

Illinois Environmental Protection Agency
Bureau of Water
Permit Section - Division of Water Pollution Control

Friday, March 25, 2022

Summary and Agency Statement
for
Section 401 Water Quality Certification for Winnebago Landfill
C-0211-21

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INTRODUCTION

This Summary and Agency statement was prepared by the Illinois Environmental Protection Agency (Illinois EPA) in conjunction with the approved Clean Water Act (CWA) Section 401 Water Quality Certification for Winnebago Reclamation Services, Inc. This document includes a summary and agency statement of all the views, significant questions & comments, criticisms, and suggestions, whether written or oral, submitted at the public hearing (Dec. 9) or during the public comment period. (Nov-8 2021 through Jan. 10, 2022).

DECISION

On March 25, 2022, the Illinois EPA approved CWA Section 401 Water Quality Certification for Winnebago Reclamation Services, Inc.; the Section 401 Water Quality Certification.

Copies of pertinent documents (e.g. Section 401 Water Quality Certification, additional copies of Summary and Agency Statement) can be obtained from the contact listed at the conclusion of this document or from the Illinois EPA website. The complete repository of documents for this action are available at the Illinois EPA office in Springfield, Illinois, which can be obtained through a Freedom of Information Act (FOIA) request to the Illinois EPA. This can be done through our website. (<https://www2.illinois.gov/epa/foia/Pages/default.aspx>) You can also contact the Agency if you need help with this request.

BACKGROUND

The Illinois EPA Bureau of Water has prepared a final federal Clean Water Act Section 401 Water Quality Certification for Winnebago Reclamation Services, Inc. for the Winnebago Landfill New Milford. The address of the discharger is Winnebago Reclamation Services, Inc., 5450 Wansford Way, Suite 201, Rockford, IL 61109. The activity is in Winnebago and Ogle Counties.

The application is made for discharge of fill material into waters of the United States which are located in Winnebago and Ogle Counties, Illinois. The following information identifies the activity location and the receiving waterbody:

Section 31 of Township 43-North, Range 2-East In Winnebago County And Section 6 Of Township 42-North, Range 2-East In Ogle County, East 3rd Principal Meridian. The discharge occurs in general use waters identified as unnamed wetlands and unnamed tributaries to the Kilbuck Creek in Hydrologic Unit Code 070900060704.

The project establishes two soil stockpile areas adjacent to the landfill expansion area to accommodate five million cubic yards of earthen material. A total of nine emergent, farmed, and scrub-shrub wetlands comprising 6.32 acres are located within the project boundaries. The project will cause 1.64 acres of permanent losses to wetlands and 0.96 acres of temporary impacts to wetlands.

PUBLIC OUTREACH

A public comment period is intended to provide an opportunity for the public to understand and comment on a proposed action. On November 8, 2021, the Illinois EPA published a notice of public hearing and public comment period, which began on November 8, 2021 and ended on January 10, 2022, (refer to: <https://www2.illinois.gov/epa/public-notices/Pages/section-401-notices.aspx>). This document provides written responses to comments raised during the public comment period.

Based on significant public interest in this matter, an informational public hearing was conducted virtually (online) in accordance with the applicable regulations found at 35 Ill. Adm. Code Part 395.206. on the Illinois EPA public notice webpage (<https://www2.illinois.gov/epa/public-notices/Pages/general-notices.aspx>), as well as forwarded to numerous elected officials and persons known to be interested in the matter - including representatives from various environmental advocacy groups.

The notice of public comment period and public hearing included instructions for participation in the public hearing, Illinois EPA contacts (either the Hearing Officer or the Office of Community Relations) for any questions or concerns (e.g., requests for interpretation, informational or special needs, assistance with WebEx), in addition to the Section 401 Water Quality Certification and associated Antidegradation Fact Sheet.

An online public hearing was conducted on December 9, 2021 to receive oral comments from the public concerning the Section 401 Water Quality Certification. The public hearing began at 6:31 pm CST and ended at 9:01 pm CST. Altogether, there were three participants (excluding Illinois EPA staff). There were no oral comments received from the participant . A recording of the public hearing and Illinois EPA public hearing statements were posted on the Illinois EPA website (refer to <https://www2.illinois.gov/epa/public-notices/Pages/section-401-notices.aspx>).

The Illinois EPA received one written submission during the public comment period, which began on November 8, 2021 and ended on January 10, 2022. This document provides written responses raised during the public comment period.

ILLINOIS EPA RESPONSES TO COMMENTS, QUESTIONS, AND CONCERNS

Comments are stated first followed by Illinois EPA responses in **BOLD FONT**

1. The Illinois EPA has created a draft permit to allow for the discharge of pollutants to waters of the State. The permit will also allow the Landfill to permanently remove 1.64 acres of existing wetlands in order to establish two landfill stockpile areas. The construction efforts will result in sediment being deposited into unnamed tributaries of Kilbuck Creek, with a temporary increase in Total Suspended Solids (TSS). One concern Winnebago County has is the 0.96 acres of proposed restored wetlands within the scope of the property. We hope that additional monitoring steps are put into place to verify that the wetlands restored are not degraded and that they will provide substantive addition to water quality mitigation on the site. This is especially critical in light of the lost 1.64 acres of wetlands on site.

The on-site 0.96 acres wetland is in the location of a larger previously proposed bioswale project and will be impacted by the proposed bioswale's construction. The Applicant proposes to restore the 0.96 acres wetland by creating emergent wetlands in the bottom and lower banks of the swale to help improve the water quality of the stormwater conveyed through the bioswale. The improvements to the stormwater conveyance system will enhance the quality of stormwater runoff and conditions in downstream receiving waters thereby enhancing the functions over current conditions. To ensure the establishment of the restored wetlands and that existing uses are protected, the Section 401 Water Quality Certification will require yearly monitoring for a period of 5 years.

2. While we understand that the permittee will be purchasing wetlands within the Northern Illinois Wetland Mitigation Bank along the Kilbuck Creek, our concern is in the long-term ecological health of the unnamed tributaries. Considering these tributaries are already in poor ecological condition with little diversity of terrestrial and aquatic life, there is little explanation given as to what the combined temporary impacts will have on the long-term ecological outlook of these unnamed tributaries. We ask that the IEPA address the potential long-term consequences to the tributaries with respect to the permanent and partial loss of wetlands coupled with the temporary sediment impacts. In addition, IEPA should require more disclosure in regards to what level TSS can be expected to increase and the duration for which TSS will be heightened.

The current conditions of the affected tributaries are linked to the unnamed tributary's watershed. While a large part of this tributary's watershed has been recently affected by landfill development, the historical land use has been agricultural. Development activities, even with best management practices, contribute sediment loading because of associated land disturbances and significant precipitation events. Typical agricultural activities contribute not only sediment but also compounds found in fertilizers and herbicides such as nitrogen, phosphorus and organophosphates and such activities are not regulated. Landfill development activities are regulated, in part, by the Illinois EPA under National Pollutant Discharge Elimination System (NPDES) permits for stormwater and wastewater discharges resulting from construction activities and normal operations. The increase in

suspended solids from proposed activities would be temporary and would be minimized with measures such as soil stockpile vegetative stabilization, use of aggregate cover for temporary and non-paved roads, installation of diversion berms, perimeter ditches, barrier filter, vegetative filter strips, sedimentation basins and energy dissipaters. Such controls will be inspected on a routine basis and maintained in working order by cleaning out or dredging eroded sediment and reseeding as necessary.

The landfill operator's compliance with required sedimentation and erosion control practices is expected to meet water quality standards and not cause degradation of ecological conditions in downstream waters, nor cause adverse impacts to aquatic habitat found in those waters. While sedimentation associated with development and routine operational activities may still occur, controls and measures such as the proposed bioswale are expected to improve storm water runoff quality and thereby enhance the aquatic functions in the unnamed tributary downstream of the bioswale.

ACRONYMS AND INITIALS

CFR	CODE OF FEDERAL REGULATIONS
COE	CORPS OF ENGINEERS
CWA	CLEAN WATER ACT
ILL. ADM. CODE	ILLINOIS ADMINISTRATIVE CODE
IEPA	ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
NPDES	NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
TSS	TOTAL SUSPENDED SOLIDS

DISTRIBUTION OF ILLINOIS EPA SUMMARY AND AGENCY STATEMENT

An announcement regarding the availability of the Section 401 Water Quality Certification and accompanying Summary and Agency Statement is available on the Illinois EPA website at <https://www2.illinois.gov/epa/public-notice/Pages/section-401-notice.aspx>. Printed copies of the Summary and Agency statement are available from Barb Lieberoff, Office of Community Relations, barb.lieberoff@illinois.gov (217) -524-3038.

FOR ADDITIONAL INFORMATION/ILLINOIS EPA CONTACTS

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