

**PREPARED FOR:**

**TOANO FISHING & HUNTING CLUB**

**CRANSTON MILL**

**WETLAND AND STREAM MITIGATION BANK**

***FINAL***

**PROSPECTUS**

**MAY 1, 2008**

**PREPARED BY:**

**LAND QUEST VENTURES, LLC**

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## **I. PREAMBLE**

### **A. Introduction:**

The Toano Fishing and Hunting Club proposes the establishment of the Cranston Mill Mitigation Bank (CMMB) located in Toano, James City County, Virginia. The purpose of the proposed CMMB is for providing wetland and stream mitigation compensation for unavoidable impacts to waters of the United States and/or State waters, including wetlands that result from development projects authorized under Section 401 and 404 of the Clean Water Act (CWA). Section 10 of the Rivers and Harbors Act and Section 62.1-44.15:5 of the Code of Virginia provided such activities have met all applicable requirements and are authorized by the appropriate agencies.

### **B. Project Site Location**

The proposed CMMB is located both on the north-and south-side of Cranston Mill Pond Road in Toano, James City County, Virginia. The nearest intersection to the proposed bank location is Jolly Pond and Cranston Mill Pond Road, situated approximately a quarter mile to the east-southeast. A vicinity map is provided (See Figure 1). The proposed site is noted as being in the Atlantic Coastal Plain Physiographic Region surrounded by undeveloped, timberlands on all four sides. Topography is relatively flat in the former pond basin, however, steepens considerably along narrow side-banks (See Figure 2). The proposed stream corridor is bisected by Cranston Mill Pond Road (See Photo 1).

The proposed site is found at the location of the former Cranston Pond. Several beaver dams and an emergency spillway are still noted at the former pond outlet (See Photo 2). The existing dam recently breached during a severe storm event. As a result, much of the pond water was released downstream. The most noteworthy natural feature proximal to the proposed site is Yarmouth Creek. This natural system extends from north of the CMMB area through the center of the site (See Photo 3) and continues downstream eventually draining to Brickyard Marsh and into the Chickahominy River.

### **C. Project Site Conditions**

In a historical sense, the project site has been utilized by the hunt club members and their families for recreational activities for over 100 years. During most of this time, the pond/dam has been properly maintained for use as a source for fishing and hunting in the surrounding wooded upland areas. No other activities such as agriculture and/or silviculture have been known to be associated with the property. The majority of the proposed CMMB site consists of shallow, emergent wetland systems exposed as a result of the breaching dam. A long relatively narrow stream corridor flows through the center of the pond. Wetlands extend on both sides from this stream feature. Upland, hardwood timber stands line the ponds terrace reaching out beyond to steepened cliffs and long, narrow slews. As the pond widens near the spillway, shallow open water habitat predominates. Flat, cypress bottomlands then extend outwardly from the overbank of Yarmouth Creek, and primarily on the eastern side.

### **Jurisdictional Areas Summary**

As of the present, a wetland delineation of the site has not been conducted to properly identify the presence/and or absence of jurisdictional wetlands and waters of the United States (WOUS).

The delineation will be undertaken and confirmed prior to completion of the Mitigation Banking Instrument (MBI). The delineation will be conducted in accordance with the guidance provided by the United States Army Corps of Engineers (COE) 1987 Delineation Manual and subsequently issued COE guidances.

### **Threatened and Endangered Species**

A query of available on-line threatened and endangered species information has been performed to obtain some insight as to the potential presence/ and or absence of sensitive flora and fauna in association with the referenced project. A search of the Virginia Department of Natural Heritage (DNH) database was performed in order to identify known sensitive species within a two-mile radius of the project site. No confirmed federal or state threatened or endangered species were noted within the noted study area.

In addition, a search of the Virginia Game and Inland Fisheries (DGIF) databases was performed to identify known species with a two-mile radius of the proposed mitigation bank site. No confirmed federal threatened or endangered species were noted with the study area.

A query of available information concerning cultural resources was undertaken to determine the presence of any known resources occurring onsite. A search of the Virginia Department of Historic Resources database was performed. No historic sites appear to be associated with the proposed CMMB site.

### **D. Project Description**

The proposed CMMB site is approximately 50 acres and is currently owned by the Toano Fishing and Hunting Club. The proposed project site is the lower end of the larger tract totaling 124 acres. This tract presently consists mostly wooded timberlands and river terraces associated with Yarmouth Creek. The property ownership and its associates are currently in the process of preparing a conceptual development plan for the proposed CMMB site.

This site will incorporate approximately 50 acres for the CMMB and the remaining 124 acres upgradient will later be sold to another undefined development concern. Approximately 3.9 acres of 100-foot wide buffer is proposed along the stream corridor leaving the spillway and heading south crossing Cranston Mill Pond Road. It is proposed the CMMB will include:

- Phased restoration of approximately 50 acres of emergent and bottomland wetlands, and approximately 1350 linear feet of stream channels.

- In providing the above mentioned mitigation, approximately 54 acres of wetlands, buffers, and streams will be preserved in perpetuity resulting in an increase to wildlife habitat in both wetlands and streams systems, as well as water quality improvements to the watershed.

#### **E. Establishment and Use of Credits**

Conceptual credit analysis was preformed in lieu of this prospectus. An evaluation of this analysis will be performed by the Mitigation Bank Review Team (MBRT) to determine an approximation of the credits the site ownership could reasonably expect as a result of bringing this proposed bank online. This evaluation will provide justification for continuing with the proposed mitigation site. Later, a conceptual site development plan (SDP) will be prepared and submitted to the MBRT for review.

The final calculation of anticipated credits generated as a result of the proposed CMMB site will be determined by the MBRT based upon final approval of the SDP. The mitigation credits to be made available will be in accordance with current guidance published by the COE and Virginia Department of Environmental Quality (DEQ).

#### **Disclaimer**

The MBI will not supersede or alter the statutory authorities and responsibilities. Regulations, policies, and guidance of the signatory agencies or any other group.

### **II. Establishment Of The Bank**

#### **A. Mitigation Banking Instrument**

The MBI and the development and operation of the bank will be in accordance with the Code of Virginia Section 33.1-223.2.1 entitled, "Wetland Banking and the Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks" published in Volume 60, Number 228 of the Federal Register, dated November 28, 1995, and will follow the most current version of the Mitigation Banking Template provided by the Norfolk District, U.S. Army Corps of Engineers.

Toano Fishing & Hunting Club proposes the CMMB will be managed by LandQuest Ventures LLC. This entity will be responsible for annual management and operations of the proposed bank. Toano Fishing & Hunting Club proposes preservation of riparian systems and associated stream corridors and wetlands specifically for the purpose of generating compensation credits. Both Toano Fishing & Hunting Club and Land Quest Ventures LLC will provide for the long-term preservation and management of the proposed CMMB.

#### **B. Permits**

LandQuest Ventures LLC in behalf of the Toano Fishing & Hunting Club will obtain all documentation, permits, and other authorizations required to established and maintain the CMMB.

### C. Bank Development Plan

Land Quest Ventures LLC in behalf of the Toano Fishing & Hunting Club will prepare a MBI that will represent the framework for the proposed CMMB. The proposed bank site will be included in the MBI and developed conceptually and in final form through the site development plan (SDP). This documentation will be submitted and presented to the MBRT for review and approval.

Development of the proposed site will be initiated with the submission of the conceptual SDP for the MBRT to evaluate. Upon receiving a conceptual approval by the MBRT, Land Quest Ventures LLC will proceed with the preparations for the development of the final SDP. As with the conceptual ASDP, the final documentation will also be forwarded to the MBRT for review and approval.

Upon receiving final approval of the SDP from the MBRT, the documentation will be included as an Addendum to the MBI. As a result, the proposed mitigation bank site will then be deemed a component of the MBI. Fifteen (15) percent of the credits will then be released consistent with the schedule of credit availability in accordance with the final SDP. An approved bank site, or an approved phase of the bank site may be left undeveloped if no pre-sale or other credits have been debited from the site in the event the final SDP is not approved, the MBRT will provide the Toano Fishing & Hunting Club with specified reasons for not approving the submittal. Furthermore, Land Quest Ventures LLC may then resubmit a revised final SDP with the specific modifications and/ or justifications that address the MBRT concerns.

### D. Financial Assurance Requirements

Toano Fishing & Hunting Club will provide financial assurance for the proposed CMMB as part of the individual SDP acceptance forms of financial assurance that will be established in the MBI.

### Real Estate Provisions

Toano Fishing & Hunting Club will record a restrictive covenant easement, or similar maintenance agreement with regards to the proposed bank. This agreement may also be transferrable to an acceptable conservation organization upon fulfillment of project objectives with proposed CMMB ownership remaining with the titled owner. Toano Fishing & Hunting Club will provide for the perpetual protection and preservation of the proposed bank site through maintenance agreements, restrictive covenants, and/or conservation easements. These provisions will conform to current Norfolk District, U.S. Army Corps of Engineers guidance with language allowing road easements, road/bridge crossings, hiking paths and trails, and other activities. Each real estate instrument used must be approved by the MBRT.

### E. Anticipated Schedule-Bank Completion

- July 2008-Submit MBI to MBRT for review, approval, and signature
- August 2008-Commence final SDP
- October 2008-Approval of the MBI and final SDP
- Fall 2008-1<sup>st</sup> Monitoring Year

- November 2009-Submit 1<sup>st</sup> monitoring plan

### **III. OPERATION OF THE BANK**

#### **A. Service Area**

The primary geographical service area (GSA) for the proposed CMMB includes Hydrologic Unit Codes (HUCs) from the James River watershed including all or a portion of the following cities and counties: Richmond, Williamsburg, Newport News, Suffolk, Henrico, Chesterfield, New Kent, and James City within HUCs 02080206 and 02080208. The proposed bank location presently occurs with HUC 02080206. The GSA is noted on Figure 3.

#### **B. Conditions on Debiting (Credit Availability and Accounting Procedures)**

LandQuest Ventures LLC on behalf of the Toano Fishing & Hunting Club will establish and maintain a banking ledger which documents credits and debits to the proposed CMMB account. Each time an approved debit/credit transaction occurs, LandQuest Ventures LLC will submit a statement to the permitting agencies. LandQuest Ventures LLC will also generate an annual ledger report to be submitted to all members of the MBRT. The ledger will be available for inspection upon written request by any participating agency.

#### **C. Use of Credits**

The following types of projects may be eligible to use available credits offered by the CMMB:

1. All activities regulated under Section 10 of the Rivers and Harbors Act, Section 404 of the Clean Water Act (CWA) and /or the Virginia Water Protection Permit Regulations (9 VAC 25-210) located within the primary GSA of this wetland and stream mitigation bank may be eligible to use the CMMB as compensatory mitigation for unavoidable impacts.
2. Credits may be used to compensate for environmental impacts under other programs (civil works, Superfund removal and remedial activity, supplemental environmental projects for Federal and State enforcement actions, etc.)
3. For projects in the GSA that require authorization with a Nationwide Permit (NWP) under Section 404 of the CWA and/or Section 10 of the Rivers and Harbors Act, Norfolk District State Program General Permit (SPGP), and/or a Virginia Water Protection Permit, and if the authorization requires compensatory mitigation, credits from the CMMB may be used to satisfy these compensatory mitigation requirements if the CMMB ownership and third party permittee reach a mutually acceptable financial agreement that is subject to regulatory approval on a case by case basis.
4. For projects located in the primary GSA that require authorization with an Individual Permit (IP) under Section 404 of the CWA and/or Section 10 of the Rivers and Harbors Act and/or Virginia Water Protection Permit, the COE and DEQ, in consultation with the other regulatory and resource agencies, will determine the eligibility of such projects to use the CMMB on a case by case basis. Once the COE and/or DEQ have determined that mitigation in the CMMB is

ecologically preferable to any on-site alternatives or that there are no practicable on-site alternatives, mitigation may be provided by the use of mitigation credits from the CMMB as determined by the COE and/or DEQ for each agency's respective permits if the bank ownership and third party permittee reach a mutually acceptable financial agreement.

#### **IV. MAINTENANCE AND MONITORING OF THE BANK**

##### **A. MAINTENANCE, MONITORING, and SUCCESS CRITERIA**

Prior to the release of credits, Toano Fishing & Hunting Club will provide appropriate financial assurance acceptable to the MBRT in accordance with the terms of the MBI and final SDP. The financial assurance requirements will be reduced over time as the SDP is implemented. LandQuest Ventures LLC will ensure that all monitoring and maintenance costs will be undertaken during the success criteria time period. LandQuest Ventures LLC will provide maintenance and monitoring in accordance with terms and conditions outlined in the MBI and SDP. Monitoring will include data collection for the indicators of success specified for the site. Monitoring reports will be submitted to the MBRT according to the schedule set forth in the SDP and will be used to evaluate site performance relative to the performance established in the SDP. Remedial actions to the Bank site may necessary during operational life of the bank. If LandQuest Ventures LLC has followed the SDP but performance criteria are not being met, the MBRT will assist in the development of measures to meet performance criteria while holding additional cost to a minimum.

##### **B. Long-term Protection**

Consistent with the conditions of the MBI, a maintenance agreement, conservation easement or declaration of restrictive covenants will be recorded prior to the sale of any credits to assure preservation of these lands in perpetuity. Copies of documents of long term protection measures will be included in the SDP. The approved and debited credits in the proposed CMMB site will be retained in perpetuity by Toano Fishing & Hunting Club. Decisions concerning the operational life the proposed mitigation bank, long-term monitoring/management, remedial actions, and financial assurances will be made in accordance with Section II.E. of the Federal Banking Guidance (i.e. November 28, 1995). These decisions will be agreed upon in the final CMMB SDP signed by the ownership, bank management, and the participating agencies.

#### **V. RESPONSIBILITIES OF THE MBRT**

The MBRT agrees to:

- A. Review and provide comments on conceptual and final SDP submittals within 60 days of receipt.
- B. Review and provide comments on annual reports within 60 days of receipt.
- C. Review and provide comments on adaptive management plans and/or required remedial action plans within 60 days of receipt.

#### **VI. RESPONSIBILITIES OF THE SITE OWNERSHIP**

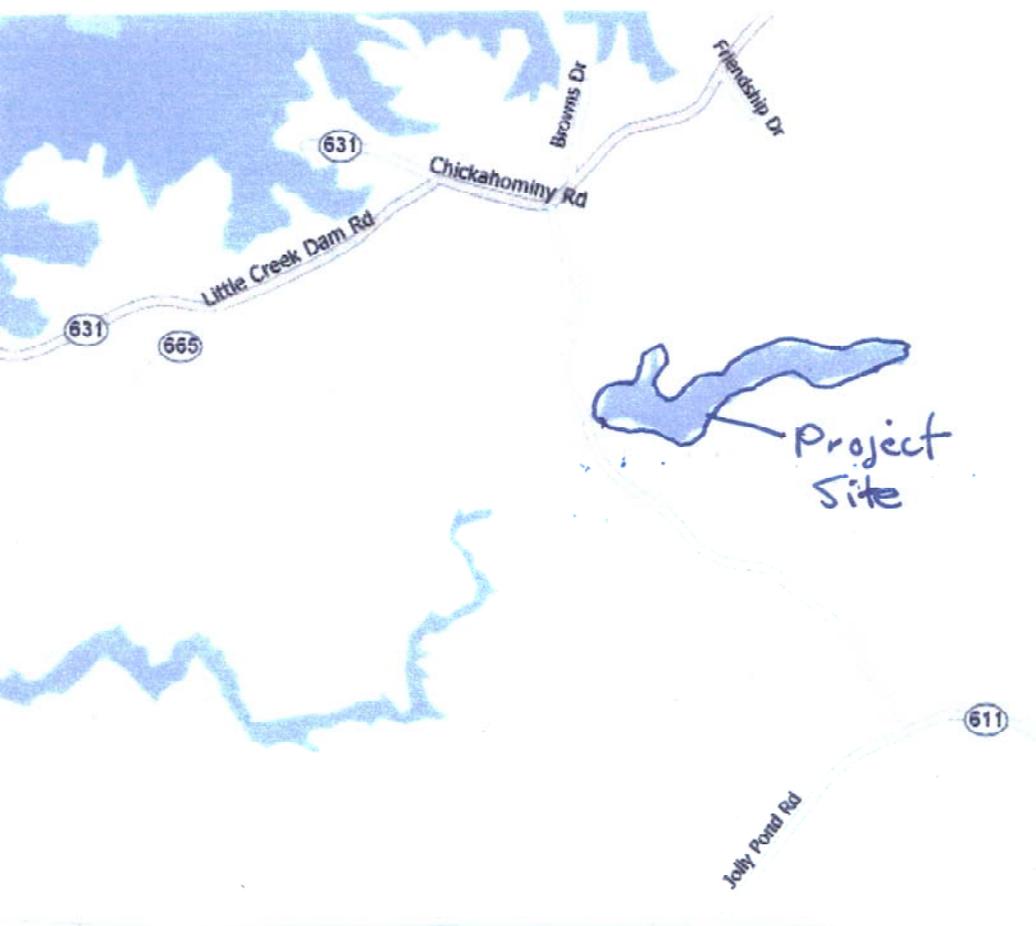
Toano Fishing & Hunting Club agrees to:

- A. Establish and/or maintain the CMMB site until 1) credits have been exhausted and the debited CMMB site has satisfied all the conditions stated in the approved SDP, or 2) banking activity is voluntarily terminated through written notice by Toano Fishing & Hunting Club with approval of the MBRT.
- B. Submit to the MBRT an annual report describing the condition of the CMMB site in relation to the success criteria outlined in the final SDP, as well as relating the overall activity of the Toano Fishing & Hunting Club CMMB.
- C. Develop necessary adaptive management plans and/or implement appropriate remedial actions for the CMMB site in coordination with the MBRT in the event the proposed mitigation site fails to achieve success as specified in the final SDP.

**PROPOSED CRANSTON MILL POND  
MITIGATION BANK**

**APPENDICES**

Figure 1



MapQuest , Toano, Virginia

Scale 1"=0.75 mi

Figure 2



USGS Map-Toano, Virginia

Scale 1"=0.25 mi



**PROPOSED CRANSTON MILL POND**

**MITIGATION BANK**

**PHOTOS**

Photo 1



photo 2



Photo 3

