

**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:

Wednesday, October 22, 2025

Public Notice Ending Date:

Tuesday, November 11, 2025

Agency Log No.: C-0232-24

Federal Permit Information: Federal permit/license no. LRC-2018-113 is under the jurisdiction of Chicago District, Regulatory Branch U.S. Army Corps of Engineers

Name and Address of Discharger: Gilberts Development LLC, Mr. Troy Mertz - 1834 Walden Square, Unit 300, Schaumburg, IL 6017

Discharge Location: In Statewide/Regional in Kane County. Additional project location information includes the following: NWC Freeman Road and Galligan Road, Village of Gilberts, IL 60136

Name of Receiving Water: S Branch Kishwaukee River

Project Name/Description: The Conservancy Neighborhoods 5-11 - proposed permanent impact to 1.85-acres and temporary impact to 0.40-acres of wetland for the proposed residential subdivision

Construction Schedule: Immediate (Planned project duration is approximately 1096 days)

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-0232-24-10222025-PublicNoticeAndFactSheet.pdf

401 Water Quality Certification Fact Sheet for Gilberts Development

IEPA Log No. C-0232-24

Contact: Angie Sutton 217-782-9864

Gilberts Development LLC (“Applicant”) has applied for a 401 Water Quality Certification for impacts associated with the construction of a residential subdivision and associated infrastructure in Township 42 North, Range 7 East, Sections 2 and 11, Kane County, Illinois near the northwest corner of Freeman and Galligan Road in the Village of Gilberts.

The proposed project will feature the construction of 595 single-family homes, associated roadways/infrastructure, stormwater management, and open space areas to complete the Conservancy Residential Subdivision neighborhoods 5-11 which is a continuation of the original master planned residential subdivision. Each neighborhood will be connected by the main road, Julie Drive, as well as some additional internal roads. Three full-service entrances off Galligan, Huntley, and Kreutzer Roads will enter and exit the subdivision, and fifteen vegetated detention basins will provide stormwater management.

The project is expected to permanently impact 1.26 acres (Ac) of jurisdictional wetland and temporarily impact 0.4 Ac. The majority of permanent wetland impacts will result from construction of the proposed road to provide neighborhood connections. Additionally, the project will require crossing two jurisdictional tributaries (C & D) for Julie Drive via box culvert. The proposed crossings are perpendicular to the jurisdictional ditch as the narrowest point in Neighborhood 6 & 7 and also at Neighborhood 8 & 10. Permanent impacts to Waters of the US (WOUS) are expected in 0.11 Ac of stream. Proposed mitigation for the 1.26 Ac of permanent wetland impacts includes purchasing 3.78 wetland bank mitigation credits at a mitigation ratio of 3:1. Tributaries C and D will require mitigation at a ratio of 2:1.

Information used in this review was obtained from the application documents dated January 24, 2018, August 2, 2024, October 17, 2024, December 10, 2024, December 13, 2024, and August 25, 2025.

Identification and Characterization of the Affected Water Body.

The unnamed tributaries of South Branch Kishwaukee River-East (Ditches 1 and 3) have 0 cfs of flow during critical 7Q10 low-flow conditions. The unnamed tributaries of South Branch Kishwaukee River-East are classified as a General Use Water. The unnamed tributaries of South Branch Kishwaukee River-East 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 South Branch Kishwaukee River-East, tributaries to Waterbody Segment IL_PQI-H-D1, are not listed on the 2024 Illinois Integrated Water Quality Report and Section 303(d) List as they have not been assessed. The unnamed tributaries of South Branch Kishwaukee River-East are not subject to enhanced dissolved oxygen standards.

Per the NWI map review, Ditch 1 (Tributary C) and Ditch 3 (Tributary D) are remnant farm ditches that are identified as Riverine, Intermittent, Streambed, Seasonally Flooded (R4SBC). Both are mainly channelized and are connected to larger emergent wetlands found upstream. Ditches 1 and 3 convey surface water flow to the South Branch Kishwaukee River-East. The majority of the water entering the ditch is via drain tile or from the upstream emergent wetlands. Surface flows caused by rain event or snowmelt cannot drain from the farm fields directly to the ditches due to a berm created by historical side-casting of dredged materials.

Both ditches are defined by the Ordinary High-Water Mark (OHWM). Midwest Ecological, Inc. (MEI) observed scour line within the interior slope of Ditch 1 signifying highwater flow along with a natural line depression and erosion. The shoreline consists of eroded 1:1, 2:1 and 3:1 slope, along with scour, exposed tree roots, and fallen trees within the flagged boundary. The ditch bottom for Ditch 1 was approximately 12' wide but only had a 2' wide flow within the center of the stream bottom. A portion of Ditch 1 has a flat shoreline and is established by bed and bank. Portions of the ditch have steeper slopes where OHWM indicators were used. The ditch bottom for Ditch 3 was approximately 12' wide but only had a 4' wide flow within the center of the stream bottom.

It is assumed that flow within the ditches surge during significant weather events along with a backwater condition from the South Branch Kishwaukee River. A review conducted during the growing season of 2024, showed the ditches have a low-level base flow consistent with an intermittent stream. Beaver activity was also noted within the ditches and South Branch Kishwaukee River.

On June 5, and August 23, 2017, V3 Companies (V3) performed a wetland survey for the 541.65 Ac project area. Seventeen wetlands/farmed wetlands, one WOUS, and eight farm ditches were identified within the survey area. The jurisdictional wetlands identified found to lie within the proposed project area are Wetlands 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, and 17; however, of these only Wetlands 6, 8, 11 (A), and 13 will be impacted by the proposed project. A total of 1.26 Ac of permanent wetland impacts and 0.11 Ac of stream impacts are expected as a result of the project. Wetland 8 will undergo 0.4 Ac of temporary impacts.

Wetland Site	Community Type	High Quality Aquatic Resource? (Y/N)	FQI/ Native Mean C	Acreage in Survey Area (Ac)	Acreage Permanently Impacted (Ac)
6	Emergent Wetland	Y	23.85/3.56	22.92	0.71
8	Emergent Wetland	Y	21.24/3.32	53.98	0.03
11A	Farmed Wetland	N	N/A	0.36	0.36

13	Farmed Wetland	N	N/A	0.16	0.16
			Total	94.64	1.26

Wetland 6 is a high-quality emergent wetland located in the southern portion of the subject property. It consists of three high quality emergent wetland areas that are hydrologically connected to the South Branch Kishwaukee River - East. Dominant vegetation included narrow-leaved cattail (*Typha angustifolia*), Indian-hemp (*Apocynum cannabinum*), and late goldenrod (*Solidago gigantea*). This area qualifies as a wetland by satisfying the vegetation, soils, and hydrology criteria.

Wetland 8 is a high-quality emergent wetland located throughout the eastern portion of the center of the subject property. It consists of a high-quality emergent wetland that is hydrologically connected to the South Branch Kishwaukee River - East. Dominant vegetation included Dudley's rush (*Juncus dudleyi*), flat-top goldenrod (*Euthamia graminifolia*), late goldenrod (*Solidago gigantea*), field horsetail (*Equisetum arvense*) and limestone-meadow sedge (*Carex granularis*). This area qualifies as a wetland by satisfying the vegetation, soils, and hydrology criteria.

Wetland 11A is a non-high-quality farmed wetland located in the northern portion of the subject property in agricultural cropland. The farmed wetland is hydrologically connected to the South Branch Kishwaukee River - East. Dominant vegetation is corn (*Zea mays*) stubble from last year's crop. This area does not qualify as a wetland; however, the area does qualify as farmed wetland.

Wetland 13 is a non-high-quality farmed wetland located in the southern portion of the subject property in agricultural cropland. The farmed wetland is hydrologically connected to the South Branch Kishwaukee River - East. The area is located in an unvegetated agricultural field. However, this area qualifies as farmed wetland. This area does not satisfy the vegetation criterion and does not qualify as wetland. However, this area qualifies as farmed wetland.

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 are a normal and unavoidable result of construction and grading that may occur in the wetland. The existing benthic habitat of the wetland would be permanently removed by grading/filling activities. The proposed construction activities include the discharge of fill material within the project area for roadway and detention basin activities. The fill material will be locally sourced from either on-site or as clean construction fill imported from existing local roadway projects.

Permanent impacts to Wetlands 6 and 13 are expected as a result of roadway construction, 11A as a result of detention basin construction, and Wetland 8 as a result of a combination of both roadway and detention construction. Additionally, temporary impacts to Wetland 8 are expected to occur in order to facilitate the installation of a watermain. The watermain will be open cut via

backhoe through the wetland and restored with native seeding. The project will require a total of 1953 CY of fill in wetlands and 706 CY of fill in streams.

Feature	Type of Impact	Amount of Fill (CY)
Wetland 6	Roadway	1141
Wetland 8	Roadway and Detention Basin	10
Wetland 11A	Detention Basin	538
Wetland 13	Roadway	264
Total:		1953
Tributary C	Box Culvert	503
Tributary D	Box Culvert	203
Total:		706

Fate and Effect of Parameters Proposed for Increased Loading.

Wetlands 6, 8, 11A, and 13 will be permanently impacted as a result of filling 1.26 Ac for road and detention basin construction. Mitigation of the 1.26 Ac of permanent impacts to jurisdictional wetlands is proposed through PRM offsite at a mitigation ratio of 3:1. Tributaries C and D will require a mitigation ratio of 2:1.

A Permittee Responsible Mitigation (PRM) site is being developed on a 12 Ac parcel east of Galligan Road. The site is adjacent to the Conservancy Neighborhood which is approximately one mile south of the proposed Conservancy North Neighborhood. This site will create a minimum of 3.78 Ac of wetland in the southwest corner of the parcel, close to the South Branch Kishwaukee River. Currently the site is composed entirely of hydric soils and used as an agricultural field. The farmed wetland will be re-established with a mixed wet meadow and emergent plant community wetland. The goal would be to provide ecological lift of water quality, flood control, and habitat. This mitigation plan is under review for approval by the USACE.

Wetland Site	Community Type	Impact Area (Ac)	Mitigation Ratio	Mitigation Credits Required
6	Emergent Wetland	0.71	3:1	2.13
8	Emergent Wetland	0.03	3:1	0.09
11 A	Farmed Wetland	0.36	3:1	1.08
13	Farmed Wetland	0.16	3:1	0.48
			Total	3.78

Roadway Crossing				
Site ID	Site Type	Impact Area (Ac)	Mitigation Ratio	Mitigation Credits Required
Tributary C	Ditch 1	0.06	2:1	0.12
Tributary D	Ditch 3	0.05	2:1	0.1
			Total	0.22

The proposed plan preserves 99% of the jurisdictional wetlands identified in the project area. The permanent wetland impacts are mainly for the roadways to connect the neighborhoods together. The neighborhood roadways locations have been strategically placed to minimize the wetland impacts. The roadways have also been placed/aligned so as to avoid wetlands as much as possible. This includes construction of crossings at the narrowest parts of the wetlands. Additionally, avoidance of 0.4 Ac Wetland 8 was not possible as the temporary impact will provide the closest and most direct route to the Gilberts Water Tower.

The proposed detention basins will incorporate BMPs that will replicate wetland and prairie functions, promote filtration, infiltration and evapotranspiration, reduce sediment migration, and prevent erosion. This will be achieved through native plantings that will allow for filtration of nutrients to be discharged from surrounding uplands and roadways, reduction of erosion and provision of wildlife habitat as well as to provide aesthetic value. The stormwater detention basins will allow for settling of solids, biological uptake of soluble pollutants by phytoplankton, and chemical adsorption of pollutants to fine suspended sediment that are susceptible to runoff during storm events.

Concerning both Ditch 1 (Tributary C) and Ditch 3 (Tributary D), all stormwater outfalls will discharge outside the OHWM boundary. The basins flared-end-section (FES) will be installed within the bank. The outfalls will be excavated, via scoop method to create a swale feature at the end of the proposed outfall resulting in a non-point discharge and no impact.

In relation to Ditch 1, basins 9A, 9B & 10A will be installed outside the OHWM boundary. Basin 10B will be discharged within the proposed box culvert at the requested roadway crossing within Neighborhood 8. Basin 8B will be installed outside the approved boundary of Wetland 10. The FES will be located within the proposed buffer area per the Kane County Stormwater Ordinance.

In relation to Ditch 3, Basin 7B drains to Basin 7A and discharges to the proposed box culvert at the requested roadway crossing within Neighborhood 6/7 to Ditch 3. Basins 6B, 6C & 7A will be installed outside the OHWM boundary of Ditch 3. Basin 5C will drain to a dry swale that is tributary to Ditch 3. The FES will be installed within the dry swale. Basin 5B will drain to an existing shallow channel upstream of the South Branch Kishwaukee River. Basin 5A, along with basins 4A-4C, will drain to the S. Branch Kishwaukee River via the same methods as above. The outfall to the Kishwaukee River was previously approved under LRC-2018-113 on July 12, 2024, for the Conservancy Neighborhood 4 project.

Appropriate BMPs and erosion control measures will be taken during construction operations to reduce the potential for unintentional sedimentation and sediment runoff into adjacent regulated waters. Examples of sediment and erosion control measures include but are not limited to an erosional barrier around the perimeter of the site, inlet and pipe protection and filters, seeding of vegetation, and the digging of temporary ditches. BMPs will be monitored during construction and repaired of deficiencies until the site is stabilized. Temporary BMPs will remain in place until the site is stabilized or reclaimed with vegetation.

Purpose and Social & Economic Benefits of the Proposed Activity.

The purpose of the project is to develop a portion of a 541.65 Ac farm in order to complete a large residential development. This development was historically approved and started within the Village of Gilberts in 2006 but has largely remained unfinished. The project will complete developer obligations and secure the municipal bonds that were sold in 2006 to facilitate the original development guarantees including infrastructure improvements to the wastewater treatment system and water utilities that have yet to be constructed. The completion of this development will provide the necessary infrastructure improvements to facilitate further growth within the community including the proposed residential subdivision, adjacent elementary school and future development to the north. The need for housing is at an all-time high and the supply is at a low. The proposed project will also provide an increase in property tax revenue. The previously planned work in the Conservancy will help facilitate the completion of the community plan.

Additionally, the proposed roadway connection between neighborhoods 5/6, 6/7 and 8/9 will provide connectivity for all neighborhoods from Galligan Road to Huntley-Dundee Road. These connections are critical to regional traffic patterns and have been discussed at length with the local division of transportation. Finally, the Village of Gilberts and local fire districts expressed that it was critical to have multiple points of emergency access to the neighborhoods if road usage is blocked or inaccessible.

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

The Applicant has provided the following alternatives:

No Action Alternative:

This alternative would allow for the number of available lots in the village for single family housing to continue to be very limited and force building and development to other communities thus limiting the village's tax base and growth opportunities. Building and employment opportunities in the village would be reduced. When farm tiles were installed, the aquatic resources of this property were severely reduced and deteriorated significantly. A No Action alternative would allow the wetlands to continue to deteriorate as a result of allowing the existing farm drainage tiles to continue to degrade which would in turn prevent on-site and off-site drainage. This alternative is not practical and therefore not considered further.

Off-site Location:

When the Conservancy Farm was initially approved for residential development, alternative sites were investigated. Areas of land within the Village were deemed unsuitable due to size, and not as

beneficial to the community as the current site. Land values were found to be similar, however, the sizes were not. There are several farms in the area that could be potential site alternatives, however, the preferred alternative site is included in a fully master planned development. All approvals for the Conservancy Neighborhoods were historically designed and approved but were never built and approvals expired. The development of the current property will complete a previously designed and approved development. The off-site location alternative is not preferred and was therefore not considered further.

Develop Site Without Disturbing the Jurisdictional Wetlands:

The proposed development already minimizes the impacts to the jurisdictional wetlands. A further reduction of requested wetland impacts will prohibit large areas of land from being developed as those individual neighborhoods would not be accessible resulting in a divided development. The reduction of developable acreage is not preferred by the village or developer.

Preferred Alternative:

The preferred alternative is to develop the subdivision as it was historically master planned. The proposed project will develop neighborhoods 5-11 which is mostly farmland. A series of large jurisdictional emergent wetlands are found within the development totaling 152.66-acres. The proposed development avoids 98.8% of the jurisdictional wetlands. The majority of the wetland impacts will result from the proposed roadway that will connect the neighborhoods together. The road has been designed to weave around the wetland as best as possible in order to avoid wetland areas or to impact the wetland at the narrowest point. The project would require the crossing of two jurisdictional tributaries (C & D) for Julie Drive via box culvert. The proposed crossings are perpendicular to the jurisdictional ditch as the narrowest point in Neighborhood 6 & 7 and also at Neighborhood 8 & 10. Stormwater management basins will be constructed to manage stormwater and compensatory storage. Wetland and prairie functions will be facilitated by native plantings along with the open water of these features and will be placed within the wetland buffer areas. This will increase open space and habitat around the wetland complex as well as provide separation from the residents and protected/preserved wetlands. The proposed stormwater basins will promote filtration, infiltration, and evapotranspiration, and capture pollutants generated from the project construction.

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

On July 22, 2024, a USFWS IPaC official species list request was completed. The USFWS IPaC report indicated the following species as having potential to exist on site: the Northern Long-eared Bat (*Myotis septentrionalis*), Eastern Prairie Fringed Orchid (*Platanthera leucophaea*), Monarch Butterfly (*Danaus plexippus*), Whooping Crane (*Grus americana*), and Rusty patched bumblebee (*Bombus affinis*).

The USFWS determined that based upon the IPaC submission and a standing analysis that the project has reached a “No Effect” determination on the northern long-eared bat. Additionally, it has been determined that the project will have no effect on the Eastern Prairie Fringed Orchid, Monarch Butterfly, Whooping Crane, or Rusty patched bumblebee since no suitable habitat was found within the action area.

An EcoCAT consultation (Project # 2501007) was initiated on July 22, 2024. The Illinois Natural Heritage Database showed the following protected resources may be in the vicinity of the project location:

- Freeman Kame INAI Site
- Freeman Kame Nature Preserve
- Blanding's Turtle (*Emydoidea blandingii*)
- Rusty Patched Bumble Bee (*Bombus affinis*)

“Due to the project scope and proximity to protected resources, the Department offers the following comments and recommends the following actions be taken to avoid adversely impacting listed species and/or protected natural areas in the vicinity of the project:

Blanding's Turtle

EcoCAT has indicated records for the state-listed Blanding's Turtle in the project area. Based on the scope and schedule of the proposed work and known occurrences of Blanding's Turtle in the project area, the Department recommends the following:

- The Department recommends the project proponent seek an Incidental Take Authorization (ITA) pursuant to Part 1080 and Section 5.5 of the *Illinois Endangered Species Protection Act* for the Blanding's Turtle. All questions pertaining to ITA should be directed to the ITA coordinator, Heather Osborn (Heather.Osborn@Illinois.gov). Visit the link below for information on the ITA process: Incidental Take Authorizations - Species Conservation (illinois.gov) Incidental Take Authorizations - Species Conservation (illinois.gov)

Rusty Patched Bumble Bee

The Department has determined that impacts to the Rusty-Patched Bumble Bee are unlikely.

“Please note that due to the federal status of the Rusty Patched Bumble Bee, and its potential occurrence in the project area, coordination with the U.S. Fish and Wildlife Service may be necessary and is separate from this consultation and Illinois State regulations.”

Given the above recommendations are adopted, the Department has determined that impacts to these protected resources are unlikely. The Department has determined impacts to other protected resources in the vicinity of the project location are also unlikely. Consultation on the part of the Department is closed.

“The Department also offers the following conservation measures be considered to help protect native wildlife and enhance natural areas in the project area:

- Good housekeeping practices should be implemented and maintained during and after construction to prevent trash and other debris from inadvertently blowing or washing into nearby natural areas.
- Soil erosion and sediment control BMPs should be implemented and properly maintained. Wildlife-friendly plastic-free blanket should be used to prevent the entanglement of native wildlife.

- A long-term invasive species management program should be implemented to avoid the spread of invasive species.
- The project proponent should consider native plantings in the landscape design, when feasible.
- Any required night lighting should follow International Dark-Sky Association's (IDA) Five Principles for Responsible Outdoor Lighting to minimize the effect of light pollution on wildlife: [Five Principles for Responsible Outdoor Lighting | DarkSky International](#)

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 Village of Gilberts by providing in-demand housing and the associated property tax revenue, as well as infrastructure benefits. Comments received during the 401 Water Quality Certification public notice period will be evaluated before a final decision is made by the Agency.

cc: Des Plaines Regional Office – Surface Water Manager