



Office of Spill Prevention and Response

Frequently Asked Questions about Natural Resource Damage Assessment (NRDA)

(More information is available on CDFW-OSPR's NRDA webpages at <http://www.dfg.ca.gov/ospr/NRDA/>)

Q: What are natural resource damages?

A: They are a civil claim for damages to compensate for injuries to wildlife and habitat, as well as lost recreational use. All damages recovered are spent on restoration projects intended to compensate the public for the injuries. A broad overview of the process of NRDA is available at http://www.dfg.ca.gov/ospr/nrda/NRDA_process.aspx.

Q: Who collects these damages?

A: Under certain state and federal laws, specified federal and state trustee agencies may collect these damages. In California, the California Department of Fish and Wildlife, the US Fish and Wildlife Service, and National Oceanic and Atmospheric Administration typically work together to conduct NRDA's.

Q: Does settlement money go into the State's general fund?

A: No, the settlement money goes into restoration project(s) to achieve compensation for the natural resource injuries that result from the incident or spill. In large cases, recovered funds are usually held in a special federal account called the Natural Resource Damage Assessment and Restoration (NRDAR) Fund where they can only be used for restoration as specified by the trustees involved with that case (http://www.dfg.ca.gov/ospr/NRDA/trustee_council_overview.aspx). In smaller cases, funds may be held temporarily into special habitat-specific sub-accounts (often by county) prior to identifying and implementing restoration work.

Q: What types of restoration projects are done with the damages collected?

A: The restoration projects implemented with the recovered damages address the wildlife, habitats, or human recreational use losses injured as a result of the spill. A comprehensive list of NRDA projects that enhance or restore habitats and /or wildlife, and recreational projects funded through settlements resulting from large oil spills or other pollution events is available online (http://www.dfg.ca.gov/ospr/NRDA/summary_restore_projects.aspx). The restoration projects proposed for specific large spill are also described in the Damage Assessment and Restoration Plan, most of which are posted on the particular NRDA web page for that spill (<http://www.dfg.ca.gov/ospr/nrda/resolved-cases.aspx>). For small spill cases, habitat restoration projects are selected in coordination with CDFW Regional Staff, as well as external partners and the public (http://www.dfg.ca.gov/ospr/NRDA/small_spill_cases.aspx).

Q: How do you calculate the value of wildlife and habitat?

A: We use a standardized method that calculates the amount of restoration needed to compensate for an injury, and the cost of implementing that restoration (see http://www.dfg.ca.gov/ospr/NRDA/resource_valuation.aspx). This method is called Habitat Equivalency Analysis (HEA) or Resource Equivalency Analysis (REA). It is now used by both trustee agencies and industry to calculate damages. HEA/REA has also prevailed in court challenges as an appropriate methodology for use in the NRDA process. Other methods used for recreational use losses have developed a large degree of consensus as well.

Q: Are natural resource damages usually much larger than response costs?

A: Typically, the opposite is the case. In both oil spill and Superfund cleanup cases across the country, cleanup costs are often many times greater than natural resource damages.

Q: Are damages from the NRDA process punitive, such as fines and penalties?

A: No, damages calculated in the NRDA process are compensatory, not punitive. NRDA damages seek only to make the public and resources whole for the interim lost resource services that accrue from the time of the injury to the time when recovery is achieved.

Q: Are the Trustees only interested in “cash out” settlements?

A: No, although this is rarely the case, if the responsible party prefers to implement directly a restoration project(s) that has been approved by the Trustees and the public, then that is acceptable to the Trustees in most instances.

Q: Does the responsible party (RP) unduly influence or can they prevent the Trustees from conducting studies on the effects of a spill on the environment?

A: No, the Trustees lead assessment activities and have the burden of proof for determining the effects of the spill on the environment. Following oil pollution law (Oil Pollution Act of 1990), the Trustees work cooperatively with the RP to assess natural resource injury and damages. The Trustees can and will make decisions independent of the RP, if necessary.

Q: How does NRDA fit into the incident command structure (ICS) for the response?

A: The NRDA effort operates on a parallel, but separate, track from the oil spill response incident command system (ICS). NRDA efforts are coordinated with the Unified Command through an NRDA Representative.