



## 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 Transportation (hereinafter referred to as IDOT) for the incidental take of the State-endangered Pallid Shiner (*Hybopsis amnis*). The Illinois Department of Natural Resources (hereinafter referred to as the Department) has determined that the taking is incidental to the construction of a new sewer outfall as part of the US 20 widening project in Galena in Jo Daviess County, IL.

### **Procedural History**

The Department received a conservation plan prepared by Quigg Engineering, Inc., for IDOT on January 14, 2022, as a request for authorization for the incidental take of Pallid Shiner. Additional information was requested by the Department on February 1, and March 9, 2022, to make the conservation plan complete as prescribed by Ill. Adm. Code 1080.10. Additional information was received by the Department on February 28, and March 25, 2022. The final conservation plan was approved by the Department on March 30, 2022. 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 construct a storm sewer outfall into the Galena River in Jo Daviess County, Illinois. This is a portion of the larger project to reconstruct and widen US 20 between Gear Street and Main Street. After construction, this portion of US 20 will have three lanes and a new storm sewer system.

The proposed storm sewer outfall to the Galena River will be about 10 yards downstream from the existing US 20 bridge over the river. The construction of the outfall will require a cofferdam to dewater the area around the end of the storm sewer. The area of the cofferdam will extend approximately 17 feet from the west bank of the river and will be 30 feet wide. The end of the storm sewer pipe where it outfalls into the river will be constructed within the cofferdam. Riprap will be placed around the pipe to protect it from erosion. The cofferdam will be removed after construction is completed. IDOT will install rip rap at the outflow of the culvert to dissipate the energy of the water exiting the storm sewer into the Galena River. This will be addressed in the SWPPP and/or NPDES permits as needed.

Take of Pallid Shiner could occur as a result of the construction. Individuals may be crushed, buried, or stranded by construction activities. Indirect take could occur as a result of increased noise, vibration and turbidity in the water column that would adversely affect all life stages. Impacts to riparian areas from vegetation clearing, construction, or staging may temporarily adversely affect water quality. Future storm events may cause localized increased water turbidity and volume.

The take of Pallid Shiner 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 mitigate the impact caused by the taking:

Proposed minimization and mitigation measures were included in IDOT's conservation plan.

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

**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:

IDOT states that all proposed minimization and mitigation will be completed as, and not separate from, the construction of the project and that in many cases will also be conditions of other permits (e.g., NPDES). Therefore, funding for the mitigation will be included in funding for the overall project, and by extension funding of the mitigation.

It is the Department's opinion that IDOT'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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The **Pallid Shiner** (*Hybopsis amnis*) is an Illinois State-endangered freshwater fish species.

**Habitat:** It inhabits medium to large rivers and prefers quiet waters over sandy and silty substrates, often at the downstream ends of sand and gravel bars. It appears to avoid heavily silted habitats.

**Reproduction:** Little is known about Pallid Shiner reproduction. It has been observed to breed in late winter to early spring in the southern part of its range but breeding likely occurs later in Illinois. Pallid Shiners are a short-lived minnow, rarely living longer than two years.

**Population:** Pallid Shiners are sensitive to human impacts, and it is thought to be declining due to increased siltation of its habitats.

**Range in Illinois:** In Illinois, Pallid Shiners have been found in the Apple-Plum, Kankakee, Flint-Henderson, Des Plaines, Upper Illinois, and Lower Illinois-Senachwine Lake Watersheds. They have been found in seven (7) of 102 Illinois counties: Carroll, Grundy, Jo Daviess, Kankakee, La Salle, Mercer, and Will Counties. There are currently seventeen (17) extant Element Occurrence Records for Pallid Shiner in the Illinois Natural Heritage Database.

**Incidental Take Authorizations:** There have been five (5) previously issued or pending Incidental Take Authorizations in Illinois. Previous projects have included diffuser installations, a hydroelectric dam, high speed rail infrastructure, pipeline maintenance, and water withdrawal. This is the first authorization granted for the take of Pallid Shiner in Jo Daviess County.

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Based on the amount of habitat impacted by this project, the number of known occurrences of Pallid Shiner 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 IDOT 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 *Breeze Courier* (official state newspaper) on April 13, 2022, and in *The Galena Gazette* on April 13, April 20, April 27, and May 4, 2022. A copy of the conservation plan was deposited at the Galena Public Library where it was available for public review. The deadline for public comment was June 4, 2022. 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 Pallid Shiner incidental to activities associated construction of a new sewer outfall as part of the US 20 widening project in Galena in Jo Daviess County, 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 IDOT 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 IDOT in the conservation plan:

1. This authorization is effective upon the signature of the Department and shall remain in effect for a period of **seven (7) 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 IDOT has failed to comply with any of these terms and conditions or has been responsible for the taking of the Pallid Shiner beyond that which is incidental to activities associated with the construction of a new sewer outfall as part of the US 20 widening project in Galena in Jo Daviess County, IL.

2. The effective period of this authorization may be altered by mutual written agreement between IDOT 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 Pallid Shiner, 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. **IDOT 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. Department staff will follow all safety standards and requirements and will be accompanied by an IDOT Engineer and the Contractor.
6. Biological consultants employed by, or conducting work on behalf of, IDOT 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. IDOT shall notify the Department's Endangered Species Program by email correspondence of construction commencement and completion of work to construct a new sewer outfall as part of the US 20 widening project in Galena in Jo Daviess County, IL. 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. IDOT shall conduct, or cause to be conducted, the following pre-construction or construction efforts:

- a. Instream work outside of the cofferdam shall be prohibited from June 1 to August 31 to allow for Pallid Shiner spawning.
  - b. All sediment and erosion best management practices required in the NPDES construction permit shall be utilized.
  - c. Erosion and sediment control measures shall be monitored weekly to ensure effectiveness.
  - d. Erosion and sediment control measures shall be inspected prior to continuation of construction after events of heavy rain.
  - e. The streambed shall be restored back to preconstruction elevations.
  - f. Debris and excavated material shall not be stockpiled in the stream channel.
  - g. Debris shall be removed from the water or streambed as soon as practicable during the same workday to prevent accumulation of potentially polluted materials.
  - h. All disturbed areas shall be seeded upon completion of construction activities.
10. IDOT shall conduct, or cause to be conducted, thorough surveys for Pallid Shiner within the project area in Years 2 and 5 following project completion:
- a. Monitoring shall be centered near the area of direct impact and consist of barge or boat electrofishing (consultant will select methods at the time of survey depending upon river conditions).
  - b. Community-based sampling shall consist of two 30-minute electrofishing runs.
  - c. Surveys shall occur during base flow conditions between August and October.
  - d. **A report including, but not limited to, the survey methodology utilized, water temperature, habitat characteristics, the species and abundance of all fish collected, length and sex (if discernable) of each Pallid Shiner collected, and a map of the species locations and areas surveyed shall be provided to the Department within 90 days of completion of the survey.**
11. Mitigation to the maximum extent practicable is required by the Act. Mitigation requirements for this authorization are calculated as follows:

IDOT shall submit mitigation to the Illinois Department of Natural Resources - Illinois Wildlife Preservation Fund in the amount of **\$15,600 within 90 days of execution of this agreement.** The mitigation will be earmarked to bring conservation benefit to the Pallid Shiner.

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.

12. 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

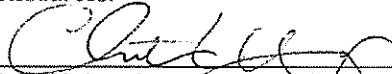
(217)557-8243  
DNR.ITAcoordinator@illinois.gov

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.


13. The IDOT official identified below is authorized to execute this agreement. Execution by IDOT indicates acceptance of all terms and conditions described in this authorization.

14. The execution of this agreement does not waive or excuse the responsibilities of IDOT 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:*

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

*For the Illinois Department of Transportation:*

  
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Mr. Masood Ahmad, P.E.  
Region 2 Engineer

7/13/2022  
Date

July 08, 2022  
Date

