

**NEPA Decision Document/Finding of No Significant Impact (FONSI)
For the Final Restoration Plan / Environmental Assessment
For the Tittabawassee River System Natural Resource Damage Assessment**

SELECTED ALTERNATIVE

The Final Restoration Plan/Environmental Assessment for the Tittabawassee River System Natural Resource Damage Assessment (RP/EA) describes restoration actions to be taken pursuant to a proposed settlement for natural resource damages with The Dow Chemical Company (Dow). The RP/EA has been prepared by U.S. Fish and Wildlife Service (Service) on behalf of the Trustee Council that consists of the State of Michigan, acting through Michigan Department of Environment, Great Lakes, and Energy (EGLE), Michigan Department of Natural Resources (MDNR), and Michigan Department of Attorney General (MDAG); the United States Department of the Interior, acting through U.S. Fish and Wildlife Service (USFWS) and the Bureau of Indian Affairs (BIA); and the Saginaw Chippewa Indian Tribe of Michigan (Tribe), collectively acting as Trustees for the restoration of natural resources and public use services that were injured by releases from Dow's Midland, Michigan, plant. This RP/EA is issued to inform the public concerning the Trustees' authorities and responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 *et seq.* and the National Environmental Policy Act (NEPA), as amended, 42 U.S.C. § 4321 *et seq.*

The Trustees evaluated a range of restoration actions and alternatives which would provide resource services to compensate the public for losses pending completion of remedial actions and natural recovery of resources injured by releases from Dow's Midland plant. The Trustees have selected a restoration alternative that includes eight restoration projects to be implemented by Dow with Trustee oversight; \$6.75 million for an additional five projects that will be conducted and/or funded by the Trustees; and \$15 million to be used by the Trustees to assure long-term stewardship of the projects, to conduct monitoring of both the success of the projects and recovery of natural resources, and to fund additional natural resource restoration projects that are selected from a future public proposal process. A minimum of \$5 million of this \$15 million will be used for the additional restoration projects that will be selected from a public proposal process based on the criteria in the Final RP/EA.

The restoration activities that will be implemented under the joint direction and control of all Trustees and that are the subject of this NEPA determination are the following:

Project	Description
1. Midland Fish Passage	Construct a rock ramp or similar structure in the Tittabawassee River at the Dow Dam to provide fish passage. This will restore river connectivity, provide hundreds of miles of new habitat for migratory fish, and is expected to increase populations of these fish, thereby expanding recreational fishing opportunities.

2. Eagle Ridge Nature Area	Preserves and enhances 140 acres of forest and marsh habitat in Midland, providing a unique urban nature preserve adjacent to the existing Stratford Woods Park.
3. Greater Midland Nature Preserve	Preserves and enhances 1,460 acres of existing farmland and woodlands across three tracts southeast of Midland. The approximately 940 acres of farmland currently present will be restored to natural habitat, including wetlands. Provides public access trails and conservation education in prairie, wetland and forest habitats.
4. Tittabawassee River Floodplain Restoration and Bike Trail	Preserves 490 acres of floodplain habitat along the Tittabawassee River south of Midland. The existing 175 acres of farmland on the site will be restored to natural habitat. Develops approximately 2 miles of bike trail and additional nature trails within the floodplain along the Tittabawassee River, with the goal of connecting to the Great Lakes Bay Regional Trail, a larger bike trail system in the area.
5. Thomas Township Nature Preserve	Provides partial funding to restore 60 acres of floodplain habitat, previously farmed, which will be open to the public as a nature preserve with outdoor recreation, including river access for kayaking, canoeing, and fishing.
6. Tittabawassee River Green Corridor	Protects 2,000 acres of private land in the Tittabawassee River floodplain, between Midland and Saginaw, from future development through conservation easements (over 1,815 acres already recorded).
7. Saginaw Riverfront Park	Provides funding to help create and maintain the 332 acres of Saginaw Riverfront Park in urban Saginaw.
8. Shiawassee National Wildlife Refuge Restoration Projects	Provides funding for restoration enhancements expected to affect 2,708 acres.
9. Shiawassee National Wildlife Refuge Expansion	Land for hunting will be acquired, managed to conserve native habitats, and made available to the public using \$1.2 million in dedicated funds. This acquisition is in addition to approximately 150 acres along the Tittabawassee River in Saginaw that were purchased previously with funding provided by Dow and are now part of the Shiawassee National Wildlife Refuge.
10. Saginaw River Mouth Boating Access Site Expansion	Expands parking capabilities by 50 spaces and increases the boat launch lanes from 5 to 8 to improve capacity and efficiencies at this popular Michigan Department of Natural Resources access site.

11. Bay City Ecological Restoration	Preserves and restores wetlands, lake plain prairie and other habitat types on 415 acres near the mouth of the Saginaw River, including <i>Phragmites</i> management and incorporating nature trails and shoreline fishing opportunities.
12. Saginaw Bay Spawning Reef Project	Provides funds to allow the Michigan Department of Natural Resources and its partners to construct a rock reef, or reefs, in Saginaw Bay to provide fish habitat and spawning areas.
13. Saginaw Chippewa Indian Tribe Restoration	Provides funding to preserve and restore approximately 80 acres of habitat near Standish by the Saginaw Chippewa Indian Tribe of Michigan.

FINDING OF NO SIGNIFICANT IMPACT

For the reasons summarized below, and based on an evaluation of the information contained in Section 5.1.2 and Table 13 of both the Draft and Final Restoration Plan/Environmental Assessment for the Assessment for the Tittabawassee River System Natural Resource Damage Assessment (RP/EA) listed below, I have determined that restoring, replacing and/or acquiring the equivalent of the injured resources within the Tittabawassee River, Saginaw River, and Saginaw Bay watersheds using restoration as described in Section 4.3 of the Final RP/EA 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 (NEPA). Accordingly, an Environmental Impact Statement will not be prepared.

Reasons:

1. The RP/EA includes specific projects that have been selected by the Trustees as well as a provision to select additional projects in the future. As such, this finding applies to the selected projects; additional NEPA review and compliance may be necessary in the future as additional projects are identified.
2. Federally listed endangered, threatened, and candidate species in the counties in which the selected projects will occur (Midland, Bay, Saginaw, and Arenac) are the following: Indiana bat (endangered), northern long-eared bat (threatened), piping plover (endangered), rufa red knot (threatened), Eastern massasauga rattlesnake (threatened), snuffbox mussel (endangered), Eastern prairie fringed orchid (threatened), and Pitcher's thistle (threatened). While the locations for 12 of the 13 selected projects are known (the exception is the Saginaw Chippewa Indian Tribe Restoration expected to be near Standish, Michigan, in Arenac County), the project designs are only conceptual and intra-Service section 7 consultation under the Endangered Species Act will be more

timely and appropriate once preliminary design plans are drafted and presented to the Trustees, including the Service, for approval to proceed to final plans and implementation. Nonetheless, given the locations and requirements of the selected projects, the *decision to select these projects* is appropriate given that these projects either will not affect the species or can be designed to not likely to adversely affect these species based on the following:

Species	Federal Status	Factors
Indiana bat <i>Myotis sodalis</i>	Endangered	Projects can be designed to avoid cutting of any potential roost trees or other adverse impacts to this species.
Northern long-eared bat <i>Myotis septentrionalis</i>	Threatened	Projects can be designed to avoid or minimize cutting of any potential roost trees or other adverse impacts to this species. Any potential roost trees that must be cut will be cut at time when bats are not present (winter or when absence is documented with exit surveys) and will be limited in scale in terms of trees remaining in the vicinity to ensure that such cutting is not likely to adversely impact this species.
Piping plover <i>Charadrius melodus</i>	Endangered	No projects located in appropriate habitat for this species (wide, sandy beaches that are flat and have very little vegetation and small creeks and wetlands near Great Lakes shorelines)
Rufa red knot <i>Calidris canutus rufa</i>	Threatened	No projects are located in appropriate habitat for this species (large wetland complexes and shorelines during the red knot migratory window of May 1-Sep. 30).
Eastern massasauga rattlesnake <i>Sistrurus catenatus</i>	Threatened	Projects are expected to create or enhance habitat for this species and can be designed to avoid or minimize adverse impacts. No selected project sites include Tier 1 or Tier 2 habitats.
Snuffbox mussel <i>Epioblasma triquetra</i>	Endangered	Recently found in the Tittabawassee River upstream of a dam that is upstream the Midland Fish Passage Project. No snuffbox have been found in surveys closer to this project and mussel surveys of the project area are required as a part of this project. No other projects are expected to impact habitat for this species.
Eastern prairie fringed orchid <i>Platanthera leucophaea</i>	Threatened	Projects are expected to create or enhance habitat for this species and can be designed to avoid or minimize adverse impacts if the species is found to be present.
Pitcher's thistle <i>Cirsium pitcher</i>	Threatened	No projects are located in appropriate habitat for this species (open sand dunes and low beach ridges of Great Lakes shores).

3. In addition to the selected projects, the Trustees may select additional projects in the future that are within the larger Saginaw Bay watershed that include counties with occurrences of additional listed species: Northern copperbelly watersnake (threatened), Northern riffleshell (endangered), rayed bean (endangered), Karner blue butterfly (endangered), and Poweshiek skipperling (endangered). The Trustees, including the Service, will consider the potential of future proposed projects to benefit and/or adversely impact listed species before selecting and implementing such projects.
4. Implementation of certain restoration projects in the selected alternative may result in temporary and localized adverse impacts due to erosion, turbidity, and sedimentation related to construction activities. However, the use of best management practices along with other avoidance and mitigation measures required by the regulatory agencies would be employed to minimize any adverse water quality and sedimentation impacts. For example, silt fences or coffer dams would be used whenever it is determined that restoration work might increase erosion and turbidity.
5. Where control of invasive species is required for selected projects, the use of herbicides and the application rates and methods for their use will be designed to maximize control of the invasive species and minimize harm to native vegetation, although some short-term harm to native plant species may occur.
6. There may be temporary and localized adverse visual impacts associated with construction activities during implementation of the selected restoration projects.. Once the projects are completed, however, users of these areas are expected to perceive the project areas as having improved aesthetics consistent with the restoration of natural resources.
7. Public access could be temporarily restricted during expected construction activities for the restoration projects. Since the selected projects are not located in areas that currently receive heavy recreational use, adverse effects related to restricted use would be minimal. The Wildlife Drive at Shiawassee National Wildlife Refuge does receive substantial use, however patrons are familiar with seasonal closure of the drive and temporary closures for other construction projects. Therefore, adverse effects related to restricted use on the Refuge, if necessary, are not anticipated. In addition, implementation time for these projects would be relatively short and any negative impact on recreational activities would be temporary.
8. The Service worked with the State Historic Preservation Office in July of 2017 to review available information on archaeological and historical sites present in the Saginaw Bay watershed (see section 2.4 of the RP/EA). Because of the existence of known sites along

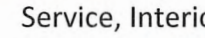
the Tittabawassee, Shiawassee , and Saginaw rivers, the Trustees will work with project managers to ensure they consult with the State Office of Archeology and Historical Preservation and, as appropriate, the Tribal Historic Preservation Officer of the Saginaw Chippewa Indian Tribe to determine if there are known archaeological, cultural, or historical sites within the specific project area as preliminary design plans are drafted and presented to the Trustees, including the Service, for approval to proceed to final plans and implementation. If sites are discovered, the Trustees will work with the project manager to redesign projects to minimize or eliminate any adverse effect to known archaeological sites or sites of cultural significance. If effects to cultural resources cannot be successfully mitigated, a similar project in a different location in the watershed will be substituted. In addition, the Saginaw Chippewa Indian Tribe Restoration Project specifically includes expected features to provide additional cultural uses by tribal members.

9. No significant adverse effects are anticipated to soil, geologic conditions, energy consumption, wetlands, or floodplains. The Trustees expect that soil will be disturbed and energy will be consumed during the short-term construction work, but the conversion of land from agricultural use to natural habitats will improve soils and decrease energy consumption over the long-term.
10. The selected restoration projects would have no adverse social or economic impacts on local neighborhoods or communities. The local economy will be expected to benefit from jobs, purchases, and associated economic outputs during construction; from tourism associated with the recreational amenities at the parcels; and from increased property values on adjacent parcels associated with being near conservation areas. In addition, several of the projects will be accessible by sidewalks and neighborhood residents without access to personal vehicles will also be able to use and enjoy these areas. Moreover, several projects will provide natural resource-related opportunity to community members within an economically disadvantaged urban area.
11. As the restoration projects are intended to achieve recovery of injured natural resources, the cumulative environmental consequences will be beneficial for birds and wildlife habitat. All the anticipated adverse impacts would be short-term and localized, would occur during project construction, and would be minimized by using mitigation described in the RP/EA. Selected projects to be implemented by Dow require environmental characterization, preliminary plans, and final plans prior to implementation. Any unanticipated negative cumulative adverse effect identified prior to project implementation would result in reconsideration of the project by the Trustees.

12. The restoration projects will result in long-term net improvement of fish and wildlife habitat, the restoration of ecological function in areas where human-caused disturbances have led to adverse environmental impacts, and improved human use and non-use services provided by restored natural resources. Nearly all of these projects will provide ecological benefits and some will also improve recreational use for hiking, boating, fishing, hunting, and wildlife observation, in addition to enhanced cultural uses of natural resources by tribal members.
13. The selected projects are far enough apart, and separated in terms of implementation schedule, that localized disturbance, erosion, or turbidity during construction are expected to be minimal. Local effects will be mitigated by silt fencing and other erosion control techniques. Permits will be required for work streams, rivers, floodplains, and wetlands. The permit process will further ensure that these projects are reviewed in the context of any similar projects that might be implemented in the area, including those by county conservation districts, drain or road commissioners, Michigan Department of Transportation, developers, or others.
14. Any active habitat restoration or land transactions will be conducted with willing landowners and will not displace or negatively affect any underserved, minority, or low-income populations. The overall quality of life for the surrounding communities will improve somewhat with these restoration alternatives, through short-term construction job opportunities and long-term increased tourism, economic, and recreational opportunities, especially through improved opportunities for fishing, hunting, and wildlife viewing in Midland, Saginaw, and Bay counties. The impact of these projects on tribal members is expected to be beneficial with increased access to natural and cultural resources as an outcome of the Saginaw Chippewa Indian Tribe Restoration Project.
15. A draft of this RP/EA was released to the public for comment from November 8, 2019 through December 30, 2019. The Trustees announced the availability of the Draft RP/EA through a November 11, 2019 Federal Register Notice of Availability (84 Fed. Reg. 61927), press releases resulting in more than 20 articles in established media outlets, publication on the Great Lakes Information Network, posting on the Service's webpage for this case and through Service and MDNR social media, and through direct outreach to interested parties and stakeholders, including local units of government, conservation organizations, and the Saginaw-Tittabawassee Rivers Contamination Community Advisory Group. The Trustees also held a public meeting in Saginaw, MI, on November 21, 2019. Public review comments regarding the November 7, 2019 Draft RP/EA indicate general acceptance and approval of the proposed action (Appendices E and F of the Final RP/EA).

Supporting References:

1. Final Restoration Plan/Environmental Assessment for the Tittabawassee River System Natural Resource Damage Assessment.
2. Draft Restoration Plan/Environmental Assessment for the Tittabawassee River System Natural Resource Damage Assessment [available at https://www.fws.gov/midwest/es/ec/nrda/TittabawasseeRiverNRDA/restoration_plan.html]


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