



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 City of Jacksonville (hereinafter referred to as City) for the incidental take of the State-threatened Illinois Chorus Frog (*Pseudacris illinoensis*). The Illinois Department of Natural Resources (hereinafter referred to as Department) has determined that this taking is incidental to activities associated with the Raw Water Transmission Main Surge Suppression project north of Naples, Scott County, Illinois.

Procedural History

A Conservation Plan prepared by Benton & Associates, Inc., on behalf of the City, was submitted to the Department on June 1, 2018, as a request for authorization for the incidental take of the Illinois Chorus Frog. The Department requested additional information on June 12, 2018, to make the conservation plan complete as prescribed by Ill. Adm. Code 1080.10. Additional information was received by the Department on June 27, 2018. The final conservation plan was accepted as complete by the Department on July 20, 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 to construct water main surge suppression equipment and associated piping in Scott County. Construction and heavy equipment traffic will occur within the project area. The existing generator building will be demolished and excavations for the water transmission main will be made. Connections to the existing transmission main will be made with the installation of a 120-linear-foot, 18"-20" diameter water main. A building with concrete footings and foundation will be constructed and electrical supply conduits will be installed. Additional miscellaneous on-site activities, including shallow archaeological excavations within the construction footprint, may occur. Further project detail is provided in the conservation plan. All

proposed activities may result in direct burial or crushing of, and/or noise and vibration disturbance to the Illinois Chorus Frog.

Total estimated area of subsurface impact within species habitat for the immediately proposed actions is **0.25 acres**. The Department concurs that the take of Illinois Chorus Frog that could result from the immediately proposed project is not the purpose of the City'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 the City's conservation plan.

To meet the "maximum extent practicable" standard, additional minimization and/or mitigation measures may be required beyond those proposed by the City, based on the life history needs of the Illinois Chorus Frog. **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.

The City states that they are responsible for the construction and operation of the water main surge suppression project and the conservation measures outlined in the conservation plan. Funding for the project, monitoring, and mitigation is within the City's means.

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.

Illinois Chorus Frog (*Pseudacris illinoensis*)

Illinois Chorus Frog is an Illinois State-threatened amphibian species.

Habitat: Illinois Chorus Frog is found in areas of sandy soil. The frogs spend most of the year buried 4-8 inches below the surface, emerging in February or March only to move to ephemeral ponds where they mate and lay their eggs. The species may intermittently burrow during the day in breeding season. They locally migrate to underground burrows in June.

Distribution: The current range of the species is similar to its historic range, but the abundance of the species within that range has diminished. Illinois Chorus Frogs also occur in parts of Missouri and Arkansas.

Reproduction: Illinois Chorus Frogs will emerge from their burrows and migrate up to 0.9 kilometers to ponds. Males will call to attract females. They will mate and lay eggs in several clusters of 10-40 eggs. Clutches of 400-700 eggs in total are attached to the underside of submerged vegetation. Their life span is typically 2-3 years.

Population: Illinois Chorus Frogs are declining due to habitat loss caused by the draining of breeding sites for development, chisel-plow cultivation, and road mortality during migration to and from breeding sites.

Range in Illinois: Illinois Chorus Frogs are found at scattered locations in central, southwest, and extreme southern portions of Illinois. They have been observed in 9 of 102 Illinois counties, including Alexander, Cass, Logan, Madison, Mason, Menard, Morgan, Scott, and Tazewell Counties. There are currently 18 extant Element Occurrence Records for Illinois Chorus Frog in the Illinois Natural Heritage Database.

Incidental Take Authorizations: The Department has 22 previously issued or pending Incidental Take Authorizations for Illinois Chorus Frogs. This is the fifth authorization to be granted in Scott County. Previously issued or pending Incidental Take Authorizations are located as close as 3 miles north of the project. The project is within 15 miles of eight (8) Incidental Take Authorizations considered for potential take of Illinois Chorus Frog. These include a road realignment, water treatment plant, water line extension, pipeline, and a carbon sequestration project.

Based on the amount of habitat impacted by this project, the number of known occurrences of Illinois Chorus Frog in Illinois, an assessment of the potential effect of this project on individual species 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 this 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 the City 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 the City's request for authorization of incidental take was published in the *Breeze Courier* (official state newspaper) on July 26, 2018, and in the *The Source Newspaper* on July 26, August 2, 9, and 16. A copy of the conservation plan was deposited at the Winchester Public Library, where it was available for public review. The deadline for public comment was September 17, 2018. No comments were received from the public.

Authorization

It is the determination of the Department that the measures to be implemented by the City will adequately minimize and mitigate the anticipated taking of Illinois Chorus Frog associated with the Raw Water Transmission Main Surge Suppression project in Scott County, Illinois. Further the Department has concluded that the taking authorized herein will not reduce the likelihood of survival or recovery of 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.

All terms and conditions included in the aforementioned Conservation Plan submitted by the City 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 the City 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 the City has failed to comply with any of these terms and conditions or has been responsible for the taking of Illinois Chorus Frog beyond that which is incidental to water main surge suppression in Scott County, Illinois.

2. The effective period of this authorization may be altered by mutual written agreement between the City 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 Illinois Chorus Frog; 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. **The City 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.
6. Biological consultants employed by the City 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 City shall notify the Department's Endangered Species Program by email correspondence of construction commencement and completion of the project. A **project status report** shall be submitted to the Department within **90 days** following completion summarizing the implementation of minimization and mitigation measures and evaluating the effectiveness or status 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 and/or translocated from the project footprint, description of any injuries or mortalities, and the disposition of any individuals that were injured or killed.
8. 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).
9. The City shall conduct, or cause to be conducted, the following pre-construction or construction efforts:
 - a. Exclusionary fencing shall be installed to enclose the construction limits prior to earthwork.
 - b. All trenches shall be inspected daily, and any Illinois Chorus Frogs found shall be relocated by a permitted contractor to safety until such time that Department personnel can assist with relocation. Upon discovery of listed

frogs, please notify the local District Natural Heritage Biologist at 217-250-8029.

- c. All exclusionary fencing shall be removed from the construction area after completion of construction activities.
 - d. The construction area shall be reseeded with native grasses.
10. The City shall conduct, or cause to be conducted, a thorough survey for Illinois Chorus Frogs within the project area between Years 1 and 5 following construction completion:
- a. Nighttime audible call surveys no earlier than thirty minutes after sunset shall be performed post-construction by qualified contractors twice (approximately 15 days apart) within the same breeding season (March to May) in Years 1 and 3. Surveys shall be conducted when the temperature is above 0° C and wind speed is below 30 km/hr. Listening posts shall be dispersed throughout the impact footprint, and listening shall occur in each of the four cardinal directions. If dry conditions preclude Illinois chorus frog breeding/calling in Year 1, the surveys shall be conducted during two (2) wet springs between Years 2 and 5.
 - b. **A report including, but not limited to, a description of the survey methodology utilized, date, location, time, air temperature, humidity, wind speed, moon visibility, precipitation, number of minutes at each listening post (no less than fifteen minutes), other noise, water presence/absence, and a notation of whether the call emanates from within the footprint or outside (note direction), mapping of all ephemeral wet areas potentially utilized by frogs within the footprint shall be provided with notations on depth of water and presence/absence of emergent vegetation and tadpoles, and a map of listening post locations surveyed shall be provided to the Department within 90 days of completion.**
11. The City shall conduct, or cause to be conducted, a thorough survey for re-establishment of vegetation within the project area in Years 1 and 3 (or as synchronized with species surveys under #10) following construction completion:
- a. **A report including, but not limited to, species planted, vegetative success, and a map of areas surveyed shall be provided to the Department within 90 days of completion.**
12. Mitigation to the maximum extent practicable is required by the Act. Mitigation requirements for this authorization are as follows:
- a. The City shall provide funding in the amount of \$1,200 to the Illinois Wildlife Preservation Fund, to be earmarked to bring conservation benefit to the Illinois Chorus Frog.

- 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:

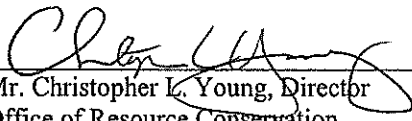
Illinois Department of Natural Resources
Office of Resource Conservation
Endangered Species Program – Incidental Take Authorization Coordinator
One Natural Resource Way
Springfield, IL 62702-1271

(217)557-8243
DNR.ITAcordinator@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 City official identified below is authorized to execute this agreement. Execution by the City 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 the City 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:

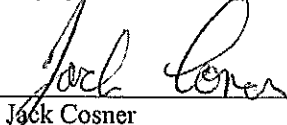


Mr. Christopher L. Young, Director
Office of Resource Conservation

12/7/18

Date

For City of Jacksonville:



Mr. Jack Cosner
Superintendent of Utilities - Operations

12-6-18

Date