



Illinois Department of Natural Resources

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Bruce Rauner, Governor
Wayne A. Rosenthal, Director

February 27, 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 #1508593 and #1508594**

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 #1508593 covers a kilometer-long north-south segment, while Review #1508594 is a connected kilometer-long segment, running east to a substation, which pass through Tri-County State Park on right-of-way already owned by Commonwealth Edison. EcoCAT indicated seventeen **Illinois Natural Areas Inventory (INAI) Sites, Nature Preserves, Land & Water Reserves**, and **endangered or threatened species** may be in the vicinity of this segment.

None of the Nature Preserves, Land & Water Reserves or INAI Sites is close enough to be adversely modified in any way by the proposed action and, thus, they are not actually in the vicinity.

Several of the listed species may be adversely affected, however.

The State-listed endangered **Blanding's Turtle**, *Emydoidea blandingii*, is fairly common in Pratt Wayne Woods and Tri-County State Park. Some wetlands occur at the north end of this segment. The Blanding's Turtle often travels overland between wetland complexes; individuals can move as far as 3,000 feet per day. Moreover, this species uses upland nesting sites far from the nearest wetland habitats. Thus, it is highly likely this species may be present during power line construction activities between March and October. During the winter, this species estivates

in the mud of wetlands and ponds. Consequently, earth-moving activities in these areas during the winter still have the potential for prohibited taking of Blanding's Turtles. 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 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 recommends an effort to avoid or minimize such a potential by isolating the work zone as much as possible. 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. (Areas which contain potential hibernation habitat should not be enclosed, but should be closely observed prior to and during any work close by.) Turtles do not become active until mid-March, but nesting rarely occurs before the last week in May, so establishing exclusion areas 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. The Department recommends that a passage through the right-of-way be left approximately every five hundred feet; excluding the entire length of the segment would impose an excessive burden on gravid females seeking access to nesting areas. Such passages need be no more than eight to ten feet wide.

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, so long as several passages are maintained.

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.*

The State-listed threatened **Franklin's Ground Squirrel**, *Poliocitellus (Spermophilus) franklinii*, has been reported from Tri-County State Park. This large ground squirrel spends a significant portion of the year in hibernation, only becoming active in late April or early May, and returning to hibernation as early as late August or the first few weeks of September. It prefers taller vegetation and so is seldom observed. A majority of burrows are within a few meters of a tree or shrub, and elsewhere in the State it has demonstrated an affinity for power line poles, suggesting they are an adequate surrogate for a tree. Disturbance of a burrow during the hibernation period is likely to result in the death of the resident Ground Squirrel. However, because this animal spends the majority of its active time period underground and retreats underground when threatened, burrow disturbance during the active period is also likely to result in the death or injury of the resident Ground Squirrel unless the animal is first trapped and removed. (Capture also constitutes prohibited taking if done without the required authorization from the Department.)

This species has not been reported since 2007 but it is possible the species is present without having been observed. *The Department recommends a burrow survey of the right-of-way which will be disturbed and, if burrows are detected which may house this species, a trapping survey to verify its identity is also recommended. If present, the Department recommends an Incidental Take Authorization be sought.*

Emergent vegetation in the large wetland at the north end of this route segment provides suitable habitat for the endangered **Yellow-Headed Blackbird**, *Xanthocephalus xanthocephalus*, the endangered **Black-Crowned Night Heron**, *Nycticorax nycticorax*, the endangered **American Bittern**, *Botaurus lentiginosus*, the endangered **King Rail**, *Rallus elegans*, the threatened **Common Moorhen**, *Gallinula chloropus*, and the threatened **Least Bittern**, *Ixobrychus exilis*. Occupancy varies year-to-year, depending on conditions, so that all, some, or none of these species may be present in near enough proximity to be harassed by construction activities.

Harassment can be avoided if the work is performed prior to the spring arrival of these migratory birds, which may occur as early as late February or early March. Breeding and

rearing activities may continue through the end of July and into early August, so construction activities should be limited or not performed during this period if any listed species are present. If work must occur prior to mid-August, the corporation should consider pursuing an Incidental Take Authorization from the Department. Because of the time required to obtain such an Authorization, the applicant may not wish to wait to confirm the presence of listed species before applying.

The State-listed endangered **Short-Eared Owl**, *Asio flammeus*, often winters in the grasslands of Tri-County State Park. However, they do not burrow or nest in the winter; prey and shelter availability determine when and where they may be encountered. The species is not a summer resident. While it is possible that winter construction work might flush an individual of this species, technically harassing it, the bird could likely easily find an alternate location. However, if the applicant wished to address this potential formally, it could seek an Incidental Take Authorization from the Department.

The State-listed threatened **Black-Billed Cuckoo**, *Coccyzus erythrophthalmus*, could occur during the nesting and breeding season at any location in Tri-County Park where thickets or woods provide appropriate nesting habitat. However, such habitat is rare or absent along these route segments, so adverse effects to this species are unlikely.

The **Green-Fruited Burreed**, *Sparganium emersum*, a State-listed endangered plant, occurs over wide areas of wetlands in Tri-County State Park. Listed plants may not be taken without the express written permission of the land owner. [520 ILCS 10/3.] This permission must be in the possession of the person taking the plant. Because Commonwealth Edison owns the right-of-way, it may authorize construction workers to take listed plants which occur within the right-of-way. However, if it is necessary to use lands outside the right-of-way to complete the construction activities, the express written permission of those owners must also be obtained. Unless steps are taken to suppress or eliminate this species, affected plants are likely to recover

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 by construction activities along this segment, are not actually in the vicinity of the project, or are in the vicinity of adjacent segments and will be addressed in those consultations.

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, stylized "K" and "S".

Keith M. Shank
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cc: Brian Bub, Stantec