

Authorization for Incidental Take and Implementing Agreement

Pursuant to the Illinois Endangered Species Protection Act (520 ILCS 10/5.5) the Illinois Department of Transportation's (IDOT)/Monroe County Highway Department's (MCHD) authorization for the incidental take of the State threatened Eastern Narrowmouth Toad (*Gastrophryne carolinensis*) in Monroe County, Illinois [associated with the FAS 856/Kaskaskia Road project] (as described/shown in the conservation plan received by the Department on 10 March 2010) 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 widening, resurfacing, and realignment of a portion of Kaskaskia Road (FAS 856) in Monroe County, Illinois.

Procedural History

The Monroe 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 IDOT/MCHD's request for authorization for the incidental take of eastern narrowmouth toads (ENT) were received by the Illinois Department of Natural Resources (Department) on 10 March 2010. Public notice of IDOT/MCHD's request for authorization of incidental take of ENT was published in the Arlington Heights Daily Herald (Official State newspaper) and The Republic Times on April 21, April 28, as well as on May 5, 2010. Public comments on MCHD's conservation plan were accepted by the Department until June 4, 2010. No comments were received by the public during the period of April 21, 2010 through June 4, 2010.

Compliance with the Endangered Species Protection Act

The Illinois Endangered Species Protection Act includes six (6) 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 proposed project consists of the widening, resurfacing and realignment of a portion of Kaskaskia Road in Monroe County, Illinois in order to improve vehicular safety. Since this area is rural in nature, the Federal Highway Administration guidelines necessitate a minimum design

speed of 45 miles per hour, and the current curves in the roadway are only designed for 35 miles per hour. Sixteen (16) accidents have occurred on this segment of roadway since 1997. The total project length is 1.8 miles, and begins at LL Road and continues just past MM Road.

Approximately 0.68 miles will be widened and resurfaced, and 1.1 miles will be realigned. According to the data sent to the local/District IDOT office by Mr. Scott Ballard (District Natural Heritage Biologist) the eastern narrowmouth toad has been recorded from three (3) sinkholes within the project corridor [Eastern Narrowmouth Toad (ENT) Sites 1-3; refer to the marked plan sheets - not included with this Final ITA - on file in Springfield, IL]. Two (2) Eastern Narrowmouth Toad sites (ENT Sites 1 and 2 and Wetland Sites 8 and 9) will be partially impacted in order to construct the realigned roadway and the side slopes. Approximately 0.07 acre will be impacted during construction on ENT Site 1 and approximately 0.1 acre will be impacted on ENT Site 2 (please refer to **Table 1** below).

Table 1. Environmental Impacts - in acres.

| | | |
|--------------------------------------|------|------|
| Eastern Narrowmouth Toad (ENT) Sites | 1 | 2 |
| Wetland Site | 8 | 9 |
| Area | 0.58 | 0.35 |
| Area within right of way | 0.20 | 0.18 |
| Area to be impacted | 0.07 | 0.10 |

Work activities along the realignment of Kaskaskia road south of MM road could result in incidental taking of the eastern narrowmouth toad. Earth excavation and fill could result in toads being buried or crushed. The exact number of toads inhabiting the existing right of way is unknown although Scott Ballard of IDNR detected 11 calling males in four (4) sinkholes in 2005; three (3) of these sinkholes are in the project corridor, and one (1) is adjacent to the project corridor.

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

The eastern narrowmouth toad (*Gastrophryne carolinensis*) is listed as a threatened species in Illinois. The eastern narrowmouth toad's preferred habitat is open, moist areas with abundant ground cover. The toad breeds during the summer in temporary or permanent waters; they will remain in the vicinity of breeding pools awaiting high humidity and heavy rain for breeding to occur. Historically, the toads have called in Monroe County May 13 thru July 14. Outside of the breeding season, the animal is found in rotten stumps and beneath rocks, logs, bark, and other objects on the ground.

The eastern narrowmouth toad overwinters underground; they are capable burrowers and have a “spade” on their rear feet to facilitate digging. The eastern narrowmouth toad is known from only six (6) southern counties in Illinois where it may be locally common.

Construction limits for the proposed project have been reduced to the smallest area possible, in an effort to minimize impacts to the toad’s breeding habitat. Limiting 1:4 embankment slope(s) to fill heights less than six (6) ft and providing guardrail(s) where 1:3 slopes are not practical will more than likely lessen the impact within adjacent sinkholes by reduction of the amount of earth work. Riprap will be placed on all side slopes with a grade of 1.5:1.0 to allow for a steeper slope and thus less impact. Since the roadway slopes away from ENT Site 1 and 2, runoff is not a major concern; however, the roadway slopes toward ENT Site 3, so concrete gutter(s) will be installed between sections 347+00 and 351+50 which will allow runoff to be distributed to the farthest sections of the rim of the sinkhole allowing the runoff time to slow down and disperse. To minimize the time required for work to occur in the area of the eastern narrowmouth toad sites, the proposed project will be constructed in four (4) phases. The construction phase that includes the realignment of Kaskaskia road south of MM road will consist of 3,400 feet of roadway. The amount of toad habitat that will be affected is a total of 0.17 acres; 0.07 acres from ENT Site 1 and 0.10 acres from ENT Site 2. The number of eastern narrowmouth toads to be affected is undetermined.

Temporary erosion control seeding shall be used on a weekly basis to stabilize exposed areas. The contractor will be required to complete final grading and install all permanent seeding and mulch as soon as practicable to limit soil exposure time. IDOT Seeding, Class 2A (Salt Tolerant Roadside Mixture) will be used adjacent to the roadway and IDOT Seeding, Class 4 (Native Grass Mixture) will be used where mowing operations will not be conducted. Erosion Control Blankets will be used as mulch while the turf becomes established.

Similar habitat surrounds the project area including another sinkhole directly west of eastern narrowmouth toad (ENT) Sites 1 and 2. After work is complete, the area will be re-seeded and natural processes will occur.

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

This project is authorized by the Illinois Department of Transportation, which receives funding from the Illinois General Assembly and the Federal government in carrying out its programs. Funding for the proposed conservation measures will be rolled into the cost of the highway project. If the land acquired for the eastern narrowmouth toad habitat is kept as Monroe County highway ROW, it will be managed long-term by Monroe County. If it is transferred to the IDNR, that agency will manage it in perpetuity.

The (Monroe County Highway Department) and the Illinois Department of Transportation exclusively abide by the National Environmental Policy Act and all associated state and federal environmental laws in carrying out the mission of performing the most environmentally sensitive methods of planning and engineering.

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:

A five (5) acre parcel of land that includes the eastern narrowmouth toad Site 3 will be acquired and preserved. This land will be planted with native prairie seed Class 4 in areas not already forested.

Monroe County shall coordinate a post-construction spring call monitoring survey regime for the eastern narrowmouth toad in Year 2, following the completion of all work activities ["completion" shall be defined as: the first day the roadway on the new alignment is open for use by the general public]. A report shall be provided to the Illinois Department of Transportation and the Illinois Department of Natural Resources (Attn: Joseph Kath) within 90 days of the completion of each survey. If the results of the Year 2 study show that the eastern narrowmouth toad is not present within the project corridor a subsequent monitoring survey shall be conducted in Year 5.

The alternative to resurface, widen, and realign portions of the roadway was evaluated and chosen. This option will begin at LL Road and consist of widening and resurfacing the road for 2,000 feet to the south, and then realigning the following 2,500 feet to straighten the roadway. Widening and resurfacing would then be completed for an additional 1,600 feet, until just north of MM Road, where approximately 3,400 feet of realignment will occur. The total project length is approximately 1.8 miles. Two (2) ENT sites will be partially impacted by the proposed project for a total of 0.17 acre. Best management practices during construction will be used and adjacent land will be preserved. This alternative was selected because it improves the overall safety of the road.

The eastern narrowmouth toad occurs in the southeastern and lower Midwestern United States, from Maryland south to the Florida Keys, west to central Texas, and north to Kentucky, southern Illinois, southern Missouri, and extreme southeastern Nebraska. They also occur on numerous barrier islands in the Gulf Coast and off the southeastern Atlantic Coast. They are common throughout Alabama, Florida, and Louisiana. It should be noted that Southern Illinois is on the fringe of this species range and the ENT is considered locally common. The International Union for Conservation of Nature (IUCN) Species Survival Commission Red-List rates the Eastern Narrowmouth Toad as "Least Concern (LC)".

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 official MCHD signature(s) 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:

The Monroe 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 IDOT/MCHD's request for authorization for the incidental take of eastern narrowmouth toads (ENT) were received by the Illinois Department of Natural Resources (Department) on 10 March 2010. Public notice of IDOT/MCHD's request for authorization of incidental take of ENT was published in the Arlington Heights Daily Herald (Official State newspaper) and The Republic Times (local circulation) on April 21, April 28, as well as on May 5, 2010. Public comments on MCHD's conservation plan were accepted by the Department until June 4, 2010. No comments were received by the public during the period of April 21, 2010 through June 4, 2010.

Authorization

It is the determination of the Department that the measures to be implemented by the MCHD will adequately minimize and mitigate for the anticipated taking (simple relocation and/or lethal take) of a small number of ENT due to the to the to the widening, resurfacing, and realignment of a portion of Kaskaskia Road (FAS 856) in Monroe County, Illinois. Further, it is our opinion that the take authorized herein would not diminish the likelihood of the survival of the ENT 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 of the Department and shall remain in effect for a period of six (6) years after the official "project completion date". "Completion" shall be defined as the date the subject road (FAS 856) is officially open for public use. This authorization is effective unless terminated 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. Construction limits for the proposed project shall be reduced to the smallest area possible, in an effort to minimize impacts to the toads breeding habitat. Limiting 1:4 embankment slope(s) to fill heights less than six (6) ft and providing guardrail(s) where 1:3 slopes are not practical should lessen the impact within adjacent sinkholes by reduction of the amount of earth work. Riprap shall be placed on all side slopes with a grade of 1.5:1.0 to allow for a steeper slope and thus less impact. Since the roadway slopes away from ENT Site 1 and 2 runoff is not a concern; however, the roadway slopes toward ENT Site 3 so concrete gutter shall be installed between sections 347+00 and 351+50 which will most likely allow runoff to be distributed to the farthest sections of the rim of the sinkhole allowing the runoff time to slow down and disperse. To minimize the time required for work to occur in the area of the eastern narrowmouth toad sites the proposed project shall be constructed in four (4) phases. The construction phase that includes the realignment of Kaskaskia road south of MM road will consist of 3,400 feet of roadway. The amount of toad habitat that will be affected is a total of 0.17 acres; 0.07 acres from ENT Site 1 and 0.10 acres from ENT Site 2. The number of eastern narrowmouth toads to be affected is undetermined.

3. Temporary erosion control seeding shall be used on a weekly basis to stabilize exposed areas. The contractor shall be required to complete final grading and install all permanent seeding and mulch as soon as practicable to limit soil exposure time. IDOT Seeding, Class 2A (Salt Tolerant Roadside Mixture) will be used adjacent to the roadway and IDOT Seeding, Class 4 (Native Grass Mixture) shall be used where mowing operations will not be conducted. Erosion Control Blankets shall be used as mulch while the turf becomes established.

4. A five (5) acre parcel of land that includes the eastern narrowmouth toad Site 3 shall be acquired and preserved. This land shall be planted with native prairie seed Class 4 in areas not already forested. In addition, Monroe County shall coordinate a post-construction spring call monitoring survey regime for the eastern narrowmouth toad in Year 2, following the completion of all work activities ["completion" shall be defined as: the first day the roadway on the new alignment is open for use by the general public]. A report shall be provided to the Illinois Department of Transportation and the Illinois Department of Natural Resources (Attn: Joseph Kath) within 90 days of the completion of each survey. If the results of the Year 2 study show that the eastern narrowmouth toad is not present within the project corridor a subsequent monitoring survey shall be conducted in Year 5.

5. Specified erosion and sediment control practices in the Stormwater Pollution Prevention Plan for this project (FAS 856/Kaskaskia Road - Monroe County) shall be implemented. Inspections to ensure proper working order and maintenance of practices shall be made daily by the engineering staff with the Monroe County Highway Department (MCHD). Additional inspections will be made immediately prior to and following events of heavy rain (greater than 0.5") for the area as indicated in the project specific Stormwater Pollution Prevention Plan. If through daily monitoring, eroded soil is observed leaving the jobsite or limits of construction, additional soil conserving practices, including those not included in the Stormwater Pollution Prevention Plan, shall be installed in order to minimize soil erosion.

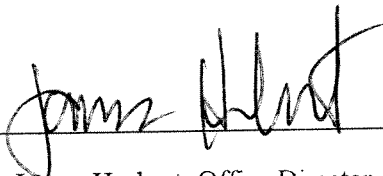
6. The effective period of this authorization may be altered by mutual agreement between IDOT/MCHD and the Department.

7. This authorization may be revoked pursuant to Section 5.5 of the Act if the Department finds that MCHD has failed to comply with any of these terms and conditions or has been responsible for the take of any ENT beyond that which is incidental to the widening, resurfacing, and realignment of a portion of Kaskaskia Road (FAS 856) in Monroe County, Illinois.

8. The MCHD official identified below is authorized to execute this agreement. Execution by MCHD indicates acceptance of all terms and conditions described in this document.

For the IL. Department of Natural Resources

For the Monroe County Highway Department
(MCHD)



Dr. James Herkert, Office Director

IDNR Office of Resource Conservation



Signature

3-10-11

Date Signed

Aaron W. Metzger, County Engineer

Please print name and official title

February 9, 2011

Date Signed