

**AMENDMENT #2  
TO THE  
STATE OF MAINE – IN LIEU FEE PROGRAM INSTRUMENT**

WHEREAS, the approved State of Maine – In Lieu Fee Program Instrument (“Instrument”) was signed by the Maine Department of Environmental Protection (“MDEP”) on September 21, 2011 and the New England District Corps of Engineers (“Corps”) on September 15, 2011 and amended on February 23, 2016.

NOW THEREFORE, the following change shall be made to the Instrument:

**Section 8.6** “Explanation of How Preservation Satisfies Criteria for Use of Preservation (Element 7)” shall be modified to include all the items from the Mitigation Rule (33 C.F.R. 332.3(h)(1). Additions are noted in italics:

- a) The resources to be preserved provide important physical, chemical, or biological functions for the watershed;
- b) The resources to be preserved contribute significantly to the ecological sustainability of the watershed. *In determining the contribution of those resources to the ecological sustainability of the watershed, use appropriate quantitative assessment tools, where available;*
- c) *Preservation is determined by the district engineer to be appropriate and practicable;*
- d) *The resources are under threat of destruction or adverse modification; and*
- e) *The preserved site will be permanently protected through an appropriate real estate or other legal instrument (e.g., easement, title transfer to state resource agency or land trust).*

IN WITNESS WHEREOF, the undersigned have caused this amendment to be duly executed.

  
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PAUL MERCER, Commissioner  
Maine Department of Environmental Protection

Date: 7/21/2016

  
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CHRISTOPHER J. BARRON  
Colonel, Corps of Engineers  
District Engineer

Date: 19 JUL 2016