

JOINT
PUBLIC NOTICE

CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A Hagood Avenue
Charleston, SC 29403-5107
and
THE S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Water Quality Certification and Wetlands Section
2600 Bull Street
Columbia, South Carolina 29201

REGULATORY DIVISION
Refer to: SAC-2022-01559

December 12, 2022

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Sections 401 and 404 of the Clean Water Act (33 U.S.C. 1344), Section 14 of the Rivers and Harbors Act of 1899, 33 USC 408 (Section 408), the South Carolina Coastal Zone Management Act (48-39-10 et.seq.), and the S.C. Construction in Navigable Waters Permit Program (R. 19-450, et. seq., 1976 S.C. Code of Laws, as amended), an application has been submitted to the Department of the Army and the S.C. Department of Health and Environmental Control by

Mr. Jeff Baumann
Act Two LLC
PO Box 1510
New York, New York 10150

Mr. Travis Hayes Folk
Folk Land Management, Inc.
3515 White Hall Road
Green Pond, South Carolina 29446
travis@folklandmanagement.com

for a permit to repair an existing dike and install a tidal rice field trunk in

a tidal impoundment adjacent to the Cooper River

located at TMS 162-120-0013 on North Mulberry Drive in Moncks Corner, Berkeley County, South Carolina (Latitude: 33.1583 °, Longitude: -79.9938 °), Cordesville Quad.

In order to give all interested parties an opportunity to express their views

NOTICE

is hereby given that written statements regarding the proposed work will be received by the **Corps** until

15 Days from the Date of this Notice,

and **SCDHEC** will receive written statements regarding the proposed work until

30 Days from the Date of this Notice

from those interested in the activity and whose interests may be affected by the proposed work.

NOTE: This public notice and associated plans are available on the Corps' website at: <http://www.sac.usace.army.mil/Missions/Regulatory/PublicNotices> .

Applicant's Stated Purpose

According to the applicant, the purpose of the proposed project is to repair a dike to re-enable habitat management activities to take place within the impoundment.

Project Description

The proposed work consists of repairing a section of dike and installing a tidal rice field trunk to manage a 2.5-acre tidal impoundment. The tidal impoundment has an existing inoperable water control structure within the riverside dike. However, due to construction feasibility and subsidence of the internal dike, the applicant is proposing the water control structure at a new location within the internal dike.

In detail, the project will involve the removal of the tree-covered top of the dike and the removal of consolidated phosphate material causing the dike subsidence. A long-arm track hoe will access the site from the uplands and travel the top of the dike to the subsidence area. The track hoe will install coffer dams on both sides of the dike to prevent any tidal flow through the dike while repairs are taking place. The track hoe will then remove all trees and consolidated phosphate from the project area. This material will be transported to an upland location. The opening will then be fitted with the tidal rice field trunk and the dike rebuilt within the current footprint. All fill coming to the site for repair will be from an upland source on the plantation and will be a sand clay material. The dike repair and trunk installation site will be vegetated with browntop millet to prevent erosion. The proposed management plan is included in the attached project figures.

Impact 1 will be the repair of the dike. The dike section is 20 feet wide at the base, 45 feet long, and 5.5 feet from the top of the dike to the bottom of the erosion area. The dike will be repaired across the 900 square feet footprint and place 183 cubic yards of fill in this footprint. Fill will not go beyond the current footprint of the dike and fill in this case is mostly

sand clay but also includes the volume of the rice field trunk that will be placed in the dike.

Impact 2 will be the installation of a tidal rice field trunk. As the dike is being rebuilt, the trunk will be placed in a central location at the subsidence. The trunk will be of standard size (32' long and 5' wide) and on each side have 16' foot bulkheads with 8' wingwalls on all four comers of the bulkhead.

Avoidance and Minimization

The repair of the dike and installation of a tidal rice field trunk would occur within the footprint of the existing dike and there would be no new impacts outside of the dike footprint. Furthermore, repair of this dike would stop the current erosion and subsidence of the dike base and stop siltation in the surrounding wetlands. Best management practices would be utilized during construction to prevent any impacts to surrounding waters.

Proposed Compensatory Mitigation

The applicant has proposed no mitigation for impacts to waters of the United States because the proposed work will not result in the loss of waters of the United States. Furthermore, the project will provide environmental uplift to the 2.5 acre tidal rice field, and generally to the wider Copper River Basin.

South Carolina Department of Health and Environmental Control

The District Engineer has concluded that the discharges associated with this project, both direct and indirect, should be reviewed by the certifying authority, South Carolina Department of Health and Environmental Control, in accordance with provisions of Section 401 of the Clean Water Act (CWA). The CWA Section 401 Certification Rule (Certification Rule, 40 CFR 121), effective September 11, 2020, requires certification, or waiver, for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 Certification is limited to assuring that a discharge from a Federally licensed or permitted activity will comply with water quality requirements. The applicant is responsible for requesting certification and providing required information to the certifying authority. In accordance with Certification Rule part 121.12, the Corps will notify the U.S. Environmental Protection Agency Administrator when it has received a Department of the Army (DA) permit application and the related certification. The Administrator is responsible for determining if the discharge may affect water quality in a neighboring jurisdiction. The DA permit may not be issued pending the conclusion of the Administrator's determination of effects on neighboring jurisdictions.

The work shown on this application must also be certified as consistent with applicable provisions of the Coastal Zone Management Program (15 CFR 930). This activity may also require evaluation for compliance with the S. C. Construction in Navigable Waters Permit Program. State review, permitting and certification is conducted by the S. C. Department of Health and Environmental Control. The District Engineer will not process

this application to a conclusion until such certifications are received. The applicant is hereby advised that supplemental information may be required by the State to facilitate the review.

Essential Fish Habitat

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the proposed project would impact 2.5 acre of waters upstream of estuarine substrates and emergent wetlands utilized by various life stages of species comprising the shrimp, and snapper-grouper management complexes. The District Engineer's initial determination is that the proposed action would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by the South Atlantic Fishery Management Council and the National Marine Fisheries Service (NMFS). The District Engineer's final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

Endangered Species

Pursuant to the Section 7 of the Endangered Species Act of 1973 (as amended), the Corps has reviewed the project and based on the location of the project and available information, the following species may be present in the County(s) where the work will occur: frosted flatwoods salamander, American wood stork, red-cockaded woodpecker, Atlantic sturgeon, shortnose sturgeon, northern long-eared bat, West Indian manatee, American chaffseed, Canby's dropwort, and pondberry.

Based on all information provided by the applicant and the most recently available information, the District Engineer has determined the following:

The project will have no effect on frosted flatwoods salamander, red-cockaded woodpecker, Atlantic sturgeon, shortnose sturgeon, northern long-eared bat, American chaffseed, Canby's dropwort, and pondberry, and will not result in the destruction or adverse modification of designated or proposed critical habitat.

The project is not likely to adversely affect the American wood stork or West Indian manatee or result in the destruction or adverse modification of designated or proposed critical habitat. This public notice serves as a request for written concurrence from the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service on this determination.

This public notice serves as a request to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service for any additional information they may have on whether any listed or proposed endangered or threatened species or designated or proposed critical habitat may be present in the area which would be affected by the activity.

Cultural Resources

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), this public notice also constitutes a request to Indian Tribes to notify the District Engineer of any historic properties of religious and cultural significance to them that may be affected by the proposed undertaking.

In accordance with Section 106 of the NHPA, the District Engineer has consulted South Carolina ArchSite (GIS), for the presence or absence of historic properties (as defined in 36 C.F.R. 800.16)(1)(1)), and has initially determined that historic properties, are present; moreover, these historic properties may be affected by the undertaking. This public notice serves to notify the State Historic Preservation Office that the Corps plans to initiate Section 106 consultation on these historic properties. Individuals or groups who would like to be consulting parties for the purposes of the NHPA should make such a request to the Corps in writing within 30 days of this public notice. To ensure that other historic properties that the District Engineer is not aware of are not overlooked, this public notice also serves as a request to the State Historic Preservation Office and other interested parties to provide any information they may have with regard to historic properties.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

Corps' Evaluation

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest and will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency (EPA), under authority of Section 404(b) of the Clean Water Act. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. A permit will be granted unless the District Engineer determines that it would be contrary to the public interest. In cases of conflicting property rights, the Corps cannot undertake to adjudicate rival claims.

Solicitation of Public Comment

The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate

the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity. Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reasons for holding a public hearing.

Please submit comments in writing, identifying the project of interest by public notice/file number (SAC-2022-01559), to Matthew.J.Murphy@usace.army.mil or the following address:

**U.S. Army Corps of Engineers
ATTN: REGULATORY DIVISION
69A Hagood Avenue
Charleston, SC 29403-5107**

If there are any questions concerning this public notice, please contact Matthew Murphy, Project Manager, at 843-329-8055, or by email at Matthew.J.Murphy@usace.army.mil.

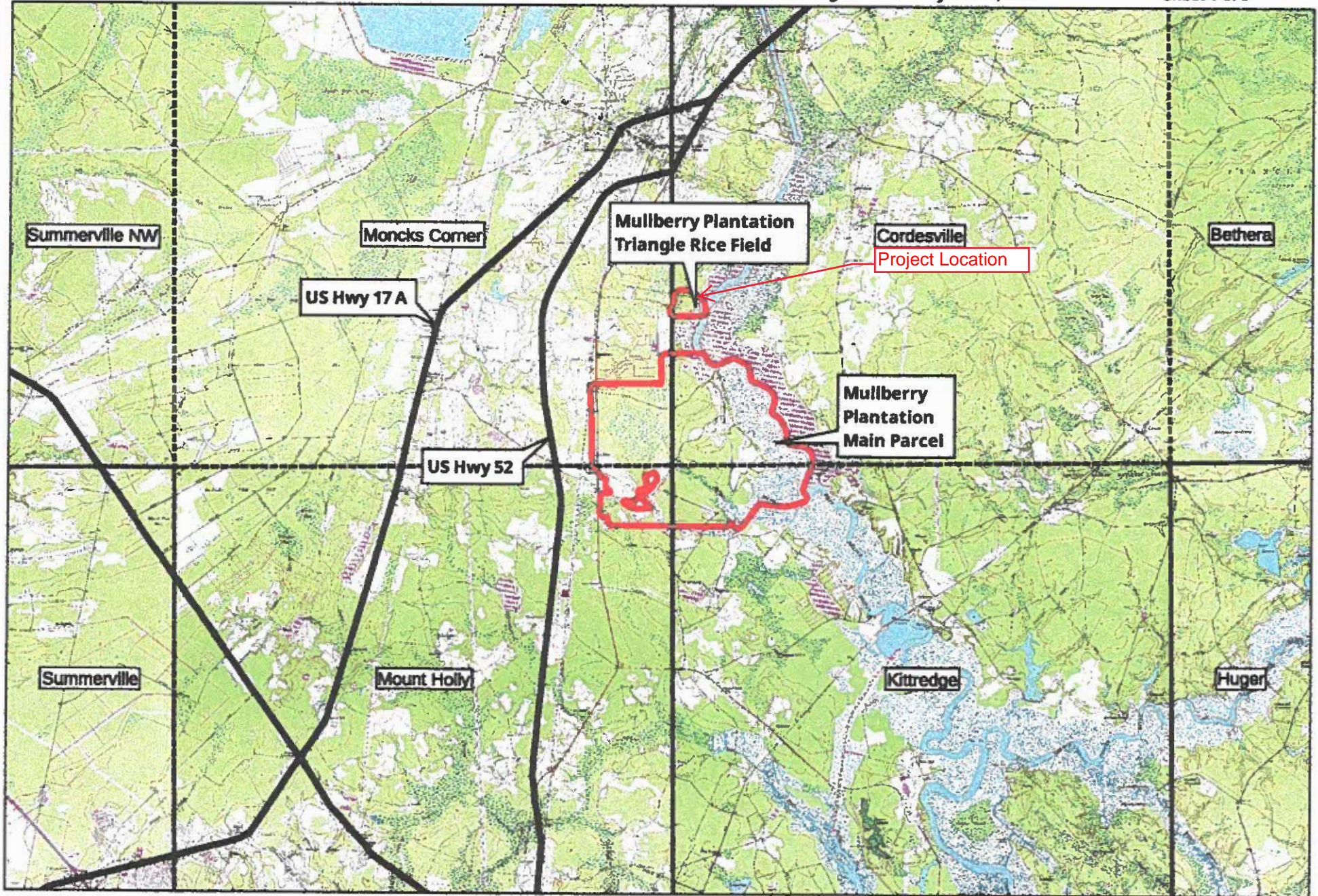
Attachment 2. Vicinity map with property in quad



Quad boundaries in black
7.5 USGS Topo



Project Title: Mullberry Plantation Triangle Field Repair
Project Location: Mullberry Plantation, 1904 N Mulberry Dr, Moncks Corner, SC 29461
Lat/ long: 33 degrees 09'.69" N - 79 degrees 59'36.85" W
Applicant: Jeff Baumann
Agent: Travis Hayes Folk, PhD
Date 10-5-22
Sheet 1 of 9



Attachment 3. Project area within property

(with adjacent property owners)

0 100 200 ft



2020 aerial photo



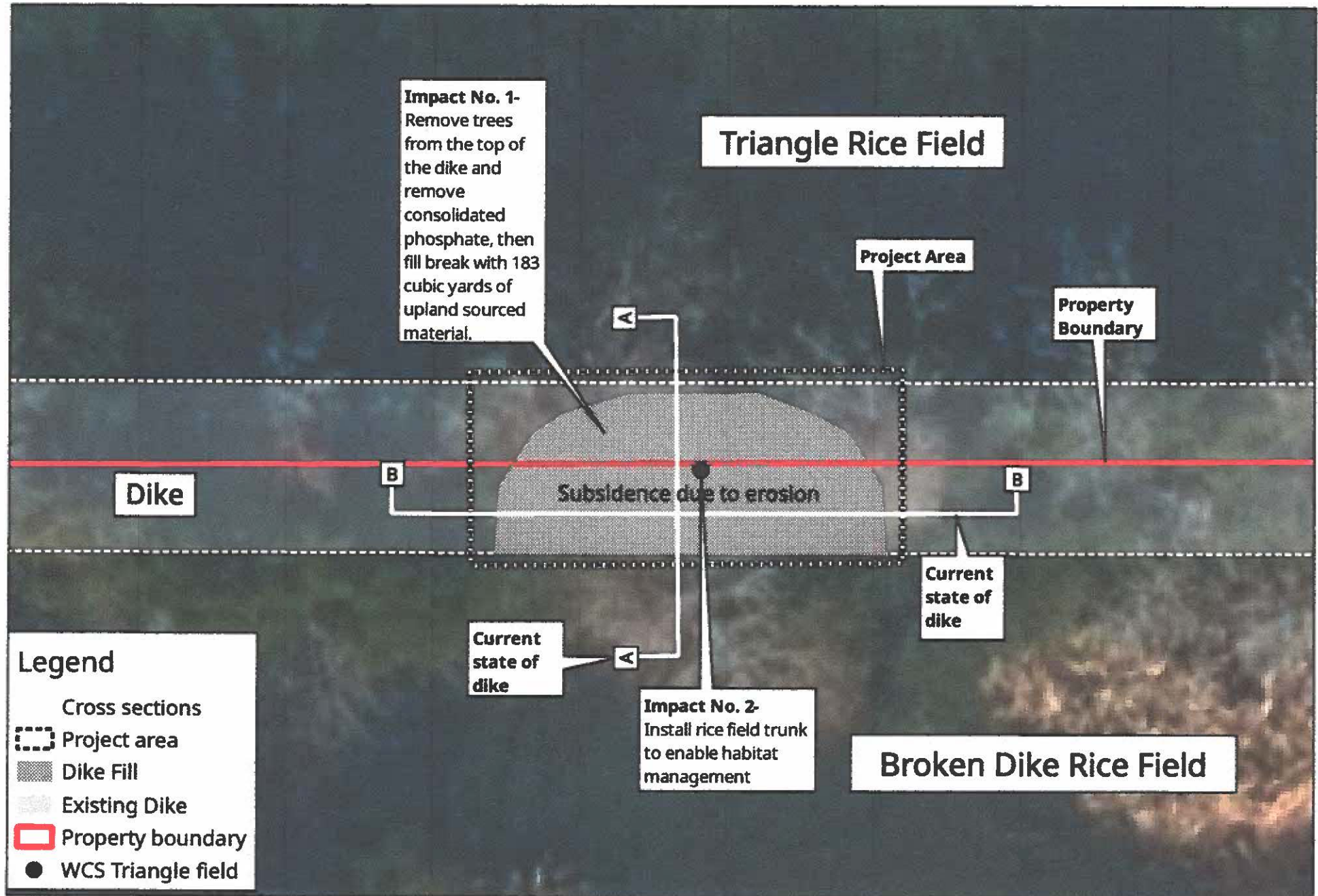
Project Title: Mulberry Plantation Triangle Field Repair
Project Location: Mulberry Plantation, 1904 N Mulberry Dr, Moncks Corner, SC 29461
Lat/ long: 33 degrees 09'.69" N - 79 degrees 59'36.85" W
Applicant: Jeff Baumann
Agent: Travis Hayes Folk, PhD
Date 10-5-22
Sheet 2 of 9



Attachment 4a. Project area within Plan View of current conditions

Project Title: Mulberry Plantation Triangle Field Repair
 Project Location: 1408 McCrae Drive, Moncks Corner, SC 29461
 Lat/ long: 33 degrees 09'29.69" N - 79 degrees 59'37.25" W
 Applicant: Jeff Baumann
 Agent: Travis Hayes Folk, PhD
 Date 10-5-22
 Sheet 3 of 9

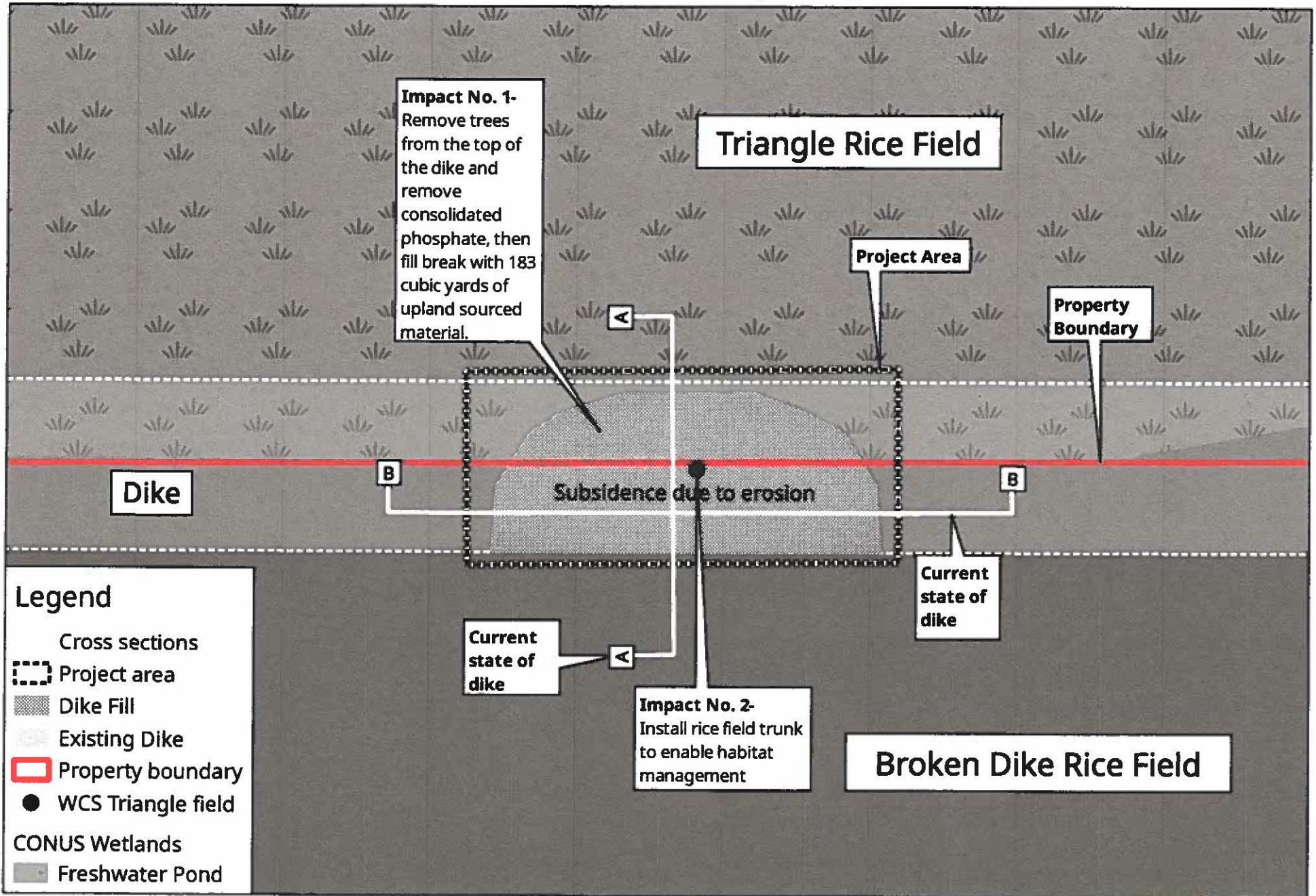
2020 Aerial photo



Attachment 4b. Project area within Plan View of current conditions

Project Title: Mullberry Plantation Triangle Field Repair
 Project Location: 1408 McCrae Drive, Moncks Corner, SC 29461
 Lat/ long: 33 degrees 09'29.69" N - 79 degrees 59'37.25" W
 Applicant: Jeff Baumann
 Agent: Travis Hayes Folk, PhD
 Date 10-5-22
 Sheet 4 of 9

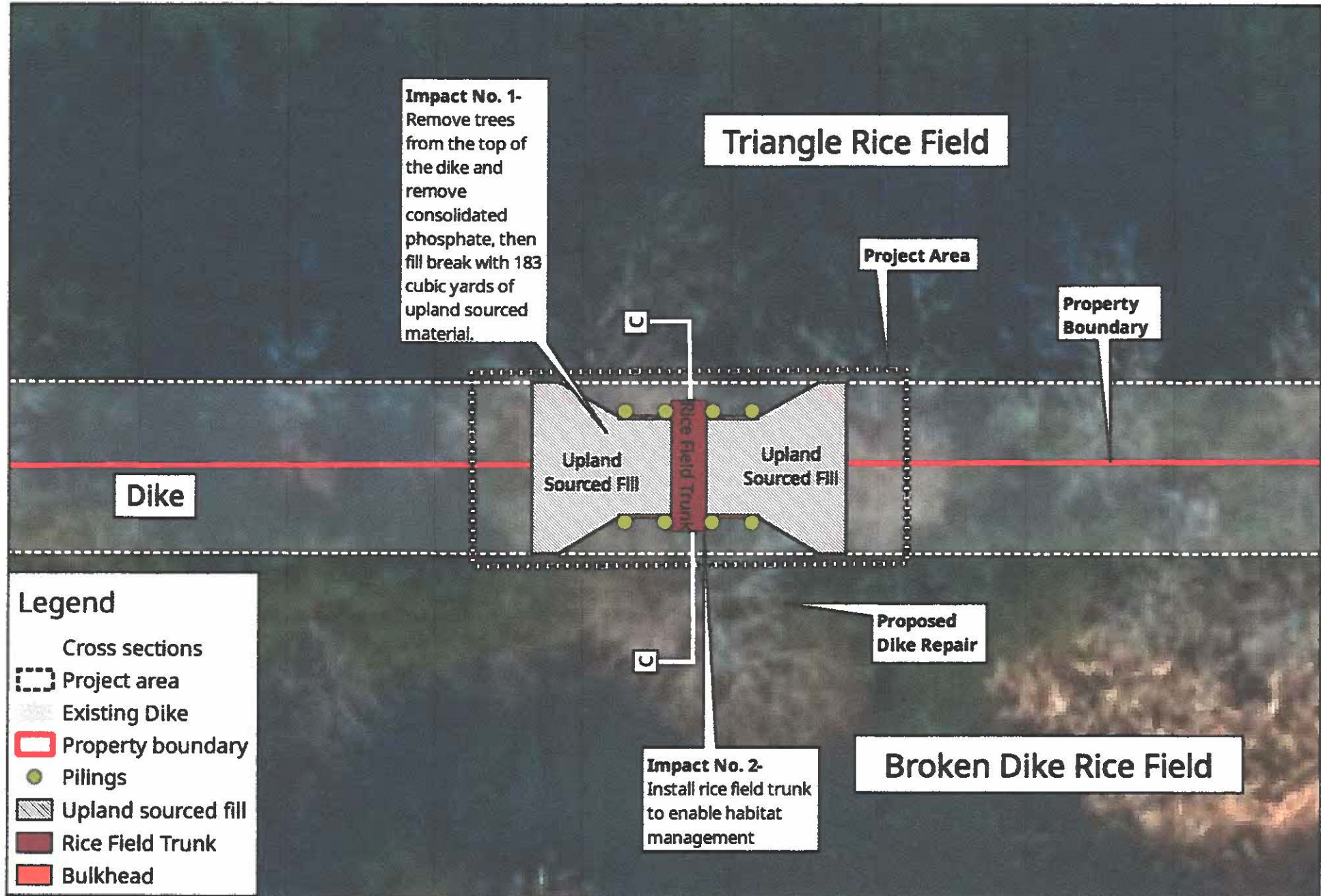
CONUS wetlands black and white



Attachment 4c. Project area within Plan View of proposed dike repairs

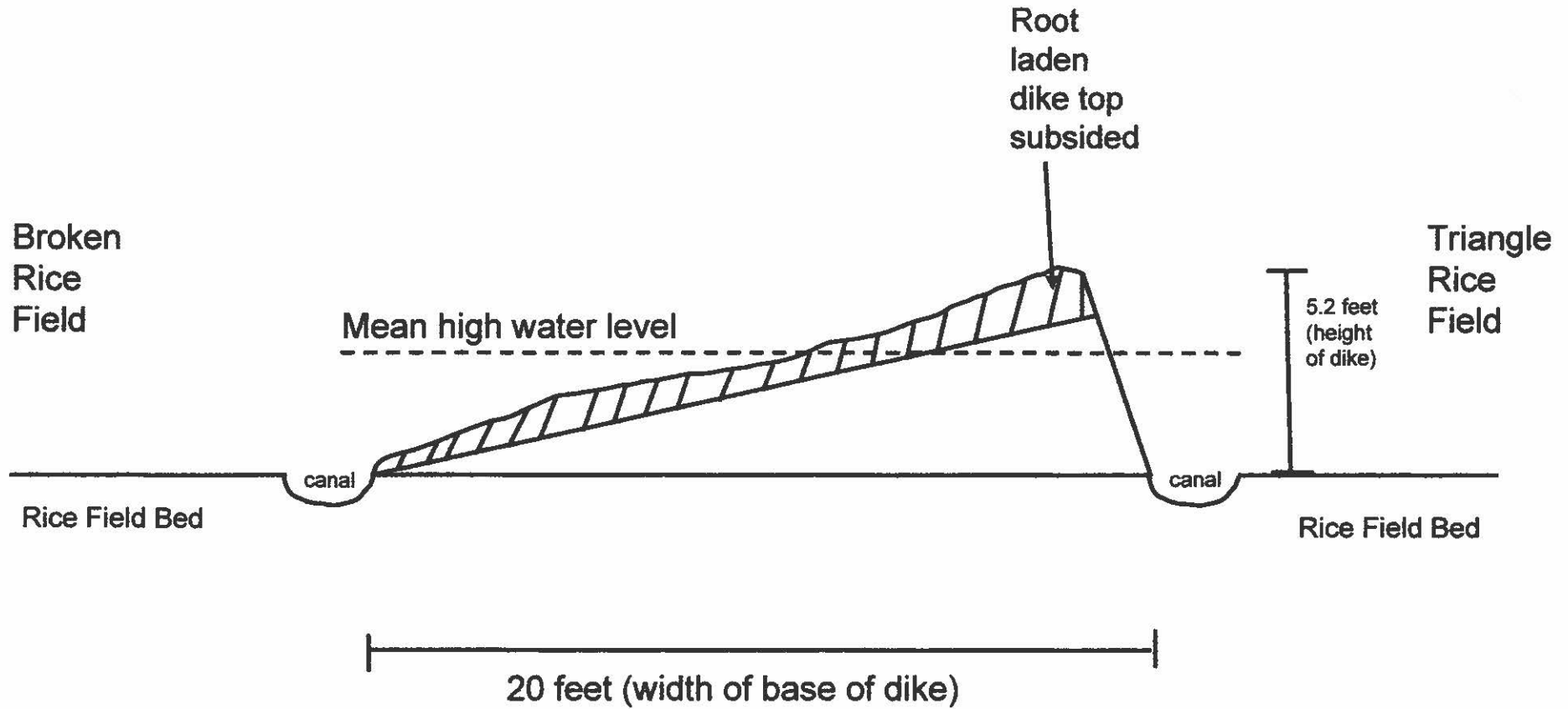
Project Title: Mullberry Plantation Triangle Field Repair
 Project Location: 1408 McCrae Drive, Moncks Corner, SC 29461
 Lat/ long: 33 degrees 09'29.69" N - 79 degrees 59'37.25" W
 Applicant: Jeff Baumann
 Agent: Travis Hayes Folk, PhD
 Date 10-5-22
 Sheet 5 of 9

2020 Aerial photo



Attachment 5. Cross Section A-A

Current state of dike



Project Title: Mulberry Plantation

Project Location: 1408 McCrae Drive,
Moncks Corner, SC 29461

Lat/ long: 33 09'29.68" N - 79 59'37.25" W

Applicant: Jeff Baumann

Agent: Travis Folk, Folk Land Management

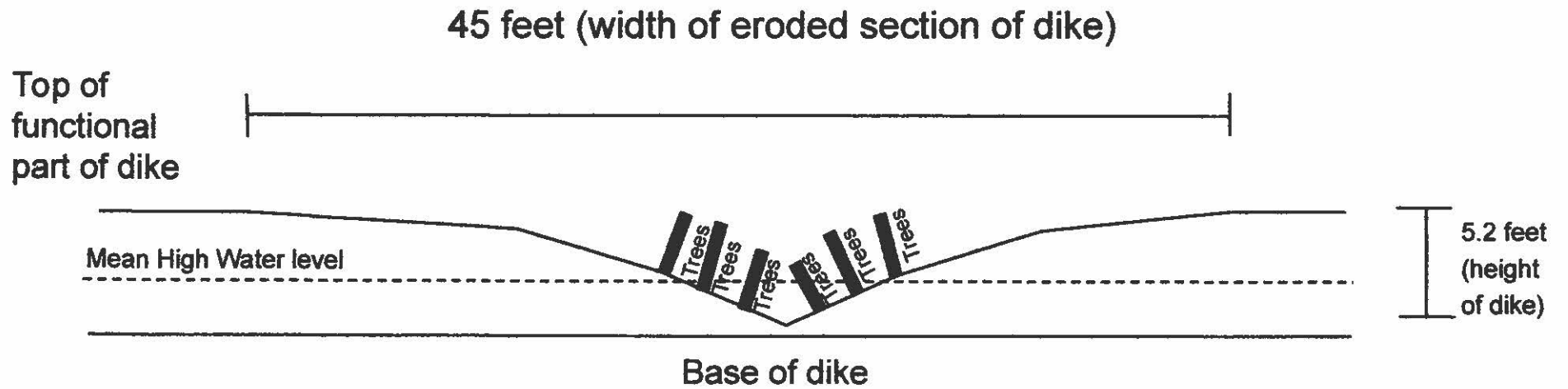
Drawing Scale
1" = 4'

Date 10-5-22

Sheet 6 of 9

Attachment 6 Cross Section B-B

Current state of dike



Project Title: Mulberry Plantation

Project Location: 1408 McCrae Drive,
Moncks Corner, SC 29461

Lat/ long: 33 09'29.69" N - 79 59'37.25" W

Applicant: Jeff Baumann

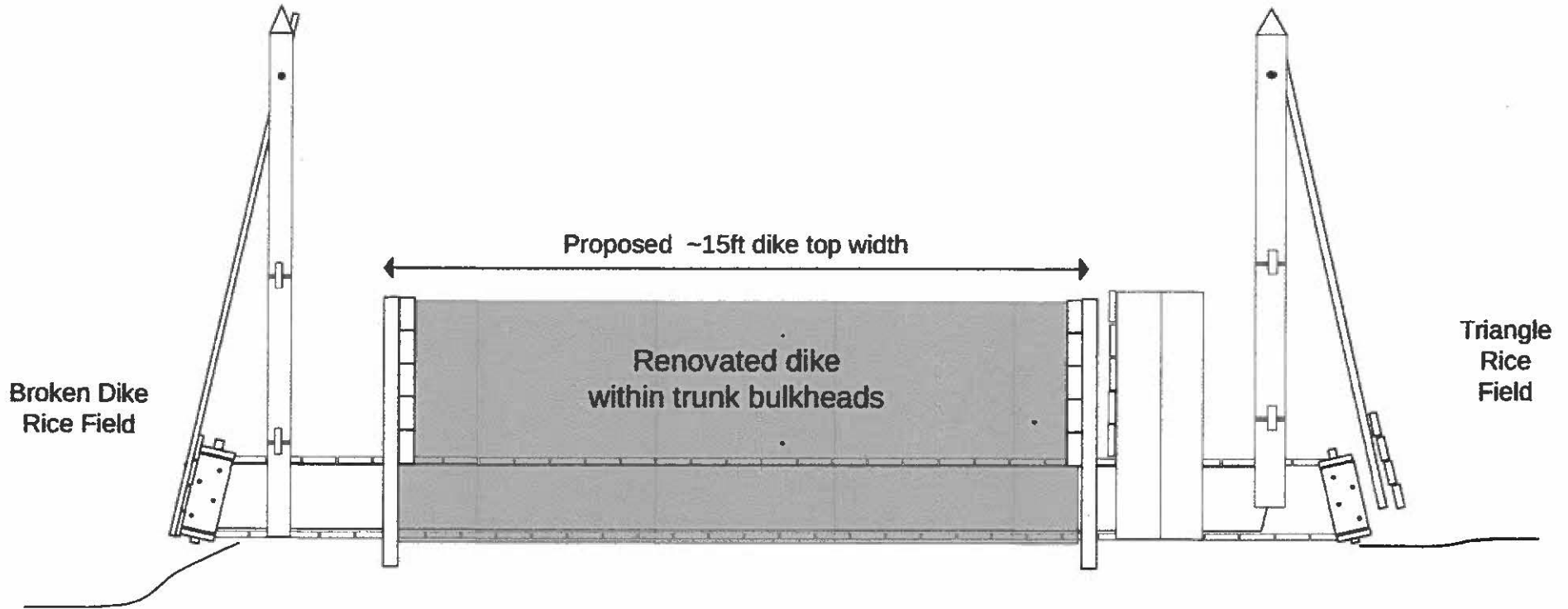
Agent: Travis Folk, Folk Land Management

Drawing Scale
1" = 7.03'

Date 10-5-22

Sheet 7 of 9

Attachment 7 - Section C-C - profile of typical 'Combahee' rice field trunk



Dimensions

Width of trunk = 4ft

OA Length of trunk = 25ft

Outside height of trunk box = 2ft

Inside height of trunk box = 18in

Height of flashboard riser = 6ft

Project Title: Mulberry Plantation Triangle Field Repair

Project Location: 1408 McCrae Drive, Moncks Corner, SC

Lat/Long: 33 deg 9' 29.69" N, -79 deg 59' 37.25" W

Applicant: Jeff Baumann

Agent: Travis Hayes Folk, PhD

Date 10-5-22

Sheet 8 of 9

1" = 3'

Attachment 9. Triangle Rice Field Wildlife Habitat Management Plan

This rice field will be managed for wildlife habitat using moist soil techniques which will focus on promoting native, wetland plants within the rice field. Currently the rice field is composed of predominantly alligator weed and has a deep muck layer. This muck layer inhibits growth of rooted wetland plants (as opposed to floating wetland plants like alligator weed).

Once the dike is repaired, we will draw down water to accomplish two goals. First, we will consolidate the muck layer through dewatering. This will provide a better substrate for freshwater wetland plants to grow. Second, we will use this low water period to put alligator weed under stress. Just prior to dewatering, a wetland rated herbicide will be applied via boat. Once applied, the herbicide and dewatering will jointly stress the alligator weed and lead to kill back. This first phase of active habitat management will be accomplished when the majority of the rice field bed has been relieved of alligator weed.

Moist soil management of this rice field will consist of an annual pattern of flooding and dewatering. Water levels will be lowered in late winter and early spring to expose the bed of the rice field. Once biomass material from the previous growing season is dry, a prescribed fire will be used across the rice field. This removes biomass and exposes the bed of the rice field to sunlight, both of which will lead to increased native plant growth. An exposed rice field bed will be kept dry until native wetland plants begin to grow. At this location I would expect smart weeds (*Polygonum* spp.) and stick tight (*Bidens* spp.) to be present in the seed bank. Water levels will be kept low (in the canal) throughout the growing season and then flooded once complete plant senescence has occurred, typically by December. Flooding prior to this time will lead to algal blooms across the bed of the rice field and would diminish habitat quality.

This routine will take place annually. Prescribed fire and wetland rated herbicides will be used to manage the plant community.