

AMENDMENT NO. 1 TO THE
MEMORANDUM OF UNDERSTANDING
BETWEEN THE
NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES,
DIVISION OF WATER QUALITY
AND THE
UNITED STATES ARMY CORPS OF ENGINEERS, WILMINGTON DISTRICT

The Memorandum of Understanding (MOU) between the North Carolina Department of Environment and Natural Resources, Division of Water Quality (NCDENR, DWQ) and the United States Army Corps of Engineers, Wilmington District (USACE), effective November 4, 1998, is hereby amended as follows:

- I. All references to the North Carolina Department of Environment and Natural Resources, Wetland Restoration Program (NC WRP) are hereby deleted and are replaced by reference to the In-Lieu-Fee program administered by the North Carolina Department of Environment and Natural Resources, Ecosystem Enhancement Program (NC EEP-ILF).

- II. **Section IV.H, Timeframes, is deleted in its entirety and replaced with the following:**

Section IV.H. Timeframes: To satisfy the compensatory mitigation requirements of Section 404 permits assumed by NC EEP-ILF, during the first year of this MOU, the NC EEP-ILF agrees to institute projects within 3 years of the date of receipt of payment.

During the second year, projects will be instituted within 2 years of the date of receipt of payment.

Beginning with the third year and continuing to the effective date of this amendment, projects will be instituted within 1 year of the date of receipt of payment.

Beginning with the date of this amendment and continuing for as long as this MOU is in effect, the anniversary date for all mitigation requirements accepted by the NC EEP-ILF pursuant to this MOU will be June 30 of the year in which the mitigation requirement was accepted by NC EEP. Pursuant to this amendment, NC EEP will have until June 30 of the following year to institute mitigation projects in accordance with the terms and conditions of the MOU.

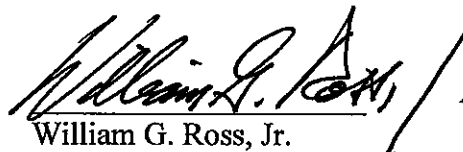
For the purpose of this MOU, the terms "institute" and "instituted" mean that a site has been identified and acquired, and a contract has been issued for the development and implementation of the mitigation project. A construction completion date, not to exceed two years from the date of contract issuance, shall be required for each project. The NC EEP-ILF is committed to providing compensatory mitigation for the majority of stream and wetland impacts in advance of the loss of these aquatic resources.

IV. The following language shall be added to Section IV as paragraph K:

K. Small Impacts: If, within any 8-digit cataloging unit, the cumulative mitigation requirements in any given NC Fiscal Year are less than 1,000 linear feet of stream or 3 acres of wetlands, NC EEP-ILF may make a request to the Assessment Group to satisfy the mitigation requirements by use of credits from an adjacent cataloging unit within the same river basin, use of High Quality Preservation, implementation of BMP's identified in a Local Watershed Plan, or other mitigation options as approved by the Assessment Group. The Assessment Group, with the concurrence of its appropriate USACE representative, will, within 30 days of such a proposal, indicate the acceptability of such a proposal. In the event that the proposal is not acceptable, the NC EEP-ILF will be obligated to satisfy the mitigation requirements pursuant to the conditions attached to the original permit.

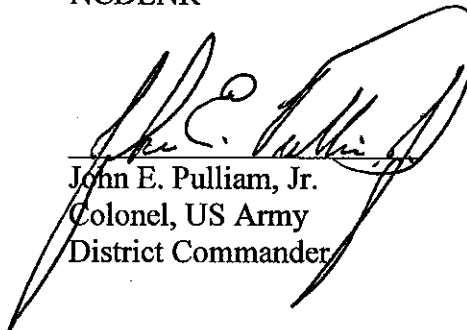
The effective date of this Amendment is the date of the last signature below:

DATE: *Dec. 5, 2006*



William G. Ross, Jr.
Secretary
NCDENR

DATE: *March 8, 2007*



John E. Pulliam, Jr.
Colonel, US Army
District Commander