

Authorization for Incidental Take and Implementing Agreement

Pursuant to the Illinois Endangered Species Protection Act (520 ILCS 10/5.5), on behalf of the City of Grafton (COG), authorization for the incidental take of the State listed Great Plains Ratsnake (*Elaphe emoryi*) and the Timber Rattlesnake (*Crotalus horridus*) in Jersey County, Illinois [associated with construction and maintenance projects in the City of Grafton and surrounding areas; as described/shown in the conservation plan received by the Department on 18 May 2009] 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 water main extension activities within the City limits of Grafton and all applicable areas outside of the City limits where the City of Grafton must maintain existing utilities that serve its citizens.

*Please note the this Incidental Take Authorization shall only be applicable to the water main extension from Principia College in Elsah to Grafton Hills in order to serve the City of Grafton. This ITA will specifically cover the construction of this water main. The project is expected to be started in the Fall of 2009 and completed in the Spring of 2010.

Procedural History

Juneau Associates, Inc., P.C. (Edwardsville, Illinois) prepared a conservation plan for the City of Grafton (COG) based upon potential impacts resulting from the Illinois American Water Company water main extension located in Jersey County, Illinois as described by the Illinois Endangered Species Protection Act (520 ILCS 10/5.5). That plan and COG's request for authorization for incidental take of the Great plains rat snake and the Timber rattlesnake in Jersey County, Illinois were received by the Illinois Department of Natural Resources (Department) on 18 May 2009. Public notice of COG's request for authorization of incidental take of these State listed species was published in the Arlington Heights Daily Herald (Official State newspaper) and the Alton Telegraph on June 4, 2009, as well as on June 11, 2009 and June 18, 2009. Public comments on COG's conservation plan were accepted by the Department until July 18, 2009. No comments were received by the public during the period of June 4, 2009 through July 18, 2009.

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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 City of Grafton maintains the water and sewer system to serve its citizens. Improvements to the water and sanitary sewer system are necessary as the current system can no longer meet the demands of the system. These improvements include construction of new mains to replace aged or undersized mains, extensions of the existing system to serve growth, and other necessary improvements.

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Species of Concern:

1. Great Plains Ratsnake (*Elaphe emoryi*): A moderately large (up to 120 cm TL), blotched snake with gray or light brown back sporting 25 to 50 black-bordered, nearly square, dark brown or red-brown blotches. Tail with 8-20 dark spots or bands. Belly checkered black and white.

-Habitat: Rocky, wooded hillsides, hill prairies, bluffs, and adjacent brushy fields.

-Natural History: This nocturnal snake mates in April or May and lays 3-30 eggs a few weeks later. The snake can be active up to early November. The young, 30-35 cm TL, hatch in August. Diet includes mammals, birds, and bird eggs. Medium-sized mammals and raptors are the main predators.

-Status: Endangered in Illinois. Found only along the Mississippi River bluffs from Jersey to Randolph Counties, where its main threat is highway traffic.

2. Timber Rattlesnake (*Crotalus horridus*): A snake with small, asymmetrical head scales; elliptical pupil; pit between eye and nostril; back with jagged dark bands; rattle or button on tail tip; back scales strongly keeled; anal scale not divided.

-Habitat: Heavy forest along rocky outcrops and bluffs.

-Natural History: Active April through October, often seen sunning on rock ledges near winter dens. Forages during summer in upland forests and some border and disturbed habitats where rodents are abundant. Diet mainly small mammals, such as mice, squirrels, and chipmunks.

Usually mates July and August with 6-10 young born late summer or early autumn of following year. Newborn 25-35 cm TL. Predators of young include hawks, coyotes, skunks, foxes, and common kingsnakes. Most adult mortality caused by vehicles and wanton killing by humans.

-Status: Threatened in Illinois. Relict elsewhere. Threats, besides indiscriminate killing by people, include vehicles and clearing of forest. Previously more widespread, now probably occurs in moderate numbers only in the Shawnee Hills.

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

Incidental take of the two (2) snake species discussed above is a concern during the construction of water/sewer main extensions in both wooded or cleared areas adjacent to timber/brush. Of particular concern is the presence of open construction/pipe trenches and the possibility of the species being trapped in the trench.

In order to minimize potential impacts to the listed species of concern, the COG, through the contractors chosen to work on this water main extension shall employ the following:

A. Typical water main or sewer main construction requires that the existing grade be restored to its original condition. Therefore, for this project the COG shall restore these areas to enable possible continued use of the areas by the affected species. In the area between Beltrees Road and Cemetery Road, final grading shall be completed between December and March to minimize the effect on the species.

B. During construction, the contractor shall provide someone to walk ahead of any heavy equipment/trench operations to avoid encountering either snake species of concern discussed in this Authorization. The trench shall only be opened just ahead of the pipe being laid and backfilled during construction. The trench length left open shall be no more than 15 feet at any time.

C. Backfill of the open trench where the pipe is constructed shall be completed every day prior to lunch break (typically around 12:00pm) and at the end of the work day (typically around 5:00pm). In addition, prior to any backfilling efforts, the open trench should be checked at least once (1x) every 30 minutes for the presence of listed species [namely, but not limited to, the two species of snakes discussed in this Authorization] in the open trench.

D. If either a Great plains rat snake and/or a Timber rattlesnake (alive or dead) enters the open trench at any time during the duration of this entire project, the contractor shall immediately cease all backfill operations until the proper agency and contact person is reached and a suitable plan of action is officially determined. Information on the agency and contact person is included under the "Authorization" section of this Incidental Take Authorization.

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

As stated in the official conservation plan received by the Department on 18 May 2009, construction of the COG water main extensions will be performed primarily through contracted work. All management practices listed in the conservation plan, as well as any and all terms and conditions listed in this Authorization document, shall be included in all official project specification documents. According to the official conservation plan received by the Department on 18 May 2009, the final contract price for the work included all management practices listed in the official conservation plan.

Any and all contractors involved in this COG water main extension project(s) shall be required [and have therefore already submitted] to submit performance bonds to ensure that the work is completed as specified.

These contract performance bonds were designed to ensure that all listed management practices are observed. If such practices are not properly implemented, the contractor will risk action taken against the bonds. The City of Grafton authorized the inclusion of the official/final Conservation Plan on this project and has authorized the Mayor of Grafton to oversee both the Conservation Plan and final Incidental Take Authorization, with the assistance of the City Engineer.

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'

As part of this Incidental Take Authorization, all appropriate contractors working on this specific water main extension project for the City of Grafton shall report to the City Engineer on a weekly basis (at least 1x/week) on the effectiveness of the conservation plan. All said contractors shall immediately report (within 60 minutes) on any incidental take that has occurred and the contractor's action after said take - all provisions set forth in the Authorization Section of this document must be adhered to. The City Engineer shall report on a monthly basis (at least 1x/month) to IDNR (attn: Joseph Kath, preferably via e-mail at: Joe.Kath@illinois.gov - Phone: 217/785-8764) a summary of the contractor's activities and any modifications to the conservation plan that were encountered/implemented.

As listed previously, all management practices listed in the conservation plan as well as any and all terms and conditions listed in this Authorization document shall be included in all official project specification documents. According to the official conservation plan received by the Department on 18 May 2009, the final contract price for the work included all management practices listed in the official conservation plan. Any and all contractors involved in this COG water main extension project(s) shall be required [and have therefore already submitted] to submit performance bonds to ensure that the work is completed as specified. These contract performance bonds were designed to ensure that all listed management practices are observed. If such practices are not properly implemented, the contractor will risk action taken against the bonds. The City of Grafton authorized the inclusion of the official/final Conservation Plan on this project and has authorized the Mayor of Grafton to oversee the Conservation Plan and final Incidental Take Authorization, with the assistance of the City Engineer.

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 City of Grafton (COG) 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:

Juneau Associates, Inc., P.C. (Edwardsville, Illinois) prepared a conservation plan for the City of Grafton (COG) based upon potential impacts resulting from the Illinois American Water Company water main extension located in Jersey County, Illinois as described by the Illinois Endangered Species Protection Act (520 ILCS 10/5.5). That plan and COG's request for authorization for incidental take of the Great plains rat snake and the Timber rattlesnake in Jersey County, Illinois were received by the Illinois Department of Natural Resources (Department) on 18 May 2009. Public notice of COG's request for authorization of incidental take of these State listed species was published in the Arlington Heights Daily Herald (Official State newspaper) and the Alton Telegraph on June 4, 2009, as well as on June 11, 2009 and June 18, 2009. Public comments on COG's conservation plan were accepted by the Department until July 18, 2009. No comments were received by the public during the period of June 4, 2009 through July 18, 2009.

Authorization

It is the determination of the Department that the measures to be implemented by the City of Grafton (and associated contractors) will adequately minimize and mitigate for the anticipated taking (disturbance/harassment) of a small number of the Great plains rat snake and/or the Timber rattlesnake due to (water main/sewer extension) and maintenance projects in the City of Grafton, Illinois and surrounding areas in Jersey County, Illinois. Further, it is our opinion that the take (disturbance/harassment) authorized herein would not diminish the likelihood of the survival of either of these aforementioned species 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:

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1. This authorization is effective upon signature of the Department and shall remain in effect for a period of two (2) 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 following measures shall be implemented with regards to the City of Grafton water main extension project:

A. As part of this Incidental Take Authorization, all appropriate contractors working on this specific water main/sewer extension project for the City of Grafton shall report to the City Engineer on a weekly basis (at least 1x/week) on the effectiveness of the conservation plan. All said contractors shall immediately report (within 60 minutes) on any incidental take that has occurred and the contractor's action after said take. The City Engineer shall report on a monthly basis (at least 1x/month) to IDNR (attn: Joseph Kath, preferably via e-mail at: Joe.Kath@illinois.gov - Phone: 217/785-8764) a summary of the contractor's activities and any modifications to the conservation plan that were encountered/implemented.

B. Should a take and/or sighting occur, the contractor shall stop all work immediately and contact the following:

-Mr. Mark Phipps: District Heritage Biologist - Jersey County at: (618)462-1181

-Mr. John Tucker with the Illinois Natural History Survey (INHS) at: (618)466-9690

-Mr. Scott Ballard: IDNR Herpetologist at: (618)993-7023

Construction personnel shall watch the snake(s) until the proper authority arrives to alleviate the situation, keeping at a respectable distance. If the snake(s) moves or leaves, crews should mark the first and last spots the snake was seen, keeping in mind it is a criminal act to handle one.

C. For this project, the COG shall restore all disturbed areas to enable possible continued use of the areas by the affected species. In the area between Beltrees Road and Cemetery Road, final grading shall be completed between December and March to minimize the effect on the species.

D. During construction, the contractor shall provide someone to always walk ahead of any heavy equipment/trench operations to avoid encountering either snake species of concern discussed in this Authorization. The trench shall only be opened just ahead of the pipe being laid and backfilled during construction. The trench length left open shall be no more than 15 feet at any time.

E. Backfill of the open trench where the pipe is constructed shall be completed every day prior to lunch break (typically around 12:00pm) and at the end of the work day (typically around 5:00pm). In addition, prior to any backfilling efforts, the open trench should be checked at least once (1x) every 30 minutes for the presence of listed species in the open trench.

F. If either a Great plains rat snake(s) and/or a Timber rattlesnake(s) (alive or dead) enters the open trench at any time during the duration of this entire project, the contractor shall immediately cease all backfill operations until the proper agency and contact person is reached and a plan of action is officially determined (See Authorization Section 2B above).

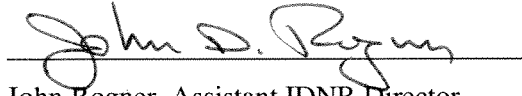
3. The effective period of this authorization may be altered by mutual agreement between the City of Grafton, Illinois and the Department.

4. This authorization may be revoked pursuant to Section 5.5 of the Act if the Department finds that the City of Grafton and/or its contractors has failed to comply with any of these terms and conditions or has been responsible for the take of any State Listed Species beyond that which is incidental to the construction of the City of Grafton water main/sewer extension project, in Jersey County, Illinois.

5. The City of Grafton (COG) official(s) identified below is/are authorized to execute this agreement. Execution by an official from any one of these organizations indicates acceptance of all terms and conditions described in this document.

For the IL. Department of Natural Resources

For the City of Grafton, Illinois



John Rogner, Assistant IDNR Director
Office of Resource Conservation



Signature

10/19/09

Date Signed

Tom Thompson - Mayor

Please print name and official title

Oct. 14/09

Date Signed