

IEPA Log No.: **C-0320-16**
CoE appl. #: **LRC-2015-0937**

Public Notice Beginning Date: **January 13, 2020**
Public Notice Ending Date: **February 3, 2020**

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

Section 401 Water Quality Certification for Discharge of Dredged or Fill Material

Public Notice/Fact Sheet Issued By:

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

Name and Address of Discharger: Union Pacific Railroad Company– 1400 Douglas Street, Omaha, NE 68179

Discharge Location: Near Geneva in NW 1/4 of Section 12 of Township 39-North, Range 8-East of the East 3rd P.M. in Kane County.

Name of Receiving Water: Unnamed Tributary to Whites Creek, a Tributary to the Fox River

Project Description: Proposed placement of a 122 linear foot culvert to divert 0.97 acres of an unnamed tributary in association with the addition of a third mainline track along the Union Pacific – West Line.

The Illinois Environmental Protection Agency (IEPA) has received an application for a Section 401 water quality certification to discharge dredged or fill material 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 contact Francisco J. Herrera at email francisco.herrera@illinois.gov or phone no. 217/782-3362.

FJH:C-0320-16_401 PN and FS_06Jan20.docx

Fact Sheet for Antidegradation Assessment
For Union Pacific Railroad Company
IEPA Log No. C-0320-16
COE Log No. LRC-2015-0937
Contact: Angie Sutton 217/782-3362
Public Notice Start Date: January 13, 2020

Union Pacific Railroad (“Applicant”) has applied for a 401 Water Quality Certification for impacts associated with the addition of 122 linear feet (LF) of culvert to divert 0.97 acres of an unnamed tributary to Whites Creek in association with the addition of a third mainline track along the Union Pacific – West (UP-W) Line in Section 12 of Township 39 North, Range 8 East in Kane County, Illinois. The project site would be approximately located at the Kirk Road overpass in the city of Geneva. A permanent impact of 0.022 acres to the unnamed tributary to Whites Creek and 0.13 acres of indirect upstream impacts, will result from the placement of the culvert. In order to protect the fen to the south of the tracks, the only option is to construct the third mainline track to the north of the existing tracks. This would necessitate encapsulating the stream in 122 LF of steel culvert. Mitigation for the 0.022 acres of permanent and 0.13 acres of indirect stream impacts (for a total of 0.152 acres impacted) will consist of purchasing 0.456 acres of mitigation credits from the Gray Willows Mitigation Bank.

Information used in this review was obtained from the application documents dated August 2016, January 10, 2017, November 15, 2019, January 2, 2020 and subsequently submitted materials.

Identification and Characterization of the Affected Water Body.

Huff & Huff, Inc. (H&H) staff conducted wetland delineations for this project August 2016. According to the U.S. Army Corps of Engineers Chicago District’s Jurisdictional Determination dated January 10, 2017, the stream within Site 6 is considered jurisdictional waters and will have permanent impacts totaling 0.152 acres. The wetland delineation completed in August 2016 for Site 6 contains the area specific to the modification of the application. In the original application, 2.63 wetland acres and 0.97 stream acres were summarized for Site 6, but impacts associated with the modification area are smaller. The project area associated with only the modification, is expected to have similar characterization but on an overall smaller scale.

Site 6 contains the unnamed tributary to Whites Creek which crosses the Metra UP-West Line approximately 0.67 mile west of Kirk Road. The unnamed tributary to Whites Creek, a tributary to Waterbody Segment IL_DTP-01, has 0 cfs of flow during critical 7Q10 low-flow conditions. The unnamed tributary to Whites Creek is classified as a General Use Water. The unnamed tributary to Whites 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. The unnamed tributary to Whites Creek is not listed on the draft 2016 Illinois Integrated Water Quality Report and Section 303(d) List as it has not been assessed. The unnamed tributary to Whites Creek is not subject to enhanced dissolved oxygen standards.

The unnamed tributary to Whites Creek has a defined bed and banks within the project limits. Site 6 is dominated by hackberry (*Celtis occidentalis*), common buckthorn (*Rhamnus cathartica*), sandbar willow (*Salix interior*), common spikerush (*Eleocharis palustris*), Dudley’s rush (*Juncus dudleyi*), elderberry, narrow leaved cattail (*Typha angustifolia*), orange jewelweed (*Impatiens capensis*), prairie cordgrass (*Spartina pectinata*), purple loosestrife (*Lythrum salicaria*), and reed canary grass. The native FQI and native mean C-value of Site 6 are 13.3 and 2.3 respectively, indicating moderate floristic quality with some native character. Site 6 is depicted as a blue line stream and a PSS1C wetland on the NWI map and as a wetland *Introduction 6* (#2642, #2643, #2647), an ADID high functional value wetland (#2661), and an unrated stream on the Kane County ADID map. The stream is ephemeral at the Kirk Road Bridge and

is functionally impaired. A mussel study was completed for this project and found no specimens within the project area. Additionally, no fish were found to be inhabiting the project area.

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, a normal and unavoidable result of the excavation and culvert placement to divert the unnamed tributary to Whites Creek, may occur in the proposed project area. Impact of 0.97 acres of permanent stream are expected with placement of 122 LF of culvert to provide diversion of the stream. This activity is related to the placement of a third mainline track which can only occur on the north side of the existing tracks in order to avoid the fen on the south side. The proposed conversion of existing aquatic habitat to that of the enclosed culvert will remove the existing aquatic habitat uses that these areas currently possess.

Fate and Effect of Parameters Proposed for Increased Loading.

The increase in suspended solids will be local and temporary in association with placement of the culvert but impacts to the stream will be permanent. The 0.022 impacted stream acres, as well as indirect impacts to 0.13 acres of upstream areas, will be mitigated at a 3:1 ratio with the purchase of 0.456 acres of mitigation credits from the Gray Willows Mitigation Bank. The fringe wetland located adjacent to the waterway at this location was considered permanently impacted and was previously mitigated for.

Purpose and Social & Economic Benefits of the Proposed Activity.

According to the Applicant, “The Project is one of only two remaining double track sections along the UP-W Line between the Ogilvie Transportation Center and Elburn. As a result, this section often becomes a bottleneck for both commuter and freight trains, causing congestion and delays on the UP-W Line. Improvements have been identified to address the following key needs in this section: Commuter and freight train congestion; Commuter delays affecting Metra performance times and schedules; Unsafe vehicle back-ups and extended motorist wait times at grade crossings; and Idling freight and passenger trains. The Project is not expected to result in increased rail traffic or service. In addition, the Project is expected to reduce train congestion and idling commuter and freight trains”.

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

The Applicant has provided the following alternatives:

Option 1 – Shifting the third mainline track to the south:

This option results in a direct impact to a significant environmental resource (a fen) and property acquisition challenges. Kane County is not willing to sell a portion of their property or grant an easement which would be required for this option to be utilized, therefore, it was not chosen as an alternative.

Option 2 – Obtain an Easement within Kane County DOT ROW:

This option was not chosen, as the KDOT is not willing to grant an easement for the relocated stream on their property. Reasons for their denial of an easement are outlined in a letter to USACE dated September 11, 2019.

Option 3-(Preferred Option) Enclose the Stream in a Culvert within Union Pacific ROW:

This option allows the stream to remain within the UP ROW. After coordination with Kane County Division of Transportation, Union Pacific Railroad Company and Kane County both agree on enclosing the stream within UP Railroad land.

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

On January 2, 2020 the IDNR EcoCat review was initiated for the project area. The review identified protected resources that may be in the vicinity of the proposed action. This information was evaluated and it was determined that adverse effects are unlikely. IDNR terminated the consultation on January 2, 2020. The IDNR also reviewed the project for Interagency Wetlands Policy Act (IWPA) Compliance and has no objections. The Department concurs that 0.456 acres of mitigation at Gray Willows Mitigation Bank meets the requirements for IWPA compliance.

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 public through increased safety and efficiency of the railway. The proposed third mainline track would address UP-W line rail traffic congestion issues and remove bottlenecks along the corridor. It would help create a more fluid railroad operation, decrease commuter and freight train delays, reduce motorist wait time at grade crossings, decrease the number of idling freight trains, preserve Metra performance times, and eliminate commuter curfews for freight trains. Comments received during the 401 Water Quality Certification public notice period will be evaluated before a final decision is made by the Agency.