



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 17 2014

REPLY TO THE ATTENTION OF:

E-19J

Lisa Williams
U.S. Fish and Wildlife Service
East Lansing Field Office
2651 Coolidge Road East
East Lansing, Michigan 48823

**RE: Scoping for a Programmatic Environmental Impact Statement: Riverwide
Restoration Plan – Allied Paper/Portage Creek/Kalamazoo River Superfund Site;
Allegan and Kalamazoo Counties, Michigan**

Dear Ms. Williams:

The U.S. Environmental Protection Agency has reviewed a February 18, 2014, Federal Register (FR) Notice of Intent to prepare a draft Restoration Plan (RP) and Programmatic Environmental Impact Statement (PEIS) for the Riverwide Restoration Plan: Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site in Allegan and Kalamazoo Counties, Michigan. This letter provides EPA's scoping comments on the proposed RP/PEIS, pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

The FR notice stated that the National Oceanic and Atmospheric Administration (NOAA), the U.S. Fish and Wildlife Service (USFWS), and the State of Michigan (collectively referred to as the "Trustees") are providing notice of their efforts to plan restoration projects to compensate for injuries to natural resources from polychlorinated biphenyls (PCBs) released at and from the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site (Superfund Site). The Trustees plan to prepare a PEIS to identify and evaluate the environmental impacts associated with restoration actions that may be implemented to compensate for injuries to natural resources and associated services.

PCBs have been released to the Kalamazoo River Environment¹ (KRE) by industrial activities in the vicinity of Kalamazoo, Michigan. Specifically, a major source of contamination by PCBs to

¹ As defined in the Stage 1 Assessment Report (MDEQ et al. 2005; available at <http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver>), the Trustees are using the term Kalamazoo River Environment (KRE) to represent the entire natural resource damage assessment area. The KRE encompasses the area being addressed by the Superfund remedial investigations for the site's operable units, along with any area

river environments was the discharge of paper waste produced during the de-inking and re-pulping of recycled carbonless copy paper material. When the recycled paper stream from Kalamazoo-area paper mills included carbonless copy paper containing PCBs (late 1950s to early 1970s), PCBs were present in the paper mill waste streams and were released into the environment. As a result, on August 30, 1990, the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site was added to the National Priorities List (NPL) pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601 et seq., as amended.

The Trustees are empowered to obtain compensation from potentially responsible parties (PRPs) for damages including injury to, destruction of, or loss of natural resources caused by hazardous substance releases. Trustees must use recovered funds to restore, replace, rehabilitate, or acquire the equivalent of the injured natural resources. In lieu of receiving funds for damages to natural resources, the Trustees may allow the PRPs to directly implement restoration activities. Natural resources under the trusteeship of the Trustees that have been affected or potentially affected by releases of hazardous substances from the PRPs include, but are not limited to, surface water resources, including surface water and sediments (bed, bank, and shoreline) of Portage Creek and the Kalamazoo River; groundwater resources; geologic resources, including floodplain soils adjacent to Portage Creek and the Kalamazoo River; aquatic biota, including aquatic invertebrates and resident and migratory fish; and terrestrial biota, including terrestrial invertebrates, mammals, and birds.

The Kalamazoo River Natural Resource Damage Assessment (NRDA) was initiated nearly 15 years ago, and since that time, the Trustees have been directly engaging with the public, soliciting restoration project ideas, and working with local nonprofit and watershed groups. These efforts led to the release of a Stage 1 Assessment Report for the KRE in 2005. The Draft RP/PEIS will incorporate and build upon existing restoration planning information developed in the Stage 1 Assessment Report. Most recently, in 2012-2013, the Trustees released a Restoration Plan and Environmental Assessment (RP/EA) for Portage Creek and Operable Unit 1 (OU1). Information and comments received during this process helped inform the scope of restoration planning and has helped identify significant issues to be evaluated in the forthcoming RS/PEIS. Additionally, the 2012-2013 OU1 RP/EA included Preliminary Restoration Objectives developed for the Kalamazoo River NRDA.

As restoration planning proceeds, the Trustees expect to have opportunities to settle natural resource damage claims with willing parties. The RP/PEIS will provide an ecological framework, with public input, to maximize the benefits of specific restoration projects in the affected resources in the KRE that might be included in or funded by settlements. The RP/PEIS will provide criteria and guidance for Trustees to use in selecting feasible restoration projects. The Trustees also propose to develop and evaluate restoration alternatives, including general categories of potential restoration actions as well as several specific potential projects.

The FR requested comments in reference to: 1) developing the RP/PEIS; 2) suggestions for additional restoration actions beyond those described in the 2005 Stage I Assessment Report and

where hazardous substances released at or from the Superfund site have come to be located, and areas where natural resources or the services they provide may have been affected by the Site-related hazardous substances releases.

the 2012-2013 Portage Creek/OU1 RP/EA; and 3) considerations for potential impacts of those actions to the human environment. EPA's comments on the FR request are as follows.

NRDA COMPENSATION

To compensate for injuries to ecological resources, EPA prefers restoration projects that are located within the Kalamazoo River Watershed, with prioritization given to projects that more directly link to the injured natural resources and lost services. EPA also supports projects that improve aquatic and riparian habitats or protect and enhance habitats (including upland, wetland, and riparian habitats), as these types of actions will restore habitats similar to those injured within the KRE. Additionally, EPA supports a mixture of restoration project types that, when combined, will generate a broad suite of benefits associated with the range of natural resource injuries caused by PRPs within the KRE. Examples of such activities are as follows:

Aquatic habitat restoration or enhancement

- Restoring the hydrological connection among upland, wetland, and aquatic ecosystems;
- Restoring area wetlands, particularly wetlands with a direct connection to rivers, streams or groundwater;
- Restoring natural river and tributary stream sinuosity and appropriate fluvial geomorphology to re-establish meandering channel and dynamic floodplain access and interaction;
- Removal of dams and restoration of in-stream movement of fish to the maximum extent possible;
- Removal of PCB-contaminated paper waste from stream and river banks;
- Removal of restrictive/undersized or perched/hanging culvert pipes or structures to promote fish passage;
- Protection of existing areas that provide important surface water/groundwater interchange;
- Enhancing benthic invertebrate and fish habitat quality and diversity by re-establishing native wetland vegetation, and installing rock riffles and/or habitat structures (where appropriate);
- Improving the connectivity of fish habitat through the installation of fish passage structures at dams, where appropriate, and with appropriate controls on invasive species; and
- Creation of riverine habitat that supports diverse, healthy mussel beds and key mussel host fish.

Riparian and upland habitat protection, restoration, or enhancement

- Creation of a diverse healthy ecosystem dominated by native or naturalized species (i.e., a naturally vegetated riparian zone);
- Creation of riparian habitat that meets requirements for semi-aquatic species, such as turtles, amphibians, and reptiles, while minimizing use of riprap or other hard synthetic surfaces along river and streambanks;
- Enhancing existing riparian habitat through supplemental plantings and/or invasive species removal;
- Enhancement and protection of existing riparian habitat to support important native predators, including mink, otter, and eagles;
- Protecting existing tracts of high-quality riparian forests or grasslands under near-term development threats;
- Re-establishing riparian vegetation in degraded or denuded areas, or in areas where opportunities to create or extend wildlife corridors exists;

- Re-establishing riparian habitat by stabilizing stream banks with non-hard-armoring methods, including vegetation plantings;
- “Softening” of streambanks and shorelines by removing hardened or armored bank stabilization and replacement with non-hard-armoring methods, including vegetation plantings; and
- Land acquisition to preserve wetlands and floodplains along the river corridor, and to connect larger parcels.

Other Remediation Goals

- Increased public access to lands within the KRE without degrading existing or restored habitat;
- Elimination of the fish consumption advisory for PCBs on the Kalamazoo River; and
- Outreach and education efforts.

EPA understands that Superfund remediation activities, though necessary, may cause detrimental impacts to the chemical, physical, and biological processes of ecosystems within the KRE. EPA supports remediation activities, and restoration activities, that are able to balance short-term habitat losses with overall restoration objectives. To the extent possible, EPA recommends that remediation activities within the KRE provide substrate that supports ecosystem and species management objectives (not artificial or non-supporting material).

EPA supports adaptive management as a strategy to implement both remediation efforts and ecosystem restoration activities. A key feature of adaptive management is planning and implementing monitoring programs. Three types of environmental monitoring appear to be warranted, including baseline, impact, and compliance monitoring. EPA recommends that the RP/PEIS clearly identify the processes, data needs, key steps, and monitoring types to be utilized and undertaken in managing ecosystem restoration efforts in an adaptive manner.

It is critical that the Draft PEIS identify and examine the array of restoration measures that could be implemented to offset the impacts to natural resources within the KRE, taking into account the temporal losses to these ecosystems due to decades of damages. This analysis is critical at the Programmatic stage to ensure that the goals set forth in the Final RP/PEIS are achievable. As such, EPA strongly recommends that a comprehensive KRE-wide restoration plan be developed for the Draft PEIS.

To the extent possible, EPA also suggests that the following information be included in the Draft PEIS:

- The timeframes in which each restoration project will be addressed/implemented/mentored, with regard to implementation of the RP, and
- Identification of aesthetic impacts for each restoration project, and how the adjacent landowners and community have been involved in the selection of each restoration site.

Thank you for the opportunity to review and provide scoping comments on this Notice of Intent. We are available to discuss our comments with you in further detail if requested. We look forward to reviewing future NEPA documents prepared for this project. When the RP/PEIS is released, please send one paper copy and one CD of the document to my attention. If you have any questions about this letter, please contact Ms. Liz Pelloso, PWS, of my staff at 312-886-7425 or via email at pelloso.elizabeth@epa.gov.

Sincerely,



Kenneth A. Westlake, Chief
NEPA Implementation Section
Office of Enforcement and Compliance Assurance

cc: Todd Goeks, NOAA
Judith Alfano, MDEQ
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