

Suncor Energy (U.S.A.) Incident

Notice of Intent to Conduct Restoration Planning and Scoping Document for Restoration Planning

October 2, 2017

Prepared by

Suncor Trustee Council

**U.S. Fish and Wildlife Service
Colorado Department of Natural Resources
Colorado Department of Public Health and Environment
Colorado Attorney General's Office**

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INTRODUCTION

This Notice of Intent to Conduct Restoration Planning (NOI) and Scoping Document for Restoration Planning (Document) was prepared by the trustees (Trustees) for natural resources injured by the release of oil from the Suncor Refinery in Commerce City, Colorado (Incident). Pursuant to the Oil Pollution Act (OPA), 33 U.S.C. § 2701 *et seq.*, and its implementing regulations, 15 C.F.R. Part 990, the Trustees are the U.S. Department of Interior through the U.S. Fish and Wildlife Service (the Federal Trustee), and the State of Colorado through the Executive Director of the Colorado Department of Public Health and the Environment (CDPHE), the Executive Director of the Colorado Department of Natural Resources (CDNR), and the Colorado Attorney General (AGO) (collectively, the State Trustees).

The Trustees' purpose in this Document is to:

- (1) provide the public with information regarding the facts of the Incident and the Trustees' actions to date with respect to it;
- (2) provide notice to the public of the Trustees' intent to develop a plan for restoring natural resources injured by the Incident in accordance with OPA's implementing regulations;
- (3) provide information regarding how the Trustees will conduct this restoration planning; and
- (4) solicit public involvement in the Trustees' restoration planning.

I. BACKGROUND

A. The Incident

Suncor owns and operates a refinery in Commerce City, Colorado (Suncor Refinery or Refinery) that produces gasoline, diesel fuel, and paving-grade asphalt. In November 2011, oil was discovered discharging into Sand Creek near its confluence with the South Platte River and not far from the Suncor Refinery. It was subsequently determined the discharge was the result of oil leaking from a subsurface pipe at the Refinery. The oil released from the pipe entered groundwater under the Suncor Refinery, where it commingled with an existing plume of contaminated groundwater and migrated offsite, ultimately leading to the discharge of oil into Sand Creek and the South Platte River. This same contaminated groundwater plume was also responsible for a discharge of oil into a wetland located on the Suncor Refinery property in February 2011 that resulted in waterfowl mortalities. In response to the discovery of the discharge to Sand Creek, Suncor took various actions pursuant to direction from the Environmental Protection Agency and the Colorado Department of Public Health and Environment to limit, prevent and remediate the discharge of oil to Sand Creek, the South Platte River and their adjoining shorelines.

As described in more detail below, the Incident and related response activities resulted in injuries to natural resources, including aquatic and riparian habitats, wetland habitat, waterfowl, and groundwater.

B. The Trustees' Response to the Incident

Under OPA, the party responsible for a discharge or substantial threat of discharge of oil into or upon navigable waters or adjoining shorelines is liable for injuries to natural resources that result from such an incident and cleanup and similar activities taken in response to it. Damages for injuries to natural resources and the services they provide, including the reasonable costs of assessing the damages, may be recovered on behalf of the public by the federal or state trustee(s) for the injured natural resources. As described above, DOI, acting through USFWS, is the federal trustee for the natural resources injured as a result of the Incident, while the State of Colorado, acting through the AGO, CDPHE and CDNR, is the state natural resource trustee for these resources. Pursuant to OPA, any damages the Trustees recover for injury to natural resources must be spent to restore, rehabilitate or acquire the equivalent of the injured natural resources.

Pursuant to their authorities under OPA, the Federal and State Trustees agreed to work together to investigate and respond to potential injuries to natural resources caused by the Incident. Accordingly, shortly after the Incident the Trustees entered into a Memorandum of Understanding (MOU) that provided the framework for them to coordinate and cooperate in assessing any natural resource damages resulting from the Incident, in pursuing a claim against Suncor if appropriate, and in planning and implementing any restoration or related activities following a successful claim. One aspect of this framework was the creation of the Trustee Council, comprised of representatives of the Federal and State Trustees, to coordinate the Trustees' activities in accordance with the MOU and OPA requirements.

C. Preassessment and Summary of Injured Natural Resources and Services

The first action of the Trustee Council was to conduct a “preassessment” of potential natural resource injuries caused by the Incident, as provided in OPA’s regulations (15 C.F.R. §§ 990.40-990.45). One purpose of this early assessment was to allow the Trustees to determine whether injury to natural resources had resulted from or was likely to result from the Incident and, if so, whether restoration actions were available to address these injuries.

This early assessment resulted in the Trustee Council’s determination that the Incident injured four categories of natural resources and related services: (1) aquatic and riparian habitat, (2) wetland habitat, (3) waterfowl, and (4) groundwater. In summary, the Trustees determined that the injury to each of these resources and related services was as follows:

1. Aquatic and Riparian Habitat.

The spill of petroleum-related substances into Sand Creek and subsequent response activities resulted in approximately 1-acre of injury to aquatic and riparian habitat. Resources of concern in these urban, yet ecologically important areas include fish, resident wildlife, including migratory birds, and aquatic/riparian habitats that support fish and wildlife.

2. Wetlands Habitat.

In early 2012, Suncor filled in a 1.4 acre wetland on its property in order to implement interim corrective measures in response to the Incident. This wetland was the site of the early 2011 waterfowl mortality event described below. This action eliminated the habitat the wetland provided.

3. Waterfowl.

As a result of the discharge of petroleum-related products to the wetland referenced above, a total of 48 dead birds, primarily waterfowl, were recovered from the wetland over a two-week period in early 2011. This included 24 mallards, 10 gadwalls, seven green-winged teal, two hooded mergansers, one American widgeon, one Wilson’s snipe, and three unidentified birds.

4. Groundwater.

As a result of operations by Suncor and previous Refinery owners and operators, numerous petroleum and other discharges originating at the Refinery occurred prior to the subsurface release of oil that caused the Incident. Petroleum-related substances, including benzene, toluene, ethyl-benzene, and xylene, had been detected above Colorado state water quality criteria in groundwater underneath and in the vicinity of the Suncor Refinery. Oil released as part of the Incident commingled with this pre-existing groundwater contamination and, in some instances caused it to remobilize and migrate off the Refinery property, towards Sand Creek. In 2012, the contaminated groundwater plume beneath and around the Suncor Refinery was approximately 190 acres, which is equivalent to 930 acre-feet of groundwater.

The Department of the Interior and the State of Colorado are co-trustees with respect to the injured aquatic and riparian habitat, wetland habitat and waterfowl resources. The State of Colorado is the sole trustee with respect to the injured groundwater resource.

D. Settlement Negotiations and Consent Decree

The Trustees, acting through the Trustee Council, initiated settlement negotiations with Suncor during the preassessment. As a result of these negotiations, the Trustees reached a settlement with Suncor that required Suncor to pay \$1,887,000 in damages for natural resource injuries caused by the Incident and the response to it. The terms of the settlement were memorialized in a Consent Decree, a written agreement, which was lodged with the U.S. District Court for the District of Colorado and made available for public comment prior to being approved by the Court on February 27, 2014. The settlement amount represents a settlement of claims alleging natural resource damages and is not a fine or penalty.

The Consent Decree required Suncor to pay the United States \$691,268 of the \$1,887,000 settlement amount and the State of Colorado the remaining \$1,195,732. From each of these settlement amounts, the Consent Decree required that a portion be allocated to reimbursing each Trustee for its assessment costs (\$165,833 for the United States and \$166,418 for the State) and further required that a portion be allocated for the Trustees' oversight and monitoring of restoration projects implemented as a result of the settlement (\$207,916 for the United States and \$116,833 for the State). Thus, the amount available to implement projects to restore, rehabilitate, replace or acquire the equivalent of the natural resources and related services injured as a result of the Incident is approximately \$1,230,000.

The Trustee Council intends to allocate natural resource damage settlement funds for restoration projects roughly in proportion to the damages for resources injured by the Incident, which are as follows:

Riparian/Aquatic Habitat	\$ 33,000
Wetland Habitat	\$373,000
Waterfowl	\$229,000
Groundwater	\$595,000
TOTAL	\$1,230,000

The Trustee Council retains the ultimate authority and responsibility to use the settlement funds to fund projects that will restore, replace, rehabilitate or acquire the natural resources and related services injured as a result of the Incident. The Trustee Council will allocate funds for implementation of specific projects as provided in a Restoration Plan that will be prepared and implemented jointly by the Trustees based, among other things, on its consideration of public comments received in response to this Document and a draft Restoration Plan that will be made available for public comment later in the restoration planning process (see Section III. below). Use of the settlement funds by the Trustee Council will be in accordance with applicable law, the Consent Decree, the Trustees' MOU and any other memorandum of agreement between them.

II. NOTICE OF INTENT TO CONDUCT RESTORATION PLANNING

Pursuant to OPA's regulations, the Trustees may proceed with restoration planning at the conclusion of the preassessment if they determine they have jurisdiction to pursue restoration planning under OPA and that it is appropriate to do so. If the Trustees do intend to proceed with restoration planning, they must provide the public with notice of their intent to proceed with restoration planning based on these findings. Section II. of this Document is intended to provide this notice.

A. Determination of Jurisdiction

In accordance with OPA regulation 15 C.F.R. § 990.41(a)(1), the Trustees determined they have jurisdiction to pursue restoration under OPA based upon the following findings:

1. An incident occurred.

Natural resource injuries arose from the release of oil from a subsurface dead leg pipe, which was discovered post-release to be connected to a pipe from Tank 70 to the gasoline blending manifold and located in the vicinity of Tank 55 at Suncor's Refinery in Commerce City, Colorado. This release led to the discharge of oil into the groundwater under the Refinery, created a substantial threat of discharge of oil to Sand Creek, the South Platte River and adjoining shorelines, and ultimately led to the discharge of oil to these navigable waters and/or adjoining shorelines on or about November 27, 2011. Prior to the discharge of oil into the identified navigable waters, during the period in which it was migrating towards Sand Creek and thus posed a substantial threat of discharging oil to navigable waters, the release of oil resulted in the discharge of oil into a wetland located on the Suncor Refinery site, resulting in avian mortalities. The Trustees determined the series of occurrences constituted an incident as defined in 15 C.F.R. § 990.30.

2. The Incident was not permitted pursuant to federal, state, or local law; was not from a public vessel; and was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act.

Suncor's release of oil to the subsurface and ultimately to navigable waters was not from a public vessel or an onshore facility subject to the Trans-Alaska Pipeline Authority Act and was not permitted by any federal, state or local law.

3. Natural resources or services under the trusteeship of the trustee may have been, or may be, injured as a result of the incident.

The Incident caused injury to natural resources under the trusteeship of the Trustees, namely: (a) aquatic and riparian habitat at, near, and downgradient of the point of discharge to Sand Creek; (b) wetland habitat located on the Suncor Refinery site; (c) waterfowl associated with the former wetland on the Suncor Refinery site; and (d) groundwater.

As a result of the foregoing findings, the Trustees have jurisdiction to pursue restoration under OPA.

B. Determination to Conduct Restoration Planning

In accordance with OPA regulation 15 C.F.R. § 990.42(a), the Trustees have decided it is appropriate to proceed with restoration planning based on the following findings:

1. Injuries have resulted, or are likely to result, from the Incident.

Observations made and data collected during the preassessment demonstrated that injuries to natural resources and their related services resulted from the Incident. As described above, the Trustees identified several categories of injured and potentially injured resources, including aquatic/riparian habitats, waterfowl, wetlands, and groundwater.

2. Response actions have not adequately addressed, or are not expected to address, the injuries resulting from the Incident.

Response actions were initiated soon after the discovery of the discharge to Sand Creek, as well as after the discovery of avian mortalities at the former wetland. The nature and location of the Incident, however, prevented recovery of all of the oil and precluded prevention of injuries to some natural resources. In addition, certain response efforts caused additional injuries to natural resources. Therefore, the response actions did not adequately address, and are not expected to address, the natural resource injuries resulting from the Incident.

3. Feasible restoration actions exist to address injuries resulting from the Incident.

In preparation for both settlement negotiations and restoration planning, the Trustees compiled a list of restoration project concepts that could potentially be implemented to restore, rehabilitate, replace, or acquire the equivalent of the natural resources and services injured as a result of the Incident.

Based upon the foregoing findings, it is appropriate for the Trustees to proceed with restoration planning. Therefore, consistent with 15 C.F.R. § 990.44 of OPA's implementing regulations, the Trustees, through this Document, are providing the public with notice of the Trustees' intent to proceed with restoration planning.

III. THE RESTORATION PLANNING PROCESS

A. Overview

As noted earlier, any damages the Trustees recover for injury to natural resources must be spent to restore, rehabilitate or acquire the equivalent of the injured natural resources. The goal of the restoration planning process described in this Document is for the Trustees to develop a plan for restoring, rehabilitating, replacing or acquiring the natural resources and related services that were injured as a result of the Incident. As the first step in the development of this plan, the Trustees are initiating "scoping" with this Document.

The purpose of scoping is to get the public involved early in the restoration planning process. As described in more detail in Section IV. below, during scoping the Trustees are seeking public input on the merits of the concepts for restoration projects that the Trustees developed in the preassessment and utilized in settlement negotiations with Suncor. In addition, the Trustees are at this time soliciting other restoration project alternatives that members of the public believe may better meet the project selection criteria set forth in Section III. B. below.

The Trustee Council will evaluate all public input received through scoping and will then develop and issue a Solicitation for Project Proposals (SPP) to the public. The SPP will request the public to submit restoration project proposals for the Trustee Council's consideration in its preparation of a draft Restoration Plan. Only restoration project proposals submitted through the SPP will be considered for inclusion in the draft Restoration Plan.

In developing the SPP, the Trustee Council has agreed that it will take the following into consideration:

- Restoration project concepts developed by the Trustee Council during the preassessment and settlement process, as identified in Section IV. of this Document;
- Any restoration alternatives received from the public through this Document; and
- All comments received from the public through this Document.

Following the SPP process, the Trustee Council will prepare a draft Restoration Plan, referred to as the "RP/EA," that will also include a draft Environmental Assessment (EA) of restoration alternatives, as required of the Federal Trustee by the National Environmental Policy Act (NEPA). The draft RP/EA will identify and evaluate the following:

- Restoration project proposals received through the SPP;
- Restoration project concepts identified in Section IV of this Document that are incorporated in a project proposal submitted in response to the SPP; and
- All comments and suggested restoration alternatives received from the public through this Document, including any suggested alternatives that are subsequently incorporated in a project proposal submitted in response to the SPP.

All restoration project proposals submitted through the SPP process will be evaluated by the Trustee Council using the selection criteria set forth in Section III. B. below, for the purpose of determining which restoration project proposal(s) will be identified in the draft RP/EA as the preferred restoration alternative(s). As part of its evaluation, the Trustee Council may request presentations from restoration project proponents and/or may schedule site visits relating to a particular proposal, if necessary and/or appropriate.

In accordance with OPA's regulations, the draft RP/EA will set forth: (1) a range of restoration alternatives, (2) the relative effectiveness of alternative actions in achieving restoration goals based upon the criteria listed in Section III. B. below, and (3) the estimated costs of the restoration alternatives. The draft RP/EA will be released for public review and comment. Following the close of the public comment period, the Trustee Council will consider all comments received and prepare a final RP/EA that, among other things, identifies the restoration project(s) the Trustee Council has selected for funding and responds to public comments. The selected restoration projects will then be implemented in accordance with the final RP/EA, the Trustees' MOU and OPA's implementing regulations.

B. Project Selection Criteria

OPA and other applicable laws require the Trustee Council to use the settlement money received from Suncor for restoring, replacing, rehabilitating, and/or acquiring the equivalent of the natural resources injured and services lost as a result of the Incident.

The Trustee Council will consider a reasonable range of restoration alternatives before selecting preferred alternatives in the draft RP/EA and the final restoration project(s) in the RP/EA. Each restoration alternative should address one or more specific natural resource injury associated with the Incident.

The Trustee Council has compiled criteria it will use in analyzing potential restoration projects for natural resources injured as a result of the Incident. These criteria are organized in the following three sub-sets, Threshold, Initial Screening, and Additional Screening, each with specific requirements or considerations:

THRESHOLD CRITERIA

Restoration project proposals must meet the following criteria in order to be further considered and evaluated using the criteria set forth in the Initial and Additional Screening Criteria sections. If a project proposal does not meet the Threshold Criteria, it will not be given further consideration by the Trustee Council.

- a. Consistency with Trustees' Restoration Goals. Project proposals must meet the Trustees' intent to restore, rehabilitate, replace, or acquire the equivalent of the natural resources and services injured as a result of the Suncor spill incident.
- b. Technical Feasibility. Project proposals must be technically feasible. The level of risk or uncertainty associated with a project proposal and the success of past projects utilizing similar or identical techniques will be taken into consideration.
- c. Procedural Viability. Project proposals must be procedurally viable.

INITIAL SCREENING CRITERIA

The following initial screening criteria will be used to determine preferred project proposals from non-preferred ones. Preferred project proposals will be subject to further review using the criteria set forth in the Additional Screening Criteria section that follows. The Trustee Council will give no further consideration to all project proposals it identifies as non-preferred.

- d. Relationship to the Injured Natural Resources and Services and the Area Impacted by the Suncor Spill Incident. All project proposals must demonstrate an ecological nexus to the natural resources and related services injured as a result of the Incident. Restoration projects in the vicinity of the natural resources and services impacted by the Incident are preferred, but not required.
- e. Avoid Adverse Impacts. Proposed projects should avoid or minimize adverse impacts to the environment and associated natural resources. In addition, proposed projects should not interfere with ongoing response actions at the site, including ongoing environmental monitoring. Adverse impacts may be caused by collateral injuries when implementing, or as a result of implementing, the project. The Trustee Council shall weigh the long-term benefits a project proposal may provide

against any potential injuries to the environment and associated natural resources that may be caused by the proposed project.

f. Likelihood of Success. In determining the likelihood for success, the following will be taken into consideration: (a) the capability and feasibility of individuals and/or organizations expected to implement and monitor the proposed project; (b) the ability of the individuals and/or organizations expected to implement the proposed project to correct problems that may arise ; (c) whether the proposed project can be reasonably monitored and have benefits that can be measured and verified; and (d) the level of expected return of the injured natural resources and services.

g. Benefits to Multiple Injured Natural Resources and Services. Consider the extent to which a proposed project has the ability to provide benefits to more than one of the injured natural resources and services. The potential benefits of a proposed project will be evaluated in terms of the quantity and associated quality of the types of natural resources and services expected to benefit from the project.

h. Time to Complete Project. Consider the length of time it will take for a proposed project to be completed.

i. Time to Provide Benefits. Consider the length of time it may take from when the proposed project is completed for the benefits to the injured natural resources and services to be realized. Project proposals capable of minimizing interim resource loss will be given preference.

j. Duration of Benefits. Consider the expected duration of benefits to the injured natural resources and services a proposed project has the potential to provide. Project proposals capable of providing long-term benefits will be given preference.

ADDITIONAL SCREENING CRITERIA

The following additional screening criteria shall be used to further evaluate and ultimately select restoration projects for inclusion in the DARP/EA. The selected restoration projects shall be identified in the DARP/EA as the preferred restoration alternative(s).

k. Compliance with Applicable Federal, State, and Local Laws and Policies. A project proponent must demonstrate their proposed project complies with all applicable laws and policies.

l. Public Health and Safety. A project proponent must demonstrate their proposed project does not pose a threat to public health and safety.

m. Protection of Implemented Project. Consider the opportunities to protect the implemented project and resulting benefits over time. Project proposals involving fee title acquisition of property for open space should identify the fee title owner and include a commitment to grant a conservation easement or other mechanism allowing the Trustees to ensure the project provides continued natural resource restoration. If a grant of a conservation easement is proposed, the project proponent must include a draft of the conservation easement with the application. Project proposals involving the acquisition of an easement should identify the easement holder. Project proposals that afford long-term protection will be given preference.

Furthermore, consider whether the project provides actual resource improvements rather than only conservation of open space, unless development threats are imminent or the conservation opportunity is of an advantageous scale or timing.

n. Opportunities for Collaboration. Consider the possibility of coordinating a proposed project with other ongoing or proposed projects. Project proposals that allow for collaboration and involve multiple partners are preferred.

o. Cost-Effectiveness. Consider the relationship between the expected cost of a proposed project to the expected benefit to the injured natural resources and services. Project proposals that cost less, but deliver an equivalent or greater amount and type of benefits will be given preference.

p. Estimated Total Cost of Proposed Restoration Project and Accuracy of Estimate. A project proponent is required to prepare and submit an estimate of the total cost of the proposed restoration project. The total cost estimate should include, among other things, costs to design, implement, monitor, and manage the project. The validity of the cost estimate is determined by the completeness, accuracy, and reliability of the methods used to estimate the costs, as well as the credibility of the person or entity submitting the estimate. A project proponent shall specify where the funds will be coming from. The total cost estimate will be evaluated to determine whether the estimated costs are reasonable and feasible.

q. Comprehensive Range of a Proposed Project. Consider the extent to which the proposed project contributes to the more comprehensive restoration package and the degree to which it utilizes multiple approaches (restoration, replacement and acquisition). Evaluate the project for the degree to which it benefits any otherwise uncompensated spill injuries.

r. Project Consistency with Regional Planning. Project proposals that are consistent with applicable area land and resource management plans can be incorporated into a holistic land and natural resource management plan, and/or that take advantage of partnerships with local community groups will be given preference.

s. Matching Funds. Consider a project proponent's ability to demonstrate they can obtain matching funds from other funding sources, in-kind services, or volunteer assistance. A project proponent that is able to demonstrate a 50% match or higher to requested NRD funds will be given preference over a project that equally meets all other selection criteria.

t. Public Comment. Any public comments received throughout the restoration planning process that may apply to certain restoration project proposals under consideration of the Trustee Council may be used to assist the Trustee Council in determining which restoration project(s) to select when other criteria are equal.

IV. SCOPING AND PUBLIC PARTICIPATION

The Trustee Council is seeking public involvement early in the restoration planning process by initiating scoping with this Document. The scoping process is intended to provide an opportunity for the public to comment on and participate in the Trustees' development of restoration alternatives that may be included in the Solicitation for Project Proposals (SPP) and the draft RP/EA. The Trustee Council will also hold at least one public meeting or open house as part of the scoping process to provide information and answer questions regarding restoration planning. The public will have additional opportunities to participate in restoration planning during the public comment period on the draft RP/EA, as described in Section III.A. above.

A. Request for Public Comments

As part of the scoping process, the Trustee Council is soliciting public comments regarding three subject areas, which will be reviewed to help inform the Trustee Council in its preparation of the SPP and draft RP/EA. These three subject areas are:

1. The Trustees' preliminary restoration project concepts.

As part of their preassessment and settlement negotiations, the Trustees developed preliminary restoration project concepts that it used to help determine the monetary damages resulting from the injuries to natural resources and related services caused by the Incident. A restoration project concept identifies a category or type of restoration project that would restore the injured natural resource; however, a restoration project concept does not identify specific restoration projects or include all the details necessary for implementation of a restoration project. For example, a restoration project concept for injury to groundwater could be to increase the quantity of groundwater, a concept that could then be developed in the SPP process into one or more specific restoration projects, such as replacing existing turf with water-wise grasses, removing tamarisk, increasing surface water infiltration, and/or reducing groundwater pumping.

The preliminary restoration concepts considered by the Trustee Council to date are described in Section IV. B. below. The Trustees seek public input on the merits of these restoration project concepts, as well as their effectiveness in addressing the natural resource injuries arising from the Incident.

2. Additional restoration alternatives (restoration project concepts or specific restoration projects) for the Trustees' consideration.

In addition, the Trustees are interested in other restoration alternatives that members of the public believe are more cost effective or better meet the objective of restoring resources injured by the Incident and that may better meet the project selection criteria set forth above. As described above, the Trustee Council will consider restoration alternatives, whether project concepts or specific proposed projects, in preparing an SPP for restoration projects to address the natural resources injured as a result of the Incident.

Please note that any specific projects proposed in response to this Document will also need to be submitted during the SPP process, and include all of the information that will be specified in the SPP, in order for that restoration project to be evaluated by the Trustee Council in its preparation of the draft RP/EA. Similarly, any additional restoration project concepts submitted by the public during this scoping process will need to be developed into project proposals and submitted in accordance with the SPP in order to be considered in the draft RP/EA.

Any additional restoration alternatives proposed in response to this request for public comments should address one or more of the natural resources and associated services injured as a result of the Incident. As described earlier in this Document, these injured natural resources are: aquatic and riparian habitat; wetlands, waterfowl, and groundwater. Please see Sections I.C. and I.D. for additional information regarding these injured resources, available funds for restoration projects addressing these resources, and the criteria the Trustee Council will use in evaluating restoration projects.

3. General comments on restoration planning for the Incident.

The Trustees also seek public comment on any other issues relating to restoration planning for the Incident that the public wishes to bring to their attention.

B. Restoration Project Concepts Considered to Date

The Trustee Council developed the following restoration project concepts during the preassessment and utilized them during the settlement negotiations with Suncor to help determine the monetary damages resulting from the injuries to natural resources and related services caused by the Incident. The Trustee Council consulted various experts in aquatic and riparian habitat restoration, wetland enhancement/restoration, waterfowl restoration, and groundwater restoration in developing these project concepts. The Trustee Council is considering these project concepts for inclusion in the draft RP/EA, subject to further development into proposed restoration projects pursuant to the SPP process described earlier. As noted above, the Trustees seek public input on the merits of these restoration project concepts and the effectiveness of these restoration project concepts in addressing the injuries caused by the Incident to natural resources and related services.

INJURY: Aquatic/Riparian Habitat

Restoration Project Concept

Restore/Enhance Native Vegetation along Sand Creek and/or the South Platte River

This project concept encompasses projects that would enhance and/or restore native riparian plant vegetation along Sand Creek and/or the South Platte River. Riparian habitat enhancement/restoration will provide increased stability to stream banks, thus decreasing sedimentation and improving water quality, as well as providing improved habitat for fish and wildlife.

INJURY: Wetland Habitat

Restoration Project Concept

Restore/Enhance Wetland Habitat

This project concept covers projects that would enhance and/or restore wetland habitats in the Sand Creek and/or South Platte Watershed. Wetland enhancement and/or restoration will provide improved habitat for fish and wildlife as well as improve water quality, increase stormwater protection and potentially create additional floodplain and/or other ecological services associated with wetlands.

INJURY: Waterfowl

Restoration Project Concept

Restore waterfowl to the Central Flyway

This project concept would encompass projects that restore waterfowl to the Central Flyway population by improving ecological functions of existing wetlands, creating new wetlands, and/or restoring native grasses and forbs of wetland buffer areas as well as establishing conservation easements in the Prairie Pothole Region. Waterfowl that frequented the former Suncor wetland were members of this population and the most significant breeding area in the flyway is Prairie Pothole Region. Although waterfowl do breed in Colorado, data are lacking regarding acres of wetlands/upland buffers needed to recruit specific numbers of waterfowl into the population. Enhancement of habitat in the Prairie Pothole Region will, therefore, help recruit waterfowl to this population, thereby replacing the migratory waterfowl lost as a result of the Incident. USFWS has decades of data from the Prairie Pothole Region for the acres of habitats (wetland and upland buffer) needed to successfully and cost efficiently recruit waterfowl into the Central Flyway population.

INJURY: Groundwater

Restoration Project Concept

Restore/Improve Groundwater Quality

This project concept would include projects that improve groundwater quality by addressing contaminated groundwater plumes and preventing future releases of oil-related contaminants and infiltration of brine.

Restoration Project Concept

Restore/Improve Groundwater Quantity

The project concept would encompass projects that increase the quantity of groundwater by creating programs to replace existing turf with water-wise grasses, removing tamarisk, increasing surface water infiltration, and reducing groundwater pumping.

C. How to Submit Comments

The Trustee Council encourages the public to submit written comments regarding the three subject areas identified in Section IV. A. All written public comments and proposed restoration alternatives are due to the Trustee Council by November 10, 2017. Comments and restoration alternatives must be received by that date to be considered by the Trustees in developing the SPP.

Comments will be considered a matter of public record and releasable under the Freedom of Information Act. Please send or email comments and/or project concepts to the agency contact below.

Laura Archuleta
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46525 Highway 114
Saguache, CO 81149
719-655-6121
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D. Public Meeting(s) and Outreach

The Trustees will hold an initial public meeting/open house to provide information and answer questions regarding restoration planning for the Incident on October 10th at the Commerce City Recreation Center at 6060 Parkway Drive, Commerce City, 80022 at 2:00 PM, in Multi-Purpose Room A. Additional meetings will be scheduled as needed.

Further information on this public meeting and other activities of the Trustees will be available at <https://www.fws.gov/mountain-prairie/contaminants/suncor.php> or <https://www.colorado.gov/pacific/cdphe/superfund-sites> and through press releases. Please call the agency contact above if you wish to be added to the mailing list.

Responsibility for conducting public participation activities lies with the Trustee Council.