FINAL

RESTORATION PLAN
for Sugar Creek Restoration Project in McLean County, Illinois
(in connection with J. McDaniel Transportation, Inc.)

Prepared by:
Illinois' Natural Resource Trustees:
Illinois Department of Natural Resources
Illinois Environmental Protection Agency

June 2014

FINAL RESTORATION PLAN for Sugar Creek Restoration Project in connection with J. McDaniel Transportation, Inc.'s release of gasoline in Mclean County, Illinois.

LEAD AGENCY FOR THE FINAL RESTORATION PLAN:

Illinois Department of Natural Resources

COOPERATING AGENCIES:

Illinois Environmental Protection Agency

ABSTRACT:

This final Restoration Plan has been prepared by the state Natural Resource Trustees to address restoration of natural resources that were injured as a result of J. McDaniel Transportation, Inc.'s release of gasoline, which entered a drainage pathway through which the gasoline entered Sugar Creek in McLean County, Illinois. The draft Restoration Plan sought to inform the public and receive public comment. There were no comments received by the Trustees for consideration in preparing this final Restoration Plan.

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COPIES:

Copies of the final RP are available at the address listed above or available for download at http://www.dnr.illinois.gov/programs/NRDA/Pages/McDaniels.aspx

DATE OF RELEASE: June 2, 2014

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List of Acronyms and Abbreviations

BMPs	Best Management Practices
CERCLA	Comprehensive Environmental Response, Compensation & Liability Act
CFR	Code of Federal Regulations
CWA	Clean Water Act
IAGO	Illinois Attorney General's Office
IDNR	Illinois Department of Natural Resources
IEPA	Illinois Environmental Protection Agency
INPC	Illinois Nature Preserves Commission
ISWS	Illinois State Water Survey
McDaniel	J. McDaniel Transportation, Inc.
NCP	National Oil and Hazardous Substances Pollution Contingency Plan
NOAA	National Oceanic & Atmospheric Administration
NRCS	Natural Resources Conservation Service
NRDA	Natural Resource Damage Assessment
OPA	Oil Pollution Act
OSRLA	Oil Spill Responders Liability Act
RP	Restoration Plan
SWCD	Soil and Water Conservation District
Trustees	Illinois Natural Resource Trustees
UIUC	University of Illinois at Urbana-Champaign
USFWS	United State Fish and Wildlife Service
USGS	United States Geological Survey

I. Introduction

Releases of hazardous substances and oil into our environment can pose a threat to human health and natural resources. Natural resources are plants, animals, land, air, water, groundwater, drinking water supplies, and other similar resources. When the public's natural resources are injured by a release of hazardous substances or oil, there are federal and/or state laws which provide a mechanism to certain federal and/or state authorities, to seek compensation for the injuries to natural resources. Due to a complaint filed by the Illinois Attorney General's Office (IAGO) on behalf of the People of the State of Illinois, the Illinois Environmental Agency (IEPA) and the Illinois Department of Natural Resources (IDNR), against J. McDaniel Transportation, Inc. (McDaniel), a settlement was reached by which McDaniel agreed to compensate the public based on a determination that natural resources were injured resulting from the release of gasoline into Sugar Creek. In this case, the complaint was filed pursuant to Section 10 of the Oil Spill Responders Liability Act (OSRLA), 740 ILCS 113/10; and the Oil Pollution Act (OPA) of 1990, 33 U.S.C. 2701, which was adopted by OSRLA as a state law cause of action. The settlement, entered in the McLean County Circuit Court on the 16th day of February, 2007, provided approximately $15,000 for Trustee-sponsored natural resource restoration project(s), and $2,000 for Trustee-sponsored natural resource education project(s). Supplementary funds were added to the settlement amount for Trustee-sponsored natural resource restoration project(s), and additional details on this are provided in Section X.

This final Restoration Plan (RP) describes for the general public and interested parties the incident including the release, injuries to natural resources, description of the legal process and the proposal to restore natural resources to compensate for the injuries, as described in the following sections.

II. Incident Description

On April 3, 2001, a vehicle accident involving a Johnson Fuels tanker truck of J. McDaniel Transportation, Inc., resulted in a release of approximately 8,800 gallons of gasoline into Sugar Creek in McLean County, Illinois. The gasoline the truck was carrying entered a drainage way that carried it to Sugar Creek. Because of the threat of fire, rescue crews sprayed the area with foam. The foam emulsified the gasoline, which in turn caused the hazardous substance to spread throughout the water column. The hazardous substance traveled a distance of 4 miles in Sugar Creek, and caused the death of fish and other aquatic life inhabiting this 4-mile stretch of waterway.

IDNR and IEPA are responsible for protecting the state's natural resources, including fish and other aquatic life, and they possess the authority under federal and/or state law to seek compensation for injuries to such natural resources. This authority allows IDNR and IEPA to protect public interest in the state's natural resources and the services they provide.

III. Overview of Federal and State Laws Applicable to Natural Resource Damages

There are several federal and state laws which establish liability for natural resource damages, in order to compensate the public or make the public whole for the injury, destruction, and loss of natural resources and their services due to the unpermitted discharge of oil or release of hazardous substances.

The federal laws include the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9607(f); the Clean Water Act (CWA), 33 U.S.C. §1321(f); the Oil Pollution Act of 1990 (OPA), 33 U.S.C. §2702(b); the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. Part 300; the OPA Natural Resource Damage Assessment (NRDA) regulations, 15 C.F.R. Part 990; and the CERCLA and CWA NRDA regulations, 43 C.F.R. Part 11.

The state authorities are generally found in the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq.; the Oil Spill Responders Liability Act (OSRLA), 740 ILCS 113/10; the Illinois Natural Areas Preservation Act, 525 ILCS 30/1 *et seq.*; the Illinois Endangered Species Protection Act, 520 ILCS 10/1 *et seq.*; the Illinois Fish and Aquatic Life Code, 515 ILCS 5/5-5 *et seq.*; the Illinois Wildlife Code, 520 ILCS 5/1.1 *et seq.*; and the Interagency Wetland Policy Act of 1989, 20 ILCS 830/1 *et seq*. Additional statutory and common law authorities may be relevant in site-specific circumstances.

Overall, these federal and state laws provide the basic framework for natural resource injury determination, damage assessment, and restoration. The Natural Resource Trustees (Trustees) must comply with all applicable laws, regulations, and policies when working through the process for a NRDA or natural resource injury case. More detail on the above-cited federal and state laws and authorities can be found in Appendix I.

IV. Natural Resource Trustees and Authorities

NRDA federal law requires the designation of officials from federal, state, or tribal governments to act as Trustees to protect public interest in natural resources and the services they provide. In Illinois, the Directors of IEPA and IDNR have been designated as the Trustees by the Governor, and the Trustees work in close coordination with the IAGO. IDNR and IEPA may be used interchangeably with Trustees throughout this final RP. CERCLA, CWA, and OPA provide certain authorities to the Trustees, including the authority to use the NRDA regulations found in 43 C.F.R. Part 11 and 15 C.F.R. Part 990, to assess damages to natural resources[1] resulting from a discharge of oil or a release of a hazardous substance covered under CERCLA, CWA, or OPA and to seek to recover those damages.

In the case of McDaniel and the release of gasoline into Sugar Creek, the complaint was pursued by the IAGO under OSRLA, Section 10, and OPA, which was adopted as a state law cause of action without OPA's limitation to releases or discharges impacting navigable waters. IDNR and IEPA determined the OPA regulations to be the most appropriate guidance for finaling this RP, and the Trustees will follow the general NRDA process for this natural resource injury case. Both OPA and CERCLA regulations provide clear and relevant procedures by which IDNR and IEPA can determine compensation for injuries[2] to natural resources that were not addressed by the emergency response

[1] The term "natural resources" means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States, any State or local government, any foreign government, any Indian tribe.

[2] Injury means a measurable adverse change in the chemical or physical quality or the viability of a natural resource resulting either directly or indirectly from exposure to a discharge of oil or release of a hazardous substance.

actions at the time of the incident. The National Oceanic and Atmospheric Administration (NOAA) published a final rule to guide Trustees in assessing damages to natural resources from a discharge of oil. The rule provides a blueprint that enables the Trustees to focus on significant environmental injuries, to plan and implement efficient and effective restoration of the injured natural resources and services, and to encourage public and responsible party involvement in the restoration process.

The procedure, established by the NOAA rule, uses a planned and phased approach in the assessment of natural resource damages. This approach is designed to ensure that all procedures used in an assessment are appropriate, necessary, and sufficient to assess damages for injuries to natural resources. The OPA regulations in 15 C.F.R. Part 990 were used as the primary guidance for this RP. The CERCLA regulations in 43 C.F.R. Part 11 were also used as guidance, in those sections where they may be beneficial to the public to clarify and explain the procedures used in the restoration planning process.

During, or as a result of, the natural resource injury determination and assessment of damages, a restoration plan is developed. As provided by 43 C.F.R. §11.93 of the CERCLA NRDA regulations and 15 C.F.R. §990.55 of the OPA NRDA regulations, the RP will identify how funds will be used and include a reasonable number of possible alternatives for the restoration[3], rehabilitation, replacement[4], and/or acquisition of the equivalent of the injured resources and the services those resources provide.

IDNR and IEPA believe this final RP demonstrates that the settlement is adequate to restore, replace, rehabilitate, and/or acquire the equivalent of the injured natural resources and services. Settlement funds are deposited in a separate account within the Natural Resource Restoration Trust Fund, which is managed by IDNR for use by the Trustees to pay for Trustee-sponsored natural resource restoration work. Sums recovered as a result of the Consent Order for this case will be expended in accordance with this final RP, after an opportunity for public review and comment.

V. Public Participation

Public review of the draft RP is an integral component of the restoration planning process. The public review process allows the Trustees to seek public review and comment on the approaches used to define and assess the natural resource injuries and the projects proposed to restore, replace, rehabilitate, and/or acquire the equivalent of the injured natural resources and their services. Once public notice has been given, the draft RP becomes available to the public for a 30-day comment period. Written comments received during the defined 30-day period are considered by IDNR and IEPA in preparing the final RP.

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[3] Restoration or rehabilitation actions are actions that return injured resources to the state the resources would have been in or the services that would have been provided by those resources had the discharge of oil or release of hazardous substance not occurred. Such actions would be in addition to response actions completed or anticipated pursuant to the National Contingency Plan (NCP).

[4] Replacement or acquisition of the equivalent means the substitution for injured resources with resources that provide the same or similar services, when such substitutions are in addition to any substitutions made or anticipated as part of the response actions and when such substitutions exceed the level of response actions determined appropriate to the site pursuant to the NCP.

The defined 30-day public comment period for the draft RP was April 29 through May 28, 2014. During this period, no comments were received by the Trustees for consideration in preparing this final RP. No significant changes were made when finalizing this Restoration Plan; however, an additional opportunity for public review will be provided in the event significant changes are made to the final RP.

VI. Restoration Planning

The following information describes the process of identifying and selecting restoration alternatives. For each restoration alternative developed, the Trustees identify an action to be taken singly or in combination by the Trustee agencies to achieve the restoration, rehabilitation, replacement, and/or acquisition of equivalent natural resources and the services provided by those resources. The Trustees then evaluate all alternatives developed and select a preferred alternative(s). Restoration alternatives are evaluated based on their ability to restore, rehabilitate, replace, and/or acquire the equivalent of the injured resources and services to their baseline condition, which is the condition of the natural resources absent the occurrence of the discharge or release. Restoration alternatives considered by the Trustees can range from intensive action to natural recovery with minimal management actions.

The Trustees solicit restoration project alternatives from multiple entities, such as the Natural Resources Conservation Service (NRCS), United States Geological Survey (USGS), local universities, local Soil and Water Conservation Districts (SWCDs), private landowners and not-for-profit organizations. In soliciting project ideas, the Trustees request that the projects be in the general vicinity of where the incident occurred, preferably within the same watershed. Specifically for this plan, the Trustees obtained eligible project proposals from IDNR's Office of Resource Conservation (ORC), McLean County NRCS, Logan County SWCD, Illinois State Water Survey (ISWS), University of Illinois at Urbana-Champaign (UIUC), Lincoln College in Logan County, U.S. Fish and Wildlife Service (USFWS), and Illinois Nature Preserves Commission (INPC). Table 1 provides a summary and Figure 1 shows the general location of the restoration site alternatives considered for the Sugar Creek RP.

The Trustees evaluated project alternatives that were identified and submitted, and that are expected to restore the injured natural resources to pre-incident or baseline levels and/or compensate for interim service losses. The Trustees utilized evaluation criteria (See Section VIII) and expert opinion to assess all potential restoration project alternatives, prior to selecting the preferred restoration alternative.

VII. Restoration Strategy

The goal of an NRDA or natural resource injury process is to restore the injured natural resources and/or compensate for the interim lost uses of the injured resources. Restoration actions can be summarized by defining two terms: primary and compensatory[5]. Primary restoration is action taken to

[5] These two types of restoration actions are OPA regulation terminology however they are conceptually similar to the two components of damages under the CERCLA regulations. Primary restoration has the same objective as the CERCLA concept of "restoration, rehabilitation, replacement and/or acquisition of the equivalent" of injured resources. In both instances, the objective is to return injured resources or services to baseline. The OPA regulations' "compensatory restoration" has the same objective as "compensable value" under the CERCLA regulations. In both cases, the objective is to compensate for interim losses.

return the injured natural resources and services to their baseline condition on an accelerated time frame by directly restoring or replacing the resource or service. CERCLA regulations require that Trustees consider natural recovery of the resource as one option for primary restoration. Primary restoration alternatives can range from natural recovery, to actions that prevent interference with natural recovery, to more intensive actions expected to return injured natural resources and services to baseline faster or with greater certainty than natural recovery alone.

Compensatory restoration includes actions taken to compensate for the interim losses of natural resources and/or services pending recovery to baseline conditions. The type and scale of compensatory restoration depends on the nature of the primary restoration action and the level and rate of recovery of the injured natural resources and/or services. When identifying compensatory restoration alternatives, Trustees first consider actions that provide services of the same type and quality that are of comparable value to those lost. If a reasonable range of compensatory actions of the same type and quality and comparable value cannot be found, Trustees may consider other compensatory restoration actions that will provide services of at least comparable type and quality as those lost.

Primary restoration was achieved through emergency response action at the time of the 2001 gasoline spill incident and natural recovery of the affected stream reach. The preferred restoration project addresses the goals and objectives in compensating for interim service losses, and the Trustees believe this project will fully address the compensatory restoration provision.

VIII. Evaluation Criteria

In order to determine the preferred restoration alternative(s), the Trustees considered the following evaluation standards listed in the OPA regulations at 15 C.F.R. §990.54:

(1) The cost to carry out the alternative or cost effectiveness;

(2) The extent to which each alternative is expected to meet the Trustees' goals and objectives in returning the injured natural resources and services to baseline and/or compensating for interim losses;

(3) The likelihood of success of each alternative;

(4) The extent to which each alternative will prevent future injury as a result of the incident, and avoid collateral injury as a result of implementing the alternative;

(5) The extent to which each alternative benefits more than one natural resource and/or service; and

(6) The effect of each alternative on public health and safety.

These evaluation standards, as well as others, are used by Illinois' Trustees when evaluating NRDA-related or natural resource injury-related restoration alternatives. Table 2 lists and further describes the

standards that were used by the Trustees to evaluate the restoration alternatives considered for the Sugar Creek RP. The Trustees evaluated the restoration alternatives listed in Table 1 against the standards listed in Table 2, and a preferred alternative was selected. Further explanation of additional evaluation standards considered in Table 2 can be found in Appendix II.

IX. Proposed Compensatory Restoration Alternative

The preferred alternative is a restoration project identified by the Trustees in a coordinated effort with the INPC and USFWS. In addition to the funds available from the court settlement and supplemental funds included for Trustee-sponsored restoration project(s), the USFWS will provide funds through its Partners for Fish and Wildlife Program. The restoration project will be implemented on private property registered as a Land and Water Reserve, which is part of the Illinois Nature Preserves System. The Land and Water Reserve provides a legal mechanism to ensure permanent protection for this property which has been identified as an important natural area in the state, and implementation of restoration activities will enhance the ecological benefits of the property's natural features. Sugar Creek runs through the middle of the property, which is located a few miles upstream from where the natural resource injuries occurred in 2001. The project will restore bottomland and/or upland forest communities and enhance or restore wetlands to achieve ecological benefits, including improved wildlife habitat and water quality. The Trustees will include an educational component to highlight the restoration project and explain the ecological benefits to the public, with a special focus on school-age children. More details on both the restoration and educational components are provided in the following paragraphs.

Any required permits will be sought by IDNR, and restoration work will not begin until all necessary permits have been obtained.

Restoration Component:

In an effort to identify an effective and sustainable restoration project on the property selected for the preferred alternative, IDNR coordinated multiple site visits to determine current conditions and quality of the timber stands and to determine the feasibility of a wetland component. The primary focus of the project will be to restore and maximize the functionality and benefits of the floodplain forest. Most areas of the property are covered with invasive and exotic species, which have prohibited natural regeneration of more desirable tree species, such as oaks and hickories. The areas with a higher quality timber stand will require selective thinning in conjunction with invasive and exotic species removal and control. The lower quality areas rampant with invasive and exotic species will require heavier clearing activity, planting of desirable tree species, and invasive and exotic species control. The focus of the wetland component will be to restore a more natural hydrology to the site, reduce nutrients in storm water flowing into Sugar Creek, and provide benefits for species that depend on water for part or all of their life cycle. A prescribed burn in the upland area may be conducted to open the canopy cover, allow for oak regeneration, and reduce the soil erosion potential. Restoring the timber stand to its native species mix will provide numerous benefits to wildlife, and restoring wetlands will also benefit wildlife, including a number of amphibian and reptile species known to inhabit areas in the general vicinity of the property where the project will be implemented. In addition,

the wetlands are expected to reduce the amount of nutrients flowing into Sugar Creek from surrounding agricultural lands. Reducing the nutrient load to Sugar Creek is expected to improve the water quality and has the potential to benefit fish and other aquatic resources. Best Management Practices (BMPs), recognized and approved by Illinois' conservation agencies and organizations, will be used to implement the different components of the project. Restoration projects implemented through the NRDA process typically require a minimum 10-year timeframe where the conservation practices must remain in place and be maintained. With the subject property under the permanent protection of the Land and Water Reserve Program, this project promises success and long-term benefits, well beyond the minimum requirements.

The property encompasses approximately 90 acres, and there is an extensive list of potential components for this project. Recognizing that available funds may not allow for implementation of all potential restoration activities, restoration units will be identified and prioritized in an effort to target project dollars to those components where the highest quality return on environmental benefits can be expected. Funds will be used in a cost effective manner to ensure there is a good balance between the projected costs and projected benefits. In addition to implementation of the project, biological surveys will be conducted to monitor and document species' use of the restored property. The monitoring data will be helpful in documenting the ecological benefits of the project.

Educational Component:

The proposed educational component involves coordination with a nature center located within the Illinois Land and Water Reserve and Nature Preserves complex, of which the property of the preferred restoration alternative is one unit. Inclusion of this proposal will allow for development of interactive educational materials to educate the public, in general, and school-age children, in particular, about the history of the property, the restoration project, and the significance of ecosystems and the benefits they provide. Each year, the nature center welcomes schools from all over the state, in addition to the general public, and educational materials that highlight this project will be a nice complement to the programs and services the nature center provides. Only one educational proposal was evaluated, due to the direct connection through ownership and close proximity of the nature center and the preferred restoration alternative. Staff at the nature center will be involved with the restoration project and have the ability to readily include this project into their established educational programs.

X. Rationale for Preferred Restoration Alternative

The total amount of the McDaniel court settlement for restoration purposes was $15,000; the settlement also included $2,000 for educational purposes. An additional $25,000 was made available from the Natural Resource Restoration Trust Fund for the Sugar Creek restoration project, bringing the total amount provided by IDNR for restoration purposes to $40,000. USFWS will be providing $25,000, through its Partners for Fish and Wildlife Program, in cost share assistance to the landowner to implement the restoration project. Altogether, $65,000 has been secured to implement components of the restoration project on the subject property. The funds provided in addition to the court settlement amount will significantly increase the scope of work considered for this project as well as

the expected benefits to both terrestrial and aquatic natural resources associated with the property and Sugar Creek.

The preferred restoration alternative is expected to benefit numerous natural resources and services associated with natural communities by implementing restoration activities using BMPs. The permanent protection afforded by the Land and Water Reserve Registration is an added bonus, and offers the assurance of long-term benefits through implementation of the preferred restoration project on this property.

XI. Proposed Action

The IDNR, IEPA and IAGO propose that the subject settlement monies be allocated to fund the preferred restoration project. IDNR staff will work in close coordination with the INPC, USFWS, the landowner, and other agencies or organizations as may be necessary, to follow the proper procurement process and to ensure this project is successfully implemented.

XII. Surveillance and Monitoring

IDNR and INPC staff will oversee implementation of the restoration project, follow up maintenance activities, and monitoring efforts with assistance from USFWS and staff at the nature center. The subject property, as part of the Land and Water Reserve Program, is required to have a current and detailed Management Plan, subject to renewal every 3-5 years. The renewal process involves review of the current plan, updates as necessary and approval by the INPC and the landowner.

XIII. Fiscal Procedures

It is the intention of IDNR to release funds in calendar year 2014 to begin implementation of the restoration project. IDNR will oversee all restoration activities, and staff at IDNR headquarters in Springfield will handle all fiscal transactions for the portion of project funds provided by IDNR. All billings with supporting documentation shall be submitted to the IDNR Springfield Office for review and processing of payment. IDNR's fiscal staff will be responsible for the approval and payment of all expenses, obligations and contracts in accordance with the State of Illinois fiscal and procurement procedures. USFWS staff will handle all fiscal transactions for the portion of project funds provided by USFWS.

XIV. Coordination with other Programs, Plans, and Regulatory Authorities

The preferred restoration project will be implemented as a joint effort among partners, including the IDNR, INPC, USFWS and the landowner. The partners will provide the technical expertise and finances, and work together to implement conservation practices, maximizing the environmental benefits on property that has been registered as a Land and Water Reserve. This restoration project complies with all federal, state, and local laws, regulations and policies. It is consistent with the terms and requirements of each of the programs through which it will be implemented, and the joint effort creates no conflict for any partnering program or interest. The laws and authorities associated with this restoration plan can be found in Appendix I.

XV. Tables and Figures

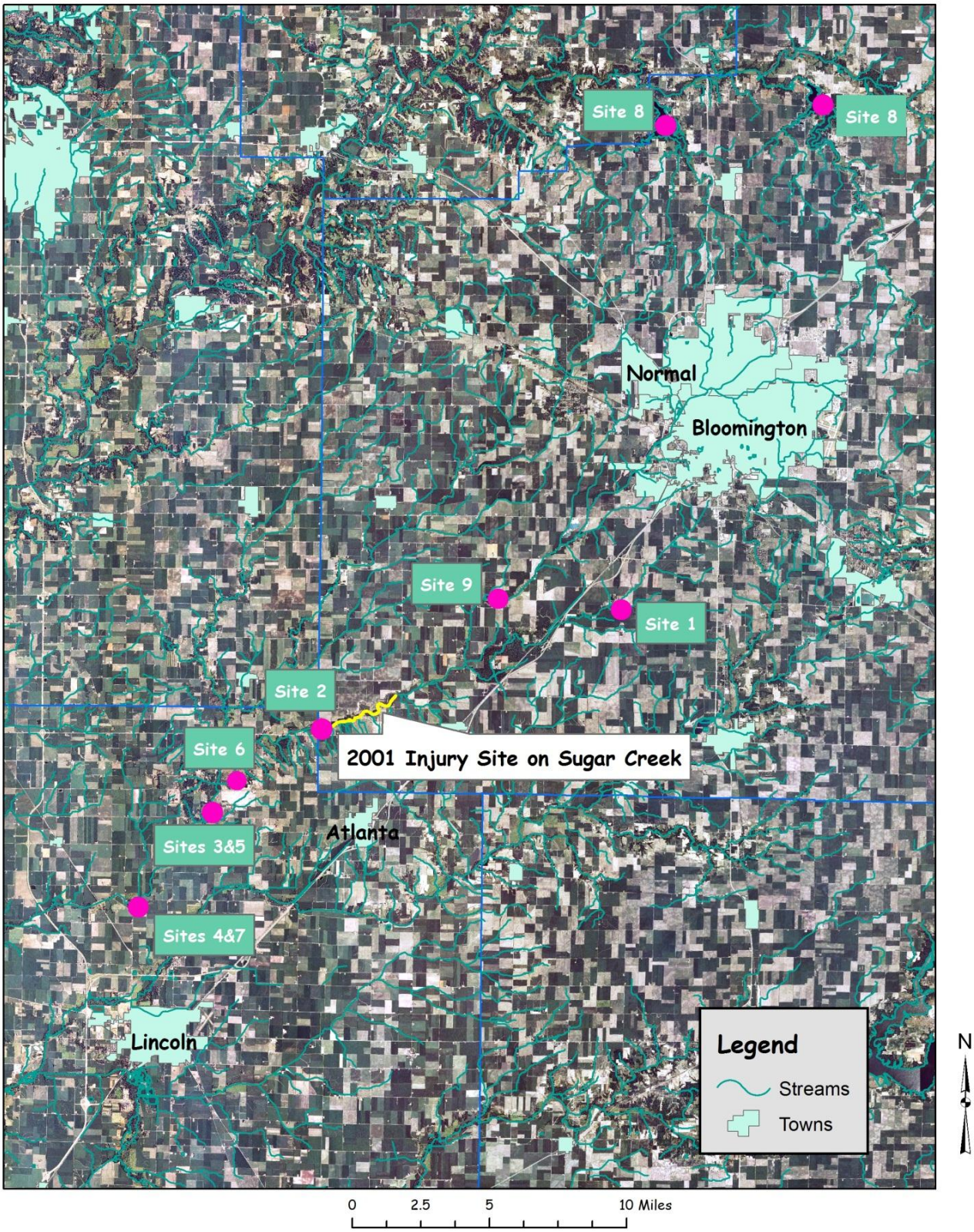
Table 1. Summary of the Restoration Alternatives (Refer to Figure 1 for map location)

Alternative	Restoration Location	Project Description	Preferred or Not Preferred
Restoration Site 1	Timber Creek in McLean County, IL; upstream of injury site	Site evaluated for implementation of cattle stream crossing and riffle structures	Not preferred. Based on expert opinion and evaluation of screening standards. Main deciding factors were limited funds and inability to alter standard structural design.
Restoration Sites 2, 3 and 4	Sugar Creek in immediate vicinity of injury site (McLean County); and Sugar Creek downstream of injury site (1 in McLean County & 1 in Logan County)	6 stream reaches identified for instream restoration project, including stream bank stabilization measures (4 in immediate vicinity of injury site, & 2 downstream)	Not preferred. Based on expert opinion and evaluation of screening standards. Main deciding factor was insufficient funds.
Restoration Site 5	Sugar Creek in Logan County, IL; downstream of injury site	Site evaluated for wetland restoration options	Not preferred. Based on expert opinion and evaluation of screening standards. Main deciding factor was the fact that site had already received cost share for implementing same project type.
Restoration Site 6	Sugar Creek in Logan County, IL; downstream of injury site	Site evaluated for wetland restoration options	Not preferred. Based on expert opinion and evaluation of screening standards. Main deciding factor was fact that fields evaluated did not have hydric soils.
Restoration Site 7	Sugar Creek in Logan County, IL; downstream of injury site	Site evaluated for wetland restoration options	Not preferred. Based on expert opinion, evaluation of screening standards, and lack of landowner approval. Lack of support from landowner was main deciding factor.
Restoration Site 8	Evergreen lake and Lake Bloomington; McLean County, IL	No specific project identified. Idea to partner with landowners in the Conservation Reserve Program (CRP) to implement constructed wetlands.	Not preferred. Based on evaluation of screening standards. Project idea does not address in-kind habitat in the same watershed.
Restoration Site 9	Sugar Creek in Mclean County, IL; upstream of injury site	Site evaluated for restoration activities in bottomland and upland forest communities	Preferred. Based on evaluation of screening standards. Refer to Sections IX and X for a detailed explanation.
Educational Proposal	Sugar Grove Nature Center; McLean County, IL	Educational materials will be prepared to highlight and educate the public, especially school aged kids on restoration & conservation of natural communities	Preferred. Based on evaluation of screening standards. Refer to Section IX for more details.

Table 2. Evaluation Standards to consider for McDaniel Restoration Alternatives (Refer to Appendix II for further explanation of standards).

Standard	Site 1	Sites 2, 3 & 4	Site 5	Site 6	Site 7	Site 8	Site 9	Education Proposal
Cost Effective	No	No	Not enough information	No	Yes	Not enough information	Yes	Yes
Meets trustees' goals & objectives in returning the natural resources & services to baseline and/or compensating for interim losses	Yes	Yes	Yes	Yes	Yes	No	Yes	Indirect
Likelihood of success	Not enough information	High	High	Low	High	Not enough information	High	High
Future injury expected to be prevented & collateral injury from implementing alternative expected to be avoided	No	No	No	No	No	No	No	No
Benefits more than one natural resource and/or service	Yes	Yes	Yes	Yes	Yes	Not enough information	Yes	Indirect
Protects public health and safety	NA	NA	NA	NA	NA	Yes	NA	NA
Technically feasible	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Complies with applicable/relevant federal, state, local, and tribal laws, regulations, and policies	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Provides benefits not being provided by other restoration projects being or having the potential of being planned/implemented/funded under other programs	Yes	Yes	No	No	Yes	No	Yes	Yes
Expected costs: expected benefits	No	No	Not enough information	No	Yes	Not enough information	Yes	Yes
Results of any actual or planned response actions	No	No	No	No	No	No	No	No
Addresses in-kind habitat in the same watershed	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Addresses/incorporates restoration of "preferred" trust resources or services	Yes	Yes	Yes	Yes	Yes	No	Yes	Indirect
Generates collateral benefits	Yes	Yes	Yes	Yes	Yes	Not enough information	Yes	Yes
Provides long-term benefits	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Consistent with regional planning	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Provides benefits sooner	Yes	No	No	No	No	No	Yes	No
Targets a resource or service that is unable to recover to baseline without restoration action, or that will require a long time to recover naturally	No	No	No	No	No	No	No	NA
Restores, rehabilitates, and/or replaces habitats of injured resources and the services that the habitats provide. Acquiring the equivalent may also be a viable option.	Yes	Yes	Yes	Yes	Yes	No	Yes	Indirect
Acceptable to the public	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Figure 1. Map showing general location of Restoration Site Alternatives.



Appendix I. Laws and authorities associated with NRDA and Natural Resource Injuries.

Key Statutes, Regulations, and Policies

There are a number of federal and state statutes, regulations, and policies that govern or are relevant to natural resource damage assessment and restoration. The potentially relevant laws, regulations, and policies are set forth below.

Oil Pollution Act of 1990, 33 U.S.C. §§ 2701, *et seq.*

The Oil Pollution Act establishes a liability regime for oil spills that injure or are likely to injure natural resources and/or the services that those resources provide to the ecosystem or humans. Federal and state agencies and Indian tribes act as Trustees on behalf of the public to assess the injuries, scale restoration to compensate for those injuries, and implement restoration. The National Oceanic and Atmospheric Administration promulgated regulations for the conduct of natural resource damage assessments at 15 C.F.R. Part 990. Natural resource damage assessments are intended to provide the basis for restoring, replacing, rehabilitating, and acquiring the equivalent of injured natural resources and services. The Trustees' actions are substantially consistent with the regulations found at 15 C.F.R. Part 990.

Clean Water Act (Federal Water Pollution Control Act), 33 U.S.C. §§ 1251, *et seq*.

The Clean Water Act is the principal law governing pollution control for water quality of the nation's waterways. Section 404 of the law authorizes a permit program for the disposal of dredged or fill material into navigable waters. The U.S. Army Corps of Engineers administers the program. In general, restoration projects that move significant amounts of material into or out of water or wetlands (e.g., hydrologic restoration of marshes) require Section 404 permits. –Under Section 401 of the CWA, restoration projects that involve discharge or fill to wetlands or navigable waters must obtain certification of compliance with state water quality standards (section 401).

Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, *et seq.*

This Act provides the basic legal framework for cleanup and restoration of the nation's hazardous-substances sites. Generally, parties responsible for contamination of sites and the current owners or operators of contaminated sites are liable for the cost of cleanup and restoration. CERCLA establishes a hazard ranking system for assessing the nation's contaminated sites with the most contaminated sites being placed on the National Priorities List.

Oil Spill Responders Liability Act, 740 ILCS 113/1, *et seq.*

This Act protects oil spill responders from liability for damages that may result from action taken or action omitted in the course of rendering assistance in an oil spill incident that is consistent with the National Contingency Plan. This protection does not apply to the responsible party, or entity which caused the oil spill incident. Under this Act, the responsible party is liable for removal costs and damages to natural resources resulting from a discharge or spill of oil of any kind or in any form, including but not limited to, petroleum, fuel oil, sludge and oil refuse.

Illinois Environmental Protection Act, 415 ILCS 5/1, *et seq.*

The Environmental Protection Act is the state law that prohibits most forms of pollution occurring on land, in water, or in the air. It also establishes a liability regime, including enforcement and penalties, for entities that violate the provisions of the Act. The Environmental Protection Act was developed for the purpose of establishing a unified state-wide program for environmental protection and cooperating with other states and with the United States in protecting the environment. It was also developed to restore, protect and enhance the quality of the environment and to assure that adverse effects upon the environment are fully considered and borne by those who cause them.

Illinois Natural Areas Preservation Act, 525 ILCS 30/1 *et seq.*

The Act serves to protect any area in Illinois that has been designated as a nature preserve, including the species of plants and animals in each habitat. Any endangered plant and animal species found in designated nature preserves are also protected under this Act. Dedicating and holding an area for natural preserves is also encouraged in this Act.

Illinois Endangered Species Protection Act, 520 ILCS 10/1 *et seq.*

This Act gives protection to any plant and animal species on the endangered or threatened list from being moved or destroyed. Any species that the Secretary of the Interior of the United States lists as endangered or threatened is also included on Illinois's endangered and threatened species list. The Act also provides rules of law for searching any premises suspected of illegally keeping goods, merchandise, or animals, plants, or animal or plant products subject to the Act and seizing such products.

Illinois Fish and Aquatic Life Code, 515 ILCS 5/5-5 *et seq.* and Illinois Wildlife Code, 520 ILCS 5/1.1 *et seq.*

These Codes state that IDNR shall take all measures necessary for the conservation, distribution, introduction and restoration of aquatic life and wildlife, and they provide protection for aquatic life and wildlife from any person who causes waste, sewage, thermal effluent, or any other pollutant to enter into the waters of the State or habitat supporting the wildlife, which causes the death of aquatic life or wildlife. The IDNR, acting through the IAGO, has the authority to bring action against such persons to recover the value of any and all aquatic life or wildlife that is destroyed, related costs in determining such value, and any other fines or penalties provided for by these Codes.

Interagency Wetland Policy Act of 1989, 20 ILCS 830/1 *et seq.*

This Act states that state agencies are responsible for preserving, enhancing, and creating wetland areas for the purpose of increasing quality and quantity of the State's wetland resource base. The goal behind the Act is that there shall be no overall net loss of the State's existing wetland acres or their functional value due to State supported activities.

Appendix II. Other Evaluation Standards Considered for Sugar Creek Restoration Plan.

Standard	Interpretation
Technically feasible	• Project has a high likelihood of success. This factor will be evaluated in more depth for projects that are initially believed to be feasible. • Reliable methods/technologies known to have a high probability of success will be considered • Projects incorporating experimental methods, research, or unproven technologies may be evaluated
Complies with applicable/relevant federal, state, local, and tribal laws, regulations, and policies	• Project must be legal
Provides benefits not being provided by other restoration projects being or having the potential of being planned/implemented/funded under other programs	• Preference is given to projects that are not already being implemented or have planned funding under other programs. Although the Trustees will make use of restoration planning efforts by other programs, preference is given to projects that would not otherwise be implemented without NRDA restoration funds.
Expected costs: expected benefits	• The relationship of the expected costs of the proposed actions to the expected benefits from the restoration, rehabilitation, replacement, and/or acquisition of equivalent resources
Addresses in-kind habitat in the same watershed	• Trustees' preference is to restore, rehabilitate, and/or replace in-kind habitat in the same watershed. Acquiring the equivalent may also be a viable option.
Addresses/incorporates restoration of "preferred" trust resources or services	• Trustees will develop a list of priorities based on the resource types injured and degree of injury. Preference may be given to: specific habitats, species of special concern, living resources, native species groundwater, etc.
Generates collateral benefits	• Secondary or cascading benefits to ecological resources and economic benefits, including enhancing the public's ability to use, enjoy, or benefit from the environment • Projects that benefit more than one injured resource or service will be given priority • Projects that benefit a single group or individual may be ranked lower
Provides long-term benefits	• Projects that persist will be favored over short-term projects
Consistent with regional planning	• Project is not inconsistent with regional planning (e.g., supportive of species recovery plans, etc.); project is administratively feasible
Provides benefits sooner	• Project will achieve full expected results sooner than resource would achieve the result through natural recovery (and remediation); sooner than other projects that benefit the same resource. The sooner restoration is achieved, the better.
Targets a resource or service that is unable to recover to baseline without restoration action, or that will require a long time to recover naturally (e.g., >25 years)	• Projects that target resources/services that will be slow to recover will be favored over projects that target resources/services that will soon recover naturally
Restores, rehabilitates, and/or replaces habitats of injured resources and the services that the habitats provide. Acquiring the equivalent may also be a viable option.	• Projects may be evaluated based on the degree to which they restore, rehabilitate, and/or replace habitat for injured resources. Habitat protection/restoration may be a preferred means of restoring injured resources. • May also include consideration of on-site resources and habitats
Acceptable to the public	• Project meets a minimum level of public acceptance; project is not a public nuisance. Degree of public acceptance/support can also be used as a criterion following initial screen of projects.