

Overview of Natural Resource Damage Assessment and Restoration and the Tar Creek Restoration Plan

by

Suzanne Dunn – U.S. Fish and Wildlife Service

and

Larry Tippit – Peoria Tribe of Indians of Oklahoma

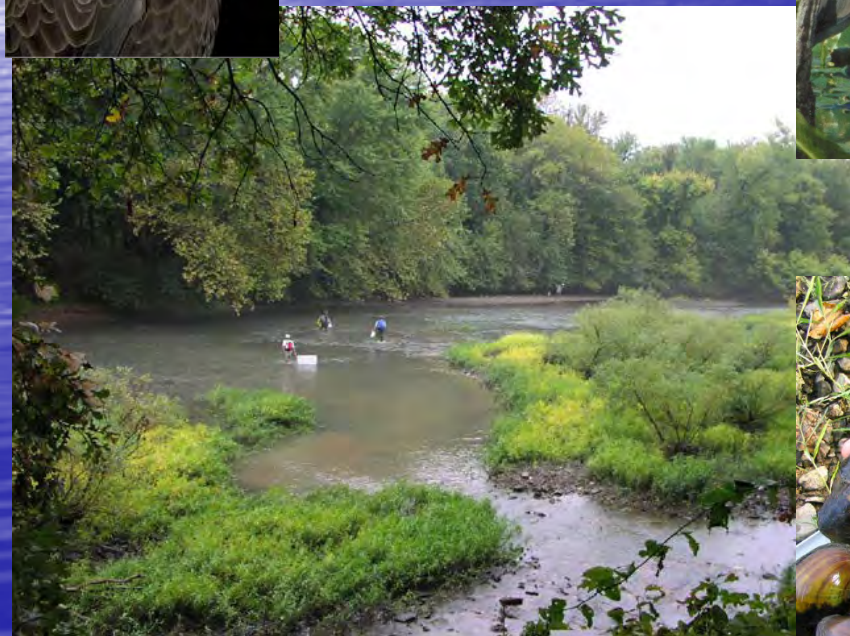
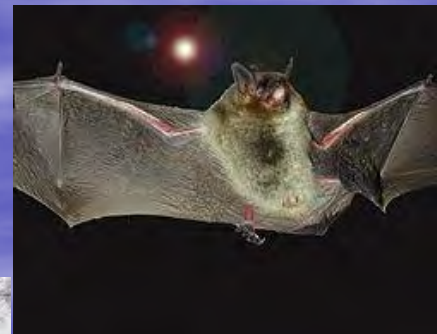
Natural Resource Damage Assessment and Restoration

NRDAR

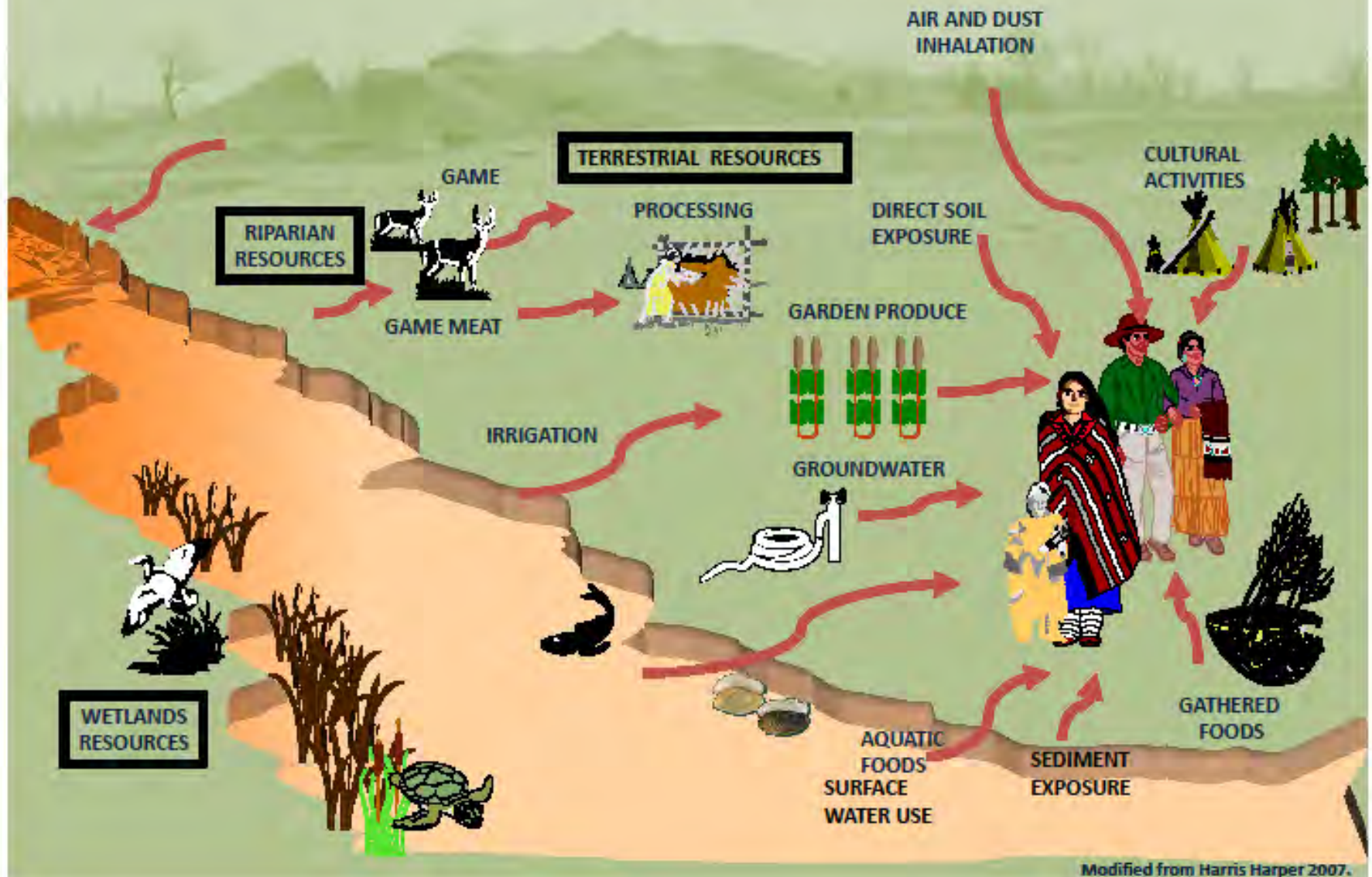
- NRDAR is the process used to determine whether natural resources have been injured, destroyed, or lost as a result of a release of hazardous substances or oil and to identify actions/funds needed to restore such resources.
- NRDAR is authorized by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), Oil Pollution Act of 1990 (OPA) and the Clean Water Act (CWA).

What are "Natural Resources"?

- Natural Resources definition in NRDAR:
 - land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources managed by or otherwise controlled by the United States, any state or local government, any foreign government, or any Indian Tribe.



TRIBAL EXPOSURE PATHWAYS



NRDAR Trustees

- Definition: Congress authorizes states, tribes, and federal resource management agencies to act on behalf of the public as “trustee” for the purpose of bringing a claim to recover damages necessary to restore or replace injured public resources managed or controlled by the respective states, tribes, or federal agency.

Remediation vs Restoration

- In the context of CERCLA/CWA/OPA
 - Remediation = clean up from discharge
 - e.g. removing the oil from a river after a spill
 - Restoration = making up for what was lost
 - e.g. stocking endangered fish that were killed from an oil spill

Examples of Discharges

- Mine discharges
- Oil and hazardous substance spills
- Illegal dumping of hazardous substances
- Unpermitted releases from:
 - Waste water treatment facilities
 - Confined animal operations
 - Industrial discharges

NRDAR Process - Overview

- Pre-Assessment
 - Trustee Coordination, determination to proceed etc
- Assessment
 - Injury determination/Injury quantification
- Litigation/Settlement
- **Restoration Planning**
 - Trustees propose projects and receive public input/response
- Restoration Implementation

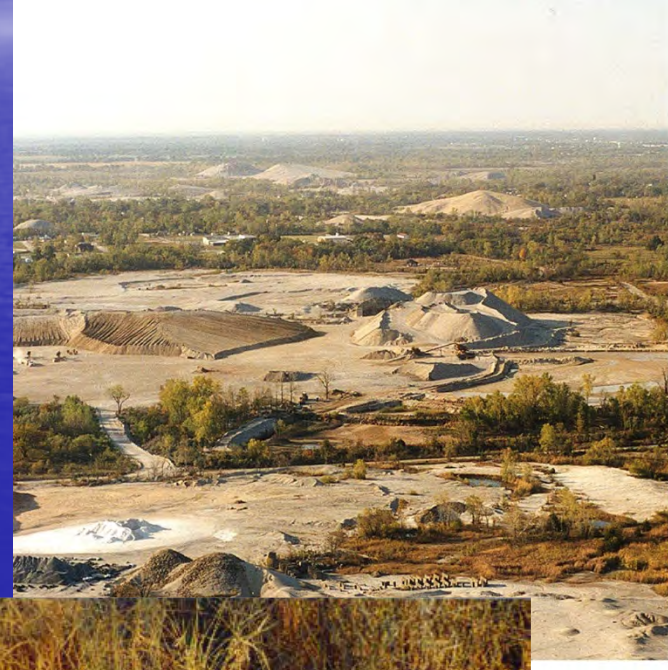
Restoration Planning and Implementation

- After a settlement is reached with the responsible party, a Restoration Plan is written.
- These plans specify the necessary projects needed restore the injured resources and services.
- These projects can be completed on the lands where the injury occurred or, or at an alternate site that, when restored, provides a suitable replacement for the injured or lost resources.

NRDAR Summary

- NRDAR is a process to compensate for the loss of natural resources due to a release of oil or hazardous substances.
- For more information on the DOI NRDAR program go to:
<http://www.doi.gov/restoration/index.cfm>

Tar Creek – Brief history



Tar Creek Trustee Council (TCTC)

- Cherokee Nation
- Department of Interior (FWS and BIA)
- Eastern Shawnee Tribe of Oklahoma
- Miami Tribe of Oklahoma
- Ottawa Tribe of Oklahoma
- Peoria Tribe of Indians of Oklahoma
- Seneca - Cayuga Nation
- State of Oklahoma (ODEQ and ODWC)
- Wyandotte Nation

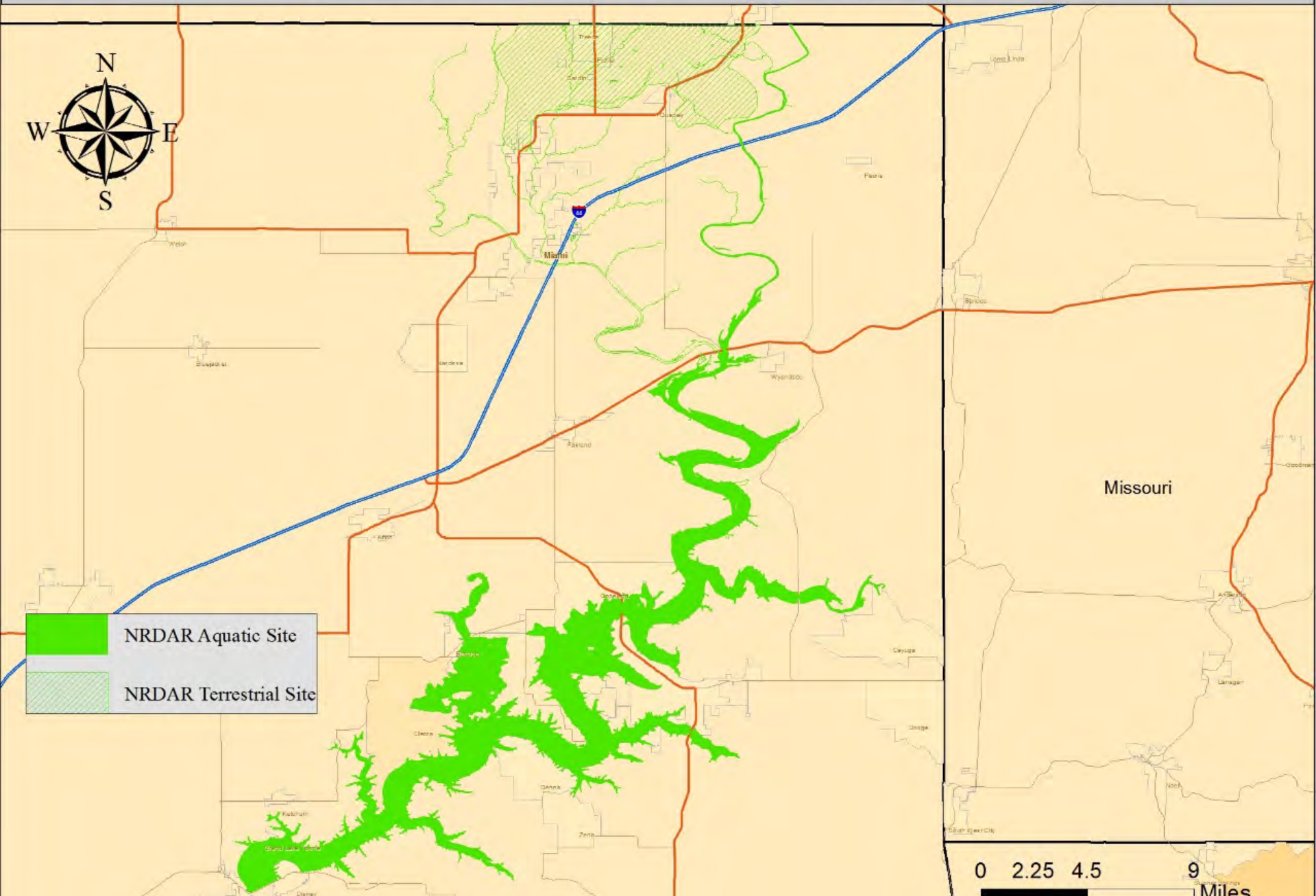
Tar Creek NRDAR case history

- TCTC established - 2002
- Pre – Assessment complete - 2005
- Assessment - On-going
- Settlements/Bankruptcies
 - Eagle Picher - 1995
 - ASARCO - 2007
 - Peabody/Goldfields – 2017
- Restoration Plan
 - Programmatic Restoration Plan and Environmental Assessment (RP/EA) - 2017

Tar Creek Restoration Plan and Environmental Assessment (RP/EA)

- Gives TCTC flexibility to implement projects on site and off site
 - EPA clean up schedule
 - Similar resources near injured area
- Umbrella document that sets up a process for evaluating potential projects
- Identifies examples of restoration project

Northeastern Oklahoma Mining NRDAR Site



Tar Creek Programmatic RP/EA

- Habitat improvements
 - Native prairie restoration
 - Stream bank stabilization
- Resources replacement
 - Replace species that were injured (e.g. mussel stocking)
- Land acquisition/Land protection
- Public education
 - Protection of Trust Resources

Restoration Project Selection Process

Q - Who can submit Projects?

A - Individuals, groups, and/or agencies.

Q - What types of Projects will be considered?

A - See Restoration Evaluation Criteria (Appendix A) and Examples of Restoration Projects (Appendix B).

Q - How to submit a Project?

A - Submit Project Packages to a Trustee Council member (Appendix A pg 58), they decide to sponsor the project and submit it to TCTC for evaluation.

Restoration Evaluation Criteria

- Basic Acceptability Criteria:
 - Addresses injured natural resources and services
 - Compliance with applicable/relevant laws, policies, and regulations
 - Technically feasible
 - Cost Effective
 - Cost Benefit

Restoration Evaluation Criteria cont.

- Natural Resource and Services Criteria:
 - Identification of specific injured resources or services the project will benefit
 - Proximity of project to injured resources or services
 - Identification of benefits of project to injured resources or services
 - Equity and Environmental Justice
 - Cost Effectiveness and established technologies
 - Monitoring plans
 - Identify any adverse impacts from project

Restoration Evaluation Criteria cont.

- Implementation Criteria:
 - Timing of restoration
 - Land manager (if applicable)
 - Accessibility
 - Matching funds
 - Provides benefits not provided by other projects/programs
 - Implementation proficiency of restoration projects

Restoration Next Steps

- Restoration Project Packages
 - Announcement in local papers and on TCTC member websites
- Selected projects will go through NEPA analysis before implementation
- Project completion reports will be available to public

Summary

- For complete Tar Creek Programmatic RP/EA
 - <https://www.fws.gov/southwest/es/oklahoma/nrdar.htm>
- For additional questions on this presentation:
 - Suzanne Dunn (918) 382-4521 or suzanne_dunn@fws.gov
 - Larry Tippit (918) 540-2535 or ltippit@peoriatribe.com