

Natural Resource Damages

EM Research Questions

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1. **Exceptions to Liability:** Are there any exceptions to a responsible party's liability for injury to natural resources?
2. **Private Parties:** Can private persons bring a claim for injuries to natural resources under CERCLA?
3. **Private Property:** Can trustees recover damages for injuries to privately owned natural resources?
4. **Citizen Suits:** Can private citizens sue to enforce CERCLA's trust responsibilities?
5. **Groundwater:** Is groundwater a public resource subject to trustee action under CERCLA?
6. **Scope of Trust:** What is the scope of resources for which any given state or tribal trustee may bring an NRD claim under CERCLA?
7. **Multiple Trustee Involvement at DOE Sites:** May individual trustees participate in deliberations and decisions regarding issues and resources that are outside their specific trust responsibilities?
8. **Use of Recovered Damages:** For what purposes may a trustee use damages recovered for injury to natural resources?
9. **DOI's NRDA Regulations:** What is the effect of following or not following the Department of the Interior's natural-resource-damage-assessment regulations?
10. **NRDA Procedures:** What procedures should EM sites follow when performing a Natural Resource Damages Assessment (NRDA)?
11. **DOE's Dual Role as Responsible Party and Natural Resource Trustee:** What are DOE's responsibilities as a natural-resource trustee at sites where it is also a responsible party?
12. **Process and Timing:** What is the process for implementing DOE's trustee responsibilities and when should implementation begin?
13. **DOE Funding:** To what extent and under what conditions may EM sites fund the trust-related activities of its co-trustees?

14. **Settlement Enforcement:** What is the mechanism for enforcing a settlement of natural-resource-damage claims when the settlement occurs outside of litigation?
15. **Natural Resource Enhancement Credits:** Is DOE entitled to credit where its administration of a particular site has actually enhanced rather than injured some of the natural resources on the site?
16. **Drinking Water Standards:** Is ground or surface water contamination that is below applicable drinking water standards “injured” for purposes of CERCLA’s natural-resource-damages provisions?
17. **Trustee Interaction Models:** In what form should DOE’s coordination and cooperation with co-trustees take place (e.g., trustee councils, Biological Technical Assistance Groups, etc.)?