

Illinois

Department of Natural Resources

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Authorization for Incidental Take and Implementing Agreement

Pursuant to the Illinois Endangered Species Protection Act (520 ILCS 10/5.5), on behalf of the Scott County Rural Water Cooperative (SCRWC), authorization for the incidental take of the State listed (threatened) Illinois chorus frog (*Pseudacris streckeri*) in Scott County, Illinois [associated with the proposed water mains that will follow public road right-of-ways; as described/shown in the final conservation plan received by the Department on 19 November 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 the construction of proposed water mains (Phase I Extensions) that will follow public road right-of-ways in Scott County, Illinois.

The site for the proposed Phase I Extensions project is located in sections 21, 27, 28, 29, 30, 32 and 33 in township 14 North, Range 13 West and section 25 in township 14 North, Range 14 West all in Scott County, Illinois. The locations of the proposed water mains follow public road right-of-ways. The water mains are constructed on private property, typically within five (5) feet of the road right-of-way. One (1) section of water main will be constructed across an agricultural field. This pipe routing demonstrates the shortest route and least amount of disturbance required to reach water customers.

Procedural History

Benton and Associates, Inc. (on behalf of the SCRWC) prepared a conservation plan for the (Phase I extensions) water main project in Scott County, Illinois as described by the Illinois Endangered Species Protection Act (520 ILCS 10/5.5). That plan and SCRWC's request for authorization for incidental take of the State listed Illinois chorus frog (*Pseudacris streckeri*) in Scott County, Illinois were received by the Illinois Department of Natural Resources (Department) on 19 November 2009. Public notice of SCRWC's request for authorization of incidental take of this State listed species was published in the Arlington Heights/Northwest Daily Herald (Official State newspaper) and the Scott County Times on December 2, December 9, and December 16, 2009. Public comments on SCRWC's conservation plan were accepted by the Department until January 15, 2010. No public comments were received by the public during the period of December 2, 2009 through January 15, 2010.

Target Species

Illinois chorus frog (*Pseudacris streckeri*) - (Illinois) State Threatened [ICF]

The Illinois chorus frog (*Pseudacris streckeri*) is a small (up to 4.7 cm SVL) tan to gray frog with dark brown and/or black lines on the back, a white belly, and granular skin rather than smooth. Habitats include sand prairies and remnants, such as sandy agricultural fields and waste areas. This animal typically burrows in sand and emerges after heavy, early spring rains to breed in nearby flooded fields, ditches, and/or other vernal ponds. This frog is somewhat unusual because it digs forward with its stout front legs, rather than backward like the spadefoot and other toads. This species is somewhat locally abundant in undisturbed sand prairies in Cass and Morgan counties. Threats include uncontrolled and unregulated drainage activities and cultivation of breeding ponds and adult habitat.

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 activities that could possibly result in taking of the Illinois chorus frog [ICF] from this specific SCRWC project are the actual construction (and associated environmental disturbances) of the proposed water mains (and associated disturbances), water services, and related appurtenances. Due to the size of the actual disturbance (less than one (1) acre total subsurface disturbance with negligible amount of permanent disturbance), the anticipated adverse affects are expected to be minimal. Of the construction practices utilized for this water main project, cutting the trench and boring for the water mains appears to have the highest probability of disturbance for the chorus frog. A trench width of approximately 16" and a depth of approximately 60" are typical for this project, while boring will disrupt approximately a 6" diameter horizontal pathway at a depth of approximately 60". Avoidance of construction during the breeding season (February through April) will greatly reduce the chance of above ground disturbance by machinery, vehicles, foot traffic, etc. Adverse affects will also be minimized due to the avoidance of wetland areas that are encountered. Farm ground that is disturbed shall be returned back to normal farming practices and all other areas shall be reseeded with native shortgrass and forb species at a light rate of approximately 1 to 1.5 lbs/acre each of grasses and forbs or 2 to 3 lbs/acre, total. These areas shall be managed to exclude and control invasive species.

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

Only the minimum area needed shall be utilized by the SCRWC for the construction of the proposed water mains - for the Phase I water main extension. Surface disturbance in the project area(s) shall be kept to a minimum and shall not exceed forty (40) feet in width at any time. All construction for the Phase I water main extension (and any subsequent phases of this water main extension project proposed by the SCRWC or any other party) shall take place only outside of the breeding season of the Illinois chorus frog (February 1 through April 30). All creek and road/ditch crossings shall be directional bored instead of open cut. Site grading shall always be kept to a minimum in any and all project areas.

After construction, the water mains shall be located within permanent easements on private property and the areas shall be returned to their original state. Only in the event of a water main break shall the area be disturbed as a result of this break (after construction is complete). In such instances, disturbance shall be kept to a minimum, due primarily to the ability of locating a break in the water main with great accuracy. In the event of a SCRWC Phase I extension water main break, Joseph Kath of the Department shall be notified within 24 hours via phone (217-785-8764) and/or e-mail: Joe.Kath@illinois.gov of break discovery, and any and all animal specimens injured or killed (listed or non-listed) as a direct result of this water main break shall be reported during this time.

The Scott County Rural Water Cooperative (SCRWC) shall maintain and monitor this water system and shall continue to consult with Benton & Associates, Inc. on any issues related to or regarding the Illinois chorus frog or any other species classified as either endangered or threatened within the State of Illinois. Future correspondence with the IDNR Office of Resource Conservation shall be initiated if future disturbances are necessary - either from additional Phase I extension work or from any and all new extensions that will occur in the future.

Overall, it is more than likely the affects of this Phase I water main extension project on the Illinois chorus frog will be of short duration with no anticipated long term affects.

It is possible that some ICFs along/within the project corridor will experience temporary disturbance from noise and other construction activity(ies) during the various construction phases. The construction activities could feasibly result in death or injury to individuals that are within the construction corridor(s). This could include individuals in underground burrows in the line of trenching or similar activities and/or individuals that could be run over by personal vehicles and/or heavy equipment. The overall intent of the Conservation Plan is to avoid all impacts to the extent practicable, and greatly minimize those impacts that cannot be avoided.

PLEASE NOTE: This Incidental Take Authorization is only applicable to water main construction activities described in the formal Conservation Plan as the "Phase I Extension". Any and all subsequent projects submitted either by the SCRWC or any other entity related to this water main extension shall first be reviewed by the Department for potential environmental impacts, and by signing this document, the SCRWC recognizes that any and all subsequent Phases of this particular water main extension may require additional and separate Incidental Take Authorizations before any ground disturbance occurs.

*See Also: Authorization Section of this document for more details.

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

All necessary funds needed to minimize and mitigate potential adverse impacts to the Illinois chorus frog emanating directly from this project (as stated in the final Conservation Plan received by the Department on 19 November 2009), are available from funds obtained through a USDA – Rural Development-low interest loan and grant. The funds are available to cover costs associated with mitigation efforts as well as those needed to complete the proposed project. The funds are remaining from the Phase I Water Distribution System that is currently in operation.

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 proposed Phase I Water Main Extension project is planned to be constructed on private property adjacent to and within existing public road right-of-ways. The Sand Road extension is an area that is a steady increase in elevation extending from south to north. The majority (93.3%) of the soil in this area is Plainfield Loamy Sand (54B and 54D on the soils map) with 2 to 15 percent slopes. Due to the increasing elevation, as shown by the slopes of the soil, and the composition of the soil, this area is excessively drained and does not contain wetlands that the chorus frog prefers. The water does not stand in this area and drains away rapidly to lower elevations. The Brown Road site is almost exclusively cultivated farm acreage with the exception being drainage ditch crossings.

The majority of the soil in this area has high concentrations of silt and clay instead of sandier soil that is preferred by the chorus frog due to its fossorial nature. Of the area of interest on the soil map for this site, only 9.7 % of the soil is sandy (53B, 54B, 150B, 172A, on the soils map). Some of the soils in the project area have the potential to harbor the Illinois Chorus frog if other conditions are met as well, i.e.: wetland areas (areas that pond water) and suitable vegetation. The proposed water main extensions are not located in or through wetlands nor are they in the immediate vicinity of known wetlands. As for vegetation, the ground vegetation varies from mostly agricultural fields at the Brown Road site to wooded and brushed areas at the Sand Road site.

The likelihood that the proposed (Phase I) water main extensions will cause a reduction of survival of the Illinois Chorus Frog is minimal due primarily to the following factors: The aforementioned sites do not contain wetlands, the Sand Road site has a high percentage of soils that are conducive to the Illinois Chorus Frog but is significantly sloped and drains rapidly, the Brown Road site is relatively flat, but is cultivated ground where water does not pool and contains only a small percentage of sandy soil, the actual size of the area to be disturbed is small (less than one total acre sub-surface disturbance), and the project area will be returned to its pre-construction condition at the conclusion of the project causing no long term disturbance. Construction personnel will be trained on identification of the Illinois Chorus Frog. Information, including pictures of the Illinois Chorus Frog(ICF), shall be distributed to construction personnel before commencement of construction.

Due to a combination of factors listed above, this SCRWC Project will more than likely have minimal direct impacts on ICF habitat and/or individuals. Any impacts that occur in accordance with this incidental take permit/authorization would most likely be limited to an individual or small number of individuals that are not disturbed (and hence do not move out of the area) by surface pre-construction activities. Therefore, the Department supports SCRWC's belief that implementing its proposed Conservation Plan will not reduce the likelihood of the survival or recovery of the endangered or threatened 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.

DESCRIPTION OF ALTERNATIVE ACTIONS CONSIDERED:

The following alternatives considered pertain to the Scott County Rural Water Cooperative Phase I Water Distribution System. Since this project is an extension of the Phase I Distribution System, the only reasonable solution for supplying the customers along these water main routes is the "Phase I Extensions Project".

***NO ACTION:** This alternative would leave the residents of rural Scott County with the current problems they face. Currently they rely on private dug wells that do not supply the quality or quantity of water necessary to carry out daily domestic and/or farming activities. Due to the location of the wells in farming communities, the water supplies are subject to contamination from pesticides, fertilizer, herbicides and fecal coliforms from livestock waste runoff. "No Action" does not present a solution to this problem and is therefore not considered.

***DRILLED WATER WELL:** A drilled well would also require the construction and operation of a water treatment facility. Due to the initial and ongoing costs of this option, and a small customer base, it is not feasible.

*SURFACE SUPPLY: The possibility of installing a small surface supply and treatment plant was quickly discounted. The costs involved with land purchase, environmental clearances, capital cost for water plant and equipment, operation and maintenance, distribution system, etc. will be more than some 180 potential customers in the overall service area can afford.

*PURCHASED WATER: The purchase of treated water from an existing public water supply is a viable consideration for those new water entities with a limited customer base. Capital costs are generally less when purchasing water as the need for a water treatment plant is eliminated. Operation and maintenance costs are also less in purchased water systems as full time employees are not necessary to manage surface supply/well supply facilities and staff a water treatment plant.

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 SCRWC 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:

Benton and Associates, Inc. (on behalf of the SCRWC) prepared a conservation plan for the (Phase I) water main extension project in Scott County, Illinois as described by the Illinois Endangered Species Protection Act (520 ILCS 10/5.5). That plan and SCRWC’s request for authorization for incidental take of the State listed Illinois chorus frog (*Pseudacris streckeri*) in Scott County, Illinois were received by the Illinois Department of Natural Resources (Department) on 19 November 2009. Public notice of SCRWC’s request for authorization of incidental take of this State listed species was published in the Arlington Heights/Northwest Daily Herald (Official State newspaper) and the Scott County Times on December 2, December 9, and December 16, 2009. Public comments on SCRWC’s conservation plan were accepted by the Department until January 15, 2010. No public comments were received by the public during the period of December 2, 2009 through January 15, 2010.

Authorization

It is the determination of the Department that the measures to be implemented by the SCRWC and its environmental consultant, Benton and Associates, Inc., will adequately minimize and mitigate for the possible taking (disturbance/harassment/relocation/lethal take) of a small number of the State listed Illinois chorus frogs (*Pseudacris streckeri* - ICF) in Scott County, Illinois [associated with the proposed Phase I water main extension construction efforts; as described/shown in the final conservation plan received by the Department on 19 November 2009]. Further, it is our opinion that the possible take (disturbance/harassment/relocation/lethal take) authorized herein would not diminish the likelihood of the survival of either this 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:

1. This authorization is applicable only to the Phase I Extension of this Water Main Project in Scott County, Illinois. This authorization is effective upon signature of the Department and shall remain in effect for a period of five (5) years, commencing the first day of official use of the entire SCRWC Phase I water main route for proposed for commercial/residential purposes, 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].

As stated above in *Section 2* of this Authorization: This Incidental Take Authorization is only applicable to water main construction activities described in the formal Conservation Plan as the "Phase I Extension". Any and all subsequent projects submitted either by the SCRWC or any other entity related to this water main extension shall first be reviewed by the Department for potential environmental impacts and by signing this document, the SCRWC recognizes that any and all subsequent Phases of this particular water main extension may require additional and separate Incidental Take Authorizations before any ground disturbance occurs.

2. All construction for the Phase I water main extension (and any subsequent phases of this water main extension project proposed by the SCRWC) shall take place only outside of the breeding season of the Illinois chorus frog (February 1 through April 30). All creek and road/ditch crossings shall be directional bored instead of open cut. In the case of trenches/ditches left open during this time, please see Condition #5 below.

In the event of a SCRWC Phase I extension water main break (of any kind), environmental disturbances shall be kept to a minimum. Also, in the event of such a SCRWC Phase I extension water main break, Joseph Kath of the Department shall be notified within 24 hours via phone (217-785-8764) and/or e-mail: Joe.Kath@illinois.gov of break discovery, and any and all animal specimens injured or killed (listed or non-listed) as a direct result of this water main break shall be reported during this time.

3. After Phase I construction is complete and major ground disturbance is kept to a minimum, all impact zones and associated habitat quality shall be restored to better than pre-construction conditions. All areas now in natural vegetation, shall be reseeded with a native vegetation mix (warm season grasses at a recommended sparse density planting rate at or near 2-3 lbs/acre). Restoration in applicable cultivated and non-cultivated areas shall be completed using native species (warm season grasses). All planting methods and timing efforts shall be compatible with the life cycle of the ICF and avoid the emergent and breeding season of this animal (February 1- April 30). Site restoration shall return the entire area to its original contours and areas with natural vegetation shall be seeded with native prairie/warm season grasses and returned to original conditions. If after 4 years, the native seed/warm season mix was deemed unsuccessful (less than 60% germination and/or survival), SCRWC (and/or its environmental consultant) shall reseed all affected areas again with a native seed mix at least two (2) more times, if not successful the first time.

4. Appropriate erosion control methods for Phase I will be implemented and monitored until final completion of the entire SCRWC Phase I water main extension project. Formal erosion control inspections along the entire Phase I construction corridor shall be conducted at least once (1x) a month by an appropriate environmental consultant (hired by SCRWC) and erosion control reports shall remain on file with this consultant. These reports shall be faxed/e-mailed to the SCRWC immediately upon completion and any and all recommendations made by the consultant to SCRWC to repair/replace erosion control devices shall be completed by SCRWC and/or a recognized agent/subcontractor/consultant of SCRWC within 72 hours of report receipt.

5. With reference to Condition #2: During the ICF emergent and breeding season (February 1 through April 30), any and all open trenches related to water main construction activities shall be surrounded by silt fence that is buried beneath the soil surface at all points - this shall prevent animals from escaping and/or passing through the bottom of the fence. This perimeter silt fence shall serve as a barrier to either keep animals, namely the ICF, out of the construction zone, or help construction personnel remove animals trapped within the construction zone. *Any and all animals, including the ICF, found on the interior or exterior of the fence shall be safely and humanely placed in a suitable container and then released within (one) 1 hour of capture at least one (1) mile from the project site in similar or suitable habitat - for the ICF, this shall be a vernal pool, pond, wetland, drainage ditch, moist soil unit, sand blowout, sand prairie, or sand deposit near or surrounding an agricultural or fallow field.

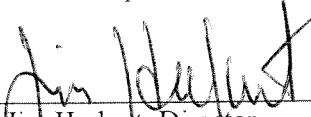
6. With relation to Condition #5 above, any ICFs witnessed or handled during any portion of the entire SCRWC Phase I water main extension project in Scott County, Illinois, shall be reported to the Illinois Department of Natural Resources (IDNR), attention: Joseph Kath at 217-785-8764 (e-mail: Joe.Kath@illinois.gov) within 24 hours of discovery/translocation. A series of clear and readable digital photographs shall also be provided at the same time for documentation purposes.

7. The effective period of this authorization may be altered only by mutual agreement between the Scott County Rural Water Cooperative (SCRWC) and the Department.

8. This authorization may be revoked pursuant to Section 5.5 of the Act if the Department finds that the SCRWC, and/or its environmental consultant(s), has failed to comply with any of these terms and conditions and/or has been responsible for the take of any State Listed Species beyond that which is incidental to the construction of new water mains (**Phase I Water Main Extension ONLY**) in Scott County, Illinois.

9. The SCRWC 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

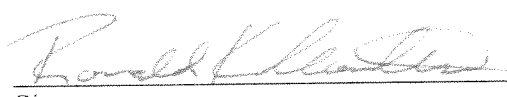


Dr. Jim Herkert, Director
IDNR, Office of Resource Conservation

5/5/10

Date Signed

For the SCRWC



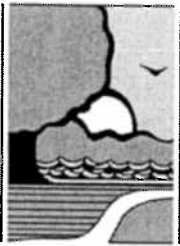
Signature

RON COULTAS, PRESIDENT

Please print name and official title

4-27-10

Date Signed



Illinois

Department of Natural Resources

One Natural Resources Way • Springfield, Illinois 62702-1271

<http://dnr.state.il.us>

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December 21, 2010

Adam Fox
Benton & Associates, Inc.
1970 West Lafayette Avenue
Jacksonville, Illinois 62650

RE: Official Amendment #1
Incidental Take Authorization - Illinois Chorus Frog (ICF)
Scott County Rural Water Cooperative - Phase II Distribution System
SCRWC - (Scott County, Illinois)

Dear Adam: This document shall serve as official IDNR approval for Formal Amendment (#1) to the Scott County Rural Water Cooperative Phase 1 project originally signed on April 27, 2010 by the SCRWC and the IDNR on May 5, 2010. The Phase II amendment was submitted to the Department (Joseph Kath) for ITA analysis on 18 October, 2010. This document authorizes all activities described under the Phase II service area. All avoidance and mitigation activities (specific to the Illinois Chorus Frog) described in the original Phase I Incidental Take Authorization shall be applied to Phase II of this project - no additional mitigation measures are necessary. A summary of the Phase II distribution system review and subsequent Incidental Take Authorization via this Official Amendment (#1) are described below.

Authorization for Incidental Take and Implementing Agreement
Official Amendment #1 - SCRWC Phase II Distribution System
December, 2010

Pursuant to the Illinois Endangered Species Protection Act (520 ILCS 10/5.5), on behalf of the Scott County Rural Water Cooperative (SCRWC), authorization for Phase II of the incidental take of the State listed (threatened) Illinois chorus frog (*Pseudacris streckeri*) in Scott County, Illinois [associated with the proposed water mains that will follow public road right-of-ways; as described/shown in the construction plans received by the Department on 20 October, 2010] is hereby granted, subject to the terms and conditions described in the original Authorization and Implementing Agreement signed by the Department on May 5, 2010. The Illinois Department of Natural Resources has determined that this (potential) authorized take is incidental to the construction of proposed water mains (Phase II Extensions) that will essentially follow public road right-of-ways in Scott County, Illinois.

The site(s) for the proposed Phase II Extensions project is located in Sections 14, 15, 16, 21, 22, and 23 in Township 14 North, Range 13 West in Scott County, Illinois. The locations of the Phase II proposed water mains essentially follow public road right-of-ways. The water mains are typically constructed on private property(ies), typically within five (5) feet of the road right-of-way.

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Procedural History

Benton and Associates, Inc. (on behalf of the SCRWC) prepared construction plans for the Phase II extensions water main project in Scott County, Illinois as described by the Illinois Endangered Species Protection Act (520 ILCS 10/5.5). These plans and SCRWC's request for authorization for incidental take of the State listed Illinois chorus frog (*Pseudacris streckeri*) in Scott County, Illinois (via an official amendment to the original Phase I ITA issued on May 5, 2010) were received by the Illinois Department of Natural Resources (Department) on 20 October 2010.

Target Species

Illinois chorus frog (*Pseudacris streckeri*) - (Illinois) State Threatened [ICF]

The Illinois chorus frog (*Pseudacris streckeri*) is a small (up to 4.7 cm SVL) tan to gray frog with dark brown and/or black lines on the back, a white belly, and granular skin rather than smooth. Habitats include sand prairies and remnants, such as sandy agricultural fields and waste areas. This animal typically burrows in sand and emerges after heavy, early spring rains to breed in nearby flooded fields, ditches, and/or other vernal ponds. This frog is somewhat unusual because it digs forward with its stout front legs, rather than backward like the spadefoot and other toads. This species is somewhat locally abundant in undisturbed sand prairies in Cass and Morgan counties. Threats include uncontrolled and unregulated drainage activities and cultivation of breeding ponds and adult habitat.

Pursuant to the Illinois Endangered Species Protection Act (520 ILCS 10/5.5), on behalf of SCRWC, and Benton & Associates, Inc./B&A, Inc. (Jacksonville, IL.) authorization for the incidental take of the State listed Illinois chorus frog (*Pseudacris streckeri* - **ICF**) in Scott County, Illinois [associated with the proposed Phase II water main extension project; as described/shown in the construction plans received by the Department on 20 October 2010] is hereby granted, subject to the terms and conditions described in the original Phase I Authorization and Implementing Agreement. The Illinois Department of Natural Resources has determined that any potential authorized take is incidental to both Phase I and Phase II of the water main extension projects in Scott County, Illinois.

Please note that this Amendment for the Phase II service area is effective immediately and you may proceed with planned construction activities.

Thank you for your cooperation and assistance during the entire incidental take preparation and amendment process. Please do not hesitate to contact our office at (217)785-8764 with any questions or comments you may have regarding this amendment agreement.

Sincerely,

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