

RESTORATION PLAN AND ENVIRONMENTAL ASSESSMENT

FORMER BLUE TEE SMELTER SITES, SOUTHEAST KANSAS



September 2010

Prepared for:

Kansas Natural Resource Trustee Council:

U.S. Department of the Interior, Fish and Wildlife Service; and

State of Kansas, Department of Health and Environment

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TABLE OF CONTENTS

1.	INTRODUCTION	2
2.	NATURAL RESOURCES	3
3.	RESTORATION ALTERNATIVES.....	3
3.1	ALTERNATIVE 1: NO ACTION	3
3.2	ALTERNATIVE 2: RESTORATION OF DEGRADED NATIVE PRAIRIE	3
3.3	ALTERNATIVE 3: PRESERVATION OF HIGH QUALITY NATIVE PRAIRIE	4
3.4	ALTERNATIVE 4: PRESERVATION OF AN IDENTIFIED NATIVE PRAIRIE REMNANT	4
4.	EVALUATION AND ENVIRONMENTAL CONSEQUENCES OF ALTERNATIVES	5
4.1	ALTERNATIVE 1: NO ACTION	6
4.2	ALTERNATIVE 2: RESTORATION OF DEGRADED NATIVE PRAIRIE	6
4.3	ALTERNATIVE 3: PRESERVATION OF HIGH QUALITY NATIVE PRAIRIE	7
4.4	ALTERNATIVE 4: PRESERVATION OF AN IDENTIFIED NATIVE PRAIRIE REMNANT	8
5.	SUMMARY OF ALTERNATIVES USING NEPA FRAMEWORK	9
6.	PREFERRED ALTERNATIVE	10
7.	NATIONAL ENVIRONMENTAL POLICY ACT	11
8.	REFERENCES	11

1. INTRODUCTION AND BACKGROUND

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, and the Department of the Interior's NRDAR regulations, 43 CFR Part 11, authorize federal, state and tribal natural resource trustees to recover damages for injury to natural resources caused by the release of hazardous substances. Specifically, CERCLA directs federal and state natural resource trustees to recover “damages for injuries to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss” resulting from the release of hazardous substances. CERCLA § 107(a)(4)(C). CERCLA further directs the trustees to use recovered damages “to restore, replace, or acquire the equivalent of” the injured natural resources for which damages were recovered. The U.S. Department of the Interior, U.S. Fish and Wildlife Service and the State of Kansas, Department of Health and the Environment (Trustees) are trustees for natural resources injured by the release of hazardous substances at three former smelter sites located in Dearing, Neodesha and Caney, Kansas (Smelter Sites). The purpose of this Draft Restoration Plan is to outline the Trustees' proposed restoration activities for restoring, replacing, or acquiring the equivalent of injured natural resources at the Smelter Sites with funds that may be obtained from Blue Tee Corporation (Blue Tee) pursuant to a consent decree. This Draft Restoration Plan also serves as an Environmental Assessment, as required under the National Environmental Policy Act (NEPA) of 1969.

The Trustees use the natural resource damage assessment and restoration (NRDAR) process to evaluate injuries associated with the release of hazardous substances, to compensate the public for lost services provided by those resources, and to select appropriate restoration for those natural resources. NRDAR complements CERCLA response actions by providing a means to restore injured natural resources to the condition they would have been in, but for the unpermitted hazardous substance releases that resulted in injury to those resources.

The Trustees have applied the NRDAR process to evaluate injury to natural resources at the Smelter Sites known as the Dearing Smelter in Dearing, Neodesha Smelter in Neodesha, and Owens Zinc Smelter in Caney. The Smelter Sites are located in Montgomery and Wilson counties, Kansas. The three former smelters operated at varying times as the American Lead Zinc and Smelting Company from 1907–1918 during their complete operational histories from 1903–1931.

Investigations at these sites have demonstrated that onsite soils contain arsenic, cadmium, and lead at levels exceeding soil standards. Kansas' risk-based standard for allowable concentrations of heavy metals in soil is Kansas is 400 mg/kg for lead and 39mg/kg for cadmium. Concentrations of soil lead and cadmium levels as high as 2,096 mg/kg and 480 mg/kg were recorded. The total area of pre-remedial contaminated soils at the three sites comprised approximately 31 acres.

2. NATURAL RESOURCES

The Trustees have concluded that smelter operations contaminated soil at these sites with heavy metals, especially cadmium and lead. These soils underlay what was native tallgrass prairie at the time smelting operations commenced at the three sites. Metals contamination caused injury, destruction, or loss of natural resources at the Smelter Sites. Specifically, metals contamination reduced vegetation quality and quantity, accumulated in the tissues of soil invertebrates, and reduced survival and magnified metals concentrations in migratory birds and other terrestrial organisms that consume contaminated invertebrates and plant materials. Accordingly, the Trustees have determined that the primary natural resource injuries at the Smelter Sites are the physical impairment and direct mortality of terrestrial organisms, including migratory birds, and the physical impairment of their terrestrial habitat.

3. RESTORATION ALTERNATIVES

The Trustees believe the release of hazardous substances from the former smelter operations injured natural resources at the Smelter Sites. In their uninjured state, these natural resources would provide an increased level of “services,” both to people and other natural resources. Services provided to the environment are called “ecological services.” For example, uninjured native tallgrass prairie can provide habitat services – *i.e.*, a place to live – for terrestrial organisms including threatened and endangered species. Native prairie also provides foraging opportunities, another kind of ecological service, for animals that eat soil invertebrates, plants and plant parts, and other terrestrial organisms. As discussed in greater detail below, the Trustees have identified four potential restoration alternatives to address injured natural resources at the Smelter Sites. Although the evaluation of these alternatives begins with the “no action” alternative, the order of alternatives is not intended to reflect the Trustees’ restoration preferences.

3.1 ALTERNATIVE 1: NO ACTION

Under this alternative, the Trustees would rely solely on natural recovery at the affected sites. Thus the Trustees would take no direct action to restore injured natural resources or compensate for interim loss of natural resource services besides any services gained through natural recovery at the affected sites.

3.2 ALTERNATIVE 2: RESTORATION OF DEGRADED NATIVE PRAIRIE

This alternative is aimed at improving the quality of existing, moderate- to low-quality native tallgrass prairie such that it becomes more fully like a high quality native prairie. Degradation can occur from over-grazing, proliferation of non-native plant species, and the lack of fire or mowing. Habitat improvement would be accomplished by restoring native prairie pastures that are degraded in terms of the quality of their vegetative communities.

Prairie quality can be determined using the floristic quality index, a measure developed by the Kansas Biological Survey (KBS) to evaluate the quality of vegetative communities in Kansas. The Trustees would purchase property to restore from willing landowners.

The Trustees have anticipated the specific restoration treatments needed, and thus costs. Undesirable trees and other invasive vegetation would be removed by any number of means including mechanical and chemical mechanisms. Management of restored degraded native prairie would seek to optimize the diversity of native prairie species primarily through a combination of prescribed burning and haying. Optimizing the quality of native prairie would in turn provide very favorable habitat for terrestrial organisms, including migratory birds.

3.3 ALTERNATIVE 3: PRESERVATION OF HIGH QUALITY NATIVE PRAIRIE

This alternative aims to preserve those remnants of native prairie that currently exist, usually as hay meadows, preferably in Montgomery or Wilson counties but also potentially other nearby counties in southeast Kansas. The Trustees have prioritized native prairie parcels with priority given to those prairies of the highest vegetative quality and thus the most biologically intact. This would be accomplished by direct purchase of property from willing landowners and placement of the property with an appropriate organization or agency for management. For this alternative, the first task would be to identify those areas of native prairie that remain and to evaluate the ecological health of each prairie. Prairie quality can be determined using the Floristic Quality Index developed by the KBS.

Similar to Alternative 2 the Trustees have anticipated the specific treatment needed, and thus costs. The Trustees foresee that few and most likely no undesirable trees or other invasive vegetation would be required to be removed by mechanical or chemical means. The Trustees expect that the only restoration action required might be an initial prescribed burn. Management of high quality native prairie would seek to maintain (and in the case of slightly lower quality native prairie) optimize the diversity of native prairie species primarily through a combination of prescribed burning and haying. Optimizing the quality of native prairie would in turn provide optimal habitat for terrestrial organisms including migratory birds.

3.4 ALTERNATIVE 4: PRESERVATION OF AN IDENTIFIED NATIVE PRAIRIE REMNANT

This alternative aims to preserve an 80-acre parcel in a 160-acre remnant native prairie hay meadow. The Trustees have identified this site and verified that it is a high quality native tallgrass prairie presently for sale by the property owner. Under the currently proposed approach, the Trustees would acquire an enforceable conservation easement on the property to ensure that it is preserved and title to the property would be conveyed to an appropriate conservation organization identified by the Trustees.

Staff with the KBS has confirmed the presence of Mead's milkweed, *Asclepias meadi*, on the property, which is listed as a threatened (DOI, 2008) species pursuant to the Endangered Species Act. KBS staff has also recognized the presence of the prairie mole cricket and crawfish frog. Both of these species are listed by the state (KDWP, 2009) as species in need of conservation.

Similar to Alternative 2 the Trustees have anticipated the specific treatment and costs necessary to preserve the property. The Trustees foresee that very few, and most likely no, undesirable trees or other invasive vegetation would need to be removed by mechanical or chemical means. Management of high quality native prairie would seek to maintain and, in the case of slightly lower quality native prairie, optimize the diversity of native prairie species primarily through a combination of prescribed burning and haying. However, the Trustees expect that an initial prescribed burn would likely be the only restoration action that may be required. Optimizing the quality of native prairie would in turn provide optimal habitat for terrestrial organisms, including migratory birds.

4. EVALUATION AND ENVIRONMENTAL CONSEQUENCES OF ALTERNATIVES

The Trustees have evaluated the restoration alternatives based on several factors set forth in the Department of the Interior's NRDAR regulations, 43 CFR §11.82(d). These factors are:

- (1) Technical feasibility, as that term is used in this part.
- (2) The relationship of the expected costs of the proposed actions to the expected benefits from the restoration, rehabilitation, replacement, and/or acquisition of equivalent resources.
- (3) Cost-effectiveness, as that term is used in this part.
- (4) The results of any actual or planned response actions.
- (5) Potential for additional injury resulting from the proposed actions, including long-term and indirect impacts, to the injured resources or other resources.
- (6) The natural recovery period determined in 11.73(a)(1) of this part.
- (7) Ability of the resources to recover with or without alternative actions.
- (8) Potential effects of the action on human health and safety.
- (9) Consistency with relevant Federal, State, and tribal policies.
- (10) Compliance with applicable Federal, State, and tribal laws.

Cost estimates are approximations based on information available at the time the Trustees estimated damages. Costs, such as real estate, are expected to vary over time and with the size and scope of the alternatives. As a result, today's prices might not reflect those at the time damages were estimated and will reflect the total scope of the compensatory restoration alternatives.

Government agencies are required to pay fair market value for lands purchased. Fair market value is measured through established appraisal procedures. The cost information

developed in this report is intended to be of sufficient detail and reliability for purposes of prioritizing restoration alternatives.

Many assessment components are based on the supposition that the Trustees will be doing the land purchasing and thus would need funds for the actual land purchase, the purchase process, and all other applicable components the Trustees dub primary and auxiliary costs. If a potentially responsible party carries out the land purchase and purchase process, then that significantly reduces costs. Additionally, please note that the Trustees will have incurred assessment costs, including preparing this RP and EA, as part of the natural resource damages assessment at the Smelter Sites. However, these costs are not considered as part of our evaluation of these alternative under the factors set forth above.

Below is an evaluation of alternatives including consideration of the previously listed factors.

4.1 ALTERNATIVE 1: NO ACTION

This alternative essentially represents natural recovery that would occur post remediation. Thus, recovery in theory would occur given enough time. The Trustees anticipate natural recovery to be extremely long in duration—on the order of time measured in centuries—and that it would take at least 100 years before even beginning to provide the public with ecological services similar to those lost as a consequence of the release. While the no action alternative is technically feasible, the delayed return of services does not make it desirable. This alternative would not require monetary dispensation as no costs would be incurred. This alternative would include response actions already completed and performed as necessary and thus eliminating the possibility for additional injury or potential effects to human health and safety. The no action alternative would not replace the equivalent of resources injured within a reasonable timeframe, nor would it compensate the public for the resources lost. Thus, it would not be consistent with Federal and State policies. However it would not be in violation of any Federal and State laws.

4.2 ALTERNATIVE 2: RESTORATION OF DEGRADED NATIVE PRAIRIE

Restoring degraded prairie habitat would gradually compensate for interim loss of the affected resources. The Trustees anticipate that given enough time (estimated to be 30 years) the degraded prairie would recover to a high quality prairie but not to a 100 percent service level. Over time this would make available the habitat services required for recovery to compensate the public for past and interim losses to natural resources. Although the alternative is technically feasible it is less desirable than other alternatives because it could potentially require a great deal of restoration effort and therefore cost. Because the property would not be a contaminated property there would not be any response actions involved with this alternative.

Native prairies provide a tremendous variety of ecological services and are of particular importance to the Trustees. These areas are of value not only because they support native plants, including rare species, but also because of their exceptionally high floral variety. Prairie soils also support many species of insects and fungi, which live in the ground in close association with prairie plants. Restored degraded prairie would provide habitat for many species including migratory birds. Restoration of degraded prairie would not be inconsistent with any Federal, State or Tribal policies or laws or have any foreseeable adverse effects on human health or safety.

Appraisal of this alternative assumes restoration activities will be required on portions of the acquired prairie, and accordingly the cost estimate includes restoration cost per acre. Cost estimates are grouped into two categories the Trustees call principal and auxiliary costs. The estimated principal costs for this option include funds for: (a) purchasing land, (b) restoration, (c) long-term operation and maintenance, (d) the land acquisition process, and (e) fencing; and the estimated auxiliary costs include funds for: (f) NRD documents (management plan, restoration plan, and environmental assessment, monitoring plan and reports), (g) floristic quality baseline assessment, and (h) Trustee oversight.

The projected per acre cost for a parcel consisting of degraded native prairie is \$2,000 per acre. Restoration costs are \$710 per acre, and long-term operation and maintenance \$3,600 per year. The land acquisition process is a lump sum of \$10,000. Fencing is \$1.80 per foot.

NRD document preparation is \$10,000. The floristic quality baseline assessment is \$8,000 per parcel based on a 40-acre parcel size. Trustee oversight and administration of the restoration is \$30,000.

Cost components can vary over time and scope of the proposal. Given that, the overall total is \$16,815 per acre for this alternative based on 32 acres required for compensatory restoration by restoring degraded native prairie.

4.3 ALTERNATIVE 3: PRESERVATION OF HIGH QUALITY NATIVE PRAIRIE

Native prairies provide a tremendous variety of ecological services and are of particular importance to the Trustees. These areas are of value not only because they support native plants, including rare species, but also because of their exceptionally high floral variety. Prairie soils also support many species of insects and fungi, which live in the ground in close association with prairie plants. Native prairies are one of the most endangered ecosystems in the world. The benefits of purchasing land for purposes of preservation include the preservation of existing remnants of this type of ecosystem, including native flora, fauna, and the unique and valuable soil structure of the ecosystem. Such areas will also continue to provide habitat for non-resident species such as migratory birds. The preservation of this habitat type, which the Trustees regard as being in imminent danger of degradation or destruction, will help compensate for past and ongoing habitat services lost as a consequence of smelting-related injury. Although the alternative is technically feasible it

would require the cooperation of a willing landowner to sell the property. Because the property purchased would not be contaminated there would not be any response actions involved with this alternative. This alternative focuses on high quality prairie, and thus very little or no recovery can occur. With proper operation and maintenance the high quality aspect of the property will be maintained and could improve to a degree. Preservation of a high quality native prairie would not be inconsistent with any Federal, State or Tribal policies or laws or have any foreseeable adverse effects on human health or safety.

Valuing this alternative assumes limited restoration activities might be required on the acquired prairie and hence the cost estimate includes a lower restoration cost per acre. Cost assessments are grouped into two categories the Trustees call principal and auxiliary costs. The estimated principal costs for this option include funds for: (a) purchasing land, (b) restoration, (c) long-term operation and maintenance, (d) the land acquisition process, and (e) fencing; and the estimated auxiliary costs include funds for: (f) NRD documents (management plan, restoration plan, and environmental assessment, monitoring plan and reports), (g) floristic quality baseline assessment, and (h) Trustee oversight.

The projected per acre cost for a parcel consisting of native prairie is \$2,000 per acre. Restoration costs are \$10 per acre, and long-term operation and maintenance is \$3,600 per year. The land acquisition process is \$10,000. Fencing is \$1.80 per foot.

NRD document preparation is \$10,000. The floristic quality baseline assessment is \$8,000 per parcel based on a 40-acre parcel size. Trustee oversight and administration of the restoration is \$30,000.

Cost components can vary over time and scope of the proposal. Given that, the overall total is \$13,437 per acre for this alternative based on 32 acres required for compensatory restoration by preserving native prairie.

4.4 ALTERNATIVE 4: PRESERVATION OF AN IDENTIFIED NATIVE PRAIRIE REMNANT

The benefits of this alternative are virtually identical to Alternative 3. Native prairies provide a tremendous variety of ecological services and are of particular importance to the Trustees. These areas are of value not only because they support native plants, including rare species, but also because of their exceptionally high floral variety. Prairie soils also support many species of insects and fungi, which live in the ground in close association with prairie plants. Native prairies are one of the most endangered ecosystems in the world. The benefits of the Trustees obtaining a conservation easement and an appropriate conservation organization taking title to the land include the preservation of existing remnants of this type of ecosystem, including native flora, fauna, and the unique and valuable soil structure of the ecosystem. Such areas will also continue to provide habitat for non-resident species such as migratory birds. Additionally, implementing this alternative would protect listed species including the federally threatened Mead's milkweed.

What makes this alternative the most technically feasible is that a willing landowner has been already identified. This alternative focuses on high quality native prairie, and thus very little or no recovery can occur. With proper operation and maintenance the high quality aspect of the property will be maintained and could improve to a degree. Because the property purchased would not be contaminated there would not be any response actions involved with this alternative. Preservation of an identified native prairie remnant would not be inconsistent with any Federal, State or Tribal policies or laws or have any foreseeable adverse effects on human health or safety.

Valuing this alternative assumes no restoration activities will be required on the acquired prairie. Furthermore costs for land acquisition, land purchase, and environmental audits would not be directly incurred by the Trustees because these costs would be funded by a responsible party pursuant to a judicial order. As previously stated, cost assessments are grouped into two categories the Trustees call principal and auxiliary costs. The estimated principal costs for this option include funds for: (a) long-term operation and maintenance, (b) fencing; and the estimated auxiliary costs include funds for: (c) NRD documents (management plan, restoration plan, and environmental assessment, monitoring plan and reports), (d) floristic quality baseline assessment, and (e) Trustee oversight.

The projected cost for long-term operation and maintenance is \$1,780 per year. Fencing is \$1.80 per foot.

NRD document preparation is \$10,000. The floristic quality baseline assessment is \$8,000 per parcel based on a 40-acre parcel size. Trustee oversight and administration of the claim is \$15,000.

Cost components can vary over time and scope of the proposal. Given that, the overall total is \$3,100 per acre for this alternative based on the conveyance of the property to an appropriate conservation organization identified by the Trustees and the Trustees acquisition of an enforceable conservation easement on the property.

5. SUMMARY OF ALTERNATIVES USING NEPA FRAMEWORK

NEPA guidance conceptualizes the evaluation of alternatives in terms of the potential to affect biological, physical, social, cultural, and economic conditions. Many of these effects were discussed in previous sections, and Table 1 summarizes the results using the NEPA framework. Cumulative impacts of the restoration alternatives were considered in Section 4 and are considered to be negligible.

Table 1. Restoration alternatives: human use and ecological risks.

NAME	DESCRIPTION	HUMAN USE EFFECTS (SOCIAL, ECONOMIC, RECREATIONAL, AND CULTURAL)	ECOLOGICAL EFFECTS (PHYSICAL AND BIOLOGICAL RESOURCES)
Alternative 1	No action	<ul style="list-style-type: none">• No significant changes anticipated.	<ul style="list-style-type: none">• No significant improvement in environmental conditions anticipated.
Alternative 2	Restoration of degraded native prairie	<ul style="list-style-type: none">• Willing landowners will receive compensation in exchange for the sale of property.	<ul style="list-style-type: none">• Ecological services (habitat provision) will be compensated but at a slower rate than Alternative 3 or 4.• No effects to physical resources are anticipated.
Alternative 3	Preservation of high quality native prairie in southeast Kansas	<ul style="list-style-type: none">• Willing landowners will receive compensation in exchange for the sale of property.	<ul style="list-style-type: none">• Ecological services (habitat provision) will be immediately compensated.• No effects to physical resources are anticipated.
Alternative 4	Preservation of an identified high quality native prairie remnant tract	<ul style="list-style-type: none">• Willing landowners will receive compensation in exchange for the sale of property or easements.	<ul style="list-style-type: none">• Ecological services (habitat provision) will be compensated.• Federally and state-listed species will be protected.• No effects to physical resources are anticipated.

6. PREFERRED ALTERNATIVE

As noted above, the Trustees have considered a variety of factors to identify and evaluate restoration alternatives. In general, preferable alternatives are those that provide ecological services similar to those lost, are technically feasible with a high probability of success, are cost-effective, are unlikely to cause collateral injury to natural resources, pose little if any risk to public health, and comply with applicable laws and policies.

The Trustees' preferred alternative is Alternative 4, which is the preservation of an identified high quality native prairie remnant tract. The Trustees preferred alternative is based on the consideration of the factors set forth at 43 CFR §11.82(d) and the fact that the identified native prairie tract is currently for sale and therefore available to the Trustees as a feasible and desirable restoration alternative that poses little uncertainty.

Alternative 4 is the most economically feasible of the alternatives. This alternative would net 48 additional acres for compensatory restoration at a substantially lower total per acre cost. Moreover, implementing this alternative would protect extant populations of federally and state-listed species. This includes Mead's milkweed which is listed as a federally threatened species and the prairie mole cricket and crawfish frog both of which are designated by the state as species in need of conservation.

The Trustees anticipate implementing this alternative would immediately replace lost natural resource services. This alternative should not result in any significant collateral injury to the environment, poses no risk to the public health, and can be accomplished in a manner that is consistent with all laws and policies.

In addition to the considerations discussed above, because of the exceptional natural resource value of this property, the diverse plant community and the presence of a Federally threatened species, the Trustees consider this a preferable site to preserve as a restoration activity.

7. NATIONAL ENVIRONMENTAL POLICY ACT

This restoration plan and environmental assessment has been prepared in accordance with NEPA at 42 U.S.C. §§4371 *et seq.* as amended, its implementing regulations at 40 CFR §§1500 *et seq.*

Public participation is required by NEPA at 40 CFR §1506.6 and is a very important part of restoration plan development pursuant to the DOI NRDAR regulations, 43 CFR §11.81. A copy of the draft document will be available for public review and comment at the following website: http://www.fws.gov/mountain-prairie/NRDA/EastKS_Smelter/Estrn_KSSmltr-KS.htm and the U.S. Fish and Wildlife Service's Ecological Services office in Manhattan.

The Trustees will review and consider all comments, and if necessary take appropriate actions, regarding the draft RP and EA. The Trustees plan to issue a finding of no significant impact with the final version of this document.

Comments should be e-mailed to: fw6-ks-smelter-restoration@fws.gov ; they can be mailed to: USFWS, Ecological Services, 2609 Anderson Avenue, Manhattan, KS, 66502-2801, ATTN: Smelter Restoration. When available, further information about this RP and EA and a final document will be posted to the following website: http://www.fws.gov/mountain-prairie/NRDA/EastKS_Smelter/Estrn_KSSmltr-KS.htm

8. REFERENCES

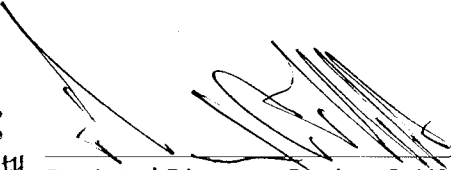
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Department of the Interior, Authorized Official Concurrence
with the Restoration Plan Environmental Assessment for the
Former Blue Tee Smelter Sites in Southeast, Kansas

Approve X Disapprove _____

Acting
Deputy



Regional Director, Region 6, US Fish and Wildlife Service
DOI Authorized Official

9/23/10
Date

Finding of No Significant Impact (FONSI)

Restoration Plan and Environmental Assessment for the former Blue Tee Smelter Sites, Southeast Kansas

September 2, 2010

The U.S. Fish and Wildlife Service (Service), representing the U.S. Department of Interior (DOI), is proposing to implement a Restoration Plan/Environmental Assessment (RP/EA). The RP/EA presents preferred alternatives that compensate for impacts to natural resources caused by the release of hazardous substances from three former smelting sites located in Dearing, Neodesha and Caney, Kansas. The Service initiated a Natural Resource Damage Assessment (NRDA) to assess damages under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), [33 U.S.C. 1321], and the Clean Water Act, [33 U.S.C. 1321], for natural resource injuries resulting from exposure to hazardous substances, particularly cadmium and lead.

The DOI, acting as a natural resource Co-Trustee with the State of Kansas, reached a natural resource damage settlement with Blue Tee Corporation (Blue Tee), for natural resource injuries associated with the discharge of hazardous substances at three former smelting sites in Dearing, Neodesha and Caney, Kansas. The discharge of hazardous substances injured Service trust resources (migratory birds). The recovered natural resource damages compensate for the injuries to trust resources at the former three smelting sites. Compensation will include rehabilitating, replacing, and acquiring equivalent natural resources in southeast Kansas counties, depending on the availability and participation of willing landowners.

Under CERCLA, damages recovered from parties responsible for natural resource injuries are used "to restore, rehabilitate, replace, and/or acquire the equivalent of the injured resources" [42 U.S.C. § 9607 (f) (1)]. Any funds used by Federal Trustees to implement restoration activities are subject to the requirements of the National Environmental Policy Act (NEPA) [42 U.S.C. § 4321]. Accordingly, the Trustees developed the RP/EA to identify restoration alternatives that partially address the resources injured and ecosystem services lost due to the release of smelting related hazardous substances, and to analyze the effects of those alternatives on the human environment.

The RP/EA lists and describes four restoration alternatives. The preferred alternative consists of preservation of an identified high quality tallgrass prairie tract. This alternative will preserve an 80-acre parcel in a 160-acre remnant native prairie hay meadow. The Trustees have verified that it is high quality native tallgrass prairie. The property owner is agreeable to an enforceable conservation easement on the property to ensure that its natural resource values are preserved. These actions will compensate

for injuries to natural resources, including migratory birds and migratory bird habitat, and are outlined and described in full in the RP/EA.

No comments were received during the 30 day public review period. As documented in the Evaluation of Alternatives, the preferred alternative will have either no or inconsequential adverse affects on social, economic, recreational, and cultural resources. The preferred alternative is expected to be beneficial for trust resources such as migratory birds.

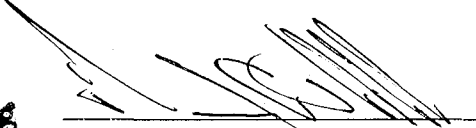
A press release was issued announcing a public comment period from July 7, 2010 through August 6th, 2010. Copies of the RP/EA were available for review at the U.S. Fish and Wildlife Service, Kansas Ecological Services Field Office, the City of Garnett, KS Public Library and at the following web site:

http://www.fws.gov/mountain-prairie/NRDA/EastKS_Smelter/Estrn_KSSmltr-KS.htm

Interested members of the public were invited to review and comment on the RP/EA. The 30 day public comment period closed August 6th, 2010. No public comments were received by the conclusion of the 30-day public comment period.

Based on my review and evaluation of the RP/EA, I have determined that the implementation of the Anderson County Restoration Plan is not a major federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, preparation of an environmental impact statement is not required.

Acting
Deputy


Regional Director
DOI Authorized Official
Region 6, US Fish and Wildlife Service

Date

9/3/10