

June 2012

# Fernald Natural Resource Trustees 2011 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.



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

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 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 calendar year 2011:

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 project officially launched in December 2010 with a public meeting to introduce the project and the partners. In April 2011, a public meeting was held to discuss the eligibility criteria and application process. The initial application period was held for two weeks in August 2011. During the August application period, the agency received 14 applications for protection of more than 1000 acres. Trustees along with Three Valley Conservation Trust (TVCT) made visits to each of the applicant properties in late 2011. Trustee Resolution 14 authorized the initiation of appraisals on the applicant properties in October 2011. 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 the Hesselbrock family farms 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 a United States Department of Agriculture program. Trustee Resolutions 7 and 12 address the pilot project. In late 2011, appraisal work was initiated on the farms, covering more than 850 acres.
3. Enhancement Projects –

**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. Initial herbicide applications were made in late 2011. Restoration work is scheduled for spring 2012.

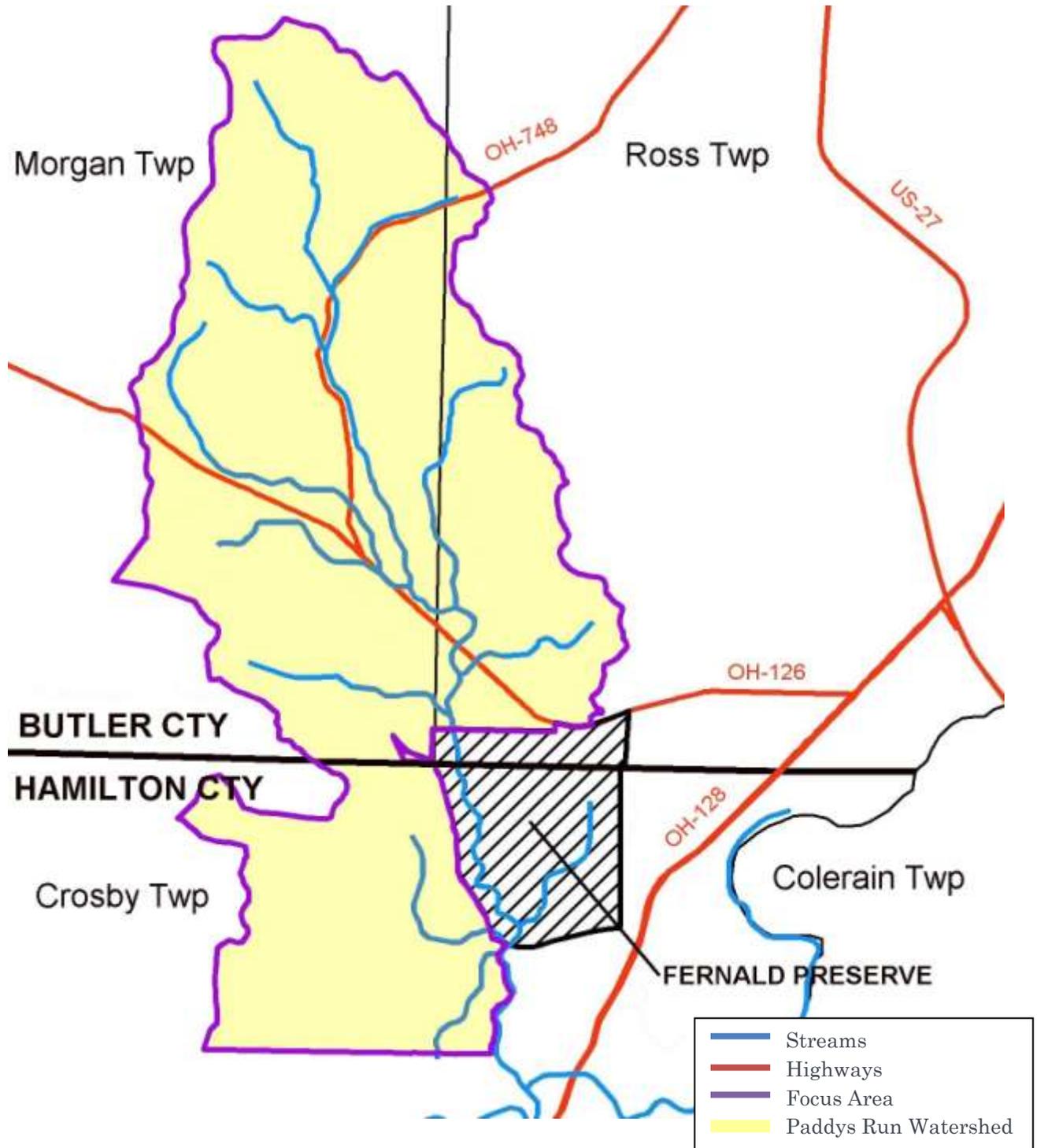
**Paddys Run Tributary Habitat Enhancement:** Plans were finalized for this habitat enhancement that will create a quarter acre of vernal pools with adjacent forest on a seven acre project area at the Fernald Preserve along Paddys Run Road. The goal is to transform a soggy area with prairie grasses into a wetland that would become a breeding habitat for nearby ambystomid salamanders. With the signing of Trustee Resolution 13, the April, 2011 Conceptual Design was approved in July, 2011. Field activities in 2011 include mowing, raking, and baling. An archeological field survey was conducted in December 2011 to comply with Section 106 of the National Historic Preservation Act. No eligible sites were found.



***To the west of Paddys Run and the Fernald Preserve are two areas planned for habitat enhancement.***

# PADDYS RUN CONSERVATION PROJECT

## FOCUS AREA



## RESOLUTIONS

The Trustees have passed 14 resolutions. Resolutions 9 through 14 were finalized during calendar year 2011. Detailed Resolutions can be found in the Trustees section of our web page:  
[www.epa.ohio.gov/SWDO/PaddysRunConservation.aspx](http://www.epa.ohio.gov/SWDO/PaddysRunConservation.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



## 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.

2011 Fiscal Summary	Expenditures	Income	Balance
<b>1/1/2011 – Remaining funds from 2010</b>			\$13,390,725.19
<b>Contractual Costs (TVCT)</b>	(\$79,244.00)		\$13,311,481.19
<b>Printing Costs (brochure)</b>	(\$115.23)		\$13,311,365.96
<b>12/31/2011 – Interest Earned in NRD Account</b>		\$36,249.04	\$13,347,615.00
<b>12/31/2011 - BALANCE</b>			<b><u>\$13,347,615</u></b>

During 2011, costs primarily consisted of payment to Three Valley Conservation Trust for support provided in work on the pilot project and the application period for the Paddys Run Conservation Project. 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. Printing costs paid in 2011 were for the publication of a brochure that was developed to support the Paddys Run Conservation Project.

## 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. 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 and to submit formal comments. 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 November 2010, a Paddys Run



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

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. On December 6, 2010, a public meeting was held to introduce the Paddys Run Conservation Project and its partners, the Fernald Trustees and Three Valley Conservation Trust.

On April 13, 2011 a public meeting was held at the Fernald Preserve to tell local landowners how to apply for a conservation easement. The Paddys Run Conservation Project would provide funding to purchase development rights via conservation/agriculture easements from willing landowners to protect the Paddy's Run watershed and the buried valley aquifer. The easements would keep land in private hands while protecting working farms and the environment. 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. A follow-up letter was mailed on May 3, 2011 to 53 local landowners who may not have known about the April public meeting and August application period.

Interested landowners submitted easement applications to Ohio EPA from August 8 – 26, 2011. Following this initial application period, additional applicants were received and retained for future consideration.

Ohio EPA maintained 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.

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