



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET, N.E.
ATLANTA, GEORGIA 30365

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NAS PENSACOLA
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AUG 30 1990

4WD-RCRA & FF

Mr. James Malone
Naval Facilities Engineering Command
Southern Division
P.O. Box 10068
Mail Code 1151
Charleston, S.C. 29411-0068

RE: Natural Resource Trustees

Dear Mr. Malone:

The Environmental Protection Agency (EPA), by this letter is notifying the Naval Facilities Engineering Command of the Department of Navy's responsibility under 300.615 of the National Contingency Plan to notify Natural Resource Trustees upon discovery of injury to, destruction of, loss of, or threat to natural resources.

Trustees include Secretaries of Commerce and the Interior for resources subject to their respective management or protection. The Secretary of Commerce is trustee for natural resources managed or protected by the Department of Commerce or by other federal agencies and that are found in or under waters navigable by deep draft vessels, in or under tidally influenced waters, or waters of the contiguous zone, the exclusive economic zone, and the outer continental shelf and in upland areas serving as habitat for marine mammals and other protected species. The Secretary of the Interior is trustee for natural resources managed or protected by the Department of Interior, including migratory birds; certain anadromous fish, endangered species and marine mammals; federally owned minerals; and certain federally managed water resources.

For natural resources located on, over or under land administered by the Department of the Navy, the trustee is the Department of Defense.

In addition, states are trustees for natural resources within the boundary of a state or belonging to, managed by, controlled by or appertaining to the state.

Trustees can, pursuant to section 107(f) of CERCLA conduct surveys of areas affected by releases to determine if resources under their jurisdiction have been affected, participate in planning of investigations by "lead" agencies, assess damages, devise and implement plans to restore or replace natural resources.

Trustees that should be notified by the Navy project managers are:

James H. Lee, Department of the Interior
Richard Russell Federal Building, Suite 1320
75 Spring St., SW
Atlanta, Ga. 30303
(404) 331-4524

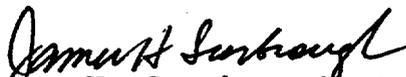
John Lindsay, NOAA
c/o U.S. EPA Region IV
Emergency Response and Control Section
345 Courtland St, NE
Atlanta, Ga. 30365

Director, Division Water Management
FDER
Twin Towers Building
2600 Blair Stone Rd.
Tallahassee, Fl. 32399

Percy Mallison, Jr., Director
Division of State Lands
Florida Department of Natural Resources
3900 Commonwealth Blvd., Suite 402
Tallahassee, Fl. 32399
(904) 488-2725

Please find enclosed a package of materials that will better inform you of Natural Resource Trustee responsibilities. In these materials is an example EPA notification form. EPA suggests the Navy devise and use a similar format. If you have further questions regarding the Trustee function, please contact Nancy Dean at (404) 347-3016.

Sincerely yours,


James H. Scarbrough, P.E., Chief
RCRA & Federal Facilities Branch
Waste Management Division

cc: Joel Murphy, NAVFAC ENGCOM
Cliff Casey, NAVFAC ENGCOM
David Criswell, NAVFAC ENGCOM
Ron Joyner, NAS Pensacola
Tim Curtin, NAS Jacksonville
David Pipkin, NAS Cecil Field
Eric Nuzie, FDER
James Lee, DOI

007000

**NATURAL
RESOURCE
TRUSTEE
PRESENTATION**

88000





TRUSTEESHIP

TRUSTEE

One who has a fiduciary responsibility to the Public.

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THE NATURAL RESOURCE TRUST

The resources which have required ages for their accumulation, to the intrinsic value and quality of which human agency has not contributed, [for] which there are no known substitutes must serve as the welfare of the Nation. In the highest sense, therefore, they should be regarded as property held in trust for use of the race rather than for a single generation, and for the use of the Nation rather than for the benefit of the few individuals who may hold them by right of discovery or purchase.

Report of the National Conservation Commission, S. Doc. No. 676, 60th Congress, 2nd Session 109 (1909)

ORIGIN OF NATURAL RESOURCE TRUSTEE AUTHORITY (OIL and HAZARDOUS SUBSTANCE LIABILITY)

- 1977 Federal Water Pollution Control Act (Clean Water Act)

- 1980 Comprehensive Environmental Response
Compensation, and Liability Act (CERCLA)

- 1986 Superfund Amendments and Reauthorization Act
(SARA)





CLEAN WATER ACT SECTION 311

Section 311(B)(2)(f)(4):

The costs of removal of oil or a hazardous substance.... shall include any costs or expenses incurred by the Federal Government or any State Government in the restoration or replacement of natural resources damaged or destroyed

Section 311(B)(2)(f)(5):

The President or the authorized representative of any State, shall act on behalf of the republic as the trustee of the natural resources to recover for the costs of replacing or restoring such resources.

CERCLA SECTION 107 LIABILITY

Section 107(a)(4)(C):

Damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such a release

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CERCLA SECTION 107 LIABILITY

Section 107(f)(1):

Natural Resource Liability—In case of an injury to, destruction of, or loss of natural resources ... the United States Government and any State [shall be liable] for natural resources within the State or belonging to, managed by, controlled by, or appertaining to such State and to any Indian tribe

The President or authorized representative of any State shall act on behalf of the public as trustee of such natural resources to recover for such damages. Sums recovered shall...restore, rehabilitate, or [be used to] acquire the equivalent of the resources by.. appropriate agencies...

Liability is for the release of HAZARDOUS SUBSTANCES

Hazardous Substances are defined as:

- Any substance designated under CWA sec. 311
- Any element, compound, mixture, solution or substance under CERCLA sec.102
- *HazardousWastes under solid Waste Disposal Act sec. 3001
- Any toxic pollutant listed in CWA sec. 307(a)
- Any hazardous air pollutant under Clean Air Act sec. 112
- Any imminently hazardous chemical substance or mixture covered under the Toxic Substances Control Act sec. 7

- Petroleum is excluded from CERCLA unless the petroleum contains a hazardous substance in any quantity or is in mixutre with a hazardous substance, in which case response actions come under the Clean Water Act.



DESIGNATION OF FEDERAL AND STATE OFFICIALS SECTION 107(2)

Federal officials who shall act on behalf of the public as trustees for natural resources under this Act and section 311 of the Federal Water Pollution Control Act.

STATE—The Governor of each State shall designate State officials who may act on behalf of the public as trustees for natural resources under this Act and section 311 of the Federal Water Pollution Control Act **and** shall notify the President [i.e., the Regional Administrator of EPA] of such designations.

FEDERAL NATURAL RESOURCE TRUSTEES (Designated by Executive Order 12580 and the NCP)

THE SECRETARIES OF:

- Department of the Interior
- Department of Commerce
National Oceanic and Atmospheric Administration
- Department of Energy
- Department of Agriculture
- Department of Defense

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STATE NATURAL RESOURCE TRUSTEES

(Designated by the Governor)

**TRUST
RESOURCES**



DEFINITIONS

Natural Resources (CERCLA)

- Land
- Wildlife
- Air
- Groundwater
- Fish
- Biota
- Water
- Drinking water supplies,

and

other such resources belong to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States, any state

DEPARTMENT OF THE INTERIOR

Trust Resources

- Certain federally listed endangered species
- Migratory birds
- * Anadromous fish (inland waters)
- Trust lands
- Federally owned minerals
- National Parks
- National Seashores
- National Recreation Areas
- National Historic Sites
- National Battlefields
- National Wildlife Refuges
- National Fish Hatcheries

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NOAA TRUST RESOURCES

NOAA is the primary trustee for those living and non-living resources . has management or protective responsibility under various **resource**

*Fish (finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, **birds, and highly** migratory species.)

•All fishery resources of the **EEZ** and the continental shelf (any fishery, any stock of fish, any species of fish, and any habitat of **fish**)

NOAA TRUST RESOURCES, cont.

•Anadromous species throughout their range

Certain federally listed endangered and threatened species, including;

- designated critical habitat and
- marine** mammals (except manatees).

Coastal environments

- Salt marshes
- Estuaries
- Rivers or tributaries historically or presently supporting anadromous fish
- Tide flats
- Tidal wetlands



NOAA TRUST RESOURCES, cont.

•National Marine Sanctuaries

Key Largo

Looe Key

•National Estuarine Research Reserves

Rookery Bay

Sarasota Bay

Apalachicola River

*Wetlands and estuaries regulated by EPA and the
Corps of Engineers

OTHER FEDERAL AGENCIES

All natural resources on the lands they manage or own

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**FLORIDA DEPT. OF ENVIRONMENTAL REGULATION
FLORIDA DEPT. OF NATURAL RESOURCES**

Trust Resources

•All natural resources within the boundary of a State or belonging to, managed by, controlled by, or appertaining to such State. ...the definition of the term "State" does not include Indian Tribes.

(National Contingency Plan, Section 300.605)

CO-TRUSTEE INTERESTS

Examples of Co-Trust Resources

<u>FLORIDA</u>	<u>NOAA</u>	<u>DOI</u>
Anadromous Fish (State Waters) Shellfish	Anadromous Fish (All Waters) Shellfish	Anadromous Fish (Inland Waters) -----
Groundwater (within State)	-----	Groundwater (Trust Lands)
	<u>Endanaered Species</u>	
Manatee	-----	Manatee
Marine Turtles (within State)	Marine Turtles (in water)	Marine Turtles (on land)
Roseate Tern	-----	Roseate Tern
Shortnose Sturgeon	Shortnose Sturgeon	-----





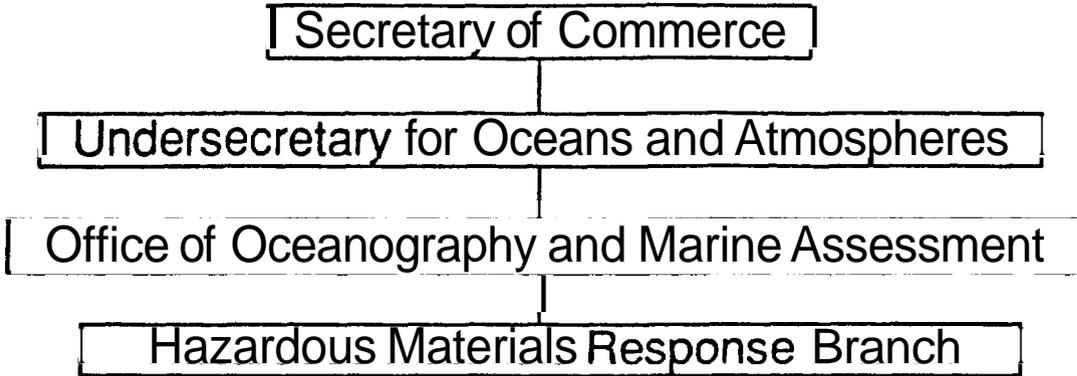
NOAA CO-TRUSTEE INTERESTS with STATES

- Marine fishery resources in State waters
- Federal endangered/threatened species in State waters
- Resources contained within designated estuarine research reserves
- National Estuarine Research Reserves in Florida
 - Rookery Bay
 - Sarasota Bay
 - Apalachicola River

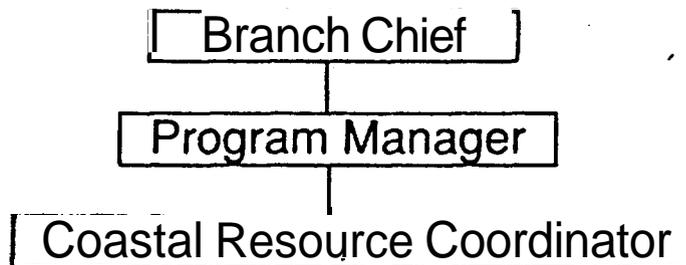
AGENCY ORGANIZATION

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**U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Natural Resource Trustee Delegation**



**HAZARDOUS MATERIAL RESPONSE BRANCH
Natural Resource Trustee Delegation**

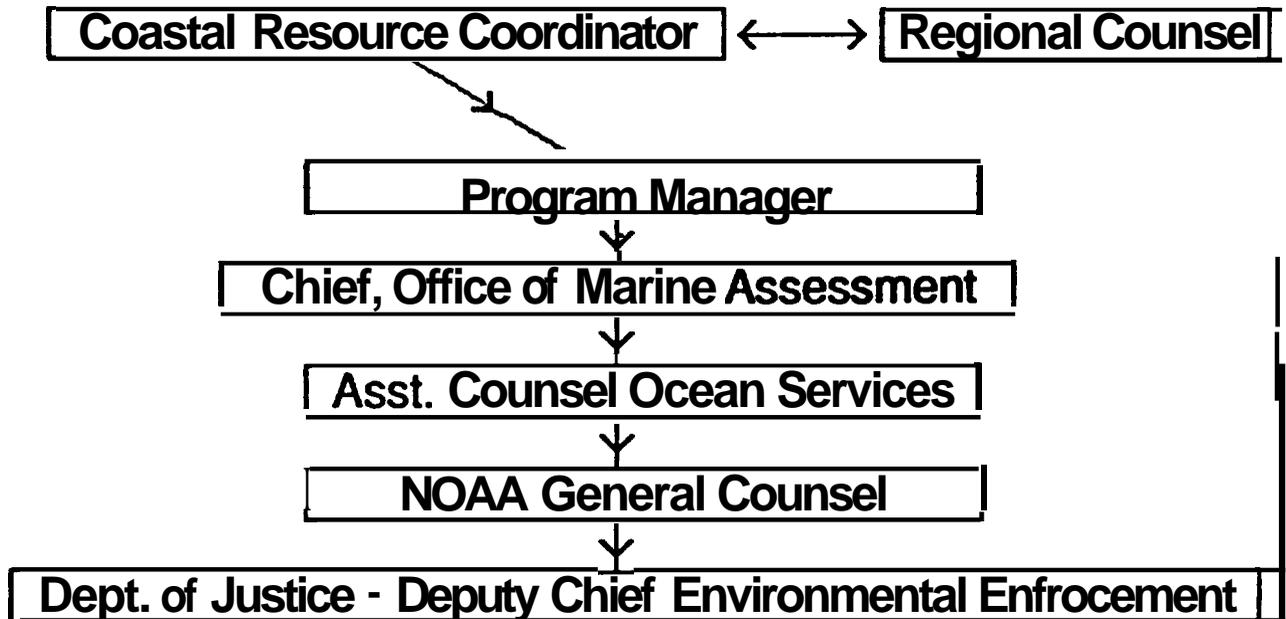




COASTAL RESOURCE COORDINATOR (CRC) Delegated Responsibilities

- Receives notification
- Conducts investigation
- Makes recommendation for action
- Coordinates co-trustee interests

NOAA TRUSTEE RESPONSE



U.S. DEPARTMENT OF INTERIOR

Secretary of Interior

Asst. Secretary of Policy, Budget & Admin.

Office of Environmental Affairs

Director of Bureaus

Minerals Management Service, Bureau of Land Management, Bureau of Indian Affairs, Office of Surface Mining, Bureau of Mines, Bureau of Reclamation, Fish & Wildlife Service, Park Service, Geological Survey.

HAZARDOUS WASTE SITES





NOTIFICATION OF TRUSTEE

The President [i.e., EPA Regional Administrator] shall promptly notify the appropriate Federal and State natural resource trustees of potential damages to natural resources resulting from releases under investigation.

CERCLA 104(b)(2)

DISCOVERY OF INJURY

...without **injury** there are **no damages** to recover.

The definition of INJURY has **two** parts:

- **There** must be a measurable adverse change in the **resource**.
- **The** adverse change must **be** to the chemical **or** physical quality or in the viability of a resource.

DAMAGES are compensation for an injury.

"The regulations make **clear** that damages must be evaluated in light of the response action."

Habicht 1986 pg. 23

NOAA SITE SUMMARY REPORTS

SUMMARIZES NOAA'S INTEREST IN THE SITE

Written Following Discovery

PROVIDES OVERVIEW ON:

Site Exposure Potential

Site Related Contamination

NOAA Trust Habitats and Species in Vicinity

NOAA AND DOI

PRELIMINARY NATURAL RESOURCE SURVEYS



NOAA PNRS

COMPRISED OF TWO SECTIONS:

- 1) FINDINGS OF FACT
- 2) SUMMARY REPORT, (FOIA EXEMPT)

RECOVERY OF RESPONSE COSTS

MUST PROVE:

- a release of a hazardous substance
- that the release was from a facility or vessel
- that response costs were incurred
- that the potentially responsible party (PRP) is the owner, operator, transporter, or generator.

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RECOVERY OF NATURAL RESOURCE DAMAGES

MUST PROVE:

- the aforementioned for response costs

PLUS

- a causal link and
- that an injury occurred

REMEDIAL ACTIONS & CLAIMS

No claim may be initiated before selection of the remedial action if the President is diligently proceeding with a remedial investigation and feasibility study.

CERCLA Section 104(b)/Section 120

To prevent the development of two separate actions to ameliorate the same situation, encourage the inclusion of natural resource concerns in the development of remedial plans, and preserve the priority order of remedial actions intended by the creation of the National Priority List.

51. Fed. Reg. 27,681



REMEDIAL ACTIONS & RESTORATION

The removal or remedial action can in many cases involve the restoration or replacement of natural resources, thus eliminating or substantially reducing any claim for damages independent of a response cost claim.

The more comprehensive the response, the less likely it is that there will be any additional civil action to seek natural resource damages.

Habicht undated pg. 34

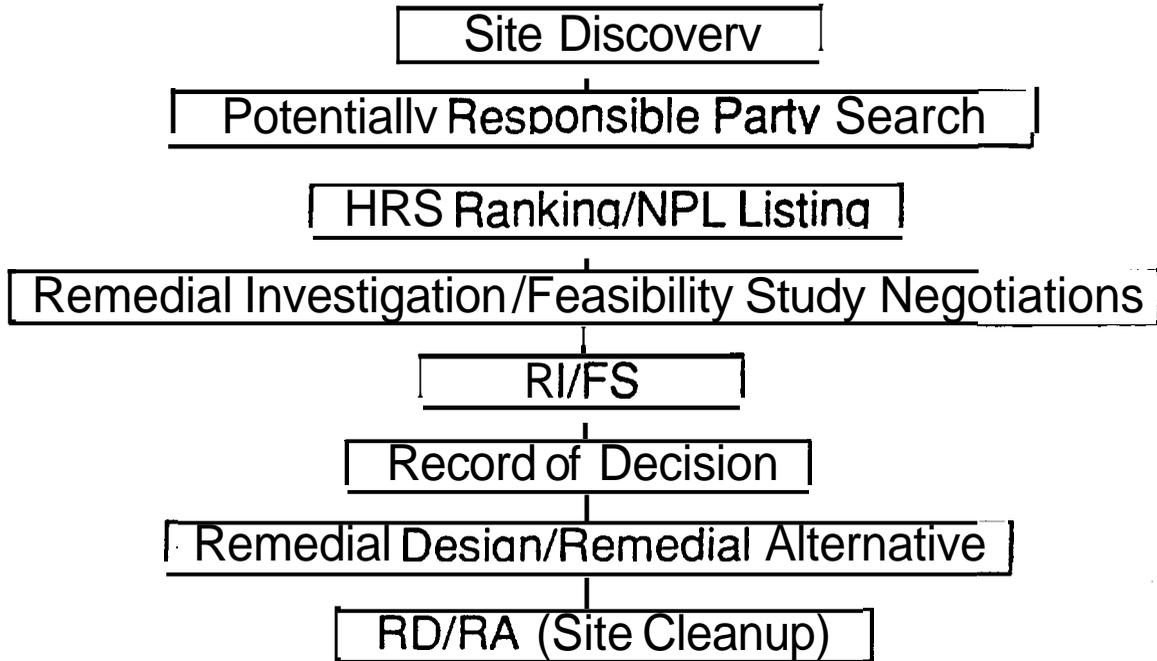
TYPES OF SITES

- State Investigated Sites
- State Site List (State Funded)
- *Federal Investigated Sites (CERCLIS)
- National Priority List Sites (Federal Superfund)
Federal Facilities

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EPA Remedial Process

Removal actions may occur prior to or during the remedial process public participation can occur during any phase.



COORDINATION OF INVESTIGATIONS

The President (EPA) shall seek to coordinate the assessments, investigations, and planning under this section with Federal and State Trustees.

CERCLA 104(b)(2)

Where there are multiple trustees, because of coexisting or contiguous natural resources or concurrent jurisdictions, they should coordinate and cooperate in carrying out these responsibilities...

NCP300.615





EPA Guidance Documents

- EPA will work with ... natural resource trustees... to ensure a cooperative relationship.

(William K. Reilly, 90-Day Review)

Getting Ready Scoping the RVFS (November 1989)

...inclusion of trustees in scoping process.

NOAA RECOMMENDED ACTION: Remedial Action

- CRC confers with NOAA support staff
- CRC confers with co-trustees
- Makes recommendations to EPA with regard to

- planning
- assessments
- investigations

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CERCLA SECTION 106 ABATEMENT ACTION

The President may also, after notice to the affected State, take other action under this section including, but not limited to, issuing such orders as may be necessary to protect ... the environment.

Trustees may request an authorized agency issue an administrative order or pursue injunctive relief against the parties responsible for the discharge or release;

NCP 300.615

CASE EXAMPLE

THE ST. LAWRENCE RIVER

NATURAL RESOURCE DAMAGE ASSESSMENT

TRUSTEE AUTHORITY OVER NON-NPL AND STATE SITES

Trustees have authority to seek recovery of damages to natural resources from any release of oil or hazardous substances with only 3 exceptions (CERCLA Section 107 (b)):

- (1) an act of God;
- (2) an act of war;
- (3) an act or omission of a third party other than an employee or agent of the defendant, or than one whose act or omission occurs in connection with a contractual relationship...



STATUTE OF LIMITATIONS

For Non-NPL Sites and Spills:

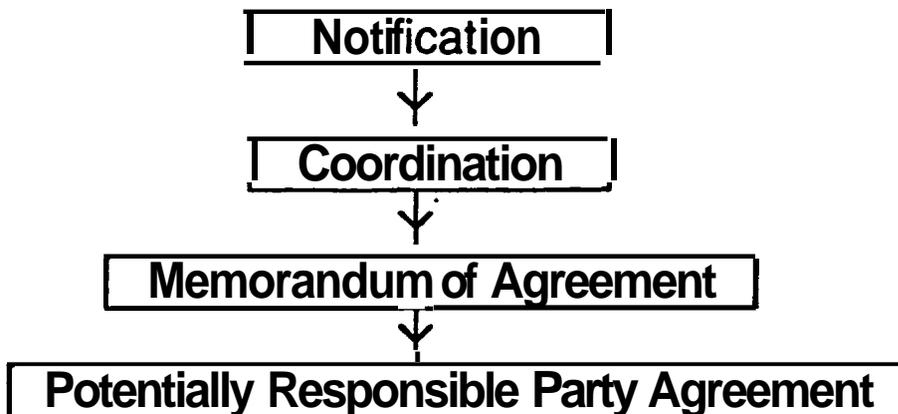
- 3 years from the date of discovery of the loss and its connection with the release in question

For NPL Sites:

- 3 years from completion of the remedial action (excluding operation and maintenance)

(CERCLA *section* 113(g))

HAZARDOUS WASTE SITE RESPONSE WITH REGARDS TO NATURAL RESOURCE DAMAGE ASSESSMENT



000550

STATE STATUTES

Natural Resource Damage Claims

Natural Resource Trust Funds

THE OHIO DECISION

STATE OF OHIO

V.

U.S. DEPARTMENT OF THE INTERIOR

before

**Unite States Court of Appeals
District of Columbia**

Decided

July 14, 1989





THE MAJOR DECISION

Section 107(f)(1) of CERCLA evinces a clear Congressional intent to make restoration costs the basic measure of damages...

(Ohio Decision pg. 32)

... but damages can exceed restoration cost in some cases.

(Ohio Decision pg. 36)

ENVIRONMENTAL RESTORATION

The purpose ... is to make whole the natural resources that suffer injury from releases of hazardous substances

(Ohio Decision pg. 24)

We do not want damage to natural resources to await the workings of the litigation process; we want prompt, full compensation so we can replant trees in the park...

(Ohio Decision pg. 24)

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PARTICIPATION IN NEGOTIATIONS

NEGOTIATED SETTLEMENTS

CERCLA's settlement provision provides that a federal trustee may settle a natural resource damages case only "if the potentially responsible party agrees to undertake appropriate actions necessary to protect and restore the natural resources damaged by [the] release or threatened release of hazardous substances."

(Ohio Decision pg. 34)



FEDERAL

EPA is required to notify federal natural resources trustees of negotiations with potentially responsible parties, if the release of hazardous substances may have resulted in damages to natural resources under the trusteeship of the United States, and to encourage the participation of the trustees in negotiations.

CERCLA 122(i)(1)

STATE

Notice to the State of negotiations with potentially responsible parties regarding the scope of any response action at a facility in the State and an opportunity to participate in such negotiations and, subject to paragraph (2), be a party to any settlement

CERCLA 121 (f)(1)(F)

By virtue of CERCLA Section 121 (f)(1)(F), State trustees are **also** invited to participate in negotiations with PRPs.

Habicht 1986 pg. 15

000552

Trustee authority includes: Participating in negotiations between the United States and PRPs to obtain PRP financed or PRP conducted assessments and restorations for injured resources or protection for threatened resources

NCP300.615

NATURAL RESOURCE DAMAGE CLAIM

Begins with process set forth in the NCP and follows

Natural Resource Damage Assessment

regulations promulgated by DOI.





FIRST Notification by the lead agency to the authorized trustees

Followed by:

- Preassessment Screen
- Assessment Plan
- Injury Determination
- Injury Quantification
- Damage Determination (i.e., Compensation)
- *Restoration Plan

EARLY CONSIDERATIONS

- Memorandum of Agreement between Trustees
- Agreement Document between Trustees and PRPs

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PHASE 1 PREASSESSMENT SCREEN:

Used to determine whether a discharge or release justifies a Natural Resource Damage Assessment (NRDA).

*Based on existing data w/minimum field work

*Must determine that the discharge or release is under CERCLA or CWA

- It could have resulted in some injury
- The potential injury is within the trustees jurisdiction
- The trustee reasons the potential benefits outweigh the potential costs of the assessment

PHASE 2 ASSESSMENT PLAN

Ensures that the assessment is performed in a systematic manner and at a reasonable cost.

Identifies and documents the use of scientific and economic methodologies to be followed in the next phases.

PHASE 3 INJURY DETERMINATION

Establishes the occurrence of an injury:

- An injury is generally defined as a measurable adverse change in the chemical or physical quality or viability of a natural resource.

Links the injury to the discharge or release

PHASE 4 INJURY QUANTIFICATION

The injury is expressed in terms of the decrease (if any) in the total amount of services that the resource provides.

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PHASE 5 DAMAGE DETERMINATION

Determine the cost of restoration, replacement or acquiring the equivalent, and if appropriate the diminution of use value.

PHASE 6 RESTORATION PLAN

Must be developed before the Court awards payment

Natural Resource Trustee
Notification and Coordination

Overview

The purpose of this guidance is twofold: first, to provide an outline of the role of the National Oceanic and Atmospheric Administration (NOAA) and the US Department of the Interior (DOI) at Superfund sites. Second, this guidance will summarize activities related to coordination with these agencies. These agencies are Federal Natural Resource Trustees (NRTs) responsible for ensuring protection of natural resources and are authorized by CERCLA §107(f) to recover damages for injuries sustained by the natural resources due to releases of hazardous substances. State officials are also designated to act as state trustees; however, this guidance does not discuss state trustees at this time. In order to assist RPMs with coordinating CERCLA actions with NRTs, various activities described in EPA guidances are described herein.

NOAA and DOI participation at Superfund sites is discretionary and they may designate specific sites in which they may be interested. However, under Section 104(b)(2) of CERCLA, EPA is required to promptly notify the Federal and State NRTs of potential damages to natural resources resulting from releases under investigation and seek to coordinate the assessments, investigation, and planning with the trustees.

The EPA and the NRTs have agreed to work together on these sites pursuant to their respective responsibilities under CERCLA via an interagency agreement. EPA, via the RPM or OSC, is required to notify the trustees of any discharge or release that injures or may injure natural resources under their jurisdiction. This includes all NPL sites. It is then the responsibility of the trustee to conduct a Preliminary Natural Resource Survey (PNRS) of the area affected by the discharge or release to determine if trust resources under their jurisdiction are or potentially may be affected.

The Remedial Investigation/Feasibility Study (RI/FS) Guidance suggests including the NRT representatives in the scoping planning meeting, when applicable. Determination of possible damage to any natural resource associated with a site is done by the trustees; therefore, early notification is imperative. The trustee will decide whether they may have potential concerns and therefore need to participate in the early planning stage.

Under section 122(j)(1) of SARA, the EPA is required to notify the Federal Natural Resource Trustees of negotiations and encourage participation in the negotiations. If active participation is not appropriate for the trustee, the RPM can be made aware of their significant concerns and can address these during negotiation. A letter of notification of pending negotiations is sent to the Federal and the State trustees. A model of these letters is available in Section Guidance #5, and is on the Wastelan shared "G" Drive under the file name "NRNEGNOT".

EPA Region IV and Federal Natural Resource Trustee Coordination

The CERCLA State Programs Unit of the Waste Programs Branch handles the coordination between the NRTs and EPA, and coordinates preparation of the comprehensive work plane described in the paragraphs below.

A. The Department of the Interior (DOI)

The EPA is responsible for submitting a comprehensive work plan for all PNRSS to DOI. This is updated annually and reflects the sites on which DOI is needed for their support of Superfund activities. The work plan is determined by input from the RPMs and Section Chiefs. The entire workplan is approved by DOI after they make their changes and comments. Individual site-specific work authorizations are then sent to DOI. The work plan specifies the EPA priority sites and deadline requests to receive the PNRSS.

However, proper DOI contact by the RPM must be made on each individual site on the workplan prior to DOI commencing any activity on the site. The RPM must submit a site summary: e.g., a RI/FS work plan, a pre-remedial site investigation report, or the November 1988, updated check list. The RPM sends three copies for DOI review.

(Note: Require the contractor to provide an additional three copies of the reports.) DOI distributes the information to three agencies: Fish and Wildlife Service, US Geological Service and another agency or bureau which can vary depending upon the type of interest at the site.

Early notification of DOI prior to the RI will enable their concerns to be addressed during the RI. The scheduled starting date as defined in the comprehensive work plan is the date DOI receives the background materials. A PNRSS is due 90 days from receipt of the background material.

The designated sites where DOI conducts these surveys will be evaluated by the appropriate bureaus of the DOI. The land records, incident reports, and natural resources data will be researched. If necessary, they will also conduct field inspections to determine whether any natural resources under the trusteeship of the Department are present, and if so, whether there are effects on these resources from hazardous substances at or released from each site.

DOI may play a passive role in the Superfund process, therefore it is up to the RPM to enroll the early involvement of their support, if applicable. They will not be looking at sites prior to notification from EPA. Any concerns which an RPM thinks may be of DOI's specific interest on a site should be relayed to the DOI in a timely manner to insure their input into the study.

B. National Oceanic and Atmospheric Administration (NOM)

NOAA evaluates sites when they are proposed to the NPL to predetermine potential jurisdictional interests. NOM uses the pre-remedial Site Investigation to determine whether they need to take an active role in the site. A list of sites of possible interest is then compiled for distribution. The RPMs will receive this list which should then be followed up with coordination with NOAA. This active role allows the RPM to be aware of what needs to be reviewed by NOAA.

Following the site list, the RPM will receive individual site summaries from NOM when the sites of interest are proposed to the NPL. If no site summary is received then the RPM can assume that the site is not thought to be a potential threat to a resource within the jurisdiction of NOM. A letter stating that NOM has no interest must be requested from NOAA. A word of caution, however, RI investigations may elicit new information which identifies a potential threat to NOAA resources.

If a site summary is received by the RPM or if a site is on the list of sites of potential interest, this will indicate to the RPM to involve NOM in review of the RI/FS Work Plan. This allows NOAA's comments to be addressed during the RI, as they may have specific concerns which may be otherwise overlooked.

NOAA negotiates the PNRS notification request with EPA by informally requesting sites with which they actively have an interest, for their Work Plan development. This is accomplished in direct communication between NOM and the Grants and Contracts Support Unit and Unit Chiefs. Barbara Dick will also be in contact with John Lindsay, the Atlanta IV Region NOAA trustee, for the South Florida Section.

NOAA is interested in doing a PNRS following the release of the draft RI. The RI is the stage at which a determination of the extent of potential injury to trust resources can be most readily identified. The PNRS is then used to inform the RPM of additional information requirements and conditions in the remedy which must be met before a covenant not to sue for natural resources damages can be granted to the PRPs.

Coordination with NRTs

Federal NRTs

John A. Lindsay, Coastal Resource Coordinator
U.S. Department of Commerce
National Oceanic and Atmospheric Administration
c/o U.S. EPA
Waste Management Division
Emergency Response and Control Section
345 Courtland Street, N.E.
Atlanta, Georgia 30365

1000

James Lee, Regional Environmental Officer
U.S. Department of Interior
Office of Environmental Project Review
Richard B. Russell Federal Building
Suite 1320
75 Spring Street, S.W.
Atlanta, Georgia 30303

Alabama State NRTs

James D. Martin, Commissioner
Alabama Department of Conservation and Natural Resources
64 North Union Street
Montgomery, Alabama 36130

Leigh Pegues, Director
Alabama Department of Environmental Management
1751 Federal Drive
Montgomery, Alabama 36130

Dr. Ernest Mancini, State Geologist
Alabama Oil and Gas Board
Poet Office Drawer O
Tuscaloosa, Alabama 35486

Florida State NRTs

Dale Twachtmann, Secretary
Florida Department of Environmental Regulation
Room 626
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Tom Gardner, Executive Director
Florida Department of Natural Resources
Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

Georgia State NRT

J. Leonard Ledbetter, Commissioner
Georgia Department of Natural Resources
Floyd Towers East
205 Butler Street, SE
Suite 1252
Atlanta, Georgia 30334

Mississippi State NRT

Jimmy Palmer, Executive Director
Mississippi Department of Natural Resources
P.O. Box 20305
Jackson, Mississippi 39209

REGION IV
SITES OF KNOWN INTEREST TO NOAA

(As of May 1, 1990)

NORTH CAROLINA (6 Sites)

ABC One Hour Cleaners, Jacksonville
FCX Washington Dist. Inc., Washington (Dept. of Justice Inquiry)
USMC Camp Lejeune, Camp Lejeune
New Hanover City Airport Burn Pit, Wilmington
Potters Septic Tank Service Pits, Leland
USMC Cherry Point

SOUTH CAROLINA (4 Sites)

Wamchem, Beaufort
Geiger (C&M Oil), Rantowles
Helena Chemical Company, Fairfax
International Paper Company, Georgetown (non-NPL)

GEORGIA (2 Sites)

Hercules, Inc. 009 Landfill, Brunswick
LCP, Brunswick. (presently an SIB investigation)

FLORIDA (17 Sites)

Chemform
Florida Steel, Indiantown
Cecil Field Naval Air Station
Jacksonville Naval Air Station
Munisport, North Miami
Pensacola Fertilizer Company (Agrico Chemical) Site, Pensacola
Pensacola Naval Air Station
American Creosote Works, Pensacola (PNRS Completed)
Beulah Landfill, Pensacola
Peak Oil, Tampa
Reeves SE Corp., Tampa
Bay Drum, Tampa (PNRS Scheduled)
Harris Corp., Palm Bay (PNRS Scheduled)
Pickettville Road Landfill, Jacksonville (PNRS nearly completed)
Stauffer Chemical Co., Tarpon Springs (presently an SIB investigation)
Standard Auto Bumper, Hialeah
Woodbury Chemical Co., Princeton
SAPP Battery Services, Inc., Jackson County (PNRS Completed)

ALABAMA (3 Sites)

Redwing Carriers, Inc./SARA, Saraland
Stauffer Chemical Co., Lemoyne Plant (PNRS Scheduled)
Stauffer Chemical Co., Cold Creek Plant (PNRS Scheduled)

MISSISSIPPI (1 Site)

Gautier Oil Co., Inc., Gautier (proposed)

108000



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET
ATLANTA, GEORGIA 30365

(Form updated 11/30/88)

DATE: . _____

SUBJECT: Notification of Federal Natural Resource Trustees

SITE: _____
COUNTY: _____
STATE: _____
OPERABLE UNIT NAME: _____

TO: (check)

DOI - Regional Environmental Officer:
James H. Lee, Department of the Interior
Richard Russell Federal Building, Suite 1320
75 Spring Street, SW
Atlanta, Georgia 30303
(FTS: 242-4524, 404-331-4524)

DOC - NOAA Coastal Resource Coordinator:
John Lindsay, NOM
c/o U.S.EPA Region IV
Emergency Response and Control Section
345 Courtland Street, NE
Atlanta, Georgia 30365
(FTS: 257-3931, 404-347-3931)

State(s) of _____:

FROM: Project Manager: _____ Phone: _____
Unit: _____
Unit Chief: _____ Phone: _____
Section: _____
Section Chief: _____ Phone: _____

1) In accordance with the Superfund Amendments and Reauthorization Act of 1986, §104(b)(2) and §122(j), the EPA provider notification of the following: (check one)

Potential damages to natural resources may result from releases under investigation at the subject site as determined from ongoing assessments or investigations. (§104(b)(2) SARA)

You are encouraged to participate in the upcoming negotiations as you deem appropriate. EPA intends to initiate negotiations with potentially responsible parties about the subject site, much that they may conduct or finance a _____ at the site. (§122(j) SARA) (remedial process)

2) STAGE OF ACTION: draft or final

Preliminary Assessment Site Investigation SIS(extended)

Immediate Removal Initial Remedial Measure

Work Plan

Remedial Investigation

Feasibility Study

Endangerment Assessment

ROD (Record of Decision)

RD (Remedial Design)

RA (Remedial Action)

ACTION REQUESTED OF TRUSTEE: _____

SEPARATE OPERABLE UNITS? (give name & description): _____

386000

3) **RESPONSE CATEGORY:** Fund Enforcement
PRP: _____

LEAD: Federal State Federal Facility

4) **DOCUMENTS ATTACHED:** (three copies to DOI, three copies to DOC)
List names of documents: _____

5) **If the following information is not contained in the attached documents, please provide:**

LOCATION: (USGS quad map w/location of site and directions to site)
Quad name: _____

SITE EXPOSURE POTENTIAL: (copy exec. summary, Environmental Photographic Interpretation Center (EPIC), or relevant document.)

CHEMICAL HAZARDS AND HISTORY OF RELEASES: (copy appropriate tables, lists)

cc: Grants and Contracts Support Unit, EPA

5070

**Agrico Chemical Company
Pensacola, Florida
Region 4
FLD980221857**

Site Exposure Potential

The Agrico Chemical Company site occupies 24 hectares in an industrial area of Pensacola, Florida (Figure 1). The site is bordered by major roadways to the south and east, a railroad yard to the west, and an abandoned quarry to the north. From 1889 to 1920, the site was used to produce sulfuric acid from pyrite rock. From 1920 to 1959, Agrico produced fertilizer from phosphate rock at the site. The latter process produced hydrofluoric and fluosilicic acid gases. Water used to scavenge these gases was disposed of in a series of outdoor ponds, whose total capacity is estimated to be 21,000 m³. The tanks, trough, and agitators used in the plant may have been made of lead, which corrodes when exposed to concentrated acid at high temperatures. In 1959, the fertilizer factory, fluoride plant, and all storage and shipping houses were torn down.

The nearest surface water body to the site is Texar Bayou, 2 km to the east. It is unlikely that there is a direct surface water migration pathway from the site to Texar Bayou (EPA 1987). A four-lane highway with a trough-like, high-shouldered median, and several other roadways lie between the site and Texar Bayou. A surface water pathway to Pensacola Bay, more than 5 km south, is unlikely for the same reasons. Groundwater occurs 17 meters beneath the site. The groundwater flows east-southeast toward Texar Bayou and Pensacola Bay.

Groundwater flow is a possible contaminant migration pathway to NOAA trust resources in Texar Bayou and Pensacola Bay.

Site-Related Contamination

Fluoride; lead; zinc; and sulfuric, hydrofluoric, and fluosilicic acids are the contaminants of concern to NOAA. In 1983, EPA site investigators sampled a white, gelatinous substance observed in two of the discharge ponds, and took a surface water sample from each of the two ponds and one from a concrete basin on the western edge of the site. These samples were analyzed for nitrates, phosphates, chemical oxygen demand, and trace metals. The gelatinous samples taken from the ponds showed high fluoride and lead concentrations (Table 1). The surface water samples taken from the ponds had high concentrations of fluoride (135,000 µg/l) and zinc (1,100 µg/l).

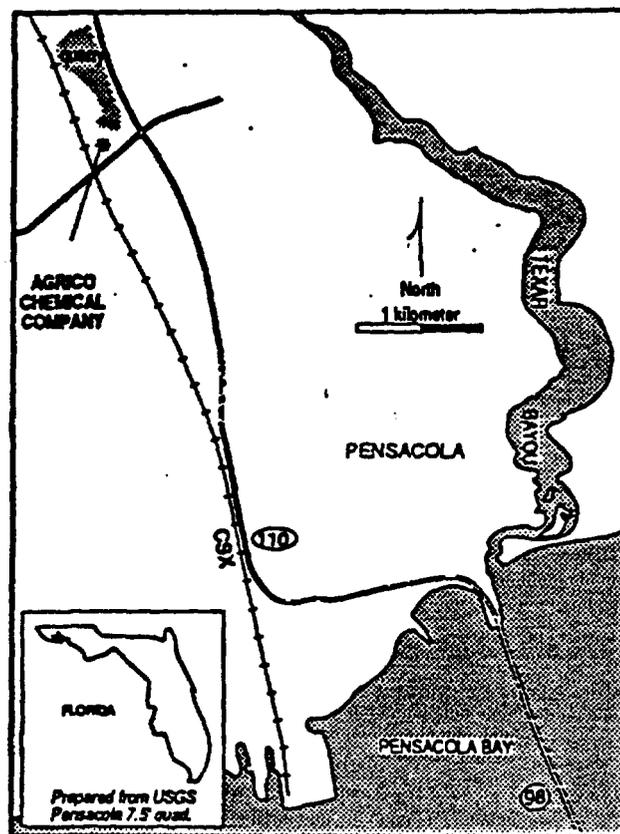


Figure 1. The Agrico Chemical Company site in Pensacola, Florida.

Acute toxicity for rainbow trout has been observed in fluoride concentrations ranging from 2,700 to 4,700 $\mu\text{g/l}$ (Neuhold and Sigler 1960). The pH of these water samples was found to be 4.4 and 5.2, respectively. The sample taken from the concrete basin had a pH of 8.5. There were no groundwater data presented in the documents reviewed.

Table 1. Maximum concentrations of selected contaminants at the Agrico Chemical site (EPA 1987); AWQC for the protection of freshwater aquatic life (EPA 1986); solid concentrations in mg/kg and water concentrations in $\mu\text{g/l}$.

Contaminant	Gelatinous Waste Material	Surface Water Samples	AWQC	
			Acute	Chronic
aluminum	1,900	35,000	ND	ND
barium	46	38	ND	ND
chromium	23	15	16	11
fluoride	58,000	135,000	ND	ND
lead	130	<30	82*	3.2*
mercury	0.36	<0.5	2.4	0.012
strontium	130	960	ND	ND
zinc	20	1,100	120*	110*

* Hardness-dependent (based on 100 mg/l CaCO_3)
 N/D: Criteria not determined.

N O M Trust Habitats and Species in site Vicinity

Though wetland habitat has been significantly reduced, commercially important species found in Pensacola Bay are also present in Texar Bayou (Table 2). Blue crab, shrimp, striped mullet, and gulf flounder use the bayou as nursery and adult habitat. Many of the fish species are recreationally harvested from the bayou. Eastern oysters are found along the outer Pensacola Bay portions of the bayou. Pensacola Bay supports a significant blue crab and shrimp fishery (Ray 1989).

Table 2. NOAA trust resource use of Texar Bayou and Pensacola Bay (USFWS 1982).

Species	Texar Bayou	Pensacola Bay
INVERTEBRATES		
blue crab	A,N,R	A,C,R,S
eastern oyster	A,N,R	A,C,N,R,S
shrimp	A,N,R	A,C,R,S
FISH		
Atlantic croaker	A,N,R	A,C,N,R,S
Atlantic sturgeon		M
black drum	A,N,R	A,C,N,R,S
gulf flounder	A,N,R	A,C,N,R,S
red drum	A,N,R	A,C,N,R,S
sand seatrout	A,N,R	A,C,N,R,S
sheepshead	A,N,R	A,C,N,R,S
spotted seatrout	A,N,R	A,C,N,R,S
striped mullet	A,N,R	A,C,N,R,S
MISCELLANEOUS		
Atlantic bottlenose dolphin		M
A: adult habitat C: commercial fishery R: recreational fishery M: migration corridor N: nursery S: spawning/mating		

Texar Bayou is bordered by residential housing and light industry, and is impacted by surface water runoff from these sources. The bayou has been closed periodically to swimming due to water quality problems; information is currently being gathered on the physical characteristics and biota present in Texar Bayou as part of a study of non-point source pollution in the bayou (Moshiri 1989). Texar Bayou is 6.5 km long with an average depth of 2.1 meters. Though much of the bayou's wetlands has been lost to development, some habitat does exist in its upper reaches. Both Texar Bayou and Pensacola Bay have little tidal variation and only minor flushing. During the summer months, low dissolved-oxygen levels occur (Ray 1989).

Response Category: Not Determined

Current Stage of Site Action: RI/FS Workplan

EPA Site Manager

Martha Berry 404-347-2643

N O M Coastal Resource Coordinator

John Lindsay 404-347-5231

References

EPA. 1986. Quality Criteria for Water. Washington, D.C.: Office of Water Regulations and Standards, Criteria and Standards Division. EPA 440/5-86-001.

EPA. 1987. Hazardous Waste Site Investigation, Agrico Chemical Company site, Pensacola, Florida. Atlanta: U.S. Environmental Protection Agency, Region 4.

Moshiri, G., Professor of Biology, University of West Florida, Pensacola, personal communication, January 25, 1989.

Neuhold, J.M. and W.F. Sigler. 1960. Effects of sodium fluoride on carp and rainbow trout. Transactions of the American Fisheries Society, Vol 89(4), October 1960.

Ray, D., biologist, Florida Department of Environmental Regulation, Tallahassee, Florida, personal communication, January 25, 1989.

USFWS. 1982. Gulf coast ecological inventory: Pensacola, Florida. Washington, D.C.: U.S. Fish and Wildlife Service. 1:250,000 scale map. 30086-A1-E1-250.

Federal Natural Resource Trustee Notification and Coordination Checklist

Superfund Activity	Action	To Whom	Comments
1) Site proposed to the NPL	notification	DOI & NOAA	Copy of Federal Register
2) Initiate RI/FS negotiations	notification	DOI & N O M	Formal notification using form letter; satisfies 122(j) requirements
3) Review of draft RI/FS workplan	coordination	DOI & NOAA	
4) Review of final RVFS workplan	coordination	DOI & NOAA	
5) Review of draft RI	notification coordination	DOI & NOAA	Formal notification using form letter: satisfies 104(b)(2) requirements.
6) Review of draft FS	coordination	DOI & NOAA	
7) Review of draft ROD	coordination	DOI a NOIM	
8) Initiate RD/RA negotiations	notification	DOI & N O M	Formal notification using form letter; satisfies 122(j) requirements

EPA ACTIONS

REMEDIAL PROCESS

TRUSTEE ACTIONS

