

# NATURAL RESOURCE DAMAGE ASSESSMENT

## FINAL RESTORATION PLAN and ENVIRONMENTAL ASSESSMENT

SOUTHERN LAKES TRAP & SKEET CLUB SITE  
LAKE GENEVA  
WALWORTH COUNTY, WISCONSIN

January 22, 2010

*Department of the Interior  
U.S. Fish and Wildlife Service  
Midwest Region*

### **Introduction**

This Final Restoration Plan and Environmental Assessment is proposed by the U.S. Fish and Wildlife Service (Service) to guide the implementation of a restoration project(s) to compensate for natural resources lost and injured at the Southern Lakes Trap & Skeet Club Site (the "Site"), in Walworth County, Wisconsin. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or "Superfund"; 42 U.S.C §§ 9601, *et seq.*) identifies trustees for natural resources and authorizes them to assess and recover damages for injury to natural resources resulting from releases of hazardous substances. Damages are to be used for the restoration, replacement, or acquisition of equivalent natural resources. The Service is acting on behalf of the U.S. Department of the Interior (Department) as a natural resource trustee at the Site under the authority of the CERCLA and Executive Order 12580. Notices for a 30-day public review of the Draft Restoration Plan and Environmental Assessment were published in *The Wisconsin State Journal* and *Lake Geneva Regional News* on April 2, 2009. No comments or responses were received.

### **Background and Natural Resource Injuries at the Southern Lakes Trap & Skeet Club Site**

The Southern Lakes Trap & Skeet Club at the Grand Geneva Resort and Spa was located near Lake Geneva, Wisconsin. The Site included a trap and skeet shooting range; shooting stations were located such that spent shot was deposited in and around a 36-acre wetland on the Site.

In January 1992, the Service investigated the death of Canada geese near the Site, and subsequently concluded the geese died from lead poisoning resulting from the consumption of lead shot released at the Site. The wetland at the Site provides feeding

habitat for geese and other migratory birds. The Service completed a Preassessment Screen and Determination pursuant to federal regulations (43 CFR 11, Part 23) for the Site on January 22, 1993, noting that hazardous substances were released at the Site in sufficient quantities to cause injuries to natural resources, and that migratory bird and supporting habitat (trust resources) had in fact been exposed and injured. Because Site response actions had not yet begun at that time to remediate the hazardous substances, the Service determined to proceed with a natural resource damage assessment to restore trust resources lost and injured at the Site. The Service notified the U.S. Environmental Protection Agency (EPA) of its intent to do so on January 27, 1992. The Service also transmitted Notices of Intent to Perform an Assessment to Potentially Responsible Parties (PRPs) at the Site on February 18, 1993 and July 15, 1993. The Wisconsin Department of Natural Resources declined to participate in the assessment with the Service as a co-trustee.

The Department and the Service worked together with the EPA in negotiations with the PRPs to address remediation at the Site, as well as the restoration of natural resources, in response to releases of hazardous substances. EPA informed the PRPs at the Site of potential liabilities pursuant to Section 104 of CERCLA on January 8, 1993, and September 11, 1996. EPA issued an Administrative Order on Consent (AOC) in July 1994, under which the PRPs agreed to perform a two-phase site assessment to investigate polynuclear aromatic hydrocarbons, elemental lead, and lead contamination of soils, surface waters and sediments; and, to develop clean up criteria for the Site. Pursuant to the AOC, the PRPs conducted an extensive site assessment in August and September 1994, and submitted a Phase I Site Report detailing extensive lead shot distribution throughout the Site. The PRPs also submitted a Draft Phase II Removal Plan to EPA in August 1995. EPA rejected the Draft Phase II Removal Plan, and instead issued an Action Memorandum to the PRPs on September 5, 1996 to implement removal activity sufficient to mitigate the "imminent and substantial threat to public health and the environment posed by the presence of hazardous substances" in the form of lead shot at the Site.

EPA coordinated with the Service to design and conduct removal activities at the Site from October 1996 through July 1997. Remedial actions included excavation and disposal of lead-contaminated sediments and soils in wetland and surrounding upland habitat areas, respectively; as well as, seeding and planting of native prairie and wetland species to restore habitat. On January 22, 1998, EPA issued its finding that no further response activities were planned at the Site. The Service determined these response actions were sufficient to restore migratory bird habitat on-site to the extent possible; however, the Service also noted additional restoration, replacement, or acquisition of equivalent natural resources off-site was necessary to compensate for the interim loss of this habitat and for direct injuries to migratory birds.

Following final settlement negotiations between all parties, a Consent Decree was entered with the U.S. District Court for the Eastern District of Wisconsin on November 25, 1998 (U.S. v. Lake Geneva Associates et al.; Civ. No. 98-C-0972) resolving all remediation and restoration issues at the Site. Under terms of the Consent Decree, EPA's response

costs were reimbursed, and \$75,000 was paid to the Department for natural resource damages noted above due to shooting activities at the Site, as well as for the costs of assessing those damages.

Settlement funds recovered for natural resource damages were deposited into the Department's Natural Resource Damage Assessment and Restoration Fund. With accrued interest, \$101,875 is now available for the restoration, replacement, or acquisition of equivalent natural resources lost and injured due to the releases of hazardous substances at the Site. The Service proposes to utilize these funds to restore natural resources as described below.

## **Proposed Restoration**

### Restoration Plan Framework

The Service proposes to use the *Wisconsin Whooping Crane Management Plan* (December 6, 2006, Wisconsin Department of Natural Resources PUBL-ER-650 06) as the framework to develop specific actions to restore, replace, and/or acquire the equivalent of natural resources lost and injured at the Southern Lakes Trap & Skeet Club Site. The *Wisconsin Whooping Crane Management Plan* is a regional conservation plan which establishes habitat and species restoration goals for the whooping crane (*Grus americana*), and identifies an associated implementation strategy.

The Service considered four principle factors in the decision to use the institutional infrastructure of the *Wisconsin Whooping Crane Management Plan*:

- 1) Remediation of migratory bird wetland habitat at the Site provided on-site habitat restoration to the extent possible. Off-site projects must now be located to complete the restoration specified in the natural resource damage assessment settlement for the Site;
- 2) The amount of the settlement for natural resource damages is relatively small; therefore, it is necessary to minimize transaction costs to efficiently complete the restoration;
- 3) Service policy in the Midwest Region requires using existing arrangements for resource management and conservation to the extent possible; and
- 4) A key component of the Natural Resource Damage Assessment & Restoration (NRDAR) Program in the Service's Midwest Region is to integrate the program as a tool to achieve the broader mission of the Service. Habitat restoration enabled by the NRDAR process, but conducted through other existing institutional conservation arrangements, results in the greatest contribution to Service resource management goals. This strategy is consistent with the Service's cross-program approach to fish and wildlife management wherein conservation projects are implemented by teams representing multiple Service programs.

The *Wisconsin Whooping Crane Management Plan* was developed to guide the reintroduction of a migratory flock of whooping cranes to Eastern North America. The whooping crane is classified as “nonessential experimental population” in Wisconsin (and other states); and is a federally-listed endangered species in other parts of its range within the states of Colorado, Kansas, Montana, North Dakota, Oklahoma, South Dakota, and Texas. Within the *Wisconsin Whooping Crane Management Plan* “management strategies and protocol recommendations have been developed to maintain a high level of protection and ensure future success of whooping cranes in Wisconsin”.

The *Wisconsin Whooping Crane Management Plan* was developed by a diverse stakeholder group of public and private organizations participating in the Whooping Crane Eastern Partnership (Partnership). The Partnership is an international coalition working to establish a discrete, self-sustaining migratory population of whooping cranes that will augment two existing populations: (1) the only naturally occurring population that migrates between northern Canada and southern United States in the west; and, (2) the non-migratory flock reintroduced into central Florida beginning in 1993. Founding members of the Partnership include the International Crane Foundation, Operation Migration Inc., Wisconsin Department of Natural Resources, the Service, the U.S. Geological Survey’s Patuxent Wildlife Research Center and National Wildlife Health Center, the National Fish and Wildlife Foundation, the Natural Resources Foundation of Wisconsin, and the International Whooping Crane Recovery Team. The *Wisconsin Whooping Crane Management Plan* was approved by the Wisconsin Natural Resources Board following a public review and comment process.

Because whooping crane habitat requirements in Wisconsin for breeding, foraging, and migration are similar to the migratory bird habitat impacted at the Southern Lakes Trap & Skeet Club Site, the Service believes the *Wisconsin Whooping Crane Management Plan* provides an efficient means to achieve the restoration goals for the Site, while at the same time, facilitates the conservation and recovery of a migratory bird endangered species.

#### Restoration Project(s)

Whooping cranes utilize wetlands for nesting, chick hatching and rearing, and feeding. The *Wisconsin Whooping Crane Management Plan* notes that “any wetland with minimal human disturbance, even small isolated wetlands, bears potential use by whooping cranes.” The reintroduced whooping cranes use suitable wetland habitat across Wisconsin, but are currently concentrated in and around their release location at the Necedah National Wildlife Refuge (NWR), near Necedah, in Juneau County, Wisconsin. The Necedah NWR is situated within a network of public and private lands, including the adjacent Meadow Valley Wildlife Area and Sandhill Wildlife Area managed by the Wisconsin Department of Natural Resources. These largely formerly agricultural lands currently support some whooping crane foraging, roosting, and nesting requirements; additional wetland habitat restoration and enhancement is necessary to further advance whooping crane recovery. Therefore, the Service proposes to use restoration funding from the Southern Lakes Trap & Skeet Club Site (see below) for sedge meadow habitat

restoration activities specifically targeting whooping crane habitat at NWR and adjacent Meadow Valley Wildlife Area.

A habitat suitability analysis conducted by NWR Biologists in 2009 identified approximately 10,400 acres of potential whooping crane habitat within the Necedah National Wildlife Refuge (NWR). To date, all whooping crane nests (n=35) have been built on just 300 acres of that habitat. All of the nest locations have three factors in common: 1) all were sedge meadows, 2) a large distance from the nest to forest cover (openness), and 3) habitat contained restored or intact hydrology.

Based on this information, the NWR identified four focus areas totaling 320 acres for sedge meadow restoration. Each area was surveyed and their designs were approved by the Army Corps of Engineers. Restoration activities will consist of a variety of techniques including removing timber to create open habitat and plugging ditches to restore hydrology using sheet pilings, earthen plugs, roads, or dikes. Timber sales are in progress and will be completed by March 2010. Ditch plugging activities will commence during the 2010 field season and wrap-up during the 2011 field season. Planning and preparations are also underway for similar wetland restoration projects within Meadow Valley Wildlife Area.

#### Restoration Project(s) Schedule and Budget

Restoration funds designated for the Southern Lakes Trap & Skeet Club Site in the Department's Natural Resource Damage Assessment and Restoration Fund will be transferred to the Service to begin project implementation during the spring of 2010. With accrued interest, the current balance of the restoration funding account for the Site is \$101,875. The Necedah National Wildlife Refuge intends to use \$50,900 of those funds to implement restoration projects during FY 2010-2011. Project funds will be used to purchase materials and supplies such as sheet pilings, for construction costs such as heavy equipment contractors and fuel, and for staff time to operate heavy equipment. The remaining funds will be used for similar wetland restoration work within Meadow Valley Wildlife Area during FY 2011-2012.

#### Restoration Project Final Report

At the completion of the restoration project activities, a final report documenting accomplishments will be prepared. The report will describe actions taken as part of the *Wisconsin Whooping Crane Management Plan* to restore, enhance, and/or acquire the equivalent of natural resources lost or injured at the Southern Lakes Trap & Skeet Club Site. Photographs and maps documenting habitat enhancement and restoration will be included in the report as well as cost information for restoration activities completed in fulfilling this restoration plan.

## Restoration Project(s) Administration and Coordination

The Service's Green Bay Ecological Services Field Office (GBFO) is responsible for overall administration, coordination, and support of the restoration project(s). The GBFO will work with the Whooping Crane Eastern Partnership to ensure that the project(s) is developed and implemented to restore trust resource (migratory bird) habitat in supporting the resource goals identified in the *Wisconsin Whooping Crane Management Plan*. The GBFO will administer project funds according to a budget developed for each specific restoration project action. Completed restoration project(s) expenditures will be documented in a final report (referenced above) prepared by the GBFO. Fiscal accountability will be maintained following the "Superfund Financial Management and Recordkeeping Guidance for Federal Agencies" (EPA publication EPA 220 M-89 00).

### **Environmental Assessment**

With respect to additional environmental review requirements under the National Environmental Policy Act of 1969 (NEPA), the Service has determined that the restoration, acquisition, and/or replacement of equivalent natural resource values following a natural resource damage assessment restoration plan meets the criteria for a Categorical Exclusion (516 DM 2, Appendix 1 and 516 DM 8). Further, actions contemplated in the *Wisconsin Whooping Crane Management Plan* are consistent with the Service's Final Rule establishing a nonessential experimental population of whooping cranes in the eastern United States that migrate from Wisconsin to Florida. That Final Rule was published in the Federal Register on June 26, 2001, following a public review and comment period. The Service conducted an Environmental Assessment on the actions identified in the Final Rule, and a Finding of No Significant Impact was determined.

Therefore, the Service determines that proposed actions following this Final Restoration Plan and Environmental Assessment for the Southern Lakes Trap & Skeet Club Site are Categorical Exclusions under NEPA. An Environmental Action Statement documenting this determination is attached.

### **Restoration Project Contact:**

Louise Clemency  
Field Supervisor  
Wisconsin Ecological Services Field Office  
U.S. Fish and Wildlife Service  
2661 Scott Tower Drive  
New Franken, Wisconsin 54229-9565

Email: Louise\_Clemency@fws.gov  
Tel: 920-866-1725  
Fax: 920-866-1710

Attachments

Environmental Action Statement

Public Notices

**U.S. FISH AND WILDLIFE SERVICE  
DEPARTMENT OF THE INTERIOR  
NOTICE OF AVAILABILITY**

**NATURAL RESOURCE DAMAGE ASSESSMENT  
DRAFT RESTORATION PLAN AND ENVIRONMENTAL ASSESSMENT,  
SOUTHERN LAKES TRAP & SKEET CLUB SITE,  
LAKE GENEVA,  
WALWORTH COUNTY, WISCONSIN,  
<DATE>**

Notice is hereby given that the document titled *Natural Resource Damage Assessment Draft Restoration Plan and Environmental Assessment, Southern Lakes Trap & Skeet Club Site, Lake Geneva, Walworth County, Wisconsin, <date>* ("Draft Restoration Plan and Environmental Assessment") is available for public review and comment. The U.S. Fish and Wildlife Service ("Service") of the Department of the Interior is a trustee for natural resources at the former Southern Lakes Trap & Skeet Club Site ("Site"), pursuant to subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR 300.600 and 300.610, and Executive Order 12580.

The Service followed the guidance of the Natural Resource Damage Assessment ("NRDA") regulations found at 43 CFR part 11 to assess damages for injuries to, and loss of, natural resources at the Site. The Draft Restoration Plan and Environmental Assessment describes how the Service proposes to use funds collected from the settlement of natural resource damages to restore, replace, or acquire the equivalent of natural resources lost and injured at the Site.

Interested members of the public are invited to review and comment on the Draft Restoration Plan and Environmental Assessment. Copies of the Draft Restoration Plan and Environmental Assessment can be requested from the contact listed below. Written comments on the Draft Restoration Plan and Environmental Assessment must be submitted to the same contact within 30 days of the date of this Notice. All written comments will be considered by the Service in preparing a Final Restoration Plan and Environmental Assessment for the Site.

**CONTACT:** Requests for copies of the Draft Restoration Plan and Environmental Assessment may be made to:

Louise Clemency, Field Supervisor  
Wisconsin Ecological Services Office  
U.S. Fish and Wildlife Service  
2661 Scott Tower Drive  
New Franken, Wisconsin 54229-9565  
Telephone: 920-866-1725  
Fax: 920-866-1710



Comments on the Draft Restoration Plan and Environmental Assessment should be sent to the same contact.

The Draft Restoration Plan and Environmental Assessment is also available on the Service website at: < [website link](#) >

The public may also send requests for copies of the Draft Restoration Plan and Environmental Assessment, and submit comments on the Draft Restoration Plan and Environmental Assessment, by sending electronic mail (e-mail) to:

[Louise.Clemency@fws.gov](mailto:Louise.Clemency@fws.gov). The Service also accepts comments in Word and WordPerfect versions as attachments to the e-mail or on disk.

**SUPPLEMENTARY INFORMATION:** The Southern Lakes Trap & Skeet Club Site ("Site") was located near Lake Geneva, in Walworth County, Wisconsin. The Site included a trap and skeet shooting range; spent shot was deposited in and around a 36-acre wetland at the Site which provides habitat for Canada geese and other migratory birds. In 1992 Service investigations into the death of Canada geese near the Site concluded that the geese died from lead poisoning resulting from the consumption of lead shot released at the Site. The Service coordinated with the U.S. Environmental Protection Agency to advise the remediation and restoration of the wetland and surrounding habitat. The Service also conducted an NRDA at the Site on behalf of the U.S. Department of the Interior (Department) to fully restore all lost and injured resources. The State of Wisconsin declined to participate in the NRDA as a co-trustee. Following final settlement negotiations, a Consent Decree was entered with the U.S. District Court for the Eastern District of Wisconsin on November 25, 1998 (U.S. v. Lake Geneva Associates et al.; Civ. No. 98-C-0972) resolving all remediation and restoration issues at the Site. \$75,000 was paid to the Department for natural resource damages, and deposited into the Department's Natural Resource Damage Assessment and Restoration Fund. With accrued interest, approximately \$101,800 in NRDA settlement funds is now available for restoration.

The Service proposes to use the *Wisconsin Whooping Crane Management Plan* (Wisconsin Department of Natural Resources PUBL-ER-650 06) as the framework to develop specific actions to restore, replace, and/or acquire the equivalent of natural resources lost and injured at the Southern Lakes Trap & Skeet Club Site. The *Wisconsin Whooping Crane Management Plan* is a regional conservation plan which establishes habitat and species restoration goals for the whooping crane (*Grus americana*). Because whooping crane habitat requirements in Wisconsin for breeding, foraging, and migration are similar to the migratory bird habitat impacted at the Southern Lakes Trap & Skeet Club Site, the Service believes the *Wisconsin Whooping Crane Management Plan* provides an efficient means to achieve the restoration goals for the Site. Reintroduced whooping cranes use suitable wetland habitat across Wisconsin, but are currently concentrated in and around their release location at the Necedah National Wildlife Refuge (NWR) near Necedah, in Juneau County, Wisconsin. Therefore, the Service has prepared the *Natural Resource Damage Assessment Draft Restoration Plan and*

*Environmental Assessment, Southern Lakes Trap & Skeet Club Site, Lake Geneva, Walworth County, Wisconsin, <date>* to propose using NRDA settlement funds from the Site for wetland habitat restoration and enhancement actions in and around the vicinity of Necedah NWR, following the *Wisconsin Whooping Crane Management Plan*.

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Notary Public, Dane County, Wisconsin

My Commission expires May 24th, 2009



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# LAKE GENEVA REGIONAL NEWS

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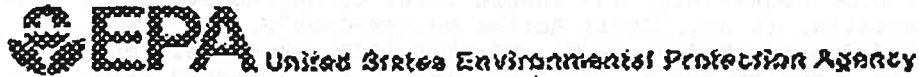
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Phone: 262-248-4444  
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### Federal Register Document

[Federal Register: October 15, 1998 (Volume 63, Number 199)]  
[Notices]  
[Page 55409-55410]  
From the Federal Register Online via GPO Access [wais.access.gpo.gov]  
[DOCID:fr15oc98-112]

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act and Resource Conservation and Recovery Act; Lake Geneva Associates, et al.

In accordance with Departmental policy, 28 C.F.R. Sec. 50.7, notice is hereby given that on September 30, 1998 a proposed Consent Decree in ~~United States v. Lake Geneva Associates, et al.~~, Civil Action No. 98-C-0972, was lodged with the United States District Court for the Eastern District of Wisconsin.

The Consent Decree resolves certain claims of the United States against Lake Geneva Associates, Playboy Enterprises, and Marcus Geneva, Inc., under Sections 107(a) and 113(g)(2) of CERCLA, 42 U.S.C. 9607(a) and 9613(g)(2), at the former Southern Lakes Trap Skeet Club site ("the Site") near Lake Geneva in Walworth County, Wisconsin. The defendants have been named as either a former owner during the disposal of hazardous substances at, or the current owner of, the Site.

The settlement requires the settling defendants to make payment of \$925,000 for past response costs incurred by the U.S. Environmental Protection Agency in connection with the Site and of \$75,000 on behalf of the Department of the Interior and the U.S. Fish and Wildlife Service for natural resource damages. The Consent Decree includes a covenant not to sue by the United States under Sections 106 and 107(a) of CERCLA and Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973, for: (1) Response costs and actions associated with the EPA removal action at the Site; (2) natural resource damages resulting from shooting activities at or from the Site; and, (3) any and all claims by the United States for violations of the requirements of an EPA administrative order, Docket No. V-W-94-C.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, United

[[Page 55410]]

States Department of Justice, P.O. Box 7611, Ben Franklin Station,

From: Barb Schmalz  
DEPC/Denver  
TO: Stan Smith, FWS/T-Office  
Frank Norvoff, FWS/T-Office  
Ken Stromburg, FWS/Dr. Boat  
Tom Quads, DE/H-Office  
1 DEPC authorizing a CNTS.  
F.Y.I.  
1 DEPC/T-Office Denver letter 7/15/98 to

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