
PROJECT: 20-1461 PLAN, ACQ, LIVINGSTON BAY PROTECTION AND RESTORATION PLANNING

Sponsor: Whidbey Camano Land Trust Program: Estuary & Salmon Restoration Status: Active
Project Start Date: 07/01/2021 Agreement End Date: 12/31/2023

Progress Report Status: Accepted 10/18/2023

Report Period

From 06/02/2023 To 09/30/2023

Questions

#1: Are there any significant challenges that might hinder progress or keep you from meeting your project milestones? If so, please tell us about them.

Yes

The feasibility study found that the restoration project was not deemed feasible without additional willing sellers within the Livingston Bay Project Area. This means that we will not be going forward with getting preliminary design for the restoration. We are still working on the acquisition of the Leque and Roberge properties. Roberge is anticipated to close by the end of 2023 and Leque is interested in closing in Mid-late November if possible. The conservation easement on the Livingston Bay Community Association property is going slower than expected. We hope to attend another HOA meeting in the near future to continue that discussion. We hope to see resolution in the not too distant future. One note, which was mentioned in the last progress report, is that LBCA property on the original application was shown accidentally as a fee purchase project. I have changed the type of Instrument Type, shown on the Property page, that we are using to protect that property to "Easement - Permanent" but the Purchase Type, which I cannot change, shows "Fee ownership". That should be updated as well.

#2: Describe the work accomplished during this reporting period.

We continue to work on the acquisition of the Leque and Roberge properties and also met with the board president of the Livingston Bay Community Association HOA. The purchase of the Leque property has been delayed due to negotiations with the landowner. We thought we had a deal with them and then they backed out and asked for more money. We now feel like we have an agreement to sell although we don't have a signed Purchase and Sale Agreement yet, mainly fueled by our concession to pay the Real Estate Excise Tax. We hope to have that in the next couple weeks. The Roberge acquisition has been on hold as we awaited approval of Island County for a Boundary Line Adjustment that would provide access to that acquisition property to Highway 532. We finally received that approval last week and just now need to get final signatures from County officials and get the BLA recorded. We have amended the PSA to reflect the reconfigured property. We plan to close in December. Due diligence on both acquisitions is still in progress, including environmental assessment and survey work. It was discovered that a barn from an adjacent property to the Leque property crosses over the boundary. That encroachment will be surveyed and excluded from the grant area. We have also continued to build our partnership with the Tulalip Tribes, the ultimate owner of the property.

#3: Do you anticipate you will need to request a modification to your project agreement in the next six months (time extension, cost change, scope change, etc.)? If yes, please explain:

Yes

We anticipate an extension so we can continue negotiations with the Livingston Bay Community Association.

#4: If not identified in the milestones, provide property name(s) and closing date(s) for property acquired, but not yet billed to RCO.

n/a

#5: Tell us about work planned for the next reporting period.

We plan that both Leque and Roberge will be under a purchase and sale agreements that will be assigned to the Tulalip Tribes ahead of closing and that the Tribes will have acquired those properties.

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Milestones

Milestone	Target Date	Completed	Delayed	New Target Date	Progress/Reason for Delay
Purchase Agreement Signed <i>All Properties</i>	10/13/2023	<input type="checkbox"/>	✓	10/13/2023	Roberge signed a PSA, waiting on Leque.
Environmental Assess Complete <i>All Properties: Hazardous Substances Certification and supporting Environmental Site Assessment or RCO Property Assessment Checklist</i>	11/01/2023	<input type="checkbox"/>	✓	11/01/2023	In progress for both Leque and Roberge.
Final Report Due	12/31/2023	<input type="checkbox"/>	✓	12/31/2024	We feel like we need an extension of the grant agreement to continue negotiations with the Livingston Bay Community Association about a conservation easement.
Agreement End Date <i>PROJECT CLOSING. All expenditures must be prior to this date.</i>	12/31/2023 <i>Need amendment to change</i>	<input type="checkbox"/>	✓	12/31/2024	We feel like we need an extension of the grant agreement to continue negotiations with the Livingston Bay Community Association about a conservation easement.
Special Conditions Met <i>Ensure compliance with Statement of Work</i>	12/31/2023	<input type="checkbox"/>	✓	12/31/2024	Closing delayed
Final Billing Due	02/29/2024	<input type="checkbox"/>	✓	02/28/2025	Closing delayed
RCO Final Inspection	12/31/2024	<input type="checkbox"/>	✓	12/31/2024	Closing delayed
Acquisition Closing <i>All Properties</i>	12/31/2024	<input type="checkbox"/>	✓	12/31/2024	Closing delayed, although hope is to close by the end of 2023.
Recorded Acq Documents to RCO <i>All Properties: Recorded Deed, Deed of Right</i>	12/31/2024	<input type="checkbox"/>	✓	12/31/2024	Closing delayed
Recorded Land Survey to RCO	12/31/2024	<input type="checkbox"/>	✓	12/31/2024	Closing delayed
Funding Acknowl Sign Posted <i>All Properties</i>	12/31/2024	<input type="checkbox"/>	✓	12/31/2024	No property protected yet.
Stewardship Plan to RCO <i>All Properties</i>	12/31/2024	<input type="checkbox"/>	✓	12/31/2024	No property protected yet.
Other <i>All Properties: Legal description and Property Map to RCO to include in Deed of Right</i>	12/31/2024	<input type="checkbox"/>	✓	12/31/2024	Closing delayed
Other <i>All Properties: Final Title Insurance Policy</i>	12/31/2024	<input type="checkbox"/>	✓	12/31/2024	Closing delayed

Special Conditions

Special Condition #1: Cultural Resources-Survey Required

This agreement requires compliance with Executive Order 21-02. RCO has completed the initial consultation for this project and a cultural resources survey is required to address the acquisition area and any associated ground disturbing actions, as well address any areas slated for future development/restoration actions. The Sponsor must submit to RCO the survey and receive from RCO a notice of cultural resources completion before any ground disturbing activities can begin. Final payment for the acquisition will be withheld until special conditions have been satisfied. In the event that archaeological or historic materials are discovered while conducting ground disturbing activities, work in the immediate vicinity must stop and the Sponsor must ensure compliance with the provisions found in this agreement. All cultural resources work must meet reporting guidelines outlined by the Department of Archaeology and Historic Preservation.

Special Condition #2: Project Funding

The Puget Sound Acquisition and Restoration Program (PSAR) awarded \$594,871 of 21-23 funds to this project through RCO project 20-1134 in 2020 to acquire the Leque Property and Livingston Bay Community Association property (this awarded amount was less than that requested). In 2021, PSAR awarded an additional \$30,000 in 21-23 funds and the Salmon Recovery Funding Board awarded \$20,246 of 2021 funds to RCO project 20-1134 to complete those same acquisitions. The Estuary and Salmon Restoration Program awarded \$1,500,000 to this project through project 20-1461 to acquire those same properties. In addition, the ESRP award is to acquire the Roberge and/or the Sherman properties and to complete a preliminary design to restore critical salmon and wildlife habitat. These grant awards are being combined into a single contract 20-1461 for efficiency. PSAR/SRFB???'s required match is \$145,000, which is fully met by the ESRP award. ESRP???'s required match is \$1,175,000 (including some non-state funding), which is partially met by the PSAR and SRFB awards, leaving a remaining \$529,883 in additional sponsor match.

Special Condition #3: Incorporate "Attachment A" - Statement of Work (PRISM Attachment #486180) by reference here as an attachment to the project Agreement.

Special Condition #4: Co-sponsor Roles.

The Whidbey-Camano Island Land Trust is responsible for the planning portion of this project's scope of work and for acquisition due diligence. The Tulalip Tribe will hold title to acquired properties.

Special Condition #5: Upon the effective date of this agreement, the Agreement titled ???Livingston Bay Protection and Restoration Planning??? (RCO project 20-1461) executed by Whidbey Camano Land Trust, by and through Patricia Powell on November 8, 2021, and the Recreation and Conservation Office, executed by and through Megan Duffy on November 18, 2021 (the ???ORIGINAL AGREEMENT???), shall be terminated. All of the scope of work completed on this project under the ORIGINAL AGREEMENT shall be the sole responsibility of the Whidbey Camano Land Trust and the RCO, in their respective roles and responsibilities.

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Permits

Permits and Reviews	Issuing Organization	Applied Date	Received Date	Expiration Date	Permit #
None - No permits Required					
Note: Have not applied.					

Attachments

PHOTOS (JPG, GIF)
Photos (JPG, GIF)

PROJECT DOCUMENTS AND PHOTOS
Project Documents and Photos

File Type	Attach Date	Attachment Type	Title	Person	File Name, Number Associations	Shared
	10/02/2023	Purchase and Sale Agreement	Amendment to PSA_Roberge_fully executed.pdf	KurtS	Amendment to PSA_Roberge_fully executed.pdf, 580586 Progress Report, 10/18/2023, Accepted, Property: Roberge	

Certify & Submit

Status History			
Report Status	Date	User	Note
Accepted	10/18/2023	Bob Warinner	Thank you for the update. Please submit the time extension amendment request as we talked about yesterday. I am glad to see the progress you have made am looking forward to see the project move to completion.
Submitted	10/09/2023	Ryan Elting	Thanks Bridget and Bob!
Draft	09/19/2023	Kurt Schlimme	