



DEPARTMENT OF THE ARMY
ALASKA DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
P.O. BOX 6898
JBER, AK 99506-0898

June 7, 2019

Regulatory Division
POA-2009-00874

Heritage Land Bank
Attention: Ms. Shelley Rowton
Land Management Officer
P.O. Box 196650
Anchorage, Alaska 99519-6650

Dear Ms. Rowton:

This is reference to your April 24, 2019, submittal of a draft Umbrella Mitigation Banking Instrument (Instrument) for the proposed Heritage Land Bank (HLB) Umbrella Mitigation Bank. This umbrella mitigation bank would be initiated with the establishment of HLB Section 36 parcel as the first mitigation site. The proposed HLB Section 36 mitigation site is located within Section 36, T. 12 N., R. 3 W., Seward Meridian; USGS Quad Map Anchorage A-8 (NW); Latitude 61.08° N., Longitude 149.74° W.; MOA Parcels 01713105000 and 01713106000, in Anchorage, Alaska.

Based on our review of the information you furnished and available to us, your draft instrument is considered incomplete as it does not provide information required for a complete draft instrument. No further action will be taken until receipt of the information requested. The comments and suggestions below are in general limited to our larger concerns or issues and do not identify all potential issues or editorial concerns contained within the instrument:

1. Instrument:
 - a. Objectives: Please elaborate on how the proposed umbrella mitigation bank fosters other planning efforts and management strategies developed for the Municipality of Anchorage wetlands.
 - b. Please move to Exhibit A (Mitigation Plan) any specific information regarding HLB Section 36 Mitigation Site that is currently contained throughout the Instrument, since your proposed project is an Umbrella Mitigation Instrument.
 - c. Service Area: Are you proposing a general service area for the entire umbrella mitigation bank and smaller service areas for each mitigation site? Please clarify and provide a rationale in accordance to §332.3(b)(1).

- d. In accordance with §332.8(d)(6)(ii)(C), please create its own heading for the Sponsor's legal responsibility for providing compensatory mitigation once credits have been secured provision.
 - e. Please delete from the Instrument the following sections:
 - i. Definitions.
 - ii. Sponsor's Scope of Work.
 - iii. Disclaimer.
 - f. Please add the following sections to the Instrument:
 - i. Accounting Procedures: Provide information on maintaining the RIBITS ledger and attach a Credit Receipt Form sample.
 - ii. Cite Rule provision for each section of the Instrument. For example, for Modifications cite §332.8(d) and §332.8(g)(2).
2. Mitigation Plan:
- a. Service Area: Please provide a detailed rationale on the service area for the proposed HLB Section 36 Mitigation Site within the framework of planning efforts developed for the Municipality of Anchorage, for Rabbit Creek, and for adjacent watersheds.
 - b. Site Protection Instrument: Provide more detailed information on the relationship between the Municipality of Anchorage and HLB and how that would shape responsibilities of the Conservation Easement Holder. Also, please see attached white paper titled, Compensatory Mitigation Site Protection Instrument Handbook for the Corps Regulatory Program, dated July 2016, and revise the proposed Conservation Easement accordingly. Please take a look at this white paper, especially Section III, and use language regarding Third-party right of enforcement, Eminent Domain, Merger, Subordination, Marketable Title, among others, in the Conservation Easement.
 - c. Determination of Credits: As you may know, the Corps of Engineers (Corps) has rescinded RGL 09-01, which was used to determine the number of credits. As per phone conversation with Robin Ward of June 5, 2019, the Corps will work with HLB on a path forward to create an acceptable credit/debit methodology. The Corps will postpone the review of the current credit determination section until such time an acceptable credit/debit methodology is created.
 - d. The Mitigation Work Plan needs to clearly establish work plan activities, maintenance, monitoring commitments, and performance standards that are verifiable, some of which are to be linked to the credit release schedule.
 - e. Please provide more information on the specific restoration work in the mitigation work plan, performance, and monitoring sections.
 - f. Please generate a stand-alone Long-term Management Plan document attached to the Mitigation Plan. Also, identify the long-term steward, long-term management and monitoring activities, and a long-term funding mechanism.

- g. A description of the financial assurances is required. Financial assurances are necessary from the time of the bank approval until the mitigation site enters long-term management. Please see 33 CF §332.3(n).

Please submit a revised draft Instrument within **30 days from the date of this letter** in order to move forward with the review process. You may request a time extension if necessary; otherwise, we will proceed to close the file until you provide the requested information.

Please feel free to contact me via email at Estrella.f.campellone@usace.army.mil or by phone at (907) 753-2518 if you would like to set up a meeting to review these comments or if have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Estrella Campellone' in a cursive, stylized script.

Estrella Campellone
Project Manager