

IEPA Log No.: **C-0852-07**
CoE appl. #: **2000-10031**

Public Notice Beginning Date: **January 14, 2011**
Public Notice Ending Date: **February 14, 2011**

Section 401 of the Federal Water Pollution Control Act
Amendments of 1972

Section 401 Water Quality Certification to Discharge into Waters of the State

Public Notice/Fact Sheet Issued By:

Illinois Environmental Protection Agency
Bureau of Water
Facility Evaluation Unit
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217/782-3362

Name and Address of Discharger: Mr. Richard Barancik, 541 N. Fairbanks Court #2750, Chicago, IL 60611

Discharge Location: Sections 8 and 17, T42N, R7E of the 3rd P.M. in Kane County near Huntley

Name of Receiving Water: Unnamed Wetlands

Project Description: Construction of the Van Acker Farm commercial and residential development.

The Illinois Environmental Protection Agency (IEPA) has received an application for a Section 401 water quality certification to discharge into the waters of the state associated with a Section 404 permit application received by the U.S. Army Corps of Engineers. The Public Notice period will begin and end on the dates indicated in the heading of this Public Notice. The last day comments will be received will be on the Public Notice period ending date unless a commenter demonstrating the need for additional time requests an extension to this comment period and the request is granted by the IEPA. Interested persons are invited to submit written comments on the project to the IEPA at the above address. Commenters shall provide their names and addresses along with comments on the certification application. Commenters may include a request for public hearing. The certification and notice number(s) must appear on each comment page.

The attached Fact Sheet provides a description of the project and the antidegradation assessment.

The application, Public Notice/Fact Sheet, comments received, and other documents are available for inspection and may be copied at the IEPA at the address shown above between 9:30 a.m. and 3:30 p.m. Monday through Friday when scheduled by the interested person.

If written comments or requests indicate a significant degree of public interest in the certification application, the IEPA may, at its discretion, hold a public hearing. Public notice will be given 30 days before any public hearing. If a Section 401 water quality certification is issued, response to relevant comments will be provided at the time of the certification. For further information, please call Thaddeus Faught at 217/782-3362.

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Fact Sheet for Antidegradation Assessment

Mr. Richard Barancik / Pancor Construction & Development – Unnamed Wetlands – Kane County

IEPA Log #C-0852-07

COE Log #LRC-2000-10031

Contact: Mark T. Books at 217/558-2012

January 14, 2011

Pancor Construction & Development, LLC (“Applicant”) has applied for a Section 401 water quality certification for impacts associated with constructing of a three-phased development project named “Van Acker Farm Open Space” commercial development (consisting of a hotel/office/industrial complex and a small residential community) located southwest of I-90 and Route 47 near Huntley. Specifically the site is located in Sections 8 and 17, Township 42 North, Range 7 East. The site is approximately 357 acres in size of which 70.63 acres are existing wetlands that include 69.63 acres of jurisdictional wetland and 1.0 acre of isolated wetland. The land cover is a mixture of farmland, woodland, wetlands, and a pond which is at the headwaters of Eakin Creek. The pond lies on the east side of the property and is approximately 22.2 acres in size and was created in the 1930’s by a man made dam.

Development of the site would result in the filling of 4.14 acres of jurisdictional wetlands (2.85 acres of high habitat value ADID and 1.29 acres of high function value ADID) that would be mitigated for on-site. The development will also impact a 1.0 acre of isolated non-jurisdiction wetland which will also be mitigated for on-site. Phase I of the project is commercial development consisting of 87.12 acres in size and includes a large box store, a mid-sized box store and approximately 10 small stores/restaurants/services stores, with parking included for all the stores, which will be located along Route 47. Phase I is the primary development focus on the site which would finance the wetland restoration/enhancement work. Phase II would occur in approximately five (5) years from commencement of the project and would impact a wetland due to the construction of a bridge crossing located in the Northwest corner of the site. The mitigation that would be required for Phase II will be accounted for within the Phase I construction. Phase III development would be residential development and is not expected to impact any wetlands.

Identification and Characterization of the Affected Water Body.

Eakin Creek and the wetlands are General Use Waters with zero 7Q10 flow. The creek and wetlands have not been evaluated by the Illinois EPA Surface Water Monitoring Unit. Eakin Creek, Waterbody Segment II_PQIC, and the wetlands are not enhanced water bodies pursuant to the dissolved oxygen water quality standard. Using the 2008 Illinois Department of Natural Resources Publication *Integrating Multiple Taxa in a Biological Stream Rating System*, the creek and wetlands were not listed as a biologically significant stream nor have they received an integrity rating. The drainage area for Eakin Creek at this location is approximately 736 acres as the creek enters the property and 1,093 acres as the creek leaves the property. This drainage area is the headwaters for Eakin Creek. Eakin Creek at this site is likely to be completely dry during late summer/early fall and low rainfall periods and have very limited ability to support a balanced aquatic life community. Biological characterization of the stream has not been required because the project will not permanently alter the existing stream habitat conditions

Mitigation will vary with the wetlands that are being impacted, see chart below:

Wetland Impact Type	Impact Acreage	Mitigation Ratio	Acres Required
High Functional Value	1.29	3:1	3.87
High Habitat Value	2.85	5:1	14.25
Jurisdictional Wetlands Total	4.14		18.12
Isolated Wetland	1.0	3:1	3.00
Total Wetlands	5.14		21.12
Wetland Mitigation Type	Acreage	Credit Ratio	Credit Total
Restoration	8.77	1:1	8.77
Enhancement	51.23	1:4	12.81
Upland Enhancement	10.05	1.4	2.51
Total	70.05		24.09

The Applicant has stated that there will also be 27.52 acres of wetland buffer, resulting in a total of 97.57 acres of mitigation and buffer, along with approximately 72.43 acres of additional area as open space (including future restoration areas and 12 different stormwater basins) for a total of 170 acres. “Wetland restoration in drained hydric soils will involve several methods to restore natural hydrology in combination with reseeding and planting wetland plant species... Wetland enhancement also will involve several methods, including modification of the upstream impoundment to create a hemi-marsh; elimination of invasive herbaceous species through herbicide controls; elimination of invasive woody species through mechanical and chemical controls; and elimination of artificial ditching... Finally, the mitigation approach includes a buffer system that provides for a minimum 100-foot natural landscape buffer zone between nearly all onsite wetlands and adjacent developed land uses,” (page 27 of the application). The Applicant has also stated that part of the mitigation plan includes the transplanting of higher quality wetland plants from the areas to be filled to other protected wetland areas.

The Applicant has stated that, “upon successful completion of mitigation activities, this area will be donated to the Village of Huntley. This area also will be placed into a conservation easement with The Conservation Foundation. In addition, the applicant intends to register the area as a state Land and Water Reserve, Long term ecological stewardship will be provided by The Conservation Foundation in cooperation with Illinois Nature Preserve Commission” (page 5 & 6, October 30, 2009 letter).

John D. Rogner of the United States Fish and Wildlife Service stated that, “we concur with the wetland information provided in the Applicant’s submittal. The proposed mitigation plan would result in wetlands and associated uplands of higher floristic quality and would support a higher diversity of wildlife than the existing onsite wetlands,” (June 30, 2008 letter, page 2).

The IDNR WIRT system does not list any threatened or endangered aquatic species residing in the project area.

Identification of Proposed Pollutant Load Increases or Potential Impacts on Uses.

The pollutant load increases that would occur from this project include some possible increases in suspended solids (“SS”) in surrounding wetlands and Eakin Creek during the construction of the commercial development. Best Management Practices will be utilized to minimize any increase in SS during construction. Aquatic life uses in the portion of the creek that will be disturbed during construction may be negatively impacted, but in time, they will recover and support approximately the same community structure as is now found in the existing channel. The project will eliminate the current habitat from the impacted wetland areas.

Fate and Effect of Parameters Proposed for Increased Loading.

The increase in SS will be confined to the immediate vicinity of construction activities. Erosion control measures will be utilized to minimize any increase in SS during construction. Most of the SS generated during construction and operation will settle out in one of the 12 detention basins that will be built on-site before reaching the wetlands. The Applicant will follow a Soil Erosion and Sediment Control Plan to address the soil erosions control for the site. Kane County’s soil erosion and sediment control regulations were followed in the development of this Soil Erosion and Sediment Control plan for this project.

Purpose and Social & Economic Benefits of the Proposed Activity.

This project will construct a new commercial development along a highly traveled corridor providing economic, employment and residential opportunities for the community. The Applicant has stated that when the project is fully developed the estimated tax base created by this project include \$12.6 million per year in sales tax, \$3.45 million per year in real estate tax and approximately 2,000 permanent jobs created. Construction of this proposed project will also create numerous construction jobs.

Assessments of Alternatives for Less Increase in Loading or Minimal Environmental Degradation.

The construction of the proposed project will follow guidelines set forth by the Agency and USACE. Erosion control measures will be implemented and followed. Applicant has stated that development is progressing along route 47 corridor. The property is located along the I-90 west corridor with frontage along IL Route 47. The Illinois Tollway plans to build a full access interchange at this intersection. There is already development on the northeast and northwest corner of this proposed interchange location. The southeast corner of this planed interchange contains a large “natural bog” which is quite large and near Il Route 47 making this property not developable. The only available development site for the type and size of development as the Applicant has planned is in the southwest corner of this planned interchange, which is where this proposed development is planned.

The Applicant has revised the site construction plans four times over the years. The following chart shows the revisions and the amount of jurisdictional wetlands that each revision would affect:

Developer	Year	Wetlands Affected
Gary R. Weber & Associates	2002	14.30
Leoppert & Associates	2006	10.8
Pancor Design #1	5/1/2007	9.14
Pancor Design #2	8/8/2007	6.98
Pancor Design #3	11/20/2007	4.14

The Applicant has stated that, “the main development of the site is along the IL Route 47 corridor. This corridor is where the majority of the development costs will be generated. Long term development will include commercial frontage on IL Route 47 both to the north and south of the project. Since this HHV wetland extends very closely to the road, some impact is unavoidable. The site plan has been revised several times to minimize impact on the wetland and avoid filing the open water. The cost of the development must initially be carried by the development of the 87 acres of frontage. Commercial frontage to IL Route 47 at the property location is the vision of the Village of Huntley and with the layout presented by Pancor allows for the preservation/enhancement/restoration of 170 acres of open space (approximately 48% open space) of the project. In order to service the entire development and provide future access to Sandwald Road, it is necessary to cross the creek with a road and utilities in one location. The connection to Sandwald Road is a requirement of the Village of Huntley,” (Page 17, revised application). The Applicant has designed the project site so that the project remains economically feasible given the acquisition and development costs while still protecting and restoring existing natural resources as much as possible. The least intrusive alternative would be to not build this proposed commercial/residential development project. This is not an acceptable alternative given that this is a useful project and will provide the community with additional employment and economic opportunities.

Summary Comments of the Illinois Department of Natural Resources, Regional Planning Commissions, Zoning Boards or Other Entities

In a letter from Karen Miller, IDNR, dated October 4, 2010 it states that an initial report generated through IDNR’s Eco Cat website indicated the presence of protected resources in the vicinity of the project location. The letter went on to state that, “the Department has evaluated this information and concluded that adverse effects are unlikely. Therefore, consultation under 17 Ill. Adm. Code Part 1075 is terminated.”

Agency Conclusion.

This preliminary assessment was conducted pursuant to the Illinois Pollution Control Board regulation for Antidegradation found at 35 Ill. Adm. Code 302.105 (antidegradation standard) and was based on the information available to the Agency at the time this antidegradation review summary was written. We tentatively find that the proposed activity will result in the attainment of water quality standards; that all existing uses of the receiving waters will be maintained; that all technically and economically reasonable measures to avoid or minimize the extent of the proposed increase in pollutant loading have been incorporated into the proposed activity; and that this activity will benefit the community at large by providing employment opportunities and economic benefit to the community. Comments received during the 401 Water Quality Certification public notice period will be evaluated before a final decision is made by the Agency.