

New Mexico Office of Natural Resources Trustee

Restoring Resources Injured by the Release of Radioactive and Hazardous Materials

Radioactive & Hazardous Materials Committee
June 15, 2022

Maggie Hart Stebbins, Trustee
Kate Girard, Executive Director



New Mexico's natural resources are critical to our state's economy and quality of life.

New Mexico residents depend on natural resources for their livelihoods, health, recreation, and great quality of life.

New Mexico's tourism and recreation industries depend on our unspoiled and scenic landscapes, natural wonders, clean waters, forests, abundant fish and wildlife, and other natural resources.



ONRT Mission

Restore natural resources that have been injured by the release of hazardous substances or oil



ONRT Mission

Under federal and state law, natural resource restoration is an essential component of the State's authority to hold polluters accountable.

When toxic substances pollute water, wildlife, fish, habitat, soils and other natural resources, state and federal laws require:

- A complete and timely clean up to protect public health and the environment
- Natural resources restored to the way they were, pre-contamination
- If that's not possible, replacement of injured resources or compensation for the lost natural resources and the services they provide - including cultural services
- ONRT's authority established by:
 - New Mexico Natural Resources Trustee Act [NMSA 1978, §§ 75-7-1 et seq]
 - Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) [42 USC §§ 9601 et seq]
 - Oil Pollution Act of 1990 [33 USC §§ 2701 et seq]
 - Federal Water Pollution Control Act or Clean Water Act of 1972 [33 USC §§1321 et seq]



Natural Resources Trustee Role

After hazardous substances are released into the environment, responsibility for the response is shared:



NM Environment Department

Responsible for remediation:

- Identify and characterize the release
- Require responsible party to clean up to protect public health and the environment

NM Natural Resources Trustee

Responsible for restoration:

- Returning affected natural resources to pre-contamination condition
- If that's not possible, replacing or acquiring equivalent resources
- Ensuring that communities are compensated for the loss of natural resources AND loss of use of those resources and the services they provide.

ONRT Authority

CERCLA claims (Superfund Act)

- Releases of “hazardous substances” defined by federal law
- Exemption for petroleum products

OPA claims

- Releases of petroleum products into Waters of the United States

Natural Resource Damage Assessment and Restoration (NRDAR)

NRDA is a process that allows Natural Resource Trustees to evaluate natural resource injuries caused by the release of hazardous substances to the environment.

Evaluate and quantify natural resource injury



Determine type and scale of restoration needed



Engage with Responsible Parties to obtain compensation for natural resource injuries



Plan and implement restoration actions



Compensate the public for losses

Settlements Since 2000 - \$45,341,226

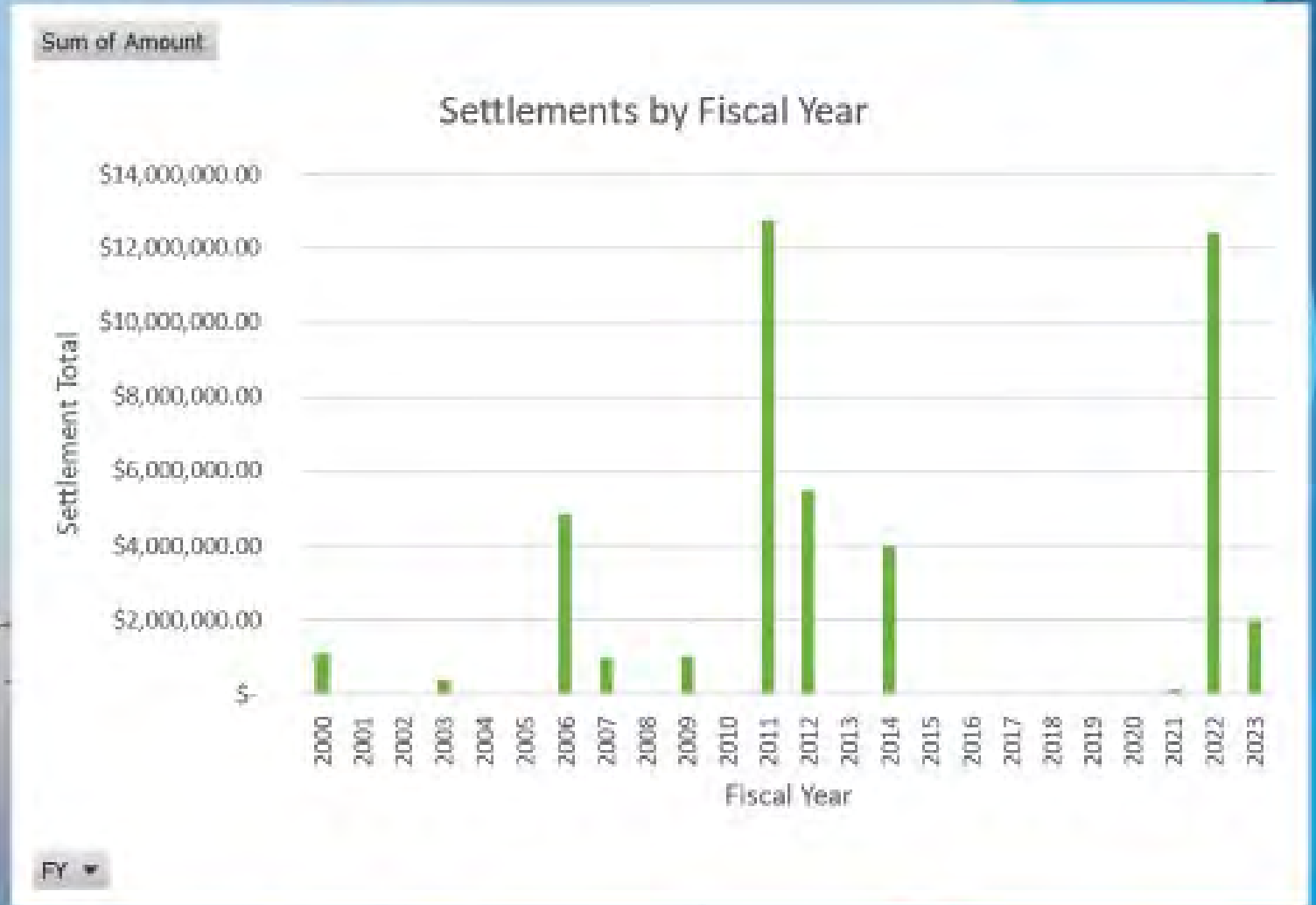


- Gold King Mine Spill
 - EPA contractors: \$2,000,000 (Dec 2022)
 - United States EPA \$10,000,000 (June 2022)*
 - Kinross Gold: \$1,000,000 (Jan 2021)
- Ft Wingate Depot Activity/DOD \$1,451,069 (March 2022)*
- Fronk Oil/Cimarron River: \$150,000 (Dec 2020)
- Freeport-McMoRan Groundwater: Chino, Cobre, and Tyrone Mines (\$12,794,308)
- Freeport-McMoRan Wildlife and Wildlife Habitat: (\$5,500,000)
- AT&SF: Albuquerque's South Valley Tie Treater Facility (\$989,417)
- South Valley Superfund Site: Albuquerque/South Valley (\$4,857,548)
- Sparton Technology: Albuquerque Facility (\$1,000,000)
- SOHIO Western Mining L-Bar: Tailings Facility near Moquino (\$29,830)
- AT&SF: Clovis Rail Yard (\$404,456)
- Van Waters & Rogers: Albuquerque's South Valley Facility (\$135,000)
- ASARCO (Five Facilities): Blackhawk Mine near Hanover, (\$1,029,598)
- Chevron Mining: Molybdenum Mine in Questa, (\$4,000,000)

*Funds deposited into Federal Court Registry Accounts

ONRT Settlements by Fiscal Year

- **Gold King Mine Spill**
 - EPA Contractors: \$2,000,000 (Dec 2022)
 - US EPA: \$10,000,000 (June 2022)
 - Kinross Gold: \$1,000,000 (Jan 2021)
 - Ft Wingate Army Depot: \$1,451,069 (March 2022)
- **Fronk Oil/Cimarron River**
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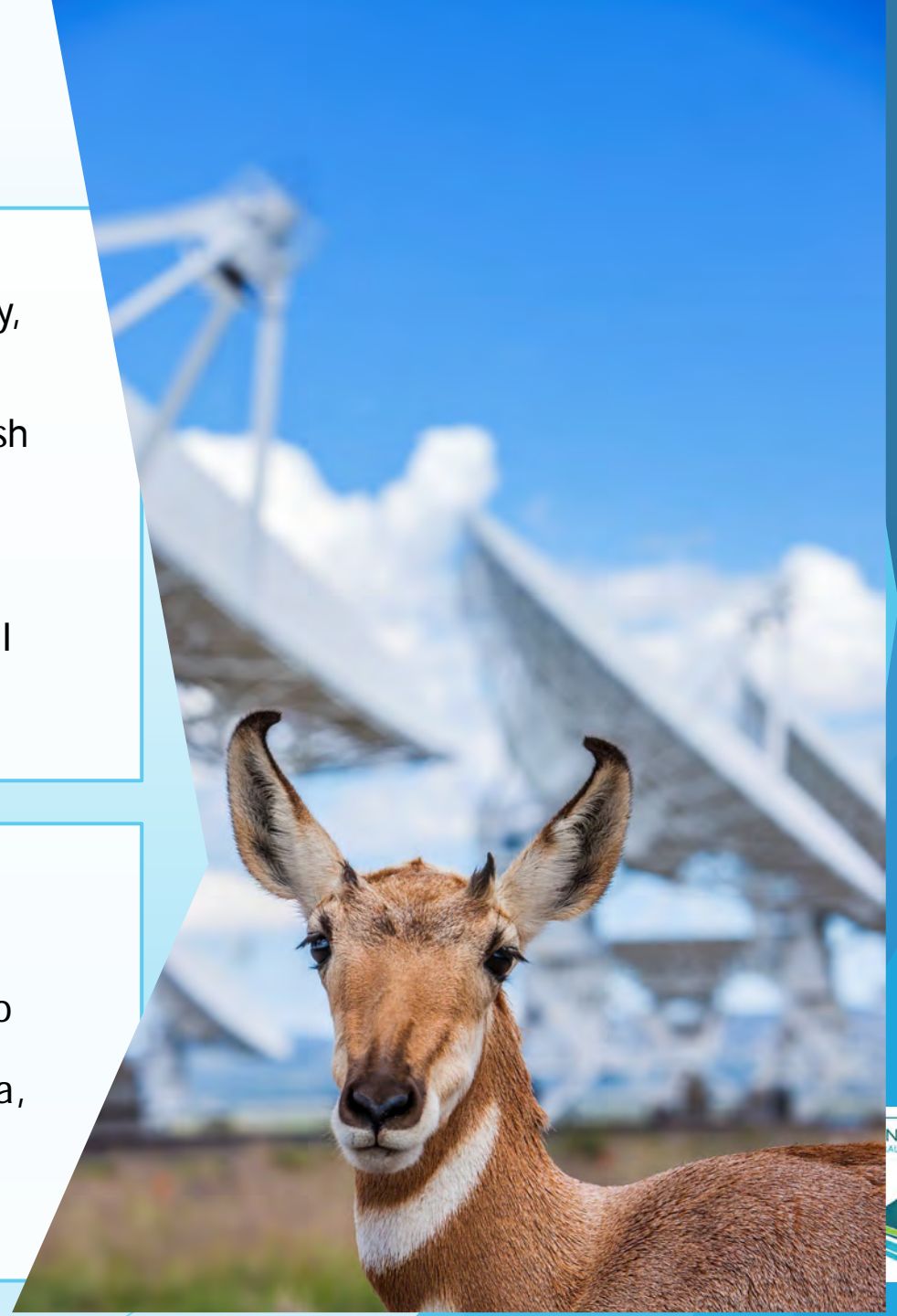
ONRT Partners and Project Locations

Current Partners Include:

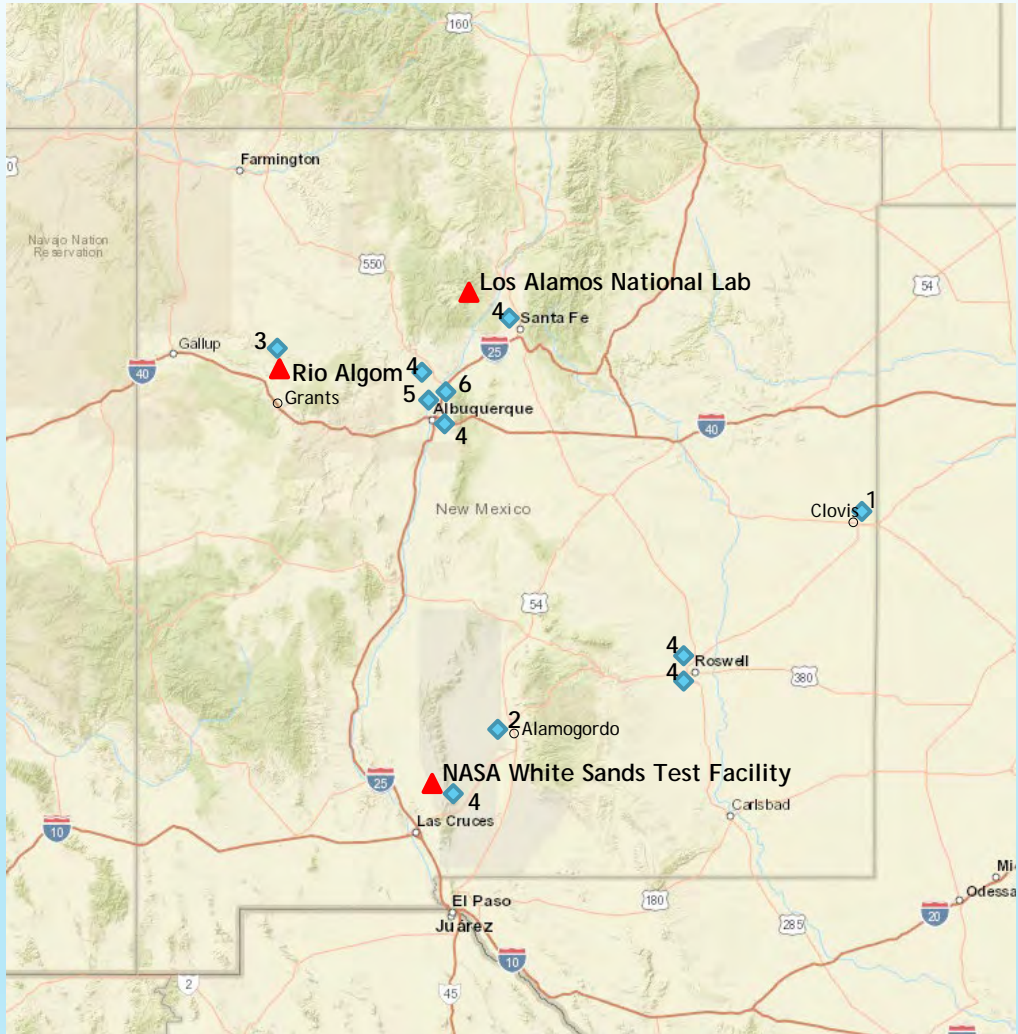
Navajo Nation, Zuni Tribe, Pueblo of San Ildefonso, Santa Clara Pueblo, Jemez Pueblo, Cochiti Pueblo, San Juan County, City of Farmington, San Juan Soil & Water Conservation District, Tse Daa Kaan (Hogback) Navajo Community, US Dept of Energy, US Dept of Interior, Bureau of Indian Affairs, US Fish and Wildlife Service, US Dept. of Agriculture, US Forest Service, Cimarron Watershed Alliance, Amigos Bravos, Trout Unlimited, Village of Questa, Town of Silver City, Albuquerque/Bernalillo County Water Utility Authority, NM Environment Department, NM Dept of Game and Fish, NM Soil and Water Conservation Districts, private landowners

Current/Past Project Locations:

San Juan County, Farmington, Aztec, Cedar Hill, Questa, Cimarron, Silver City, Albuquerque, Red River, Los Lunas, Belen, Socorro, Alamogordo, Aztec, Clovis, Grants, Milan, Gallup, Santa Clara, Bayard, Hurley, Isleta Pueblo, Central Rio Grande corridor, Rio Rancho, Cebolleta, Bibo, Bosque Farms,, Los Alamos, White Rock, Hanover, Faywood, White Signal, Gila, Pinos Altos, and Cliff



Current and Potential Natural Resource Damage Assessments

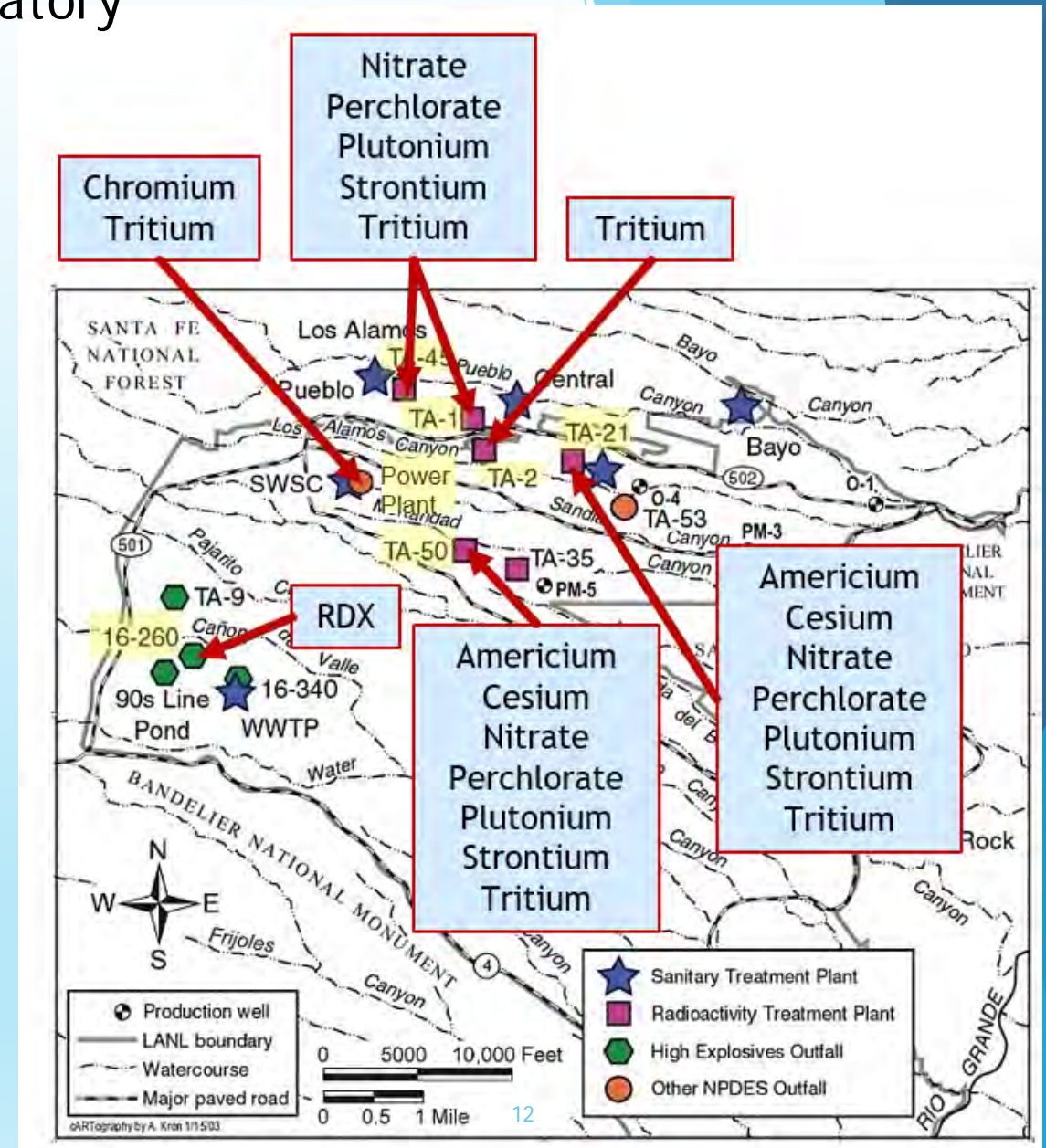


- ▲ Current Cases
 - Los Alamos National Laboratory
 - NASA White Sands Test Facility
 - Rio Algom Quivira Uranium Mill and Mine Sites

- ◆ Potential New Cases
 1. Cannon Air Force Base - PFAS (Clovis)
 2. Holloman Air Force Base PFAS (Alamogordo)
 3. Grants Mining District - Researching natural resource injuries, ONRT jurisdiction, and responsible parties across district. Over 85 legacy mines in the area.
 4. Researching potential PFAS releases at other military installations

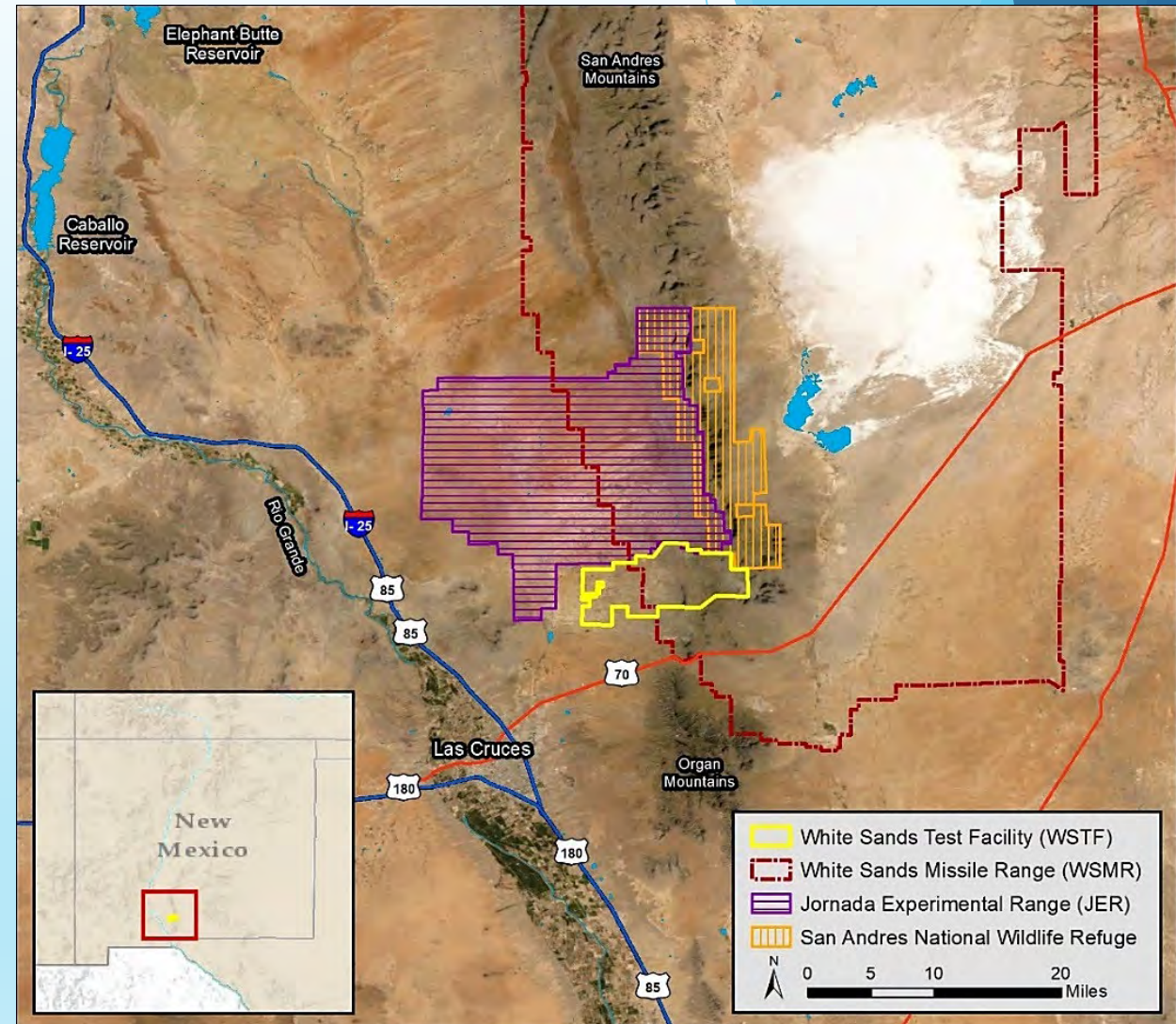
Ongoing Assessment - Los Alamos National Laboratory

- Injuries:
 - groundwater, soils, surface water, and sediments contaminated with radiological substances, metals, and organic compounds
 - cultural service Losses
- PRP: DOE
- Co-Trustees
 - ONRT
 - Pueblo de San Ildefonso
 - Pueblo de Cochiti
 - Pueblo of Jemez
 - Santa Clara Pueblo
 - U.S. Forest Service
 - DOE (potentially responsible party)
- Status: Cooperative Damage Assessment
 - Cleanup and decommissioning ongoing
 - Damage Assessment Plan was completed in 2014
 - implementing the assessment activities described in that plan
 - Early restoration working group
- Next steps
 - complete injury assessment work and estimate damages
 - Begin settlement discussions with DOE



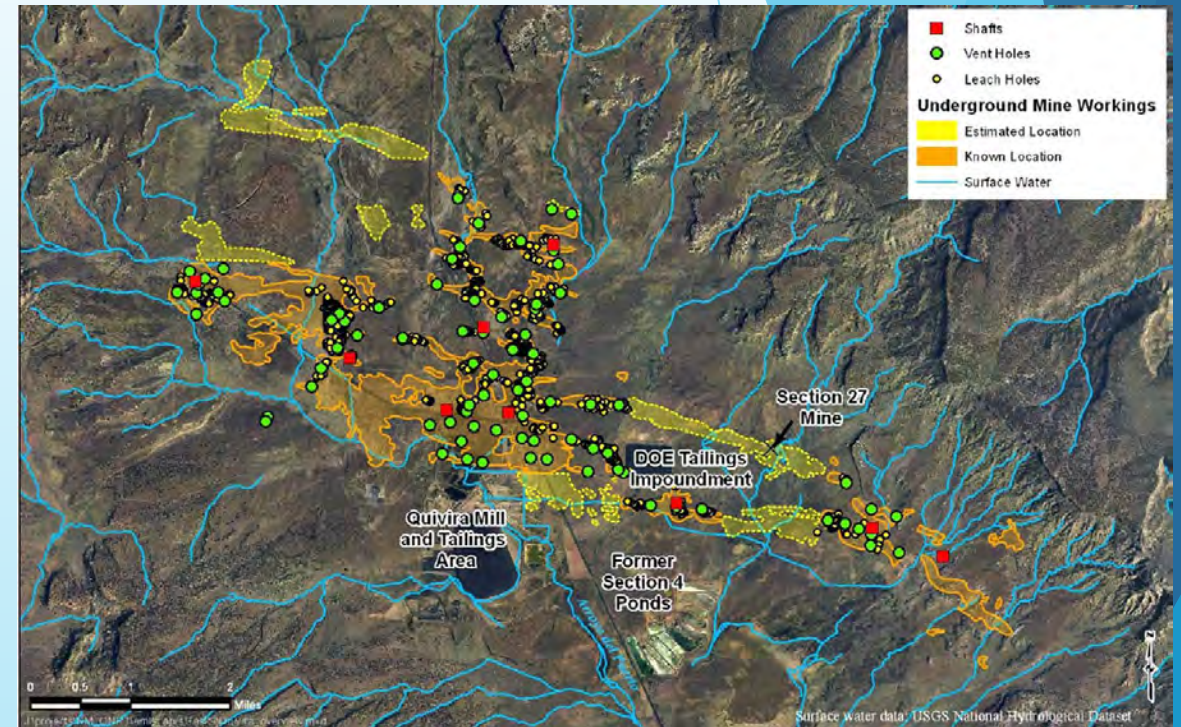
Ongoing Assessment - White Sands Test Facility

- Injuries:
 - groundwater contaminated with trichloroethylene, perchloroethylene, n-nitrosodimethylamine
- PRP: NASA and DOD
- Co-Trustees
 - DOI
 - US Dept of Agriculture
 - DOD
- Status: ONRT conducting the assessment
 - Preassessment Screen was completed in 2016
 - Damage Assessment Plan completed in 2019
 - nearing completion of assessment activities including drafting a Restoration and Compensation Determination Plan.
- Next steps: ONRT has invited NASA and DOD to enter into settlement discussions. Awaiting answer



Ongoing Assessment - Rio Algom Quivira Mill and Mines Site Ambrosia Lake

- Injuries:
 - groundwater resources & terrestrial resources contaminated with radiological substances, metals, and organic compounds
 - radium, radon, thorium, and uranium
 - zinc, arsenic, beryllium, cadmium, copper, lead, nickel, sulfuric acid
- PRP: Rio Algom Mining LLC - subsidiary of BHP Billiton
- Co-Trustees;
 - ONRT
 - Navajo Nation
 - DOI
 - US Fish and Wildlife
 - Bureau of Indian Affairs
 - Rio Algom (PRP)
- Status: Cooperative Damage Assessment
 - injury assessment phase, evaluating existing data to determine the nature and extent of potential natural resource injuries
- Next steps:
 - quantifying type and magnitude of natural resource injuries, estimate damages, settlement discussions with RAML

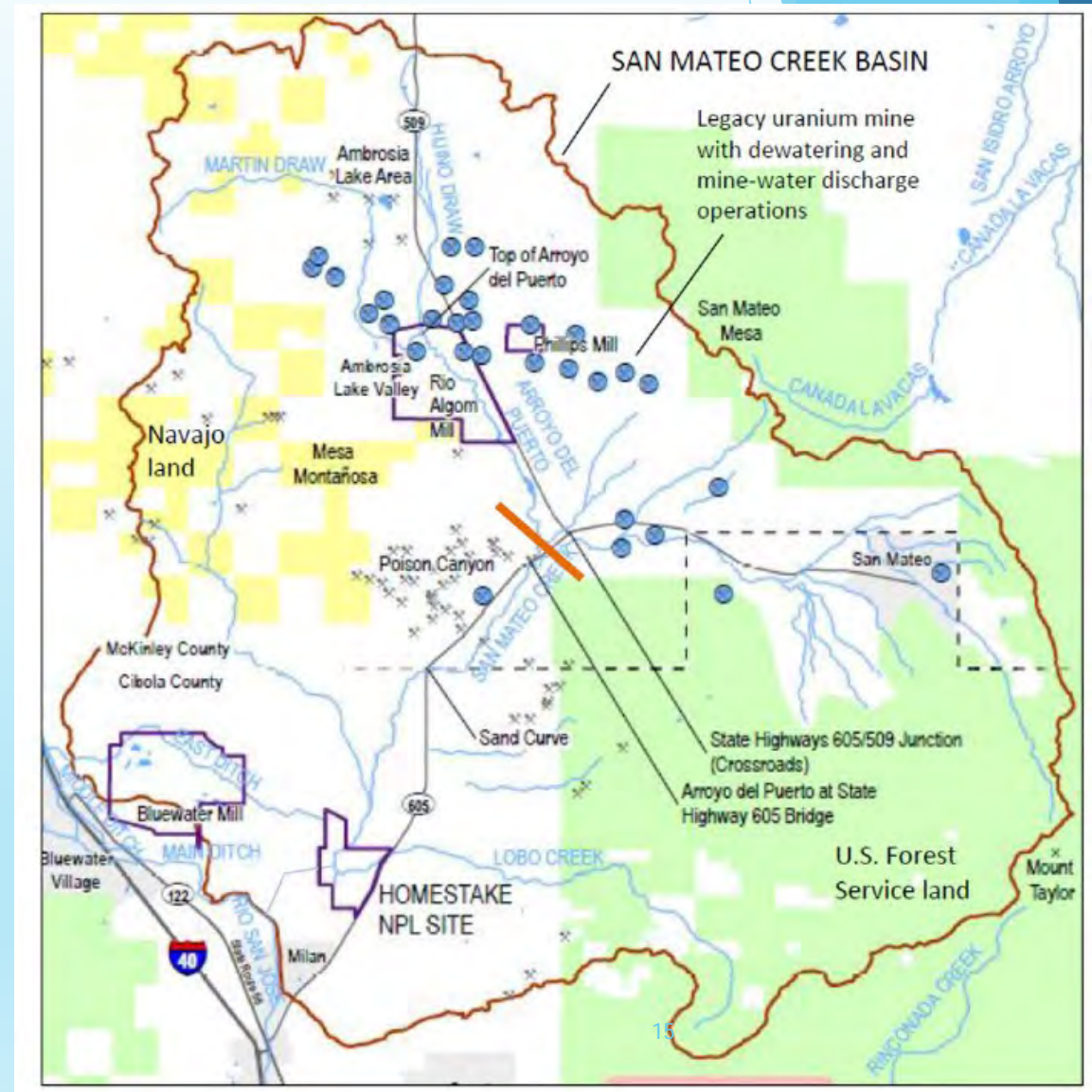


Potential New Assessment - San Mateo Creek Uranium Mills and Mines

Intensive uranium mining and milling
late 1940s - early 1980s

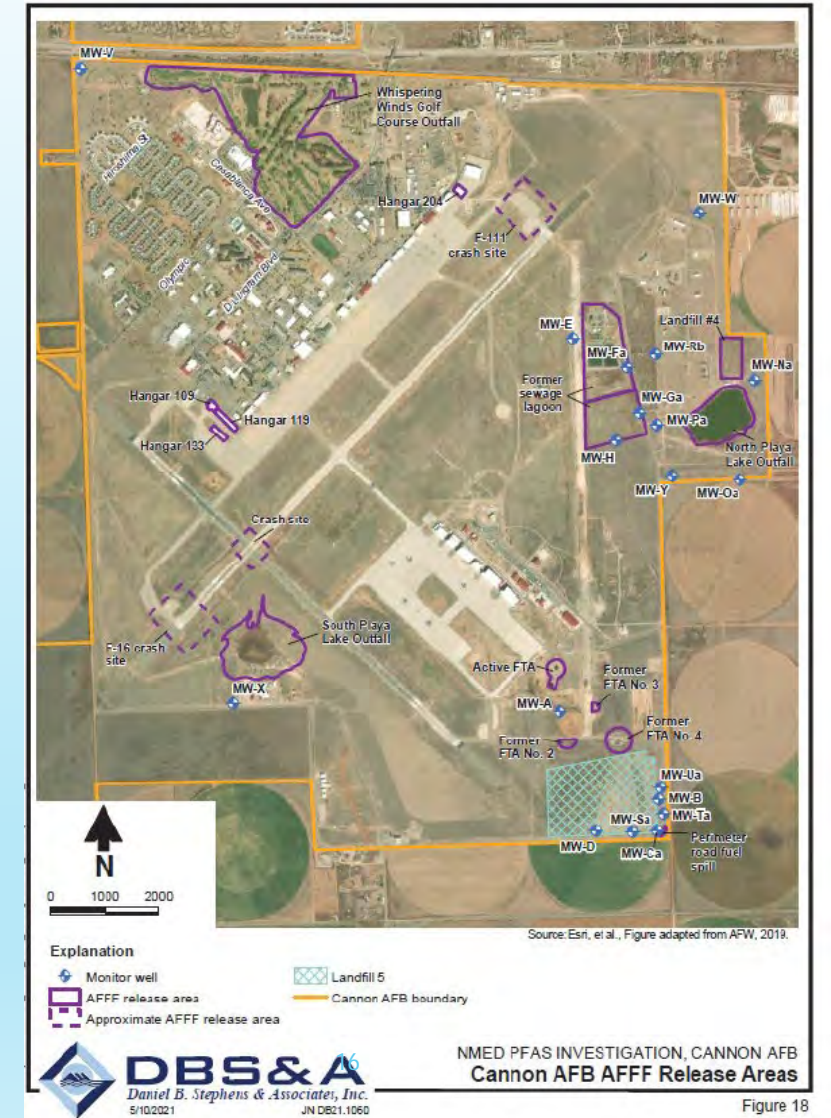
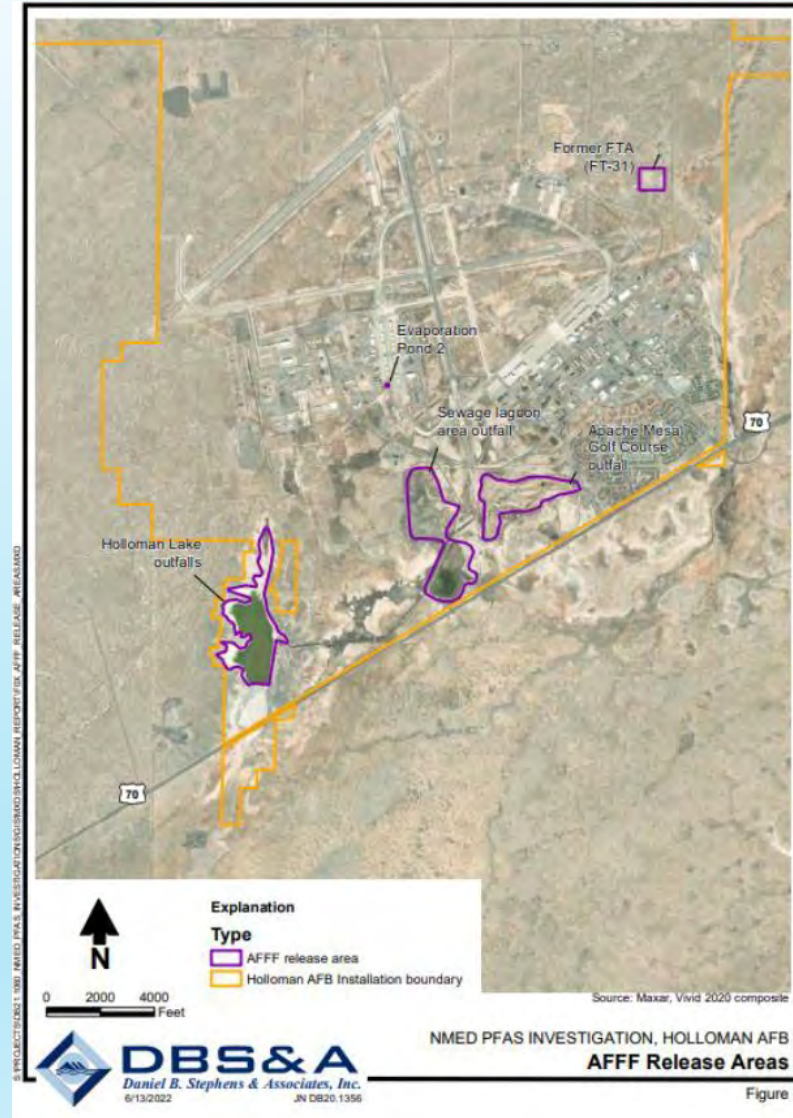
4 uranium mills and 85 uranium mines

Mining and milling in these areas released
uranium and other hazardous substances,
contaminating soils, surface water,
sediment, and groundwater



Potential New Assessments - PFAS Releases at Cannon AFB and Holloman AFB

- PFOS
- PFOA
- PFHxS
- PFBS
- PFBA
- Perfluoropentanesulfonic acid (PFPeS)
- Perfluoropentanoic acid (PFPeA)
- PFHxA
- Perfluoroheptanesulfonic acid (PFHpS)
- Perfluoroheptanoic acid (PFHpA)
- PFNA
- PFDA
- Perfluoroundecanoic acid (PFUnA)
- Perfluorododecanoic acid (PFDoA)
- Perfluorotridecanoic acid (PFTrDA)
- Perfluorotetradecanoic acid (PFTeDA)
- 4:2 Fluorotelomer (4:2 FTS)
- 6:2 Fluorotelomer (6:2 FTS)
- 8:2 Fluorotelomer (8:2 FTS)
- Perfluorooctanesulfonamide (PFOSA)
- N-Ethyl perfluorooctanesulfonamidoacetic acid (NETFOSAA)
- N-Methyl perfluorooctanesulfonamidoacetic acid (NMEFOSAA)



Ft. Wingate DA Settlement

- Injury:
 - Groundwater, soils, and habitat exposed to explosive compounds, inorganic compounds, volatile organic compounds (VOCs), pesticides, & polychlorinated biphenyl (PCBs),
- PRP: US Army
- Co-Trustees:
 - ONRT
 - Zuni Tribe
 - Navajo Nation
 - US Army
 - US Dept. of Interior
 - US Fish and Wildlife Service
 - US Bureau of Indian Affairs
 - US Forest Service



Gold King Mine Settlements

US EPA \$2,000,000

US EPA Contractors:
\$10,000,000

- 10 projects
- Mining Defendants:
\$1,000,000
 - 4 projects





GKM - Kinross Restoration Projects - \$1m

- Cedar Hill Boat Ramp on the Animas River - San Juan County \$160,000
- Festival and Farmer's Market Pavilion at Gateway Park - City of Farmington \$300,000
- San Juan Valley Soil Health Restoration Project - San Juan County Soil and Water Conservation District \$280,000
- Agricultural Irrigation System Upgrade Project - Tse Daa Kaan (Hogback) Navajo Community. \$250,000

US EPA & EPA Contractors Restoration Projects - \$12m

- City of Aztec, North Main Wastewater Management Infrastructure (\$480,000)
- City of Aztec, Rehabilitation of Raw Water Reservoir 1 (\$950,000)
- City of Farmington, Whitewater Wave and Irrigation Diversion Dam at Farmington Gateway Park (\$2,000,000)
- Navajo Nation Department of Fish and Wildlife, Nenahnezad Chapter San Juan River Boat Ramp (\$65,575)
- New Mexico Interstate Stream Commission, San Juan River Water Lease Agreement Partnership (\$1,803,000)
- New Mexico State Parks Division, Aquatic Invasive Species Station on San Juan River Quality Waters (\$205,226)
- San Juan County, San Juan River Public Boat Ramps and Park Improvements (\$681,440)
- San Juan County, San Juan County Extension Service Office Building (\$2,300,000)
- San Juan County, Water and Wastewater Improvements for the Totah Subdivision (\$1,000,000)
- San Juan Soil and Water Conservation District, Irrigation Ditch Diversion Project²⁰ (\$1,616,600)



Questions?

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