

U.S. Army Corps of Engineers

REAL ESTATE PLAN

*Hudson-Raritan Estuary,
Liberty State Park Ecosystem Restoration Study*

Prepared by:

Department of the Army
New York District
Corps of Engineers

Real Estate Division

October 2005

REAL ESTATE PLAN

Hudson-Raritan Estuary, Liberty State Park Ecosystem Restoration Project

TABLE OF CONTENTS

<u>ITEM</u>	<u>PAGE</u>
Preamble	1
1. Statement of Purpose	2
2. Project Purpose and Features	2
3. Non-Federal Sponsor Owned Lands	3
4. Estates	3
5. Existing Federal Projects	4
6. Federally-owned Lands	4
7. Navigational Servitude	4
8. Maps	4
9. Induced Flooding	4
10. Baseline Cost Estimates	4
11. Compliance with Public Law 91-646	4
12. Minerals and Timber	4
13. Assessment of Non-Federal Sponsor's Land Acquisition Experience & Ability	4
14. Zoning	4
15. Acquisition Schedules	5
16. Facility/Utility Relocations	5
17. Hazardous, Toxic or Radiological Waste (HTRW)	5
18. Project Support	5
19. Notifications to the Non-Federal Sponsor	5
20. Other Real Estate Issues	5
21. Recommendations	6

Exhibits

"A" - Estates

"B" – Baseline Cost Estimates

"C" – Assessment of Non-Federal Sponsor's Real Estate Acquisition Capability

MAPS

Figure 1 – Project Vicinity

Figure 2 – Existing Project Site

Figure 3 – Project Alignment ("Recommended Plan")

Preamble

Introduction: Liberty State Park was established in the early 1970's on land situated on the west shoreline of the Hudson River in the City of Jersey City, Hudson County, New Jersey, (opposite Liberty and Ellis Islands) that was filled in during the 19th and early 20th centuries, and subsequently abandoned in the late 1960s, by the (then-bankrupt) Central Railroad of New Jersey and/or its predecessor railroad entities. The Park consists largely of abandoned former industrial property that was acquired by the City of Jersey City and then conveyed by the City to the State of New Jersey for park purposes, as well as similar land acquired by the State specifically for park purposes. *No Federal funds were used to acquire the land.*

Authorization: – The Hudson-Raritan Estuary Ecosystem Restoration study was authorized in a resolution of the Committee on Transportation and Infrastructure of the U.S. House of Representatives, dated 15 April 1999:

“Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That, the Secretary of The Army is requested to review the reports of the Chief of Engineers on the New York and New Jersey Channels, published as House Document 133, 74th Congress, 1st Session; the New York and New Jersey Harbor Entrance Channels and Anchorage Areas, published as Senate Document 45, 84th Congress, 1st Session; and the New York Harbor NY Anchorage Channel, published as House Document 18, 71st Congress, 2nd Session, as well as other related reports with a view to determining the feasibility of environmental restoration and protection relating to water resources and sediment quality within the New York and New Jersey Port District, including but not limited to creation, enhancement, and restoration of aquatic, wetland, and adjacent upland habitats.”

Official Project Designation: *Hudson-Raritan Estuary, Liberty State Park Ecosystem Restoration Study, Jersey City, Hudson County, New Jersey*

Project Location: Liberty State Park is situated on the western shoreline of Hudson River within the City of Jersey City, due west across the River from lower Manhattan, New York City and approximately 750 feet west of Ellis Island and 1,000 feet west of Liberty Island. The Park is bounded by residential and commercial neighborhoods to the west, by the Morris Canal to the north, by the Upper New York Bay to the east, and by “Black Tom” cove to the south. The specific Project area *within* the Park is bounded on the north by Audrey Zapp Drive, on the east by Freedom Way, on the south by Morris Pesin Drive, and the west by Phillip Drive.

Non-Federal Sponsor: For the Feasibility phase of this Project, the non-Federal Sponsor is *The Port Authority of New York and New Jersey*. For the Construction phase of the Project, however, the proposed non-Federal sponsor is the *State of New Jersey*, acting by and through its *Department of Environmental Protection* (hereinafter, “NJDEP” or “the State”). The cost sharing of the Project will be **65% Federal** and **35% non-Federal**.

REAL ESTATE PLAN

1. **Statement of Purpose:** The purpose of this Real Estate Plan (the “REP” or the “Plan”) is to present the overall plan describing the minimum real estate requirements for the construction, operation, maintenance, repair and rehabilitation of the proposed Project. It is Appendix “D” to the *Hudson-Raritan Estuary, Liberty State Park Integrated Feasibility Report & Environmental Impact Statement* dated October 2005.

2. Project Purpose and Features:

A. Liberty State Park is situated on the western side of Upper New York Bay approximately 750 to 1,000 feet west of Ellis and Liberty Islands, the latter the site of the Statue of Liberty. The Park comprises 1,121 acres, consisting of approximately 598 upland/wetland acres and 523 tidal acres.

The land currently comprising Liberty State Park was once largely cove and costal marshland. In the 1850’s, the site began the process of being converted into a number of industrial/commercial sites and a large railroad yard/ railroad passenger terminal to ferry passengers and freight to and from New York City .

The railroad yard and nearby industrial/commercial properties were subsequently abandoned and were converted into an urban waterfront park in 1976 (now known as Liberty State Park). Liberty State Park is not yet completely developed as a park. Approximately 251 acres, in the center of the park, remain undeveloped. Because portions of these undeveloped lands have been contaminated with industrial by-products, they have been fenced off from public use, as required by a 2001 Consent Decree of the US District Court for the District of New Jersey – Newark Vicinage, Civ. Action Nos. 93-4774, 94-3434, 94-3793.

B. The *Plan of Improvement* calls for the re-establishment of wetlands by the restoration of lost salt marsh and tidal habitat, enhancement of existing wetlands, removal of invasive plant species, and by the planting of native species. Physically, the work will entail excavating (including the removal of debris from previous industrial activities), grading and planting of native wetland species. The Project area comprises approximately **234 acres**, consisting of approximately **225 acres** of “upland” and **9 acres** of submerged, State-owned lands.

C. *Required Lands, Easements, Rights-of-Way, and Disposal Areas* (LERRD): The prospective non-Federal sponsor, NJDEP, owns all the lands within the project boundary lines. Accordingly, no further acquisitions of real property, or interests in real property (including site access), are required for this project. Upon signing a PCA, the Corps (NY District) will provide the Sponsor with a legal description of the required project area (approx. 234 acres) and NJDEP, in turn, will submit a formal *Authorization for Entry for Construction* to the NY District.

A summary of Project LERRD requirements is as follows:

Fee: 0 acres
Permanent Easement or equivalent: 0 acres
Temporary Easement: None

D. *Appraisal information:* The proposed project area's 234 acres is currently degraded wetlands, owned in fee by the State of New Jersey and limited by New Jersey law (NJSA 13:8A-48) to "open space" uses precluded from ordinary commercial, industrial or residential development, nor can it be sold by the State except under specific, limited circumstances. The project would result in no greater restrictions on the land than are currently in place under New Jersey law.

Historically, prior to acquisition over 30 years ago by the State of New Jersey these degraded wetlands were used as a railroad yard and subject to pollution derived from that industrial use. These wetlands' highest and best use is limited by the statutory restrictions and environmental concerns and stigma from its prior industrial use that would severely hinder any potential development. The cost of cleanup and potential flooding further constrain economic value. Accordingly, the estimated economic value of the Project LERRD is nominal.

E. *Administrative Costs:* The Non-Federal Sponsor acquired the lands required for project use over 5 years ago and therefore its "administrative" acquisition costs are not credit-eligible.

Other anticipated administrative costs are as follows:

Non-Federal	\$ 5,000
Federal (including Real Estate Planning)	<u>\$20,000</u>
Sub-total:	\$25,000
 Twenty percent (20%) contingency	 <u>\$ 5,000</u>
 TOTAL:	 \$30,000

3. **Non-Federal Sponsor Owned Lands:** The Sponsor owns in fee all the 598 upland/wetland acres and 523 tidal acres that comprise Liberty State Park, including the approximately 234 acres required for the construction, operation and maintenance of this Project. The Sponsor's interest is sufficient and available for construction, operation, maintenance, repair and rehabilitation of the Project.

4. **Estates:** The Non-Federal Sponsor (State of New Jersey) is the fee simple owner, and as such no other estates are required for Project acquisition. A formal *Authorization for Entry for Construction* to the NY District will be required and is hereto attached as **Exhibit "A"**.

5. **Existing Federal Projects**: There is an existing Federal Project adjacent to the proposed project, the *Liberty State Park – Levee and Seawall Project*, constructed in 1986. Neither Project will affect the other.
6. **Federally-owned Lands**: There are no Government-owned lands in the Project area.
7. **Navigational Servitude**: The Project will neither affect, nor require use of, any Navigable Waters of the United States. Although some of the Project area may at one time have been submerged, the lands required by the Project are not navigable and have not been submerged or subject to tidal influences since at least as far back in time as 1919, and are now “upland” (landward of the Mean High Water Line). Accordingly, the Government will not need to exercise its rights under the doctrine of Navigational Servitude for this Project.
8. **Maps**: *Map 1* depicts the vicinity of the Project. *Map 2* depicts the existing uses of the Project site. *Map 3* depicts the Project’s “Recommended Plan.”
9. **Induced Flooding**: No induced flooding is anticipated as a result of this Project.
10. **Baseline Cost Estimate**: A baseline cost estimate, in M/CASES format, is attached hereto as **Exhibit “B”**.
11. **Compliance with Public Law 91-646**: No persons, residences, farms or businesses will need to be relocated for this Project. Therefore, no relocation assistance pursuant to Public Law 91-646, as amended, will be required for the Project.
12. **Minerals and Timber**: There are no present or anticipated mineral extraction or timber harvesting activities in the Project area and/or its vicinity.
13. **Assessment of the Non-Federal Sponsor’s Land Acquisition Experience and Ability**: The State of New Jersey, acting by and through its Department of Environmental Protection (NJDEP) is the proposed non-Federal sponsor for the Project’s construction phase. The State of New Jersey owns in fee all Project LERRD, and no further acquisitions of real property or interests in real property are anticipated for this Project. NJDEP, however, has the legal and professional capability and experience to acquire and provide the LERRD for the construction, operation, and maintenance of the Project. They have condemnation authority and quick-take capability, although it is not anticipated that these actions will be required for this Project. An Assessment of the Non-Federal Sponsor’s Land Acquisition Capability is attached as **Exhibit “C”**.
14. **Zoning**: Application or enactments of zoning ordinances are not anticipated for the Project.

15. **Acquisition Schedule**: The current Project schedule anticipates execution of a Project Cooperation Agreement on or about 31 January, 2007 (the "PCA date") and solicitation of bids for construction on or about 30 June 2007 (the "R/T/A date"). Insofar as the non-Federal Sponsor owns in fee all anticipated Project LERRD, Certification of Project LERRD by the Chief, Real Estate Division, is expected to occur approximately 30 days prior to the R/T/A date.

16. **Facility and/or Utility Relocations**: No facility or utility relocations are anticipated for this Project. An underground sanitary sewer line traverses the Project area, but it is buried deeply enough so that it will not be affected by the Project, nor will it (or any of the utilities identified in a 1975 PANYNJ Utility Plan) interfere with, or be affected by, the Project.

17. **Hazardous, Toxic, and Radiological Waste (HTRW)**: In August 2003 and February 2004, New York District, in collaboration with the Non-federal Sponsor NJDEP, conducted an extensive sub-surface soil characterization within Liberty State Park. As discussed in Section 3.12 ("HTRW") of the Study's *Integrated Feasibility Report/EIS*, there are substances listed under CERCLA/RCRA within the study area, but not at high enough levels to require CERCLA/RCRA action. It was not possible to avoid these substances during the formulation of complete and ecologically sensitive restoration measures. No excavated or disturbed soils will be removed from the Project area for off-site placement or disposal.

18. **Project Support**: Local officials and residents in the vicinity of the Project Area are very supportive of the Project. In addition, the environmental improvements anticipated by the Project are consistent with the 2001 *Consent Decree* discussed in paragraph 2A herein.

19. **Notification to Non-Federal Sponsor**: Based on its past sponsorship of other Corps water resource (Civil Works) projects and ongoing discussions during the Project's Feasibility phase, the non-Federal Sponsor is aware of the risks of acquiring LERRD required for the Project prior to the signing of the Project Cooperation Agreement ("PCA"). The Sponsor acquired its fee simple interest in the Project area before the Project was anticipated. However, formal written notification of the risks of such acquisition, in accordance with paragraph 12-31 of Chapter 5 of the Corps of Engineers Real Estate Handbook, ER 405-1-12, will be forwarded to the non-Federal Sponsor *before* the Project Cooperation Agreement (PCA) is signed.

20. **Other Issues**:

A. There are no known mitigation requirements.

B. There are no known historical or cultural artifacts within the project area. The sensitivity for prehistoric resources within the project area is low as the location consists entirely of man-made land and no work is anticipated to reach depths determined sensitive for paleo-environmental data.

The Liberty Science Center Wetlands Complex area was not under consideration for restoration at the time the cultural study was undertaken, and so has not been


surveyed. As the project proceeds, this area will be surveyed and subsequent cultural resources work will be undertaken as required. It is the Corps' opinion that the restoration work for the remaining areas at Liberty State Park will have no effect upon cultural resources if project plans remain as proposed. If excavation is determined necessary in the vicinity of the former Communipaw shoreline than subsurface work may be required. The New Jersey Historic Preservation Office has concurred with this evaluation. This work was also coordinated with the Liberty State Park Resource Interpretive Specialist.

C. Aside from the sanitary sewer line discussed in paragraph 16 hereof, there are no known existing encumbrances (i.e., easements, rights-of-way, etc) that would affect, or be affected by, the Project.

D. Insofar as the State of New Jersey is the non-Federal Sponsor, the Corps of Engineers will not be required to obtain any State (NJDEP) Tidelands Conveyance permits.

E. The non-Federal sponsor will assume responsibility to maintain the project after construction. New York District will be supplying a manual, as proscribed in the PCA, delineating actual practices for this type of project.

21. **Recommendations:** This report has been prepared in accordance with Chapter 12 of the Corps of Engineers Regulation ER 405-1-12. It is recommended that this report, and the non-Standard Estate discussed and described in Paragraph 4 herein, be approved.



NOREEN DEAN DRESSER
Chief, Real Estate Division

REAL ESTATE PLAN

*Hudson-Raritan Estuary,
Liberty State Park Ecosystem Restoration Project*

EXHIBIT "A" - ESTATES

Department of the Army
U.S. Army Engineer District, New York

AUTHORIZATION FOR ENTRY FOR CONSTRUCTION

I, _____, _____, New Jersey Department of Environmental Protection, do hereby certify that the State of New Jersey (Department of Environmental Protection) has acquired the real property interests required by the Department of the Army, and otherwise is vested with sufficient title and interest in lands, to support construction of the *Liberty State Park Environmental Restoration Project* at Jersey City, Hudson County, New Jersey. Further, I hereby authorize the Department of the Army, its agents, employees and contractors, to enter upon Tract A to construct the *Liberty State Park Environmental Restoration Project* at Jersey City, New Jersey as set forth in the plans and specifications held in the U.S. Army Corps of Engineers' New York District Office, New York City, New York.

WITNESS my signature as _____, New Jersey Department of Environmental Protection, this ____ day of _____, 200____.

By: _____
(Name)

Title: _____

ATTORNEY'S CERTIFICATE OF AUTHORITY

I, _____, Esquire, Attorney for _____, certify that the State of New Jersey (Department of Environmental Protection) has authority to grant the above Authorization for Entry; that said Authorization for Entry is executed by the proper duly authorized officer; and that the Authorization for Entry is in sufficient form to grant the authorization therein stated.

WITNESS my signature as Attorney for _____, this ____ day of _____, 200____.

By: _____
(Name)

Title: _____

Prepared by:

DECLARATION OF CONSERVATION RESTRICTION/EASEMENT

This DECLARATION OF CONSERVATION RESTRICTIONS/EASEMENT made this
day of

WITNESSETH:

WHEREAS, (insert the owner's name) hereinafter called the Declarant, is the owner in fee simple of certain real property including its air space and subsurface, and all rights therein, hereinafter called the "Protected Property," which has ecological, scientific, educational and aesthetic value in its present state as a natural area which has not been subject to development or exploitation, which property known as Block ____, Lot ____ in (Municipality), (County), New Jersey is more particularly described in Exhibit A (metes and bounds description) attached hereto and incorporated by this reference; and

WHEREAS, the State of New Jersey, Department of Environmental Protection (hereinafter called the "Department") is authorized by N.J.S.A. 13:ID-9 to formulate comprehensive policies for the conservation of the natural resources of the State, the promotion of environmental protection and the prevention of pollution of the environment of the State and is authorized by N.J.S.A. 13:8B-3 to acquire and enforce conservation restrictions in conjunction with the construction of a wetland mitigation site known as the (insert name of mitigation bank/site); and

WHEREAS the Protected Property is a significant natural area and a valuable component of a freshwater wetlands ecosystem; and

WHEREAS the Declarant desires to preserve the Protected Property in its natural state so as to preserve and protect the freshwater wetlands, open waters, and resident animal and plant species on the Protected Property,

LSP
Ex A-2

NOW, THEREFORE, the Declarant, for and in consideration of the facts above recited and of the mutual covenants, terms, conditions, and restrictions herein contained and as an absolute and unconditional gift, does hereby covenant, and agree with the Department, that the Protected Property, including its air space and subsurface and, all rights therein, is hereby subject to the following covenants, restrictions and easements in perpetuity:

1. Purpose. It is the purpose of this Conservation Restriction/Easement to assure that the Protected Property, including its air space and subsurface, will be retained forever in its natural, scenic and open condition as a valuable component of a freshwater wetlands ecosystem; to protect any rare plants, animals, or plant communities on the Protected Property, its air space and subsurface, and to prevent any use of the Protected Property that will impair or interfere with the conservation values or interests of the Protected Property, including its air space and subsurface. Declarant intends that its Conservation Restriction/Easement will confine the Protected Property, including its air space and its subsurface, to such activities as are consistent with the purpose of this Conservation Restriction/Easement and as permitted in the plans and specifications approved by the Department.

2. Prohibited Uses. Except as authorized in the plans and specifications for construction of the mitigation activity, use of the Protected Property, its air space and its subsurface, inconsistent with the purpose of this Conservation Restriction/Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited on the Protected Property, including its air space and subsurface:

- 2.1 There shall be no constructing or placing of any building, tennis court, landing strip, mobile home, swimming pool, fence or sign (other than those required for appropriate management), asphalt or concrete pavement, billboard or other advertising display, antenna, utility pole, tower, conduit, line or any other temporary or permanent structure or facility on, above or below the premises, other than those structures

which currently exist (which may be maintained, repaired, or replaced, but not substantially expanded, on the same site, in whole or in part by like structures used for the same or similar purposes.)

- 2.2 There shall be no ditching, draining, diking, filling, excavating, dredging, mining or drilling, removal of loam, peat, gravel, soil, topsoil, sand, rock, minerals or other materials on or below the Protected Property, nor any change in the topography of the Protected Property in any manner.
- 2.3 There shall be no removal, destruction or cutting of trees or plants, planting of trees or plants, use of fertilizers, introduction of non-native animals and plants, grazing of domestic animals, or disturbance or change in the natural habitat in any manner, except as provided in par. 3.4 below.
- 2.4 There shall be no storage or dumping of soil, ashes, trash, garbage, or other material, hazardous substance, or toxic waste, nor any placement of underground storage tanks in, on, above or below the Protected Property; there shall be no changing of the topography through the placing of soil or other substance or material such as land fill or dredging spoils, nor shall activities be conducted on, above or below the Protected Property or on, above or below adjacent property if owned by Declarant which could cause erosion or siltation on the Protected Property.
- 2.5 There shall be no pollution, alteration, depletion or extraction of surface water, natural water courses, lakes, ponds, marshes, subsurface water or any other water bodies, nor shall there be activities conducted on, above or below the Protected Property or on, above or below adjacent property if owned by Declarant, which would be detrimental to water purity, drainage, flood control, water conservation, erosion control or soil

conservation, or which could alter the natural water level and/or flow in or over the Protected Property.

- 2.6 The Protected Property, including its air space and its subsurface, and any portion thereof shall not be included as part of the gross area of other property not subject to this Conservation Restriction/Easement for the purposes of determining density, lot coverage, or open space requirements, under otherwise applicable laws, regulations or ordinances controlling land use and building density.
- 2.7 There shall be no other acts or uses detrimental to the preservation of the Protected Property, including its air space and its subsurface in their natural state as a valuable component of a freshwater wetlands ecosystem.

3. Department's Rights. To accomplish the purpose of this Conservation Restriction/Easement, the following rights are conveyed to the Department by this Conservation Restriction/Easement:

- 3.1 The right to preserve and protect the conservation values of the Protected Property, including its air space and subsurface.
- 3.2 The right of visual access to and view of the Protected Property in its natural, scenic and open condition.
- 3.3 Inspection and Scientific Studies. The right to enter the Protected Property at all reasonable times and, if necessary, across other lands retained by the Declarant, for the purposes of (a) inspecting the Protected Property to determine if the Declarant is complying with the covenants and purposes of this Conservation Restriction/Easement; (b) enforcing the terms of this Conservation Restriction/Easement; (c) taking any and all actions with respect to the Protected Property as may be necessary or appropriate, with or without order-of court, to remedy or abate violations

hereof; and (d) observing and studying nature and making scientific and educational observations and studies and taking samples.

- 3.4 Monitoring and Management. The right, but not the obligation, to monitor the condition of the rare plant and animal populations, plant communities, and natural habitats on the Protected Property, and to manage them, if necessary, for their continued survival and quality on the Protected Property. Such activities shall be in accordance with management practices of the Department, which may include, but not be limited to, mowing, fencing, trapping, prescribed burning, but not inconsistent with the maintenance or monitoring obligations under the (reference the mitigation proposal or permit condition) approving the mitigation.
- 3.5 Enforcement. The right to prevent any activity on or use of the Protected Property, including its air space and subsurface, that is inconsistent with the purpose of this Conservation Restriction/Easement and to require the restoration of such areas or features of the Protected Property that may be damaged by any inconsistent activity or use. Enforcement of this Conservation Restriction/Easement shall be at the discretion of the State of New Jersey and any forbearance on behalf of the -State of New Jersey to exercise its rights hereunder in the event of any breach hereof by Declarant, its successors or assigns shall not be deemed or construed to be a waiver of the State's rights granted hereunder in the event of any subsequent breach. This shall be true regardless of the number of breaches which occur or the length of time of any forbearance from enforcement.
- 3.6 Discretionary Consent. The Department's consent for activities otherwise prohibited under paragraph 2 above, may be given under the following conditions and circumstances. If, owing to unforeseen or changed

circumstances, any of the activities listed in paragraph 2 are deemed desirable by the Department, the Department may, in its sole discretion, give permission for such activities, subject to the limitations herein. Such requests for permission, and permission for activities requiring the Department's consent under paragraph 2 shall be in writing. The Department may give its permission only if it determines, in its sole discretion, that such activities (1) do not violate the purpose of this Conservation Restriction/Easement and (2) either enhance or do not impair any conservation interests associated with the Protected Property.

4. Air and Subsurface Rights. This Conservation Restriction/Easement expressly applies to all development and exploitation of the Protected Property, its air space and subsurface, and all development or other rights therein.

5. Access. Nothing contained in this Conservation Restriction/Easement shall give or grant to the public a right to enter upon or to use the Protected Property or any portion thereof.

6. Costs and Liabilities. Declarant retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property, including the maintenance of adequate comprehensive general liability insurance coverage. Declarant shall keep the Protected Property free of any liens arising out of any work performed from materials furnished to or obligations incurred by Declarant.

7. Taxes. The Declarant agrees to pay any real estate taxes or other assessments levied on the Protected Property. If the Declarant becomes delinquent in payment of said taxes or assessments, such that a lien against the land is created, the Department, at its option, shall, after written notice to the Declarant, have the right to purchase and acquire the Declarant's interest in said Protected Property by paying funds to discharge said lien or delinquent taxes or assessments, or to take such other actions as may be necessary to protect the Department's

interest in the Protected Property and to assure the continued enforceability of this Conservation Restriction/Easement.

8. Parties Subject to Easement. The covenants agreed to and the terms, conditions, restrictions and purposes imposed with this grant shall not only be binding upon the Declarant, but also upon its lessees, agents, personal representatives, successors and assigns, and all other successors to Declarant in interest and shall continue as a servitude running in perpetuity with the Protected Property.

9. Subsequent Transfers. The Declarant agrees that the terms, conditions, restrictions and purposes of this Conservation Restriction/Easement will be inserted by Declarant in any subsequent deed or other legal instrument by which the Declarant divests either the fee simple title or possessory interest in the Protected Property, and Declarant further agrees to notify the Department of any pending transferal least thirty (30) days in advance.

10. Merger. The Declarant agrees that the terms of this Conservation Restriction/Easement shall survive any merger of the fee and easement interest in the Protected Property.

11. Assignment. The Department agrees that it will assign its rights under this instrument only to another governmental body or a charitable conservancy, and only in accordance with X.J.S.A. 13:8B-1 et seq.

12. Miscellaneous Provisions.

12.1 Severability. If any provision of this Conservation Restriction/Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of the Conservation Restriction/Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.

NJ Department of Environmental Protection
Land Use Regulation Program
Standard Conservation Restriction for Mitigation Sites

12.2 Successors and Assigns. The term Declarant shall include the Declarant and the Declarant's heirs, executors, administrators, successors and assigns and shall also mean the masculine, feminine, corporate, singular or plural form of the word as needed in the context of its use. The term Department shall include the Department, its successors and assigns.

12.3 Re-recording. The Department is authorized to record or file -any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction/Easement; the Declarant agrees to execute any such instruments upon request.

12.4 Captions. The captions herein have been inserted solely for convenience of reference and are not a part of this, Conservation Restriction/Easement and shall have no effect upon construction or interpretation.

TO HAVE AND TO HOLD the said Conservation Restriction/Easement unto the said Department forever.

IN WITNESS WHEREOF, the Declarant has executed and sealed this document the day and year first above written.

ATTEST:

(name of company)

Corporate Secretary

By: _____

(name)

Title: _____

STATE OF (fill in name)
COUNTY OF (fill in name)

On this _____ day of _____ before me personally appeared _____, to me personally known, who, being by me duly sworn did say that he is the (fill in title) of the corporation named in the foregoing instrument, that the seal affixed to said instrument is the corporation seal of said corporation, and acknowledged said instrument to be the free act and deed of said corporation.

NJ Department of Environmental Protection
Land Use Regulation Program
Standard Conservation Restriction for Mitigation Sites

Notary Public
My Commission Expires:

vk/c:weumit/deedrestriction

REAL ESTATE PLAN

*Hudson-Raritan Estuary,
Liberty State Park Ecosystem Restoration Project*

EXHIBIT "B"

BASELINE COST ESTIMATES in M/CASES Format

Ecosystem Restoration Project

(Prepared by CENAN-RE-M)

Page 1 of 3

Exhibit B - Chart of Accounts
for

Hudson-Raritan Estuary

Liberty State Park

Ecosystem Restoration Project

(Prepared by CENAN-RE-M)

TEMPORARY PERMITS/LICENSES/RIGHTS-OF-		
01G	ENTRY	0 0
01G10	BY GOVERNMENT	
01G20	BY LS	0
01G30	BY GOVT ON BEHALF OF LS	
01G40	REVIEW OF LS	0
01G50	OTHER	
01G60	DAMAGE CLAIMS	
01H	AUDITS	0 0
01H10	BY GOVERNMENT	
01H20	BY LS	
01H30	BY GOVT ON BEHALF OF LS	
01H40	REVIEW OF LS	
01J	ENCROACHMENTS AND TRESPASS	0 0
01J10	BY GOVERNMENT	
01J20	BY LS	
01J30	BY GOVT ON BEHALF OF LS	
01J40	REVIEW OF LS	
01K	DISPOSALS	0 0
01K10	BY GOVERNMENT	
01K20	BY LS	
01K30	BY GOVT ON BEHALF OF LS	
01K40	REVIEW OF LS	
01N00	FACILITY/UTILITY RELOCATIONS	0 0
01Q00	RESERVED FOR FUTURE HQUSACE USE	0 0
01R	REAL ESTATE PAYMENTS	0 0
01R1	LAND PAYMENTS	0 0
01R1A	BY GOVERNMENT	
01R1B	BY LS	0
01R1C	BY GOVT ON BEHALF OF LS	0
01R1D	REVIEW OF LS	
01R2	PL 91-646 ASSISTANCE PAYMENTS	0 0
01R2A	BY GOVERNMENT	
01R2B	BY LS	
01R2C	BY GOVT ON BEHALF OF LS	
01R2D	REVIEW OF LS	

Exhibit B - Chart of Accounts
for
Hudson-Raritan Estuary

Liberty State Park			
Ecosystem Restoration Project			
(Prepared by CENAN-RE-M)			
01R3	DAMAGE PAYMENTS	0	0
01R3A	BY GOVERNMENT		
01R3B	BY LS		
01R3C	BY GOVT ON BEHALF OF LS		
01R3D	REVIEW OF LS		
01R9	OTHER		
01T	LERRD CREDITING	5,000	0
01T10	LAND PAYMENTS		
01T20	ADMINISTRATIVE COSTS	5,000	0
01T30	PL 91-646 ASSISTANCE		
01T40	ALL OTHER		

REAL ESTATE PLAN

*Hudson-Raritan Estuary,
Liberty State Park Ecosystem Restoration Project*

EXHIBIT "C"

Assessment of Non-Federal Sponsor's Real Estate
Acquisition Capability

**ASSESSMENT OF NON-FEDERAL SPONSOR'S
REAL ESTATE ACQUISITION CAPABILITY**

PROJECT: Hudson-Raritan Estuary, Liberty State Park Ecosystem Restoration Project

NON-FEDERAL SPONSOR: New Jersey Department of Environmental Conservation

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 the "quick-take" authority for this project? YES

d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? NO

e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? NO

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 staffing 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

Exhibit "C"

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

IV. Overall Assessment:

- a. Has the sponsor performed satisfactorily on other USACE projects? YES
- b. With regard to this project, the sponsor is anticipated to be: HIGHLY CAPABLE

V. Coordination:

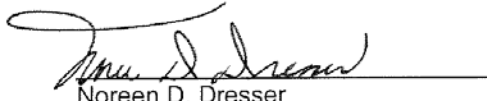
- a. Has this assessment been coordinated with the sponsor? YES
- b. Does the sponsor concur with this assessment? YES

Prepared by:



Stanley Nuremburg
Realty Specialist

Reviewed and approved by:



Noreen D. Dresser
Chief, Real Estate Division

Exhibit "C"

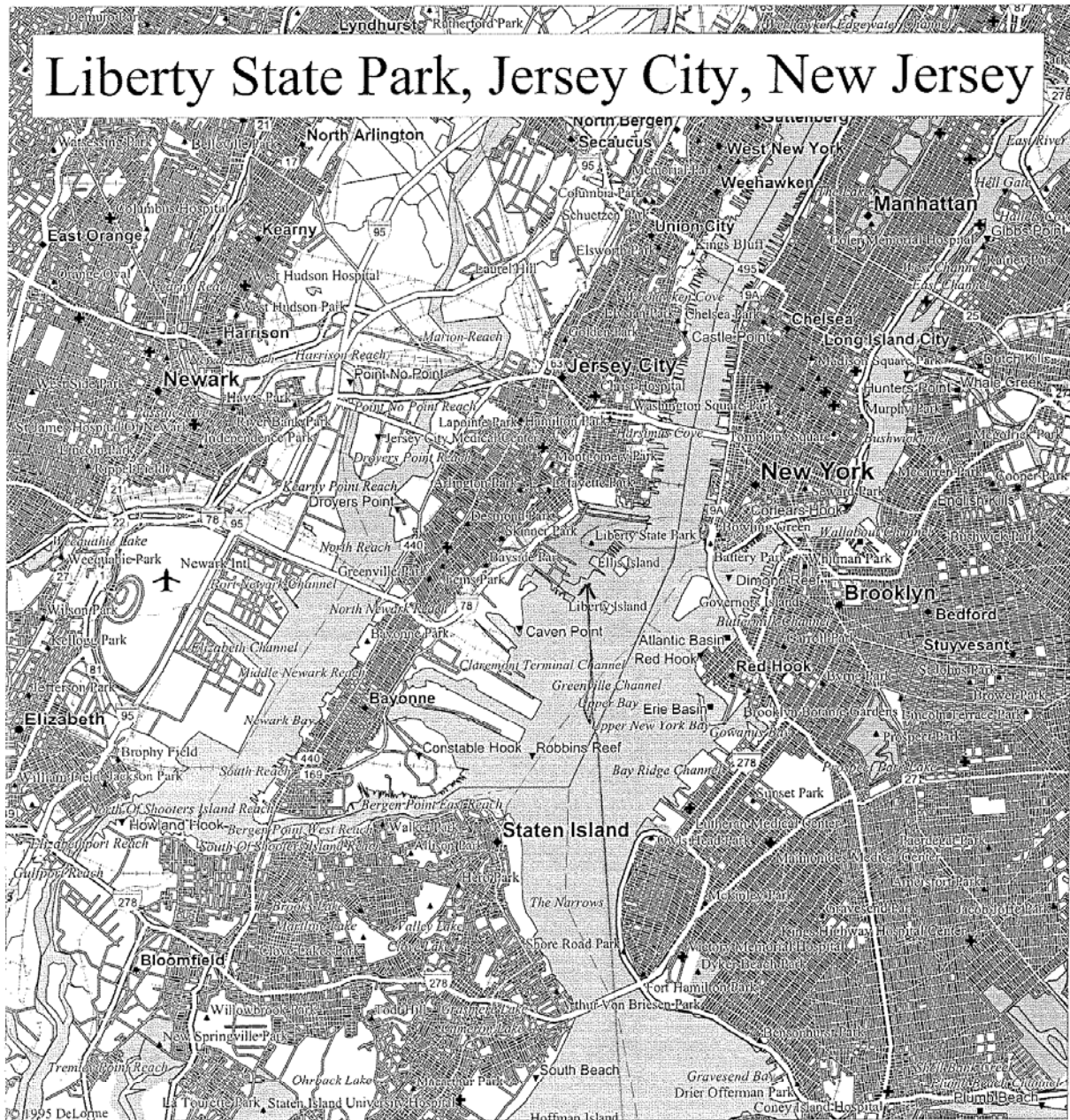
REAL ESTATE PLAN

*Hudson-Raritan Estuary,
Liberty State Park Ecosystem Restoration Project*

MAPS

Map 1; Map 2; Map 3

Liberty State Park, Jersey City, New Jersey



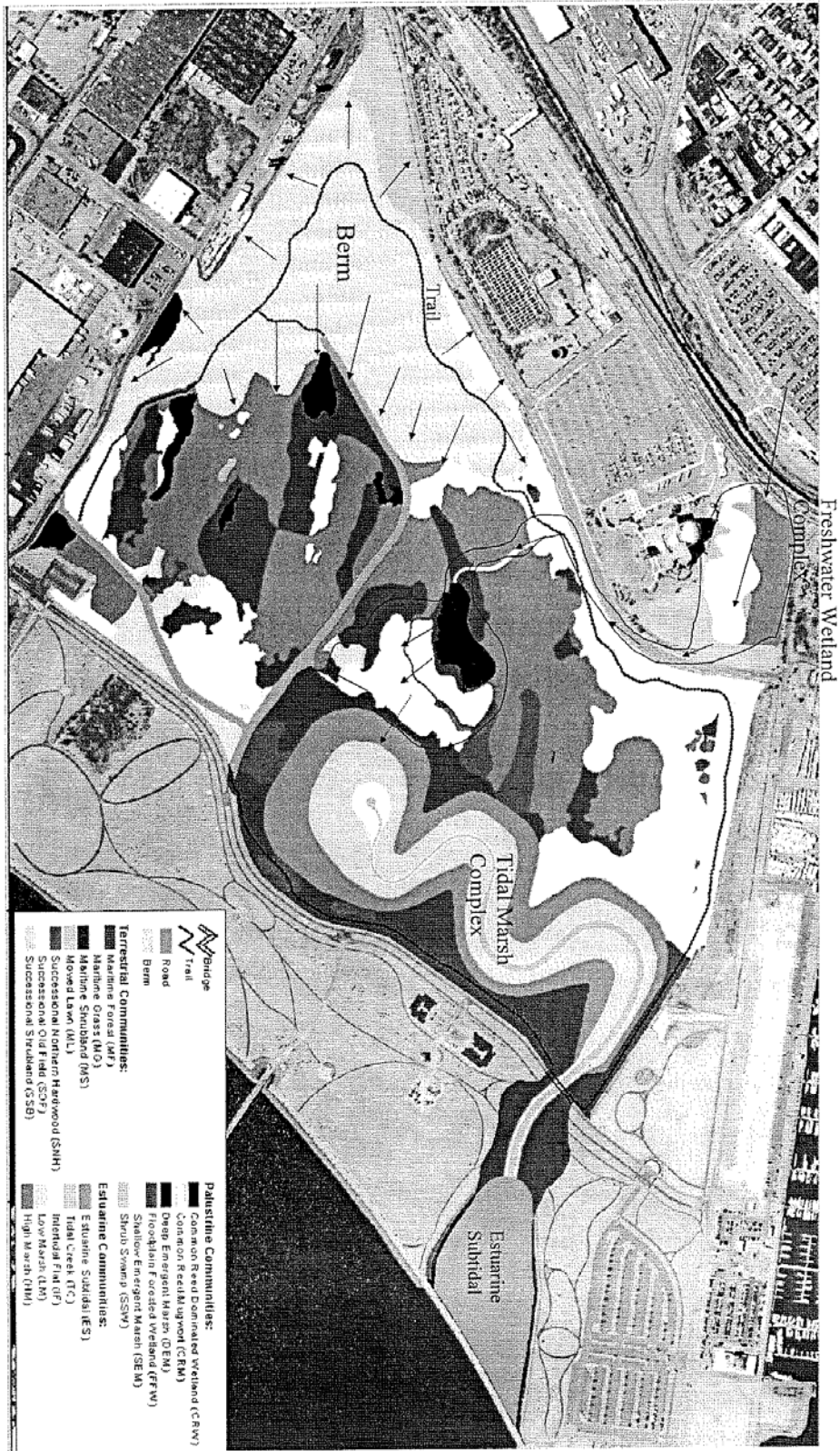
Mag 12.00
Fri Jul 22 16:46 2005
Scale 1:125,000 (at center)

2 Miles

2 KM

- | | |
|------------------------------|--------------------|
| Trail | Toll Highway |
| Ferry | Railroad |
| Secondary SR, Road, Hwy Ramp | Point of Interest |
| Major Connector | County Seat |
| State Route | Town, Small City |
| Primary State Route | Large City |
| US Highway | Summit |
| Interstate/Limited Access | Geographic Feature |

MAP 1



MAP 3