

June 2011

# Fernald Natural Resource Trustees 2010 Annual Report to the Public



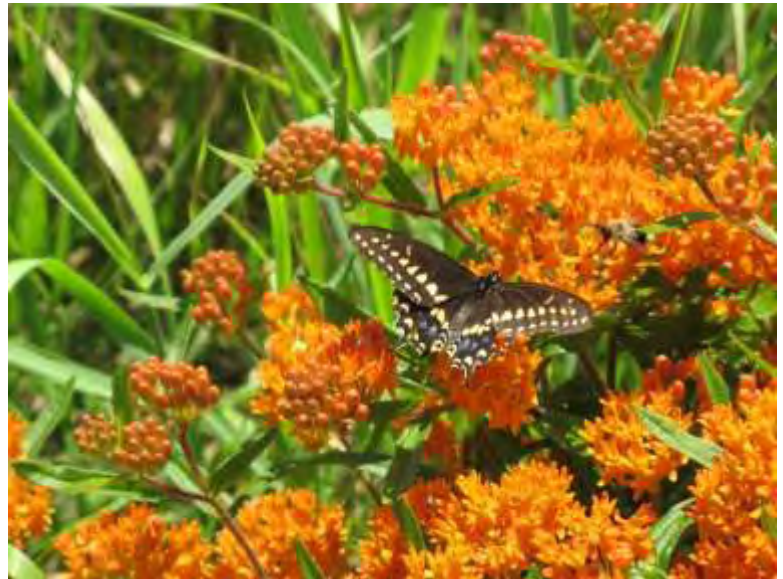
John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Nally, Director

## EXECUTIVE SUMMARY

The State of Ohio and the United States Department of Energy (DOE) settled Ohio's 1986 Natural Resource Damages (NRD) claim in early 2008. A consent decree was signed in November 2008 that required the United States to deposit \$13,750,000 into a state restoration fund. The consent decree also required finalizing Fernald's Natural Resource Restoration Plan (NRRP). 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.

## 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.



***A variety of species now call Fernald home, including this black swallowtail on butterfly weed.***

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.

Ohio included a \$206 million claim for natural resource damages in its 1986 lawsuit against DOE. 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 activities. The Trustees identified their desire to fulfill their obligations by integrating their concerns with 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 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.

## PROJECTS

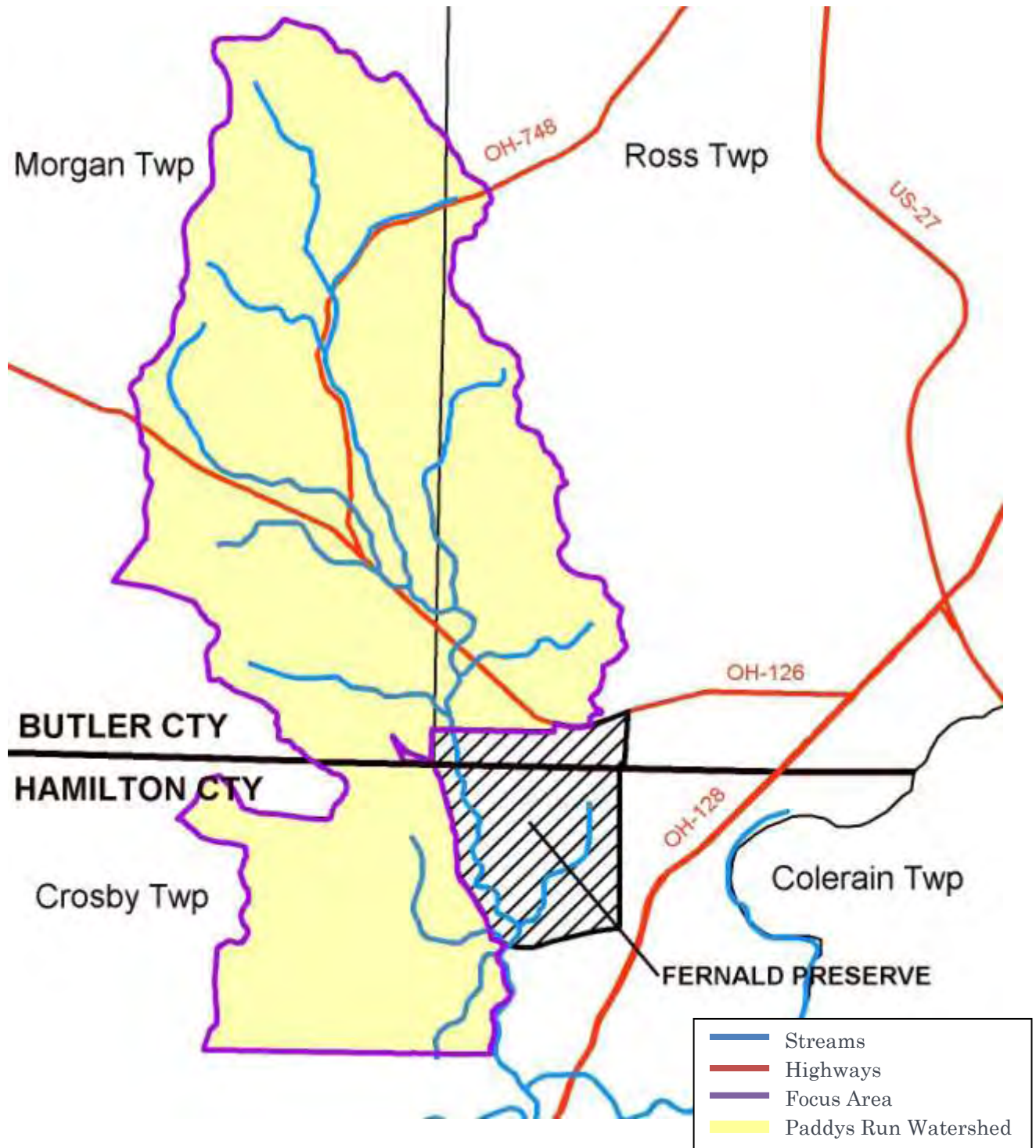
The following NRD projects were initiated or worked on during 2010:

1. Paddys Run Conservation Project – By using conservation easements to preserve current land use, the Paddys Run Conservation Project will protect water quality in local streams and ground water. A map of the Paddys Run Conservation Project focus area is provided on Page 3 of this report. The project was officially launched in December 2010 with a public meeting at the Fernald Preserve to introduce the project and the partners. The details of trustee resolution #9 were drafted during 2010. This provided the eligibility criteria and application process for the Paddys Run Conservation Project. The eligibility criteria include a map of priority zones and different funding levels depending on property location. See page 3 for a map of the Paddys Run Conservation Project focus area.
2. Contract with Three Valley Conservation Trust (TVCT) – Ohio EPA, on behalf of the Trustees, hired a local, non-profit land trust to guide interested landowners through the process of obtaining conservation easements. TVCT will hold the easements in perpetuity. Part of the TVCT initial contract required a pilot project in the area prior to full implementation of the Paddys Run Conservation Project. The process of purchasing development rights from a willing landowner within the focus area was initiated prior to the launch of the Paddys Run Conservation Project. Trustees wanted to walk through the process with one property owner prior to receiving multiple applications in order to help the project proceed smoothly. See [www.3vct.org](http://www.3vct.org) to learn more about TVCT.
3. Enhancement Projects –  
Triangle Project: The Trustees discussed potential on-site habitat restoration in the far northwest corner of the site, west of Paddys Run Road. Potential restoration included prairie and wetland habitats.  
Paddys Run Tributary Habitat Enhancement: The Trustees met and discussed restoration work along the western portion of the site which lies north of the unnamed tributary to Paddys Run. This habitat enhancement would include expansion of the riparian corridor and the creation of a vernal pool in the existing prairie habitat. Draft design plans were reviewed and commented on by the Trustees. Finalization of the plans is expected during 2011.



***The west side of Fernald along Paddys Run is a possible area for habitat enhancement.***

# PADDYS RUN CONSERVATION PROJECT FOCUS AREA



## RESOLUTIONS

The Trustees have passed nine resolutions. Resolutions 2 through 8 were finalized during calendar year 2010.

Resolutions from the Trustee Council:

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

## 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 these funds.

<b>2010 Fiscal Summary</b>	<b>Expenditures</b>	<b>Income</b>	<b>Balance</b>
<b>8/23/2010 – Federal District Court</b> (The settlement, \$13,750,000, plus \$31,225.19 of interest accrued, totals \$13,781,225.19.)			\$13,781,225.19
<b>8/28/2010 – Ohio Hazardous Waste Cleanup Fund</b> (Ohio's natural resource damage assessment costs)	(\$390,500.00)		\$13,390,725.19
<b>12/31/2010 – Interest Earned in NRD Account</b>		\$16,449.93	13,407,175.12
<b>12/31/2010 - BALANCE</b>			<b><u>\$13,407,175.12</u></b>

On July 15, 2010, U.S. Department of Justice and the Ohio Attorney General filed a joint motion to move restoration funds from federal district court account to state of Ohio Natural Resource Damage Fund. The federal district court granted this motion on August 19<sup>th</sup>. On August 23, 2010, Federal district court issued a check for \$13,781,225.19 to State of Ohio for the Natural Resource Damage Fund. The settlement, \$13,750,000, plus \$31,225.19 of interest accrued, totals \$13,781,225.19 deposited.

On October 28, 2010, Ohio's natural resource damage assessment past costs in the amount of \$390,500 were transferred to the Hazardous Waste Cleanup Fund. By the end of calendar year 2010, \$16,449.93 in interest was earned in the state NRD fund.

## PUBLIC OUTREACH

Prior to finalizing settlement of the NRD claims, several public meetings were held to gather public input. In summer 2008, a 30 day public comment period was held on the partial consent decree. On July 31, 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, ask questions, and submit comments on the record. In summer 2009, a 30 day public comment period was held on the Draft Natural Resource Funds Use Plan. A public meeting was held on July 8, 2009 at the Fernald Preserve to discuss the plan. The thirty day public comment period ended August 8, 2009.



*In 2010 Trustees introduced the Paddys Run Conservation Project at public meetings.*

In November 2010, a Paddys Run Conservation Project brochure was developed to explain the Trustees land conservation efforts. On December 6, 2010, a public meeting was held at the Fernald Preserve to introduce the Paddys Run Conservation Project and its partners, the Fernald Trustees and Three Valley Conservation Trust. The project targets easements within the Paddys Run drainage basin and over the Great Miami Buried Valley Aquifer upgradient of Fernald. A mass mailing invited local property owners to the public meeting. In addition to the mailing and brochure describing the project, a press release announced the meeting. More than 60 people attended the public meeting. Many interested landowners attended the meeting and/or contacted Ohio EPA and TVCT for follow-up meetings.

Ohio EPA developed web pages to update stakeholders on both the NRT Fernald settlement (<http://www.epa.ohio.gov/SWDO/divisions/FFS/Fernald/FernaldRestoration/NRD.aspx>) and the Paddys Run Conservation Project ([www.epa.ohio.gov/SWDO/PaddysRunConservation.aspx](http://www.epa.ohio.gov/SWDO/PaddysRunConservation.aspx)). The web pages include a historical timeline of NRD events, trustee resolutions, and additional information.

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. Additional updates were given at local township trustee meetings.

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