U.S. ARMY CORPS OF ENGINEERS: COMMON PERMITTING SCENARIOS

Jade Bilyeu, Project Manager, Piedmont Branch
Adam White, Team Lead, Piedmont Branch
Tyler Brock, Project Manager. Coastal Branch
Justin Edwards, Regulatory Specialist, Piedmont Branch
Savannah District Regulatory Division
29 March 2023

U.S.ARMY

US Army Corps of Engineers®

DISCUSSION TOPICS

- Program Overview
- Jurisdiction
- OHWM
- Types of Permits
- Common Scenarios

U.S.ARMY

US Army Corps of Engineers®

CORPS REGULATORY JURISDICTION

Section 10 of the RHA of 1899 (33 USC 403):

Prohibits the unauthorized obstruction or alteration of any "navigable water of the United States."

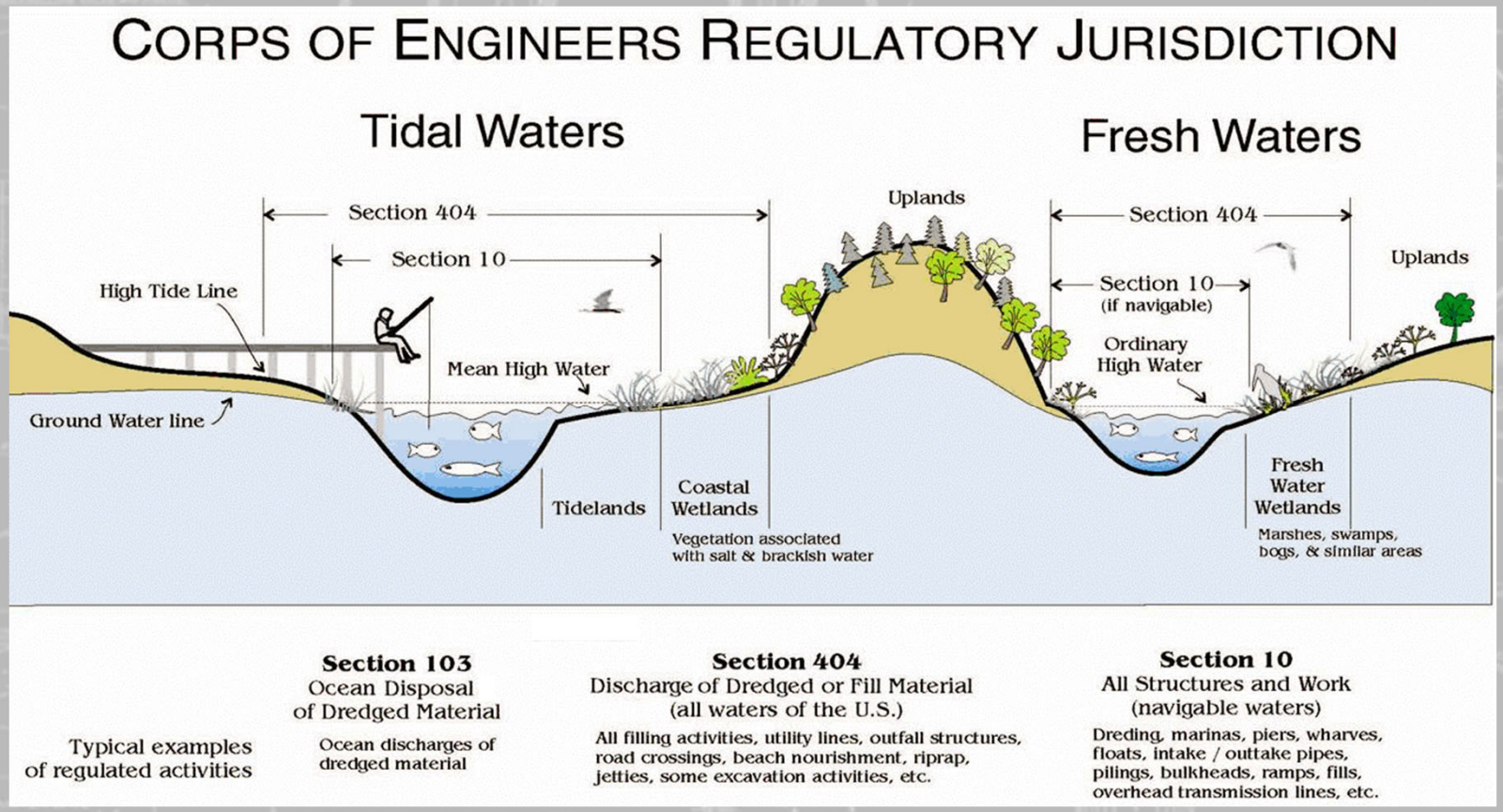
Section 404 of the Clean Water Act (33 USC 1344):

Prohibits the discharge of dredged or fill material into all "waters of the United States, including wetlands" without obtaining a permit from the Corps of Engineers.

U.S.ARMY

US Army Corps of Engineers®

WATERS OF THE UNITED STATES



US Army Corps of Engineers®

RHA Navigable Waters
Above the Georgia Fall-line

- Chattahoochee River below Gainesville
- Tallapoosa River
- Coosawattee River below Ellijay
- Conasauga River
- Toccoa River
- South & West Chickamauga Creeks
- Coosa River & Oostanaula River (but NOT Etowah)
- Corps Lakes - Lanier, Hartwell and Carters Lake (but NOT Allatoona)
- TVA Lake Blue Ridge (but NOT Nottely or Chatuge)

U.S.ARMY

US Army Corps of Engineers®

SECTION 404 OF THE CLEAN WATER ACT

To restore and maintain the chemical, physical and biological integrity of the waters of the U.S. Requires that you obtain a permit from the Regulatory Branch for the discharge of dredged or fill material in any water of the U.S., including wetlands.

US Army Corps of Engineers®

SECTION 404 OF THE CLEAN WATER ACT

Definitions:

High Tide Line: shoreward limit of Corps jurisdiction for all tidal waters (Section 404 regulated activities); intersection of land and water at the maximum height reached by a rising tide.

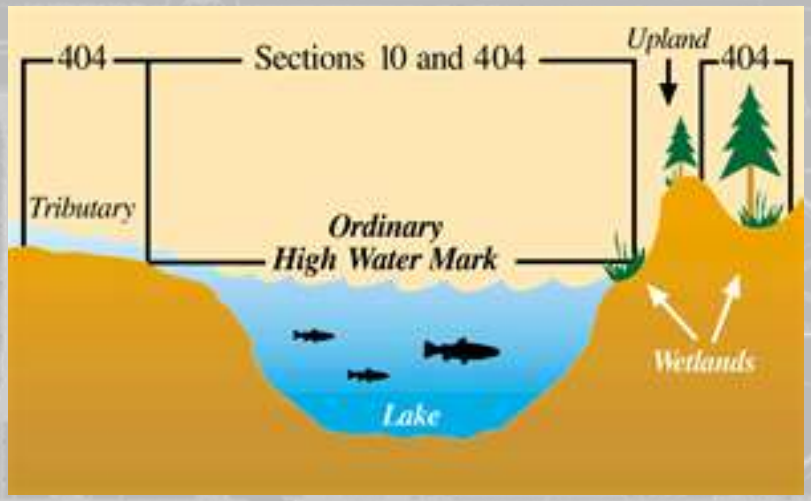
U.S.ARMY

US Army Corps of Engineers®

SECTION 404 OF THE CLEAN WATER ACT

Definitions:

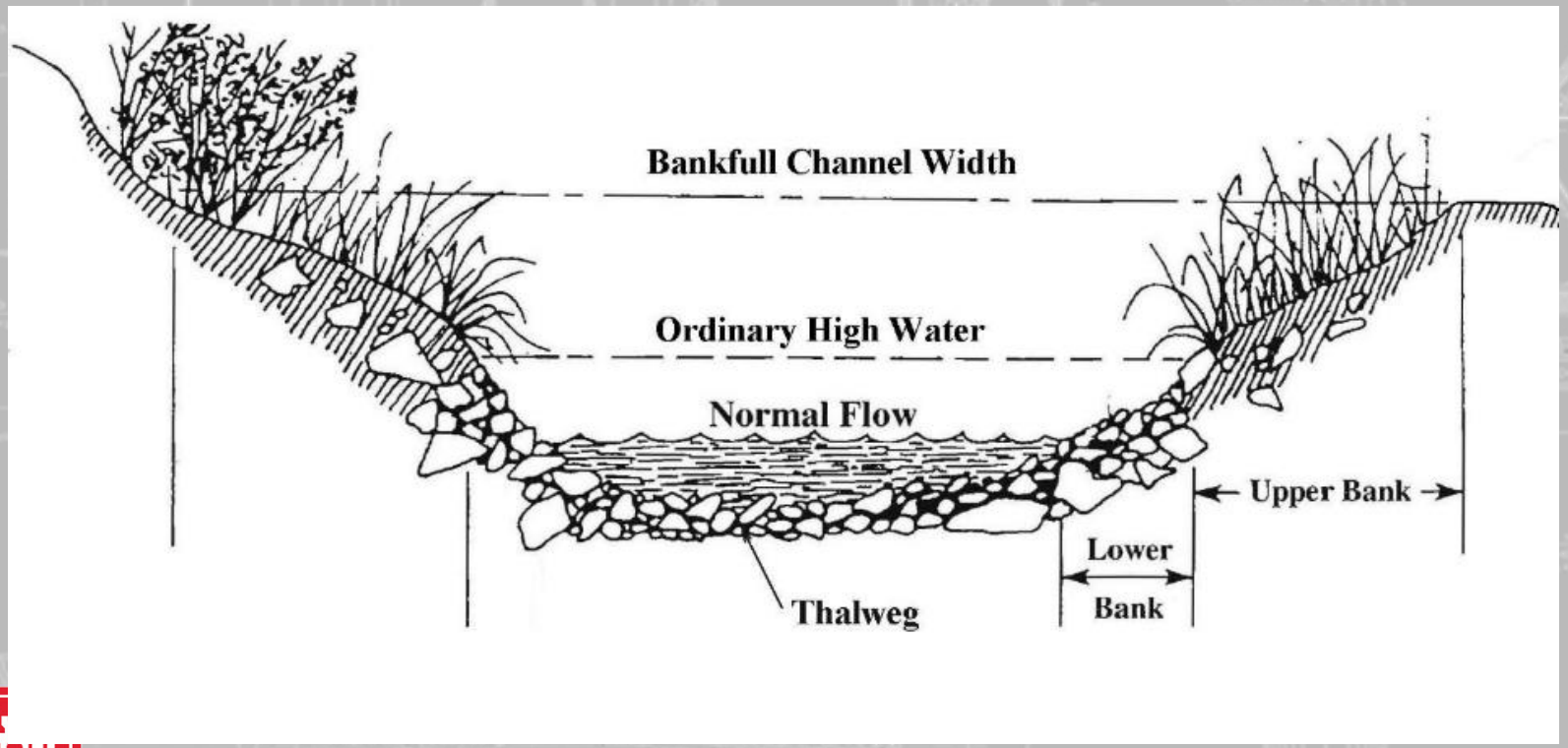
Ordinary High Water: shoreward limit of Corps jurisdiction for all non-tidal waters; line on the shore of streams and lakes established by the normal fluctuations in the water level.



U.S.ARMY

US Army Corps of Engineers®

TYPICAL STREAM CROSS-SECTION



U.S.ARMY

US Army Corps
of Engineers ®

STREAM BED AND BANK

- The bed is the physical confine of the normal water flow.
- The stream banks are the lateral channel margins during all but flood stage.

U.S.ARMY

US Army Corps of Engineers®

CHARACTERISTICS OF AN OHWM

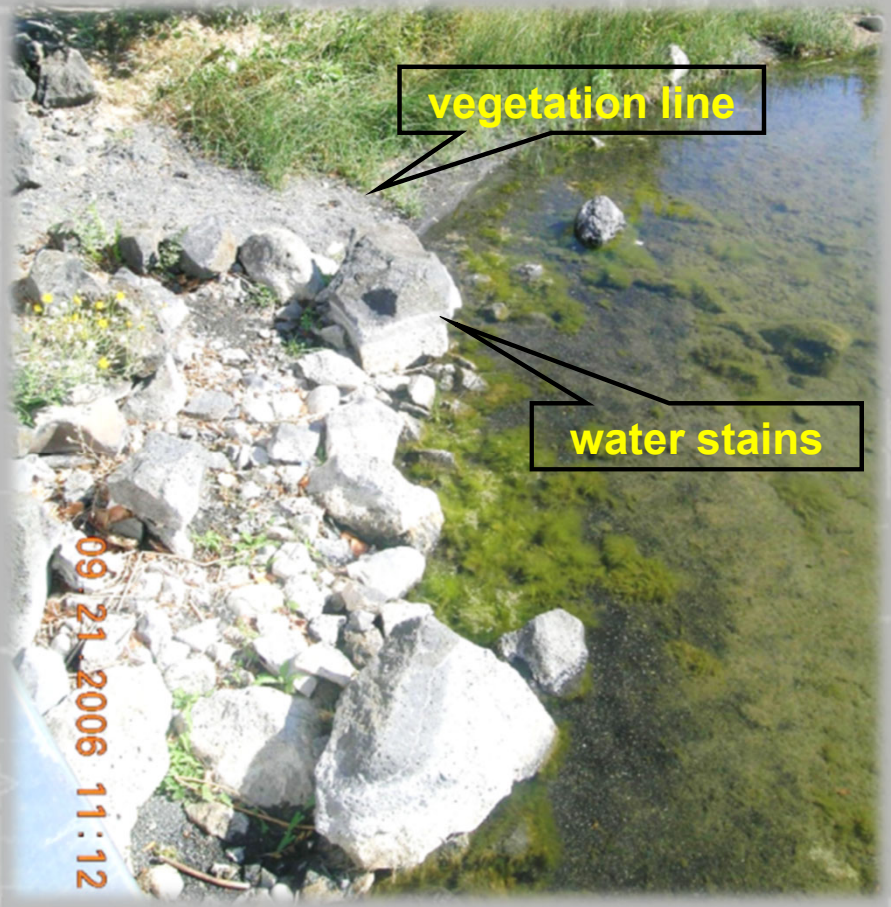
REGULATORY GUIDANCE LETTER (RGL) 05-05

Clear, natural line impressed on the bank
Changes in the character of soil
Shelving
Vegetation matted down, bent, or absent
Leaf litter disturbed or washed away
Sediment deposition
Water staining
The presence of litter and debris
Destruction of terrestrial vegetation
The presence of wrack line
Sediment sorting
Scour
Multiple observed or predicted flow events
Abrupt change in plant community

U.S.ARMY

US Army Corps of Engineers®

ORDINARY HIGH WATER MARK LINE OF JURISDICTION IN FRESHWATER



U.S.ARMY

US Army Corps of Engineers®

ORDINARY HIGH WATER MARK (OHWM)

U.S.ARMY

US Army Corps of Engineers ®

WHAT REQUIRES A SECTION 404 PERMIT?*

- Placement of fill material
- Slab-on-grade foundations
- Most road construction
- Dam construction and Impoundment
- Levee and dike construction
- Some mechanized land clearing
- Grading and landscaping
- Some pile-supported structures

*In other words, most projects involving the placement of fill, or dredged material into waters.

U.S.ARMY

US Army Corps of Engineers®

ACTIVITIES REGULATED AS A "DISCHARGE OF FILL MATERIAL"

Material that has the effect of:

- Replacing any portion of a water of the U.S. with dry land; or
- Changing the bottom elevation of any portion of a water of the U.S.

- Fill material includes: Rock, Sand, Soil, Clay, Plastics, Construction debris, Wood chips, Overburden from excavation, or Materials used to create any Structure in waters of the US.

U.S.ARMY

US Army Corps of Engineers®

ACTIVITIES REGULATED AS A "DISCHARGE OF DREDGED MATERIAL"

mechanized land clearing (side-casting dredged material)
grading
excavation (with associated discharge)

Trenching in wetlands

US Army Corps of Engineers®

ACTIVITIES REGULATED UNDER SECTION 404

US Army Corps of Engineers®

PERMITTING

- There is no minimum threshold for impacts – ASSUME ALL FILLS REQUIRE A PERMIT

- Some regulated activities do not require notification to the Corps prior to construction

- We encourage communication with our office on ALL potentially regulated activities

US Army Corps of Engineers®

TYPES OF STANDARD PERMITS

Letters of Permission (LOP): Abbreviated process. Used to authorize minor projects, with no significant environmental impacts and should encounter no appreciable opposition. (Docks, etc.)

Individual Permits (IP): Issued for projects that have more than a minimal impact on the environment. Pre-application meetings are held in our Piedmont and Savannah offices.

US Army Corps of Engineers®

TYPES OF GENERAL PERMITS

- **General Permits (GP):** Issued for projects similar in nature and cause only minimal environmental impacts. For example:

1. Nationwide Permits (NWP)

- Wetland fills of less than ½ acre and/or stream impacts of less than 300’
- Minor road crossings
- Buried utility lines
- Sand bed for septic systems
- Private residences
- Bank stabilization

2. Regional Permits (RP)

- Private boat docks
- Public boat ramps
- Artificial offshore reefs
- County road improvements

US Army Corps of Engineers®

WHAT IS A NATIONWIDE PERMIT (NWP)?

Type of General Permit
Issued by Headquarters every 5 years
Streamlined review process for projects with minimal aquatic impacts

- Utility Lines
- Transportation
- Bank Stabilization
- Residential, Commercial and Institutional Developments
- Repair and Maintenance of Existing Structures

U.S.ARMY

US Army Corps of Engineers®

2021 NWPS

1) Aids to Navigation
2) Structures in Artificial Canals
3) Maintenance
4) Fish & Wildlife Harvesting, Enhancement & Attraction Devices and Activities
5) Scientific Measurement Devices
6) Survey Activities
7) Outfall Structures and Associated Intake Structures
8) Oil and Gas Structures on the Outer Continental Shelf
9) Structures in Fleeting and Anchorage Areas
10) Mooring Buoys
11) Temporary Recreational Structures
12) Oil and Natural Gas Pipeline Activities
13) Bank Stabilization
14) Linear Transportation Projects
15) U.S. Coast Guard Approved Bridges
16) Return Water from Upland Contained Disposal Areas
17) Hydropower Projects
18) Minor Discharges
19) Minor Dredging
20) Response Operations for Oil or Hazardous Substances
21) Surface Coal Mining Activities
22) Removal of Vessels
23) Approved Categorical Exclusions
24) Indian Tribe or State Administered Section 404 Programs
25) Structural Discharges
26) [Reserved]
27) Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28) Modifications of Existing Marinas
29) Residential Developments
30) Moist Soil Management for Wildlife
31) Maintenance of Existing Flood Control Facilities
32) Completed Enforcement Actions
33) Temporary Construction, Access and Dewatering
34) Cranberry Production Activities
35) Maintenance Dredging of Existing Basins
36) Boat Ramps
37) Emergency Watershed Protection and Rehabilitation
38) Cleanup of Hazardous and Toxic Waste
39) Commercial and Institutional Developments
40) Agricultural Activities
41) Reshaping Existing Drainage Ditches
42) Recreational Facilities
43) Storm water Management Facilities
44) Mining Activities
45) Repair of Uplands Damaged by Discrete Events
46) Discharges in Ditches
47) Reserved
48) Commercial Shellfish Mariculture Activities
49) Coal Remining Activities
50) Underground Coal Mining Activities
51) Land-Based Renewable Energy Generation Facilities
52) Water-Based Renewable Energy Generation Pilot Projects
53) Removal of Low Head Dams
54) Living Shorelines
55.) Seaweed Maricultural Activities
56.) Finfish Mariculture Activities
57.) Electric Utility Line and Telecommunications Activities
58.) Utility Line Activities for Water and Other Substances
59.) Water Reclamation and Reuse Facilities

U.S.ARMY

US Army Corps of Engineers®

NAVIGATING THE NWP PROGRAM

- Does the proposed activity qualify (i.e. does it meet the "terms" of a NWP)?

- Does the proposed activity comply with the NWP General Conditions? The District Regional Conditions?

- Will the proposed activity result in minimal individual or cumulative adverse environmental effects?

U.S.ARMY

US Army Corps of Engineers®

PIPELINE PROJECTS

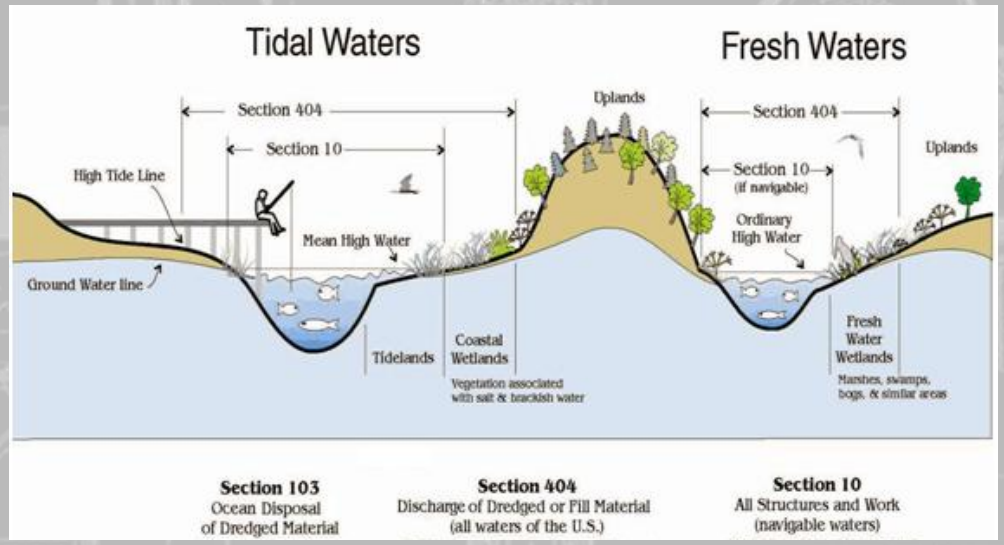
Justin Edwards
Regulatory Specialist (Biologist)
South Atlantic Division
Savannah District Regulatory Division,
Piedmont Branch
March 29, 2023

U.S.ARMY

US Army Corps of Engineers®

CORPS JURISDICTION

The area of pipeline projects which must maintain erosion control in connection with Department of the Army permits are all crossings of waters of the United States and the slopes which drain directly to the waterway.



US Army Corps of Engineers ®

METHODS FOR CROSSING

- **Open-cut trenching**: Material is excavated and side casted to accommodate pipe installation. Pre-construction contours are restored upon completion of work.
- **Directional boring**: Minimal impact trenchless method of installing underground utilities along a prescribed underground path using a surface-launched drilling. Utilized to avoid impacts to waters entirely.
- Aerial crossings or pipes installed within roadways are other options to avoid discharges.

"The views, opinions and findings contained in this report are those of the authors(s) and should not be construed as an official Department of the Army position, policy or decision, unless so designated by other official documentation."

U.S.ARMY

US Army Corps of Engineers ®

IMPACT MINIMIZATION METHODS IN STREAMS

Plan #1 (lower velocity streams):

- Install straw bales/silt screening downstream of construction area.
- For swifter streams, install water dams (small coffer dams) up stream to divert flows

Plan #2 (higher velocity streams that prevent the implementation of silt screens across the entire width of the stream.):

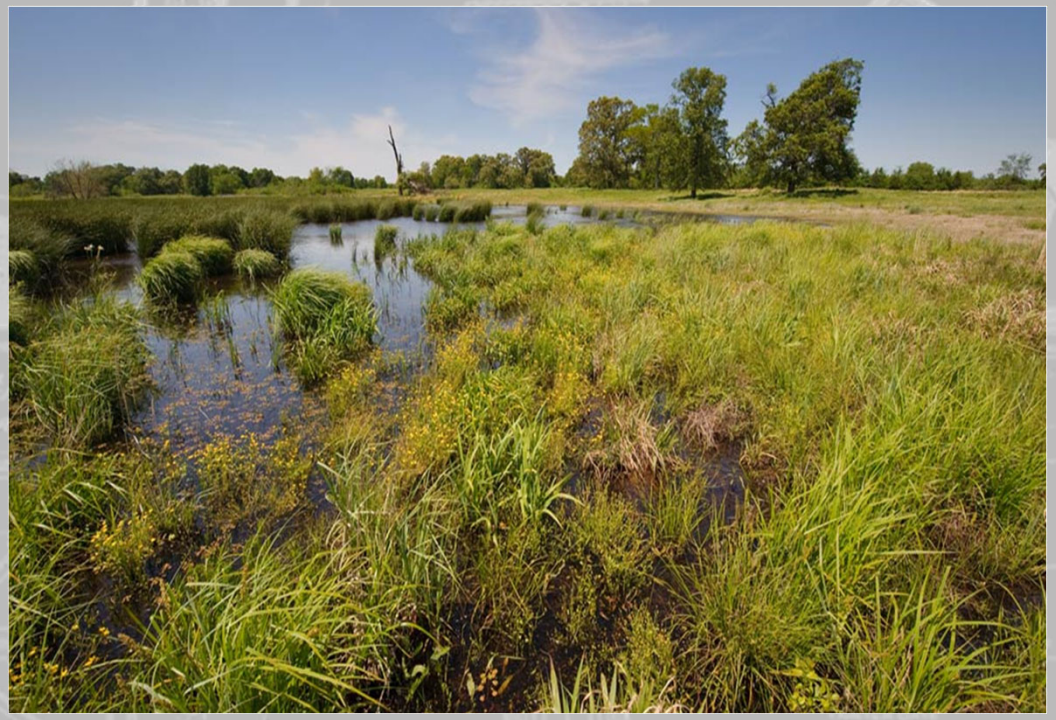
- Install turbidity curtains alone or around coffer dams; has a flotation boom and a weighted bottom load line which allows sediment to settle to the stream bed from the bank thus minimizing the impact of equipment in the stream

U.S.ARMY

US Army Corps of Engineers®

IMPACT MINIMIZATION METHODS IN WETLANDS

- Construction across wetlands should be performed so that the **disturbance of wetland vegetation is minimized**.
- Construction methods should **minimize the extent of construction equipment usage in wetland areas**. Trenching equipment and backfilling equipment working in wetlands shall be placed on mats or mud boards.
- The **top 6 to 12 inches of the trench is required to be backfilled with topsoil from the** trench. Excess backfill shall be disposed of on dry land rather than in wetlands.
- After construction, the wetland crossing must be **restored to preconstruction bottom contours** and maintained in wetland vegetation.
- If proper construction procedures are followed and the hydrology of the site is not adversely affected, the wetland should naturally revegetate.



U.S.ARMY

US Army Corps of Engineers®

OTHER TEMPORARY SEDIMENTATION AND EROSION CONTROL MEASURES

2021 Nationwide Permit General Condition 12:

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.

- Sediment barriers
- Interceptor dikes
- Trench plugs (breakers)
- Trench dewatering
- Diversion ditches
- Sediment ditches
- Sediment basins
- Flexible downdrains
- Nonvegetative soil stabilizations
- Temporary seeding and revegetation

U.S.ARMY

US Army Corps of Engineers®

PERMANENT RESTORATION MEASURES

1. Construct or leave previously constructed interceptor dikes (as needed).
2. Fertilize and lime slopes (as needed).
3. Seed the area with two to five native species.
4. Employ the addition of nonvegetative stabilization (mulching, matting, etc.), if vegetative stabilization is insufficient.
5. Put sediment barriers (hay bales, fabric fence, etc.) where drains and ditches allow sediment to enter the waterway or wetland.
6. Implement stream bank stabilization (as needed).
7. Remove temporary structures which are not necessary and are not biodegradable.
8. If warranted, monitor and maintain erosion control measures until stabilization of the area has been accomplished satisfactorily.

U.S.ARMY

US Army Corps of Engineers®

EROSION AND SEDIMENT CONTROL-COASTAL GA

Tyler Brock
Project Manager
South Atlantic Division
Savannah District, Regulatory Division
Coastal Branch

U.S.ARMY

US Army Corps of Engineers ®

OUTLINE

Erosion and sedimentation happens in the Coastal Plain in many ways and the Corps has a hand in helping to fix and or prevent such issues.

Typical E&S projects:

– Beach Renourishment

– Silt Suspension

– Dredging Maintenance

US Army Corps of Engineers®

TYBEE BEACH RENOURISHMENT PROJECT

U.S.ARMY

US Army Corps of Engineers®

SAINT SIMONS REVETMENT PROJECT

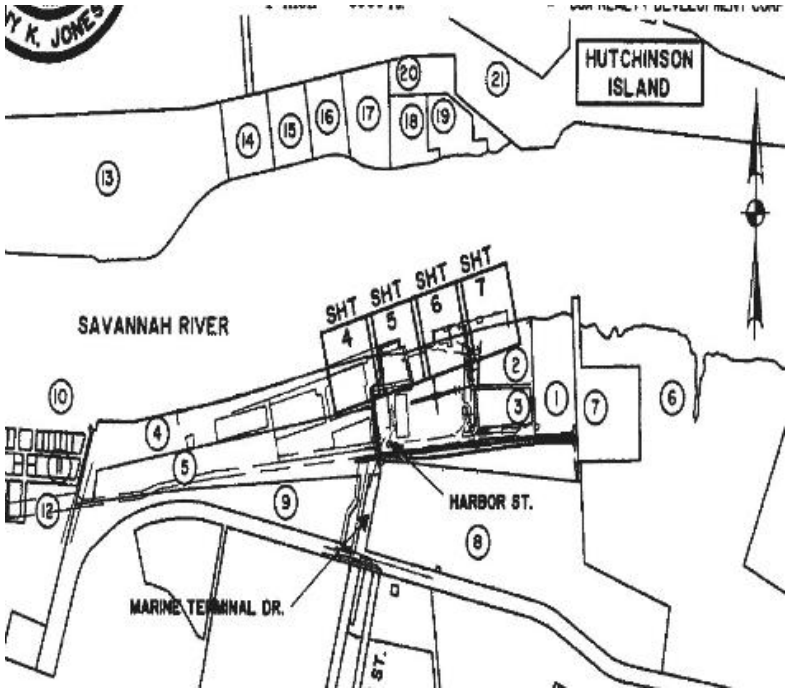
U.S.ARMY

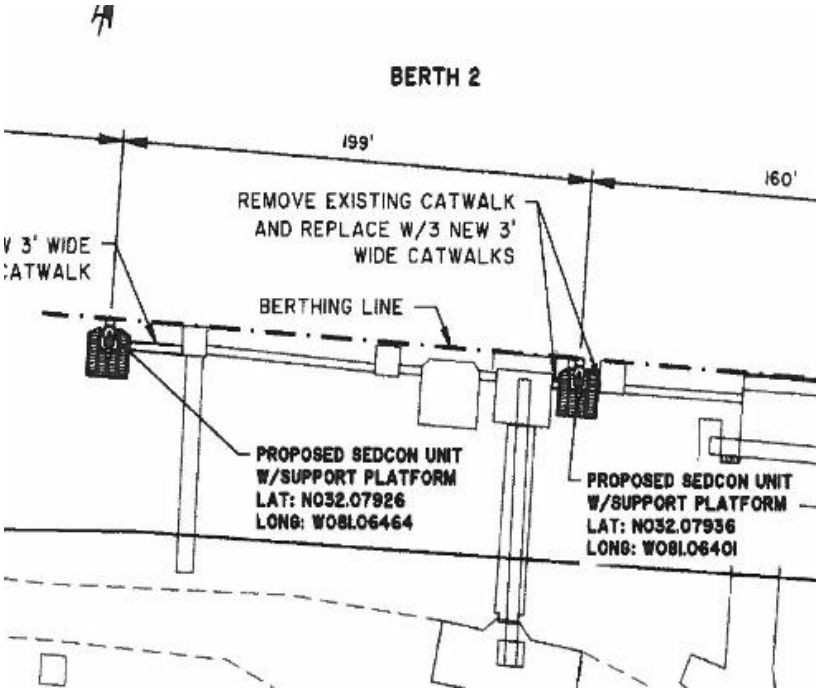
US Army Corps of Engineers®

SAVANNAH RIVER MAINTENANCE DREDGING

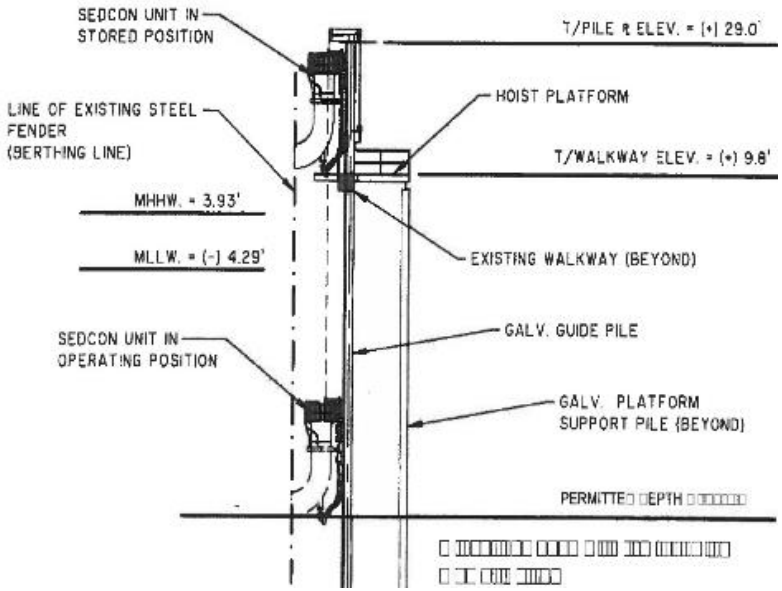
US Army Corps of Engineers®

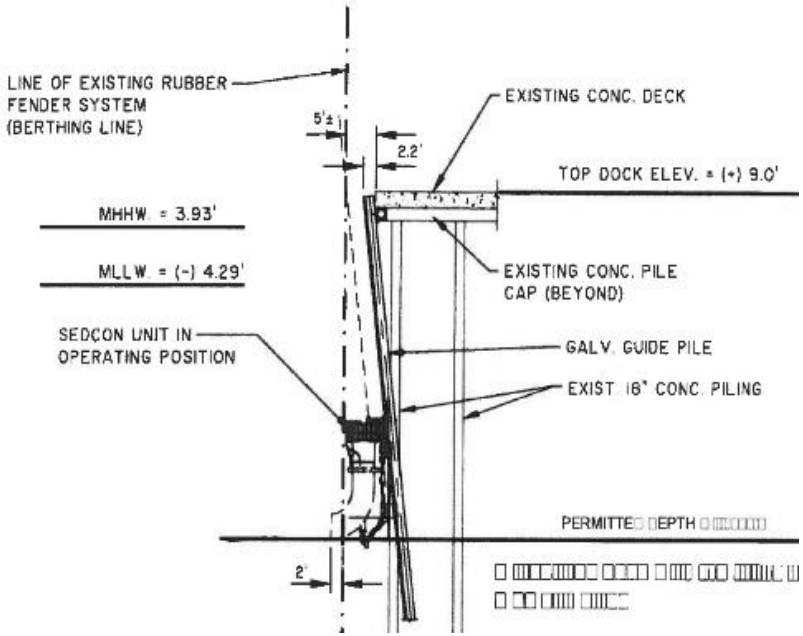
SILT SUSPENSION UNIT PROJECT





SILT SUSPENSION UNIT PROJECT





BANK STABILIZATION
NWP 13

Jade Bilyeu
Project Manager (Biologist)
South Atlantic Division
Savannah District Regulatory Division,
Piedmont Branch
March 29, 2023

U.S.ARMY

US Army Corps of Engineers®

NATIONWIDE PERMIT 13

Stream Bank Stabilization Criteria

1. No material in excess of min. necessary for erosion protection
2. No more than 500 linear feet in length (each bank counts separately)
3. Will NOT exceed average of one cubic yd./ running ft.
4. No discharges into special aquatic sites (i.e. wetlands, etc.)
5. No material will impair surface water flow into/ out WOTUS

U.S.ARMY

US Army Corps of Engineers®

NATIONWIDE PERMIT 13

Stream Bank Stabilization Criteria

6. No material placed that would be eroded by normal or high flows
7. Native plants, used for bioengineering or vegetative bank stabilization
8. NOT a stream channelization activity
9. Must be maintained after severe storm events

Note: Authorizes temporary structures, fills, work, (temporary mats) to construct the bank stabilization activity.

U.S.ARMY

US Army Corps of Engineers®

NATIONWIDE PERMIT 13

Stream Bank Stabilization Notification

Permittee must submit Pre-construction Notification (PCN) if the activity involves:

– Discharges into special aquatic sites

– Excess of 500 linear feet (each bank counts separately)

– Greater than one cubic yd. / running ft.

US Army Corps of Engineers®

General Conditions Apply to all NWPs

https://www.sas.usace.army.mil/Missions/Regulatory/Permitting/General-Permits/Nationwide-Permits/

NATIONWIDE PERMIT 13

Stream Bank Stabilization

Regional Conditions:

– PCN required for all NWP 13 – perennial streams

– PCN required if over 0.10-acre wetland or 100 linear feet stream impacts

https://www.sas.usace.army.mil/Portals/61/docs/regulatory/2017%20Regional%20Conditions.pdf?ver=2017-07-20-103845-383

US Army Corps of Engineers®

EXAMPLES: UNSTABLE BANKS

US Army Corps of Engineers®

EXAMPLES: HARD ARMORING

Gabion Baskets

U.S.ARMY

US Army Corps of Engineers®

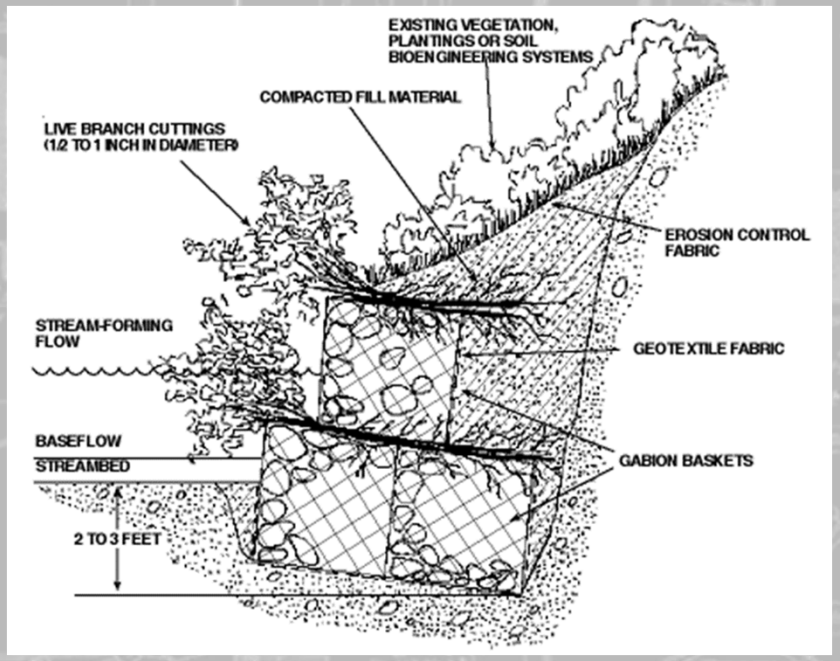
EXAMPLES: SOFT ARMORING

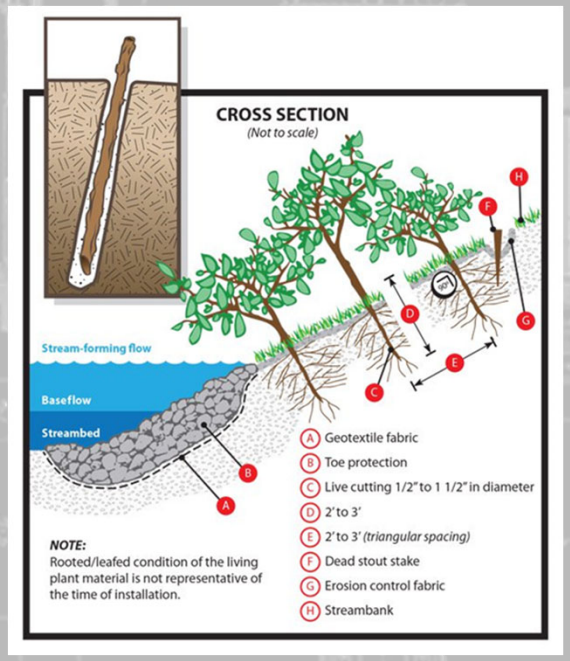
Vegetation/ Bioengineering

U.S.ARMY

US Army Corps of Engineers®

EXAMPLES: HARD AND SOFT ARMORING COMBO





U.S.ARMY

US Army Corps of Engineers ®

EXAMPLES: BEFORE (ALASKA)

US Army Corps of Engineers ®

EXAMPLES: AFTER (ALASKA)

US Army Corps of Engineers ®

QUESTIONS?

US Army Corps of Engineers®

http://www.sas.usace.army.mil/Missions/Regulatory.aspx