

Date, 2026

VIA EMAIL

Hal Harrington
U.S. Army Corps of Engineers
477 Michigan Ave
Detroit, MI 48226

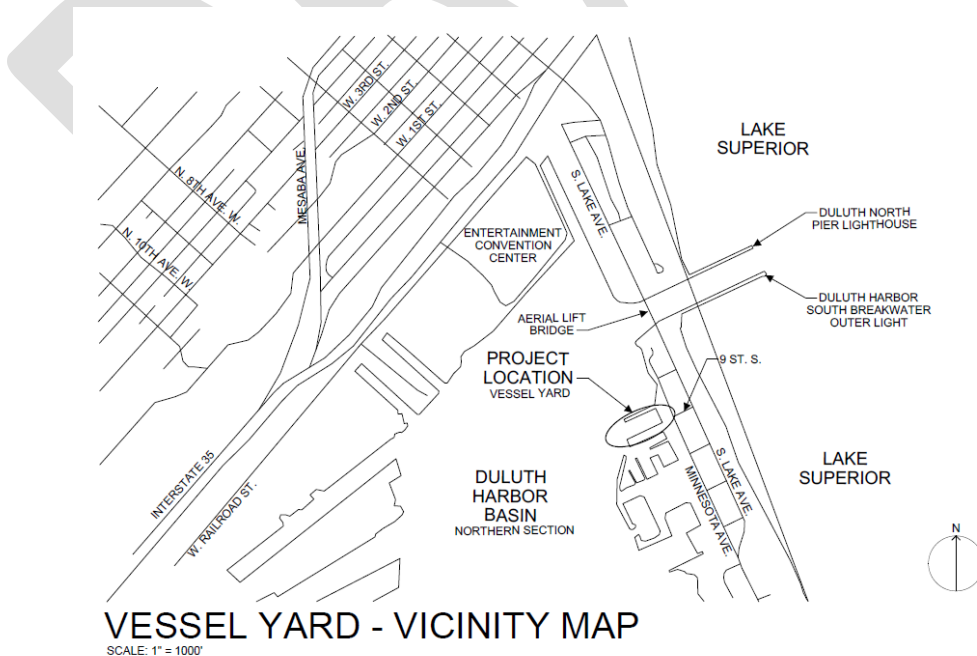
RE: U.S. Army Corps of Engineers Duluth Vessel Yard North Pier and Boat Ramp Repairs
St Louis County, Minnesota
Section 401 Water Quality Certification

Dear Hal Harrington:

This 401 Water Quality Certification decision (Certification) is made by the Minnesota Pollution Control Agency (MPCA) under authority of Section 401 of the Clean Water Act, or CWA (33 USC 1251 et seq.), Minn. Stat. chs. 115 and 116 and Minn. R. chs. 7001.1400 to 7001.1470, 7050, 7052, and 7053.

Project description:

The MPCA has examined the application and other information furnished by the applicant, U.S. Army Corps of Engineers Detroit District, for the permanent dredge and discharge of fill material into 0.105 acres of the Duluth/Superior Harbor to conduct repairs on the vessel yard north pier and boat ramp. The existing pier will be encased in steel sheet piling, fill will be placed between the sheeting piling and existing structure, and there will be a concrete slab poured on top. Work will widen the pier by 8 feet. There will also be a boat ramp 20 feet wide by 65 feet long that will be constructed immediately adjacent to the pier in the dry after the sheet piling is installed. Work is scheduled to begin May 2027.



Decision:

The MPCA certifies the referenced project and has determined that it satisfies the antidegradation standards in Minn. R. 7050.0265. The MPCA has examined the application and other information, including the antidegradation assessment information required under Minn. R. 7050.0285, and bases its decision on the evaluation of this information and the relevance to water quality considerations. The MPCA believes that there is reasonable assurance that the activity will be conducted in a manner that will not violate applicable water quality standards provided that the applicant complies with the conditions listed below.

1. Before any land disturbance at the site, the applicant must ensure that all aquatic resources (wetlands, ditches, lakes, or streams) in the vicinity of the construction area that are not authorized to be impacted by the project are clearly identified. This may be done through demarcation of those resources on plan sheets or through typical methods of marking boundaries in the field, for example construction staking or the use of silt fences along boundaries.
2. Concrete removal shall not be conducted by blasting, all dust and debris must be contained as much as possible, and the debris must be stockpiled and disposed of in an upland area.
3. All in water work must be staged and conducted in a manner that causes the least amount of disturbance to the water resources.
4. Any disturbance of known contaminated sediment for placement of the steel sheet piling for the pier structure and boat ramp shall be contained as much as practicable and best management practices (BMPs) shall be deployed to prevent the transport of contaminated sediments within or into Waters of the State (Minn. R. 7001, 7050).
5. No work may take place in water during the Department of Natural Resources (DNR) Fisheries work exclusion dates without the written permission of the DNR area fisheries manager. These dates can be found the *Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001* (Chapter 1, page 3) or by contacting the DNR area fisheries office.
https://files.dnr.state.mn.us/fisheries/management/dnr_fisheries_managers.pdf?20231121-02
6. The applicant must ensure earthen material used to construct or improve temporary or permanent dikes or dams, including cofferdams, or any roads, is contained in a manner that will prevent earthen material from eroding into the water. All BMPs must be properly installed to ensure compliance with state water quality standards. The applicant must completely remove temporary structures and restore original bathymetry or contours within 12 months of project completion (Minn. R. chs. 7050, 7001).
7. The applicant must ensure that any fill placed in water be clean fill that is free of solid waste, toxic or hazardous contaminants including the fill to be used for embedding the culverts in the stream bed. Any deviation from this requirement such as seeking beneficial reuse of materials, requires case-specific beneficial use determinations by MPCA for debris and soil with contaminant levels appropriate for the placement setting. The applicant must also ensure that any fill will not promote the spread of invasive species as defined in Minn. Stat. ch. 84D and Minn. R. 6216, and is free of those species identified as "prohibited species" in the Minnesota Noxious Weeds publication <https://www.mda.state.mn.us/plants-insects/minnesota-noxious->

[weed-list](#). The applicant must ensure all construction equipment, construction matting, erosion control devices and BMPs brought to the site are free of the same prohibited species.

8. All equipment used in water must follow DNR Aquatic Invasive Species (AIS) BMPs and be inspected and cleaned ahead of use in the water. More information on BMPs and identification of AIS may be found here: [Clean In Clean Out | Minnesota DNR](#)
9. Temporary stockpiles must be properly located and have silt fences around them to control and prevent sediment movement. All sediment in upland areas must be managed in accordance with the National Pollution Discharge Elimination System/State Disposal System (NPDES/SDS) General Construction Permit. <https://www.pca.state.mn.us/business-with-us/construction-stormwater>
10. The applicant must ensure that any dewatering activities do not create nuisance conditions as defined in Minn. R. 7050.0210, subp. 2. The applicant must use BMPs that minimize total suspended solids (TSS) and sedimentation by removing solids in the water before discharging the water. The applicant must document BMPs prior to beginning any dewatering; this documentation may be stand-alone or part of an Erosion Control Plan, Construction Plan, or other relevant construction document. During the dewatering activity, the applicant must visually check and photograph the discharge at the beginning and at least once every 24 hours of operation to ensure adequate treatment has been obtained and nuisance conditions are not observed in accordance with the NPDES/SDS Construction Stormwater permit. Any unplanned dewatering that must occur due to site conditions at the time of construction should be noted on the Stormwater Pollution Prevention Plan or other relevant construction documents (Minn. R. chs. 7050 and 7001).
11. The applicant must ensure that the authorized activities do not exacerbate any existing impairments of a CWA 303(d) listed impaired water. Prior to beginning any authorized activities, the Applicant must first identify whether their project area is in, or near, any impaired waters and waters with the U.S. Environmental Protection Agency - approved total maximum daily loads. When working in, or near, impaired waters, the Applicant must deploy redundant BMPs as necessary to ensure the authorized construction activities will not exacerbate existing impairments. The following MPCA webpage contains more information and search tools available to determine which waters in Minnesota are impaired: <https://www.pca.state.mn.us/air-water-land-climate/minnesotas-impaired-waters-list>. The applicable water quality standards are located in Minn. R. chs. 7050, 7001.
12. Prior to beginning any work at the site, a known contaminated sites management plan shall be prepared and kept on site with the Stormwater Pollution Prevention Plan (SWPPP) demonstrating how contaminated soils will be managed during demolition and construction activities (Minn. R. chs 7001, 7050).
13. The applicant must ensure that water generated from any dredging of contaminated sediments in the St Louis River that is directly returned to the original source water (the river/estuary/harbor) meet the same water quality standards that apply to the St Louis River. If the return water is discharged into a receiving water that is not the original water source, then the permittee must ensure that the discharged water will meet the water quality standard of that receiving water.

14. The applicant must install in-water BMPs to the extent practical and feasible, to minimize TSS and sedimentation for any work conducted below the ordinary high-water level as defined in Minn. Stat. § 103G.005, subp. 14, of any water or within the delineated boundaries of wetlands.

The applicant must document the in-water BMPs to be used during the authorized work prior to disturbing any land at the site; this documentation may be stand-alone or part of an Erosion Control Plan, Construction Plan, or other relevant construction document. This documentation is not required to be submitted to the MPCA but must be kept on-site during active construction by the contractor until the project is complete. Proper installation of BMPs is required before conducting the authorized in-water activities and must be properly maintained until the project is complete. This includes maintenance of in-water BMPs along with the establishment and maintenance of any erosion prevention, sediment control or site stabilization features included in the project plan or this certification. While conducting the authorized work, the permittee must visually monitor the BMPs to ensure that the BMPs are working as intended to reduce TSS or sedimentation. If the project activities cause an observable increase in TSS or sedimentation as described in Minn. R. 7050.0210, subp. 2, outside or downstream of the authorized defined working area, then the project activities must immediately cease and any malfunctioning BMPs must be repaired, or alternative BMPs must be implemented. This Certification does not authorize the violation of applicable water quality standards outside or downstream of the defined work area. Minnesota water quality standards are defined in Minn. R. chs. 7050, 7001.

Information on types of BMPs that may be suitable for in-water work is located in the DNR Manual titled *Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001*, located at:

https://www.dnr.state.mn.us/waters/watermgmt_section/pwpermits/gp_2004_0001_manual.html

15. The applicant must provide: a) a copy of the Certification; b) documentation of any required BMPs under the above conditions; and c) any written demarcation of waters to any primary contractor responsible for completing the project's authorized activities. The applicant must also ensure that there is a mechanism in place requiring each primary contractor to provide the same information to all subcontractors, at any level, responsible for fabricating or providing any material for the project or performing work at the project site. In addition, copies of these documents and any other relevant regulatory authorizations related to impacts to waters must be available at or near the project site for use by contractors and staff responsible for completing the project work and must be available within 72 hours when requested by MPCA staff.
16. The applicant must allow representatives from the MPCA to inspect the project site and the authorized activity to ensure that the project is constructed, and BMPs maintained, in accordance with this Certification.
17. The applicant is responsible for ensuring that all requirements of this Certification are met.
18. This Certification includes and incorporates by reference the general conditions of Minn. R. 7001.0150, subp.3.

19. The applicant must inform the MPCA of any proposed additional water quality impacts this project may have, before they occur, to determine if further review or authorization is required. This includes any additional dredging, excavation, fill, additional structures, and temporary impacts not shown in the final plans or expressly authorized by the Section 401 Certification from the MPCA.

A Section 401 Certification does not release or limit the applicant from obtaining all necessary federal, state, and local permits, nor does it limit more restrictive requirements set through any such program. It does not eliminate, waive, or vary the applicant's obligation to comply with all other laws and state water statutes and rules through the construction, installation, and operation of the project. This letter does not release the applicant from any liability, penalty, or duty imposed by Minnesota or federal statutes, regulations, rules, or local ordinances, and it does not convey a property right or an exclusive privilege.

This MPCA decision is made, in part, on the applicant's representations that environmental review under the Minnesota Environmental Quality Board's Rules, Minn. R. ch. 4410, is not needed for the project or, alternatively, that all necessary environmental reviews and related decisions have been completed. If environmental review for this project is needed and has not been completed, the MPCA does not have legal authority to issue a Certification. In that situation, the MPCA reserves the right to make a Section 401 Certification decision when the environmental review process is completed.

The MPCA reserves the right to revisit or revoke the Certification due to new or additional information, updated information, changes in technology, or any other changes that could render the project as incompatible with Minnesota's water quality standards. If you have any questions regarding this Certification, please contact the MPCA 401 program at 401Certification.pca@state.mn.us.

Sincerely,

(Type e-Signature)

This document has been electronically signed.

Maggie Wenger
Supervisor
Agency Rules Unit
Resource Management and Assistance Division

MW/KB:kj

cc: See next page.

Hal Harrington

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Date, 2026

cc: U.S. Environmental Protection Agency (electronic)
U.S. Fish and Wildlife Service (electronic)
Tom Hovey, DNR (electronic)
Bri Speldrich, DNR (electronic)
Chris Holm, Bois Forte Band of Chippewa (electronic)
Grace Leppink-Walz, Fond du Lac Band of Lake Superior Chippewa (electronic)
Robert Deschampe, Grand Portage Band of Ojibwe (electronic)
Agatha Armstrong, Grand Portage Band of Ojibwe (electronic)
April McCormick, Grand Portage Band of Ojibwe (electronic)
Marie Spry, Grand Portage Band of Ojibwe (electronic)
Toby Stephens, Grand Portage Band of Ojibwe (electronic)
Margaret Watkins, Grand Portage Band of Ojibwe (electronic)
Leech Lake Band of Ojibwe (electronic)
John Coleman, Great Lakes Indian Fish and Wildlife Commission (GLIFWC) (electronic)
Red Cliff Band of Lake Superior of Chippewa (electronic)
Darren Vogt, 1854 Treaty Authority (electronic)
Jordan Donatell, MPCA
Bill Cole, MPCA
Brandon Smith, MPCA
Brandon Montgomery, MPCA
Amy Adrihan, MPCA