

June 2013

Fernald Natural Resource Trustees 2012 Annual Report to the Public



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

EXECUTIVE SUMMARY

The Paddys Run Conservation Project provides funding to purchase development rights through agriculture and conservation easements from willing landowners to protect the Paddy's Run watershed and the Great Miami buried valley aquifer. The easements keep land in private hands while protecting working farms and the environment.

During 2012 Trustees began to realize the fruits of our collaborative efforts to protect land in the Paddys Run watershed focus area for future generations. In 2012 five parcels from three willing landowners received agricultural and conservation easements. \$1.163M from the Fernald settlement was spent this year to permanently protect more than 900 acres.

BACKGROUND

From 1951 until 1989, production of high-purity uranium metal products as the first step in America's nuclear weapons, took place in a small rural area 18 miles northwest of Cincinnati. The U.S. Department of Energy's (DOE) uranium foundry and machinery site has changed names over the years to reflect its changing mission. These names include the Feed Materials Production Center, Fernald Environmental Management Project, Fernald Closure Project, and in 2007 the site became the Fernald Preserve. During production numerous contaminants were released affecting local air, soil, surface water and ground water. The environmental remediation and ecological restoration of the site was completed in 2006 at a cost of \$4.4 billion. This cleanup was one of the largest environmental cleanup operations ever undertaken in our nation's history.

Ohio included a \$206 million claim for natural resource damages in its 1986 lawsuit against DOE. The state's natural resources were injured during the production years at Fernald. In 1988, Ohio and DOE agreed to put this claim on hold until the signing of the site's record of decisions. In 1993, DOE initiated discussions with the Trustees to determine the feasibility of integrating the Trustees' concerns with future remedial design and restoration activities. In 1998 DOE initiated restoration activities at the site based on the Draft Natural Resource Restoration Plan.

In 2008 the State of Ohio and DOE settled the natural resource damages claim at Fernald and documented it in a consent decree. In addition to the \$14 million DOE had already spent restoring the site, the consent decree required (1) implementation of the natural resource restoration plan; (2) payment of \$13,750,000 to Ohio by the United States, on behalf of DOE, for various habitat enhancements and land protection on or near



Up to \$13 million will be used to purchase conservation easements in the Paddys Run watershed.

Fernald in order to protect and improve water quality in Paddys Run and the Great Miami Aquifer; (3) execution of environmental covenants for the entirety of the site, recorded with Hamilton and Butler counties; and (4) payment of past and future costs to the State of Ohio. This consent decree, together with the 1988 consent decree as previously amended, constitutes a final judgment between Ohio and DOE in this case. The consent decree also required finalizing Fernald’s Natural Resource Restoration Plan. Pursuant to Section 1.5 of the Natural Resource Restoration Plan, the Trustees must issue an Annual Report to show funds and expenditures, project status, and maps of project locations. This document fulfills that directive.

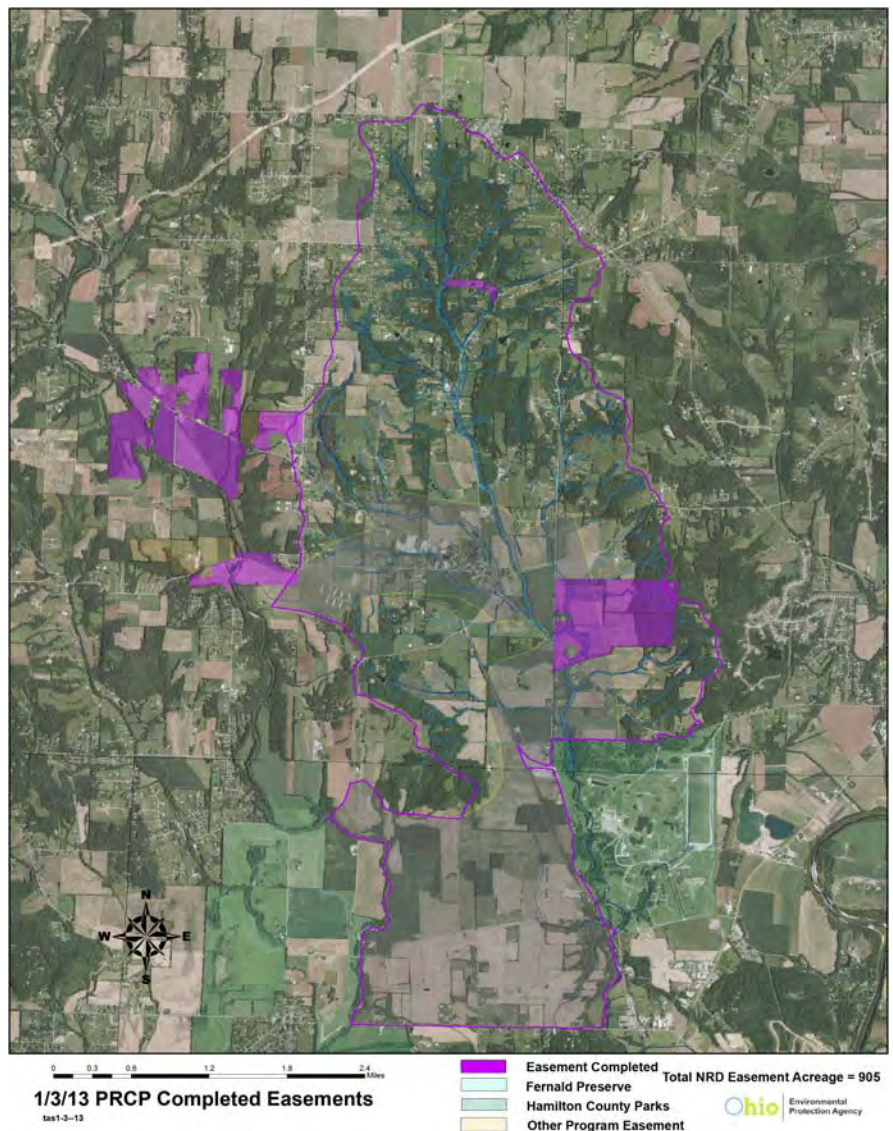
Ohio EPA is the designated Natural Resource Trustee for the State of Ohio. The other Trustees for Fernald are DOE and the Department of Interior represented by the U.S. Fish and Wildlife Service. The Trustees act as guardians for public natural resources impacted by the years of production at Fernald.

PROJECTS

The following NRD projects were worked on during calendar year 2012:

1. Paddys Run Conservation Project (PRCP) – By using conservation easements to preserve current land

use, the Paddys Run Conservation Project will protect water quality in local streams and ground water. The PRCP officially launched in December 2010. In June 2012, a second application period was held. The Agency received nine applications totaling 1000 acres for protection using agricultural and conservation easements or fee simple purchase. This is in addition to the August 2011 application period resulting in 14 applications for protection of more than 1200 acres in addition to the pilot project. By the end of 2012 more than 3000 acres was under consideration or had received a conservation easement through the PRCP using Fernald settlement funds. Natural Resource Trustees along with Three Valley Conservation Trust (TVCT) made site visits to those properties under consideration. Extensive documentation preparation by Ohio EPA and partner TVCT allowed for these real estate transactions to transpire. Matching funds from the United States Department of Agriculture (USDA) Farm and Ranch



Lands Protection Program (FRPP) allowed TVCT to leverage an additional \$1,693,325, thus allowing the Fernald settlement funds to go further. A map of the Paddys Run Conservation Project focus area is provided on Page 3 of this report.

2. Paddys Run Conservation Project Pilot Project – In February 2011 TVCT proposed a local farming family that was already interested in securing agricultural easements as the pilot project for the PRCP. The Trustees approved moving forward with this pilot due to the ability to leverage a large portion of the funding from the USDA FRPP money. The first option to purchase was signed in May 2012 for the 137 acre pilot farm and the easement closed in November. Four additional properties were closed by the end of December. Working through the pilot project allowed the Trustees to quickly learn that each conservation easement requires considerable documentation, ranging from environmental and habitat assessments to the preparation of Farm Plans and Forest Management Plans. Nearly twenty separate components are needed prior to a successful easement closing.
3. Enhancement Projects – The Trustees approved \$283,000 for additional restoration work at Fernald. These habitat enhancement projects came in on-time and under budget. DOE's contractor will monitor these enhanced areas for woody vegetation survival, herbaceous cover, and amphibians.

Triangle Project: The establishment of a 6.6-acre restored prairie was approved when the Trustees signed Resolution 13 in July, 2011. The Triangle area is in the far northwest corner of the site, west of Paddys Run Road. Fieldwork in April and May consisted of herbicide application and planting. The total project cost was approximately \$4,000, which is about \$6,000 less than the original estimate. Materials and the subcontracted herbicide application both cost less than the estimates for the restored prairie.

Paddys Run Tributary Habitat Enhancement: This habitat enhancement created a quarter acre of vernal pools with adjacent forest on a seven acre project area at the Fernald Preserve along Paddys Run Road. An unused wet prairie was transformed into a wetland in order to become a breeding habitat for nearby ambystomid salamanders. The majority of fieldwork took place in April and May. Activities included grading, planting, fencing and irrigation. The total project cost approximately \$150,000, about \$54,000 less than originally estimated. Both plant material and the construction subcontract costs were less than the original estimates. The ability to adjust field planting kept the project on schedule, so costly weather delays were avoided.

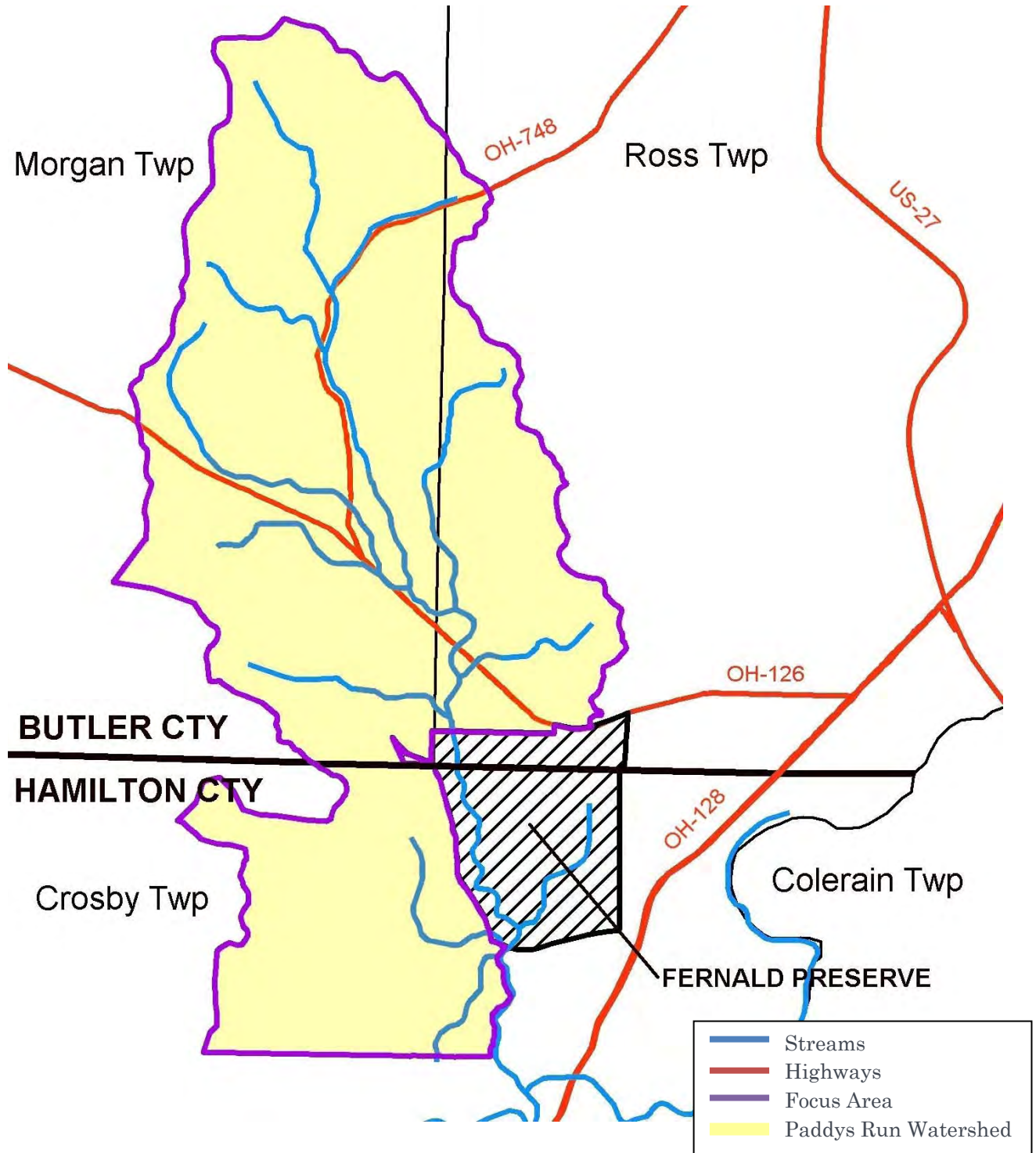


The Paddys Run tributary habitat enhancement was completed in 2012 with NRT funds.

Former Silos Area Enhancement: Excess funds from the spring Triangle and Tributary projects were approved for use closer to the Fernald Preserve Visitor Center. Grading and seeding of the water features west of the Visitor Center parking lot allowed for more natural flow and drainage. Field work was completed by the end of August. Ohio EPA visited Fernald in 2012 to check progress of these NRT funded projects.

PADDYS RUN CONSERVATION PROJECT

FOCUS AREA



RESOLUTIONS

The Trustees have passed 14 resolutions. Resolutions 15 through 21 were finalized during calendar year 2012. Detailed Resolutions can be found in the Trustees section of our web page:

epa.ohio.gov/derr/ACRE/FFS/swdo_ffs/fernald.aspx

1. Field Evaluation
2. Representative Change and MOU Update
3. Field Walkdowns Punchlist
4. Funds Use Plan
5. Funds Transfer
6. Past Costs
7. Contract with TVCT
8. Representative Change and MOU Update
9. Eligibility Criteria and Application
10. TVCT Contract Renewal
11. Trustee Representative Change
12. Pilot Project Land Appraisal
13. Paddys Run Tributary and Triangle
14. TVCT Approved for Appraisals
15. Approve Two Offers
16. 3VCT Grant Agreement for Property Purchases
17. Approve Four Offers
18. Former Silos Area Enhancement
19. Approve 14 Offers
20. TVCT Approved for Round 2 Appraisals
21. Approve Five Offers



FUNDING

In addition to the \$14 million DOE has already spent restoring the site, the consent decree requires (1) implementation of the natural resource restoration plan; (2) payment of \$13,750,000 to Ohio by the United States, on behalf of DOE, for various habitat enhancements and land protection on or near Fernald in order to protect and improve water quality in Paddys Run and the Great Miami Aquifer; (3) execution of environmental covenants for the entirety of the site, recorded with Hamilton and Butler counties; and (4) payment of past and future costs to the State of Ohio.

The Department of the Treasury on behalf of DOE deposited \$13,750,000 into an escrow account of the US District Court on February 17, 2009. The funds were designated to restore, replace or acquire the equivalent of injured natural resources at and in the vicinity of the Fernald Preserve and to reimburse Ohio's natural resources damages assessment costs. A Funds Use Plan was developed to explain expenditure of funds.

During 2012, costs primarily consisted of payment to Three Valley Conservation Trust for support provided in work on the pilot project and easement purchases. The Trust spent considerable time working with landowners to develop applications and address their concerns with regard to participating in the project. Additionally, each property that applied for the project was visited to evaluate the current conditions.

2012 Fiscal Summary	Expenditures	Income	Balance
1/1/2012 – Remaining funds from 2011			\$13,347,615.00
Contractual Costs (TVCT)	(\$174,051.00)		\$13,173,564.00
Restoration Work (USDOE)	(\$283,000.00)		\$12,890,564.00
Easement Purchases (TVCT)	(\$1,746,985.50)		\$11,143,578.50
12/31/2012 – Interest Earned in NRD Account		\$30,627.44	\$11,174,205.94
12/31/2012 - BALANCE			<u>\$11,174,205.94</u>

Funds were provided to U.S. Department of Energy (USDOE) for enhancement restoration projects along Paddys Run, the triangle area, and the former silos area. See Trustee Resolution 13 for more information ([http://epa.ohio.gov/Portals/49/fernald%20files/fernaldpdfs/FernaldTrusteeResolution-13\(FINAL\).pdf](http://epa.ohio.gov/Portals/49/fernald%20files/fernaldpdfs/FernaldTrusteeResolution-13(FINAL).pdf)).



2012 Funds Used to Purchase Easements

TVCT was instrumental in leveraging an additional \$1,693,325 from the U.S. Department of Agriculture (USDA) Farm and Ranch Lands Protection Program so that the Fernald settlement funds will go further.

PUBLIC OUTREACH

Prior to finalizing settlement of the NRD claims, several public meetings were held to gather community input on how the damages should be settled. In summer 2008, a 30 day public comment period was held on the partial consent decree. In July 2008, a public meeting was held at the Crosby Township Senior Center to provide citizens an opportunity to learn more about the consent decree and restoration plan and to submit formal comments. In summer 2009, a 30 day public comment period was held on the Draft Natural Resource Funds Use Plan, with a public meeting to discuss the plan. In November 2010, a Paddys Run Conservation Project brochure was developed to explain the Trustees land conservation efforts. The project targets easements within the Paddys Run drainage basin and over the Great Miami Buried Valley Aquifer upgradient of Fernald. In December 2010, a public meeting was held to introduce the Paddys Run Conservation Project and its partners, the Fernald Trustees and Three Valley Conservation Trust.

In April 2011 a public meeting was held at the Fernald Preserve to tell local landowners how to apply for a conservation easement. Fifty local landowners at the meeting learned about the natural resources damages claim, how properties will be selected for conservation easements, and what will be required from property owners as part of the application process. Round one easement applications were received from interested landowners in August 2011.

In February 2012 Ohio EPA gave a presentation on the status of the Paddys Run Conservation Project at the Forum for Natural Lands Management and Conservation sponsored by Green Umbrella. Approximately 100 people attended the conference that was held at the Fernald Preserve.



Ohio EPA explains the Paddys Run Conservation Project at a public meeting at the Fernald Preserve.

In April 2012 the Trustees sent a letter to sixty landowners in the PRCP focus area to notify them of a second application period ending June 30, 2012. Nine applicants proposed approximately 1000 acres for protection under conservation easements or fee simple purchase during the application period.

Ohio EPA and DOE provide NRD updates at the regular meetings of the Fernald Community Alliance. DOE also provided updates at all of these public meetings.

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