

Illinois Department of Natural Resources

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Rod R. Blagojevich, Governor

Joel Brunsvold, Director

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, Part 1080), authorization is hereby granted to the Illinois Department of Transportation (IDOT) for the incidental take of the Illinois chorus frog (*Pseudacris streckeri*). The Illinois Department of Natural Resources (Department) has determined that this taking is incidental to construction activities associated with the realignment and reconstruction of US Route 67 between Jacksonville and Macomb.

Procedural History

IDOT prepared a conservation plan as described by the Act (520 ILCS 10/5.5). That plan and IDOT's request for incidental take of Illinois chorus frogs were received by the Department on July 2, 2002. Public notice of IDOT's request for authorization of incidental take was published in the Edwardsville Intelligencer on May 8, 2002, and in the Cass County Star Gazette on May 8, 15, and 22, 2002. Public comments on IDOT's conservation plan were accepted by the Department until October 11, 2002. One comment was received from the public. That comment was forwarded to IDOT for their analysis. IDOT's analysis of the comment was received by the Department on October 18, 2002.

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 only be incidental to, the carrying out of an otherwise lawful activity:

The stated and apparent purpose of this proposed action is to construct a 4-lane, partial access controlled, divided expressway between Jacksonville in Morgan County and Macomb in McDonough County, Illinois. The proposed highway will be marked as US 67. The take that could result from this highway construction project is not the purpose of IDOT'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:

The conservation plan prepared by IDOT describes design features that will minimize the extent of disturbance of habitat for the Illinois chorus frog and reduce the number of frogs that may be taken as a result of construction activities. IDOT will utilize minimum safety standards for highway construction including reduced median width (7 meters versus the usual width of 15 meters) and minimal horizontal curvature within Illinois chorus frog habitat.

As mitigation for the permanent loss of Illinois chorus frog habitat, IDOT has agreed to purchase suitable Illinois chorus frog habitat that will not be affected by this highway construction project. IDOT and the Department will jointly identify the parcel(s) to be acquired. IDOT will also provide funds to partially support habitat restoration on the acquired property. The property acquired by IDOT will be transferred to the Department for permanent protection and management.

It is anticipated that all mitigation measures will be completed before construction activity begins in the Beardstown area.

3. The parties to the conservation plan will ensure that adequate funding for the conservation plan will be provided:

This highway construction project will be funded through federal and state highway programs. The overall cost estimates of the project include amounts needed for various environmental and mitigative needs, including the measures described in IDOT's 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 in Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois:

The US 67 construction project includes the construction of a new bridge over the Illinois River at Beardstown with necessary approaches and ramps as well as realignment of local roads and streets to be compatible with the new highway. Excavation and fill required for construction of bridge approaches and realignment of other roadways have the potential to result in the incidental take of Illinois chorus frogs by burying, crushing, or exposing frogs during those periods when they would normally remain buried in the soil.

Illinois chorus frogs are known to occur at scattered locations in the Illinois River valley. Areas with sandy soils and ephemeral wetlands provide the best combination of habitats needed by Illinois chorus frogs to complete their life cycle. The species also occurs in a few locations in southwest and extreme southern Illinois. The frogs lay eggs and live as tadpoles in wetlands that do not harbor fish or other predators. Upon metamorphosis,

young Illinois chorus frogs move away from their natal ponds and bury themselves in nearby sandy soils.

The US 67 project will disturb small areas of habitat suitable for Illinois chorus frogs along the Illinois River at Beardstown. No potential breeding areas will be disturbed. It is not possible to determine how many Illinois chorus frogs may be affected by construction work in a given small area, but the overall number of frogs taken is likely to be small because the frogs are not known to form dense aggregations during the non-breeding season. The number of frogs potentially affected will be minimized by the design measures described above.

IDOT has proposed to compensate for the potential loss of Illinois chorus frogs related to the construction of US 67 and associated modifications of other roadways by acquiring Illinois chorus frog habitat that is not currently protected and assisting in the enhancement of that habitat. IDOT will also transfer ownership of the acquired habitat to the Department to allow long-term management and protection. The goal of this mitigation approach is to assure the long-term existence of an area of Illinois chorus frog habitat that is larger than the area that will be adversely affected by this project. It is anticipated that the acquisition and restoration of habitat will be completed before any incidental take of Illinois chorus frogs occurs as a result of the US 67 construction project.

It is the opinion of the Department that the minimization and mitigation measures proposed by IDOT will assure that the US 67 construction project will not reduce the likelihood of the survival or recovery of the Illinois chorus frog in Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois.

5. Any measures required under Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5 - Section 1080.40(b)], will be performed:

Additional measures are listed below under "Authorization." This authorization is, by definition, subject to those terms and conditions and IDOT's signature on this authorization 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 IDOT's request for authorization of incidental take was published in the Edwardsville Intelligencer on May 8, 2002, and in the Cass County Star Gazette on May 8, 15, and 22, 2002. Public comments on IDOT's conservation plan were accepted by the Department until October 11, 2002. One comment was received from the public. The commentor encouraged changes in the planned alignment of US 67 that would avoid environmentally sensitive areas. That comment was forwarded to IDOT for their analysis. IDOT's analysis of the comment was received by the Department on October 18, 2002.

IDOT's analysis explained that all available measures such as reduction of the width of the construction corridor and using minimum design standards had already been included in the US 67 construction plans in an effort to minimize adverse environmental effects.

Authorization

It is the determination of the Department that the measures that will be implemented by IDOT will adequately minimize and mitigate the anticipated taking of Illinois chorus frogs. Further, it is our opinion that the take authorized herein will not diminish the likelihood of the survival of the Illinois chorus frog 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.

Pursuant to Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5 and Ill. Adm Code Part 1080.40(b)], this authorization is issued subject to the following additional terms and conditions:

1. This authorization is effective upon signature of the Department and shall remain in effect until the planned realignment and reconstruction of US 67 between Jacksonville and Macomb is complete, unless terminated pursuant to Section 5.5 of the Illinois Endangered Species Protection Act (520 ILCS 10/5.5 and Ill. Adm. Code Part 1080.80).
2. IDOT shall purchase a parcel or parcels of currently unprotected land known to provide habitat for the Illinois chorus frog and transfer ownership of that land to the Department for restoration, management and long-term protection. The acreage of land purchased by IDOT and the location of suitable parcels shall be subject to approval by the Department.
3. IDOT shall conduct or cause to be conducted, surveys of the parcel(s) acquired for mitigation to determine the numbers of Illinois chorus frogs using those sites as breeding and/or non-breeding habitat. Annual surveys shall be conducted for three years following acquisition. The results of each annual survey shall be reported to the Department. The population estimates obtained through these surveys will be used by the Department as a baseline to which the results of subsequent surveys can be compared to determine the effectiveness of habitat management efforts.
4. IDOT shall provide funds in the amount of \$20,000 to be used by the Department for restoration activities on the parcel(s) acquired by IDOT for mitigation purposes.
5. The effective period of this authorization may be altered by mutual agreement between IDOT and the Department.
6. This authorization is effective solely for the construction of US 67 between Jacksonville in Morgan County and Macomb in McDonough County, Illinois and may be

revoked pursuant to Section 5.5 of the Illinois Endangered Species Protection Act (520 ILCS 10/5.5 and Ill. Adm. Code Part 1080.80) if the Department finds that IDOT has failed to comply with any of these terms and conditions or has been responsible for the taking of Illinois chorus frogs within the construction corridor beyond that which is incidental to the construction of US 67.

7. The IDOT official identified below is authorized to execute this agreement. Execution by IDOT indicates acceptance of all terms and conditions as described in this document.

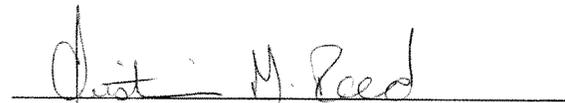
For the Illinois Department of
Natural Resources



Brian D. Anderson, Director
Office of Resource Conservation

December 1, 2003
Date Signed

For the Illinois Department of
Transportation


Signature

District 6 Engineer
Printed Name and Title

November 10, 2003
Date Signed

