

**Illinois Environmental Protection Agency
Bureau of Water, Permit Section
(IEPA)**

1021 North Grand Avenue East, Post Office Box 19276, Springfield, Illinois 62794-9276, 217/782-3362

The IEPA has issued a Public Notice of a request for a Clean Water Act Section 401 water quality certification that would allow the issuance of a federal permit for the discharge of pollutants to waters of the State.

Public Notice Beginning Date:

June 10, 2022

Public Notice Ending Date:

June 30, 2022

Agency Log No.:C-0014-22

Federal Permit Information: Federal permit/license no. LRL-2018-267 is under the jurisdiction of Louisville District, Regulatory Branch U.S. Army Corps of Engineers

Name and Address of Discharger: Eagle Branch Drainage District - 18979 Chauncey Road, Sumner, IL 62466

Discharge Location: In Section 13 of Township 4-North and Range 13-West of the West 2nd Principal Meridian in Lawrence County. Additional project location information includes the following: South of Petty School Lane and West of North Applegate Road, Sumner, IL 62466

Name of Receiving Water: Unnamed Tributary, tributary to The Slough

Project Description: After-the-fact evaluation of adverse impacts to approximately 34 acres of forested and emergent wetlands adjacent to the Slough resulting from channel maintenance dredging.

Construction Schedule: Beginning Jan 2017 and ending Sep 2017

The Public Notice period will begin and end on the dates indicated in the heading of this Public Notice. Interested persons are invited to submit written comments on the project to the IEPA at the above address. Commenters must provide their name and address along with comments on the certification request. The IEPA Log number must appear on each comment page. Commenters may include a request for public hearing. Only hearing requests and comments that pertain to Clean Water Act Section 401 authority will be considered. This authority provides consideration of whether the permit or license would be consistent with Sections 301, 302, 303, 306, or 307 of the CWA, as well as "any other appropriate requirement of State [or tribal] law". Requests for additional comment period must provide a demonstration of need. The final day of comment acceptance will be on the Public Notice Ending date shown above, unless the IEPA grants an extended notice period.

The attached Fact Sheet provides a detailed description of the project and the findings of the IEPA's antidegradation assessment.

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 see the contact information below.

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Post Document. No. C-0014-22-06102022-PublicNoticeAndFactSheet.pdf

Eagle Branch Drainage District has applied for an after-the-fact 401 Water Quality Certification for impacts associated with removal of woody and herbaceous vegetation, dredging of soil, and placement of the dredged material in Township 4N, Range 13W and Sections 12, 13, and 14 in Lawrence County, Illinois. The project site, near Sumner, is an approximately 3.5-mile section of The Slough from CR 1600N to its convergence downstream with Muddy Creek South.

The Slough has not undergone comprehensive maintenance for several years leading to an eroded scour channel from backwater. The scour channel is eroded across cropland north of CR 1600 N to the Eagle Branch ditch. The Slough Clean Out project was completed 2017 and was performed on the lower reach of The Slough. Approximately 3.5 miles of channel was cleared of woody and herbaceous vegetation and soil was excavated. The debris was placed in piles landward of the channel and dredged material was placed in the channel side next to the organic debris. 35,000 Cubic Yards (CY) of dredged material was placed in 11.6 acres (Ac), and 3.6 Ac were covered with the organic debris for a total of 15.2 Ac of fill. This fill was placed within a jurisdictional wetland. Additional impacts include 4.9 Ac of mechanical clearing and 9.2 acres of channel clearing. The 15.2 Ac of fill impacts will be minimized by removal of the fill debris. 14.1 Ac of impacts remain of which 0.7 Ac have been cleared for vegetation regeneration providing onsite mitigation. The dredge spoils and organic debris that has been placed within the project area will be removed. The applicant wishes to provide compensatory mitigation for the 13.4 Ac of impacts that include the 10-foot maintenance path and the channel clearing. These impacts will require 25.2 Ac of mitigation and will be completed offsite approximately 1 mile from the project site in the form of tree planting along Muddy Creek.

Information used in this review was obtained from the application documents dated October 24, 2019, December 2021, and January 25, 2022.

Identification and Characterization of the Affected Water Body.

The Slough has 0 cfs of flow during critical 7Q10 low-flow conditions and is classified as General Use Water. The Slough 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 Slough, Waterbody Segment IL_BEAA-01 is not listed on the 2018 Illinois Integrated Water Quality Report and Section 303(d) List as it has not been assessed. The Slough is not subject to enhanced dissolved oxygen standards.

No characterization of the wetland prior to it being filled is available. It is noted in the mitigation plan that the impact site is inhabited with native vegetation since settlement of the area and parts of The Slough corridor are herbaceous and emergent wetlands with poorly drained soil. Plants consist of deciduous trees, grasses and sedges. Additionally, mitigation was determined by quantifying the amount of wetland area impacted by the dredged material and organic debris discharges as well as document any impacts to The Slough's channel. This is outlined in a memorandum dated October 24, 2019, that discusses a wetland and stream impact assessment conducted by the applicant and the USEPA.

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

The pollutant load increases that occurred from this project included some possible increases in total suspended solids. These increases are a normal and unavoidable result of dredging and fill placement.

Water may flow back into the channel during spoil placement, increases in the channel would be expected to be local and temporary. There may be some local and temporary increases as the placed fill is removed. Once removed, the spoils will be placed in nearby upland areas likely to be agricultural land. Placement will be done in a small window over several years due to the farming season making the areas inaccessible during mid-March to December.

Fate and Effect of Parameters Proposed for Increased Loading.

The increase in total suspended solids would be local and temporary. Although the existing benthic habitat would be permanently removed by the dredging activities, it is anticipated to recover and improve over time.

Due to this project already having been completed, the impact cannot be avoided at this point. The after-the-fact permit request proposes to minimize a portion of the impact and mitigate the balance. The impact areas will regenerate naturally once the organic debris and dredged materials are removed. Additionally, 0.7 Ac of wetland will be mechanically cleared to allow for regeneration. This area is not part of the maintenance path, but it is collocated with the organic debris piles and dredged material. The applicant will also mitigate the 9.2 acres of the excavated channel as well as a 10-foot-wide maintenance lane adjacent to the channel where the work area was accessed by land moving equipment. The path totals 4.2 acres for a total of 13.4 acres which will be mitigated for offsite. The 26.8-acre offsite location is approximately one mile from The Slough in an adjacent watershed. Primarily hard mast trees will be planted, and a non-competitive cover will be seeded on the site. The compensatory mitigation plan will provide protection of the site by a conservation easement in order to keep it maintained and monitored. Of the 29.3 impact acres, 15.2 Ac will be impact minimization acreage, 13.4 will be mitigated offsite, and 0.7 are mechanically cleared acres.

The organic debris pile length was used as forested impact size (8045 LF) and calculated to determine the percentage of total length (44%). The balance of the total impact (10,175 LF of 56%) was used to determine non-forested, or scrub shrub and emergent wetland impact size. The percentages of the impacts in acres were calculated to be 5.9 Ac of forested wetland impact, and 7.5 Ac of scrub-shrub/emergent wetland. Mitigation for the forested wetland is proposed at a 3:1 ratio or 17.7 Ac and scrub-shrub/emergent wetland is proposed for mitigation at a 1:1 ratio, or 7.5 Ac for a total of 25.2 mitigation acres.

Impact Type	Impact Size (Ac)	Mitigation Type	Total Impact To Be Mitigated (Ac)
Fill	15.2	Fill Removal	15.2 (onsite)
Mechanical Clearing	4.9	Cleared for regrowth Maintenance Path	0.7 (onsite) 4.2
Channel Clearing	9.2	Channel dredged and cleared of debris	9.2
Total	29.3	Total	13.4

Impact Type	Calculated Impact (Ac)	Mitigation Ratio	Mitigation Acres Required
Forested Wetland Impacts	5.9	3:1	17.7
Non-forested Wetland Impacts	7.5	1:1	7.5
Total	13.4	Total	25.2

The proposed mitigation site is currently cropland of which all except a small portion frequently floods and like the impact site is very wet due to its location in the Muddy Creek floodplain. The applicant proposes maintenance of the site after planting occurs. Monitoring will be conducted for a minimum of 5 years or until the site has been released by USACE. Once released, monitoring will be continued to keep invasive species at bay and the USACE will be consulted if needed.

Purpose and Social & Economic Benefits of the Proposed Activity.

Comprehensive maintenance had not been done on The Slough for a number of years. Backwater has eroded a scour channel across cropland north of CR 1600N to the Eagle Branch ditch. This work was done primarily to improve drainage to relieve this damage being done which had begun in the last 15 to 20 years. The project addressed overflow that was damaging and eroding cropland.

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

Because this application is for an after-the-fact permit, the jurisdictional wetland has already been impacted by placement of dredged material and organic debris has already been discharged into the wetland, the applicant is not looking at the alternative of avoidance. The following alternatives analysis contains only three alternatives that look at site restoration, impact minimization, and offsite mitigation. A wetland and stream assessment was conducted by USEPA in October of 2019. The results of the assessment determined that 15.2 Ac were impacted by dredged and organic material. There were 4.9 Ac mechanically cleared and 9.2 Ac impacted by the channel excavation.

Site Restoration Alternative:

This alternative would negate the drainage improvements already made to the lower reach of The Slough. This alternative would fail to address the threat of the overflow that has eroded and damaged cropland as backwater escapes to the north to Eagle Branch Drainage Ditch. The Eagle Branch Drainage District put the work plan into action a few years ago in deciding to annex The Slough into their jurisdiction with the intent of cleaning out the channel in the lower reach of The Slough. Once funds were accumulated, the work began after having waited several years so that the work could be completed in dry conditions. Restoration to the site would be a waste of funds and effort and result in the loss of benefits provided by improved drainage.

Impact Minimization Alternative:

The applicant proposes to remove the dredged material and the organic debris piles to upland sites in the surrounding area. This work is proposed to be conducted over a period of several years due to the

extended wet periods at the project site. This lower reach of The Slough is not very well drained even after the work that has been done due to the poorly drained silty clay soils. Removal attempts during wet conditions would be difficult and likely result in additional impact to the site with equipment ruts and getting stuck. Agricultural fields will likely be the disposal areas which would not be available from mid-March to December. There would be a narrow window each year in which to conduct the minimization effort. Removal of debris piles and dredged material will allow the impact areas to naturally regenerate. Seed sources border the landward side of the fill impacted areas. There is also an extensive seed source beneath the fill impacted areas that when exposed to sunlight will be released as the dredged material and organic debris is removed. This effort will minimize the total fill impacts of the original project of 15.2 Ac.

Offsite Mitigation Alternative:

In addition to the impact minimization, the applicant proposes to mitigate acreage on the impact site that would continue to provide benefit under the purpose of the District. The applicant proposes to mitigate the 9.2 acres of excavated channel as well as a 10-foot-wide maintenance land adjacent to the channel where the track hoe accessed the work area and conducted the clearing, cleared the channel, and side-casted the dredged material. This path totals 4.2 Ac for a total of 3.4 Ac. A suitable site has been procured by the applicant who plans to seed a non-competitive cover on the site and plant trees. This site is about one mile from The Slough and in the adjacent 12-digit HUC. Primarily hard mast trees will be planted in the existing 26.8 Ac agricultural land site. The site is frequently underwater as seen by the crop debris lines in the field on a November 16, 2021, site visit. Mature trees exist on the south and east sides which also possess hydric soils, increasing the width of the riparian corridor of Muddy Creek.

The applicant will complete a combination of impact minimization and mitigation. This will allow for the realized benefits to remain in place and be maintained for the District, while compensating for the project impact.

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

An EcoCAT endangered species information review (IDNR project number 2213438) submitted on May 22, 2022, to the Illinois Department of Natural Resources resulted in no record of State-listed threatened or endangered species, INAI sites, dedicated Illinois Nature Preserves, or registered Land and Water Reserves in the vicinity of the project location. The consultation was terminated on May 22, 2022.

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 completed activity resulted 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 had been incorporated into the proposed activity; and that this activity benefitted the lower reach of The Slough and surrounding area by providing beneficial drainage to alleviate erosion and scour. Comments received during the 401 Water Quality Certification public notice period will be evaluated before a final decision is made by the Agency.