

# ILLINOIS PLANT TRANSLOCATION/RESTORATION POLICY

## SUMMARY

**Translocation** refers to the reintroduction of a plant species which is listed as threatened or endangered.

**Restoration** refers to the management of entire native plant communities.

Central Philosophy - the establishment of new populations of native plants in the wild:

- ★ Should replicate as closely as possible the presettlement vegetation at that site
- ★ Once established, should be able to survive & reproduce with minimum human intervention
- ★ Should:
  - 1) be within the historic distributional range of a plant species
  - 2) be within the range of habitats in which a species is known to occur
  - 3) not exceed the presettlement abundance of a species
- ★ Should not be introduced into high quality INAI natural areas unless
  - 1) it is known to have occurred there before, or
  - 2) it is a listed (endangered or threatened) species and:
    - a) requires high quality habitat and
    - b) the only known examples of that habitat occur in INAI natural areas
- ★ Should only be done with the permission of the landowner (this includes the source site as well as the recipient site)

## GUIDELINES

Translocations may be added to the INAI as Category II natural areas and restorations as Category I natural areas if they conform to the following guidelines:

### Translocations

- ★ Contributes to the overall recovery of the species
- ★ Recipient site is the natural community in which the species is known to have occurred
- ★ Long-term protection and site management capability is provided

### Restorations

- ★ Should use local ecotypes; seed and plants should be “clean” (disease-free, with no exotic plant materials)
- ★ Source of plant materials used in the restoration should either be previously restored

areas or degraded areas with little promise for restoration themselves.

- ★ For very large restorations, a separate seed propagation areas should be established, rather than continually returning to a wild population as a source of plant materials.
- ★ Plant materials should not be taken from high quality natural communities or INAI sites unless those plant materials are not available elsewhere.
- ★ If materials must be taken from such high quality sites:
  - 1) for perennials, no more than 50% of the seed should be taken in any one growing season
  - 2) for annuals, no more than 10% of the seed should be taken in any one growing season
  - 3) seed should not be taken from the same location for more than 3 consecutive growing seasons
  - 4) seed should not be taken during a drought year
  - 5) whole plants should never be taken

1992

# ILLINOIS PLANT TRANSLOCATION AND RESTORATION POLICY<sup>1</sup>

<sup>1</sup>Developed by the Illinois Nature Preserves Commission, Illinois Endangered Species Protection Board, and the Illinois Department of Conservation - 1992

## ESTABLISHING NEW POPULATIONS OF NATIVE PLANTS

The “Central Philosophy” guiding establishment of new populations of native plants in the wild is that such plantings should replicate as nearly as possible the presettlement vegetation of the site at which new populations are established. Once established, the population should be able to survive and reproduce over the long-term with a minimum of human intervention. Such plantings should not expand the historic ranges of distribution, the range of habitats in which a plant species is known to have occurred, nor exceed the presettlement abundance of a species in a community or in the state. Plants should not be introduced into high quality natural communities within designated Illinois Natural Areas Inventory (INAI) natural areas unless they are known to have previously occurred in that natural area, or the species is a state or federally-listed endangered or threatened (listed) species and is known to require high quality habitats and the only known examples of the species’ habitat occur in INAI natural areas. In some cases, it may be necessary to weigh the good of the listed species against maintenance of the integrity of the composition of the high quality natural community. Plants should only be introduced to disturbed communities within designated INAI natural areas and Illinois Nature Preserves as part of restorations which comply with the restoration guidelines outlined hereafter, and with permission of the landowners. Locations of INAI natural areas and high quality natural communities occurring within them are tracked by the Illinois Natural Heritage Database, housed in the Division of Natural Heritage, Illinois Department of Natural Resources (IDNR).

### Statutes and Regulations Pertaining to Plants

Plants and animals are treated quite differently under common law. Animals are considered to be property falling within the public domain, i.e., an individual landowner does not own the wildlife occurring on his/her property; wildlife is public property which is held and managed as such under the public trust by state and federal authorities. Plants, however, are considered private property of the landowner on whose land they occur. If a landowner wishes to protect a plant under their ownership from taking or harm, they have at their disposal the same legal means they have to protect their other private property. It is, therefore, a legal necessity that any plant materials removed from a site only be removed with the permission of the landowner.

The current treatment of plants under common law makes protection of endangered or threatened plants more difficult than the protection of animals listed by states or the federal government as endangered or threatened. For example, if a landowner shoots a federally-listed endangered Bald Eagle or other state-listed species on his or her property, it is a legal offense, but he or she may plow under a federally or state-listed endangered or threatened plant without legal repercussions. As a means of providing a modicum of additional protection for listed plants, the Illinois Endangered Species Protection Act requires “expressed written permission” from the landowner for

removal of a state or federally-listed plant. To do so without that permission is a “Class A” misdemeanor (up to a \$1000 fine and/or 6 months to a year in prison). The Illinois Endangered Species Protection Act may also require issuance of an Endangered Species Permit by the IDNR, Division of Natural Heritage for the possession of a federally-listed endangered plant, and prohibits the sale of state-listed endangered plants, or any part thereof.

Removal of plant materials from or translocation of plant materials to most public properties requires issuance of special permits. Examples of such public properties include, but are not limited to, state parks, conservation areas, wildlife management areas, state natural areas, state nature preserves, county forest preserves, county conservation district properties, and county or village park district properties. Therefore, if any species is removed from public land without permission, the perpetrator may be subject to additional penalties.

One of the most important provisions of the Illinois Endangered Species Protection Act is the consultation provision. This provision requires state and municipal agencies taking actions that might affect state or federally-listed species (including plants), to consult with the DNR to avoid, minimize, or mitigate impacts to the listed species. The uncontrolled proliferation of translocated state or federally-listed plants, especially upon private properties, could jeopardize the credibility of this program with private interests and the public.

### **Providing Protection for Community Restorations and Translocated or Planted Endangered and Threatened Species Populations - Category II Natural Areas**

All listed plants and their propagules represent valuable genetic material; however, to be most useful in future restoration efforts, it is imperative that the source of translocated material be recorded. It is therefore the policy of the Illinois Natural Heritage Database to accept records of any occurrence of listed species, even those translocated to gardens, arboreta, or nonnative communities. The “Element Occurrence Report Form” may be used to submit any record of a listed species to this database.

Translocations or plantings of listed species which conform to the central philosophy articulated above and are consistent with approved state or federal recovery plans, represent an important natural heritage resource worthy of preservation and protection. Likewise, restorations that reproduce as nearly as possible the ecological conditions present in presettlement natural communities, represent not only a significant natural heritage resource but also a significant investment of human, financial, and natural resources, and as such should receive greater consideration than disturbed landscapes.

In order to provide an added degree of protection for such resources, restorations and translocations of listed plants which conform to the guidelines articulated hereafter, as determined by the Natural Areas Evaluation Committee (NAEC), may be added to the Illinois Natural Areas Inventory - restorations as Category I and translocations as Category II sites. As INAI natural areas, such sites will receive the added protections provided by Executive Order #7, which requires that state agencies undertaking capital projects consult with the IDNR on projects that could impact natural areas. They also

may be eligible for other considerations and protection programs available to INAI natural areas. The NAEC is comprised of representatives of the IDNR, the Illinois Nature Preserves Commission (INPC), and the Illinois Endangered Species Protection Board (ESPB); it meets quarterly to update the INAI. The INAI nomination form may be used to nominate restorations and translocations for INAI status. These forms should be completed and submitted to the Natural Areas Program Manager of the IDNR, Division of Natural Heritage, who will present them to the Natural Areas Evaluation Committee (NAEC). The guidelines which follow are designed to encourage conformity with generally accepted scientific standards and to provide guidance, encouragement, and assistance to those interested in participating in the recovery of listed plants or the restoration of presettlement natural communities.

This program has been designed to conform with and complement existing statutory and regulatory protections provided plant species, and maintain the integrity and credibility of existing protection programs. While this program has been designed to provide incentives for compliance with the following guidelines, due to the treatment of plants as private property, we must largely rely upon the good will and good intentions of conservation biologists, restorationists, plant ecologists, and botanists for voluntary compliance with these guidelines. Further, no matter how important vanishing plant species may be to the general public welfare, we must ultimately rely on public and private landowners to ensure their continued survival.

### **Guidelines for the Translocation and Establishment of Populations of state or Federally-Listed Plants**

Native plants which are listed by state or federal agencies as endangered or threatened, or their propagules, should only be translocated when such a project contributes to the overall recovery of the species. Not all proposed translocations of listed plants that conform to the “Central Philosophy” articulated above will contribute to the recovery of a species. Where a comprehensive recovery strategy or plan has been developed for a species, conformity with that strategy or plan should be established.

As previously mentioned, listed species may only be removed from a property with the expressed written permission of the landowner. Beyond these requirements, most other legal obligations relating to the establishment of new populations of listed species are a function of the requirements of the landowner upon whose property the new populations are to be established. For example, the IDNR or the INPC would have to approve the translocation of any plant species (including listed species) to state parks or state nature preserves, respectively.

Due to the amount of time, energy and money involved in the reintroduction and establishment of populations of threatened and endangered species, one must evaluate the habitat suitability, long-term viability, and security of the site to which listed species are proposed to be translocated. The habitat chosen should be the natural community in which the species is known to have occurred. Long-term protection of the site and management capability at the site must be assured to maximize the potential success of the translocation. Most often these sites will occur on public land where a translocation and management agreement can be reached with the landowner. In some instances translocations to private lands can and will occur, however, such translocations should

not be undertaken at public expense unless the site will receive long-term protection (e.g., through conservation easements, nature preserve dedication, etc.).

### **Emergency Translocation of Listed Plants**

State or federally-listed plants that are in imminent danger of destruction may be salvaged with the written permission of the landowner; however, emergency circumstances alone are not considered justification for translocation of listed species to inappropriate habitats in the wild, or to public properties without appropriate permissions. We recommend that salvaged species be placed in cultivation until appropriate arrangements for their translocation to the wild can be made.

### **Guidelines for the Establishment of Restorations**

It is recommended that restorations, whether they be restorations of degraded natural community remnants or natural community reconstructions (wherein one must “start from scratch,” planting, for example, on land previously under cultivation) be accomplished to the greatest degree possible with the use of local ecotypes. Plant materials for restorations should be taken from previously restored areas or degraded natural communities which do not themselves hold great promise for restoration. For very large restorations or reconstructions it may be necessary to develop “seed gardens.” In order to insure enough seed to complete the restoration, seed from nearby degraded natural community remnants can be placed in cultivation, thereby generating greater amounts of seed than might be collected directly from such remnants. Seed obtained must be clean, disease-free and not containing seed or stem segments of exotic species. Plant materials to be used in restorations, whether the species are listed or not, should not be taken from high quality natural communities or INAI natural areas, unless those plant materials are unavailable elsewhere. In that case, no more than 50% of the seed of perennial species should be taken in any one growing season and no more than 10% of the seed from annual species should be harvested in any one growing season for the use in the restoration. Seed should not be taken from the same location for more than 3 consecutive growing seasons, or during drought years. Under no circumstances should whole plants be removed from high quality natural communities for use in a restoration.

Restoration goals, including target communities, species presence, abundance, and dispersion, should be based on extant high quality remnants of the subject community, Public Land Survey notes, 1930 series aerial photography, soil types, and any historic floristic data. Basic floristic data is available for high quality examples of most community types for most natural divisions from the INAI files maintained by the DNR Division of Natural Heritage. A species should be reintroduced with the intent of establishing it at the same percent composition as it occurred historically in similar communities on similar sites, so far as they may be known. In other words, it is important to conform to the “Central Philosophy” articulated previously, even for common species. The criteria on which the a restoration will ultimately be judged for eligibility as an INAI Category I natural area, is the degree to which it resembles high quality remnants of the same natural community type in the same natural division in terms of species composition .