

Illinois Department of Natural Resources

One Natural Resources Way Springfield, Illinois 62702-1271
www.dnr.illinois.gov

Bruce Rauner, Governor

Wayne A. Rosenthal, 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 1080), authorization is hereby granted to the Mason County Highway Department (hereinafter referred to as MCHD) for the incidental take of the State-threatened ironcolor shiner (*Notropis chalybaeus*). The Illinois Department of Natural Resources (hereinafter referred to as Department) has determined that this taking is incidental to activities associated with the TR 234 (CR 3300E) bridge replacement over Main Ditch, approximately 5 miles southeast of Manito, within Mason County, Illinois.

Procedural History

The Department received a Conservation Plan prepared by MCHD on February 7, 2018, to the Department as a request for authorization for the incidental take of ironcolor shiner. The Department requested additional information on March 2, 2018, to make the conservation plan complete as prescribed by Ill. Adm. Code 1080.10. Additional information was received by the Department on March 16, 2018. A conservation plan was approved by the Department on March 23, 2018. The public notice period and public comments will be detailed under #6 of the Compliance section below.

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

The stated and apparent purpose of this proposed action is the replacement of TR 234 (CR 3300E) bridge over Main Ditch in Mason County. The existing three span bridge superstructure and substructure will be completely removed and replaced with a single span bridge (top of bank to top of bank) with new abutments and riprap to protect from scour. The bed material will be graded such that the finished surface of the riprap will conform to the existing channel slopes and transition to match the existing channel at the right-of-way line. Project activities will be performed as further described in the conservation plan. The proposed activities may result in direct burial or crushing of, or sedimentation disturbance to ironcolor shiner, and/or may result in indirect impact due to noise and vibration that may reduce the reproductive success of the species.

Total estimated area of impact within species habitat is **0.08 acres**. The Department concurs that the take of ironcolor shiner that could result from this project is not the purpose of MCHD'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:

Proposed avoidance, minimization and mitigation were included in MCHD's conservation plan.

To meet the "maximum extent practicable" standard, additional minimization and/or mitigation measures may be required beyond those proposed by MCHD, based on the life history needs of the ironcolor shiner. **All required minimization and mitigation measures are presented under the Authorization section below.**

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

MCHD states that funding is through the Township Bridge Program of 80% state funding and 20% local funding. The project and implementation of the conservation plan will be funded out of the county's allotment. MCHD understands that if any additional activities are planned that may affect ironcolor shiner or other endangered or threatened species, coordination with the Department will be required.

The Department accepts this provision as assurance that adequate funding will be available to carry out the terms of the 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 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.

Ironcolor Shiner (*Notropis chalybaeus*)

Ironcolor shiner is an Illinois state-threatened fish species.

Habitat: Ironcolor shiner is a small fish found in pools and slow runs in creeks and small rivers. They prefer sandy substrates and clear water with vegetation present.

Reproduction: Spawning occurs between June and August. Eggs sink to the bottom of pools with sandy substrate and hatch in two days. Ironcolor shiner become sexually mature after one year.

Population: Ironcolor shiner population decline has occurred because of increased stream siltation, turbidity, and pollution.

Range in Illinois: In Illinois, ironcolor shiner are found in the Iroquois, Kankakee, Illinois, and Sangamon River basins. Ironcolor shiner are found in 5 of 102 Illinois counties, including Fulton, Iroquois, Kankakee, Mason, and Piatt. There are currently 13 extant Element Occurrence Records of ironcolor shiner in the Illinois Natural Heritage Database.

Incidental Take Authorizations: The Department has one previously issued or pending Incidental Take Authorizations for ironcolor shiner related to dredging in Iroquois County. This is the first authorization for the taking of ironcolor shiner in Mason County.

Based on the amount of habitat impacted by this project, the number of known occurrences of the ironcolor shiner in Illinois, an assessment of the potential effect of this project on individual fish in the project footprint, the conservation methods included in this authorization for take and the conservation plan, and the understanding that vulnerability and recovery information on the species remains limited; it is the conclusion of the Department that the taking anticipated as a result of the project will not reduce the likelihood of survival or recovery of the species in the wild within the State of Illinois, the biotic community of which the species are a part, or the habitat essential to the species' existence in Illinois.

5. Any measures required under Section 5.5(b)(6) of the Act will be performed.

Additional measures are listed below under "Authorization". This authorization is, by definition, subject to those terms and conditions and the signature of a representative from MCHD 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 MCHD's request for authorization of incidental take was published in the *Breeze Courier* (official state newspaper) on March 28, 2018, and in the *Mason County Democrat* on March 28 and April 4, 11, and 18, 2018. A copy of the conservation plan was deposited at the Forman Valley Public Library, where it was available for public review. The deadline for public comment was May 18, 2018. No comments were received from the public.

Authorization

It is the determination of the Department that the measures to be implemented by MCHD will adequately minimize and mitigate the anticipated taking of ironcolor shiner associated with bridge replacement in Mason County, Illinois. Further the Department has concluded that the taking authorized herein will not reduce the likelihood of survival or recovery of ironcolor shiner

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. Additional listed aquatic species may inhabit this tributary to the Illinois River, this agreement does not authorize take of any species except ironcolor shiner.

All terms and conditions included in the aforementioned Conservation Plan submitted by MCHD to the Department are incorporated into this agreement by reference and are made a part thereof.

Pursuant to Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5] and the Administrative Rules for the Incidental Taking of Endangered and Threatened Species [Ill. Adm. Code 1080.40(b)], this authorization is issued subject to the following terms and conditions, which may include additions or modifications to the minimization and mitigation measures proposed by MCHD in the conservation plan:

1. This authorization is effective upon the signature of the Department and shall remain in effect for a period of **five (5) years** from the date of the Department signature, unless terminated by written agreement of both parties.

This authorization may be revoked pursuant to the Act and Ill. Adm. Code 1080.80(b) if the Department finds that MCHD has failed to comply with any of these terms and conditions or has been responsible for the taking of ironcolor shiner beyond that which is incidental to the replacement of the TR 234 (CR 3300E) bridge over Main Ditch in Mason County, Illinois.

2. The effective period of this authorization may be altered by mutual written agreement between MCHD and the Department. The Illinois Endangered Species Protection Board shall be notified of such alteration.

Any substantive changes, including but not limited to a change in the project footprint or a change in the State-listed species which could potentially be affected, will require that a new conservation plan be submitted to the Department to initiate the review and public notice process as required by the Act.

3. This authorization may only be transferred upon approval and written authorization by the Department.
4. Notification to all on-site personnel shall be provided on the sensitive biological resources in the area, the identification of ironcolor shiner, regulations protecting the species, where the species might be found, avoidance areas, travel restrictions for equipment, how to report sightings or incidents that may involve take, the importance of avoiding take of the species, and response protocol if the species are found. **MCHD shall submit a copy of the education materials to the Department.**
5. The Department reserves the right of entry by its staff or representatives to inspect potential habitat and species management practices. Department personnel intend to utilize this aquatic project and others for the refinement of substrate analysis and

sedimentation monitoring. MCHD shall keep the Department apprised by email of the project timeline to coordinate on-site visits. The Department shall abide by all project safety requirements as advised by MCHD.

6. Biological consultants employed by MCHD shall hold the necessary permits for work with non-listed and listed species; these include an Illinois Department of Natural Resources (IDNR) Scientific Collection Permit as authorized under 17 Illinois Administrative Code 520, and an IDNR Endangered Species Permit as authorized under 17 Illinois Administrative Code 1070.
7. The salvage of non-listed aquatic life is hereby authorized by the Department with signature of this agreement per the Illinois Fish and Aquatic Life Code (515 ILCS 5/1-150).
8. MCHD shall notify the Department's Endangered Species Program by email correspondence of construction commencement and completion of bridge replacement within the permit action area. A **project status report** shall be submitted to the Department within **90 days** following completion (defined as bridge open for public use) summarizing the implementation of minimization and mitigation measures and evaluating the effectiveness of those measures and shall include a project photo log. The report shall also include a map and GPS coordinates of any listed species found within the project footprint, description of any injuries or mortalities, and the disposition of any individuals that were injured or killed.
9. Any discoveries of additional State-listed species beyond those identified in this agreement **halts work** and shall be reported to the Department within 48 hours accompanied by location information (photograph, map, and GPS coordinates).
10. MCHD shall conduct, or cause to be conducted, the following pre-construction or construction efforts:
 - a. No construction equipment shall be placed in the stream.
 - b. No cofferdams or temporary causeways shall be used.
 - c. Construction debris shall not be allowed in the water and shall be disposed of in an upland location.
 - d. Temporary stockpiling of riprap or excavated material in the channel shall not occur.
 - e. Excavated material shall be disposed of in an upland location and shall not be placed back into the stream.
11. MCHD shall conduct, or cause to be conducted, a thorough survey for fish in Year 2 following construction completion (defined as bridge open for public use).
 - a. The fish assemblage survey shall use IDNR electric seine protocols (block nets at termini, minimum of five netters) in a reach that is twenty-times the mean wetted stream width and centered on the project area. The survey shall be conducted during summer flow conditions.

- b. The survey shall be conducted outside spawning season (September to May).
- c. A report including, but not limited to, the survey methodology utilized, a map of the surveyed reach, recorded abundance of each encountered species for each thirty-minute run, an estimate of mean width and depth within the survey reach, length of the surveyed reach and a qualitative description of survey reach characteristics (e.g., flow, substrate, habitat composition). Photos (which include distinguishing characteristics) of State-listed species shall be included with the report.
- d. **The survey report shall be provided to the Department within 90 days of completion of the survey.**

12. Mitigation to the maximum extent practicable is required by the Act. Mitigation requirements for this authorization are as follows:

- a. MCHD shall submit **\$5,200** in compensatory mitigation to the Illinois Wildlife Preservation Fund.
- b. The donation shall be provided **within 90 days of execution of this agreement**. Mitigation payments are nonrefundable, including events of revocation or termination.

Mitigation values are based on the Department's best current understanding of the species life history needs and impact analysis relevant to the project site's proposed conceptual design elements available at the time of review.

13. All reports, notifications, and other project documentation shall be submitted to:

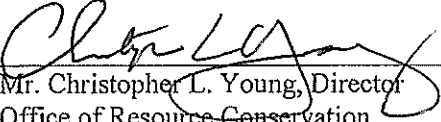
Illinois Department of Natural Resources
Office of Resource Conservation
Endangered Species Program – Incidental Take Authorization Coordinator
One Natural Resource Way
Springfield, IL 62702-1271

(217)557-8243
DNR.ITAcoordinator@illinois.gov

The Department's Endangered Species Program shall provide all reports required under this agreement to the Illinois Endangered Species Protection Board and to the Department's Natural Heritage Database.

- 14. The MCHD official identified below is authorized to execute this agreement. Execution by MCHD indicates acceptance of all terms and conditions described in this authorization.
- 15. The execution of this agreement does not waive or excuse the responsibilities of MCHD to comply with other Federal, State, or local regulations, including but not limited to obtaining any required permits for the execution of this project.

For the Illinois Department of Natural Resources:

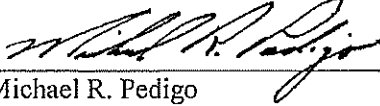


Mr. Christopher L. Young, Director
Office of Resource Conservation

7/2/2018

Date

For Mason County Highway Department:



Michael R. Pedigo
County Engineer

6-28-18

Date