

Final Amendments for Long Term Restoration Maintenance in Tri-State Mining District, Missouri

1.0 INTRODUCTION

The Missouri Trustee Council (Trustees) is comprised of the State of Missouri, represented by the Missouri Department of Natural Resources (MDNR), and the U.S. Department of the Interior, represented by the U.S. Fish and Wildlife Service (USFWS). Settlement funds have been used by the Trustees to initiate restoration in both uplands and riparian areas within the Missouri portion of the Tri State Mining District, and these restoration areas now need long-term stewardship, monitoring and maintenance to preserve the level of ecological uplift achieved during the restoration phase. By this document, the Trustees are amending two Restoration Plans: the Cardinal Valley Natural Habitat Restoration Project Final Restoration Plan and Environmental Assessment (Cardinal Valley RP/EA) (July 2018) and the Joplin Parks Restoration Plan (Joplin RP) (July 2019). The Trustees are also amending an agreement with Missouri Prairie Foundation (MPF) (the “Agreement”) for implementation of a restoration project identified in the Springfield Plateau Regional Restoration Plan (SPRRP). All three of these amendments will include funds for the administration of long-term stewardship, monitoring and maintenance of the particular restoration areas, as addressed more fully herein.

The Cardinal Valley RP/EA identified a habitat restoration project within Webb City. Additional long-term stewardship, monitoring, and maintenance funds will help achieve one of the restoration objectives: *“Maintain wildlife habitat with at least 80% native cover through active and passive management for at least 25 years after the initial restoration phase of the project. Lands that have been acquired for restoration are to be managed by Webb City as a park and will be protected by a conservation easement.”* found in Section 2.2 Restoration Objectives of that document. The source of the proposed additional funding is the “Settlement Agreement Regarding the Tri-State Mining District Sites” in “Re: Asarco LLC et al, Debtors” approved on February 4, 2008.

Similarly, the Trustees hereby amend the Joplin Parks RP to provide funding for long-term stewardship, monitoring and maintenance of habitat restoration projects implemented on lands managed by the Missouri Prairie Foundation (MPF). The source of the proposed additional funding is derived from the “Settlement Agreement Regarding EaglePicher Holdings, Inc. et al” approved on August 13, 2012.

Pursuant to the SPRRP, an agreement between MDNR and MPF allows for the implementation of a restoration project. The Trustees hereby amend this agreement to allow additional long-term stewardship, monitoring and maintenance funding for this project. The source of the additional funding is the Asarco agreement referenced above.

1.1 Background

Restoration Needs

Tallgrass prairie is a disturbance-dependent ecosystem that historically relied upon wildfire or grazing pressure to stop the encroachment of trees. In modern times, with relatively small areas of isolated habitat, neither of these factors is likely to occur with the frequency needed to maintain the prairie landscape. Invasive species are a threat to native ecosystems as well, and if not controlled, they will take over an area. This has happened on the restoration areas now owned by Webb City, as sericea lespedeza invaded the areas shortly after EPA remediated them and the lands were left idle. Tallgrass prairie is a major component of the Cardinal Valley project, as well as the Joplin Parks project and other lands managed by MPF. State Parks and other natural landscapes are conventionally maintained by a

combination of mowing, burning, and herbicide application. The Trustees believe that without funding the long-term stewardship, monitoring and maintenance of these restoration areas, the ecological uplift achieved in the restoration phase will be lost.

Webb City lands

In February 2018, the Trustees published a draft RP/EA for review and public comment. As part of the restoration planning process and in accordance with CERCLA, 40 U.S.C. §9601 et seq., and NEPA 42 U.S.C. § 4321 et seq., the Trustees identified and evaluated each proposed restoration alternative in the draft RP/EA for various criteria, such as cost effectiveness and potential to harm the environment. The restoration alternatives outlined specifically addressed natural resources injured and ecological services lost from the ASARCO Mining Company in Jasper County. Among the alternatives presented in the draft RP/EA, the Trustees identified Alternative 4 – Cow manure-based soil amendments and habitat restoration, as the Preferred Alternative, also referred to as the Proposed Action. The Trustees provided a 30-day public notice and comment period as well as a public meeting to facilitate public input on the proposed restoration alternative and the draft RP/EA. The document was finalized in July 2018.

Through implementation of Alternative 4 (the Preferred Alternative), and after a Request for Proposal process, the municipality of Webb City received funding from the Trustees to purchase parcels from willing sellers, totaling approximately 889 acres, to be eventually developed as a city park. Much of the land had been remediated by EPA, which resulted in soils depleted of organic matter and nutrient holding capacity and repositories that capped consolidated mine waste. Therefore, as part of the city park development project and in accordance with Alternative 4 in the Cardinal Valley RP/EA, compost was applied to the degraded soils and the land has been subsequently managed as prairie or wetland/riparian habitat, as described in the RP/EA. These restored lands were afforded protection through a perpetual conservation easement, and ecological monitoring is currently being conducted by the Trustees. The monitoring being conducted by the Trustees was paid for through project funds and articulated in the Cardinal Valley RP/EA in Section 5.1 Monitoring Framework. The monitoring obligation is further described in a cooperative agreement between the Trustees and Webb City. The current cooperative agreement will expire in June 2023.

Costs associated with the stewardship, administration and restoration maintenance activities were contemplated but not specifically identified in the RP/EA. The RP/EA, within Section 6.0 Budget and Timeline, did provide that the remainder of funds outside of acquisition and initial restoration “*will be spent on restoration design, permitting, project operation and maintenance, and monitoring, as well as capped land restoration and aquatic restoration.*” The discussion and analysis of restoration alternatives in the Cardinal Valley RP/EA is incorporated by reference herein.

MPF lands- MDNR and MPF Agreement Per The SPRRP

In March 2011, the Trustees published the draft Springfield Plateau Regional Restoration Plan (SPRRP) for review and public comment. As part of the restoration planning process and in accordance with CERCLA, 40 U.S.C. §9601 et seq., and NEPA 42 U.S.C. § 4321 et seq., the Trustees identified and evaluated each proposed restoration alternative in the draft RP/EA. The restoration alternatives outlined specifically addressed natural resources injured and ecological services lost from the Asarco Mining Company in Jasper and Newton Counties. Among the alternatives presented in Section 3 Restoration Alternatives of the draft RP/EA, the Trustees identified Alternative D: Tiered Project Selection Process Evaluating the Feasibility of Primary Restoration, Compensatory Restoration, and Acquisition of Equivalent Resources. To ensure that the public had ample opportunity to provide comments on the

SPRRP, the Trustees accepted comments on the draft RP/EA for 45 days and held public meetings during this time to facilitate understanding of the draft plan.

A Request for Proposals was subsequently advertised in July 2013 and an award for acquiring compensatory land from willing sellers was given to the MPF. MPF has acquired and restored/enhanced 367 acres as of January 2023 in accordance with their agreement with MDNR dated August 27, 2014. This agreement did state that *“Additional funding for maintenance may be provided through an amendment to this Agreement.”* The Trustees intend to amend the Agreement referenced herein to provide additional funding for long term stewardship, monitoring and maintenance of the habitat acquisition and restoration project identified and evaluated in the SPRRP and subsequent restoration implementing processes. Public opportunities to provide input will be provided, as appropriate.

MPF Lands- Joplin Parks RP

In June 2019, the Trustees published a draft RP proposing activities that will restore native prairie vegetation in currently mowed areas of Joplin Parks to create migratory bird habitat. As part of the restoration planning process in accordance with CERCLA, 40 U.S.C. §9601 et seq., the Trustees identified and evaluated each proposed restoration alternative within Section 2.0 Alternatives Considered, in the draft RP. The funds for this project are derived from the “Settlement Agreement Regarding EaglePicher Holdings, Inc. et al” approved on August 13, 2012. The Trustees identified Alternative 2 – Restoration of Park Land as the preferred alternative. To comply with the statutory and regulatory processes, the Trustees held a public meeting on July 1, 2019 at the City of Joplin Council meeting, opened a comment period for 30 days, and later approved the RP.

Approximately 54 acres within the Joplin parks system are managed for wildlife habitat and a diversity of plant species and are protected through an MOU with the City of Joplin and MPF until 2029. Costs associated with the stewardship, administration and restoration maintenance activities were contemplated but not specifically addressed in the RP. The discussion and analysis of restoration alternatives in the Joplin Parks RP is incorporated by reference herein.

1.2 Amendment

The Trustees hereby amend the relevant Restoration Plans and Agreement to carry out their intent to fund their work as well as the work of third parties for 25 years of stewardship, monitoring and maintenance costs associated with the restoration areas identified above. The Trustees anticipate that this funding will cost approximately \$3,400,000 of the jointly recovered funds from the Asarco bankruptcy (\$3,240,000) and EaglePicher (\$160,000) settlements over 25 years. The Trustees may revisit this proposal and amendments to ensure the cost-effectiveness of the expenditure of funds. The Trustees intend to develop a Trustee Council Resolution documenting the long-term maintenance funding intent. Pursuant to the appropriate instrument (e.g., a cooperative agreement), the Trustees intend for this funding to be released on a 5-year basis with at least annual reviews which will include cost documentation and accounting of expenditures provided to Trustees. The Trustees may, at their discretion and with Trustee consensus, choose to renew the 5-year expenditures for another 5 years thereafter. Any revenue derived from sustainable practices such as haying and seed sales on these restoration areas shall be used to augment and/or offset the long-term stewardship, monitoring and maintenance funds proposed to be expended.

The following estimates the restoration amounts associated with each organization and the types of activities covered. Actual funding needs may change with time due to inflation or unforeseen circumstances. Approximately \$850,000 of the funds will be used for maintenance of the 421 acres of MPF lands, while approximately \$2,400,000 will be used for the maintenance of 889 acres of Webb City lands. MPF lands are cheaper to maintain because the majority of the acres are remnant prairies that require less management and monitoring. Restoration costs are calculated with a 4% inflation rate¹ over 25 years, such that \$100 in 2023 becomes \$267 in 2048.

Type of organization funded	Activities to be funded	Amount
Trustees	Effectiveness monitoring: breeding bird surveys, pollinator surveys, vegetation monitoring, and soil health monitoring, decreasing in frequency as time goes on. Administrative: correspondence, easement inquiries, contracting, special restoration issues.	\$172,000 monitoring/admin \$172,000 Total
3 rd party partner	Restoration maintenance activities: mowing, burning, spraying, seeding/planting, wetland water manipulation, additional compost if needed	\$2,381,000 to Webb City, \$845,000 to MPF \$3,226,000 Total

After 25 years of restoration maintenance, there will still likely be a need to inspect the easements on lands owned by MPF and Webb City. These areas have perpetual easements that are held by the DNR. The Trustees will consider allocation of funding for DNR staff to monitor restoration areas after 2048, if warranted and as appropriate in accordance with applicable law.

Monitoring of restoration sites allows the Trustees to assess the results of land management and make adjustments, if needed. In the restoration phase of the Webb City project, staff monitored vegetation during the fall. During 2024-2026, staff will monitor vegetation in both the spring and fall to find the relationship between the two metrics, and then transition to spring-only monitoring so that both vegetation and bird monitoring can be accomplished during the same outing in the future. Bee monitoring and soil sampling take relatively little time in the field and can be accomplished while doing the plant monitoring. The lands managed by MPF have been monitored by MPF during the restoration phase, and this will be continued through the maintenance phase. MPF monitors vegetation every 5 years on all of their areas, and will submit these reports to the Trustees.

¹ The 4% inflation used is the average inflation rate experienced by Webb City over the last 15 years.

Webb City monitoring schedule				MPF land (including Joplin Parks) monitoring schedule
Year	Bird monitoring	Plant monitoring	Soil Health and Bee monitoring	Plant monitoring
2023	x	x	x	
2024	x	x	x	
2025	x	x	x	
2026	x	x	x	
2027	x	x	x	
2028	x	x	x	x
2029		x	x	
2030	x			
2031		x	x	
2032	x			
2033		x	x	x
2034	x			
2035				
2036		x	x	
2037				
2038	x			x
2039				
2040				
2041		x	x	
2042				
2043	x			x
2044				
2045				
2046		x	x	
2047				
2048	x			x

1.3 Public Participation

Public participation and review are an integral part of the restoration planning process. The Draft Amendment to the Cardinal Valley RP/EA, SPRRP, and Joplin Parks RP was open for comment for 30 days from April 20, 2023 to May 20, 2023. The public was notified by emails to interested parties, as well as publishing the open comment period on the Trustees’ websites. The Trustees received no comments. No significant revisions to the draft RP were made.