



**State of Wisconsin / DEPARTMENT OF NATURAL RESOURCES**

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September 19, 2016

Seth Hudson  
Cedar Corporation  
604 Wilson Avenue  
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SUBJECT: Endangered Resources Review (ERR Log # 16-621)

Proposed Black River Falls Industrial Expansion Project, Jackson County, WI (T21N R03W S18, T21N R04W S13)

Dear Seth Hudson,

The Bureau of Natural Heritage Conservation has reviewed the proposed project described in the Endangered Resources (ER) Review Request received September 19, 2016. The complete ER Review for this proposed project is attached and follow-up actions are summarized below:

Required Actions: 0 species

Recommended Actions: 3 species

No Follow-Up Actions: 7 species

Additional Recommendations Specified: Yes

This ER Review may contain Natural Heritage Inventory data (<http://dnr.wi.gov/topic/NHI>), including specific locations of endangered resources, which are considered sensitive and are not subject to Wisconsin's Open Records Law. As a result, information contained in this ER Review may be shared only with individuals or agencies that require this information in order to carry out specific roles in the permitting, planning and implementation of the proposed project. **Specific locations of endangered resources may not be released or reproduced in any publicly disseminated documents.**

The attached ER Review is for informational purposes and only addresses endangered resources issues. **This ER Review does not constitute DNR authorization of the proposed project and does not exempt the project from securing necessary permits and approvals from the DNR and/or other permitting authorities.**

Please contact me at 608-267-0862 or via email at [melissa.tumbleson@wi.gov](mailto:melissa.tumbleson@wi.gov) if you have any questions about this ER Review.

Sincerely,

*Melissa Tumbleson*

Endangered Resources Review Program

cc:

**Endangered Resources Review for the Proposed Black River Falls Industrial Expansion Project, Jackson County  
(ER Log # 16-621)**

**Section A. Location and brief description of the proposed project**

Based on information provided by in the ER Review Request form and attached materials, the proposed project consists of the following:

<b>Location</b>	Jackson County - T21N R03W S18, T21N R04W S13
<b>Project Description</b>	Construction of an internal road network, installation of utilities, development of the land for industrial use.
<b>Project Timing</b>	To be determines
<b>Current Habitat</b>	Current site habitat includes grassy and forested areas.
<b>Impacts to Wetlands or Waterbodies</b>	No impacts to wetlands or waterbodies are anticipated.
<b>Property Type</b>	Public
<b>Federal Nexus</b>	No

*It is best to request ER Reviews early in the project planning process. However, some important project details may not be known at that time. Details related to project location, design, and timing of disturbance are important for determining both the endangered resources that may be impacted by the project and any necessary follow-up actions. Please contact the ER Review Program whenever project plans change or new details become available to confirm if results of this ER Review are still valid.*

**Section B. Endangered resources recorded from within the project area and surrounding area**

	<b>Group</b>	<b>State Status</b>	<b>Federal Status</b>
Karner Blue ( <i>Lycaeides melissa samuelis</i> )	Butterfly	SC/FL	LE
Pine Barrens ( <i>Pine barrens</i> )	Community	NA	
Redfin Shiner ( <i>Lythrurus umbratilis</i> )	Fish~	THR	
River Redhorse ( <i>Moxostoma carinatum</i> )	Fish~	THR	
Gilt Darter ( <i>Percina evides</i> )	Fish~	THR	
Buckhorn ( <i>Tritogonia verrucosa</i> )	Mussel~	THR	
Karner Blue Federal High Potential Range	Other	NA	HPR
North American Racer ( <i>Coluber constrictor</i> )	Snake	SC/P	
Wood Turtle ( <i>Glyptemys insculpta</i> )	Turtle~	THR	SOC
Blanding's Turtle ( <i>Emydoidea blandingii</i> )	Turtle~	SC/P	SOC

*For additional information on the rare species, high-quality natural communities, and other endangered resources listed above, please visit our Biodiversity (<http://dnr.wi.gov/topic/EndangeredResources/biodiversity.html>) page. For further definitions of state and federal statuses (END=Endangered, THR=Threatened, SC=Special Concern), please refer to the Natural Heritage Inventory (NHI) Working List (<http://dnr.wi.gov/topic/nhi/wlist.html>).*

**Section C. Follow-up actions**

**Actions that need to be taken to comply with state and/or federal endangered species laws:** None

**Actions recommended to help conserve Wisconsin's Endangered Resources:**

**• Pine Barrens - Community**

**State Status: NA**

<b>Impact Type</b>	Impact possible
<b>Recommended Measures</b>	Exclusion Fencing,Other
<b>Description of Recommended Measures</b>	The Pine Barrens natural community occurs within the project site, as stated in the Level 1 lupine survey. Natural communities may contain rare or declining species and their protection should be incorporated into the project design as much as possible. We recommend minimizing impacts to and/or incorporating buffers along the edges of the Pine Barrens natural community.

**• North American Racer (*Coluber constrictor*) - Snake**

**State Status: SC/P**

<b>Impact Type</b>	Impact possible
<b>Recommended Measures</b>	Time of year restriction,Exclusion Fencing
<b>Description of Recommended Measures</b>	<p>As a species of Special Concern and a Protected Wild Animal, the North American Racer is legally protected from intentional killing, however, take that occurs as a result of normal project activities is not protected. If you'd like to completely avoid impacts to the snake, one of the two following avoidance measures can be implemented.</p> <p>Perform work between October 16 – April 1 to avoid the active season of the North American Racer.</p> <p>OR</p> <p>Install exclusion fencing prior to April 1 to allow for construction to take place from April 1 – October 15.</p> <p>North American Racers (<i>Coluber constrictor</i>) are a species of Special Concern and a Protected Wild Animal. Racers prefer moderate to dry sand prairies and bluff prairies. They are well adapted to open, sunny or savanna-like conditions. This species overwinters individually or communally with other snakes. Fractured limestone is often used to avoid freezing or desiccation during winter. The racer has declined in recent decades due to natural succession resulting from fire suppression and a lack of management to maintain open canopy conditions. Racers are active from April through early October. They breed in spring or fall and lay their eggs from mid-June to early July below the surface in sandy soils. Eggs hatch in 55-65 days, usually in August or early September.</p>

**• Blanding's Turtle (*Emydoidea blandingii*) - Turtle~**

**State Status: SC/PFederal Status: SOC**

<b>Impact Type</b>	Impact possible
<b>Recommended Measures</b>	Time of year restriction,Exclusion Fencing
<b>Description of Recommended Measures</b>	The Blanding's Turtle has been recorded within the vicinity of the project area. Although the site does not contain suitable overwintering or wetland habitat, it may contain suitable upland nesting habitat. The following voluntary recommendations can be implemented to avoid impacting the Blanding's turtle. Avoid work in suitable upland nesting habitat (sandy and/or well-drained soils) within 275 m (900 ft) of a wetland or water body during the Blanding's turtle's nesting period (May 20 – October 15). The installation and maintenance of exclusion fencing using the WDNR Amphibian and Reptile Exclusion Fencing Protocol is an avoidance option that can be used during this period as long as the exclusion fencing is installed between October 16 and May 19. Work can then be conducted within the fenced area at any time of year as long as the fencing is maintained.

*Remember that although these actions are not required by state or federal endangered species laws, they may be required by*

other laws, permits, granting programs, or policies of this or another agency. Examples include the federal Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, State Natural Areas law, DNR Chapter 30 Wetland and Waterway permits, DNR Stormwater permits, and Forest Certification.

**Additional Recommendations**

The Sand Violet, an endangered plant, was observed in a road ditch adjacent to the southeast corner of the site, as indicated in the Level 1 lupine survey document. Prior to construction activities, this area shall be fenced off to avoid take of the sand violet. If take cannot be avoided, an incidental take permit/authorization shall be applied for.

**No actions are required or recommended for the following endangered resources:**

• **Karner Blue (*Lycaeides melissa samuelis*) - Butterfly**

**State Status:** SC/FL **Federal Status:** LE

<b>Impact Type</b>	No impact or no/low broad ITP/A
<b>Reason</b>	Other - Justification Required
<b>Justification</b>	A Level I lupine survey was conducted on May 25 through May 28, 2016 and no lupine plants were observed at the site. These survey results are valid until May 28, 2021 and no further actions are necessary.

• **Redfin Shiner (*Lythrurus umbratilis*) - Fish~**

**State Status:** THR

<b>Impact Type</b>	No impact or no/low broad ITP/A
<b>Reason</b>	Other - Justification Required
<b>Justification</b>	This fish species has been recorded in the Black River. Based on the distance from the project site to this waterbody, no impacts are anticipated.

• **River Redhorse (*Moxostoma carinatum*) - Fish~**

**State Status:** THR

<b>Impact Type</b>	No impact or no/low broad ITP/A
<b>Reason</b>	Other - Justification Required
<b>Justification</b>	This fish species has been recorded in the Black River. Based on the distance from the project site to this waterbody, no impacts are anticipated.

• **Gilt Darter (*Percina evides*) - Fish~**

**State Status:** THR

<b>Impact Type</b>	No impact or no/low broad ITP/A
<b>Reason</b>	Other - Justification Required
<b>Justification</b>	This fish species has been recorded in the Black River. Based on the distance from the project site to this waterbody, no impacts are anticipated.

• **Buckhorn (*Tritogonia verrucosa*) - Mussel~**

**State Status:** THR

<b>Impact Type</b>	No impact or no/low broad ITP/A
<b>Reason</b>	Other - Justification Required

<b>Justification</b>	The Buckhorn mussel has been recorded in the Black River. Based on the distance from the project site to this waterbody, no impacts are anticipated.
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• **Karner Blue Federal High Potential Range - Other**

**State Status: NA Federal Status: HPR**

<b>Impact Type</b>	No impact or no/low broad ITP/A
<b>Reason</b>	Other - Justification Required
<b>Justification</b>	A Level I lupine survey was conducted on May 25 through May 28, 2016 and no lupine plants were observed at the site. These survey results are valid until May 28, 2021 and no further actions are necessary.

• **Wood Turtle (*Glyptemys insculpta*) - Turtle~**

**State Status: THR Federal Status: SOC**

<b>Impact Type</b>	No impact or no/low broad ITP/A
<b>Reason</b>	Lack of Suitable Habitat within Project Boundary
<b>Justification</b>	The wood turtle has been recorded within the vicinity of the project area, however, based on the distance from the project site to a suitable stream, no impacts are anticipated.

**Section D. Next Steps**

1. Evaluate whether the '**Location and brief description of the proposed project**' is still accurate. All recommendations in this ER Review are based on the information supplied in the ER Review Request. If the proposed project has changed, please contact the ER Review Program to determine if the information in this ER Review is still valid.
2. Determine whether the project can incorporate and implement the '**Follow-up actions**' identified above:
  - 'Actions that need to be taken to comply with state and/or federal endangered species laws' represent the Department's best available guidance for complying with state and federal endangered species laws based on the project information that you provided and the endangered resources information and data available to us. If the proposed project has not changed from the description that you provided us and you are able to implement all of the 'Actions that need to be taken to comply with state and/or federal endangered species laws', your project should comply with state and federal endangered species laws. Please remember that if a violation occurs, the person responsible for the taking is the liable party. Generally this is the landowner or project proponent. For questions or concerns about individual responsibilities related to Wisconsin's Endangered Species Law, please contact the ER Review Program.
  - If the project is unable to incorporate and implement one or more of the 'Actions that need to be taken to comply with state and/or federal endangered species laws' identified above, the project may potentially violate one or more of these laws. Please contact the ER Review Program immediately to assist in identifying potential options that may allow the project to proceed in compliance with state and federal endangered species laws.
  - 'Actions recommended to help conserve Wisconsin's Endangered Resources' may be required by another law, a policy of this or another Department, agency or program; or as part of another permitting, approval or granting process. Please make sure to carefully read all permits and approvals for the project to determine whether these or other measures may be required. Even if these actions are not required by another program or entity for the proposed project to proceed, the Department strongly encourages the implementation of these conservation measures on a voluntary basis to help prevent future listings and protect Wisconsin's biodiversity for future generations.
3. If federally-protected species or habitats are involved and the project involves federal funds, technical assistance or authorization (e.g., permit)

and there are likely to be any impacts (positive or negative) to them, consultation with USFWS will need to occur prior to the project being able to proceed. If no federal funding, assistance or authorization is involved with the project and there are likely to be adverse impacts to the species, contact the USFWS Twin Cities Ecological Services Field Office at 612-725-3548 (x2201) for further information and guidance.

## Section E. Standard Information to help you better understand this ER Review

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**Endangered Resources (ER) Reviews** are conducted according to the protocols in the guidance document *Conducting Proposed Endangered Resources Reviews: A Step-by-Step Guide for Wisconsin DNR Staff*.

**How endangered resources searches are conducted for the proposed project area:** An endangered resources search is performed as part of all ER Reviews. A search consists of querying the Wisconsin Natural Heritage Inventory (NHI) database for endangered resources records for the proposed project area. The project area evaluated consists of both the specific project site and a buffer area surrounding the site. A 1 mile buffer is considered for terrestrial and wetland species, and a 2 mile buffer for aquatic species. Endangered resources records from the buffer area are considered because most lands and waters in the state, especially private lands, have not been surveyed. Considering records from the entire project area (also sometimes referred to as the search area) provides the best picture of species and communities that may be present on your specific site if suitable habitat for those species or communities is present.

**Categories of endangered resources considered in ER Reviews and protections for each:** Endangered resources records from the NHI database fall into one of the following categories:

- Federally-protected species include those federally listed as Endangered or Threatened and Designated Critical Habitats. Federally-protected animals are protected on all lands; federally-protected plants are protected only on federal lands and in the course of projects that include federal funding (see Federal Endangered Species Act of 1973 as amended).
- Animals (vertebrate and invertebrate) listed as Endangered or Threatened in Wisconsin are protected by Wisconsin's Endangered Species Law on all lands and waters of the state (s. 29.604, Wis. Stats.).
- Plants listed as Endangered or Threatened in Wisconsin are protected by Wisconsin's Endangered Species Law on public lands and on land that the person does not own or lease, except in the course of forestry, agriculture, utility, or bulk sampling actions (s. 29.604, Wis. Stats.).
- Special Concern species, high-quality examples of natural communities (sometimes called High Conservation Value areas), and natural features (e.g., caves and animal aggregation sites) are also included in the NHI database. These endangered resources are not legally protected by state or federal endangered species laws. However, other laws, policies (e.g., related to Forest Certification), or granting/permitting processes may require or strongly encourage protection of these resources. The main purpose of the Special Concern classification is to focus attention on species about which some problem of abundance or distribution is suspected before they become endangered or threatened.
- State Natural Areas (SNAs) are also included in the NHI database. SNAs protect outstanding examples of Wisconsin's native landscape of natural communities, significant geological formations, and archeological sites. Endangered species are often found within SNAs. SNAs are protected by law from any use that is inconsistent with or injurious to their natural values (s. 23.28, Wis. Stats.).

**Please remember** the following:

1. This ER Review is provided as information to comply with state and federal endangered species laws. By following the protocols and methodologies described above, the best information currently available about endangered resources that may be present in the proposed project area has been provided. However, the NHI database is not all inclusive; systematic surveys of most public lands have not been conducted, and the majority of private lands have not been surveyed. As a result, NHI data for the project area may be incomplete. Occurrences of endangered resources are only in the NHI database if the site has been previously surveyed for that species or group during the appropriate season, and an observation was reported to and entered into the NHI database. As such, absence of a record in the NHI database for a specific area should not be used to infer that no endangered resources are present in that area. Similarly, the presence of one species does not imply that surveys have been conducted for other species. Evaluations of the possible presence of rare species on the project site should always be based on whether suitable habitat exists on site for that species.
2. This ER Review provides an assessment of endangered resources that may be impacted by the project and measures that can be taken to avoid negatively impacting those resources based on the information that has been provided to ER Review Program at this time. Incomplete information, changes in the project, or subsequent survey results may affect our assessment and indicate the need for additional or different measures to avoid impacts to endangered resources.
3. This ER Review does not exempt the project from actions that may be required by Department permits or approvals for the project.