Natural Resource Damage Assessment and Restoration (NRDAR)

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Saginaw-Tittabawassee Rivers Contamination Community Advisory Group - May 2010
Major Topics

- NRDAR 101
- TR NRDAR
- Restoration
- Next steps
What is NRDAR?

► Natural Resource Damage Assessment and Restoration
► Created by Congress in addition to the processes for cleanup of hazardous substances
► Government agencies act on behalf of the public to restore natural resources for public use and enjoyment
NRDAR Authorities

- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
  - Regulations at 43 CFR 11
- Oil Pollution Act (OPA)
  - Regulations at 15 CFR 990
- Clean Water Act (CWA)
- State laws - Act 451 of 1994
What is NRDAR?

- Determine injury through time to natural resources due to a release of oil or hazardous substance.
- Assesses damages for injuries to recover and restore trust resources and their services.
- Recover damages as $$ or restoration projects via a negotiated settlement or litigation.
What is Injury?

► A measurable or observable adverse change in the quality, viability, or value of natural resources and the services that they provide.

- Is defined in regulations
- Not the same as risk
- Is more than just dead stuff
What Exactly Are Damages?

- Strictly speaking, $$$$$
  - Restoration
  - Costs of assessment
- Regulations focus on implementing restoration projects rather than collecting $$
What Are Services?

Services are the beneficial outcomes that result from natural resources & ecosystem functions:

- Healthy habitat for fish and wildlife
- Provision of clean water
- Harvesting animals or plants
- Recreation and cultural practices
- Scenic views
Goal of NRDAR

► **Restore** injured natural resources and the services they provide

► For NRDAR, **restore** means: restore, rehabilitate, replace, or acquire the equivalent of injured natural resources and services
Goal of NRDAR

NRDAR focus is Restoration of Natural Resources

► Primary restoration
  ▪ Return injured resources to baseline

► Compensatory Restoration
  ▪ Replace lost services through time

► Assessment costs recovery
  ▪ Reimburse trustees for time and resources used to develop a claim
NRDAR is **NOT** About...

- Habitat losses due to housing developments
- Localized increases in human cancer cases
- Returning Resources to Pristine Conditions
Significant NRDAR cases are being conducted across the country.
Examples of Damage Assessment Cases

► Lower Fox River/ Green Bay, Wisconsin
  - Injuries caused by polychlorinated biphenyls (PCBs) from historic discharges of papermill waste.
  - Parallel clean up and restoration

► Saginaw River/ Bay
  - Settlement with General Motors in 1998
  - Dredging, wetland restoration, habitat protection, public use opportunities
  - Decreasing PCBs in fish!
Natural Resource Damage Assessment for the Tittabawassee River System
Trustee Council formed in 2006 with a Memorandum of Understanding (MOU)

- Director of MDNRE and the Michigan Attorney General
- Saginaw Chippewa Indian Tribe of Michigan
- Regional Director of the U.S. Fish and Wildlife Service on behalf of USFWS and the Bureau of Indian Affairs (BIA)
Trustees plan published in April 2008

- Describes Trustees’ approach for conducting a NRDAR
- Addresses losses caused by natural resource injuries resulting from Dow’s releases of hazardous substances
- Describes methods to determine and quantify natural resource restoration work necessary to make the public whole
Memorandum Of Agreement (MOA) between Dow and Trustees

- Budget - Payments, Accounting
- Cooperative Studies
- Independent Studies
- Cooperative Technical Work Groups
  - Charge - Mission, general approach and expected actions
- Trustee Coordinator
- Confidentiality
Cooperative Technical Workgroups - TWGs

- **Human Services TWG** – ID and quantify impacts to hunting, fishing and outdoor recreation and potential non-use services.

- **Ecological TWG** – ID and quantify ecological injuries and associated ecological service losses.

- **Restoration TWG** – ID and describe restoration opportunities and quantify benefits they provide.
Criteria developed by Trustees
- Based on federal regulations at 43 C.F.R. § 11.82
- Available in Assessment Plan

Input from public, Dow, LUGs

Workshop with resource experts
Restoration Idea Sources

- Saginaw Bay Watershed Initiative Network (WIN)
- Saginaw Bay Coastal Initiative
- Saginaw River/Bay RAP Update
- Ducks Unlimited
- The Nature Conservancy
- Saginaw Basin Land Conservancy
- Township Supervisors
- MDNRE and USFWS plans
- Saginaw Chippewa Indian Tribe
- Individuals
Restoration Database

- Trustees and Dow have compiled:
  - Restoration concepts
    - e.g. coastal wetland restoration, fish passage, habitat continuity
  - Specific projects
    - e.g. fish passage at Dow dam, purchase of property adjacent to public land

- Trustees evaluating projects with criteria
How do EPA’s actions affect NRDAR?

► The Trustees’ authorities and responsibilities do not change

► Trustees coordinating efforts with EPA

► Trustees assess how removal actions impact natural resources
  - Reduce exposure
  - Physical alterations to habitat
Next Steps?

- Coordinate with response activities, as practical
- Assessing injuries
- Continue to develop ideas for potential restoration projects
NRDAR is a complementary, parallel, yet distinct process from the cleanup.

The goal of NRDAR is to restore: return to baseline and compensate for losses over time.

NRDA restoration must...

- address injuries that resulted from the release of contaminants
- focus on natural resources
Trustee Contact Information

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http://www.fws.gov/midwest/TittabawasseeRiverNRDA/