ENVIRONMENTAL ACTION STATEMENT SCREENING FORM
for
New England Cottontail Enhancement of Survival Permit and Candidate Conservation Agreement with Assurances between the U.S. Fish and Wildlife Service and the Maine Department of Inland Fisheries and Wildlife

May 15, 2014

I. Project Information

A. Project name: Issuance of a permit for enhancement of survival of a species pursuant to 16 U.S.C. 1539(a)(1)(A), 50 CFR 17.22(d), 50 CFR 17.32(d), and the Programmatic Candidate Conservation Agreement with Assurances (CCAA) for the New England Cottontail in Southern Maine between the Maine Department of Inland Fisheries and Wildlife (MDIFW) and the U.S. Fish and Wildlife Service (USFWS).

B. Affected species: New England cottontail (*Sylvilagus transitionalis*) (NEC)

C. Project size (in acres): Lands to be enrolled under the CCAA encompass the historical range of the NEC in Maine and are located in York, Cumberland, Androscoggin, Sagadahoc, Lincoln, Knox, Oxford, Kennebec, and Waldo Counties. The MDIFW seeks to enroll a total of 72,000 acres of non-Federal land under this CCAA, including: (1) 12,000 acres, representing 0.2 percent of the counties targeted, where management practices will be implemented to create or maintain habitat capable of supporting the NEC; and (2) approximately 60,000 acres of land adjacent to those where NEC habitat management will occur. These adjacent lands include areas where otherwise lawful ongoing and future activities (*e.g.*, hay production) may result in incidental take of NEC.

D. Brief project description including conservation elements of the plan: The project is the issuance of an Enhancement of Survival Permit (permit) associated with a programmatic CCAA between the USFWS and the MDIFW (applicant). The permit and CCAA are intended to further conservation of NEC by establishing a mechanism to provide incidental take coverage and regulatory assurances to landowners in a manner consistent with the 2012 NEC Conservation Strategy (*http://www.newenglandcottontail.org/sites/default/files/conservation_strategy_final_12-3-12.pdf*). Upon signature of the CCAA and issuance of the permit, the MDIFW can extend take authorization, via a certificate of inclusion, to any landowner who meets the CCAA criteria and enters into a Cooperative Agreement with the agency. The CCAA program encourages landowners to implement conservation measures for NEC by providing them regulatory certainty that additional land use restrictions and mitigation requirements, beyond those agreed to, will not be imposed in the future, should the NEC be federally listed as endangered or threatened under the Endangered Species Act of 1973, as amended (ESA).

The NEC's historical range is thought to have encompassed most of southern Maine, including York, Cumberland, Androscoggin, Sagadahoc, Lincoln, Knox, Kennebec, Waldo, and Oxford Counties. Currently, all known NEC occurrences, approximately 300 individuals, are located within York and Cumberland Counties.

The NEC is a thicket-dependent species and is generally associated with young forests or shrublands that provide more than 20,000 stems per acre. Natural and anthropogenic disturbance regimes resulting in the establishment of suitable habitat have been and continue to be altered throughout the species' range. As a result, New England forests are maturing and rapidly losing the characteristics that constitute favorable NEC habitat. The 2013 NEC candidate assessment form (*http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=A09B*) concludes habitat loss through maturation of forests is the primary threat to this species throughout its range. Fragmentation of suitable habitat is also a threat. Of the approximately 12,000 acres of private and State-owned (i.e., non-Federal) lands targeted for NEC habitat management enrollment, approximately 645 acres currently contain suitable occupied NEC habitat.

Vegetation management that results in the establishment or enhancement and maintenance of shrubland communities is the primary conservation measure to ameliorate the NEC's threats. The approximately 12,000 acres of suitable habitat enrolled under this CCAA is expected to provide sufficient habitat to support 7,200 NEC.

The management activities covered under the CCAA includes:

- Acquisition of habitat, including fee title and/or easements;

- Integrated management of existing shrublands to ensure a stable, native species-dominated shrub community. Management treatments involve the selective removal of individual trees and nonnative shrubs in an otherwise native shrubland. Existing shrublands will also be managed to increase stand vigor. Treatment methods will include the use of chain saws, Brontosaurus, Hydro-Ax, and other standard timber harvesting equipment. Selective treatment with herbicides may also be used;

- Removal of forest canopy to generate a vegetative response by understory shrubs. This activity will result in increased sun exposure to understory vegetation, thereby increasing the vigor of shrubs. Treatment methods include standard timber harvesting equipment, including chainsaws, skidders, etc;

- Regeneration of early successional tree species. This activity involves the removal of large diameter tree species, such as aspen, so that vigorous resprouting can be achieved. Standard timber harvest equipment will be used;

- Control of browsing by white-tailed deer (e.g., use of fencing to exclude deer from regenerating habitats);

- Translocation and reintroduction of NEC to newly created and vacant habitats;

- Removal of eastern cottontails, should their range expand into Maine;

- Control of nonnative invasive plants. Methods may involve cutting, grazing, and herbicide application;

- Establishment of shrublands in abandoned agriculture fields, hay lands, and pastures. Methods could include shallow tilling of the soil in areas with a history of plowing. Establishment of shrublands may include planting of seeds and seedlings; and

- Hydrologic restoration to create the abiotic conditions necessary for establishment of native species-dominated shrublands that benefit the NEC. Activities associated with this habitat management practice will involve plugging constructed ditches and disrupting drainage tiles in areas where evidence of altered hydrology is present.

Although many of these practices are being used in the management of timberlands and agricultural lands within southern Maine, they are generally not being conducted in a manner consistent with achieving the objective of establishing or maintaining shrublands that provide optimal habitat for NEC. While the outcomes of the currently implemented practices and modified practices may be somewhat different, the environmental effects are expected to be similar. Consequently, the practices conducted will have negligible environmental disturbance at the project sites and quickly create suitable NEC habitat conditions. Furthermore, the habitat management prescriptions of the CCAA and the individual cooperator agreements will specify the regulatory requirements and best management practices that the habitat treatments must meet. These controls will ensure any adverse environmental impacts of the program will be minimized.

II. Does the CCAA fit the criteria of a NEPA Categorical Exclusion (516 DM 2 Appendix 2, 516 DM 8.5)?

Yes. The enhancement of survival permit with its CCAA meets the USFWS categorical exclusion 516 DM 8.5C(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 marine mammals, exotic birds, migratory birds, eagles, and injurious wildlife."

The enhancement of survival permit issued to MDIFW would go into effect if the USFWS lists the NEC as either an endangered or threatened species.

A. Are the effects of the CCAA less than significant on the rangewide populations of other federally listed, proposed, or candidate species or other wildlife and their habitats not covered under the CCAA?

Yes. The CCAA will have no or negligible effects on the rangewide populations of other federally listed, proposed, and candidate species and other wildlife and their habitats not covered under the CCAA. See also Section III.H. There are no other species covered under the CCAA.

B. Are the effects of the CCAA minor or negligible on other environmental values or resources (e.g., air quality, geology and soils, water quality and quantity, socioeconomic, cultural resources, recreation, visual resources)?

Yes. The effects of the CCAA and permit on other environmental values or resources are expected to be negligible. The purpose and consequence of the assurances provided through the CCAA and permit are to allow the activities that would have occurred in the absence of the CCAA and permit to continue without regard to the listing status of the NEC. The NEC is currently found on few properties and in extremely low numbers. Without the CCAA and permit, NEC will likely continue to decline. In this case, even if the NEC is listed, haying, farming, forestry, and other activities conducted on lands adjacent to NEC populations will largely proceed as they have in the past because these activities have a very low potential to cause take. With the CCAA and permit, the NEC is expected to increase on managed areas of enrolled lands. Even in this case, whether the NEC is listed or not, covered activities on "adjacent lands" will continue as they have in the past with perhaps only minor differences (e.g., mowing may be restricted during the nesting season) because these activities have a very low potential to cause take.

With the CCAA, and whether or not the NEC is listed, NEC habitat improvement measures and other covered activities on lands managed for NEC will have negligible impacts on the affected environment because they will be conducted as they have in the past with only minor differences (e.g., tree removal may be restricted during bird nesting season), and because they will be conducted in accordance with local, State, and Federal laws that apply to these activities and that are intended to minimize adverse impacts. Impacts to air quality are not expected because the changes in activities resulting from the CCAA will be minor.

Consultation between the MDIFW and the State Historic Preservation Commission will occur to ensure that individual projects that involve subsurface soil disturbance will avoid adversely affecting historic resources.

To achieve the desired vegetative response, most habitat treatment will be conducted during the winter dormant season and on frozen ground. Therefore, soil disturbance is expected to be minimal. Individual Cooperative Agreements with landowners will also incorporate management prescriptions that are consistent with the conservation measures outlined in the CCAA. In addition, projects will comply with existing timber harvesting laws and best management practices that are intended to preserve water quality and aesthetics while preventing

erosion and sedimentation. There are five State laws that regulate timber harvesting in Maine's organized municipalities:

- The Protection and Improvement of Waters Law (Title 38 section, 413 & 417) regulates the handling of timber harvesting debris to prevent pollution of the State's water;

- The Erosion and Sedimentation Control Law (Title 38 section 420-C) requires the prevention of soil or sediments from entering water bodies as a result of soil disturbing activities;

- The Natural Resources Protection Act (Title 38, section 480-A) regulates work in, on, over, or adjacent to water bodies as well as mountain areas above 2,700 feet in elevation. The law provides exemptions for certain activities;

- The Shoreland Zoning Act (Title 38, chapter 3, section 435-449) targets development along the shorelines of fresh waterbodies, as well as tidal areas. The law requires all local municipalities to adopt a shoreland zoning ordinance that at the least, meets the minimum zoning requirements developed by the State; and

- The Forest Practices Act (Title 12, part 11, chapter 805, sections 8866 to 8888) authorizes the Department of Conservation to develop rules (Chapter 20 Rule: Forest Regeneration and Clearcutting Standards, adopted by the Maine Forest Service) to implement the law. In addition, it identifies rules that towns must follow when developing local timber harvesting ordinances.

These statutory requirements for timber harvesting in Maine are further enhanced by a suite of best management practices that are intended to foster forest stewardship. These practices are outlined in "Best Management Practices for Forestry: Protecting Maine's Water Quality" (*https://www.maine.gov/dacf/mfs/publications/handbooks_guides/bmp_manual/bmp_manual.pdf* [accessed 3/19/2014]). This document provides landowners with suggestions for preharvest planning, handling of hazardous materials, stabilization of exposed soil, preservation of water quality, protection of waterbody integrity, and preservation of wetlands and riparian habitats.

C. Would the impacts of this CCAA, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, not result, over time, in significant cumulative effects to environmental values or resources?

Yes. The CCAA and similarly situated projects (i.e., implementation of NEC habitat creation and enhancement projects in Maine, for which the landowner does not enter into this CCAA, along with implementation associated with the previously issued New Hampshire programmatic CCAA) will likely increase the amount of NEC habitat over the 50-year permit period. In these instances, activities carried out under the CCAA will restore shrublands already lost to succession and maintain shrublands that would likely have been lost to succession in the future, had there not been habitat treatment. However, some of this restoration and maintenance of shrublands would have likely taken place without the CCAA, and loss of shrublands will

continue to occur because not all lands will be enrolled under the CCAA or otherwise be subject to habitat treatments. Therefore, we expect the CCAA to have a small effect on the amount of shrubland in Maine.

In addition, the CCAA and similar projects (i.e., other conservation actions in Maine) alone are not likely to make listing of the NEC unnecessary because the maximum number of acres that will be created or maintained through this agreement in Maine constitutes a small portion of the species' overall distribution encompassing five additional states. Complete recovery of the NEC will require additional conservation actions to address the threats to this species in a geographic area greater than can be provided in Maine alone.

III. Do any of the exceptions to categorical exclusions apply to this CCAA? (from 516 DM 2.3, Appendix 2) If the answer is "yes" to any of the questions below, the project cannot be categorically excluded from NEPA. Each "no" response should include an explanation.

Would the CCAA:

A. Have significant impacts on public health or safety?

No. The habitat treatments covered under the CCAA, which will be restricted to private and State-owned lands, will comply with the timber harvesting laws and follow the best management practices specified in the habitat management prescriptions of the CCAA and the cooperator agreements that address water quality, erosion, sedimentation, and aesthetics (see also section II.B). In addition, an increase in shrubland habitat will not pose a risk to public health or safety.

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 (EO 11990); floodplains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas?

No. Consultation between the MDIFW and the State Historic Preservation Commission will occur as needed to ensure that individual projects will not result in significant impacts to historic resources. While some projects may occur on recreation lands, the projects will be coordinated with administrators of those lands to ensure that the activities are compatible with current uses or desired future conditions. Only private and State-owned lands will be enrolled under the CCAA; no wilderness areas will be enrolled.

The habitat treatments covered under the CCAA must comply with the timber harvesting laws and follow the best management practices specified in the habitat management prescriptions of the CCAA and each Cooperative Agreement. By maintaining compliance with these laws, habitat treatments will include measures to protect wetlands and waters from unregulated

alteration; to maintain sufficient buffers to preserve aesthetic and environmental values; and to minimize environmental hazards associated with timber harvesting (see also section II.B.). Cooperative Agreements that are entered into for the purposes of fulfilling the purposes of this CCAA will require compliance with these laws. Therefore, no significant impacts on aquifers, wetlands, floodplains, or ecologically significant areas are anticipated. While the CCAA may provide some benefits to American woodcock (*Scolopax minor*), these benefits are not considered significant.

C. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)]?

No. The practices covered under the CCAA, with the exception of translocation of NEC, are currently ongoing in southern Maine. Forest management is expected to continue regardless of the CCAA. The targeted area for the CCAA constitutes less than 0.2 percent of the nine-county area in southern Maine. American woodcock habitat management, which is similar to NEC habitat management covered under the CCAA, is currently being implemented across these counties without conflict or environmental consequences. Utility companies are frequently involved with the management of shrublands on their utility line corridors. The effects of these habitat management activities are well known, and are not highly controversial. Translocation of NEC is not expected to have effects that are controversial because this practice will have effects similar to those of increasing populations through habitat treatment alone. In addition, protocols will be in place to ensure the health of released individuals is maintained to the maximum extent possible.

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

No. The habitat treatments covered under the CCAA are common practices, and their effects are well documented.

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

No. The USFWS has entered into several programmatic CCAAs for other species. All CCAAs are subject to the same regulatory requirements.

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

No. The CCAA is not directly related to other actions. The CCAA is indirectly related to an experimental NEC translocation effort by the MDIFW, ongoing American woodcock habitat management, and the New Hampshire programmatic CCAA. These activities do not have cumulatively significant environmental effects because they are conducted on a limited scale and in a manner consistent with regulatory requirements and best management practices.

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

No. Consultation between the MDIFW and the State Historic Preservation Commission will ensure that individual projects will not adversely affect historic resources.

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?

No. If USFWS lists the NEC as threatened or endangered and designates critical habitat (CH) during the 50-year term of the CCAA, there will be no significant impact to the NEC or to habitats potentially designated as NEC CH. NEC habitat management activities covered under the CCAA will enhance existing habitat and cause only minor and temporary adverse effects to NEC and NEC habitat. While NEC and habitats potentially designated as NEC CH will benefit from the activities covered under the CCAA, these benefits are not expected to rise to the level of significant because the number of landowners and the total NEC habitat area covered will likely be modest. Activities on lands adjacent to NEC habitat will not cause significant effects on the NEC. Because adjacent lands would not be designated as NEC CH, the CCAA would not cause significant effects on habitats potentially designated as NEC CH.

To ensure that activities covered under the CCAA are not likely to adversely affect federally listed species, the MDIFW will consult the Natural Heritage Database for rare, threatened, and special concern wildlife species or the USFWS endangered species distribution lists to determine if any federally listed or proposed species are located in or around the project site. If the review indicates that such a species may be present, the MDIFW will confer with the USFWS's Endangered Species Program to ensure that the activities are not likely to adversely affect that species.

Federally listed, proposed, or candidate species in the area where this CCAA is to be implemented include:

a) New England cottontail (*Sylvilagus transitionalis*)

While the CCAA and similar projects are expected to improve the status of NEC, this result is not considered to rise to the level of a significant effect to environmental values or resources. The CCAA and similar projects (i.e., other conservation actions in Maine) alone are not likely to make listing of the NEC unnecessary because the maximum number of acres that will be created or maintained through this agreement in Maine constitutes a small portion of the species' overall distribution encompassing five additional states. Complete recovery of the NEC will require additional conservation actions to address the threats to this species in a geographic area greater than can be provided in Maine alone.

b) Small whorled pogonia (*Isotria medeoloides*)

In southern Maine, the small whorled pogonia (pogonia) has been documented in 18 towns throughout Cumberland, Kennebec, Oxford, and York Counties. This orchid occurs in stands of midsuccessional mixed forests. Characteristics common to sites where the pogonia is found include forests with a sparse shrub layer, thick leaf litter, and proximity to long persisting breaks in the forest canopy, such as logging roads and streams. The orchid grows in highly acidic and nutrient poor soils. The substrate varies from stony glacial till, to stone-free sandy loams, to sterile duff.

As provided in the site selection criteria identified in the CCAA, habitats that the pogonia favors are generally not conducive to the establishment of dense shrublands that are the primary target for activities covered under the CCAA. Sites favored by the pogonia are unlikely to provide sufficient vegetative response that would provide suitable habitat for the NEC. The forest canopy structure associated with pogonia sites will not generate the necessary thicket habitat that the NEC needs because the tree species in those locations do not tend to generate a sprout response that will reach the 20,000-stems-per-acre density threshold. In addition, the nutrient deficient soils that characterize pogonia sites are unlikely to support a shrub community of sufficient density to support the NEC. Based upon the site selection criteria and environmental screening procedures for each project, we conclude that this CCAA is not likely to adversely affect the small whorled pogonia or its habitat.

c) Prairie white-fringed orchid (*Platanthera leucophaea*)

This rare orchid is only known to occur in a calcareous fen within a single bog in Maine's Aroostook County. As provided in the site selection criteria of the CCAA, no activities under the CCAA will occur within Aroostook County. Therefore, we conclude that this CCAA will have no effect on the Prairie white-fringed orchid or its habitat.

d) Furbish lousewort (*Pedicularis furbishiae*)

The Furbish lousewort is endemic to the riverine habitats located along the St. John River in 12 towns located in Aroostook County. As provided in the site selection criteria of the CCAA, no activities under the CCAA will occur in Aroostook County. Therefore, we conclude that this CCAA will have no effect on the Furbish lousewort or its habitat.

e) Canada lynx *(Lynx canadensis*)

The Canada lynx is known to occur throughout northern Maine in Aroostook, Franklin, Oxford, Penobscot, Piscataquis, Somerset, and Washington Counties. Landscapes capable of supporting Canada lynx are characterized by having deep persistent snow through the winter in habitat comprised of boreal habitats that support abundant populations of snowshoe hare, which comprise the majority of its prey. These boreal habitats with persistent snows and high snowshoe hare occupancy provide no opportunity for creating NEC habitat. Maine contains designated critical habitat for the Canada lynx, but it is located in areas that are not targeted for

management by this CCAA. As provided in the site selection criteria of the CCAA, no activities under the CCAA will occur within sites that are occupied by lynx.

Based upon the site selection criteria and environmental screening procedures for each project, we conclude that this CCAA will have no effect on the Canada lynx or its habitat.

f) Atlantic salmon (*Salmo salar*)

Historically, Atlantic salmon were found in all major river systems containing proper spawning habitat throughout Maine. Currently within Maine, its range is limited to the Saco, lower Kennebec, lower Androscoggin, Sheepscot, Penobscot, Cove Brook, Passagassawakeag, Ducktrap, Narraguagus, Pleasant, Machias, East Machias, Dennys, and St. Croix rivers. The enrolled lands provide a minimal portion of the total habitat within the range of the Atlantic salmon. As provided in the site selection criteria of the CCAA, activities associated with the creation and maintenance of NEC habitat will not occur in Atlantic salmon habitat. Furthermore, activities covered under the CCAA will comply with timber harvesting and shoreland zoning laws, and follow the best management practices identified in section II.B. In addition, the habitat management prescriptions identified in individual Cooperative Agreements will consider effects to listed species as identified above.

Based upon the site selection criteria and environmental screening procedures for each project, we conclude that this CCAA will have no effect on the Atlantic salmon or its habitat.

g) Shortnose sturgeon (*Acipenser brevirostrum*)

These primitive fish inhabit large coastal rivers, migrating between fresh and estuarine waters. Spawning occurs in freshwater areas above the head of tide, while both freshwater and haline habitats are used for feeding and overwintering. Populations in Maine have been documented in the Sheepscot, Kennebec, Androscoggin, and Penobscot Rivers, and Merrymeeting Bay. As provided in the site selection criteria of the CCAA, activities associated with the creation and maintenance of NEC habitat will not occur in shortnose sturgeon habitat. Furthermore, activities covered under the CCAA will comply with timber harvesting and shoreland zoning laws, and follow the best management practices identified in section II.B. In addition, the habitat management prescriptions identified in individual Cooperative Agreements will consider effects to listed species as identified above.

Based upon the site selection criteria and environmental screening procedures for each project, we conclude that this CCAA will have no effect on the shortnose sturgeon or its habitat.

h) Northern long-eared bat (*Myotis septentrionalis*)

The northern long-eared bat uses forest habitats during the summer maternity season, where it can be found during the day roosting in trees 3 inches diameter at breast height (DBH) or greater. During the winter hibernation season, these bats migrate to area caves, mines, and other

underground voids where they spend the winter. Historically, the northern long-eared bats was presumed distributed throughout Maine. However, white-nose syndrome has caused a precipitous population decline throughout the northeastern United States, and the species has been proposed for listing as endangered.

We first consider whether tree clearing conducted under the CCAA will result in significant impacts to the northern long-eared bat through reduction in habitat quantity. Data collected by radio tracking of northern long-eared bats suggest that northern long-eared bat home ranges extend approximately 1.5 miles from known roost trees, which encompasses an area of about 7 square miles. Based on current information regarding the implementation of forestry operations to enhance NEC habitat in Maine, we expect that NEC habitat enhancement sites will rarely exceed 50 acres (0.08 square miles) in size, which is less than 1 percent of any one northern long-eared bat home range. Because the size of NEC habitat enhancement sites is small compared with the size of a northern long-eared bat home range, and because the northern long-eared bat is not known to be impacted by forest fragmentation, we do not expect the CCAA to result in significant impacts to the northern long-eared bat through reduction in habitat quantity.

We next consider whether tree clearing conducted under the CCAA will result in significant impacts to the northern long-eared bat through removal of roost trees. Cutting of roost trees during the hibernation season is not expected to adversely affect the northern long-eared bat because, as stated above, the sizes of NEC habitat enhancement sites are small (less than 1 percent) compared with the size of a northern long-eared bat home range and it is likely that many other suitable roost trees will remain within the undisturbed portion of the home range. Tree clearing during the maternity season, however, could adversely affect the northern long-eared bat through killing or injuring of adult bats and pups if their maternity roost is cut. To avoid adverse effects to the northern long-eared bat, the CCAA includes the following measures:

- Avoid cutting trees 3 inches DBH or greater during the maternity season; or
- Evaluate each tree 3 inches DBH or greater and avoid cutting those having roost tree characteristics during the maternity season; or
- Conduct a survey for the northern long-eared bat and, if the species is present, avoid cutting trees 3 inches DBH or greater during the maternity season.

Based on incorporation of these measures, we conclude that the CCAA is not likely to adversely affect the northern long-eared bat.

i) Other wildlife

The CCAA will provide benefits to other species that rely on early successional habitats. The MDIFW identifies 15 species of shrubland-dependent birds, 7 reptiles/amphibians, 5 invertebrates and 3 mammals of Greatest Conservation Need occurring in Maine. Many of these species are in decline throughout the Northeast. Included among these are prairie warbler, blue-winged warbler, eastern towhee, brown thrasher, and American woodcock. Additional species of conservation concern that depend on shrublands are black racer, Blanding's turtle, box turtle, and

wood turtle. Although the CCAA will benefit other species, the benefits are expected to be less than significant because these species occur over an extensive range and their status is less imperiled compared with the NEC.

As prescribed in the habitat management prescriptions of the CCAA and the cooperator agreements, most of the habitat management activities associated with this CCAA will occur during the winter dormant period. Due to the timing of the activities, the effects of the management activities will be less than significant because most wildlife will have migrated or will be hibernating. Other wildlife that are year-round residents of the treatment areas tend to be habitat generalists and their populations are not expected to be harmed by the activities proposed. Furthermore, as provided in the site selection criteria of the CCAA, most large stands of mature undisturbed forests will not be targeted for management activities because these areas are unlikely to provide sufficient habitat structure for the NEC. Areas that have a recent disturbance history will typically have an existing community structure that would greatly facilitate the establishment of the desired vegetative condition. As Maine is the most heavily forested state in the nation, with over 89 percent of its land cover being forested lands, impacts to forest-dependent wildlife are expected to be insignificant.

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

No. Activities covered under the CCAA must comply with all regulatory requirements, including timber harvesting laws, and best management practices.

J. Have a disproportionately high and adverse effect on low income or minority populations (EO 12898)?

No.

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 (EO 13007).

No. Only private and State-owned lands will be enrolled under the CCAA.

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 EO 13112)?

No. As directed by Executive Order 13112, habitat treatments will also include invasive species management.

IV. Environmental Action Statement

Based on the analysis above, the "Programmatic Candidate Conservation Agreement with Assurances for the New England Cottontail in Southern Maine between the Maine Department of Inland Fisheries and Wildlife and the U.S. Fish and Wildlife Service" is a member of a class of actions which do not individually or cumulatively have a significant impact on the human environment. Therefore, this action is categorically excluded from further NEPA documentation as provided by 516 DM 2, Appendix 2, 516 DM 8.5, and 43 CFR 46.215.

Other supporting documents (list): programmatic Candidate Conservation Agreement with Assurances

Concurrence:

_____ _____

Paul R. Phifer, PhD Date
Assistant Regional Director, Ecological Services
Northeast Region

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