

AMENDMENT
#6 TO THE
VERMONT IN-LIEU FEE PROGRAM INSTRUMENT

WHEREAS, the approved Ducks Unlimited, Inc. Vermont In-lieu Fee Program instrument, was signed by Ducks Unlimited, Inc. on January 6, 2011. Amendment #1 was signed by Ducks Unlimited, Inc. on March 9, 2015 and the Corps on January 30, 2015. Amendment #2 was signed by Ducks Unlimited, Inc. on June 10, 2015 and the Corps of June 29, 2015. Amendment #3 was signed by Ducks Unlimited, Inc. on November 11, 2016, and the Corps of October 19, 2016. Amendment #4 was signed by Ducks Unlimited, Inc. on February 11, 2019, and the Corps on February 5, 2019. Amendment #5 was signed by Ducks Unlimited, Inc. on March 26, 2020, and the Corps on March 5, 2020.

NOW THEREFORE,

This amendment modifies the instrument to include the following provision to the DU-VT-ILF Instrument:

- 1) In the event that only a small number of credits sell in a service area, Ducks Unlimited, Inc. (DU) may make a request to the IRT to satisfy mitigation obligations in an adjacent service area subject to the approval of the District Engineer. In addition, DU may also transfer monies from one service area to an adjacent service area for project creation that will generate credits. If an insufficient number of credits are sold in a given service area and not enough funds accrue to implement a project, this will not be considered by itself a default of the terms set forth in the Instrument. Credits generated from the use of the transferred funds will be used to offset the debits incurred from the impacts in the original service area. Ducks Unlimited, Inc. understands that credit transfer may be subject to a multiplier factor for the transfer of credits.
- 2) The amendment will operate within the procedures in the attached Standard Operating Procedures (SOP). The SOP may be updated from time to time by agreement between DU and the Corps, therefore this amendment will operate within the most recently dated SOP.

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

 DS
NW

Nick Wiley
COO, Program Sponsor Ducks Unlimited, Inc.

January 7, 2021



Tammy R. Turley
Chief, Regulatory Division

December 7, 2020

March 29, 2021

Amendment #6 Standard Operating Procedures (SOP)

- 1) As a result of the April 7, 2020 conference call with members of the IRT it was determined that a SOP should be established for Amendment 6.

“In the event that only a small number of credits sell in a service area, Ducks Unlimited (DU) may make a request to the IRT to satisfy mitigation obligations in an adjacent service area subject to the approval of the District Engineer. In addition, DU may also transfer monies from one service area to an adjacent service area for project creation that will generate credits. If an insufficient number of credits are sold in a given service area and not enough funds accrue to implement a project, this will not be considered by itself a default of the terms set forth in the Instrument. Credits generated from the use of the transferred funds will be used to offset the debits incurred from the impacts in the original service area. Ducks Unlimited, Inc. understands that credit transfer may be subject to a multiplier factor for the transfer of credits.”

- 2) Two scenarios were discussed as to how this amendment can be utilized:
 - a. Scenario one is that monies may be transferred out of a service area (SA) if insufficient funds are available to implement a project in that SA.
 - b. Scenario two is that the monies obtained from credit sales in one SA may be transferred into another SA that does not have enough funds to implement a project.
- 3) In scenario one the following SOP will be adhered to:
 - a. The funds from advanced credits sold in the original SA would stay in that SA for a minimum of three growing seasons after the sale of credits.
 - b. Funds transferred out of the original SA cannot exceed 100,000 dollars or the equivalent amount of credits.
 - c. Credits produced from a project that are a result of transferred monies will then be transferred back to the original SA at a ratio greater than 1:1.
 - d. Any transfer request submitted to the IRT must include evidence that a thorough search for projects has taken place within the SA from which monies will be transferred.
 - e. Any monies received from the sale of credits as a result of permit actions located within New York State (NYS) may not be transferred out of the Richelieu SA.
- 4) In scenario two the following SOP will be adhered to:
 - a. Monies available from the sale of “released credits” may be transferred to adjacent SAs to facilitate the implementation of a project in the receiving SA. Funds available from the sale of “advanced credits” may be transferred on a case-by-case scenario.
 - b. Monies specifically generated from the sale of advanced and/or released credits as

a result of permit actions located within NYS may *not* be transferred out of the Richelieu SA.

- 5) Ducks Unlimited, Inc. will track and account for monies generated from credit sales for NYS projects within the Richelieu SA account ledger.