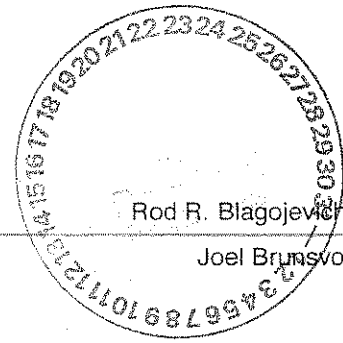


Illinois Department of Natural Resources

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<http://dnr.state.il.us>



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 (hereinafter referred to as IDOT) for the incidental take of the marsh rice rat (*Orozomys palustris*). The Illinois Department of Natural Resources (hereinafter referred to as the Department) has determined that this taking is incidental to activities associated with improvements to FAP 312 (Illinois Route 3) in Alexander and Union counties, Illinois.

Procedural History

A conservation plan, draft public notice, and IDOT's request for incidental take of the marsh rice rat were received by the Department on March 5, 2004. After minor changes, a revised conservation plan and public notice were received by the Department on April 8, 2004. Public notice of IDOT's request for authorization of incidental take was published in the Edwardsville Intelligencer on April 29, 2004, and in the (Anna) Gazette Democrat on April 29, May 6 and May 13, 2004. Public comments on Gateway's conservation plan were accepted by the Department until June 12, 2004. No comments were received from the public.

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 improve Illinois Route 3 in Alexander and Union counties by patching and resurfacing the pavement and adding new shoulders. The take that could result from this 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 measures that will be taken to minimize the potential adverse effects of their project on the marsh rice rat. IDOT has reduced the backslopes on roadside ditches from a 4:1 ratio to a 3:1 ratio and has adjusted the ditch grades to minimize the width of the construction corridor. The project involves improvement within the existing Illinois Route 3 right-of-way. This reduces the area to be directly affected relative to a project that would add traffic lanes or place the roadway on a new alignment.

Mitigation will be accomplished through the restoration of 15 acres of wetland habitat at a wetland compensation site. This restoration is being done to compensate for the loss of approximately 3.5 acres of wetlands at scattered locations along the Illinois Route 3 corridor.

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

IDOT estimates that the cost of restoration of 15 acres of wetlands will be \$525,000. Funds for the restoration are included in the overall Illinois Route 3 project budget.

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 Illinois Route 3 construction project includes improvement of approximately 10.6 miles of existing roadway. Improvements will include patching and resurfacing of the roadway and the placement of new shoulders throughout the project reach. Surveys funded by IDOT found marsh rice rats at four wetlands within the construction corridor. The total area of these four wetlands that will be affected by the improvement project is 0.69 acres. While it is likely that most marsh rice rats that may be present in these affected wetlands will move away from construction activity, it is possible that some individuals, particularly young still in the nest, could be incidentally taken during construction.

Marsh rice rats are listed as a threatened species in Illinois because of their limited range in the state and the continuing loss of their preferred wetland habitats. Rice rats have been collected from 12 counties in southern Illinois. Union and Alexander counties include at least 10 locations from which rice rats have been collected. Rice rats have been found in a variety of wet areas including natural wetlands, wet fields, drainage ditches and farm ponds.

The Illinois Route 3 project will directly affect approximately 3.5 acres of wetland habitat by converting that area to highway right-of-way. Approximately 0.69 acre of wetland will be directly disturbed in areas from which rice rats were collected during sampling conducted by IDOT for this project. Disturbance will be primarily through grading and filling. If rice rats are present in the areas to be filled, it is possible that a few individuals,

particularly young animals in the nest, could be taken as a result of construction activities. It is the opinion of the Department that the minimization and mitigation measures proposed by IDOT will assure that the Illinois Route 3 project will not reduce the likelihood of the survival or recovery of the marsh rice rat 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 April 29, 2004, and in the (Anna) Gazette Democrat on April 29, May 6 and May 13, 2004. Public comments on Gateway's conservation plan were accepted by the Department until June 12, 2004. No comments were received from the public.

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 marsh rice rats. Further, it is our opinion that the take authorized herein will not diminish the likelihood of the survival of the marsh rice rat 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 for a period of ten (10) years from the date of the Department signature, 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 minimize direct effects on wetlands suitable for use by marsh rice rats by reducing ditch backslopes and adjusting ditch grades while maintaining standards necessary for public safety.
3. IDOT shall mitigate the loss of 3.5 acres of wetland habitat along the Illinois Route 3 corridor by restoring approximately 15 acres of wetlands at a wetland mitigation site

within the range of the marsh rice rat in Illinois.

4. Upon completion of the Illinois Route 3 improvement project in Alexander and Union counties, IDOT shall conduct, or cause to be conducted, a re-survey of the project area to determine what effect the project has had on marsh rice rats. A report summarizing the results of this survey shall be provided to the Department within 90 days of completion of the survey.

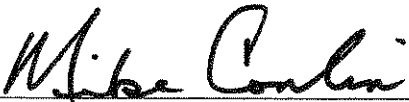
5. IDOT shall conduct, or cause to be conducted, surveys of the wetland mitigation site to determine to what extent the mitigation site is being used by marsh rice rats. Surveys shall be conducted at least once per year for a period of five years following completion of restoration of the 15-acre mitigation wetland. A report summarizing the results of each survey shall be provided to the Department within 90 days of completion of each survey.

6. The effective period of this authorization may be altered by mutual agreement between IDOT and the Department.

7. This authorization 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 marsh rice rats beyond that which is incidental to the improvement of Illinois Route 3 in Alexander and Union counties.

8. 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

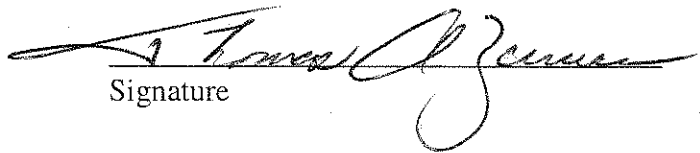


Mike Conlin, Director (Acting)
Office of Resource Conservation

10.22.04

Date Signed

For the Illinois Department of
Transportation



Signature

THOMAS A. ZERRUSEN
DISTRICT ENGINEER, D-9

Printed Name and Title

10/18/04

Date Signed