

# 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 state-endangered little spectaclecase (*Villosa lienosa*) and the state-threatened slippershell (*Alasmidonta viridis*). The Illinois Department of Natural Resources (hereinafter referred to as the Department) has determined that this taking is incidental to activities associated with the replacement of the FAP 711 (US Route 136) bridge over Bean Creek in Vermilion County, Illinois<sup>1</sup>.

### Procedural History

A conservation plan, public notice, and IDOT's request for incidental take of the little spectaclecase and slippershell were received by the Department on September 2, 2004. Public notice of IDOT's request for authorization of incidental take was published in the Edwardsville Intelligencer on September 24, 2004, and in the Danville Commercial News on September 24 and October 4 and 8, 2004. Public comments on IDOT's conservation plan were accepted by the Department until November 8, 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 replace the US Route 136 bridge over Bean Creek in order to provide a safe passage for the traveling public. 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

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<sup>1</sup> The project location is more specifically described as: 2<sup>nd</sup> Principal Meridian, Township 21 North, Range 13 West, SE 1/4, SE 1/4, SE 1/4, Section 2 in Vermilion County, Illinois.

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 little spectaclecase and slippershell. IDOT plans to relocate any little spectaclecases and slippershells found within the existing right-of-way to suitable habitat outside of the right-of-way and to limit construction activities to the existing right-of-way.

Post-project surveys will be conducted to determine if freshwater mussels are able to repopulate the project area.

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

IDOT estimates that the cost for this bridge replacement will be \$903,000. Funds for carrying out the terms of this authorization are included in the overall 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 US Route 136 construction project consists of the replacement of the bridge over Bean Creek. Movement of equipment and personnel within Bean Creek and the temporary deposition of debris during construction could result in the take of any little spectaclecases and/or slippershells that occupy Bean Creek within the highway right-of-way. Pre-construction relocation of mussels will minimize the number of individual animals within the right-of-way, but it is likely that a small number of mussels will be overlooked during the relocation effort and be at risk of incidental take during construction.

The little spectaclecase and slippershell are on the Illinois list of endangered and threatened species because of their limited distribution in the state and the reduction in their range and abundance relative to the species' historic status. Both have been recorded from Bean Creek in the vicinity of the US Route 136 bridge.

The relocation of little spectaclecase and slippershell mussels as proposed by IDOT in their conservation plan will reduce the number of mussels in the project area to the lowest practicable level. Despite the relocation effort, it is possible that a few individuals will remain in the project area and be at risk of harm during bridge replacement.

After the relocation effort, the small number of mussels remaining in the project area will not comprise a significant portion of the little spectaclecase or slippershell population in Bean Creek or in Illinois. The potential loss of a very small number of mussels 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.

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 September 24, 2004, and in the Danville Commercial News on September 24 and October 4 and 8, 2004. Public comments on IDOT's conservation plan were accepted by the Department until November 8, 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 little spectaclecases and slippershells. Further, it is our opinion that the take authorized herein will not diminish the likelihood of the survival of the little spectaclecase or the slippershell 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 eight (8) 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. Prior to replacement of the US Route 136 bridge, IDOT shall conduct, or cause to be conducted, a thorough survey of the area to be directly affected by the bridge replacement and shall relocate or cause to be relocated any freshwater mussels found within that area to the nearest suitable habitat within Bean Creek that will not be affected by this project. Handling of mussels shall be in compliance with any and all conditions and/or protocols included in the federal and state authorizations for the work. Relocated mussels shall be identified to species and enumerated. A report on the species and numbers of mussels relocated and location(s) at which they were released shall be provided to the Department within 60 days of the completion of the relocation.
3. IDOT shall conduct, or cause to be conducted, a thorough survey of the project area and the area(s) in which mussels are relocated in the second and fifth year following completion of the bridge replacement project. For example, if bridge replacement is

completed in 2005, these surveys shall be conducted in 2007 and 2010. All mussels found during these surveys shall be identified to species and enumerated and the length of each mussel shall be measured to the nearest millimeter. These surveys shall be of an intensity adequate to determine: 1) if mussels have re-colonized the project area, 2) the estimated density of mussels in the project area and the release area(s), and 3) changes in the estimated density of mussels in the project area and the release area(s) since the previous survey. Each report shall also include a quantitative evaluation of the habitat for freshwater mussels being provided by the construction right-of-way area and the manner in which the habitat has changed since the previous survey. A report on the results of each survey shall be provided to the Department within 60 days of completion of the survey.

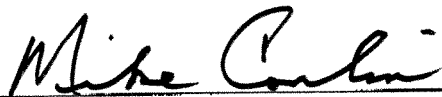
4. The effective period of this authorization may be altered by mutual agreement between IDOT and the Department.

5. 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 little spectaclecases or slippershells beyond that which is incidental to the replacement of the US Route 136 bridge over Bean Creek in Vermilion County.

6. 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

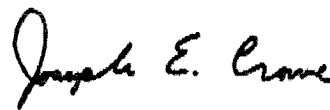
For the Illinois Department of  
Transportation



Mike Conlin, Director (Acting)  
Office of Resource Conservation

3.14.05

Date Signed



Signature

Joseph E. Crowe  
Deputy Director of Highways  
Region 3 Engineer

Printed Name and Title

3/10/05

Date Signed