

### **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 Ameren Illinois Company (hereinafter referred to as Ameren) for the incidental take of the Federally threatened and State-endangered Eastern Massasauga (*Sistrurus catenatus*). The Illinois Department of Natural Resources (hereinafter referred to as the Department) has determined that the taking is incidental to activities associated with the project to partially rebuild a 23-mile-long 138-kilovolt (kV) transmission line in Bond and Clinton Counties, IL. The majority of the work will take place outside of known habitat for Eastern Massasauga. This transmission line reconstruction will take place approximately 5.8 miles north/northeast of Eldon Hazlet State Park near the northern one-third of Carlyle Lake and does not include the power poles on the railroad levee that crosses Carlyle Lake.

#### **Procedural History**

The Department received a conservation plan prepared by Homer & Shiffrin, Inc., for Ameren on May 13, 2022, as a request for authorization for the incidental take of Eastern Massasauga. Additional information was requested by the Department on June 3, September 13, October, and December 9, to make the conservation plan complete as prescribed by Ill. Adm. Code 1080.10. Additional information was received by the Department on August 8, November 18, and December 20, 2022. The final conservation plan was approved by the Department on January 10, 2023. 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 partially rebuild a 138 kV transmission line. This work will include replacing crossarms on 8 poles, complete structures at 9 poles, repair ground wire at 7 poles, remove the complete

structure at 3 locations, repair guide wires at two locations, and replace a broken insulator string at 1 location. The last two repairs will also require an access lane near habitat for the species. The lane is proposed to be as close as possible to the railroad tracks to minimize impact to habitat. Total impact to Eastern Massasauga habitat is estimated at <1 acre.

Individual Eastern Massasaugas may be taken by activities associated with site excavation, grading, and filling, and or trapped by the exclusionary fencing. The temporary impacts during construction could include increased noise, ground vibration, traffic, light, a potential for loss of habitat and prey, and road mortalities.

The take of Eastern Massasauga that could result from this project is not the purpose Ameren'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 Ameren's conservation plan.

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

**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:

Ameren states that the project is funded through their operational funds. Funding for mitigation will be provided to the Department.

It is the Department's opinion that Ameren'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:

**Eastern Massasauga** (*Sistrurus catenatus*) is a Federally threatened and state-endangered venomous reptile.

**Habitat:** Across their range, Eastern Massasauga have a range of preferred habitats, with a preference for seasonal wetlands with a mixture of open sedge-grass areas and some short canopy. The species also has an association with crayfish and small mammals, since those burrows are used for hibernation.

**Distribution:** Eastern Massasauga are found primarily in the eastern United States around the southern Great Lakes and Midwest. The species has been found in Iowa, Illinois, Wisconsin, Indiana, Ohio, New York, Pennsylvania, and Michigan. In Canada, Eastern Massasauga populations have also been found around Lake Huron in Ontario.

**Migration:** Individual Eastern Massasauga may travel up to 1.6 miles between winter and summer habitats.

**Reproduction:** Mating takes place in both the spring and fall depending on the population, and offspring are born in the late summer. Females give birth to live young in litters ranging in size from two to twenty hatchlings. Individuals reach sexual maturity at 2-4 years old, and only reproduce every other year.

**Population:** Eastern Massasauga populations have been impacted by many factors including habitat loss, destruction, and modification. Additionally, populations of Eastern Massasauga have been impacted by persecution from illegal collection, and intentional killing. Range-wide, Eastern Massasauga likely was scattered in pockets of post-glacial habitat.

**Range in Illinois:** Historically, they were found throughout most of the western and southern parts of Illinois. Eastern Massasaugas have been observed in four (4) of 102 Illinois counties: Bond, Clinton, Knox, and Washington. There are currently four (4) extant Element Occurrence Records for Eastern Massasaugas in the Illinois Natural Heritage Database.

**Incidental Take Authorizations:** The Department has eight (8) previously issued or pending Incidental Take Authorizations. This is the fourth (4) authorization to be granted for Eastern Massasaugas in Clinton County. Previous ITAs have been issued for residential development, commercial development, bridge repairs, and a water control structure.

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Based on the amount of habitat impacted by this project, the number of known occurrences of Eastern Massasauga 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 Ameren 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 Ameren’s request for authorization of incidental take was published in the *Breeze Courier* (official state newspaper) on February 7, 2023, and in *The Greenville Advocate* on February 7, 14, 21, and 28, 2023. A copy of the conservation plan was deposited at the Case-Halstead Public Library in Carlyle, and the Lakeside Villas Associates, LP office in Collinsville where it was available for public review. The deadline for public comment was March 28, 2023. No comments were received from the public.

### **Authorization**

It is the determination of the Department that the measures that will be implemented by Ameren will adequately minimize and mitigate the anticipated taking of Eastern Massasauga incidental to the project to rebuild a 23-mile-long 138-kilovolt (kV) transmission line in Bond and Clinton Counties. 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 Ameren to the Department are incorporated into this agreement by reference and are made a part thereof. In the event there is conflict between the conservation plan and this authorization, this authorization shall control.

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 Ameren in the conservation plan:

1. This authorization is effective upon the signature of the Department and shall remain in effect for a period of **three (3) 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 Ameren has failed to comply with any of these terms and conditions or has been responsible for the taking of the Eastern Massasauga beyond that

which is incidental to activities associated with the project to partially rebuild a 23-mile-long 138-kilovolt (kV) transmission line in Bond and Clinton Counties, IL

2. The effective period of this authorization may be altered by mutual written agreement between Ameren 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 Eastern Massasauga, 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. **Ameren 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, or conducting work on behalf of, Ameren 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, an IDNR Endangered Species Permit as authorized under 17 Illinois Administrative Code 1070, and a Herptile Scientific Permit as authorized under 17 Illinois Administrative Code 885.
7. **Ameren shall notify the Department's Endangered Species Program by email correspondence of construction commencement and completion** of work associated with the project to partially rebuild a 23-mile-long 138-kilovolt (kV) transmission line in Bond and Clinton Counties, IL. A **project status report** shall be submitted to the Department upon project completion summarizing construction progress including the implementation of minimization, mitigation, and restoration measures, and evaluating the effectiveness of those measures, and the report 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. Ameren shall conduct, or cause to be conducted, the following pre-construction or construction efforts:
  - a. Clean, temporary construction matting shall be used in areas of wetlands and/or unstable soil.
  - b. All visible crayfish burrows shall be avoided when placing matting
  - c. At least one day and no more than ten (10) days, prior to initiating construction, the project area shall be walked by a person familiar with Eastern Massasauga to ensure that no snakes are present in the construction area.
  - d. In the event that Eastern Massasauga are encountered during construction, work shall cease, and a Department biologist in Endangered Species Program shall be contacted as soon as practicable, but no more than 24 hours after discovery. If contact cannot be made with the Department, then the United States Fish and Wildlife Service (USFWS) shall be contacted.
  - e. Sediment and erosion best management practices shall be utilized.
  - f. Disturbance of vegetation shall be minimized to prevent erosion and sedimentation. Existing vegetation will be preserved where attainable and disturbed portions of the site will be stabilized.
  - g. Exclusion, erosion, and sediment control measures shall be monitored weekly and after heavy rain events to ensure effectiveness.
  - h. All disturbed areas shall be seeded upon completion of construction activities. The Department has reviewed and accepted the proposed mix in the conservation plan.
  - i. Vegetation management shall include mowing grass at a maximum height of 6 inches around the immediate vicinity.
  
10. Ameren shall conduct, or cause to be conducted, thorough surveys for Eastern Massasauga within the project area in Year 1 following project completion:
  - a. The survey shall be Visual Encounter Surveys
  - b. A report including, but not limited to, the survey methodology utilized, other herptiles encountered, temperature, habitat characteristics, the species and abundance of crayfish burrows located, density estimates of crayfish burrows from quadrat samples, 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.**
  - c. Additionally, Ameren shall comply with reasonable requests by the Department, USFWS, the U.S Army Corps of Engineers, and/or the Illinois Natural History Survey to access the areas to locate individual Eastern Massasauga that are implanted with radio telemetry devices.
  
11. Mitigation to the maximum extent practicable is required by the Act. Mitigation requirements for this authorization are calculated as follows:

- a. Ameren shall submit mitigation to the Illinois Department of Natural Resources – Illinois Wildlife Preservation Fund in the amount of **\$20,779 within 90 days of execution of this document.**
- b. The mitigation will be earmarked to bring conservation benefit to the Eastern Massasauga. 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:

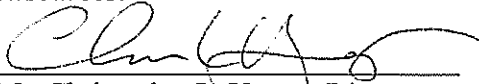
Illinois Department of Natural Resources  
Office of Resource Conservation  
Endangered Species Program – Incidental Take Authorization Coordinator  
One Natural Resources Way  
Springfield, IL 62702-1271

(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.

13. The Ameren official identified below is authorized to execute this agreement. Execution by Ameren 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 Ameren 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:*

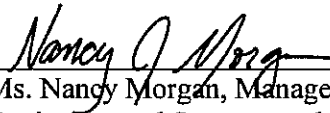


Mr. Christopher L. Young, Director  
Office of Resource Conservation

4/25/23

Date

*For Ameren Illinois:*



Ms. Nancy Morgan, Manager  
Environmental Strategy and Analysis

4/18/2023

Date