

	Title: <b>Construction, Maintenance, Repair and Management Guideline (aka Construction Guideline)</b>	
	Date: <b>May 7, 2010</b>	Revision: <b>01</b>

## I. Scope and Applicability

Construction activities implemented by HCP partners will be conducted with consideration for the Karner blue butterfly (Kbb) within the High Potential Range of the Kbb.

This guideline applies to routine maintenance, repair and construction activities that may occur within the High Potential Range of the Kbb. Construction is any action that involves grading, building, excavation, or other heavy disturbance activity and generally includes the short-term or permanent removal of vegetation from a site so that it can be used for building roads, structures, storage areas, parking lots, pipelines, power lines, or other commercial or infrastructure-related facilities and uses. It should be understood that construction activities on sites occupied by Kbb may result either in short-term removal of habitat or in permanent take if the occupied Kbb habitat can not be avoided through selective routing or siting of projects. Minor construction projects such as routine maintenance and repair are those activities required to prolong the life of existing facilities through scheduled maintenance and repair.

This guideline does not apply to forest management activities, vegetative corridor management practices, recreational management activities, conservation management practices, or to emergency situations. These activities are addressed as separate guidelines, each with protocols that are specific to them.

**Note:** *This guideline only applies to HCP Partners. Those entities not enrolled as a Partner in the Wisconsin Statewide KBB Habitat Conservation Plan (HCP) need to contact the U.S. Fish and Wildlife Service (920) 866-1717 to determine permit needs prior to conducting any activities in occupied Kbb habitat.*

## II. General Requirements

- a. Conduct pre-management surveys in lupine areas within the High Potential Range to determine if and where Kbb occur.
- b. Avoid construction activities to the greatest extent practicable in Kbb occupied habitat.
- c. Minimize the amount of Kbb occupied habitat that will be impacted by construction activities.

- d. For routine maintenance, repairs or construction activities that would result in the short-term removal or destruction of Kbb occupied habitat (short-term take), which will be replaced within 5 years following the activity, pre-construction approvals may be required (refer to the section III below for specific direction).
- e. For construction or other activities that result in permanent take of Kbb occupied habitat, consult with DNR's HCP Coordinator as soon as possible to determine appropriate course of action.
- f. In the event that habitat replacement or restoration is a required mitigation, the current, approved HCP Habitat Restoration Protocol will be followed unless otherwise stated or waived.
- g. In the event that Kbb egg salvage is a required mitigation, the current, approved Karner Blue Butterfly Egg Salvage Protocol will be followed unless otherwise stated or waived.

### III. Specific Activities and Requirements

*[Refer to Construction Guideline flow chart on page 5 for a process depiction.]*

- a. Determine if project area is within the current Kbb High Potential Range (HPR) in WI (Refer to HPR map). If project area is not in HPR, stop here and proceed with project. There are no further restrictions. If project area is within HPR, continue.
- b. Determine if Kbb potential habitat is present:  
Is there a valid Level 1 lupine presence/absence survey performed within the last 5 years? If not, perform Level 1 surveys.  
*If a minimum amount of lupine habitat is not present, retain surveys and proceed with the project. Stop here, otherwise continue.*
- c. Determine if Kbb are present:  
If lupine is present, is there a valid Level 2 Kbb Presence/Absence survey within the last 5 years? If not, perform Level 2 surveys.  
*If Kbb are not present, retain surveys and proceed with the project and stop here; otherwise continue.*
- d. If Kbb are present, determine if the Kbb occupied habitat can be avoided.  
*If the Kbb occupied habitat can be avoided, document your findings and decision logic. Take measures to assure the Kbb occupied habitat will be avoided, proceed with the project and stop here. If Kbb occupied habitat can not be avoided continue.*
- e. If Kbb occupied habitat can **not** be avoided, determine if the impacts to Kbb occupied habitat will result in **permanent take** of **short-term take** (See IV. Definitions).
- f. *If project would result in **permanent take** consult with the DNR and FWS as soon as possible to decide on the best alternative form of compensatory*

*mitigation, e.g. mitigation on site, an alternate site in same subpopulation, a recovery property, or an alternate type of mitigation i.e. cash compensation by acreage cost formula to be used for recovery purposes. Stop here until type of mitigation is decided.*

- g. If project would result in **short-term take**, determine if anticipated impacts are major or minor. (*See IV. Definitions for major construction project and minor construction project*).
- h. If the project would result in short-term take with **major impacts** (also **permanent take**) the project is a **major construction project**. For major construction projects, such as new construction activities, significant construction associated with existing facilities or permanent take, HCP Partners are required to prepare and submit a **Habitat Replacement Plan** to the DNR and FWS for review and **pre-approval prior to beginning** any activities related to the project, which would result incidental take. Pre-approval by DNR and FWS is required for permanent take and major construction projects in order to assess the risk of the proposed action.
- i. For **minor construction projects**, such as routine maintenance and repair of existing facilities e.g. ditch repairs, utility pole replacements, culvert replacements, pipeline repairs, sign replacements (see list in VI. Definitions below), **pre-approval by DNR and FWS is not required**.

**IMPORTANT:** For minor construction projects, HCP Partners must meet the requirements detailed in the *Minor Construction Project Protocol*.

**IMPORTANT -- Permit coverage for Temporary Work Space:** In order to receive incidental take authority under the permit for Temporary Work Space, whether it is for a major or minor construction project, it is **not** necessary to amend a partner's Species and Habitat Conservation Agreement (Appendix A. Lands Included). For major construction projects, incidental take coverage for Temporary Work Space can be requested by inclusion in the Habitat Replacement Plan. For minor construction projects, a habitat replacement plan and pre-approval are still not required, but the DNR's HCP Coordinator must be notified of temporary work space where project impacts would result in incidental take prior to any activities resulting in take. (*Refer to the Habitat Replacement Plan Template for Major Construction Projects and the Habitat Restoration Protocol.*)

#### **IV. Definitions**

**Kbb Occupied Habitat** – Kbb occupied habitat is defined as areas of wild lupine that support Karner blue butterflies.

Major Construction Project – Major construction projects are those activities that will impact **greater** than 1/3 of the lupine in one Kbb occupied lupine area that is separated from other lupine areas by greater than 500 meters (a different subpopulation), and involve disturbance of occupied lupine that will be replaced or restored within five years (short-term take), **OR** projects that involve any amount of permanent take.

Minor Construction Project – Minor construction projects are those activities that will impact **less than 1/3 of the lupine** in one Kbb occupied lupine area that is separated from other lupine areas by greater than 500 meters (a different subpopulation). Projects that have been defined as minor include but are not limited to the following provided that the above criterion is met:

- Pipe/cable installation
- Repair of existing pipeline facilities
- Utility pole replacement or new pole installation
- Stump removal
- Fence and sign installation and repair
- Underground potholing for repair
- Culvert improvement or repair
- Ditch repairs
- Sign replacement
- Guardrail replacement

Permanent Take – is an impact to Karner blue butterfly occupied habitat, through land management or land use activities that does not allow for the restoration and reoccupation of the site for a minimum of five years.

Short-Term Take – is an impact to Karner blue butterfly occupied habitat, which results from land management or land use activities that cause habitat disturbance, which will be restored or replaced within five years of the disturbance. Short term take is conducted following approved conservation measures in the HCP in a manner to avoid and/or minimize harm to the Kbb (e.g. through appropriate timing of activities selective routing and siting of projects, etc.) and maintain, enhance, and/or restore Kbb habitat.

Temporary Work Space -- Temporary work spaces are rarely used, short term easements to accommodate the need for additional space during the duration of a construction project, most commonly utility or road construction. Partners such as utilities managers and WDOT seek short-term easements from adjacent landowners to be used as staging or work areas to unload and stage construction project materials and equipment, and sometimes for extra work space (elbow room).

## **V. Reference Documents**

Construction Management Flow Chart

**Karner Blue Butterfly HCP  
Management Guideline**

Habitat Replacement Plan Template for Major Construction Projects

Habitat Restoration Protocol

Karner Blue Butterfly Egg Salvage Protocol

Minor Construction Project Protocol

# Karner Blue Butterfly HCP Management Guideline

