



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 Natural Gas Pipeline Company of America, LLC (hereinafter referred to as NGPL) for the incidental take of the State-threatened Ornate Box Turtles (*Terrapene ornata*). The Illinois Department of Natural Resources (hereinafter referred to as the Department) has determined that the taking is incidental to activities associated with the construction of a natural gas pipeline launcher and receiver site for pipeline inspection tools (hereinafter referred to as pigs). The 100-foot wide NGPL pipeline right-of-way contains two natural gas pipelines that transition from a 30" diameter pipeline through Central Illinois to a 36" diameter pipeline underneath Heidecke Lake. This site is located within the Department-owned Heidecke Lake/Goose Lake Prairie State Natural Area, near Morris within Grundy County, Illinois. This work takes place within the Right-of-Way that crosses the Collins Station Prairie Land and Water Reserve, and Collins Station Prairie INAI site (#0560). An easement granting access to the site and the rights to carry out pipeline construction and maintenance within the bounds of the right-of-way is included in the registration documentation for the Collins Station Prairie Land and Water Reserve. NGPL has committed to only working within the right-of-way and coordinating with the District Heritage Biologist to ensure the access is via a route with the least potential impact.

Procedural History

The Department received a conservation plan prepared by the Farnsworth Group for NGPL on October 5, 2021, as a request for authorization for the incidental take of Ornate Box Turtles. Additional information was requested by the Department on October 12 and November 2, 2021 to make the conservation plan complete as prescribed by Ill. Adm. Code 1080.10. Additional information was received by the Department on October 20 and November 4, 2021. The final conservation plan was approved by the Department November 4, 2021. 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 excavate soil to reach the pipeline and construct the aboveground infrastructure of a launcher/receiver station for pigs, which will be enclosed in chain-link fence and covered with gravel to prevent vegetation regrowth. These sites consist of pipes and valves that allow maintenance personnel to launch and receive cleaning and inspection devices that can be used for early detection of defects. NGPL needs to install the station at this site due to the change in outside diameter of the pipeline under Heidecke Lake. Through Central Illinois the pipeline is 30" in diameter, but under Heidecke Lake the pipeline is 36" in diameter. For precise operation of the pig, it must match the diameter of the pipeline it is operated in.

The excavation activities associated with the pig station installation will be limited to the 100-foot wide right-of-way, approximately 70 feet southeast of Heidecke Lake. The project will involve construction of a temporary workspace and temporary timber matting improvement to an access road, for a total temporary impact of 2.38 acres of species habitat. Within the workspace, the soil covering the existing pipelines will be excavated. Approximately 400 feet of both the 30" and 36" pipeline will be removed to install the launcher/receiver station. The contractor will also install 36" pipeline to tie into the existing reducer, a fitting to allow for the transition from 30" to 36" diameter pipeline.

The total estimated area of permanent impact for species habitat is **0.17 acres** that will be a gravel pad enclosed in chain-link fence topped with barbed wire.

Take of the Ornate Box Turtles could occur as a result of being crushed by vehicle and equipment access, or belowground work in suitable habitat. Disturbance from noise and vibration, and disruption to usual movement could have an adverse effect on some life history stages and/or predator-prey interactions. The take of Ornate Box Turtles that could result from this project is not the purpose of NGPL'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 NGPL's conservation plan.

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

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:

NGPL states that they will fully fund the construction of a natural gas pipeline launcher and receiver site for pipeline inspection tools. The cost of the silt fence installation will be included in the contractor's bid price for the project. The estimated costs include funding for all activities associated with the implementation of the conservation plan, including all mitigation and monitoring measures. NGPL understands that if any additional activities are planned at the facility that may affect Ornate Box Turtles, or other endangered or threatened species, coordination with the Department will be required.

It is the Department's opinion that NGPL'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:

Ornate Box Turtle (*Terrapene ornata*) is an Illinois state-threatened reptile species.

Habitat: The Ornate Box Turtle inhabits prairie grasslands, pastures, fields, sandhills, and open woodland areas. The species is terrestrial but occasionally enters slow, shallow streams. For shelter, the Ornate Box Turtle burrows into friable soil or uses burrows made by other species. They hibernate through winter in burrows up to 5 feet in depth.

Distribution: Their overall range covers most of the central United States. The Ornate Box Turtle can be found from southeastern Wyoming to Wisconsin and Indiana, and south to Arizona and Louisiana.

Reproduction: Mating occurs in the spring or late summer. Nesting occurs between May and August. Females lay 1-2 clutches of 1-8 eggs each year. Eggs hatch in 9-12 weeks. Males are sexually mature in 8-9 years, females in 10-11 years.

Population: The Ornate Box Turtle is at risk from increased urbanization, increased agriculture, road mortality, and poaching.

Range in Illinois: Ornate Box Turtles have been observed in the last ten (10) years in 28 of 102 Illinois counties. There are currently 53 extant Element Occurrence Records for Ornate Box Turtle in the Illinois Natural Heritage Database.

Incidental Take Authorizations: The Department has fourteen (14) previously issued or pending Incidental Take Authorizations for the Ornate Box Turtle. This is the first authorization to be granted in Grundy County. Previous projects in

other counties for which take was authorized include a water line extension, wind farm developments, electric transmission lines, mine vent shafts, a commercial development project, and a solar energy facility.

Based on the amount of habitat impacted by this project, the number of known occurrences of the Ornate Box Turtles 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 NGPL 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 NGPL's request for authorization of incidental take was published in the *Breeze Courier* (official state newspaper) on November 16, 2021, and in the *Morris Herald-News* on November 16, November 23, and December 02, 2021. A copy of the conservation plan was deposited at Morris Area Public Library and the Goose Lake Prairie State Natural Area Park Office, where it was available for public review. The deadline for public comment was January 2, 2022. No comments were received from the public.

Authorization

It is the determination of the Department that the measures that will be implemented by NGPL will adequately minimize and mitigate the anticipated taking of Ornate Box Turtles incidental to activities associated with the construction of a natural gas pipeline launcher and receiver site for pigs in Grundy County, Illinois. 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 NGPL 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 NGPL in the conservation plan:

1. This authorization is effective upon the signature of the Department and shall remain in effect for a period of **five (5) 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 NGPL has failed to comply with any of these terms and conditions or has been responsible for the taking of the Ornate Box Turtles beyond that which is incidental to activities associated with the construction of a natural gas pipeline launcher and receiver site for pigs in Grundy County, Illinois.

2. The effective period of this authorization may be altered by mutual written agreement between NGPL 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 Ornate Box Turtles, 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. **NGPL 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 NGPL 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. NGPL shall notify the Department's Endangered Species Program by email correspondence of construction commencement and completion of the maintenance of the pipeline. 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 plastron and carapace photos, a map, and GPS coordinates of any listed species found within the project footprint, the coordinates of the release of any relocated individual(s), 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. NGPL shall conduct, or cause to be conducted, the following pre-construction or construction efforts:
 - a. Equipment staging and refueling shall not take place within the Right of Way. Refueling may occur in the parking lot, provided that a secondary containment system is used
 - b. A silt fence shall be used to enclose the workspace and exclude Ornate Box Turtles. The fences shall be buried a minimum of 6" into the ground, and the posts shall be driven 18" below grade. Department District Heritage Dan Kirk shall inspect the silt fence before work commences.
 - c. The Resident Engineer shall inspect the silt fence daily to ensure that it is secure and sufficient to exclude Ornate Box Turtles.
 - d. If an Ornate Box Turtle is found within the silt fence, the Department shall be notified within 24 hours via email with plastron and carapace photos and relocation coordinates included. The notification shall also include a description of the corrective action to prevent further entry by Ornate Box Turtles.
 - e. A qualified biologist working under a valid endangered species permit, or the District Heritage Biologist shall be onsite if a relocation must occur.
 - f. No tree removal shall occur, and existing trees shall be enclosed in temporary safety fencing to prevent damage.
 - g. The access road shall be protected with timber matting, which will be removed following project completion. During operation of the pig, if the ground is saturated, timber matting shall be used if the inspection cannot be postponed.
 - h. Vehicles shall be limited to a speed of 10 mph on the access road.
 - i. All spoils must be replaced where they were excavated or removed completely off Department property. Temporary soil stockpiles shall be placed within the silt fence working area.
 - j. The permanent chain-link fence shall be constructed with vinyl privacy slats to prevent Ornate Box Turtles from entering. Additionally, the access gate(s) shall have "No Dig" attachments to prevent Ornate Box Turtle entry.
 - k. Once construction is complete, all areas of temporary impact shall be restored to previous conditions, using a Department-approved seed mix.

10. NGPL shall conduct, or cause to be conducted, thorough a survey within the areas of temporary impact by **Year 5** following construction completion (for example, if the project is completed in 2022, monitoring shall take place in 2027):
- a. If a canine-assisted search team is available, one will be used to conduct a survey of the area.
 - b. **A report including, but not limited to, the survey methodology utilized, habitat structure (noting vegetation restoration successes or struggles), the species and numbers of individuals located (noting any discovery of translocated individuals), photos of the plastron and carapace of any individuals, any specific habitat features, approximate age, sex (if discernable), a map of the species locations, survey coverage areas, and search times 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:
- a. In lieu of onsite mitigation, NGPL shall submit **\$8,326.18** to the Wildlife Conservation Fund to be earmarked for the conservation benefit of State-listed Ornate Box Turtle.
 - b. The compensatory mitigation shall be provided to the Department **within 90 days of execution of this agreement**. Mitigation payments are nonrefundable, including events of revocation or termination.

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:

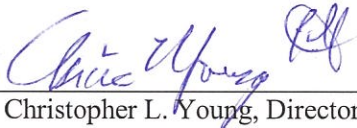
Illinois Department of Natural Resources
Office of Resource Conservation
Endangered Species Program – Incidental Take Authorization Coordinator
One Natural Resource Way
Springfield, IL 62702-1271

(217)557-8243
DNR.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 NGPL official identified below is authorized to execute this agreement. Execution by NGPL 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 NGPL 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:

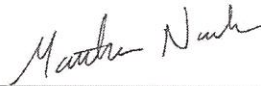


Mr. Christopher L. Young, Director
Office of Resource Conservation

Date

2/15/22

For Natural Gas Pipeline Company of America:



Mr. Matthew A. Nowak
Project Permitting & Compliance

Date

14 Feb 2022