



Illinois Department of Natural Resources

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Pat Quinn, Governor
Marc Miller, Director

Authorization for Incidental Take and Implementing Agreement

Pursuant to the Illinois Endangered Species Protection Act (Act) (520 ILCS 10/5.5) and the regulations adopted to implement the Act (17 Ill. Adm. Code 1080), authorization is hereby granted to Commonwealth Edison (hereinafter referred to as ComEd) for the incidental take of Hine's emerald dragonfly (*Somatochlora hineana*), Blanding's turtle (*Emydoidea blandingii*), spotted turtle (*Clemmys guttata*), and black-billed cuckoo (*Coccyzus erythrophthalmus*). The Illinois Department of Natural Resources (hereinafter referred to as the Department) has determined that this taking is incidental to activities associated with operation and maintenance of structures and power lines within a defined permit area in Will, Cook and DuPage Counties, Illinois.

Procedural History

On October 28, 2013, the Department received a Habitat Conservation Plan (HCP) from ComEd as application for the incidental take of Hine's emerald dragonfly, Blanding's turtle, spotted turtle, black-billed cuckoo, lakeside daisy (*Hymenopsis herbacea*, formerly known as *Hymenoxys acaulis* var. *glabra*), and leafy prairie clover (*Dalea foliosa*). The Department requested revisions to the HCP, and ComEd provided a revised plan on January 29, 2014. The proposed public notice was received and approved on February 13, 2014. The public notice period will be detailed under #6 of the Compliance section.

Compliance with the Illinois Endangered Species Protection Act

The Act includes six criteria that must be satisfied for the authorization of incidental take of an endangered or threatened species. These criteria and the Department's determination for each are listed below.

1. The taking will not be the purpose of, but will only be incidental to, the carrying out of an otherwise lawful activity.

The stated and apparent purpose of this proposed action is the operation and maintenance of structures and power lines along a corridor in Will, Cook and DuPage Counties. Activities will include: continuing line maintenance; routine inspections; performing switching operations; repairing, replacing, removing and re-locating power lines and structures; and managing vegetation under power lines. The take of Hine's emerald dragonfly (hereinafter referred to as HED), Blanding's turtle, spotted turtle and black-billed cuckoo that could result is not the purpose of, but is incidental to carrying out these otherwise lawful activities.

2. The parties to the conservation plan will, to the greatest extent practicable, minimize and mitigate the impact caused by the taking.

The HCP, prepared for ComEd by Cardno JFNew, describes measures that will be implemented to minimize and mitigate the potential adverse effects of the project on HED, Blanding's turtle, spotted turtle and black-billed cuckoo. Much of this information focuses on the HED because of that species' status as endangered at both the state and federal levels, and the fact that the defined permit area includes portions of seven sites designated as Critical Habitat (see below) for the HED. Many of the measures proposed for the protection of HED habitat will also provide protection for the habitats of the Blanding's turtle and spotted turtle.

Note: In this and subsequent sections of this document, references to Critical Habitat Units (CHUs) are to the sites designated as critical habitat for the HED by the U.S. Fish and Wildlife Service in 2010. Area descriptions of the CHUs, as presented in ComEd's HCP, are attached to this authorization.

Reference:

[U.S. Fish and Wildlife Service. 2010. Endangered and Threatened Wildlife and Plants; Final Revised Critical Habitat for the Hine's Emerald Dragonfly (*Somatochlora hineana*); Final Rule. 50 CFR Part 17. Federal Register Vol. 75. No. 78. April 23, 2010]

Minimization and mitigation measures proposed by ComEd include:

- a) Implementation of a Standard Operating Procedure that includes guidelines for access and working in HED areas, including the use of matting for access in wetland areas.
- b) Planned work includes all maintenance required for ComEd facilities including continuing power line maintenance; routine inspections; performing switching operations; repairing, replacing, removing and re-locating power lines and structures; and managing vegetation under power lines for reliability issues. Access to structures for planned work is proposed from either upland paths, proposed paths, the rail line or paths created with matting. No work will occur within HED larvae occupied rivulets and HED larvae habitat areas.

Planned work that will occur year round without restrictions includes:

1. Access and visual line inspections conducted on foot in wetland and upland areas.
2. Access by foot or operational vehicles along existing trails or paths to structures or lines in upland areas.
3. Vegetation management in upland and wetland areas that can be completed on foot (e.g., removing woody vegetation using hand equipment such as brush cutters and chainsaws).
4. Utilizing brush hogs or similar equipment in upland areas.
5. Stockpiling or burning piles of cut vegetation in uplands. Stockpiles will be burned as soon as possible after cutting to avoid potential impacts to herps and other species.

6. Spot applying herbicides on cut-stumps within wetlands within 65 feet (20 meters) of HED larvae occupied rivulets and HED larvae habitat areas. The only accepted herbicide within the 65 foot buffer will be one formulated for aquatic use, such as Rodeo®. No surfactants or adjuvants of any kind will be added to the commercial herbicide formula that has been approved for aquatic use. Herbicide will be applied to cut-stump immediately (e.g., within 30 minutes) of cutting and will be dripped onto the stump with the head of the nozzle touching the stump. Herbicides will not be applied within 72 hours of forecasted precipitation events.
7. Maintenance of existing roads and access paths in upland areas.

Planned work that will occur anytime except the HED adult flying season – May 15 through September 15 includes:

8. Boom spraying herbicide over woody vegetation in wetland and upland areas with amphibious vehicles or ATVs (outside of HED larvae occupied rivulets and HED larvae habitat areas).
9. Use of a helicopter to conduct inspections, maintenance, repairs and structure removal.
10. Utilizing an Unmanned Aerial Vehicle (UAV) (also known as an Unmanned Aircraft System (UAS)), to remotely inspect ComEd structures and equipment. These units are typically less than 4 feet across, fly between 25 and 35 mph and weigh only a few pounds.

Planned work that will occur year round outside of 65' from HED larvae occupied rivulets and HED larvae habitat areas or within the vicinity of known leafy prairie clover and lakeside daisy plants includes:

11. Foliar spot treatment of invasive woody species and tall-growing woody vegetation within wetlands.
12. Mowing woody vegetation with mower weighing +/- 14,000 pounds in upland areas.
13. Access by amphibious vehicles and boats at wetland locations with water levels deeper than 12 inches.
14. Crossing wetlands with amphibious vehicles (e.g., ARGO wide track vehicle) to reach a structure.
15. Access by operational vehicles on matting in wetland areas.
16. Installation and removal of matting by cranes in wetland areas.
17. Installation and removal of silt fence or other temporary sediment controls.
18. Relocation, removal or replacement of structures (this includes disassembly and removal of the operating equipment, cutting the structure, and removal of the structure).
19. Installation of structures in new locations.
20. Ground disturbing activities.

Planned work located within 65' of HED larvae occupied rivulets and HED larvae habitat areas (excluding work directly within HED larvae occupied

rivulets and HED larvae habitat areas) or within the vicinity of known leafy prairie clover and lakeside daisy plants that will be limited to November 1 – March 15 includes:

21. Mowing woody vegetation with mower weighing +/- 14,000 pounds in wetland areas.
22. Access by operational vehicles on matting in wetland areas.
23. Use of a bridge that spans the HED larvae occupied rivulet.
24. Installation and removal of matting by cranes.
25. Installation and removal of silt fence or other temporary sediment controls.
26. Relocation, removal or replacement of structures (this includes disassembly and removal of the operating equipment, cutting the structure, and removal of the structure).
27. Installation of structures in new locations.
28. Ground disturbing activities.

In addition to the covered activities described above, it is likely that during the term of the ITP, ComEd will have to respond to emergency situations on its distribution and transmission system, where an immediate response is often critical. Emergency response activities generally include those activities that are not part of the normal Operation and Maintenance routine or construction. These activities are unscheduled, may occur at any time of the year or day, and are generally conducted when there is an imminent or current threat to life, the electric system, property and/or the environment. These activities may include, but are not limited to, appropriate responses to a tornado, vandalism or other destructive or illegal human activity, fire, natural disaster, train derailment, oil spill or natural gas pipeline leak. The activities associated with an emergency response vary depending upon the specific characteristics of that particular emergency and the surrounding vicinity. In light of the inability to predict when these emergency response activities may be required, where they may occur in relation to HCP covered species, and the magnitude of such activities, emergency response activities are not included as covered activities under this HCP. Instead, in the event an emergency situation occurs involving the ComEd distribution and transmission system within the permit area that may affect covered species, ComEd will notify the USFWS and the Department of such emergency circumstances as soon as practicable to determine if additional mitigation is required.

- c) All work within CHUs will be coordinated through ComEd's Environmental Services Department and a wildlife biologist/wetland biologist will be available for on-site consultation as needed.
- d) Vehicle use will be restricted outside of existing or pre-determined pathways. Access beyond existing and pre-determined pathways will be on foot only. Pathways may change depending on specific site conditions.
- e) Vehicle speed will be limited to 8 miles per hour while driving on existing roads within CHUs to minimize impact to adult HEDs and turtles.

- f) Field crews will be instructed to enter by foot to inspect and climb poles to complete maintenance, when possible. Every effort will be made to limit encroachment into wetland areas, to the extent practicable. Crews will enter the wetland areas only where a structure must be accessed. If a rivulet needs to be crossed, a bridge (i.e., air bridge, stacks of matting or wood timbers) shall be used to span the rivulet. Matting will not be placed directly within HED larvae occupied rivulets or HED larvae habitat areas. If improved matting or access technologies are developed, they will be considered for use and submitted to the USFWS and the Department for review. ComEd has successfully completed projects throughout the Chicagoland region with matting.
- g) Precautions will be taken with all fuels used in operations to avoid spills and provide proper clean-up should spills occur.
- h) Proposed access routes to work areas, configuration of work areas and presence of wetlands and Waters of the U.S. will be reviewed and assessed with contractors before work is commenced. If necessary, ComEd Environmental Services staff and their consultants will walk areas with contractors before work occurs in CHUs.
- i) Use of a helicopter will be considered when transmission work is necessary in highly sensitive area (e.g., Lockport Prairie and River South). Helicopter use will be scheduled outside of the HED adult flying season (**May 15 through September 15**). Use of a helicopter will be determined based on risk, weather, cost, availability and applicability to proposed work.
- j) Amphibious vehicles will be used outside of HED larval habitat (and hydrologically connected areas) to minimize disturbance to the ground. Access by amphibious vehicles will only occur at wetland locations with water levels deeper than 12 inches.
- k) ComEd's Environmental Services Department will notify the U.S. Fish and Wildlife Service at least two weeks prior to starting planned work in CHUs, with the exception of routine site inspection completed on foot, access via an existing road and mowing (outside of HED larval habitat areas).
- l) ComEd will maintain woody vegetation as needed for reliability within the ComEd right-of-way.
- m) Herbicide applications will be prohibited within 65 feet (32.5 feet on each side of a rivulet) of areas hydrologically connected to HED larval habitat areas, with the exception of cut-stump treatments, unless approved by the U.S. Fish and Wildlife Service and the Department. Herbicide applications performed near HED larval habitat rivulets will be monitored by a wetland biologist.
- n) Within 65 feet (32.5 feet on either side of a rivulet) of areas hydrologically connected to HED larvae-occupied rivulets and HED larval habitat areas, brush will not be cut to the ground; instead brush will be cut to within 7-8 inches of the ground so that herbicide applications will not migrate into HED larval habitat.
- o) The only accepted herbicide within the 65-foot buffer (32.5 feet on either side of a rivulet) will be one formulated for aquatic use, such as Rodeo®. No surfactants or adjuvants of any kind will be added to the commercial herbicide formula that has been approved for aquatic use. Herbicide will be applied to cut-stump immediately (i.e., within 30 minutes) of cutting and will be dripped onto

the stump with the head of the nozzle touching the stump. Herbicides will not be applied within 72 hours of forecasted precipitation events.

p) Stockpiles of cut brush and trees will not to be placed in HED larvae-occupied rivulets, HED larval habitat areas, leafy prairie clover or lakeside daisy locations or within mapped wetland areas.

q) ComEd will maintain signage at each entry location to the ROW in critical habitat. Signage would inform ComEd crews and contractors that they are entering a sensitive area and reminding them of their responsibilities to this authorization.

r) When utilized, mats will be placed and removed within 48 hours of completed work. In addition, mats will be wiped down or washed prior to transport to the site in order to avoid the spread of invasive species. Installation and removal of matting will be performed by cranes in wetland areas.

s) Internal awareness will continue to be provided to field crews and supervisors. The awareness will discuss the covered species and protocol for approaching structures in sensitive habitats.

t) The Environmental Services Department will meet with other ComEd departments to discuss the HCP and proposed work for the upcoming year. These other departments include distribution, transmission and vegetation management.

u) ComEd's Operation Command Center will act as a filter to notify workers that no access to areas within a CHU will be granted until approved by the Environmental Services Department, unless the situation is an emergency.

v) Informational materials, including brochures, literature, maps and species photos will be available to field crews and supervisors through ComEd's intranet. Environmental Services Department has their own intranet for staff to obtain additional information.

w) All departments at ComEd will utilize maps, either electronic or hard copy, when completing work within the CHUs. Maps will show CHUs with notes stating that ComEd's Environmental Services Department must be contacted prior to entry. Wetland locations will also be noted on the ComEd Internal Use Maps. Limited access areas have been designated as areas where a ComEd line crosses over known HED larvae-occupied rivulets and HED larval habitat areas. Access to those locations is restricted.

x) ComEd's Environmental Services Department will coordinate with regulatory agencies, concerned parties, customers and adjacent property owners to keep them aware of planned work and emergency work in and adjacent to CHUs.

y) In 2012, ComEd's Environmental Services Department notified easement holders and tenants of the presence of the CHUs and the need to adhere to all environmental regulations.

z) ComEd field personnel (or their contractor) will conduct a comprehensive search for Blanding's turtles and spotted turtles prior to matting placement for operational activities (i.e., repair or replacement of towers, poles, transformers and/or lines in wetlands).

aa) Daily inspections will be performed throughout the construction period. Trenches and excavations will be routinely inspected throughout the day to ensure no turtles have become trapped within them. Trenches will be checked prior to

being backfilled, covered at the end of each work day and returned to the original grade when the work is completed. Searches for turtles will not be performed if the ground is frozen.

ab) Searches shall consist of an initial visual encounter survey to be conducted in the immediate area of mat placement 24 hours prior to the start of work, and again immediately before the matting is placed. Daily searches shall consist of visual and hand searching in the wetland vegetation in the work area and the area immediately surrounding the work area. ComEd staff and/or contractors shall be trained to search for and identify Blanding's and spotted turtles. If a turtle is encountered, work shall stop immediately in the area and the appropriate Forest Preserve District and IDNR shall be notified. ComEd staff and their contractors are not authorized to come into contact with, or relocate turtles.

ac) Where applicable, ComEd will install silt fence around the work area to reduce the likelihood of turtle entry. Fencing will be embedded 4-6 inches into the ground to prevent burrowing.

ad) ComEd will properly maintain vehicles, check for leaks at the start of each work day and repair leaks if needed before using the vehicle in the CHUs. Contractors will carry absorbent materials with their equipment or have them accessible at the site to contain spills if they occur.

ae) ComEd will train field staff and contractors to identify Blanding's turtles and spotted turtles to avoid spraying them with herbicide and hitting them with a vehicle.

af) ComEd will avoid using ATVs in marsh areas except in areas dominated by *Phragmites* or dense cattail.

ag) All vehicles will be parked on designated access routes.

ah) ComEd crews will look for active nests between March 15 and November 1 prior to removing woody vegetation to avoid adverse effects on black-billed cuckoos. All attempts will be made to avoid removing woody vegetation where an active nest exists.

ai) ComEd will conduct pre-construction and post construction wetland surveys within the CHUs where wetlands occur. If disturbances such as rutting or a change in hydrologic flow from pre-construction conditions are found, appropriate restoration will be undertaken. Wetland areas with bare soils will be restored with seed mix and erosion control blankets.

aj) Routine woody vegetation management along ComEd rights-of-way will provide a movement and dispersal corridor for adult HEDs.

ak) ComEd will work with third parties if prescribed burning is proposed on adjacent properties. ComEd may also opt to conduct prescribed burns on their properties using the services of a qualified contractor.

al) ComEd will complete wetland delineations every five years to assess the size, quality and locations of wetland areas within ComEd rights-of-way and easements.

am) ComEd will cooperate with the U.S. Fish and Wildlife Service and the Department to adapt the provisions of the HCP in response to changed circumstances or unforeseen circumstances such as climate change effects on the

activity periods of HEDs, Blanding's turtles or spotted turtles, long-term drought, unplanned fires or other damage to habitat.

an) To enhance the protection of black-billed cuckoos in northeast Illinois, ComEd will in the course of normal activities: implement and comply with its existing Avian Protection Plan (APP); ensure its actions comply with applicable laws, regulations, permits and APP procedures; document bird mortalities, problem equipment and problem nests; provide information, resources, and training to improve employee and contractor knowledge of ComEd's APP; where practicable, review, design, and approve retrofits or modifications to structures and lines where bird interactions have been documented in an effort to minimize future bird impact and improve system reliability; and participate with public and private organizations in programs and research to reduce detrimental effects of bird interactions with power transmission and distribution systems.

It is the opinion of the Department that these measures, along with any additional terms and conditions listed in the Authorization section of this document will, to the maximum extent practicable, minimize and mitigate the impact caused by the potential taking.

3. The parties to the conservation plan will assure that adequate funding for the conservation plan will be provided.

ComEd has received a Section 10 permit from the U.S. Fish and Wildlife Service under the Endangered Species Act. ComEd states that they have sufficient financial resources to implement the terms of this authorization, will be responsible for funding all aspects of the minimization and mitigation measures described herein, and understand that failure to do so could result in suspension or revocation of this authorization. ComEd has also committed to measures to address changed and unforeseen circumstances in coordination with the U.S. Fish and Wildlife Service and the Department. It is the Department's opinion that ComEd's stated commitment to funding their proposed minimization and mitigation measures, along with the commitment to address changed and unforeseen circumstance in a cooperative manner, is sufficient to satisfy this criterion.

4. Based on the best available scientific data, the Department has determined that the taking will not reduce the likelihood of survival or recovery of the endangered species or threatened species in the wild within the State of Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois.

Hine's emerald dragonfly is listed as a Federal and Illinois endangered species due to its low numbers, limited range, specialized habitat requirements, and threats to its habitat. The HED is a moderately-large dragonfly with a wingspan of about 3.5 inches. Larvae take 3-5 years to develop and transform to the adult form. The larvae are restricted to wetland habitats (marshes, seeps, sedge

meadows) with thin soils over dolomite bedrock. The species is known only from Michigan, Missouri, Wisconsin, Illinois and Ontario.

The Illinois Natural Heritage Database includes five element occurrence records for the HED that are classified as extant populations. All known Illinois populations are within the defined permit area in ComEd's application for incidental take. The Department has issued no previous authorizations for incidental take of the HED.

Extensive research has been conducted to determine the range, distribution, life history characteristics and genetic composition of HED populations. In Illinois, research has described the specific rivulets that provide larval habitat within wetlands. Recent population estimates for HED in Illinois suggest that adult individuals range from 87 to 243 remaining, and larvae individuals are estimated at approximately 2,000 individuals. The Illinois and Missouri populations have been found to be the most genetically diverse of all HED populations.

With the implementation of all avoidance and minimization measures described in their HCP, ComEd anticipates no direct take of HEDs and no direct impacts to HED larval habitat. ComEd also, however, describes a small amount of indirect take (mortality, harm, harassment) that could occur as a result of work outside of identified larval habitat through sedimentation, removal of vegetation, disruption of the hydrologic cycle and herbicide/pesticide application. These types of activity are of short duration and ComEd does not anticipate long-term or significant effects on individual HEDs or on the population of HEDs in Illinois.

Blanding's turtle was listed as a threatened species in Illinois in 1998 and reclassified as an endangered species in 2009. In 2012, the Center for Biological Diversity petitioned the U.S. Fish and Wildlife Service to add the Blanding's turtle to the federal list of endangered and threatened species. Habitat loss has contributed to the decline in numbers of this species. Their life history characteristics (delayed sexual maturity, requirement for high temperatures for hatching success, high nest predation, poor recruitment) may exacerbate population declines.

Habitat for Blanding's turtles includes marshes, bogs, fens, prairie wetlands, sedge meadows and vegetated areas in lakes and ponds. Some turtles are also found in shallow, slow-moving streams, oxbow lakes and pools adjacent to rivers.

The Illinois Natural Heritage Database includes 86 element occurrence records for the Blanding's turtle that are classified as extant. Nearly all records are in the northern half of the state. There are seven extant occurrences in Cook County, seven in DuPage County and six in Will County.

The Department has issued 12 previous authorizations for the incidental take of Blanding's turtles. Five of these authorizations were for residential/commercial developments, four for highway or bridge projects, two for wind energy facilities and one for an athletic field. One previous authorization was for work in Will, Cook and DuPage counties (I-355 extension) and a second for a project completely within Will County (I-55 and Arsenal Road interchange).

ComEd anticipates no direct take of Blanding's turtles and estimates a maximum of 0.06 acres of permanent wetland impact and 30.51 acres of temporary wetland impact will occur if all 306 structures are replaced in kind during the term of this authorization. Further, ComEd acknowledges that take could occur as a result of operator error or indirect impacts.

The **spotted turtle** is listed as an endangered species in Illinois. The species has no formal federal conservation status, but a petition to include the spotted turtle on the federal list of endangered and threatened species was received by the U.S. Fish and Wildlife Service in 2012. Urbanization, habitat degradation and destruction, collecting and small population dynamics are the causes of the species' rarity in Illinois. Illinois is the western edge of the species range. Habitats used by spotted turtles include fens, marshes, bogs, streams and ponds. They have also been found in cattail marshes with associated sedge meadows.

The Illinois Natural Heritage Database includes two element occurrence records for the spotted turtle that are classified as extant. Both of those occurrences are in Will County at dedicated nature preserves. The Department has issued no previous authorizations for incidental take of the spotted turtle.

ComEd anticipates no direct take of spotted turtles and estimates a maximum of 0.06 acres of permanent wetland impact and 30.51 acres of temporary wetland impact will occur if all 306 structures are replaced in kind during the term of this authorization. Further, ComEd acknowledges that take could occur as a result of operator error or indirect impacts.

The **black-billed cuckoo** is listed as a threatened species in Illinois. The species has no formal federal conservation status. Reasons for the apparent rarity and continuing decline of the black-billed cuckoo are not well defined, but may include habitat fragmentation, alteration of habitat composition, invasive species, pesticide contamination and collisions with structures. Typical habitat for the species is dense scrub/shrub, grassland/shrub, and bottomland hardwoods where its preferred food of large insects and caterpillars are abundant.

The Illinois Natural Heritage Database includes 11 element occurrence records for the black-billed cuckoo that are classified as extant. Most of these occurrences are in northeast Illinois, but there are also records from north-central, east-central

and southwest Illinois. The Department has issued no previous authorizations for incidental take of the black-billed cuckoo.

ComEd anticipates no take of black-billed cuckoos as a result of the activities described in their HCP. Take will be avoided by searching for active nests between March 15 and November 1 prior to removing woody vegetation. All attempts will be made to avoid removing woody vegetation where an active nest exists. ComEd acknowledges that the presence and operation of energized electrical equipment can cause mortality of birds and has implemented an Avian Protection Plan to minimize risk for all bird species.

Based on the life history needs of the species, the amount and character of the habitats to be affected, the number and distribution of known occurrences of the HED, Blanding's turtle, spotted turtle, and black-billed cuckoo in Illinois, an assessment of the potential effects of this project on individual animals in the project footprint, and the conservation measures included in this authorization for incidental take, the Department has concluded that the taking proposed in ComEd's HCP will not reduce the likelihood of survival or recovery of these endangered species or threatened species in the wild within the State of Illinois, the biotic communities of which the species are a part, or the habitat essential to the species' existence in Illinois.

5. Any measures required under Section 5.5(b)(6) of the Act will be performed.

These measures are listed below under "Authorization." This authorization is, by definition, subject to those terms and conditions and the signature of a representative of ComEd indicates ComEd's commitment to performing those measures.

6. The public has received notice of the application and has had the opportunity to comment before the Department made any decision regarding the application.

Notice of the availability of the HCP for public review and comment was published in the (Taylorville) Breeze-Courier on February 18, February 25 and March 4, 2014; in the Southtown Star on February 18, February 25, and March 4, 2014, and; in The (Joliet) Herald News on February 17, February 25, and March 4, 2014. A copy of the HCP was placed at the White Oak Library District – Lockport Branch to allow public access to the document. No comments were received from the public.

Authorization

It is the determination of the Department that the measures to be implemented by ComEd will adequately minimize and mitigate the anticipated taking of Hine's emerald dragonfly, Blanding's turtle, spotted turtle, and the black-billed cuckoo incidental to activities associated with operation and maintenance of structures and power lines within a defined permit area in Will, Cook and DuPage Counties, Illinois. Further, the Department has concluded that the take authorized herein will not reduce the likelihood of survival or recovery of the endangered species or threatened species in the wild within the State of Illinois, the biotic community of which the species are a part, or the habitat essential to the species' existence in Illinois.

All terms and conditions included in the aforementioned HCP submitted by ComEd to the Department are incorporated into this agreement by reference and are made a part thereof.

Pursuant to Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5] and the Administrative Rules for the Incidental Taking of Endangered and Threatened Species [Ill. Adm. Code 1080.40(b)], this authorization is issued subject to the following terms and conditions, which may include additions or modifications to the minimization and mitigation measures proposed by ComEd under #2 above:

1. This authorization is effective upon the signature of the Department and shall remain in effect for a period of twenty (20) years from the date of the Department signature, unless terminated by written agreement of both parties.

This authorization may be revoked pursuant to the Act and Ill. Adm. Code 1080.80(b) if the Department finds that ComEd has failed to comply with any of these terms and conditions or has been responsible for the taking of Hine's emerald dragonfly, Blanding's turtle, spotted turtle, or black-billed cuckoo beyond that which is incidental to the operation and maintenance of structures and power lines within the defined permit area in Will, Cook and DuPage Counties, Illinois.

2. The effective period of this authorization may be altered by mutual written agreement between ComEd and the Department. The Illinois Endangered Species Protection Board shall be notified of any such alteration.

Any substantive changes, including but not limited to a change in the project footprint or a change in the Illinois endangered or threatened species which could potentially be affected, will require that a new conservation plan be submitted to the Department to initiate the review and public notice process as required by the Act.

3. This authorization is non-transferable.
4. Mitigation settlement dollars to the Department earmarked for the conservation benefit of the State-listed species are non-refundable, including in events of revocation or termination. No mitigation compensation is sought for the actions proposed in ComEd's

conservation plan due to the extensive avoidance and minimization measures to be implemented.

5. **This authorization for take is limited to all ComEd right-of-way (ROW), easements, structures and access routes (existing and proposed). This authorization in no way negates the protections established under the Illinois Natural Areas Preservation Act [525 ILCS 30/](INAPA) for those portions of Illinois Nature Preserves not subject to ComEd's easements. This includes some portion or all of CHUs 1, 3, 4, 6, and 7. Illinois Nature Preserves and Land and Water Reserves and their associated habitats and species are protected by law under INAPA.**
6. All avoidance, minimization and mitigation measures proposed by ComEd and listed in Section 2 under the Compliance section above (beginning on Page 2 of this authorization) are hereby incorporated as additional terms and conditions and shall be implemented by ComEd with the following added stipulations:
 - a. Within 48 hours, reports of any sightings (including mapping of location) of State-listed species shall be submitted to:

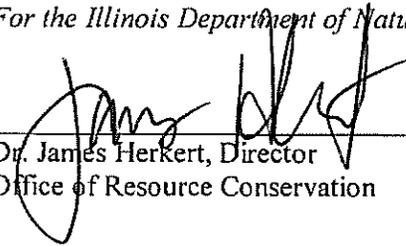
Incidental Take Authorization Coordinator
Illinois Department of Natural Resources
Office of Resource Conservation
One Natural Resources Way
Springfield, IL 62702
(217)557-8243
ITACoordinator@illinois.gov
 - b. Annual reports as required by US Fish and Wildlife Service (USFWS) shall be provided to the Department by January 31 of each year of this authorization covering activities of the previous year.
 - c. In the event that take of a State-listed species occurs, work in the immediate area shall stop, conditions shall be assessed and similar conditions shall be avoided, the Department shall be contacted within 48 hours, and an adaptive management plan shall be implemented in coordination with ComEd, the Department, and the USFWS.
 - d. Seed mix shall contain only native, non-invasive species.
7. Any taking of State-listed plants requires the express written permission of the landowner per the Illinois Endangered Species Protection Act [520 ILCS 10/3]. The ComEd permit area contains element occurrence records for the Federal threatened and Illinois endangered lakeside daisy (*Hymenoxys herbacea*) and the Federal and Illinois endangered leafy prairie clover (*Dalea foliosa*). **This agreement does not authorize the taking of any Federal or State-listed plants.**
8. If ComEd chooses to conduct prescribed burns on their properties, a burn plan will be prepared in accordance with best practices available at that time.

If ComEd cooperates with adjacent or underlying landowners on prescribed burns, that agency's burn policy shall supersede these guidelines.

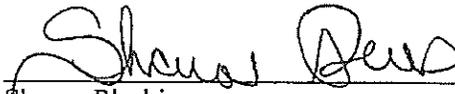
9. The ComEd official identified below is authorized to execute this agreement. Execution by ComEd indicates acceptance of all terms and conditions described in this authorization.

10. The execution of this agreement does not waive or excuse the responsibilities of ComEd to comply with other Federal, State or local regulations, including but not limited to obtaining any required permits for the execution of this project.

For the Illinois Department of Natural Resources: *For Commonwealth Edison:*



Dr. James Herkert, Director
Office of Resource Conservation



Sharon Pluskis
Environmental Health & Safety Director

9-29-14
Date

SHARON PLUSKIS
Printed Name and Title Director EHS

09/18/14
Date

**Description of the Seven Critical Habitat Units
(from HCP prepared by ComEd)**

CHU 1: Approximately 351 acres located in Will County, east of Route 53, north of Caton Farm Road, south of Route 7 and west of the Des Plaines River. CHU 1 is comprised of natural areas associated with Lockport Prairie Nature Preserve, ComEd ROW, Metropolitan Water Reclamation District of Greater Chicago (MWRDGC) property and the MWGen rail line.

CHU 2: Approximately 439 acres located in Will County, south of 135th Street, east of Route 53, north of Route 7, and west of the Des Plaines River. CHU 2 includes ComEd ROW as well as HMS-owned properties known as Middle Parcel, North Parcel, Far North Parcel, River Parcel, River South Parcel and Fitzpatrick Seep.

CHU 3: Approximately 366 acres located in Will County and comprised of Romeoville Prairie Nature Preserve and ComEd ROW.

CHU 4: Approximately 575 acres include Keepataw Forest Preserve and ComEd ROW in Will County, and Black Partridge Forest Preserve and ComEd ROW in Cook County.

CHU 5: Approximately 293 acres located in DuPage County and associated with Waterfall Glen Forest Preserve and ComEd ROW.

CHU 6: Approximately 430 acres located in Cook County and include McMahon Woods Nature Preserve and ComEd ROW.

CHU 7: Approximately 447 acres located in Will County and includes HMS-owned properties known as the "ComEd" and Long Run parcels, IDNR's Long Run Seep Nature Preserve and ComEd easements (located on the east side of the Des Plaines River, south of 135th Street, and west of New Avenue).