

Illinois Department of Natural Resources

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Authorization for Incidental Take and Implementing Agreement

Pursuant to the Illinois Endangered Species Protection Act (520 ILCS 10/5.5), on behalf of Enbridge Pipelines (Southern Lights) L.L.C. (Enbridge), and its environmental consultant, Natural Resource Group, L.L.C., (NRG) authorization for the incidental take of the State listed Franklin's ground squirrel (*Spermophilus franklinii* - FGS) in Will County, Illinois [associated with the Manhattan to Streator Project near Manhattan/Ransom, Illinois; as described/shown in the final conservation plan received by the Department on 18 December 2008] is hereby granted, subject to the terms and conditions described in the attached Authorization and Implementing Agreement. The Illinois Department of Natural Resources has determined that this authorized take is incidental to the construction of the Manhattan to Streator (pipeline) Project in Will County, Illinois.

The project is an approximately 45.5 mile pipeline located in La Salle, Grundy, and Will Counties. As noted, potential impacts to state-listed threatened and endangered species are limited to the FGS. This species may have suitable habitat and populations between mileposts 39.2 and 45.5. This portion of the project occurs in Sections 1, 12-14, and 22-23, Township 33N, Range 10W; Section 6, T33N, R11W; and Sections 29 and 31, T34N, R11W, Will County. The entire pipeline is between Manhattan and Ransom, Illinois, though this portion of the project occurs only in Will County. Construction for the project is scheduled/estimated to begin in June 2009 and the pipeline is anticipated to be operational by 2010.

Enbridge had performed biological surveys in order to ensure the absence of FGS from within the project corridor and found several burrows that potentially harbor this species. Consequently, Enbridge performed follow-up surveys and trapping to verify the species inhabiting the burrows and submitted this conservation plan to describe the plan to minimize potential impacts to the FGS in the area. The survey report was previously submitted to the IDNR and is on file at the IDNR headquarters in Springfield, IL.

Procedural History

NRG (on behalf of Enbridge) prepared a conservation plan for the Manhattan to Streator (pipeline) Project in Will County, Illinois as described by the Illinois Endangered Species Protection Act (520 ILCS 10/5.5). That plan and Enbridge's request for authorization for incidental take of the State listed Franklin's ground squirrel (*Spermophilus franklinii* - FGS) in Will County, Illinois were received by the Illinois Department of Natural Resources (Department) on 18 December 2008. Public notice of Enbridge's request for authorization of incidental take of these State listed species was published in the Arlington Heights/Northwest Daily Herald (Official State newspaper) and the Kankakee Daily Journal on January 9, 10, 16, and 23, 2009. Public comments on Enbridge's conservation plan were accepted by the Department until February 23, 2009. No public comments were received by the public during the period of January 9, 2009 through February 23, 2009.

Target Species

Franklin's Ground Squirrel/FGS (*Spermophilus franklinii*) - (Illinois) State Threatened

In Illinois, FGS prefer habitats with intermediate and tall grasses; they are not found in areas with short or mowed grasses. Cultivated land is rarely used by the diurnal squirrels, which are most often found in dense vegetation where there is limited mowing or grazing. The FGS often create burrows in elevated landscape features such as the elevated beds of railroad and road rights-of-way. Their burrows are fairly deep and well drained to be insulated from heat and cold and may have multiple entrance holes. One of the true hibernators, FGS sleep from about September to April with a body temperature just a few degrees over freezing. Right after coming out of hibernation, they breed and have a single yearly litter of 6-9 pups around early June.

FGS eat insects, green plants, seeds, fruit, amphibians, bird eggs, young birds and mammals, and carrion. Their principal predators are the red-tailed hawk, red fox, badger, coyote, striped skunk, mink, and long-tailed weasel. Their home range is usually 1.5-3 acres. At adolescence, male juveniles disperse for an unknown distance. In the wild, life expectancy is 4-5 years for females and 1-2 years for males. Even during spring and summer, the squirrels spend a majority of time in the burrow. As such, an important conservation practice will be to avoid the burrows, which have been identified during the field surveys.

The key habitats crossed by the construction corridor of the pipeline project include the Wauponsee Trail corridor (a former railroad), several small roads, and a ditch with a berm on the western side created from ditch spoils. The pipeline right-of-way crosses the trail corridor at approximate milepost 39.4 and runs adjacent to the trail from that point to the end of the project at milepost 45.5.

Compliance with the Endangered Species Protection Act

The Illinois Endangered Species Protection Act includes six (6) criteria which must be met for the authorization of incidental take of an endangered or threatened species. These criteria and the Department's determination for each criteria 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 project is an approximately 45.5 mile pipeline located in La Salle, Grundy, and Will Counties. As noted, potential impacts to state-listed threatened and endangered species are limited to the FGS. This species may have suitable habitat and populations between mileposts 39.2 and 45.5. This portion of the project occurs in Sections 1, 12-14, and 22-23, Township 33N, Range 10W; Section 6, T33N, R11W; and Sections 29 and 31, T34N, R11W, Will County. The entire pipeline is between Manhattan and Ransom, Illinois, though this portion of the project occurs only in Will County. Construction for the project is scheduled/estimated to begin in June 2009 and the pipeline is anticipated to be operational by 2010.

Enbridge had performed biological surveys in order to ensure the absence of FGS from within the project corridor and found several burrows that potentially harbor this species. Consequently, Enbridge performed follow-up surveys and trapping to verify the species inhabiting the burrows and submitted this conservation plan to describe the plan to minimize potential impacts to the FGS in the area. The survey report was previously submitted to the IDNR.

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

It is likely that some FGS along the project corridor will experience temporary disturbance from noise and other construction activity during the installation of the pipeline. The construction activities could result in death or injury to individuals that are within the construction corridor. This could include individuals in underground burrows in the line of the trenching activities or individuals that could be run over by heavy equipment. As part of the final/approved Conservation Plan, it is anticipated that a few FGS individuals will be *relocated* prior to construction. It is possible that one or more individuals could be injured or killed during construction if they cannot be trapped and relocated. The overall intent of the Conservation Plan is to avoid all impacts to the extent practicable, and greatly minimize those impacts that cannot be avoided.

Concerning construction activities, the primary area above the trench will be graded to remove topsoil, which will be stored along the northwestern edge of the corridor, called the "spoil side". Then a trench will be excavated to a maximum depth of about 8 feet below the current grade. The trench will likely be less than about 16 feet wide; this soil will also be stored on the spoil side and kept separate from the topsoil. Then the pipes will be strung out along the southeastern edge of the trench ("working side"), welded together, and lowered into the trench. The pipe will then be covered with the subsoil to re-fill the trench and the topsoil will be added to return the site to the original grade. Heavy machinery will be present on the site for several weeks during this process. The site shall be restored to original conditions and seeded with permanent seed mixes (native vegetation) in areas that are not under cultivation. The cultivated areas shall be replanted by the landowner unless otherwise requested (native seed mix preferred).

Surveys have been performed to identify the locations and extent of the population of FGS in the area of this portion of the pipeline. There are numerous burrows present along the Wauponsee Trail, just outside of the proposed construction corridor that will not be directly impacted during construction. These burrows are located on the spoil side of the construction corridor. The edge of the spoil side construction area extends 20 feet from the proposed pipeline location; the working side will be 75 feet wide. There will be no digging on the spoil side of the corridor, so there is little chance of harming FGS in their burrows along the trail.

To minimize the area of construction that may potential affect FGS burrows, Enbridge shall employ the following measures:

- a. The construction work area shall be at least ten (10) feet from any of the surveyed burrows; the construction corridor shall be narrowed as necessary to avoid burrows within ten feet of proposed work areas.
- b. Barrier fencing shall be placed along the edge of the construction work area on the trail side and along the edges of the work area at crossings and road borings in areas within 300 feet of a potential FGS burrow.

c. It is expected that few, if any, individuals would be taken during construction. The barrier fencing and avoidance of burrows should minimize the likelihood of impacts in most areas. At milepost 42.7, five (5) known burrows occur within the construction corridor. The five burrow holes may represent two (2) burrow systems. Franklins' ground squirrels are generally very secretive and may live alone in a burrow, so there may be only two (2) individual FGS in these burrows, if any. During hibernation, several individuals may live together in the same burrow and the young typically will occupy a burrow with its mother until July, when they begin dispersing.

d. Project construction is most likely to occur during the active period in August or during hibernation in October. If project construction occurs in August, the greatest number of individuals in the corridor would possibly be two or three (2/3), and these would be trapped and relocated, as described below. If Project construction occurs in October, it is possible that up to ten individuals (10), five (5) per burrow system, could be in the disturbed area and not be relocated.

*See Also: [Authorization Section](#) of this document for more details.

Habitat Requirements/Species Status:

Franklin's ground squirrel/FGS

Habitat Requirements

In Illinois, FGS prefer habitats with intermediate and tall grasses; they are not found in areas with short or mowed grasses. Cultivated land is rarely used by the diurnal squirrels, which are most often found in dense vegetation where there is limited mowing or grazing. The FGS often create burrows in elevated landscape features such as the elevated beds of railroad and road rights-of-way. Their burrows are fairly deep and well drained to be insulated from heat and cold and may have multiple entrance holes.

One of the true hibernators, FGS sleep from about September to April with a body temperature just a few degrees over freezing. Right after coming out of hibernation, they breed and have a single yearly litter of 6-9 pups around early June. FGS eat insects, green plants, seeds, fruit, amphibians, bird eggs, young birds and mammals, and carrion. Their principal predators are the red-tailed hawk, red fox, badger, coyote, striped skunk, mink, and long-tailed weasel. Their home range is usually 1.5-3 acres. At adolescence, male juveniles disperse for an unknown distance. In the wild, life expectancy is 4-5 years for females and 1-2 years for males.

Species Status in the Action Area

The key habitats crossed by the construction corridor of the pipeline project include the Wauponsee Trail corridor (a former railroad), several small roads, and a ditch with a berm on the western side created from ditch spoils. The pipeline right-of-way crosses the trail corridor at approximate milepost 39.4 and runs adjacent to the trail from that point to the end of the project at milepost 45.5.

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

Enbridge has fully incorporated the Conservation Plan into its construction plans and training programs for the project and has secured the funds necessary for its implementation as part of the overall project budget. If new information is discovered prior to, or during construction, that may impact the effectiveness of the final/approved Conservation Plan, the Enbridge Environmental staff (including Environmental Inspectors and Construction Managers) shall alter the plan appropriately. In doing so, Enbridge shall report to the IDNR with a description of the changed circumstances or new information and propose modifications to the plan. This activity would likely occur during or immediately preceding construction.

4. Based on the best available scientific data, the Department has determined that the taking will not reduce the likelihood of the 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:

The Manhattan to Streator Project will more than likely have minimal direct impacts on FGS habitat and individuals. Construction areas will be restored to their original grade following construction and non-agricultural lands will be revegetated with native prairie grasses. As such, the habitat conditions at the site following the project will be similar to those prior to construction. Any impacts that occur in accordance with the incidental take permit/authorization would be limited to an individual or small number of individuals that cannot be trapped and moved. Therefore the Department supports Enbridge's belief that implementing its proposed Conservation Plan will not reduce the likelihood of the 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.

Field surveys(Enbridge/NRG) indicate a total of 30 potential FGS burrows near the project corridor. It is unlikely that these are the only FGS burrows in this area and many of the burrows may not have FGS dwelling in them. The FGS population of the area likely extends east into better habitat within the Midewin tallgrass prairie and the burrows found near the project are probably near the population edge. Furthermore, considering the proposed actions described within, it is unlikely that FGS individuals will be injured during construction activities. The highest potential for injury is at milepost 42.7, where 5 burrows will occur within the construction workspace. After exclusion fencing is placed and individuals are trapped and removed, it is anticipated that not more than 2 or 3 (2/3) individuals will still be within the workspace; these will likely be able to avoid construction equipment or they will be discovered by construction staff before they are injured.

Furthermore, surveys have been performed to identify the locations and extent of the population of FGS in the area of this portion of the pipeline. There are numerous burrows present along the Wauponsee Trail, just outside of the proposed construction corridor that will not be directly impacted during construction. These burrows are located on the spoil side of the construction corridor. The edge of the spoil side construction area extends 20 feet from the proposed pipeline location; the working side will be 75 feet wide. There will be no digging on the spoil side of the corridor, so there is little chance of harming FGS in their burrows along the trail.

To minimize the area of construction that may potential affect FGS burrows, Enbridge shall employ the following measures:

- a. The construction work area will be at least ten (10) feet from any of the surveyed burrows; the construction corridor will be narrowed as necessary to avoid burrows within ten (10) feet of proposed work areas.
- b. Barrier fencing will be placed along the edge of the construction work area on the trail side and along the edges of the work area at crossings and road borings in areas within 300 feet of a potential FGS burrow.
- c. It is expected that few, if any, individuals would be taken during construction. The barrier fencing and avoidance of burrows should minimize the likelihood of impacts in most areas. At milepost 42.7, five (5) known burrows occur within the construction corridor. The five (5) burrow holes may represent two (2) burrow systems. Franklins' ground squirrels are generally very secretive and may live alone in a burrow, so there may be only two (2) individual FGS in these burrows, if any. During hibernation, several individuals may live together in the same burrow and the young typically will occupy a burrow with its mother until July, when they begin dispersing.
- d. Project construction is most likely to occur during the active period in August or during hibernation in October. If project construction occurs in August, the greatest number of individuals in the corridor would more than likely be two or three (2/3), and these would be trapped and relocated, as described below. If Project construction occurs in October, it is possible that up to ten (10) individuals, five (5) per burrow system, could be in the disturbed area and not be relocated.
- e. Along the Wauponsee Trail (from milepost 39.2 to 45.5), the following conservation practices will be implemented to minimize potential negative impacts to FGS:

*All personnel working in the vicinity of FGS habitat will receive a training session prior to activities regarding general information about FGS, mitigation measures, and regulations protecting the FGS.

*Barrier fencing will be placed along the edge of the construction work area on the trail side and along the edges of the work area at crossings and road borings in areas within 300 feet of a potential FGS burrow.

*If the route is moved for any reason, but still occurs in suitable habitat, surveys will be conducted as necessary (prior to any construction activities) and appropriate conservation measures will be implemented. Before any actions are implemented, they shall be reported to the Illinois Department of Natural Resources (IDNR), attention: Joseph Kath at 217-785-8764 (e-mail: Joe.Kath@illinois.gov) within 24 hours of implementation.

I. In addition, there is one (1) location where burrows are found within the proposed construction right-of-way that could not be avoided by re-routing or altering the workspace. This area is located in the vegetated area near an unnamed tributary ditch to Prairie Creek (milepost 42.7). Impacts to the potential FGS burrows found within the project right-of-way will be minimized with the following practices:

At the tributary ditch to Prairie Creek (milepost 42.7), there are five (5) potential FGS burrows within the proposed construction corridor. In 2008, field trapping surveys confirmed the presence of FGS within the corridor at this location:

*Barrier fencing will be installed around the construction corridor to exclude FGS at least two (2) weeks prior to construction activity. Traps will be placed within the fenced areas until construction begins. Any squirrels captured will be documented and relocated to nearby suitable and accessible habitat with a low density of FGS (see below).

*The environmental inspector will report any FGS found within the project corridor to the Illinois Department of Natural Resources (IDNR), attention: Joseph Kath at 217-785-8764 (e-mail: Joe.Kath@illinois.gov) within 24 hours of discovery. Prior to relocation of any animals (FGS), the environmental inspector(s) shall coordinate directly with the Forest Preserve District of Will County (attention: David Robson-Natural Resource Supervisor at 815-722-5374; e-mail: drobson@fpdwc.org) in order to locate suitable release sites and to determine an appropriate time of year for release most beneficial for the FGS. The FPD of Will County, in conjunction with the Department, shall have final jurisdiction over the choice of release site(s) and the most biologically appropriate time of release.

*The environmental inspector will monitor the area during construction and restoration activities. Barrier fencing will remain in place until final cleanup and restoration is complete so that no further machinery will impact the area.

5. Any measures required under Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5 - 17 IL. Adm. Code Part 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 official Enbridge signature(s) 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:

NRG (on behalf of Enbridge) prepared a conservation plan for the Manhattan to Streator (pipeline) Project in Will County, Illinois as described by the Illinois Endangered Species Protection Act (520 ILCS 10/5.5). That plan and Enbridge's request for authorization for incidental take of the State listed Franklin's ground squirrel (*Spermophilus franklinii* - FGS) in Will County, Illinois were received by the Illinois Department of Natural Resources (Department) on 18 December 2008. Public notice of Enbridge's request for authorization of incidental take of these State listed species was published in the Arlington Heights/Northwest Daily Herald (Official State newspaper) and the Kankakee Daily Journal on January 9, 10, 16, and 23, 2009. Public comments on Enbridge's conservation plan were accepted by the Department until February 23, 2009. No public comments were received by the public during the period of January 9, 2009 through February 23, 2009.

The project is an approximately 45.5 mile pipeline located in La Salle, Grundy, and Will Counties. As noted, potential impacts to state-listed threatened and endangered species are limited to the FGS. This species may have suitable habitat and populations between mileposts 39.2 and 45.5. This portion of the project occurs in Sections 1, 12-14, and 22-23, Township 33N, Range 10W; Section 6, T33N, R11W; and Sections 29 and 31, T34N, R11W, Will County. The entire pipeline is between Manhattan and Ransom, Illinois, though this portion of the project occurs only in Will County. Construction for the project is scheduled/estimated to begin in June 2009 and the pipeline is anticipated to be operational by 2010.

Enbridge had performed biological surveys in order to ensure the absence of FGS from within the project corridor and found several burrows that potentially harbor this species. Consequently, Enbridge performed follow-up surveys and trapping to verify the species inhabiting the burrows and submitted this conservation plan to describe the plan to minimize potential impacts to the FGS in the area. The survey report was previously submitted to the IDNR.

PROBABLE EFFECTS OF THE PROPOSED ACTION:

It is likely that some FGS along the project corridor will experience temporary disturbance from noise and other construction activity during the installation of the pipeline. The construction activities could result in death or injury to individuals that are within the construction corridor. This could include individuals in underground burrows in the line of the trenching activities or individuals that could be run over by heavy equipment. As part of this conservation plan, it is anticipated that a few FGS individuals will be relocated prior to construction. It is possible that one (1) or more individuals could be injured or killed during construction if they cannot be trapped and relocated. The intent of the Conservation Plan and subsequent ITA is to avoid all impacts to the extent practicable, and greatly minimize those impacts that cannot be avoided. Enbridge considered two (2) options other than the measures outlined in its Conservation Plan in order to minimize the potential for impacts:

A. One option considered was slight modification of the route. Possible reroutes considered included routes that move the pipeline further east and south of the current alignment along the Wauponsee trail. However, surveys indicated that potential FGS burrows occur along nearby road grades and elsewhere along the ditch. Therefore, regardless of the crossing point of these features, there is potential for FGS and burrow systems and complete avoidance is not practical.

B. A second alternative considered was to install the pipeline under the ditch and spoil pile at milepost 42.7 without trenching or surface disturbance using a horizontal directional drill (HDD) or other similar technique. This alternative required additional space on either side of the ditch, which is limited by nearby suitable habitat at the road crossing just southwest of the ditch and the wetland north and east. In addition, using an HDD greatly increases the amount of time needed in the area. During this time the construction equipment must operate day and night while installing the pipe below the resources. Such a technique would be disruptive to the FGS and other state-listed species known to occur nearby in Midewin, such as the loggerhead shrike and upland sandpiper.

The proposed technique should minimize the time of construction, the amount of ground disturbance, and the length of the pipeline in this area. Therefore, the proposed Conservation Plan will most likely result in the least likelihood of disrupting the movements of multiple state-listed species. With the proposed trapping and relocation plan, the potential for impacts to FGS is most likely minimal.

Authorization

It is the determination of the Department that the measures to be implemented by Enbridge and its consultant, NRG, will adequately minimize and mitigate for the anticipated taking (disturbance/harassment/relocation/lethal take) of a small number of the State listed Franklin's ground squirrels (*Spermophilus franklinii* - FGS) in Will County, Illinois [associated with the Manhattan to Streator Project near Manhattan/Ransom, Illinois; as described/shown in the final conservation plan received by the Department on 18 December 2008] Further, it is our opinion that the take (disturbance/harassment/relocation/lethal take) authorized herein would not diminish the likelihood of the survival of either these aforementioned 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.

Pursuant to Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5 - 17 IL. 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 3 (three) years after the first day of official use of the Enbridge-Manhattan to Streator pipeline for commercial/residential purposes , unless terminated pursuant to Section 5.5. of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5 - 17 IL. Adm. Code Part 1080.80].
2. If new information is discovered prior to or during construction that may impact the effectiveness of the approved Conservation Plan, Enbridge Environmental staff (including Environmental Inspectors, Subcontractors/Subconsultants, and Construction Managers) shall have 72 hours to alter the plan appropriately. Enbridge shall then report to the IDNR with a description of the changed circumstances or new information and propose modifications to the plan - within 72 hours of plan alteration.
3. After construction is complete and the pipeline is in the ground, the area and the habitat quality shall be restored to pre-construction conditions. All areas now in natural vegetation, shall be reseeded with a native vegetation mix. Restoration in non-cultivated areas shall be completed using native species or based on landowner recommendations where appropriate. Site restoration shall return the entire area to its original contours and areas with natural vegetation shall be seeded with native prairie grasses and returned to original conditions. If after 2 years, the native seed mix was deemed unsuccessful (less than 60% germination and/or survival), Enbridge shall reseed all affected areas once again with a native seed mix one more time.
4. Erosion control methods will be implemented and monitored until successful establishment of newly planted vegetation. Formal erosion control inspections along the entire construction corridor shall be conducted at least once (1x) a month by an appropriate environmental consultant (hired by Enbridge) and erosion control reports shall remain on file with this consultant. These reports shall be faxed/e-mailed to Enbridge immediately upon completion and any and all recommendations made by the consultant to Enbridge to repair/replace erosion control devices shall be completed by Enbridge and/or a recognized agent/subcontractor/consultant of Enbridge within 48 hours of report receipt.

5. With respect to *erosion control* methods implementation and monitoring: Enbridge and/or a recognized agent/subcontractor of Enbridge shall conduct formal erosion control inspections along the entire construction corridor within 24 hours of a precipitation event for the duration of the pipeline project. Formal erosion control reports shall be faxed/e-mailed to Enbridge immediately upon completion of these precipitation event inspections and any and all recommendations made by the consultant to Enbridge to repair/replace erosion control devices in order to stabilize the site shall be completed by Enbridge and/or a recognized agent/subcontractor of Enbridge within 24 hours of report receipt.

6. With regards to *direction drilling*: A contingency plan for “frac-outs” must be prepared and approved by Enbridge’s environmental consultant, Natural Resource Group, L.L.C., (NRG) or other licensed environmental consulting firm, prior to any directional drilling taking place along the entire construction route. This plan shall address restoration and monitoring of any and all affected areas and is subject to review by the Department. Compensation for damages to the environment caused by “frac-outs” may be sought by the Department as allowed under Illinois State law.

7. Additionally, with regards to *direction drilling*: A management plan for waste material created by drilling/boring equipment (i.e. waste water/bentonite slurry) must be prepared and approved by Enbridge’s environmental consultant, Natural Resource Group, L.L.C., (NRG) or other licensed environmental consulting firm, prior to any directional drilling taking place along the entire construction route. This plan shall address restoration and monitoring of any and all affected areas and is subject to review by the Department. Compensation for damages to the environment caused by the spilling of slurry/waste water material into areas such as streams and wetlands may be sought by the Department as allowed under Illinois State law.

8. Enbridge shall implement all appropriate measures noted in the Conservation Plan and this ITA for all non-emergency maintenance and repair work along the pipeline and for any future construction of associated structures and facilities. When the need for non-emergency maintenance and construction activities is identified, Enbridge shall complete additional surveys (prior to any construction) in order to identify any newly constructed burrows and construction shall proceed as follows:

a. If no burrows occur within the area of activity, Enbridge will carry out its construction and maintenance using standard practices.

b. If burrows are identified near, but not within, the project area:

All personnel working in the vicinity of FGS habitat shall receive a training session prior to activities regarding general information about FGS, mitigation measures, and regulations protecting the FGS.

The construction work area shall be kept at least ten (10) feet from any of the surveyed burrows; the construction corridor shall be narrowed as necessary to avoid burrows within ten (10) feet of proposed work areas, unless other provisions can be made to minimize the potential for impacts.

Barrier fencing shall be placed along the edge of the construction work area on the trail side and along the edges of the work area at crossings and road borings in areas within 300 feet of a potential FGS burrow.

c. If burrows are identified within the project area:

All personnel working in the vicinity of FGS habitat shall receive training regarding general information about FGS, mitigation measures, and regulations protecting the FGS.

The construction zone shall be minimized to disturb the smallest practicable area and construction shall be timed to facilitate trapping and relocation.

Barrier fencing shall be installed around the construction corridor to exclude FGS at least two (2) weeks prior to construction activity. Traps will be placed within the fenced areas until construction begins. Any squirrels/FGS captured will be documented and relocated to nearby suitable and accessible habitat with a low density of FGS [**See item #10 below**].

The environmental inspector shall monitor the area during construction and restoration.

Barrier fencing shall remain in place until final cleanup and restoration is complete so that no further machinery will impact the area.

9. The environmental inspector is responsible for ensuring that all tasks described above are completed prior to and during construction of the entire project. The inspector will be on-site during construction activities and will perform daily checks to ensure barrier fencing is in place and other tasks are followed appropriately. The environmental inspector will report any FGS found within the project corridor and any non-repaired barrier fencing to the Illinois Department of Natural Resources (IDNR), attention: Joseph Kath at 217-785-8764 (e-mail: Joe.Kath@illinois.gov) within 24 hours of discovery.

10. Prior to relocation of any animals (FGS), the environmental inspector(s) shall coordinate directly with the Forest Preserve District of Will County (attention: David Robson-Natural Resource Supervisor at 815-722-5374; e-mail: drobson@fpdwc.org) in order to locate suitable release sites and to determine an appropriate time of year for release most beneficial for the FGS. The FPD of Will County, in conjunction with the Department, shall have final jurisdiction over the choice of release site(s) and the most biologically appropriate time of release.

11. In addition, a final report of all trapping and relocation efforts prior to construction will be provided to the IDNR (attention: Joseph Kath) within 90 days of project completion. The report will include similar information provided in the preceding trapping survey as well as information on the relocation of the individuals moved.

12. Any FGS (or any other Illinois State listed animal species) incidentally injured during any portion of the Enbridge-Manhattan to Streator (pipeline) Project in Will County, Illinois, shall be reported to the Illinois Department of Natural Resources (IDNR), attention: Joseph Kath at 217-785-8764 (e-mail: Joe.Kath@illinois.gov) within 24 hours of injury. Any and all injured FGS (or any other Illinois State listed animal species) shall also be reported to the Forest Preserve District of Will County (attention: David Robson-Natural Resource Supervisor at 815-722-5374; e-mail: drobson@fpdwc.org) within 24 hours of discovery and transported by an agent of Enbridge to a veterinarian recommended by the FPD of Will County. Any and all fees associated with care of injured FGS (or any other Illinois State listed animal species) shall be paid directly by Enbridge.

13. Any FGS (or any other Illinois State listed animal species) incidentally taken/killed during any portion of the Enbridge-Manhattan to Streator (pipeline) Project in Will County, Illinois, shall be reported to the Illinois Department of Natural Resources (IDNR), attention: Joseph Kath at 217-785-8764 (e-mail: Joe.Kath@illinois.gov) within 24 hours of discovery. Any and all deceased FGS (or any other Illinois State listed animal species) shall be deposited with the Forest Preserve District of Will County (attention: David Robson-Natural Resource Supervisor at 815-722-5374; e-mail: drobson@fpdwc.org) within 24 hours of discovery.

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

15. This authorization may be revoked pursuant to Section 5.5 of the Act if the Department finds that Enbridge has failed to comply with any of these terms and conditions or has been responsible for the take of any State Listed Species beyond that which is incidental to the construction of the Manhattan to Streator (pipeline) Project in Will County, Illinois.

16. The Enbridge official(s) identified below is/are authorized to execute this agreement. Execution by an official from any one of these organizations indicates acceptance of all terms and conditions described in this document.

For the IL. Department of Natural Resources

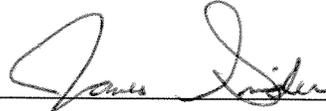


Mike Conlin, Acting Director
Office of Resource Conservation

6.3.09

Date Signed

For Enbridge Pipelines (Southern Lights) L.L.C.
(Enbridge)



Signature

James Snider, Senior Environmental Engineer

Please print name and official title

06/02/09

Date Signed