

Finding of No Significant Impact (FONSI)

Restoration Plan and Environmental Assessment for the former Blue Tee Smelter Sites, Southeast Kansas

September 2, 2010

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 three former smelting sites located in Dearing, Neodesha and Caney, 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 cadmium and lead.

The DOI, acting as a natural resource Co-Trustee with the State of Kansas, reached a natural resource damage settlement with Blue Tee Corporation (Blue Tee), for natural resource injuries associated with the discharge of hazardous substances at three former smelting sites in Dearing, Neodesha and Caney, Kansas. The discharge of hazardous substances injured Service trust resources (migratory birds). The recovered natural resource damages compensate for the injuries to trust resources at the former three smelting sites. Compensation will include rehabilitating, replacing, and acquiring equivalent natural resources in 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 smelting related hazardous substances, and to analyze the effects of those alternatives on the human environment.

The RP/EA lists and describes four restoration alternatives. The preferred alternative consists of preservation of an identified high quality tallgrass prairie tract. This alternative will preserve an 80-acre parcel in a 160-acre remnant native prairie hay meadow. The Trustees have verified that it is high quality native tallgrass prairie. The property owner is agreeable to an enforceable conservation easement on the property to ensure that its natural resource values are preserved. These actions will compensate

for injuries to natural resources, including migratory birds and migratory bird habitat, and are outlined and described in full in the RP/EA.

No comments were received during the 30 day public review period. As documented in the Evaluation of Alternatives, the preferred alternative will have either no or inconsequential adverse affects on social, economic, recreational, and cultural resources. The preferred alternative is expected to be beneficial for trust resources such as migratory birds.

A press release was issued announcing a public comment period from July 7, 2010 through August 6th, 2010. Copies of the RP/EA were available for review at the U.S. Fish and Wildlife Service, Kansas Ecological Services Field Office, the City of Garnett, KS Public Library and at the following web site:

http://www.fws.gov/mountain-prairie/NRDA/EastKS_Smelter/Estrn_KSSmltr-KS.htm

Interested members of the public were invited to review and comment on the RP/EA. The 30 day public comment period closed August 6th, 2010. No public comments were received by the conclusion of the 30-day public comment period.

Based on my review and evaluation of the RP/EA, I have determined that the implementation of the Anderson 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.

Acting
Deputy



Regional Director
DOI Authorized Official
Region 6, US Fish and Wildlife Service

Date

9/3/10