IEPA Log No.: **C-0276-19**
CoE appl. #: **MVS-2019-611**

Public Notice Beginning Date: **February 11, 2020**
Public Notice Ending Date: **March 3, 2020**

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

Section 401 Water Quality Certification for Discharge of Dredged or Fill Material

Public Notice/Fact Sheet Issued By:

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

Name and Address of Discharger: Marion Heights II, Inc. – 3401 Office Park Drive, Marion, IL 62959

Discharge Location: Near Marion in NE 1/4 of Section 15 of Township 9-South, Range 2-East of the East 3rd P.M. in Williamson County.

Name of Receiving Water: Unnamed tributary of Crab Orchard Creek

Project Description: Proposed commercial development.

The Illinois Environmental Protection Agency (IEPA) has received an application for a Section 401 water quality certification to discharge dredged or fill material 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 contact Darren Gove at email darren.gove@illinois.gov or phone no. 217/782-3362.

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Fact Sheet for Antidegradation Assessment
For Marion Heights II, Inc.
IEPA Log No. C-0276-19
COE Log No. MVS-2019-611
Contact: Angie Sutton 217/558-2012
Public Notice Start Date: February 11, 2020

Marion Heights II, LLC. ("Applicant") has applied for a 401 Water Quality Certification for impacts associated with the development of a commercial area in Section 15, Range 2 East, Township 9 South, Williamson County, Illinois. The project area is approximately 60 acres bounded to the north by Illinois Route 13 and to the east by Walton Way and the Sam's shopping center. The project site is divided by Joseph Cannon Way, a frontage road constructed within the past 10 years. Regulated construction activities would occur on one property between Illinois Route 13 and Joseph Cannon Way and on the property south of Joseph Cannon Way and west of Sam's Club. The project will involve excavation and grading for creation of compensatory flood plain storage, placement of fill within wetlands for future development and straightening and realigning 419 lineal feet (LF) of an unnamed tributary to Crab Orchard Creek in order to prepare the property for further commercial development. The property contains 1.6 acres of wet meadow, 13.1 acres of forested wetland and 4298 LF of the unnamed tributary. Construction activities are expected to impact 1.5 acres of wet meadow, 6.4 acres of forested wetland and 419 LF of the stream. Proposed mitigation for the wetland impacts will be at a ratio of 1:1.5 for the wet meadow wetland and 1:3 for the forested wetland. Stream impacts will require the purchase of 1686.77 stream mitigation credits based on a calculation using the Illinois Stream Mitigation Method included with application documents. 21.5 acres of wetland credits will be purchased from Crab Orchard Creek Wetland Mitigation Bank and the stream credit will be purchased from the Little Muddy Stream and Wetland Bank near DuQuoin, Illinois.

Information used in this review was obtained from the application documents dated January 9, 2020, December 10, 2019, December 6, 2019, November 20, 2019, October 25, 2019, October 24, 2019. September 8, 2019 and August 12, 2019.

Identification and Characterization of the Affected Water Body.

The unnamed tributary to Crab Orchard Creek has 0 cfs of flow during critical 7Q10 low-flow conditions. The unnamed tributary to Crab Orchard Creek is classified as a General Use Water. The unnamed tributary to Crab Orchard Creek is not listed as a biologically significant stream in the 2008 Illinois Department of Natural Resources Publication *Integrating Multiple Taxa in a Biological Stream Rating System* nor is it given an integrity rating in that document. The unnamed tributary to Crab Orchard Creek, tributary to Waterbody Segment IL_ND-14, is not listed on the draft 2016 Illinois Integrated Water Quality Report and Section 303(d) List as it has not been assessed. The unnamed tributary to Crab Orchard Creek is not subject to enhanced dissolved oxygen standards.

Wetland surveys were conducted on August 12, 2019 and September 8, 2019 and included soil descriptions, plant identification and hydrology at 7 different sampling points in each of the 2 properties concerned. Wet Meadow (PEM1E) is palustrine, emergent vegetation, persistent vegetation, seasonally flooded/saturated and is 1.6 acres in size. Forested Wetland (PFO1A) is palustrine, forested, broad-leaved deciduous, temporarily ponded or wet and is 13.1 acres in size. Dominant vegetation consists of Poison Ivy *(Toxicodendron radicans)*, Foxtail *(Setaria italica)*, Ragweed *Ambrosia artentisiifglia)*, Green Ash *(Fraximus pennsylvanica)*, Common Reed *(Phragmites australis)* and American Elm *(Ulmus Americana)*. Maps and delineation forms are included in the application documents.

A stream characterization was conducted on December 10, 2019 for the unnamed tributary to Crab Orchard Creek to determine if this stream is appropriately characterized as an ephemeral stream or if additional characterization efforts are required. Upstream drainage areas are highly developed and therefore findings of the stream characterization are typical of streams impacted by urban development. The stream flows south through culverts under Highway 13 and Walton Way prior to entering the northern boundary of the construction area. The tributary meanders through forested wetland before continuing south and eventually offsite. Active bank erosion with exposed tree roots and downcutting were observed

indicating increased flow volume in response to runoff from urban environments. Several shallow pools were present within the stream segment channel at the time of the inspection, but no fish or aquatic life was observed. Dominant riparian tree species present include Hackberry *(Celtis occidentalis)*, American Sycamore *(Platanus occidentalis)*, Slippery Elm *(Ulmus rubra)*, Eastern Cottonwood *(Populus deltoides)* and Silver Maple *(Acer saccharinum)*. Stream Stats, a Web-based Geographic Information Systems (GIS) application developed by the United States Geological Survey (USGS) was used to determine that a watershed area of approximately 2 square miles drains to the subject reach of this stream. The results of the stream characterization indicate that flows in the stream occur only as a response to precipitation events and the development of aquatic life is inhibited due to lack of a reliable source of water and the nature of upstream development; therefore, no further biological assessment was required.

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 total suspended solids. These increases, a normal and unavoidable result of the proposed construction including realignment of 419 LF of stream, wetland filing and grading and creation of floodway storage, may occur in the downstream reaches of the tributary and adjacent wetland areas. Increases in total suspended solids are expected to be short-term and local as the suspended particles will quickly settle out or become part of the natural bed load during periods of flow. The existing stream channel would be permanently filled once the new channel is constructed and stabilized. The new stream channel is not designed to function as a naturalized stream channel and would function only as a conveyance for runoff from its tributary watershed. The wetlands would be permanently filled where the plans indicate future development, or they will be excavated and graded for compensatory flood storage purposes. As a result of the construction activity, permanent impacts to 419 LF of ephemeral stream and 7.9 acres of wetlands would occur.

Fate and Effect of Parameters Proposed for Increased Loading.

The increase in total suspended solids would be local and temporary. The applicant will be required to implement best management practices in accordance with construction methods prescribed in the Illinois Urban Manual to prevent unnatural turbidity and violations of water quality standards. The permanent impacts to waters of the United States have been minimized from the original proposal. In that proposal, all 13.1 acres of forested wetlands and all 1.6 acres of wet meadow were impacted. Now 1.5 acres of wet meadow and 6.4 acres of forested wetland would be impacted by the construction activities. Proposed mitigation for the wetland impacts will be at a ratio of 1:1.5 for the wet meadow wetland, 1:3 for the forested wetland and the stream impacts will result in stream mitigation credits purchase based on calculations in accordance with the Illinois Stream Mitigation Method. 21.5 acres of wetland credits will be purchased from Crab Orchard Creek Wetland Mitigation Bank and 1686.77 stream credits, according to the mitigation calculation, will be purchased from the Little Muddy Stream and Wetland Bank near DuQuoin, Illinois.

Purpose and Social & Economic Benefits of the Proposed Activity.

The proposed project would provide continued commercial growth in the City of Marion along the Illinois Route 13 corridor near Interstate 57. The area is one of the last undeveloped parts within this commercial area. The proposed developed areas will be sold or leased by the developer for restaurants, retail stores, etc. According to the applicant the City of Marion is mainly supported by sales tax. Further development is therefore essential for providing additional employment opportunities and continued growth of the tax base. Both are important social development and beneficial to the public at-large.

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

The Applicant has provided the following alternatives:
No Action Alternative**:**

This option results in the purpose of the project not being met. This is the only land owned by Marion Heights in the area and all other land in the area adjacent to the interstate and Illinois Route 13 is developed. The City favors the purpose of the project in order to continue growth of its sales tax base.

Offsite Alternatives:
Five offsite alternatives were considered but most of the land within the corridor has shown to be either developed or unobtainable. Problems with these offsite alternatives include lack of interest in selling by the property owners or an unreasonable purchase price, limited visibility, lack of direct access or the property was too from the interstate corridor altogether.

On Site Alternative (Preferred Alternative):
This is the only practical alternative and is a modification of the original plan in order to minimize impacts to sensitive areas. This alternative provides mitigation for impacts to 1.5 acres of wet meadow and 6.4 acres of forested wetland, whereas the original plan would have eliminated the entire 1.6 acres of wet meadow and 13.1 acres of forested wetlands. This alternative also provides allowance for the stream bank to remain in the compensatory storage areas and flatten grading to 0.5% from the original 1%, in order to minimize wetland impacts. This alternative will eliminate impacts to 1.27 acres of forested wetland altogether as a result of increasing compensatory storage to the west. Overall this alternative provides avoidance and minimization efforts by reducing impacts as much as possible while maintaining as much developable land and meet the purpose of the project. In total, the preferred alternative will allow 6.8 acres of wetland to remain in place with no impacts.

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

An EcoCAT endangered species consultation submitted on December 6, 2019 to the Illinois Department of Natural Resources resulted in a consultation termination due to the Illinois Natural Heritage Database containing no record of State-listed threatened or endangered species, INAI sites, dedicated Nature Preserves or Land and Water Reserves in the vicinity of the project location. A Section 7 Consultation by the USFWS resulted in recommendation of an effects analysis for the Indiana Bat *(Myostis sodalist)* and the Northern Long-eared Bat *(Myotis septentrionalis)*. No critical habitats were identified within the project area. The developer did conduct a Bat Habitat Assessment (BHA) and several trees were identified as potential habitat. Trees in the affected areas were marked and will be removed outside of potential summer roosting times. This is intended to be done prior to April 1.

In addition, American Resources Group, Ltd., performed a Phase 1 cultural resources survey and assessment of the project site on October 24, 2019 and recommended clearance for the project.

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 assessment was written. We tentatively find that the proposed activity would result in the attainment of water quality standards; 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 City of Marion by providing continued economic growth. Comments received during the 401 Water Quality Certification public notice period will be evaluated before a final decision is made by the Agency.