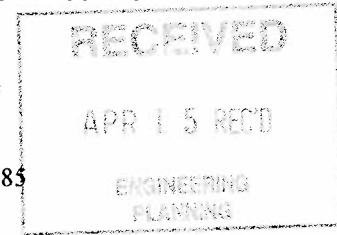




United States Department of the Interior

FISH AND WILDLIFE SERVICE
Chicago Ecological Services Field Office
1250 South Grove Avenue, Suite 103
Barrington, Illinois 60010
Phone: (847) 381-2253 Fax: (847) 381-2285



IN REPLY REFER TO:
FWS/AES-CIFO

April 10, 2008

Eric Harm
Interim Engineer of Design & Environment
Illinois Department of Transportation
2300 South Dirksen Parkway - Room 330
Springfield, Illinois 62764

Angela LaPorte
Environmental Planner
Illinois State Toll Highway Authority
2700 Ogden Avenue
Downers Grove, Illinois 60515-1703

Dear Mr. Harm and Ms. LaPorte:

This responds to your letter dated March 5, 2008 describing an extensive 2 year effort to capture Indiana bats (*Myotis sodalis*) in northeastern Illinois and requesting “clearance” from section 7 responsibilities with respect to that species for all transportation projects for a period of 5 years. The study was funded by the Illinois State Toll Highway Authority (ISTHA) and the Illinois Department of Transportation (IDOT) in an effort to provide data on the potential presence of the Indiana bat.

We applaud IDOT and ISTHA for agreeing to conduct the 2 year “Blue Ribbon” study to determine if the Indiana bat is present in our coverage area. As you know, a lack of surveys and data documenting the presence or absence of the species in our area, in combination with the close proximity of a known maternity colony and existing hibernacula, resulted in our concern about possible adverse impacts to the species from various projects.

We concur that the study has provided evidence that the Indiana bat is not likely present in northeastern Illinois. We recommend that you use this study to support the conclusion that specific transportation projects are not likely to adversely affect the Indiana bat. We would then concur with these individual conclusions. We agree to continue with this procedure for a period of 5 years, through the summer of 2012.

As noted in your letter the only exception would be in areas that we deem to be “exceptional sites.” Furthermore if new information becomes available indicating that the Indiana bat may be present in northeastern Illinois, then as a group we would reevaluate survey needs.

Again, we commend both agencies in their cooperation in this significant endeavor. Information obtained in the 2 year study is paramount for our knowledge of the species in our area. We look forward to working with both agencies on this issue and future endeavors involving the Service's trust resources.

This letter provides comment under the authority of, and in accordance with, the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*) and the Endangered Species Act of 1973, as amended (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

If you have any questions, please contact Mr. Shawn Cirton at 847/381-2253, ext. 19.

Sincerely,

A handwritten signature in black ink that reads "John D. Rogner". The signature is written in a cursive style with a large initial "J" and "R".

John D. Rogner
Field Supervisor

cc: IDOT, Brooks, Dees
ISTHA, Zucchero
IDNR, Hamer, Kath
COE, Isoe, Abrant, Chernich
RIFO, Nelson, Millar
BIFO, Pruitt, Pruitt, King



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IN REPLY REFER TO:
FWS/AES-CIFO

October 23, 2012

John Fortmann, P.E.
Acting Deputy Director of Highways
Illinois Department of Transportation
201 W. Center Court
Schaumburg, Illinois 60196-1096

Bryan Wagner
Environmental Planner
Illinois State Toll Highway Authority
2700 Ogden Avenue
Downers Grove, Illinois 60515-1703

Dear Mr. Fortmann and Mr. Wagner:

This letter serves as a confirmation of agreement between our staffs at the August 14, 2012, meeting; that existing data continue to indicate that the Indiana bat (*Myotis sodalis*) is not likely to be present in Northeastern Illinois, or if present occurs only in very low numbers.

Our previous letter of April 10, 2008, also concluded that the Indiana bat was not likely present in Northeastern Illinois based on the results of an extensive two year effort to capture Indiana bats in Northeastern Illinois. The two year study was funded by the Illinois State Toll Highway Authority (ISTHA) and the Illinois Department of Transportation (IDOT) in an effort to provide data on the potential presence of the Indiana bat.

The two year "Blue Ribbon" study was conducted due to a lack of surveys and data documenting the presence or absence of the species in our area, in combination with the close proximity of a known maternity colony and existing hibernacula. Based on the study results, we agreed that the study provided evidence that the Indiana bat is not likely present in Northeastern Illinois, or if present occurs in very low numbers. We recommended that both IDOT and ISTHA use the study to support the conclusion that specific transportation projects were not likely to adversely affect the Indiana bat. The only exceptions for this determination were in areas that we deemed to be "exceptional sites" (e.g., large wooded areas or large riparian corridors that possessed suitable habitat for the species or had a high ecological value).

In the five years since our original letter there have not been any verified records of Indiana bats in Northeastern Illinois. Therefore, we continue to support our prior recommendation until new information becomes available indicating that the Indiana bat may be present in Northeastern Illinois. Additionally, during recent meetings with IDOT and ISTHA, we made your staff aware of the possibility that new bat species may be added to the list of threatened and endangered species due to cumulative impacts from white-nose syndrome, wind turbines,

and other threats. The U.S. Fish and Wildlife Service was petitioned to review the conservation status of the northern long-eared bat (*Myotis septentrionalis*) and the eastern small-footed bat (*Myotis leibii*) and to make a determination of whether listing these species as threatened or endangered is warranted under the Endangered Species Act (ESA). The northern long-eared bat is known to occur in Northeastern Illinois based on the results of the "Blue Ribbon" study and other bat studies in our area. A 90 day finding on the petition to list the northern long-eared bat and the eastern small-footed bat as endangered or threatened under the ESA was recently published in the Federal Register. We found that the petition presented substantial scientific or commercial information indicating that listing of the two species may be warranted, and we initiated a review of the status of these species. Based on the status review, we will issue a 12 month finding on the petition, which will address whether the petitioned action is warranted, as provided in the ESA. Our office will keep you informed of the review process and coordinate appropriately based on the results.

This letter provides comment under the authority of, and in accordance with, the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*) and the Endangered Species Act of 1973, as amended (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

If you have any questions, please contact Mr. Shawn Cirton at 847/381-2253, ext. 19.

Sincerely,



Louise Clemency
Field Supervisor

cc: IDOT, Harmet, Brooks
ISTHA, Zucchero
IDNR, Hamer, Kath
COE, Beal, Chernich, Wozniak
RIFO, Nelson, Lundh
BIFO, Pruitt, Pruitt, King



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IN REPLY REFER TO:
FWS/AES-CIFO/2011-CPA-0091

December 13, 2013

Matt Fuller
Environmental Programs Engineer
Federal Highway Administration
3250 Executive Park Dr.
Springfield, IL 62703

Dear Mr. Fuller:

This letter responds to the Federal Highway Administration's (FHWA) December 6, 2013, letter transmitting a revised Biological Assessment (BA) and requesting initiation of formal consultation for the Illiana Corridor project. We had previously provided comments on an earlier draft BA dated October 2013, to ensure that the BA: 1) fully disclosed impacts to species listed in the BA, 2) fully described conservation measures for the impacted species, and 3) provided appropriate effects determinations for species listed in the BA. We have conducted a preliminary review of the revised BA. Although a table submitted with the revised BA demonstrates a disposition of comments indicating that the majority of the changes we requested were made, our review finds that the vast majority of recommendations that we provided were not in fact addressed or incorporated into the document. We provide the following comments to ensure that the BA fully addresses our comments and provides all of the information required by the regulations, so that formal consultation can be initiated. We recommend that a draft copy of the newly revised BA, which highlights all of the suggested changes, be provided for review prior to FHWA's submittal of the final BA. We look forward to discussing the matter further during our meeting scheduled for December 17, 2013.

Eastern massasauga (*Sistrurus catenatus*)

Our request for a discussion of the indirect and cumulative impacts from development on the species was not incorporated into the BA. The revised BA asserts that the planned intermodal facility would be approximately 1000 acres in size. We provided information that suitable habitat for the eastern massasauga is within the vicinity of the proposed facility and within the Plum Creek drainage. The BA asserts that since the last known population of the eastern massasauga was within a forest preserve that cumulative impacts are unlikely; although we provided information asserting that massasauga habitat is within the vicinity of the intermodal

facility and that habitat has never been surveyed. Based on the information we disagree with the DOTs assessment that there would be no cumulative impacts to the massasauga.

Sheepnose mussel (*Plethobasus cyphus*)

The BA should explain why the area of impact for the crossing of the Kankakee River (approximately 4 acres) found in the previous draft was eliminated. The revised version currently shows that the area of temporary impact related to the causeway is approximately 2 acres of river bottom.

Although the BA does provide a figure (Fig. 2) showing an expanded mussel action area, which we assume to include the impact acreage amounts for direct and indirect impacts, there is no acreage amount on the figure or reference for the acreage amount in Section 4.3. The second paragraph of Section 4.3.1 discusses siltation and sedimentation impacts for several hundred feet downstream of the bridge work. The BA should fully describe the total impact acreage for the mussel action area and how the DOTs calculated these amounts.

The Driscoll model should be added to the appendices since it was used to help demonstrate that there would be no water quality impacts from road runoff. Preliminary review by our staff revealed concerns that we have in using the Driscoll model, as it relates to fully disclosing water quality impacts to the sheepnose mussel. We propose to discuss our concerns regarding the model with you at our December 17, 2013, meeting.

As noted in our December 3, 2013, letter, "The DOTs should provide specific details for the types of BMPs planned and their locations, for each stressor, to support the statement that the indirect impacts from pollutants would be offset by BMPs. Plans for BMP locations and construction should be described in the BA so that the efficacy of the BMPs in offsetting pollutant impacts can be disclosed and assessed. The DOTs should emphasize in the BA that BMPs are being implemented to address potential impacts to the Kankakee River and its tributaries within the project area... The BA should explain why dewatering would be needed to build bridges or place precast concrete culverts for the project and how this would impact water quality, especially within the Kankakee River."

Some sections that were in the original BA were omitted in the revised BA and should be re-inserted as they relate to the information we requested above. For example, information about the BMP swales/basins and infiltration basins was removed (Pgs. 4-12 & 4-13 of the draft BA). We previously suggested that "specific details for the types of BMPs planned" be provided.

Reference is made to the pollutants and how federal, state, and local regulations would protect streams from water quality and water quantity impacts. Again, the BA should provide specifics as to how the proposed BMPs would protect streams from water quality and water quantity impacts.

Reference is made to the Sustainable Opportunity Areas technical memorandum and the BA mentions the variety of BMPs and Opportunity Areas where BMPs could be implemented. Please see our comments above about our previously requested details for BMP types,

locations, etc. Additionally the Sustainable Opportunity Areas technical memorandum should be updated to provide the requested information and should address our request for capturing the 1 inch rain event.

Eastern prairie fringed orchid (*Platanthera leucophaea*)

The BA does not commit to implementing directional lighting near natural habitats along the project corridor, or to including our office and the Forest Service in those investigations. As previously requested, the BA should commit to implementing directional lighting near natural habitats along the project corridor, and to including our office and the Forest Service in those investigations.

Indiana bat (*Myotis sodalis*)

As previously requested, the first sentence should be changed to acknowledge that Indiana bats have been documented approximately 10 miles south of the B3 Corridor in Sumava Resorts, IN (U.S Army Corps of Engineers – Chicago District 2005).

On page 4-16 of the BA, October 15 is listed as the start date for tree clearing. There are numerous instances throughout the BA with October 15 being listed as the start date for tree clearing. These instances should be changed throughout the document to a start date of October 1.

Rattlesnake-master borer moth (*Papaipema eryngii*)

As noted in our December 3, 2013, letter, the rattlesnake-master borer moth is located at Prairie Sites 3 and 17 and as the BA asserts, direct impacts to the species would occur as a result of a proposed interchange option at IL 50. Since we have not yet discussed the interchange design in the area of Prairie Sites 3 and 17, nor possible alternatives to avoid and minimize impacts to these prairie remnants, the BA does not adequately disclose opportunities to avoid and minimize impacts to this species. We still strongly recommend that other interchange options be considered that would not impact the rattlesnake-master borer moth. We continue to recommend that a meeting should be held in the near future to discuss these issues with pertinent members of the NEPA/404 Merger group (i.e., pertinent state and federal natural resource agency members of the group). We recommend that this meeting be held before the BA is finalized.

Northern long-eared bat (*Myotis septentrionalis*)

The December 6, 2013, cover letter recognized that “the project will likely adversely affect the sheepnose mussel, the Eryngium stem borer, and habitat for the northern long-eared bat, and that formal consultation is required.” There is no critical habitat designated for the northern long-eared bat, therefore an effects determination cannot be made on the bat’s habitat. An effects determination needs to be made for the bat.

On pages 4-19 and 4-20 of the BA, October 15 is listed as the start date for tree clearing. This date is more restrictive than required, and should be changed to October 1 throughout the document.

The DOTs should describe how they estimated the Impacts to Forests and Fencerows for the Alternatives table (Table 4-3), which was provided in response to our request that the BA quantify forest acreage losses. The acreage amounts do not correspond to the acreage amounts found in the Illinois Natural History Survey (INHS) or Cardno JFNew references. Cardno JFNew reports 227 acres of non-wetland forest, 93 acres of fencerow, and 189 acres of wetland, some consisting of forested wetland. INHS reports 533 acres of non-wetland/upland forest, and 93.5 acres of forested wetland/shrub habitat (for a total of 626.8 acres of forested habitat). The DOTs should describe how the acreage totals in Table 4-3 were determined since the acreage figures are much lower than INHS and Cardno JFNew figures and to our knowledge, field based habitat assessments were not conducted.

Our December 3, 2013, letter indicated that direct (collisions) and indirect (behavioral avoidance and lighting impacts) impacts to the northern long-eared bat from the future tollway operation need to be disclosed and evaluated in the BA. The BA does not yet address these impacts.

Conservation measures details that we requested in our December 3, 2013, letter were not incorporated into the revised BA. Those additional details need to be provided as previously requested.

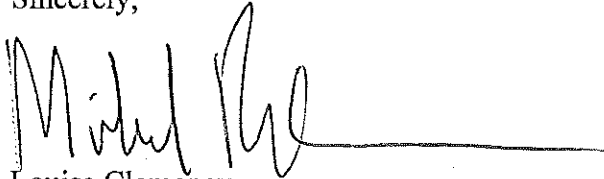
In addition to the above species specific recommended changes, the majority of the recommended changes we provided on pages 5 through 7 of our December 3, 2013, letter were not incorporated into the revised BA. We again recommend that those changes be incorporated into the BA to ensure that all relevant information is fully disclosed. Due to some changes in the format of the revised BA, some recommended changes provided in our December 3, 2013, letter may not be found on the previously identified pages. FHWA should ensure that these changes are made in the appropriate sections of the revised BA.

Finally, the effects determinations in the revised BA do not follow the full terminology we provided in our December 3, 2013, letter (e.g., the determination is "may effect, not likely to adversely effect" rather than merely "not likely to adversely effect"). These changes should be made throughout the revised BA.

This letter provides comment under the authority of, and in accordance with, the provisions of the National Environmental Policy Act of 1969 (83 Stat. 852, as amended P.L. 91-190, 42 U.S.C. 4321 *et seq.*), the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*) and the Endangered Species Act of 1973, as amended (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

If you have any questions, please contact Mr. Shawn Cirton at 847/381-2253, ext. 19., or for Indiana-specific comments, Ms. Elizabeth McCloskey, at 219/983-9753.

Sincerely,

ACTM

Louise Clemency
Field Supervisor

CC: USFWS, Elizabeth McCloskey
USEPA, Norm West, Kathleen Kowal, Liz Pelloso
USACE, Soren Hall, Paul Leffler
FHWA, Michelle Allen
IDOT, Steve Schilke
INDOT, Jim Earl
IDNR, Steve Hamer
INDNR, Matt Buffington