

Draft
Michigan Department of Environmental Quality
Certification under Section 401 of the Federal Clean Water Act

In the matter of: Navigational Maintenance Dredging of Caseville Harbor Federal
 Navigational Channel, and Beach Nourishment Project
 Huron County, Michigan
 Department of the Army
 Detroit District, Corps of Engineers

The Michigan Department of Environmental Quality (DEQ) certifies that the proposed dredging by the United States Army Corps of Engineers (USACE) in the Caseville Harbor navigational channel and the beach application of dredged materials on the shoreline will comply with Section 401 of the federal Clean Water Act and the Michigan Water Quality Standards provided that the conditions set forth in this Section 401 Water Quality Certification (Certification) are met. This Certification is based on the USACE February 9, 2009, Section 401 Certification request.

Certification Conditions:

1. The Saginaw Bay Supervisor, (989-894-6265), Water Bureau (WB), DEQ, shall be notified 48 hours prior to the commencement of dredging operations in Caseville Harbor.

2. The dredging operation shall be limited to the boundaries of the Caseville federal navigational channel. The dredged material disposal location shall be restricted to an area beginning 2.25 miles west of the harbor entrance and extending 3,350 ft west and shall be limited to the four foot to eight foot deep contours (Figure 1).

3. During dredging, the re-suspension of silt, other fine particles or materials, oils and films shall be maintained below quantities which are or may become injurious to any designated uses by careful equipment operation and, if

necessary, the use of an environmental bucket or hydraulic dredge, floating booms, silt curtains or screens and other suitable means.

4. The application of dredged materials on the shoreline shall not have any unnatural physical properties (turbidity, color, oil film, floating solids, foams, settleable solids, suspended solids, or deposits) in quantities which are or may become injurious to any designated uses. Any unusual characteristics of the discharge shall be reported immediately to the Saginaw Bay District Supervisor of the WB, DEQ, followed by a written report within ten days detailing the findings of the investigation and steps taken to correct the condition(s).

5. It is the duty of the USACE to comply with all the terms and conditions of this Certification. Any noncompliance with the conditions or terms of this Certification constitutes a violation of the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and/or the Federal Water Pollution Control Act and constitutes grounds for enforcement action; Certification termination; revocation and re-issuance, or modification; or denial of a future application.

6. Civil and Criminal Liability

Nothing in this Certification shall be construed to relieve the USACE from civil or criminal penalties for noncompliance, whether or not such noncompliance is due to factors beyond the USACE control, such as accidents, equipment breakdowns, labor disputes, or contractor performance.

7. Oil and Hazardous Substance Liability

Nothing in this Certification shall be construed to preclude the institution of any legal action or relieve the USACE from any responsibilities, liabilities, or penalties to which the USACE may be subject under Section 311 of the Federal Water Pollution Control Act except as are exempted by federal regulations.

8. State Laws

Nothing in this Certification shall be construed to preclude the institution of any legal action or relieve the USACE from any responsibilities, liabilities, or penalties established pursuant to any applicable state or federal law.

9. Natural Resources Damages and Penalties

The state reserves the right to seek civil and/or criminal penalties and liabilities under applicable law for natural resource damages that may occur.

10. Certifications and Approvals

Nothing herein shall relieve the USACE from the requirement to obtain any other necessary state, federal, or local permits, including other permits from the DEQ, certifications, licenses, or approvals for the beach application of dredge materials and navigational dredging operations.

Issued this ___day of ___ 2009, and shall expire five years from date of issuance.

Diana Klemans, Chief
Surface Water Assessment Section
Water Bureau
Michigan Department of Environmental Quality

Figure 1

The proposed beach nourishment site is located at the north side of Sand Point in Caseville Township (Section 4 and Section 5, T17, R10E), Huron County, Michigan. The hydraulic dredge pipeline would either be floated, submerged, or follow the along shoreline.

Proposed Beach Nourishment area begins approx. 2.25 miles West of Caseville Harbor and extends approx. 3,350 feet west.

