

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

NATURAL LAND INSTITUTE,

Plaintiff,

v.

THE GREATER ROCKFORD AIRPORT AUTHORITY,

THE GREATER ROCKFORD AIRPORT AUTHORITY
BOARD OF COMMISSIONERS,

MICHAEL P. DUNN,
EXECUTIVE DIRECTOR OF THE GREATER
ROCKFORD AIRPORT AUTHORITY,

UNITED STATES DEPARTMENT OF
TRANSPORTATION,

FEDERAL AVIATION ADMINISTRATION,

PETE BUTTIGIEG, SECRETARY OF THE UNITED
STATES DEPARTMENT OF TRANSPORTATION,

STEVE DICKSON, ADMINISTRATOR OF FEDERAL
AVIATION ADMINISTRATION,

UNITED STATES DEPARTMENT OF INTERIOR,

UNITED STATES FISH AND WILDLIFE SERVICE,

DEB HAALAND, SECRETARY OF UNITED STATES
DEPARTMENT OF INTERIOR,

MARTHA WILLIAMS, ACTING DIRECTOR OF
UNITED STATES FISH AND WILDLIFE SERVICE,

Defendants.

Case No. _____

**PLAINTIFF'S COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

INTRODUCTION

1. This is an action seeking declaratory and injunctive relief prohibiting any and all activities that will adversely affect the environmental resources associated with Bell Bowl Prairie in Winnebago County, Illinois. Proposed and scheduled roadwork and expansion for a Midfield Cargo Development (the “Proposed Action”) on the publicly-owned Chicago Rockford International Airport (“RFD” or “Airport”)¹, which is operated by the Greater Rockford Airport Authority (“GRAA”), scheduled to begin on November 1, 2021, will *permanently destroy* Bell Bowl Prairie.

2. Illinois is known as the “Prairie State” because most of it was a natural grassland at the time of statehood. Since then, almost all of Illinois’ prairie has been plowed under except on land that was too steep, rocky, sandy, gravelly, or wet to cultivate. The steep, gravelly slope at Bell Bowl Prairie is what kept the prairie there from being farmed or otherwise destroyed until now.

3. Only one-hundredth of one percent - *0.01%* - of the original Illinois prairie remains in good condition. At most, it is estimated that only 18.4 acres of dry gravel prairie (such as Bell Bowl Prairie) is in good condition in the entire state. Native prairie such as Bell Bowl Prairie is so highly valued because it is vanishingly rare.

4. Bell Bowl Prairie has a number of rare and unusual plants. Two of the plants are so rare that they are listed by the State of Illinois as endangered: Prairie Dandelion and Large-Flowered Beardtongue.

¹ The Airport also proposes a Northwest Cargo Development. That development does not impact Bell Bowl Prairie.

5. Bell Bowl Prairie is also home to the endangered Rusty Patched Bumble Bee (the “Bee”). The Bee was sighted as recently as August of this year at Bell Bowl Prairie. Once common throughout the midwestern United States, the Bee has disappeared from the vast majority of its native range and now stands on the brink of extinction, owing to habitat loss and destruction.

6. In 2017, the U.S. Fish and Wildlife Service (“USFWS”) listed the Bee as an “endangered species” under the Endangered Species Act. *See* Endangered Species Status for Rusty Patched Bumble Bee, 82 Fed. Reg. 3186, 3205 (Jan. 11, 2017).

7. The Bee once occupied grasslands and tallgrass prairies of the Upper Midwest, but most grasslands and prairies have been lost, degraded, or fragmented by conversion to other uses. The Bee needs areas that provide nectar and pollen from flowers, nesting sites (underground and abandoned rodent cavities or clumps of grasses), and overwintering sites for hibernating queens (undisturbed soil). As pollinators, Rusty Patched Bumble Bees contribute to our food security and the healthy functioning of our ecosystems.

8. The GRAA’s planned roadwork and expansion of the Proposed Action into Bell Bowl Prairie will further jeopardize the existence of the Rusty Patched Bumble Bee and destroy its habitat.

9. This complaint is necessitated by the failure of all of the named Defendants to protect Bell Bowl Prairie and its endangered or threatened flora and fauna. Contrary to both the letter and spirit of applicable federal and state statutes, the Defendants have violated the detailed regulatory framework set out to protect such precious resources as Bell Bowl Prairie and its endangered flora and fauna, including the Bee. Defendants have failed to consider proper alternatives for meeting the purposes of the Proposed Action that would not destroy Bell Bowl Prairie.

10. Defendants have also ignored the methodology and regulatory framework that requires a supplemental environmental assessment given the recent discovery of the Bee on Bell Bowl Prairie and the need for further review of viable and obvious less-harmful alternatives to the destruction of Bell Bowl Prairie given the Bee's presence at the Prairie.

11. Bell Bowl Prairie will be permanently destroyed—starting November 1, 2021—unless Defendants are stopped from proceeding with construction until further environmental and other regulatory assessment is performed, and alternative plans considered.

PARTIES

The Plaintiff

12. Plaintiff Natural Land Institute (“NLI”) is a member-supported, not-for-profit organization dedicated to preserving land and natural diversity for future generations. Since 1958, NLI has protected, managed, and restored 18,000 acres throughout Illinois and southern Wisconsin. These include prairies, forests, wetlands, and river corridors. Serving as a regional land trust, NLI accepts donations of properties, buys lands, manages natural areas, and helps landowners establish legal agreements that permanently limit harmful use and development. The mission of NLI is to create an enduring legacy of natural land in northern Illinois for people, plants, and animals. The role of NLI includes both advocacy for land preservation and land use planning and direct action to preserve areas by acquisition, either on its own or in conjunction with other organizations and agencies, or by working with landowners to voluntarily encumber their land with a conservation easement to protect its conservation values in perpetuity. NLI is headquartered in Rockford, Illinois.

13. Since 1958, NLI and its members have been dedicated to preserving land and natural diversity for future generations throughout Illinois and southern Wisconsin, including

forests, wetlands, river corridors, and prairies. Its mission is “to create an enduring legacy of natural land in northern Illinois for people, plants, and animals.”

14. NLI brings this lawsuit on behalf of its management, its employees and its approximately 700 members who have helped manage and care for Bell Bowl Prairie for decades. Many of these members regularly observe, visit, study, or otherwise enjoy threatened and endangered species at Bell Bowl Prairie. Leaving the habitat of such species without habitat protection harms the interests of these members and the public in viewing listed species, including the federally-listed endangered Bee, now and in the future, and benefiting from their existence. *See* Ex. A (Declaration of John White), Ex. B (Declaration of Zachary Grycan), Ex. C (Declaration of Jennifer Kuroda).

15. NLI and its members derive aesthetic, recreational, professional, economic, and personal benefits from the Bee and its habitat as well as the various flora on Bell Bowl Prairie. *Id.* Defendants’ failure to protect Bell Bowl Prairie decreases the Bee’s chances of survival and recovery, thereby harming NLI members’ interests in enjoying and protecting the Bee. These injuries are caused by the Defendants’ violations of the National Environmental Policy Act (“NEPA”), the Administrative Procedure Act (“APA”), the Illinois Endangered Species Protection Act,² as well as the GRAA’s agreement with NLI for custody and management. The violations and breaches are redressable through the relief requested by NLI.

The Defendants

16. Defendant The Greater Rockford Airport Authority (“GRAA”) is a public, municipal corporation duly created, organized, and existing under the laws of Illinois, pursuant to 70 Ill. Comp. Stat. Ann. 5, *et seq.*, with administration offices at 60 Airport Drive, Rockford, Illinois

² NLI intends to amend its Complaint to address, among other possible claims, claims under the Endangered Species Act, 16 U.S.C. §§ 1531, *et seq.*

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