

Natural Resource Damages Assessment and Restoration

Nyanza Chemical Waste Dump Superfund Site, Massachusetts

Fact Sheet: Spring 2008



LOCATION OF INJURY	Ashland Massachusetts and Sudbury River
DATE OF INJURY	From 1917 to 1978 and on-going
DATE OF SETTLEMENT	1998 at \$3 million
NRD SETTLEMENT FUNDS AVAILABLE	\$3.9 million to be expended jointly by State and Federal Trustees for injuries to natural resources and \$237,000 to be expended by the Commonwealth for injuries to groundwater
RESPONSIBLE PARTY	PQ Corporation, Nyacol Products, Inc., and various landowners
NATURAL RESOURCE TRUSTEES	Massachusetts Executive Office of Energy and Environmental Affairs (EEA), National Oceanic and Atmospheric Administration (NOAA) and United States Fish and Wildlife Service (USFWS)
RELEASE OF HAZARDOUS SUBSTANCES	On-site disposal of mercury contaminated sludge, solid and liquid wastes and discharge of partially treated wastes into a tributary of the Sudbury River
INJURED RESOURCES	Groundwater, soil, sediment, surface water, wetlands, Sudbury River, fish, amphibians, reptiles, other aquatic organisms, birds and mammals
RESTORATION STATUS	Restoration Planning is underway. Section 111(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), commonly known as Superfund, requires natural resource Trustees to develop and adopt a Restoration Plan for the use of NRD funds following "adequate public notice and opportunity for hearing and consideration of all public comment."

The Problem

The Nyanza Chemical Waste Dump Superfund Site (Site) is a 35-acre parcel of land located in an industrial area of Ashland south of the Sudbury River. From 1917 to 1978, companies that operated on-Site produced textile dyes and intermediates and generated large volumes of industrial wastes that contaminated soil and sediments, groundwater and surface water, wetlands and the Sudbury River. The principal contaminant of concern is mercury; other contaminants are chromium, arsenic, lead, and organic compounds such as dichlorobenzene and chlorobenzene. Since 1987, the U.S. Environmental Protection Agency (EPA) has addressed remediation through initial cleanup actions and four long-term remedial phases focusing on source control and cleanup of the soil, off-Site groundwater, wetlands and drainageways, and the Sudbury River.

Injured Natural Resources

Of particular concern to the State and Federal Trustees and the basis for much of the natural resource damages (NRD) claim is the Site's impact to the Sudbury River. Mercury contamination of open water habitats as well as surface soils and exposed sediments downstream from the Site likely resulted in direct and indirect injuries to fish, amphibians, reptiles, other aquatic organisms, birds and mammals. Due to elevated levels of mercury in fish tissue, since 1986 the Massachusetts Department of Public Health has imposed a Freshwater Fish Consumption Advisory for the Sudbury River from Ashland to its confluence with the Assabet and Concord Rivers. EPA's 2007 Draft Baseline Ecological Risk Assessment also verifies that there are elevated levels of mercury in water and sediments downstream of the Site, as well as in some species of benthic invertebrates, fish, birds and mammals.

The Trustees

In 1998, the Secretary of EEA, Secretary of the Interior, and the Under Secretary for Oceans and Atmosphere of NOAA signed a Memorandum of Agreement (MOA) to act as natural resource Trustees for the Nyanza NRD settlement. Natural resource trustees are designated federal and state agencies that act on behalf of the public to assess natural resource injuries and identify and oversee projects to restore, replace, or acquire the equivalent of the injured natural resources and related service losses. Decisions regarding the use of NRD recoveries for restoration activities are made jointly based on unanimous consent by the Trustees. The MOA outlines a framework for the cooperative development and implementation of a Restoration Plan to restore, replace, and/or acquire the equivalent natural resources affected by the release of hazardous substances from or at the Nyanza Superfund Site. In addition, EPA and the Massachusetts Department of Environmental Protection were signatories to the MOA to ensure coordination between Trustees and the remedial agencies.

Restoration Planning

In conjunction with EPA formulating a remedy for the Sudbury River, the Trustees are initiating a process to identify, select and implement natural resource restoration projects for the River. The overarching goal of the Trustees is to use the NRD funds recovered from the Responsible Parties in order to restore the injured natural resources of the Sudbury River, including the adjacent wetlands and floodplains, and the species which are present or historically present, including fish, amphibians, reptiles, other aquatic organisms, birds and mammals. Additionally, Massachusetts seeks to restore injured groundwater resources. Preferred projects will restore, replace or enhance the values of the natural resources injured, or acquire the equivalent of similar resources or services injured.

The Public's Role

While EEA, USFWS and NOAA will coordinate and cooperate in the development and implementation of a Restoration Plan, EEA has been designated as the lead Administrative Trustee and will manage the restoration planning process. The Restoration Plan will document and guide future restoration actions and insure that decisions on restoration projects are made after consideration of all reasonable alternatives and public comment. Trustees will meet with citizens, community and environmental groups, local and regional officials, and state and federal agencies to explain the Restoration Planning process and identify restoration projects that address the natural resource injury and meet project selection criteria. The public will have a 90-day period at the outset of restoration planning to submit project ideas to the Trustees and a minimum 30-day period to review and comment on the Trustees' Draft Restoration Plan.



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Contacts

Trustee agencies act on behalf of the public to restore natural resources injured by releases of oil or hazardous substances. To learn more, contact the following Trustee representatives:

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