

EXAMPLE OF NOTICE OF INTENT TO PREPARE EIS

Federal Register / Vol. 60, No. 107 / Monday, June 5, 1995 / Notices

29709

Notice of Intent To Prepare an Environmental Impact Statement for a Permit Application to Incidentally Take the Endangered Karner Blue Butterfly in the State of Wisconsin

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent and meetings.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared regarding an application from the Wisconsin Department of Natural Resources (WDNR), Madison, Wisconsin, for a permit to allow the incidental take of the Karner blue butterfly (*Lycaeides melissa samuelis*) in the State of Wisconsin with an accompanying habitat conservation plan (HCP). This notice describes the conservation plan (proposed action) and possible alternatives, invites public participation in the scoping process for preparing the EIS, and identifies the Service official to whom questions and comments concerning the proposed action may be directed. Three public scoping meetings will be held in the State of Wisconsin on the following dates at the indicated locations and times:

1. June 27, 1995; Wisconsin Rapids, WI at City Hall, 444 W. Grand Ave., Council Chambers; 3 p.m. to 6 p.m.
2. June 28, 1995; Siren, WI at the Burnett County Government Center,

7410 Cty. Rd. K, Room 165; 3 p.m. to 6 p.m.

3. June 29, 1995; Eau Claire, WI at the South Middle School, 2115 Mitscher Ave., Auditorium; 3 p.m. to 6 p.m.

There will be a presentation at 3 p.m. at each meeting which will address the Karner blue butterfly, the background and history of the HCP development process, the information available on the presence of this species in Wisconsin, activities which may be affected by their presence, and strategies to conserve the species while allowing land use activities to continue. Submission of written and oral comment and questions will be accepted at the scoping meetings. Written comments regarding EIS scoping also may be submitted by August 30, 1995, to the address below.

FOR FURTHER INFORMATION CONTACT: Janet M. Smith, Field Supervisor, U.S. Fish and Wildlife Service, 1015 Challenger Court, Green Bay, Wisconsin 54311.

SUPPLEMENTARY INFORMATION: The Karner blue butterfly was listed by the Service as an endangered species in December, 1992. Because of its listing as endangered, the Karner blue butterfly population is protected by the Endangered Species Act's (Act) prohibition against "taking." The Act defines "take" to mean: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in such conduct. "Harm" is further defined by regulation as any act that kills or injures wildlife including significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering (50 CFR 17.3).

However, the Service may issue permits to carry out prohibited activities involving endangered and threatened species under certain circumstances. Regulations governing permits for endangered and threatened wildlife are at 50 CFR 17.22, 17.23, and 17.32.

The WDNR is preparing to apply to the Service for an incidental take permit pursuant to Section 10(a)(1)(B) of the Act, which authorizes the issuance of incidental take permits to non-Federal landowners. The largest populations of the Karner blue butterfly in the nation occur in this State. This permit would authorize the incidental take of the Karner blue butterfly, and, possibly, associated threatened or endangered species addressed in the HCP, during the course of conducting otherwise lawful land use or development activities on public and private land in

the State of Wisconsin. Although public and private entities or individuals have participated in development of the HCP and may benefit by issuance of an incidental take permit, the WDNR has accepted the responsibility of coordinating preparation of the HCP, submission of the permit application and coordination of the preparation and processing of an EIS for Service review and approval. The action to be described in the HCP is a program that will ensure the continued conservation of the Karner blue butterfly in the State of Wisconsin, while resolving potential conflicts that may arise from otherwise lawful activities that may involve this species and its habitat on non-Federal lands in the State of Wisconsin. The environmental impacts which may result from implementation of a conservation program described in the HCP or as a result of implementing other alternatives will be evaluated in the EIS. The WDNR and more than 30 other persons or entities are involved in the process of information gathering, development and preparation of the Section 10(a)(1)(B) permit application, NCP, and the EIS, which is being developed concurrently.

Development of the HCP will involve a public process that includes open meetings of the HCP team and its advisory subcommittees. Those involved in this effort include other State and Federal agencies; counties; towns; industries, utilities, foresters, lepidopterists and biologists; and representatives of various environmental and recreational use organizations. Conservation strategies to be applied to the lands will differ depending on the landowner, ownership objective and management capability. It is anticipated that implementation of the conservation strategies will be through an implementation agreement or cooperative agreement entered into by the landowner and the WDNR.

Alternatives

I. Statewide HCP and Incidental Take Permit (Proposed Action)

This alternative, the proposed action, seeks to address all lands which constitute potential Karner blue butterfly habitat and associated land uses in the State of Wisconsin, whether publicly or privately owned or large or small in size. Such lands include utility, highway and railroad rights-of-way; private and publicly owned forest lands; other publicly owned lands such as parks, fisheries and wildlife areas, and recreational use areas; and private and publicly owned land subject to other

land uses including agriculture and development. This approach seeks to address conservation through a "grassroots" landowner effort. Individual conservation strategies of landowners may include:

1. Forest management and production strategies designed to assure no net loss of Karner blue butterfly habitat. However, specific areas of habitat may change;

2. Continued management of habitat through a maintenance and management scheme. Information on this species to date indicates that it is dependent on a disturbance regime, whether natural or otherwise. The species is found in such areas as tank trails on military training areas, timber sale or timber regeneration areas, highway or utility rights-of-way, and agricultural lands. There is evidence that some past and current practices in agriculture, forest management, military operations, right-of-way management, and wildlife management have been beneficial to the species. A "protection" strategy alone may result in the loss of habitat due to the natural maturation of other vegetation;

3. Barrens management which entails a scheme designed to maintain or restore barrens communities which may constitute habitat for a variety of species including the Karner blue butterfly;

4. Right-of-way maintenance regimes designed to minimize adverse effects on the Karner blue butterfly or enhance habitat through modification in mowing or clearing regimes, or burning;

5. Agricultural practices designed to maintain habitat; and

6. Other practices or strategies designed to maintain and, possibly, enhance habitat as science or practice confirms their effectiveness.

This alternative would incorporate the concept of "adaptive management." As science and conservation strategies evolve or demonstrate a need to change, the landowners would adapt or modify the conservation strategy as needed. Therefore, as science and information progress, so may the conservation strategies and efforts under the HCP and permit.

This alternative seeks authority for a long-term incidental take permit. The HCP will assure continued conservation measures as well as monitoring and reporting procedures, as required for issuance of an incidental take permit by the Service.

Service issuance of an incidental take permit will authorize land use activities to proceed without violating the Act. Landowners may participate in the HCP through cooperative agreements, certificates of inclusion, involvement in

one of the several WDNR private lands assistance programs, other cooperative programs by partners or participants in this conservation effort, or exemption from regulation based on the conservation program established under the HCP and permit. A coarse estimate of potential Karner blue butterfly habitat in the State would include about 25 percent of its acreage. About 12 percent may have a high potential to be Karner blue butterfly habitat.

II. Development of an HCP and Application for an Incidental Take Permit by one Landowner or a Consortium of Landowners or Organizations Not Constituting a Statewide Effort

This alternative may involve a single landowner, such as the WDNR or an industrial forest landowner. It may also involve a group of landowners, such as several industrial forest landowners or utilities. Any conservation strategy addressed in the proposed action alternative could be applied by the landowners involved under the same or similar facts or motives. Conservation strategies not discussed earlier could also be developed.

This alternative requires separate HCP development and application processes. Naturally, this approach would require separate permit review processes by the Service with the necessity of conducting separate environmental impact review procedures and documents.

Implementation and oversight would not likely involve the WDNR, which is the endangered resource regulatory agency for the State of Wisconsin, but would require oversight and implementation as described in the implementation agreements and permits.

III. Development of Short-term Incidental Take Permits

This alternative would seek to address the conservation program for this species for a period which is shorter than that anticipated in the proposed action alternative, which could extend for up to 30 years for willing landowners. Conservation strategies may be the same or similar as in the proposed action alternative, with the possibility of addressing the same land ownership, or some smaller element of land ownership.

IV. No Action Alternative

Under the No Action Alternative, no section 10(a)(1)(B) permit(s) would be issued and activities involving the take of the Karner blue butterfly would remain prohibited under Section 9 of the Act. Activities that would avoid the

take of the butterfly could continue. Proposed activities on non-Federal land that may affect the butterfly would require submitting an individual section 10(a)(1)(B) permit application to the Service. If a Federal action (e.g., proposed roadway) would affect the butterfly, incidental take could be allowed through the Section 7 consultation process and development of an incidental take statement if the action were determined to not jeopardize the continued existence of the species.

Issue Resolution and Environmental Review

The primary issue to be addressed during the scoping and planning process for the HCP and EIS is how to resolve potential conflicts between development or land management practices and listed (Federal or State) species in the State of Wisconsin. A tentative list of issues, concerns and opportunities has been developed. There will be a discussion of the potential effect, by alternative, which will include the following areas:

- (1) Karner blue butterfly and its habitat.
- (2) Other federally listed endangered or threatened species in the state of Wisconsin.
- (3) State listed endangered and threatened species in the State of Wisconsin.
- (4) Effects on other species of flora and fauna.
- (5) Socioeconomic effects.
- (6) Use of state, county and local public lands for Karner blue butterfly conservation.
- (7) Use of privately owned lands for Karner blue butterfly conservation.
- (8) Use of Federal lands.

Environmental review of the permit application will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), National Environmental Policy Act regulations (40 CFR Parts 1500-1508), other appropriate Federal regulations, and Service procedures for compliance with those regulations. This notice is being furnished in accordance with Section 1501.7 of the National Environmental Policy Act, to obtain suggestions and information from other agencies, tribes, and the public on the scope of issues to be addressed in the statement. Comments and participation in this scoping process are solicited.

The draft environmental impact statement should be available to the public in the spring of 1996.

William F. Hartwig,
Regional Director, Region 3, U.S. Fish and
Wildlife Service, Fort Snelling, MN.
[FR Doc. 95-13622 Filed 6-2-95; 8:45 am]
BILLING CODE 4310-66-M