



## Missouri Trustee Council

### **Southeast Missouri Lead Mining District: Public Comments requested on proposed Natural Resource Restoration Projects concerning Property Acquisitions, Non-native species control and West Fork Black River restoration**

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The State of Missouri, the U.S. Department of the Interior, and the U.S. Department of Agriculture, acting on behalf of the public as trustees for natural resources and their associated services, propose to fund several compensatory restoration projects in the Southeast Missouri Lead Mining District. This restoration proposal relates to the natural resource damage assessment and restoration process undertaken by the State of Missouri, the U.S. Department of the Interior, and the U.S. Department of Agriculture (collectively "Trustees") in the Southeast Missouri Lead Mining District pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601-9675) and implementing regulations (43 C.F.R. Part 11).

In accordance with the Southeast Missouri Ozarks Regional Restoration Plan (SEMORRP), the Trustees are proposing to fund several projects, including (1) the acquisition and restoration of high quality habitat; (2) the treatment of non-native species and planting of native plants on the Mark Twain National Forest; and (3) restoration of springs, riparian area, and wetlands to restore the natural flow, restore wetlands, and hydrology of the West Fork Black River bottomland areas. These proposed restoration projects will serve to replace lost natural resources and the services the resources provide as a result of the releases of hazardous substances at mine and mill facilities formerly owned and/or operated by ASARCO, LLC, Freeport McMoRan, and Magmont Joint Venture in the Viburnum Trend.

More information on the natural resource damage assessment and restoration process, the SEMORRP, the amount of recovered funds to be used for natural resource restoration, and these proposed projects is available on the following websites:

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

or

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

## Soliciting Public Comments

The public is invited to submit comments on the proposed natural resource restoration projects for a thirty day time period, from September 4, 2015 through October 5, 2015. The proposed restoration projects currently available for public review and comments are described in the following documents:

- 1) DRAFT Natural Resource Restoration in the Southeast Missouri Lead Mining District: Proposal for Property Acquisitions and Supplemental Environmental Assessment
- 2) Proposed Native Plant Diversity Restoration: Non-Native Invasive Species treatments and planting on Mark Twain National Forest
- 3) Proposed West Fork Black River Bottomland Restoration Project

Please submit comments electronically (preferred) to:

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or

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# DRAFT Natural Resource Restoration in the Southeast Missouri Lead Mining District: Proposal for Property Acquisitions and Supplemental Environmental Assessment



## **I. Introduction**

The State of Missouri, the U.S. Department of the Interior, and the U.S. Department of Agriculture, acting on behalf of the public as trustees for natural resources and their associated services, propose to fund several compensatory restoration projects in the Southeast Missouri Lead Mining District. This restoration proposal relates to the natural resource damage assessment and restoration process undertaken by the State of Missouri, the U.S. Department of the Interior, and the U.S. Department of Agriculture (collectively “Trustees”) in the Southeast Missouri Lead Mining District pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601-9675) and implementing regulations (43 C.F.R. Part 11). The natural resource Trustees recovered monetary damages from the American Smelting and Refining Company<sup>1</sup> (ASARCO, LLC), Cyprus Amax Minerals Company, Missouri Lead Smelting Company (for purposes of this proposal, Cyprus Amax and Missouri Lead will collectively be referred to as Freeport McMoRan), Teck American, Inc., and DII Industries, LLC. (for purpose of this proposal, Teck American and DII will collectively be referred to as Magmont Joint Venture) to settle certain legal claims concerning injuries to natural resources and their services. In accordance with the Southeast Missouri Ozarks Regional Restoration Plan (SEMORRP), the Trustees propose to fund the acquisition and restoration of high quality habitat to replace lost natural resources and the services the resources provide.

For purposes of the ASARCO restoration funds, the Missouri Trustee Council is comprised of the State of Missouri, represented by the Missouri Department of Natural Resources and the U.S. Department of the Interior represented by the U.S. Fish and Wildlife Service. For purposes of the Freeport McMoRan and Magmont Joint Venture restoration funds, the Missouri Trustee Council is comprised of the State of Missouri, represented by the Missouri Department of Natural Resources, the U.S. Department of the Interior, represented by the U.S. Fish and Wildlife Service, and the U.S. Department of Agriculture, represented by the U.S. Forest Service. SEMORRP provides a process framework that governs the approach for restoration project identification, evaluation, selection and implementation. This restoration proposal relates the Trustees’ actions to the public in order to solicit their input prior to the selection and implementation of the projects.

## **II. Proposed Restoration Activities**

The Trustees are proposing to acquire and restore parcels of land within the described boundary of the SEMORRP (See SEMORRP Section 1.2 and Figures 1 and 2, link provided below) to compensate the public for the loss of natural resources and the services they provide resulting from the activities of these companies. The acquired and restored properties will be owned in

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<sup>1</sup> The U.S. Department of Agriculture was not a party to the ASARCO claim and settlement.

perpetuity by the State of Missouri or the U.S. Forest Service, as described below, and will be open to the public for site-appropriate recreational activities that reflect their wild and scenic nature. These agencies possess the expertise to restore and manage land resources. Natural resource restoration activities on the properties proposed include the re-introduction of prescribed fire to the landscape, the control and removal of invasive plant species, selective thinning of trees to improve migratory bird and other wildlife habitat, streambank and floodplain forest restoration among others.

The Trustees have currently allocated up to \$18,600,000 for property acquisitions and restoration which meet defined ecological characteristics tailored to address injuries to natural resources and their services as a result of the releases of lead and zinc in the Southeast Missouri Lead Mining District. If selected and funded by the Trustees, acquisition and restoration of properties could begin as early as late 2015 or early 2016. In order to protect the private landowners who are willing to sell their property, and the sensitive nature of real estate transactions, specific parcel locations are not given at this time.

#### **A. Properties within the Eleven Point River Watershed**

Depending on a variety of factors, a portion of the amount identified above may be used for the acquisition and restoration of properties within the Eleven Point watershed to be owned and managed by the State of Missouri. Candidate properties the Trustees will consider include large tracts with intact river hill forests and riparian corridors. Removal of grazing and other agricultural practices present on many of these lands will enhance ecosystem functioning and enable reforestation and/or reestablishment of grasslands, as appropriate.

Additionally, public ownership and management of these lands will add protections for aquatic ecosystems, both in the Eleven Point River itself and in the many springs and perennial and intermittent streams contributing to its flow. The aquatic resources in this area are similar to those injured by the mining activities for which the Trustees recovered natural resource damages.

The Eleven Point watershed provides habitat to numerous migratory birds and has been identified as an Audubon Important Bird Area. Through these acquisitions and the implementation of management practices, this habitat will be preserved and, where necessary, restored such that the benefits to migratory birds will accrue in perpetuity.

#### **B. Properties within the St. Francis River and Black River Watersheds**

Additional properties under consideration for acquisition and restoration are located within the watersheds of the St. Francis River and Black River. The lands to be purchased are ecologically similar to those that were impacted by mining activities and therefore will provide value to similar species and natural communities. In addition, the proposed acquisitions will connect to

other, high quality habitat, and are adjacent to other public lands, which provide enhanced environmental benefit by removing “edge effects” by having a larger ecosystem.

The properties are located in the St. Francois Knobs area which has been designated as an Audubon Important Bird Area. Dry mesic igneous forest and glades cover the majority of the properties providing extensions of adjacent areas with similar characteristics. Each of the properties is directly contiguous to, and in some cases surrounded by, existing public land with high quality examples of these same habitat types and represents strategic gains to enhance ecological connectivity and the addition to substantial acreage of uninterrupted habitat. Public ownership secures perpetual benefits for migratory birds.

In addition, the protection and restoration of the glade complexes will provide habitat for species characteristic of these systems and will also enhance the resiliency of the systems. Some of this land provides the opportunity for restoration of shortleaf pine (*Pinus echinata*), a species whose distribution has been adversely impacted by human activities in the area. Each has high quality streams with relatively intact riparian corridors. Thus, protection of these lands will also support protection of streams on and downstream from these properties. Each would support backcountry recreation while fully supporting the natural communities consistent with the goals of NRDAR to restore lost natural resources and their associated services.

### **C. Ownership and Management of Acquired Lands**

The primary goal of the proposed restoration activities is the acquisition and restoration in perpetuity of high quality natural resources, which will be placed into public ownership as compensation for the natural resource injuries resulting from mining activities. The expected recipients of the purchased properties include the Missouri Department of Natural Resources’ Division of State Parks and the Mark Twain National Forest. The proposed tracts provide a unique opportunity for significant ecological improvement as they represent connectivity to existing protected lands and the additional protection of thousands of acres of contiguous and varied habitat that would be restored and open to the public for recreational opportunities compatible with their wild and scenic nature.

Proposed future restoration activities will serve to enhance the suitability of the acquired tracts for a broad suite of wildlife. Removal and restriction of grazing will allow grasslands and forests to recover, providing enhanced nesting opportunities and increased food sources for migratory birds. Re-introduction of fire onto the landscape will stimulate the growth of native forbs and grasses and reduce the density of overstocked forests. Restored riparian corridor and floodplain forests will provide exceptional nesting and foraging areas for migratory birds and other wildlife. Restoration and regeneration of open woodlands and savanna communities will recreate habitats that are rare and decreasing on the landscape of southeast Missouri currently and assist in the recovery of natural resources injured by the releases of hazardous substances from mining activities.

#### **D. Restoration and Rehabilitation Activities on Acquired Properties**

As mentioned above, the primary goal of this project is the acquisition and restoration of high quality natural resources. The general restoration goals for the acquired properties will be to preserve and restore native savanna, woodlands and forest, streams and riparian areas, in their proper ecological context. The restoration objective will be open, grassy savanna and oak woodlands across the upland plain, closed oak-pine woodland and forest in the river hills, and bottomland forest in floodplains. Where appropriate, dry igneous woodlands and glades will also be restored. The Trustee agency owning the property will fully document habitat types and conduct species inventories, including the presence of threatened and endangered species and species of conservation concern. The management and long-term stewardship goals and objectives for these properties will include, but will not be limited to:

- Focus on the maintenance of existing high quality habitat.
- Implement management plans and practices similar to those of other lands held by the Trustee agency, including monitoring ecosystems and representative species present on the properties towards the goal of establishing self-sustaining ecosystem level improvements.
- Introduce the use of prescribed fire to promote the natural diversity of species characteristic of this area and restore it to its historic natural state.
- Restore riparian and aquatic areas.
- Protect plants and animals of conservation concern found on the properties.
- Public ownership will provide for more control of feral hogs and invasive plants species, further enhancing the natural communities not only on these properties, but also on adjacent public lands.
- Road removal and restoration will occur where possible to reduce forest fragmentation.
- Control invasive plants and animals.
- Establish monitoring transects to track restoration efforts on glade and woodland flora; regularly monitor rare and endangered species
- Provide access for public use, through trails and other backcountry recreation compatible with the goal of restoring habitat for the benefit of natural resources such as birds and mammals.

#### **E. Long-Term Management**

The properties will be managed according to existing management plans and, where necessary, new resource management plans, with the focus on the preservation of existing upland and riparian forest, and expanding its extent. Tree planting in the bottomland fields, cane and tree planting/restoration in the river bottoms and aquatic system, prescribed burning and exotic species control will be important and necessary elements of site restoration and management.

This management framework will protect the properties in perpetuity in a manner consistent with and supportive of the goals of NRDAR.

### **III. Relationship Between This Document and Prior NEPA Analyses**

The SEMORRP was developed under the NRDAR regulations implementing the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly known as the federal “Superfund” law) to describe the process that will be used by the Trustees to identify appropriate actions to restore, rehabilitate, replace, and/or acquire natural resources equivalent to those injured by hazardous substance releases. The SEMORRP fulfills requirements under the National Environmental Policy Act of 1969 by taking a “hard look” at the environmental consequences of proposed federal actions, to disclose pertinent information about the actions to the public and provide public review and comment on federal actions that affect environmental resources. This Draft Restoration Proposal is part of the public review process.

Development of the SEMORRP was a joint effort among state and federal natural resource Trustees and was coordinated with the public. The SEMORRP is jointly administered by the Trustees to assist in carrying out their natural resource authorities under CERCLA, the Oil Pollution Act, and the Clean Water Act. 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 document can be found at:

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

or

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

The proposed restoration projects described in this draft document are compliant with the preferred alternative selected in the SEMORRP. The preferred alternative (SEMORRP, Section 5, Alternative D) is a combination of primary and compensatory restoration. As identified in the SEMORRP, priority is given to primary restoration, whenever feasible. However, the Trustees will implement compensatory restoration when distinct advantages in cost-effectiveness or unique opportunities in protecting or enhancing important natural resources arise. For example, the tracts of land described in this proposal offer unique opportunities for the Trustees to provide connectivity to existing protected lands and to also preserve in perpetuity and restore large blocks of contiguous property within a landscape of private and public land holdings. In general, the Trustees prefer to acquire and restore larger blocks of land

than smaller tracts, because larger parcels:

- Afford the opportunity to restore imperiled habitats on a landscape scale;
- Reduce the edge effect and its commensurate predation of increasingly rare species who suffer from habitat fragmentation; and
- Are known to be especially important for the reproductive success of migratory songbirds, a group of species known to be adversely impacted by the types of releases that occurred at the facilities owned and operated by ASARCO, LLC, Freeport McMoRan, and Magmont Joint Venture.

At the same time, the Trustees will consider small strategic acquisitions that serve to fill in or expand an existing natural area or contribute to an existing or possible ecological corridor.

#### **A. Site, Claim, and Settlement Information**

The Southeast Missouri Lead Mining District (SEMOLMD) remains one of the largest lead producing regions of the world. The mining district covers multiple counties located from 40 to 90 miles south-southwest of the City of St. Louis. As a result of the contamination and injury of natural resources in SEMOLMD from mining wastes, the federal and state natural resource Trustees initiated ongoing Natural Resource Damage Assessment and Restoration activities at numerous sites within SEMOLMD. Natural Resource Damage Assessments have shown heavy metal contamination injuring thousands of acres of land, dozens of miles of streams, and terrestrial and aquatic life that depend on these habitats. For more information on the assessment and the different studies performed by the Trustees please see our websites at:

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

or

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

ASARCO, LLC, and/or its predecessors owned and operated mining leases, mills and smelters in the SEMOLMD; Freeport McMoRan and/or its predecessors owned and operated the Buick Mine and Mill and the Buick Smelter in the Viburnum Trend of the SEMOLMD; Magmont Joint Venture and/or its predecessors owned and operated the Magmont Mine and Mill in the Viburnum Trend of the SEMOLMD. Based on the operations of these companies, the Trustees filed and settled separate claims for injuries to natural resources and their services caused by the mining and related activities of these companies.

The Trustees' priorities with these restoration projects is to compensate the public for injury to migratory birds and their supporting habitats including the acquisition and restoration of known and to be restored high quality habitats. The Trustees are also seeking to restore and protect in

perpetuity natural aquatic communities contained within or neighboring the proposed restoration and acquisition parcels.

#### **IV. Affected Environment**

Please see Section 4 and Appendix D of the SEMORRP for further descriptions of the potentially affected resources in the Black, St. Francis, and Eleven Point River watersheds. The conclusions reached in the SEMORRP are incorporated here by reference.

##### **A. Environmental Consequences**

Please see Section 5 of the SEMORRP for further descriptions of the potential environmental consequences of implementing this property acquisition and restoration proposal in accordance with the Preferred Alternative (D).

##### **B. Potential Impacts to Threatened and Endangered Species**

Protective measures would be taken during implementation of restoration projects to prevent any impact to sensitive species. Adherence to the restrictions proscribed in the protective measures will provide for no adverse effects on the listed species. For federally-listed species, consultation under the Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531-1599, and its implementing regulations, 50 C.F.R. Part 402 will occur prior to the release 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 proposal.

##### **C. Potential Impacts to Cultural and Historical Resources**

Restoration projects covered under this proposal such as acquiring tracts of native forest, the reintroduction of prescribed fire, and control of invasive species on acquired lands have the potential to affect properties meeting the criteria for the National Register of Historic Places and other cultural resources. Prior to making final decisions about this restoration proposal, the Field Supervisor at the Columbia, Missouri Ecological Field Office of the Fish and Wildlife Service, will initiate consultation with their Regional Historic Preservation Officer (RHPO) and will complete the Section 106 process. 36 C.F.R. Part 800.

##### **D. Climate Change**

Implementation of the acquisition and restoration projects described in this proposal is expected to enhance the resiliency and adaptive ability of existing State Park and Forest Service lands by providing expanded topographical relief and consequent habitat flexibility in the Black and St. Francis River watersheds. State Parks and Forest Service staff also will have enhanced access to

previously owned land through these acquisitions, which will grant them additional management options to adapt to climate change. The large size of the properties proposed for acquisition and restoration in the Eleven Point River watershed confers the ability to manage landscapes on a landscape scale. Consequently, management activities can be adapted to meet the potential challenges posed by climate change on a broader scale.

#### **E. Socioeconomic Considerations**

Protection of forests, wetland, floodplain, and riparian corridors will provide wildlife viewing, fishing and hunting, and help create positive economic impacts on the local economy. Aquatic habitat improvements or enhancements would provide more opportunities for public enjoyment of natural resources. Acquisition procedures of land or purchase of conservation easements would involve transactions with willing land owners who would be paid fair market value. Potential negative impacts of land acquisition include removal of land from county property tax rolls, reductions in the number and frequency of private timber sales on acquired lands, and increased presence of tourists and commensurate traffic to acquired lands.

#### **F. Environmental Justice**

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 Federal Register 7629 (1994)), directs federal agencies to incorporate environmental justice in their decision making process. Federal agencies are directed to identify and address as appropriate, any disproportionately high and adverse environmental effects of their programs, policies and activities on minority or low-income populations.

Upland, wetland, floodplain, and riparian corridor preservation will involve transactions with willing landowners. Any negative impacts to the local populations would be temporary and localized with the goal of improved natural resources in the future. While the primary purpose of the restoration of this land is to restore natural resources, acquired properties will be open to the public for natural resource based recreational/educational activities such as wildlife viewing.

#### **G. Cumulative Impacts**

The cumulative impact of implementing the proposed acquisition and restoration projects is expected to be an increased abundance of migratory songbirds and a greater diversity of aquatic and terrestrial biotic communities. These are the same natural resources injured by the release of hazardous substances by the above mentioned companies. Following the implementation of the above described restoration projects, ecosystem services such as the provision of clean surface water for use by human and natural users will be increased. Local and regional communities will have more opportunities for increased natural resource use and enjoyment.

## **V. Public Participation**

### **A. Public Review and Comment Period**

The public is invited to review and comment on the proposed projects until October 5, 2015. A public meeting will be held to describe the proposed acquisition and restoration projects as described below.

Comments can be submitted electronically (preferred) to either:

Mr. Eric Gramlich  
CERCLA/OPA NRDAR Section Chief  
Missouri Department of Natural Resources,  
P.O. Box 176  
Jefferson City, MO 65102-0176  
573-526-3353  
Email: [eric.gramlich@dnr.mo.gov](mailto:eric.gramlich@dnr.mo.gov)

or

Mr. John Weber  
Environmental Contaminants Specialist  
U.S. Fish and Wildlife Service,  
101 Park DeVillie Dr. Suite A  
Columbia, MO 65203  
573-234-2132 x177  
Email: [John\\_S\\_Weber@fws.gov](mailto:John_S_Weber@fws.gov)

or

Ms. Becky Bryan  
Remediation Coordinator  
Mark Twain National Forest  
401 Fairgrounds Road  
Rolla, MO 65401  
573-341-7436  
Email: [blbryan@fs.fed.us](mailto:blbryan@fs.fed.us)

### **B. Public Meeting, Presentations**

A public meeting to solicit comments and answer questions about this restoration proposal will be held on September 2, 2015 at the Visitor Center in Johnson's Shut-Ins State Park at 6 pm.