

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
REGION #4

**DRAFT RESTORATION PLAN FOR MCGIRTS CREEK PARK FOR
RESTORATION OF INJURIES ASSOCIATED WITH WHITEHOUSE
WASTE OIL PITS SUPERFUND SITE
JACKSONVILLE, FL**

Prepared by

U.S. Department of the Interior, Fish and Wildlife Service

August 12, 2011

Contact:
Erin Gawera
U.S. Fish and Wildlife Service
7915 Baymeadows Way, Suite, 200
Jacksonville, FL 32256
904-731-3316

Introduction

Under the authority of the Comprehensive Response, Compensation, and Liability Act of 1980, as amended (CERCLA), the designated Natural Resource Trustee, the Department of the Interior through the U.S. Fish and Wildlife Service (Service) is restoring natural resources which were injured by the release of hazardous substances from the Whitehouse Waste Oil Pits Superfund Site (Site) in Duval County, Florida. The State of Florida declined to participate in NRDAR activities; nevertheless the Florida Department of Environmental Protection did review our impact analysis and draft settlement position of wetland enhancement.

As part of a Consent Decree requiring remedial actions at the Site, the Service agreed to a monetary settlement with certain responsible parties (RPs) for natural resources damages. The Consent Decree, issued in August, 2001, required payment of \$77,000 in natural resources damages. These funds are to be used for the Service's assessment costs, restoration oversight, and restoration activities.

This document presents the alternatives and the proposed action considered by the Service while planning the restoration required for this settlement. The goal of the restoration plan is to achieve a 30% enhancement of wetland services on at least 40-60 acres of wetland habitat along McGirts Creek.

Purpose and Need

The Trustees' overall restoration objective includes the restoration, rehabilitation, replacement, and/or the acquisition of the equivalent of the injured natural resources and the services those resources provide [43 CFR Part 11.82 (a)]. This restoration plan describes the steps necessary to restore or replace wildlife habitat services equivalent to those provided by approximately 14 acres of wetlands, which were lost or injured because of on-Site and off-Site contamination and remediation.

Background

The Whitehouse Waste Oils Pits Superfund Site is located approximately 10 miles west of downtown Jacksonville in Duval County, Florida. This 7-acre Superfund Site was an abandoned waste oil sludge disposal facility located in the community of Whitehouse. From about 1956 to 1968, Allied Petro-Products, Inc. (Allied) operated the site as a repository for waste oil sludge and acidic oil refinery by-products. Wastes were dumped into seven unlined pits on site. Allied ceased operations in 1968 and filed for bankruptcy, and the City of Jacksonville, which encompasses all of Duval County, acquired the site for non-payment of taxes. Other facilities, including a transformer repair shop, are believed to have existed on site and these seven acres were used for waste disposal after Allied went bankrupt. In 1968 and again in 1976, levees of certain waste pits ruptured, spilling wastes onto adjacent properties, into a tributary of McGirts Creek, and into McGirts Creek. Following the 1976 spill, the City partially drained the pits and

capped them with clay. The Site was proposed for listing on the National Priority List (NPL) in 1981 and listed in 1983. A Record of Decision (ROD) was signed in 1985. Additional studies conducted between 1988 and 1991 led to an amended ROD in 1992. In 1994, an Administrative Order on Consent for new studies to better define waste materials in the pits was signed by EPA and a group of potentially responsible parties (PRPs). Treatability studies were conducted and a second amendment to the ROD was issued in 1998. EPA approved the Remedial Design in 2000 and construction activities began in 2003. As part of this work, approximately 1500 feet of a small tributary of McGirts Creek were realigned to accommodate the size of a cap and position of the confining slurry wall, which constitutes part of the remedial action. The final design includes features to improve the wetland habitat for plants and animals, as well as erosion control measures to protect the tributary. A preliminary close-out report was prepared by EPA for this site in May of 2006.

Impacts to Natural Resources

Because of the earlier spills and the remedy, approximately 3 acres of wetlands were lost and another 10.7 were injured. The three acres lost in perpetuity resulted from the capping of Site. Other areas that were injured either from the contamination or the remedy include three (3) acres of wetlands that were destroyed during remediation, but replanted, 1.2 acres of stream and banks (estimated 20 years to regain function), and 6.5 acres of downstream wetlands (estimated 50 years to regain original function).

For the 6.5 acres of downstream wetlands, the Final Risk Assessment (1991) indicated elevated levels of site-related contaminants in sediments, surface water, soil, and groundwater samples collected in 1983. Water from drainage ditches alongside the site contained several metals (zinc, cadmium, iron, chromium, and lead) in concentrations greater than Florida water quality criteria standards. Samples collected in 1990 still showed elevated concentrations of metals in sediments and surface waters. EPA also determined that exposed wastes contained high levels of metals, polychlorinated biphenyls (PCBs), and semivolatile compounds. The risk assessment also summarized earlier reports, where investigators did not find any aquatic macroinvertebrates downstream from the Site as the stream was described as being devoid of aquatic life. Downstream from the site in McGirts Creek, just above the Route 90 Bridge, only three species and a low number of taxa were found in the creek, indicating that the system was under stress.

Proposed Restoration

The primary goal for the NRDAR restoration project is to restore natural resources that are lost, injured or destroyed including the interim loss of services due to that loss, injury or destruction. Restoration includes returning an injured resource to the condition it would have been in without the release, as well as the acquisition of equivalent resources including resource services when actual injured resources are not restored.

Specific Projects Considered

We are required to assess a “reasonable number” of possible restoration projects [43 CFR Part 11.82 (a)]. A project may consist of a single action or a set of actions which may be undertaken. In our initial review, we identified the following as desired characteristics for potential projects: the restored habitat is similar in type to the habitat injured in that they both provide similar services; the project is in the same watershed as the injured wetland; and the project provides long-term or perpetual benefits to fish and wildlife resources. We identified the following specific potential projects.

1. No action alternative

By implementing this alternative the Trustees would take no action to restore injured natural resources or compensate for lost services pending environmental recovery. This alternative has no direct environmental consequences because, by definition, no manipulations to the environment would take place.

2. Restoration of in-kind natural resources at the same location

As part of remediation, the Site was capped, precluding restoration of the Site in its entirety. In addition, the Site is bordered by residential areas, making restoration of the Site infeasible due to the limited size of the area. For these reasons, this option was not given further consideration.

3. Restoration or replacement of in-kind resources in the immediate vicinity of the loss

After diligent investigation, we were not able to identify any projects entailing restoration or replacement of in-kind natural resources in the vicinity of the Site. For these reasons, this option was not given further consideration.

4. Restoration or enhancement of similar resources nearby

McGirts Creek Park is one of Jacksonville’s regional nature preserves and is part of Preservation Project Jacksonville, whose purpose is to restore, enhance, and protect environmentally sensitive areas throughout the City of Jacksonville (Duval County). McGirts Creek Park is owned and managed by the City of Jacksonville and consists of a 500 acre natural area located approximately 8 miles downstream of the Site. The area is located in a floodplain along both sides of McGirts Creek. Other tributaries enter McGirts Creek along this section, forming the headwaters of the Ortega River. The City plans to restore and enhance the area, which will provide a protected greenspace for wildlife, improve water quality of the Ortega River, and provide public access for passive recreation and education activities. The University of North Florida (UNF) conducted a habitat and restoration assessment to develop restoration recommendations. This assessment and other site visits by the Service and City of Jacksonville personnel to McGirts Creek indicated that the wetland floodplain could be enhanced by the

removal of planted pine trees and invasive species, and by re-planting native species. This action would increase habitat services provided by McGirts Creek and its floodplain. The projects carried further for evaluation are 1 and 4.

Evaluation and Comparison of Projects

As a natural resource trustee, we are required to evaluate each possible restoration project based on all relevant considerations, including the following factors: technical feasibility; the relationship of the expected costs of the proposed action to the expected benefits; cost-effectiveness; the results of actual or planned response action; the potential for additional injury resulting from the proposed action; long-term and indirect impacts; the natural recovery period of the injured resources; the ability of the resources to recover with or without action; the potential effects of the action on human health and safety; consistency with relevant State and Federal policies; and compliance with applicable Federal and State laws. We also consider whether a project will secure protection of the restoration site. The following is our evaluation of the specific projects described above.

1. No action alternative

By implementing this alternative the Trustees would take no action to restore injured natural resources or compensate for lost services pending environmental recovery. This alternative has no direct environmental consequences because, by definition, no manipulations to the environment would take place. This alternative would have no effect on human health and safety. This alternative would do nothing to offset injuries resulting from the contamination and results of response actions. No additional natural resource injuries would be caused by this alternative, but injuries resulting from the Whitehouse Waste Oils Pits Superfund Site would go unaddressed. It is, however, inconsistent with CERCLA's requirement that funds recovered by Trustees for natural resource injuries be spent on restoration or replacement of those resources. Based on the aforementioned facts, this option was not given further consideration.

4. Restoration or enhancement of similar resources at McGirts Creek Park

This Project will restore or enhance at least 50 acres of wetlands along McGirts Creek within the McGirts Creek Park. The property is owned, managed, and protected by the City as a nature preserve. Limited construction may be undertaken within the area in the form of parking, pathways and bridges to provide controlled access for passive recreation and educational purposes while minimizing disturbance of wildlife occupying the property. The City has collaborated with UNF to develop educational programs to increase the environmental awareness of the community and to educate students interested in restoration biology and environmental studies.

The UNF habitat assessment study indicated that the McGirts Creek Park area and flood plain contained hydric soils and was most likely a mixed hardwood-pine forest before its conversion to

a slash pine plantation. The assessment indicated that restoration of McGirts Creek Park should be relatively simple.

Proposed restoration activities are for removal of invasive plant species, thinning of slash pine to 10 to 60 trees per acre, and re-planting with a mix of flood-tolerant native species. The specific area of McGirts Creek Park that appears to be optimal for restoration is the Dunnam Property in the southern part of McGirts Creek Park. This area is preferable because it can be easily accessed and is bordered by undeveloped wetland forest. Restoration of this area would create more wildlife habitat and provide a wildlife corridor for moving between the undisturbed forested wetlands that border the Dunnam Property.

The restoration project is technically feasible and cost-effective because restoration practices that will be implemented, which include thinning/removal of planted pine trees, treatment of invasive/exotic plants, and re-planting of native plant species are routine and well understood. Implementation of the project will not result in any additional injuries to fish and wildlife resources, but instead will benefit such resources through creation of habitat. The proposed project will have no adverse impacts on human health or safety and is consistent with relevant State and Federal policies and laws. The project will be protected in perpetuity and does not entail the acquisition of land for Federal management as the property is owned and managed by the City. Restoration plans may be modified with USFWS approval should they need to be adjusted to ensure a more successful project or should unforeseen circumstances or changes in the site condition arise that require changes in the restoration activities or management.

Project Selected for Implementation

Based on the evaluation of potential impacts of the various alternatives, we have selected the McGirts Creek Restoration Project as the Preferred Alternative for implementation. This project will restore natural resources, and compensate for losses sustained by the environment and public because of the contamination and remediation of the Site. The USFWS will implement the project, in cooperation with the City of Jacksonville.

The City of Jacksonville will conduct the initial treatment of invasive/exotic plants, prepare and execute a timbering plan for the planted pine areas, and make the necessary road improvements for the logging operation. The COJ will re-grade the furrows to a more natural topography and remove any diseased pines as well as all sand pine. The COJ also plans to clear cut certain areas for future recreational facilities, including a trailhead area and open play field.

The USFWS will utilize the allocated restoration funds for re-planting the harvested wetland areas with native, flood-tolerant hardwood species. Tree species may include loblolly bay (*Gordonia lasianthus*), sweetbay (*Magnolia virginiana*), swamp bay (*Persea palustris*), Pond Pine (*P. serotina*), pond cypress (*Taxodium ascendens*) and other flood-tolerant species appropriate to the wetland system. Restoration funds may be used for the re-grading of the thinned and/or clear-cut areas to restore natural topography, as well as paying for follow-up

treatments of exotics, if needed, and monitoring of tree survival. Restoration funds may also be allocated for the construction of an educational kiosk to inform the public about the restoration project.

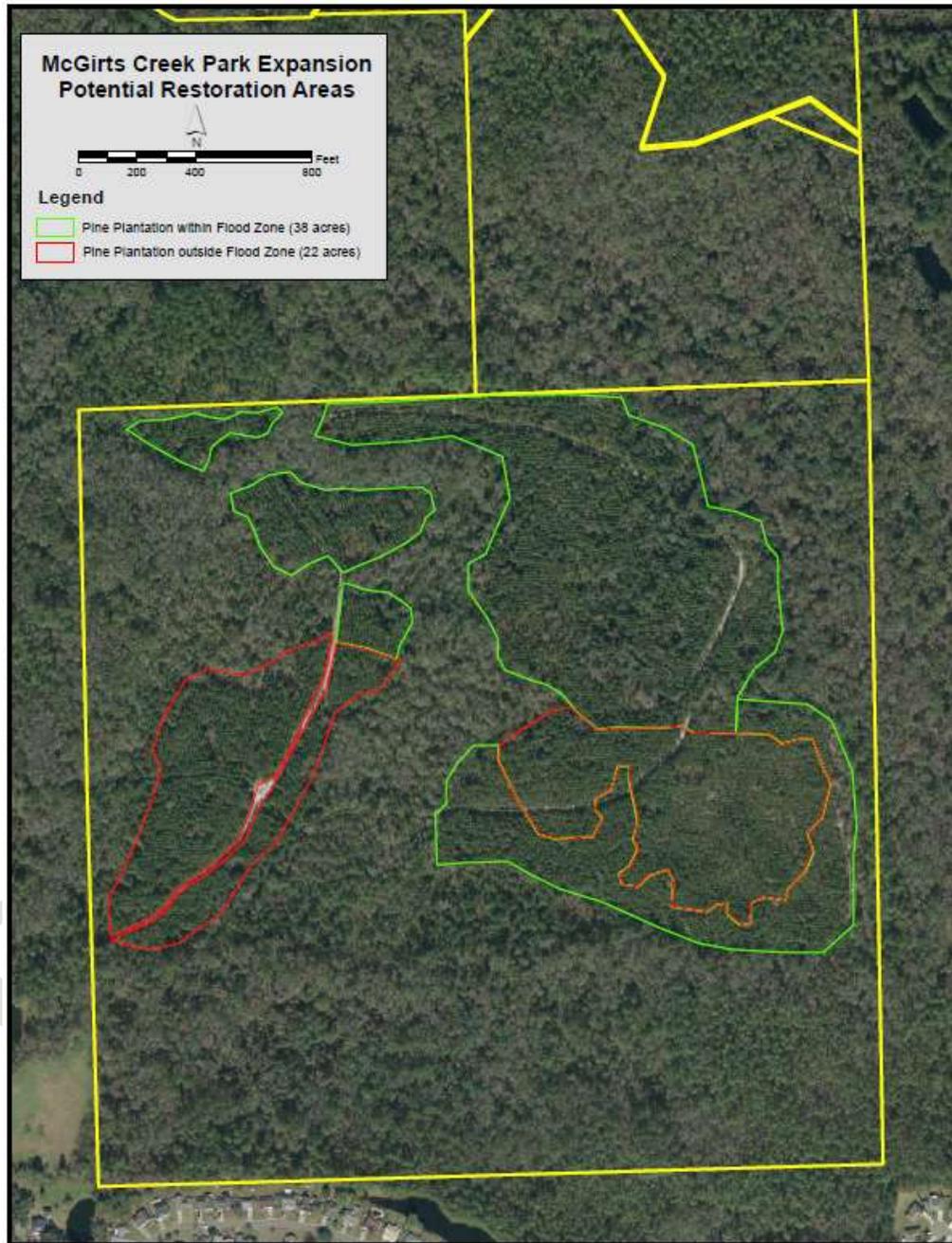
The areas of existing planted pines and the flood zones denoting formerly wetland areas where restoration activities will occur are noted in Attachment A. Restoration plans may be modified with USFWS approval should they need to be adjusted to ensure a more successful project or should unforeseen circumstances or changes in the site condition arise that require changes in the restoration activities or management.

Compliance with the National Environmental Policy Act (NEPA)

The Final Revised Procedures for the U.S. Fish and Wildlife Service for implementing NEPA, published in the Federal Register on January 16, 1997, provide a categorical exclusion for natural resource damage assessment restoration actions under CERCLA when only minor or negligible change in the use of the affected areas is planned. Categorical exclusions are classes of actions that do not individually or cumulatively have significant effect on the human environment.

The McGirts Creek Restoration Project will result only in a minor change in the use of the affected area. Accordingly, this action is a categorically excluded under NEPA. We have prepared an Environmental Action Statement documenting this determination. That Environmental Action Statement is attached to this Restoration Plan as Attachment B.

Attachment A. McGirts Creek Park Expansion Restoration Areas.



Attachment B. Environmental Action Statement

Memorandum for Record documenting National Environmental Policy Act (NEPA)
Compliance

DRAFT

MEMORANDUM FOR RECORD

Date: September 7, 2011
To: Administrative Record for Draft Restoration Plan for McGirts Creek Park
From: U.S. Fish and Wildlife Service, Jacksonville Ecological Services Office
Subject: Environmental Action Statement for Draft Restoration Plan for McGirts Creek Park

Purpose: To document NEPA compliance for the Draft Restoration Plan for McGirts Creek Park for restoration of injuries associated with the Whitehouse Waste Oil Pits Superfund Site

Environmental Action Statement: The Draft Restoration Plan for McGirts Creek Park is completely covered by categorical exclusion No. 516 DM 6, Appendix 1, Section 1.4.

Evaluation of Exceptions to Categorical Exclusion:

Will This Proposal:

Yes No

- 1. Have significant adverse effects on public health or safety.
- 2. Have significant adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas under Federal ownership or jurisdiction.
- 3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].
- 4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
- 5. Have a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects
- 6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.
- 7. Have significant adverse effects on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau or office, the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, or a consulting party under 36 CFR 800.
- 8. Have significant adverse effects on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant adverse effects on designated Critical Habitat for these species.
- 9. Have the possibility of violating a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

- 10. Have the possibility for a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).
- 11. Have the possibility to limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).
- 12. Have the possibility to significantly contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

Within the spirit and intent of the Council of Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders, and policies that protect fish and wildlife resources, the Jacksonville Ecological Services Field Office has established the following administrative record and have determined that the Draft Restoration Plan for McGirts Creek Park is a categorical exclusion as provided by 516 DM 6, Appendix 1, Section 1.4. No further NEPA documentation will therefore be made.

DRAFT