

JOINT
PUBLIC NOTICE

CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A Hagood Avenue
Charleston, South Carolina 29403
and
THE S.C. DEPARTMENT OF ENVIRONMENTAL SERVICES
Bureau of Coastal Management
1362 McMillan Street
North Charleston, South Carolina 29405

REGULATORY DIVISION
Refer to: SAC-2023-00071

October 22, 2024

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, 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 South Carolina Department of Environmental Services (SCDES) by

Mr. Chris Beckham
SC Department of Transportation
955 Park Street
Columbia, South Carolina 29210

for a permit to replace the existing S-390 (Toogoodoo Road) bridge over

Swinton Creek

located approximately 3.1 miles west of the S-390 and SC 165 intersection, in the City of Meggett, Charleston County, South Carolina (Latitude: 32.707812°, Longitude: -80.293458°), Adams Run 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 **SCDES** 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 address structural deficiencies in the existing bridge.

Project Description

The SCDOT proposes to replace the existing S-390 (Toogoodoo Road) bridge over Swinton Creek and improve the roadway approaches to the bridge. The existing bridge is approximately 75 feet long and 33 feet in width and accommodates two (2) lanes of vehicular travel, one in each direction. The existing bridge consists of five (5) 15-foot spans. The roadway approaches to the existing bridge are supported by an earthen causeway within the tidal marsh adjacent to Swinton Creek. The proposed bridge would be built on its existing alignment while traffic is temporarily detoured. The proposed bridge would be approximately 220 feet in length and 42'-3" in width. The bridge would be comprised of two (2) 40-foot main spans and four (4) 35-foot spans (two on each side of the main spans). Two (2) 20-foot approach slabs are also proposed, one on each end of the bridge. Roadway approaches would be improved for approximately 500 feet west of the new bridge and approximately 350 feet east of the new bridge. The project would also require the temporary relocation of overhead utilities during construction. To accommodate the temporary powerlines, one (1) permanent and three (3) temporary utility poles would be installed prior to bridge replacement construction activities. Powerlines would be temporarily routed along the new utility poles until construction of the new bridge is complete. Following construction, the three (3) temporary poles would be removed, and powerlines would be restored to their original condition. Access for the installation of the utility poles would be performed using temporary timber mats and require no clearing or other regulated activities.

The proposed work consists of placing fill material in 0.82-acre of tidal marsh (0.55-acre permanent fill and 0.27-acre temporary clearing).

Avoidance and Minimization

The applicant has stated that the proposed project will avoid and/or minimize impacts to the aquatic environment by the following avoidance and minimization measures:

- Aligning roadway improvements along the existing roadways where possible

- Utilize 2:1 and 4:1 roadway embankment slopes where practicable to minimize the roadway footprint.
- Longer bridge span to improve hydrology.
- Reduction from 4 in-water bridge bents to 2 in-water bents to improve hydrology.
- Bridges cross perpendicular to the water body.
- Only clean fill material would be used to construct the new roadway.
- SCDOT would install sediment and erosion control measures consistent with state best management practices (BMPs) during construction of the roadway to prevent runoff and sedimentation of waters of the United States (WOTUS).
- Staging of equipment and materials will be sited outside of jurisdictional areas.
- Clearing and temporary impacts have been eliminated in many areas to reduce the construction footprint.
- Impacts to hydrology and hydraulics were minimized by sizing pipes and culverts appropriately.

Proposed Compensatory Mitigation

The applicant has proposed to mitigate for impacts to tidal wetlands and/or waters of the United States by purchasing 9.604 saltmarsh credits from a Corps-approved mitigation bank.

South Carolina Department of Environmental Services

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 Environmental Services, 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 Environmental Services. 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 approximately 0.82-acre of tidal marsh (0.55-acre permanent fill and 0.27-acre temporary clearing) utilized by various life stages of species comprising the shrimp, and snapper-grouper management complexes. Beneficial effects include the potential creation/restoration of 0.1-acre of EFH onsite where the existing causeway would be removed. The District Engineer's initial determination is that the proposed action would have an 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.

As a result of coordination between the applicant and NMFS, by email dated March 31, 2024, the NMFS stated it concurred with the determination the proposed project would occur in the vicinity of EFH and offered no EFH conservation recommendations pursuant to the Magnuson-Stevens Fishery Conservation and Management Act and no recommendations under the Fish and Wildlife Coordination Act for the proposed replacement of the Toogoodoo Road bridge.

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*), West Indian manatee (*Trichechus manatus*), Piping plover (*Charadrius melodus*), Red-cockaded woodpecker (*Picoides borealis*), Red knot (*Calidris canutus rufa*), American wood stork (*Mycteria americana*), Green sea turtle (*Chelonia mydas*), Kemp's ridley sea turtle (*Lepidochelys kempii*), Leatherback sea turtle (*Dermochelys coriacea*), American chaffseed (*Schwalbea americana*), Canby's dropwort (*Oxypolis canbyi*), Pondberry (*Lindera melissifolia*), Piping plover (*Charadrius melodus*).

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 the West Indian manatee, Red-cockaded woodpecker, Green sea turtle, Kemp's ridley sea turtle, Leatherback sea turtle, American chaffseed, Canby's dropwort, 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 Northern long eared bat, Piping plover, Red knot, Eastern black rail, or the American wood stork or result in the destruction or adverse modification of designated or proposed critical habitat.

As a result of coordination between the applicant and U.S. Fish and Wildlife Service (USFWS), by letters dated June 20, 2023, the USFWS stated it concurred with the applicant's **not likely to adversely affect** determinations and verified that consultation on the proposed action is complete.

This public notice serves as a request to the USFWS and the NMFS 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 is *no potential to cause effect* to 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.

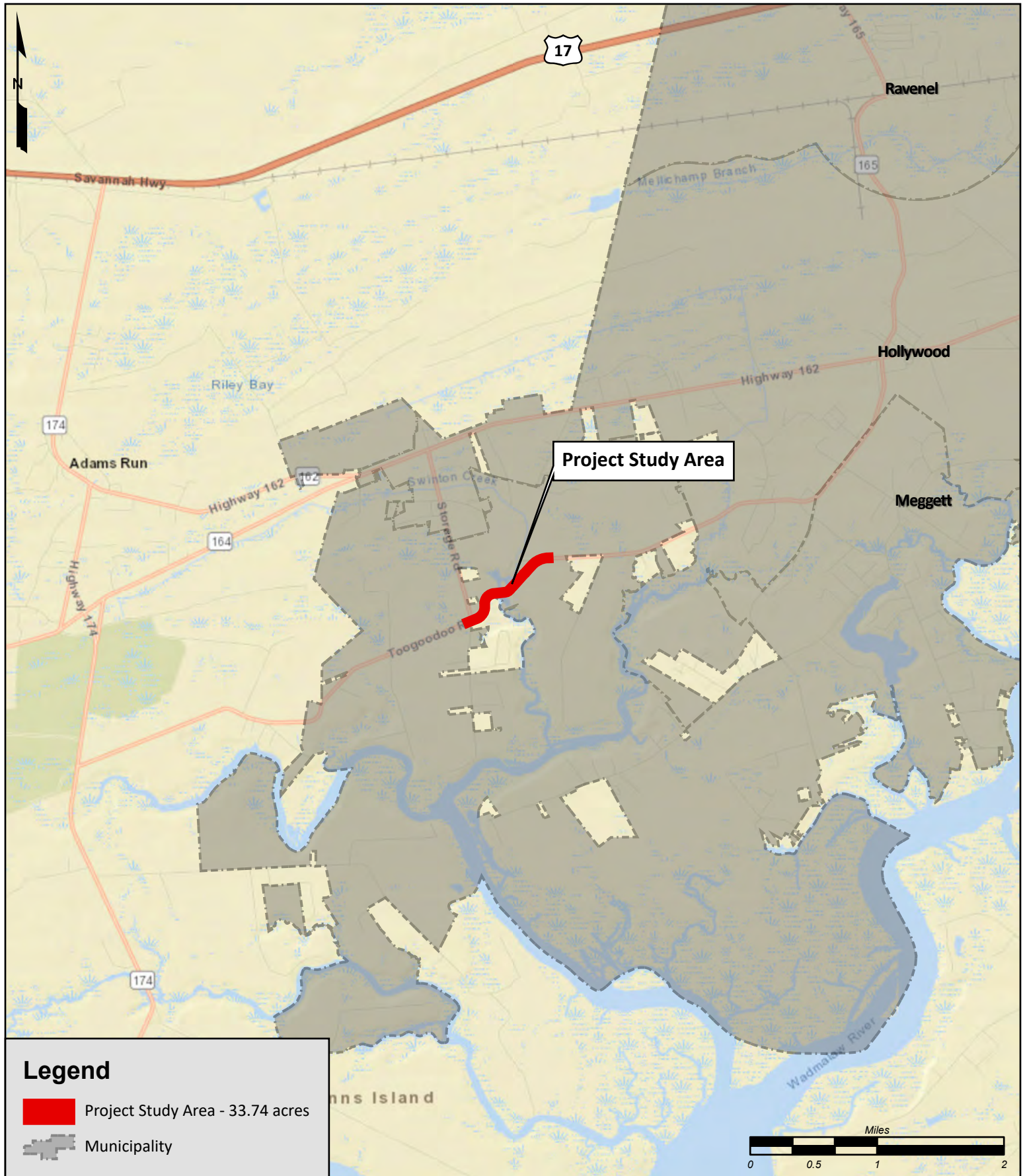
Solicitation of Public Comment

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-2023-00071), to ivan.fannin@usace.army.mil or the following address:

**U.S. Army Corps of Engineers
ATTN: REGULATORY DIVISION
69A Hagood Avenue
Charleston, South Carolina 29403**

If there are any questions concerning this public notice, please contact Ivan Fannin at (843) 329-8134 or by email at ivan.fannin@usace.army.mil.



Legend

- Project Study Area - 33.74 acres
- Municipality



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**S-390 (TOOGODOO ROAD) BRIDGE REPLACEMENT
OVER SWINTON CREEK
PROJECT ID: P030449**

CHARLESTON COUNTY, SOUTH CAROLINA

Source: TIGER 2020 Road, County, and Municipality Data

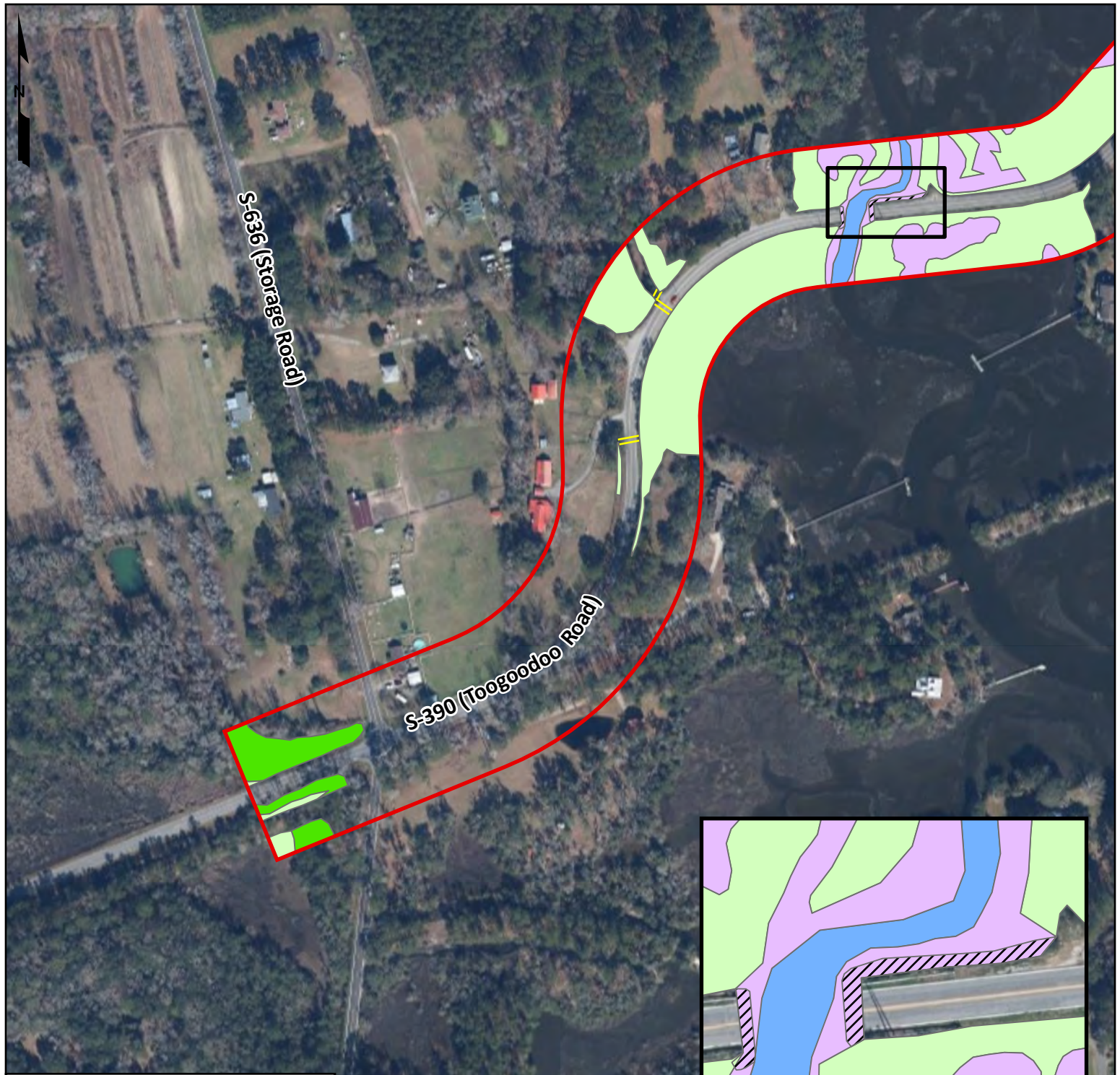


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DATE: 05/22/2022

SITE LOCATION MAP

FIGURE 1




- Legend
- Project Study Area - 33.74 acres
 - Estuarine Emergent - 7.44 acres
 - Intertidal/Subtidal Non-Vegetated Flat - 1.45 acres
 - Tidal Creek - 0.25 acres
 - Oyster - 0.04 acres
 - Freshwater Wetlands (non-tidal) - 1.54 acres
 - Culvert/Pipe



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Project Study Area

Charleston County

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CHARLESTON COUNTY, SOUTH CAROLINA

Source: EFH limits derived from fieldwork completed May 15, 2023. EFH types are documented as identified in FMP for species managed by the SAFMC, MAFMC, and NOAA Fisheries.



South Carolina Department of Transportation

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DATE: 2/2/2024

EFH TYPES AND AREA

FIGURE 2A



Legend

- Project Study Area - 33.74 acres
- Estuarine Emergent - 7.44 acres
- Intertidal/Subtidal Non-Vegetated Flat - 1.45 acres
- Tidal Creek - 0.25 acres
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- Freshwater Wetlands (non-tidal) - 1.54 acres
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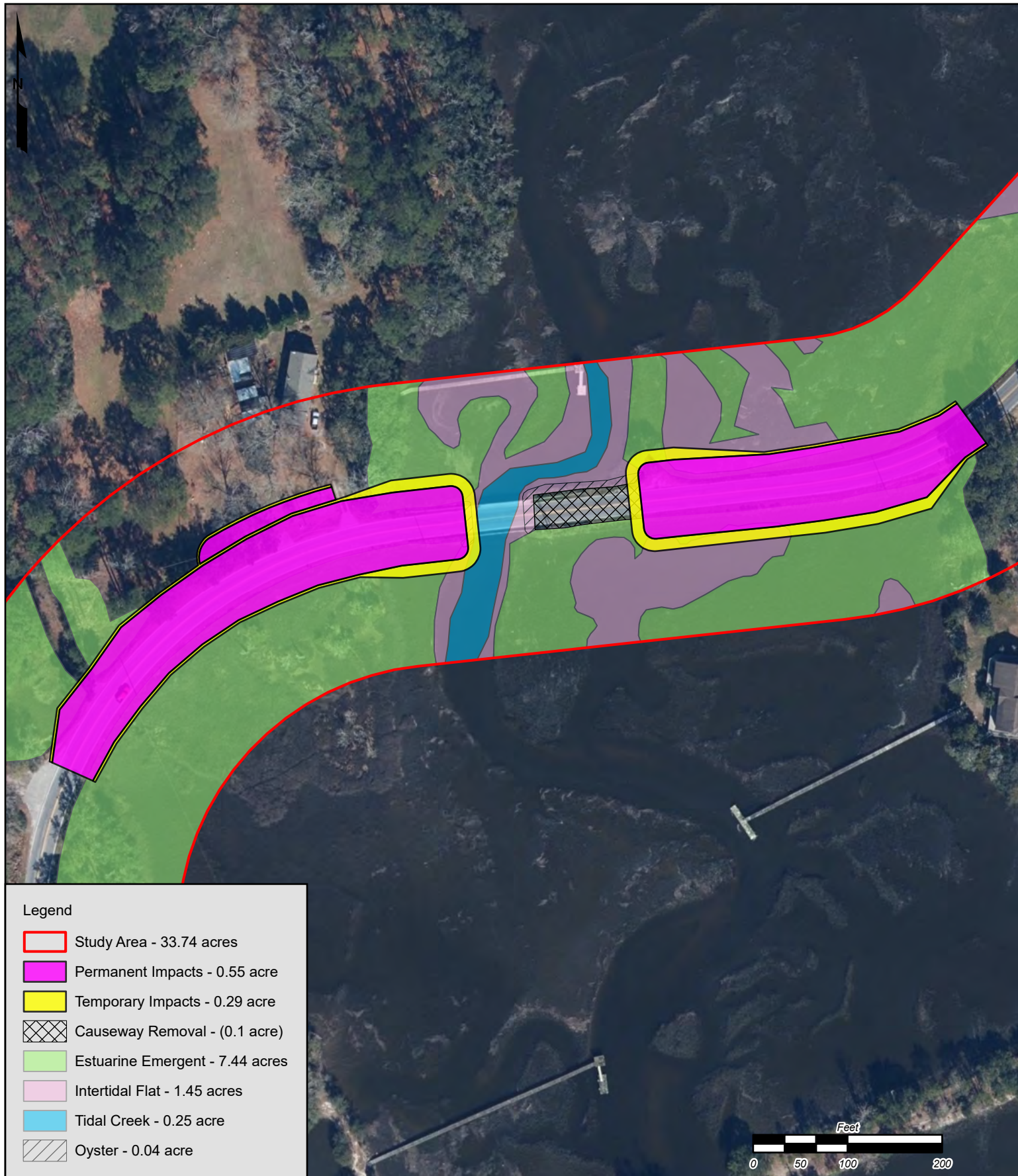


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EFH TYPES AND AREA

FIGURE 2B



Legend

- Study Area - 33.74 acres
- Permanent Impacts - 0.55 acre
- Temporary Impacts - 0.29 acre
- Causeway Removal - (0.1 acre)
- Estuarine Emergent - 7.44 acres
- Intertidal Flat - 1.45 acres
- Tidal Creek - 0.25 acre
- Oyster - 0.04 acre



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EFH IMPACTS

FIGURE 3