

Appendix E

OUTLINE FOR GEORGIA BANKING INSTRUMENTS¹

Executive Summary

Table of Contents

1.0 INTRODUCTION

A. Location and Size of Proposed Bank Site(s) and Associated Watershed: (i.e., coordinates, Hydrologic Unit Code (HUC), and a detailed narrative description of location).

B. Bank Goals and Objectives:

C. Primary and Secondary Geographic Service Area(s): (from the Savannah District website).

D. Ownership of Proposed Bank Site(s): The banking instrument will be issued to the owner of the property on which the bank site is located. The owner may contract with an agent, developer and/or manager to implement the banking instrument. A non-owner may be a co-bank sponsor if the Regulatory Branch determines that it is acceptable.

1. List the name and address of the owner or legal entity that owns the bank site property or proposes to acquire the property.
2. List the name of the proponent of the mitigation bank, if different from the owner, and state what the relationship is with the owner of the property (agent, contractual relationship, subsidiary corporation?)
3. If different from number 2, list the name of the entity that will develop or manage the bank on behalf of the owner.
4. If the owner is a corporation, list the corporation and the names of the president and vice president of the corporation. If the corporation is not listed in the State of Georgia Secretary of State list of active corporations, then stop. Consult with Office of Counsel.
5. If the owner intends to convey the property to a real estate management corporation or a holding company or other entity, state the name of the entity that the owner intends to convey the property to following the

¹ Any deviation from this outline will result in a delay in the BI review process.

issuance of the banking instrument authorization for implementation of the bank requirements. If the president and vice president of both corporations are the same, then proceed. If not, then stop and consult with Office of Counsel. Note: The individual officers will be responsible for the terms of the banking instrument/restrictive covenant along with the corporation.

6. Provide a copy of the deed of title showing the owner of the proposed bank site property.

7. List all known easements on or over the proposed bank site property. (A full title search will be required if the banking instrument is authorized.)

8. If there are third party easement holders of mineral, timber or water rights on the proposed bank site property, stop. Do not continue this application without consulting with Office of Counsel.

9. If a lender has a lien or a recorded Deed to Secure the Debt against the property that is proposed as a bank site, the lender will be required to subordinate the deed or lien to a restrictive covenant. If that is a problem with the owner, then stop and consult with Office of Counsel.

10. If the property is already subject to a soil conservation district conservation listing, a conservation easement, conservation land use, use as a park or a green space or any other conservation characterization, of record in the county deeds office, the county tax office or otherwise, then provide a copy of the conservation land use document and state what land conservation use is in place.

11. If the proposed bank site property is part of a residential subdivision or will be, provide a copy of the General Subdivision Covenants and Restrictions if they have been recorded. If they have not been recorded, please state that the proposed bank site property is intended to be a part of a subdivision.

12. Put the following language in the banking instrument: "The bank sponsor is or will become the owner of the bank site property and will submit a draft Declaration of Conservation Covenants and Restrictions to the Office of Counsel for approval in order to perpetually protect the property."

2.0 LAND USE

A. Past Land Use/Historic Alterations:

B. Current Land Use:

1. List the type, size, and location of noteworthy structures on the bank site (i.e., pipelines, power lines, roads, borrow areas, and any other known pertinent site-specific information).
2. Describe land use on adjacent property (past, current, and proposed).
3. List the type, size, location and distance from the bank boundaries any noteworthy structure located within 500 feet of the bank. If an airport is within 5 miles of the bank, provide description and direction.

3.0 DESCRIPTION OF BASELINE CONDITIONS

A. Current Site Conditions (to include acreage of jurisdictional wetlands and types (based on the Cowardin classification), length and width of streams, current condition of site features, elevations of bank site, and descriptions of any historic, listed species, or other natural resources of significance within the area of effect of the proposed bank).

1. Soils
2. Hydrology
3. Vegetation
4. Wildlife

4.0 ASSESSMENT OF WETLAND/STREAM FUNCTIONS AND VALUES

- A. Description of Reference Sites
- B. Method of Functional Assessment
- C. Wetland Functions
- D. Stream Functions

5.0 PROPOSED ACTIVITIES AND TIMELINES TO RESTORE, ENHANCE AND/OR PRESERVE PROPOSED BANK SITE²

- A. Wetland Restoration
- B. Wetland Enhancement
- C. Wetland Preservation
- D. Upland Buffers/Inclusions³
- F. Implementation Timeline
- G. Stream and Riparian Restoration
- H. Stream and Riparian Enhancement
- I. Stream Riparian Buffer
- J. Implementation Timeline

6.0 MONITORING

- A. Monitoring Schedule
 - B. Performance and Success Criteria⁴
 - C. Contingency and Remedial Actions⁵
- Reporting Schedule
- Long Term Management and Maintenance

² Include in this Section a description of equipment, materials, and methods for execution of the proposed activity. Also include timing, sequencing, and any phasing.

³ Explain how the protection of these areas would enhance bank site and/or watershed aquatic functions.

⁴ In order to facilitate BI approval, it is recommended that the banker use the success criteria in Appendix G of the Guidelines.

⁵ Individual banking instruments must also specify that if the condition of the bank changes and all or part of the bank stops providing the intended functions (i.e. partial or total failure of the bank) following approval of credit withdrawal, the IRT will suspend further credit withdrawal from the bank. Following remedial action, use of the bank may be resumed, subject to approval of the IRT.

7.0 PERPETUAL PROTECTION AND PRESERVATION

A. Provide Office of Counsel with the name, law firm and mailing address of the attorney for the owner of the property who will be responsible for preparation of the Declaration of Conservation Covenants and Restrictions to perpetually protect the bank property. Provide the owner and attorney with the Corps of Engineers, Savannah District Web Site location at www.sas.usace.army.mil, file entitled, "Obtaining A Permit," and the location of the model Declaration of Conservation Covenants and Restrictions.

B. If approved as a bank, the property will be surveyed. See the instructions for surveyors located in the directions to the Declaration of Conservation Covenants and Restrictions in paragraph A.

C. Note that if the bank is approved, that the environmental consultant will prepare a one-page exhibit stating the functions and values of the existing or restored, enhanced and established bank site for use with the restrictive covenant.

D. State who will prepare the long term management plan for the bank site property as required in the restrictive covenant, should the bank be authorized.

E. State whether the bank site will be part of a residential subdivision and whether the bank will ultimately be conveyed to the homeowners as part of an open and common area following completion of the monitoring.

F. State who will assume management responsibilities for the bank site once the monitoring is completed. State the source of funds for long term management to be put in place with the required management plan.

G. State whether the owner intends to convey an interest in the bank site property to a qualified land trust following the recording of the restrictive covenant. (See <http://www.gepinstitute.com> Georgia Land Trust Service Center – List of Georgia Land Trusts-)

H. State whether the owner intends to convey an interest in the bank site property following recordation of the restrictive covenant to a city or county for use as conservation land or green space.

I. State whether the owner intends that there be any public or private use of the land for passive recreation. (walking trails using pervious materials in uplands, bird watching, hunting) and the intent of the owner to post signs on the bank site property for any purpose.

J. State whether the owner intends that there be any long term management of the property by the Georgia Department of Natural Resources Wildlife Division following the completion of the requirements of the banking instrument.

- K. Identify who will own the site once the monitoring period is complete⁶
- L. Identify responsible party/parties that will be responsible for perpetual protection of the bank
- M. List activities (if any) that will be conducted concurrently with mitigation banking (i.e., hunting, fishing, etc.)

8.0 BANK CREDITS

- A. Assessment Methodology for Determining Credits
- B. Credits Generated (include SOP sheets)
- C. Credit Release Schedule⁷
- D. Procedure for Tracking Credits/Debits
- E. Early Credit Withdrawal (if proposed, provide financial assurances)

9.0 ANNUAL REPORT (CREDIT RELEASE HISTORY, MONITORING RESULTS, AND ANY OTHER PERTINENT SITE-SPECIFIC INFORMATION)

10. FREEDOM OF INFORMATION RELEASE OF FILES BY THE US ARMY CORPS OF ENGINEERS. The public may request that the US Army Corps of Engineers (USACE) release documents in files pursuant to the Freedom of Information Act (FOIA). Exemption 4 protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. 5 U.S.C. §552(b) (4) (2000). Generally documents in mitigation bank files are releasable. Should the bank sponsor/owner wish to assert that any of the information provided in the banking prospectus is privileged or confidential then that information should be placed on a separate page or pages with a notation at the top that says, "**This Information May Not Be Releasable Subject To FOIA.**" This may apply to a unique design, the credit calculation or customer lists and correspondence—the release of which will cause commercial or financial harm to the bank sponsor/owner. Do not claim exemption for pages unless you also assert why the information is subject to Exemption 4. At such time as there is a request for release of documents, the FOIA office will write to the bank

⁶ If an entity other than the applicant/banker will assume management responsibilities following completion of the monitoring period, identify the legal agreement that ensures the bank will be managed IAW the mitigation plan.

⁷ This should include a credit summary chart.

sponsor/owner and ask for more information regarding why the information is claimed to be exempt.

REQUIRED MAPS AND FIGURES⁸ IN ALL BANKING INSTRUMENTS:

Location map

Watershed map

Aerial photograph

Delineation map of on-site jurisdictional waters (must be verified by the USACE)

NRCS Soils Map

NWI Map

USGS Topographical Map

County Road Map

Service Area Map

Map showing restoration, enhancement, preservation, creation, and upland buffer areas

Map of reference wells and monitoring wells

Map of on-site listed species and those within 1-mile

Map of on-site historic resources and those within 1-mile

⁸ The boundaries of the proposed bank must be outlined on all maps and figures listed below, unless the map is of a specific area of the bank.