



# 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 Radford's Run Wind Farm, LLC (hereinafter referred to as Radford's Run) for the incidental take of the State-threatened Black-billed Cuckoo (*Coccyzus erythrophthalmus*). The Illinois Department of Natural Resources (hereinafter referred to as Department) has determined that this taking is incidental to the operation, and maintenance of the Radford's Run Wind Farm in Macon County Illinois.

### **Procedural History**

A Conservation Plan prepared by Stantec, on behalf of Radford's Run, was submitted to the Department on April 6, 2021, as a request for authorization for the incidental take of Black-billed Cuckoo. The Department requested additional information on April 20, 2021, to make the Conservation Plan complete as prescribed by Ill. Adm. Code 1080.10. Additional information was received by the Department on May 14, 2021. The final Conservation Plan was accepted as complete by the Department on May 14, 2021.

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 proposed action is to operate and maintain a 305.8-megawatt (MW) wind farm located in Macon County. The wind project is located approximately five (5) miles southwest of Maroa, Illinois and twelve (12) miles northwest of Decatur, Illinois. The turbines of Radford's Run are located on 50,839.4 acres.

The wind farm consists of 139 Vestas V110 2.2 MW wind turbine generators

(WTGs) and associated access roads, collector lines, crane paths, fiber optic line, substation, operations and maintenance (O&M) building, a permanent meteorological (MET) tower, and laydown yard. Each WTG is manufactured off-site and consists of the tower, a nacelle that houses the generator and gearbox, and a three-blade rotor assembly, all of which were delivered to the project site and assembled on-site. Each WTG is anchored to a steel-reinforced concrete foundation. The total maximum height of the WTG, from the base of the tower to the tip of the blade is 492 feet (ft.), whereas the hub height is approximately 312 ft. The wind project also includes an underground power collection system between the pad-mounted transformers and a collector substation. All collector lines were buried a minimum of 5 ft. The collector system is connected to a ComEd switchyard. In addition to the WTGs and power collection system, access roads were constructed to provide access to the turbines during and after construction. These access roads are approximately 16-ft.-wide and constructed of crushed gravel/rock. The project O&M building is located immediately adjacent to the project substation, near the corner of School Road and Glasgow Road in Macon County. Construction of the wind farm was completed in 2017, and the turbines were commercially operational in December 2017.

Ongoing operation and maintenance activities may result in direct Black-billed Cuckoo mortality by collision with turbines, transmission lines, and other project-related structures, especially during takeoff and landing. Barotrauma is less likely to be a source of mortality in birds than bats. There are also possible indirect effects on the species by displacement from habitat, introduction of vertical surfaces, noise, and shadow flicker effects from operation of turbines.

Total estimated area of impact within species habitat for the immediately proposed actions is referred to as the Bat Action Area and includes 50,839.4 acres, including 139 WTGs, MET towers, and associated access roads. The Department concurs that the take of Black-billed Cuckoo that could result from the proposed project is not the purpose of Radford's Run'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 Radford's Run's Conservation Plan.

To meet the "maximum extent practicable" standard, additional minimization and/or mitigation measures may be required beyond those proposed by Radford's Run, based on the life history needs of the Black-billed Cuckoo. **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.

Radford's Run states a portion of their overall budget for the wind project has been dedicated toward the implementation of the conservation measures.

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.

Black-billed Cuckoo (*Coccyzus erythrophthalmus*) is a State-threatened migratory bird species.

**Habitat:** Black-billed Cuckoos when in their breeding habitat are typically found in deciduous forest, but will also use open woodlands, thickets, and riparian vegetation.

**Distribution:** Black-billed Cuckoos are found over much of Eastern North America at various times of the year. Their breeding distribution ranges from portions of Alberta to Nova Scotia in Canada to Montana, Wyoming, eastern Colorado, north-central Texas, Alabama, and the Carolinas. The winter, non-breeding distribution includes the Southeastern states, Bermuda, lowlands of Mexico along the Gulf, and down into Central and northern South America.

**Reproduction:** Black-billed Cuckoos nest in deciduous trees, shrubs, or brambles, and occasionally coniferous trees such as hemlock. Nests are flimsy, shallow cups constructed of twigs and grasses and lined with dead or green leaves, pine needles, stalks, plant fibers, rootlets, mosses, and spider webs. Both adults help build the nest, and the female may start laying eggs in it before the nest is completed. They lay clutches of 2-5 greenish blue eggs. The incubation period of black-billed cuckoo eggs is 10-11 days. Nestlings are helpless after hatching but fledge the nest within 6-7 days. The period between egg laying to fledging of young is among the shortest for any bird species. Like Old World cuckoos, the Black-billed Cuckoo is known to occasionally lay its eggs in other birds' nests (brood parasitism).

**Population:** Black-billed Cuckoo populations are threatened by habitat loss and fragmentation. Their main prey of caterpillars makes them also susceptible to pesticide use. Black-billed Cuckoos are frequently killed by collisions with TV towers, tall buildings, and other structures during nighttime migration. Populations tend to fluctuate considerably from year to year as the individuals follow outbreaks of prey, making it difficult to accurately estimate population numbers.

**Range in Illinois:** Black-billed Cuckoos, a breeding resident of Illinois, can be found in areas throughout the state from late April to early October, after which

they migrate to South America for the winter, Black-billed Cuckoos have been observed breeding in 11 of 102 Illinois counties. There are currently 14 extant Element Occurrence Records for Black-billed Cuckoo in the Illinois Natural Heritage Database.

**Incidental Take Authorizations:** The Department has 6 previous or pending Incidental Take Authorizations for Black-billed Cuckoo. This is the first authorization to be granted for Black-billed Cuckoo in Macon County. Previous projects have included an electrical transmission line and wind energy facilities.

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Based on the amount of habitat impacted by this project, the number of known occurrences of Black-billed Cuckoo 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 Radford's Run 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 Radford's Run's request for authorization of incidental take was published in the *Breeze Courier* (official state newspaper) on June 1, 2021. The notice was also published in the *(Decatur) News-Herald* on June 1, June 8, and June 16, 2021. A copy of the Conservation Plan was deposited in the Maroa Public Library allowing for public review. The deadline for public comment was July 16, 2021. No comments were received from the public.

### **Authorization**

It is the determination of the Department that the measures to be implemented by Radford's Run will adequately minimize and mitigate the anticipated taking of Black-billed Cuckoo associated with the operation and maintenance of the Radford's Run Wind Farm in Macon County in 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 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 Radford's Run 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 Radford's Run in the Conservation Plan:

1. This authorization is effective upon the signature of the Department and shall remain in effect for a period of **thirty (30) years** from the date of the Department signature, unless terminated by written agreement of both parties. **This agreement does not authorize take of any species except the Black-billed Cuckoo.**

Notwithstanding the above paragraph, due to the length of this Authorization, the Department reserves the right to reassess the terms of this Authorization every five years. If at any time during the term of this Authorization the State formally changes the status of the Black-billed Cuckoo from threatened to endangered and determines that Black-billed Cuckoo have become more imperiled than when the species and impact analyses were initially conducted, the Department may request an amendment to this Authorization or additional mitigation by Radford's Run. If the Department and Radford's Run cannot reach an agreement, this Authorization will be terminated. Termination of this Authorization under this provision does not prevent Radford's Run from applying for a new Incidental Take Authorization for this project.

This authorization may be revoked pursuant to the Act and Ill. Adm. Code 1080.80(b) if the Department finds that Radford's Run has failed to comply with any of these terms and conditions or has been responsible for the taking of Black-billed Cuckoo beyond that which is incidental to the operation and maintenance of the Radford's Run Wind Farm in Macon County in Illinois.

2. The effective period of this authorization may be altered by mutual written agreement between Radford's Run 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. **For the purposes of this authorization, a change in the turbine cut-in speed implemented based on mortality or estimated mortality of bats in accordance with the BBCS or a federal**

*incidental take permit obtained by Radford's Run from the U.S. Fish and Wildlife Service, or the implementation of additional acoustic deterrents, as approved by the Department, shall not be considered a substantive change, because neither changes in cut-in speed nor use of acoustic deterrents has been shown to affect bird mortality.*

3. This authorization may only be transferred upon approval and written authorization by the Department.
4. Notification to all on-site personnel shall be provided on the sensitive biological resources in the area; the identification of Black-billed Cuckoo; 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, including the chain of response personnel. **Radford's Run shall submit a copy of the education materials to the Department.**
5. The Department reserves the right of entry by its staff or representatives to inspect potential habitat and species management practices.
6. Biological consultants employed by Radford's Run 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, and an IDNR Endangered Species Permit as authorized under 17 Illinois Administrative Code 1070.
7. Notification of any Black-billed Cuckoo present during the performance of the project shall be reported electronically to the Department within 48 hours of discovery accompanied by location information (photograph, map, and GPS coordinates).
8. Any discoveries of additional State-listed species beyond those identified in this agreement shall be reported to the Department within 48 hours accompanied by location information.
9. Radford's Run shall conduct, or cause to be conducted, the following pre-construction or operational efforts:
  - a. Minimizing the number of turbines that were located within 1,000 feet of woodlots.
  - b. Avoiding siting turbines in wetlands, to the extent practicable,
  - c. Installing an underground electrical collection system, where practicable,
  - d. Installing bird diverters at 20-foot intervals where crossing habitat resources such as wetlands and woodlots, and following other recommendations of the Avian Power Line Interaction Committee,

- e. Minimization of facility lighting by using motion detectors where possible, directing lights downward, and lighting turbines in accordance with Federal Aviation Administration minimum requirements,
- f. Replacing temporary meteorological towers with non-guyed lattice towers,
- g. Installing surge arrestors to protect electrical equipment in the event of bird collisions.

*The Department acknowledges that Radford's Run satisfied this condition prior to issuance of this Authorization.*

10. Radford's Run is currently on the third year of a post-construction monitoring program as part of a three-year Endangered Species Act section 10(a)(1)(A) permit, and previously conducted a year of post-construction monitoring under the Bird and Bat Conservation Strategy (BBCS). The BBCS monitoring began in Spring 2018 and continued through Fall 2018. During the second and third years of post-construction monitoring (2019 and 2020), a bat deterrent study was conducted, during which all bird and bat fatalities were recorded. During the 2020 study, a Black-billed Cuckoo corpse was found.

Radford's Run shall conduct, or cause to be conducted, post-construction monitoring by a qualified biologist:

- a. One additional year of monitoring shall be conducted in 2021 for the bat deterrent study.
- b. Black-billed Cuckoo mortality shall be monitored weekly once every three years following the protocols of the 2018 monitoring (or some other mutually-agreed upon protocols):
  - 1. At 14 randomly selected turbines, full (262 ft by 262 foot) plots shall be searched
  - 2. At 56 randomly selected turbines, roads and pads shall be searched out to 262 ft from the base of the turbine.
- c. Overall monitoring requirements are subject to further evaluation pending the completion of the deterrent study and analysis of the results.
- d. **All carcasses of Black-billed Cuckoos found during standardized searches or incidentally shall be reported to the Department within 48 hours of positive identification.** If positive identification in the field is not possible, then photographs should be taken, submitted to the Department for expert analysis, and the carcass shall be retained, if possible, in a freezer at the O&M Building with a datasheet including coordinates.
- e. **A report including, but not limited to, the Black-billed Cuckoo survey methodology utilized, maps of turbines searched, and all listed species fatalities observed, shall be submitted to the Department by April 1 summarizing the monitoring results from the previous year.** For each listed bird fatality, the following data shall be included: turbine location (turbine number and GPS coordinates), distance and bearing to turbine, species, sex (if known), adult/juvenile (if known), reproductive status (if known), the potential date of fatality, wind speed profile sunset to sunrise

during night preceding potential date of fatality, weather conditions, power production profile for the responsible turbine on estimated date of fatality, and photographs of the carcass.

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

Radford's Run shall contribute \$25,000 to the Illinois Wildlife Preservation Fund, with those funds earmarked for management of, or to bring conservation benefit to, Black-billed Cuckoo.

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

12. Radford's Run shall conduct, or cause to be conducted, the following adaptive management measures in the event that take of Black-billed Cuckoos may be exceeding authorized take limit of 2 individuals per year over the permit term:
- a. Radford's Run shall meet and confer with the Department to determine the potential cause of mortality. If mortality is related to Project operation, then Radford's Run will develop additional conservation measures as needed in coordination with the Department.
  - b. Radford's Run monitoring will be conducted the following year in which fatalities were detected to determine if additional measures were successful at reducing mortality.
  - c. If no spatial, weather, or temporal patterns emerge as potential causes for the fatality, no new conservation measures will be implemented based on a single year exceeding the anticipated take. However, if more than 2 Black-billed Cuckoo fatalities are documented in each of the two subsequent years, Radford's Run shall coordinate with the Department to determine the need to implement additional conservation measures, and if needed, pursue an amendment to the ITA.

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

DNR.ITAcoordinator@illinois.gov

OR,

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

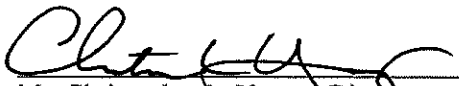
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The Department's Endangered Species Program shall provide all reports required under this agreement to the Illinois Endangered Species Protection Board and to the Department's Natural Heritage Database.

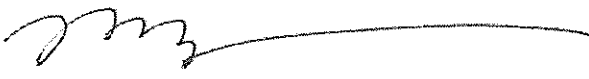
14. The Radford's Run official identified below is authorized to execute this agreement. Execution by Radford's Run indicates acceptance of all terms and conditions described in this authorization.
15. The execution of this agreement does not waive or excuse the responsibilities of Radford's Run to comply 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:*

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

9/13/2021  
Date

*For the Radford's Run Wind Farm:*

  
\_\_\_\_\_  
Mr. Paul Bowman  
Project Manager

9.7.2021  
Date

