



Natural Resource Damage Assessment and Restoration Program in New Jersey

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The Path from Injury to Restoration

The American public is the beneficiary of a rich natural heritage. The U.S. Fish & Wildlife Service (Service) is the principal Federal agency charged with conserving, protecting and enhancing fish, wildlife, and other natural resources - a challenging task because our environment receives a continual influx of hazardous chemicals which, if left unchecked, endangers these

resources. In response to growing public concern for a healthy environment, in 1980 Congress authorized the Natural Resource Damage Assessment and Restoration (NRDAR) Program. The overriding responsibility of the NRDAR Program is to restore natural resources injured by releases of hazardous or toxic chemicals. The NRDAR Program also ensures that the polluter (responsible party) – and not the American taxpayer – pays for lost uses of natural resources and the associated

restoration costs. It complements, but does not compete with, cleanups and remediation activities. Three laws form the cornerstone of the NRDAR Program, providing the Natural Resource Trustees (Trustees) legal authority to achieve program goals. These laws are the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (also known as “Superfund” or CERCLA); the Clean Water Act of 1972 and its amendments; and the Oil Pollution Act of 1990.



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From Injury to Restoration – the Basic Process

The NRDAR process begins when oil is spilled or a hazardous material is released into the environment where it may spread far beyond the original source. The following sequence of events would then commence.

- The source of the discharge is contained by the U.S. Coast Guard, the U.S. Environmental Protection Agency, State or local emergency response agencies, and / or the responsible party.
- The oil or hazardous material is cleaned up. The cleanup can be fairly straightforward or complicated by adverse weather conditions, the presence of co-mingled hazardous wastes as found in old landfills, or the dangers associated with an uncontrolled discharge of toxic chemicals that may be immediately hazardous to human health or that may contaminate groundwater, surface water or sediments.
- The Trustees determine the magnitude of injuries to natural resources caused by the oil spill or chemical release. The determination of injuries may begin along a parallel course with the clean up activities. However, the full extent of the residual injuries cannot be determined until after cleanup is completed.
- The Trustees attempt to reach a settlement with the responsible party for the costs of the restoration, the lost uses of injured natural resources, and the Trustees' cost of assessing the injuries and related damages.
- When a settlement is reached, a restoration plan is developed with public input that specifies the actions necessary to restore the injured resources. Sometimes the responsible party donates land to be restored and protected.
- Finally, the Trustees monitor the restoration projects to assure that they continue to be properly managed for long-term success.

Who are the Natural Resource Trustees in New Jersey?

The Trustees in New Jersey are designated representatives of the Governor, and the Secretaries of the Interior and Commerce. The Service's New Jersey Field Office (NJFO) is often called upon to act on

behalf of the Secretary of the Interior in the capacity of Trustee. Biologists at the NJFO work closely with other Trustees (typically the U.S. Department of Commerce, the National Oceanic and Atmospheric Administration and the New Jersey Department of Environmental Protection) to identify natural resources that are injured from hazardous chemical

releases. The Trustees further determine the extent of injury, and recover monetary damages (i.e., compensation for injury) and assessment costs from the responsible parties. Monetary damages required from the responsible parties are compensatory, not punitive, and by law must be used for natural resources restoration.

The NRDAR Process at Work for New Jersey

Mystery Oil Spill

Ultimately, the restoration of natural resources benefits the fish and wildlife dependent on a clean environment as well as the public by restoring injured natural resources to a functional and sustainable pre-injury state. Moreover, recreational opportunities such as wildlife observation and photography, fishing, or hiking are more plentiful and enjoyable in a clean environment. For example, in February 2004, oil-covered birds wintering off-shore began appearing on Monmouth and Ocean County beaches along with a heavy oil from an unknown source. These birds, wintering offshore, were primarily diving species, such as loons, grebes, razorbills, and ducks. The majority of the oiled birds collected, if not already dead, would soon die due to the effects of the oiling. Many more oiled birds, however, were never recovered, as they likely drifted out to sea, sank, or succumbed to predation. In close coordination with other Trustees, the NJFO is the lead Trustee for conducting the natural resources damage assessment to determine the extent of injuries to natural resources

(e.g., diving birds on their wintering area). Once the assessment is completed, the Trustees will submit a settlement claim to the Oil Spill Liability Trust Fund (in this case, no responsible party has yet been identified), and then develop and implement a restoration plan to address natural resource injuries.

Anitra Oil Spill

Over a 2-week period in the Spring of 1996, as a result of an oil spill from the tanker vessel Anitra, more than 50 miles of New Jersey beaches were oiled, including portions of several State Wildlife Management Areas, 2 State Parks, and the Edwin B. Forsythe National Wildlife Refuge. The principle injury was to nesting piping plovers (an endangered species) and migratory shorebirds. The Trustees have completed their damage assessment, developed a restoration plan to address natural resource injuries, and are now poised to implement the plan. The restoration plan calls for increased protective management of piping plover nest areas, shorebird habitat restoration,

and enhancement along the New Jersey coast and protective management of shorebird wintering grounds. These restoration actions will all be funded through a settlement reached with the responsible party.

Asbestos Dump

In another example, the NJFO is currently implementing its restoration plan to address natural resource injuries at the 5.5-acre Operable Unit 3 of the Asbestos Dump Superfund Site. The Asbestos Dump was located in the National Wilderness Area of the Great Swamp National Wildlife Refuge in Morris County. The restoration plan consists of six discrete yet interdependent actions designed to restore, enhance, or replace natural resources injured by asbestos contamination. Thus far under the plan, the Service continues to restore more than 100 acres of forested wetlands, has acquired and protected in perpetuity 130 acres of forested or emergent wetlands, and has replaced lost public use with the construction of a 1.5-mile boardwalk at the Refuge's Wildlife Observation Center.



Before

Restoration underway at the Great Swamp National Wildlife Refuge



After

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Before

Restoration of a purple loosestrife infested wetland



After

Staying the Course: From Injury to Restoration

The NRDAR Program helps to ensure that waters and lands will provide for healthy fish and wildlife and that public places are safe for recreation after the release and cleanup of hazardous substances into the environment. The Service is making

progress towards a cleaner, healthier environment. Much work remains to be done. The release of hazardous substances into the environment will likely persist. The NJFO will continue to implement its Trustee responsibility as part of the NRDAR Program - the restoration of New Jersey's fish and wildlife resources injured by the oil spills and hazardous substance releases.