AMENDMENT #3 TO THE AGREEMENT BETWEEN THE U.S. DEPARTMENT OF AGRICULTURE, THE COMMODITY CREDIT CORPORATION AND THE STATE OF MICHIGAN CONCERNING THE MICHIGAN CONSERVATION RESERVE ENHANCEMENT PROGRAM

The purpose of this amendment to the agreement between the U.S. Department of Agriculture, the Commodity Credit Corporation (CCC), and the State of Michigan is to enhance the Michigan Conservation Reserve Enhancement Program Project and increase environmental benefits dated September 13, 2000, and subsequent addendums.

I. PURPOSE is amended to read:

The purpose of this Agreement is to reduce sediment, phosphorus, and nitrogen in the surface water supply of the Macatawa, River Raisin, Saginaw Bay Watersheds and the Michigan portions of the Western Lake Erie Basin Watershed (see expanded new Michigan CREP project area map in Exhibit (A). These watersheds are considered the CREP area. The actions are taken to improve water quality; enhance habitat for fish and wildlife; and enhance nesting for upland birds, mammals, and waterfowl. The Michigan CREP target area is within the FSA designated CRP Great Lakes National Conservation Priority Area.

II. GENERAL PROVISIONS is amended to read:

The intended outcome of the State of Michigan CREP program is to implement practices within the CREP area to improve water quality and wildlife.

It is the intent of USDA, CCC, and the State that this Agreement will address the following objectives:

- The reduction, from agriculture lands, of 833,000 tons of sediment and 833,000 pounds of phosphorous from entering the tributaries and main streams of the selected watersheds and to help reduce stream water heating to ambient levels.

- The reduction of 1,666,000 pounds of nitrogen entering the tributaries and main streams of the selected watersheds so as to reduce the nitrate levels exceeding the drinking water maximum.

- To provide conservation practices for landowners and/or producers to voluntarily meet the water quality requirements established under federal and Michigan water quality laws.

- To increase the benefits to public health through the improvement of the quality of public drinking water sources. Decreases in sediment and nutrient loadings should reduce drinking water nitrate, pesticide, and trihalomethane concentrations.

- Improve water quality and wildlife habitat by enrolling 3,840 linear miles of buffers (averaging 100 foot wide).

- Restore 25,500 acres of wetlands to improve water quality, reduce flooding, and restore wildlife habitat.

- Enhance targeted wildlife habitats by approximately 39,356 acres (Practices CP1, CP2, CP22, CP23 and CP23A) acres to benefit neo-tropical migrant birds, migratory waterfowl, state and federally listed threatened and endangered species, grassland birds and other wildlife.

- Sequester approximately 956,250 metric tons of carbon over the 15-year contract period (.75 metric tons/acre/year x 85,000 acres x 15 years).

The intended outcome of this Agreement in particular is to enhance the ability of landowners and/or producers to enroll certain acreage under the Conservation Reserve Program (CRP), where deemed desirable by USDA, CCC, and the State. This Agreement is not intended to supersede any rules or regulations, which have been, or may be, promulgated by USDA, CCC, or the State.

III. AUTHORITY is amended to read:

The CCC has the authority under provisions of the Food Security Act of 1985, as amended (1985 Act) (16 U.S.C. 3831 et seq.), and the regulations at 7 CFR part 1410 to perform all its activities contemplated by this Agreement. In accordance with the 1985 Act, CCC is authorized to enroll land in CRP through December 31, 2007.

The authority for the State to enter into this Agreement is Article III, section 5, of the Michigan Constitution. *Section 324.8202 of the Natural Resources and Environmental Protection Act, Michigan Public Act 451 of 1994, Part 82, as amended, by Act 176 (2001).*

In this Agreement, obligations of the State are limited to powers and authorities of the Governor of the State of Michigan.

IV. PROGRAM ELEMENTS, B and C are amended to read; and paragraph L is added to read:

USDA, CCC, and the State agree that:

B. The eligible practices for the CREP will be:

CP1	Establish Permanent Introduced Grasses/Legumes
CP2	Establish Permanent Native Grasses
CP5A	Field Windbreaks
CP21	Filter Strips

CP22	Riparian Buffer Strip
CP23	Wetland Restoration
CP23A	Wetland Restoration, Non-Floodplain
CP26	Sediment Retention Control Structure

C. Acres eligible for enrollment must meet the following criteria:

1. Entirely located within the Michigan CREP area.

2. All practices must meet the requirements of the Farm Service Agency (FSA) National CRP Directives and be in accordance with USDA policies for similar enrollments.

3. For CP1 and CP2 practices, eligible cropland must also meet the following requirements:

   - be installed on land with a weighted minimum average Erodibility Index (wind or water) of 8 or greater; and,

   - be located within 1,000 feet of a permanent river, stream, or lake.

4. The cumulative total acreage enrolled under this Agreement shall not exceed:

   - for practices CP1 and CP2 will not exceed 12,750 acres;

   - and practices, CP23, CP23A and CP26 shall not exceed 25,500 acres combined; CP26 enrollments shall not exceed 1,000 acres.

5. For the purposes of those listed practices which involve a body of water, drainage ditches shall be considered "a body of water," provided that such drainage ditches meet the minimum size requirements as defined in the Michigan's Farm Service Agency amendment to 2-CRP Handbook.

6. Practice CP21 for the purposes of this Agreement must, when installed, meet the minimum width requirements according to FSA CRP National Directives, but should average a minimum width of 50 feet with a maximum average width not to exceed 150 feet. Practice CP22 for purposes of this Agreement must, when installed, have an average minimum width of 50 feet with an average width not to exceed 180 feet.

7. For the CP5A practice, each installation must have a minimum of two rows of trees and one row of shrubs.

L. Lands enrolled in CP1 or CP2 under this Agreement shall not be eligible for managed haying or grazing during the term of the CRP contract.

V. FEDERAL COMMITMENTS, D, G, H, and K are amended to read:

USDA and CCC agree with respect to this Agreement to:

D. Subject to the availability of funds, make annual rental payments otherwise applicable to the land under the CRP contract.

The annual rental rate is comprised of a base rental rate, annual incentive payment (Section E), and annual maintenance rate (Section F). The base rental rate is the weighted average soil rental rate for the 3 predominate soils on the land offered for enrollment.

The soil rental rates are the county posted rental rates for the CRP program. For marginal pastureland, the base posted CRP soil rental rates for cropland will be used for maximum payment rate calculations. No other incentive rates or payments shall be included in the calculation of the annual rental payment. However, the one-time payment referred in Section V., G. is permitted.

G. Subject to the availability of funds, and only for CP21, CP22, and CP5A, provide a one-time signing incentive payment (SIP) according to FSA CRP National Directives. This payment is considered a rental payment for annual payment limitation purposes.

H. Subject to the availability of funds, provide a one-time practice incentive payment (PIP) according to FSA CRP National Directives. This payment is considered a rental payment for annual payment limitation purposes.

K. Make a one-time incentive payment equal to 25 percent of the eligible reimbursable cost of restoring hydrology of the site for practices CP23 and CP23A consistent with FSA National CRP Directives. This incentive payment shall be in addition to those provided elsewhere in this paragraph. This payment is considered a rental payment for annual payment limitation purposes.

VI. STATE COMMITMENTS, B, C, E, G, H, and I are amended to read; and J is added to read:

The State for this Agreement will:

B. Be responsible for:

(1) making its own direct cost-share payments to approved participants of the actual reimbursable costs for conservation practices established under this Agreement, in the amount that, when combined with the federal cost share, shall equal 100 percent of the eligible cost of the practice. The amount of reimbursement to a participant from all sources may not exceed 100 percent of the cost of the practice;

(2) paying all State's costs associated with its annual monitoring program; and paying all easement costs, which may include operational, maintenance, and monitoring costs associated with the voluntary easement, as stated in Section IV., F. of this Agreement.

C. Administer a separate State program for land that it is not eligible for CREP. This State Program will provide a cost-share payment or payments to assist landowners and/or producers in limiting livestock access to riparian areas. This State Program will assist in meeting the goals and

objectives of this Agreement. Funds used in this separate program shall count for the State match for this Agreement.

E. Facilitate technical and administrative assistance from the local conservation districts and other cooperators to develop conservation plans, in cooperation with Farm Service Agency and the Natural Resource Conservation Service, for applicants offering to enroll eligible acreage in the CREP.

G. Employ and assign a full-time CREP administrative coordinator and coordinate all aspects of the CREP program with other agricultural, environmental, and natural resource conservation programs at the State and Federal level.

H. Within 90 days of the end of each federal fiscal year, provide a report to Farm Service Agency summarizing the status of enrollments under this CREP and progress on fulfilling the other commitments of this Agreement. The annual report to Farm Service Agency shall include: level of program participation; the results of the annual State monitoring program to determine the environmental impacts of this Agreement; a summary of non-federal CREP program expenditures; and, recommendations to improve the program.

I. Within 90 days of the end of the federal fiscal year, submit information summarizing its overall costs for the program. In the event that the State has not obligated 20 percent of the overall costs for a relevant federal fiscal year, the State will fulfill its obligations within 90 days by paying the shortfall to CCC, or by providing some other mutually agreed upon remedy. To compare federal and non-federal costs in equivalent and present-day terms, the parties will calculate the present discount value of all payments to be made using an 8 percent discount rate. Overall costs and the State's contribution toward the overall cost are derived by calculating the present discount value of payments.

J. Temporarily release participants from any contractual restriction on crop production during the CRP contract period if such release is determined necessary by the Secretary U.S. Department of Agriculture in order to address a national emergency.

VII. MISCELLANEOUS PROVISIONS, A and E are amended; and F, G, and H are added to read:

A. Funding commitments by USDA and the State of Michigan are subject to the availability of funds. In the event either party is subject to a funding limitation, that party will notify the other party expeditiously, and appropriate modifications may be made to this Agreement or the Agreement may be terminated. If either party cannot fulfill its financial obligations under this Agreement, the other party may immediately cease accepting new contracts.

B. All CRP contracts under the State of Michigan CREP shall be subject to the limitations set forth in the regulations at 7 CFR Part 1410 including, but not limited to, such matters as economic use, transferability, violations, contract modifications, and per-person payment limits.

C. Neither the State of Michigan nor USDA shall assign or transfer any rights or obligations under this Agreement without the prior written approval of the other party.

D. CREP contracts entered into under the State of Michigan CREP may not be assigned or transferred without approval of the landowners and/or producers, except to the extent allowed by CCC pursuant to the CRP regulations.

E. The Deputy Administrator for Farm Programs, Farm Service Agency or the Deputy Administrator's designee, or successor's designee, is delegated authority to carry out this Agreement and, with the Governor of Michigan, or the Governor's designee, may further amend this Agreement consistent with the provisions of the 1985 Act, as amended, and the regulations at 7 CFR Part 1410. The provisions of this Agreement may only be modified by written Agreement between the parties.

F. This Agreement may be terminated by either party at any time after written notice. Such termination will not alter existing contractual obligations under the CREP and the Michigan cost-share and/or incentive program and between participants enrolled in the program, and Michigan or the CCC.

G. The books, records, documents, and accounting procedures and practices of the USDA, CCC, and Michigan relevant to this Agreement will be subject to examination by audit by the appropriate Federal authority and/or State authority except as otherwise provided in law.

H. Acreage may be enrolled in CRP contracts under this Agreement until December 31, 2007 or when the 85,000 acre project is reached, whichever comes first, unless otherwise amended in this Agreement and agreed to by both parties.

IT IS SO AGREED:

FOR THE UNITED STATES DEPARTMENT OF AGRICULTURE AND THE COMMODITY CREDIT CORPORATION

John A. Johnson
Deputy Administrator for Farm Programs
Farm Service Agency
Deputy Vice President
Commodity Credit Corporation

3-29-07
Date

Mitch Irwin
Director
Department of Agriculture
State of Michigan

5/1/07
Date