# Nationwide Monarch Butterfly Candidate Conservation Agreement for Energy and Transportation Lands

# Application for Certificate of Inclusion in the CCAA/CCA

# Applicant Information

Organization Name:

Primary Point of Contact Name**:**

Address:

Phone Number:

E-mail:

Authorizing Signature Contact Name**:**

Address:

Phone Number:

E-mail:

This application contains confidential or sensitive business information per Section 8 of the Agreement.

(Check the box if answering “yes”).

# Description of Existing Conditions

* 1. Type of operations (up to three, as applicable) being enrolled:
* Choose an item.
* Choose an item.
* Choose an item.
  1. Provide a short (1-2 paragraph) summary of the system of lands being enrolled in the Agreement. Describe:
* Location and extent of enrolled lands
* Describe your land management ability: owned, easement, and (if applicable) facilities located on easement or ROW held by other entities

Click or tap here to enter text.

* 1. Provide a short (1-2 paragraph) description summarizing monarch habitat availability and the conservation measures you envision your organization contributing to the Agreement. Section V of this application includes a table with check boxes to indicate the general measures that will be implemented. More specific details will be requested in the Implementation Plan to be submitted after the Application is approved.

*Click or tap here to enter text.*

* 1. Attach a map showing the location of the enrolled lands. To the extent practical, provide maps that display parcel and/or corridor route locations for areas included within your enrolled lands. For applicants with assets in multiple states, please provide state-scaled maps and/or a table of enrolled acres by state.
  2. Describe in a short (1-2 paragraph) summary any constraints that affect your ability to implement conservation measures. Management constraints are limitations on your management controls that may result from laws and regulations, land or easement ownership requirements, organizational policies, or management capabilities. *Note: There is a separate field in Section IV.b. for proposing a schedule for phasing in conservation measure adoption over time.*

*Click or tap here to enter text.*

* 1. Provide a summary of any existing agreements, permits, or other authorizations your organization may have regarding incidental take coverage for other Federal-listed endangered species*.* For example, list any habitat conservation plans (HCPs) or incidental take permits (ITAs) authorized to your organization, or other candidate conservation agreements (CCA/CCAA) or safe harbor agreements (SHA) you are enrolled within. Consultations or programmatic guidance (e.g. 4(d) guidance for listed bats, or USFWS guidance for listed invertebrates or plants) also apply.

*Click or tap here to enter text.*

* 1. In accordance with the USFWS Conference Opinion prepared for the *Nationwide Candidate Conservation Agreement for Monarch Butterfly for Energy and Transportation Lands*, provide documentation to support the USFWS Section 7 evaluation of covered activities and their potential jeopardy to other Federal-listed species. Provide a summary of:
     1. Covered activities to be included for evaluation
     2. The geography where impacts may occur
     3. Which activities are, or are not, subject to S7 elsewhere
     4. What avoidance and minimization measures are currently used by the Applicant.

Summarize in an attachment to this application.

# Agreement to Participate in the Monarch Agreement

In witness of, the participating agency hereto has, as of the last signature date below, executed this Candidate Conservation Agreement with Assurances to be in effect as of the date the USFWS issues the permit.

Click or tap here to enter text. 10/1/2019

Applicant(s) Signature Printed Name, Title Date

Click or tap here to enter text. 10/1/2019

Programmatic Administrator Printed Name, Title Date

Click or tap here to enter text. 10/1/2019

U.S. Fish and Wildlife Service Printed Name, Title Date

The enrolled Partner must adhere to all terms and conditions of the Agreement. According to the pending listing finding, the primary threat to monarchs is habitat loss and degradation. Therefore, in order for this Agreement to address the conservation needs of the monarch, the conservation measures selected in the table below must be implemented by all representatives of the applying organization on the enrolled system of lands.

To remain in compliance with the Agreement, as an enrolled Partner, you agree to undertake the following measures:

1. Abide by all terms of the Agreement, including specific management strategies for each conservation measure as designated in the application to minimize risk of harm to monarchs on enrolled lands. Terms also include provisions associated with reporting, paying fees, and alerting UIC if there are compliance issues and/or unforeseen/changed circumstances. Administrative fees will be due prior to full execution of the Certificate of Inclusion, then on an annual basis from the date of the fully executed Certificate of Inclusion, or subject to another previously agreed upon date between the Partner and Programmatic Administrator.
2. Complete a CCAA/CCA implementation plan within one year from the date of the fully executed Certificate of Inclusion. A CCAA/CCA implementation plan will consist of a short plan created by the Partner describing:
3. Roles and responsibilities - who (within their organization) is involved in implementation of the conservation measures, and applicable communication structure, and
4. How the Partner intends to implement the conservation measures, tracking, monitoring, and reporting required in the Agreement. An existing IVM plan (if consistent with conservation measures proposed in the application) may suffice for this description, or provide the basis for one.

* general timing and prescriptions for treatments,
* timing expectations for tracking, monitoring, and reporting,
* adopted acres target ramp up periods and targets (if applicable),
* adherence to any applicable quality control procedures internal to the Partner organization, and
* funding for implementation (whether funding for conservation measures and other requirements comes from capital expenditures or operations and maintenance budgets).

1. Acknowledge that, as a Partner, the organization is responsible for their own compliance with applicable state and Federal laws related to listed species, historic and cultural resources, and other environmental resource protection. The organization also acknowledges that they will communicate and coordinate with underlying landowners (as applicable), and follow terms and conditions of the Enhancement of Survival (EOS) Permit issued to the Programmatic Administrator. The Service’s guidelines for complying with Section 106 of the National Historic Preservation Act are included as part of Appendix C (Supplemental Information) in the Agreement.
2. Implement Partner-selected conservation measures within the first full calendar year following the full execution of an individual Certificate of Inclusion. If implementation within the first full calendar year is not practical, the Applicant may propose an alternative implementation plan to the Programmatic Administrator for review and approval in Section IV.b. below.
3. Achieve the target for expected adopted acres annually based on the sector-specific adoption rates, or an approved variance during the waiver period, over the duration of the Partner’s enrollment within the Agreement. Should actual annual implementation tracked be below the annual adopted acres target(s) identified, then the Partner will adhere to the appropriate scenarios highlighted in Section 10 of the Agreement (Adaptive Management).
4. Track the location (statewide or finer scale) of where and date when (final month) conservation measures are implemented for compliance verification as described in Section 7.3 of the Agreement (Obligations of the Parties).
5. Conduct effectiveness monitoring within a subset of locations where conservation measures are implemented for compliance verification as described in Section 14 of the Agreement (Monitoring Provisions) and Section IV.c. below.
6. Provide the Service and the Programmatic Administrator, or their agreed upon representatives, access to the enrolled property to identify or monitor monarchs and their habitat, evaluate conservation measures, and monitor effectiveness and compliance with individual Partners at mutually agreeable times. All applicable safety trainings and appropriate measures will be communicated to Programmatic Administrator, the Service, or their designee by the Partner in a timely manner prior to site access. Any and all representatives of Programmatic Administrator, the Service, or their designee must adhere to all Partner-specific and site-specific health and safety compliance requirements, including associated training, certifications (if applicable), and protocols.
7. Allow the Programmatic Administrator to share, as requested, with the Service or other Agreement Partners, habitat and other planning or monitoring information related to the enrolled properties. Information sharing will not include any confidential business or proprietary information per the terms and conditions specified in Section 8 (Confidentiality).

# Net Conservation Benefit Contribution

By enrolling the above-mentioned lands in the Agreement, and adopting the conservation measures selected below at the agreed-upon rate, our organization is voluntarily committing to improving monarch habitat through these practices and to cooperate with the requirements of the Agreement. If organization is not able to implement the conservation measures immediately, include a proposed implementation schedule in the text box below the table. *Note: Enrolled lands and adoption rate may be demonstrated using the table below or explained in the text section following the table. Refer to the Agreement for definitions of terms. Double click the table to edit.*



* 1. Narrative explanation of calculation of annual net benefit contribution.

Click or tap here to enter text.

* 1. Proposed implementation schedule – include an estimate of the anticipated adoption rate, the expected adopted acres target, and annual maximum incidental take threshold for each of the years until the target adoption rate is expected to be met (no longer than 5 years).

Click or tap here to enter text.

* 1. Proposed effectiveness monitoring schedule per Section 14 of the Agreement – indicate whether monitoring will be submitted annually or propose a plan that will involve submitting monitoring results at least every 3 years.

Click or tap here to enter text.

# Conservation Measures

By enrolling in this Agreement, the Partner will identify the suite of applicable conservation measures that:

1. Address each of the key threats identified within control of the Partner;
2. Can be implemented over the course of the agreement by the Partner; and
3. Can be conducted on a sufficient quantity of lands to achieve the adopted acres target resulting from the applicable adoption rate(s).

Each key threat identified within the Agreement will be addressed, within the control of the Partner, by selecting one or more corresponding conservation measures. The Service and Programmatic Administrator recognize each Partner manages a unique system of lands and that conservation measure implementation will be based on site-specific conditions. Partners are expected to select one or more conservation measures to address each key threat within their control and achieve the expected annual adopted acres target. The Service recognizes not all conservation measures listed for a particular threat will be appropriate for a given property. Site-specific conservation measures will be based on the key threats present and the management ability of the Partner towards those threats.

Supplemental conservation measures are activities that do not directly address key threats identified, but still have important partnership and logistical contributions to the undertaking of this Agreement and monarch conservation. However, as activities, they do not directly result in an on-the-ground benefit (i.e. adopted acres). Annual reporting of supplemental conservation measures has the benefit of documenting additional Partner efforts and investments, providing more in-depth monitoring to answer important management questions, and build confidence in the implementation of the Agreement. Supplemental measures can also help reduce the annual administrative fee required.

The following threats, conservation measures, current or future practices, and comments are identified for this enrolled property. Descriptions and examples of conservation measures are included after the table.

| **Key Threat/ Limiting Factor** | **Conservation Measures** | **Pre-Agreement Practice** | **Post-Agreement Practice** | **Comments**  (note here if measure applies to only some ROW or parcels and if there are plans to increase the activity over time) |
| --- | --- | --- | --- | --- |
| Lack of Habitat and Nectar Resources (General) | Seeding and planting to restore or create habitat | routine  occasional  none | routine  occasional  none | Click or tap here to enter text. |
| Controlled grazing to promote suitable habitat | routine  occasional  none | routine  occasional  none | Click or tap here to enter text. |
| Brush removal to promote suitable habitat | routine  occasional  none | routine  occasional  none | Click or tap here to enter text. |
| Suitable habitat set-asides or idle lands for one or more growing seasons | routine  occasional  none | routine  occasional  none | Click or tap here to enter text. |
| Loss of Habitat and Nectar Resources (Mowing Practices) | Conservation mowing to enhance floral resources during migration and breeding | routine  occasional  none | routine  occasional  none | Click or tap here to enter text. |
| Loss of Habitat and Nectar Resources (Herbicides) | Targeted herbicide treatment of undesirable vegetation using herbicide best management practices | routine  occasional  none | routine  occasional  none | Click or tap here to enter text. |

|  |  |  |  |
| --- | --- | --- | --- |
| **Supplemental Measures** (Not tied to specific key threats, but help improve overall conditions for monarchs, or promote conservation actions.) | | | |
| **Supplemental Measures** | **Pre-Agreement Practice** | **Post-Agreement Practice** | **Comments**  (note here if measure applies to only some ROW or parcels and if there are plans to increase the activity over time) |
| Use spatial modeling to prioritize areas for implementing conservation | routine  occasional  no | routine  occasional  no | Click or tap here to enter text. |
| Minimize the spread of invasive species into areas of suitable habitat | routine  occasional  no | routine  occasional  no | Click or tap here to enter text. |
| Incorporate pollinator habitat-focused objectives into vegetation management operations | routine  occasional  no | routine  occasional  no | Click or tap here to enter text. |
| Conduct additional pollinator habitat monitoring protocols beyond those required for CCAA effectiveness monitoring. | routine  occasional  no | routine  occasional  no | Click or tap here to enter text. |
| Promote supplemental pollinator conservation efforts | routine  occasional  no | routine  occasional  no | Click or tap here to enter text. |

# Conservation Measures and Descriptions

| **Key Threats Addressed** | **Conservation Measure** | **Purpose** | **Description** | **Examples** |
| --- | --- | --- | --- | --- |
| General habitat loss and degradation | Seeding and planting to restore or create habitat | Active planting of an area to promote preferred native floral resources for monarch breeding and/or foraging. | Completing seeding or planting projects that create areas of suitable habitat with milkweed and/or floral resources throughout the growing season.  Seed mixes should be free of invasive or aggressive non-native species that inhibit species diversity when established. | * Establish native seed mixes containing a diversity of native wildflowers, including milkweed, as appropriate. * Apply native seed mixes in bare soil areas, including those recently cleared, graded, or disturbed. * Landscape facilities with native flowering plants that act as nectar resources. * Implement enhancement projects that increase the habitat available (special partnership habitat restoration projects – both on/off Partner lands, and post-construction enhanced seeding where appropriate) |
| General habitat loss and degradation | Controlled grazing to promote suitable habitat | Use of controlled grazing to sustain open early successional habitats suitable for monarchs. | Implement grazing within suitable habitat using BMPs that minimize impacts to monarchs or their habitat use. | * Minimize use of grazing in existing monarch habitat during peak monarch breeding and migration periods while considering the long-term goal of improving habitat for the species and promoting fall nectar plants. * Ensure coordination at the site specific and/or state specific level(s) as needed to determine overall practice applicability, seasonality, frequency, location, and timing of practice implementation. |
| General habitat loss and degradation | Brush removal to promote suitable habitat | Management or removal of woody (non-herbaceous) plants including those that are invasive or listed as a noxious weed. | Removal of dense brush using forestry mowing, chainsaws, or other mechanical methods to promote more open grassland habitat types. Maintenance of brush management involves monitoring for regrowth or reoccurrence of brush. | * Removal of woody plants in densely covered shrub areas not containing suitable habitat (e.g. shrub thickets, invasive species colonies). * Removal of woody plants in areas containing suitable habitat when monarchs are not likely present. * Removal of woody plants by hand at any time of the year. |
| General habitat loss and degradation | Suitable habitat set-asides | Sustain areas of relatively undisturbed suitable habitat throughout the portions of the growing season when monarchs may be present. | Maintaining areas of suitable habitat annually that will be undisturbed by temporary losses from construction, maintenance, or vegetation management in any given year. These areas may change spatially on an annual basis as new habitat becomes available and maintenance needs occur. | * Sustaining idle lands in between vegetation management treatments or cycles. * Designating special habitat ‘preserves’ in areas that will be protected from construction or maintenance. These may include special restoration projects, high quality areas, or other location designated by the Agreement partner. * Minimize disruption to/disturbance of existing monarch habitat during peak monarch breeding and migration periods. |
| Habitat loss and degradation from suitable habitat mowing | Conservation mowing to enhance floral resource habitat | Mowing in a manner that promotes habitat and avoids impacts based on monarch breeding and migration activity. | Conduct mowing and/or haying practices in a manner consistent with the intent and recommendations outlined in published BMPs for monarchs, and in conjunction with operational needs.  Timing may be informed by published guidance, annual monitoring documented by Journey North, or in consultation with the Programmatic Administrator or USFWS CCAA/CCA Coordinator. | * Conduct mowing in suitable habitat where possible in conjunction with recommended practices by [Monarch Joint Venture](https://monarchjointventure.org/images/uploads/documents/MowingForMonarchs.pdf), [Xerces Society](https://xerces.org/wp-content/uploads/2018/04/18-009_01-Monarch_BMPs_Final_Web.pdf), FHWA [BMPs for pollinators, mowing BMPs (pages 18-25)](https://www.environment.fhwa.dot.gov/env_topics/ecosystems/Pollinators_Roadsides/BMPs_pollinators_landscapes.pdf), and/or Federal agencies [BMPs for Mowing and Pollinators (p. 29)](https://www.fs.fed.us/wildflowers/pollinators/BMPs/documents/PollinatorFriendlyBMPsFederalLandsDRAFT05152015.pdf) * Mowing or haying at a periodic rotation (e.g. less frequently than annually), or based on an applicant-defined strategy that is within the targets set for net conservation benefit. * Conduct training for mower operators to help identify and avoid milkweed and blooming nectar plants during operations. |
| Habitat loss and degradation from herbicide use in suitable habitat | Targeted herbicide treatments | Herbicide applied to control undesirable vegetation and restore native or desired plant communities, and enhance suitable habitat. | Targeted application of herbicides completed in a manner that applies chemicals to a specific plant or group of plants while avoiding herbicides contacting off-target vegetation. | * Spot spraying of ecologically invasive, defined noxious weeds, or incompatible woody vegetation to promote a diversity of nectar plants. * Keep broadcast applications limited to active use facilities, or areas within spans containing non-contributing lands with little or no available milkweed and/or blooming nectar resources. * Targeted herbicide treatments applied in conjunction with other conservation measures such as site preparation for native seed mix installations, or follow up treatment of previously-mowed dense brush. |

**Supplemental Measures and Descriptions**

| **Supplemental Measure** | **Purpose** | **Description** | **Examples** |
| --- | --- | --- | --- |
| Spatially-focused conservation delivery | Use spatial modeling to prioritize areas for implementing conservation | Focusing conservation measure implementation on defined priority areas based on a science-based modeling tools. | * Use spatial tools, scoring assessments, or decision models (i.e. Roadsides as Habitat Tool, Working Group Scorecard, POWR Model, or similar) to identify suitable habitat areas to focus conservation and restoration efforts. |
| Invasive species prevention best management practices | Minimize the spread of invasive species into areas of suitable habitat. | Use invasive species prevention measures to prevent the spread of noxious weeds and invasive species in areas of suitable habitat. | * Clean equipment after use in invasive weed areas, * Time mowing for periods before weeds flower, * Tailor management timing to prevent seed establishment and plant distribution. |
| Incorporate pollinator habitat-focused objectives into vegetation management operations | Define objectives for considering monarch habitat requirements while conducting vegetation management activities. | Implement IVM approach to considering monarch habitat needs as an objective for vegetation management that helps determine on-the-ground measures as appropriate. Implementation may involve one or more other conservation measures. | * Develop/incorporate monarch habitat-specific objectives, targets, and thresholds into the Applicant’s vegetation management planning procedures to guide vegetation management activities within areas of suitable habitat. * Review and implement associated conservation measures as determined by site assessment and ability to support monarch habitat objectives. These may include mechanical, chemical, biological, or a combination of these techniques. Post-treatment measures may be needed to achieve the pollinator-focused objective(s). |
| Additional pollinator habitat monitoring | Collect and evaluate additional information regarding suitable habitat quality and management response to supplement ongoing management decisions. | Conducting additional pollinator habitat monitoring protocols beyond those required for Agreement effectiveness monitoring. | * Conduct more in-depth monarch or pollinator focused monitoring efforts to better characterize habitat available and understand management response. Examples include, but are not limited to:   + Rights-of-Way as Habitat Working Group Scorecard   + Monarch Joint Venture Habitat Scorecard   + Monarch Joint Venture Roadsides as Habitat Protocol   + Xerces Monarch Breeding and Milkweed Survey   + Xerces Western Monarch Thanksgiving Count   + Applicant-developed protocols |
| Promote supplemental landowner pollinator conservation efforts | Leverage the conservation targets of the Agreement to implement additional conservation through partnerships. | Promote voluntary pollinator conservation through landowner outreach programs, small grant programs, or pollinator garden planting projects. | * Provide Applicant-funded small grants to community projects that restore habitat or promote native pollinator plantings, or Monarch-related education. Fund or facilitate installation of monarch waysides or pollinator gardens. |

Certificate of Inclusion in the Nationwide CCAA/CCA for Monarch Butterfly on Energy and Transportation Lands

# B.1 CI Tracking Number

This Certificate of Inclusion (CI) certifies that (Partner), as the owner, leaseholder, or easement holder (or authorized agent thereof) of the property(s) identified in Exhibit 1 (Enrolled Lands) to this CI, hereby agrees that activities conducted on the enrolled lands are subject to the terms and conditions of the attached Enhancement of Survival Permit, Permit No. [**insert Permit No**.] issued on [**insert date**] by the U.S. Fish and Wildlife Service (the Service) to the Board of Trustees of the University of Illinois, a body corporate and politic of the State of Illinois, on behalf of the University of Illinois at Chicago (UIC; the Programmatic Administrator) under the authority of Section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA), 16 U.S.C. 1531-1544. This Permit was issued through the above-named Candidate Conservation Agreement with Assurances (CCAA) and integrated Candidate Conservation Agreement (CCA) for the monarch butterfly between the Service and UIC (the CCAA/CCA; Exhibit 2). The purpose of which is to support UIC’s ongoing and future efforts to promote conservation within energy and transportation lands and promote conservation by industry representatives. The definitions and acronyms set forth in the CCAA/CCA that is attached hereto shall apply to this CI, unless otherwise specified.

This CI documents the Partner's voluntary agreement to enroll specified property in the CCAA/CCA. Through this CI, the Partner voluntarily commits to implement specific conservation actions that will reduce and/or potentially remove threats to the monarch as provided in this CI, the CCAA/CCA and the Permit. Pursuant to this CI and the Permit, incidental take of monarchs as a result of the covered activities identified in the CCAA/CCA on or associated with enrolled lands, in the event the monarch is federally listed as endangered or threatened, is authorized. The Permit further provides the Partner (and their authorized representatives working on their behalf) with assurances regarding the imposition of additional conservation measures and land use restrictions on enrolled lands, as specified in the Permit and the CCAA/CCA, in the event the monarch is federally listed. The incidental take authorization and assurances provided by the Permit are conditioned on the Partner’s compliance with the terms and conditions of this CI, the CCAA/CCA and the Permit.

This CI is effective upon execution of this CI by the Partner and UIC. Unless terminated as provided in Section B.7 below, this CI shall continue from its effective date through the duration of the CCAA/CCA and Permit as defined in the CCAA/CCA. In the event of a conflict between the terms and conditions of this CI and the CCAA/CCA or Permit, the terms and conditions of the CCAA/CCA or Permit in effect at the time of enrollment shall govern.

By signing below, the Partner acknowledges that it has read and understands this CI and the CCAA/CCA in effect on the date of the Partner’s signature. The Partner further commits to comply with the terms and conditions of the CCAA/CCA and the Permit attached to this CI. Finally, the Partner acknowledges that this CI and the CCAA/CCA may not be sufficient to prevent the listing of the monarch.

# B.2 Enrolled Property

## Summary of Enrolled Lands

|  |  |
| --- | --- |
| Partner Name and Contact Information: |  |
| Description of Enrolled Properties (or Attach Detailed Map): |  |
| Total Acres of Enrolled Properties (all properties covered by permit): |  |
| Description of Existing Monarch Habitat on Enrolled Lands: |  |
| Duration of Certificate of Inclusion (years from last signature; end date): |  |
| Conservation Measures to be Taken on the Enrolled Lands: |  |

## Partner Affirmation

By executing this CI, the Partner affirms that it is a Property Owner of the enrolled lands as defined by 50 CFR §17.3, which provides that a Property Owner for these purposes is a person or entity with a fee simple, leasehold, or property interest (including owners of water or other natural resources), sufficient to carry out the conservation measures and any other management activities contemplated by this CI, the CCAA/CCA and the Permit, subject to applicable State law, on enrolled, non-Federal land.

## Additions to Enrolled Lands

The Partner may seek to enroll additional eligible lands in this CI during the enrollment period as set out in Section 4 (Enrolled Lands) of the CCAA/CCA.

## Transfer of Enrolled Lands

If the Partner transfers its property interest in all or a portion of its enrolled lands, it shall notify UIC as described in Section 9.6 (Succession and Transfer) of the CCAA/CCA. Coverage under the Permit for such property will be transferred to the new Property Owner as described in Section 9.8 (Succession and Transfer) of the CCAA/CCA.

## Termination of Enrolled Lands or this CI

A Partner may terminate enrollment of a property in this CI, or terminate this CI in its entirety, in accordance with Section 4 (Enrolled Lands) of the CCAA/CCA. The Programmatic Administrator may also terminate enrollment of a property or this CI as provided in the CCAA/CCA. The process and effect of termination of this CI is described in Sections 7 (Obligations of the Parties) and 9 (Duration of Agreement and Permit) of the CCAA/CCA.

## Revisions to Exhibit 1.

Exhibit 1 (Partner Application; Summary of Enrolled Lands) may be revised in accordance with the procedures outlined in Section 4 of the CCAA/CCA (Enrolled Lands).

# B.3 Participant Agreement to Implement Conservation Measures

The Partner agrees to comply with the requirements of this CI, the CCAA/CCA attached, and the Permit. This agreement includes the Partner’s commitment to implement conservation measures on enrolled lands as provided in their application and Section 6 of the CCAA/CCA (Conservation Measures).

The Partner shall also notify and educate all relevant personnel, agents, and contractors about the requirements of this CI and the CCAA/CCA, and take steps necessary to ensure that such personnel, agents, and contractors comply with these requirements in their activities on the enrolled lands.

# B.4 National Historic Preservation Act

The Partner must comply with all applicable laws and regulations required to protect cultural or archaeological resources pursuant to Section 106 of the National Historic Preservation Act.

# B.5 Participant Compliance

## B.5.1 Unpaid Administrative Fees

If the Partner fails to remit an administrative fee in accordance with Section 4 (Enrolled Lands) or Section 17 (Administrative Fees) of the CCAA/CCA the Programmatic Administrator may suspend this CI as to the enrolled lands for which the administrative fee is due until such administrative fee is paid. The Programmatic Administrator will notify the Partner 15 business days after the due date of the administrative fee. If the administrative fee is not paid within 30 business days of receipt of the notice, the Programmatic Administrator will issue a Notice of Noncompliance to the Partner. Upon receipt of the administrative fee, the Programmatic Administrator will issue a Notice of Reinstatement to the Partner.

## B.5.2 Compliance

#### Non-Compliance Notice

A Notice of Noncompliance is a written notification from the Programmatic Administrator and/or the Service to the Partner identifying an alleged failure to implement the terms and conditions of the Agreement, including but not limited to, agreed upon avoidance or minimization measures, conservation measures, compliance reporting, effectiveness monitoring, or to pay fees. In response to an alleged failure to implement a condition of this Agreement, the Programmatic Administrator may either directly contact or provide written notice to a Partner (see Compliance Notice). This notice shall require the Partner to submit, within 30 calendar days of the date of the Compliance Notice or other specified time, a written explanation or statement in response that includes: (a) corrective steps taken by the Partner and results achieved; (b) a schedule and description of corrective steps that will be taken and results expected; or (c) a statement denying that the alleged failure has occurred with additional information supporting the statement.

The Programmatic Administrator shall notify the relevant Service contact of the potential compliance issue at the time they send a Compliance Notice to the Partner, including any consideration for protecting confidential information (Section 8, Confidentiality). The Programmatic Administrator will determine if further Service coordination is required for resolution.

The Programmatic Administrator shall respond in writing to the Partner’s response and either: (a) accept the Partner's response and state that the notice is resolved (a Notice of Resolution stating the initial concern and its resolution along with any subsequent actions taken to resolve the noncompliance), or (b) not accept the Partner’s response.

#### Deficiency Notice

If a Partner fails to respond to a Compliance Notice or the Programmatic Administrator disagrees with the Partner’s response, the Programmatic Administrator may issue a written Deficiency Notice, which shall require the Partner to provide, within 30 calendar days of the date of the notice or other specified time, a written explanation or statement in response that includes: (a) corrective steps taken by the Partner and results achieved; (b) a schedule and description of corrective steps that will be taken and results expected; or (c) a statement denying that the alleged failure has occurred with additional information supporting the statement and a request for discussions.

After coordination with the Advisory Committee, and USFWS if necessary, the Programmatic Administrator shall respond in writing to a Partner’s response and either: (a) accept the Partner’s response and provide a Notice of Resolution; or (b) not accept the Partner’s response.

#### Notice of Noncompliance

If a Partner fails to respond to a Deficiency Notice or if the Programmatic Administrator and the Partner cannot resolve the issue through discussions, the Programmatic Administrator shall issue a Notice of Noncompliance. Notices of Noncompliance shall require the Partner to submit, within 30 calendar days of receipt of the Notice of Noncompliance or other specified time, a written explanation or statement in response that includes: (a) corrective steps taken by the Partner and results achieved; (b) a schedule and description of corrective steps that will be taken and results expected; or (c) a statement denying that the alleged failure has occurred, additional information supporting the statement and a request for discussions.

The Advisory Committee will make a recommendation to the Programmatic Administrator regarding whether to accept or not accept the Partner’s response. The Programmatic Administrator, with input from the Advisory Committee, will make a determination on whether to accept or not accept the Partner’s response. The Programmatic Administrator shall respond in writing to the Partner’s response and either: (a) accept the Partner’s response and state that the notice is resolved (a Notice of Resolution), or (b) not accept the Partner’s response. If the Programmatic Administrator does not accept the Partner’s response, the Notice of Noncompliance will be considered unresolved and the Partner may be subject to termination as described in Section 9 (Duration of Agreement and Permit).

#### Advisory Committee and Programmatic Administrator Review

At any time before a response is due to the Programmatic Administrator, a Partner may seek review of any Compliance Notice, Deficiency Notice, Notice of Noncompliance or proposed termination by submitting a written request to the Advisory Committee. The Programmatic Administrator and the Partner each may prepare a statement of position for review by the Advisory Committee or request a face-to-face review. The Advisory Committee shall review statements, information provided in a face-to-face review and other information available to it and issue a recommendation to the Programmatic Administrator, including any recommended corrective action.

The Programmatic Administrator shall review the recommendation of the Advisory Committee, confer with the relevant Service contact, or its designee, and issue its finding and any required corrective action in writing.

The Partner and the Programmatic Administrator shall comply with the findings, and the Programmatic Administrator will issue a written Notice of Resolution once the Partner complies with its findings. If the Partner fails to implement the required corrective action within 30 calendar days of its receipt of the findings, the Programmatic Administrator shall notify the Partner in writing that the Notice of Noncompliance has not been addressed and may either provide notice to USFWS, or terminate the Certificate of Inclusion of the Partner at that time.

All Compliance Notices, Deficiency Notices, and Notices of Noncompliance shall be sent to the following company representatives named in Section 15 of this CI (Contacts). All Compliance Notices, Deficiency

Notices, and Notices of Noncompliance shall concisely identify the conservation measure for the relevant CI that UIC believes the Partner has not implemented. UIC shall notify the relevant Service Ecological Services field office of issuance of notices and the receipt of responses by electronic mail.

# B.6 Incidental Take

If the monarch is listed, any incidental take of the monarch that results from the Partner’s failure to implement a mandatory avoidance or minimization conservation measures will remain authorized by the Permit so long as a Notice of Resolution relating to the conservation measure at issue is resolved in accordance with the procedures above.

# B.7 Termination for Noncompliance

Lands enrolled under this CI may include tens or hundreds of thousands of acres. If a Partner, after Notice of Noncompliance and subsequent response (or lack thereof), still remains in Notice of Noncompliance on lands enrolled under this CI, an appropriate action may be to terminate this CI as it relates to the individual easement(s), lease(s) or parcel(s) of land on which the noncompliance occurred. Depending on the scale or scope of the violations, the failure to resolve three Notices of Noncompliance within a three-year period for lands enrolled in this CI can result in termination of some or all of this CI. The Programmatic Administrator and the Service, however, recognize that termination of this entire CI is a severe and dramatic action limited to unusual circumstances after all efforts to address noncompliance have been exhausted.

The Partner shall be notified in writing by the Programmatic Administrator of the proposed termination by certified or registered mail addressed to the contact name in Section 15 of this CI. This notice shall identify the lands for which this CI will be terminated, the reason(s) for the termination, and inform the Partner of the right to object to the proposed termination. Upon receipt of a notice of proposed termination, the Partner may file written objection to the proposed action within 45 calendar days of the date the Partner received the notice of proposed termination. The objection must state the reasons why the Partner objects to the proposed termination and may include supporting documentation. The Advisory Committee will review the written objection and all documentation, and will issue a recommendation to the Programmatic Administrator on the proposed termination.

The Programmatic Administrator will confer with the relevant the Service CCAA/CCA Coordinator. The Programmatic Administrator will make a decision on the proposed termination within 45 calendar days after the end of the objection period and notify the Partner in writing of its decision and the reasons thereto. The Partner reserves the right to any and all legal remedies, whether at law or in equity, arising from a decision to terminate some or all of this CI.

# B.8 Property Access

The Partner agrees to provide access to enrolled lands as provided in Section 7.3 of the CCAA/CCA.

# B.9 No Waiver

The Partner, by entering into this CI, does not concede its agreement with, or endorsement of, any or all of the underlying studies and conclusions in the CCAA/CCA and/or SSA. Further, the Partner does not waive any legal rights or remedies that may exist outside of this CI. The Partner is also not responsible for work being accomplished by the Service, the Programmatic Administrator or any third parties using the Partners’ contributed funds.

# B.10 Release

If at any time any administrative or legal challenge to the CCAA/CCA prevents the implementation of this CI, the Partner shall be excused from its performance and shall release the signatories of the CCAA/CCA and CI from any legal claims of the Partner’s related to this CI and CCAA/CCA. If at any time any administrative

or legal challenge to the CCAA/CCA prevents the implementation of this CI, the Programmatic Administrator agrees to release the Partner from any legal claims related to this CI and CCAA/CCA. Partners’ obligation to make payments of administrative fees as described in Section 17 of the CCAA/CCA (Administrative Fees) shall be suspended if any administrative or judicial challenge prevents the implementation of this CCAA/CCA or its CIs. If a Partner voluntarily terminates the Agreement, or the Partner is terminated for nonperformance or noncompliance, all funds paid by that Partner will be retained by the Programmatic Administrator for use in CCAA/CCA administration or monarch conservation. In the event of an external termination of the Agreement (e.g. transfer of the Agreement, or lack of conservation need), the Programmatic Administrator will work with Partners to determine the appropriate refund amounts for any pre-paid annual administrative fees beyond the final year of the Agreement, or Programmatic Administrator involvement.

# B.11 Amendment

As described in Section 10 of the CCAA/CCA (Adaptive Management), the effectiveness of the conservation measures in the CCAA/CCA will be reviewed by the Programmatic Administrator, the Service, and Partners periodically over the life of the CCAA/CCA. However, changes to the CCAA/CCA in effect at the time after the Partner executes this CI may only be applied to the Partner upon its written consent. This CI, except for Exhibit 2 (CCAA/CCA), may be amended with the written consent of each of the Parties hereto. Exhibit 1 may be revised in accordance with the procedures outlined in Section 4 of the CCAA/CCA (Enrolled Lands). The Parties agree to process requests for amendments in a timely manner. This CI will only be amended upon written agreement of both the Programmatic Administrator and the Partner. This CI may also be amended to accommodate changes to applicable legal requirements, including but not limited to the Endangered Species Act, the National Environmental Policy Act, and the Service’s permit regulations at 50 CFR § 13 and 50 CFR § 17. The proposer of the amendment shall provide a statement describing the proposed amendment and the reasons for it.

# B.12 Multiple Originals

This CI may be executed in any number of multiple originals. A complete original of this CI shall be maintained in the records of each of the Parties hereto.

# B.13 Reporting Requirements

The Partner will comply with the reporting requirements outlined in Section 14 of the CCAA/CCA (Monitoring Provisions).

# B.14 Confidentiality

The Parties recognize that energy and transportation infrastructure information is confidential and sensitive business information held and not routinely disclosed and may be exempt from disclosure under the Federal and/or Illinois Freedom of Information Act (FOIA). Such confidential, proprietary, and sensitive business information includes but is not limited to the following:

* + - * Any maps depicting lands enrolled by an individual Partner that specifically identify the Partner, or specific location of lands;
      * Information describing critical infrastructure information, or critical energy/electric infrastructure information designations;
      * Identifying information about an individual Partner’s acreage and its specific location or position; or
      * Any information that contains proprietary business information as identified and designated by the Partner supplying that information.

Accordingly, the Programmatic Administrator shall limit access to the foregoing information to only employees or agents of the Programmatic Administrator, and the Partner that provided the information, unless otherwise authorized in writing by the Partner, or as may be required by law, court order or administrative action. The Programmatic Administrator shall only allow such access to the information via methods allowed by the applicable Partner(s) and solely for the purpose of allowing the relevant and particular information for monitoring and reporting, as described herein. The Programmatic Administrator will not authorize anyone to download, possess, or distribute the information, unless otherwise authorized in writing by the Partner.

The Service and the Programmatic Administrator shall take all reasonable steps to maintain confidentiality under the relevant laws, as well as the Service and the Programmatic Administrator, and their employees and/or agents. Neither the Service nor the Programmatic Administrator are responsible for any information ultimately subject to disclosure under the relevant public open record laws.

For disputes and resolutions being reviewed by the Advisory Committee, the Programmatic Administrator will take similar confidentiality measures when considering the sharing of information with Partners acting within the capacity of the Advisory Committee, and involved with reviews or compliance considerations being considered. The Programmatic Administrator shall only allow such access to the information via methods allowed by the applicable Partner(s) and solely for the purpose of allowing the relevant and particular information for the specified request provided in writing.

If the Service, or the Programmatic Administrator, receives a request under the Federal FOIA, or UIC receives a request under the Illinois FOIA for information which a Partner has identified as potentially confidential in this section, and has responsive documents in its possession containing such information, and as time allows, the Service or the Programmatic Administrator will consult with the Partner that submitted the information and provide an opportunity for the Partner to object to disclosure prior to determining if the information is exempt from disclosure pursuant to the Freedom of Information Act, pursuant to applicable exemptions in the Federal or Illinois FOIA Acts. Additional information regarding the Service’s process for responding to Freedom of Information Act requests for possibly confidential information is set out at 43 CFR 2.26-2.36 (2013).

# B.15 Contacts

Any notice permitted or required by this CI, the CCAA/CCA or the Permit shall be transmitted within any time limits described in this CI, the CCAA/CCA or the Permit to the persons set forth below. Notice may be provided electronically (via email) or in writing unless the form of notice is otherwise identified in this CI, the CCAA/CCA or the Permit. Any notice provided by electronic mail is deemed received upon the sender’s receipt of an electronic mail from the intended recipient confirming delivery. Lack of receipt within five (5) business days may result in follow up via phone call, or a duplicate notice provided in writing. Notice in writing shall be deemed given five (5) business days after deposit in the United States mail, sent certified and postage prepaid, and return receipt requested. All notices and correspondence will be addressed to the contacts listed below. Should either party designate other contacts for day-to-day communications that notification will be sent to the Programmatic Administrator in writing similar to other notices outlined here:

|  |
| --- |
| **Partner:** |
| Contact Name |
| Title |
| Address: |
| Telephone: |
| Fax: |
| Email: |

|  |
| --- |
| **UIC/Permit Holder Representative:** |
| Contact Name Iris Caldwell |
| Title Programmatic Administrator, UIC |
| Address: Energy Resources Center at The University of Illinois at Chicago 1309 S Halsted Street, MC 156, Chicago, IL 60607 |
| Telephone: (312) 355-1483 |
| Email: iriscald@uic.edu |

# B.16 Signatures

IN WITNESS WHEREOF THE PARTIES HERETO have executed this Certificate of Inclusion to be in effect on the date of the last signature below.

Partner and Affiliation Date

Programmatic Administrator/Permit Holder Representative Date

To complete your application package, don’t forget to include:

1. Your completed application form (this document)
2. Maps displaying the extent of enrolled lands being enrolled in the Agreement
3. A signed copy of your organization’s Certificate of Inclusion
4. Payment for the first year’s administrative fee as calculated by the Programmatic Administrator
5. Section 7 analysis supporting documentation
6. Any supplemental information necessary to support your application
7. Return the completed application to:

Monarch Programmatic CCAA Administrator

Energy Resources Center

The University of Illinois at Chicago

1309 S Halsted Street, MC 156

Chicago, IL 60607

Iris Caldwell, Program Manager

Office: (312) 355-1483

Cell: (319) 541-4088

iriscald@uic.edu