

# Springfield Plateau Regional Restoration Plan and Environmental Assessment Amendment January 2018



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



**MISSOURI DEPARTMENT OF  
NATURAL RESOURCES**

## **PREAMBLE**

In their roles as natural resource trustees, the state of Missouri, represented by the Missouri Department of Natural Resources (MoDNR), and the U.S. Department of the Interior (DOI), represented by the U.S. Fish and Wildlife Service (FWS), collectively, the “Trustees”, hereby submit this Draft Amendment to the Springfield Plateau Regional Restoration Plan (draft amendment) for public review and comment.

In May 2012, FWS and MoDNR published the Springfield Plateau Regional Restoration Plan and Environmental Assessment (SPRRP) to assist in carrying out their natural resource trust authorities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); the Oil Pollution Act of 1990, and the Clean Water Act. The full plan can be found at [fws.gov/Midwest/es/ec/nrda/MoTriState/index.html](https://www.fws.gov/Midwest/es/ec/nrda/MoTriState/index.html). The SPRRP was developed to allow the Trustees to utilize existing and future recovered natural resource damages to fund restoration projects in the restoration area established in the SPRRP.

Section 6.1 of the SPRRP established a Request for Proposal (RFP) process as the sole method by which restoration projects could be evaluated and selected. The Trustees have developed this amendment to streamline the development and implementation of primary restoration projects intended to restore natural resources injured by releases, discharges, spills or other incidents, occurrences, or events (hereinafter referred to as “events”) in the restoration area. The Trustees propose an additional method by which primary restoration projects may be proposed, evaluated, and selected by the Trustees in conjunction with robust public review and comment.

Although this new method for project development will not utilize an RFP, the Trustees will continue to use a process of advertising and requesting bids for professional services and materials needed to implement these projects.

## **BACKGROUND**

Primary restoration is defined in Section 3.3 of the SPRRP as “any action taken to return an injured natural resource and its services to its baseline condition.” Restoration projects that directly restore natural resource injuries caused by the release of hazardous substances are considered primary restoration. In comparison, compensatory restoration is defined in Section 3.4 of the SPRRP as “any action taken to offset the interim losses of natural resources from the date of the event until recovery.”

By law, the Trustees are required to use recovered restoration funds solely for the restoration of natural resources injured by the release of hazardous substances, and/or pollutants. The Trustees must ensure that there is a biological connection between the injury and the restoration project implemented. The Trustees are accountable to the public for how the funds are expended and must comply with requirements under the National Environmental Protection Act (NEPA) and CERCLA. There is no intent by the Trustees to delegate these responsibilities to other parties or organizations.

The Trustees' experience with restoration projects in Missouri has grown since the May 2012 publication of the SPRRP, particularly with regard to primary restoration, and this experience informs this draft amendment. For example, implementation of primary restoration at the site of natural resource injury may involve the following complications and complexities:

- Health and safety hazards
- Complex site ownership histories and permissions
- Lengthy permitting processes
- Limited suite of available sites for primary restoration
- The presence of residual contamination in remediated habitat that continues to pose a potential risk to wildlife or the environment
- Advanced technical issues not present at “normal” resource restoration projects
- Other considerations which may impair restoration success

Due to the likely presence of these confounding conditions at many potential primary restoration sites, the Trustees have determined that implementation of primary restoration projects on sites where hazardous substances have been released may not always comport with an RFP process. Consequently, for the implementation of primary restoration at sites covered by the SPRRP, the Trustees propose an additional avenue through which the Trustees themselves generate primary restoration proposals consistent with the findings of the Trustees' injury determination studies and in conjunction with a robust public review and comment process.

As such, the Trustees propose to replace Sections 6.1 and 7 as well as Appendices A and B of the SPRRP with the following amendments:

## **DRAFT AMENDMENT**

### **SECTION 6 – RESTORATION PROJECT PROPOSAL PROCESS**

#### **6.1 Introduction**

Sections 6.1.1 through 6.4 explain the processes through which the Trustees will evaluate and select restoration projects under this plan. By law, the Trustees are responsible to the public to use recovered restoration funds solely for the restoration of natural resources injured by the release of hazardous substances, and/or pollutants. The Trustees must restore, rehabilitate, replace, and/or acquire the equivalent of injured natural resources. The Trustees must ensure that there is a legal nexus between the injury and the restoration project implemented. The Trustees are accountable to the public for how the funds are expended and must comply with requirements under NEPA and CERCLA. There is no intent by the Trustees to delegate these responsibilities to other parties or organizations.

The Trustees intend to conduct both primary and compensatory restoration under this SPRRP. As previously defined, primary restoration is any action taken to return an injured natural resource and its services to its baseline condition. Compensatory restoration is any action taken to offset the interim losses of natural resources from the date of the event until recovery. This SPRRP provides two mechanisms by which restoration projects in the Springfield Plateau may be

proposed, evaluated and selected by the Trustees, in conjunction with a robust public review and comment process.

### *6.1.1 The Request for Proposal Process*

The Trustees intend to utilize an RFP process to assist in the identification of some restoration projects for implementation. This RFP process will be the sole mechanism through which the Trustees will evaluate and select compensatory restoration projects, and one of the two mechanisms used for primary restoration projects.

Issuance of an RFP by the Trustees will be triggered by a number of factors, including but not limited to, the achievement of settlements; staff time and availability; input from stakeholders; the schedule of remedial action at a particular site; and the nature of the resource injury. The Trustees will work with stakeholders and amongst themselves to identify projects which meet the restoration criteria and goals contained within this SPRRP. The Trustee Council will evaluate and make the final recommendations on the selection of projects. The exemplar RFP contained in Appendix G serves as a model for future RFPs. It contains the restoration project RFP format and guidance for a hypothetical restoration fund.

Potential stakeholders include, but are not limited to: municipalities; county and local governments; state and federal governments; private and public entities; and private and public nonprofit organizations interested in implementing restoration projects to restore injured natural resources and their services. Overall effectiveness of the SPRRP will increase through leveraging public and private contributions (dollars and services) and coordination with other area enhancement projects. Note that the Trustees can submit projects through the RFP process. These projects will be evaluated objectively using the same criteria as non-trustee submittals and comply with Sections 105.450 to 105.458, Revised Statutes of Missouri (RSMO) regarding conflict of interest.

Restoration projects should not duplicate or substitute for traditional funding sources or program responsibilities; they should be in addition to existing responsibilities. Basic principles such as fish and wildlife biology, landscape ecology, botany, wetland/riverine ecology and hydrology are important concepts to utilize in the development of quality restoration projects that restore both habitat structure and function and comply with the goals of the SPRRP. Maximizing resources and leveraging monies for restoration projects is strongly encouraged.

The Trustees reserve the right to initiate or return communications in any form to project proposal submitters to request clarifications in their proposal documents. The Trustees will notify each submitter separately regarding their selection or failure to be selected for funding under a specific RFP. The public will be notified of selected restoration project proposals via the Trustees respective NRDAR websites and via local repositories.

### *6.1.2 The Trustee-Initiated Primary Restoration Project Proposal Process*

In addition to the RFP process detailed in Section 6.1.1, the Trustees have also decided to include the ability to directly control the implementation of primary restoration at the sites where

injury to natural resources has been determined by Trustee-led assessment studies. This direct-drive process is not applicable to compensatory restoration.

Trustee-initiated primary restoration project proposals can be submitted by a Trustee to the Trustee Council at any time. Trustee-initiated proposals for primary restoration will be crafted to reflect the known suite of information regarding the NRDAR site where the Trustees have made a successful claim. The Trustees will work with stakeholders and amongst themselves to identify projects which meet the restoration criteria and goals contained within this SPRRP. The Trustee Council will evaluate and make the final recommendations on the selection of projects. Trustee-initiated proposals will need to include the same information as proposals submitted under an RFP, and they will be evaluated under the same criteria, including use of the Decision Matrix found in Appendix A of this document.

*[- - - - -Sections 6.2-6.4 of the SPRRP remain unchanged- - - - -]*

## **SECTION 7 - CONSULTATION AND COORDINATION WITH THE PUBLIC AND OTHERS**

### **7.1 Public Participation**

Public review is an integral component of the restoration planning and NEPA processes. Throughout the public comment period, the Trustees accepted comments on the SPRRP's Environmental Assessment (EA). To insure that the public had ample opportunity to provide comments on the SPRRP's EA, the Trustees accepted comments on the draft plan for 45 days and held public meetings during this time to facilitate understanding of the draft plan. Next, the Trustees responded to comments and incorporated changes to the draft document (Appendix H). Notification of comment period and public meetings was made available on the Trustees' respective websites, local newspapers, and the Federal Register, among other sources.

The Trustees will use their websites for a multitude of purposes, including, but not limited to the announcement of public meetings; acceptance of comments on the SPRRP; announcement of scheduled releases of RFPs; publication of dates for project proposal submission; publication of RFPs; announcement of selected restoration projects; and general communication of restoration efforts in the Springfield Plateau. Project submission details and requirements will be included in each individual RFP that the Trustees release. FWS' NRDAR website is located at [fws.gov/midwest/es/ec/NRDA/MoTriState/index.html](http://fws.gov/midwest/es/ec/NRDA/MoTriState/index.html). The MoDNR's NRDAR website is located at [dnr.mo.gov/env/hwp/sfund/nrda.htm](http://dnr.mo.gov/env/hwp/sfund/nrda.htm). Hard copies of all materials on the websites will also be available in FWS' office in Columbia, Mo., the MoDNR's office in Jefferson City, Mo.

Public stakeholder meetings will be conducted to fully explain each RFP that is released by the Trustees, as well as to explain each project that a member of the Trustee Council proposes to implement. When the designated time frame for evaluation of proposals submitted in response to an RFP has expired, the Trustees will announce the selection and funding of projects that rank the highest. Project ranking will be based on the Decision Matrix found in Appendix A. Selected restoration projects will undergo further NEPA (among other statutory and regulatory) analysis, including an opportunity for public comment, prior to implementation. The Trustees will continue to select projects until all designated restoration funds are expended.

Prior to the implementation of any selected restoration project the Trustees will advertise and conduct a public meeting to discuss, answer questions, and solicit public comment on the selected restoration project alternatives. The Trustees will accept comments in writing and via e-mail for a period of at least 30 days. The Trustees will respond in writing to all received comments prior to the implementation of any restoration projects.

## **7.2 Public Meetings, Presentations, and Scoping for Restoration**

A public meeting was held on December 11, 2017 in Joplin, Missouri to present this draft amendment and accept comments. No comments were received during the 30-day period beginning December 4, 2017 and running until January 3, 2018.

## **7.3 National Historic Preservation Act Compliance**

FWS' Region 3 Regional Director will provide the state historic preservation offices (HPOs) and Tribal HPOs with this restoration plan and environmental assessment as part of the public review and comment process, drawing their attention to the recommended procedure for implementing Section 106 of the National Historic Preservation Act (NHPA) as described in 36 Code of Federal Regulations (CFR) Part 800.

Cultural resources are those parts of the physical environment, natural and built, that have cultural value to some socio-cultural groups and human social institutions. Cultural resources include historic sites; archeological sites and associated artifacts; sacred sites, traditional cultural properties; cultural items (human remains, funerary objects, sacred objects and objects of cultural patrimony); and buildings and structures. Most cultural resource concerns can be identified through the Section 106 process of the NHPA. To reduce paperwork, avoid duplication, and expedite decision making, the Section 106 process as defined in 36 CFR Part 800 will be followed for purposes of the environmental assessment.

Absent objections from HPOs or from other interested persons the NHPA is recognized as having legal standing (39 CFR § 800.2(c)(3), (4), and (5)) in land acquisition projects, projects involving ground disturbance, and projects impacting buildings and structures 50 years and older, FWS' Restoration Coordinator will:

- 1) Consult with the appropriate HPO for each specific project (undertaking) for the purpose of identifying cultural resources in the area of potential effect and obtain from the HPOs a determination of no historic properties or no effect on historic properties as outlined in Section 106 of the NHPA, and
- 2) Provide the Regional HPO with sufficient documentation to determine if the Section 106 process has been completed prior to project implementation.

## **7.4 Endangered Species Act Compliance**

After projects have been evaluated and deemed successful through the SPRRP's process, FWS' case manager for projects in the Springfield Plateau will provide FWS' Ecological Services Field Office with completed Intra-Service Section 7 consultation forms pursuant to Section 7 of the Endangered Species Act of 1973, as amended, 16 U.S. Code §§ 1531-1599, and its implementing regulations, 50 CFR Part 402. Each project funded under this restoration plan will be evaluated for its potential effects to federally threatened, endangered and candidate species prior to the award of any restoration funds. Projects deemed to have an adverse effect on listed or candidate species or their critical habitats will not be funded under this plan.

## **7.5 Administrative Record**

An administrative record will be maintained at the FWS, Columbia, Mo. Ecological Services Field Office and at MoDNR in Jefferson City, Mo. All pertinent documents relating to the restoration will be cataloged and an index will be available at [fws.gov/midwest/nrda/index.html](https://fws.gov/midwest/nrda/index.html). The documents will be available to the public during normal office hours.

## **7.6 Additional Compliance Considerations**

In the course of the development of restoration proposals for specific sites that fall within the TSMD, the Trustees recognize that additional restoration planning or environmental compliance analyses (i.e., NEPA) may be required for certain restoration projects (i.e., in-stream restoration of contaminated sediments, or project types not analyzed in this SPRRP). Each individual restoration project that is selected under this regional restoration plan will undergo further NEPA (among other statutory and regulatory) analysis, prior to its implementation.

**APPENDIX A: DECISION MATRIX FOR PROPOSED RESTORATION PROJECTS IN THE SPRINGFIELD PLATEAU**

**Proposal Title:** \_\_\_\_\_  
 \_\_\_\_\_  
**Author of Proposal:** \_\_\_\_\_  
**Cost of Project:** \_\_\_\_\_  
**Scorer's Name & Agency** \_\_\_\_\_  
**Date of Scoring:** \_\_\_\_\_  
**Final Score:** \_\_\_\_\_

**ACCEPTABILITY CRITERIA: Projects Must Pass These Four Criteria for Further Consideration:**

|  |          |       |
|--|----------|-------|
| Is compliant and consistent with federal and state laws, policies and regulations.   | Yes / No | _____ |
| Has demonstrated technical feasibility. If project is submitted in response to an RFP, it must be within the funding limits identified in the RFP. | Yes / No | _____ |
| Addresses injured natural resources or services targeted for restoration.  | Yes / No | _____ |
| Project will not be used for response actions, and is not being proposed by an identified potentially responsible party (PRP).                     | Yes / No | _____ |

|  |                  |                         |
|--|------------------|-------------------------|
| <b>PROJECT RANKING CRITERIA: Scored Criteria :</b> | <b>Scoring :</b> | <b>Points Assigned:</b> |
|--|------------------|-------------------------|

*Range of scores = 0-5; "0" = the proposal does not address this criteria; "1" = the criteria is poorly met; "5" = the criteria is adequately met.*

|  |                 |       |
|--|-----------------|-------|
| 1. <u>Location of project (25 points possible):</u>  |                 |       |
| a) Project occurs in a priority geographic area. When applicable, score according to the tiered geographic priorities identified in the RFP.                                   | (Score 0-5) x 3 | _____ |
| b) Project fits within one or more of the identified restoration project categories. When applicable, score according to the prioritization of projects identified in the RFP. | (Score 0-5)     | _____ |
| c) Project occurs within or adjacent to a designated park, natural area, or conservation area.   | (Score 0-5)     | _____ |

**APPENDIX A: DECISION MATRIX FOR PROPOSED RESTORATION PROJECTS IN  
THE SPRINGFIELD PLATEAU**

- |   |             |       |
|---|-------------|-------|
| <u>2. Examples of preferred resources and services (one or more of these may be included) (30 points possible):</u>                   |             |       |
| a) Benefits federal- and state-listed species, or Missouri Species of Concern.  | (Score 0-5) | _____ |
| b) Restores lost human uses (e.g., drinking water, recreational opportunities).   | (Score 0-5) | _____ |
| c) Restores lost (or depressed) ecological services.  | (Score 0-5) | _____ |
| d) Restores or enhances native diversity and abundance.   | (Score 0-5) | _____ |
| e) Expands existing protected natural areas or creates greater connectivity between existing natural areas.                           | (Score 0-5) | _____ |
| f) Ecosystem improvements are self-sustaining.  | (Score 0-5) | _____ |
| <u>3. Benefits provided (15 points possible):</u>   |             |       |
| a) Provides specific benefits or enhancements not provided by other restoration projects.   | (Score 0-5) | _____ |
| b) Complements planned response actions. Does not provide benefits already provided by response actions.                              | (Score 0-5) | _____ |
| c) Provides the greatest scope of benefits to the largest area or natural resource population.  | (Score 0-5) | _____ |
| <u>4. Time required for restoration (5 points possible):</u>  |             |       |
| a) Time required to return resources to baseline condition is minimized. Proposal identifies expected timeline to return to baseline. | (Score 0-5) | _____ |
| <u>5. No adverse environmental effects from actions (5 points possible):</u>  |             |       |
| a) Minimal impact to natural resources will occur from the proposed actions.  | (Score 0-5) | _____ |
| <u>6. Cost-effectiveness (10 points possible):</u>  |             |       |
| a) Utilizes cost-effective means.   | (Score 0-3) | _____ |
| b) Additional funds (matching or scaled) are provided by proposal source (submitter) or to be pooled with other funding sources.      | (Score 0-7) | _____ |
| <u>7. Evaluation component (5 points possible):</u>   |             |       |
| a) Project includes a monitoring component.   | (Score 0-1) | _____ |
| b) Project identifies performance measures for successful restoration.  | (Score 0-2) | _____ |
| c) If goals of restoration are not being achieved, the project identifies the “next steps” to achieve restoration.                    | (Score 0-2) | _____ |
| <u>8. Probability of success (5 points possible):</u>   |             |       |
| a) Uses established methods known to have a high probability of success.  | (Score 0-5) | _____ |

**APPENDIX A: DECISION MATRIX FOR PROPOSED RESTORATION PROJECTS IN  
THE SPRINGFIELD PLATEAU**

**Total Points:** \_\_\_\_\_ **(100 possible points)**

**Comments:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

*Revised October 2017*

## **Appendix B—Project Evaluation and Selection Process**

### **Springfield Plateau Regional Restoration Plan**

1. The Trustee Council (TC) will cause notice of a Request for Proposal (RFP) to be published in local newspapers and the TC websites with at least sixty (60) days for the proposal application process. The TC will hold at least one public meeting to discuss the particular RFP.
2. The Springfield Plateau Regional Restoration Plan also allows a member of the TC to directly submit a restoration project proposal to the TC. The Trustee Council will hold a public meeting to discuss the submitted project.
3. Following the RFP proposal submission deadline or submittal of a project proposal by an agency member of the TC, the TC will meet to review the project proposals received based on the acceptability criteria. The TC will identify projects that do not meet the acceptability criteria and inform the submitter. At the same time, the TC will conduct a joint preliminary review of the Decision Matrix criteria to identify any potential common concerns with the projects that meet the acceptability criteria.
4. Each Trustee will separately evaluate and score the project proposals using the Decision Matrix ranking criteria, consulting internal and external experts relevant to the proposals.
5. The TC will reconvene to discuss their Decision Matrix ranking criteria evaluation of the projects, and to generate a mean score for each project. The object of this discussion is to prioritize and reach consensus on the submitted projects. The Trustees reserve the right to reject proposals even if they meet the acceptability criteria.
6. The projects will be ranked by the mean scores and recommended to the federal Authorized Official and the state Trustee for funding. Depending on the availability of funds, more than one project may be recommended for funding.
7. In the event that the Trustee Council is in disagreement over potential restoration projects, the matter shall be elevated to the state and federal Trustees pursuant to the Memorandum of Understanding between the Missouri Department of Natural Resources and the United States Department of the Interior.

*Revised October 2017*