

IEPA Log No.: **C-0297-10**

CoE appl. #: **2008-179**

Public Notice Beginning Date: **March 5, 2014**

Public Notice Ending Date: **April 4, 2014**

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
Division of Water Pollution Control
Permit Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217/782-3362

Name and Address of Discharger: Hillsboro Energy, 925 S. Main Street, Hillsboro, IL 62049

Discharge Location: Section 18, T8N, R3W of the 3rd P.M. in Montgomery County near Hillsboro

Name of Receiving Water: Unnamed tributary of Middle Fork Shoal Creek and unnamed wetland

Project Description: Deer Run Mine refuse disposal area expansion.

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

Hillsboro Energy LLC – Unnamed Tributary of Middle Fork Shoal Creek and unnamed wetland – Montgomery County

IEPA Log No. C-0297-10

COE Log# MVS-2008-179

Contact: Eric Runkel (217) 558-2012

March 5, 2014

Hillsboro Energy, LLC (Applicant) is applying for a 401 water quality certification for impacts associated with a surface expansion to build a new refuse disposal area (Refuse Impoundment #2) for an existing underground coal mine. The Deer Run Mine #1 is located east of the town of Hillsboro. The mine is located in Montgomery County, Illinois. The 401 water certification is for impacts associated with an expansion of the Deer Run Mine #1. The expansion area is 317.8 acres. The Applicant received authorization under Nationwide Permit #50 for Underground Coal Mining Activities from the United States Army Corps of Engineers (USACE) on July 31, 2012 for this project.

The impoundment was originally proposed to be built in the northwest corner of the permit area (referenced in the application as “Impoundment 2a”). The Applicant recently acquired an additional, larger piece of property that is bordered on 3 sides by the existing mine permit area. The Applicant is now proposing to build the refuse area (Impoundment 2b) on the newly acquired property. The Applicant did not have control over the proposed new location during the original permit application (IEPA Log No. C-0086-08) and therefore is proposing to build the refuse area on the newly acquired property. Impoundment #2a was covered under Department of Army Permit No. P-2664 issued September 2, 2009 including the 401 water quality certification issued August 18, 2009 for log number C-0086-08. This application is for a different impoundment, #2b, as #2a is not to be built.

Identification and Characterization of the Affected Water Body.

The proposed Impoundment #2b area lies within the Middle Fork Shoal Creek watershed. The Shoal Creek Watershed Structure No. 5 was constructed for flood and silt control in 1973 along an unnamed tributary to Middle Fork Shoal Creek immediately west of the current mine permit area. The unnamed, ephemeral tributary (no Segment Code) and wetland (no Segment Code) within the proposed project area discharges to the Shoal Creek Watershed Structure No. 5 (no Segment Code), which ultimately discharges, by controlled weirs, approximately 1.6 miles downstream to Middle Fork Shoal Creek (Waterbody Segment IL_OIL-HB-C1).

The unnamed tributary, wetland and Watershed Structure No. 5 are General Use waterbodies with zero 7Q10 flow. These waterbodies have not been assessed under the Agency 305(b)/303(d) program. These waterbodies have not been listed as biologically significant or been given an integrity rating in the 2008 Illinois Department of Natural Resources publication Integrating Multiple Taxa in a Biological Stream Rating System. The waterbodies are not enhanced in regards to the dissolved oxygen water quality standard.

Middle Fork Shoal Creek (Waterbody Segment IL_OIL-HB-C1) is classified as a General Use waterbody with zero 7Q10 flow existing upstream of the project area. This stream segment has been assessed under the Agency’s 305(b)/303(d) program and found to be impaired for Aquatic Life use; manganese, dissolved oxygen (non-pollutant) and total phosphorus are listed as the impairments. This stream segment has not been given an integrity rating nor been listed as biologically significant in the 2008 Illinois Department of Natural Resources publication Integrating Multiple Taxa in a Biological Stream Rating System. The stream segment is enhanced in regards to the dissolved oxygen water quality standard.

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

Construction of Refuse Impoundment 2b will impact 398.78 linear feet of ephemeral stream and 0.55 acres of emergent wetland.

Fate and Effect of Parameters Proposed for Increased Loading.

The increase in suspended solids will be local and temporary in downstream reaches that will not be filled during mining. Streams restored on site will be designed to provide a variety of habitats. Aquatic communities at least as diverse as currently inhabit streams will return upon reclamation. The originally proposed refuse impoundment 2a would have impacted more wetlands and streams than the newly proposed refuse impoundment 2b. The Applicant's stated:

“The originally proposed impoundment 2a would have impacted an additional 0.57 acres of wetlands (0.42 acres emergent and 0.13 acres of forested and 1,017.34 linear feet of stream (186.64 linear feet intermittent and 830.7 linear feet ephemeral). Hillsboro Energy obtained a 404 Permit and 401 Water Quality Certification (WQC) to impact these features, as well as other features on the original mine permit area to construct the surface facilities. As part of the 404 permitting process Hillsboro Energy developed a wetland and stream restoration plan to mitigate for all wetland and stream impacts. In particular, approximately 0.83 acres of wetlands (0.43 acres emergent and 0.39 acres forested and approximately 714 linear feet of stream (the linear feet of mitigated stream is an estimate as the Missouri Stream Mitigation Method was used to determine stream mitigation not a linear ratio) will be restored to compensate for the impacts that impoundment 2a would have caused. The proposed mitigation area is located in the first longwall pane which was subsided in the winter of 2012. The mitigation area will be constructed and planted in the spring and summer of 2014. The entire acreage of mitigation originally proposed will be restored. It should be noted that a rail loop was built through the originally proposed impoundment 2a. The wetland and stream impacts created by the railroad were taken into account and are not included in the acreages identified above as not impacted. Hillsboro has no foreseeable short-term or long term plans to impact the wetlands and streams within the location of the refuse impoundment 2a.

Impoundment 2b is a suitable alternative for refuse disposal that results in fewer impacts to wetlands and streams than impoundment 2a. Impoundment 2b will only impact 0.5 acres of a farmed, emergent wetland, and 398.78 linear feet of an ephemeral stream in an upland grass waterway. As discussed above, 0.83 acres of wetlands and 714 linear feet of stream will be restored to compensate for impacts that did not occur in the area of impoundment 2a. This planned mitigation for the impoundment 2a are more than sufficient to compensate for the aquatic resource losses from the impoundment 2b. As a result, no additional mitigation is proposed.”

A 5-year performance period of monitoring will be employed by the applicant to ensure compliance with projected goals of wetland and stream mitigation. Sediment and erosion control measures; including using sedimentation basins, planting fast germinating vegetation, riparian buffers, replacing topsoil in loose lifts, and constructing terraces across steep slopes that would be prone to erosion will be utilized.

Purpose and Social & Economic Benefits of the Proposed Activity.

The underground mine would extract the coal resources of the site. According to information given by the applicant there would be significant social and economic losses experienced by the local economy if the mining plan does not proceed as planned. Specifically, 160 direct jobs with a payroll of \$20.0 million annually would be lost along with many other spin off jobs resulting from the proposed mining activity. The economical availability of high quality coal that is essential to the local, state and national economy could be compromised. Direct and indirect tax revenues of approximately 11.5 million annually that would have been able to help stimulate the local and state economy would be lost. The company's economic losses would be significant and substantial due to investments in land, coal reserves, and equipment with no foreseeable return on investment.

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

No Mining:

No mining as a means to reduce pollutant loading is not a reasonable alternative due to associated economic losses and given that water quality standards are expected to be met. The proposed mine would provide approximately 160 direct jobs with an annual payroll of approximately \$20.0 million annually. Many of these employees would be long term miners and are not currently trained for other employment. The mining industry is vitally important to the local economy of Saline Counties and the surrounding counties as well as to the region and state. Approximately 42% of the electricity produced in the United States and approximately 35% of the electricity produced in Illinois comes from coal-fired power plants. It is, therefore, vital to the local, state, and national economy that available high quality coal be mined to maintain a continuous supply of fuel to the coal-fired power plants. Economic losses would occur if sufficient electricity is not provided to energy consumers. The loss in tax revenue to Illinois and Montgomery County, both direct and indirect would be significant, particularly when a replacement industry is unknown. In addition, the economic loss to the company, should no mining at the site occur, would be substantial because of the significant investment in land, coal reserves, permitting expenses, and mining equipment made by the company using a business plan dependent on maximizing recovery of the coal reserve.

Alternative Refuse Disposal Area

The original refuse disposal area (referred to as impoundment 2a) was proposed for the northwest corner of the permitted area. The original location would have impacted 0.57 acres of wetlands (0.43 acres emergent and 0.13 acres forested) and 1,017.34 linear feet of stream (186.64 linear feet intermittent and 830.7 linear feet ephemeral). The original location was removed from further consideration because of the purchase of new land, which will have fewer impacts to wetlands and streams by mining activities.

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

The IDNR EcoCAT system was consulted on March 26, 2013 in regards to the proposed Refuse Area No. 2. It was determined that no threatened or endangered species or protected natural areas are in the vicinity of the areas and consultation for IDNR Project #1311558 was immediately 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 the antidegradation review summary was written. We tentatively find that the proposed activity would result in the attainment of water quality standards; that all existing uses of the receiving streams would 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 would benefit the community at large by preserving existing mining jobs and the ancillary economic benefits of these jobs to the local economy. Comments received during the 401 certification public notice period will be evaluated before a final decision is made by the Agency.