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Robin Jennison, Secretary

Sam Brownback, Governor

August 22, 2011

Brian Irwin, Cerner Corporation
2800 Rockcreek Parkway, N
Kansas City, Mo 64117
birwin@cerner.com

Ref: E1.0203
Wyandotte
S-11 & 12, T-11 S, R- 23E
Track: **20090476**
Permit **2011-16**

Dear Mr. Irwin:

We have received your application for an Action Permit regarding the **Cerner West Area**, formerly Village West Area C, in **Wyandotte County** in **Sections 11 and 12, Township 11 South, Range 23 East**. The project will occur in Designated Critical Habitat for the Smooth Earth Snake (*Virginia valeriae*) and Redbelly Snake (*Storeria occipitomaculata*).

This letter and its attachments will serve as the revised and re-issued **Action Permit No. 2011-16** as required by K.S.A. 32-961 and K.A.R. 115-15-3 to meet the requirements of the *Kansas Nongame and Endangered Species Conservation Act* of 1975, K.S.A. 32-957 to 963, 32-1009 to 1012, and 32-1033, to carry out this proposed action. The permit holder will be required to sign and return the enclosed *Compliance Agreement* upon receipt of the permit and *Compliance Certification* upon completion of the authorized actions. This permit is valid from our receipt of the *Compliance Agreement* until the expiration date, if applicable, indicated on the permit.

It is the Permit Holder's (or an agent for the Permit Holder) responsibility to ensure that the permitted action complies with the attached general and special conditions of **Action Permit No. 2011-16**. If you have any questions concerning this permit, its conditions, or its enforcement, feel free to contact the department's Ecological Services Section.

Sincerely,

Eric R. Johnson, Chief
Ecological Services Section

Xc:
(David Flick, TerraTechnologies)

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DJB

KANSAS DEPARTMENT OF WILDLIFE, PARKS, AND TOURISM ACTION PERMIT

Permit Holder: **Brian Irwin, Cerner Corporation**
 Action Permit No.: **2011-16**
 Date: **August 22, 2011**
 Permit Issuer: Kansas Department of Wildlife, Parks, and Tourism
 Permit Expires: Upon Project Completion and Post Inspection per KDWP officials

General Conditions

1. All activities covered by this permit will be consistent with the listed terms and conditions. Any activity not specifically listed that might affect the listed species involved is a violation of the listed terms and conditions and will invalidate this permit.
2. That in issuing this permit, the Department of Wildlife, Parks, and Tourism relied on information and data that the Permit Holder provided with the application. If the Permit Holder requires action plan changes after permit issuance, the departments Ecological Services Section will evaluate how those changes might affect the listed species before modifying permit terms and conditions.
3. The Permit Holder will keep this permit on file and make it available for inspection by authorized department representatives until the action is completed.
4. The Permit Holder will allow department representatives to make periodic inspections anytime deemed necessary to assure compliance with the permit terms and conditions.
5. The Permit Holder will allow, for the permit duration, access to the permitted property by holders of valid federal / state collecting permits to verify permit compliance or conduct specific monitoring of project effects.
6. This permit does not authorize violation of existing federal, state, or local laws and regulations and does not preclude requirements to obtain other permits or authorizations required by such laws or regulations.
7. This permit is valid from the date of issuance until the post construction compliance checks are performed. THE PERMIT HOLDER MUST NOTIFY THE DEPARTMENT'S ECOLOGICAL SERVICES SECTION WHEN THE PERMITTED ACTION **STARTS** AND WHEN IT IS **COMPLETED** (SEE COMPLIANCE FORM ATTACHED) FAX: 620-672-2972, EMAIL: ess@ksoutdoors.com or david.bender@ksoutdoors.com .
8. The Permit Holder may not transfer this permit to a third party without prior written notice, accompanied by the transferees written agreement to comply with all listed terms and conditions, to the departments Ecological Services Section.
9. If changes occur to sale, lease, easement, principal operators of lands covered by this permit, or any other legal method of land transfer, the Permit Holder must notify the departments Ecological Services Section. The Permit Holder must notify new operators that obligations listed in the attached Special Conditions, and amendments to these conditions, remain in effect.

10. That in issuing this permit, the Department relied on legal authority and knowledge of life history and habitat requirements, available at the time, of Kansas listed threatened and endangered species. If the permitted action has not started within one year of this permits issue date, the Permit Holder must notify the department's Ecological Services Section so that personnel can reevaluate the permit regarding listed species status because the department continually collects current biological information.
11. **The Permit Holder must inform all contractors of the listed permit conditions and assure compliance with these conditions throughout the construction period.**
12. The department reserves the right to modify, suspend, or revoke this permit anytime if the Permit Holder fails to comply with any of the conditions listed in this permit.
13. The Permit Holder will ensure that all petroleum products, chemicals, and other fuels are stored by methods that prevent spills from entering any nearby streams within or near the project area. Spills that occur within 500 yards of protected streams will be cleaned up within 24 hours to prevent pollution from runoff. The Permit Holder or contractors must notify the following agencies upon discovering a spill to possibly undertake efforts to rescue protected species within the affected area: KDWPT, Ecological Services Section (telephone number 620-672-5911); United States Department of the Interior, Fish and Wildlife Service (telephone number 785-539-3474); and Kansas Department of Health and Environment (telephone number 785-296-1679).

Special Conditions

- 1a. An estimated 106.08 Habitat Units (HU) of impacts will occur to Smooth Earth Snake (*Virginia valeriae*) and Redbelly Snake (*Storeria occipitomaculata*) Designated Critical Habitat as a result of this project. A mitigation plan (on file with KDWPT) has been developed to create 65.25 HU and Enhance 46.74 HU including a perpetual easement held by Midwest Mitigation Oversight Association Inc. to mitigate for the impacts (Sections 11 & 12, T. 11 S, R. 23 E., Wyandotte County)
- 1b. A filed stamped copy of the conservation easement recorded at the appropriate Register of Deeds of Wyandotte County will be provided to the Ecological Services Section of Kansas Department of Wildlife, Parks and Tourism prior to construction, grading, or any other disturbances within the project boundaries at Sections 11 & 12, T. 11 S, R. 23 E, Wyandotte County.
2. The Permit Holder or contractors will not channelize or ditch any stream before, during, or after project completion other than what was submitted / reviewed.
3. No sand or gravel can be taken from any waterway without prior approval from the Kansas Department of Wildlife, Parks, and Tourism - Ecological Services Section.
4. All areas denuded of vegetation as a result of the permitted action will be reseeded with permanent seeding within one year. The remaining reseeded will also be in compliance with current applicable NRCS critical area seeding mixture guidelines.
5. All equipment will be thoroughly washed or cleaned prior to contact with waters and should be held to the bare minimum necessary to complete the project outside of restricted dates to prevent transport of exotic species such as the Zebra Mussel (*Dreissena polymorpha*).

6. There will be no deposition of cement sweepings, washings, treatment chemicals, or grouting and bonding materials into the streams proper or into any location where such pollutants can be washed into the streams by runoff water.
7. Upon completion of project, photo documentation of mitigation activities will be provided to KDWPT.

COMPLIANCE AGREEMENT

Your signature below as Permit Holder indicates that you accept and agree to comply with the terms and conditions of this permit (Action Permit **2011-16**) including any required mitigation measures. This must be signed and returned to the department before authorized action(s) can commence.

Brian Irwin, Cerner Corporation

Permit Holder (or Agent)

Date

This permit becomes effective when the department official, designated to act for the Secretary of the Department of Wildlife, Parks, and Tourism has signed below and we receive this signed agreement.

Eric R. Johnson, Chief
Ecological Services Section

Date

**COMPLIANCE CERTIFICATION FOR KANSAS DEPARTMENT OF WILDLIFE, PARKS, AND
TOURISM ACTION PERMIT**

Your signature below as Permit Holder indicated that you have completed the authorized action(s) and complied with all the terms and conditions of this permit (Action Permit **2011-16**) including any required mitigation.

Brian Irwin, Cerner Corporation

Permit Holder (or Agent)

Date

Date Action(s) Completed