



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Chicago Ecological Services Field Office
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IN REPLY REFER TO:
FWS/AES-CIFO

September 30, 2003

Ms. Logan Lee
U.S. Forest Service
Midewin National Tallgrass Prairie
30239 S. State Route 53
Wilmington, Illinois 60481

Colonel Gary E. Johnston
U.S. Army Corps of Engineers
Chicago District
111 N. Canal Street
Chicago, Illinois 60606-7206

Mr. Art Holz
Commanders Representative
Joliet Army Ammunition Plant
29401 S. Route 53
Wilmington, Illinois 60481-8879

Mr. Thomas Skinner
Regional Administrator
U.S. Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, Illinois 60604

Dear Federal Official:

This responds to a request dated August 29, 2003, by the Illinois Environmental Protection Agency for consultation pursuant to section 7 of the Endangered Species Act of 1973, as amended, on a proposed issuance of air quality and acid rain permits for a coal fire power plant known as Indeck. This letter is also being addressed to officials representing the U.S. Forest Service, U.S. Army, U.S. Army Corps of Engineers and U.S. Environmental Protection Agency because these Federal agencies will likely have some involvement with this project and therefore have section 7 responsibilities. Section 7 of the Endangered Species Act requires Federal agencies to consult with the U.S. Fish and Wildlife Service to ensure that their actions do not jeopardize the continued existence of a federally listed species. At issue in this case are the potential effects the proposed project would have on two federally listed plants, the eastern prairie fringed orchid (*Platanthera leucophaea*) and leafy prairie clover (*Dalea foliosa*). In the interests of streamlining environmental review and avoiding needless delays, we are writing this letter in the hopes that our agencies can begin consulting jointly, rather than individually, on this proposed project.

The U.S. Army may be involved with this project because of a requirement to transfer land currently in Federal ownership. The U.S. Forest Service will be involved with this project if Indeck requests access across land currently owned by the Forest Service at Midewin National Tallgrass Prairie. The U.S. Army Corps of Engineers will be involved if Indeck requires its own

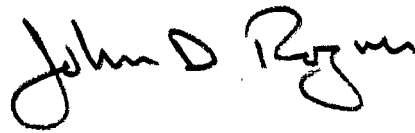
permit, or modification of an existing permit, under section 404 of the Clean Water Act to fill jurisdictional wetlands. The U.S. Environmental Protection Agency may be involved due to their oversight of the programs delegated to the Illinois Environmental Protection Agency.

Section 7 of the Act prohibits Federal agencies from making irreversible or irretrievable commitments of resources prior to completion of the consultation process. Therefore, to avoid a possible violation of section 7 of the Act, we recommend that the Federal agencies not undertake or authorize any actions related to this project until this consultation is completed. We recommend that the U.S. Environmental Protection Agency ensure that the Illinois Environmental Protection Agency does not issue permits until after this consultation is completed.

During our analysis we will examine direct and indirect effects of the proposed action. In this case direct effects would involve the actual construction of the power plant and coal storage area. Our analysis would also examine indirect effects, which include impacts linked to the construction or operation of the proposed plant. Indirect effects would include the effects of increased pollutants on sensitive habitats supporting listed species, the effects altered hydrology to areas supporting listed species, the effects of runoff from the project site during construction, the effects of runoff from the project site during plant operation, and the potential effects of complicating the restoration of areas that could support listed species in the future.

We recommend that a group of representatives from the Department of the Army, U.S. Army Corps of Engineers, U.S. Forest Service, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, and Illinois Environmental Protection Agency meet soon to discuss consultation requirements and procedures. Our contact person for this issue is Karla Kramer; she can be reached at (847) 381-2253 ext. 230. Please provide an appropriate point of contact for your agency to Ms. Kramer and we will coordinate a meeting date.

Sincerely,

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

John D. Rogner
Field Supervisor

cc: IDNR, Steve Davis
COE, Mitch Isoe
EPA, Linda Holst/David Kolaz/Pam Blakley/Cheryl Newton