

JOINT
PUBLIC NOTICE

CHARLESTON DISTRICT, CORPS OF ENGINEERS

and

THE S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Office of Ocean and Coastal Resource Management
1362 McMillan Avenue, Suite 400
North Charleston, South Carolina 29405

REGULATORY DIVISION

Refer to: SAC-2023-00984

September 29, 2023

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), and the South Carolina Coastal Zone Management Act (48-39-10 et.seq.), an application has been submitted to the Department of the Army and the S.C. Department of Health and Environmental Control by

Mr. Matthew Danysh
Agru America Charleston LLC
1401 Greenleaf Street
Charleston, South Carolina 29405

Ms. Mary Elizabeth Manning
GEL Engineering, LLC
2040 Savage Road
Charleston, South Carolina 29407
mary.elizabeth.manning@gel.com

for a permit to expand the Agru America facility's laydown yard and connect it to the nearby railway system in

wetlands associated with the Cooper River

located at 1401 Greenleaf Street, in Charleston, in Charleston County, South Carolina (Latitude: 32.8206°, Longitude: -79.9368°), Charleston 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 accommodate the overriding storage needs for the existing manufacturing plant. The Agru America facility produces, stores, and distributes large diameter high-density polyethylene custom piping systems. Currently, the product is transported to customers either by being towed by vessels utilizing the waterfront access, or temporarily stored in the laydown yard and transported using more traditional logistics such as semi-trucks. The laydown yard also stores pellets used to create the piping and other manufacturing products, and is used for semi-trucks to access the facility. Connecting the facility to the railway system will allow the product to be transported more efficiently directly by railcar.

Project Description

The proposed work consists of filling 0.75 acres of wetland at the Agru America manufacturing facility for the expansion of the laydown yard and to connect it to the nearby railway system. In detail, the work would impact 0.37 acre of freshwater wetland (0.36 Wetland A and 0.01 Wetland B) and 0.38 acre of tidal wetland.

Avoidance and Minimization

The applicant has stated that the impacts were minimized by designing the project to have the least impacts to aquatic resources within the constraints of the project needs. Furthermore, the project was designed to impact freshwater wetlands over higher quality tidal wetlands on site as necessary. Project constraints include accommodating large semi-trucks to safely access the facility with a 55-foot turning radius and limited expansion options due to the parcel being surrounded on 2-3 sides by water, existing adjoining railway infrastructure and a drainage stormwater pond and ditch.

Proposed Compensatory Mitigation

The applicant has proposed to mitigate for impacts to wetlands and/or waters of the United States by purchasing 3.59 freshwater wetland and 4.64 saltwater wetland mitigation credits from an established USACE-approved wetland mitigation bank to offset the impacts required for the site development.

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 0.75 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 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: Green Sea Turtle (*Chelonia mydas*), Kemp's ridley sea turtle (*Lepidochelys kempii*), Leatherback sea turtle (*Dermochelys coriacea*), Loggerhead sea turtle (*Caretta caretta*), shortnose sturgeon (*Acipenser brevirostrum*), Atlantic sturgeon (*Acipenser oxyrinchus*), American wood stork (*Mycteria americana*), Eastern black rail (*Laterallus jamaicensis*), Piping plover (*Charadrius melodus*), Red-cockaded woodpecker (*Picoides borealis*), Rufa red knot (*Calidris canutus rufa*), Northern long-eared bat (*Myotis septentrionalis*), Finback whale (*Balaenoptera physalus*), Humpback Whale (*Megaptera novaeangliae*), Right whale (*Eubalaena glacialis*), Sei whale (*Balaenoptera borealis*), Sperm Whale (*Physeter macrocephalus*), American Chaffsee (*Schwalbea americana*), Candy's Dropwort (*Oxypolis canbyi*), Monarch butterfly (*Danaus plexippus*), West Indian manatee (*Trichechus manatus*), Pondberry (*Lindera melissifolia*), and Seabeach amaranth (*Amaranthus pumilus*).

Based on all information provided by the applicant and the most recently available information, including from IPaC Project Code 2023-0111602 the District Engineer has determined the following:

The project will have no effect on Green Sea Turtle (*Chelonia mydas*), Kemp's ridley sea turtle (*Lepidochelys kempii*), Leatherback sea turtle (*Dermochelys coriacea*), Loggerhead sea turtle (*Caretta caretta*), shortnose sturgeon (*Acipenser brevirostrum*), Atlantic sturgeon (*Acipenser oxyrinchus*), American wood stork (*Mycteria americana*), Eastern black rail (*Laterallus jamaicensis*), Piping plover (*Charadrius melodus*), Red-cockaded woodpecker (*Picoides borealis*), Rufa red knot (*Calidris canutus rufa*), Northern long-eared bat (*Myotis septentrionalis*), Finback whale (*Balaenoptera physalus*), Humpback Whale (*Megaptera novaeangliae*), Right whale (*Eubalaena glacialis*), Sei whale (*Balaenoptera borealis*), Sperm Whale (*Physeter macrocephalus*), American Chaffsee (*Schwalbea americana*), Candy's Dropwort (*Oxypolis canbyi*), Monarch butterfly (*Danaus plexippus*), West Indian manatee (*Trichechus manatus*), Pondberry (*Lindera melissifolia*), and Seabeach amaranth (*Amaranthus pumilus*). and will not result in the destruction or adverse modification of designated or proposed critical habitat.

The project is not likely to adversely affect West Indian manatee, Northern long eared bat, Eastern black rail, and Wood stork. 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 there are historic properties present, but they will not be affected; 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 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. 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-2023-00984), to LChantelle.Carroll@usace.army.mil or the following address:

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

If there are any questions concerning this public notice, please contact L. Chantelle Carroll, at 843-329-8190 or by email at LChantelle.Carroll@usace.army.mil.



PURPOSE: Accommodate storage needs for the existing manufacturing plant

ADJACENT PROPERTY OWNERS
See attached

SURVEY DATUM: NAD83

FIGURE 1
LOCATION MAP



AGRU AMERICA, CHARLESTON LLC
1401 GREENLEAF STREET
CHARLESTON, SOUTH CAROLINA

PROPOSED: Laydown Yard Expansion

AT: 1401 Greenleaf Street

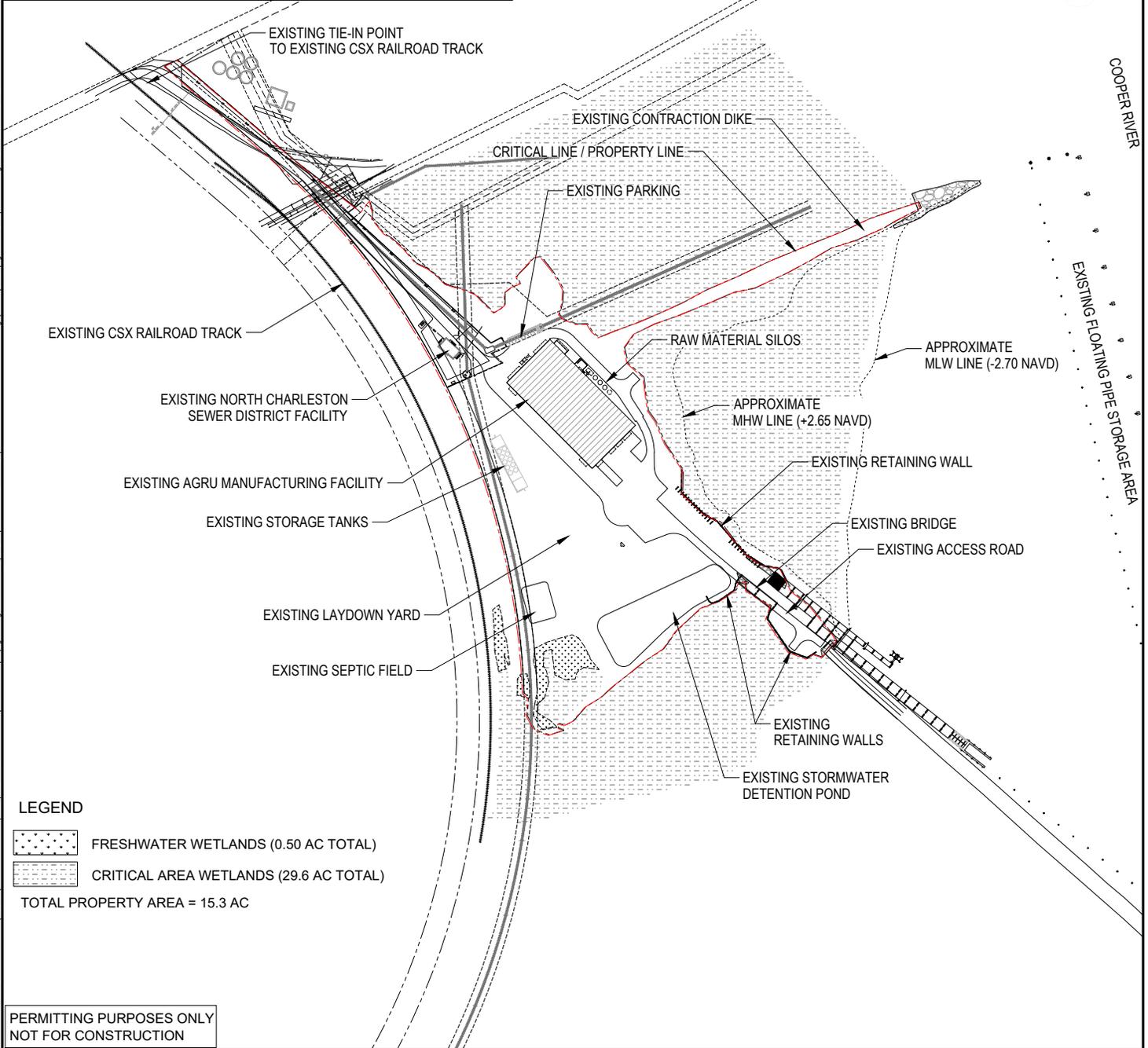
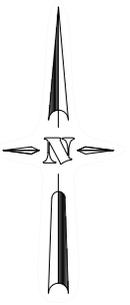
IN: Cooper River

COUNTY OF: Charleston, South Carolina

SHEET: 1 OF 5

DATE: 05/24/2023

PLOTTED: Jun 21, 2023 1:05pm BY: Thomas Patton FILE LOCATION: G:\Users\Thomas.Patton\GEL\GEE - Documents\Clients\Files\A\Agru-Agru America\2023\AGR00323 - Expansion Wetland & Permitting\Tech\CAD\Agru00323_permit.dwg LAYOUT TAB: 1



LEGEND

- FRESHWATER WETLANDS (0.50 AC TOTAL)
- CRITICAL AREA WETLANDS (29.6 AC TOTAL)

TOTAL PROPERTY AREA = 15.3 AC

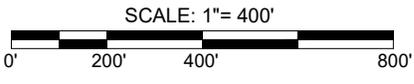
PERMITTING PURPOSES ONLY
NOT FOR CONSTRUCTION

PURPOSE: Accommodate storage needs for the existing manufacturing plant

ADJACENT PROPERTY OWNERS
See attached

SURVEY DATUM: NAD83

FIGURE 2
EXISTING CONDITIONS



AGRU AMERICA, CHARLESTON LLC
1401 GREENLEAF STREET
CHARLESTON, SOUTH CAROLINA

PROPOSED: Laydown Yard Expansion

AT: 1401 Greenleaf Street

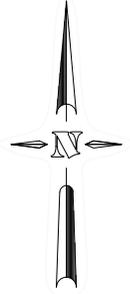
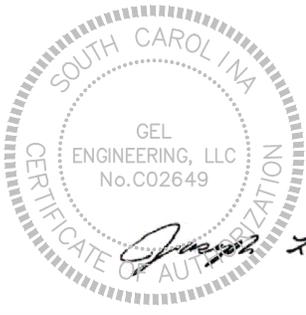
IN: Cooper River

COUNTY OF: Charleston, South Carolina

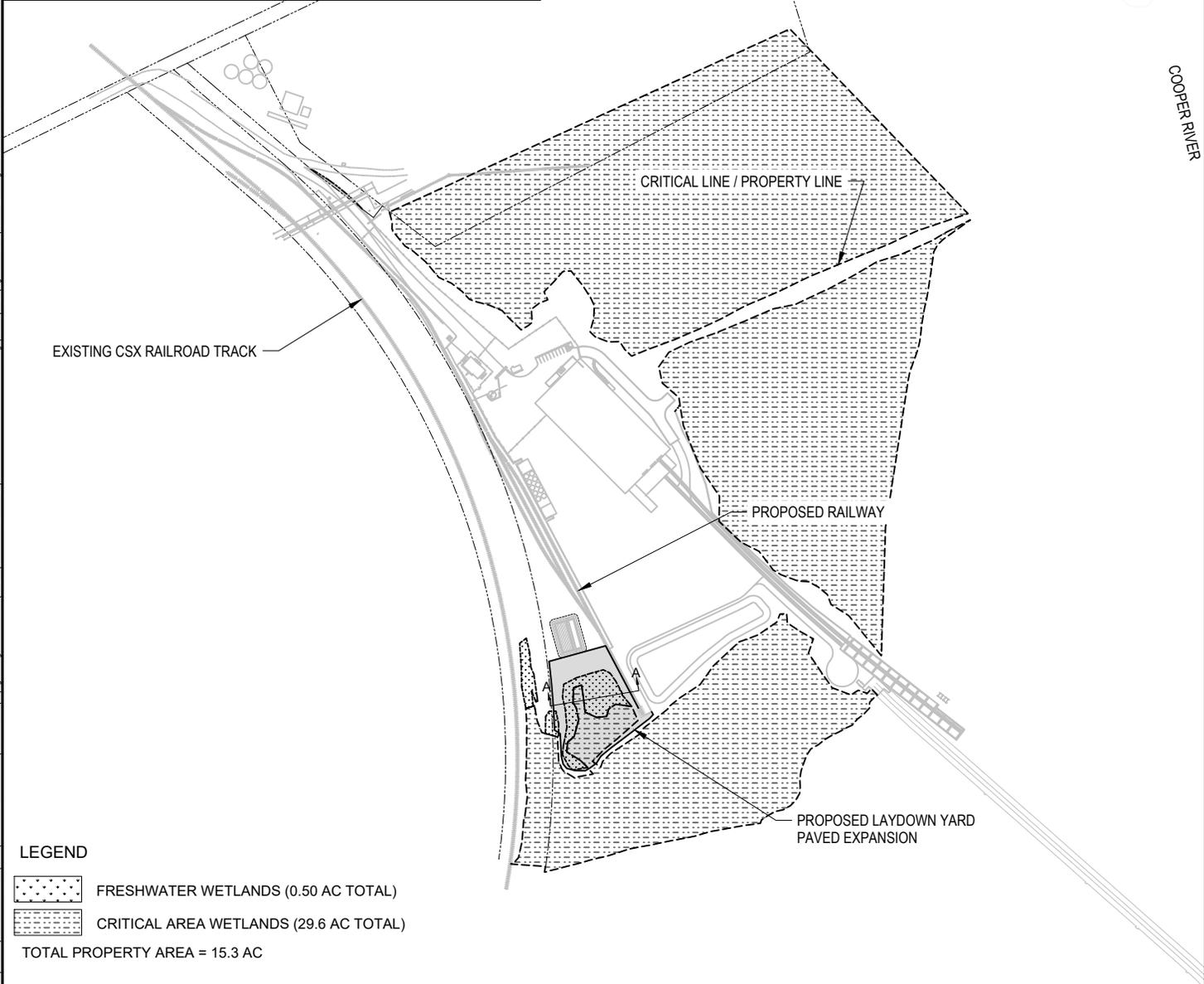
SHEET: 2 OF 5

DATE: 05/24/2023

PLOTTED: Jul 18, 2023 1:38pm BY: Thomas.Patton FILE LOCATION: C:\Users\Thomas.Patton\GEL\GEE - Documents\ClientFiles\A\Agru-America\2023\AGR00323 - Expansion Wetland & Permitting\Tech\CAD\Agru00323_permit.dwg LAYOUT TAB: 2



COOPER RIVER



LEGEND

-  FRESHWATER WETLANDS (0.50 AC TOTAL)
-  CRITICAL AREA WETLANDS (29.6 AC TOTAL)

TOTAL PROPERTY AREA = 15.3 AC

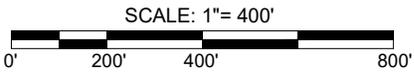
PERMITTING PURPOSES ONLY
NOT FOR CONSTRUCTION

PURPOSE: Accommodate storage needs for the existing manufacturing plant

ADJACENT PROPERTY OWNERS
See attached

SURVEY DATUM: NAD83

FIGURE 3
EXISTING CONDITIONS



AGRU AMERICA, CHARLESTON LLC
1401 GREENLEAF STREET
CHARLESTON, SOUTH CAROLINA

PROPOSED: Laydown Yard Expansion

AT: 1401 Greenleaf Street

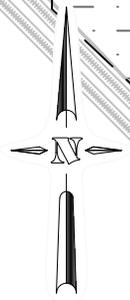
IN: Cooper River

COUNTY OF: Charleston, South Carolina

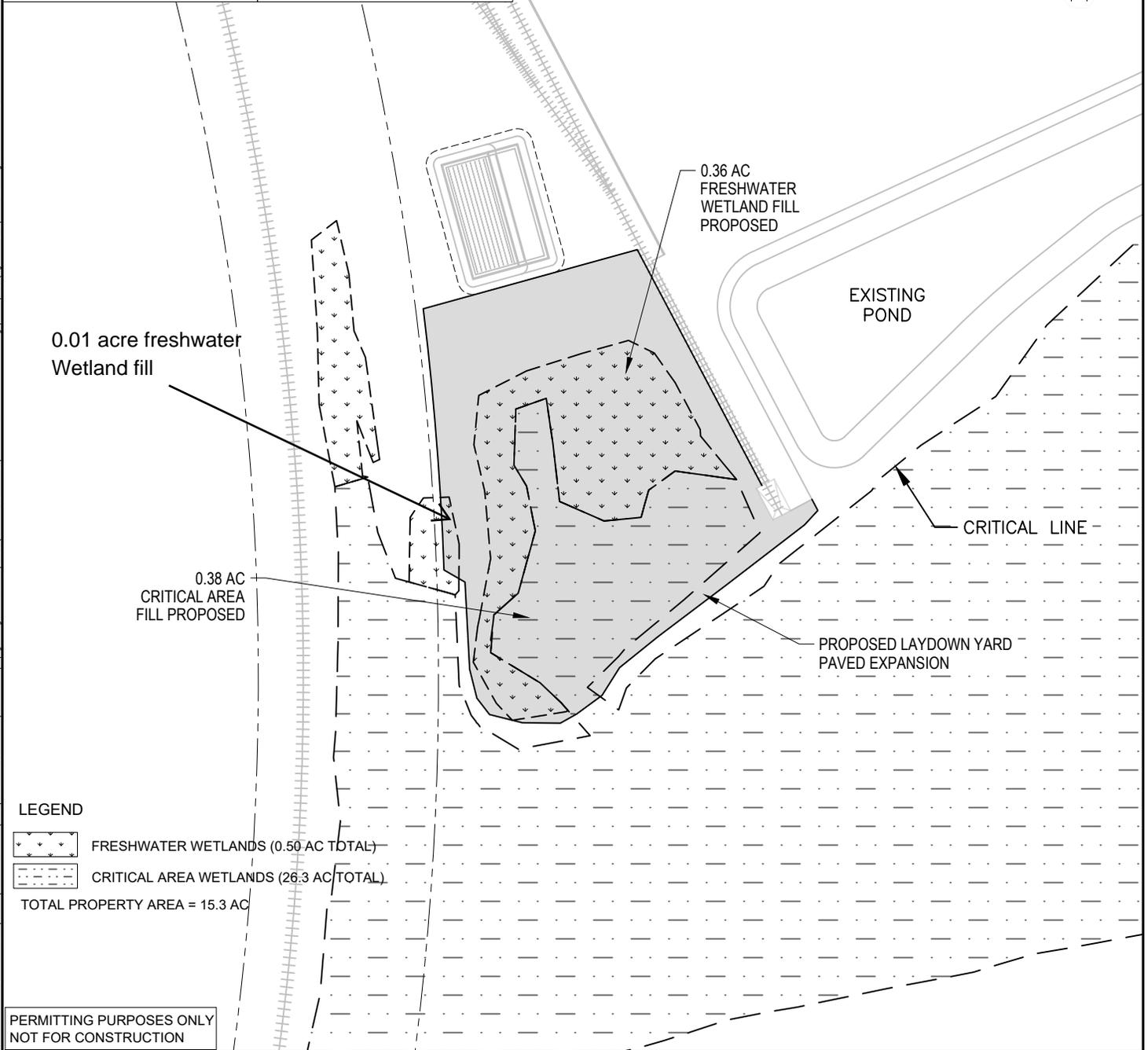
SHEET: 3 OF 5

DATE: 05/24/2023

FILE LOCATION: C:\Users\Thomas.Patton\GEL\GEE - Documents\ClientFiles\A\Agru-Agru America\2023\AGR00323 - Expansion Wetland & Permitting\Tech\CAD\agru00323_permit_3.dwg LAYOUT TAB: 3
 PLOTTED: Jul 18, 2023 - 1:40pm
 BY: Thomas.Patton
 agru00323



FILE LOCATION: C:\Users\Thomas.Potter\GEL\GEE - Documents\ClientFiles\Agru-Agru America\2023_AGRU00323 - Expansion Wetland & Permitting\Tech\CAD\agru00323_permit_3.dwg LAYOUT TAB: 4
 PLOTTED: Jul 18, 2023 - 1:40pm
 BY: Thomas.Potter



LEGEND

-  FRESHWATER WETLANDS (0.50 AC TOTAL)
-  CRITICAL AREA WETLANDS (26.3 AC TOTAL)

TOTAL PROPERTY AREA = 15.3 AC

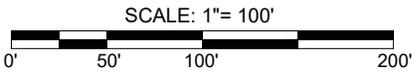
PERMITTING PURPOSES ONLY
NOT FOR CONSTRUCTION

PURPOSE: Accommodate storage needs for the existing manufacturing plant

ADJACENT PROPERTY OWNERS
See attached

SURVEY DATUM: NAD83

FIGURE 4
EXISTING CONDITIONS



AGRU AMERICA, CHARLESTON LLC
1401 GREENLEAF STREET
CHARLESTON, SOUTH CAROLINA

PROPOSED: Laydown Yard Expansion

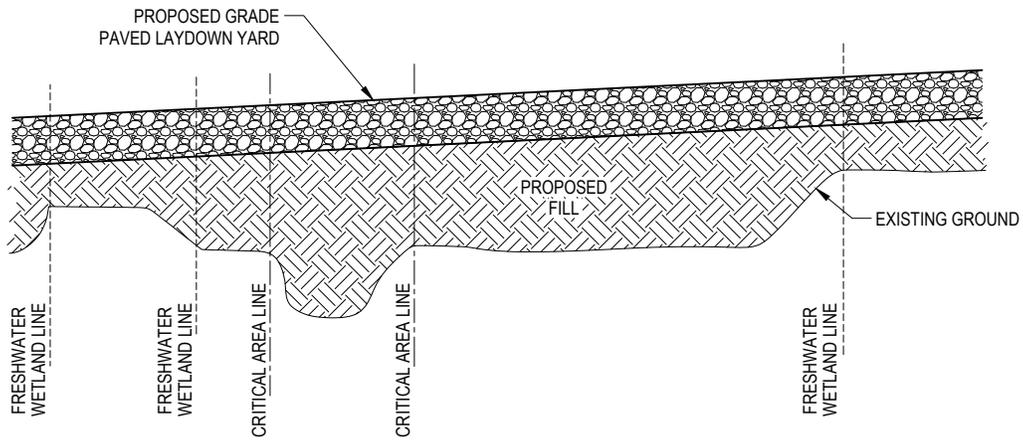
AT: 1401 Greenleaf Street

IN: Cooper River

COUNTY OF: Charleston, South Carolina

SHEET: 4 OF 5

DATE: 05/24/2023



SECTION A - A
NOT TO SCALE

PERMITTING PURPOSES ONLY
NOT FOR CONSTRUCTION

PURPOSE: Accommodate storage needs for the existing manufacturing plant

ADJACENT PROPERTY OWNERS
See attached

SURVEY DATUM: NAD83

FIGURE 5
CROSS-SECTION A - A



AGRU AMERICA, CHARLESTON LLC
1401 GREENLEAF STREET
CHARLESTON, SOUTH CAROLINA

PROPOSED: Laydown Yard Expansion

AT: 1401 Greenleaf Street

IN: Cooper River

COUNTY OF: Charleston, South Carolina

SHEET: 5 OF 5

DATE: 05/24/2023

FILE LOCATION: C:\Users\Thomas.Patton\GEL\GEE - Documents\ClientFiles\A\Agru-Agru America\2023\AGR00323 - Expansion Wetland & Permitting\Tech\CAD\agru00323_permit.dwg LAYOUT TAB: 5
BY: Thomas.Patton
PLOTTED: Jun 21, 2023 - 1:04pm
ogru00323