

JOINT
PUBLIC NOTICE

CHARLESTON DISTRICT, CORPS OF ENGINEERS
1949 Industrial Park Road Room 140
Conway, South Carolina 29526
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-2022-00751

November 9, 2023

Pursuant to Sections 401 and 404 of the Clean Water Act (33 U.S.C. 1341), an application has been submitted to the Department of the Army and the S.C. Department of Health and Environmental Control by

Mr. Robert Shepard
R N Shepard Investments LLC
c/o 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 and modify an existing dike in

WETLANDS ASSOCIATED WITH OX SWAMP

located on a property identified as (PIN) # 45-258-017 located within Gumtree Farms west of Trio Road, Andrews, Williamsburg County, South Carolina (Latitude: 33.5079 °, Longitude: -79.7443 °), **Kellehan Crossroads 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 renovate a dike crossing and water control for the purposes of enhanced wetland and wildlife habitat management.

Project Description

The proposed work consists of the renovation of existing dike by removing existing tree cover, repairing subsided sections, widening other existing sections and installing a water control structure. Trees will be removed to enable equipment to access the footprint of the dike crossing. Once free of trees fill material will be brought to the project site with an off-road truck and placed on the dike by a track hoe. The dike will be raised by 3-to-4 feet and widened on average by 3 feet. The final dike dimensions across the width of the wetland will be 14-foot base width, 3-to-4-foot height, and 10-foot top width requiring the placement of 0.16 acres of fill material in the wetland. A wooden spillway box with riser will be installed. The inundation extent will be 5.8 acres.

Avoidance and Minimization

The applicant has stated that the proposed project will avoid and/or minimize impacts to the aquatic environment by having work take place when water levels are lowest, likely during the growing season. The track hoe will operate on wooden mats and will be limited to the footprint of the existing dike and will not enter the surrounding wetland. The site will be vegetated with browntop millet immediately after construction to stabilize the soil.

Proposed Compensatory Mitigation

The applicant has not proposed to mitigate for impacts to wetlands and/or waters of the United States.

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.

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 5.96 acres 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 proposed project and based on location and available information, the following species have the potential to occur in the vicinity of the proposed work: Northern Long-eared Bat (*Myotis septentrionalis*), Tricolored Bat (*Perimyotis subflavus*), Red-cockaded Woodpecker (*Picoides borealis*), American Chaffseed (*Schwalbea americana*), and Canby's Dropwort (*Oxypolis canbyi*).

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

The project will have no effect on the American Chaffseed (*Schwalbea americana*), and Canby's Dropwort (*Oxypolis canbyi*) 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 Red-cockaded Woodpecker (*Picoides borealis*) the Northern Long-eared Bat (*Myotis septentrionalis*), and the Tricolored Bat (*Perimyotis subflavus*) 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 (USFWS project code 2024-0010593) 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 no historic properties are present; therefore, there will be no effect on historic properties. 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 any other interested parties to provide any information they may have with regard to historic properties. This public notice serves as a request for concurrence within 30 days from the SHPO (and/or Tribal Historic Preservation Officer).

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 and, as appropriate, the criteria established under authority of Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended. 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-2022-00751), to Megan.N.Jackson@usace.army.mil or the following address:

**U.S. Army Corps of Engineers
ATTN: REGULATORY DIVISION
1949 Industrial Park Road Room 140
Conway, South Carolina 29526**

If there are any questions concerning this public notice, please contact Megan N. Jackson, Project Manager, at (843) 365-4239 or by email at Megan.N.Jackson@usace.army.mil.

Att. 1: Project within USGS Quadrangles	Gum Tree Farms Dike Renovation
-0- Trio Road, Andrews, SC 29510	Applicant: Bob Shepard
33.507092, -79.744659	Agent: Travis Hayes Folk, PhD



Geographic Information Systems

1 Inch = 2.5 Miles

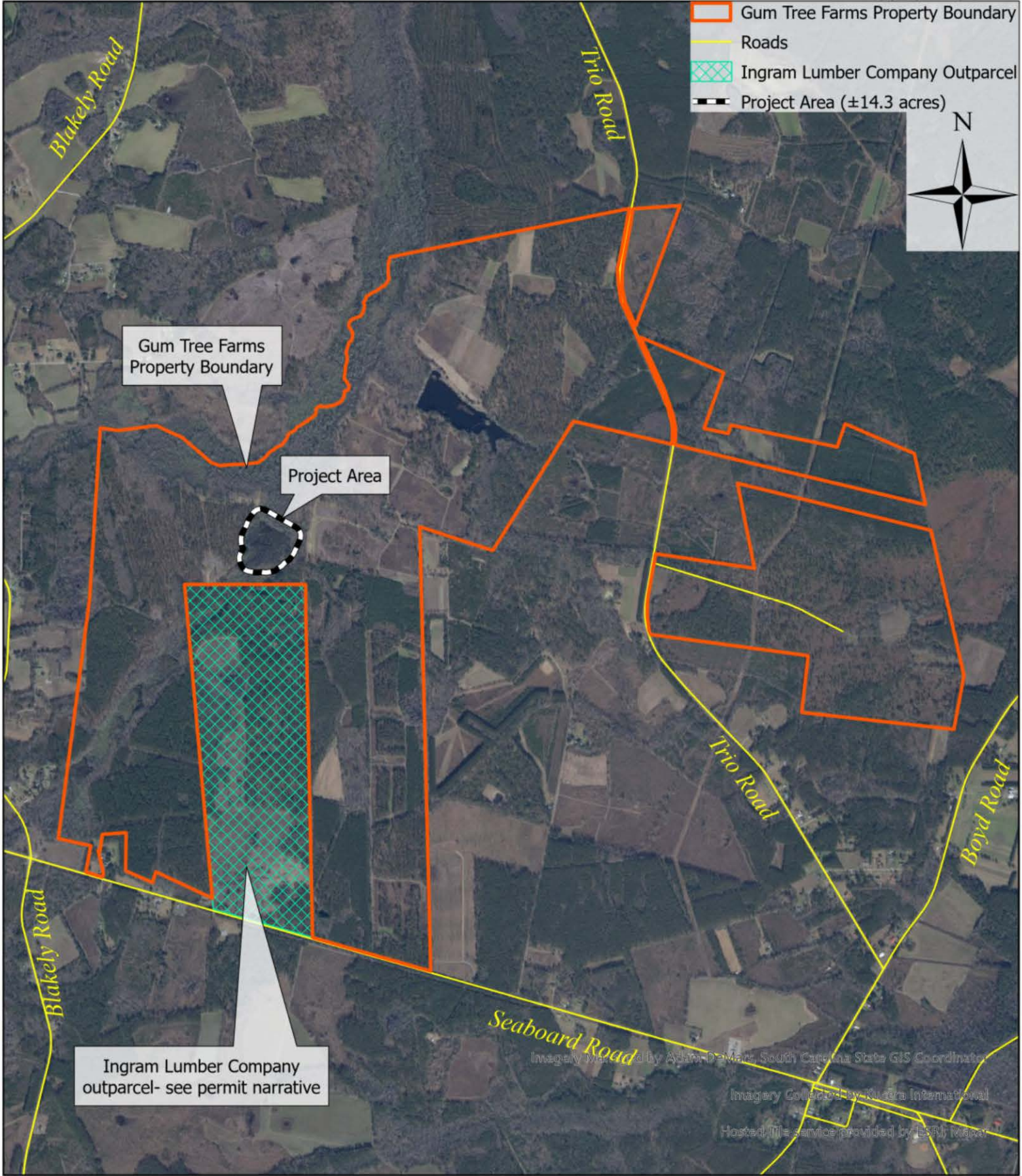
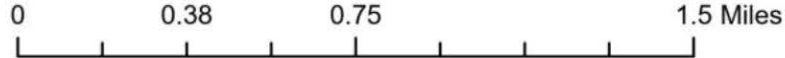


USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road Data; Natural Earth Data; U.S. Department of State Humanitarian Information Unit; and NOAA National Centers for Environmental Information, U.S. Coastal Relief Model. Data refreshed August, 2021.

Att. 2A: Project Area within Property Boundary Aerial	Gum Tree Farms Dike Renovation
-0- Trio Road, Andrews, SC 29510	Applicant: Bob Shepard
33.507092, -79.744659	Agent: Travis Hayes Folk, PhD



1 Inch = 2,250 Feet



- Gum Tree Farms Property Boundary
- Roads
- Ingram Lumber Company Outparcel
- Project Area (±14.3 acres)



Gum Tree Farms Property Boundary

Project Area

Ingram Lumber Company outparcel- see permit narrative

Imagery Modified by Adam Dewar, South Carolina State GIS Coordinator

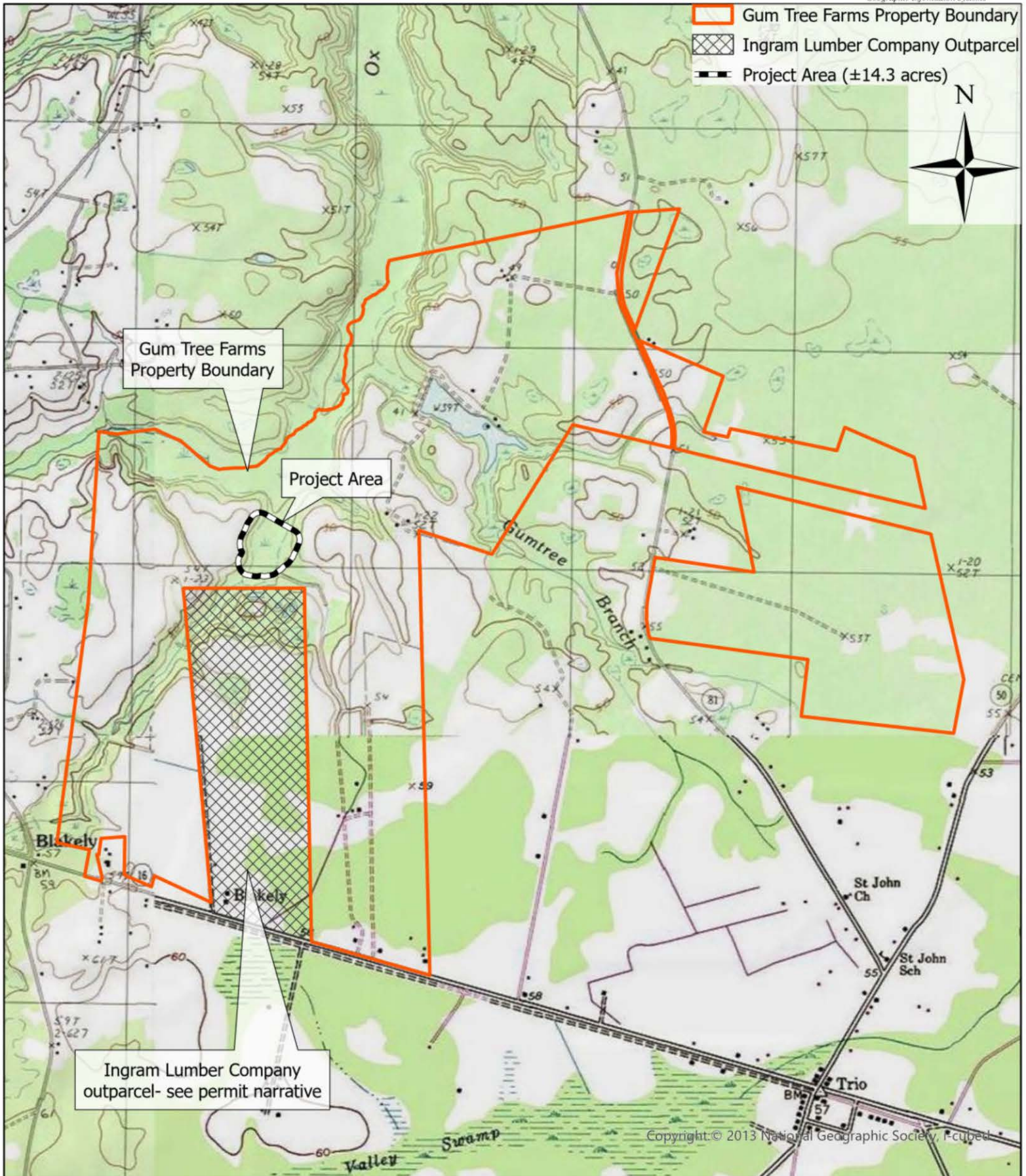
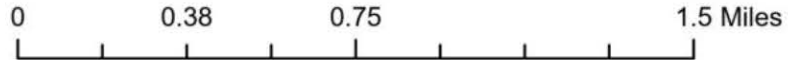
Imagery Collected by Kura International

Hosted File service provided by ESRI | Mapbox

Att. 2B: Project Area within Property Boundary Topo	Gum Tree Farms Dike Renovation
-0- Trio Road, Andrews, SC 29510	Applicant: Bob Shepard
33.507092, -79.744659	Agent: Travis Hayes Folk, PhD



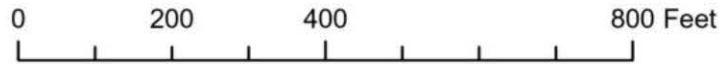
1 Inch = 2,250 Feet



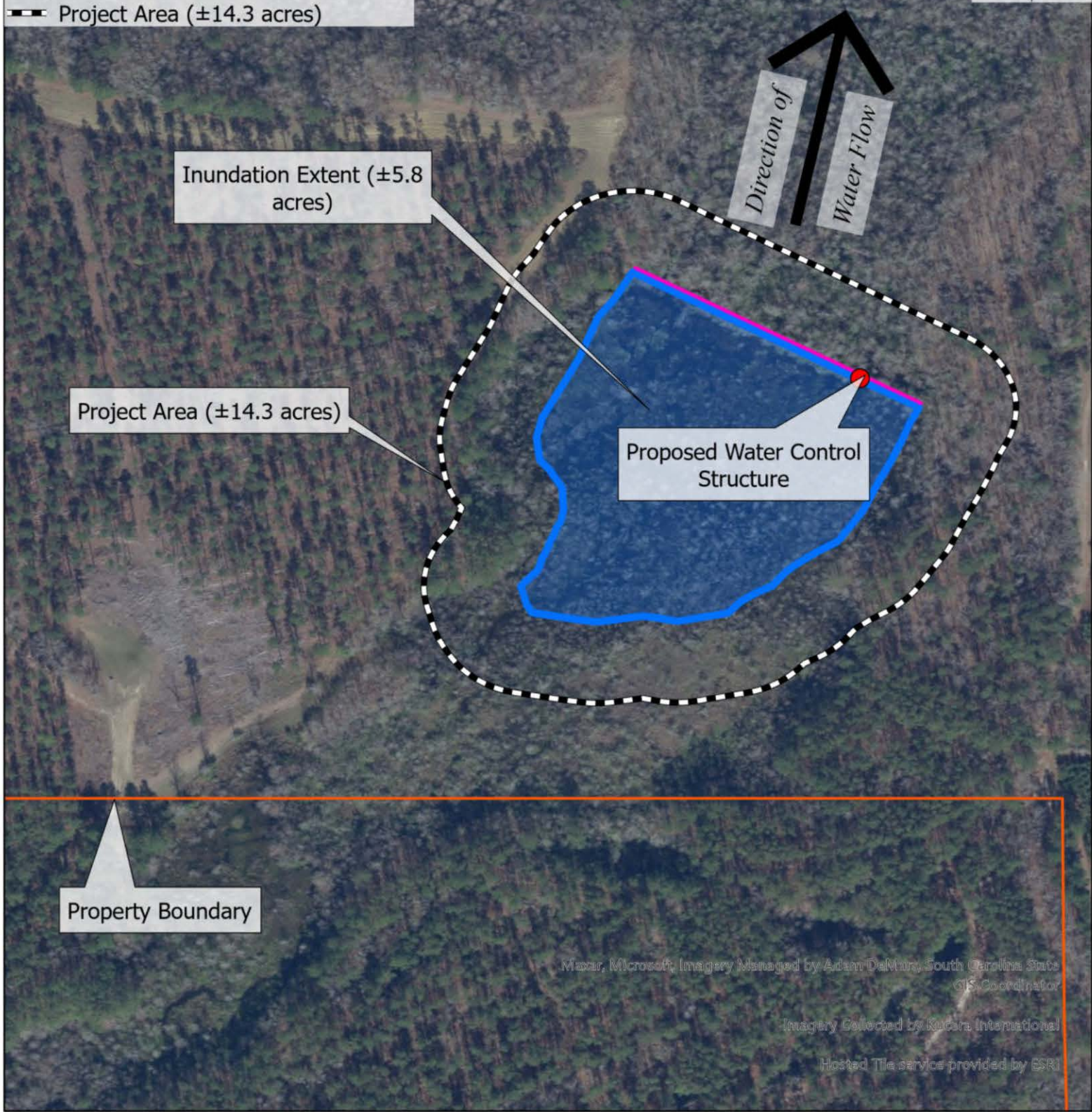
Att. 3A: Project Area Aerial	Gum Tree Farms Dike Renovation
-0- Trio Road, Andrews, SC 29510	Applicant: Bob Shepard
33.507092, -79.744659	Agent: Travis Hayes Folk, PhD



1 Inch = 250 Feet



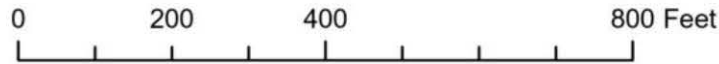
- Gum Tree Farms Property Boundary
- Inundation Extent (±5.8 acres)
- Proposed Water Control Structure
- Dike Renovation (±508 linear feet)
- Project Area (±14.3 acres)



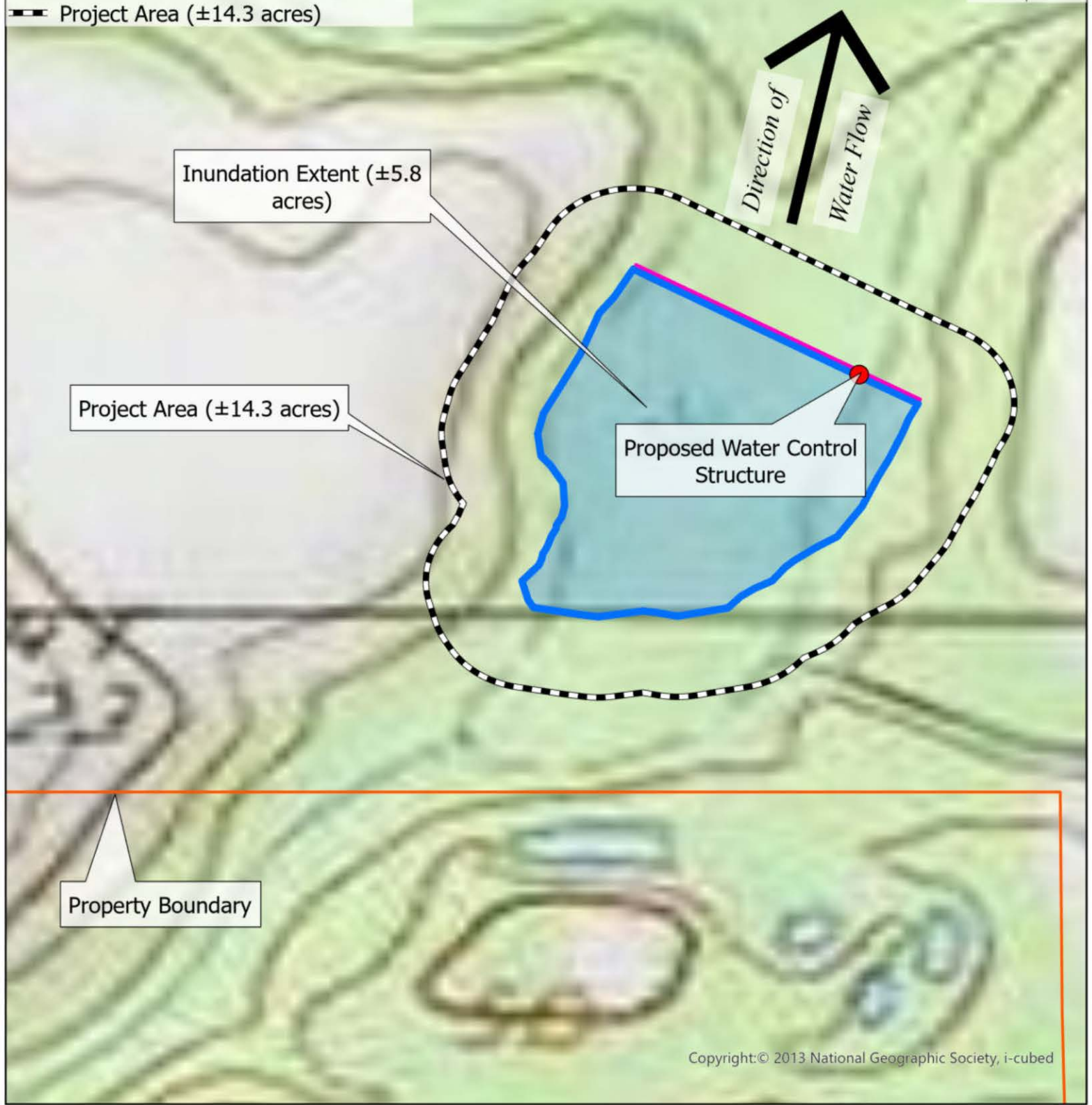
Att. 3B: Project Area Topo	Gum Tree Farms Dike Renovation
-0- Trio Road, Andrews, SC 29510	Applicant: Bob Shepard
33.507092, -79.744659	Agent: Travis Hayes Folk, PhD



1 Inch = 250 Feet



-  Gum Tree Farms Property Boundary
-  Inundation Extent (±5.8 acres)
-  Proposed Water Control Structure
-  Dike Renovation (±508 linear feet)
-  Project Area (±14.3 acres)



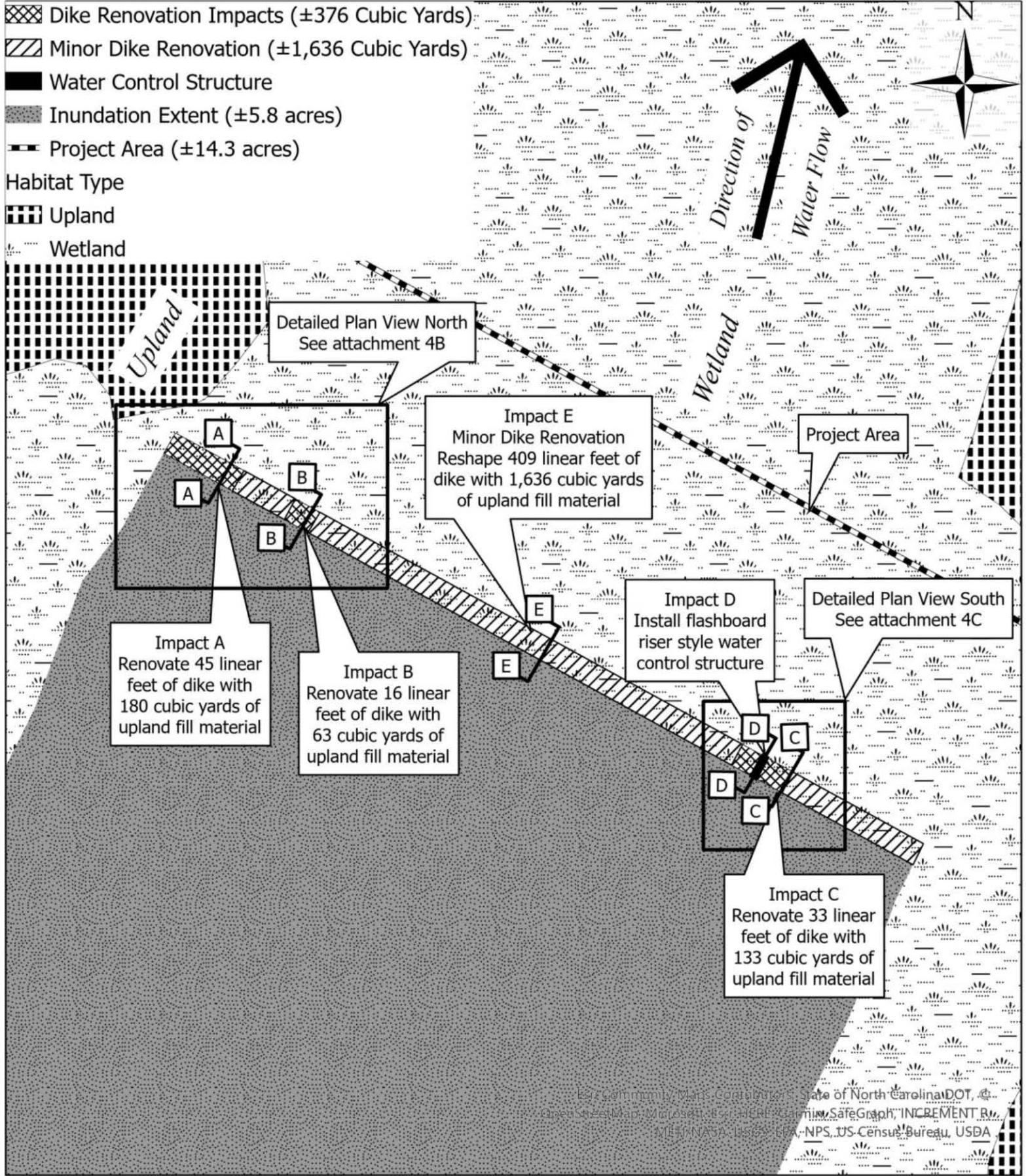
Att. 4A Plan View B&W	Gum Tree Farms Dike Renovation
-0- Trio Road, Andrews, SC 29510	Applicant: Bob Shepard
33.507092, -79.744659	Agent: Travis Hayes Folk, PhD



1 Inch = 75 Feet

0 75 150 300 Feet

- Dike Renovation Impacts (±376 Cubic Yards)
 - Minor Dike Renovation (±1,636 Cubic Yards)
 - Water Control Structure
 - Inundation Extent (±5.8 acres)
 - Project Area (±14.3 acres)
- Habitat Type
- Upland
 - Wetland



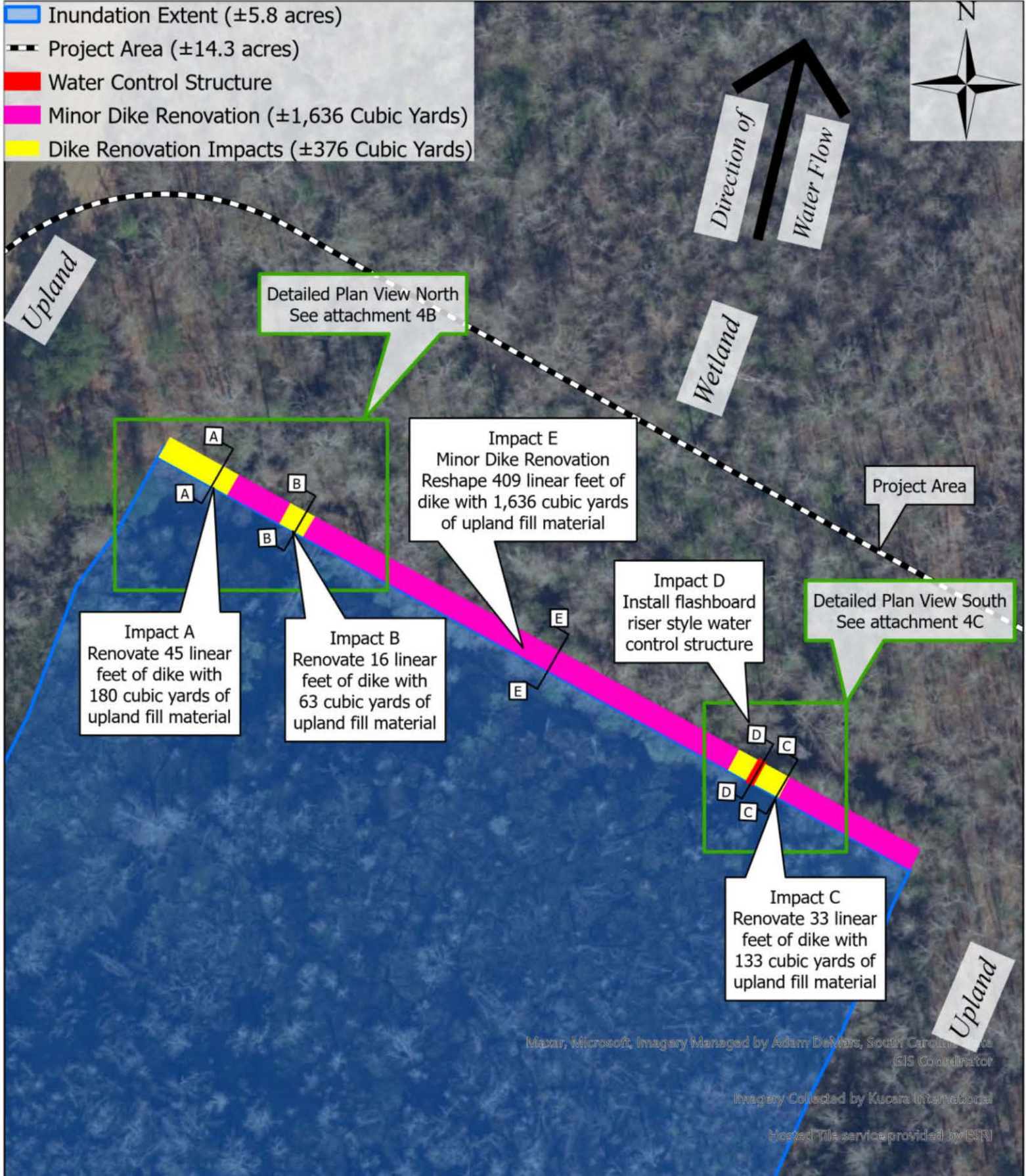
Att. 4A Plan View	Gum Tree Farms Dike Renovation
-0- Trio Road, Andrews, SC 29510	Applicant: Bob Shepard
33.507092, -79.744659	Agent: Travis Hayes Folk, PhD



1 Inch = 75 Feet

0 75 150 300 Feet

- Inundation Extent (±5.8 acres)
- Project Area (±14.3 acres)
- Water Control Structure
- Minor Dike Renovation (±1,636 Cubic Yards)
- Dike Renovation Impacts (±376 Cubic Yards)



Maxar, Microsoft, Imagery Managed by Adam DeWalt, South Carolina State GIS Coordinator

Imagery Collected by Kuipers International

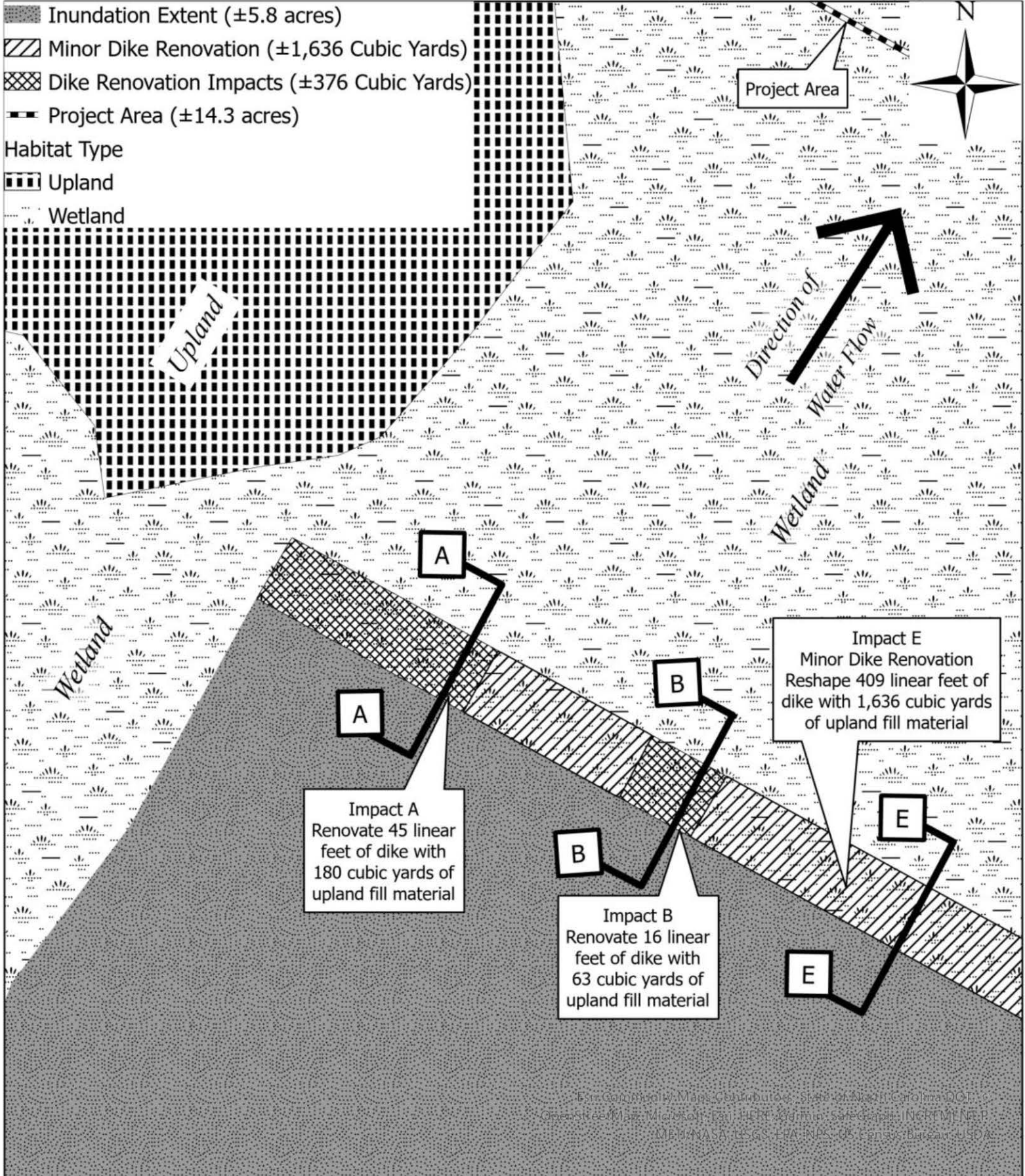
Hosted File service provided by ESRI

Att. 4B Detailed Plan View North B&W	Gum Tree Farms Dike Renovation
-0- Trio Road, Andrews, SC 29510	Applicant: Bob Shepard
33.507092, -79.744659	Agent: Travis Hayes Folk, PhD



1 Inch = 25 Feet

0 25 50 100 Feet



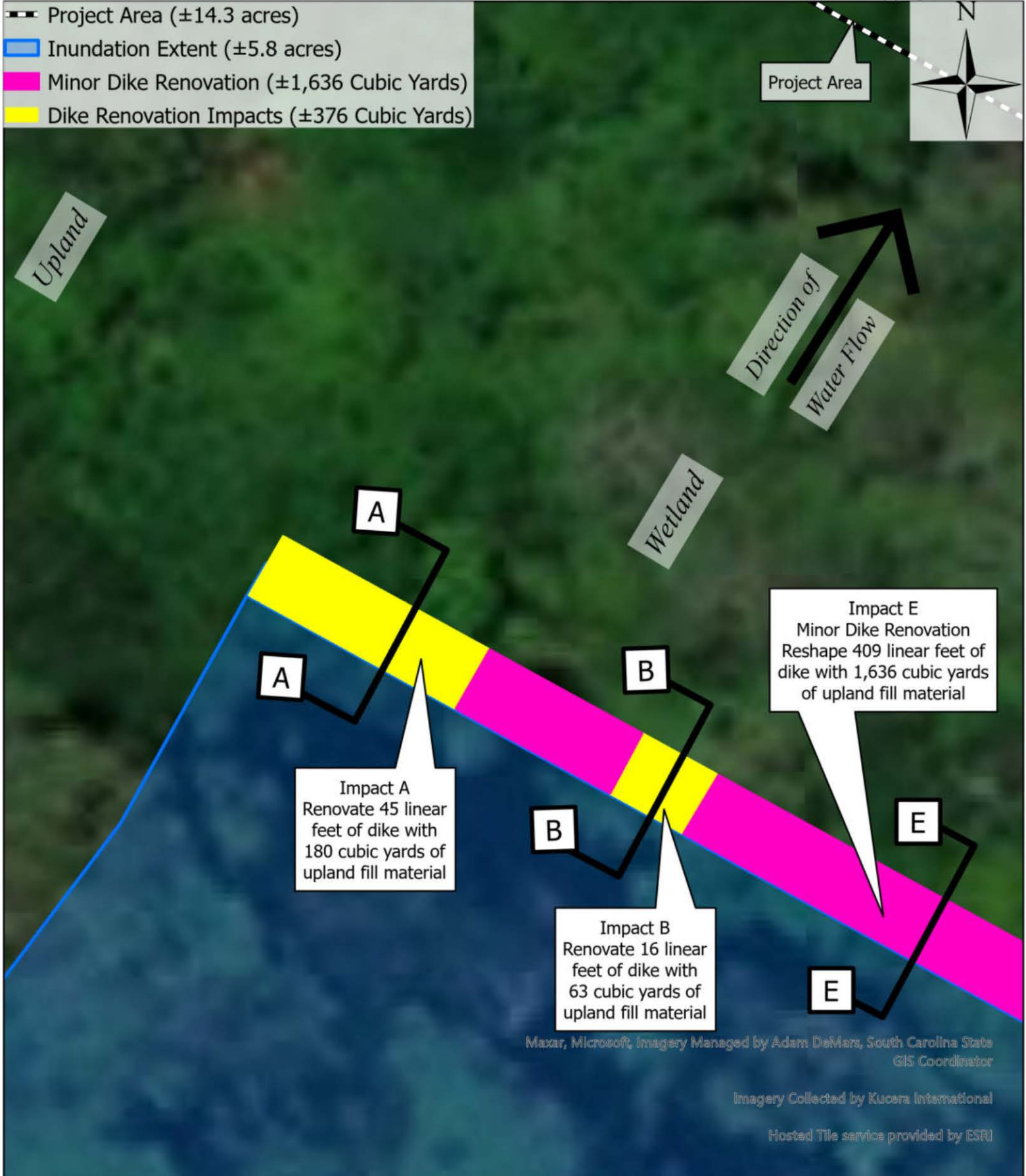
Att. 4B Detailed Plan View North	Gum Tree Farms Dike Renovation
-0- Trio Road, Andrews, SC 29510	Applicant: Bob Shepard
33.507092, -79.744659	Agent: Travis Hayes Folk, PhD



1 Inch = 25 Feet

0 25 50 100 Feet

- Project Area (±14.3 acres)
- Inundation Extent (±5.8 acres)
- Minor Dike Renovation (±1,636 Cubic Yards)
- Dike Renovation Impacts (±376 Cubic Yards)



Project Area



Upland

Direction of
Water Flow

Wetland

A

A

Impact A
Renovate 45 linear
feet of dike with
180 cubic yards of
upland fill material

B

B

Impact B
Renovate 16 linear
feet of dike with
63 cubic yards of
upland fill material

E

Impact E
Minor Dike Renovation
Reshape 409 linear feet of
dike with 1,636 cubic yards
of upland fill material

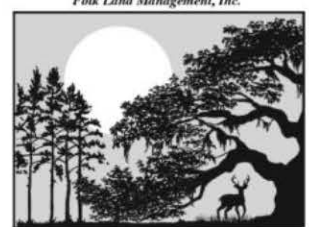
E

Maxar, Microsoft, Imagery Managed by Adam DeMars, South Carolina State
GIS Coordinator

Imagery Collected by Kucaers International

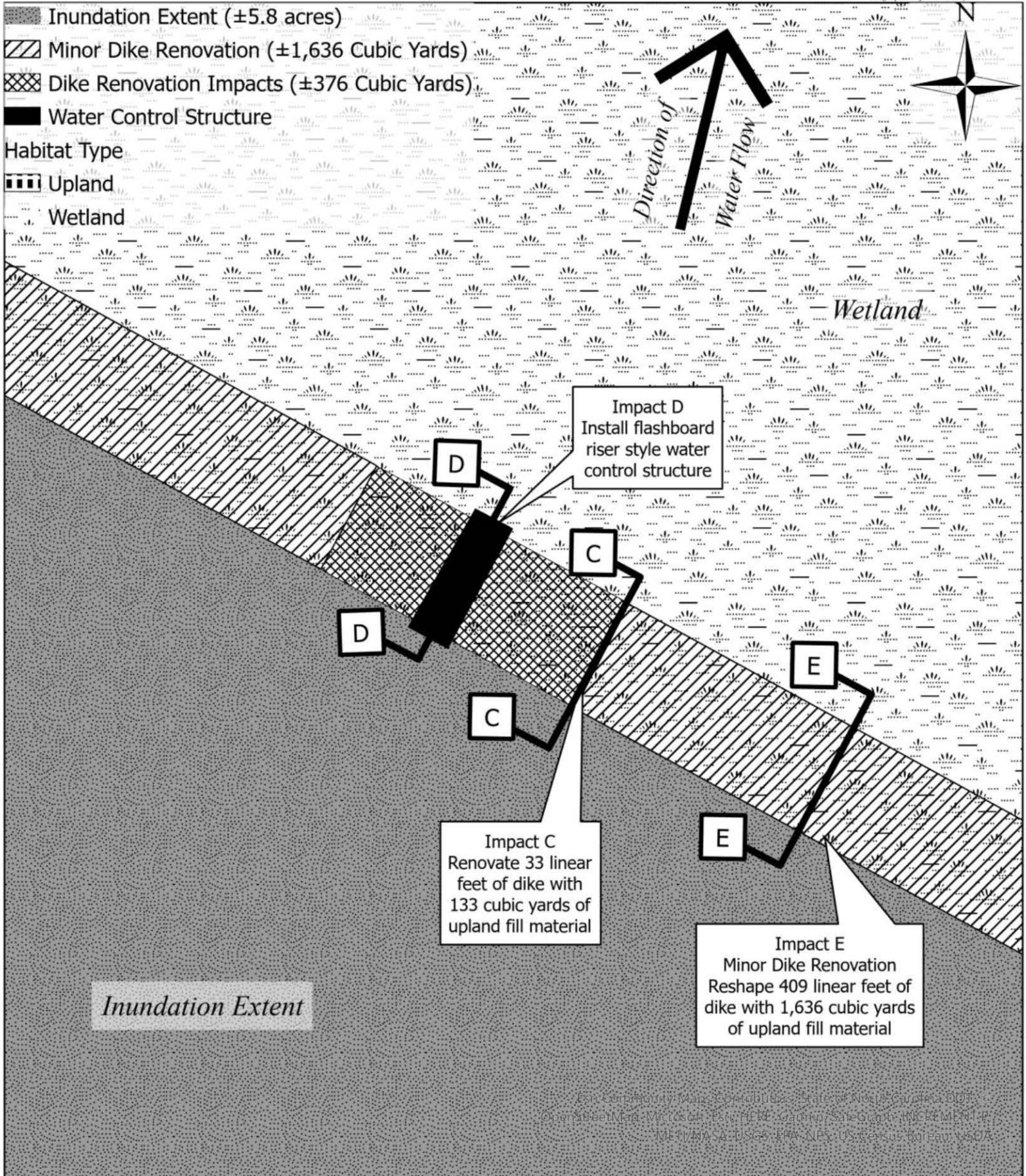
Hosted Tile service provided by ESRI

Att. 4C Detailed Plan View South B&W	Gum Tree Farms Dike Renovation
-0- Trio Road, Andrews, SC 29510	Applicant: Bob Shepard
33.507092, -79.744659	Agent: Travis Hayes Folk, PhD



1 Inch = 15 Feet

0 15 30 60 Feet



Inundation Extent

Att. 4C Detailed Plan View South	Gum Tree Farms Dike Renovation
-0- Trio Road, Andrews, SC 29510	Applicant: Bob Shepard
33.507092, -79.744659	Agent: Travis Hayes Folk, PhD



1 Inch = 15 Feet

0 15 30 60 Feet

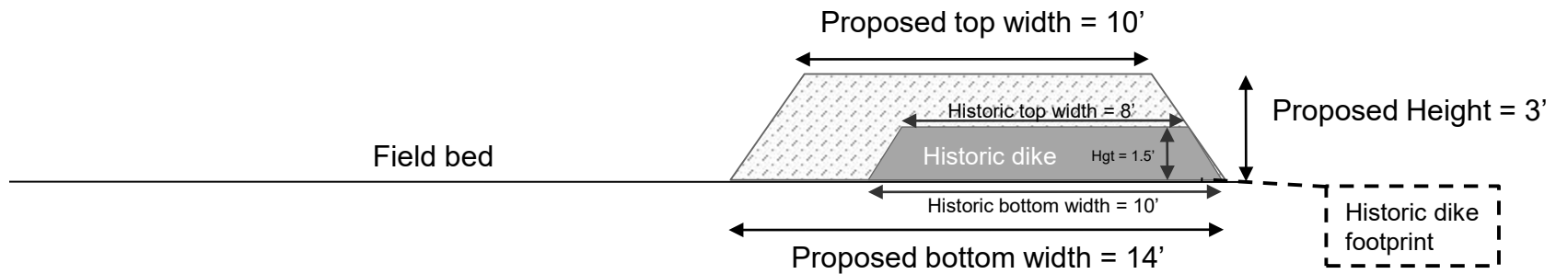
- Project Area (± 14.3 acres)
- Inundation Extent (± 5.8 acres)
- Water Control Structure
- Minor Dike Renovation ($\pm 1,636$ Cubic Yards)
- Dike Renovation Impacts (± 376 Cubic Yards)



Attachment #5 - Section A-A - profile of typical historic dike re-topping

Impact No.1 – widen and top 45 linear feet of dike by increasing existing bottom width by 4' to inside, top width by 2' to inside, and height by 1.5'.

Wetland fill (180 cubic yards) to be placed across 45 linear feet of historic dike (630 square feet of impact).

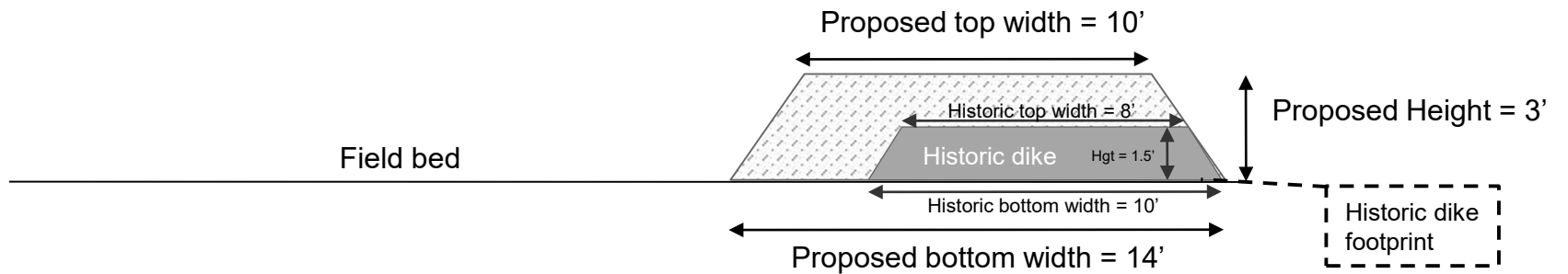


<i>Project Title:</i> Gum Tree Farms Dike Renovation	
<i>Project Location:</i> -0- Trio Road, Andrews, SC 29510 32.658367° , -80.745580°	1" = 5'
<i>Applicant:</i> Bob Shepard	<i>Date</i> 12-05-21
<i>Agent:</i> Travis Hayes Folk, PhD	<i>Sheet</i> 5 of 9

Attachment #6 - Section B-B - profile of typical historic dike re-topping

Impact No.2 – widen and top 16 linear feet of dike by increasing existing bottom width by 4' to inside, top width by 2' to inside, and height by 1.5'.

Wetland fill (63 cubic yards) to be placed across 16 linear feet of historic dike (224 square feet of impact).

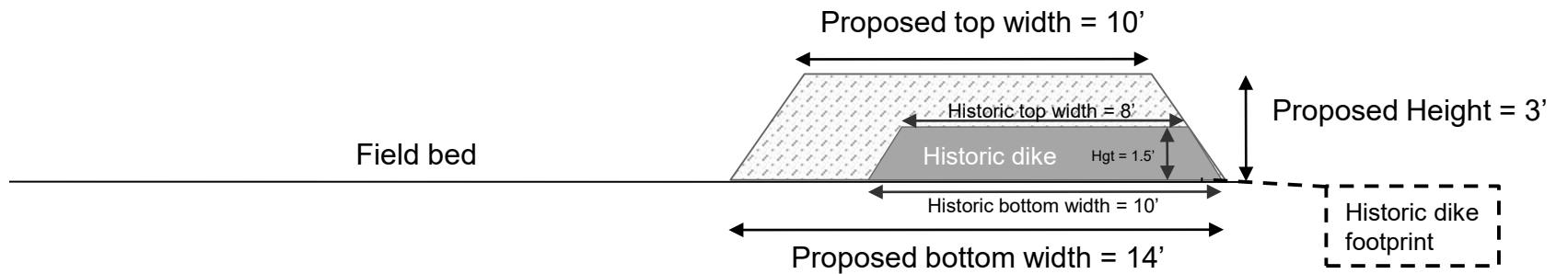


<i>Project Title:</i> Gum Tree Farms Dike Renovation	
<i>Project Location:</i> -0- Trio Road, Andrews, SC 29510 33.507092° , -79.744659°	1" = 5'
<i>Applicant:</i> Bob Shepard	<i>Date</i> 12-05-21
<i>Agent:</i> Travis Hayes Folk, PhD	<i>Sheet</i> 6 of 9

Attachment #7 - Section C-C - profile of typical historic dike re-topping

Impact No.3 – widen and top 33 linear feet of dike by increasing existing bottom width by 4' to inside, top width by 2' to inside, and height by 1.5'.

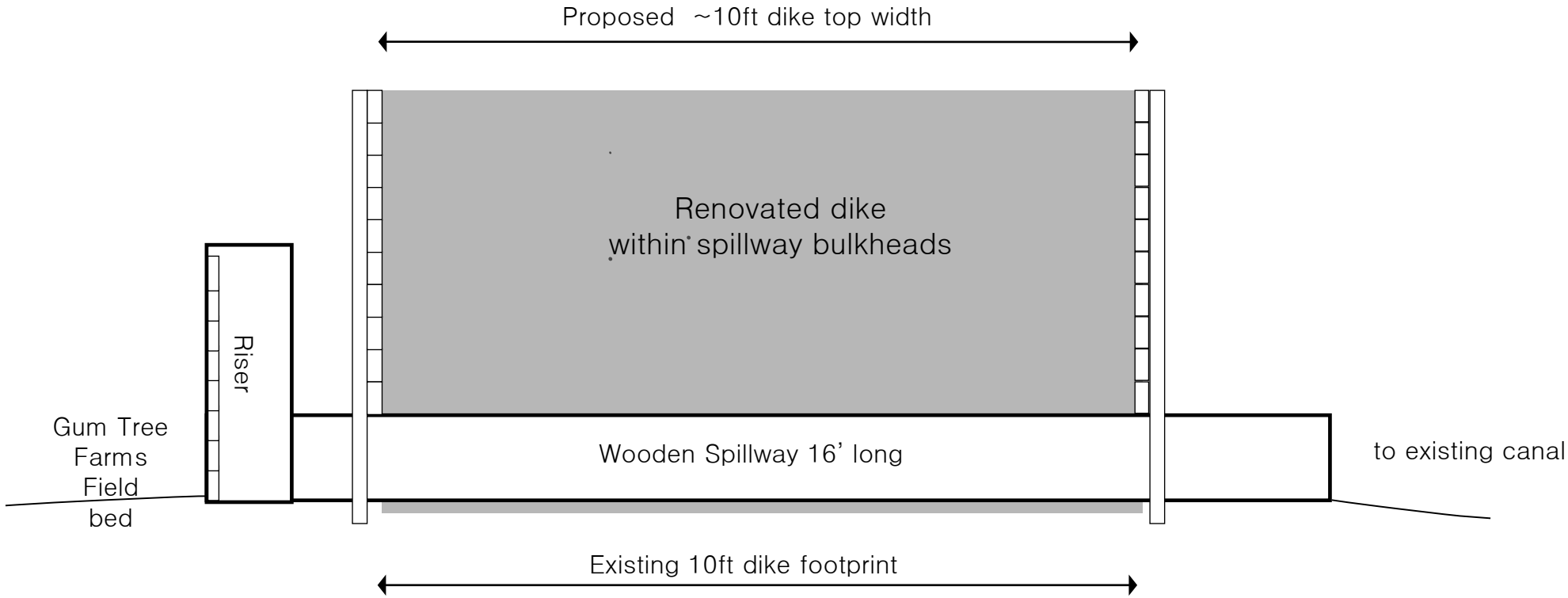
Wetland fill (133 cubic yards) to be placed across 33 linear feet of historic dike (462 square feet of impact).



<i>Project Title:</i> Gum Tree Farms Dike Renovation	
<i>Project Location:</i> -0- Trio Road, Andrews, SC 29510 33.507092° , -79.744659°	1" = 5'
<i>Applicant:</i> Bob Shepard	<i>Date</i> 12-05-21
<i>Agent:</i> Travis Hayes Folk, PhD	<i>Sheet</i> 7 of 9

Attachment #8 - Section D-D - profile of typical spillway box

Impact No.4 – install spillway box

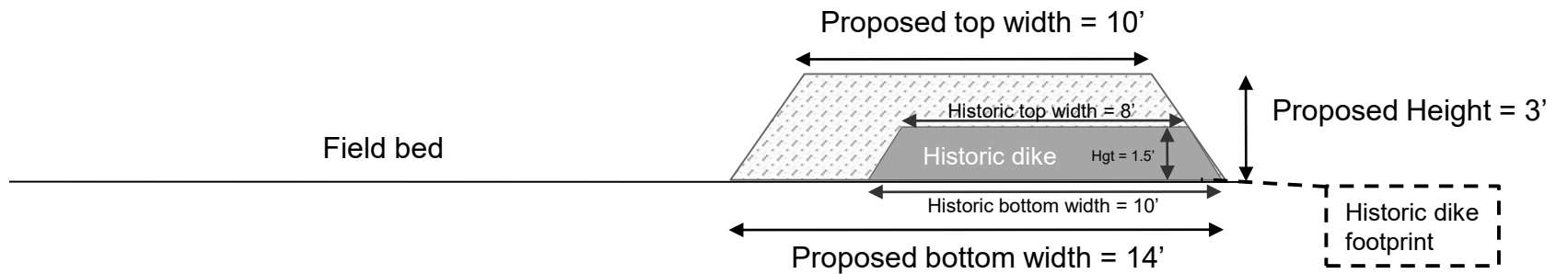


<i>Project Title:</i> Gum Tree Farms Dike Renovation	
<i>Project Location:</i> -0- Trio Road, Andrews, SC 29510 33.507092° , -79.744659°	
<i>Applicant:</i> Bob Shepard	<i>Date</i> 12-5-21
<i>Agent:</i> Travis Hayes Folk, PhD	<i>Sheet</i> 8 of 9

Attachment #9 - Section E-E - profile of typical historic dike re-topping

Impact No.5 – widen and top 409 linear feet of dike by increasing existing bottom width by 4' to inside, top width by 2' to inside, and height by 1.5'.

Wetland fill (1,636 cubic yards) to be placed across 409 linear feet of historic dike (5,726 square feet of impact).



<i>Project Title:</i> Gum Tree Farms Dike Renovation	
<i>Project Location:</i> -0- Trio Road, Andrews, SC 29510 33.507092° , -79.744659°	1" = 5'
<i>Applicant:</i> Bob Shepard	<i>Date</i> 12-05-21
<i>Agent:</i> Travis Hayes Folk, PhD	<i>Sheet</i> 9 of 9