

## **Broad Incidental Take Permit/Authorization for Common Activities**

### **Vibratory Plowing and Slender Glass Lizard (*Ophisaurus attenuatus*)**

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#### **Background**

The Broad Incidental Take Permit/Authorization for Common Activities, as provided for under s. 29.604 Wis. Stats., allows for the incidental taking (mortality) of certain endangered and threatened species that may occur as a result of activities occurring regularly across the landscape. The Department recognizes that these common activities are issued or could be issued individual incidental take permits/authorizations with identical minimization and mitigation measures, and therefore has issued this broad incidental take permit (used by non-state agencies and individuals) and broad incidental take authorization (used by state agencies) to cover these regularly occurring activities if the associated conservation measures are implemented.

An incidental take permit or authorization is typically issued on a project-by-project basis, however a broad incidental take permit/authorization (BITP/A) was created for this situation so that an application, permit fee and public notice period is not required for each individual project. An individual, organization or agency is automatically covered by this permit or authorization if all conditions listed below (process, reporting, conservation measures) are met.

***Please note that this BITP/A for Common Activities does not legally cover a project unless all conditions listed below (project definition, process, reporting and conservation measures) are met.***

#### **Activities Covered**

For the purposes of this BITP/A, vibratory plowing is defined as: trench widths range from 3 to 12 inches, uses a vibratory drive unit and blade attachment to produce a slice in the soil. The vibrator rapidly oscillates, moving the blade a short distance vertically; this vibrating action creates a fracture in the ground in front of the blade, substantially reducing the draft force required for the blade to cut through the ground, as well as reducing resistance on the sides of the blade.

This BITP/A also covers up to 500 ft<sup>2</sup> of disturbance for bore pits that are associated with the vibratory plowing. Work within the bore pit area must also follow all conservation measures listed below. Prior to pit excavation, appropriate sediment controls will be installed when necessary to prevent migration of sediment from the disturbance area. Sediment controls may include straw wattles, silt fence, or other similar products. Topsoil will be excavated from the pit disturbance area and stockpiled. Once the topsoil is removed, subsoil will be removed and stockpiled separate from topsoil (note that the topsoil piles must

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also be included within the 500 ft<sup>2</sup> bore pit disturbance limit if they are located within suitable habitat for the slender glass lizard). Once construction is complete in the pit, excavated materials will be replaced; subsoil followed by topsoil. The disturbance area will be seeded and appropriate erosion controls installed, such as mulch, soil stabilizer, or erosion mat to promote soil stabilization and restoration.

## **Process**

The first step in determining whether a vibratory plowing project could impact the slender glass lizard is to have an [Endangered Resources \(ER\) Review](#) or [Certified ER Review](#) conducted. Please note that if you are requesting another DNR permit or approval (e.g., Chapter 30 Permit, Stormwater Permit), the ER Review may be conducted as part of this process. If an ER Review or Certified ER Review has indicated the likely presence of the slender glass lizard within the project area and avoidance is not possible, this Broad Incidental Take Permit/Authorization (BITP/A) can be utilized.

If this process is not followed, the property owner and/or project applicant are liable for any and all take that may occur.

## **Reporting**

Given the diverse nature of the activities and species to which the BITP/A for Common Activities may be applied, reporting will be required to monitor and verify the use and application of this Permit/Authorization unless otherwise noted. Reporting, where required, applies to all individuals, organizations, and agencies that conduct projects covered under the BITP/A for Common Activities. This information will also be used for future amendments or modifications to the Permit/Authorization to ensure that it achieves its objectives and remains relevant to the covered activities and species.

Responsible parties must place documentation in the project file when the BITP/A for Common Activities is utilized and inform the ER Utility Liaison ([stacy.rowe@wi.gov](mailto:stacy.rowe@wi.gov)) at least **one week prior to commencement of the proposed activity**.

A closing report ([http://dnr.wi.gov/files/pdf/forms/1700/1700-082\\_FillExt.pdf](http://dnr.wi.gov/files/pdf/forms/1700/1700-082_FillExt.pdf)) must be submitted to the ER Utility Liaison ([stacy.rowe@wi.gov](mailto:stacy.rowe@wi.gov)) documenting that the activities were performed in accordance with the specifications, definitions and conditions defined herein. This closing report and the Species Removal Datasheet must be submitted **within 60 days of completion of project**.

## **Conservation Measures**

1. Project related activities must occur from May 1-September 15 and during daytime temperatures of >65° F, when slender glass lizards have the best opportunity to move out of harm's way. This date may be extended based on annual weather conditions, please visit the DNR's Herp Activity Periods web page for updates: <http://dnr.wi.gov/topic/WildlifeHabitat/Herps.asp#regs>.
2. An environmental monitor must be onsite during the activities covered by this conservation plan to ensure that these minimization measures are properly implemented. The environmental monitor will

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walk in front of all construction equipment to look for lizards and move them out of harm's way. The lizard must be placed at least 50 feet from the construction footprint within suitable slender glass lizard habitat that is contiguous with the project area.

3. The environmental monitor must have field experience with the slender glass lizard and its habitat and possess a valid Endangered/Threatened (E/T) Permit or similar authorization for slender glass lizard removals.
4. Crews will be informed of the slender glass lizard by the environmental monitor.
5. If any bore pits remain open longer than 5 days, the ER Utility Liaison ([stacy.rowe@wi.gov](mailto:stacy.rowe@wi.gov)) must be contacted prior to the conclusion of the aforementioned 5-day period, to discuss potential additional minimization measures.
6. Any slender glass lizard observed in the disturbance footprint will immediately be removed from the area. All individuals removed will be recorded (total number of each species and date removed) and reported to the ER Utility Liaison ([stacy.rowe@wi.gov](mailto:stacy.rowe@wi.gov)) at the conclusion of the project. If no lizards are found, a report must still be submitted indicating the days searches were conducted. For a sample data sheet that can be used for reporting, see [http://dnr.wi.gov/topic/ERReview/documents/CA\\_SpeciesRemovalDatashet.pdf](http://dnr.wi.gov/topic/ERReview/documents/CA_SpeciesRemovalDatashet.pdf). This report can be submitted at the same time as the closing report.
7. Contact information for a wildlife rehabilitator (<http://dnr.wi.gov/topic/wildlifehabitat/directory.html>) or veterinarian will be compiled, prior to the project start date, for consultation if any injured slender glass lizards are encountered.
8. All dead slender glass lizards found on site throughout the course of the project must be recorded (species, approximate age, possible cause of death), photographed, and reported to the ER Utility Liaison ([stacy.rowe@wi.gov](mailto:stacy.rowe@wi.gov)) at the conclusion of the project.
9. If reseeding is necessary, surface soils should be tilled and/or raked just prior to reseeding in order to reduce soil compaction. A native short-grass prairie seed mixture, and a temporary cover crop of annual rye, should be planted. If you have questions regarding the seed mix, please contact the ER Utility Liaison ([stacy.rowe@wi.gov](mailto:stacy.rowe@wi.gov)).
10. Upon completion of the project, all areas of temporary disturbance will be restored to pre-existing (or better) conditions.
11. Plastic or polypropylene netting associated with erosion matting (also known as an erosion control blankets or erosion mesh netting) without independent movement of strands can easily entrap herps and other wildlife moving through the area, and cause dehydration, desiccation, and eventually mortality. Biodegradable jute/twine netting with the “leno” or “gauze” weave (contains strands that are able to move independently) has the least impact on herps. If erosion matting will be used for this project, use the following matting (or something similar): American Excelsior “FibreNet” or “NetFree” products; East Coast Erosion biodegradable jute products; Erosion Tech biodegradable jute products; ErosionControlBlanket.com biodegradable leno weave products; North American Green S75BN, S150BN, SC150BN or C125BN; or Western Excelsior “All Natural” products.