



US Army Corps
of Engineers
Detroit District

Public Notice

ISSUANCE OF MICHIGAN REGIONAL PERMIT FOR LEVELING OF SAND

Date: May 20, 2003

Expires: May 14, 2007

1. In accordance with Title 33 CFR Part 320-330, as published November 13, 1986 in the Federal Register, Volume 51, No. 219, the U.S. Army Engineer District, Detroit, has issued a Regional Permit for minor work involving the discharge of dredged and fill materials in navigable waters of the United States within the State of Michigan under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act of 1977. The permit has conditions to require a case-by-case reporting and acknowledging system to determine and verify compliance with the Regional Permit.
2. This Regional Permit affords this office with a means by which to authorize activities of a minor nature in approximately five (5) to fifteen (15) work days (provided the application is administratively complete) and reduces costs, delays, and paperwork at all levels of government. We have information available in our District Office that when performed under the limitations and conditions explained below, these activities will cause only a minimal adverse environmental impact when performed separately, and will have only a minimal adverse cumulative effect on the environment. In addition, these activities are similar in nature in that they would conform to the attached glossary of terms.
3. The Category of activities covered by the Regional Permit includes the leveling of sand. The Permit would allow the redistribution of unstable and unconsolidated sand that is repeatedly being deposited, through wind and/or wave action, against bulkheads and/or being deposited up onto riparian property owners' landscaped lawns, and/or creating unlevel formations that make it more difficult to access the shoreline. Included in this authorization would be the use of any mechanical equipment whose intended purpose is the relocation of sand shoreward of the water's edge. Subject to the limitations and conditions, activities may be combined with other activities authorized under the existing Michigan Regional general permit and/or with activities authorized by the existing Nationwide general permits issued by the Corps of Engineers.
4. When performed under the limitations and conditions explained below, the proposed activity would receive consideration under the Regional Permit:
 1. The Party proposing to do the work must submit an application for minor residential shore activities or Pages 1 and 2 of the Joint Permit Application for a U.S. Army Corps of Engineers and Michigan Department of Environmental Quality permit, and receive written authorization to proceed, prior to the commencement of work. A location map, a plan view, and a written description of the proposed work must accompany the application form.
 2. The area from which the sand will be relocated, as well as the area proposed for

discharge of the sand must be a non-wetland area that under normal circumstances has no vegetation. No work is authorized waterward of the water's edge at the time the work is performed.

3. The area proposed for work is composed of unconsolidated, unstable sand that is constantly shifting due to wind and wave forces and provides little habitat for aquatic and/or upland species.
4. The amount of sand to be relocated is limited to two cubic yards of sand per linear foot of the applicant's frontage and the requested action will only be performed one time per year.
5. Michigan Natural Features Inventory has been consulted and SLOPES procedures have been followed to avoid impacts to state and/or federally-listed threatened or endangered species.
6. A site inspection has been performed by U.S. Army Corps of Engineers Regulatory personnel to verify these conditions. Representative site photographs provided by the applicant that clearly show the conditions on the entire parcel proposed for work and the date the photograph was taken may be accepted in lieu of a site inspection.

5. The Regional Permit would not apply to:

a. Activities which would impact Historical, cultural, or archaeological resources or practices as provided in the National Historic Preservation Act of 1966 and the Archaeological and Historic Preservation Act of 1974.

b. Designated environmental areas under the State of Michigan Shorelands Protection and Management Act (1972 Public Act 245, as amended), stream corridors designated under the Natural River Act (1970 Public Act 231) promulgated by Michigan Department of Environmental Quality (MDEQ), and areas dedicated or designated under the Wilderness and Natural Areas Act (1972 Public Act 241).

c. Activities which would affect Federally listed endangered, threatened, or proposed species.

d. Activities which would occur in areas named in Acts of Congress or Presidential Proclamations as National Wildlife Refuges, National Rivers, components of the National Wild and Scenic River System, National Wilderness Areas, National Recreation Areas, National Lakeshores, National Parks, National Monuments, and such areas as may be established under Federal Law for similar and related purposes.

e. Wetland areas designated as unsuitable for discharge under the U.S. Environmental Protection Agency's Advanced Identification Program.

f. Critical dune areas as designated under Part 353 of the NREPA.

6. DURATION: This Regional Permit would be in force and effect for a period of four (4) years, through the 14th day of May, 2007, with policies subject to reconsideration at any time.

7. A Federal authorization issued under this Regional Permit would not be valid until all required State and local authorizations have been received.
8. This office would reserve the right to process an individual permit for any proposed activity that would normally qualify under this Regional Permit or to process an individual permit upon request of the MDEQ.
9. The decision whether to issue the Regional Permit was based on our independent conclusions after evaluation of the probable impact of the proposed activity on the public interest. The decision reflects the national/state concerns for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, were balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal were considered including the cumulative effects thereof; among those were conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.
10. The activities involve the discharge of dredged or fill material into waters of the United States. Therefore, our evaluation of the impact of the activity on the public interest included application of the guidelines promulgated by the Administrator of the Federal Environmental Protection Agency, under the authority of Section 404(b)(1) of the Clean Water Act. The Regional permit complies with the Guidelines with the inclusion of appropriate and practicable conditions to minimize pollution of the aquatic ecosystem.
11. Additional information concerning this Regional Permit may be obtained from Bob Deroche, Project Manager, at the Regulatory Office, Detroit District, U.S. Army Corps of Engineers, P.O. Box 1027, Detroit, Michigan 48231, or telephone number 313-226-6813.

FOR THE DISTRICT ENGINEER:

GARY R. MANNSTO
Chief, Regulatory Office
Engineering & Technical Services

NOTICE TO POSTMASTERS:

We request that the above notice be conspicuously and continuously posted for 30 days from the date of this notice.

File No.

GLOSSARY

Discharge of dredged material - Any addition of dredged material into, including any redeposit of dredged material within, waters of the United States.

Discharge of fill material - Any addition of fill material into waters of the United States.

Emergent Wetland Vegetation – Plants whose base typically grows in flooded conditions.

Leveling of Sand - The relocation and redistribution of unstable and unconsolidated sand that is repeatedly being deposited, through wind and/or wave action, against bulkheads and/or being deposited up onto riparian property owners' landscaped lawns. Use of any mechanical equipment whose intended purpose is the relocation of sand waterward of the Ordinary High Water Mark and shoreward of the water's edge.

Ordinary High Water Mark (OHWM) - Federal regulatory jurisdiction, and powers of improvement for navigation, extend laterally to the entire water surface and bed of a navigable waterbody, which includes all the land and waters below the OHWM. On non-tidal waters, it is the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas. In Michigan, the OHWM has been established, based on 1985 International Great Lakes Datum, as the line on the shore coincident with the following elevation contours: Lake Superior, 603.1'; Lakes Michigan and Huron, 581.5'; Lake St. Clair, 576.3'; Lake Erie, 573.4' and accounting for lake influence and stream gradient or elevation in the connecting waters.

SLOPES – The acronym for Standard Local Operating Procedures for Endangered Species that is used by the U.S. Fish and Wildlife Service, East Lansing Field Office and the Detroit District, U.S. Army Corps of Engineers to ensure they effectively carry out their mutual responsibilities under the Endangered Species Act, and to maintain an efficient review process.

Wetlands - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.