**NOTICE OF INTENT TO CONDUCT RESTORATION PLANNING (pursuant to 15 C.F.R. § 990.44) – Discharge of oil on or about March 17, 2014 from the Sunoco Logistics Mid-Valley Pipeline Release.**

**January 14, 2016**

**SUMMARY:** This public notice confirms that designated State and Federal Trustees (outlined below) are currently undertaking restoration planning to assess and redress the potential injuries of the 2014 oil spill into the un-named creek within the Oak Glen Nature Preserve and adjacent private properties. The discharged oil injured aquatic organisms, migratory birds, wildlife, and habitat, including State and Federally-listed endangered species, while also diminishing services provided by these resources. The Trustees will evaluate these potential environmental injuries and service losses to determine the type and scale of restoration. Restoration planning documents will be made available for public comment.

**FACTS:** On or before March 17, 2014, a 20-inch diameter pipeline, owned by the Mid-Valley Pipeline Company and operated by Sunoco Logistics Partners, L.P. ("Sunoco"), ruptured, discharging crude oil into an un-named creek and large forested wetland, posing a threat to the Great Miami River. The un-named stream runs down a steep hillside into the large forested wetland. The area is located on East Miami River Road, Colerain Township, Ohio. The spill was primarily within the boundary of the Oak Glen Nature Preserve owned by Great Parks of Hamilton County ("Hamilton County"). Private properties bordering Oak Glen Nature Preserve were also affected by the discharge. Sunoco has estimated that the discharge was approximately 500 barrels (~21,000 gallons) of light sweet crude oil. Approximately 1 mile of stream was contaminated with crude oil. All of the foregoing is referred to as the "Incident." The stream and forested wetland are known habitats for ambystomatid salamanders and the State Endangered Cave Salamander. The incident occurred during the breeding season of the ambystomatid salamanders. On March 19, 2014 drift fences were installed in an attempt to prevent migrating, breeding ambystomatid salamanders from reaching the oiled stream and forested wetland. Captive salamanders and other organisms were cleaned (if oiled), moved to prevent oiling, and/or appropriately addressed to reduce biological injuries. On March 23, 2014 flushing and washing of the stream was initiated to mobilize residual oil from rocks, sediments, and bedrock within the stream channel. Flushing involved the removal of free rocks from the stream and high flow hose washing of the channel and banks to remove visible oil. Thermal treatment of some rocks to remove residual oil occurred following flushing. Additional injuries were caused by the emergency response phase of the cleanup, including damage to habitat for the State endangered Lark Sparrow via the construction of roads. This release affected, and

continues to adversely affect and threaten, natural resources within the Trustee jurisdiction of the United States and the State of Ohio.

**NATURAL RESOURCE TRUSTEES:** Pursuant to Section 1006 of the Oil Pollution Act ("OPA"), 33 U.S.C. §§ 2701, *et seq.*, federal and state trustees ("the Trustees") for natural resources are authorized to: (1) assess natural resource injuries resulting from a discharge of oil or the substantial threat of a discharge and response activities, and (2) develop and implement a plan for restoration of such injured resources. The Director of the Ohio Environmental Protection Agency is designated by the Governor of Ohio pursuant to the National Contingency Plan ("NCP"), 40 C.F.R. § 300.605, as the Trustee for Ohio. The Federal Trustee is designated pursuant to the NCP, 40 C.F.R. § 300.600 and Executive Order 12777. For this Incident, the United States Department of the Interior, acting through the U.S. Fish and Wildlife Service will serve as the Federal Trustee.

**RESPONSIBLE PARTIES:** As defined by OPA, the identified Responsible Parties ("RPs") for this Incident are the Mid-Valley Pipeline Company, Sunoco, and any associated parent companies. Pursuant to 15 C.F.R. § 990.14(c), the Trustees have invited the RPs identified above to participate in a natural resource damage assessment ("NRDA"). The Trustees have coordinated with Sunoco representatives on preassessment and initial restoration activities undertaken to date as part of the NRDA process.

**PREASSESSMENT AND RESTORATION PLANNING:** The Trustees began the Preassessment Phase of the NRDA in accordance with 15 C.F.R. § 990.40 to determine if they had jurisdiction to pursue restoration under OPA, and, if so, whether it was appropriate to do so. During the Preassessment Phase, the Trustees collected and analyzed, and are continuing to collect and analyze, the following:

1) Data reasonably expected to be necessary to make a determination of jurisdiction or a determination to conduct restoration planning.
2) Ephemeral data.
3) Information needed to design or implement anticipated emergency restoration and assessment activities as part of the Restoration Planning Phase.

Under the NRDA regulations applicable to OPA, 15 C.F.R. Part 990, the Trustees prepare and issue a Notice of Intent to Conduct Restoration Planning ("Notice") if they

confirm the jurisdiction of the Trustees and the appropriateness of pursuing restoration of natural resources.

Pursuant to 15 C.F.R. § 990.44, this Notice announces that the Trustees have determined that they have jurisdiction for natural resources affected by the spill and that it is appropriate to pursue natural resource restoration. The Trustees intend to proceed with restoration planning to evaluate, assess, quantify, and develop plans for restoring, replacing, or acquiring the equivalent of natural resources injured and lost as a result of the Incident. The restoration planning process will include collection of information that the Trustees determine is appropriate for identifying and quantifying the injuries and losses of natural resources, including resource services, and to determine the need for, and type and scale of restoration actions.

## SUPPLEMENTARY INFORMATION:

### Determination of Jurisdiction

The Trustees have made the following findings pursuant to 15 C.F.R. § 990.41:

1. The rupture of the 20-inch diameter pipeline on or prior to 17 March 2014 and resulting discharges of crude oil into and upon waters of the United States and the State of Ohio, including the un-named creek and forested wetland, as well as adjoining shorelines, riparian areas, and upland areas, constitute an "Incident" within the meaning of 15 C.F.R. § 990.30.

2. The discharges are not permitted pursuant to federal, state, or local law; are not from a public vessel; and are not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. §§ 1651, *et seq.*

3. Natural resources under the trusteeship of the Trustees have been and continue to be injured and/or threatened as a result of discharged oil and associated removal efforts. The discharged oil is harmful to natural resources exposed to the oil, including aquatic organisms, migratory birds, wildlife, vegetation, State and Federally-listed endangered species and their supporting habitats. Discharged oil and the response activities to address the discharges of oil have resulted in adverse effects on natural resources in and around the un-named creek and forested wetland, and their shorelines, floodplains, and upland areas and have impaired services that those resources provide.

Based on the above findings, the Trustees have determined that they have jurisdiction to pursue restoration under the OPA.

**Determination to Conduct Restoration Planning**

Pursuant to 15 C.F.R. § 990.42(a), the Trustees determined that:

1. Observations and data collected pursuant to 15 C.F.R. § 990.43 demonstrate that injuries to natural resources and the services they provide have resulted from the Incident. However, the nature and extent of such injuries has not been fully determined at this time. The Trustees have identified numerous categories of injured and potentially injured resources, including biological resources (*e.g.*, aquatic macroinvertebrates, amphibians (including the State endangered Cave Salamander), mammals (including the Federally endangered Indiana bat), turtles, migratory birds (including the State endangered Lark Sparrow), and other resources including surface water (*e.g.*, streams, sediments, stream banks, wetlands, soils, and floodplains). The Trustees have been conducting and continue to conduct activities to evaluate injuries and potential injuries to these and other potentially affected resources. More information on these resource categories will be available in the Administrative Record ("AR," as defined below), including assessment work plans developed by the Trustees, or jointly by the Trustees and the RPs, and information gathered during the preassessment phase. The full nature and extent of injuries will be determined during the injury assessment phase of restoration planning.

2. Response actions employed for this spill include containment and recovery of oil from surface water and the forested wetland, and excavation of oil-contaminated soil and sediment. Investigations have been conducted to monitor potential contamination of surface water, soils, and groundwater. These response actions have not addressed and are not expected to address all injuries resulting from the discharge of oil. In addition, some of the response actions have caused or are likely to cause injuries to natural resources and the services they provide, including, but not limited to, stream substrate, stream banks, floodplains, wetlands, grasslands, uplands, and soils. While injured natural resources may eventually recover to the pre-incident condition (*i.e.*, baseline), interim losses have occurred, and are likely to continue until baseline conditions are achieved. In addition, there have been and will continue to be losses of, and diminution of, human use of the resources.

3. Feasible restoration actions exist to address the natural resource injuries and losses resulting from the Incident. Assessment procedures are available to scale the appropriate amount of restoration required to offset these ecological and human use service losses. During the restoration planning phase, the Trustees will evaluate potential restoration projects, determine the amounts and types of restoration needed to

make the environment and the public whole, and release a draft Restoration Plan for public review and comment.

Based upon these determinations, the Trustees intend to proceed with restoration planning for the Incident.

**Administrative Record**

The Trustees have opened an administrative record (AR) in compliance with 15 C.F.R. § 990.45. The AR will be publicly accessible and will include documents considered by the Trustees during the preassessment and restoration planning phases of the NRDA performed in connection with the Incident. The AR will be augmented with additional information over the course of the NRDA process. The availability and location of the AR will be: Ohio EPA Southwest District Office, 401 East Fifth Street, Dayton, OH 45402.

**Opportunity to Comment**

Pursuant to 15 C.F.R. § 990.14(d) and 990.44, and State authorities, the Trustees will be providing substantial opportunities for public involvement in the restoration planning for this Incident. The opportunities for public involvement will be addressed in future notices and announcements.

**Adoption by Natural Resource Trustees**

The undersigned, on behalf of their agencies as designated natural resource Trustees, hereby adopt the foregoing. This document may be signed in counterparts. A copy with all original executed signature pages affixed shall constitute the original.

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For the STATE OF OHIO

By: _____

Date: 1/4/16

Craig W. Butler
Director
Ohio Environmental Protection Agency

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For the UNITED STATES DEPARTMENT OF THE INTERIOR:

By: Charles Wooley

Date: 12/10/15

Thomas O. Melius, Regional Director
U.S. Fish and Wildlife Service, Region 3
Authorized Official

FWS

Charles M. Wooley
Acting Regional Director