General Permit No.: SAC-2011-1157
Name of Permittee: GENERAL PUBLIC
Effective Date: July 10, 2012 (Modified May 9, 2014)
Expiration Date: July 10, 2017

DEPARTMENT OF THE ARMY
GENERAL PERMIT

A General Permit to perform work in or affecting waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1341) and Section 10 of the Rivers and Harbors Act (33 U.S.C. 403), is hereby issued by the authority of the Secretary of the Army by the

District Engineer
U.S. Army Engineer District, Charleston
Corps of Engineers
69-A Hagood Avenue
Charleston, South Carolina 29403-5107

to authorize, subject to the following special and general conditions, routine and normal maintenance and repair activities within currently functioning tidal impoundment fields that are located in tidal navigable waters of the United States (Section 10 Waters), and/or are adjacent non-tidal fields that rely on the outgoing tide to drain, where the water regimes of the fields are currently being manipulated for wildlife management and/or where the fields have ALL of the necessary embankments and structures in place to allow for the manipulation of the water regimes for wildlife management. This General Permit is for use only in the Coastal Zone area of Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper Counties in South Carolina.

This General Permit authorizes specific routine and normal maintenance and repair activities, as well as certain emergency repairs, as described herein within eligible fields of existing and currently functioning tidal impoundments.

This General Permit does **NOT** authorize the following activities:

1) The construction of new impoundments and fields.
2) The construction of new embankments
   (except for contraction embankments as described in Sections V.H. and VI.A.)
3) The restoration of remnant embankments.
4) The restoration of areas currently not functioning as impoundments or fields.
5) The conversion of forested wetlands to non-forested wetlands.

I. ELIGIBILITY DETERMINATION:

In order for the Corps to determine if the fields of a tidal impoundment on a property are eligible for use of this General Permit, the property owner, agent, or interested party must submit the following required information to the Corps PRIOR to commencing work in accordance with this General Permit:

1) Managed Tidal Impoundment General Permit (MTI-GP) Eligibility Determination Request Form.
2) Location map of overall property. Map should include road names.
3) USGS Quad topographic map(s) of area with property boundaries marked.
4) A list of all *managed tidal impoundments* and/or *fields* for which you are requesting an eligibility determination.
5) A map/drawing that shows all of the *managed tidal impoundments* and/or the *fields* for which you are requesting an eligibility determination. Each existing water control structure and *field* must be shown on the map/drawing and identified by name or number. The type of water control structure should be noted. River and creek names should be labeled on the map/drawing. (Refer to Section IV. Definitions)
6) A description of the existing site conditions for each field that is being considered for use of the General Permit. The description should include the vegetation present, water regime (tidal or non-tidal), and acreage of each field.
7) A management plan or description of current management practices for each field.
8) To ensure compliance with Section 7 of the Endangered Species Act, the following information must be provided:
   a) The name(s) of those endangered or threatened species that may be affected by the proposed work or are in the vicinity of the project. (See the US Fish and Wildlife Service website at www.usfws.gov for a current list of threatened and endangered species and critical habitat by county).
   b) A statement as to whether critical habitat might be affected or if the project is located in designated critical habitat.
9) To ensure compliance with Section 106 of the National Historic Preservation Act, the following information must be provided:
   a) A map with the Eligibility Review Area clearly defined. An Eligibility Review Area includes the managed tidal impoundments and other eligible fields and the immediately adjacent uplands within **500 feet** of the tidal impoundments or other eligible fields. In situations when the 500-foot Eligibility Review Area extends beyond the property line, the property line will serve as the limits of the Eligibility Review Area.
   b) The location of any known historic structures and archaeological sites within the defined Eligibility Review Area clearly labeled on the map. To assist with determining if any archaeological structures or sites are present, refer to the State Historic Preservation Office (SHPO) guidance document *Rice Fields and Section 106: SHPO Guidance for Federal Agencies and Applicants* that can be found online at:
   http://shpo.sc.gov/programs/revcomp/Pages/guidance.aspx
   and *ArchSite,* found at *http://archsite.cas.sc.edu/ArchSite*.
   c) Photographs of any known historic structures and archaeological sites, keyed to the map/drawing(s) of the managed tidal impoundments and fields prepared for #5 above.
10) Ground level and aerial photographs of fields included in the Eligibility Determination request. Locations and directions of ground-level photos should be marked and labeled on the map/drawing of the managed tidal impoundment and fields prepared for #5 above. Photos should be labeled with the corresponding field number/name.

The information should be mailed to:

U.S. Army Corps of Engineers
Regulatory Division
69-A Hagood Avenue
Charleston, S.C. 29403

All work authorized by this General Permit will require an Eligibility Determination prior to commencing the work. For activities requiring a Pre-Construction Notification (PCN), the eligibility request and information may be submitted concurrently with a PCN for work in accordance with this General Permit, but the property owner, agent, or interested party is encouraged to submit the required information in advance of anticipated use of the General Permit. An Eligibility Determination for use of this General Permit is only necessary once and will remain valid for the life of this General Permit unless the property is sold or management plans change. An Eligibility Determination for a field or fields may be updated as conditions warrant, such as if a new embankment and field are constructed in accordance with an issued Individual Department of the Army permit. The Corps will review the submitted information and will provide the property owner, agent, or interested party with a Letter of Eligibility for use of this General Permit. The Corps will maintain a file for each property and will update the file accordingly. The Eligibility Determination Request Form can be found in Appendix B. of this General Permit.

For any field(s) located within the managed tidal impoundment that is determined NOT to be eligible, this General Permit CANNOT be used to authorize work within that field(s), regardless of the eligibility status of other fields within the same managed tidal impoundment.

Failure to obtain a Letter of Eligibility from the Corps prior to performing any work in waters of the U.S. in accordance with this General Permit will be considered a violation of federal law and will be handled accordingly.

If a property is sold, then the existing Letter of Eligibility is automatically voided. The new property owner must submit, and receive approval from the COE, a General Permit Eligibility Determination Request Form and required information prior to performing any work in waters of the U.S. in accordance with this General Permit.

In the event that management plans and/or management objectives change for a field, such as a change from wildlife emphasis to crop production emphasis, the interested party MUST submit an updated Eligibility Request Form and management plan for the specific field. Failure to obtain an updated Letter of Eligibility from the Corps prior to performing work in accordance with this General Permit in the specific field will be considered a violation of federal law and will be handled accordingly.

II. PRE-CONSTRUCTION NOTIFICATION (PCN) PROCEDURES AND REQUIRED INFORMATION

For those activities described in this General Permit **that require a Pre-Construction Notice** (PCN) **PRIOR** to conducting work, the following notification procedures and required information must be submitted to the Corps:

1) Completed Joint Federal/State Application form (available at *www.sac.usace.army.mil*).
2) A location map of overall property, with the project title, property boundaries and road names shown. (A county road map or USGS Topographic Quadrangle maps may be used).
3) A location map of the specific *managed tidal impoundment*(s) and/or the *field*(s) where the work is proposed.

4) Plan view and cross-section drawings of existing conditions and proposed work. All drawings must be legible, on 8 ½" x 11" page format, in black & white ink and drawn to specified scale or with dimensions noted. Each drawing sheet must have a title block, as above.
5) Copy of the Corps' issued Letter of Eligibility or an Eligibility Determination Request Form and required information. (Refer to Section I. Eligibility Determination)
6) Please note that compensatory mitigation may be required for projects requiring a PCN. A compensatory mitigation plan, or a statement of why compensatory mitigation should not be required, must be included with each PCN.

Note 1: All project maps and project drawing sheets must have a Title Block containing: project title, site name, project location, owners name, submittal date and consecutive sheet number.

Note 2: The submittal of one PCN may be used for multiple projects requiring PCNs that ARE DEPENDENT on each other, such as the installation of more than one new water control structures (WCS) per 60 acres of field, the excavation of new inlet canals associated with the new water control structures, and the construction of bulkheads on either side of the new water control structures that exceed 40 linear feet. One set of project drawings may be used to show the entire proposed project. For projects that ARE NOT dependent on each other, such as the installation of more than one WCS per 60 acres of field or the construction of a bulkhead for field-dike stabilization in a separate field, a separate PCN with the required information should be submitted for each proposed activity that requires a PCN.

III. POST CONSTRUCTION NOTIFICATION AND CERTIFICATION FORM

The permittee is required to submit a Post Construction Notification and Certification Form (PCNCF) to the Corps for ALL activities constructed in accordance with this General Permit. The PCNCF must be submitted within 30 days following completion of the authorized work. The purpose of the PCNCF is for the Charleston District to track the use of this General Permit and to ensure that activities were constructed in accordance with the conditions of this General Permit. The permittee need only fill out the PCNCF and mail it to the Charleston District Regulatory Division at the address provided in Section I. No additional information or coordination is required. The PCNCF can be found in Appendix C of this General Permit.

IV. DEFINITIONS

Note: The definitions listed below appear italicized throughout Sections V. and VI. of this General Permit.

Contraction Embankment: A contraction embankment is a new embankment built to replace a section of failed or failing outer/perimeter embankment of a managed tidal impoundment. The contraction embankment is typically constructed to the interior of the failed or failing outer/perimeter embankment with the same height and width of the original and connecting embankments. (Refer to Appendix A, Figure 3.)

Embankment: An embankment is an earthen mound constructed to hold back water. For the purpose of this General Permit, an embankment in managed tidal impoundments consists of three parts: a **field-dike**, which is the elevated portion of the embankment constructed above the water level; a **berm**, or maintenance shelf that is located to the interior of the field-dike, which helps to stabilize the field-dike; and a **canal**, which is located to the interior of the field-dike and berm, that provides for water circulation. (Refer to Appendix A, Figure 2.)

Emergency Repair: For the purpose of this General Permit, the term emergency repair refers to actions taken in response to situations or events that are unforeseen, such as a storm event, unusually high tides, or wildlife activity, which require immediate repair or reconstruction of an outer/perimeter embankment and the associated water control structure(s) to either prevent the imminent collapse or failure of the embankment and associated water control structure(s), or to repair or reconstruct the embankment and associated water control structure(s) that have already collapsed or failed as a result of the unforeseen event and situation.

Field: For the purpose of this General Permit, a field is an individual management cell located within the managed tidal impoundment. Typically, a series of fields make up a managed tidal impoundment.

Footprint: For the purpose of this General Permit, footprint refers to the area or limits of the existing fill, canal, and/or structure.

Forested: For the purpose of this General Permit, an area is considered to be forested if the area has 5% or more tree cover. Refer to the definition *Tree Stratum.* (Consistent with the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0))*

Inlet Canal: An inlet canal is an excavated canal that directs water from the exterior of the managed tidal impoundment directly into a field through a water control structure, and from the interior of a field through a water control structure to the exterior of the managed tidal impoundment. An inlet canal differs from the canal that is associated with the embankment. Refer to the definition of embankment.

Interior Field Drains: For the purpose of this General Permit, interior field drains are canals within an impoundment that are typically located between interior fields. Interior field drains allow water to flow to-and-from quarter drains and can vary greatly in width and depth. Refer to definition of quarter drains.

Managed Tidal Impoundments (MTIs): Managed Tidal Impoundments are impounded tidal wetlands and waters that have a system of functioning embankments, canals, and water control structures that create a series of fields where the water regimes of the fields are currently being manipulated for wildlife management and/or where the fields have ALL of the necessary embankments and structures in place to allow for the manipulation of the water regimes for wildlife management.

Non-Emergency Repair: For the purpose of this General Permit, the term non-emergency repair refers to routine and normal maintenance and repair activities that are foreseen and can be planned for in advance.

No Pre-Construction Notification (PCN) Required: No Pre-Construction Notification Required refers to the activities specified in this General Permit that DO NOT require the submittal of a PCN and DO NOT require additional authorization from the Corps prior to beginning work. However, the permittee must submit an Eligibility Request and receive a determination of eligibility prior to beginning work in accordance with this General Permit, even for activities that do not require a PCN. The permittee must also obtain all necessary authorizations from other federal, state, and local agencies prior to beginning work whether the work does or does not require a PCN.

Pre-Construction Notification (PCN): A Pre-Construction Notification refers to a notification that is submitted to the Corps prior to beginning work. Refer to Section II. of the General Permit for a list of the PCN procedures and required information.

Pre-Construction Notification (PCN) Required: Pre-Construction Notification Required refers to activities specified in this General Permit that DO require submittal of a PCN and DO require authorization from the

Corps PRIOR to beginning any work. Please refer to Section II. of the General Permit for a list of the PCN procedures and required information. **The permittee must obtain all necessary authorizations from other federal, state, and local agencies prior to beginning work whether the work does or does not require a PCN.**

Quarter Drains: For the purpose of this General permit, quarter drains are linear ditches located within the interior fields that facilitate field drainage and/or the circulation of water throughout the fields. Quarter drains are typically 2 feet wide x 2 feet deep (2' X 2'). Most managed tidal impoundments have numerous quarter drains.

Routine and Normal Maintenance: Routine and normal maintenance refers to the required routine maintenance activities that are predictable, necessary, may occur frequently, and are intended to maintain the functional ecological integrity of the overall managed tidal impoundments and fields, as well as their enclosing field-dikes, berms, canals, and water control structures.

Splash-apron: For the purpose of this General Permit, a splash-apron is a horizontal platform located at the openings of a water control structure to prevent erosion. The splash apron may consist of a wooden platform, rip rap or other material.

Tree stratum: A tree stratum consists of woody plants, excluding woody vines, approximately 20 feet (6 m) or more in height and 3 inches (7.6 cm) or larger DBH (diameter at breast height, consistent with the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0))*

Trunk: A trunk is a mechanized water control structure set into an embankment. There are several types of trunks that are commonly used in managed tidal impoundments. A traditional wood *'Combahee Style'* box trunk is depicted in Appendix A, Figure 1.

Water Control Structure (WCS): For the purpose of this General Permit, a water control structure is a structure in a managed tidal impoundment or adjacent field that conveys water, controls the direction or rate of flow, and maintains a water surface elevation. WCS in managed tidal impoundments typically consist of trunks, culverts and/or spillway boxes.

Wing-wall: For the purpose of this General Permit, a wing-wall is a vertical bulkhead extending laterally from the ends of the water control structure to help prevent erosion of the field-dike at the water control structure. Refer to Appendix A, Figure 1.

V. NORMAL AND ROUTINE MAINTENANCE ACTIVITIES AUTHORIZED BY THE GENERAL PERMIT

A. Water Control Structures: (Refer to Appendix A, Fig. 1)

1. Water Control Structures in Existing Embankments and/or Contraction Embankments

This General Permit authorizes the replacement, relocation, and/or installation of *Water Control Structures* (*WCS*, ie: *trunks*, riser-box structures), including the construction of associated *splash-aprons* and *wing-walls*, in existing *embankments* and/or authorized *contraction embankments,* provided the following conditions are met:

a) *WCSs*, including any associated *splash-aprons* and *wing-walls*, with an overall footprint of 240 square feet or less, are authorized by this General Permit. Activities that exceed 240 square feet are not authorized by this General Permit. (The construction of an *inlet canal* and/or bulkhead beyond the *wing-walls* is not counted towards the 240 sf threshold. Details of constructing an *inlet canal* and/or bulkhead can be found in Sections V. B. and C. of the General Permit.)

and

b) *No PCN* is required for the installation of one (1) *WCS* per every 60 acres of *field.*

or

c) *A PCN* is required for more than one (1) *WCS* per every 60 acres of *field.*

2. Replacement of Culverts with Water Control Structures

This General Permit authorizes the replacement of culverts with manageable *WCSs* in existing *embankments*/roads provided the following conditions are met:

a) The *embankment*/road is existing and functioning and would normally impound water if not for the culvert.

and

b) The area to be indirectly impacted by flooding after installation of the new manageable *WCS* and the *embankment*/road are within a larger *managed tidal impoundment* that has previously been determined eligible for use of this General Permit and thus the impacted area has also been previously determined eligible for use of this General Permit.

and

c) The new *WCS* meets the requirements of *WCS*s as described in Section V. A. 1. of this General Permit.

3. Removed or Abandoned Water Control Structures

If a *WCS* is removed or abandoned-in-place, this General Permit authorizes the placement of fill material to close the resulting breach in the *field-dike* and/or to fill-in the abandoned structure in place, as long as the fill material remains within the existing *footprint* of the *field-dike*. Material for this activity may be excavated from the adjacent interior *embankment canal* provided that the conditions described in Section V. D. 2 of this General Permit are met.

B. Inlet Canals Associated With Water Control Structures (WCS):

This General Permit authorizes the excavation of new *inlet canals* and/or the maintenance of existing *inlet canals* DIRECTLY associated with an existing, relocated, and/or new *WCS* provided the following conditions are met:

1) The excavation of an *inlet canal* (new and/or maintenance) will NOT exceed 40 cubic yards of material per *inlet canal* on either side (interior and exterior) of the *WCS* (total 80 cubic yards). Single *inlet canal* excavation that exceeds 40 cubic yards of material is not authorized by this General Permit.

and

2) The excavated material is disposed of and stabilized in an upland location, which may include the top of an existing, functional *field-dike*, as long as the material remains within the existing *footprint* of the *field-dike*.

and

3) *No PCN* is required for the excavation of one (1) *inlet canal* per every 60 acres of *field* (one *WCS* per 60 acres of *field* as described in *Section V.A.*1.).

or

4) A *PCN* is required for the excavation of more than one (1) *inlet canal* per every 60 acres of *field* (more than one *WCS* per 60 acres of *field* as described in *Section V. A.*1.).

C. Bulkheads Associated With Water Control Structures (WCS):

This General Permit authorizes the construction and maintenance of bulkheads directly associated with existing, relocated, and/or new *WCSs* provided the following conditions are met:

1) No Permit is required from the Corps if the bulkhead is constructed above the high-tide line in tidal fields and the ordinary-high-water mark in non-tidal fields.

or

2) *No PCN* is required if the bulkhead does NOT exceed a maximum of 40 linear feet on either side of the ends of the *wing-wall* or *WCS*. (The construction of *wing-walls*, as described in Section V. A. and shown in Figure 1, are not counted towards the 40 lf threshold).

or

3) *A PCN* is required if the bulkhead exceeds a maximum of 40 linear feet on either side of the *wing-wall* or *WCS*.

D. Re-topping of Existing and Functional Field-Dikes:

1) Retopping of Field-Dikes

This General Permit authorizes the re-topping of existing and functional *field-dikes* provided the following conditions are met:

a) No Permit is required from the Corps if the re-topping material is obtained from adjacent upland sources and is placed within the *footprint* of the existing and functional *field-dike*, and above the high-tide line in tidal *fields* and ordinary-high-water mark in non-tidal *fields.*

or

b) *A PCN* is required if re-topping material is placed outside of the footprint of the existing and functional *field-dike* AND below the high tide line in tidal fields and the ordinary high water mark in non-tidal fields. A maximum of 2 cubic yards of fill material per linear foot of *field-dike* AND less than a total of 0.1 acre of impacts to waters of the U.S., including wetlands, are authorized. Impacts exceeding 2 cubic yards per linear foot and a total of 0.1 acre or more are NOT authorized by this General Permit.

2) Excavation of Interior Canal for Fill Material in Re-topping Activity:

This General Permit authorizes the excavation of material from the adjacent interior *embankment* canal for purposes of re-topping existing and functional *field-dikes*. *No PCN* is required for the excavation of re-topping material provided the following conditions are met:

a) The excavation of material is limited to the existing interior canal immediately adjacent to the *field-dike* that is to be re-topped. There is no limit to the amount of material excavated so long as the purpose of the excavation is to obtain material for re-topping of an existing *field-dike* (refer to the *Section II.* definition of *embankment* and *Appendix A, Figure 2.*

and

b) The excavated material may be temporarily side-cast onto the adjacent interior *berm* until the material sufficiently dries and is suitable for use in re-topping.

and

c) Once the side-cast material has sufficiently dried, it must be transferred from the interior *berm* to the embankment top, and the berm area restored to pre-disturbance conditions.

and

d) The excavation of material from the canal and temporary side-casting of material onto the adjacent *interior berm* is authorized only after the subject *field* has been dewatered or drawn down to bed-level.

E. Bulkheads Associated with Field-Dike Stabilization:

This General Permit authorizes the construction and maintenance of bulkheads on either side of any *field-dike* and the placement of associated backfill material for the purpose of stabilizing the *field-dike* provided the following conditions are met:

1) *No PCN* is required if the bulkhead does not exceed 500 linear feet on either side of the *field-dike* (1000 linear feet total for the activity) AND the associated backfill does not exceed an average of one cubic yard per linear foot placed along the bank below the high-tide line in tidal fields and ordinary-high- water mark in non-tidal fields.

or

2) *A PCN* is required if the bulkhead exceeds 500 linear feet total on either side of the *field-dike* (more than 1000 linear feet total for the activity) OR the associated backfill exceeds an average of one cubic yard per linear foot placed along the bank below the high-tide line in tidal fields or ordinary-high-water mark in non-tidal fields.

F. Re-Establishment of Berm for Embankment Stabilization:

This General Permit authorizes the re-establishment of interior *berms* by relocating and filling the existing interior *canal* for *embankment* stabilization provided the work is performed after the *field(s)* is dewatered or drawn-down to bed-level. The submittal of a *PCN* is required and must include the following information, in addition to the information found in the Notification Procedures Section II. of this General Permit:

1) Plan view and cross-section view drawings of the **existing** *embankments* (field-dike, *berm*, and *canal* complex), to include dimensions and locations.
2) Plan view and cross-section view drawings of the *embankment* complex with the **proposed** re-located *berm* and *canal*, to include dimensions and locations.
3) The fill impacts for the *berm* and the excavation impacts for the *canal* (volume and acreage).
4) A narrative describing construction techniques, equipment, and scheduling of work.
5) Stabilization plan for the re-established *berm*, which should include vegetation plantings and other stabilization techniques, scheduling of stabilization, and target plant community.
6) Best management practices to be used.

G. Non-Emergency Contraction Embankment:

This General Permit authorizes the construction of non-emergency *contraction embankments* and installation of *Water Control Structures* (WCS) directly associated with the non-emergency *contraction embankment*. Refer to Appendix A, Figure 3. For the purpose of this General Permit, the term *non-emergency repair* refers to routine and normal maintenance and repair activities that are foreseen and can be planned for in advance. *Contraction embankments* not meeting the below conditions will require a Standard Permit. The construction of non-emergency *contraction embankments* will require submittal of a *PCN* and are authorized provided that the following conditions are met:

1) The *contraction embankment* is limited to a maximum footprint impact of 0.75 acre and 1100 linear feet.

and

2) The *contraction embankment* must be built to the interior of the existing or failing *embankment* and must be no longer than required to by-pass and/or isolate the unstable or failing embankment section(s). The height and width of the *contraction embankment* must be the same as the original *embankment,* although minor deviations for *embankment* stability are authorized.

and

3) Temporary cofferdams are authorized during the construction of *contraction embankments* provided that the cofferdams are removed once construction is completed and the area restored to pre-disturbance conditions. Material to construct cofferdams may be obtained by excavating within a *managed tidal impoundment.* Excavation of tidal waters and wetlands outside of a managed tidal impoundment to obtain material for construction of cofferdams is not authorized by this General Permit.

and

4) The installation of new *WCSs* directly associated with the construction of non-emergency *contraction embankments* is authorized provided the *WCSs* meet the conditions described in Section V.1.1. of this General Permit.

H. Quarter Drain and Interior Field Drain Construction & Maintenance:

This General Permit authorizes construction and/or maintenance of *quarter drains* and interior *field drains* to improve *field* drainage, provided the following conditions are met:

1) Quarter Drains

a) All excavated material may be disposed of in upland areas (including the maintenance topping of *field-dikes,* refer to Section V.D), OR spread thinly across the interior of the subject *field* in a manner that does not alter existing grade, OR side-cast within the interior of the subject *field* in a manner that does not impede water flow. Any excavated material disposed of outside of the *managed tidal impoundment* must be placed in an upland area and stabilized.

and

b) No PCN is required and there is no limit to the amount of material that can be excavated during maintenance excavation of existing *quarter drains* if the maintenance activities result in drain dimensions and patterns consistent with their original dimensions and locations.

and/or

c) *No PCN* is required for the excavation of new *quarter drains* that total less than 500 linear feet, are a maximum of 2 feet deep by 2 feet wide (2' X 2'), AND have less than 0.02 acres of excavation impacts per 60 acres of *field.*

or

d) A PCN is required for the excavation of new *quarter drains* that total between 500-1000 linear feet, are a maximum of 2 feet wide by 2 feet deep (2' X 2'), and have less than 0.04 acre of excavation impacts per 60 acres of *field*. Construction of new *quarter drains* and/or *interior field drains* that exceed these thresholds are NOT authorized by this General Permit.

2) Interior Field Drains

a) All excavated material may be disposed of in upland areas (including the maintenance topping of *field-dikes,* refer to Section V.D), OR spread thinly across the interior of the subject *field* in a manner that does not alter existing grade, OR side-cast within the interior of the subject *field* in a manner that does not impede water flow. Any excavated material disposed of outside of the *managed tidal impoundment* must be placed in an upland area and stabilized.

and

b) *No PCN* is required and there is no limit to the amount of material that can be excavated during maintenance excavation of existing *interior field drains* if the maintenance activities result in drain dimensions and patterns consistent with their original dimensions and locations.

and/or

c) Excavation of new and/or relocated *interior field drains* is NOT authorized by this General Permit.

I. Construction of Road Crossings Across Interior Canals or Drains within a Managed Tidal Impoundment:

This General Permit authorizes the construction of road crossings across canals and drains within existing *managed tidal impoundments* provided the following conditions are met:

1) *No PCN* is required for road crossings that do not exceed 0.10 acre per crossing AND are properly culverted or designed so as not to impede flow.

or

2) A PCN is required for road crossings between 0.1-0.3 acre per crossing. All road crossings must be adequately culverted or designed so as not to impede flow. Road crossings that exceed 0.3 acre of impacts are not authorized by this General Permit.

J. Moist Soil Management:

This General Permit authorizes the use of moist soil management activities within *managed tidal impoundments*. *No PCN* is required provided the following conditions are met:

1) The annual or periodic soil disturbances associated with disking and/or rotovating, prescribed

burning, bush-hogging, and/or water level manipulation for the purpose of maintaining and promoting early-successional grasses and forbs and/or treating invasive species, is authorized as long as the activities do not alter existing surface elevations.

and/or

2) Moist-soil agricultural practices in *fields* specific to the management of feeding and habitat areas for wildlife, are authorized as long as the activities do not alter existing surface elevations.

and

3) The conversion of forested wetlands to non-forested wetlands is not authorized by this General Permit.

VI. EMERGENCY ACTIVITIES AND PROCEDURES AUTHORIZED BY THIS GENERAL PERMIT:

This General Permit authorizes the immediate construction of *contraction embankments* in emergency situations when a perimeter embankment collapse or failure has occurred or is imminent, provided that specific notification procedures and conditions are followed. This work may include temporary stabilization measures to prevent additional loss of and/or damage to the remaining perimeter embankment fill, WCS, and/or hydrologic control. For the purpose of this General Permit, the term *emergency repair* refers to actions taken in response to situations or events that are unforeseen, such as a storm event, unusually high tides, or wildlife activity, which require immediate repair or reconstruction of an outer/perimeter embankment and the associated water control structure(s) to either prevent the imminent collapse or failure of the embankment and associated water control structure(s), or to repair or reconstruct the embankment and associated water control structure(s) that have already collapsed or failed as a result of the unforeseen event and situation. These emergency activities and procedures are not intended to be used for normal *embankment* maintenance activities. This General Permit authorizes the construction of emergency *contraction embankments* provided the conditions in the following Sections A. AND B. are met.

This General Permit authorizes the construction of emergency *contraction embankments* provided the conditions in the following Section A. AND B. are met:

**** A letter of Eligibility is required PRIOR to performing emergency work in accordance with this General Permit.**

A. Emergency Construction of Contraction Embankments:

This General Permit authorizes the construction of contraction embankments, associated water control structures (WCS) and temporary stabilization measures provided the following conditions are met:

1) Emergency *contraction embankments* are limited to a footprint impact of 0.75 acre AND a maximum of 1100 linear feet per *emergency repair.*

and

2) The *contraction embankment* must be built to the interior of the existing/failed *embankment* and must be no longer than required to by-pass and/or isolate the failed or unstable embankment section(s). The height and width of the *contraction embankment* must be the same as the original **embankment**, although minor deviations for *embankment* stability are authorized.

and

3) The use of temporary cofferdams is authorized during the construction of the *contraction embankment* provided that the cofferdams are removed once construction is completed and the area restored to pre-disturbance conditions. If the cofferdam is constructed from local material, the material must be obtained from the *managed tidal impoundment* interior. Excavation of tidal marshes and tidal waters outside of the managed tidal impoundment to obtain material for construction of the cofferdam is not authorized by this General Permit.

and

4) Replacement of *Water Control Structures (WCS)* associated with the failed embankment(s) and/or installation of new WCSs in *contraction embankments* are authorized by this General Permit, provided the replacement and/or new WCS meets the requirements of *WCS*s described in Section V. A. 1. of this General Permit.

B. Emergency Notification Procedures:

This General Permit authorizes the construction of *contraction embankments* in emergency situations provided the following emergency notification procedures are met:

1) The permittee must call AND fax the Corps within 72 hours of the onset of emergency repairs OR on the first business day after emergency construction activities have commenced. The fax and phone notification should include property name, contact person name and phone number, brief statement of work, and date emergency work began. The permittee must also speak to the Branch Chief, Watershed Manager, or designee of the respective watershed whenever possible.

   Permittees must also notify the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management for State authorization.

Charleston District Regulatory Division
phone: (843) 329-8044, or toll free at 1- (866) 329-8187
Fax: (843) 329-2332

AND

SC DHEC Division of Ocean and Coastal Resource Management
Attn: Wetland Section Permit Coordinator
Phone: 843-953-0232
Fax: 843-953-0201

and

2) The permittee must submit *a PCN* to the Corps within 14 days of initial notification. The application must also include pre and ongoing/post repair photographs of the area. Refer to Section II. of the General Permit for PCN notification requirements.

and

3) Compensatory mitigation may be required for projects requiring a *PCN*. A compensatory mitigation plan or a statement of why compensatory mitigation should not be required must be included with each *PCN*.

VII. GENERAL CONDITIONS:

The activities authorized by this General Permit must comply with ALL of the following general conditions:

A. This General Permit authorizes only those activities specifically addressed above. The permittee must obtain Department of the Army authorization, such as issuance of an individual permit, for all other activities that are regulated pursuant to 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act within waters of the United States.

B. All activities identified and authorized herein shall be consistent with the terms and conditions of this General Permit; any variance not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit and may result in the modification, suspension, or revocation of the authorization, as set forth more specifically in General Condition F. below and in the institution of such legal proceedings as the United States Government may consider appropriate.

C. The permittee must make every reasonable effort to conduct the work authorized herein in a manner so as to minimize any adverse impact to fish, wildlife, and other environmental resources.

D. The permittee must make every reasonable effort to conduct the work authorized herein in a manner so as to avoid and minimize degradation of water quality.

E. The permittee shall allow the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

F. Authorization of a specific work or structure authorized herein may be summarily suspended in whole or in part upon finding by the District Engineer that immediate suspension would be in the general public interest or there has been violation of any terms or conditions of this permit. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate 1) the extent of the suspension, 2) the reasons for this action, and 3) any corrective or preventative measures to be taken by a permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. A permittee shall take immediate action to comply with the provisions of this notice. Within ten (10) days following the receipt of this notice of suspension, the permittee may request a meeting with

the District Engineer or public hearing to present information relevant to a decision whether their permit should be reinstated, modified, or revoked. If a public hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the public hearing or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the authorization of the specific work or structure will be reinstated, modified, or revoked. Any modification, suspension, or revocation under this General Permit shall not be the basis for any claim for damages against the United States.

G. The permittee shall sign and submit the attached Managed Tidal Impoundment General Permit Post Construction Notification and Certification Form in Appendix C. to the Corps within 30 days following completion of the authorized work.

H. Upon receipt of a notice from the District Engineer for failure to comply with the terms, conditions, or standards of this General Permit, the project owner must within sixty (60) days without expense to the United States and in such a manner as directed by the District Engineer of his authorized representative(s), effect compliance with the terms, conditions, and standards or remove the previously authorized work or structure.

I. This General Permit does not convey any property rights, either in real estate or material, or any exclusive privileges; it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws, nor does it obviate the requirement to obtain other Federal State, or local assent or to comply with any applicable standards required by ordinance for the activities authorized herein. Other Federal, State, or local agencies are not limited by this document and may impose more stringent requirements than those stated herein as they see fit.

J. Any activity that may adversely affect any federally listed threatened or endangered species, a species for proposed listing, or designated critical habitat is NOT authorized by this General Permit. These activities will be evaluated under the individual permit review process as specified in 33 CFR 325.

K. Any activity that may adversely affect any historic properties listed, or which may be eligible for listing on the National Register of Historic Places is NOT authorized by this General Permit. These activities will be evaluated under the individual permit review process as specified in 33 CFR 325.

L. If the permittee, prior to or during the performance of the work authorized herein, encounters previously unidentified archeological remains or cultural resources within the area subject to the Department of the Army authorization, the permittee agrees to cease work and contact the District Engineer, so that further coordination with the South Carolina Institute of Archaeology and Anthropology and the South Carolina Department of Archives and History may be conducted.

M. The District Engineer, at his discretion, may determine that this General Permit will not be applicable to a specific construction proposal. In such case the procedure for processing an individual permit in accordance with 33 CFR 325 will be available.

VII. PROHIBITED ACTIVITIES:

All work that exceeds the terms and conditions specified herein is prohibited unless an Individual or Nationwide Department of the Army Permit has been obtained from the Corps of Engineers. All work for purposes other than those specified herein is expressly not authorized by this document.

VIII. REQUIRED AUTHORIZATIONS:

Prior to performing any of the work authorized herein, the permittee shall obtain all necessary state permits from the South Carolina Department of Health and Environmental Control and any other required Federal State or local authorizations.

IX. PENALTIES FOR VIOLATIONS:

Authorization obtained under this General Permit limits the size, length and use of structures. Any deviation from the specifications, or other terms or conditions of the General Permit shall constitute a violation of Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act, and may result in the District Engineer seeking judicial relief to have the permittee remove the structure or work and/or restore the project area to its former condition, as well as the imposition of penalties as provided by law.

X. LIMITS OF FEDERAL LIABILITY:

In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
d. Design or construction deficiencies associated with the permitted work.
e. Damage claims associated with any future modification, suspension, or revocation of this permit.

XI. REVOCATION OF THE GENERAL PERMIT:

This permit may be revoked by issuance of a public notice at any time the District Engineer determines that the cumulative effects of the activities authorized herein have an adverse effect on the public interest. Following such revocation, any future activities in areas covered by this General Permit will be processed as Individual or Nationwide Permits.

XII. DURATION OF THE GENERAL PERMIT.

This General Permit will cover activities started within five (5) years and completed within six (6) years after the date of issuance unless this permit is revoked in the interim. At the end of the first year and every succeeding year, the Corps of Engineers and the Federal and State regulatory and resource agencies will jointly review activities authorized by this General Permit to determine if significant cumulative impacts have resulted. If the District Engineer determines revocation of this permit, in whole or in part, may be in order due to cumulative impacts, a public notice of the intention will be issued and after a review of all additional data submitted, action will be taken to amend, modify or revoke this permit as appropriate. Revocation of the General Permit will not affect

the work that had been authorized when the General Permit was in effect if such work is in accordance with the provisions contained herein.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

This permit shall become effective on the date of the District Engineer's signature.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

John T. Litz, PMP.
Lieutenant Colonel, U.S. Army
Commander and District Engineer

5/9/2014
Date

or his Designee
Tina B. Hadden
Chief, Regulatory Division

Appendix A

Three Figures:
Figure 1: Typical "Combahee-Style" Rice Trunk Water Control Structure
Figure 2: Typical Embankment Cross-Section
Figure 3: Typical Contraction Embankment

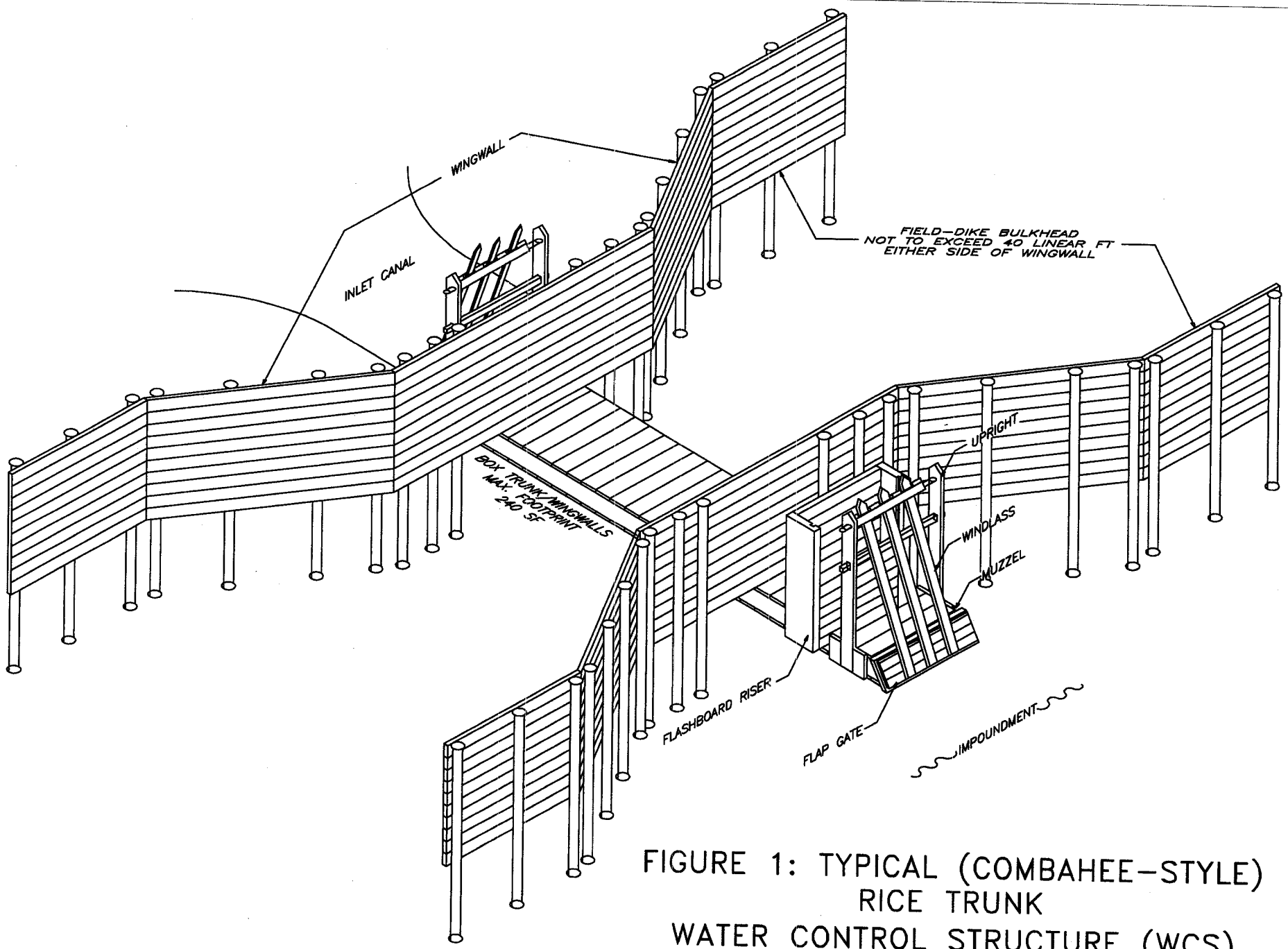

FIGURE 1: TYPICAL (COMBAHEE-STYLE)
RICE TRUNK
WATER CONTROL STRUCTURE (WCS)

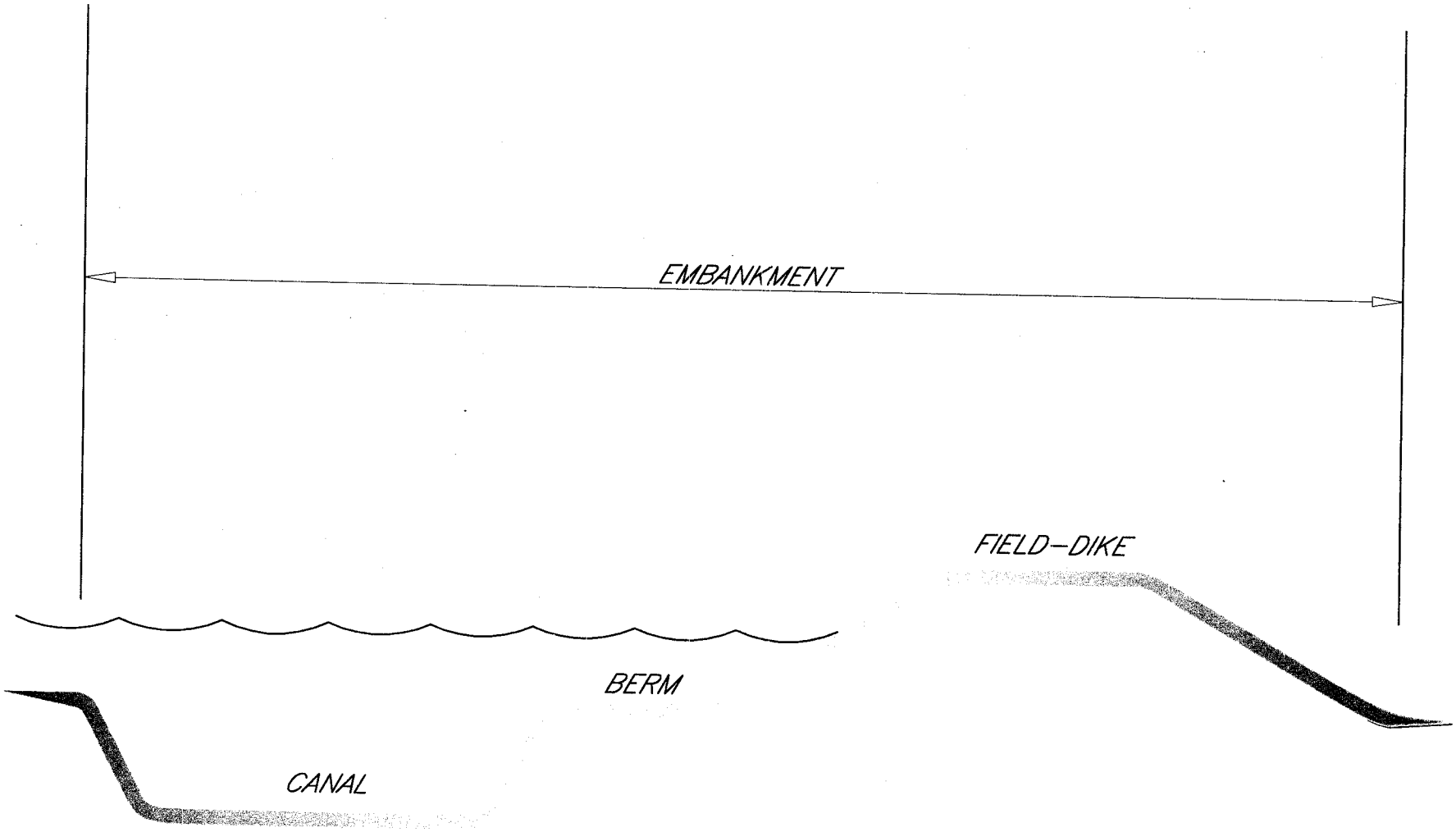

FIGURE 2: TYPICAL EMBANKMENT CROSS-SECTION

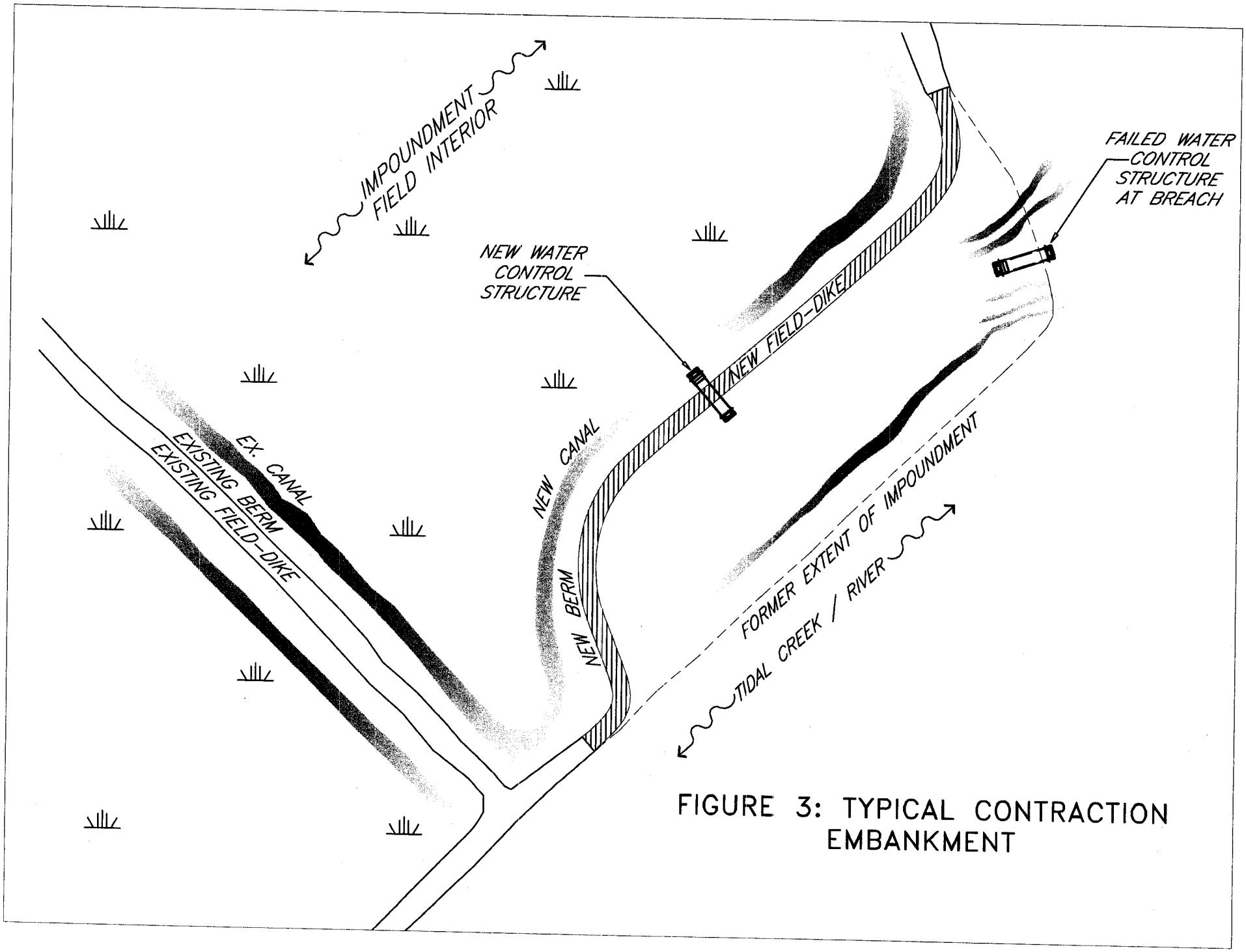

FIGURE 3: TYPICAL CONTRACTION EMBANKMENT

Appendix B.

Managed Tidal Impoundment Eligibility Determination Request Form

Managed Tidal Impoundment General Permit SAC # 2011-1157
Eligibility Determination Request Form

Property Name:_____ **Property Address:**_____

County of Property:_____ **Total Acreage of Managed Tidal Impoundment:** _____ **Date:**_____

Latitude/Longitude of Property: _____

Property Owner:_____

Address:_____

Address:_____

Phone:_____

Email:_____

Agent:_____

Address:_____

Address:_____

Phone:_____

Email:_____

Information Required to Accompany Request

1) Managed Tidal Impoundment General Permit (MTI-GP) Eligibility Determination Request Form.
2) Location map of overall property. Map should include road names.
3) USGS Quad topographic map(s) of area with property boundaries marked.
4) A list of all *managed tidal impoundments* and/or *fields* for which you are requesting an eligibility determination.
5) A map/drawing that shows all of the *managed tidal impoundments* and/or the *fields* for which you are requesting an eligibility determination. Each existing water control structure and *field* must be shown on the map/drawing and identified by name or number. The type of water control structure should be noted. River and creek names should be labeled on the map/drawing. (Refer to Section IV. Definitions)
6) A description of the existing site conditions for each field that is being considered for use of the General Permit. The description should include the vegetation present, water regime (tidal or non-tidal), and acreage of each field.
7) A management plan or description of current management practices for each field.
8) To ensure compliance with Section 7 of the Endangered Species Act, the following information must be provided:
   a) The name(s) of those endangered or threatened species that may be affected by the proposed work or are in the vicinity of the project. (See the US Fish and Wildlife Service website at www.usfws.gov for a current list of threatened and endangered species and critical habitat by county).
   b) A statement as to whether critical habitat might be affected or if the project is located in designated critical habitat.
9) To ensure compliance with Section 106 of the National Historic Preservation Act, the following information must be provided:
   a) A map with the Eligibility Review Area clearly defined. An Eligibility Review Area includes the managed tidal impoundments and other eligible fields and the immediately adjacent uplands within **500 feet** of the tidal impoundments or other eligible fields. In situations when the 500-foot Eligibility Review Area extends beyond the property line, the property line will serve as the limits of the Eligibility Review Area.
   b) The location of any known historic structures and archaeological sites within the defined Eligibility Review Area clearly labeled on the map. To assist with determining if any archaeological structures or sites are present, refer to the State Historic Preservation Office (SHPO) guidance document *Rice Fields and Section 106: SHPO Guidance for Federal Agencies and Applicants* that can be found online at: *http://shpo.sc.gov/programs/revcomp/Pages/guidance.aspx* and *ArchSite,* found at *http://archsite.cas.sc.edu/ArchSite*.
   c) Photographs of any known historic structures and archaeological sites, keyed to the map/drawing(s) of the managed tidal impoundments and fields prepared for #5 above.
10) Ground level and aerial photographs of fields included in the Eligibility Determination request. Locations and directions of ground-level photos should be marked and labeled on the map/drawing of the managed tidal impoundment and fields prepared for #5 above. Photos should be labeled with the corresponding field number/name.

IMPORTANT NOTE: Legible printed name and signature required. The person signing this form must be the present property owner or have the specific authority of the property owner to authorize Corps of Engineers employees or their agents to enter onto the property for on-site investigations if such is deemed necessary. Do not sign this form unless you are the owner, or have the specific authority of the property owner.

PRINTED NAME of person signing this form, below:_____

Signature of Property Owner or Authorized Person: _____

Mail to: U.S. Army Corps of Engineers
Regulatory Division
69-A Hagood Avenue
Charleston. S.C. 29403

Appendix C.

Managed Tidal Impoundment Post Construction Notification and Certification Form

Managed Tidal Impoundment General Permit SAC # 2011-1157

Post Construction Notification and Certification Form

Project SAC # _____

Note: Provide the SAC # for your specific project if a PCN was required (refer to the General Permit verification letter for SAC #). If no PCN was required, use SAC # that was provided in the Eligibility Determination.

Property Name:_____ **Date**:_____

Location/Address of Property:_____

_____

County of Property:_____ **Latitude/Longitude of Property:**_____

Permittee Name:_____

Permittee Address:_____

_____

Phone : _____ **Email**: _____

Location of Work: (Include field number/name and Latitude and Longitude of where the work occurred.)

_____

_____

Description of Work: (Description may include references to the applicable sections of the General Permit)

_____

_____

_____

_____

_____

_____

Date of Completion of Work:_____

I hereby certify the work authorized by the Managed Tidal Impoundment General Permit SAC # 2011-1157 has been completed in accordance with the terms and conditions of said permit.

_____

Signature of Permittee

Mail to: U.S. Army Corps of Engineers
Regulatory Division
69-A Hagood Avenue
Charleston, S.C. 29403