

Authorization for Incidental Take and Implementing Agreement

Pursuant to the Illinois Endangered Species Protection Act (520 ILCS 10/5.5) your authorization for the incidental take of State threatened Illinois chorus frogs (*Pseudacris streckeri illinoensis*) related to the construction of the Meredosia truck access road (Morgan County, Illinois) is hereby granted, subject to the terms and conditions described below. This authorized take is incidental to the construction of a new truck access road south of Meredosia, Morgan County, Illinois.

Procedural History

The Morgan County Highway Department (MCHD) prepared a conservation plan as described by the Illinois Endangered Species Protection Act (520 ILCS 10/5.5). That plan and the MCHD's request for authorization for incidental take of Illinois chorus frogs were received by the Department of Natural Resources (Department) on September 21, 2001; modified version received October 16, 2001. Public notice of MCHD's request for authorization of incidental take of Illinois chorus frogs was published in the Edwardsville Intelligencer on November 28, 2001, and in The Tri-County Times on November 28, December 5, and December 12, 2001. Public comments on the MCHD's conservation plan were accepted by the Department until January 11, 2002. No comments were received by the Department in reference to this project (new truck access road south of Meredosia, Morgan County, Illinois).

Compliance with the Endangered Species Protection Act

The Illinois Endangered Species Protection Act includes six criteria which must be met for the authorization of incidental take of an endangered or threatened species. These criteria and the Department's determination for each criteria 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 new truck access road/highway south of Meredosia, Illinois. Morgan County has been aware of the need for better highway access to the industrial area south of Meredosia for many years. This area was developed because of river and rail transportation, however as the years passed, trucks have been carrying a higher percentage of products. This has resulted in several concerns to the residents of Meredosia. Namely, the movement of hazardous materials through residential areas on Washington Street and the dangerous intersection of Washington Street and Illinois Route 104 at the end of the Illinois River bridge. The construction of a new truck access road will require approximately 19.15 acres of right of way (18.3 acres agricultural; 1.2 acres wooded). The west 5000 feet of the proposed truck access highway will be constructed over the following loamy, sandy soils: Bloomfield, Plainfield, and Sparta. These soil types may be used by Illinois chorus frogs for burrowing during the non-breeding seasons. In addition, the proposed highway is adjacent to poorly drained, level, silty loam soils which may provide standing water for breeding sites during wet years. Therefore, the construction of the proposed highway could result in the taking of Illinois chorus frogs due to excavation and fill activities burying and/or crushing frogs. Such taking is not the purpose of the activities proposed by the MCHD, but is incidental to the carrying out of a lawful activity.



Illinois Department of Natural Resources

<http://dnr.state.il.us>

524 South Second Street, Springfield, Illinois 62707-1787

George H. Ryan, Governor • Brent Manning, Director

April 3, 2002

Mr. Calvin W. Hance
Morgan County Highway Department
651 Brooklyn Street
P.O. Box 458
Jacksonville, Illinois 62651

RE: *Meredosia Truck Access Road - Incidental Take Authorization*

Dear Mr. Hance:

Pursuant to the Illinois Endangered Species Protection Act (520 ILCS 10/5.5) your authorization for the incidental take of State threatened Illinois chorus frogs (*Pseudacris streckeri illinoensis*) related to the construction of the Meredosia truck access road is hereby granted, subject to the terms and conditions described in the attached Authorization and Implementing Agreement. The Illinois Department of Natural Resources has determined that this authorized take is incidental to the construction of a new truck access road south of Meredosia, Morgan County, Illinois.

Please have an authorized County Official sign the last page of both copies of the Authorization and Implementing Agreement and return **both** copies to the attention of Joseph Kath of my staff. Upon receipt, I will sign the Agreements and return one (1) fully executed copy to you for your official records. This authorization shall be effective once signed by the Department.

Thank you for your cooperation and assistance during the incidental take preparation and review process. Please do not hesitate to contact our office at (217)785-8774 with any questions or comments you may have regarding this authorization agreement.

Sincerely,

Kirby Cottrell, Director
IDNR-Office of Resource Conservation

Enclosure

KC:JK

2. The parties to the conservation plan will, to the maximum extent practicable, minimize and mitigate the impact caused by the taking.

The conservation plan prepared by the MCHD and received by the Department on September 21, 2001; modified version received October 16, 2001, stated that a series of three (3) small ponds would be constructed to depths of one (1), two (2), and three (3) feet, approximately 200 feet off the highway right of way in silty soil. These ponds may then be utilized as a breeding area by Illinois chorus frogs. The MCHD will plant, or cause to be planted, native species of emergent and sub-emergent aquatic vegetation in the excavated breeding ponds to provide substrate for Illinois chorus frog breeding activity. If the initial planting fails, Morgan County will make one (1) additional attempt to establish native emergent aquatic vegetation in the excavated ponds.

The area not in the highway footprint will be left undisturbed as "open-space" which may serve as habitat enhancement for the Illinois chorus frog within the project area. No borrow pits or waste areas will be constructed for this project. In addition, a prairie grass seed mixture will be planted on the unpaved right of way portion of the proposed highway, potentially providing Illinois chorus frog burrowing habitat during non-breeding seasons.

The Illinois chorus frog spends its non-breeding life underground. During breeding, it may travel up to one (1) mile and its presence may be detected by its song. A qualified agent contracted through the MCHD will conduct monitoring for a period of five (5) years following pond construction. This monitoring will involve annual spring "call listening" surveys to determine the presence or absence of Illinois chorus frogs at the subject site. Morgan County will provide the Department with a copy of these annual listening survey reports within 30 days after completion of that spring's final survey.

3. The parties to the conservation plan will ensure that adequate funding for the conservation plan will be provided:

The MCHD's conservation plan includes a commitment to excavate ponds suitable for breeding by Illinois chorus frogs and to support monitoring of chorus frog use at the site after the ponds are available for breeding. The MCHD receives funding for highway projects from the State of Illinois' Motor Fuel Tax, local property taxes (Morgan County, IL.), and other various sources. These sources of funding will be available to continue all measures instituted in the conservation plan for a minimum period of five (5) years.

4. Based on the best available scientific data, the Department has determined that the taking will not reduce the likelihood of the survival or recovery of the endangered species or threatened species in the wild in Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois:

The construction of the proposed truck access road could result in the taking of Illinois chorus frogs due to excavation and fill activities burying and/or crushing frogs. The west 5000 feet of the proposed truck access highway will be constructed over the following loamy, sandy soils: Bloomfield, Plainfield, and Sparta. These soil types may be used by Illinois chorus frogs for burrowing during the non-breeding seasons. In addition, the proposed highway is adjacent to poorly drained, level, silty loam soils which may provide standing water for breeding sites during wet years. The number of frogs utilizing the proposed construction area is unknown. No frogs were found in the spring of 2001, which may have been a poor breeding year due to dry

weather. The proposed right of way to be acquired is 10.43 acres, of which 2.75 acres will be pavement. The remainder will be seeded with prairie seed mixture (Class 4 modified from Table 1 - Seeding Mixtures in the "Standard Specifications for Road and Bridge Construction").

The Illinois chorus frog is found in nine (9) counties in Illinois. Morgan County historical records for 1988 show 10 locations of which one (1) is near this project; 1991 records show three (3) locations all well north of this project; and 1993 records show 10 locations of which one (1) is near the proposed project. The excavation of ponds on the site should be adequate to compensate for any potential loss of frogs through these actions. These ponds will be excavated in a manner to make them suitable for breeding by Illinois chorus frogs and can be modified if they are found to be unsuitable (e.g., do not hold water long enough to allow successful transformation of tadpoles into frogs). Even a minimal increase in recruitment of chorus frogs as a result of the availability of additional breeding habitat would result in an overall increase in the number of frogs at the site.

The incidental take of Illinois chorus frogs at these sites is not expected to reduce the likelihood of the survival of the species in Illinois because it is anticipated that the number of frogs at these sites can be increased by the proposed mitigation measures and no other site(s) of chorus frog occurrence will be affected by the MCHD's proposed activities.

Habitat essential to the Illinois chorus frog's existence in Illinois would be slightly diminished by this project. However, since the population is widespread and the MCHD's conversion of suitable habitat (sandy soils) is narrow and transverse (approximately 80 feet wide), future impacts to Illinois chorus frogs is expected to be minor. Breeding habitat, often a limiting factor in the success of chorus frog survival, would be increased by the excavation of additional breeding ponds in the project vicinity.

The MCHD abides by the National Environmental Policy Act and all associated state and federal environmental laws in carrying out its mission of performing the most environmentally sensitive methods of transportation planning and engineering.

5. Any measures required under Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5 - 17 IL. Adm. Code Part 1080.40(b)] will be performed:

Additional measures are listed below under "Authorization." This authorization is, by definition, subject to those terms and conditions and the MCHD's signature on this authorization 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 the MCHD's request for authorization of incidental take of Illinois chorus frogs was published in the Edwardsville Intelligencer on November 28, 2001, and in The Tri-County Times on November 28, December 5, and December 12, 2001. Public comments on the MCHD's conservation plan were accepted by the Department until January 11, 2002. No comments were received by the Department in reference to this project (new truck access road south of Meredosia, Morgan County, Illinois).

Authorization

It is the determination of the Department that the measures that would be implemented by the MCHD at this site would adequately minimize and mitigate for the anticipated taking of a small number of frogs as the result of constructing a new truck access road/highway south of Meredosia, Illinois. Further, it is our opinion that the take authorized herein would not diminish the likelihood of the survival of the Illinois chorus frog 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.

Pursuant to Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5 - 17 IL. Adm. Code Part 1080.40(b)], this authorization is issued subject to the following additional terms and conditions:

1. This authorization is effective upon signature by the Department and shall remain in effect for a period of six (6) years unless terminated as pursuant to Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5 - 17 IL. Adm. Code Part 1080.80].
2. The MCHD shall excavate a series of three (3) small ponds. These ponds shall be constructed to depths of one (1), two (2), and three (3) feet, approximately 200 feet off the highway right of way in silty soil. These ponds shall serve as breeding habitat for Illinois chorus frogs. These ponds would be constructed according to specifications provided by the Department in consultation with herpetologists familiar with the life history requirements of the Illinois chorus frog. Upon acquisition of the property, pond excavation shall be completed as early as practicable to provide breeding habitat for the early spring. If the excavated ponds are found to be unsuitable for breeding by the Illinois chorus frog, the MCHD shall modify the ponds based upon recommendations of the Department.
3. The MCHD shall plant, or cause to be planted, native species of emergent and submergent aquatic vegetation in the excavated breeding ponds to provide substrate for Illinois chorus frog breeding activity. If the initial planting fails, the MCHD shall make one (1) additional attempt to establish native emergent aquatic vegetation in the excavated ponds.
4. The MCHD shall perform, or cause to be performed, annual spring surveys ("call listening surveys") to determine the presence or absence of breeding Illinois chorus frogs at the subject site for a period of five (5) years following construction. The MCHD shall provide the Department with a copy of these annual listening survey reports within 30 days after completion of that spring's final survey.
5. In addition to annual spring call listening surveys, the MCHD shall perform, or cause to be performed, monitoring of Illinois chorus frog habitat use and breeding activity at all three (3) of the excavated ponds for at least two (2) years after pond establishment, or for a period deemed suitable by Department herpetologists. These monitoring efforts should be completed at least once a week to determine if frogs are successfully laying eggs in the excavated ponds; to determine if tadpoles metamorphose; and to determine if fully developed frogs successfully leave the ponds. During these monitoring efforts, the depth of water in each of the three (3) ponds shall be measured. Data on pond condition and water depth information shall be collected and analyzed by a person (or persons) with suitable herpetological experience. The MCHD shall provide the Department with a copy of these weekly monitoring and water depth reports within 30 days after completion of that season's final survey.

6. The effective period of this authorization may be extended by mutual agreement between the MCHD and the Department.

7. This authorization may be revoked pursuant to Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5 - 17 IL. Adm. Code Part 1080.80] if the Department finds that the MCHD has failed to comply with any of these terms and conditions or has been responsible for the take of Illinois chorus frogs beyond that which is incidental to the construction of a new truck access road/highway south of Meredosia, Illinois.

8. The MCHD Official identified below is authorized to execute this agreement. Execution by the MCHD's Official indicates acceptance of all terms and conditions described in this agreement.

For the IL. Department of Natural Resources

For the Morgan County Highway Department

Kirby Cottrell, Director
Office of Resource Conservation

Signature

Date Signed

Please print name and official title

Date Signed