

U.S. FISH AND WILDLIFE SERVICE  
NEPA ENVIRONMENTAL ACTION STATEMENT  
for  
CATEGORICAL EXCLUSION

**I. Project Information**

*A. Project Name:*

Nationwide Candidate Conservation Agreement with Assurances (CCAA) for the Monarch Butterfly on Energy and Transportation Lands with an integrated Candidate Conservation Agreement (CCAA/CCA or Agreement)

*B. Affected Species:*

Monarch Butterfly (*Danaus plexippus plexippus*)

*C. Project Size:*

The geographical area covered by this Agreement includes the potential estimated range of the monarch butterfly across the lower 48 states, on lands managed by energy and transportation entities. We are unable to provide an exact number of acres enrolled because this is a programmatic agreement, and participation is voluntary and interest may vary. Our highest estimates of potential enrollment indicate approximately 26 million acres of land, and this estimate is based on current and potential interest from energy and transportation partners.

*D. Brief Project Description Including Conservation Elements of the Plan:*

The estimated decline of the eastern migratory monarch population has been 84% between 1996 and 2015 (Semmens et al. 2016). The western population estimated decline since the late 1990s is 74% (Pelton et al. 2016) though other studies have hypothesized higher declines since the 1980s (Schultz et al. 2017). Due to declining population estimates, the Service was petitioned to list the monarch butterfly under the Endangered Species Act of 1973 (ESA) and a Species Status Assessment for the monarch (*Danaus plexippus plexippus*) was initiated. The Service is scheduled to make a decision in June 2019 on whether the listing of the monarch is warranted.

This project is the issuance of an Enhancement of Survival Permit (permit) associated with a programmatic CCAA/CCA between the U.S. Fish and Wildlife Service (Service) and the University of Illinois at Chicago (Applicant). The permit and Agreement will further conservation of monarch butterflies and establish a mechanism to authorize incidental take of monarchs and provide regulatory assurances to energy and transportation landowners who enroll.

The Applicant has requested a permit term of 50 years. Upon signature of the Agreement and issuance of the permit, the Applicant can extend take authorization and regulatory assurances, via certificates of inclusion, to non-Federal energy and transportation partners who agree to implement the Agreement and abide by the terms of the permit. The CCAA program encourages landowners to join onto the Agreement and implement conservation measures for monarch

butterflies by providing certainty on non-Federal lands that additional land-use restrictions and conservation requirements, beyond those agreed to in the Agreement, will not be imposed for monarchs in the future, if the butterfly is listed as endangered or threatened.

The goal of the Agreement is to encourage participation in voluntary conservation on energy and transportation lands that result in net conservation benefits to monarch butterflies. This is achieved through conservation measures on energy and transportation lands that counter habitat loss and degradation, which is a key threat to monarch populations (Thogmartin et al. 2017; USFWS 2018a). The Agreement requires enrolled energy and transportation entities (Partners) to adopt these conservation measures using defined “adoption rates” that have been informed by landscape ecologists, planners, and industry representatives. These conservation measures create diverse, resilient, and appropriately connected and functional habitats throughout the monarch range while ensuring compatibility with energy and transportation activities.

The Conservation Measures under this Agreement include:

- Active planting of an area to promote preferred native floral resources for monarch breeding and/or foraging;
- Mowing in a manner that promotes habitat, and avoids or minimizes impacts to monarchs during breeding and migration activity;
- Targeted herbicide treatments to control undesirable vegetation, restore native or desired plant communities, and enhance suitable habitat
- Using prescribed fire to sustain open early successional habitats suitable for monarchs;
- Using controlled grazing to sustain open early successional habitats suitable for monarchs;
- Managing or removing woody (non-herbaceous) plants, including those that are invasive, noxious, or incompatible with rights-of-way operations, to sustain early successional habitats suitable for monarchs;
- Sustaining temporary or permanent areas of relatively undisturbed suitable habitat;
- Leveraging the conservation targets in the Agreement to implement additional conservation through partnerships;
- Minimizing the spread of non-native, invasive species into areas of suitable habitat;
- Collecting and evaluating additional information regarding suitable habitat quality and management response to supplement ongoing management decisions;
- Defining objectives for considering monarch habitat requirements while conducting vegetation management activities; and
- Using spatial modeling to prioritize areas for implementing conservation.

Covered activities within the Agreement include maintenance and modernization activities associated with ongoing management of energy and transportation lands. Within the Agreement, these terms are defined as:

- Maintenance - Work on enrolled lands that is planned and performed on a routine basis to maintain and preserve the condition of the energy or transportation system or to respond to specific conditions and events that restore these system to an adequate level of service
- Modernization - Construction and other land disturbing activities involving the repair, replacement, and upgrading of existing infrastructure on existing enrolled lands. Examples include, but are not limited to, road surface repair, bridge replacements, lane widening,

interchange modification or construction, transmission line rebuilds, pipeline replacements, renewable energy infrastructure modifications, and similar activities.

The Agreement does not include construction and land disturbing activities that pose significant environmental, socioeconomic, historical, or cultural impacts. This Agreement does not cover projects that require an Environmental Impact Statement threshold due to planned impacts, such as large interstate highways, pipelines, transmission lines, new rail routes, or similar.

Although many of these conservation measures and covered activities are currently in use to manage and maintain rights-of-way and associated lands, they are generally not being conducted with, or with the intended purpose of, establishing and maintaining habitat for the monarch butterfly. While the outcomes of the currently implemented practices and modified practices may be somewhat different, the environmental effects are expected to be similar and beneficial. This Agreement formalizes and promotes improvements in these operations by promoting conservation measures that adapt the timing, frequency, or method by which they are applied in order to improve habitat for monarchs.

## **II. Does the Agreement fit the following Department of Interior and U.S. Fish and Wildlife Service categorical-exclusion criteria?**

*A. Are the effects of the Agreement minor or negligible on federally listed, proposed, or candidate species and their habitats covered under the Agreement? [516 DM 8.5(C)(1)]*

Yes. Covered activities under the Agreement consist of maintenance and modernization of infrastructure within energy and transportation lands. Conservation measures and covered activities included within the Agreement are actions that are already occurring in some manner on energy and transportation lands. Many of these maintenance and modernization activities are recognized as having no or negligible risk of negative impacts to environmental resources, including listed species. With this in mind, the conservation measures and covered activities included within the Agreement primarily alter *how* these activities are conducted and *to what extent* beneficial conservation measures are employed. The agreement requires those activities to be conducted in a manner that is more beneficial to monarch butterflies and their habitat than would be required in the absence of the Agreement.

*B. Are the effects of the Agreement minor or negligible on all other components of the human environment, including environmental values and environmental resources (e.g. air quality, geology and soils, water quality and quantity, socio-economic, cultural resources, recreation, visual resources, environmental justice, etc.)? [40 CFR 1508.14; 43CFR 46.205]*

Yes. Conservation measures and covered activities included within the Agreement are actions that are already occurring in some manner on energy and transportation lands. Changes proposed in the Agreement promote adapting current practices in a manner that benefits monarch habitat. The Agreement has been developed with input from industry and regulatory partners to be compatible with existing land use practices on the rights-of-way. The Agreement will not reduce the ability of landowners owning property along, or adjacent to, these energy and transportation lands to use their land. Conservation measures and covered activities in the Agreement are already completed with varying degrees of coordination with existing landowners on, or adjacent to, the lands

managed by the Partners. The Agreement in no way alters these existing expectations or processes used by the Partners for coordination and communication with landowners.

The effects on land use related to the Agreement are expected to be negligible and are not expected to affect air quality, geology and soils, water quality and quantity, socio-economic, cultural resources, recreation, or visual resources in any significant way. Moreover, some effects on environmental resources in the rights-of-way are expected to be positive (e.g., opportunities for local community participation in restoration efforts and increased populations of pollinators that may improve agricultural production locally).

In addition, the covered activities within the Agreement are routinely undertaken with consideration for applicable environmental laws and regulations, including but not limited to, the Clean Water Act, Clean Air Act, National Environmental Policy Act, and the National Historic Preservation Act. According to CCAA Policy, all activities under the Agreement must comply with applicable Federal and State laws. Therefore, activities under the Agreement are expected to result in no or negligible disturbance to the human environment as compared to current conditions.

*C. Would the incremental impacts of this Agreement, considered together with the impacts of other past, present, and reasonably foreseeable future actions (regardless of what agency or person undertakes such other actions) not result, over time, in cumulative effects to the human environment (the natural and physical environment) which would be considered significant? [40 CFR 1508.7; 43CFR 46.205]*

Yes, the proposed actions under the Agreement would not cumulatively result in significant effects to the human environment. The proposed actions support ongoing operations, maintenance, and modernization of existing infrastructure. Adverse impacts that may occur under the Agreement, even considered with other similar projects, are not expected to result in significant cumulative effects to environmental values or resources compared to current conditions. Activities included in the Agreement are subject to all Federal and state laws and associated regulations. These activities already occur on these energy and transportation lands. While the Agreement encourages and promotes activities that benefit monarchs, it does not change the range of activities occurring within these lands – with or without the Agreement. Existing regulatory mechanisms already address and review these activities for minor and negligible effects on the environment.

The conservation measures, though focused on monarch butterflies and their habitat, provide benefits not exclusive to the species. We anticipate positive cumulative effects may result for other pollinator or grassland species.

**III. Do any of the exceptions to categorical exclusions (extraordinary circumstances) listed in 43 CFR 46.215 apply to this Agreement?**  
**Would implementation of the Agreement:**

*A. Have significant impacts on public health or safety?*

No. Significant adverse impacts to public health are not expected to result from implementation of the Agreement. Conservation measures and covered activities included in the Agreement already occur routinely across the U.S. While the Agreement is broad in its geographic coverage, these same activities will continue to occur with (or without) the authorization of this Agreement.

Occupational safety risks associated with workers on energy and transportation lands would continue to be managed through the implementation of safety and emergency management plans as currently managed by Partners. In doing so, managers of energy and transportation lands will continue providing safe, secure, and reliable use and operation of this infrastructure and its lands. Energy and transportation lands have been managed with ongoing considerations for public health and safety for decades. Authorization of the Agreement and implementation of conservation measures or covered activities does not alter the safety measures already in place for workers and the general public. As described in Sections 5 and 6 of the Agreement, the activities allow for adaptation as needed to address any unforeseen safety concerns and will promote the ability of Partners to continue actions supporting infrastructure safety and enhanced monarch habitat.

*B. Have significant impacts on such natural resources and unique geographic characteristics as: historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990) or floodplains (Executive Order 11988); national monuments; migratory birds, eagles, or other ecologically significant or critical resources?*

No. All enrolled lands under the Agreement consist of existing or established rights-of-way or other lands associated with energy or transportation uses. Already, many energy and transportation lands overlap with parks, recreation areas, national parks, landmarks, wildlife refuges, national forests, as well as farmlands, wetlands, and other unique or ecologically significant areas. Existing cooperation with these managing agencies and compliance with applicable laws and regulations promote compatible co-existence of these energy or transportation uses with appropriate considerations for the uniqueness of these important natural resources and unique geographic areas.

As such, review and consideration for their impacts on natural resources and unique geographic characteristics are often considered during regulatory permit application reviews by various State and Federal agencies with the applicable review authority. If potential effects or conflicts are identified, the Partner would coordinate with the appropriate State and/or Federal land managing and regulatory agencies to review avoidance and minimization requirements and prevent adverse impacts, as necessary. In most instances, conservation measures and covered activities are already routinely conducted across these enrolled lands and will maintain or improve conditions of natural resources and sensitive areas listed above. Activities that are found to pose a site-specific impact to natural resources and unique geographic characteristics are not covered by the Agreement or permit.

*C. Have highly controversial environmental effects (defined at 43 CFR 46.30), or involve unresolved conflicts concerning alternative uses of available resources [see NEPA section 102(2)(E)]?*

No. The activities proposed under the Agreement cover existing and post-acquisition rights-of-way and are therefore not expected to be controversial. The conservation measures and covered activities proposed in the Agreement are routine in nature (vegetation management and modernization construction). They already occur regularly, and will continue to occur, with or without the Agreement.

The conservation efforts included in the Agreement are non-controversial in nature and seen as beneficial by conservation organizations, and the broader public. Partners enrolled in this Agreement would have the regulatory assurances and operational flexibility needed to expand these types of beneficial efforts. The activities proposed also do not involve any unresolved conflicts concerning alternative uses of available resources.

*D. Have highly uncertain and potentially significant environmental effects, or involve unique or unknown environmental risks?*

No. Construction and operation of lands associated with energy and transportation uses over the last half of the 20th century have resulted in routine considerations for most activities when considering potential risks. While the scale and extent of Partner enrollment is uncertain, the tools and techniques proposed are well established and commonly used across energy and transportation lands already. All plantings proposed as part of habitat improvements would be native species and restoration efforts would focus on returning habitat to more natural conditions.

The activities proposed in the Agreement already occur across the lower 48 states under a variety of landscape conditions. Therefore, the risk of uncertain or unforeseen effects is considered extremely low. The Agreement (see Section 13) contains considerations for emerging science and changing technology that are not currently considered. These considerations establish an expectation by which such changed circumstances would be addressed. There are no known environmental risks associated with the proposed conservation measures and covered activities.

*E. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?*

No. The proposed conservation measures and covered activities within the Agreement have occurred on small and large scales for many years and are already commonly used across the country. With or without the Agreement, these activities will continue to be used across energy and transportation lands. CCAAs and CCAs have been used by the Service for nearly 20 years to promote voluntary conservation for species that are candidates for listing under the ESA. Past agreements have covered extensive acreages (e.g., millions of acres) across large geographic areas (e.g., multiple states or regions of the U.S.). Therefore, the proposed activity is not expected to set a new precedent that could result in potentially significant environmental effects.

*F. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects?*

No. Adverse impacts under the Agreement, even considered with other similar projects, are not expected to result in significant cumulative effects to environmental values or resources. The

activities in the Agreement already occur to some extent on energy and transportation lands. While the Agreement encourages and promotes activities that benefit monarchs, it does not change the range of activities occurring within these lands with or without the Agreement.

*G. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places?*

No. Consultation between the State Historic Preservation Office, and enrolled partners will occur as needed to ensure that individual projects will not result in significant impacts to historic resources. In addition, the conservation measures and covered activities covered under this Agreement must comply with the existing sideboards of Partner-managed easements, special use permits, or leases.

*H. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species? Consider the degree or amount of take and the impact of the take on the species. Although take may occur under project implementation, it must be so minor as to result in negligible species effects after minimization and mitigation measures have been completed. The same concept applies when considering effects to critical habitat.*

No. The conservation measures and covered activities proposed under the Agreement are designed to benefit the monarch butterfly. Such habitat improvements could have positive effects on other species which may be listed or proposed under the ESA. No aspect of the proposed Agreement is expected to have a significant negative impact on any listed or proposed species covered under the ESA. Where authorized, some Partners will also continue to follow existing agreements (HCPs, or take permits, where authorized) and current practices to avoid or consult with the Service if their activities may affect listed species. Should an activity be identified as potentially having an adverse effect on a listed, or proposed to be listed, species, that activity would be considered to be outside the scope of the Agreement, unless section 7 consultation has already been undertaken with the Service or development of a habitat conservation plan (HCP), or similar incidental take coverage, has been issued to that Partner.

*I. Violate a Federal law, or a State, local, or tribal law, or a requirement imposed for the protection of the environment.*

No. The development of the Agreement has taken into consideration a range of applicable Federal, State, Tribal, and local laws and regulations that are commonly encountered already during the implementation of the activities included as conservation measures or covered activities. The Agreement has been designed to be implemented within all existing legal and regulatory requirements. According to CCAA Policy, all activities under the Agreement must comply with applicable Federal and State laws. Where applicable, necessary Federal, State, Tribal or local permits will be obtained and regulations followed.

*J. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).*

No. Conservation measures and covered activities would occur across a range of rights-of-way and parcels on existing lands managed by Partners. Energy and transportation lands already span the country across diverse landscapes--rural, suburban, and urban--and across diverse population centers. While the full extent of participation is uncertain and determined by the extent of enrollment, the enrolled lands are limited to existing and acquired fee-owned lands, leases, and easements. They would not be concentrated in low income or minority population areas. Because the activities proposed under the Agreement are already occurring on these lands and are necessary to provide safe and reliable energy delivery and transportation on lands already in use for these purposes, authorization of the Agreement does not pose any disproportionately high and adverse effect on low income or minority populations.

*K. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).*

No. At times when Partner-managed easements or leases that intersect Federal lands, Partners will coordinate with the appropriate Federal land management agencies to verify the conservation measures and covered activities encompassed by the Agreement will avoid impacts or use of Indian sacred sites. Because the enrolled lands are limited to acquired energy and transportation lands (owned, leased, or easement) and encompassing existing activities on these lands, sacred sites (where occurring) would not be adversely effected by these existing lands and ongoing management needs.

*L. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native Invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).*

No. Proposed activities are conservation measures and covered activities designed to maintain a vegetated landscape and promote the enhancement and increase of native species into existing lands or rights-of-way. No noxious weeds or non-native invasive species would be used for any of the habitat improvements. Conservation measures and supplemental measures contained within the Agreement also encourage use of prevention measures to limit the spread of invasive species. Conservation measures and covered activities in some areas would be expected to reduce levels of noxious weeds or non-native invasive species as part of the planting and maintenance process to improve habitat for monarch butterflies.

Each state maintains its own list of regulated noxious weed species requiring control. In keeping with CCAA Policy, the Agreement would not conflict, nor supersede, this or any other State law. Partners would therefore still be required (to the extent they currently are) to control noxious weeds consistent with any current requirements they might have within their operational footprint of enrolled lands. The current list of conservation measures specifies that treatment of noxious weeds applies towards the "adopted acres" requirement. Examples include targeted herbicide treatments and brush removal, as noted in the Table 6-2 under Section 6, Conservation Measures, within the Agreement.



#### IV. Environmental Action Statement

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record.

The evaluation undertaken within this document complies with requirements of NEPA Categorical Exclusions as described in the U.S. Department of Interior's Departmental Manual 6, Section 516, Chapter 8, Appendix 1.4, C.1. Section 8.5(C)(1) (permits and regulatory functions):

*(1) The issuance, denial, suspension, and revocation of permits for activities involving fish, wildlife, or plants regulated under 50 CFR Chapter 1, Subsection B, when such permits cause no or negligible environmental disturbance. These permits involve endangered and threatened species, species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), marine mammals, exotic birds, migratory birds, eagles, and injurious wildlife.*

The regulation referenced in this Categorical Exclusion above (50 CFR Chapter 1, Subsection B) is broad and refers to many types of permits. Subsection B is titled "Taking, possession, transportation, sale, purchase, barter, exportation, and importation of wildlife and plants". The Enhancement of Survival Permit issued for the Agreement is authorized under 50 CFR Chapter 1, Subsection B, Sections 17.22 and 17.32 (for endangered and threatened species, respectfully) where such conservation agreements are addressed under (d)(1): "Application requirements for permits for the enhancement of survival through Candidate Conservation Agreements with Assurances (CCAAs)."

Based on the information and analysis above, I determine that the proposed issuance of an Enhancement of Survival Permit for the Nationwide Candidate Conservation Agreement with Assurances for the Monarch Butterfly on Energy and Transportation Lands with an integrated Candidate Conservation Agreement (CCAA/CCA or Agreement) qualifies for a categorical exclusion, as defined in 40 CFR 1508.4. Furthermore, no extraordinary circumstances identified in 43 CFR 46.215 exist for the Agreement. Therefore, the Service's permit action for this Agreement is categorically excluded from further NEPA review and documentation, as provided by 40 CFR 1507.3; 43 CFR 46.205; 43 CFR 46.215; 516 DM 3; 516 DM 8.5; and 550 FW 3.3C. A more extensive NEPA process is unwarranted, and no further NEPA documentation will be made.

Signature Approval:

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Lori H. Nordstrom  
Assistant Regional Director - Ecological Services

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Date

## V. Literature Cited

- Pelton, E, Jepsen S, Schultz C, Fallon C, Black SH. 2016. State of the monarch butterfly overwintering sites in California. 40+vi pp. Portland, OR: The Xerces Society for Invertebrate Conservation.
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- U.S. Fish and Wildlife Service. 2018a (in development). Monarch (*Danaus plexippus plexippus*) Species Status Assessment Report. 100 pp.