

Permittee-Responsible Mitigation Plan Berlin Myers Parkway – Phase 3

Lewisfield Plantation Mitigation Site

Berkeley County, SC

Submitted To:

U.S. Army Corps of Engineers, Charleston District
S.C. Department of Health and Environmental Control

Prepared By:



Prepared For:



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1.0 PROJECT DESCRIPTION

This Permittee-Responsible Mitigation Plan (PRM) details the preservation of aquatic resources and adjacent terrestrial habitats at Lewisfield Plantation for the mitigation of unavoidable impacts associated with the Berlin Myers Parkway – Phase 3 project (Project) in Summerville, Dorchester County, South Carolina. The South Carolina Department of Transportation (SCDOT), the Dorchester County Sales Tax Transportation Authority (DCTA), and the Town of Summerville are proposing to construct a roadway on new location between U.S. Highway 17 Alternate (US 17A) and E. Carolina Avenue (S-64), which is also known as Berlin Myers Parkway (Figure 1 **Error! Reference source not found.**). Phase 3 represents the third and final phase of the Berlin Myers Parkway project to provide a limited access roadway from Interstate 26 (I-26) to the southwest side of the town of Summerville.

Planning for the Berlin Myers Parkway project began in 1976 with the preparation of preliminary plans and an environmental impact statement (EIS) prepared in accordance with the National Environmental Policy Act of 1969, as amended (NEPA). A “final negative declaration” (FND) for the project was issued by the Federal Highway Administration (FHWA) in January 1979. The EIS and FND both envisioned the project beginning at US 17A in the west near Flood Heirs Road and terminating at US 17A in the east approximately 0.5 mile southwest of I-26. In 1987, since no construction had taken place, an environmental reevaluation was performed for a section of the originally proposed project, beginning at SC 165 in the west and terminating at the original proposed eastern terminus near I-26. Again, construction was delayed and another environmental reevaluation was completed in 1992.

Construction of Phases 1 and 2 of the parkway, which were included in the aforementioned environmental reevaluations, was completed in 1998. The currently proposed project would be the third and final phase of the original project and would complete the connection from I-26 to the southwest side of the town of Summerville.

2.0 AVAILABLE MITIGATION CREDITS

The Project is located within the Middle Atlantic Coastal Plain and in the Cooper River watershed (Hydrologic Unit Code (HUC) 03050201). A review of the United States Army Corps of Engineers (USACE) “Regulatory In-lieu and Bank Information Tracking System” (RIBITS) database revealed that the stream and wetland mitigation credit need could not be met by a single mitigation bank; therefore, SCDOT proposes to purchase credits from a combination of available mitigation banks (Figure 2) and conduct PRM on a 596-acre site adjacent to the Cooper River (known as Lewisfield Plantation) (Figure 3).

SCDOT proposes to purchase 354 wetland mitigation credits from the Pigeon Pond Mitigation Bank (PPMB) and 883 stream credits from the Caton Creek Mitigation Bank (CCMB). The Project is located within the primary service areas of both the PPMB and CCMB, and SCDOT has secured the proposed wetland and stream credits from the banks. The Project is approximately 13 miles south of the CCMB, 18 miles south of the PPMB, and 15 miles southwest of the Lewisfield Plantation Mitigation Site (Figure 2).

Table 2.1 Summary of Proposed Mitigation

Feature Type	Total Required Credits for Project	Credits Provided by Mitigation Banks	Credits Provided by PRM Site	Total Proposed Mitigation Credits
Stream	1,766	883 (Caton Creek)	6,947	7,830
Wetland	708.5	354 (Pigeon Pond)	484	838

The remaining 354 wetland credits and 883 stream credits required for the Project will be provided through preservation of approximately 596 acres of the Lewisfield Plantation (Site). The Site is located approximately two miles south of Moncks Corner in Berkeley County between Highway 52 and the Cooper River. The Site is situated within the Cooper River Watershed (HUC 03050201) and Middle Atlantic Coastal Plain ecoregion (same 8-digit HUC and ecoregion as the project) (Figure 4).

3.0 WATERSHED APPROACH

A watershed based approach to mitigation is a fundamental cornerstone of the 2008 mitigation rule (33 CFR Part 332). All impacts associated with the Project are located within the Ashley/Cooper River Watershed (8 digit HUC 03050201 and 10 digit HUC 03050201-06). The Cooper River Watershed is located in Berkeley, Charleston, and Dorchester Counties, and encompasses 1,545 square miles.

HDR reviewed existing watershed management plans in which the Project is located to determine stated ecological and water quality goals and objectives. The following is a brief description of the Project's watershed and overarching goals and objectives determined through review of identified watershed management plans.

Ashley River Scenic River Management Plan

The Ashley River is a State Scenic River as designated by the State General Assembly in 1998 and 1999 (Ashley River Scenic Advisory Council 2003) (Advisory Council). The Ashley River Scenic River Management Plan (ARSRMP) was created by the Ashley River Scenic Advisory Council. The ARSRMP "defines problems and opportunities" within the watershed and "advocates goals and recommendations" to assist in fixing stated problems. The ARSRMP is admittedly focused on the 22-mile long corridor of Scenic River, however, as the ARSRMP states, "water quality concerns for the river require attention to the entire watershed, particularly the areas drained by tributaries to the scenic river." The ARSRMP identifies urbanization as one of the primary threats to the Ashley River Watershed. The ARSRMP states that the metropolitan area of Charleston is one of the fastest growing cities in the United States. The ARSRMP states that "among the various issues of public concern for the Ashley River, water quality is mentioned most frequently."

Several of the overarching goals of the Plan that are relevant to the proposed Site include:

- Maintaining and improving water quality in the Ashley River in an effort to meet state water quality standards.
- Preserve in perpetuity unique and outstanding natural and scenic resources.
- Preserve and enhance the scenic and water quality characteristics of the river corridor.

Upper Cooper Natural Resource Management Plan

The Upper Cooper River Natural Resource Management Plan is a product of stakeholders and the Steering Committee for the Upper Cooper River Special Area Management Plan (SAMP) completed in 2004 (Consensus Solutions 2004). The SAMP was reviewed to determine potential watershed goals that may apply to the selection of a PRM site in the watershed. The SAMP states that urbanization is a substantial concern because the region is expanding substantially and is projected to continue its growth pattern for the foreseeable future. The plan focuses largely on improving biodiversity through the restoration and use of historic rice fields.

Santee River Basin Watershed Water Quality Assessment

The Watershed Water Quality Assessment (SCDHEC 2013) (WWQA) report is an effort to “appropriately focus water quality protection efforts” within the watershed in an effort to identify water quality problems and solutions with a focus on problem prevention. The Santee River Basin is defined in the report as including Santee River Basin, Cooper River Basin and Ashley River Basin.

The WWQA details non-point source concerns within the watershed that contribute to degraded water quality. The WWQA details primary non-point source concerns associated with agricultural and silvicultural practices, urbanization, marinas and recreational boating, mining, hydro-modification, wetlands, land disposal and groundwater contamination.

The WWQA reports that silvicultural practices associated with road access, harvest and regeneration of timber pose the greatest potential for non-point source pollution. Most water quality impacts from forestry can be minimized when Best Management Practices are applied. According to the WWQA, overall compliance with South Carolina’s Best Management Practices for Forestry is 98.6% for timber harvesting operations. However, impacts from silviculture can be significant when BMP’s are not properly applied. Non-point source pollution can degrade water quality due to the potential of increased sedimentation, nutrient, organic and pesticide loading and elevated water temperatures.

The WWQA reports that the Santee River Basin’s population growth rate is nearly twice that of the rest of the State, which means substantial urbanization of areas that may currently be in actively managed forests. The WWQA states that “major pollutants found in runoff from urban areas include sediment, nutrients, oxygen-demanding substances, heavy metals, petroleum hydrocarbons, pathogenic bacteria and viruses.” Continued urbanization has the potential to “make urban runoff the most significant source of pollution in waters of the State in the future.”

The WWQA notes that hydrologic modification of stream channels “can negatively impact water quality, destroy or modify in-stream habitat and increase streambank and shoreline erosion.” Additionally, the WWQA lists wetlands as a resource of concern for water quality purposes. A common result of hydrologic modification of stream channels is the modification of the groundwater table adjacent to the modified stream channel. This will commonly lead to the effective draining of wetland hydrology adjacent to modified stream channels.

Synopsis of Watershed Planning Documents and Bank Goals and Objectives

The following is a list of overarching ecological and water quality deficiencies within the Project's watershed as detailed in the watershed planning documents above. Additionally, each overarching deficiency is addressed through the PRM Site's proposed goals and objectives.

1. The ARSRMP and WWQA both list silvicultural practices as a potential source of water quality degradation within the watersheds, leading to increased “sediment from erosion, nutrients, organics and pesticides” and “degraded water quality due to the potential of increased sedimentation, nutrient, organic and pesticide loading and elevated water temperatures”.
 - A primary goal of the Site is to remove nearly 592 acres of hardwood forest from future commercial silviculture operations. The majority of forest land within the Site is dominated by highly desirable hardwoods, which could easily be harvested. The goal will be accomplished by placing all lands within the Site's boundary into a perpetual conservation easement; thereby ensuring high quality Bottomland Hardwood wetlands, riparian buffers, and upland hardwood buffers will be protected from commercial silviculture and managed to maximize benefits to wildlife.
2. Urbanization was listed by each watershed report as a primary influencer of water quality and ecology within the watersheds.
 - A primary goal of the Site is to protect in perpetuity approximately 592 acres of undeveloped land that is surrounded by housing developments and golf course communities. Property within the Site will be protected in perpetuity from future development through a perpetual conservation easement in an effort to accomplish the goal. The perpetual conservation easement will ensure that future potential development adjacent to the Site and its associated wetlands and tributaries will be protected and buffered from impacts associated with urbanization.
3. Preservation in perpetuity of unique and outstanding natural and scenic resources.
 - The Site has the unique opportunity to preserve and protect outstanding natural and cultural resources in the form of several unnamed tributaries to the Cooper River, riparian wetlands and historic inland rice plantations. This goal will be accomplished by placing the Site in a perpetual conservation easement.

Section 33 CFR Parts 325 and 332 (2008 Rule) stresses the importance of mitigating the loss of aquatic resources on an in-kind basis; using watershed planning objectives when available to best off-set those impacts. To-that-end, credits generated from streams and wetlands at the Site will be considered freshwater and will provide in-kind mitigation for Project impacts.

4.0 PROPOSED COMPENSATORY MITIGATION PLAN

4.1 Goals and Objectives

The Site will preserve approximately 372 acres of wetland, 23,217 feet of intermittent and perennial streams, and 215 acres of upland. Credits generated through preservation of the Site will provide compensatory mitigation for impacts associated with the Project. Each aquatic resource proposed for mitigation is summarized in Tables 4.1 and 4.2. Due to crediting requirements set forth in USACE guidance (USACE 2010), lengths and acreages included in Tables 4.1 and 4.2 do not match total stream length and wetland acreage on the Site (i.e. some wetland acreage was excluded in order to gain stream buffer credit and some stream length/buffer was excluded to gain wetland credit).

Table 4.1 Stream Features Proposed for Mitigation

Resource* +	Existing Stream Length (ft)	Proposed Treatment	Proposed Stream Length (ft)	Stream Order	Classification	Average Riparian Zone Width (ft)
SA1	1,872	Preservation	1,872	1 st	Perennial	>300
SA2	169	Preservation	169	1 st	Intermittent	>300
SA4	3,424	Preservation	3,424	1 st	Perennial	>300
SB1	790	Preservation	790	1 st	Intermittent	>300
SB2	943	Preservation	943	1 st	Intermittent	>300
SB2A	426	Preservation	426	1 st	Intermittent	>300
SB3	1,316	Preservation	1,316	1 st	Intermittent	>300
SB4	323	Preservation	323	1 st	Intermittent	>300
Total	9,263		9,263			

*Resource names correspond to the naming convention used for the Jurisdictional Determination (JD). SA3 was excluded from this table because stream credits are not requested for SA3 in order to maximize wetland credits adjacent to the stream.

+Stream Locations can be found in Appendix A, Figure 6.

Table 4.2 Wetland Features Proposed for Mitigation

Unit*	Wetland Area (ac)	Proposed Treatment	Cowardin Classification	Wetland Type (Nelson Classification)	Average Upland Buffer Width (ft)
1	350.6	Preservation	Palustrine Forested	Bottomland Hardwood (Bottomland Hardwoods)	>300
2	7.7	Preservation	Palustrine Forested	Headwater Wetland (Small Stream Forest)	>300
Total	358.3				
Upland Buffer Acreage	198				

*Unit locations can be found in Appendix A, Figure 6.

4.2 Site Selection

4.2.1 Site Selection Rationale

Stressors to the environment and overall water quality associated with widespread urbanization of the Low Country are well documented within the watershed planning documents detailed above. Landowners and conservation organizations (i.e. Ducks Unlimited, Lowcountry Land Trust, Lord Berkeley Conservation Trust, Open Space Institute) were contacted and multiple potential mitigation sites were

assessed to determine suitability to meet watershed needs and provide in-kind mitigation for the Project. Potential sites were culled based on potential ecological uplift, land use, size, site constraints, ownership, proximity to 303(d) listed impaired waterbodies, and existing conditions of streams and wetlands at each site. Following the review of potential sites within the Cooper River watershed it was determined that the Lewisfield Plantation Mitigation Site (Site) ultimately provides the greatest opportunity to address watershed goals and provide in-kind mitigation for the Project.

The Site provides an opportunity to preserve high quality wetlands, headwater streams, and upland buffers immediately adjacent to the West Branch of the Cooper River. In addition, the property is part of the historic Lewisfield Plantation and relic inland rice berms are still evident throughout the mature Bottomland Hardwood wetlands. If left unprotected, it is highly likely that the Site would be converted into a development similar to the golf course community along the southern property boundary. For these reasons, the Site is considered a high priority preservation opportunity for conservation organizations in the lowcountry.

4.2.2 Site Location and Condition

The proposed Site consists of approximately 596 acres and is located approximately two miles south of Moncks Corner in Berkeley County between Highway 52 and the West Branch of the Cooper River (**Error! Reference source not found.3**).

4.2.3 Watershed and Land Use Trends

The Site is situated in the Middle Atlantic Coastal Plain ecoregion and within the Cooper River watershed (8-digit HUC 03050201) (**Error! Reference source not found.**). This ecoregion consists of low elevation, flat plains, with many swamps, marshes, and estuaries. Forest cover in the region, once dominated by longleaf pine in the Carolinas, is now mostly loblolly and some shortleaf pine, with patches of oak, gum, and cypress near major streams, as compared to the mainly longleaf-slash pine forests of the warmer Southern Coastal Plain to the south. Pine plantations for pulpwood and lumber are typical, with some areas of cropland (Griffith, Omernik, & Comstock, 2002).

Land use within the Cooper River watershed consists of 35.5 percent forested land, 25.8 percent forested wetland, 13.5 percent urban land, 10.0 percent water, 8.0 percent non-forested wetland, 6.6 percent agricultural land, and 0.6 percent barren land (SCDHEC, 2013). Tail Race Canal at US 52 and US 17A below Lake Moultrie (approximately four miles upstream of the Site), is listed as a 303(d) impaired waterbody for fish consumption due to high levels of mercury (SCDHEC, 2016). There is a high potential for growth for much of this watershed. At the top of the watershed, future growth is expected in the Town of Moncks Corner, the Whitesville and Pimlico Communities, and the Berkeley Country Club area adjacent to the Site. The Town of Moncks Corner and Berkeley County operate water and sewer systems in the area, which fosters development.

Habitat fragmentation due to forestry and farming practices is prevalent within the watershed. According to SCDNR's "Comprehensive Wildlife Conservation Strategy: 2005-2010", biologists have identified habitat protection as one of the most important actions to ensure the protection of South Carolina priority

species. Loss and fragmentation of habitat have been identified as a major threat to many of the species listed as threatened and endangered in South Carolina (SCDNR, 2006).

4.3 Site Protection

The Site will be protected in perpetuity by placing a conservation easement on the property. The proposed conservation easement is provided in Appendix B. The proposed easement was based on the model conservation easement template provided by the Charleston District USACE and other conservation easements that have been approved by the Charleston District USACE for use on mitigation projects. Approximately 12.7 acres in the northwestern corner the property will be excluded from the conservation easement to provide space for potential future structures. Open Space Institute (OSI) purchased the property in 2018 and plans to eventually transfer the property to Lord Berkeley Conservation Trust (Lord Berkeley). Lowcountry Land Trust is expected to serve as easement holder for the Site and Lord Berkeley will serve as long term steward. SCDOT will continue to coordinate with third parties to establish stewardship responsibilities.

4.4 Baseline Conditions

4.4.1 Project Site

The project area is generally bounded on the east by SC Route 165 (SC 165/Bacons Bridge Road); on the south by Sawmill Branch and Ancrum Lane; on the west by Fisher Road; and on the north by US 17A and Summerville Country Club. Land use within the project area is varied. The land surrounding the proposed project along US 17A and SC 165 is mostly developed land, with both residential and commercial areas. Conversely, the majority of land immediately adjacent to Sawmill Branch is undeveloped land. Country Club Estates Golf Club and subdivision are located approximately 500 feet north of the proposed project. Residential areas are located approximately 600 feet south of the proposed project across Sawmill Branch. Summerville Commissioners of Public Works (CPW) wastewater treatment facility is located near the southwestern termini of the project. Gregg Middle School and Summerville High School are in proximity to the project.

More specifically, the proposed project area consists of remnant bottomland hardwood habitat, mixed hardwood/pine forest, freshwater non-tidally influenced ditches and channels, and ruderal areas along the maintenance berms for Sawmill Branch.

The remnant bottomland hardwood swamp habitat primarily parallels Sawmill Branch throughout the project limits. Evidence of this remnant habitat is characterized by overstory coverage of bald cypress (*Taxodium distichum*), red maple (*Acer rubrum*), American elm (*Ulmus Americana*), and sweetgum (*Liquidambar styraciflua*), with sporadic swamp tupelo (*Nyssa biflora*) and sycamore (*Platanus occidentalis*). The canopy is moderately dense, approximately 40 to 50 percent. The sub-canopy is less dense, and consists primarily of red maple and sweetgum. Depending on light availability and presence of standing water, the shrub layer is somewhat sparse, 10 to 15 percent, in some sections to extremely dense, 70 to 80 percent, in others. Common species include Chinese privet (*Ligustrum sinense*), common fetterbush (*Lyonia lucida*), and wax myrtle (*Morella cerifera*). Herbaceous density and species is highly variable. In areas with higher canopy, sub-canopy and shrub density, herbaceous vegetation is sparse,

5 to 10 percent, and consists primarily of slender woodoats (*Chasmanthium laxum*) and netted chain fern (*Woodwardia aereolata*). Where canopy density is more open, common herbaceous species include Virginia chain fern (*Woodwardia virginica*), false nettle (*Boehmeria cylindrica*), and royal fern (*Osmunda regalis*). Common vines were poison ivy (*Toxicodendron radicans*), muscadine (*Vitis rotundifolia*), and crossvine (*Bignonia capreolata*). This habitat, once likely encompassing large swaths of land within the project limits as well as the surrounding Summerville area, has undergone extensive ditching and drainage. The remnant areas remaining likely do not withstand prolonged ponding and/or flooding as they once did prior to man-induced drainage. While some areas still support this hydrologic regime and obligate wetland vegetation, facultative vegetation species have encroached into this habitat in areas that would not have previously supported their growth.

Portions of the wetlands in the eastern portion of the project area, between E. Carolina Avenue and Gahagan Road, are protected under restrictive covenants dated August 23, 2000. These wetlands were protected as part of the compensatory mitigation plan for Phase 2 of Berlin Myers Parkway (Department of Army Permit No. 92-2A-318). The purpose of the restrictive covenants is to protect the waters of the United States and scenic, resource, environmental, and general property values.

The mixed hardwood/pine forest exists as upland habitat within the corridor, as an ecotone between the uplands and wetlands, and as wetland in areas that have sufficiently been drained of surface hydrology with a prevalence of facultative vegetation. This habitat, specifically the wetter areas, likely existed as bottomland hardwood swamp prior to ditching. Overstory coverage primarily consist of loblolly pine (*Pinus taeda*), water oak (*Quercus nigra*), sweetgum, black gum (*Nyssa sylvatica*), and red maple. Overstory coverage was moderately dense, approximately 35 to 50 percent. The sub-canopy is comprised of the same species as the overstory and is also somewhat dense in coverage, 35 to 50 percent. The shrub layer consists of wax myrtle and Chinese privet and ranges from somewhat sparse, 10 to 15 percent, to very dense, 60 to 70 percent. Herbaceous coverage is sparse, 5 to 10 percent, due to the overstory and shrub layers. Common species observed are longleaf woodoats (*Chasmanthium sessiliflorum*) and partridge berry (*Mitchella repens*), with netted chain fern and switchcane (*Arundinaria tecta*) in the wetter areas. Common vines include poison ivy, Virginia creeper (*Parthenocissus quinquefolia*), and muscadine.

Freshwater channels and ditches in the project area, including Sawmill Branch, are man-made excavated drainage features constructed for the purpose of draining the greater Summerville area. These drainage features exist in all of the above listed habitat areas. Sawmill Branch was channelized in the early 1970s by the U.S. Army Corps of Engineers (USACE) as a federal flood risk management project. Sawmill Branch is a trapezoidal channel; the width at top of bank is approximately 50 to 60 feet, while the width at ordinary high water mark (OHWM) is approximately 20 to 30 feet. Some of the other ditch features contain perennial surface water flow, while others are only seasonally inundated. Others appear to have been excavated to connect the existing wetlands through the berm to Sawmill Branch and only move surface water during heavy rainfalls. However, all ditch features eventually terminate into Sawmill Branch and connect to Sawmill Branch under the maintenance berm through a series of constructed culverts and pipes. Sawmill Branch terminates farther downstream, outside of the project limits, into the Ashley River. Most drainage features contain little, if any vegetation. Some alligatorweed (*Alternanthera philoxeroides*) occurs sporadically within Sawmill Branch.

Ruderal areas along the maintenance berms and ditch edges were largely grown in with grasses and naturalized species. Common species observed include bahia grass (*Paspalum notatum*), Vasey's grass (*Paspalum urvillei*), common dandelion (*Taraxacum officinale*), and white clover (*Trifolium repens*). This habitat is periodically mowed throughout the year above the OHWM. Within the project area, the Sawmill Branch Walk/Bike Trail is located adjacent to Sawmill Branch on the maintenance berm between E. Carolina Avenue and Luden Drive. Portions of the trail are paved. The adjacent wetlands and tributaries are connected to Sawmill Branch under the Sawmill Branch Walk/Bike Trail through a series of constructed culverts and pipes.

4.4.1.1 *Summary of Impacts and Required Mitigation*

Permit drawings provided to the USACE dated August 25, 2019 show the anticipated project impacts. Anticipated wetland impacts for the project, which are based on the current Section 404 Permit Joint Permit Application, total 50.81 acres. Impacts include 41.42 acres of fill and rip-rap, 5.43 acres of excavation, and 3.96 acres of clearing. The project is estimated to impact 808 linear feet (LF) of streams, including 247 LF of culvert or pipe, 349 LF of armoring, and 212 LF of morphologic changes. Required mitigation worksheets are included in Appendix C.

The proposed project would impact wetlands protected under restrictive covenant as part of the compensatory mitigation for Phase 2 of Berlin Myers Parkway. It is anticipated that 4.56 acres of previously protected wetlands would be affected, including 3.96 acres of permanent fill, 0.11 acre of excavation, and 0.49 acre of clearing within the protected wetlands. These activities are prohibited by the restrictive covenants. Therefore, SCDOT requests USACE and South Carolina Department of Health and Environmental Control (SCDHEC) consider an amendment to the restrictive covenant. SCDOT will mitigate for the proposed project impacts to the protected wetlands, as well as the wetlands removed from compensatory mitigation for Phase 2 of Berlin Myers Parkway. SCDOT is proposing to double mitigate for impacts under the restrictive covenants, as shown in the mitigation worksheets in Appendix C.

4.4.2 Proposed Mitigation Site

The Site consists of approximately 372 acres of forested wetland (PFO), 23,217 linear feet of unnamed tributaries to West Branch Cooper River, and 215 acres of upland. Photographs of Site features are presented in Appendix D. The Jurisdictional Determination Map and approval letter are presented in Appendix E.

4.4.2.1 *Jurisdictional Streams*

Intermittent Unnamed Tributaries to West Branch Cooper River (SA2, SB1-SB4)

Intermittent tributaries at the Site are located along the western portion of the property and most are associated with headwater wetland areas. These tributaries lose bed and banks as they flow into the wetland systems downstream. Each tributary is relatively stable and buffered on both sides by a mature hardwood riparian corridor. Sinuosity is low to moderate and Ordinary High Water Mark (OHWM) indicators included scour, vegetation breaks, and top of bank.

Perennial Unnamed Tributaries to West Branch Cooper River (SA1, SA3, and SA4)

SA3 is a third order tributary and the largest of the three perennial tributaries on-site. All other tributaries on-site ultimately drain to SA3 which flows into West Branch Cooper River immediately east of the Site. SA1 and SA4 are first order tributaries. SA4 appears to have been manipulated, as it was likely straightened when the Site was used for agricultural production; however, SA4 is currently stable with mature woody vegetation present along both stream banks. The tributaries provide habitat for various aquatic organisms in the form of riffles and pools, undercut banks, and woody debris scattered throughout the channels. Ordinary high water mark indicators included scour, vegetation bent in the downstream direction, benches, change in plant community, wrack lines, and bed and banks.

4.4.2.2 Jurisdictional Wetlands

The Site contains approximately 372 acres of forested wetlands. The wetlands can be divided into two types: Headwater Wetlands and Bottomland Hardwoods. The characteristics of each wetland type within the Site's boundary are described below.

Headwater Wetlands (WB2, WB3, WB4, WA3, portions of WA2 and WB1)

Headwater wetlands within the Site have a Cowardin classification of Palustrine, Forested wetlands (PFO). Vegetation consists predominately of hardwood species such as red maple (*Acer rubrum*), sweetgum, laurel oak (*Quercus laurifolia*), swamp chesnut oak (*Quercus michauxii*), American elm, and swamp tupelo. Shrub species include sweetbay (*Magnolia virginiana*), wax myrtle, ironwood (*Carpinus caroliniana*), American holly (*Ilex opaca*), dwarf palmetto (*Sabal minor*) and younger canopy species.

The natural hydrologic regime for these areas is saturated to seasonally flooded and the soils are characteristic of Meggett loam (Figure 5). These wetland areas are largely characterized by low chroma soils with a "depleted matrix" or a "dark surface". Wetland hydrology indicators include geomorphic position, Fac-Neutral test, drainage patterns, water-stained leaves, and saturation. The uplands are characterized by high chroma soils that do not exhibit "depleted" conditions (i.e. mottling). Vegetation along the upland areas is also dominated by hardwoods.

Headwater wetlands at the site are depicted on Figure 6. Headwater Wetlands at the Site eventually drain into SA3 and are considered jurisdictional wetlands due to their connection to SA3.

Bottomland Hardwoods (WA1, WA2, WB1, and WB5)

The majority of wetlands on-site are mature bottomland hardwoods located in the floodplain of West Branch Cooper River. Bottomland hardwoods within the Site are classified as Palustrine, Forested wetlands (PFO). Canopy species consist of red maple, sycamore, bald cypress, water tupelo (*Nyssa aquatica*), swamp chesnut oak, laurel oak, water oak, hackberry (*Celtis laevigata*), and sweetgum. Bald cypress are typically found in close proximity to SA3 along the eastern portion of the Site. Understory species include ironwood, American holly, sweetbay, dwarf palmetto (*Sabal minor*), red maple, young oaks (*Quercus* spp.), and hickory (*Carya* sp.). The herbaceous layer varies from sparse to dense and consists of netted chainfern, royal fern, cinnamon fern (*Osmunda cinnamomea*), and various sedges.

The natural hydrologic regime for these areas is seasonally flooded and the soils are mapped as Meggett loam (Figure 5). These wetland areas are largely characterized by low chroma soils with a “depleted matrix” or “dark surface”. Wetland hydrology indicators include geomorphic position, Fac-Neutral test, water-stained leaves, saturation, surface water, and drainage patterns. Bottomland Hardwood wetlands at the Site are located immediately adjacent to SA3 and are considered jurisdictional wetlands due to their connection to SA3. Bottomland hardwood wetlands at the site are depicted on Figure 6.

Historically, the Site was used as an inland rice plantation. Berms constructed during this time period are still evident in portions of the wetlands but have been breached in several areas and do not appear to be significantly impacting wetland function.

4.4.2.3 Upland Buffers

The uplands are characterized by high chroma soils that do not exhibit “depleted” conditions (i.e. mottling). Vegetation along the upland areas is also dominated by hardwoods such as white oak (*Quercus alba*), water oak, scarlet oak (*Quercus coccinea*), sweetgum, and other red oaks (*Quercus* spp.). Several upland islands occur throughout the center portion of the Site. The islands are dominated by sweetgum and loblolly pine (*Pinus taeda*). Average upland buffer width within the Site exceeds 300 feet.

4.4.2.4 Protected Species

The U.S. Fish and Wildlife Service (USFWS) lists ten threatened and endangered species as potentially occurring in Berkeley County (USFWS, 2018).

Table 4.3 Threatened and Endangered Species, Berkeley County

Common Name	Scientific Name	Federal Status	State Status	Habitat Present
Frosted flatwoods salamander	<i>Ambystoma cingulatum</i>	Threatened	Endangered	No
American wood stork	<i>Mycteria Americana</i>	Threatened	Endangered	Yes
Red-cockaded woodpecker	<i>Picoides borealis</i>	Endangered	Endangered	No
Atlantic sturgeon	<i>Acipenser oxyrinchus</i>	Endangered	--	Yes
Shortnose sturgeon	<i>Acipenser brevirostrum</i>	Endangered	Endangered	Yes
Northern long-eared bat	<i>Myotis septentrionalis</i>	Threatened	--	Yes
West Indian manatee	<i>Trichechus manatus</i>	Threatened	Endangered	No
American chaffseed	<i>Schwalbea americana</i>	Endangered	--	No
Canby's dropwort	<i>Oxypolis canbyi</i>	Endangered	--	No
Pondberry	<i>Lindera melissifolia</i>	Endangered	--	Yes

No threatened or endangered species were observed during field investigations in October 2018 but habitat for several listed species is present within or adjacent to the Site. The following summaries provide habitat descriptions and Biological Conclusions for threatened or endangered species with suitable habitat on-site or adjacent to the Site.

American wood stork (*Mycteria americana*): Wood storks typically construct their nests in medium to tall trees that occur in stands located either in swamps or on islands surrounded by relatively broad expanses of open water. In many areas, bald cypress and red mangrove trees are preferred. During the nonbreeding season or while foraging, wood storks occur in a wide variety of wetland habitats, including freshwater marshes and stock ponds, shallow, seasonally flooded roadside or agricultural ditches, narrow tidal creeks or shallow tidal pools, managed impoundments, and depressions in cypress heads and swamp sloughs. Because of their specialized feeding behavior, the most attractive feeding areas are

swamp or marsh depressions where fish become concentrated during dry periods. The Site provides nesting habitat in the mature cypress trees present along the unnamed tributary to Cooper River that flows along the southern and eastern boundaries of the property. Tidal freshwater marshes located between the Site and the Cooper River provide foraging habitat for storks. The Site will serve as PRM for the SCDOT. Mitigation credits derived from the Site will be preservation only. No enhancement or restoration activities are proposed for the Site. **Biological Conclusion: No Effect**

Atlantic sturgeon (*Acipenser oxyrinchus*): The Atlantic sturgeon is a large fish that occurs in major river systems along the eastern seaboard of the United States. It is an anadromous species that migrates to moderately-moving freshwater areas to spawn in the spring; in some southern rivers a fall spawning migration may also occur. Spawning occurs in moderately flowing water in deep parts of large rivers, usually on hard surfaces (e.g., cobble). Juveniles usually reside in estuarine waters. Subadults and adults live in coastal waters and estuaries when not spawning, generally in shallow nearshore areas dominated by gravel and sand substrates. Atlantic sturgeon is known to occur in the Cooper River and National Marine Fisheries Service (NMFS) designates the Cooper River adjacent to the Site as Critical Habitat for sturgeon. Mitigation credits derived from the Site will be preservation only. No enhancement or restoration activities are proposed for the Site. **Biological Conclusion: No Effect**

Shortnose sturgeon (*Acipenser brevirostrum*): Shortnose sturgeon occur in most major river systems along the eastern seaboard of the United States. The species prefers the near shore marine, estuarine, and riverine habitat of large river systems. It is an anadromous species that migrates to faster-moving freshwater areas to spawn in the spring, but spends most of its life within close proximity of the river's mouth. Large freshwater rivers that are unobstructed by dams or pollutants are imperative to successful reproduction. Shortnose sturgeon is known to occur in the Cooper River and NMFS designates the Cooper River adjacent to the Site as Critical Habitat for sturgeon. Mitigation credits derived from the Site will be preservation only. No enhancement or restoration activities are proposed for the Site. **Biological Conclusion: No Effect**

Northern long-eared bat (*Myotis septentrionalis*): Typically, Northern long-eared bats (NLEB) spend winter hibernating in caves and mines. Since this species is not known to be a long-distance migrant, and caves and subterranean mines are extremely rare in the coastal plain of South Carolina, it is uncertain whether or where NLEB hibernate in South Carolina's coastal plain. During the summer, NLEB roost singly or in colonies underneath bark, in cavities, or in crevices of both live and dead trees (typically ≥3 inches dbh). This bat has also been found, rarely, roosting in structures like barns and sheds, under eaves of buildings, behind window shutters, in bridges, and in bat houses. Foraging occurs on forested hillsides and ridges, and occasionally over forest clearings, over water, and along tree-lined corridors. Mature forests may be an important habitat type for foraging. NLEB were captured in Berkeley County in June/July 2017 as part of a bat research project. The Site provides summer roosting and foraging habitat for NLEB throughout the mature hardwood forests and along stream corridors. Mitigation credits derived from the Site will be preservation only. No enhancement or restoration activities are proposed for the Site. **Biological Conclusion: No Effect**

Pondberry (*Lindera melissifolia*): Pondberry occurs in seasonally flooded wetlands, sandy sinks, pond margins, and swampy depressions. This deciduous, aromatic shrub occurs in bottomland hardwood

forests with perched water tables along inland areas of the southeastern United States. In the Coastal Plain of the Carolinas, the species occurs at the margins of limestone sinks and ponds and in undrained, shallow depressions of longleaf pine and pond pine forests. It generally grows in somewhat shaded areas, but can tolerate full sun. Forested wetlands at the Site may provide habitat for pondberry. Mitigation credits derived from the Site will be preservation only. No enhancement or restoration activities are proposed for the Site. **Biological Conclusion: No Effect**

4.4.2.5 Cultural Resources

A preliminary visit to the Lewisfield Plantation tract in the spring of 2018 revealed the presence of eighteenth century inland rice field features, likely associated with a plantation that predates Lewisfield Plantation. These features, which are generally in fairly poor condition, will be left in place as part of the proposed use/preservation of the Lewisfield Plantation tract.

On October 11, 2018, HDR conducted a desktop survey via ArchSite online research to determine if there were any previously identified cultural resources within the tract; there are none. The most pertinent nearby previously recorded cultural resource is Site 38BK66, located to the east of the Lewisfield Plantation tract. Site 38BK66 is the Lewisfield Plantation house. The site also includes five surrounding acres. The site was listed in the National Register of Historic Places (NRHP) in 1973 and the period of significance is 1774. The proposed use/preservation of the Lewisfield Plantation tract will have no adverse effect on Site 38BK66.

HDR provided SCDOT with a short write-up of these resources and on October 15, 2018, SCDOT indicated that no archaeological or architectural survey was required for the Lewisfield Plantation Tract.

4.5 Determination of Credits

The Site is expected to generate stream and wetland credits to offset unavoidable impacts associated with the Project. The tables below provide stream and wetland credit calculations for the Site.

4.5.1 Streams

Stream Type: All streams proposed for preservation credit within the Site received a score of 0.4 for Stream Type because they are either seasonal or perennial RPW's and first or second order tributaries.

Priority Category: All streams proposed for preservation credit within the Site received a score of 0.05 for priority category because they did not meet the requirements of the Secondary or Primary categories.

Net Improvement: Not applicable for preservation sites.

Credit Schedule: Not applicable for preservation sites.

Location: All streams proposed for preservation credit within the Site received a score of 0.1 because the PRM Site is located within the same 8-digit HUC as the Project impacts.

Riparian Buffer: Although the majority of streams on-site have riparian buffers in excess of 300 feet, all streams proposed for preservation credit within the Site will be given a riparian buffer width of 75 feet for credit calculation purposes in order to maximize wetland and upland buffer values. All streams at the Site are protected on both sides of the channel by an extensive wooded riparian zone. SA3 was omitted from stream credit calculations in order to maximize wetland credits at the Site. Stream buffers are depicted on Figure 6.

Table 4.4 Proposed Stream Credits

Stream Credits								
Stream	SA1	SA2	SA4	SB1	SB2	SB2A	SB3	SB4
Management Unit	Preservation	Preservation	Preservation	Preservation	Preservation	Preservation	Preservation	Preservation
Jurisdictional Status	Perennial	Intermittent	Perennial	Intermittent	Intermittent	Intermittent	Intermittent	Intermittent
Stream Type	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4
Priority Category	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05
Net Improvement	0	0	0	0	0	0	0	0
Credit Schedule	0	0	0	0	0	0	0	0
Location	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Riparian Buffer Side A (Left)	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Riparian Buffer Side B (Right)	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Sum Factors	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75
Mitigation Length	1872	169	3424	790	943	426	1316	323
MX LL =	1404	127	2568	593	707	320	987	242
Management Units								
Restoration	0							
Enhancement	0							
Preservation	6,947							
Total Mitigation Credits	6,947							

4.5.2 Wetlands

Net Improvement: Not applicable for preservation sites.

Upland Buffer: Upland Buffer values were derived for each wetland based on the USACE guidance (USACE 2010). All wetlands at the Site will be buffered by upland buffers in excess of 300' in width. The Bank contains 358.3 acres of wetlands proposed for mitigation and 198 acres of upland buffer. Upland buffer credit will be allocated to each wetland Unit as follows:

Unit 1 – 190.3 acres of wetland within Unit 1 received an upland buffer value of one because greater than 95 percent of the wetland perimeter will be buffered by an upland buffer with an average width exceeding 300 feet. The remaining 160.3 acres of wetland received no upland buffer credit because the wetland acreage within the Site exceeds the upland buffer acreage.

Unit 2 – All wetlands within Unit 2 received an upland buffer value of one because greater than 95 percent of the wetland perimeter will be buffered by an upland buffer with an average width exceeding 300 feet and the acreage of upland buffer surrounding Unit 2 wetlands equals the total Unit 2 wetland acreage.

Credit Schedule: Not applicable for preservation sites.



Temporal Loss: Not applicable for preservation sites.

Kind: All wetlands received a score of 0.4 because the wetlands preserved will provide in-kind mitigation for project impacts.

Location: All wetlands received a score of 0.4 for Location because the Site is located within the same 8-digit HUC as the Project.

Table 4.5 Proposed Wetland Credits

Wetland Credits			
Wetland Unit	Unit 1	Unit 1	Unit 2
Mitigation Type	Bottomland Hardwood Preservation	Bottomland Hardwood Preservation (No Buffer)	Headwater Wetland Preservation
Net Improvement	0.00	0.00	0.00
Upland Buffer	1.0	0.0	1.0
Credit Schedule	0.0	0.0	0.0
Temporal Loss	0.0	0.0	0.0
Kind	0.4	0.4	0.4
Location	0.4	0.4	0.4
Sum of Factors	1.80	0.80	1.80
Mitigation Area	190.3	160.3	7.7
M x A	342.5	128.2	13.9
Mitigation Type Summary			
Restoration	0.0		
Enhancement	0.0		
Preservation	484.6		
Total Mitigation Credits	484.6		

4.6 Mitigation Work Plan

4.6.1 Streams, Wetlands, and Upland Buffers

Streams, wetlands, and upland buffers at the Site will be preserved in perpetuity. No enhancement or restoration work is proposed as part of this mitigation plan. Tables 4.4 and 4.5 summarize mitigation credits at the Site.

4.6.2 Source of Water

Sufficient water rights exist to support long-term sustainability of jurisdictional waters within the Site's boundaries. There are no known easements or mineral rights associated with the Site that may cause concern with severed water rights. Existing wetlands within the Site currently display sufficient groundwater hydrology, overbank flooding from adjacent streams and/or sufficient stormwater runoff to maintain hydrology.

4.6.3 Buffer

Stream and wetland buffers within the Site far exceed the minimum requirements set by the USACE Charleston District Guidelines. All streams at the Site are protected on both sides of the channel by an extensive wooded riparian zone. The riparian zone's width exceeds 300 feet throughout most of the Site. Wetlands are located within the riparian zone immediately adjacent to SA3. These wetlands fall within areas that would typically be used to calculate riparian buffer value when determining stream credits but are now allocated as wetland mitigation areas and not included in the riparian buffer value calculations for stream credits. Section 2.H Determination of Credits discusses buffer widths for each stream and wetland at the Site and describes how buffer values were calculated. Site buffers (for credit purposes) are depicted on Figure 6.

4.6.4 Invasive Species Control

Chinese privet (*Ligustrum sinense*) and Japanese honeysuckle (*Lonicera japonica*) are the primary invasive species that have been identified within portions of the Bank; however, these species represent a very small percentage (<1 percent) of the overall vegetative composition. Additionally, the sporadic locations of these species do not appear to have negatively affected the mature native vegetative makeup of the forested communities they are found in.

4.7 Maintenance Plan

Vegetation and Invasive/Exotic Species: A remediation plan will be created if invasives and exotics are acting as a deterrent to the success of establishing and maintaining the preserved communities within the Site.

Easement Boundary: Easement boundaries will be identified in the field to ensure clear distinction between the Site and adjacent properties. Boundaries may be identified by fence, marker, bollard, post, tree-blazing, or other means as allowed by Site conditions. Boundary markers disturbed, damaged, or destroyed will be repaired and/or replaced on an as needed basis. Easement boundary marking items will be located and provided within the easement plat.

Access Roads: The Site currently contains several soil access roads that will continue to be maintained after the conservation easement is recorded. The property owner will be responsible for maintenance of the access roads.

4.8 Performance Standards

4.8.1 Streams

All preserved stream reaches will be maintained in their existing state. No modifications to these channels are anticipated.

4.8.2 Wetlands

All preserved wetlands will be maintained in their existing state. No modifications to these wetlands are anticipated.

4.9 Monitoring Requirements

Monitoring is not proposed as the Site is a preservation only mitigation site.

4.10 Long-term Management Plan

This section describes long term management (LTM) activities that are expected to occur at the Site.

4.10.1 Ownership of the Mitigation Site:

Lands within the Site will be placed under a conservation easement, with a third party holding the conservation easement. Open Space Institute is the current property owner; however, Lord Berkeley Conservation Trust is anticipated to take over ownership of land constituting the Site's footprint. Low Country Land Trust is anticipated to hold the conservation easement. Parcel boundaries and ownership information are shown on Figure 7.

4.10.2 Identity of Long-Term Steward:

Lord Berkeley Conservation Trust, as the anticipated owner of lands within the Site's boundary, will serve as the Long-Term Steward (LTS) that is legally responsible for long term management activities. The term of LTM stewardship is anticipated to be in perpetuity; however the owner reserves the right to request (from the USACE district engineer) a release of obligations of LTM responsibilities if long-term management is no longer necessary because the Site has developed to the point where active management measures are no longer needed to fulfill the Site's objectives (as detailed in 33CFR 332, 73 FR 19594 at 19648 – 19649, 2008). It is understood that the owner will work with the USACE to determine if a request for termination of LTM responsibilities is warranted and that it is the USACE's authority to determine if LTM activities are a continued requirement.

4.10.3 Identification of Long Term Management Activities:

Site Inspections: The owner of lands constituting the Bank's boundary will inspect the Bank yearly. Site inspections will be conducted to ensure signage remains intact and to work with the conservation easement holder to ensure enforcement of potential trespass, vandalism and other laws of the State of South Carolina and restrictions set forth within the conservation easement placed over lands within the Site.

Access Road Maintenance: Roads within/traversing the Site are depicted on Figure 6 in Appendix A. The owner is responsible for identifying potential deficiencies of the roads and associated crossings in an effort to ensure that the roads and crossings are maintained.

Invasive Species Control: The LTS will monitor for invasive/exotic vegetation within the Site. The LTS will be responsible for creating, obtaining approval of (from the USACE) and implementing an adaptive management plan if invasive and exotic species are identified as a detriment to the success of maintaining the preserved communities within the Site.

Annual Reporting: The LTS will prepare an annual report. The report will be a brief and concise summary of items reviewed during the annual inspections, findings and any proposed actions as a result of findings. Reports will be made available to USACE upon request.

Funding Mechanism: LTM of the Site will be funded through a \$60,000 stewardship contribution to the LTS. SCDOT will also provide a \$25,000 endowment to Lowcountry Land Trust to fund stewardship and enforcement of the conservation easement.

4.11 Adaptive Management

The LTS will submit a written adaptive management plan if corrective actions are deemed necessary based off of annual inspection results. The adaptive management plan will be reviewed with the USACE to gain a consensus on corrective actions. The LTS will be financially responsible for all adaptive management on the Site. Adaptive management may be necessary to treat invasive species within the Site.

4.12 Financial Assurances

No enhancement or restoration activities are proposed for the Site, therefore performance bonding should not be required. All mitigation credits provided by the Site will be generated through preservation of existing streams, wetlands, and upland buffers. SCDOT will be responsible for purchasing the conservation easement and funding endowments for the LTS and Low Country Land Trust (easement holder).


5.0 REFERENCES

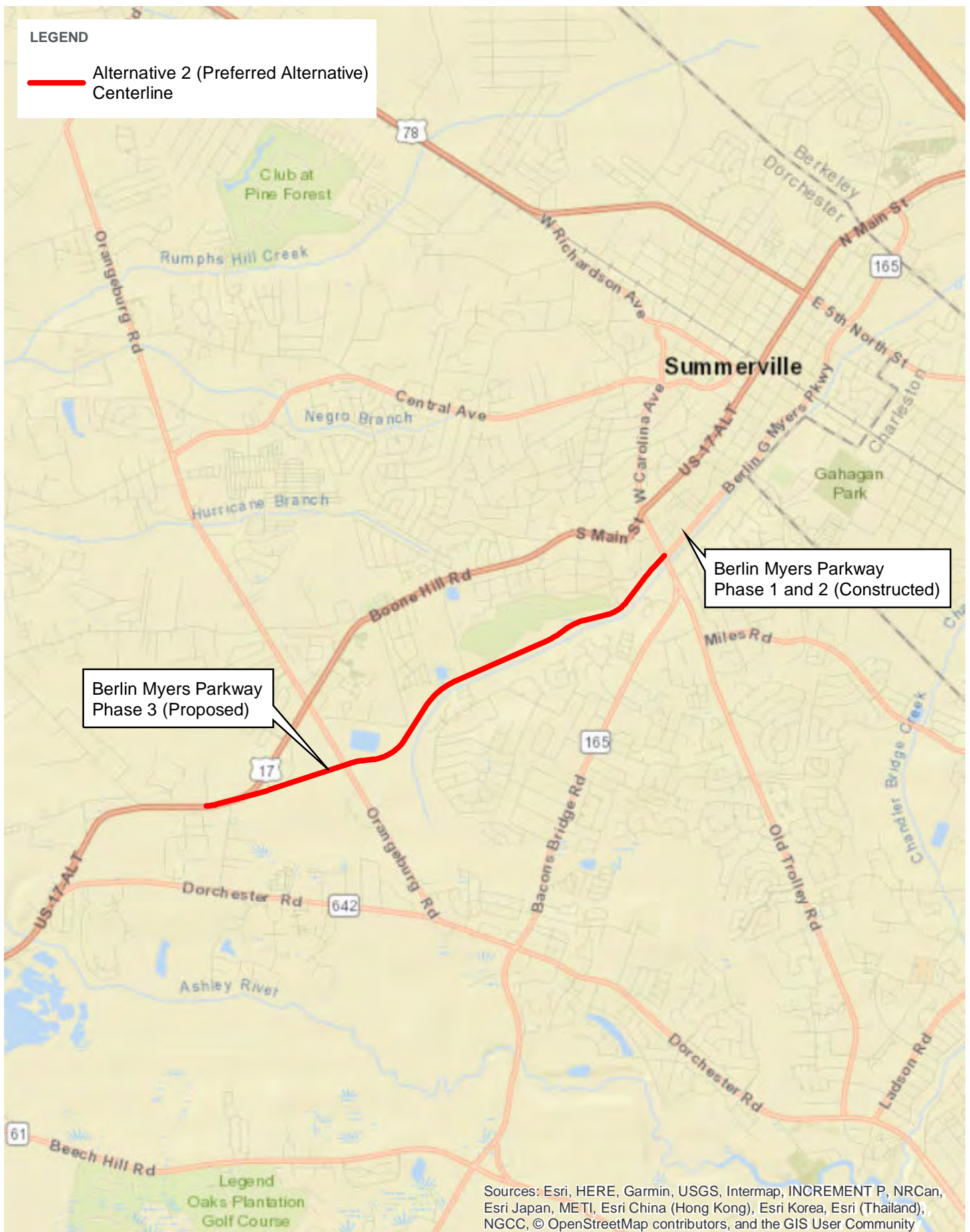
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Appendix A

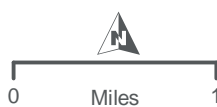
Figures

LEGEND

 Alternative 2 (Preferred Alternative)
Centerline



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community



LOCATION MAP - BERLIN MYERS PARKWAY
BERKELEY COUNTY, SC

FIGURE 1

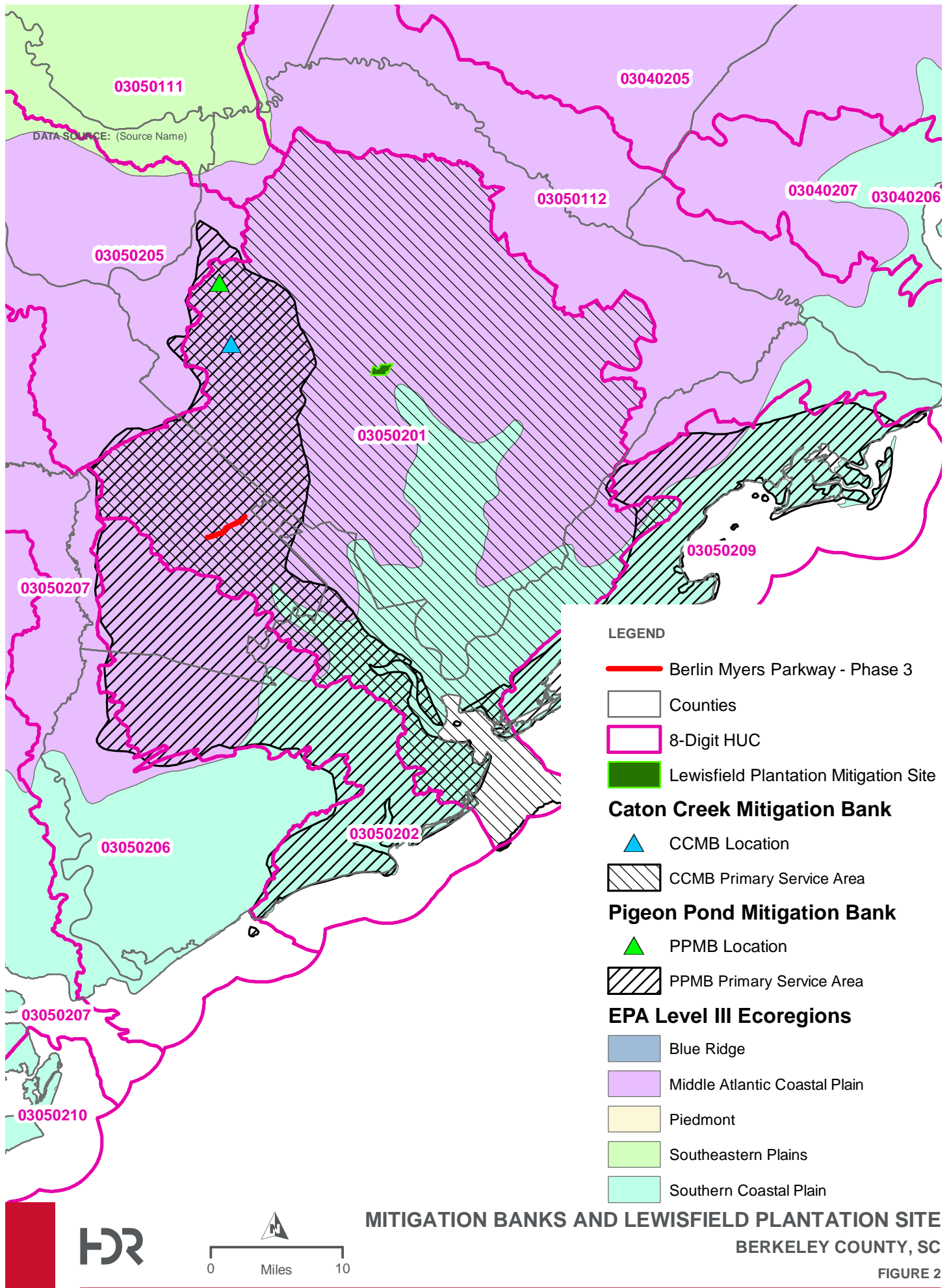
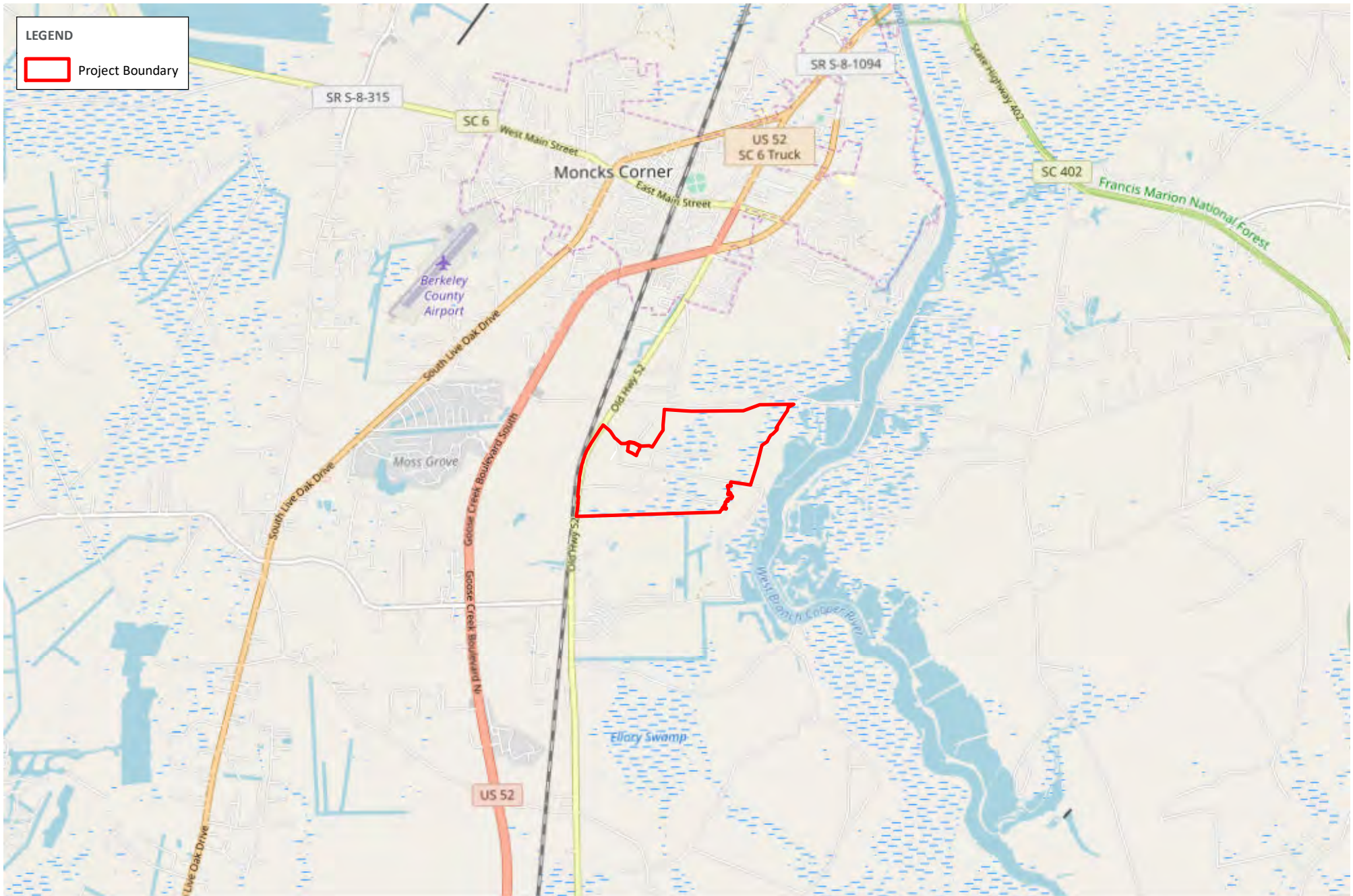
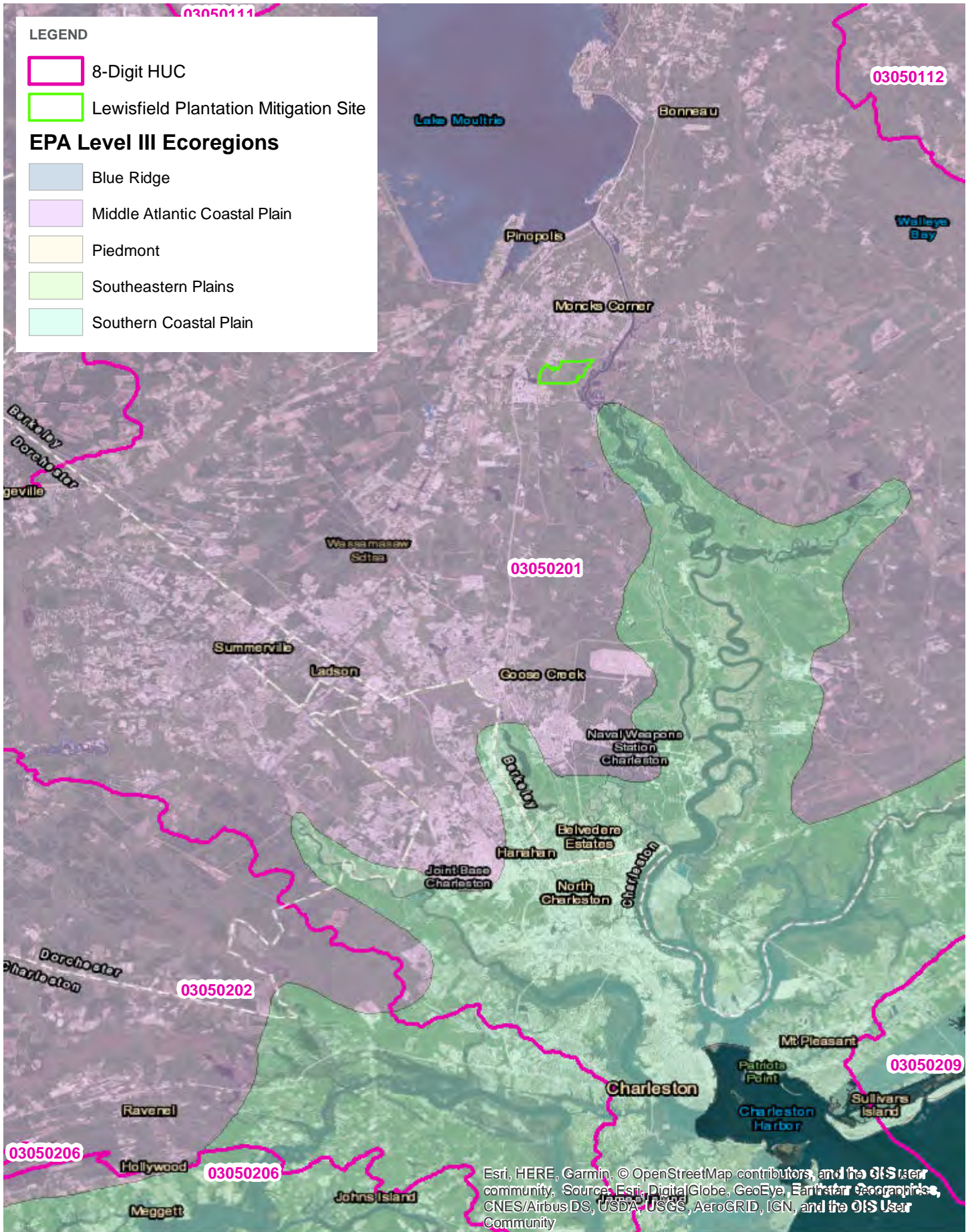


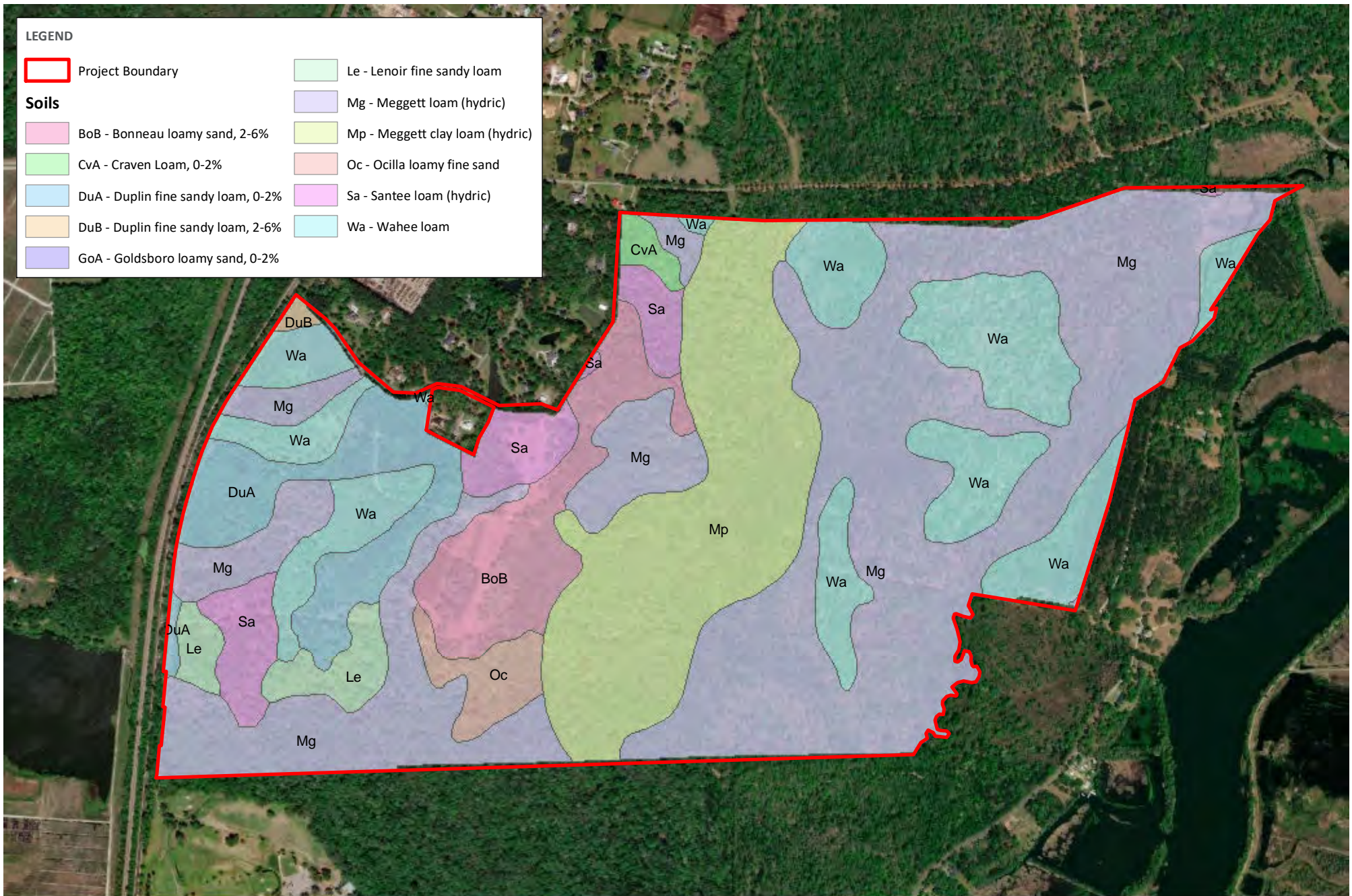
FIGURE 2



LOCATION MAP- LEWISFIELD PLANTATION
BERKELEY COUNTY, SC

FIGURE 3



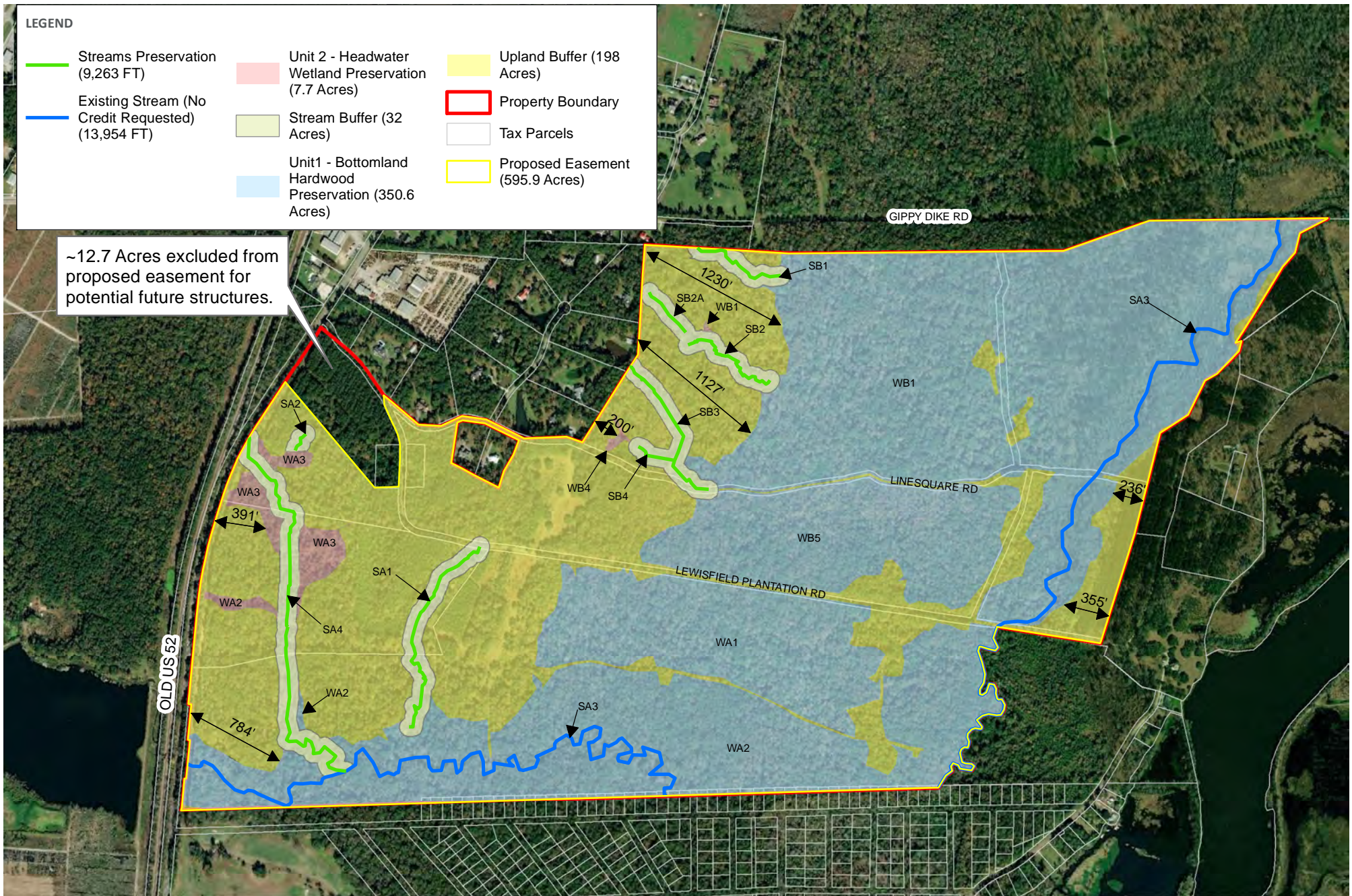


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SOILS MAP LEWISFIELD PLANTATION SITE

FIGURE 5

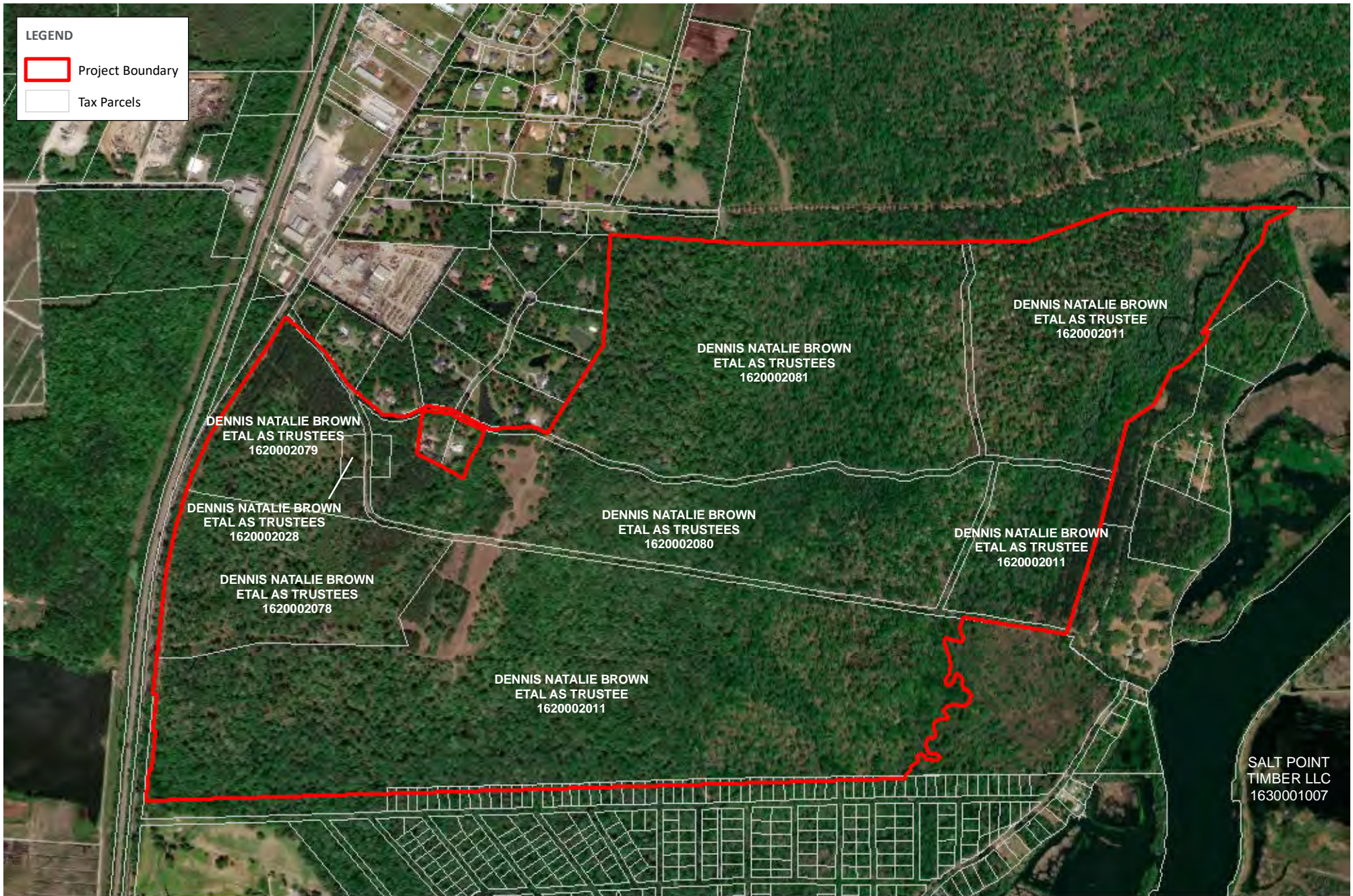
PERMITTEE RESPONSIBLE MITIGATION PLAN: BMP - PHASE 3



**MITIGATION COMPONENTS MAP
LEWISFIELD PLANTATION SITE**

FIGURE 6

PERMITTEE RESPONSIBLE MITIGATION PLAN: BMP - PHASE 3



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**PARCEL MAP
LEWISFIELD PLANTATION SITE**

FIGURE 7

PERMITTEE RESPONSIBLE MITIGATION PLAN: BMP - PHASE 3

Appendix B

Proposed Conservation Easement

STATE OF SOUTH CAROLINA) CONSERVATION EASEMENT AND
COUNTY OF BERKELEY) AND ACCEPTANCE

THIS GRANT OF CONSERVATION EASEMENT AND ACCEPTANCE (this “Conservation Easement”) is made this _____ day of _____, 2019, by and between Lord Berkeley Conservation Trust, a South Carolina non-profit corporation and publicly supported charitable organization with a business address of 223 East Main St., Ste. B, Moncks Corner, SC 29461 (“Grantor”) and Lowcountry Land Trust (“Grantee”), a South Carolina non-profit corporation and a publicly supported charitable organization with a business address of 635 Rutledge Avenue, Ste 107, Charleston, SC 29403.

RECITALS:

WHEREAS, Grantor is the owner in fee simple of certain real property containing approximately 603.778 acres located in Berkeley County, South Carolina, and more particularly described on the attached Exhibit A (hereafter the “Protected Property”);

WHEREAS, Grantor desires to convey to Grantee a conservation easement placing certain restrictions on the Protected Property for the protection of wetlands, scenic, resource, environmental, and other values, and in order that the Protected Property shall remain substantially in its natural condition forever;

WHEREAS, Grantee is qualified to hold a conservation easement, and is either:

- (a) a governmental body empowered to hold an interest in real property under the laws of the State of South Carolina or the United States; or
- (b) a charitable, not-for-profit or educational corporation, association, or trust, the purposes or powers of which include one or more of the purposes set forth in subsections (a) - (e) listed below;

WHEREAS, the purposes of this Conservation Easement include one or more of the following:

- (a) retaining or protecting natural, scenic, or open-space aspects of real property;
- (b) ensuring the availability of real property for recreational, educational, or open-space use;
- (c) protecting natural resources;
- (d) maintaining or enhancing air or water quality; or
- (e) preserving the historical, architectural, archaeological, or cultural aspects of real property;

WHEREAS, Grantor and Grantee intend this document to be a “conservation easement” as such term is defined in the South Carolina Conservation Easement Act of 1991, S.C. Code Section 27-8-10, et seq. (the “Conservation Easement Act”);

WHEREAS, the Protected Property is considered to have extraordinarily high "Conservation Values" which are defined as natural habitats determined to be of outstanding significance or of critical importance pursuant to rigorous scientific scrutiny. The Conservation Values of the Protected Property include the following:

- (a) Relatively natural habitat and biological diversity;
- (b) Preservation or enhancement of downstream water quality; and
- (c) Scenic views of the Protected Property along SC Hwy. 52;

WHEREAS, Grantor and Grantee agree that third-party rights of enforcement, as separate and distinct from the enforcement rights of Grantee, described in Section “E. GENERAL PROVISIONS” shall be held solely by the U.S. Army Corps of Engineers, Charleston District (the “Corps”) and the S.C. Department of Health and Environmental Control (“SCDHEC”) (collectively the “Third-Parties,” to include any successor agencies), and may be exercised through the appropriate enforcement agencies of the United States and the State of South Carolina, and that these rights are in addition to, and do not limit, the rights of enforcement under Department of the Army Permit No. SAC-_____ dated _____ (“Permit”), or any permit or certification issued by the Third-Parties;

NOW THEREFORE, in consideration of the above Recitals, which Recitals form a substantive part of this Conservation Easement, and the mutual covenants, terms, conditions and restrictions contained in this Conservation Easement, and intending to be legally bound hereby, Grantor hereby voluntarily, unconditionally and absolutely grants and conveys to Grantee, its successors and permitted assigns, a conservation easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth. Grantee hereby accepts the grant of such conservation easement and agrees to hold the same exclusively for the protection of the Conservation Values and to enforce the terms of the restrictive covenants set forth in this Conservation Easement.

COVENANTS, TERMS, CONDITIONS, AND RESTRICTIONS

A. PURPOSE

1. The purpose of this Conservation Easement is to ensure the Protected Property will be preserved in a “Natural Condition”, as defined herein, in perpetuity and to prevent any use of the Protected Property that will materially impair or interfere with that objective (collectively herein, the “Purpose”). Grantor intends that this Conservation Easement will confine the use of the Protected Property to such activities, including, without limitation, those involving the restoration, enhancement, and/or preservation of aquatic resources, in a manner consistent with the Purpose of this Conservation Easement. Grantor and Grantee recognize the traditional uses of the Protected Property for forestry, wildlife management, hunting and other naturalistic purposes, which uses have fostered and preserved the Conservation Values described herein.

2. The term "Natural Condition," as referenced in the preceding paragraph and other portions of this Conservation Easement, shall mean the condition of the Protected Property, as it exists at the time this Conservation Easement is executed and documented in the Present Conditions Report, as hereinafter defined. Natural Condition also includes future restoration, enhancement, or other changes to the Protected Property that occur directly as a result of the compensatory mitigation measures required by Permit No. _____ pursuant to the Mitigation Plan dated _____, prepared for the SC Department of Transportation (the "Plan"), including implementation, maintenance, and monitoring activities (collectively, "Compensatory Mitigation"). Natural Condition also includes the natural succession and maturation of landcover types documented in Present Conditions Report. The cover page and Executive Summary of the Plan are attached as Exhibit C.

3. **Baseline Documentation.** The Natural Conditions (which may or may not include restoration and enhancement efforts pursuant to compensatory mitigation activities), of the Protected Property as of the date of this Conservation Easement are documented in a report (the "Baseline Documentations Report" or "BDR") dated _____ and prepared by Grantee, which report is acknowledged as accurate by Grantor and Grantee. The BDR includes:

- (a) a current aerial photograph of the Protected Property at an appropriate scale taken as close as possible to the date this Conservation Easement is recorded;
- (b) on-site photographs taken at appropriate locations on the Protected Property, including of major natural features; and,
- (c) a surveyed plat of the Protected Property showing all relevant property lines, all existing man-made structures, improvements, features, and major, distinct natural features such as waters of the United States, and shall be recorded in the Office of Clerk of Court for Berkeley County, South Carolina prior to, or contemporaneously with, the recording of this Conservation Easement.

The BDR has been provided to and will be used by Grantee to assure that any future changes in the use of the Protected Property will be consistent with the terms of this Conservation Easement. However, the BDR is not intended to preclude the use of other evidence to establish the condition of the Protected Property as of the date of this Conservation Easement.

5. **Grantor Certification.** Grantor certifies to Third-Parties and Grantee that to Grantor's actual knowledge, there are no previously granted easements existing on the Protected Property that materially interfere or conflict with the Purpose of this Conservation Easement as evidenced by the Title Report attached hereto and incorporated herein at Exhibit D.

6. **Current Liens.** At the time of conveyance of this Conservation Easement, Grantor certifies to Third-Parties and Grantee that the Protected Property is not subject to a Mortgage or Deed of Trust.

B. PROHIBITED USES

Any activity on or use of the Protected Property inconsistent with the Purpose of this Conservation Easement is prohibited. The Protected Property shall be maintained in its natural, scenic and open condition and be restricted from any development that would impair or interfere with the Conservation Values of the Protected Property. These restrictions, which are more fully

described in the list below (the “**Restrictions**”), shall run with the land and bind Grantor’s successors, administrators, assigns, lessees, or other occupiers and users of the Protected Property, and are subject to the Reserved Rights which follow. Use of the Protected Property by Grantor, Grantee, their respective guests, agents, assigns, employees, representatives, successors, and third parties are expressly restricted by the following terms except as otherwise provided in this Conservation Easement, or specifically provided for in the Permit and any amendments thereto, the Plan, and any easements and reservations of rights in the chain of title to the Protected Property at the time of this conveyance:

1. **General**. Except as specifically otherwise provided herein, there shall be no filling, flooding, excavating, mining or drilling; no removal of natural materials; no dumping of materials; and no alteration of the topography or hydrology.
2. **Waters and Wetlands**. In addition to the General restrictions in Section B(1) above, there shall be no draining, dredging, damming or impounding; no changing the grade or elevation, impairing the flow or circulation of waters, reducing the reach of waters; and no other discharge or activity requiring a permit under applicable clean water or water pollution control laws and regulations, as amended, except as set forth in Section D of this Conservation Easement.
3. **Trees/Vegetation**. There shall be no clearing, burning, cutting or destroying of trees or vegetation, except as expressly authorized in the Reserved Rights; there shall be no planting or introduction of non-native and/or invasive species of trees or vegetation, except as provided in Section D(13) of this Conservation Easement.
4. **Activities**. No industrial activities or commercial activities (except as permitted in Section D of this Conservation Easement), no residential activities, and no commercial agricultural activities (including livestock grazing) shall be undertaken or allowed on the Protected Property. However, agricultural activities such as timber harvesting, ecological restoration and habitat enhancement are permitted provided such activities are consistent with preservation of the Conservation Values and Purpose of this Conservation Easement and do not adversely affect the Plan.
5. **Structures**. There shall be no construction, erection, or placement of buildings, billboards, or any other structures, nor any additions to existing structures except as permitted in Section D of this Conservation Easement. For purposes of this provision, the placement of portable deer stands shall be allowed.
6. **New Roads**. There shall be no construction of new roads, trails, or walkways in the wetland areas designated in the Plan without the prior written approval of Grantee and Third-Parties.
7. **Utilities**. There shall be no construction or placement of utilities or related facilities in the wetland areas designated in the Plan without the prior written approval of Grantee and Third-Parties.
8. **Chemical Controls**. There shall be no application of biocides or other biological controls without prior consultation with Grantee and the Third-Parties, except that application of biocides or biological controls for maintaining wildlife food plots in the upland areas and managing

problem vegetation, such as non-native and/or invasive species, may occur as described in the Plan and in a manner consistent with Sections D(2) and D(6) of this Conservation Easement.

9. **Subdivision.** There shall be no legal or de facto division, subdivision or portioning of the Protected Property. All present and future development rights allocated, implied, reserved or inherent in the Protected Property are hereby terminated and extinguished, and may not be used or transferred.

10. **Mining.** Grading, filling, excavation, dredging or mining, including surface mining, and recovery of any oil, gas or minerals, is prohibited on the Protected Property; provided, however, that specific grading, filling, excavation or dredging activities authorized under Section D(12) of this Conservation Easement or otherwise associated with Compensatory Mitigation activities on the Protected Property are allowed when done in accordance with permits issued by applicable state and/or federal regulatory authorities.

11. **Animals.** There shall be no destruction of animal life (including birds, insects and fish) or their habitats except as permitted in Section D of this Conservation Easement.

12. **Historical Sites and Cultural Resources.** No construction, alteration, demolition, disturbance of the ground surface, or other action, shall be undertaken on the Protected Property except as permitted by the Plan or as permitted through consultation, review and approval by the State Historic Preservation Office. Surficial disturbance for the maintenance of fields, roads, and firebreaks shall not be deemed a disturbance of the ground surface.

13. **Other Prohibitions.** Any other use of, or activity on, the Protected Property which is or may become inconsistent with the Purpose of this Conservation Easement is prohibited.

C. GRANTEE'S RIGHTS

To accomplish the Purpose of this Conservation Easement, Grantor, its successors and assigns, hereby grants and conveys the following rights to Grantee and Third-Parties.

1. To preserve and protect the Conservation Values and Natural Condition of the Protected Property in perpetuity, including enforcing the terms of this Conservation Easement.

2. To enter upon the Protected Property at reasonable times in order to monitor compliance with and to otherwise enforce the terms of this Conservation Easement.

3. Subject to Section E(6) of this Conservation Easement, to prevent any activity on or use of the Protected Property that is inconsistent with the Purpose of this Conservation Easement and to require the restoration of such areas or features of the Protected Property that may be damaged by any act, failure to act, or any use that is inconsistent with the Purpose of this Conservation Easement.

4. The right to enforce the terms and conditions of this Conservation Easement, including, without limitation, by injunctive relief.

D. GRANTOR'S RESERVED RIGHTS

Notwithstanding the foregoing Restrictions, and rights of Grantee and Third Parties, Grantor reserves for Grantor, its successors, administrators, and assigns the following “**Reserved Rights.**” All Reserved Rights are considered to be consistent with the conservation purposes of this Conservation Easement and, except as specifically stated otherwise herein, require no prior notification to or approval by Grantee or Third Parties. Notwithstanding the foregoing, Grantor and Grantee have no right to agree to any activity that would result in the termination of this Conservation Easement.

1. **Landscape Management.** Landscaping by Grantor to prevent erosion or damage to the Protected Property or portions thereof, or significant detriment to existing or permitted uses, is allowed, provided that such landscaping must be generally consistent with preserving the Conservation Values and Natural Condition of the Protected Property.
2. **Forest Management.** Harvesting and management of timber, including the use of prescribed fire and the installation and maintenance of firebreaks, by Grantor is permitted to the extent necessary to:
 - (i) Protect the natural environment in areas where the forest is damaged by natural forces such as fire, flood, storm, insects or infectious organisms,
 - (ii) Maintain the ecological conditions consistent with preserving the Conservation Values and Natural Condition of the Protected Property;
 - (iii) Restore native forest types, including, without limitation, removing loblolly pine and planting longleaf pine;
 - (iv) Implement the approved Plan;
 - v) Enhance natural habitat for ecological purposes; and
 - vi) Manage existing loblolly pine stands outside of all wetlands and buffer areas for commercial timber harvesting.

Such timber harvesting and management shall be carried out in accordance with a Forest Management Plan agreed to by Grantor and Grantee that meets or exceeds Best Management Practices approved by the South Carolina Forestry Commission or successor agency, as amended. Timber harvest shall not occur in the wetlands once the activities required by the Plan are determined to have been completed unless consistent with preserving the Conservation Values and Natural Condition of the Protected Property and approved by the Parties. Prescribed fire may be utilized to maintain the ecological integrity of the Property. Grantor reserves the right to use agrichemicals, including, but not limited to, fertilizers and biocides, but only in those amounts and with that frequency of application as approved by the laws and regulations of the United States and the State of South Carolina and as constituting the minimum necessary to accomplish reasonable activities permitted by the terms of this Conservation Easement.

3. **Walking Trails and Recreation.** Grantor reserves the right to authorize outdoor recreational activities that are consistent with the Purposes of this Easement and sustaining the Natural Conditions of the Property, including, but not limited to: hunting, fishing, primitive camping

in designated areas, and general wildlife observation, with cumulatively minor impacts. Grantor may construct and maintain additional walking trails of natural, permeable surfaces on the Protected Property in a manner consistent with preserving the Conservation Values and Natural Condition of the Protected Property. Notwithstanding the foregoing, no new trails wider than ten (10) feet in width shall be located within the wetland areas designated in the Plan without the prior written approval of Grantee and Third-Parties.

4. **Road Maintenance.** Grantor reserves the right to maintain and improve existing roads (the “Existing Roads”), depicted on Exhibit E, incorporated herein by reference. Maintenance and improvement of Existing Roads is permitted, provided that such maintenance is limited to: removal or pruning of dead or hazardous vegetation; removal or pruning of vegetation and application of permeable materials (*e.g.*, sand, gravel) necessary to correct or impede erosion; grading; replacement of culverts, water control structures, or bridges; maintenance of roadside ditches; and maintenance of any other crossings that facilitate access to the Protected Property.

5. **New Roads and Trails.** New roads and trails (“New Roads/Trails”) outside of wetland areas may be added and maintained as necessary to facilitate other approved Reserved Rights, provided that the addition and maintenance of such New Roads/Trails is consistent with preserving the Conservation Values and Natural Condition of the Protected Property. No New Roads/Trails shall be constructed in the wetland areas designated in the Plan without the prior written approval of Grantee and Third-Parties.

6. **Vegetation, Debris, and Non-Native/Invasive Species Removal.** Notwithstanding the forestry management provisions set forth in Section D(2) above, Grantor reserves the right to remove or trim trees or vegetation within the Protected Property for the following purposes: (i) to clear and restore vegetative cover that has been damaged or disturbed by forces of nature or otherwise; (ii) to remove man-made debris; (iii) to remove parasitic vegetation (as it relates to the health of the host plant) and non-native and/or invasive plant or animal species; (iv) to remove dead, dying or damaged trees near trails, road or structures that may reasonably pose a danger or create hazardous conditions; (v) to remove trees to the minimum extent necessary to install or construct the items permitted to be installed or constructed under this Conservation Easement; (vi) to use such removed wood as firewood for allowed activities on the Protected Property; and (vii) to enhance wildlife habitat and promote ecological objectives, including, without limitation, removing loblolly pine and planting longleaf pine.

7. **Construction of Structures and Signs.** The construction, repair, replacement and maintenance of the following structures (“Structures”) shall be allowed: (a) stands, blinds, and other similar improvements for hunting, fishing, and wildlife observation; (b) information structures, such as kiosks and directional/interpretive signage for educational and recreational use; (c) signs required by Section E(1), or for regulating access to and use of any portion of the Protected Property, or posting no trespassing notices, or for identifying the owner of the Protected Property, or identifying specific areas within the Protected Property; (d) agricultural buildings, sheds and barns used for storage of materials necessary for wildlife habitat management or the safety and administrative use by personnel of Grantor. Structures permitted by the foregoing, other than signs, kiosks and temporary stands and blinds, are also subject to the following limitations: (i) the aggregate ground surface covered by all such Structures shall not exceed three thousand (3,000) square feet; (ii) all such construction and maintenance is conducted in a manner designed to produce no material adverse

effect on any Conservation Values and the Natural Condition of the Protected Property, (iii) no Structure containing a roof shall be placed in the wetlands; and (iv) Grantor provides written notice to Grantee and Third-Parties no less than thirty (30) days prior to commencement of construction.

8. **Existing Structures.** The maintenance and repair of all existing structures, as identified in the Baseline Documentation Report, shall be allowed.

9. **Compensatory Mitigation.** Grantor reserves the right to perform any restoration, enhancement, and other wetland mitigation activities required or allowed by the Permit and/or Plan, including the use of all equipment necessary to successfully complete any mitigation requirements contained therein. Subject to approval of Grantee and Third Parties, not to be unreasonably withheld, Grantor reserves the right to undertake additional wetland or aquatic restoration or enhancement activities that provide a net benefit to the Conservation Values.

10. **Threatened and Endangered Species Management.** Management for Federally listed threatened or endangered species, as well as State recognized rare, threatened or endangered species, shall be permitted, provided that such management is in accordance with the recommended management practices and/or recovery plans and is consistent with preserving the Conservation Values and Natural Condition of the Protected Property.

11. **Scientific Data Collection.** Grantor may conduct and/or permit the collection of scientific data, including, but not limited to, the installation of monitoring wells and weather stations, provided such installation and collection is consistent with preserving the Conservation Values and Natural Condition of the Protected Property. Any permissions or licenses issued for data collection shall be limited in time and shall require the permittee stated therein to be the party responsible for maintenance and removal of monitoring wells, weather data collection stations and/or any other associated data collection equipment.

12. **Waters and Wetlands.** Grantor shall be permitted to create or extend the reach of waters or wetlands beyond that called for in the Plan as long as delineated wetlands described in the Plan are not adversely affected or reduced in any manner, and provided that such construction may take place only for the provision of fish and wildlife habitat enhancement and only after obtaining the prior written approval of Grantee and Third-Parties, and after obtaining and providing Grantee and Third-Parties copies of, all applicable local, state and federal and approvals necessary for such activity.

13. **Quiet Enjoyment.** Grantor reserves to itself, its agents, representatives, successors and assigns, all rights accruing from its ownership of the Protected Property, including the right to permit or invite others, including, at Grantor's election the general public, onto the Protected Property, or to engage in all uses of the Protected Property that are not expressly prohibited or restricted herein and are not inconsistent with the Purpose of this Conservation Easement. Without limiting the generality of the foregoing, Grantor expressly reserves the right of access to the Protected Property and the right of quiet enjoyment of the Protected Property.

14. **Commercial Uses.** Subject to all local, state and federal laws and regulations, Grantor reserves the right to carry out commercial uses on the Property that are consistent with the Purposes of this Easement, including eco-tourism, hunting leases, green burials, management of

existing upland loblolly pine, camping, and other such uses having cumulatively de minimis impacts to the Conservation Values of the Property or the Purposes of this Easement.

15. **Other Reserved Rights.** Grantor reserves the right to engage in all acts or uses not prohibited by the terms of this Conservation Easement, and which are not inconsistent with the Purpose of this Conservation Easement.

E. GENERAL PROVISIONS

Except as otherwise provided herein, the following “General Provisions” shall be binding upon, and inure to the benefit of, Grantor, Grantee and Third-Parties, and the successors, administrators, assigns, lessees, licensees and agents of each:

1. **Marking of Protected Property.** Grantor shall install and maintain permanent signs saying “Protected Natural Area” or establish an equivalent, permanent, marking system along the boundary of the Protected Property.

2. **Rights of Access and Entry.** Grantee and Third-Parties shall have the right to enter and go upon the Protected Property for purposes of inspection, and to verify compliance with the terms of this Conservation Easement. Grantee shall also have the rights of visual access and view from public roads, waters and ways. In accordance with the approved Plan, Third-Parties are authorized to conduct site inspections to evaluate the Protected Property to determine whether or not the Protected Property is being maintained as expected and to confirm Compensatory Mitigation is being performed in a manner and time adequate to reach success within the appropriate time periods set forth in the Plan. A party seeking access shall first contact Grantor at least thirty (30) days prior to entering the Protected Property. No right of access or entry by the general public to any portion of the Protected Property is conveyed by this Conservation Easement; however, Grantor, its successors and assigns, may allow public access at its discretion and dedicate the Protected Property as a public preserve under South Carolina law and in accordance with applicable uses and policies governed by public natural resource agencies.

3. **Enforcement.** In the event of a breach by Grantor of the terms of this Conservation Easement, Grantee or one of the Third-Parties shall notify Grantor in writing of the breach. Grantor shall have thirty (30) days after receipt of such notice to undertake actions that are reasonably calculated to swiftly correct the conditions constituting the breach. If Grantor fails to take such corrective action within thirty (30) days, or under circumstances where the breach cannot reasonably be corrected within a thirty (30) day period, if Grantor fails to begin taking such corrective action within said thirty (30) day period, or fails to continue diligently to take such corrective action until the breach is finally corrected), Grantee and/or the Third-Parties may undertake such actions, including legal proceedings, as are necessary to achieve such corrective action. Among other relief, Grantee and/or Third-Parties shall be entitled to the restoration of the Protected Property to the condition that existed prior to any such breach of this Conservation Easement. The reasonable costs of a breach, correction or restoration, including Grantee’s expenses, court costs, and attorneys’ fees, shall be paid by Grantor, provided Grantor is determined to be responsible for the breach. Enforcement shall be at the discretion of Grantee and/or Third-Parties, and no omission or delay in acting shall constitute a waiver of any enforcement right. As between each other, Grantee and Third-

Parties acknowledge the discretionary nature of the inspection and enforcement rights and the potential which exists for reasonable differences of opinion with respect to enforcing the terms of the Conservation Easement. These enforcement rights are in addition to, and shall not limit, enforcement rights available to Grantee or Third-Parties, including the U.S. Department of Justice, under other provisions of law or equity, or under any applicable permit or certification. This Conservation Easement may only be enforced by the parties hereto, and their respective successors and assigns, and no general third party beneficiary rights, including but not limited to third party rights of enforcement, are created hereby, except as to the Third Parties named and defined herein.

4. **Events Beyond Grantor's Control.** Nothing herein shall be construed to authorize Grantee or Third-Parties to institute any proceedings against Grantor for any changes to the Protected Property from causes or circumstances determined to have been beyond Grantor's control, including, without limitation, changes caused by acts of God, earthquake, fire, flood, storm, war, civil disturbance, strike, the unauthorized acts of third persons, or similar causes, or from any prudent action taken in good faith by Grantor under emergency conditions to prevent, abate or mitigate significant injury to life, damage to property or harm to the Protected Property resulting from such causes.

5. **Obligations of Ownership.** Grantor is responsible for any real estate taxes, assessments, fees, or charges levied upon the Protected Property. Grantee shall not be responsible for any costs or liability of any kind related to the ownership, operation, insurance, upkeep, or maintenance of the Protected Property. Nothing herein shall relieve Grantor of the obligation to comply with federal, state or local laws, regulations and permits which may apply to the exercise of the Reserved Rights.

6. **Indemnification.** Grantor agrees to release, hold harmless, defend and indemnify Grantee and its officers, directors, employees, agents and contractors (the "Indemnified Parties") from any and all liabilities including injury, losses, damages, judgments, penalties, costs, expenses, and fees (including reasonable attorney's fees) arising from or in any way connected to any injury, including death, to any person or physical damage to any part of the Protected Property, resulting from any negligent act or omission of Grantor occurring on or about the Protected Property, unless due to the negligence or willful act of any of the Indemnified Parties. Any such negligence on the part of an Indemnified Party shall only prevent the negligent Indemnified Party from recovery and shall in no way affect the indemnification rights of any other non-negligent Indemnified Party.

7. **Long-Term Management.** Grantor shall manage the Property in a manner consistent with the Long-Term Management obligations set forth in the Plan.

8. **Extinguishment.** In the event that changed conditions render impossible the continued use of the Protected Property for conservation purposes, this Conservation Easement may only be extinguished, in whole or in part, by judicial proceeding.

9. **Eminent Domain.** Whenever all or part of the Protected Property is taken in the exercise of eminent domain so as to substantially abrogate the Restrictions imposed by this Conservation Easement, Grantor and Grantee shall join in appropriate actions at the time of such taking to (i) promptly notify the Corps and SCDHEC, and (ii) recover the full value of the taking, and all incidental and direct damages due to the taking, including but not limited to alternative

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compensatory mitigation that is acceptable to the Corps and SCDHEC, and conforms with the requirements of 33 C.F.R. § 332.7(a)(3) and (4). Any proceeds recovered under this Section, including, without limitation, any proceeds generated from timber harvest or salvage, shall be placed in escrow by Grantor and Grantee to be held and controlled jointly, until such time as the funds can be utilized to acquire adjoining acreage or other suitable acreage that fulfills the compensatory mitigation requirements set by the conditions of the permit and in the spirit of the Clean Water Act Mitigation Rule (33 C.F.R. Part 332).

10. **Disposal.** In the event that Grantor desires to convey, dispose of or transfer all or part of the Protected Property, Grantor shall do so in conformity with the requirements of 33 C.F.R. § 332.7(a)(3). In such event, priority must be given for conveyance of the Protected Property to an entity qualifying as a Holder under the South Carolina Conservation Easement Act, S.C. Code Ann. § 27-8-20(2) and the Protected Property shall continue to be managed in accordance with the Plan and protected by this Conservation Easement. A 60-day advance notification to the Corps and SCDHEC is required before any action is taken to transfer title under this Section 10, or establish any other legal claims to or over, the Protected Property. Any such transfer shall be subject to this Conservation Easement.

11. **Dedication of the Protected Property.** Grantor reserves the right and opportunity to dedicate the Protected Property as a Heritage Preserve or commit the Protected Property to the corpus of the South Carolina Heritage Trust pursuant to the South Carolina Heritage Trust Act, as defined by South Carolina Code of Laws, Title 51, Chapter 17.

12. **Notification.** Any notice, request for approval, or other communication required under this Conservation Easement shall be sent by registered or certified mail, postage prepaid, to the following addresses (or such address as may be hereafter specified by notice pursuant to this Section E(12):

To Grantor: Lord Berkeley Conservation Trust
223 East Main St., Suite B
Moncks Corner, SC 29461

To Grantee: Lowcountry Land Trust
635 Rutledge Avenue, Ste 107
Charleston, SC 29403

To Third-Parties:	U.S. Army Corps of Engineers Attn: Regulatory Division 69A Hagood Avenue Charleston, South Carolina 29403	SCDHEC-Bureau of Water 2600 Bull Street Columbia, SC 29201
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13. **Assignment.** This Conservation Easement is transferable by Grantee, but only to a qualified holder under § 501(c)(3) and § 170(h) of the Internal Revenue Code as described herein. As a condition of such transfer, the transferee shall agree to all of the restrictions, rights, and provisions herein, and to continue to carry out the Purposes of this Conservation Easement. Assignments shall be accomplished by amendment of this Conservation Easement under Section

E(18). Grantee shall notify Grantor and Third-Parties at least 60 days prior to any such assignment or transfer.

14. **Failure of Grantee.** If at any time Grantee is unable or fails to enforce this Conservation Easement, or if Grantee ceases to be a qualified holder under §501(c)(3) and §170(h) of the Internal Revenue Code, and if within a reasonable period of time after the occurrence of one of these events Grantee fails to make an assignment pursuant to Section E(13), then Grantee's interest shall become vested in another qualified holder in accordance with an appropriate (*e.g., cy pres*) proceeding in a court of competent jurisdiction.

15. **Subsequent Transfer.** Grantor agrees to incorporate the terms of this Conservation Easement in any deed or other legal instrument which transfers any interest in all or a portion of the Protected Property. Grantor agrees to provide written notice of such transfer to Grantee and Third-Parties at least 60 days prior to the date of transfer. The failure of Grantor to comply with this Section E(15) shall not impair the validity or enforceability of this Conservation Easement.

16. **No Extinguishment Through Merger.** Grantor and Grantee herein agree that should Grantee, or any successor in interest to Grantee, come to own all or a portion of the fee interest in the Protected Property subject to this Conservation Easement, (i) said owner shall observe and be bound by the obligations and the restrictions imposed upon the Protected Property by this Conservation Easement; (ii) this Conservation Easement shall not be extinguished, in whole or in part, through the doctrine of merger in view of the public interest in its enforcement; and (iii) said owner as promptly as possible shall assign Grantee interests in this Conservation Easement of record to another holder in conformity with the requirements of Section E(13). Any instrument of assignment of this Conservation Easement or the rights conveyed herein shall refer to the provisions of Section E(13), and shall contain language necessary to continue Section E(13) in force. Further, no deed, transfer, or assignment shall be effective if it will result in merger, until a like conservation easement has been granted to avoid merger.

17. **Control.** Nothing in this Conservation Easement shall be construed as giving rise to any right or ability of Grantee to exercise physical or managerial control over day-to-day operations of the Protected Property, or any of Grantor's activities on the Protected Property, or otherwise to become an operator with respect to the Protected Property within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

18. **Amendment.** This Conservation Easement may be amended, but only in writing signed by all parties hereto, and provided such amendment must be consistent with the Purpose of this Conservation Easement and the status of Grantee under any applicable laws, including S.C. Code Title 27, Chapter 8.

19. **Severability.** Should any separable part of this Conservation Easement be found void or unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect.

20. **Warranty.** Grantor warrants that it owns the Protected Property in fee simple, and that Grantor either owns all interests in the Protected Property which may be impaired by the granting of this Conservation Easement or that there are no outstanding mortgages, tax liens, encumbrances, or other interests in the Protected Property which have not been expressly subordinated to this Conservation Easement. Grantor further warrants that Grantee shall have the use of and enjoy all the benefits derived from and arising out of this Conservation Easement. Grantor further warrants that it has no knowledge of the presence, release or threatened release of hazardous substances or wastes on the Protected Property.

21. **Habendum Clause.** To have and to hold, this Conservation Easement together with all and singular the appurtenances and privileges belonging or in any way pertaining thereto, either in law or equity, either in possession or expectancy, for the proper use and benefit of Grantee, its successors and assigns, forever.

22. **Counterparts.** This Conservation Easement may be executed in counterparts, each of which shall be deemed to be an original, and taken together shall constitute one and the same instrument.

[Signature Pages Follow]

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Lewisfield Plantation

IN WITNESS WHEREOF, Grantor and Grantee have executed this Conservation Easement, and the Third-Parties have approved this Conservation Easement, on the date written above. By its execution and acceptance of this Conservation Easement, Grantee accepts the Third-Parties rights of enforcement herein.

SIGNED, SEALED AND
DELIVERED IN THE PRESENCE OF:

WITNESSES:

GRANTOR:

LORD BERKELEY CONSERVATION TRUST

By:

Its: _____

By: _____

Its: _____

STATE OF _____)
COUNTY OF _____)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged this ____ day of _____, 2019, before me the undersigned Notary, and I do hereby certify that the above named _____, duly authorized officer of the **Grantor** personally appeared before me and acknowledged the due execution of the foregoing instrument.

_____(SEAL)
(Signature of Notary)
Notary Public for the State aforesaid
My commission expires: _____

Conservation Easement Lewisfield Plantation

WITNESSES:

GRANTEE:

LOWCOUNTRY LAND TRUST

By: _____

Its: _____

And: _____

Its: _____

[illegible]

ACKNOWLEDGMENT

The foregoing instrument was acknowledged this _____ day of _____, 2019, before me the undersigned Notary, and I do hereby certify that the above named _____ and _____, duly authorized officers of the **Grantee** personally appeared before me and acknowledged the due execution of the foregoing instrument.

_____(SEAL)
(Signature of Notary)
Notary Public for the State of South Carolina
My commission expires: _____

Conservation Easement
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Approval by Third-Parties:

U.S. Army Corps of Engineers, Charleston
District,

By: _____

Print name

Title: _____

S.C. Department of Health and
Environmental Control

By: _____

Print name

Title: _____

EXHIBIT A
Legal Description of Protected Property

EXHIBIT B
Aerial Map

[Follows this page]

EXHIBIT C
Plan

[Follows this page]

EXHIBIT D
Title Report

[Follows this page]

EXHIBIT E
Roads

[Follows this page]

Appendix C

Required Mitigation Credits

Required Wetland Mitigation Credit Table and Worksheet



TIP: Leave cursor over each factor or option below to pop-up helpful information or definitions.

Required Wetland Mitigation Credit Table

FACTORS	OPTIONS					
Lost Type	Type C 0.2		Type B 2.0		Type A 3.0	
Priority Category	Tertiary 0.5		Secondary 1.5		Primary 2.0	
Existing Condition	Very Impaired 0.1	Impaired 1.0		Partially Impaired 2.0		Fully Functional 2.5
Duration	0 to 1 Year 0.2	1 to 3 Years 0.5	3 to 5 Years 1.0	5 to 10 Years 1.5	Over 10 Years 2.0	
Dominant Impact	Shade 0.2	Clear 1.0	Drain 2.0	Dredge 2.5	Impound/Flood 2.5	Fill 3.0
Cumulative Impact	< 0.25 Acre 0.1	0.25 - 0.99 Acres 0.2	1.0 - 2.99 Acres 0.5	3.0 - 9.99 Acres 1.0	≥ 10.0 Acres 2.0	

NOTE: The cumulative impact factor for the overall project should be included in the sum of factors for each impacted area on the Required Wetland Mitigation Credit Worksheet

Required Wetland Mitigation Credit Worksheet

FACTOR	FILL/RIP-RAP	EXCAVATION	CLEARING	TRIB F, J, M, N		
Lost Type	Type A	Type A	Type A	Type A		
Priority Category	Tertiary	Tertiary	Tertiary	Tertiary		
Existing Condition	Fully Functional	Fully Functional	Fully Functional	Fully Functional		
Duration	Over 10 Years	Over 10 Years	Over 10 Years	Over 10 Years		
Dominant Impact	Fill	Dredge	Clear	Fill		
Cumulative Impact	≥ 10.0 Acres	≥ 10.0 Acres	≥ 10.0 Acres	>10.0 Acres		
Sum of Factors	13	12.5	11	13		
Impacted Area	41.42	5.43	3.96	0.02		
R x AA=	538.5	67.9	43.6	0.3		

Required Wetland Mitigation Credits = $\Sigma (R \times A) =$

650.2

708.5 = Total Credit Requirement for project impacts and mitigation for wetlands protected under restrictive covenant

See Wetland Mitigation Worksheet 2 for additional credits for impacts within restrictive covenants

Required Wetland Mitigation Credit Table and Worksheet



TIP: Leave cursor over each factor or option below to pop-up helpful information or definitions.

Required Wetland Mitigation Credit Table

FACTORS	OPTIONS					
Lost Type	Type C 0.2		Type B 2.0		Type A 3.0	
Priority Category	Tertiary 0.5		Secondary 1.5		Primary 2.0	
Existing Condition	Very Impaired 0.1	Impaired 1.0		Partially Impaired 2.0		Fully Functional 2.5
Duration	0 to 1 Year 0.2	1 to 3 Years 0.5	3 to 5 Years 1.0	5 to 10 Years 1.5	Over 10 Years 2.0	
Dominant Impact	Shade 0.2	Clear 1.0	Drain 2.0	Dredge 2.5	Impound/Flood 2.5	Fill 3.0
Cumulative Impact	< 0.25 Acre 0.1	0.25 - 0.99 Acres 0.2	1.0 - 2.99 Acres 0.5	3.0 - 9.99 Acres 1.0	≥ 10.0 Acres 2.0	

NOTE: The cumulative impact factor for the overall project should be included in the sum of factors for each impacted area on the Required Wetland Mitigation Credit Worksheet

Impacts to areas protected under restrictive covenants

Required Wetland Mitigation Credit Worksheet

FACTOR	FILL/RIP-RAP	EXCAVATION	CLEARING			
Lost Type	Type A	Type A	Type A			
Priority Category	Tertiary	Tertiary	Tertiary			
Existing Condition	Fully Functional	Fully Functional	Fully Functional			
Duration	Over 10 Years	Over 10 Years	Over 10 Years			
Dominant Impact	Fill	Dredge	Clear			
Cumulative Impact	≥ 10.0 Acres	≥ 10.0 Acres	≥ 10.0 Acres			
Sum of Factors	13	12.5	11			
Impacted Area	3.96	0.11	0.49			
R x AA=	51.5	1.4	5.4			

Additional credits required for areas protected under restrictive covenants

Required Wetland Mitigation Credits = $\Sigma (R \times A) =$

58.3

708.5 = Total Credit Requirement for project impacts and mitigation for wetlands protected under restrictive covenant

Determination of Stream Credits

3.0 Table and Worksheet

Working Draft, Subject to Change

Last Revised: October 07, 2010



TIP: Leave cursor over each factor or option below to pop-up helpful information or definitions.

Adverse Impact Factors Table for Linear Systems										
FACTORS	OPTIONS									
Stream Type¹	Non-RPW 0.10			1ˢᵗ and 2ⁿᵈ Order RPWs 0.8			All Other Streams 0.4			
Priority Category	Tertiary 0.1			Secondary 0.4			Primary 0.6			
Existing Condition	Very Impaired 0.1		Impaired 0.5		Partially Impaired 0.75			Fully Functional 1.5		
Duration	Temporary 0.05			Recurrent 0.1			Permanent 0.3			
Dominant Impact	Shade / Clear 0.05	Utility Crossing 0.15	Culvert 0.3	Armor 0.5	Detention / Weir 0.75	Morpho-Logic 1.5	Impound / Flood 2.0	Pipe 2.2	Fill 2.5	
Cumulative Impact (LF)	< 50' .01		51-300' 0.10		301-500' 0.20		501-1000' 0.40		1001-6000' 1.5	> 6000' 3.0

¹ Stream type does not include man-made linear features. These features will be evaluated on a case-by-case basis.

Required Mitigation Credits Worksheet for Linear Systems						
FACTOR	TRIB D	TRIB D	TRIB L	TRIB V	TRIB W	TRIB W
Stream Type	1st & 2nd Order RPW	1st & 2nd Order RPW	1st & 2nd Order RPW	1st & 2nd Order RPW	1st & 2nd Order RPW	1st & 2nd Order RPW
Priority Category	Tertiary	Tertiary	Tertiary	Tertiary	Tertiary	Tertiary
Existing Condition	Partially Impaired	Partially Impaired	Partially Impaired	Impaired	Impaired	Impaired
Duration	Permanent	Permanent	Permanent	Permanent	Permanent	Permanent
Dominant Impact	Culvert	Armor	Culvert	Morpho-Logic	Culvert	Armor
Cumulative Impact	501-1000'	501-1000'	501-1000'	501-1000'	501-1000'	501-1000'
Sum of R Factors	2.65	2.85	2.65	3.60	2.40	2.60
Linear Feet Impact	13	11	51	212	16	14
R x LL =	34	31	135	763	38	36

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Total Required Credits = Σ (R x LL) =

See Next Page

Determination of Stream Credits

3.0 Table and Worksheet

Working Draft, Subject to Change

Last Revised: October 07, 2010



TIP: Leave cursor over each factor or option below to pop-up helpful information or definitions.

Adverse Impact Factors Table for Linear Systems										
FACTORS	OPTIONS									
Stream Type¹	Non-RPW 0.10			1" and 2 nd Order RPWs 0.8			All Other Streams 0.4			
Priority Category	Tertiary 0.1			Secondary 0.4			Primary 0.6			
Existing Condition	Very Impaired 0.1		Impaired 0.5		Partially Impaired 0.75			Fully Functional 1.5		
Duration	Temporary 0.05			Recurrent 0.1			Permanent 0.3			
Dominant Impact	Shade / Clear 0.05	Utility Crossing 0.15	Culvert 0.3	Armor 0.5	Detention / Weir 0.75	Morpho-Logic 1.5	Impound / Flood 2.0	Pipe 2.2	Fill 2.5	
Cumulative Impact (LF)	< 50' .01		51-300' 0.10		301-500' 0.20		501-1000' 0.40		1001-6000' 1.5	
									> 6000' 3.0	

¹ Stream type does not include man-made linear features. These features will be evaluated on a case-by-case basis.

Required Mitigation Credits Worksheet for Linear Systems						
FACTOR	TRIB Y (Sawmill Branch)	IMPACT 2	IMPACT 3	IMPACT 4	IMPACT 5	IMPACT 6
Stream Type	All other streams					
Priority Category	Secondary					
Existing Condition	Impaired					
Duration	Permanent					
Dominant Impact	Armor					
Cumulative Impact	501-1000'					
Sum of R Factors	2.5					
Linear Feet Impact	291					
R x LL =	727.5					

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Total Required Credits = Σ (R x LL) =

1,766

Appendix D

Site Photographs



P1. WB5, Relic berm in Bottomland Hardwood wetland, likely part of historic inland rice plantation (4/24/2018)

P2. WB5, Bottomland Hardwood wetland community (4/24/2018)



P3. Looking downstream at SA3 (4/24/2018)

P4. WB1, bottomland hardwood wetland system (10/8/2018)



P6. SB1 looking downstream (10/8/2018)



P7. SB2 looking downstream (10/8/2018)



P8. SB3 looking downstream (10/8/2018)



P9. WB1, bottomland hardwood wetland system (10/8/2018)



P10. SA1, looking upstream (10/9/2018)



P11. SA2, looking downstream (10/9/2018)



P12. SA3, looking upstream along southern part of property (11/27/2018)



P13. SA4, looking downstream (11/27/2018)



P14. WA1, bottomland hardwood wetland (10/8/2018)



P15. WA2, bottomland hardwood wetland (10/9/2018)



P16. WA3, headwater wetland (10/9/2018)



P17. Upland island within WB1 (10/26/2018)



P18. Upland island within WB1 (10/26/2018)



P19. WB1, bottomland hardwood wetland on east side of property (10/10/2018)

Appendix E

Jurisdictional Determination Map and Approval Letter



DEPARTMENT OF THE ARMY
CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A HAGOOD AVENUE
CHARLESTON, SOUTH CAROLINA 24903-5107

25 April 2019

Regulatory Division

SCDOT
Mr. Sean Connolly
955 Park Street, Rm 506
Columbia, South Carolina 29202

Dear Mr. Connolly:

This letter is in response to your request for a Preliminary Jurisdictional Determination (PJD) (SAC-2018-01912) (SCDOT PIN 0023349) received in our office on December 13, 2018, for a 604-acre site located two miles south of Moncks Corner between Old Highway 52 and the West Branch Cooper River at the Lewisfield Plantation, Moncks Corner, Charleston County, South Carolina (Latitude: 33.1630°N, Longitude: 80.0045°W). The site in question is shown on the enclosed Figure 7, entitled "JURISDICTIONAL FEATURES OVERVIEW MAP LEWISFIELD PLANTATION, BERKELEY COUNTY, SC" dated April 17, 2019, and Figures 7A and 7B, entitled "JURISDICTIONAL FEATURES MAP LEWISFIELD PLANTATION, BERKELEY COUNTY, SC" dated November 29, 2018, prepared by HDR. A PJD is used to indicate that this office has identified the approximate location(s) and boundaries of wetlands and/or other aquatic resources that are presumed to be waters of the United States on the site pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. § 1344).

Based on a review of aerial photography, topographic maps, National Wetlands Inventory maps, soil survey information, and Wetland Determination Data Forms, it has been concluded the boundaries shown on the referenced depiction/map(s) are a reasonable approximation of the aquatic resources found within the site that are presumed to be subject to regulatory jurisdiction of the Corps of Engineers. The site in question contains 372.51 acres of federally defined wetlands and 23,217 linear feet of non-wetland waters presumed to be waters of the United States subject to regulatory jurisdiction under Section 404 of the CWA.

You are cautioned that the boundaries of the delineated wetlands and/or other aquatic resources presumed to be subject to regulatory jurisdiction of the Corps of Engineers shown on the enclosed depiction are approximate and subject to change.

By providing this PJD, the Corps of Engineers is making no legally binding determination of any type regarding whether jurisdiction exists over the particular aquatic resource(s) in question. In this regard, this PJD is not a definitive determination of the presence or absence of areas within the Corps of Engineers' jurisdiction, and, therefore, it does not have an expiration date. A PJD is "preliminary" in the sense that a recipient of a PJD can later request and obtain an Approved Jurisdictional Determination (AJD) for a definitive, official determination that there are, or that there are not, jurisdictional aquatic resources on a site, including the identification of the geographic limits of the jurisdictional aquatic resources. In order for a definitive determination of jurisdiction to be provided, you must submit a request for an AJD.

You should be aware that a permit from this office may be required for certain activities in the areas identified as wetlands and/or other aquatic resources that are presumed to be subject to regulatory jurisdiction of the Corps of Engineers, and these areas may be subject to restrictions or requirements of other state or local government entities. A PJD may be used as the basis of a permit decision; however, for purposes of computation of impacts, compensatory mitigation requirements, and other resource protection measures, a permit decision made on the basis of a PJD will treat all aquatic resources that would be affected in any way by the permitted activity on the site as jurisdictional. If you intend to request an AJD in the future, you are advised not to commence work in these wetlands and/or other aquatic resources that are presumed to be jurisdictional prior to receiving the AJD. Enclosed is a Preliminary Jurisdictional Determination Form describing the areas in question and clarifying the option to request an AJD.

Please note that this is a PJD, and as such is not an appealable action under the Corps of Engineers' administrative appeal procedures defined at 33 CFR 331. If a permit application is forthcoming as a result of this PJD, a copy of this letter, as well as the depiction should be submitted as part of the application. Otherwise, a delay could occur in confirming that a PJD was performed for the proposed project area.

It should also be noted that some or all of these areas may be regulated by other state or local government entities. Specifically, you are encouraged to contact the South Carolina Department of Health and Environmental Control to determine the limits of their jurisdiction.

This PJD has been conducted for the purpose of identifying the approximate location(s) of aquatic resources presumed to be subject to regulatory jurisdiction of the Corps of Engineers on the particular site identified in this request. This PJD may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

Attached is the Preliminary Jurisdictional Determination Form signed by our office. Please countersign the form, retain a copy for your records and return a signed copy to SAC.RD.SCDOT@usace.army.mil within thirty (30) days of receipt of this letter.

In all future correspondence, please refer to file number SAC-2018-01912. A copy of this letter is being forwarded to State and/or Federal agencies for their information. If you have any questions, please contact Mr. Ivan W. Fannin III, Project Manager, at (843) 329-8134.

Sincerely,

Amanda Heath
Chief, Special Projects Branch

Attachments:

Preliminary Jurisdictional Determination Form

Notification of Appeal Options

Jurisdictional Features Figures 7, 7A, and 7B

Copies Furnished:

HDR

Mr. Ben Furr

Benjamin.furr@hdrinc.com

SCDHEC - OCRM

williabn@dhec.sc.gov

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant:	File Number:	Date:
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer, South Atlantic Division, 60 Forsyth St, SW, Atlanta, GA 30308-8801. This form must be received by the Division Engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD **is not appealable**. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact the Corps biologist who signed the letter to which this notification is attached. The name and telephone number of this person is given at the end of the letter.

If you only have questions regarding the appeal process you may also contact: Jason W. Steele
Administrative Appeals Review Officer
USACE South Atlantic Division
60 Forsyth St, SW
Atlanta, GA 30308-8801
(404) 562-5137

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

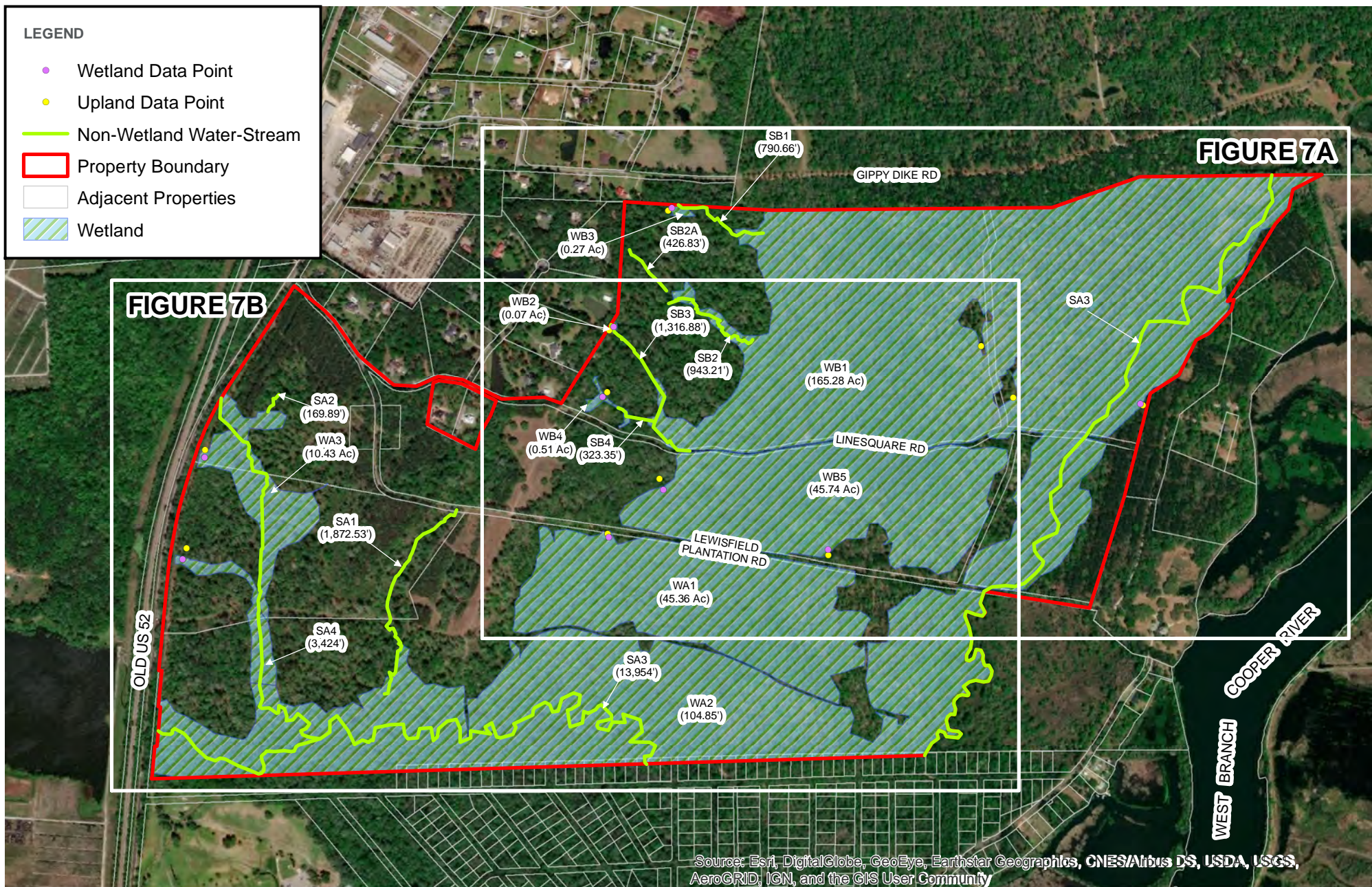
Signature of appellant or agent.

Date:

Telephone number:

LEGEND

- Wetland Data Point
- Upland Data Point
- Non-Wetland Water-Stream
- ▭ Property Boundary
- ▭ Adjacent Properties
- ▨ Wetland

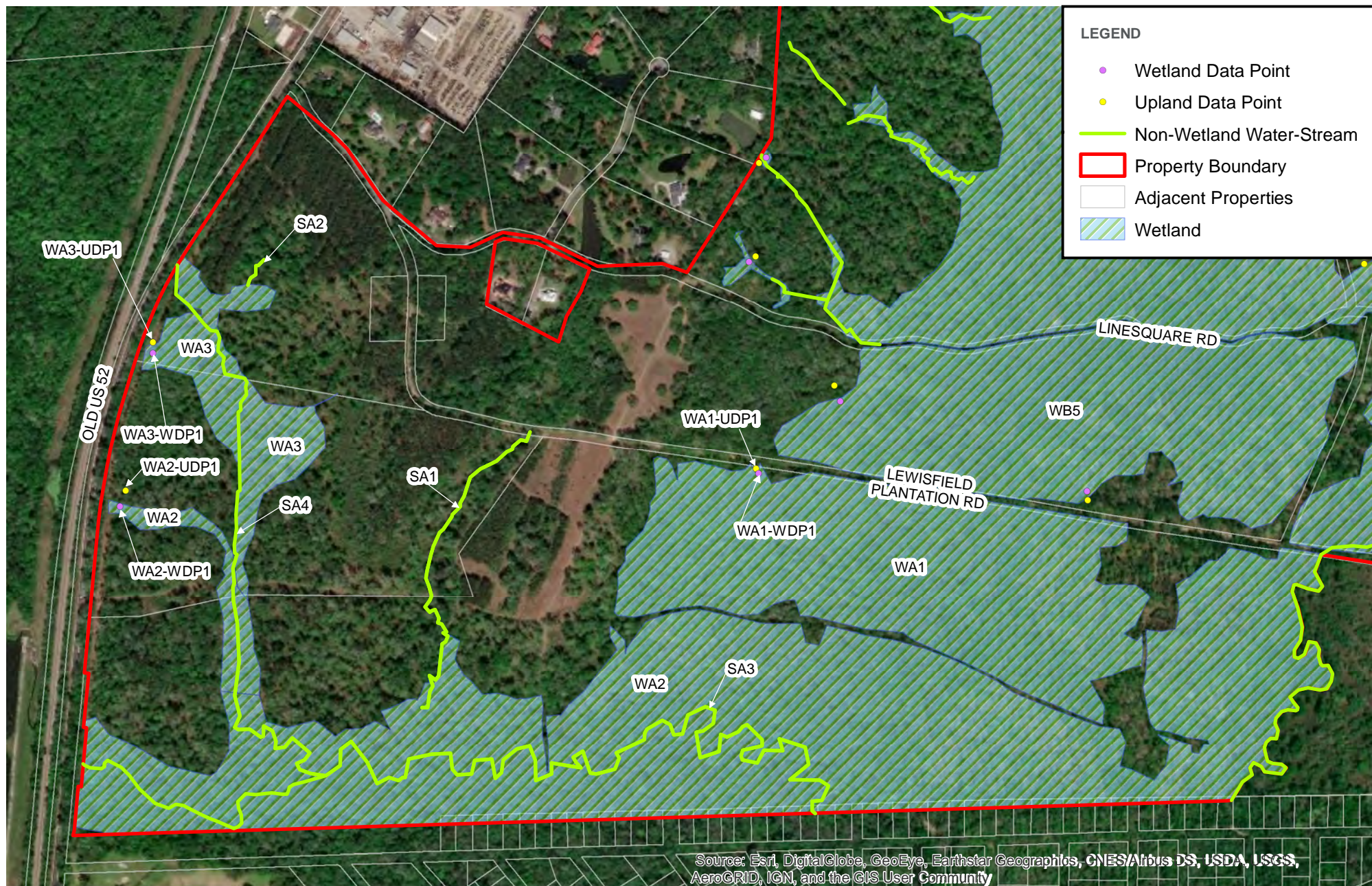


**FIGURE 7 - JURISDICTIONAL FEATURES OVERVIEW MAP
LEWISFIELD PLANTATION**

BERKELEY COUNTY, SC

BMP MITIGATION





**FIGURE 7B - JURISDICTIONAL FEATURES MAP
LEWISFIELD PLANTATION**

BERKELEY COUNTY, SC

BMP MITIGATION

