

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

2520 West Iles, 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:

Thursday, June 12, 2025

Public Notice Ending Date:

Thursday, June 26, 2025

Agency Log No.: C-0159-24

Federal Permit Information: Federal permit/license no. MVS-2023-30 is under the jurisdiction of St. Louis District, Regulatory Branch U.S. Army Corps of Engineers

Name and Address of Discharger: Williamson Energy, LLC, James Miller - PO Box 99, Johnston City, IL 62951

Discharge Location: In Section 5 of Township 8-South and Range 4-East of the West 3rd & East 3rd Principal Meridian in Williamson County. Additional project location information includes the following: Northeast of Benton in Franklin County. North an East of Jordan Fort Rd, Thompsonville, IL 62890

Name of Receiving Water: Pond Creek & Ewing Creek

Project Name/Description: Refuse Disposal Area No. 3 (RDA3) - proposed construction of a coal refuse disposal facility (RDA #3) and the associated industrial beltline

Construction Schedule: Beginning Oct 2024 and ending Oct 2030

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-0159-24-06122025-PublicNoticeAndFactSheet.pdf

Williamson Energy, LLC (“Applicant”) has applied for a 401 Water Quality Certification for impacts associated with construction of a coal refuse disposal area at a 1030.35-acre (Ac) site located near Corinth and Cave Townships, Illinois. More specifically, the proposed project is located within Township 8 South, Range 4 East, Sections 5 and 6, and Township 8 and 7 South, Range 4 East, Sections 4, 5, 32 and 33 in Williamson and Franklin County. The project area has a history of extensive agricultural activities; current land use is agricultural fields with some wooded lots.

It should be noted that this antidegradation assessment is intended to address discharges of dredged or fill materials into waters of the U.S. associated with a U.S. Army Corps of Engineers CWA Section 404 permit. A separate CWA Section 402 NPDES permit will address stormwater and wastewater aspects of the proposed refuse disposal area.

The proposed project consists of two parts; permit 466 which includes construction of a refuse disposal area (RDA #3) and permit 417 which includes the associated beltline. RDA #3 is the storage and disposal location for the refuse generated at Williamson Energy’s Pond Creek No. 1 Mine allowing for continued operations of the existing mine. RDA #3 will consist of the construction of a coal refuse disposal area to be utilized for coal refuse storage and handling during and after mining. The proposed facility will provide roughly 6 years of coarse coal storage (18,094,330 cubic yards) and 5 years of fine refuse storage (12,280,000 cubic yards) at current operational rates. The refuse area will be surrounded by a diversion ditch, which will be utilized for erosion control and sediment transport to the settlement ponds area southeast of the refuse cell. The industrial beltline will transport coal refuse and topsoil to RDA #3. This portion of the project encompasses approximately 19-acres between RDA #3 and the existing mine and processing facilities with the total area of the refuse disposal area consisting of 524.64 Ac.

The project is expected to impact 14.98 Ac of wetlands and 1864 linear feet (LF) of stream. The applicant is proposing compensatory mitigation by purchasing stream and wetland mitigation credits from the Little Muddy Mitigation Bank. The applicant has designed the disposal area to have a minimal operational footprint and to the minimum length necessary to conduct channel alteration and fill discharge.

Information used in this review was obtained from the application documents dated December 16, 2022, July 27, 2023, September 25, 2023, September 2024, December 5, 2024, and June 11, 2025.

Identification and Characterization of the Affected Water Body.

A field investigation of the project area was conducted on February 23, March 24, and April 19, 2022. The permit area is generally characterized by relatively low topographic relief, a humid climate with moderate to abundant rainfall, mixed prairie and hardwood natural vegetation, and the predominance of agricultural land use including extensive use of agricultural drainage systems. The area is currently being used as agricultural land with some wooded lots. The identified wetlands and streams in the project area include both RDA #3 and the associated beltline permit areas. Channels CH-2, CH-7, Pond Creek and Channel RT of Pond Creek were the Streams identified as the impacted intermittent streams. Wetlands D (including converted Wetland D), E, and I were identified as the impacted wetlands.

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Channels CH-2, CH-7, and Channel RT of Pond Creek are all unnamed tributaries to Pond Creek. The unnamed tributaries of Pond Creek have 0 cfs of flow during critical 7Q10 low-flow conditions. The unnamed tributaries of Pond Creek are classified as General Use Water. The unnamed tributaries of Pond Creek are 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 are they given an integrity rating in that document. The unnamed tributaries of Pond Creek, tributaries to Waterbody Segment IL_NG-02, are not listed on the 2024 Illinois Integrated Water Quality Report and Section 303(d) List as they have not been assessed. These segments of the unnamed tributaries of Pond Creek are not subject to enhanced dissolved oxygen standards.

Channel CH-2 is characterized by a total of 1176 ft of jurisdictional relatively permanent water (RPW) stream type with moderate channelization and sinuosity and 3741 ft of non-jurisdictional (non- RPW). Pool and riffle development was very low, and bank erosion was moderate with low stability. Dominant vegetation consists of sycamore (*Platanus occidentalis*) and red maple (*Acer rubrum*). Soil conditions consist of Belknap silt loams which are considered poorly drained, have frequent flooding, and the depth to water table is 6 to 24 inches. The stream depth ranged from 1-28 inches.

Channel CH-7 is characterized by a total of 207 ft of jurisdictional relatively permanent water (RPW) stream type. The agency is awaiting full characterization from the applicant.

Channel RT of Pond Creek is characterized by 272 ft of perennial jurisdictional (RPW) stream. This stream has high banks with moderate erosion and low riffle/run/pool/glide development. The riparian buffer is well established and this stream flows through unforested wetland (Wetland D). The riparian area is dominated by red maple (*Acer rubrum*), boxelder (*Acer negundo*), swamp white oak (*Quercus bicolor*), river birch (*Betula nigra*), American elm (*Ulmus americana*), and silver maple (*Acer saccharinum*). The soil for this area is Belknap silt loam. Belknap silt loam is somewhat poorly drained with very low run off and the depth to water table is approximately 6-24 inches.

Overall, flow, gradient, substrate, and habitat did not widely vary within the unnamed tributaries of Pond Creek to be affected by this project. Additionally, macroinvertebrate richness or abundance did not exist as all streams within the project area are dry for large portions of the year or ephemeral entirely. Fish species throughout the project area reaches were similarly non-existent due to low flow conditions. No gamefish or non-gamefish species were observed apart from within Pond Creek itself, and the species present appeared typical compared to similarly sized tributaries. The species observed consisted of ones that likely move around when able as changes occur in temperature and flow.

Pond Creek has 0 cfs of flow during critical 7Q10 low-flow conditions. Pond Creek is classified as General Use Water. Pond 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. Pond Creek, Waterbody Segment IL_NG-02, is listed on the 2024 Illinois Integrated Water Quality Report and Section 303(d) List as impaired for aquatic life with a potential cause given as cause unknown. Primary contact use is fully supported. This segment of Pond Creek is not subject to enhanced dissolved oxygen standards.

Stream Name	Length in Delineated Area (LF)	Impacted Length (LF)
Channel CH-2	2293	1176
Pond Creek	3600	209
Channel RT of Pond Creek	842	272
Channel CH-7	207	207
Total	6942	1864

Wetlands D, E, and I were identified as the impacted wetlands. The impacted wetlands all consist of either palustrine persistent emergent (PEM), palustrine forested (PFO) or PFO/PEM complex habitat types as classified by Cowardin et al. (1979) for wetland classification.

Wetland-D: This wetland is abutting Pond Creek of the Big Muddy River. It is approximately 19.4 acres of Palustrine Forest habitat with dominant vegetation consisting of hydrophytic woody plants 6m tall or greater. The receiving water for this wetland is Pond Creek of which Wetland D is a connection for. Soils are frequently flooded, moderately well-drained, have low runoff, are slightly saline, and the depth to water table is 30 to 40 inches.

Wetland-E: The wetland is abutting CH-2 and is approximately 8.6 acres of Palustrine Forest habitat with dominant vegetation consisting of various grasses, sedges, and rushes. The receiving water for this wetland is CH-2 of which Wetland E is a connection for. Soils are frequently flooded, somewhat poorly drained, have very low runoff, are slightly saline, and the depth to the water table is 6 to 24 inches.

Wetland-I: The wetland is adjacent to CH-2 and is approximately 1.64 acres of Palustrine Forest habitat with dominant vegetation consisting of various grasses, sedges, and rushes. The receiving water for this wetland is CH-2 of which Wetland I is a connection for despite it seems isolated. Soils are frequently flooded and severely eroded, somewhat poorly drained, have very low runoff, are slightly saline, and the depth to the water table is 6 to 24 inches. Other soil types in the area are moderately well drained, have high runoff, and the depth to the water table is 18-42 inches.

Wetland ID	Wetland Type	Size in Permit Area (Ac)	Impact Size (Ac)
D	PFO	19.42	5.14
E	PFO	8.55	8.29
I	PFO	1.64	1.55
Total		29.61	14.98

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

Pollutant load increases from the proposed project would likely include increases in suspended solids during land grading and stockpiling activities. The proposed grading and stockpiling activity would include the filling of streams and wetlands for construction of the coal refuse disposal facility. All impacted streams and wetlands are low-quality wetlands that have been degraded by nearby agricultural use. Additionally, soil erosion control and stabilization measures are to be in place prior to construction and there should be no loading increases above current levels from the existing agricultural land use.

Fate and Effect of Parameters Proposed for Increased Loading.

The increase in suspended solids from proposed activities would be short-term and temporary. The proposed measures to minimize the potential effect to the receiving water include soil stabilization through vegetation, use of aggregate cover for temporary and non-paved road, installation of diversion berms, perimeter ditches, barrier filter, vegetative filter sedimentation ponds and energy dissipaters. Approximately 14.98 Ac of wetlands would be permanently impacted. All existing wetlands are degraded, and/or heavily dominated by invasive species. The permanently impacted wetlands would be mitigated at a 2:1 or 3:1 ratio depending upon the wetland classification. A total of up to 38.52 wetland credits have been reserved at the Little Muddy Mitigation Bank, and an additional mitigation acreage has been reserved with a wetland bank within the same receiving stream (Middle Fork of Big Muddy River).

A total of 9602.7 stream credits for the 1864 LF of stream impacts will be required. Additionally, Best Management Practices (BMPs) including erosion control and stabilization methods will be employed during construction.

Purpose and Social & Economic Benefits of the Proposed Activity.

The purpose of the project is to provide continued and uninterrupted coal refuse disposal services to the Mach Mine No.1 within southern Illinois. The expansion would provide for an additional 6 years beyond the currently permitted disposal facility by providing coarse refuse storage (approximately 18,094,330 cubic yards) and 5 years of fine refuse storage (approximately 12,280,000 cubic yards).

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

In analyzing location alternatives, numerous factors such as stream, floodplains, and wetland impacts, as well as impacts to community resources (roads, houses, etc.) were considered. Two criteria were used to determine site alternatives. The first criterion was that the facility must be located on a previously undermined area, so as not to limit future coal extraction opportunities, and to ensure long term stability for the facility. Once the facility is constructed the underlying area cannot be undermined. Therefore, Alternative Site locations were evaluated only within previously mined areas. The second primary criterion was that the facility must be of a size large enough to facilitate a minimum of five years of combined service to the preparation plant, in order to justify construction expenses. This will reduce future need to build additional refuse disposal facilities, and any associated environmental impacts. It is expected that the preparation plant will produce approximately 3.0 million cubic yards of coarse coal refuse per year, and approximately 2.5 million cubic yards of fine coal refuse per year. For a potential refuse facility site to be practicable, it must have a minimum storage capacity of approximately 27 million cubic yards. Sites to be considered were selected based on the two above-mentioned criteria while also minimizing environmental impacts.

While ten sites were initially considered, having been located in areas that have previously been undermined and minimization of aquatic ecosystem impacts evaluated, seven of the ten locations (Alternative Sites 1-4, and 6-8) did not meet the five-year minimum combined service criterion (approximately 27 million cubic yards of total storage) and were therefore eliminated from further study and discussion.

No Action – A No Action Alternative would result in early termination of operations at the Pond Creek Mine No. 1 and its preparation plant. This would result in the loss of 7.7 million tons of coal entering the marketplace annually, as well as losing over 265 jobs. Payroll taxes, coal severance taxes, mineral resource taxes, and local retail trade. This alternative was determined not to be practical.

Alternative Site 1 was found to have multiple oil/gas wells adjacent to and within the site. These features include injection wells for an underground gas storage field that cannot be covered by a refuse disposal facility. In the absence of these wells, this site may have been enlarged into a single, larger facility. The land remaining outside of these wells is not of adequate size to meet the minimum facility lifespan criterion. This property at one point was previously owned by the applicant but is no longer available to them via ownership or lease. Immediately to the north of the proposed site is an existing gas line location that also cannot be covered by mining operations. Site 1 could also not be combined with Sites 2-4 due to the presence of a water line running to the Big Muddy River. This site was not considered further.

Alternative Sites 2-4 could be combined but would result in additional stream impacts not originally accounted for in the analysis although this would result in an increase of approximately 4,000,000 cubic

yards of storage. Either individually or cumulatively Sites 1-4 do not meet the minimum required storage capacities and are not on property controlled or available to the applicant and were not further evaluated.

Alternative Site 5 was identified as the largest location by total volume. Site 5 provides approximately 34.1 million cubic yards of storage, with no identified stream impacts and limited wetland impacts. Site 5 was found to contain the highest percentage of prime farmland soils of any of the evaluated alternative sites, with 180.06 acres out of 280.68 (64%) containing prime farmland soils, nearly double the average percent of prime farmland of all the evaluated alternatives at 33%. Site 5 was identified as containing a high voltage power transmission line that would require its relocation in order to construct the facility as proposed. Alternative Site No. 5 however is not available to the applicant via ownership or lease and therefore not further evaluated.

Alternative Site 6 was initially considered having been located in a previous undermined area and would only have minimal environmental impacts. However, it did not meet the five-year minimum combined service criterion and was eliminated from consideration.

Alternative Site 7 was not identified as having sufficient volume to meet the project purpose and need and therefore not further evaluated. Additionally, since this site was originally evaluated the western portion of the site has been utilized as a buttress location for the existing Permit No. 417 RDA, which would further decrease the available storage area of this location. This alternative was determined to not be a practicable alternative as it did not meet the project purpose or need. This site may potentially be utilized as a borrow area for cover material in the future of the operations or other legitimate mine use. This location is currently completely controlled by the Applicant.

Alternative Site 8 is controlled by the applicant; however, it was determined that it would only provide 0.8 years of coal refuse storage area. The site also contained the highest density of stream per acre of proposed disturbance. Because Alternative Site 8 did not have sufficient volume to meet the project purpose and need it was not evaluated further and not considered to be the Preferred Alternative.

Alternative Site 9 (Preferred Alternative) was determined to be the Least Environmentally Damaging Preferred Alternative for the proposed project. Alternative Site 9 was identified as a practicable alternative and was fully evaluated. This site was found to be approximately 29% prime farmland soil (158.1 acres out of 540.2 acres). Site 9 was found to be the most efficient operation environmentally (stream impacts per million cubic yards (MCY) of storage area, Wetland impacts per MCY) and was also high operationally in terms of total cost per cubic yard. The total costs associated with this site was the fourth highest of all evaluated locations and the highest of all sites controlled by the Applicant (7-9); however, the volume of material that can be stored at this site makes the cost per placed yard the third lowest of all evaluated locations and the second lowest of all sites controlled by the applicant. For the above reasons Alternative Site 9 was selected as the Preferred Alternative and Least Environmentally Damaging Practicable Alternative.

Alternative Site 10 was also identified as not having sufficient volume to meet the project purpose and need, was not available to the applicant via ownership or lease and therefore not further evaluated. This location was identified as providing approximately 4.5 years of combined storage.

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

On September 8, 2023, an IDNR EcoCAT consultation (Project #2403898) was initiated for the proposed project.

The Illinois Natural Heritage Database showing the following protected resources may be in the vicinity of the project location:

Chuck-will's-widow (*Caprimulgus carolinensis*)
Indiana bat (*Myotis sodalis*)

The Department determined that impacts to the above-listed species would be unlikely provided tree clearing only occurs from November 1 through March 31.

On September 16, 2024, the U.S. Fish and Wildlife Service, provided comments indicating that “the Service has determined that the take of 108.69 acres of known Indiana bat habitat is not likely to jeopardize the continued existence of the species. In addition, we have determined that the proposed project is not likely to jeopardize the continued existence of the tricolored bat”.

The USFWS IPaC database lists four federally listed species as potentially occurring in Franklin and Williamson Counties, including the endangered Indiana bat (*Myotis sodalis*), the endangered northern long-eared bat (*Myotis septentrionalis*), and the proposed endangered tricolored bat (*Perimyotis subflavus*). The proposed project offers very limited habitat structure for potential roost trees and offers no caves/mines for hibernation of the Indiana and northern long-eared bat. However, tree removal would be restricted to the winter months. The proposed project area is primarily an active agricultural field, a small riparian corridor along an intermittent stream that does not offer preferred habitat for Eastern Prairie Fringed orchid and Prairie Bush clover.

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 will 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 will benefit the local community by allowing continuation of mining activities as well as providing jobs and in turn, supporting the economy. Comments received during the 401 Water Quality Certification public notice period will be evaluated before a final decision is made by the Agency.