

Overview of the Natural Resource Damage Assessment and Restoration Process



Photo: David Warburton, USFWS



Goal:

- Restore natural resources impacted by releases of oil or other contaminants, and
- To replace services that were lost while the habitat was contaminated



Contaminated Sites



Wildlife Habitat

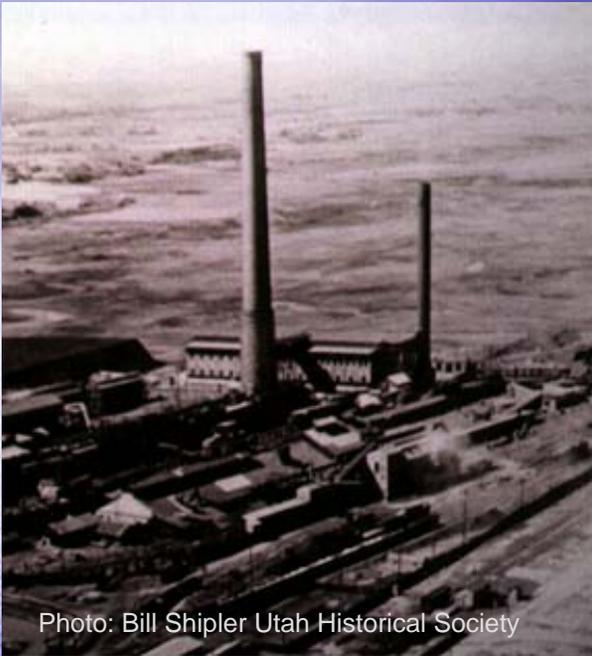


Photo: Bill Shieler Utah Historical Society



Photo: USFWS



Authorities:

- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, a.k.a. Superfund)
- Oil Pollution Act
- Clean Water Act



Regulations:

- CERCLA: 43 CFR 11
- OPA: 15 CFR 990



Pre-NRDAR

- Coordination with EPA on cleanup either directly or through BTAG/ETAG
- Coordination with co-trustees



CERCLA NRDAR Process

- Preassessment Phase
- Assessment Plan Phase
- Assessment Phase
- Post-Assessment Phase



Preassessment Phase

- Trustee notification and detection of unreported spill/release
- Ephemeral data collection
- Coordination with response agency & co-trustees
- Emergency Restoration

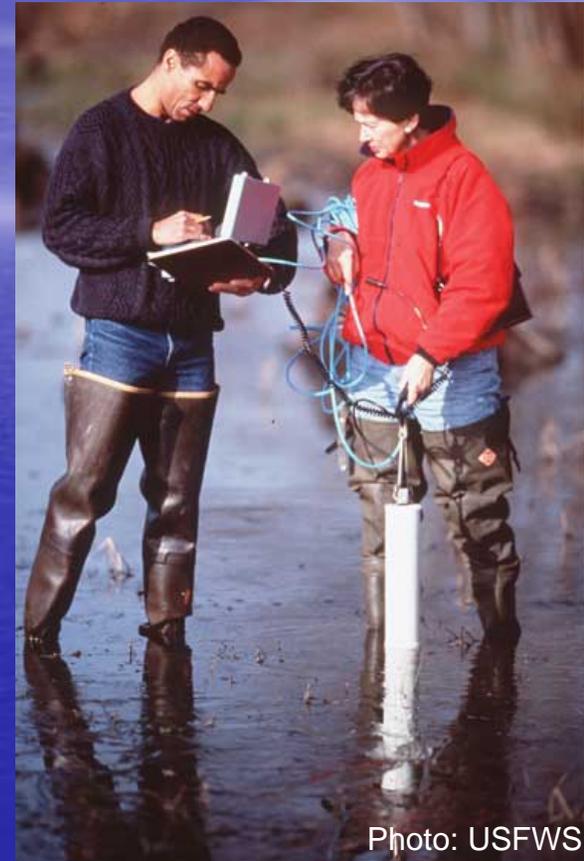


Photo: USFWS

Preassessment Screen (PAS): Do you have a case?

- Has a discharge/release occurred?
- Is a trust resource likely to be adversely affected?
- Is the quantity and concentration sufficient to potentially cause injury?
- Is sufficient data available/obtainable at a reasonable cost?
- Are response actions insufficient to remedy natural resource injury?



Preassessment Phase



Exclusions:

- Irreversible/irretrievable commitment through NEPA
- Release entirely before December 1980
- Regulated pesticide used legally under FIFRA
- Federally permitted release



Preassessment Phase



- **Notice of Intent to PRPs**
 - Liabile for reasonable assessment costs & restoration costs
 - Determine mutually acceptable level of involvement
 - Cooperative process facilitates achievement of restoration



Assessment Plan Phase



- Summarize PAS (location, resources, PRPs, etc.)
- Identify method(s), sample locations, numbers, QA/QC, etc., to confirm pathway, and confirm & quantify exposure & injury (& data sharing, if appropriate)
- Reasonable cost
- Public review
- Coordinate with Remedial Investigation/FS
- Restoration and Compensation Determination Plan (RCDP)

CERCLA



Assessment Phase (Type B)

1. Injury Determination
2. Injury Quantification
3. Damage Determination



Assessment Phase (Type B)

1. Injury Determination

- Is there an exposure pathway?
- Was resource exposed?
- Did injury occur? (See 43 CFR 11.62 for injuries ID in regs.)
- Did exposure cause injury?



Photo: Pedro Ramirez, Jr., USFWS



Assessment Phase (Type B)

2. Quantification of Injury/Lost Services

- How severe? How extensive?
- Duration of injury?

Note: Determine injury/reduction in services caused by the release ONLY



Photo: USFWS



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Assessment Phase (Type B)

3. Damage Determination

- Cost of assessment
- Cost to restore resources &/or services to baseline – identified in RCDP
- May include compensation for resource losses from time of injury to full restoration



Post Assessment Phase

- Report of Assessment
- Restoration Plan
- Demand for total damages
- Settlement (CD/CNTS)/Litigation
- Restoration implementation



OPA NRDAR Process

- Preassessment Phase
- Restoration Planning Phase
 - Injury Assessment
 - Restoration Selection
- Restoration Implementation Phase



Photo: US Coast Guard Unified Command



Preassessment Phase

- Notification of trustees
- Determine jurisdiction (exclusions at 15 CFR 990.41)
- Collection of ephemeral data
- Determination to conduct restoration planning
- Notice of Intent to conduct restoration planning
- Emergency restoration



Restoration Planning Phase

Injury Assessment

- Injury Determination
 - Evaluate exposure, pathway & injury
- Injury Quantification
 - Degree of injury
 - Spatial & temporal extent
 - Lost services



Restoration Planning Phase

Restoration Selection

- Develop & Scale Restoration Alternatives
 - Primary
 - Compensatory
- Evaluate Alternatives
- Develop Restoration Plan

Note: Evaluate
Natural Recovery



Restoration Implementation Phase

- Demand for total damages
- RP review of demand/claim
- Settlement or litigation
- Restoration projects or funds to complete
- Oversight & approval by Trustees



Questions?

Websites:

<http://restoration.doi.gov/index.html>

<http://www.fws.gov/contaminants/Issues/Restoration.cfm>

Contact Information:

Dolores Savignano

US Fish and Wildlife Service

703-358-2148

dolores_savignano@fws.gov

