

MEMORANDUM OF UNDERSTANDING  
BY AND BETWEEN  
THE ILLINOIS DEPARTMENT OF NATURAL RESOURCES  
AND  
THE ILLINOIS DEPARTMENT OF TRANSPORTATION

Pursuant to Title 17 Part 1075.30(d) of the Illinois Administrative Code, this agreement between the Illinois Department of Natural Resources (IDNR) and the Illinois Department of Transportation (IDOT) sets forth the framework for an expedited review process for compliance with Section 11(b) of the Illinois Endangered Species Protection Act (520 ILCS 10/11(b)), Section 17 of the Illinois Natural Areas Preservation Act (525 ILCS 30/17), and administrative rules promulgated thereunder (17 Ill. Adm. Code Part 1075). In addition, this agreement sets forth the framework for compliance with the Interagency Wetland Policy Act of 1989 (20 ILCS/830/1-2, et seq.) and administrative rules promulgated there under (17 Ill. Adm. Code Part 1090). IDOT projects qualify for expedited review because IDOT's Bureau of Design and Environment possesses the expertise to conduct initial biological reviews. The parties enter into this MOU pursuant to the provisions of the Intergovernmental Cooperation Act (5 ILCS 220/1-16). This Memorandum of Understanding (MOU) supersedes the MOU effective November 6, 2007.

General Principles of Coordination

The review processes required under the Illinois Endangered Species Act and the Illinois Natural Areas Preservation Act, and provisions of the Interagency Wetland Policy Act of 1989, are all designed to examine potential impacts to protected natural resources. The IDNR Division of Ecosystems and Environment (E&E) will coordinate natural resource reviews for IDOT projects. The IDOT Bureau of Design and Environment (BDE) will be the point of contact for all Division of Highway projects as well as for any other transportation projects the BDE is coordinating. All official comments, recommendations, and responses made by either IDNR or IDOT shall be made in writing, except in emergency situations as defined in 17 Ill. Admin. Code 1075.60.

The IDOT Division of Aeronautics agrees to:

Submit projects that are not coordinated through BDE to the IDNR EcoCAT website for natural resource review.

The IDOT Bureau of Local Roads (BLRS) agrees to:

1. Verify that projects not coordinated through BDE and that are being authorized by BLRS or funded by the Motor Fuel Tax or other state funds administered by IDOT have been submitted for review through the IDNR's EcoCAT website and that any IDNR recommendations to avoid, minimize or mitigate impacts have been considered by BLRS and the implementing unit of local government. An EcoCAT termination report or a termination letter from IDNR will be required for verification.

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2. Ensure that proposed projects funded or performed by IDOT comply with the Interagency

Wetland Policy Act of 1989 and the IDOT Wetlands Action Plan.

3. Include a designated IDNR staff person to the weekly electronic distribution of the Contractor's Bulletin.

The IDOT Bureau of Design and Environment on behalf of all IDOT Divisions agrees to:

1. Ensure that proposed projects funded or performed by IDOT comply with the Interagency Wetland Policy Act of 1989 and the IDOT Wetlands Action Plan. For projects with wetland impacts, BDE will submit projects categorized as Standard Actions to IDNR for review. Standard Actions involve unavoidable adverse wetlands impacts and do not qualify as Programmatic Actions. BDE will submit projects categorized as Programmatic Actions for IDNR review at BDE's discretion. Programmatic Actions involve impacts to wetlands in existing rights-of-way or in new rights-of-way that are contiguous to existing rights-of-way. BDE will provide all requested information for projects selected by IDNR for annual or other IWPA compliance audit.
2. Review proposed projects that will be funded or performed by IDOT to determine if they may be in the vicinity of a State-listed threatened or endangered species (T&E species), or a site listed on the Illinois Natural Areas Inventory (INAI site), which include Illinois Natural Area Inventory sites, dedicated Illinois Nature Preserves, and registered Land and Water Reserves. In the 'vicinity' is determined by using the following buffers around the project footprint: terrestrial plants within one-half mile, terrestrial animals and INAI sites within one mile, and aquatic resources within two miles.
3. Submit to the IDNR EcoCAT website all those proposed projects identified in paragraph 2 that may be in the vicinity of a T&E species or INAI site.
4. Determine if proposed projects funded or performed by IDOT could adversely affect additional natural resources (listed below). Submit to IDNR for review those actions that could have an adverse effect on these resources.
  - a. Streams
  - b. Forest/trees
    - i. Alignment bisects or fragments a block of trees  $\geq 20$  acres
    - ii. New alignment on any stream segment
    - iii. Existing alignment in a riparian corridor
  - c. Prairie/savanna areas
  - d. Properties owned, leased, or managed by IDNR
5. Conduct biological surveys when recommended by IDNR. Provide copies of the survey results to IDNR. If recommended surveys are not conducted, provide documentation to support that decision.
6. If IDOT or IDNR identifies any T&E species, INAI sites, wetlands or the natural resources listed in Paragraph 4 that may be adversely impacted by the proposed action, BDE will submit a Biological Resources Review (BRR) to IDNR that describe the steps IDOT will take to avoid or minimize adverse impacts to the identified resources.

7. Implement and monitor any mitigation measures as agreed to during the consultation process specified in this MOU.
8. Apply for an incidental take authorization (ITA) prior to commencing construction if the IDNR ITA Committee determines that an action could result in the take of an Illinois-listed animal species.
9. By February 1st of each year, report to IDNR the total number of proposed actions that were reviewed by BDE the previous year and not submitted for consultation because there were no protected resources in the vicinity. Provide copies of a random 2% of those reviews to IDNR.
10. Take all reasonable precautions to protect and maintain the confidentiality of protected natural resource data consistent with the use intended by this MOU.

The IDNR Division of Ecosystems and Environment agrees to:

1. Review BDE EcoCAT reports within 30 days of receipt. After review, staff will either:
  - a. Terminate consultation because adverse effects are unlikely, or
  - b. Request additional information and/or request a biological survey, or
  - c. Recommend methods to minimize potential adverse effects.
2. Review BRRs and coordinate with appropriate IDNR staff to determine whether further analysis or recommendations are required.
3. Within 90 days of receipt of the BRR, IDNR will either:
  - a. Accept the conclusions/proposals contained in the BRR and terminate consultation,
  - b. Recommend that IDOT obtain an incidental take authorization if the proposed action may result in the take of an Illinois-listed animal species. In this case, IDNR will close consultation once IDOT indicates that it will apply for an incidental take prior to beginning construction.
  - c. Recommend additional measures to avoid or minimize adverse effects.

Both agencies have 45 days to resolve any differences that may remain. If resolution is not reached within this time, both parties can agree to: terminate consultation, elevate the issue within each Department, or continue negotiations.

TERMS OF THE MOU

The term of this MOU shall be a period of three (3) years from the date this MOU is executed by all parties. This MOU shall automatically be renewed for an additional three (3) year period unless terminated per the terms of this agreement. Either party shall have the right to terminate this MOU at any time by providing at least ninety (90) days written notice to the other party.

IN WITNESS WHEREOF, the Departments have entered into this Agreement as of the date written below.

ILLINOIS DEPARTMENT OF  
NATURAL RESOURCES

By: [Signature]  
Marc Miller, Director

Date: 1-14-11

APPROVED FOR EXECUTION

Date: 12/30/10

Legal Counsel: [Signature]  
IDNR

ILLINOIS DEPARTMENT OF  
TRANSPORTATION

By: [Signature]  
Gary Harwig, Secretary

Date: 11-9-10