

# **BUDGET** The United States Department of the Interior **JUSTIFICATIONS**

and Performance Information  
Fiscal Year 2011

## **NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION PROGRAM**

NOTICE: These budget justifications are prepared for the Interior, Environment and Related Agencies Appropriations Subcommittees. Approval for release of the justifications prior to their printing in the public record of the Subcommittee hearings may be obtained through the Office of Budget of the Department of the Interior.



# DEPARTMENT OF THE INTERIOR



## Restoration Program

Assessment & Restoration Program

### Fiscal Year 2011 Budget Justifications

#### TABLE OF CONTENTS

##### Appropriation: Natural Resource Damage Assessment and Restoration

<b>Summary of Request</b>	<b>Page</b>
General Statement.....	1
Program Performance Summary .....	5
Goal Performance Table.....	8
Summary of Requirements Table.....	10
Fixed Costs and Related Changes.....	11
Appropriations Language.....	13
 <b>Program Activities</b>	
Damage Assessments Activity.....	15
Assessments and Restorations Site Map.....	18-19
Restoration Support Activity.....	21
Program Management Activity.....	28
 <b>Exhibits and Schedules</b> .....	 33



# NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION PROGRAM

## **GENERAL STATEMENT**

### **FY 2011 Budget Request:**

The Restoration Program's total Fiscal Year 2011 request for current appropriations is \$6,434,000, a decrease of \$28,000 below the 2010 enacted level. The decrease is the net result of fully funding fixed cost increases of \$91,000, and proposing savings of \$119,000 resulting from implementation of SAVE Award proposals in three areas: travel, information technology, and strategic sourcing.

Additionally, the request also includes an estimated \$53.0 million in permanent funds for DOI bureaus and its Federal, State, and tribal co-trustees, which result from negotiated legal settlement agreements and cooperative damage assessments with responsible parties.

### **Executive Summary**

The mission of the Natural Resource Damage Assessment and Restoration Program (Restoration Program) is to restore natural resources injured as a result of oil spills or hazardous substance releases into the environment. In partnership with other affected State, Tribal, and Federal trustee agencies, damage assessments provide the basis for determining the restoration needs that address the public's loss and use of these resources. Cooperation with its co-trustees and partners, and where possible, with the responsible parties, is an important component of meeting the Restoration Program's core mission.

As authorized by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund), the Clean Water Act (CWA), and the Oil Pollution Act of 1990 (OPA), injuries to natural resources that the Department of the Interior manages or controls are assessed, and appropriate restoration projects are identified in contemplation of negotiated settlements or in rare cases, litigation with potentially responsible parties. Recoveries, in cash or in-kind services, from the potentially responsible parties are then used to finance or implement the restoration of the injured resources, pursuant to a publicly reviewed restoration plan.

The Restoration Program Office manages the confluence of the technical, ecological, biological, legal, and economic disciplines and coordinates the efforts of six bureaus and three offices to accomplish this mission. The Program has a nationwide presence encompassing nearly the full span of natural and cultural resources for which the Secretary of the Interior has trust responsibility. Each bureau has its unique natural resource trusteeship and brings its expertise to bear on relevant sites. The Restoration Program is a truly integrated Departmental program, drawing upon the interdisciplinary strengths of its various bureaus and offices.



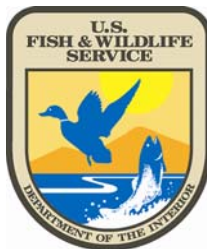
The **Bureau of Indian Affairs** administers and manages over 55 million acres of land held in trust by the United States for American Indians, Indian Tribes, and Alaska Natives and provides assistance to 564 federally recognized tribal governments to help protect water, natural resources and land rights.



The **Bureau of Land Management** administers 253 million acres of land, located primarily in 12 western states, sustaining the health, diversity, and productivity of these public lands for the use and enjoyment of present and future generations.



Working primarily in the western United States, the **Bureau of Reclamation** manages 457 dams and its 348 reservoirs associated with reclamation projects to protect local economies, and to preserve natural resources and ecosystems through the management and effective use of water resources.



The **U.S. Fish & Wildlife Service** conserves, protects and enhances fish, wildlife, and plants and their habitats and manages over 96 million acres of land and almost 50 million acres of water within 551 units of the National Wildlife Refuge System for the continuing benefit of the American people, providing primary trusteeship for migratory birds and threatened and endangered species.



The **National Park Service** preserves, unimpaired, the natural and cultural resources and values of the 84 million acre national park system and conserves the scenery and the natural and historic objects and the wildlife of the park system for the enjoyment, education, and inspiration of current and future generations.

In addition to the five bureaus with primary trust resource management activities, the U.S. Geological Survey (USGS), the Office of the Secretary, and the Office of the Solicitor play key roles in making the Restoration Program a fully integrated Departmental program. The Office of the Solicitor provides legal advice, USGS provides technical scientific support, and the Office of Policy Analysis provides economic analytical expertise to the Program at both national policy and individual case management levels. The Office of Environmental Policy and Compliance provides a link to response and remedial activities associated with oil or chemical releases.

The Department, through its bureaus, conducts every damage assessment and restoration case in partnership with co-trustees, and all restoration plans must undergo public review and be approved by affected State and Tribal governments. The Restoration Program serves as a model of collaboration in its day-to-day operations and partnerships that have been developed with Tribal, State, and other Federal co-trustees, as well as with non-governmental conservation organizations and industry.

In 2009, the President established the SAVE Award program, to challenge Federal employees across the government to submit their ideas for efficiencies and savings as part of the annual budget process. The goal of the SAVE Award is to produce ideas that will yield savings and improve government operations. The Department of the Interior received thousands of submissions on a variety of topics during the SAVE Award process which are being reviewed by the Bureaus. The FY 2011 budget assumes \$62 million in savings departmentwide from implementing SAVE Award proposals in three areas: travel, information technology, and strategic sourcing, which are described below.

- **Travel Reduction** – The DOI Restoration Program is participating in a departmentwide effort to reduce travel and relocation expenditures through adoption of new technologies and efficiency improvements. Bureaus are implementing new teleconferencing, videoconferencing, shared Web sites, and other technologies that will enable real-time communications and shared access to documents that will enable more meetings to be conducted remotely and electronically. The proposed reduction also includes a decrease in funding for permanent change of station expenses, in response to an Office of Inspector General finding that suggests a need for greater control over management of these costs. The overall travel reduction would decrease the Department's spending on travel and relocation to a level commensurate with actual 2008 travel and relocation expenditures. The DOI Restoration Program's share of this reduction is \$9,000.

- **IT Reduction** – The DOI Office of the Secretary Chief Information Officer has been working collaboratively with the other Interior CIOs on an approach to achieve improved effectiveness and efficiencies in information technology. It is likely that the identified The Department anticipates savings will result from the Department-wide implementation of a common e-mail system and the consolidation of servers, data centers, and help desks. Although this is a multi-year effort, it is feasible to expect \$20 million in savings in 2011, of which, the DOI Restoration Program's share is \$3,000. Secretary Salazar is committed to information technology reforms that will improve the effectiveness and efficiency of operations within the Department including a common email system. Detailed planning information exists from earlier efforts to deploy a common email system that provide a foundation for an accelerated effort, beginning in the current fiscal year. The Department has conducted inventories and evaluations of servers, data centers, and help desks. All of the information indicates significant potential savings from the consolidation and reduction of this infrastructure. The Department will be working throughout FY 2010 to develop plans, begin deployments, and implement changes so as to realize savings beginning in 2011.

- **Acquisition Reduction** – The DOI Office of the Secretary has been working collaboratively with other acquisition offices across the Department to prepare an Acquisition Improvement Plan. Although OMB's proposed acquisition savings program allows agencies to redirect

savings to other mission objectives, Interior is proposing a reduction of \$30 million in real savings to help offset other program priorities in the budget request, of which, the DOI Restoration Program's share is \$107,000. One option for achieving this savings is the expanded use of strategic sourcing. Currently, strategic sourcing is used for enterprise acquisitions for software and hardware. Expansion of strategic sourcing to other types of acquisitions has the potential to achieve additional savings for the bureaus and offices in Interior. The Office of Acquisition and Property Management, working with a team of bureau representatives, has developed a set of options for strategic sourcing, including: telecommunications, relocations, copiers/printers, heavy equipment, recycled paper, shuttle services, furniture, wireless communications, and training. Currently, participation by the bureaus is optional. The Department has a track record with successful strategic sourcing and plans to expand its use based on the advice and guidance from the Strategic Sourcing Executive Council. During 2010, DOI would develop its plans and begin to implement expanded strategic sourcing to realize the targeted savings in 2011. To achieve this level of savings, all of the bureaus would be required to participate. The leadership in the Department is committed to participation in this initiative. The savings realized from this initiative would be included in the Department's Acquisition Improvement Plan.

## **Total 2011 Budget Request**

*(Dollars in Thousands)*

Budget Authority	2009 Actual	2010 Enacted	2011 President's Budget	2011 Request Change from 2010	
				Amount	Percent
Discretionary	6,338	6,462	6,434	-28	0%
Mandatory	40,208	185,000	52,000	-133,000	-72%
<b>TOTAL</b>	<b>46,546</b>	<b>191,462</b>	<b>58,434</b>	<b>-133,028</b>	<b>-69%</b>
<i>FTE</i>	7	9	9	-	-

## **Performance Summary**

All activities within the Restoration Program (damage assessment, restoration support and program management) support resource restoration either directly or as necessary steps on the road to restoration of injured natural resources under the trusteeship of the Department of the Interior. These restoration activities contribute towards the Secretary's Treasured Landscapes initiative. Such activities are as varied as partnerships to acquire high-value habitats; improved stewardship of Federal, State and tribal lands; and landscape-level conservation in key ecosystems.

In accordance with the Government Performance and Results Act of 1993 and with OMB policy and direction, the DOI Strategic Plan is currently undergoing the required triennial review and update. The Department is reviewing the organization and construct of the Strategic Plan in light of the Administration's priorities, goals, and objectives. Although the majority of end outcome goals and measures, intermediate measures, and other measures are expected to remain intact, the organizing principles for those goals and measures may change during this review. Therefore, this budget request does not directly reference the existing DOI Strategic Plan mission areas, but does continue to report on performance goals and accomplishments associated with the current slate of end outcome goals and related performance measures.

## **2011 Program Performance**

In 2011, the Program will continue to develop and implement guidance and regulations that directly address process improvements recommended over the past several years by field practitioners, co-trustees, and key stakeholders. The program will also continue to sponsor a series of technical workshops to gather the most up to date information needed for guidance development. These improvements address four major policy areas: injury quantification, damage determination, analysis of restoration alternatives, and restoration implementation. Once implemented, the recommendations will lead to improved processes and tools to achieve long-

term restoration goals that support the Department's mission and overall goal to protect the nation's natural, cultural, and recreational resources.

The program will continue to focus its activities in support of trust resource restoration. Fiscal Year 2011 planned performance targets include the restoration of 14,200 acres and 144 stream or shoreline miles, increases of 800 acres (+6%) and 8 stream / shoreline miles (+6%), respectively over FY 2010 strategic plan goals. Attainment of these goals will be accomplished by DOI and its co-trustees through the use of funds or in-kind services received in settlement of damage claims with responsible parties. A secondary, less formal performance indicator used by the Program is monitoring the amount of funds disbursed from the Restoration Fund to DOI bureaus and co-trustees to implement on-the-ground restoration projects. In the previous four years (2007 – 2009), the Restoration Program released over \$124 million to trustee agencies. This amount is greater than the total released in the previous fourteen years (1992 – 2005).

Restoration program performance measures and accomplishments in all three activities (Damage Assessment, Restoration Support, and Program Management) are singularly focused on one goal, the increased restoration of acres and stream / shoreline miles. Such restoration creates or protects habitat for injured biological communities to recuperate, thrive and flourish. Program accomplishments at the activity level are but a step leading to the implementation of restoration actions. Within the Damage Assessment activity, data is collected annually on all Departmentally-funded cases, which enables the Program to monitor the progress of cases through the assessment process to settlement, using measures such as number of cases reaching various milestones, numbers of cooperative assessments with industry, and number of cases settled. Through the restoration science initiative begun in 2006, the Program is working with the USGS to develop protocols and metrics to better measure the ecological outcomes of restoration activities.

The Restoration Program's performance goals reflect continued progress funded with monies and in-kind actions recovered in settlement from responsible parties, and not appropriated funds. Appropriated funds are used to administer the program and provide technical support. There is roughly \$415 million in settlement funds for restoration activities currently in the DOI Restoration Fund that will allow the program to continue moving forward towards its long term restoration goals.

Restoration accomplishments in acres and stream/shoreline miles restored can fluctuate from year-to-year, the result of a complex process in which numerous trustee councils across the nation are moving forward in identifying specific opportunities for restoration consistent with approved restoration plans, but which generally cannot be scheduled or readily anticipated on a site-specific basis. The year-to-year variability in performance shown on the following table reflects the pace of restoration which is greatly influenced by factors outside the Department's control, such as finding cooperative landowners or willing sellers.

There are a number of efforts currently underway or that will be accomplished in 2011 that will help the Restoration Program meet its performance goals for 2011. Overall, continued program maturity and a focus on achieving restoration will provide the impetus for case teams in getting restoration projects underway. In addition, products and services such as contracting, restoration planning, engineering support and a partnership/matching funds clearinghouse will be provided

by the Restoration Support Unit, giving case teams an expanding set of tools for restoration implementation. The continued growth in cooperative assessments is expected to continue, thus minimizing the chance of adversarial confrontations with responsible parties, and thus allowing case teams to move more quickly to settlement and restoration. In the longer term, the recently begun implementation of regulatory, policy and operational improvements arising from practitioner, co-trustee, and stakeholder recommendations will lead to better, more efficient damage assessments, which will lead to quicker and more effective restorations, positioning the Restoration Program to achieve its long-term strategic plan goals.

Cost information in the context of performance measurement is of limited value within the Restoration Program, due to the wide variability of possible restoration solutions that might be implemented. Every restoration implemented is unique, from the resource injury being addressed, to the ecological, biological, and engineering aspects involved, and the number and roles of other involved co-trustees, partners, and responsible parties. The wide range of possible but generally not comparable restoration actions is best exemplified in the restoration success stories found in the Restoration Support section beginning on page 23.

The bureaus will continue to collect, validate, and verify the performance data before reporting to the Program. In addition, the Program Office will continue to track internally the progress of cases from start to finish using measures such as increased numbers of restoration plans drafted, finalized, and in stages of implementation; increased numbers of restorations completed; increased numbers of cooperative assessments with industry; and increased funding leveraged from restoration partnerships.

<b>Goal Performance Table</b>
<b>Target Codes:</b>
<b>Type Codes:</b>

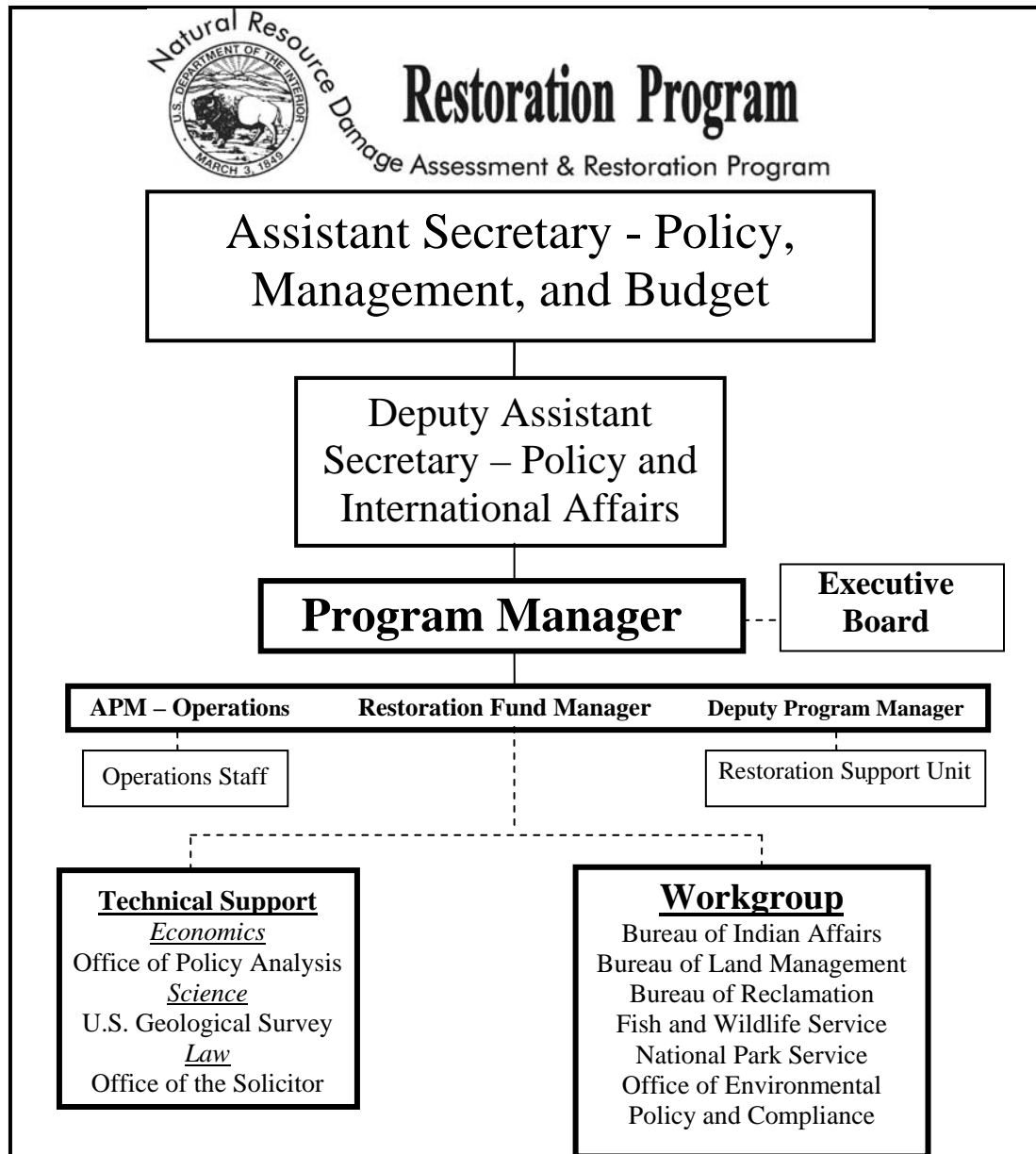
SP = Strategic Plan measures		PART = PART Measure
		UNK = Prior year data unavailable
TBD = Targets have not yet been developed		BUR = Bureau specific measure
NA = Long-term targets are inappropriate to determine at this time		
C = Cumulative Measure	A = Annual Measure	F = Future Measure

### End Outcome Goal 1.2 Resource Protection: Sustain Biological Communities

End Outcome Goal End Outcome Measure / Intermediate or PART Measure / PART Efficiency or other Outcome Measure	Type	2006 Actual	2007 Actual	2008 Actual	2009 Plan	2009 Actual	2010 Plan	2011 President's Budget	Change from 2010 Plan to 2011	Long-term Target 2012
<b>End Outcome Measures</b>										
<b>Restoration: Number of acres restored or enhanced to achieve habitat conditions to support species conservation:</b>	<b>A</b>	<b>13,403</b>	<b>15,462</b>	<b>24,914</b>	<b>12,600</b>	<b>41,183</b>	<b>13,400</b>	<b>14,200</b>	<b>+800 (+6%)</b>	<b>15,000</b>
Comments:		Note: Year to year variability is to be expected based on the variability of timing and settlement amounts								
△ Contributing Programs:		NRDAR, FWS Environmental Contaminants, NPS Environmental Quality, BIA, BLM, BOR, other Federal, State, and Tribal co-trustees.								
<b>End Outcome Measures</b>										
<b>Restoration: Number of stream or shoreline miles restored or enhanced to achieve habitat conditions to support species conservation:</b>	<b>A</b>	<b>42</b>	<b>171</b>	<b>391</b>	<b>128</b>	<b>186</b>	<b>136</b>	<b>144</b>	<b>+8 (+6%)</b>	<b>150</b>
Comments:		Note: Year to year variability is to be expected based on the variability of timing and settlement amounts.								
△ Contributing Programs:		NRDAR, FWS Environmental Contaminants, NPS Environmental Quality, BIA, BLM, BOR, other Federal, State, and Tribal co-trustees.								

**Note:** The actual and planned acres and miles presented in this table are included among the performance results and targets presented in the Performance Budgets of the bureaus. As such, in order to avoid double-counting, these acres and miles are not included in the Department's aggregate results calculations or performance projections.

The DOI Office of Natural Resource Restoration administers the Restoration Program, and consists of nine direct FTE. They are the Program Manager and eight staff: the Deputy Program Manager for Restoration (formerly Assistant Program Manager for Restoration), the Assistant Program Manager for Operations, and the Budget Officer/Restoration Fund Manager, located in its Washington, DC headquarters; three staff Restoration Support specialists located in Denver, Colorado; and operations staff in Oakland, California and Philadelphia, Pennsylvania. The following organization chart goes beyond the small number of people in the Program Management Office and reflects the integrated management structure of the Program as a whole, with the inter-related components of six bureaus, the Office of the Solicitor, and two offices within the Office of the Secretary.



The Restoration Program reports to the Deputy Assistant Secretary – Policy and International Affairs, under the Assistant Secretary - Policy, Management, and Budget (AS-PMB). There is also a “Restoration Executive Board” representative at the assistant director level for BIA, BLM, BOR, FWS and NPS; a Deputy Associate Solicitor, and the Director of the Office of Environmental Policy and Compliance. The Restoration Executive Board is responsible for overseeing policy direction and approving allocation of resources.

**Summary of Requirements Table**  
(Dollars in Thousands)

**Appropriation: Natural Resource Damage Assessment and Restoration Fund**

<b>Comparison by Activity / Subactivity</b>												
<b>Activity</b>	2009 Actual		2010 Enacted		Fixed Costs & Related Changes (+/-)		Program Changes (+/-)		2011 Budget Request		Inc. (+) Dec. (-) from 2010	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>APPROPRIATED FUNDS</b>												
Damage Assessments	0	3,979	0	4,022	0	-142	0	0	0	3,880	0	-142
Restoration Support	3	604	3	615	0	+6	0	0	3	621	0	+6
Program Management	6	1,755	6	1,825	0	+108	0	0	6	1,933	0	+108
<b>Total, Appropriation</b>	<b>9</b>	<b>6,338</b>	<b>9</b>	<b>6,462</b>	<b>0</b>	<b>-28</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>6,434</b>	<b>0</b>	<b>-28</b>
<b>PERMANENT FUNDS (RECEIPTS)</b>												
Damage Assessments		8,100		8,500		0		0		8,500	0	0
Restoration Support												
[Prince William Sound Restoration]		2,815		4,000		0		0		4,000	0	0
[Other Restoration]		28,462		175,000		0		-133,000		42,000	0	-133,000
Program Management		253		500		0		0		500	0	0
<b>Subtotal, Gross Receipts</b>	<b>0</b>	<b>39,630</b>	<b>0</b>	<b>188,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>-133,000</b>	<b>0</b>	<b>55,000</b>	<b>0</b>	<b>-133,000</b>
<b>Transfers Out</b>		<b>-1,194</b>		<b>-3,000</b>		<b>0</b>		<b>0</b>		<b>-3,000</b>		<b>0</b>
<b>Total, Net Receipts</b>		<b>38,436</b>		<b>185,000</b>		<b>0</b>		<b>-133,000</b>		<b>52,000</b>		<b>-133,000</b>

Justification of Fixed Costs and Related Changes:  
Natural Resource Damage Assessment and Restoration Program

	2010 Budget	2010 Revised	2011 Fixed Costs and Related Changes
<b><u>Additional Operational Costs from 2010 and 2011 January Pay Raises</u></b>			
<b>1. 2010 Pay Raise, 3 Quarters in 2009 Budget</b> <i>Amount of pay raise absorbed</i>	+\$88 [\$0]	+\$88 [\$30]	NA NA
<b>2. 2010 Pay Raise, 1 Quarter (Enacted 2.0%)</b> <i>Amount of pay raise absorbed</i>	NA	NA	+\$20 [\$0]
<b>3. 2011 Pay Raise (Assumed 1.4%)</b>	NA	NA	+\$41
<p>These adjustments are for an additional amount needed to fund estimated pay raises for Federal employees.</p> <p>Line 1. 2010 Revised column is an update of 2010 budget estimates based upon an enacted 2.0% increase</p> <p>Line 2 is the amount needed in 2011 to fund the enacted 2.0% January 2010 pay raise from October through December 2010.</p> <p>Line 3 is the amount needed in 2011 to fund the estimated 1.4% January 2011 pay raise from January through September 2011.</p>			
	2010 Budget	2010 Revised	2011 Fixed Costs and Related Changes
<b><u>Other Fixed Cost Changes</u></b>			
<b>Employer Share of Federal Health Benefit Plans</b>	165	165	+16
The adjustment is for changes in the Federal government's share of the cost of health insurance coverage for Federal employees. For 2011, the increase is estimated at 7.0%.			
<b>Rental Payments</b>	107	107	+14
The adjustment is for changes in the costs payable to General Services Administration and others resulting from changes in rates for office and non-office space as estimated by GSA, as well as the rental costs of other currently occupied space. These costs include building security; in the case of GSA space, these are paid to DHS. Costs of mandatory office relocations, i.e., relocations in cases where due to external events there is not alternative but to vacate the currently occupied space, are also included.			
<b>Departmental Working Capital Fund</b>	96	96	+0
The DOI Working Capital Fund budget for 2011 is being held level at the 2010 level Departmentwide. Reallocations among bureaus reflect shifts in funding within WCF projects.			

Justification of Fixed Costs and Related Changes:  
Natural Resource Damage Assessment and Restoration Program

<b>Related Changes – Internal Transfers and Other Changes</b>	
<b>Travel Savings</b> The Restoration Program will save \$9,000 by reducing travel and relocation expenditures through adoption of new technologies and efficiency improvements	- \$9
<b>Information Technology Savings</b> The Restoration Program will save \$3,000 through improved effectiveness and efficiencies in information technology	- \$3
<b>Acquisition Savings</b> The Restoration Program will save \$107,000 as the result of expansion of strategic sourcing for Office of the Secretary enterprise acquisitions	- \$107
<b><u>Internal Transfer:</u></b>	
<b>Program Budget &amp; Financial Management Support</b>  This internal transfer moves funds from the Damage Assessment activity to the Program Management activity for budget and financial management support.	+/- 75

# **Natural Resource Damage Assessment and Restoration Program**

## **Appropriations Language:**

To conduct natural resource damage assessment and restoration activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), and Public Law 101-337, as amended (16 U.S.C. 19jj et seq.), [\$6,462,000] \$6,434,000, to remain available until expended. (*Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010*).

## **Authorizing Statutes:**

*Comprehensive Environmental Response, Compensation, and Liability Act*, as amended, (42 U.S.C. 9601 et seq.). Section 106 of the Act authorizes the President to clean up hazardous substance sites directly, or obtain cleanup by a responsible party through enforcement actions. Trustees for natural resources may assess and recover damages for injury to natural resources from releases of hazardous substances and use the damages for restoration, replacement or acquisition of equivalent natural resources. Provides permanent authorization to appropriate receipts from responsible parties.

*Federal Water Pollution Control Act (Clean Water Act)*, as amended, (33 U.S.C. 1251-1387). Authorizes trustees for natural resources to assess and recover damages for injuries to natural resources resulting from the discharge of oil into or upon the navigable waters of the United States, adjoining shorelines, the waters of the contiguous zone, or in connection with activities under the *Outer Continental Shelf Lands Act* or the *Deepwater Port Act of 1974*, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States.

*Oil Pollution Act of 1990*, (33 U.S.C. 2701 et seq.) Amends the *Federal Water Pollution Control Act*, and authorizes trustee(s) of natural resources to present a claim for and to recover damages for injuries to natural resources from each responsible party for a vessel or facility from which oil is discharged, or which poses a substantial threat of discharge of oil, into or upon the navigable waters or adjoining shorelines or the exclusive zone.

*Public Law 101-337*, (16 U.S.C. 19jj). Provides that response costs and damages recovered under it or amounts recovered under any statute as a result of damage to any Federal resource within a unit of the National Park System shall be retained and used for response costs, damage assessments, restoration, and replacements. Liability for damages under this Act is in addition to any other liability that may arise under other statutes.

*Interior and Related Agencies Appropriation Act, 1992 (P.L. 102-154)*. Permanently authorized receipts for damage assessment and restoration activities to be available without further appropriation until expended.

*Dire Emergency Supplemental Appropriations for Fiscal Year 1992 (P.L. 102-229).* Provides that the Fund's receipts are authorized to be invested and available until expended. Also provides that amounts received by United States in settlement of *U.S. v Exxon Corp. et al.* in FY 1992 and thereafter be deposited into the Fund.

*Interior and Related Agencies Appropriation Act, 1998 (P.L. 104-134).* Provides authority to make transfers of settlement funds to other federal trustees and payments to non-federal trustees.

## ACTIVITY: DAMAGE ASSESSMENT

Natural Resource Damage Assessment		2009 Actual	2010 Enacted	2011			Change from 2010 (+ / -)
				Fixed Costs & Related Changes (+ / -)	Program Changes (+ / -)	Budget Request	
Activity: Damage Assessment	\$000	3,979	4,022	-142	0	3,880	-142
	FTE	0	0	0	0	0	0

### Activity Overview:

Damage assessment activities are the critical first step taken on the path to achieving restoration of natural resources injured through the release of oil or hazardous substances. The nature and magnitude of injury must first be identified, investigated, and thoroughly understood if the subsequent restoration is to be effective. The resulting physical and scientific evidence of natural resource injury then forms the basis for the Department's claim for appropriate compensation (or in-kind services) via restoration settlements that allow the Restoration Program to restore those injured trust resources. Damage assessment activities support the Department's performance outcome goals of protecting the nation's natural and cultural resources. Information regarding the nature and magnitude of the injury, and the means by which they are determined, also help establish the goals of the restoration plans and influence the determination of when those goals have been successfully reached.

Damage assessment cases are conducted by one or more of the five resource management bureaus within the Department: (Fish and Wildlife Service; Bureau of Land Management; National Park Service; Bureau of Indian Affairs; and Bureau of Reclamation). Economic analytical support is provided by the Office of Policy Analysis, scientific / technical analysis and support from the U.S. Geological Survey, and legal counsel from the Office of the Solicitor. In nearly all cases, assessment activities are carried out in partnership with other affected Federal, State, and/or tribal co-trustees. These partnerships have proven advantageous for all involved, as cooperation and consultation among the trustees facilitates addressing overlapping areas of trustee concern, and consolidates those concerns into a single case. Trustees can also share data, achieve economies of scale, avoid duplication of effort and minimize administrative burdens. Responsible parties also benefit, as they are able to address trustee concerns in a single, unified case.

The Restoration Program continues to make progress in conducting many of its damage assessment cases on a cooperative basis with responsible parties. As a matter of practice, responsible parties are invited to participate in the development of assessment and restoration plans. The Department has been involved in over forty cooperative assessments across the country, where the responsible parties have elected to participate in the damage assessment process, and provide input into the selection of various injury studies and contribute funds for or reimburse Interior assessment activities. In Fiscal Year 2009, over \$3.1 million in advanced and/or reimbursed cooperative funding was received from cooperating responsible parties for DOI's assessment activities at twelve sites.

Selection of damage assessment projects is accomplished on an annual basis through an extensive internal proposal and screening process that assures that only the highest priority cases are funded. Priorities for selecting initial projects are based upon a case's likelihood of success in achieving restoration, either through negotiated restoration settlements or through successful litigation where necessary. Cases must demonstrate sufficient technical, legal, and administrative merit focused on the purpose of achieving restoration.

The Restoration Program's project selection process is designed to:

- Be inclusive of all natural resources under Interior trusteeship and trustee roles;
- Provide a process that encourages thorough planning and ultimately, enhanced opportunities for restoration success;
- Provide a process that evaluates both the objective and subjective aspects of individual cases; and
- Fund cases that have demonstrated sufficient levels of technical and legal merit, trustee organization, and case readiness.

DOI bureaus are also required to coordinate their efforts into a single project proposal, thus promoting inter-Departmental efficiencies and eliminating duplication of effort. Bureau and DOI office capabilities are used to augment and compliment each other, as opposed to building redundant program capabilities in each bureau.

Once projects are funded, the Restoration Program makes use of project performance information to inform future funding decisions. In its 2010 project funding deliberations, the Restoration Program again made use of performance data collected from ongoing cases that document the attainment of specific chronological milestones (trustee MOU, assessment plan development, injury determination and quantification, claim for damages, etc.) in the multi-year process toward settlement. Funding decisions were weighted towards those cases that continue to show progress along the damage assessment continuum towards settlement and eventual restoration. Cases that stall or fail to progress are considered a lesser priority, but are given direction to make course corrections at a stable or reduced funding level. Course corrections must be made before funding is made available for addressing subsequent milestones. For example, a case team was directed to finalize necessary procedural products such as a publicly-announced assessment plan before beginning its scientific studies. Such performance information lends itself to helping the Restoration Program better manage its workload by having a clearer sense of when damage assessments are near completion and opportunities for new starts emerge.

In addition to project milestone reporting, financial obligation data is monitored at the aggregate (DOI), bureau, and project levels across all involved bureaus. This obligation data and carryover balances are factors considered in the annual funding decision process. Further, unobligated balances on all damage assessment projects are closely monitored from inception through settlement, at which time all unused or unneeded funds are pulled back and re-allocated to other high-priority damage assessment projects. In some instances and under certain circumstances, case teams have been directed to or have voluntarily returned project funds from ongoing projects so that they can be re-allocated to other projects and needs.

The program requires its case teams to document their respective assessment costs and attempts to recover those costs from the potentially responsible parties when negotiating settlement agreements. Over the past three fiscal years (2007 – 2009), the Program has utilized an average of \$2.3 million annually in recovered funds to initiate new cases and/or to supplement its annual appropriations to conduct ongoing assessment needs.

The primary program performance measures of acres and miles of habitat restored do not directly measure progress in the Damage Assessment activity. Instead, the Program must rely on workload measures, such as numbers of assessment cases that have been settled and amount of funds recovered in those settlements. These program output indicators reveal the following accomplishments: Through December 2009, the DOI Restoration Fund has recovered nearly \$1.1 billion in gross settlement receipts and earned interest since its creation in 1992. (All amounts inclusive of Exxon Valdez oil spill funds). Deposits and interest for 2009 alone totaled over \$42.8 million.

Early in Fiscal Year 2010, the Department of the Interior, along with other Federal, state and tribal co-trustees, completed a bankruptcy settlement with the American Smelting and Refining Company (ASARCO) a North American mining conglomerate, and its parent entity, Grupo México. In the largest environmental damage bankruptcy case in U.S. history, ASARCO agreed to provide more than \$1.6 billion to resolve its potential environmental liabilities from mining, smelting and refining operations that contaminated land, water and wildlife resources at more than 100 sites on federal, state, tribal and private land.

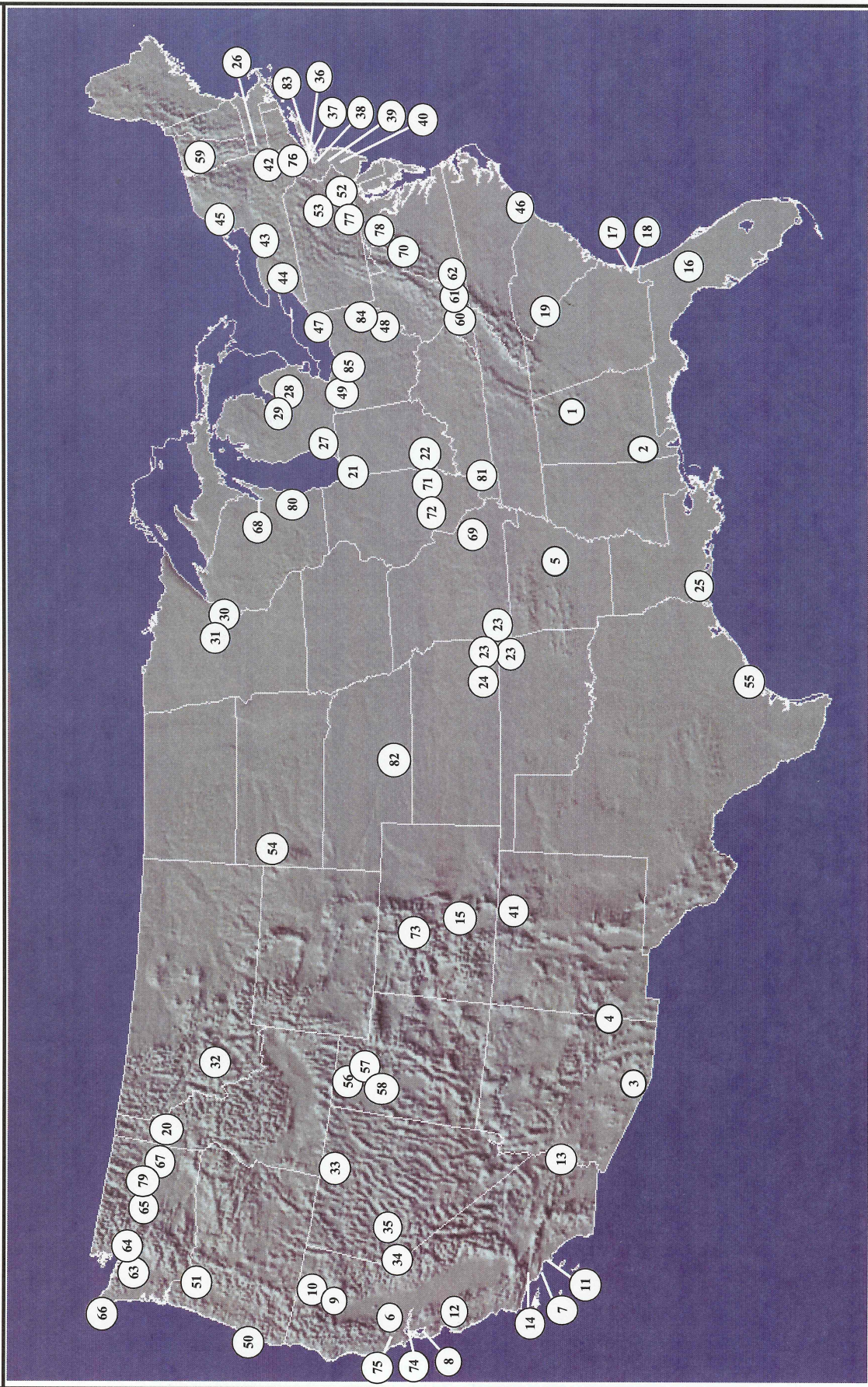
Included in the global settlement was over \$194 million in natural resource damages that were deposited in the DOI Restoration Fund. The funds will be used jointly by DOI and its co-trustees to restore, rehabilitate, replace, and/or acquire the equivalent of the injured natural resources, following the development and release of site-specific publicly-reviewed restoration plans.

The settlement is an example of government working effectively: the extraordinary level and amount of intergovernmental coordination among the Interior bureaus, other Federal agencies, State and Tribal governments enabled this significant achievement and benefit for the environment and the public.

The settlement demonstrates the ability of the various Interior bureaus to work cooperatively and productively on behalf of the public. In addition to the Restoration Program Office, three Interior bureaus (U.S. Fish and Wildlife Service, Bureau of Land Management and the Bureau of Indian Affairs), 4 FWS regions (1,2,3, & 6), scientists from the U.S. Geological Survey's Columbia Environmental Research Center and Patuxent Wildlife Research Center, the Office of Policy Analysis, and the Office of the Solicitor were involved in supporting this intensive, multi-year effort.

The sites are: the Upper Arkansas River/California Gulch Site, Colorado; Coeur d'Alene Basin, Idaho; Gila River/Ray Mine, Arizona; Southeast Missouri Lead Mining District; Tri-State Mining District, Missouri-Kansas-Oklahoma; East Helena Site, Black Pine Site, and Iron Mountain Sites, Montana.

Damage Assessment and Restoration Sites  
Funded by the Department of the Interior Restoration Fund



<p><u>Alabama</u></p> <p>1. Anniston PCBs</p> <p>2. CIBA - McIntosh NPL Site</p>	<p><u>Arizona</u></p> <p>3. Cyprus Tohono Mine</p> <p>4. Phelps-Dodge Mine Complex</p>	<p><u>Arkansas</u></p> <p>5. Vertac/Bayou Meto</p>	<p><u>California</u></p> <p>6. Almaden Quicksilver</p> <p>7. American Trader Oil Spill</p> <p>8. APEX Houston Oil Spill</p> <p>9. Cantara Loop Chemical Spill</p> <p>10. Iron Mountain Mine</p> <p>11. Montrose Chemical / Los Angeles Bight</p> <p>12. New Idria Mine</p> <p>13. PG&amp;E Topock Compressor Station</p> <p>14. Santa Clara River Oil Spill</p> <p>15. Stege Marsh</p> <p>16. Turkey Run Mine</p>	<p><u>Colorado</u></p> <p>17. Upper Arkansas River</p> <p>18. French Gulch Mines</p>	<p><u>Florida</u></p> <p>19. Lake Apopka - North Shore</p>	<p><u>Georgia</u></p> <p>20. LCP Chemical</p> <p>21. Terry Creek</p> <p>22. Lake Hartwell PCBs</p>	<p><u>Idaho</u></p> <p>23. Coeur d'Alene Mine (Bunker Hill Mining District)</p>	<p><u>Illinois</u></p> <p>24. Former Indian Refinery</p> <p>25. Sauget Area Dump Sites</p>	<p><u>Indiana</u></p> <p>26. Grand Calumet River</p> <p>27. Viacom / Westinghouse PCBs</p>	<p><u>Kansas</u></p> <p>28. Tri-State Mining District - Cherokee County</p> <p>29. Eastern Kansas Smelters</p>	<p><u>Kentucky</u></p> <p>30. B.F. Goodrich- Airco Site</p>	<p><u>Louisiana</u></p> <p>31. Calcasieu Estuary</p>	<p><u>Massachusetts</u></p> <p>32. Housatonic River</p>	<p><u>Michigan</u></p> <p>33. Kalamazoo River</p> <p>34. Saginaw River and Bay</p> <p>35. Tittabawassee River</p>	<p><u>Minnesota</u></p> <p>36. St. Louis River</p> <p>37. St. Regis Paper</p>	<p><u>Missouri</u></p> <p>38. Tri-State Mining District - Jasper County</p> <p>39. S.E. Missouri Lead Mining Sites</p>	<p><u>Montana</u></p> <p>40. Grant-Kohrs Ranch (Clark Fork River)</p>	<p><u>Nebraska</u></p> <p>41. Cottonwood WPA Site</p>	<p><u>Nevada</u></p> <p>42. Rio Tinto Mine</p> <p>43. Leviathan Mine</p> <p>44. Yerington Anaconda Mine</p>	<p><u>New Jersey</u></p> <p>45. Diamond Alkali</p> <p>46. Great Swamp NWR</p> <p>47. Berry's Creek Watershed</p> <p>48. GAF / ISP-ESI Facility</p> <p>49. U.S. Avenue Burn</p> <p>50. Rolling Knolls Landfill</p>	<p><u>New Mexico</u></p> <p>51. Molycorp Mine</p>	<p><u>New York</u></p> <p>52. Hudson River PCBs</p> <p>53. Onondaga Lake NPL Site</p>	<p><u>North Carolina</u></p> <p>54. LCP - HoltraChem Superfund Site</p>	<p><u>Ohio</u></p> <p>55. Ashtabula River</p> <p>56. Ohio River</p> <p>57. Ottawa River</p> <p>58. Dover Chemical Site</p> <p>59. Duck &amp; Otter Creeks</p>	<p><u>Oklahoma</u></p> <p>60. Tri-State Mining District - Tar Creek</p>	<p><u>Oregon</u></p> <p>61. M/V New Carissa Oil Spill</p> <p>62. Portland Harbor NPL Site</p>	<p><u>Pennsylvania</u></p> <p>63. Paoli Railyard</p> <p>64. Palmerton Zinc</p> <p>65. Lower Darby Creek</p>	<p><u>South Dakota</u></p> <p>66. Whitewood Creek</p>	<p><u>Texas</u></p> <p>67. Lavaca Bay</p>	<p><u>Utah</u></p> <p>68. Jordan River</p> <p>69. Kennecott Copper-North End</p> <p>70. Richardson Flats Mine / Silver Creek</p>	<p><u>Vermont</u></p> <p>71. Pine Street Canal</p>	<p><u>Virginia</u></p> <p>72. CERTUS - Clinch River Spill</p> <p>73. Lone Mountain Coal Slurry</p> <p>74. Saltville Disposal NPL Site</p> <p>75. DuPont - Waynesboro Facility</p> <p>76. AVTEX Fibers Superfund Site</p>	<p><u>Washington</u></p> <p>77. Commencement Bay</p> <p>78. Elliott Bay</p> <p>79. Holden Mine</p> <p>80. Tenyo Maru Oil Spill</p> <p>81. Midnite Mine</p> <p>82. Upper Columbia River/Lake Roosevelt</p>	<p><u>Wisconsin</u></p> <p>83. Fox River / Green Bay</p> <p>84. Sheboygan River</p>	<p>Feasibility Studies</p>	<p>Damage Assessment in Progress</p>	<p>Case Settled - Restoration to Follow</p>	<p>Restoration Actions in Progress</p>	<p>Tribal Involvement</p>
--	--	--	---	--	--	--	---	--	--	--	---	--	---	---	---	--	---	---	---	---	---	---	---	---	---	---	---	---	---	--	--	--	---	---	----------------------------	--------------------------------------	---	--	---------------------------

The ongoing assessment activities of the bureaus comport very closely with the Secretary's Treasured Landscapes initiatives. Thirty of the fifty-three ongoing cases funded by the Department directly affect natural resources on lands under the stewardship of the Department. Seven cases directly affects lands managed by FWS or NPS; an additional seven cases affects lands controlled ort managed by BLM; one case involves a BOR reservoir; and fifteen cases have some involvement with tribal natural and/or cultural resources. Geographically, twelve cases fall within the Great Lakes ecosystem; two cases fall within the Gulf Coast ecosystem, and two cases and one active spill fall within the California Bay-Delta area ecosystem.

## **2011 Activity Performance**

In 2011, the program will continue to utilize recovered past assessment costs from recent settlements and/or returned funds from completed assessments in addition to the \$3.9 million in appropriated funds contained in this request. These funds will support new or ongoing damage assessment efforts at approximately 40 sites, maintaining the program's damage assessment capability at current levels. This level of funding will support new feasibility studies, initiation of assessments at new sites where warranted, as well as providing continued funding for ongoing cases. The program will also continue its focus on the use of cooperative assessments, and pursue funding and participation agreements with potentially responsible parties wherever and whenever possible. Money provided under these funding agreements expands the program coverage by allowing other damage assessment cases to utilize the appropriated and returned assessment funds. In addition, the program will continue to refine its milestone reporting process and use that performance information to enhance management of its damage assessment workload.

The 2011 request also reflects an internal transfer of funds, moving \$75,000 from the Damage Assessment activity to the Program Management activity. The additional funds will be used for budget and financial management support (see Program Management activity narrative). The program anticipates minimal disruption in its damage assessment capabilities as a result of this internal transfer, as the Restoration Program would offset the reduction to damage assessments with recovered assessment funds from settled cases.

Also in 2011, the program will use recovered funds to keep pace with external developments, such as recent Recovery Act increases to the EPA's Superfund Program, which are expected to jump-start activities at a number of sites across the nation. Lastly, the Restoration Program will continue to implement administrative reforms suggested by stakeholders. Field practitioners will be briefed and trained on the regulatory revisions adopted in 2008. In addition, the Program will enhance its coordination with other co-trustees particularly Tribes and States.

The Program's current damage assessment project caseload through 2009 totals 53 ongoing cases (including feasibility studies), and are among those depicted on the map and table on the preceding pages (pg 18-19).

## ACTIVITY: RESTORATION SUPPORT

Natural Resource Damage Assessment		2009 Actual	2010 Enacted	2011			Change from 2010 (+ / -)
				Fixed Costs & Related Changes (+ / -)	Program Changes (+ / -)	Budget Request	
Activity: Restoration Support	\$000	604	615	+6	0	621	+6
	FTE	3	3	0	0	3	0

### Activity Overview:

Every action the Restoration Program undertakes is done with the goal of restoration in mind. Upon the successful conclusion of a damage assessment and upon achieving settlement, Departmental bureaus, working in partnership with other affected State, Federal, tribal and/or foreign co-trustees, use settlement funds to carry out restoration activities. Under this activity, the Program continues its coordinated effort to focus greater attention on restoration activities and to expedite the expenditure of settlement funds to develop and implement resource restoration plans. The program's Restoration Support Unit staff, upon request, provides engineering and ecological/biological support to the Department's case managers/teams, as well as assistance with meeting various legal and regulatory compliance requirements, identifying possible partnering opportunities, and drafting appropriate documents. In addition, the Program continues to work with the USGS in the field of restoration ecology to develop monitoring protocols to measure the success of restoration efforts.

Over ninety percent of all funds received and interest earned to date from natural resource damage case settlements are designated as restoration funds, and can be used only for restoration planning, implementation (including land acquisition), oversight, and monitoring of implemented restoration actions at a specific site or related to a specific settlement, and only after the issuance of an publicly-reviewed restoration plan. The use of such settlement funds provides real value to the American public, as injured natural resources and services are restored by, or at the expense of the responsible party, and not the taxpaying public.

Other Available Restoration Resources		
(Dollars in \$000)		
	2009	2010
Settlement funds currently held in DOI Restoration Fund (estimate)	\$245,000	\$425,000
Settlement funds in various court registry accounts (estimate)	\$100,000	\$100,000

In addition to settlement funds deposited into the DOI Restoration Fund, the Department is party to other natural resource damage settlements where settlement funds are deposited into a Court Registry or some other account selected by the Trustees. Additionally, there are a number of settlements where the responsible parties have agreed to undertake or implement the restoration action, with trustee agencies providing oversight to ensure compliance with the terms of the

settlement and adherence to the approved and public-reviewed restoration plan. Once fully implemented, the restoration actions are then subject to long-term monitoring by the trustees to ensure they have been effective and have accomplished the goals and intent of the restoration plan.

### **2011 Activity Performance:**

In 2011, the Program will continue a variety of activities focused on furthering the achievement of restoration, primarily through the Restoration Support Unit in Denver. The focus of this activity will continue to be to provide assistance to the field for the sole purpose of getting restoration accomplished on the ground. As the focal point for the program's restoration efforts nation-wide, in 2011 the Unit will continue to support and facilitate restoration led by the bureaus at sites where damage claims have been settled. In addition, the Unit expects to have compiled a significant amount of information on restoration successes and actual restoration costs and start providing input based on lessons learned that will help damage assessment case teams improve the strength of their damage claims in the future. The Restoration Support Unit continues to provide technical support to case teams to facilitate multiple aspects of restoration, including contracting, restoration planning, engineering support, and seeking out partnership opportunities and matching funds.

In addition to the activities just described, Unit staff will lead technology transfer and outreach activities to ensure that restoration advances made by individual case teams will be shared with fellow restoration practitioners. Examples include development of training modules to be taught at the FWS and BLM training centers, and the organization of seminar sessions at the Restoration Program's annual workshop.

The program will continue to implement administrative and regulatory reforms that resulted from recommendations provided by field practitioners, co-trustees, and stakeholders. Specific restoration support activities in response to these recommendations include a partnership with the Society for Ecological Restorations to develop and maintain an inventory of restoration plans, opportunities, and success stories, as well as the development and implementation of policies and guidance to coordinate NRD restoration planning and NEPA compliance actions.

The program will continue to work with the U.S. Geological Survey (USGS) to implement restoration science advances. Scientists from the USGS are developing protocols to improve the monitoring and management of restoration processes and the development of effective measures of restoration success on historically contaminated lands. These scientists, who have been providing scientific and technical support for NRDAR assessment activities are now directing new scientific efforts to support NRDAR restoration activities. Because ecosystems are dynamic, restoration monitoring protocols must serve as triggers for corrective actions and adaptive management and be carefully crafted into restoration plans. USGS is working with restoration scientists in the public and private sector to develop a primer for restoration monitoring that will provide the guidance necessary to ensure successful restorations and return of ecosystem services to injured resources. These efforts are focusing on species distributions, abundance and diversity, invasive species, community development and, when possible, ecosystem resiliency which is critically important as the NRDAR program faces the influence of

global climate change on restoration planning. A special symposium was convened at the August 2009 Society for Ecological Restoration (SER) International meeting where DOI restoration practitioners were invited to present papers describing the NRDAR process and how it is focused on restoration throughout each phase from injury determination and quantification through restoration planning, implementation, and monitoring.

USGS and the Restoration Support Unit have also worked with SER to highlight DOI restorations on the SER Global Restoration Network (<http://www.globalrestorationnetwork.org/>), a freely accessible internet-based platform where practitioners as well as stakeholders and the general public can go to obtain extensive information on restoration successes and lessons learned in the process. By documenting restoration activities and their ultimate success, the Program can maintain transparency in the process that returns ecosystem services lost as a result of chemical contamination.

These efforts bring USGS science expertise to address the ecological restoration of species and habitats injured by the release of oil or other hazardous substances and the monitoring and measurement of restoration success. Although many scientifically valid techniques are available to document the extent and severity of injury to natural resources, restoration science is still in its infancy. Several interconnected efforts, engaging multiple disciplines within USGS, are being undertaken to strengthen the state of restoration science, reduce disagreements with responsible parties, and help us achieve more timely and effective restoration.

Improving the science in the design, implementation, and monitoring of type-specific restoration projects will increase the understanding of issues critical to restoration success, thus benefiting the Restoration Program as a whole, as well as enabling “technology transfer” opportunities to other DOI restoration efforts, including the Everglades, California Bay-Delta, and possibly the hurricane-ravaged Gulf coast.

## **RESTORING INJURED RESOURCES**

The following are examples of recent on-the-ground restoration accomplishments achieved by the DOI bureaus and their co-trustees at a number of selected sites:

### **Fox River/Green Bay, Wisconsin**

Historically, the West Branch of the Wolf River in Northeastern Wisconsin supported a healthy population of native brook trout while also providing wild rice and other food for the residents of the Menominee Indian Reservation. A sawmill was operated along the Wolf River for several decades until flood events in the mid 1900s carried logs a mile downstream from the mill where the logs came to rest in a logjam that altered the natural flow of the river. Instead of the naturally swift flowing trout stream it had been, the West Branch of the Wolf River was transformed into a slow, wide, shallow stretch characterized by sedimentation and warm water – no longer suitable for native populations of trout. Reconfiguring the Wolf River to once again support a healthy trout fishery is one of many projects that the Trustee Council has chosen to restore healthy fish

populations in the Fox River/Green Bay watershed to compensate the public for injured fish populations and several years of diminished recreational fishing activities.

The Fox River/Green Bay Natural Resource Trustee Council enlisted contractor support to assist the Menominee Nation and U.S. Fish and Wildlife Service staff in implementing this restoration project. Tribal environmental specialists and FWS biologists working on the restoration project described the process of river restoration as a unique interface of science and art. First, the river was surveyed to determine flow rates, the structure and composition of the river bottom, existing water quality, and presence of fish species. During the next phase, the contractor used specialized construction equipment that ran on biodegradable vegetable oil to ensure safe use in the water and on the stream banks. The contractor recycled many of the logs removed from the logjam to stabilize the banks and trap sediment to form natural bends in the stream. In addition, the new stream design included boulders placed to create pools and resting areas in the narrowed channel.

Staff from the Menominee Nation and the FWS will continue to monitor the river for the next two years. Among the key attributes they will assess are water temperature and quality, fish species composition, the status of wild rice beds and other wetland vegetation along the stream banks, and physical characteristics of the stream and the bottom of the river.



(FWS Photo)

### **Lone Mountain Coal Slurry Spill, Virginia**

The Lone Mountain natural resource damage assessment and restoration case in Virginia was conducted to address natural resource injuries that occurred from a release of hazardous substances into the Powell River watershed. The injuries were the consequence of the failure of a coal slurry impoundment associated with a coal processing plant in Lee County, Virginia, which led to the release of six million gallons of coal slurry to the Powell River watershed. This release resulted in injury to fish, federally-listed endangered mussels, other benthic organisms, supporting aquatic habitat, and designated critical habitat for two federally-listed threatened fish species. The U.S. Fish and Wildlife Service took the lead in working with State co-trustees to conduct a multi-year damage assessment that resulted in a two-million dollar monetary settlement.

The Cedars Restoration is one of several ongoing efforts to address natural resources injured in the coal slurry release and protect this treasured landscape.

The FWS recognized that efforts to restore injured mussel and fish populations in the Powell River would be successful only if the water quality and supporting aquatic habitat of these systems is sustained through long-term land preservation and stewardship. The Cedars Restoration project brings together a number of conservation partners. Joining with the FWS in this team effort



**The yellowfin madtom, a threatened species, is one of many species benefitting at the Cedars restoration activities. (FWS photo)**

are The Nature Conservancy (TNC), private land owners, the Virginia Land Conservation Foundation, the Virginia Department of Conservation and Recreation Natural Heritage Program, and the Natural Resources Conservation Service. This collaborative partnership achieved specific NRDAR restoration goals within a broader landscape-level conservation effort.

Through this partnership, the co-trustees have been able to leverage settlement funding with matching funds contributed by The Virginia Land Conservation Foundation to acquire several parcels of land totaling 436 acres. Some of these land acquisitions are in cooperation with land sellers who retain certain operational rights for specified periods of time as part of the conservation easement agreements. Through agreements developed by FWS and these partners, land ownership will be transferred from TNC to the state of Virginia Natural Area Preserve System. Virginia's Natural Area Preserve System safeguards critically rare species and irreplaceable natural ecosystems, and provides the highest level of land management and stewardship to preserve and enhance the land's natural resource values. Permanent land preservation, enhancements of the riparian buffer, and stream bank stabilization within the

Powell River watershed are critically important to sustain water quality and ensure success of the restored aquatic ecosystem.

The Cedars is widely recognized by various stakeholders as an area of outstanding ecological value that is uniquely vital to the health of the Powell River and Tennessee River system. The Cedars is a significant karst region covering 30 to 40 square miles in Lee County, Virginia. This karst landscape is characterized by thin soils developed over easily-dissolved limestone bedrock, creating terrain that is rolling, rocky, rugged, and full of sinkholes, caves, and sinking streams. This area is a valuable water recharge zone contributing high-quality water to the Powell River, one of the last free-flowing stretches of the Tennessee River system. As a watershed renowned for its rich freshwater mussel and fish diversity, TNC has identified the Clinch River basin, including the Powell River tributary, as the number-one hotspot in the U.S. for imperiled aquatic species. FWS, TNC, and their conservation partners' success in the long-term preservation and stewardship of this highly valuable habitat within the Cedars Natural Area Preserve will continue to benefit Department-managed resources (threatened fish and their critical habitat, and endangered mussels) by improving the health of the watershed and ensuring a continued source of high-quality water recharge to the Powell River.



**Limestone natural bridge over Powell River, Virginia at site of Cedars restoration activities. (TNC photo)**

### **Command Oil Spill, California**

In 2009, the Command Oil Spill Trustee Council, consisting of the Fish and Wildlife Service, National Oceanic and Atmospheric Administration (NOAA), and three California state agencies, continued to implement and monitor several inter-related restoration projects. These projects are intended to compensate for injuries to birds and impacts to human recreational uses resulting from an oil spill in 1998 along the San Mateo County coast.

One of the primary components of the Command restoration plan is to protect seabird colonies on rocky outcrops and islands in and near the Gulf of the Farallones National Marine Sanctuary and the Farallones National Wildlife Refuge. Through a partnership with the U.S. Coast Guard and the Federal Aviation Administration, the Command Trustee Council has been able to establish seven restricted zones around seabird colonies and educate boaters, kayakers, pilots and others about the need avoid these sensitive sites and to view the seabirds without disturbance. The trustees plan to install an additional 27 buoys around the enclosure areas. This project has become a model that is being adopted at other coastal restoration sites up and down the California coast.



**Outreach poster developed by Command oil spill trustees and distributed by Federal Aviation Administration (FAA)**

The trustees have also designed and built rock walls and structures to prevent disturbance of common murre nest sites by hikers using a foot path on Southeast Farallon Island. This project has led to a 12% increase in nests. Trustee biologists have observed that the vast majority, approximately 90%, of the common murres on the island reside and nest in areas where walls shield the birds from view. Additional projects undertaken by the trustees include a partnership to restore native vegetation to Año Nuevo Island, improving public access to beaches and coastal observation sites, and continuing to monitor the results of bird management and land acquisition projects undertaken in past years.

## ACTIVITY: PROGRAM MANAGEMENT

Natural Resource Damage Assessment		2009 Actual	2010 Enacted	2011			Change from 2010 (+ / -)
				Fixed Costs & Related Changes (+ / -)	Program Changes (+ / -)	Budget Request	
Activity: Program Management	\$000	1,755	1,825	+108	0	1,933	+108
	FTE	4	6	0	0	6	0

### Activity Overview:

Program Management provides the strategic vision, direction, management, and coordination of inter-Departmental activities necessary for the Department to carry out the Restoration Program. In short, it manages the intersection of complex interdisciplinary relationships among biology, environmental toxicology, natural resource management, economics, and law. The Program Management activity allocates damage assessment project funding; monitors program performance and ensures accountability; provides the framework for identifying and resolving issues that raise significant management or policy implications; develops the Department's policies and regulations for conducting and managing damage assessment and restoration cases; responds to Departmental, Office of Management and Budget, and Congressional inquiries; and ensures coordination among Federal, State, and Tribal governments.

Program Management funding enables the program to maintain support for bureau workgroup representation, ensuring essential integrated program coordination across the Department. The request includes funds for program support positions in the five bureaus with primary trust resource management roles (BIA, BLM, BR, FWS, NPS), technical support offices (USGS, Office of Policy Analysis, and the Office of the Solicitor). The Program Office currently provides \$78,000 (approximately 0.6 FTE) to each participating bureau for workgroup participation and program support. A fully integrated Departmental program requires at least this level of bureau participation on the workgroup and Program Management Team, as well as continued regional coordination and technical support in science, economics, and law.

In 2010, the Program Office is significantly enhancing its outreach to Tribes in two significant ways. First it is initiating monthly conference calls with any tribal co-trustees that have an interest in the natural resources and restoration activities of the Department. Secondly, the program has begun a Tribal training initiative where it is partnering with the interested tribal co-trustees to design natural resource damage assessment (NRDA) training for tribal members and technical consultants. This effort will attempt to utilize existing Departmental and tribal training resources, educators and experts to develop a curriculum and materials that are targeted to tribal resources in a NRDA context. Coincident to the Program improving relationships with Tribal co-trustees and governments will be an equally ambitious effort to maintain and improve communications with State co-trustees through the initiation of a Memorandum of Understanding (MOU) with the Association of Fish & Wildlife Agencies (AFWA). The AFWA MOU will facilitate communications between the Program and the State co-trustee on issues of mutual interest, likely leading to the development of policies, improved assessment techniques, and if needed, regulatory revisions.

## **2011 Program Performance:**

All Program Management efforts and activities are focused on providing the tools, processes, or infrastructure to achieving restoration of injured natural resources. In 2011, in compliance with Departmental travel reductions and “green” initiatives, the Program Office will employ the use of information technology in communicating to and with the program’s workgroup, Bureaus, State, Tribal and other Federal agency partners as follows:

- Enhance and improve information on the Program’s website (<http://restoration.doi.gov>) by improved design, accessibility, and content.
- Use the DOI SHAREPOINT system for all internal communications with the program workgroup, Executive Board, and Bureaus.
- Use, to the maximum extent possible, DOI WEBEX capabilities for monthly and periodic workgroup meetings and other policy team development meetings in lieu of travel
- Develop training and other instructional materials in WEBINAR format for use with Tribal and State partners.

The Restoration Program Office has initiated implementation of these information technology tools in 2010 with the acquisition of webcams on all new staff computers, and will continue recent efforts to develop a Restoration Program SHAREPOINT site, including staff and workgroup training through DOI’s National Business Center (NBC). The Program anticipates securing licensing for WEBEX services through NBC in spring 2010. This improved and enhanced use of information technology by the Program Office will bring it in line with the Secretary’s priorities to reduce travel and its carbon footprint while increasing internal communications efficiency.

The 2011 budget request also includes a one-time internal transfer of \$75,000 from the Damage Assessment activity to the Program Management activity to help effectively manage the growing budget and financial stewardship requirements, made necessary as the result of continued growth in the volume and complexity of financial and budgetary transactions in its day-to-day operations. The amount of funds in the DOI Restoration Fund has tripled in the last eight years. Resulting from a deliberate refocusing of program priorities over the last decade towards increasing on-the-ground restoration actions, the DOI Restoration Fund has seen a marked increase in the number and dollar amount of settlement deposits, in cooperative assessment funds deposited, in investment activity, and in internal and external allocations and transfers of funds to other Federal, state, and tribal co-trustees. Currently, the DOI Restoration Fund totals over \$445 million, with funds managed at the site/project level, and a current project list numbering over 580 assessment and/or restoration cases. This growth and program maturation are expected to continue. Other external factors warranting this internal transfer include increased emphasis on internal controls (OMB Circular A-123), increased demands for data to from auditors during preparation of the Department’s annual financial statements, and changes in program performance reporting. The Restoration Program would offset the reduction to the damage assessment activity with recovered assessment funds from settled cases as authorized under CERCLA and the Oil Pollution Act.

To date, all these financial and budgetary management activities have been conducted by a single FTE in the program’s headquarters, along with part-time accounting support through the

Department's National Business Center. The proposed internal transfer would allow the program to keep pace with the Fund's growth and maintain high standards of fiscal responsibility to the Department and its co-trustees.

The 2011 request level will support the continued Departmental communication, consultation, and coordination activities with Federal, State, and Tribal co-trustees, the environmental community, and industry. Continued cooperation and coordination with co-trustees will enhance opportunities for efficiencies and to identify and eliminate duplication of effort and process redundancies.

Program management activities in 2011 will also continue efforts to develop, refine and update a number of existing administrative and policy tools, with an eye towards improved consistency and effectiveness. Among these efforts are the following:

- Continue to evaluate the appropriate role and use of economic analytical tools used in damage assessment and restoration activities.
- Coordination with other trustees and restoration funding entities (U.S. Coast Guard's National Pollution Funds Center) to develop common cost documentation practices and formats to ensure consistency and uniformity.
- Broaden the opportunities for cooperative assessment by improving existing guidance and documents.
- Improve public outreach and information sharing through internet-based applications and websites.
- Adopt procedures that promote coordination between response and NRDAR activities.
- Sponsor a series of workshops, research papers, and symposiums to inform guidance on explicitly linking the scale of restoration to the nature and extent of the injury.
- Ensure that compliance by federal trustees with the requirements of the National Environmental Policy Act (NEPA) occurs concurrently with restoration planning.
- Enhance its NRDAR partnerships, through improvements in grants, cooperative agreements, and contracting.
- Encourage the use of existing local and regional restoration plans and databases for use in NRDAR.
- Conduct biennial review of the Program's regulations.

Continued development and broader use of these and other tools will help ensure cross-bureau consistency and compatibility of information and systems, allowing the program to serve as a model for integrated Departmentwide natural resources management.

The Program continues to enjoy a good relationship with the other Federal agencies involved in NRDAR activities either directly (i.e. NOAA and NPFC) or indirectly (i.e. EPA and DOE). In 2011, the program will continue to reach out to industry by participating in industry symposia and discussion groups on NRDAR issues and policy. The Program is in the process of finalizing an MOU with the Protection and Indemnity Clubs (P&I Clubs) to agree to consider appropriate cooperative activities during marine spill incidents involving vessels for which they insure (about 95% of all vessels afloat).

The Program plans to continue to sponsor an annual national workshop. In recent years, this workshop has provided training for over 150 practitioners from across the Department on a variety of topics including project management, damage claim development, restoration methods and other scientific and legal issues. As an indicator of collaborative approach that continues to be pursued by the Department and its co-trustees, over 50 State, Tribal, and Federal co-trustees, as well as representatives from industry and the conservation community also attended the most recent workshop.

### **Program Support of Bureau, Department, and Government-wide Costs:**

Section 405 of the 2010 Interior, Environment and Related Agencies Appropriations Act directs the disclosure of overhead, administrative, and other types of administrative support spending. The provision requires that budgets disclose current amounts and practices with regard to overhead charges, deductions, reserves, or holdbacks from program funding to support government-wide, Departmental, or bureau administrative functions or headquarters, regional, or central office operations. Changes to such estimates trigger reprogramming procedures, in which the Department must provide advance notice to and seek approval from the House and Senate Appropriations Committees.

For 2011, the Restoration Program's costs related to overhead, administration, and central/regional operations are addressed in three components of the budget, all under the heading of External Administrative Costs. These costs include amounts paid to the Department or other Executive Branch agencies to support Departmental or Government-wide administrative costs.

<b>External Administrative Costs</b>			
(Dollars in Thousands)			
	FY 2009 Actual	FY 2010 Enacted	FY 2011 Estimate
<b><u>DOI Working Capital Fund</u></b>			
Centralized Billings	91	96	96
Fee for Services	0	0	0
Direct Billings	166	177	199
Reimbursables	<u>0</u>	<u>0</u>	<u>0</u>
Total, Working Capital Fund	257	273	295
<b><u>Fish and Wildlife Service</u></b>			
FWS User-Pay Cost Share	187	193	198
<b><u>U.S. Geological Survey</u></b>			
Common Services Support	57	60	65
<b><u>U.S. Department of Justice</u></b>			
DOJ Sec. 108 3% Offset Authority	245	2,900	300

Charges related to the Departmental Working Capital Fund (WCF) identified in the preceding table reflect the Restoration Program's share of centralized Departmental expenses for items and expenses such as telecommunications, security, mailroom services, costs associated with audited financial statements, and other WCF charges.

The Fish and Wildlife Service (FWS) levies its User-Pay Cost Share charges on damage assessment funds provided to the Service from the Restoration Program. Funds collected by FWS are used to offset a range of Servicewide administrative costs. For 2010, User-Pay Cost Share charges to the Restoration Program will be \$193,314. For 2011, FWS estimates those charges to be \$198,245.

The U.S. Geological Survey (USGS) applies a seven percent administrative overhead charge to all funds provided to USGS, primarily to the Columbia Environmental Research Center. Funds collected by the Center are used to offset common client administrative and facility expenses.

The Department of Justice applies a three percent offset to some, but not all, civil litigation debt collections made on behalf of the Restoration Program. Authority for these offsets can be found in Section 108 of the Commerce, Justice, and State Appropriations Act for Fiscal Year 1994 (P.L. 103-121, 107 Stat 1164 (1994)). The offset is applicable to collections where the Department is the sole recipient of the funds. Funds subject to the offset authority are credited to the DOJ Working Capital Fund. The DOJ offset authority does not apply to restoration settlements jointly shared with non-Federal co-trustees that are collected by DOJ and deposited into the DOI Restoration Fund. The anticipated charges for 2010 include offset charges of \$2.6 million related to the ASARCO bankruptcy settlement, received in December 2009.

The Program Management activity, which includes Restoration Program administrative functions and central and regional operations, does not assess or levy any internal program overhead charges, deductions, or holdbacks to support such operations.

**DEPARTMENT OF THE INTERIOR  
NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION  
RESTORATION FUND**

**Program and Financing (in thousands of dollars)**

<b>Identification code 14-1618-0-1-302</b>		<b>2009 Actual</b>	<b>2010 Enacted</b>	<b>2011 Request</b>
<b><u>Obligations by program activity:</u></b>				
Direct Program:				
00.01	Damage Assessments	8,272	8,000	8,000
00.02	Prince William Sound Restoration	2,134	2,000	2,000
00.03	Other Restoration	23,292	25,000	31,000
00.04	Program Management	3,625	4,000	4,000
00.91	Total, direct program	37,323	39,000	45,000
<b><u>Budgetary resources available for obligation:</u></b>				
21.40	Unobligated balance carried forward, start of year	269,124	274,984	423,446
22.00	New budget authority (gross)	46,546	191,462	58,434
22.10	Resources available from recoveries of prior year obligations	373	1,000	1,000
22.21	Unobligated balance transferred to other accounts:	-3,736	-5,000	-5,000
	(Funds Transferred to DOC/NOAA 13-4316)	[-3,145]	[-5,000]	[-5,000]
	(Funds Transferred to Forest Service 12-9921)	[-591]	[0]	[0]
23.90	Total budgetary resources available for obligation	312,307	462,446	477,880
23.95	New obligations	-37,323	-39,000	-45,000
24.40	Unobligated balance carried forward, end of year:	274,984	423,446	432,880
<b><u>New budget authority (gross), detail:</u></b>				
Discretionary:				
40.00	Appropriation (definite)	6,338	6,462	6,434
43.00	Appropriation (total)	6,338	6,462	6,434
Mandatory:				
60.25	Appropriation (Special fund, Indefinite)	42,830	188,000	55,000
61.00	Transferred to Other Accounts:	-2,622	-3,000	-3,000
	(Funds Transferred to DOC/NOAA 13-4316)	[-2,585]	[-3,000]	[-3,000]
	(Funds Transferred to Forest Service 12-9921)	[-37]	[0]	[0]
62.50	Appropriation (total mandatory)	40,208	185,000	52,000
70.00	Total new budget authority (gross)	46,546	191,462	58,434

Some amounts may differ from those reflected in the President's Budget Appendix due to rounding.

**DEPARTMENT OF THE INTERIOR  
NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION  
RESTORATION FUND**

**Program and Financing (in thousands of dollars)**

Identification code 14-1618-0-1-302	2009 Actual	2010 Enacted	2011 Request
<b><u>Change in unpaid obligations:</u></b>			
72.40 Obligated balance, start of year	9,985	12,071	11,750
73.10 New obligations	37,323	39,000	45,000
73.20 Total outlays, gross (-)	-34,864	-38,321	-43,200
73.45 Adjustments in unexpired accounts	-373	-1,000	-1,000
74.40 Obligated balance, end of year	12,071	11,750	12,550
<b><u>Outlays, (gross) detail:</u></b>			
86.90 Outlays from new current authority	4,012	4,420	4,400
86.93 Outlays from current balances	2,573	1,901	1,950
86.97 Outlays from new permanent authority	4,283	9,000	3,250
86.98 Outlays from permanent balances	23,996	23,000	33,600
87.00 Total outlays (gross)	34,864	38,321	43,200
<b><u>Net budget authority and outlays:</u></b>			
89.00 Budget authority	46,546	191,462	58,434
90.00 Outlays	34,864	38,321	43,200
<b><u>Investments in U.S. securities</u></b>			
92.01 Total investments, start of year			
U.S. securities, par value	239,438	241,686	410,000
92.02 Total investments, end of year			
U.S. securities, par value	241,686	410,000	380,000

**DEPARTMENT OF THE INTERIOR  
NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION  
RESTORATION FUND**

**Object classification (in thousands of dollars)****Identification code 14-1618-0-1-302**

	<b>2009 Actual</b>	<b>2010 Enacted</b>	<b>2011 Request</b>
<b><u>DIRECT OBLIGATIONS</u></b>			
Personnel compensation:			
11.1 Full-time permanent	938	961	976
11.3 Other than full-time permanent	0	0	0
11.5 Other personnel compensation	11	12	10
11.9 Total personnel compensation	949	973	986
12.1 Civilian personnel benefits	272	256	275
21.0 Travel and transportation of persons	136	140	125
22.0 Transportation of things	1	1	1
23.1 Rental payments to GSA	94	107	121
23.3 Communications, utilities, and miscellaneous charges	2	3	3
24.0 Printing and reproduction	2	2	0
25.2 Other services	39	30	35
25.3 Purchases of goods & services from other govt. accounts	988	400	400
26.0 Supplies and materials	20	10	10
31.0 Equipment	1	5	2
41.0 Grants	13,199	9,525	10,500
99.9 Subtotal, direct obligations	15,703	11,452	12,458
<b><u>ALLOCATION ACCOUNTS</u></b>			
Personnel compensation:			
11.1 Full-time permanent	4,707	5,800	6,300
11.3 Other than full-time permanent	1,791	1,400	1,400
11.5 Other personnel compensation	147	160	200
11.8 Special personnel services payment	0		
11.9 Total personnel compensation	6,645	7,360	7,900
12.1 Civilian personnel benefits	1,807	1,960	2,100
21.0 Travel and transportation of persons	535	600	600
22.0 Transportation of things	27	40	40
23.1 Rental payments to GSA	182	250	250
23.2 Rental payments to others	1	10	10
23.3 Communications, utilities, and miscellaneous charges	83	100	102
24.0 Printing and reproduction	4	10	10
25.1 Advisory and assistance services	126	140	150
25.2 Other services	4,723	6,728	9,600
25.3 Purchases of goods & services from other govt. accounts	311	650	830
25.4 Operation & maintenance of facilities	367	300	300
25.7 Operation & maintenance of equipment	34	50	50
26.0 Supplies and materials	303	550	600
31.0 Equipment	158	200	200
32.0 Land and structures	486	1,700	2,800
41.0 Grants	5,828	6,900	7,000
99.0 Subtotal obligations - Allocation Accounts	21,620	27,548	32,542
99.9 Total obligations	37,323	39,000	45,000

**DEPARTMENT OF THE INTERIOR  
NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION  
RESTORATION FUND**

**Obligation Summary (in thousands of dollars)**

Identification code 14-1618-0-1-302	2009 Actual	2010 Enacted	2011 Request
<b>Obligations are distributed as follows:</b>			
Natural Resource Damage Assessment Program Office	15,703	11,452	12,458
Bureau of Indian Affairs	1,010	1,000	1,500
Bureau of Land Management	511	600	1,000
Bureau of Reclamation	41	6,100	500
Fish and Wildlife Service	14,279	15,000	23,500
National Park Service	3,273	2,600	3,200
Office of the Secretary	381	300	325
U.S. Geological Survey	2,125	1,948	2,517
99.9 Total obligations	37,323	39,000	45,000

**Personnel Summary**

Identification code 14-1618-0-1-302	2009 Actual	2010 Enacted	2011 Request
<b>Direct:</b>			
Total compensable workyears:			
1001 Full-time equivalent employment	7	9	9
Average Salary per FTE	\$146,145	\$150,076	\$154,200

**DEPARTMENT OF THE INTERIOR  
NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION  
EMPLOYEE COUNT BY GRADE**

	<b>2009 Actual</b>	<b>2010 Enacted</b>	<b>2011 Estimate</b>
Executive Level .....	0	0	0
SES.....	1	1	1
CA-3 *.....	0	0	0
AL-2-3 **.....	0	0	0
SL-0 ***.....	0	0	0
subtotal.....	1	1	1
GS/GM-15 .....	1	1	1
GS/GM-14 .....	2	2	2
GS/GM-13 .....	5	5	5
GS-12 .....	0	0	0
GS-11 .....	0	0	0
GS-10 .....	0	0	0
GS-9 .....	0	0	0
GS-8 .....	0	0	0
GS-7 .....	0	0	0
GS-6 .....	0	0	0
GS-5 .....	0	0	0
GS-4 .....	0	0	0
GS-3 .....	0	0	0
GS-2 .....	0	0	0
subtotal (GS/GM).....	8	8	8
Total employment (actual / projected) at end of fiscal year.....	7	9	9

\*CA - DOI Board Member

\*\*AL - Administrative Law Judge

\*\*\*SL - Senior-Level / Scientific Professionals