



January 29, 2020

Senator Bill Ingebrigtsen, Chair  
Senator David Tomassoni, Ranking Minority Lead  
Environment and Natural Resources Finance Committee

Senator Carrie Ruud, Chair  
Senator Chris Eaton, Ranking Minority Lead  
Environment and Natural Resources Policy and Legacy Finance Committee

Representative John Persell, Chair  
Representative Dale Lueck, Ranking Minority Lead  
Environment and Natural Resources Policy Committee

Representative Rick Hansen, Chair  
Representative Dan Fabian, Ranking Minority Lead  
Environment and Natural Resources Finance Division

*Delivered via email*

Dear Senators and Representatives:

Please find attached the *Natural Resource Damage Account* Annual Report for fiscal year 2019 as required by Minnesota Statutes §115B.172.

Please contact Randall Doneen at 651.259.5156 or [Randall.Doneen@state.mn.us](mailto:Randall.Doneen@state.mn.us) if you have questions about this report.

Thank you.

Sincerely,

A handwritten signature in blue ink that reads 'Sarah Strommen'.

Sarah Strommen  
Commissioner

Cc: Legislative Reference Library  
Committee Administrators



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# Natural Resource Damage Account

Annual Legislative Report

01/29/2020

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## Legislative Charge

By November 1 each year, the commissioner of natural resources must submit a report to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over environment and natural resources policy and finance on expenditures from the natural resources damages account during the previous fiscal year.

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As requested by Minnesota Statute 3.197, this report cost approximately \$1000 to prepare, including staff time, printing and mailing expenses.

*Upon request, this material will be made available in an alternative format such as large print, Braille or audio recording. Printed on recycled paper.*

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## NRDA Legislative Report Executive Summary

Wildlife, water, air, and other natural resources can be harmed when petroleum or hazardous substances are released into the environment. These natural resources and services provided by natural resources belong to the public. State co-trustees assess injuries to natural resources resulting from releases and may pursue a Natural Resource Damage Assessment (NRDA) claim against the potentially responsible parties to compensate the public for harm that occurs. The goal of the NRDA Program is to rehabilitate, restore, or acquire natural resources to compensate for injuries or losses to natural resources resulting from the release of hazardous substances or petroleum by:

- Assessing injury to natural resources and lost services provided by natural resources
- Negotiating case closure
- Planning and implementing restoration projects

The Governor's April 5, 2019 Executive Order #19-29 authorizes the Commissioners of Natural Resources and the Pollution Control Agency as co-trustees for natural resources in Minnesota under CERCLA, 42 U.S.C. § 9607(f), the Clean Water Act, 33 U.S.C. § 1321 9f) and the Oil Pollution Act of 1990, 22 U.S.C., as well as Minnesota Environmental Response and Liability Act, Minn. Stat 115B.17, subd. 7 and State Pollution Control Act, Minn. Stat 115.071.

The NRDA statute (Minn. Stat. § 115B.172) requires the co-trustees to provide a report to the Minnesota Legislature on expenditures from the NRDA during the previous fiscal year. This report fulfills the requirement and covers FY 2019 (July 1, 2018 to June 30, 2019) activities.

Program highlights in FY 2019 included:

- Participation in multiple NRDA cases, including three formal trustee councils.
- Planning for and commencing implementation of the Kingsbury Bay restoration project as part of the St. Louis River/Interlake/Duluth Tar 2017 Settlement.
- Determining the cumulative benefits to natural resources of 35 of completed restoration projects in Minnesota.

The NRDA Program spent \$293,624.00 in contractual and administrative costs in FY 2019 to accomplish these and other activities.

Future NRDA work includes assessing several potential NRDA cases and planning for the Northwest Refinery 2012 Settlement restoration project(s).

Lastly, it is a program priority to identify an alternative source of funding for the program. Administration of the program is currently funded by revenues that are collected closed NRDA cases. At the current rate of expenditure, and assuming no additional revenues, the NRDA fund will go negative by the end of Fiscal Year 2021. The State co-trustee agencies, the Minnesota Department of Natural Resources (DNR) and the Minnesota Pollution Control Agency (MPCA), both support the NRDA program and its continued work in restoring harmed natural resources. The NRDA program has a combined 2.0 FTE staff from MPCA and DNR to conduct NRDA work. This account does not currently receive any appropriations from state or federal governments. The NRDA program's funding comes from case settlements for unauthorized releases of hazardous substances and petroleum that harm the State's natural resources.

## Assessment and Restoration Planning Activity

The NRDA assessment process consists of case prescreening, preliminary assessment of potential injuries, assessment studies to determine injury, damage quantification and initial restoration planning. In Fy19 Minnesota participated in three formal Trustee Councils with multiple federal, state and tribal natural resource managers for three large Superfund cases. The NRDA program also works on several state-only trustee cases involving spills and other eligible releases of hazardous substances and petroleum. NRDA staff also assist with the 3M 2018 NRDA Settlement implementation. Efforts on 3M are reported separately from the general NRDA program.

## Restoration Project Implementation

The 2017 St. Louis River/Interlake/Duluth Tar Settlement for \$8.2 million dollars provided funds for four restoration projects, two of which are underway and are being managed by the DNR:

- The Kingsbury Bay restoration project (\$5,477,242) is part of the Kingsbury Bay-Grassy Point Habitat Restoration Project and it will restore 70 acres of shallow, sheltered embayment habitat that will include recreational access.
- The Kingsbury Creek watershed (\$637,500) project will result in a reduction of sediment deposition to Kingsbury Bay, improving water quality and protecting against degradation of shallow sheltered embayment habitat.

## Program Restoration Projects Cumulative Benefits

The cumulative benefits of all completed NRDA projects are summarized in the table below.

- NRDA Program has funded or supported 39 restoration projects across Minnesota from 1995-2019 (including Interlake and projects currently being implemented)
- Value of restoration projects over the life of the Minnesota NRDA program (25 years) is \$15.2 Million.
- A restoration project often provides multiple benefits to natural resources and the services they provide. The benefits listed below are primary benefits for all of the completed projects.

Project Metric	Unit	Count
Land Acquisition for Habitat and Shoreland Protection	Acres	2489
Restored Habitat for Improved Ecosystem Services	Acres	360
Reduced Future Air Emissions	Pounds/yr.	118,404
Recreational/Cultural (Tribal) Opportunities provided	Benefits <sup>1</sup>	11
Groundwater Protection/Recharge/Conservation Project	Benefits	1
Other Research/Education Opportunities	Benefits	2
Surface Water/Stormwater Projects	Benefits	2

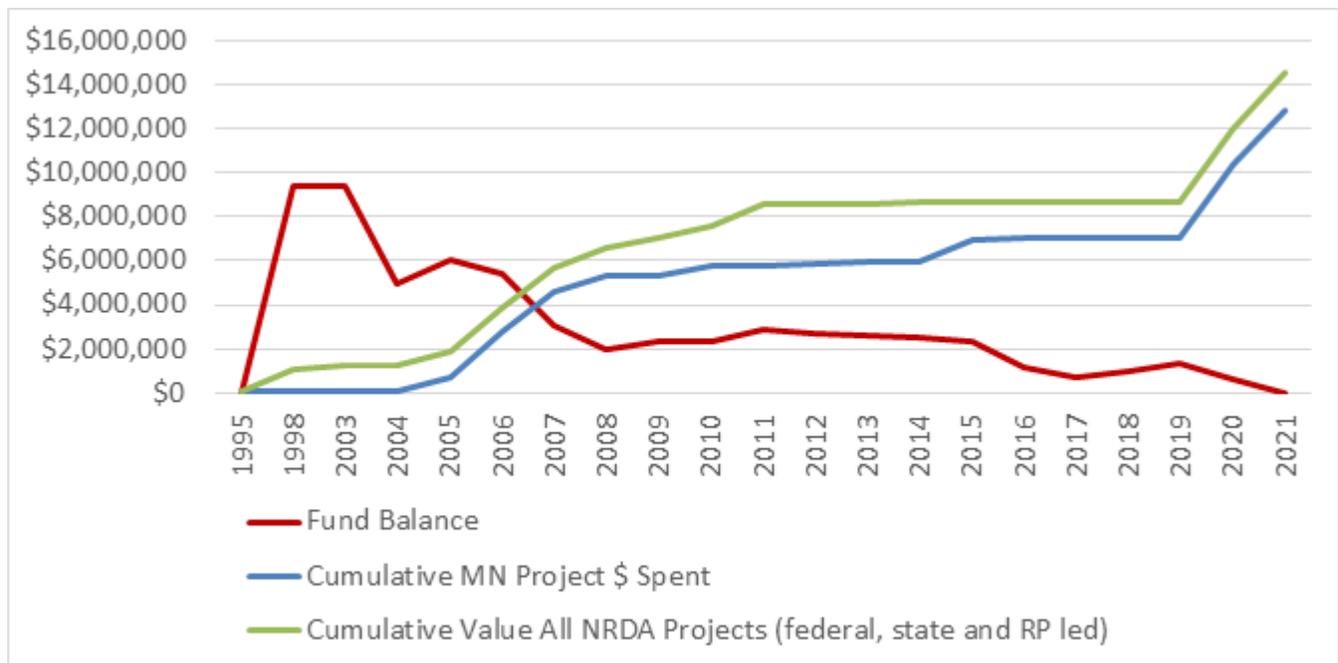
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<sup>1</sup> Some projects provide multiple targeted benefits, i.e., project metrics as listed; the benefit count is not equivalent to number of projects.

## Future NRDA 5 Year Program Goals

1. Injury Assessment:
  - Review five to ten new cases for potential NRDA actions
  - Begin assessment activities on three to five new cases as funding allows
2. Restoration Project Implementation:
  - Support DNR implementation of the Kingsbury Bay/Kingsbury Creek projects
  - Plan for restoration projects using the Northwest Refinery Settlement (\$100,000)
3. Future Program Funding Needs:
  - Plan for future program funding to ensure program viability. DNR and MPCA NRDA program activities are funded solely by a NRDA account within the Remediation Fund under Minn. Stat. § 115B.172. This account receives settlement money for staffing, assessment costs and restoration projects. At the current rate of expenditures and assuming no additional revenue, the NRDA fund will go negative by the end of FY21. If this occurs the NRDA program will have no funding for program administration.

## NRDA Program and Restoration Projects Past and Future Spending



## Expenditures

<b>Expenses related to the Natural Resource Damage Account (115B.172)</b>	
<b>Covering the period July 1, 2018 - June 30, 2019</b>	
<b>Balance as of July 1, 2018</b>	\$ 980,575.32
<b>Revenue (settlement funds for restoration projects related to Kingsbury Bay)</b>	\$ 3,488,132.00
<b>Expenditures (FY 2019)</b>	
<i>Injury/Damage Assessment and Restoration Planning</i>	\$ 93,214.28
MPCA and DNR selected Abt Associates as consultants to provide expertise with natural resource damage assessment and restoration planning activities. Abt Associates is providing an essential supplement to existing agency staff capacity.	
<i>Restoration Project Implementation</i>	\$ 5,782.00
DNR has planned and begun implementing the Kingsbury Bay and Kingsbury Creek restoration projects (total cost of \$5.5 million).	
<i>MPCA/DNR Payroll Expenses</i>	\$ 194,627.72
MPCA and DNR have dedicated agency resources to oversee NRDA activities. Such activities include planning, communication, implementation, and coordination with other Trustees, consultants, and stakeholder groups.	
<i>Expenditures subtotal</i>	\$ 293,624.00
Balance as of June 30, 2019	\$ 4,175,083.32 <sup>2</sup>

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<sup>2</sup> \$3,470,730 of the balance is dedicated to planning and construction for the Kingsbury Bay and Kingsbury Creek Projects.