



Illinois Department of Natural Resources

One Natural Resources Way Springfield, Illinois 62702-1271
www.dnr.illinois.gov

Pat Quinn, Governor
Marc Miller, Director

April 17, 2014

Mr. Brad Denz, Senior Planner
Lake County Department of Planning Building & Development
500 W. Winchester Road, Unit 101
Libertyville, IL 60048

**RE: Sieman Helipad – Rezoning and CUP, Lake County
Endangered Species Consultation Program
EcoCAT Review #1409376**

Dear Mr. Denz:

The Department has reviewed this application for the purpose of consultation with Lake County in accordance with the *Illinois Endangered Species Protection Act* [520 ILCS 10/11], the *Illinois Natural Areas Preservation Act* [525 ILCS 30/17], and Title 17 *Illinois Administrative Code* Part 1075.

The parcel in question is bounded on its west and south sides by the Middle Fork Savanna Forest Preserve, a Site on the Illinois Natural Areas Inventory (INAI), owned by the Lake County Forest Preserve District. In accordance with the *Illinois Natural Areas Preservation Act* [525 ILCS 30/15], with the approval of the Illinois Nature Preserves Commission, the area has also been dedicated by Lake County as the **Middle Fork Savanna Nature Preserve**. Thus, the Nature Preserve and all the natural resources within it are afforded the full protection of that statute.

More than 450 animal species and nearly 350 species of plants are present within the Nature Preserve, establishing this site as a major locus of biodiversity in Illinois. Its nearly 600 acres also provide essential habitat for plants (4) and animals (3) listed as endangered or threatened by the State of Illinois, including one plant listed as endangered by the federal government, which is pollinated by only one type of moth. These species are additionally protected by the *Illinois Endangered Species Protection Act*.

Despite the best efforts and intentions of pilots, the use of a helipad in the proposed location will disturb wildlife within the Nature Preserve due to noise, rotor downwash, and visibility, and these disturbances will in turn produce adverse effects to the plant and animal communities within the Nature Preserve. Even though use of the helipad will be intermittent and of relatively short duration in each instance, it is likely to be sufficient to alter natural patterns of wildlife behavior, with potentially significant effects on plant reproduction and distribution.

Section 17 of the *Illinois Natural Areas Preservation Act* instructs state agencies and units of local government to “avoid the planning of any action that would adversely affect [Nature Preserves].”

Where a proposed action is likely to produce adverse effects, “before implementing any action, the [unit of local government] shall attempt to mitigate or eliminate any adverse impacts in a manner consistent with the planned action.” Unfortunately, the Department is unaware of any means to minimize, mitigate, or eliminate the adverse effects to wildlife and the Nature Preserve which will ensue from the use of a helipad in this location.

Section 22 of the *Illinois Natural Areas Preservation Act* provides for civil penalties of up to \$10,000 for each violation of the statute.

Section 23 of the *Illinois Natural Areas Preservation Act* makes it a Class A Misdemeanor to willfully disturb wildlife within a Nature Preserve. Section 3 of the *Illinois Endangered Species Protection Act* makes it a Class A Misdemeanor to “take” any species of wildlife on the Illinois List; among other actions, “take” is defined as to harass listed wildlife, or to attempt to do so. This is a “strict liability” statute, where a person’s knowledge or intentions are not elements of the offense. Issues such as the degree or duration of disturbance are elements to be considered when assessing penalties.

Consequently, approval of this petition would expose the owners, crew members, and passengers of aircraft using the helipad to both civil and criminal liability with each use of the helipad.

The Department of Natural Resources conducts annual overflights of the Middle Fork Savanna Nature Preserve to identify the locations of Sandhill Crane nests in wetlands. The Lake County Forest Preserve District also conducts flights to count deer within the Preserve. These scientific surveys employ helicopters of the same type as described in the pending application, and are conducted at a minimum altitude of 500 feet. Some disturbance of wildlife results. However, Section 23 of the *Illinois Natural Areas Preservation Act* provides an exemption to the prohibition on wildlife disturbance with the phrase “except as provided by rule for scientific research or for management to preserve or restore natural conditions...”

These census flights are conducted in accordance with Title 17 *Illinois Administrative Code* Part 4000: MANAGEMENT OF NATURE PRESERVES, and represent the least intrusive method of measuring the achievement of management objectives which benefit the Nature Preserve and the wildlife therein. By contrast, the petitioner’s use would be a matter of private convenience devoid of any benefit to Preserve management.

The Department of Natural Resources believes it would be in the best interests of the Nature Preserve, the petitioner, and the County if this petition were denied.

Consultation on the part of the Department is closed, unless the County desires additional information or advice related to this proposal. In accordance with 17 Ill. Adm. Code 1075.40(h), the County should notify the Department of its decision regarding these recommendations, whether it will:

- Proceed with the action as originally proposed;
- Require the action to be modified; or
- Forgo the action.

This consultation is valid for two years unless new information becomes available which was not previously considered; or the proposed action is modified; or additional species, essential habitats, or Natural Areas are identified in the vicinity. If the project has not been implemented within two years of the date of this letter, or any of the above listed conditions develop, a new consultation is necessary.

The natural resource review primarily reflects the information existing in the Illinois Natural Heritage Database at the time of this consultation, and should not be regarded as a final statement on the site being considered. Please contact me if you have questions regarding this review.

Sincerely,

A handwritten signature in black ink that reads "Keith M. Shank". The signature is written in a cursive style with a large, stylized initial "K".

Keith M. Shank
Impact Assessment Section
Division of Ecosystems and Environment
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