NCDENR
North Carolina Department of Environment and Natural Resources
Division of Coastal Management
Michael F. Easley, Governor **James H. Gregson, Director** William G. Ross Jr., Secretary

June 26, 2008

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DIVISION OF HIGHWAYS
PDEA-OFFICE OF NATURAL ENVIRONMENT

Mr. Phil Harris
Project Development and Environmental Analysis
N.C. Department of Transportation
1598 Mail Service Center
Raleigh, NC 27699-1598

and

Mr. Jim Stanfill
Ecosystem Enhancement Program
1652 Mail Service Center
Raleigh, NC 27699-1652

RE: Colington Cut Wetland Mitigation Site deficit, Dare County, Coastal Area Management Act (CAMA) Major Permit No. 70-92, TIP No. B-2024.

Dear Mr. Harris and Mr. Stanfill:

This is in response to the attached letter dated 4/20/06 from the Ecosystem Enhancement Program (EEP) regarding the Colington Cut Wetland Mitigation Site deficit in Dare County. The N.C. Division of Coastal Management (DCM) apologizes for the delay in sending this response letter. However, due to an administrative error, DCM did not actually receive the 4/20/06 EEP letter until 6/2/08. In the 4/20/06 letter, EEP agrees to provide the additional coastal marsh wetland restoration mitigation required to offset the mitigation deficit associated with the Colington Cut Wetland Mitigation site.

In a letter dated 4/23/03, DCM stated that the Colington Cut Wetland Mitigation Site is not dominated by coastal marsh species to an extent greater than 50%, therefore the site did not meet the success criteria required by the approved mitigation plan. DCM also stated in the 4/23/03 letter that if suitable mitigation can be found nearby or is available at another mitigation site, it may be proposed as replacement for the permitted impacts that the Colington Cut Wetland Mitigation Site was designed to replace.

This letter documents that the Colington Cut Wetland Mitigation site is closed, and no further monitoring of the Colington Cut Wetland Mitigation Site is required. The final total of wetland mitigation deficits associated with the Colington Cut Wetland Mitigation Site is 0.41 acres of restored coastal marsh wetland mitigation (*Juncus roemerianus*, black needlerush).

DCM approves of the EEP providing the additional mitigation to offset the mitigation deficit associated with the Colington Cut Wetland Mitigation Site. However, please note that the approved mitigation plan in this case to plant a specific wetland species (*Juncus roemerianus*, black needlerush) is more detailed than the typical EEP procedures. Furthermore, EEP is reminded to ensure that the additional mitigation is in compliance with the appropriate CAMA land use plans.

The additional mitigation being provided by EEP is for impacts that were incurred approximately 15 years ago. Therefore, DCM urges EEP to locate and implement the additional mitigation in the most expeditious timeframe possible. DCM asks that we be notified of any delays in implementing the additional mitigation.

DCM looks forward to receiving updates and monitoring reports from EEP on the implementation of the additional mitigation in accordance with the "Tri-Party" Memorandum of Agreement (MOA) entered into by the NC Department of Environment and Natural Resources (NCDENR), the NC Department of Transportation (NCDOT), and the United States Army Corps of Engineers (USACE), Wilmington District, and in accordance with the "Two-Party" MOA entered into by NCDENR and NCDOT.

Please contact Cathy Brittingham at (919) 733-2293 x238 or via e-mail at Cathy.Brittingham@ncmail.net if you have any questions or concerns.

Sincerely,

Doug Huggett

Doug Huggett
Major Permits and Consistency Coordinator

CC: Randy Griffin, NCDOT
Jim Hoadley, DCM
Bill Biddlecome, USACE
Linda Fitzpatrick, DOT
David Wainwright, DWQ

Ecosystem Enhancement PROGRAM

April 20, 2006

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DIV. OF COASTAL MANAGEMENT
RALEIGH

Mr. Gregory J. Thorpe, Ph.D.
Environmental Management Director
Project Development and Environmental Analysis Branch
North Carolina Department of Transportation
1548 Mail Service Center
Raleigh, North Carolina 27699-1548

Dear Dr. Thorpe:

Subject: Colington Cut Wetland Mitigation Site Deficit
Pasquotank River Basin, Cataloging Unit 03010205
Dare County, NCDOT Division 1

The purpose of this letter is to notify you that the Ecosystem Enhancement Program (EEP) will provide the additional coastal marsh wetland restoration mitigation required to offset mitigation deficit associated with the Colington Cut Wetland Mitigation site. According to information provided by you in a letter dated April 14, 2005, the remaining mitigation amount required is 0.41 acre coastal marsh wetland restoration.

The Colington Cut Wetland Mitigation site was constructed by the NCDOT in 1995 to offset unavoidable impacts associated with the construction of the TIP Number B-2024. The site has demonstrated hydrologic success; however, some areas within the mitigation site failed to reach optimum vegetative success criteria as required by the NCDCM permit issued for TIP Number B-2024. The NCDOT has made several attempts to remediate the site and contain the colonization of *Phragmites australis* onto the mitigation site. Therefore, the NCDOT has requested the USACE, NCDWQ, and NCDCM concur with the recommendation to "close out" the site and to provide additional wetland mitigation to offset the deficits through another source.

The NCDOT elected to request mitigation assistance from the EEP for the coastal marsh wetland deficits associated with the Colington Cut Wetland Mitigation site. The NCDOT has discussed this recommendation with the proper environmental regulatory agencies; however, EEP has not received any additional correspondence from the USACE or NCDCM to indicate if concurrence to "close out" the mitigation site was granted. The EEP will need verification from the USACE and/or NCDCM that the

Colington Cut Wetland Mitigation site has been "closed out" and a final total of the wetland mitigation deficits associated with the site.

EEP is discussing this issue with the NCDCM and USACE to determine the appropriate timeframe that the mitigation debit is required. The additional mitigation associated with the Colington Cut Wetland Mitigation site deficit was included in the EEP's 2006 - 2008 Biennial Budget that was submitted to the NCDOT in April 2006.

If you have any questions or need additional information, please contact Ms. Beth Harmon at 919-715-1929.

Sincerely,

James B. Stanfill Jr

William D. Gilmore, P.E.
EEP Director

cc: Mr. Bill Biddlecome, USACE-Washington
Mr. Scott McLendon, USACE-Wilmington
Ms. Lynn Mathis, NCDCM-Elizabeth City
Ms. Cathy Brittingham, NCDCM-Raleigh
Mr. John Hennessy, Division of Water Quality, Wetlands/401 Unit
Mr. Marc Recktenwald, NCDENR-EEP
Mr. Randy Griffin, Jr., NCDOT-PDEA
File: Colington Cut Mitigation Site