Waterways, Wetlands, and You!

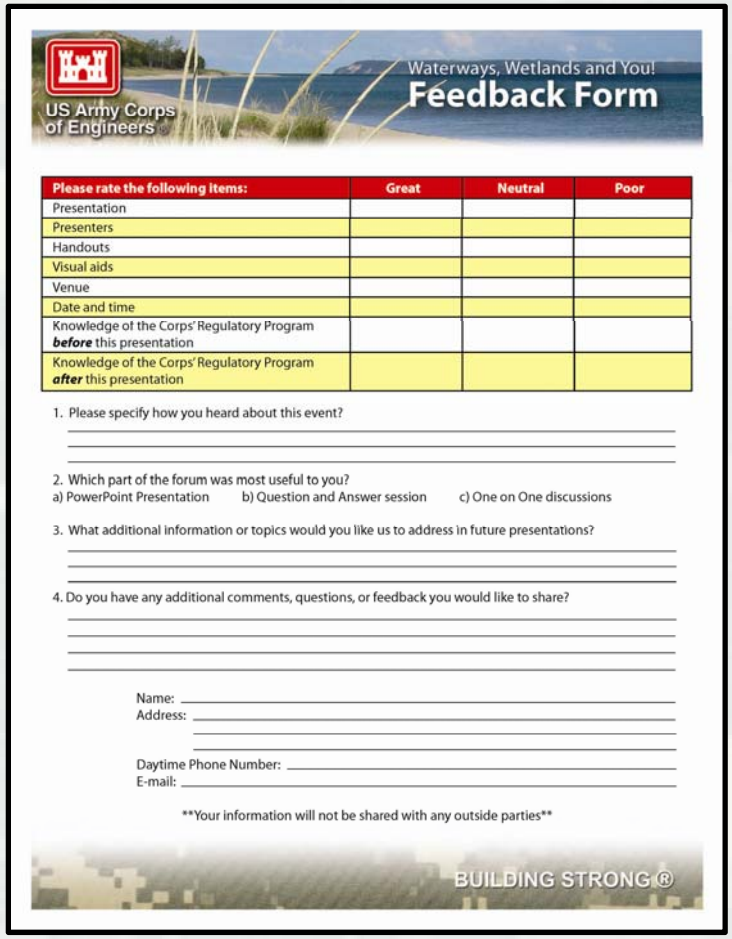
Detroit District
Regulatory Office

Traverse City, Michigan

June 7, 2011

US Army Corps of Engineers
BUILDING STRONG®

Feedback & Follow-Up Forms



US Army Corps of Engineers

Waterways, Wetlands and You!

Feedback Form

Please rate the following items:	Great	Neutral	Poor
Presenters			
Handouts			
Visual aids			
Venue			
Date and time			
Knowledge of the Corps' Regulatory Program ***before*** this presentation			
Knowledge of the Corps' Regulatory Program ***after*** this presentation			

1. Please specify how you heard about this event?

2. Which part of the forum was most useful to you?
a) PowerPoint Presentation b) Question and Answer session c) One on One discussions

3. What additional information or topics would you like us to address in future presentations?

4. Do you have any additional comments, questions, or feedback you would like to share?

Name:
Address:

Daytime Phone Number:
E-mail:

Your information will not be shared with any outside parties

BUILDING STRONG®

US Army Corps of Engineers

Waterways, Wetlands and You!

Follow up Form

If you have any questions or concerns that were not addressed during our presentation, or if you would like to be notified about similar events in the future, please provide us with your contact information below.

___ I have additional questions please contact me.
___ I would like to be notified about future events.

Name:
Address:

Daytime Phone Number:
E-mail:

Your information will not be shared with any outside parties

BUILDING STRONG®

Purpose

To take a proactive role in informing and interacting with the public.

Goals

- Increase percentage of complete permit applications
- Avoid potential unauthorized activities
- Minimize delays
- Provide general information and contacts

Agenda

- Presentation (1 hour)
- Large Group Question & Answer (1 hour)
- Individual Discussion Session (1 hour)

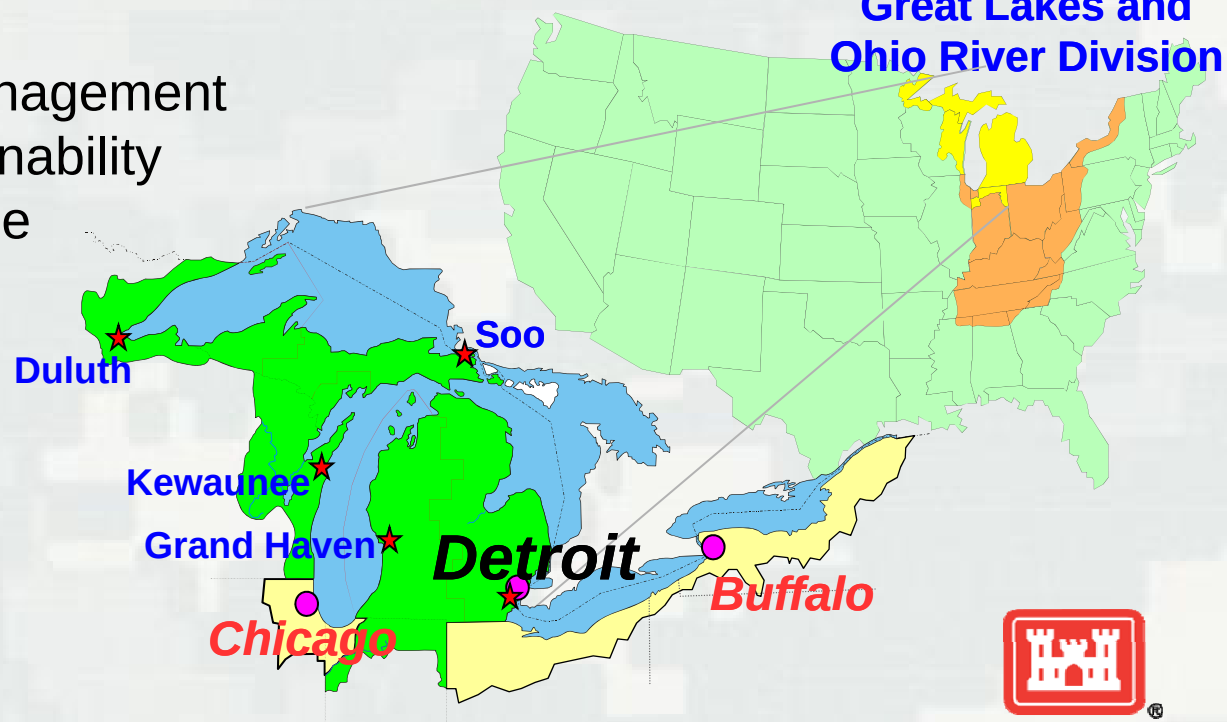
Regulatory Program

- Introduction
- Waterways and Wetlands
- Permit Activities
- Regulatory Jurisdiction

Detroit District

Mission: We serve the Nation by delivering world-class engineering and construction for –

- Economic Vitality (Great Lakes Navigation)
- National Security
- Water Resources Management
- Environmental Sustainability
- Emergency Assistance

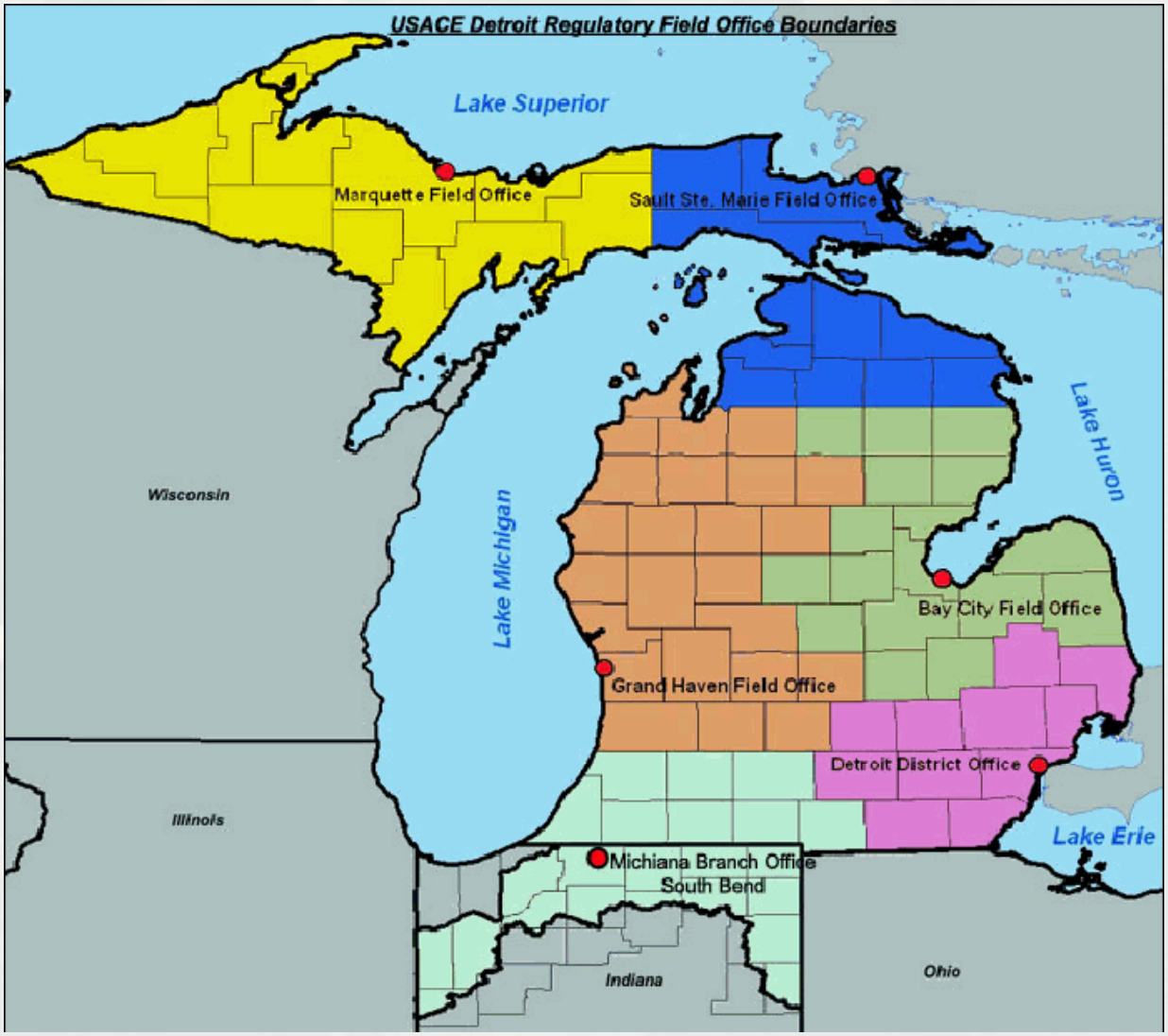


- 95 Navigation projects
- 99 miles of structures
- 611 miles of channels
- 3,200 miles of coastline

Detroit District: Primary Missions

- Navigation/Hydropower
- Environmental Initiatives
- Flood Risk Management
- Emergency Management
- Recreation
- International and Interagency Support
- Military Construction
- Regulatory Program

Regulatory Field Offices



Regulatory Program
Mission Statement

To provide strong protection of the Nation's aquatic environment. This will be accomplished through: coordination with agencies and the public; fair, reasonable, and timely decisions; accurate and timely jurisdiction determinations; and monitoring, compliance, and enforcement of permit laws, regulations and policies.

Regulatory Authorities

Section 10 Rivers and Harbors Act

- Navigable waters of the U.S.
- Structures and Work

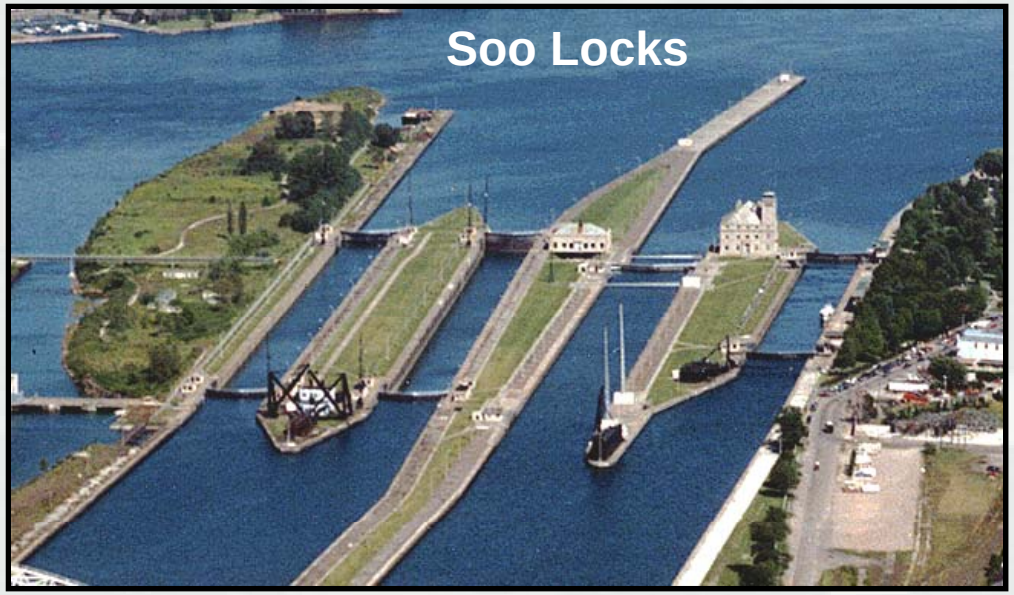
Section 404 Clean Water Act

- Waters of the U.S. including wetlands
- Discharge of dredged or fill material

Section 10 of the Rivers and Harbors Act of 1899

Definition of Navigable Waters of the U.S.

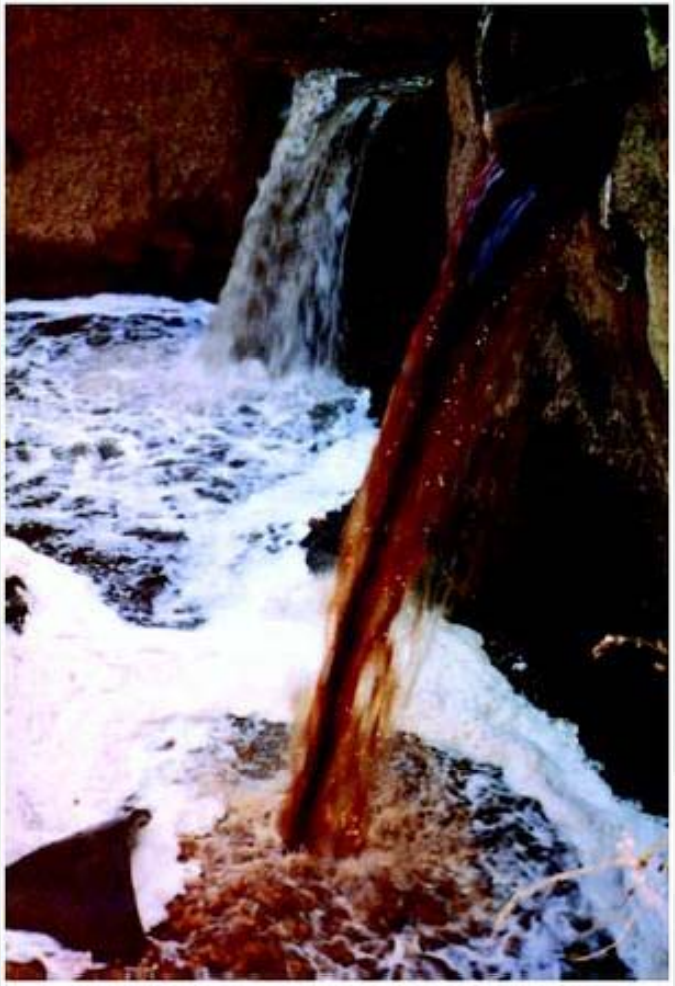
Navigable Waters of the United States are those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce (33 CFR Part 329).



Examples of Navigable Waters of the U.S.

- Lake Michigan (Grand Traverse Bay)
- Manistee Lake/River
- Portage Lake
- Arcadia Lake
- Betsie Lake
- Lake Charlevoix
- Pine River
- Cheboygan River
- Black River
- Mullett Lake
- Indian River
- Burt Lake
- Crooked Lake/River

The Clean Water Act



Definition of Waters of the U.S.

- Navigable waters of the U.S.
- Tributaries to navigable waters of the U.S.
- Wetlands adjacent to waters listed above

State Assumed Waters

- In 1984, a portion of the Corps' regulatory responsibilities were assumed by the Michigan Department of Environmental Quality (DEQ).

- The DEQ has assumed jurisdiction over the geographic limits of the interior Waters of the State.

- In State assumed areas, permits from the Corps are not typically required, unless the U.S. Environmental Protection Agency mandates our involvement.

Regulatory Program

- ✓ Introduction
- Waterways and Wetlands
- Permit Activities
- Regulatory Jurisdiction

Great Lakes & Rivers and Streams

- Tourism
- Recreation
- Commerce
- Fish and Wildlife Habitat

Wetlands

- Fish and Wildlife Habitat
- Water Purification
- Erosion Control
- Flood Water Storage
- Ground Water Replenishment
- Green Space, Recreation

Wetlands

Wetlands

Wetlands

- Hydrology
- Soils
- Vegetation

Wetland Hydrology

Evidence of Water

Wetland Soils

Wetland Vegetation

Technical Resources

www.lre.usace.army.mil

Regulatory Program

- ✓ Introduction
- ✓ Waterways and Wetlands
- Permit Activities
- Regulatory Jurisdiction

Activities that may require a Corps Permit

Bank Protection (riprap)

Activities that may require a Corps Permit

Marinas/docks/piers

Activities that may require a Corps Permit

Dredging and projects with fill material

Activities that may require a Corps Permit

Placement of sand/beach grooming

Activities that may require a Corps Permit

Walkways/paths

Activities that may require a Corps Permit

Bulkheads (seawalls)

Regulatory Program

- ✓ Introduction
- ✓ Waterways and Wetlands
- ✓ Permit Activities
- ▪ Regulatory Jurisdiction

Sections 10 and 404 Jurisdiction

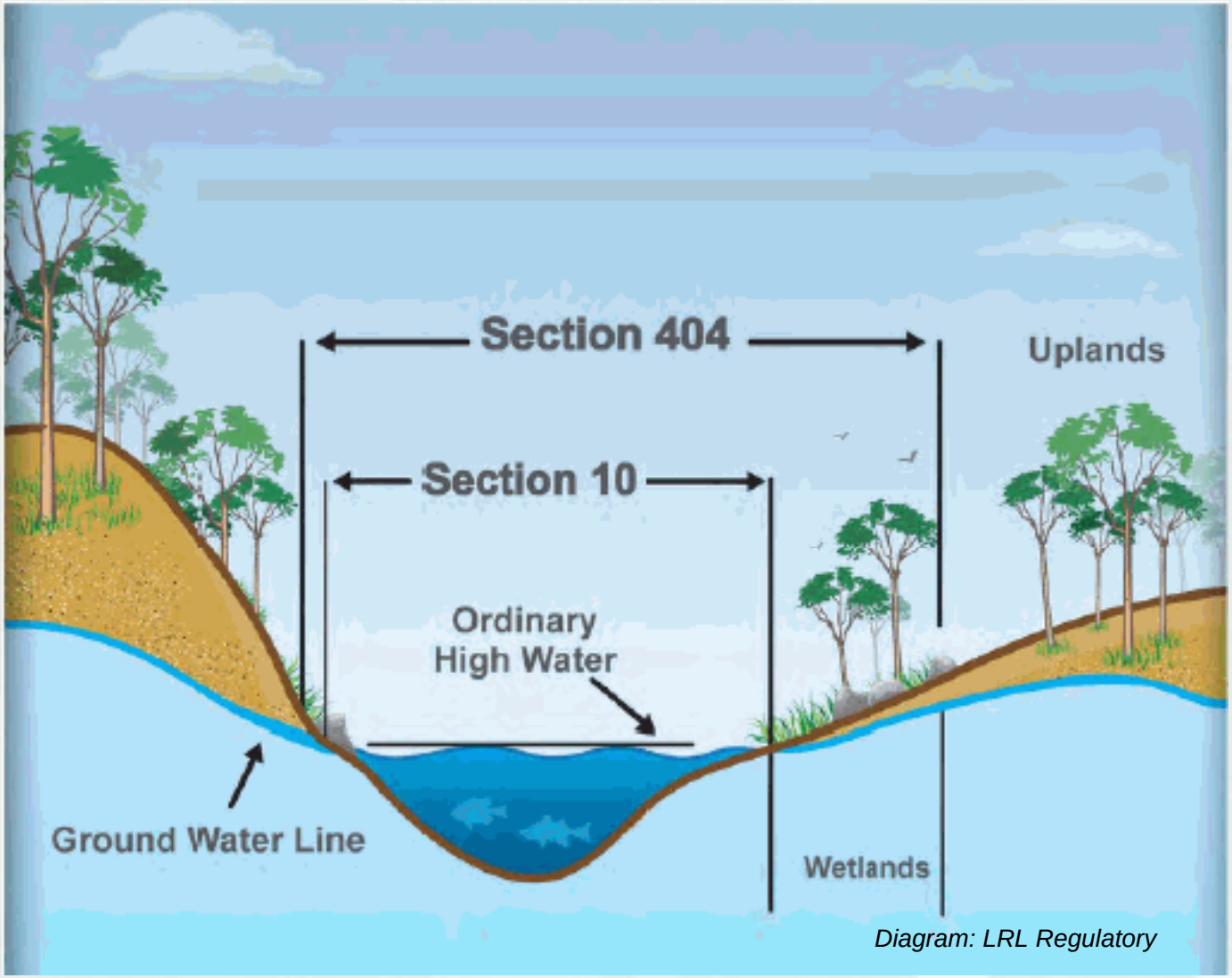
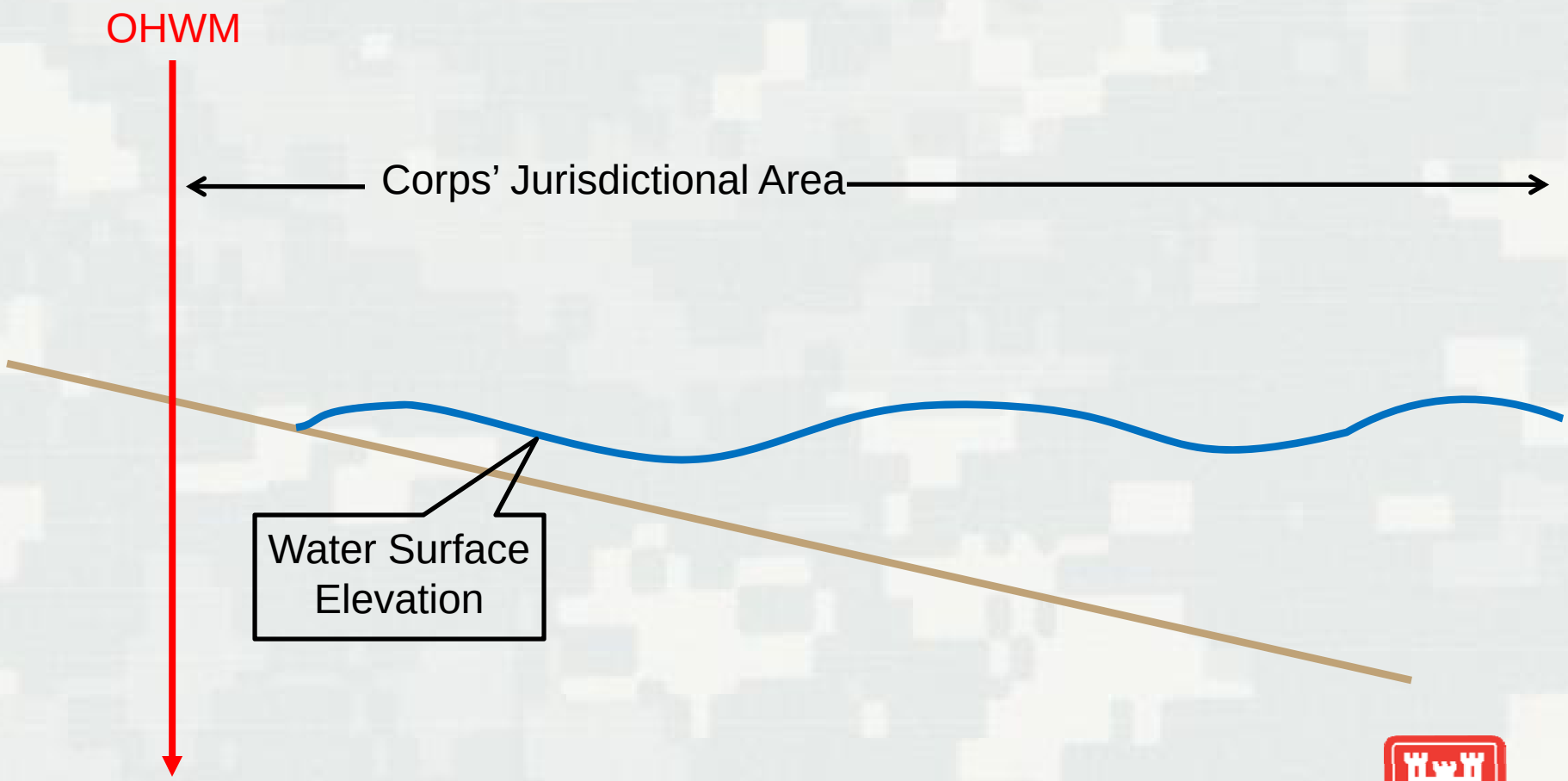


Diagram: LRL Regulatory

Ordinary High Water Mark
(OHWM)

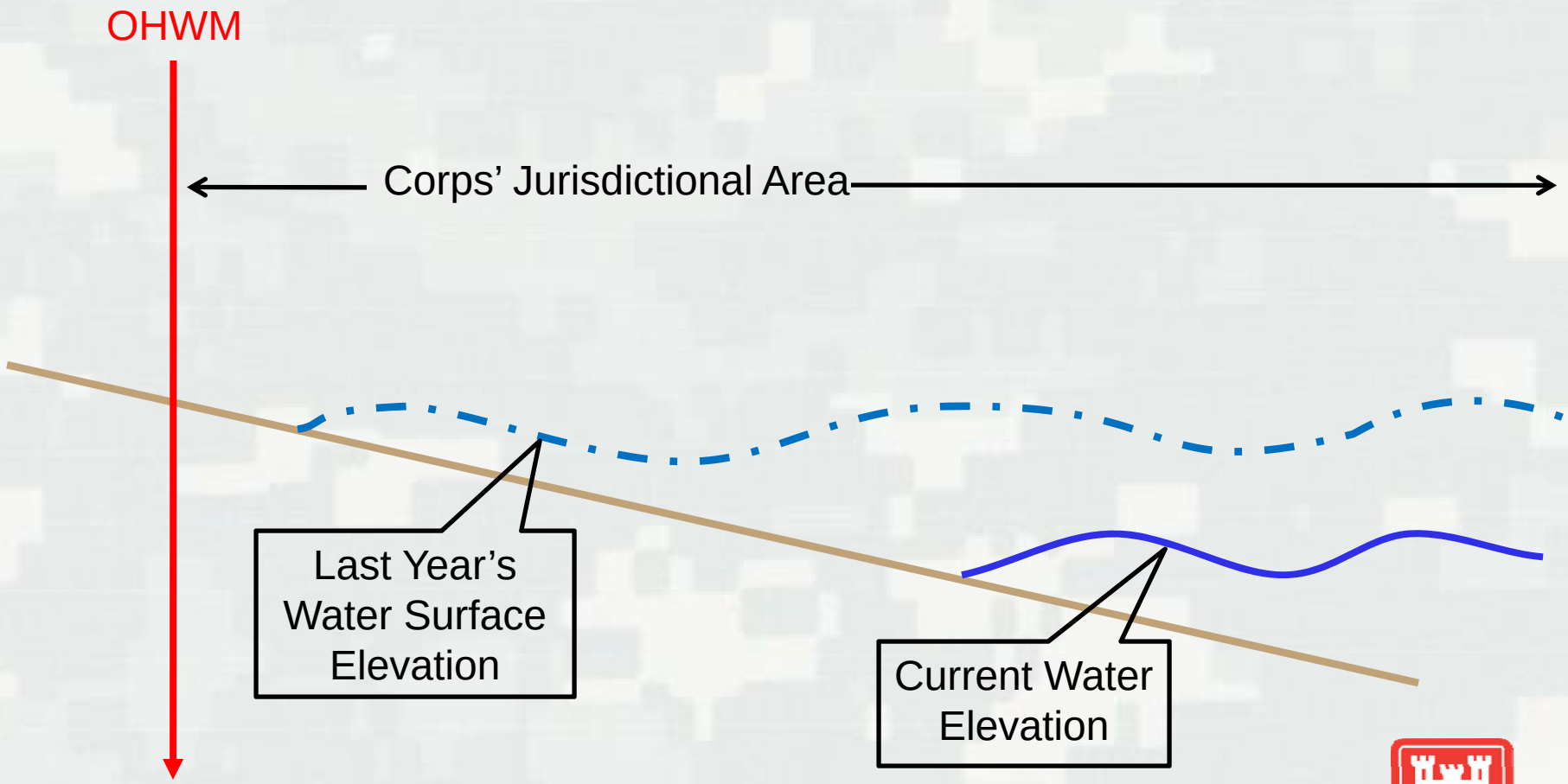
- Jurisdictional limit for waterways
- Physical characteristics of the shoreline
  - Typically determined by a site visit
- OHWM by elevation on the Great Lakes
  - Used when OHWM can not be clearly determined by physical characteristics

Ordinary High Water Mark



Ordinary High Water Mark

One year later…



OHWM

OHWM

Regulatory Program

- ✓ Introduction
- ✓ Waterways and Wetlands
- ✓ Permit Activities
- ✓ Regulatory Jurisdiction

Regulatory Program

- Permit Evaluation
- Compliance & Enforcement
- Other Services

Permit Evaluation Flow-Chart

Pre-Application Meeting
(optional)

↓

Application

↓

Evaluation/Coordination

↓

Decision

Pre-Application Meetings

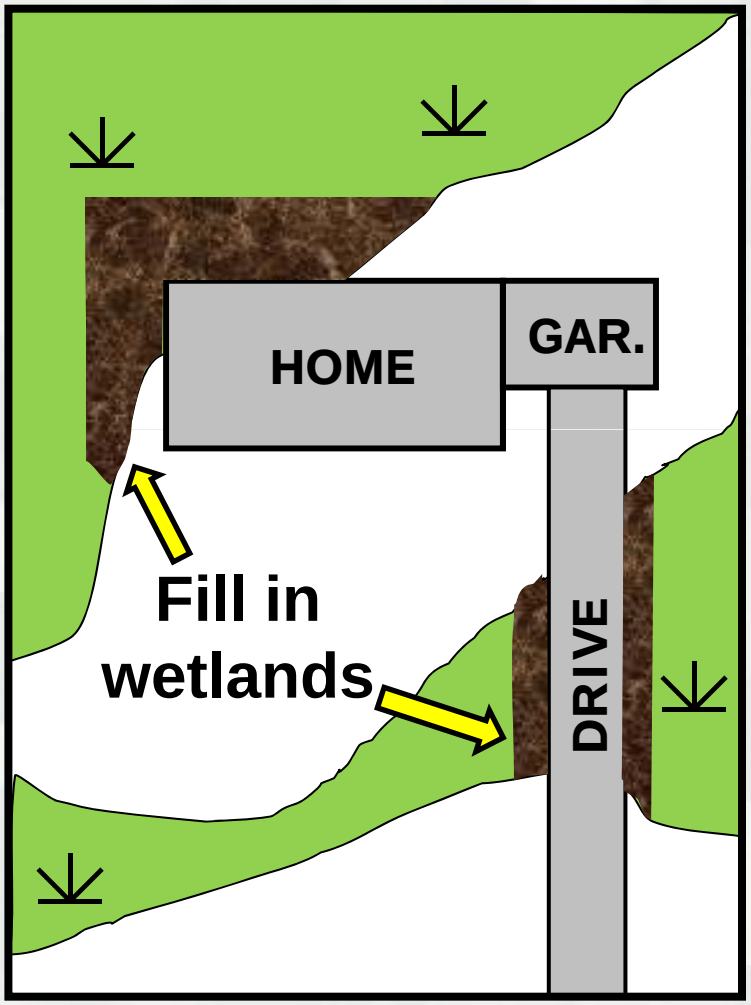
Streamline application process

- Program education
- Information requirements
- Factors weighing heavily in decision
- Impact reduction

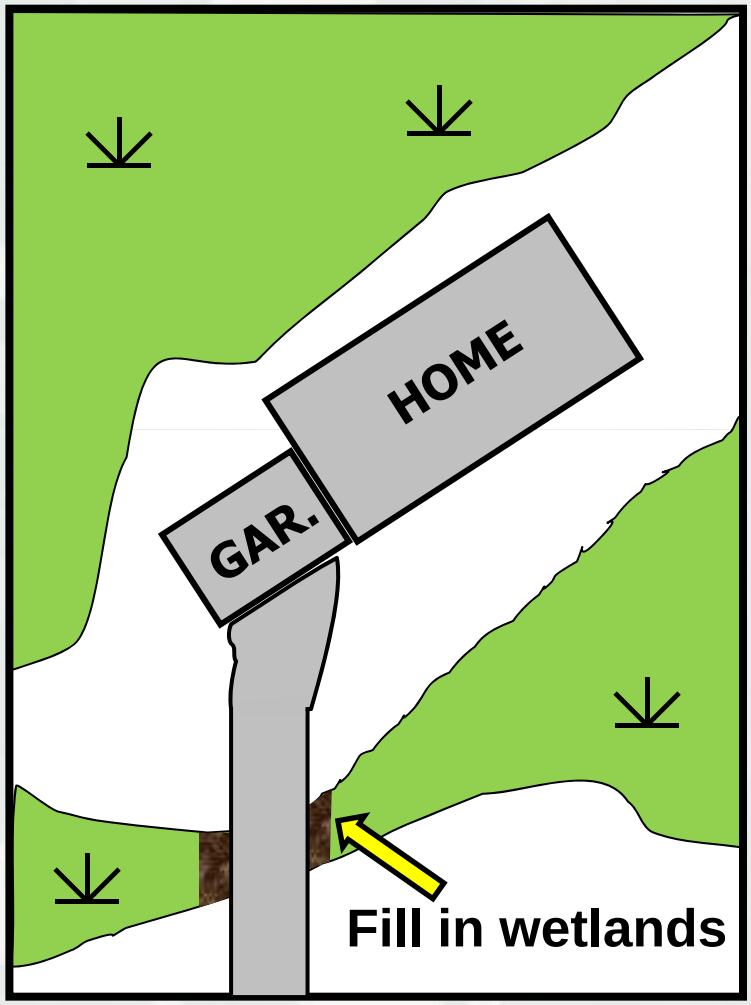
Impact Reduction

- Avoidance
- Minimization
- Compensatory Mitigation

Impact Reduction Example



Original proposal



Impacts minimized

Applying for a Permit

US Army Corps of Engineers (USACE) — Michigan Department of Environmental Quality (MDEQ)

AGENCY USE

Previous USACE Permit or File Number	Date Received	Land and Water Management Division, MDEQ File Number
USACE File Number		Pre-application Number or Marina Operating Permit Number
District Office		Fee received $

Read Instructions pages i - iii. All of the following boxes below must be checked and information provided for the application to be processed:

- ☐ All items in Sections 1 through 9 are completed
- ☐ Items in Sections 10 through 21 that apply to the project are completed
- ☐ Dimensions, volumes, and calculations are provided
- ☐ Date project was staked _____
- ☐ Application fee is attached
- ☐ All requested supplementary attachments (➔) are included
- ☐ Reproducible location map, site plan(s), cross sections, and photographs are provided, one set must be black and white on 8 ½ by 11 inch paper.
- ☐ List any additional attachments, tables, etc.: _____

1 PROJECT LOCATION INFORMATION

- Refer to your property's legal description for the Township, Range, and Section information, and your property tax bill for your Property Tax Identification Number(s).

Site Location Address (road, if no street address)	Zip Code	Township Name(s)	Township(s)	Range(s)	Section(s)
City/Village	County(ies)	Property Tax Identification Number(s)			
Name of Waterbody	Project Name or Job Number	Subdivision/Plat	Lot Number	Private Claim	

Project types (check all that apply): ☐ private ☐ public/government ☐ industrial ☐ commercial ☐ multi-family ☐ building addition ☐ new building or structure ☐ building renovation or restoration ☐ river restoration ☐ single-family ☐ project is receiving federal transportation funds ☐ other (explain)

The proposed project is on, within, or involves (check all that apply) ☐ a legally established County Drain (date established) (M/D/Y) _____

☐ a stream ☐ a pond (less than 5 acres) ☐ a Great Lake or Section 10 Waters ☐ a natural river ☐ a new marina
☐ a river ☐ a channel/canal ☐ a designated high risk erosion area ☐ a dam ☐ a structure removal
☐ a ditch or drain ☐ an inland lake (5 acres or more) ☐ a designated critical dune area ☐ a wetland ☐ a utility crossing
☐ a floodway area ☐ a 100-year floodplain ☐ a designated environmental area ☐ 500 feet of an existing waterbody

2 DESCRIBE PROPOSED PROJECT AND ASSOCIATED ACTIVITIES, and THE CONSTRUCTION SEQUENCE AND METHODS (attached additional sheets)

Written Summary of All Proposed Activities. _____

Construction Sequence and Methods. _____

3 APPLICANT, AGENT/CONTRACTOR, and PROPERTY OWNER INFORMATION

Owner/Applicant (individual or corporate name)	Agent/Contractor (firm name and contact person)
Mailing Address	Address
City State Zip Code	City State Zip Code
Daytime Phone Number with Area Code Cell Phone Number	Daytime Phone Number with Area Code Cell Phone Number
Fax E-mail	Fax E-mail

☐ No ☐ Yes Is the applicant the sole owner of all property on which this project is to be constructed and all property involved or impacted by this project?
➔ If no, attach letter(s) of authorization from all owners. A letter signed by each property owner authorizing the agent/contractor/other owner to act on his or her behalf or a copy of easements or right-of-ways must be provided. If multiple property owners, also attach a list of all owners along with their names, mailing addresses, and telephone numbers. If the applicant is a corporation, a corporate officer must provide written document authorizing any agent/contractor listed above to act on its behalf. A letter of authorization must be provided from an owner receiving dredge spoils on their property, or where access through their property is required..

Property Owner's Name (If different from applicant)	Mailing Address
Daytime Phone Number with Area Code Cell Phone Number	City State Zip Code

☐ No ☐ Yes Is there a MDEQ conservation easement or other easement, deed restriction, lease, or other encumbrance upon the property in the project area?
➔ If yes, attach a copy.

AGENCY USE

Great Lakes Shoreline Management MDEQ General Permit and USACE Regional Permit Application Form

Date Received:	MDEQ File Number:
	USACE File Number:
	MDEQ District Office:
	Fee received:

Property Owner

Property Owner (For multiple applicants, include authorization letters):		
Contact Person:		
Address:		
City:	State:	Zip:
Phone:	Fax:	
Email:		

Agent/Contractor

Agent/Contractor:		
Contact Person:		
Address:		
City:	State:	Zip:
Phone:	Fax:	
Email:		

Project Location and Description

Property Address:	City/Village:		Zip Code:	
Township Name:	County:	Town:	Range:	Section:

Directions to property from main intersection (Attach a location map of the property):

Describe proposed project and associated activities, construction sequence and construction methods (Attach site plans and photos):

Are these activities proposed in a designated Environmental Area, as defined by Part 323 of the NREPA? ☐ yes ☐ no ☐ unknown	Have any mowing activities taken place in the project area? ☐ yes ☐ no
Have any vegetation removal activities taken place in the project area? ☐ yes ☐ no	If yes, was vegetation removed under a permit or an MDEQ director's letter? ☐ yes ☐ no If yes, list DEQ File Number and USACE file number:

Activities in Areas Free of Vegetation:

Check each activity proposed and provide requested information. To calculate volume in cubic yards (cu.yds.), multiply average length in feet (ft) times the average width (ft) times the average depth (ft) and divide by 27.

☐ **Leveling sand**	Dimensions of work area: Length: Width: Volume (cu.yds.):
☐ **Grooming sand (including debris removal)**	Dimensions of work area: Length: Width: Type of Debris to be removed (e.g., algae, animal and fish carcasses, garbage, etc): Debris disposal method and location: Grooming Depth (not to exceed 4 inches):
☐ **Construction and maintenance of a path using on-site materials obtained from non-vegetated bottomlands or upland. (For paths in vegetated areas, use the Joint Permit application)**	Path dimensions (not to exceed 6 feet in width for each property owner or 10 feet in width for public access areas or commercial hotels): Length: Width: Volume (cu.yds.): (For public access areas and commercial hotels only) Property width (feet of lake frontage): Number of paths proposed:

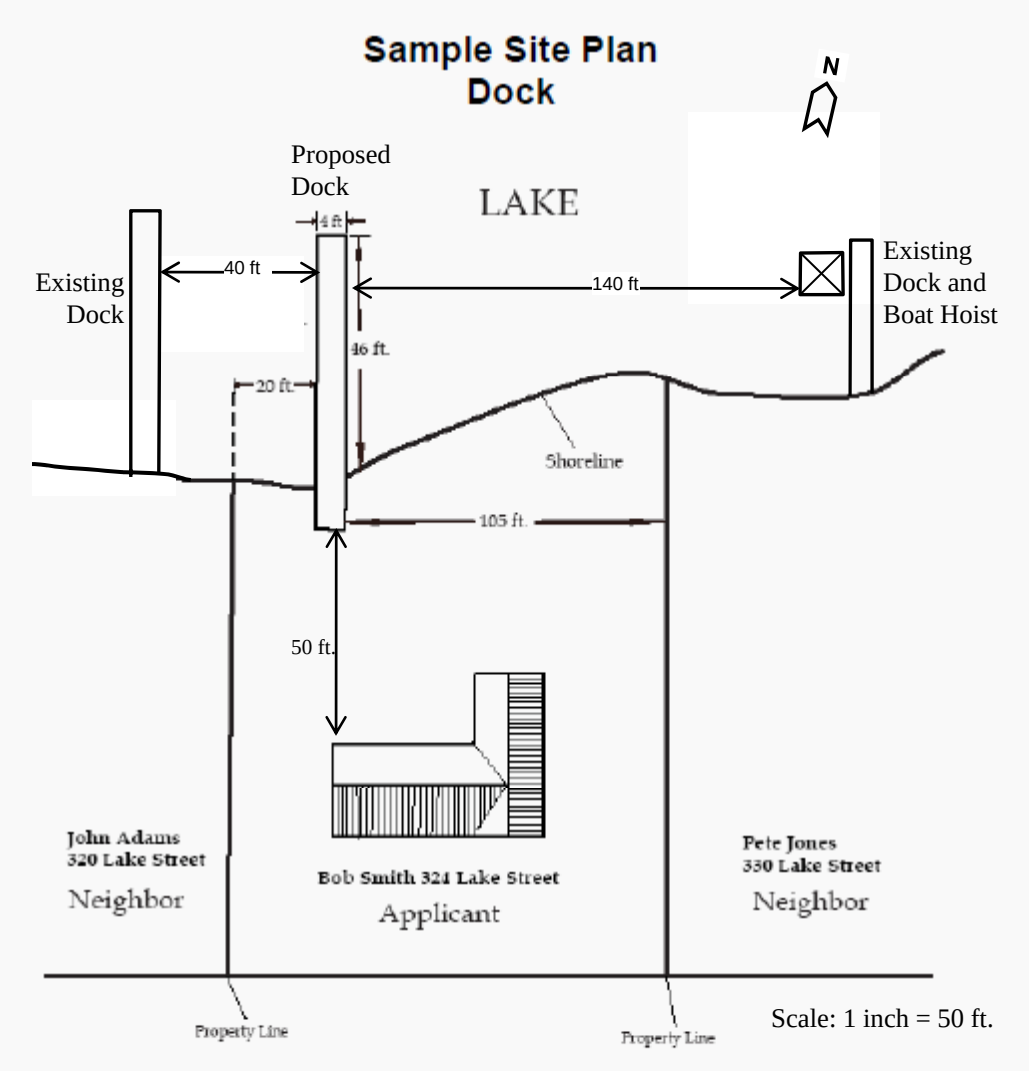
Great Lakes Shoreline Management Application — EQP 2709 (Rev. 1/2008) Page 2 of 3

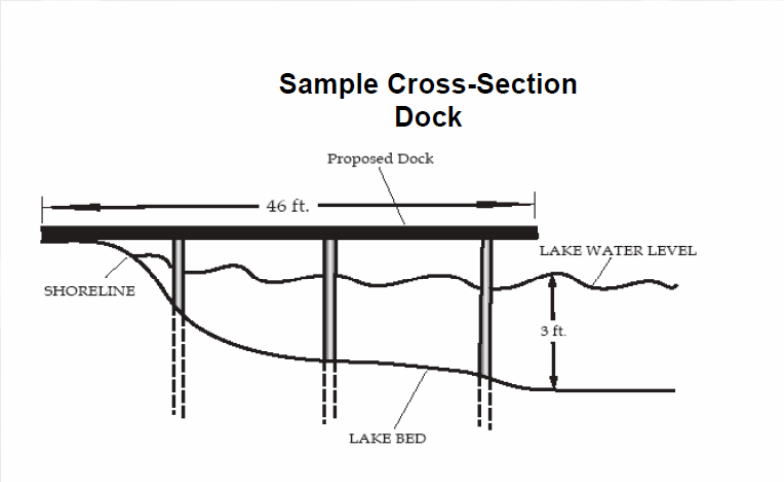
Permit Application

A complete application includes:

- Completed application form
- Vicinity map showing location
- Plan-view & Cross-sectional drawings
- Dimensions, volumes of material
- Dredged material disposal location
- Adjacent property owner information

Example Drawings





Types of Permits

- General
  - Nationwide
  - Regional
- Individual
  - Letter of Permission
  - Standard Permit

Coordination with Others

- State agencies
  - Water Quality
  - Natural Resources
  - State Historic Preservation Office
- Tribal Governments
- U.S. Fish and Wildlife Service
- U.S. Environmental Protection Agency
- Others

Permit Evaluation Decision

- Issued as proposed
- Issued with modifications and/or special conditions
- Denied

Other Permit Requirements

- Most projects that require Corps permits also require State permits
  - Section 401 Water Quality Certification (MDEQ)
- Check county/local requirements

Corps' Permit Fees

- General Permits – no fee
- Letter of Permission – no fee
- Standard Permits
  - Government – no fee
  - Individual - $10.00
  - Commercial - $100.00
- Fees charged at time of permit issuance
  - No permit = no fee

Permit Evaluation Approximate Timeframes

- From the time we receive a complete application
- May vary for complex projects

  - General permits – 92% < 60 calendar days
  - Individual permits – 70% < 120 calendar days

(Data based on current year averages)

Regulatory Program

- ✓ Permit Evaluation
- Compliance & Enforcement
- Other Services

Compliance and Enforcement

Inspections on authorized projects are conducted on a regular basis

Compliance and Enforcement

Permit Non-Compliance

- Work is not in accordance with a permit
- Resolutions
  - restoration of work that exceeds permit
  - permit modification
  - suspend/revoke permit -- civil or criminal action

Compliance and Enforcement

Report of Potential Unauthorized Activities

Report of Potential Unauthorized Activity

To Report a suspected violation of Corps Regulatory requirements, this form can be filled out online and then printed. The printed form and supporting documents should be mailed, faxed, and/or emailed to:

Please complete this form as accurately as possible. You may attach extra pages if needed.

Send to: U.S. Army Corps of Engineers
Detroit District, Regulatory Branch
P.O. Box 1027
Detroit, Michigan 48231-1027
Phone: (313) 226-6812
Fax: (313) 226-6763
E-Mail: RegVio@usace.army.mil

Date of Report: _____

Suspected Violator: _____

Address: _____ City: _____

State: _____ Zip Code: _____ Phone Number: _____

Contractor (if known): _____

Who else has information on this project? _____

Detailed Description of Activity: _____

Date(s) Activity Observed: _____ Is the activity ongoing? _____

When is work being performed? _____

Type of Equipment Used: (e.g., backhoe, bulldozer, etc.) _____

Location of alleged violation: (Attach map & indicate approximate site location)

Address: _____

City: _____ County: _____

Waterway: _____ Watershed Name: _____

Latitude _____ Longitude _____ _____ _____

Any additional information: _____

Complainants are Anonymous

Information about the activity

- Nature of the activity?
- Location?
- Contractor/Person Involved?
- Is the activity on-going?
- When did the activity start?

Compliance and Enforcement

Investigate potentially unauthorized activities

- Does the activity require a permit?
- Has a permit been issued?
  - Does the activity comply with the permit?

Compliance and Enforcement

Unauthorized Activity

- Resolutions
  - voluntary restoration -- partial or full
  - after the fact permit -- partial or full
  - civil litigation -- can have consent decree
  - criminal litigation -- flagrant knowing violator

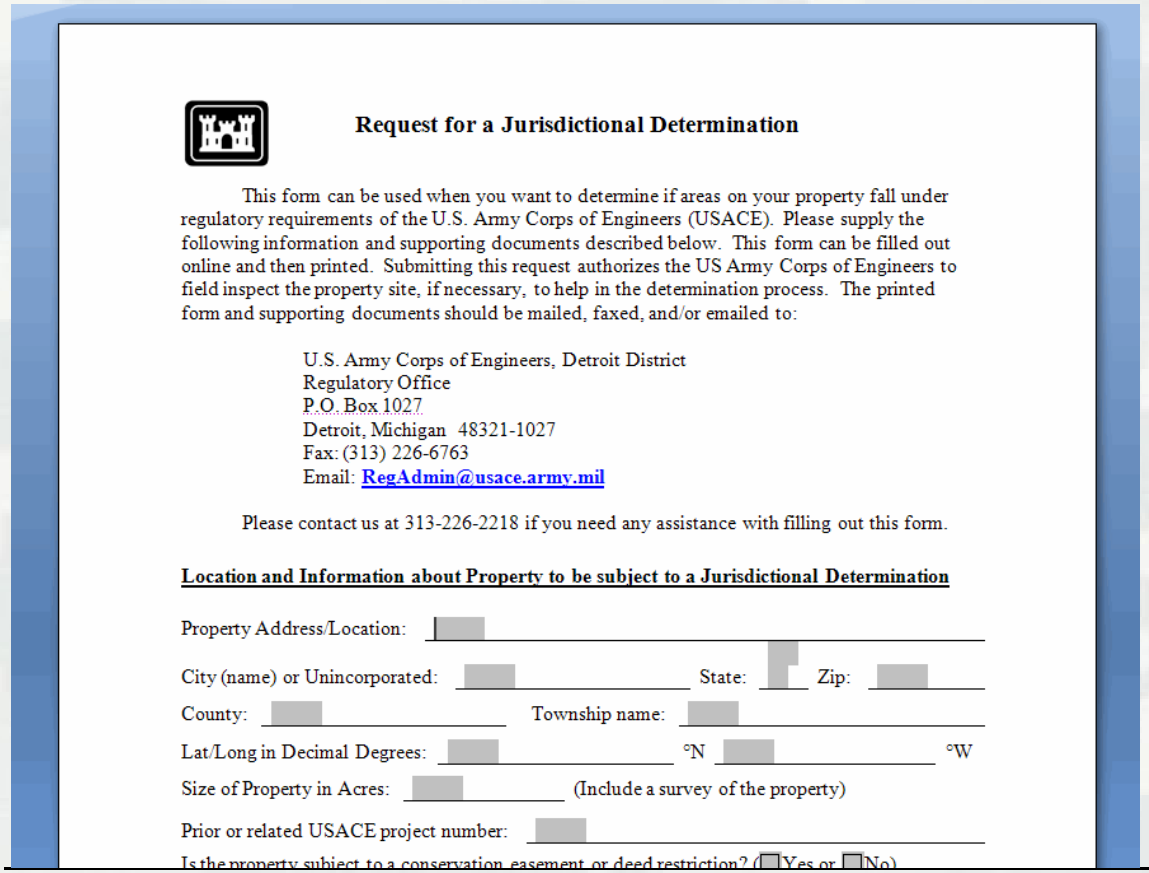
Regulatory Program

- ✓ Permit Evaluation
- ✓ Compliance & Enforcement
- Other Services

Regulatory Services

- Pre-application Meetings
- Wetland Determinations
- Jurisdictional Determinations

Jurisdictional Determinations (JDs)



Request for a Jurisdictional Determination

This form can be used when you want to determine if areas on your property fall under regulatory requirements of the U.S. Army Corps of Engineers (USACE). Please supply the following information and supporting documents described below. This form can be filled out online and then printed. Submitting this request authorizes the US Army Corps of Engineers to field inspect the property site, if necessary, to help in the determination process. The printed form and supporting documents should be mailed, faxed, and/or emailed to:

U.S. Army Corps of Engineers, Detroit District
Regulatory Office
P.O. Box 1027
Detroit, Michigan 48321-1027
Fax: (313) 226-6763
Email: RegAdmin@usace.army.mil

Please contact us at 313-226-2218 if you need any assistance with filling out this form.

Location and Information about Property to be subject to a Jurisdictional Determination

Property Address/Location: _____

City (name) or Unincorporated: _____ State: ____ Zip: _____

County: _____ Township name: _____

Lat/Long in Decimal Degrees: _____ °N _____ °W

Size of Property in Acres: _____ (Include a survey of the property)

Prior or related USACE project number: _____

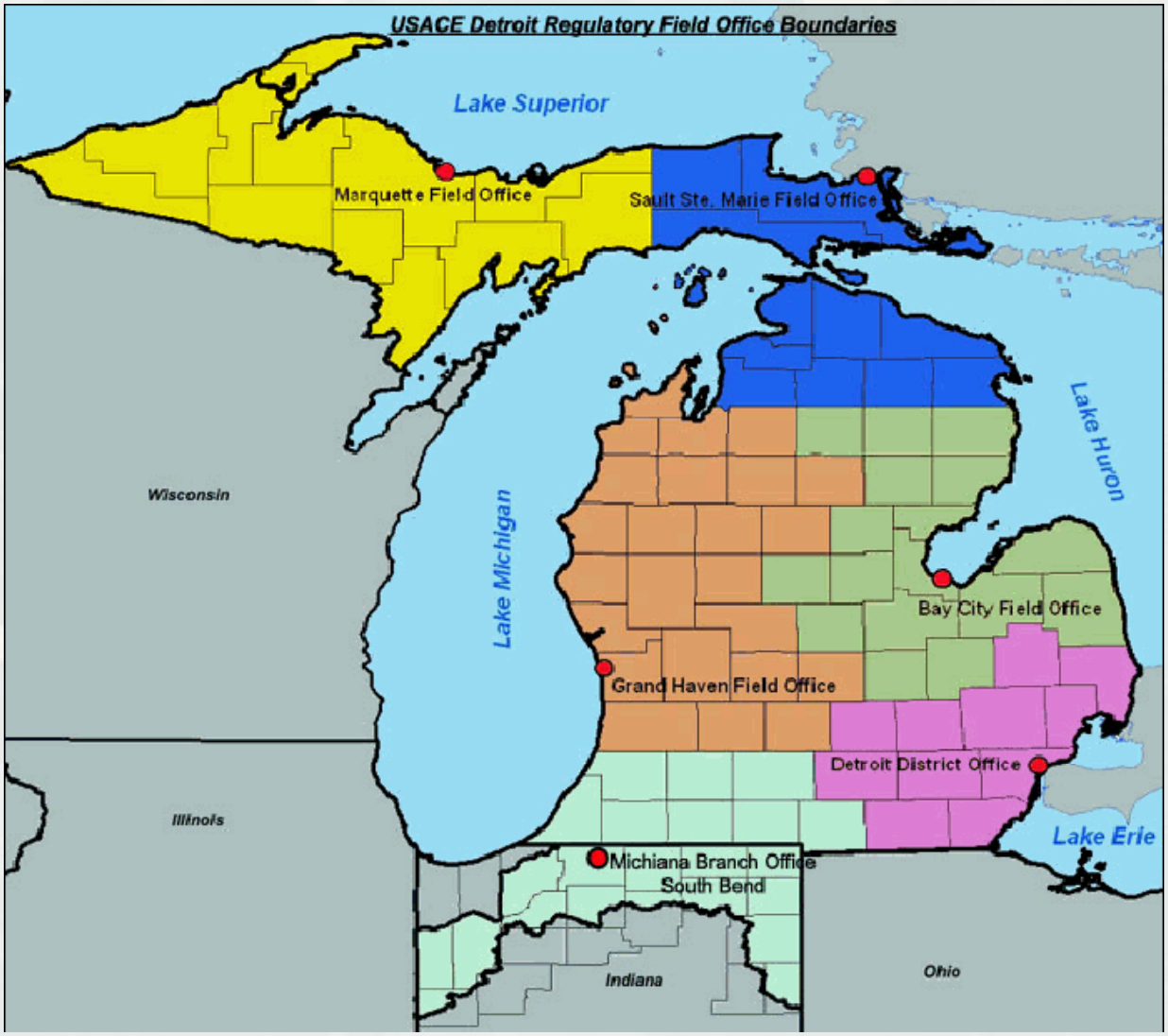
Is the property subject to a conservation easement or deed restriction? (☐ Yes or ☐ No)

- Are there jurisdictional waterways or wetlands on the property?
- OHWM
- Request a JD online or contact us for a form

Wetland Determinations/Delineations

- Wetland or Upland?
- Verify wetland boundaries

Regulatory Field Offices



Additional Information

Detroit District Website

www.lre.usace.army.mil

Regulatory Website

www.lre.usace.army.mil/Regulatory

Regulatory Office

1-800-493-6838

Agenda

- Presentation (1 hour)
- Large Group Question & Answer (1 hour)
- Individual Discussion Session (1 hour)