28 February 2025

Georgia Department of Natural Resources
Coastal Resources Division
Attn: Ms. Deb Barreiro
One Conservation Way
Brunswick, Georgia 31520-8687

**RE: Response to Public Notice Comments** **RLC#: 17-277**
**Horsepen Point Shared Recreational Dock**
**Chatham County, Georgia**

Dear Ms. Barreiro:

On 7 February 2025, the Georgia Department of Natural Resources Coastal Resource Division (CRD) published a public notice for the Alexander and Sheehan Golf Cart Bridge and Shared Private Dock located on Horsepen Creek, Tybee Island, Georgia (32.001651°, -80.853894°). In response to the public notice, CRD received approximately 22 comments opposing the proposed dock (14 by way of signature on a petition), and 10 comments supporting the proposed dock. The following provides a summary of comments and the applicant's response.

**General Navigation:** Many of the comments received during the public notice were again directed toward navigation. Those opposed to the project stated that the proposed dock would significantly restrict the ability to navigate the creek. Those supporting the project stated that navigation of the waterway is already restricted due to the size, depth and location of the channel and location of existing docks.

As part of the initial design process and prior to submitting the application, the applicant completed a bathymetric survey to determine the width and depth of the water at the location of the proposed dock. Based on the bathymetric survey, the proposed dock will not further restrict access within the waterway. In addition, and in response to the public notice comments, the applicant completed an assessment of Horsepen Creek from Tybee Creek upstream to Highway 80. Aerial imagery captured at high tide and low tide was evaluated to determine the number of existing docks (constructed and permitted) and the width of open water as measured from existing structures. The following provides a summary of the dock assessment.

The assessment included importing aerial photography that depicted Horsepen Creek at or near low tide and high tide within Horsepen Creek. All existing and proposed docks were assigned a number. Based on aerial imagery, 32 docks currently exist within Horsepen Creek and available information documents two docks have been approved by the Coastal Marshlands Protection Committee in the past 3 years but have not been constructed. Docks that have not been constructed and were not visible on the aerial imagery were superimposed. Once all docks were labeled, the distance of open water measured from the outermost portion of each dock was measured to estimate the width of channel at low tide and hightide. The measurements were then overlayed on the aerial imagery. In addition, a spreadsheet was created to summarize the data including estimated width of the waterway at low tide and estimated width of waterway at high tide. While the depth of water and therefore true navigability cannot be determined from aerial imagery, bathymetric data for the entire tributary is not available. For this reason, the width of open water within the creek provided a practicable method for comparing existing conditions without the proposed dock and potential impacts to navigation following installation of the dock.

Based on aerial imagery, Horsepen Creek measures approximately 10,700 feet from Tybee Creek to Highway 80. Low tide aerial photography documents that sections of the creek are completely dry at low tide while navigation of other sections of the creek is prohibited by existing docks. Most notable is the obstruction created by Dock #3 (identified in the attached exhibits). This dock is located approximately 840 feet upstream of Tybee Creek and at low tide the walkway for this dock blocks the entire channel restricting access upstream or downstream. As a result, low tide access is limited to +/- 840 feet (7%) of Horsepen Creek and the remaining 31 upstream docks and +/- 9,860 feet (93%) of the creek is not accessible to or from Tybee Creek at low tide unless the vessel is small enough to maneuver under the walkway of Dock #3. Due to these existing obstructions, the proposed dock will have no impact on the navigability of Horspen Creek at low tide. Post construction, the proposed dock will be a minimum of 45 feet from Dock #6 located downstream and a minimum of 68 feet from Dock # 8 located upstream. This minimum width is greater than 19 of the existing/approved docks at high tide. Thus, the proposed dock will have no impact on the navigability of Horspen Creek at high tide when compared to the existing docks.

Lastly, the applicant has revised the dock design to reduce the square footage of the walkway and length of the float. The walkway has been revised to include a 4-foot-wide walkway rather than 6-foot-wide walkway and a 30 foot long float rather than a 60 foot long float.

When considering the existing condition of Horsepen Creek including the widths of the water way at low tide and high tide and considering the current navigability limitation created by the existing docks, the proposed dock will have no measurable impact on general navigation.

**100 Mile:** In a letter dated 21 February 2025 provided comments regarding the project. The following responds to those comments in the order outlined in their letter.

**Comment 1:** *The project will negatively impact the navigability of Horsepen Creek. While CRD is only authorized to regulate the construction of structures within our marshlands, this Committee must keep in mind that a large boat will likely be docked at this the 30-foot long, 8-foot wide floating dock on the creek-side, further impacting the navigation channel.*
**Response 1:** The proposed dock will not unreasonably impact navigation. The dock has been designed to extend no more than 25% the width of the water way at MLW. This design meets current CRD guidelines for single family docks.

**Comment 2:** *The wooden vehicular bridge proposed to connect the residential property to the undeveloped marsh hammock will cause lasting harm to the marshlands, will unreasonably interfere with wildlife habitat, and will establish a detrimental permitting precedent*
**Response 2:** The bridge construction will not impact the viewshed of the neighbors. The bridge will not visible from Horsepen Point Drive nor from Horsepen Creek. Due to the location of the bridge and existing vegetation, the maximum number of neighbors who can see the bridge is two (the house on each side of the applicants).

**Comment 3:** *Dr. Clark Alexander at the University of Georgia Skidaway Institute of Oceanography has led research projects providing science-based proof that docks impact saltmarsh vegetation, including direct shading and wrack deposition. This data has informed CRD and the size limitations incorporated into state rules and regulations and standard operating procedures.*
**Response 3:** The dock as proposed meets the current CRD SOP.

**Comment 4:** *The Wildlife Resources Division (WRD), Wildlife Conservation Section shares concerns about impacts to marsh vegetation and has expressed additional concern about the impact fragmentation has on threatened wildlife species. Many of the protected coastal marshlands species identified in the State Wildlife Action Plan (SWAP)2 are bird species that depend on intact expanses of saltmarsh. The species of concern include Willet, Seaside Sparrow, Clapper Rail, and Saltmarsh Sparrow. Coastal researchers found that dock*

*fragmentation can lead to such obligate marsh bird densities that were 50% lower than marshes without docks.*

**Response 4:** Approximately 35 docks have been constructed or approved by CRD along this waterway. The proposed dock, which complies with CRD's single family dock SOP, will have no impact on the sustainability of wildlife species.

**Comment 5:** *Constructing bridges to marsh hammocks is not a practice endorsed by the Georgia DNR. In 2002, due to increasing interest in building bridges to and developing marsh hammocks, the DNR Commissioner convened an advisory council to investigate and report recommendations for addressing the coastal development trend. The Coastal Marsh Hammocks Advisory Council (CMHAC)'s final report stated: "…development of back barrier islands may create significant habitat loss for a number of important wildlife and plant species." And "Most of the CMHAC was concerned that presently there is the potential to permit too many bridges to hammocks or back barrier islands."*

**Response 5:** The proposed project does not include the development of a hammock. The project includes the installation of a bridge, construction of a at grade earthen pedestrian and earthen path to provide access to a proposed dock. No structures or any other activities are proposed. While no structures are proposed by the applicants for this project, it should be noted that the southern end of this upland "hammock" is already developed and contains a house, dock, and vehicular bridge accessing these facilities.

**Comment 6:** *This important report includes the following summary list of concerns of bridging to back barrier islands and marsh hammocks: "1) degradation of coastal marshes from the construction of bridges to these areas; 2) runoff from fertilizers, pesticides, and herbicides into the marsh from construction in these areas; 3) installation of septic tank and drain fields in the areas where the soil characteristics do not properly filter the sewage and under treated sewage finds its way into coastal marshes; 4) view shed changes that are objectionable to coastal residents and result in a loss of our sense of place; 6) loss of critical nesting and roosting habitat for endangered and threatened species; and 7) loss of habitat, important to migrating, neo-tropical birds."*

**Response 6:** The proposed project includes installation of a bridge, at grade earthen path, and recreational dock. Like single family docks, any impacts that occur during installation of the bridge are temporary. Bridge, path and dock construction, maintenance or use do not require use of pesticides or fertilizer. The project does not include installation of a septic tank/drain field. Because the public cannot view the bridge or path and because there are already 35 docks on this waterway, the proposed project will have no impact on the viewshed. Lastly, this project requires 0.09 acre of pile supported structure over vegetated marsh. According to CRD, Georgia contains 368,000 acres of coastal marshland. Thus, the project will require pile supported structure over 0.00002% of the coastal marshland in Georgia. Considering the overall impact associated with pile supported structure and the total acreage of the project, it is clear that the proposed project will have no impact on the sustainability of wildlife species.

**Comment 7:** *The clearing for and construction of the golf cart path on the hammock will cause unreasonable harm to wildlife habitat, increase erosion and sedimentation, and destroy neighborhood view sheds.*

**Response 7***:* The level of clearing and disturbance for construction of the path will be minimal. The owner will only be required to remove downed trees, small saplings and shrub species. The path will be able to avoid larger trees. The path will be at grade and earthen. No material (i.e. rock, asphalt, brick, etc.) is proposed.

**Comment 8:** *This project is not exempted from regulation under the CMPA, therefore the applicant is required to comply with the regulations for construction in the uplands as outlined in Georgia Rules & Regs 391-2-3-.02(4).*

**Response 8:** The project fully complies with 391-2-3.02(4)(ii) which allows for installation of the path within the buffer is allowed under rules for permanent structures that are required for functionality and/or provide access to the marshlands component.

**Comment 9:** *Because the wooden vehicular bridge and the recreational dock project are linked by the proposed 9-foot wide, 467-foot long golf cart path, the entire path should be regulated as an upland component. Due to the narrow configuration of the 0.927-acre hammock, the entire golf cart path lies within the CMPA 50-foot buffer. It is wholly within the CMPA Committee authority to deny these permanent impacts to the critical marsh buffer.*
**Response 9:** 391-2-3.02(4)(ii) allows for installation of the path within the buffer is allowed under rules for permanent structures that are required for functionality and/or provide access to the marshlands component.

**Comment 10:** *The proposed golf cart path is designed to dissect the hammock, requiring clearing of the maritime bushes, trees, and vegetation. This impact would be significant causing: i. diminished marsh and creek view sheds enjoyed by neighbors, ii. increased erosion and sedimentation to the creek and surrounding marsh; and iii. loss of protective functions to the upland landowners.*
**Response 10:** The at grade earthen path will not have a significant impact. The path will not be visible by any neighbor or the public due to the location and existing vegetation that will remain undisturbed. The path will not increase erosion and sediment into the creek because installation of the path will not require a land disturbing activity but will be installed simply by cutting the few sapling and shrub species present within the corridor.

**Comment 11:** *It will be impossible for the applicant to restore the property to "preconstruction state," as they attest in the application. Any naturalized maritime habitats will be destroyed by the initial clearing and grading for the 9-foot wide path, but maintaining such a path would not allow regeneration of the native vegetation.*
**Response 11:** The path will be at grade and the only disturbance will be associated with cutting and trimming of vegetation and installation will not destroy maritime habitats.

**Comment 12:** *The current request should not be considered for approval because it does not include any alternatives or feasibility investigations. O.C.G.A. §12-5-286(b)(8) requires that the applicant evaluate and submit alternatives for projects to be permitted under the CMPA.*
**Response 12:** O.C.G.A. §12-5-286(b)(8) states that an application should include "*A description from the applicant of alternative sites and why they are not feasible and a discussion of why the permit should be granted*". Because the project includes construction of a recreational dock on private property, off site alternatives were not available. However, the applicant reviewed several dock location alternatives and has proposed a location that requires the least amount of disturbance and minimal amount of dock square footage while achieving the overall project purpose. Following review of each alternative, the applicant determined that the proposed location was the least damaging practicable alternative. Avoidance and minimization for this project included:

- Proposed bridges rather than culverted crossings through the marsh.
- Minimizing the width of the proposed bridges and limiting use to pedestrian and golf cart access.
- Rather than a bridge from each residence, the two of the applicants have proposed sharing access.
- Rather than proposing a dock for each property, the applicants have proposed to share a dock.
- Limiting clearing of the path to sapling and shrub species.
- Proposing a natural earthen path rather than a paved, gravel, brick, etc. path surface.
- Other than the bridge, all access to the dock was designed to avoid marsh impacts.
- Shifting of the footprint of the structure downstream to minimize perceived impacts to navigation

- Structure size reduction

**Comment 13:** *As reported to this Committee in the November 2024 Staff's Findings and Recommendations, CRD staff requested more information from the applicant regarding alternative locations and designs. In response, the agent for the applicants responded that, "the applicants chose a layout that minimized the length of the walkway and reduces the distance from upland to the waterway." The current proposal reflects a dock design that minimized the impact the marsh from the previous proposals, but the application includes no alternative routes for the private dock, no alternative designs or routes for the vehicular bridge, and no alternatives for the golf cart path.*
**Response 13: The bridge and dock walkway were positioned to minimize the length**

**Comment 14:** *To conclude, we request that the Committee deny the applicant the requested CMPA permit because the project is NOT in the public interest.*
**Response 14:** O.C.G.A. §12-5-286(12)(g) states: *In passing upon the application for permit, the committee shall consider* ***the public interest, which, for purposes of this part, shall be deemed to be the following considerations****:*

- *Whether or not unreasonably harmful obstruction to or alteration of the natural flow of navigational water within the affected area will arise as a result of the proposal;*
- *Whether or not unreasonably harmful or increased erosion, shoaling of channels, or stagnant areas of water will be created; and*
- *Whether or not the granting of a permit and the completion of the applicant's proposal will unreasonably interfere with the conservation of fish, shrimp, oysters, crabs, clams, or other marine life, wildlife, or other resources, including but not limited to water and oxygen supply.*

As a result of the permittees project design:

- The proposed bridge, path and dock will not unreasonably obstruct or alter natural flow of navigational waters;
- The proposed bridge, path and dock will not result in unreasonably harmful or increased erosion, shoaling of channels, or create stagnant areas of water; and
- The proposed bridge, path and dock will not unreasonably interfere with the conservation of fish, shrimp, oysters, crabs, clams, or other marine life, wildlife, or other resources, including but not limited to water and oxygen supply.

**Clark Alexander:** In an email dated 21 February 2025, Clark Alexander provided comments regarding the proposed project. The following responds to those comments in the order outlined in their letter.

**Comment 1:** *The long, 740 foot dock is oriented basically E-W, and as such will have the greatest shading impact on the marsh, decreasing productivity 50% or more, based on research done in my lab here in Georgia. This fails the public interest test as it will significantly interfere with the conservation of shrimp and crabs, and other marsh-obligate species.*
**Response 1:** The walkway is oriented the same direction as all 35 other docks on Horsepen Creek and the walkway meets the current SOP standards of CRD. More importantly, the project cannot "*significantly interfere with the conservation of shrimp and crabs, and other marsh-obligate species"* when Georgia contains 368,000 acres of marsh and the project includes installation of a pile supported walkway over 0.06 acre. The walkway will shade 0.00001% of the total coastal marshland in Georgia which is insignificant.

**Comment 2:** *Further, the long dock, oriented E-W, will maximally trap marsh wrack, the dead, floating marsh grass stems, and become trapped along the dock pilings on its north side. This deposit of wrack can be many times larger than the footprint of the dock itself. The wrack will be trapped for months to years before it can be removed by natural processes, and will kill the above-ground marsh grass underlying the wrack. If the wrack stays long enough,*

*the belowground root system will die, and the marsh surface will drop up to half a foot, at which time the marsh may not be able to grow back, and erosion of the mudflats increase. These characteristics of marsh wrack have been studied and Sapelo Island and several other sites around the Georgia coast and in surrounding states and are well understood. Again, this project fails the public interest test as it will alter the natural flow of water and significantly increase the erosion and discharge of sediment into the creeks in the area.*
**Response 2:** The project will not alter the natural flow of water nor significantly increase the erosion and discharge of sediment into the creeks in the area.

**Comment 3:** *The golf cart path will in essence disturb the whole of the upland of the marsh hammock. These features have been recognized by resource managers and scientists as important habitat for many species, including neotropical songbirds and other migratory species that have had their habitat degraded along the marsh-upland boundary by development.*
**Response 3:** The path, as designed, will not disturb the whole of the upland. Additional, the project does not include development of marsh-upland boundary and therefore the referenced impact to neotropical songbirds and other migratory species is not associated with this project**.**

**Comment 4:** *It is not possible for the hammock to host both this golf cart path and retain an intact vegetated buffer given its width. There can be no undisturbed 50-ft marsh buffer for this project. In considering this project, DNR should conduct a survey of the marsh hammock edge to identify all marsh-indicative vegetation indicating areas of high-tide flooding, and marking them for preservation as protected marsh habitat.*
**Response 4:** As noted above, 391-2-3.02(4)(ii) allows for installation of the path within the buffer is allowed under rules for permanent structures that are required for functionality and/or provide access to the marshlands component. The DNR conducted a survey of the marsh edge to identify all marsh-indicative vegetation and marked them so that the path would avoid impacts to the marsh and the project would protected marsh habitat**.**

**Comment 5:** The path on the hammock will fundamentally alter the viewshed of all the adjacent property owners south of the proponent's properties.
**Response 5:** Due to the design of the path, the location of the path, and vegetative conditions that will remain intact adjacent to the path, the path will not be visible from adjacent properties nor properties on the southeast side of Horsepen Creek.

We appreciate the opportunity to provide a response to the public notice comments. For your review and use, the attached information includes the following:

- Low Tide Assessment Exhibits
- High Tide Assessment Exhibits

If you have any questions or require additional information, please do not hesitate to contact us at (912) 443-5896.

Sincerely,

Alton Brown, Jr.
Principal
Resource & Land Consultants

Enclosures

cc: Mr. Jim Alexander
Mr. Leo Sheehan
Mr. Marc Liverman – Atlantic Coast Consultants
Mr. Jud Turner –Gilbert Harrell Sumerford & Martin P.C.


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| RLC Project No.: | 17-277 |
| Figure No.: | 1 |
| Prepared By: | MG |
| Sketch Date: | 6/21/2024 |
| Map Scale : | |

# Horse Pen Creek Dock

Chatham County, Georgia

## Low Tide Assessment
## Figure 1 of 11

Prepared For: Leo Sheehan & Jim Alexander

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Source(s): 2018 Chatham County NAIP Ortho Aerial


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| RLC Project No.: | 17-277 |
| Figure No.: | 2 |
| Prepared By: | MG |
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**Horse Pen Creek Dock**

Chatham County, Georgia

**Low Tide Assessment**
**Figure 2 of 10**

Prepared For: Leo Sheehan & Jim Alexander

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9

45 Ft

57 Ft

8

68 Ft

Proposed Horsepen Creek
Shared Dock Layout

7

45 Ft

38 Ft

6

24 Ft

5

Width of Channel
0 15 30
Feet

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| RLC Project No.: | 17-277 |
| Figure No.: | 3 |
| Prepared By: | MG |
| Sketch Date: | 2/28/2025 |
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# Horse Pen Creek Dock

Chatham County, Georgia

## Low Tide Assessment
## Figure 3 of 10

Prepared For: Leo Sheehan & Jim Alexander

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| RLC Project No.: | 17-277 |
| Figure No.: | 4 |
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**Horse Pen Creek Dock**

Chatham County, Georgia

**Low Tide Assessment**
**Figure 4 of 10**

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| RLC Project No.: | 17-277 |
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**Horse Pen Creek Dock**

Chatham County, Georgia

**Low Tide Assessment**
**Figure 5 of 10**

Prepared For: Leo Sheehan & Jim Alexander

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| RLC Project No.: | 17-277 |
| Figure No.: | 6 |
| Prepared By: | MG |
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**Horse Pen Creek Dock**

Chatham County, Georgia

**Low Tide Assessment**
**Figure 6 of 10**

Prepared For: Leo Sheehan & Jim Alexander

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| RLC Project No.: | 17-277 |
| Figure No.: | 7 |
| Prepared By: | MG |
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**Horse Pen Creek Dock**

Chatham County, Georgia

**Low Tide Assessment**
**Figure 7 of 10**
Prepared For: Leo Sheehan & Jim Alexander

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| Figure No.: | 8 |
| Prepared By: | MG |
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**Horse Pen Creek Dock**

Chatham County, Georgia

**Low Tide Assessment**
**Figure 1 of 11**
Prepared For: Leo Sheehan & Jim Alexander

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| Prepared By: | MG |
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# Horse Pen Creek Dock

Chatham County, Georgia

## Low Tide Assessment
## Figure 1 of 11

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| RLC Project No.: | 17-277 |
| Figure No.: | 10 |
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**Horse Pen Creek Dock**

Chatham County, Georgia

**Low Tide Assessment**
**Figure 10 of 10**

Prepared For: Leo Sheehan & Jim Alexander

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| RLC Project No.: | 17-277 |
| Figure No.: | 1 |
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| Map Scale : | |

# Horse Pen Creek Dock

Chatham County, Georgia

## High Tide Assessment
## Figure 1 of 10

Prepared For: Leo Sheehan & Jim Alexander

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| RLC Project No.: | 17-277 |
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# Horse Pen Creek Dock

Chatham County, Georgia

## High Tide Assessment
## Figure 2 of 10

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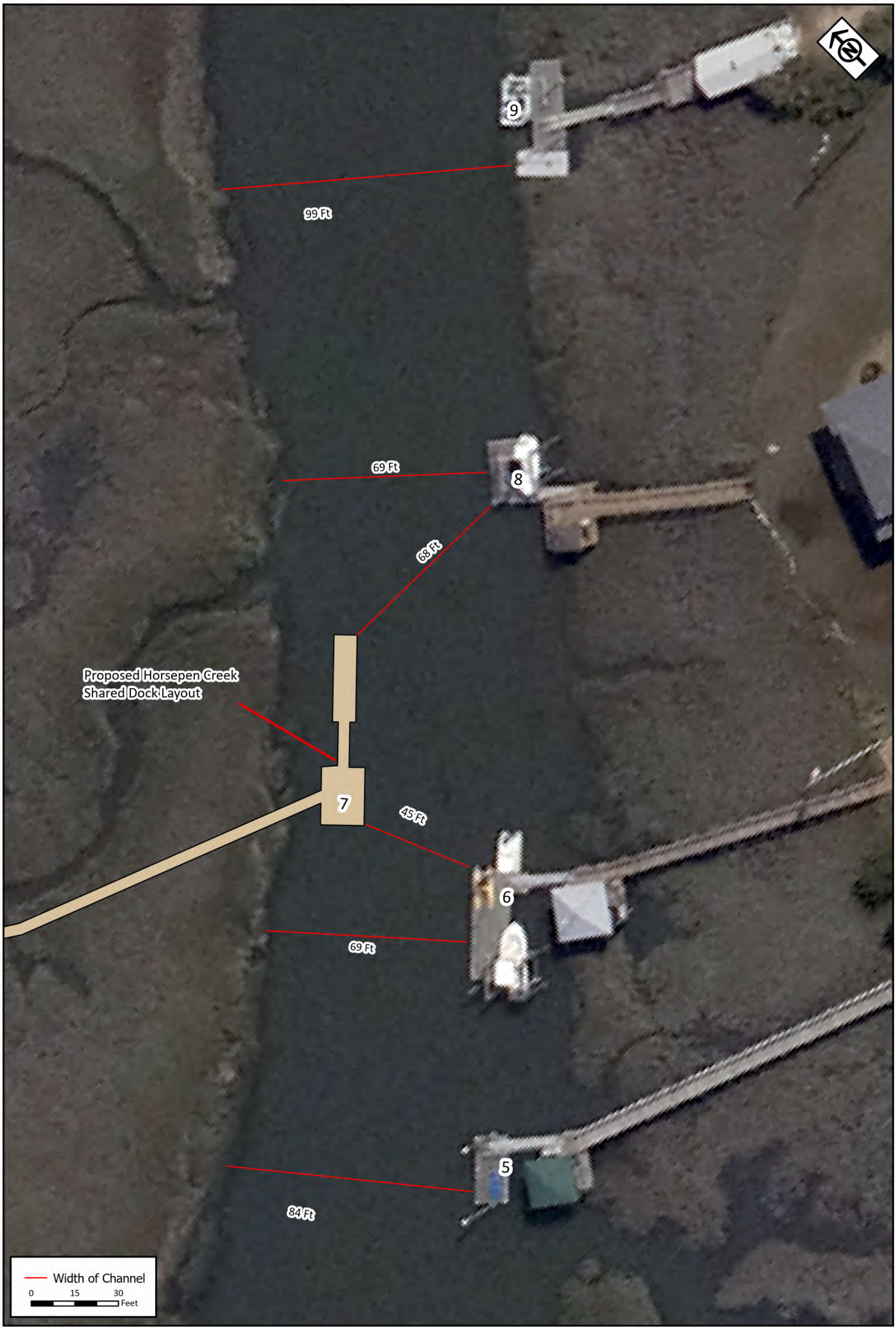


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| RLC Project No.: | 17-277 |
| Figure No.: | 3 |
| Prepared By: | MG |
| Sketch Date: | 2/28/2025 |
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**Horse Pen Creek Dock**

Chatham County, Georgia

**High Tide Assessment**
**Figure 3 of 10**

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# Horse Pen Creek Dock

Chatham County, Georgia

## High Tide Assessment
## Figure 4 of 10

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**Horse Pen Creek Dock**

Chatham County, Georgia

**High Tide Assessment**
**Figure 5 of 10**

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Source(s): 2018 Chatham County NAIP Ortho Aerial


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|---|---|
| RLC Project No.: | 17-277 |
| Figure No.: | 6 |
| Prepared By: | MG |
| Sketch Date: | 6/21/2024 |
| Map Scale : | 1:360 |

**Horse Pen Creek Dock**

Chatham County, Georgia

**Low Tide Assessment**
**Figure 6 of 10**

Prepared For: Leo Sheehan & Jim Alexander

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Source(s): 2018 Chatham County NAIP Ortho Aerial


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|---|---|
| RLC Project No.: | 17-277 |
| Figure No.: | 7 |
| Prepared By: | MG |
| Sketch Date: | 6/21/2024 |
| Map Scale : | 1:480 |

**Horse Pen Creek Dock**

Chatham County, Georgia

**High Tide Assessment**
**Figure 7 of 10**

Prepared For: Leo Sheehan & Jim Alexander

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Source(s): 2018 Chatham County NAIP Ortho Aerial


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|---|---|
| RLC Project No.: | 17-277 |
| Figure No.: | 8 |
| Prepared By: | MG |
| Sketch Date: | 6/21/2024 |
| Map Scale : | 1:360 |

**Horse Pen Creek Dock**

Chatham County, Georgia

**High Tide Assessment**
**Figure 8 of 10**

Prepared For: Leo Sheehan & Jim Alexander

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Source(s): 2018 Chatham County NAIP Ortho Aerial


| | |
|---|---|
| RLC Project No.: | 17-277 |
| Figure No.: | 9 |
| Prepared By: | MG |
| Sketch Date: | 6/21/2024 |
| Map Scale : | 1:360 |

**Horse Pen Creek Dock**

Chatham County, Georgia

**High Tide Assessment**
**Figure 9 of 10**

Prepared For: Leo Sheehan & Jim Alexander

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Source(s): 2018 Chatham County NAIP Ortho Aerial


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|---|---|
| RLC Project No.: | 17-277 |
| Figure No.: | 10 |
| Prepared By: | MG |
| Sketch Date: | 6/21/2024 |
| Map Scale : | 1:360 |

**Horse Pen Creek Dock**

Chatham County, Georgia

**High Tide Assessment**
**Figure 10 of 10**
Prepared For: Leo Sheehan & Jim Alexander

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Source(s): 2018 Chatham County NAIP Ortho Aerial