

ARTICLE 7  
Natural Resources Trustee

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75-7-1. Short title.

Chapter [75](#), Article 7 NMSA 1978 may be cited as the "Natural Resources Trustee Act".

History: Laws 1993, ch. 292, § 1; 2007, ch. 249, § 1.

75-7-2. Natural resources trustee; office of natural resources trustee.

A. The "natural resources trustee" is created. The trustee is appointed by and serves at the pleasure of the governor pursuant to the provisions of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the federal Superfund Amendments and Reauthorization Act of 1986, the Federal Water Pollution Control Act and any other applicable federal law. The natural resources trustee shall act on behalf of the public as trustee of natural resources within the state or belonging to, managed by, controlled by or appertaining to the state, including protecting and representing the state's interest under applicable federal laws regarding injury to, destruction of or loss of natural resources in the state.

B. The "office of natural resources trustee" is created. The office shall be administratively attached to the department of environment. The administrative head of the office of natural resources trustee is the natural resources trustee. For purposes of this subsection, the term "administratively attached" means the same as specified in Section [9-1-7](#) NMSA 1978.

History: Laws 1993, ch. 292, § 2; 2007, ch. 2.

75-7-3. Natural resources trustee powers and duties.

A. The natural resources trustee shall take all actions necessary to carry out the responsibilities of the natural resources trustee as provided in the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, the federal Water Pollution Control Act and any other applicable federal law, including the responsibility to:

- (1) act on behalf of the public to protect New Mexico's natural resources by recovering damages for injury to, destruction of or loss of those resources;
- (2) investigate injury to, destruction of or loss of natural resources;
- (3) determine the amount and cause of injury to, destruction of or loss of natural resources;
- (4) determine the liability of any person for injury to, destruction of or loss of natural resources;
- (5) assess and collect damages for injury to, destruction of or loss of natural resources, including bringing legal actions and collecting the costs of assessing and collecting the damages; and
- (6) expend money for the purposes set forth in the Natural Resources Trustee Act [[75-7-1](#) NMSA 1978].

B. The natural resources trustee may:

- (1) hire staff, in accordance with the Personnel Act [[10-9-1 NMSA 1978](#)], to carry out the provisions of the Natural Resources Trustee Act;
- (2) contract with economists, consultants and other experts; and
- (3) accept gifts and grants to carry out the provisions of the Natural Resources Trustee Act. Gifts and grants accepted by the natural resources trustee shall be deposited in the natural resources trustee fund.

C. The attorney general shall provide legal counsel and representation to the natural resources trustee and the office of the natural resources trustee.

History: Laws 1993, ch. 292, § 3; 2004, ch. 120, § 1.

#### 75-7-4. Natural resources damage; liability; awards for damages.

Awards for damage to natural resources in the state shall consist of those amounts calculated in accordance with federal law, including:

- A. the cost of restoration, replacement or acquisition of equivalent resources, plus compensation for the loss of use or enjoyment of the natural resources; and
- B. compensation for the state's expenses in investigating, assessing and collecting damages and enforcing the state's rights.

**History:** Laws 1993, ch. 292, § 4.

#### 75-7-5. Natural resources trustee fund.

A. The "natural resources trustee fund" is created in the state treasury. Money appropriated to the fund or accruing to it through gifts, grants, fees, penalties, bequests or any other source shall be delivered to the state treasurer and deposited in the fund. Money recovered for the state by or on behalf of the natural resources trustee shall be deposited in the natural resources trustee fund. The fund shall be administered by the natural resources trustee as a separate account and may consist of subaccounts that the natural resources trustee deems necessary to carry out the purposes of the fund. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the natural resources trustee or the trustee's designated representative. Money in the fund shall not revert to the general fund at the end of a fiscal year.

B. Pursuant to the following criteria, money in the natural resources trustee fund shall be used to carry out the provisions of the Natural Resources Trustee Act [[75-7-1 NMSA 1978](#)] by restoring, replacing or acquiring natural resources in an area where natural resources have been injured, destroyed or lost, provided that money deposited in the fund because of injury to, destruction of or loss of natural resources in an area shall be disbursed to restore, replace or acquire natural resources in that same area:

- (1) if an expenditure from the fund is necessary to comply with a court order or court-approved settlement or to match federal funds, then, pursuant to Sections [6-3-23](#) through [6-3-25 NMSA 1978](#), the natural resources trustee may request a budget increase and, if approved, the amount of the expenditure is appropriated;
- (2) if money is received for reimbursement of assessment costs, then the natural resources trustee may expend money for injury assessment, and money is appropriated in that amount for that purpose; and
- (3) any other expenditures from the fund shall be made only pursuant to appropriation by the legislature.

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

D. For purposes of this section, "assessment costs" means the costs of restoration and the costs of collecting, compiling and analyzing information, statistics or data to determine damages for injuries to natural resources pursuant to the Natural Resources Trustee Act.

E. Money in the natural resources trustee fund shall be invested as other state funds are invested, and interest and earnings from the fund shall not revert to the general fund but shall be credited to the natural resources trustee fund.

History: Laws 1993, ch. 292, § 5; 2004, ch. 120, § 2; 2007, ch. 249, § 3.