Final Natural Resources Restoration Plan and NEPA Environmental Assessment for the W.R. Grace Superfund Site, Wayne Township, Passaic County, New Jersey

September 2006

Prepared by:

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FINAL NATURAL RESOURCES RESTORATION PLAN AND ENVIRONMENTAL ASSESSMENT FOR THE W.R. GRACE SUPERFUND SITE, WAYNE TOWNSHIP, PASSAIC COUNTY, NEW JERSEY
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I. INTRODUCTION

The U.S. Fish & Wildlife Service (Service), acting as Natural Resource Trustee on-behalf of the Department of the Interior (DOI), has prepared this final Restoration Plan and Environmental Assessment (RP/EA) to address natural resources, including ecological services, injured, lost or destroyed due to releases of hazardous substances in areas at or adjacent to the Wayne Interim Storage Site (WISS) of the W.R. Grace & Company (Grace) Superfund site (Grace Superfund site), located in Wayne Township, Passaic County, New Jersey. This RP/EA identifies the restoration action(s) that the Service proposes to implement as part of a natural resource settlement for natural resource injury relating to the Grace Superfund site.

This document describes alternatives considered by the Service to restore injuries associated with the Grace Superfund site, evaluates these alternatives, and explains the basis for our choice of a preferred alternative. It also provides a description of the natural resources injured as a result of the Grace Superfund site, and an explanation of the criteria applied to insure that restoration will meet the Trustee goals, and the mandate of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, (42 U.S.C. 9601 *et seq*.)

The purpose of restoration is to address injuries to natural resources, including the services, ecological functions, and human uses the resources provided; this includes returning the resources to a without-release, or baseline condition. Restoration actions are often needed because the injured natural resources may not have the capacity to re-establish their functions within an ecosystem in a timely manner without intervention. In addition to the cost to restore resources to baseline condition, CERCLA authorizes Trustees to recover compensation for losses suffered by the public during the period the resources are injured, referred to as interim lost use, and to spend that compensation on additional restoration actions, including acquisition and rehabilitation of additional replacement resources (42 U.S.C. 9607 (f)(1)).

II. AUTHORITY

This RP/EA was prepared by the Service pursuant to its respective authority and responsibility as natural resource Trustee under CERCLA; the Federal Water Pollution Control Act of 1972 as amended by the Clean Water Act of 1977 (33 U.S.C. 1251 *et seq.*)., and other applicable federal or state laws, including Subpart G of the National Oil and Hazardous Substances Contingency Plan (NCP), at 40 C.F.R. 300.600 through 300.615, and DOI's natural resource damage assessment regulations at 43 C.F.R. Part 11 (NRDA regulations) which provide guidance for this restoration planning process under CERCLA.

Section 111(i) of CERCLA requires the Trustees to develop a Restoration Plan prior to spending recoveries to implement restoration actions, and to obtain public comment on that plan. To fulfill this requirement, this RP/EA describes a reasonable number of possible alternatives for achieving restoration for natural resource injuries and facilitates the selection of the selected alternative. Moreover, this RP/EA identifies the selected alternative and describes how settlement monies will be spent to achieve restoration goals.

III. NEPA COMPLIANCE

This final RP/EA has integrated NEPA requirements by: summarizing the affected environment; describing the purpose and need for action; identifying alternative actions; assessing each alternative's applicability and environmental consequences; and, summarizing opportunities for public participation in the decision process.

Actions undertaken by a federal Trustee to restore natural resources or services under CERCLA and other federal laws are subject to the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and the regulations guiding its implementation at 40 C.F.R. Parts 1500 through 1517. The Service's *Final Revised Procedures* for implementing NEPA were published in the Federal Register on January 16, 1997, and provide a categorical exclusion for natural resource damage assessment restoration plans prepared when only minor or negligible change in the use of the affected area(s) (the area(s) undergoing restoration) is planned. Categorical exclusions are classes of actions that do not individually or cumulatively have a significant impact on the human environment.

The selected alternative will result in little or no change in the use of the affected areas. Accordingly, the selected alternative as set forth herein is a categorical exclusion under NEPA.

IV. PUBLIC NOTIFICATION AND REVIEW

Under CERCLA and NEPA the Trustees, in this case the Service, must notify the public and any federal, state, or local agencies with special interests or expertise relating to the draft RP/EA. To satisfy this requirement, the Service published a Notice of Availability of the draft RP/EA in the Federal Register, and the Star Ledger on July 26, 2006. The draft RP/EA was available for a 30-day public review and comment period ending August 28, 2006. A copy of the draft RP/EA was available for review at the Wayne Public Library and at the Wayne Township Municipal Complex (designated Grace Superfund site repositories).

Wayne Public Library
461 Valley Road
Wayne Township, New Jersey 07470
Telephone: (973) 694-4272
www.waynepubliclibrary.org
Hours: Monday -Thursday: 9:00 am - 9:00 pm
Friday: 9:00 am - 5:30 pm
Saturday: 10:00 am - 5:00 pm
Sunday: 1:00 am - 5:00 pm (closed July - August)

Municipal Clerk's Office
Wayne Township Municipal Complex
475 Valley Road
Wayne Township, New Jersey 07470
Telephone: (973) 694-1800, extension. 3208
Hours: Monday -Friday: 8:30 am - 4:30 pm

Copies of the draft RP/EA could also have been obtained at the following address:

U.S. Fish & Wildlife Service
New Jersey Field Office
927 N. Main Street, Bldg D
Pleasantville, New Jersey 08232
Contact: Clay Stern
Telephone: (609) 646-9310, extension 27
Fax: (609) 383-3939
email: clay_stern@fws.gov

The draft RP/EA was also accessible via the internet at: www.fws.gov/northeast/njfieldoffice during the 30-day public review period.

Public comments on the Draft Restoration Plan / Environmental Assessment

Interested parties wishing to comment on the draft RP/EA must have done so in writing (email was acceptable) by August 28, 2006.

No comments were received by the Service during the public comment period.

V. BACKGROUND

Site History

The WISS facility at the Grace Superfund site is a 6.4 acre site located at 868 Black Oak Ridge Road (State Route 202) near the City of Wayne, Wayne Township, Passaic County, New Jersey. It is situated east of the intersection of Black Oak Ridge Road and County Road 680 in the southwest corner of Passaic County near the border with Morris County, New Jersey. Elevation at the WISS ranges between 197 and 250 feet above mean sea level.

Rare Earths Incorporated (years 1948-1957) and Grace (years 1957-1971) extracted thorium and rare earths from monazite ore in Wayne Township. In 1971, Grace amended its Nuclear Regulatory Commission (NRC) license to cover only the WISS storage of radioactive materials. Grace buried much of the contaminated material in 1974. In 1975, the NRC released the land for unrestricted use, provided the deed would indicate the presence of radioactive material under the facility's surface.

Between 1980 and 1983, the New Jersey Department of Environmental Protection conducted surveys and determined that elevated radiation levels were still present at the WISS, an adjacent school bus maintenance facility, Wayne Township Park, the banks of Sheffield Brook, and the Pompton Plains railroad spur. In 1984, the WISS was placed on the National Priorities List as the Grace Superfund site.

From 1985 through 1987, the U.S. Department of Energy (DOE), pursuant to the 1984 Energy and Water Appropriations Act (PL 98-50) and based on the Formerly Utilized Sites Remedial Action Program (FUSRAP), stockpiled at WISS 37,300 cubic yards of contaminated soils from the school bus maintenance facility, Wayne Township Park, and the banks of Sheffield Brook. The WISS was acquired by the DOE for $1.

In 1990, further investigation and cleanup were conducted in accordance with an Interagency Agreement signed by DOE and the U.S. Environmental Protection Agency (USEPA). In 1993, DOE conducted another removal action to cleanup contaminated soil at the Pompton Plains railroad spur, where monazite sand ores were offloaded prior to processing at the WISS, as well as at adjacent residential properties.

Responsibility for cleanup of the WISS was transferred from DOE to U.S. Army Corps of Engineers (USACE) in October, 1997 with oversight by the USEPA. The Energy and Water Appropriations Act of 1998 (PL 105-62) provided appropriations for the USACE to administer and execute the DOE's FUSRAP. The purpose of the FUSRAP program was to cleanup contaminated sites where work was performed as part of the Nation's early atomic energy program. Because environmental concerns at the WISS were similar to those of FUSRAP sites, DOE had assigned the WISS to FUSRAP. The primary radioactive contaminants at the WISS were radium-226, thorium-232, uranium-238, and their daughter products. The chemical contaminants of concern were antimony, arsenic, chromium, lead, mercury, molybdenum, and thallium.
A feasibility study and proposed plan evaluating cleanup alternatives were released to the public

in June 1999. The Record of Decision identifying the selected remedy as Excavation to Residential Use and Disposal was signed on May 15, 2000. The USACE finished removing contaminated soil in 2003, bringing the remediation project closer to completion, pending further monitoring of ground water.

The Affected Environment

The principal habitat of concern near the Grace Superfund site is Sheffield Brook and its associated wetlands. The Service conducted a survey of the Site and surrounding areas prior to the 1986 response action. At that time, the habitats along Sheffield Brook included palustrine forested, forested/scrub-shrub, scrub-shrub, and emergent wetlands composed of: (1) forested wetlands dominated by red maple (*Acer rubrum)*, river birch (*Betula nigra*), and black willow (*Salix nigra*); (2) scrub/shrub wetlands composed of red-osier dogwood (*Cornus sericea*), spirea (*Spiraea* sp.), common reed (*Phragmites australis*), and tussock sedge (*Carex stricta*); and (3) emergent wetlands composed of tussock sedge and the invasive orchard grass (*Dactylis glomerata*). Other plant species inhabiting the Grace Superfund site included: box elder (*A. negundo*), pin oak (*Quercus palustris*), ash, (*Fraxinus* sp.), aspen (*Populus tremuloides*), black cherry (*Prunus serotina*), black gum (*Nyssa sylvatica*), American sycamore (*Platanus occidentalis*), with an understory of grasses, poison ivy (*Toxicodendron radicans*), marsh marigold (*Caltha palustris*), and Virginia creeper (*Parthenocissus quinquefolia*).

These wetlands attracted a variety of migratory bird species for feeding and breeding purposes and were considered to be of high value to wildlife due to high development pressures in the area. Trust migratory bird resources that were observed in the Sheffield Brook area during the pre-response action survey and a subsequent post-response action survey included belted kingfisher (*Ceryle alcyon*), green heron (*Butorides striatus*), least sandpiper (*Calidris minutilla*), killdeer (*Charadrius vociferus*), Canada goose (*Branta canadensis*), and mallard (*Anas platyrhynchos*). Other wildlife species expected to occur in the area were a variety of amphibians, reptiles, passerines, raptors, and rodents, as well as fox and deer.

Migratory fish are not expected to occur in the brook or the Pompton River, due to the presence of the Dundee Dam downstream on the Passaic River. The State noted in 1980 that the adjacent portion of the Pompton River, though classified as non-trout waters, is stocked with trout to provide for a seasonal fishery. It was noted in the pre-response action survey that fish used portions of Sheffield Brook for feeding, cover, and reproduction.

No federally-listed species are documented to occur at the Grace Superfund site. However, Natural Heritage Program data indicate the presence of the State-listed (threatened) wood turtle (*Clemmys insculpta*) in the vicinity of the Grace Superfund site. The wood turtle relies on both aquatic and terrestrial habitats for feeding, mating, egg-laying, and hibernating. Lowland, mid-successional forests dominated by red maple and oaks may be used.

Natural resource injuries

As a result of radiological and chemical contamination associated with the Site, there has been a reduction in the quality and quantity of wetland habitats for migratory birds and other wildlife. It was estimated that five acres of wetlands along Sheffield Brook were impacted by contaminants released from the Site during operations from 1940 to 1971. Approximately 1.7 acres of these wetlands were forested, while 3.3 acres were emergent/scrub-shrub. These same five acres were unavoidably further impacted by response activities in 1986-1987, which included an unsatisfactory attempt at wetland restoration. Therefore, the primary injuries to trust resources resulting from Site-related contamination and response actions were reduced quality and quantity of habitat for migratory birds and other wildlife. Trust resources that utilize these habitats were adversely affected through pathways such as food source contamination or reduced abundance and diversity of food supply due to impacts on the Sheffield Brook benthic community.

Damages recovered

In compliance with the requirements of a judicial consent decree signed and entered by the U.S. District Court for the District of New Jersey on April 29, 1999, in the case of United States of America *v.* W.R. Grace & Company - Connecticut, (Civil Action No. 98-2045), W.R. Grace & Company deposited $270,000 as natural resource damages into the DOI's interest bearing NRDAR Fund, of which $9,180 was to reimburse DOI's past assessment costs, and $260,820 would be available for restoration planning, implementation and monitoring. Thirty-thousand dollars ($30,000) were expended for restoration planning. As of August 31, 2006 the total dollars available for restoration implementation and monitoring, including accrued interest was $293,064.82.

VI. PROPOSED RESTORATION

This restoration plan is provided to explain the Service's decision process establishing our preferred restoration alternative. Under CERCLA and its implementing regulations, the purpose of restoration is to restore, rehabilitate, replace, or acquire the equivalent of the injured resources, in this case Site-related injuries to forested and emergent scrub/shrub wetlands. Unless otherwise indicated, the term "restoration" is used to refer generally to any and all of these types of actions (*i.e.*, restore, rehabilitate, acquire, etc.). Each of the possible alternatives consists of actions, individually or in combination, that would achieve those purposes through site-specific projects. No restoration activities will be conducted by the Trustees that would incur ongoing expenses in excess of those that can be funded by settlement monies or the interest there from, unless such additional monies are allocated through the normal budget process. The Service evaluated alternatives based on the following criteria and factors, and will expend available funds towards that end, as further explained under Use of the Settlement Funds (Section VII hereinafter).

In our initial review, the Service identified the following as primary criteria for evaluating potential projects:

- priority is given to project(s) in the Passaic River watershed;

- the restored habitat should be similar in type and provide similar services to the injured habitat before it was impacted; and,
- the project(s) should provide long-term or perpetual benefits to the injured natural resources.

In addition, the DOI's NRDAR regulations found at 43 CFR Part 11 were also considered in the evaluation of alternatives. Those regulations include the evaluation of an alternative's:

- technical feasibility;
- relationship of the expected costs of the proposed actions to the expected benefits from the restoration action;
- cost effectiveness;
- potential for additional injury resulting from the proposed actions, including long-term and indirect impacts, to the injured resources or other resources;
- natural recovery period;
- ability of the resources to recover with or without alternative actions;
- potential effects of the action on human health and safety;
- consistency with relevant Federal and State policies; and,
- compliance with applicable Federal and State laws.

Based on these characteristics and on the NEPA guidance, the Service identified several restoration alternatives.

Descriptions of Restoration Alternatives Considered

Several alternatives were considered: (A) On-site Restoration; (B) Off-site Wetland Restoration; (C) Wetland Habitat Acquisition; and, (D) No Action. The basic components of each alternative are provided below.

Alternative A: On-site Restoration

The Service weighed an alternative to restore natural resources at the same location as the injury. Under Alternative A: On-site Restoration, the Service considered possible restoration activities ranging from promotion of vegetative succession to intensive management actions to restore, replace, or enhance natural resources and the services they provided which existed on-site prior to contamination at the Grace Superfund site.

Alternative B: Off-site Habitat Restoration

The Service weighed an alternative to restore habitat off-site, but within the Passaic River watershed or one of its sub-watersheds. Under Alternative B: Off-site Wetland Restoration, the Service considered possible restoration activities ranging from promotion of vegetative succession to intensive management actions to restore, replace, or enhance natural resources and the services they provided beyond the boundaries of the Grace Superfund site on land that could be afforded protection by a conservation easement or other legally binding agreement.

Alternative C: Wetland Habitat Acquisition

The Service weighed an alternative to restore habitat through the acquisition of land that would be protected in perpetuity. While acquisition of equivalent resources is often the least-preferred alternative because it results in preservation of existing resource values rather than replacement of lost resource values, in areas with imminent threats of development, protection can be a good mechanism to secure and promote wetland viability by decreasing future direct and indirect impacts to wetlands. Under Alternative C: Wetland Habitat Acquisition, property containing wetlands and stream frontage similar to those injured at and / or adjacent to the Grace Superfund site offered at fair-market value would be acquired and the title transferred to a natural resource agency or local municipality for use as open space. The acquired property would be protected with a perpetual conservation easement, deed restriction, or other legally binding mechanism, and managed to conserve, protect and promote the natural resource values of the property.

Alternative D: No action

The Service addressed this is alternative to fulfill requirements under NEPA, and to be consistent with the damage assessment process under the NRDAR regulations. Under Alternative D, no action would be taken to restore resources injured due to contamination at the Grace Superfund site or to replace or acquire additional natural resources to restore ecological and human services provided by the injured resources. Restoration of the natural resource and their ecological functions would be completely dependent upon natural processes.

Evaluation of Restoration Alternatives Considered

Alternative A: On-site Restoration

To address this alternative the Service considered the USEPA's selected remedial action for the Grace Superfund site. The Grace Superfund site cleanup was addressed in two stages: removal actions by the Department of Energy and the U.S. Army Corp of Engineers which reduced the immediate health risks and a long-term remedial phase which focused on cleanup of the remainder of the site including the buried waste at the WISS. As part of the initial cleanup action excessively radioactive sediments along Sheffield Brook were excavated and replaced in 1986-87. Approximately 34,800 cubic yards of radioactively contaminated materials were removed from the stream bed and surrounding areas, impacting 1.7 acres of forested freshwater wetlands and 3.3 acres of emergent/shrub-shrub freshwater wetlands along the brook. The area was filled with appropriate clean material and re-vegetated.

As a result of remedial actions at the site, no active on-site restoration actions were identified; therefore, this alternative would do nothing to offset injuries resulting from the contamination and results of response actions. No additional natural resource injuries would be caused by this alternative, but injuries resulting from the Grace Superfund site would go unaddressed. This alternative would have no effect on human health and safety. As this alternative is not technically feasible and inconsistent with the intent of this RP/EA and the NRDAR guidance, further evaluation of this alternative is unnecessary.

Alternative B: Off-site Wetland Restoration

To address this alternative the Service sought projects that would likely consist of a series of actions, singularly or in combination to restore, create, or enhance habitat similar to that injured at the Grace Superfund site. Generally, such restoration actions would include:

- modifying site hydrology by removing dikes, levees, tiles; diverting water flow toward or away from the site; and / or regulating the site's hydrologic regime (through flooding and drawdown);
- modifying site pedology (soil morphology) by excavating and grading site topography to a desirable elevation; salvaging and relocating wetland soils; and / or adding organic matter or other soil supplements;
- modifying vegetative cover by allowing natural revegetation; seeding or planting desirable species; removing or controlling invasive plant species; controlling herbivores and disease; and / or installing temporary buffers and protective structures; and,
- monitoring the ecological response to restoration actions and making mid-course corrections as warranted.

Between 2001 and 2004 the Service contacted a number of State and local entities (see Section VII hereinafter) to identify potential restoration projects. Few options materialized in and around the Township of Wayne, generally due to the intense local urbanization and current land uses. Project scoping was extended further out into the local watershed, again with marginal results. Projects that were presented to the Service are evaluated below.

Option 1: Lincoln Park Project. In 2003, the Service was presented the concept of conducting restoration at Lincoln Park which borders the Pompton River in Morris County, New Jersey. This project included: (1) stream corridor and water quality improvements using vegetative and / or approved bioengineering techniques to stabilize stream banks and reduce sedimentation; and, (2) restoration of riparian wetlands by the removal of fill material to restore natural water regimes, and promotion of a desirable vegetative cover to reduce sedimentation and pollution while providing increase fish and wildlife habitat. The project site encompasses approximately 2.3 acres.

Option 2: Two Bridges Projects. In 2003, the Service was presented the concept of conducting restoration in the Two Bridges area of Wayne, New Jersey. One potential project involves 2 former residential parcels, each approximately 1.5-acres, where restoration actions would include debris and impervious cover removal, grading, and revegetation with a desirable vegetative assemblage; however property ownership was unclear when the project was presented. Another potential project presented would be conducted on approximately 2.2 acres along the Pompton River, owned by the Township of Wayne and adjacent to recreational sport fields. This project would involve stream bank stabilization, reforestation, and the installation of protective fencing.

Option 3. Preakness Brook Storm Water Swale Restoration. In 2003, the Service was presented the concept of a sediment and storm water restoration project adjacent to the Preakness Brook. The project would address sediment and storm water issues down-gradient of a shopping center

possibly through the installation of biologs, diversion berms and / or a bioretention basin. The project encompasses approximately 1 acre, but could potentially benefit water quality in several hundred feet of the Preakness Brook.

Each of the aforementioned Alternative B options in and of itself is a desirable project, yet individually is not of sufficient size to compensate for the extent of natural resource injuries related to the W.R. Grace Superfund site. Combining 2 or all 3 of the options under Alternative B is technically feasible. However, this results in elevated costs of mobilizing and demobilizing heavy equipment, supplies, materials, and manpower to each site. By virtue of locality, all Alternative B options have cost/acre ratios which are significantly greater than acquisition options under Alternative C. Additionally, each project presented under Alternative B would likely require State permits and costly hydrologic investigations in support of the required permits that would further consume a significant amount of the settlement funds before restoration was implemented. For these reasons, the Service did not select any of the options under this alternative.

Alternative C. Wetland Habitat Acquisition

In north-central New Jersey development pressures and changing land uses towards urbanization are adding to the loss of open space and wildlife habitat. Some estimates suggest that New Jersey may reach full build-out in 20 to 40 years. Therefore, acquiring and holding undeveloped land in perpetuity ensures the preservation and conservation of the State's natural resources and is more cost-effective today then it will be in the next 15 to 20 years. Moreover, the acquisition of land for the purposes of maintaining open space, protecting the environment, and conserving natural resources as capital assets of the public is consistent with, and implements the New Jersey State Development and Redevelopment Plan (Smart Growth). This alternative provides for the acquisition of natural resources (*i.e.*, wetlands) to replace those injured at the Grace Superfund site, and acquire additional resources to compensate the public for lost use. Under Alternative C: Wetland Habitat Acquisition, wetlands including stream frontage within the Passaic River watershed similar to those at the Grace Superfund site offered at fair-market value by willing sellers would be acquired and protected in perpetuity.

Three land acquisition options were considered under this alternative.

Option 1: Pequannock Wetlands Project. This project was presented to the Service in 2004. This project was targeted to purchase parcels in Morris County, New Jersey, defined as the Apshawa cluster, the Shotmeyer tract, and the Butler Water property. The Asphawa cluster is a collection of 7 non-contiguous parcels ranging from 1.4 to 18.8 acres located adjacent to the Pequannock River, between or along the eastbound and westbound lanes of Route 23 in West Milford and Kinnelon, New Jersey. The combined acreage of all 7 parcels is 40.3, containing a fragmented mosaic of wetlands (forested and emergent scrub/shrub) and uplands interspersed with invasive plant species.

The Shotmeyer tract, located in the Boro of Butler, Borough of Bloomingdale, New Jersey, consists of 2 adjoined lots totaling 15.07 acres, 9.7 acres of wetlands similar to those at the Grace Superfund site. This tract is bordered by the New York, Susquehanna & Western rail line, the Pequannock River, and Interstate 287 at the interchange with the Patterson-Hamburg Turnpike. Also located in the Boro of Butler, Borough of Bloomingdale, New Jersey, is the Butler Water property (a/k/a the abandoned Butler sewage treatment plant, the Butler Raceway) owned by the Boro. This parcel also abuts the Pequannock River and consists of a single 10.27-acre tract of which 7.2 acres are wetlands similar to those at the Grace Superfund site.

According to maps provided to the Service by the Passaic River Coalition, the vast majority of the aforementioned parcels are located in a 100-year flood plain. Under Alternative C - Option 1, parcels available for purchase at fair-market value from willing sellers would be prioritized for acquisition to the extent that available funding (including partner contributions) would allow. Acquired parcels would be protected as open space under deed restriction, conservation easement, or other legally binding agreement and title transferred to the Pequannock River Coalition and / or the Passaic River Coalition. Further restoration actions beyond acquisition would not be funded through the Grace Superfund site settlement funds.

As of the preparation of this document, the State was in negotiations to acquire the Asphawa cluster. The Shotmeyer tract and Butler Water property are non-contiguous tracts. The majority of these parcels are comprised of wetlands in flood zones, and consequently the threat or potential for development is low. Therefore, the Service did not select this option as part of the preferred alternative. Nevertheless, the Service supports the acquisition of the Shotmeyer tract and Butler Water property by the Passaic River Coalition as part of the Pequennock River greenway.

Option 2: Passaic County Wanaque Watershed Gap (Ringwood Borough) Open Space Project

The Palisades Interstate Park Commission presented a project located in Ringwood, Morris County, New Jersey. This project consists of 11 undeveloped properties zoned commercial that contain some wetland and streams that flow directly to the Wanaque Reservoir. The total project area is approximately 150 acres; however, not all parcels are ready for acquisition. This project was proposed as a multilevel partnership to include several State and local government cooperators. The value of land zoned, even a few acres, as commercial in Morris County likely exceeds currently available funds and is not cost effective in as much as cost-effectiveness may be measured. Therefore, this option was not selected as part of the preferred alternative.

Option 3: Other Properties Identified Adjoining Publicly-held Lands – ***The Selected Alternative***

Under Option 3, parcels adjoining lands currently owned and managed by a natural resource agency or local municipality as open space, offered at fair market value by a willing seller and containing natural resources similar to those injured at the Grace Superfund site would be considered for acquisition using settlement funds. The acquired land would be transferred to the appropriate natural resource agency (*i.e.*, preferentially a State Park or Wildlife Management Area, alternatively the National Wildlife Refuge System) or municipality. Held as public land, the acquired property would be managed to prevent future injury or degradation to the resources

of concern. This action expedites restoration, replacement and enhancement of lost resources and services associated with the Grace Superfund site. Such land may have the potential for additional restoration, rehabilitation, or enhancement of functional and sustainable wetlands which could be conducted under the habitat management plans of the land management agency having jurisdiction. This equates to land management in perpetuity, a valued added benefit to protection of the natural resources on the acquired land(s). Additionally, land selected for acquisition may contain desirable natural resources possessing the potential for protection, buffering, or otherwise supporting the ecological development, maturation, function, or sustainability of desirable wetlands and the surrounding watershed. Acquisition also provides habitat for a wild variety of wildlife species, including rare or endangered flora and fauna. By virtue of their inherent privacy and natural settings, parcels suitable for building adjacent to lands held as open space (*e.g.*, State forests, parks, wildlife management areas; National Wildlife Refuges) are highly sought for residential development. Acquisition under this option can genuinely benefit additional resources similar to those injured at the Grace Superfund site by preventing further habitat fragmentation, increases in impervious cover (*i.e.*, pavement, sidewalks, buildings, dwellings), and degradation of water quality associated with suburban and urban development. Finally, this action facilitates buffering environmental impacts associated with rapid urban development (*e.g.*, increased amounts of impervious cover, road run-off, and toxicant deposition; reduced groundwater recharge; loss of wildlife habitat) within the watershed and adjacent to the currently protected and managed lands.

The consequence of implementing this alternative is the preservation and conservation in perpetuity of open space, a rapidly vanishing and valuable natural resource of the Passaic River watershed. Another consequence of this action is that acquired land, held in public ownership, will no longer be available for commercial, residential, or economic development (potentially elevating the market value of other properties in the area), and would be exempt from collection of local and State property taxes. Acquisition of property and any associated restoration activities are not expected to create any potential for causing additional injury to natural resources. In addition, acquisition is not expected to have any adverse impact on human health and safety. Finally, given the intensive trend towards urbanization in the Passaic River watershed, land acquisition is a cost-effective and beneficial action capable of protecting the investment in existing natural resources (*i.e.*, , fish, wildlife, wetlands, surface waters and uplands).

It is the intent of this alternative to maximize the benefits in relation to the cost of acquiring desirable properties through leveraging acquisition funds from other sources (*i.e.*, New Jersey's Green acres program, non-government organizations, other compatible NRDAR settlements). The implementation of Option 3 under Alternative C is commensurate with current real estate market values, locality, availability of willing sellers and parcel size, development potential and availability. Consideration of parcel-specific costs compared to the benefits that may be realized through its acquisition will be made on a parcel-specific basis as properties become available. As stated above, parcels selected under this alternative should at a minimum:

- adjoin public lands currently owned and managed by a natural resource agency or local municipality as open space;
- be offered at fair market value by a willing seller;
- be free of hazardous wastes and the liabilities thereto; and,

- contain natural resources (including stream frontage) similar to those injured at the Grace Superfund site.

The Service has identified several potential parcels that meet the acquisition criteria and are currently available at fair-market value. Implementation of this option has the potential to acquire a minimum of 30 acres which would compensate the public for interim lost uses in addition to replacing and protecting in perpetuity natural resources injured at and / or to the Grace Superfund site. In order to not jeopardize on-going acquisition negotiations with willing sellers, parcel-specific identification or description will not be disclosed at this time. However, upon selection of specific parcels, additional public notice will be provided and NEPA requirements fulfilled.

Alternative D: No Action

This alternative is addressed to fulfill requirements under the NEPA, and is consistent with the damage assessment process under the NRDAR regulations. Under Alternative D, no action would be taken to restore resources injured due to contamination at the Grace Superfund site or to replace or acquire additional natural resources to restore ecological and human services provided by the injured resources. Restoration of the resource and resource function would be completely dependent upon natural processes. The funds recovered for DOI's natural resource damages claim for the site would not be spent. This alternative is technically feasible, has no cost, but also would result in no benefit from the funds specifically recovered from each of the responsible party for restoration, and for that reason is not considered a cost-effective alternative to the extent cost-effectiveness can be analyzed.

By implementing this alternative the Service would take no action to restore injured natural resources or compensate for lost services pending environmental recovery. Instead, the public would rely on natural processes for recovery of the injured natural resources. While natural recovery would occur over varying time scales for various injured resources, the interim loses suffered would not be compensated under the no action alternative. Further, this alternative has no direct environmental consequences because, by definition, no manipulations to the environment would take place. However, the no action alternative may negatively affect injured populations indirectly if particular anthropogenic activities, independent of site restoration processes, take place. For example, the no action alternative precludes the use of restoration funds to purchase a forest habitat that has direct benefit to migratory birds. If this habitat was developed, migratory bird populations would be negatively impacted.

This alternative would do nothing to offset injuries resulting from the contamination and results of response actions. No additional natural resource injuries would be caused by this alternative, but injuries resulting from the Grace Superfund site would go unaddressed. This alternative would have no effect on human health and safety. It is, however, inconsistent with both Federal and State policies to restore natural resources injured by hazardous substances, and is inconsistent with CERCLA requirement that funds recovered by Trustees for natural resource injuries be spent on restoration or replacement of those resources. Based on the aforementioned facts, the Service rejected the no action alternative.

VII. USE OF THE SETTLEMENT FUNDS

Pursuant to the settlement with W.R. Grace, the DOI received $270,000.00. These funds were deposited into the DOI's interest-bearing Natural Resource Damage Assessment and Restoration (NRDAR) Fund for future restoration of resources lost or injured as a result of contamination at the Grace Superfund site. As of August 31, 2006, the value of the W.R. Grace settlement account was $293,064.82. The Service intends to allocate approximately $287,600 for habitat acquisition which could be augmented by other leveraged funds (*i.e.*, the State's Green acres program, non-governmental partners, or other NRDAR-related settlement funds that are otherwise eligible for parcel acquisition). The Service intends to allocate $5,480 (< 2 percent of the available restoration funds) to oversee implementation of the restoration plan.

VII. LIST OF AGENCIES, ORGANIZATIONS, INDIVIDUALS CONTACTED FOR INFORMATION

Andrew Milliken, Atlantic Coast Joint Venture, U.S. Fish & Wildlife Service
Association of New Jersey Environmental Commissioners
Earth Share of New Jersey
Fyke Nature Association
Great Swamp National Wildlife Refuge
Green Vest
Highlands Coalition
High Mountain Park Preserve
Hudson-Essex-Passaic Soil Conservation District
Meadowlands Environmental Research Institute
Mark Gallagher, Princeton-Hydro Consultants
Morris Land Conservancy
New Jersey Audubon Society
New Jersey Community Water Watch
New Jersey Conservation Foundation
New Jersey Department of Environmental Protection - Division of Fish and Wildlife
New Jersey Department of Environmental Protection - Green Acres Program
New Jersey Department of Environmental Protection - Land Use Regulation Program
New Jersey Department of Environmental Protection – Office of Natural Resource Restoration
New Jersey Department of Environmental Protection – Division of Parks and Forests
New Jersey Water Environment Association
New York-New Jersey Trail Conference
North Jersey District Water Supply Commission
Palisades Interstate Park Commission
Passaic County Office of Natural Resource Programs
Passaic River Coalition
Pequannock River Coalition
Randy Dittmer, Partners in Flight, U.S. Fish & Wildlife Service
Sierra Club, Essex County
Skylands CLEAN, Inc
The Nature Conservancy

Township of Wayne, Environmental Commissioners
Wallkill River National Wildlife Refuge
Wanaque Reach
Weis Ecology Center

IX. STATE CONCURRENCE

The natural resources injured at the Grace Superfund site are subject to overlapping Trusteeship of the United States and the State of New Jersey. Therefore, while the Grace Superfund site settlement was obtained solely by the United States, the Service sought State input regarding the development and selection of the restoration activities outlined herein. No comments or objections were received from the State of New Jersey.

X. SIGNATORY

_____	_____
Regional Director / DOI designated Authorized Official	Date

UNITED STATES FISH & WILDLIFE SERVICE
ENVIRONMENTAL ACTION STATEMENT

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 polices that protect fish and wildlife resources, we have established the following administrative record and determined that the action of the Selected Alternatives, as set forth and to be set forth as described in the ***Final Natural Resources Restoration Plan and Environmental Assessment for the W.R. Grace Superfund Site, Wayne Township, Passaic County, New Jersey***, dated September 2006.

Check one:

- ☑ is a categorical exclusion as provided by 516 DM 2, Appendix 1 and 516 DM 6 , Appendix 1. No further NEPA documentation will therefore be made.
- ☐ is found not to have significant environmental effects as determined by the attached environmental assessment and findings of no significant impact.
- ☐ is found to have significant effects and, therefore, further consideration of this action will require a notice of intent to be published in the Federal Register announcing a decision to prepare an Environmental Impact Statement (EIS).
- ☐ is not approved because of unacceptable environmental damage, or violation of U. S. Fish & Wildlife mandates, policies, regulations, or procedures.
- ☐ is an emergency action within the context of 40 CFR 1506.11. Only those actions necessary to control the immediate impacts of the emergency will be taken. Other related actions remain subject to NEPA review.

Other supporting documents:
Final Natural Resources Restoration Plan and Environmental Assessment for the W.R. Grace Superfund Site, Wayne Township, Passaic County, New Jersey, dated September 2006.

Signature Approval:

_____ _____
Supervisor, New Jersey Field Office Date

_____ _____
Region 5 NRDAR Coordinator Date

_____ _____
Region 5 NEPA Coordinator Date

_____ _____
Assistant Regional Director - Ecological Services Date

_____ _____
Regional Director / DOI designated Authorized Official Date