



Restoration Plan

Gold King Mine Release into the
Animas and San Juan Rivers in San
Juan County, New Mexico

FINAL | March 2022

prepared for:

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Trustee

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LIST OF ACRONYMS

AMD	Acid Mine Drainage
BOR	United States Bureau of Reclamation
BLM	Bureau of Land Management
BPMD	Bonita Peak Mining District
CDPHE	Colorado Department of Public Health and Environment
CDRMS	Colorado Division of Reclamation, Mining, and Safety
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
C.F.R.	Code of Federal Regulations
DOI	Department of the Interior
DVD	Digital Versatile Disc
GKM	Gold King Mine
IPCC	Intergovernmental Panel on Climate Change
MSI	Mountain Studies Institute
NM	New Mexico
NMBGMR	New Mexico Bureau of Geology and Mineral Resources
NMDGF	New Mexico Department of Game and Fish
NMED	New Mexico Environment Department
ONRT	New Mexico Office of Natural Resource Trustees
NMSA	New Mexico Statutes Annotated
NNEPA	Navajo Nation Environmental Protection Agency
NPL	National Priority List
NRDA	Natural Resource Damage Assessment
RP	Restoration Plan
SGC	Sunnyside Gold Corporation
SJSWCD	San Juan Soil and Water Conservation District
USACE	United States Army Corps of Engineers
USCB	United States Census Bureau
USDA	United States Department of Agriculture

USEPA	United States Environmental Protection Agency
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey

CHAPTER 1 | INTRODUCTION

In its capacity as a trustee of natural resources on behalf of the public, the New Mexico Office of Natural Resources Trustee (ONRT) prepared this Final Restoration Plan (Final RP) to describe how monetary damages of \$1,000,000 recovered from Sunnyside Gold Corporation for natural resource injuries in New Mexico resulting from the August 2015 Gold King Mine (GKM) blowout would be spent to restore natural resources and the services they provide. Pursuant to Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and the U.S. Department of the Interior (DOI) natural resource damage assessment (NRDA) regulations at 43 C.F.R. Part 11, this Final RP presents the selected restoration alternatives intended to compensate the public for the natural resource injuries and associated service losses in New Mexico that resulted from the hazardous substances released from the GKM blowout.

This chapter provides context related to the 2015 GKM blowout and release of hazardous substances (hereafter referred to as the “GKM Blowout”), describes downstream impacts to New Mexico natural resources, identifies the purpose and need for restoration and the authorities under which ONRT is acting, and outlines the role of public involvement in the restoration planning process and the administrative record.

1.1 GOLD KING MINE

In August 2015, United States Environmental Protection Agency (USEPA) and the Colorado Division of Reclamation, Mining, and Safety (CDRMS) were engaged in reclamation activities at the GKM. On August 5, 2015, during an investigation of a mine adit, USEPA and its contractors triggered a release of approximately three million gallons of acid mine drainage (AMD) from the GKM. The release flowed from Cement Creek down the Animas and San Juan Rivers, ultimately reaching Lake Powell over an eight-day period. In total, the orange-red, metal-laden plume crossed three states (Colorado, New Mexico, and Utah) and three reservations (Southern Ute Indian Tribe, Ute Mountain Ute Tribe, and Navajo Nation) (Exhibits 1-1 and 1-2). The AMD plume triggered temporary river water use restrictions (TechLaw 2019). Materials from the GKM Blowout were also entrained in the sediment of Cement Creek and the Animas River and washed downriver during subsequent high flow events (U.S. EPA 2022c).

The State of New Mexico and the New Mexico Environment Department (NMED) subsequently sued the USEPA and its contractors, who directly caused the GKM Blowout, as well as Sunnyside Corporation and its parent companies, Kinross Gold Corporation and Kinross Gold, U.S.A., Inc. (the three mining companies are collectively referred to as the “Mining Defendants”), seeking compensation for those injuries. The lawsuit alleges that the Mining Defendants are liable for creating the underlying conditions that made the GKM Blowout possible. In January 2021, the State of New Mexico, NMED, and ONRT reached a settlement with the Mining Defendants that included a payment of \$1,000,000 to ONRT to implement restoration projects. Accordingly, this Final RP identifies, evaluates, and selects restoration

alternatives designed to compensate the public for injuries that have occurred to natural resources due to the GKM Blowout.

EXHIBIT 1-1 LOCATION OF THE GOLD KING MINE



EXHIBIT 1-2 CONFLUENCE OF THE ANIMAS AND SAN JUAN RIVER FOLLOWING THE GKM BLOWOUT IN AUGUST 2015 (DAVIS 2020)



1.2 PURPOSE AND NEED FOR RESTORATION

As a result of the GKM Blowout, state and tribal governments enacted temporary river water use restrictions. Shortly after the incident, the Navajo Nation issued a “do not use” public service announcement, which discouraged the use of well fields and drinking and irrigation water intake systems (USEPA 2022a). Similarly, the City of Farmington temporarily shut off all surface water intake pumps for their drinking water systems (Davis 2020). During that time, the USEPA supplied New Mexicans and members of the Navajo Nation with potable water for human and livestock consumption (Davis 2020; EPA 2022a). By August 16, 2015, most of the Animas and San Juan River raw water intakes were reopened and recreational and agricultural uses resumed.¹ On September 4, 2015 the New Mexico Department of Game and Fish (NMDGF) lifted its catch and release recommendation on fish caught in the affected reaches of the Animas and San Juan Rivers of New Mexico (NMDGF 2015). The Navajo Nation maintained irrigation and livestock water-use restrictions on most of the San Juan River until October 2015, with some Navajo chapters deciding to not reopen irrigation access until April 2016 (Smith 2016; USEPA 2017).

¹ Localities may close water intakes for a variety of reasons. For example, the City of Farmington monitors water quality and automatically closes water intakes during periods of high turbidity (City of Farmington 2017).

In addition to impacts on drinking water and recreation, water quality monitoring data reported by USEPA indicated aquatic life were exposed to metals concentrations that exceeded water quality criteria (USEPA 2018). Though there was no apparent evidence of wide-spread fish kills, studies conducted in the weeks following the GKM Blowout found that individual fish had elevated concentrations of metals compared to pre-release concentrations, though fish tissue did not exceed risk screening levels for human consumption (USEPA 2018). Studies conducted by the New Mexico Bureau of Geology and Mineral Resources (NMBGMR) reported elevated concentrations of metals in sediment, soil, riparian vegetation, and aquatic biota in New Mexico as compared to reference sites following the GKM Blowout (Duval et al. 2018). The USEPA found that metals from the GKM Blowout became entrained in the sediment of Cement Creek and the Animas River and were resuspended in the Animas and San Juan Rivers during subsequent high flow events (USEPA 2022c).

1.3 COMPLIANCE WITH AUTHORITIES

Pursuant to CERCLA, designated federal and state agencies and federally recognized tribes act as trustees on behalf of the public to assess injuries and plan restoration to compensate for those injuries. CERCLA further instructs the designated trustee(s) to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of injured natural resources under their trusteeship (hereafter collectively referred to as “restoration”). This document serves as the Final RP for implementing the selected restoration alternative(s), pursuant to NRDA regulations at 43 C.F.R. Part 11. Under these regulations, the alternatives selected in this Final RP ensure that damages recovered from responsible parties are used to undertake feasible, safe, and cost-effective projects that address injured natural resources and resource service; consider actual and anticipated conditions; and are consistent with applicable laws and policies.

State agencies are designated as natural resource trustees by the governors of each state (42 U.S.C. § 9607(f)(2)(B)). Pursuant to the New Mexico Natural Resources Trustee Act (New Mexico Statutes Annotated [NMSA] 1978, §§ 75-7-1 *et seq.*), the Natural Resources Trustee acts as a trustee of the State’s natural resources and heads ONRT. As such, ONRT has the ability and authority to pursue restoration claims under the Trustee Act as well as under CERCLA (42 U.S.C. § 9601 *et seq.*) and the Clean Water Act (33 U.S.C. § 1251 *et seq.*). This Final RP was prepared by ONRT pursuant to its authority and responsibilities as the natural resources trustee.

1.4 PUBLIC PARTICIPATION

Public participation is an integral part of ONRT’s restoration planning process. While the Final RP selects the restoration alternative(s) to compensate the public for injuries to natural resources, the Draft RP proposed the alternative(s) for public review. In accordance with the regulations promulgated under CERCLA, ONRT encouraged the public to review and comment on the Draft RP during a noticed public comment period. ONRT issued a press release on the Draft RP and a request for public comments on January 31, 2022. The public comment period was open from January 31 to March 2, 2022. ONRT accepted public comments on the Draft RP via email to nm.onrt@state.nm.us. Any comments received by March 2, 2022 were evaluated and incorporated, as appropriate, into this Final RP. A summary of public comments and ONRT’s responses to those comments are provided in Chapter 6. A copy of the original

comments is provided in Appendix D. In addition, a copy of this Final RP is available for download from the ONRT website.

1.5 ADDITIONAL INFORMATION

To facilitate public participation, ONRT has compiled relevant documents and information used during the restoration planning process. These documents can be viewed online at <https://onrt.env.nm.gov/gold-king-mine-documents/> or provided in digital versatile disc (DVD) format upon request to the New Mexico Office of Natural Resources Trustee, 121 Tijeras Avenue NE, Suite 1000, Albuquerque, NM 87102, (505) 313-1837, or nm.onrt@state.nm.us.

1.6 ORGANIZATION OF THIS DOCUMENT

The remainder of this document is organized as follows:

- **Chapter 2** presents information regarding the site, the NRDA process, and remediation efforts.
- **Chapter 3** describes the environment in an around the site that may be affected by the proposed restoration activities.
- **Chapter 4** discusses the restoration objectives and provides information on the process for soliciting and evaluating restoration projects.
- **Chapter 5** presents the Selected Restoration Alternative(s), describes each of the proposed restoration projects, and includes an evaluation of each project's ability to meet ONRT's restoration goals.
- **Chapter 6** provides a summary of the public comments received on the Draft RP and the Trustees' responses to those comments. A copy of the original comments is provided in Appendix D.

2.1 INTRODUCTION TO THE SITE

The GKM is an inactive gold and silver mine located approximately one-half mile northeast of Gladstone, in San Juan County, Colorado. Situated in the Upper Animas watershed near the North Fork of Cement Creek, at an approximate elevation of 11,400 feet, the GKM is one of approximately 1,500 mines that operated within the Bonita Peak Mining District (BPMD) (DOI 2015).² For more than 100 years between the 1870s and 1990s, large and small-scale mining and milling of polymetallic ores occurred in the BPMD. Production at the GKM began in 1886 and ended in 1923 (USEPA 2015).³ During this period, the GKM produced a total of 665,000 short tons of ore, including gold, silver, lead, and copper (Taylor 1988 as cited in Jones 2007).

Throughout much of the mining era in the BPMD, it was common practice to dump tailings and mining waste rock directly into creeks and streams. Smelters, which operated before 1900, released metals that contaminated soil, sediment, and surface water of nearby creeks and rivers (TechLaw 2019).

Transportation routes that brought ore from the mines to processing and shipping facilities were constructed of waste rock and other mining wastes (TechLaw 2020). Spills and other unintentional releases of metal-rich ore or waste materials from trucks, trains, and trams contaminated areas near transportation routes (TechLaw 2020).⁴ By the time mining in the BPMD ceased in 1991, more than 8.6 million short tons of tailings and mining waste had been discharged directly into the Animas River and its tributaries from the headwaters to Durango, Colorado (Jones 2007). In addition to these releases, abandoned mine structures historically discharged an average of 5.4 million gallons of AMD per day into the headwaters of the Animas River (Church et al. 2007).

Following the cessation of mining in the BPMD, the USEPA and the Colorado Department of Public Health and Environment (CDPHE) conducted a Superfund site assessment of the BPMD (USEPA 2021a). The assessment identified severe impacts to aquatic life in the Upper Animas River and its tributaries from both naturally occurring and mining-related metals. However, a community-based collaborative effort involving local groups and state and federal agencies was underway to address the impacts to aquatic life, and the USEPA postponed listing the BPMD on the National Priorities List (NPL; USEPA 2018 and 2021). In 2008, the USEPA assessed Upper Cement Creek to evaluate whether this area alone could be listed on the NPL. Though the evaluation indicated that Upper Cement Creek would qualify,

² The Upper Animas River Watershed consists of three primary drainages: Mineral Creek, Cement Creek, and the Upper Animas. These three drainages converge into the Animas River near Silverton, Colorado.

³ In addition, the GKM was placed under a mining permit in 1986. Most of the work was related to exploration (DOI 2015).

⁴ Most of the major transportation routes in the BPMD are located along valley bottoms, in or near floodplain habitats.

USEPA again postponed listing, instead electing to continue to participate in community-based collaborative efforts (USEPA 2021a).⁵

In addition to the community-led cleanup, reclamation activities in the Upper Animas watershed have been implemented by the Sunnyside Gold Corporation (SGC), U.S. Bureau of Land Management (BLM), and the State of Colorado. These include diverting runoff away from mine waste piles; consolidating, capping, and revegetating mine waste piles; and placing bulkheads in draining adits (USEPA 2021a). In 2009, the CDRMS closed all four of the GKM portals (DOI 2015). The CDRMS attempted to insert drainpipes into the GKM Level 7 adit but was unable to penetrate a debris blockage that resulted from a roof collapse within the adit. As a result, the CDRMS identified the need for a future project to open the GKM Level 7 adit to provide adequate drainage and alleviate the potential for an unstable increase in AMD (DOI 2015).

During a subsequent investigation into the mine adit, USEPA and its contractors triggered the GKM Blowout, which released millions of gallons of AMD into the Animas and San Juan Rivers. The plume of contaminated water ultimately crossed three states, including Colorado, New Mexico, and Utah, and three Native American reservations, including the Southern Ute Indian Tribe, Ute Mountain Ute Tribe, and Navajo Nation. The geographic area of focus for this Final RP is the portion of the Animas River within New Mexico (i.e., from the Colorado-New Mexico state line to the confluence with the San Juan River), and the San Juan River from that confluence northwesterly to the Colorado state line, including portions of the river within the Navajo Nation. The public experienced natural resource service losses due to the GKM Blowout. In addition, the affected rivers continue to experience ongoing water quality impairments due to natural processes and persistent contamination. Ongoing water quality concerns are described in the 2020-2022 State of New Mexico Clean Water Act §303(d)/§305(b) Integrated List.⁶ These water quality impairments and GKM Blowout-related service losses are summarized in Exhibit 2-1.

⁵ Collaborative efforts included the EPA Superfund Remedial program contributing resources for water quality sampling, ecological risk assessment and data analysis, and investigating and closing the Red and Bonita Mine tunnel, among other remedial and cleanup efforts. Water quality studies indicated that the Red and Bonita Mine is a major source of metals to the Animas River near Silverton, Colorado (USEPA 2016a).

⁶ For a complete list of impairments to surface waters in New Mexico under the Clean Water Act, visit: https://www.env.nm.gov/wp-content/uploads/sites/25/2020/10/2020-2022-CWA-303d_305b-All-Impairments-IR-Cat-4-and-5.pdf (NMED 2021).

EXHIBIT 2-1 EXAMPLES OF ANIMAS AND SAN JUAN RIVER IMPAIRMENTS AND SPILL-RELATED SERVICE LOSSES

IMPAIRMENT OR SERVICE LOSS	RIVER SYSTEM	DESCRIPTION	EXAMPLES
Ongoing Impairment	Animas River	Lead, turbidity, nutrients (total phosphorous).	19.4 miles of the Animas River (Estes Arroyo to Southern Ute Indian Tribe boundary) are listed on the 303(d) List ¹ due to dissolved lead, turbidity, and nutrients (total phosphorous) .
	San Juan River	<i>E. coli</i> , temperature, sedimentation/siltation.	The Animas River from the San Juan River to Estes Arroyo (16.73 miles) does not support cool water aquatic life due to temperature and was first listed on the 303(d) List in 2012. In addition, 22.8 miles of the San Juan River from the Navajo boundary at Hogback to the Animas River do not support primary contact ² due to <i>E. coli</i> (first listed on the 303(d) List in 2006) and sedimentation/siltation (first listed on the 303(d) List in 2012).
Gold King Mine Spill-Related Service Loss	Animas and San Juan Rivers	Ecological service losses associated with metals contamination of surface water and sediment resources.	Soil, sediment, and vegetation in spill-affected areas within the Animas and San Juan Rivers in New Mexico had elevated concentrations of metals compared to reference areas in the years following the GKM Blowout (Duval et al. 2018).
		Loss of surface water supplied to local communities from the Animas or San Juan Rivers due to increase of lead content during turbulent river flow.	Concentrations of dissolved lead exceeded the Safe Drinking Water Act Action Level during three 2015 precipitation events measured after the GKM Blowout (DOI 2016).
		Loss of surface water supplied for growth of agricultural crops.	Intakes for irrigation water were turned off along the Animas and San Juan rivers (Davis 2020). The Shiprock chapter of the Navajo Nation did not open their irrigation ditches for diversion until April 2016 (Smith 2016).
		Loss of recreational opportunities tied to the Animas and San Juan Rivers resulting from concerns related to water contamination.	New Mexico temporarily suspended access to fishing in the Animas and San Juan Rivers and issued a fish consumption advisory following the GKM Blowout (NMDGF 2015).
Table Notes.			
1. The “303(d) List” is a section of the Clean Water Act that contains a state’s list of impaired and threatened waters (e.g., stream, river segment, lakes). For each water on the 303(d) list, the state identifies the pollutant causing the impairment, when known (NMED 2021).			
2. The primary contact recreation classification protects people from illness due to activities involving the potential for ingestion of, or immersion in, water. Primary contact recreation usually includes swimming, water-skiing, surfing, and other activities likely to result in immersion (USEPA 2012).			

2.2 SUMMARY OF RESPONSE AND REMEDIAL ACTIONS

Following the GKM Blowout, USEPA officially added the BPMD to the NPL on September 9, 2016. Starting in 2017, USEPA, U.S. Forest Service, BLM, and CDPHE began a Remedial Investigation/Feasibility Study process at the site. This has included remedial investigation work, Human Health Risk Assessment, aquatic and terrestrial Ecological Risk Assessments, and study of the Bonita Peak groundwater system. USEPA has continued to treat mine-impacted water from the GKM at the Interim Water Treatment Plant in Gladstone, Colorado and established an interim sludge management location at the Kittimac Tailings area.

In-stream remedial actions related to the GKM Blowout to date have all taken place in the Animas River watershed in Colorado. Within New Mexico, NMED and other federal and tribal agencies have focused efforts on water quality monitoring and fish tissue studies to characterize the post-spill condition of these resources. NMED also conducted public outreach to communities, tribes, and neighboring states affected by the GKM Blowout. Known environmental monitoring and remedial actions that have occurred within New Mexico are summarized briefly below.

- The United States Geologic Survey (USGS) in coordination with NMED conducted a study that collected, analyzed, and reported surface water quality data to characterize post-release conditions in the Animas and San Juan Rivers. Efforts included installing water quality instrumentation at existing USGS stations that provide continuous data on streamflow and select water-quality constituents (e.g., specific conductance, water temperature, pH, and turbidity); conducting periodic water quality monitoring at sites on the Animas and San Juan Rivers; and collecting integrated water-quality samples monthly and during snowmelt runoff periods for analysis of major ions and metals (USGS 2021).
- Immediately following the GKM Blowout through at least the spring of 2017, USGS, USEPA, and other federal, state, and tribal agencies collected surface water, sediment, benthic macroinvertebrate, and fish samples from approximately 30 locations along Cement Creek, Mineral Creek, and the Animas and San Juan Rivers to Lake Powell (USEPA 2016c).
- In June 2016, USEPA awarded \$465,000 to the Navajo Nation Environmental Protection Agency (NNEPA) for water quality monitoring on the San Juan River. The NNEPA used the funds to conduct sediment and fish-tissue studies to monitor contaminant levels and characterize potential human health risks associated with fish consumption subsequent to the GKM Blowout (USEPA 2016b).
- In March and August of 2017, NMBGMR collected and analyzed soils, sediment, riparian and aquatic plants, macroinvertebrates, and fish tissue samples to compare metal concentrations among GKM Blowout-affected areas of the Animas and San Juan Rivers and a nearby reference site on the San Juan River. This study sought to quantify how metals move through the riparian food web, from river sediments to the water column and surrounding riparian habitats (Duval et al. 2018).
- Since the Blowout, NMED has worked with communities, tribes, and neighboring states affected by the spill to develop improved communications plans for future incidents, monitored for water contamination, and conducted a public relations campaign to combat stigma faced by farmers in

the Animas Valley (NMED 2020). For example, from August 2019 to July 2020, NMED, New Mexico State University, and the San Juan Soil and Water Conservation District (SJSWCD) conducted the “Healthy Food Grows Where Healthy Rivers Flow” campaign, a collaboration aimed to educate the public about the safety of eating crops grown with irrigated water in New Mexico (NMED 2020).

- Following the GKM Blowout, the City of Farmington installed an automatic monitoring system at the river pump stations. The probe system detects elevated levels of key contaminants and shuts off pump intakes when needed. The City of Farmington has conducted additional studies and work to define options for alternative water supplies and improvements to the Lake Farmington storage system (CH2M 2017).

2.3 ONRT VISION FOR RESTORATION

ONRT’s goal with respect to this Final RP is to compensate the public for natural resource injuries and associated service losses stemming from the GKM Blowout through the implementation of restoration projects. ONRT’s vision is to implement restoration geographically close to the Animas and San Juan Rivers in New Mexico so that the benefits of these project accrue in the locations most adversely affected by the GKM Blowout. Projects that meet ONRT’s vision for restoration provide improvements to the same categories of natural resources and the services they provide as those resources and resource services injured due to the GKM Blowout.

CHAPTER 3 | AFFECTED ENVIRONMENT

3.1 PHYSICAL ENVIRONMENT

Hazardous substances released from the BPMD due to the GKM Blowout have affected a suite of natural resources, including surface water, groundwater, and biological resources such as aquatic invertebrates and fish, as well as a wide variety of services that these resources provide. The proposed restoration alternatives, included in the Selected Restoration Alternative (Chapter 5), would help restore these natural resources and services to the public. This chapter describes the physical, biological (including endangered and threatened species), socioeconomic, cultural, and historical resources of the Animas and San Juan River watersheds to inform an evaluation of each restoration alternative's potential to impact the environment.

3.1.1 ANIMAS RIVER WATERSHED

The Animas River headwaters are in the mountainous terrain of the San Juan Caldera above Silverton, Colorado. Two main tributaries, Cement and Mineral Creeks, drain from this mineral-rich region and join the Animas River in Silverton.⁷ The Animas River flows through the Animas Canyon between Silverton and Durango (roughly 50 miles), where it connects to numerous smaller streams that flow into the canyon. The Florida River feeds into the Animas River just north of the Colorado-New Mexico border. From the Colorado-New Mexico border, the Animas River meanders 40 miles through erodible, layered sedimentary rock of the San Juan Basin and Colorado Plateau shrublands to Farmington, NM where it joins the San Juan River (USEPA 2022b).⁸ Elevation in the watershed ranges from more than 14,000 feet at the headwaters in the forests of the San Juan Mountains to less than 6,000 feet in the high desert sagebrush scrublands near the confluence with the San Juan River (USEPA 2022b).

The Animas River watershed is within the larger San Juan Basin, an area of rich coal, oil, and gas deposits that contain the largest coal-bed methane field in the world. Residential and commercial density along the river increases as it flows southwest through the towns of Aztec, Flora Vista, and Farmington. The Animas River is the primary source of irrigation water in the region (USEPA 2022b). Municipal drinking water is also largely sourced from the Animas River, while most private domestic wells in the valley rely on the hydrologically connected alluvial aquifer, with well depths of about 30 to 60 feet (Newton et al. 2017). Water in the Lower Animas River supports farming and livestock production. Much of the agricultural land in the area is classified as pasture/hay and supports winter pastures for livestock, with minimal cultivated cropland (USEPA 2022b). Numerous ranches provide jobs for local communities and divert water to support their operations. Cattle production is one of the primary agricultural uses of river water in the valley, but sheep, goats, and horses also benefit from irrigated hay and pastures

⁷ These mineral-rich streams account for roughly a third of the observed flow measured in Farmington, NM (Newton et al. 2017).

⁸ The Animas watershed in the State of New Mexico is entirely within San Juan County.

(USEPA 2022b). Farming and ranching along the river have declined in recent years, with the subdivision of large agricultural tracks into smaller parcels, while the oil and gas sector has expanded as an employer (USEPA 2022b).

3.1.2 SAN JUAN RIVER

The 355-mile San Juan River originates in the San Juan Mountains in southern Colorado. The river feeds into the Navajo Reservoir, moving south into New Mexico, and flows west to join the Animas River near Farmington, New Mexico. The San Juan River then runs northwest along the border of the Navajo Nation and through the southwestern corner of Colorado before its confluence with the Colorado River near Lake Powell in southeastern Utah. Within New Mexico, the San Juan River runs through Rio Arriba and San Juan counties.

Groundwater resources surrounding the San Juan River include the Colorado Plateau aquifers which underlie an area of approximately 110,000 square miles in western Colorado, northwestern New Mexico, northeastern Arizona, and eastern Utah. The aquifers in the Colorado Plateau are generally composed of permeable, moderately to well-consolidated sedimentary rocks (USGS 1995). Together, these aquifers span hundreds of miles and cross state lines. The chemical quality of the water in the Colorado Plateau aquifers is variable, but the aquifers typically yield useable quantities of water of a quality suitable for most agricultural or domestic uses (USGS 1995).

Small and large-scale farming and ranching are a food source for farmers and local communities. Navajo Nation members and others graze cattle and produce crops on farmland near the San Juan River, and often river water is used for watering livestock and irrigating cropland (United States Department of Agriculture [USDA] 1980).⁹ In addition, the basin's geologic history has resulted in rich deposits of petroleum, coal, and non-fuel minerals. Mining industries for uranium, coal, and oil and gas extraction are currently and have historically been critical economic drivers in the region (Abell 1994).¹⁰ Within the restoration area, two coal-fired power plants flank the river near Waterflow, New Mexico: the San Juan Generating Station, supplied by the San Juan Coal Mine to the north, and the Four Corners Generating Station, supplied by Navajo Coal Mine on Navajo Nation land to the south.¹¹ Both stations are preparing to end power production.

3.1.3 WATER QUALITY

Designated uses for surface water in the San Juan and Animas Rivers in New Mexico are summarized in Exhibit 3-1. Despite heavy use of and reliance on surface waters within the San Juan River Basin, a variety of water quality issues affect the Animas and San Juan Rivers, including:

- Levels of nutrients, phosphorus, nitrogen, and *E. coli* are elevated by stormwater runoff from adjacent agricultural lands, livestock, and human waste (Abell 1994, Mountain Studies Institute [MSI] 2016);

⁹ The small agricultural communities of Kirtland and Fruitland, NM rely on the San Juan River for irrigation water.

¹⁰ Uranium mining and milling increased rapidly until the late 1970s, when most uranium-mining activity ended in the region. Likewise, the oil and gas industry prospered until the early 1980s and then decreased rapidly (USGS 2001).

¹¹ Waterflow, New Mexico is approximately 16 miles west of Farmington and is on the northern banks of the San Juan River.

- Invasive species (e.g., phreatophytes Russian olive and tamarisk (salt cedar)) encroach riverbanks, increasing channelization and reducing the connection between the native riparian habitat and the river (MSI 2016);
- Reduced or eliminated riparian buffers have reduced the assimilative capacity of the rivers (MSI 2016)¹²;
- AMD and sediment loading in the rivers, from historic upstream mining activities, have increased metals concentrations (Abell 1994); and
- As noted in Exhibit 2-1, both sections of the Animas River within New Mexico are on the Clean Water Act Section 303(d) List of impaired waters.

EXHIBIT 3-1 DESIGNATED USES OF SURFACE WATER IN THE ANIMAS AND SAN JUAN RIVERS

SURFACE WATER SECTION	PUBLIC WATER SUPPLY	INDUSTRIAL WATER SUPPLY	IRRIGATION	LIVESTOCK WATERING	WILDLIFE HABITAT	FISH CONSUMPTION	PRIMARY OR SECONDARY CONTACT	AQUATIC LIFE DESIGNATION ¹
Navajo Nation Jurisdiction (Navajo Nation Surface Water Quality Standards 2015, Table 206.1, 'Designated Uses for Navajo Nation Surface Waters'.)								
Main stem of the San Juan River (SJR) and perennial tributaries, eastward from border with CO.	✓	✗	✓	✓	✓	✓	✓	Cold and warm water.
New Mexico Jurisdiction (NMAC 20.6.4.401 through 20.6.4.408)								
Main stem of SJR, from Navajo Nation boundary at Hogback upstream to confluence with Animas River (AR).	✓	✓	✓	✓	✓	✗	✓	Warm-water and marginal cold-water.
AR from confluence with SJR upstream to Estes Arroyo.	✓	✓	✓	✓	✓	✗	✓	Cool-water.
AR from Estes Arroyo upstream to Southern Ute Indian tribal boundary.	✓	✓	✓	✓	✓	✗	✓	Cool-water.
Table Note. 1. Aquatic life designations are based on whether the water temperature and other characteristics are suitable for the support or propagation of aquatic life with physiological tolerances for cold water, warm water, or intermediate (cool water) temperatures. Marginal water indicates that intermittent or low flow conditions limit the ability of the water to sustain aquatic life on a continuous basis (NMAC 20.6.4.401 - 20.6.4.408).								

3.2 BIOLOGICAL ENVIRONMENT

Along the Animas and San Juan Rivers, vegetation is typical of most western rivers, with woodlands (typically cottonwood, salt cedar, Russian olive, and willow trees), shrubs/scrubs, wetlands, and

¹² Assimilative capacity is defined as "the ability of the environment or a portion of the environment to carry waste material without adverse effects on the environment or on users of its resources. Pollution occurs only when assimilative capacity is exceeded" (Gale 2010 as cited in MSI 2016).

agricultural crops present (United States Fish and Wildlife Service [USFWS] 2002).¹³ Woodlands can be found along drainages and consist of Fremont cottonwood, Russian-olive, New Mexico forestiera, shrubs, and grasses, which provide habitat for a variety of animals including small and large mammals and birds (USDA 1980; Bureau of Reclamation (BOR) 2003). Shrubs/scrubs in the region include big sagebrush (*Artemisia tridentata*), fourwig saltbush (*Atriplex canescens*), winterfat (*Ceratoides lanata*), and skunkbush sumac (*Rhus trilobata*) (Allison and Ashcroft 2011). Western wheatgrass (*Agropyron smithii*), blue grama (*Bouteloua gracilis*), Colorado rubberweed (*Hymenoxys richardsonii*), galleta (*Hilaria jamesii*), horsetail milkweed (*Asclepias subverticillata*), junegrass (*Koeleria pyramidata*), and rubber rabbitbrush (*Ericameria nauseosa*) are common grasses and forbs in San Juan County, New Mexico (Allison and Ashcroft 2011). Wetlands in the region consist of sedges, cattails, and shallow water, and provide benefits to aquatic species such as ducks, geese, heron, muskrat, and beaver (USDA 1980; AZGFD 1998). Within the region, common vegetated wetland communities include the plains cottonwood (*Populus deltoides*), narrowleaf cottonwood (*Populus angustifolia*), *Salix* sp., coyote willow (*Salix exigua*), bluestem willow (*Salix irrorita*), Russian olive (*Elaeagnus angustifolia*), salt cedar (*Tamarix* sp.), spikerush (*Eleocharis*, sp.), bullrush (*Scirpus* sp.), cattail (*Typha latifolia*), saltgrass (*Distichlis* sp.), and rushes (*Juncus* sp.) (USFWS 2002). Much of the agricultural land in the area is classified as pasture/hay and supports winter pastures for livestock. Some cultivated cropland also exists in this region (USEPA 2022b).

3.2.1 ENDANGERED AND THREATENED SPECIES

Numerous biological resources utilize the aquatic and riparian habitats in this region for foraging, refuge, and as stopover habitat during migration. Mammals such as the black-footed ferret, Canada lynx (federally threatened), gray wolf, the New Mexico meadow jumping mouse (federally endangered) likely forage near the San Juan and Animas Rivers and utilize the rivers as a water source (BOR 2003; USFWS 2021a). The spotted bat (state threatened) also lives within San Juan County (NMDGF 2022).

Critical habitats exist for federally threatened birds such as the Mexican spotted owl, California condor, yellow-billed cuckoo, and southwestern willow flycatcher (USFWS 2021a).¹⁴ Additionally, the broad-billed hummingbird (state threatened), brown pelican (state endangered), bald eagle (state threatened), common black hawk (state threatened), least tern (state endangered), peregrine falcon (state threatened), gray vireo (state threatened), and Baird's sparrow (state threatened) are also found within San Juan County New Mexico (NMDGF 2022). In addition, the USFWS has designated birds of conservation concern (i.e., migratory birds that breed, year-round residents, or birds that overwinter in New Mexico) including the bald eagle, black swift, Cassin's finch, Clark's grebe, evening grosbeak, Lesser yellowlegs, Lewis's woodpecker, olive-sided flycatcher, pinyon jay, and Virginia's warbler (USFWS 2021b).¹⁵

Critical habitats also exist for aquatic biota, including federally endangered fish species such as the Colorado pikeminnow and razorback sucker (USFWS 2021a).¹⁶ Additional aquatic species present in the

¹³ According to the 2017 United States Department of Agriculture Census, five percent (181,426 acres) of San Juan County is cropland or irrigated land.

¹⁴ The southwestern willow flycatcher is also listed as an endangered species under the New Mexico Wildlife Conservation Act (NMDGF 2022).

¹⁵ The Birds of Conservation Concern identifies migratory and non-migratory bird species (beyond those already designated as federally threatened or endangered) that represent the highest conservation priorities of the USFWS (USFWS 2021b).

¹⁶ The Colorado pikeminnow is also listed as an endangered species under the New Mexico Wildlife Conservation Act (NMDGF 2022).

area include Apache trout (federally threatened), bonytail chub (federally endangered), greenback cutthroat trout (federally threatened), roundtail chub (federally proposed threatened), and Zuni bluehead sucker (federally endangered) (BOR 2003). The northern Mexican gartersnake (federally threatened), Kanab ambersnail (federally endangered), and Jemez Mountains salamander (federally endangered) may also inhabit habitats near the Animas and San Juan River (USFWS 2021a).

Additionally, federally threatened, endangered, or proposed threatened flowering plants in the region include the Chapin Mesa milkvetch (proposed threatened), Knowlton's cactus (federally endangered), Manco's milk-vetch (federally endangered), Mesa Verde cactus (federally threatened), Navajo sedge (federally threatened), and the Zuni fleabane (federally threatened) (USFWS 2021a).

3.3 LANDSCAPE SCALE ECOLOGICAL ENVIRONMENT AND STRESSORS

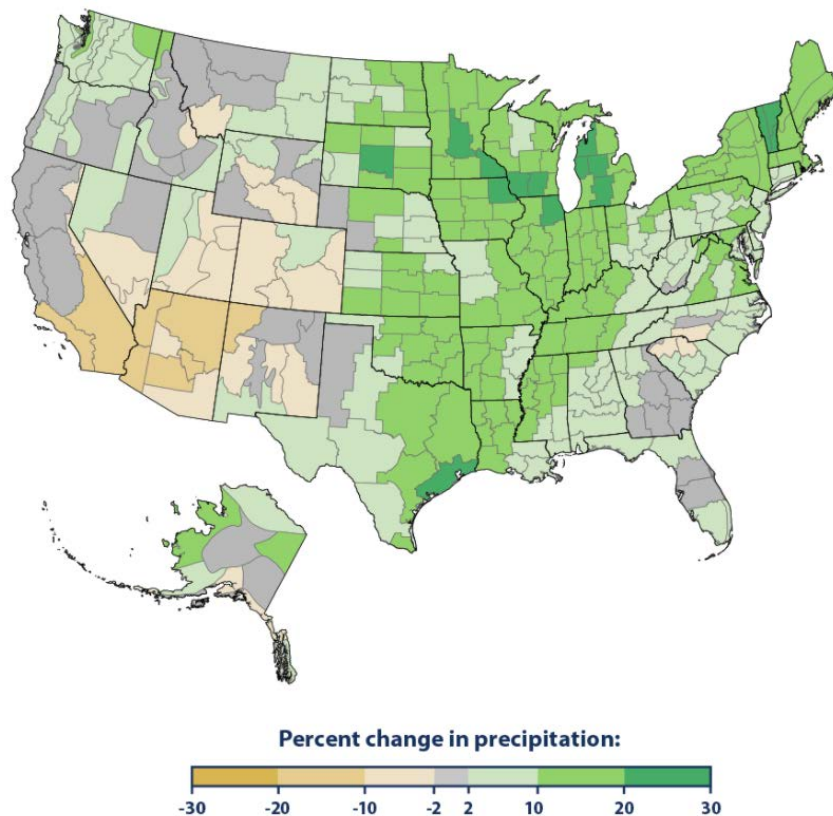
As reported in the Intergovernmental Panel on Climate Change Report (Intergovernmental Panel on Climate Change [IPCC] 2013), the Earth's surface warmed by an average of 0.74 degrees Celsius (1.3 degrees Fahrenheit) during the 20th century and the IPCC (2013) projects that there will be an increase in the frequency of extreme weather events that are temporally and spatially more variable as a result of climate change.¹⁷ By shifting the wind patterns and ocean currents that drive the global climate, climate change will cause some areas to experience decreased precipitation, as is the case in New Mexico. Recent climatological data published by the National Oceanic and Atmosphere Administration indicate that precipitation (including snowfall and rain) has decreased throughout New Mexico since 1901, especially in the northwest portion of the state (Exhibit 3-2; USEPA 2021b).

Recent warming along with occurrence of hotter and more frequent droughts are likely to produce changes in New Mexico vegetation, including drought-induced forest die-offs, extreme wildfires, and desertification of grasslands (NMBGMR 2021b). Alterations of New Mexican vegetation will impact water quantity and quality, a major focus of the New Mexico's 50-year Water Plan that will be released in 2022 (NMBGMR 2021b).¹⁸ In New Mexico and the Navajo Nation, groundwater is a vital and sometimes elusive resource. Certain regions receive less than 10 inches of rain per year (USEPA 2013). While most New Mexicans rely on groundwater for a significant percent of their potable water supply, residents in northwestern New Mexico rely heavily on surface water for their potable water supply (USEPA 2013). Members of the Navajo Nation similarly rely on groundwater and surface water resources for drinking water and for agricultural uses. Climate-change driven water stress may lead to increasing management issues related to partitioning a declining water supply for human use, agriculture, and ecosystem maintenance (NMBGMR et al. 2021b).

¹⁷ Created by the United Nations Environment Program and the World Meteorological Organization in 1988, the IPCC is the United Nations body for assessing the science related to climate change. Through its assessments, the IPCC determines the state of knowledge on climate change by identifying where there is agreement in the scientific community on topics related to climate change and where further research is needed (IPCC 2021).

¹⁸ The New Mexico 50-Year Water Plan is being developed by numerous entities including the NMBGMR, New Mexico Interstate Stream Commission, United States Army Corps of Engineers, Bureau of Reclamation, New Mexico Indian Affairs Department, and NMED (Office of the State Engineer 2021).

EXHIBIT 3-2 CHANGE IN PRECIPITATION IN THE UNITED STATES, 1901-2020 (USEPA 2021B)



3.4 SOCIOECONOMIC RESOURCES

The Animas and San Juan Rivers run through San Juan County in northwestern New Mexico and border a portion of the Navajo Nation. As determined in the 2020 Census, San Juan County has a population of 121,661 (United States Census Bureau [USCB] 2020). The largest city in the county is Farmington, with a population of 46,624 (USCB 2020). The essential industries of Farmington and the surrounding San Juan County are petroleum, natural gas, and coal mining in nearby Navajo and San Juan mines. The Animas and San Juan Rivers support both in-state and out-of-state tourism, and tourism accounts for a significant portion of the Navajo Nation's economy. Spring and summer tourism in San Juan County is focused on boating and fishing in the Animas and San Juan Rivers, as well as nearby tributaries and lakes. Mountain biking, camping, and hiking are also common near the rivers and in surrounding national monuments and historic parks and recreational areas.

3.5 CULTURAL AND HISTORIC RESOURCES

Many historically and culturally significant sites and resources exist in northwestern New Mexico and the Navajo Nation. The Navajo Nation contains several major national and tribal recreation areas, parks, and historic monuments in New Mexico, including Chaco Culture National Historic Park and Four Corners Monument Navajo Tribal Park (Nania et al. 2014). In addition, the Aztec Ruins National Monument in Aztec, NM is a national historic monument located along the Animas River. It showcases the Pueblo

community that lived in the Animas River Valley more than 900 years ago. The Monument is also a World Heritage Site and preserves several multi-story, multi-room buildings (great houses) and kivas (circular chambers used for ceremonies) that overlook the river. Although the ancestral Pueblo people left the region around 1300 C.E., many tribes still maintain a spiritual connection to the ancestral site (USEPA 2022b).

More broadly, many Navajo still engage in traditional hunting, fishing, and gathering to supplement their diets with plants and animals, and collect traditional medicines derived from wild plants (Nania et al. 2014). In addition, some Navajo strongly associate with biological species as a part of their clan identities, and respect and hold sacred the individual roles of all life on Mother Earth (Nania et al. 2014). The San Juan River carries great spiritual and cultural significance for the Navajo people and other tribes in the region. The river is said to have a spirit of its own that can assist those in need, and older tribal members are known to offer corn pollen to the river as they cross it.

3.6 SUMMARY

The region encompassing the Animas and San Juan Rivers within New Mexico and bordering the Navajo Nation contain a suite of habitats that together support a wide range of plant, fish, and wildlife species. In addition to ecological functions, these natural resources also provide cultural, recreational, and agricultural services. Economic drivers such as mining operations, agriculture, and ranching, when combined with water resource stressors and a changing climate, are important considerations in the evaluation of potential restoration alternatives.

CHAPTER 4 | RESTORATION PROJECT IDENTIFICATION, SCREENING, AND EVALUATION PROCESS

4.1 RESTORATION OBJECTIVES

Through this restoration plan, ONRT seeks to compensate the public for natural resource injuries in New Mexico that resulted from the GKM Blowout. ONRT is pursuing restoration projects¹⁹ that have a strong connection to the Animas and/or San Juan Rivers. Projects should address service losses and/or ongoing riverine impairments, such as those described in Exhibit 4-1.

EXHIBIT 4-1 SUMMARY OF ANIMAS AND SAN JUAN RIVER IMPAIRMENTS AND SPILL-RELATED SERVICE LOSSES

TYPE OF IMPAIRMENT OR SERVICE LOSS	RIVER SYSTEM	DESCRIPTION/DETAILS
Ongoing Riverine Impairment	Animas River	Lead, turbidity, nutrients (total phosphorous), <i>E. coli</i> , and temperature
	San Juan River	<i>E. coli</i> , sedimentation/ siltation
Gold King Mine Spill-Related Service Loss	Animas and San Juan Rivers	Ecological service losses associated with metals contamination of surface water and sediment resources
		Loss of surface water supplied to local communities from the Animas or San Juan Rivers due to increase of lead content during turbulent river flow
		Loss of surface water supplied for growth of agricultural crops
		Loss of recreational opportunities tied to the Animas and San Juan Rivers resulting from concerns related to water contamination

4.2 PROJECT SOLICITATION

As part of the restoration planning process, ONRT published a press release (July 21, 2021) and sent a letter to local stakeholders (July 15, 2021) (Appendix A). The press release was sent to statewide and local print and electronic media outlets and the letter was distributed by ONRT to a broad list of stakeholders (Appendix B) to encompass the types of organizations involved in environmental

¹⁹ This chapter discusses the process by which restoration project ideas were identified, screened, and evaluated. In Chapter 5, individual project ideas are referred to as restoration alternatives.

conservation, restoration, and related construction projects that fit with ONRT's objectives for restoration. The main purpose of the letter was to invite restoration project proposals from local stakeholders and describe the process by which project proposals submitted to ONRT would be evaluated. In addition, the letter outlined relevant background information for stakeholders, including a description of the settlement between the State of New Mexico and Sunnyside Corporation and its parent companies, Kinross Gold Corporation and Kinross Gold, U.S.A., Inc., as well as the ongoing impairments and service losses in the two river systems, and information to be included in all project proposals. Generally, ONRT requested that project proposals include a project description that included location, land ownership, and a timeline; information about the benefits of the project to natural resource and/or services, and consequences of not implementing the project; an assessment of the project's size and scale; a cost breakdown for project implementation; a description of the project's longevity and long-term maintenance needs; information on other sources of funding, if applicable; and the overall timeline from contract execution to project completion.

In addition, ONRT outlined restrictions on the use of settlement funds, including the following:

- The project must have a nexus to natural resources and/or the services they provide to people (see Exhibit 4-1).
- ONRT funds will be final at the time of award. Applicants must identify a source of funds for ongoing maintenance costs, as needed. Funds beyond allocated contingency costs will not be available.
- Any funding provided directly to non-governmental entities will need to go through an additional, formal competitive solicitation process, consistent with State of New Mexico procurement rules.
- Project funds will be disbursed on a reimbursable basis as costs are incurred throughout the implementation phase, or the implementation and monitoring phase, if funds for monitoring are included in the project.

ONRT held a public webinar to describe the project solicitation process, screening and evaluation criteria for project selection, and restrictions on funding, in addition to answering questions from interested parties. The meeting was held virtually on July 28, 2021. Both the project solicitation letter and webinar presentation were made available at the following address: <https://onrt.env.nm.gov/invitation-to-propose-ideas-for-natural-resource-restoration-projects-related-to-2015-gold-king-mine-release/>.

Throughout this process, ONRT received questions from interested parties about the solicitation process and timing, types of relevant restoration projects, and details related to partnerships. ONRT tracked the questions and released a Frequently Asked Questions document to stakeholders to provide clarifications (Appendix C).

Restoration project ideas were submitted via e-mail. The deadline for submitting a project idea, originally set to August 31, 2021, was extended to September 14, 2021 to allow interested parties additional time to prepare materials after receiving answers to their questions.

4.3 SCREENING AND EVALUATION PROCESS

ONRT implemented a two-tiered process to ensure that each project proposal met a certain number of initial criteria (screening criteria) before being fully evaluated and ranked by a second set of criteria

(evaluation criteria). The screening criteria were used to identify whether a given project met the general requirements outlined by ONRT. Projects that did not pass the screening step were not evaluated further. For the projects that passed the screening step, the evaluation criteria were used to evaluate and rank each project and assist ONRT personnel in selecting from among the projects that met the screening criteria. This process was designed such that projects that passed the screening step would align with ONRT's restoration objectives. The process thereby prioritized projects most likely to restore natural resources and services injured as a result of the GKM Blowout.

The screening and evaluation criteria together represented factors important to ONRT and satisfied the requirements outlined in CERCLA for evaluating and selecting restoration projects (43 C.F.R. § 11.82(d)).

4.3.1 SCREENING CRITERIA

The seven screening criteria by which each project proposal was measured are listed below:

1. Consistent with the ONRT mission [www.onrt.state.nm.us/].
2. Results in a net overall improvement of natural resources and/or benefit to the public in terms of increased resource services.
3. Technically and administratively feasible, as demonstrated through the use of established or previously implemented approaches.
4. Unlikely to proceed without ONRT funding.
5. Complies with applicable and relevant federal, state, local, and tribal laws and regulations.
6. Has feasible and cost-effective provisions for operations, maintenance, and monitoring; and has a demonstrated source of funds for those ongoing costs, as relevant.
7. Includes all the information necessary to evaluate the project.

4.3.2 EVALUATION CRITERIA

The eleven evaluation criteria by which each project proposal was evaluated and ranked are listed below. Projects received a rank of no (did not meet criterion), low, medium, or high, depending on how well the proposal addressed the criterion. Projects that met each criterion and received a medium or high rank for at least nine criteria were included as part of the Selected Restoration Alternative.

1. Geographically close to the Animas River from the New Mexico-Colorado state line to the confluence with the San Juan River, and/or the San Juan River downstream to the Colorado state line.
2. Consistent with regional planning and federal and state policies, if applicable.
3. Availability of additional funds or in-kind support to leverage ONRT dollars.
4. Low ratio of planning and administrative costs to restoration costs.
5. Relationship of the expected costs of the proposed actions to the expected benefits.
6. Cost-effectiveness compared to other projects that provide similar benefits.
7. Lead project proponent or partner is a state agency or local public body.

8. Implemented in a timely manner.
9. Likely to provide benefits quickly after project implementation.
10. High potential for long-term success and a low risk of failure.
11. Low potential for adverse impacts to natural resources or human health and safety resulting from the restoration project itself, including long-term and indirect impacts.

During the screening and evaluation process, ONRT sought clarifications for each project submitted for evaluation and followed a standard procedure to communicate with each project proponent. A harmonized list of questions was drafted and sent to each project proponent via email on October 27, 2021. Responses were requested by November 12, 2021, to ensure each project proponent was given an equal amount of time to respond. After reviewing the responses from each project proponent, ONRT communicated with project proponents on an as-needed basis if specific clarifications were necessary to finalize the screening and evaluation of that project.

4.4 PROJECTS CONSIDERED BUT NOT EVALUATED FURTHER

After completing the screening step, ONRT determined that one proposed restoration project did not meet the screening criteria. The City of Farmington submitted a project proposal for design of an in-water whitewater wave feature in the Animas River near the new Gateway Park. Due to the preliminary nature of the project, only the design of the in-water features was envisioned by the project proponent, while the actual construction of the feature would be part of a future City-led phase of the project. This did not meet screening criterion #2 (results in a net overall improvement of natural resources) and would not ensure restoration dollars led to on-the-ground improvements in resources and/or resource services. This project also did not strictly meet screening criterion #4 (unlikely to proceed without ONRT funding), as the City of Farmington levied a local tax to pay for similar initiatives and has prioritized this project. Thus, ONRT did not move forward with the City of Farmington whitewater wave feature project in the evaluation phase.

The proposed restoration projects that passed the screening step are described and further evaluated in Chapter 5.

CHAPTER 5 | EVALUATION OF THE RESTORATION ALTERNATIVES AND IDENTIFICATION OF THE SELECTED RESTORATION ALTERNATIVE

This chapter describes ONRT's evaluation of the proposed restoration projects that met the screening criteria and outlines the Selected Restoration Alternative. The preferred alternative described in the Draft RP is now the selected alternative described in the Final RP. The Selected Restoration Alternative includes all of the proposed restoration projects that met the screening criteria. However, these projects together requested more funding than is available through this settlement. Therefore, ONRT will fund only certain portions of the selected projects. The cost assessment is discussed as part of ONRT's evaluation in the following sections and summarized at the end of this chapter.

5.1 PROPOSED ALTERNATIVES AND THE SELECTED RESTORATION ALTERNATIVE

The alternatives that ONRT evaluated as part of this final restoration plan include the following:

- Alternative A: No Action – Natural Recovery Alternative.
- Alternative B: Agricultural Irrigation System Upgrade Project (proposed by the Tse Daa Kaan (Hogback) Navajo Community).
- Alternative C: Cedar Hill Boat Ramp on the Animas River (proposed by San Juan County).
- Alternative D: Festival and Farmer's Market Pavilion at Gateway Park (proposed by the City of Farmington).
- Alternative E: San Juan Valley Soil Health Restoration Project (proposed by the San Juan County Soil and Water Conservation District).

The Selected Restoration Alternative includes a suite of projects (Alternatives B, C, D, and E) that, together, will provide additional in-river recreational opportunities, enhance soil and stream health, and compensate for agricultural losses. Additionally, these projects compensate for cultural losses for the Navajo community within the geographic boundaries of New Mexico. Projects evaluated and selected as part of the Selected Restoration Alternative are summarized in Exhibit 5-1 and shown geographically in Exhibit 5-2. Projects are presented in two tiers. Tier 1 includes the projects that ONRT would prioritize for funding, while Tier 2 includes one project (Alternative B) for which funding is contingent on matching contributions that have not yet been secured.

EXHIBIT 5-1 RESULTS OF THE SCREENING AND EVALUATION PROCESS

PROJECT NAME ¹	SCREENING SUMMARY	EVALUATION SUMMARY	RELATIVE PROJECT COST ²
SELECTED RESTORATION ALTERNATIVE (PROJECTS RECOMMENDED FOR FUNDING)			
Tier 1 Selected Restoration Projects			
Alternative C: Cedar Hill Boat Ramp on the Animas River	Passed	High	\$
Alternative D: Festival and Farmer's Market Pavilion at Gateway Park	Passed	Moderate	\$\$-\$\$\$
Alternative E: San Juan Valley Soil Health Restoration Project	Passed	High	\$-\$\$
Tier 2 Selected Restoration Project			
Alternative B: Agricultural Irrigation System Upgrade Project	Passed	Low	\$\$
PROJECTS CONSIDERED BUT NOT RECOMMENDED FOR FUNDING			
Whitewater Wave Feature	Did Not Pass	Not Applicable	\$\$\$
Table Notes. 1. Projects are listed alphabetically within each tier. 2. Project costs are categorized as low (\$, less than \$200,000), medium (\$\$, between \$200,000 and \$400,000) and high (\$\$\$, greater than \$400,000). Scalable projects include a cost range.			

EXHIBIT 5-2 PROJECT LOCATIONS ASSOCIATED WITH SELECTED RESTORATION ALTERNATIVE²⁰



²⁰ The San Juan Valley Soil Health Restoration Project is focused on farmland within the San Juan Valley. Specific locations for project implementation have not yet been chosen.

5.2 ALTERNATIVE A | NO ACTION - NATURAL RECOVERY ALTERNATIVE

NRDA regulations specify that the natural resource trustee must consider an alternative that involves “minimal management actions” to restore natural resources or resource services or compensate for interim losses (43 C.F.R. § 11.82(c)(2)). The No Action - Natural Recovery Alternative would not include any direct actions to restore injured natural resources or resource services, and any improvement would occur through natural recovery alone. While it is possible that natural resources may improve to baseline conditions over time, the public would not be compensated for losses that occurred in the interim (i.e., the time between the Gold King Mine spill and the return to baseline conditions). The No Action – Natural Recovery Alternative would not utilize settlement monies for restoration or acquisition of the equivalent of lost resources and resource services, which is the purpose of NRDA. In addition, the No Action – Natural Recovery Alternative does not meet the screening criteria, as described further in Exhibit 5-3.

EXHIBIT 5-3 NO ACTION - NATURAL RECOVERY ALTERNATIVE: ASSESSMENT AGAINST SCREENING CRITERIA

SCREENING CRITERIA	PROJECT DESCRIPTION	ASSESSMENT ¹
1. Is consistent with ONRT’s mission.	Alternative A does not compensate for interim losses.	Does Not Pass
2. Results in a net overall improvement of natural resources and/or benefit to the public in terms of increased resource services.	It is not clear that Alternative A would result in an overall improvement.	Does Not Pass
3. Technically and administratively feasible, as demonstrated through the use of established or previously implemented approaches.	No actions would be implemented.	Not Applicable
4. Unlikely to proceed without ONRT funding.	No funding would be utilized.	Not Applicable
5. Complies with applicable and relevant federal, state, local, and tribal laws and regulations.	Does not utilize settlement monies for restoration, which would not comply with CERCLA NRDA regulations.	Does Not Pass
6. Has feasible and cost-effective provisions for operations, maintenance, and monitoring; and a demonstrated source of funds, as relevant.	No actions would be implemented.	Not Applicable
7. Includes all the information necessary to evaluate the project.	No project materials were submitted.	Not Applicable
Table Note. 1. Several screening criteria are not applicable, given the nature of the No Action alternative.		

Therefore, the No Action – Natural Recovery Alternative would not make the public whole, and ONRT does not further evaluate the No Action – Natural Recovery Alternative in this Final RP. The project is not included in the Selected Restoration Alternative.

5.3 DESCRIPTION AND ASSESSMENT OF THE SELECTED RESTORATION ALTERNATIVE

The Selected Restoration Alternative includes the Agricultural Irrigation System Upgrade Project (Alternative B), Cedar Hill Boat Ramp on the Animas River Project (Alternative C), Festival and Farmer's Market Pavilion at Gateway Park Project (Alternative D), and San Juan Valley Soil Health Restoration Project (Alternative E). The following sections describe each restoration alternative in more detail and provide a general project description, information on project benefits, size, cost, longevity, funding sources, and timing. The description includes a summary of all the information evaluated. For each restoration alternative, ONRT's assessment of the project against the evaluation criteria follows the project description.

5.3.1 ALTERNATIVE B | AGRICULTURAL IRRIGATION SYSTEM UPGRADE PROJECT (TSE DAA KAAAN (HOGBACK) NAVAJO COMMUNITY)

Alternative B is a project proposed by the Tse Daa Kaan (Hogback) Navajo Chapter to fund the purchase of three upgraded water pumps to irrigate up to 955 acres of land on the Navajo Nation, that use San Juan River water for growing traditional and culturally-significant crops.

Project Description

The Agricultural Irrigation System Upgrade project will entail replacing water pumps that deliver irrigation water to 55 farmers and nearly 1,000 acres of farmable land in the Hogback community. The high sediment load in the San Juan River has caused frequent breakdowns of pumps that provide irrigation water to farms in the Hogback community. The failures can last up to a month while pumps are repaired, and cause loss of crops due to lack of irrigation water. According to the Tse Daa Kaan Irrigation Task Force, frequent pump breakdowns occur because the current vertical pumps are not designed to handle high sediment loads. The high sedimentation load stresses the pumps, which are often replaced annually.

The selected project will purchase three horizontal centrifugal pumps, each with an output of 5,500 to 6,000 gallons per minute at an existing 2-acre site. These pumps are designed to handle the high sediment loads typical of water diverted from the San Juan River. The project involves the installation of two pumps prior to the 2022 planting season, which runs from April through October. After installation, the pumps will be maintained by the Hogback Chapter and the Navajo Nation Irrigation Department. Maintenance will include checking the pumps daily and conducting any necessary repairs. The third pump will be kept in reserve, in case repairs are needed for the two operational pumps.

The goal of this project is to reduce the amount of time each year that farmers go without irrigation water due to breakdowns and decrease the costs associated with pump maintenance and replacement. This will address crops that were lost when irrigation water was not available following the 2015 Gold King Mine Spill. Crops grown in the Hogback community are used throughout the Navajo Nation. One of the major crops of interest is corn, which is commonly used for ceremonial purposes. Other crops include squash, melons, and other organic vegetables. The pump upgrades will have cultural benefits in addition to agricultural benefits due to the inclusion of crops used for ceremonial purposes.

The project proponents requested funds to cover the cost of the pumps, which are each \$125,000, for a total of \$375,000. Maintenance costs covered by the Hogback Chapter and the Navajo Nation Irrigation Department would be considered as additional in-kind funding. In addition, the Hogback Chapter is

currently seeking additional sources of funding for a separate part of this project that would involve construction of settling ponds to reduce the amount of sediment entering the pumps.

Trustee Evaluation Against Criteria

Exhibit 5-4 summarizes the evaluation of Alternative B and provides a general assessment rank for each evaluation criterion. The project location is adjacent to the San Juan River and would irrigate farms located on tribal lands. The project's scope, including the purchase and installation of irrigation pumps is consistent with regional, state, and federal policies. In terms of costs, funding is requested in the amount of \$375,000. This total amount comprises \$125,000 per pump, a portion of which will also fund pump installation and maintenance. No planning or administrative costs were included in the budget, and thus there is a low ratio of planning to restoration costs.

The project benefits are more challenging to quantify. The pumps will service up to 955 acres of agricultural land and provide benefits to 55 farmers who use the irrigation system. An extra pump is included in the proposal as a contingency, in case one of the two operational pumps breaks down and needs to be sent for repairs or replaced. This has been a typical occurrence with the current irrigation system and leads to dry periods without irrigation when a pump needs repairs. However, the project proponent stated an interest in purchasing a different type of horizontal centrifugal pump that has not been tested at this site. After further communication with the project proponent, it became clear that the new pumps are part of a larger project to upgrade the entire pumping station with settling ponds to address the heavy sedimentation from the river. The project proponent is in the process of finding funding to upgrade the infrastructure to reduce the sedimentation and improve pumping efficiency. Therefore, even if the project is implemented in a timely manner such that the pumps are purchased and installed before the planting season, it is not clear that purchasing new pumps will serve the project's goal to irrigate the agricultural lands more efficiently. The benefits to the farmers are contingent upon ensuring the pumps work properly (and better, with fewer failures) than the current system.

The likelihood for adverse environmental impacts is low. This area is developed as agricultural land, and the project area was previously disturbed to create the pumping station. Potential adverse impacts include localized pooling of water and possibly sediment if the pumps malfunction, and lack of irrigation water if the pumps cannot handle the suspended solids and fail.

The project proponent is the Hogback Chapter of the Navajo Nation and is considered a local public body for procurement purposes. This project will benefit local farmers and compensate for agricultural and cultural losses due to the GKM Blowout, and for that reason it is included as part of the Selected Restoration Alternative. However, based on this review, it is not clear that the new pumps alone would be a significant improvement over the current system.

Thus, Alternative B ranks as a Tier 2 Selected Restoration Alternative. ONRT reserves the right to fund this project should the Hogback Chapter receive matching funds to upgrade the infrastructure, thereby assuring the irrigation system will have a reduced sediment load and higher likelihood of providing benefits quickly after project implementation.

EXHIBIT 5-4 AGRICULTURAL IRRIGATION SYSTEM UPGRADE PROJECT: ASSESSMENT AGAINST EVALUATION CRITERIA

EVALUATION CRITERIA	PROJECT DESCRIPTION	ASSESSMENT RANK
1. Geographically close to rivers.	The selected project will pump water from the San Juan River to irrigate local farms on tribal lands.	High
2. Consistent with policies.	Based on the information provided, this project is consistent with relevant policies.	High
3. Availability of leverage.	The project proponent will provide an in-kind match for pump system upkeep and maintenance. The match was not quantified.	High
4. Low ratio of planning costs to restoration costs.	The itemized budget only included the cost of the three pumps. No planning costs were included. Therefore, we assume that most of the cost will go toward purchasing equipment while a portion will go towards installation and maintenance of the same.	High
5. Relationship of costs to benefits.	The budget estimates \$125,000 per pump, with three pumps irrigating a total of 955 acres of agricultural land.	High
6. Cost-effectiveness.	The estimated costs are in the range expected for this type of project.	Medium
7. Lead project proponent is state or local public body.	This project was submitted by the Hogback Chapter of the Navajo Nation, an entity that qualifies for treatment as a local public body for these purposes.	High
8. Implemented in a timely manner.	The project will be implemented in a timely manner, upon receipt of matching funds to upgrade the infrastructure and thereby reduce the sediment load reaching the pumps. The pumps will be procured and installed prior to the planting season.	Medium-High
9. Likely to provide benefits quickly.	If the project proceeds as described, benefits should follow quickly after implementation. However, the benefits to farmers are contingent on ensuring the new pumps work properly.	Medium
10. High potential for long-term success and low risk of failure.	Through the proposal text and answers to subsequent questions, it is not clear that the requested horizontal pumps will be a significant improvement over the current setup. The Hogback Chapter is in the process of funding a related update to the infrastructure of the settling ponds to reduce the sedimentation and improve pumping efficiency.	Low

EVALUATION CRITERIA	PROJECT DESCRIPTION	ASSESSMENT RANK
11. Low potential for adverse impacts to natural resources or human health and safety.	The pumps will be inserted into the same infrastructure that is currently used for irrigation. While it is not certain these new pumps will be a significant improvement on the current pumps, the likelihood for adverse environmental impacts is low. Potential adverse impacts include localized pooling of water if the pump malfunctions.	Medium

5.3.2 ALTERNATIVE C | CEDAR HILL BOAT RAMP ON THE ANIMAS RIVER (SAN JUAN COUNTY)

Alternative C is a project proposed by San Juan County to construct a new river access point and boat ramp on 5.2 acres of land bordering the Animas River at Cedar Hill, NM.

Project Description

The Cedar Hill Boat Ramp restoration project will construct a new river access point and boat ramp on the Animas River in Cedar Hill, NM. The goal of this restoration project is to increase recreational opportunities to compensate for lost access to in-water recreation and lost revenues associated with tourism due to the GKM Blowout. As stated in San Juan County’s proposal, increasing recreation opportunities along this segment of the Animas River will highlight the area as a recreation destination that benefits local residents and businesses that offer river-based recreation opportunities.

The Animas River currently has abundant public access in Durango, CO and from Aztec, NM to the confluence with the San Juan River in Farmington, NM. However, the 38.7-mile reach between Durango and Aztec currently does not have a public access point. The new river access and boat ramp in Cedar Hill will add to the current system of public access points to allow recreational day trips along the entire length of the Animas River from Durango to Farmington. During peak runoff conditions in May and June, San Juan County estimates visitation at 10 and 20 boat trips per day, while low water conditions between November and April will attract between three and five trips per day for activities such as fishing and tubing.

San Juan County has completed the project design and permitting for this project, and is considered “shovel ready.” The San Juan County Commission approved the project design in December 2020. The selected project will be located on a 5.2-acre parcel owned by the county that is currently wooded. The physical improvements will occur on approximately 1.5 to 2 acres of the property. The undisturbed land will remain vegetated. Remains of the former railroad bridge abutment on the property will be preserved and interpretive signage will be placed to document the former railway. Based on the design drawings and additional information provided by the project proponents, the site improvements include a new access road from County Road 2390, vehicle/trailer parking area, surveillance cameras, a concrete pad for a temporary toilet, solar security gate and fencing, stone stabilized boat ramp and staging area, native plantings, river information, and interpretive signage. The U.S. Army Corps of Engineers (USACE) approved the 401 Permit for project construction on November 2, 2021. Construction of the project is expected during the seasonal low-water period of summer and fall 2022. Project benefits are expected to start accruing once construction is complete and the access point opened to the public. After construction, San Juan County will conduct outreach through area partners, social media, and a press release to

advertise the new access point. Maintenance will be conducted by San Juan County Public Works or Parks and Facilities Department staff and will include activities such as periodic grading, weed control, trash removal, and sign repairs. San Juan County will utilize traffic counting monitors to estimate the number of trips to the site. The site will be maintained in perpetuity.

San Juan County estimated construction costs at \$200,000 and committed \$40,000 in matching funds towards construction. The total project cost requested from ONRT is \$160,000, including contingency and New Mexico Gross Receipts Tax (GRT) as applicable.

Trustee Evaluation Against Criteria

Exhibit 5-5 summarizes the evaluation of Alternative C and provides a general assessment rank for each evaluation criterion. The project location is adjacent to the Animas River and the project involves construction of a riverine access point and boat ramp on a section of the river that currently has poor public access. The project's scope is consistent with regional, state, and federal policies, and the project proponent is a local public body (San Juan County). In terms of project costs, the County requested \$160,000 to fund mobilization, surveying, construction of the boat ramp, fencing, and signage. Planning and administrative costs account for less than 10 percent of the total cost, and thus there is a low ratio of planning to restoration costs. The project proponent provides significant leverage, including an in-kind cash match of \$40,000 and previous funding in the amount of \$25,000 for project design. In addition, operations and maintenance will be conducted by the project proponent. The estimated costs are in the range expected for this type of project, and the project proponent brings significant leverage with matching funds and long-term maintenance.

The project benefits include an increase in recreational opportunities on the Animas River, along a currently underserved 38.7-mile reach between Durango, CO and Aztec, NM. The site would add to a network of six existing boat ramps along 50 miles of river. The project proponent estimates between three and 20 recreational trips per day, which will vary by season and flow conditions. For example, the peak flow conditions in May and June will be conducive to more boating trips, while the low flow conditions experienced during November through April will lend themselves to fishing and tubing.

Based on the project proposal and subsequent communications, the project will be implemented in a timely manner. The project proponent has secured all necessary permits, and construction is expected in Summer/Fall 2022. When construction is complete, the project proponent would advertise the new access point through a press release, social media, and engagement with local partners. The San Juan County Public Works and Parks and Facilities departments will be responsible for ongoing maintenance (e.g., grading, sign replacement, maintenance of the boat ramp) and the project will be maintained in perpetuity. Therefore, the benefits to resource services (i.e., provision of additional in-river recreational opportunities for the public) should follow quickly after implementation.

Lastly, the likelihood for adverse environmental impacts is low. Water quality and wetland loss concerns were addressed in the procured USACE permit, which clarifies that less than 0.03 riverine and wetland acres will be lost to accommodate the ramp. The access point and parking area will not be located in the 5, 10, or 25-year floodplain and the construction plan anticipates and accounts for modest runoff events. One potential impact is trampling of nearby natural areas if there is crowding at the site due to above expected use (i.e., parking in no-parking zones), that could require additional parking or expansion of the

site. San Juan County will monitor activity at the site through traffic counting monitors to measure public usage.

Alternative C will compensate for in-river recreational losses due to the GKM Blowout by benefitting boaters, anglers, other river-based recreators, and the businesses that serve them. For that reason, it is included as part of the Selected Restoration Alternative. Because the project proponent has clearly articulated the goal, benefits, and construction plans, has obtained the necessary permits, and has secured significant leverage in the form of matching funds and long-term maintenance of the project site, Alternative C ranks as a Tier 1 Selected Restoration Alternative.

EXHIBIT 5-5 CEDAR HILL BOAT RAMP ON THE ANIMAS RIVER: ASSESSMENT AGAINST EVALUATION CRITERIA

EVALUATION CRITERIA	PROJECT DESCRIPTION	ASSESSMENT RANK
1. Geographically close to rivers.	The selected project will construct a riverine access point and boat ramp on the Animas River in New Mexico.	High
2. Consistent with policies.	Based on the information provided, this project is consistent with relevant policies.	High
3. Availability of leverage.	The project proponent will provide an in-kind match of \$40,000, and previously funded the project design (\$25,000). In addition, operations and maintenance will be conducted by the project proponent.	High
4. Low ratio of planning costs to restoration costs.	Based on the itemized budget, planning and administrative costs accounted for less than 10 percent of the total cost.	High
5. Relationship of costs to benefits.	The budget requests \$160,000 from ONRT. The project will increase recreational opportunities on the Animas River, by an estimated three-20 recreational trips per day (varying by season).	High
6. Cost-effectiveness.	The estimated costs are in the range expected for this type of project, and the project proponent brings significant leverage in terms of cash match and maintenance.	High
7. Lead project proponent is state or local public body.	Yes. This project was submitted by the San Juan County Public Works department.	High
8. Implemented in a timely manner.	The project will be implemented in a timely manner. Permits are currently in-hand and construction is expected in Summer/Fall 2022.	High
9. Likely to provide benefits quickly.	If the project proceeds as described, benefits should follow quickly after implementation. The project proponent will advertise the new access point through a press release, social media, and engagement with local partners.	High

EVALUATION CRITERIA	PROJECT DESCRIPTION	ASSESSMENT RANK
10. High potential for long-term success and low risk of failure.	This project will follow standard practices for constructing the new access point and boat ramp. All required permits are currently in-hand. The San Juan County Public Works and Parks and Facilities departments will be responsible for ongoing maintenance (e.g., grading, sign replacement, maintenance of the boat ramp) and the project will be maintained in perpetuity.	High
11. Low potential for adverse impacts to natural resources or human health and safety.	There is a low potential for adverse impacts. Water quality and wetland loss concerns are addressed in the USACE 401 permit, which clarifies that less than 0.03 riverine and wetland acres will be lost to accommodate the ramp. The access point and parking area are not located in the 5, 10, or 25-year floodplain and the construction plan anticipates and accounts for modest runoff events. One potential impact is overuse of nearby natural areas if there is crowding at the site due to higher-than-anticipated interest, which could require additional parking or expansion. San Juan County will monitor activity through traffic counting monitors.	Medium-High

5.3.3 ALTERNATIVE D | FESTIVAL AND FARMER'S MARKET PAVILION AT GATEWAY PARK (CITY OF FARMINGTON)

Alternative D is a project proposed by the City of Farmington to construct a new festival and farmer's market pavilion at the Gateway Park community development in Farmington, NM.

Project Description

Alternative D, the Festival and Farmer's Market Pavilion at Gateway Park, involves construction of a permanent outdoor covered space and designated market location for the farmer's market at Gateway Park. The project will consist of a 2,500 to 3,000 square foot pavilion with electricity, roll-up door enclosures, restrooms, and other amenities and will be one component of a larger effort to revitalize Gateway Park as a signature park for the Farmington community and visitors. Other components of the park may include new outdoor recreational features, sites for restaurants and eateries, trail connections, and improvements to the Farmington Museum and Visitor Center's riverside outdoor event space.

The purpose of this project is to compensate for lost agricultural opportunities by creating a permanent community space and reducing the burden of farmers to participate in the market. The farmer's market is held weekly on Tuesdays and Saturdays from June through October. Approximately 70 farmers and small business vendors, along with roughly 20,000 community members, participate in the market each year. Since 2015, an estimated 15 vendors have left the market, and the customer base and overall income reported by farmers have decreased nearly 30 percent. The City of Farmington anticipates that an enhanced market space would create greater community demand for local food and increase the ability for area farmers to sell their products. According to the City, market customers have routinely requested shade and a more comfortable shopping area, which the proposed pavilion will provide. The City

estimates that visitor attendance at the markets would increase by at least 15 percent in the first year. Project benefits are expected to start accruing as soon as the pavilion is open for the market and will continue accruing throughout the useful life of the pavilion.

In addition to agricultural benefits, the City cites potential indirect benefits to natural resources. Farmers selling at the market may be more inclined to reduce the number of pesticides used as compared to conventional agricultural practices and are required to attend annual food safety and business training in order to become a vendor. Thus, according to the City, increasing the number of farmers participating in the market could help the community “build a food system that is not only sustainable, but growing.”

Project design will occur during Spring 2022, while permitting and construction will occur during early Summer 2022. The City anticipates that the only permit necessary for the pavilion would be a NM Construction Industries Division permit. Project completion will be advertised on the Farmington Growers Market Board and the Northwest New Mexico Growers Market Alliance social media sites and websites. A project description may also be included in the 2022 NWNM Local Food Guide, which is distributed across San Juan County. After construction, vendor sales and customer attendance will be documented annually. The pavilion is expected to have a useful life of at least 25 years with proper maintenance. Maintenance of the pavilion would be managed and funded by the City General Services and Parks, Recreation and Cultural Affairs Departments.

The City expects the total cost of the Gateway Park Conceptual Plan to be between four and five million dollars. The City requested \$500,000 to construct the pavilion, including the structure, enclosure system, electrical and plumbing, installation and construction, stone cladding, and fixtures. The City is seeking other funding sources for additional components of the Gateway Park improvements.

Trustee Evaluation Against Criteria

Exhibit 5-6 summarizes the evaluation of Alternative D and provides a general assessment rank for each evaluation criterion. The project location is adjacent to the Animas River and would construct a pavilion at Gateway Park. The project’s scope is consistent with regional, state, and federal policies, and the project proponent is a local public body (City of Farmington). In terms of costs, funding is requested in the amount of \$500,000. This total amount includes construction materials, electrical and plumbing, and labor costs for installation and construction. Planning and administrative costs would be covered by the project proponent, and thus there is a low ratio of planning to restoration costs. The project proponent provides significant leverage, including an investment through the conceptual design of Gateway Park, as well as long-term operations and maintenance that will be conducted by the project proponent. The estimated costs are along the high end of the range expected for this type of project, though the project proponent brings significant leverage with matching funds and long-term maintenance.

The project benefits will address agricultural losses by providing an attractive and comfortable venue for local farmers to sell their crops and reduce the stigma created by the GKM Blowout that exists to this day. The covered pavilion will provide a gathering place with a shade structure for sun protection. The project proponent anticipates a 15 percent increase in market attendance after the first year, and up to a 50 percent increase in subsequent years (both vendors and customers). This is part of a larger expansion of Gateway Park, which contains other attractions and is adjacent to the river.

Based on the project proposal and subsequent communications, the project will be implemented in a timely manner. The project proponent does not currently have permits in-hand, but anticipates that the

necessary site assessment, permitting, and construction would take 8-12 months from start to finish. When construction is complete, the project proponent will advertise the new market pavilion through social media, engagement with local partners, and potentially a ribbon cutting event. In addition, the project proponent will advertise to farmers through the Farmington Growers Market Board and Northwest New Mexico Growers Market Alliance. The City of Farmington will monitor annual vendor sales and customer attendance at the market. The City of Farmington General Services Department will be responsible for ongoing maintenance and the project will be maintained in perpetuity. Therefore, the benefits to farmers that address agricultural losses should follow quickly after implementation.

Lastly, the likelihood for adverse environmental impacts is low. Construction will take place on already developed land that has a buffer between the construction area and the Animas River. Permits will address any potential for runoff or other water quality impacts. Human health and safety are not expected to be impacted during construction or when the pavilion is finished.

Alternative D will benefit local farmers (and market customers) and compensate for agricultural losses due to the GKM Blowout. For that reason, it is included as part of the Selected Restoration Alternative. Because the project proponent has clearly articulated the goal and benefits and has secured significant leverage in the form of matching funds to further develop Gateway Park and conduct long-term maintenance of the project site, Alternative D ranks as a Tier 1 Selected Restoration Alternative.

EXHIBIT 5-6 FESTIVAL AND FARMER'S MARKET PAVILION AT GATEWAY PARK: ASSESSMENT AGAINST EVALUATION CRITERIA

EVALUATION CRITERIA	PROJECT DESCRIPTION	ASSESSMENT RANK
1. Geographically close to rivers.	The selected project will construct a pavilion at Gateway Park, located on the Animas River in Farmington, NM.	High
2. Consistent with policies.	Based on the information provided, this project is consistent with relevant policies.	High
3. Availability of leverage.	The project proponent has invested in the project through the conceptual design of Gateway Park. In addition, long-term operations and maintenance will be conducted by the project proponent.	High
4. Low ratio of planning costs to restoration costs.	Based on the itemized budget, planning and administrative costs were not included. The budget focused on materials and labor for construction.	High
5. Relationship of costs to benefits.	The budget requests \$500,000 from ONRT. The project will address agricultural losses by providing a venue for local farmers to sell in harsher conditions (e.g., hot summer weather). The project proponent anticipates a 15-50 percent increase in market attendance within the first three years.	Medium
6. Cost-effectiveness.	The estimated costs are at the high end of the range expected for this type of project. The project proponent brings leverage in terms of conceptual design and maintenance.	Medium

EVALUATION CRITERIA	PROJECT DESCRIPTION	ASSESSMENT RANK
7. Lead project proponent is state or local public body.	Yes. This project was submitted by the City of Farmington.	High
8. Implemented in a timely manner.	The project will be implemented in a timely manner. No permits are currently in-hand. The project proponent anticipates site assessments, permitting, and construction to take 8-12 months.	Medium
9. Likely to provide benefits quickly.	If the project proceeds as described, benefits should follow quickly after implementation. The project proponent will advertise the pavilion through social media, engagement with local partners, and a ribbon cutting event.	High
10. High potential for long-term success and low risk of failure.	This project will follow standard practices for constructing the new pavilion and will advertise to farmers through the Farmington Growers Market Board and Northwest New Mexico Growers Market Alliance. The City of Farmington General Services Department will be responsible for ongoing maintenance and the project will be maintained in perpetuity.	High
11. Low potential for adverse impacts to natural resources or human health and safety.	There is a low potential for adverse impacts. Construction will take place on already developed land that has a buffer between the construction area and the Animas River. Permits will presumably address any potential for runoff or other water quality impacts. Human health and safety is not expected to be impacted during construction or when the pavilion is finished; one project benefit is that farmers will have access to a shaded area.	High

5.3.4 ALTERNATIVE E | SAN JUAN VALLEY SOIL HEALTH RESTORATION PROJECT (SAN JUAN COUNTY SOIL AND WATER CONSERVATION DISTRICT)

Alternative E is a project proposed by the SJSWCD to educate farmers on and implement best practices to improve agricultural soil health, thereby reducing surface water runoff and its impact on local waterways. Those best practices will be implemented on between five and 15 farms in San Juan County.

Project Description

Even after Animas and San Juan River water quality returned to conditions safe for irrigation and livestock watering, farmers and ranchers reported difficulty selling their products due to an enduring stigma from the GKM Blowout and consumer hesitancy to trust the quality of produce grown with Animas or San Juan River water. The San Juan Valley Soil and Health Restoration Project will implement soil health improvement practices on farmland in the San Juan River Valley, with a focus on agricultural lands impacted by a lack of irrigation water during the GKM Blowout. SJSWCD will implement the project and consult the San Juan Watershed Group, as needed. The goal is to assist farmers improve soil health, focusing on one of the communities most affected by the spill.

The project will work with individual farmers to develop and implement a soil health improvement plan using the Five Healthy Soil Principles, including: keep soil covered; minimize soil disturbance and external inputs; maximize biodiversity; maintain a living root; and integrate animals into land management. Soil health practices will be targeted to meet individual farmer goals and improve watershed health by increasing overall soil organic matter, improving infiltration and the soil's water holding capacity, and reducing erosion. Cover cropping will be a key element in all five principles. Benefits of those improved soil health practices include lower soil temperature, improved water retention, and reduced erosion, all of which improve surface water quality while increasing crop yields and reducing costs for farmers.

Based on similar work on the Animas River, SJSWCD estimated that improving farming practices in that watershed could decrease nitrogen loads to the river by 6.7 pounds per year, phosphorus loads by 1.0 pound per year, and sediment loads by 0.5 tons per year for each 10 acres improved. Outcomes of a similar magnitude could be expected for improvements in farming practices along the San Juan River.²¹ The project also has the potential to address *E. coli* impairments, as pastures with degraded soil health can be a source of *E. coli*. Project benefits will start accruing as soil health practices are implemented and continue for at least two years on each farm. However, SJSWCD aims to educate farmers and enable them to continue these practices indefinitely after the project ends.

This project will take place on a combination of private and tribal agricultural land, with participating farmers implementing a suite of regenerative agricultural practices alongside their standard farming practices. A group of farmers in the Shiprock area has already expressed interest in the project, and additional farmers will be identified during the planning phase. Because the project will be implemented across multiple farms, there may be overlap between the planning and implementation phases, with some practices being installed on the ground at certain farms while others are still in the planning phase.

The project will begin during Summer 2022 with a pilot program consisting of five farmers. In partnership with SJSWCD (and potentially a consultant), the farms will conduct initial soil health assessments, develop soil health improvement plans, and plant the first season of cover crops in Fall 2022. The following year, the farms will implement the second year of cover crops and soil health practices, and newly recruited farms would begin the process. In 2024, the second group of farms will implement second year plantings and soil health plans, and, if needed, additional farms would be identified to meet acreage and implementation goals. SJSWCD will conduct soil testing on every five acres before and after implementation to monitor changes and post-implementation modeling exercise to estimate the benefits to surface water quality (e.g., using the Spreadsheet Tool for Estimating Pollutant Loads developed by the USEPA). In total, the project time frame will span Summer 2022 through Summer 2024 and could last through Summer 2026 depending on the amount of interest from local farmers.

Project costs are scalable and depend on the number and acreage of participating farms. Costs include cover crop seed for two years, compost, mulch, rental or purchase of equipment, personnel, farm consultants, and mileage reimbursement. The total project cost requested from ONRT is approximately \$280,000, and includes implementation on 15 farms, modeling the water quality benefits, contingency,

²¹ The San Juan Watershed Group has a separate pending grant application that would fund specific pollutant load reduction calculations for agricultural best management practices along the San Juan River.

and New Mexico GRT as applicable. The Toohnii Binaneest²² a² Altaas²éí Alliance (ToohBAA) farm collective, a group of farmers in the Shiprock, NM area, has received \$32,000 that could be used as a cash match towards project implementation and farmer outreach and education. SJSWCD estimates that additional in-kind matches from individual farmers who implement the soil improvement plan actions would be valued at more than \$25,000.

Trustee Evaluation Against Criteria

Exhibit 5-7 summarizes the evaluation of Alternative E and provides a general assessment rank for each evaluation criterion. The project location is adjacent to the San Juan River and would improve farming practices in the San Juan River Valley. The project's scope is consistent with regional, state, and federal policies, and the project proponent is a local public body (San Juan Soil and Water Conservation District). In terms of costs, funding is requested in the amount of \$269,814.60. This amount includes supplies such as seeding and compost, equipment, and soil testing, as well as staff and consultant time to work with the farmers on individual plans. A total cost of approximately \$280,000 would include New Mexico GRT and costs for modeling the water quality benefits. Planning and administrative costs account for less than 27 percent of the total budget, and thus there is a relatively low ratio of planning to restoration costs. The project proponent provides significant leverage, including a cash match from ToohBAA (\$32,000) for implementation, outreach, and education, and in-kind support from the farmers who will be implementing the improved soil practices. At a volunteer rate of \$28.54 per hour,²² this in-kind support is estimated at more than \$25,000. The estimated costs are in the range expected for this type of project, and the project is scalable based on the number of interested farmers. The project proponent brings significant leverage with matching funds and in-kind support.

The project benefits will improve soil conditions on up to 15 farms across 225 acres, and model water quality benefits from reduced runoff contamination to the San Juan River. The project proponents will follow demonstrated regenerative agricultural and soil improvement practices, focusing on land left fallow due to lack of irrigation water during the GKM Blowout and after the blowout due to the enduring stigma. Specific plans will be tailored to each farm over two years, with assistance in planning, instruction, and planting. Soil tests and water quality modeling will follow. The farmers will take responsibility for continuing to implement practices that work best for their crops and land.

Based on the project proposal and subsequent communications, the project will be implemented in a timely manner. The project does not require permits and will be implemented primarily on private and tribal agricultural lands (though not limited to private lands, should public lands be identified). The project proponent has established relationships with potential partners, and a pilot program with five farmers would begin in Summer 2022. Benefits will start accruing after one growing season, to bring fallow land back into production. Therefore, the benefits to farmers will follow quickly after implementation. The benefits to water quality will likely take longer to estimate, after practices have been in place for multiple growing seasons.

Lastly, the likelihood for adverse environmental impacts is low. Testing will monitor changes in soil quality, including concentrations of nutrients typically found in surface water runoff and riverine pollution. The sites selected for project implementation are already altered by current agricultural

²² The value of volunteer contributions in the United States was estimated in April 2021 by Independent Sector. More information is provided at the following link: <https://independentsector.org/value-of-volunteer-time-2021/>.

practices so it is unlikely that the farming practices envisioned here would lead to adverse environmental impacts greater than existing conditions. On the contrary, the proposed practices have been demonstrated to reduce nutrient loading to surface water and reduce the need for fertilizers, herbicides, and pesticides. In addition, some pollinator species may benefit from this project, and any downstream benefits to water quality may improve habitat and conditions for threatened and endangered fish species such as the humpback chub and razorback sucker.

Alternative E will benefit local farmers and compensate for agricultural losses and water quality impairments. For that reason, it is included as part of the Selected Restoration Alternative. Because the project proponent has clearly articulated the project goal and benefits and has secured significant leverage in the form of matching funds and in-kind support from a partner organization and the farmers implementing the project, Alternative E ranks as a Tier 1 Selected Restoration Alternative.

EXHIBIT 5-7 SAN JUAN VALLEY SOIL HEALTH RESTORATION PROJECT: ASSESSMENT AGAINST EVALUATION CRITERIA

EVALUATION CRITERIA	PROJECT DESCRIPTION	ASSESSMENT RANK
1. Geographically close to rivers.	The proposed project will improve farming practices in the San Juan River Valley.	High
2. Consistent with policies.	Based on the information provided, this project is consistent with relevant policies.	High
3. Availability of leverage.	The project proponent includes a \$32,000 cash match from ToohBAA for implementation, outreach, and education. The work conducted by the farmers is in-kind support, estimated at > \$25,000.	High
4. Low ratio of planning costs to restoration costs.	Based on the itemized budget, planning and administrative costs accounted for less than 27 percent of the total cost.	Medium
5. Relationship of costs to benefits.	The budget requests up to \$269,814.60 from ONRT. With additional costs for New Mexico GRT and modeling, the total request is ~\$280,000. The project will improve soil conditions on 15 farms across 225 acres and model water quality benefits.	High
6. Cost-effectiveness.	The estimated costs are in the range expected for this type of project, and the project is scalable based on the number of interested farmers. The project proponent brings significant in-kind support from the local farming alliance and the farmers.	High
7. Lead project proponent is state or local public body.	Yes. This project was submitted by the San Juan Soil and Water Conservation District.	High
8. Implemented in a timely manner.	The project will be implemented in a timely manner. The project proponent has established relationships with potential partners. A pilot program with five farmers would begin in Summer 2022.	High

EVALUATION CRITERIA	PROJECT DESCRIPTION	ASSESSMENT RANK
9. Likely to provide benefits quickly.	If the project proceeds as described, benefits will start accruing after one growing season to bring fallow acres back into production. Each farm will receive two years of instruction and assistance.	High
10. High potential for long-term success and low risk of failure.	This project will follow demonstrated regenerative agricultural practices and soil improvements, focusing on land that sat fallow due to lack of irrigation water during the GKM Blowout. Specific plans would be tailored to each farm and implemented over two years. Soil tests and water quality modeling will follow. Participating farmers will take responsibility for continuing to implement practices that work best for their crops.	Medium
11. Low potential for adverse impacts to natural resources or human health and safety.	There is a low potential for adverse impacts. Soil tests will monitor changes in soil quality, including nutrients that typically add to surface water pollution. It is unlikely that the farming practices envisioned here will lead to adverse environmental impacts (e.g., increased runoff, sedimentation, or pollution) greater than the impacts of current agricultural practices.	High

5.4 SUMMARY OF THE SELECTED RESTORATION ALTERNATIVE

For each proposed restoration alternative, ONRT completed a screening and evaluation process that met the requirements of CERCLA (43 C.F.R. § 11.82(d)). Each restoration alternative received a rank of high, medium, or low for each evaluation criterion, based on the project's stated goals and methods and ONRT's assessment of how closely the project met the criterion. A summary of the evaluation is presented in Exhibit 5-8.

Together, Alternatives B (Agricultural Irrigation System Upgrade Project), C (Cedar Hill Boat Ramp on the Animas River), D (Festival and Farmer's Market Pavilion at Gateway Park), and E (San Juan Valley Soil Health Restoration Project) provide a suite of benefits and address agricultural, cultural, and recreational losses due to the GKM Blowout as well as ongoing impairments to water quality. All projects meet the evaluation criteria,²³ will be located in close proximity to the Animas or San Juan Rivers, are consistent with known policies, and provide leverage to ONRT dollars. Therefore, under the Selected Alternative, ONRT will fund Alternatives B, C, D, and E to compensate the public for the suite of injuries and service losses resulting from the GKM Blowout, as well as ongoing riverine impairments.

Alternatives C, D, and E have a high likelihood of quickly providing benefits after project implementation, potential for long-term success and low risk of failure, and low potential for adverse impacts to the environment and human health and safety. As a result, Alternatives C, D, and E are categorized as Tier 1 of the Selected Restoration Alternative. However, it is not clear that Alternative B will be successful without additional improvements to the irrigation system's infrastructure. For this

²³ Based on the ranking procedure as described in Section 4.3.2, all projects met the evaluation criteria and received a rank of medium or high in nine or more of the criteria.

reason, Alternative B is categorized Tier 2, with funding contingent on the project proponent securing additional funding from other sources to implement those system upgrades.

The combined cost of the Selected Restoration Alternative is more than \$1.3 million, which is greater than the recent settlement amount of \$1.0 million (Chapter 1.2) that ONRT is making available for restoration. As such, ONRT is unable to fund the Selected Restoration Alternative in full based on the requested cost proposals, and must scale the funding for one or more restoration alternatives to match the available funding. Based on a preliminary evaluation and discussions with the project proponents about which costs are scalable, ONRT will fund:

- Alternative B (Agricultural Irrigation System Upgrade Project; Tier 2): Funding is contingent upon system upgrades. ONRT will reserve \$250,000 to fund the purchase and installation of two pumps.
- Alternative C (Cedar Hill Boat Ramp on the Animas River; Tier 1): ONRT will fund this project in full at \$160,000.
- Alternative D (Festival and Farmer’s Market Pavilion at Gateway Park; Tier 1): ONRT will partially fund this project at \$300,000.
- Alternative E (San Juan Valley Soil Health Restoration Project; Tier 1): ONRT will fund this project in full at approximately \$280,000.

This proposal would leave \$10,000 in settlement funds to be utilized for contingency purposes as needed among the four projects that comprise the Selected Restoration Alternative. Implementation of the Selected Restoration Alternative may vary slightly from this determination based on factors that affect the available funding and timing. The actual costs associated with the projects may vary based on field conditions, final design plans, construction costs, and the availability of matching funds, among other factors. The timelines proposed by the project proponent are tentative and may require revision based on the time necessary to implement contracts, as well as permitting or other delays. In addition, ONRT has considered all comments received on the Draft RP and determined that there was no impact on the available funding and timing for restoration project implementation.

EXHIBIT 5-8 EVALUATION RANKING SUMMARY OF RESTORATION ALTERNATIVES B, C, D, AND E (THE SELECTED ALTERNATIVE)

EVALUATION CRITERIA	RANKING SUMMARY PER RESTORATION ALTERNATIVE ¹			
	B	C	D	E
1. Geographically close to Animas and San Juan Rivers.	High	High	High	High
2. Consistent with regional planning, federal, and state policies.	High	High	High	High
3. Availability of funds/support to leverage ONRT dollars.	High	High	High	High

EVALUATION CRITERIA	RANKING SUMMARY PER RESTORATION ALTERNATIVE ¹			
	B	C	D	E
4. Low ratio of planning costs to restoration costs.	High	High	High	Medium
5. Relationship of expected costs to the expected benefits.	High	High	Medium	High
6. Cost-effectiveness compared to other projects that provide similar benefits.	Medium	High	Medium	High
7. Lead project proponent is a state agency or local public body.	High	High	High	High
8. Implemented in a timely manner.	Medium-High	High	Medium	High
9. Likely to provide benefits quickly after project implementation.	Medium	High	High	High
10. High potential for long-term success and low risk of failure.	Low	High	High	Medium
11. Low potential for adverse impacts to natural resources or human health and safety, including long-term and indirect impacts.	Medium	Medium-High	High	High
Table Note. 1. Alternative B is the Agricultural Irrigation System Upgrade Project (proposed by the Hogback Community), Alternative C is the Cedar Hill Boat Ramp on the Animas River (proposed by San Juan County), Alternative D is the Festival and Farmer's Market Pavilion at Gateway Park (proposed by the City of Farmington) and Alternative E is the San Juan Valley Soil Health Restoration Project (proposed by the San Juan County Soil and Water Conservation District).				

CHAPTER 6 | PUBLIC COMMENT AND TRUSTEE RESPONSES

This chapter provides a summary of the public comments received on the Draft RP and ONRT's responses to those comments. The public comment period for the Draft RP was held from January 31, 2022 through March 2, 2022. ONRT received written comments from fifteen entities, including individuals and organizations. ONRT acknowledges and thanks all individuals and organizations who took the time to provide comments on the Draft RP. All comments were taken into consideration in preparing the Final RP. A copy of the original comments is provided in Appendix D.

6.1 SUMMARY OF PUBLIC COMMENTS AND TRUSTEE RESPONSES

COMMENT TOPIC 1:

ONRT received multiple comments which voiced support for individual alternatives, including Alternative B (Agricultural Irrigation System Upgrade Project), D (Festival and Farmer's Market Pavilion at Gateway Park Project), and E (San Juan Valley Soil Health Restoration Project).

RESPONSE:

ONRT appreciates participation in the natural resource damage assessment and restoration process and those that took the time to review and provide comments on the Draft RP. No changes were made to the RP as a result of these comments.

COMMENT TOPIC 2:

ONRT received comments voicing support as a whole for the Tier 1 Selected Restoration Alternatives presented in the Draft RP.

RESPONSE:

ONRT appreciates participation in the natural resource damage assessment and restoration process and those that took the time to review and provide comments on the Draft RP. No changes were made to the RP as a result of these comments.

COMMENT TOPIC 3:

ONRT received a comment voicing support as a whole for both Tier 1 and Tier 2 of the Selected Restoration Alternatives presented in the Draft RP.

RESPONSE:

ONRT appreciates participation in the natural resource damage assessment and restoration process and those that took the time to review and provide comments on the Draft RP. ONRT reserves the

right to fund Alternative B should the Hogback Chapter receive matching funds to upgrade the infrastructure. No changes were made to the RP as a result of this comment.

COMMENT TOPIC 4:

ONRT received comments voicing concerns with Alternative C (Cedar Hill Boat Ramp) and D. In particular, the commenters suggested that ONRT fund restoration projects that directly repair or restore natural resources.

RESPONSE:

ONRT thanks the commenters for sharing their opinions and appreciates their concern for natural resources. As indicated in Exhibit 4-1, both ecological and human-use service losses were identified from the GKM Blowout. Therefore, under CERCLA regulations, it is appropriate for ONRT to use NRDA settlement funds for both ecological and human-use restoration projects. No changes were made to the RP as a result of this comment.

COMMENT TOPIC 5:

ONRT received suggestions of other restoration alternatives for ONRT's consideration.

RESPONSE:

ONRT thanks the commenters for their suggestions. However, ONRT only evaluated projects that were submitted during the project solicitation phase described in Section 4.2. On July 21, 2021, ONRT sent a press release to statewide and local media outlets notifying the public of the availability of the restoration funds and the opportunity to propose projects. In response, several statewide and local print and electronic media organizations published stories about the availability of funds. In addition, on July 15, 2021, ONRT directly notified a list of over 50 stakeholders including tribal, local, and state government entities and community and non-profit organizations (Appendix B). ONRT received five projects through the solicitation process and evaluated them as prescribed by CERCLA. Four of these passed the screening criteria laid out in Section 4.3, while one did not (Section 4.4). No changes were made to the RP as a result of these comments.

COMMENT TOPIC 6:

ONRT received comments expressing concerns regarding Alternative C. Commenters were concerned with the environmental and community impacts of the project and wanted assurance that San Juan County would address public sanitation needs, address potential emergency situations, deter trespassing, and enforce lawful use of the boat ramp, parking lot, and ancillary facilities at the site. An additional concern raised was the use of the site by commercial operators.

RESPONSE:

ONRT thanks the commenters for raising their concerns. In response to these comments, ONRT consulted with San Juan County to address and clarify some of the points raised by the commenters:

- Regarding sanitation and solid waste management, portable toilet and trash receptacles will be furnished and maintained by San Juan County within the parking area of the boat ramp. Solid waste will be disposed of by San Juan County staff at the Cedar Hill Transfer Station operated by San Juan County Public works located approximately ½ mile from the project

location. Sanitation will be via portable toilet by a contractor vendor via existing agreement with San Juan County which includes weekly cleaning.

- Regarding safety and emergency situations, San Juan County Undersheriff Cordell Tanner was consulted regarding past calls for services at three existing public river access facilities located within the unincorporated area of San Juan County (Penny Lane on the Animas River and McGee Park and Lions Park on the San Juan River). Undersheriff Tanner was able to confirm none of these public facilities is the source of persistent nuisance or trespass complaints. Additional measures of site security are included in the proposed Cedar Hill facility which include a dusk to dawn security gate, signage about safe use of the resource, and motion activated surveillance cameras. ONRT and San Juan County generally accept that river recreationalists are good stewards of public land.
- Regarding the environmental impact concerns, the project has been reviewed and approved through USACE and NMED in the Clean Water Act 404/401 permitting process. The permit application process included biological and cultural resource assessments and a consultation with USFWS. The project received USACE approval via Action No. SPA-2021-00033 on November 2, 2021.
- Commercial operators may currently use existing boat ramps in San Juan County and will be similarly allowed to use the Cedar Hill Boat Ramp.

No changes were made to the Selected Restoration Alternative as a result of these comments and minor changes were made to the project description to clarify maintenance activities.

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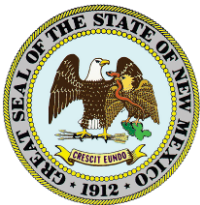
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APPENDICES

APPENDIX A: STAKEHOLDER LETTER



MICHELLE LUJAN GRISHAM
Governor

HOWIE MORALES
Lieutenant Governor

STATE OF NEW MEXICO OFFICE OF NATURAL RESOURCES TRUSTEE

121 Tijeras Avenue NE, Suite 1000
Albuquerque, NM 87102
www.onrt.state.nm.us



MAGGIE HART STEBBINS
Trustee

July 15, 2021

Dear Stakeholder:

In August 2015, a blowout at the Gold King Mine in Colorado released millions of gallons of water laden with toxic metals and acidic waste into the Animas and San Juan Rivers. The plume of contaminated water adversely affected New Mexico residents, our natural resources, and agricultural and recreational tourism industries along those rivers. The New Mexico Attorney General and the New Mexico Environment Department subsequently sued the U.S. EPA and its contractors, who directly caused the blowout, as well as Sunnyside Corporation and its parent companies, Kinross Gold Corporation and Kinross Gold, U.S.A., Inc. (the three mining companies are collectively referred to as the "Mining Defendants"), seeking compensation for those injuries. The lawsuit alleges that the Mining Defendants are liable for creating the underlying conditions that made the blowout possible.

In January 2021, the State and the Mining Defendants reached a settlement that includes a payment of \$1,000,000 by the Mining Defendants to the Office of the New Mexico Natural Resource Trustee ("ONRT") to implement natural resource restoration projects. The State's lawsuit against EPA and its contractors is ongoing. ONRT's use of settlement funds received from the Mining Defendants is governed by the provisions of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and other applicable law.

ONRT is in the preliminary stages of soliciting restoration project ideas and goals, and we are asking you, as a stakeholder, for your input. Attached to this letter is a request for specific restoration projects that will compensate for natural resource injuries in New Mexico caused by the Gold King Mine spill. Projects eligible for funding should have a connection to the Animas and/or San Juan Rivers, and benefit surface water, wildlife, and/or aquatic and terrestrial ecosystems and/or benefit the services these natural resources provide, such as irrigation or outdoor recreation, and/or address any existing impairments to the rivers.

Projects providing additional funds or in-kind support to leverage ONRT investments will be prioritized. ONRT encourages non-governmental entities seeking restoration project funding to partner with local or state public entities. Examples of our past restoration projects can be found on the ONRT website [here](#).

Ultimately, ONRT will prepare a draft Restoration Plan describing the projects evaluated and prioritized for implementation and will seek community input through a noticed public comment period. Any comments we receive at that time will be evaluated and incorporated, as appropriate, into the final Restoration Plan which will formally select one or more projects for implementation.

Please note that the funds at issue are derived of the January 2021 settlement between the State and the Mining Defendants, and as such are non-recurring. Ongoing project operations and maintenance, if any, must be guaranteed by another entity. Per New Mexico's Anti-Donation Clause, ONRT funds cannot be given to individuals to compensate for personal losses.

As part of ONRT's project solicitation process, I invite you to participate in an informational meeting with other interested stakeholders to discuss further the project solicitation process, including the screening and evaluation criteria for project selection as well as restrictions on project funding, and to ask questions. The meeting is scheduled for July 28, 2021, from 3:00 – 4:30pm and will be held virtually via a webinar. Further details are in the attached Request for Projects. Please circulate to other potentially interested stakeholders.

We recognize that this limited funding will not fully repair or restore all the injuries caused by the Gold King Mine release but represents a significant first step toward that goal. We look forward to hearing from you.

Sincerely,

Maggie.HartStebbins Digitally signed by
Maggie.HartStebbins
Date: 2021.07.15 14:07:27 -06'00'

Maggie Hart Stebbins
New Mexico Natural Resources Trustee
nm.onrt@state.nm.us



ATTACHMENT: REQUEST FOR PROJECTS

In August 2015, a blowout at the Gold King Mine in Colorado released millions of gallons of water laden with toxic metals and acidic waste into the Animas and San Juan Rivers. The plume of contaminated water adversely affected New Mexico residents, our natural resources, and agricultural and recreational tourism industries along those rivers. The New Mexico Attorney General and the New Mexico Environment Department subsequently sued the U.S. EPA and its contractors, who directly caused the blowout, as well as Sunnyside Corporation and its parent companies, Kinross Gold Corporation and Kinross Gold, U.S.A., Inc. (the three mining companies are collectively referred to as the “Mining Defendants”), seeking compensation for those impacts. The lawsuit alleges that the Mining Defendants are liable for creating the underlying conditions that made the blowout possible. In January 2021, the State and the Mining Defendants reached a settlement that includes a payment of \$1,000,000 by the Mining Defendants to the Office of the New Mexico Natural Resource Trustee (“ONRT”) to implement natural resource restoration projects. The State’s lawsuit against EPA and its contractors is ongoing. ONRT’s use of settlement funds received from the Mining Defendants is governed by the provisions of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and other applicable law.

ONRT is in the preliminary stages of seeking project ideas to address and improve the types of natural resources and resource services injured by the Gold King Mine spill. Spill-induced service losses and ongoing impairments to the Animas and San Juan Rivers are listed as part of Table 1 (below). Projects should address these service losses and/or ongoing impairments within the Animas and San Juan Rivers.

Continued Next Page

Table 1. Summary of Animas and San Juan River Impairments and Spill-Related Service Losses.

Type of Impairment or Service Loss	River System	Description/Details
Ongoing Impairment	Animas River	Lead, turbidity, nutrients (total phosphorous), <i>E. coli</i> , and temperature
	San Juan River	<i>E. coli</i> , sedimentation/ siltation
Gold King Mine Spill-Related Service Loss	Both (Animas and San Juan Rivers)	Ecological service losses associated with metals contamination of surface water and sediment resources
		Loss of surface water supplied to local communities from the Animas or San Juan Rivers due to increase of lead content during turbulent river flow
		Loss of surface water supplied for growth of agricultural crops
		Loss of recreational opportunities tied to the Animas and San Juan Rivers resulting from concerns related to water contamination

The deadline for submitting project proposals is **August 31, 2021**. Submit each project proposal to Will Fetner at nm.onrt@state.nm.us.

Questions related to this Request for Projects will be addressed during a webinar hosted by ONRT, scheduled for **July 28, 2021, from 3:00 – 4:30pm**. Project proponents are encouraged to attend this webinar by registering at the following link:
<https://app.smartsheet.com/b/form/cce2519791fb4ac79553be7d56e9c2c5>

Questions may be submitted in advance of the webinar by email to nm.onrt@state.nm.us.

The following sections include guidance on the information that should be included in project proposals and outline the screening and evaluation criteria that ONRT will use to evaluate each project. In the event clarifications are necessary, ONRT may ask a project proponent to provide additional information during the evaluation phase. That should not be construed as a project award. The evaluation and planning process explicitly includes a public comment process, so restoration project selection will occur after the draft Restoration Plan with proposed projects is reviewed by the public, ONRT evaluates all public comments received, and the final Restoration Plan is published.

A. INFORMATION TO BE INCLUDED IN ALL PROJECT PROPOSALS

1. General project description

- a. Include information on project location, land ownership, the length of time needed for project design, planning, and implementation, and the entity responsible for planning and implementing the project.
- b. Identify any permit requirements (e.g., Sections 401 and 404 Clean Water Act (“CWA”) permits, Section 120 National Historic Preservation Act (“NHPA”), Section 7 Environmental Site Assessment (“ESA:)) and any evaluation or assessment of environmental impacts that has been undertaken.

2. Benefits

- a. Specify the population and geographic area that the project will benefit.
- b. Specify how the project benefits regional natural resources and/or resource services or addresses impairments, as listed in Table 1. Projects that benefit more than one resource, service, or impairment are preferred. For example, for surface water resources, how would the project improve the quality of surface water? How would the project improve wildlife aquatic habitat and to what degree? How would the project compensate for lost recreational or agricultural opportunities? Specify the wildlife species that may benefit from the project.
- c. If possible, quantify the benefits to each resource (surface water, groundwater, wildlife habitat, etc.). Any models or calculations used to estimate the project benefits should be described.
- d. Include an assessment of when the project benefits will begin to accrue, and how the benefits are expected to continue after the project’s implementation phase is complete.
- e. Identify the ecological consequences if the project is not implemented (e.g., to the resource, habitat, or species).

3. Project size

- a. Provide pertinent size estimates to give an understanding of the scale of the project. For example, if the project benefits surface water, describe the estimated volume of water being benefitted. If the project is constructed as a wetland, provide the estimated acreage. If the project creates or improves habitat, specify the acreage that was created or improved. Any models or calculations used to estimate the project size should be described.

4. Cost of project implementation

- a. Provide costs for project design, planning and implementation including labor, materials and any other additional costs that would be incurred.
 - i. Note, cost estimates must be valid for a period of 12 months.
- b. Provide contingency costs and estimate the New Mexico gross receipts tax associated with the project. More information on the gross receipts tax is available from the New Mexico Taxation & Revenue Department, [here](#).

5. Longevity and maintenance needs.

- a. Describe the longevity of the project once implementation or installation is completed.

- b. Describe the operational, monitoring, maintenance needs and costs once project implementation is completed. Specify the entity that will assume operation and maintenance responsibility and costs.

6. Funding

- a. Describe each source of additional funding available to implement the project and when that funding would become available. Indicate which phases of the project will be funded by each source (e.g., design, planning, implementation, and operations and maintenance phases).
- b. Describe the source, type, and amount of additional funding or in-kind contributions that could be used to leverage ONRT funds, if applicable. To the extent certain design or planning elements have already been completed, these past costs can be noted as additional funding.
- c. If project funding comes from multiple parties, please provide a breakdown of project funding sources.

7. Project timeline and reporting

- a. Provide a reasonable timeline for the project, from contract execution to project completion (expanding on Item 1.a. above).
- b. Identify the type of reporting/deliverables that will be provided to ONRT, such as design/engineering plans, quarterly progress reports, final close-out report, final as-built drawings, or monitoring reports.

B. RESTRICTIONS ON USES FOR SETTLEMENT FUNDS

1. The project must have a nexus to natural resources and/or the services natural resources provide to people, as described in Table 1.
2. ONRT funds will be finalized at the time of award and applicants must identify a source of funds for ongoing maintenance costs, as needed. Funds beyond allocated contingency costs will not be available.
3. Any funding provided directly to non-governmental entities will need to go through an additional, formal competitive solicitation process, consistent with New Mexico procurement rules.
4. Project funds will be disbursed on a reimbursable basis as costs are incurred throughout the implementation phase, or the implementation and monitoring phase, if funds for monitoring are included in the project.

C. RESTORATION PROJECT EVALUATION/SELECTION PROCESS

Under the ONRT Natural Resources Damage Assessment and Restoration (“NRDAR”) program, restoration projects ultimately will be put forth to the public in a draft Restoration Plan that, among other things, describes the process followed to evaluate potential restoration projects that meet the screening criteria outlined below. Following a noticed public comment period during which comments related to the draft Restoration Plan will be received and evaluated, the final Restoration Plan will ultimately select the project(s) recommended for implementation.

After the restoration project request period has closed, project proposals will initially be reviewed for general suitability. This first set of criteria are **screening criteria**, which are

used to identify whether a given project meets the project requirements outlined by ONRT. Projects must pass the screening criteria before they can be considered further in the evaluation process. The second set of criteria are **evaluation criteria**, which are used to evaluate and rank the potential restoration projects and assist ONRT personnel in project selection from among the projects that meet the screening criteria. These criteria will enable ONRT to meet their evaluation responsibilities under CERCLA. All the criteria used in the screening and evaluation process will be detailed in the draft and final Restoration Plans. Below are the screening and evaluation criteria ONRT will use for project evaluation.

Screening Criteria – To be deemed acceptable, a project proposal must comply with all of the following criteria. Depending on the number of projects proposed, ONRT reserves the right to use additional criteria at the screening stage in order to reduce the number of projects evaluated during the evaluation stage to a reasonable number of alternative projects and available funds.

- 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 the use of 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.
- Includes all the information necessary to evaluate the project.

Evaluation Criteria – Projects that meet the above screening criteria will be evaluated and ranked by the following criteria. ONRT does not anticipate that a successful project must achieve high marks for every criterion.

- Geographically close to the Animas River from the New Mexico-Colorado state line to the confluence with the San Juan River, and/or the San Juan River downstream to the Colorado state line.
- Consistent with regional planning and federal and state policies, if applicable.
- Cost-related criteria:
 - Availability of additional funds or in-kind support to leverage ONRT dollars.
 - Low ratio of planning and administrative costs to restoration costs.
 - Relationship of the expected costs of the proposed actions to the expected benefits.

- Cost-effectiveness compared to other projects that provide similar benefits.
- Lead project proponent or partner 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, including long-term and indirect impacts.

###

APPENDIX B: AGENCIES, ORGANIZATIONS, AND ENTITIES CONSULTED



Gold King Mine Restoration Plan: Stakeholder List

STAKEHOLDER LIST FOR THE GOLD KING MINE RESTORATION PLAN

NMONRT consulted the following stakeholder agencies and organizations during the drafting of this restoration plan:

- Cities of Aztec, Bloomfield, and Farmington; Town of Kirtland
- Chambers of Commerce for the cities of Aztec, Farmington, and Kirtland
- Economic Development for Farmington and Four Corners.
- Irrigation Districts, such as the San Juan Agricultural Water Users Association and New Mexico Acequia Association.
- San Juan Soil & Water Conservation District.
- San Juan County.
- New Mexico Association of Soil and Water Conservation Districts.
- Navajo Nation.
- New Mexico State Agencies, including Department of Game & Fish; Environment Department (Surface Water Quality Bureau and Water Protection Division); Energy, Minerals, and Natural Resources Department; Economic Development Department, Outdoor Recreation Division; and State Land Office.
- Federal agencies, including the U.S. Army Corps of Engineers; U.S. Department of the Interior Bureau of Indian Affairs, Bureau of Land Management, Bureau of Reclamation, and Fish and Wildlife Service; and U.S. Department of Agriculture, Forest Service and Natural Resource Conservation Service.
- The Office of Representative Teresa Leger Fernandez.
- The Office of Senators Martin Heinrich and Ben Luján.
- The Offices of New Mexico state legislators.
- Community groups, including businesses and alliances focused on youth, outdoor recreation, and conservation, such as the Amigos Bravos, Animas River Community Forum, Animas Riverkeeper, Animas River San Juan Citizens Alliance, EndeavOR New Mexico, National Indian Youth Leadership Project, San Juan Citizens Alliance, San Juan Watershed Group, and Zuni Youth Enrichment Project.
- Non-governmental organizations and foundations, including the Nature Conservancy, National Forest Foundation, and Quivira Coalition.

APPENDIX C: FREQUENTLY ASKED QUESTIONS



Gold King Mine Restoration Project Solicitation: Frequently Asked Questions

GOLD KING MINE RESTORATION PROJECT SOLICITATION

In a recent settlement, the New Mexico Office of the Natural Resource Trustee (ONRT) received damages in the amount of \$1,000,000 for restoration of natural resources and resource services injured in the August 2015 Gold King Mine blowout. On July 15, 2021, ONRT sent a letter to local and regional stakeholders to solicit restoration project ideas and goals. To discuss the restoration project solicitation process and answer stakeholder questions, ONRT held a webinar on July 28, 2021. The presentation from the webinar is available for download here: [PowerPoint Presentation \(nm.gov\)](#)

During the webinar and throughout this process, interested parties have posed questions on the solicitation process and timing, types of restoration projects sought by ONRT, and types of partnerships allowed.

Answers to frequently asked questions are included below for distribution to all stakeholders and interested parties and will be updated at the discretion of ONRT throughout the solicitation process.

When is the deadline for project proposals?

ONRT originally set a deadline of August 31, 2021. After receiving feedback from multiple project proponents, ONRT has extended this deadline to Tuesday, September 14, 2021. **All proposal materials should be submitted to Will Fetner at nm.onrt@state.nm.us by 5:00 PM on September 14.**

How should the proposal be formatted?

There is no set format or form to complete. ONRT outlines the information to be included in all project proposals within the project solicitation letter, which can be accessed at [this link](#) (pages 5-6). In addition, ONRT requests that each project proposal addresses the screening and evaluation criteria, following the same order as the criteria are listed in the letter (pages 7-8).

What types of matching funds are allowed, and is there an expected matching funds contribution?

Though additional funds and in-kind support are not required, project proposals that provide leverage to ONRT investments will be prioritized. For example, additional funds or in-kind support may include funding received from another entity for a portion of the project, the value of volunteer labor, or the value of equipment already purchased and available for use. Funding received from other sources (e.g., Federal agencies, Tribes) counts as additional “matching” funds. Project proposals with a greater percentage of additional/in-kind support to total project costs will be prioritized in the evaluation process.

When will funding decisions be final?

ONRT anticipates releasing a draft of the restoration plan for public comment in November 2021. Restoration projects will be selected within the final restoration plan, which has an anticipated publication date of January 31, 2022. These dates are tentative. Decisions about project funding will occur in the first quarter of 2022, as ONRT begins contract negotiations for selected projects.

What types of projects will be considered?

Restoration projects should benefit natural resources and/or resource services in or in the vicinity of the Animas and San Juan Rivers. For example, projects could restore aquatic habitats, improve water quality for irrigation, or expand recreational access to the rivers.

What types of projects are NOT eligible?

Projects that do not address the injuries to natural resources, resource services, or ongoing impairments are not eligible. In addition, ONRT funds cannot be given to individuals to compensate for personal losses, in accordance with the anti-donation clause of New Mexico's constitution.

Would a project that involves remedial (cleanup) actions be considered?

Projects that require cleanup actions are not excluded from this funding opportunity. For example, ONRT will consider projects that seek to improve water quality by cleaning up hazardous substances other than those that caused injury in the Gold King Mine blowout. Such projects provide a net environmental benefit to injured resources.

However, as remedial actions are governed by Federal, state, and local laws, projects that include a remedial component would need to justify the use of ONRT restoration-focused dollars to complete site cleanup (e.g., the absence of a viable responsible party or other funding mechanism).

Can ONRT funds be used for design, permitting, and other pre-construction costs?

Yes, project proponents may include design, permitting, and any pre-construction activities as part of a project proposal. However, project proponents should be aware that the evaluation criteria include several cost-related topics, including a "low ratio of planning and administrative costs to restoration costs."

Are project proponents responsible for compliance with permitting requirements?

Yes, project proponents are responsible for compliance with all applicable Federal, state, and Tribal laws related to permitting. In addition, project proposals will be evaluated based on the completeness of information needed to evaluate the project's short- and long-term benefits and collateral impacts.

Is there a maximum length of time for project completion?

The project proponent should propose a realistic deadline (or series of deadlines, depending on the nature of the project) for completion of the restoration project. Upon project selection, a deadline will be discussed and agreed to as part of contract negotiations and should not exceed four years from the award date.

Are partnerships encouraged (e.g., between non-governmental entities and public entities)?

Based on New Mexico procurement requirements, partnerships between non-governmental entities and local/state public entities are strongly encouraged. One of the project evaluation criteria addresses this topic (i.e., "lead project proponent or partner is a state agency or local public body") to prioritize projects from local and state agencies. Any funding provided directly to non-governmental entities will need to go through an additional, formal competitive solicitation process, consistent with state procurement rules.

Could a project involve a partnership with the Navajo Nation?

Yes, a project proposal involving the Navajo Nation would be eligible for consideration under the same screening and evaluation criteria as other proposals, including compliance with all applicable federal and state laws, procurement codes, and regulations.

APPENDIX D: PUBLIC COMMENTS ON THE DRAFT RP

Note: All public comments were received via email at nm.onrt@state.nm.us. Personal phone numbers and email addresses have been removed from letters or emails received by ONRT. All letters received as attachments to emails are included. If transmittal emails for those attachments did not contain substantive information, they are not included.

From: [JUDY CASTLEBERRY](#)
To: [onrt, nm, ONRT](#)
Subject: [EXTERNAL] Draft Restoration Plan for the Gold King Mine Release
Date: Friday, February 4, 2022 1:57:23 PM

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Ms. Hunter:

This is in support of the Tier One projects listed in the tier one restoration plan. As the former director at the San Juan College Enterprise Center Business Incubator I am very familiar with the need to support both our local food system with the growers market pavilion and the soil health restoration project as well as the need to support outdoor recreation businesses with the new boat ramp.

Thank you for providing an excellent plan. Looking forward to seeing these projects move forward.

Judy Castleberry
3110 N. Aspen Dr.
Farmington, NM 87401



CITY OF FARMINGTON

800 Municipal Drive
Farmington, NM 87401-2663
(505) 599-1100
Fax (505) 599-8430
<http://www.fmtn.org>

February 17, 2022

ATTN: Michelle Hunter
New Mexico Office of Natural Resources Trustee
121 Tijeras Avenue NE, Suite 1000
Albuquerque, NM 87102

Ms. Hunter,

The City of Farmington has a rich history of agriculture. Having been a major producer and exporter of apples in the early 1900's, agriculture was the economic driver of 'Farming-town' prior to the 1950's. Today we have an ongoing agricultural presence, with over 70 farms that participate in our growers market each year. The City has hosted the site for our grower's market for well over 20 years and we are committed to enhance and support that partnership through the construction of a permanent, sheltered market site.

The City of Farmington has already chosen to invest in the future of farmers and agricultural producers through partnership with San Juan College to create a regional Food Hub that has allowed farmers to aggregate their products, reduce food waste, access more customers, and ensure easy access to quality produce in the community.

The creation of a home for our farmers market that provides our producers a convenient and protected space to host their products is a critical next step. Cover from harsh sunlight and strong winds will ensure that produce does not go bad as the vendors serve our community. Likewise, having a space that is covered and shaded will attract new customers, and encourage those patronizing the market to stay longer and hopefully purchase more produce. This pavilion is part of a larger vision for the Gateway Park which is intended to be a beautiful gathering place where our history at the Farmington Museum and future expansion of our river trails system and river features intersect.

Value added agriculture is a target industry which we as a community are pursuing to ensure our agricultural legacy stays vibrant and successful. As such, we cannot stress enough how vital these assets and their accessibility are to our community's future, and respectfully ask that you fully fund this exciting project as a part of the Gold King Mine settlement.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads 'Nate Duckett'.

Nate Duckett
Mayor

OFFICE of the MAYOR

From: [Es Daly](#)
To: [onrt, nm, ONRT](#)
Subject: [EXTERNAL] comment on draft Gold King restoration plan
Date: Wednesday, February 2, 2022 11:18:38 PM

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

The City of Farmington request for a building shelter for their farmer's market should be rejected and I suggest they look at their own utility departments list of projects needed to protect the Animus river from fecal and TDS discharges from their city. From their own city website the utility report indicates several areas of concern for stormwater management (<https://www.fmtn.org/DocumentCenter/View/23641/MS4-Annual-Report-FY-20-21-Final>) and there is lists of UST and fecal contamination areas from failed septics and animal contamination on this plan posted on their website.
<https://www.fmtn.org/DocumentCenter/View/13657/Draft---COF-Water-System-Source-Water-Protection-Plan?bidId=>

Within these documents are projects that if funded would actually provide improvement to the water system. If they need shade I suggest they purchase portable tents like the rest of the farmer markets.

From: [Elder's Greenhouse & Garden](#)
To: [onrt, nm, ONRT](#)
Subject: [EXTERNAL] Support for City of Farmington construction of the Farmer's Market Pavilion
Date: Tuesday, March 1, 2022 12:15:22 PM

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

New Mexico Office of the Natural Resource Trustee
Maggie Hart Stebbins

Dear Ms. Hart Stebbins,

I would like to send my support for the proposed Tier One projects for the GKM restoration plan for San Juan County, New Mexico. I feel that the City of Farmington, San Juan County and the San Juan Soil and Water Conservation District would be good stewards of this funding, and they will each benefit our community and help restore some of the damage created from the Gold King Mine Spill.

The project proposed for the City of Farmington construction of the Farmer's Market Pavilion at Gateway Park would have significant beneficial impacts on our community. I believe that having a pavilion at the Museum Park would benefit the community by creating a centralized space for our farmers market and other festivals. As a farmer that has been selling at the Farmington Growers Market since 1991 this pavilion has long been a dream of mine where everyone can enjoy some relief from the hot southwestern desert sunshine and elements, while taking in all that local agriculture has to offer in a consistent community space that will serve many purposes. While this market has been on seven different locations since 1991 making a permanent home with such a pavilion will secure a solid future outlet for local agricultural suppliers. While the Gold King Mine spill was personally horrible from this farmer's perspective, I believe this pavilion is a good use of the funds in a way that truly benefits local agriculture producers and the entire community. Nothing says permanent home like concrete and steel. A local gathering place where farmers meet to drop their tailgates down together and share the bounty with their neighbors.

I also support the project for San Juan County to construct a boat ramp on the Animas River. I believe this ramp would benefit the community through increased opportunity for outdoor recreation, and general beneficial stewardship of the river. The addition of a public access point in Cedar Hill, NM would increase the likelihood of recreation opportunities along the Animas river, and create a potential for economic and community development.

I support the implementation of the San Juan Valley Soil Health Restoration project as well. The Soil and Water Conservation District strives to create a healthy river system, and have proven their ability to provide quality educational programs and soil improvement projects. Assisting farmers to improve soil health programs and water quality in San Juan County.

I urge you to accept the proposal for the Tier one proposed projects, as they have my full support.

Sincerely,

David Elder

Elder's Greenhouse & Garden

30 Road 3008

Aztec, NM 87410



FARMINGTON MUSEUM FOUNDATION

3041 E. Main St. • P.O. Box 115
Farmington, New Mexico 87499-0115
(505) 599-1173

February 24, 2022

ATTN: Michelle Hunter
New Mexico Office of Natural Resources Trustee
121 Tijeras Avenue NE, Suite 1000
Albuquerque, NM 87102

Dear Ms. Hunter,

Let's put the "Farm" back in "Farming-town!" This letter is in support of building a pavilion for the Growers Market in Farmington, NM. It would be located at the Farmington Museum on Main Street alongside the beautiful Animas River. The Farmington Museum is strategically located and a very visible location in Farmington that would be ideal for this project.

The agriculture in Farmington grew out of a convergence of mild climate, available water, and a willingness of its citizens to roll up their sleeves and get it done. But to understand the importance of farming to this area, we need to look back a few years. Historically this was land of the Ancestral Puebloans (Anasazi) who raised corn, squash, and beans. Later it would become the home of the Dine (Navajo) people and they planted crops, orchards, and tended livestock. Then there were the Spanish who settled east of Farmington to raise sheep and cattle. Finally Anglos came bringing cattle, creating farms, and planting orchards within the temperate valley climate. One orchard in 1912 alone produced 600,000 pounds of apples! Today we are seeing a resurgence of agriculture practices with a burgeoning local foods movement, food hub, and active Growers Market. This project fits perfectly to promote and help the agricultural producers in Farmington.

The Farmington Museum Foundation is a support organization for the Farmington Museum, and we like anything that betters the community. This project does just that! Providing a home for the Growers Market will ensure protection against the weather, provide a more pleasant shopping experience, and will promote more sales and opportunity. This will in turn ensure a more stable and secure food source for our community.

We are excited about the possibilities and hope you will consider this proposal carefully. This would be an ideal project as part of the Gold King Mine settlement as it would provide access to locally grown, quality, and nutritious food supplied by and supporting local farmers. Thank you.

Sincerely,

Elliott Hebert

President

Farmington Museum Foundation



Isabelle Jenniches, Co-Founder
NM Healthy Soil Working Group
Santa Fe, New Mexico

Michelle Hunter
New Mexico Office of Natural Resources Trustee

February 28, 2022

Re: Draft Restoration Plan for the Gold King Mine Release

Dear Michelle Hunter,

I'm writing on behalf of the New Mexico Healthy Soil Working Group to voice our strong support for the San Juan Valley Soil Health Restoration Project, proposed by the San Juan County Soil and Water Conservation District (SJSWCD) as part of the Draft Restoration Plan for the Gold King Mine Release.

The project proposed by the SJSWCD will educate and support farmers to implement soil health management principles in order to reduce surface water runoff and its impact on local waterways. Farmers in the San Juan River Valley experienced a lack of irrigation water during the Gold King Mine Blowout. Improved soil health builds resilience to drought and makes best use of the water that is available through better water holding capacity of soils. Water infiltrates instead of causing erosion and run-off, which in turn pollutes waterways.

The project is based on the Five Healthy Soil Principles, including: keep soil covered; minimize soil disturbance and external inputs; maximize biodiversity; maintain a living root; and integrate animals into land management. These principles are universally recognized and enshrined in New Mexico's Healthy Soil Act.

We strongly encourage you to support this project proposal. Please don't hesitate to contact me with any questions you may have. I can be reached by phone at (505) 231-8471 or by email at imjenniches@gmail.com

Sincerely,

Isabelle Jenniches
Co-Founder NM Healthy Soil Working Group

New Mexico Office of the Natural Resource Trustee

Maggie Hart Stebbins

Dear Ms. Hart Stebbins,

I would like to send my support for the proposed Tier One projects for the GKM restoration plan for San Juan County, New Mexico. I feel that the City of Farmington, San Juan County and the San Juan Soil and Water Conservation District would be good stewards of this funding, and they will each benefit our community and help restore some of the damage created from the Gold King Mine Spill.

The project proposed for the City of Farmington construction of the Farmer's Market Pavilion at Gateway Park would have significant beneficial impacts on our community. I believe that having a pavilion at the Museum Park would benefit the community by creating a centralized space for festivals and the market that will make it a true gateway to our community. The project has a large potential impact because it will benefit our agricultural producers, small business owners, food entrepreneurs as well as the customers. The project helps my farm, Orchard Street Gardens, as well, because we rely on the Farmington Grower's Market for selling our fresh produce. The proposed Pavilion is a welcome upgrade to the open air market that is currently in use.

I also support the project for San Juan County to construct a boat ramp on the Animas River. I believe this ramp would benefit the community through increased opportunity for outdoor recreation, and general beneficial stewardship of the river. The addition of a public access point in Cedar Hill, NM would increase the likelihood of recreation opportunities along the Animas river, and create a potential for economic and community development.

I support the implementation of the San Juan Valley Soil Health Restoration project as well. The Soil and Water Conservation District strives to create a healthy river system, and have proven their ability to provide quality educational programs and soil improvement projects. Assisting farmers to improve soil health programs and water quality in San Juan County.

I must mention, however, I am disappointed that acequias and community ditches along the Animas River do not appear to be included in the GKM restoration plan. As president of North Farmington Ditch, I know that the GKM leak had impact on our ditch and pointed up the deficiencies in our ditch infrastructure. Specifically, most ditch headgates are old and leaking, moreover, other aspects of ditch infrastructure are losing water to other factors of old and degrading ditch infrastructure. We are in effect wasting irrigation water. It seems reasonable to think that the GKM restoration plan should have included renovations to ditch infrastructure.

That being said I urge you to accept the proposal for the Tier one proposed projects.

Sincerely, Douglas Dykeman

Orchard Street Gardens LLC
211 N Orchard Ave
Farmington, NM 87401
orchardstgarden@gmail.com



February 25, 2022

ATTN: Michelle Hunter
New Mexico Office of Natural Resources Trustee
121 Tijeras Avenue NE, Suite 1000
Albuquerque, NM 87102

Dear Esteemed Review Committee,

Please accept this as my support for the application the City of Farmington has submitted for the development of a Farmer's Market Pavilion at the Farmington Museum in Gateway Park. The City of Farmington has a rich history of agriculture with the production and exportation of apples being a major economic driver of our community in the 50's. Today, the Parks, Recreation, and Cultural Affairs department works closely with the Farmer's Market to provide the community and visitors alike with fresh, homegrown food. Our ongoing agricultural presence is represented with over 70 farms that participate in our growers market each year. We are committed to continuing our 20-year efforts to enhance and support that partnership through the construction of a permanent, sheltered market site. Additionally, the City of Farmington and San Juan college have come together to further invest in the future of farmers and agricultural producers to create a regional Food Hub. This "hub" has allowed farmers to aggregate their products, reduce food waste, access more customers, and ensure easy access to quality produce in the community.

The creation of a home for our farmers market that provides our producers a convenient and protected space to host their products is a vital next step to attract new customers, and encourage those patronizing the market to stay longer and hopefully purchase more produce.

Access to quality, local food for our community is critical to its future, and I respectfully ask that you help fund this exciting project as a part of the Gold King Mine settlement.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads 'Deb Cutler'. The signature is written in a cursive style.

Deb Cutler
Chair, PRCA Commission



SAN JUAN COLLEGE

Office of the President

February 28, 2022

Ms. Michelle Hunter
New Mexico Office of Natural Resources Trustee
121 Tijeras Avenue NE, Suite 1000
Albuquerque, NM 87102

Dear Ms. Hunter,

The City of Farmington has a rich history of agriculture and has been a significant producer and exporter of apples in the early 1900s; agriculture was the economic driver of 'Farming-town' before the 1950s. Today we have an ongoing agricultural presence, with over 70 farms participating in our growers market each year. The city has hosted the site for our grower's market for well over 20 years, and San Juan College is committed to enhancing and supporting that partnership through the construction of a permanent, sheltered market site.

The community has invested in the future of farmers and agricultural producers through a partnership between the City of Farmington and San Juan College. The goal of our partnership is to create a regional Food Hub that has allowed farmers to aggregate their products, reduce food waste, access more customers, and ensure easy access to quality produce in the community.

Creating a home for our farmers' market that provides our producers a convenient and protected space to host their products is a critical next step. Covering from harsh sunlight and strong winds will ensure that produce does not go wrong as the vendors serve our community. Likewise, having a covered and shaded space will attract new customers and encourage those patronizing the market to stay longer and hopefully purchase more produce.

Access to quality, local food for our community is critical to its future, and we respectfully ask that you help fund this exciting project as a part of the Gold King Mine settlement.

Thank you for your consideration.

Sincerely,

Toni Hopper Pendergrass. Ph.D.
President

THP/de



San Juan Soil and Water Conservation District

301 McWilliams Rd.
Aztec, NM 87410
Phone: (505) 234-6040
Melissa May – District Manager

Board of Supervisors: John Arrington – Chair
DeAnne McKee – Vice Chair
Ralph Fenton – Treasurer
Catherine Thomas-Kemp – Supervisor

www.sanjuanswcd.com

Cash Carruth – Supervisor
Leo Pacheco – Supervisor
Ashley Maxwell – Supervisor

March 2, 2022

This letter is written in support of the projects proposed within the New Mexico Office of the Natural Resources Trustee (ONRT) Restoration Plan in response to the Gold King Mine Release into the Animas and San Juan Rivers in San Juan County, New Mexico.

San Juan SWCD's mission is to protect, restore, enhance, and promote the wise use of natural resources, to promote stewardship through education, and to provide financial and administrative assistance to citizens and groups in the district. ONRT's stated objectives to enhance soil and stream health and compensate for agricultural losses directly align with our mission, and enhancing recreational opportunities also provides a venue for promoting stewardship through improving individuals' personal connection to the river. These objectives also align with the parts of our community most seriously affected by the aftermath of the Gold King Mine spill.

We hope to see all four projects selected by ONRT, including our own proposal "San Juan Valley Soil Health Restoration Project" (Alternative E), fully funded for implementation. In regard to Alternative B, "Agricultural Irrigation System Upgrade Project", reliable availability of water is a crucial part of successful agricultural operations, and setbacks such as missed irrigation during the peak of the growing season can cause devastating crop losses, leading to land going fallow and people dropping out of farming altogether. Irrigation system modernization is a problem throughout the San Juan watershed and SJSWCD is in support of any funding that improves water availability and security to grow food locally and keep land in agricultural production.

Thank you for your dedication to our local rivers and we look forward to seeing these projects come to fruition.

Sincerely,

Melissa May

District Manager
San Juan Soil & Water Conservation District
301 McWilliams Rd. Aztec, NM 87410
505-234-6040 | melissa.may@sanjuanswcd.com

From: [Michael and Diane Schwebach](#)
To: [onrt, nm, ONRT](#)
Subject: [EXTERNAL] "Draft Restoration Plan for the Gold King Mine Release" specifically the proposed boat ramp at Cedar Hill
Date: Wednesday, February 16, 2022 3:15:51 PM

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Dear Miss Hunter,

We would like to take this opportunity to express our concerns with the proposed building of the boat ramp at Cedar Hill using funds from the mine spill settlement. As property owners on the river at Cedar Hill we feel that we are stakeholders in this proposed project, in that our lives stand to be impacted greatly as a result.

The first we learned of this project was January 2021 when an article appeared in the Farmington Daily Times. We immediately called neighbors who are property owners on the river to see if they might know something more about it. You can imagine our surprise at having had no prior notice of this proposed project. Promptly many of us wrote letters and made phone calls to our county commissioners and county planner expressing our concerns with this project. We wonder if the county has shared those concerns with you.

Then again, some months later, the county held a meeting to address public concerns, however many of us who had already contacted the commissioners were not informed of this meeting. Through word of mouth, we managed to inform each other and show up to voice our concerns. On attending that meeting it felt as though a decision had already been made and that our concerns fell on deaf ears. Experts in design had been consulted and a proposed design was shown at that meeting.

So now, with perhaps another chance to express our concerns before the plan is implemented, we would like to address our concerns with you. There is little access to the river from the state line to the proposed boat launch, as most of the property along the river corridor is privately owned. Where do people recreating on the river go to relieve themselves? Most likely that would be on the private property on that riverbank.

Increased use means increased trespassing, possible altercations due to that trespass, and increasing environmental impacts as well. There are some treacherous areas along the river where river travel could be dangerous. Emergency accessibility is limited. In the past year, with the development of a resort on the river at the state line, we along the river have observed increased numbers of recreational users partying their way down the river losing shoes, plastic water bottles and beer and soda cans along the way. With a new boat ramp accessible downstream, traffic is sure to increase and trash will increase.

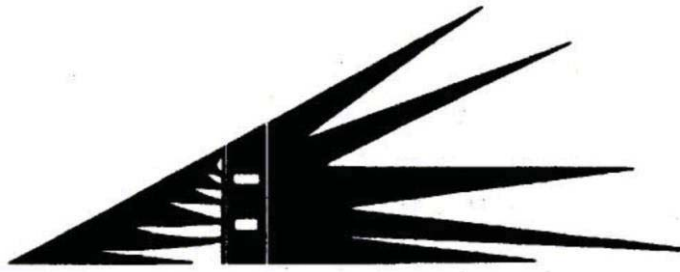
Perhaps, this settlement money would be better spent to serve the health of the river and the natural environment, in light of the fact that this money comes about from an environmentally disastrous event. Maybe fund some ditch improvements that will improve the efficient delivery of water to serve the local people who live here, and to improve those ditch diversions within the river.

From: [Di Sil](#)
To: [onrt, nm, NMENV](#)
Subject: [EXTERNAL] Upgrade irrigation
Date: Tuesday, February 1, 2022 7:40:12 AM

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

The hogback farmers would be glade if you fix the irrigation in our area. Every year we pray that the irrigation pump does not give out. Thank You

Sent from my iPhone



SOUTHWEST RESEARCH AND INFORMATION CENTER

P.O. Box 4524 Albuquerque, NM 87196 505-262-1862 FAX: 505-262-1864 www.sric.org

March 2, 2022

Michelle Hunter

New Mexico Office of Natural Resources Trustee

121 Tijeras Ave NE, Suite 1000

Albuquerque, NM 87102

via email: nm.onrt@state.nm.us

RE: Draft Restoration Plan for the Gold King Mine Release

The following are comments of Southwest Research and Information Center (SRIC), a 51-year-old nonprofit organization that has worked with Navajo communities for decades on environmental and health issues.

The New Mexico Office of Natural Resources Trustee (ONRT) goal for restoration projects seeks to return injured natural resources and the services they provide to the condition that would have existed absent the release of contamination. Of the \$1 million recovered from Sunnyside Gold Corporation for natural resources injuries in New Mexico resulting from the Gold King Mine (GKM) spill there are four proposed restoration projects that have a strong connection to the Animas and/or San Juan Rivers. However, only two of the proposed projects directly relate to natural resources injuries and therefore should be prioritized; Alternative B (Agricultural Irrigation System Upgrade Project (Tse Daa Kaan (Hogback) Navajo Community)) and Alternative E (San Juan Valley Soil Health Restoration Project). The remaining two proposed projects indirectly relate to natural resources injuries and should not be prioritized; Alternative C (Cedar Hill Boat Ramp on the Animas River (San Juan County)) and Alternative D (Festival and Farmer's Market Pavilion at Gateway Park (City of Farmington)). Alternative B and Alternative E should be funded fully since they are most likely to restore natural resources and services injured as a result of the GKM spill. Of the other non-essential two projects, Alternative D should be prioritized over Alternative C and funded partially.

Alternative B (Agricultural Irrigation System Upgrade Project (Tse Daa Kaan (Hogback Navajo Community))) is currently the only project of the four that is not prioritized and proposed to be partially funded. Agriculture irrigation system upgrades is an ideal project for the remediation funding, although the funding only supports a portion of a larger project. This project has social, economic, and cultural benefits, which are not mentioned in the trustee evaluation criteria. Navajo communities utilize the San Juan River for more than just agriculture and livestock, there are 43 distinct activities between the Navajo and the San Juan River including recreation, agriculture, spiritual practices, arts, and crafts and many more (Ornelas Van Home et al, 2021). There are inadequate risk assessments for Navajo communities despite resources existing that incorporate culturally specific exposure pathways into the risk assessment process (Beamer et al, 2016, Ornelas Van Home et al, 2021). Utilizing culturally specific risk assessments will assist in quantifying benefits to be received after implementation of agriculture irrigation system upgrades.

Alternative E (San Juan Valley Soil Health Restoration Project) is currently prioritized and proposed to be fully funded. SRIC agrees.

Alternative D (Festival and Farmer's Market Pavilion at Gateway Park (City of Farmington)) is currently prioritized and proposed to be partially funded. SRIC states that Alternative D should not be prioritized. It is not clear that a farmer's market pavilion will compensate for lost agricultural opportunities if people are still concerned with the long-term contamination impacts from the GKM spill within the San Juan River water for agriculture. We do not see the correlation with enhanced market space creating greater community demand for local food. Educating the public on the water and sediment quality to raise the confidence of the community to consume local food might be a better strategy for creating community demand.

Alternative C: (Cedar Hill Boat Ramp on the Animas River (San Juan County)) is currently prioritized and proposed to be fully funded. SRIC states that Alternative C should not be prioritized or fully funded. It is not clear that a boat ramp will increase recreational opportunities if people are still concerned with the long-term contamination impacts on soil and water quality from the GKM spill. This issue is not addressed in the description of the project. A boat ramp also does not align with the restoration objective of ONRT to restore injured natural resources and the services they provide to the condition that would have existed before the release of contamination. Despite describing the boat ramp as a physical improvement with low adverse environmental impacts, the damage and removal of the riparian vegetation along the river will not provide overall improvement of natural resources. Undamaged riparian vegetation

provides ecosystem benefits that restore the natural resources and better align with ONRT restoration objective. The project does provide recreational opportunities which seems to be the only benefit and conveys a biased view on beneficial use of the river. Alternative C also has potential negative impacts that are not mentioned in the project description, such as the spreading of invasive species, littering of rivers, and contamination from boat waste.

Further concerns on Alternative D and Alternative C are the vague and ill-defined benefits that are mostly assumptions which are unlike the goals and benefits of Alternative E that are very specific. Also, how does Alternative D and Alternative C “compensate for cultural losses for the Navajo community within the geographic boundaries of New Mexico”? Indeed, the Navajo communities suffered a significantly greater loss of culture as a result of the GKM spill. However, cultural losses for the Navajo community cannot be quantified with an inadequate risk assessment. Only recreational exposure scenarios were considered by the EPA in risk assessments resulting in a disproportionate impact that didn’t account for other cultural important interactions with the River within Navajo communities (Beamer et al, 2016). The draft is further contradictory by stating in the description of Alternative E; “. . . farmers and ranchers reported difficulty selling their products due to an enduring stigma from the GKM Blowout and consumer hesitancy to trust the quality of produce grown with Animas or San Juan River water.” This issue is not addressed in the description of Alternative D or Alternative C. Educating the community through outreach of current soil and water quality studies would better mitigate the stigma of the GKM spill contamination than a boat ramp or farmer’s market pavilion.

The draft seems to emphasize priority of a project through word repetition. “Significant leverage” is used thrice in Alternatives C, D, and E when describing the project. While Alternative B is described as “not clear” thrice and is not a priority. All four projects rank high on #3 of the evaluation criteria of “Availability of leverage,” but we do not understand why “significant” is used to distinguish leverage among the projects. Alternative D does not have permit in-hand, like Alternative C, but still has significant leverage which adds to the confusion of what exactly is considered significant leverage. In addition, there is insufficient description of cultural resources. The GKM spill resulted in a loss of culture that negatively affected livelihoods, mental health, and financial stability of communities along the Animas and/or San Juan Rivers. It is important to understand the definition of culture as dynamic and holistic practices that sustain a community historically, socially, economically, spiritually, and environmentally. Cultural resources include agriculture, livestock, medicinal plants, and water resources that support arts, spiritual practices, and ceremony which would be included in Chapter

3: Affected Environment. Lastly, it is our understanding based on the local stakeholders list that ONRT did not contact Navajo based environmental groups to solicit goals and ideas for projects. Such as DigDeep or Diné CARE which are non-profit organizations that are largely concerned with returning injured natural resources and the services they provide to improve the environment and community health.

In summary, it is SRIC's recommendation that Alternative B be funded at the requested amount of \$375,000 and Alternative E be funded at the requested amount of \$280,000. Alternative D would be funded partially at \$345,000, and no funding for Alternative C. It is important to mention that the contamination of the San Juan River significantly impacted Navajo residents socio-culturally which goes beyond the Euro-American concepts of threats to health and economy (Ornelas Van Home et al, 2021). Loss of culture may be difficult to quantify, nevertheless there needs to be culturally specific risk assessments incorporated when responding to environmental disasters in order to determine if the levels of contaminants in the water or sediments continue to pose harm to human health (Beamer et al, 2016).

Thank you for your consideration of and response to these comments and all other comments that you receive.

Yours truly,



Kirena Tsosie

keyclah@gmail.com

References

Beamer, P., Chief, K., Rivera, B., and Borrero, N. May 16, 2016. "Water Is Our Life": How a Mining Disaster Affected the Navajo Nation. Truthout. New Analysis Economy and Labor.

Ornelas Van Home, Y., Chief, K., Charley, P. H., Begay, M., Lothrop, N., Bell, M. L., Canales, R. A., Teufel-Shone, N., and Beamer, P. Impacts to Diné Activities with the San Juan River after the Gold King Mine Spill. J Expo Sci Environ Epidemiol. 2021 Sep; 31(5): 852-866. doi: [10.1038/s41370-021-00290-z](https://doi.org/10.1038/s41370-021-00290-z)

From: [Hunter, Michelle, ONRT](#)
To: [onrt, nm, ONRT](#)
Subject: FW: [EXTERNAL] Draft Restoration Plan for the Gold King Mine Release
Date: Tuesday, February 8, 2022 2:36:29 PM
Attachments: [Stanley water well EPA.1.pdf](#)
[Stanley water well EPA.pdf](#)
[Letter about Cedar Hill boat ramp sent to SJC Commissioners and officials 1-13-21 updated 1-18-21.docx](#)
[Letter to County Commissioners thank you.docx](#)

From: KG S
Sent: Tuesday, February 8, 2022 2:08 PM
To: Hunter, Michelle, ONRT <MichelleG.Hunter@state.nm.us>
Subject: [EXTERNAL] Draft Restoration Plan for the Gold King Mine Release

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Dear Michelle,

Thank you for returning my call concerning the boat ramp proposal on the Animas River at Cedar Hill N.M.

Back in January of 2021 we sent letters to the San Juan county commissioners addressing our concerns about the proposed boat ramp. As stated in our letter to the county, *"We are long-time residents of the Cedar Hill community, having moved here in 1986 as newlyweds. Our family was raised here, and they continue to enjoy visits to our beautiful riverfront property. The Animas River, which borders our property, is important to the quiet enjoyment of our outdoor lifestyle. Since our property line is adjacent to the proposed boat ramp site, the stretch of river opposite the boat ramp is—quite literally--our back yard."* We enjoy this extended living space throughout the year. The traffic generated by the boat ramp will most likely diminish our outdoor quality of life.

San Juan county graciously hosted a community meeting on August 6th of 2021. Many stakeholders were present and the atmosphere was very civil. We were pleased to hear that the restoration of the old historic footbridge (built around 1911) at Cedar Hill would start first. My wife and children have walked a 2.2 mile loop including the bridge for hundreds of miles over the years until San Juan County closed the bridge because of safety concerns back in 2017. This has been a scenic and recreational location for our Cedar Hill community for many decades. Since the community has been waiting for several years, I believe that restoring this old footbridge should be first in line for funding projects in San Juan County. (Historic footbridge is in the photo above.)

My wife and I are outdoor enthusiasts and frequently go canoeing, mostly in Colorado, in the summer. Concerning the boat ramp proposal, I sent San Juan County officials an e-mail offering an alternative (*a compromise*) location back in August 2, 2021:



From: [KG S](#)

Sent: Monday, August 2, 2021 11:22 AM

To: [Porell, Nick](#); [Lanier, Steve](#); [Stark, Mike](#)

Subject: RE: Public Meeting for Cedar Hill Area Projects

Nick .

Thank you for the invitation to the upcoming San Juan County meeting concerning the boat ramp project and pedestrian bridge truss repair. The potential for the restoration of our historic community footbridge is very exciting. In regards to the boat ramp initiative, we are still hoping for some creative solution. You may have noticed that water recreationists already use the old Hwy bridge adjacent to Hwy 550, some 150 yards downstream from the proposed boat ramp site, to park their vehicles as a put-in and put-out access to the river. I spoke with Mike Stark recently about this being an alternative project. He seemed open to the idea. The county would, of course, have to work out a deal with the state. This option would certainly be less intrusive, provide a privacy buffer and probably save the taxpayers a lot of money. I am sending you some photos to, perhaps, give you a better perspective of this alternative site. We are looking forward to hearing from you and your colleagues at the county commission meeting on August 4th.

Sincerely,

Ken and Glenace Stanley



Michelle, as this e-mail suggests I'm all for a compromise location. I might add, the county proposed location sits next to old cottonwood trees that are visited by bald eagles during the wintertime. This is a photo taken this past January. In addition to communications to the county, there are two attachments concerning our well water at Cedar Hill.

Sincerely,
Ken Stanley

January 18, 2021

Ken and Glenace Stanley
16962 HWY 550
Aztec, NM 87410

San Juan County Commission
100 S. Oliver
Aztec, NM 87410

**Re: The Proposed Introduction of a New Recreational and/or Commercial
Use of the Animas River at Cedar Hill.**

Honorable Commissioners and County Officials:

We are writing to voice our strong protest to the proposed boat ramp at Cedar Hill, NM. We are long-time residents of the Cedar Hill community, having moved here in 1986 as newlyweds. Our family was raised here, and they continue to enjoy visits to our beautiful riverfront property. The Animas River, which borders our property, is important to the quiet enjoyment of our outdoor lifestyle. Since our property line is adjacent to the proposed boat ramp site, the stretch of river opposite the boat ramp is—quite literally--our back yard. We enjoy this extended living space frequently in the spring, summer, and fall. The traffic generated by the boat ramp will most likely ruin this space for us.

We are both retired school teachers. Having lived and taught in San Juan County so many years, we know many of our neighbors. With them we share the same serious concerns regarding the development of our community. We are protesting the boat ramp, because we have long valued and enjoyed the quiet, peaceful country life that is found in Cedar Hill. We hope to continue the quiet enjoyment of our home free of any annoyance, trouble, or nuisance.

Without the Daily Times article, we believe our community would have been left in the dark. In good faith the project manager has provided us with a digital copy of the proposed construction design. We, along with many of our neighbors, are concerned that there has been a lack of community outreach and *no* public discussion of the proposed boat ramp. The families with residences adjacent to the narrow strip of the proposed site should have been contacted prior to planning.

The old D&RG right-of-way presents several complicating factors. What local, state, and federal project protocols have been reviewed before approving the redistribution of this right-of-way? This would include, but not be limited to, all required ecological impact reports, historical evaluation, environmental studies, and appropriate emergency protocols. We hope that San Juan county will act in the best interest of the Cedar Hill community.

The historical significance of the train abutment proposed for demolition in the design plans must also be considered. The abutment was built in the early 1900's and was built to withstand the test of time, as it has proven. Its historical significance should be reviewed by the appropriate state agency.

The current plan calling for the demolition of this historic structure, will change the hydrology of this section of the Animas River. The twin abutments help create a deep channel immediately downstream

(on the north side) that support an ecological safe haven pool for aquatic life, including fish. This protection is especially significant during periods of drought. If the south abutment is removed, sediment loading from the summer monsoons, that occasionally fill the deep channel, could impede the river's ability to flush out this sediment during the spring high flow season. This would destroy the deep channel aquatic life sanctuary. Furthermore, removing the south abutment may create the unintended consequence of flooding the boat ramp project itself. The north abutment, acting like a canyon wall, will force a lot of Animas River water to migrate to the south potentially destabilizing the current river bank. We know this stretch of river well because it has been our backyard for 34 years. *Note: The meandering Animas river flows East to West through this section.*

We have serious community concerns regarding the proposed project that must be reasonably addressed by the Commission in writing. These include, but are not limited to, the following:

- Given that the boat ramp is a narrow strip of land sandwiched between private properties, its location will inevitably create opportunities for trespassing, and be a disturbance to residents. Therefore, we need to know your plan for compensating adjacent landowners and residents for devaluation of their property with the introduction of river traffic, pollution, and the personal liability trespassers present.
- The Commission's plan and budget for enforcing lawful use of the proposed parking lot, boat ramp, and any ancillary facilities ensuring the nuisance of such action does not fall on adjacent landowners and nearby residences. This includes keeping the site free of swimmers, partiers, overnight campers, and loitering in general.
- Your plan and budget for increased sheriff patrol to check for vehicles left overnight ensuring no one is in distress on the river. Has the county given due consideration to the considerable legal liability they assume by building this facility?
- Your plan to ensure user safety and education, proposed signage, and the steps that will be taken to protect the adjacent property owners and nearby residences from annoyance, nuisance, and liability for any resulting accidents, injury, or death.
- The Commission's plan for permitting and approving any commercial use of the boat ramp by private operators. We hope this will never be permitted.
- The Commission's plan to mitigate the adverse effects of any leaked motor oil, hydraulic fluid, and anti-freeze – all of which are known toxins – and your plan for protecting the river downstream from this pollution.
- Your plan for the collection of garbage, litter, and treatment and disposal of human waste generated by potential users at the site, and along the entire recreational corridor.
- Your plan and budget for preserving, restoring and protecting the natural ecology and habitat along this special and important waterway to protect the habitat of the bald eagles, deer, beaver, great blue herons, other water fowl and song birds, including the American Dipper, currently found in this riparian area. Perhaps you are unaware that the proposed

site is mapped as a special area of concern by the U.S. Bureau of Reclamation. The site lies between Bald Eagle Areas of Critical Environmental Concern (ACEC) #5 and #6, which are governed by the U.S. Bureau of Land Management. In addition, ACEC areas 2, 3, and 4 may also be impacted by upstream traffic.

- We would also like to know what assessment of emergency access/egress routes you have made of the new recreation corridor the Commission proposes to open. What will be the egress point for rafters putting in at Cedar Hill given that this site is almost 10 highway miles from Aztec? What is your plan for coordinating with search and rescue units to provide emergency services due to increased river traffic?

We respectfully request that you ensure appropriate review by the governing state agencies. We emphasize that any proposal for the development of new recreational or commercial uses of the Animas River at Cedar Hill must be part of a reasonable, ecologically-responsible, comprehensive recreation and open space preservation plan; not a stand-alone proposal quietly pushed forward without any input by the impacted community. Consideration of potential adverse effects and a serious assessment of the existing community service and safety needs must be given. Given the complexity of these issues at the current location, we request that the Commission reconsider using this site as it will have an immediate negative impact on nearby residences and historical structures. If there must be a boat ramp, consideration should be given to a point of entry away from residences.

You may recall that about a dozen Cedar Hill community members attended a county commission meeting in 2017 to express their strong interest in having the Animas River bridge reopened. As the turn-out of Cedar Hill community members showed, the Animas River bridge right-of-way is an important recreational amenity for our community. We respectfully request an update from the Commission as to what steps you have taken towards re-opening the bridge and ensuring this right of way remains open to Cedar Hill community members. We find it of serious concern that the Commission continues to delay and postpone re-opening the bridge in favor of building a \$170,000 boat ramp. According to your 2020 meeting reports, San Juan County is experiencing considerable budget shortfalls. Where is the boat ramp money coming from, and is it being put to its best purpose?

Finally, it should go without saying that any future public meetings held to discuss the proposed boat ramp should be postponed until *after* the current raging pandemic has been brought under control, and the vaccine has been made widely available to all in need of such.

To reiterate, we are opposed to the location of the proposed boat ramp as it now stands. It is too close to residences you cannot protect. We ask that you put yourself in our shoes. How would you feel if your private outdoor living space was changed into a public recreational area? Please don't build this ramp in our backyard. The value of our property, and our quality of life will be forever altered by its presence.

Sincerely,

Ken and Glenace Stanley

Ken and Glenace Stanley
16962 HWY 550
Aztec, NM 87410

August 11, 2021

To San Juan County Officials:

We want to express our appreciation for the special meeting that was called on August 6th to discuss two major work projects at Cedar Hill.

First, we want to thank you for the effort you are making to restore the old bridge. We recognize the project is expensive, and has required a real commitment on your part to make this happen for our community. Walking the "loop" that includes this bridge has been a longstanding part of our family tradition. Our walks have allowed us to meet many neighbors face to face and build a stronger community. Having local pedestrian traffic return to the bridge will impact our community for the better as we re-establish a neighborhood presence. On behalf of ourselves and our neighbors at Cedar Hill, we thank you for your dedication to restore this historic landmark.

In addition, we would like to express our appreciation for your attention to our concerns about the proposed boat ramp and its impact on our community and this remote stretch of river. We felt that our concerns were listened to and addressed. You took the time to meet, in spite of the long day you had already put in. For that we thank you. We are grateful to be citizens of San Juan County and appreciate the effort you have made to provide responsive leadership.

Sincerely,

Glenace and Ken Stanley

RESOLUTION OF THE TOOHNII BINANEEST'A' AŁTAAS'ÉÍ ALLIANCE

**SUPPORTING THE RESTORATION PLAN TO RESPOND TO THE GOLD KING MINE RELEASE
INTO THE ANIMAS AND SAN JUAN RIVERS IN SAN JUAN COUNTY, NEW MEXICO
AS DEVELOPED BY THE SAN JUAN SOIL AND WATER CONSERVATION DISTRICT
AND SUBMITTED TO NEW MEXICO OFFICE OF NATURAL RESOURCES TRUSTEE**

WHEREAS:

1. The TOOHNII BINANEEST'A' AŁTAAS'ÉÍ ALLIANCE, INC. considers this resolution with the authorities and abilities it has delegated upon itself pursuant to the sovereign powers contained in the Original Instructions for the Diyin Nohookáá Diné as articulated in the Diné Common Law - Diyin Nohookáá Diné bi beenahaz'áanii that offers motivational guidance for the people in *"the need to make a living and the establishment and maintenance of decent standards of living"*, and
2. The TOOHNII BINANEEST'A' AŁTAAS'ÉÍ ALLIANCE, INC. members and other farmers along the Animas and San Juan Rivers experienced devastation to water and land by the heavy metals contained in the Gold King Mine Spill of August 2015 and trauma to culture and spirit, and
3. The TOOHNII BINANEEST'A' AŁTAAS'ÉÍ ALLIANCE, INC. recognizes and appreciates the intervention by the State of New Mexico on behalf of farmers who use the waters of the Animas and San Juan Rivers for irrigation and other water users in the pursuit of financial resources from the Gold King Mine owners for the restoration of the rivers and impacted land areas, and
4. The TOOHNII BINANEEST'A' AŁTAAS'ÉÍ ALLIANCE, INC. is informed that the Sunnyside Mining interest has settled with the NM Office of Natural Resources Trustee in the monetary award of \$1M for purposes of the restoration efforts of the impacted river waters and lands, and
5. The TOOHNII BINANEEST'A' AŁTAAS'ÉÍ ALLIANCE, INC. has collaborated with the San Juan Soil and Water Soil and Conservation District in the development of the Restoration Plan that includes San Juan Valley Soil Restoration Project and a comment period has been provided for public input on the proposed Restoration Plan.

NOW, THEREFORE, BE IT RESOLVED THAT:

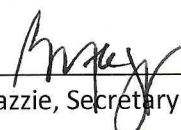
The TOOHNII BINANEEST'A' AŁTAAS'ÉÍ ALLIANCE, INC. has reviewed the Restoration Plan to respond to the Gold King Mine release into the Animas and San Juan Rivers in San Juan County, New Mexico as developed by the San Juan Soil and Water Conservation District and submitted to New Mexico Office of Natural Resources Trustee and hereby expresses unequivocal support for and declaring that such plan is well constructed and should be funded in its entirety.

MOTIONED BY: Betsy Yazzie

SECONDED BY: Joann Tyler

CERTIFICATION

We, the undersigned certify that this resolution was considered and approved at a duly called meeting of the TOOHNII BINANEEST'A' AŁTAAS'ÉÍ ALLIANCE, INC. Council of Nataani at the Betsy and Chili Yazzie farm, at which a quorum was present by a vote of 7 in favor, 0 opposed and 0 abstained on the 22nd day of Feb 2022.



 Betsy Yazzie, Secretary