

U. S. FISH AND WILDLIFE SERVICE

ENVIRONMENTAL ACTION STATEMENT FOR CATEGORICAL EXCLUSION

The U.S. Fish and Wildlife Service is expanding hunting opportunities for waterfowl on an additional 1,761 acres of the Crab Orchard National Wildlife Refuge in accordance with the refuge's Crab Orchard National Wildlife Refuge Hunt Plan, 2019.

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA), and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and determined that the following proposed action is categorically excluded from NEPA documentation requirements consistent with 40 CFR 1508.4, 43 CFR 46.205, and 516 DM 8.5.

The Service has fully satisfied the other requirements for expanding these opportunities on the refuge, including:

- ☒ Determining that the opportunities are compatible with the purposes for which the refuge was established and the mission of the National Wildlife Refuge System (see attached Compatibility Determination);
- ☒ Ensuring the opportunities are consistent with existing State, local, and refuge specific regulations (50 CFR 32.XX); Note: The use of signs and brochures may supplement the refuge-specific regulations;
- ☒ Complying with the National Environmental Policy Act (see attached categorical exclusion checklist);
- ☒ Complying with the Endangered Species Act Intra-Service Section 7 consultation (see attached Consultation documentation); and
- ☐ Complying with the National Historic Preservation Act Section 106 consultation (no consultation required).

If Endangered Species Act or National Historic Preservation Act are not selected, it is because those laws are not applicable. Complying with the National Historic Preservation Act Section 106 consultation is only applicable because if there are cultural or historic resources present. Complying with the Endangered Species Act Section 7 is only applicable if there are candidate, threatened or endangered species or designated critical habitat present.

The Service is, therefore, waiving the requirement to prepare an opening package in compliance with Service policy (605 FW 2.9A).

Signature JUSTIN
SEXTON

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JUSTIN SEXTON
Date: 2022.09.07
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Refuge Manager or Project Leader Signature and Date

CATEGORICAL EXCLUSION CHECKLIST FOR NEPA COMPLIANCE

Proposed Action

Crab Orchard National Wildlife Refuge is proposing to open an additional 1,761 acres to the hunting of waterfowl with existing State, local, and refuge-specific regulations (50 CFR 32.32). The proposal would provide additional walk-in as well as boat hunting opportunities and establish a physical structure on Crab Orchard Lake for a hunting boundary. Using Wolf Creek Causeway as the new boundary and removing the buoy line from the lake will reduce hunter confusion. This will completely align the area with state of Illinois waterfowl hunting regulations.

This proposed action is covered by the following categorical exclusion(s)

516 DM 8.5 B (7) and 516 DM 8.5 B (9)

An action by the Service that only results in “minor changes in the amounts or types of public use on Service or State managed lands, in accordance with existing regulations, management plans, and procedures” is categorically excluded from further NEPA analyses (516 DM 8.5 B (7)). Furthermore, this action results in “minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated” and is categorically excluded from further NEPA analyses (516 DM 8.5 B (9)).

This action will only result in a minor change in the amount/type of hunting on the refuge, because only 35 percent of this area will attract waterfowl hunters. It is estimated that this action would result in the harvesting of an additional 450 waterfowl annually. Opening the refuge to additional hunting opportunities as proposed was considered in the Crab Orchard National Wildlife Refuge Hunt Plan amendment and the minor impacts to the human environment of opening these additional acres would be similar to those analyzed in the Crab Orchard National Wildlife Refuge EA for the refuge's original hunt plan. Extraordinary Circumstances are not triggered. The 2019 Hunt plan has been amended to address changes as described.

Extraordinary Circumstances (43 CFR 46.215) Checklist

If the proposed action results in a “yes” answer to the questions of extraordinary circumstances listed below then check the box. If “no” do not check the box.

- a. ☐ Does the proposed action, have significant adverse effects on public health or safety?
- b. ☐ Does the proposed action, have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); floodplains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas?
- c. ☐ Does the proposed action, have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)]?
- d. ☐ Does the proposed action, have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?
- e. ☐ Does the proposed action, establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?
- f. ☐ Does the proposed action, have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects?
- g. ☐ Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau?
- h. ☐ Have adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?
- i. ☐ Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?
- j. ☐ Have a disproportionately high and adverse effect on low income or minority populations (EO 12898).
- k. ☐ Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007).

- l. ☐ Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and EO 13112).
- m. ☐ Have material adverse effects on resources requiring compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act?

(If any of the above exceptions receive a "Yes" check (✓), an EA/EIS must be prepared.)

Determination

Within the spirit and intent of the Council of Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and have determined:

- ☒ **The proposed action is covered by a categorical exclusion as provided by 43 CFR §46.210 or 516 DM 8.5. No further NEPA documentation will therefore be made.**
- ☐ **An Extraordinary Circumstance (43 CFR 46.215) could exist for the proposed action and, so an EA/EIS must be prepared.**

Service signature approval

Signature **JUSTIN SEXTON** Digitally signed by JUSTIN SEXTON
Date: 2022.09.07 16:06:08 -05'00'

Refuge Manager or Project Leader Signature and Date

Signature

CATHERINE NIGG Digitally signed by CATHERINE NIGG
Date: 2022.09.07 16:13:55 -05'00'

Area Supervisor Signature and Date

Signature

CARL MILLEGAN Digitally signed by CARL MILLEGAN
Date: 2022.09.08 07:24:55 -05'00'

Regional Refuge Chief Signature and Date

Crab Orchard National Wildlife Refuge
Categorical Exclusion 2022-2023 Hunt and Fish Rule
Public Comment Analysis Report and Response to Comments

Summary of Public Comment Period

On June 9, 2022 the Service released the draft Categorical Exclusion and Environmental Action Statement and draft hunt plan amendment for public review via a national notice in the Federal Register (Federal Register docket number: FWS-HQ-NWRS-2022-0055). In addition to the notification in the Federal Register, members of the public were notified of the availability of the draft documents through a press release sent to Illinois news entities and posting this information on the refuge's website. The public was encouraged to submit their comments regarding the draft documents via email, phone, or by mail on or before August 8, 2022.

Nature of Public Comments Received

During this 60 day comment from June 9 through August 8, 2022, one comment was received. The comment raised two substantive concerns resulting in a response to comment,

Response to Comments by Topic

This section summarizes the substantive comments received during the public comment period for the 2022-2023 Hunt and Fish Rule making process specific to the draft Categorical Exclusion put out for public review. Substantive comments are organized below by topic and further consolidated into concern statements or new information. Comments have been summarized and paraphrased. The Service provides a response for each concern statement.

The need to open new lands to waterfowl hunting

One comment was received that expressed concern that there was no need to open additional lands to waterfowl hunting due to a perception that areas currently open to waterfowl hunting are not used to their full capacity.

Our Response:

Hunting on U.S. Fish and Wildlife Service lands is a tradition that dates back to the early 1900s. In passing the Improvement Act in 1997, Congress reaffirmed that the Refuge System was created to conserve fish, wildlife, plants, and their habitats, and would facilitate opportunities for Americans to participate in compatible wildlife-dependent recreation, including hunting on Refuge System lands. We prioritize wildlife-dependent recreation, including hunting, when doing so is compatible with the purpose of the refuge and the mission of the National Wildlife Refuge System (NWRS). We are continuing with the previous and current administration's efforts to increase recreational access on public lands by expanding access for waterfowl hunting on an additional 1,761 acres of Crab Orchard National Wildlife Refuge. This additional area will allow the Refuge to provide more quality controlled hunts for both non-traditional and traditional hunters.

Each station manager makes a decision regarding hunting only after a rigorous examination of the available information, as well as multiple opportunities for public comment. This prevents an individual manager from prejudicing the process. In addition, the Service has a robust supervisory system in place to ensure that individual refuge managers execute their duties appropriately. The many steps taken before a station expands a hunting opportunity on the refuge ensure that the Service does not allow any opportunity that would compromise the purpose of the station or the mission of the agency. We did not make any changes to the rule as a result of this comment.

Loss of this area as a resting area for waterfowl during hunting seasons.

One comment was received expressing concern that this area is currently used by waterfowl during the hunting season and this sanctuary would be lost. Opening this area compounds the loss of resting areas during hunting seasons that went into effect a few years ago.

Our Response:

The word "refuge" includes the idea of providing a haven of safety for wildlife, and as such, hunting might seem an inconsistent use of the National Wildlife Refuge System. We manage refuges to support healthy wildlife populations that in many cases produce harvestable surpluses that are a renewable resource. We do not take lightly the decision to allow hunting on a refuge, and we never allow hunting if there is evidence that it will impair the purposes of the refuge or the mission of the NWRS. Refuge managers use a variety of techniques to minimize disturbance species of wildlife, such as time and space zoning. Refuge managers are authorized to suspend a hunt program at any time if it appears as though the hunt is causing unacceptable impacts to refuge values or resources. We did not make any changes to the rule as a result of this comment.

Crab Orchard National Wildlife Refuge

Hunt Plan Amendment 2022

The refuge will expand waterfowl hunting opportunities by opening an additional 1,761 acres to waterfowl hunting. Hunting activities on these additional acres will be done in accordance with existing State, local, refuge-specific regulations through a Categorical Exclusion Amendment to the existing Hunting Plan. Opening these lands and waters provide additional walk-in as well as boat hunting opportunities and establish a physical structure on Crab Orchard Lake for a hunting boundary. Establishing Wolf Creek Causeway as the new boundary for waterfowl hunting and removing the buoy line from the lake will reduce hunter confusion. These acres will remain open to special permitted white-tailed deer and turkey hunting. The new unit will be called West Hampton Hunting Unit.

Signatures

Submitted By: **JUSTIN
SEXTON** Digitally signed by
JUSTIN SEXTON
Date: 2022.09.07
16:07:14 -05'00'

Refuge Manager or Project Leader Signature and Date

Concurrence:

**CATHERINE
NIGG** Digitally signed by CATHERINE
NIGG
Date: 2022.09.07 16:12:33 -05'00'

Refuge Supervisor Signature and Date

Approved:

**CARL
MILLEGAN** Digitally signed by CARL
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Date: 2022.09.08 07:25:37
-05'00'

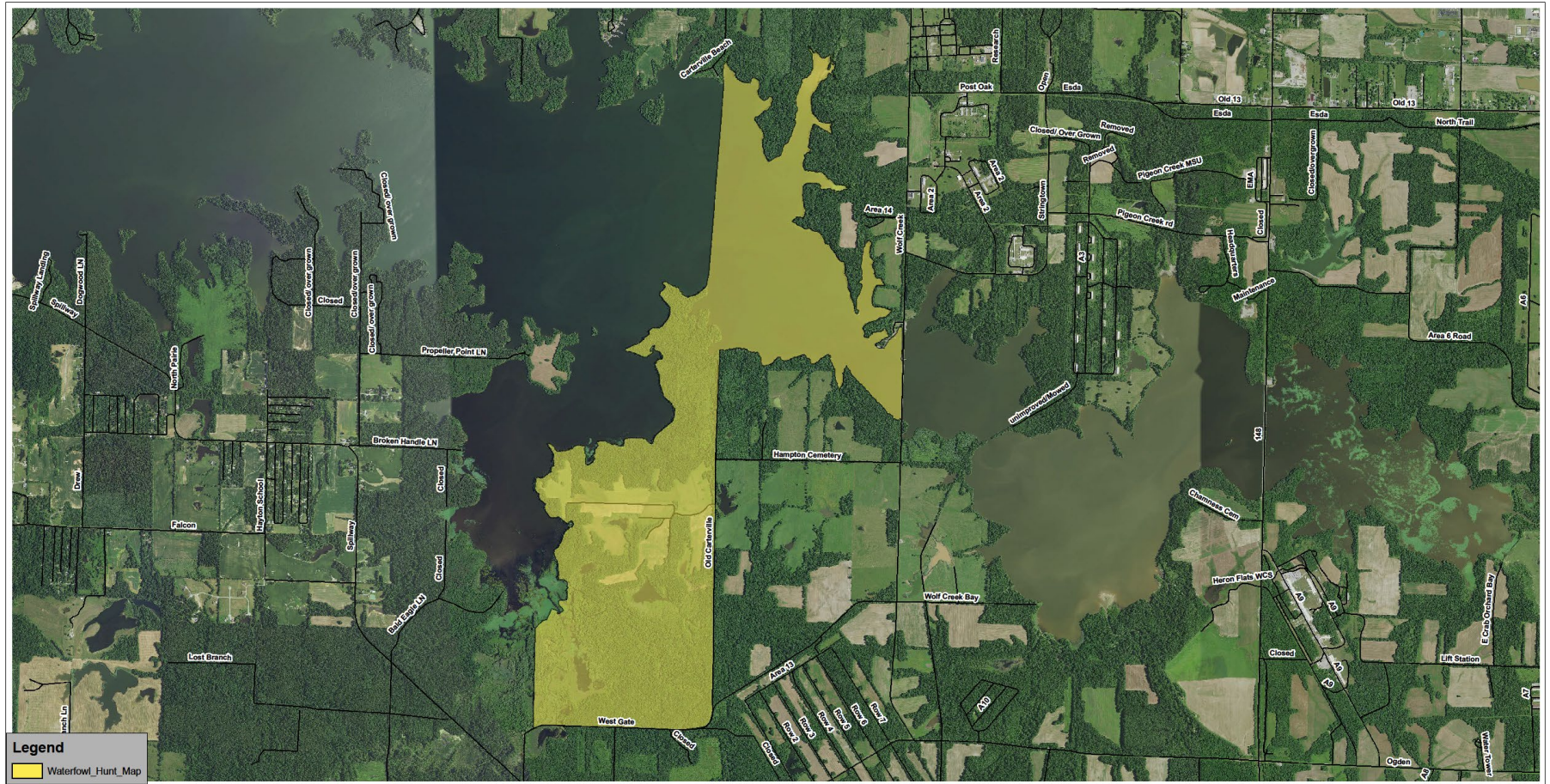
Assistant Regional Director, National Wildlife Refuge System Signature and Date



U.S. Fish & Wildlife Service

Crab Orchard National Wildlife Refuge

2022 Hunt Map Amendment



Produced at:
Crab Orchard National Wildlife Refuge
Marion, IL
Author: Cassandra Skaggs
Produced: 01/03/2022
Basemap: 2014 NAIP
Path: H:\Skaggs\GIS_Skaggs\Waterfowl_Hunt_map_2022.mxd

Datum: NAD 83 1:15,596



The USFWS makes no warranty for use of this map and cannot be held liable for actions or decisions based on map content.

Intra-Service Section 7 Biological Evaluation Form

Originating Person: Justin Sexton

Telephone Number: 618-998-5904

Date Submitted: 9/2/2022

For assistance with Section 7 reviews, go to Region 3's Section 7 Technical Assistance website:

<http://www.fws.gov/midwest/angereded/section7/s7process/>

I. Region: Midwest Region 3

II. Service Activity (Program) and Geographic Area or Station Name:

National Wildlife Refuge System, Crab Orchard National Wildlife Refuge. Located in Williamson County, IL.

III. List Species (including proposed and candidate Species) or critical habitat (including proposed) found within action area:

Crab Orchard NWR uses IPaC to identify threatened and endangered species, including for purposes of this Biological Evaluation. This is done because the IPaC database is the better of the Service's databases for the refuge and may contain the best available information on species presence. Nevertheless, in order to ensure a thorough review, this Biological Evaluation considers all threatened and endangered species identified by both the IPAC and ECOS databases. Additionally, this list is curated from lists received from the Southern Illinois Ecological Services Sub-Office. Note, however, that these databases are updated regularly, approximately every 90 days, and, thus, it is possible that the specific threatened and endangered species identified as present on or near the refuge may change between the finalization of this Biological Evaluation and its publication and/or between finalization and your reading this document. We understand that reinitiation of consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law), and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action.

Federally listed Threatened and Endangered Species that occur within the boundary of the refuge include Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and gray bat (*Myotis grisecens*). Candidate Species that occur on the refuge include the monarch butterfly (*Danaus plexippus*). There is no critical habitat found within action area, although Indiana bat critical habitat is found within the refuge boundary.

IV. Describe Location including County, State and Township, Section & Range or other specific location information (**attach map):

Williamson County, Illinois. Townships 9S Range 1-E Sections 34(in 9S), 27 (in 9S), 23 (in 9S)

Crab Orchard Lake west of Wolf Creek Road and refuge lands west of the Old Carterville Road

See attached map for specific units.

V. Description of proposed action (attach additional pages as needed):

Hunting is currently authorized and ongoing at Crab Orchard National Wildlife Refuge. The U.S. Fish and Wildlife Service is proposing to expand waterfowl hunting on 655 acres on Crab Orchard Lake west of Wolf Creek Cause and 1,106 areas of land west of the old Carterville Road for a total of 1,761 acres. The proposed action is an expansion of the public waterfowl hunting area beyond the current boundary of approved public hunting areas for waterfowl. No additional hunting seasons or species are included or expanded under this action. Waterfowl hunting season at Crab Orchard National Wildlife Refuge opens the first Saturday after Thanksgiving and typically closes near the end of January. These dates are well within the dates all three listed bat species are in their winter hibernacula,

which is typically considered October 1 – April 1 in southern Illinois. The waterfowl season at Crab Orchard NWR is also well after Monarch Butterflies have left for their overwintering grounds in late summer. Opening these lands to hunting will provide additional opportunities for the public to enjoy wildlife-oriented recreation.

- 1) The units are large enough to support the anticipated quantity, frequency, and duration of hunting use without adversely affecting wildlife populations or habitat conditions within the area;
- 2) Sites are available for hunters to park their vehicles legally and in a manner that will not adversely affect the habitat in the unit of existing public travel routes;
- 3) Public access to the units does not require travel across land or closed government lands;
- 4) Public hunting will not have adverse effects on any federally listed or proposed species of concern; and
- 5) Hunting can be conducted without jeopardizing public safety.

Hunting would be conducted in accordance with all applicable state and federal regulations. Coordination with Illinois DNR biologists will promote continuity and understanding of Service and state resource goals and objectives, and will help assure that the decision-making process takes into account all interests.

VI. Description of effects (*attach additional pages as needed*):

Explain the anticipated effects of the action on species and critical habitats listed in item III. Beneficial and adverse effects, as well as actions to avoid or minimize adverse effects, should be identified.

Staff present on the refuge and conducting this evaluation may have the best available information about the presence of fish and wildlife species. Thus, where species are identified by either database, but the refuge has information that the species is not actually present within the “action area,” we have explained that as the basis for our determination that any hunting and fishing activities will have no effect on the species.

The proposed action is an expansion of the public waterfowl hunting area beyond the current boundary of approved public hunting areas for waterfowl. No additional hunting seasons or species are included or expanded under this action. Waterfowl hunting season at Crab Orchard National Wildlife Refuge opens the first Saturday after Thanksgiving and typically closes near the end of January. These proposed waterfowl hunting dates occur when all three listed bat species are in their winter hibernacula, which is typically considered October 1 – April 1 in southern Illinois.

Indiana bats hibernate during winter for six months in caves or, occasionally, in abandoned mines. After hibernation, Indiana bats migrate to their summer habitat in wooded areas where they usually roost under loose tree bark on dead or dying trees. During summer, males roost alone or in small groups, while females roost in larger groups of up to 100 bats or more. Indiana bats also forage in or along the edges of forested areas. Indiana bats are vulnerable to disturbance because they hibernate in large numbers in only a few caves (the largest hibernation caves support from 20,000 to 50,000 bats). Other threats that have contributed to the Indiana bat's decline include commercialization of caves, loss of summer habitat, pesticides and other contaminants, and most recently, the disease white-nose syndrome.

The northern long-eared bat is found in the United States from Maine to North Carolina on the Atlantic Coast, westward to eastern Oklahoma and north through the Dakotas, even reaching into eastern Montana and Wyoming. In Canada it is found from the Atlantic Coast westward to the southern Yukon Territory and eastern British Columbia. The refuge boundary falls within the range of this species. Northern long-eared bats spend the winter hibernating in caves and abandoned mines, collectively called hibernacula. During summer, they roost alone or in small colonies underneath bark or in cavities or crevices of both live trees and snags.

The gray bat has a limited geographic range, however the refuge does fall within that range. With rare exceptions, gray bats live in caves year-round. During the winter gray bats hibernate in deep, vertical caves. In the summer, they roost in caves which are scattered along rivers. These caves are in limestone karst areas of the southeastern United States.

All three bat species have been recorded on the refuge but are considered uncommon. Most of these bats have been found on the refuge during active, summer months near roosting trees. There are no known hibernacula on the refuge, so it is extremely unlikely that bats would hibernate on the refuge during the timeframe of the proposed action, which will allow waterfowl hunting in the expanded area from late November to the end of January. As this hunting activity occurs during the winter when these bat species are hibernating in off-refuge caves, there will be no effect to the Indiana, Northern Long-eared, or Gray bat species. Refuge activities will follow the guidelines set forth in the Biological Opinion (2006) found in Appendix J in the Crab Orchard NWR Comprehensive Conservation Plan (CCP (2007) and the Northern long-eared bat 4(d) rule (<https://www.fws.midwest/endangered/mammals/nleb/index.html>).

Monarch butterflies have been documented to occur on Crab Orchard National Wildlife Refuge. However, the

proposed action will not occur when Monarch butterflies are present on the refuge. The expanded waterfowl hunting area will not be open to public hunting until late November when Monarchs have already migrated south, and the waterfowl season will end in late January before they return. There will be no interaction between any life stage of Monarchs or public users during the waterfowl season. In addition, the plants that Monarch butterflies prefer, such as milkweeds and other flowering plants, have gone dormant, or in the case of annual plants, deceased by the late November timeframe. Therefore, the proposed action is not likely to jeopardize Monarch butterflies.

B. Determination *(Select one and corresponding response if applicable)*

Determination	Response request from Ecological Services
<input checked="" type="checkbox"/> No Effect on species/critical habitat list species/critical habitat: gray bat, Indiana bat, northern long-eared bat	<input type="checkbox"/> Concurrence <i>(optional)</i>
<input type="checkbox"/> Not Likely to Adversely Affect species/critical habitat list species/critical habitat:	<input type="checkbox"/> Concurrence
<input type="checkbox"/> Likely to Adversely Affect species/critical habitat list species/critical habitat:	<input type="checkbox"/> Formal Consultation
<input type="checkbox"/> Likely to Jeopardize candidate or proposed species/critical habitat list species/critical habitat:	<input type="checkbox"/> Formal Conference
<input checked="" type="checkbox"/> Not Likely to Jeopardize candidate or proposed species/critical habitat list species/critical habitat: monarch butterfly	<input type="checkbox"/> Concurrence <i>(optional)</i>

JUSTIN SEXTON

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Signature

[Supervisor at originating station]

9/2/2022

Date

Reviewing Ecological Services Office Evaluation *(check all that apply):*

A. ☐ **Concurrence**

☐ **Nonconcurrence**

Explanation for nonconcurrence below:

B. ☐ **Formal Consultation Required**

List species or critical habitat unit below:

C. ☐ **Conference Required**

List species or critical habitat unit below:

Name of Reviewing ES Office: _____

Signature: _____ Date: _____

Attachment (1 of 1): Map showing location of proposed action

