

Illinois
Department of
Natural Resources

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Rod R. Blagojevich, Governor

May 17, 2006

Mr. Carl M. Peterson, Vice President, Consulting Division
ENCAP, Inc.
12961 State Route 36
Cortland, Illinois 60112

RE: *Incidental Take Authorization-Conservation Plan Review (Blanding's turtle
and Sandhill crane)
Talomare Residential Community, Huntley, McHenry County, Illinois
ENCAP Project No. C-01-0221A*

Dear Mr. Peterson:

Enclosed, please find one (1) signed and executed (official) copy of the Authorization for Incidental Take and Implementing Agreement for the Talomare Residential Community project in McHenry County, Illinois.

As always, please do not hesitate to contact our office at (217)782-6384 with any questions or comments you may have regarding this information. Thank you for your assistance during this project.

Sincerely,

Joseph A. Kath
Terrestrial Endangered Species Project Manager
IDNR-Office of Resource Conservation

Enclosures

Authorization for Incidental Take and Implementing Agreement

Pursuant to the Illinois Endangered Species Protection Act (520 ILCS 10/5.5) ENCAP, Inc., on behalf of Huntley Ventures LLC and the Talomare Homeowner's Association, authorization for the incidental take of the State threatened Blanding's turtle (*Emydoidea blandingii*) and State threatened sandhill crane (*Grus canadensis*) associated with the Talomare Residential Community Project (IDNR File #04-02028; ENCAP #C-01-0221A) in McHenry County, Illinois (as described/shown in the conservation plan received by the Department on 8 November 2005) is hereby granted. This is 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 the Talomare Residential Community Project, in McHenry County, Illinois.

Procedural History

ENCAP, Inc. prepared a conservation plan for the Talomare Residential Community Project (IDNR File #04-02028; ENCAP #C-01-0221A) as described by the Illinois Endangered Species Protection Act (520 ILCS 10/5.5). That plan and ENCAP's request for authorization for incidental take of Blanding's turtles and sandhill cranes were received by the Illinois Department of Natural Resources (Department) on 8 November 2005. Public notice of ENCAP's request for authorization of incidental take of these State threatened species was published in the Edwardsville Intelligencer (Official State newspaper) and the Farmside Newspaper (McHenry County) on January 19, 2006, as well as on January 26, 2006 and February 2, 2006. Public comments on ENCAP's conservation plan were accepted by the Department until March 4, 2006. No comments were received by the public during the period of January 19, 2006 through March 4, 2006.

Since the Talomare community has been planned to avoid natural wetlands and waters of the U.S. that are not subject to farming practices, Federal permitting is not required to carry out the Talomare conservation plan, nor develop the site. No state regulations conflict with the implementation of the conservation plan nor with the construction of the Talomare residential community. Compliance with all local regulations implemented by the Village of Huntley, Illinois and adopted within the McHenry County Storm-water Ordinance(s) shall remain in effect.

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 stated and apparent purpose of this proposed action is to construct a residential community (subdivision) [Talomare Residential Community Project (IDNR File #04-02028; ENCAP #C-01-0221A)] in McHenry County, Illinois. The geographic footprint of this residential community contains habitat suitable for State listed species, namely the Blanding's turtle and sandhill crane.

In the course of these primary construction activities, as well as long term maintenance of the preserved on-site wetlands, created wetlands, prairie buffers, and naturalized storm-water management areas may result in the disturbance of Blanding's turtles and/or sandhill cranes, hence a technical "taking" of these species. Such taking is not the purpose of the activities proposed by ENCAP, on behalf of Huntley Ventures LLC and the Talomare Homeowner's Association, but is incidental to the carrying out of a lawful activity.

The IDNR-Office of Realty and Environmental Planning closed endangered species consultation for the first development phase (627.17 acres) of the Talomare residential community on 15 October 2005 as a result of extensive efforts to adhere to IDNR recommendations. The site developer chose to implement and proceed with the conservation plan in order to close IDNR consultation for the final phase of development. Although Talomare has been planned in a manner that will attempt to avoid adverse impacts to listed species and enhance onsite natural features; Incidental Take Authorization has been requested for the site due to the proximity of Illinois Natural Area Inventory Sites (INAI) and the possibility of Blanding's turtles and/or sandhill cranes to occupy and/or transit the site during and after development activities.

As a point of reference: Blanding's turtles have not been observed onsite during construction of phase I. The nesting of sandhill cranes has not been observed onsite and is not expected to occur during construction. However, the Talomare residential community is located approximately one-half mile from the Kloempkin Marsh INAI and adjacent to the H.U.M. Railroad Prairie East INAI. Both the Blanding's turtle and sandhill crane have been observed within the vicinity of the site and measures to potentially benefit both species have been proposed in the conservation plan.

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

A. The Talomare development area consists of 806 acres of land located within the Village of Huntley, Illinois and is best accessible via Reed Road, west of Illinois Route 47. The northern limits of development are bounded by a tributary of the South Branch of the Kishwaukee River and agricultural land. The southwestern and southeastern limits of development are bounded by the H.U.M. Railroad Prairie East Illinois Natural Area Site, residential properties, and agricultural land. The eastern and western limits of development are bounded by agricultural land.

Development of the Talomare community consists of off-site sanitary sewer improvements, Illinois Route 47 improvements, Reed Road improvements, and the construction of residential lots and access roads. Over 40 acres of the site will be park-land dedicated to the Huntley Park District. All onsite wetland areas that are not subject to agricultural activities will be preserved. Approximately 93 percent of the existing trees will be protected. The site currently contains approximately 51 acres of existing wetland and will provide approximately 112.5 acres of wetland habitat post development. An additional 49.5 acres of prairie buffer shall be established around created and preserved wetland areas.

B. The following potential impacts associated with the Talomare community are of primary concern:

*Construction activities may cause turtles to become trapped within the confines of the property and/or be crushed by equipment and/or vehicles.

*(Once construction is complete) homes, fences, driveways, and roads (curbs) may act as barriers to the turtles as they travel to and from nesting areas.

*Noise pollution may have a negative affect on the predator-prey relationships of sandhill cranes by masking noises made by predators and masking noises made by crane's prey. Noise, in and of itself, can impose stress.

*The ability of domestic pets (potential predators) to get in or near the wetlands must be limited.

This should include domestic cats, as feral cats have a detrimental effect on many forms of wildlife. Leash laws within the Talomare subdivision should also cover cats as well as dogs.

C. In order to minimize potential impacts, Huntley Ventures LLC shall take the following measures to prevent the taking of turtles and cranes during and after construction. Huntley Ventures LLC does not anticipate a negative impact on the local populations of these species.

1. A fundamental aspect of the site plan is to preserve and enhance existing onsite resources. The Village of Huntley has been working with the developer under a Revised Development Agreement to achieve a fair compromise between property rights granted as part of the original annexation agreement and the need to protect the environment. This compromise has resulted in naturalized storm-water management practices to protect existing wetlands and drainage-ways, complete avoidance of all waters of the United States and strict compliance with the McHenry County Storm-water Management Ordinance(s) as adopted by the Village.

2. In addition to the preservation of existing wetlands and drainage-ways that are not currently farmed, 66.5 acres of a wetland/prairie complex shall be graded and seeded prior to completing phase II work. This area is directly linked to the preserved corridor provided by the tributary to Kishwaukee Creek and should assist in turtle movement. This area will also provide habitat for resting and foraging sandhill cranes away from primary construction areas. Areas like this should increase biological diversity of available habitat, may assist in the cranes' ability to forage and may support other (threatened and endangered) species. Trails are not proposed within the natural areas to limit human encroachment and disturbance. As stated in their 12 September 2005 letter, the Village of Huntley will continue to strictly enforce leash laws so that pets do not become potential predators. This (leash law) shall include domestic cats, as feral cats have a detrimental effect on many forms of wildlife.

3. The onsite natural areas shall be managed and maintained for a period of five (5) years by the developer. Once the areas meet performance standards as required by the Village, the areas shall be turned over to the Talomare Homeowner's Association. Details of the long term management of the onsite (natural) areas are contained within the Covenant Guidance for Natural Areas as part of the Homeowner's Association covenants and restrictions documentation.

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

In an official correspondence to the Department dated 8 November 2005, ENCAP verified that adequate funding exists to support and implement all (mitigation) activities described in the official Conservation Plan. This correspondence states that during site development, and continuing through the five year vegetation monitoring and maintenance period, Huntley Ventures LLC will provide all of the necessary funding for the implementation of the taking minimization measures. Following the completion of the five year period, the Talomare Homeowner's Association shall be responsible for funding and implementing the long term maintenance of all project related natural areas.

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 Talomare residential parcel is located east of the Kloempken Marsh Illinois Natural Area Inventory (INAI) Site and the Hennig-Kloempken County Conservation Site parcels owned by the McHenry County Conservation District (MCCD). The southwestern portion of the proposed Talomare development site is adjacent to the H.U.M. Railroad Prairie East Illinois Natural Area Inventory (INAI) Site, a high quality natural area also owned by MCCD.

Blanding's turtles have not been observed onsite during construction of phase I. The nesting of sandhill cranes has not been observed onsite and is not expected to occur during construction. However, the Talomare residential community is located approximately one-half mile from the Kloempkin Marsh INAI and adjacent to the H.U.M. Railroad Prairie East INAI. Both the Blanding's turtle and sandhill crane have been observed within the vicinity of the site and measures to potentially benefit both species have been proposed in the conservation plan.

The development of the Talomare community will most likely not threaten the existence of sandhill cranes and/or Blanding's turtles in Illinois. The majority of the proposed development occurs within areas utilized for the production of agricultural row crops. While agricultural fields do provide some foraging opportunities, the onsite crops do not constitute habitat essential to species existence. While the project may negatively impact individual turtles and cranes, the proposed enhancements may provide overall habitat benefits. Both species have been documented to inhabit several areas within the vicinity of the site and the proposed natural area improvements may help establish "habitat corridors" that could link nearby Illinois Natural Area Inventory Sites.

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 Huntley Ventures LLC and/or the Talomare Homeowner's Association 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:

ENCAP, Inc. prepared a conservation plan for the Talomare Residential Community Project (IDNR File #04-02028; ENCAP #C-01-0221A) as described by the Illinois Endangered Species Protection Act (520 ILCS 10/5.5). That plan and ENCAP's request for authorization for incidental take of Blanding's turtles and sandhill cranes were received by the Illinois Department of Natural Resources (Department) on 8 November 2005. Public notice of ENCAP's request for authorization of incidental take of these State threatened species was published in the Edwardsville Intelligencer (Official State newspaper) and the Farmside Newspaper (McHenry County) on January 19, 2006, as well as on January 26, 2006 and February 2, 2006. Public comments on ENCAP's conservation plan were accepted by the Department until March 4, 2006. No comments were received by the public during the period of January 19, 2006 through March 4, 2006.

Authorization

It is the determination of the Department that the measures to be implemented by ENCAP, Inc. on behalf of Huntley Ventures LLC and the Talomare Homeowner's Association will adequately minimize and mitigate for the anticipated taking (disturbance/harassment) of a small number of Blanding's turtles and/or sandhill cranes due to the construction of the Talomare Residential Community, in McHenry County, Illinois. Further, it is our opinion that the take (disturbance/harassment) authorized herein would not diminish the likelihood of the survival of either the Blanding's turtle and/or sandhill crane 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, 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. The onsite natural areas shall be managed and maintained for a period of five (5) years by the developer. Once the areas meet performance standards as required by the Village, the areas shall be turned over to the Talomare Homeowner's Association. Details of the long term management of the Talomare (natural) areas shall be contained within the Covenant Guidance for Natural Areas as part of the Homeowner's Association covenants and restrictions documentation.

3. The following measures shall be implemented with regards to the Talomare Residential Community project:

A. Upland Habitat Areas: Over 49 acres of upland prairie shall be established along naturalized storm-water management areas, preserved wetlands, and the tributary to the Kishwaukee River. An upland prairie area approximately 400' by 1,200' shall be located north of a naturalized detention facility and south of a created riparian wetland, and shall provide secluded upland habitat that should improve foraging and nesting opportunities for sandhill cranes and Blanding's turtles. A 100' upland buffer shall be established along the 25' wide H.U.M. Railroad Prairie East INAI site located adjacent to the southwestern property boundary.

B. Wetland Preservation: 42 acres of existing isolated wetlands and waters of the U.S. shall be preserved. Only wetlands that are currently farmed shall be impacted by development.

C. Wetland Creation: 13 acres of riparian wetland shall be created within the northern portion of the property. This will enhance the functional value of the fringe riparian environment currently associated with the existing tributary.

D. Naturalized Storm-Water Management: 57 acres of wetland habitat shall be provided within the naturalized storm-water management areas.

E. Overland Wildlife Movement: Bridges consisting of modular concrete shall be utilized at both tributary crossings to preserve the natural stream bottom and allow for fish and wildlife movement. The chosen substrate under these bridges shall have suitable physical characteristics that allow it to remain above water during normal flows. This will allow wildlife to successfully pass under the bridge. Naturalized storm-water management facilities have been located adjacent to preserved wetland areas in order to increase foraging habitat for wildlife. The northern natural area is designed specifically with the sandhill crane in mind, providing wet meadow, emergent, and shallow open water areas adjacent to a large upland plant community.

F. Mountable Molded Curbs: Mountable curbs shall be installed within all single family neighborhoods to specifically allow turtle movement and prevent the turtle(s) from being trapped away from habitat areas. Barrier curbs shall be installed on collector streets (Founder's Field Blvd. & Talomare Blvd.) and in town-home neighborhoods to keep the turtle(s) out of high traffic areas.

G. Fencing: Silt fence shall be installed and strictly monitored to keep Blanding's turtles out of construction zone(s). ENCAP (and/or another qualified consultant) shall work with Huntley Ventures LLC and/or the Talomare Homeowner's Association to ensure that silt fences are checked daily during the construction period and also during the time that turtles search for nest sites (June & July) and move between wetlands (spring and late summer/early fall). If Blanding's turtles are found, ENCAP/consultant shall coordinate with the McHenry County Conservation District (MCCD) to determine suitable relocation sites. In addition, permanent fencing shall be constructed along the 100' upland buffer area proposed to be established along the 25' wide H.U.M. Railroad Prairie East INAI site located adjacent to the southwestern property boundary.

H. Lighting: To minimize the possible effects of outdoor lighting attracting insects and thereby disrupting the food chain, the Talomare community shall be lit with high pressure sodium lights. This type of lighting has an orange glow which falls within the pink to red hues recommended by the IDNR. Red hues tend to minimize the attraction of insects as opposed to blue hues which tend to attract insects.

I. Signage: Interpretive signage shall be installed at overlooks to inform residents and visitors of the potential presence of Blanding's turtles and sandhill cranes. The signs shall instruct residents to contact the MCCD if a Blanding's turtle is sited. The signs will be developed to raise awareness of the value of threatened and endangered species and their habitat.

J. Education: Potential Homeowners shall be issued a flier entitled "The Care of Wetlands and Natural Areas at Talomare". Prior to purchase of a home, the homeowner will be aware of their responsibilities to the natural areas at Talomare.

4. The following Monitoring Measures shall be implemented with regards to the Talomare Residential Community project:

A. The wetland creation area shall be monitored and managed bi-annually for a five (5) year period. The purpose of this monitoring will be to measure and assess the effectiveness of the mitigation wetland plantings. Vegetation monitoring shall occur along permanently marked transects. Data collection shall involve the placement of transect-centered quadrants over the plants and recording species present, abundance, and coverage for each quadrant. In addition, a meander survey shall be conducted to encounter plant species not represented along transects and within the prairie buffer.

B. Success of the mitigation area will be evaluated based on the following performance criteria.

1. By the end of the fifth year, all vegetated zones within the wetland mitigation facility shall achieve 85% cover.

2. By the end of the fifth year, the emergent community shall achieve 60% aerial coverage.

3. Open water shall have 0% vegetative coverage.

4. By the end of the fifth year, the Floristic Quality Index (FQI) shall be equal to or greater than 5 points above that of the FQI of the impacted wetlands.

5. By the end of the fifth year, the wetland mitigation facility shall not be dominated or contain cumulatively more than 25% cover of the following species: Buckthorn (*Rhamnus cathartica* or *frangula*), Reed Canary Grass (*Phalaris arundinacea*), Purple Loosestrife (*Lythrum salicaria*), and/or Giant Reed Grass (*Phragmites australis*).

5. The following Reporting Measures shall be implemented with regards to the Talomare Residential Community project:

An annual monitoring report shall be prepared (by ENCAP, Inc. and/or another qualified environmental consultant) and submitted to Huntley Ventures LLC, the Village of Huntley, Illinois, and the Illinois DNR-Office of Resource Conservation-Springfield, Illinois (Attention: Joseph Kath) by January 31st of each year. The monitoring report will be utilized to determine if the mitigation and enhancement areas are meeting design goals. If design goals are not being met (based on annual reports) appropriate measures shall be implemented. Please note that this monitoring report shall document all observations, sitings, encounters, etc. of any and all endangered and threatened species within the entire project area during the preceding calendar year. If animals (namely Blanding's turtles) were relocated with the assistance of the MCCD, this information must also be provided.

6. The following Party Responsibilities shall be in effect with regards to the Talomare Residential Community project:

A. Huntley Ventures LLC and the Talomare Homeowner's Association shall be responsible for the implementation of the conservation plan ("the plan") and all measures listed in this Incidental Take Authorization.

B. Huntley Ventures LLC shall be responsible for the installation and initial maintenance of the measures listed in the conservation plan. The Talomare Homeowner's Association shall be responsible for the long term management/implementation of the plan.

C. As property owner, Huntley Ventures LLC shall have the legal authority to carry out the obligations and responsibilities set forth in the plan. Once performance standards have been met to Village expectations, the natural areas will be legally deeded to the Homeowner's Association which will then be legally authorized to implement the conservation plan and all measures listed in this Incidental Take Authorization.

7. The effective period of this authorization may be altered by mutual agreement between Huntley Ventures LLC and/or the Talomare Homeowner's Association and the Department.

8. This authorization may be revoked pursuant to Section 5.5 of the Act if the Department finds that Huntley Ventures LLC and/or the Talomare Homeowner's Association has failed to comply with any of these terms and conditions or has been responsible for the take of any Blanding's turtles and/or sandhill cranes beyond that which is incidental to the construction of the Talomare Residential Community Project in McHenry County, Illinois.

9. The Huntley Ventures LLC and/or the Talomare Homeowner's Association official identified below is authorized to execute this agreement. Execution by Huntley Ventures LLC and/or the Talomare Homeowner's Association official indicates acceptance of all terms and conditions described in this document.

For the IL. Department of Natural Resources

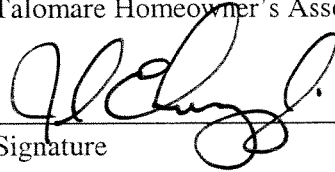


Mike Conlin, Acting Director
Office of Resource Conservation

5.17.06

Date Signed

For the Huntley Ventures LLC and/or the
Talomare Homeowner's Association



Signature

JOHN E. LUCZYNSKI

Please print name and official title

5-4-06

Date Signed