



Illinois Department of Natural Resources

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

Bruce Rauner, Governor
Wayne A. Rosenthal, Director

September 16, 2015

Mr. Brad Beaver
Illinois Dept. of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281

**RE: Hugenberg Hogs #2, Adams County
Endangered Species Consultation Process
EcoCAT Review #1600889**

Dear Mr. Beaver:

The proposed action in Section 21, Township 1 North, Range West, 4th Prime Meridian, Adams County, was submitted for consultation in accordance with the *Illinois Endangered Species Protection Act* (IESPA) [520 ILCS 10/11], the *Illinois Natural Areas Preservation Act* (INAPA) [525 ILCS 30/17], and Title 17 *Illinois Administrative Code* Part 1075.

This parcel contains trees of sufficient size to provide essential habitat for the federally-listed endangered **Indiana Bat**, *Myotis sodalis*, and the federally-listed threatened **Northern Long-Eared Bat**, *Myotis septentrionalis*. The parcel's trees are on the edge of a much larger forested area centered on Honey Creek, and water bodies are nearby, which are often the focus of bat foraging activities. Maternity colonies of both species were identified in 2013 at a point within two miles of the project area. The Department of Natural Resources believes it is highly likely one or both species are present on this parcel. Removal of trees greater than three inches diameter at breast height on this parcel is likely to adversely modify essential habitat for these species. If removed at the wrong time of year, such action could result in prohibited incidental taking of these animals.

The Department recommends the applicant avoid removing trees between the dates of April 1 and October 1, when these bats are active; if trees must be removed between these dates, such activity should be preceded by a mist-net survey by a qualified biologist to determine whether

these species are present. If these bats are shown to be present, trees should not be removed unless the applicant obtains an Incidental take Authorization from both the federal Fish & Wildlife Service and the Illinois Department of Natural Resources. Such permits require a lengthy and costly application process, so it is often more advantageous to observe the tree removal dates. Such trees may be removed between October 1 and March 31 with low risk of taking the protected bats.

Some confusion may exist due to the Section 4(d) Rule for the Northern Long-Eared Bat published by the U. S. Fish & Wildlife Service, which allows certain activities and limited areas of disturbance without federal liability for prohibited taking. This proposed action may qualify for the federal exemption on the basis of disturbed area. Unfortunately, Illinois laws and regulations have no equivalent exemption, nor are they pre-empted by the federal rule. Consequently, the disturbance of essential habitat when the species is present can be construed as an “attempt to take” which can subject the responsible parties to fines, imprisonment, and forfeiture of property.

The remaining resources indicated by the EcoCAT Report are unlikely to be adversely modified or affected by the proposed action.

Consultation on the part of the Department is closed unless the Illinois Department of Agriculture desires further consultation with the Department. This consultation is valid for two years unless new information becomes available which was not previously considered; or if the proposed action is modified; or if additional species, essential habitat, 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. Note that closure of 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 stylized "K" and "S".

Keith M. Shank
Impact Assessment Section
Division of Ecosystems and Environment
keith.shank@illinois.gov
(217) 785-5500