

**USACE Wilmington District Mitigation Bank and In-Lieu Fee Program
Transfer of Mitigation Responsibility Guidelines**

PERMIT CONDITION TO BE INCLUDED ON ALL PERMITS USING THIS PROCESS: *“In order to compensate for impacts associated with this permit, mitigation shall be provided in accordance with the provisions outlined on the most recent version of the attached Compensatory Mitigation Responsibility Transfer Form. The requirements of this form, including any special conditions listed on this form, are hereby incorporated as special conditions of this permit authorization.”*

This document is intended to provide information on the transfer of mitigation responsibility between a project **Permittee** and the provider of the mitigation (**Sponsor**). This guidance and procedures contained in this document apply to both mitigation banks as well as in-lieu fee (ILF) programs authorized within U.S. Army Corps of Engineers (USACE) Wilmington District. Currently, the only ILF program within the District is the North Carolina Ecosystem Enhancement Program (NCEEP).

Mitigation Responsibility

The transfer of mitigation responsibility is the process by which the mitigation **Sponsor** becomes the responsible party for providing mitigation for the impacts associated with USACE permits. Once this transfer occurs, the USACE will hold the **Sponsor** liable for all parts of the mitigation process, including but not limited to identifying the mitigation site, preparation of the mitigation plan, site design, construction, monitoring, preservation, and providing for long-term management. In the event of non-compliance with permit mitigation requirements after transfer of mitigation responsibility, the USACE will seek restitution from the **Sponsor**.

This process has been designed to meet the requirements of the Federal Mitigation Rule of 2008 (33 CFR Part 332), to provide simplicity and equitability between different mitigation providers, and most importantly, to ensure the mitigation is conducted as required by the permits. This new process replaces all previous Wilmington District guidance for the processing of mitigation responsibilities and transfer of mitigation responsibility. This guidance applies to all Wilmington District permits that utilize a third-party mitigation provider, including public and private mitigation banks, single-client mitigation banks, and ILF Programs (NCEEP).

Per the Federal Rule, mitigation responsibility transfers when the **Permittee** secures the appropriate number and resource type of credits from a **Sponsor** and the USACE Project Manager (**PM**) receives signed documentation that confirms the **Sponsor** has accepted the responsibility for providing the required compensatory mitigation. A new Compensatory Mitigation Responsibility Transfer Form (attached) has been developed that includes all of the required information. This document will be included in all future USACE permits with a mitigation requirement to be satisfied by a bank or ILF program, and will be the official record of transfer of responsibility.

The following procedural steps, which are discussed in more detail later in these guidelines, should be followed for all permits issued with a condition requiring mitigation to be provided by a third-party **Sponsor** (Mitigation Bank or ILF):

1. Aquatic resources are assessed
2. USACE **PM** confirms the mitigation requirement
3. Permit **Applicant** categorizes impacts by mitigation type
4. **Applicant** Identifies Mitigation Provider
5. **Applicant** submits permit application
6. **PM** Evaluates mitigation proposal
7. **PM** Confirms the Mitigation is Appropriate and Available
8. **PM** issues permit with condition and Compensatory Mitigation Transfer Form
9. **Applicant** (now **Permittee**) ensures **Sponsor** signs the Compensatory Mitigation Transfer Form and provides a signed copy to the **PM**
10. **Permittee** may proceed with work in Waters of the U.S.; **Sponsor** conducts mitigation, updates ledgers, and provides ledgers and Transfer Form to USACE Bank Manager; **PM** monitors and conducts compliance

Pre-application Process

1. Aquatic Resources Are Assessed – Aquatic resources to be impacted are assessed for mitigation requirements. This assessment may be conducted in advance of initiating the permit process by the permit **Applicant** or a consultant, or it may be conducted by the **PM** during a pre-application meeting with the potential permit **Applicant**. Current Wilmington District procedures for the assessment of aquatic resources should be used during this process, including the NC Wetland Assessment Method (NC WAM), and Stream Quality Worksheet. These tools can be found under the Assessment Tools tab of the Wilmington District page of the Regional Bank and In-lieu Fee Tracking System ([RIBITS](#)).

2. USACE PM Confirms Mitigation Requirement – The **PM** must review and approve the results of the assessment and the final determination of mitigation requirements for the project impacts. This process may occur prior to the **Applicant's** submittal of the application or after the **PM** has received the application. The USACE shall, in all instances, make the final decision on amount and type (i.e., riparian riverine wetland, riparian non-riverine wetland, non-riparian wetland, or coastal wetland; cold, cool, or warm-water stream, etc.) of mitigation necessary to offset proposed impacts. The **PM** may provide information to the **Applicant** on possible mitigation alternatives, including banks and ILF programs that may be able to provide the mitigation; however it is the **Applicant's** responsibility to arrange mitigation.

3. Permit Applicant Categorizes Impacts by Mitigation Type – The impacts to aquatic resources should be classified into the following categories (credit classifications) in accordance with current District guidance (e.g., NC WAM and the 2003 Stream Mitigation Guidelines). The current credit classifications used by the Wilmington District are listed below:

- Streams: Cold, Cool, Warm Water
- Wetlands: Riparian Riverine, Riparian Non-riverine, Non-Riparian, or Coastal

4. Permit Applicant Identifies Mitigation Provider – The permit **Applicant** is responsible at this stage for identifying a mitigation **Sponsor** and contacting them to determine if credits are available for the type of aquatic resources to be impacted in the correct service area. Mitigation **Sponsors** in Wilmington District include mitigation banks and the NCEEP. NCEEP provides mitigation state-wide, and there are several resources available to help determine if there is a mitigation bank with a service area that includes the location of the project impacts. The [RIBITS](http://ribits.com) website lists mitigation banks within the Districts and includes a map page that can be used to search for available banks by impact location. Additionally, the North Carolina Division of Water Quality (NCDWQ) maintains a list of mitigation banks, which can be found on their website at: <http://portal.ncdenr.org/web/wq/swp/ws/401/certsandpermits/mitigation>.

Verification that the **Sponsor** is able to provide the requested credits should be obtained after the process of avoiding and minimizing impacts has been completed so that the estimate for impacts can be as accurate as possible; however, the mitigation requirement may change during the permit review process. The **Applicant** must obtain written verification from the **Sponsor** that the **Sponsor** is able to provide the required amount of mitigation. For banks, this may be a Statement of Credit Availability, and for NCEEP this may be an acceptance letter. These are standard acceptance documents that state the maximum amount and type of mitigation for which they are willing to accept responsibility, and usually include an expiration date for the acceptance. Please note that this amount may be more than what is required in the permit, but cannot be less than what is required in the permit. It should also state the type of mitigation, which should match the required mitigation type included in the permit application. Different **Sponsors** have different procedures for providing verification. If more than one **Sponsor** is proposed to provide the required mitigation, the **Applicant** must obtain a separate verification from each **Sponsor**. Mitigation banks and NCEEP may offer to provide mitigation for out-of-kind impacts or impacts occurring outside their service areas (i.e., in adjacent 8-digit hydrologic unit codes (HUCs) within the same river basin); however, these proposals must be approved by the **PM** on a case-by-case basis. Additionally, higher mitigation ratios will typically be applied to the impact to account for the fact that the mitigation is either out-of-kind or in a different HUC.

Guidance Regarding NCEEP As a Mitigation Provider – The NCEEP acceptance process and request forms are available at: <http://portal.ncdenr.org/web/eep/mitigation-applicants>. The NCEEP will respond to **Applicant** requests with an acceptance letter, with copy furnished to the USACE, stating they are willing and able to provide the amount of mitigation the **Applicant** stated they would need. This process applies to all **Applicants** requesting to use of NCEEP for mitigation, including the North Carolina Department of Transportation (NCDOT). This applies to both Transportation Improvement Program (TIP) and Division-level projects. In general, the NCEEP acceptance letter will identify the 8-digit HUC in which the mitigation will be located, but will not identify a specific site at which the mitigation will be debited. The acceptance letter should also indicate if the credits to be used are advance credits, meaning that the credits have not yet been released. In some instances, the acceptance letter from NCEEP may also identify a specific mitigation site to be debited for the mitigation. NCEEP may also provide alternative mitigation if they anticipate difficulty in meeting the mitigation requirement, so the USACE **PM** must agree with the proposed mitigation. If NCEEP

proposes to provide alternate compensatory mitigation (e.g., in a different HUC), the acceptance letter from NCEEP shall so state in bold lettering.

If the **Applicant** contacts the NCEEP prior to the USACE, an acceptance letter may be received by the USACE **PM** prior to a permit application. At this point in the process, the NCEEP's only knowledge of the site will be gained from the **Applicants** request and no Action ID will be associated with the acceptance letter.

The Federal Rule provides for a preference for mitigation banks over the NCEEP when certain conditions apply. Additionally, for mitigation required by certifications or permits issued by the North Carolina Department of Environment and Natural Resources (NCDENR), including the 401 permits and CAMA permits, recent state legislation (Session Laws [2009-337](#) and [2011-343](#)) governs the use of bank and ILF credits, and generally prohibits the use of NCEEP for non-governmental entities if bank credits are available in the 8-digit HUC. Where applicable, the **Applicant** is responsible for compliance with these laws; however, regardless of state legislation, the **PM** is responsible for making the final determination that proposed mitigation is appropriate to offset the losses to aquatic resources associated with all USACE permit actions in accordance with the Federal Rule. More information regarding this decision is provided later in the permit processing section below.

Permit Processing

5. Applicant Submits Permit Application – The permit **Applicant** submits the complete permit application to the **PM**. The application should contain the verification of acceptance from the mitigation **Sponsor**. **Applicants** are strongly encouraged to be proactive and contact the **Sponsor** before submitting the USACE permit application. Applications stating that mitigation is to be provided by a particular **Sponsor** shall not be approved without written documentation from that **Sponsor** stating that they are willing to accept the mitigation, including all NCDOT permits.

6. USACE PM Evaluates Mitigation Proposal – Upon receipt of the permit application, the **PM** reviews the application pursuant to the 2008 Final Mitigation Rule. The **PM** should first determine if it is appropriate to use the proposed mitigation **Sponsor**.

Regardless of who the mitigation **Sponsor** is, the **PM** should provide justification in the project file documentation explaining the choice of mitigation provider. In general, the justification of the decision should be based on an ecological preference for the selected mitigation source, and be in compliance with the Federal Rule. The justification may include a discussion of the following factors:

- **Service Area** – Where is the mitigation going to be conducted in relation to the impacts? Service areas are established to provide geographic limits for the general availability of credits provided by banks and ILF sites. This provides bank **Sponsors** with predictability in terms of the demand for credits generated by the bank, and also establishes the limits that the bank reviewers in the Interagency Review Team (IRT) determined were generally appropriate based on the location of the bank and ecological functions restored by the site. Generally, commercial mitigation banks and NCEEP sites have service areas that are limited to the 8-digit HUC, though some banks, particularly on the coast or in small or rural watersheds, may have a

larger service area. In general, mitigation should always be located within the same river basin, and preferably in the same 8-digit Hydrologic Unit Code (HUC); however, due to the availability of mitigation, it may be necessary to consider a mitigation source from an adjoining HUC on a case-by-case basis. Additionally, to ensure that lost functions are replaced in-kind as much as possible, consideration should be given to the ecoregion in which both the impact and mitigation site occur. If mitigation is obtained from an adjacent HUC, it may be appropriate to apply a higher ratio to account for the geographic (and functional) discrepancy between the impact site and mitigation site.

- **Status** – What is the status of the mitigation proposed to be used (in design, constructed, post-monitoring), if it can be determined? Generally, more mature mitigation sites are considered to provide a higher level of functional replacement, particularly for wooded wetlands and buffered streams. Unconstructed mitigation sites (to include NCEEP Advance Credits, and initial bank credit release, or unconstructed permittee-responsible mitigation) would be least preferable, recently constructed mitigation sites still in monitoring would be next, and mitigation credits that have met all performance standards and are in long-term maintenance would be most preferable. Note that just because a mitigation site has been in the ground for an extended period does not mean that credits from that site should qualify for a better mitigation ratio. Mitigation ratios for credit production are determined when a bank or site is established, and should generally be adhered to throughout the life of the mitigation project.
- **Type** – Is the mitigation in-kind, and matching the type of impact? For wetlands, consider if the impact and proposed mitigation credits are to riparian or non-riparian wetlands, or NCWAM Wetland Type, if it is known. For streams, is the impact to a warm, cool, or cold water stream, and consider stream size (Strahler Stream Order) of the impact and mitigation site, if it can be determined. As a general rule, it is preferable for the mitigation to be within one stream order from the impacted stream. This should also include the type of functional loss compared to the functional gain associated with the mitigation site, if known. For example, it may be more appropriate to utilize credits from a dam removal project for impounding impacts associated with the construction of a dam, as similar functions would be lost and gained.
- **Setting** – Setting is another factor that may be considered in the mitigation decision. This would include whether an impact is rural or urban, or if the impact site is located within a floodplain that provides a high level of hydrology function (attenuation, sequestration, etc.). Since the surroundings of an impact site are directly related to the functions associated with the resource, functional replacement may be better achieved with a mitigation site from the same setting.
- **Size** – The size of a mitigation site may also be used as a determining factor. In general, larger sites provide higher quality habitat, water quality, and hydrology functions than many small sites of equal size. For example, small sites are typically less successful at providing appropriate habitat for many animal and plant species that have minimum habitat ranges or need many individuals of the same species for a viable population. Large sites are generally

less fragmented, and are easier to track and preserve than many small sites. Because of this, a preference can be shown for bigger, contiguous mitigation sites.

If NCEEP is the proposed **Sponsor**, the **PM** should always determine if there are mitigation banks with available credits that have service areas covering the impact location. Also consider that banks may be used on a case-by-case basis even if their service areas do not cover the location of the impact. If no banks are available, the file documentation should state that no bank credits were available with service areas covering the impact location. If bank credits are available and NCEEP was selected over available bank credits, the file must document the factors that were considered in the decision to use NCEEP instead of the bank credits. In addition to including information about the impact and mitigation sites per the discussion above, it may be helpful to include information about NCEEP in the mitigation decision justification, including the status of credits in the HUC, if available.

7. USACE PM Confirms the Mitigation is Appropriate and Available – Once it is determined that **Sponsor** is an appropriate mitigation provider, the **PM** should review the acceptance letter to verify that the mitigation being offered by the **Sponsor** is adequate and available per the most recent bank ledger (proper type, amount and cataloging unit). If it is determined that the proposed mitigation is not acceptable (wrong type, amount and/or cataloging unit) the **PM** should notify the **Applicant** that the mitigation is unacceptable. If it is determined that proposed mitigation is acceptable, the **PM** proceeds with issuance of the permit/verification.

8. USACE PM Issues Permit with Condition and Compensatory Mitigation Transfer Form – The permit/verification must include the following permit condition:

“In order to compensate for impacts associated with this permit, mitigation shall be provided in accordance with the provisions outlined on the most recent version of the attached Compensatory Mitigation Responsibility Transfer Form. The requirements of this form, including any special conditions listed on this form, are hereby incorporated as special conditions of this permit authorization.”

In addition, the **PM** should complete the Compensatory Mitigation Responsibility Transfer Form and attach it to the permit verification. This form is the documentation that the **Sponsor** signs to formally accept responsibility for the mitigation. It is incorporated as part of the permit, and all requirements stated on the form become conditions of the permit. The **PM** fills out all portions of the form except for the block that is to be completed by the **Sponsor**. The following information should be filled out by the **PM**:

- Permittee – List the name of the Permittee
- Project Name – Identify the project by name, such as the subdivision name. If the project is reference in the acceptance letter, the same name should be used on the form. If it is an NCDOT project, this space can also contain the project ID (e.g., TIP number, bridge number, etc.)
- Action ID – List the permit Action ID number
- County – List the county
- Permitted Impacts Table – At the top of this table, select the 8-digit HUC and River Basin in which the impact will occur from the drop-down list. Fill in this table with the

permitted impacts to be offset at the identified mitigation site only. Do not list any impacts other than those to be offset by the mitigation listed on the form. If mitigation will be provided by other means (different **Sponsor**, different HUC, permittee responsible, etc.) or if there are impacts authorized by the permit that do not require mitigation, the impacts listed on this form will be less than what is stated in the permit. The final mitigation ratio can then be determined by comparing the impacts listed on the form to the required mitigation. This table should be filled in with linear footage measurements for streams and acreage measurements for wetlands. Ratios should not be applied to these amounts. For instance, if the project impacts are 100 linear feet of stream, the listed impacts should be 100 linear feet, even if mitigation is required at a 2:1 ratio.

- **Compensatory Mitigation Requirements Table** – At the top of this table, select the 8-digit HUC and River Basin in which the mitigation will occur from the drop-down list. The HUC may differ from where the impacts occur and should match the HUC specified in the acceptance letter from the **Sponsor**. The list includes two Expanded Service Areas (Catawa 03 and Little Tennessee 02), which have been identified as areas where mitigation is difficult to fulfill. These service areas have been enlarged by the North Carolina Interagency Review Team (NCIRT) to accommodate mitigation requests. Fill in this table with the mitigation to be provided by the **Sponsor** only. Do not list mitigation that will be provided by different means (different **Sponsor**, different HUC, permittee responsible, etc.). This table should be filled in with the number of required stream and/or wetland credits after all ratios have been applied. For instance, if the project impacts are 100 linear feet of stream, and a mitigation ratio of 2:1 is required to offset the impacts due to the quality of the stream, the listed stream credits required should be 200 credits. This is the amount of mitigation that will be provided by the **Sponsor**.
- **Mitigation Site Debited** – List the name of the bank to be debited. If the bank is an umbrella bank, also list the specific umbrella site. If NCEEP is the **Sponsor**, list NCEEP. If the NCEEP acceptance letter identifies a specific site to be debited, also list the specific site.
- **Comments/Additional Conditions** – Use this section to include any additional comments or conditions associated with the mitigation (e.g., phased mitigation).
- **USACE Project Manager and Field Office Information** – Complete these sections, and include your email address. This is important so the **Sponsor** and **Permittee** will know where to return the form once it is signed by the **Sponsor**.
- **Signature Block** – Sign and date the form.

Instructions to the **Permittee** and **Sponsor** are included on this form. If more than one **Sponsor** will be used to provide the mitigation, a separate form must be provided for each **Sponsor**. Additionally, if the impacts and/or mitigation will occur in more than one HUC, a separate form must be provided for each HUC.

If phased mitigation is arranged, it is possible to prepare separate Compensatory Mitigation Responsibility Transfer Forms for each phase and provide them to the **Permittee**. A comment should be included in the comment space of the form to indicate that the mitigation is being provided in

phases so that it is clear. In this case, the **Permittee** would have the **Sponsor** sign the form and provide copies of the form to the **PM** before beginning impacts associated with each phase of the project. The **PM** would need to track receipt of the forms associated with each phase of the project for compliance.

9. **USACE PM Responsibilities –**

- Add the permit condition and complete the Compensatory Mitigation Responsibility Transfer Form. Convert the form to Adobe PDF and electronically sign the form. If more than one mitigation **Sponsor** will be used, or if mitigation will be provided in different HUCs, separate forms should be completed for each Sponsor/HUC. Phased projects may also require completion of more than one form. The stated impacts and mitigation requirement on each form must be only for those impacts for which mitigation is provided by that **Sponsor**, and not for any impacts that are offset by other means or other mitigation, or that do not require mitigation.
- Enter the proper information into ORM and ensure that impact and mitigation data is entered accurately in all appropriate fields.
 - If multiple Action IDs are generated for the same project and mitigation is required at only one impact site, only enter NCEEP requirement for the one Action ID in keywords for that one site.
- Send an electronic copy of the permit/verification with Special Condition and Compensatory Mitigation Responsibility Transfer Form to the **Permittee** and the Districts Mitigation Team (Todd Tugwell or Tyler Crumbley). A courtesy copy of the permit and form should also be provided to the mitigation **Sponsor**.
 - For mitigation banks, email a copy of the permit and form to the bank contact, which is available in RIBITS.
 - For NCEEP ILF projects, send to Kelly Williams with NCEEP (kelly.williams@ncdenr.gov)
 - For NCEEP NCDOT projects, send to Beth Harmon with NCEEP (beth.harmon@ncdenr.gov)
- Track progress of the mitigation. Compliance with the permit condition is satisfied once the **PM** has received a signed Compensatory Mitigation Responsibility Transfer Form. Periodic calls to the **Permittee** to check the status of the mitigation transfer may be necessary, but it is ultimately the responsibility of the **Permittee** to ensure that the Compensatory Mitigation Responsibility Transfer Form has been signed and provided to the **PM**.

10. **Permittee Responsibilities –**

- The **Permittee** is responsible for providing a copy of the Compensatory Mitigation Transfer Form to the mitigation **Sponsor** for signature; however, a copy of the form should also be provided to the **Sponsor** by the USACE **PM** as a courtesy to expedite the process.
- A signed copy of the form must be returned back to the USACE **PM**. This may be done by the **Sponsor** or by the **Permittee**, but it is ultimately the **Permittee's** responsibility to ensure that a signed copy of the form is provided to the USACE.
- The **Permittee** is not authorized to start work until the USACE is in receipt of a signed copy of the form. An exception to this is NCDOT, who may begin work upon permit issuance, but must provide a signed copy of the form within 30 days of permit issuance. Additionally,

NCDOT remains fully responsible for the mitigation until the form has been received by the USACE.

11. Sponsor Responsibilities –

- Once the **Sponsor** signs the Compensatory Mitigation Responsibility Transfer Form, the **Sponsor** is obligated to conduct the mitigation, or if the credits have already been released, they are responsible for updating their ledger to include the mitigation debits.
- The **Sponsor** must also provide notification to the USACE of the credit transactions as required by their Instrument.
 - Most banking instruments require that the USACE Bank Manager is provided with the document transferring responsibilities (the Compensatory Mitigation Responsibility Transfer Form), and possibly an updated ledger.
 - NCEEP must include the debit in their ledgers, either for released credits or against remaining Advance Credits. Ledgers are provided in quarterly and annual reports to the USACE NCIRT Chair.

12. The District Mitigation Team will coordinate with the mitigation bank **Sponsor** to ensure that mitigation responsibilities are reflected correctly on the bank/ILF credit ledger. The Bank Manager should also update the bank ledger in RIBITS at this time as well. The District Mitigation Team will send periodic reports to the Regulatory staff identifying all permits sent to NCEEP.

U.S. ARMY CORPS OF ENGINEERS
Wilmington District
Compensatory Mitigation Responsibility Transfer Form

Permittee:
Project Name:

Action ID: SAW-
County: Choose a County

Instructions to Permittee: The Permittee must provide a copy of this form to the Mitigation Sponsor, either an approved Mitigation Bank or the North Carolina Ecosystem Enhancement Program (NCEEP), who will then sign the form to verify the transfer of the mitigation responsibility. Once the Sponsor has signed this form, it is the Permittee's responsibility to ensure that to the U.S. Army Corps of Engineers (USACE) Project Manager identified on page two is in receipt of a signed copy of this form before conducting authorized impacts, unless otherwise specified below. If more than one mitigation Sponsor will be used to provide the mitigation associated with the permit, or if the impacts and/or the mitigation will occur in more than one 8-digit Hydrologic Unit Code (HUC), multiple forms will be attached to the permit, and the separate forms for each Sponsor and/or HUC must be provided to the appropriate mitigation Sponsors.

Instructions to Sponsor: The Sponsor must verify that the mitigation requirements shown below are available at the identified site. By signing below, the Sponsor is accepting full responsibility for the identified mitigation, regardless of whether or not they have received payment from the Permittee. Once the form is signed, the Sponsor must update the appropriate ledger and provide a copy of the signed form to the Permittee and to the USACE Bank/In-Lieu Fee Program Manager. The Sponsor must also comply with all reporting requirements established in their authorizing instrument.

Permitted Impacts and Compensatory Mitigation Requirements:

Permitted Impacts Requiring Mitigation*			8-digit HUC and Basin: Choose the 8-digit HUC			
Stream Impacts (linear feet)			Wetland Impacts (acres)			
Warm	Cool	Cold	Riparian Riverine	Riparian Non-riverine	Non-Riparian	Coastal

*If more than one mitigation sponsor will be used for the permit, only include impacts to be mitigated by this sponsor.

Compensatory Mitigation Requirements:			8-digit HUC and Basin: Choose the 8-digit HUC			
Stream Mitigation (credits)			Wetland Mitigation (credits)			
Warm	Cool	Cold	Riparian Riverine	Riparian Non-riverine	Non-Riparian	Coastal

Mitigation Site Debited: _____
(List the name of the bank to be debited. For umbrella banks, also list the specific site. For NCEEP, list NCEEP. If the NCEEP acceptance letter identifies a specific site, also list the specific site to be debited).

Section to be completed by the Mitigation Sponsor

Statement of Mitigation Liability Acceptance: I, the undersigned, verify that I am authorized to approve mitigation transactions for the Mitigation Sponsor shown below, and I certify that the Sponsor agrees to accept full responsibility for providing the mitigation identified in this document (see the table above), associated with the USACE Permittee and Action ID number shown. I also verify that released credits (and/or advance credits for NCEEP), as approved by the USACE, are currently available at the mitigation site identified above. Further, I understand that if the Sponsor fails to provide the required compensatory mitigation, the USACE Wilmington District Engineer may pursue measures against the Sponsor to ensure compliance associated with the mitigation requirements.

Mitigation Sponsor Name: _____

Name of Sponsor's Authorized Representative: _____

Signature of Sponsor's Authorized Representative

Date of Signature

**USACE Wilmington District
Compensatory Mitigation Responsibility Transfer Form, Page 2**

Conditions for Transfer of Compensatory Mitigation Credit:

- Once this document has been signed by the Mitigation Sponsor and the USACE is in receipt of the signed form, the Permittee is no longer responsible for providing the mitigation identified in this form, though the Permittee remains responsible for any other mitigation requirements stated in the permit conditions.
- Construction within jurisdictional areas authorized by the permit identified on page one of this form can begin only after the USACE is in receipt of a copy of this document signed by the Sponsor, confirming that the Sponsor has accepted responsibility for providing the mitigation requirements listed herein. For authorized impacts conducted by the North Carolina Department of Transportation (NCDOT), construction within jurisdictional areas may proceed upon permit issuance; however, a copy of this form signed by the Sponsor must be provided to the USACE within 30 days of permit issuance. NCDOT remains fully responsible for the mitigation until the USACE has received this form, confirming that the Sponsor has accepted responsibility for providing the mitigation requirements listed herein.
- Signed copies of this document must be retained by the Permittee, Mitigation Sponsor, and in the USACE administrative records for both the permit and the Bank/ILF Instrument. It is the Permittee's responsibility to ensure that the USACE Project Manager (address below) is provided with a signed copy of this form.
- If changes are proposed to the type, amount, or location of mitigation after this form has been signed and returned to the USACE, the Sponsor must obtain case-by-case approval from the USACE Project Manager and/or North Carolina Interagency Review Team (NCIRT). If approved, higher mitigation ratios may be applied, as per current District guidance and a new version of this form must be completed and included in the USACE administrative records for both the permit and the Bank/ILF Instrument.

Comments/Additional Conditions:

This form is not valid unless signed by the mitigation Sponsor and USACE Project Manager. For questions regarding this form or any of the conditions of the permit authorization, contact the Project Manager at the address below.

USACE Project Manager: Select Project Manager Name
USACE Field Office: Select Field Office Name
 US Army Corps of Engineers
 Select Field Office Street Address
 Select Field Office City

Email:

USACE Project Manager Signature

Click here to enter a date.

Date of Signature

Current Wilmington District mitigation guidance, including information on mitigation ratios, functional assessments, and mitigation bank location and availability, and credit classifications (including stream temperature and wetland groupings) is available at <http://ribits.usace.army.mil>.