

The Wildlife Crossing

A FWS newsletter to facilitate collaboration between the Michigan Ecological Services Field Office and Michigan's transportation agencies

Know Before You Go – Incorporating T/E species in project design

One of the best ways to avoid project delays from regulatory review is to consider listed species early in the planning and design process. To figure out if a listed species may be within your project or maintenance area, download an official species list from [IPaC](#) during initial planning and scoping. Once you have determined what species may be present, you should then consider how the project could be designed to avoid impacts to listed species which may exist in the project area. If there is a high likelihood listed species may be present, it is a good idea to coordinate with our office. During the coordination process we can assist with identifying where listed species and their habitat occur in the project area, conducting surveys, and developing ways to avoid or minimize impacts. There are many ways a project can be designed to avoid or minimize impacts. For example, if you are doing roadwork on a road near nesting habitat of piping plover, an endangered shorebird, you can plan work to take place outside of the nesting season to avoid flushing birds from their nests. You may even be able to modify project design to benefit species, such as including a wildlife crossing structure to allow snakes, such as the threatened eastern massasauga, to pass under the roadway. FHWA's [Environmental Review Toolkit](#) has useful resources to assist in incorporating environmental issues into your project design. Incorporating species into project design allows you to identify potential conflicts between construction or maintenance and sensitive species early in the process, avoiding project delays down the line. For example, checking the [Michigan Mussel Mapper](#) and [IPaC](#) sites when designing a bridge replacement can help you determine if threatened or endangered mussels may live in the river. Knowing that endangered mussels are potentially present allows you to incorporate necessary conservation measures, such as surveys and relocation, into the project timeline early in the process. If you are ever unsure if your project may have impacts or would like assistance in determining potential mitigation measures during project design, please contact us!



Resources for the Bipartisan Infrastructure Law

The [Bipartisan Infrastructure Law](#) is the largest ever single investment in America's infrastructure and provides funds for over 350 distinct programs. Of the programs available for transportation funding, 17 provide funding that can be used to pay for wildlife mitigation measures, including animal road crossing structures and research projects. There are many resources that can assist you in obtaining funding from these programs. The Federal Highway Administration has a dedicated [website for BIL](#), including a [page that provides support for local agencies](#). The U.S. Department of Transportation maintains a page showing [upcoming notices of funding opportunities](#). [ARC Solutions](#) provides resources specific to wildlife funding opportunities under BIL and maintains a [useful spreadsheet](#) of programs, eligible applicants, and eligible projects. If you are interested in seeking funding under BIL to assist with wildlife mitigation measures, please let our office know and we may be able to provide support!

Call For Training Ideas

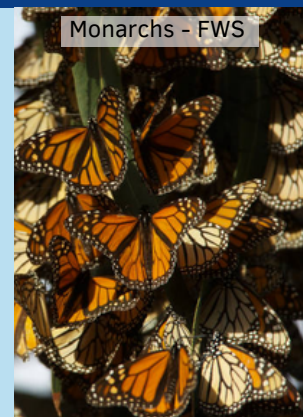
The Michigan Field Office and Michigan Department of Transportation are interested in developing more resources and trainings to assist with the federal threatened and endangered species review process for transportation projects. If you have any ideas for resources or trainings you would like to see, please email michelle_kane@fws.gov.

Federal Aid and the Endangered Species Act

Projects or activities have a federal nexus if they are funded, authorized, or carried out by a federal agency. Under Section 7 of the Endangered Species Act (ESA), federal agencies are required to ensure their actions do not jeopardize the continued existence of federally listed species by going through the [Section 7 consultation process](#). But did you know that projects and activities without a federal nexus also have obligations under the ESA? Section 9 of the ESA prohibits any person from taking a federally listed animal species. "Take" has a legal definition ([16 U.S.C. § 1532 \(19\)](#)), but essentially means that you cannot harass, harm, or kill a federally listed animal. Harass and harm also have legal definitions ([50 CFR § 17.3](#)). Harass includes intentionally disrupting normal animal behavior. Harm can include significantly modifying or degrading habitat which actually kills or injures wildlife (by significantly impairing behavior such as feeding, breeding, or sheltering). To comply with Section 9 of the ESA, project proponents without a federal nexus must determine if the project is [reasonably certain to cause take](#) of a federally listed species. Similar to the Section 7 process, your first step should be to get an official species list from [IPaC](#) and determine what listed species may occur in your project area. From there, you can use the [All-Species Michigan Determination Key](#) to review how your project may affect listed species. If your activity is consistent with the determination key, or you otherwise determine it is not reasonably certain to cause take, you should document your determination and rationale for your records and proceed with your action. If the activity may cause incidental take, you should contact the Michigan Field Office early in your project planning.

Monarch Candidate Conservation Agreement with Assurances

Monarch butterfly populations have been in decline since the 1990s, and in 2020, FWS found that adding the monarch butterfly to the list of threatened and endangered species is [warranted but precluded](#). FWS expects to publish a proposed rule determining the listing status of monarch in November 2023. A [nationwide candidate conservation agreement with assurances](#) (CCAA) can be joined before a final rule goes into effect to provide regulatory assurance to transportation agencies. A CCAA is a [voluntary](#) agreement where FWS provides regulatory assurance to agencies that agree to conduct certain conservation actions. Covered activities under the monarch CCAA include general operations, construction within the footprint of existing infrastructure, and maintenance activities. The monarch CCAA provides regulatory assurance that these activities can continue on enrolled transportation lands without additional conservation measures, and provides coverage for incidental take if monarch is listed. To join the monarch CCAA, you would agree to implement conservation measures on a percentage of the lands you enroll in the agreement. You would also commit to [monitoring](#) at some sites, an [annual report](#), an [implementation plan](#), and to pay an [administrative fee](#) ([calculator available](#)). In return, FWS would provide an Enhancement of Survival permit with assurances. The CCAA is entirely voluntary, and you can withdraw at any time. For more information, please visit the [Monarch CCAA website](#).



Monarchs - FWS



Milkweed - FWS

The Michigan Field Office transportation liaisons are Shaughn Galloway and Michelle Kane. You can reach Shaughn at shaughn_galloway@fws.gov or at (517)-648-5634. You can reach Michelle at michelle_kane@fws.gov or at (517)-351-3460. For copies of past newsletters, please visit the [Michigan Transportation Library](#).