

Public Notice
Antidegradation Analysis

Notice is hereby given that a draft antidegradation analysis (AA), associated with an application for Iowa Department of Natural Resources (DNR) Section 401 Water Quality Certification, has been completed for the following projects.

PROJECT DESCRIPTION: Streambank stabilization EQIP project on Mill Creek.
Approximately 350 feet of limestone rip rap stone toe protection with vegetation above.

The AA and supporting information are available at
<https://www.iowadnr.gov/Environmental-Protection/Water-Quality/Section-401-Water-Quality-Certification>.

Anyone wishing to comment on the AA must do so in writing by 4:30 PM on May 15, 2024. All relevant comments will be considered by the DNR. Written comments should be submitted by email to Section401WQC@dnr.iowa.gov or by mail to the DNR, Attn: Section 401 Water Quality Certification, 502 E Ninth St., Des Moines, IA 50319.

Memorandum

DATE: April 17, 2024
FROM: Brandon Harland
RE: Rationale for Section 401 Water Quality Certification for Corps Number 2023-1754; David Kendell

Project Description: Streambank stabilization EQIP project on Mill Creek. Approximately 350 feet of limestone rip rap stone toe protection with vegetation above.

[See the Corps/DNR public notice for more detail.]

Project Location: Section 6/7, Township 86N, Range 4E, and/or 42.2803/-90.5427, Jackson County

Receiving Water Bodies

Mill Creek is an A1, A2, BCW1, HH designated use waterbody. The designated uses have been adopted in Iowa's state rule, described in the rule-referenced document of Surface Water Classification effective on July 24, 2019. Mill Creek is an Outstanding Iowa Water, per the State adopted Iowa Antidegradation Implementation Procedure (2010 and 2016).

Antidegradation

Pollutants of Concern

This project proposes to establish a protected channel bank via rip rap revetment material to ensure the streambank is not further impacted by erosion. Chemicals will not be used. Thus, the pollutants present in the discharge from such construction are substances present in runoff, or are the result of a spill. The DNR has identified the following pollutant of concern in discharges from this project and the potential impacts on water quality:

Increased Turbidity/Total Suspended Solids

The turbidity of water is related to the amount of suspended solids contained in the water. Suspended solids decrease the clarity of water, reduce light penetration, and can impair the photosynthetic activity of aquatic plants. Suspended solids can be aesthetically displeasing and can reduce the recreational value of a water body. If suspended solids screen out light and impair growth of aquatic plants, dissolved oxygen levels can decrease. Suspended solids can be harmful to fish and other aquatic life by causing abrasive injuries and clogging gills and respiratory passages.

Increases in turbidity/total suspended solids from projects authorized by this project will generally be local and temporary. To address turbidity/total suspended solids, the permittee will control runoff to water bodies using a variety of best management practices (BMPs).

Best Management Practices in Permit and Certification Conditions

Permit-Based

The Corps has BMP-based conditions in the Section 404 permit.

Construction activity that disturb one or more acres require a storm water NPDES permit from the DNR. For projects that require storm water NPDES permits, Storm Water Pollution Prevention Plans (SWPPPs) are developed, which typically include BMP-based conditions.

Certification-Based

The DNR is adding BMP-based conditions to the certification. The combined listed BMPs, when adhered to by the permittee, protect Iowa's water quality by controlling erosion and sediment runoff to prevent pollution from reaching the nearby water bodies. Antidegradation requirements will be considered to be met if all appropriate and reasonable BMPs required by permit and certification are applied and maintained. See, 567 IAC 61.2(2); Iowa Antidegradation Implementation Procedure § 6.3.

Temporary and Limited Degradation

The State adopted Iowa Antidegradation Implementation Procedure (2010 and 2016) states that "A regulated activity shall not be considered to result in degradation, if the activity will result in only temporary and limited degradation of water quality as defined in the glossary and as further described in Sections 1.2 and 2.4." The effects can be regarded as temporary and limited following a review of all of the following factors, if applicable:

- a) Length of time during which water quality will be lowered
The length of time where there might be a lowering of water quality is relatively short for the proposed activity.
- b) Percent change in ambient conditions
The only significant change that is reasonably expected to occur would be for the presence of sediment in the stream if there is a heavy rainstorm or if the BMPs fail.
- c) Pollutants affected
Turbidity, total suspended solids.
- d) Likelihood for long-term water quality benefits to the water body
This activity provides water quality benefits by stabilizing a bank/shore.
- e) Degree to which achieving the applicable Water Quality Standards during the proposed activity will be at risk
The use of BMPs installed prior to construction, maintained during construction, and until the site has returned to pre-construction conditions should greatly increase the degree to which a project achieves the applicable water quality standards.
- f) Potential for any residual long-term effects on existing uses
The BMP-based conditions included in the Section 404 permit and certification include activities such as appropriate riprap and reseeding disturbed areas. This project should not contribute to any ongoing impacts to water quality.

For the above discussed reasons, the DNR makes the following finding:

This review concludes that water quality degradation due to this activity is temporary and limited.

Social and Economic Importance

This project is socially important for maintaining water quality for a recreational water body used for fishing, boating, and swimming.

This project is economically important by creating jobs in the planning and construction of this project and likely using materials from local sources, as well as for the value of the property.

For the above discussed reasons, the DNR makes the following finding:

This review concludes that water quality degradation due to this activity is necessary to accommodate important economic and social development.

Sent to DVR 2-20-24
2-23-24

Iowa Department of Natural Resources

Section 401 Water Quality Pre-Filing Meeting and Certification Request Form

1. Type of Request: Pre-Filing Meeting Request Certification Request

2a. Property Owner/Project Proponent (aka Applicant) Name: David Kendell

Company Name (if applicable):

Mailing Address: 30602 Mill Creek Road, Bellevue, IA 52034

Email Address:

Phone numbers (with area code): Home: Cell: 563-249-2351 Business:

2b. Authorized Agent's Name (if applicable):

Company Name:

Mailing Address:

Email Address:

Phone numbers (with area code): Business: Cell:

3. Identify the Proposed Project:

David Kendell streambank stabilization EQIP project on Mill Creek

4. Federal Permit / License Requiring Section 401 Water Quality Certificate and its Project Number*

Permit/License Number: Federal Agency: Corps of Engineers FERC Other:

*A copy of the federal permit or license application is required to be submitted with a certification request.

5. Project Location: Section: 6, 7 Township: 86N Range: 04E

County: Jackson Latitude: Longitude:

Receiving Water(s): Mill Creek

Discharge: limestone riprap for bank stabilization

FOR PRE-FILING MEETING REQUEST ONLY

6. Pre-filing Meeting Request Verification:

I certify that I have read and understand the following statements per the Clean Water Act Section 401 Certification Rule:

- Submission of this form completes the requirement of the pre-filing meeting request.
- I cannot submit my certification request until at least 30 calendar days after submitting this pre-filing meeting request. This request must be signed by the Property Owner/Applicant and the Authorized Agent, if applicable.

Property Owner/Applicant's Name (printed):

Property Owner/Applicant's Signature: Date:

If applicable: Authorized Agent's Name (printed):

Authorized Agent's Signature: Date:

FOR CERTIFICATION REQUEST ONLY

7. Include a description of any methods and means proposed to monitor the discharge and the equipment or measures planned to treat, control, or manage the discharge. (Please provide a description of the best management practices you will use to protect water quality as well as any methods and means proposed to monitor the discharge/equipment or measures planned to treat or control the discharge.)

This project will follow USDA-NRCS design specifications for construction under the guidance of NRCS staff. This includes the placement of "clean" graded rock material in a manner that does not impede flood flows. Construction will occur during a period of moderate to low flow to limit erosion during construction and disturbed area will be seeded with a grass mix for long-term site stability. Construction equipment will avoid prolonged periods in-or-over the water to reduce or eliminate discharge associated with construction, rather construction equipment will primarily operate from "the dry" along the stream bank.

8. List all other federal (not listed in #4), interstate, tribal, state, territorial, or local agency authorizations required for the proposed project, including all approvals or denials already received:

Agency	Type of Authorization	Agency Number	Date Applied	Date Approved	Date Denied

9. Date Pre-filing Meeting Request was submitted 1-26-24 Attach documentation of request

10. Certification Request Verification

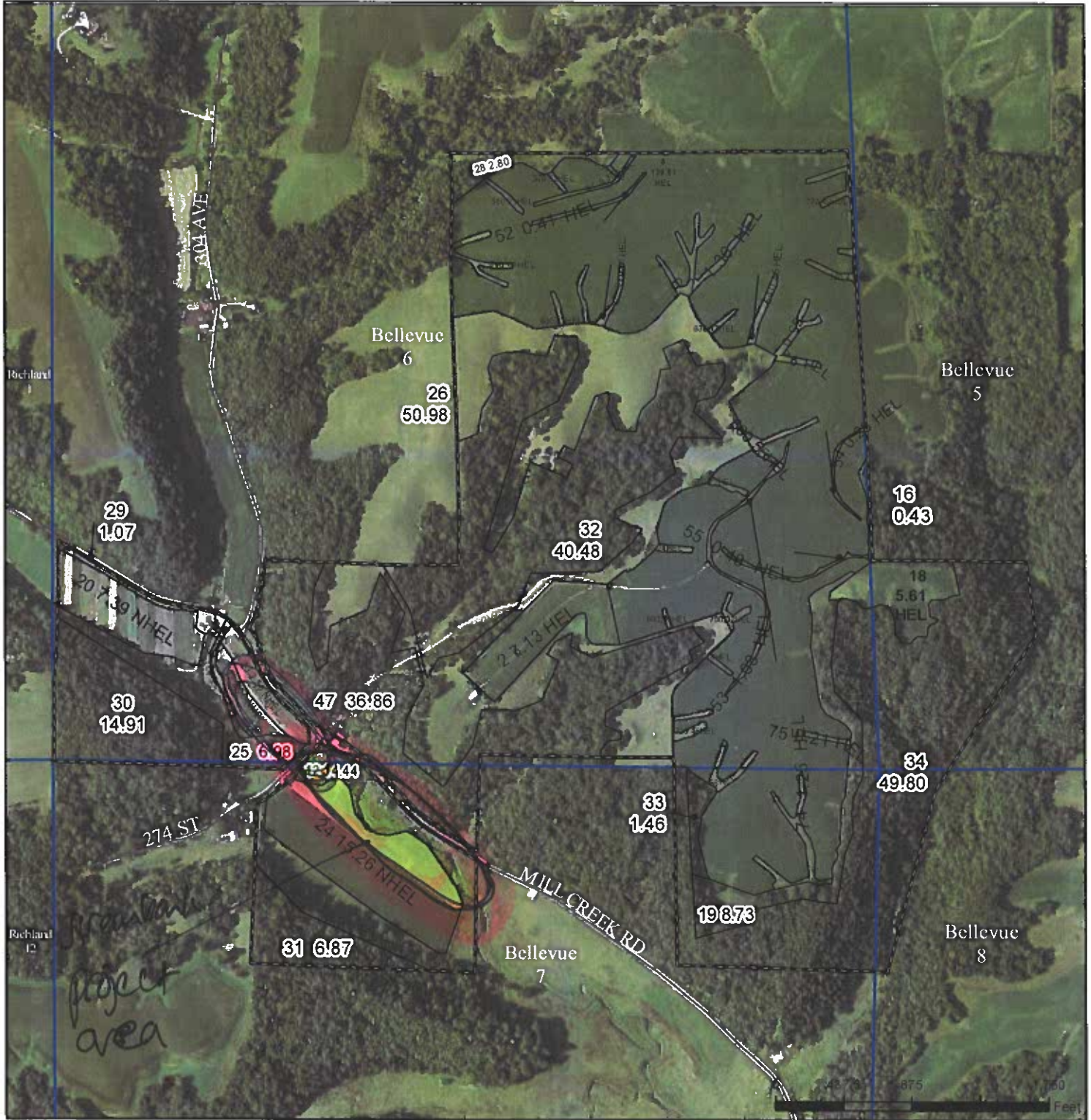
This request is hereby made for the activities described herein. I hereby certify that all information contained herein is true, accurate, and complete to the best of my knowledge and belief. I further certify that I possess the authority to undertake the proposed activities. I hereby request that the certifying authority review and take action on this CWA 401 certification request within the applicable reasonable period of time. This application must be signed by the Property Owner/Applicant and the Authorized Agent, if applicable.

Property Owner/Applicant's Name (printed): David Kendall

Property Owner/Applicant's Signature:  Date: 1/19/2024

If applicable: Authorized Agent's Name (printed): _____

Authorized Agent's Signature: _____ Date: _____



- Legend**
- Non-Cropland
 - Cropland
 - CRP
 - Tract Boundary
 - Iowa PLSS
 - Iowa Roads

- Wetland Determination Identifiers**
- Restricted Use
 - ▼ Limited Restrictions
 - Exempt from Conservation Compliance Provisions

*IB6 N R02E
Jackson Co. IA*

Tract Cropland Total: 183.45 acres

2023 Program Year
Map Created November 01, 2022

Farm ~~6000~~
Tract ~~1800~~

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).



**Iowa Department of Natural Resources
No Permit Determination Notice
for State Flood Plain and Sovereign Lands Permits**

Date of Determination: 12/11/2023
Iowa DNR Tracking Number: 2023-2375
Project Type(s): Streambank/Shoreline Protective Devices
Project Latitude/Longitude: 42.2803, -90.5427
Project Description: Streambank/Shoreline Protective Devices: Approximately 350 feet of rip rap stone toe protection with vegetation above
Applicant/Agency/Address:

1. Iowa DNR Flood Plain / Dam Safety and Sovereign Lands Permit Determination:
No Iowa DNR Flood Plain or Sovereign Lands Permits Required based on the information you submitted into the online application system for your project with respect to the relevant threshold criteria contained in IAC 567 Chapter 71 (Chapter 73 for Dam projects) and applicable provisions of Iowa Code Sections 455B.262, .264, .275 and .277.

For a review of state listed threatened/ endangered species and sensitive natural communities that may be impacted by your project. Please submit an Environmental Review requests here (<https://programs.iowadnr.gov/perm/Application/ERRequestForm>).

For a review of federally listed plant and animal species that may be impacted by the project please contact the US Fish and Wildlife service at <https://www.fws.gov/midwest/rockisland/contactus.html> or visit their project planning tool website at <https://ecos.fws.gov/ipac/>.

2. Local Flood Plain Permit Determination:
Local Flood Plain Permit(s) May Be Required based on the information submitted into the online application system for your project. Local Flood Plain Manager(s) that should be contacted for local flood plain permits are provided below.
 - Lori Roling, Jackson County; 201 West Platt; Maquoketa, IA 52060-2295; 5636521754
lroling@jacksoncounty.iowa.gov

3. US Army Corps of Engineers and Other Permits:
The applicant is responsible for complying with all other local, state and federal statutes, ordinances, rules and permit requirements applicable to the construction, operation and maintenance of the approved works. This project has been submitted electronically to the Corps of Engineers for review. The Corps of Engineers will contact you directly regarding approval of this project.

4. Automated Determination Limitations and Conditions:



**Iowa Department of Natural Resources
No Permit Determination Notice
for State Flood Plain and Sovereign Lands Permits**

- a. **Certification of Submitted Materials:** The applicant certified that they are familiar with the information submitted, and that to the best of their knowledge and belief, such information is true, complete, and accurate. They further certified that they possess the authority to undertake the proposed activities.
- b. **Future Review and Enforcement of Submitted Information:** The Iowa DNR reserves the right to review or inspect any project submitted using this online application system. Failure to submit accurate information may result in enforcement activities by the Department.
- c. **Time Limitation for Automated Determination Results:** This determination expires 2 years from the Date of Determination listed above. Approval is revoked if construction is not complete within two years of the date listed above.
- d. **Consent to Enter Property:** Submission of this application is deemed to constitute consent by the applicant for the Iowa DNR staff and its agents to enter upon the land on which the proposed activity will be located for the sole purpose of collecting the data necessary to review the project.

Approximate Site Information:

Project Type: Streambank/Shoreline Protective Devices
Drainage Area (square miles): 8.6300
Project Inside City Limits: No (Distance to the nearest city is 3.75 miles)
Protected Stream: True
Detailed Flood Insurance Study: No
FEMA Mapped Floodway: No
NFIP Participation: Yes (Jackson County)
FEMA Map Special Flood Hazard Area Zone: X (X, X, A, X, X, A, X,)
User Identified Project Location: 42.2803, -90.5427



April 17, 2024 (DRAFT)

David Kendell
30602 Mill Creek Road
Bellevue, IA 52031

Dear David Kendell:

After reviewing your request for State 401 Water Quality Certification (Certification), the Iowa Department of Natural Resources (DNR) has issued the enclosed Certification. Please read the attached conditions carefully before beginning work on the project.

A copy of this Certification has been forwarded to the office of the U.S. Army Corps of Engineers as indicated below.

Please note:

1. Prior to construction, the permittee is responsible for securing such other permits or approvals as may be required by the DNR, federal, state, or local governmental agencies for the project activities described.
2. The permittee is responsible for ensuring that whoever performs, supervises, or oversees any portion of the physical work associated with the construction of this project complies with all the terms and conditions of this Certification as well as the associated Section 404 Permit.

If you have any questions about the certification or attached conditions contained therein, my contact information is provided in the certification.

Sincerely,

Brandon Harland
Natural Resource Biologist

cc: Marian Moore, Department of the Army Corps of Engineers, Rock Island District
Marian.G.Moore@usace.army.mil

IOWA DEPARTMENT OF NATURAL RESOURCES SECTION 401 WATER QUALITY CERTIFICATION

Certification issued to:

David Kendell
30602 Mill Creek Road
Bellevue, IA 52031

Project certified: U.S. Army Corps of Engineers, No. 2023-1754

Project Description: Streambank stabilization EQIP project on Mill Creek. Approximately 350 feet of limestone rip rap stone toe protection with vegetation above.

Project Location: Section 6/7, Township 86N, Range 4E, and/or 42.2803/-90.5427, Jackson County

The Iowa Department of Natural Resources (DNR) has issued this State 401 Water Quality Certification (Certification) pursuant to Section 401 {40 C.F.R. §121}. The U.S. Army Corps of Engineers requires state Certification before a Section 404 permit can be issued.

Subject to the attached conditions, incorporated by reference herein, the DNR has determined that a discharge from the proposed project will comply with water quality requirements of the state of Iowa {567 IAC 61}.

Prepared By/Date Executed: _____

Brandon Harland, section401wqc@dnr.iowa.gov ; 515-954-9559; Iowa DNR, 502 East 9TH Street, Des Moines, IA 50319

CONDITIONS

- (1) During construction and upon completion of the project, actions must be taken to prevent pollution affecting public health, fish, shellfish, wildlife, and recreation due to turbidity, pH, nutrients, suspended solids, floating debris, visible oil and grease, or other pollutants entering a water of the state. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);
- (2) Equipment used in waters of the state shall be cleaned of all hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related, potentially hazardous substances before arriving on site. Wash water shall not be discharged into a water of the state. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);
- (3) All cleared vegetative material shall be properly managed in such a manner that it cannot enter a water of the state and cause a violation of water quality standards. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);
- (4) All construction debris shall be properly managed in such a manner that it cannot enter a water of the state. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);
- (5) Erosion shall be managed so that sediment is not discharged to a water of the state in a manner that causes a violation of water quality standards. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);
- (6) Riprap and temporary crossings shall consist of clean material free of coatings of potentially hazardous substances. No asphalt or petroleum-based material shall be used as or included in riprap material placed in any water of the state or within the high-water table. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2); and
- (7) Stockpiled dredged materials on the shore shall be managed so that sediment is not discharged to a water of the state in a manner that causes a violation of water quality standards. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2).