental costs attributable to providing LERRD, and the acquisition process.

This report is prepared based on specific data from the USACE, Galveston District Project Delivery Team (PDT) for the Gulf Intracoastal Waterway (GIWW) – Beneficial Use of Dredged Material CAP 204 Study. However, this plan is tentative in nature and intended for planning purposes only. Some modifications to the recommended plan could occur and change the determinations of real property lines, estimates of values, and rights required for the project, etc. as outlined in this plan, even after final report approval. The level of detail provided in this REP is understood to be equivalent to the other PDT disciplines.

2 Project Type and Purpose

The GIWW BUDM CAP 204 project seeks to beneficially use material dredged from the nearby GIWW to restore habitat and capture ecological output through beneficially placing O&M material in areas degraded from coastal and navigational forces over time.

The focus of this study is to investigate the options around placing O&M material at Goose Island to build up marsh and create future capacity for the surrounding O&M placement areas for the GIWW and other federally maintained channels surrounding Goose Island.

Prior Studies, Reports and Existing Projects

The PDT reviewed any prior data and information deemed relevant to the planning process for this beneficial use study. In 2008 a stone breakwater was erected in front of Goose Island to attenuate wave energy to aid in the preservation of the island. Additionally, two earthen containment levees were also created as future placement areas for marsh creation. Dredge material was placed within the levees in 2008 but has since settled substantially or been lost through openings built in the containment levees. No additional restoration efforts have occurred at Goose Island since the initial attempt more than a decade ago. The Texas General Land Office (GLO) and Ducks Unlimited (DU) has identified Goose Island as a priority for marsh restoration in a regional effort to combat land loss, build coastal resiliency, and restore natural ecosystems of the Texas coast. There are no existing federal projects within the project footprint.

Table 2-1 below outlines the studies, reports, and existing projects most pertinent to the Galveston Intercoastal Waterway

Table 2-1: Most Pertinent Prior Studies, Reports, and Existing Projects

Most Pertinent Prior Studies, Reports, and Existing Projects	
Year	Description
1975	Final Environmental Statement, Maintenance Dredging, Gulf Intracoastal Waterway, Texas Section, Main Channel and Tributary Channels, Volumes 1-3
1997	Preliminary Chocolate Bayou Wye Ship Simulation Study
1998	Final Report - Freeport Wiggles Channel Improvement Study (Ship Simulation)
2003	Gulf Intracoastal Waterway High Island to Brazos River Section 216 Study Final Feasibility Report
2014	Reducing shoaling in the Texas GIWW and Erosion of Barrier Islands Along West Galveston Bay
2016	Coastal Texas Protection and Restoration Study (Ongoing), U.S. Army Corps of Engineers
2019	Gulf Intracoastal Waterway, Brazos River Floodgates and Colorado River Locks, Texas, Final Integrated Feasibility Report and Environmental Impact Statement

3 Study Scope

This feasibility study will focus on measures and alternatives, which simultaneously meet the criteria for inclusion within the CAP 204 study and address the problems, opportunities, and constraints set forth by the study authority. Specifically, this project’s scope is to beneficially utilize the dredged material in connection with dredging for the construction or operations and maintenance of an existing authorized Federal navigation project to restore habitat along the navigation resource and capture ecological output through beneficially placing maintenance dredged material in areas degraded from coastal and navigation forces over time.

4 Authority

The authority for this project is Section 204 of the Water Resources Development Act of 1992, as amended and administered under the US Army Corps of Engineers Continuing Authorities Program (CAP).

Section 204 of the Water Resources Development Act of 1992, as amended, authorizes the U.S. Army Corps of Engineers to implement projects for the protection, restoration and preservation of aquatic and ecologically related habitats, including wetlands, or to reduce storm damage to property, in connection with dredging for the construction or operations and maintenance of an existing authorized Federal navigation project.

5 Study Area and Project Location

The paragraphs below will describe the study area and project location.

Study Area

The GIWW main channel is a man-made inland waterway which travels 379 miles along the coast of Texas extending from the Sabine River in southeast Texas down the coast to the Brownsville Ship Channel in southwest Texas. The entire GIWW in Texas connects 15 deep draft ports and 10 shallow draft ports. The channel is authorized for a width of 125 feet and a

depth of 12 feet and serves to protect barge and other small vessel traffic from the forces of the Gulf of Mexico.

The Texas portion of the GIWW navigation project consists, generally, of a 12 to 14-foot deep by 125-foot wide by approximately 423-mile long shallow-draft channel, traversing the entire Texas Coast. The 379-mile main channel extends from the Sabine River to Port Isabel, Texas and includes several tributary channels along its length. The GIWW project also includes flood gates and navigation lock structures at the Brazos and Colorado Rivers, respectively. Finally, mooring basins and mooring buoys are maintained at 10 separate locations along the length of the GIWW. The mooring basins support the heavy barge traffic, which is estimated at approximately 45,000 trips per year in FY 2017. The Texas portion of the GIWW provides for an intermodal link between the Texas deep draft and shallow draft ports. This intermodal link is essential in connecting Texas ports and waterways with the petrochemical industries, refineries and manufacturing facilities staggered along the Texas coast. The GIWW also provides a critical link between the Texas ports and national coastal and inland port facilities. The amount of commercial tonnage transiting the Texas portion of the GIWW was 80.1 million tons total in 2017.



Project Location

Goose Island State Park is at the end of Lamar Peninsula, north of Rockport, Texas between St. Charles and Aransas Bays. The proposed project area is within the boundaries of the state park, which is currently composed of two semi-contained cells with primarily open water and small, scattered islands of salt marsh (Figures 1, 2, and 3 below). Historically, Goose Island was much larger; however, decades of tidal erosion, rising sea levels, subsidence, and altered sediment supplies have reduced the area to its current footprint. Containment levees and an offshore breakwater were constructed in 2008 during a previous attempt to restore the island encompassed by the two existing cells. The previous restoration attempt did not result in creating a functional marsh elevation, likely due to inadequate quantities of fill material. Since 2008, no additional restoration attempts have been made at this location.



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Legend

-  Project Location
-  State of Texas

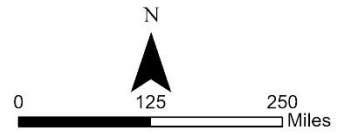
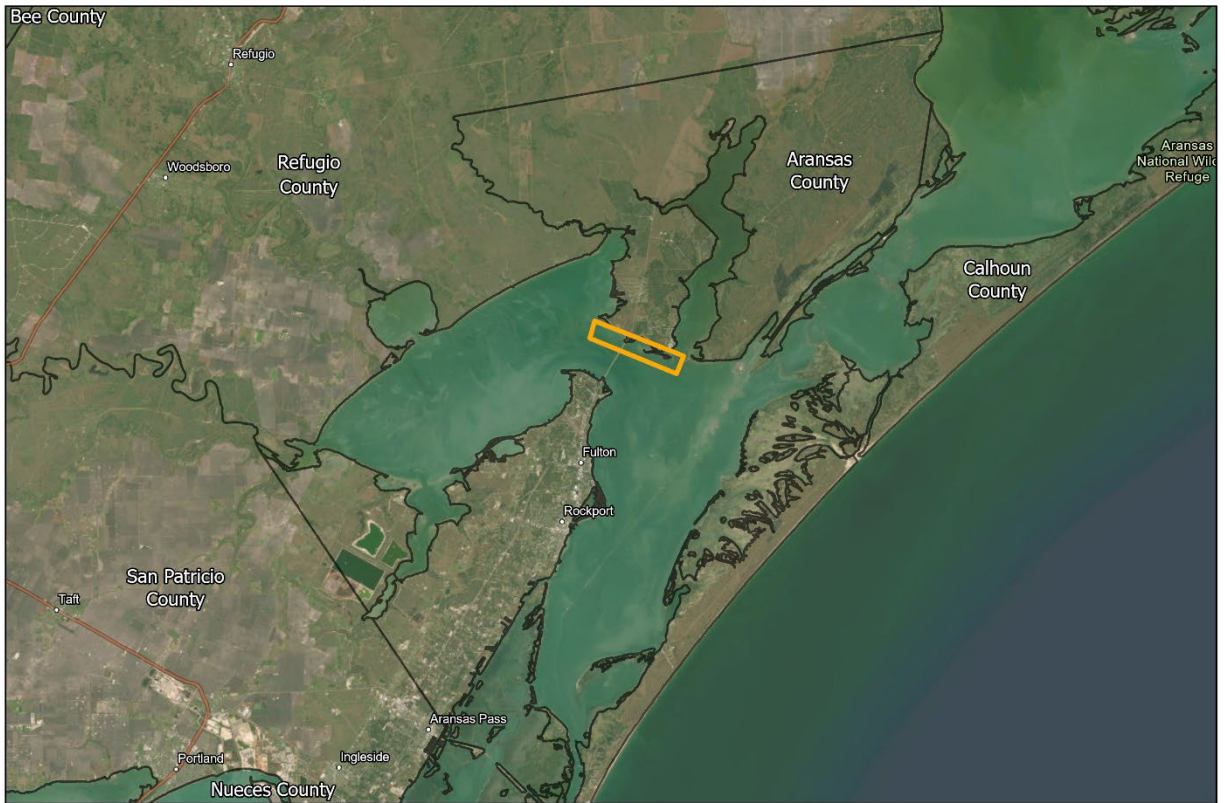


Figure 1 – Study Area in Relation to the State of Texas



Legend
 Project Location
 County Boundary

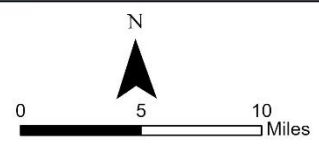


Figure 2- Study Area in Relation to Surrounding Counties



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Legend

- Project Location
- County Boundary

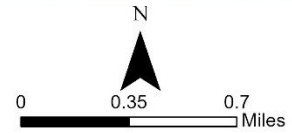


Figure 3- Project Location in Relation to Goose Island

Existing Conditions

Over the past decade, the containment levees have undergone erosion due to tidal movement, wave energy, and storm impacts and the previously pumped material has settled substantially, as well as been lost. This project location is consistent with regional efforts to combat land and habitat loss through estuarine marsh restoration and is a priority for other cooperating agencies.

6 Non-Federal Sponsor, Partners and Acquisition Responsibilities

Non-Federal Sponsor

In October 2023, 2023, Aransas County agreed to be the Non-Federal Sponsor for the Design and Implementation phase of the project, and the entity that will be signing the Project Partnership Agreement (PPA). The GLO will provide funding for the project through an interagency agreement with Aransas County. The NFS is responsible for the acquisition of all LERRD required for this project. The NFS Acquisition Responsibilities and Capabilities section below provides details regarding the Assessment of Non-Federal Sponsor's Real Estate Acquisition Capability. Aransas County has been found to be fully capable of acquiring the LERRD necessary for the project.

Other Study Participants

The GLO demonstrates its commitment to coastal restoration through multiple approaches, grants for restoration efforts, producing and updating the Texas Coastal Resiliency Master Plan (TCRMP) and its leasing activities that balance active waterfronts with ecological sustainability. The TCRMP is a state-led, ongoing coastal planning effort that outlines a vision to protect coastal communities, infrastructure, and ecological assets from coastal hazards. The GLO uses the TCRMP to identify, select, and fund projects that address the coastal vulnerabilities and restore, enhance, and protect the Texas coast. The 2023 TCRMP is continuing the coastwide initiative of the BUDM, led by Ducks Unlimited (DU), to identify future sources of dredged material and sites for its beneficial use. DU and the GLO have identified Goose Island State Park as a priority candidate site for BUDM. Additionally, DU prepared an environmental assessment for wetland restoration at Goose Island for the National Oceanic and Atmospheric Administration (NOAA) and Deep-water Horizon Natural Resource Damage Assessment – Texas Trustee Implementation Group. Thus, this project location is consistent with regional efforts to combat land and habitat loss through estuarine marsh restoration, rebuild wetlands that contribute to coastal resiliency by creating storm surge buffers, and is a priority for other state and federal agencies.

Section 1005 of the Water Resources, Reform, and Development Act (WRRDA) of 2014 requires the USACE to identify all Federal, State, and local government agencies and tribes that may have jurisdiction over, are required by law to conduct and/or issue a review for or may be required to make a determination on issuing a permit, license, or other approval decision for the project. As such, a resource agency coordination meeting was held virtually on 8 July 2022 and included stakeholders from:

- USFWS
- Texas Parks & Wildlife Department (TPWD)
- NOAA National Marine Fisheries Service (NMFS)
- DU
- Texas Water Development Board (TWDB)

Since the initial meeting, two additional meetings have been held virtually on 29 July 2022 and 7 September 2022 to discuss ecological modelling for Goose Island State Park. During both meetings, representatives from the TPWD, USFWS, USACE, and GLO were in attendance.

NFS Acquisition Responsibilities and Capabilities

As stated above, the NFS is responsible for providing all LERRD required for the project USACE has coordinated with Aransas County to prepare an Assessment of Non-Federal Sponsor's Real Estate Acquisition Capability, attached as Exhibit A. NFS Notification of Risk A Notification of Risk letter will be sent to the NFS and will be included within the REP prior to the final report.

7 Tentatively Selected Plan

Alternative 3D – Saline Marsh in Existing Cells, Addition of New Low and High Emergent Marsh Cells

Figure 4 below illustrates the features of the Tentatively Selected Plan. This alternative builds the existing cells 1 and 2 to a target elevation between 0.6 and 0.8 feet (ft) NAVD88 but may reach up to 1-ft NAVD88. Two new parcels (cells 3 and 4) are built to the North of the existing cells, to add 9.5 acres and 6.5 acres, respectively. Within cells 3 and 4, along the southern area, fill material would be constructed to target between 1.5 and 2.0 ft NAVD88 to create a 3.7-acre and 2.5-acre higher elevation marsh, respectively. The remaining area in cells 3 and 4 (9.5 acres and 6.5 acres, respectively) would be filled to target elevations of 0.6 and 0.8 ft NAVD88. The higher elevation marsh in cells 3 and 4 would be gradually sloped to meet the lower elevation marsh at ≤ 1.0 ft NAVD88. A new containment berm would be constructed to retain dredge material, extending 2,721 linear feet, that is expected to require 13,050 cy of dredge material. Additionally, 1,415 cy of rip rap and 520 cy of bedding stone would be used to construct the new containment levee. In total, this alternative is expected to require approximately 200,620 cy of dredge material, 187,570 cy for marsh and 13,050 cy for the containment berm. The TSP creates and sustains 39 acres of emergent salt marsh for 50 years after construction with negligible degradation. Project work will be performed on a single, one-time basis and the TSP will not require Operation, Maintenance, Repair, Rehabilitation and Replacement.

All of the LERRD required for the project TSP are located on state owned lands. A description of the LERRD requirements is provided in Section 10 below.

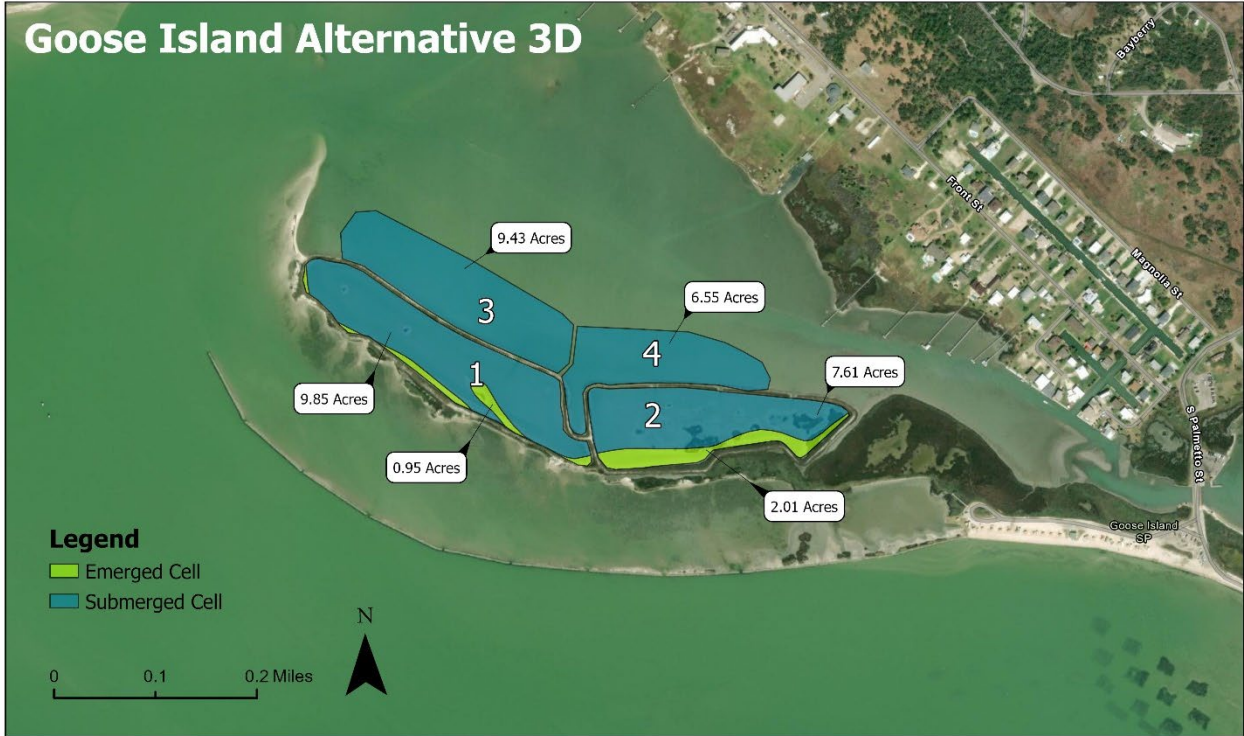


Figure 4 - Goose Island Alternative 3D

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8 Existing Real Estate Interests

The federal government has no existing interests within the project footprint or within the immediately adjacent areas.

Existing NFS Real Estate Interests

Aransas County does not have any existing real estate interests in the project area.

State-Owned Lands

The GLO manages all state lands and mineral rights including bays and all “submerged” lands 10.35 miles out into the Gulf of Mexico. The acres of impacted submerged land that are owned by GLO are shown in Table 8-1 below for the TSP.

Table 8-1: Impacted Submerged Acreage by Alternative

TSP	Owner	Impacted Bay Tract	Land Type	Impacted Acres
3D	GLO	66, 67	Submerged	39.6

The State of Texas, through the Texas Parks and Wildlife Department (TPWD), holds a fee interest in the emergent lands required for the project. TPWD’s mission is to manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing and outdoor recreation opportunities for the use and enjoyment of present and future generations. Aransas County will execute a Surface Use Agreement with TPWD for state owned lands required for the project. The acres of emergent land owned by TPWD for the TSP is shown in Table 8-2 below.

Table 8-2: Impacted Emergent Acreage by Alternative

TSP	Owner	Impacted Tract PID	Land Type	Impacted Acres
3D	TPWD	19952	Emergent	2.96

9 New Real Estate Requirements

Alternative 3D.

As shown in Figure 4 and tables 8-1 and 8-2, Alternative 3D impacts one parcel owned by TPWD which consists of 2.96 acres of emergent land. Additionally, 39.6 acres of submerged land owned by the NFS (GLO) will be required. This alternative also includes the placing of approximately 1,415 cy of rip rap and 520 cy of bedding stone to construct a new containment levee.

For state lands that are managed by GLO and TPWD a Special Use Permit may also be required. The NFS will provide Authorization for Entry for Construction, confirming that it has acquired the necessary real estate interests required for the project. The NFS will receive credit towards its share of total project costs for the fair market value of any acquired lands provided for the project as determined by appraisal, as well as incidental costs associated with the acquisition of LERRD.

Access/Staging Areas

At the time of this report, the assumption is that no access and/or staging areas beyond the limits of the project footprint will be required since dredge material will be pumped from a floating pipeline/ boat and will not cross emergent land. Any additional access or staging area requirements will be determined in the PED phase. Should it be determined that access/staging areas are needed, a standard Temporary Work Area Easement would be acquired.

Mitigation

There is no mitigation required for this project.

Estates

The NFS is responsible for securing and maintaining the minimum real estate interests required for the project prior to USACE awarding the contract for construction. Construction of the complete project including the new containment levee and living shoreline may require a variety of real estate interests as outlined below and in Table 9-1.

Should any access/staging areas be identified outside of the limits of the project footprint, standard estate #15, Temporary Work Area Easement would apply. This easement is outlined in Section 9.1.1 below.

USACE will investigate in PED phase whether navigation servitude is appropriate to construct the project ER features. This is covered further in Section 9.1.2 below.

Table 9-1: Estates Required

Project Feature	Estates
Dredged Material Placement, Living Shoreline, Pipeline for Dredged Material on Submerged GLO lands	*Special Use Permit
Dredged Material Placement, Living Shoreline, Pipeline for Dredged Material on Emergent TPWD lands	*Special Use Permit
Construction of Containment Levee and placement of riprap and bedding stone within submerged lands	N/A – Navigation Servitude
Access/Staging Areas	Standard Estate #15 – Temporary Work Area Easement

- Approved Standard Estate #28 granting clause will be included in the special use permit.

9.1.1 Standard Estates

Should any access/staging areas be identified outside of the limits of the project footprint, standard estate #15, Temporary Work Area Easement would apply as outlined below.

Standard Estate #15 – Temporary Work Area Easement

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____), for a period not to exceed _____, 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 (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and

waste material thereon) (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 _____ 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.

Standard Estate #28 - STANDARD TEMPORARY WORK AREA EASEMENT (Beneficial Use By Others).

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____), for a period of [enter months of easement term not to exceed five (5) years], beginning with ("the date of this instrument" for purchases) ("the date possession of the land is granted to the United States" for condemnations), for use by the United States, its representatives, agents, and contractors as a dredged material placement area, including the right to deposit dredged material thereon, move, store and remove equipment and supplies, and to perform any other work necessary and incident to the use of the land for placement of dredged material from the [name the federal navigation channel and include river miles or stationing], 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 landowner

9.1.2 Navigational Servitude

Navigation Servitude stems from the Commerce Clause of the Constitution of the United States (U.S. CONST. art.I, Sec.8, cl.3), and is defined as the dominant right of the Federal Government to use, control, and regulate the navigable waters of the United States and submerged lands thereunder for various commerce-related purposes including navigation and flood control. In tidal areas, the servitude extends to all lands below the mean high-water mark, whereas in non-tidal areas, the servitude extends to all lands within the bed and banks of a navigable stream that lie below the ordinary high-water mark. The navigation servitude will not be utilized for this project.

10 Borrow Material

All material necessary for the project will be obtained during normal maintenance cycles or from new work construction from the GIWW within the Federal Standard. No additional sources of borrow are planned.

11 Recreation Features

Although this project provides an opportunity to improve recreation opportunities in the wildlife areas such as bird watching, and recreational and commercial fishing, there are no recreation features proposed for this project.

12 Timber Rights and Mineral/Energy Activity

Timber Rights

There is no timber activity within the proposed project footprint.

Oil and Gas

Oil and gas exploration and production activities are prevalent in this area. Desktop research showed that multiple pipelines, plugged oil wells, and dry well sites were identified within the surrounding area; however, no wells are within the proposed project footprint. Figures displaying wells in the project vicinity is shown in Figure 5 below, however these are not impacted by the project footprint.



Figure 5 - Wells in the Project Vicinity

Oyster Reefs

The only known oyster reef to TPWD is to the northeast of cells 3 and 4 of the TSP. There are not any known oyster beds directly within the proposed project area, however oyster surveys will likely be conducted during PED to confirm. Figure 6 below shows the known oyster reef locations.

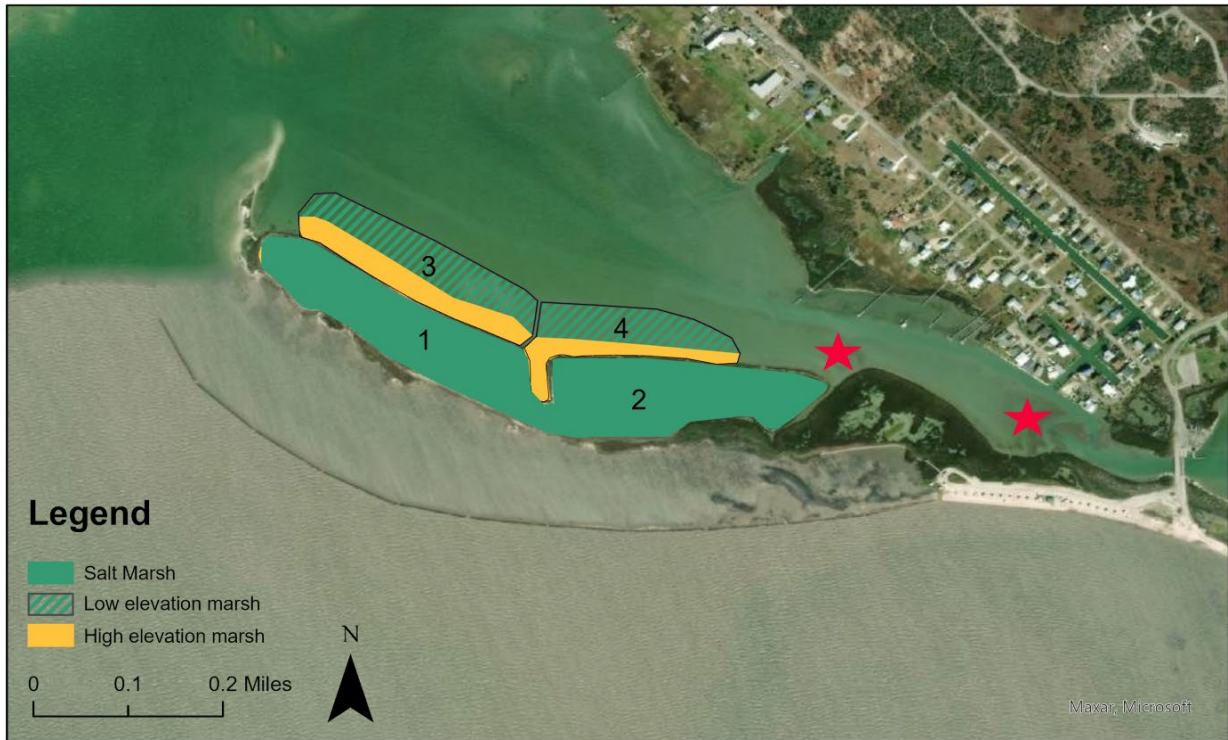


Figure 6 - Known Oyster Reef Locations

13 Facility/Utility/Pipeline Relocations

There are pipelines in the vicinity of the project location, but none fall within the project footprint. A desktop review identified no other facilities or utilities within the proposed project footprint. Figures displaying pipelines in the project vicinity are shown in Figure 7 below.

IN ACCORDANCE WITH ER 405-1-12, "ANY CONCLUSION OR CATEGORIZATION CONTAINED IN THIS REPORT THAT AN ITEM IS A UTILITY OR FACILITY RELOCATION TO BE PERFORMED IS PRELIMINARY ONLY. THE GOVERNMENT WILL MAKE A FINAL DETERMINATION OF THE RELOCATIONS NECESSARY FOR THE CONSTRUCTION, OPERATION, AND 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."



Figure 7- Pipelines in the Project Vicinity

14 Zoning

Zoning ordinances will not be enacted to facilitate acquisition for the proposed project.

15 Hazardous, Toxic, and Radioactive Waste (HTRW) or Other Environmental Contaminants

Currently, there are no Hazardous, Toxic, and Radioactive Waste (HTRW) or other environmental contaminant concerns within the project area.

16 Induced Flooding

No induced flooding is anticipated due to the construction or O&M of this project.

17 Attitudes of the Landowner

TPWD and GLO are the impacted landowners for this project. Both entities have been a part of the study process and there have been no objections to the project thus far.

18 Public Law (PL) 91-646 Relocations

There are no residential, nonresidential, commercial, industrial, or farm properties that would be subject to relocation pursuant with PL 91-646.

19 Real Estate Costs

The baseline cost estimates (BCE) provided in this report are based on a feasibility level design of 5-10% and are intended to reflect the same level of detail of the REP. All real estate costs are administrative in nature, as there are no acquisitions anticipated. Changes to the project design during the PED phase could have an impact on the real estate requirements increasing the real estate costs for the project. Federal costs are administrative in nature and are estimated to be \$127,000.

Non-federal costs are also administrative in nature and are associated with the execution of the surface use agreement with TPWD. Non-Federal costs are estimated to be \$60,000.

The baseline cost estimates are subject to change as design progresses during the PED phase of the project.

20 Acquisition Schedule

There are no LER acquisitions anticipated for this project. The proposed plan is to secure Surface Use Agreements from TPWD and GLO for the lands required for the project. Timeline for implementation of this project is heavily dependent upon the Operations Division dredging cycles. As such, the acquisition schedule below is based not only on the signing of the PPA, but also the dredging cycle.

Should it be determined during the project design phase that there are access/staging areas required, or other lands, easements or rights-of-way required, the following land acquisition schedule (Table 20-1) would apply. For execution of the Surface Use Agreement, the schedule would include negotiations with GLO/TPWD and preparation of the project information required to request the agreement.

Table 20-1: Land Acquisition Schedule

Land Acquisition Schedule		
Milestone	Predecessor	Maximum Duration
Initiate Programmatic Activities	Funding awarded by Congress	60 days
Transmittal of Right-of-Way (ROW) drawings and instruction to proceed with acquisition along with required estate(s)	Immediately after PPA signed and PCA is executed	30 days
Obtain Surveys	Upon transmittal of ROW drawings and instruction to proceed with acquisition	120 days
Obtain Title Evidence	Upon completion of surveys	90 days
*Appraisals & Reviews	Upon obtaining title evidence	90 days
*Authorization to Proceed with Offer	Upon obtaining appraisals and reviews	30 days
*Conclude Negotiations	Upon obtaining authorization to proceed with offer	90 days
NFS Attorney Certifies Availability of LERRD	Upon conclusion of closings	30 days
Corps Certifies Availability of LERRD	Upon Attorney Certification of LERRD	30 days
Review LERRD Credit Request	Upon completion of the project and NFS submission of LERRD documentation	90 days
Approve or Deny LERRD Credit Requests	Upon conclusion of LERRD credit documentation review	10 days
*At this time of this report, TWPD owns all emergent land required for this project. These actions are related to executing the SUA with TPWD and submerged land lease with GLO.		

21 Other Real Estate Issues

At this time, there are no anticipated real estate issues for this project. This section will be updated as project design progresses.

22 Real Estate Mapping

The aerial maps/figures in this report are reflective of a feasibility level design of 5-10%. The real estate maps will be updated as needed throughout PED as the project design nears finalization. These can be found in Figures 1,2 and 3 above.

23 References

2021. Aransas County Appraisal District. Online GIS Viewer.

2022. Railroad Commission of Texas. Online GIS Viewer.

2022. Texas General Land Office. Online GIS Viewer.