

DRAFT

Michigan Department of Environment, Great Lakes, and Energy
Certification under Section 401 of the Federal Clean Water Act

In the matter of: Soo Locks Whales Mouth Rock Rubblemound Placement
 Chippewa County, Michigan
 Department of the Army
 Detroit District, United States Army Corps of Engineers

The Michigan Department of Environment, Great Lakes, and Energy (EGLE) certifies that the proposed rock placement by the United States Army Corps of Engineers (USACE) for the Soo Locks construction project 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 initial request dated August 27, 2019, from the USACE.

Certification Conditions:

1. The Marquette District Office Supervisor, EGLE, shall be notified 48 hours prior to the commencement of construction operations at the Soo Locks construction project.
2. All work shall be completed in accordance with the approved plans and specifications submitted by the USACE with the Certification request. As such, this operation shall be limited to the Soo Locks Whales Mouth construction project in Chippewa County, Michigan, as outlined in Figures 1-3. The project requires rock placement adjacent to the Whales Mouth mooring area located on the southwest corner of the Northwest Pier on the upstream approach channel to the new lock. This construction shall include placement of approximately 51,100 cubic yards total of rock fill of varying sizes (approximately 450 feet in length by 150 feet in width, covering approximately 1.3 acres of bottomlands).
3. Initiation of any work on this project confirms the USACE acceptance and agreement to comply with all terms and conditions of this Certification.
4. The USACE, in exercising the authority granted by this Certification, shall not cause unlawful pollution as defined by Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).
5. This Certification does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights.
6. In issuing this Certification, EGLE has relied on the information and data that the USACE has provided in connection with the submitted application for Certification. If, subsequent to the issuance of the Certification, such information and data prove to be false, incomplete, or inaccurate, EGLE may modify, revoke, or suspend the Certification, in whole or in part, in accordance with the new information.
7. If any change or deviation from the certified activity becomes necessary, the USACE shall request, in writing, a revision of the authorized activity from EGLE. Such revision

request shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by EGLE prior to being implemented.

8. No temporary disposal or haul roads are authorized outside of those detailed in the submitted plans. No disposal on bottomlands outside of the submitted plans is authorized.
9. The rubble mound shall consist of stone or rock (containing no soil, or other fines, asphalt, soluble chemicals, or organic material).
10. On projects requiring backfill, backfill shall consist of inert materials, which will not cause siltation nor contain soluble chemicals or organic matter, which is biodegradable. All fill shall be contained in such a manner as not to erode into any watercourse and/or wetland.
11. This Certification shall become effective on the date of signature by EGLE officer and shall be valid for a term of five years from signature date. No extensions shall be granted.
12. 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 NREPA, and/or the Federal Water Pollution Control Act and constitutes grounds for enforcement action; Certification termination; revocation, reissuance, or modification.
13. **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's control, such as accidents, equipment breakdowns, labor disputes, or contractor performance.
14. **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.
15. **State Law**
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.
16. **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 might occur.
17. **Certification 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 EGLE, certifications, licenses, or approvals for the maintenance operations.

Issued this XXth day of November 2019 and shall expire the XXth day of November 2024.

DRAFT

Michael Alexander, Manager
Surface Water Assessment Section
Water Resources Division
Michigan Department of Environment,
Great Lakes, and Energy

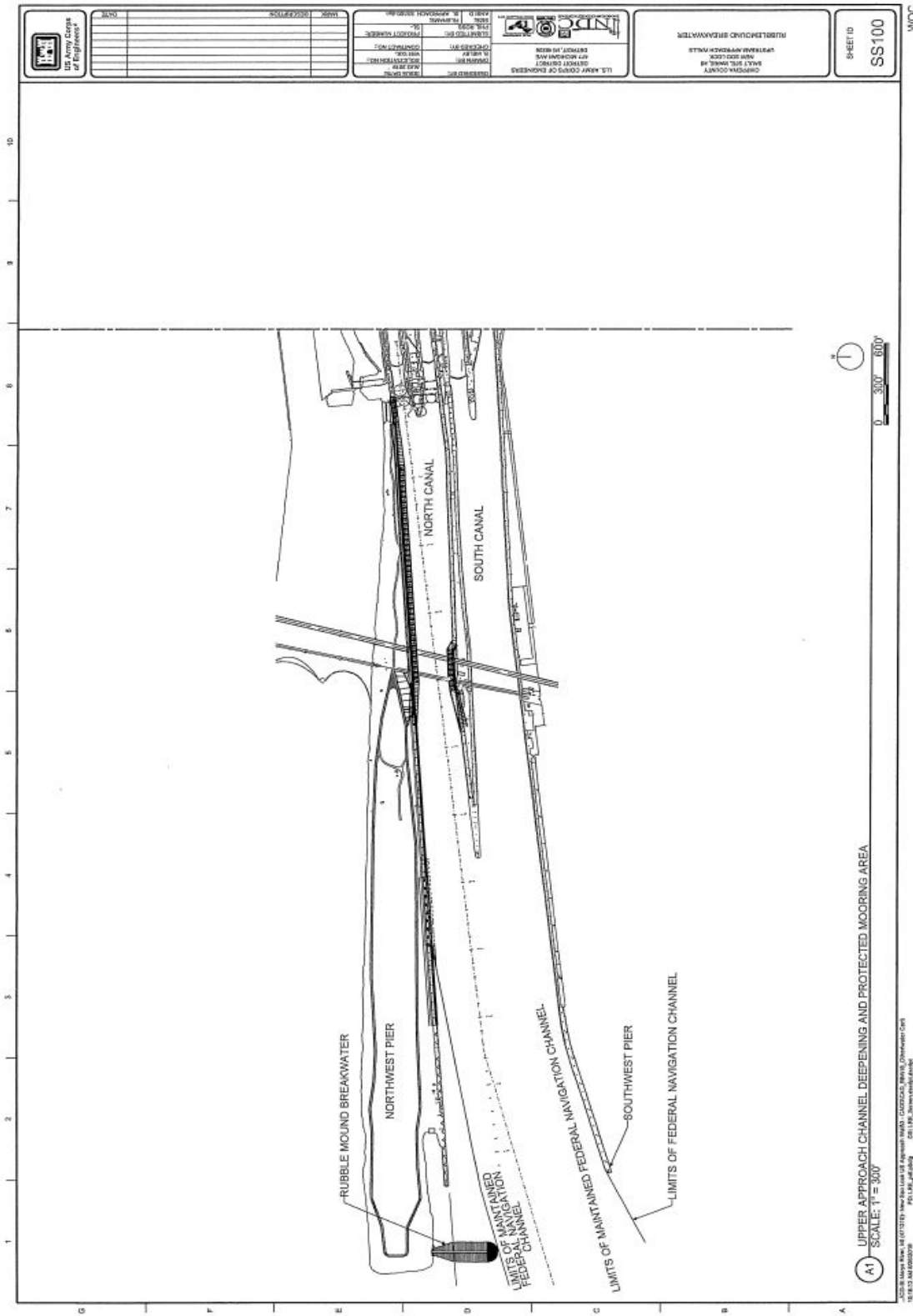


Figure 1. Location of rock placement adjacent to the Whales Mouth Mooring Area.

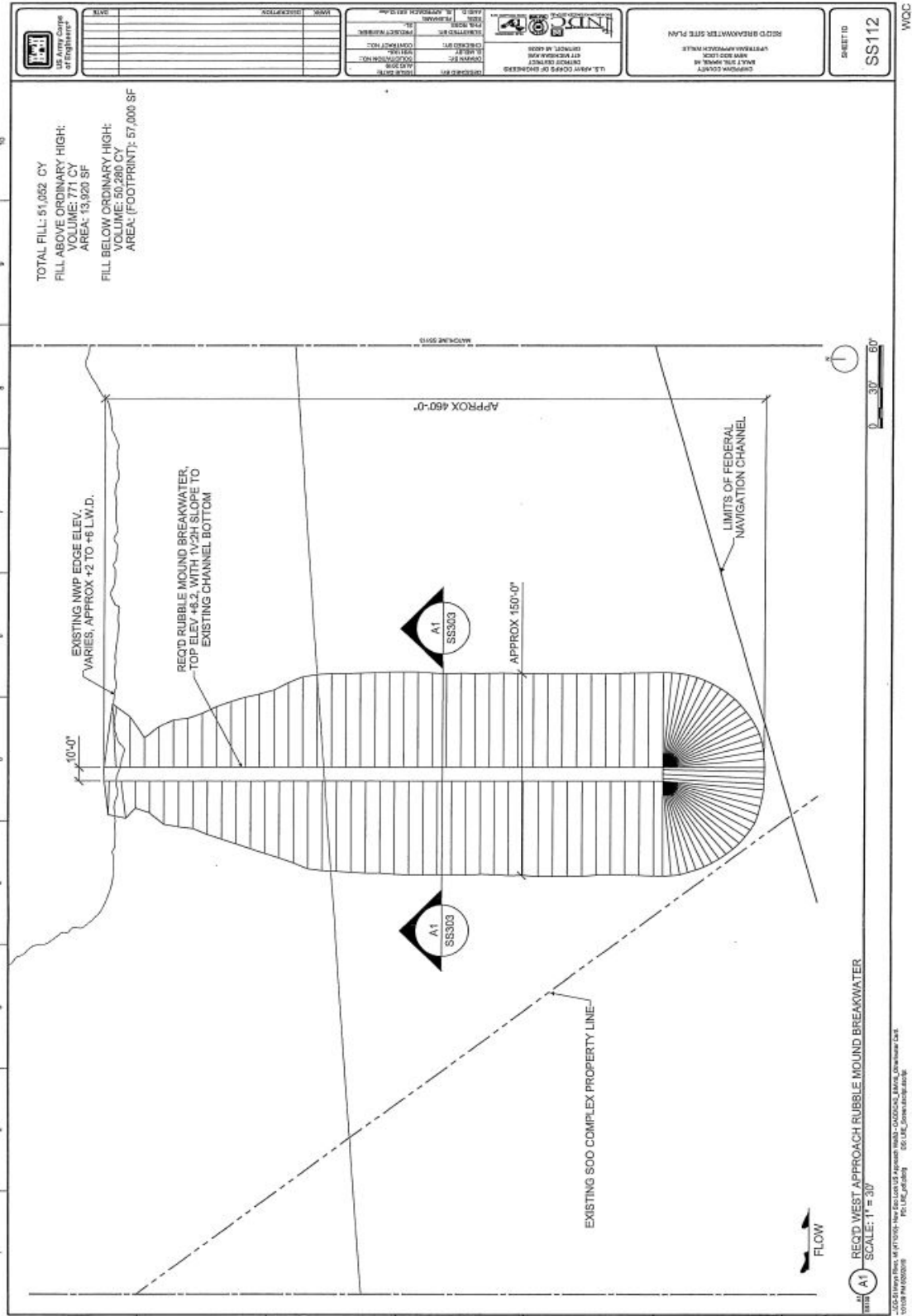


Figure 2. Design of rock placement adjacent to the Whales Mouth Mooring Area.

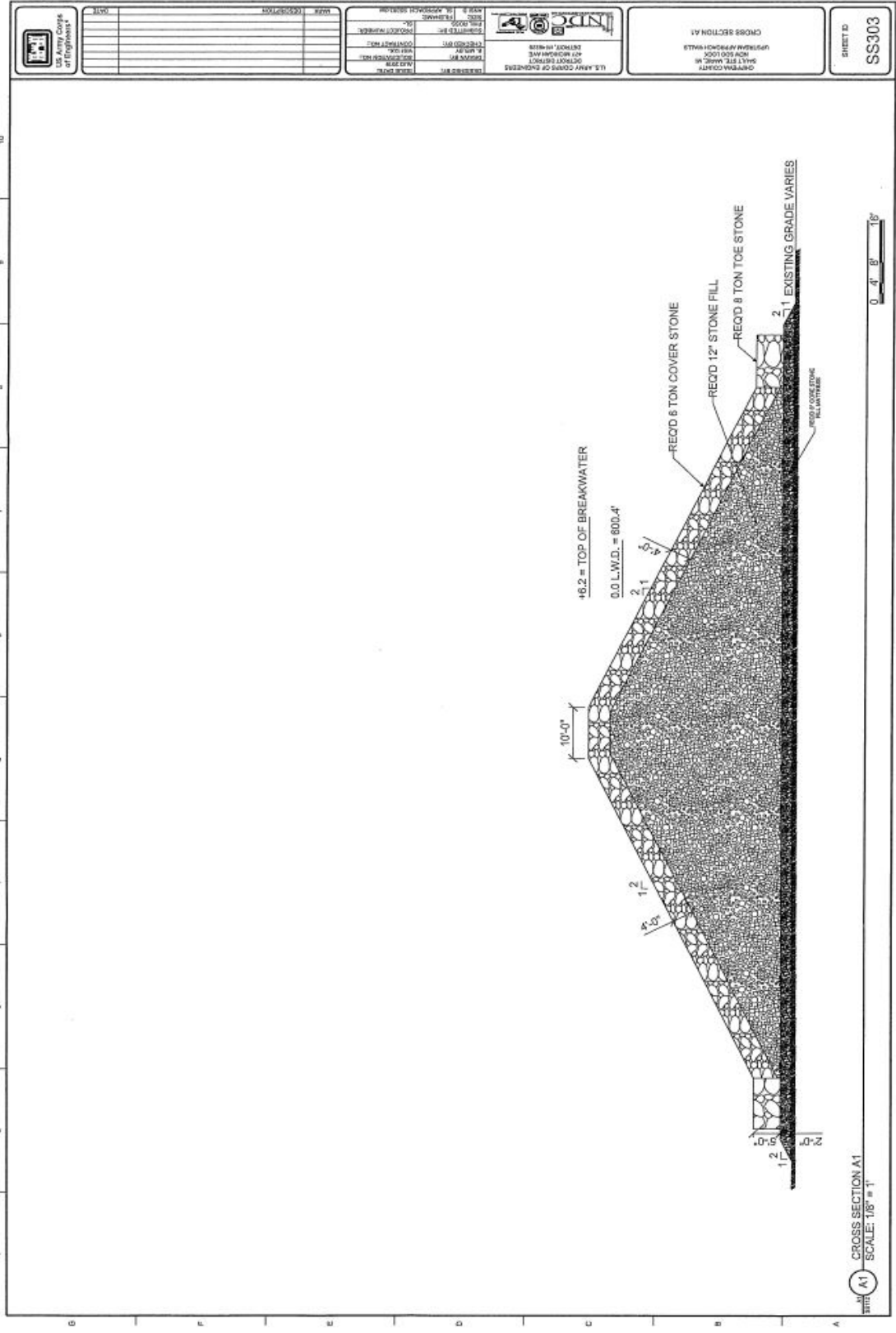


Figure 3. Cross Section of rock placement adjacent to the Whales Mouth Mooring Area.