

PUBLIC NOTICE

**CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A Hagood Avenue
Charleston, SC 29403-5107**

REGULATORY DIVISION

Refer to: General Permit # SAC-2017-00835

1 June 2017

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), 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)

NOTICE

is hereby given that the District Engineer, Charleston District proposes to issue a General Permit to the public authorizing the excavation of material and the discharge of dredged or fill material associated with certain activities **within currently functioning impoundments** that are currently managed for wildlife and/or rice production, and, further, that have all necessary embankments and structures in place to allow for the manipulation of water levels. Furthermore, this General Permit requires that: (1) the impoundments be tidally influenced and located in navigable waters of the United States (i.e., Section 10 Waters); **OR** (2) (if not tidally influenced) the impoundments be located in waters of the United States (i.e., Section 404) and adjacent to other tidal impoundments that rely on the outgoing tide to drain. The geographic use of this General Permit is limited to the Coastal Zone area of Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper Counties in South Carolina.

A copy of the proposed General Permit, SAC-2017-00835, is attached to this Public Notice.

The purpose of this notice is to give all interested parties an opportunity to express their views on the proposed issuance of the above referenced General Permit before action is taken.

Written statements regarding the proposed issuance of the General Permit will be received by the Corps until

June 30, 2017

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

Please note that this proposed General Permit, SAC-2017-00835, will replace the existing General Permit, SAC-2011-01157 that expires on July 10, 2017.

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

The District Engineer has concluded that the discharges associated with this project, both direct and indirect, should be reviewed by the South Carolina Department of Health and Environmental Control in accordance with provisions of Section 401 of the Clean Water Act. As

such, this notice constitutes a request, on behalf of the applicant, for certification that this project will comply with applicable effluent limitations and water quality standards. The work included in the General Permit 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.

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 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.

Pursuant to the Section 7 of the Endangered Species Act of 1973 (as amended), the Corps has reviewed the project area, examined all information provided by the applicant, and the District Engineer has determined that the project is not likely to adversely affect any Federally endangered, threatened, or proposed species 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.

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)(j)(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.

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.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the 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.

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. **Please submit comments in writing, identifying the project of interest by public notice number, to the following address:**

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

If there are any questions concerning this public notice, please contact Tracy D. Sanders, Project Manager, at (843) 329-8190 or toll free at 1-866-329-8187.

General Permit No.: SAC-2017-00835
Name of Permittee: GENERAL PUBLIC
Effective Date:
Expiration Date:

**DEPARTMENT OF THE ARMY
GENERAL PERMIT**

A General Permit to authorize the discharge of dredged or fill material into waters of the United States pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1341) and/or to place structures or perform work in or affecting navigable waters of the United States pursuant to Section 10 of the Rivers and Harbors Act (33 U.S.C. 403), is hereby issued by the authority of the Secretary of the Army by the

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

This geographic use of this General Permit is limited to the Coastal Zone area of Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper Counties in South Carolina.

This General Permit authorizes certain activities described herein **within currently functioning impoundments** that are currently managed for wildlife and/or rice production, and, further, that have all necessary embankments and structures in place to allow for the manipulation of water levels.

Furthermore, this General Permit requires that: (1) the impoundments be tidally influenced and located in navigable waters of the United States (i.e., Section 10 Waters); **OR** (2) (if not tidally influenced) the impoundments be located in waters of the United States (i.e., Section 404) and adjacent to other tidal impoundments that rely on the outgoing tide to drain.

I. ACTIVITIES AUTHORIZED:

To the extent the above criteria are met (i.e., coastal zone requirements, impoundment type and specific location requirements), this General Permit authorizes the excavation of material and the discharge of dredged or fill material associated with the following activities:

- 1) Installation of new water controls structures, relocation or replacement of existing water control structures, and/or installation of associated bulkheads, splash aprons and wingwalls;
- 2) Replacement of existing culverts with water control structures;
- 3) Removal or abandonment of existing water control structures, including excavation of required fill material;

- 4) Excavation of new and maintenance of existing inlet canals associated with water control structures;
- 5) Construction of new and maintenance of bank stabilization structures and fills;
- 6) Excavation and/or fill activities necessary for re-topping field-dikes, constructing berms, and constructing, relocating or maintaining canals and drains. This includes spreading or side-casting excavated material;
- 7) Construction of new interior embankments and rehabilitation of remnant interior embankments to subdivide impoundments;
- 8) Construction of new set-back and/or contraction embankments to replace failing perimeter and interior embankments, including construction of temporary cofferdams;
- 9) Construction of road crossings across interior canals or drains;
- 10) Moist Soil Management activities;
- 11) Emergency repairs to and emergency construction of structures and fills that are necessary to restore or maintain water management capabilities to an impoundment that may have been lost, or is anticipated to be lost, as a result of events and situations such as, but not limited to, storms, strong currents, unusually high tides, or wildlife activity;
- 12) Removal or destruction of invasive and/or non-native species.

NOTE: The excavation of inlet canals associated with water control structures and stabilization outside of the perimeter embankment are the **ONLY** activities authorized by the General Permit that may be constructed **OUTSIDE** of currently functioning impoundments.

II. ACTIVITIES NOT AUTHORIZED:

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

- 1) The construction of new impoundments and/or new fields located outside of currently functioning impoundments.
- 2) The restoration of remnant embankments outside of currently functioning impoundments.
- 3) The restoration of areas not currently functioning as impoundments.
- 4) The conversion of forested wetlands to non-forested wetlands.

This General Permit does **NOT** authorize activities outside of the existing perimeter embankments, with the exception of the construction of inlet canals associated with water control structures and stabilization of the perimeter embankment for erosion control.

III. QUALIFICATION LETTER FOR USE OF THE GENERAL PERMIT:

Please be advised that properties previously determined eligible for use of the General Permit (SAC-2011-01157 issued July 10, 2012) are still eligible to use this General Permit (SAC-2017-00835). **Please note that the term “Eligibility Determination” from General Permit SAC-2011-01157 is being updated to a “Qualification Letter” for purposes of this General Permit.** However, a prospective permittee with a prior Eligibility Determination does not need to submit a request for a new Qualification Letter unless changes to fields have occurred as a result of management and/or work authorized by Individual permits.

In order for the Corps to determine if a property is qualified for use under this General Permit, the property owner, agent, or interested party must submit the information listed below to the Corps PRIOR to commencing work in accordance with this General Permit. All maps and information submitted must be legible and provided on 8 ½ inch X 11 inch paper.

- 1) Managed Tidal Impoundment General Permit (MTI-GP) Qualification Letter Request Form.
- 2) Location map of overall property. Map should include road names.
- 3) USGS Quad topographic map(s) of area with property boundaries marked.
- 4) A list of all impoundments and/or fields for which you are requesting a Qualification Letter.
- 5) A map/drawing that shows all of the impoundments and/or the fields for which you are requesting a Qualification Letter. Each existing water control structure and impoundment and/or field must be shown on the map/drawing and identified by name or number. The type of water control structure should be noted. River and creek names should be labeled on the map/drawing. (Refer to Section VI. Definitions)
- 6) A description of the existing site conditions for each impoundment and/or field that is being considered for use of the General Permit. The description should include the vegetation present, water regime (tidal or non-tidal), and acreage of each field.
- 7) A management plan or description of current management practices for each impoundment and/or field.
- 8) To ensure compliance with Section 7 of the Endangered Species Act, the following information must be provided:
 - a) The name(s) of those endangered or threatened species that may be affected by the proposed work or are in the vicinity of the project. (See the US Fish and Wildlife Service Information for Planning and Consultation (IPaC) website at <https://ecos.fws.gov/ipac/> for a current list of threatened and endangered species and critical habitat by county).
 - b) A statement as to whether project is located in proposed critical habitat or designated critical habitat. Refer to the following National Oceanic and Atmospheric Administration (NOAA) Fisheries website for the most up-to-date information regarding Critical Habitat designations under the jurisdiction of the National Marine Fisheries Service (NMFS): http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/.
- 9) To ensure compliance with Section 106 of the National Historic Preservation Act, the following information must be provided:

- a) A map with the Section 106 Review Area clearly defined. The Section 106 Review Area includes the impoundment and/or fields and the immediately adjacent uplands within **500 feet** of the impoundment and/or fields. In situations when the 500-foot Section 106 Review Area extends beyond the property line, the property line will serve as the limits of the Section 106 Review Area.
 - b) The location of any known historic structures and archaeological sites within the defined Section 106 Review Area clearly labeled on the map. To assist with determining if any archaeological structures or sites are present, refer to the State Historic Preservation Office (SHPO) guidance document Rice Fields and Section 106: SHPO Guidance for Federal Agencies and Applicants that can be found online at:
<http://shpo.sc.gov/programs/revcomp/Pages/guidance.aspx>
and ArchSite, found at <http://archsite.cas.sc.edu/ArchSite>.
 - c) Photographs of any known historic structures and archaeological sites, keyed to the map/drawing(s) of the impoundments and fields prepared for #5 above.
- 10) Ground level and aerial photographs of fields included in the Qualification Letter Request. Locations and directions of ground-level photos should be marked and labeled on the map/drawing of the impoundment and/or fields prepared for #5 above. Photos should be labeled with the corresponding impoundment and/or field name or number.

The information should be mailed to:

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

Receipt of a Qualification Letter for use of this General Permit is generally only necessary once, and such qualification will generally remain valid for the life of this General Permit (SAC-2017-00834) unless the permit is modified, suspended, or revoked. When reviewing a qualification request, the Corps will review the submitted information and will provide the property owner, agent, or interested party with a Qualification Letter for use of this General Permit. The Corps will maintain a file for each property and will update the file accordingly. The Qualification Letter Request Form can be found in Appendix B. of this General Permit. If a property is sold or transferred to heirs, the new owner should submit a letter of ownership change that includes the name and mailing address of the new owner(s). The existing qualification letter for use of this General Permit will automatically transfer to the new owner. No additional approval from the Corps is required.

A Qualification Letter for a field (or fields) may also be updated by the Corps as conditions warrant and upon request of the property owner, agent, or interested party.

IV. USE OF THE GENERAL PERMIT

Use of this General Permit to authorize activities described herein is dependent upon issuance of a Qualification Letter from the Corps. However, once a Qualification Letter has been issued, use of this General Permit for the authorization of activities described herein does NOT require submittal of a permit application prior to commencing work in accordance with this General Permit.

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

Failure to obtain a Qualification Letter from the Corps prior to performing any work in waters of the U.S. in accordance with this General Permit will be considered a violation of the Clean Water Act and/or the Rivers and Harbors Act, and may result in an enforcement action.

V. POST CONSTRUCTION FORM AND PROCEDURES

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

VI. DEFINITIONS

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

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

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

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

Forested: For the purpose of this General Permit, an area is considered to be forested if the area has 5% or more tree cover. Refer to the definition *Tree Stratum*. (Consistent with the

Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0)

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

Interior embankment: An interior embankment is an embankment having the three parts as described above that is constructed interior of the perimeter embankment. For the purposes of this General Permit, an interior embankment is constructed to subdivide an existing, functional impoundment typically along differences in elevational or salinity gradients for the purpose of enhanced wetland management and water quality.

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

Invasive or non-native species: A species that is not native to Managed Tidal Impoundments, and introduction of which causes or is likely to cause environmental harm.

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

Quarter Drains: For the purpose of this General permit, quarter drains are linear ditches located within the interior fields that facilitate field drainage and/or the circulation of water throughout the fields. Most managed tidal impoundments have numerous quarter drains.

Set-back embankment: A set-back embankment is an embankment having the three parts as described above that is constructed parallel and interior of the perimeter embankment. For the purposes of this General Permit, a set-back embankment is constructed to replace the perimeter embankment because due to storm damage or sea-level rise the perimeter embankment is failing en mass and will be abandoned from future maintenance.

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

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

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

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

VII. SPECIAL CONDITIONS:

A. This General Permit only authorizes activities within the perimeter embankments of existing functional managed tidal impoundments, with the exception of the construction of inlet canals associated with water control structures.

B. All work conducted in accordance with this General Permit must be the minimum necessary to accomplish the authorized work.

C. The permittee shall submit the attached Managed Tidal Impoundment General Permit Post Construction Form found in Appendix C, and provide the required information to the Corps within 30 days following completion of the authorized work. Failure to provide the required Post Construction Notification will be considered non-compliance with this General Permit and may result in enforcement action.

VIII. GENERAL CONDITIONS:

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

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

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

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

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

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

F. Authorization of a specific work or structure authorized herein may be summarily suspended in whole or in part upon finding by the District Engineer that immediate suspension would be in the general public interest or there has been violation of any terms or conditions of this permit. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate 1) the extent of the suspension, 2) the reasons for this action, and 3) any corrective or preventative measures to be taken by a permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. A permittee shall take immediate action to comply with the provisions of this notice. Within ten (10) days following the receipt of this notice of suspension, the permittee may request a meeting with the District Engineer or public hearing to present information relevant to a decision whether their permit should be reinstated, modified, or revoked. If a public hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the public hearing or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the authorization of the specific work or structure will be reinstated, modified, or revoked. Any modification, suspension, or revocation under this General Permit shall not be the basis for any claim for damages against the United States.

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

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

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

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

K. If the permittee, prior to or during the performance of the work authorized herein, encounters previously unidentified archeological remains or cultural resources within the area subject to the Department of the Army authorization, the permittee agrees to cease

work and contact the District Engineer, so that further coordination with the South Carolina Institute of Archaeology and Anthropology and the South Carolina Department of Archives and History may be conducted.

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

IX. PROHIBITED ACTIVITIES:

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

X. REQUIRED AUTHORIZATIONS:

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

XI. PENALTIES FOR VIOLATIONS:

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

XII. LIMITS OF FEDERAL LIABILITY:

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

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

XIII. REVOCATION OF THE GENERAL PERMIT:

This General Permit may be revoked by issuance of a public notice at any time the District Engineer determines that the cumulative effects of the activities authorized herein have an adverse

effect on the public interest. Following such revocation, any future activities in areas covered by this General Permit will be processed as Individual or Nationwide Permits.

XIV. DURATION OF THE GENERAL PERMIT.

This General Permit will cover activities started within five (5) years and completed within six (6) years after the date of issuance unless this permit is revoked in the interim. At the end of the first year and every succeeding year, the Corps of Engineers and the Federal and State regulatory and resource agencies will jointly review activities authorized by this General Permit to determine if significant cumulative impacts have resulted. If the District Engineer determines revocation of this permit, in whole or in part, may be in order due to cumulative impacts, a public notice of the intention will be issued and after a review of all additional data submitted, action will be taken to modify, suspend, or revoke this General Permit, as appropriate. .

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

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

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Matthew W. Luzatto, P. E. PMP.
Lieutenant Colonel, U.S. Army
Commander and District Engineer

Date

or his Designee
Travis G. Hughes
Chief, Regulatory Division

Appendix A

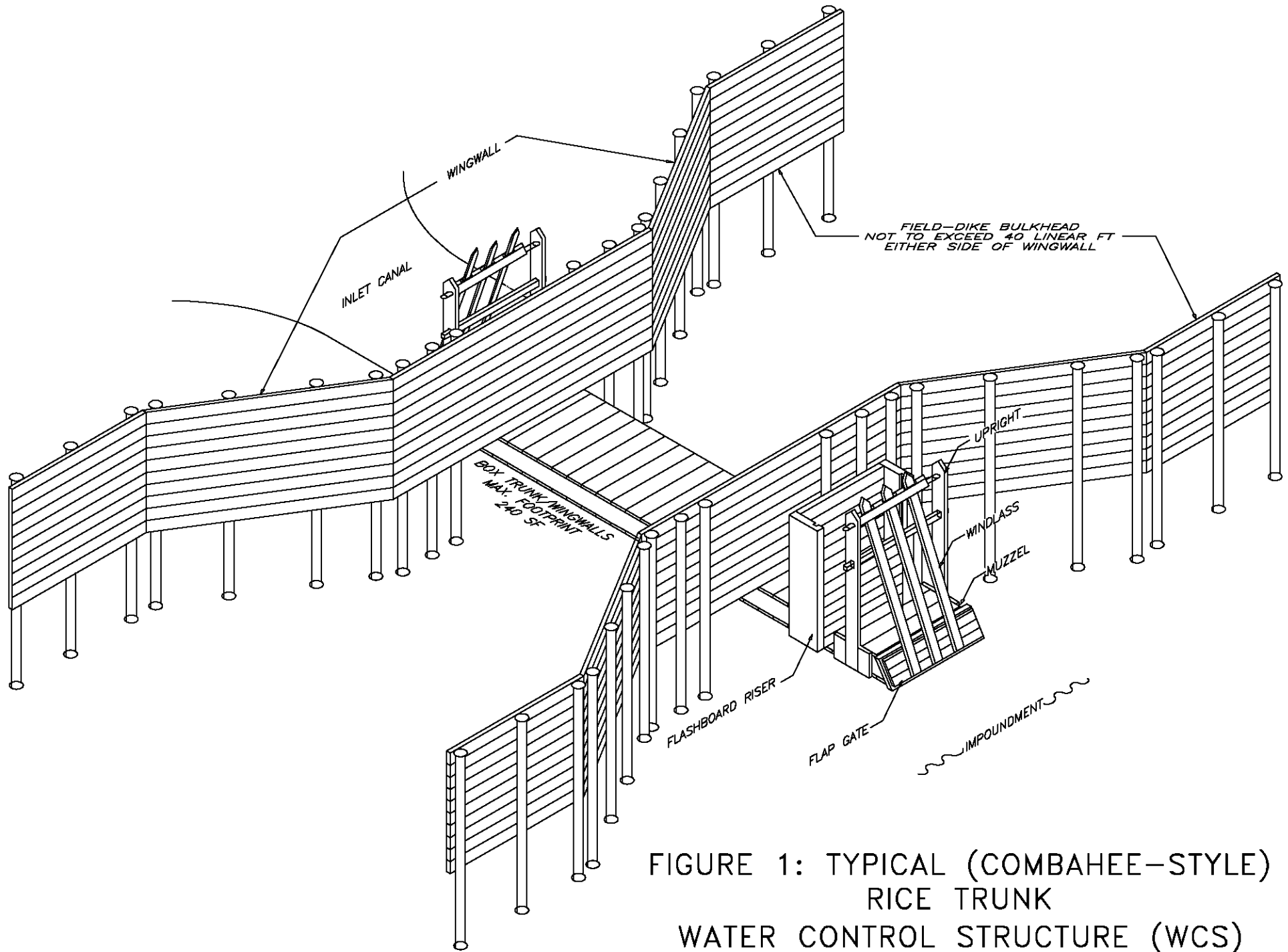


FIGURE 1: TYPICAL (COMBAHEE-STYLE)
RICE TRUNK
WATER CONTROL STRUCTURE (WCS)

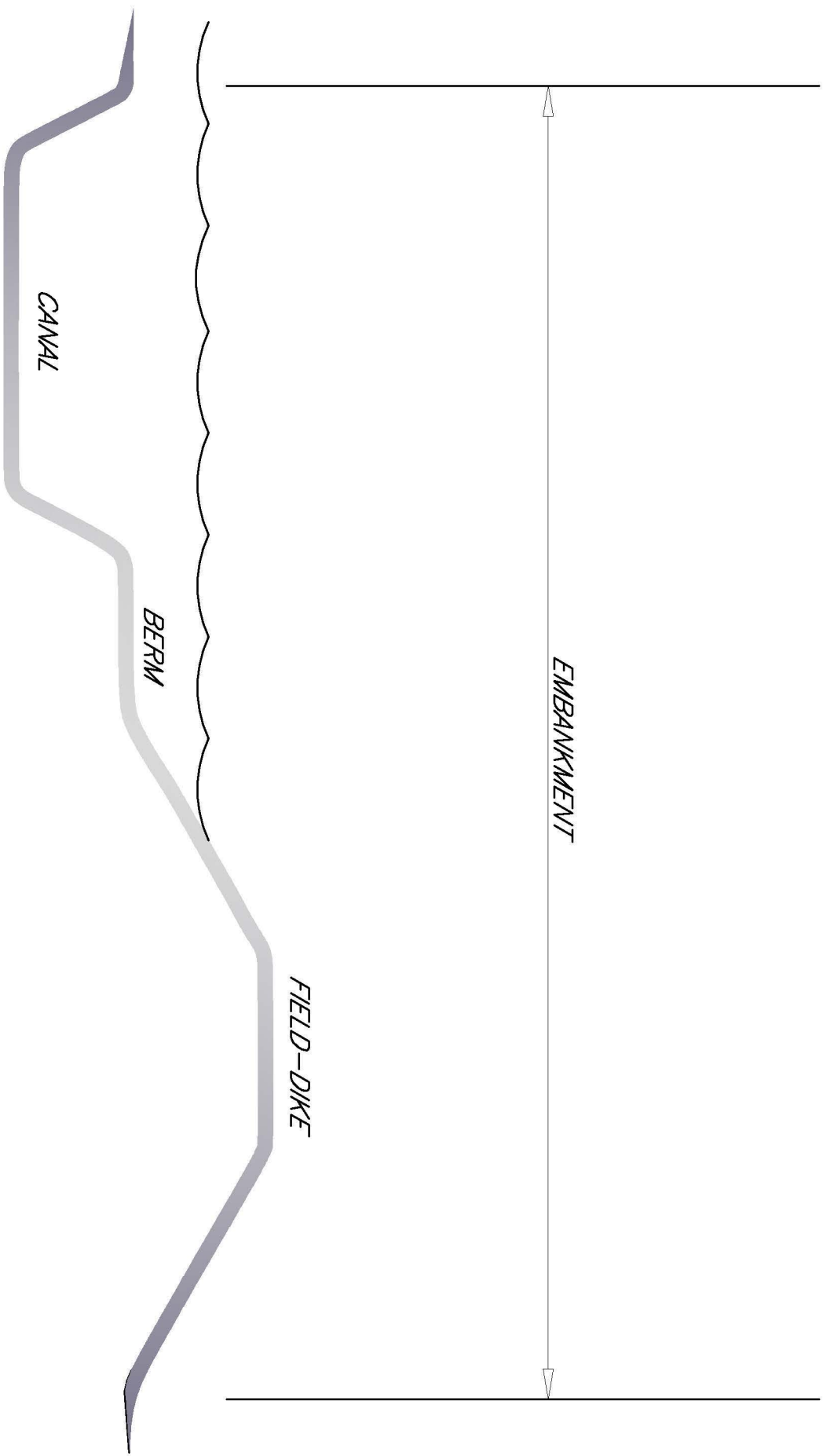


FIGURE 2: TYPICAL EMBANKMENT
CROSS-SECTION

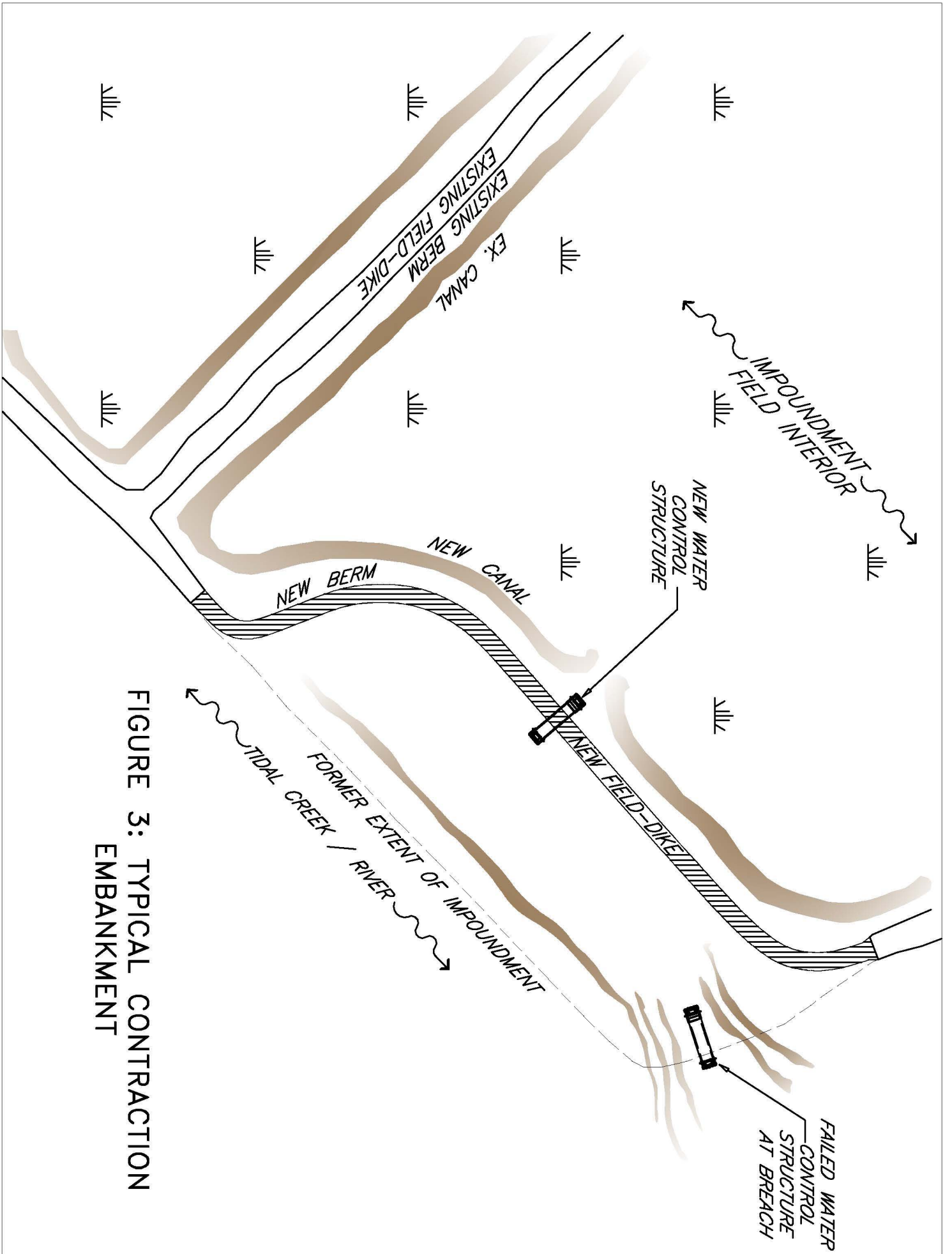


FIGURE 3: TYPICAL CONTRACTION EMBANKMENT

Appendix B

Managed Tidal Impoundment General Permit SAC # 2017-00835

Qualification Letter Request Form

Property Name: _____ Property Address: _____

County of Property: _____ Total Acreage of Impoundment _____ Date: _____

Latitude/Longitude of Impoundment: _____

Property Owner: _____
Address: _____
Address: _____
Phone: _____
Email: _____

Agent: _____
Address: _____
Address: _____
Phone: _____
Email: _____

Information Required to Accompany Request

- 1) Managed Tidal Impoundment General Permit (MTI-GP) Qualification Letter Request Form
- 2) Location map of overall property. Map should include road names.
- 3) USGS Quad topographic map(s) of area with property boundaries marked.
- 4) A list of all impoundments and/or fields for which you are requesting a Qualification Letter.
- 5) A map/drawing that shows all of the impoundments and/or the fields for which you are requesting a Qualification Letter. Each existing water control structure and impoundment and/or field must be shown on the map/drawing and identified by name or number. The type of water control structure should be noted. River and creek names should be labeled on the map/drawing. (Refer to Section VI. Definitions)
- 6) A description of the existing site conditions for each impoundment and/or field that is being considered for use of the General Permit. The description should include the vegetation present, water regime (tidal or non-tidal), and acreage of each field.
- 7) A management plan or description of current management practices for each impoundment and/or field.
- 8) To ensure compliance with Section 7 of the Endangered Species Act, the following information must be provided:
 - a) The name(s) of those endangered or threatened species that may be affected by the proposed work or are in the vicinity of the project. (See the US Fish and Wildlife Service Information for Planning and Consultation (IPaC) website at <https://ecos.fws.gov/ipac/> for a current list of threatened and endangered species and critical habitat by county).
 - b) A statement as to whether project is located in proposed critical habitat or designated critical habitat. Refer to the following National Oceanic and Atmospheric Administration (NOAA) Fisheries website for the most up-to-date information regarding Critical Habitat designations under the jurisdiction of the National Marine Fisheries Service (NMFS): http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/.
- 9) To ensure compliance with Section 106 of the National Historic Preservation Act, the following information must be provided:
 - a) A map with the Section 106 Review Area clearly defined. The Section 106 Review Area includes the impoundment and/or fields and the immediately adjacent uplands within **500 feet** of the impoundment and/or fields. In situations when the 500-foot Section 106 Review Area extends beyond the property line, the property line will serve as the limits of the Section 106 Review Area.
 - b) The location of any known historic structures and archaeological sites within the defined Section 106 Review Area clearly labeled on the map. To assist with determining if any archaeological structures or sites are present, refer to the State Historic Preservation Office (SHPO) guidance document Rice Fields and Section 106: SHPO Guidance for Federal Agencies and Applicants that can be found online at: <http://shpo.sc.gov/programs/revcomp/Pages/guidance.aspx> and ArchSite, found at <http://archsite.cas.sc.edu/ArchSite>.
 - c) Photographs of any known historic structures and archaeological sites, keyed to the map/drawing(s) of the impoundments and fields prepared for #5 above.
- 10) Ground level and aerial photographs of fields included in the Qualification Letter Request. Locations and directions of ground-level photos should be marked and labeled on the map/drawing of the impoundment and/or fields prepared for #5 above. Photos should be labeled with the corresponding impoundment and/or field name or number.

By signing below, I am indicating that I have the authority, or am acting as the duly authorized agent of a person or entity with such authority, to and do hereby grant U.S. Army Corps of Engineers personnel right of entry to legally access the property(ies) subject to this request for the purposes of conducting on-site investigations. I acknowledge that my signature is an affirmation that I possess the requisite property rights to make this request.

Mailing Address

Property Address / TMS #(s)

Email Address

Daytime Phone Number

Signature:

Printed Name and Date

Appendix C

Managed Tidal Impoundment General Permit SAC # 2017-00835

Post Construction Notification and Certification Form

Project SAC # _____

(Provide the SAC # for your specific project from the Eligibility Determination or Qualification letter)

Property Name: _____ **Date:** _____

Location/Address of Property: _____

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

Permittee Name: _____

Permittee Address: _____

Phone: _____ **Email:** _____

Location of Work: (Include field number/name and Latitude and Longitude of where the work occurred. You must also provide a map depicting the location of the work on an aerial photograph or google map).

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

Impacts: You must provide the impacts to waters of the U. S. for **each specific activity completed**.

Discharge of Fill Material: Cubic yards _____ Acreage _____

Excavation: Cubic yards _____ Acreage _____

Drawings: If the work completed consists of construction of new embankments, including contraction and set-back embankments, you must provide plan and cross-section view drawings of the completed work (in addition to the location map specified above). Drawings must be 8.5" x 11" in size and must include dimensions of the constructed embankments (length x width x height) or must be drawn to scale. The location of mean high water and mean low water must be shown for work in Section 10 waters.

Date of Completion of Work: _____

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

Signature of Permittee

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