

MITIGATION / CONSERVATION BANK PROGRAM

GUIDANCE FOR COMPLETING ATTACHMENT 3 TO (PROPERTY ASSESSMENT AND WARRANTY (PAW))

The information provided should accurately describe and identify all recorded and unrecorded, possessory and non-possessory interests in the property (e.g., easements, deeds of trust, covenants, leases, licenses, etc.). The information should also identify the instruments or documents that will need to be subordinated to the conservation easement to ensure (e.g.) that the terms of the conservation easement control over the terms of previously recorded or executed restrictive covenants and/or that the conservation easement will not be extinguished due to an enforcement action brought under an existing encumbrance. Please note that unrecorded agreements may also need to be subordinated.

Please identify (by exception number and recording number) and explain the exceptions to title listed in SCHEDULE B of the most current Preliminary Report for the proposed bank property.

Attachment 3 is a fill-in form. In the column labeled “*Enumerate and describe all rights and obligations in the encumbrance document and whether the rights and obligations will conflict with the conservation values of the conservation easement [link to referenced document]*,” list and describe all the recorded, unrecorded, possessory and non-possessory rights and obligations and how the property owner intends to treat each encumbrance.

In the column labeled “*Explain Disposition of Rights (encumbrances)*: ACCEPT (no credit), ACCEPT (credit), REMOVE, SUBORDINATE, EXCLUDE (from easement area), ENDORSE (Additional Title Insurance) or Other,*” please indicate how you will address the encumbrance affecting title. For example:

- If an encumbrance is expected to remain on title when the conservation easement records, choose “ACCEPT.”
 - If the intent is that the encumbrance will remain, but no credits will be located within the area covered by the encumbrance, choose “ACCEPT (no credit).”
 - If the intent is that the encumbrance will remain, but credits will be offered within the area covered by the encumbrance, choose “ACCEPT (credit).”
- If an encumbrance will be removed before the conservation easement records, choose “REMOVE.”
- If the encumbrance be subordinated to the conservation easement, choose “SUBORDINATE.”
- If the encumbrance will be excluded from the legal description of the land to be restricted by the conservation easement, choose “EXCLUDE.”
- If the property owner intends to have the title company issue an expanded policy of title insurance or certain endorsements insuring against loss or damage to the conservation easement caused by a particular encumbrance, choose “ENDORSE.” and provide the expected endorsement form (number).

Each document affecting title must be attached to the PAW as a separate PDF document and (if recorded) labeled by the recording number (i.e., Instrument or Document # [number] or Book [number] Page [number]).

IMPORTANT. The PAW will be **considered INCOMPLETE** if any information is missing, including, but not limited to:

- Copies of recorded encumbrance documents that are listed as exceptions in the preliminary report or embedded in the legal description(s) of the property.
- Recording information on the labeled recorded documents encumbering the property.

- Accurate description of rights/activities granted by an encumbrance document.
- The intended Disposition of Rights is not stated, e.g., ACCEPT (no credit), ACCEPT (credit), REMOVE, SUBORDINATE, EXCLUDE (from easement area), ENDORSE (Additional title Insurance) or Other

Copies of all unrecorded documents affecting title.

DOCUMENT SUBMISSION. Please provide **individual** digital files of the PAW and each attachment, as well as a digital folder that includes each recorded and unrecorded document affecting title. Please also provide individual digital files for any unrecorded encumbrances with a short description title (under 30 characters).

ADDITIONAL INFORMATION. Please note that the preliminary report (including the date) should be referenced on the Boundaries/Improvements/Encumbrances (BIE) Map (Attachment 4 of the Property Assessment and Warranty), and all exceptions to title shown on the BIE Map should be described by the recording information, as well as the preliminary report exception number.