

Dated: October 7, 1999.

**Fred Karnas, Jr.,**

*Deputy Assistant Secretary for Economic Development.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### **Draft Partial Restoration Plan and Environmental Assessment Addressing Injuries to Migratory Birds and Threatened and Endangered Species at the Tar Creek Superfund Site, Ottawa County, OK**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The U.S. Fish and Wildlife Service proposes to protect habitat for the endangered gray bat, threatened Ozark cavefish and bald eagle, and migratory birds through acquisition of land in fee or easement, or management agreements with land owners. Such alternatives will provide partial compensation to the public for injuries to these trust resources from releases of hazardous chemicals from mining activities at the Tar Creek Superfund Site, Ottawa County, Oklahoma.

**DATES:** Written comments on the partial restoration plan and environmental assessment must be received within November 29, 1999.

**ADDRESSES:** Copies of the draft restoration plan and environmental assessment are available on the Internet at <http://ifw2es.fws.gov/library>, or requested from the Service at:

U.S. Fish and Wildlife Service, 222 South Houston, Suite A, Tulsa, Oklahoma 74127, 918/581-7458

or

U.S. Fish and Wildlife Service, Ecological Services (HC/EC), P.O. Box 1306, Albuquerque, New Mexico 87103, 505/248-6648

Written data or comments should be submitted to the NRDAR Coordinator, Division of Habitat Conservation/Environmental Contaminants, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103, or via the website. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

**FOR FURTHER INFORMATION CONTACT:** The U.S. Fish and Wildlife Service,

Ecological Services, Division of Habitat Conservation/Environmental Contaminants, P.O. Box 1306, Albuquerque, New Mexico 87103. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within November 29, 1999, to the address above.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Tar Creek Superfund site, located in Ottawa County, Oklahoma, is one of three superfund sites located within the Tri-State Mining District of Kansas, Missouri, and Oklahoma. The district contained multiple lead and zinc mines after the early 1900s which operated until deposits were depleted in the 1970's. Acidic groundwater surfacing through old air shafts and other openings contaminated the Tar Creek drainage and its associated wetlands and bottomland hardwoods. The bankruptcy of two major mining companies in the 1990's led the Department of Interior to collect partial damages for injuries to trust resources, specifically migratory birds and endangered and threatened species. Endangered and Threatened species of concern at the Site are endangered gray bat, and threatened Ozark cavefish and bald eagle. Alternatives for expenditure of the funds collected through these bankruptcies center on allowing the site to naturally restore itself through time (no action, Alternative A), or protection of habitat through acquisition in fee or easement, or management agreements with land owners (Alternatives B-D). Specifically Alternative B provides for the acquisition and protection of an Ottawa County endangered bat maternity cave, Alternative C protects high quality bottomland forest along the Neosho River, and Alternative D acquires and protects a large continuous stand of Ozark forest and Federally endangered bat caves in Adair County, Oklahoma.

The no action alternative is not a preferred alternative because it takes no on-site restoration actions and accepts that there will be continued injuries at the site over a long period of time, yet provides no off-site actions to restore the injured or comparable resources. In addition, the no action alternative fails to use the recovered funds on restoration, as mandated by the natural resources provisions in the Superfund

law. Since other alternatives provide some mix of protection to trust resources, all are viable candidates for implementation. Because costs of implementation for alternatives B-D will be achieved through negotiation with landowners, implementation of more than one alternative may be attainable as available funds are depleted. Alternatives B and C are closest to the site and Alternative D protects caves having the greatest threat from development. Because alternative B has potential available management, through the adjacent Boy Scout Camp, it is the preferred alternative. Alternative D follows, due to threat from development, and alternative C, due to its inherent significance to migratory birds and bat foraging habitat. Implementation of the preferred alternative will commence upon signature of the final Partial Restoration Plan, and associated Finding of No Significant Impact.

The Service will place notices in the Tulsa World, a newspaper of general circulation in the state, the Daily Oklahoman, a newspaper circulated in the State Capitol and central and western Oklahoma, and the Miami Daily Herald, a newspaper circulated in the general area of the Site, and will make copies available at the Miami, Oklahoma Public Library concurrently with this **Federal Register** notice. Copies can also be obtained from the Internet at <http://ifw2es.fws.gov/library>.

The current comment period on this proposal closes on November 29, 1999. Written comments may be submitted to the Service office in the **ADDRESSES** section.

#### **Author**

The primary author of this notice is Karen E. Cathey (see **ADDRESSES**).

#### **Authority**

The authority for this action is the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, through its Natural Resource Damage Assessment and Restoration (NRDAR) provisions (43 CFR Part 11).

Dated: October 8, 1999.

**Stephen W. Parry,**

*Acting Regional Director, Region 2, Fish and Wildlife Service.*

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