



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, DETROIT DISTRICT
477 MICHIGAN AVENUE
DETROIT MI 48226-2550

December 23, 2019

REPLY TO
ATTENTION OF:

Engineering & Technical Services
Regulatory Office
File Number LRE-2019-01637-56-N19

Robert Fitzgerald
Antrim County Road Commission
PO Box 308
Mancelona, Michigan 49659

Dear Mr. Fitzgerald:

Please refer to your application for a Department of the Army (DA) permit to discharge riprap in Lake Michigan offshore 8975 North Bayshore Drive in Elk Rapids, Michigan. We have verified that the project is authorized by Nationwide Permit 13 as published in the Federal Register.

You may proceed with the work per the following project description, attached drawings, and attached general and special conditions:

Mechanically excavate approximately 141 cubic yards of material from an area 81 feet long, 20 feet wide, and 3 feet deep, to prepare to key in toe stone. Discharge 141 cubic yards of riprap along 81 feet of shoreline in an area 20 feet wide and up to 3 feet deep. Discharge the excavated sand within the footprint of the revetment.

Special Conditions:

1. If you discover any unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately stop work in that area and notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
2. All fill shall consist of clean, inert materials from an upland source or existing material from the authorized shoreline work area. The fill material must be free from toxic substances, fines, oil and grease, debris, wood, general refuse, plaster, and other pollutants, and shall contain no broken asphalt, oil-based material, or metal.

Any construction activity other than that shown on the plans may not qualify for the authorization. If you contemplate any changes or additional activities from those depicted on the plans, please submit them to this office for authorization review prior to any construction. On completion of the work, you must fill in and return the enclosed COMPLETION REPORT.

This verification is invalid until you obtain an appropriate state permit/certification or waiver thereof. You must not initiate activities authorized under the NWP until all required State authorizations have been received. We suggest that you contact the Michigan Department of Environment, Great Lakes, and Energy (EGLE) Gaylord District Office for the status of your state permit, if you have not received it three weeks after you receive this letter. If local approvals are required, we recommend you contact the appropriate local government body directly.

We are obligated to provide recipients of permit verifications with a jurisdictional determination (JD) when requested to do so. The Corps of Engineers has the following options with respect to JDs: (1) Approved Jurisdictional Determinations (AJD), which are considered "official" JDs and can be administratively appealed; (2) Preliminary Jurisdictional Determinations (PJD), which are non-binding JDs and advise an affected party that the Corps of Engineers believes there may be waters of the United States on the property that fall under the Corps' regulatory authority and enables the Corps and a permit applicant or other affected party to resolve certain jurisdiction and permit issues without expending time on making an official determination of the Corps' jurisdiction; and (3) No Jurisdiction Determination (NJD), which is used in situations where issuance of a JD is deemed unnecessary by a permit applicant or other affected party because Corps' jurisdiction is undisputed (e.g., work is in a navigable water of the United States) or not subject to question. The NJD option requires less documentation than a PJD and likewise enables the Corps and a permit applicant or other affected party to resolve jurisdiction and permit issues without expending time on an official determination of the Corps' jurisdiction.

Per the information in your application, we have determined that your project will occur in a navigable water of the United States subject to the Detroit District, U.S. Army Corps of Engineers' regulatory authority under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Our listing of navigable waters under the Corps' regulatory authority within the Detroit District's geographic area can be found at: <http://www.lre.usace.army.mil/Missions/Regulatory-Program-and-Permits>. As there was no question regarding the Corps' regulatory jurisdiction during our evaluation of the application, we do not intend to include a JD with this permit verification. Our intent to not issue a JD in this instance does not preclude you from requesting a PJD or an AJD at any time. As noted above, an AJD would provide an official determination of jurisdictional waters on a site and can be administratively appealed.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2022. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit.

As per 33 CFR 325, Appendix A, representatives from this office are allowed to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of the Nationwide Permit.

Should you have any questions, please contact me at the above address, by E-Mail at Katie.L.Otanez@usace.army.mil, or by telephone at (313) 226-5479. In all communications, please refer to File Number LRE-2019-01637-56-N19.

We are interested in your thoughts and opinions concerning your experience with the Detroit District, Corps of Engineers Regulatory Program. If you are interested in letting us know how we are doing, you can complete an electronic Customer Service Survey from our web site at: http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

Alternatively, you may contact us and request a paper copy of the survey that you may complete and return to us by mail or fax. Thank you for taking the time to complete the survey, we appreciate your feedback.

Sincerely,

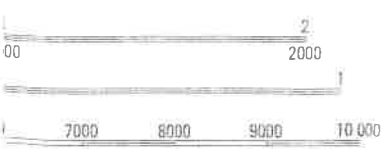
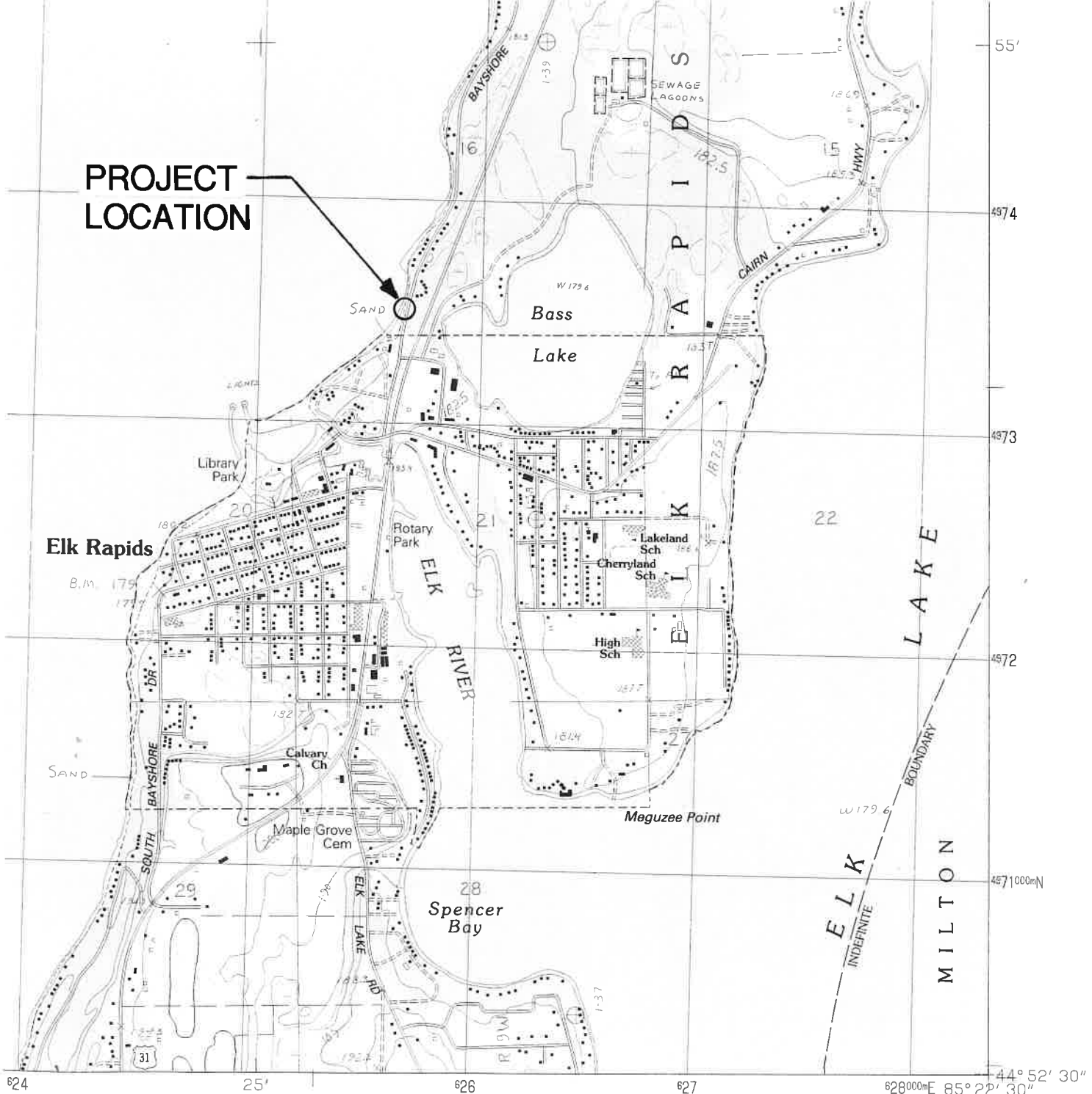
Katie L. Otanez
Project Manager
Regulatory Office

Enclosures

Copy Furnished

EGLE, 05-N. Bayshore Drive, Great Lake
USACE, Soo Field Office
NOAA (via e-mail)

PROJECT LOCATION



INTERIOR—GEOLOGICAL SURVEY RESTON VIRGINIA—1984

ROAD LEGEND

- Improved Road
- Unimproved Road
- Trail
- Interstate Route
- U. S. Route
- State Route

RS
ETERS
INE
THE NEAREST 0.1 METER
T METER
108
48

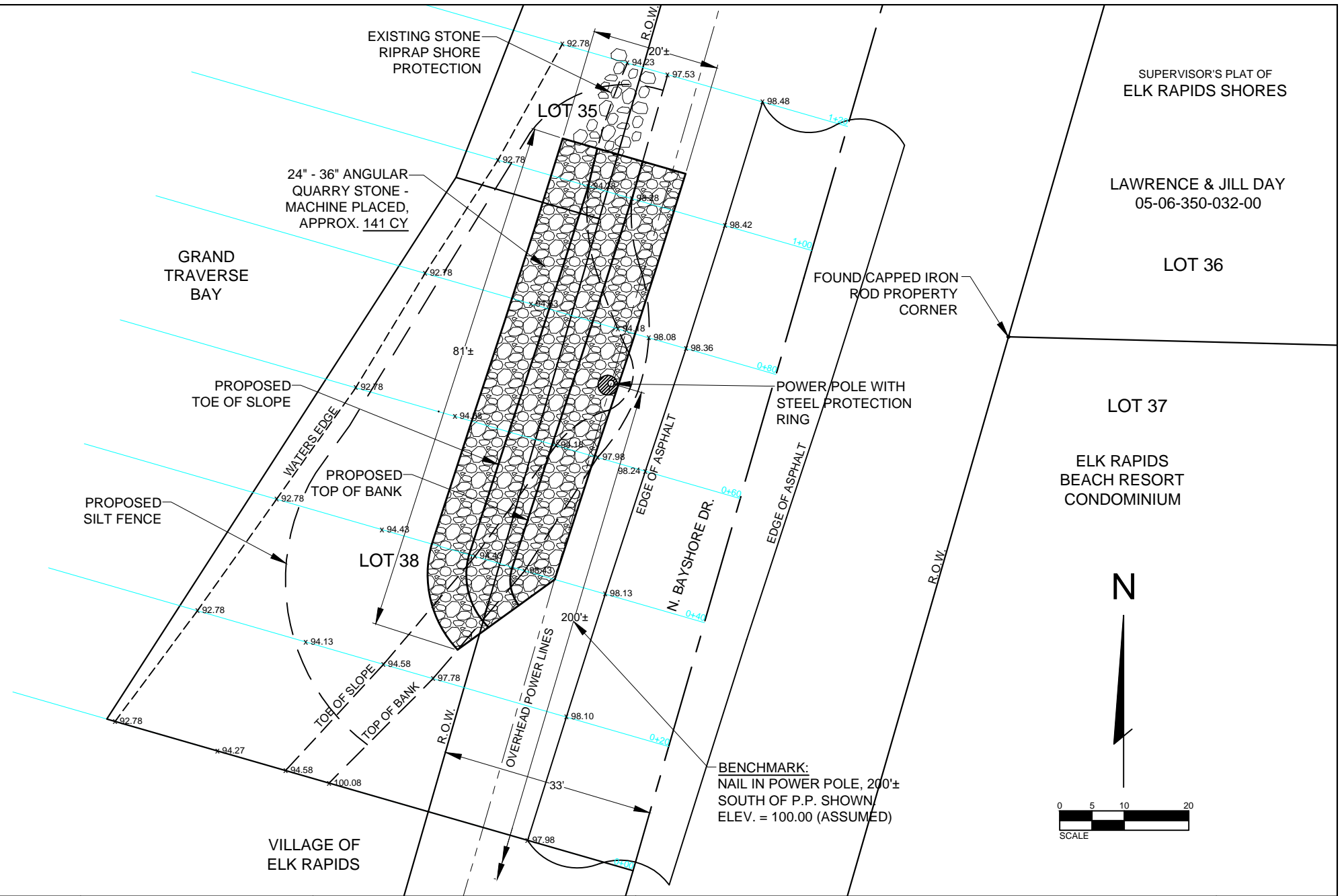
1	2	3	1 Omena
			2 Central Lake
			3 Mapleton
			4 Alden
			5 Traverse City SE
			6 Williamsburg
			7 Torch River
			8

5 QUADRANGLE NAMES
; AND ELEVATIONS
↓ METERS

ELK RAPIDS, MICHIGAN
PROVISIONAL EDITION 1983

44085-H4-TM-025

NUMBER: LRE-2019-01637-56-N19
Antrim County Road Commission - Riprap
By: Antrim County Road Commission
Lake Michigan
Antrim County, Michigan
SHEET 1 OF 3



SUPERVISOR'S PLAT OF
ELK RAPIDS SHORES

LAWRENCE & JILL DAY
05-06-350-032-00

LOT 36

LOT 37

ELK RAPIDS
BEACH RESORT
CONDOMINIUM

N



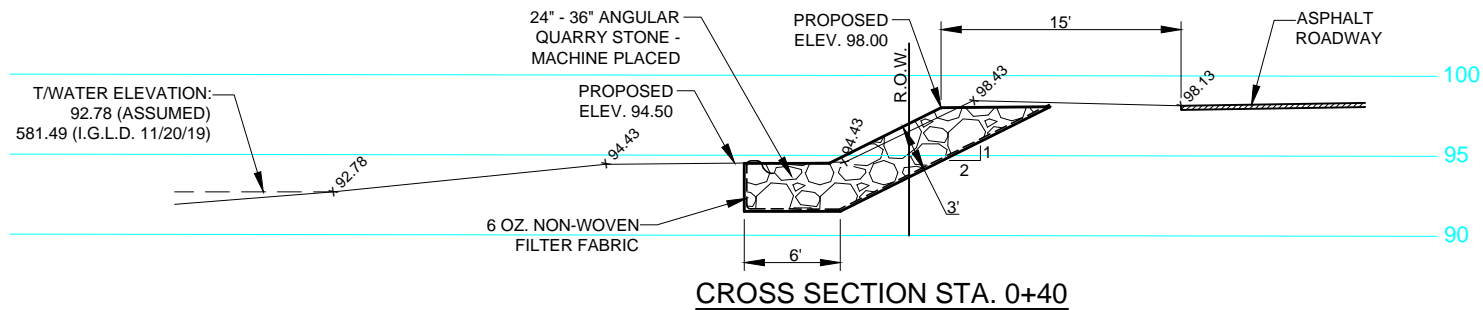
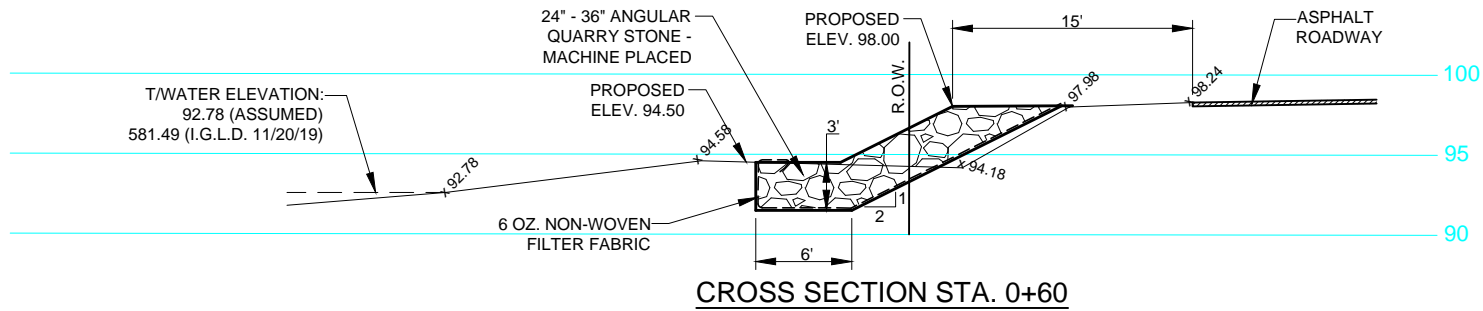
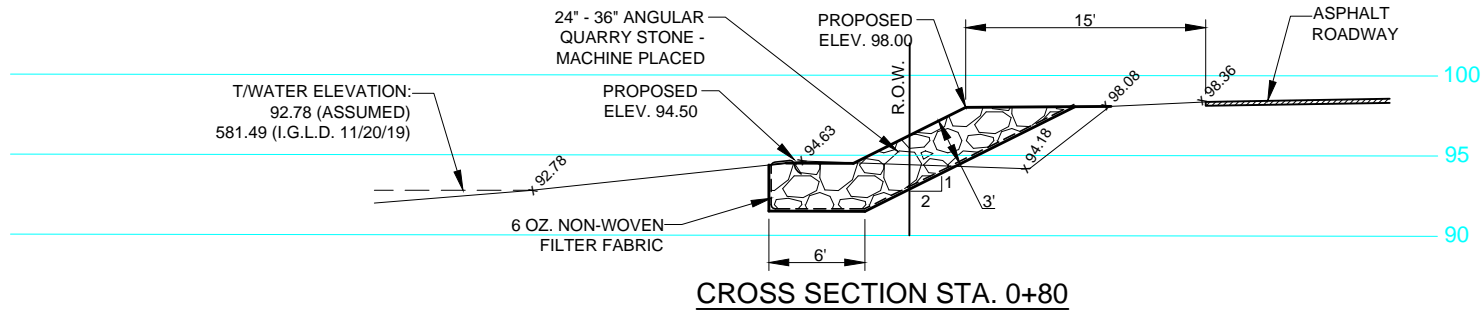
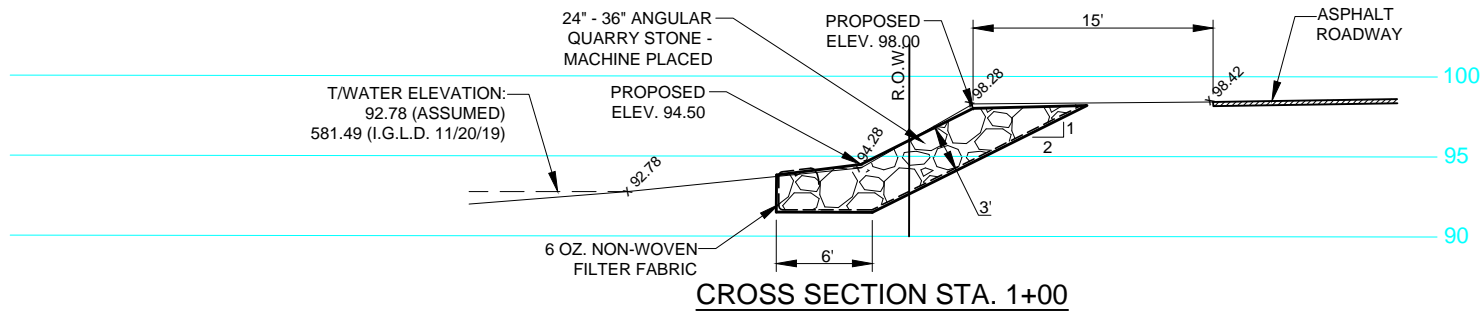
NUMBER: LRE-2019-01637-56-N19
Antrim County Road Commission - Riprap
By: Antrim County Road Commission
Lake Michigan
Antrim County, Michigan
SHEET 2 OF 3



**ANTRIM COUNTY
ROAD
COMMISSION**

319 E. Lincoln St., P.O. Box 308
Mancelona, MI. 49659-0308
ph. 231-587-8521 fax: 231-587-8156
E-mail: email@antrimcrc.org

Proposed Work	N. BAYSHORE DR. EROSION	Drawn By RJF
Drawing	PROPOSED PLAN VIEW	Field Bk./Pg.
Sec., Town, Range	SEC. 16, T. 29 N.-R. 9 W.	Date 12/20/19
Twp., Co., State	ELK RAPIDS TWP., ANTRIM CO., MICHIGAN	Sheet No. 1 of 2



NOTES:
CROSS SECTIONS ARE NOT TO SCALE.
TOTAL EXCAVATION AND RIPRAP VOLUME = APPROX. 141 CY

Date	Revisions
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NUMBER: LRE-2019-01637-56-N19
Antrim County Road Commission - Riprap
By: Antrim County Road Commission
Lake Michigan
Antrim County, Michigan
SHEET 3 OF 3



**ANTRIM COUNTY
ROAD
COMMISSION**
319 E. Lincoln St., P.O. Box 308
Mancelona, MI. 49659-0308
ph. 231-587-8521 fax: 231-587-8156
E-mail: email@antrimcroc.org

Proposed Work	N. BAYSHORE DR. EROSION	Drawn By RJF
Drawing	PROPOSED CROSS SECTIONS	Field Bk./Pg.
Sec., Town, Range	SEC. 16, T. 29 N.-R. 9 W.	Date 12/20/19
Twp., Co., State	ELK RAPIDS TWP., ANTRIM CO., MICHIGAN	Sheet No. 2 of 2

A. Nationwide Permit General Conditions:

To qualify for NWP authorization, the permittee must comply with the following general conditions, as appropriate. These conditions are selected from those published in the Federal Register that are particularly relevant to the construction and/or operation of this particular authorized activity. The complete text is available at our website <http://www.lre.usace.army.mil/Missions/RegulatoryProgramandPermits.aspx> under "Detroit Regulatory Quick" select "Detroit District General Permit Types" and then choose "Nationwide Permits with Michigan Regional Conditions" OR "Nationwide Permits with Indiana Regional Conditions"; or, you may contact the Detroit District directly for the information. We have done our best to verify that your project complies with the others, where applicable.

1. Navigation. (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the

aquatic environment (e.g., stream restoration or relocation activities).

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

17. Tribal Rights. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.

(e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take"

provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/ THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts

until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation. The

completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

B. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

NATIONWIDE PERMIT COMPLETION REPORT

CELRE-ERW

Chief, Compliance and Enforcement Branch
Regulatory Office
U.S. Army Corps of Engineers
477 Michigan Avenue
Room 603
Detroit, MI 48226-2550

Dear Sir:

You are hereby notified that work verified as qualifying for Nationwide Permit under File No. LRE-2019-01637-56-N19 to discharge riprap offshore 8975 N Bayshore Dr, in Elk Rapids, Antrim County, Michigan, issued to Robert Fitzgerald was completed in accordance with the verification on:

(Date work completed)

(Permittee's Signature)

IMPORTANT

1. This COMPLETION REPORT MUST BE MAILED to the above addressee within 10 days after completion of work covered by the NATIONWIDE PERMIT to insure an accurate Government record of data affecting navigation.
2. Where dredging soundings are made of projects which include dredging, a copy of the soundings should accompany this report. If the soundings are measured from the water surface and have not been corrected to International Great Lakes Datum plane, the hour and date soundings was made should be noted on sounding reports.