

# Illinois Department of Natural Resources

One Natural Resources Way • Springfield, Illinois 62702-1271  
<http://dnr.state.il.us>

Rod R. Blagojevich, Governor

Joel Brunsvold, 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, Part 1080), authorization is hereby granted to Exelon Generation Company, LLC (hereinafter referred to as Exelon) for the incidental take of the state- threatened butterfly mussel (*Ellipsaria lineolata*). The Illinois Department of Natural Resources (hereinafter referred to as the Department) has determined that this taking is incidental to activities associated with the removal of accumulated silt from the Intake Forebay of the Quad Cities Nuclear Power Station and an adjacent section of the Mississippi River in Rock Island County, Illinois<sup>1</sup>.

### Procedural History

A conservation plan, public notice, and Exelon’s request for incidental take of the butterfly were received by the Department on January 19, 2005. Public notice of Exelon’s request for authorization of incidental take was published in the Edwardsville Intelligencer on January 28, 2005 and in the Clinton Herald on January 27, February 3 and February 10, 2005. Public comments on Exelon’s conservation plan were accepted by the Department until March 12, 2005. No comments were received from the public.

### Compliance with the Illinois Endangered Species Protection Act

The Act includes six criteria which 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 to remove accumulated sediment from the Intake Forebay of the Quad Cities Nuclear Power Station and an adjacent portion of the Mississippi River in order to assure an adequate supply of cooling water during periods of low water levels in the Mississippi River. The take that could

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<sup>1</sup>The project location is further described as located at Mississippi River mile 506.7, left bank descending, in Sections 7 and 8, Township 20 North, Range 2 East, Rock Island County, Illinois

result from this project is not the purpose of Exelon's activities, but is incidental to the carrying out of an otherwise lawful activity.

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

The conservation plan prepared by Exelon describes measures that will be taken to minimize the potential adverse effects of their project on the butterfly. Exelon plans to limit dredging to those areas in which sedimentation has reduced river depths at low river stages to an extent that threatens the supply of cooling water to the Quad Cities Nuclear Power Station. In discussions between the Department and Exelon, Exelon agreed to reduce the size of the area to be dredged so that relatively deepwater areas will not be disturbed. The approximate area to be dredged is shown in Attachment A.

On-site mitigation for the taking of butterflys that is likely to occur as a result of this project is not considered feasible by Exelon or the Department.

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

Minimization measures are part of the project plan for the proposed dredging at the Quad Cities Nuclear Power Station. Funding for the proposed dredging is part of the normal operating costs of the Quad Cities Nuclear Power Station.

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 in Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois:

Dredging of the Intake Forebay at the Quad Cities Nuclear Power Station and an adjacent portion of the Mississippi River will be limited to an area in which river-borne sediments have accumulated to depths that threaten to limit the amount of river water that can enter the Intake Forebay at low river stages. At normal river pool, portions of this area are less than one foot deep. Sediments have accumulated primarily in an area immediately downstream of a narrow peninsula known as Edison Pier located just north of the Quad Cities Nuclear Power Station.

The butterfly is on the Illinois list of endangered and threatened species because of its limited distribution in the state and the reduction in its range and abundance relative to the species' historic status. Numerous collections of the butterfly have been made from the Mississippi River in the past 25 years including one live individual found near the western boundary of the area originally proposed for dredging during a survey conducted by Department personnel in July 2002. Butterflys occur in high densities at some locations in the Mississippi River, but there is no evidence of a dense population in the proposed dredge area. The species also occurs in the lower Ohio River.

Sediment accumulation in the area downstream of Edison Pier has been rapid in recent years, making the area in greatest need of dredging of minimal habitat value to the butterfly or other freshwater mussels. Areas subject to high sediment deposition rates are poor habitat because the sediments repeatedly bury any freshwater mussels present. The presence of butterflies in deeper water portions of the originally proposed dredging area is more likely. Exelon has agreed to exclude those deeper areas from the area to be dredged.

The loss of the number of butterflies that are likely to occur within the area that will be affected by this project will not reduce the likelihood of survival or recovery of the endangered species or threatened species in the wild in Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois.

5. Any measures required under Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5 - Section 1080.40(b)], will be performed:

Additional measures are listed below under "Authorization." This authorization is, by definition, subject to those terms and conditions and Exelon's signature on this authorization indicates their 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:

Public notice of Exelon's request for authorization of incidental take was published in the Edwardsville Intelligencer on January 28, 2005 and in the Clinton Herald on January 27, February 3 and February 10, 2005. Public comments on Exelon's conservation plan were accepted by the Department until March 12, 2005. No comments were received from the public.

#### Authorization

It is the determination of the Department that the measures that will be implemented by Exelon will adequately minimize the anticipated taking of butterflies. Further, it is our opinion that the take authorized herein will not diminish the likelihood of the survival of the butterfly 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.

Pursuant to Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5 and Ill. Adm Code Part 1080.40(b)], this authorization is issued subject to the following additional terms and conditions:

1. This authorization is effective upon signature of the Department and shall remain in effect for a period of eleven (11) years from the date of the Department signature, unless terminated pursuant to Section 5.5 of the Illinois Endangered Species Protection Act (520 ILCS 10/5.5 and Ill. Adm. Code Part 1080.80).

2. Exelon shall provide supervision of all phases of the dredging of the Intake Forebay and the adjacent portion of the Mississippi River to assure that disturbance of the river bottom is limited to the areas necessary to provide reliable availability of cooling water for the Quad Cities Nuclear Power Station. The approximate area to be dredged is depicted in Attachment A. Exelon shall inform all contractors of the need to limit disturbance of the river bottom to that area necessary to complete the dredging in a safe and effective manner.

3. The effective period of this authorization may be altered by mutual agreement between Exelon and the Department.

4. This authorization may be revoked pursuant to Section 5.5 of the Illinois Endangered Species Protection Act (520 ILCS 10/5.5 and Ill. Adm. Code Part 1080.80) if the Department finds that Exelon has failed to comply with any of these terms and conditions or has been responsible for the taking of butterflies beyond that which is incidental to the dredging of the Intake Forebay and an adjacent area of the Mississippi River at the Quad Cities Nuclear Power Station.

5. The Exelon official identified below is authorized to execute this agreement. Execution by Exelon indicates acceptance of all terms and conditions as described in this document.

For the Illinois Department of  
Natural Resources



Mike Conlin, Director (Acting)  
Office of Resource Conservation

3.28.05

Date Signed

For Exelon Generation Company, LLC



Signature

Timothy J. Tulon, Site Vice President

Printed Name and Title

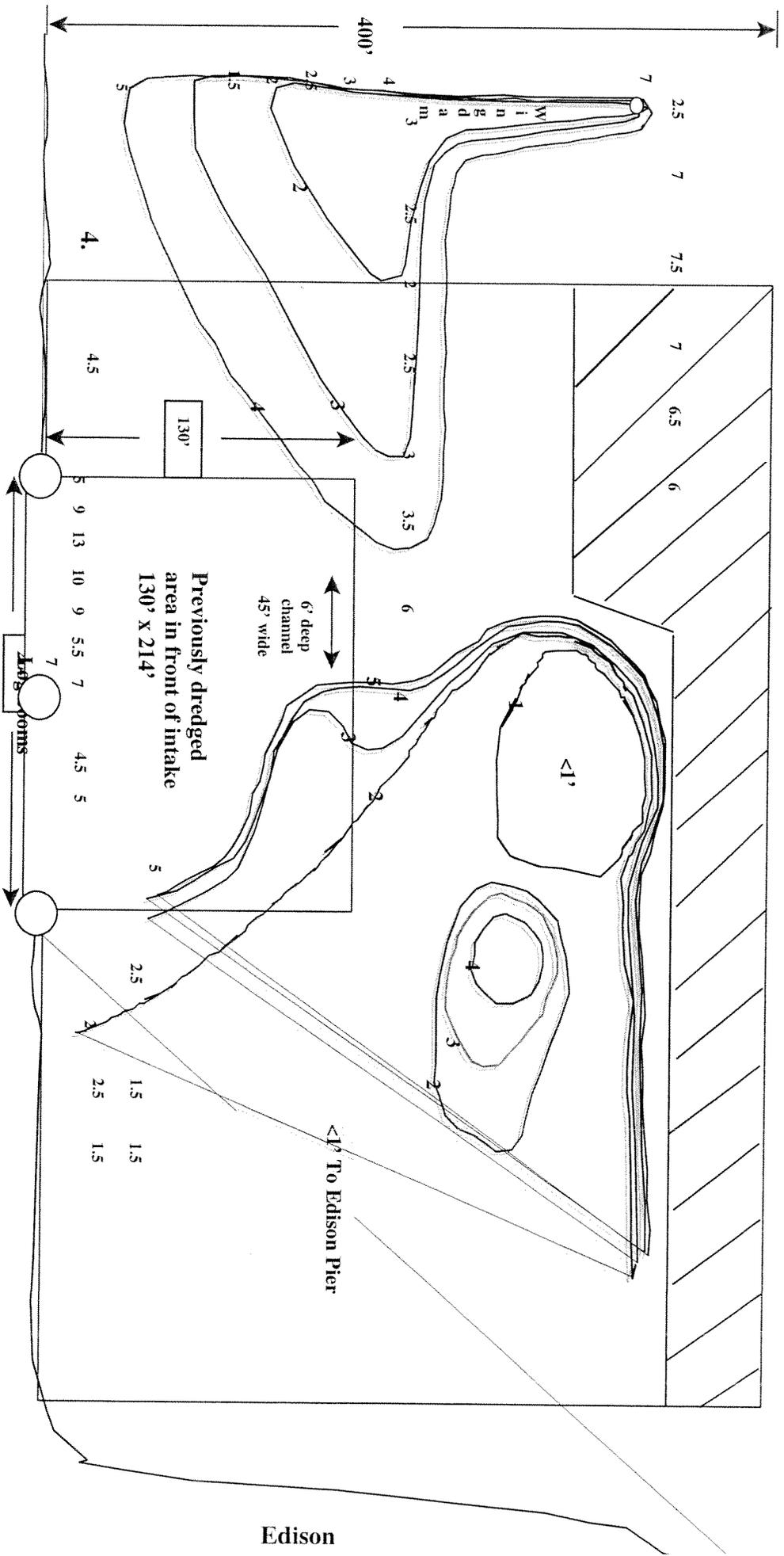
3-25-05

Date Signed

**ATTACHMENT A**  
**Cross-hatched area will not be dredged**

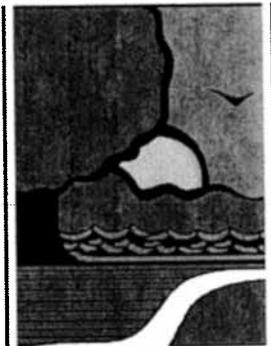
Water Depths (in feet) in Front of Intake Forebay  
**8/26/04 River at 572'**

**Project Description:**  
 Maintenance Dredging  
 of Intake Forebay and  
 Adjacent Section of  
 Mississippi River  
**Location:**  
 Exelon Quad Cities



**Edison**

ILLINOIS



DEPARTMENT OF  
**NATURAL  
RESOURCES**

**Office of Resource Conservation  
One Natural Resources Way  
Springfield, Illinois 62702**

Fax:	217/785-2438
Wildlife Phone:	217/782-6384
Fisheries Phone:	217/782-6424
Habitat Resources:	217/785-8774
Operations:	217/782-2602

**FAX TRANSMISSION COVER SHEET**

Date: 3/28/2005

To: Mark Stuhlmann

Fax No. (309)227-2265

From: Glen Kruse

Number of Pages (including cover): 6

Messages:

Fully executed incidental take authorization. This must have hit my mailbox just about the time that we were talking on the phone. Original will follow by mail.

**If you do not receive all the pages indicated, please call (217)785-8691 as soon as possible.**

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JOB STATUS REPORT

TIME : 03/31/2005 09:11  
NAME : IL DEPT NATURAL RES  
FAX# : 217-785-2438  
TEL# :  
SER.# : BR02J1501039

DATE, TIME	03/31 09:08
FAX NO./NAME	913092272265
DURATION	00:02:25
PAGE(S)	06
RESULT	OK
MODE	STANDARD ECM

**ILLINOIS**



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NATURAL  
RESOURCES**

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