

New Mexico Office of Natural Resources Trustee

Restoring Resources Injured by the Release of Radioactive and Hazardous Materials

Radioactive & Hazardous Materials Committee
June 22, 2022

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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 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.

Unfortunately, Accidents Happen



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, laws require:

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

Following release of hazardous substances into New Mexico's environment, responsibility for the response is shared:



NM Environment Department

Responsible for remediation:

- 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

Conduct Damage Assessment

Pursue Settlement or Litigation

Develop Restoration Plan

Implement Restoration Projects

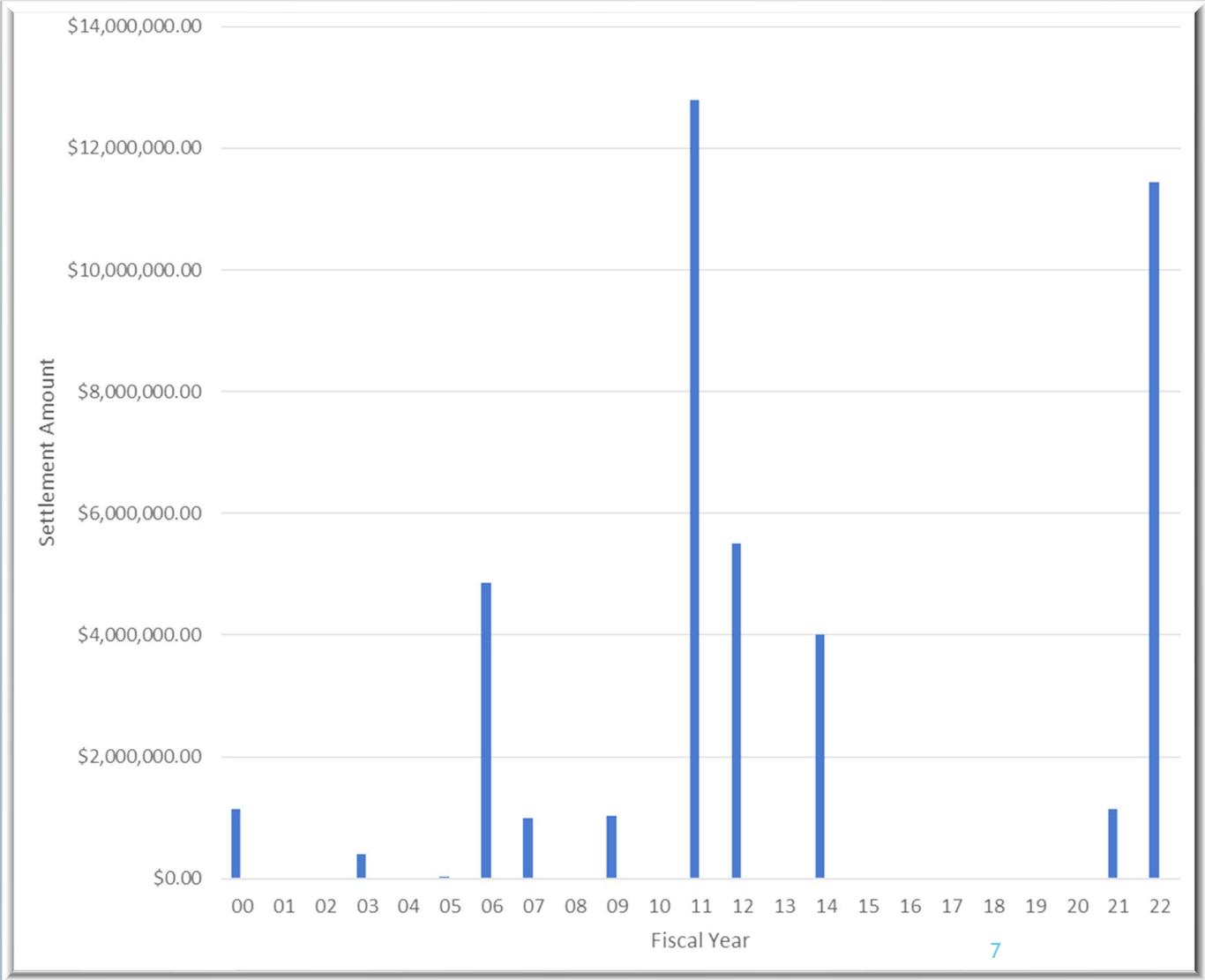
Settlements Since 2000 - \$43,341,226



- Gold King Mine Spill
 - United States \$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)

Recent Settlements

- **Gold King Mine Spill**
 - **United States EPA**
\$10,000,000
(June 2022)
 - **Kinross Gold:**
\$1,000,000
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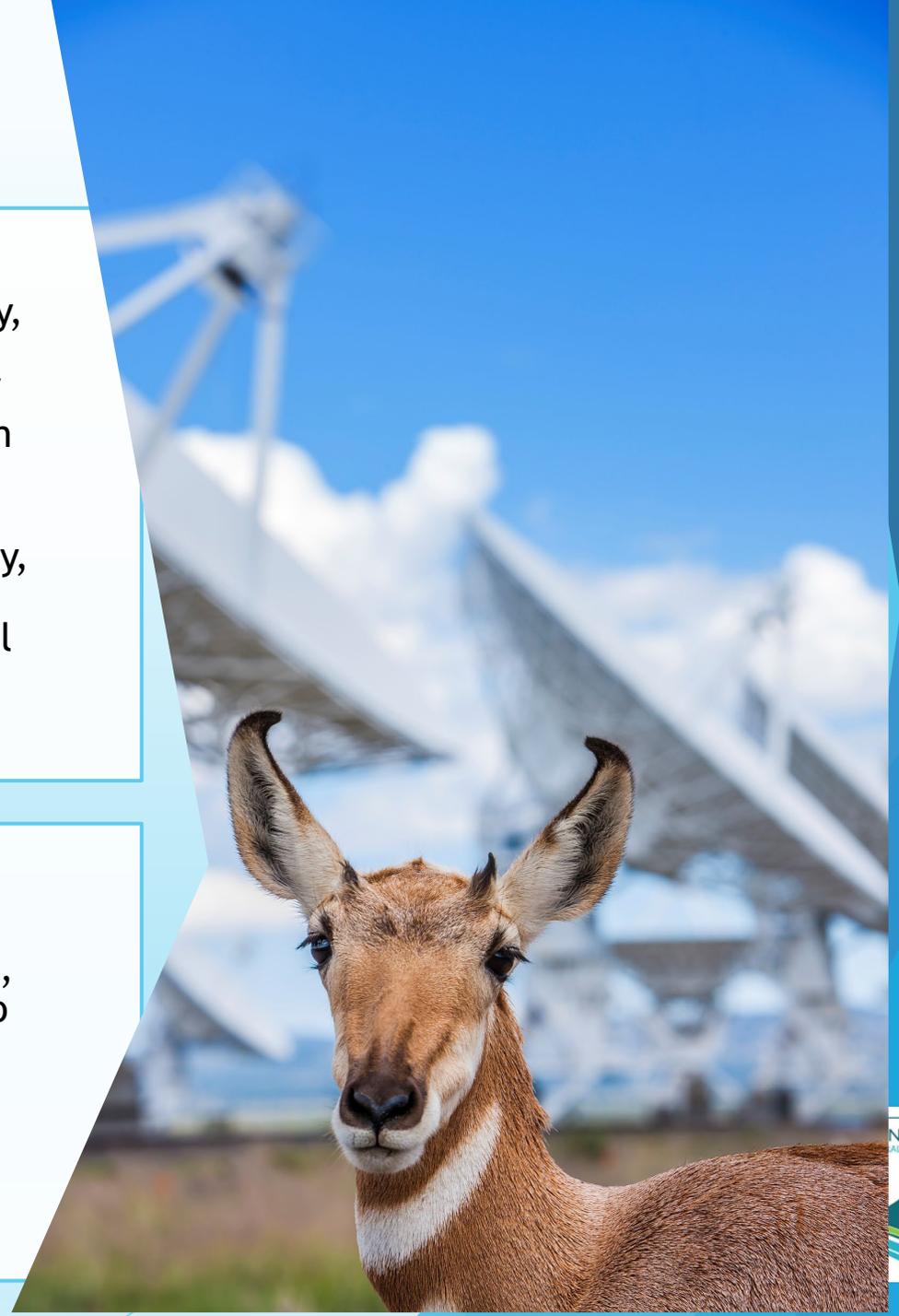
ONRT Partners and Project Locations

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, 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:

Questa, Cimarron, Silver City, San Juan County, Farmington, 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 restoration projects

- \$2.3m -to Village of Questa for two projects
 - drinking water well
 - extension of wastewater infrastructure
- \$1.2m Questa Red River Aquatic Habitat Restoration project
- \$267,000 for Midnight Meadows Wetland project
- \$1.4m to Town of Silver City for wastewater system extension
- \$597,000 for proposed South Valley habitat and water quality improvement project

Current and Potential Natural Resource Damage Assessments



▲ Current Cases

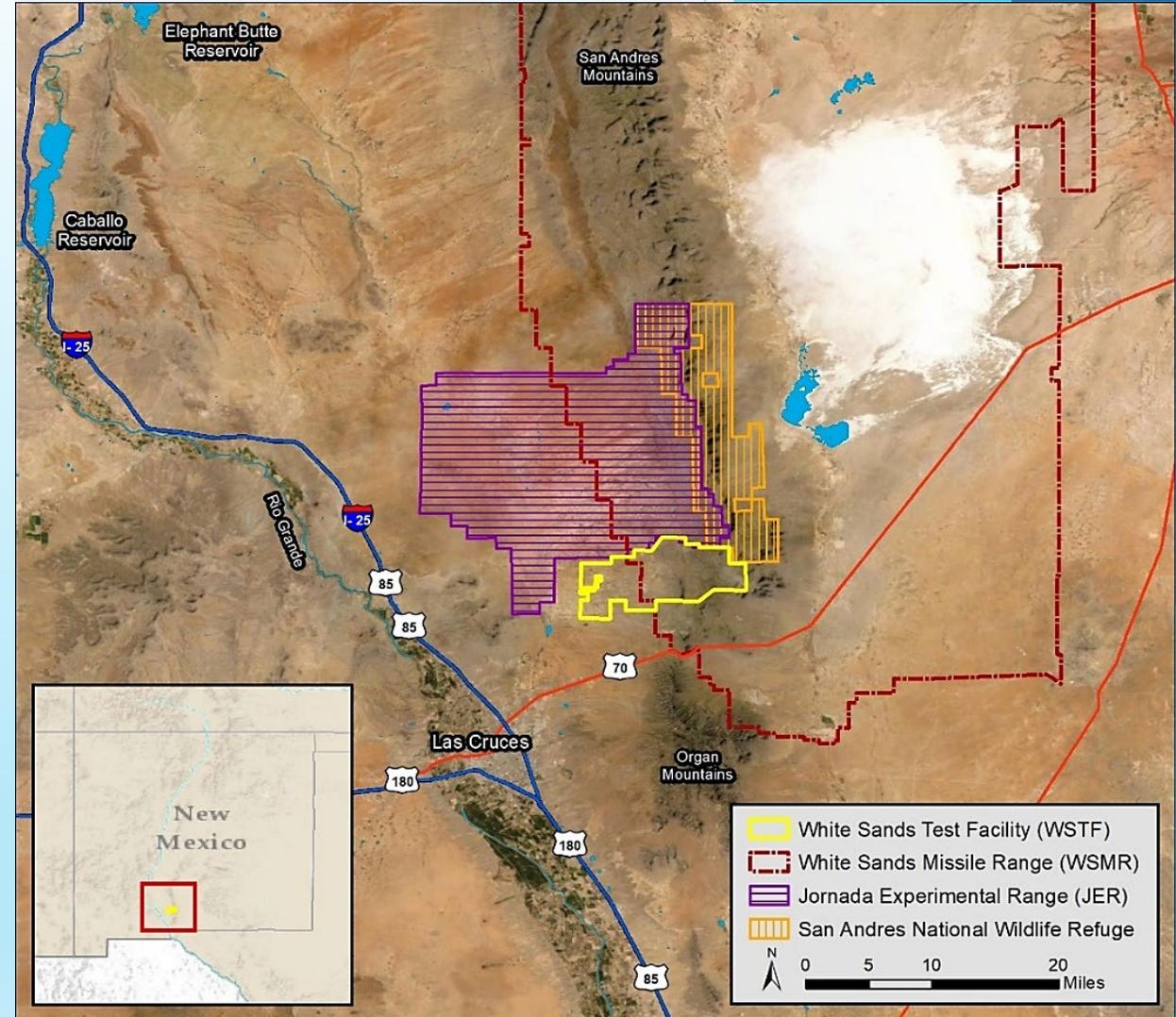
- Los Alamos National Laboratory
- NASA White Sands Test Facility
- Bonita Peak Mining District (BPMD)
- Rio Algom Quivira Uranium Mill and Mine Sites

◆ 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

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: begin settlement discussions with DOD

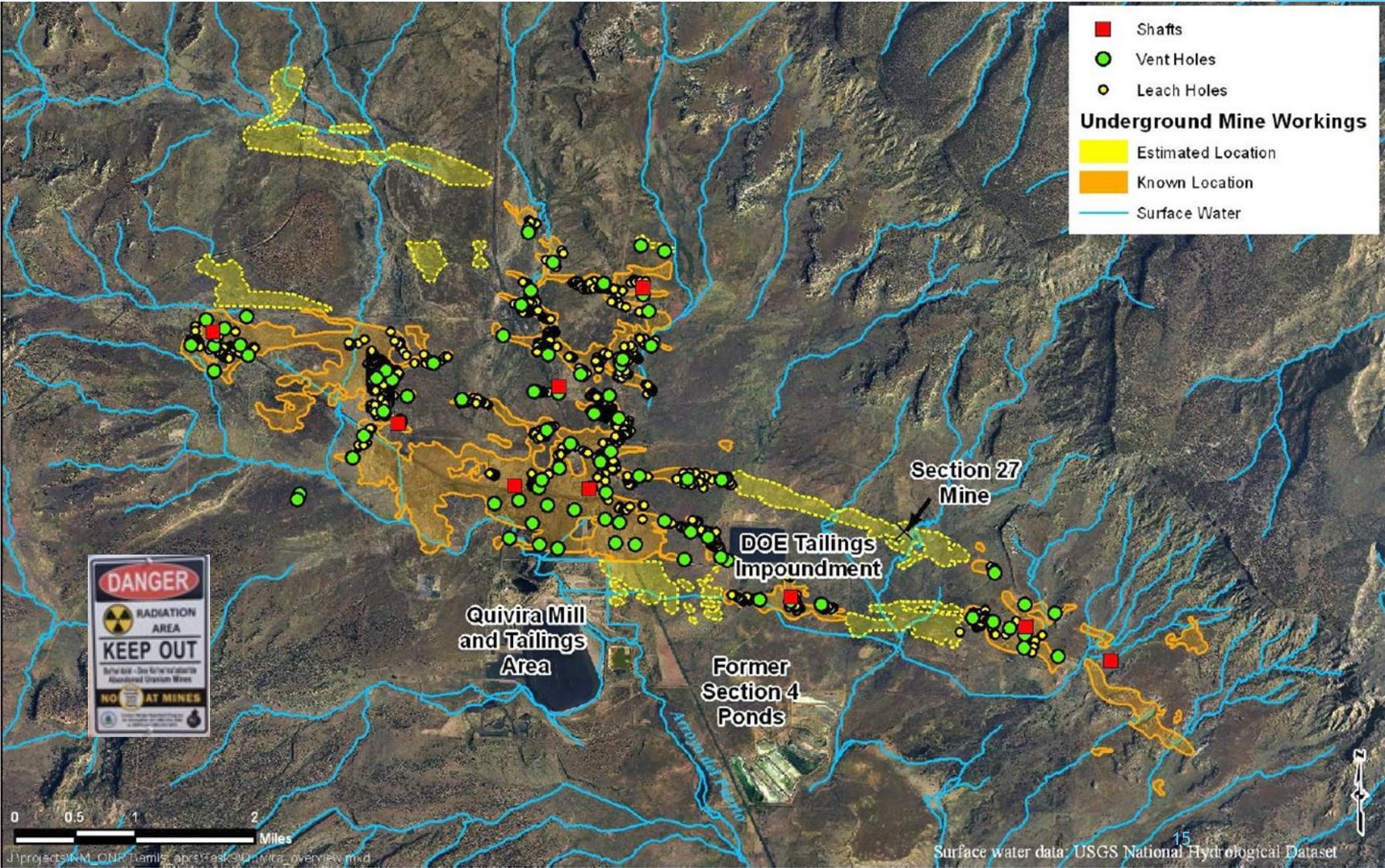


Rio Algom Quivira Mill and Mines Site Ambrosia Lake

- 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 - Fish and Wildlife & BIA
 - 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



Rio Algom Quivira Mill and Mines site



Ft. Wingate 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



Ft. Wingate Settlement

- **Status:**
- Environmental remediation of the Depot is ongoing under the authority of NMED Hazardous Waste Bureau prior to transfer of parcels to US Department of the Interior
- **Settlement March 2022 - \$1,451,069**
 - \$1,020,150 for natural resource restoration projects;
 - \$117,000 for cultural services damages;
 - \$160,770 to reimburse Trustees' past costs;
 - \$153,149 for Trustees' future costs.
 - Awaiting final approval by the court
- **Next Steps:** Work with Co-Trustees to develop Restoration Plan



Gold King Mine Release August 5, 2015

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.



Photo Credit: *Farmington Daily Times*

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

GKM NRD Settlement with Mining Defendants

- 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.
 - January 2021, the State reached a \$11 million settlement with Sunnyside Gold Corporation and its parent companies
 - Included **\$1m for ONRT** for restoration projects to address natural resource injuries.
 - ONRT developed Restoration Plan with stakeholder input
 - Funding 4 projects



GKM Restoration Plan Projects

- 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



Gold King Mine Settlement with US EPA

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

- \$10 million for Natural Resource Injuries

Next Step: Outreach to affected communities for project solicitation & input on project selection





Future for ONRT

- Amend Trustee Act to give ONRT authority under state law
 - Gaps in Federal laws
- Adequately Fund ONRT operations



Questions?

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