



Illinois Department of Natural Resources

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Bruce Rauner, Governor
Wayne A. Rosenthal, Director

February 20, 2015

Mr. Brien Sheahan, Chairman
527 E. Capitol St.
Springfield IL 62701

**RE: Grand Prairie Gateway 345-kV Transmission Line
Endangered Species Consultation Program
EcoCAT Review #1508591**

Dear Chairman Sheahan:

The Department has received from Stantec, on behalf of Commonwealth Edison, a submission for the purpose of consultation between the Department and the Commission pursuant to 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*.

EcoCAT Review #1508591 covers a three-mile segment which passes from the DuPage County Line westward across the Fox River into the community of South Elgin. EcoCAT indicated not less than twenty-nine **Illinois Natural Areas Inventory (INAI) Sites, Nature Preserves, Land & Water Reserves**, and **endangered or threatened species** may be in the vicinity of this segment.

A closer examination by the Department indicates that, with the exception of the **South Elgin Sedge Meadow INAI Site** and the **Brewster Creek Fen INAI Site and Nature Preserve**, the listed Nature Preserves, Land & Water Reserves, and INAI Sites are unlikely to be adversely modified by the project, although the project will be visible from those listed, as is the currently existing power line.

The South Elgin Sedge Meadow lies north of the railroad which parallels the existing power line, just west of Illinois Route 25. While undeniably “in the vicinity” of the INAI Site, the railroad will effectively buffer the Site from construction impacts. The Department offers no recommendations pertaining to the South Elgin Sedge Meadow INAI Site.

The **Brewster Creek Fen INAI Site and Nature Preserve** is located just downstream of the power line crossing point; the slightly more extensive INAI Site begins about 250 feet downstream, while the Nature Preserve boundary is located about 450 feet downstream.

An intervening railroad right-of-way will buffer most impacts, but any eroded soil entering the stream from construction-related disturbances in the power line right-of-way are likely to result in siltation and sedimentation of the stream channel in the INAI Site and Nature Preserve, thus degrading the aquatic communities in these protected areas, including essential habitat for the Slippershell Mussel (see below). *The Department recommends strict compliance with erosion control best-management practices in the vicinity of the tributary, along with vigilant maintenance during and after construction, to assure these protected areas are not adversely modified by the project.*

The line segment covered by this consultation crosses two stream segments of importance: the Fox River and the same tributary of Brewster Creek, east of Illinois Route 25, which drains Tri-County State Park before flowing through the Brewster Creek Fen Nature Preserve.

The Fox River, at the point of crossing, provides essential habitat for the State-listed threatened **Black Sandshell Mussel**, *Ligumia recta*, and **Spike Mussel**, *Elliptio dilatata*. The Brewster Creek tributary, likewise, provides essential habitat for the State-listed threatened **Slippershell Mussel**, *Alasmidonta viridis*, at the point of the crossing. Siltation and sedimentation have the potential to suffocate mussels and degrade habitat, as well as forcing mussels to suspend feeding (water filtration) for extended periods. While construction activities are unlikely to cause such issues in the Fox River, related erosion from construction work poses a real threat to the Brewster Creek tributary. *The Department recommends the deployment of erosion control technologies in the right-of-way on either side of the tributary prior to, during, and after construction until disturbed areas are once again stabilized by vegetation.*

The tributary crossing site has two other issues. A colony of the State-listed endangered **Woolly Milkweed**, *Asclepias lanuginosa*, exists just west of the tributary in the right-of-way. State law prohibits any harm or injury to a listed plant without first obtaining the express written permission of the land owner. Moreover, such written permission must be in the possession of the persons “taking” the plant when the harm occurs. The Department cannot grant such permission. If title to the right-of-way in this area is held in fee-simple by the project sponsor, compliance with this requirement is simplified. However, if the instrument is a license or easement, whether the terms of the license or easement can be construed as granting permission to take a listed plant may be problematic. The Department suggests that written permission be sought from the fee owner in such cases to dispel any ambiguity.

Woolly Milkweed flowers are very rarely successfully pollinated in the wild; some scientists speculate a specialist insect pollinator has been lost. Moreover, in scientific studies where flowers were hand-pollinated, less than 2% of the resulting seeds were viable. This means that existing colonies are dependent on tubers and rhizomes for vegetative reproduction, and individuals in a colony are likely clones of a single—or a very few—parent plants. *Avoiding soil disturbances in the colony is very important.*

Woolly Milkweed is also susceptible to ecological succession and suppression by encroaching trees. Woody encroachment is unlikely to be a problem within a power line right-of-way; the fortuitous position of this colony in the right-of-way may have played a major role in its survival. The use of herbicides for vegetation management is not recommended since most broad-leaf

herbicides are effective on Milkweeds of all species. Where the use of prescribed fire is infeasible, *the Department recommends periodic mechanical mowing as the method least likely to result in permanent harm to this species.*

Most known colonies of Woolly Milkweed thrive on gravelly soils with shallow ground water, and this is the case in this location. One step which could be taken to help assure the survival of this species would be for the land owner to allow several rootstocks to be translocated into similar habitat in either direction along the right-of-way to promote new colonies or, alternatively, to allow rootstocks to be provided to cooperating conservation agencies for the establishment of colonies on conservation lands. *Increasing the spatial distance between colonies of this species is one way to help assure that a catastrophic event is less likely to eliminate this rare plant from the vicinity.*

The other issue with this crossing point concerns the State-listed endangered **Blanding's Turtle**, *Emydoidea blandingii*. This species is known to occupy the entire length of this stream within Tri-County State Park, which lies less than a mile upstream. The Blanding's Turtle often uses streams as natural highways to move between wetland complexes; individuals can move as far as 3,000 feet per day. Thus, it is highly likely this species will be present or passing through this stream segment during power line construction activities.

The greater risk concerns the nesting proclivities of this species. Female Blanding's Turtles travel farther from the water to lay their eggs than any other aquatic or semi-aquatic turtle in Illinois, perhaps as much as half a mile or more. Nests are excavated in sandy or gravelly soils with solar exposure, perhaps as early as late May but sometimes as late as August, with peak nesting activity usually occurring in June. (Seasonal weather conditions are the major variable affecting when nesting occurs.) Eggs typically hatch after 60-90 days, whereupon hatchlings make the trek to the nearest wetland environment. (In Canada, late hatchlings often spend the entire winter in the nest prior to seeking open water, but this rarely happens in Illinois.)

Nests are well-concealed from human detection, although scent trails allow mammalian predators to readily discover and predate turtle nests. Importantly, a female Blanding's Turtle demonstrates very high fidelity to a nesting site, returning again and again to the same location year after year. (It is likely this is a result of hatching at that spot herself, and imprinting on it.) If such a nesting site is located within the existing right-of-way, it is possible that one or more Turtles may exit the stream and attempt to nest there before or during construction (bare disturbed soils, being warmer, are attractive to gravid females). The solar exposure of soils located in the right-of-way and their suitable texture may render the right-of-way a preferred nesting site for this species. It will be possible for humans using vehicles or heavy equipment to inadvertently crush and destroy a nest, or even to encounter and injure or kill an adult Blanding's Turtle. Either situation would constitute a prohibited taking.

The Department commonly recommends an effort to avoid or minimize such a potential by isolating the work zone as much as possible from the primary habitat of the Turtles: streams and wetlands. A properly-installed and maintained silt-fence is capable of excluding Turtles from dangerous areas where they may be at risk. But, because nests are so difficult to detect, the Department recommends that such exclusionary measures be deployed well before turtles will be

attempting to access the risk area. Turtles do not become active until mid-March, but nesting rarely occurs before the last week in May, so establishing exclusion areas on both sides of the stream should be done by early May. It is important that exclusion areas are completely fenced during the hours of darkness, when nesting females prefer to travel overland; Turtles will follow a fence to find an opening if the preferred nesting site is located within it.

A female Blanding's Turtle which cannot reach her preferred nesting location is likely to loiter in the vicinity until she must extrude her eggs, whereupon she will excavate a nest wherever she is. Areas near the construction limits still provide suitable nesting habitat, so the Department does not anticipate that exclusion of this species from the construction area will appreciably diminish nesting or recruitment success.

If for some reason establishing an exclusion area is infeasible, or if it is deemed to provide insufficient protection against a prohibited incidental taking, the corporation may apply to the Department for an Incidental Take Authorization pursuant to Part 1080 of the Department's Administrative Rules. This process often requires about five months, but it absolves the holder of any criminal liability for a taking so long as the terms of the Authorization are implemented. Because there are other segments of this project with a higher risk of taking this species, it may be expedient to include this site in the areas covered by a broader Incidental Take Authorization.

The State-listed endangered **Osprey**, *Pandion haliaetus*, has often nested on power line poles in and around Tri-County State Park. This species is highly-tolerant of human disturbances, and most nests in Northeastern Illinois are constructed on manmade features such as power line poles, athletic field lights, bridges, large signs and billboards, and purpose-built artificial nesting platforms. Due to this proclivity and to the frequency with which this has occurred in the past in this vicinity, *the Department recommends the applicant seek an Incidental Take Authorization for this species, to enable construction workers to remove or otherwise destroy nests which do not contain eggs and to work in close proximity to occupied nests, which will result in harassment, another form of prohibited taking.*

At the western end of this segment, west of McLean Boulevard, a large colony of the State-listed threatened plant, **Slender Bog Arrow Grass**, *Triglochin palustris*, occurs directly adjacent to the power line right-of-way. Where conditions are suitable, it is possible this species occurs within the planned construction zone. As with the Woolly Milkweed and other listed plants, any form of harm, temporary or permanent, to a listed plant must be authorized in writing by the land owner to avoid violations of the *Endangered Species Protection Act*. Because the majority of this colony lies outside the right-of-way, the loss of plants within the right-of-way, by itself, is unlikely to result in the loss of this species from the vicinity. *The applicant should consider, however, how it might assist the owner of the adjacent colony to manage or improve this habitat to promote conservation of this species.*

The essential habitats of all other species of State-listed plants and animals listed by EcoCAT for this segment are unlikely to be adversely modified (**False Asphodel**, **Prairie Moonwort**, and **Spotted Coral Root Orchid**), are not actually in the vicinity of the project (**Yellow-Lipped Ladies' Tresses**), or are in the vicinity of adjacent segments and will be addressed in those consultation documents (**Franklin's Ground Squirrel**, **Least Bittern**, **Yellow-Headed**

Blackbird, Black-Billed Cuckoo, Common Moorhen, King Rail, Short-Eared Owl, Green-Fruited Burreed, American Bittern, and Black-Crowned Night Heron).

This consultation is valid for two years unless new information becomes available which was not previously considered; or the proposed action is substantially 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, nor should it be a substitute for detailed site surveys or field surveys required for environmental assessments.

If additional protected resources are encountered during the project's implementation, the applicant must comply with the applicable statutes and regulations. Also, note that closing consultation does not imply IDNR's authorization or endorsement of the proposed action. 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 initial "K".

Keith M. Shank
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cc: Brian Bub, Stantec