

## Natural Resource Damage Assessment Settlement

# RESTORATION PLAN

Wayne Reclamation and Recycling  
Whitley County, Indiana

March 1997

*Department of the Interior  
U.S. Fish and Wildlife Service*

### **Introduction**

This restoration project is proposed by Region 3 of the U.S. Fish and Wildlife Service (FWS) to compensate for similar natural resources injured (lost) prior to remedial response actions at the Wayne Reclamation and Recycling (WRR) site in Whitley County, Indiana. Implementation of this plan will be conducted by natural resource trustees under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and Executive Order 12580.

### **Project Background and History of the Site**

The Wayne Reclamation and Recycling (WRR) site is located on approximately 27 acres of land on the southeast edge of Columbia City in Whitley County, Indiana. In 1975, WRR purchased 12 acres of the present site from the S.A. Sallot Company and 13.6 acres from the city (part of the old city landfill) and began operating an oil reclamation business, collecting waste oils which were treated by settling and decanting. In 1976, the Indiana Pollution Control Board issued WRR a license to transport industrial wastes. Several years later, in 1980, the Indiana State Board of Health investigated the WRR site and found that the facility had falsified the transport documents and had been illegally disposing of hazardous wastes on-site. WRR plead guilty in 1982 to illegal dumping, and was ordered to pay a fine, fund a risk assessment of the site, and pay for cleanup costs. WRR, however, did not clean up the site, and the site was listed in December, 1982, on the National Priorities List (NPL). A risk assessment was conducted between 1983 and 1984 by Beranek Associates, Inc. to determine the extent and fate of the contamination. Hazardous materials that were disposed of at this site consisted primarily of metal plating waste material, dried ink barrels, and various sludges that contained high levels of copper, nickel, cadmium, chromium, and cyanide. Several areas were identified as "hotspots" for contamination including a 4,680 square foot area covered with a tar-like substance, a small tar pit, and areas impacted by buried drums, oil and chemical spills, and chemical land applications. Many of these areas drain into nearby depressions that support marsh vegetation. In addition, a freshwater pond, a wetland on the northern portion of the site, and the Blue River have all been contaminated by improper hazardous waste disposal and the WRR site.

A Remedial Investigation (RI) was completed in 1989 and concluded that the site was contaminated with a variety of compounds. The primary contaminants of concern in the ground water were trichloroethane and vinyl chloride. Contaminants identified in the soils included polyaromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), and volatile organic compounds (VOCs). Other inorganic pollutants were detected at the site as well, including lead and cyanide.

Two separate immediate responses took place at the WRR site. The first was between 1986-1987 and consisted of excavating and disposing of 5600 tons of waste from the "sludge ravine", 1100 tons of waste from the "oil decanting pit", and 90 tons from the "tar pit". In addition, 215 55-gallon drums were tested and properly discarded, along with 750 tons of soil. The second response occurred between 1988 and 1989 and resulted in removal of an additional 125 drums, excavation of 5400 tons of contaminated soil, removal of 23 horizontal tanks, and installation of chain link fencing. In 1990, the proposed remedy for the site included ground water extraction and air stripping, soil vapor extraction, deed restrictions,

monitoring, covering PAH-contaminated soil, and capping the municipal landfill.

### **Trust Resources**

The surrounding land use of the WRR site is primarily residential, industrial, and agriculture. The Blue River forms the eastern and southern boundaries of the site, and a portion of WRR is within the river's 100 year floodplain. The site is underlain by approximately 200 feet of glacial till with pockets of sand, gravel, silt and clay overlying shale bedrock. Two separate aquifers have been identified beneath the site: an upper water table aquifer, which flows in an easterly direction across the lower floodplain; and, a lower, confined aquifer, which flows southwesterly across the site. The natural surface drainage of the area is primarily through overland flow (runoff) and infiltration, which serves as recharge for the upper aquifer. The contaminated upper aquifer is hydrologically connected to the freshwater pond and lower aquifer, and discharges to the Blue River.

Natural resources impacted as a result of activities at the WRR site include: migratory birds and food chain support organisms including fish, amphibians, reptiles, birds, and mammals. Impacts to natural resources have occurred primarily through the degradation of the ecosystems. Three wetland areas on-site which are of primary concern include a freshwater pond (0.3 acre), a 6-acre wetland (consisting of palustrine, emergent, scrub-shrub, and open water areas) on the northern portion of the site, and the Blue River (1.6 acres) immediately adjacent to and downstream of the site. Additionally, soils on several acres of riparian forest, upland forest, and old field habitats have been detrimentally impacted by site-related contaminants.

The palustrine and riverine wetlands provide habitat for several federal natural resource trustee species. Migratory birds, including waterfowl, wading birds, piscivorous birds, raptors, and passerines are known to utilize these waterways. Some species expected to occur are: mallard ducks (*Anas platyrhynchos*), black ducks (*Anas rubripes*), and pintails (*Anas acuta*). In addition, a great blue heron (*Ardea herodias*) rookery is known to exist near the confluence of the Blue and Eel Rivers, just downstream of Columbia City.

A Preliminary Natural Resources Survey (PNRS) was conducted by the FWS in 1988. Some of the resource concerns at the site were described as follows:

"The northern portion of the site contains several areas that would be of particular concern in regard to wildlife resources. There is a 4680 square foot area of a tar-like substance that was analyzed and found to contain cadmium, chromium, copper, lead, and zinc with a hydrocarbon solvent. A tar pit containing those same metals, in addition to PAHs, is located approximately 130 feet southwest of the tar-spill area. Both of these critical areas drain directly to the wetland area located in the northern portion of the site. Once the runoff has reached the wetland, the contaminants are available for translocation and uptake by aquatic flora and fauna. Terrestrial wildlife species and resident and/or migratory bird species inadvertently attracted to the wetland area would thus be exposed to contaminants that could biomagnify to high concentrations."

"The southern portion of the site presents a similar problem. Several critical areas exist to the south of the old Indian Treaty line. The potential hazard of these locations is further magnified due to their location in the 100-year floodplain. This area is characterized by a sludge ravine containing 608 metric tons of sludge and muck."

"There are additional areas categorized as oil-extraction pits (including the oil decanting ponds and four smaller oil-spill areas), and spill areas (sixteen areas of apparent land application of chemicals) that present a potential concern for fish and wildlife resources. All of these areas were found to contain moderate to high levels of all six heavy metal. Many of the spill areas are heavily-vegetated and areas of visibly stressed vegetation and unusual soil composition are apparent. Most heavy metals, and especially cadmium, chromium, copper, lead, and nickel are

readily taken up by plant roots (USEPA 1981). When high concentrations of contaminants are present in the soil and bioaccumulate in the plants, this poses a substantial threat to wildlife species dependent upon those resources for food and habitat needs."

The PNRS indicated that the WRR was within the range of the federally endangered Indiana bat (*Myotis sodalis*). The bat is known to forage over wooded stream corridors. While no records were found of the bat near the area, there are several records in adjacent counties. A review of more recent information suggests that the site is also within the range of the federally endangered peregrine falcon (*Falco peregrinus*) and federally threatened bald eagle (*Haliaeetus leucocephalus*), however, neither species is known to occur near the area of interest.

### WRR Settlement History

In July, 1986, approximately 100 Potentially Responsible Parties (PRPs) entered into an Administrative Order by Consent with the U.S. Environmental Protection Agency to conduct a removal action at the site. Because the removal action was not satisfactorily completed, a Unilateral Administrative Order was issued to a smaller group of PRPs in February, 1988, requiring them to complete a second removal action.

In April, 1987, the FWS Bloomington, Indiana Field Office (BFO) received a request from the Office of Environmental Project Review to conduct a PNRS to determine whether any trust resources had been affected by the release of hazardous substances from WRR. Acting as a trustee for natural resources under CERCLA §107, BFO performed the PNRS and sent the Regional Environmental Officer the results in a letter dated March 1, 1988, along with a recommendation not to grant a release from claims for damages to natural resources.

In August, 1990, a memorandum from BFO to the Regional Environmental Officer, Department of Interior (DOI), Chicago, Illinois, discussed the trust resource impacts and replacement recommendations. The impacts to trust resources were identified primarily as degraded habitat quality and decreased food availability to migratory birds and possibly the Indiana bat. The original estimated natural resource damages claim was \$100,000. This amount was calculated based on a 4:1 wetland replacement ratio. However, after several negotiations, FWS agreed to a settlement amount of \$76,000. BFO recommended a replacement ratio of 3:1 for the northern wetland area and freshwater pond, and a 4:1 replacement for the Blue River migratory bird habitat. Based on these replacement ratios and estimating \$3,000/acre, the aforementioned amount was reached. DOI consequently authorized the Department of Justice to include a covenant not-to-sue in the settlement agreement.

In July, 1992, the U.S. District Court, Northern District of Indiana, entered a consent decree resolving the civil actions filed as consolidated case numbers F91-00247 and F91-00281, United States and State of Indiana v. Active Products, et al. in connection with the WRR site. This agreement required the defendants to pay a claim of \$76,000 to the Department of Interior for natural resource damages resulting from the release and/or threatened release of hazardous substances from WRR. In this agreement, 28 settling defendants agreed to pay most of the United States' past response costs and to implement EPA's selected remedy. In addition, another 160 "*de minimis*" defendants agreed to make payments to defray part of the cleanup costs. In return, all defendants were granted a release from natural resource damage claims.

Currently, a second settlement, which concerns *de minimis* PRPs, is being negotiated for the site. Under the proposed *de minimis* judicial consent decree, the PRPs will pay \$24,000, the difference between the original claim and the 1992 settlement amount. These settling defendants will receive the same covenant as did the settlers under the 1992 settlement.

To date, settlement funds totaling \$73,474.42 have been submitted by the responsible parties and deposited into the National Natural Resources Damage Assessment and Restoration (NRDAR) Fund. With these funds (and any future payments) the FWS will pursue restoration, rehabilitation, replacement and/or

acquisition of natural resources similar to those lost or injured.

### **Restoration Project Site**

Because direct restoration of site-impacted areas is not possible due to the presence of residual contamination, this project will occur in a geographically proximate and similar area with restorable habitat comparable to that impacted by WRR. The project will consist of protection, restoration, and enhancement of the selected site(s) and will occur in the vicinity of Whitley County, Indiana. The restoration site(s) will be protected and enhanced so that, over time, they will provide full analogous ecological function. This approach will benefit fish and wildlife by restoring habitats similar to those affected by WRR.

### **Restoration Process**

This project will involve the voluntary restoration of privately and/or publicly owned lands with perpetual easements offered to the landowner(s) or acquisition of areas that provide services equivalent to those lost at the WRR site. Restoration efforts will focus primarily on riparian and wetland habitats. Typically, previously drained wetlands are restored by either plugging drainage ditches or subsurface tiles. Both techniques have been proven successful and are acceptable means of restoration. Riparian restoration will be accomplished essentially through floodplain reforestation projects. Existing easements over suitable areas may be expanded. If lands are acquired, they will be deeded to the State and/or private land management entities with perpetual easements.

Specific potential properties have not yet been identified; however, numerous landowners have expressed interest in wetland restorations and/or easements in Indiana. Additionally, several landowners in the area have expressed interest in the Wetland Reserve Program. At the end of 1996, nearly 1,000 wetlands had been restored in Indiana by the FWS and partners utilizing several governmental programs. Therefore, final site selection should proceed quickly following project plan approval and funding.

Natural resource damage assessment restoration plans that result in a negligible change in the use of the affected areas have been included as categorical exclusions for National Environmental Policy Act (NEPA) compliance for actions implemented by the FWS (516 DM 6 Appendix 1). Additionally, restoration implementation will likely include those types of activities that are also considered categorical exclusions. The NEPA compliance has been documented in an Environmental Action Statement (attached).

Impacts on Cultural Resources - for any restoration alternatives considered, the potential for project activities to affect prehistoric and historic resources, Native American human remains and cultural objects will be determined early in project planning. To this end, the procedures in 36 CFR 800 implementing Section 106 of the National Historic Preservation Act, requirements of the Native American Graves Protection and Repatriation Act, and policies and standards specified in the Fish and Wildlife Service Manual 614 FW 1-5 will be achieved.

### **Project Coordination**

The BFO will be responsible for overall project coordination and support. BFO will administer project funds according to the proposed budget with appropriate cost documentation. In addition, the Indiana Department of Natural Resources (IDNR) and Department of Environmental Management (IDEM) will be invited to participate in the restoration implementation in accordance with a Memorandum of Understanding, signed August 3, 1993, to cooperatively conduct Natural Resource Damage Assessments.

BFO's Private Lands Program will be responsible for identifying potential project sites, landowner contacts, easement development, and any necessary wetland restoration procedures. Additionally, private organizations may assist in the acquisition of and deed restrictions for the proposed site(s).

### **Schedule and Budget**

This restoration will be implemented by DOI-FWS, in coordination with IDNR and IDEM, and could potentially be completed during FY 1997. A total of \$73,474.42 is available for restoration implementation. DOI-FWS funds will be distributed as follows:

\$71,474.42 - land acquisition(s), easement purchase(s), and/or instream and wetland habitat restorations;

\$2,000 - administrative costs by Bloomington, Indiana Field Office.

### **Final Report**

At the completion of the project, a final report documenting the restoration will be prepared. Pictures of the site(s), before and after restoration, and key documents (e.g., - lease agreements; deeds; the Environmental Action Memorandum) will be included.

### **Project Contact**

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UNITED STATES FISH & WILDLIFE SERVICE

ENVIRONMENTAL ACTION STATEMENT

Within the spirit and intent of the Council of Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and have determined that the action of (describe action):

X is a categorical exclusion as provided by 516 DM 6 Appendix 1 and 516 DM 6, Appendix 1. No further documentation will therefore be made.

\_\_\_\_\_ is found not to have significant environmental effects as determined by the attached Environmental Assessment and Finding of No Significant Impact.

\_\_\_\_\_ is found to have significant effects, and therefore further consideration of this action will require a notice of intent to be published in the Federal Register announcing the decision to prepare an EIS.

\_\_\_\_\_ is not approved because of unacceptable environmental damage, or violation of Fish and Wildlife Service mandates, policy, regulations, or procedures.

\_\_\_\_\_ is an emergency action within the context of 40 CFR 1506.11. Only those actions necessary to control the immediate impacts of the emergency will be taken. Other related actions remain subject to NEPA review.

Other supporting documents (list):

\_\_\_\_\_ Environmental Assessment and FONSI

\_\_\_\_\_ Public comments

David B. Heddell 3 April 1997 (1) Initiator Date Hill 6-9-97 (2) RHPO Date

Dora Mandel 6/9/97 (3) REC Date Jana Blawie JUN 11 1997 (4) ARD Date

Jana Blawie JUN 11 1997 (4) ARD Date