

NEW MEXICO

OFFICE OF NATURAL RESOURCES TRUSTEE

RECENT SETTLEMENTS, RESTORATION PROJECTS AND DAMAGE ASSESSMENTS



Before and after photos of the residential street and adjacent sewer line crossing at Cameron Creek in Santa Clara, NM.

October 27, 2016

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Summary of Recent Settlements:

Name	County	Value (approx.)	Status
CMI Questa	Taos	\$4 Million	Project proposals in review by Trustee Council
FMI	Grant	\$1.5 Million in funding for restoration still remains	Draft Addendum to be published soon

Summary Restoration Projects:

Name	County	Value (approx.)	Status
Ancheta Springs Ranch Projects	Grant	\$100,000 conservation easement acquisition and restoration	The easement (\$60K) was acquired in November 2014 and the wildlife and wildlife habitat restoration phase (\$40K) will be implemented in 2017.
ASARCO Blackhawk Mine Tailings Stabilization Project	Grant	\$1 Million	Project was completed in February 2016. NMED to fund the repairs of some recent erosion issues in the upcoming months.
Bayard Wastewater Reuse Project	Grant	\$3.8 Million	New infrastructure project completed in October 2015. Infrastructure for the irrigation areas still on-going (being funded by the municipality). Irrigation of several target areas will start in 2017.
Burro Cienega Side Channel, Floodplain, and Low Terrace Restoration Project	Grant	\$177,300*	80% complete, some remaining field work
Burro Cienega Watershed Restoration Project	Grant	\$656,300 (\$561,300 + \$95K monitoring for this and two other projects, see *)	50% complete, some remaining field work
Curry County Playa Lakes Conservation	Curry	\$365,000	10 year conservation agreement, expires in one and two years. We'll have some left over money that we may use to extend the program or use it for a monitoring study (TBD).
Mimbres River Wildlife and Habitat Restoration Project	Grant	\$158,400*	70% complete, some remaining field work
Mountain View Nitrate Plume	Bernalillo	\$4.5M	Expanding one existing treatment cell system and constructing a new one. In the meantime, operating current remediation system and sampling annually and as needed.
Redrock Property Habitat Protection & Improvement Project	Grant	\$500,000	This acquisition is in process. NM State Game Commission will be final owner of the property.
San Vicente Creek Mill Restoration Project	Grant	\$1.2 Million	ONRT inspection in January 2016
Silver City North/Blackhawk Sewer Line Extension Project	Grant	\$706,000	ONRT portion of project completed in May 2015 and about half of the residences have connected to the system, more expected through 2017
Silver City Ridge Road East Sewer Extension Project	Grant	\$4 Million	In process

Recent Settlement Details:

Chevron Mining Inc. (CMI) \$4 Million Natural Resource Damage Settlement

A \$4M settlement was reached with CMI to restore natural resources that were injured as a result of releases of hazardous substances from the CMI mine facility located in Questa. The restoration funds will be used to plan and implement projects that compensate for injury to groundwater and aquatic habitat resources. In addition, 225 acres of land called the Anderson Ranch is to be transferred to the Bureau of Land Management for conservation and natural resource protection. A public meeting was held in April 2016 to solicit restoration project ideas. Several project proposals were received from stakeholders and the public and are currently being evaluated by the Trustees. A draft Restoration Plan/Environmental Assessment describing and ranking those projects will be prepared for public review and comment in the near future.

Freeport-McMoRan (FMI) \$1.5 Million Remaining to Fund Additional Restoration Projects

After the implementation of eight restoration projects from the wildlife and wildlife habitat settlement with Freeport-McMoRan mines, \$1.5 million in funding still remains and the trustees are in the process of issuing a draft addendum to the original restoration plan/environmental assessment. This draft addendum will propose the implementation of several additional restoration projects in the Gila and Mimbres watersheds and will be available for public review and comment soon.

Restoration Project Details (recently completed and ongoing):

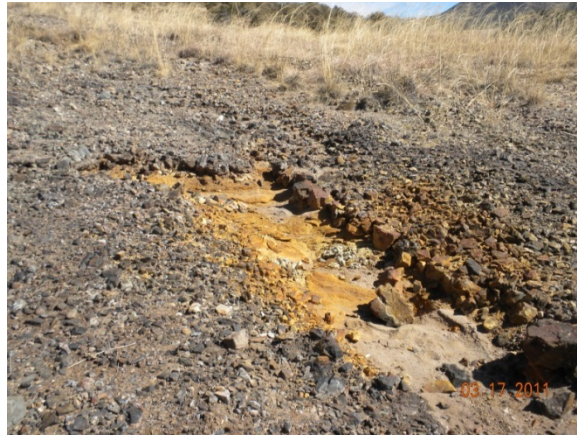
Restoration projects are implemented with damage settlement funds and, when available, augmented with grants from other agencies or organizations.

Ancheta Springs Ranch Conservation Easement and Restoration

The \$60K conservation easement acquisition project protects in perpetuity valuable wildlife habitat on the Ancheta Springs Ranch by enabling the owners to put a conservation easement on the Ranch. Wildlife and wildlife habitat benefit through the avoidance of future risk of subdivision and development on the property, which could harm the Ranch's diverse habitats. The wildlife and wildlife habitat restoration phase of the project, estimated at \$40K, will be implemented in 2017 and includes active stream restoration along Ancheta Creek and other tributaries.

ASARCO Blackhawk Mine Tailings Stabilization

This \$1M project stabilized exposed toxic mine tailings at the tailings impoundment by placing clean cover material over the tailings, re-grading and re-contouring slopes, improving drainages, armoring high-runoff areas, and by re-seeding disturbed areas.



Tailings (yellow material) exposed by erosion.



Photo on the left shows the lower portion of the tailings impoundments where tailings (yellow material) had been exposed by erosion. Photo on the right shows the same area after the placement of cover material, re-grading, and armoring.

Bayard Wastewater Reuse

This \$3.8M project built the infrastructure for a wastewater treatment facility to enable groundwater conservation by using treated wastewater for irrigation. The new infrastructure has been completed and consists of a new building with additional wastewater treatment equipment, piping and controls, a large storage tank, and transmission lines. The irrigation of several target areas will start in 2017.



Completed construction of the wastewater building and the 20,000-gallon above ground storage tank. Photo on the right shows equipment installed in the new building.

Burro Cienaga, Side Channel, Floodplain, and Lower Terrace Restoration Project

This \$177,300 project continues on-going restoration along a reach of the Burro Cienaga by constructing erosion control structures that have proven to raise both the cienaga surface water and groundwater levels, thus allowing for natural revegetation along the cienaga. The goal is to maintain the cienaga as a perennial wetland, which provides key habitat for birds and other wildlife. This project also includes a monitoring study to determine the long-term wildlife benefits of the project. The U.S.FWS is managing the funding.



Examples of rock and wooden structures to be used to trap sediments and minimize erosion while increasing recharge to the water table.

Burro Cienaga Watershed Restoration Project

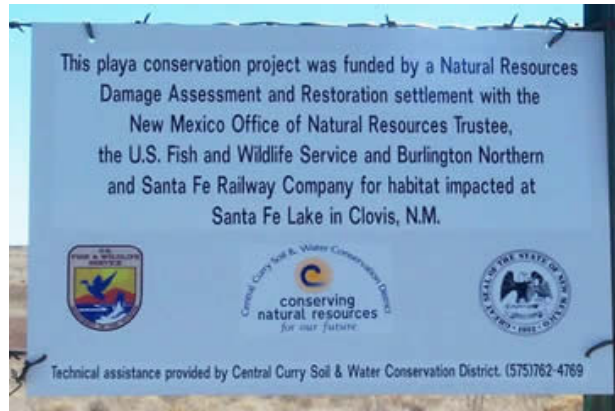
This \$656,300 project is being implemented throughout the upper Burro Cienaga watershed. The project includes the reconstruction of surface stock tanks to provide habitat for migrating waterfowl and other wildlife that depend on open water and the construction of earthen structures to control eroding head cuts and gullies. This project also includes a monitoring study to determine the long-term wildlife benefits of the project. The U.S.FWS is managing the funding.



Examples of a surface stock tank (left photo) and an erosional gully created by run-off (right photo). Regrading and construction of berms for the stock tanks and the construction of erosional earthen structures for the gullies are among some of the restoration activities being implemented for this project.

Curry County Playa Lakes Conservation

This \$365K project is preserving 1,000 acres of beneficial playa habitat through 10-year conservation agreements with private landowners.



Playa conservation sign posted at each of the 10 playas under the conservation agreement.

Mimbres River Wildlife and Habitat Restoration Project

This \$158,400 project aims to restore and improve riparian and wetland habitats at several locations within the Mimbres River Watershed. The project includes the modification and enhancement of several small ponds and at least one stock pond, removing invasive plants, stabilizing and restoring eroding riverbanks, and installing fencing to protect restored areas. This project also includes a monitoring study to determine the long-term wildlife benefits of the project. The U.S.FWS is managing the funding.



Photo shows a series of spring-fed ponds that were enhanced as part of this project.

Mountain View Nitrate Plume

This \$4.5M project in Albuquerque's South Valley will reduce concentrations of nitrate-contaminated groundwater close to WQCC standards to allow for natural attenuation of groundwater.



The nitrate plume treatment system compound where a soybean product amendment is injected into groundwater to breakdown nitrate in the contaminated plume.

Redrock Property Habitat Protection & Improvement

This 130 acre property will protect and restore native riparian habitat along the Gila River in Redrock, Grant County. This \$500K state acquisition will come from the ONRT settlement and the NM State Game Commission will be final owner of the property.



The Gila River riparian area at the Redrock property.

San Vicente Creek Mill Restoration

Completed this \$1.2M project which removed abandoned tailings contaminating the San Vicente Creek and the groundwater beneath the Creek. The project included two years of post-construction quarterly inspections of the excavated and re-vegetated areas.



Photo on the left shows the removal of tailings. Photo on the right shows the same area after the tailings and contaminated soils were removed followed by the placement of clean backfill, re-grading, and re-seeding.

Silver City North/Blackhawk Sewer Line Extension

Completed this \$706K project which extended sewer lines to 35 residences to eliminate the use of faulty septic systems that contaminate groundwater. About half of the residences have connected to the system and more are expected through 2017.



Photo on the left shows trenching for sewer line and manhole installation. Photo on the right shows the area after the sewer line was installed and the trench had been backfilled, compacted, and asphalted.

Silver City Ridge Road East Sewer Extension

This project will extend municipal sewer lines to 162 residences and eliminate the use of potentially faulty septic systems that contaminate groundwater. The anticipated cost of this project is \$4M.



One of the residential streets that will receive a new municipal sewer line.

Gold King Mine



Animas River sediment near Durango, CO February 2016

3,100 mg/kg lead

Damage Assessment:

New and Ongoing Assessments	Participants	Status
Gold King Mine	Responsible Party (RP): TBD – likely US EPA and State of Colorado Trustees: TBD – likely ONRT, Navajo Nation, State of Utah, Southern Ute Tribe, Colorado	EPA has been notified of NM interest. Pre-assessment Screen (PAS) is being performed.
Los Alamos National Laboratory	RP/Trustee: US Dept. of Energy Trustees: ONRT, Pueblo de San Ildefonso, Pueblo of Jemez, Santa Clara Pueblo, US Dept. of Agriculture Forest Service	Assessment has begun. Developing task orders & work plans. DOE is funding the assessment. Monthly Trustee Council Meetings. Current projected completion date is 2028.
Rio Algom Quivira mill & mines	RP: Rio Algom Mining LLC (RAML) Trustees: ONRT, Navajo Nation, US Dept. of the Interior	Finalizing the assessment approach which will be signed by all Trustees.
NASA White Sands Test Facility	RP: NASA, US Army (uncertain) Trustees: ONRT, US Army (uncertain) DOI and Mescalero Apache are not participating.	ONRT gave NASA a Draft MOA & Cooperative Assessment Approach in 2014. NASA does not have funds (\$200K) to pay for cooperative assessment. The State is proceeding forward without NASA.
Pending Settlements	Participants	Status
Fort Wingate Depot Activity	RP/Trustee: US Army Trustees: ONRT, Navajo Nation, Zuni Pueblo	The consent decree is getting finalized (approximately \$1.5 M) and will be sent to all of the Parties for approval and signature.

Statutes and Regulations of Importance:

[New Mexico Natural Resources Trustee Act \[NMSA 1978, §§ 75-7-1 et seq\]](#)

NMSA Article 7 – Natural Resources Trustee

75-7-5. Natural resources trustee fund.

C. In addition to expenditures made pursuant to Subsection B of this section, money shall be appropriated annually by the legislature from the general fund for the purpose of providing for necessary personnel and other costs of the natural resources trustee, the attorney general and the office of natural resources trustee in carrying out the provisions of the Natural Resources Trustee Act, including the cost of investigation, assessment, collection or enforcement.

[Comprehensive Environmental Response, Compensation, and Liability Act of 1980 \(CERCLA\) \[42 USC §§ 9601 et seq\]](#)

Title 42, Chapter 103, Subchapter I Section 9607. Liability

(f) Natural resources liability; designation of public trustees of natural resources

(1) Natural resources liability

In the case of an injury to, destruction of, or loss of natural resources under subparagraph (C) of subsection (a) of this section liability shall be to the United States Government and to any State for natural resources within the State or belonging to, managed by, controlled by, or appertaining to such State and to any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation: *Provided, however,* That no liability to the United States or State or Indian tribe shall be imposed under subparagraph (C) of subsection (a) of this section, where the party sought to be charged has demonstrated that the damages to natural resources complained of were specifically identified as an irreversible and irretrievable commitment of natural resources in an environmental impact statement, or other comparable environment analysis, and the decision to grant a permit or license authorizes such commitment of natural resources, and the facility or project was otherwise operating within the terms of its permit or license, so long as, in the case of damages to an Indian tribe occurring pursuant to a Federal permit or license, the issuance of that permit or license was not inconsistent with the fiduciary duty of the United States with respect to such Indian tribe. The President, or the authorized representative of any State, shall act on behalf of the public as trustee of such natural resources to recover for such damages. Sums recovered by the United States Government as trustee under this subsection shall be retained by the trustee, without further appropriation, for use only to restore, replace, or acquire the equivalent of such natural resources. Sums recovered by a State as trustee under this subsection shall be available for use only to restore, replace, or acquire the equivalent of such natural resources by the State. The measure of damages in any action under subparagraph (C) of subsection (a) of this section shall not be limited by the sums which can be used to restore or replace such resources. There shall be no double recovery under this chapter for natural resource damages, including the costs of damage assessment or restoration, rehabilitation, or acquisition for the same release and natural resource. There shall be no recovery under the authority of subparagraph (C) of subsection (a) of this section where such damages and the release of a hazardous substance from which such damages resulted have occurred wholly before December 11, 1980.