

IEPA Log No.: **C-0057-18**
CoE appl. #: **2018-85**

Public Notice Beginning Date: **May 16, 2018**
Public Notice Ending Date: **June 6, 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: Eagle River Coal, LLC, 29 West Raymond Street, Harrisburg, IL 62946

Discharge Location: Section 3, T10S, R6E of the 3rd P.M. in Saline County near Mitchellsville

Name of Receiving Water: Unnamed Wetland and Unnamed Open Water

Project Description: Eagle River Coal Mine #1 expansion (Syers tract).

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

Eagle River Coal, LLC – Unnamed Wetland and Unnamed Open Water – Saline County

IEPA Log No. C-0057-18

COE Log No. LRL-2018-85-JMG

Contact: Brian Koch 217/782-3362

May 16, 2018

Eagle River Coal, LLC (“Applicant”) has applied for a 401 Water Quality Certification for impacts associated with the expansion of surface mining operations in the OMM Permit 440 permit area. The expansion is the result of the obtainment of right of entry into land owned by the Syers family. This acreage was included in the application materials for OMM Permit 440 as well as the 401 Water Quality Certification for Log No. C-0390-12, but all associated permits were conditioned to prohibit activities on this land until right of entry had been obtained. The Applicant proposes to conduct surface mining throughout 42.4 acres of the property, with an additional 7.9 additional acres being used for support facilities. The remaining 52.73 acres would remain undisturbed. Surface mining activities would permanently remove a 0.02-acre palustrine scrub-shrub wetland and 0.19 acres of open water (pond). Impacts to these waters would be offset with compensatory mitigation at the mitigation site for Eagle River’s two approved Section 404 permits, which is located 0.5 miles east of the project location in the same watershed. Specifically, the wetland impacts would be compensated at a 2:1 ratio through the inclusion of 0.04 wetland acres into Eagle River’s existing stream and mitigation plan, which is presently undergoing ACOE review. The open water would be mitigated at a 1:1 ratio through inclusion of this acreage in the development of a 11.1-acre final cut lake, of which 0.19 acres would be dedicated to compensatory mitigation of the open water impacts.

Identification and Characterization of the Affected Water Body.

The palustrine scrub-shrub wetland is surrounded by farmland and is of low quality based on the vegetation present. The pond is of unnatural origin and was likely constructed for agricultural or livestock uses. The wetland and pond are General Use waters that possess zero cfs of flow during critical 7Q10 low flow conditions. Neither water body has been assessed under the Agency’s 305(b)/303(d) program, nor have they been given an integrity rating or been listed as biologically significant in the 2008 Illinois Department of Natural Resources publication *Integrating Multiple Taxa in a Biological Stream Rating System*. The waters are not designated as enhanced in regards to the dissolved oxygen water quality standard.

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

Pollutant load increases that would be associated with this project are limited to a potential increase in suspended solids during construction activities. Impacts to the uses of downstream waters due to suspended solids are not anticipated. Construction of the project would permanently fill 0.02 acres of a wetland and 0.19 acres of open water, which would remove the existing uses of these waters.

Fate and Effect of Parameters Proposed for Increased Loading.

The increase in suspended solids would be local and temporary and would be minimized to the greatest extent possible. Use of erosion control measures and BMPs would aid in filtering and retention of suspended solids to minimize transport to downstream waters. The permanent loss of wetland and open water habitat would be offset with compensatory mitigation at the nearby Eagle River mitigation site located within the same watershed.

Purpose and Social & Economic Benefits of the Proposed Activity.

The project would allow the Applicant to continue to extract the coal resources of the site for an additional 6 months, which would allow for continued employment of 95 Eagle River employees with an annual payroll of approximately \$9 million. Should the reserve not be mined, it would result in \$4.5 million in lost wages, \$500,000 in lost payroll taxes, and a loss of approximately \$400,000 in federal black lung and reclamation taxes. Additionally, there would be an approximate \$10 million decrease in revenue to the local economy due the loss of development and operational expenditures (e.g., goods, services) as well as contractual employment and other indirect jobs associated with the mine. The Applicant has already invested \$40 million in capital for infrastructure and equipment to mine, wash, and transport coal from this reserve. Shortening the life of this reserve would result in higher mine costs due to a shorter time frame to depreciate and amortize the investment.

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

The Applicant provided an assessment of alternatives in their application materials, which were received by the Agency on March 29, 2018. Alternative mining methods were considered and were assessed using several factors including geography, geology, economics, surface rights, and mineral rights. While other methods such as underground mining and auger/highwall mining may be practical at other sites, they were determined to be impractical for this project. Specifically, underground mining is not a practical alternative for this site given the small amount of coal onsite and the cost of purchasing underground mining equipment. Likewise, highwall and auger mining were deemed impractical due to the small surface acreage and the sizeable amount of the coal reserve that would be left behind due to the setback areas that would be associated with this method. Surface mining was determined to be the most practical means of recovering the coal resources of the site while minimizing overburden removal. It is estimated that 90-95% of the coal seam would be removed at this site via surface mining methods. Use of other mining methods would either be more costly or less effective. The least intrusive alternative would be a “No Action” alternative, which was also considered by the Applicant. However, this alternative does not meet the purpose and need of the project, nor would it allow for the continued social and economic benefits that the project would provide.

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

The IDNR EcoCAT system was consulted on July 11, 2016 in regards to the proposed activities. The Illinois Natural Heritage Database determined that the Northern Long-Eared Bat (*Myotis septentrionalis*) and the Indiana Bat (*Myotis sodalis*) may be in the vicinity of the project location. However, IDNR evaluated this information and concluded that adverse effects to the protected resources are unlikely. Consultation was terminated in a July 26, 2016 letter from IDNR.

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 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 the loss of the existing uses of the wetland and pond would be appropriately mitigated for; 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 local community by extending the life of the mine and allowing for continued employment and operation. Comments received during the 401 Water Quality Certification public notice period will be evaluated before a final decision is made by the Agency.