

APPENDIX I
Real Estate Report

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1. Introduction

1.1. Real Estate Plan Purpose:

This Real Estate Plan (REP) is presented in support of the Lower Willamette River Ecosystem Restoration Project and the Feasibility Study and Integrated Programmatic Environmental Assessment Report dated February 2014 (The Study). This REP describes the real estate required to evaluate five selected sites and programmatic measures within the Lower Willamette River project area. The purpose of the REP is to: 1) identify the lands, easements, rights-of-way, relocations and disposal areas (LERRD) necessary to support construction, operation and maintenance of the project sites contained in the ecosystem feasibility report; 2) to outline the costs and real estate considerations associated with project implementation; and 3) to assess the Non-Federal Sponsor's (NFS) capability for LERRD acquisition. The City of Portland, Oregon is the NFS.

The Study includes plan formulation, the recommended plan, feasibility level design and project implementation cost estimates. The Study was prepared according to SMART (specific, measurable, attainable, relevant, and time-sensitive) planning guidelines, which have been instituted to make completion of feasibility studies more efficient and to shorten the time period between starting the study and completing a Chief's Report. This project was reset in November 2012, with a series of design charrettes at USACE Portland District. The purpose of the charrettes was to redefine the scope of the planning study, brief the vertical team on the status of the project, and start the timeline under which the Feasibility Study would be completed.

1.2. Previous Study Components and Study Authority:

The first component of the Study was the Lower Willamette River Ecosystem Restoration Analysis (USACE 2000a) dated December 2000 and amended in July 2002, which served as the basis for scoping the feasibility phase studies. The Study was originally intended to support an Environmental Dredging project for which general authority is contained in Section 312 of the Water Resources Development Act (WRDA) of 1990 as amended by Section 205 of WRDA 1996 and Section 224 of WRDA 1999. Specific authority for the Willamette River, Oregon was added when the Willamette River was listed as a priority site in Section 224 of WRDA 1999.

The original reconnaissance analysis initiated under Section 312(b) of WRDA 1990, primarily identified issues relative to environmental dredging and coordination with the ongoing Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Remedial Investigations/Feasibility studies. The July 2002 amendment expanded the scope of the study to include ecosystem restoration within the Lower Willamette River watershed. The reconnaissance analysis also described a need and a federal interest for an overarching project to identify, evaluate, prioritize, and coordinate ecosystem restoration opportunities within the Lower Willamette River.

Specific recommendations were not made in the Reconnaissance Report for addressing contaminated sediments or conducting ecosystem restoration studies. However, the report did specify that:

Environmental dredging authority for general ecosystem restoration, otherwise known as 312(b), could be used in any location in the study area to remediate ubiquitous contamination that is orphaned and not allocable to specific parties.”

Although the environmental dredging component of the Reconnaissance Study has not been implemented to date, the NFS and USACE have used this authority and subsequent congressional authorization passed in 2002 to prepare plans to restore habitat functions at five locations in the Lower Willamette River and two of its tributaries. Since no specific ecosystem restoration sites or strategies were recommended in the Reconnaissance Report, these features were developed later.

1.3. General Project Description

The Study area encompasses the Lower Willamette River and its tributaries from its confluence with the Columbia River at River Mile (RM) 0 to Willamette Falls, located at RM 26. The Study area includes the Lower Willamette River Watershed as well as tributaries, Tryon Creek, and Columbia Slough. Access to the proposed sites will be by way of existing public roads unless otherwise stated.

The Willamette River watershed in the Portland area was once an extensive and interconnected system of active channels, open slack waters, emergent wetlands, riparian forests and adjacent upland forests. Modifications needed to provide ship access to Portland Harbor required construction and maintenance of a navigation channel between RM 0 and RM 11.6. The development of navigational channels, docking facilities, and bulkheads reduced the amount and quality of native floodplain habitats. In addition, the river became heavily polluted beginning in the early 1900s from industrial and urban waste discharges.

Based on an assessment of the problems and opportunities along with the City-wide watershed framework and in consideration of the USACE ecosystem restoration mission, a set of goals and objectives were established for this study. Most of the study area is within the city limits of Portland, Oregon; however, the upper six river miles are in Clackamas County. USACE objectives for the Lower Willamette River Ecosystem Restoration effort are shown in the table below:

USACE Objectives for Lower Willamette River Ecosystem Restoration

USACE Objective	Restoration Measures
Reestablish communities of native plants in the floodplain and riparian areas.	Remove invasive species and minimize disturbance of native habitats. Re-vegetate riparian zones and wetlands with an appropriate mix of native species. Restore hydrological aspects of each site to encourage survival of appropriate plant communities.
Improve aquatic and riparian habitat conditions to support the quality and diversity of biological communities.	Restore streambeds by placing wood and debris jams for habitat diversity. Encourage or install communities of overhanging streamside vegetation to reduce solar gain, stabilize shorelines, and provide wildlife cover. Reconnect side channels and backwater wetlands to streams and rivers where possible. Remove barriers to fish access to spawning and rearing areas.
Restore floodplain function by reestablishing key components of bank configuration and floodplain connectivity while continuing to support river dependent activities.	Slope steepened banks to a gentler angle to allow floodwaters to spread out and to provide shallow water habitat. Remove revetments and fill and use bioengineering methods for bank stabilization where possible.

From the 24 locations studied, the five (5) sites listed below were selected as potential restoration projects:

Kelley Point Park (Off-Channel and Riparian Restoration, Floodplain Enhancement): The intent of this alternative is to excavate two off-channel backwater areas, remove invasive plants, re-vegetate with native species, re-grade steep banks for floodplain enhancement, and place large woody debris (LWD) to enhance habitat complexity. Three prefabricated pedestrian bridge will be installed. Trails throughout the park would be adjusted to allow for restoration. Meandering channels will be cut along existing swales to allow for off-channel refugia. This will reduce the amount of fill to be removed.

The NFS owns 45.41 acres of the 47.37 acres required to support the proposed project in fee. The remaining 1.96 acres include Oregon Department of State Lands (DSL) controlled aquatic lands (see Sheet 3 of the attached Real Estate Maps).

BES Plant: (Off-Channel and Riparian Restoration, Bank Enhancement): The intent of this alternative is to excavate a more frequent connection to a floodplain backwater/swale area and enhance the riparian zone along Columbia Slough. Steepened bank angles would be reduced and LWD added along the banks to increase habitat complexity. Habitat quality is currently moderate to good, but opportunities to improve and expand wetland and backwater habitats exist in several parts of the project site. Off-channel rearing and high-water refugia would be enhanced by excavating a connection from Columbia Slough to the low swale at the southeast end of the site and by excavating an alcove at the base of the slope near the northwest end of the site. Habitat value would be increased by removing invasive species and re-vegetating with native trees and shrubs. Pond turtle habitat would be enhanced by addition of LWD and boulders near the mouth of the channel between the slough and the low swale.

The NFS owns 7.74 acres in fee of the 11.6 acres required to support the proposed project. The remaining 3.86 acres include DSL controlled aquatic lands (see Sheet 1 of the attached Real Estate Maps).

Kenton Cove (Off-Channel Enhancement and Riparian Restoration): Most of this site is surrounded by a highly maintained levee, with a natural riparian floodplain zone along Columbia Slough. The dominant species include black cottonwood, Himalayan blackberry, and reed canary grass. The intent of this alternative is to enhance this backwater cove with LWD, remove invasive species, and re-vegetate with native trees and shrubs. Because the edges of the cove are very even and offer very little habitat complexity, the conceptual plan recommends creating small habitat islands at the location of each woody debris jam, with the wood as the centerpiece of the habitat island.

The NFS owns 1.59 acres of the 3.1 acres required to support the project; .83 acres are privately owned – the NFS will be requested to acquire those acres in fee; and the remaining .68 acres are DSL controlled aquatic lands (see Sheet 4 of the attached Real Estate Maps).

Oaks Crossing/Sellwood Riverfront Park (Off-Channel and Riparian Restoration, Wetland Enhancement): The site is located along the east bank of the Willamette River. Actions proposed at this site include excavation to create off-channel habitat, placement of LWD and revegetation with native riparian species. Excavation, grading, and planting removal would result in the disturbance of soils and movement of sediments.

The NFS owns 3.39 fee acres of the 9.96 acres proposed project lands; METRO owns 5.42 acres of the lands required to support the project, Oaks Park Association owns .46 acres. There are an additional .69 acres required for the project (Real Estate Map I.D. 256). County Assessor records do not reflect ownership information. The acreage appears to be part of the NFS owned Sellwood Recreation Park. These .69 acres are currently included in the miscellaneous acreages. The NFS will confirm its fee ownership during the next project phase (See Sheet 5 of the attached Real Estate Maps).

Highway 43 Tryon Creek Culvert (Culvert replacement for fish passage): The intent of this alternative is to replace the culvert beneath Highway 43 and the train line, which is a fish barrier under most flow conditions. The train line is operated by Portland and Western Railroad (PWR) formerly known as the Willamette Pacific Railroad. Preliminary project plans have been discussed with the PWR and with the Union Pacific Railroad (UP). The PWR is willing to operate on a functionally equivalent temporary rail line during project construction. The UP owns the railroad tracks and the underlying lands in fee but does not operate along the subject tracks. The UP leases the tracks to the PWR instead. The PWR and the UP will be treated as Relocations since the PWR's operations will be disrupted as a result of the project. The installation of a larger fish-friendly culvert beneath UP owned lands will be functionally equivalent to the existing culvert. The functionally equivalent work may take the form of alteration, lowering, raising, or replacement and attendant demolition of the affected facilities or modification or alteration of subject UP owned lands and should qualify as a facility relocation as defined by a PPA. Highway 43 will also be treated as a Relocation because it must be altered

in order to accommodate the culvert removal and replacement actions. The Willamette Shorelines Trolley Lines is a tourist attraction that sporadically runs on UP tracks depending upon funding availability. The project has been discussed with the Trolley Lines Management. They raised no objections to the proposed project since their operating schedule is so erratic. Close coordination will be exercised during implementation planning to insure minimal if any disruption of the Trolley Line operations. Trolley Lines operating needs will be discussed with the Union Pacific Railroad as the project proceeds into design.

The City of Portland owns .76 acres of this 2.7 acre site; the Oregon Parks and Recreation Department owns .70 acres of proposed project lands; The City of Lake Oswego owns .11 acres of proposed project lands; the METRO owns .26 acres; .09 acres are privately owned; State of Oregon owns .67 acres; and the UP Right of Way is estimated to be .10 acres. (See Sheet 2 of the attached Real Estate Maps).

2. Description of Lands, Easements, Right Of Ways (By Site)

The NFS must provide the appropriate realty interest in all lands required for the construction operation and maintenance of the project. Features were designed to minimize the amount of land the sponsor should acquire. Estimated real estate values were sourced from a Gross Appraisal Report prepared by USACE Appraiser Jeff Atwood, Walla Walla, WA, District. The Effective Date of Value is April 15, 2014. The appraisal report was approved by NWD Chief Appraiser, Steve Herzog on 10 June 2014. The 2014 Gross Appraisal replaced the 2012 Gross Appraisal valuations prepared by USACE Appraiser Gregory N. Carnes, Louisville, KY because the proposed project footprint has been significantly refined and the acreages required to support the project have been reduced. Lands owned by the Non-Federal Sponsor are available and sufficient for the proposed project features. There are no special valuation considerations covering the Non Federal Sponsor’s owned project lands.

2.1 Kelley Point Park

Map Key	Parcel ID	Owner	Project Acres	Estate	Land Use
164	R708882600	City of Portland	0.62	Fee	Recreation
253	Water	Oregon Dept of State Lands (DSL)	1.96	Channel Improvement Easement	Aquatic Lands
159	R708885000	City of Portland	44.79	Fee	Recreation
	Subtotal (rounded)		47.37		
A	Associated Map Key 159		.40	TWA Access	
B			.05	TWA Access	

	Subtotal Access and TWA (rounded)		.45		
	TOTAL Acreage (rounded)		48.0		

2.2 BES Plant

Map Key	Parcel ID	Owner	Project Acres	Estate	Land Use
123	R941050220	City of Portland	2.20	Fee	Industrial .
124	R941050180	City of Portland	5.54	Fee	Industrial
258	Water	DSL	3.86	Channel Improvement Easement	
Subtotal			11.60		
		ROW	.45		
A	Associated with MAP ID 123 – not valued		.01	TWA Access	
B			.16	TWA Access	
C			.01	TWA Access	
D			.38	TWA Access	
E			.04	TWA Access	
F			.13	TWA Access	
G			.81	TWA Staging	
H			.05	TWA Access	
Subtotal			2.04		
		TOTAL (rounded)	14.00		

2.3 Oaks Crossing/Sellwood Riverfront Park

Map Key	Parcel ID	Owner	Project Acres	Estate	Current Land Use
2	R991220510	METRO	.46	Channel Improvement Easement	Vacant
25	R991220570	METRO	4.71	Channel Improvement Easement	Vacant
26	R991220280	City of Portland	.22	Fee	Recreation
27	R991220410	City of Portland	2.89	Fee	Recreation
30	R752721360	City of Portland	.28	Fee	Recreation
177	R991220430	Oaks Park Association	.46	Fee	Misc. Recreation
179	R991230730	METRO	.25	Channel Improvement Easement	Recreation
256	Unknown	Unknown	.69	Easement	Open Space
		Subtotal (Rounded)	9.97		
E			.03	TWA Access	
F			.33	TWA Staging	
G			.12	TWA Access	
H			.02	TWA Access	
		Subtotal TWA Access and Staging	.50		
		TOTAL	10.46		

2.4 Kenton Cove

Map Key	Parcel ID	Owner	Project Acres	Estate	Land Use
99	R708885000	City of Portland	1.59	Fee	Imp. Recreation
251		DSL	.68		Aquatic Land
118	R314799	Dyno Overlays, Inc	.83	Fee	Recreation
		Subtotal (rounded)	3.10		
A			.36	TWA Staging	

B			.05	TWA Access	
C			.03	TWA Access	
		Subtotal (rounded)	.44		
		TOTAL (rounded)	3.54		

2.5 Tryon Creek Highway 43

Map Key	Parcel ID	Owner	Proj. Acres	Estate	Land Use
191	182037	City of Portland	.08	Fee	Industrial
195	5021791	City of Lake Oswego	.06	NSE Easement	Vacant
196	5021792	METRO	.26	Channel Improvement Easement	Vacant
199	5021795	City of Portland	.14	Fee	Vacant
237	186248	Oregon Parks & Recreation	.37	NSE Easement	Vacant
238	186257	Oregon Parks & Recreation	.33	NSE Easement	Vacant
240	193560	City of Portland	.54	Fee	Vacant
242	193604	Palahniuk Bender Properties LLC	.09	Fee	Single Family Residence
243	193613	City of Lake Oswego, OR	.05	NSE Easement	Vacant
245	193631	State of Oregon	.02	NSE Easement	Open Space
300	RR ROW	Union Pacific Railroad	.10	Relocation	Rail operations
		Total (rounded)	2.7		
		Total Fee	.85		
		Total Easement (rounded)	1.85		

Notes: Temporary Work Areas have not been finalized for Hwy 43 site as of this writing. Major railroads such as Union Pacific are reluctant to grant easement agreements to support pipeline/utility construction. A Utility Pipeline Easement or its equivalent is mandatory to support the project. The Risk Register reflects this concern. Since there is no parcel number for the subject UP owned lands, NWS-RE Cartography estimated .10 of an acre of Union Pacific lands are required to support the project. The acreage will be refined during the next project phase. The Non Federal Sponsor will work with the Union Pacific to secure the appropriate real estate interests.

3. **Disposal:** Excavated materials will be reintroduced to the project areas. Hazardous Materials (if any) will be transported to a commercial site. No real estate acquisitions are anticipated for disposal or borrow purposes.
4. **Federally Owned Lands Within Proposed Project LER:** There are no federally owned lands included within the LER required for the project.
5. **Existing Federal Projects Within Proposed Project LER:** There are no existing federal projects within the LER required to support the project.
6. **Estates**

6.1 Standard Estates

The standard estates that follow are from ER 405-1-12, Chapter 5, Change 7 of 8 Feb 79.

Fee:

The fee simple title to land described in Exhibit A, subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Temporary Work Area Easement (TWAE):

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.

6.2 Non Standard Estate:

Permanent Ecosystem Restoration Easement (Non-Standard Estate):

A request for HQUSACE approval of a non-standard estate (NSE) consisting of a perpetual ecosystem restoration easement in lieu of fee has been submitted separately. At issue is publically owned lands where fee interest is not available to the NFS because. Public entities are charged with managing the land as a public resource and will not part with ownership. The NSE is required to cover public lands at the Tryon Creek and Oak

Parks/Sellwood sites. NWS-OC and HQUSACE-OC have reached vertical alignment and have agreed to the following minimal NSE language:

A perpetual and assignable right and easement in, on, over and across the lands of the Grantor to construct, operate, maintain, repair, alter, rehabilitate, remove, replace and monitor features of the Lower Willamette Ecosystem Restoration General Investigation Study; vegetative plantings, modifications and improvements within and adjacent to the stream or shore for grade control, or bank stabilization purposes; fish and wildlife habitat or other ecosystem restoration improvements; placement of materials or structures in the bed, banks, or shorelines that influence stream velocity or channel form; removal or placement of gravels, cobbles, and boulders, and other structures or conveyances to recharge or maintain flow to existing wetlands; together with the right to remove structures or obstructions including levees; reserving, however, to the owners, their heirs and assigns, all other rights and privileges, including but not limited to, those that may be used without interfering with or abridging the purposes of restoring and maintaining fish and wildlife habitat and ecological resource values and without interfering with or abridging the enumerated rights and easement hereby conveyed and acquired. Provided, specific use categories of the property shall not be permitted by the Grantor, their heirs and assigns, without the consent of the Grantee, including, but not limited to; the construction or erection of any buildings or structures; grading, excavating, re-contouring or removing soil or vegetation or the deposit of fill or spoil material; any use that will result in any change to streams, channels, drainage, flowage or watercourses on the property whether occurring naturally or artificially; the use of motorized vehicles or machinery; vegetation removal, cutting or the application of pesticides, herbicides, fertilizers or chemicals of any nature; the planting of vegetation or artificial seeding; and any activity that although otherwise permitted, causes the degradation of soil, water or air quality; all subject to existing easements for public roads and highways, public utilities, railroads and pipelines. Final NSE language approval will be sought post-project approval and subsequent to final language negotiations with the NFS.

7. 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 navigation servitude which provides that certain private property may be taken, without compensation to the landowner, if the taking is necessary to exercise the navigation power. Private ownership of land below navigable or tidal waters is acquired and held subject to the dominant public right of navigation. This dominant public right may be exercised by Congress without giving rise to a compensable taking. Navigational Servitude is not applicable and will not be exercised for this project.

8. Real Estate Map

Maps clearly depicting the project area, the tracts required to support the project is attached as Exhibit A.

9. Induced Flooding

No induced flooding is anticipated as a result of the proposed project.

10. Non Federal Sponsor Real Estate Acquisition Capability Assessment

The Non Federal Sponsor has fully demonstrated its real estate acquisition capability for the LERR required to support federal ecosystem restoration projects within the Portland District i.e. Westmoreland Section 206 Ecosystem Restoration Project 2012 – all LER required to support the project were acquired by the Non Federal Sponsor and the Non Federal Sponsor's interest in the real property required to certify the project was certified without incident. A Real Estate Acquisition Capability Assessment covering the proposed project is shown as Exhibit B to this Real Estate Plan.

11. Public Law 91-646 Relocations

The NFS is knowledgeable about Public Law 91-646 and is aware of the obligation to ensure compliance. It is not anticipated that Relocation Assistance Benefits will be provided as a result of this project. Prior to beginning land acquisition, the NFS will hold a public meeting to inform landowners of their rights and benefits available under Public Law 91-646, as amended. There are no families or businesses that will be permanently displaced as a result of the project. However, there is a railroad whose operations may have to be altered during the construction of the Highway 43 culvert. (See discussion in Section 13 - Utilities and Facility Relocations below).

12. Zoning

There are no known zoning ordinances proposed in lieu of or to facilitate acquisition in connection with this project.

13. Mineral Interests

There are no known mineral interest right holders within project footprint.

14. Hazardous, Toxic and Retroactive Wastes

Due to the levels of pollution in the Lower Willamette River sediment from 100(+) years of industry Portland Harbor superfund site was added to the federal Superfund cleanup list in December 2000. The Portland Harbor Superfund site is designated as being from River Mile (RM) 1.9 up to downtown Portland at RM 11.8. As a result of a the policy decision dated_May 2013 to exclude sites that were identified as potential contaminated sites (referred to as Section 312b sites), all sites that were within the Portland Harbor area were removed from this project. A comprehensive investigation of the entire lower Willamette River area has been conducted by the Lower Willamette Group in the past two decades assuring that the designated Portland Harbor CERCLA site is well defined with appropriate best management practices in place on clean up protocol. Potential ecosystem restoration locations that were identified as having potential HTRW issues were removed during the screening process. Sites remaining in this

study were determined through this phase 1 site evaluation that the potential for significant HTRW presence appears to be low.

For the ecosystem restoration sites included in this study, a phase 1 site assessment for HTRW was conducted to determine if there is any current and/or historical contamination that could adversely influence the implementation of any future planned ecosystem restoration measures identified in this study. An HTRW professional conducted this phase 1 site assessment in accordance to ASTM E 1527.05 which included an environmental database search and site inspections. Relevant environmental databases included lists compiled by the Environmental Protection Agency (EPA) and the State of Oregon (EDR 2009). The Environmental Data Resources (EDR) database identified sites within a reasonable distance from our sites that will require further investigations as we move into design and construction phases of this project to assure no new incidences occur and that the regulations, monitoring and cleanup actions at those sites do not adversely affect surrounding properties or migrate into the groundwater or nearby water bodies.

- **The Kelley Point Park** site is downstream of the Portland Harbor area and concerns about contamination from the superfund site is considered to be low due to the strict restrictions placed on any type of disturbance or activities occurring in this area. The contaminated sediment in the Portland Harbor area is stable unless disturbed through dredging type activities, which is being strictly regulated by EPA. The Record of Decision (ROD) on the Portland Harbor CERCLA is estimated to be issued in late 2017. Any Portland Harbor CERCLA current or future clean up action(s) will require the site to be fully contained and controlled to prevent offsite migration of contaminants. Other HTRW properties (outside of the superfund site) were identified during the database search. Three sites were within a mile of Kelley Point Park. One identified site was listed for being on the underground injection control program maintained and regulated by ODEQ, one site for having a permit to discharge into the Columbia Slough via a NPDES permit, which also regulates and monitors any discharge. The other property was located across the slough, with permitted and listed contaminants on the property, a NPDES permit to discharge into the Columbia Slough, owner of the property on a voluntary clean-up program with oversight by ODEQ, past records of spills from the 1980's and 1990's that have been remediated. Potential for contamination from these sites to Kelley Point Park are low. Additional research and documentation of existing sampling data or the collection of new samples sufficient to confirm that there is a minimal risk of HTRW at Kelley Point Park will be completed during the PED phase of the project. Inclusion of Kelley Point Park in the project that will be constructed is conditioned on the analysis of this additional data confirming that the HTRW risk is minimal.

The Bes Plant site is primarily in an industrial zone adjacent to the Columbia Slough. The search of available environmental databases for

potential hazardous materials indicates 43 initial findings in the broad vicinity of the ecosystem restoration site. Three sites were within a mile of the site, none of these sites were closer than one-quarter mile from the limits of excavation of the ecosystem restoration project. The City of Portland, Bureau of Environmental Services has a Columbia Slough Watershed management group that manages, regulates, and oversees activity within this watershed area, along with EPA and DEQ. In 2014 the City completed an ecosystem restoration activity on the opposite shore of the BES plant site and no HTRW was recorded, observed, or identified.

- **The Kenton Cove** site is an off-channel cove surrounded by a maintained levee along the north side of the Columbia Slough. The search of available environmental databases for potential hazardous materials indicates 14 initial findings in the broad vicinity of the ecosystem restoration site. One site was indentified across the slough and on the other side of a peninsula from the limits of the Kenton Cove ecosystem restoration project. The City of Portland, Bureau of Environmental Services has a Columbia Slough Watershed management group that manages, regulates, and oversees activity within this watershed area, along with EPA and DEQ. Potential for contamination at this site is low.
- **The Oaks Crossing/Sellwood Riverfront Park** site is located along the east bank of the Willamette River. This site is upstream of the Superfund site by 4.2 river miles. This site has a low potential for contamination. There are no recorded instances of contamination near this site on this side of the river. There are two sites identified on the opposite shore and approximately one mile downstream of this site. The Willamette River is a major river with a consistently strong CFS flow year round creating the potential for contamination from these sites to the Oaks crossing site as very low.
- **Tryon Creek Highway 43 Culvert Site.** This site is located ¼ mile upstream on Tryon Creek from its confluence with the Willamette River. The culvert replacement would pass under existing highway and rail lines. Tryon Creeks confluence with the Willamette River is upstream of the Superfund site by about 8.2 river miles. Tryon Creek has no record of contamination. The potentially contaminated site identified through the HTRW site investigations that may have impacted this site when the study area extended to the confluence with the Willamette River. The study area has since been reduced, and the potentially contaminated site is now down-gradient of the project area, so the risk of contamination is lower than previously expected. This site has a low potential for contamination.

As a result of the phase one site investigation, no impacts on the real estate acquisition process and the LER value estimate due to known or suspected presence of contaminants that are located in, on, under, or adjacent to the LER required for the construction, operation, or maintenance of

the project are anticipated or assumed. Recommend continued HTRW testing during the next phase and during construction of approved projects.

15. Landowner's Views and Public Opposition

The local community, neighborhood residents and other public stakeholders appear to be supportive of the proposed project. There have been no reports of public opposition to the project.

16. Outstanding Third Party Interests

All property interest acquired in support of the proposed project must take priority over any third party interests such as: public roads and highways, public utilities, railroads, and pipelines. Any third party interests that could defeat or impair the NFS's title to the property or interfere with construction, operation and maintenance of the project must be cleared from the title or subordinated to the interest made being available for the project.

Any other outstanding third party interests that will interfere with the Project that will not be cleared or subordinated must be satisfactorily addressed by the NFS attorney in the attached Risk Assessment document (See Exhibit C).

17. Risks Associated with Advanced Land Acquisition

The NFS was advised in writing of the risks (summarized below) associated with advance land acquisition activities. A summary of risks associated with advance land acquisition activities include, but is not limited to the following:

- Congress may not appropriate funds to construct the proposed project;
- The proposed project may otherwise not be funded, or approved for construction;
- A Project Cooperation Agreement (PCA) mutually agreeable to the NFS and the Government may not be executed and implemented;
- The NFS may incur liability and expense by virtue of its ownership of contaminated lands, or interests therein, whether such liability should arise out of local, state, or Federal laws or regulations including liability arising out of CERCLA, as amended;
- The NFS may acquire interests or estates that are later determined by the Government to be inappropriate, insufficient, or otherwise not required for the project;
- The NFS may initially acquire insufficient or excessive real property acreage which may result in additional negotiations and/or benefit payments under Public Law 91-646 as well as the payment of additional fair market value to affected landowners which could be avoided by delaying acquisition until after PCA execution and the

Government's notice to commence acquisition and performance of their lands, easements, and rights-of-way activities; and

- The NFS may incur costs or expenses in connection with its decision to acquire or perform their lands, easements and rights-of-way activities in advance of the signing of the PCA and the Government's notice to proceed which may not be creditable under the provisions of Public Law 99-662 or the PCA.

18. Utility and Facility Relocations- Tyron Creek Highway 43

Costs associated with relocations have been developed in the MCACES report and are only identified at the Tryon Creek Highway 43 site.

- Utility Relocations: There is a sewer main at the Tyron Creek Highway 43 site which must be relocated. There's also a power line tower at the Oaks Crossing site which will be protected in place during construction so that relocation will be unnecessary. NWP Costs engineers estimated the relocation costs as follows:
- \$337,000 - Tryon Creek Highway 43 – (02 account – MCACES) Public Storm Utility Drainage and Sewage pipe line ~750 lf including 100 lf horizontal bore.
- \$1,400, 429 – (08 account – MCACES) Highway 43 & Railroads Relocations:

The PWR must temporarily reroute rail traffic during construction of the Tyron Creek Highway 43 site. Relocation compensation will apply to demolition and reconstructing of approximately 500 lineal feet of railroad, cost of temporarily operating along a temporary shoo-fly structure, fees and railroad flaggers. NWP, NWS officials met with PWR officials to launch initial discussion and to review the proposed project plans. PWR was supportive of the project and thought there would be no significant impact on their operations.

ANY CONCLUSION OR CATEGORIZATION CONTAINED IN THIS REAL ESTATE PLAN, OR ELSEWHERE IN THIS PROJECT 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.

19. Preliminary Opinion of Compensability/Real Estate Assessment

A formal Attorney's Opinion of Compensability will be prepared by NWS Office of Counsel as the project moves forward into the design planning stage. Meanwhile, a Real Estate Assessment has been developed as follows:

- (a). A culvert will be installed beneath Union Pacific Railroad fee owned lands at the Tryon Creek site. A preliminary review indicates Union Pacific appears to have a compensable interest in the subject lands.
- (b). City of Portland owned sewer lines will have to be relocated as a result of the project. The City of Portland also owns a public storm utility drainage and sewage pipe line that must be relocated. The City of Portland appears to have a compensable interest in those lines.
- (c). The Portland Western Railroad (PWR) owns and operates a local short-line service on railroad real property owned by Union Pacific Railroad. PWR leases the tracks and lands from Union Pacific Railroad and appears to have a compensable interest. The proposed alternative to address PWR interest impacted by the Tyron Creek project is to provide PWR with a temporary rail line so that rail service to their customers will not be interrupted.

20. Baseline Cost Estimate for Lands Easements and Rights-of-Way

The Baseline Cost Estimate presented in the table below includes a breakdown of the estimated fair market value of project lands, the NFS's acquisition costs, and Federal review and assistance costs. NFS acquisition costs include incidental acquisition costs such as title, survey and appraisal, and negotiation costs; recording fees; and legal fees. Federal review and assistance costs include those associated with providing the NFS with LERR requirements, review of acquisitions and LERRD crediting appraisal reports, coordination meetings, title analysis actions, legal support, and crediting activities. The total estimated cost of Lands and Damages plus relocations and administrative costs is approximately \$7.1Million. For inflation and contingencies see the "Total Project Cost Summary" sheet in Appendix H.

Estimated land valuations were sourced from a USACE Gross Appraisal prepared by Jeff Atwood of NWW. The effective date of value is April 15, 2014. The Gross Appraisal Report was approved by NWD's Chief Appraiser Steve Herzog. Estimated flagger/fees Relocation Costs were secured from NWP Cost Engineer, Joseph Russell on July 26, 2013. Sewer line relocation, Highway 43 and railroad relocation cost were quoted from the 2015 MCACES cost estimation report see Appendix H.

Site No.	Site Name	Total Project Acres	Estimated Land and Damages Values (Fee) 01 account MCACES	Estimated Easement Values	Land Values (TWAE)	Non-Federal Sponsor's Admin Costs	Federal Gov't Review & Assistance Costs	Total LER per Site (rounded)
2.1	Kelley Point	48	\$2,043,000	\$2205	\$2295	\$50,000	\$20,000	\$2,118,000

2.2	BES	14	\$2,212,000	\$28,950	\$23,000	\$20,000	\$10,000	\$2,300,000
2.3	Oaks Crossing	10.46	\$291,000	\$124,000	\$900	\$30,000	\$12,000	\$458,000
2.4	Kenton Cove	3.54	\$110,000	765	\$600	\$10,000	\$10,000	\$131,000
2.5	Tryon Creek Culvert (Hwy 43)	2.70	\$326,000	\$22,500*	-	30,000	20,000	\$376,000
2.5	Tryon Creek Sewer line relocation		\$337,595 (Relocation) 02 account MCACES	-	-	-	-	\$337,595
2.5	Tryon Creek Hwy 43 Road and Railroad Relocations		\$1,400,429* (Relocation) 08 account MCACES	-	-	-	-	\$1,400,429
	Sub Total All Sites	78.70 Acres	\$6,850,024	\$155,920	\$26,795	\$140,000	72,000	\$7,121,024

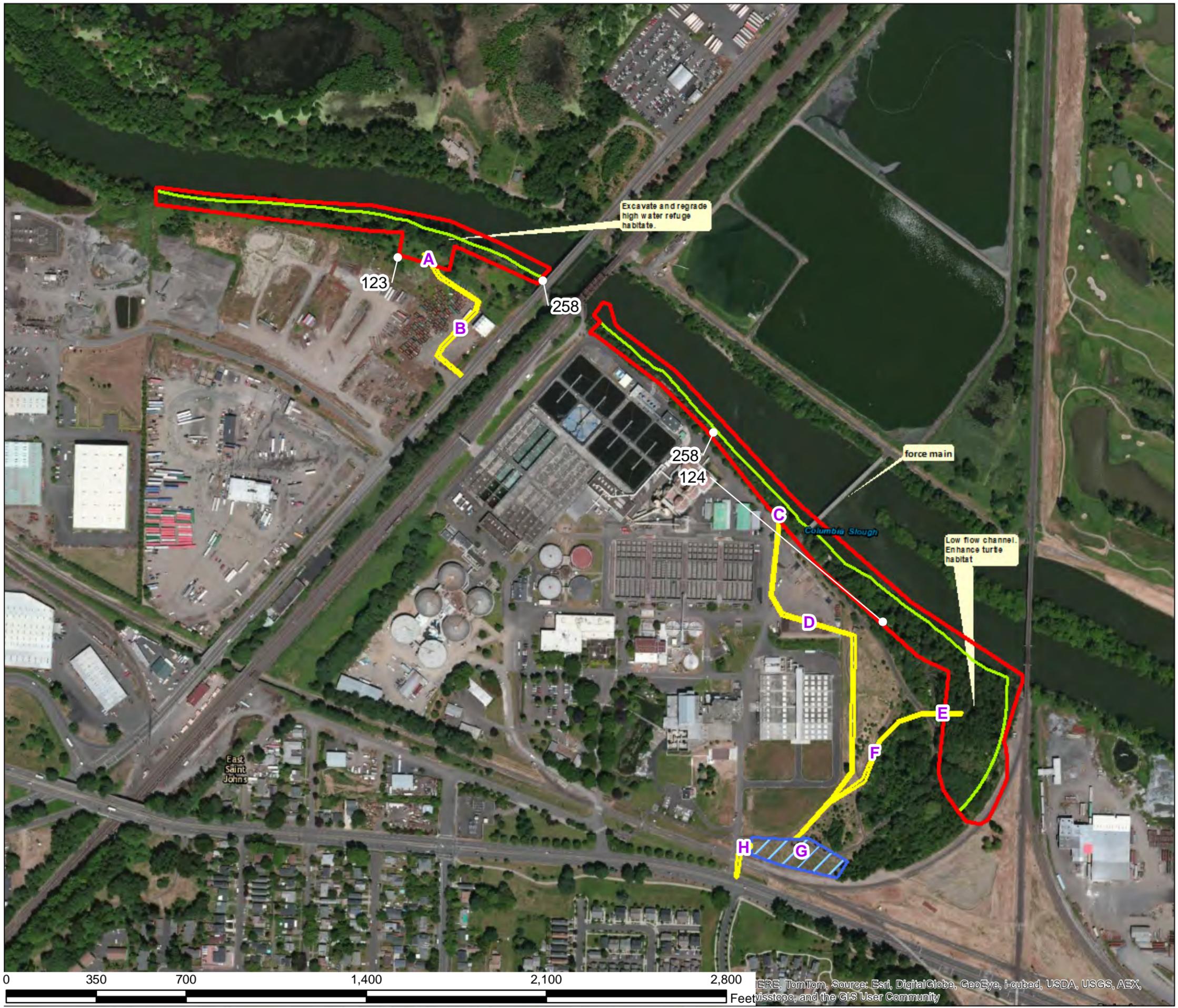
Note: *Estimated value includes \$10,000 Union Pacific permitting cost

21. Other Real Estate Matters

The Risk Register will be amended to reflect the PWR rail operations relocation, Highway 43 Relocations, and the Union Pacific Relocation issues.

22. Real Estate Acquisition and Milestones

Congressional authorization of the proposed projects must be secured in order to begin Real Estate acquisition planning. Further, real estate acquisitions will begin once a PPA is fully executed between USACE and the Non Federal Sponsor. The Non Federal Sponsor will be asked to certify the proposed minimum real property interests necessary to support project construction and subsequent operation and maintenance of the perpetual project elements. The PPA is scheduled to be signed sometimes during FY2015. A separate request for approval of the Non-Standard Ecosystem Restoration Estate language was submitted through NWD for HQ USACE approval. Vertical alignment has been reached between the District's Office of Counsel and HQUSACE Office of Counsel with reference to the minimal Non Standard Estate language. Final Non Standard Estate language will be submitted for approval after the project has been approved and prior to the signing of the PPA.



Notes:

- 1) Design drawings and project boundaries provided by TetraTech on Sep 28, 2011 and Feb 20, 2012.
- 2) Parcel lines and acreage from Metro Taxlots GIS layer.

Legend

- Project Areas
- Taxlots in Project Areas
- Temporary Construction Access
- Temporary Construction Staging
- Woody Debris



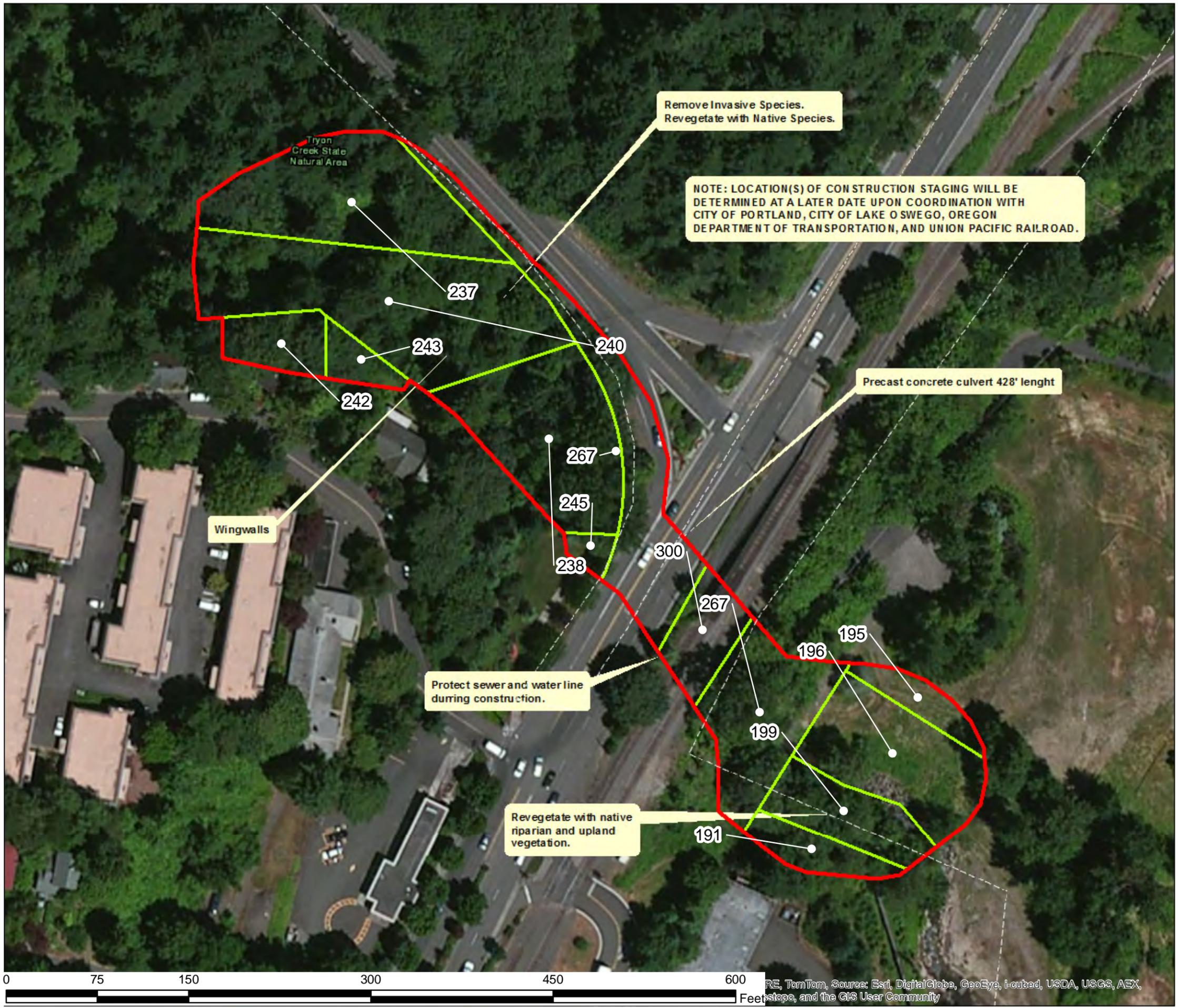
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SEATTLE DISTRICT
 SEATTLE, WASHINGTON

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BES Treatment Plant Banks
Lower Willamette River
Ecosystem Restoration
General Investigation

OREGON STATE Multnomah County

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NOTE: LOCATION(S) OF CONSTRUCTION STAGING WILL BE DETERMINED AT A LATER DATE UPON COORDINATION WITH CITY OF PORTLAND, CITY OF LAKE OSWEGO, OREGON DEPARTMENT OF TRANSPORTATION, AND UNION PACIFIC RAILROAD.

Notes:

- 1) Design drawings and project boundaries provided by TetraTech on Sep 28, 2011 and Feb 20, 2012.
- 2) Parcel lines and acreage from Metro Taxlots GIS layer.

Legend

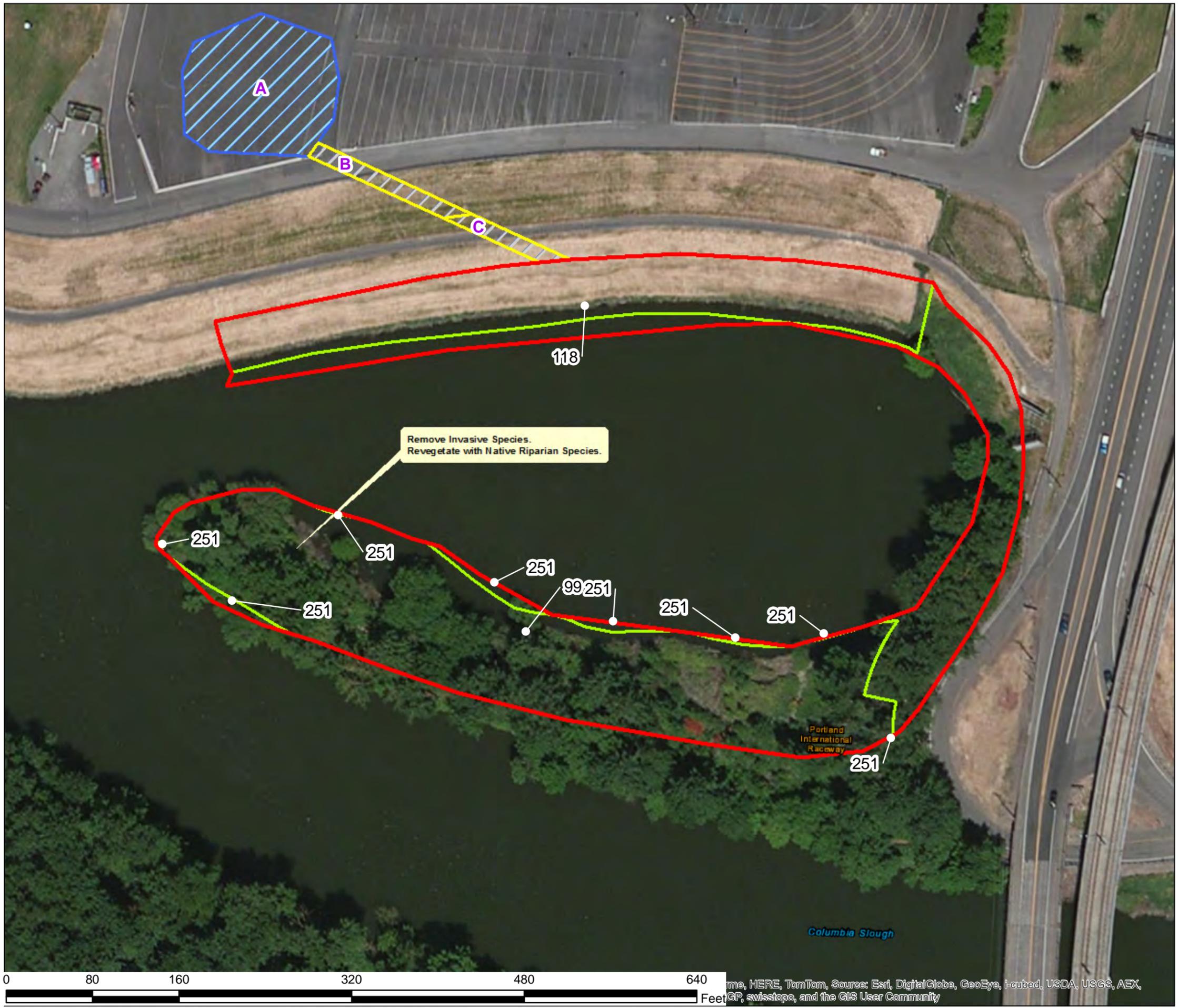
- Project Areas
- Taxlots in Project Areas
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Highway 43 Culvert
**Lower Williamette River
 Ecosystem Restoration
 General Investigation**
 OREGON STATE Multnomah County

Sheet
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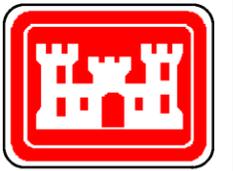


Notes:

- 1) Design drawings and project boundaries provided by TetraTech on Sep 28, 2011 and Feb 20, 2012.
- 2) Parcel lines and acreage from Metro Taxlots GIS layer.

Legend

- Project Areas
- Taxlots in Project Areas
- Temporary Construction Access
- Temporary Construction Staging
- Woody Debris

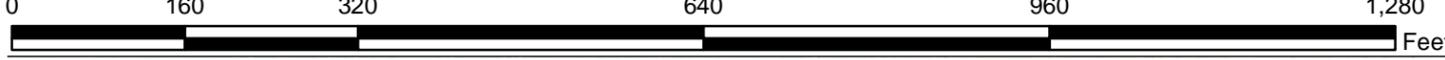
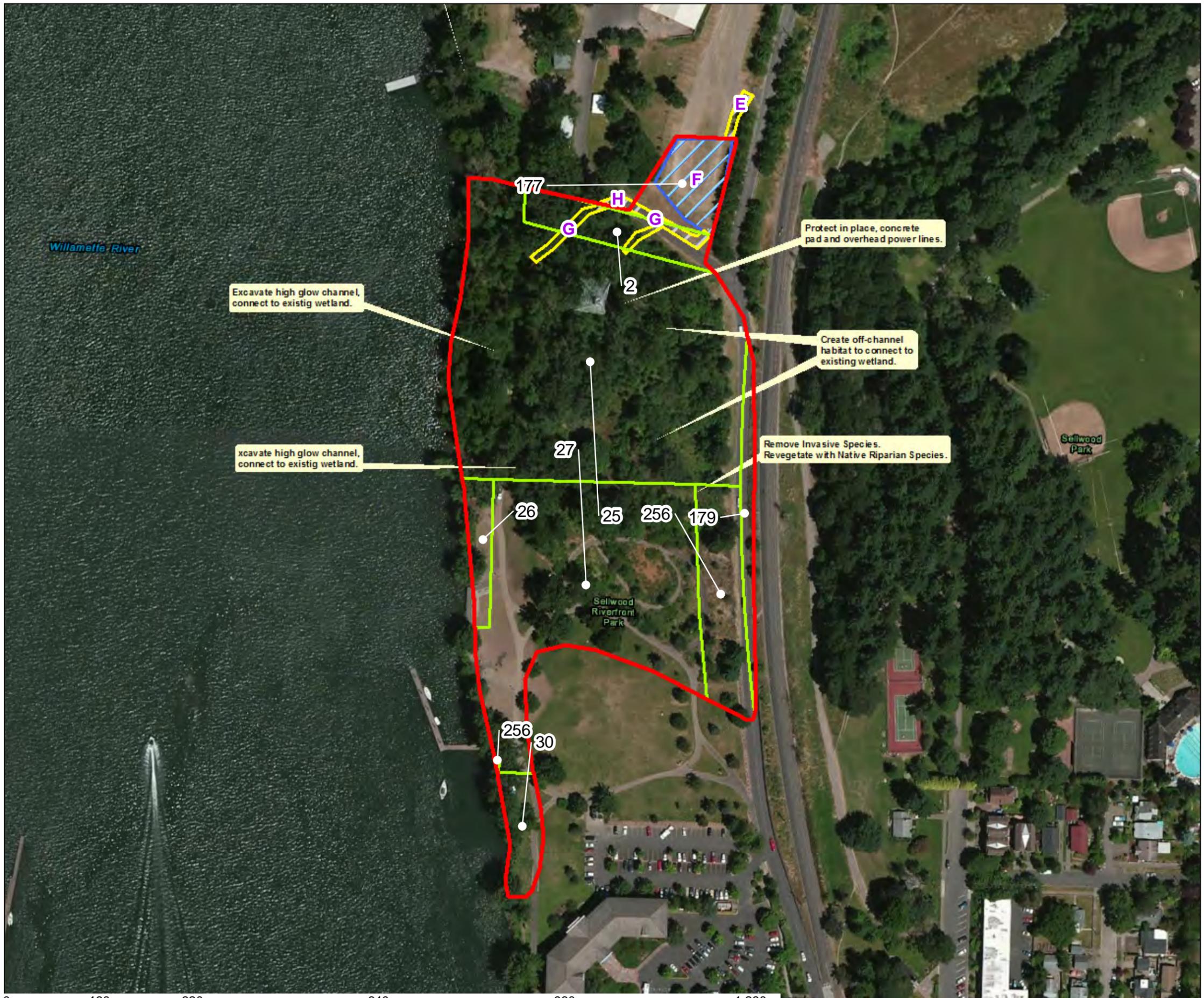


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<small>Notes:</small>	

Kenton Cove
**Lower Williamette River
Ecosystem Restoration
General Investigation**

OREGON STATE Multnomah County

Sheet
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of 5



Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Geoport, and the GIS User Community



Notes:

- 1) Design drawings and project boundaries provided by TetraTech on Sep 28, 2011 and Feb 20, 2012.
- 2) Parcel lines and acreage from Metro Taxlots GIS layer.

Legend

- Project Areas
- Taxlots in Project Areas
- Temporary Construction Access
- Temporary Construction Staging
- Woody Debris



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Oaks Crossing Sellwood
**Lower Willamette River
 Ecosystem Restoration
 General Investigation**
 OREGON STATE Multnomah County

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**LOWER WILAMETTE ECOSYSTEM
RESTORATION PROJECT AND
FEASIBILITY STUDY AND INTEGRATED
PROGRAMMATIC ENVIRONMENTAL
ASSESSMENT OF NON-FEDERAL
SPONSOR'S REAL ESTATE ACQUISITION
CAPABILITY**

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? YES -- some project lands are located in the City of Lake Oswego.
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? Yes -- The City of Portland cannot condemn State of Oregon owned real estate interests or lands.

II. Human Resources Requirements:

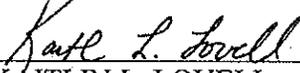
- a. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including P.L. 91-646, as amended? NO
- b. If the answer to II.a. is "yes," has a reasonable plan been developed to provide such training? N/A
- c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? YES
- d. Is the sponsor's projected in-house staff 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 (If "yes," provide description). NO

III. Other Project Variables:

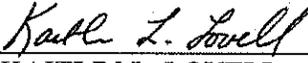
- a. Will the sponsor's staff be located within reasonable proximity to the project site? YES

- b. Has the sponsor approved the project/real estate schedule/milestones? YES

Sections I, II, III prepared by:


KAITLIN L. LOVELL
Division Manager
Bureau of Environmental Services
City of Portland

Sections I, II, III reviewed/approved by NFS


KAITLIN L. LOVELL
Division Manager
BES
City of Portland

Sections IV/V to be completed jointly by NFS and USACE Real Estate Specialist

IV. Overall Assessment:

- a. Has the sponsor performed satisfactorily on other USACE projects? Yes, Westmoreland Section 206 Ecosystem Restoration Project

- b. With regard to this project, the sponsor is anticipated to be Highly Capable

V. Coordination:

- a. Has this assessment been coordinated with the sponsor? YES

- b. Does the sponsor concur with this assessment? YES

Prepared by:


DORIS L. COPE
Realty Specialist

Reviewed and approved by:

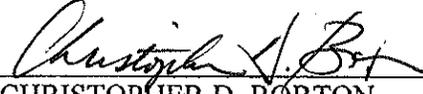

CHRISTOPHER D. BORTON
Chief, Real Estate Division

EXHIBIT E

D R A F T

RISK ANALYSIS FOR OUTSTANDING THIRD PARTY INTERESTS

RE: Certification of Lands and Authorization for Willamette Floodplain Ecosystem Restoration GI Study

There are outstanding third party interests of record in and to the lands required for the Project. An evaluation of those interests is as follows:

1. IDENTIFICATION OF THIRD PARTY INTERESTS:

2. ASSESSMENT: (Discuss whether the exercise of that interest is likely to physically impair the Project. Discuss the legal implications if the interest is not cleared or subordinated. Discuss the practical impediments to the exercise of the interest such as any required permits, land use restrictions, or compensation.)

3. PLAN TO RESOLVE: (Discuss recourse available to protect the Project in the event the outstanding interest is exercised).

Signed:

Attorney for The City of Portland

DATE _____