

CWA 404/401 Pre-Application Meeting Notes

Project:	Dept. of Army Reference No. 2025-0380 Dubuque Metropolitan Area Solid Waste Agency (DMASWA) Cell 10	
Subject:	CWA Section 404/401 Pre-Application/Scoping	
Date:	Thursday, May 08, 2025	
Location:	Virtual Microsoft Teams Meeting	
Attendees:	Jeff Nelson, USACE RI Regulatory Ian Willard, Iowa DNR 401 Brandon Harland, Iowa DNR Water Marie Todey, Iowa DNR 401	Mick Leat, Iowa DNR Solid Waste Will Nicholson, HDR Katie Kinley, HDR Quinn Damgaard, HDR

Agenda content is retained in these notes as standard text. Actual meeting discussion notes are added in red font.

Project Description

- 168 acre proposed horizontal expansion of existing landfill.
 - Existing landfill was initiated in 1976.
 - Iowa DNR Solid Waste Permit No. 31-SDP-02-75P.
 - 584 acre property, of which 115 acres are currently permitted for waste disposal.
 - Remaining 285 acres to be preserved as native ground.
 - Expansion would occur within existing property.
- Establish solid waste boundary in the near term.

IDNR Solid Waste Permitting Group would require that DMASWA demonstrate that a path exists to receive necessary approvals, including CWA Sections 404 and 401, and that a compliant landfill can be developed in the area. The initial solid waste approval would be for the 'master plan' – this is not 'approval to construct.' IDNR does not need a 404/401 permit in hand to permit the solid waste boundary. IDNR would need the 404/401 permit in hand in order to authorize its solid waste construction permit.

Purpose and Need

- Provide 190 years of forecasted solid waste disposal capacity for the Dubuque metropolitan area.
- Current landfill footprint will reach capacity in or before 2037.
 - Regional waste disposal options are currently in decline.
 - If landfills in the region reach capacity sooner than anticipated, additional waste may be diverted to the DMASWA landfill, resulting in a rapid decrease of site life.

DMASWA has a waste acceptance area that extends beyond Dubuque proper and into surrounding communities.

Alternatives Analysis

DMASWA has considered and analyzed multiple alternatives:

- New off-site locations
- Transferring waste to other landfills via transfer station(s) and semi-trucks
- Recycling/incinerating

Preferred Alternative provided as figure enclosure.

- Utilize DMASWA-owned property.
- Avoid new acquisition and introduction of a new landfill location.
 - Not feasible to acquire another contiguous property of similar size in Dubuque.
 - Environmentally responsible to maintain one landfill instead of multiple.
- Preserve undisturbed land elsewhere in Dubuque.
- Utilize existing infrastructure.
- Reduce transportation/hauling considerations.

Project Phasing, Impacts, and Schedule

- DMASWA requires a solid waste permit in hand for the expansion by March 2026.
 - Locks down future landfill waste boundary and informs future development of intended land use.
- Expansion would be phased over 100 years.
- Stream relocation of perennial tributary to South Fork Catfish Creek in 10 to 20 years.
- Ultimate build out would directly/indirectly impact:
 - Up to 25 acres of wetland, and
 - Approx. 16,000 linear feet of stream channel (all flow regimes).
 - Approx. 8,300 feet of primary channel would be relocated and replaced with 7,900 feet of new channel.

Landfill construction would occur by individual disposal cell, every 5-10 years.

The proposed western relocation of the unnamed tributary of South Fork Catfish Creek, which flows south to north, and essentially bisects the landfill expansion area, is needed 'soon' in the scheme of this project.

Topographical considerations, ancillary uses, setbacks, and stormwater management results in the hundreds of acres of native DMASWA property that would be preserved, despite the unavoidable impacts depicted above and occurring in the primary landfill expansion area.

Hydraulics and hydrological analysis is on-going. The ultimate replacement channel would be designed to accommodate the receiving drainage area and would consider the lesser length, relative to grade control.

The replacement channel would outlet in relative proximity to the existing, targeting to maintain the current watershed to the South Fork Catfish Creek, and associated flows would remain in the same/existing watershed.

CWA Section 404 Permitting

- Wetland delineation completed in 2024 (figures enclosed)

- Permitting approach:
 - Boundary determination now.
 - Impacts to occur in phases over decades.

Iowa Regional General Permit No. 41 would be the closest General Permit, but it has limited impact allowance.

The project, as defined, would likely require a CWA Section 404 Individual Permit, which requires a 6-12 permit review and authorization period and includes a joint 404/401 public notice. Permit duration would be 10 years.

Stream mitigation bank credits would be required first, in accordance with the mitigation hierarchy and regardless if the Iowa Stream Functional Assessment determines that the relocated channel has a higher function/value than existing. If mitigation credits are available, the relocated stream channel could not be applied as mitigation.

There is currently a stream mitigation bank near Edgewood, IA. Another stream bank may be coming on-line this summer. The USACE RIBITS website should be referenced to identify available stream credits.

On-site or off-site Permittee Responsible Mitigation may be an option if no bank credits are available. This would require a minimum 20 year protective easement.

The impacts tab of the Iowa Stream Mitigation Method spreadsheet should be used. The benefit/credit tabs should not be applied.

The ephemeral and intermittent stream channels, along with many of the delineated wetlands, included in the provided figures are likely not jurisdictional, in accordance with Section 404 of the Clean Water Act. USACE has received new guidance regarding jurisdiction in the last two weeks and expects even more regulatory rollback by July 2025. The most recent, and forthcoming, guidance is related to the “continuous surface connection” requirement of the Sackett decision.

NHPA Section 106 & ESA Section 7

- Cultural and habitat surveys completed in 2024.
- No post-survey coordination with SHPO to date.
- No USFWS coordination to date.

Discussion and Next Steps

No fatal flaws to DMASWA's proposed expansion were identified during the call.

A permit application would need to focus on a 10 year construction/impact duration. USACE cannot permit impacts beyond 10 years, and USACE is unaware of a scenario where an initial permit could be continually amended to accommodate future phases – USACE stated its willingness to investigate further and determine if there is any potential for this approach.

An Approved Jurisdictional Determination could be requested and would be good for 5 years. If requested, USACE may request a site visit.

All attendees are open to a follow-up meeting.

Provided Meeting Materials

- Project Location Figure
- Delineated Wetland Figure
- Cell Expansion Figure