

REAL ESTATE PLAN REPORT
(Appendix E)

SMELT BROOK
WEYMOUTH/BRAINTREE CAP 1135 PROJECT

WEYMOUTH BRAINTREE REGIONAL RECREATION CONSERVATION DISTRICT
TOWNS OF WEYMOUTH/BRAINTREE, MASSACHUSETTS

PREPARED FOR:



U.S. ARMY CORPS OF ENGINEERS
REAL ESTATE DIVISION
NEW ENGLAND DISTRICT
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EFFECTIVE DATE:

18 November 2022

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1. STATEMENT OF PURPOSE:

The purpose of this Real Estate Plan is to describe the minimum Lands, Easements, Right-of-Ways, Relocations and Disposal Areas (LERRD) required for the construction, operation and maintenance of the Smelt Brook Fish Ladder project that will provide a modification to the original USACE Smelt Brook Flood Protection Project (LPP). The Smelt Brook project is currently in the mid-stages of a 1135 feasibility assessment. The feasibility assessment is being done to investigate alternatives to mitigate the impacts that the LPP has had on anadromous fish passage within the Fore River watershed

2. PROJECT SUMMARY:

The Smelt Brook project is authorized under Section 1135 of the Water Resources Development Act of 1986, as amended. The primary objective of Section 1135 is to modify existing USACE projects to restore ecosystem habitats.

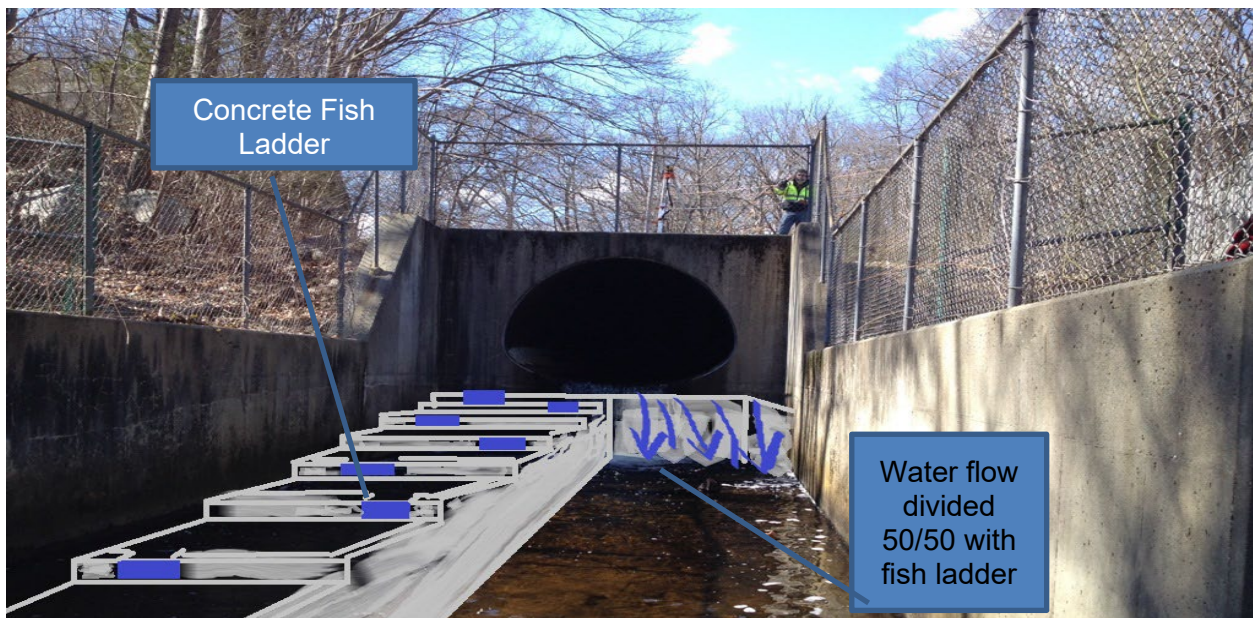
The Non-Federal Sponsor (NFS) for this project is the Weymouth Braintree Regional Recreation Conservation District (WBRRCD). The WBRRCD was initially commissioned in the 1970s jointly between the towns of Weymouth and Braintree Massachusetts specifically for the Operations and Maintenance requirements for the USACE Smelt Brook Local Protection Project (LPP). Since its inception, WBRRCD has shared the costs for operating and maintaining the LPP equally between the towns of Braintree and Weymouth.

The original USACE Smelt Brook Flood Protection Project created a barrier to fish passage. One of the limitations discovered was that the culverted stream is less passable for the fish due to the lack of light and the lack of flow. Because of this design flaw the fish cannot freely transverse the project. The State has daylighted some sections of the culverted stream since the beginning of the study. But another alternative needs to be created. The proposed alternative, which is seen in Figure 2, would be to build a fish ladder on one side of the stilling basin.

Figure 1: Conditions of Alternative Proposal



Figure 2: The Proposed Alternative for the Fish Ladder Construction



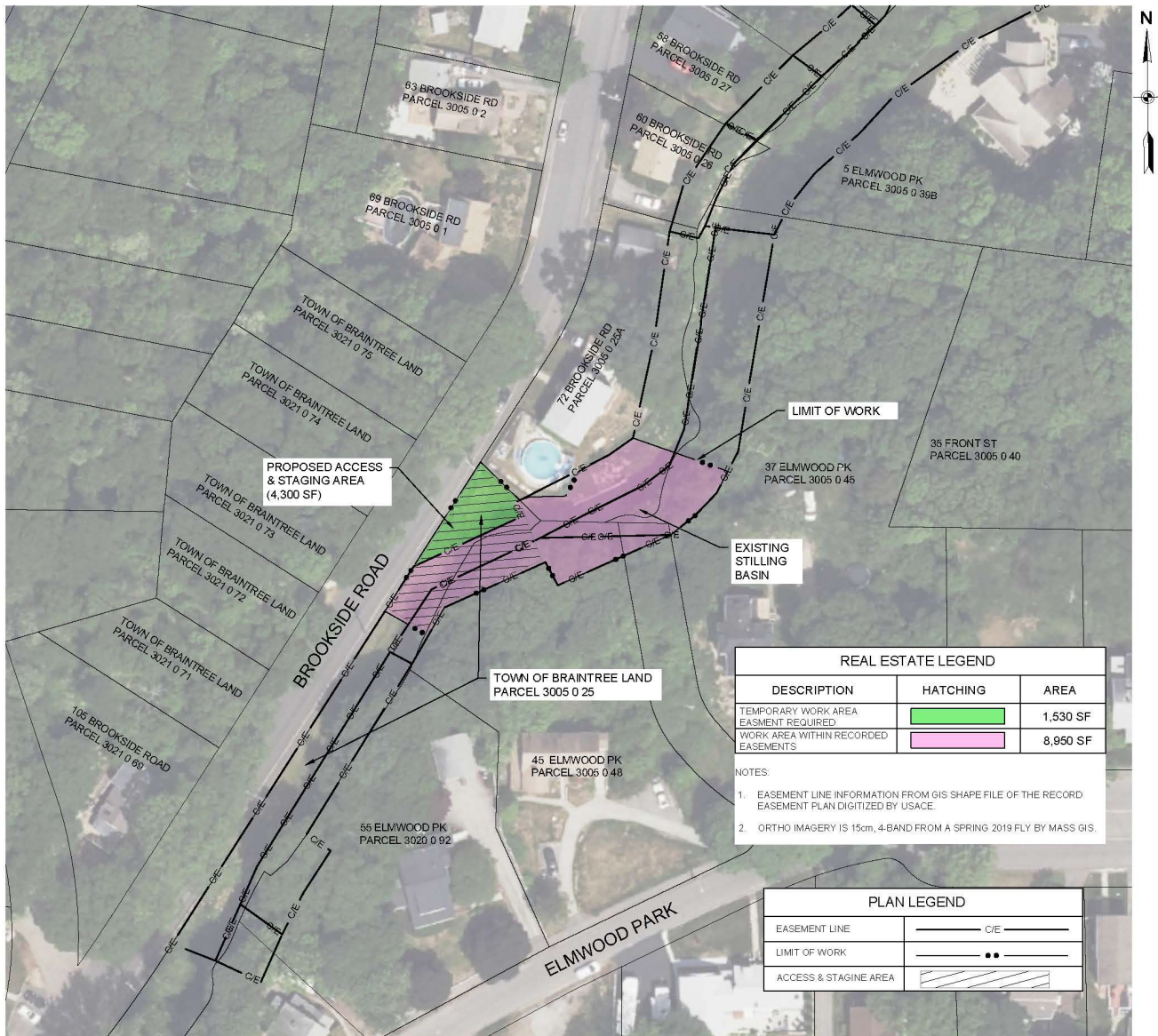
3. REAL ESTATE REQUIREMENTS:

The recommended plan includes the construction of a series of pools and weirs for fish passage within the footprint of the existing Smelt Brook LPP project area. To execute this project effectively, the project requires a temporary work area easement (TWAE) from the Town of Braintree on a parcel adjacent to the Flood Control Structure to provide for temporary construction access, staging, and laydown for an area of 1,530 square feet. The NFS permanent easement provides suitable interest for the execution of the project. As can be seen in Figure 4, a portion of the NFS permanent easement is encroaching on an abutters parcel. This encroachment will not interfere with the project.

Figure 3: Complete Work Area Real Estate Interest

TWAE Town of Braintree	1,530 SF
Complete Work Area Within Recorded Easement	8,950 SF
Complete Work Area Real Estate Interest	10,480 SF

Figure 4: Real Estate Interests



C2 SITE PLAN
SCALE: 1" = 40'

0 40' 80'

4. APPRAISAL ESTIMATE

An Informal Value Estimate was completed with an effective date of February 5, 2022, by Daniel E. Jalbert, MAI, AI-GRS, CENAE District Review Appraiser. This report evaluated a Parcel of residential land, with access along Brookside Road, East Braintree, MA with a TWAE of 1,530 SF and a permanent easement of 8,950 SF, which is considered interim reserve and conservation undevelopable surplus land.

The estimate represents annual payments for the one-year easement and land value for the permanent easement. Estimate assumes full restoration, no environmental impact from the current use or adverse effects from any activity described in the Lease. The estimate for the subject property interest, as described, as of the 5th day of February 2022 is \$2,850. The one-year rental for the TWAE would be \$50.

5. REAL ESTATE OWNED BY THE NON-FEDERAL SPONSOR:

The Non-Federal Sponsor (WBRRCD) holds a permanent easement for flood control to support the project. The NAE Office of Counsel has reviewed the permanent easement and determined the NFS has the lands, easements, and right-of-way necessary for the project. At the time that the permanent easement was created, we did not have estate language like the standard estate language today. Not having the language then does not mean the NFS needs to acquire new easements unless the work involves areas outside of the permanent easement.

The Non-Federal Sponsor will be required to obtain interests in the proposed work area outside of the permanent easement. The proposed work area outside of the easement is projected to be 1,530 SF on the Town of Braintree property. Under the authority granted by the Legislature to the WBRRCD in Acts 1972, Chapter 787, the NFS could enter into the agreement for the TWAE on the Town of Braintree property.

6. NON-STANDARD ESTATES:

As of this report, there are no proposed non-standard estates for the recommended plan.

7. EXISTING FEDERAL PROJECTS:

The recommended plan will be completed within the footprint of the existing Smelt Brook LPP project area.

8. EXISTING FEDERALLY OWNED LANDS:

There are no existing federal lands included within the required LEERDS for this project.

9. FEDERAL NAVIGATION SERVITUDE:

Navigation Servitude does not apply to this project, due to the project's lack of a nexus to a navigation purpose.

10. REAL ESTATE MAPS:

Figure 5: Smelt Brook Local Protection Project in Braintree and Weymouth, Massachusetts

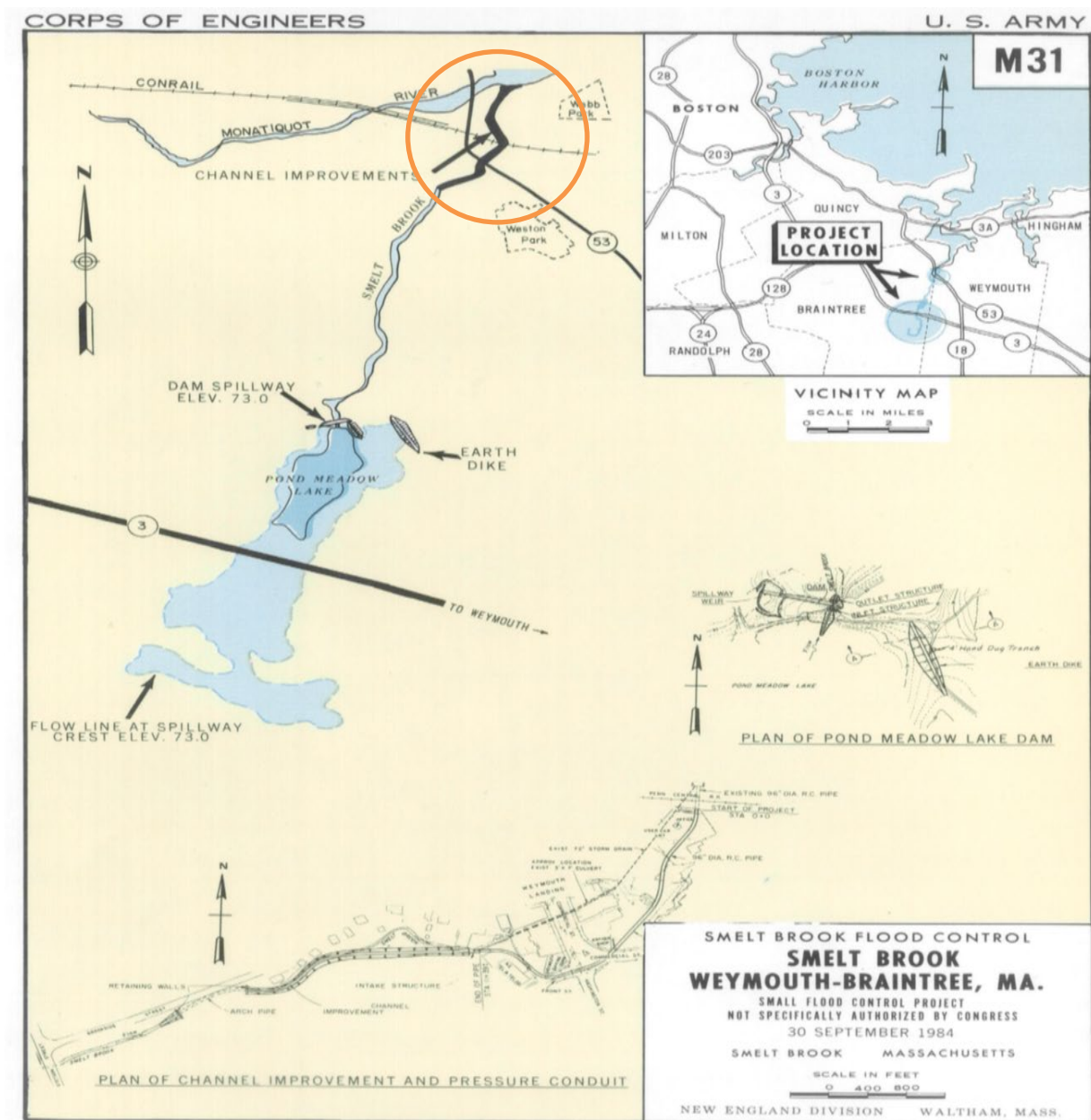
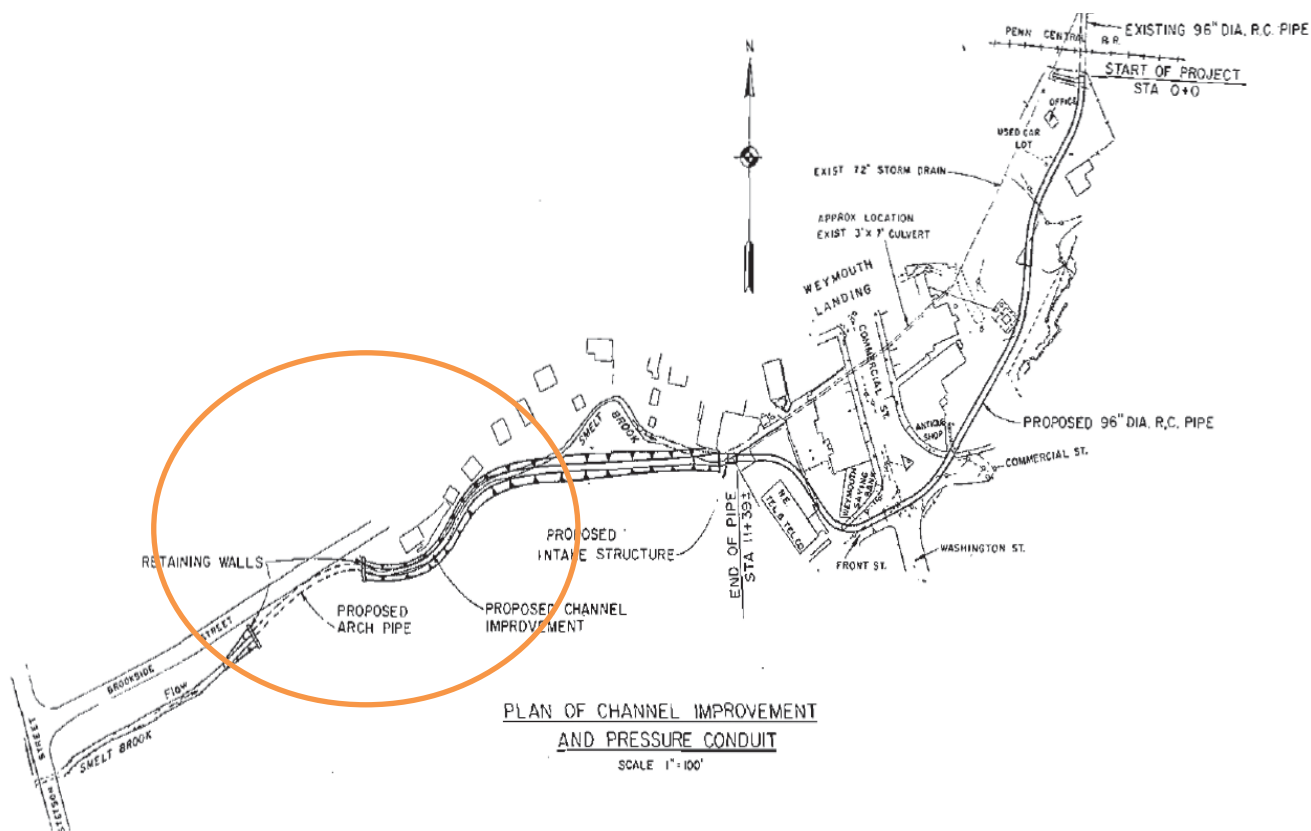


Figure 6: Plan of Smelt Brook



11. INDUCED FLOODING:

There is nothing to indicate that the proposed project features will induce flooding in new areas or increase in existing flood prone areas.

12. BASELINE COST ESTIMATE FOR REAL ESTATE:

The non-Federal sponsor's LEERDs (including incidental administrative expenses) associated with the parcels/tracts of land that support the facilities regarding this project is presented in the Project Task Budget for this phase.

PROJECT TASK BUDGETS:

Figure 7: Summary of BCERE

Project Cost Account	Federal Cost	Non-Federal Cost	Total BCERE
Lands and Damages	\$7,400	\$2,450	\$9,850
Total BCERE	\$7,400	\$2,450	\$9,850

The appraiser did evaluate the existing permanent easement. It is not available for crediting as it was part of the original Local Protection Project.

13. PUBLIC LAW 91-646, UNIFORM RELOCATION ASSISTANCE:

The recommended plan does to require the displacement of residences and/or businesses.

14. MINERALS AND TIMBER ACTIVITY:

There is no present or anticipated mining and drilling activity in the vicinity of the project that may affect project purposes and the operation thereof.

No timber harvesting activities are anticipated to occur within the proposed project footprint.

15. NON-FEDERAL SPONSOR CAPABILITY ASSESSMENT:

The Non-Federal Project Sponsor has stated that they are highly capable regarding the project. A copy of the Non-Federal Project Partner Capability Assessment Checklist has been provided to and coordinated with the non-Federal sponsor.

16. LAND USE ZONING:

There are no zoning ordinances currently proposed in lieu of or to facilitate any LEERDs in connection with this project.

17. REAL ESTATE ACQUISITION SCHEDULE:

A projected schedule has been developed based on the assumption that Federal and non-Federal funds will be available. The tentative schedule for project completion is represented as follows:

**Figure 9: Estimated Dates
(Milestones)**

Acquisition Schedule	Date
Execute Project Partnership Agreement (PPA) with NFS	October 2023
Notice to Proceed with Real Estate Acquisition	December 2023
NFS Authorization for Entry for Construction	March 2024
USACE Certifies Real Estate*	May 2024
Ready to Advertise for Construction Contracts*	July 2024
Award Construction Contract*	September 2024

*Dependent on further authorization and appropriation

18. FACILITY AND UTILITY RELOCATIONS:

There are no utility or facility relocations anticipated or currently required within the proposed project footprint.

19. HAZARDOUS, TOXIC AND RADIOACTIVE WASTE (HTRW):

There are no known or suspected presence of HTRW contaminants.

20. PROJECT SUPPORT:

The non-Federal sponsor reports overall community support for this project. The record does not indicate any known opposition or public concerns, which cannot be overcome.

21. NON-FEDERAL SPONSOR NOTIFICATION:

The non-Federal sponsor executed the Federal Cost Share Agreement (FCSA) in June 2015. The non-Federal sponsor received the Guide for Project Sponsors three times over a four-year period. The guide included language describing the risk of actions taken before the formal execution of the PPA.