



Illinois Department of Natural Resources

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JB Pritzker, Governor
Colleen Callahan, 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 Ameren Illinois Company (hereinafter referred to as AIC) for the incidental take of the State-threatened Ornate Box Turtle (*Terrapene ornata*). The Illinois Department of Natural Resources (hereinafter referred to as Department) has determined that this taking is incidental to activities occurring **within and adjacent to the Coffeen Lake State Fish and Wildlife Area, Upland Site** associated with the rebuild of the existing 138-kilovolt (kV) Pana-Midway electric transmission line, construction of a new Oakley 138 kV breaker substation, and vegetative restoration from these actions in Montgomery County, Illinois. This authorization **includes** take coverage on Department property.

Procedural History

A Conservation Plan prepared by Wood Environment & Infrastructure Solutions, Inc, on behalf of AIC, was submitted to the Department on August 18, 2020, as a request for authorization for the incidental take of Ornate Box Turtle. The Department requested additional information on September 16, 2020, to make the Conservation Plan complete as prescribed by Ill. Adm. Code 1080.10. Additional information was received by the Department on October 24, 2020. The final Conservation Plan was accepted as complete by the Department on October 30, 2020. The public notice period and public comments 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 an 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 be only incidental to, the carrying out of an otherwise lawful activity:

The stated and apparent purpose of this action is to rebuild an existing 138-kV transmission line and construct a substation in Montgomery County to improve electrical system reliability and operating flexibility. The portion of the Project considered in this authorization began in Summer 2020 and will reach completion by 2021.

The entire Project was comprised of the removal of structures supporting 27.68 miles of lines from Pana, IL to structure 237 (eight (8) structures occur within the action area of this authorization on a 50 foot ROW on Department land) and installation of the same number of self-supporting wooden H-frame structures.

AIC removed 8 wooden H-frame structures and replaced them with new wooden H-frame structures (structure numbers 229-233, 235-236) offset along the centerline by two to five feet. The offset was necessary since the new poles needed to be set before wires were transferred and the old structure removed. Structure 237 required an upgrade to a steel monopole on an 8-foot wide concrete pier and shifted approximately 20 feet from the existing structure due to a buried gas line that runs between the poles. One additional structure was installed, 237A, that replaced the existing wooden monopole structure and was needed to connect structure 237 of the Pana-Midway line with the new Oakley substation along Highway 185.

Transmission line structures are typically transported to the site in two or three pieces, assembled at the structure location, and then erected onto the foundation (steel structures) or into the new augured hole (wooden structures). The new wooden H-frame structures were placed in holes augured in the ground using truck- or track-mounted augers to a maximum estimated depth of 14 feet and backfilled with crushed rock; spoils/soil from the hole were used for any additional backfill. The structure poles each required a maximum 55-inch diameter augured hole. Equipment utilized for this operation typically includes cranes and bucket trucks.

New conductors were installed from the ground with pull pads on the ROW. The height of the new structures range from approximately 60 to 92 feet above the ground. Once all structures within a wire pull segment were set, the wires were pulled and clipped into place. This procedure required access to each structure with a bucket truck. Wire set-up areas containing reel trailers, wire pullers, and related equipment were located at each end of the wire pull. Estimated in-service date for the entire Pana-Midway transmission line rebuild was July 1, 2020, with work in the section located within the Coffeen Lake State Fish and Wildlife Area being fully completed by early December 2020.

The existing conductors were removed from the H-frame structures and recycled. Next, the existing wooden H-frame structures were removed from the ground and their holes were backfilled. Holes were filled the day they are dug, or they were covered until they were backfilled. The spoils from those holes were graded into the substation site, and no spoils were left onsite.

The Oakley Substation is located on a 9.9-acre parcel and is owned, constructed, and operated by AIC. During construction approximately 6.6 acres (areas of construction disturbance, laydown, and access) of this site was disturbed. Once the equipment was installed, the area permanently occupied by the substation is

approximately 3.3 acres of suitable ornate box turtle habitat. Access to the substation site is from the south from Highway 185.

For the construction of the new Oakley Substation, AIC cleared vegetation, removed topsoil, and graded the site as detailed in the site-specific Storm Water Pollution Prevention Plan (SWPPP). Equipment used during clearing included chain saws, skidders, bulldozers, tractors, and/or low ground-pressure feller-bunchers.

Silt fences and site drainage structures were installed in each phase of construction and maintained throughout the Project. The substation yard was covered with crushed stone and enclosed with chain link fencing. Primary access to the site, both during construction and operation, is via a new graveled access road constructed from State Highway 185 to the substation, a distance of approximately 150 feet. Equipment installed at the substation includes 6 station service voltage transformers (SSVT's), 3 potential transformers, 3 SF-6 circuit breakers, connecting bus work, a supporting steel superstructure, communications tower, and control house.

Site restoration and revegetation will be based on the degree of disturbance caused by construction activities and the ecological setting of each site. Where soil disturbance occurs in environmentally sensitive areas, erosion control best management practices will be installed, maintained, and monitored until the area is revegetated. The estimated in-service date for the Oakley Substation is December 1, 2020. Site restoration and revegetation of disturbed areas will be complete by June 2021.

Total estimated area of impact for the proposed actions is **17.55 acres, 14.15 acres of temporary impact from the transmission line rebuild and workspace around the substation, and 3.3 acres of permanent impact, 6.6 acres of temporary impact from the construction of the substation.** The Department concurs that the take of Ornate Box Turtle that could result from the proposed project is not the purpose of AIC's activities 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 avoidance, minimization and mitigation were included in AIC's conservation plan.

To meet the "maximum extent practicable" standard, additional minimization and/or mitigation measures may be required beyond those proposed by AIC, based on the life history needs of the Ornate Box Turtle. **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.

AIC states in their Conservation Plan that Ameren Corporation provides services to electric and gas customers across central and southern Illinois. As a large utility, AIC has adequate financial backing to support and implement mitigation activities described in this Conservation Plan. The costs of mitigation activities will be incorporated into the overall Project budget. Therefore, no specific financial instruments such as bonds, certificates of insurance, or escrow accounts will be required to implement the Conservation Plan.

The Department accepts this provision as assurance that adequate funding will be available to carry out the terms of the conservation plan.

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.

Ornate Box Turtle (*Terrapene ornata*) is an Illinois state-threatened reptile species.

Habitat: The Ornate Box Turtle inhabits prairie grasslands, pastures, fields, sandhills, and open woodland areas. The species is terrestrial but occasionally enters slow, shallow streams. For shelter, the Ornate Box Turtle burrows into friable soil or uses burrows made by other species. They hibernate through winter, roughly October to April, in burrows up to 5 feet in depth.

Distribution: Their overall range covers most of the central United States. The Ornate Box Turtle can be found from southeastern Wyoming to Wisconsin and Indiana, and south to Arizona and Louisiana.

Reproduction: Mating occurs in the spring or late summer. Nesting occurs between May and August. Females lay 1-2 clutches of 1-8 eggs each year. Eggs hatch in 9-12 weeks. Males are sexually mature in 8-9 years, females in 10-11 years.

Population: The Ornate Box Turtle is at risk from increased urbanization, increased agriculture, road mortality, and poaching.

Range in Illinois: Ornate Box Turtle has been observed in the last ten (10) years in 30 of 102 Illinois counties. There are currently 55 extant Element Occurrence Records for Ornate Box Turtle in the Illinois Natural Heritage Database.

Incidental Take Authorizations: The Department has ten (10) previously issued or pending Incidental Take Authorizations for the Ornate Box Turtle. This is the third authorization to be granted in Lee and Whiteside Counties. The project is adjacent to a wind energy project and another electric transmission line project for which two (2) previous Incidental Take Authorizations for Ornate Box Turtle

were executed. To the Department's knowledge, no individuals of the species have been directly taken by either of the projects, however direct take could have occurred along public roadways or within burrows and would remain unknown. Indirect take through potential dispersal from preferred habitat, as well as relocation, also may have occurred. Previous projects in other counties for which take was authorized include a water line extension and a commercial development project.

Based on the amount of habitat impacted by this project, the number of known occurrences of Ornate Box Turtle in Illinois, an assessment of the potential effect of this project on individual species in the project footprint, the conservation methods included in this authorization for take and the conservation plan, 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 this project will not reduce the likelihood of survival or recovery of the species in the wild within the State of Illinois, the biotic community of which the species are 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.

Additional measures are listed below under "Authorization". This authorization is, by definition, subject to those terms and conditions and the signature of a representative from Ameren indicates their 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 Ameren AIC's request for authorization of incidental take was published in the *Breeze Courier* (official state newspaper) on November 16, 2020, and in *The Journal-News* on November 16, November 23, and December 3, 2020. A copy of the Conservation Plan was deposited at the Hillsboro Public Library, where it was available for public review. The deadline for public comment was January 3, 2021. Comments were received from the public, and AIC made minor changes to their original Conservation Plan.

Authorization

It is the determination of the Department that the measures to be implemented by AIC will adequately minimize and mitigate the anticipated taking of Ornate Box Turtles associated with the rebuild of an existing transmission line, construction of a new breaker substation, and vegetative restoration from these actions in Montgomery County, Illinois. Further, the Department has concluded that the taking authorized herein will not reduce the likelihood of survival or recovery of the species in the wild within the State of Illinois, the biotic community of which the species are a part, or the habitat essential to the species' existence in Illinois.

All terms and conditions included in the aforementioned Conservation Plan submitted by AIC 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 Ameren 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. The term of the permit may be reviewed and extended by the Department in accordance with Authorization condition #2 below upon written request by AIC no less than three months prior to expiration.

This authorization may be revoked pursuant to the Act and Ill. Adm. Code 1080.80(b) if the Department finds that AIC has failed to comply with any of these terms and conditions or has been responsible for the taking of Ornate Box Turtles beyond that which is incidental to work of the transmission line rebuild and substation construction in Montgomery County, Illinois.

2. This Agreement does not authorize the take of any threatened or endangered species prior to the Agreement being fully executed. AIC may be liable for any take that occurs prior to the full execution of this Agreement.
3. The effective period of this authorization may be altered by mutual written agreement between AIC and the Department. The Illinois Endangered Species Protection Board shall be notified 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 potentially be 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.

4. This authorization may only be transferred upon approval and written authorization by the Department.
5. Notification to all on-site personnel shall be provided on the sensitive biological resources in the area; the identification of Ornate Box Turtle; regulations protecting the species; where the species might be found; avoidance areas; travel restrictions for equipment; how to report sightings or incidents that may involve take; the importance of avoiding take of the species; and response protocol if the species are found. **Ameren shall submit a copy of the education materials to the Department.**

6. The Department reserves the right of entry by its staff or representatives to inspect potential habitat and species management practices.
7. Biological consultants employed by AIC shall hold the necessary permits for work with non-listed and listed species; these include an Illinois Department of Natural Resources (IDNR) Scientific Collection Permit as authorized under 17 Illinois Administrative Code 520, a Herptile Scientific Permit as authorized under 17 Illinois Administrative Code 885, and an IDNR Endangered Species Permit as authorized under 17 Illinois Administrative Code 1070. Gloves shall always be worn when handling any species and properly disinfected or discarded between individuals.
8. AIC shall notify the Department's Endangered Species Program by email correspondence of construction completion of the project. A **project status report** shall be submitted to the Department within **90 days** following completion summarizing the implementation of minimization and mitigation measures and evaluating the effectiveness or status of those measures and shall include a project photo log. The report shall also include a map and GPS coordinates of any listed species found within and/or translocated from the project footprint, description of any injuries or mortalities, and the disposition of any individuals that were injured or killed.
9. Any discoveries of additional State-listed species beyond those identified in this agreement **halts work** and shall be reported to the Department within 48 hours accompanied by location information (photograph, map, and GPS coordinates).
10. AIC shall conduct, or cause to be conducted, the following pre-construction, construction, or post-construction efforts:
 - a. During the active period for the reptile species; new, clean exclusionary fencing shall be installed along the ROW and enclose the construction work areas. Fencing shall be buried at least six inches in the ground, staked, and maintained in an upright position throughout the duration of the Project.
 - b. Visual encounter searches shall occur prior to fencing installation and the species shall be removed to outside of the exclusion and construction area. Species data shall be collected on each individual translocated including length, approximate age, sex (if discernable), and photograph. Ornate Box Turtles shall be marked to facilitate recapture identification during post-construction surveys.
 - c. After reptile exclusion fencing is installed, new, clean construction matting will be installed along the existing ROW through wetlands or other unstable soil areas to minimize soil compaction.
 - d. A Biological Monitor shall conduct visual encounter searches for listed species ahead of the mat installation and during the active period on days when construction activities occur. All species discovered shall be recorded, photographed, and relocated outside of the construction work area.

Construction in areas designated as suitable habitat for the listed species will not take place until the Biological Monitor has cleared the area.

- e. During species active periods, speed limits of construction vehicles traveling on access roads shall be limited to 12 mph or less to reduce the potential take of listed species.
- f. If work is required in a non-matted area, the Biological Monitor shall conduct a visual encounter search of the area prior to accessing.
- g. All reptile exclusion fence and construction matting will be removed from the area upon completion of all construction and restoration activities, and prior to the beginning of the listed reptile species' next active period (March 15 through October 15).
- h. Any revegetation of the ROW within the Coffeen Lake Upland Site shall utilize native seed determined through coordination with, and permission from, the Department.
- i. All existing H-frame structures were removed. The foundations of the eight (8) structures removed shall be filled, returned to grade, and planted with a cover crop and native seed mix created for Coffeen Lake Upland Site by biologists.
- j. At the substation site, all topsoil removal and grading shall follow the Stormwater Pollution Prevention Plan that is posted on site.
- k. The remaining 6.6 acres of the substation site shall be replanted to a vegetative mix that supports pollinators
- l. Permanent "Environmentally Sensitive Area" signs shall be installed within the ROW and at all access routes.

11. AIC shall conduct, or cause to be conducted, a thorough survey for Ornate Box Turtle during appropriate species active periods in Years 1 and 2 following construction completion:

- a. Survey methods proposed for each species shall be provided to the Department for approval. In order to increase detection probability, the Department will recommend the use of "Turtle Dogs," or a similar canine-assisted survey method.
- b. A report including, but not limited to, the survey methodology utilized, habitat structure (noting vegetation restoration successes or struggles), the species and numbers of individuals located (noting any discovery of translocated individuals), any specific habitat features, approximate age, sex (if discernable), a map of the species locations, survey coverage areas, and search times shall be provided to the Department within 90 days of completion of each survey.**

12. Mitigation to the maximum extent practicable is required by the Act. Mitigation requirements for this authorization are as follows:

- a. AIC shall provide funding in the amount **\$21,696** to the Illinois Wildlife Preservation Fund to be earmarked to bring conservation benefit to Ornate Box Turtle.
- b. Mitigation shall be provided **within 90 days of execution of this agreement**. Mitigation payments are nonrefundable, including events of revocation or termination.

Mitigation values 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.

13. All reports, notifications, and other project documentation shall be submitted to:

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

(217)557-8243
 DNR.ITAcordinator@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.

- 14. The AIC official identified below is authorized to execute this agreement. Execution by Ameren indicates acceptance of all terms and conditions described in this authorization.
- 15. The execution of this agreement does not waive or excuse the responsibilities of AIC to comply with other Federal, State, or local regulations, including but not limited to obtaining any required permits for the execution of this project.

For the Illinois Department of Natural Resources:

For Ameren Illinois Company:

Christopher Young
 Mr. Christopher L. Young, Director
 Office of Resource Conservation

Caleb L. Boyer
 Mr. Caleb L. Boyer
 Project Manager

March 24, 2021
 Date

3-16-2021
 Date