

## **Authorization for Incidental Take and Implementing Agreement**

Pursuant to the Illinois Endangered Species Protection Act (520 ILCS 10/5.5) authorization for the incidental take of the State threatened Blanding's turtle (*Emydoidea blandingii*) associated with the Fox Ridge Park Ballfield in McHenry County, Illinois (as described/shown in the conservation plan received by the Department on 12 July 2007 and the Turtle Management Plan prepared by IDNR biologist Brad Semel in March, 2002) 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 Fox Ridge Park Ballfield in McHenry County, Illinois.

### Procedural History

The City of McHenry (COM) prepared a conservation plan for the Fox Ridge Park Ballfield Project as described by the Illinois Endangered Species Protection Act (520 ILCS 10/5.5). That plan and the City of McHenry's request for authorization for incidental take of Blanding's turtles were received by the Illinois Department of Natural Resources (Department) on 12 July 2007. Public notice of COM's request for authorization of incidental take of this State threatened species was published in the Edwardsville Intelligencer (Official State newspaper) and the Northwest Herald (McHenry County) on May 26, 2007, as well as on June 2, 2007, June 9, 2007, June 15, 2007, June 22, 2007, and June 29, 2007. Public comments on COM's conservation plan were accepted by the Department until July 9, 2007. No comments were received by the public during the period of May 26, 2007 through July 9, 2007.

\*Please note that a Blanding's turtle management plan for this project and the City of McHenry in general was developed by IDNR District Heritage Biologist Brad Semel and officially submitted to the Department on March 4, 2002. COM staff met with Mr. Semel during the development of this management plan to discuss the potential impact of this ballpark development. The grant funds from the Illinois Department of Commerce and Economic Opportunity (DCEO) were released to the COM and the final close-out documents were submitted for reimbursement on December 19, 2005. COM was subsequently informed that an ITA was not granted on this project. Two additional grants for this development have been approved by DCEO, but put on hold until the ITA for the Fox Ridge Ballpark project has been officially reviewed and approved. The Blanding's turtle management plan developed by District Heritage Biologist Brad Semel was included as "Attachment A" in the ITA package. The City of McHenry has adopted this management plan for the State-listed Blanding's turtle and it is therefore a major component of the ITA submittal. This approach is acceptable to the Department.

## 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 recreational facility (Fox Ridge Park Ballfield) in McHenry County, Illinois. The geographic footprint of this residential community contains habitat suitable for State listed species, namely the Blanding's turtle. In the course of these primary construction activities, as well as long term maintenance of this park, there may be a disturbance of Blanding's turtles, hence a technical "taking" of these species. Such a taking is not the purpose of the activities proposed by COM, but is incidental to the carrying out of a lawful activity.

Please note that a Blanding's turtle management plan was developed by IDNR District Heritage Biologist Brad Semel and officially submitted to the Department on March 4, 2002 - this plan was accepted by the Department. COM staff met with Mr. Semel during the development of this management plan to discuss the potential impact of this ballpark development. The grant funds from the Illinois Department of Commerce and Economic Opportunity (DCEO) were released to the COM and the final close-out documents were submitted for reimbursement on December 19, 2005. COM was subsequently informed that an ITA was not granted on this project. Two additional grants for this development have been approved by DCEO, but put on hold until the ITA for the Fox Ridge Ballpark project has been officially reviewed and approved. The Blanding's turtle management plan developed by District Heritage Biologist Brad Semel was included as "Attachment A" in the ITA package. The City of McHenry has adopted this management plan for the State-listed Blanding's turtle and it is therefore a major component of the ITA submittal. As stated previously, this approach is acceptable to the Department.

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

A. Overall, an 18+ acre athletic complex adjacent to a future school site is being constructed which contains five baseball/softball fields, two soccer fields, a gravel parking lot, walking path, and new water services - the focus of which is the Fox Ridge Ballpark for this particular ITA. This project was completed in 2001 - the construction work consisted of excavation, grading, and seeking of the western half of the project parcel. The eastern half was formerly a commercial sod farm and was not disturbed. This area is adjacent to a wetland and natural buffer to Boone Creek. Ballfield/Infields were installed with an approved clay/sand mixture. Backstop and sideline fencing was installed on five fields. Additional bleachers, player benches, and game equipment were also installed.

B. In order to minimize potential impacts, the City of McHenry shall take the following measures to prevent the taking of turtles during and after construction. The City of McHenry does not anticipate a negative impact on the local populations of these species.

To date, the Blanding's turtle has never been sighted at the Boone Creek site that is of primary concern to the Department. The Department has identified potential Blanding's turtle habitat at a site south of Fox Ridge Park in the vicinity of the road crossing Boone Creek (Dartmoor Drive). However to date, the Blanding's turtle has never been sighted at the site the Department identified as potential turtle habitat. The City of McHenry created a buffer at the creek and associated wetlands to protect the potential habitat. The City has also educated homeowners, prospective purchasers, and visitors about the turtle. Construction of the Fox Ridge Park Ballfield did not occur in Boone Creek or its wetland(s).

The City of McHenry participates in the Boone Creek Watershed Alliance (BCWA), which is primarily a group of land owners and agency representatives that developed a plan to promote the sustainable management of watershed resources. This process was/is facilitated by the Northeast Illinois Planning Commission (NIPC). In addition, a management plan for the Blanding's turtle within the City of McHenry was authored by IDNR District Heritage Biologist, Brad Semel. This plan was sent to the US EPA, the US FWS, and the IEPA. The City of McHenry nor the Department have received negative comments on this management plan from any of these agencies.

The City of McHenry has worked closely with the IDNR throughout the construction phase and management of the Fox Ridge Park and implemented the recommendations of Michael Branham (IDNR-OREP) and Brad Semel (IDNR-ORC). The specific components of the Turtle Management Plan developed by Mr. Semel will not be formally discussed in this ITA package. This management plan is included as "Attachment A" in the ITA submittal and shall officially serve as the guiding/guidance document by which this ITA is authored and approved. Copies of the Turtle Management Plan are available for review at the main IDNR facility in Springfield, Illinois - contact Joseph Kath at (217)782-6384 or via e-mail at: Joe.Kath@illinois.gov

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 9 July 2007, The City of McHenry verified that adequate funding exists to support and implement all (mitigation) activities described in the official Fox Ridge Ballfield Conservation Plan. This correspondence states that the City of McHenry maintains ongoing management of all its open space and native habitats through the annual budget for its Parks and Recreation Department. The City of McHenry budgets at least \$15,000.00 annually for natural resource management activities within the Boone Creek corridor. The City's natural resource management plan, the Parks and Recreation master plan, and the City of McHenry's comprehensive plan all identify the Boone Creek Corridor as a unique natural area that must be protected and preserved.

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:

To date, Blanding's turtles have not been observed onsite during construction of the Fox Ridge Park Ballfield. However, the Blanding's turtle has been observed within the vicinity of the site and measures to potentially benefit this species have been proposed in the ITA conservation plan and more importantly, the Turtle Management Plan developed by IDNR biologist Brad Semel.

The development of the Fox Ridge Park Ballfield will most likely not threaten the existence of Blanding's turtles in Illinois - as adequately addressed in the Turtle Management Plan developed by IDNR biologist Brad Semel. There is a buffer area surrounding Boone Creek to preserve potential Blanding's turtle habitat. The City of McHenry has also removed invasive species and manages the wetland areas for native plant communities.

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 COM's 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 City of McHenry (COM) prepared a conservation plan for the Fox Ridge Park Ballfield Project as described by the Illinois Endangered Species Protection Act (520 ILCS 10/5.5). That plan and the City of McHenry's request for authorization for incidental take of Blanding's turtles were received by the Illinois Department of Natural Resources (Department) on 12 July 2007. Public notice of COM's request for authorization of incidental take of this State threatened species was published in the Edwardsville Intelligencer (Official State newspaper) and the Northwest Herald (McHenry County) on May 26, 2007, as well as on June 2, 2007, June 9, 2007, June 15, 2007, June 22, 2007, and June 29, 2007. Public comments on COM's conservation plan were accepted by the Department until July 9, 2007. No comments were received by the public during the period of May 26, 2007 through July 9, 2007.

## Authorization

It is the determination of the Department that the measures to be implemented by the City of McHenry, Illinois will adequately minimize and mitigate for the anticipated taking (disturbance/harassment) of a small number of Blanding's turtles due to the construction of the Fox Ridge Ballpark 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 the Blanding's turtle 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 five (5) 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 official Turtle Management Plan developed by IDNR District Heritage Biologist Brad Semel shall serve as the guiding/guidance document for this ITA. The specific components of the Turtle Management Plan developed by Mr. Semel will not be formally discussed in this ITA package. This management plan is included as "Attachment A" in the ITA submittal and shall officially serve as the guiding/guidance document by which this ITA is authored and approved. Copies of the Turtle Management Plan are available for review at the main IDNR facility in Springfield, Illinois - contact Joseph Kath at (217)782-6384 or via e-mail at: Joe.Kath@illinois.gov

3. The following measures shall be implemented with regards to the Fox Ridge Ballpark development: See Turtle Management Plan referenced above in Condition #2.

4. The following Monitoring Measures shall be implemented with regards to the ~~Falomare~~ *Fox Ridge* ~~Residential Community~~ *Ballpark* project: See Turtle Management Plan referenced above in Condition #2.

5. The following Reporting Measures shall be implemented with regards to the ~~Falomare~~ *Fox Ridge* ~~Residential Community~~ *Ballpark* project: See Turtle Management Plan referenced above in Condition #2.

6. The following Party Responsibilities shall be in effect with regards to the Fox Ridge Park Ballfield project:

A. The City of McHenry shall be responsible for the implementation of the conservation plan ("the plan") and all measures listed in this Incidental Take Authorization.

B. The City of McHenry shall be responsible for the installation and initial maintenance of the measures listed in the conservation plan. The City of McHenry shall be responsible for the long term management/implementation of the plan. Overall, see Turtle Management Plan (B. Semel - author) referenced above in Condition #2.

7. The effective period of this authorization may be altered by mutual agreement between the City of McHenry and the Department.

8. This authorization may be revoked pursuant to Section 5.5 of the Act if the Department finds that the City of McHenry has failed to comply with any of these terms and conditions and/or has been responsible for the take of any Blanding's turtles beyond that which is incidental to the construction of the Fox Ridge Ballpark development in McHenry County, Illinois.

9. The City of McHenry official identified below is authorized to execute this agreement. Execution by such an official(s) 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

11. 20.07

Date Signed

For the City of McHenry, Illinois



Signature

BILL HOBSON ASSISTANT CITY ADMINISTRATOR

Please print name and official title

Oct. 31, 2007

Date Signed