



**South Carolina Department of Transportation**  
On Behalf of the Federal Highway Administration - South Carolina Division Office



PROCESSING FORM FOR PROGRAMMATIC CATEGORICAL EXCLUSIONS  
NON MAJOR FEDERAL ACTIONS

State ID  Fed Project #  Route  County

**Part 1 - Project Description**

Include the Project Name/Description

S-174 (Timms Mills Rd) Bridge Replacement over Six and Twenty Creek

The existing structure was a 60' long and 26' wide bridge with concrete caps on timber pile supports. The bridge suffered catastrophic damage due to heavy rains and flooding during early February 2020. Water eroded pile bases and debris destroyed the substructure and nearly half of the bridge deck collapsed. Currently the road is closed to all through traffic and will remain so until the bridge is replaced.

The purpose of this project is to replace the entire existing structure utilizing low volume design criteria. The new structure will be approximately 70-90' long and 30' wide. New bents will be placed outside of the main channel to reduce scour potential and open the flow area for the stream.

**Part 2 - PCE Type**

Select the appropriate Categorical Exclusion from 23 CFR Part 771.117 that best fits the entire project from the drop-down menu. **Reference Appendix A of the PCE Agreement for a more detailed description of each CE contained in 23 CFR 771.117.**

23 CFR 771.117(c)

23 CFR 771.117(d)

**Part 3 - Thresholds**

To be processed as a Programmatic Categorical Exclusion (PCE) the following conditions must be met in addition to the General Criteria (as outlined in the PCE Agreement between FHWA-SC and SCDOT). Place a "X" in the appropriate box below. If the answer is "Yes" to any of the below criteria, SCDOT will consult with FHWA-SC to determine the appropriate level of NEPA documentation required and forward to FHWA-SC for approval. **\*Reference Part 4 of the Processing form or Section IV of the PCE Agreement for more details and definitions regarding each threshold.**

1.	Involves any unusual circumstances as described in <u>*23 CFR Part 771.117(b)</u>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
2.	The acquisition of more than <u>*minor amounts</u> of temporary or permanent strips of right-of-way	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

## Part 3 - Thresholds Continued

3.	Involves acquisitions that result in residential or non-residential displacements	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
4.	Results in capacity expansion of a roadway by adding through lanes	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
5.	Involves construction that would result in <u>*major traffic disruptions</u>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
6.	Involves <u>*changes in access control</u> requiring FHWA approval	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
7.	An adverse effect determination under Section 106 of the National Historic Preservation Act.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
8.	Use of Section 4(f) property that cannot be documented with a FHWA <i>de minimis</i> determination or a programmatic Section 4(f) other than the programmatic evaluation for the use of historic bridges	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
9.	Any use of a Section 6(f) property	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
10.	Requires an Individual USACE 404 Permit	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
11.	Requires an Individual U.S. Coast Guard Permit.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
12.	Work encroaching in a regulatory floodway, adversely affecting the base floodplain (100 yr.) pursuant to E.O. 11988 and 23 CFR Part 650 Subpart A	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
13.	Construction in, across, or adjacent to a river designated as a National Wild and Scenic River	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
14.	Involves an increase of 15 dBA or greater on any noise receptor or abatement measures are found to be feasible and reasonable due to noise impacts	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
15.	May affect and is likely to adversely affect a Federally listed species or designated critical habitat or projects with impacts subject to the BGEPA	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
16.	Involves acquisition of land for hardship, protective purposes, or early acquisition	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
17.	Does not meet the latest Conformity Determination for air quality non-attainment areas (if applicable).	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
18.	Any known or potential <u>major</u> hazardous waste sites within the right-of-way.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
19.	Is not included in or is inconsistent with the STIP and/or TIP	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**Part 3 Continued - Additional criteria to be completed for disposal of excess right-of-way PCE**

1. Is the parcel part of a SCDOT environmental mitigation effort or could it be used for environmental mitigation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Is there a formal plan to use this parcel for a future transportation project (is it part of an approved LRTP)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**Part 4 - Threshold Definitions**

**Unusual Circumstances (23 CFR Part 771.117)** - Unusual circumstances are defined as:

- a. Significant environmental impacts;
- b. Substantial controversy on environmental grounds;
- c. Significant impact on properties protected by Section 4(f) of the DOT ACT or Section 106 of the National Historic Preservation Act; or
- d. Inconsistencies with any Federal, State, or local law, requirement, or administrative determination relating to the environmental aspects of the action.

**Minor Amount of Right-of-Way (ROW):**

A minor amount of ROW is defined as less than 3 acres per linear mile for linear projects or less than 10 acres of impacts for non-linear projects (eg: intersections, bridges), and no removal of major property improvements. Examples of major improvements include residential and business structures, or the removal of other features which would change the functional utility of the property. Removal of minor improvements, such as fencing, landscaping, sprinkler systems, and mailboxes would be allowed.

**Major Traffic Disruptions:**

A major traffic disruption is defined as an action that would result in: a) adverse effects to through-traffic businesses or schools, b) substantial change in environmental impacts, or c) public controversy associated with the use of the temporary road, detour, or ramp closure.

**Changes in Access Control:**

Requires approval from FHWA for changes in access control on the Interstate system (eg: Interchange Modification Reports or Interchange Justification Reports).

**Additional Comments if Needed:**

Relevant field studies and environmental reviews have been completed to determine that the project meets the criteria set forth in the Programmatic Categorical Exclusion Agreement signed by FHWA-SC and SCDOT. It is understood that any additions/deletions to the project may void environmentally processing the project as presently classified; consequently, any engineering changes must be brought to the attention of SCDOT Environmental Services Office immediately. A copy of this form is included in the project file and one (1) copy has been provided to FHWA.

Prepared By:  Date:

**Will McGoldrick**

Digitally signed by Will McGoldrick  
DN: cn=Will McGoldrick, o=SCDOT, ou=ESO, email=mcgoldrwr@scdot.org, c=US  
Date: 2020.04.03 08:32:29 -0400

Primavera:  Yes  No      P2S Date:

Does the project contain commitments?: (if Yes attach to form)  Yes  No

Date: 03/18/2020



Project ID: P039600 County: Anderson District: District 2 Doc Type: PCE Total # of Commitments: 9

Project Name: S-174 Timms Mill Rd Emergency Bridge Replacement over Six and Twenty Creek

The Environmental Commitment **Contractor Responsible** measures listed below **are to be included in the contract and must be implemented**. It is the responsibility of the Program Manager to make sure the Environmental Commitment **SCDOT Responsible** measures are adhered to. If there are questions regarding the commitments listed please contact:

**CONTACT NAME:** Will McGoldrick

**PHONE #:** 803-737-1326

**ENVIRONMENTAL COMMITMENTS FOR THE PROJECT**

**USTs/Hazardous Materials**

NEPA Doc Ref:

Responsibility:

CONTRACTOR

If avoidance of hazardous materials is not a viable alternative and soils that appear to be contaminated are encountered during construction, the South Carolina Department of Health and Environmental Control (SCDHEC) will be informed. Hazardous materials will be tested and removed and/or treated in accordance with the United States Environmental Protection Agency and the SCDHEC requirements, if necessary.

Special Provision

**Water Quality**

NEPA Doc Ref:

Responsibility:

CONTRACTOR

The contractor will be required to minimize possible water quality impacts through implementation of BMPs, reflecting policies contained in 23 CFR 650B and the Department's Supplemental Specification on Erosion Control Measures (latest edition) and Supplemental Technical Specifications on Seeding (latest edition). Other measures including seeding, silt fences, sediment basins, etc. as appropriate will be implemented during construction to minimize impacts to water quality.

Special Provision

**Migratory Bird Treaty Act**

NEPA Doc Ref:

Responsibility:

CONTRACTOR

The federal Migratory Bird Treaty Act, 16 USC § 703-711, states that it is unlawful to pursue, hunt, take, capture or kill; attempt to take, capture or kill; possess, offer to or sell, barter, purchase, deliver or cause to be shipped, exported, imported, transported, carried or received any migratory bird, part, nest, egg or product, manufactured or not. The South Carolina Department of Transportation (SCDOT) will comply with the Migratory Bird Treaty Act of 1918 in regard to the avoidance of taking of individual migratory birds and the destruction of their active nests.

The contractor shall notify the Resident Construction Engineer (RCE) at least four (4) weeks prior to construction/demolition/maintenance of bridges and box culverts. The RCE will coordinate with SCDOT Environmental Services Office (ESO), Compliance Division, to determine if there are any active birds using the structure. After this coordination, it will be determined when construction/demolition/maintenance can begin. If a nest is observed that was not discovered after construction/demolition/maintenance has begun, the contractor will cease work and immediately notify the RCE, who will notify the ESO Compliance Division. The ESO Compliance Division will determine the next course of action.

The use of any deterrents by the contractor designed to prevent birds from nesting, shall be approved by the RCE with coordination from the ESO Compliance Division. The cost for any contractor provided deterrents will be provided at no additional cost to SCDOT.

Special Provision

Project ID: P039600

SCDOT  
NEPA ENVIRONMENTAL COMMITMENTS  
FORM



**ENVIRONMENTAL COMMITMENTS FOR THE PROJECT**

**Stormwater**

NEPA Doc Ref:

Responsibility:

CONTRACTOR

Stormwater control measures, both during construction and post-construction, are required for SCDOT projects with land disturbance and/or constructed in the vicinity of 303(d), TMDL, ORW, tidal, and other sensitive waters in accordance with the SCDOT's MS4 Permit. The selected contractor would be required to minimize potential stormwater impacts through implementation of construction best management practices, reflecting policies contained in 23 CFR 650 B and SCDOT's Supplemental Specifications on Seed and Erosion Control Measures (latest edition).

Special Provision

**Cultural Resources**

NEPA Doc Ref:

Responsibility:

CONTRACTOR

The contractor and subcontractors must notify their workers to watch for the presence of any prehistoric or historic remains, including but not limited to arrowheads, pottery, ceramics, flakes, bones, graves, gravestones, or brick concentrations during the construction phase of the project, if any such remains are encountered, the Resident Construction Engineer (RCE) will be immediately notified and all work in the vicinity of the discovered materials and site work shall cease until the SCDOT Archaeologist directs otherwise.

Special Provision

**Non-Standard Commitment**

NEPA Doc Ref:

Responsibility:

CONTRACTOR

Historic Site Resources

The Contractor, in coordination with SCDOT, shall be required to maintain water supply needs during construction for operation of the Timms Mill historic gristmill which is still operating. The Contractor shall follow the scope detailing the maintenance of water supply

Special Provision

Project ID: P039600

SCDOT  
NEPA ENVIRONMENTAL COMMITMENTS  
FORM



**ENVIRONMENTAL COMMITMENTS FOR THE PROJECT**

**Floodplains**

NEPA Doc Ref:

Responsibility:

CONTRACTOR

The Engineer of Record will send a set of final plans and request for floodplain management compliance to the local County Floodplain Administrator.

Special Provision

**Lead-Based Paint**

NEPA Doc Ref:

Responsibility:

CONTRACTOR

The existing structures shall be removed and disposed of by the Contractor in accordance with Subsection 202.4.2 of the Standard Specifications. The Contractor's attention is called to the fact that this project may require removal and disposal of structural components containing lead-based paints. Removal and disposal of structural components containing lead-based paints shall comply with all applicable Federal, State, and Local requirements for lead as waste, lead in air, lead in water, lead in soil, and worker health and safety.

Special Provision

**Non-Standard Commitment**

NEPA Doc Ref:

Responsibility:

CONTRACTOR

Permitting

Impacts to waters of the US shall be covered by the US Army Corps of Engineers nationwide 3a permit. The nationwide general and regional conditions, as applicable, must be complied with. If compliance with the permit conditions cannot be met, it shall be the Contractor's responsibility to prepare all necessary permits and certifications application as well as secure necessary mitigation to complete the project. The SCDOT will assist the Contractor in obtaining necessary permits by submitting all permits and certifications to the regulatory agencies in SCDOT's name.

Special Provision

ARCHAEOLOGICAL FIELD REPORT  
SCDOT ENVIRONMENTAL SECTION  
**SCDOT**

**TITLE:** A Cultural Resources Survey for the S-174 (Timms Mill Road) over Twenty Six Mile Creek Emergency Bridge Replacement

**DATE OF RESEARCH:** March 4, 2020

**COUNTY:** Anderson

**PIN:**

**ARCHAEOLOGIST:** Tracy Martin, Rebecca Shepherd

**ARCHITECTURAL HISTORIAN:** David Kelly

**PROJECT:** S-174 (Timms Mill Road) over Twenty Six Mile Creek Emergency Bridge Replacement

**DESCRIPTION:** The SCDOT is conducting an emergency bridge replacement for the bridge carrying S-174 (Timms Mill Road) over Twenty-Six Mile Creek (also known as Six and Twenty Creek) in Anderson County (**Figure 1**). The proposed project limits extend 400 feet on either side of the existing bridge. The project width is 100 feet along the road, widening to 200 feet at the bridge (**Figure 2**). The bridge replacement will consist of installing a replacement bridge that will span the existing stream channel. By spanning the entire channel, the bridge surface elevation will be increased by approximately 2 feet. This increase will then extend the roadway footprint, which may require roadway shoulder improvements along the existing berm. These improvements may include widening the shoulder and improving them (making them more stable) to allow drivers to recover if they run off the pavement. New guardrail will be installed to prevent errant vehicles from going down the shoulder slope into the floodplain and/or stream. Commensurate with shoulder improvements would be slope improvements where the existing shoulders have eroded and degraded. New fill will be added and compacted to ensure stability and support for the improved shoulders. The shoulder and slope improvements will likely require the culvert on the west side of the bridge that runs under Timms Mill Road to be extended up to 5 feet on the eastern side of the roadway. The area of potential effect (APE) for archaeological resources for this project consists of land that will be acquired as new right of way (ROW) as well as those areas within existing ROW that might be affected by the undertaking. The APE for architectural resources consists of a 300 feet buffer around the APE (**Figure 3**).

**LOCATION:** The project area is located in northwestern Anderson County approximately 8 miles east of Pendleton, South Carolina along Timms Mill Road over Twenty Six Mile Creek.

**USGS QUADRANGLE:** Five Forks

**DATE:** 1983

**SCALE:** 7.5'

**UTM:** WGS84

**EASTING:** 349601.28

**ZONE:** 17 North

**NORTHING:** 3836152.72

**ENVIRONMENTAL SETTING:** The project area is located in the western Piedmont of the upstate of South Carolina and within the Savannah River Basin. The project area is located in a valley along Twenty Six Mile Creek. The terrain of the project area consists of steep slopes to the east and southeast with low floodplain to the north and east. Terrain to the west and northwest is of slightly higher elevation and contains maintained lawns and driveways. **Figures 4 and 5** show the environmental setting as it looked at the time of the field investigation.

**NEAREST RIVER/STREAM AND DISTANCE:** The nearest water source to the project area is Twenty Six Mile Creek, which bisects the project area.

**SOIL TYPE:** Two soil types are present within the project area. The majority of soils are Cartecay-Chewacla complex, which makes up 66 percent of the project area. These soils are located centrally and to the east and are somewhat poorly drained soils found in floodplains and formed by loamy alluvium. The remaining soils in the project area are Madison sandy loam, 15 to 25 percent slopes. This type comprises 34 percent of the project area. It is a well-drained soil and is formed by clayey residuum weathered from granite and gneiss.

**REFERENCE FOR SOILS INFORMATION:** Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey. Available online at <http://websoilsurvey.sc.egov.usda.gov/>. Accessed [2/28/2020].

**GROUND SURFACE VISIBILITY:** 1-25%  26-50%  51-75%  76-100%

**CURRENT VEGETATION:** The project area consists of maintained lawns to the northwest and northeast with heavily wooded slope along the south. The area north of the bridge is moderately wooded but has recently been flooded over and contains a large amount of debris on the ground throughout. The area just west of the bridge has been covered over by a layer of sand from recent flooding.

**BACKGROUND INVESTIGATION:** Prior to the field investigations a background review of the project area was done using the SCDOT plans library, Google Earth imagery, ArchSite, and historic maps and aerial photographs that showed the project area. The SCDOT bridge database showed that the current bridge (Bridge Number 0470017400100) was constructed in 1958 and was evaluated as not eligible for the National Register of Historic Places (NRHP). The ArchSite review found no other previously recorded archaeological or historic resources within or in the vicinity of the project area. In addition, the SCDOT plans library as well as historical maps and aerial photographs dating between 1825 and 1983 were examined to determine if any structures or architectural features could be identified within the project area (Hasseln 1897; Mills 1825; SCDOT 1953; USGS 1947, 1957, and 1983).

**ARCHAEOLOGICAL SURVEY:** An archaeological reconnaissance of the project area was conducted on February 19, March 2, and March 10, 2020. Field methods consisted of a pedestrian reconnaissance of the entire project area augmented by the excavation of shovel test pits (STP). STPs were not excavated in areas that were disturbed, steeply sloping, or within obvious hydric areas. STPs averaged 30 centimeters in diameter and were excavated until sterile subsoil was encountered. The fill from the STPs was screened through 0.25-inch mesh hardware cloth to facilitate the recovery of any artifacts that might be present.

**ARCHAEOLOGICAL SURVEY RESULTS:** One archaeological resource, site 38AN339 was recorded within the project limits. The site is the location of Timms Mill, a grist mill that has been active in the area since 1784. The earliest map examined that depicts the project area was the 1825 Mills Atlas map of the Pendleton District. The map shows mills in the region but nothing was located in the vicinity of the project area (Mills 1825) (**Figure 6**). The 1897 map of Anderson County shows a “Tim’s Mill” located in the project area (Hasseln 1897) (**Figure 7**). Other resources such as a 1947 aerial photograph, 1953 SCDOT highway plans, and the 1957 Anderson topographic quadrangle were examined and showed not just multiple structures present in and near the project area but also the water impoundment ponds used by the mill (**Figure 8 – 10**). An internet search quickly established that the mill shown on earlier imagery is still in operation today as Timms Mill. It is currently located to the west of the bridge. This mill is the third location that the mill has stood (Timms Mill 2020).

Site 38AN339 consists of the current, as well as the extant ruins, of Timms Mill. The portion of the mill that is still in use today is described below in the architectural survey results. This description covers the ruins associated with the mill dam, mill race, and mill race dam. The archaeological site boundary encompasses the remnants as well as the still functioning mill features and measures approximately 280 by 152 meters. The site is bisected by Timms Mill Road, which cuts through the mill race allowing water to pass through a culvert. Twenty Six Mile Creek runs through the eastern portion of the site. The eastern central portion of the site is in a floodplain with mixed hardwood trees while the areas along the central, western, and eastern portions are substantially higher in elevation (**Figure 11**).

Remnants of an old mill dam are visible on either side of Twenty Six Mile Creek, just north of the bridge. According to Lisa Wortham (personal communication 2020), this dam was breached in 1960 and was never repaired. **Figures 12 and 13** show a possible sluice gate within the dam ruins that could have controlled the flow of water through the creek channel. **Figures 14 and 15** show the eastern portion of the dam remnants. Other mill features at the site include the original mill race, which can be seen running along the eastern side of Timms Mill Road (**Figure 16 – 17**). The race runs north to south and looks like an earthen ditch. However, the eastern side of most the race is composed of stacked stone (see Figure 17). The mill race is evident on the terrain map in Figure 11 as a deep cut in the landscape. At the north end of the race are the remains of a dam, which would have operated to control the flow of water through the race when the mill was in use (**Figures 18 – 20**). The race continues to the north as a ditch where it meets with a culvert running under Timms Mill Road, approximately 300 feet north of site 38AN339. These extant features match the mill as it was drawn in the 1953 SCDOT plans map (see Figure 9). This plan map, as well as the topographic quadrangle shown in Figure 10, show that the area to the north of the mill consisted of a mill pond. The breaching of the dam in 1960 destroyed the mill pond. However, the boundary of this site has been drawn to include it as part of the landscape to Timms Mill. An effort was made to locate any remains of the ca. 1850



mill. No evidence of it was found but it is speculated to have sat on either the hilltop north of the modern pump house and east of the mill race dam remains or on the eastern bank of the creek near the mill dam remains.

Just before the mill race intersects with Timms Mill Road, it makes a sharp turn to the west and runs toward the existing mill, which will be discussed in the Architectural Survey Results below.

The remains of a fish weir were noted about 100 feet north of the dam remnants. The weir is located in the original creek channel and just south of where the mill pond would have been located. The feature consists of an approximately 50 feet long V-shaped stack of rocks in the creek channel. Such a feature would have been used to channel fish coming downstream into a narrow point where they could easily be netted or speared (Rogers 1993). This feature is likely historic in nature given its close proximity to the mill remnants and the drained mill pond (see Figure 11). **Figure 21 and 23** show the fish weir as it looked at the time of this survey.

A total of 21 STP locations were examined. Of those 11 were excavated (**Figure 24**). Ten STPs were not excavated due to ground slope, hydric soil, or ground disturbance. Six STPs were positive for historic artifacts. Soils were fairly consistent within Transect 1, consisting of three strata. Stratum I was typically very dark brown (10YR 2/2) to very dark gray (10YR 3/1) sandy loam extending up to 15 centimeters below surface (cmbs). This was followed by up to 25 centimeters of dark red (2.5YR 3/6), reddish-brown (2.5YR 5/4), or dark brown (10YR 3/3) rocky clay loam. The third stratum varied from reddish-brown (2.5YR 5/4) to dark red (2.5YR 3/6) micaceous clay mixed with friable rock. STP 2-1 was excavated in a low area and soils were found to be heavily disturbed. Stratum I was yellowish-brown (10YR 5/8) sand mottled with red (2.5YR 4/8) sandy clay for approximately 5 cmbs. This was followed by 20 centimeters of red (2.5YR 4/8) clay loam. Stratum III consisted of yellow (10YR 7/8) sand heavily mottled with red (2.5YR 4/8) clay extending to at least 35 cmbs. STP 2-2 and STP 2-3 were very shallow and consisted of 5 centimeters of dark gray (10YR 4/1) sandy loam followed by red (2.5YR 4/8) clay.

A total of 16 artifacts were recovered. Artifacts consisted of clear chimney glass (n=2), clear container glass (n=2), cut nails/nail fragments (n=3), wire nails (n=3), unidentified nail fragments (n=2), and four pieces of blue-gray tile fragments marked "Stylon." Seven artifacts were recovered from Stratum I and 9 from Stratum II. The artifacts mostly likely date to the mid-20<sup>th</sup> century use of the mill as depicted in the SCDOT plans map as a barn and store shown in Figure 9.

Site 38AN339 is a large mid-nineteenth to mid-twentieth century mill site. The site has suffered due to natural damage from flooding, neglect and deterioration but it is likely that there are intact subsoil features still present within the site. Because of this, the archaeological remains of the site that lie outside of the proposed project limits should be considered unassessed. However, the project limits within the site boundary, particular where the mill race crosses under Timms Mill Road has already been impacted by the construction of the road as well as the installation of the culvert. This portion of the mill is recommended as not eligible to the National Register of Historic Places (NRHP) due to ground disturbance and razing of the structures that once stood there.

**ARCHITECTURAL SURVEY:** A historical resources survey of the project area was conducted February 19 and March 2, 2020. Survey methods consisted of a visual examination of all the structures within the architectural APE that was allowable without trespassing on private property.

**ARCHITECTURAL SURVEY RESULTS:** Two above ground resources were recorded during this investigation (site numbers 3508 and 3509) (**Table 1, Figure 25**). Site number 3508 is a circa 1970 hipped roof ranch house. Site number 3509 encompasses the Timms Mill boundary and its associated features as denoted in the archaeological description above and the extant structures described below. Site numbers 3509.01 – 3509.14 are sub-numbers for this resource and include the main mill building, a restored building serving as a store, the mill race, the mill race dam, the original mill dam, a residential structure likely dating to the early 1940s, five outbuildings associated with the house, the fish weir, and the water impoundment area behind the dam.

The first reference to the mill on a historic map was "Tims' Mill" on the 1897 Map of Anderson County (Hasseln 1897) (see Figure 7). The mill is not shown on the 1825 Mills Atlas map of Pendleton District (Mills 1825). According to an examination of the Braley (2005) report on mills in the upstate of South Carolina, there is no mention of the mill in the 1810, 1860, or 1880 Manufacturing and Industrial censuses. However, it is noted in the report that it is likely mills were under-reported for some counties because the census only listed those grossing over

\$500.00 per annum. Small, private mills and plantation mills would not necessarily have been included (Braley 2005).

According to a website devoted to the mill, as well as other online newspaper sources, Timms Mill first became operational in 1784. The remains of this original eighteenth century mill are located about a mile upstream and are visible from the bridge carrying Six and Twenty Road over Twenty Six Mile Creek (personal communication 2020) (**Figure 26**). The mill was moved to the vicinity of the current mill sometime around 1850 for unknown reasons. In 1894, the mill opened up at its current location on the west side of Timms Mill Road. There it remained operational until 1960 when the mill dam was breached and never repaired. This location is visible on the 1947 aerial photograph and 1957 topographic quadrangle (see Figures 8 – 10). The current owners purchased the property in 2001 and restored the mill in its current location (Hardesty 2015; SCETV 2019; Timms Mill 2020). At present the mill is operated intermittently to grind corn and grits for sale in the local community.

Fourteen sub-numbers are recorded under resource 3509 (see Table 1). Site number 3509.01 is the original mill building, which lies west of Timms Mill Road. This building is situated on the site of the two story 1894 mill. When that mill burned sometime around 1920, another building from the property was moved into this location and the mill was rebuilt using the original 14 foot Fitz waterwheel, back wall, flooring, and rafters as well as some of the original equipment. **Figures 27 – 29** show the mill as it looked at the time of survey. Site number 3509.02 today serves as the Timms Mill Country Store. The upper (northern) portion of this building dates to the mid-twentieth century and was originally cinderblock. It has been heavily modified with the addition of the lower portion, which serves as the front entrance and the addition of wooden beams on the sides of the original building to cover the cinder block. **Figures 30 – 32** show this resource as it looked at the time of survey. Site number 3509.03 is a small pumphouse that was associated with a house that once stood on the property. The house was located north of the pumphouse and well outside of the proposed project limits (**Figure 33**).

**Table 1. List of Historic Newly Recorded Historic Resources.**

<b>Historic Resource Number</b>	<b>Description</b>
3508	Residence
3509	Timms Mill Complex
3509.01	Mill Building
3509.02	Outbuilding (Timms Mill Country Store)
3509.03	Pumphouse
3509.04	Mill Race
3509.05	Mill Race Dam
3509.06	Mill Dam
3509.07	Residence
3509.08	Shed
3509.09	Garage/Shed
3509.10	Pumphouse
3509.11	Garage
3509.12	Shed
3509.13	Fish Weir
3509.14	Mill Pond

Resource number 3509.04 is the mill race and was previously described above in the Archaeological Results portion. The race runs along the east side and parallel to Timms Mill Road, then turns sharply west and runs beneath the road within the project area. The race then continues west to the mill house and water wheel (see Figure 25). Most of the eastern side of the mill race paralleling the road is composed of stacked stone and is largely overgrown with ivy. Originally the mill race carried water from an impoundment area that can be seen on Figures 9 and 10. Figures 16 and 17 show the mill race along the eastern side of Timms Mill Road as it looked at the time of survey. The wooden flume was rebuilt ca. 2001 to run water to the mill. However, rather than rebuilding the dam, the current owners built a new pumphouse east of the old mill race, near the creek. The water is pumped through a PVC pipe from the pumphouse up to the culvert where the mill race runs under Timms Mill Road. The PVC breaches a small portion of the earthen wall of the mill race before entering the culvert. On the western side of the culvert the pipe empties water into the rebuilt flume where it is channeled to the mill. **Figures 34 - 38** show the rebuilt flume, pumphouse, and

pipings that carry the water to mill. Resource number 3509.05 consists of remains of the mill race dam that is located at the north end of the race and consists of stacked stone on either side of the race. This feature can be seen in Figures 18 – 20. Site number 3509.06 consists of the remaining remnants of the original dam. The dam was breached in 1960 but the eastern and western ends of the dam are still visible as thick stacked stone walls (see Figures 12 – 15).

Resource number 3509.07 is a residential structure constructed in likely constructed in the 1940s (Figures 39 and 40). In personal communication with the current landowner they said that when they purchased the property, it was the home of the last person that ran the mill when the dam was breached in 1960. The house features a cinder block foundation with a rear entrance to a basement, wooden siding, raised seam metal roofing, and six over six windows. Resources 3509.08 is a wooden frame shed with a raised metal seam roof (Figure 41). Resource 3509.09 is a wooden frame storage building with a bay on the left elevation and a raised seam metal roof (Figure 42). Resource number 3509.10 is a cinder block shed roofed pumphouse (Figure 43). Resource numbers 3509.11 and 3509.12 are a wooden frame shed roof garage and wooden frame shed roofed storage building. Both building have raised seam metal roofs (Figures 44 – 45). Resource 3509.13 is the fish weir discussed in the Archaeology Results sections (see Figures 21 – 23). The final resource, 3509.14, is the water containment area to the north of the dam remnants. This feature is visible on the 1947 aerial photograph of the project area as well as denoted on the SCDOT highway plans map (SCDOT 1953) (see Figures 8 and 9). Figures 46 and 47 show the mill pond as it looked at the time of survey.

All of the historic resources identified during this investigation are recommended not eligible for the NRHP. Although the resources can be said to have played an important role locally, as the current mill stands it has been heavily disturbed due to restoration and construction. None of the resources are known to be associated with historic figures or events (Criteria A and B) and all of the structures lack the architectural integrity necessary to be placed on the NRHP under Criterion C for architectural significance.

**REMARKS AND RECOMMENDATIONS:** The cultural resources survey of the emergency bridge replacement at S-174 (Timms Mill Road) over Twenty Six Mile Creek resulted in the identification of one new archaeological resource (38AN399). This portion of the site within the project area is recommended not eligible to the NRHP. The remaining portion of the site outside of the project area remains unassessed. A total of two new aboveground resources were documented during project investigations. Historic resource 3508 is recommended not eligible for the NRHP. Resource number 3509 and all of the sub-numbers associated with it (3509.01 – 3509.14) are recommended as not eligible to the NRHP.

As presently outlined there should be no project impacts to the currently utilized mill building or to the remains of the mill dam or mill race dam. However, the mill race enters the project area just west of the bridge. Impacts to the mill race at this location should be avoided. At present, the mill race only carries water for part of its length. Originally the race carried water from an impoundment beyond the dam, but currently a pump house located just to the north of the bridge draws water from the creek and directs it through a culvert running beneath the road, after which it flows into a reconstructed mill race flume, which carries the water to the waterwheel at the current mill building. The flume runs along the bottom of the old mill race. In addition to avoiding impacts to the historical mill race and modern pump house and flume, any activities that disrupt or divert the flow of water through the flume should be avoided. If unavoidable, the timing of such activities should be coordinated with the mill owner so that operations of the water mill are not impeded. Figure 48 shows the features associated with the mill that are within the proposed project limits and should be avoided.

Staff archaeologists from SCDOT should be notified if there are any changes to the project design that would result in impacts outside the currently articulated project area. In addition, construction personnel should be aware that artifacts or features associated with the historic mill or with other historic or prehistoric activity may be uncovered during construction. Should any such items be found construction at that location should be halted and SCDOT archaeologists should be notified.

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

## References Cited

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1983 1983 Five Forks Topographic Quadrangle, 1:24,000, retrieved from USGS Historical Topographic Map Explorer <https://livingatlas.arcgis.com/topoexplorer/index.html>, accessed February 20, 2020.



Figure 1. Map Showing Project Limits (USGS 1983).



Figure 2. Map Showing Limits of Project Area Along Timms Mill Road.

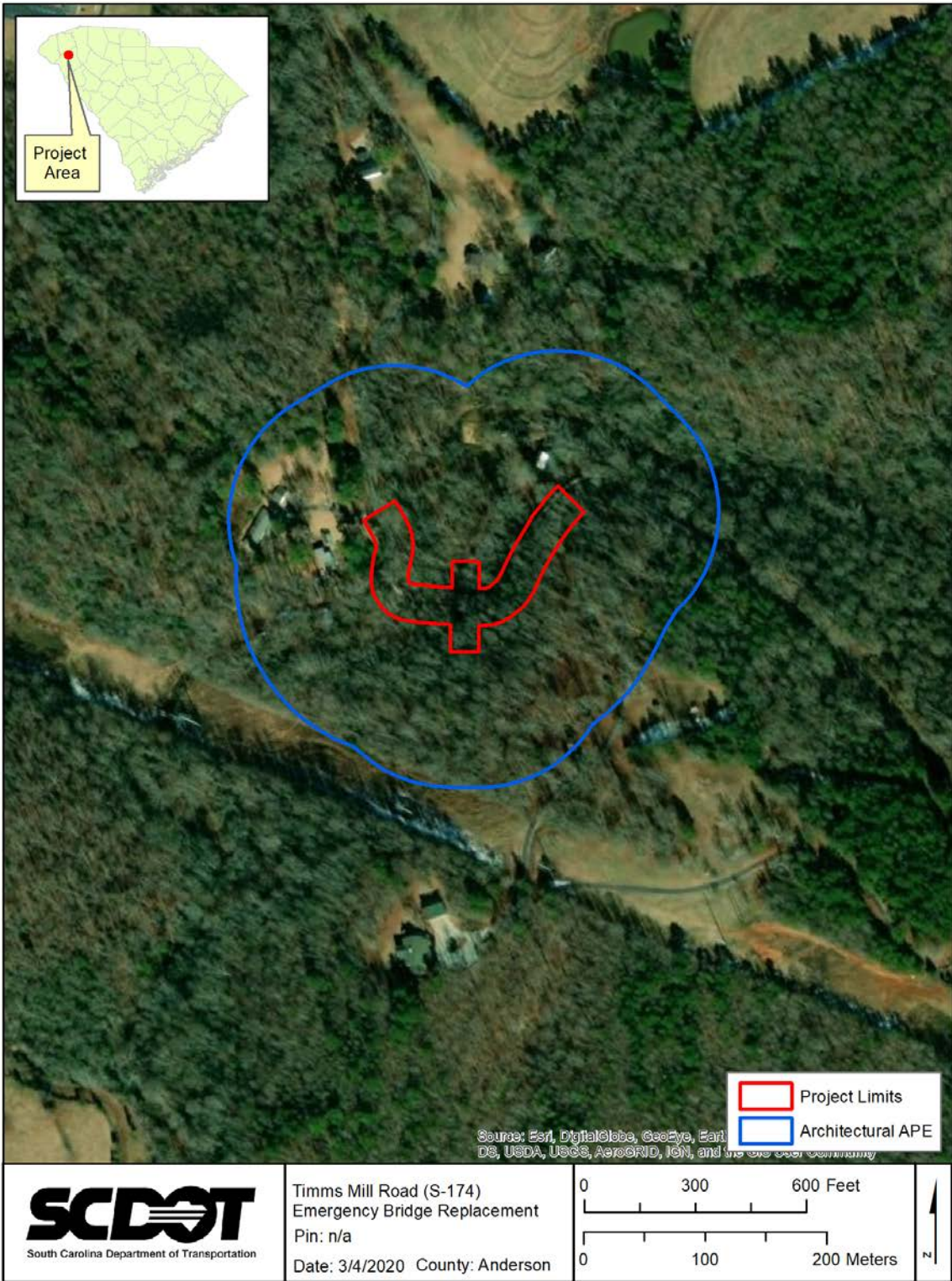


Figure 3. Map Showing Project Limits and Architectural APE.



Figure 4. View of Project Area from West Side of Bridge, Facing East.



Figure 5. View of Project Area from East Side of Bridge, Facing West.



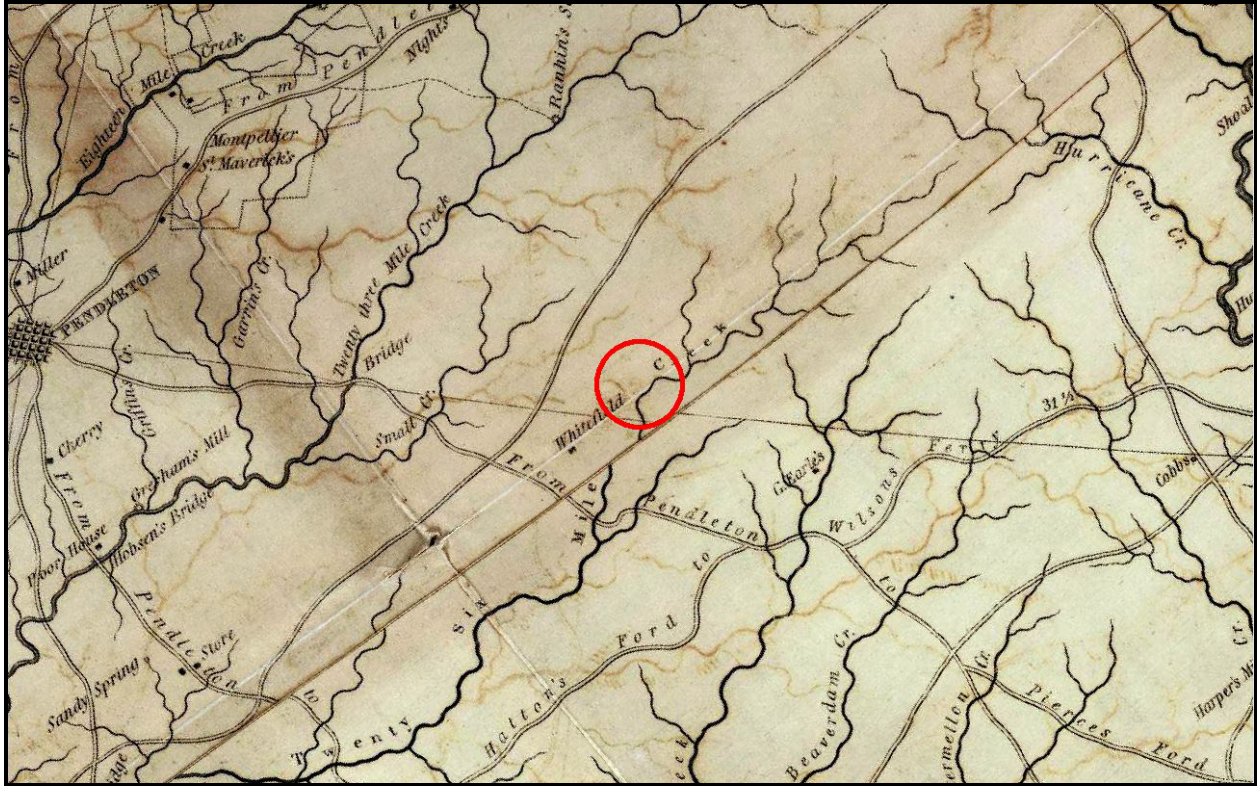


Figure 6. Map of 1825 Pendleton District Showing Approximate Project Area (Mills 1825).



Figure 7. 1897 Map of Anderson County Showing Project Area (Hasseln 1897).

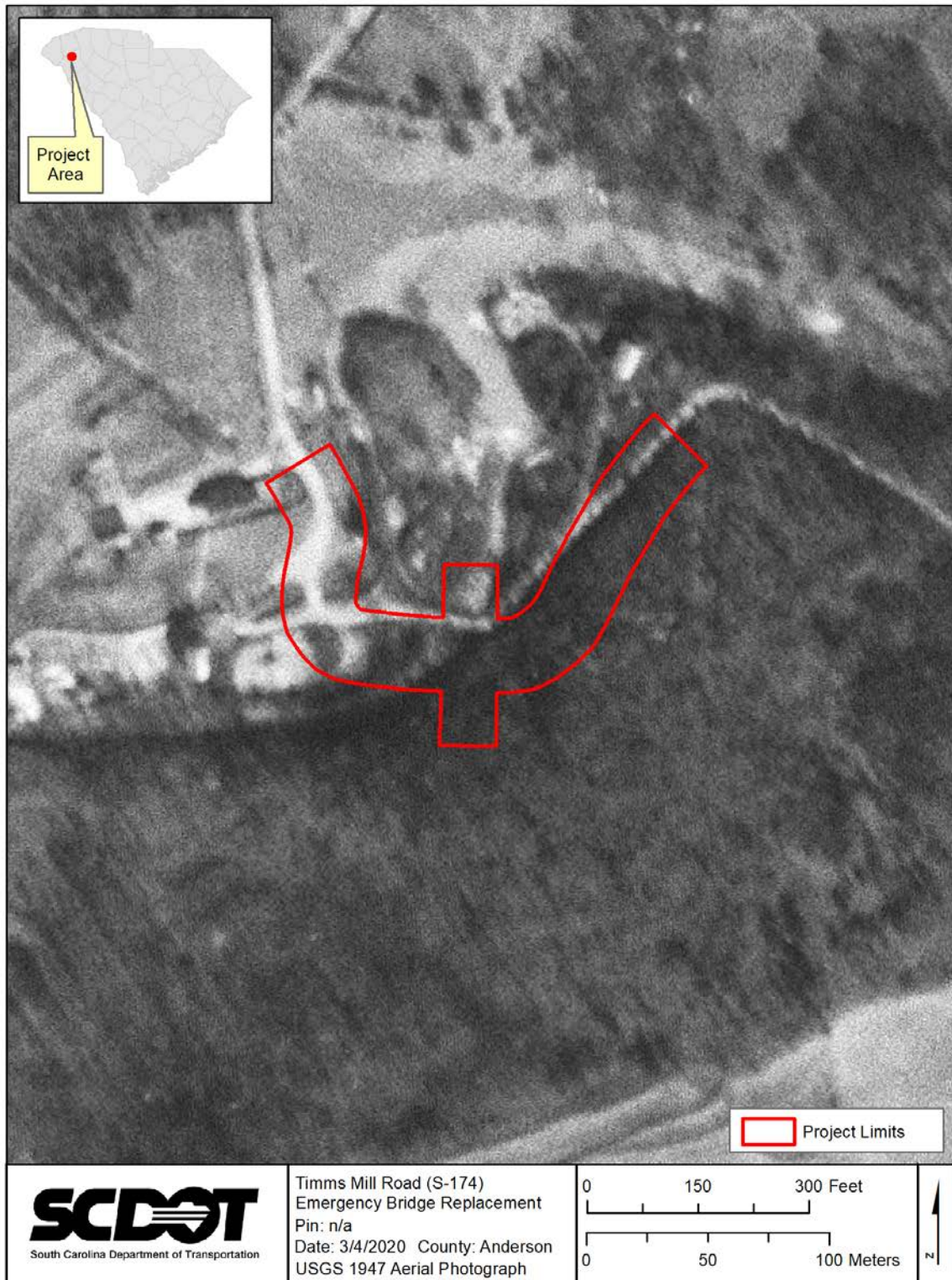


Figure 8. 1947 Aerial Photograph Showing Project Area (USGS 1947).



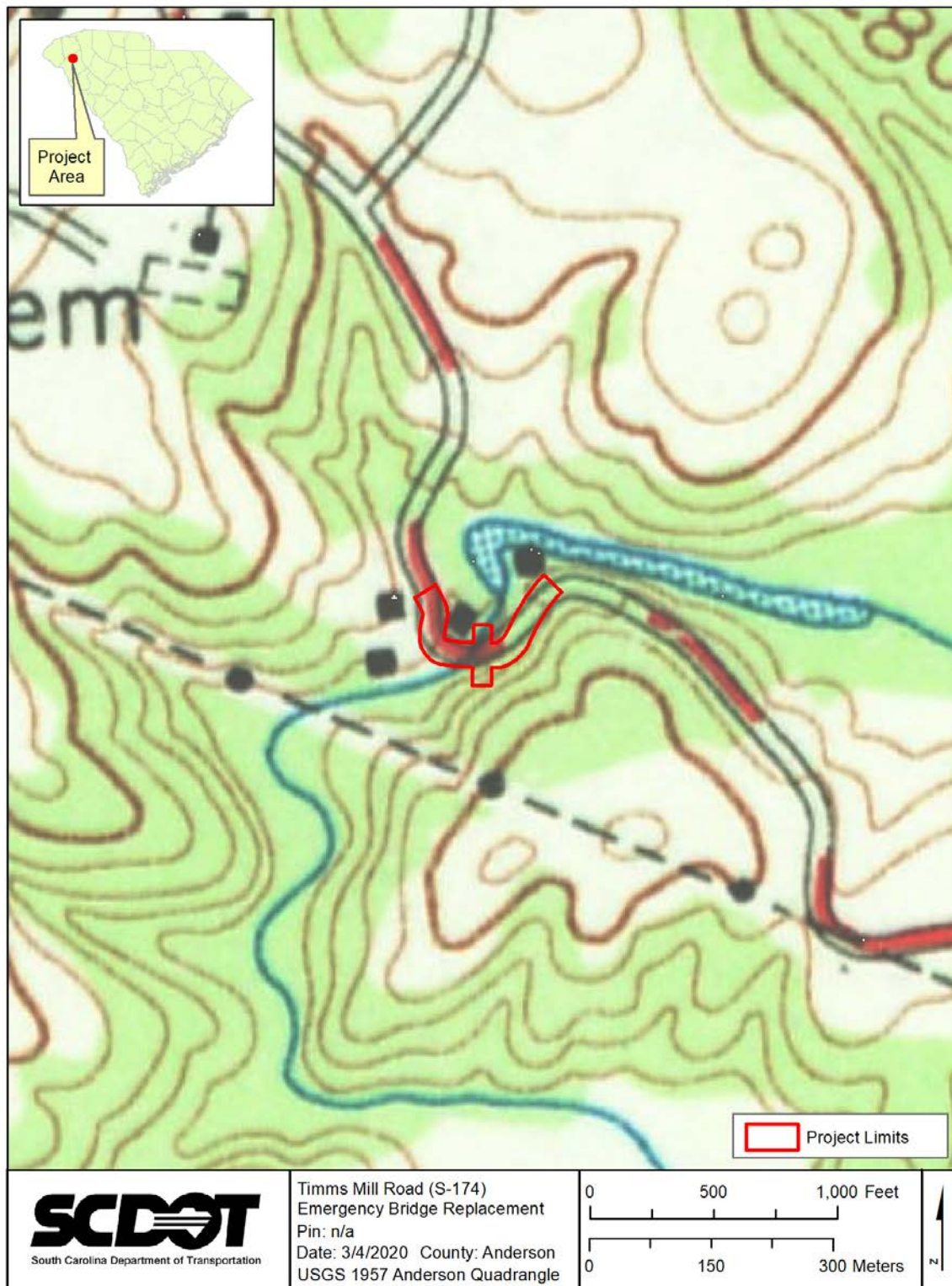


Figure 10. 1957 Anderson Quadrangle Showing Project Area (USGS 1957).

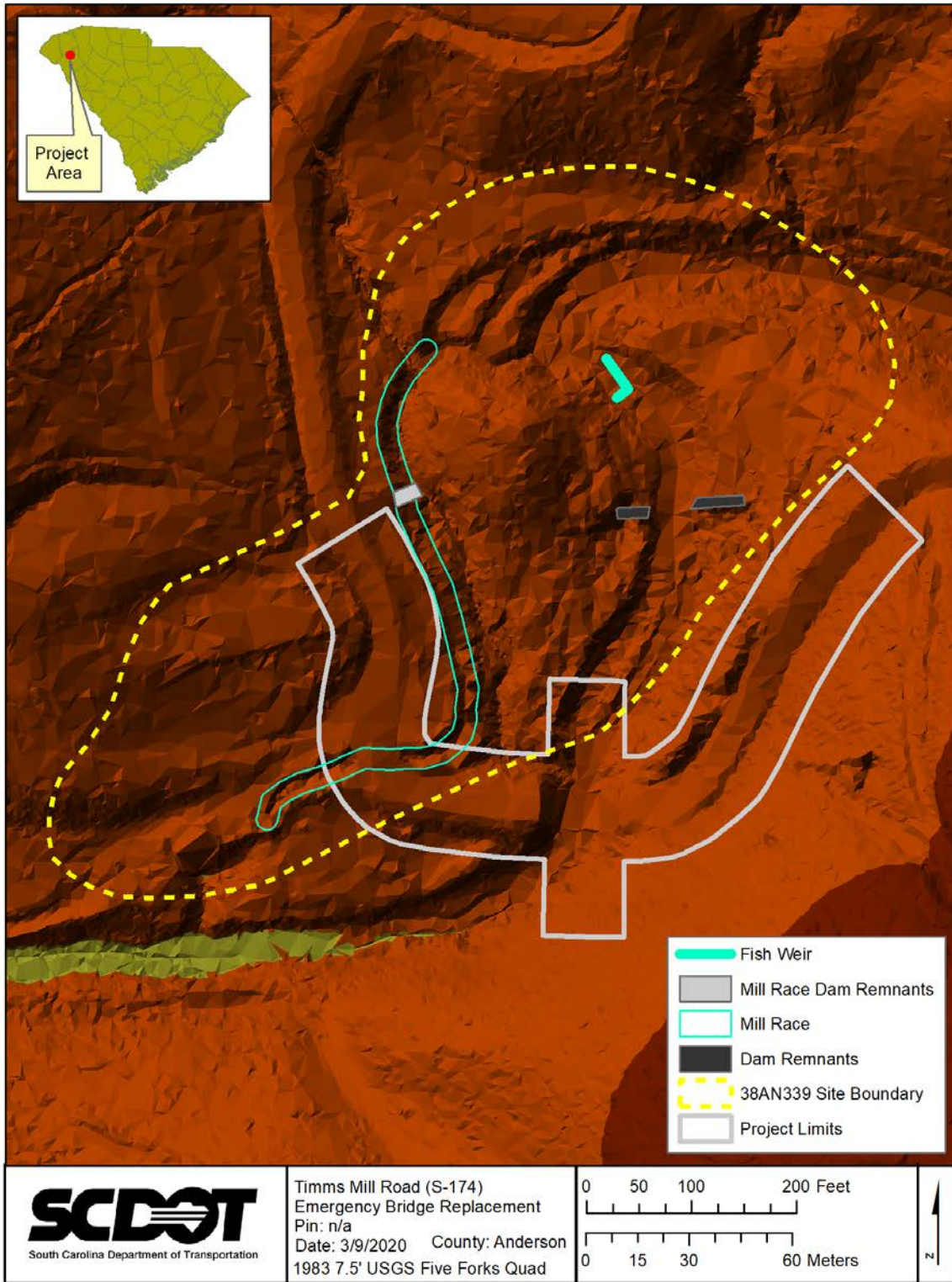


Figure 11. Terrain Map of Site 38AN339, Timms Mill, Showing Extant Mill Ruins.



Figure 12. View of Western Portion of Dam, Facing Northeast.



Figure 13. View of Gate in Dam, Facing North.



Figure 14. View of Eastern Section of Dam, Facing Southeast.



Figure 15. View of Eastern Section of Dam, Facing South.



Figure 16. View of Mill Race Parallel to Timms Mill Road, Facing North.



Figure 17. View of Exterior (Eastern) Wall of Mill Race, Facing Northwest.





Figure 18. View of Mill Race Dam, Facing East.



Figure 19. View of Mill Race Dam, Facing Northwest.



Figure 20. View of Mill Race Dam, Facing North.



Figure 21. View of Fish Weir, Facing North From Western Bank.



Figure 22. View of Fish Weir, Facing Northeast From Western Bank.



Figure 23. View of Fish Weir, Facing Southwest From Eastern Bank.

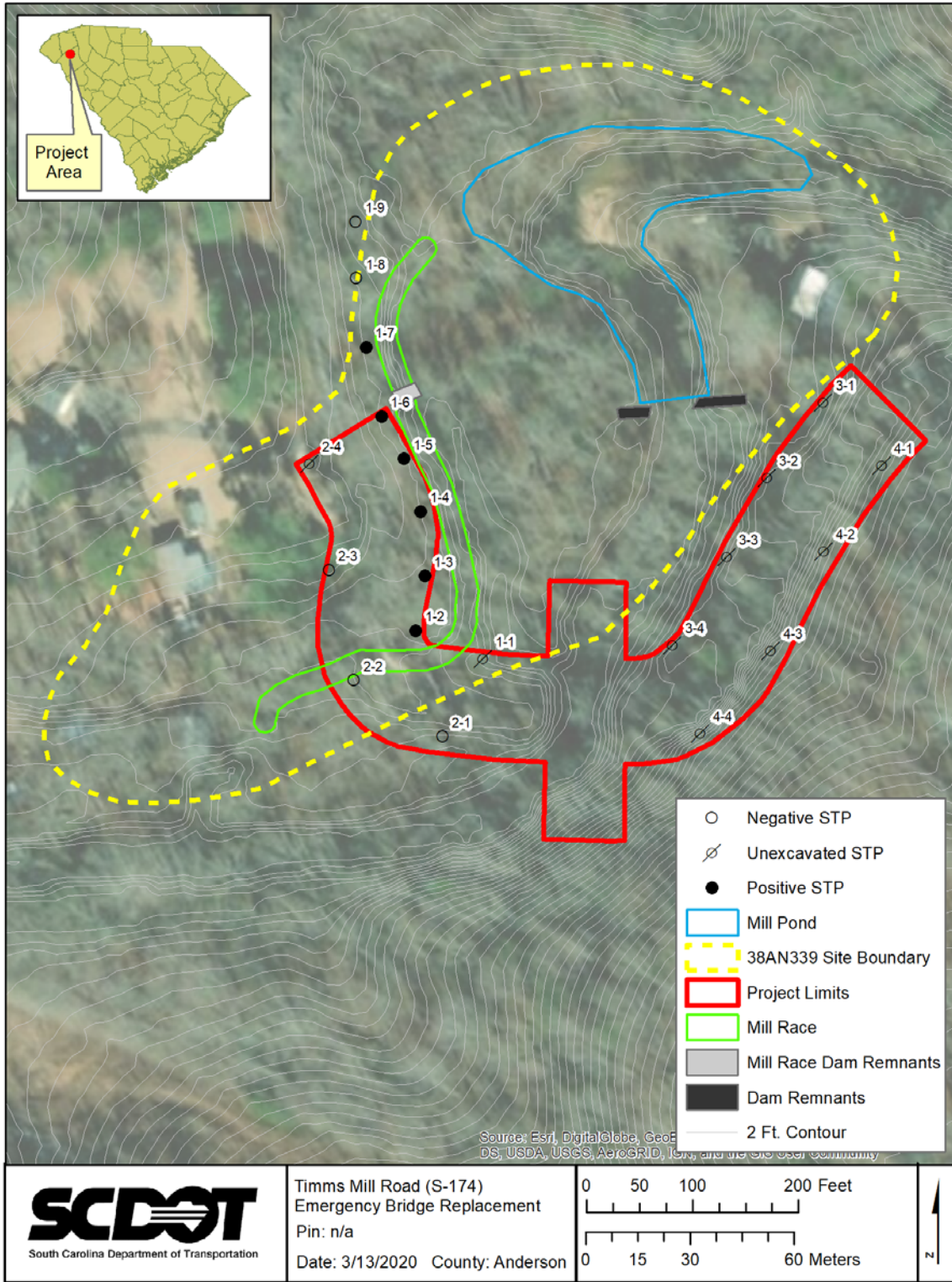


Figure 24. Shovel Test Map of Site 38AN339 Showing Archaeological Features.

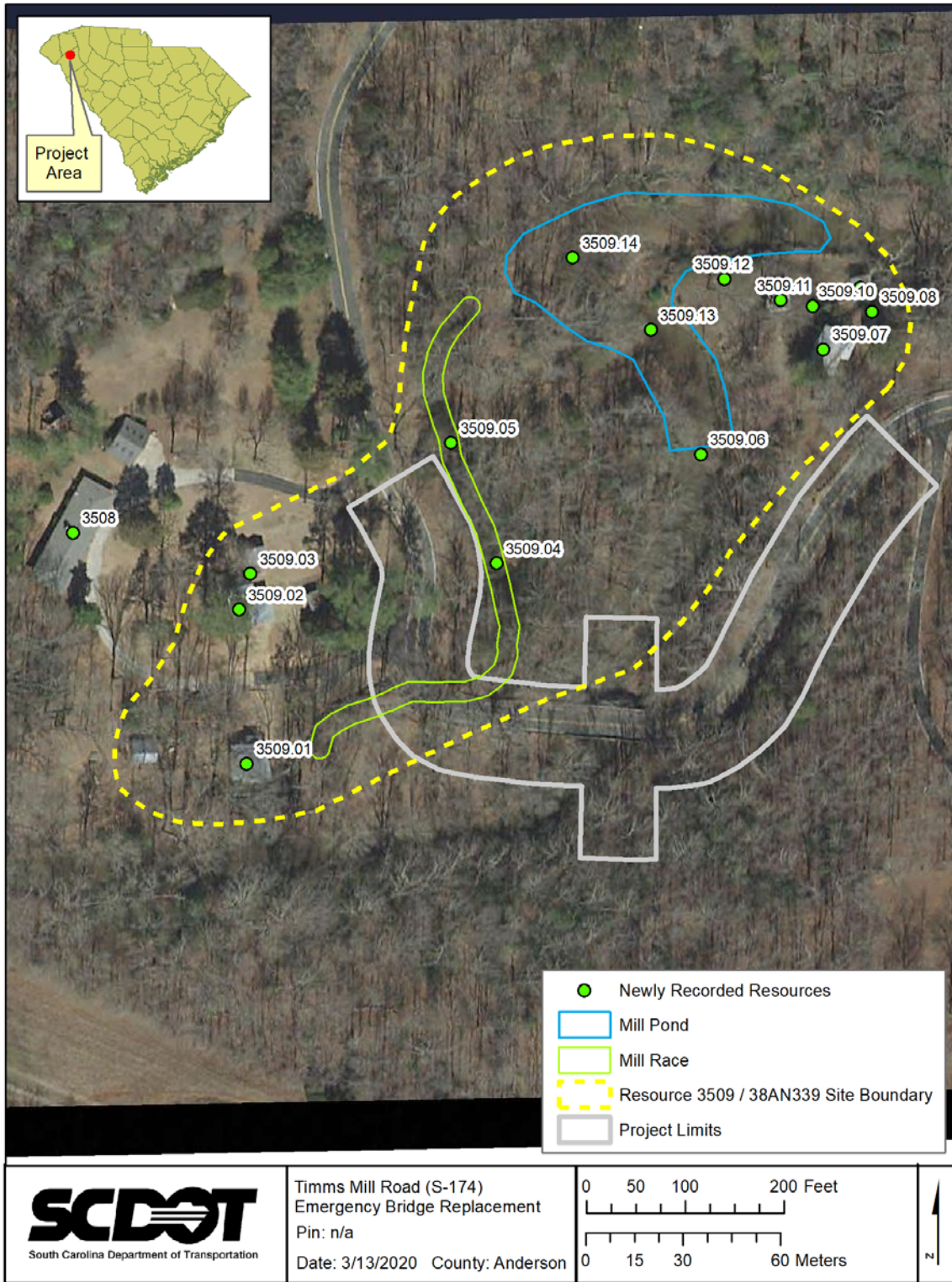


Figure 25. Map of Newly Recorded Historic Resources.



Figure 26. View of Original Mill Ruins from Six and Twenty Road at Twenty Six Mile Creek, Facing East.



Figure 27. View of Timms Mill Main Building (3509.01), Facing South.



Figure 28. View of Timms Mill Main Building (3509.01), Facing Northeast from Creek.



Figure 29. View of Timms Mill Main Building (3509.01), Facing North.



Figure 30. View of Timms Mill Country Store (3509.02), Facing North.



Figure 31. View of Timms Mill Country Store (3509.02), Facing Northwest.





Figure 32. View of Timms Mill Country Store (3509.02), Facing West.



Figure 33. View of Pumphouse (3509.03), Facing North.



Figure 34. View of Current Pumphouse that Supplies the Mill with Water, Facing Northwest.



Figure 35. View of PVC Waterpipe Showing Where Pipe Breaches the Mill Race, Facing Southwest.



Figure 36. View of Pipe Entering Culvert through Mill Race Passing Under Timms Mill Road, Facing Northwest.



Figure 37. View of Pipe in Culvert Emptying Into Rebuilt Flume within the Original Mill Race, Facing South.



Figure 38. View of Rebuilt Flume in Original Mill Race, View from Above Culvert, Facing West.



Figure 39. View of Resource 3509.07, Facing Northwest.



Figure 40. View of Resource 3509.07, Facing Northeast.



Figure 41. View of Resource 3509.08, Facing North.



Figure 42. View of Resource 3509.09, Facing North.



Figure 43. View of Resource 3509.10, Facing Northeast.



Figure 44. View of Resource 3509.11, Facing Northwest.



Figure 45. View of Resource 3509.12, Facing North.



Figure 46. View of Resource 3509.14, Facing Northeast.



Figure 47. View of Resource 3509.14, Facing North from Dam Remnants.





Figure 48. Map Showing Close-up of Areas to be Avoided During Construction.

March 13, 2020

Mr. Joseph E. Wilkinson  
Review Coordinator for Transportation Projects  
State Historic Preservation Office  
SC Department of Archives & History  
8301 Parklane Road  
Columbia, SC 29223

***RE: Emergency Bridge Replacement for S-174 (Timms Mill Road) over Twenty Six Mile Creek, Anderson County, South Carolina.***

Dear Mr. Wilkinson:

Please find attached a copy of the above-referenced report that describes cultural resources investigations conducted for the proposed emergency bridge replacement of S-174 (Timms Mill Road) over Twenty Six Mile Creek in **Anderson County**, South Carolina. The improvements will include replacing the bridge and raising it 2 feet. Other improvements may include widening the existing shoulder, installation of guardrail, and the extension of a culvert running under Timms Mill Road to accommodate the wider footprint necessary for raising the elevation of the bridge. New right-of-way (ROW) may be required to complete the project.

The archaeological area of potential effect (APE) runs approximately 400 feet along either side of the existing bridge. The project width is 100 feet along the road, widening to 200 feet at the bridge. The APE for archaeological resources for the project consists of land that may be acquired as new ROW as well as those areas within the existing ROW that might be affected by the undertaking. The APE for architectural resources consists of a 300 foot buffer around the archaeological APE

One archaeological resource (38AN339) was identified during the survey. This site, also known as Timms Mill, consists of mid-nineteenth to mid-twentieth century mill remnants. Shovel tests were excavated in the portion of the site within the proposed project limits. The feature of the mill that will likely be impacted by the bridge replacement is the mill race. However, the part of this feature within the project limits has already been disturbed by construction of Timms Mill Road and the installation of the culvert. That portion of the site is recommended as **not eligible** for the National Register of Historic Places (NRHP). The portion of the site outside of the proposed project limits remains unassessed. The extant remnants and standing structures associated with the mill as it is used today were also recorded as architectural features and are discussed below as resource number 3509.

A total of two aboveground resources were documented during these investigations, resources 3508 and 3509. Resource 3508 is a circa 1970 residential structure. This resource is recommended as **not eligible** for the NRHP. Resource 3509 is the Timms Mill complex described above. The complex as a whole contains 14 features recorded as sub-numbers. These sub-numbers include the restored early twentieth century mill building (3509.01), the heavily renovated mid-twentieth century structure currently used as the Timms Mill Country Store (3509.02), a well/pumphouse previously used for a house that stood on the property (3509.03), the existing mill race (3509.04), the mill race dam (3509.05), and the remnants of the breached dam (3509.06). Resource 3509.07 is a circa 1940s residential structure with five outbuildings (3509.08 – 3509.12). The historic period fish weir is recorded as 3509.13. Finally, resource 3509.14 is the remnants of



the mill pond to the north of the dam remains. Although this resource played a role in industry and agriculture in the region, as the current mill stands, it has been heavily disturbed due to restoration and construction. None of the resources are known to be associated with historic figures or events and all of the structures lack architectural integrity or significance necessary to be placed on the NRHP under Criteria A, B, or C. Because of this, resource number 3509 and its associated features are recommended as **not eligible** for the NRHP.

Based on the results of the background research and field investigations, the Department has determined that no historic properties will be affected by the proposed undertaking.

Per the terms of the Section 106 Programmatic Agreement executed on October 6, 2017, the Department is providing this information on behalf of the Federal Highway Administration. It is requested that you review the enclosed material, and, if appropriate, indicate your concurrence in the Department's findings. Please respond within 30 days if you have any objections or if you have need of additional information.

Sincerely,



Tracy Martin  
Archaeologist

TAM:tam

I (~~do not~~) concur in the above determination.

Signed: Joseph E. Wilkinson Date: 3/13/2020

ec: Shane Belcher, FHWA  
Russell Townsend, Eastern Band of Cherokee Indians  
Stephen J. Yerka, Eastern Band of Cherokee Indians  
Elizabeth Toombs, Cherokee Nation  
LeeAnne Wendt, Muscogee (Creek) Nation  
Karen Pritchett, United Keetoowah  
Charlotte Wolfe, United Keetoowah

cc: Wenonah G. Haire, Catawba Nation  
Keith Derting, SCIAA

File: ENV/TAM

**From:** [McGoldrick, Will](#)  
**To:** [McGoldrick, Will](#)  
**Subject:** RE: Timms Mill Road Emergency Bridge Replacement, Anderson Co, SC, report and transmittal letter  
**Date:** Friday, April 3, 2020 8:25:57 AM

---

**From:** Section106 <[Section106@mcn-nsn.gov](mailto:Section106@mcn-nsn.gov)>  
**Sent:** Friday, April 3, 2020 12:05 AM  
**To:** Martin, Tracy <[MartinT@scdot.org](mailto:MartinT@scdot.org)>  
**Subject:** RE: Timms Mill Road Emergency Bridge Replacement, Anderson Co, SC, report and transmittal letter

**\*\*\* This is an EXTERNAL email. Please do not click on a link or open any attachments unless you are confident it is from a trusted source. \*\*\***

Tracy,

Thank you for contacting the Muscogee (Creek) Nation concerning the Proposed Timms Mill Road Emergency Bridge Replacement in Anderson County, South Carolina. This project is located within our historic area of interest and is of importance to us. After reviewing the material provided, it has been determined that the Muscogee (Creek) Nation agrees with the determinations and has no objections to the proposed project. Please consider this letter as our concurrence to your request and findings of **no historic or traditional cultural properties affected**. However, should cultural material or human remains be encountered during ground disturbance, construction or demolition, we request to be notified. Also, if there are any additional updates, we ask to be informed of these. Should further information or comment be needed, please do not hesitate to contact me at (918) 732-7852 or by email at [lwendt@mcn-nsn.gov](mailto:lwendt@mcn-nsn.gov).

Regards,  
LeeAnne Wendt

**LeeAnne Wendt**, M.A., RPA  
Historic and Cultural Preservation Department, Tribal Archaeologist  
Muscogee (Creek) Nation  
P.O. Box 580 / Okmulgee, OK 74447  
T 918.732.7852  
F 918.758.0649  
[lwendt@MCN-nsn.gov](mailto:lwendt@MCN-nsn.gov)  
<http://www.muscogeenation-nsn.gov/>

---

**From:** Martin, Tracy [<mailto:MartinT@scdot.org>]  
**Sent:** Friday, March 13, 2020 11:11 AM  
**To:** Belcher, Jeffery - FHWA; [russtown@nc-chokeee.com](mailto:russtown@nc-chokeee.com); [syerka@nc-chokeee.com](mailto:syerka@nc-chokeee.com);

[toombs@cherokee.org](mailto:toombs@cherokee.org); Section106; [kpritchett@ukb-nsn.gov](mailto:kpritchett@ukb-nsn.gov); [cwolfe@ukb-nsn.gov](mailto:cwolfe@ukb-nsn.gov)

**Subject:** Timms Mill Road Emergency Bridge Replacement, Anderson Co, SC, report and transmittal letter

All,

Attached is a cultural resources short form report and transmittal letter for a cultural resources survey done in Anderson County, SC. Please let me know if you have any questions.

**Tracy Martin**

Chief Archaeologist

SC Department of Transportation

955 Park Street, Columbia SC, 29201

Office 803-737-6371 / Cell 803-206-1223





2687

GEN

TRANS

LINE

Creek

2527



03060101


Big Generostee Creek Mitigation Bank

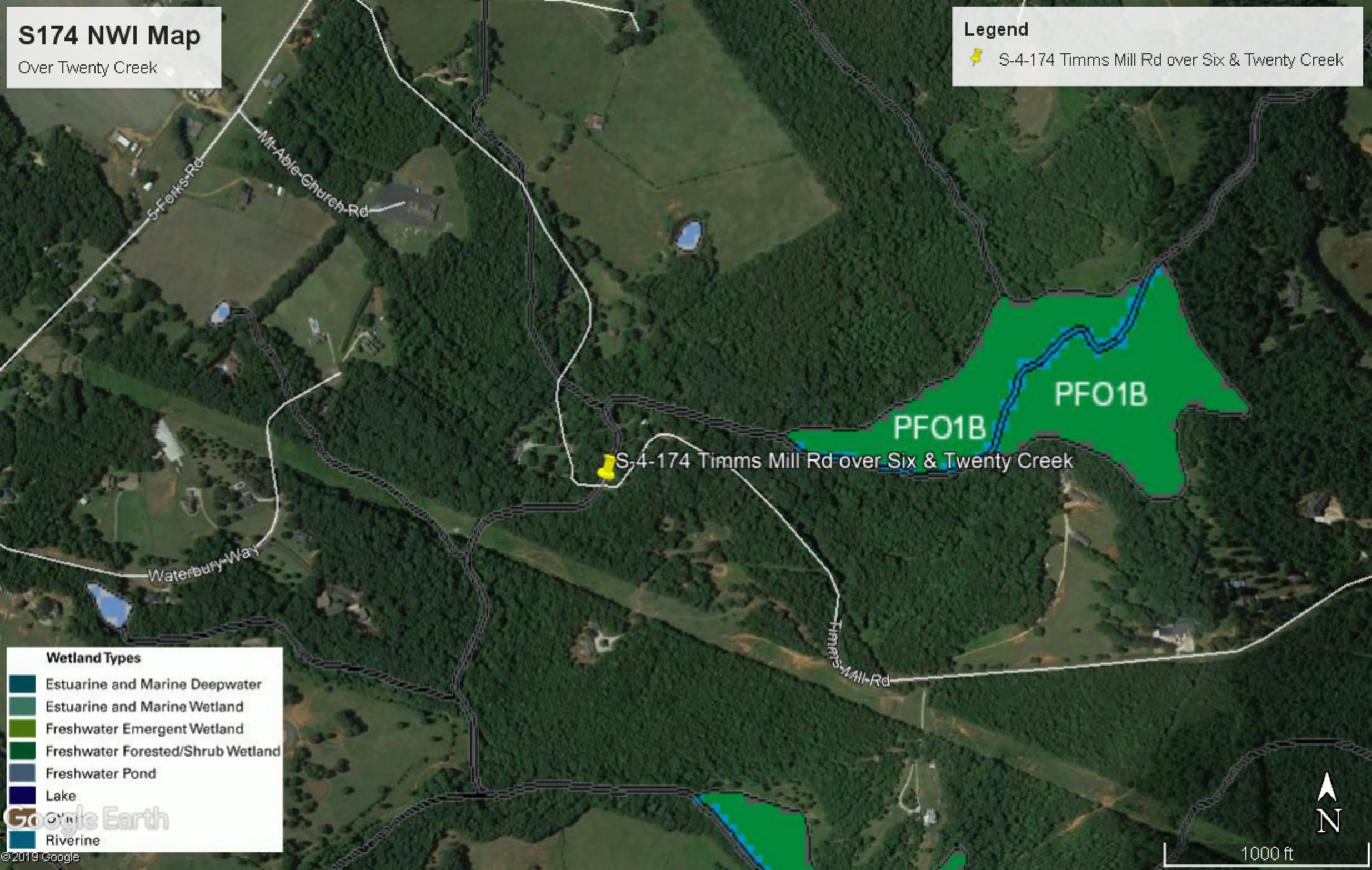
Turkey Creek

# S174 NWI Map






Over Twenty Creek

## Legend

 S-4-174 Timms Mill Rd over Six & Twenty Creek

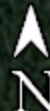


## Wetland Types

-  Estuarine and Marine Deepwater
-  Estuarine and Marine Wetland
-  Freshwater Emergent Wetland
-  Freshwater Forested/Shrub Wetland
-  Freshwater Pond
-  Lake
-  Riverine

Google Earth

© 2019 Google



1000 ft





2/15/2020

**Watershed and Water Quality Information**

General Information

**Applicant Name:** Permit Type: MS4  
**Latitude:** 34.6561 **Longitude:** -82.6411  
**MS4 Designation:** Not in designated area **Monitoring Station:** RL-01020  
**Within Coastal Critical Area:** NO **Water Classification (Provisional):** FW  
**Waterbody Name:** SIX AND TWENTY CREEK **Entered Waterbody Name:**

Parameter Descriptions

NH3N  
CR  
CU  
HG  
NI  
PB  
ZN  
DO  
PH

Ammonia  
Chromium  
Copper  
Mercury  
Nickel  
Lead  
Zinc  
Dissolved Oxygen  
pH

FC  
FCB  
BIO  
TP  
TN  
CHLA  
ENTERO  
HGF  
PCB

Fecal Coliform  
Fecal Coliform (Shellfish)  
Macroinvertebrates (Bio)  
(Lakes) Phosphorus  
(Lakes) Nitrogen  
(Lakes) Chlorophyll a  
(Beach) Enterococcus  
Mercury (Fish)  
PCB (Fish)

Impaired Status (downstream sites)

Station	NH3N	CR	CU	HG	NI	PB	ZN	DO	PH	TURBIDITY	ECOLI	FCB	BIO	TP	TN	CHLA	ENTERO	HGF	PCB
RL-01020	X	X	X	X	X	X	X	X	N	X	X	X	X	X	X	X	X	X	X
RL-12047	F	F	F	F	F	X	F	F	A	F	F	A	X	F	F	F	X	X	X
SV-339	A	A	A	A	A	X	A	A	A	A	A	A	X	A	A	A	X	X	X
RL-14096	A	A	A	A	A	X	A	A	A	A	A	A	X	A	A	A	X	X	X

F = Standards Fully Supported  
N = Standards Not Supported

A = Assessed at Upstream Station  
X = Parameter Not Assessed at Station

T = Within TMDL Approved Watershed

Parameters to be addressed (those not supporting standards)

PH

Fish Consumption Advisory

TMDL Information - TMDL Parameters to be addressed

**In TMDL Watershed:** No **TMDL Site:**  
**TMDL Report No:** **TMDL Parameter:**  
**TMDL Document Link:**

Date: 3-2-20

### PERMIT DETERMINATION

FROM Will McGoldrick COMPANY SCDOT

CONTACT INFO (phone and/or email) 803-737-1326; mcgoldriwr@scdot.org

SCDOT PROJECT ENGINEER Brad Reynolds

TO Will McGoldrick - Design Build Coordinator

Project Description Emergency bridge replacement over 26 Creek destroyed during flood event in Feb

Route or Road No. S-174 County Anderson

CONST. PIN TBD OTHER PINS or STRUCTURE # 0470017400100

RESPONSE:

It has been determined that no permits are required because:

The following permit(s) is/are necessary:  
(Please check which type(s) of permit the project will need)

USACE Permit  GP  IP  401  JD

OCRM Permit  CAP  CZC

Navigable  SCDHEC NAVGP – if checked a USCG and/or USACE navigable permit may also be required, but will be determined during the NEPA and Permitting stages.

Other USACE NW 3

Water Classification: FW *Print and attach the SCDHEC water quality report*

303(d) listed  no  yes, for \* PH

TMDL developed  no  yes, for \* \_\_\_\_\_

\*List all that apply using the SCDHEC abbreviations

Comments: Bridge was damaged beyond repair and needs replacing. Old mill site nearby.

The determination above was based on the most recently available information at the time. This is a preliminary determination and is subject to change if the design of the project is modified.

WILL MCGOLDRICK Digitally signed by WILL MCGOLDRICK Date: 2020.03.02 12:57:22 -05'00'

Biologist, SCDOT/Consultant

3-2-20

Date

# National Flood Hazard Layer FIRMette



34°39'36.98"N



## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes. Zone X
		Area with Flood Risk due to Levee Zone D

OTHER AREAS		Area of Minimal Flood Hazard Zone X
		Effective LOMRs
GENERAL STRUCTURES		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall

OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance
		17.5 Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
OTHER FEATURES		Jurisdiction Boundary
		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature

MAP PANELS		Digital Data Available
		No Digital Data Available
		Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 2/13/2020 at 8:12:02 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

Biological Survey of  
S-174 over 26 Creek  
Anderson County, S.C.

Pursuant to Section 7 of the Endangered Species Act a field survey was conducted on the proposed new right of way. The following list of species that are endangered (E), threatened (T) and Bald and Golden Eagle Protection Act (BGEPA) was obtained from the U.S. Fish and Wildlife Service:

**Animals**

Northern long-eared bat	<i>Myotis septentrionalis</i>	T
Eastern Black Rail	<i>Laterallus jamaicensis</i>	T

**Plants**

Smooth Coneflower	<i>Echinacea laevigata</i>	E
-------------------	----------------------------	---

**Methods**

The project area was examined by GIS and Google Earth on March 3, 2020. Habitats surveyed were determined by each species' ecological requirements.

**Results**

This is an emergency bridge replacement project. The bridge on S-174 over 26 creek was damaged beyond repair during a winter storm event.

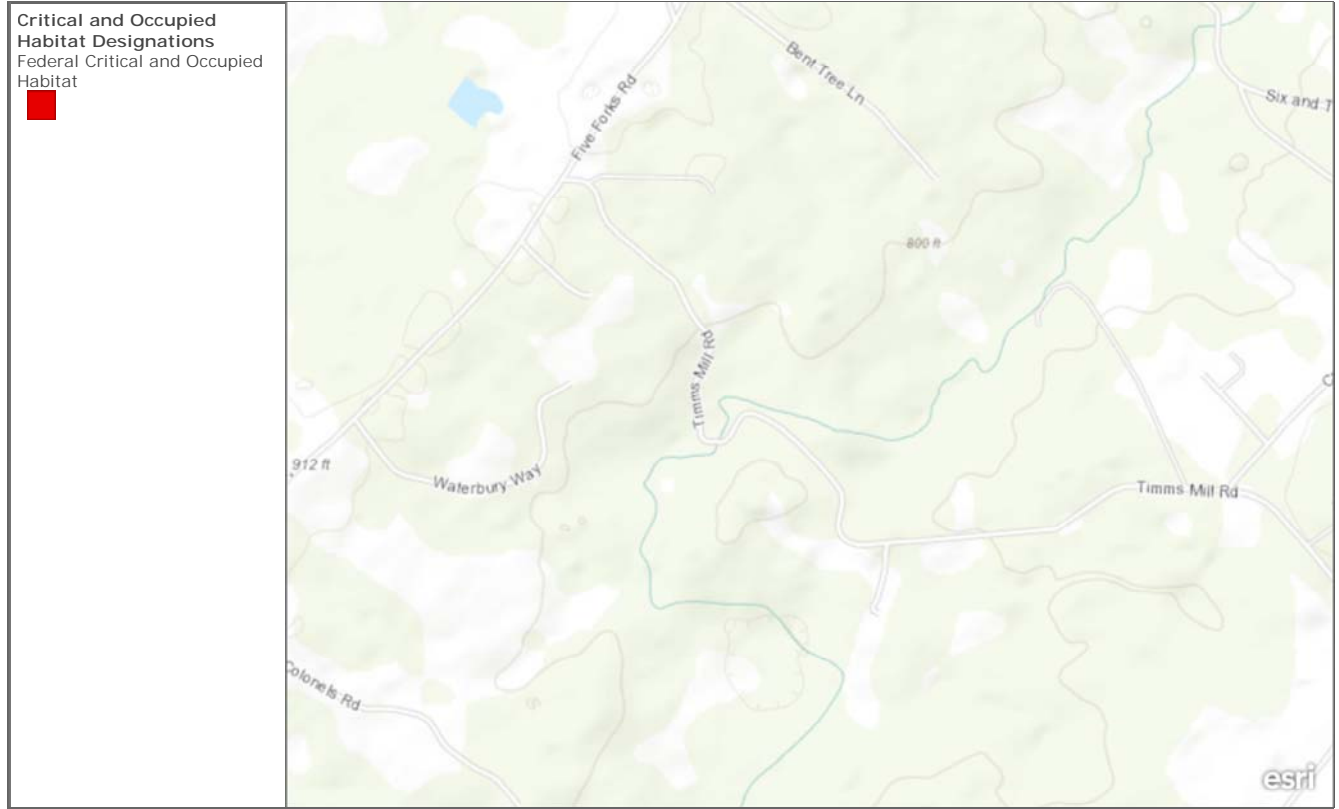
According to the Heritage Trust database of endangered, threatened and rare species, there have been no recorded observations of any of the above species in the vicinity of the project and there is no recorded critical habitat for any of the listed species.

Based on lack of suitable habitat and/or no observations of the listed species, results of the threatened and endangered species study indicate that the proposed action will not affect any threatened or endangered species or critical habitats currently listed by the USFWS.

*Ann-Marie Altman*

March 3, 2020

### Critical and Occupied Habitat Designations



This data contains designated critical and occupied habitat by the US Fish and Wildlife Service and National Marine Fisheries Service. Habitat is designated for: Atlantic sturgeon, Carolina heelsplitter, frosted flatwoods salamander, loggerhead sea turtle, and piping plover. Note that this dataset denotes polygon representations of original data for species with line-designated habitat.

City of Greenville, Hart EMC, Esri, HERE, Garmin, INCREMENT P, USGS, METI/NASA, EPA, USDA



# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
South Carolina Ecological Services  
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IPaC Record Locator: 431-20364220

February 19, 2020

Subject: Consistency letter for the 'timms mill' project (no current TAILS record) under the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request to verify that the **timms mill** (Proposed Action) may rely on the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 *et seq.*).

Based on the information you provided (Project Description shown below), you have determined that the Proposed Action will have **no effect** on the endangered Indiana bat (*Myotis sodalis*) or the threatened Northern long-eared bat (*Myotis septentrionalis*). If the Proposed Action is not modified, **no consultation is required for these two species**.

**For Proposed Actions that include bridge/structure removal, replacement, and/or maintenance activities:** If your initial bridge/structure assessments failed to detect Indiana bats, but you later detect bats during construction, please submit the Post Assessment Discovery of Bats at Bridge/Structure Form (User Guide Appendix E) to this Service Office. In these instances, potential incidental take of Indiana bats may be exempted provided that the take is reported to the Service.

If the Proposed Action may affect any other federally-listed or proposed species and/or designated critical habitat, additional consultation between the lead Federal action agency and this Service Office is required. If the proposed action has the potential to take bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act may also be required. In either of these circumstances, please advise the lead Federal action agency accordingly.

The following species may occur in your project area and **are not** covered by this determination:

- Eastern Black Rail, *Laterallus jamaicensis ssp. jamaicensis* (Proposed Threatened)
  - Smooth Coneflower, *Echinacea laevigata* (Endangered)
-

## **Project Description**

The following project name and description was collected in IPaC as part of the endangered species review process.

### **Name**

timms mill

### **Description**

S-174

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## Determination Key Result

Based on the information you provided, you have determined that the Proposed Action will have no effect on the endangered Indiana bat and/or the threatened Northern long-eared bat. Therefore, no consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required for these two species.

## Qualification Interview

1. Is the project within the range of the Indiana bat<sup>[1]</sup>?

[1] See [Indiana bat species profile](#)

**Automatically answered**

*No*

2. Is the project within the range of the Northern long-eared bat<sup>[1]</sup>?

[1] See [Northern long-eared bat species profile](#)

**Automatically answered**

*Yes*

3. Which Federal Agency is the lead for the action?

*A) Federal Highway Administration (FHWA)*

4. Are *all* project activities limited to non-construction<sup>[1]</sup> activities only? (examples of non-construction activities include: bridge/abandoned structure assessments, surveys, planning and technical studies, property inspections, and property sales)

[1] Construction refers to activities involving ground disturbance, percussive noise, and/or lighting.

*No*

5. Does the project include *any* activities that are **greater than** 300 feet from existing road/rail surfaces<sup>[1]</sup>?

[1] Road surface is defined as the actively used [e.g. motorized vehicles] driving surface and shoulders [may be pavement, gravel, etc.] and rail surface is defined as the edge of the actively used rail ballast.

*No*

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6. Does the project include *any* activities **within** 0.5 miles of a known Indiana bat and/or NLEB hibernaculum<sup>[1]</sup>?

[1] For the purpose of this consultation, a hibernaculum is a site, most often a cave or mine, where bats hibernate during the winter (see suitable habitat), but could also include bridges and structures if bats are found to be hibernating there during the winter.

*No*

7. Is the project located **within** a karst area?

*No*

8. Is there *any* suitable<sup>[1]</sup> summer habitat for Indiana Bat or NLEB **within** the project action area<sup>[2]</sup>? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

[2] The action area is defined as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR Section 402.02). Further clarification is provided by the [national consultation FAQs](#).

*No*

9. Does the project include wetland or stream protection activities associated with compensatory wetland mitigation?

*No*

10. Does the project include slash pile burning?

*No*

11. Does the project include *any* bridge removal, replacement, and/or maintenance activities (e.g., any bridge repair, retrofit, maintenance, and/or rehabilitation work)?

*Yes*

12. Is there *any* suitable habitat<sup>[1]</sup> for Indiana bat or NLEB **within** 1,000 feet of the bridge? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

[1] See the Service's current [summer survey guidance](#) for our current definitions of suitable habitat.

*No*

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13. Does the project include the removal, replacement, and/or maintenance of *any* structure other than a bridge? (e.g., rest areas, offices, sheds, outbuildings, barns, parking garages, etc.)

No

14. Will the project involve the use of **temporary** lighting *during* the active season?

No

15. Will the project install new or replace existing **permanent** lighting?

No

16. Does the project include percussives or other activities (**not including tree removal/trimming or bridge/structure work**) that will increase noise levels above existing traffic/background levels?

No

17. Are *all* project activities that are **not associated with** habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives, limited to actions that DO NOT cause any additional stressors to the bat species?

Examples: lining roadways, unlighted signage , rail road crossing signals, signal lighting, and minor road repair such as asphalt fill of potholes, etc.

Yes

18. Will the project raise the road profile **above the tree canopy**?

No

19. Is the location of this project consistent with a No Effect determination in this key?

**Automatically answered**

*Yes, because the project action area is not within suitable Indiana bat and/or NLEB summer habitat and is outside of 0.5 miles of a hibernaculum.*

20. Is the bridge removal, replacement, or maintenance activities portion of this project consistent with a No Effect determination in this key?

**Automatically answered**

*Yes, because the bridge is more than 1,000 feet from the nearest suitable habitat and is therefore considered unsuitable for use by bats*

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## **Determination Key Description: FHWA, FRA, FTA Programmatic Consultation For Transportation Projects Affecting NLEB Or Indiana Bat**

This key was last updated in IPaC on December 02, 2019. Keys are subject to periodic revision.

This decision key is intended for projects/activities funded or authorized by the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and/or Federal Transit Administration (FTA), which may require consultation with the U.S. Fish and Wildlife Service (Service) under Section 7 of the Endangered Species Act (ESA) for the endangered **Indiana bat** (*Myotis sodalis*) and the threatened **Northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

This decision key should only be used to verify project applicability with the Service's [February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects](#). The programmatic biological opinion covers limited transportation activities that may affect either bat species, and addresses situations that are both likely and not likely to adversely affect either bat species. This decision key will assist in identifying the effect of a specific project/activity and applicability of the programmatic consultation. The programmatic biological opinion is not intended to cover all types of transportation actions. Activities outside the scope of the programmatic biological opinion, or that may affect ESA-listed species other than the Indiana bat or NLEB, or any designated critical habitat, may require additional ESA Section 7 consultation.

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**U.S. Army Corps of Engineers - Charleston District**  
**Checklist for 2017 Nationwide Permit Review**  
**Nationwide Permit 3 - Maintenance**  
**(10/404)**

SAC#: \_\_\_\_\_

Applicant Name: Siobhan Gordon - SCDOT

Waterway/Location: Six and Twenty Creek, Anderson County

Project Name: S-174 (Timms Mill Rd) Emergency Bridge Replacement over Six and Twenty Creek

**The purpose of this Nationwide Permit (NWP) checklist is to assist with determining if a proposed activity qualifies for use of this NWP. The checklist will also assist with determining when a Pre-Construction Notification (PCN) is be required, if a PCN is incomplete, and other actions that may be required during a PCN review.**

**Please complete Section I and all other applicable sections.**

**I. Regional Conditions**

1. Will the proposed activity alter or temporarily occupy or use a USACE federally authorized Civil Works project (a "USACE" project") regulated by 33 U.S.C. 408?

Yes\* (PCN required)       No

2. If the proposed activity requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use USACE federally authorized "USACE" project, has the Charleston District issued the section 408 permission to alter, occupy, or use the USACE project?

N/A       Yes       No (Activity cannot be authorized by a NWP until 408 permission issued)

3. Is the proposed activity located in or adjacent to an authorized Federal Navigation project? These Federal Navigation areas include Adams Creek, Atlantic Intracoastal Waterway (AIWW), Ashley River, Brookgreen Garden Canal, Calabash Creek, Charleston Harbor (including the Cooper River and Town Creek), Folly River, Georgetown Harbor (Winyah Bay, Sampit River, and Bypass Canal), Jeremy Creek, Little River Inlet, Murrells Inlet (Main Creek), Port Royal Harbor, Savannah River, Shem Creek (including Hog Island Channel & Mount Pleasant Channel), Shipyard Creek, Village Creek and the Wando River.

Yes\* (PCN required, Corps PM will coordinate with CESAC-OP-N)       No

4. If the proposed activity is located in or adjacent to an authorized Federal Navigation project, as listed in Regional Condition #18, does the PCN include project drawings that have the following information: a) location of the edges of the Federal channel; b) setback distances from the edge of the channel; c) the distance from watermost edge of the proposed structure or fill to the nearest edge of the channel and the Mean High and Mean Low water lines; and d) coordinates of both ends of the watermost edge of the proposed structure or fill (NAD 83 State Plane Coordinates in decimal degrees).

N/A       Yes       No (Incomplete PCN)

5. Is the proposed activity located in waters that are designated critical habitat under section 7 of the Endangered Species Act or waters that are proposed 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/](http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/))

**Yes\* (PCN required  
Corps PM to determine  
if coordination with  
NMFS PRD is necessary)**       No

6. Is the proposed project located within a designated floodway within the FEMA Special Flood Hazard Area (SFHA)?

Yes (The permittee must comply with with Regional Condition #14. )       No

7. Is the proposed project located within a designated FEMA Special Flood Hazard Area (SFHA)?

Yes (The permittee must comply with with Regional Condition #15. )       No

8. Will the discharge of dredged or fill material into waters of the United States, associated with the proposed activity occur within or directly affecting Designated Critical Resource Waters, including wetlands adjacent to such waters? (Note: The ACE Basin National Estuarine Research Reserve and the North Inlet Winyah Bay National Estuarine Research Reserve are Designated Critical Resource Waters.)

N/A     **Yes\* (PCN required)**     No

9. Does the proposed activity comply with the Regional Conditions #1-#9?

Yes     No (Activity does not qualify for use of a NWP)

10. Does the activity comply with all of the NWP General Conditions?

Yes     No (Activity does not qualify for use of a NWP)

11. If the proposed activity involves temporary structures, fills and/or work, including temporary mats, will the temporary structures, fill and/or work, including temporary mats, be in place for a period of more than 90 days per temporary impact area and/or phase of the overall project?

N/A     **Yes\* (A PCN is required and time extension is required from the District Engineer..)**     No

12. If the proposed activity involves temporary structures, fills and/or work, including temporary mats, will the temporary structures, fill and/or work, including temporary mats, be in place for a period of more than 180 days per temporary impact area and/or phase of the overall project?

N/A     Yes (Activity does not qualify for use of a NWP)     No

13. If the proposed activity requires a PCN and involves temporary structures, fills, and/or work, including the use of temporary mats, does the PCN include a written description and/or drawings of the proposed temporary activities that will be used during project construction?

N/A       Yes       No (Incomplete PCN)

14. **For NWP 3**, paragraph (a) and (c) activities, will the proposed discharge of dredged or fill material cause the loss of greater than 1/10-acre of waters of the United States OR is the proposed discharge of dredged or fill material located within a special aquatic site, which includes but is not limited to, wetlands, mudflats, vegetated shallows, riffle and pool complexes, sanctuaries, and refuges?

Yes\* (PCN required)       No

15. **For NWP 3**, paragraph (a) activities, does the proposed activity involve the repair, rehabilitation or replacement of existing utility lines constructed over navigable waters of the United States and existing utility lines routed in or under navigable waters of the United States, even if no discharge of dredged or fill material occurs?

Yes\* (PCN required)       No

16. **For NWP 3**, paragraph (b) activities, does the proposed activity involve the excavation of accumulated sediment or other material in the immediate vicinity of private or commercial dock facilities, piers, canals for boating access, marina, boatslips, etc.?

Yes (Activity does not qualify for NWP 3)       No

**II. Nationwide Permit 3 paragraph (a)** (Complete #1- 8 of this section II if paragraph (a) applies to the proposed activity)

N/A -Skip to Sections III, IV and/or V as appropriate.

1. Is the proposed activity for the repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3?

Yes       No (Activity does not qualify for use of NWP 3 (a) )



2. Will the structure or fill be put to uses different from those specified or contemplated in the original permit or the most recently authorized modification?

Yes (Activity does not qualify for use of NWP 3 (a) )  No

3. Are any deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement that occur with the project considered minor?

N/A  Yes  No (Activity does not qualify for use of NWP 3 (a) )

4. Does the proposed activity involve the removal of previously authorized structures or fills?

Yes  No

5. For any stream modifications that are associated with the project, are they limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill AND are the modifications, including the removal of material from the stream channel, located immediately adjacent to the project or within the boundaries of the structure or fill?

N/A  Yes  No (Activity does not qualify for use of NWP 3 (a) )

6. Does the proposed activity involve the removal of accumulated sediment and debris within, and in the immediate vicinity of, the structure or fill?

Yes  No

7. If the proposed activity involves the repair, rehabilitation, or replacement of structures or fills that were destroyed or damaged by storms, floods, fire or other discrete events, has the work commenced or is under contract to commence within two years of the date of their destruction or damage?

N/A  Yes  No

8. If the proposed activity involves the repair, rehabilitation, or replacement of structures or fills that were destroyed or damaged by storms, floods, fire or other discrete events, that are considered catastrophic events, such as hurricanes or tornadoes, and the work cannot commence or be under contract to commence, within two years of the date of their destruction, has the permittee demonstrated funding, contract, or other similar delays AND has the District Engineer waived the two-year limit?

N/A       Yes       No (Activity does not qualify for use of NWP 3 (a) )

**III. Nationwide Permit 3 (b)** *(Complete #1- 4 of this section III if paragraph (b) applies to proposed activity)* **NOTE: All Nationwide Permit 3 (b) activities require a Pre-Construction Notification (PCN)**

N/A -Skip to Section IV or V as appropriate

1. Does the proposed activity involve the removal of accumulated sediments and debris outside the immediate of existing structures (e.g. bridges, culverted road crossings, water intake structures, etc.)

Yes       No

2. Is the removal of sediment limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built AND does the removal activities extend 200 feet or less in any direction from the structure?

N/A       Yes       No (Activity does not qualify for use of NWP 3 (b) )

3. Does the activity involve the maintenance dredging for removal of accumulated sediments that are blocking or restricting outfall and intake structures OR does the activity involve the maintenance dredging for removal of accumulated sediments from canals associated with outfall and intake structures? (The 200-foot limit does not apply).

Yes       No

4. Will all dredged or excavated material be deposited and retained in an area that has no waters of the United States?

Yes       No

5. If the dredged or excavated material will be deposited and retained in an area that has waters of the United States, has a separate authorization approved by the District Engineers been issued?

Yes       No (Incomplete PCN)

6. Does the PCN include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments and canals?

Yes       No (Incomplete PCN)

**IV. Nationwide Permit 3 (c)** *(complete #1- 4 if paragraph (c) applies to project)*

N/A Skip to Section V as appropriate

1. Does the proposed activity involve temporary structures, fills, and work, including temporary mats, necessary to conduct the maintenance activity?

Yes       No (Activity does not qualify  
for use of NWP 3 (c) )

2. Have appropriate measures been taken to maintain normal downstream flooding to the maximum extent practicable, when the temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites?

Yes       No (Activity does not qualify  
for use of NWP 3 (c) )

3. Do the temporary fills consist of materials, and will they be placed in a manner, that will not be eroded by expected high flows?

Yes       No (Activity does not qualify  
for use of NWP 3 (c) )

4. Will the temporary fills be removed in their entirety, the affected areas returned to pre-construction elevations, and the affected areas revegetated as appropriate?

- Yes                       No (Activity does not qualify  
for use of NWP 3 (c) )

**V. Nationwide Permit 3 (d)**

1. Does the proposed activity involve maintenance dredging for the primary purpose of navigation, beach nourishment, stream channelization OR stream relocation projects?

- Yes (Activity does not  
qualify for use of  
NWP 3 )                       No

Checklist Completed By: Siobhan Gordon -

Date: 2/13/2020

## C. Nationwide Permit General Conditions

**Note:** To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. *Navigation.* (a) No activity may cause more than a minimal adverse effect on navigation. (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States. (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. *Aquatic Life Movements.* No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. *Spawning Areas.* Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. *Migratory Bird Breeding Areas.* Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. *Shellfish Beds.* No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. *Suitable Material*. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. *Water Supply Intakes*. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. *Adverse Effects From Impoundments*. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. *Management of Water Flows*. To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. *Fills Within 100-Year Floodplains*. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. *Equipment*. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. *Soil Erosion and Sediment Controls*. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. *Removal of Temporary Fills*. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. *Proper Maintenance*. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. *Single and Complete Project*. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. *Wild and Scenic Rivers.* (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. (b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status. (c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. *Tribal Rights.* No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. *Endangered Species.* (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur. (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If preconstruction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA. (c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. The district

engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps. (d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species specific permit conditions to the NWPs. (e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (*e.g.*, an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. (f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required. (g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their worldwide Web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. *Migratory Birds and Bald and Golden Eagles.* The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.



20. *Historic Properties.* (a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. (b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106. (c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. (d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps. (e) Prospective permittees should be aware that section 110k of the

NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. *Discovery of Previously Unknown Remains and Artifacts.* If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. *Designated Critical Resource Waters.* Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment. (a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. (b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. *Mitigation.* The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal: (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (*i.e.*, on site). (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal. (c) Compensatory

mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require preconstruction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require preconstruction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. (d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult to-replace resources (see 33 CFR 332.3(e)(3)). (e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (*e.g.*, conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (*e.g.*, riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses. (f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332. (1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation. (2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)). (3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation. (4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33

CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). (5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided. (6) Compensatory mitigation requirements (*e.g.*, resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33CFR 332.4(c)(1)(ii)). (g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2- acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs. (h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management. (i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. *Safety of Impoundment Structures.* To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. *Water Quality.* Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. *Coastal Zone Management.* In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. *Regional and Case-By-Case Conditions.* The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. *Use of Multiple Nationwide Permits.* The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. *Transfer of Nationwide Permit Verifications.* If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature: When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

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(Transferee)

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(Date)

30. *Compliance Certification.* Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include: (a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions; (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the

permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(1)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and (c) The signature of the permittee certifying the completion of the activity and mitigation. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

*31. Activities Affecting Structures or Works Built by the United States.* If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a ‘USACE project’), the prospective permittee must submit a preconstruction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

*32. Pre-Construction Notification.* (a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the, additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either: (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or (2) 45 calendar days have passed from the district engineer’s receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is “no effect” on listed species or “no potential to cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s

right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2). (b) *Contents of Pre-Construction Notification*: The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed activity;
- (3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
- (4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (*e.g.*, a conceptual plan), but do not need to be detailed engineering plans);
- (5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;
- (6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.
- (7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;
- (8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for

listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act; (9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and (10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination:* (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity’s compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity’s adverse environmental effects so that they are no more than minimal. (2) Agency coordination is required for: (i) All NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of streambed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes. (3) When agency coordination is required, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity’s compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies’ concerns were



considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5. (4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act. (5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of preconstruction notifications to expedite agency coordination.

**2017 APPROVED**  
**NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS**  
**FOR SOUTH CAROLINA (REVISED)**

The following Regional Conditions have been approved by the Charleston District for the Nationwide Permits (NWP) published in the January 6, 2017, Federal Register as authorized under General Condition #27. Regional conditions are authorized to modify NWPs by adding conditions on a generic basis applicable to certain activities or specific geographic areas. Certain terminologies used in the following conditions are identified in *italics* and are defined in the above referenced Federal Register under Definitions.

**Note:** The acronym “PCN” used throughout the Regional Conditions refers to *Pre-Construction Notification*.

**For All Nationwide Permits:**

1. The applicant must implement *best management practices* during and after all construction to minimize erosion and migration of sediments off site. These practices may include use of devices capable of preventing erosion and migration of sediments in waters of the United States., including wetlands. These devices must be maintained in a functioning capacity until the area is permanently stabilized. All disturbed land surfaces must be stabilized upon project completion. Stabilization refers to the minimization of erosion and migration of sediments off site.
2. All wetland and stream crossings must be stabilized immediately following completion of construction/installation and must be aligned and designed to minimize the *loss of waters of the United States*.
3. Necessary measures must be taken to prevent oil, tar, trash, debris and other pollutants from entering waters of the United States, including wetlands that are adjacent to the authorized activity.
4. Any excess excavated materials not utilized as authorized back fill must be placed and contained on uplands and permanently stabilized to prevent erosion into waters of the United States, including wetlands.
5. Placement and/or stockpiling (double handling) of excavated material in waters of the United States, including wetlands, is prohibited unless specifically authorized in the nationwide permit verification. Should double handling be authorized, the material must be placed in a manner that does not impede circulation of water and will not be dispersed by currents or other erosive forces.
6. Once project construction is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to aquatic resources and the surrounding environment.
7. If you discover any previously unknown historic, cultural or archeological remains and

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artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent *practicable*, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. Archeological remains consist of any materials made or altered by man, which remain from past historic or prehistoric times (i.e., older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, *structures*, or non-recent (i.e., older than 100 years) vessel ruins.

8. Use of nationwide permits does not obviate requirements to obtain all other applicable Federal, State, county, and local government authorizations.
9. No NWP is authorized in areas known or suspected to have sediment contamination, with the exception of NWP 38, and NWP 53 when used in combination with NWP 38.
10. In accordance with General Condition #31, “Activities Affecting *Structures* or Works Built by the United States,” a *PCN* must be submitted if a NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE” project”). See General Condition #32 for *PCN* content and timing requirements and particularly paragraph (b)(10) for an activity that requires permission from the Corps pursuant to 33 U.S.C. 408. An activity in South Carolina that requires section 408 permission is not authorized by a NWP until the Charleston District issues the section 408 permission to alter, occupy, or use the USACE project, and the District Engineer issues a written NWP verification.
11. For all proposed activities that would be located in or adjacent to an authorized Federal Navigation project, as listed in Regional Condition #18, the *PCN* must include project drawings that have the following information: a) location of the edges of the Federal channel; b) setback distances from the edge of the channel; c) the distance from watermost edge of the proposed *structure* or fill to the nearest edge of the channel and the Mean High and Mean Low water lines; and d) coordinates of both ends of the watermost edge of the proposed *structure* or fill (NAD 83 State Plane Coordinates in decimal degrees). This notification requirement is in addition to the *PCN* requirements listed in General Condition #32.
12. For all proposed activities that would be located in waters that are designated critical habitat under section 7 of the Endangered Species Act, and waters that are proposed critical habitat, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32. 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/](http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/)

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13. For all proposed activities that would be located within a FEMA designated floodway, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32.
14. The permittee must comply with all FEMA regulations and requirements. The permittee is advised that the National Flood Insurance Program (NFIP) prohibits any development within a designated floodway within the FEMA Special Flood Hazard Area (SFHA), including placement of fill, without a “No Impact Certification” approved by the local NFIP flood plain manager. If the proposed action is located in a designated FEMA SFHA (e.g., 100 year flood plain), the permittee must coordinate with the local NFIP flood plain manager and comply with FEMA requirements prior to initiating construction. A list of NFIP floodplain managers may be found at: <http://www.dnr.sc.gov/water/flood/index.html>.
15. The permittee must comply with all FEMA regulations and requirements. The permittee is advised that development activities in a designated FEMA Special Flood Hazard Area (SFHA) are subject to the floodplain management regulations of the National Flood Insurance Program (NFIP). If the proposed action is located in a designated FEMA SFHA (e.g., 100 year flood plain), the permittee must coordinate with the local NFIP flood plain manager and comply with FEMA requirements prior to initiating construction. A list of NFIP floodplain managers may be found at: <http://www.dnr.sc.gov/water/flood/index.html>.

**For Specific Nationwide Permits:**

16. **For NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51 and 52**, in accordance with General Condition # 22(a), Designated Critical Resource Waters, the discharges of dredged or fill material into waters of the United States within, or directly affecting, critical resource waters, including wetlands adjacent to such waters, are NOT authorized by these NWPs. Note: The ACE Basin National Estuarine Research Reserve and the North Inlet Winyah Bay National Estuarine Research Reserve are Designated Critical Resource Waters.
17. **For NWP 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38 and 54**, in accordance with General Condition # 22(b), Designated Critical Resource Waters, a *PCN* is required for any activity proposed in designated critical resource waters including wetlands adjacent to those waters. Refer to General Condition #32 for *PCN* requirements. Note: The ACE Basin National Estuarine Research Reserve and the North Inlet Winyah Bay National Estuarine Research Reserve are Designated Critical Resource Waters.
18. **For NWP 1, 3, 5, 7, 8, 10, 11, 12, 13, 14, 15, 19 and 36**, the prospective permittee must submit a *PCN* to the District Engineer for any activity that would be located in or adjacent to an authorized Federal Navigation project. These Federal navigation areas include Adams Creek, Atlantic Intracoastal Waterway (AIWW), Ashley River, Brookgreen Garden Canal, Calabash Creek Charleston Harbor (including the Cooper River and Town Creek), Folly River, Georgetown Harbor (Winyah Bay, Sampit River, and Bypass Canal), Jeremy Creek, Little River Inlet, Murrells Inlet (Main Creek), Port Royal Harbor, Savannah River, Shem Creek

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(including Hog Island Channel & Mount Pleasant Channel), Shipyard Creek, Village Creek and the Wando River.

19. **For NWPs 3, 11, 12, 13, 14, 15, 20, 22 and 33**, temporary *structures*, fills, and/or work, including the use of temporary mats, are only authorized for a period of 90 days per temporary impact area and/or phase of the overall project. The permittee may submit a written request at least 15 days prior to the expiration of the original period of 90 days requesting an extension of up to an additional 90 days. The Charleston District Engineer may extend the 90-day period up to an additional 90 days, not to exceed more than a total of 180 days, where appropriate. After expiration of the authorized period (i.e., initial 90 days or up to an additional 90 days), all temporary *structures*, fills, and/or work, including the use of temporary mats, for the temporary impact area and/or phase of the overall project must be removed and the disturbed areas restored to pre-disturbance conditions. Activities that require the use of temporary *structures*, fills, and/or work, including the use of temporary mats, in excess of 180 days will require Individual Permit authorization from the Corps prior to construction.
20. **For NWPs 3, 11, 12, 13, 14, 15, 20, 22 and 33**, that require *PCNs* and that involve temporary *structures*, fills, and/or work, including the use of temporary mats, the *PCN* must include a written description and/or drawings of the proposed temporary activities that will be used during project construction. This requirement is in addition to the *PCN* requirements listed in General Condition #32.
21. **For NWPs 29, 39, 40, 42, 43, 44, 51 and 52**, impacts to stream beds\*\* must be provided in both linear feet and acreage.
22. **NWPs 12, 14, 29, 39, 43, 51 and 52**, will not be used in conjunction with one another for an activity that is considered a *single and complete project*.
23. **For NWPs 12, 14, 29, 39, 46, 51 and 52**, all *PCNs* must include appropriately sized and positioned culverts that meet the requirements of General Conditions #2, #9 and #10 for each individual crossing of waters of the United States. This requirement is in addition to the *PCN* requirements listed in General Condition #32.
24. **For NWPs 12, 14, 29, 39, 46, 51 and 52**, that include the new construction and/or replacement of culverted road crossings, at a minimum, the width of the base flow culvert(s) shall be approximately equal to the average channel width and will not reduce or increase stream depth. This is a minimum requirement that does not replace local and State requirements for roadway design.
25. **For NWPs 12, 14, 18 and 27**, the *discharge* must not cause the *loss* of more than 300 linear feet of stream bed\*\*, unless for *intermittent* and *ephemeral* stream beds the District Engineer waives the 300 linear foot limit by making a written determination concluding that the *discharge* will result in no more than minimal adverse environmental effects.
26. **For NWPs 12, 14, 18 and 27**, the *discharge* cannot cause the *loss* of more than 300 linear feet

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of *perennial stream* beds\*\*.

27. **For NWPs 12, 14, and 18**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32, prior to commencing the activity if the proposed *discharge* will impact more than 25 linear feet of streambed. This notification requirement is in addition to the *PCN* requirements listed in General Condition #32.
28. **For NWP 3**, paragraph (a) and (c) activities, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition # 32, if the proposed *discharge* of dredged or fill material will cause the loss of greater than 1/10-acre of waters of the United States or if the proposed *discharge* of dredged or fill material will be located within a special aquatic site, which includes but is not limited to, wetlands, mudflats, vegetated shallows, *riffle and pool complexes*, sanctuaries, and refuges.
29. **For NWP 3**, paragraph (a) activities, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition # 32, for the repair, rehabilitation or replacement of existing utility lines constructed over *navigable waters* of the United States (i.e., Section 10 waters) and existing utility lines routed in or under *navigable waters* of the United States (i.e., Section 10 waters), even if no *discharge* of dredged or fill material occurs.
30. **For NWP 3**, paragraph (b) activities, excavation of accumulated sediment or other material is not authorized in areas within the immediate vicinity of existing *structures* (e.g., private or commercial dock facilities, piers, canals dug for boating access, marinas, boat slips, etc.).
31. **For NWPs 7 and 12**, the associated intake *structure* must be screened to prevent entrainment of juvenile and larval organisms, and the inflow velocity of the associated intake *structures* cannot exceed 0.5 feet/second.
32. Activities authorized by **NWP 7** must occur in the immediate vicinity of the outfall, and must be necessary for the overall construction or modification of the outfall. **NWP 7** shall not be used to authorize ancillary activities such as construction of access roads, installation of utility lines leading to or from the outfall or intake *structures*, construction of buildings, distant activities, etc.
33. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)** that involve horizontal directional drilling beneath *navigable waters* of the United States (i.e., section 10 waters), the *PCN* must include a proposed remediation plan (i.e., frac-out plan). This requirement is in addition to the *PCN* requirements listed in General Condition #32.
34. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)**, excavated material shall be returned to the trench and any remaining material shall be relocated and retained on an upland disposal site. Substrate containing roots, rhizomes, seeds, and other natural material must be kept viable and replaced at the surface of the excavated site. Impacted wetlands will be replanted with native wetland

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species or allowed to naturally re-vegetate from the replaced substrate, as long as the resulting vegetation is native.

35. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)**, stream banks that are cleared of vegetation will be stabilized using bioengineering techniques and/ or the planting of deep-rooted native species.
36. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)**, construction techniques to prevent draining, such as anti-seep collars, will be required for utility lines buried in waters of the United States when necessary. If no construction techniques to prevent draining are proposed, the prospective permittee must provide appropriate documentation to support that such techniques are not required to prevent drainage of waters of the United States.
37. **For NWP 12**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32 prior to commencing the activity if the activity will involve temporary *structures*, fills, and/or work. To be complete, the *PCN* must also include the specifications of how pre-construction contours will be re-established and verified after construction. This notification requirement is in addition to the notification criteria listed for this NWP.
38. **For utility line activities authorized by NWP 12, (as well as utility lines associated with projects authorized by NWP 29 and 39)**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32, prior to commencing the activity if the activity will involve maintained utility crossings. To be complete, the *PCN* must also include a justification for the required width of the maintained crossing that impacts waters of the United States. This notification requirement is in addition to the notification criteria listed for this NWP.
39. **For NWP 12**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32 prior to commencing the activity if the activity will involve the construction of a sub-station in waters of the United States. To be complete, the *PCN* must also include a statement of avoidance and minimization for the *loss of waters of the United States* impacted by the utility line sub-station. This requirement is in addition to the *PCN* requirements listed in General Condition #32.
40. **For NWP 12**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32 prior to commencing the activity if the activity will involve the permanent conversion of forested wetlands to herbaceous wetlands. To be complete, the *PCN* must also include the acreage of conversion impacts of waters of the United States and a *compensatory mitigation* proposal or a statement of why *compensatory mitigation* should not be required. This requirement is in addition to the *PCN* requirements listed in General Condition #32.

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41. **For NWP 13 activities, NWP 54 activities, and living shoreline projects authorized by NWP 27** that require submittal of a *PCN*, the *PCN* must include the following information:

- a. Habitat type along the shoreline;
- b. The presence of stabilization *structures* in the vicinity of the project;
- c. Cause/s, extent, and approximate rate of erosion (if known);
- d. Site specific information which may include: shoreline orientation, slope, bank height, tidal range, nearshore bathymetry, fetch, substrate stability, etc.;
- e. Rationale for selecting the preferred stabilization technique;
- f. A statement that structural materials toxic to aquatic organisms will not be used and if stone is proposed, a statement that only clean stone, free of exposed rebar, asphalt, plastic, soil, etc., will be used; and
- g. A statement that filter fabric will be used as appropriate when stone or other heavy material is proposed.

These requirements are in addition to the *PCN* requirements listed in General Condition #32.

42. Projects qualifying for **NWP 27 and/or NWP 54** will require coordination with appropriate Federal, State, and local agencies. The coordination activity will be conducted by the Corps of Engineers. Agencies will generally be granted 15 days to review and provide comments unless the District Engineer determines that an extension of the coordination period is reasonable and prudent.

43. **For NWP 29**, the *loss of waters of the United States* is limited to a maximum of 1/4-acre for a single family residence.

44. **For NWPs 29 and 39**, the *discharges* of dredged or fill material for the construction of *stormwater management facilities* in *perennial streams* are not authorized.

45. **For NWP 33**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32, for temporary construction, access, and dewatering activities that occur in non-tidal waters of the United States, including wetlands. In addition, the *PCN* shall include a restoration plan.

46. **For NWP 36**, only one boat ramp may be constructed on a single lot or tract of land (e.g., each lot within a subdivision).

47. **For NWP 38**, the *PCN* must contain the following information:

- a. documentation that the specific activities are required to effect the containment, stabilization, or removal of hazardous or toxic waste materials as performed, ordered, or sponsored by a government agency with established legal or regulatory authority;
- b. a narrative description indicating the size and location of the areas to be restored, the work involved and a description of the anticipated results from the restoration; and



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c. a plan for the monitoring, operation, or maintenance of the restored area.

This requirement is in addition to the *PCN* requirements listed in General Condition #32.

48. **For NWP 41**, a *PCN* must be submitted to the District Engineer for projects that require mechanized land clearing in waters of the United States, including wetlands, in order to access or perform reshaping activities.
49. **NWP 41** is prohibited in channelized streams or stream relocation projects that exhibit natural stream characteristics and/or perform natural stream functions.
50. **For NWP 48**, changing from bottom culture to floating or suspended culture will require submittal of a *PCN* to the District Engineer. Additionally, new aquaculture activities involving suspended or floating culture will require submittal of a *PCN* to the District Engineer. Refer to the *PCN* requirements listed in General Condition #32. Note: If the District Engineer determines that the proposed floating or suspended culture will result in more than minimal adverse environmental effects, an Individual Permit will be required for the proposed activity.
51. **For NWP 48**, when a new commercial shellfish aquaculture activity will occur adjacent to property that is not owned by the prospective permittee, the activity will require submittal of a *PCN* to the District Engineer. The *PCN* must include the following information in addition to the *PCN* requirements listed in General Condition #32:
  - a. A map or depiction that shows the adjacent property(ies) and adjacent property owners' contact information. Note: This information may be obtained online from the applicable county's tax information pages.
  - b. A signed letter(s) of "no objection" to the proposed commercial shellfish activity from each of the adjacent property owner(s). Each letter shall include the name, mailing address, property address, property Tax Map Parcel (TMS) number, and signature of the property owner.
52. **For NWP 53**, the *PCN* must include a Tier I evaluation, in accordance with the Inland Testing Manual, for the project area immediately upstream of the low-head dam. If the Tier I evaluation indicates contaminated sediments are present, a Tier II evaluation may be required.
53. **For NWP 54 projects and living shoreline and/or oyster restoration projects authorized by NWP 27**, the *PCN* must include the following information in addition to the *PCN* requirements listed in General Condition #32:
  - a. A plan view project sketch that shows the proposed project footprint; the Mean High Water (MHW) Line; the Mean Low Water (MLW) Line; marsh line (if applicable); shoreline; width of the waterway at the project location; location of adjacent *structures*,

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such as docks and boat ramps (if applicable); distance of the project footprint from the MHW line; distance of the project footprint from adjacent *structures*; and proposed location of informational or navigation markers. Refer to c. and d. below, if applicable. Note: Refer to Regional Condition #11 if the proposed project is located in or adjacent to an authorized Federal Navigation project for the additional information that will be required.

b. A cross-section sketch that shows the height of the proposed project above substrate and the water depth at MHW Line and MLW Line in relation to the proposed project.

c. For projects that are 18 inches or less in height above substrate AND consist of hard *structures* or fill material, such as, but not limited to, riprap, oyster castles, bagged oyster shell and wooden sills, informational signs to alert boaters to the presence of the project area will be required. The *PCN* must include a depiction and description of proposed informational signs. The signs must be made of reflective material or must include reflective tape on the sign or sign post. The signs must be located at each end of the project area and at 100-foot increments along the project area, if applicable. Note 1: Projects that include ONLY the use of loose shell will not require the installation of informational or navigational signs. Note 2: The prospective permittee shall be made aware that the U.S. Coast Guard (USCG) may require the project area to be marked. Prior to commencing work, the permittee shall contact the USCG at U. S. Coast Guard Charleston District Seven, Waterways Management Branch, 909 SE 1st Ave, Suite 406, Miami, FL 33131, or by phone at 305-415-6755 or 305-415-6750, regarding possible markers and/or lighting requirements. The permittee shall install all markers and/or lighting as required by the USCG. In the event that the USCG does not require markers or lighting, the permittee shall mark the project area with Corps approved informational signs as described above. Note 3: These requirements will be added to the NWP verification as special conditions.

d. For projects that are more than 18 inches in height above substrate AND consist of hard *structures* or fill material, such as, but not limited to, riprap, oyster castles, bagged oyster shell, and wooden sills, the prospective permittee must mark the project area with diamond-shaped white day markers with orange border and black print stating “Danger Obstruction”. The signs shall be located at each end of the project area and at 100-foot increments along the project area, if applicable. Note 1: Projects that include ONLY the use of loose shell will not require the installation of informational or navigational signs. Note 2: Prior to commencing work, the permittee shall contact the USCG at U. S. Coast Guard Charleston District Seven, Waterways Management Branch, 909 SE 1st Ave, Suite 406, Miami, FL 33131, or by phone at 305-415-6755 or 305-415-6750, regarding potential project specific approval of the markers. The permittee shall install all markers and/or lighting as required by the USCG. In the event the USCG does not require these or other markers and/or lighting, the “Danger Obstruction” markers are still required by the Corps. Note 3: These requirements will be added to the NWP verification as special conditions.

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\*\* For the purpose of these regional conditions, the term “stream bed” also includes features determined to be a “tributary” and a “relatively permanent water.”

Note 1: For the purpose of these regional conditions, bankfull is defined as the top-of-bank to top-of bank of the channel in a cross-sectional view.

Note 2: Regional conditions # 14, #15, and #53d were revised on September 7, 2017.