DEPARTMENT OF THE ARMY
DETROIT DISTRICT, CORPS OF ENGINEERS
REGULATORY OFFICE
477 MICHIGAN AVENUE, 6TH FLOOR
DETROIT, MICHIGAN 48226

REPLY TO
ATTENTION OF:

March 3, 2009

Engineering & Technical Service
Regulatory Office
File Number: LRE-2008-00443-1

Scott Flanders, Director
Division of Site and Environmental Reviews, Office of New Reactors
U.S. Nuclear Regulatory Commission
Mail Stop T-7J8
Washington, DC 20555-0001

Dear Mr. Flanders:

We are writing in regard to a 3 November 2008 email from Mr. Stephen Lemont of your staff, concerning the Detroit Edison Company's (DTE) September 2008 combined license application submission to the Nuclear Regulatory Commission (NRC) for the construction and operation of a new nuclear power plant (Fermi 3), and your agency's preparation of an Environmental Impact Statement (EIS) for this licensing action. The email also requested that the U.S. Army Corps of Engineers (USACE)-Detroit District serve as a cooperating agency on your agency's EIS. We will accept our responsibilities as a cooperating agency as required under 40 CFR 1501.6.

The USACE administers a regulatory program to protect the Nation's aquatic resources including wetlands, under Section 10 of the 1899 Rivers and Harbors Act (Section 10) and Section 404 of the 1977 Clean Water Act (Section 404). Section 10 regulates work and structures in or affecting navigable waters of the US and Section 404 regulates the discharge of dredged or fill material into waters of the US, including adjacent wetlands. The referenced laws and related regulations can be found at: http://www.usace.army.mil/CECW/Pages/reg_materials.aspx.

Based on our recent interaction with DTE regarding future permitting and related matters at the Fermi site, we anticipate that the proposed Fermi 3 nuclear power plant project would require USACE authorization under both statutes, as shown below:

-Section 10: dredging for barge slip access
-Section 10: construction of a barge slip, plant cooling water discharge line and water intake
-Section 404: any dredged/fill discharges associated with construction of a barge slip, plant cooling tower and water intake in Lake Erie
-Section 10: any other work or construction of structures in areas located waterward of the ordinary high water mark of Lake Erie
-Section 404: any dredged/fill discharge in wetlands located waterward of the ordinary high water mark of Lake Erie.
-Section 404: any dredged/fill discharges in wetlands adjacent to Lake Erie and located landward of the ordinary high water mark of Lake Erie.

Per the September 2008 USACE-NRC Memorandum of Understanding (Enclosure 1) on environmental reviews related to the issuance of authorizations to construct and operate nuclear power plants, the USACE-Detroit District agrees to work with NRC and other participating agencies or entities, as appropriate, to ensure that timely decisions are made and that the responsibilities of each agency are met. In this regard, we commit to early involvement, proactive participation, the sharing of data and informal communication. We understand that our participation as a cooperating agency in your agency's National Environmental Policy Act (NEPA) process and analysis may involve participation in NRC's public meetings, alternative site visits and environmental site audit; interaction with DTE; technical review of DTE's Environmental Report (ER) relevant to USACE missions, technical expertise and regulatory responsibilities; submission of written requests for additional information necessary to clarify information in the ER; review and submission of technical data, information and written comments on the EIS in USACE areas of expertise and regulatory jurisdiction; and technical reviews of draft EIS sections, public comment responses, etc. in USACE areas of expertise and regulatory jurisdiction. Our comments and review may extend beyond this limit if we determine that we have sufficient control and responsibility over the specific activity requiring a permit and/or certain portions of that project where the environmental consequences of the larger project are essential products of our permit.

For your consideration, we are enclosing a generic template of our permit evaluation document (Enclosure 2) that incorporates reviews under NEPA, the Section 404(b)(1) Guidelines (Guidelines) to the Clean Water Act (CWA), and our public interest review. This document depicts the range of possible impacts that we review for an application. Our general policies relative to the Guidelines and the public interest considerations are described in the following paragraphs.

The Guidelines are the criteria we use to evaluate discharges of dredged or fill material into waters of the U.S. Bear in mind that the Guidelines prohibit issuance of our permit if there is a less environmentally damaging practicable alternative to a discharge into the aquatic environment. In addition, the Guidelines have slightly different standards than NEPA relative to alternative analysis, although we do not conduct or document the analyses separately since the Guidelines alternative analysis will also satisfy the NEPA alternative analysis requirements. The fundamental difference is that under NEPA, alternatives outside the applicant's control may be considered, while under the Guidelines alternatives that meet the applicant's purpose and need are considered and those outside the applicant's control are included in the "no action alternative." We encourage your agency, as part of your project review process, to conduct and document an analysis of alternatives that will demonstrate compliance with the Guidelines and the USACE permit regulations, and avoid the need for the District to conduct a subsequent analysis. Attached find further discussion of USACE procedures relative to alternatives (Enclosure 3- 33 CFR Part 325 Appendix B-NEPA Implementation-Procedures for the Regulatory Program, paragraph 57 a.4).

Our decision to issue or deny a permit involves more than evaluation of impacts to the aquatic environment. Once the proposed project has satisfied the Guidelines, the project must also be evaluated to ensure that it is "not contrary to the public interest." This review reflects the national concerns for both the protection and use of important resources. There are 20 public interest factors considered: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber productions , mineral needs, and in general, the needs and welfare of the people. A project may have

an adverse effect, a beneficial effect, a negligible effect or no effect on any or all of these factors. The USACE must evaluate the project in light of these factors, other relevant factors and the interests of the applicant to determine the overall balance of the project with respect to the public interest. Our decision to authorize or deny a permit, and if authorized, the conditions under which it will be allowed to occur, are therefore determined by the outcome of this general public interest balancing process. No permit will be granted if issuance is found to be contrary to the public interest. In this regard, we encourage your agency, as part of your project review process, to consider relevant public interest factors, and avoid the need for the District to conduct a subsequent analysis.

We are prepared to coordinate early in the scope of the NEPA analysis for activities under Federal purview to ensure that the purpose and need, the suite of alternative and the evaluation presented in the NEPA document considers our evaluation requirements. Should you wish to prepare an EIS that would fulfill our requirement, we could potentially verify and adopt it. This would assist in our mutual MOU goal to reduce permitting delays and redundancy of environmental analysis.

There are some potential limitations to our involvement as a cooperating agency. In order to complete our independent permit decision on the proposed project, we will need to complete our public interest review, which includes a public notice. We could only do this if DTE submits a permit application to initiate our concurrent review. If a permit application is not submitted to allow for a concurrent review, or if we determine that our jurisdiction is limited relative to the overall scope of the project, we may decline to continue as a cooperating agency. Additionally, our participation may be constrained by our resources and other program commitments.

If you have any questions, please contact the project manager, Colette Luff, at the above address or telephone (313) 226-7485. Please refer to File Number: LRE-2008-00443-1.

Sincerely,

John Konik

John Konik
Chief, Regulatory Office
Engineering & Technical Services

Enclosures

MEMORANDUM OF UNDERSTANDING
BETWEEN
U.S. ARMY CORPS OF ENGINEERS
AND
U.S. NUCLEAR REGULATORY COMMISSION
ON
ENVIRONMENTAL REVIEWS RELATED TO THE ISSUANCE OF AUTHORIZATIONS TO CONSTRUCT AND OPERATE NUCLEAR POWER PLANTS

The U.S. Army Corps of Engineers (Corps) and the U.S. Nuclear Regulatory Commission (NRC), as parties to this Memorandum of Understanding (MOU), hereby acknowledge and declare as follows:

I. Introduction

The Corps and the NRC developed this MOU to streamline the respective regulatory processes associated with the authorizations required to construct and operate nuclear power plants.

II. Purpose

The purpose of this MOU is to establish a framework for early coordination and participation among the signatories to this agreement to ensure the timely review of proposed nuclear power plant applications. Cooperation among the MOU signatories will ensure each agency's review responsibilities under the National Environmental Policy Act (NEPA) and other related statutes are met in connection with the authorizations required to construct and operate nuclear power plants licensed by the NRC. Both parties anticipate that the Corps will act as a cooperating agency in most circumstances. However, there may be some circumstances where both agencies will be better served by a different form of coordination. This MOU does not preclude such arrangements.

III. Statutory Background

A. **National Environmental Policy Act of 1969 (42 USC § 4321 et seq.)** requires all agencies of the Federal Government to use a systematic, interdisciplinary approach that will insure the integrated use of the natural and social sciences in planning and decisionmaking that may have an impact on man's environment. Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved.

B. **Section 10 of the Rivers and Harbors Act of 1899 (33 USC § 403)** requires authorization from the Secretary of the Army, acting through the Corps, for the construction of any structure in or over any navigable water of the United States. Structures or work outside the limits defined for navigable waters of the United States require a Section 10 permit if the structure or work affects the course, location, or condition of the water body. The law applies to any dredging or disposal of dredged materials, excavation, filling, re-channelization, or any other modification of a navigable water of the United States, and it applies to all

ENCLOSURE 1

structures, from the smallest floating dock to the largest commercial undertaking. It further includes, without limitation, any wharf, dolphin, weir, boom breakwater, jetty, groin, bank protection (e.g., riprap, revetment, bulkhead), mooring structure such as a piling, aerial or sub-aqueous power transmission line, intake or outfall pipe, permanently moored floating vessel, tunnel, artificial canal, boat ramp, aid to navigation, and any other permanent or semipermanent obstacle or obstruction.

C. **Section 404 Clean Water Act (CWA) (33 USC § 1344)** requires authorization from the Secretary of the Army, acting through the Corps, for the discharge of dredged or fill material into all waters of the United States, including wetlands. Discharges of fill material generally include, without limitation, placement of fill that is necessary for the construction of any structure or impoundment requiring rock, sand, dirt, or other material for its construction; site-development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; dams and dikes; artificial islands; property protection or reclamation devices such as riprap, groins, seawalls, breakwaters, and revetments; beach nourishment; levees; fill for intake and outfall pipes and sub-aqueous utility lines; fill associated with the creation of ponds; and any other work involving the discharge of fill or dredged material. A Corps permit is required whether the work is permanent or temporary. Examples of temporary discharges include dewatering of dredged material prior to final disposal, and temporary fills for access roadways, cofferdams, and storage and work areas.

D. **Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 USC § 1413)**, as amended, requires authorization from the Secretary of the Army, acting through the Corps, for the transportation of dredged material for the purpose of dumping it in ocean waters. Discharges of dredged or fill materials into territorial seas also require authorization under Section 404 of the CWA.

E. **Outer Continental Shelf Lands Act (43 USC § 1333)** extends the authority of the Secretary of the Army, acting through the Corps, to the prevention of obstruction to navigation in the navigable waters of the United States due to the construction of artificial islands and fixed structures on the outer continental shelf beyond the territorial sea.

F. **Energy Reorganization Act of 1974 (Pub. Law 93-438(88 Stat. 1233)** abolished the Atomic Energy Commission, and Section 201 of that Act created the NRC and transferred to the NRC all the licensing and related regulatory functions of the Atomic Energy Commission. Pursuant to the Energy Reorganization Act of 1974; Chapters 6, 7, 8, 10, and 16 of the Atomic Energy Act of 1954, as amended, 42 U.S.C 2011 et. Seq.; and the rules and regulations issued pursuant thereto, the NRC is authorized to license and regulate the construction and operation of, among other things, nuclear power plants from the standpoint of the common defense and security and public health and safety.

IV. Roles and Responsibilities

NRC. The NRC licenses nuclear power plants in accordance with its regulations such that the utilization of special nuclear material will be in accord with the common defense and security and will provide adequate protection to the health and safety of the public.

Corps. The Corps administers a regulatory program to protect the Nation's aquatic resources, including wetlands, under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the CWA. Proposed nuclear power plants may require one or more permits from the Corps under these statutes.

NEPA Lead Federal Agency. NEPA is the overarching environmental statute requiring the identification of impacts to the quality of the human environment, consideration of alternatives, and public involvement in the process. A primary objective of NEPA is to ensure that environmental information is available to public officials and citizens before irretrievable commitments of resources are made. This agreement supports these principles, and the signatory Federal agencies acknowledge their respective responsibilities for complying with the requirements of NEPA. To prevent the duplication of efforts by Federal agencies and to encourage information sharing and integration of agency processes, NEPA allows for the designation of a lead Federal agency for the preparation of environmental impact statements (EISs) when EISs are required. Other agencies that have an action on the same project may serve as cooperating agencies on the EIS.[1]

The issuance by the NRC of a license to construct and operate a nuclear power plant is an action that normally requires the preparation of an EIS.[2] As the agency with the approval/disapproval authority for the licensing of nuclear power plants, the NRC shall serve as the lead agency for the preparation of the EIS. This MOU encourages early involvement between the NRC and the Corps and with the public and other government agencies during the NEPA evaluation process.

This MOU acknowledges that it is critically important that the NRC receive project-specific information on waters of the United States, including wetlands, from the Corps at key stages of project development to foster an efficient procedure to develop documentation to meet both agencies' disclosure and decisionmaking requirements. This Agreement establishes a process to facilitate the timely licensing and permitting of nuclear power plants, whereby both agencies will do the following:

- Work together and with applicants and other stakeholders, as appropriate, including before complete applications for the necessary authorizations are filed.
- Identify and resolve issues as quickly as possible.
- Attempt to build a consensus among governmental agencies and their stakeholders.

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1 10 CFR 51.10, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions—Scope"; 40 CFR 1501.5, "NEPA and Agency Planning—Lead Agencies"; 40 CFR 1501.6, "NEPA and Agency Planning—Cooperating Agencies"

2 10 CFR 51.20, "Criteria for and Identification of Licensing and Regulatory Actions Requiring Environmental Impact Statements"

- Provide for the effective and efficient environmental review for nuclear power plants.

Project purpose and need coordination. As the lead agency under NEPA responsible for the preparation of the analysis and decisions for the approval of new and expanded nuclear power plants, the NRC is responsible for determining the purpose and need of the energy project for purposes of the NRC's NEPA document and the NRC licensing process.[3] The NRC should coordinate early on the scope of the NEPA analysis for all activities under Federal purview and ensure that the purpose and need, the suite of alternatives, and the evaluation presented in the NEPA document consider the views of the Corps (e.g., defining project purpose per Section 404 of the CWA ["basic" for water dependency and "overall" for geographic scope of alternative analysis], conducting the Corps' public interest review; determining the least environmentally damaging practicable alternative under the CWA Section 404 (b)(1) Guidelines). The Corps will complete an independent permit decision in carrying out its regulatory responsibilities.

The signatory agencies may develop additional guidance to ensure that the Corps' permit documentation is prepared concurrently with the NEPA process to the maximum extent practicable. When the NRC provides to the Corps its preliminary draft NEPA documents, the Corps shall review and provide written comments on the relevant portions of those documents, as appropriate, in accordance with the timelines established under this MOU. Preliminary draft NRC NEPA documents include advance copies of the purpose, need, and alternatives sections of the NRC NEPA documents, as well as advance copies of the draft and final NEPA documents. Corps reviews of NRC NEPA documents will be completed and coordinated with the NRC as stated in the NRC EIS schedule for that project.

The Corps and the NRC hereby agree to work with each other and with other participating agencies or entities, as appropriate, to ensure that timely decisions are made and that the responsibilities of each agency are met. Specifically, each agency agrees to do the following:

A. Commit to Early Involvement

1. Conduct an early initial review. As soon as practicable when a prospective applicant or an agency makes a request for involvement in connection with a project under development, each agency will assess its role in the review and issuance of approvals for the project.

    a. Identify agency contacts for the proposed project. If a prospective applicant or agency needs assistance in determining regional, local, or project specific contacts, then the identified contacts will assist in identifying additional contacts. The initial agency contacts are the following:

[3] 10 CFR Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," Subpart A, "National Environmental Policy Act—Regulations Implementing Section 102(2)"

Department of the Army
Office of the Assistant Secretary of the Army (Civil Works)
108 Army Pentagon 2E641
Washington, DC 20310-0108

Regulatory Branch
Headquarters, U.S. Army Corps of Engineers
441 G Street, NW
Washington, DC 20314

Nuclear Regulatory Commission
Office of New Reactors
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Division of Site and Environmental Reviews
Office of New Reactors
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

b. Meet with prospective applicants and other agencies, when requested by the prospective applicant, the lead agency, or at its own initiative, to identify areas of potential concern to other agencies and to assess the need for and availability of agency resources to address issues related to the proposed project.

c. Consult with the NRC, as the lead agency, in establishing a schedule. The NRC will notify the Corps as early as possible of upcoming applications for the construction and operation of nuclear power plants and identify those projects that will be subject to this agreement. The lead agency will then, taking into consideration the relative priorities of other projects subject to this agreement, establish a commensurate schedule for the project review process. In establishing this schedule, the NRC and the Corps will strive to ensure that the individual permitting processes and related permit review activities occur on a concurrent, rather than sequential, basis, with the objective of avoiding unnecessary delays in the process and the schedule established by the NRC. If at any point during the consultation process the Corps or the NRC anticipates an inability to comply with the agreed-upon schedule, it will communicate the reason for this inability as soon as possible. The agencies will then work together to help avoid the anticipated delay when appropriate. The NRC will include in any Notice of Intent to Prepare an EIS guidance to the public regarding the process set forth in this Agreement.

B. Proactive participation. After an application is submitted to the NRC, the Corps will do the following:

1. Identify and inform the NRC and the applicant which statutes, regulations, and policies apply to each permit evaluation.

2. Identify the issues and concerns related to the proposed project that need to be addressed in order for the Corps to meet its obligations.

3. Provide the prospective applicant, the applicant, and/or other agency with relevant studies, data (such as maps showing features over which the agency may have jurisdiction), and any other information concerning the status of matters the agency considers relevant (including matters that may be under consideration, such as the results of threatened and endangered species consultation, or essential fish habitat consultation).

4. Identify issues and concerns and attempt to resolve them while draft documentation is being developed.

C. Sharing of data. The agencies will share the information gathered, considered, and relied upon by each of them with all other relevant agencies. Specifically, the NRC and the Corps agree to do the following:

1. Cooperate in the preparation of requests for additional studies or data to avoid duplicative requests and to compile a consistent set of information on which all of the agencies will rely.

2. Cooperate in identifying and developing the information at the level of detail required to complete environmental and cultural resources project review.

The NRC will be responsible for drafting sections and requesting additional information to the extent that the NRC believes the analysis is needed and would normally be required by the NRC if the Corps were not involved. If the Corps believes that additional analysis is needed, but the NRC does not agree that such analysis would be required under the regulatory procedures of the NRC, such analysis will be the responsibility of the Corps.

D. Communicate informally. The agencies agree to informally communicate with each other and other relevant agencies throughout the process to ensure that issues are raised as soon as possible and shared among all agencies. The lead agency will coordinate and share information with all relevant participating agencies.

E. Hearings. On request, each agency will participate in any public hearings[4,5] held by the other agency. Particularly in the case of NRC hearings, the Corps may provide expert testimony, as required, in those areas or sections covered in the NRC EIS in whose preparation the Corps participated and in those areas of special Corps expertise. The Corps' participation in the NRC hearing process

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4 33 CFR 327.3(a)—Public hearing means a public proceeding conducted for the purpose of acquiring information or evidence which will be considered in evaluating a proposed Department of the Army permit action, or Federal project, and which affords the public an opportunity to present their views, opinions, and information on such permit actions or Federal projects.

5 The Atomic Energy Act requires that a public hearing be held before a construction permit is issued for a nuclear power plant. The hearing will be conducted by the Commission or by a presiding officer designated by the Commission pursuant to 10 CFR 2.313, "Designation of Presiding Officer, Disqualification, Unavailability, and Substitution."

will be consistent with all relevant laws and regulations and coordinated with appropriate District and Division Commanders or their representatives.

V. Administration of the MOU

A. While retaining ultimate responsibility for making determinations and exercising their individual responsibilities in accordance with existing statutory responsibilities, the NRC and the Corps will consult with one another to resolve disputes using existing dispute resolution methods and in accordance with this agreement. If no agreement can be reached, either agency may refer the matter to the Council on Environmental Quality in accordance with 40 CFR 1504, "Predecision Referrals to the Council of Proposed Federal Actions Determined To Be Environmentally Unsatisfactory." Notwithstanding any such referral, the NRC reserves the right to make a final decision on any matter within the NRC's regulatory authority.

B. This MOU may be modified, amended, or terminated upon written request of any party hereto and the subsequent written concurrence of all other participating agencies. Participation in this agreement may be terminated 60 days after providing written notice of such termination to other participating agencies.

C. Acknowledgement that the authority and responsibilities of the parties under their respective jurisdictions are not altered by the MOU.

1. This MOU is intended only to improve the working relationships of the participating agencies in connection with expeditious decisions with regard to nuclear power plant authorizations and is not intended to, nor does it create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by any person or party against the United States, its agencies, its officers, or any other person.

2. This MOU is to be construed in a manner consistent with all effective existing laws and regulations.

3. The MOU neither expands nor is in derogation of those powers and authorities vested in the participating agencies by applicable laws, statutes, or regulations.

4. The terms of this MOU are not intended to be enforceable by any party other than the signatories hereto.

5. The participating agencies intend to fully carry out the terms of this MOU. All provisions in this MOU, however, are subject to available resources. In addition, this MOU does not limit the ability of any of the participating agencies to review and respond to final applications.

6. If an applicant, prospective applicant, or other person requests a correction of information disseminated pursuant to this MOU, as authorized by Section 515 of the Treasury and General Government Appropriations Act for Fiscal

Year 2001 (P.L. 106-554), the process by which such request will be addressed will be that established by the agency that disseminated the information.

7. This MOU cannot be used to obligate or commit funds or as the basis for the transfer of funds.

8. Nothing in this MOU, in and of itself, requires any signatory agency to enter into any contract, grant, or interagency agreement.

9. All provisions in this MOU are subject to the availability of funds.

ACCORDINGLY, the parties have signed this MOU on the dates set forth below, to be effective for all purposes as of the date last signed. The signatures may be executed using counterpart original documents.

John Paul Woodley, Jr.
John Paul Woodley, Jr.
Assistant Secretary
of the Army (Civil Works)

September 12, 2008
Date

R. W. Borchardt
R. W. Borchardt
Executive Director for Operations
U.S. Nuclear Regulatory Commission

9-12-08
Date

Detroit District
U.S. Army Corps of Engineers

File Number #FOLDER_DA_NUMBER#

Department of the Army Permit Evaluation
#FOLDER_NAME#

This document constitutes my Environmental Assessment, Public Interest review summary, and, if applicable, my factual and compliance determination according to the 404(b)(1) Guidelines for the work proposed for permit. It was prepared from a generic master document that facilitated consideration of the range of all possible impacts from projects within the purview of the Regulatory Program of the Army Corps of Engineers, in accordance with 33 CFR Part 320, 33 CFR Part 325 Appendices B and C, and 40 CFR Part 230.

I. Application Processing

A. Name of Applicant: #APPLICANT_FULLNAME#, #APPLICANT_CITY# , #APPLICANT_STATE_FULL# You may add names of agents if their names will come up in the summary of correspondence.

B. Work Description: The most recent plans showing the proposed work are attached (Encl. 1.). The applicant has applied for a Department of the Army (DA) permit to ##ENVA## This should be the project as it is proposed today. It may have been changed by the applicant since the public notice was issued, it may have been modified by the state permit decision, etc. If it has changed from what appeared on the public notice, so state, enclose the public notice as encl. 2, and briefly summarize changes.

C. Purpose:

The applicant's stated purpose for the work is /. We are responsible to define the purpose and need in accordance with NEPA Regulations (Appendix B, 7.), the objective of the project (33 CFR 320.4(a)(2)(ii), and the "overall project purpose" under the 404(b)(1) Guidelines and subsequent guidance. We have determined that the reason why the applicant proposes to conduct the DA permit activities described above is /The purpose underlies the search for practicable alternatives. The purpose is not the proposed structure or work itself; it is why the applicant feels a need for it, what it will do for them. If described too broadly, the applicant will have unlimited alternatives to fulfill the purpose other than what he currently proposes. If defined too narrowly, there would be no alternative other than his preferred one.

D. We are reviewing this application for a Department of the Army permit under authority delegated to the District Engineer by the Secretary of the Army and the Chief of Engineers by Title 33, Code of Federal Regulations, Part 325.8, pursuant to Section 10 of the Rivers and Harbors Act, /and Section 404 of the Clean Water Act.

E. Public Involvement: A list of the agencies, interested groups, and the public consulted regarding the

ENCLOSURE 2

project is attached to the Public Notice dated #ACTION_DATE_OF_PUBLIC_NOTICE# which expired on «DATE_PN_ENDS» (Encl. /).

F. Federal, State, Local, and Public Comments Relating to the Activity:

1. Federal:

a. U.S. Environmental Protection Agency (EPA):
Did not respond to the public notice.
Contemplated no action in response to the public notice (Encl. /).
Objected to the proposed permit based on non-compliance with the 404(b)(1) Guidelines (Encl. /). The impacts and issues which they addressed, any rebuttals from the applicant, and our ultimate determination will be summarized in appropriate sections of our evaluation below.

b. U.S. Fish and Wildlife Service (FWS):
Did not respond to the public notice.
Contemplated no action in response to the public notice (Encl. /)
Indicated that they do not object to the proposed permit (Encl. /).
Object to the proposed permit based on anticipated impacts to fish and wildlife resources (Encl. /). The impacts and issues which they addressed, any response or rebuttals from the applicant, and our ultimate determination will be summarized in appropriate sections of our evaluation below.

c. Congressional: No interest was expressed by any member of Congress.

2. State:
If location state Michigan and AUTH = 404##a. Section 401 Water Quality Certification:
Certification is presumed to be waived because the Michigan Department of Environmental Quality (MDEQ) has issued their respective permit for the project. (Encl.).pursuant to a letter dated 9 July 82 from the District Engineer to the Director of the Michigan Department of Environmental Quality (MDEQ), since 30 days have elapsed since the public notice issuance date, we have received no response, and have no written indication of their position on the application.

a. Coastal Zone Management Act:
The MDEQ did not respond to the Public Notice. Therefore, we presume that the proposal is consistent under Section 307 of the 1972 Coastal Zone Management Act, and that CZM Certification has been obtained or waived
because they have issued their respective permit for the proposal
/based upon the letter dated 9 July 82 cited above.

b. MDEQ issued a permit as proposed to the applicant (Encl.).
The Michigan Department of Environmental Quality (MDEQ) denied the permit request, and we cannot presume Coastal Zone Management Consistency nor Section 401 Water Quality Certification for the proposed unauthorized work (Encl.).

c. State Historic Preservation Officer (SHPO):
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If location state Indiana and AUTH = 404##a. Section 401 Water Quality Certification:
An extension of the comment period was requested (Encl.). Certification is presumed to be waived since 30 days have elapsed since the public notice requesting certification was sent to the Indiana Department of Environmental Management (IDEM). We determine that this has been a reasonable time for IDEM to act. The Indiana Department of Environmental Management (IDEM) has denied Certification and Objected to issuance of a permit and cited the following as the basis of their position (Encl.):

a. The Indiana Department of Natural Resources (IDNR)Choose one of these statements.: has issued a permit for the activity under their respective state statutes (Encl.).

objected to issuance of a permit (Encl.), citing the following as the basis of their position:

b. State Historic Preservation Officer (SHPO): Indicated no known historical, architectural, or archaeological sites listed on or eligible for inclusion in the National Register of Historic Places would be affected by the project (Encl.).
Requested an archaeological /
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3. Local: No local governmental officials responded to the public notice.

4. Public: No nongovernmental groups or individuals responded to the public notice.
We received objection comment letters from /
We received requests for a public hearing from /
We received positive comment letters from /List the authors by name and Enclosure reference. We will summarize and evaluate the comments under appropriate aspects of the Environmental Setting in Section II and/or specific public interest review factors in Section III below.

G. List of communications with the applicant relative to permit evaluation:
We furnished the applicant with copies of all substantive objections, and afforded him/her the opportunity to resolve or rebut them (Encl.).
We directed the applicant to specifically respond to certain issues (Encl.).
We have received no response or rebuttal.
The applicant responded to the objections/comments by letter dated / (Encl.). We will summarize the issues and responses under appropriate sections below.

II. Environmental Setting:

There may be a "stock" description of the general area and waterway characteristics within about a 10-50 mile radius of your site. If you can't find one on the "O:\LTDR\Templates\INSERTS\IMPACTS" drive , create or update one, share the wealth. To look at the available choices, select INSERT, FILE, "O:\LTDR\Templates\INSERTS\IMPACTS" Drive. Scroll thru the list covering the county of your site. The waterway and/or particular location within or along a waterway should be named with a waterway number and/or an abbreviation after the hyphen. Place the cursor bar over the name and hit return to "look" at it. If you want to use it, you can "retrieve" it into your document. If there is no description and

you write a new one or use an old one reserved off somewhere, ADD IT TO THIS DIRECTORY within the naming convention above. A. Description of the Area Name and location of the waterway and county of project area, area land use, major economic activity in county and local community, population, growth trends, uses of natural resources, topography, geological setting.

B. Waterway Characteristics Flows, flooding characteristics, water fluctuations, shoreline characteristics such as extent and type of human development, erosion potential, fetch, water quality, existing wetlands and/or other relevant information.

C. Scope of Analysis: In addition to the activities which require specific DA authorization, the scope of analysis for this evaluation will include construction activities such as / use of the finished / associated / The DA permit activities under consideration are so strongly linked to these activities and effects as to control and cause them. For definition of action area, see Standard Operating Procedures, October 15, 1999, (SOP) Part I, Para. 1. If there were comments that raised issues that are not relevant to Corps jurisdiction or exceed the scope of the project under consideration, address these comments (SOP, pages 15,16). Where there have been conflicting opinions between commenters (including FWS and EPA), the applicant, and this office regarding the scope of analysis, summarize the arguments and draw a conclusion to carry forward. Use the format:
Commenters' points:
Applicant's response/rebuttal:
Corps Findings.

D. Action Areas When we have received comments on the nature of the affected environment, identify the comments, examine them, and provide our independent conclusion here under the characteristic in question. Use the format:
Commenters' points:
Applicant's response/rebuttal:
Corps Findings:\\:

We did not perform a site inspection.
We inspected the site. See Encl. /If you did a complete inspection with the Permit Evaluation Report form completely filled out, and there were no conflicts about resources in the action areas, there should be no need to complete the rest of this project area description which contains identical details. Please just delete it or supplement it if this is necessary\\.

The project site is located /. The disposal site is located / Cite the source(s) for all information detailed below.

1. Cultural Characteristics: Presently, structures on the site consist of /. The site is bordered by /. On these sites, structures and development consists of /. Lying just beyond these properties are areas that could be characterized as /.

2. Navigation Characteristics: The constraints and existing use patterns within the proposed work or structure area are as follows Provide all relevant measurements of the waterway, such as limiting widths and depths, navigation patterns, space requirements for each of the maneuvers performed by existing boat traffic along the routes, moorage, numbers and size of craft that pass the site, etc.:

3. Physical/Chemical Characteristics Include any comments on water quality, floodplains, etc. from government agencies with attribution to them.\\:
The proposed permit area is subject to erosion/flooding due to /. There is no evidence of any existing erosion problem/flood damage at the site.
Wetlands located / are likely to provide erosion prevention/flood storage due to the fact that they /.

Water from / presently circulates through/over the proposed work area by means of /, and the nearest receiving water for runoff from the up-gradient portions of the site is /. Wetlands located / are likely to provide groundwater discharge/sediment removal/transformation/production export due to the fact that they /.

Soils within the proposed discharge/excavation area consist of /. Sediments and physical substrate of the bottom in the offshore proposed / area consist of /.

4. Biological Characteristics:

a. The Existing/Long term Vegetation and Habitat Values for each portion of the work site are as follows Include any comments on habitat from FWS, MDNR, or other agency with attribution to them. Although all areas should be described, specifically describe the characteristics of those areas where each respective type of proposed work would be conducted, such as dredge area, bulkhead area, etc. At a minimum, areas and sub-areas should each be described as an ecological community type with plants and animal species and habitat values typically associated with the community. Preferrably, this can be augmented with lists of species actually observed and likely to exist there. For sites with disturbed vegetation, describe the likely climax community given the surroundings. For sites with ATF work, describe probable prior and post-restored community.:

Upland portions of the property These are the portions of the property that are within the action area determined by the scope of analysis that you described in II.C. above:

Wetland portions of the property: The wetlands located / are likely to provide functions of wildlife diversity/abundance
aquatic diversity/abundance
due to the fact that /

Riparian portions of the property (at the water's edge):

Benthos community: The proposed / area provides substrates of /, which support /.

Water Column Include any potential for use when water levels are occasionally elevated and afford access to fish and other aquatic organisms, as well as any areas that provide seasonal ponding. Also include any known spawning runs cited on the listing of DNR preferred dredging periods.: The proposed / area provides a habitat for / .

b. What is the most readily identifiable natural feature in which this site is located? What is state of development of this natural feature?: This would be the "reality check" you would use to explain to the

Commander just how important-or unimportant- this site is and forms the basic perspective for ecological impacts of the cumulative impact review contained in Section III.B below. Depending on circumstances, describe how particular features may form a part of a continuum with adjacent areas on other properties, such as an identified wetland complex, a forest, submerged plant bed, shallow shelf, etc. and/or how the site may be a refuge and/or contribute to ecological diversity within the general area. It is also very important to describe the extent or absence of natural conditions of this continuum or, conversely, the state of development or loss of this continuum. For example, is this the last lot in an otherwise completely developed subdivision or is it the first proposed lot development in a completely natural forested wetland complex?:

E. Cumulative Impact Area (CIA): For the purpose of this application review, the geographic area for which we are reviewing cumulative effects is / Define a watershed, lake area, bay, or other readily identifiable geographic area. The area should include the immediate area of the permitted activity and a reasonable distance away in the associated aquatic area that you described in part II.B. and/or part II.D.4.b. above. The type of project epitomized by this application is / Define the scope of work and type of project for assessment of similar projects that have or would be expected to occur in the area. Include all attendant aspects of this project such as presence or absence of mitigation measures. Within this area, similar projects and permit decisions on them have included

File No.	Applicant	Extent or Size of Project	Action

There have been very minor prior impacts to this area and we expect little additional cumulative impact of any kind to occur.

This is a unique proposal and/or factual situation. This is because it /. Therefore, we don't expect other similar applications, and therefore no cumulative impact. If this is the case, "find" all other occurrences of cumulative impact statements in the rest of the document (Except for the summary statement in part III.D.) and delete these statements now, so you don't have to do it later.

This project continues an established pattern of similar projects in the cumulative impact area defined above. We will consider the cumulative impact of continuing this development.

The anticipated future activities within the CIA include / WRITE A LOT. Evidence of the likelihood of this activity is / WRITE A LOT AND ENCLOSE EVIDENCE. The impact sites and scopes for these reasonably foreseeable projects are similar to this project's site and scope with regard to /. Since the District strives for fair and consistent permit decisions, it would be contrary to policy and arbitrary to foresee a different permit decision for any similar projects within the CIA. The CIA would thus be subject to current and anticipated impacts comprising /PROVIDE CREDIBLE ESTIMATE OF AGGREGATE FOOTPRINT OR QUANTITY OF IMPACTS/ We will evaluate those impacts below.

III. Environmental Impacts of the Proposed Action For cases where there are public notice comments and/or applicant's responses to issues that we've posed, summarize them under each of the appropriate review factors below using the format as below under the Water Quality factor. Unless the identity of the commenter is really useful for the purpose of analysis, such as a particular neighbor or a government agency, it is not necessary to attribute specific comments to individuals; the substance of the comment is what must be documented and evaluated. However, clearly attribute and detail coordination and evaluation of comments by local government or an agency such as FWS, EPA, SHPO, etc. when this is required by regulations, MOA, statute, etc.

A. Identified Physical Impacts

1. Effects on Water Quality

a. Construction Impacts:

Commenters' points:
Applicant's response/rebuttal:
Corps Findings

The physical disturbance of the bottom during
/ will cause resuspension of sediments at the point of disturbance and for a limited radius around it. This will cause
reduction of dissolved oxygen levels
reintroduction of soluble contaminants in the sediments
reintroduction of particulates and adsorbed contaminants
in the water column.

The dredged material will be transported by barge. There will be releases of sediment to the surrounding waterbodies during dredging at the dredge area, along the route to offloading, and at the offloading point. Onshore handling and disposal areas for the material will be sources of runoff of the sediment until the areas are stabilized.

The dredged material will be transported by slurry pipeline. Construction of the contained disposal facility will cause runoff of dike construction materials and native soils to the waterway. The overflow system as designed is/not sufficient to remove suspended materials so that effluent to the waterway will/not exceed background levels of contaminants and suspended materials.

The temporary construction discharge of dredged/fill material into the water will consist of materials that are/not of sufficient grain size and inertness so as to cause more than minor adverse impacts on water quality.

The methods and/or materials used in the backfill process would/not minimize turbidity. Alternative methods and/or materials could include /.

All project-associated excavated, graded, and filled areas would be subject to erosion, thereby causing

negative impacts to water quality until the areas are stabilized.

In summary, the proposed / would cause minor/major temporary degradation of water quality. Due to the nature of the sediments
the velocity of the water current,
turbidity / contaminants should return to ambient levels following project completion.

In order to minimize the detrimental impacts due to / Name which impacts and which activities you mentioned above,
the permit could be
conditioned to require use of
silt curtains in the water column around the work area
and adequate containment and stabilization measures for upland work and equipment use areas, and / any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems.
The project could be modified by /.
These measures will reduce the impacts due to / by capturing/confining suspended sediment prior to its dispersal.

b. Post-Construction and Use Impacts:

Commenters' points:
Applicant's response/rebuttal:
Corps Findings:

The proposed / would destroy/adversely impact an area that filters rainfall, runoff, groundwater, and floodwaters that would otherwise directly enter the waterway, and would replace it with a new source area for runoff pollutants. Pollutants from this area may include lawn fertilizers, herbicides, pesticides, road salt, oil, grease, and septic runoff/leachate. This would cause a long-term negative impact on water quality.

Dredging/excavation will expose surfaces of contaminated material that will cause major/minor long term adverse impacts on water quality within the associated mixing zone.

The proposed / will induce increased boater use of the area, which will in turn cause water quality degradation due to gasoline and oil spills, littering, and increased turbidity because of propeller wash. bank sloughing and increased turbidity.

Deflection of wave energy off the face of the proposed bulkhead will continuously resuspend sediments at its toe and increase erosion of other unprotected shorelines, increasing the turbidity in the shoreline area.

Installation of the / will afford better sewage treatment with a long term benefit to water quality.

The / will have adverse impacts to groundwater quality by /.

The cumulative impacts of numerous such projects would /

The cumulative impact of similar
channelization
reductions of riparian vegetation
along the waterway will cause minor/major adverse impacts to water chemistry, temperature, and turbidity.

Destruction of wetlands/vegetated shallows by / will remove their buffering/cleansing ability. Numerous projects such as this could seriously reduce water quality, habitat, and overall value of the cumulative impact area.

Overall, the operation and use of the proposed activity would have a major/minor, long term, positive/negative impact on water quality.

Denial of the permit would avoid these minor/major positive/negative impacts to water quality any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems.
The project could be modified by /. This would reduce the impacts due to / by /
A permit could be issued with special conditions as follows:
This would reduce the impacts due to / by / If you found positive impacts as well as negative impacts on this factor, examine whether denial or any modifications or conditions that you've derived here will change or eliminate positive impacts to this factor

2. Shore Erosion and Accretion Effects:

<u>Commenters' points:</u>
<u>Applicant's response/rebuttal:</u>
<u>Corps Findings</u>:

The proposed activity would cause noticeable accretion/erosion along adjacent/downriver areas. See attached review performed by the Great Lakes Hydraulics and Hydrology Branch (Encl.).

Deflection of waves against the proposed bulkhead will increase the wave climate and energy to which adjacent unprotected areas will be subject.

The proposed activity could alleviate or reduce erosion in the project area This should be a net change based on existing conditions, not on what will be needed as a result of another proposed portion of the project.

The project would not be expected to accelerate erosion on the property or along adjacent properties.

Shoreline erosion may increase due to boat wakes. Unprotected areas could be affected.

The project

would reduce the ability of the wetland to act as a sediment catch basin.
would reduce the ability of the wetland to anchor the shoreline and dissipate erosive forces.
would eliminate wetlands/shallow backwaters which presently allow sediment trapping functions.
would cause sedimentation of a riffle and pool complex.
will cause changes in current patterns and accretion and adversely impact nearby mudflats.

The cumulative impacts of numerous such projects on shore erosion and accretion would /

The continued bulkheading of the shoreline could cause a reduction in beach nourishment material and result in attendant downdrift problems (e.g. starvation, increased erosion, etc.)

In summary, the project will have no impacts on erosion or accretion.

In summary, the project will have minor/major, short term/long term, positive/negative impacts on erosion/accretion.

Denial of the permit would avoid these minor/major positive/negative impacts on shore erosion and/or accretion. any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems. The project could be modified by /. This would reduce the impacts due to / by /
A permit could be issued with special conditions as follows:
This would reduce the impacts due to / by / If you found positive impacts as well as negative impacts on this factor, examine whether denial or any modifications or conditions that you've derived here will change or eliminate positive impacts to this factor

3. Effects on Flood Hazards and Floodplain Values:

Commenters' points:
Applicant's response/rebuttal:
Corps Findings:

The proposed work will take place in an area where water levels are solely under static level control of the Great Lakes. The volume of this contiguous water system is so vast that this project and cumulative similar projects will not induce any measurable change in the system's water level behavior. No impacts on flood hazards and floodplain values are expected.

The proposed fill will disrupt existing drainage patterns across the site and shunt runoff onto neighoring lower properties.

The proposed / would increase the hydraulic efficiency of the channel by /. This will contribute to increasing downstream flood peaks and reduce desynchronization of flood flows, while decreasing flood peaks on site and upstream.

The proposed / will decrease the hydraulic efficiency of the channel by
encroachment on the floodplain
creating obstructions to floodwaters and drifting materials.

This will contribute to increased upstream flood peaks, while decreasing flood peaks downstream.

The proposed / will decrease floodplain values by replacing / cubic yards of floodplain storage volume with / cubic yards of fill material
eliminating natural floodplain vegetation and reducing the roughness coefficient which will increase flood peaks downstream. As such, the work would be contrary to Executive Order 11988.

The proposed project would
aid in the prevention of flooding for the applicant.
encourage the applicant to invest in an area which would be/is subject to flooding conditions.

The cumulative impacts of numerous such projects on flood hazards would be/

In summary, the project will have no impacts on flood hazards and floodplain values.

In summary, the project will have minor/major, short term/long term, positive/negative impacts on flood hazards and floodplain values.

Denial of the permit would avoid these minor/major positive/negative impacts on flood hazards and/or floodplain values.
any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems.The project could be modified by /. This would reduce the impacts due to / by /
A permit could be issued with special conditions as follows:
This would reduce the impacts due to / by / If you found positive impacts as well as negative impacts on this factor, examine whether denial or any modifications or conditions that you've derived here will change or eliminate positive impacts to this factor

4. Effects on Navigation This is a public interest factor. Only view the proposal from this perspective for this factor

Commenters' points:
Applicant's response/rebuttal:
Corps Findings:

No impacts would be expected.

During construction, the equipment and temporary structures will cause an obstruction to navigation.
The equipment includes
barges
hydraulic dredging slurry pipelines
cofferdams
haul roads.

The proposed work and structure would extend into/interfere with a Federal channel. See attached comments from Operations & Maintenance Branch.

The proposed work/structure/use of the finished structure would
increase congestion through an increase in the number of boats in the area.
restrict/expand the navigation area within the channel/harbor/lake.
cause a situation in which views of boating traffic would be obstructed.
facilitate safe boat movement/moorage.
Because of this, the work/structure/use of the structure will cause minor/major positive/negative adverse impacts on public boating use and safety.

A riparian owner has a general right of access to navigable waters of the United States. This is subject to the similar rights of access held by nearby riparian landowners and to the general public's right of navigation on the water surface.
Provide a rationale as to how the circumstances fit the terms and principles of the policy stated above. For this situation, define what constitutes "riparian," "similar rights of access," "interference," "undue (or "due"),"."use"? We have documented the existing navigation use and constraints in Section II.D.2. above.
The work/structure/use of the structure would result in
the applicant's structure/boats having to be moored/approach/extend into the area used by/
into an area that will/not constrict/be incompatible with/ the available navigation area for the maneuvers that we have listed. This constriction will
not cause undue interference with access to, or use of, navigable waters by nearby riparian owners nor by the general public.
cause undue interference with access to, or use of navigable waters by the
public/nearby riparian owner because /

If nearby property owners were to desire and be issued a comparable permit, this would/not obstruct navigation within and access to the waterway. Therefore, the cumulative impacts of numerous such projects would/

In summary, the project will have minor/major, short term/long term, positive/negative impacts on navigation.

Denial of the permit would avoid these minor/major positive/negative impacts on navigation.
any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems. The project could be modified by /. This would reduce the impacts due to / by /
A permit could be issued with special conditions as follows:
This would reduce the impacts due to / by / If you found positive impacts as well as negative impacts on this factor, examine whether denial or any modifications or conditions that you've derived here will change or eliminate positive impacts to this factor\\

5. Water Supply and Conservation

No impacts would be expected. There are no water intakes in the area likely to be affected, and we anticipate no impacts to any drinking water aquifer.

B. Identified Biotic Impacts

1. Effects on Aquatic Organisms (Fish, invertebrates, submerged vegetation, plankton, etc. documented in II.D. above)

Commenters' points:
Applicant's response/rebuttal:
Corps Findings:

The proposed activity would eliminate/alter submersed and emergent aquatic vegetation beds and associated invertebrates.
However, similar beds would remain in nearby areas, and similar plants and invertebrates would be expected to recolonize the work area.
No recolonization by rooted aquatic plants is expected because /

Increase in nutrients due to the project will favor algae growth over rooted aquatic vegetation, causing a shift in the rest of the aquatic community.

Dredging would reduce diversity in the benthic community. Although recolonization does take place within 3 to 1
2 months after dredging via recruitment from adjacent unaffected areas, species' composition and diversity are usually not the same after dredging. In addition to the initial and likely maintenance dredging, there will be more frequent disturbance by propellers and deflected wave energy. Organisms recolonizing disturbed sites are usually limited to opportunistic species tolerant of habitat disturbance.

After construction, the physical conditions will be dissimilar to what currently exists in terms of substrate type and particle size/temperatures/current patterns/hydroperiod, so the original benthos community is unlikely to reestablish.

Some benthic communities, sedentary life stages, and eggs would be
directly buried by
removed by
subject to smothering from sedimentation due to
the proposed activity and slumping of material along the margins of construction.

The turbidity caused by
runoff from the construction site
dredging
the in-water construction activities
may reduce photosynthesis, clog gills of fish and other animals, reduce visibility for sight feeding animals, and may cause fish to relocate from the immediate area until work is completed.

The release of contaminants to the ecosystem due to the project will adversely affect adults, juveniles, larvae, and eggs of aquatic organisms, including fish utilized by recreational or commercial fisheries.

The project would destroy fish and their spawning, nursery, and feeding habitat, including species

utilized in recreational or commercial fisheries. The project could impede fish movement into and out of spawning, nursery, or feeding areas.
Work should be avoided during the period / through /. If location state Michigan## (Refer to the listing of "Preferred Dredging Periods" furnished by the Fisheries Division, MDEQ.) ##

There would be a reduction in existing cover due to dredging, in that existing bottom unevenness (i.e., holes) which might provide cover for fish and contribute habitat diversity would be eliminated, as would artificial or natural cover objects such as boulders and large rocks, sunken snags, debris, etc.

Creation of additional open water would increase the area available to fish and other aquatic organisms but would not improve their numbers, quality, or diversity since there is abundant deep water nearby.

The introduction of riprap would create a suitable habitat for benthos and some smaller species of fish, improving habitat for larger aquatic predators.

Construction of piers, pilings, and eventual mooring of boats will create structures for attached algae, invertebrates,
and fish that do not currently inhabit the area.

Elimination of littoral zone shallows, riparian fringe, and shoreward site vegetation will result in an overall decrease in productivity and nutrient export capabilities for the aquatic food web.

The proposed work will alter the character of runoff on the site so as to eliminate alter the existing algae, plants, invertebrates, and fish that inhabit the nearshore area and favor colonization by species more tolerant of the new conditions.

The net result of the proposed exchange of habitats that are increasingly rare in the area for habitats that are abundant will be an overall decrease in aquatic food web diversity and productivity.

The cumulative impacts of numerous such projects would/

Current and anticipated dredging of this waterway is causing or may cause losses in benthos and/or aquatic plant populations.

Destruction of the natural shoreline vegetation can be anticipated along this waterway. This could result in losses of land-water transition zone habitat.

In summary, the project will have minor/major, short term/long term, positive/negative impacts on the aquatic organisms.

Denial of the permit would avoid these minor/major positive/negative impacts on aquatic organisms. Any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems. The project could be modified by /. This would reduce the impacts due to / by /
A permit could be issued with special conditions as follows:

This would reduce the impacts due to / by / If you found positive impacts as well as negative impacts on this factor, examine whether denial or any modifications or conditions that you've derived here will change or eliminate positive impacts to this factor\\

2. Effects on Wildlife (Resident and transient mammals, birds, reptiles, and amphibians associated with aquatic ecosystems, as well as upland organisms within the action area documented in II.D. above)

Commenters' points:
Applicant's response/rebuttal:
Corps Findings:

The / would eliminate/alter reproductive, foraging, resting habitat, and interrupt a travel corridor for
game birds,
waterfowl,
wading birds,
shorebirds,
songbirds,
small and large mammals,
reptiles,
amphibians,
and invertebrates which are associated with the aquatic ecosystem and the aquatic food chain.

The availability of contaminants resulting from the construction and resulting use of the project will lead to the bioaccumulation of such contaminants in wildlife.

Construction along the shoreline would eliminate/alter habitat for amphibious animals and other organisms that require the natural land-water transitional habitat and sheltered shallow waters.

A variety of organisms would be displaced from their habitat by impacts of the proposed construction and resulting use. Those displaced organisms will/not cause degradation of habitat values for those areas to which they will be driven.

Recolonization of the project area by similar species would be expected to occur after construction.

Stabilization of the area due to protection afforded by the proposed work may lead to the establishment of different plant and animal communities.

The newly created landscaped upland would furnish habitat for those few species adapted for life under these conditions.

At the dredge disposal/fill borrow site, terrestrial plants and habitats would be destroyed by burial/excavation operations. Depending on reclamation or stabilization of the site, at least some of the original habitat values will be recovered over time.

The net exchange of habitats that are increasingly rare in the area for habitats that are abundant will be an overall decrease in wildlife diversity and productivity.

The cumulative impacts of numerous such projects would/

In summary, the project will have minor/major, short term/long term, positive/negative impacts on wildlife.

Denial of the permit would avoid these minor/major positive/negative impacts on wildlife. Any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems. The project could be modified by /. This would reduce the impacts due to / by /
A permit could be issued with special conditions as follows:
This would reduce the impacts due to / by / If you found positive impacts as well as negative impacts on this factor, examine whether denial or any modifications or conditions that you've derived here will change or eliminate positive impacts to this factor

3. Effects on Wetlands

Commenters' points:
Applicant's response/rebuttal:
Corps Findings:

No wetlands would be impacted as a direct or indirect result of the proposed project.
The information below will be merged in from the "Wetland Impact Tally Screen" in RAMS. If you have not as yet entered it in that screen, please copy this information into it as soon as possible.
The following type and areal extent of wetlands would be eliminated or covered as a direct result of the proposed discharge:

Type	Size (Acre)
****	*****

The following type and areal extent of wetlands would be eliminated/transformed by drainage as a result of the proposed project:

Type	Size (Acre)

The following type and areal extent of wetlands would be eliminated/transformed by inundation as a result of the proposed project:

Type	Size (Acre)

QPDS requires that acreage "impacted" by discharges through the three actions above be reported. Unless the applicant has downscaled his/her plans since the application was administratively complete, the total acreage above should be entered on the HQUSACE WETLAND IMPACTS SCEEN as acreage REQUESTED. If he/she has downscaled, be sure that the original requested acreage is entered there. The PERMITTED acreage will naturally depend on the final decision.
The following type and areal extent of wetlands would be eliminated/deepened as a direct result of the proposed dredging: Type Size (Acre)

In addition, the following type and areal extent of wetlands would be degraded:

Type	Size (Acre)

The degradation would consist of /.

The recognized wetland functions which would be affected as a result of the project are: flood water storage/ natural drainage/ sedimentation patterns/ runoff filtration and purification/ groundwater discharge for maintaining minimum baseflows/ erosion protection/ food chain production/ general habitat and nesting, spawning, rearing and resting sites for aquatic and semi-aquatic species/ designated study, sanctuary or refuge area. Wetland values affected include uniqueness/heritage/ recreation.

The extent and nature of the affect on each function has been discussed in other appropriate sections of this document
except for:

Each of these functions has been objectively documented for the particular site by means of information as described in Section II.D. above.

The proposed action would result in the creation of / acres of wetland which would be likely to provide the following functions:

The proposed compensatory mitigation will/not provide functional replacement of the wetland to be impacted by the proposed project. This is because

Although alteration of the wetland would constitute a minor change, the cumulative effects of such actions may result in major impairment of wetland resources.

Adverse impacts to the wetland are minor and the cumulative effects of such actions are not likely to result in major impairment of wetland resources.

In summary, the project will have minor/major, short term/long term, positive/negative impacts on wetlands.

Denial of the permit would avoid these minor/major positive/negative impacts.
Any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems. The project could be modified by /. This would reduce the impacts due to / by /
A permit could be issued with special conditions as follows:
This would reduce the impacts due to / by / If you found positive impacts as well as negative impacts on this factor, examine whether denial or any modifications or conditions that you've derived here will change or eliminate positive impacts to this factor\\

If the mitigation plan could and would be successfully implemented, it appears that there will be no net loss of functions and values. The ultimate success or failure of the mitigation plan would be dependent upon the specific actions of the applicant and their agent(s). Conditioning the permit to

require the permittee to accept full responsibility for the success or failure of the plan and to require the permittee to undertake remedial measures if necessary to satisfy the success criteria would increase the probability that the anticipated mitigation benefits are realized.

4. Effect on Conservation and Overall Ecology:

Commenters' points:
Applicant's response/rebuttal:
Corps Findings:

Implementation of the proposed activity would impact upon the ecological balance and integrity of a valuable resource as documented in Section II.D. above., wetlands.
fish spawning or cover areas.
floodplains.
migratory bird stopover and foraging point.
It would effect the balance and integrity by /

The proposed project would change an area that now supports a variety of species into one that would probably support considerably less diversity.

The proposed construction and subsequent operation could lead to gasoline or oil spills which could result in minor/major adverse impacts.

The proposed work would degrade or foreclose the prospect of preservation of an area of high natural heritage value.

We consulted Federal and State endangered species lists. The following endangered or threatened species are known to occur in #FOLDER_COUNTY# County in similar habitats:

No rare, endangered, or threatened species or critical habitats would be affected by the proposed project.

The cumulative impacts of numerous such projects would /

In summary, the project will have minor/major, short term/long term, positive/negative impacts on conservation and the overall ecology.

Denial of the permit would avoid these minor/major positive/negative impacts.
Any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems. The project could be modified by /. This would reduce the impacts due to / by /
A permit could be issued with special conditions as follows:
This would reduce the impacts due to / by / If you found positive impacts as well as negative impacts on this factor, examine whether denial or any modifications or conditions that you've derived here will change or eliminate positive impacts to this factor\\

C. Identified Social Impacts

1. Visual Aesthetics As with all of the other review factors, impacts on visual aesthetics should be based on the perspective of the public's view from possible vantage points available to them. Next in line of importance may be impacts to the neighboring landowners, but only from a relatively narrow perspective limited by the "but for permit issuance" test.

Commenters' points:
Applicant's response/rebuttal:
Corps Findings:

The proposed work is/not consistent with similar type structures found in the area. The development will
encourage unplanned and incompatible human access
destroy vital elements that contribute to the compositional harmony or unity, visual distinctiveness, or diversity of an area as viewed by the public.

The construction activities will be noticeable from / Don't use the view across neighbors' upland lot lines as a perspective since many activities outside of our jurisdiction can change this view
This may detract from the visual context of /. After project completion, this project will transform an area that may be characterized as / to one which may be characterized as /. The net impact of this transformation will depend on individual taste.

The work/and operation of the project will cause a change in the aesthetic qualities of sight, taste, odor and color of the water/air around the project area.

The work/structure/use of the structure will extend offshore across the view arc of neighbors as defined by their riparian interest lines. This will cause a minor/major obstruction of this offshore area.

The cumulative impacts of numerous such projects would /

In summary, the project's effect on aesthetics would be major/minor, short/long term, and positive/negative/ and dependent on personal preference.
Denial of the permit would avoid these minor/major positive/negative impacts.
Any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems. The project could be modified by /. This would reduce the impacts due to / by /
A permit could be issued with special conditions as follows:
This would reduce the impacts due to / by / If you found positive impacts as well as negative impacts on this factor, examine whether denial or any modifications or conditions that you've derived here will change or eliminate positive impacts to this factor\\

2. Noise

Commenters' points:

Applicant's response/rebuttal:
Corps Findings:

Construction activities, including / will increase ambient noise for a period of approximately /. After construction, operation/use of the project area will create a major/minor change in noise levels for receptors located /. The increase is/not expected to violate applicable noise criteria.

The project operation will be contrary to the tranquil setting of the area.

The cumulative impacts of numerous such projects would /

In summary, the project's effect on noise would be major/minor, short/long term, and positive/negative.

Denial of the permit would avoid these minor/major positive/negative impacts.
Any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems. The project could be modified by /. This would reduce the impacts due to / by /
A permit could be issued with special conditions as follows:
This would reduce the impacts due to / by / If you found positive impacts as well as negative impacts on this factor, examine whether denial or any modifications or conditions that you've derived here will change or eliminate positive impacts to this factor\\

3. Designated Historic, Cultural, Scenic, and Recreational Values

The up-dated National Register of Historical Places was checked. Registered Historical sites would not be affected by the proposed work. The proposed work would not affect an area designated under the Federal Wild and Scenic Rivers Act, or being considered for such designation. The proposed work would not affect areas designated as Natural Landmarks, National Rivers, National Wilderness Areas, National Seashores, National Recreation Areas, National Lakeshores, National Parks, National Monuments, archaeological resources, including Indian religious or cultural sites. We know of no applicable or affected state, regional, or local land use classification due to historic, cultural, scenic, or recreational values.

Commenters' points:
Applicant's response/rebuttal:
Corps Findings:

The project will affect an area recognized as / by /. The issuance of a permit, as proposed, would be consistent with, and avoid significant adverse effects on the / values of the / for which the / was established.

4. Land Use Patterns

Commenters' points:
Applicant's response/rebuttal:

Corps Findings:

The proposed project is contrary to/consistent with the existing zoning for the area.
The state has issued their respective permit for the project.
Therefore we defer to these state and local entities as reflecting benefits to state and local land use goals.
If location state Michigan## The proposed project is contrary to the St. Clair Flats Management Plan, as developed and implemented by local government and the Michigan Department of Environmental Quality, in the following respects: ##

From a national perspective,
The work may encourage a trend of conversion of wetlands/shallow water areas to upland residential development.
The work may encourage a trend of investment in potential high erosion/flood-prone areas for residential development.
The project would encourage a trend of development of natural areas rather than recycling abandoned, previously developed areas to more intensive or better uses. This would also supply an additional disincentive to clean up abandoned or contaminated sites.

The present land use patterns or cultural development would/not change due to the proposed work.

In summary, the project's effect on land use would be major/minor, long term, and positive/negative.

Denial of the permit would avoid these minor/major positive/negative impacts.
Any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems. The project could be modified by /. This would reduce the impacts due to / by /
A permit could be issued with special conditions as follows:
This would reduce the impacts due to / by / If you found positive impacts as well as negative impacts on this factor, examine whether denial or any modifications or conditions that you've derived here will change or eliminate positive impacts to this factor\\

5. Economic Effects

Commenters' points:
Applicant's response/rebuttal:
Corps Findings:

The contractor, equipment supplier, and other commercial enterprises would benefit from the proposed work.

The neighbors' property values would decrease/stabilize/increase as a result of the proposed work.

Increased use of the area could benefit local businesses.
The local tax revenues, community services, community cohesion would benefit.
In summary, the project's effect on economics would be major/minor, short/long term, and positive/negative.

Denial of the permit would avoid these minor/major positive/negative impacts.
Any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems. The project could be modified by /. This would reduce the impacts due to / by /
A permit could be issued with special conditions as follows:
This would reduce the impacts due to / by / If you found positive impacts as well as negative impacts on this factor, examine whether denial or any modifications or conditions that you've derived here will change or eliminate positive impacts to this factor\\

6. Effects on Recreation Like the majority of other public interest factors, this pertains not to the applicant's recreation, but to impacts on public recreation. Private or membership-only facilities are not available to the public at large, so only write about benefits and detriments from public perspective\\

No impacts would be expected.

Commenters' points:
Applicant's response/rebuttal:
Corps Findings:

The proposed work/structure would
destroy an area which is important to maintenance of populations of fish and game, although it is not in itself open to public use for hunting and fishing.
cause an obstruction of an area currently used by the public for waterskiing, fishing, and other watersports.
destroy/create an area of value for passive recreation such as photography, birdwatching, walking, peoplewatching, and the like.
cause an increase in the number of people in the area, and this would not occur but for this permitted activity. Those people may in turn degrade existing public recreational facilities in the area.

This project will provide for greater public recreational opportunities and waterway usage without adversely affecting existing use patterns.

In summary, the project's effect on recreation would be major/minor, short/long term, and positive/negative.

Denial of the permit would avoid these minor/major positive/negative impacts.
Any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems.\\The project could be modified by /. This would reduce the impacts due to / by /
A permit could be issued with special conditions as follows:
This would reduce the impacts due to / by / If you found positive impacts as well as negative impacts on this factor, examine whether denial or any modifications or conditions that you've derived here will change or eliminate positive impacts to this factor

7. Effects on Safety

No unsafe conditions would be created or increased by the proposed construction or use of the project area.

Commenters' points:
Applicant's response/rebuttal:
Corps Findings:

During construction and as a result of the project, the project will cause increased exposure of people to /. These impacts would not occur but for the permitted activity. Watch out for conclusions that a project will induce auto traffic. There are usually many other upland activities that could occur on a site that would induce auto traffic

The project would contribute to or encourage crowded boating conditions and or unsafe boating practices.

The cumulative impacts of numerous such projects would/

In summary, the project's effect on safety would be major/minor, short/long term, and positive/negative.

Denial of the permit would avoid these minor/major positive/negative impacts.
Any modifications or conditions must be clearly linked to specific impacts that you have written about above. You need to write how or why these modifications or conditions will remedy these specific problems.\\ The project could be modified by /. This would reduce the impacts due to / by /
A permit could be issued with special conditions as follows:
This would reduce the impacts due to / by / If you found positive impacts as well as negative impacts on this factor, examine whether denial or any modifications or conditions that you've derived here will change or eliminate positive impacts to this factor\\

8. Food and Fiber Production

The proposed work would benefit food/fiber production by providing relief from potential flooding.

No impacts would be expected.

9. Mineral Needs

No impacts would be expected.

10. Energy Conservation and Development.

No impacts would be expected.

11. Consideration of Property Ownership.

The applicant has a right to reasonable private use of the property, subject to the rights and interests of the public in the waters of the United States, including federal navigation servitude and federal regulation for environmental protection.
The project will have benefits to the applicant's right to property ownership.
There are alternatives that will still afford reasonable private use of the property. These include /. There may be more.

D. Cumulative Effects

Cumulatively, the proposed permit activity would have major/minor positive/adverse impacts as described in the sections above.

We could not identify any potential cumulative impacts due to this project.

E. Secondary Effects

Issuance of the permit would cause secondary effects on the action area as detailed in the sections above; these effects would not occur but for the permitted activity.

The proposed / foot setback would minimize the potential for adverse impact to the aquatic ecosystem. A substantial buffer would remain between the waterway and the proposed /.

F. General Criteria: You may cross-reference similar considerations elsewhere in this evalution to avoid repetition.

1. The relative extent of the public and private need for the proposed structure or work:

Commenters' points:
Applicant's response/rebuttal:
Corps Findings:

2. Where there are unresolved conflicts as to resource use, the practicability of using reasonable alternative locations and methods to accomplish the object of the proposed structure or work:

Commenters' points:
Applicant's response/rebuttal:
Corps Findings:

3. The extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work is likely to have on the public and private uses to which the area is suited:

Commenters' points:
Applicant's response/rebuttal:

Corps Findings: Choose one of the following depending on whether we can really identify "suitable uses:"\\

We are not in a position to determine whether this wetland/shallows/whatever is an area that is ultimately suitable for certain uses.

This / has been developed for the use as / and has proven to be suitable for this use since this development. The structure/work is likely to have a major/minor short term/long term beneficial/detrimental effect on this public/private use by /

G. Alternatives: The following administrative alternatives have been considered Don't delete any of these possible alternatives so as to document that we considered them. See Appendix B of Part 325, Para. 7:

Issue the permit as proposed.

Issue the permit with modifications. As mentioned in paragraphs / above, a permit issued which /, will minimize /, while still fulfilling the project's purposes and beneficial effects on /.

Issue the permit with special conditions. As mentioned in paragraphs / above, a permit with special conditions to /, will minimize /, while fulfilling the project's purposes and beneficial effects on /.

Deny the application. (Consider the no action alternative.)

IV. The portions of this document constituting the Environmental Assessment adequately address the relative magnitude of the expected impacts of the proposed project within our mandatory scope of analysis. The range of possible impact magnitude included no impact, negligible impact, minor impact, major impact, and significant impact as the term significant is defined in regulations implementing NEPA. Our analysis did not indicate the potential for significant impact on the quality of the human environment. Therefore, I do not recommend preparation of an environmental impact statement.

V. 404(b)(1) Guidelines Compliance Evaluation:

We have evaluated the effects of the proposed discharge of dredged or fill material into the waters of the U.S. according to the Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material, promulgated in Title 40 CFR 230 pursuant to Section 404 of the 1977 Clean Water Act.

Factual Determinations in light of Subparts C-F of the Guidelines have been set forth under appropriate impact assessments above.

Testing: The material to be discharged in this project consists of /.
Subpart H of the Guidelines requires testing of the extraction site of the discharge material for contaminants except under certain circumstances.
In this case, testing is not required because /
there are prior test results that enable characterization of the contaminants
the material is comprised of commercial sand/gravel/ to which contaminants do not adsorb/have not been

subject to likely sources of contaminants
the discharge site is adjacent to the extraction site and subject to the same sources of contaminants, and materials at the two sites are substantially similar.
constraints are available to reduce contamination to acceptable levels, and the applicant is willing and able to implement such constraints.

Mitigation/Alternatives:

The following is a summary of the mitigation sequence as required by the February 7, 1990 Memorandum of Agreement by the EPA and the Corps as it pertains to the proposal and, if applicable, its alternatives.

Avoidance.

We have determined that there will not be more than minimal damage as a result of the discharge. Therefore, avoidance of the discharge would not be a less damaging practicable alternative delete the rest of this alternatives section.

We have not identified any alternatives that would avoid discharges and would not have other significant adverse environmental consequences.

We have independently determined that there is no practicable way to avoid discharges and fulfill the overall project purpose.

We have determined that the overall project purpose could be fulfilled and discharges could be avoided by the alternative of /. However, we have determined that this alternative would
not be discernibly less damaging than the current proposal
avoid minor impacts on the aquatic environment at the cost of substantial impacts to other natural environmental values as detailed above
Therefore, there is no less damaging practicable alternative delete the rest of this alternatives section\

We initially determined that the potential impact of the discharge on the aquatic environment would be more than minimal, and directed the applicant to address the alternative of /, which would avoid discharges (Encl. /) The applicant responded ((Encl. /). He stated that /Fully and fairly summarize the rebuttal points\

We agree that this avoidance alternative would not be practicable for him based upon cost/logistics/technology relative to the overall project purpose. Therefore, there is no less damaging practicable alternative that would avoid a discharge.

We do not agree with the applicant that the avoidance alternative would not be practicable, because /. Therefore, there is a less damaging practicable alternative that avoids a discharge.

Minimization.

As described in the sections above, we have identified modification/conditions consisting of /. We

have determined that the these steps are
appropriate because there will be discernable differences in the magnitude and nature of these aquatic impacts as detailed above.
not appropriate because they would minimize impacts on the aquatic environment at the cost of substantial impacts to other natural environmental values as detailed above.

We initially determined that the potential impact of the discharge on the aquatic environment would be more than minimal, and directed the applicant to address the alternative of /, which would minimize impacts (Encl. /) The applicant responded ((Encl. /). He stated that /Fully and fairly summarize the rebuttal points

We agree that this minimization alternative would not be practicable for him based upon cost/logistics/technology relative to the overall project purpose. Therefore, there is no less damaging practicable alternative.

We do not agree with the applicant that the minimization steps would not be practicable, because /. Therefore, there is a less damaging practicable alternative.

The following is for use only with special aquatic sites where we have made preliminary determination of major adverse impacts individually or cumulatively. For cumulative impact, you should have already documented in this evaluation that the project involves high value aquatic resources in a watershed or other identified area that has or would be subjected to additional substantial development, and therefore should be subject to rigorous evaluation of alternatives. The proposed discharge would occur in a special aquatic site, a wetland/riffle and pool complex/vegetated shallows/mudflat. The fundamental, essential, or irreducible activity or use to which the special aquatic site will be put after discharging dredged or fill material and construction ("basic purpose") is /. /, per se, does not require access or proximity to or siting within wetlands/riffle and pool complexes/vegetated shallows/mudflats to take place. Therefore, we must presume that there are practicable alternatives to achieve the overall project purpose that do no not involve special aquatic sites, and that all practicable alternatives to the proposed discharge which do not involve a discharge into a special aquatic site have less adverse impact on the aquatic ecosystem.
There were readily apparent less damaging practicable alternatives of / which we directed the applicant to address (Encl. /)
There were not any readily apparent alternatives, and we directed the applicant to attempt to overcome the presumption that less damaging practicable alternatives exist (Encl. /).
The applicant responded ((Encl. /). He stated that /Fully and fairly summarize the rebuttal points

We agree that minimization alternatives would not be practicable for him based upon cost/logistics/technology relative to the overall project purpose. Therefore, there is no less damaging practicable alternative.

We do not agree with the applicant that minimization steps would not be practicable, because /. Therefore, there is a less damaging practicable alternative.

Compensation.

As described in the sections above we have identified steps to achieve functional replacement of

unavoidable loss of aquatic resources through creation or restoration of /. We have determined that these steps are/not appropriate for the reasons specified in those sections.
We have determined that these steps are/not practicable for the following reasons:

Section 404(b)(1) compliance summary matrix.

P = Proposal. **D** = No action (denial). A1 = /. A2 = /. briefly summarize or label a specific alternative that you fleshed out in the course of our evaluation above.

Where only a **P** is shown, it indicates that all alternatives meet compliance criteria for that item. An unknown is a noncompliance; this will be designated with a **U** in the DOES NOT COMPLY column. Switch "insert" mode to "overstrike" now.

	MEETS CRITERIA	DOES NOT COMPLY
1. The applicant must overcome the presumption that a practicable, less enironmentally damaging alternative site, outside special aquatic sites, exists. If the project is water dependent, OR is not in a special aquatic site, enter only N/A (not applicable).		
2. There must be no alternative that is practicable, is less damaging to the aquatic ecosystem, and has no other significant, adverse environmental effects.		
3. The discharge must not violate state water quality standards or Clean Water Act Section 307 toxic effluent standards or bans.		
4. The project must not jeopardize the continued existence of an endangered species.		
5. The project must not cause or contribute to significant adverse effects on municipal water supplies, plankton, fish, shellfish, wildlife, special aquatic sites, or other aspects of human health or welfare.		
6. The project must not cause or contribute to significant adverse effects on life stages of aquatic life and other wildlife dependent on aquatic ecosystems.		
7. The project must not cause or contribute to significant adverse effects on ecosystem diversity, productivity, or stability.		
8. The project must not cause or contribute to significant* adverse effects on recreational, aesthetic or economic values.		
9. All appropriate and practicable steps, to minimize potential adverse effects of the discharge on the aquatic ecosystem, must be taken.		

*If project does not comply due to this, explain if this determination differs from conclusion regarding an EIS, Section IV. above.

Section 404(b)(1) Compliance/Non-Compliance Determination
Choose one of the following three statements.

The proposed discharge complies with the Guidelines.

The proposed discharge complies with the requirements of the Guidelines, with the inclusion of appropriate and practicable discharge conditions to minimize pollution or adverse effects to the affected

aquatic ecosystems.

The proposed discharge fails to comply with the 404(b)(1) Guidelines because: f proposal fails to comply, select one or more of the following:

There is a practicable alternative to the proposed discharge that would have less adverse effect on the aquatic ecosystem, and the alternative does not have other significant adverse environmental consequences.

The proposed discharge does not include all appropriate and practicable measures to minimize potential harm to the aquatic ecosystem.

The proposed discharge will result in significant degradation of the aquatic ecosystem under 230.10(b) or (c).

There does not exist sufficient information to make a reasonable judgement as to whether the proposed discharge will comply with the Guidelines.##

#PM_SIGNATURE_LADDER#

Prepared by:

#PM_ROLE_SIGNATURE_BLOCK#
Date: /

Enclosures

1. Presently proposed plan dtd. /

Reference Materials used in Compiling this Assessment include:
USGS topo quad for
NOAA Chart No.
Endangered Species List
National Register of Historical Places
USDA aerial photography dated
USDA soil survey for #FOLDER_COUNTY# County, #FOLDER_STATE#, dated
COE aerial photography ##AIRPH## , dated
USGS Water Resources Data for the State of #FOLDER_STATE#, Water Year 19XX
Federal Flood Insurance Report for
COE Navigability Study for the
If location State is Michigan## Michigan State Atlas ##

Site Investigation
Ground Photography
Register of Natural Landmarks
Wild and Scenic Rivers Act
404(b)(1) Guidelines
Fish and Wildlife Service Wetland Inventory Maps
Census Data
Department of the Interior National River Inventory
If location State is Michigan##COE Final EIS for
Wetland Evaluation Technique Volume I: Literature Review
and Evaluation Rationale##
If location State is Indiana##Hydrology of Indiana Lakes
COE Final EIS for
Drainage Areas of Indiana Streams
The Indiana Water Resource: Availability, Uses, and Needs
Wetland Evaluation Technique Volume I: Literature Review
and Evaluation Rationale##

33 CFR Part 325 Processing of Department of the Army Permits
Appendix B - NEPA Implementation
Procedures for the Regulatory Program

28. Introduction
29. General
30. Development of Information Data
31. Elimination of Duplication with State and Local Procedures
32. Public Involvement
33. Categorical Exclusions
34. EA/FONSI Document
35. Environmental Impact Statement-General
36. Organization and Content of Draft EISs
37. Notice of Intent
38. Public Hearing
39. Organization and Content of Final EIS
40. Comments Received on the Final EIS
41. EIS Supplement
42. Filing Requirement
43. Timing
44. Expedited Filing
45. Record Of Decision
46. Pre-decision Referrals by Other Agencies
47. Review of Other Agencies' EISs
48. Monitoring
49. Introduction. In keeping with the Executive Order 12291 and 40 CFR 1500.2, where interpretive problems arise in implementing this regulation, and consideration of all other factors do not give a clear indication of a reasonable interpretation, the interpretation (consistent with the spirit and intent of NEPA) which results in the least paperwork and delay will be used. Specific examples of ways to reduce paperwork in the NEPA process are found at 40 CFR 1500.4. Maximum advantage of these recommendations should be taken.
50. General. This appendix sets forth the implementing procedures for the Corps regulatory program. For additional guidance see the Corps NEPA regulation 33 CFR Part 230 and for general policy guidance, see the CEQ regulations 40 CFR 1500-1508.
51. Development of Information and Data. See 40 CFR 1506.5. The district engineer may require the applicant to furnish appropriate information that the district engineer considers necessary for the preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS). See also 40 CFR 1502.22 regarding incomplete or unavailable information.
52. Elimination of Duplication with State and Local Procedures. See 40 CFR 1506.2.
53. Public Involvement. Several paragraphs of this appendix (paragraphs 7, 8, 11, 13 and 19) provide information on the requirements for district engineers to make available to the public certain environmental documents in accordance with 40 CFR 1506.6.
54. Categorical Exclusions

    General. Even though EA or EIS is not legally mandated for any Federal action falling within one of the "categorical exclusions" that fact does not exempt any Federal action from procedural or substantive compliance with any other Federal law. For example, the Endangered Species Act, the Clean Water Act etc., is always mandatory, even for actions not requiring an EA or EIS. The following activities are not considered to be

ENCLOSURE 3

major Federal actions significantly affecting the quality of the human environment and are therefore categorically excluded from NEPA documentation:

1. Fixed or floating small private piers, small docks, boat hoists and boathouses.
2. Minority utility distribution and collection lines including irrigation;
3. Minor maintenance dredging using existing disposal sites;
4. Boat launching ramps;
5. All applications which qualify as letters of permission (as described at 33 CFR 325.5(b)(2)).

a. Extraordinary Circumstances. District engineers should be alert for extraordinary circumstances where normally excluded actions could have substantial environmental effects and thus require an EA or EIS. For a period of one year from the effective data of these regulations, district engineers should maintain an information list on the type and number of categorical exclusion actions which, due to extraordinary circumstances, triggered the need for an EA/FONSI or EIS. If the district engineer determines that a categorical exclusion should be modified, the information will be furnished to the division engineer who will review and analyze the actions and circumstances to determine if there is a basis for recommending a modification to the list of categorical exclusions. HQUSACE (CECW-OR) will review recommended changes for Corps-wide consistency and revise the list accordingly.

55. EA/FONSI Document. (See 40 CFR 1508.9 and 1508.13 for definitions) Environmental Assessment (EA) and Findings of No Significant Impact (FONSI). The EA should normally be combined with other required documents (EA/404(b)(1)/ SOF/FONSI). "EA" as used throughout this Appendix normally refers to this combined document. The district engineer should complete an EA as soon as practicable after all relevant information is available (i.e. after the comment period for the public notice of the permit application has expired) and when the EA is a separate document it must be completed prior to the completion of the statement of finding (SOF). When the EA confirms that the impact of the applicant's proposal is not significant and there are no "unresolved conflicts concerning alternative uses of available resources" (section 102(2)(E) of NEPA), and the proposed activity is a water dependent" activity as defined in 40 CFR 230.10(a)(3), the EA need not include a discussion on alternatives. In all other cases where the district engineer determines that there are unresolved conflicts concerning alternatives uses of available resources, the EA shall include a discussion of the reasonable alternatives which are to be considered by the ultimate decision-maker. The decision options available to the Corps, which embrace all of the applicant's alternatives, are issue the permit, issue with modifications or deny the permit. Modifications are limited to those project modifications within the scope of established permit conditioning policy (See 33 CFR 325.4). The decision option to deny the permit results in the "no action" alternative (i.e. no activity requiring a Corps permit). The combined document should not exceed 15 pages and shall conclude with a FONSI (See 40 CFR 1508.13) or a determination that an EIS is required. The district engineer may delegate the signing of the NEPA document. Should the EA demonstrate that an EIS is necessary; the district engineer shall follow the procedures outlined in paragraph 8 of this Appendix. In those cases where it is obvious an EIS is required, an EA is not required. However, the district engineer should document his reasons for requiring an EIS.

a. Scope of Analysis.

0. In some situations, a permit applicant may propose to conduct a specific activity requiring a Department of the Army (DA) permit (e.g., construction of a pier in

a navigable water of the United States) which is merely one component of a large project (e.g., construction of an oil refinery on an upland area). The district engineer should establish the scope of the NEPA document (e.g., the EA or EIS) to address the impacts of the specific activity requiring the DA permit and those portions of the entire project over which the district engineer has sufficient control and responsibility to warrant Federal review.

1. The district engineer is considered to have control and responsibility for portions of the project beyond the limits of Corps jurisdiction where the Federal involvement is sufficient to turn an essentially private action into a federal action. Theses are cases where the environmental consequences are essentially products of the Corps permit action. Typical factors to be considered in determining whether sufficient "control and responsibility" exists include:
   i. Whether or not the regulated activity compromises "merely a link" in a corridor type project (e.g. a transportation or utility transmission project).
   ii. Whether there are aspects of the upland facility in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activity.
   iii. The extent to which the entire project will be within Corps jurisdiction.
   iv. The extent of cumulative control and responsibility.
      A. Federal control and responsibility will include the portions of the project beyond the limits of Corps jurisdiction where the cumulative Federal involvement of the Corps and other Federal agencies is sufficient to grant legal control over such additional portions of the project. There are cases where the environmental consequences of the additional portions of the projects are essentially products of Federal financing, assistance, direction, regulation, or approval (not including funding assistance solely in the form of general revenue sharing funds, with no Federal agency control over the subsequent use of such funds, and not including judicial or administrative civil or criminal enforcement action).
      B. In determining whether sufficient cumulative involvement exists to expand the scope of Federal action the district engineer should consider whether other Federal agencies are required to take Federal action under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et. seq.), the National Historic Preservation Act of 1966 (U.S.C. 470 et seq.), The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), Executive Order 11990, Protection of Wetlands, (42 U.S.C. 4321 91977), and other environmental review laws and executive orders.
      C. The district engineer should also refer to paragraphs 8(b) and 8(c) of this appendix for guidance on determining whether it should be the lead or cooperating agency in these situations. These factors will be added to or modified through guidance as additional field experience develops.
2. Examples. If a non-Federal oil refinery, electric generating plant, or industrial facility is proposed to be built on an upland site and the only DA permit requirement relates to a connecting pipeline, supply loading terminal or fill road permit, in and of itself, normally would not constitute sufficient overall Federal involvement with the project to justify expanding the scope of a Corps NEPA document to cover upland portions of the facility beyond the structures in the immediate vicinity of the regulated activity that would effect the location and configuration of the regulated activity.

Similarly, if an applicant seeks a DA permit to fill waters or wetlands on which other construction or work is proposed, the control and responsibility of the Corps, as well as its overall Federal involvement would extend to the portions of the project to be located on the permitted fill. However, the NEPA review would be extended to the entire project, including portions outside waters of the United States, only if sufficient Federal control and responsibility over the entire project is determined to exist; that is, if the regulated activities, and those activities involving regulation, funding, etc. by other Federal agencies, comprise a substantial portion of the overall project. In any case, once the scope of analysis has been defined, the NEPA analysis for that action should include direct, indirect and cumulative impacts on all Federal interests within the purview of the NEPA statute. The district engineer should, whenever practicable, incorporate by reference and rely upon the reviews of other Federal and State agencies.

For those regulated activities that comprise merely a link in a transportation or utility transmission project, the scope of analysis should address the Federal action, i.e., the specific activity requiring a DA permit and any other portion of the project that is within the control or responsibility of the Corps of Engineers (or other Federal agencies).

For example, a 50-mile electrical transmission cable crossing a 1-1/4 mile wide river that is a navigable water of the United States requires a DA permit. Neither the origin and destination of the cable nor its route to and from the navigable water, except as the route applies to the location and configuration of the crossing, are within the control of the Corps of Engineers. Those matters would not be included in the scope of analysis which, in this case, would address the impacts of the specific cable crossing.

Conversely, for those activities that require a DA permit for a major portion of a transportation or utility transmission project, so that the Corps permit bears upon the origin and destination as well as the route of the project outside the Corps regulatory boundaries, the scope of analysis should include those portions of the project outside the boundaries of the Corps section 10/404 regulatory jurisdiction. To use the same example, if 30 miles of the 50-mile transmission line crossed wetlands or other "waters of the United States," the scope of analysis should reflect impacts on the whole 50-mile transmission line.

For those activities that require a DA permit for a major portion of a shoreside facility, the scope of analysis should extend to upland portions of the facility. For example, a shipping terminal normally requires dredging, wharves, bulkheads, berthing areas and disposal of dredge material in order to function. Permits for such activities are normally considered sufficient Federal control and responsibility to warrant extending the scope of analysis to include the upland portions of the facility. In all cases, the scope of analysis used for analyzing both impacts and alternatives should be the same scope of analysis used for analyzing the benefits of a proposal.

56. Environmental Impact Statement -- General

Determination of Lead and Cooperating Agencies. When the district engineer determines that an EIS is required, he will contact all appropriate Federal agencies to determine their respective role(s), i.e., that of lead agency or cooperating agency.

a. Corps as Lead Agency. When the Corps is lead agency, it will be responsible for managing the EIS process, including those portions which come under the jurisdiction of other Federal agencies. The district engineer is authorized to require the applicant to furnish appropriate information as discusses in paragraph 3 of this appendix. It is permissible for the Corps to reimburse, under agreement, staff support from other Federal agencies beyond the immediate jurisdiction of those agencies.

b. Corps as Cooperating Agency. If another agency is the lead agency as set forth by the CEQ regulations (40 CFR 1501.4 and 1501.6(a) and 1508.16), the district engineer will coordinate with that agency as a cooperating agency under 40 CFR 1501.6(b) and 1508.5 to insure that agency's resulting EIS may be adopted by the Corps for purposes of exercising its regulatory authority. As a cooperating agency the Corps will be responsible to the lead agency for providing environmental information which is directly related to the regulatory matter involved and which is required for the preparation of an EIS. This in no way shall be construed as lessening the district engineer's ability to request the applicant to furnish appropriate information as discussed in paragraph 3 of this appendix. responsibility, the district engineer should, in accordance with 40 CFR 1501.6(b)(4), "make available staff support at the lead agency's request" to enhance the latter's interdisciplinary capability provided the request pertains to the Corps regulatory action covered by the EIS, to the extent this is practicable. Beyond this, Corps staff support will generally be made available to the lead agency to the extent practicable within it own responsibility and available resources. Any assistance to a lead agency beyond this will normally be by written agreement with the lead agency providing for the Corps expenses on a cost reimbursable basis. If the district engineer believes a public hearing should be held and another agency is lead agency, the district engineer should request such a hearing and provide his reasoning for the request. The district engineer should suggest a joint hearing and offer to take an active part in the hearing and ensure coverage of the Corps concerns.

c. Scope of Analysis. See paragraph 7b.

d. Scoping Process. Refer to 40 CFR 1501.7 and 33 CFR 230.12.

e. Contracting. See 40 CFR 1506.5.

0. The district engineer may prepare an EIS, or may obtain information needed to prepare an EIS, either with his own staff or by contract. In choosing a contractor who reports directly to the district engineer, the procedures of 40 CFR 1506.5(c) will be followed.

1. Information required for an EIS also may be furnished by the applicant or a consultant employed by the applicant. Where this approach is followed, the district engineer will (i) advise the applicant and/or his consultant of the Corps information requirements, and (ii) meet with the applicant and/or his consultant from time to time and provide him with the district engineer's views regarding adequacy of the data that are being developed (including how the district engineer will view such data in light of any possible conflicts of interest).

The applicant and/or his consultant may accept or reject the district engineer's guidance. The district engineer, however, may after specifying the information

in contention, require the applicant to resubmit any previously submitted data which the district engineer considers inadequate or inaccurate. In all cases, the district engineer should document in the record the Corps independent evaluation of the information and its accuracy, as required by 40 CFR 1506.5(a).

f. Change in EIS Determination. If it is determined that an EIS is not required after a notice of intent has been published, the district engineer shall terminate the EIS preparation and withdraw the notice of intent. The district engineer shall notify in writing the appropriate division engineer; HQUSACE (CECW-OR); the appropriate EPA Regional Administrator, the Director, Office of Federal Activities the determination.

g. Time Limits. For regulatory actions, the district engineer will follow 33 CFR 230.17(a) unless unusual delays caused by applicant inaction or compliance with other statutes require longer time frames for EIS preparation. At the outset of the EIS effort, schedule milestones will be developed and made available to the applicant and the public. If the milestone dates are not met the district engineer will notify the applicant and explain the reason for delay.

57. Organization and Content of Draft EISs

General. This section gives detailed information for preparing draft EISs. When the Corps is the lead agency, this draft EIS format and these procedures will be followed. When the Corps is one of the joint lead agencies, the joint lead agencies will mutually decide which agency's format and procedures will be followed.

a. Format

0. Cover Sheet.

Ref. 40 CFR 1502.11.

a. The ``person at the agency who can supply further information" (40 CFR 1502.11(c) is the project manager handling that permit application.

b. The cover sheet should identify the EIS as a Corps permit action and state the authorities (sections 9, 10, 404, 103, etc.) under which the Corps is exerting its jurisdiction.

1. Summary. In addition to the requirements of 40 CFR 1502.12, action stating the authorities (sections 9, 10, 404, 103, etc.) under which the Corps is exerting its jurisdiction. It shall also summarize the purpose and need for the proposed action and shall briefly state the beneficial/adverse impacts of the proposed action.

2. Table of Contents.

3. Purpose and Need. See 40 CFR 1502.13. If the scope of analysis for the NEPA document (see paragraph 7b) covers only the proposed specific activity requiring a Department of the Army permit, then the underlying purpose and need for that specific activity should be stated. (For example, ``the purpose and need for the pipe is to obtain cooling water from the river for the electric generating plant.") If the scope of analysis covers a more extensive project, only part of which may require a DA permit, then the underlying purpose and need for the entire project should be stated. (For example, ``The purpose and need for the electric generating plant is to provide increased supplies of electricity to the (named) geographic area.") Normally, the applicant should be encouraged to provide a statement of his proposed activity's purpose and need from his perspective (for example, ``to construct an electric generating plant"). However, whenever the NEPA document's scope of analysis renders it

appropriate, the Corps also should consider and express that activity's underlying purpose and need from a public interest electric energy"). Also, while generally focusing on the applicant's statement, the Corps, will in all cases, exercise independent judgment in defining the purpose and need for the project from both the applicant's and the public's perspective.

4. Alternatives. See 40 CFR 1502.14. The Corps is neither an opponent nor a proponent of the applicant's proposal; therefore, the applicant's final proposal will be identified as the ``applicant's preferred alternative" in the final EIS. Decision options available to the District Engineer, which embrace all of the applicant's alternatives, are issue the permit, issue with modifications or conditions or deny the permit. Only reasonable alternatives need be considered in detail, as specified in 40 CFR 1502.14(a). Reasonable alternatives must be those that are feasible and such feasibility must focus on the accomplishment of the underlying purpose and need (of the applicant or the public) that would be satisfied by the proposed Federal action (permit issuance). The alternatives analysis should be thorough enough to use for both the public interest review and the 404(b)(1) guidelines (40 CFR part 230) where applicable. Those alternatives that are unavailable to the applicant, whether or not they require Federal action (permits), should normally be included in the analysis of the no-Federal-action (denial) alternative. Such alternatives should be evaluated only to the extent necessary to allow a complete and objective evaluation of the public interest and a fully informed decision regarding the permit application.
   a. The ``no-action" alternative is one which results in no construction requiring a Corps permit. It may be brought by (1) the applicant electing to modify his proposal to eliminate work under the jurisdiction of the Corps or (2) by the denial of the permit. District engineers, when evaluating this alternative, should discuss, when appropriate, the consequences of other likely uses of a project site, should the permit be denied.
   b. The EIS should discuss geographic alternatives, e.g., changes in location and other site specific variables, and functional alternatives, e.g., project substitutes and design modifications.
   c. The Corps shall not prepare a cost-benefit analysis for projects requiring a Corps permit. 40 CFR 1502.23 states that the weighing of the various alternatives need not be displayed in a cost-benefit analysis and ``* * * should not be when there are important qualitative considerations." The EIS should, however, indicate any cost considerations that are likely to be relevant to a decision.
   d. Mitigation is defined in 40 CFR 1508.20, and Federal action agencies are directed in 40 CFR 1502.14 to include appropriate mitigation measures. Guidance on the conditioning of permits to extent of mitigation conditions are dependent on the results of the public interest review in 33 CFR 320.4.
5. Environmental Consequences. See Ref. 40 CFR 1502.16.
6. List of Preparers. See Ref. 40 CFR 1502.17.

7. Public Involvement. This section should list the dates and nature of all public notices, scoping meetings and public hearings and include a list of all parties notified.
8. Appendices. See 40 CFR 1502.18. Appendices should be used to the maximum extent practicable to minimize the length of the main text of the EIS. Appendices normally should not be circulated with every copy of the EIS, but appropriate appendices should be provided routinely to parties with special interest and expertise in the particular subject.
9. Index. The Index of an EIS, at the end of the document, should be designed to provide for easy reference to items discussed in the main text of the EIS.

58. Notice of Intent. The district engineer shall follow the guidance in 33 CFR part 230, Appendix C in preparing a notice of intent to prepare a draft EIS for publication in the Federal Register.
59. Public Hearing. If a public hearing is to be held pursuant to analyzed by the draft EIS should be considered at the public hearing. The district engineer should make the draft EIS available to the public at least 15 days in advance of the hearing. If a hearing request is received from another agency having jurisdiction as provided in 40 CFR 1506.6(c)(2), the district engineer should coordinate a joint hearing with that agency whenever appropriate.
60. Organization and Content of Final EIS. The organization and content of the final EIS including the abbreviated final EIS procedures shall follow the guidance in 33 CFR 230.14(a).
61. Comments Received on the Final EIS. For permit cases to be decided at the district level, the district engineer should consider all incoming comments and provide responses when substantive issues are raised which have not been addressed in the final EIS. For permit cases decided at higher authority, the district engineer shall forward the final EIS comment letters together with appropriate responses to higher authority along with the case. In the case of a letter recommending a referral under 40 CFR part 1504, the district engineer will follow the guidance in paragraph 19 of this appendix.
62. EIS Supplement. See 33 CFR 230.13(b).
63. Filing Requirements. See 40 CFR 1506.9. Five (5) copies of EISs shall be sent to Director, Office of Federal Activities (A-104), Environmental Protection Agency, 401 M Street SW., Washington, DC a notice of availability of the draft or final EISs in the Federal Register. Generally, this notice appears on Friday of each week. At the same time they are mailed to EPA for filing, one copy of each draft or final EIS, or EIS supplement should be mailed to HQUSACE (CECW-OR) WASH DC 20314-1000.
64. Timing. 40 CFR 1506.10 describes the timing of an agency action when an EIS is involved.
65. Expedited Filing. 40 CFR 1506.10 provides information on allowable time reductions and time extensions associated with the EIS process. The district engineer will provide the necessary information and facts to HQUSACE (CECW-RE) WASH DC 20314-1000 (with copy to CECW-OR) for consultation with EPA for a reduction in the prescribed review periods.
66. Record of Decision. In those cases involving an EIS, the statement of findings will be called the record of decision and shall incorporate the requirements of 40 CFR 1505.2. The record of decision is not to be included when filing a final EIS and may not be signed until 30 days after the notice of availability of the final EIS is published in the Federal Register. To avoid duplication, the record of decision may reference the EIS.

67. Predecision Referrals by Other Agencies. See 40 CFR part 1504. The decisionmaker should notify any potential referring Federal position of a potential referring agency. (This pertains to a NEPA referral, not a 404(q) referral under the Clean Water Act. The procedures for a 404(q) referral are outlined in the 404(q) Memoranda of Agreement. The potential referring agency will then have 25 calendar days to refer the case to CEQ under 40 CFR part 1504. Referrals will be transmitted through division to CECW-RE for further guidance with an information copy to CECW-OR.
68. Review of Other Agencies' EISs. District engineers should provide comments directly to the requesting agency specifically related to the Corps jurisdiction by law or special expertise as defined in 40 CFR 1508.15 and 1508.26 and identified in Appendix II of CEQ regulations (49 FR 49750, December 21, 1984). If the district engineer determines that another agency's draft EIS which involves a Corps permit action is inadequate with respect to the Corps permit action, the district engineer should attempt to resolve the differences concerning the Corps permit action prior to the filing of the final EIS by the other agency. If the district engineer finds that the final EIS is inadequate with respect to the Corps permit action, the district engineer should incorporate the other agency's final EIS or a portion thereof and prepare an appropriate and adequate NEPA document to address the Corps involvement with the proposed action. See 33 CFR 230.21 for guidance. The agency which prepared information to that contained in the EIS in order for the Corps to have all relevant information available for a sound decision on the permit.
69. Monitoring. Monitoring compliance with permit requirements should be carried out in accordance with 33 CFR 230.15 and with 33 CFR part 325.