

New Mexico Office of Natural Resources Trustee

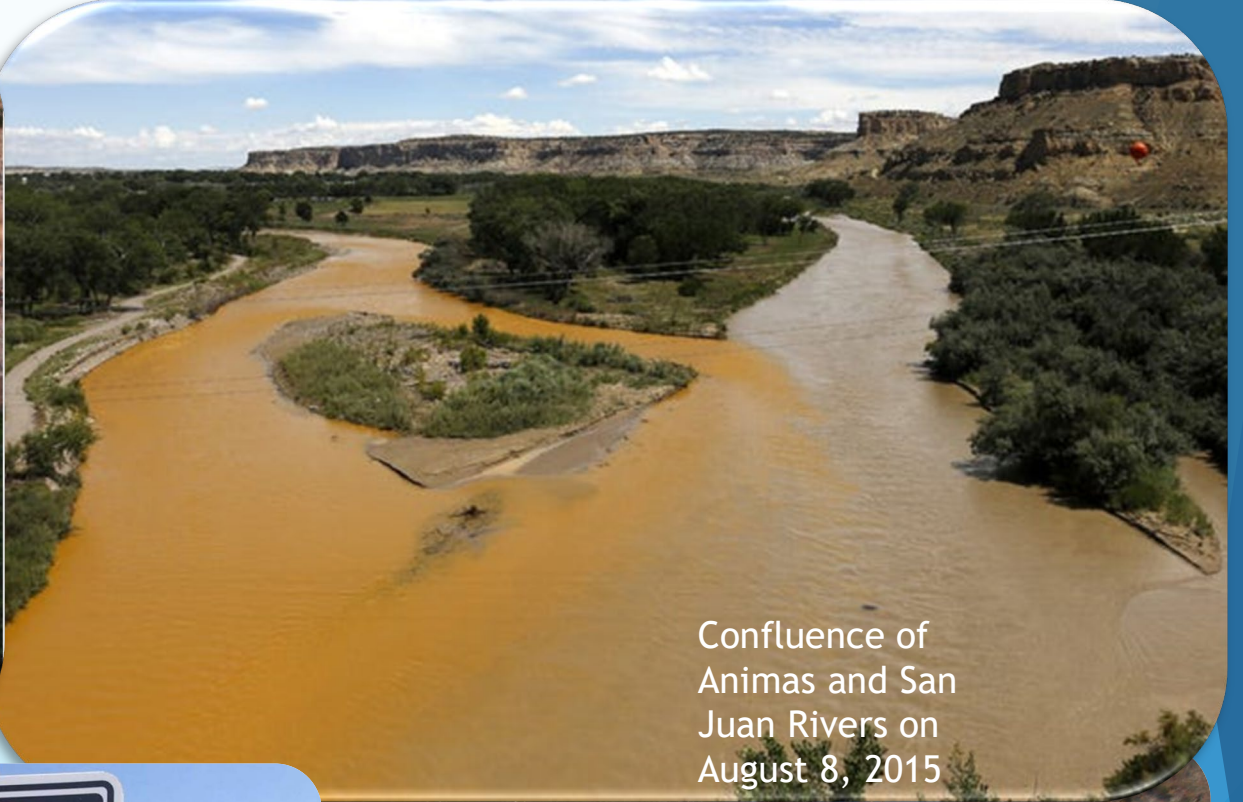
Indian Affairs Interim Committee
August 16, 2022



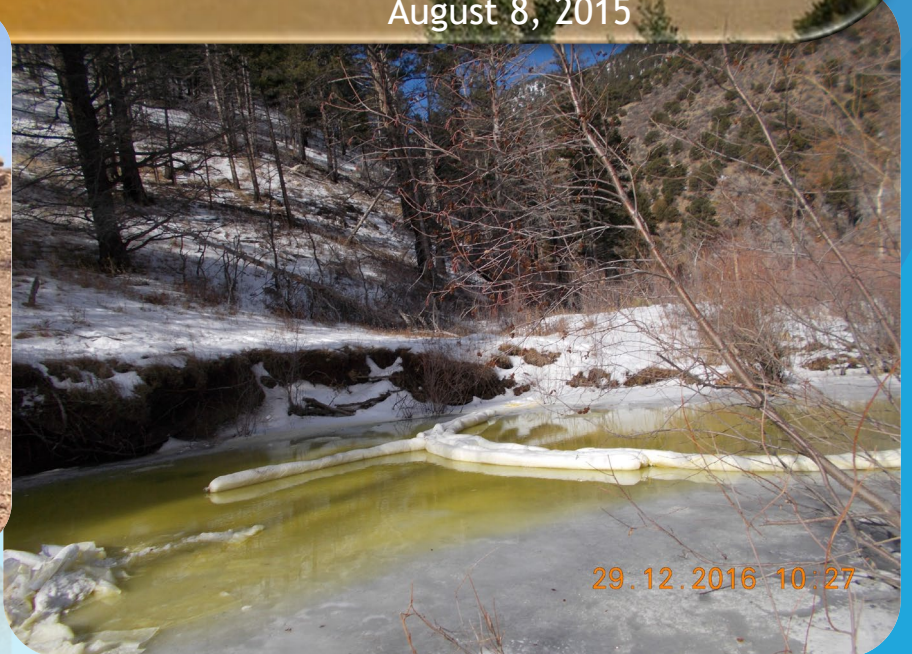
A scenic landscape photograph of a river with autumn foliage and waterfowl. The image shows a calm river reflecting the sky and surrounding trees. The trees on the left bank have vibrant yellow and orange autumn leaves. In the foreground, dark silhouettes of reeds or grasses are visible. Several dark shapes, likely waterfowl, are scattered across the water's surface. The sky is a clear, pale blue with a few wispy clouds.

Why Does ONRT Exist?

- New Mexico's natural resources are critical to our state's economy and quality of life
 - Water quality and availability is essential to everything
 - Residents depend on natural resources for livelihoods, health, recreation, and culture
 - Tourism and recreation industries depend on our unspoiled and scenic landscapes, clean waters, forests, fish and wildlife, and other natural resources
 - Extractive industries, manufacturing, and national defense installations are important economic drivers



Confluence of
Animas and San
Juan Rivers on
August 8, 2015

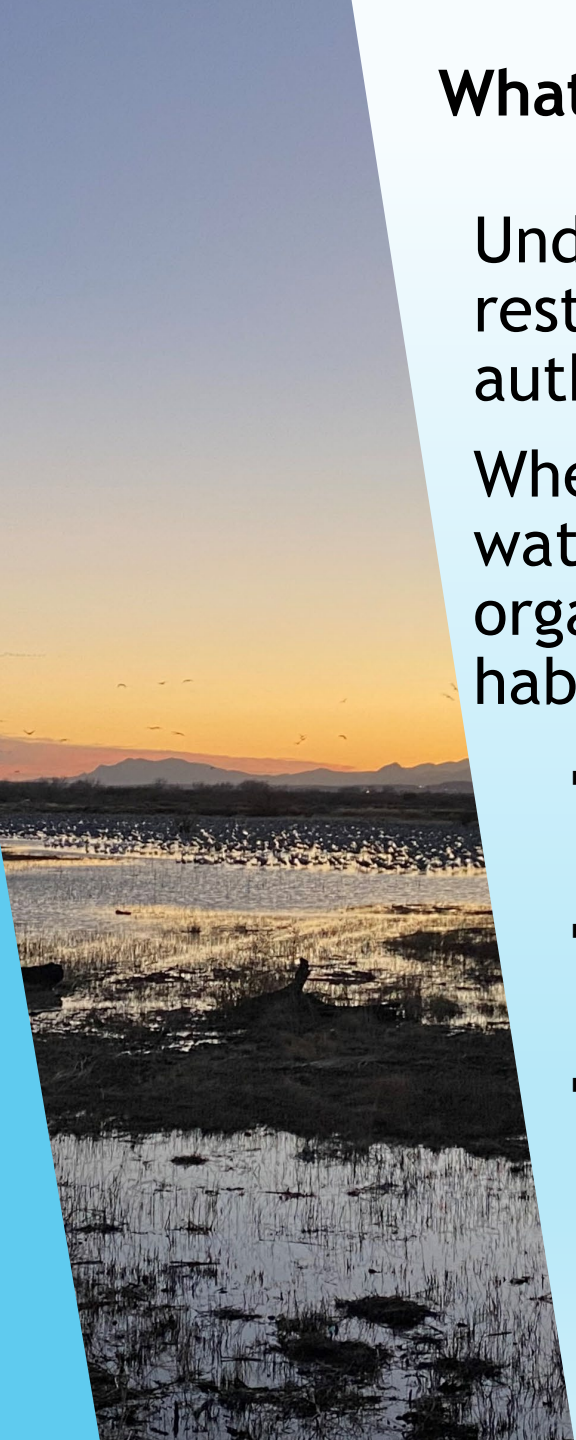


What happens next?

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 groundwater, surface water, drinking water, wildlife, fish, biota (living organisms of a region or habitat), aquatic or terrestrial habitat, soil and/or air, laws require:

- A complete and timely clean up to protect public health
- Natural Resources restored to the way they were, pre-contamination
- Compensation for lost natural resources and the services they provide - including cultural services



Natural Resources Trustee Role

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

NM Environment Department

Responsible for remediation:

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

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 Process

Determine the value of the Injury/Loss



Pursue Responsible Party for Compensation



Develop A Restoration Plan



Restore the Natural Resources

Settlements Since 2000 - \$43,341,226



- Gold King Mine Spill
 - United States 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: \$150,000 (Dec 2020)
- Freeport-McMoRan Groundwater: Chino, Cobre, and Tyrone Mines (\$12,794,308)
- Freeport-McMoRan Wildlife and Wildlife Habitat: Chino, Cobre, and Tyrone Mines (\$5,500,000)
- AT&SF: Albuquerque's South Valley Tie Treater Facility (\$989,417)
- South Valley Superfund Site: Various Parties in Albuquerque's 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: Chevron Mine in Questa, (\$4,000,000)

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, State of Utah, 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, Milan, Gallup, Grants, Questa, Cimarron, Silver City, Albuquerque, Red River, Los Lunas, Belen, Socorro, Alamogordo, Aztec, Clovis, 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 restoration projects

- \$3.5m Village of Questa
 - drinking water well
 - extension of sewer infrastructure
 - Red River Aquatic Habitat Restoration project
- \$267,000 for Midnight Meadows Wetland project
- \$1.4m to Town of Silver City for wastewater system extension
- \$597, habitat and water quality improvement project000 for proposed South Valley
- 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 Chapter \$250,000

Current and Potential Natural Resource Damage Assessments



▲ Current Cases

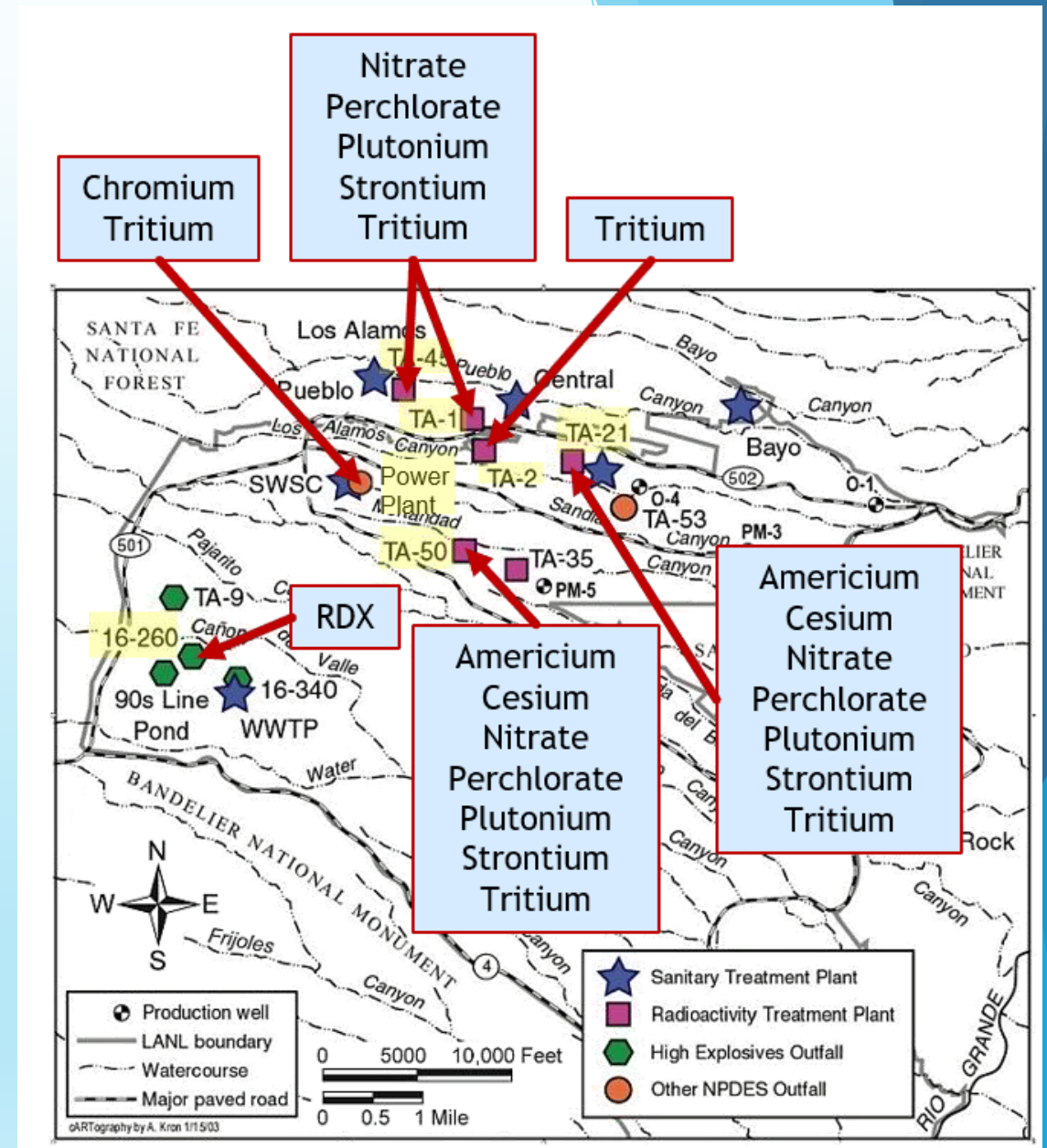
- Los Alamos National Laboratory
- NASA White Sands Test Facility
- Bonita Peak Mining District (BPMD)
- Rio Algom Quivira Uranium Mill and Mine

◆ Potential New Cases

1. Cannon Air Force Base - PFAS (Clovis)
2. Holloman Air Force Base PFAS (Alamogordo)
3. Grants Mining District (Uranium) Over 85 legacy mines in the area.
4. Researching potential PFAS releases at other military installations

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

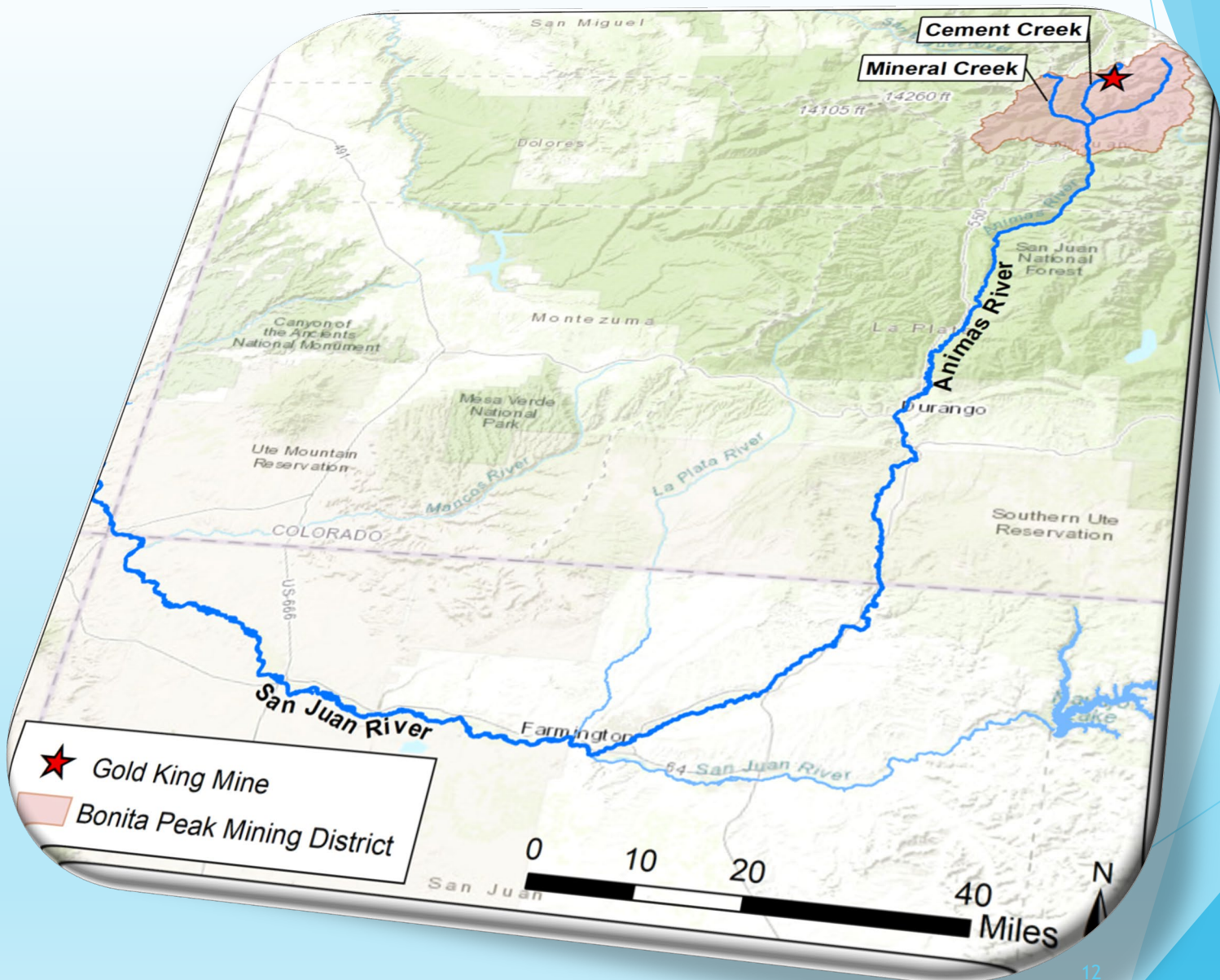


Gold King Mine Release

USEPA contractors working at site breached mine

Estimated 3 million gallons acidic mine waste and 880,000 pounds of heavy metals flowed downstream

Metals-laden water traveled down through Animas and San Juan Rivers in New Mexico.

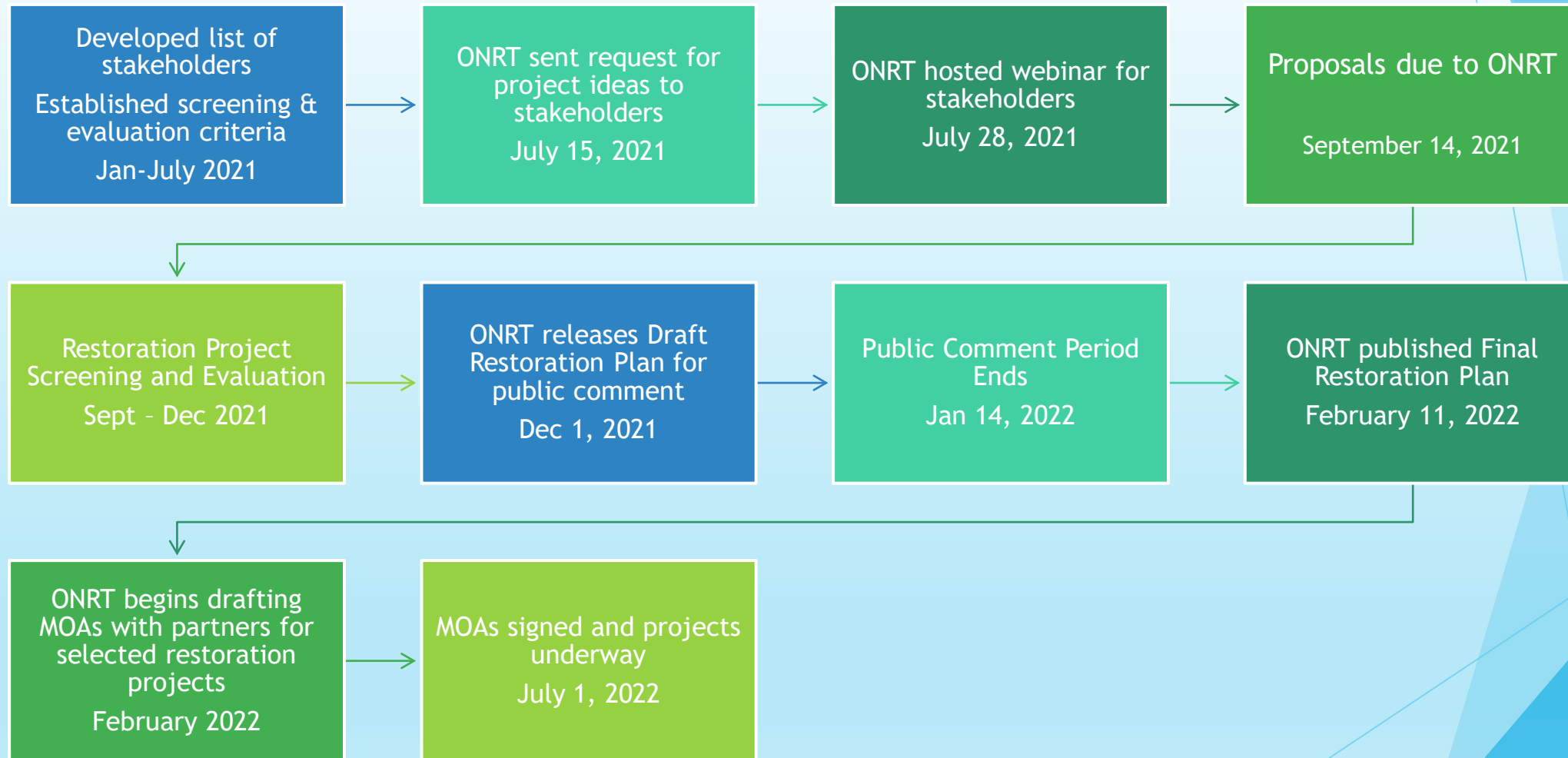




GKM Natural Resource Damage Settlement with Mining Defendants

- In 2016, the State of New Mexico and the Navajo Nation filed lawsuits against the U.S. EPA, its contractors, and the mining companies for environmental injuries resulting from the spill.
- In January 2021, New Mexico reached an \$11 million settlement with Sunnyside Gold Corporation and its parent companies
 - Included **\$1m for ONRT** for restoration projects to address natural resource injuries.

Restoration Plan Development Schedule - \$1m from mining defendants



GKM Restoration Plan

4 projects selected

- 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
- Cedar Hill Boat Ramp on the Animas River
San Juan County \$160,000
- Farmer's Market Pavilion at Gateway Park
City of Farmington \$300,000



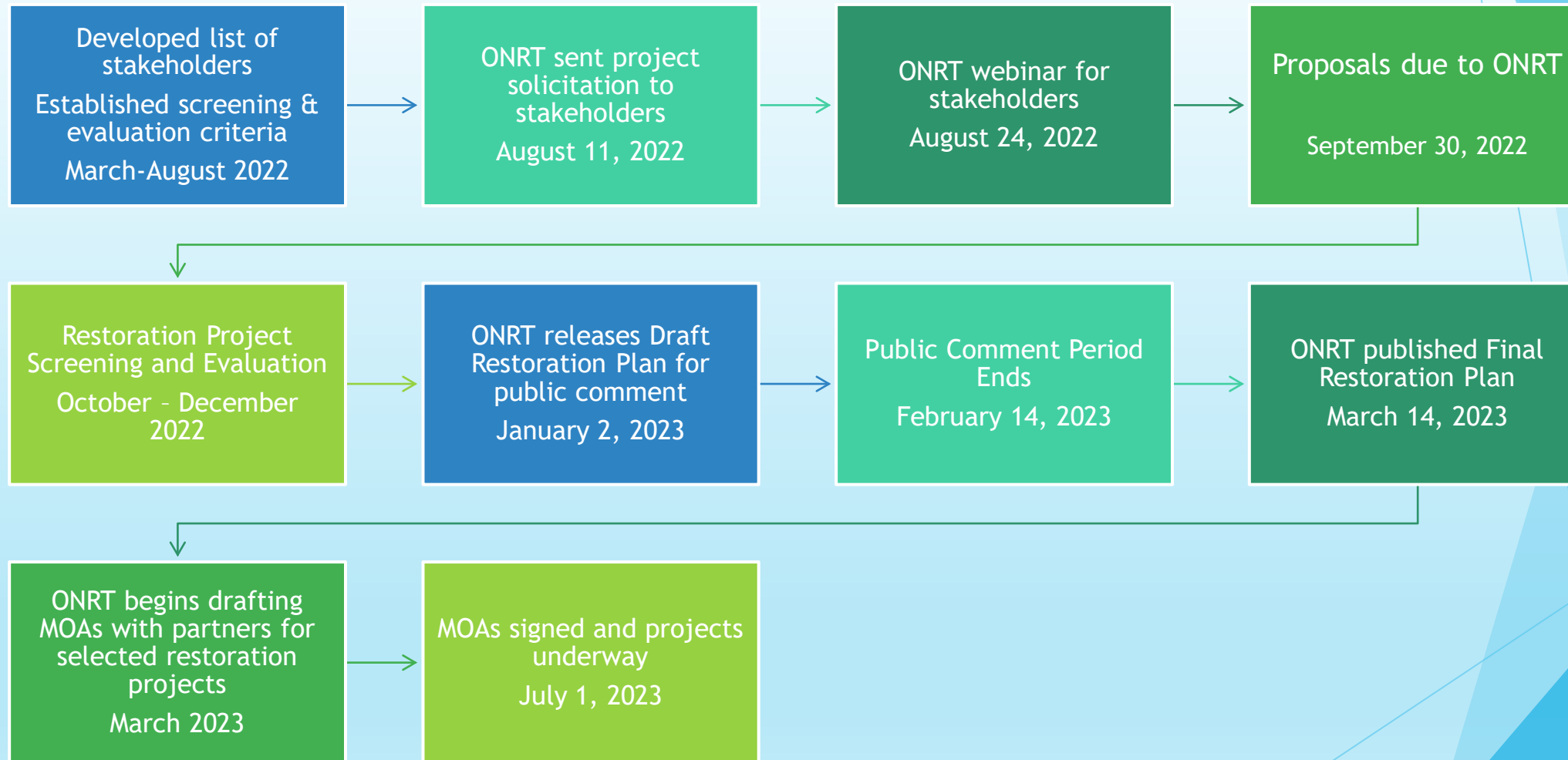


Gold King Mine Settlement US EPA

In June 2022, the State reached a \$32 million settlement with US EPA

- \$10 million for Natural Resource Injuries
- ONRT Next Step: Outreach to affected communities for project solicitation & input on project selection

Restoration Plan Development Schedule - \$10m from US EPA



Eligible Projects

Water Quality and Quantity

Projects that improve or protect water quality and quantity

Examples:

- Implement pollution source control and mitigation measures that address impairments in the Animas and San Juan Rivers, including lead, nutrients, E. coli, temperature, sedimentation impairments
- Install drinking water protection systems
- Increase water quantity, for example, by removing water-intensive non-native plant species

Habitat Restoration and Conservation

Projects that restore or protect terrestrial and aquatic habitats

Examples:

- Restore terrestrial habitats by removing invasive plant species or planting native vegetation
- Protect/enhance riparian and aquatic habitats, for example, by planting native vegetation or installing fencing to keep livestock out

Human Use Benefits

Projects that restore human use of natural resources

Examples:

- Enhance or expand recreational opportunities, for example, through construction of access points or installation of other recreational amenities
- Restore cultural uses of natural resources through traditional educational programs or other means
- Improve drinking water treatment and delivery systems
- Provide improvements and/or education to benefit local farming

Screening Criteria

Proposed projects must comply with screening criteria

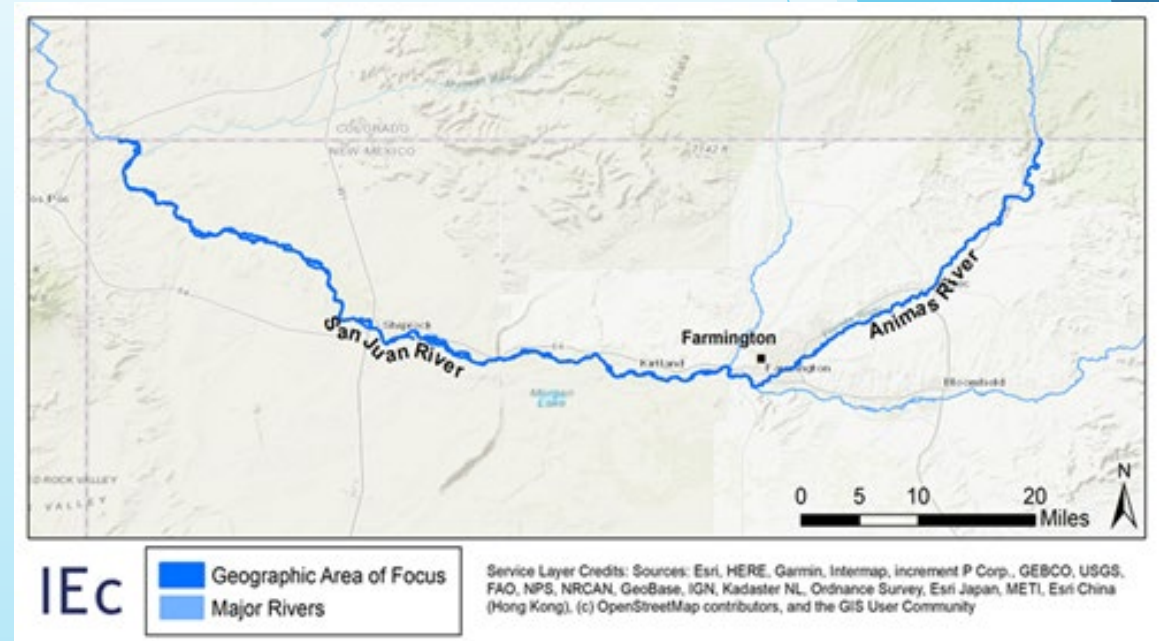
- Consistent with ONRT [mission](#).
- Results in a net overall improvement of natural resources and/or benefit to the public in terms of increased resource services.
- Technically and administratively feasible as demonstrated through established or previously implemented approaches.
- Unlikely to proceed without ONRT funding.
- Complies with applicable and relevant federal, state, local, and tribal laws and regulations.
- Has feasible and cost-effective provisions for operations, maintenance, and monitoring and a demonstrated source of funds for those ongoing costs, as relevant.



Evaluation Criteria

Projects that meet the screening criteria will be evaluated and ranked by the following:

- Geographically close area of injury
- Consistent with regional planning and federal and state policies, if applicable
- Availability of additional funds or in-kind support to leverage ONRT dollars
- Lead project proponent is a state agency or local public body
- Implemented in a timely manner
- Likely to provide benefits quickly after project implementation
- High potential for long-term success and a low risk of failure
- Low potential for adverse impacts to natural resources or human health and safety resulting from the restoration project itself



Questions?

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