ILLINOIS ENDANGERED SPECIES PROTECTION BOARD

MINUTES OF THE 163rd MEETING

GLACIAL PARK, LOST VALLEY VISITOR CENTER, RINGWOOD, IL

15 August, 2014
(Approved at the 164th Meeting, November 14, 2014)

BOARD MEMBERS PRESENT: Chair Dan Gooch, Secretary John Clemetsen, Ms. Lenore Beyer-Clow, Dr. Joyce Hofmann, Ms. Susanne Masi, Mr. Jim Robinett, Ms. Laurel Ross, Dr. Jeff Walk

BOARD MEMBERS ABSENT: Dr. Jim Herkert

BOARD MEMBER VACANCIES: One

OTHERS PRESENT: Mr. Seth Turner and Mr. Ben Turner, and Ms. Anne Mankowski (Endangered Species Protection Board)

163-1 Call to Order Welcome and Introduction of Guests
Chair Gooch called the meeting to order at 9:00 A.M., asked Board members to introduce themselves, and noted that there was a quorum. He then asked audience members to introduce themselves.

163-2 Adoption of Agenda
Chair Gooch asked for a motion to approve the agenda. Dr. Walk **moved** to adopt the agenda and Ms. Beyer-Clow seconded the motion. Dr. Walk recommended moving the approval of minutes from the closed sessions of the 160th (11/15/13) and the 02/20/14 Special Meeting from agenda item 163-3 to just before the agenda item for Other Business and Ms. Mankowski recommended moving the Public Comment Period to just after the List Review agenda item. Dr. Walk **moved** to accept the amendments, Ms. Beyer Clow seconded the motion and the agenda as amended was **approved** unanimously.

163-3 Approval of Minutes from the 162nd Meeting (05/16/14)
Dr. Hofmann **moved** for approval of the minutes from the 162nd meeting held May 16, 2014 and Secretary Clemetsen seconded the motion. There was discussion that agenda item explanations for items 162-6 and 162-10 should include description of the actions taken out of order. Ms. Mankowski indicated that she would add those descriptions in the final version of the minutes. Ms. Beyer-Clow **moved** to amend the motion by adding of descriptions regarding the actions taken out of order, Dr. Hofmann accepted the amendment to her motion, Ms. Ross seconded the motion as amended and it was **approved** unanimously.

The Board took a some time to discuss what materials are included in meeting minutes, noting that it is most appropriate for minutes to simply mention as received and placed on file, rather than include a copy of the document, items that are submitted during public comment period or are sent to members or staff outside of meetings, but are not actually presented or discussed in a meeting as an agenda item. Ms. Mankowski and Chair Gooch agreed to research what standards or requirements exist for the content of meeting minutes.

163-4 ESPB Staff Report
Ms. Mankowski, Director of the Illinois Endangered Species Protection Board, gave her report (Attachment A).

163-5 IDNR Staff Report
No report was presented.

163-6 INPC Staff Report
No report was presented.

163-7 Semi-Annual Review of Whether to Keep Closed Minutes from Previous Closed Meetings
Chair Gooch reviewed that the Open Meetings Act requires that the Board semi-annually review and approve keeping closed the minutes from previous closed-sessions and he circulated a list of previous closed session minutes. The Board is required to make a determination that (1) the need for confidentiality still exists as to all or part of those minutes, or (2) that the minutes or portions thereof no longer require confidential treatment and are available for public inspection. He noted that all closed sessions have been held to review personnel matters, the discussion of personnel matters is allowed under closed session, and those minutes are allowed to remain closed because the need for confidentiality still exists. Secretary Clemetsen **moved** that since all closed minutes involve personnel matters, the need for confidentiality still exists as to all or part of those minutes and the minutes should remain closed, Dr. Walk seconded the motion, and it was **approved** unanimously.

163-8 ESPB Member Appointments
Ms. Mankowski reviewed that since the May 16, 2014 meeting there had been no action out of the Governor's Office regarding Board Member appointments. Mr. Clemetsen noted that he had been serving on an expired term since May 2013, had expressed at that time that he had no interest in reappointment and would resign his membership after the conclusion of the current meeting. The Board joined Chair Gooch in commending Mr. Clemetsen for 18 years of service on the Board, including 9 years as secretary.

163-9 ESPB Biennial Report July 2012-June 2014 – status report
Ms. Mankowski reported that the required biennial report, July 2012-June 2014, is due. She indicated that she has not been able to dedicate any time toward this activity, but will try to make time for it in the next quarter.

163-10 2014 Illinois List Review: public hearing and comment period comments received on Board preliminary decisions, Board final decisions, and proposing Ad Rules amendments
Ms. Mankowski led the Board through a summary of comments received during the public hearing and comment period and her recommendations to the Board regarding those comments (Attachment B).

The Board considered each comment and staff recommendation and took no action or took action with regard to each (Attachment C).

There was no Board action taken in response to commenter recommendations for listing the Bison (*Bison bison*), for listing the Illinois Cave Beetle (*Pseudanopthalmus illinoensis*), or for changing the Board's preliminary decision to change the listing status from threatened to endangered for *Cimicifuga rubifolia* (Black Cohosh). The Board also reviewed updated information presented by staff about the status of the Federal listing proposal for the Northern Long-eared Bat (*Myotis septentrionalis*) and took no action to change its preliminary decision to list the species as Illinois threatened.

Chair Gooch acknowledged that an audience member, Mr. Seth Turner, had provided comment to the Board regarding the Illinois Cave Beetle, and thanked him for his petition noting that the Board hopes to

hear from individuals with recommendations and information that will help the Board in its duties. He reiterated a few points regarding the Board's process and requirement to base listing decisions on scientific evidence and indicated that there is often a lack of data necessary to support listing, especially for invertebrates. He and Ms. Masi reiterated the Board's interest in and need for surveys for rare, but unlisted species such as the Illinois Cave Beetle in order to better evaluate listing potential, as well as the need for surveys for listed species. They agreed such items are appropriate for the Board's list of research and strategic funding priorities.

Chair Gooch then asked Mr. Turner if he wished to make any comment at this time regarding his petition or the Board's decision. Mr. Turner thanked Chair Gooch and stated that appreciated the Board's consideration of his recommendation and that he didn't expect the species would be listed. He went on to explain that he wanted to use the opportunity to bring to the Board's attention some problems he believes exist with listed species habitat management and protections in the area related to the Illinois Cave Beetle's occurrence as well as to underscore the need for surveys and better data for this and other rare as well as listed species. Chair Gooch thanked Mr. Turner for his comment.

After review of comments received and staff recommendation and Board discussion regarding the Copperbelly Water Snake (*Nerodia erythrogaster neglecta*), Dr. Hofmann **moved** to remove the species from the draft Illinois List of Endangered and Threatened Species proposed for approval as final by the Board during the current agenda item. Secretary Clemetsen seconded the motion and it was **approved** unanimously.

The Board then reviewed the amended draft Illinois List of Endangered and Threatened Species proposed for approval as final. Dr. Walk **moved** to approve as final the List as amended, Secretary Clemetsen seconded the motion, and it was **approved** unanimously.

ESPB final listing decisions for the IL List review and revision ending in 2014

Note regarding Federally designated endangered and threatened species: Per 520 ILCS 10/7 of the Illinois Endangered Species Protection Act, any species or subspecies of animal or plant designated as endangered or threatened by the Secretary of the Interior of the United States pursuant to the Endangered Species Act of 1973, P.L. 93-205, as amended, shall be automatically listed as an endangered or threatened species under this Act and thereby placed on the Illinois List by the Board without notice or public hearing.

Under this requirement, all federally designated endangered or threatened species and subspecies have been automatically placed on the Illinois List by the Board and are protected under the Illinois Endangered Species Protection Act even though their names do not appear on the published Illinois Lists of Endangered and Threatened Species (*Illinois Administrative Code, Title 17 § 1010,* and *Title 17 § 1050,* and the Board's *Checklist of Endangered and Threatened Animals and Plants of Illinois*). Only those federally designated endangered or threatened species and subspecies known to occur in Illinois are designated as Illinois-endangered or Illinois-threatened by the Board and their names appear on the published Illinois Lists. Users should refer to the US Fish and Wildlife Service website at http://www.fws.gov/endangered/ for a complete listing of all federally designated endangered and threatened species and subspecies.

Change from Endangered to Threatened:

Fish
None

Amphibians
None

Reptiles
None

Birds

Tyto alba	Barn owl

Mammals
None

Invertebrates
BUTTERFLIES

Papaipema eryngii	Eryngium Stem Borer

Plants

Ammophila breviligulata	Marram Grass
Carex cryptolepis	Yellow Sedge
Euonymus americanus	American Strawberry Bush
Filipendula rubra	Queen-of-the-Prairie
Oxalis illinoensis	Illinois Wood Sorrel
Polygonatum pubescens	Downy Solomon's Seal
Rubus odoratus	Purple-flowering Raspberry
Stenanthium gramineum	Grass-leaved Lily
Synandra hispidula	Hairy Synandra

Change from Threatened to Endangered:
Fish
None

Amphibians
None

Reptiles
None

Birds
None

Mammals
None

Invertebrates
MUSSELS

Elliptio crassidens	Elephant-ear
Fusconaia ebena	Ebonyshell

BUTTERFLIES

Hesperia metea	Cobweb Skipper

Plants

Berchemia scandens	Supple-Jack
Botrychium biternatum	Southern Grape Fern
Carex intumescens	Swollen Sedge
Cimicifuga rubifolia	Black Cohosh
Corallorhiza maculata	Spotted Coral-root Orchid
Elymus trachycaulus	Bearded Wheat Grass
Lechea intermedia	Pinweed
Rhynchospora alba	Beaked Rush
Sisyrinchium atlanticum	Eastern Blue-eyed Grass
Tradescantia bracteata	Prairie Spiderwort

Remove from Endangered:
Fish
None

Amphibians
None

Reptiles
None
Birds
None
Mammals
None

Invertebrates
CRUSTACEANS

Caecidotea spatulata	Isopod

LEAFHOPPERS

Paraphlepsius lupalus	Leafhopper

BUTTERFLIES

Atrytone arogos	Arogos Skipper

Plants

Berberis canadensis	Allegheny Barberry
Galium lanceolatum	Wild Licorice
Paspalum dissectum	Bead Grass
Penstemon brevisepalus	Short-sepaled Beard Tongue
Platanthera flava var. flava	Tubercled Orchid

Remove from Threatened:
Fish
None

Amphibians
None

Reptiles
None

Birds

Falco peregrinus	Peregrine Falcon

Mammals

Orchrotomys nuttallii	Golden Mouse
Oryzomys palustris	Rice Rat

Invertebrates
None

Plants

Carex woodii	Pretty Sedge
Cypripedium candidum	White Lady's Slipper
Liatris scariosa var. nieuwlandii	Blazing Star
Matelea obliqua	Climbing Milkweed
Oenothera perennis	Small Sundrops
Tomanthera auriculata	Ear-leafed Foxglove
Viola conspersa	Dog Violet

Add as Endangered:
Fish
None

Amphibians
None

Reptiles
None

Birds
None

Mammals
None

Invertebrates
SNAILS

Leptoxis praerosa	Onyx Rocksnail

MUSSELS

Leptodea leptodon	Scaleshell (Fed E)

Plants

Andromeda glaucophylla	Bog Rosemary
Isotria medeoloides	Small Whorled Pogonia (Fed T)
Mentzelia oligosperma	Stickleaf
Utricularia subulata	Hair Bladderwort

Add as Threatened:
Fish

Anguilla rostrata	American Eel
Crystallaria asprella	Crystal Darter
Hybognathus hankinsoni	Brassy Minnow
Lethenteron appendix	American Brook Lamprey

Amphibians
None

Reptiles
None

Birds

Caprimulgus carolinensis	Chuck-will's-widow

Mammals

Myotis leibii	Eastern Small-footed Bat
Myotis septentrionalis	Northern Long-eared Bat (proposed Fed E)

Invertebrates
None

Plants
None

No Change in Listing Status:
Fish

Acipenser fulvescens	Lake Sturgeon	IL E
Ammocrypta clarum	Western Sand Darter	IL E
Ammocrypta pellucidum	Eastern Sand Darter	IL T
Catostomus catostomus	Longnose Sucker	IL T
Coregonus artedi	Cisco	IL T

Erimystax x-punctatus	Gravel Chub	IL T
Etheostoma camurum	Bluebreast Darter	IL E
Etheostoma exile	Iowa Darter	IL T
Etheostoma histrio	Harlequin Darter	IL E
Fundulus diaphanus	Banded Killifish	IL T
Fundulus dispar	Starhead Topminnow	IL T
Hybognathus hayi	Cypress Minnow	IL E
Hybopsis amblops	Bigeye Chub	IL E
Hybopsis amnis	Pallid Shiner	IL E
Ichthyomyzon fossor	Northern Brook Lamprey	IL E
Lampetra aepyptera	Least Brook Lamprey	IL T
Lepomis miniatus	Redspotted Sunfish	IL E
Lepomis symmetricus	Bantam Sunfish	IL T
Macrhybopsis gelida	Sturgeon Chub	IL E
Moxostoma carinatum	River Redhorse	IL T
Moxostoma valenciennesi	Greater Redhorse	IL E
Nocomis micropogon	River Chub	IL E
Notropis anogenus	Pugnose Shiner	IL E
Notropis boops	Bigeye Shiner	IL E
Notropis chalybaeus	Ironcolor Shiner	IL T
Notropis heterodon	Blackchin Shiner	IL T
Notropis heterolepis	Blacknose Shiner	IL E
Notropis maculatus	Taillight Shiner	IL E
Notropis texanus	Weed Shiner	IL E
Noturus stigmosus	Northern Madtom	IL E
Scaphirhynchus albus	Pallid Sturgeon	IL E, Fed E

Amphibians

Ambystoma platineum	Silvery Salamander	IL E
Ambystoma jeffersonianum	Jefferson Salamander	IL T
Cryptobranchus alleganiensis	Eastern Hellbender	IL E
Desmognathus conanti	Spotted Dusky Salamander	IL E
Gastrophryne carolinensis	Eastern Narrowmouth Toad	IL T
Hemidactylium scutatum	Four-toed Salamander	IL T
Hyla avivoca	Bird-voiced Treefrog	IL T
Nectrurus maculosus	Mudpuppy	IL T
Pseudacris illinoensis	Illinois Chorus Frog	IL T

Reptiles

Apalone mutica	Smooth Softshell	IL E
Clemmys guttata	Spotted Turtle	IL E
Clonophis kirtlandi	Kirtland's Snake	IL T
Crotalus horridus	Timber Rattlesnake	IL T
Emydoidea blandingii	Blanding's Turtle	IL E
Heterodon nasicus	Plains Hog-Nosed Snake	IL T
Kinosternon flavescens	Yellow Mud Turtle	IL E
Macrochelys temminckii	Alligator Snapping Turtle	IL E
Masticophis flagellum	Coachwhip	IL E
Nerodia cyclopion	Mississippi Green Watersnake	IL T
Nerodia fasciata	Broad-banded Watersnake IL E	
Pantherophis emoryi	Great Plains Rat Snake	IL E
Pseudemys concinna	River Cooter	IL E
Sistrurus catenatus	Eastern Massasauga	IL E
Tantilla gracilis	Flathead Snake	IL T
Terrapene ornata	Ornate Box Turtle	IL T
Thamnophis sauritus	Eastern Ribbonsnake	IL T
Tropidoclonion lineatum	Lined Snake	IL T

Birds

Asio flammeus	Short-eared Owl	IL E
Bartramia longicauda	Upland Sandpiper	IL E
Botaurus lentiginosus	American Bittern	IL E
Buteo swainsoni	Swainson's Hawk	IL E
Charadrius melodus	Piping Plover	IL E, Fed E
Chlidonias niger	Black Tern	IL E
Circus cyaneus	Northern Harrier	IL E
Coccyzus erythropthalmus	Black-billed Cuckoo	IL T
Dendroica cerulea	Cerulean Warbler	IL T
Egretta caerulea	Little Blue Heron	IL E
Egretta thula	Snowy Egret	IL E
Gallinula chloropus	Common Moorhen	IL E
Ictinia mississippiensis	Mississippi Kite	IL T
Ixobrychus exilis	Least Bittern	IL T
Lanius ludovicianus	Loggerhead Shrike	IL E
Laterallus jamaicensis	Black Rail	IL E
Limnothlypis swainsonii	Swainson's Warbler	IL E
Nyctanassa violacea	Yellow-crowned Night-Heron	IL E
Nycticorax nycticorax	Black-crowned Night-Heron	IL E
Pandion haliaetus	Osprey	IL E
Phalaropus tricolor	Wilson's Phalarope	IL E
Rallus elegans	King Rail	IL E
Sterna forsteri	Forster's Tern	IL E
Sterna hirundo	Common Tern	IL E
Sternula antillarum	Least Tern	IL E, Fed E
Thryomanes bewickii	Bewick's Wren	IL E
Tympanuchus cupido	Greater Prairie-Chicken	IL E
Xanthocephalus xanthocephalus	Yellow-headed Blackbird	IL E
Mammals		
Canis lupus	Gray/timber Wolf	IL T, Fed E
Corynorhinus rafinesquii	Rafinesque's Big-eared Bat	IL E
Myotis austroriparius	Southeastern Myotis	IL E
Myotis grisescens	Gray Bat	IL E, Fed E
Myotis sodalis	Indiana Bat	IL E, Fed E
Neotoma floridana	Eastern Wood Rat	IL E
Spermophilus franklinii	Franklin's Ground Squirrel	IL T
Invertebrates		
SNAILS		
Discus macclintocki	Iowa Pleistocene Snail	IL E, Fed E
Fontigens antroecetes	Hydrobiid Cave Snail	IL E
Lithasia obovata	Shawnee Rocksnail	IL E
MUSSELS		
Alasmidonta viridis	Slippershell	IL T
Cumberlandia monodonta	Spectaclecase	IL E, Fed E
Cyclonaias tuberculata	Purple Wartyback	IL T
Cyprogenia stegaria	Fanshell	IL E, Fed E
Ellipsaria lineolata	Butterfly	IL T
Elliptio dilatata	Spike	IL T
Epioblasma rangiana	Northern Riffleshell	IL E, Fed E

Epioblasma triquetra	Snuffbox	IL E, Fed E
Lampsilis abrupta	Pink Mucket	IL E, Fed E
Lampsilis fasciola	Wavy-rayed Lampmussel	IL E
Lampsilis higginsii	Higgens Eye	IL E, Fed E
Ligumia recta	Black Sandshell	IL T
Plethobasus cooperianus	Orangefoot Pimpleback	IL E, Fed E
Plethobasus cyphyus	Sheepnose	IL E, Fed E
Pleurobema clava	Clubshell	IL E, Fed E
Pleurobema cordatum	Ohio Pigtoe	IL E
Potamilus capax	Fat Pocketbook	IL E, Fed E
Ptychobranchus fasciolaris	Kidneyshell	IL E
Quadrula cylindrica	Rabbitsfoot	IL E, Fed T
Simpsonaias ambigua	Salamander Mussel	IL E
Villosa iris	Rainbow	IL E
Villosa lienosa	Little Spectaclecase	IL T
CRUSTACEANS		
Caecidotea lesliei	Isopod	IL E
Crangonyx anomalus	Anomalous Spring Amphipod	IL E
Crangonyx packardi	Packard's Cave Amphipod	IL E
Gammarus acherondytes	Illinois Cave Amphipod	IL E, Fed E
Orconectes indianensis	Indiana Crayfish	IL E
Orconectes kentuckiensis	Kentucky Crayfish	IL E
Orconectes lancifer	Shrimp Crayfish	IL E
Orconectes placidus	Bigclaw Crayfish	IL E
Stygobromus iowae	Iowa Amphipod	IL E
SCORPIONS		
Centruroides vittatus	Common Striped Scorpion	IL E
DRAGONFLIES		
Nannothemis bella	Elfin Skimmer	IL T
Somatochlora hineana	Hine’s Emerald Dragonfly	IL E, Fed E
SPRINGTAILS		
Pygmarrhopalites madonnensis	Madonna Cave Springtail	IL E
STONEFLIES		
Diploperla robusta	Robust Springfly	IL E
Prostoia completa	Central Forestfly	IL E
LEAFHOPPERS		
Aflexia rubranura	Redveined Prairie Leafhopper	IL T
Anthysanella incongrua	Leafhopper	IL E
BUTTERFLIES & MOTHS		
Calephelis mutica	Swamp Metalmark	IL E
Hesperia ottoe	Ottoe Skipper	IL E
Incisalia polios	Hoary Eflin	IL E
Lycaeides melissa samuelis	Karner Blue Butterfly	IL E, Fed E
Speyeria idalia	Regal Fritillary	IL T
Plants		
Adoxa moschatellina	Moschatel	IL E
Agalinus skinneriana	Pale False Foxglove	IL T
Alnus incana subsp. rugosa	Speckled Alder	IL E
Amelanchier interior	Shadbush	IL T
Amelanchier sanguinea	Shadbush	IL E
Amorpha nitens	Smooth False Indigo	IL E
Arctopstaphylos uva-ursi	Bearberry	IL E

Artemisia dracunculus	Dragon Wormwood	IL E
Asclepias lanuginosa	Wooly Milkweed	IL E
Asclepias meadii	Mead's Milkweed	IL E, Fed T
Asclepias ovalifolia	Oval Milkweed	IL E
Asclepias stenophylla	Narrow-leaved Green Milkweed	IL E
Asplenium bradleyi	Bradley's Spleenwort	IL E
Asplenium resiliens	Black Spleenwort	IL E
Aster furcatus	Forked Aster	IL T
Astragalus distortus	Bent Milk Vetch	IL E
Astragalus tennesseensis	Tennessee Milk Vetch	IL E
Baptisia tinctoria	Yellow Wild Indigo	IL E
Bartonia paniculata	Screwstem	IL E
Beckmannia syzigachne	American Slough Grass	IL E
Bessya bullii	Kitten Tails	IL T
Betula alleghaniensis	Yellow Birch	IL E
Boltonia decurrens	Decurrent False Aster	IL T, Fed T
Botrychium campestre	Prairie Moonwort	IL E
Botrychium matricariifolium	Daisyleaf Grape Fern	IL E
Botrychium multifidum	Northern Grape Fern	IL E
Botrychium simplex	Dwarf Grape Fern	IL E
Bouteloua gracilis	Blue Grama	IL E
Buchnera americana	Bluehearts	IL T
Bumelia lanuginosa	Wooly Buckthorn	IL E
Cakile edentula	Sea Rocket	IL T
Calamagrostis insperata	Bluejoint Grass	IL E
Calla palustris	Water Arum	IL E
Calopogon oklahomensis	Oklahoma Grass Pink Orchid	IL E
Calopogon tuberosus	Grass Pink Orchid	IL E
Camassia angusta	Wild Hyacinth	IL E
Carex alata	Winged Sedge	IL E
Carex arkansana	Arkansas Sedge	IL E
Carex atlantica	Sedge	IL T
Carex aurea	Golden Sedge	IL T
Carex bromoides	Sedge	IL T
Carex brunnescens	Brownish Sedge	IL E
Carex canescens var. disjuncta	Silvery Sedge	IL E
Carex chordorrhiza	Cordroot Sedge	IL E
Carex communis	Fibrous-rooted Sedge	IL T
Carex crawfordii	Crawford's Sedge	IL E
Carex cumulata	Sedge	IL E
Carex decomposita	Cypress-knee Sedge	IL E
Carex diandra	Sedge	IL E
Carex disperma	Shortleaf Sedge	IL E
Carex echinata	Sedge	IL E
Carex formosa	Sedge	IL E
Carex garberi	Elk Sedge	IL E
Carex gigantea	Large Sedge	IL E
Carex inops subsp. heliophila	Plains Sedge	IL E
Carex nigromarginata	Black-edged Sedge	IL E
Carex oligosperma	Few-seeded Sedge	IL E
Carex oxylepis	Sharp-scaled Sedge	IL T
Carex physorhyncha	Bellow's Beak Sedge	IL E
Carex plantaginea	Plaintain-leaved Sedge	IL E
Carex prasina	Drooping Sedge	IL T
Carex reniformis	Reniform Sedge	IL E
Carex trisperma	Three-seeded Sedge	IL E
Carex tuckermanii	Tuckerman's Sedge	IL E
Carex viridula	Little Green Sedge	IL T
Carex willdenowii	Willdenow's Sedge	IL T
Carya aquatica	Water Hickory	IL T

Carya pallida	Pale Hickory	IL E
Castilleja sessiliflora	Downy Yellow Painted Cup	IL E
Ceanothus herbaceus	Redroot	IL E
Chamaedaphne calyculata	Leatherleaf	IL T
Chamaelirium luteum	Fairy Wand	IL E
Chamaesyce polygonifolia	Seaside Spurge	IL E
Chimaphila maculata	Spotted Wintergreen	IL E
Chimaphila umbellata	Pipsissewa	IL E
Cimicifuga americana	American Bugbane	IL E
Cimicifuga racemosa	False Bugbane	IL E
Circaea alpina	Small Enchanter's Nightshade	IL E
Cirsium pitcheri	Pitcher's (Dune) Thistle	IL T, Fed T
Cladrastis lutea	Yellowwood	IL E
Clematis crispa	Blue Jasmine	IL E
Clematis occidentalis	Mountain Clematis	IL E
Clematis viorna	Leatherflower	IL E
Collinsia violacea	Violet Collinsia	IL E
Comptonia peregrina	Sweetfern	IL E
Conioselinum chinense	Hemlock Parsley	IL E
Cornus canadensis	Bunchberry	IL E
Corydalis aurea	Golden Corydalis	IL E
Corydalis halei	Hale's Corydalis	IL E
Corydalis sempervirens	Pink Corydalis	IL E
Corylus cornuta	Beaked Hazelnut	IL E
Cynosciadium digitatum	Cynosciadium	IL E
Cyperus grayioides	Umbrella Sedge	IL T
Cyperus lancastriensis	Galingale	IL T
Cypripedium acaule	Moccasin Flower	IL E
Cypripedium parviflorum var. makasin	Small Yellow Lady’s Slipper	IL E
Cypripedium reginae	Showy Lady's Slipper	IL E
Cystopteris laurentiana	Laurentian Fragile Fern	IL E
Dalea foliosa	Leafy Prairie Clover	IL E, Fed E
Delphinium carolinianum	Wild Blue Larkspur	IL T
Dennstaedtia punctilobula	Hay-scented Fern	IL E
Deschampsia flexuosa	Hairgraass	IL E
Dichanthelium boreale	Northern Panic Grass	IL E
Dichanthelium joori	Panic Grass	IL E
Dichanthelium portoricense	Hemlock Panic Grass	IL E
Dichanthelium ravenelii	Ravenel's Panic Grass	IL E
Dichanthelium yadkinense	Panic Grass	IL E
Dodecatheon frenchii	French's Shootingstar	IL T
Draba cuneifolia	Whitlow Grass	IL E
Drosera intermedia	Narrow-leaved Sundew	IL T
Drosera rotundifolia	Round-leaved Sundew	IL E
Dryopteris celsa	Log Fern	IL E
Echinodorus tenellus	Small Burhead	IL E
Eleocharis olivacea	Capitate Spikerush	IL E
Eleocharis pauciflora	Few-flowered Spikerush	IL E
Eleocharis rostellata	Beaked Spike Rush	IL T
Epilobium strictum	Downy Willow Herb	IL T
Equisetum pratense	Meadow Horsetail	IL T
Equisetum scirpoides	Dwarf Scouring Rush	IL E
Equisetum sylvaticum	Woodland Horsetail	IL E
Eriophorum virginicum	Rusty Cotton Grass	IL E
Eryngium prostratum	Eryngo	IL E
Eupatorium hyssopifolium	Hyssop-leaved Thoroughwort	IL E
Euphorbia spathulata	Spurge	IL E
Fimbristylis vahlii	Vahl's Fimbristylis	IL E
Galactia mohlenbrockii	Boykin's Dioclea	IL E

Galium virgatum	Dwarf Bedstraw	IL E
Geranium bicknellii	Northern Cranesbill	IL E
Glyceria arkansana	Arkansas Mannagrass	IL E
Gratiola quartermaniae	Hedge Hyssop	IL E
Gymnocarpium dryopteris	Oak Fern	IL E
Gymnocarpium robertianum	Scented Oak Fern	IL E
Halesia carolina	Silverbell Tree	IL E
Helianthus angustifolius	Narrow-leaved Sunflower	IL T
Helianthus giganteus	Tall Sunflower	IL E
Heliotropium tenellum	Slender Heliotrope	IL E
Heteranthera reniformis	Mud Plantian	IL E
Hexalectris spicata	Crested Coralroot Orchid	IL E
Hudsonia tomentosa	False Heather	IL E
Huperzia porophila	Cliff Clubmoss	IL T
Hydrolea uniflora	One-flowered Hydrolea	IL E
Hymenopappus scabiosaeus	Old Plainsman	IL T
Hypericum adpressum	Shore St. John’s Wort	ILE
Hypericum kalmianum	Kalm's St. John's Wort	IL E
Iliamna remota	Kankakee Mallow	IL E
Iresine rhizomatosa	Bloodleaf	IL E
Isoetes butleri	Butler’s Quillwort	IL E
Isotria verticillata	Whorled Pogonia	IL T
Juncus alpinus	Richardson’s Rush	IL T
Juncus vaseyi	Vasey's Rush	IL E
Juniperus communis	Ground Juniper	IL T
Juniperus horizontalis	Trailing Juniper	IL E
Justicia ovata	Water Willow	IL E
Larix laricina	Tamarack	IL T
Lathyrus ochroleucus	Pale vetchling	IL T
Lespedeza leptostachya	Prairie Bush Clover	ILT
Lesquerella ludoviciana	Silvery Bladderpod	IL E
Lonicera dioica var. glaucescens	Red Honeysuckle	IL E
Lonicera flava	Yellow Honeysuckle	IL E, Fed T
Luzula acuminata	Hairy Woodrush	IL E
Lycopodiella inundata	Bog Clubmoss	IL E
Lycopodium clavatum	Running Pine	IL E
Lycopodium dendroideum	Ground Pine	IL E
Lysimachia radicans	Creeping Loosestrife	IL E
Malus angustifolia	Narrow-leaved Crabapple	IL E
Malvastrum hispidum	False Mallow	IL E
Matelea decipiens	Climbing Milkweed	IL E
Medeola virginiana	Indian Cucumber Root	IL E
Megalodonta beckii	Water Marigold	IL E
Melanthera nivea	White Melanthera	IL E
Melanthium virginicum	Bunchflower	IL T
Melica mutica	Two-Flowered Melic Grass	IL E
Melothria pendula	Squirting Cucumber	IL T
Menyanthes trifoliata	Buckbean	IL T
Mimulus glabratus	Yellow Monkey Flower	IL E
Minuartia patula	Slender Sandwort	IL T
Mirabilis hirsuta	Hairy Umbrella-wort	IL E
Nemophila triloba	Baby Blue-eyes	IL E
Nothocalais cuspidata	Prairie Dandelion	IL E
Opuntia fragilis	Fragile Prickly Pear	IL E
Orobanche fasciculata	Clustered Broomrape	IL E
Orobanche ludoviciana	Broomrape	IL T
Penstemon grandiflorus	Large Flowered Beard Tongue	IL E
Penstemon tubaeflorus	Tube Beard Tongue	IL E
Phacelia gilioides	Ozark Phacelia	IL E

Phaeophyscia leana	Lea’s Bog Lichen	IL T
Phegopteris connectilis	Long Beech Fern	IL E
Phlox pilosa subsp. sangamonensis	Sangamon Phlox	IL E
Pinus banksiana	Jack Pine	IL E
Pinus echinata	Shortleaf Pine	IL E
Pinus resinosa	Red Pine	IL E
Planera aquatica	Water Elm	IL E
Plantago cordata	Heart-leaved Plantain	IL E
Platanthera ciliaris	Orange Fringed Orchid	IL E
Platanthera clavellata	Wood Orchid	IL E
Platanthera flava var. herbiola	Tubercled Orchid	IL T
Platanthera leucophaea	Eastern Prairie Fringed Orchid	IL E, Fed T
Platanthera psycodes	Purple Fringed Orchid	IL E
Poa alsodes	Grove Bluegrass	IL E
Poa languida	Weak Bluegrass	IL E
Poa wolfii	Wolf's Bluegrass	IL E
Pogonia ophioglossoides	Snake-mouth	IL E
Polanisia jamesii	James' Clammyweed	IL E
Polygala incarnata	Pink Milkwort	IL E
Polygonum arifolium	Halberd-leaved Tearthumb	IL E
Polygonum careyi	Carey’s Smartweed	IL E
Populus balsamifera	Balsam Poplar	IL E
Potamogeton gramineus	Grass-leaved Pondweed	IL T
Potamogeton praelongus	White-stemmed Pondweed	IL E
Potamogeton pulcher	Spotted Pondweed	IL E
Potamogeton robbinsii	Fern Pondweed	IL E
Potamogeton strictifolius	Stiff Pondweed	IL E
Primula mistassinica	Bird's-eye Primrose	IL E
Ptilimnium nuttallii	Mock's Bishop Weed	IL E
Quercus montana	Rock Chestnut Oak	IL T
Quercus phellos	Willow Oak	IL T
Quercus texana	Nuttall's Oak	IL E
Rhamnus alnifolia	Alder Buckthorn	IL E
Rhexia mariana	Dull Meadow Beauty	ILE
Rhynchospora glomerata	Clustered Beak Rush	IL E
Ribes hirtellum	Northern Gooseberry	IL E
Rosa acicularis	Bristly Rose	IL E
Rubus pubescens	Dwarf Raspberry	IL T
Rubus schneideri	Bristly Blackberry	IL T
Rudbeckia missouriensis	Missouri Orange Coneflower	IL T
Sabatia campestris	Prairie Rose Gentian	IL E
Sagittaria australis	Arrowhead	IL E
Salix serissima	Autumn Willow	IL E
Salix syrticola	Dune Willow	IL E
Salvia azurea subsp. pitcher	Blue Sage	IL T
Sambucus racemosa subsp. pubens	Red-berried Elder	IL E
Sanguisorba canadensis	American Burnet	IL E
Sanicula smallii	Southern Sanicula	IL E
Sarracenia purpurea	Pitcher Plant	IL E
Saxifraga virginiensis	Early Saxifrage	IL E
Schizachne purpurascens	False Melic Grass	IL E
Schoenoplectus hallii	Hall's Bulrush	IL T
Schoenoplectus purshianus	Weak Bulrush	IL E
Schoenoplectus smithii	Smith's Bulrush	IL E
Scirpus hattorianus	Bulrush	IL E
Scirpus microcarpus	Bulrush	IL E
Scirpus polyphyllus	Bulrush	IL T
Scleria muhlenbergii	Muhlenberg's Nut Rush	IL E

Scleria pauciflora	Carolina Whipgrass	IL E
Sedum telephioides	American Orpine	IL T
Shepherdia canadensis	Buffaloberry	IL E
Silene ovata	Ovate Catchfly	IL E
Silene regia	Royal Catchfly	IL E
Sisyrinchium montanum	Mountain Blue-eyed Grass	IL E
Sorbus americana	American Mountain Ash	IL E
Solidago sciaphila	Cliff Goldenrod	IL T
Sparganium americanum	American Burreed	IL E
Sparganium emersum	Green-fruited Burreed	IL E
Spiranthes lucida	Yellow-lipped Ladies' Tresses	IL E
Spiranthes vernalis	Spring Ladies' Tresses	IL E
Stellaria pubera	Great Chickweed	IL E
Stylisma pickeringii	Patterson's Bindweed	IL E
Styrax americana	Storax	IL T
Styrax grandifolius	Bigleaf Snowbell Bush	IL E
Sullivantia sullivantii	Sullivantia	IL T
Symphoricarpos albus var. albus	Snowberry	IL E
Talinum calycinum	Fameflower	IL E
Talinum parviflorum	Small Flower-of-an-hour	IL T
Tetraneuris herbacea	Lakeside Daisy	IL E, Fed T
Thelypteris noveboracensis	New York Fern	IL E
Tilia heterophylla	White Basswood	IL E
Tofieldia glutinosa	False Asphodel	IL T
Torreyochloa pallida	Pole Manna-Grass	IL E
Trichomanes boschianum	Filmy fern	IL E
Trichophorum cespitosum	Tufted Bulrush	IL E
Trientalis borealis	Star-flower	IL E
Trifolium reflexum	Buffalo Clover	IL T
Triglochin maritima	Common Bog Arrowgrass	IL T
Triglochin palustris	Slender Bog Arrowgrass	IL T
Trillium cernuum	Nodding Trillium	IL E
Trillium erectum	Ill-scented Trillium	IL E
Trillium viride	Green Trillium	IL E
Ulmus thomasii	Rock Elm	IL E
Urtica chamaedryoides	Nettle	IL T
Utricularia cornuta	Horned Bladderwort	IL E
Utricularia intermedia	Flat-leaved Bladderwort	IL T
Utricularia minor	Small Bladderwort	IL E
Vaccinium corymbosum	Highbush Blueberry	IL E
Vaccinium oxycoccos	Small Cranberry	IL E
Vaccinium macrocarpon	Large Cranberry	IL E
Vaccinium stamineum	Deerberry	IL E
Valeriana uliginosa	Marsh Valerian	IL E
Valerianella chenopodifolia	Corn Salad	IL E
Valerianella umbilicata	Corn Salad	IL E
Veronica americana	American Brooklime	IL E
Veronica scutellata	Marsh Speedwell	IL T
Viburnum molle	Arrowwood	IL T
Viola blanda	White Hairy Violet	IL E
Viola canadensis	Canada Violet	IL E
Viola primulifolia	Primrose Violet	IL E
Woodsia ilvensis	Rusty Woodsia	IL E
Zigadenus elegans	White Camass	IL E

Change Common Name:

Fish

None

Amphibians
None

Reptiles
None

Birds
Common Moorhen to Common Gallinule

Mammals
None

Invertebrates
None

Plants
None

Change Scientific Name:
Fish
None

Amphibians
None

Reptiles
None

Birds
Gallinula chloropus to Gallinula galeata (Lichenstein, 1818)

Mammals
Spermophilus franklinii to Poliocitellus franklinii (Sabine, 1822)

Invertebrates
None

Plants
Alnus incana subsp. rugosa to Alnus incana (Moench)
Carex canescens var. disjuncta to Carex canescens (L.)
Carex inops subsp. heliophila to Carex heliophila (Mack)
Cypripedium parviflorum var. makasin to Cypripedium parviflorum (Salisb)
Juncus alpinus to Juncus alpinoarticulatus (Chaix)
Platanthera flava var. herbiola to Platanthera flava (L.) (Lindl)
Polygonum arifolium to Tracaulon arifolium (L.)
Salvia azurea subsp. pitcher to Salvia azurea (Michx. ex. Lam.)

Typographic corrections:
Fish
None

Amphibians
None

Reptiles
None

Birds
None

Mammals
None

Invertebrates
None

Plants
Agalinus skinneriana to Agalinis skinneriana
Cyperus grayioides to Cyperus grayoides

163-11 Public Comment Period (3 minutes per person)
Chair Gooch asked if there were any public comments and Mr. Seth Turner asked to make a comment.

Mr. Turner stated:

"I travelled from California to have opportunity to address the Board and deliver a letter that I believe the state's land management agencies and research institutions are misleading the public in regards to the effectiveness of conservation strategies relating to bat species.

These actions have served to conceal the possibility that a gate constructed at Brasher Cave is adversely impacting Indiana Bats. White Nose Syndrome funding dollars appear to have been fraudulently obtained to gate Jug Spring Cave that was neither threatened by recreation or is suitable habitat for any bat species.

The Forest Service has likely violated procedures contained in the National Environmental Policy Act. The result of recent FOIA requests to the IDNR and the Forest Service indicate that virtually all the Illinois bat count records collected over the last five years are missing, which is probably (unintelligible).

What is most disappointing is the state and federal government's failure to adequately protect Cave Spring Cave which is an Illinois Natural Areas Inventory site and one of the most biologically significant caves in the entire state. Element occurrence records for the cave include four federal and/or state endangered species; the Gray Bat, Indiana Bat, Southeastern Bat, and Packard's Cave Amphipod have all been discovered in the cave. State mandated consultation procedures have not adequately assessed impacts to these species that might be cause by quarrying. As far as I am aware, no past consultations or quarrying permits even mentioned potential for impacting populations of the Packard's Cave Amphipod.

A 2012 Shawnee National Forest report notes that mining activities near Cave Spring Cave were adversely impacting federally endangered Gray Bats, yet no action has ever been taken against the quarry operators who are not in possession of any state or federal taking permits. The quarry operators have violated the terms of past permits. In the late 1990s, the IDNR discovered that the mining area had exceeded the permitted acreage by 85%. In 1997, communication summarizing a site visit by the United States Fish and Wildlife Service notes that Cave Spring Cave is relatively stable. The interior of the cave was not examined. The same communication later notes the need to enter into a Safe Harbor Agreement with the quarry operators in case an effort would needed to shore up the cave against imminent collapse. The site evaluation was meaningless and no Safe Harbor Agreement was ever created.

Following the 2010 summer bat census at Cave Spring Cave, the Shawnee National Forest issued two press releases concerning the new discovery of 3,500 Gray Bats in the cave. The Forest

Service claims serve to obscure the truth from the public. The 2010 census numbers actually represent a 65% decrease from the historic population highs in the 1950s and 60s. The maternity colony for Gray Bats was discovered over a half century ago.

I am bringing these issues to the attention of the Illinois Endangered Species Protection Board because I feel that the Board has a duty to investigate these matters further and multiple technical consultants for the Illinois List review are associated with these problems. Moreover, the actions of the state's land management agencies impact Board duties like commenting on taking permits. Any activity that would obscure the need for a taking permit should be seen as cause for concern because such action reduces the Board's oversight. Records substantiating these claims and others are included in the provided letter and CD. Should the Board choose to investigate this matter or take any additional action, I would like to be informed.

Thank you for your time."

Chair Gooch thanked Mr. Turner for his comment and indicated that a copy of his letter would be placed on file.

The Board recessed for a break from 10:50 A.M. to 11:05 A.M.

163-12 Discuss 2015 Regular Meeting Dates and Locations

The Board reviewed possible dates and locations for its 2015 regular meetings. Ms. Mankowski indicated she would confirm availability for meeting locations and would present the proposed list of dates and locations to the Board for approval at the Board's 164th meeting in November 2014.

163-13 ESPB Research/Strategic Funding Program – update and confirm priorities

Ms. Mankowski reviewed that at the Board's May meeting, Dr. Taft asked that staff provide an update about the ESPB Research/Strategic Funding Program. Ms. Mankowski reminded the Board that it had agreed in 2012 to put the program on hold during the List review and revision because staff would not have time to deal with it and that staff is still engaged in the List review and revision process. She noted that she had in every meeting since then reported about the status of the program in her staff report and/or in other agenda items. She reviewed the process for identifying and effecting prioritized items and then proposed revision to the priorities. Dr. Walk **moved** to approve Ms. Mankowski's revised priorities as presented, Ms. Ross seconded the motion, and it was **approved** unanimously (Attachment D).

The Board discussed that it would be good in the next year to review and possibly update the working list of other research projects including topics identified during the recent List review and revision and the list of FY09 and FY10 priorities that came from ESPB technical advisor recommendations, but were not funded by the Board nor promoted as Board priorities since.

The Board recessed for lunch from 12:06 P.M. until 12:42 P.M.

163-14 ESPB FY2016 Budget Request Proposal

Ms. Mankowski reviewed with the Board her proposed FY2015 spending plan which included request that the Board identify what limit for cash pay of overtime it wanted to use in FY2015. The Board set a limit for cash pay of overtime at 200 hours for the current fiscal year. Dr. Walk **moved** to approve the FY2015 spending plan, Dr. Hofmann seconded the motion, and it was **approved** unanimously.

She then reviewed the proposed ESPB FY2016 Budget Request. Dr. Walk **moved** to approve the

request as presented, Secretary Clemetsen seconded the motion, and it was **approved** unanimously.

163-15 ESPB Meetings – discuss and take action regarding frequency and staff and member administration

Ms. Mankowski led a discussion about meeting frequency and administration, noting that there is a great amount of member materials for each meeting, meetings are often quite long, and members are volunteers, so it is not always practical for all members to engage at the level that seems to be often called for when the Board has only one staff person. She added that the brunt of member involvement falls to the Chair and a couple other members who regularly engage individually with staff outside of meetings and that it is otherwise not tenable to have the full membership engaged in most operations when meeting for a partial day, quarterly.

She asked if the Board wanted to change from current practices by holding more frequent meetings, changing deadline and material submission requirements for agenda item requests, or when and how agenda materials are distributed to members in advance of each meeting. The Board considered each item and after some discussion agreed that most changes would not ease, and in some cases would increase, staff workload, would not necessarily improve timing or delivery of workload for members, and overall would not improve the performance of the Board. The Board did not take action to change from current practices on these items.

The Board discussed at greater length the issue of what agenda materials are made available to non-members prior to each meeting. It was noted that the Board's current practice is compliant with the Open Meetings Act and is the same standard applied by other state Boards such as the IDNR's Natural Resources Advisory Board and the Illinois River Coordinating Council. Ms. Mankowski reviewed that the Board does not have the authority to provide only select individuals with special access to materials and so any distribution beyond current practice would need to be made available to everyone. She noted that she has explained this to individuals who have contacted her requesting special access to agenda materials and that at a time when the Board has adequate staffing, she would work to make available an expanded agenda that included a narrative about each item to be discussed and the requested action, but until then, as the sole employee of the Board, she cannot accommodate request for more agenda materials. Despite that explanation, one individual continues to complain to the Board about the matter. The Board agreed that it cannot make special exception for select individuals and discussed the merits of improving public access to meeting information versus staff workload capacity and was not able to come to agreement about changing current practice. Dr. Walk **moved** to continue discussion about this topic at the next meeting, Dr. Hofmann seconded the motion and it was **approved** unanimously. Ms. Mankowski and Chair Gooch agreed to research additional standards or requirements for meeting agendas.

163-16 ESPB operations and staff workload prioritization discussion and take action to ensure compliance with requirements of policies, procedures, regulations, and laws

Ms. Mankowski and Dr. Walk reviewed Ms. Mankowski's workload tracking and confirmed that her prioritization seems appropriate. The Board agreed that there were no obvious areas to further cut back on operations and that absent additional staff, there is continued need for her to work overtime.

Ms. Mankowski reviewed that at the May meeting, the Board had taken two actions out of order , explained how and why the actions were out of order and asked members to be mindful about similar scenarios in the future, especially when she or the Chair are not present. She reminded members that each member is responsible for adherence to requirements of the Open Meetings Act and other laws.

She also noted that some members express desire to be more involved with what were traditionally

solely or largely staff functions (contracting and procurement, hiring, List review administration) and explained that it might be appropriate for those members to gain working knowledge of respective laws, regulations, policies and procedures and to serve as "designees" for the Board to act as a point person at meetings and interim and/or liaison as necessary with the IDNR. She reviewed several areas where it would be helpful to have more members engaged with working knowledge – Open Meetings Act, Endangered Species Protection Act and Administrative Rules, Illinois Procurement Law, Board member travel and time forms, Personnel including Illinois Labor Law, and the Illinois List of Endangered and Threatened Species review and revision process.

The Board discussed the matter and did not come to agreement for formally designating members for such roles, but Dr. Walk offered to focus attention on improving his working knowledge of the Open Meetings Act and Dr. Hofmann offered to do the same with the Illinois Endangered Species Protection Act and Administrative Rules.

163-17 ESPB Executive Committee Election

Chair Gooch reviewed the policy and process for the Board to elect executive officers and noted that elections were due. He explained that he had not appointed a nominating committee and there had been no communication about nominations prior to the current meeting. Secretary Clemetsen suggested acting as a committee of the whole and making nominations or asking for volunteers at this time and the Board agreed. Chair Gooch noted that he has served on the Board since 1993, acting as the Vice-chair from 1996-2001 and as the Chair since 2001, and would probably not seek reappointment when his term ends in May 2015, so thought it most appropriate if another stepped into the Chair position at this time. After some discussion, Dr. Hofmann offered to serve as Vice-chair and Dr. Walk offered to serve as Secretary. Other members conveyed that they were either already serving on an expired term with no interest in reappointment, were too busy with other commitments, or felt they were too new to the Board to take on the responsibilities of Chair at this time. Chair Gooch agreed to continue serving as the Chair, noting that he would step down from the position when his term ends in May 2015 regardless of how much longer his service on the Board extends beyond that time.

Ms. Beyer-Clow **moved** to approve the election of Chair Gooch, Vice-chair Hofmann, and Secretary Walk as executive officers and Mr. Robinett seconded the motion. The Board voted and the motion **passed** unanimously.

163-18 Next Regular Meeting Information

The next regular meeting of the Board will be at 10:00 A.M., November 14, 2014 at Midewin National Tallgrass Prairie, Visitor Center Conference Room, 30239 South State Route 53; Wilmington, IL 60481.

163-19 Approval of Minutes from the closed session of the 160th (11/15/13) Meeting and Minutes from the closed session of the 02/20/14 Special Meeting

Chair Gooch passed out copies of respective minutes and members reviewed them. He then asked for a motion to approve the minutes from the closes sessions of the 160th meeting and the 02/20/14 Special Meeting. Dr. Walk so **moved**, Secretary Clemetsen seconded the motion and it was **approved** unanimously.

163-20 Closed Session (personnel matters)

Chair Gooch then suggested the Board go to closed session to further discuss personnel matters mentioned in closed session minutes. He explained that the Board should move to closed session to discuss personnel matters under Open Meetings Act exception 2(c)(1) and asked for a motion to do so. Secretary Clemetsen so **moved** and Ms. Beyer-Clow seconded the motion. Chair Gooch took a vote of individual members and each member, Beyer-Clow, Gooch, Hofmann, Masi, Robinett, Ross, and Walk,

approved the motion to go to closed session. The closed session was held from 3:40 P.M. until 4:24 P.M..

163-21 Other Business (Board members complete travel forms and time reporting sheets)
The Board returned to open session at 4:25 P.M. and Chair Gooch asked if there was any other business. There was none.

163-22 Adjournment
Ms. Beyer-Clow **moved** to adjourn, Ms. Ross seconded the motion and it was **approved** unanimously. The meeting was adjourned at 4:26 P.M.

Attachment A

Illinois Endangered Species Protection Board staff report
for the 163rd Meeting, August 15, 2014
Submitted by Anne Mankowski, Director

The Board has one full-time staff person, its Director; all activities were conducted by the ESPB Director unless otherwise noted. Ms. Mankowski has not been able to complete all required work in the course of a 37.5-hour work week. Since the last staff report, Ms Mankowski has worked the following overtime hours toward ESPB and IDNR duties: May: claimed = 13.5, donated = 4.0; June: claimed = 28.0, donated = 1.0; July: claimed = 15.0, donated = 0.0.

1. Illinois List of Endangered and Threatened Species Review and Revision ending in 2014
Ms. Mankowski continued preparing materials for and held the required public hearing to receive comments and evidence on the Board's preliminary listing decisions in the current five-year review and revision of the List. The hearing was held June 26, 2014 and the written comment period was open from the beginning of the hearing through midnight on July 11, 2014. No comments were received during the hearing and five comments were received during the written comment period.

2. ESPB Staff Hiring
Executive Assistant
Until a time when the Board has headcount to hire staff directly, Ms. Mankowski continues attempting to work with IDNR Human Resources for new contractual hiring of an Executive Assistant.

Listing and Recovery Coordinators
Until a time when the Board has headcount to hire staff directly, Ms. Mankowski continues attempting to work with the IDNR Human Resources staff on scoping for hiring two full-time, contractual ESPB Listing and Recovery Coordinators.

Data Specialist
Until a time when the Board has headcount to hire staff directly, Ms. Mankowski continues attempting to work with the IDNR Human Resources staff on scoping for hiring a full-time, contractual ESPB Data Specialist.

3. ESPB Member appointments
Conducted outreach and interview and vetting of potential nominees for Board recommendation to the Governor's Office for member appointment.

4. ESPB Website
Spent time working with IDNR web support staff and made ongoing updates to the ESPB website, especially updates related to the 2014 List review and revision. The ESPB website serves as the web portal for ESPB and IDNR administered endangered and threatened species program information.

5. ESPB Budget
Ms. Mankowski continues working with IDNR on budget assignments related to the FY2014 and FY2015 budgets and prepared an ESPB FY2016 budget proposal for Board review and approval at the 163rd meeting.

Ms. Mankowski notes that in FY2014 IDNR timekeeping staff changed the compensation type for some of her claimed overtime hours from earned equivalent time (compensatory time off) to cash pay. The change was not discovered until after it had cleared the timekeeping and payroll processes. The change resulted in Ms. Mankowski being paid cash for 15.25 more hours of overtime than what the Board approved at the February, 2014 meeting. Ms. Mankowski conferred with Chair Gooch about whether to leave the payment in place or go through a process of her reimbursing the state for the payment and having the overtime restored to earned equivalent time. Chair Gooch approved leaving the payment in place and advising the Board of the situation.

6. ESPB Research/Strategic Projects Program

There was no ESPB research project administration during the last quarter. The Board agreed in 2012 that the program would essentially be put on hiatus while Ms. Mankowski worked on the List review and revision. Although the List review and revision is not yet completed, at the 162nd Board meeting, held May 16, 2014, Dr. Taft requested that an update of the program be presented to members at the 163rd meeting, so Ms. Mankowski prepared a review of program status for the 163rd meeting.

7. Meetings, Presentations, and Publications

- Attended a Prairie Chicken recovery project meeting held June 12, 2014 at the Illinois Audubon Society Adams Wildlife Sanctuary in Springfield.
- Attended the July 15, 2014 Natural Areas Evaluation Committee meeting, held at the IDNR building in Springfield. There has been only one meeting of the IDNR Natural Areas Evaluation Committee since the Board's 160th meeting held in November, 2014. Each of the November and December 2013, and the January, February, March, April, May, and June 2014, NAEC meetings were cancelled. The Board is voting member of the committee.
- Attended the July 16, 2014 meeting of the Chicago Wilderness Executive Council in Chesterton, IN. The Board is voting member of the council.

8. Coordination with IDNR and INPC:

Ms. Mankowski coordinated with the Endangered Species Program ORC, Division of Wildlife ORC, Impact Assessment Section OREP, Office of Land Management, Office of Law Enforcement, Office of Legal Counsel, Office of Strategic Services, Media Relations, and Illinois Nature Preserves Commission, on multiple matters listed below, by topic:

<u>E&T vouchering and translocation</u>

- No follow-up to report about vouchering and translocation issues discussed at the ESPB 157th meeting, held February 8, 2013.

<u>E&T consultation</u>

- No activity.

<u>E&T incidental take authorization</u>

- No activity.

<u>E&T translocation</u>

- There was no activity on the INPC, IDNR, ESPB joint animal translocation policy. The Board should expect a joint policy to be consistent with the Board's current E&T animal translocation policy and a draft joint policy will need to be approved by all three agencies before becoming official.

<u>E&T recovery planning and implementation</u>

- Continued working with IDNR Prairie Ridge Site Manager, Scott Simpson, and researchers at INHS about a possible Illinois Prairie Chicken (*Tympanuchus cupido*) genetic study to complement ongoing research and translocation activities.
- Continued coordination with IDNR ORC and INPC staff for development of a recovery outline for *Melanthium virginicum* (Bunchflower).

<u>ESPB/IDNR review and approval coordination</u>

- No activity.

<u>E&T monitoring/surveillance and reporting</u>

- Continued working on developing a programmatic approach to updating E&T element occurrence surveys and IDNR Natural Heritage (Biotics 4) Database records. Ms. Mankowski is attempting to gain partnership commitment from IDNR ORC and OREP. Since the May 16, 2014 ESPB meeting, IDNR ORC and OREP confirmed that they will direct their funding toward staff and not partner with the ESPB on a joint programmatic approach to updating E&T element occurrence surveys.
- Continued working on draft revised endangered and threatened species element occurrence reporting forms for use by the IDNR Natural Heritage (Biotics 4) Database. The revisions address some information gaps and terminology discrepancies and are intended to improve the robustness of data reported to the Database. Ms. Mankowski will work with Database staff to finalize the forms, which will replace those currently available via the Board's website.

Other

- Responded to questions from IDNR Legal Counsel regarding the review and revision of the Illinois List of Endangered and Threatened Species.
- Met with IDNR Legal Counsel and Law Enforcement to review language about protections and representation of federally designated endangered and threatened species on the Illinois List.
- Handled over 100 phone and email requests for ESPB and E&T information from the public and other state and federal agencies including referring those related to IDNR E&T consultation, incidental take, data, and permit programs, etc.

9. Coordination with other Agencies

- Ms. Mankowski responded to an inquiry from the Forest Preserve District of Will County in Illinois about the review and revision of the Illinois List of Endangered and Threatened Species.
- Ms. Mankowski responded to an inquiry from the US Fish and Wildlife Service about the review and revision of the Illinois List of Endangered and Threatened Species.

10. Field Work

- Conducted and reported results for a USGS Breeding Bird Survey route in central Illinois.

11. Other General Administration and Clerical Work

- Conducted follow-up with Board members about correct and timely submittals of travel and time forms. Prepared a guidance document of the same for Board members. Prepared and routed Board member and staff travel vouchers and timesheets.
- Conducted updates to ESPB budget tracking on ORC sharepoint.
- Regularly distributed information to Board members via email and hardcopy mailings.
- Continued working on preparation for moving the Board's cube and files.
- All aspects of follow-up from the May 16, 2014, ESPB meeting.
- All aspects of preparation for the August 15, 2014, ESPB meeting.

Attachment B

2014 Illinois List Review: public hearing and comment period comments received on Board preliminary decisions and Board staff recommendation for Board consideration in making final decisions at the 163rd meeting

Species	Document	Author(s)	Submitted as part of comment period?	Begins page # (upper right)
Bison (Bison bison)	ESPB staff recommendation to Board re: listing decision	ESPB Director Mankowski	No	3
	Recommendation to add Bison to the IL List of E&T	Mr. Kenny Bielski	Yes	4
Illinois Cave Beetle (Pseudanophthalmus illinoisensis)	ESPB staff recommendation to Board re: listing decision	ESPB Director Mankowski	No	5
	Nomination form recommending adding Illinois Cave Beetle (Pseudanophthalmus illinoisensis) to the IL List of E&T as endangered	Mr. Seth Fielding Turner	Yes	7
Black Cohosh (Cimicifuga rubifolia)	ESPB staff recommendation to Board re: listing decision	ESPB Director Mankowski	No	26
	ESPB staff review, recommendation, and Board discussion from mtg minutes through preliminary decision	ESPB Director Mankowski & Board	No	27
	Email recommending against changing listing status from threatened to endangered for Black Cohosh (Cimicifuga rubifolia) and EO reporting form.	Chris Evans, IDNR	Yes	30
Copperbelly Water Snake (Nerodia erythrogaster neglecta)	ESPB staff recommendation to Board re: listing decision	ESPB Director Mankowski	No	34
	ESPB staff review, recommendation, and Board discussion from mtg minutes through preliminary decision	ESPB Director Mankowski & Board	No	44
	Position statement recommending against adding Plain-bellied Watersnake (Nerodia erythrogaster) to the IL List of Endangered and Threatened Species.	Drs. Mike Dreslik and Chris Phillips, INHS	Yes	47

	Email recommending against adding Copperbelly Water Snake (Nerodia erythrogaster neglecta) to the IL List of Endangered and Threatened Species as Illinois threatened.	Ms. Ann Holtrop, IDNR	Yes	72
Northern Long-eared Bat (Myotis septentrionalis)	ESPB staff recommendation to Board re: listing decision	ESPB Director Mankowski	No	73
	ESPB staff review, recommendation, and Board discussion from mtg minutes through preliminary decision	ESPB Director Mankowski & Board	No	75

Bison (Bison bison)

ESPB 2014 List review and revision, comment period comment, Bielski recommendation to add the species as Illinois threatened or endangered.

Mankowski recommendation to the Board for final decision (07/2014).

Summary
The commenter did not provide evidence or information of an extant, wild, Illinois bison population supporting the recommendation as meeting the definition of either "endangered" or "threatened" per the ESPA and any of the listing criteria per 17 Ill. Adm. Code 1010. ESPB staff recommendation is to not add the species to the Illinois List as either endangered or threatened.

Illinois listing evaluation
There is currently no wild Illinois bison population. Hoffmeister (1989) provides a review of historic status and distribution, noting that all native, wild bison were exterminated in Illinois before 1830.

The recommendation for adding the species as Illinois endangered or threatened was not accompanied by any evidence or documentation supporting the recommendation as meeting the definition of either "endangered" or "threatened" per the ESPA and any of the listing criteria per 17 Ill. Adm. Code 1010.

Federal listing information – relative to the Illinois List
There is no federal listing status trigger for automatic addition to the Illinois List.The species is not designated as federally endangered or threatened. The USFWS began in 2009 a review for possible federal listing for the subspecies Bison bison bison. Its finding, published in 2011 (50 CFR Part 17, Volume 76, Number 37), was that there was not substantial information indicating that listing may be warranted and no status review was therefore initiated. The species has not been further evaluated by the USFWS since then.

ESPB staff recommendation
ESPB staff recommends against adding the species to the Illinois List as either Illinois endangered or threatened.

References:
50 CFR Part 17, Volume 76, Number 37 – February 24, 2011. Endangered and Threatened Wildlife and Plants: 90-Day Finding on a Petition to List the Wild Plains Bison or Each of Four Distinct Population Segments as Threatened.

520 ILCS 10/ Illinois Endangered Species Protection Act (1972 et seq.).

Hoffmeister, D.F. 1989. Mammals of Illinois. University of Illinois Press. Urbana, Illinois. xv + 348 pp.

ILL. ADM. CODE. Title 17: Conservation § 1010: Illinois List of Endangered and Threatened Animals (1977 et seq.).

From: Miller, Karen M.
To: Mankowski, Anne
Subject: FW: endangered species list
Date: Thursday, July 10, 2014 8:46:11 AM

For once I get to forward something to you.

From: Kenny Bielski [mailto:mr.pie.kenny@gmail.com]
Sent: Wednesday, July 09, 2014 10:08 PM
To: Miller, Karen M.
Subject: endangered species list

Hi,
I have a suggested species that I think deserves to be added to the list. I think the American Bison should be a protected animal in Illinois and be reintroduced. They once ranged around most of the U.S but now there are very few herds spread throughout the united states today. i think it would be healthier our land to once again have bison roaming it. i have also been watching the updates on protecting black bears in Illinois and think that is great that they can now return to what was once there range of habitat.
Thanks,
Kenny Bielski

Illinois Cave Beetle (Pseudanophthalmus illinoisensis)

ESPB 2014 List review and revision, comment period comment, Turner recommendation to add the species as Illinois endangered.

Mankowski recommendation to the Board for final decision (07/2014).

Summary
The commenter does not provide current information or evidence of an extant, wild, Illinois population supporting the recommendation as meeting the definition of either "endangered" or "threatened" per the ESPA and any of the listing criteria per 17 Ill. Adm. Code 1010. ESPB staff recommends against adding the species to the Illinois List as Illinois endangered.

Illinois listing evaluation
The Illinois Cave Beetle was first observed and collected in Illinois in 1965 (Barr and Peck 1966). During the 2009 review of the Illinois List, the ESPB invertebrate technical advisory committee that was established during that review noted that the species was also collected by J. Lewis in (or about) 1974, but had not been observed or collected since then (IESPB 2008).

The species was not added to the Illinois List during the 1989 revision when Illinois-listed invertebrates were first added to the List (other than the 1984 automatic adoption of some federally-listed species) because then current status and distribution information was deemed insufficient to make a listing recommendation and decision. There has been no evidence brought forth since that time that the species is extant. The Board declined to consider the species for addition to the List during the 2009 List review, noting that the technical advisors recommended that it was likely extirpated (IESPB 2008). The Board would need evidence of recent occurrence(s) of a wild Illinois population (and as confirmed by the IDNR Natural Heritage Database) to consider adding any species to the List.

The commenter's recommendation and petition for adding the species as Illinois endangered was not accompanied by current evidence or documentation of an extant, wild, Illinois population supporting the recommendation as meeting the definition of either "endangered" or "threatened" per the ESPA and any of the listing criteria per 17 Ill. Adm. Code 1010.

Federal listing information – relative to the Illinois List
There is no federal listing status trigger for automatic addition to the Illinois List. The species is not designated as federally endangered or threatened. The USFWS began in 1984 a review for possible federal listing for this and many other species. Its finding, published in 1994 (50 CFR Part 17, Volume 59, Number 219), was that there was not persuasive data on biological vulnerability and threat to support a proposed rule for listing the Illinois Cave Beetle and that there were no plans for such proposal until additional supporting information becomes available. The species has not been further evaluated by the USFWS since then.

ESPB staff recommendation
ESPB staff recommends against adding the species to the Illinois List as Illinois endangered.

References:

50 CFR Part 17, Volume 59, Number 219 – November 15, 1994. Endangered and Threatened Wildlife and Plants; Animal Candidate Review for Listing as Endangered or Threatened Species.

520 ILCS 10/ Illinois Endangered Species Protection Act (1972 et seq.).

Barr T.C., and S.B. Peck. 1966. Discovery of Pseudanophthalmus (Coleoptera: Caraibidae) in Southern Illinois. The American Midland Naturalist 76(2): 519-522.

ILL. ADM. CODE. Title 17: Conservation § 1010: Illinois List of Endangered and Threatened Animals (1977 et seq.).

Illinois Endangered Species Protection Board. 2008. Meeting minutes of the 140th meeting, November 14, 2008. Accessible online at http://www.dnr.illinois.gov/ESPB/Pages/default.aspx.

From: Seth Fielding Turner
To: DNR.Espb
Subject: 2014 List Review: Illinois Cave Beetle
Date: Friday, July 11, 2014 9:26:07 PM
Attachments: Illinois Cave Beetle 2014 List Review.pdf

Hi,

I have attached a petition to list the Illinois cave beetle as endangered. If clarifications or more information is needed, please do not hesitate to ask.

Thank you,

Seth Turner
910 Walnut Avenue
Redlands, CA 92373

618 841 2884

Cimicifuga rubifolia (Black Cohosh)

ESPB 2014 List review and revision, comment period comment, Evans recommendation against changing the listing status from threatened to endangered.

Mankowski recommendation to the Board for final decision (07/2014).

Summary
The commenter's information does not change the known current status and distribution, including number of protected sites, from what was considered by the Board when making its preliminary decision to change the status from threatened to endangered. The commenter provided evidence of observation for only 1/18 element occurrences for the species – and it was an EO that was already noted for recent observations when the Board made its preliminary decision. The commenter's suggestion that a greater number of EOs are protected uses a different definition of protected than what is used by the Board during the List review. ESPB staff recommends maintaining the preliminary decision to change the status from threatened to endangered

Illinois listing evaluation
As with all species during the current List review, data through 2012 that had been verified and entered into the Database as of the dates noted for each group's data were considered by Board staff in making recommendations and by the Board when making listing decisions.

The commenter provided copy of an element occurrence report for EO #11, observed in 2013 – this EO was one of the EOs that had observation in the 2007-2011 5-year interval and so was already considered as recently observed in the ESPB staff recommendation for the species. The commenter indicates that two additional EO reports (no indication of year) will be sent in, but does not provide copies of those EO reports or other evidence to further inform the Board's decision.

The commenter states that "Most of the known sites are on protected lands (either state or federal)". Ownership by land conservation agencies and organizations most often provides some site protections, however, the Board agreed to use its existing standard of dedication as an Illinois Nature Preserve for considering an occurrence to be protected. According to the IDNR Natural Heritage Database, only one EO is protected as an IL Nature Preserve (no EOs are protected as IL Land and Water Reserves).

ESPB staff recommendation
ESPB staff recommends maintaining the preliminary decision to change the status from threatened to endangered.

References:
520 ILCS 10/ Illinois Endangered Species Protection Act (1972 et seq.).

ILL. ADM. CODE. Title 17: Conservation § 1050: Illinois List of Endangered and Threatened Flora (1980 et seq.).

Illinois Natural Heritage (Biotics 4) Database. Illinois Department of Natural Resources, Springfield, Illinois (Accessed, February, 2013).

Cimicifuga rubifolia (Black Cohosh) - Proposed Action: change from threatened to endangered
Reviewed at: 158th meeting, 05/17/2013; confirming preliminary decision at 161st meeting, 02/21/2014; meeting minutes may contain additional information and discussion

Black Cohosh, Cimicifuga rubifolia (Illinois threatened)

Listed as IL T, 01/18/1994
Reason for listing: restricted habitats or low pops in IL;

Cimicifuga rubifolia Kearney

APPALACHIAN BUGBANE, BLACK COHOSH

RANUNCULACEAE

Status: Threatened in Illinois.
Habit: Perennial rhizomatous herb, stems to 1.5 m tall.
Range: Appalachians, disjunct in western Kentucky and southern Illinois.

Cimicifuga rubifolia, a species of cool mesic woods, is restricted to the extreme southern part of Illinois. It is presently known from twelve sites in the state, mostly in the Shawnee National Forest. Populations of this species may be threatened by herb collectors.
References: Mohlenbrock (1981), Gleason and Cronquist (1991), Ramsey (1997).

KEY

The narrative for each species is accompanied by a map of Illinois with county outlines shown. Counties from which the species in known to occur are shown as a solid circle; county records which may no longer be extant are shown as an open circle. An example of a species treatment is as follows:

Citation: Herkert, J.R., and J.E. Ebinger, editors. 2002. Endangered and Threatened Species of Illinois: Status and Distribution, Volume 1 - Plants. Illinois Endangered Species Protection Board, Springfield, Illinois. 161 pp.

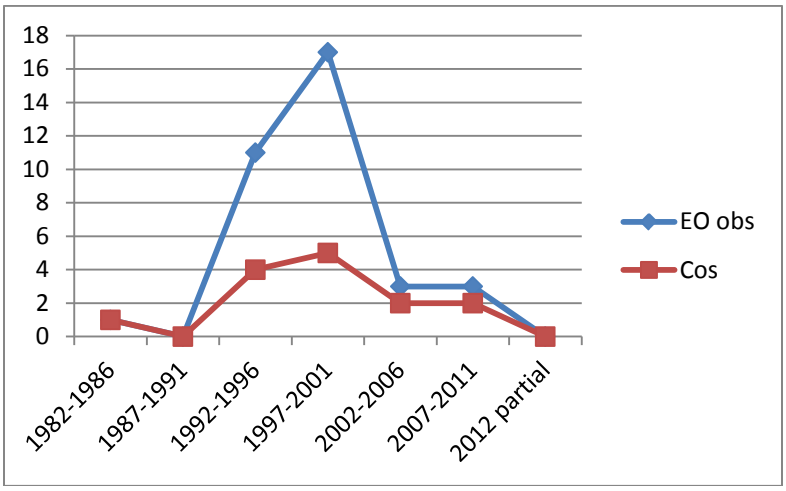
Illinois – Natural Heritage (Biotics 4) Database – last updated, February 2013
(EO = element occurrence and is roughly equivalent to one or more local individuals)

Last Observation	Total # Eos	Total seen since Jan 2002	# protected occurrences	# topo quads	# Counties	# Counties since 2002
9/17/2010	18	5	1	14	7	3

Observed EOs and counties with observations, for 5-year intervals, and any for 2012

	1982-1986	1987-1991	1992-1996	1997-2001	2002-2006	2007-2011	2012 partial
EO obs	1	0	11	17	3	3	0
Cos	1	0	4	5	2	2	0

Trends for numbers of observed EOs and counties with observations, for 5-year intervals



Mankowski 03/15/13 notes and recommendation:
The number of EOs with observation peaked during the 1997-2001 5-year interval, shortly following the species' listing in 1994. Since that time, there has been a significant reduction in the number of EOs with observation, with only 3 (17% of total) in each the 2002-2006 and 2007-2011 windows and totaling only 5 EOs (28% of total) with observation in 3 of 7 counties with occurrences. There are no "surveyed with no observation" reports for any EOs for this species.

Mankowski 03/15/13 recommendation – change from threatened to endangered.

ESPB TEC Paul Marcum 03/19/13 comments: Most old records are from the Shawnee. This species is probably still present at known sites. It's decline in EO's probably just represents a lack of effort rather than reduced numbers. The review for this species mentions that there are no surveyed with no observation reports for any EO for this species. I recommend keeping this species as Threatened.

> **Mankowski 04/19/13 response**: Comments noted and will be added to species review for Board information. No data, evidence, or documentation supporting contrary recommendation was provided. The Board recognizes that search effort and reporting across species and across EOs is not systematic nor standardized and that the number of observations reflects search effort. The lack of observations has been sustained over the last two five-year intervals. While the species may be present at sites without reported observations, staff recommendation is based on the best available current information. As has been discussed during the reviews of other taxonomic groups to date, data in the Database is very

inconsistent with regard to reports of population sizes and absence of presence. For this reason, due to only being staffed at 25%, and consistent with the level of review for other species during this current List review, the Board is not generally looking at individual population numbers. The Board has generally not looked at individual population numbers in many past reviews and even when making decisions to add species to the List, since most often that level of detail is not available. All EOs are single sites, except for one EO that has two nested sites. Across the 5 EOs with recent observations individual most recent reports were: 100-150 plants; 29 plants; 20-25 fruiting plants; 9 flowering plants; and, observed.

Mankowski 04/19/13 final recommendation: maintains recommendation for change from threatened to endangered for the reasons explained here and in her species review.

NatureServe Conservation Status in United States

None queried.

Preliminary listing decision excerpts from agenda item 9 of the 158th meeting, 05/17/2013

Secretary Clemetsen **moved** to change the status of *Cimicifuga rubifolia* (Black Cohosh) from threatened to endangered and Dr. Taft seconded the motion. There was no discussion. The Board voted and **approved** unanimously to change the status of *Cimicifuga rubifolia* (Black Cohosh) from threatened to endangered.

From: Evans, Chris
To: DNR.Espb
Subject: 2014 List Review public comment
Date: Tuesday, July 08, 2014 10:35:25 AM
Attachments: CIMRUB.Iron Furnace."13 EOR binder.pdf

Hello,

Thank you for the opportunity to comment on the list revision.

I disagree with the recommendation to change the status of Cimicifuga rubifolia from Threatened to Endangered. Most of the known sites are on protected lands (either state or federal) and many are obscure or difficult to get to (making it less likely for herb collectors). I've visited three sites either last summer or earlier this year and at all three sites Cimicifuga was easily located with robust plants either flowering or getting ready to flower. I submitted an EOR for one site last year (see attached) and will be developing EORs for the other two sites soon. Given that many of the sites are protected and the ones recently visited are doing fine, I think there is no need to change the status of this plant at this time.

Chris

--
Christopher Evans
Illinois Wildlife Action Plan
Invasive Species Campaign Coordinator
11731 State Hwy 37
Benton, IL 62812
Office: 618.435.8138 X 131
Cell: 618.364.7261
Chris.Evans@Illinois.gov

http://www.illinoisinvasives.org
http://www.facebook.com/illinoisisam

Illinois Natural Heritage Database
Endangered /Threatened Species Occurrence and Sighting Report Form

Name of Species:	Cimicifuga rubifolia	**Date Observed:**	06 June '13

New Sighting		or **Update**	X	Entire extent of occurrence is:	X	**known** OR		**not known**

Naturally Occurring	X	or	**Introduced** Location			**When?**		**From Where?**	

Location: (For more accurate mapping, please provide a map showing the exact location) Map attached

County:	Hardin	**Latitude**	[redacted]	**Longitude**	[redacted]

Direction from Nearest Landmark: [redacted] Shawnee National Forest's Iron Furnace Recreation Area.

Natural Division and Section: Shawnee Hills – Lesser Shawnee Hills

Legal Description:	Township	12	Range	8	Section	4	Quad name	Rosiclare

INAI Site Name:	Not an INAI site	**Survey Site Name (alias)**	Iron Furnace

Observations: (evidence of breeding or # of %,&& juvenile animals or # fruiting/flowering/seedling plants, etc.): fruiting/flowering/seedling plants

Several hundred individuals we observed. None were in flower or fruit on the date of this observation but just starting to bolt.

Description of Area: North facing talus slope in rich woods. Dense forest cover. Observed with Hepatica nobilis concolor, Trillium flexipese, Lindera benzoin, Staphylea triloba, Asarum canadense, Carex careyana, Polymnia Canadensis, Carex albursina. On Shawnee National Forest land.

Comments: Threats: Population is down slope from a large infestation of Vinca minor and a recently establish population of garlic mustard. Autumn olive and Japanese honeysuckle occur within population.

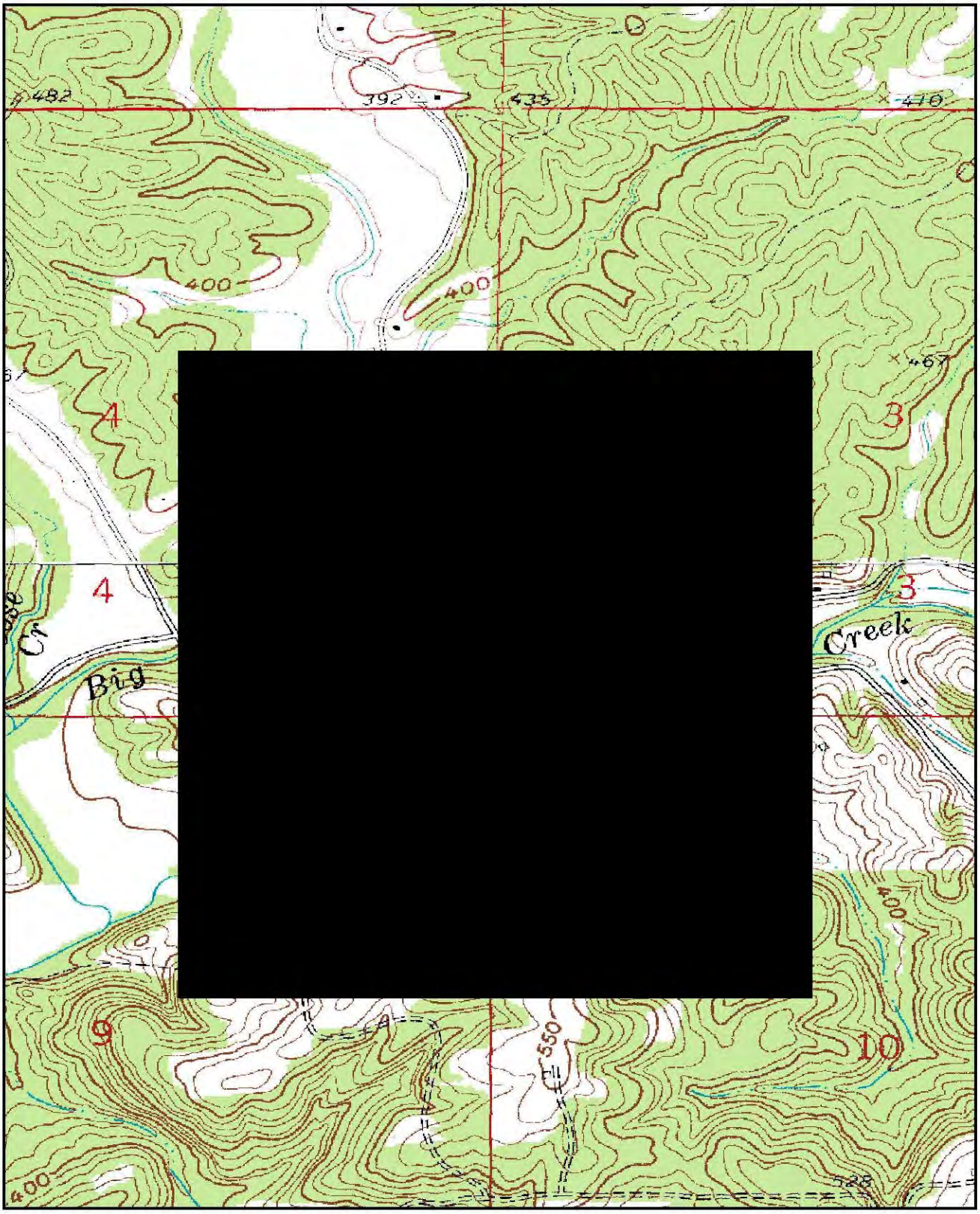
Specimen/voucher #(s):	No Voucher collected	**Where deposited?**	

Name of Observer:	Jody Shimp & Chris Evans						
Observer's Phone Number	(	618	)	435	-	8138 Ext 127	

Return to: Illinois Natural Heritage Database Program Manager, Illinois Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271

Rev 11/07

Cimicifuga rubifolia - June 6, 2013



0 0.125 0.25 0.5 Miles

Site surveyed June 6, 2013
by Jody Shimp, Chris Evans

Coordinates of locations
[redacted]

Population occurs along steep slope above Big Creek

Cimicifuga rubifolia – Hardin County – June 6th, 2013

Copperbelly Watersnake (Nerodia erythrogaster neglecta)

ESPB 2014 List review and revision, comment period comments: Dreslik recommendation against adding Copperbelly Water Snake (Nerodia erythrogaster neglecta) to the IL List of Endangered and Threatened Species; and, Holtrop recommendation against adding Copperbelly Water Snake (Nerodia erythrogaster neglecta) to the IL List of Endangered and Threatened Species as Illinois threatened.

Mankowski recommendation to the Board for final decision (07/2014).

Summary
Because the Copperbelly Watersnake (Nerodia erythrogaster neglecta) is federally designated as threatened, even as the Northern Distinct Population Segment only, it is automatically placed on the IL List. The issue is whether or not the species should be designated an Illinois listing status. At the 02/21/2014 ESPB meeting, the Board preliminarily approved designating an Illinois listing status of threatened.

The Dreslik recommendation includes a position statement document (Dreslik and Phillips No Date) that addresses their argument from the perspective of proposed taxonomic changes that have not been adopted by the USFWS and so much of their argument does not relate to the federally designated species and has limited relevance to the Board's consideration. Specific elements of the recommendation are addressed below under respective sections.

The Holtrop recommendation was not accompanied by any evidence or documentation. It addresses the correct subspecies and argues against designating an Illinois listing status for the species. Specific elements of the recommendation are addressed below under respective sections.

IDNR Legal Counsel was consulted prior to Ms. Mankowski's original recommendation for designating an Illinois listing status – that input, supporting Ms. Mankowski's recommendation, was reviewed during the February 21, 2014 Board meeting when the Board made preliminary listing decisions.

Also included below under the Law enforcement section is recent input from IDNR Law Enforcement that is supportive of designating an Illinois listing status.

Taxonomic status
The USFWS is currently conducting a 5-year review for the species, which is not expected until sometime in 2015. At this time, the USFWS has made no decision about adopting the proposed taxonomic changes for Nerodia erythrogaster neglecta as described in Makowsky et al (2010) – to eliminate neglecta and other sub-specific designations and recognize only one, wide-spread species (N. erythrogaster). The USFWS 5-year review may make recommendations about adopting the proposed taxonomic changes; if the recommendations were for adopting the proposed taxonomic changes, adoption of those recommendations would require additional federal rulemaking following the completion of the 5-year review (Barbara Hosler, personal communication 07/24/2014).

As noted by Drs. Dreslik and Phillips (no date) in their position statement sent during the Board's 06/24/2014-07/11/2014 comment period, five states (Indiana, Iowa, Kentucky, Michigan, and Ohio) list the subspecies as state-endangered (using N. erythrogaster neglecta) – with four of those list citations dated well after the 2010 Makowsky et al, paper.

Dreslik and Phillips (no date) state that the Board's February 21, 2014 preliminary decision was for listing the species N. erythrogaster and much of their argument relates to using the species designation and not the subspecies designation. In fact, the Board made preliminary decision for listing the subspecies consistent with the federal listing, N. erythrogaster neglecta, and not the species N. erythrogaster. The subspecies consistent with the federal listing, N. erythrogaster neglecta, is the taxon the Board will continue to consider through its final decision. At a time when the USFWS might adopt any taxonomic changes for this or any federal listing, the Board would adopt the same.

Illinois listing evaluation

Legal

Under the IL Endangered Species Protection Act, (520 ILCS 10/7) (from Ch. 8, par. 337):

> Sec. 7. Any species or subspecies of animal or plant designated as endangered or threatened by the Secretary of the Interior of the United States pursuant to the Endangered Species Act of 1973, P.L. 93-205, as amended, shall be automatically listed as an endangered or threatened species under this Act and thereby placed on the Illinois List by the Board without notice or public hearing. The Board may list, as endangered or threatened, species of animals or plants which have reproduced in or otherwise significantly used, as in migration or overwintering, the area which is now the State of Illinois, if there is scientific evidence that the species qualify as endangered or threatened as these terms are defined in this Act.

This means that every species and subspecies designated as federally endangered or threatened is on the IL List and receives protection under the ESPA. However, this has never been made clear in either the IL Ad Rules 1010 or 1050 or the Board's IL E&T Checklist; historically, the Board has only included in the printed lists in the IL Ad Rules 1010 and 1050 or the Board's IL E&T Checklist those Fed listed species that are extant in IL. This makes for confusion and misunderstanding and can hinder compliance and enforcement. The Board wants to clarify in IL Ad Rules 1010 and 1050 and the Board's IL E&T Checklist that all Fed listed species are on the IL List. The Board agreed to adding language to the beginning of each Ad Rule and the Checklist regarding federally listed species – language drafted by Board staff and reviewed by IDNR Legal Counsel and Law Enforcement, follows:

> **Note regarding Federally designated endangered and threatened species**: Per 520 ILCS 10/7 of the Illinois Endangered Species Protection Act, any species or subspecies of animal or plant designated as endangered or threatened by the Secretary of the Interior of the United States pursuant to the Endangered Species Act of 1973, P.L. 93-205, as amended, shall be automatically listed as an endangered or threatened species under this Act and thereby placed on the Illinois List by the Board without notice or public hearing.
>
> Under this requirement, all federally designated endangered or threatened species and subspecies have been automatically placed on the Illinois List by the Board and are protected under the Illinois Endangered Species Protection Act even though their names do not appear on the published Illinois Lists of Endangered and Threatened Species (*Illinois Administrative Code, Title 17 § 1010,* and *Title 17 § 1050,* and the Board's *Checklist of Endangered and Threatened Animals and Plants of Illinois*). Only those federally designated endangered or threatened species and subspecies known to occur in Illinois are designated as Illinois-endangered or Illinois-threatened by the Board and their names appear on the published Illinois Lists. Users should refer to the US Fish and Wildlife Service website at http://www.fws.gov/endangered/

for a complete listing of all federally designated endangered and threatened species and subspecies.

Dreslik and Phillips (no date) note that under the definition of "species" in the federal Endangered Species Act, both subspecies and distinct population segments are considered equivalent to distinct and separate taxa or species. They suggest that accordingly, since the northern distinct population segment (NDPS) of N. erythrogaster neglecta does not occur in Illinois, the Illinois listing is not warranted. Board staff notes that the taxon is already on the IL List automatically and acknowledges that the NDPS does not occur in Illinois. However, since specimens of the taxon from either the NDPS or southern DPS (that includes part of southern Illinois) are indiscernible from one another, this makes enforcement and protection supporting the federal listing essentially impossible when an individual or entity is in possession of a taxon specimen in Illinois.

Dreslik and Phillips (no date) suggest that per their argument for asserting the species-level consideration, the Board should also be required to add Illinois listing statuses for the Common Garter Snake and the Pond Slider because the USFWS lists subspecies of these taxa in other parts of the nation. Board staff does not agree with the argument as presented, reiterates that the Board uses the taxonomic designations consistent with federal listings for federally listed species, and recommends and recommends that if the authors want the Board to evaluate the other species mentioned, that request be brought forward under separate cover.

Ms. Holtrop's comment sent during the Board's 06/24/2014-07/11/2014 comment period was not accompanied by evidence or documentation. Statements there are that the Board's justification for listing the Copper-bellied Water Snake as threatened in Illinois has not been applied consistently and the same argument could be made for other species with geographic limitations to their federal status (e.g., American Black Bear, Mountain Lion, Chinook Salmon, Coho Salmon). Board staff does not agree with the argument as presented, notes that the current evaluation is for N. erythrogaster neglecta, notes that currently proposed Board actions are consistent with intent expressed above regarding handling of federally listed species, and recommends that if the IDNR wants the Board to evaluate the other species mentioned, that request be brought forward under separate cover.

Law enforcement

The northern distinct population segment (NPDS) of N. erythrogaster neglecta is already on the IL List automatically per 520 ILCS 10/7. As discussed, the NDPS of N. erythrogaster neglecta does not occur in Illinois; a southern distinct population segment (SDPS) of N. erythrogaster neglecta includes part of southern Illinois. Specimens of the taxon from either the NDPS or SDPS are indiscernible from one another. This makes enforcement and protection supporting the federal listing essentially impossible when an individual or entity is in possession of a taxon specimen in Illinois.

Dreslik and Phillips (no date) do not address enforcement or protections in support of the federal listing in their position statement sent during the Board's 06/24/2014-07/11/2014 comment period.

Ms. Holtrop's comment sent during the Board's 06/24/2014-07/11/2014 comment period was not accompanied by evidence or documentation. Statement there that the Board's decision to list the Copper-bellied Water Snake as threatened in Illinois has far-reaching implications for Department operations because of the species' abundance and widespread distribution in the state does not explain how the Board's listing decision would impact Department operations beyond implications already inherent in the existing IL Admin Rule Title 17 § 880. Board staff notes, for relative comparison, the

Database reports 27 element occurrences in 13 counties for N. erythrogaster neglecta, while six Illinois listed reptiles and amphibians (22% of total) have an equal or greater number of element occurrences and seven Illinois listed reptiles and amphibians (26% of total) have equal or more widespread county distributions in the state. IDNR Impact Assessment Section was not able to respond in time for inclusion in this document, to a request for the number of consultations for the Copperbelly since the Ad Rule provision was adopted in 1998. Figures 1 - 4, illustrating the total number of consultations for all resources by county 2000-2006 (Figure 1), total number of E&T, NP&LWR, and INAI by county 2000-2006 (Figure 2), total number of E&T animal species by county 2011 (Figure 3), and the total number of likely impacts to E&T animal species from consultations 2000-2006 (Figure 4), may provide some indication for the relative number of Copperbelly consultations that may have been performed during the same time frame.

Summary of 07/29/14 discussion with Sergeant Jamie Maul (IDNR Office of Law Enforcement) and Shelly Knuppel (IDNR Office of Legal Counsel). We reviewed the requirement that federally designated endangered and threatened species and subspecies are automatically placed on the IL List of E&T and therefore receive protection under the IL Endangered Species Protection Act. We reviewed that the Northern Distinct Population Segment (NDPS) of Copperbelly Watersnake (Nerodia erythrogaster neglecta) is listed as threatened by the USFWS, the NDPS of N. erythrogaster neglecta does not occur in IL, the same subspecies does occur in IL as a part of a Southern DPS, and specimens from the two DPSs are indiscernible from one another. We discussed the preliminarily approved Illinois listing status for the species with regard to practical and consistent enforcement and protections supportive of the federal listing. Sergeant Maul indicated that given the above, from the perspective of IDNR Law Enforcement, it seems most practical and consistent to include an Illinois listing status for the species.

Status and distribution

Because this listing is legally required and directed, the taxon's status and distribution was only minimally evaluated to make recommendation for an Illinois listing status of threatened versus endangered. The ESPB staff recommendation for preliminary decision reviewed that results of recent surveys in southern Illinois counties known for historic occurrences indicate the taxon's status and distribution appears quite robust (Karsen 2013) and the recommendation was for an Illinois threatened status.

Dreslik and Phillips (no date) present historic and recent status and distribution information for the species N. erythrogaster and not the subspecies N. erythrogaster neglecta – 311 specimens in 35 counties. The IDNR Natural Heritage Database tracks N. erythrogaster neglecta in support of IL Admin Rule Title 17 § 880, and reports 27 element occurrences in 13 counties (Jeannie Barnes, personal communication 10/23/2014).

Ms. Holtrop's comment sent during the Board's 06/24/2014-07/11/2014 comment period was not accompanied by evidence or documentation. Statement there questioning why the Board would list the species now after having not done so during several previous revisions does not acknowledge that the Board had only one part-time contractual or no staff during the two previous List reviews and relied heavily on advice from technical experts – as has been reviewed previously by Board staff and expressed by some of those technical experts, their recommendations were related to abundance evaluation; they did not address legal requirements/aspects of the ESPA.

Federal listing information – relative to the Illinois List
This taxon was listed as federally threatened in the northern distinct population segment (NDPS) in 1997 and a recovery plan was completed in 2008 (USFWS 2008). The federally threatened designation means the taxon is automatically placed on the Illinois List per 520 ILCS 10/7.

As discussed, the NDPS of N. erythrogaster neglecta does not occur in Illinois; a southern distinct population segment (SDPS) of N. erythrogaster neglecta includes part of southern Illinois. Specimens of the taxon from either the NDPS or SDPS are indiscernible from one another. This makes enforcement and protection supporting the federal listing essentially impossible when an individual or entity is in possession of a taxon specimen in Illinois.

ESPB staff recommendation
ESPB staff recommends that the Board could either:

1) Choose to designate an Illinois listing status for the taxon by finalizing its preliminary decision for listing as IL threatened and then note it as Fed T.

2) Choose to not designate an Illinois listing status for the taxon by not finalizing its preliminary decision for listing as IL threatened. The taxon would then be captured by the "Note regarding Federally designated endangered and threatened species" reference at the beginning of each Ad Rule and the Board's Checklist.

References:
520 ILCS 10/ Illinois Endangered Species Protection Act (1972 et seq.).

Barnes, Jeannie. IDNR Natural Heritage Database, Springfield, Illinois, personal communication 10/23/2014

Dreslik, M.J. and C.A. Phillips. No date. Position Statement on the Listing of the Plain-bellied Watersnake (*Nerodia erythrogaster*) as State Threatened. Submitted to the Illinois Endangered Species Protection Board as a comment in the Board's preliminary listing decisions public hearing and written comment period 06/24/2014-07/11/2014.

Holtrop, A.M. 2014. Memo dated July 11, 2014, submitted to the Illinois Endangered Species Protection Board as a comment in the Board's preliminary listing decisions public hearing and written comment period 06/24/2014-07/11/2014.

Hosler, Barbara. USFWS East Lansing Field Office, personal communication 07/24/2014

ILL. ADM. CODE. Title 17: Conservation § 1010: Illinois List of Endangered and Threatened Animals (1977 et seq.).

ILL. ADM. CODE. Title 17: Conservation *§* 880: The taking of reptiles and amphibians under a sport fishing license.

Illinois Department of Natural Resources (IDNR). 2007. Natural resource reviews data summary 2000-2006. Impact Assessment Section, Division of Ecosystems and Environment, Office of Realty and Environmental Planning. Illinois Department of Natural Resources. Springfield, Illinois. 16 pp.

Karsen, S. 2013. Resurveying Known Historical Localities and Searching New Sites for the Copper-bellied Water Snake in Southeastern Illinois. Illinois Department of Natural Resources. 34 pp. + figures.

Mankowski, A. 2012. The Illinois Endangered Species Protection Act at Forty: a Review of the Act's Provisions and the Illinois List of Endangered and Threatened Species. Illinois Endangered Species Protection Board, Springfield, Illinois. 152 pp. Published online at http://www.dnr.illinois.gov/ESPB/Pages/default.aspx.

U.S. Fish and Wildlife Service (USFWS). 2008. Northern Population Segment of the Copperbelly Water Snake (*Nerodia erythrogaster neglecta*) Recovery Plan. Fort Snelling, Minnesota. ix + 79 pp.

USFWS. 2010. Copperbelly Water Snake (*Nerodia erythrogaster neglecta*) Northern Population Segment: Five year review summary and evaluation. East Lansing, Michigan. Ii + 13 pp.

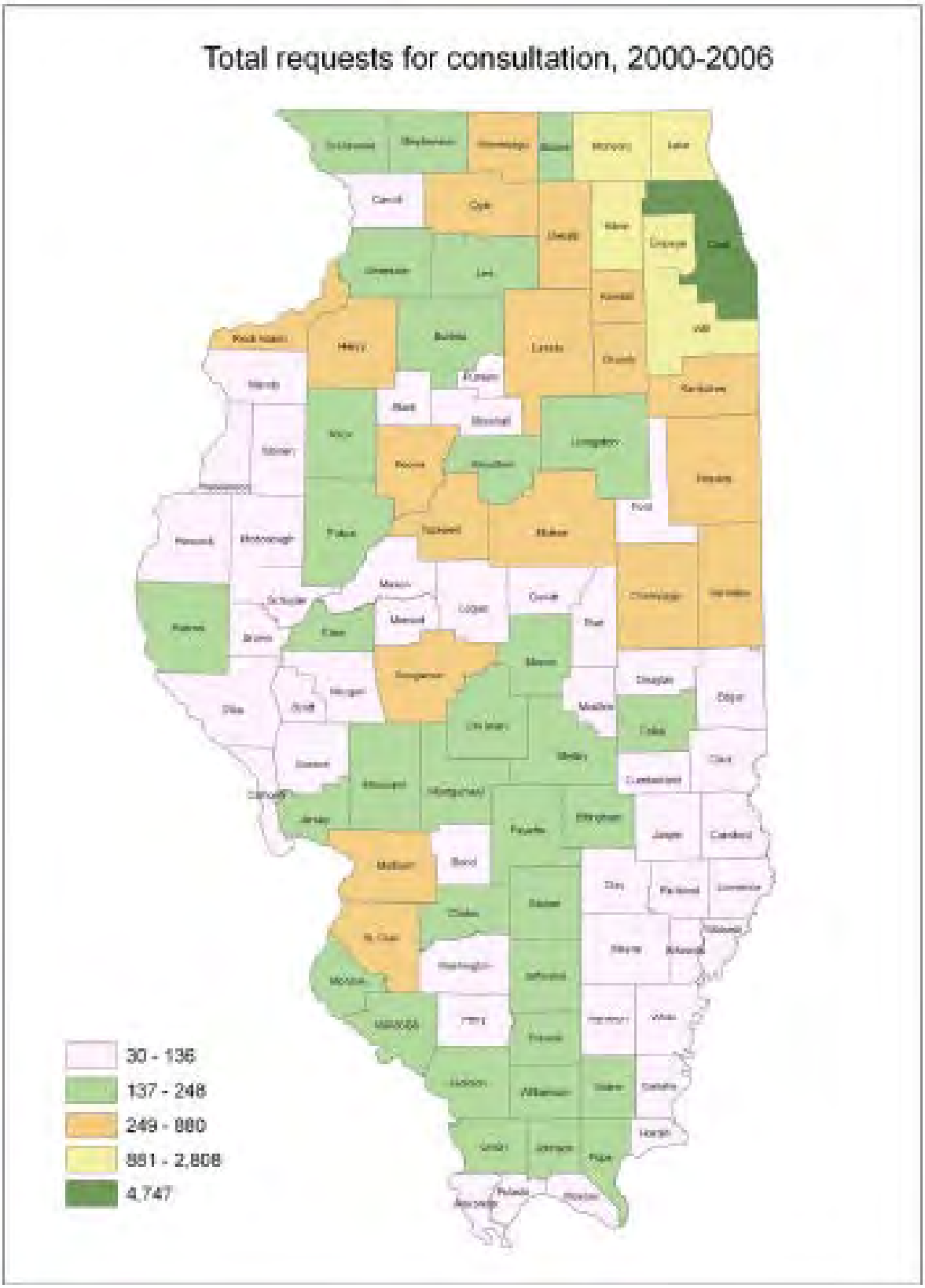


Figure 1. The total number of consultations for all resources per county from 2000-2006 (IDNR 2007). The area of interest is the southernmost 16 counties.

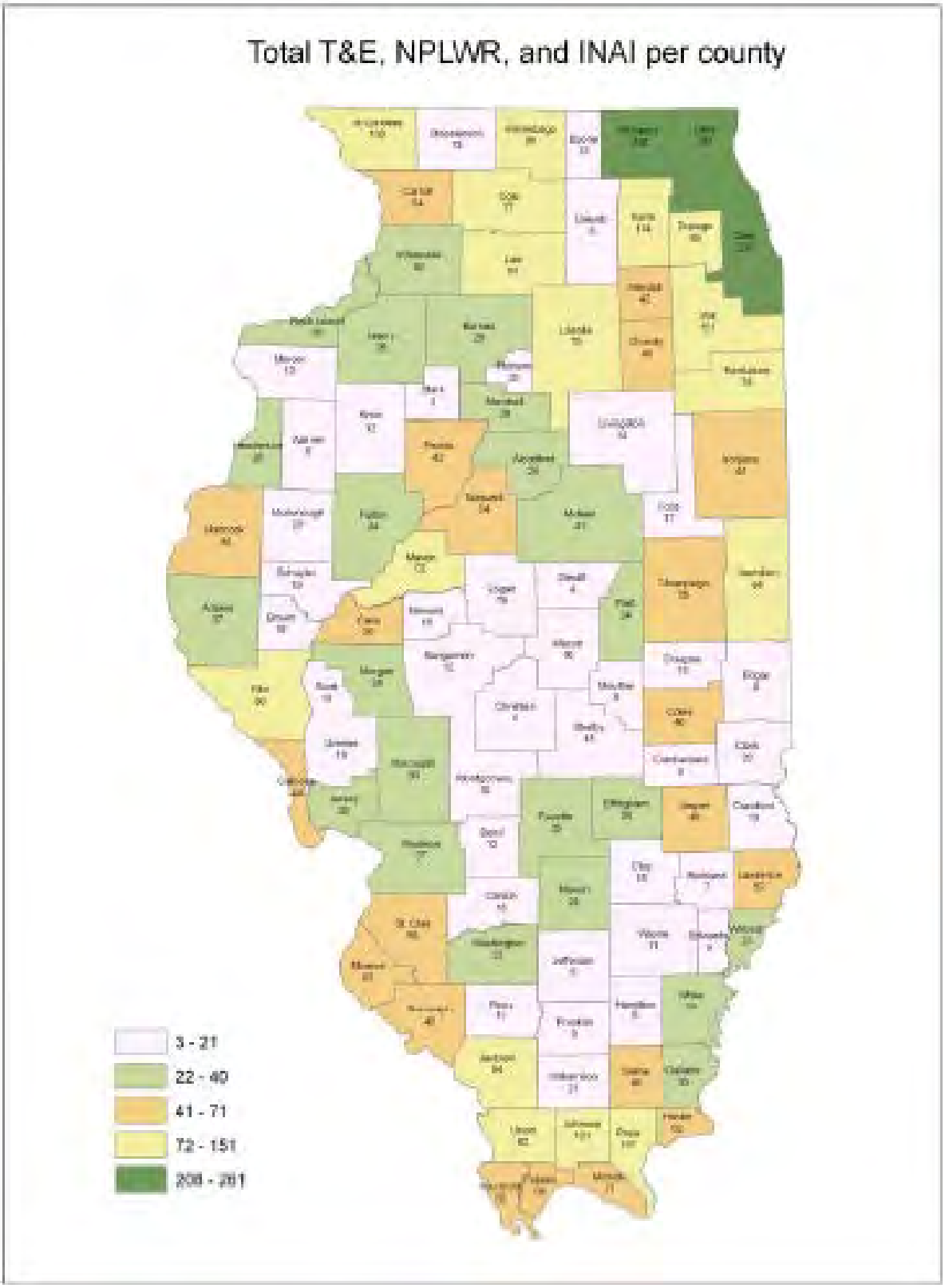


Figure 2. The total number of T&E, NP&LWR, and INAI per county from 2000-2006 (IDNR 2007). The area of interest is the southernmost 16 counties.

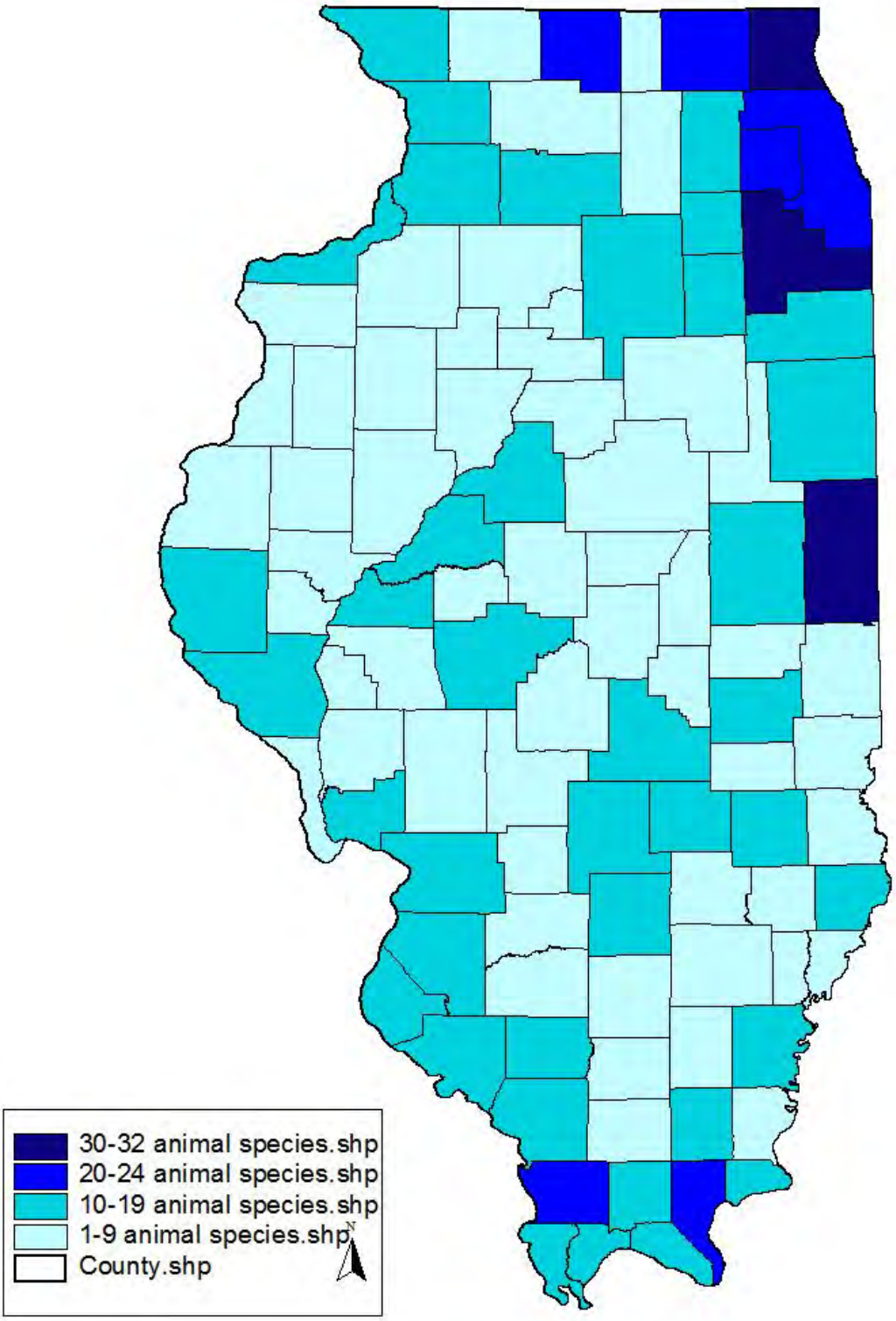


Figure 3. The total number of T&E animal species per county from in 2011 (Mankowski 2012). The area of interest is the southernmost 16 counties.

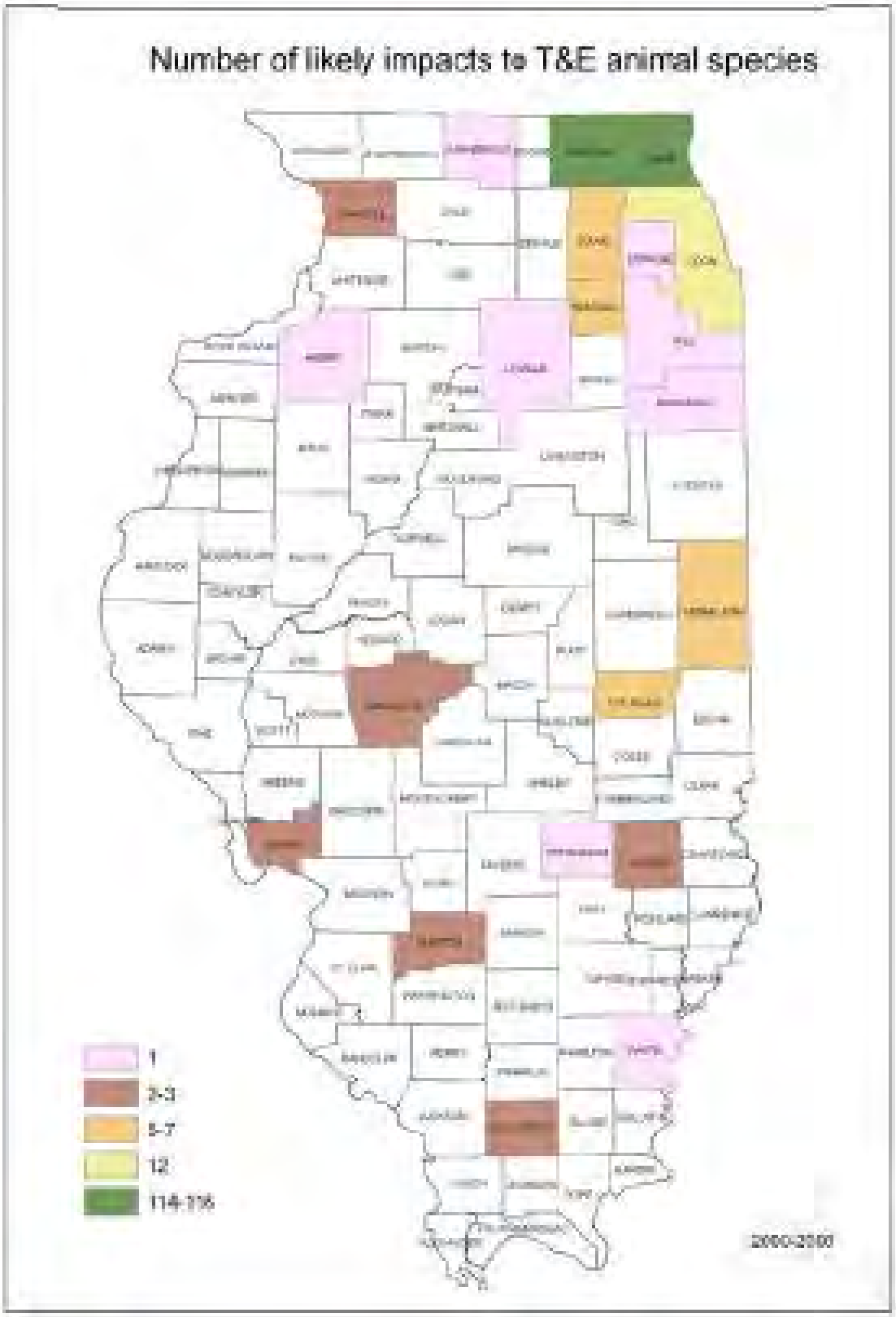


Figure 4. The total number of likely impacts to E&T animal species per county from consultations from 2000-2006 (IDNR 2007). The area of interest is the southernmost 16 counties.

Nerodia erythrogaster neglecta (Copper-bellied Watersnake) - Proposed Action: add as threatened
Reviewed at: 161st meeting, 02/21/2014; meeting minutes may contain additional information and discussion.
This action does not require a public hearing by the Board, but can be done during the same cycle and process as the 2014 List revision

Copperbelly Watersnake (Nerodia erythrogaster neglecta) Species Review, Mankowski, 02/2014

Federal Listing Status
This taxon was listed as federally threatened in the Northern Population Segment in 1997 and a recovery plan was completed in 2008 (USFWS 2008). The Northern Population Segment includes the shaded areas on the borders of Michigan, Indiana, and Ohio.

The figure below illustrates the different population segments for the taxon and is taken from the USFWS 2010 5-year review.

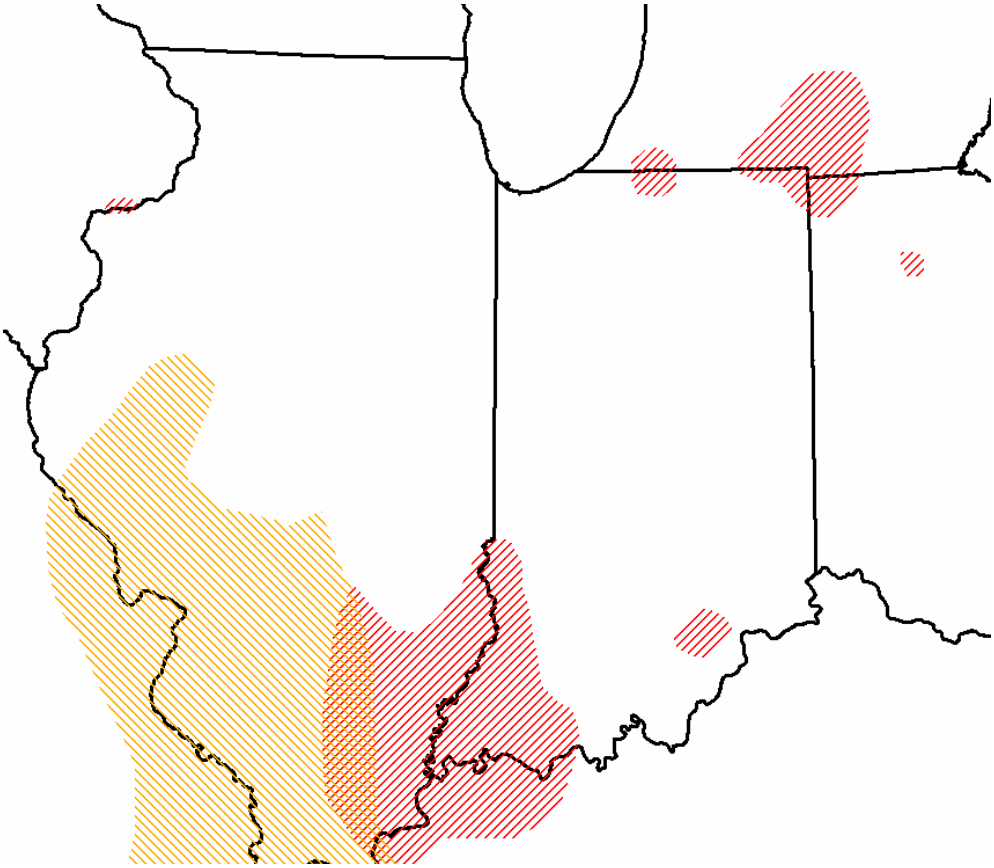


Figure 1. Historic distribution of the copperbelly water snake in the Midwest (six polygons with red hatching). To the northeast, north of the 40th North Parallel, are the isolated remaining copperbelly populations of the listed DPS. All known remaining populations of the DPS are within 15 miles of the intersection of Indiana, Michigan, and Ohio. Neither the southern populations nor the southeastern disjunct population near Seymour, Indiana, are federally listed, nor is the northwestern population along the Mississippi River in northwestern Illinois and eastern Iowa. Also shown (yellow hatching) is the Midwestern extension of the distribution of the yellowbelly water snake, the closest relative of the copperbelly, whose distribution continues south, and for which there is no Federal protection.

Implications to Illinois Listing Status
Under the IL Endangered Species Protection Act, any federally designated endangered or threatened species is automatically listed on the IL List. The Board has discussed adding some type of clarifying language to the IL List Ad Rules and the Board's IL E&T Checklist to indicate that all federally listed species are protected under the IL ESPA, but only those occurring in Illinois are included on the IL List.

While the distinct population segment does not include Illinois, the taxon does occur in Illinois. For various reasons, including questions about IL status and distribution, questions about differentiation between subspecies present in Illinois, that the taxon was provided some protections under the IL Wildlife Code pursuant to terms in an interagency conservation agreement that expired in 2001, and that the Board did not have staff during the last two revisions to review the matter more carefully, the taxon has never been "added" to the IL List. However, as a federally-listed taxon that occurs in Illinois, it seems that is should be included on the IL List. Ms. Mankowski submitted in January 2014, a request to IDNR Legal Counsel for legal opinion on the matter of how to indicate on the IL List a federally listed species under a DPS when the DPS does not include Illinois, but the taxon occurs in Illinois.

Illinois Status and Distribution
The IDNR and USFWS recently contracted surveys of historically known locations and new areas to assess the status and distribution of *N. erythrogaster neglecta* in Illinois. There appears to be a robust Illinois status and distribution.

Illinois 2013 surveys (after Karsen – report to IDNR and USFWS)
At least 83 locations with observations in 12 counties (total of 241 individuals)

County	*Approximate number of sites with observations*
Clay	*2*
Edwards	*3*
Gallatin	*5*
Johnson	*24*
Lawrence	*2*
Massac	*11*
Pope	*17*
Pulaski	*3*
Richland	*3*
Saline	*8*
Wabash	*2*
Wayne	*3*

Board Staff Recommendation
If added to the IL List, ESPB staff recommends Illinois threatened status.

References:
Karsen, S. 2013. Resurveying Known Historical Localities and Searching New Sites for the Copper-bellied Water Snake in Southeastern Illinois. Illinois Department of Natural Resources. 34 pp. + figures.

U.S. Fish and Wildlife Service (USFWS). 2008. Northern Population Segment of the Copperbelly Water Snake (*Nerodia erythrogaster neglecta*) Recovery Plan. Fort Snelling, Minnesota.
ix + 79 pp.

USFWS. 2010. Copperbelly Water Snake (*Nerodia erythrogaster neglecta*) Northern Population Segment: Five year review summary and evaluation. East Lansing, Michigan. Ii + 13 pp.

Preliminary listing decision summary from agenda item 12 of the 161st meeting, 02/21/2014
This action does not require a public hearing by the Board, but can be done during the same cycle and process as the 2014 List revision.

Ms. Mankowski reviewed her species review for the Copper-bellied Watersnake (*Nerodia erythrogaster neglecta*) and recommended adding the species as Illinois threatened. Ms. Masi **moved** to approve adding Copper-bellied Watersnake (*Nerodia erythrogaster neglecta*) as an Illinois threatened species and Mr. Robinett seconded the motion. The Board voted and the motion was **approved**, with members Beyer-Clow, Gooch, Hofmann, Masi, Robinett, Ross, and Taft voting for, and member Walk voting against.

From: dreslikmj@gmail.com on behalf of Mike dreslik
To: DNR.Espb
Subject: 2014 List Review public comment
Date: Friday, July 11, 2014 1:18:55 PM
Attachments: ErythrogasterPOSINHS.pdf

Hello,

Please find attached our white paper comment on the proposed listing of *Nerodia erythrogaster*. In the document we provide evidence that the species meets neither the criteria for listing under Sections 2 and 7 of the IESPA, especially considering the recent taxonomic changes that have been accepted by the herpetological community. Given that, our stance is the species should not be listed in Illinois. I thank you for your time and consideration.

Sincerely,

Michael J. Dreslik, Ph.D.
Illinois Natural History Survey
Prairie Research Institute
University of Illinois Urbana-Champaign
1816 South Oak Street
Champaign, Illinois 61820
Office - (217)300-0970

Position Statement on the Listing of the Plain-bellied Watersnake (*Nerodia erythrogaster*) as State Threatened

Michael J. Dreslik and Christopher A. Phillips

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SUMMARY

- Legal Interpretation
  - The IESPA cannot legally protect anything other than the distinct population of the Plain-bellied Watersnake segment using §7 of the IESPA.
  - Therefore, listing must then be extended using the definitions of endangered and threatened in §2 of the IESPA.
- Meeting the Definition of Endangered or Threatened
  - An initial pass of museum records produced 311 specimens representing 35 Counties.
  - The total predicted area using the most conservative modelling approach is predicted to be ~18,000 km^2 or ~7,000 mi^2.
  - Therefore, the Plain-bellied Watersnake in our expert opinion, does not meet the definition of threatened under the IESPA.
- The Plain-bellied Watersnake does not meet the criteria for listing in Illinois at this time.

PURPOSE

On 21 February 2014, the IESPB passed a motion to consider listing the Plain-bellied Watersnake (*Nerodia erythrogaster*) as at state-threatened species. This motion was entertained and passed based on sentence 1 of §7 in the IESPA which states,

> "*Any species or subspecies of animal or plant designated as endangered or threatened by the Secretary of the Interior of the United States pursuant to the Endangered Species Act of 1973, P.K. 93-205, as amended, shall automatically be listed as an endangered or threatened species under this Act and thereby placed on the Illinois List by the Board without notice or public hearing.*"

The purpose of this document is to illustrate the Plain-bellied Watersnake does not warrant listing in Illinois because it meets neither the criteria for automatic listing nor the definitions of "endangered" or "threatened".

LIST OF ACRONYMS

Throughout this document we will be using the following abbreviations:

CITES – Convention on International Trade in Endangered Species of Wild Flora and Fauna
DDNREC – Delaware Department of Natural Resources and Environmental Control
DPS – Distinct Population Segment
ESA – Endangered Species Act of 1973
FNMH – Field Museum of Natural History
IESPA – Illinois Endangered Species Protection Act (520 ILCS)
IESPB – Illinois Endangered Species Protection Board
ILCS – Illinois Compiled Statutes
ILDNR – Illinois Department of Natural Resources
INDNR – Indiana Department of Natural Resources
INHS – Illinois Natural History Survey
IODNR – Iowa Department of Natural Resources
IUCN – International Union for the Conservation of Nature
KDFWR – Kentucky Department of Fish and Wildlife Resources
MDDNR – Maryland Department of Natural Resources
MIDNR – Michigan Department of Natural Resources
ODNR – Ohio Department of Natural Resources
SIUC – Southern Illinois University, Carbondale
UINHM – University of Illinois Museum of Natural History
USFWS – United States Fish and Wildlife Service

SPECIES DESCRIPTION AND STATUS

Description and Natural History.– The Plain-bellied Watersnake is a large dark colored aquatic snake that typically inhabits riverine habitats and associated floodplain wetlands (Phillips *et al.*, 1999; Smith, 1961). It is a live-bearing snake that can attain sizes of up to 140 cm in length (Phillips *et al.*, 1999; Smith, 1961). The snake mates in May – June and birthing follows in late July – August with females having up to 20 offspring (Phillips *et al.,* 1999; Smith, 1961). The snake forages in both aquatic and terrestrial habitats and most often feeds on fish and amphibians (Phillips *et al.*, 1999; Smith, 1961).

Taxonomic Status.– Until recently there were four recognized subspecies of Plain-bellied Watersnakes in the United States (Ernst and Ernst, 2003):

- Red-bellied Watersnake (*N. e. erythrogaster*)
- Yellow-bellied Watersnake (*N. e. flavigaster*)
- Copper-bellied Watersnake (*N. e. neglecta*)
- Blotched Watersnake (*N. e. transversa*)

Using mtDNA sequencing recent genetic evidence suggests that it is a single wide-spread species and subspecific designations are not warranted (Makowsky *et al*., 2010). Further, the major scientific herpetological organizations (Crother *et al*., 2012) and NatureServe (2014) have formally accepted this taxonomic change.

Distribution The Plain-bellied Watersnake occurs mainly through the southeastern United States. It follows a coastal distribution from Delaware south to Northern Florida, up the Mississippi River Valley, and west through Texas Oklahoma, and Nebraska (Ernst and Ernst, 2003; Plate 1).

The species also has numerous disjunct populations within that range extending as far north as south central Michigan (Ernst and Ernst, 2003; Plate 1). In Illinois the species primarily ranges through the southern 1/3 of the state with disjunct populations following the Mississippi River northward (Phillips *et al.*, 1999; Smith, 1961). The former ranges of the two subspecies in Illinois were the western ~⅔ of species' range for the Yellow-bellied Watersnakes and the eastern ~⅓ of the range for the Copper-bellied Watersnakes (Smith, 1961).

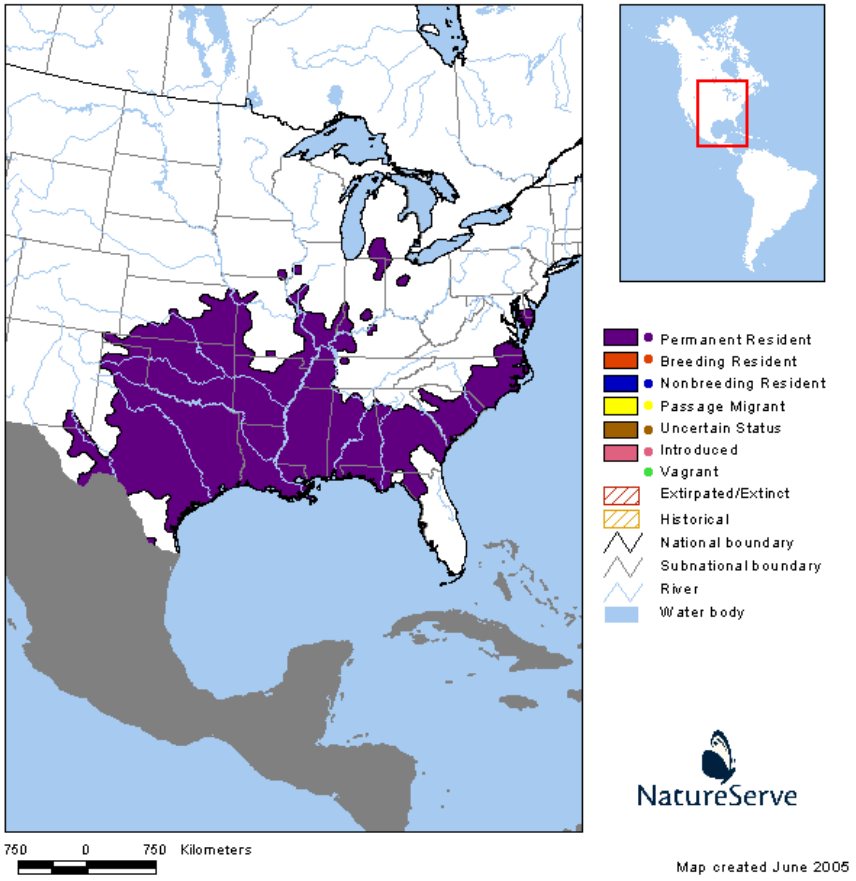

PLATE 1: Distribution map of the Plain-bellied Watersnake (*Nerodia erythrogaster*) in the United States taken from NatureServe (2014).

Conservation Status.– Nationally, the USFWS lists the disjunct populations in south-central Michigan, northeastern Indiana, and northwestern Ohio of the former Copper-bellied Watersnake as threatened (USFWS, 1997). NatureServe Explorer (2013) lists the Plain-bellied Watersnake as G5N5 with it receiving S-ranks of 4-5 for most states in its distribution. Lower ranks are provided for Delaware, (S1), Iowa (S1) and New Mexico (S1S2) with no ranks for Florida, Illinois, Indiana, Michigan, Ohio, and South Carolina (NatureServe Explorer, 2013). The IUCN lists the Plain-bellied Watersnake as least concern with a stable population trend (Hammerson *et al.*, 2013). Finally, CITES (2013) does not recognize the species under any appendices (CITES, 2013). At the state level Indiana, Kentucky, Iowa, Michigan, and Ohio list the formerly recognized Copper-bellied Watersnake as endangered (MIDNR, 2009; INDNR, 2013; IODNR, 2013; ODNR, 2013; KDFWR, 2014). Delaware lists the formerly recognized Red-bellied

Watersnake as Endangered (DDNREC, 2013) whereas Maryland only lists it as rare (MDDNR, 2010). No other states offer legal protection to the species.

BACKGROUND ON THE REGULATORY PROTECTION IN ILLINOIS

The southern distinct population segment (DPS) of the formerly recognized Copper-bellied Watersnake was protected in southeastern Illinois, Kentucky and southern Indiana, through an MOU with the USFWS (Copperbelly Water Snake (*Nerodia erythrogaster neglecta*) Conservation Agreement and Strategy, November 1996) whereby the states would proactively protect the subspecies as if it were state-listed in order to not have it listed federally. The IDNR created Administrative Order 880.70 which protected the subspecies in its range of southeastern Illinois (Illinois Administrative Code, §880.70). The MOU was initially for five years but when it expired in 2001, the IDNR maintained the rule until direction came from the USFWS as to whether the southern DPS would be federally protected. While the MOU was in effect and even afterwards (*ca.* 1993, 1998, 2003, 2008), the Herp ESTAC met during pre-listing meetings and each time decided the subspecies did not warrant state-listing because of its abundance in southeastern Illinois.

MAJOR RESULTS OF A STATUS SURVEY

The USFWS contacted the IDNR in 2010 and stated there was some regional funding available for surveys. Along with some large project Wildlife Preservation Fund funding, a two-year contract was developed and Steve Karsen was hired to do a thorough survey in southeastern Illinois of historical localities and identify new ones. Karsen's documented the continued presence of the snake in all of the 15 historical counties except Hamilton County (Karsen, 2013). Of the 55 historical localities, 49 were searched whereas locality information for six was not descriptive enough to be found on maps (Karsen, 2013). Karsen (2013) found 38 new localities, increasing the known range of the snake in southeastern Illinois to 87 current localities. Three additional localities were called in that could be substantiated, bringing the total to 90 localities. Karsen (2013) recorded seven different age cohorts, comprising young-of-the-year, young-of-the-previous-year, juvenile, large juvenile, subadult, adult, and large adult. This illustrated good recruitment for the species in southeastern Illinois. Karsen (2013) considered the subspecies to be widely distributed and its populations frequently stable, or sometimes locally common to increasing with the exception of an occasional area where the snake is possibly decreasing. Most populations were found on either state or federal land and are permanently protected, with some of those being in nature preserves. Given these findings, the expiration of the USFWS MOU IDNR's opinion was that Administrative Order 880.70 should be repealed.

LISTING USING §7 SENTENCE 1 OF THE ILESPA

Considerations.– If the Plain-bellied Watersnake is to be listed under the IESPA (Sent. 1, §7), there are a few considerations:

- The IESPA cannot list subspecies so Copper-bellied Watersnakes cannot be listed, the full species must get recognition.
- Current genetic information does not support subspecific designations.
- Following the logic for this proposed listing, the IESPB is also compelled to list:

- The Common Gartersnake (*Thamnophis sirtalis*) because the USFWS lists the San Francisco Gartersnake (*Thamnophi sirtalis tetrataenia*) as Endangered (USFWS, 1985).
- The Pond Slider (*Trachemys scripta*) because the USFWS lists the South American Red-lined Turtle (*Trachemys scripta callirostris*) as Endangered (USFWS, 1981).

Interpretations.– After conferring with Dr. E. Freyfogle at the University of Illinois' College of Law, the current logic fails to include the parallel interpretation needed in the ESA and more specifically, the definition of species in the ESA for listing purposes (Freyfogle *pers. com*, 2014). In this regard, the IESPA cannot be interpreted alone and must be interpreted with the ESA (Freyfogle *pers* com., 2014). In §3(13) of the ESA, species is defined to include full species, subspecies, and distinct population segments. Thus, according to the ESA the northern population is the "species" in question that is carried to the IESPA listing process (Freyfogle *pers com*, 2014). This qualification then fits the IESPA's statement in §7, and although the federally protected "species" does not occur in Illinois, it could be offered protection but that protection only extends to the "species" listed by the USFWS (Freyfogle *pers com.*, 2014). In essence, Illinois would be offering protection to the populations occurring in central Michigan, northeastern Indiana, and northwestern Ohio (Freyfogle *pers. com*., 2014).

Conclusions.– From this interpretation we have the following:

- Only the distinct population segment can be listed in Illinois.
- Anything other than the distinct population segment must follow the definitions of Endangered and Threatened in the IESPA.
- Plain-bellied Watersnakes cannot be listed in Illinois using sent. 1, §7 of the IESPA.

LISTING USING THE DEFINITIONS OF THREATENED AND ENDAGERED IN §2 OF THE ILESPA

Considerations. – Give the above, the second way to determine if Plain-bellied Watersnakes should be listed in Illinois is following the definitions from §2 of the IESPA,

- **Endangered Species**, *"...means any species of plant or animal classified as endangered under the Federal Endangered Species Act of 1973, P.L. 93-205, and amendments thereto, plus such other species which the Board may list as in danger of extinction in the wild in Illinois due to one or more causes including but not limited to, the destruction, diminution or disturbance of habitat, overexploitation, predation, pollution, disease, or other natural or manmade factors affecting its prospects of survival*."
- **Threatened Species**, *"...means any species of plant or animal classified as threatened under the Federal Endangered Species Act of 1973, P.L. 93-205, and amendments thereto, plus such other species which the Board may list as likely to become endangered in the wild in Illinois within the foreseeable future*."

Our assessment will then be made using a combined approach of querying museum records followed by prediction of the distribution of the species in Illinois based on those records.

Methodology. – Our first step was to query a collective database or records for Illinois held by over 20 museums inducing the major collections in the state such as FMNH, INHS, UIMNH, and SIUC. We did not query herpetologists who have worked in the state for locations where only visual observations have been made nor did we do a rigorous literature search for published records with no specimens deposited.

Our second step was to predict the distribution of the Plain-Bellied Watersnake in Illinois using the software package MaxEnt ver 3.3 (Phillips *et al.*, 2004, 2006; Elith *et al.,* 2011). We began the approach by first selecting a set of candidate raster data layers that included an elevation layers and land cover raster from the Illinois Geospatial Data Clearinghouse and three data layers from the WorldClim (www.worldclim.org) bioclim data set. From the bioclim data set we used the rasters of BIO_1 (Mean Annual Temperature), BIO_6 (Min Temperature of the Coldest Month), and BIO_{18} (precipitation in the driest quarter). We then resampled all surfaces to a resolution of 30m, set the projection to UTM NAD 83 CONUS, and exported surfaces to.asc files using the Export to Circuitscape Tool for ArcGIX 10 (Jenness Enterprises) in ArcGIS 10.2 (ESRI).

Results. – Our query of museum specimens resulted in 311 records geographically distributed throughout approximately the southern 1/3rd of the state with a few farther north along the Mississippi River (Tables 1 & 2; Plate 2). Most records were held at SIUC and the INHS, but there were records from 14 additional institutions (Table 1). Overall, 35 of the 102 counties in Illinois had museum records for the Plain-bellied Watersnake (Table 2; Plate 2). The records spanned from the 1880's from Richland County to the present (Table 2). Most of the records were collected in the 1950's and 1990's and all but 9 of 35 counties have had records since the 1990's (Table 2).

For land cover, it appears the species is more restricted to riverine and stream habitats in the state (Plate 3). When looking at elevation it appears the species occurs south of the Shelbyville Moraine in lower elevation habitats such as riverine bottomlands (Plate 4). In addition, there is a clear break in mean annual temperature with Plain-bellied Watersnakes occupying regions with higher temperatures (Plate 5). Also, there appears to be a minimum temperature gradient where they occupy regions with relatively warmer winters (Plate 6). Finally, there does not appear to be any qualitative association with precipitation in the warmest months (Plate 7).

The Area Under the Curve (AUC) score of 0.946 for our MaxEnt model suggests it has high predictive power (Plate 7). Mean annual temperature and elevation data layers contributed the greatest toward the predicted distribution (58.6%; Table 3), while land cover was the second most important factor (28.6%; Table 3), and precipitation in the warmest quarter and minimum temperature of the coldest month were the least important factors (12.8%; Table 3). When examining the different methods of calculating thresholds, the equal training sensitivity (true positive rate) and specificity (true negative rate) was the most conservative, suggesting the distribution should be ~7,000 mi^2 or ~18,000 km^2 (Table 4). Using this conservative threshold and one providing a more liberal assessment of suitable habitat (maximum training sensitivity plus specificity), we predict that the distribution of the Plain-bellied Watersnake occupies between 12 – 15% (~7,000 – 8,970 mi^2 or ~18,150 – 23,250 km^2) of the state (Plates 8 & 9).

Conclusions. – We restricted our records to only those held in museum collections. If we would have queried herpetologists who have worked in the region and IDNR staff, we could have greatly increased the number of records. However for the purposes of the distribution model, 311 records provided a strong model. Given the findings above we have the following conclusions:

- There were numerous recent museum records representing most of the historical counties
- The number of records will greatly increase when including other occurrence data
- The MaxEnt model had good predictive ability, and did not appear to predict suitable habitat beyond known localities or beyond what we believe is feasible, based on our collective experience.
- Based on our most conservative estimates, the predicted distribution covers12 – 15% of Illinois, the area of the most conservative threshold for the distributional model is ~7,000 mi^2 or ~18,000 km^2
- Therefore, we conclude the Plain-bellied Watersnake does not meet the definition of Threatened in the IESPA

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TABLE 1: Number of specimens of Plain-bellied Watersnakes (*Nerodia erythrogaster*) derived from the INHS's herpetological database by Museum.

Museum	**Number**
Southern Illinois University, Carbondale	130
Illinois Natural History Survey	89
Photographic	26
University of Illinois Museum of Natural History	18
Louisiana State University	12
Field Museum of Natural History	6
H.D. Walley – Private Collection	6
National Museum of Natural History	6
American Museum of Natural History	5
University of Wisconsin Stevens Point Museum of Natural History	5
Natural History Museum of London	2
Auburn University Museum	1
Chicago Academy of Sciences	1
Illinois State Museum	1
Southern Illinois University, Edwardsville	1
Texas A&M University, Texas Cooperative Wildlife Collection	1
Universidad Central Marta Abreu de Las Villas	1
Total	**311**

TABLE 2: Number of Plain-bellied Watersnakes (*Nerodia erythrogaster*) specimens derived from the INHS's herpetological database by county and decade of collection.

County	1880	1890	1900	1910	1920	1930	1940	1950	1960	1970	1980	1990	2000	2010	Unk.	Total
Adams	---	---	---	---	---	---	---	---	1	---	---	---	---	---	---	1
Alexander	---	---	4	---	---	---	---	5	---	---	2	17	4	---	---	32
Bond	---	---	---	---	---	---	---	5	---	---	---	---	1	---	---	6
Calhoun	---	---	---	---	---	---	---	1	---	---	---	---	---	---	---	1
Clay	---	---	---	---	---	---	---	---	---	---	---	1	3	---	---	4
Clinton	---	---	---	---	---	---	---	---	---	---	---	3	---	---	---	3
Edwards	---	---	---	---	---	---	---	---	---	---	3	1	---	---	---	4
Fayette	---	---	---	---	---	---	2	---	---	1	---	---	---	---	---	3
Franklin	---	---	---	---	---	2	---	---	---	---	1	---	---	---	---	3
Gallatin	---	---	---	---	---	1	---	---	---	---	---	2	---	---	---	3
Greene	---	---	---	---	---	---	---	---	---	---	---	---	1	---	---	1
Henderson	---	---	---	---	---	---	---	---	---	---	---	---	1	---	---	1
Jackson	---	---	---	---	---	1	1	15	6	1	6	8	---	---	---	38
Jefferson	---	---	---	---	---	---	---	1	4	---	---	---	---	---	---	5
Jersey	---	---	---	---	1	---	---	---	---	---	---	7	---	---	---	8
Johnson	---	---	---	---	---	---	4	2	2	---	5	7	6	---	---	26
Lawrence	---	---	---	---	---	---	---	---	---	---	---	1	3	---	---	4
Madison	---	---	---	1	---	---	---	---	1	---	---	8	---	---	---	10
Massac	---	---	---	---	---	---	---	---	2	---	---	3	---	---	---	5
Monroe	---	---	---	---	---	---	2	1	---	---	---	2	---	---	---	5
Perry	---	---	---	---	---	---	---	---	2	1	---	8	1	---	---	12
Pike	---	---	---	---	---	---	---	---	2	---	---	---	---	---	---	2
Pope	---	---	---	---	---	---	---	---	1	1	2	5	2	---	1	12
Pulaski	---	---	---	---	---	---	---	---	---	---	4	2	1	---	---	7
Randolph	---	1	---	---	---	---	1	3	---	---	---	3	---	---	---	8
Richland	2	---	---	---	---	---	---	---	---	---	---	---	---	---	---	2
Rock Island	---	---	---	---	---	---	---	3	---	---	---	---	---	1	---	4
Saline	---	---	---	---	---	---	1	---	---	---	2	3	1	---	---	7
St. Clair	---	1	1	---	---	---	---	---	---	---	---	4	1	---	---	7
Union	---	---	---	---	2	11	5	21	14	1	2	7	5	---	1	69
Wabash	---	---	---	---	---	1	---	---	---	---	2	---	---	---	---	3
Washington	---	---	---	---	---	1	---	---	---	1	---	3	1	---	---	5
Wayne	---	---	---	---	---	---	---	---	---	---	---	1	1	---	---	2
White	---	---	---	---	---	---	---	---	---	---	3	1	---	---	---	4
Williamson	---	---	---	---	---	2	1	---	1	---	---	---	---	---	---	4
Total	**2**	**2**	**5**	**1**	**3**	**19**	**17**	**57**	**36**	**6**	**32**	**97**	**32**	**1**	**2**	**311**

TABLE 3: MaxEnt model results illustrating the percent contribution of the respective datalayer to the model.

Variable	Percent Contribution
Mean Annual Temperature	58.6
Elevation	28.6
Land Cover	8.6
Precipitation in Warmest Quarter	2.5
Minimum Temp of Coldest Month	1.7

TABLE 4: Comparison of different thresholds from MaxEnt models, predicted proportion of the state occupied, omission rates, and total area of the distribution. For reference, Illinois is 57,915 mi^2 or 149,998 km^2.

Description	Cumulative Threshold	Logistic Threshold	Predicted Proportion of State	Training Omission Rate	mi^2	km^2
Equal training sensitivity and specificity	16.854	0.220	0.1210	0.121	7007.715	18149.76
10 percentile training presence	14.314	0.198	0.1360	0.096	7876.44	20399.73
Maximum training sensitivity plus specificity	11.740	0.171	0.1550	0.071	8976.825	23249.69
Equate entropy of thresholded and original distributions	10.977	0.162	0.1610	0.071	9324.315	24149.68
Fixed cumulative value 10	10.000	0.152	0.1690	0.067	9787.635	25349.66
Fixed cumulative value 5	5.000	0.085	0.2300	0.029	13320.45	34499.54
Balance training omission, predicted area and threshold value	2.750	0.029	0.2950	0.004	17084.93	44249.41
Fixed cumulative value 1	1.000	0.010	0.4590	0.004	26582.99	68849.08
Minimum training presence	0.154	0.002	0.6940	0.000	40193.01	104098.6

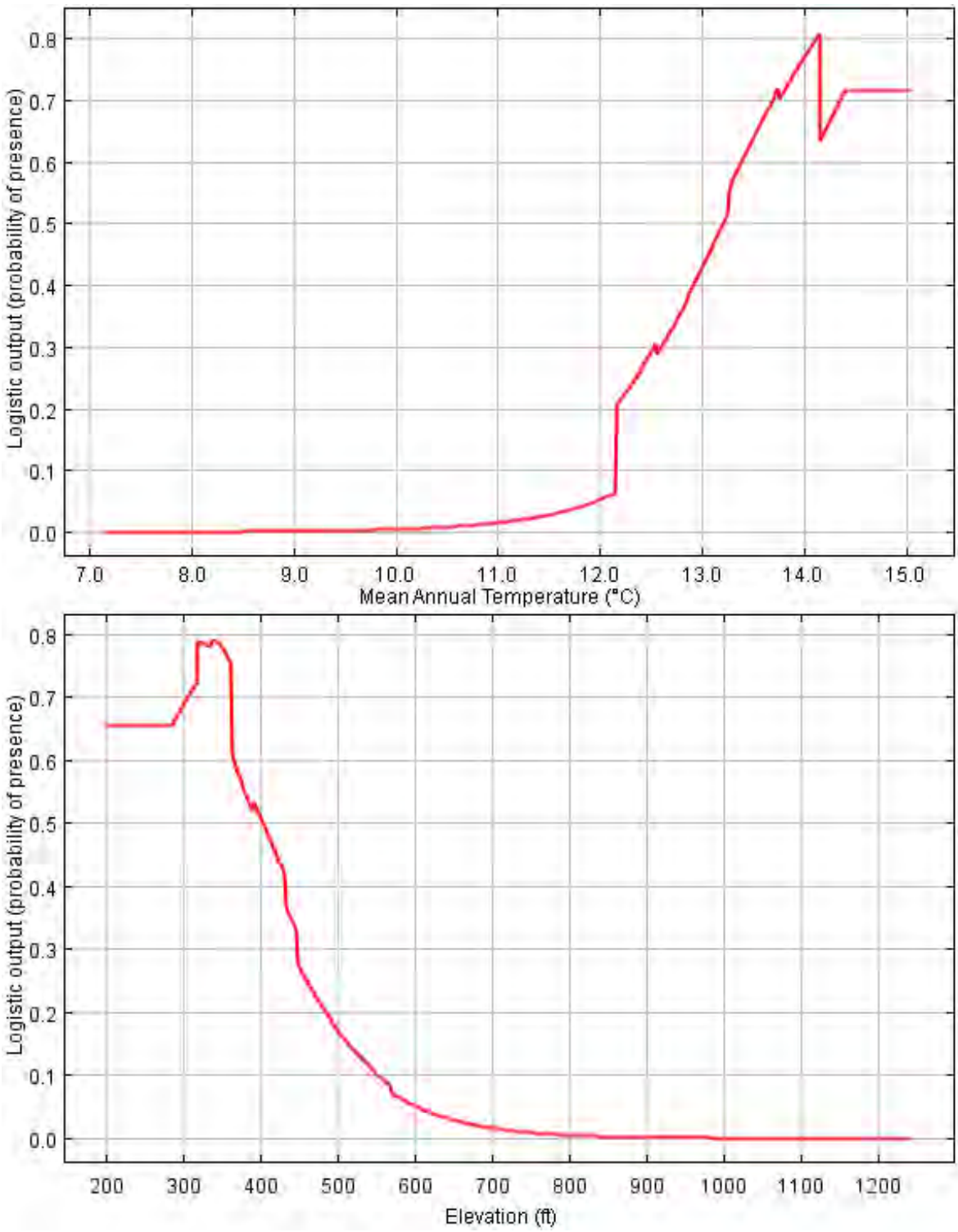


FIGURE 1: MaxEnt predicted response curves for the mean annual temperature and elevation data layers.

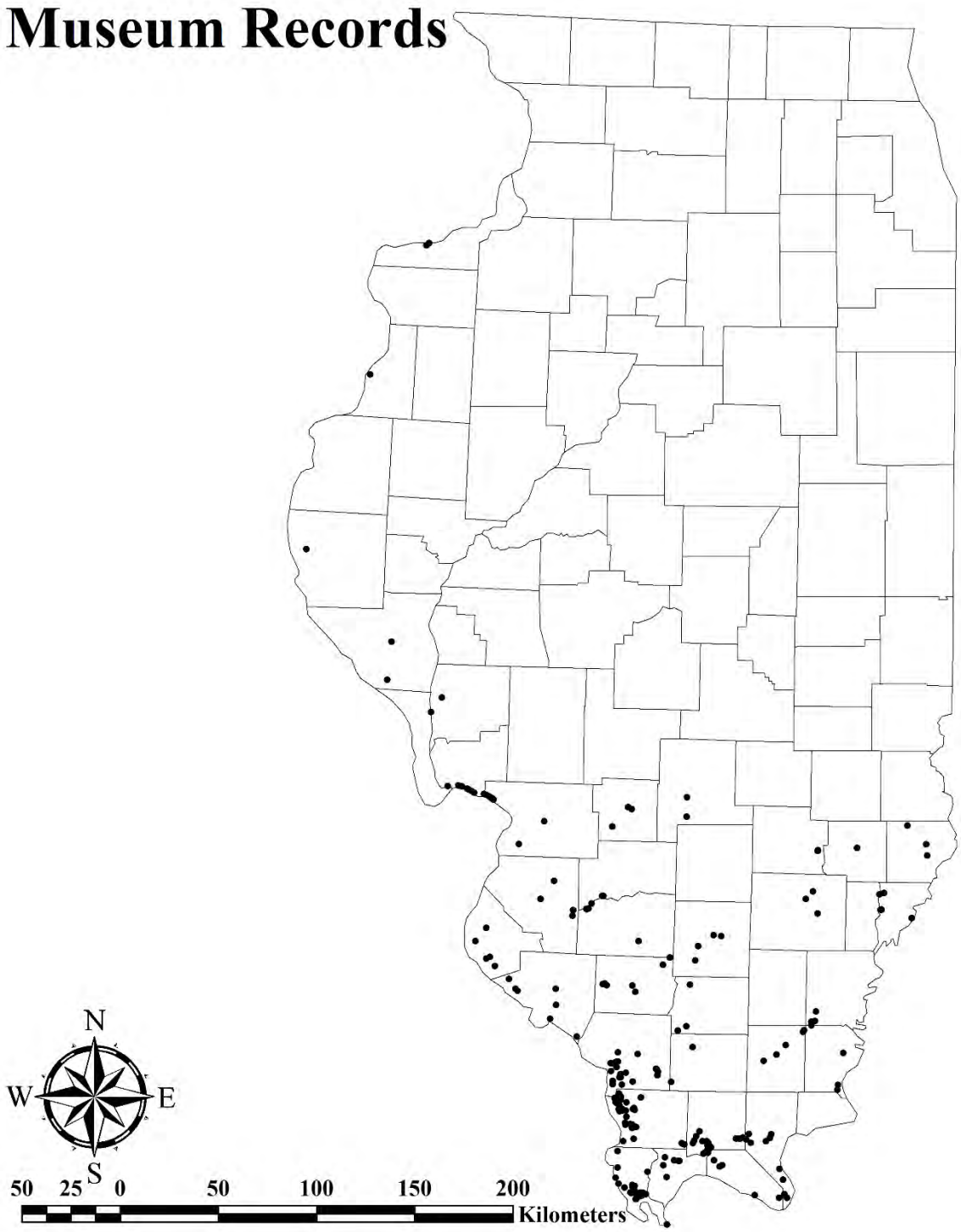


PLATE 2: Dot Map of all Plain-bellied Watersnake (*Nerodia erythrogaster*) museum records.

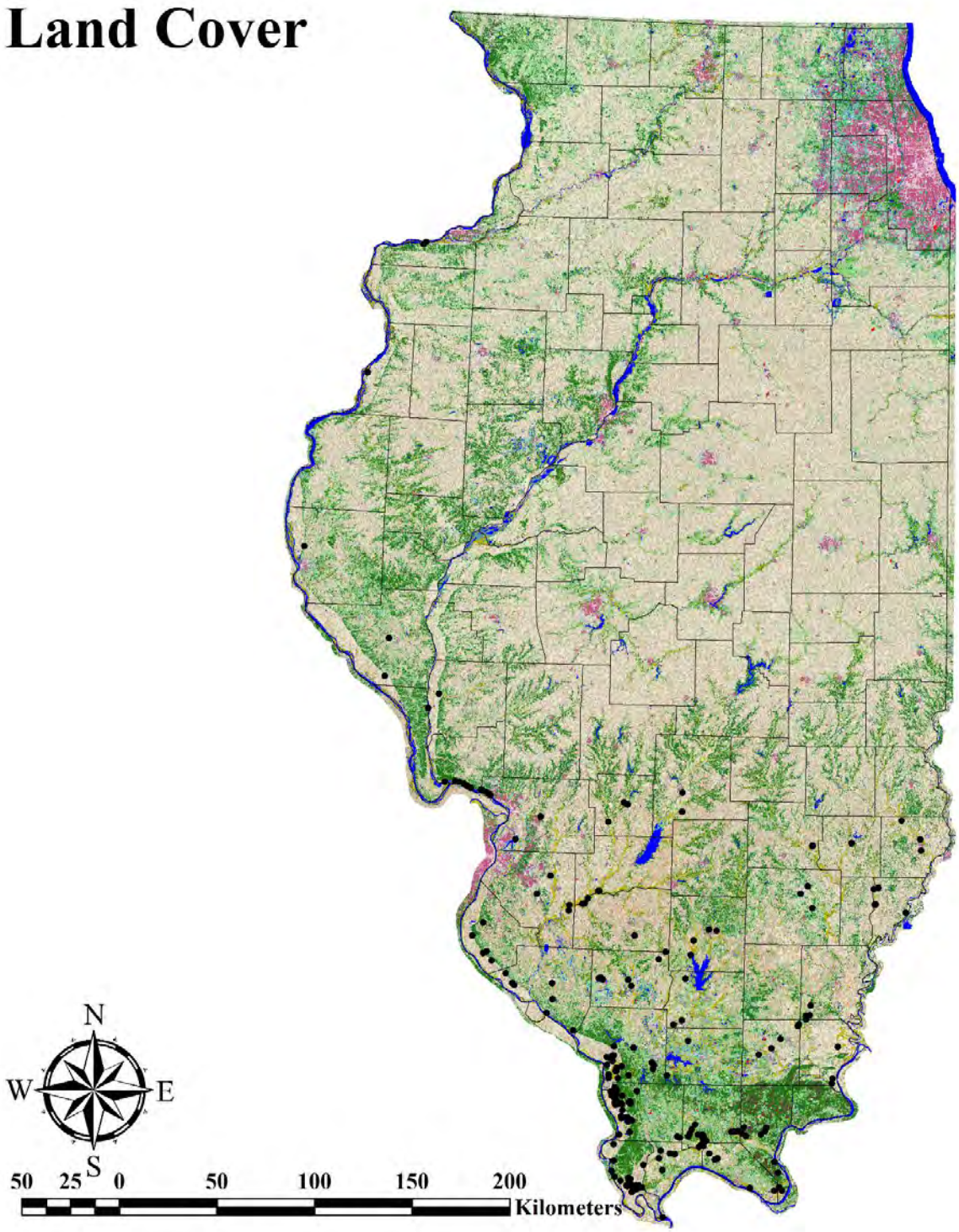


PLATE 3: Dot Map of all Plain-bellied Watersnake (*Nerodia erythrogaster*) museum records on the landcover GIS data layer.

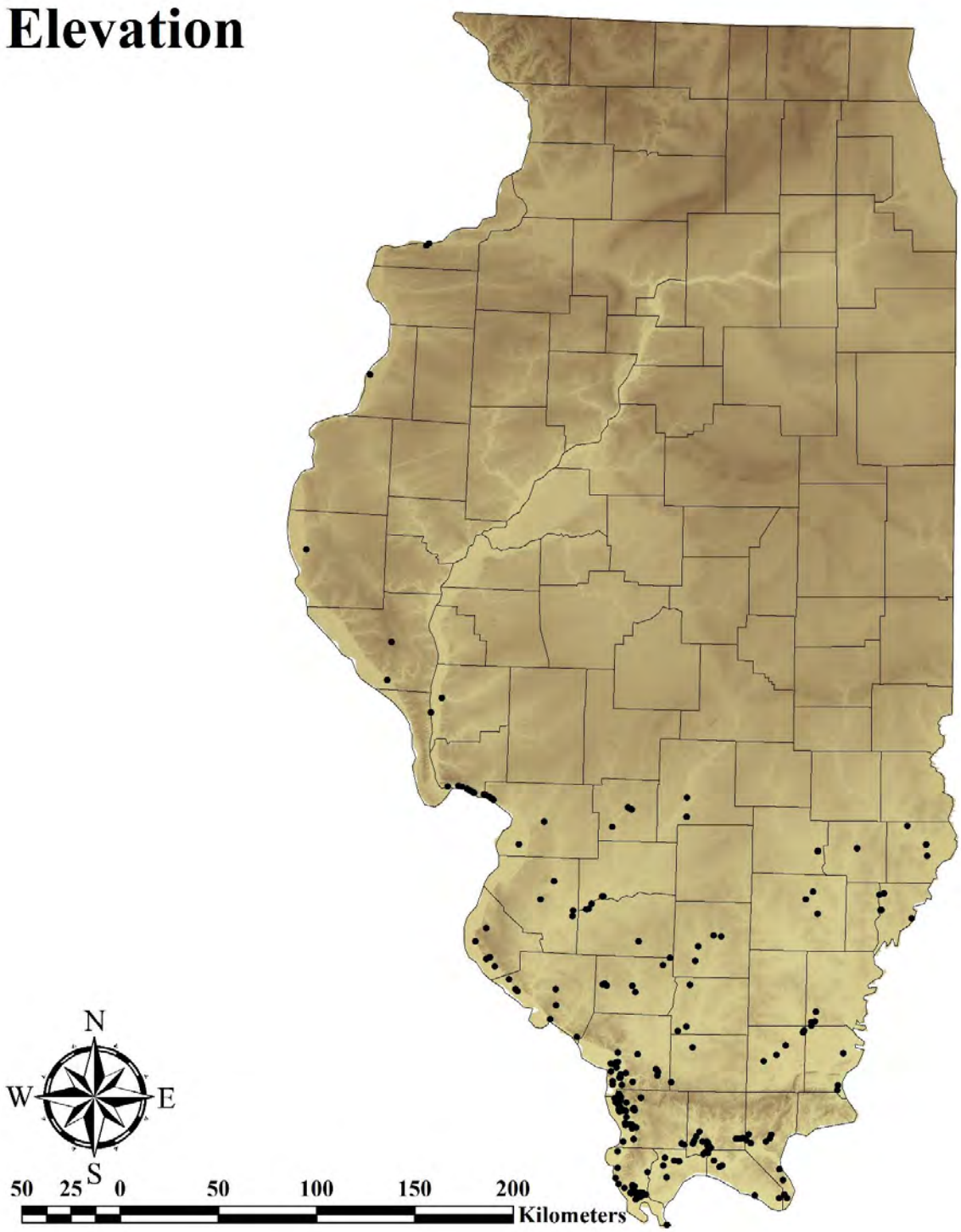


PLATE 4: Dot Map of all Plain-bellied Watersnake (*Nerodia erythrogaster*) museum records on the elevation GIS data layer. The darker the color, the higher the elevation.

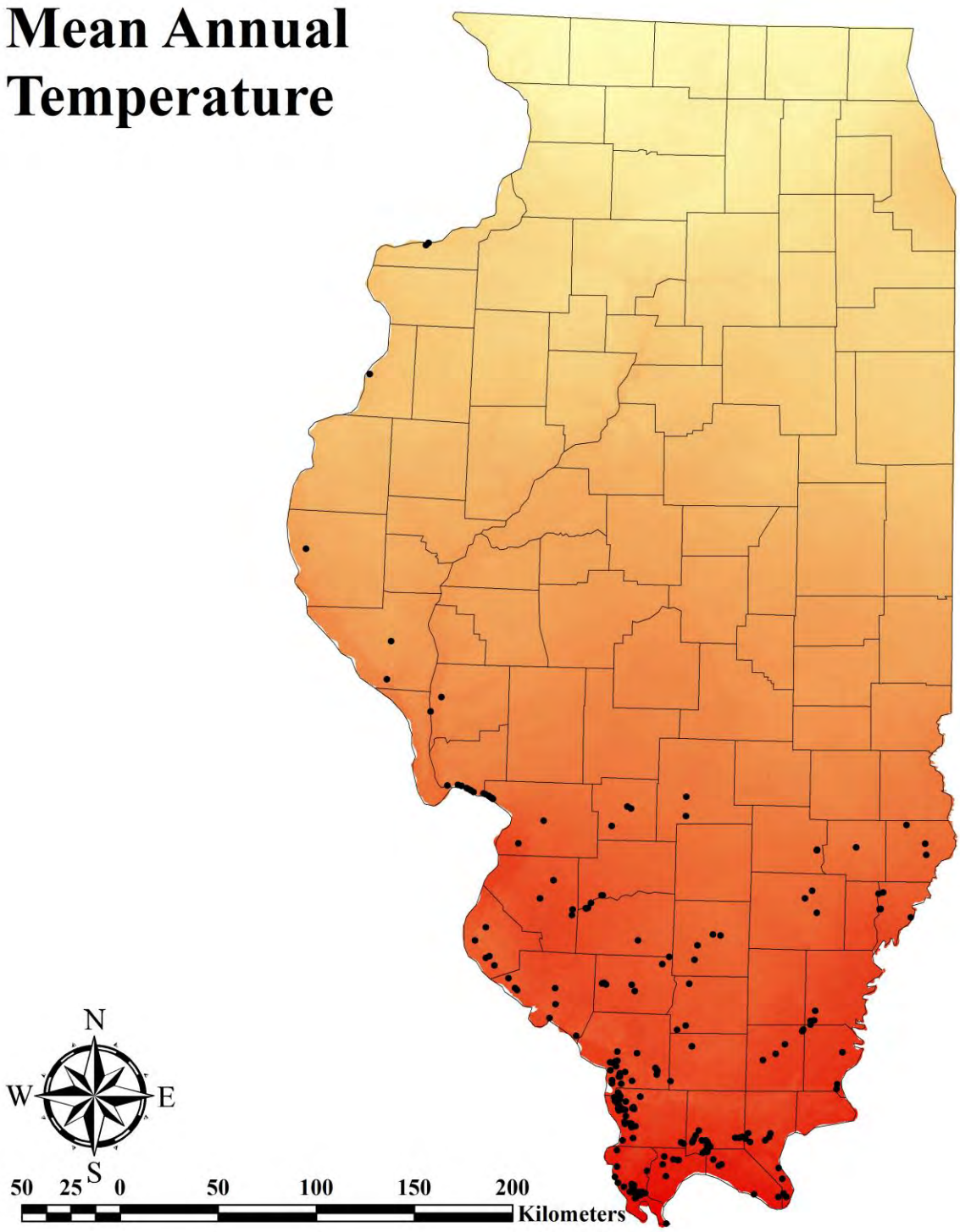


PLATE 5: Dot Map of all Plain-bellied Watersnake (*Nerodia erythrogaster*) museum records on the mean annual temperature GIS data layer. The darker the color, the warmer the temperature.

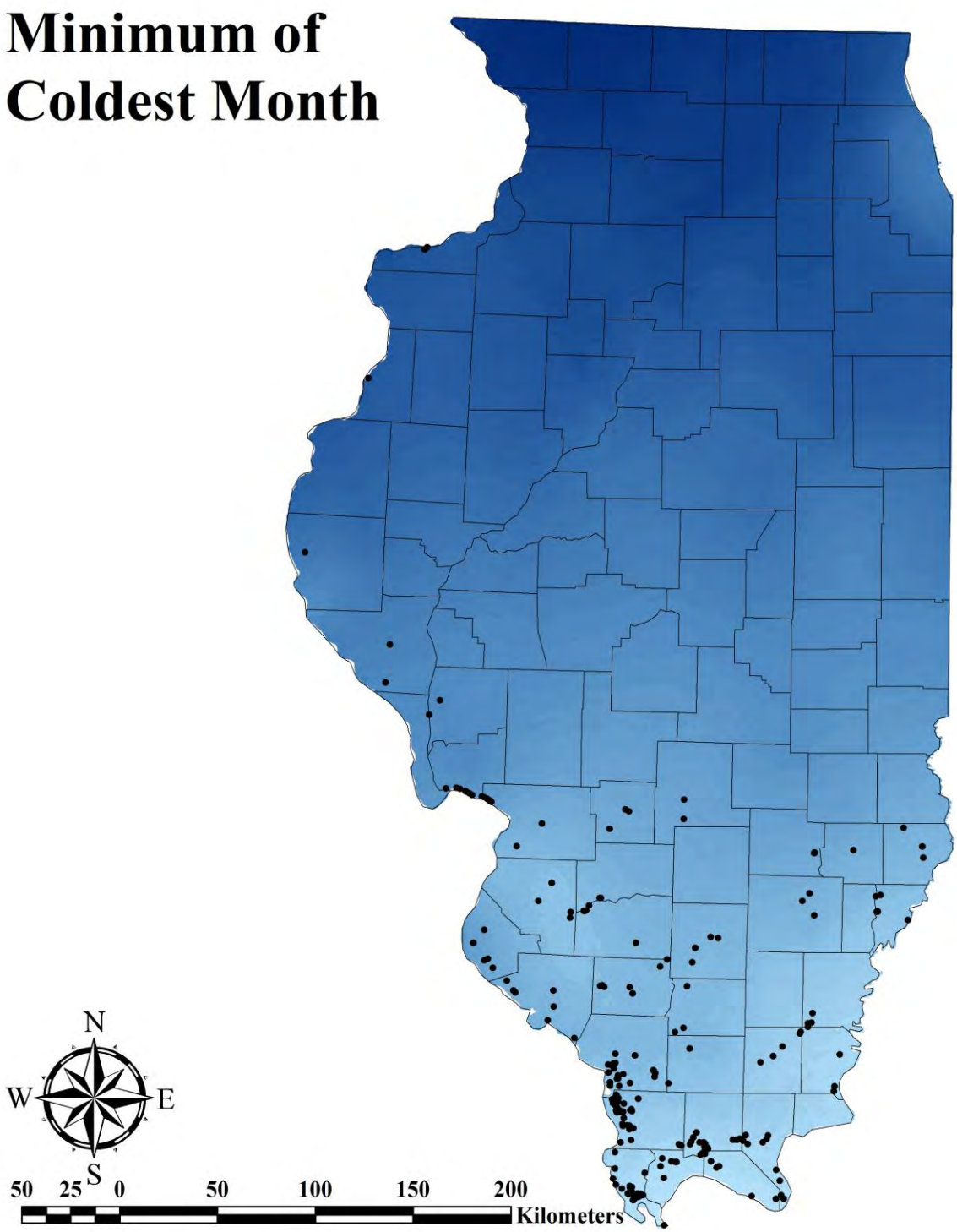


PLATE 6: Dot Map of all Plain-bellied Watersnake (*Nerodia erythrogaster*) museum records on the minimum temperature of the coldest month GIS data layer. The darker the blue, the colder the temperature.

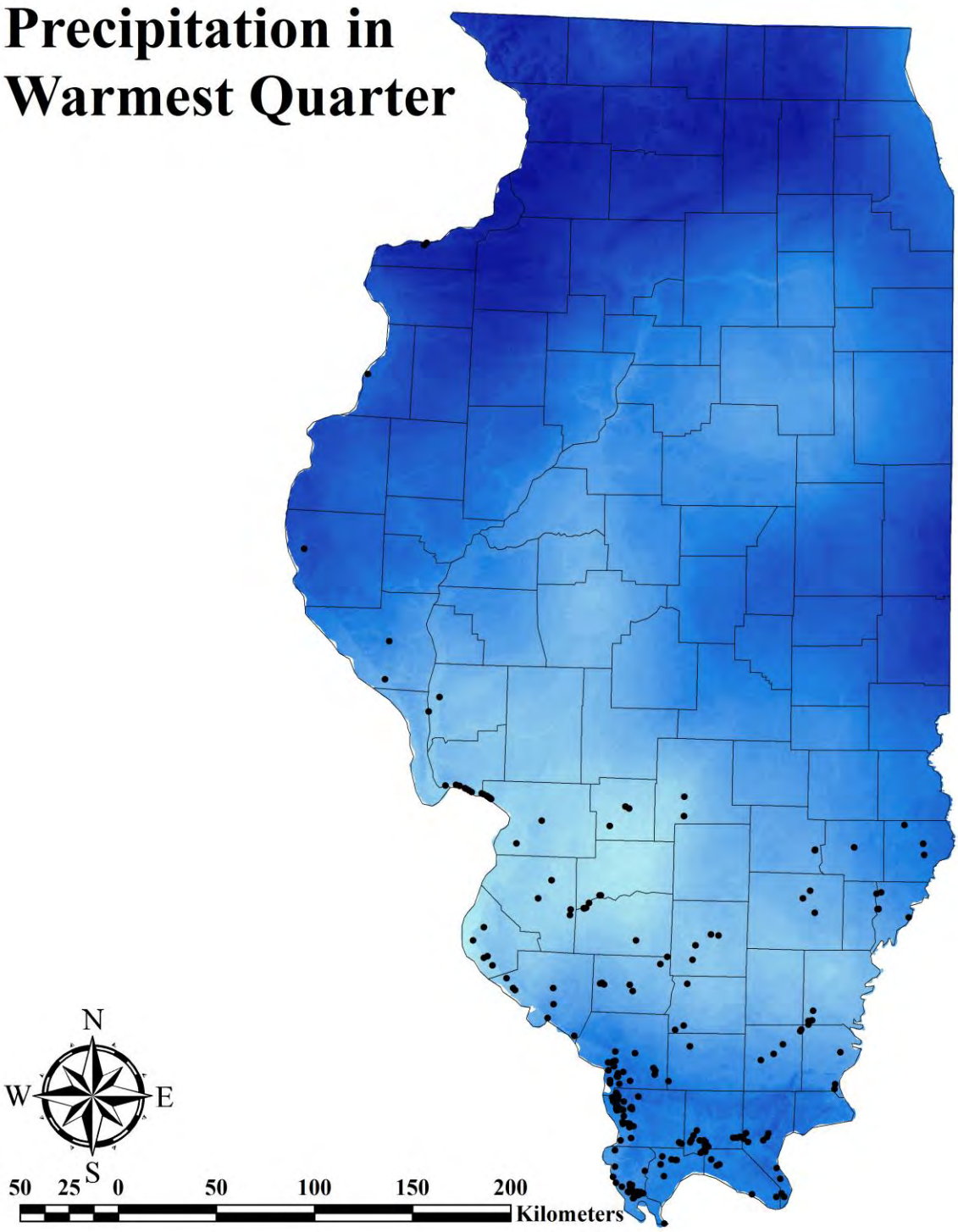


PLATE7: Dot Map of all Plain-bellied Watersnake (*Nerodia erythrogaster*) museum records on the precipitation in the warmest quarter GIS data layer. The darker the blue, the more precipitation.

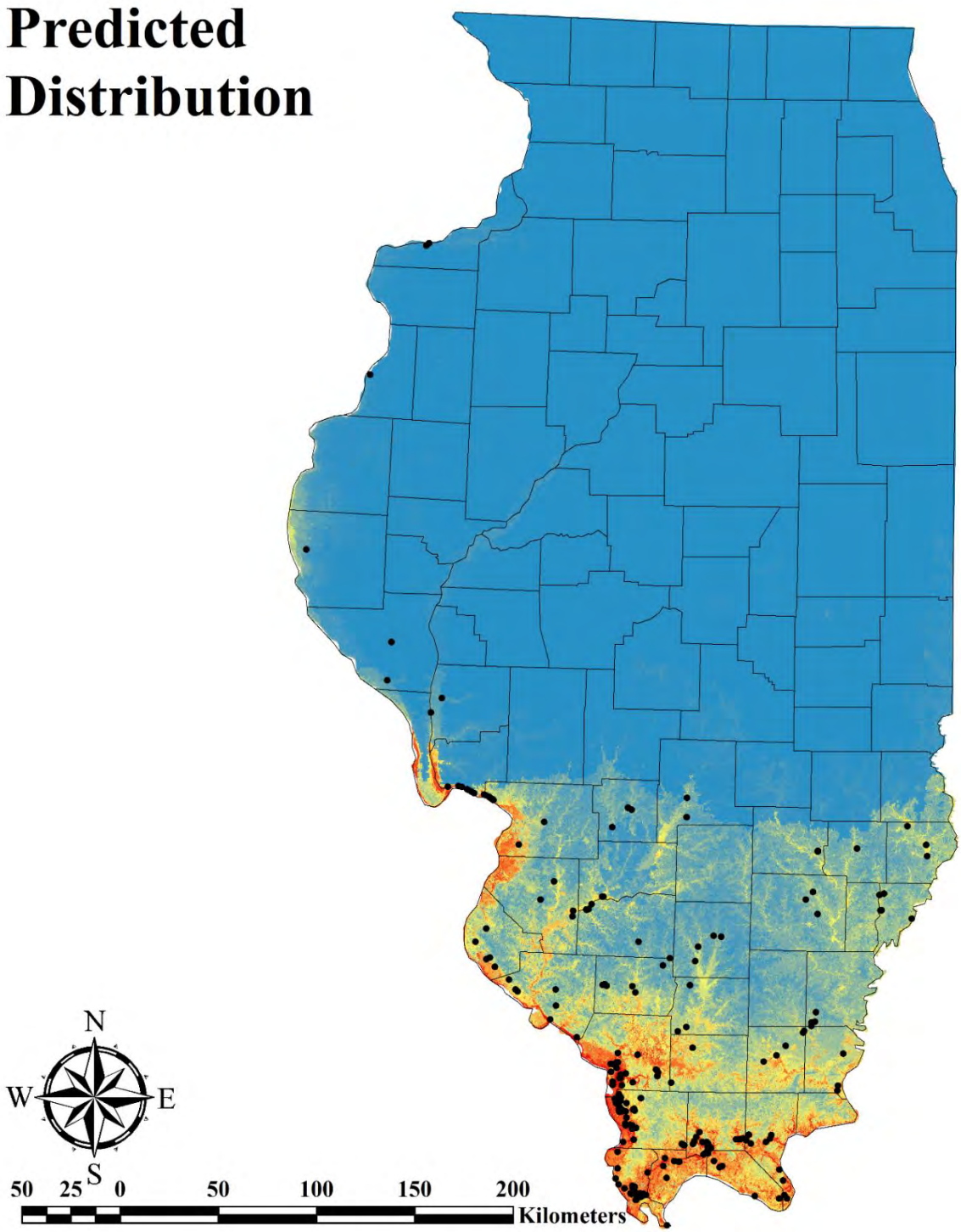


PLATE 8: Dot Map of all Plain-bellied Watersnake (*Nerodia erythrogaster*) museum records on the MaxEnt predicted distribution GIS data layer. The color ramp runs from blue (very low probability) to red (very high probability) of occurrence.

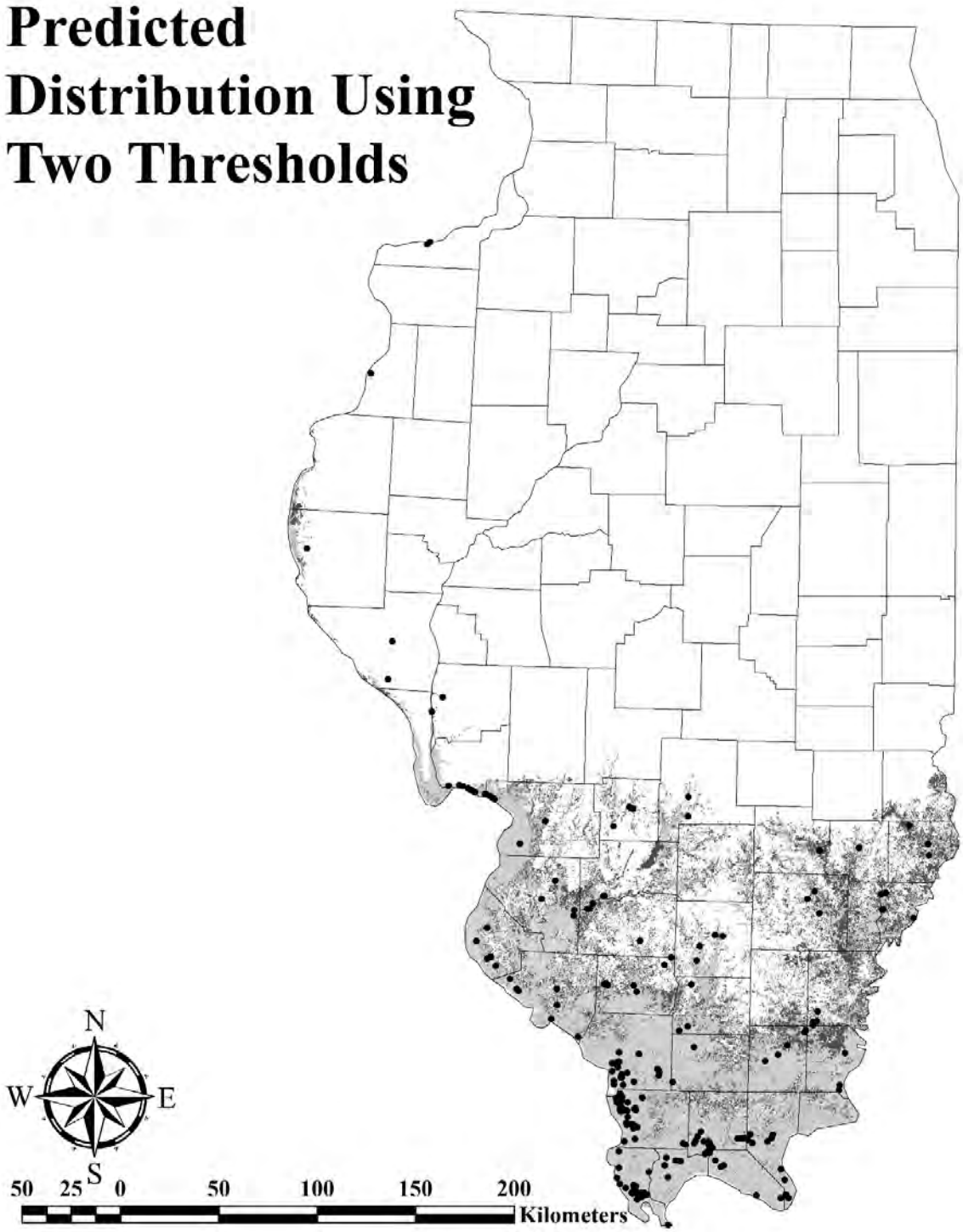


PLATE 9: Dot Map of all Plain-bellied Watersnake (*Nerodia erythrogaster*) museum records on the MaxEnt predicted distribution GIS raster data layer using the thresholds of equal training of sensitivity and specificity (light gray) and maximum training of sensitivity plus specificity (dark gray).

SUPPLEMENTAL MATERIAL

PERSONAL COMMUNICATION WITH DR. E. FREYFOGLE

Mike Dreslik <dreslikmj@gmail.com>

Plainbelly Watersnake

Freyfogle, Eric T <efreyfog@illinois.edu> Wed, Mar 19, 2014 at 4:53 PM
To: "Dreslik, Michael Joseph" <dreslik@illinois.edu>

Dear Dr. Dreslik,

I've spent time looking into the legal issue that you raise, and while the law is not completely clear my strong view is that the Illinois ESPB need not, and very probably even cannot, list the Illinois population of the Copperbelly Watersnake under the Illinois ESA if (as you relate) the snake is not actually threatened in Illinois and if the federally listed distinct population segment is not present in Illinois.

As you note in your inquiry, the resolution of this question is very much wrapped up in the definitions used, not just in the Illinois ESA, but in the federal ESA and in the Illinois regulations that govern the ESPB.

The beginning point is with the federal statute. It defines "species" (in section 3(16)) as a catchall term that includes subspecies and distinct population segments. Thus, the US FWS can and sometimes does list, separately, a subspecies or a distinct population segment. When it does this, the protection only extends to the subspecies or distinct population segment described, not to the entire full species. This means that, when we talk about a federally listed species, we mean, more precisely, the biological group that the US FWS has actually protected, which could be, of course, only a subspecies or a distinct population segment.

In the instance of this snake, the US FWS has listed a distinct population segment. But that listed "species," as you state, does not exist in Illinois. This means that this case is the same as any other case involving a federally listed species that does not exist in Illinois (for instance, one of the many listed salmon runs that live only in the Pacific Northwest). The federal listing relates to a "species" the only exists outside Illinois. Illinois could, of course, duplicate the federal protection by extending state protection to the same snakes. But if it did so—if it listed the exact same distinct population segment that the US FWS has listed—it would be protecting snakes that live only in another state. The Illinois snakes are not federally protected.

The Illinois ESA and implementing regulations are a bit more uneven in their use of the term species. The statutory definitions (in section 2) seem to use the term the same as the federal statute does in that they define, e.g., an endangered species so as to include any species listed as endangered under federal law. The implication is that a federally listed subspecies or distinct population segment would qualify as a species under Illinois law in the same way and to the same extent. That conclusion is a bit muddied by section 7 of the Illinois statute, which, as you note, makes express reference to "any species of subspecies . . . designated" under federal law. In this sentence, the term species would seem to have its more common biological meaning (that is, a full species) but that interpretation doesn't fit with the definition in section 2. I'm inclined to think that the opening words of section 7 should not be read narrowly. Section 7 simply says that any federal listing of a plant or animal is automatically listed also in Illinois. To me this would apply to a listed distinct population segment as well as a species or subspecies. The whole point of this provision—mandating automatic listing—is to save Illinois time and money, avoiding the need to go through a fact-intensive listing process in Illinois. The federal process

suffices, and listing is automatic in Illinois to the same extent as under federal law.

This interpretation of section 7 is supported by the implementing regulations. The regulations (in title 17, 1050.20 and 1025) track the federal definitions of endangered and threatened species, and in doing so implicitly seem to incorporate the federal definition of species as including a distinct population segment. The listing criteria (1025) state that a species shall be listed if it has been federally listed. The most appropriate interpretation of this regulatory provision is that the word "species" as used in it (that is, section 1025) has a consistent meaning throughout the regulatory section. Thus, when the federal "species" that has been listed is a distinct population segment, then the species automatically listed by Illinois is the same distinct population segment. (The term is used the same way in regulation section 1010.20). This means that, if Illinois were to duplicate a federal listing, it would, as already noted, list the same "species" as the federal agency; that is, the same distinct population segment.

My conclusion is thus as follows: the Illinois ESPB can (and must) duplicate federal listings by adding state listings to the federal protection. It does this by listing, in Illinois, any "species" protected by the US FWS. For this purpose, "species" can only have under Illinois law the same meaning that it does under federal law. Thus, if the species listed by the federal agency is a distinct population segment, then the species listed by the state should be the exact same distinct population segment. Only that distinct population segment would qualify for automatic state listing. In order for the state to go further and list something not federally protected, the state ESPB would need to go through its normal state processes for listing. To do that it would need to apply the definition of a state threatened and endangered species. If, as you say, the snake is common in Illinois, then it would not qualify under the definitions of state endangered and threatened species because it is not adequately at risk. The snake can thus gain Illinois protection only if and to the extent it is federally protected. If the Illinois population is not protected under federal law, then it cannot qualify for protection under state law.

What complicates this a small bit is that the Illinois statute does not have separate provisions, similar to those under federal law, that provide guidance for listing a distinct (vertebrate) population segment as either threatened or endangered. It is thus not clear whether a distinct population segment can fit within the statutory definition of either "state endangered" or "state threatened" when the population segment is at risk in Illinois but the full species is not at risk in Illinois. I have not dug into this enough to know whether the Illinois ESPB could or could not do this. But I am quite confident that the Illinois ESPB can, in fact, list a distinct population segment separately (and not list the rest of the species or subspecies) when the distinct population segment has been protected under federal law. Indeed, I think it must do so; it must protect the distinct population segment (to comply with section 7, which mandates automatic listing), and yet cannot go further to protect more than that because (as noted), (i) the larger population is not federally protected, and thus does not qualify for automatic Illinois protection, and (ii) the larger population (as in the case of this snake) is not in fact at risk enough in Illinois to qualify as "state threatened" or "state endangered" under regulation section 1010.20 (also, 1050.20).

The Illinois statute literally says that any federal protected species is automatically protected under Illinois law. I don't know what the ESPB's practice is, but I assume it only lists species that are found or might be found in Illinois. If that is the case, then this snake should not be listed under Illinois law at all. If the ESPB does list species not found in the state (the statute certainly allows it), then it can list this snake, but again the listing would only be of the exact distinct population segment protected by federal law—no more than that.

If this doesn't answer your question in full, please let me know.

Sincerely,

Eric T. Freyfogle

Swanlund Chair and Professor of Law

University of Illinois at Urbana-Champaign

504 E. Pennsylvania Ave.

Champaign, IL 61820 (217) 333-8713

efreyfog@illinois.edu

From: dreslikmj@gmail.com [mailto:dreslikmj@gmail.com] On Behalf Of Mike dreslik
Sent: Wednesday, February 26, 2014 10:59 AM
To: Freyfogle, Eric T
Subject: Plainbelly Watersnake

[Quoted text hidden]

Illinois Department of
Natural Resources
One Natural Resources Way Springfield, Illinois 62702-1271
http://dnr.state.il.us

Pat Quinn, Governor
Marc Miller, Director

July 11, 2014

Illinois Endangered Species Protection Board
One Natural Resources Way
Springfield, IL 62702-1271

Dear Endangered Species Protection Board:

I am writing on behalf of the Illinois Department of Natural Resources – Office of Resource Conservation to oppose listing of *Nerodia erythrogaster neglecta* (Copper-bellied Water Snake) as Illinois threatened.

Listing the Copper-bellied Water Snake in Illinois confers no conservation benefit to the Distinct Population Segment (DPS) that is listed as threatened by the U.S. Fish and Wildlife Service. The threatened DPS consists of populations north of the 40th Parallel in Indiana, Michigan, and Ohio.

The Copper-bellied Water Snake is common and distributed widely in Illinois. In 2013, Karsen found this species in 90 localities in southeastern Illinois. He also recorded evidence of recruitment and a wide range of age cohorts.

The northern DPS of Copper-bellied Water Snake was listed as threatened by U.S. Fish and Wildlife Service on 1/29/1997. Illinois' Endangered Species Protection Board has reviewed the State list several times since the northern DPS of the Copper-bellied Water Snake was listed federally. The Board was not compelled to list it in Illinois, where the species is common. The listing of this species in Illinois is a complex issue that deserves further discussion, examination of facts, and consideration of the consequences of listing based on a DPS that is far removed from our state.

The Board's justification for listing the Copper-bellied Water Snake as threatened in Illinois has not been applied consistently. The same argument could be made for other species with geographic limitations to their federal status (e.g., American Black Bear, Mountain Lion, Chinook Salmon, Coho Salmon).

The Board's decision to list the Copper-bellied Water Snake as threatened in Illinois has far-reaching implications for Department operations because of the species' abundance and widespread distribution in the state. We are committed to conservation of listed species and view the Act as a powerful tool toward that end. We are deeply concerned that listing the Copper-bellied Water Snake as threatened in Illinois will serve to undermine Illinois' Endangered Species Protection Act rather than uphold its intent.

Thank you for the opportunity to comment.

Regards,

Ann Marie Holtrop
Acting Chief, IDNR – Division of Natural Heritage

Northern Long-eared Bat (Myotis septentrionalis)

ESPB 2014 List review and revision, re: Federal listing decision information that became available after Board preliminary approvals, Mankowski recommendation to the Board for final decision (07/2014).

Summary
The Board made preliminary decision to add the species to the Illinois List as threatened based on the criterion that it is proposed for federal endangered listing status. Subsequent to the Board's preliminary decision, the USFWS extended the final listing determination and reopened public comment on the proposed rule. The federal final endangered listing determination is now less certain. Board staff recommends two options based on discussion below.

Illinois listing evaluation
Under Title 17 ILL ADM CODE, CH. 1, SEC. 1010, Illinois List of Endangered and Threatened Fauna, one criterion for Illinois listing is for species proposed for federal endangered or threatened status which occur in Illinois. This Ad Rule criterion should prompt Illinois listing of the Northern Long-Eared Bat during the current Illinois List revision.

Under the IL Endangered Species Protection Act, any federally designated endangered or threatened species is automatically listed on the IL List. This Act provision will automatically add the species to the Illinois List at a time when the USFWS finalizes federal listing.

Federal listing information – relative to the Illinois List
The USFWS evaluated the species in a 12-month finding on a petition for listing northern long-eared bat (*Myotis septentrionalis*) as endangered or threatened. The 12-month finding published notice in October 2013 that listing was warranted, the species was proposed for listing as endangered, and announced a 60-day comment period (50 CFR Part 17, Volume 78, Number 191, Part 3 - October 2, 2013).

The USFWS published in June 2014 notice of a six-month extension on the final listing determination for the northern long-eared bat (*Myotis septentrionalis*) and a reopening of the public comment period on the proposed rule to list the bat as endangered (50 CFR Part 17, Volume 79, Number 125 - June 30, 2014). Under the new notice, the species is still proposed for federal listing. While the outcome of the extension could reverse the proposed for listing status, a final decision for listing is made for the overwhelming majority of species that are proposed for federal listing.

ESPB staff recommendation
ESPB staff recommends that the Board could either:

1) Finalize its preliminary decision for listing as IL threatened at this time and then wait for the federal decision before noting the species as federally endangered or threatened. If the federal decision determined no listing was warranted, the species could be removed from the IL List (this action would require a hearing).
2) Choose to not finalize its preliminary decision and not add the species as IL threatened at this time. If the federal decision is for listing, then the species could be added as IL threatened during the time it was federally proposed (a listing action at this time would require a hearing)

or if we wait until the federal listing became official, then adding the species as IL threatened could be done without hearing – as an administrative correction.

References:
50 CFR Part 17, Volume 78, Number 191, Part 3 - October 2, 2013. Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List the Eastern Small-Footed Bat and the Northern Long-Eared Bat as Endangered or Threatened Species; Listing the Northern Long-Eared Bat as an Endangered Species; Proposed Rule.

50 CFR Part 17, Volume 79, Number 125 - June 30, 2014. Endangered and Threatened Wildlife and Plants; 6-Month Extension of Final Determination on the Proposed Endangered Status for the Northern Long-Eared Bat; Proposed Rule.

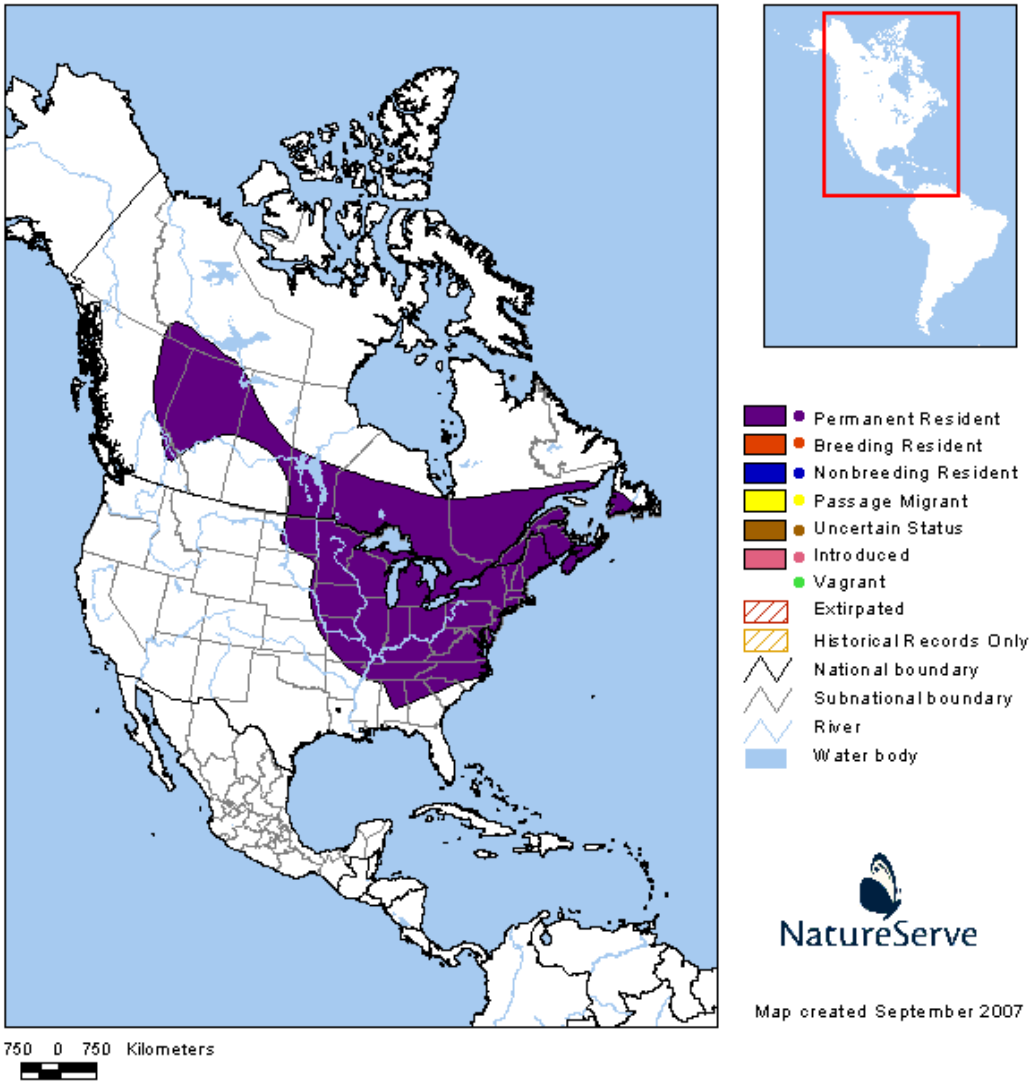
520 ILCS 10/ Illinois Endangered Species Protection Act (1972 et seq.).

ILL. ADM. CODE. Title 17: Conservation § 1010: Illinois List of Endangered and Threatened Animals (1977 et seq.).

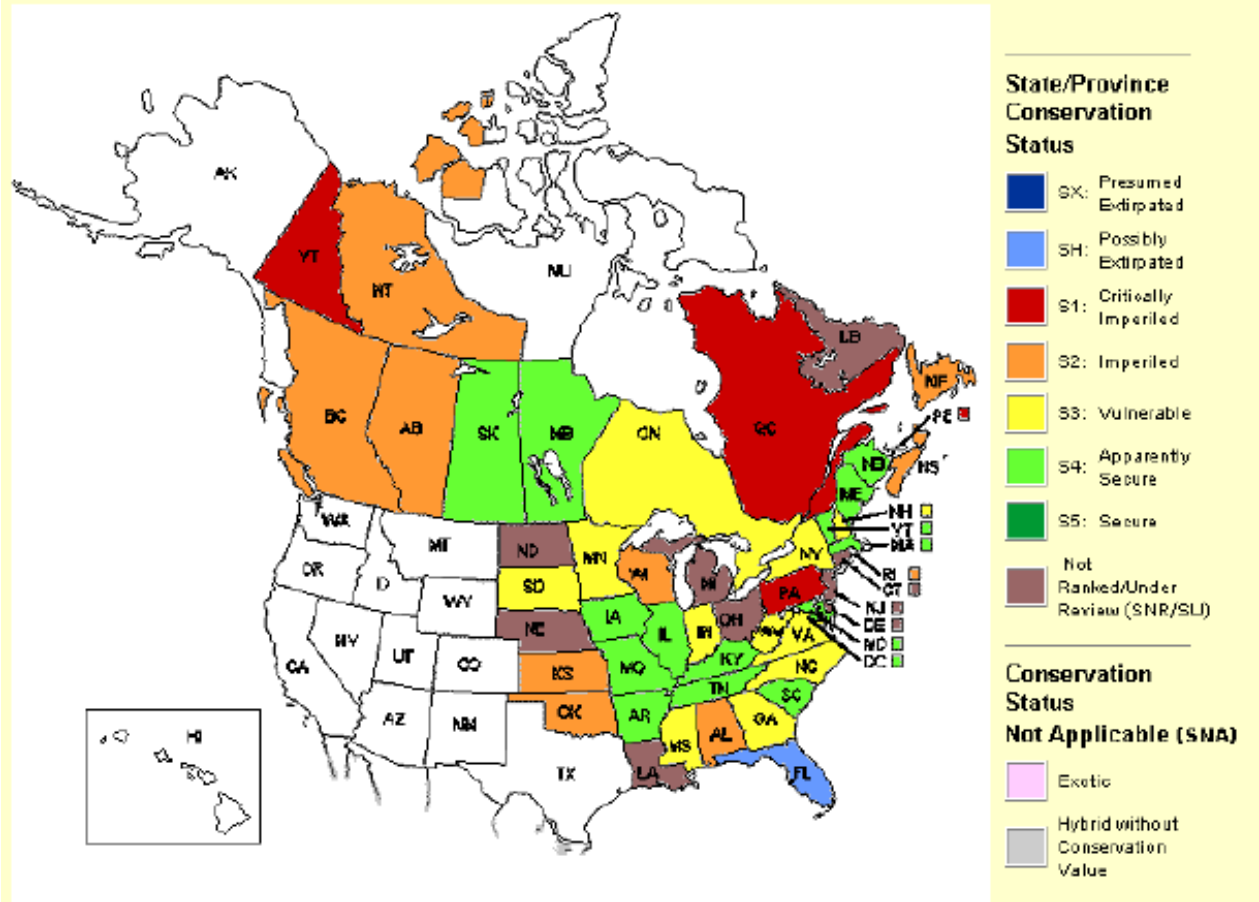
Myotis septentrionalis (Northern Long-eared Bat) – Proposed Action: add as threatened (proposed Fed E)
Reviewed at: 161st meeting, 02/21/2014; meeting minutes may contain additional information and discussion

Northern Long-Eared Bat (Myotis septentrionalis) Species Review, Mankowski, 02/2014
Federal Listing Status
The USFWS recently evaluated the species in a 12-month finding on a petition for listing as endangered or threatened. The 12-month finding published notice that listing was warranted, the species was proposed for listing as endangered, and announced a 60-day comment period (USFWS 2013).

Multiple factors were involved in the federal proposal for listing, with demonstrated and estimated range-wide impacts from White Nose Syndrome (WNS) predominant. Among other findings, the USFWS 12-month finding evaluation notes post WNS reduction of 98% for 6 cave species (including Northern long-eared bat) across 30 hibernacula in 5 states (USFWS 2013).



NatureServe. 2013. NatureServe Explorer: An online encyclopedia of life [web application]. Version 7.1. NatureServe, Arlington, Virginia. Available http://www.natureserve.org/explorer. (Accessed: February 3, 2014).



NatureServe. 2013. NatureServe Explorer: An online encyclopedia of life [web application]. Version 7.1. NatureServe, Arlington, Virginia. Available http://www.natureserve.org/explorer. (Accessed: February 3, 2014).

Implications to Illinois Listing Status

Under Title 17 ILL ADM CODE, CH. 1, SEC. 1010, Illinois List of Endangered and Threatened Fauna, one criterion for Illinois listing is for species proposed for federal endangered or threatened status which occur in Illinois. This Ad Rule criterion should prompt Illinois listing of the Northern Long-Eared Bat during the current Illinois List revision.

Under the IL Endangered Species Protection Act, any federally designated endangered or threatened species is automatically listed on the IL List. This Act provision will automatically add the species to the Illinois List at the time when the USFWS finalizes federal listing.

Illinois Status and Distribution

The USFWS 12-month finding evaluation reports the species is proposed for listing as federally endangered throughout its range. Illinois is included in its range and is noted for both winter hibernacula (Illinois has 36 hibernacula; there are more than 780 hibernacula known for the species across its range) and summer roost habitat and occurrences. The evaluation summarizes some information for Illinois populations - Northern long-eared bats are regularly caught in mist-net surveys in the Shawnee National Forest in southern Illinois (Kath 2013, pers. comm.). Further, the average number of northern long-eared bats caught during surveys between 1999 and 2011 at Oakwood Bottoms in the Shawnee National Forest has been fairly consistent (Carter 2012, pers. comm.) (USFWS 2013).

Board requests to ESPB TECs and IDNR for survey information for several species in 2011 and specifically for Northern long-eared bat in November 2013 resulted in reports that are summarized below by county, hibernacula observations, summer/fall observations, and year. Note - at this time, it is the Board's understanding that there are many more observation reports for both hibernacula and summer/fall that have not yet been reported to the IDNR Database.

Summary of observation information from Board 2011 and 2013 requests for information
(As noted above, Illinois is also known for 36 hibernacula (USFWS 2013) that are not included below)**.**

County	Hibernacula observations	Summer/Fall observations
Alexander	nearly annual 2003-2009	2010
Hardin	2009	2010
JoDaviess		2012
Pike		2010
Saline		annual 2006-2010
Union	annual 2004-2007, 2010	2009, 2010
Vermilion		1988, 1996, 2002, 2003
Will		2006, 2010, 2012
Across 30 counties*		1985-1995
Across 19 counties*		1996-2011

* - these numbers are from the following Illinois Natural History Survey summer mist-netting information reported by Dr. Joyce Hofmann (personal communication)

1985-1996 141 capture records (might include some recaptures, so not the same as number of bats)

Caught at 46 of 165 netting sites
Capture % = 27.9
Caught in 30 counties

1996-present (2011) 97 capture records

Caught at 34 of 145 sites
Capture % = 23.4
Caught in 19 counties (probably netted fewer counties during this period because time was concentrated in northeastern Illinois)

The presence of White Nose Syndrome was confirmed in Illinois in 2012 (Joe Kath, personal communication); the Board has not received any report summarizing extent of occurrence or evidence of impacts upon any species.

Board Staff Recommendation
Add to the Illinois List as Illinois Threatened during the current List revision. Add notation of federal status when USFWS finalizes listing.

References:
50 CFR Part 17, Volume 78, Number 191, Part 3 - October 2, 2013. Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List the Eastern Small-Footed Bat and the Northern Long-Eared Bat as Endangered or Threatened Species; Listing the Northern Long-Eared Bat as an Endangered Species; Proposed Rule.

Jeannie Barnes, IDNR Natural Heritage Database, personal communication 02/03/12 (Occurrence information compiled from Board requests for survey information).

NatureServe. 2014. NatureServe Explorer. An online encyclopedia of life (web application). Version 7.1. NatureServe, Arlington, VA. Available at http://www.natureserve.org/explorer. (Accessed: February 3, 2014).

Preliminary listing decision summary from agenda item 12 of the 161st meeting, 02/21/2014

Ms. Mankowski reviewed her species review for the Northern Long-eared Bat (*Myotis septentrionalis*) and recommended adding the species as Illinois threatened. Dr. Hofmann **moved** to approve adding Northern Long-eared Bat (*Myotis septentrionalis*) as an Illinois threatened species, Dr. Taft seconded the motion and it was **approved** unanimously.

Attachment C

Summary of action taken at the 163rd meeting by the Board in final listing decisions relative to comments received during the public hearing and written comment period for the ESPB 2014 proposed revision of the Illinois List of Endangered and Threatened Species.

From the public hearing, noon – 4:00 PM, June 26, 2014			
Hearing transcript			
Comment number	**Nature of comment**	**Commenter name**	**Summary of action taken by the Board in a final listing decision at the 163rd meeting held August 15, 2014**
	No comments received.		n/a
From the written comment period, noon June 26, 2014 – midnight July 11, 2014			
Comment number	**Nature of comment**	**Commenter name**	**Summary of action taken by the Board in a final listing decision at the 163rd meeting held August 15, 2014**
1	Recommends against changing listing status from threatened to endangered for Black Cohosh (Cimicifuga rubifolia).	Chris Evans	The commenter's information did not change the known current status and distribution, including number of protected sites, from what was considered by the Board when making its preliminary decision to change the status from threatened to endangered. The commenter provided evidence of observation for only 1/18 element occurrences for the species – and it was an EO that was already noted for recent observations when the Board made its preliminary decision. The commenter's suggestion that a greater number of EOs are protected uses a different definition of protected than what is used by the Board during the List review. The Board confirmed its preliminary decision to change the status of the species from threatened to endangered.
2	Recommends adding Bison (Bison bison) to the IL List of Endangered and Threatened Species.	Kenny Bielski	The commenter did not provide evidence or information of an extant, wild, Illinois population supporting the recommendation as meeting the definition of either "endangered" or "threatened" per the ESPA and any of the listing criteria per 17 Ill. Adm. Code 1010. The Board did not take action to add the species to the IL List.
3	Recommends against adding Plain-bellied Watersnake (Nerodia erythrogaster) to the IL List of Endangered and Threatened Species.	Dr. Mike Dreslik	Because the Copperbelly Watersnake (Nerodia erythrogaster neglecta) is federally designated as threatened, even as the Northern Distinct Population Segment only, it is automatically placed on the IL List. The issue is whether or not the species should be designated an Illinois listing status. At the 02/21/2014 ESPB meeting, the Board preliminarily approved designating an Illinois listing status of threatened. The Dreslik recommendation included a position statement document (Dreslik and Phillips No Date) that addresses their argument from the perspective of proposed taxonomic changes (to eliminate neglecta and other sub-specific designations and recognize only one, wide-spread species – N. erythrogaster) that have not been adopted by the USFWS, so much of their argument does not relate to the federally designated taxon and has limited relevance to the Board's consideration. The Board's considered that while the listed N. erythrogaster neglecta NDPS is an administrative taxonomic designation, enforcement becomes complicated because the same

			biological subspecies occurs in Illinois. For this reason, IDNR Legal Counsel and Law Enforcement had provided support for designating an Illinois listing status for N. erythrogaster neglecta per the Board's preliminary decision. The Board ultimately decided that due to the definitions of the DPS designation, the taxon did not meet the listing criteria per 17 Ill. Adm. Code 1010 for designating an Illinois listing status and did not approve a final decision for designating an Illinois listing status.
4	Recommends against adding Copperbelly Water Snake (Nerodia erythrogaster neglecta) to the IL List as Illinois threatened.	Ann Holtrop	Because the Copperbelly Watersnake (Nerodia erythrogaster neglecta) is federally designated as threatened, even as the Northern Distinct Population Segment only, it is automatically placed on the IL List. The issue is whether or not the species should be designated an Illinois listing status. At the 02/21/2014 ESPB meeting, the Board preliminarily approved designating an Illinois listing status of threatened. The Holtrop recommendation was not accompanied by any evidence or documentation. It addresses the correct subspecies and argues against designating an Illinois listing status for the species. The Board's considered that while the listed N. erythrogaster neglecta NDPS is an administrative taxonomic designation, enforcement becomes complicated because the same biological subspecies occurs in Illinois. For this reason, IDNR Legal Counsel and Law Enforcement had provided support for designating an Illinois listing status for N. erythrogaster neglecta per the Board's preliminary decision. The Board ultimately decided that due to the definitions of the DPS designation, the taxon did not meet the listing criteria per 17 Ill. Adm. Code 1010 for designating an Illinois listing status and did not approve a final decision for designating an Illinois listing status.
5	Recommends adding Illinois Cave Beetle (Pseudanophthalmus illinoisensis) to the IL List as Illinois endangered.	Seth Fielding Turner	The commenter did not provide current information or evidence of an extant, wild, Illinois population supporting the recommendation as meeting the definition of either "endangered" or "threatened" per the ESPA and any of the listing criteria per 17 Ill. Adm. Code 1010. The Board did not take action to add the species to the IL List.

Attachment D

Current ESPB research and strategic funding projects as of 08/15/2014

An important effort of the Endangered Species Protection Board is to gather information that will improve our knowledge of various species in Illinois and help lead toward listing decisions for those species. As per the ESPB Policy Manual, "The Board may conduct, sponsor, or administer research in an effort to gather information, which will improve knowledge of various species in Illinois and help lead toward listing decisions for those species. Board philosophy on the conduct of research is that none will be supported or endorsed unless it clearly provides information pertinent to listing, or generates information important to management strategies that can enhance protection or lead to recovery. The Board will not support/endorse any research that poses threat to listed species." (ESPB Policy Manual, Section 5.2)

At the Board's February 24, 2011 strategic planning meeting, the Board confirmed that Board staff should develop and maintain a list of potential funding priorities to include research and other strategic operations that best help the Board address its duties. Subsequent to that meeting, Ms. Mankowski met with IDNR Procurement staff to confirm that the prescribed process, which follows, complies with State of Illinois Procurement Law.

1) Board staff will develop and maintain a list of priorities based on experience gained during daily operations of Board business and function, using information about needs garnered from multiple sources including, in no particular order, natural resources agencies, research institutions, conservation organizations, conservation working groups, ESPB TECs, and ESPB members.

2) Board staff will present a list of recommended priorities for Board review and approval at intervals necessary to accomplish projects or tasks. Once approved, staff are authorized to execute list as funding and time allows and have discretion to modify the list as needed and in consultation with the Chair.

3) Board staff will be responsible for scoping project specifications. If a request for proposals is necessary, Board staff will work with IDNR to post the RFP as per IDNR practice. Unless the Board delegates it as staff function, the Board will review proposals, rank, and vote for recommendation for/approval of funding - which may require a special meeting to meet timing requirements of the RFP process and contracting (see also #4 regarding conflict of interest). Once this step is complete, staff are authorized to execute list as funding and time allows.

4) Board members who may have a real, or perceived, conflict of interest, as defined under State of Illinois Ethics Law, will acknowledge the conflict and recuse themselves from any aspect of Board business that leads to a procurement action - such as discussion, ranking, and/or voting involved with the development, approval, or contracting of projects. A majority of eligible voting members will constitute approval of Board staff recommendations. Board members need to determine for themselves where conflicts may lie – a general direction provided under State of Illinois Ethics Law includes friends, family members, associates, places of employment.

ESPB Director Recommended Research / Strategic Funding Priorities

1) **In addition to standing hiring efforts for an ESPB Listing and Recovery Planning Coordinator for Animals and an ESPB Listing and Recovery Planning Coordinator for Plants, fund an ESPB Data Specialist staff position**

The Board receives from the Wildlife Preservation Fund an annual $25,000 allocation that has been coming to the Board nearly every year since 1996. The allocation was committed to by IDNR because the Board agreed to give up its single headcount and hiring that was part of a Natural Areas Acquisition Fund 1996 initiative proposing to fund, establish headcount for, and hire, over a dozen staff positions across Natural Heritage, the Nature Preserves Commission, and the Endangered Species Protection Board, when the legislature required scaling back of the proposal. The Board's agreed to give up the expected headcount and hiring of a Recovery Coordinator and in

return, the IDNR agreed to allocate $25,000 annually from the WPF to the Board – it is not part of the Board's budget.

The annual WPF allocation was used for years for a variety of status surveys and research projects. When we established the process and funding priorities in FY2012, spending was put on hold while staff attempted to secure commitments for our top priorities and because staff did not have time to administer the program and contracts while also administering the List review. IDNR would not commit to partnering as proposed in former ESPB priorities for joint effort to fund a data staff position and to update Database survey information, and then indicated it would direct its funding to IDNR staffing as a priority. The Board will also now prioritize its funding toward ESPB professional staffing in order to address mandated , ongoing Board duties programmatically via its own staff instead of piecemeal and intermittent contracting, as has been the practice.

The current proposal for highest priority is to dedicate the ESPB WPF standing balance toward hiring an ESPB Data Specialist. Out-year allocation of ESPB WPF would be used in combination with the Board's budget to fund the ESPB Data Specialist, ESPB Listing and Recovery Coordinator – Animals, and ESPB Listing and Recovery Coordinator – Plants. In addition to supporting ESPB data needs, the ESPB Data Specialist would assist and support IDNR Natural Heritage data management functions.

All three ESPB professional staff positions will contribute to performing the following highest priority Board activities related to its primary, mandated, and ongoing duty of maintaining the Illinois List of Illinois Endangered and Threatened Species:

A. Species status surveys and updating endangered and threatened species element occurrence records.

B. Developing recovery planning and listing status review trigger proposal documents.

2) Establish Eco-toxicological Thresholds for Aquatic Species

Although general trend data for Illinois suggests that water quality has improved over a decade or two, there have been limited improved status changes for many aquatic species, especially mussels, and far more have been down-graded or de-listed due to extirpation, with water quality is likely a primary factor. It would be informative to establish acute toxicity, LOEL, and NOEL, thresholds for a number of typical water quality constituents for listed mussel species or appropriate surrogate species, if appropriate (in many cases these can be species-specific thresholds). It may also help us refine site selection for reintroductions as part of recovery efforts. The USFWS did this a few years ago for ammonia, which resulted in the USEPA lowering the low-end for allowable ammonia because it was demonstrated that existing levels were actually killing and impairing federally listed mussel species.

3) Climate Change Vulnerability Assessment for 2014 List Revision

This proposes to develop a vulnerability assessment for Illinois endangered and threatened species, that could be used during the List revision ending in 2014. One recently conducted evaluation that can be used by the Board and may provide a good example for conducting further and additional assessments is the IDNR SWG project *Adapting Conservation to a Changing Climate: An Update to the Illinois Wildlife Action Plan (2011)*, by Jeff Walk, Sarah Hagen, and Aaron Lange of the Illinois Chapter of the Nature Conservancy. The authors used the NatureServe *Climate Change Vulnerability Index* and reviewed 162 species by natural division and/or watershed, and including summary descriptions by taxonomic group.