

Finding of No Significant Impact (FONSI)

Restoration Plan and Environmental Assessment for the Cherokee County Superfund Site, Cherokee County, Kansas.

The U.S. Fish and Wildlife Service (Service), representing the U.S. Department of Interior (DOI), is proposing to implement a Restoration Plan/Environmental Assessment (RP/EA). The RP/EA presents preferred alternatives that compensate for impacts to natural resources caused by the release of hazardous substances from former mining activities in Cherokee County, Kansas. The Service initiated a Natural Resource Damage Assessment (NRDA) to assess damages under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), [33 U.S.C. 1321], and the Clean Water Act, [33 U.S.C. 1321], for natural resource injuries resulting from exposure to hazardous substances, particularly lead, zinc and cadmium.

The DOI, acting as a natural resource Trustee, reached two separate natural resource damage settlements with Eagle-Picher Industries Inc. (Eagle-Picher) in 1996 and LTV Corporation (LTV) in 1993, for natural resource injuries associated with the discharge of hazardous substances at former mining sites within the Cherokee County Superfund Site (the Site), Cherokee County, Kansas. The discharge of hazardous substances injured Service trust resources (migratory birds and threatened and endangered species). The recovered natural resource damages compensate for these injuries to trust resources at former lead and zinc mines within the Site. Compensation will include rehabilitating, replacing, and acquiring equivalent natural resources at various locations within Cherokee County, Kansas, and in certain cases, in other southeast Kansas counties depending on the availability and participation of willing landowners.

Under CERCLA, damages recovered from parties responsible for natural resource injuries are used "to restore, rehabilitate, replace, and/or acquire the equivalent of the injured resources" [42 U.S.C. § 9607 (f) (1)]. Any funds used by Federal Trustees to implement restoration activities are subject to the requirements of the National Environmental Policy Act (NEPA) [42 U.S.C. § 4321]. Accordingly the Trustees developed the RP/EA to identify restoration alternatives that partially address the resources injured and ecosystem services lost due to the release of mining related hazardous substances, and to analyze the effects of those alternatives on the human environment. The RP/EA is not intended to quantify or to analyze the full extent of actions necessary to accomplish restoration of injured natural resources associated with the Site.

The RP/EA lists and describes ten terrestrial and seven aquatic restoration alternatives. The preferred alternatives consist of preservation of high quality tallgrass prairies and riparian corridors, enhancement of degraded tallgrass prairies and riparian corridors, and removal of contaminated stream sediments. In some cases restoration of mining impacted sites could occur. The acquisition of a selected site is an essential first step in meeting the Service's restoration goals. Selection of the various alternatives will be

greatly determined by participation of willing landowners. These actions will compensate for injuries to natural resources, including migratory birds, migratory bird habitat and federally-listed threatened and endangered species, and are outlined and described in full in the RP/EA.

The public comments we received did not identify any significant environmental issues or impacts. As documented in the Evaluation of Alternatives, Including Environmental Consequences Section of the PR/EA (pages 73-92) and summarized in Exhibits 37-39, the proposed alternatives will have either no or inconsequential effects on social, economic, recreational, biological and cultural resources. Over the long term, restoration projects are expected to have beneficial effects for trust resources such as threatened and endangered species and migratory birds.

A Notice of Availability was published in the Federal Register on July 24, 2008. Copies of the RP/EA were available for review at the U.S. Fish and Wildlife Service, Kansas Ecological Services Field Office. Copies were also available at the Columbus, Baxter Springs, and Galena, Kansas, public libraries in Cherokee County. Interested members of the public were invited to review and comment on the RP/EA. A public meeting was held August 14, 2008 at the Baxter Springs, Kansas, Community Center. The Service gave a presentation on the restoration alternatives, and a formal question-and-answer period followed. The 30 day public comment period closed August 25th, 2008. Written comments were considered and addressed in the final RP/EA at the conclusion of the 30-day public comment period. No comments were received that required substantive modification of the RP/EA.

Based on my review and evaluation of the RP/EA, and after addressing the public comment and concerns that were submitted, I have determined that the implementation of the Cherokee County Restoration Plan is not a major federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, preparation of an environmental impact statement is not required.

Stephen D. Guertin Date: 1/14/09

Stephen D. Guertin
Regional Director, Region 6, U.S. Fish and Wildlife Service

Benjamin N. Tuggle for Date: 26 January 2009

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