



US Army Corps
of Engineers

Detroit District

Public Notice

Corps File No. 80-200-001-8

Date: May 27, 2004

ISSUANCE OF REGIONAL PERMIT; For Limited Removal of Coastal Vegetation and Sand Leveling at Hotel and Motel Waterfront Properties for Recreational Use and Water Access on Grand Traverse Bay and Saginaw Bay

Project Location: We have limited the geographic area included in the Regional Permit to apply only to properties located in Grand Traverse Bay of Lake Michigan and Saginaw Bay of Lake Huron, the Pilot Areas defined by the Michigan Department of Environmental Quality (MDEQ) under provisions of Public Act 14 of 2003.

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 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 terms and conditions of the Regional Permit.
2. A Regional permit is a blanket permit that authorizes activities that are similar in nature and have been determined to cause only minimal adverse environmental impact when performed separately, and will have only a minimal adverse cumulative effect on the environment. Regional permits reduce costs, delays, and paperwork at all levels of government. If an activity qualifies for the Regional Permit, we would not charge any permit fee to provide a written verification to applicants that would allow them to proceed with the work. The authorized work could be performed as needed throughout the life of the enabling Regional Permit.
3. The Category of activities covered by the Regional Permit includes limited mechanical work or discharge of dredged or fill material involving the relocation of sand waterward of the Ordinary High Water Mark (OHWM) and shoreward of the water's edge, including the redistribution, grading and/or sidecasting of material for the purposes of removing wetland vegetation which has become established during an extended period of low water and leveling of a surface for access to the water's edge and providing for a recreational area. We propose that commercial hotels and motels (as defined in the Glossary), would be allowed to clear wetland vegetation from up to one quarter of their water frontage, not to exceed an area 100 feet wide as measured along the shoreline. Sand leveling and the addition of a six-inch layer of sand would also be allowed within the same restricted work area to provide a solid base for pedestrian use of the area. Sand materials could be obtained from either landward or waterward of the OHWM, so long as the total width of the work area does not exceed the limits stated above, and the following conditions are met:

1. The party proposing to do the work must submit the U.S. Army two-page application form (ENG Form 4345) or Pages 1 through 3 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, and a statement documenting that the property in question is in fact a commercial hotel or motel or similar property (see Glossary) and providing the number of rental units available for paying guests must accompany the application form.
2. Any relocated material must be sand obtained from the parcel being considered for the proposed work or the immediate adjacent riparian parcels (with the permission of those property owners), and must be obtained from a non-wetland area, or from within the authorized work limits waterward of the OHWM, and discharged in a layer no more than 6 inches deep. No work would be authorized waterward of the water's edge, that is, sand materials may not be obtained from beyond the standing water line.
3. The work area substrate is predominately sand where vegetation has become established during an extended period of low water levels. Sand material may not be discharged over areas of predominately organic substrate, nor may organic substrates be excavated and replaced with sandy substrate.
4. Proposed work plans must utilize non-vegetated areas for recreation and water access to the maximum extent on the subject property.
5. Proposed work plans must avoid overflow pools and braided stream channels where stream mouths enter exposed bottomland areas to the maximum extent on the subject property.
6. The applicant must obtain and provide a copy of written permission from the property owner to obtain sand from off the project site property.
7. A site inspection has been performed by Corps of Engineers personnel to verify these conditions, and Corps of Engineers staff have consulted the Michigan Natural Features Inventory and followed SLOPES procedures to avoid impacts to State and/or Federally listed threatened or endangered species.

The proposed Regional General 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) or the Natural Resource and

- Environmental Protection Act (1994 Public Act 451, as amended), stream corridors designated under the Natural River Act (1970 Public Act 231) promulgated by Michigan Department of Natural Resources (now Michigan Department of Environmental Quality (MDEQ)), and areas dedicated or designated under the Wilderness and Natural Areas Act (1972 Public Act 241).
- c. Any other 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.
 - d. Wetland areas designated as unsuitable for discharge under the U.S. Environmental Protection Agency's Advanced Identification Program.

The proposed Regional General Permit would not:

- a. Obviate the need for any other federal, state, or local permit.
 - b. Authorize work or equipment lakeward of the still-water shoreline. (Shoreline means the line where surface water meets the land under current still-water conditions).
 - c. Convey property rights in either real estate or material, nor would it authorize any injury to private property or invasion of public or private rights in the public trust bottomlands.
 - d. Apply to activities that would affect Federally listed endangered, threatened, or proposed species. All applications would be screened for possible impacts through the established SLOPES procedures developed in consultation with the U.S. Fish and Wildlife Service.
4. Questions concerning this application may be directed to Tom Allenson, Project Manager, at the Corps of Engineers address listed above, or telephone number (313) 226-2221.

FOR THE DISTRICT ENGINEER:

John Konik
Acting 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.

GLOSSARY

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 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, based on 1985 International Great Lakes Datum.

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

Leveling of Sand - Relocation of sandy materials from either above or below the Ordinary High Water Mark to level uneven areas on exposed areas below the Ordinary High Water Mark.

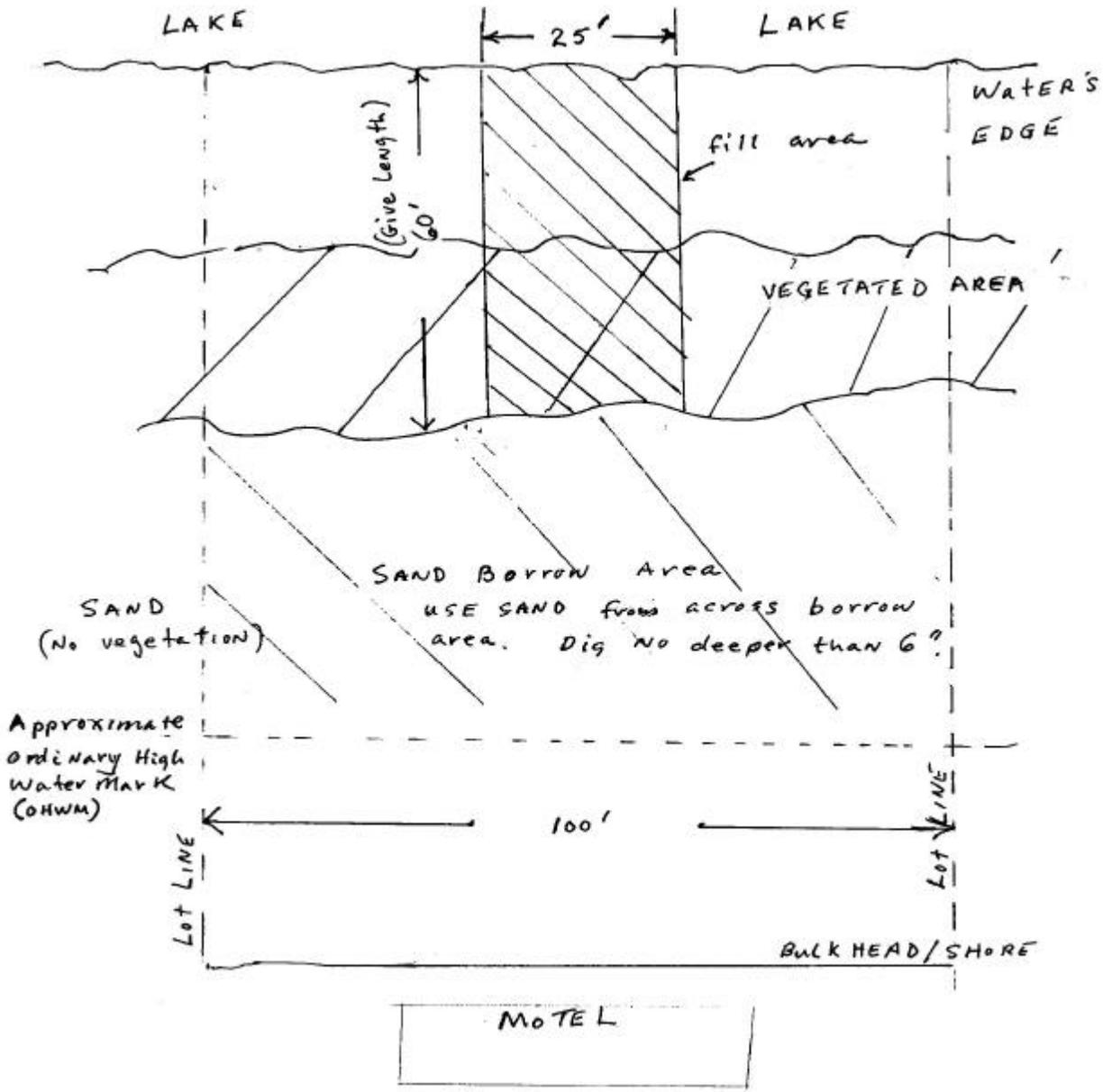
SLOPES – The acronym for Standard Local Operating Procedures for Endangered Species that is used by the U.S. Fish and Wildlife Service, East Lansing Field Office and the Detroit District, U.S. Army Corps of Engineers to ensure they effectively carry out their mutual responsibilities under the Endangered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

Waterfront Hotel/Motel – A business enterprise in which the principal use of the property is for providing multiple rental units for paying guests, to include hotels, motels, inns, resorts, condominium complexes, or the like, located on a Grand Traverse Bay or Saginaw Bay with a minimum of 100 feet of shoreline frontage.

Grand Traverse Bay – Waters in Lake Michigan located south of a line drawn from Lighthouse Point in Leelanau State Park, Leelanau County, to the Charlevoix/Antrim County Line.

Saginaw Bay – Waters in Lake Huron located south and west of a line drawn from Au Sable Point in Iosco County to Pointe aux Barques in Huron County.

Waterward – in the direction of the water; opposite of “landward,” to or toward the land.



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lake

