



# Illinois Department of Natural Resources

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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 Illinois Department of Natural Resources Office of Realty and Capital Planning Division of Engineering Field Operations (hereinafter referred to as ORCP) for the incidental take of the State-threatened Bigeye Chub (*Hybopsis amblops*), and State-threatened Eastern Sand Darter (*Ammocrypta pellucida*). The Illinois Department of Natural Resources (hereinafter referred to as the Department) has determined that the taking is incidental to activities associated with the demolition of the bridge carrying Skyline Drive over the Middle Fork Vermillion River near Oakwood, IL. The bridge has been closed to vehicular traffic since 2012 due to its structural condition. This site is located approximately 0.3 miles south of Interstate 74 within Kickapoo State Park in Vermillion County, Illinois.

### **Procedural History**

The Department received a conservation plan prepared by Illinois Department of Transportation (hereinafter referred to as IDOT) for ORCP on July 15, 2021, as a request for authorization for the incidental take of Bigeye Chub and Eastern Sand Darter. Additional information was requested by the Department on July 21, August 30, August 17, and October 12, 2021 to make the conservation plan complete as prescribed by Ill. Adm. Code 1080.10. Additional information was received by the Department on August 5, October 4, and October 13, 2021. The final conservation plan was approved by the Department October 13, 2021. The public notice period will be detailed under #6 of the Compliance section below.

### **Compliance with the Illinois Endangered Species Protection Act**

The Act includes six criteria that 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 demolish and remove a structurally failing bridge within Kickapoo State Park in Vermilion

County, Illinois. This bridge has been closed to vehicular traffic since 2012. The cost to repair it exceeds the recreational value to the west. Additionally, the bridge has been the site of at least two large logjams that have created hazardous conditions for canoe and kayak users on the Middle Fork of Vermillion River.

The demolition may require that a temporary causeway will be constructed in the river to allow access for heavy equipment to remove and dispose of the piers and structure. Construction of the temporary causeway would be determined by the contractor's means and methods; however, it is anticipated that the temporary causeway would be constructed of rock and/or timber mats across the width from the east bank to reach the west bank. As the contractor removes the west approach, they would work their way back towards the east. The normal flow of the river would be maintained at all times, via culverts installed in the temporary causeway. The goal would be to have the full span of the temporary causeway in use for a maximum of one week. In high water events the river would over-top the causeway.

It is anticipated that the contractor will use a crane to remove the superstructure (decking material and steel beams) and an excavator with a jackhammer attachment for removing the concrete piers. If any additional logs have accumulated at the base of the piers, they will be removed. The piers will be removed to one foot below the natural ground line of the riverbed. Any broken concrete material that would fall into the river will land vertically down next to the face of the pier and would be removed with a clam bucket. Cofferdams and turbidity curtains would be installed around the piers as they are removed to prevent silt from moving downstream. Approximately 350 linear feet of road will be eliminated on the east side of the river. The project will include stabilizing the riverbank, and extensive landscaping of all disturbed areas including seeding (IDOT Class 5 Forb with Annuals seed mix or similar) and tree replacement (1:1 ratio).

Take of the Bigeye Chub and Eastern Sand Darter could occur as a result of the construction and removal of a temporary causeway. Indirect take could occur as a result of increased noise, vibration and turbidity in the water column that would adversely affect juvenile and adult fish of both species. Construction of the causeway may also require removal of riparian vegetation. Impacts to riparian areas from vegetation clearing, construction, or staging may adversely affect both fish species, which feed in these areas. Any sediment and pollutant runoff from the staging area would adversely affect water quality for the fish.

The take of Bigeye Chub and Eastern Sand Darter that could result from this project is not the purpose of ORCP'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 minimization and mitigation measures were included in ORCP's conservation plan.

To meet the "maximum extent practicable" standard, additional minimization and/or mitigation measures may be required beyond those proposed by ORCP, based on the life history needs of the Bigeye Chub and Eastern Sand Darter.

**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:

ORCP states that they will fully fund the demolition of the Pond 6 Bridge through the park roads program managed by IDOT. The mitigation and monitoring measures of the Conservation Plan shall be paid through a separate contract with the Illinois Natural History Survey. ORCP understands that if any additional activities are planned at the facility that may affect Bigeye Chub or Eastern Sand Darter, or other endangered or threatened species, coordination with the Department will be required.

It is the Department's opinion that ORCP's stated commitment to funding their proposed minimization and mitigation measures is sufficient to satisfy this criterion.

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 are a part, or the habitat essential to the species' existence in Illinois:

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**Bigeye Chub** (*Hybopsis amblops*) is an Illinois state-threatened fish species.

**Habitat:** Bigeye Chub are a small fish found in creeks to medium sized rivers in quiet water. They prefer clear water with sand, gravel or rocky bottoms.

**Reproduction:** Bigeye Chub spawn from late spring to early summer.

**Population:** Bigeye Chub population decline has occurred because of poor water quality and habitat fragmentation. They are exceptionally intolerant of siltation and pollution.

**Range in Illinois:** In Illinois, Bigeye Chub are found in the Vermilion, Wabash, and Embarras River basins. Bigeye Chub are found in 5 of 102 Illinois counties: Champaign, Clark, Crawford, Edgar, and Vermilion. There are currently 26 extant Element Occurrence Records of Bigeye Chub in the Illinois Natural Heritage Database.

**Incidental Take Authorizations:** The Department has six (6) previously issued or pending Incidental Take Authorizations for Bigeye Chub. The previous projects were dam removals, bridge repair projects, bank stabilization, hiking trail, and a pipeline maintenance project. Past applicants have been required to minimize instream project footprints, conduct instream work outside of fish spawning season and relocate fish trapped in cofferdams. This is the sixth authorization for the taking of Bigeye Chub in Vermilion County.

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**Eastern Sand Darter** (*Ammocrypta pellucida*) is an Illinois state-threatened fish species.

**Habitat:** Eastern Sand Darter are a small fish found in clear creeks and rivers with slow to medium current. They are also found in lakes. They prefer areas with fine sandy substrate.

**Distribution:** Eastern Sand Darter occur in the Ohio River basin, St. Lawrence-Lake Champlain drainage, and Wabash drainage. They are found from Illinois to Vermont, north to Ontario and Quebec and south to Kentucky.

**Reproduction:** Spawning occurs between June and July. Eggs hatch in less than 7 days and fry begin feeding about 9 days after hatching.

**Population:** Eastern Sand Darter population decline has occurred because of habitat loss and heavy siltation.

**Range in Illinois:** In Illinois, Eastern Sand Darter are found in the Wabash, Vermilion, and Embarras River basins. Eastern Sand Darter are found in 8 of 102 Illinois counties, including Champaign, Coles, Crawford, Cumberland, Jasper, Lawrence, Richland, and Vermilion. There are currently 25 extant Element Occurrence Records of Eastern Sand Darter in the Illinois Natural Heritage Database.

**Incidental Take Authorizations:** The Department has eight (8) previously issued or pending Incidental Take Authorizations for Eastern Sand Darter. This is the fourth authorization for the taking of Eastern Sand Darter in Vermilion County.

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Based on the amount of habitat impacted by this project, the number of known occurrences of the Bigeye Chub and Eastern Sand Darter in Illinois, an assessment of the potential effect of this project on the listed species in the project footprint, the conservation measures included in this authorization for incidental 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 these 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:

These measures are listed below under “Authorization.” This authorization is, by definition, subject to those terms and conditions and the signature of a representative of ORCP 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 ORCP’s request for authorization of incidental take was published in the *Breeze Courier* (official state newspaper) on December 7, 2021, and in the *Danville Commercial-News* on December 7, December 14, and December 23, 2021. A copy of the conservation plan was deposited at the Oakwood Public Library, where it was available for public review. The deadline for public comment was January 24, 2022. No comments were received from the public.

### **Authorization**

It is the determination of the Department that the measures that will be implemented by ORCP will adequately minimize and mitigate the anticipated taking of Bigeye Chub and Eastern Sand Darter incidental to activities associated with the demolition of the bridge carrying Skyline Drive over the Middle Fork Vermillion River near Oakwood, IL. Further, the Department has concluded that the taking authorized herein 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.

All terms and conditions included in the aforementioned conservation plan submitted by ORCP 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 ORCP in the conservation plan:

1. This authorization is effective upon the signature of the Department and shall remain in effect for a period of **twelve (12) 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 ORCP has failed to comply with any of these terms and conditions or has been responsible for the taking of the Bigeye Chub and Eastern Sand Darter beyond that which is incidental to activities associated with the demolition of the Pond 6 Bridge over the Middle Fork Vermillion River in Vermilion County, Illinois.

2. The effective period of this authorization may be altered by mutual written agreement between ORCP and the Department. The Illinois Endangered Species Protection Board shall be notified of any 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. All on-site personnel shall be educated on the sensitive biological resources in the area, the identification of Bigeye Chub and Eastern Sand Darter, regulations protecting the species, where the species might be found, avoidance areas, travel restrictions for equipment and vehicles, how to report sightings or incidents that may involve take, and the importance of avoiding take of the species. **ORCP 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 species, potential habitat, and species management practices.
6. Biological consultants employed by ORCP 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. ORCP shall **notify the Department's Endangered Species Program by email correspondence of construction commencement and completion** of the Pond 6 Bridge demolition project. A **project status report** shall be submitted to the Department within **90 days** of completion summarizing the implementation of minimization, mitigation, and restoration 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.
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. ORCP shall conduct, or cause to be conducted, the following pre-construction or construction efforts:
  - a. No instream work shall take place before July 1 to allow for breeding season of the listed fish. This includes the installation of the causeway.

- b. Sediment and erosion best management practices shall be utilized. However, mesh erosion control blankets shall be avoided.
  - c. The temporary causeway shall be in place for the least amount of time practicable.
  - d. The causeway shall be built with culverts to ensure sufficient downstream flow to prevent scouring.
  - e. Cofferdams and turbidity curtains shall be installed around the piers to prevent silt from moving downstream.
  - f. While dewatering the cofferdams, workers shall look for trapped fish and humanely release them into the stream if safe to do so.
  - g. Debris shall be removed from the streambed as soon as practicable.
  - h. Piers shall be removed to one foot below the natural ground level of the streambed.
  - i. Upon project completion, the streambed shall be returned to a pre-construction profile.
  - j. The riverbank shall be stabilized and seeded with IDOT Class 5 Forb with Annuals seed mix.
  - k. Any trees which were removed shall be replaced in a 1:1 ratio.
10. The relocation 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).
11. ORCP shall conduct, or cause to be conducted, revegetation surveys at the disturbed streambank:
- a. ORCP shall conduct a site monitoring visit approximately 30 days after project completion to ensure all disturbed areas are stable and the site is successfully revegetating.
  - b. **A brief report including, but not limited to, survey methodology used, length of visit, photographs of growth, any noted failure to grow or erosion concerns, and, if necessary corrective action, shall be provided to the Department within 10 days of the visit.**
12. ORCP shall conduct, or cause to be conducted, Fish community sampling shall take place in **Years 1 and 3**:
- a. The survey extent shall begin 50 meters downstream of the bridge and extend to 50 meters upstream of the bridge.
  - b. Maximum depth shall be recorded at 10-meter intervals from downstream to upstream throughout the survey extent.
  - c. Barge electrofishing shall be used to collect fishes and a minimum of 30 minutes electrofishing time shall be expended. If water depth is not suitable for barge electrofishing, a backpack electrofisher may be substituted and two 30-minute electrofishing runs shall be conducted.
  - d. Supplemental seine pulls for Eastern Sand Darter shall follow electrofishing efforts. Suitable habitat for Eastern Sand Darter shall be targeted and at least 10 seine pulls with a seine that is at least 10 feet wide shall be conducted.

- e. **A report including, but not limited to, the survey methodology used, water temperature during surveys, habitat characteristics including depth measures, species identity and abundance collected, length and weight of each individual of each state-listed species (up to 100 individuals per species), and map of surveyed areas shall be reported. Electrofishing and seining collections shall be reported separately and collected individuals from each seine pull shall be reported separately. This report shall be submitted to the Department within 90 days of completion of each survey.**

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

- a. In lieu of onsite mitigation, ORCP shall contract with the Illinois Natural History Survey to conduct a study to evaluate Easter Sand Darter distribution, with the goal of estimating the species' statewide distribution and identifying factors contributing to the distribution.
- b. The cost of this study shall not exceed \$33,485.
- c. ORCP shall provide proof of the study tasking **within 90 days of execution of this agreement**. Mitigation payments are nonrefundable, including events of revocation or termination.

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.

14. This Agreement is contingent upon and subject to the availability of sufficient funds. ORCP may terminate or suspend this Agreement, in whole or in part, without penalty or further payment being required, if (i) sufficient funds for this Agreement have not been appropriated or otherwise made available to the Illinois Department of Natural Resources by the State or the Federal funding source, (ii) the Governor or the Illinois Department of Natural Resources reserves funds, or (iii) the Governor or the Illinois Department of Natural Resources determines that funds will not or may not be available for payment. ORCP shall provide notice, in writing, to the ITA Coordinator of any such funding failure and its election to terminate or suspend this Agreement as soon as practicable. Any suspension or termination pursuant to this Section will be effective upon the date of the written notice unless otherwise indicated.

15. 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.

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



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JB Pritzker, Governor  
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*For the Illinois Department  
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Mr. Christopher L. Young, Director  
Office of Resource Conservation

Feb 25, 2022  
Date

*For the Illinois Department  
of Natural Resources ORCP Division  
of Field Operations:*

Mr. Dale Brockamp, Manager  
Office of Realty and Capital Planning  
Division of Engineering Field Operations

February 25, 2022  
Date