

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 Ameren) for the incidental take of the State-threatened Timber Rattlesnake (*Crotalus horridus*). The Illinois Department of Natural Resources (hereinafter referred to as Department) has determined that this taking is incidental to activities associated with the work to rebuild the TP1301 138 kilovolt (kV) Transmission Line in Jackson County, Illinois.

Procedural History

A Conservation Plan prepared by WSP USA Environment and Infrastructure, Inc., on behalf of Ameren, was submitted to the Department on February 27, 2023, as a request for authorization for the incidental take of Timber Rattlesnake. The Department requested additional information on March 30, and May 3, 2023, to make the Conservation Plan complete as prescribed by Ill. Adm. Code 1080.10. Additional information was received by the Department on April 4, and May 8, 2023. The final Conservation Plan was accepted as complete by the Department on May 19, 2023. 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 reconstruct the TP1301 138 kV (kilovolt) transmission line from Grand Tower to West Frankfort. Based on records of listed species, the recommendation for an ITA was limited to an 11.7 mile stretch from the West Substation to Route 127 in Jackson County.

Ameren owns and operates the existing transmission line with a 100 foot right of way (ROW). There is 4.75 miles that crosses land owned by the United States

Department of Agriculture Forest Service (herein referred to as FS) and requires a special use permit. While crossing the FS land, the ROW for this transmission line will be expanded by 25 feet to the north of the current easement. There will be 9.0 acres of trees removed, and work shall adhere the United States Fish and Wildlife Service's (USFWS) recommendations as much as practicable. A Biological Opinion for impacts to listed bat habitat was issued on February 10, 2023. The Department accepts that winter tree clearing is avoidance for impacts to listed bats, and no further take authorization is required unless the work is not completed before Spring migration.

The project will include the replacement of the existing 70 wooden H-frame structures with steel monopoles that will be capable of supporting a double circuit of 138 kV and 345 kV. The base of each monopole will require a concrete pier foundation that varies in diameter from 7 to 12 feet, and depths of 30 to 50 feet. Three H-frames on Fountain Bluff will be replaced with similar structures, and the remaining structures on Fountain Bluff will not be replaced.

The maximum construction disturbance area for each replaced structure will be no more than 100 by 200 feet (0.48 acres). Each structure to be replaced will be pulled from the ground with a digger derrick truck, and old holes will be backfilled with clean gravel or dirt. Hauling, spotting, removal, and replacement work would be completed during the outage to minimize trips into the area. Holes for the new footings will be drilled, steel rebar cage and the anchor bolt cages installed, and then filled with concrete. Excavated material would be disposed of at the direction of the FS.

The old wooden H-structures, hardware, wires, and conductors would be removed. The old poles would be pulled from the existing holes using line truck (digger derrick). The holes would be backfilled with clean gravel and dirt, or using excavated soil from the foundation holes. If used, construction mats would be removed. As necessary, crews would reseed the ROW and ingress/egress access routes.

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.

Construction access would be along the existing transmission ROW and existing FS roads to the extent practicable, with some improvements or modifications such as tree trimming or cutting, and levelling for equipment and material passage. Any access road that is graded or leveled will be stabilized with erosion control measures and clean fill.

A laydown yard will be located on private property in the vicinity of the West Substation. If laydown or staging areas are required on FS property, Ameren will coordinate with the staff prior to construction.

This project has the potential to cause mortality via entrapment, vehicle movement, and indirect affects such as habitat alteration, disruption of normal behavior

Total estimated area of impact for the proposed actions is approximately **9.0 acres of permanent impact, and 47.2 acres of temporary impact from the rebuild of the transmission line.** The Department concurs that the take of Timber Rattlesnake that could result from the proposed project is not the purpose of Ameren'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 Ameren's conservation plan.

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

Ameren states in their Conservation Plan that as a large utility, Ameren 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.

Timber Rattlesnake (*Crotalus horridus*) is a venomous Illinois state-threatened species.

Habitat: In the Midwest, timber rattlesnakes prefer high, dry ridges with forest interspersed with open areas. They especially like rock outcrops in thick woods. Timber Rattlesnakes hibernate communally in the winter, with up to 200 individuals in a den. Hibernacula are found in crevices around rocky areas.

Distribution: Their overall range covers much of the Midwest and Eastern United States. Populations are found as far south as Florida and Texas, and as far north as Minnesota.

Migration: Timber Rattlesnakes migrate seasonally between hibernacula and summer habitats. Individuals may migrate up to 7.2 km from their hibernaculum.

Reproduction: Mating occurs in the summer, early or mid-July. Young are born August to early October. Females reproduce every 2 to 5 years.

Population: Timber Rattlesnakes are at risk from habitat destruction, especially housing developments near den locations. Shading over by growth of large trees near a den prevents the open, brushy areas around optimal denning environment. This prevents these areas from being used as birthing rookeries. Additionally, Timber Rattlesnakes have been harassed and persecuted.

Range in Illinois: They are found throughout most of the western and southern parts of Illinois. Timber Rattlesnakes have been observed in fourteen (14) of 102 Illinois counties. There are currently forty-nine (49) extant Element Occurrence Records for Timber Rattlesnakes in the Illinois Natural Heritage Database.

Incidental Take Authorizations: The Department has six (6) previously issued or pending Incidental Take Authorizations. This is the first authorization to be granted for Timber Rattlesnakes in Jackson County.

Based on the amount of habitat impacted by this project, the number of known occurrences of Timber Rattlesnake 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's request for authorization of incidental take was published in the *Breeze Courier* (official state newspaper) on May 25, 2023, and in the *Southern Illinoisan* on May 25, June 1 and 9, 2023. A copy of the Conservation Plan was deposited at the Sallie Logan Public Library in Murphysboro, where it was available for public review. The deadline for public comment was July 10, 2023. No comments were received from the public.

Authorization

It is the determination of the Department that the measures to be implemented by Ameren will adequately minimize and mitigate the anticipated taking of Timber Rattlesnake activities associated with the work to rebuild the TP1301 138 kV Transmission Line in Jackson 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 Ameren to the Department are incorporated into this agreement by reference and are made a part thereof. In the event there is conflict between the conservation plan and this authorization, this authorization shall control.

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 **ten (10) 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 Ameren has failed to comply with any of these terms and conditions or has been responsible for the taking of Timber Rattlesnake beyond that which is incidental to activities associated with the work to rebuild the TP1301 138 kV Transmission Line in Jackson County, Illinois.

2. The effective period of this authorization may be altered by mutual written agreement between Ameren 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.

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 Timber Rattlesnake; 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.**
5. The Department reserves the right of entry by its staff or representatives to inspect potential habitat and species management practices.
6. No personnel from Ameren or their contractors are permitted to handle any suspected or confirmed Timber Rattlesnake, or any other protected species found during project activities.
7. Biological consultants employed by Ameren 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. Ameren shall notify the Department's Endangered Species Program by email correspondence of construction commencement and 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. Ameren shall conduct, or cause to be conducted, the following pre-construction, construction, or post-construction efforts:
 - a. Tree clearing within Potential Timber Rattlesnake habitat shall occur between November 16 and March 15, this includes those over 5 inches diameter and are potential bat habitat.
 - b. Travel on all access routes is limited to 15 miles per hour (mph) or less. Drives shall be aware that snakes may be basking or crossing the road.
 - c. All travel must occur on cleared access roads.
 - d. A monitoring protocol has been developed that includes contact with a local DNR biologist trained in herpetology in the event any suspected or confirmed Timber Rattlesnake is encountered. Work shall be halted within 100 feet of the snake until further evaluation and coordination.
 - e. Temporary exclusionary fencing shall be buried at least six inches in the ground, staked, and maintained in an upright position throughout the duration of the construction activities.
 - f. Cabins and engine compartments of construction equipment staged on site shall be inspected prior to start of the workday.
 - g. All reptile exclusion fence and construction matting (if used) shall 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 through October).
 - h. All disturbed areas shall be reseeded to preconstruction conditions using an approved seed mix (either private landowner or FS, depending on each area).
 - i. Ongoing maintenance tree work and mowing shall occur between November 16 and March 15 in areas adjacent to Timber Rattlesnake habitat.

11. Ameren shall conduct, or cause to be conducted, post-construction surveys for Timber Rattlesnake during the species' active period and in the vicinity project area following construction completion.
 - a. Searches shall occur at Years 2 and 7 after construction.
 - b. Unless landowner permission is granted, monitoring shall only occur within the permanent right of way.
 - c. The primary search method shall be visual encounter surveys along the ROW.

A report including, but not limited to, the survey methodology utilized, area covered and time duration, a description and map of each habitat surveyed, the number of individuals located, the estimated life stage of each individual encountered (juvenile/adult) if possible, and a map of the species locations shall be provided to the Department by December 31 of the year that surveys are completed.

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

- a. Ameren shall submit mitigation to the Illinois Department of Natural Resources - Illinois Wildlife Preservation Fund in the amount of **\$61,200** **within 90 days of execution of this agreement**. The mitigation will be earmarked to bring conservation benefit to the Timber Rattlesnake.
- b. 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:

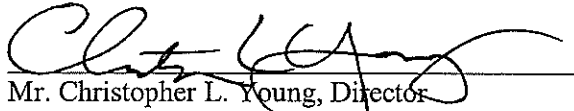
Illinois Department of Natural Resources
Office of Resource Conservation
Endangered Species Program – Incidental Take Authorization Coordinator
One Natural Resource Way
Springfield, IL 62702-1271

(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 Ameren 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 Ameren 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:


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

Oct 2, 2023
Date

For Ameren Illinois Company:


Ms. Suzanne Pohlman
Project Manager

9/29/2023
Date

