

Natural Resources Building
P.O. Box 40917
Olympia, WA 98504-0917

1111 Washington St. S.E.
Olympia, WA 98501



STATE OF WASHINGTON
RECREATION AND CONSERVATION OFFICE

(360) 902-3000
TTY: (800) 833-6388

E-mail: Info@rco.wa.gov
Web site: www.rco.wa.gov

January 31, 2023

Brett Shattuck
Tulalip Tribe
6406 Marine Drive
Tulalip, WA 98271

Re: Approval of Livingston Bay Allowable Use Request
Livingston Bay Protection and Restoration Planning, RCO #20-1461PA

Dear Mr. Shattuck:

The Recreation and Conservation Office has completed review of the allowable use request for continued farming on the Leque and Roberge properties that will be acquired with funding through this office. The Tulalip Tribe and Whidbey Camano Land Trust requested approval to permit farming on these properties for a 5-year period ending March 15, 2028.

This approval is for continued farming and is conditioned on the following:

- No livestock or grazing will be permitted or occur on the properties;
- Best management practices will be followed for the use;
- Any income generated from the farming use will be used for maintaining and stewardship of the funded properties; and
- The use will end by March 15, 2028.

If there is a need to extend the use, please submit a request at least 3 months in advance of the March 15, 2028, expiration date.

If conditions change, please immediately notify Bob Warinner, outdoor grants manager, so that a determination can be made on the effect on the Livingston Bay properties. If you have any questions, Bob can be reached at (360) 543-3485 and bob.warinner@rco.wa.gov.

Sincerely,

Megan Duffy
Director

cc: Ryan Etling, Whidbey Camano Land Trust
Kay Caromile, RCO
Bob Warinner, RCO
Myra Barker, RCO



Allowable Use Recommendation Form

TO: Megan Duffy, Director

FROM: RCO Compliance Team

DATE: January 26, 2023

RE: Livingston Bay Protection and Restoration Planning, RCO #20-1461PA

Description of Requested Use: The Tulalip Tribe and Whidbey Camano Land Trust are requesting approval to allow farming to continue on 107 acres of the Leque and Roberge properties for 5 years from March 15, 2023 – March 15, 2028. The sponsors are delaying restoration until they acquire additional properties. The farming will help with property management and reducing invasive species. Farming activities include haying, crops, and grazing.

Doesn't fall within Interim Use policy, not a use for current landowner and is being reviewed through Allowable Use process.

Compliance Team Recommendation:

☐ Approve the Request ☐ Deny the Request

☐ Undecided ☒ Approve with Special Conditions - no livestock use; for 5-year term as requested, may request an extension

Reason(s):

Reason for Recommendation	Yes	No	Rationale/Discussion
A. The requested use is consistent with the project agreement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No
B. The requested use is consistent with the grant program	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No
C. All practical alternatives to the use, including the option of no action, have been considered and rejected on a sound basis	<input type="checkbox"/>	<input type="checkbox"/>	Restoring only Leque and Roberge properties is less effective and costly; restoring the farmed areas is costly with moderate benefits; continued farming helps with reducing invasive species, generates revenue for site stewardship and restoration.

D. The use achieves its intended purpose with the least possible impact to the resource	<input type="checkbox"/>	<input type="checkbox"/>	Proposing to continue farming only in areas currently being farmed. No added negative effects.
E. If the use impacts the type of resource the grant is designed to protect, it also provides at least equivalent benefits so there is no overall impairment	<input type="checkbox"/>	<input type="checkbox"/>	

Comments:

2.	Explain in detail the proposed use. Explain efforts to keep the size of the area impacted to a minimum.				
3.	<div style="display: flex; justify-content: space-between;"> <div> <p>Does the proposed action include an encumbrance on the project area?</p> <p>If yes, attach or provide the draft encumbrance document for review.</p> </div> <div style="text-align: right;"> <p>Yes No</p> <div style="display: flex; justify-content: space-around; width: 100px;"> <input style="width: 30px; height: 20px; border: 1px solid black;" type="checkbox"/> <input style="width: 30px; height: 20px; border: 1px solid black;" type="checkbox"/> </div> </div> </div>				
4.	Describe how the intended purpose, use, and function of the project area will be maintained. How does the proposed use benefit the function and use of the project area?				
5.	Describe the practical alternatives that were considered and why they were rejected.				
6.	Enter the start and end dates for the proposed use.				
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px; vertical-align: top;">Start Date:</td> <td style="width: 50%; padding: 5px; vertical-align: top;">End Date:</td> </tr> <tr> <td style="height: 40px;"></td> <td></td> </tr> </table>	Start Date:	End Date:		
Start Date:	End Date:				

For additional information on specific grant program policies, follow [this link to RCO's grant manuals](#).

Appendix A: Allowable Use Policy

RCO grants are intended to support Washington State's habitat and outdoor recreation resources. Uses of project sites must have no overall impairment to the habitat conservation or outdoor recreation resource funded by RCO.

To be in compliance with the grant, uses of grant-assisted project sites must be any of the following:

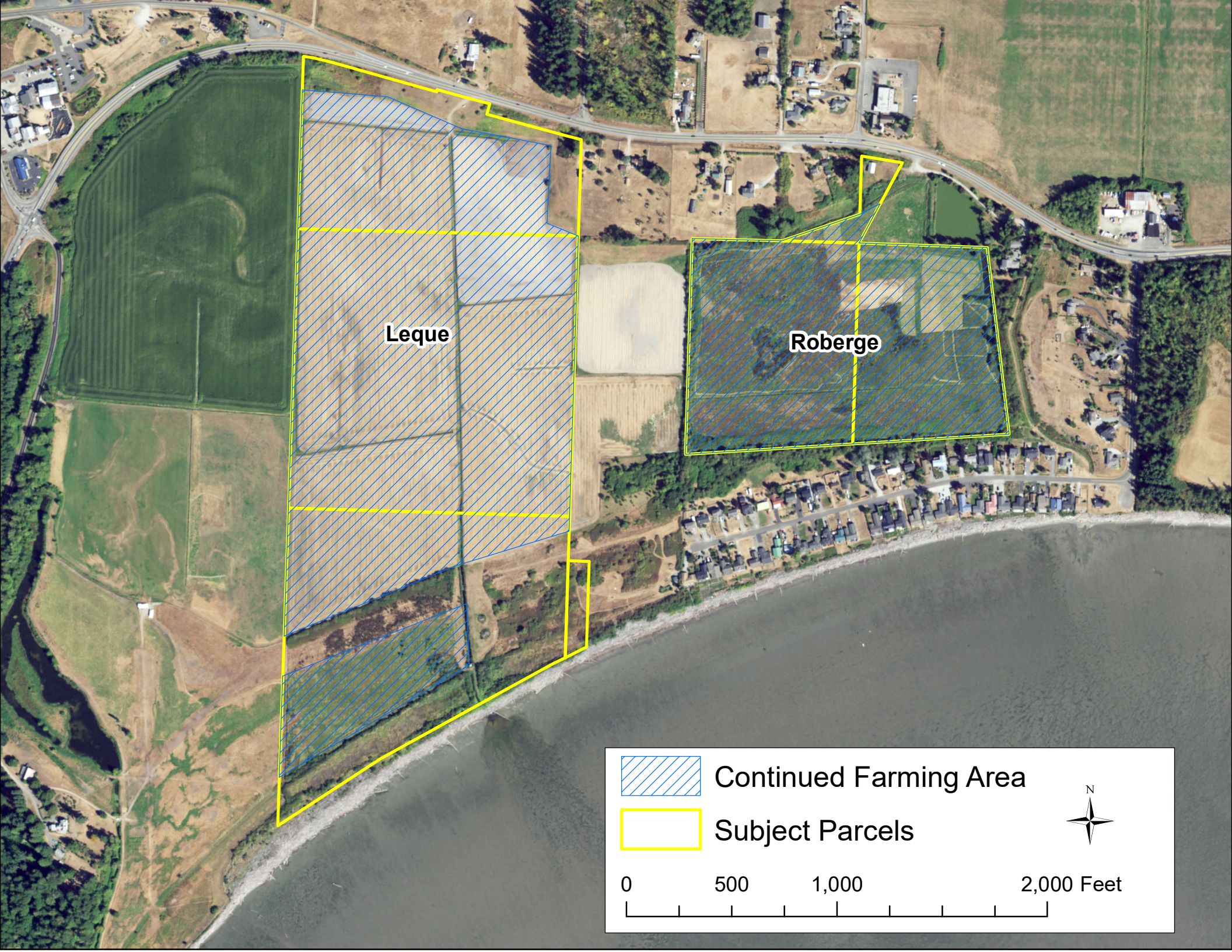
- A. Identified in the project agreement
- B. Allowed by RCO policy
- C. Approved by RCO or the funding board.

For the use to be approved by RCO or the funding board (Option C, above), it must meet all of the following criteria:

- The use must be consistent with the essential purposes of the grant (i.e. consistent with the grant agreement and grant program).
- All practical alternatives to the use, including the option of no action, must have been considered and rejected on a sound basis.
- The use must achieve its intended purpose with the least possible impact to the habitat or outdoor recreation resource.
 - If the use impacts the type of resource the grant is designed to protect (habitat, outdoor recreation), it also must provide at least equivalent benefits to that type of resource so there is no overall impairment.

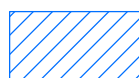
An approved use of a project site must continue in the way it was approved to remain in compliance with the grant. This policy does not modify other RCO policies, such as cultural resource policies.

Income generated on the project site must be managed in accordance with RCO policies on income and income use.



Leque

Roberge



Continued Farming Area



Subject Parcels

0

500

1,000

2,000 Feet





Livingston Bay Allowable Use

20-1461

Tulalip Tribes and Whidbey-Camano Island Land Trust



20-1461 Livingston Bay Protection & Restoration Planning: Site Location Map



Project Description: Develop prelim design to restore habitat and seize upon current acquisition opportunities

Goal: Permanently protect former estuarine and wetland habitat and plan for restoration of critical salmon and wildlife habitat in Livingston

Bay



20-1461 Livingston Bay Protection & Restoration Planning: Parcel Map



- Plan to acquire Leque & Roberge in March
- Feasibility study recommends waiting to restore until Leque, Sherman, Roberge and Nelson properties acquired



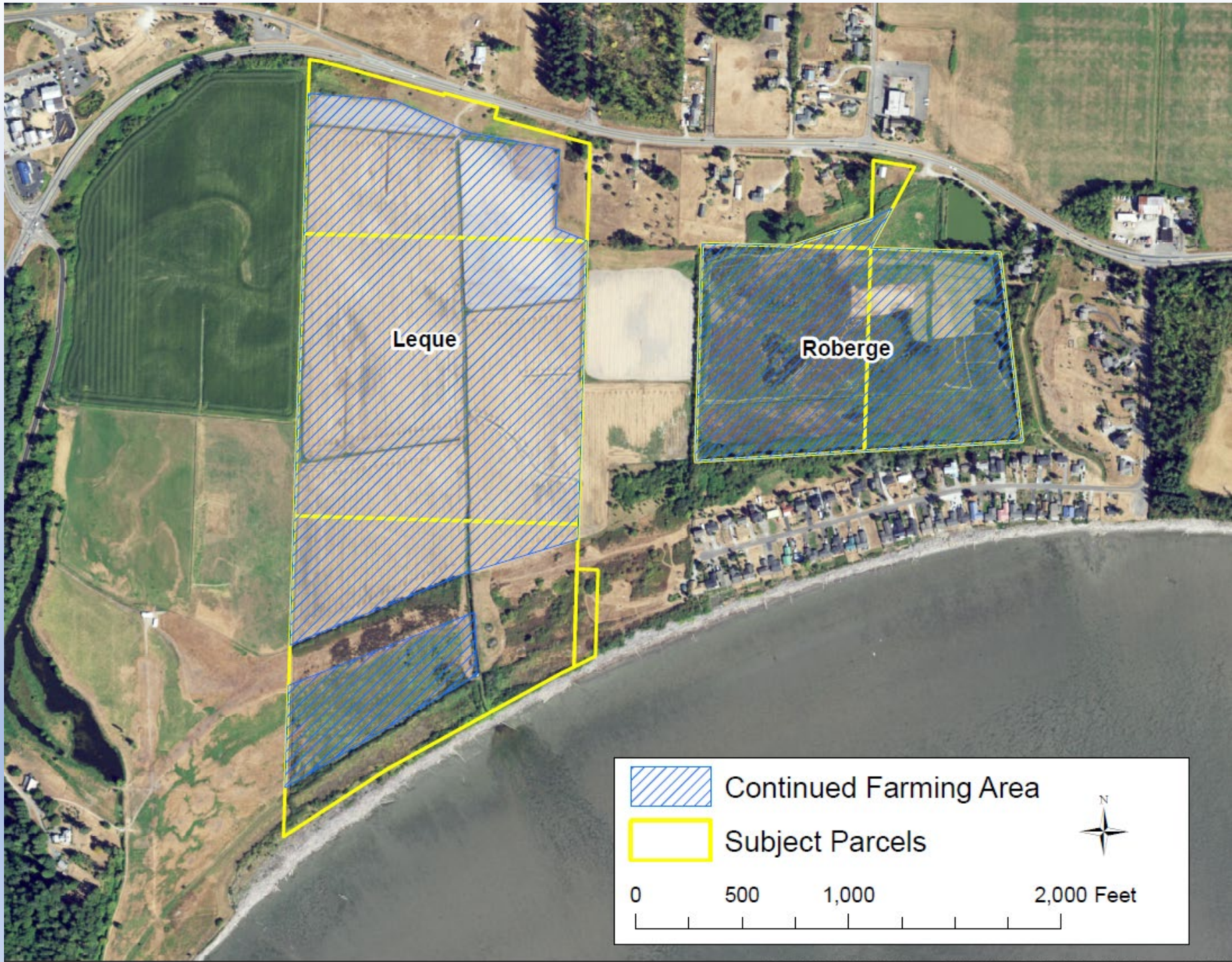
Property boundaries are taken from Island County GIS tax parcel maps. These boundaries are approximate and may not match on-the-ground fencelines or actual survey markers.

1,500 750 0 1,500
Feet

Date: 4/14/2020

Proposed Use

- Continue farming on Leque & Roberge properties for 5 yrs
 - Prevent infestation /spread of invasive plants
 - Generate revenue to facilitate stewardship and restoration of site
- Restoration consistent with long-term restoration goals can occur on areas not currently farmed to benefit waterfowl and other natives
- Considerations
 - Proposed in currently farmed areas



Leque

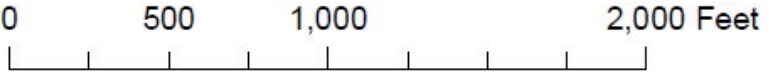
Roberge



Continued Farming Area



Subject Parcels



Project Site



Photo: Washington State Department of Ecology,
<https://fortress.wa.gov/ecy/coastalatlas/tools/ShorePhotos.aspx>

Project Site



Photo: Washington State Department of Ecology,
<https://fortress.wa.gov/ecy/coastalatlas/tools/ShorePhotos.aspx>

Alternatives Considered

- Restore tidal connection on properties
 - Less effective and reduced cost benefit
- Interim restoration for waterfowl/other benefits
 - Costly and would provide modest benefits over farmed conditions
- No action (not included in request, but garnered through communication)
 - Lead to increased weed management for Tribe and neighbors
 - Cost of pumping water on Leque property is 10s of \$1000s/year, which would put a strain on Tribe until property is restored

Allowable Use

- Not Interim Use
 - Not limited to current landowner or lessee
 - 5 yrs—not 3
- Consistent-How to define?
 - Interim Use until full restoration
 - Doesn't preclude planned long-term restoration
 - Weed control
- Alternatives considered (other than no action)
- Least Impact
 - Proposed use same as current/ long-term use
 - No added negative effects
- Approved similar interim use in March on 20-1139 (Snohomish Floodplain- Holy Cross Property)

To be in compliance with the grant, uses of grant-assisted project sites must be any of the following:

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Recommendations/Further Information Needed

- Add “no action” alternative to request
- Define “farming”
- Address plans for/restriction of public access during this 5 year interim use
- Plans to protect water quality and habitat during interim use (e.g., best management practices with regard to pesticides, fertilizers, erosion control...)
- Others?