



EBEY'S LANDING
NATIONAL HISTORICAL RESERVE

EBEY'S LANDING NATIONAL HISTORICAL RESERVE
**SCENIC EASEMENT
ADMINISTRATION PLAN**
2018 UPDATE

Approved:

 7/24/18
National Park Service Date

Approved by motion of the Trust Board of Ebey's Landing NHR:

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Chair Date

SCENIC EASEMENT ADMINISTRATION PLAN

EBEY'S LANDING NATIONAL HISTORICAL RESERVE

This Scenic Easement Management Plan (SEAP) provides guidance to the Trust Board of Ebey's Landing National Historical Reserve (Trust Board) and the National Park Service (NPS) for the management of 2,023 acres of NPS-held scenic easements within Ebey's Landing National Historical Reserve.

The Reserve is a 17,572 acre geographic area established in 1978 to protect a rural community and its significant cultural landscape. While there are federal, state, town and county lands within the Reserve, the majority (85%) is privately owned. Protection of the cultural landscape is accomplished through local land use regulation, the cooperation of land owners, and scenic conservation easements, which are agreements that preserve the land's scenic values.

The easements discussed in this plan are agreements between property owners and the NPS. The importance of scenic easements as a strategy for protecting land within the Reserve was made clear in the Reserve's early planning documents, especially the 1980 Comprehensive Plan, and the 1984 Land Protection Plan, prepared by the NPS. This approach reflects the desire to preserve the landscape and rural community without transferring land into federal fee ownership.

This SEAP is an update of a previous version dated 2007. Changes reflect the desire for efficient, transparent management of the Reserve's NPS-held easements that balances the needs of property owners with the need for communication and documentation through monitoring and project review. This update has not changed the overall purpose of the SEAP: to accomplish the objectives of P.L. 95-625 (Section 508) and implement the Reserve's Land Protection Plan.

Responsibility for managing NPS-held scenic easements within the Reserve is delegated to the Trust Board through a 5-year Cooperative Agreement between the National Park Service and Trust Board. The Trust Board acts as the designee of the Secretary of Interior on matters pertaining to easement administration. However, only the NPS has the authority to modify an easement document or enforce easement provisions.

A. GENERAL GUIDANCE

1. NPS-held scenic easements in the Reserve will be administered according to the Reserve's 1984 Land Protection Plan.
2. Clear, proactive communication with land owners is essential to effective easement administration and cooperative relationships.
3. Consistent administrative practices and management decisions that honor the terms of individual easement agreements build trust and credibility for the Reserve's easement administration program.
4. Easement files will be maintained in a manner that provides a clear, complete legal record of the administration of each easement. Easement files and records will be made available to the Trust Board and National Park Service.

B. LAND USE COMMITTEE

The Chair of the Trust Board shall appoint Trust Board members to serve, with the Reserve Manager and designated staff, on the Land Use Committee.

The Land Use Committee will report on its activities at public meetings of the Trust Board.

The Land Use Committee will review plan submittals outlined below and make recommendations for Trust Board action at regular Trust Board meetings.

c. PUBLIC EDUCATION

Community and land owner education is an important part of a successful easement program.

1. Owners:

Current and prospective owners of land encumbered by NPS-held scenic easements must be aware of the terms of the easement. The Trust Board and Reserve staff will provide owners with this information and assist in finding additional information and technical assistance, as requested. As the Trust Board becomes aware of new owners of NPS-held easement tracts, both written and/or verbal contact will be made by a representative the Trust Board

A short summary letter describing each easement will be recorded with the County Auditor to help ensure that prospective owners are aware of the existence of easements.

2. Community:

The Trust Board should engage partners, stakeholders and the public with outreach about the nature and benefits of scenic easements in the Reserve. This outreach should be part of the Trust Board's annual budget and workplan.

3. Conservation Organizations and Local Government:

The Land Use Committee should consult with other land protection organizations and make recommendations to the Trust Board on best practices in easement administration.

As Town and County government officials and staff change, it will be important for the Trust Board to inform them of the existence of scenic easements in the community and their importance. The Trust Board will cooperate with local governmental processes to coordinate easement and regulatory reviews.

4. Realtors:

The Trust Board will extend outreach to local Realtors, members of the multiple listing service and local title companies noting the presence of scenic easements and inviting contact with the Trust Board. Trust Board staff will strive to contact real estate agents involved in listing easement tracts so information can be conveyed prospective buyers.

5. Trust Board:

The Land Use Committee and Trust Board staff will provide the Trust Board with annual training on scenic easements in the Reserve. Training will include a status report on easement administration. Trust Board members will also be invited to become familiar with the Reserve's easements by examining reports, files and plans.

D. OWNERSHIP AND PERMITS

Trust Board staff will work stay informed of actions that might require communication with easement track owners.

1. Permits:

The Trust Board and/or Trust Board staff will track permit activity and participate in the permit review process, as appropriate, to assure that easement terms are not infringed on by building and land use permit approvals.

2. Changes in Ownership:

To the degree possible, the Trust Board will stay informed of real estate transactions to determine when ownership of an easement tract has changed. When a transaction occurs, the Trust Board or Trust Board staff will contact the new owner and provide information about the easement and easement monitoring process.

E. MONITORING AND INSPECTION OF EASEMENTS

1. Objective:

Easement holders are key partners in land protection in the Reserve. In all aspects of the monitoring process, the Trust Board will strive to document compliance with the easement agreement with as little disruption as possible and in a way that supports collaborative preservation.

2. Frequency of Monitoring:

Each easement tract will be inspected by Trust Board staff or Trust Board members at least once a year. Additional site visits will be needed as conditions and review activity warrants.

3. Windshield Inspection:

Odd-numbered year inspections will involve a “windshield” (viewed from public right-of-way) survey of conditions and compliance with terms of the easement. Postcard notices will be sent to property owners before the monitoring process begins. A short field inspection sheet with keyed photographs will be completed for each inspection.

4. Full Review:

On even-numbered years, each easement will be reviewed more thoroughly according to the specific features and conditions identified in the easement agreement (summarized as a checklist in each file folder). As needed, this review might include:

- a) New aerial photos, if available;
- b) On-site visual inspection from key photo points identified in easement agreement;
- c) On-site visual inspection along boundary of easement;
- d) Visual inspection of features mentioned in easement document, such as structures or vegetation buffers;
- e) Visual inspection from key points such as scenic waysides or roadsides.

The full review will include contact with the current owner of the easement tract if possible. If beneficial, a Trust Board member may accompany Trust Board staff on the full review or discussions with property owners. A summary of the full review for each easement tract will be sent to the property owner.

An inspection report will be completed and retained for each easement inspected. The inspection report will include the following:

- a) Condition of key easement features;
- b) Land use activities occurring at the time of the inspection;
- c) Changes in condition of the tract such as construction, alteration, or demolition of buildings, manure lagoons or other structures, modification to vegetation, construction of drainage ditches, etc.;
- d) Building or land development permits obtained for the tract during the reporting period.
- e) Summary of communications with property owner.

5. **Ongoing Monitoring**

Routine day-to-day observations are part of monitoring. All Trust Board members should become sufficiently aware of the locations and terms of NPS-held scenic easements to be aware of actions that should be investigated.

F. SPECIAL PERMITS AND REVIEWS

In addition to monitoring, the Trust Board acts as the designated representative of the Secretary of Interior when an NPS-held scenic easement needs review of development plans.

1. **Review Process:**

When easement documents require that certain activities receive Department of Interior approval, the Land Use Committee will use a clear and consistent procedure to develop a recommendation to facilitate a decision by the Trust Board. Most easement documents specify deadlines for Trust Board action on an easement review.

Where no deadline for action is specified, the Trust Board will strive to render a decision within 60 days of receiving all necessary information for the review, such as site plans, building elevations or color samples.

An explanation of the review process and application submittal requirements for approval of structures, landscaping, etc. will be available to owners, realtors, builders, and others.

2. **Administrative Approvals:**

Day-to-day decisions regarding consistency with easement terms, as well as approval of minor actions on easement tracts may be acted upon by designated Trust Board staff.

Often approved plans must be slightly adjusted in the field to accommodate site conditions. Designated Reserve staff has the authority to make decisions regarding minor changes to plans approved by the Trust Board to accommodate existing site conditions, provided such changes do not diminish the effectiveness of the easement or the terms of approval specified by the Trust Board.

3. **Land Use Committee Recommendations:**

The Land Use Committee will consider the potential impact of the proposal to the easement and prepare a recommendation for the Trust Board to facilitate their decision. Note: committee meetings of less than a quorum of board members are not required to be public

4. **Appeals of the Trust Board Decisions:**

Appeals of Trust Board decisions may be made only by the property owner or party making an application, and must be submitted, in writing, to the Trust Board within 14 days of the decision being appealed. The appeal must specify why the owner or applicant believes the decision was in error and what relief the appellant is seeking. Adjoining property owners, homeowners' associations, and similar parties do not have standing to appeal decisions of the Trust Board. Within 3 days of receipt, the Trust Board will transmit an appeal to the NPS Deputy Regional Director, Resources, Pacific West Region, with a request for action. The Trust Board will provide a record of its decision, and available background information to assist with consideration of the appeal.

G. FREEDOM OF INFORMATION ACT

If any party submits a request under the Freedom of Information Act (FOIA), the request will be transmitted within 24 hours of receipt, to the current NPS Pacific West Region staff responsible

for processing FOIA requests. The Trust Board will assist NPS in responding to the FOIA request.

H. ENFORCEMENT AND VIOLATIONS

Proactive monitoring and administration are intended to prevent violations from occurring. However, if a violation is identified and confirmed, the Trust Board's role will be to communicate the issue to the easement tract owner and advise local NPS staff. The NPS staff will then determine an appropriate response.

1. Early Contact and Documentation:

In the event an easement violation is suspected, documentation of the activity will be made as soon as possible. The record should include photographs and verbal description. The Reserve Manager or a designated representative of the Trust Board will communicate with the owner about the concern. Verbal discussions will be followed up with written correspondence within three (3) business days. A single point of contact for the Trust Board will be designated for all owner communications pertaining to the issue.

2. Confer with NPS

The Trust Board will communicate facts concerning verified non-compliance to the National Park Service local staff who will engage the assistance of appropriate additional NPS staff as needed.

3. Explore Remedies, if appropriate:

When minor non-compliance with an NPS-held scenic easement is confirmed, the Trust Board shall inform the responsible party of the infringement on easement requirements as soon as possible. If the violation is minor and reversible, the Trust Board and responsible party can determine an appropriate action. Appropriate local NPS staff will be provided a brief report regarding the violation and plans for action.

4. Consultation with NPS:

In all other cases of non-compliance, local NPS staff will be provided a report and recommendations for remediation. Enforcement actions will be determined and enacted by the NPS according to agency policies and protocols.

5. Agreement to Remediate:

The Trust Board and NPS will consult on appropriate remediation options. If a suitable action is agreed upon, terms of the agreement shall be put in writing. The Trust Board will obtain the written concurrence of the land owner to carry out the agreed to actions within deadlines specified.

6. Referral to NPS PWR Lands Office:

Without an agreement, enforcement actions will be determined and enacted by the NPS according to agency policies and protocols.

I. AMENDMENT, CONDEMNATION, AND EXTINGUISHMENT

1. Authority to Amend:

The Trust Board does not hold title to scenic easements and does not have the authority to amend easement conditions. Only the Department of Interior may modify easements held by

the National Park Service.

2. Amendment Policy:

NPS-held scenic easements are developed through negotiations between the National Park Service and the land owner at the time of purchase. NPS-held scenic easements are perpetual restrictions intended to provide permanent protection of key landscape features within the Reserve. Easement terms as negotiated are generally considered permanent and final.

3. Consideration of Amendment Proposals:

Upon receiving a request to modify an NPS-held scenic easement, the Trust Board will formulate a recommendation, which will be forwarded to the NPS Deputy Regional Director, Resources, Pacific West Region, for consideration and possible action.

J. REPORTING

1. Trust Board Staff

Trust Board Staff will report NPS-held scenic easement administration activity to the Trust Board Land Use Committee as frequently as needed. Staff will report NPS-held scenic easement administration activity to the full Trust Board annually at a public Trust Board meeting.

2. Annual Report

The Trust Board Annual Narrative Report completed and submitted by October 31st to the partners of the Interlocal Agreement will include a report on NPS-held scenic easement Administration. The report will include a brief summary, of easement monitoring activities, a review of special permits, a summary of easement status, and any problems or trends that need attention.

3. Annual Review

By March 1st of each year, NPS-held scenic easement administration will be discussed by the Chair of the Trust Board, Reserve Manager, and local NPS staff. NPS staff may invite other NPS staff to participate in this discussion as well. Improvements to management practices can be incorporated into an updated SEAP as deemed necessary.

