

INTRA-SERVICE SECTION 7

BIOLOGICAL EVALUATION FORM

Rainwater Basin Joint Venture
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Date: 04/27/2026

I. Region:

USFWS Mountain Prairie, Region 6

II. Service Program:

Migratory Bird Program

III. Geographic Area or Station Name and Action:

The Regional Conservation Partnership Program (RCPP) grant referred to as “Growing and Expanding Nebraska’s Grassland Cores”, is a multi-year collaboration between public, private, and non-profit partners working together to combat woody encroachment. The program is available statewide in Nebraska. Through this RCPP, the Rainwater Basin Joint Venture (RWBJV) partnership will support \$18.8 to implement sustainable management on >90,000 acres statewide, with a focus on grassland cores identified by NRCS’s Great Plains Grassland Initiative (GPGI), also referred to as “Priority Areas” (see attachment 1 for maps of GPGI). The focus is on tracts in the GPGI focus areas that have less than 10% tree cover. These are Tier I tracts and only require a single practice to impact woody encroachment. Tier II tracts have between 65% to 90% herbaceous grassland cover and require two treatments. Both Tier I and Tier II tracts can move straight to application and agreement. Tier III tracts have less than 65% grassland cover and will be batched with 6-month batching periods focused on expending any remaining unobligated funds. Every grassland tract in Nebraska has been mapped and classed into one of the three Tiers (see maps in Attachment 1).

Within these grasslands, this RCPP grant will provide funding for the following land management practices consistent with the NRCS Environmental Quality Incentives Program

(EQIP) that are to be prescribed as needed to restore native grasslands and combat woody encroachment: 314-Brush Management, 338- Prescribed Burning, 528- Prescribed Grazing – Deferment, and 595- Pest Management Conservation System. Descriptions of NRCS practice standards can be found in their [online Field Office Technical Guide \(FOTG\)](#).

IV. Pertinent Species and Habitat

A. Listed species or species proposed for listing and/or critical habitat within the project area:

Table 1. Federally listed or proposed for listing Threatened and Endangered species that may occur within the project area.

Species/Critical Habitat	Status
Northern Long-eared Bat	E
* Indiana Bat	E
Tricolored Bat	PE
Eastern Black Rail	T
*Lesser Prairie Chicken	T
Piping Plover and *Critical Habitat	T & CH
Rufa Red Knot	T
Whooping Crane and Critical Habitat	E & CH
Pallid Sturgeon	E
Topeka Shiner and Critical Habitat	E & CH
Higgins Eye (pearlymussel)	E
Scaleshell Mussel	E
American Burying Beetle	T
Monarch Butterfly	PE
Salt Creek Tiger Beetle and Critical Habitat	E & CH
Suckley’s Cuckoo Bumble Bee	PE
Western Regal Fritillary	PT
Blowout Penstemon	E
Ute Ladies’-tresses	T
Western Prairie Fringed Orchid	T

Status: E= Endangered, T=Threatened, T(s/a)=Threatened by Similarity of Appearance, PE=Proposed Endangered, PT= Proposed Threatened, CH= Critical Habitat, PCH= Proposed Critical Habitat, C=Candidate Species.

* Species or critical habitat is not being considered for consultation due to the species range or the critical habitat not occurring in the state of Nebraska. These items occur on the project official species list in IPaC due to the boundary of the project area overlaying state boundary lines.

V. Location

Ecoregion Name:

This project is available statewide with Priority Areas of core grasslands being the focus. Priority Areas are in the following regions: Sandhills, Verdigris-Bazile Mod, Central Loess Hills, Loess Canyons, Southwestern Mixed Grass Prairies. Maps of these Priority Areas and Tiers 1-3 of grasslands can be found in attachment 1 of this document.

County or Counties:

Available in all Nebraska Counties

Section, township, and range (or latitude and longitude):

Not applicable projects are yet to be determined and will be entered into the mapping portal to identify potentially impacted species and appropriate conservation measures.

Distances (miles) and direction to nearest town:

Not applicable projects are yet to be determined and will be entered into the mapping portal to identify potentially impacted species and appropriate conservation measures.

Species/critical habitat occurrence:

Grasslands, emergent wetlands

VI. Description of Proposed Action:

Project description:

Under the Proposed Action, the Service would take the following actions: The RWBJV will provide funding for the following actions through the RCPP grant, which follow NRCS practices standards that are offered through EQIP. Descriptions of how these practices will be used for this grant are found below with links to NRCS practice standard documents, which further define how NRCS applies these practices to address resource concerns.

1. Brush Management [\(314\)](#)

Removal of all Eastern Red Cedar (ERC) and other invasive woody species from prairie grasslands through mechanical removal with hand tools and/or heavy machinery.

Brush management will be designed to achieve the desired plant community based on species composition, structure, density, and canopy (or foliar) cover or height. Brush management will be

applied in a manner to achieve the desired control of the target woody species and protection of desired species.

Mulching and/or cutting will be the primary method of removal. Trees will be removed as close to ground level as possible.

2. Prescribed Burning [\(338\)](#)

Perform a prescribed burn over a defined area to remove woody vegetation and encourage native grassland regrowth.

3. Fire Break [\(394\)](#)

Implement a permanent or temporary strip of ground that has reduced fuel around the boundary of a prescribed fire unit that is meant to stop the spread of fire. The application would include fire-resistant vegetation or bare ground.

4. Pest Management Conservation System [\(595\)](#)

The pest management conservation system practice may be implemented as a standalone practice or in combination with another practice. Implementing this practice and complimentary RX fire is intended to maintain a tree free site post mechanical removal, through the duration of the Landowner Agreement, to minimize the reinfestation of treated acres by regrowth of seedling ERC.

Work will follow the Prevention, Avoidance, Monitoring, and Suppression (PAMS) strategies as appropriate to address plant pest pressure as outlined for the 595 practices.

5. Prescribed Grazing [\(528\)](#)

The use of prescribed grazing shall require complete deferment of livestock before implementation of RX fire.

No livestock grazing is permitted during this deferment period to allow for plant recovery to ensure adequate vegetative fuel load is maintained for prescribed burning.

This practice will be referred to as “deferred grazing” when discussing species impacts, because under this project deferment from grazing will be the only way this practice is utilized.

Avoidance and minimization measures:

A determination tool has been developed to address species conservation concerns. Appendix I describes the programmatic process and associated terminology. Appendix II includes the evaluation parameters to determine potential habitat within the action area. Appendix III includes the conservation measures that each species may need. In section VIII. Effect Determination of this form, a table lays out the determinations and necessary conservation measures for each species and practice.

VII. Determination of Effects:

Explanation of effects of the action on species and critical habitats:

If habitat for the species is **not** identified in the “Evaluation Parameters Worksheet” (see appendix II), then a *no effect* determination is made. Otherwise, if habitat is identified, the following rationale is used for the determination of effects.

1. Federal listed species that may be affected by the Proposed Action

The following listed species may be affected by the proposed action:

Northern Long-eared bat

In the summer, northern long-eared bat (NLEB) can be found in dense forests primarily roosting underneath bark, in cavities or in crevices of both live trees and snags, or dead trees. In the winter months, they hibernate within caves and mines. Adult NLEB can be directly impacted if they are utilizing a tree cavity roost and the tree is felled. NLEB pups incapable of flight, will not be able to leave the roost tree if it is being felled, and are most at risk for direct impacts. The Priority Areas and Tier 1-2 grasslands that are targeted for RCPP project implementation (see attachment 1 map) are areas that are predominantly Mixed Grass Prairies with low densities of tree cover, not characteristic of suitable habitat for NLEB. If suitable habitat is present within the action area, the following rationale is used for the program practices:

Brush management will target ERC rather than hardwoods or pines. ERC do not typically have roost tree characteristics for NLEB and are generally considered not suitable habitat. Therefore, direct impacts to the species from removing ERC is highly unlikely to occur and discountable.

Firebreaks for prescribed fire will be implemented around the boundary of the burn unit. The firebreak will reduce or remove ground vegetation and may create strips of bare ground. It can directly impact roost trees that may need to be removed if in the path of the firebreak.

Projects inside the Priority Areas can be characterized as grasslands with low tree densities and are expected to have little suitable roosting habitat present for the NLEB. Any potential roosting habitat that is present will not have tree removal within a 1000-foot buffer during sensitive time periods for the species (pup season) when young bats are not capable of flight.

Projects outside the Priority Areas have higher occurrences of suitable roosting habitat (hardwood forest). Therefore, projects outside the Priority Areas of this program will have more restrictive timeframes than those inside the Priority Areas. Brush management outside the Priority Areas will occur only when bats are

inactive/hibernating within caves and mines to avoid impacts to the species when removing trees.

Therefore, brush management and implementation of fire breaks *may affect, but is not likely to adversely affect* when using one of the following conservation measures to avoid direct impacts from felling trees and avoiding the hibernacula with a ½ mile buffer at all times.

Project is inside the priority area (see attachment 1 for map)- No felling/removal of suitable roost trees or trees within 1000 feet of a suitable roost tree during the pup season (May 15 – July 31). Suitable roost trees are standing deciduous and/or pine trees that are live or dead (snags) and greater than 3 inches diameter (at breast height) that have peeling bark, cracks, crevices or cavities. Girdling/injecting potential roost trees with herbicide is not restricted so long as they are left standing. Eastern red cedar in grasslands typically do not exhibit roost tree characteristics and can be considered unsuitable for roosting.

Project is outside the priority area (see attachment 1 for map)- No felling/removal of suitable roost trees or trees within 1000 feet of a suitable roost tree during the active season (April 1 - November 15). Suitable roost trees are standing deciduous and/or pine trees that are live or dead (snags) and greater than 3 inches diameter (at breast height) that have peeling bark, cracks, crevices or cavities. Girdling/injecting potential roost trees with herbicide is not restricted so long as they are left standing. Eastern red cedar in grasslands typically do not exhibit roost tree characteristics and can be considered unsuitable for roosting.

Prescribed burning can directly impact roost trees containing pups that are incapable of flight. A determination of *may affect, is not likely to adversely affect* is made when using the conservation measure; Do not implement within a woodland during pup season between May 15 and July 31.

Pest management conservation system following tree removal will consist of regrowth/seedling trees that are not suitable habitat for NLEB. However, if native hardwood trees are left in the project area, NLEB could potentially be roosting in them and insignificant noise disturbances could occur from activities related to this practice. Therefore, a determination of *may affect, is not likely to adversely affect* was made.

Deferred grazing will have *no effect* on the species as allowing grasslands to go ungrazed will not impact roosting or foraging habitat.

Hibernacula

Hibernacula are limited within Nebraska and can be affected if entrances to them are altered in a way that changes the micro-climate within them. Tree removal from the entrance has the potential to change relative humidity making them unsuitable. If hibernacula is underground, operating heavy equipment above the hibernacula could potentially cause it to collapse. Therefore, projects within ½ mile of hibernacula will be protected from impacts that could occur from this project's practices to avoid impacts to the species.

Brush management, prescribed fire and implementing firebreaks can remove/destroy trees at the hibernacula entrance and given a *may affect* determination. The NRCS State Wildlife Biologist will be contacted to initiate further consultation with the USFWS before proceeding with the project.

Pest management conservation system practices will use small equipment and hand tools to remove seedling trees. Removal of seedling trees is not expected to affect the micro-climate within the hibernacula or cause collapse. A *may affect, not likely to adversely affect* determination is made for the species.

Deferred grazing will allow herbaceous vegetation to grow in height and density (for one year or less) during the growing season when bats are not present in the hibernacula. Deferred grazing will be followed by prescribed fire which will remove the excess vegetation from this practice. A *may affect, not likely to adversely affect* determination is made for the species.

Eastern Black Rail

The eastern black rail is a species with no known breeding populations AND/OR are rare transient migrants in the state of Nebraska. Therefore, no range maps are in the Environmental Compliance Tool (Footprint tool) for these species. The boundaries for the RCPP are adjacent to Eastern Black Rail habitat, but the wetlands and grasslands in the Priority Areas and priority Tier tracts do not include their habitat. For these reasons, practices of brush management, prescribed burning, firebreaks, pest management conservation system practices, and deferred grazing will have *no effect* on this species.

Piping Plover

Piping plover can be found using bare sand and gravel along shorelines of lakes and rivers. The Priority Areas for RCPP project implementation (see attachment 1 for map) are predominantly Mixed Grass Prairies that have been encroached by ERC where piping plover are unlikely to occur. Work will not occur in the active channel or other off-channel habitat. Even though it is unlikely piping plover habitat would occur within areas identified as woody encroached grasslands, we must evaluate these practices if habitat is identified as being within the project area through this evaluation process.

Pest management conservation system will not directly impact the species as areas that contain small trees will likely not be utilized by the species. Removing seedling trees

on bare sand and shorelines would be beneficial to the species by creating potential habitat. Potential for disturbance could occur by the landowner monitoring or removing reinfestation of seedling trees nearby piping plover habitat but would be temporary and insignificant due to this activity requiring small equipment or hand tools and this activity likely occurring some distance away from suitable habitat. Therefore, a determination of *may affect, is not likely to adversely affect* was made for piping plover.

Deferred grazing under this project allows grasslands to go ungrazed and will allow additional vegetation to grow where sparse to no vegetation is needed for piping plover habitat. However, this impact will be temporary (1 year or less) and followed by prescribed fire and therefore a determination of *may affect, is not likely to adversely affect* was made for the species.

Brush management will unlikely take place in suitable habitat because the brush itself makes the habitat unsuitable. The practice could be applied to areas nearby habitat. Prescribed burning and implementation of firebreaks are also practices that will unlikely be applied to suitable habitat as fire requires vegetation to carry the flame and a firebreak would be un-needed. Both prescribed burning and brush management can create species habitat but could impact the species by causing disturbance to nearby nesting birds. Therefore, a determination of *may affect, is not likely to adversely affect* was made for the species when the following control measures are used to avoid disturbance: Survey using a qualified biologist if construction/activity is occurring within sight or sound distance of suitable habitat between April 15 and August 15.

Rufa Red Knot

The rufa red knot is a species with no known breeding populations AND/OR are rare transient migrants in the state of Nebraska. Therefore, no range maps are in the Environmental Compliance Tool (Footprint tool) for these species. This species primarily uses inland saline lakes and possibly inland freshwater habitats such as wetlands or riverine sandbars. The priority target areas for RCPP project implementation (see Tier I & II on attached map) are predominantly Mixed Grass Prairies, therefore, the priority target areas will not be suitable habitat for the rufa red knot. For these reasons, practices of brush management, prescribed burning, firebreaks, pest management conservation system practices, and deferred grazing will have *no effect* on this species.

Whooping Crane

Wetland habitat for whooping crane could exist as interspersed islands in larger grassland dominated project sites. However, the Priority Areas for RCPP project implementation (see attachment 1 for map) are predominantly Mixed Grass Prairies that have been encroached by ERC making them less preferred by whooping crane. If habitat is found to be suitable within the action area, whooping crane could be

disturbed from project actions during the migration seasons when birds are present in Nebraska.

Brush management would benefit whooping crane habitat by creating unobstructed views preferred by the species, but activities could cause noise and disturbance from the equipment if whooping crane are present in the action area during migration. Brush management *may affect, but is not likely to adversely affect* the species and their critical habitat when conservation measures are applied to avoid disturbance. Conservation measures to avoid disturbance impacts are; Survey according to protocol. If species is found stop operations and contact state or area biologist; or management actions/activities would not be implemented during migration periods. (spring migration March 6 to April 29 and fall migration October 9 to November 15).

Firebreak implementation would include creating strips of bare ground or reduced vegetation around the boundaries of a prescribed fire unit with the use of a mower or a disk. The practice could also benefit the species by creating the unobstructed views that are preferred by this species, but it also may temporarily remove habitat if disking occurs. The temporary removal of this habitat is short lived, as re-vegetation will occur soon afterwards and therefore any impacts to this species would be insignificant. Firebreak implementation *may affect, but is not likely to adversely affect* the species and their critical habitat when conservation measures are applied to avoid disturbance. Conservation measures to avoid disturbance impacts are; Survey according to protocol. If species is found stop operations and contact state or area biologist; or management actions/activities would not be implemented during migration periods. (spring migration March 6 to April 29 and fall migration October 9 to November 15).

Prescribed burning may temporarily affect the habitat by removing vegetation but will ultimately improve habitat quality and maintain tree free areas preferred by the species. Additionally, if applied when species are present during migration, burning or use of heavy equipment could disturb the species. Prescribed burning *may affect, but is not likely to adversely affect* the whooping crane or their critical habitat when the following conservation measures are applied to avoid disturbance: Survey according to protocol. If species is found stop operations and contact state or area biologist; or management actions/activities would not be implemented during migration periods. (spring migration March 6 to April 29 and fall migration October 9 to November 15). The same determination and conservation measures apply to whooping crane critical habitat.

Pest management conservation system could cause potential disturbance during the migration season if whooping crane were utilizing a wetland at the time the landowner is monitoring for reinfestation and cutting seedlings. The landowner will already be on their land maintaining their livestock fencing, watering facilities, etc. with small equipment/hand tools and any disturbance from the landowner's activities would minimally increase human presence and noise. Because this practice does not require large equipment, any disturbance from noise and activities would be minimal and occur

some distance away from areas likely to be used by whooping cranes. A determination of *may affect, not likely to adversely affect* has been made for this practice. Alternatively, whooping crane have a higher potential to be found in their critical habitat along the Platte River during migration and conservation measures will be applied for this practice within whooping crane critical habitat to avoid the disturbance. Therefore, this practice *may affect but is not likely to adversely affect* critical habitat when applying the following conservation measures to avoid disturbance: Survey according to protocol. If species is found contact state or area biologist; or management actions/activities would not be implemented during migration periods. (spring migration March 6 to April 29 and fall migration October 9 to November 15).

Deferred grazing (allowing grasslands to go ungrazed) can increase vegetation height and decrease whooping crane unobstructed views preferred by the species to detect predators. These effects will be temporary (one growing season or less) and followed by prescribed burn and therefore effects from deferred grazing are insignificant and a determination of *may affect, not likely to adversely affect* was made for the species and their critical habitat.

Pallid Sturgeon

The Priority Areas for RCPP project implementation (see Tier I & II on attached map) are areas that are predominantly Mixed Grass Prairies and not within a large river systems, including mainstream Missouri River, Lower Platte, Elkhorn, or Lower Niobrara River, or lower reach of their tributaries and therefore not within pallid sturgeon habitat. Temporary increases in sediment/erosion may occur in the streams if ground disturbing activities occur within the uplands of these watersheds. Once vegetation has reestablished, sediment loads will return to baseline.

Deferred grazing, limited to one year or less, will increase vegetation height which increases the fall out of sediments from runoff before reaching streams and therefore decreasing overall sedimentation to rivers and streams. The changes in sediment amount will be temporary and insignificant effects on pallid sturgeon habitat. A determination of *may affect, not likely to adversely affect* was made for the species.

Prescribed burning removes the above ground vegetation temporarily increasing sediment that may reach rivers and streams during runoff events. However, prescribed fire leaves the root systems to that vegetation in place, which is what holds most of the soil making the increase in sediment insignificant. Additionally, pallid sturgeon thrive in sediment heavy river systems and negative impacts are not expected to occur from this insignificant increase in sediment. A determination of *may affect, not likely to adversely affect* was made for the species.

Firebreak implementation reduces the above ground vegetation and may include disking to break up the soil and reduce the likelihood of fire crossing the line. This could increase the sediment that may reach rivers and streams during runoff events.

However, due to the temporary nature and size of firebreak lines, the impact of sediment on waterways will be likely insignificant. A determination of *may affect, not likely to adversely affect* was made when the following control measure is used to reduce sedimentation; Implement best management practices to avoid or minimize sedimentation or pollution transport in waterways.

Pest management conservation system practices are not expected to change sediment loads due to little to no ground disturbing activities occurring while using small equipment and hand tools with the practice. A determination of *no effect* was made for the species.

Brush management can cause ground disturbance when using large equipment. That ground disturbance in the uplands can increase the amount of sediment that reaches the streams during runoff events. Pallid sturgeon thrive in sediment heavy river systems but can be affected if too much sediment enters the stream. A determination of *may affect, not likely to adversely affect* was made when the following control measure is used to limit the amount of sedimentation; Implement best management practices to avoid or minimize sedimentation or pollution transport in waterways.

Topeka Shiner

Topeka shiner is impacted from changes in water quality, temperature, flow, and stream passage. The RCPP Priority Areas and targeted grasslands will not be within riparian areas, but the Project's practices have potential to temporarily increase sedimentation from any ground disturbance occurring within the uplands of the watershed.

Deferred grazing will be beneficial for the species by allowing vegetation height to increase causing sediment to fall out and therefore decreasing the amount of sedimentation that can potentially reach the stream in a runoff event. A determination of *may affect, not likely to adversely affect* was made for the species and their critical habitat.

Prescribed burning removes the above ground vegetation temporarily increasing the amount of sediment that could reach rivers and streams during runoff events. However, prescribed fire leaves the root systems to that vegetation in place, which is what holds most of the soil making the increase in sediment insignificant. Vegetation following fire is quickly re-established. A determination of *may affect, not likely to adversely affect* was made for the species and their critical habitat.

Firebreak implementation reduces the above ground vegetation and may include disking to break up the soil and reduce the likelihood of fire crossing the line. This could increase the sediment that may reach rivers and streams during runoff events. However, due to the temporary nature and size of firebreak lines, the impact of sediment on waterways will be likely insignificant. A determination of *may affect, not likely to adversely affect* was made when the following control measure is used to

reduce sedimentation; Implement best management practices to avoid or minimize sedimentation or pollution transport in waterways.

Pest management conservation system practices will have minimal if any ground disturbing activities and therefore will not increase sediment loads to rivers and streams. A determination of *no effect* was made for the species. A determination of *may affect, not likely to adversely affect* was made for Topeka shiner critical habitat because removing seedling trees from uplands within critical habitat has affects to vegetation species composition of the flood plain. Seedling trees are small in size and removing them from the upland bank is not expected to affect habitat suitability within the critical habitat.

Brush management can cause ground disturbance and therefore increase potential sediment runoff into streams and rivers. Therefore, measures to avoid sedimentation are necessary to prevent impacts to the species. A determination of *may affect, not likely to adversely affect* was made for the species and critical habitat when the following control measure is used to reduce potential sediment entering the stream; Implement best management practices to avoid or minimize sedimentation or pollution transport in waterways.

Higgins Eye and Scaleshell Mussel

The Priority Areas for project implementation for RCPP do not include suitable habitat (bed and/or bank) within the floodplain and/or connected backwater areas and associated lower portion tributaries of the Missouri Recreational River segment below Gavins Point dam. This species is sensitive to siltation of river substrate and mussel beds. All practices within this project are expected to be applied in upland grasslands and not applied within streams and rivers. Potential for indirect impacts from ground disturbance and sediment entering streams from runoff events exist.

Deferred grazing will be beneficial for the species by allowing vegetation height to increase causing sediment to fall out and therefore decreasing the amount of sedimentation that can potentially reach the stream in a runoff event. A determination of *may affect, not likely to adversely affect* was made.

Prescribed burning removes the above ground vegetation temporarily increasing the amount of sediment that may reach rivers and streams during runoff events. However, prescribed fire leaves the root systems to that vegetation in place, which is what holds most of the soil making the increase in sediment insignificant. Vegetation following fire is quickly re-established. A determination of *may affect, not likely to adversely affect* was made.

Firebreak implementation reduces the above ground vegetation and may include disking to break up the soil and reduce the likelihood of fire crossing the line. This could increase the sediment that may reach rivers and streams during runoff events.

However, due to the temporary nature and size of firebreak lines, the impact of sediment on waterways will be likely insignificant. A determination of *may affect, not likely to adversely affect* was made when the following control measure is used to reduce sedimentation; Implement best management practices to avoid or minimize sedimentation or pollution transport in waterways.

Pest management conservation system practices have minimal ground disturbing activities and therefore will not increase sediment loads to rivers and streams. A determination of *no effect* was made.

Brush management can have ground disturbance and therefore increase potential sediment runoff into streams and rivers. Therefore, measures to avoid sedimentation are necessary to prevent impacts to the species. A determination of *may affect, not likely to adversely affect* was made when the following control measure is used to reduce amount of potential sediment; Implement best management practices to avoid or minimize sedimentation or pollution transport in waterways.

American Burying Beetle

American burying beetle spends most of their time in the soil and soil disturbance may briefly occur with heavy machinery from tree removal but will not disturb any one area for a prolonged period of time. The resulting improved grassland condition should provide additional niches to support the small mammal communities that are the reproductive resource this species depends on.

For the Project practices of prescribed burning, firebreak implementation, brush management, pest management conservation system practices, and deferred grazing a determination of *may affect, not likely to adversely affect* was made for the species. The Project practices fall under the 4(d) Rule, and have been identified by the US Fish and Wildlife Service as exemptions from the take prohibitions under section 9.

Salt Creek Tiger Beetle

Very little Salt Creek Tiger Beetle (SCTB) habitat exists within the Priority Areas of this RCPP. SCTB are affected by changes to hydrology, vegetation, soil compaction, and could be directly impacted by large equipment being operated within the habitat posing a risk of crushing individuals.

When SCTB habitat or their critical habitat is present, the practices of brush management, prescribed burning, and firebreak implementation may have direct impacts to individuals by crushing or burning them and therefore *may affect* SCTB. The NRCS State Wildlife Biologist will be contacted to initiate further consultation with the USFWS before proceeding with the project.

Deferred grazing would change vegetation height and density which can alter soil moisture. This change will be temporary (one year or less), but because this practice is

part of the NRCS practice of prescribed grazing, which can have direct impacts, a determination of *may affect* was made for the species and their critical habitat. The NRCS State Wildlife Biologist will be contacted to initiate further consultation with the USFWS before proceeding with the project.

Pest management conservation system may change vegetation species composition by removing seedling trees from the habitat. Direct impacts could occur but because small equipment or hand tools will be used to remove those seedling trees, which have little to no ground disturbance and a small footprint, impacts to the species are not certain to occur. If a chemical application were to occur post cutting those seedling trees, there could be potential impacts to individual SCTB. Therefore, a determination of *may affect, not likely to adversely affect* was made for the species when applying the following conservation measure to prevent any impacts from chemical application that could occur under the practice standard: No use of insecticides or herbicides. Alternatively, if the project practice is within SCTB critical habitat, the potential for adverse impacts increases due to the relatively small size of the designated area and likelihood of species presence. Extra precautions will be used, and a determination of *may affect* was made for SCTB critical habitat. The NRCS State Wildlife Biologist will be contacted to initiate further consultation with the USFWS before proceeding with the project.

Blowout Penstemon

Blowout penstemon relies upon active blowouts or areas of loose blowing sand erosion that are devoid of vegetation. It is primarily affected by habitat loss from the stabilization of these areas.

Brush management, firebreak implementation, and pest management conservation system practices generally do not occur within habitat for blowout penstemon because the species prefers areas devoid of vegetation. Brush management causes soil disturbance which could create habitat for the species. Firebreak implementation will reduce above ground vegetation and can disturb the soil with the use of the disk. That may directly impact blowout penstemon if applied within habitat area. The pest management conservation system practices have a small footprint and are unlikely to have direct impacts. In the rare case one of these practices needed to be applied within blowout penstemon habitat, crushing or trampling of individual plants from equipment could occur. A determination of *may affect not likely to adversely affect* was made for the species when applying the conservation measures to prevent crushing: Survey by qualified biologist for presence/absence during growing/flowering period of June 1 to July 31 prior to ground disturbing activities or herbicide application.

Prescribed burning cannot directly impact areas devoid of vegetation where the species prefers to be because it is the vegetation itself that carries the fire. Individual plants could be impacted if they happen to be on the outer edge of a blowout near vegetation dense enough to carry a fire. Removing the above ground vegetation around a blowout

can temporarily increase soil mobility from wind erosion and therefore benefit the species by increasing blowout penstemon habitat and promoting the growth of this plant. Therefore, a determination of *may affect not likely to adversely affect* was made for the species because impacts to the species are either discountable or beneficial.

Deferred grazing can negatively affect habitat availability for the blowout penstemon by decreasing grazing pressure on vegetation that will eventually re-stabilize the blowout if allowed enough time to do so. Re-stabilization of blowouts often takes several years. For this project, grazing deferment will be for one year or less and will be followed by a prescribed fire. The effects on blowout penstemon habitat will be temporary and insignificant and a determination of *may affect not likely to adversely affect* was made for the species.

Ute Ladies'-tresses

The Ute ladies'-tresses is a rare species in Nebraska that exist in riparian, wetland, and wet meadow habitats. The primary threat to this species seems to be hydrologic alteration and livestock trampling. The species prefers sparse vegetation.

Prescribed burning can have both positive and negative impacts on the species. Burning can be used as a tool to remove dead vegetation and reduce competition for the resources. If done too frequently it can be detrimental. Within each project area, prescribed burning will only be applied once throughout this program and a determination of *may affect not likely to adversely affect* was made for the species.

Firebreak implementation reduces the above ground vegetation and may include disking to break up the soil and reduce the likelihood of fire crossing the line. This may directly affect Ute Ladies'-tresses by crushing or mowing plants. A determination of *may affect, not likely to adversely affect* was made when the following control measure is used to avoid impacts; Survey by qualified biologist required during flowering period (August 15 to August 30) prior to ground disturbing activities, herbicide application, or water level manipulation. Year-round, no shaping or using heavy equipment causing compaction. During growing season (April 15 to October 1) no repetitive travel and use light equipment (ATV, pickup, small tractor).

Pest management conservation system practices will be used to remove seedling trees typically using small equipment or hand tools with a small footprint. Potential impacts from trampling or from herbicide could occur unless avoidance measures are applied. A determination of *may affect not likely to adversely affect* was made when applying the following conservation measures to avoid tramping and herbicide impacts: Survey by qualified biologist required during flowering period (August 15 to August 30) prior to ground disturbing activities, herbicide application, or water level manipulation.

Brush management could crush plants with large equipment and create ground disturbance potential having direct impacts on the species. Therefore, to apply the

practice within habitat, the area must be surveyed to avoid individual plants as well as reduce the amount of ground disturbance during the growing season. A determination of *may affect not likely adversely affect* the species was made when the following conservation measures are used; Survey by qualified biologist required during flowering period (August 15 to August 30) prior to ground disturbing activities, herbicide application, or water level manipulation; Year-round, no shaping or using heavy equipment causing compaction. During growing season (April 15 to October 1) no repetitive travel and use light equipment (ATV, pickup, small tractor).

Deferred grazing allows vegetation to go ungrazed for one year or less. Doing this will allow vegetation to increase in height and density. This species does not do well with dense vegetation. The impacts from this will be temporary as well as followed by a prescribed fire and therefore this practice *may affect but is not likely to adversely affect* this species. The following conservation measures are consistent with NRCS prescribed grazing practice standard and will be applied to the practice despite not being applicable to grazing deferment specifically: Haying/grazing does not occur annually or timing varies year to year during the growing season (April 15 - Oct 1) or occupied area is excluded.; If formerly hayed or idle, then survey by qualified biologist prior to applying prescribed grazing.

Western Prairie Fringed Orchid

Habitat for the western prairie fringed orchid may occur within the Priority Areas for this project. Common threats to the species include conversion of remnant prairie to cropland, incompatible use of herbicides and pesticides, siltation, changes in hydrology, fire suppression, encroaching woody vegetation, and the spread of non-native, invasive plant species. Heavy grazing and early haying may also have detrimental impacts on populations as well.

Prescribed burning will benefit the species by increasing suitable habitat as they are adversely affected by fire suppression and well adapted to survive fire. For these reasons, prescribed burning is fully beneficial for the species and a determination of *may affect not likely to adversely affect* is made for the species when applying this practice.

Firebreak implementation reduces the above ground vegetation and may include disking to break up the soil and reduce the likelihood of fire crossing the line. This may directly affect Western Prairie Fringed Orchid by crushing or mowing plants. A determination of *may affect, not likely to adversely affect* was made when the following control measure is used to avoid impacts; Survey by qualified biologist required during flowering period (August 15 to August 30) prior to ground disturbing activities, herbicide application, or water level manipulation; Year-round, no shaping or using heavy equipment causing compaction. During growing season (April 15 to October 1) no repetitive travel and use light equipment (ATV, pickup, small tractor).

Pest management conservation system practices will allow the landowner to monitor and remove seedling trees using small equipment and hand tools. Potential for direct impacts on the species could occur from crushing and/or herbicide use. Therefore, a determination of *may affect not likely to adversely affect* is made for the species when applying the following conservation measures to avoid those impacts: Survey by qualified biologist required during flowering period (June 15 to July 15) prior to ground disturbing activities, herbicide application, or water level manipulation.

Brush management will provide benefits to the species by removing woody encroachment from the grasslands. However, the use of heavy equipment could directly impact individuals by crushing them if they are within the action area. Therefore a determination of *may affect not likely adversely affect* the species was made when the following conservation measures are used to avoid direct impacts; Survey by qualified biologist required during flowering period (June 15 to July 15) prior to ground disturbing activities, herbicide application, or water level manipulation; Year-round, no shaping or using heavy equipment causing compaction. During growing season (April 15 to October 1) no repetitive travel and use light equipment (ATV, pickup, small tractor).

Deferred grazing practices for one year or less will not impact the species. This species is threatened by heavy grazing therefore temporarily removing livestock would be beneficial to the species. Because this practice is being applied under the NRCS practice standard of prescribed grazing, a determination of *may affect not likely to adversely affect* was made for the species and the following conservation measures are used to avoid impacts from hay and grazing which are not applicable to grazing deferment; Haying/grazing does not occur annually or timing varies year to year during the growing season (April 15 - Oct 1) or occupied area is excluded. If formerly hayed or idle, then survey by qualified biologist for orchids prior to applying prescribed grazing.

2. Proposed species that may be affected by the Proposed Action. If any of the following proposed species is listed before project completion, then the following determinations will be applied.

Tricolored Bat

In the summer, Tricolored Bats (TCB) primarily roost among live and dead leaf clusters of live or recently dead deciduous hardwood trees. In the winter months, they hibernate within caves and mines. The Priority Areas and Tier 1-2 grasslands that are targeted for RCPP project implementation (see attachment 1 map) are areas that are predominantly Mixed Grass Prairies with low densities of tree cover not characteristic of TCB habitat. If suitable habitat is identified within the action area, the following rationale is used for the program practices:

Brush management will target ERC rather than native hardwoods or pines. ERC do not typically have roost tree characteristics for TCB and are generally not considered suitable roosting habitat.

Firebreaks for prescribed fire will be implemented around the boundary of the burn unit. The firebreak will reduce or remove ground vegetation and may create strips of bare ground. It can directly impact roost trees that may need to be removed if in the path of the firebreak.

Projects inside the Priority Areas can be characterized as grassland with low tree density and are expected to have little suitable habitat present for the TCB. Any habitat that is present will be avoided with a 1000-foot buffer during sensitive time periods for the species (pup season) when young bats are not capable of flight.

Projects outside the Priority Areas have higher occurrences of suitable roosting habitat (hardwood forest). Therefore, projects outside the Priority Areas of this program will have more restrictive timeframes than those inside the Priority Areas. Brush management outside the Priority Areas will occur only when bats are inactive/hibernating within caves and mines to avoid impacts to the species when removing trees.

Therefore, practices of brush management and firebreak implementation *may affect, but is not likely to adversely affect* when using one of the following conservation measures to avoid direct impacts to the species from felling trees and avoiding the hibernacula with a ½ mile buffer at all times.

Project is inside the priority area (see attachment 1 for map)- No felling/removal of suitable roost trees or trees within 1000 feet of a suitable roost tree during the pup season (May 15 – July 31). Suitable roost trees are standing deciduous and/or pine trees that are live or dead (snags) and greater than 3 inches diameter (at breast height) that have peeling bark, cracks, crevices or cavities. Girdling/injecting potential roost trees with herbicide is not restricted so long as they are left standing. Eastern red cedar in grasslands typically do not exhibit roost tree characteristics and can be considered unsuitable for and can be considered unsuitable for roosting.

Project is outside the priority area (see attachment 1 for map)- No felling/removal of suitable roost trees or trees within 1000 feet of a suitable roost tree during the active season (April 1 - November 15). Suitable roost trees are standing deciduous and/or pine trees that are live or dead (snags) and greater than 3 inches diameter (at breast height) that have peeling bark, cracks, crevices or cavities. Girdling/injecting potential roost trees with herbicide is not restricted so long as they are left standing. Eastern red cedar in grasslands typically do not

exhibit roost tree characteristics and can be considered unsuitable for and can be considered unsuitable for roosting.

Prescribed burning can directly impact roost trees containing pups that are incapable of flight. A determination of *may affect, is not likely to adversely affect* is made when using the conservation measure; Do not implement within a woodland during pup season between May 15 and July 31.

Pest Management Conservation System following tree removal will consist of regrowth/seedling trees that are not suitable habitat for NLEB. However, if native hardwood trees are left in the project area, NLEB could potentially be roosting in them and insignificant noise disturbances could occur from activities related to this practice. Therefore, a determination of *may affect, is not likely to adversely affect* was made.

Deferred Grazing of one year or less will have *no effect* on the species as allowing grasslands to go ungrazed will not impact roosting or foraging habitat for this species.

Hibernacula

Hibernacula are limited within Nebraska and can be affected if entrances to them are altered in a way that changes the micro-climate within them. Tree removal from the entrance has the potential to change relative humidity making them unsuitable. If hibernacula is underground, operating heavy equipment above the hibernacula could potentially cause it to collapse. Therefore, projects within ½ mile of hibernacula will be protected from impacts that could occur from this project's practices to avoid impacts to the species.

Brush management, prescribed fire, and firebreak implementation can remove/destroy trees at the hibernacula entrance and given a *may affect* determination. The NRCS State Wildlife Biologist will be contacted to initiate further consultation with the USFWS before proceeding with the project.

Pest management conservation system practices will use small equipment and hand tools to remove seedling trees. Removal of seedling trees is not expected to affect the micro-climate within the hibernacula or cause collapse. A *may affect, not likely to adversely affect* determination is made for the species.

Deferred grazing will allow herbaceous vegetation to grow in height and density (for one year or less) during the growing season when bats are not present in the hibernacula. Deferred grazing will be followed by prescribed fire which will remove the excess vegetation from this practice. A *may affect, not likely to adversely affect* determination is made for the species.

Monarch Butterfly

Habitat for monarch butterfly exists within the project area and individuals could be found in action areas during the summer and fall. The species requires milkweed for its larval host plant as well as sufficient nectar producing plants for food resources.

Prescribed burning may temporarily affect the habitat by removing herbaceous vegetation including forbs and other flowering plants. However, this practice generally increases the forb composition of grasslands for a few years following the fire and will provide benefits to the species in following years. Because this project is targeting core grasslands, alternative nectar resources are expected to be available on the landscape level to supplement individuals that are displaced temporarily from prescribed fire. If prescribed burning is conducted during the time of year that the species is present and during less mobile life stages (egg, larva, pupae), potential for direct impacts from the fire exist. Most prescribed fires in Nebraska occur in the early spring before monarchs arrive in Nebraska. Additionally, these targeted grasslands have woody encroachment, the habitat is degraded and less suitable for the species further making species presence uncertain and take not certain to occur. Therefore, impacts to the species will be insignificant and discountable and a determination of *may affect not likely to adversely affect* was made.

Brush management will create soil disturbance that will support germination of forbs and milkweed that should improve habitat availability for this species and other pollinators. Firebreaks for prescribed fire will be implemented around the boundary of the burn unit. The firebreak will reduce or remove ground vegetation and may create strips of bare ground. Potential crushing of individuals could occur if conducted during the time of year that species are present and during less mobile life stages (egg, larva, pupae). But because these targeted grasslands have woody encroachment, the habitat is degraded and less suitable for the species further making species presence uncertain and take not certain to occur. Therefore, impacts to the species will be insignificant and discountable. For these reasons, practices of brush management and firebreak implementation *may affect but not likely to adversely affect* the species when using the conservation measures to reduce potential impacts; Avoid broad scale destruction of milkweed and nectar producing plants by keeping excessive vehicle traffic to defined areas and using herbicide application methods such as spot spraying or stump treatment to reduce impacts to non-target species.

Pest management conservation system practice uses small equipment and/or hand tools to suppress seedling trees that try to establish following brush management and has a small footprint for vegetation disturbance. Potential for crushing of individuals could potentially occur if conducted during the timeframe that species are present and during less mobile life stages (egg, larva, pupae) but is unlikely due to the small footprint of this practice. Because these targeted grasslands have woody encroachment, the habitat is degraded and less suitable for the species further making species presence uncertain

and take not certain to occur. Therefore, impacts to the species will be insignificant and discountable and a determination of *may affect not likely to adversely affect* was made.

Deferred grazing will allow herbaceous vegetation to increase in height and density. This practice generally favors grass species dominance and reduces forb species presence and nectar availability. Because the practice will occur for one year or less, and will be followed by fire, the effects will be temporary and impacts on the species will be insignificant and discountable. A determination of *may affect not likely to adversely affect* was made for the species.

Western Regal Fritillary

Habitat for the western regal fritillary may occur within the Priority Areas for this project. This species prefers intact remnant prairies that contain violets, which are its larval host plant.

Brush management will create soil disturbance that will support germination of forbs that would improve habitat availability for this species and other pollinators. Firebreaks for prescribed fire will be implemented around the boundary of the burn unit. The firebreak will reduce or remove ground vegetation and may create strips of bare ground. Potential crushing of individuals could occur if the species is present and these practices occur during less mobile life stages for the species (egg, larva, pupae). But because these targeted grasslands have woody encroachment, the habitat is degraded and less suitable for the species further making species presence uncertain and take not certain to occur. Therefore, impacts on the species will be insignificant and discountable. For these reasons, practices of brush management and firebreak implementation *may affect but not likely to adversely affect* the species when using the conservation measure to reduce potential impacts; Avoid broad scale destruction of nectar producing plants by keeping excessive vehicle traffic to defined areas and using herbicide application methods such as spot spraying or stump treatment to reduce impacts to non-target species.

Prescribed burning may temporarily affect the habitat by removing herbaceous vegetation including forbs and other flowering plants. However, this practice generally increases the forb composition of grasslands for a few years following the fire and therefore providing benefits to the species in following years. This species can be negatively impacted if prescribed fire is applied to all available and connected habitats due to the species having a poor dispersal distance. Because this project targets core grasslands, alternative nectar resources are expected to be available within the species' dispersal distance to supplement any individuals that are potentially displaced from prescribed fire. Potential for direct impacts from the fire exist if the species is present and the practice occurs during less mobile life stages for the species (overwintering, egg, larva, pupae). But because these targeted grasslands have woody encroachment, the habitat is degraded and less suitable for the species further making species presence uncertain and take not certain to occur. Therefore, impacts to the species will be

insignificant and discountable and a determination of *may affect not likely to adversely affect* was made.

Pest management conservation system practice uses small equipment and/or hand tools to suppress seedling trees that try to establish following brush management and has a small footprint for vegetation disturbance. Crushing of individuals could potentially occur if individuals are present and the practice is conducted during the timeframe that the species are in less mobile life stages (overwintering, egg, larva, pupae) but is unlikely due to the small footprint of this practice. Because these targeted grasslands have woody encroachment, the habitat is degraded and less suitable for the species further making species presence uncertain and take not certain to occur. Therefore, impacts to the species will be insignificant and discountable and a determination of *may affect not likely to adversely affect* was made.

Deferred grazing will allow herbaceous vegetation to increase in height and density. This practice generally favors grass species dominance and reduces forb species presence and nectar availability. Because the practice will occur for one year or less, and will be followed by fire, the effects will be temporary and impacts on the species will be insignificant and discountable. A determination of *may affect not likely to adversely affect* was made for the species.

Suckley's Cuckoo Bumble Bee

Habitat for the Suckley's cuckoo bumble bee may occur within the Priority Areas for this project, however the species has not been observed in the U.S. since 2016 despite extensive ongoing surveys. This species is an obligate social parasite and relies upon its host colony for most of its life cycle.

Brush management will provide benefits to the species by protecting and growing grassland cores that support healthy populations of wildflowers that they depend on. Firebreaks for prescribed fire will be implemented around the boundary of the burn unit. The firebreak will reduce or remove ground vegetation and may create strips of bare ground. If the species was present at the time in which this practice was applied, potential direct impacts could occur from crushing. But because this species has not been observed in the U.S. since 2016, those direct impacts are not certain to occur. Ground disturbance from this practice may temporarily disturb herbaceous vegetation but will promote early successional habitat, which increases the forb species present and therefore increases nectar producing species. Effects from this practice will be insignificant and discountable. Therefore, for the practices of brush management and implementation of firebreaks a determination of *may affect not likely to adversely affect* was made for the species when the following conservation measure will be applied to further avoid the potential of impacts: Avoid broad scale destruction of nectar producing plants by keeping excessive vehicle traffic to defined areas and using herbicide application methods such as spot spraying or stump treatments to reduce impacts to non-target species.

Prescribed burning may temporarily affect the habitat by removing herbaceous vegetation including forbs and other flowering plants. However, this practice generally increases the forb composition of grasslands for a few years following the fire and therefore providing benefits to the species in following years. Because this project targets core grasslands, alternative nectar resources are expected to be available on the landscape to supplement individuals that are displaced temporarily from prescribed fire. Potential for direct impacts from the fire exists, but life stages that are vulnerable to fire most often occur within the underground nest where it would be protected from the heat of grass fires. Therefore, impacts to the species will be insignificant and discountable and a determination of *may affect not likely to adversely affect* was made.

Pest management conservation system practice uses small equipment and/or hand tools to suppress seedling trees that try to establish following brush management and has a small footprint for vegetation disturbance. Potential for crushing of individuals could occur if individuals are present. However, because vulnerable life stages for the species occur most often in underground nests, using small equipment in this practice will likely not have direct impacts. Therefore, impacts to the species will be insignificant and discountable and a determination of *may affect not likely to adversely affect* was made.

Deferred grazing will allow herbaceous vegetation to increase in height and density. This practice generally favors grass species dominance and reduces forb species presence and nectar availability. Because the practice will occur for one year or less, and will be followed by fire, the effects will be temporary and impacts on the species will be insignificant and discountable. A determination of *may affect not likely to adversely affect* was made for the species.

3. Candidate species that may be affected by the Proposed Action

None

VIII. Effect Determination

If the project is located within a species range/critical habitat, but habitat is not identified within the action area utilizing the “Evaluation Parameters” (Appendix II), then the effect determination is a “No Effect” for that species/critical habitat. If the project is located within the species range and suitable habitat is identified within the action area using the “Evaluation Parameters” (Appendix II), then the following effect determinations and conservation measures apply. See Appendix I, II, and III for the decision-making process, evaluation parameters, and authorized conservation measures.

Table 2. Effect determination for each species and critical habitat for each corresponding NRCS conservation practice. If habitat is not identified within the action area using the “Evaluation Parameters” sheet (Appendix II), then determination for the species is No Effect.

Practice Name	Brush Management (Ac)	Pest Management Conservation System (Ac).	Prescribed Burning (Ac)	Prescribed Grazing (Ac)	Firebreaks
Practice Code	314	595	338	528	394
American Burying Beetle	NLAA-4(d) Rule	NLAA-4(d) Rule	NLAA-4(d) Rule	NLAA-4(d) Rule	NLAA -4(d) rule
Monarch Butterfly	NLAA: CM 1	NLAA	NLAA	NLAA	NLAA: CM 1
Western Regal Fritillary	NLAA: CM 1	NLAA	NLAA	NLAA	NLAA: CM1
Suckley's Cuckoo Bumble Bee	NLAA: CM 1	NLAA	NLAA	NLAA	NLAA: CM1
Northern Long Eared Bat Roosting/Foraging Habitat	NLAA: CM 2	NLAA	NLAA: CM 5	NE	NLAA: CM 2
Northern Long Eared Bat and Tricolored bat Hibernacula	MA	NLAA	MA	NLAA	MA
Tricolored Bat Roosting/Foraging Habitat	NLAA: CM 2	NLAA	NLAA: CM 5	NE	NLAA: CM2
Pallid Sturgeon	NLAA: CM 3	NE	NLAA	NLAA	NLAA: CM 3
Piping Plover	NLAA: CM 1	NLAA	NLAA: CM 1	NLAA	NLAA: CM 1
Salt Tiger Creek Beetle	MA	NLAA: CM 3	MA	MA	MA
Salt Tiger Creek Beetle (Critical Habitat)	MA	MA	MA	MA	MA
Scaleshell Mussel & Higgens Eye Mussel	NLAA: CM 3	NE	NLAA	NLAA	NLAA: CM 3
Topeka Shiner	NLAA: CM 5	NE	NLAA	NLAA	NLAA: CM 5
Topeka Shiner (Critical Habitat)	NLAA: CM 5	NLAA	NLAA	NLAA	NLAA: CM 5
Whooping Crane	NLAA: CM 2 or 3	NLAA	NLAA: CM 2 or 3	NLAA	NLAA: CM 2 or 3
Whooping Crane (Critical Habitat)	NLAA: CM 2 or 3	NLAA: CM 2 or 3	NLAA: CM 2 or 3	NLAA	NLAA: CM 2 or 3
Blowout Penstemon	NLAA CM 1	NLAA CM 1	NLAA	NLAA	NLAA CM 1
Ute Ladies'-tresses	NLAA: CM 1 & 2	NLAA: CM 1	NLAA	NLAA: CM 5 & 6	NLAA: CM 1 & 2
Western Prairie Fringed Orchid	NLAA: CM 1 & 2	NLAA: CM 1	NLAA	NLAA: CM 5 & 6	NLAA: CM 1 & 2

Determination: NE = No effect; NLAA = May Affect Not Likely to Adversely Affect; NLAA CMx = May Affect Not Likely to Adversely Affect with corresponding conservation measure applied; MA = May Affect, consultation with the USFWS is required before practice can be applied.

No effect/no adverse modification

- Eastern Black Rail – rare transient species
- Rufa Red Knot – rare transient species

Andy Bishop

04/27/2026

Signature/Date

Reviewing Evaluation

[Enter Content]

Concurrence X Nonconcurrence

Formal consultation required

Conference required

Informal conference required

Remarks (attach additional pages as needed):

Signature/Date

Nebraska NRCS Endangered and Threatened Species Programmatic Agreement Process

The decision-making process for determination of potential effects and authorized conservation measures to comply with the current Programmatic Agreement.

Step 1 Run the **Environmental Compliance Tool** based on the practice schedule APE to produce the list of potential federally endangered or threatened species or state species of concern that intersect with current range maps. NOTE: If any species with no known breeding population, or a rare transient migrant, are believed to occur in proximity to the planning area, document the species and contact state wildlife biologist for further guidance.

1a If NO species, critical habitats, etc are identified, document a NO EFFECT finding in the Endangered and Threatened Species SEC section of the Environmental Evaluation and proceed with planning process.

1b If any species, or critical habitats, etc. are identified proceed to Step 2.

Step 2 Complete the Evaluation Parameters worksheet based on findings from Step 1

2a If **ALL** questions are answered NO for any given species, critical habitat, etc., document a NO EFFECT on Endangered and Threatened Species SEC Section of the Environmental Evaluation and proceed with planning.

2b If any of the questions on Evaluation Parameters worksheet are answered YES "Applicable" transfer these applicable species, critical habitat, etc., to the Determination Report and proceed to Step 3.

Step 3 Complete the Conservation Practice Matrix Determination Report table to determine practice/species specific Potential Affects. Potential Affects, as listed in matrix, are defined below. Complete the Project Summary Determination and all action items defined in the Project Summary Determination. **Do not proceed with implementation until all action items are complete.**

NE (No Effect): Additional evaluation is not needed concerning identified species or critical habitat. Implementation of the conservation practice will have NO EFFECT on the identified species. Document findings on the Endangered and Threatened Species Guide Sheet and proceed with planning process.

NLAA (Not Likely to Adversely Affect): Additional evaluation is not needed concerning identified species or critical habitat. There is not likely to be any short-term or long-term adverse effects if conservation practice is applied. Document findings on the Endangered and Threatened Species Guide Sheet and proceed with planning process.

NLAA-4(d) Rule: A 4(d) rule in the ESA provides protections to threatened species based on the species biology, conservation needs, and threats being managed. A 4(d) rule typically explains that certain expected activities are consistent with or contribute to the species overall conservation: therefore, even if those activities result in take of a threatened species, that take is not prohibited. Practices listed as "NLAA-4(d) Rule" are practices that have been identified by the US Fish and Wildlife Service as exemptions from the take prohibitions to section 9. Document findings on the Endangered and Threatened Species Guide Sheet and proceed with planning process.

NLAA with CM (Not Likely to Adversely Affect with a Conservation Measure): Implementing conservation practice will be considered as not having an adverse affect ONLY when a Conservation Measure is reviewed, and agreed upon with Landowner in a written agreement. Failure to apply practice without following Conservation Measure will result in an adverse affect.

MA (May Affect): Implementation of conservation practice may have an adverse affect on the identified species or critical habitat. Consultation with State Wildlife Biologist is required before planning process can continue.

Appendix II

Evaluation Parameters Worksheet	
Endangered & Threatened Species Evaluation	
<p>The following evaluation questions pertain to species that are State and Federally listed. If a species becomes listed after planning and prior to implementation, NRCS will have to address any impacts to new species or habitats.</p> <p>Refer to NE - FOTG - Section II for specific guidance on identifying species and habitats.</p>	
Evaluation Parameter Questions	
<i>Federal Listed - Animals / Fish / Reptiles / Birds</i>	
American Burying Beetle - Threatened	
	<p>Yes</p> <p>Will the project or activity involve ground disturbance (overturning soil) or staging equipment in an area with tall grasses (>8") or in an area with moist/wet soils?</p> <p style="text-align: right;"><input type="checkbox"/></p>
Monarch – Proposed Endangered	
	<p>Yes</p> <p>Will the project or activity involve disturbance of herbaceous vegetation?</p> <p style="text-align: right;"><input type="checkbox"/></p>
Suckley’s Cuckoo Bumble Bee - Proposed Endangered	
	<p>Yes</p> <p>Will the project or activity involve disturbance of herbaceous vegetation?</p> <p style="text-align: right;"><input type="checkbox"/></p>
Western Regal Fritillary – Proposed Threatened	
	<p>Yes</p> <p>Will the project or activity involve disturbance of herbaceous vegetation?</p> <p style="text-align: right;"><input type="checkbox"/></p>
Northern Long-Eared Bat (NLEB) Hibernacula Habitat - Endangered	
	<p>Yes</p> <p>Hibernacula Habitat</p>
	<p>Is project located within proximity of known hibernacula (foot print tool identifies known Northern Long-Eared Bat hibernacula) OR within 0.5 miles of potential hibernacula which in Nebraska consists of caves, rock crevices within cliff or rock faces, anthropogenic features such as abandoned mines and tunnels. (Other features including sinkholes, fissures, karst features, as well as, talus and rock shelters.)</p> <p style="text-align: right;"><input type="checkbox"/></p>
NLEB Active Season Roosting/Foraging Habitat - Endangered	
	<p>Yes</p> <p>Does the proposed project occur within 1,000 feet of active season roosting/foraging habitat consisting of forests or woodlots which contain ANY of the following:</p> <p style="text-align: right;"><input type="checkbox"/></p>
	<p>• Deciduous and/or pine trees</p> <p style="text-align: right;"><input type="checkbox"/></p>

	• Live/dead (snags) that are equal to or greater than 3 inches diameter breast height	<input type="checkbox"/>
	• Peeling bark, cracks, crevices or cavities	<input type="checkbox"/>
	• Linear features such as fencerows and other wooded corridors	<input type="checkbox"/>
	Does the proposed project affect any human-made structures (e.g. barns, buildings, bridges, culverts equal to or greater than 4.5 feet in height and 23 feet in length) within 1,000 feet of suitable forest habitat as explained above?	<input type="checkbox"/>
Tricolor Bat Hibernacula Habitat – Proposed Endangered		Yes
	Hibernacula Habitat	<input type="checkbox"/>
	Is project located within proximity of known hibernacula (foot print tool identifies known Northern Long-Eared Bat hibernacula) OR within 0.5 miles of potential hibernacula which in Nebraska consists of caves, rock crevices within cliff or rock faces, anthropogenic features such as abandoned mines and tunnels. (Other features including sinkholes, fissures, karst features, as well as, talus and rock shelters.)	<input type="checkbox"/>
Tricolor Bat Active Season Roosting/Foraging Habitat – Proposed Endangered		Yes
	• Deciduous and/or pine trees	<input type="checkbox"/>
	• Live/dead (snags) that are equal to or greater than 3 inches diameter breast height	<input type="checkbox"/>
	• Peeling bark, cracks, crevices or cavities	<input type="checkbox"/>
	• Linear features such as fencerows and other wooded corridors	<input type="checkbox"/>
	Does the proposed project affect any human-made structures (e.g. barns, buildings, bridges, culverts equal to or greater than 4.5 feet in height and 23 feet in length) within 1,000 feet of suitable forest habitat as explained above?	<input type="checkbox"/>
Pallid Surgeon - Endangered		Yes
	Is the proposed project within a large river system, including mainstream Missouri River, Lower Platte, Elkhorn, or Lower Niobrara River, or lower reach of their tributaries?	<input type="checkbox"/>
Piping Plover - Threatened		Yes
	Would the proposed project disturb un-vegetated or sparsely vegetated sand, sand, or gravel areas such as a beach, peninsula, or bar?	<input type="checkbox"/>
	Is the proposed project within sight or sound of suitable habitat such as beach area, sand pits, gravel pits, or other unvegetated sandy sites?	<input type="checkbox"/>
Salt Creek Tiger Beetle - Endangered		Yes
	Are saline wetlands and/or salt flats present with Salmo, Saltillo, or Zoe soil types in the proposed project area?	<input type="checkbox"/>

	Does the proposed project alter hydrology on saline wetlands, salt flats, or saline soils including Salmo, Saltillo, or Zoe?	<input type="checkbox"/>
Salt Creek Tiger Beetle (Critical Habitat)		Yes
	Does the proposed project directly or indirectly impact exposed mudflats associated with saline wetlands, or exposed banks and islands of streams and seeps that contain adequate soil moisture and soil salinity, and adjacent vegetated wetlands within the Little Salt, Rock, Oak, or Haines Branch Creeks?	<input type="checkbox"/>
Scaleshell Mussel and Higgin's Eye- Endangered		Yes
	Does the proposed project impact suitable habitat (bed and/or bank) within the floodplain and/or connected backwater areas and associated lower portion tributaries of the Missouri Recreational River segment below Gavins Point dam?	<input type="checkbox"/>
Topeka Shiner - Endangered		Yes
	Does the proposed project include or occur in a stream, connected backwater area, and/or the topographic floodplain, or impact water quality or flows (surface and/or groundwater)?	<input type="checkbox"/>
Topeka Shiner (Critical Habitat)		Yes
	Does the proposed project impact water quality, temperature, stream flow, or fish passage?	<input type="checkbox"/>
Whooping Crane - Endangered		Yes
	Is the proposed project located outside any densely populated residential, commercial, or industrial areas AND does it include suitable habitat such as sub-irrigated grasslands, meadows, shallow wetland habitat, farm ponds, or major rivers?	<input type="checkbox"/>
	Is the proposed project within sight or sound of suitable habitat such as sub-irrigated grasslands, meadows, shallow wetland habitat, farm ponds, or major rivers?	<input type="checkbox"/>
Whooping Crane (Critical Habitat)		Yes
	Does the proposed project impact wide, open river channel with shallow sand and gravel bars?	<input type="checkbox"/>
<i>Federal Listed Plants</i>		
Blowout Penstemon - Endangered		Yes
	Does the proposed project affect open areas of bare sand?	<input type="checkbox"/>
Ute Ladies'-tresses - Threatened		Yes
	Does proposed project impact undisturbed native wet meadow on floodplain and lower stream terraces along Niobrara River?	<input type="checkbox"/>
Western Prairie Fringed Orchid - Threatened		Yes

	Does proposed project area include natively vegetated (grasses and/or flowering plants) sidehill seep wetlands (as identified by National Wetland Inventory, certified wetland determination, stream on USGS quadrangle map, or soil survey)?	<input type="checkbox"/>
	Does proposed project area include undisturbed mesic prairie and sedge meadows (grasses and/or flowering plants) in alluvial soils of river floodplains OR sandy soils of sub-irrigated meadows?	<input type="checkbox"/>
<p>Federal and State listed species with no known breeding populations AND/OR are rare transient migrants in the state of Nebraska. Therefore, no range maps are in the Environmental Compliance Tool (Footprint tool) for these species. IF any other information suggests a species may be present on site, consult the NRCS State Wildlife Biologist for necessary steps to consider, and how to document findings.</p>		
Black-Footed Ferret - Endangered		Yes
		<input type="checkbox"/>
Eastern Black Rail - Threatened		Yes
		<input type="checkbox"/>
Eskimo Curlew - Endangered		Yes
		<input type="checkbox"/>
Gray Wolf - Threatened		Yes
		<input type="checkbox"/>
Rufa Red Knot - Threatened		Yes
		<input type="checkbox"/>

Appendix III

Conservation Measures (CM)

Conservation Measures (CM) apply to ESA Section 7 terminology. To implement the conservation practice under this programmatic agreement, the Conservation Measures (CM's) shall be implemented as outlined in the Determination Report based on the Federal & State Species-Practice Matrix evaluation. If landowner does not agree with Conservation Measure requirements or fails to follow agreed upon Conservation Measures the decision of NLAA:CM will be changed to MA (May Affect). Written agreement with landowner is required and must be attached to the Environmental Evaluation once completed.

NOTE: Remember that the Federal Species Practice Matrix and any associated Conservation Measure only apply to species that have been identified by the Federal & State Evaluation Parameters as having a "yes" answer to indicate suitable habitat exists.

Federal Animals / Fish / Reptiles / Birds

Monarch

1

Avoid broad scale destruction of milkweed and nectar producing plants by keeping excessive vehicle traffic to defined areas and using herbicide application methods such as spot spraying or stump treatment to reduce impacts to non-target species.

Suckley's Cuckoo Bumble Bee

1

Avoid broad scale destruction of nectar producing plants by keeping excessive vehicle traffic to defined areas and using herbicide application methods such as spot spraying or stump treatment to reduce impacts to non-target species.

Western Regal Fritillary

1

Avoid broad scale destruction of nectar producing plants by keeping excessive vehicle traffic to defined areas and using herbicide application methods such as spot spraying or stump treatment to reduce impacts to non-target species.

Northern Long-Eared Bat

2

Project is inside the priority area - No felling/removal of suitable roost trees or trees within 1000 feet of a suitable roost tree during the pup season (May 15 – July 31). Suitable roost trees are standing deciduous and/or pine trees that are live or dead (snags) and greater than 3 inches diameter (at breast height) that have peeling bark, cracks, crevices or cavities. Girdling/injecting potential roost trees with herbicide is not restricted so long as they are left standing. Eastern red cedar in grasslands typically do not exhibit roost tree characteristics and can be considered unsuitable for roosting.

Project is outside the priority area - No felling/removal of suitable roost trees or trees within 1000 feet of a suitable roost tree during the active season (April 1 - November 15). Suitable roost trees are standing deciduous and/or pine trees that are live or dead (snags) and greater than 3 inches diameter (at breast height) that have peeling bark, cracks, crevices or cavities. Girdling/injecting potential roost trees with herbicide is not restricted so long as they are left standing. Eastern red cedar in grasslands typically do not exhibit roost tree characteristics and can be considered unsuitable for roosting.

3

Survey by qualified biologist required prior to removal or modifications of buildings, bridges, silos, culverts greater or equal to 4.5 feet in height and 23 feet in length, etc.

5

Do not implement within a woodland during pup season between May 15 and July 31.

Tricolored Bat

2	<p>Project is inside the priority area - No felling/removal of suitable roost trees or trees within 1000 feet of a suitable roost tree during the pup season (May 15 – July 31). Suitable roost trees are standing deciduous and/or pine trees that are live or dead (snags) and greater than 3 inches diameter (at breast height) that have peeling bark, cracks, crevices or cavities. Girdling/injecting potential roost trees with herbicide is not restricted so long as they are left standing. Eastern red cedar in grasslands typically do not exhibit roost tree characteristics and can be considered unsuitable for roosting.</p> <p>Project is outside the priority area - No felling/removal of suitable roost trees or trees within 1000 feet of a suitable roost tree during the active season (April 1 - November 15). Suitable roost trees are standing deciduous and/or pine trees that are live or dead (snags) and greater than 3 inches diameter (at breast height) that have peeling bark, cracks, crevices or cavities. Girdling/injecting potential roost trees with herbicide is not restricted so long as they are left standing. Eastern red cedar in grasslands typically do not exhibit roost tree characteristics and can be considered unsuitable for roosting.</p>
3	Survey by qualified biologist required prior to removal or modifications of buildings, bridges, silos, culverts greater or equal to 4.5 feet in height and 23 feet in length, etc.
5	Do not implement within a woodland during pup season between May 15 and July 31.

3

Pallid Sturgeon

3	Implement best management practices to avoid or minimize sedimentation or pollution transport in waterways.
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Piping Plover

1	Survey using a qualified biologist if construction/activity is occurring within sight or sound distance of suitable habitat between April 15 and August 15.
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Salt Creek Tiger Beetle/Critical Habitat

3	No use of insecticides or herbicides.
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Scaleshell Mussel/Higgins Eye

3	Implement best management practices to avoid or minimize sedimentation or pollution transport in waterways.
---	---

Topeka Shiner/Critical Habitat

5	Implement best management practices to avoid or minimize sedimentation or pollution transport in waterways.
---	---

Whooping Crane/Critical Habitat

2	Survey according to protocol. If species is found contact state or area biologist.
3	Management actions/activities would not be implemented during migration periods. (spring migration March 6 to April 29 and fall migration October 9 to November 15).

Federal Plants

Blowout Penstemon

1	Survey by qualified biologist for presence/absence during growing/flowering period of June 1 to July 31 prior to ground disturbing activities or herbicide application.
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Ute Ladies'-tresses

1	Survey by qualified biologist required during flowering period (August 15 to August 30) prior to ground disturbing activities, herbicide application, or water level manipulation.
2	Year round, no shaping or using heavy equipment causing compaction. During growing season (April 15 to October 1) no repetitive travel and use light equipment (ATV, pickup, small tractor).
5	Haying/grazing does not occur annually or timing varies year to year during the growing season (April 15 - Oct 1) or occupied area is excluded.
6	If formerly hayed or idle, then survey by qualified biologist for orchids prior to applying prescribed grazing.

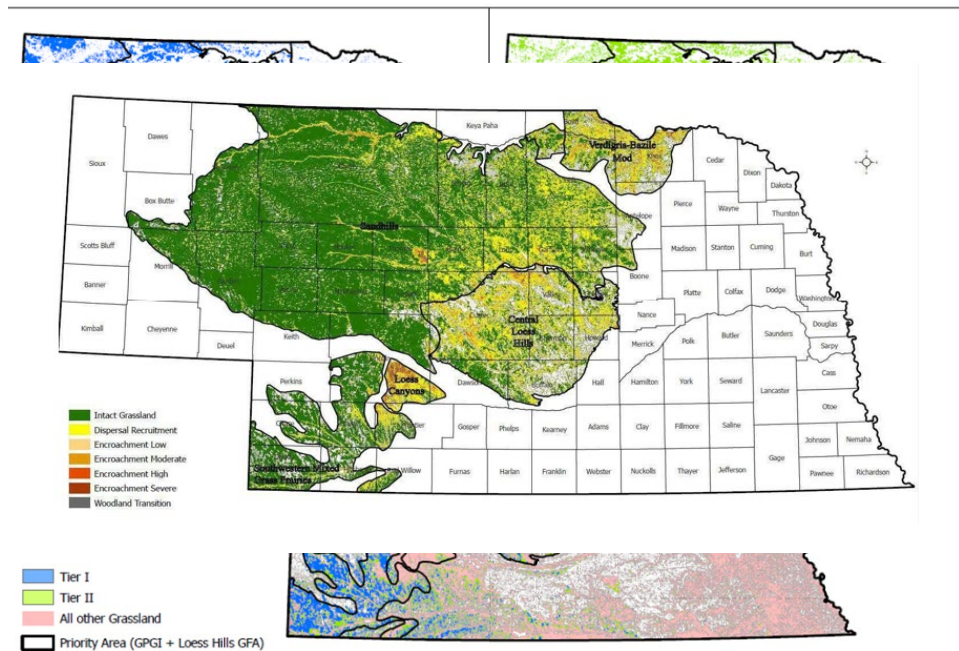
Western Prairie Fringed Orchid

1	Survey by qualified biologist required during flowering period (June 15 to July 15) prior to ground disturbing activities, herbicide application, or water level manipulation.
2	Year round, no shaping or using heavy equipment causing compaction. During growing season (April 15 to October 1) no repetitive travel and use light equipment (ATV, pickup, small tractor).
5	Haying/grazing does not occur annually or timing varies year to year during the growing season (April 15 - Oct 1) or occupied area is excluded.
6	If formerly hayed or idle, then survey by qualified biologist for orchids prior to applying prescribed grazing.

Attachment 1

Maps of the RCPP grant Priority Areas are delineated with the black outlined areas within the state of Nebraska. These Priority Areas encompass the sandhills, central loess hills, loess canyons, southwestern missed grass prairies, and Verdigris-Bazile Mod and are labeled accordingly. Grassland Tiers 1-3 are mapped statewide. Tier I grasslands consists of less than 10% tree

RCPP 3835 Tiers Map



cover. Tier II grasslands are 10-35% tree cover. Tier III grasslands are greater than 35% tree cover.