



Illinois Department of Natural Resources

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

JB Pritzker, Governor
Colleen Callahan, 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 DeKalb County Highway Department (hereinafter referred to as DCHD) for the incidental take of the State-threatened Gravel Chub (*Erimystax x-punctatus*). The Illinois Department of Natural Resources (hereinafter referred to as Department) has determined that this taking is incidental to activities associated with the replacement of the McNeal Road Bridge over the South Branch Kishwaukee River approximately 0.3 miles east of County Line Road in Franklin Township, DeKalb County, Illinois. The project area is also located within the Kishwaukee River South Branch Illinois Natural Areas Inventory Site (INAI #1789). The site is included on the Natural Areas Inventory due to the presence of an unusual concentration of mussels.

Procedural History

Baxter and Woodman Consulting Engineers, on behalf of DCHD, submitted a Conservation Plan to the Department on March 18, 2019, as a request for authorization for the incidental take of the Gravel Chub. The Department requested additional information on April 25, May 28, and June 14, 2019, to make the Conservation Plan complete as prescribed by Ill. Adm. Code 1080.10. Additional information was received by the Department on May 23, June 13, and 18, 2019. The final Conservation Plan was accepted as complete by the Department on June 18, 2019. 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 remove and replace the McNeal Road Bridge over the South Branch Kishwaukee River. The existing two-lane, 27-foot wide, three-span, precast deck beam bridge with metal shell pile bent abutments and piers will be replaced with a two-lane, four-span, haunched concrete slab bridge. The proposed alignment and roadway profile will remain the

same as existing. Temporary cofferdams will be installed to allow piers to be replaced under dry conditions. The construction of the cofferdams will be performed by equipment staged on shore or on the existing bridge. Upon project completion the cofferdams will be removed, and the river bottom restored to pre-construction conditions. The only work in the river during construction of the bridge will be placement and removal of the cofferdams. The river will flow freely under the bridge spans between the coffer-dammed piers. Proposed activities may result in direct burial, crushing, or desiccation of; and/or noise and vibration disturbance to the Gravel Chub.

Total estimated area of impact within species habitat for the proposed action is 1,280 square feet or **0.03 acre**. The Department concurs that the take of Gravel Chub that could result from the proposed project is not the purpose of DCHD'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 DCHD's Conservation Plan.

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

DCHD states that the project will be funded jointly utilizing federal funds administered through the Illinois Department of Transportation and County funds. Both have included the project in their capital improvement plans and their respective budgets.

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.

Gravel Chub (*Erimystax x-punctatus*)

Gravel Chub is an Illinois state-threatened fish species.

Habitat: Gravel Chub is a small fish found in clear to moderately turbid creeks and rivers. They prefer areas with moderate to swift flow with gravel or rocky substrate.

Distribution: Gravel Chub occurs in spotty distributions from southern Ontario to Arkansas. They can be found as far east as New York and as far west as Kansas.

Reproduction: Spawning occurs in April and May.

Population: Gravel Chub population decline has occurred because of habitat degradation due to siltation.

Range in Illinois: In Illinois, Gravel Chub are found in the Wabash, Vermilion, Rock, Mississippi, and Des Plaines River basins. Gravel Chub are found in 3 of 102 Illinois counties, including Winnebago, Stephenson, and DeKalb. There are currently 6 extant Element Occurrence Records of Gravel Chub in the Illinois Natural Heritage Database. The species has been observed at the project location during surveys conducted by the Department in 1983, 1997, 2001, 2011, and 2016.

Incidental Take Authorizations: The Department has two (2) previously issued or pending Incidental Take Authorizations for Gravel Chub. These are for a bridge project and a transmission line. The previously authorized bridge project is located on the Rock River approximately 25 miles upstream of its confluence with the Kishwaukee River. This is the first authorization for the taking of Gravel Chub in DeKalb County.

Based on the amount of habitat impacted by this project, the number of known occurrences of the Gravel Chub 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 DCHD 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 DCHD's request for authorization of incidental take was published in the *Breeze Courier* (official state newspaper) on June 24, 2019, and

in the *Daily Chronicle* on June 24, July 1, and July 9, 2019. A copy of the Conservation Plan was deposited at the Kirkland Public Library, where it was available for public review. The deadline for public comment was August 8, 2019. No comments were received from the public.

Authorization

It is the determination of the Department that the measures to be implemented by DCHD will adequately minimize and mitigate the anticipated taking of the Gravel Chub associated with the bridge structure removal and replacement in DeKalb County, Illinois. Further the Department has concluded that the taking authorized herein will not reduce the likelihood of survival or recovery of the Gravel Chub 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 DCHD 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 DCHD 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 DCHD has failed to comply with any of these terms and conditions or has been responsible for the taking of the Gravel Chub beyond that which is incidental to the bridge structure removal and replacement in DeKalb County, Illinois.

2. The effective period of this authorization may be altered by mutual written agreement between DCHD 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 the Gravel Chub; 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, including the chain of response personnel. **DCHD 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 DCHD 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. DCHD 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 (defined as bridge in use) summarizing the implementation of minimization, mitigation, and restoration measures and evaluating the effectiveness or status of those measures and shall include a project photo log. The report shall also include a map of the project location (and species relocation site, if applicable), identification of species and number of listed and non-listed species relocated from the project footprint, description of any injuries or mortalities; and the disposition of any individuals that were injured or killed.
9. Notification of any Gravel Chub present during performance of the project shall be reported electronically to the Department within 48 hours of discovery accompanied by location information (photograph, map, and GPS coordinates). 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.
10. DCHD shall conduct, or cause to be conducted, the following pre-construction or construction efforts:
 - a. Aquatic species shall be relocated by qualified and permitted aquatic biological consultants from cofferdams during and after dewatering. Any non-listed mussels found within the cofferdams shall be deposited at a suitable relocation site in the same stream and at least 300 meters downstream. Fish

shall be released downstream of the project area. A record of relocated fauna shall be provided to the Department. See #8 above.

- b. The installation of cofferdams shall avoid Gravel Chub spawning period (April-May).
- c. River water pumped from the coffer-dammed area shall be filtered through an approved sediment containment bag or at an upland location.
- d. Measures shall be implemented to limit debris from falling in the river. Any debris deposits shall be removed as soon as practicable during the same work day.

11. DCHD shall conduct, or cause to be conducted, a thorough survey for the Gravel Chub within the project area in **Years 2 and 5** following project completion:

- a. The fish assemblage survey shall utilize methodologies approved by the Department. The survey shall be conducted during summer low flow conditions.
- b. The survey shall be conducted outside the spawning season of April and May.
- c. A report including, but not limited to, the survey methodology utilized, a map of the surveyed reach, an estimate of mean depth and surface area of the survey reach, time effort expended, a qualitative description of survey reach characteristics (e.g. flow, substrate, habitat composition), recorded abundance of each species encountered, length and weight of any State-listed species. Photos (which include distinguishing characteristics) of State-listed species shall be included with the report.
- d. **A survey report in readable pdf format with complete metadata 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. DCHD shall provide funding in the amount of **\$10,400** to fund an Illinois Natural History Survey research project to study the distribution, status, and habitat associations of the Gravel Chub.
- b. The mitigation 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

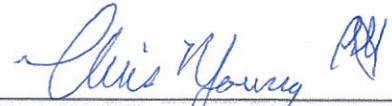
(217)557-8243
DNR.ITAcoordinator@illinois.gov

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 DCHD official identified below is authorized to execute this agreement. Execution by DCHD 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 DCHD 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:

For DeKalb County Highway Department:

x 

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



Mr. Nathan Schwartz, P.E.
County Engineer

11-5-19

Date

Nov 5, 2019

Date