

Final
Environmental Assessment

For

Application to Renew Federal Fish and Wildlife Permit TE010064-5 for
Implementation of the Wisconsin Statewide Karner Blue Butterfly
Habitat Conservation Plan

2010-2019

Prepared by
U.S. Fish and Wildlife Service
Green Bay Ecological Services Field Office

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1.0 PURPOSE AND NEED FOR ACTION

1.1 Introduction and Background

The Wisconsin Department of Natural Resources (DNR) requested that the U.S. Fish and Wildlife Service (Service) issue an incidental take permit for the renewal of the Wisconsin Statewide Karner Blue Butterfly (Kbb) Habitat Conservation Plan (HCP). The HCP is an updated version of the original HCP (DNR 2000) for which the Service issued a 10-year incidental take permit (Permit TE010064) in September of 1999. Like the original HCP, the updated HCP continues to be a comprehensive landscape scale approach to conservation of the Kbb in the State of Wisconsin. The HCP includes 41 partners (including the DNR) representing state, county, and private entities. Those entities are listed in the updated HCP (refer to Appendix A, Chapter 3, Table 3.11).

For more general background information on the HCP, refer to Chapter I.A of the original HCP/EIS (DNR 2000) (pp. 1-7) which provides information on the Endangered Species Act (Act), non-federal lands, state species, the Kbb and their interrelationships as well as an introduction to the regulatory framework for the HCP. This section of the original HCP is still pertinent to the updated HCP with the following updates:

- Re: Management of Nongame, Endangered, and Threatened Species in Wisconsin: The DNR has completed its Wisconsin's Strategies for Wildlife with Greatest Conservation Needs (2005) which includes the Kbb. General priority conservation actions for Lepidoptera in that Plan are compatible with the updated HCP.
- The distribution of the Kbb in Wisconsin has been adjusted. Refer to the updated HCP, Chapter 2 for the current distribution of the species in Wisconsin.

1.2 Purpose

The Federal action considered in this EA is the Service's response to the requested renewal of the incidental take permit for the Wisconsin Statewide Kbb HCP. The purpose of this Federal action is to:

- Respond to the DNR's application to the Service for a section 10(a)(1)(B) incidental take permit for the Kbb, related to activities that have the potential to result in take of the species.
- Protect, conserve and enhance the Kbb and its habitat for the continuing benefit of the people of the United States (section 2(a)(4) of the Act).

The Service has evaluated the application by the DNR and their 40 partners for an incidental take permit pursuant to section 10(a)(1)(B) of the Act for the renewal of the Wisconsin Statewide Kbb HCP. The incidental take permit would authorize the incidental take of the Kbb resulting from land management activities conducted by HCP partners on forest lands, rights-of-way, private lands and state lands in Wisconsin. Land management activities include the planting, harvesting,

and management of forest lands, management of state and private lands (e.g., via burning, herbicide application, mowing), management of road and utility line rights-of-way (via mowing and brushing), road construction or maintenance, and recreational trail and park development. The purpose of the section 10(a)(1)(B) permit is to ensure that any incidental taking that might occur will be minimized and mitigated to the maximum extent practicable and will not appreciably reduce the likelihood of the survival and recovery of this species in the wild. In addition, the Service seeks to authorize and encourage beneficial disturbance that will promote persistence and recovery of the species.

The proposed incidental take permit term is 10 years. The DNR and their partners have voluntarily submitted the application to comply with the Act. The submission of the application for renewal of the permit includes an updated Wisconsin Statewide Kbb HCP which is similar, but more streamlined than the original HCP developed in 1999 (DNR 2000) and is designed to ensure the continued existence of the butterfly in Wisconsin while allowing for incidental take of the species that may occur during the term of the permit. The implementing regulations for section 10(a)(1)(B) of the Act, as provided at 50 CFR 17.22, specify the requirements for obtaining a permit allowing the incidental take of listed species pursuant to otherwise lawful activities.

1.3 Need

The analysis in this EA is based on the following needs:

- Ensuring compliance with the Act, NEPA, and other applicable federal laws and regulations
- Providing a means and taking steps to conserve the ecosystem that the Kbb depends upon
- Ensuring the long-term survival of the Kbb through protection and management of the species and its habitat

The application for renewal of the incidental take permit for implementation of the HCP is being undertaken by the applicants to ensure that any incidental taking (either through direct harm or significant habitat alteration) resulting from otherwise lawful activities (e.g., forestry operations and management of rights-of-way or state lands) does not violate the take prohibition of section 9 of the Act. Because Kbb's occur broadly across multiple and varied land uses and land ownerships in the State of Wisconsin, the Service and the regulated community have a common interest in standardizing and streamlining permitting under the Act. The HCP renewal request proposes to maintain the current statewide framework for authorization of incidental taking of the KBB.

Under the Act, the Service has an obligation to select an alternative that will not jeopardize the future recovery of the Kbb. The goal of the Service is to conserve and recover the butterfly. Since the KBB is a disturbance-dependent species, the Service also has an interest in providing incentives for conducting beneficial disturbance activities that promote persistence and recovery of the butterfly. Finally, the Service seeks protective solutions for the butterfly that can be used as a model to encourage other private or non-federal landowners to voluntarily protect and conserve Kbb habitat that will aid the recovery of the species. Refer also to Chapter I.B.

“Purpose and Need” (p. 8) and Chapter I.C “Proposed Actions” (pp. 9-12) sections of the original HCP/EIS (March 2000).

1.4 Decisions Needed

Several decisions are needed under Federal, State and local laws, including the Federal Endangered Species Act, National Environmental Policy Act (NEPA) and local laws and ordinances. Other necessary approvals are required as well from public and corporate entities that are partners to the HCP.

The Service must ensure that all requirements of section 10(a)(1)(B) of the Act are met before issuing an incidental take permit to renew the HCP [refer to the original HCP/EIS, Chapter 1, page 2 and Chapter VI, pages 334-335 (DNR 2000)] as well as the guidance in the Service’s Five Point Policy (FR 65, 35241-35257, June 1, 2000). The Five Point Policy provides guidance to HCP developers and practitioners relative to five general concepts, including permit duration, public participation, adaptive management, monitoring provisions, and biological goals. The policy applies to renewal of the incidental take permit for this HCP since it became effective in 2000. As part of its decision analysis, the Service has evaluated the proposed term of the permit (10-years), the extent of public participation in its development, including the public participation in the implementation during the first 10 years, the adaptive management strategy and its effectiveness, the HCP monitoring program and the success of the HCP in meeting its stated biological goals.

After evaluating the requirements, the Service may:

- 1) deny the permit application,
- 2) issue a permit based on implementation of the HCP as received, or
- 3) issue a permit conditioned on implementation of the HCP and other measures specified by the Service

The Service has determined that the issuance of a permit renewal is the preferred alternative based on an evaluation of issuance criteria, review of the operating conservation program, and an evaluation of the action under Section 7. The application and EA were made available for public comment for a 60-day period. No public input was received.

Under section 7(a) (2) of the Act, issuance of an incidental take permit by the Service is a Federal action subject to the section 7 (a)(2) consultation requirements. Therefore, an internal Service section 7 consultation has been conducted to ensure that issuance of the permit will not jeopardize the continued existence of the Kbb.

This EA evaluated the environmental consequences of each potential Service response to the permit renewal request, in fulfillment of NEPA requirements. Ten years ago, when the Service first contemplated issuing the original incidental take permit for the KBB Statewide HCP, an Environmental Impact Statement was prepared due to the large scale of the effort and the Service’s determination that this HCP was precedent setting.

The past ten years of HCP implementation have shown that the HCP's operating conservation program, which hinges on implementation of conservation measures to avoid and minimize harm to the Kbb, is compatible with the HCP partners' routine land management activities. While the conservation measures did influence the timing of various activities on lands occupied by the Kbb, it did not significantly impact the environment beyond the normal impacts associated with the land management activity (e.g., forestry, ROW management and habitat management).

The EIS also considered potential effects of what was then a novel approach in the voluntary nature of the strategy to involve private citizens in conservation of the butterfly. This approach was reviewed and evaluated after three years of HCP implementation and has shown strong conservation results. Many positive conservation activities were completed by private landowners in the HCP's Voluntary Landowner group resulting in the restoration and/or management of early successional habitat for the butterfly (DNR 3-Year Report available at <http://dnr.wi.gov/forestry/karner/3year.htm>) and affirming assumptions made in the EIS relative to this voluntary group.

Other approvals are reviewed in the original HCP/EIS in Chapter 1, page14 (DNR 2000) and remain essentially the same.

1.5. Public Participation

The development of the original incidental take permit for the KBB Statewide HCP provided extensive opportunity for public review and comment. A Notice of Intent to prepare an EIS was announced in the Federal Register on June 5, 1995. Public scoping meetings followed at three locations in Wisconsin. The DNR also provided avenues for public involvement in the planning process and development of the HCP. Many interests were represented throughout the development process. Once the incidental take permit application was received by the Service, an announcement of availability of the draft EIS was made in the Federal Register on April 16, 1999. The Service's permit requirements also call for announcement of availability of permit applications. Therefore, a more detailed announcement was made in the April 14, 1999, Federal Register which included a description of the proposed HCP and the EIS and included a web site address for complete documentation. Several hundred copies of the HCP/EIS were distributed to interested parties, including those that had expressed an interest during the development phase. Several comment letters were received during the public review period and responses to the comments were incorporated into those documents.

During the permit term, revisions to HCP guidance and administrative procedures have been developed with full transparency to the public. The DNR gives public notice of meetings of the HCP partners, and meeting notes are available to the public on the DNR website. The full text of the HCP, HCP guidelines, management protocols, and annual reports, are all accessible by the public on the DNR website.

The Service invited public comment on the permit application and the draft EA on March 5, 2010. The documents were posted on the Service's web site (<http://www.fws.gov/midwest/endangered/permits/hcp/r3hcps.html>) and the comment period was open for 60 days. A news release was issued to further alert the interested public. During that time, one request was received for informational copies of the HCP and EA as well as

information on the status of the Kbb. However, there were no comments filed with the Service regarding the decision to be made.

2.0 ALTERNATIVES, INCLUDING THE PROPOSED ACTION

2.1 Proposed Action Alternative: Renewal of ITP and Continued Implementation of the WI Statewide KBB Habitat Conservation Plan (Appendix A).

The proposed action, renewal of the incidental take permit for a period of 10 years (2010-2019), will result in continued implementation of the Statewide HCP, as updated from the original HCP found in Chapter II (pp. 45-181) of the Kbb HCP/Environmental Impact Statement (EIS) (March 2000) (DNR 2000). The updated HCP replaces the original HCP and can be found in **Appendix A** of this EA. The original HCP/EIS (DNR 2000) still functions as a reference document for the updated HCP as it provides background information on all the HCP features and includes greater detail on the rationale and vision of the HCP Partners in designing this unique conservation program.

Over the 10-year life of the original HCP, many revisions were made to its various conservation programs and strategies as new information was learned, data gathered and analyzed, and research completed, necessitating continuous updates and improvements to the conservation plan. In addition there was a need to consolidate the conservation protocols and guidelines for easy access by partners and to streamline various strategies. Major features of the updated HCP include:

- Continuation and clarification of the Voluntary (Unregulated) Landowner Category
- Updated conservation measures, protocols and guidelines
- Streamlining of various HCP strategies, e.g. new partner inclusions
- Development of a comprehensive web-based HCP User's Guide
- Adjustment of the Kbb High Potential Range
- Establishments of Kbb Biological Recovery Zones
- Stronger Kbb recovery focus
- Authority to issue Certificates of Inclusion to new partner stepped down to DNR

In addition to the changes listed above, several revisions and clarifications were made to the document. The above noted features of the updated HCP as well as additional HCP revisions and clarifications are reviewed in Chapter 1 of the updated HCP and the HCP elements explained in greater detail in **Appendix A** (Draft HCP, dated 12/09). The Service's proposed incidental take permit will include conditions requiring the HCP partners to fulfill the conservation commitments for the Kbb and to report regularly on HCP activities.

2.2. No Action Alternative (no renewal)

Under the No Action alternative, a statewide incidental take permit would not be issued and activities involving take of the Kbb on non-federal lands would be prohibited under section 9 of the Act. Land disturbance activities on non-federal lands could continue only where Kbb would not be affected; the HCP partners would continue to conduct land management

activities but would need to avoid Kbb occupied sites. Avoiding Kbb occupied sites would result in loss of Kbb habitat across the state as natural succession is one of the greatest threats to the butterfly. The No Action alternative would preclude a landscape scale conservation effort for the Kbb and further, would preclude all the benefits that accrue from this approach for the butterfly. Refer to the original HCP/EIS (DNR 2000), Chapter 3 (pages 221-243) for further discussion of the No Action Alternative. There are no meaningful changes to the information in Chapter III of the original HCP/EIS except for the following:

- Re: Table 3.3 “Comparison of Proposed Action and No Action Alternatives;” information in the updated HCP results in the following three revisions to the “Proposed Action Alternative” section (noted below in ***bold italics***).

Table 3.3. “Comparison of Proposed Action and No Action Alternatives

	Proposed Action Alternative
Acres Committed to Proactive Management for Karner Blue Butterfly	<i>264,916</i> committed by partners, with potential for additional acres to be added
Commitment of Public Lands to Karner Blue Butterfly Conservation	<i>66,340</i> acres committed by <i>DNR</i> with potential for additional acres to be added; <i>21,353</i> acres of state lands included in federal recovery efforts
Financial Commitment	<i>Mechanisms for funding reviewed in HCP; no specific dollar amount specified</i>

2.3. Alternative 3 - Issue a Permit Conditioned on Implementation of the HCP and Other Measures Specified by the Service

Because the DNR has worked closely with the Service during the first 10 years of implementation of the Statewide HCP, measures to conserve the Kbb were incorporated into the original HCP or have been incorporated into the HCP as they have been discovered. The Service has been unable to envision any additional conditions that would be required on the permit that would go beyond the avoidance and minimization measures that the DNR and partners are already implementing. Further analysis of the action of issuance of an ITP will be completed in accordance with Section 7 of the Act during the public review process. Should additional measures be required to meet permit issuance criteria, they will be incorporated into the permit and HCP. Due to this extensive “up front” negotiation and consideration for the Kbb while developing the HCP, this alternative is dismissed from further consideration at this time.

3.0 AFFECTED ENVIRONMENT

The affected environment includes the physical, biological and socio-economic features of the 16 counties included in the Kbb High Potential Range (HPR). The original HCP/EIS (DNR 2000), Chapter IV (pp. 245-273) summarizes the characteristics of the affected environment; the information presented in Chapter IV has not meaningfully changed except for the following:

- Currently there are 15 counties in Kbb HPR compared to 21 counties noted in the original Kbb documented range (DNR 2000). Refer to the updated HCP (Chapter 2, C. and D. Distribution and Abundance) for a list of the 15 counties and a discussion of the HPR.
- Federally-listed Species. Since implementation of the original HCP in 1999, the Peregrine falcon and bald eagle have been removed (delisted) from the list of Federally-listed Threatened and Endangered Species. One new species, the whooping crane, and three new candidate species have been added to the list. The candidate species are the sheepsnose and spectaclecase mussels and the eastern massasauga rattlesnake. The Canada lynx status changed from proposed to listed species. For background information on the above species refer to Chapter IV, B.4 of the original HCP/EIS (DNR 2000). For more current information refer to the Service's website at:
<http://www.fws.gov/midwest/Endangered/#> and click on "Species Information."

Currently the following 16 federally-listed species and 3 candidate species occur in Wisconsin:

MAMMALS

Canada lynx (T)

Gray wolf (E)

BIRDS

Kirtland's warbler (E)

Piping plover (E) - critical habitat designated

Whooping crane - Non-essential experimental population

REPTILE

Eastern massasauga rattlesnake (C)

INSECTS

Hine's emerald dragonfly (E)

Karner blue butterfly (E)

CLAMS (Freshwater mussels, Unionids)

Higgins' eye pearlymussel (E)

Sheepsnose mussel (C)

Spectaclecase mussel (C)

Winged mapleleaf mussel (E)

PLANTS

Dwarf lake iris (T)

Eastern prairie fringed orchid (T)

Fassett's locoweed (T)

Mead's milkweed (T)

Northern wild monkshood (T)
Pitcher's thistle (T)
Prairie bush-clover (T)

- State Listed Species. As of February 2004, Wisconsin's endangered and threatened species list includes 101 animals (2 mammals, 26 birds, 10 reptiles or amphibians, 21 fishes, 20 insects, 4 snails and 18 mussels) and 139 vascular plants (DNR website: <http://dnr.wi.gov/org/land/er/wlist/>). For information on individual species you can go to the following DNR website: <http://dnr.wi.gov/org/land/er/biodiversity/>. Many state listed species are associated with Kbb habitat and many will benefit from habitat restoration and management work done for the Kbb; those species are reviewed in Appendix B of the updated HCP (found in Appendix A of this EA)..

4.0 ENVIRONMENTAL IMPACTS

4.1 Proposed Action Alternative: Renewal of ITP and Continued Implementation of the Wisconsin Statewide KBB Habitat Conservation Plan (Appendix A).

The proposed action is not anticipated to result in any significant adverse affect to the environment and is anticipated to increase early successional habitat required by the Kbb. The HCP partners will continue their normal land management activities which include forest management, barrens, prairie and savanna management, recreational management, transportation management, and utility ROW management. Activities conducted in Kbb habitat will be done according to the conservation measures in the HCP which are designed to avoid and minimize harm to the Kbb and enhance habitat for the butterfly.

Overall the proposed action is anticipated to have a positive effect on the conservation of the Kbb in Wisconsin. The HCP's broad conservation strategies and conservation measures were developed with the biology of the Kbb in mind. An important premise of the proposed action alternative continues to be that the maintenance of suitable early successional habitat upon which the Kbb depends, relies heavily on ecological disturbance. The short term loss of individual Kbb's resulting from land management activities that restores early successional habitat should continue to be offset by an anticipated gain in Kbb numbers over the longer term.

In addition to authorizing incidental take from land disturbance due to routine land management activities, the 1999 permit authorized up to 500 acres of permanent loss of Kbb habitat, through land conversion, such as commercial development, which precluded future occupancy of Kbb. However, during the permit term (1999 to 2009), very little permanent take of Kbb habitat occurred. Over the 10-year period, two HCP partner projects resulted in about 0.4 acres of permanent take, and about 9.7 acres of short term habitat loss from another 2 construction projects, resulting in the permanent or short term loss of a total of 10.1 acres of occupied Kbb habitat. Mitigation for those projects included restoration of about 70.92 acres of habitat, resulting in a net gain of 60.82 acres of habitat for the butterfly (Dave Lentz, DNR, pers. comm. 2009, and Cathy Carnes, Service, pers. comm.. 2009).

Currently there are 305 Element Occurrences (EOs) in the DNR's Natural Heritage Data base (Terrell Hyde and Dave Lentz, DNR, pers. comm., 2009), a net increase of 24 EOs since implementation of the HCP when the total number of EOs was 281 (see original HCP/EIS (DNR 2000, Chapter V. p. 280). This increase is mostly due to new Kbb sites found by the HCP partners over the course of the last 10 years. Of the 305 EOs, 93 were recorded in the last 10 years. As unmanaged Kbb habitat is generally lost to succession over a 10-15 year time, the 93 EOs is likely a conservative estimate of the current extant EOs in Wisconsin (Cathy Carnes, Service, pers. comm., 2009) (see updated HCP, Chapter 2 for more information on the distribution of Kbb in Wisconsin).

Between 1998 and 2009, HCP partners conducted 3,170 lupine surveys and 1,866 Kbb surveys. These surveys found Kbb occurrences in about 39 percent of the surveyed sites. These new sites have provided opportunities for conserving the Kbb on partner lands through implementation of the HCP's conservation measures (Dave Lentz, DNR, pers. comm., 2009).

As part of the state-wide focus of the HCP, the inclusion of the Voluntary Landowner Group in the HCP will continue. This group of landowners is automatically covered for incidental take of the Kbb via the Service's incidental take permit issued for implementation of the HCP. For information on the Voluntary Landowner Group see the updated HCP (Appendix A, Chapter 5).

The HCP's voluntary participation strategy is based on the expectation that many small landowners will contribute willingly to the conservation of the Kbb when they are able to do so voluntarily, without legal requirements or mandates (DNR 2003). The DNR's 3-Year Report to the Service on the effectiveness of outreach, education, and voluntary participation in the original HCP (DNR 2003) highlights some of the private landowner activities that have been done to further the conservation of the Kbb. These include the Bauer Brockway Barrens Committee, a public/private community group that is helping to restore barrens in Jackson County, the Wisconsin Woodland Owners Association which has sponsored a Kbb conference, and The Waupaca Field Station where middle school students study Kbb ecology and help with surveys. In addition, conservation efforts are being done by other small groups and individuals, many of which partner with HCP partners. The annual Kbb Festival in Black River Falls includes activities and tours that highlight the Kbb and habitat restoration activities and thus encourage conservation for the butterfly. The Service's Partners for Fish and Wildlife Program has wildlife conservation agreements with about 300 landowners that are voluntarily restoring habitat for the Kbb on about 3000 acres of land (Mike Engel, Service, pers. comm., 2009). The National Resource Conservation Service (NRCS) has about 92 contracts (2002-2009) with private landowners, through its Wildlife Habitat Incentive Program (WHIP) to enhance or restore Kbb habitat on about 4,184 acres of land (Bob Weihrouch, NRCS, pers. comm., 2009), and the Farm Services Agency (FSA) has 12 agreements in Jackson County with private landowners through their State Acres for Wildlife Enhancement Program (SAFE) program to restore and/or manage about 103 acres of land for Kbb (Betty Janke, FSA, pers. comm., 2009). The Service has consulted with FSA on a total of 26 SAFE agreements for Kbb between 2008 and 2010.

The updated HCP includes an education and outreach strategy that will continue to encourage landowners in the Voluntary Group to undertake projects to conserve the Kbb especially in Biological Recovery Zones where such activities could contribute to the recovery of the species.

Potential impacts from renewal of this incidental take permit to other federally-listed species are not anticipated. See Section 3.0 "Affected Environment" above for a list of federally-listed and candidate species in Wisconsin. Issuance of an incidental take permit for implementation of the HCP will continue to not authorize the incidental take of other federally-listed species (separate analyses and take authorization from the FWS is required). While the range of some of the listed species have expanded since 1999 (and Kirtland's warblers now also breed in WI), the analysis of impacts of the proposed action on each of these species as presented in the original HCP/EIS (pp. 315-318) (WNDR 2000) is still applicable.

Changes have been made to the state listed species included on Tables 5.2 and 5.3 of Chapter V of the original HCP/EIS (DNR 2000) (p. 321). Those tables review state listed species that would and would not be expected to be impacted by implementation of the updated HCP. Revised Tables 5.2 and 5.3 are included in the **Appendix B** of this EA.

The effects of the proposed action alternative on the environment are discussed in detail in Chapter V (pages 275-332) of the original HCP/EIS ((DNR, 2000). There have been no meaningful changes to that analyses except for the updates discussed above. See Table 5.4 (p. 332) of the original HCP/EIS for a comparison of the effects of the No Action and Proposed Action Alternatives; those remain the same.

4.2. No Action Alternative (no renewal)

A Service decision to not renew the incidental take permit (No Action alternative) would result in the same effects on the environment as analyzed under the No Action alternative discussed in detail in Chapter V (pages 326-332) of the original HCP/EIS ((DNR, 2000).

5.0 Cumulative Impacts.

5.1 Proposed Action Alternative: Renewal of ITP and Continued Implementation of the WI Statewide KBB Habitat Conservation Plan

A cumulative impact is an impact on the environment which may result from the incremental impact of the action (issuance or denial of the requested ITP) when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (federal or non-federal) or person undertakes such other actions (40 C.F.R. § 1508.7).

Due to the statewide scale of this HCP, most of the actions likely to affect the Kbb in the affected environment (Wisconsin) have already been contemplated in the analysis of the effects of the HCP. Potential future partners planning to undertake activities that require incidental take authorization may elect to join the HCP by applying to the DNR for a Certificate of Inclusion,

which will require compliance with the HCP conservation measures. Any future ITP applications or new partners to the updated HCP will be evaluated to “ensure the (future) HCPs (or agreements) provide for protection and management of habitat areas essential for the conservation of the Kbb” (65 Fed. Reg. 41822).

Potential future actions outside the scope of the HCP that are anticipated in Wisconsin include State and Federal Kbb recovery programs. The Wisconsin DNR plans to continue to work on recovering viable Kbb populations via barrens and oak savanna habitat restoration and management on 10 State properties. Fort McCoy, Necedah National Wildlife Refuge, and Volk Field conduct ongoing Kbb habitat restoration and management programs. The overall cumulative impact of these programs on the persistence and recovery of the Kbb is also positive.

Other actions outside the scope of the HCP and Wisconsin that are, or may in the future, affect the Kbb include actions by Federal and State agencies or the public within the remaining range of the butterfly (New York, New Hampshire, Ohio, Indiana, Michigan and Minnesota). Examples of on-going conservation actions for the Kbb outside Wisconsin include three Kbb reintroduction (New Hampshire, Ohio, and Michigan) and two population augmentation (Indiana and New York) programs. A Kbb Safe Harbor program is in place in Indiana and one is nearing completion in New York. A Michigan Statewide Kbb HCP is also nearing completion. ESA section 7 consultations have been completed with the Huron Manistee National Forest in Michigan and more are anticipated as their work in and/or near Kbb habitat continues. All ESA section 7 consultation and section 10 permit activities (which include Safe Harbor programs and Kbb related research) are designed to minimize and avoid harm to the Kbb and help to conserve and/or recover the species. Habitat restoration and management work is being conducted by recovery partners in all states which is contributing to the recovery of the species. Significant gains in securing land for Kbb conservation and recovery have been made through the Service’s ESA Section 6 “Recovery Land Acquisition” and “HCP Land Acquisition” grant programs. A few ESA section 9 take violations have occurred, but these have been minor and have not jeopardized the species recovery program. Overall past, present, and future actions have and are anticipated to further the conservation and recovery of the species.

Refer also to Chapter V(f) of the original HCP/EIS (DNR 2000) (pp. 311-314) for additional information on cumulative effects of this alternative.

5.2 No Action Alternative

A discussion of the cumulative impacts of the No Action alternative is found in the original HCP/EIS, pp. 326-332. For the purposes of this EA, a decision not to renew the ITP would actually result in a larger change to the landscape and a larger cumulative impact. If a consolidated, statewide permit ceases to exist, multiple landowners (at least 41, who are now partners to the HCP) would be in the position of needing to develop individual HCPs and apply for permits from the Service. Each application would undergo processing and review under ESA and NEPA. Where butterflies currently exist, habitat management that incidentally takes butterflies could not proceed. Vegetational succession would follow and the plant community would no longer support the Kbb. In addition, small private landowners who are currently covered by the HCP would be subject to section 9 of the ESA creating a disincentive to

voluntary land management to promote persistence of the butterfly. The assurances private landowners in the Voluntary Group have received under the current conservation program would cease. Landowners who wish to proactively conserve their land to promote recovery of the butterfly in Wisconsin would need their own permits under Section 10, with an HCP or Safe Harbor Agreement for their lands.

6.0 LIST OF PREPARERS

Cathy Carnes
Endangered Species Coordinator
U.S. Fish and Wildlife Service
2661 Scott Tower Drive
New Franken, WI 54229-9565

Dave Lentz
HCP Implementation Coordinator
Division of Forestry, Office of Forest Sciences
Wisconsin Dept. of Natural Resources
101 S. Webster Street
Madison, WI 53707-7921

Louise Clemency
Field Supervisor
U.S. Fish and Wildlife Service
2661 Scott Tower Drive
New Franken, WI 54229-9565

Lisa Mandell
Endangered Species Biologist
Ecological Services
U.S. Fish and Wildlife Service
1 Federal Drive
Ft. Snelling, MN 55111-4056

7. COORDINATION AND CONSULTATION WITH THE PUBLIC AND OTHERS

A mailing list of 185 partners and interested parties has been maintained by the DNR's HCP Coordinator. These individuals receive regular updates via email, such as meeting notices, HCP protocols, and information on the conservation program. The winter meeting of the HCP Partnership took place on April 7, 2010, and an update on the status of the review was provided. Partners were encouraged to provide comments.

In addition, the DNR has implemented the HCP in an open and transparent fashion over the past 10 years. As described in section 2.1., above, changes that have been made relative to implementation of the HCP have been publicized and have been available on the DNR's web site.

The Service published a notice of availability of the application and EA in the Federal Register on March 5, 2010. This initiated a 60-day comment period. Upon publication of the notice, the Service issued a news release and uploaded all document on the web site, providing an opportunity for the general public and interested parties to comment. In addition to the web, copies of the documents were available at the Service's Ecological Services Office in Wisconsin and the Midwest Regional Office at Ft. Snelling, Minnesota.

As a result of the notices provided, one request was received for photocopies of the documentation and information on the status of the Kbb.. It is impossible to know how many

people may have reviewed the documents on-line. No comments were received on the application, HCP, or EA during the public comment period.

8. REFERENCES

- U.S. Fish and Wildlife Service. 2000. Notice of availability of a final addendum to the handbook for habitat conservation planning and incidental take permitting process. Federal Register 65(106):35242-35257).
- Wisconsin Department of Natural Resources. 2000. Wisconsin statewide Karner blue butterfly habitat conservation plan and environmental impact statement. PUBL-SS-947-00. Wisconsin Department of Natural Resources, Madison. 386 pp. + appendices.
- Wisconsin Department of Natural Resources: 2003. Affirming the effectiveness of outreach, education and voluntary participation in the Wisconsin Karner blue butterfly habitat conservation plan. A 3-Year Report to the U.S. Fish and Wildlife Service. Wisconsin DNR, Madison, WI. 18 pp + appendices and attachments.
- Wisconsin Department of Natural Resources. 2005. Wisconsin's Strategy for Wildlife Species of Greatest Conservation Need. Madison, WI.

Appendix A

Appendix B

Changes to Tables 5.2 and 5.3 in Chapter V of Kbb HCP/EIS (DNR 2000); reviewed by DNR staff (Craig Anderson, Bill Smith, and Terrell Hyde 12-15-2009). Additions in yellow. Five species were deleted from the original Table 5.2.

Table 5.2: State Listed Species for which HCP Implementation is Expected to Have Little, if Any, Long-term Negative Effects

Species name	Common name	State Status
<i>Emydoidea blandingii</i>	Blanding's Turtle	Threatened
<i>Ophisaurus attenuatus</i>	Western slender glass lizard	Endangered
<i>Ammodramus henslowii</i>	Henslow's sparrow	Threatened
<i>Lanius ludovicianus</i>	Loggerhead shrike	Endangered
<i>Tympanuchus cupido</i>	Greater Prairie-chicken	Threatened
<i>Vireo bellii</i>	Bell's vireo	Threatened
<i>Agalinis skinneriana</i>	Pale False Foxglove	Endangered
<i>Asclepias lanuginosa</i>	Wolly milkweed	Threatened
<i>Asclepias ovalifolia</i>	Dwarf milkweed	Threatened
<i>Asclepias purpurascens</i>	Purple Milkweed	Endangered
<i>Lespedeza virginica</i>	Slender bush-clover	Threatened
<i>Liatris punctata</i> var. <i>nebraskana</i>	Dotted blazing star	Endangered
<i>Polytaenia nuttallii</i>	Prairie parsley	Threatened
<i>Prenanthes aspera</i>	Rough Rattlesnake-root	Endangered
<i>Viola fimbriatula</i>	Sand Violet	Endangered
<i>Vaccinium cespitosum</i>	Dwarf Huckleberry (<i>may be historic or extirpated</i>)	Endangered

Table 5.3: State Listed Species for which HCP Expected to Result in Incidental Take that May Not Meet Listed Criteria

Species name	Common name	State Status
<i>Empidonax vireescens</i>	Acadian flycatcher	Threatened
<i>Glyptemys insculpta</i>	Wood turtle	Threatened
<i>Sistrurus catenatus</i>	Eastern massasauga rattlesnake	Endangered
<i>Dendroica cerulea</i>	Cerulean warbler	Threatened
<i>Wilsonia citrina</i>	Hooded warbler	Threatened
<i>Oporornis formosus</i>	Kentucky warbler	Threatened
<i>Buteo lineatus</i>	Red-Shouldered hawk	Threatened
<i>Aflexia rubranura</i>	Red-Tailed prairie leafhopper	Threatened
<i>Polyamia dilata</i>	a prairie leafhopper	Threatened
<i>Incisalia irus</i>	Frosted elfin	Threatened
<i>Oarisma powesheik</i>	Powesheik skipper	Endangered
<i>Schinia indiana</i>	Phlox moth	Endangered
<i>Speyeria idalia</i>	Regal Fritillary	Endangered
<i>Opuntia fragilis</i>	Brittle Prickly-pear	Threatened