

Amendment to the Final Damage Assessment and Restoration Plan/ Environmental Assessment for the July 25-26, 2010, Enbridge Line 6B Oil Discharges near Marshall, MI

February 2024

Introduction and Background

The natural resource trustees for the Natural Resource Damage Assessment and Restoration (NRDAR) activities related to the July 25-26, 2010, Enbridge Line 6B Oil Discharges near Marshall, Michigan, are the U.S. Department of the Interior (DOI), acting through the Fish and Wildlife Service (USFWS); the Department of Commerce, represented by the National Oceanic and Atmospheric Administration (NOAA); the Nottawaseppi Huron Band of the Potawatomi Tribe (NHBP); the Match-E-Be-Nash-She-Wish Band of the Pottawatomi Indians (Gun Lake Tribe); the Michigan Department of Natural Resources (MDNR); the Michigan Department of the Environment, Great Lakes, and Energy (EGLE); and the Michigan Department of Attorney General, collectively known as the Trustees. The Trustees and Enbridge¹, the Responsible Party, are parties to a Consent Decree² that was entered on December 3, 2015, that required Enbridge to complete multiple projects and make a payment of \$3,900,000 to the Trustees for planning, implementing, and monitoring of projects to restore, rehabilitate, replace, or acquire natural resources equivalent to those injured from the incident. In October 2015, the Trustees released a Final Damage Assessment and Restoration Plan/Environmental Assessment (Final 2015 DARP/EA) that set forth the preferred alternative to restore natural resources impacted by the oil discharges³.

The Final 2015 DARP/EA addressed natural resource impacts resulting from the oil discharges, including impacted floodplain, riverine, lake, and upland habitats; turtle populations; recreational uses of the river and fish; and non-recreational use by tribal members. Because many miles of the river were closed for recreation during spill response, the Final DARP/EA incorporated five projects along the Kalamazoo River in Calhoun County intended to enhance recreational opportunities for the public and compensate for those recreational opportunities lost or diminished as a consequence of the oil discharges. From upstream to

¹ Responsible Parties in this matter include: Enbridge Energy, L.P., Enbridge Pipelines (“Lakehead”) L.L.C., Enbridge Energy Partners, L.P., Enbridge Energy Management, L.L.C., Enbridge Energy Company, Inc., Enbridge Employee Services, Inc., Enbridge Operational Services, Inc., and Enbridge Pipelines Inc. (hereinafter “Enbridge” or “Responsible Party”)

² For a copy of the Consent Decree, see: <https://www.gc.noaa.gov/gc-cd/MI-Enbridge-Energy-CD-2015.pdf>

³ The Final DARP/EA is incorporated by reference in this document and is available at:

https://www.cerc.usgs.gov/orda_docs/DocHandler.ashx?task=get&ID=1524

downstream, these were Saylor's Landing, Ceresco Green, Calhoun County's Historic Bridge Park, Angler's Bend, and Paddler's Grove. To support these projects, Enbridge created the Kalamazoo River Community Recreational Foundation and endowed the foundation with \$2.5 million to assure perpetual care of the five projects upon transfer of ownership to local units of government or organizations.

Of the five recreational access projects, the Angler's Bend site is the smallest at 0.60 acres, located in Emmett Township in Calhoun County near D Drive North and 11 Mile Road. This site is limited to only a maintained pathway from a 2-lane road down to the Kalamazoo River, with a bench and stone steps to allow for access by hand-carried boats. Recently, Anger's Bend was de-constructed to accommodate refurbishment of an adjacent bridge. The only parking for this area was parallel parking along the road shoulder. During the original real estate transaction, Enbridge understood that its agent (Tri-State Holdings) had acquired the land needed for the project. However, the Michigan Department of Transportation (MDOT) later asserted an ownership right related to an easement for their right-of-way. MDOT compelled Tri-State Holdings to remove site amenities at Angler's Bend and discontinue any public recreational access to allow for the bridge refurbishment. The new physical site limitations at the Angler's Bend site made re-establishing public access to the river infeasible. In particular, with the extension of a guard rail that narrows the usable shoulder, there are now significant safety concerns with roadside parking at this location.

Restoration Plan Amendment and Alternatives

The goal of restoration under the Oil Pollution Act of 1990, 33 U.S.C. § 2701 *et seq.* (OPA) is to make the environment and public whole for injuries to natural resources and services resulting from an incident involving a discharge or substantial threat of discharge of oil. The Trustees noticed the Draft Amendment to the Final 2015 DARP/EA (Draft Amendment) for public review and comment. The Draft Amendment described and evaluated restoration alternatives to replace the Angler's Bend project, which was one of the projects that compensated the public for injuries to natural resources and services from the Enbridge oil discharge. The public comment period was open from January 6, 2023, to February 6, 2023. The Trustees did not receive any comments on the proposed amendment and proceeded to work with Calhoun County and Enbridge on plans for an alternative recreational use and public access site in Calhoun County. The description below reflects current plans and provides additional details that were not available when the Draft Amendment was published; however, the substance of the selected alternative and the evaluation of alternatives remains the same.

Calhoun County Park Project:

The Trustees, Enbridge, and Calhoun County have identified an alternative recreational access site on the Kalamazoo River as a substitution for the Angler's Bend site because Angler's Bend is no longer safe or viable as a public recreational site. In September of 2023, Enbridge agreed to provide \$180,000 to Calhoun County for the construction of recreational use enhancements at a river access site already owned by Calhoun County, currently referred to as North Branch Park⁴, located along Custer Drive in Battle Creek in Calhoun County (Figure 1). The funding provided by Enbridge is expected to be sufficient to prepare and re-grade the site, provide a concrete boat launch in place of the existing earthen one, provide on-site gravel

⁴ While Calhoun County currently refers to the existing river access site as "North Branch Park", it may change the name in the future and nothing in this Amendment shall restrict such a change. For the purposes of this Amendment, the location of the recreational enhancements being discussed is referred to as the "North Branch Park site".

parking and access areas, create a separate canoe and kayak launch area, plant trees in excess of the number cut down, re-establish vegetation in disturbed areas, and add two picnic tables to the site. As a part of these enhancements, the current entrance from Custer Drive will be relocated to provide safer ingress and egress from the site from either traffic direction on Custer Drive.

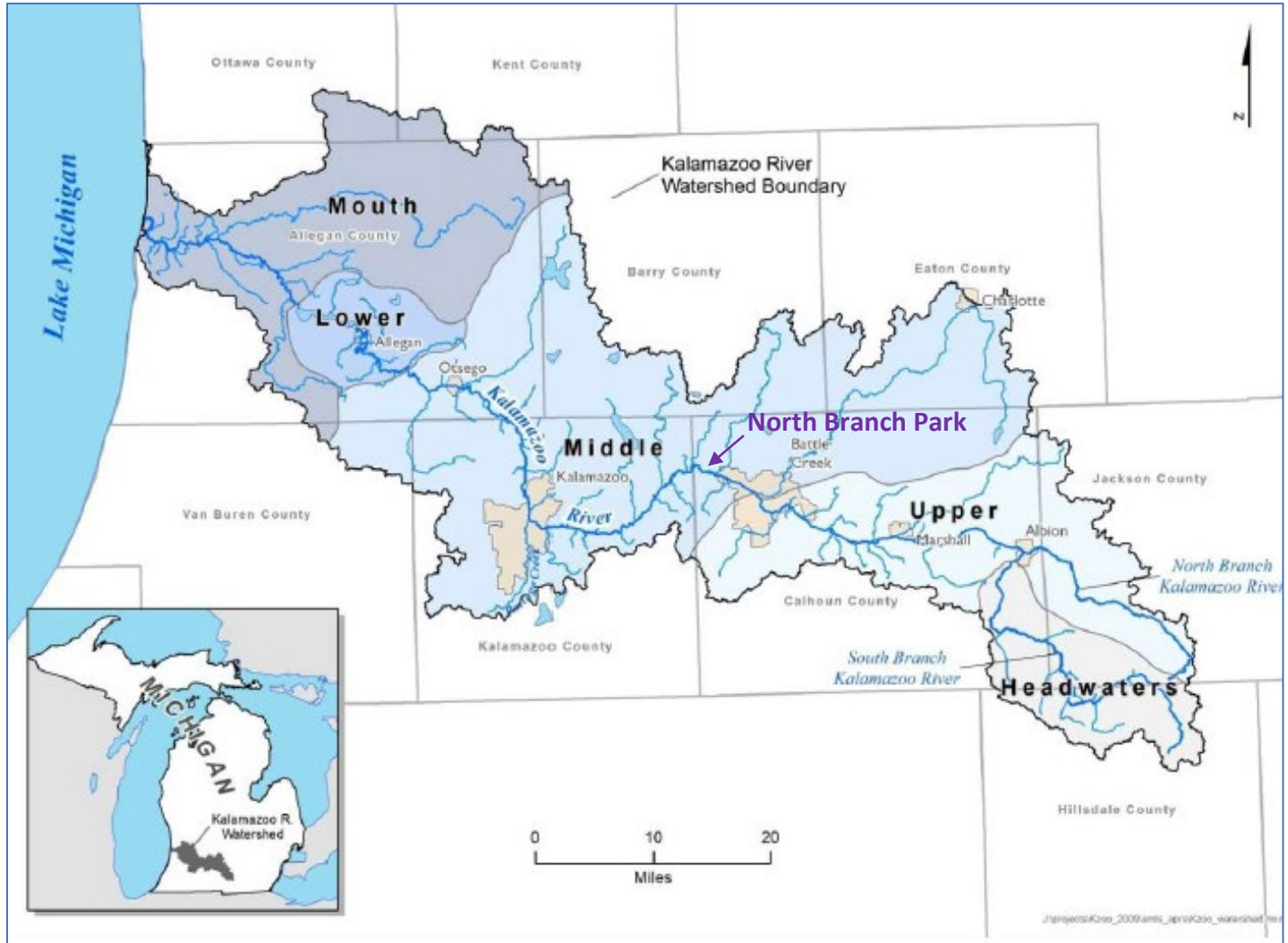


Figure 1. Kalamazoo River Watershed, showing the proposed North Branch Park project on the Kalamazoo River, Calhoun County, Michigan. (Source, Wesley 2005)

Calhoun County will maintain and operate the site and may seek funding from the Kalamazoo River Community Recreational Foundation to assist in that work. The Kalamazoo River Community Recreational Foundation manages the endowment that Enbridge established to fund long-term maintenance of recreational access sites included in the NRDAR settlement, including for the non-viable Angler’s Bend site.

These planned recreational use enhancements at North Branch Park site will exceed the features originally provided at Angler’s Bend. While the new location is downstream of the Angler’s Bend site, it is still on the Kalamazoo River within Calhoun County and will provide recreational access to the river. The Trustees have determined that recreational use benefits to be provided by these enhancements will be at least equivalent to those provided at Angler’s Bend, had that site continued to exist. Moreover, the North Branch

Park site project has the potential to provide greater environmental justice benefits, as minority and low-income populations comprise a larger percentage of the population in the North Branch Park site vicinity compared to the Angler's Bend site⁵. Consistent with E.O. 12898, the U.S. EPA's EJSCREEN: Environmental Justice Screening and Mapping Tool (Version 2.0) (<https://www.epa.gov/ejscreen>) was used to identify low-income and minority populations at the Census Block scale. The North Branch Park site is located near two Census Blocks (260250026001 and 260250013001), with low-income populations of 59% and 53%, respectively. Minority groups represent 49% and 38% of the population in these blocks, respectively. The Angler's Bend site is located within Census Block 260250020004, which has a low-income population of 45% and a minority population of 28%. Population size is comparable across all three Census Blocks (approximately 2,000).

In addition to these benefits, the proposed recreational use and public access enhancements at the North Branch Park site will not have a significant effect on the physical, biological, socio-economic, or cultural environments. The State permitting processes, along with the requirements of local government for the work at the river's edge and in the floodplain, will ensure that any impacts from the construction would be avoided or minimized. Species listed under the federal Endangered Species Act that could be present at this location with the existing habitat and level of development are not likely to be adversely affected. The proposed action would require cutting down less than five trees and these will be cut in the winter when bats would not be present, or the absence of listed bats will be established through survey protocols approved by the USFWS. Best management practices recommended by the USFWS will be followed to avoid impacts to listed species of snakes. While the ground-disturbing work will primarily be conducted in previously disturbed areas, the Trustees will also provide the entities performing the work with a mandatory set of protocols (Discovery Plan) to ensure proper responses should any historical, cultural, or archeological artifacts or human remains be found during construction.

In summary, the enhancements to the North Branch Park site meet the Trustees' original restoration goals and objectives, and remain consistent with the original evaluation of recreational use alternatives based on the OPA NRDA evaluation criteria (15 CFR § 990.54) and additional factors considered by the Trustees, as described in Section 4.1 and 4.2 of the Final DARP/EA. As such, the Trustees hereby modify the Final 2015 DARP/EA to accept funding from Enbridge for construction of recreational use enhancement features at the North Branch Park site as a substitute for the Angler's Bend recreational access site.

Other Alternatives:

Pursuant to the OPA NRDA regulations (15 C.F.R. § 990.54), the Trustees considered several alternative locations to provide access to the Kalamazoo River in Calhoun County and also considered the "no action" alternative of not replacing the public access previously proposed at the Angler's Bend site. Not replacing the public access would have decreased the recreational use benefits provided for the public as a result of

⁵ Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations directs federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental impacts of federal projects on minority and low-income populations, and Tribal Nations. The U.S. Environmental Protection Agency (EPA) defines environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice efforts focus on improving the environment in communities, specifically minority and low-income communities, and addressing disproportionate adverse environmental impacts that may exist in those communities.

the NRDAR settlement with Enbridge. The Trustees rejected the no action alternative because it is not consistent with the Trustees' original restoration goals and objectives and fails to compensate the public for injuries to natural resources and services associated with the Enbridge oil discharges.

Several alternative locations were considered for replacing the Angler's Bend site. However, none of these alternatives offered the same level of recreational use and public access benefits provided by the North Branch Park site. The alternatives also would likely involve higher construction costs than those projected for the North Branch Park site improvements. Instead, the North Branch Park site would provide greater benefits to the public than at these other sites at a cost similar to Enbridge's responsibilities at Angler's Bend. This is because the property for the project is already owned by Calhoun County and the design for the recreational enhancements could take advantage of an existing unpaved access road and small, unpaved boat launch. For these reasons, the Trustees eliminated these alternatives from further consideration in favor of the proposed North Branch Park site.

Compliance with National Environmental Policy Act

The National Environmental Policy Act (NEPA) (42 U.S.C. §4321 et seq.) and Council on Environmental Quality (CEQ) regulations implementing NEPA (40 C.F.R. Parts 1500-1508) apply to restoration actions undertaken by federal trustees pursuant to OPA, except where a Categorical Exclusion or other exceptions to NEPA apply (15 C.F.R. § 990.23).

NEPA and its implementing regulations outline the responsibilities of federal agencies when preparing environmental documentation. In general, federal agencies contemplating implementation of a major federal action must produce an Environmental Impact Statement (EIS) if the action is expected to have significant impacts on the quality of the human environment. When it is uncertain whether the proposed action is likely to have significant impacts, federal agencies prepare an Environmental Assessment (EA) to evaluate the potential need for an Environmental Impact Statement (EIS). If the EA demonstrates that the proposed action will not significantly impact the quality of the human environment, the agencies issue a Finding of No Significant Impact (FONSI), which satisfies the requirements of NEPA, and no EIS would be required.

Alternatively, federal agencies may identify categories of actions which do not individually or cumulatively have a significant effect on the human environment (40 C.F.R. §1508.4) (e.g., actions with limited degree, geographic extent, and duration). Actions falling into those categories may result in the exercise of a Categorical Exclusion (CE) and are exempt from the requirement to prepare an EA or EIS.

DOI NEPA Compliance:

The DOI's decision to support the proposed substitution of the enhancements at the North Branch Park site qualifies as a categorical exclusion under the National Environmental Policy Act, as provided in the DOI Department Manual Part 516 Chapter 8 (516 DM 8.5). The actions undertaken to provide these benefits would be improvements at an existing public access site and would not have a significant effect on the physical, biological, socio-economic, or cultural environments. Relative to the overall purpose and needs of the Final DARP/EA, this substitution would provide similar benefits as the original site and would thus be consistent with the categorical exclusion at 516 DM 8.5.A(1). In addition, these improvements and replacements at the public access facility would also be consistent with the categorical exclusion at 516 DM 8.5.B(2).

NOAA NEPA Compliance:

NOAA does not have CEs specific to the activities associated with the enhancements at the North Branch Park site, and typically does not exercise CEs for implementation of NRDA restoration actions. As such, NOAA will satisfy its NEPA compliance requirements for the proposed action using an alternative approach.

For the proposed action in this Final Amendment, rather than preparing an EA, NOAA is satisfying its NEPA compliance obligations by applying the impacts analysis and conclusions drawn in another, previously published programmatic NEPA document—the NOAA Restoration Center Programmatic EIS (PEIS). After decades of experience evaluating and implementing environmental restoration projects, NOAA’s Restoration Center (RC) determined that many of its restoration efforts involve similar types of activities with similar environmental impacts. To increase efficiency in conducting future NEPA analyses for a large suite of habitat restoration actions, the RC developed the “[Programmatic Environmental Impact Statement for habitat restoration activities implemented throughout the coastal United States](#)” in 2015. After a public comment period, a Record of Decision was signed July 20, 2015. The RC PEIS is available at the following link: <https://www.fisheries.noaa.gov/resource/document/restoration-center-programmatic-environmental-impact-statement>.

For this Final Restoration Plan Amendment, NOAA has made the determination that the RC PEIS fully covers the scope of the proposed action and all environmental impacts. Further, there are no site-specific considerations, sensitivities, unique habitats, or resources associated with the affected environment of the proposed action that warrant a new NEPA analysis and decision document (e.g., FONSI)⁶. This determination is further described and documented in a NEPA “Inclusion Analysis” which has been appended to this Final Amendment. The direct, indirect, and cumulative impacts of the proposed action (and no action alternative⁷) on the physical, biological, socio-economic, and cultural environment are also summarized in the Inclusion Analysis (Section IV. Project Impact Analysis). Ultimately, the environmental analysis in the RC PEIS and related Inclusion Analysis concludes that the anticipated impacts would not be significant (consistent with the DOI findings discussed above) and NOAA proposes to adopt that conclusion and the analysis in this case.

Public Review and Comment

Public participation and review are an integral part of the restoration planning process and are specifically required in the NRDAR and NEPA regulations. The Draft Amendment was available for public review and comment for a period of 30 days, from the date of publication on January 5, 2023, until February 6, 2023. No comments were received during the public comment period.

⁶ The affected environment (40 C.F.R. 1502.15) of the proposed action remains consistent with that described in Section 2.0 of the Final DARP/EA, and that discussion is incorporated here by reference.

⁷ NEPA regulations (40 C.F.R. 1502.14(d)) require consideration of a “no action” alternative even if such an alternative would not meet the purpose and need for the action. In this case, “no action” means that the proposed activities would not take place.

Copies of this document and the Draft Amendment are available online at: DOI's NRDAR Case Document Library for the July 25-26, 2010, Enbridge Line 6B Oil Discharges near Marshall, MI (https://www.cerc.usgs.gov/orda_docs/CaseDetails?ID=1054).


Compliance with Other Authorities

The proposed action can be implemented in compliance with all applicable federal, state, and local laws, permits and approvals.

All federal and state laws, regulations and policies that may apply are fully described in Section 7.0 of the Final DARP/EA. Compliance with these authorities is considered part of the restoration planning process. The Trustees will ensure that all necessary permits have been obtained and that all relevant statutes, regulations, and policies will be complied with prior to project implementation.

APPENDIX: NEPA Inclusion Analysis

NOAA Restoration Center NEPA Inclusion Analysis

Award Number


I. IDENTIFYING PROJECT INFORMATION

Project Name Enbridge Pipeline Release NRDA - Final Amendment to Final DARP/EA		Project State MI
Project Proponent / Applicant Trustees for the Enbridge Pipeline Release NRDA		Project Contact Julie Simmons

II. OTHER FEDERAL PARTNERS AND LEVEL OF NEPA ANALYSIS

Has another Federal agency completed NEPA?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Is NOAA the lead federal agency for this NEPA analysis?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

III. PROJECT DESCRIPTION / SCOPE OF ACTIVITIES FOR ANALYSIS

Please check one of the following conditions:

I am analyzing impacts of project planning and design activities, in order to gather all required project information

I have all information needed to complete the final analysis of impacts for the entire project

Has a NEPA review been conducted for prior project activities?	<input checked="" type="checkbox"/> Yes	Date of NEPA completion for prior phase
	<input type="checkbox"/> No	Oct 20, 2015

Describe the full scope of the project, including historic/ geographic/ ecological context, the type of restoration, and how it will be conducted.

A Consent Decree was entered on December 3, 2015 that required Enbridge, the responsible party, to complete multiple projects and make a payment of \$3.9 million to the Trustees for planning, implementing, and monitoring of projects to restore, rehabilitate, replace or acquire natural resources equivalent to those injured from the pipeline oil discharge incident. In October 2015, the Trustees released a Final Damage Assessment and Restoration Plan/Environmental Assessment (DARP/EA) that set forth the preferred alternative to restore natural resources impacted by the oil discharges. Among other project types, the preferred alternative included 5 recreational use projects to compensate for those recreational opportunities lost or diminished as a consequence of the Enbridge oil discharges: Saylor's Landing, Ceresco Green, Calhoun County's Historic Bridge Park, Angler's Bend, and Paddler's Grove. These projects are described in further detail in the Final DARP/EA.

Describe the proposed action (i.e. the portion of the project that NOAA is funding/approving).

The Trustees, Enbridge, and Calhoun County have identified, and are proposing, an alternative recreational access site on the Kalamazoo River as a substitution for the Angler's Bend site because Angler's Bend is no longer safe or viable as a public recreational site. This proposal requires Enbridge to provide funding to construct recreational use enhancements at a river access site already owned by Calhoun County, referred to as North Branch Park, located along Custer Drive in Battle Creek, Calhoun County, Michigan. The funding provided by Enbridge would be sufficient to prepare and re-grade the site, provide a small concrete boat launch in place of the existing earthen one, provide on-site gravel parking and access areas, create a separate canoe and kayak sandy launch area, plant trees in excess of the number cut down, re-establish vegetation in disturbed areas, and add two picnic tables to the site. As a part of these enhancements, the current entrance from Custer Drive would be relocated to provide safer ingress and egress from the site from either traffic direction on Custer Drive. The North Branch Park project is further described and evaluated in the Final Amendment to the Final DARP/EA (Final Amendment).

Check the types of activities being conducted in this project:

Technical Assistance		
<input type="checkbox"/> Implementation and Effectiveness Monitoring	<input type="checkbox"/> Environmental Education Classes, Programs, Centers, Partnerships and Materials; Training Programs	<input type="checkbox"/> Fish and Wildlife Monitoring
<input type="checkbox"/> Planning, Feasibility Studies, Design Engineering, and Permitting		

Riverine and Coastal Habitat Restoration	
<input type="checkbox"/> Beach and Dune Restoration	
<input type="checkbox"/> Debris Removal	
<input type="checkbox"/> Dam and Culvert Removal & Replacement	
<input type="checkbox"/> Technical and Nature-like Fishways	

<input type="checkbox"/> Invasive Species Control	<input type="checkbox"/> Bank Restoration and Erosion Reduction	<input type="checkbox"/> Water Conservation and Stream Diversion
<input type="checkbox"/> Prescribed Burns/Forest Management	<input type="checkbox"/> Coral Reef Restoration	<input type="checkbox"/> Levee & Culvert Removal, Modification, Set-back
<input type="checkbox"/> Species Enhancement	<input type="checkbox"/> Shellfish Reef Restoration	<input type="checkbox"/> Fringing Marsh and Shoreline Stabilization
<input type="checkbox"/> Channel Restoration	<input type="checkbox"/> Artificial Reef Restoration	<input type="checkbox"/> Sediment Removal
	<input checked="" type="checkbox"/> Road Upgrading/Decommissioning; Trail Restoration	<input type="checkbox"/> Sediment/Materials Placement
	<input type="checkbox"/> Signage and Access Management	<input type="checkbox"/> Wetland Planting
	<input type="checkbox"/> SAV Restoration	
	<input type="checkbox"/> Marine Algae Restoration	
Conservation Transactions		
<input type="checkbox"/> Land Acquisition	<input type="checkbox"/> Water Transactions	<input type="checkbox"/> Restoration/Conservation Banking

IV. PROJECT IMPACT ANALYSIS

Core Questions

1. Are the activities to be carried out under this project fully described in Section 2.2 of the NOAA RC PEIS?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2. Are the specific impacts that are likely to result from this project fully described in Section 4.5.2 of the NOAA RC PEIS?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
3. Does the level of adverse impact for the project exceed that described in Table 11 of the NOAA RC PEIS for any resource, including significant adverse impact?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

4. Describe the project impacts to resources (including beneficial impacts) and any mitigating measures ~~also implemented~~.

1) North Branch Park (preferred alternative) - Proposed public access restoration and related activities are generally similar to those described in section 2.2.2.7 ("Road Upgrading and Decommissioning; Trail Restoration") of the RC PEIS. While this recreational use restoration type is not specifically described in the RC PEIS, the proposed activities and environmental impacts are anticipated to be comparable to certain project types and activities that fall within the "Road Upgrading and Decommissioning; Trail Restoration" alternative in the RC PEIS (e.g., preparing, grading or resurfacing the site; fixing damaged or creating new trails; re-vegetating or re-establishing vegetation in disturbed areas; replacing or repairing permanent walkways; stabilizing banks; and installing or upgrading drainage features). Project impacts from construction of the proposed public access and boat/kayak launch features are consistent with (or less adverse than) those described in section 4.5.2.7 ("Road Upgrading and Decommissioning; Trail Restoration") and Tables 28 and 29 of the RC PEIS, and the relevant impacts are summarized below. The proposed activities do not have impacts beyond those analyzed in the RC PEIS, including adverse effects that are significant, or meet any other criteria for exclusion from analysis (Table 10 of the RC PEIS).

Project activities would cause direct and indirect, short-term, minor adverse impacts, typically in riparian and upland affected environments, resulting from temporary construction activities in the project area. Aside from these construction impacts, however, most of the impacts resulting from these activities would be direct and indirect, beneficial impacts, as they will provide better public access to natural areas and are designed to control access to sensitive areas. In particular, recreation would benefit from improved public access to natural areas and other recreational opportunities both at the site and in the river. Beneficial impacts would also be both short- and long-term in duration, depending on whether the road, pathways, and paved areas are maintained (short-term) or upgraded, restored, or decommissioned (long-term).

Activities involving the upgrading of roads and other paved areas that travel through or adjacent to, or are located within watersheds that feed into, sensitive habitat areas would have direct and indirect, short-term, minor adverse impacts on geology and soils, water resources, air quality, living coastal and marine resources and EFH, threatened and endangered species, and land use. These impacts would result from temporary construction activities in the project area. Activities could also cause indirect, short-term, minor impacts on land use and recreation, resulting from construction activities (e.g., temporarily blocking areas with machinery).

Project activities would cause direct and indirect, long-term, minor beneficial impacts on geology and soils, water, living coastal and marine resources and EFH, threatened and endangered species, cultural and historic resources, land use and recreation, and socioeconomics. The beneficial impacts would result from reduced erosion potential and rates after projects were implemented and from both allowing and controlling public access to sensitive areas.

2. No Action - The Trustees also considered the "no action" alternative of not replacing the public access previously provided at the Angler's Bend site. Not replacing the access would decrease the recreational use benefits provided for the public as a result of the NRDA settlement with Enbridge. By definition, the no action alternative lacks physical interaction with the environment.

Core Questions (continued)

Accordingly, the no action alternative would cause no direct impacts to the affected environment. However, if the Trustees ~~undertook~~ no action, the public would not benefit from the recreational use created by active restoration. The Trustees' rejected the no action alternative because it is not consistent with the Trustees' original restoration goals and objectives and fails to fully compensate the public for injuries to natural resources and services (including recreational use) associated with the Enbridge oil discharges.

5. Describe any potential cumulative impacts that may result from past, present or reasonably foreseeable future actions (beneficial or adverse).

Cumulative project impacts would not be significant or occur at a regional scale, and are consistent with those described in the RC PEIS (Section 4.9, Cumulative Impacts). Because the proposed project is restoring public access, the Trustees expect that there will be long-term beneficial cumulative effects on recreational use in the project area under the proposed action (Preferred Alternative).

There may be long-term adverse impacts to recreational use resources of the project area were the no action alternative selected because project construction would not occur. However, relative to the magnitude of adverse ecological impacts that currently exist in the affected area, the adverse cumulative impacts of the no action alternative are not expected to be significant.

6. Describe the public outreach and/or opportunities for public comment that have taken place to this point. Are any future opportunities for public input anticipated?

The Draft Amendment, including the draft Inclusion Analysis, ~~was made~~ available to the public for review and comment. There were no comments received on the Draft Amendment and Inclusion Analysis, and as such, no substantive changes ~~have been made~~ to the Final Amendment. Since it has been determined that no substantive changes ~~are needed~~ to the Amendment or NEPA analysis, the Trustees will not prepare any further NEPA analysis or seek a Finding of No Significant Impact (FONS) for the proposed action, and the Amendment has been finalized.

7. Have any public comments raised issues of scientific/environmental controversy? Please describe.

To date, the Trustees have not received public comments raising issues of scientific/environmental controversy. No public comments ~~were received~~ on the Draft Amendment and Inclusion Analysis.

8. Describe the most common positive and negative public comments on issues other than scientific controversy described above in Question 7.

The proposed activities are similar to those that have been occurring throughout the Great Lakes region for many years, and ~~the~~ public has generally been supportive of spending restoration funding (including CERCLA and OPA NRDA settlement funds) on on-the-ground restoration projects, especially those associated with restoring natural resources and providing public access to those resources. No public comments ~~were received~~ on the Draft Amendment and the draft Inclusion Analysis. The Final Amendment ~~will also be made~~ available to the public.

V. NEPA DETERMINATION

The action is ~~completely covered~~ by the impact analysis within the NOAA RC Programmatic EIS (PEIS). The project and its potential impacts may be limited through terms or conditions placed on the recipient of NOAA funds. It requires no further environmental review. An EIS Inclusion Document will be prepared.

The action analyzed here has unknown impacts. At this time, funding will be limited to those portions of the action and impacts analyzed in the PEIS. These limitations will be described in terms or conditions placed on the recipient of NOAA funds. If all remaining activities and impacts ~~are later determined to be described~~ in the PEIS, this analysis will be documented in the program record and the applicant may then proceed with the project. If all remaining activities and impacts ~~are later determined to not be described~~ in the PEIS, further NEPA review will be required; see below.

The action or its impacts ~~are not covered~~ by the analysis within the PEIS. It will require preparation of an individual EA, a supplemental EIS, adoption of another agency's EA or EIS, or ~~will be covered~~ by a Categorical Exclusion.