FINAL RESTORATION PLAN ADDENDUM
CORTESE LANDFILL SUPERFUND SITE, TOWN OF TUSTEN, SULLIVAN COUNTY, NEW YORK

Addendum Revised from
January 11, 2007, Final Restoration Plan

Prepared by:

United States Fish and Wildlife Service

on behalf of the

U.S. Department of the Interior

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Table of Contents

Preamble 1

A. Introduction 1

B. Background 2

C. Natural Resources and Impacts to those Resources 3

D. Natural Resource Damage Settlement 3

E. Proposed Restoration Projects – 2015 Addendum to Restoration Plan: Upper Delaware River Stream Habitat Restoration Alternative 3

F. Compliance with the National Environmental Policy Act (NEPA) 4

G. Public Comments 5

H. Literature Cited 5

Draft Approval Cortese Landfill Superfund Site 6

Final Approval Cortese Landfill Superfund Site 7

Attachment A Environmental Action Statement 8

Preamble

This Addendum to the "2007 Cortese Landfill Superfund Site Final Restoration Plan" (U.S. Fish and Wildlife Service, FWS, 2007) has been developed to summarize a new restoration alternative that has been selected by the FWS, the sole Natural Resource Damage Assessment and Restoration (NRDAR) Trustee. This new alternative is necessary as the project proponent for the restoration project alternative selected in the 2007 Final Restoration Plan notified the FWS that they were no longer able to perform the proposed work. In addition to the original project proponent withdrawing, a June 2014 wetland restoration Funding Opportunity notice, similar to the selected 2007 restoration project, received no responses indicating a lack of readily available wetland restoration opportunities in the Upper Delaware River watershed.

A. Introduction

In May 1996, the United States Department of the Interior (DOI), acting through the FWS, the sole Trustee, settled a natural resource damage claim with the Responsible Parties (RPs) for the Cortese Landfill Superfund Site (Site) located in Narrowsburg, Town of Tusten, Sullivan County, New York.

The FWS sought monetary settlement with the RPs as compensation for the injuries to natural resources due to release of environmental contaminants from the Site. The FWS is required to use settlement funds to compensate for those injuries by restoring natural resources, supporting habitat, and/or services provided by the injured resources. The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), which designates natural resource trustees, required that, before settlement monies can be used for such activities, the FWS must develop and adopt a Restoration Plan, and that in doing so, there must be adequate public notice and opportunity for hearing and consideration of all public comment.

Accordingly, the FWS published and distributed a Draft Restoration Plan and sought public comment. The FWS published a Notice of Availability of a Draft Plan for the Site in the Federal Register Vol. 71 No. 117, June 19, 2006, and the Scranton Times-Tribune Newspaper. Comments received on the Draft Plan were considered and a response was incorporated into the Final Restoration Plan. The Final Restoration Plan was published in January 2007 (https://www.fws.gov/northeast/nyfo/ec/files/CorteseFRP.pdf). The 2007 Final Restoration Plan presented a number of restoration projects. The Upper Delaware Habitat Restoration Project was selected as the preferred alternative and involved wetland habitat restoration within the Upper Delaware River watershed. However, the project proponent for the Upper Delaware Habitat Restoration Project is no longer able to conduct the restoration project.

In June 2014, the FWS solicited additional Upper Delaware River wetland habitat restoration projects, through grants.gov. However, the 2014 wetland restoration Funding Opportunity did not receive any responses. The following entities were notified of the wetland restoration Funding Opportunity: National Park Service Upper Delaware Scenic and Recreational River, Sullivan County Soil and Water Conservation District, New York State Department of Environmental Conservation, Town of Tusten, Town of Highland, State University of New York at New Paltz, Upper Delaware Council, and the Delaware Riverkeeper. Due to a lack of wetland

restoration Funding Opportunity responses, the FWS is now proposing a restoration alternative that will restore Upper Delaware River stream habitat, habitat also injured by Site contamination, using natural channel design in the Upper Delaware River and its tributaries, which is presented in Section E below.

B. Background

The Site, located in Narrowsburg, Town of Tusten, Sullivan County, New York (Figure 1), is an approximately 5-acre site bordered by wetland to the south, a steep rock escarpment to the northeast, and a railroad embankment to the southwest. The Delaware River, classified by the National Park Service as a Wild and Scenic River, is located 450 feet southwest from the landfill. Between 1970 and 1981, the Site received municipal wastes at a rate of 3,000 cubic yards each year. Industrial wastes, including waste solvents, paint thinners, paint sludges, and waste oils, were also disposed at the landfill in 1973. Records indicated that an estimated 5,000 to 8,000 drums containing industrial waste were buried on the Site at that time. The threat to public health and the environment has been significantly reduced by excavation and off-site disposal of materials in the septage lagoons, construction of a storm water management system around the landfill to reduce leachate production, excavation and removal of 5,300 buried drums and 3,200 tons of contaminated soils, removal of 15,000 gallons of hazardous liquid/sludge, and construction of a cap over the 5-acre landfill (United States Environmental Protection Agency, EPA, 2005).

Figure 1. Cortese Landfill Site Location

C. Natural Resources and Impacts to those Resources

Prior to remedial excavation, the Site consisted of the core landfill area characterized by upland disturbance-tolerant plant species, adjacent wet meadow, and forested wetland habitats. A small pond, "White Pond," and a small backwater area of the Delaware River known as the "embayment" located southwest of the Site received contaminants that migrated from the landfill. As a result of excavation, landfill cap construction, and off-Site migration of Site-related contaminants, 1.6 acres of wetland were destroyed and/or degraded. At least 42 bird species are known to be in the vicinity of the Site. Avian wildlife using the Site are likely to include waterfowl, wading birds, hawks, woodpeckers, swallows, and migratory songbirds. In addition, the section of the Upper Delaware River watershed near the Site hosts the largest population of wintering bald eagles (*Haliaeetus leucocephalus*) in the Northeast. The embayment provides feeding and/or spawning habitat for forage fish, American shad (*Alosa sapidissima*), striped bass (*Morone saxatilis*), and American eel (*Anguilla rostrata*).

D. Natural Resource Damage Settlement

In developing settlement requirements, the FWS focused on the loss of 1.6 acres of wet meadow/wetland habitat used by fish and wildlife populations near the Site due to remedial activities and off-site migration of Site-related contaminants. To scale restoration goals, the FWS employed the Habitat Equivalency Analysis (HEA) method described by Unsworth and Bishop (1994), and knowledge of the affected ecosystem to determine how much credit could be realized from a restoration project, such as enhancing a degraded environment or preserving an existing environment. The analysis resulted in a total restoration goal of 2.7 acres of in-kind, in-place wet meadow/wetland habitat, or the equivalent to compensate the Trustee's natural resource damages claim under CERCLA.

A settlement, including compensation for Natural Resource Damages, was formalized in a Consent Decree signed by the United States Government and the RPs in May 1996. The DOI received $82,304.50 to compensate for the natural resource injury after the Department of Justice received 3% ($2,545.50) of the settlement as part of their cost recovery. The restoration account for the Site as of January 2015, due to the accrual of interest, contains about $120,000.00, of which $100,000.00 is available for a restoration project. The balance is needed for project planning, restoration implementation oversight, and monitoring.

E. Proposed Restoration Projects – 2015 Addendum to Restoration Plan: Upper Delaware River Stream Habitat Restoration Alternative

After no response was received to the 2014 Upper Delaware wetland restoration Funding Opportunity, the FWS is now proposing a restoration alternative that will restore Upper Delaware River stream habitat, habitat also injured by Site contamination, using natural channel design methods in the Upper Delaware River and its tributaries. The FWS and partners, including Trout Unlimited and Friends of the Upper Delaware River, are currently in the design phase of stream restoration projects within the Upper Delaware River and its tributaries.

The stream restoration projects in the Upper Delaware River will protect and restore fish and wildlife and their habitats and improve habitat quality. Techniques used will include stream restoration through channel realignment and bank stabilization, establishment of a riparian buffer zone to help shade and further stabilize the channel, and floodplain wetland creation. Stream projects, incorporating natural channel design methodologies, would involve installation of in-stream structures including vanes, toe-wood, root wads, and other structures as directed by the FWS.

The proposed Upper Delaware River Stream Habitat Restoration alternative will be conducted by the FWS and/or its Cooperator. The FWS will provide expertise in the restoration and enhancement of stream habitat using natural channel design methodologies. The FWS will work with its Upper Delaware restoration partners to provide stream habitat restoration objectives, approve all construction plans, and oversee the completion of all work.

The preferred proposed Upper Delaware River Stream Habitat Restoration project includes stream restoration projects in the East Branch of the Upper Delaware River and its tributaries. At a minimum, the equivalent of 2.7 acres of wetland habitat, the amount of habitat required in the 2007 Final Restoration Plan, will be restored during the stream restoration projects with a conservative estimate of the completion of approximately 1 mile of stream restoration.

As stated within the 2007 Final Restoration Plan, in addition to the wetland habitat, a small backwater area of the Delaware River known as the "embayment" located southwest of the Site received contaminants that migrated from the landfill. The section of the Upper Delaware River watershed near the Site hosts the largest population of wintering bald eagles in the Northeast and the embayment provides feeding and/or spawning habitat for forage fish, American shad, striped bass, and American eel. Avian wildlife that likely used the Site, include waterfowl, wading birds, hawks, woodpeckers, swallows, and migratory songbirds. These Trust resources, mentioned in the 2007 Final Restoration Plan, will all benefit from stream habitat restoration in the Upper Delaware River which will improve stream habitat quality.

F. Compliance with the National Environmental Policy Act (NEPA)

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

The Upper Delaware Stream Habitat Restoration Project will result in only a minor change in the use of the affected area. Accordingly, this Restoration Plan Addendum qualifies for a categorical exclusion under NEPA. We have prepared an Environmental Action Statement documenting this determination and it will be included in the Final Restoration Plan Addendum.

G. Public Comments

As the original 2007 Final Restoration Plan project proponent was no longer able to conduct the restoration project, FWS solicited new restoration projects. In June 2014, a wetland restoration Funding Opportunity notice, similar to the selected 2007 restoration project, received no responses. The following entities were notified of the wetland restoration Funding Opportunity: National Park Service Upper Delaware Scenic and Recreational River, Sullivan County Soil and Water Conservation District, New York State Department of Environmental Conservation, Town of Tusten, Town of Highland, State University of New York at New Paltz, Upper Delaware Council, and the Delaware Riverkeeper. Due to a lack of wetland restoration Funding Opportunity responses, the FWS developed a draft Cortese Landfill Superfund Site Restoration Plan Addendum with a proposed restoration alternative that would restore Upper Delaware River stream habitat.

The FWS issued the Cortese Landfill Superfund Site Draft Restoration Plan Addendum for public review on March 27, 2015, and accepted public comments through April 27, 2015. The notice of availability was published in the Sullivan County Democrat newspaper and on the FWS New York Field Office website. No comments were received.

H. Literature Cited

U.S. Environmental Protection Agency. 2005. Cortese Landfill Site Description. Environmental Protection Agency, Region 2. New York, New York. http://www.epa.gov/Region2/superfund/npl/0201867c.pdf

U.S. Fish and Wildlife Service. 2007. Final Restoration Plan for the Cortese Landfill Superfund Site, Town of Tusten, Sullivan County, New York. U.S. Fish and Wildlife Service, New York Field Office, Cortland, New York.

Unsworth, R.E., and R.C. Bishop. 1994. Assessing Natural Resource Damages Using Environmental Annuities. Ecological Economics. 11:35-41.

Draft Approval Cortese Landfill Superfund Site

Draft Restoration Plan Addendum

In accordance with the U.S. Department of the Interior (DOI) policy regarding documentation for natural resource damage assessment and restoration projects (521 DM 3), the Authorized Official for the DOI must demonstrate approval of draft and final Restoration Plans and their associated National Environmental Policy Act documentation, with concurrence from the DOI Office of the Solicitor.

The Authorized Official for the Cortese Landfill Superfund Site natural resource damage assessment case is the Regional Director for the U.S. Fish and Wildlife Service's Northeast Region.

By the signatures below, the Cortese Landfill Superfund Site Draft Restoration Plan Addendum is hereby approved.

Approved:		Concurred:	
Wendi Weber	MAR 18 2015 Date	Mark Barash	3/4/2015 Date
Regional Director		Senior Attorney	
Northeast Region		Northeast Region	
U.S. Fish and Wildlife Service		Office of the Solicitor	

Attachment A

UNITED STATES FISH AND WILDLIFE SERVICE

ENVIRONMENTAL ACTION STATEMENT

Final Restoration Plan Addendum for the Cortese Landfill Superfund Site

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and have determined that the action of the Final Restoration Plan and for the Cortese Landfill Superfund Site in the Town of Tusten, New York:

XX is a categorical exclusion as provided by 516 DM 6 Appendix 1 and 516 DM 6, Appendix 1. No further documentation will therefore be made.

____ is found not to have significant environmental effects as determined by the attached Environmental Assessment and Finding of No Significant Impact.

____ is found to have significant effects, and therefore further consideration of this action will require a notice of intent to be published in the Federal Register announcing the decision to prepare an EIS.

____ is not approved because of unacceptable environmental damage, or violation of Fish and Wildlife Service mandates, policy, regulations, or procedures.

____ is an emergency action within the context of 40 CFR 1506.11. Only those actions necessary to control the immediate impacts of the emergency will be taken. Other related actions remain subject to NEPA review.

Other supporting documents (list):

Final Restoration Plan Addendum including public comments.

Regional Director / DOI designated Authorized Official

June 4, 2015
Date

Final Approval Cortese Landfill Superfund Site

Final Restoration Plan Addendum and
Environmental Assessment

In accordance with the U.S. Department of the Interior (DOI) policy regarding documentation for natural resource damage assessment and restoration projects (521 DM 3), the Authorized Official for the DOI must demonstrate approval of draft and final Restoration Plans and their associated National Environmental Policy Act documentation, with concurrence from the DOI Office of the Solicitor.

The Authorized Official for the Cortese Landfill Superfund Site natural resource damage assessment case is the Regional Director for the U.S. Fish and Wildlife Service's Northeast Region.

By the signatures below, the Cortese Landfill Superfund Site Final Restoration Plan Addendum and Environmental Assessment is hereby approved.

Approved:		Concurred:	
6/4/15		5/13/2015	
Wendi Weber Regional Director Northeast Region U.S. Fish and Wildlife Service	Date	Mark Barash Senior Attorney Northeast Region Office of the Solicitor	Date