# <u>JOINT</u> <u>PUBLIC NOTICE</u>

### CHARLESTON DISTRICT, CORPS OF ENGINEERS 69A Hagood Avenue Charleston, South Carolina 29403 and THE S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL Office of Ocean and Coastal Resource Management 1362 McMillan Avenue, Suite 400 North Charleston, South Carolina 29405

REGULATORY DIVISION Refer to: SAC-2020-00449

October 31, 2023

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Sections 401 and 404 of the Clean Water Act (33 U.S.C. 1344), Section 103 of the Marine Protection, Resource, and Sanctuaries Act (33 U.S.C. 1413), Section 14 of the Rivers and Harbors Act of 1899, 33 USC 408 (Section 408) and the South Carolina Coastal Zone Management Act (48-39-10 <u>et.seq.</u>), an application has been submitted to the Department of the Army and the S.C. Department of Health and Environmental Control by

# Mr. Ray Funnye Georgetown County 129 Screven Street Georgetown, South Carolina 29442

for a permit to conduct new work and maintenance dredging within 16.49 miles of natural creeks and man-made channels and to place dredged material in a proposed nearshore (open water) disposal area in the

# Atlantic Ocean

near Murrells Inlet, Garden City Beach and Huntington Beach State Park in Georgetown and Horry Counties, South Carolina (Latitude: 33.5305° N, Longitude: -79.0370° W), Brook green USGS Quadrangle Map.

In order to give all interested parties an opportunity to express their views

# NOTICE

is hereby given that written statements regarding the proposed work will be received by the **Corps** and **SCDHEC** until

# 30 Days from the Date of this Notice,

from those interested in the activity and whose interests may be affected by the proposed work.

NOTE: This public notice and associated plans are available on the Corps' website at: <a href="http://www.sac.usace.army.mil/Missions/Regulatory/PublicNotices">http://www.sac.usace.army.mil/Missions/Regulatory/PublicNotices</a> .

#### **Applicant's Stated Purpose**

According to the applicant, the purpose of the proposed project is to re-establish navigable depths at all tidal phases for the developed waters and access channels of Murrells Inlet for the public, commercial users, and owners of land abutting the waterways.

#### **Project Description**

The proposed work consists of new work and maintenance dredging and discharging sediment in a proposed nearshore (open water) disposal site using a hydraulic pipeline. In detail, the applicant has proposed to dredge a total of 754,616 cubic yards of sediment from a total of 87,087 linear feet (16.49 miles) of natural creeks and man-made channels. The location and names of these open water channels, Main Creek, Marshwalk (Channels A, B, C, and D), Parsonage Creek, Oaks Creek, Allston Creek, Flaggpoint Canal, Mt. Gilead Canal, Marlin Quay Marina, South Waccamaw Canal, and Creeks A, B, C, D, E, F, G (Marina Colony), H, I, J and K, are shown on the attached drawings (sheets 1 through 27 of 39).

The proposed depth of Oaks Creek, Allston Creek, Creek A, and a portion of Main Creek would be -8.0 feet below Mean Low Water + 1 foot of allowable overdepth (a total of -9.0 feet MLW) and the proposed depth of Flaggpoint Canal would be -3.0 feet below Mean Low Water (MLW) + 1 foot of allowable overdepth (a total of -4.0 feet MLW). The proposed depth of the remainder of the of the referenced channels would be -6.0 feet below Mean Low Water + 1 foot of allowable overdepth (a total of -7.0 feet MLW). The width of the proposed channels, without side slopes, varies between 20 feet to more than 300 wide as shown on the attached drawings (sheets 28 through 38 of 39).

The proposed work would be conducted in three phases. Approximately 250,000 cubic yards of sediment would be dredged each year (between November 1 and March 31) using a hydraulic cutterhead and would be pumped via pipeline to a proposed nearshore disposal site that would be parallel to the shore at Huntington Beach State Park (HBSP). Dredged material with a high percentage of fines is expected to spread across the ocean floor as a layer of fluid mud. The dredged material would be discharged within an approximately 3,500-foot long by 1,000-foot wide area that would be at least 1,700 feet south of the existing jetty and at least 2,000 feet east of the existing beach at HBSP as shown on drawing sheet 39 of 39.

The proposed nearshore disposal site would be 5,000 feet long by 3,000 feet wide (344.35 acres or 0.57 square miles) and would be monitored to ensure that the placement

of dredged material does not create a layer that is more than 5.5 feet thick on the existing ocean floor, and dredged material does not extend or adversely impact aquatic resources outside the boundary of the proposed disposal site. According to the applicant, the dredged material would be placed outside the active surf zone and any clays or other fine-grained material would be carried offshore rather than deposited on the adjacent beach.

The applicant has prepared and submitted a Section 103(b) Site Selection Document, which is being coordinated with the other regulatory and resource agencies. This document includes preliminary information that was gathered by the applicant as part of their due diligence, geotechnical analyses for the areas that would be dredged, a Sediment Fate Analysis for the proposed nearshore disposal site, a clay ball analysis, and a proposed Sampling and Analysis Plan that will need to be reviewed and approved prior to the applicant conducting the necessary chemical and biological analyses.

#### **Avoidance and Minimization**

The applicant has stated that the proposed project would avoid and/or minimize potential impacts to the aquatic environment by maintaining a 10-foot buffer between the footprint of the dredged channel and any existing oyster reefs or marsh vegetation that would not be impacted by the proposed dredging. The location of these resources would be loaded into the dredge computer and PVC poles would be placed along the boundary of the 10-foot buffer to ensure oyster reefs and vegetated marsh are not disturbed during high tide when these resources may not be visible.

The applicant has conducted physical analyses and modeling to help identify the proposed location for the nearshore placement area. The applicant has proposed to monitor and survey the placement area at least weekly during dredging events to help document the location and height of dredged material that would be placed on the ocean floor. The applicant has also committed to developing and implementing an Adaptive Management/Contingency Plan to address any concerns (mounding, clay ball formation, potential adverse effects associated with the migration of dredged material outside the placement area, etc.) that are identified during the permit application process.

#### Proposed Compensatory Mitigation

According to the permit application, the 106.45-acre footprint of the proposed navigation improvements includes 12.92 acres of open water that are deeper than the proposed channel and would not require any new work or maintenance dredging. In addition, a total of 1.48 acres of vegetated salt marsh and 0.16 acres of oyster beds would be directly (dredging footprint) or indirectly impacted (side slopes) by the proposed work. The applicant used the Required Wetland Mitigation Credit Worksheet in the Charleston District's Guidelines for Preparing a Compensatory Mitigation Plan (2010) to calculate the number of mitigation credits that would be required to offset the proposed impacts to existing vegetated salt marsh (13.59 credits) and oyster beds (1.43 credits).

The applicant has indicated they are planning to prepare and submit a Permittee Responsible Mitigation plan that includes the restoration of vegetated salt marsh (and tidal creeks), oyster restoration, and the establishment of living shorelines within the Murrells Inlet estuary. Potential restoration sites include former dredged disposal areas, such as Goat Island (approximately 4 acres), which is located near Marshwalk.

#### South Carolina Department of Health and Environmental Control

The District Engineer has concluded that the discharges associated with this project, both direct and indirect, should be reviewed by the certifying authority, South Carolina Department of Health and Environmental Control, in accordance with provisions of Section 401 of the Clean Water Act (CWA). The CWA Section 401 Certification Rule (Certification Rule, 40 CFR 121), effective September 11, 2020, requires certification, or waiver, for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 Certification is limited to assuring that a discharge from a Federally licensed or permitted activity will comply with water quality requirements. The applicant is responsible for requesting certification Rule part 121.12, the Corps will notify the U.S. Environmental Protection Agency Administrator when it has received a Department of the Army (DA) permit application and the related certification. The Administrator is responsible for determining if the discharge may affect water quality in a neighboring jurisdiction. The DA permit may not be issued pending the conclusion of the Administrator's determination of effects on neighboring jurisdictions.

The work shown on this application must also be certified as consistent with applicable provisions of the Coastal Zone Management Program (15 CFR 930). This activity may also require evaluation for compliance with the S. C. Construction in Navigable Waters Permit Program. State review, permitting and certification is conducted by the S. C. Department of Health and Environmental Control. The District Engineer will not process this application to a conclusion until such certifications are received. The applicant is hereby advised that supplemental information may be required by the State to facilitate the review.

#### **Essential Fish Habitat**

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the proposed project would impact 438.08 acres of estuarine substrates and emergent wetlands utilized by various life stages of species comprising the shrimp, and snappergrouper management complexes. The District Engineer's initial determination is that the proposed action may have an adverse affect on EFH or fisheries managed by the South Atlantic Fishery Management Council and the National Marine Fisheries Service (NMFS). An Essential Fish Habitat assessment (or other similar document) detailing our analysis of the potential adverse effects of the action will be provided to the National Marine Fisheries Service. The District Engineer's final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

# **Endangered Species**

Pursuant to the Section 7 of the Endangered Species Act of 1973 (as amended), the Corps has reviewed the project and based on the location of the project and available information, the following species may be present in the County(s) where the work will occur: northern long-eared bat (*Myotis septentrionalis*), red-cockaded woodpecker (*Picoides borealis*) Eastern black rail (*Laterallus jamaicensis jamaicensis*), West Indian manatee (*Trichechus manatus*), piping plover (*Charadrius melodus*), rufa red knot (*Calidris canutus rufa*), roseate term (*Sterna douglallii douglallii*), loggerhead sea turtle (*Caretta caretta*), and green sea turtle (*Chelonia mydas*), Kemp's ridley sea turtle (*Lepidochelys kempii*) and leatherback sea turtle (*Dermochelys coriacea*), American chaffseed (*Schwalbea americana*) Canby's dropwort (*Oxypolis canbyi*), pondberry (*Lindera melissifolia*), seabeach amaranth (*Amaranthus pumilus*), shortnose sturgeon (*Acipenser brevirostrum*), Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), scalloped hammerhead shark (*Sphyrna lewini*), giant manta ray (*Manta birostris*), or the North Atlantic right whale (*Eubalaena glacialis*).

Based on all information provided by the applicant and the most recently available information, the District Engineer has determined the following:

The project will have <u>no effect</u> on northern long-eared bat, red-cockaded woodpecker, Eastern black rail, American chaffseed, Canby's dropwort, or pondberry and will not result in the destruction or adverse modification of designated or proposed critical habitat for the piping plover, rufa red knot, or the North Atlantic right whale.

The project <u>is not likely to adversely affect</u> West Indian manatee (Trichechus manatus), loggerhead sea turtle (Caretta caretta), green sea turtle (Chelonia mydas), Kemp's ridley sea turtle (Lepidochelys kempii), leatherback sea turtle (Dermochelys coriacea), or seabeach amaranth (Amaranthus pumilus). This public notice serves as a request for written concurrence from the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service on this determination.

Pursuant to the Section 7 of the Endangered Species Act of 1973 (as amended), the Corps has reviewed the project area, examined all information provided by the applicant, and the District Engineer has determined, based on the most recently available information, that the project <u>may affect</u> piping plover, rufa red knot, or roseate tern. A biological assessment (or other similar document) detailing our analysis of the potential effects of the action will be provided to the U.S. Fish and Wildlife Service for their review and concurrence. With regard to ESA-listed species managed by National Marine Fisheries Service's Southeast Regional Office, the proposed dredging and placement of dredged material in open waters is covered by the South Atlantic Regional Biological Opinion.

This public notice serves as a request to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service for any additional information they may have on whether any listed or proposed endangered or threatened species or designated or proposed critical habitat may be present in the area which would be affected by the activity.

#### **Cultural Resources**

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), this public notice also constitutes a request to Indian Tribes to notify the District Engineer of any historic properties of religious and cultural significance to them that may be affected by the proposed undertaking.

In accordance with Section 106 of the NHPA, the District Engineer has consulted South Carolina ArchSite (GIS), for the presence or absence of historic properties (as defined in 36 C.F.R. 800.16)(*I*)(1)), and has initially determined that there are historic properties present, but they will not be affected; therefore, there will be no effect on historic properties. To ensure that other historic properties that the District Engineer is not aware of are not overlooked, this public notice also serves as a request to the State Historic Preservation Office and other interested parties to provide any information they may have with regard to historic properties. This public notice serves as a request for concurrence within 30 days from the SHPO (and/or Tribal Historic Preservation Officer).

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

#### Section 408

The proposed project described in this notice would require permission pursuant to Section 14 of the Rivers and Harbors Act of 1899, 33 USC 408 (Section 408). Permission for an alteration under Section 408 may be granted when, in the judgment of the Secretary of the Army, the alteration will not be injurious to the public interest and will not impair the usefulness of the project. Decisions on proposed alterations are delegated to the District Commander unless one or more criteria requiring elevation are triggered.

Section 408 is based on factors which are outlined in Engineering Circular (EC) 1165-2-220. Review of the requests for modification will be reviewed by a USACE technical review team considering the following factors:

1. Impair the Usefulness of the Project Determination. The review team will determine if the proposed alteration would limit the ability of the federally authorized project to function as authorized, or would compromise or change any authorized project conditions, purposes or outputs. All appropriate technical

analyses including geotechnical, structural, hydraulic and hydrologic, real estate, and operations and maintenance requirements, must be conducted and the technical adequacy of the design must be reviewed. The Charleston District is working closely with the requestor to ensure that all required technical plans, maps, drawings, and specifications necessary for these analyses are provided and complete. In order to approve a

request for modification, it must be determined that the usefulness of the authorized project will not be negatively impacted.

2. Injurious to the Public Interest Determination. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Evaluation of the probable impacts that the proposed alteration to the USACE project may have on the public interest requires a careful weighing of all those factors that are relevant in each particular case. Factors that may be relevant to the public interest depend upon the type of USACE project being altered and may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water guality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks. If the potential detriments are found to outweigh the potential benefits, then it may be determined that the proposed alteration is injurious to the public interest. This determination is not the same as the "contrary to the public interest determination" that is undertaken pursuant to Sections 10/404/103.

3. Legal and Policy Compliance. A determination will be made as to whether the proposal meets all legal and policy requirements. This includes the National Environmental Policy Act (NEPA) and other environmental compliance requirements, as well as USACE policy. While ensuring compliance is the responsibility of USACE, the requester is required to provide all information that the Charleston District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances.

408 Process Overview: The basic 408 process for this application is outlined in EC 1165-2-220, paragraph 7(h)(4). In cases in which a Section 408 permission (except for Section 408 decisions that must be made by the Division Commander, per paragraph 8.c.) and a Regulatory standard individual permit are both required for the same proposed alteration/activity, the district will conduct these evaluations in a coordinated and concurrent manner resulting in a single decision document. Note that implementing regulations and policies for the Regulatory permit require the evaluation of proposed activities and their compatibility with the purposes of a federal project. The Section 408 analysis informs the compatibility with the purposes of a federal project for Regulatory purposes. In addition, there will be a single transmittal letter to the requester that includes as attachments both the Section 408 decision letter and the Regulatory permit.

The District Commander is the deciding official for the single decision document for these cases, although he or she may further delegate these combined decisions following the same requirements as in paragraph 8.d.

# **Corps' Evaluation**

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest and will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency (EPA), under authority of Section 404(b) of the Clean Water Act and, as appropriate, the criteria established under authority of Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended. That decision will reflect the national concern for both protection and utilization of important resources.

The benefit which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. A permit will be granted unless the District Engineer determines that it would be contrary to the public interest. In cases of conflicting property rights, the Corps cannot undertake to adjudicate rival claims.

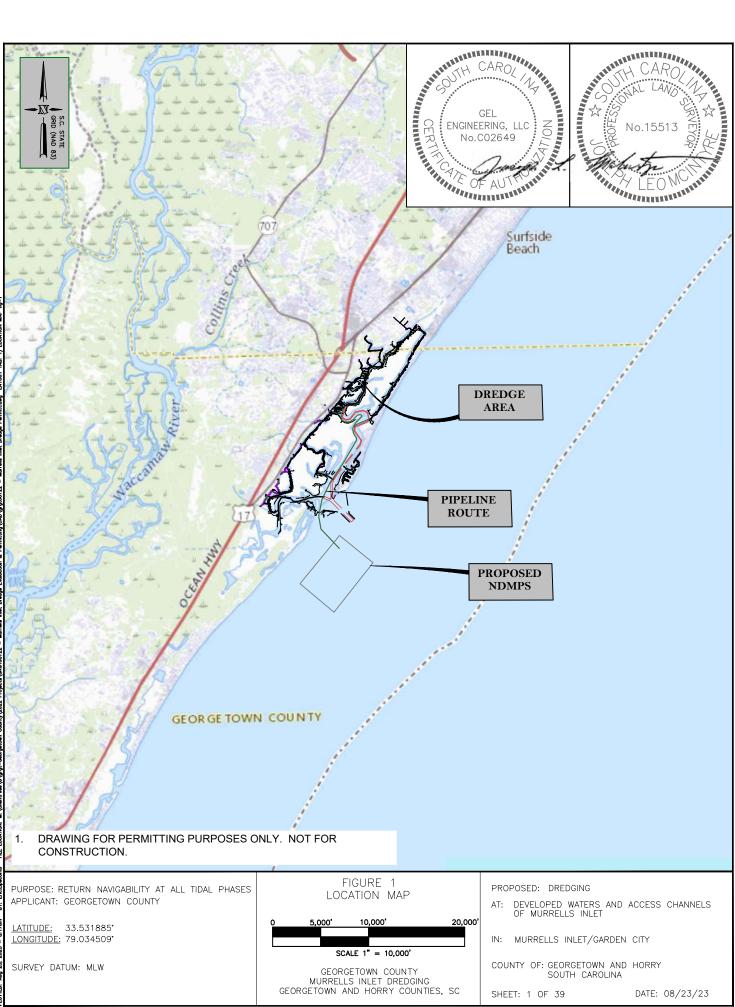
## **Solicitation of Public Comment**

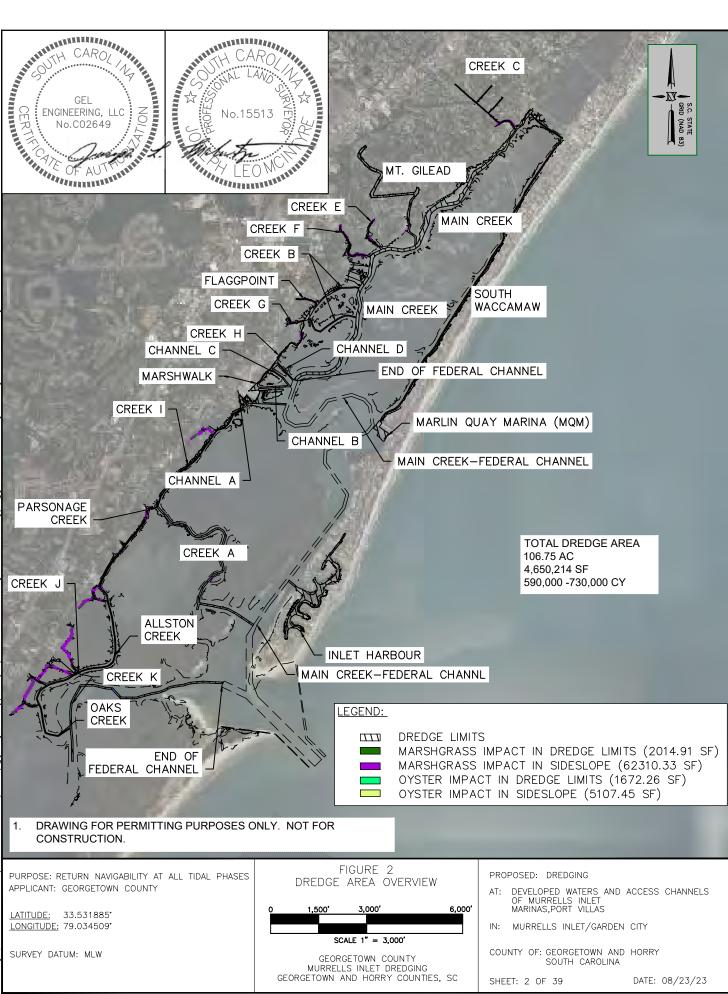
The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity. Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reasons for holding a public hearing.

# Please submit comments in writing, identifying the project of interest by public notice/file number (SAC-2020-00449), to nathaniel.i.ball@usace.army.mil <u>or</u> the following address:

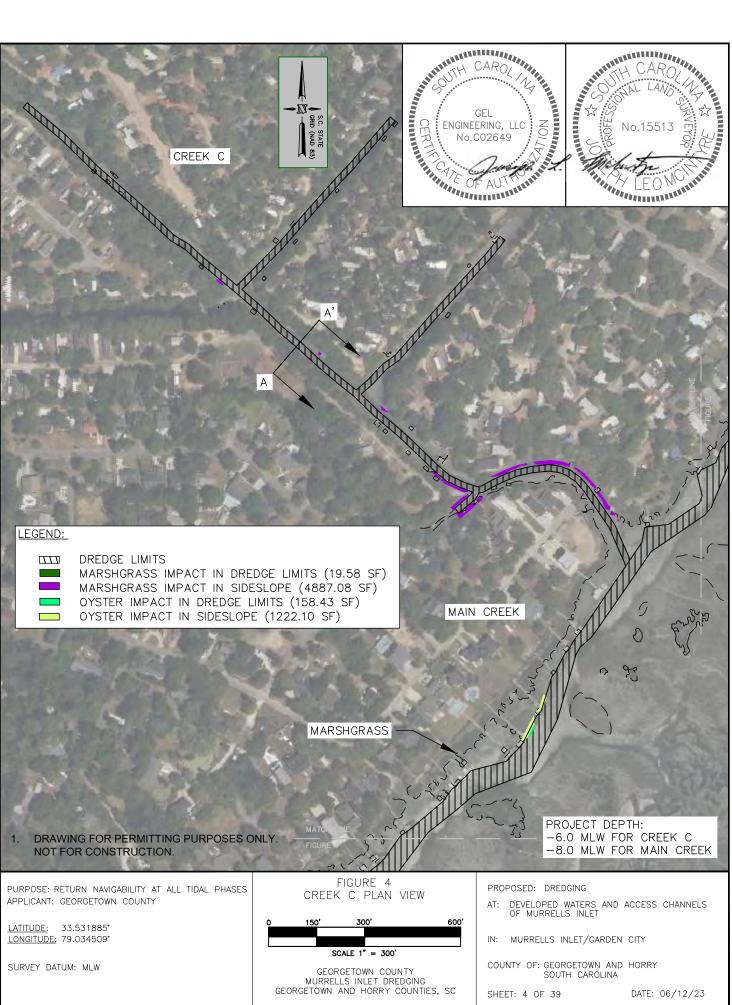
# U.S. Army Corps of Engineers ATTN: REGULATORY DIVISION 69A Hagood Avenue Charleston, South Carolina 29403

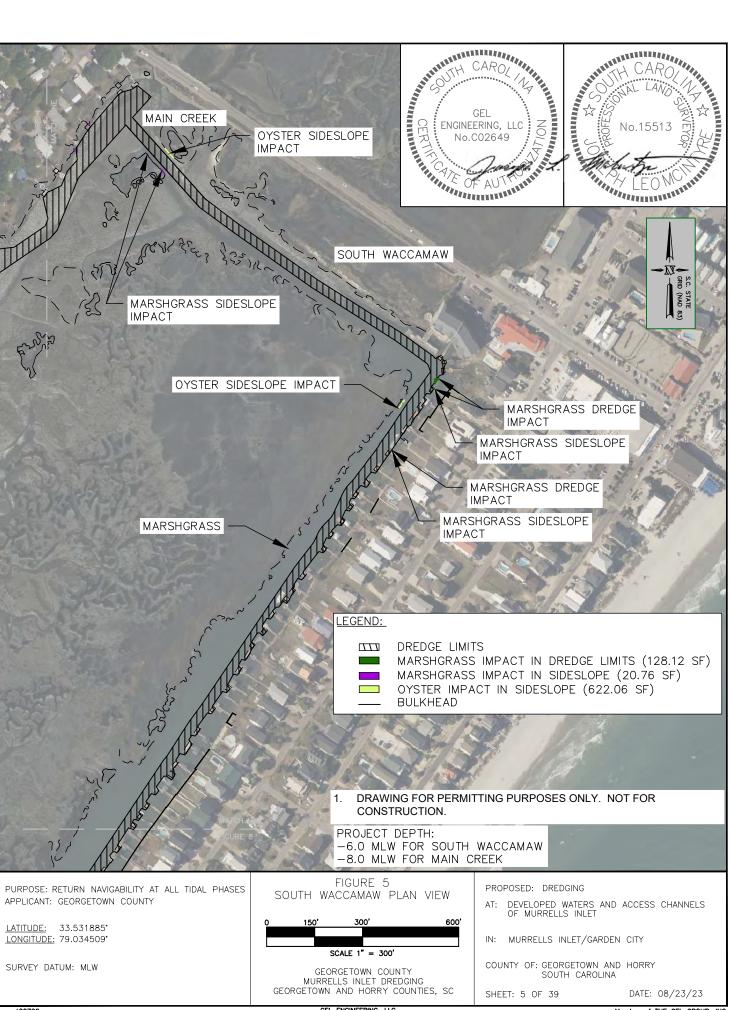
If there are any questions concerning this public notice, please contact Nat Ball, Project Manager, at (843) 329-8047, toll free at 1-866-329-8187, or by email at nathaniel.i.ball@usace.army.mil.

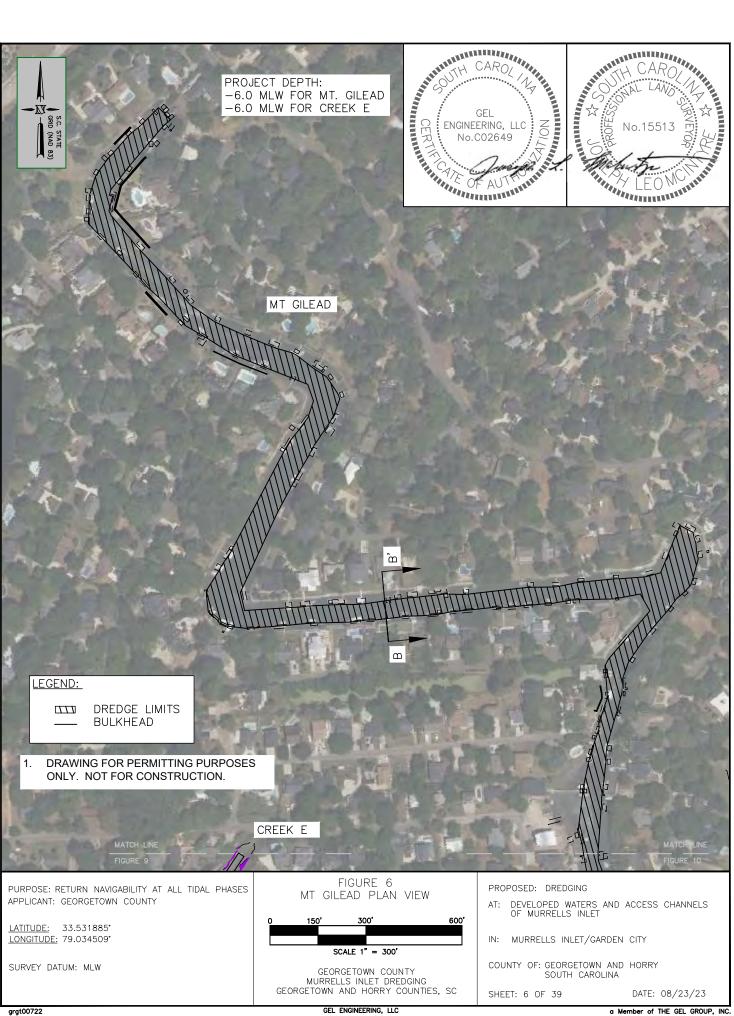


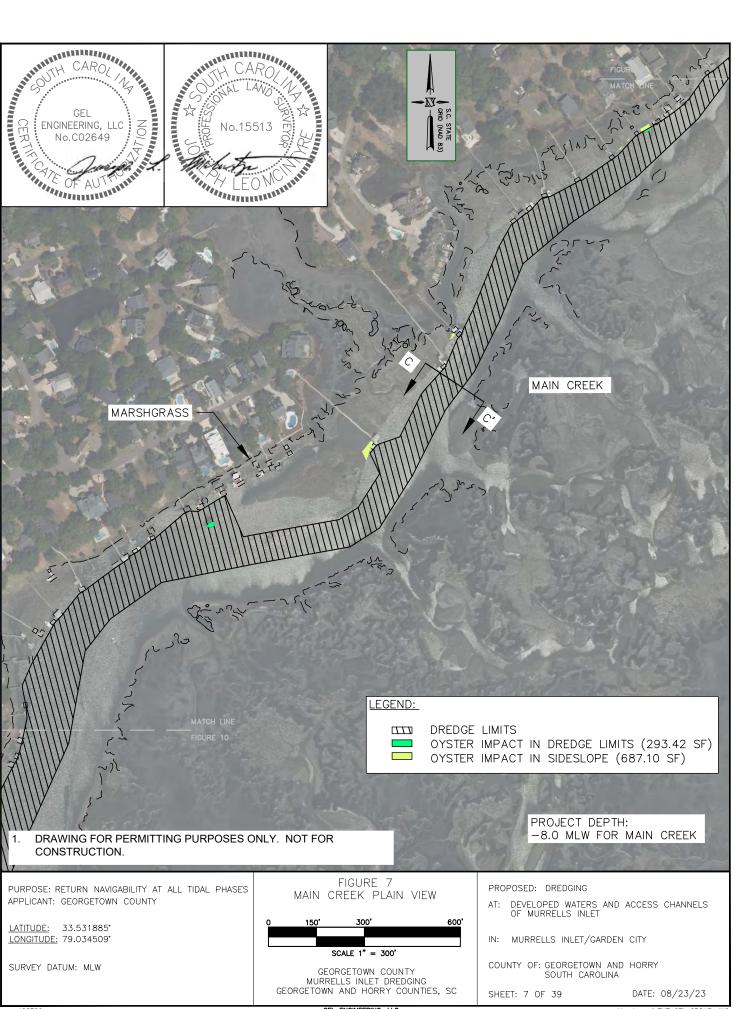


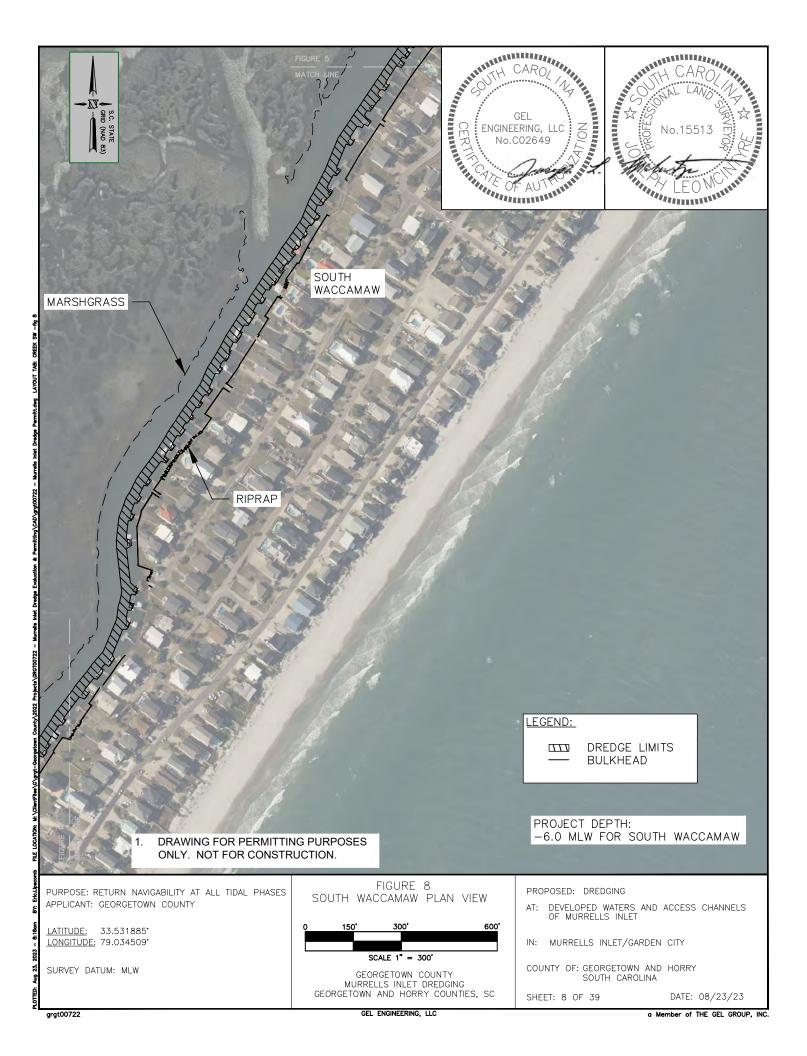


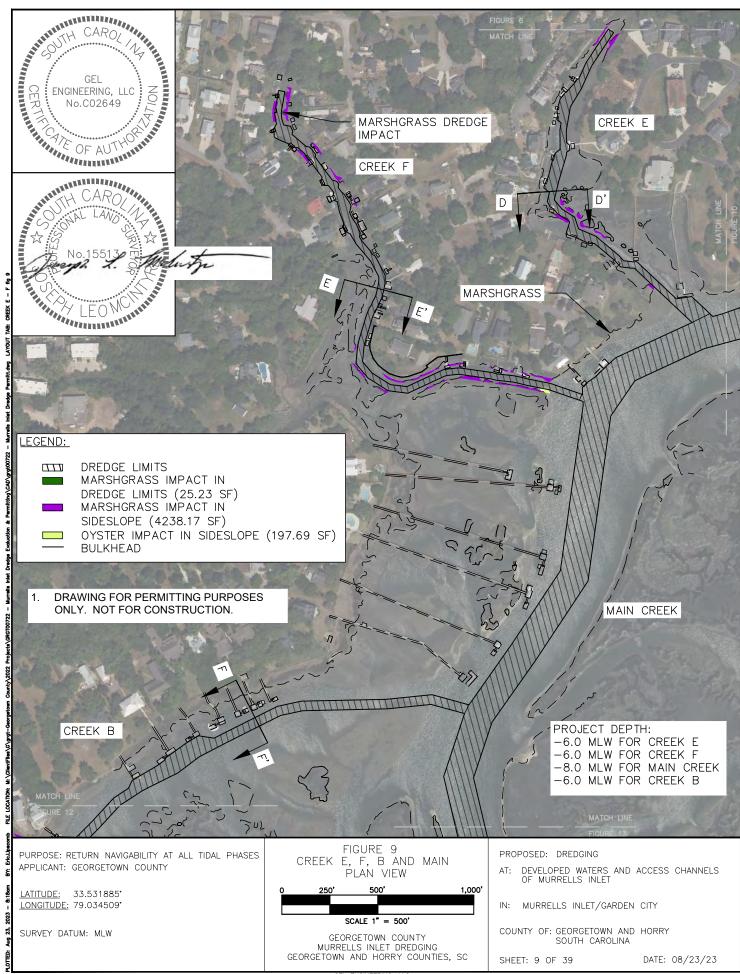


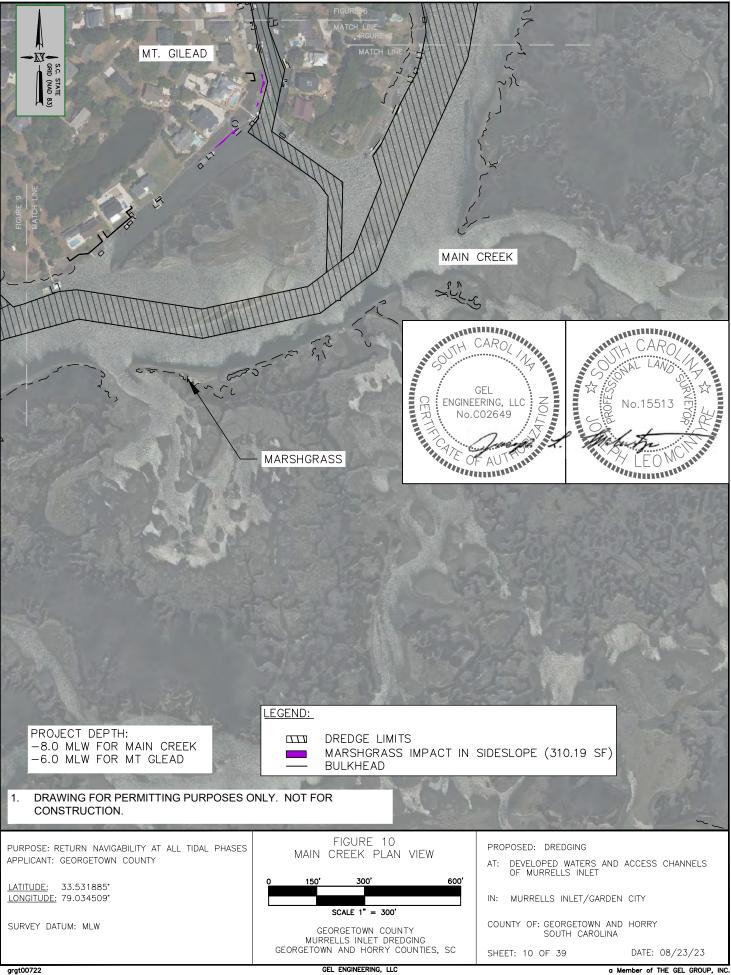


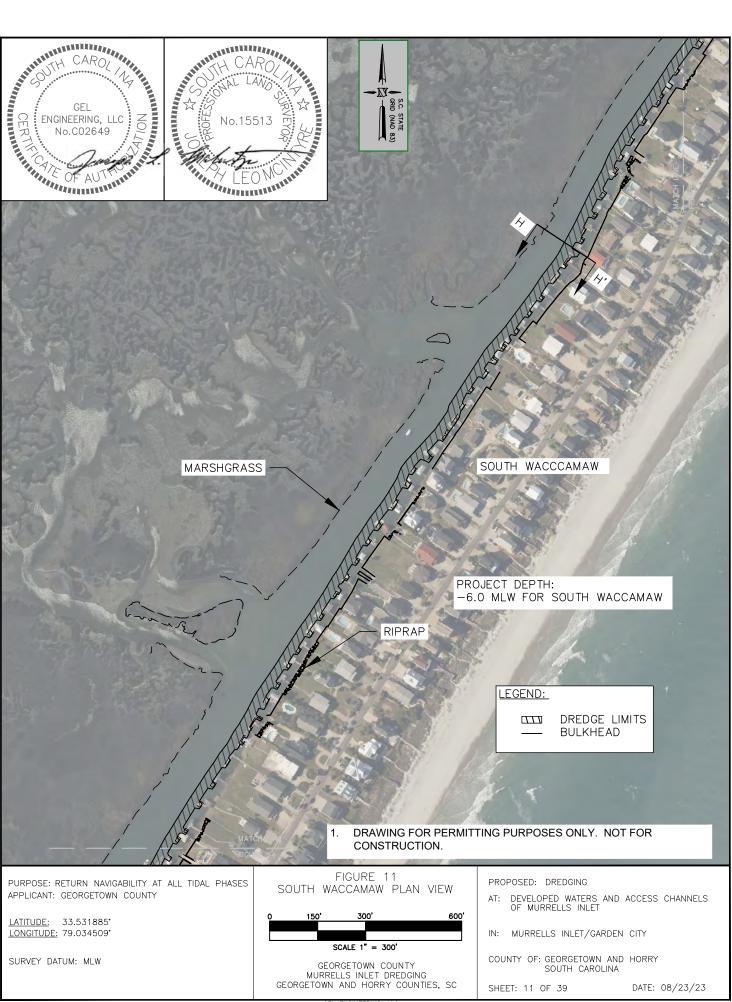


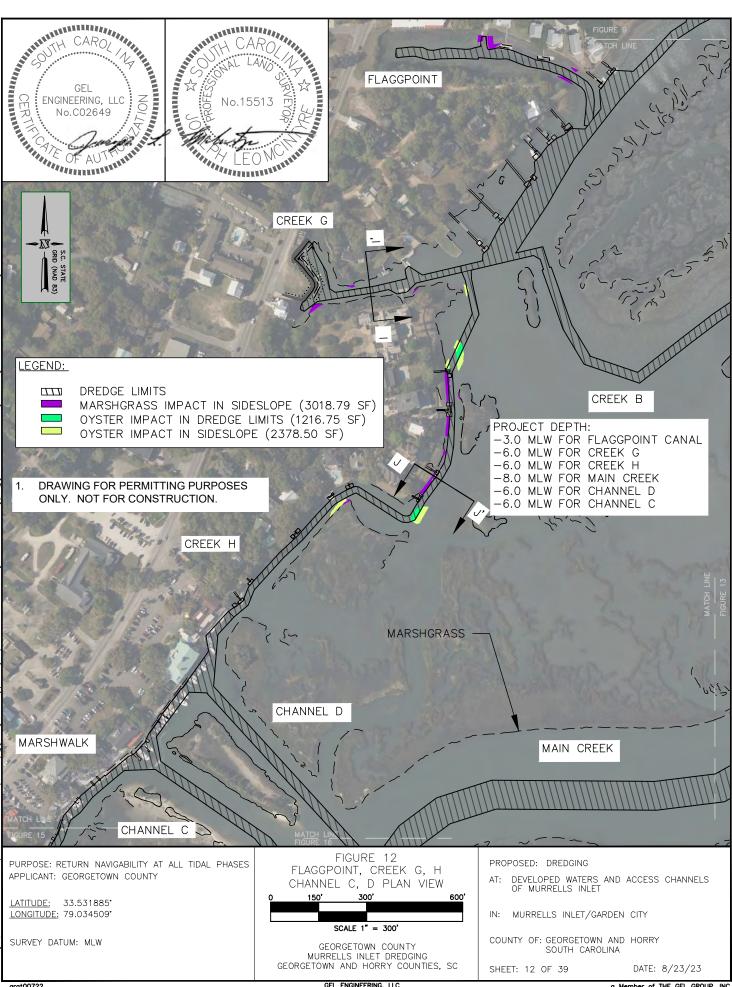




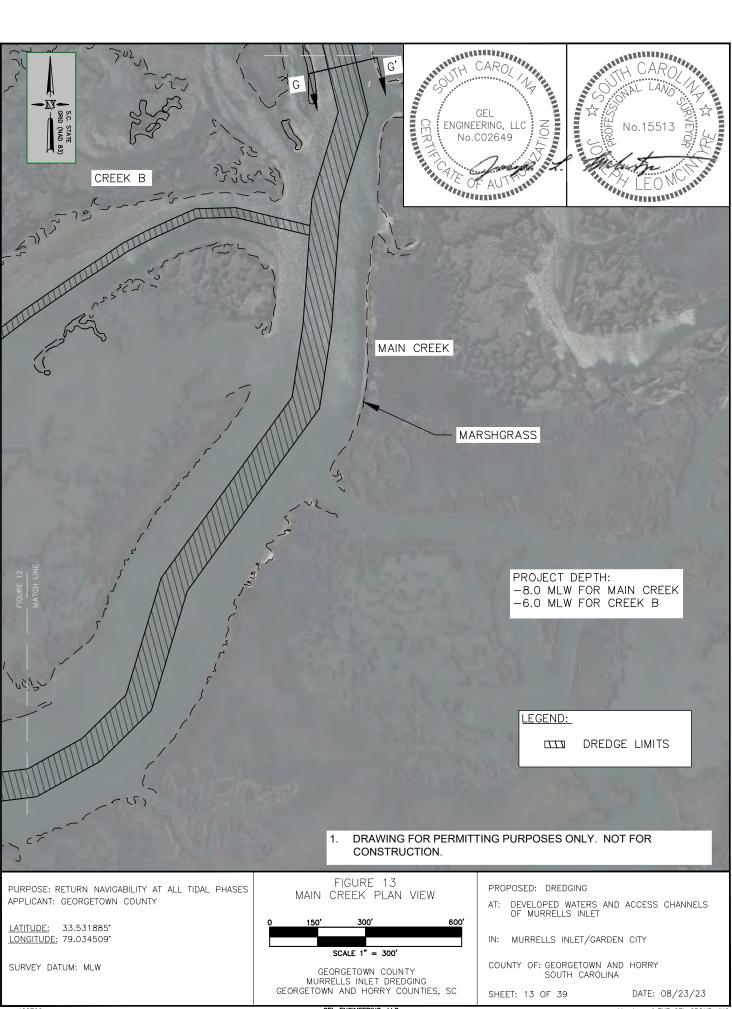


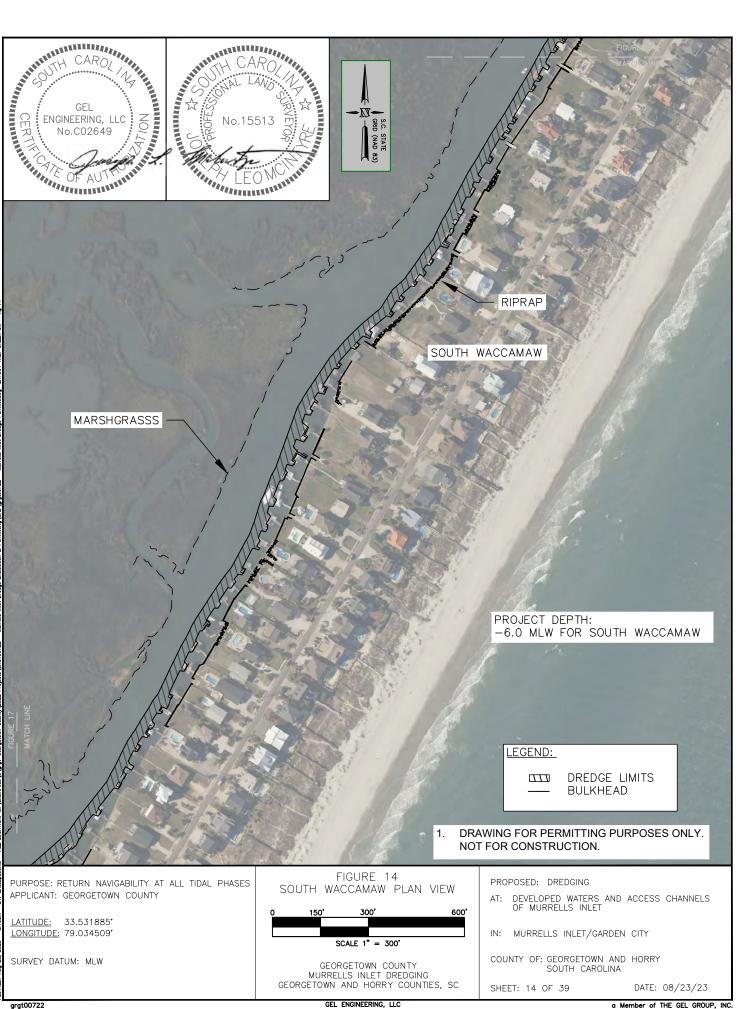


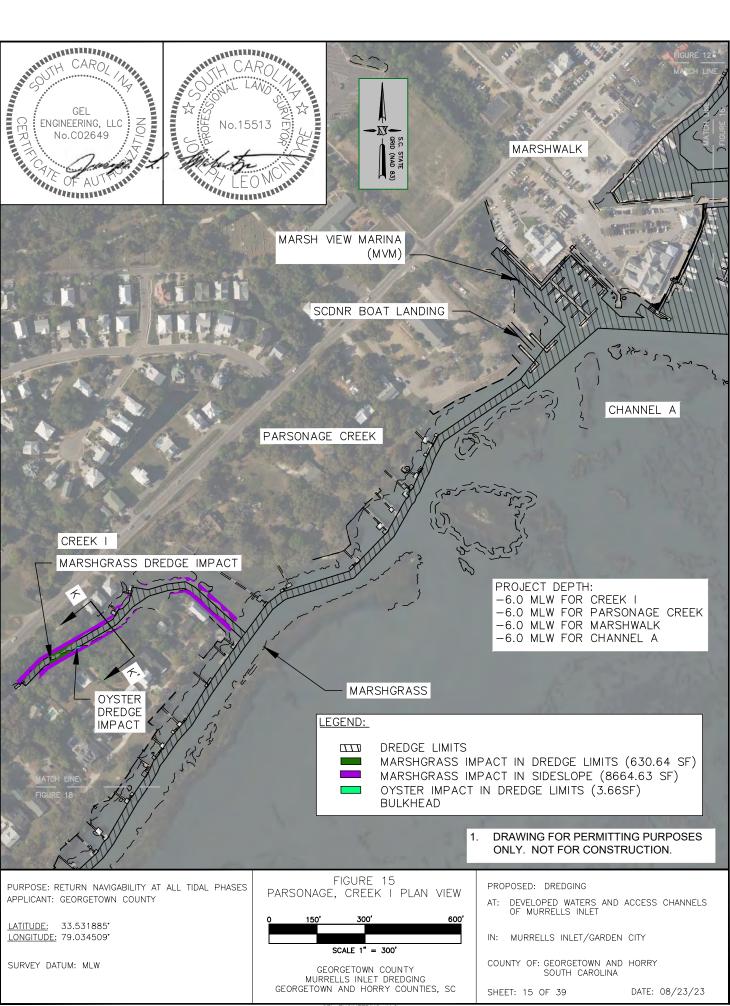


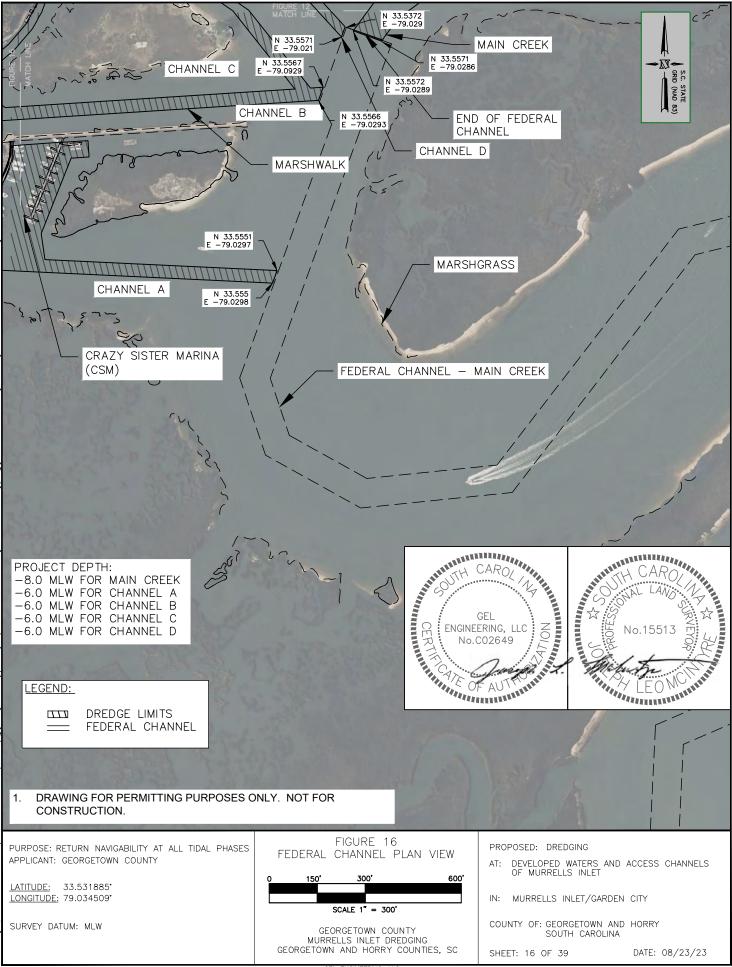


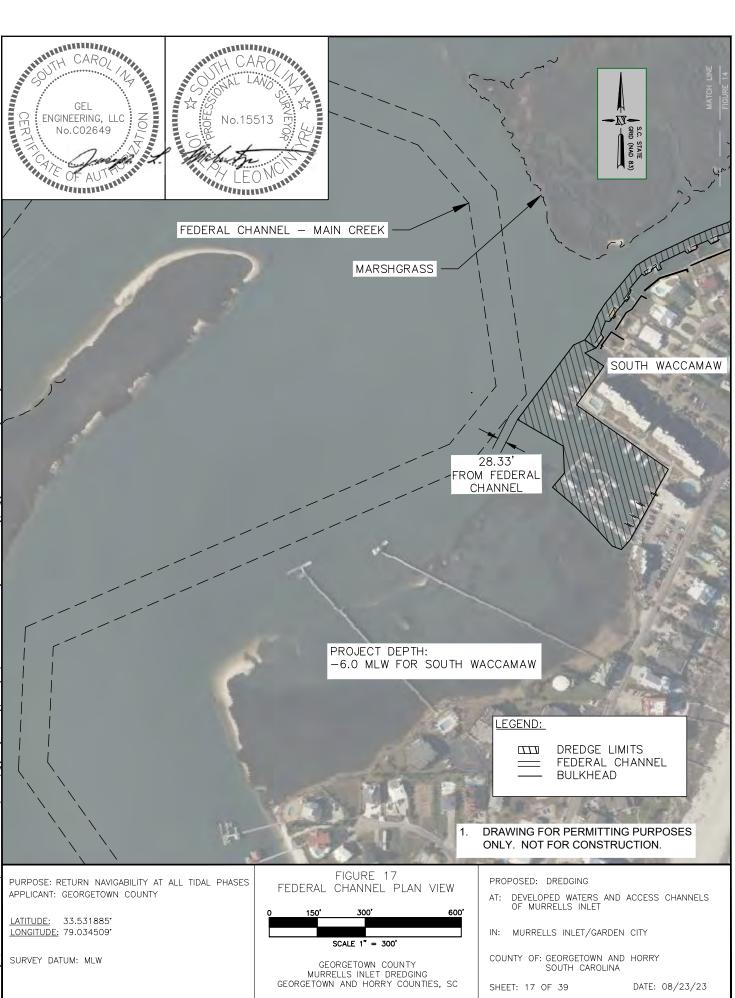
GEL ENGINEERING, LLC

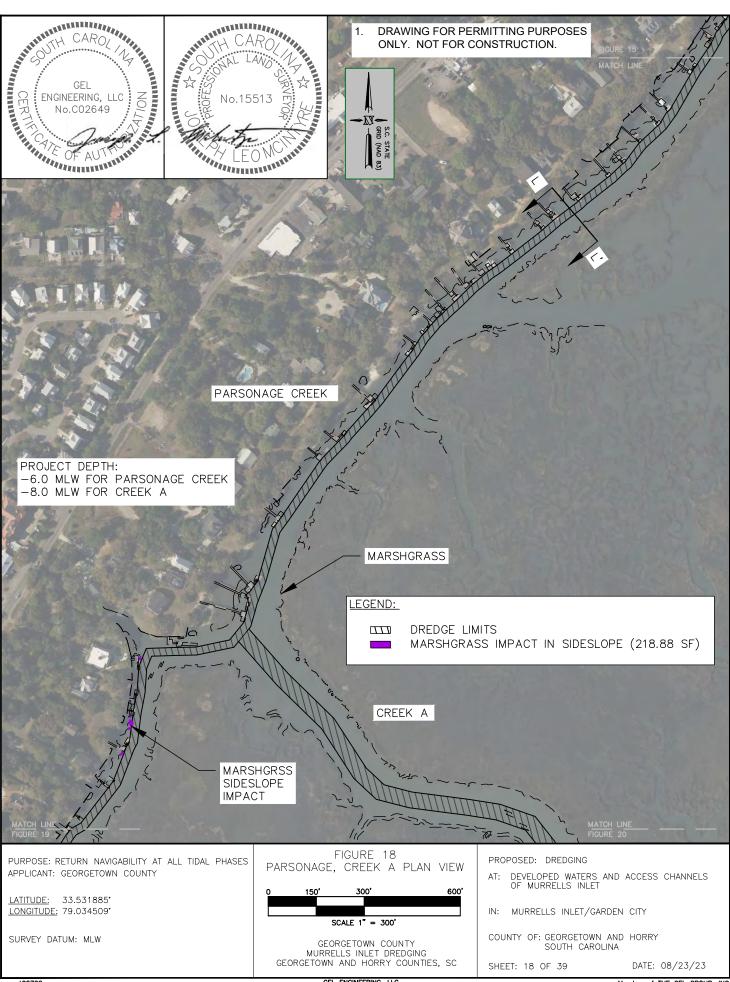




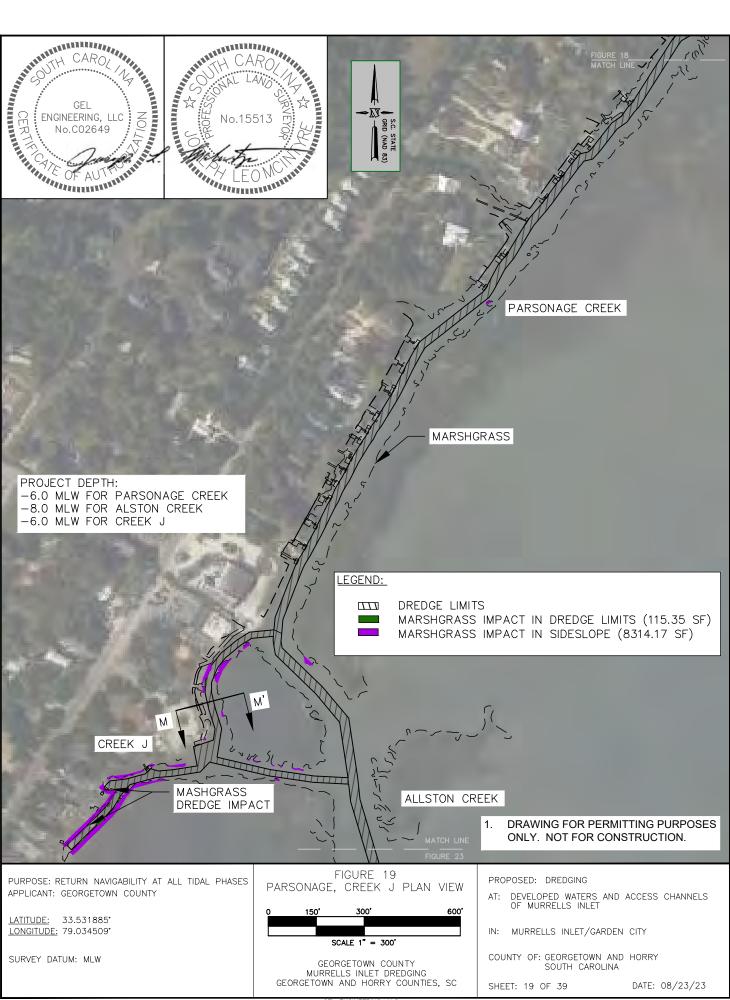








GEL ENGINEERING, LLC



am BY: EricLiptecomb FLE LOCATION: M: \ClimitFlee\G\ggi-Georgetorm County\2022 Projecta\GRGT00722 - Murrelle Intel Dredge Evolution & Permitting\CuD\grgt00722 - Murrelle Intel Dred

