



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 Macon County Highway Department (hereinafter referred to as Macon County) for the incidental take of the State-threatened Kirtland's Snake (*Clonophis kirtlandii*). 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 current bridge and causeway structure carrying Rea's Bridge Road (also known as, County Highway 24) over Lake Decatur in Macon County, Illinois.

Procedural History

The Illinois Department of Transportation (hereinafter referred to as IDOT), on behalf of Macon County, submitted the Conservation Plan to the Department on January 19, 2021, as a request for authorization for the incidental take of Kirtland's Snake. The Department requested additional information on January 29, 2021 and March 18, 2021, to make the Conservation Plan complete as prescribed by Ill. Adm. Code 1080.10. Additional information was received by the Department on February 22, 2021, and April 23, 2021. The final Conservation Plan was accepted as complete by the Department on May 10, 2021. 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 bridges that carry Rea's Bridge Road over Lake Decatur in Macon County. The replacement structures will have two travel lanes in each direction and a pedestrian walkway/sidewalk. This is part of the larger project called the Macon County Beltway that will provide a 4-lane highway on the east side of Decatur.

Construction will occur in stages over two years that allows both lanes of traffic to continually operate. The current bridge and causeway are 40 feet wide, the

finished width of the causeway will be 110 feet, and there will be no changes to the length of the bridges and causeway. The sides of the causeway will be protected with loose stone and riprap along their length, and a slope seed mix on the slopes that do not require riprap.

In the first year, traffic will be maintained on the existing bridges and causeway while the expansion happens on the north side of the causeway. Existing fill on that side will be removed and replaced with new stabilized fill. Only fill that has degraded at the base and lake bottom will be removed and disposed offsite. The second year, traffic will shift to the new lanes and construction will occur to rebuild the south side of the causeway. For each stage of the construction, sheetpile and cofferdams will be used around the bridge abutments and piers.

Total estimated area of impact within species habitat for the proposed actions is **11.18 acres**. The existing causeway (2.6 acres) and the land acquisition/temporary easement acreage for widening the Eastern terminus of the project (1.1 acres) will result in 3.7 acres of impact to Kirtland's snake habitat. The construction of the new bridge has the potential to bury or crush Kirtland's Snakes within the footprint, and indirectly impact them by increased noise, traffic, and dispersal from the microhabitat. The Department concurs that the take of Kirtland's Snakes that could result from the proposed project is not the purpose of Macon County'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 Macon County's Conservation Plan.

To meet the "maximum extent practicable" standard, additional minimization and/or mitigation measures may be required beyond those proposed by Macon County, based on the life history needs of the Kirtland's Snake. **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.

Macon County states that funding sources for the project will be a mixture of federal, local, and Motor Fuel Tax funds. Macon County commits to funding the project and the mitigation.

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.
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Kirtland's Snake (*Clonophis kirtlandii*) is an Illinois state-threatened species.

Habitat: Kirtland's Snakes can be found in Prairie Peninsula habitats such as prairie fens, wet meadows, lake plain wet prairies, open and wooded wetlands, seasonal marshes, open swamps, sparsely wooded hillsides, and the vicinity of ponds and sluggish creeks. Frequently Kirtland's Snakes are found in association with crayfish burrows (*Fallicambarus fodiens*, *Procambarus gracilis*, and *Cambarus diogenes*), where they spend most of their time. This fossorial habit makes them a difficult species to detect in their habitat. Current distribution includes metropolitan areas, often in vacant lots associated with streams or wetlands. Many times, they are found under debris.

Size: Adult Kirtland's Snakes are small with an average length of 14-18 inches.

Distribution: Kirtland's Snakes can be found around the Great Lakes states of Illinois, Indiana, Michigan, Ohio, and Missouri, and Kentucky. Populations have likely been extirpated from Pennsylvania.

Reproduction: Courtship and mating in Kirtland's Snakes occurs twice a year: February through May, and August to September. Gravid females can be found as early as May, but in Indiana they have been found in Mid-June. There is not a shelled egg stage, but the female gives birth in summer or early autumn, potentially with other females. Sexual maturity is reached in their second year of growth.

Population: Many factors have led to the decline in numbers of Kirtland's Snakes: habitat loss and modification, fungal disease, poaching for the pet trade, and road mortality including from mowing.

Range in Illinois: In Illinois, Kirtland's Snakes have been found in the Mississippi, Illinois, Kaskaskia, Kankakee, Fox, Sangamon, Wabash, and Little Wabash River basins in 13 of 102 counties. There are currently 25 extant Element Occurrence Records for Kirtland's Snakes in the Illinois Natural Heritage Database.

Incidental Take Authorizations: There have been six (6) previously issued or currently pending Incidental Take Authorizations for Kirtland's Snakes in Illinois. Previous projects include boat access, commercial development, and a bridge. There have been no previous ITAs for Kirtland's Snakes in Macon County.

Based on the amount of habitat impacted by this project, the number of known occurrences of Kirtland's Snakes 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 Macon County 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 Macon County's request for authorization of incidental take was published in the *Breeze Courier* (official state newspaper) on May 25, 2021, and in the (Decatur) *Herald & Review* on May 25, June 1, and June 9, 2021. A copy of the Conservation Plan was deposited at the Mount Zion Public Library, Macon County Highway Department, and the Chastain and Associates, LLC office, where it was available for public review. The deadline for public comment was July 9, 2021. No comments were received from the public.

Authorization

It is the determination of the Department that the measures to be implemented by Macon County will adequately minimize and mitigate the anticipated taking of Kirtland's Snakes associated with the bridge structure removal and replacement over Lake Decatur in Macon County, Illinois. Further the Department has concluded that the taking authorized herein will not reduce the likelihood of survival or recovery of Kirtland's Snakes 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 Macon County 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 Macon County in the Conservation Plan:

1. This authorization is effective upon the signature of the Department and shall remain in effect for a period of **six (6) 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 Macon County has failed to comply with any of these terms and conditions or has been responsible for the taking of Kirtland's Snakes beyond that which is incidental to the bridge structure removal and replacement in Macon County, Illinois.

2. The effective period of this authorization may be altered by mutual written agreement between Macon County 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 Kirtland's Snakes; 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. **Macon County 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 staff must be accompanied by an employee of Macon County or the contractor and are required to adhere to IDOT's health and safety requirements.
6. Biological consultants employed by Macon County 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, a Herptile Scientific Permit as authorized under 17 Illinois Administrative Code 885, and an IDNR Endangered Species Permit as authorized under 17 Illinois Administrative Code 1070.
7. Macon County 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 both bridges carrying two lanes of traffic 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, description of any injuries or mortalities; and the disposition of any individuals that were injured or killed.

8. Notification of any Kirtland's Snakes 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).
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.
10. Macon County shall conduct, or cause to be conducted, the following pre-construction or construction efforts:
 - a. To maximize refugia habitat, small delineated wetlands in the project area shall remain undisturbed to the greatest extent practicable, per the Wetland Policy.
 - b. Installation and maintenance of standard erosion control measures such as silt fence in areas identified as a wetland.
 - c. Erosion control blanket shall be used in the smallest area practicable, in areas where the slopes cannot be covered with riprap for stability.
 - d. A slope seed mix shall be used as a permanent vegetation solution on slopes that are too steep to mow but do not require riprap for stabilization.
 - e. Heavy equipment shall operate from barges to the extent practicable. Tracks of heavy equipment shall not enter the water during placement of clean rip rap; except that arms and buckets will have limited entry.
11. Macon County shall conduct, or cause to be conducted, thorough post-construction surveys for Kirtland's Snakes within the project area in **Year 2** following project completion:
 - a. This survey will use the same visual encounter survey protocol as the pre-construction survey, including turning over cover objects.
 - b. **A report including, but not limited to, the survey methodology utilized, number of cover objects turned over, any other herptiles observed in the area, weather (e.g., air temperature, cloud cover) habitat characteristics, length, sex (if discernable), and a map of the species locations and areas surveyed 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. Macon County shall provide funding to IDOT for a study of the Kirtland's Snake populations at Lake Decatur. The value of this research project is estimated to be \$4,926.37.
- b. IDOT shall provide a copy of the survey tasking **within 90 days of execution of this agreement**. The tasking document shall include a calendar year that the project is anticipated be initiated.
- c. 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 Macon County official identified below is authorized to execute this agreement. Execution by Macon County 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 Macon County 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

11/23/2021
Date

For Macon County:



Mr. Kevin Greenfield
Macon County Board Chair

11-10-21
Date

1. $\frac{1}{2} \times \frac{1}{2} = \frac{1}{4}$

**Macon County Board Resolution Approving the
Authorization for Incidental Take Agreement with IDNR**

RESOLUTION NO. H-2261-11-21

WHEREAS, the County of Macon seeks approval for the Authorization for Incidental Take Agreement with Illinois Department of Natural Resources (IDNR) on the Reas Bridge Road Bridge Replacement Project.

NOW THEREFORE, BE IT RESOLVED, by the Macon County that they hereby approve the Authorization for Incidental Take Agreement on the Reas Bridge Road Bridge Replacement Project.

BE IT FURTHER RESOLVED, that this resolution shall become effective immediately upon the adoption thereof.

PRESENTED, PASSED, AND APPROVED this 10th day of November 2021.

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MACON COUNTY BOARD
MACON COUNTY, ILLINOIS

ATTEST:

By:



Josh Tanner, Clerk for the
County of Macon, State of Illinois



Kevin R. Greenfield, Chairman
Macon County Board

FILED

NOV 12 2021

JOSH TANNER
COUNTY CLERK MACON COUNTY

