IEPA Log No.: **C-0091-16**
CoE appl. #: **2016-00174**

Public Notice Beginning Date: **April 26, 2018**
Public Notice Ending Date: **May 25, 2018**

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

Section 401 Water Quality Certification to Discharge into Waters of the State

Public Notice/Fact Sheet Issued By:

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

Name and Address of Discharger: Fox Waterway Agency, 45 S. Pistakee Lake Road, Fox Lake, IL 60020

Discharge Location: Fox River Chain O' Lakes from Wisconsin state line to dam in Algonquin just south of Illinois Route 62

Name of Receiving Water: Fox River, Fox Chain O' Lakes and connecting channels.

Project Description: 10-year maintenance dredging and debris removal.

The Illinois Environmental Protection Agency (IEPA) has received an application for a Section 401 water quality certification to discharge 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 call Thaddeus Faught at 217/782-3362.

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Fact Sheet for Antidegradation Assessment
Fox Waterway Agency – Fox River, Fox Chain O'Lakes, Dutch Creek, and Interconnecting Channels – Lake and McHenry Counties
Log # C-0091-16
COE # 2016-00174
Contact: Abby Brokaw 217/782-3362
April 26, 2018

Fox Waterway Agency ("Applicant") has applied for 401 Water Quality Certification to reauthorize maintenance dredging and debris removal over 10 years on the Fox River; Fox River Chain O' Lakes; Dutch Creek, a tributary of the Fox River; and associated navigable channels of the Fox River between the Algonquin Dam and the Wisconsin State line. The Fox River Chain O' Lakes includes the immediate vicinities of Channel, Catherine, Marie, Bluff, Spring, Petite, Grass, Fox, Nippersink, and Pistakee Lakes and interconnecting channels. The project sites are along the borders of Lake and McHenry counties in Illinois, predominantly in Lake County. The Applicant has been performing this work for 20 years under individual 10-year permits.

Per 615 ILCS 09/7.1, the Applicant is responsible for implementing appropriate and reasonable programs and adopting necessary and reasonable ordinances and rules to improve and maintain the Fox River Chain O' Lakes recreational waterway for the purposes of boating, sailing, canoeing, swimming, water skiing, rowing, iceboating, fishing, hunting and other recreational uses to help prevent or control flooding of the waterway, to improve recreational uses of the waterway, to prevent pollution and otherwise improve the quality of the waterway, to promote tourism, and to create administrative procedures for establishing restricted areas.

The Applicant requests reauthorization to perform mechanical maintenance dredging on public channels and remove floating and submerged debris interfering with channel navigation for a period of 10 years. Maintenance dredging activities would include excavating the channels using an excavator and amphibious excavator. Dredged materials would be loaded directly into trucks or barges and hauled to previously permitted upland disposal sites. Debris removal includes the removal of floating and submerged debris interfering or potentially interfering with navigation within the Fox River Chain O' Lakes and adjacent public waters. All debris removed will be hauled away to appropriate facilities. Large trees may be pushed up along uninhabited banks for erosion control and habitat development.

The Applicant will continue to notify the USACE, IDNR, and USFWS at least seven days prior to commencement of dredging activities on the Fox River Chain O' Lakes. The information provided would include, at a minimum, a schedule of work, location map, dredge material disposal site location, shoreline character of project site, quantity of materials to be removed, location and type of equipment access, restoration plans for all areas disturbed at the access point, and erosion control plans for upland disposal areas adjacent to waters of the United States, including wetlands.

The purpose of the proposed work is to maintain navigable depths and remove boating hazards, channel obstructions, and debris in the Fox River Chain O' Lakes. The Applicant proposes to conduct maintenance operations, mechanical, dredging and debris removals, in all public waters in their jurisdiction, per 615 ILCS 90/7.1.

Identification and Characterization of the Affected Water Body

The proposed project will occur along the Fox River between the Algonquin Dam and the Wisconsin State line, including the Fox Chain O'Lakes, Dutch Creek (a tributary of Fox River), and interconnecting channels.

The Fox River segments impacted by project sites includes Waterbody Segments IL_DT-35, IL_DT-23, IL_DT-22, and IL_DT-06. The Fox River has a 7Q10 flow of 0.20 cfs at the Wisconsin State line and a 7Q10 flow of 114 cfs at the Algonquin Dam. The Fox River is a General Use Water. The segments of the Fox River are not listed as biologically significant in the Illinois Department of Natural Resources publication *Integrating Multiple Taxa in a Biological Stream Rating System*. The segments of the Fox River are not subject to enhanced dissolved oxygen standards. All of the aforementioned segments are listed on the draft 2016 Illinois Integrated Water Quality Report and Section 303(d) List for impairments itemized below.

The Fox River, Waterbody Segment IL_DT-35, is listed as impaired for aquatic life use with potential causes given as aquatic algae (non-pollutant), other flow regime alterations (non-pollutant), and sedimentation/siltation (non-pollutant); fish consumption use with a potential cause given as polychlorinated biphenyls; and primary contact use with a potential cause given as fecal coliform. Aesthetic quality use is fully supported. This segment of the Fox River is given a "A" using IDNR's integrity rating system.

The Fox River, Waterbody Segment IL_DT-23, is listed as impaired for aquatic life use with potential causes given as alteration in stream-side or littoral vegetative covers (non-pollutant), aquatic algae (non-pollutant), other flow regime alterations (non-pollutant), and cause unknown; and fish consumption use with a potential cause given as polychlorinated biphenyls. Primary contact, secondary contact and aesthetic quality uses are fully supported. This segment of the Fox River is given a "B" using IDNR's integrity rating system.

The Fox River, Waterbody Segment IL_DT-22, is listed as impaired for aquatic life use with potential causes given as alteration in stream-side or littoral vegetative covers (non-pollutant), aquatic algae (non-pollutant), chloride, copper, other flow regime alterations (non-pollutant), and sedimentation/siltation (non-pollutant); fish consumption use with a potential cause given as polychlorinated biphenyls; and primary contact use with a potential cause given as fecal coliform. Aesthetic quality use is fully supported. This segment of the Fox River is given a "B" using IDNR's integrity rating system.

The Fox River, Waterbody Segment IL_DT-06, is listed as impaired for aquatic life use with potential causes given as alteration in stream-side or littoral vegetative covers (non-pollutant), aquatic algae (non-pollutant), other flow regime alterations (non-pollutant), and dissolved oxygen (non-pollutant); fish consumption use with a potential cause given as polychlorinated biphenyls; and primary contact use with a potential cause given as fecal coliform. Aesthetic quality use is fully supported. Approximately 3 miles of the upstream portion of this segment is given an "B" using IDNR's integrity rating system and approximately 3 miles of the downstream portion of this segment is given a "C" rating.

The project will also impact Dutch Creek (IL_DTN), a General Use tributary to the Fox River, Waterbody Segment IL_D-23, with 0 cfs of flow during 7Q10 low-flow conditions. Dutch 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. Dutch Creek, Waterbody Segment IL_DTN, is not listed on the draft 2016 Illinois Integrated Water Quality Report and Section 303(d) List, since it has not been assessed. Dutch Creek is not subject to enhanced dissolved oxygen standards.

The Fox River Chain O' Lakes includes the immediate vicinities of Channel, Catherine, Marie, Bluff, Spring, Petite, Grass, Fox, Nippersink and Pistakee Lakes and interconnecting channels. All of these lakes are General Use waters with 0 cfs of flow during 7Q10 low-flow conditions. None of the aforementioned lakes are listed as biologically significant streams in the 2008 Illinois Department of Natural Resources publication *Integrating Multiple Taxa in a Biological Stream Rating System*, given an integrity rating in that document or subject to enhanced dissolved oxygen standards. The Fox River Chain O' Lakes are listed on the draft 2016 Illinois Integrated Water Quality Report and Section 303(d) List for impairments itemized below.

Channel Lake, Waterbody Segment IL_RTI, is listed as impaired for fish consumption use with potential causes given as mercury and polychlorinated biphenyls; and aesthetic quality use with potential causes given as aquatic algae (non-pollutant), aquatic plants (macrophytes), and phosphorus (total). Aquatic life use is fully supported.

Catherine Lake, Waterbody Segment IL_RTD, is listed as impaired for fish consumption use with a potential cause given as polychlorinated biphenyls; and aesthetic quality use with potential causes given as aquatic algae (non-pollutant), aquatic plants (macrophytes), and phosphorus (total). Aquatic life use is fully supported.

Marie Lake, Waterbody Segment IL_RTR, is listed as impaired for fish consumption use with potential causes given as mercury and polychlorinated biphenyls; and aesthetic quality use with potential causes given as phosphorus (total) and total suspended solids. Aquatic life use is fully supported.

Bluff Lake, Waterbody Segment IL_VTJ, is listed as impaired for aesthetic quality use with potential causes given as phosphorus (total) and total suspended solids. Aquatic life use is fully supported.

Spring Lake, Waterbody Segment IL_RGZT, is listed as impaired for aesthetic quality use with potential causes given as aquatic algae (non-pollutant), phosphorus (total) and total suspended solids. Aquatic life use is fully supported.

Petite Lake, Waterbody Segment IL_VTW, is listed as impaired for fish consumption use with a potential cause given as mercury; and aesthetic quality use with potential cause given as phosphorus (total). Aquatic life use is fully supported.

Grass Lake, Waterbody Segment IL_RTQ, is listed as impaired for fish consumption use with a potential cause given as polychlorinated biphenyls; and aesthetic quality use with potential causes given as phosphorus (total) and total suspended solids. Aquatic life use is fully supported.

Fox Lake, Waterbody Segment IL_RTF, is listed as impaired for fish consumption use with a potential cause given as polychlorinated biphenyls; and aesthetic quality use with potential causes given as phosphorus (total) and total suspended solids. Aquatic life use is fully supported.

Nippersink Lake, Waterbody Segment IL_RTUA, is listed as impaired for aesthetic quality use with potential causes given as phosphorus (total) and total suspended solids. Aquatic life use is fully supported.

Pistakee Lake, Waterbody Segment IL_RTU, as impaired for fish consumption use with potential causes given as mercury and polychlorinated biphenyls; and aesthetic quality use with potential causes given as phosphorus (total) and total suspended solids. Aquatic life use is fully supported.

Identification of Proposed Pollutant Load Increases or Potential Impacts on Uses

Pollutant load increases may include suspended solids during periods of dredging, placement of dredged material at disposal sites, and removal of debris. The benthic habitat to be dredged will be disturbed but should revert to its previous condition of aquatic life support soon after dredging.

Fate and Effect of Parameters Proposed for Increased Loading

The increase in suspended solids will be local and temporary. Increased depths in navigable areas may reduce sediment agitation from boating traffic, and reduce the volume of resuspended solids.

Purpose and Social & Economic Benefits of the Proposed Activity

This project is necessary to improve navigation, boat access, and reduce resuspension of sediment due to boat traffic. The Fox River Chain O' Lakes is a very popular recreation area in Northeast Illinois and plays an important role in the economic success of the area. It is widely used by commercial and recreational users. Not completing the maintenance dredging and debris removal as proposed would have a negative impact on boat access, navigability, local tourism, and recreational use.

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

The project will follow guidelines set forth by the Agency. Prior to the discharge of any dredged material, the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, and Illinois Department of Natural Resources shall be informed of the proposed dredging activity. Dredge material will be placed at permitted sites with appropriate soil and erosion control measures. Any new or additional dredge spoil placement sites will need to be reviewed individually. The least intrusive alternative would be to not allow dredging on the Fox River, Fox River Chain O' Lakes, Dutch Creek or associated interconnecting channels. However, this is not an acceptable alternative given that his is a useful project and will maintain navigational and recreational uses of the river system.

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

On August 30, 2016, IDNR's Division of Ecosystems and Environment issued the recommendation under Project #1700361 for the Applicant to initiate consultation of individual dredging projects through the online EcoCAT system. The project area initially submitted for consultation contains numerous state-listed aquatic and semi-aquatic plant and animal species, making a thorough review of potential adverse impacts difficult. IDNR also recommends the Applicant apply for Incidental Take Authorization, due to the location of sediment disposal sites and dredging operations. Provided the Applicant follows the aforementioned recommendations, by engaging in further consultation with IDNR, the IDNR Division of Ecosystems and Environment has no objection to 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, with the utilization of permitted disposal sites, the notification procedures listed above and recommendations from the IDNR EcoCAT consultation, will result in the attainment of water quality standards. 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. This activity will benefit the community at large by maintaining navigational and recreational uses of the river system. Comments received during the 401 Water Quality Certification public notice period will be evaluated before a final decision is made by the Agency.