



# Illinois Department of Natural Resources

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www.dnr.illinois.gov

Bruce Rauner, Governor  
Wayne A. Rosenthal, Director

## **Authorization for Incidental Take and Implementing Agreement**

Pursuant to the Illinois Endangered Species Protection Act (Act) (520 ILCS 10/5.5) and the regulations adopted to implement the Act (17 Ill. Adm. Code 1080), authorization is hereby granted to Marine Bank for the incidental take of Franklin's ground squirrel (*Poliocitellus franklinii*). The Illinois Department of Natural Resources (hereinafter referred to as Department) has determined that this taking is incidental to activities associated with the construction of roadway and related infrastructure for the Wabash Commercial Park, located at 4630 Wabash Avenue, Springfield. The project location is bound to the south by Interstate 72, in Sangamon County.

### **Procedural History**

The Department received a Conservation Plan prepared by a private consultant for Marine Bank on February 17, 2016. On March 15, 2016, the Department requested additional information from Marine Bank to make the conservation plan complete. That additional information was received by the Department on March 31, 2016. A revised and approved public notice was received on March 31, 2016. The public notice period will be detailed under #6 of the Compliance section below.

### **Compliance with the Illinois Endangered Species Protection Act**

The Act includes six criteria which must be satisfied for the authorization of incidental take of endangered or threatened species. These criteria and the Department's determination for each are listed below.

1. The taking will not be the purpose of, but will only be incidental to, the carrying out of an otherwise lawful activity:

The stated and apparent purpose of this proposed action is the construction of roadway and related infrastructure for the Wabash Commercial Park project in Sangamon County. The proposed construction will include the installation of a water main and other underground utilities, road paving and grading, excavation and establishment of a detention pond, stripping and redistribution of topsoil, curbing and sidewalk construction, and construction of buildings and parking lots as well as the stockpiling of excess materials. The proposed activities may result in noise, vibration, habitat alteration, and increased traffic disturbances to Franklin's ground squirrels. The total area of ground disturbance is estimated to be 36.9 acres. There is an estimated **3.76 acres** of habitat suitable for Franklin's ground squirrel at the project site, all of which is anticipated to be affected by construction activities. The surrounding project acreage potentially supports

dispersal activities of the species. The take of Franklin's ground squirrel that could result from these activities is not the purpose of Marine Bank's project, but is incidental to the carrying out of an otherwise lawful activity.

2. The parties to the conservation plan will, to the maximum extent practicable, minimize and mitigate the impact caused by the taking:

Proposed minimization and mitigation measures were included in Marine Bank's conservation plan.

To meet the "maximum extent practicable" standard, additional minimization and/or mitigation measures may be required beyond those proposed by Marine Bank, based on the life history needs of the Franklin's ground squirrel. **All required minimization and mitigation measures are presented under the Authorization section below.**

3. The parties to the conservation plan will ensure that adequate funding for the conservation plan will be provided:

Marine Bank states that it will assure all funding needed to support and implement the Conservation Plan. Marine Bank states that they will fully incorporate the Conservation Plan into their construction plans, training programs, and subdivision association covenants.

It is the Department's opinion that Marine Bank's stated commitment to funding their proposed minimization and mitigation measures is sufficient to satisfy this criterion.

4. Based on the best available scientific data, the Department has determined that the taking will not reduce the likelihood of survival or recovery of the endangered species or threatened species in the wild within the State of Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois:

Franklin's ground squirrels are fossorial mammals that spend 90 percent of their lives underground in burrows. Burrow systems may be extensive with multiple entrance holes. They are usually constructed on a sloped landscape, such as a berm or embankment, to facilitate drainage and prevent flooding. Franklin's ground squirrels typically hibernate in their burrow from September to April. They emerge from hibernation in late April or early May. Once out of hibernation, they actively forage aboveground during the day and return to their burrows at night. Litters of 6-9 pups are born in the burrows from late May to mid-June, after which the juveniles can also be seen aboveground. Adults may go back into hibernation as early as July, while the juveniles will remain active until late September or October. During the early fall, juvenile males will typically disperse to a different population or may attempt to colonize new areas.

The Franklin's ground squirrel is listed as a threatened species in Illinois because of a reduction in abundance and geographic range. Historically, the species was known from many locations in the northern two-thirds of Illinois. The species' range suggests that it

is tied to tallgrass prairie, but it is often found at habitat edges between grasslands and woodlands, forests, thickets and wetlands. Most recent records in Illinois are from railroad corridors, fence rows, and roadsides. In Illinois, it has been found that cover of smooth brome (*Bromus inermis*) is positively related to the presence of Franklin's ground squirrels. Franklin's ground squirrels will not use mowed areas.

The Illinois Natural Heritage Database includes 18 element occurrence records for Franklin's ground squirrel that are classified as extant. Those occurrences are at scattered locations in 13 counties, from Effingham County in south-central Illinois to Cook and DuPage counties in the northeast. A lack of recent records from west-central and northwest Illinois, where historical records do exist, may reinforce the conclusion that the species has experienced a reduction in range. The largest population of Franklin's ground squirrels in Sangamon County is along the Sangamon Valley Trail, approximately 1.5 miles from the Wabash Commercial Park site.

The Department has previously granted five (5) authorizations for incidental take of Franklin's ground squirrels. Previous authorizations were for a pipeline project, two trail projects, the construction of a government office building, and an electric transmission project. This is the third authorization to be granted for Franklin's ground squirrels in Sangamon County. Previous authorizations have required that the project site be surrounded by silt fencing to preclude entry of Franklin's ground squirrels, as well as trapping and relocation of squirrels within the fenced project site to other areas of suitable habitat. Habitat restoration and follow-up monitoring of habitat conditions have been required. Compensatory mitigation to bring conservation benefit to the species has occurred.

On December 15, 2015, a visual survey of the Wabash Commercial Park project area was conducted. This survey was carried out at a time when Franklin's ground squirrels would be expected to be in hibernation, so the survey focused on locating burrows that exhibited the characteristics typical of Franklin's ground squirrel burrows. Eight (8) burrows were found within the proposed area of main construction, and four (4) burrows were found within the proposed drainage basin area.

Marine Bank has estimated that this project has the potential to take up to eight Franklin's ground squirrels, although the potential take of individuals in burrows exists and may not be predictable. Take could occur through construction activities that penetrate an occupied burrow, through the event of a burrow collapsing under the weight of construction equipment, or through running over animals on the ground surface. Additional temporary disturbance or dispersal of Franklin's ground squirrels may occur because of movement of equipment which will create noise and vibrations.

Based on the life history needs of the species, the number of known element occurrence records in the State, an assessment of the potential impact to individuals that make up the element occurrences in the project footprint, the conservation measures outlined herein, and the understanding that vulnerability and recovery information on the species remains limited; it is the conclusion of the Department that the taking anticipated as a result of the

project will not reduce the likelihood of survival or recovery of the Franklin's ground squirrel in the wild within the State of Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois.

5. Any measures required under Section 5.5(b)(6) of the Act will be performed:

These measures are listed below under "Authorization." This authorization is, by definition, subject to those terms and conditions and the signature of a representative of Marine Bank indicates an acceptance of and commitment to performing those measures.

6. The public has received notice of the application and has had the opportunity to comment before the Department made any decision regarding the application:

Public notice of Marine Bank's request for authorization of incidental take was published in the *Breeze-Courier* (official State newspaper) on April 7, 2016. The notice was also published in the *Illinois Times* on April 7, 14, and 21. The closing date for public comments was May 21, 2016. No comments were received from the public.

### Authorization

It is the determination of the Department that the measures to be implemented by Marine Bank will adequately minimize and mitigate the anticipated taking of Franklin's ground squirrels as a result of activities associated with the construction of Wabash Commercial Park in Sangamon County, Illinois. Further, the Department has concluded that the take authorized herein will not reduce the likelihood of survival or recovery of Franklin's ground squirrels in the wild within the State of Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois.

All terms and conditions included in the aforementioned conservation plan submitted by Marine Bank to the Department are incorporated into this agreement by reference and are made a part thereof.

Pursuant to Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5] and the Administrative Rules for the Incidental Taking of Endangered and Threatened Species [Ill. Adm. Code 1080.40(b)], this authorization is issued subject to the following terms and conditions, which may include additions or modifications to the minimization and mitigation measures proposed by the applicant in the conservation plan:

1. This authorization is effective upon the signature of the Department and shall remain in effect for a period of **five (5) years** from the date of the Department signature, unless terminated by written agreement of both parties.

This authorization may be revoked pursuant to the Act and Ill. Adm. Code 1080.80(b) if the Department finds that Marine Bank has failed to comply with any of these terms and conditions or has been responsible for the taking of Franklin's ground

squirrel beyond that which is incidental to the construction of roadway and related infrastructure for the Wabash Commercial Park in Sangamon County, Illinois.

2. The effective period of this authorization may be altered by mutual written agreement between Marine Bank and the Department. In this event, the Department shall notify the Illinois Endangered Species Protection Board of such alteration.

Any substantive changes, including but not limited to a change in the project footprint or a change in the State-listed species which could be potentially affected, will require that a new conservation plan be submitted to the Department to initiate the review and public notice process as required by the Act.

3. This authorization is non-transferable.
4. On-site personnel shall be educated on the sensitive biological resources in the area, the identification of Franklin's ground squirrel, regulations protecting the species, where the species might be found, avoidance areas, travel restrictions for equipment and vehicles, how to report sightings or incidents that may involve take, and the importance of avoiding take of the species. Marine Bank shall submit a copy of the education materials to the Department.
5. The Department reserves the right of entry to inspect potential habitat and species management practices.
6. Biological consultants employed by Marine Bank shall hold the necessary permits for work with non-listed and listed species; these include an Illinois Department of Natural Resources Scientific Collection Permit and an Illinois Department of Natural Resources Endangered Species Permit.
7. Marine Bank shall notify the Department's Endangered Species Program of construction commencement and completion of the Wabash Commercial Park. The Department shall be informed of any State-listed species sighting and provided location information (photograph and GPS coordinates) within 48 hours of such sighting. The Department shall be notified immediately of the discovery of dead specimens and will provide guidance on preservation and disposition.
8. Marine Bank shall conduct, or cause to be conducted, the following pre-construction or construction efforts:
  - a. Construction in the areas where Franklin's ground squirrel burrows were found in December 2015 will not be scheduled to begin until after the first week of August of the year construction commences, after juvenile Franklin's ground squirrels have started dispersing from the area.
  - b. Development of the detention pond shall be completed between the first week of August and the first week of October, before juvenile Franklin's ground squirrels go into hibernation.

- c. Displaced soil will be stockpiled at the location on Lot 5 designated in the Conservation Plan. Silt fencing will be installed around the stockpile to exclude Franklin's ground squirrels and prevent them from burrowing in it. The exclusionary fencing shall be 4-5 feet tall and opaque. The fencing shall be dug into the soil no less than 6 inches and subject to daily inspection and maintenance. The stockpile shall be in place for no longer than one (1) year.
  - d. Construction vehicles and equipment will enter the project area at a stabilized entrance off Wabash Avenue, located at the existing building entrance.
9. **Within 60 days of construction completion**, Marine Bank shall provide the Department with a project status report summarizing the implementation of minimization, mitigation, and restoration measures and evaluating the effectiveness of those measures. If any Franklin's ground squirrels were encountered during the project, this report shall also include a map of where the species were found, a description of any injuries or mortalities, and the disposition of any individuals that were injured or killed.
10. Marine Bank shall conduct, or cause to be conducted, the following post-construction surveys efforts during the second and third years after construction is completed:
- a. During the second year after construction completion: A visual survey for Franklin's ground squirrel burrows in the berm and the surrounding project area shall be conducted by a qualified biologist. Surveyor(s) should make note of whether each burrow shows sign of recent use by Franklin's ground squirrels. The visual survey shall occur during **early spring** when the burrows are more easily seen due to less vegetative cover. **A report containing GPS locations of burrows, photographs, and potential occupancy observations shall be provided within 60 days of the survey effort.**
  - b. During the third year after construction completion: A four-day trapping survey shall be conducted by a qualified biologist along the constructed berm area to determine presence or absence of squirrels. Traps shall be operated from 9 AM to 4 PM daily and shall be checked at intervals not to exceed two hours. Outside of the trapping hours specified above, traps shall be removed or rendered inoperable. Any captured squirrels will be documented and marked for purposes of population estimation. Personnel conducting the trapping effort shall also be approved in advance by the Department and hold all required permits. The trapping effort shall take place during the month of **July**, the peak of Franklin's ground squirrel aboveground activity. **A report on the trapping and survey effort shall be provided to the Department within 60 days of survey completion.**
  - c. Post-construction monitoring efforts will be the responsibility of Marine Bank until the establishment of the subdivision association, after which post-monitoring responsibilities will pass to the association. Marine Bank shall notify the Department when this transfer of responsibilities takes place and provide the Department with contact information for the subdivision association.



11. As mitigation, Marine Bank shall construct, or cause to be constructed, an estimated 1.8 acre-feet artificial berm (2900 cubic yards in volume) along the detention basin on the south side of the property to serve as burrowing and foraging habitat for the Franklin's ground squirrel in perpetuity. The berm will be modeled after an existing berm between the Sangamon Valley Trail and Centennial Park Place that attracts a sizable population of Franklin's ground squirrels. The berm shall be constructed from August to September 2016, according to the following specifications:
  - a. The new berm shall be mostly constructed of the material from an existing berm running north to south through the center of the site that is comprised of topsoil.
  - b. The berm shall be constructed to be above the 100-year flood mark with the top of the berm at elevation 609 feet above sea level.
  - c. When completed, the berm shall span two thirds of the southern end of the site. It shall be 1000 feet in length, 20 feet in width at the base on average, and shall be topped with a 6-8 foot wide plateau. For at least 800 of the 1000 feet, the berm shall be 2 feet high on the south side and 4 feet high on the north side, with a 3:1 slope ratio. The berm shall be constructed 10 feet from the right-of-way fence at the southern edge of the site creating a 0.23 acre buffer to the Interstate 72 right-of-way.
  - d. The berm shall be compacted to a minimum of 90% Standard Proctor during construction so that minimal settlement shall occur. No heavy equipment shall be permitted on the top of the berm once constructed.
  - e. Once in place, the berm shall be planted in annual rye to control erosion. After the first hard frost, the berm shall be broadcast-seeded with a native prairie mix. Smooth brome will be planted along the base of the berm and throughout the detention basin mimicking the currently populated artificial berm at the Sangamon Valley Trail. Any areas where vegetation plantings germinated to less than 50% coverage shall be reseeded.
  - f. A buffer of 30 feet at minimum (0.7 acre) shall be established from the base of the berm to the detention area. During the first growing season, the berm sides and buffer area may be groomed up to 3 times by reciprocal or sickle mower to 10" in height, as necessary, to control non-native, invasive plant species from outcompeting native prairie species. The top of the berm may be managed with hand-held equipment. In future growing seasons, timed mowing shall occur only to support the control of targeted non-native, invasive plant species. Invasive plant species should be cut prior to setting seed for maximum success in control. Once prairie plant species are established, annual sickle mowing and hand-held equipment control may occur in November only.
  - g. The berm shall be managed in a way that keeps the presence of invasive plant species to less than 2% of area and woody vegetation to less than 9% of area. Mechanical methods, such as hand-cutting, shall be the preferred management method for the restored habitat. However, when absolutely necessary, herbicides approved for use in rare species habitat may be target-applied to more robust/stubborn invasive plants - please reference recommended

chemical formulations and timing in the Illinois Nature Preserves Commission Vegetation Management Guidelines provided here:

<http://www.dnr.illinois.gov/INPC/Pages/INPCManagementGuidelines.aspx>

- h. The land containing the mitigation berm and the 30 foot buffer shall be entered into a protective covenant. The covenant shall contain the land management guidelines provided above to support continued use by the Franklin's ground squirrel. The covenant will be upheld by the subdivision association, which is to be created once construction is complete. **The executed protective covenant shall be submitted to the Department within six (6) months of construction commencement.**

Mitigation valuations are based on the Department's best current understanding of the species life history needs, real estate values, and impact analysis relevant to the project site's proposed conceptual design elements available at the time of review.

12. All reports and other documentation required by this authorization shall be submitted to:

Illinois Department of Natural Resources  
Endangered Species Program  
Incidental Take Authorization Coordinator  
One Natural Resources Way  
Springfield, IL 62702-1271

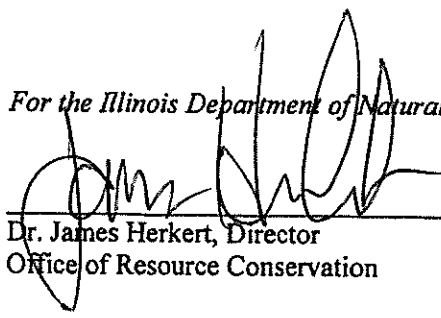
(217)557-8243  
DNR.ITAcoordinator@illinois.gov

The Department's Endangered Species Program shall provide all reports required under this agreement to the Illinois Endangered Species Protection Board and to the Department's Natural Heritage Database.

13. The Marine Bank official identified below is authorized to execute this agreement. Execution by Marine Bank indicates acceptance of all terms and conditions described by this authorization.



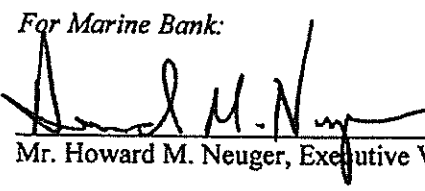
*For the Illinois Department of Natural Resources:*

  
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Dr. James Herkert, Director  
Office of Resource Conservation

Date

7-26-16

*For Marine Bank:*

  
\_\_\_\_\_  
Mr. Howard M. Neuger, Executive V.P.

Howard M. Neuger  
Executive Vice President  
\_\_\_\_\_  
Printed Name and Title

Date

July 26, 2016

