

## **RFP EP-2011-01**

# **Springfield Plateau Regional Restoration Plan: Request for Proposal Natural Resource Damage Restoration Projects for the Eagle-Picher Industries, Inc. Settlement**

## **I. Introduction**

This Request for Proposal (RFP) for restoration projects related to the Eagle Picher, Inc. Natural Resource Damage Assessment and Restoration (NRDAR) settlement is being offered as part of the Springfield Plateau Regional Restoration Plan (SPRRP). The SPRRP provides a process framework that governs the approach for restoration project identification, evaluation, selection and implementation presented within this RFP.

### **A. Springfield Plateau Regional Restoration Plan**

The SPRRP has been developed under the Natural Resource Damages (NRD) provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, more commonly known as the federal “Superfund” law) to describe the methods that will be used by NRDAR Trustees to restore, rehabilitate, replace, and/or acquire natural resources equivalent to those injured by hazardous substance releases. Further, the SPRRP fulfills requirements under the National Environmental Policy Act of 1969 (NEPA) to provide public review and comment on federal actions that affect environmental resources.

The development of the SPRRP is a coordinated effort among state and federal natural resource Trustees, governmental entities, and the public. The SPRRP is jointly administered by the Missouri Trustee Council (Council) to assist in carrying out their natural resource trust mandates under CERCLA, and the Clean Water Act. The State of Missouri (represented by the Missouri Department of Natural Resources (MDNR)) and the United States Department of the Interior (DOI) (represented by the United States Fish and Wildlife Service (Service)) have developed an ecoregion comprehensive SPRRP to assist the Trustees in carrying out their responsibilities of restoring natural resources injured by the release hazardous substances. Natural resource damages received, either through negotiated or adjudicated settlements, must be used to restore, rehabilitate, replace and/or acquire the equivalent of those natural resources injured and services lost.

This RFP is compliant with the preferred alternative selected in the SPRRP. The preferred alternative (SPRRP, Section 5, Alternative D) is a combination of primary and compensatory restoration. As identified in the SPRRP, priority is given to primary restoration, whenever feasible. However, the Trustees will implement compensatory, off-site restoration when there are distinct advantages in cost-effectiveness or unique opportunities in protecting or enhancing important natural resources arise.

Primary restoration refers to restoration projects that restore resources that were directly injured by a release of hazardous substances. Compensatory restoration projects, for the purposes of this RFP, are projects that occur off-site, or in areas not directly affected by a release of hazardous substances. Primary and compensatory restoration projects are designed to return natural resources injured by the release of hazardous substances to baseline conditions. For natural resource damage assessment purposes, baseline conditions are defined as the conditions that would have existed in the assessment area had the release of the hazardous substances under investigation not occurred.

The purpose of this RFP is to provide site-specific information as to the type of natural resources injured and/or services lost; location of the injured natural resources and/or lost services; whether primary restoration is a viable alternative; and restoration funds available. This RFP also identifies restoration goals associated with the NRDAR claim and settlement for the 1995 Eagle Picher NRDAR bankruptcy settlement. Specifications and requirements for restoration projects and proposal submissions will follow.

### **B. Site and Settlement Information:**

Eagle-Picher Industries, Inc. was involved in mining, refining, and manufacturing for over 150 years. Established in 1842, the company was incorporated in 1867 as Eagle White Lead Company in Cincinnati, Ohio. Eagle White Lead Company consolidated with Picher Lead Company, a Missouri corporation, to form the Eagle-Picher Lead Company (EPLC) in 1916. In 1930 EPLC formed a new mining subsidiary, incorporated in Delaware, Eagle Picher Mining & Smelting (EPM&S). Due to a number of other corporate changes throughout the years, Eagle-Picher was a corporate successor to EPLC and EPM&S. Eagle-Picher filed a petition under Chapter 11 of the bankruptcy code on January 7, 1991. A bankruptcy settlement agreement between Eagle-Picher and its creditors was entered into on March 27, 1995 and approved July 15, 1997. In the 1991 Eagle Picher bankruptcy, the U.S. Fish & Wildlife Service was the only Trustee to file a NRD claim within the state of Missouri.

Eagle-Picher and its subsidiaries and predecessors owned and operate property in the Tri-State Mining District (TSMD), conducting mining operations in TSMD from the 1840s to the 1950s. In the early 20<sup>th</sup> century, Eagle-Picher was the leading zinc producer in the country and one of the largest lead producers. Among its operations were lead smelters in Galena, Kansas and Joplin, Missouri; a zinc smelter in Henryetta, Oklahoma, and a central mill in Picher, Oklahoma. A number of Superfund sites were affected by Eagle-Picher activities, including the Oronogo-Duenweg Mining Belt (Jasper County) Site, in Missouri, the Cherokee County site in Kansas, and the Tar Creek site in Oklahoma. Eagle Picher also operated in Newton County, Missouri included within the Newton County Mine Tailings site, but this settlement did not include claims for any potential injured resources at that site. This RFP will address natural resource restoration focused on injuries in Jasper County, Missouri. However, since Eagle Picher operated in Newton County, restoration projects will also be considered in that county under the auspices of the SPRRP.

### **C. Natural Resource Injury**

The Eagle Picher NRDAR claim was based on injuries to migratory birds and endangered species resulting from the release of hazardous substances from Eagle Picher mining and smelting activities.

As mentioned above, this claim was brought in an expedited fashion during bankruptcy proceedings and details of specific injured natural resources during the time of negotiations were limited. However, since 1995 the Trustees have identified extensive natural resource injuries due to the releases of hazardous substances from Eagle Picher mining and smelting activities. Terrestrial resources (soil and migratory bird habitat) are injured from the disposal of mine/mill waste and smelter fallout due to toxic concentrations of heavy metals specifically lead, zinc, and cadmium. Aquatic resources are injured (waterfowl, mussels, riffle fish, crayfish, other invertebrates) due to releases of heavy-metal contaminated water and sediment to area streams. Groundwater is contaminated with heavy metals due to mining activities, which has potentially limited the habitat of the Ozark cavefish.

### **D. Natural Resource Damages**

Natural Resource Damages (NRD) is a means of compensating the public for resources injured by a release of a hazardous substance. In this case, damages were calculated by estimating the area impacted by Eagle Picher's operations and acquiring equivalent lands for conservation purposes.

### **E. Natural Resource Damage Assessment Funds**

\$235,000 is available for restoration projects. This amount represents the total amount available for all projects related to this RFP.

### **F. Geographic Priority Areas for Restoration**

The Trustees have prioritized areas for restoration in a tiered approach as a means of complying with the SPRRP preferred alternative and to provide restoration specific for the resources injured by releases of hazardous substances from Eagle Picher's mining, milling and smelting operations.

Highest priority areas (Tier 1) for restoration in Jasper County under this RFP are areas directly impacted by Eagle Picher's mining, milling and/or smelting operations. Secondary priorities (Tier 2) are areas within the Jasper County Superfund Site with no identified potentially responsible parties. Tier 3 is the Drinking Water Exclusion Zone that surrounds the Jasper County Superfund Site. Tier 4 priority areas are within Jasper County outside the boundaries of the Superfund site. The lowest priority (Tier 5) are areas in Newton County, Missouri where

Eagle Picher operated and no other potentially responsible parties are identified. High priority areas will score higher in the Trustee Decision Matrix included in Appendix A. Projects outside of these priority areas will still be eligible for funding under this RFP but will not receive prioritization. See Figure 1 for a map of priority restoration areas.

Potential restoration projects must consider levels of contamination that result in residual injury. As such, restoration projects within areas where EPA has completed remedial actions will receive higher scoring during project evaluation and selection. Areas that will be considered for primary restoration are:

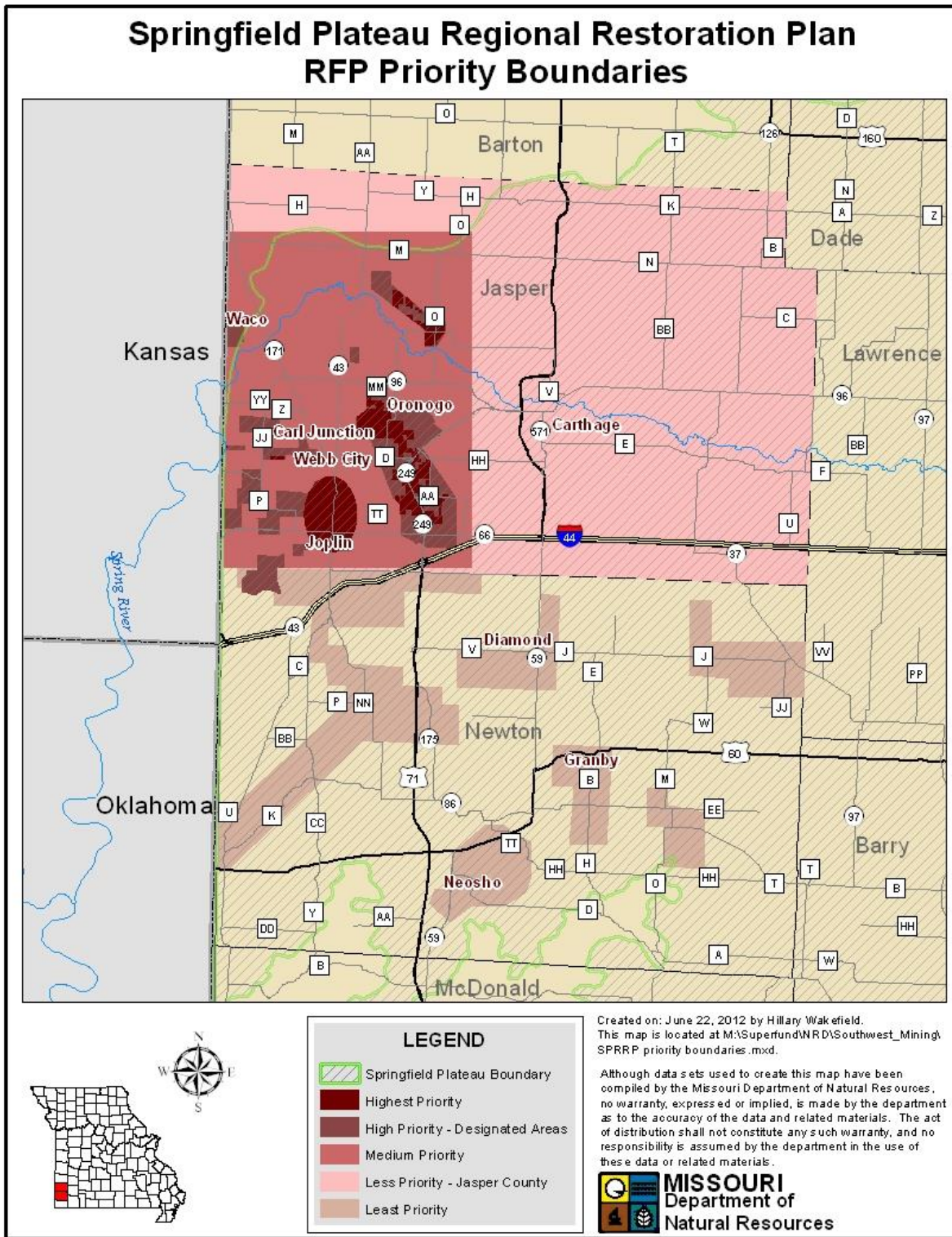
1. sites where EPA has completed remedial actions and there exists no residual contamination that could result in injury;
2. sites where EPA has completed remedial actions, residual contamination above injury thresholds does exist, but the restoration will mitigate that potential injury; and
3. sites with no plans for remedial actions, residual contamination above injury thresholds does exist, but the restoration will mitigate that potential injury.

#### **G. Restoration Goals for Eagle Picher RFP**

NRDA restoration projects must have a nexus or connection to the injured resources. The injured trust resources within the Jasper County site include migratory birds and endangered species, other terrestrial and aquatic resources and supporting habitats. The restoration goals of the Eagle Picher settlement funds in priority order are to:

1. improve or protect riparian migratory bird habitat;
2. protect federally threatened, endangered, and candidate aquatic species (Neosho madtom, Neosho mucket mussel, Rabbitsfoot mussel), and their habitat;
3. improve or protect upland migratory bird habitat; and
4. protect Ozark cavefish habitat

Figure 1. Geographic Priority Areas for Restoration



## **II. Restoration Project Descriptions**

This RFP is soliciting project proposals within the categories listed below in order of priority based on restoration goals listed above. It is desirable for a single project to meet multiple restoration goals and fit within multiple restoration categories.

### **A. Riparian Corridor Restoration of Degraded Streams or Wetlands**

This restoration category is the highest priority for the Trustees because it meets multiple restoration goals. Restored riparian corridor improves migratory bird habitat and protects downstream habitat for federally-listed aquatic species. Several tributary streams within the Jasper County site have been remediated through excavation of contaminated sediment and bank soils. However, the remedial actions have not restored habitat to baseline conditions. Therefore, additional improvements are needed to maximize the habitat value of remediated riparian corridor. Restoration of on-site streams has additional benefits of providing a nexus to the resource injuries.

### **B. Enhancement of Un-contaminated Uplands**

A high priority upland enhancement project is prairie restoration. Oak savanna or other forest restoration projects are slightly lower priority. Upland restoration could include burning and/or other methods to control invasive species, re-vegetating to restore native flora, erosion controls, and some type of financial and/or legal assurance of long-term maintenance and protection. Upland prairie habitat is also important migratory bird habitat.

### **C. Acquisition/Legal Protection of High Quality Natural Areas**

In some cases existing, high quality habitat can be protected through acquisition or through conservation easements. These areas may be in such a high quality condition that they require little to no enhancement or physical restoration. Property purchase or conservation easements/agreements could be the primary mechanism to ensure high quality habitats are protected from development or other degradation over the long-term. The Trustees desired habitats for protection in priority order include riparian corridors, wetlands, prairies, savannas, and other woodlands or forest.

### **D. Natural Resource-Based Human Use Enhancement Projects**

This project category includes construction of some type of facility or materials that would increase access, enjoyment, understanding, and/or use of natural resources. Examples of these types of projects include trail construction, constructing boat ramps, educational kiosks, signs, or environmental-based education programs or materials. These projects are lower priority because they do not directly benefit trust resources. However, human-use enhancement has many indirect effects that benefit natural resources. These types of human-use/educational projects also increase the value when combined with other restoration projects, discussed above.

### **E. Primary Restoration of Mine Impacted Lands**

Primary restoration refers to actions that improve or restore habitat directly affected by a release of a hazardous substance. The Trustees and other agencies and researchers have developed

plans and techniques for primary restoration of barren or partially barren mine waste and contaminated soil. Preferably primary restoration takes place in conjunction with EPA's remedial action. In the case where it can be demonstrated that there will be no remedial action on a property, primary restoration is possible. Otherwise, primary restoration can take place only after or (preferably) in conjunction with remedial actions. Primary restoration of mine-contaminated land must involve an evaluation of the potential injury that may result from the remaining contamination, coordinated by the Trustees. If injury exists at a proposed site, the restoration proposal must include measures to reduce the exposure and/or toxicity of heavy metals, in addition to site re-vegetation and ensuring future protection and maintenance.

Primary restoration of mine-impacted land is a lower priority for the Eagle Picher settlement due to the relative high costs of this restoration technique compared to the relatively modest amount available for restoration within this RFP. However, if a site qualifies for other restoration categories listed above, and primary restoration of metal contamination is a minor component of the overall restoration project, including this component in a proposal could increase the overall project ranking during evaluation.

### **III. Restoration Project Specifications**

Restoration proposals will include:

#### Site Description

A description of the size, location, natural features, and habitat value of the property proposed for acquisition or other conservation easement should be included. Describe ownership and management of the land. Address what types of activities will take place on the property, if any.

#### Site Preparation and Grading

The proposal will identify the degree of site preparation and grading needed prior to re-vegetation. The proposal will identify any bank re-grading, height, slope details, re-vegetation, and maintenance components. Low angles and low height banks are preferred over high banks and steep angles. If the restoration project involves instream disturbance, engineering plans should be submitted.

#### Re-vegetation

If applicable, the proposal will identify the native Missouri species to be planted, using the Terrestrial Natural Communities of Missouri as a guide. The proposal will identify the season and density of planting.

#### Conservation Easements, Engineering Controls, and/or Property Purchase

The proposal will identify land in private property ownership that requires access agreements necessary to achieve stream restoration. The proposal will identify other potential engineered or institutional controls to ensure long-term protection of stream

and riparian corridor restoration areas such as fencing, alternative water supplies for livestock, temporary or permanent conservation easements including land-owner payment, including fee-title purchasing, if necessary. The proposal will identify who will hold the easement or title of the property, and will provide information on the time period of the easements or other protective mechanism. Conservation easements or other administrative mechanisms that protect land over longer time periods will be preferred over short-term protections, as reflected in the Appendix A decision matrix.

#### Site Maintenance and Monitoring

The proposal will identify the maintenance and monitoring needed after re-vegetation. The proposal will describe the frequency and type of herbicide treatments, fire, and frequency of mowing or other cultural practices used to facilitate the success of tree planting or other vegetation.

Primary restoration sites (in mine-impacted areas) should also include:

#### Site Sampling, Preparation and Grading

These sites will require sampling for heavy metal contamination prior to site preparation. If heavy metal concentrations are known they should be included in the proposal. If metal concentrations are unknown, the U.S. Fish and Wildlife Agency should be contacted for sampling assistance prior to proposal submittal. The proposal will identify mine waste or contaminated soil on-site, the degree of site preparation, burning, herbicide application, and/or grading needed prior to re-vegetation.

#### Soil Amendments

If soil or mine waste concentrations exceed ecological injury thresholds, soil amendments or other techniques that either reduce toxicity or reduce exposure can be employed. Soil amendments must be proven to reduce toxicity or remove exposure pathways (e.g. top soil added to bury heavy metal concentrations). The rate of amendment application should be identified in the proposal. Any soil amendment application will require additional evaluation by the Trustees to determine whether there are collateral environmental impacts prior to project approval. In addition, monitoring of heavy metals or nutrients (i.e., if soil amendments are used) may be necessary.

## **IV. General Proposal Requirements**

In addition to the specifications listed above, all proposals must include the information provided below.

### **A. Date Submitted**

**B. Project Title:** The project title should be descriptive of the goal to be accomplished by the restoration project.



- C. Group Submitting Proposal:** Name the group or individuals submitting the restoration project proposal. Include name of project coordinator, address, telephone and facsimile number and e-mail address. Describe the qualifications of the cooperators and/or implementers of the project that demonstrate their ability to complete the proposed tasks and manage the project. No parties connected to the potentially responsible parties for natural resource injuries, other than those liable only due to ownership, will qualify for restoration funds.
- D. Amount of Request:** Total amount of funding requested, are not to exceed the total amount of funds available in the Eagle Picher Settlement, Inc. The specific project budget requirements are outlined in Section L.
- E. Location:** Describe the location of the project (state, county, section, township, range, city/municipality, address, etc.), and include a map showing the location of the project. Projects must be in the restoration area outlined in Attachment 1.
- F. Restoration Project Category:** Designate which restoration project category or categories from the Trustee's proposed action the project best fits within; Riparian Corridor Restoration, Enhancement of Un-contaminated Uplands, Acquisition/Legal Protection of High Quality Natural Areas, Natural Resource-Based Human Use Enhancement Projects, and/or Primary Restoration of Mine Impacted Lands.
- G. Project Description:** Describe the project, including goals, and objectives. Describe how the restoration project will restore, rehabilitate, replace and/or acquire the equivalent of the natural resources injured by the release of hazardous substances into the environment. Describe the specific habitats, wetland types, or vegetation types and quantities to be protected, reestablished or enhanced, if applicable. Include a site map showing the habitats before and after completion of the project, a draft restoration design, maps if possible, monitoring, and maintenance plans, and any relevant available project specifications.
- Describe the surrounding land use. Adjacent property uses (either current or future planned uses) should not detract from effectiveness of the restoration site. Include a description of the size of the project. If the restoration project is contiguous with currently protected habitat, provide details on this habitat.
- H. Compliance with Applicable Laws & Regulations:** Implementation of the restoration project must be consistent with applicable Federal, State, and local laws, ordinances and policies. List all permits (that you are aware of) that will be required.

- I. Timeline:** Outline the estimated time and steps or phases needed to complete the project including an estimated completion date. Estimate how long the project will take to reach its full potential. Relative timeliness of the resource recovery action will be evaluated. Implementation times of less than 3 years are preferred. Projects with implementation times greater than 3 years will need to identify why a greater time period is required and the benefits to restoration of the injured resources with the longer restoration period
- J. Permanence:** Address the longevity of the restoration project. Projects that provide restoration in perpetuity are a higher priority and will receive more points during the evaluation process than projects that expire within a defined time period, or require annual or periodic renewal. Explain the longevity of the project and how the project will ensure the longevity through the use of such instruments as conservation easements, cooperative agreements, or other legal means to guarantee management of the trust resources on behalf of the public.
- K. Proposed Budget:** Provide a detailed budget for the funding requested in descriptive summary categories such as personnel, materials, realty costs, monitoring etc. Proposals stating only a total cost with no budget breakdown will not be considered. Include information pertaining to any types of cost sharing, such as other funding sources or in-kind services that will add to the restoration project. Restoration projects supported, in part, from sources other than the Eagle Picher, Inc. settlement funds will receive more points during the evaluation process over projects supported solely by these restoration dollars. Cooperative projects, with matching dollars and services tied to activities that are compatible with the goals of the SPRRP, have a higher potential to meet community needs while restoring trust resources. Although Eagle Picher settlement funds will not be expended on projects more appropriately funded from other sources, where compatible projects adjoin, funding from several sources could provide much greater benefits to impacted resources than many small, scattered projects. Projects should not duplicate or substitute for traditional funding sources.

The goal of the Trustees is to achieve the maximum amount of restoration (in terms of acres, habitat units, or fish and wildlife restored) with the least expenditure. Cost effective restoration is desirable. Cost overruns will be evaluated on a case-by-case basis and may not be covered by Trustee Restoration funds if insufficient justification is provided. This addresses the Technical Feasibility criteria listed under CERCLA and the NRDA regulations, because project costs must fall within the budget in order to be technically feasible. Those projects which demonstrate ability to achieve relatively larger amounts of restoration will rank higher during the evaluation process.

- L. Climate Change:** A growing body of evidence has linked accelerating climate change with observed changes in fish and wildlife, their populations, and their

habitats in the United States. The Service is committed to examining every activity it performs through the lens of climate change. Generally, restoration projects that serve to restore degraded environments, re-establish native vegetation, and improve the habitat of native species also serve to increase the sequestration of carbon in the biosphere and the pedosphere. Additionally, as stated in section IV.-G., above, projects that seek to increase the size and connectivity of existing protected natural habitats will provide new migration corridors and may blunt some of the adverse effects of climate change on trust species. Projects that specifically seek to address natural resources injured as a result of the release of hazardous substances while mitigating the effects of climate change are preferred. Projects that solely focus on climate change *are not* the focus of the SPRRP and will not be funded under this process.

More information on the Services' response to climate change may be found at: <http://www.fws.gov/home/climatechange/index.html>.

**M. Measures of Success:** Develop a plan that measures or evaluates the success and the effectiveness of the restoration project. The measures of success should be related to the goals and objectives of the proposed project. The Trustees will work directly with selected recipients of restoration funding to further develop useful and effective restoration monitoring plans on a site specific basis. An example of how to successfully conduct monitoring on riparian corridor restoration projects may be found at: <http://ucanr.org/freepubs/docs/8363.pdf>

## **V. Proposal Evaluation and Procedures**

Proposals will be evaluated by a state and federal technical committee. The technical committees may include members with technical expertise (e.g., Missouri Department of Conservation) critical to evaluation of this RFP. Each proposal will be evaluated in accordance with the Decision Matrix included in Appendix A of the SPRRP and the Proposal Evaluation Process included in Appendix B. Upon completion of the scoring, the committee may recommend short listing the proposals that are potentially acceptable to the Trustee Council. At this point, the Trustee Council may request more information of the Offerors, and carry out negotiations for the purpose of obtaining best and final offers on the short listed Offerors. The Trustee Council will review the Decision Matrix and make recommendations to their respective Authorized Official and designated Trustee, who will make the final selection for funding.

The Trustees reserve the right to withdraw this RFP at any time and for any reason and to issue such clarifications, modifications, and/or amendments as they may deem appropriate. Any additional information will be posted on the Trustee websites, and it will be the responsibility of the Offerors to check for updates. These websites are:

<http://www.dnr.mo.gov/env/hwp/sfund/nrda.htm> and

<http://www.fws.gov/midwest/es/ec/nrda/MoTriState/index.html>

## **VI. Proposal Schedule**

Proposals will be due at 5:00pm CST on July 12th, 2013. The Trustees may extend this due date, if insufficient proposals are received or other circumstances arise that warrant granting more time.

The Trustees will request additional information as necessary from proposal applicants within 30 days after the proposal due date. The Trustee will provide notification of selection within 60 days after the proposal submission.

## **VII. Other Legal Contracting Requirements**

Successful projects will enter into a contractual or cooperative agreement with the U.S. Fish and Wildlife Service. Additional contracting requirements may be applicable for successful projects. For example, professional services or certain construction activities may require proof of insurance or bonding coverage. Successful applicants will be notified of contracting and cooperative agreement needs upon selection of proposals. Final approval of a project will occur at the completion of any necessary contracts or formalization of cooperative agreements.

## **VIII. Contacts**

RFP submittals should be mailed or submitted electronically to:

Scott Hamilton  
Missouri Ecological Services Field Office  
101 Park DeVillle Dr. Suite A  
Columbia, Missouri 65203

Or  
scott\_hamilton@fws.gov

If you have questions pertaining to this RFP, please contact Scott Hamilton by phone or email at (573) 234-2132 Ext. 122, or Dave Mosby at (573) 234-2132 Ext. 113, dave\_mosby@fws.gov.