

New Mexico Office of Natural Resources Trustee

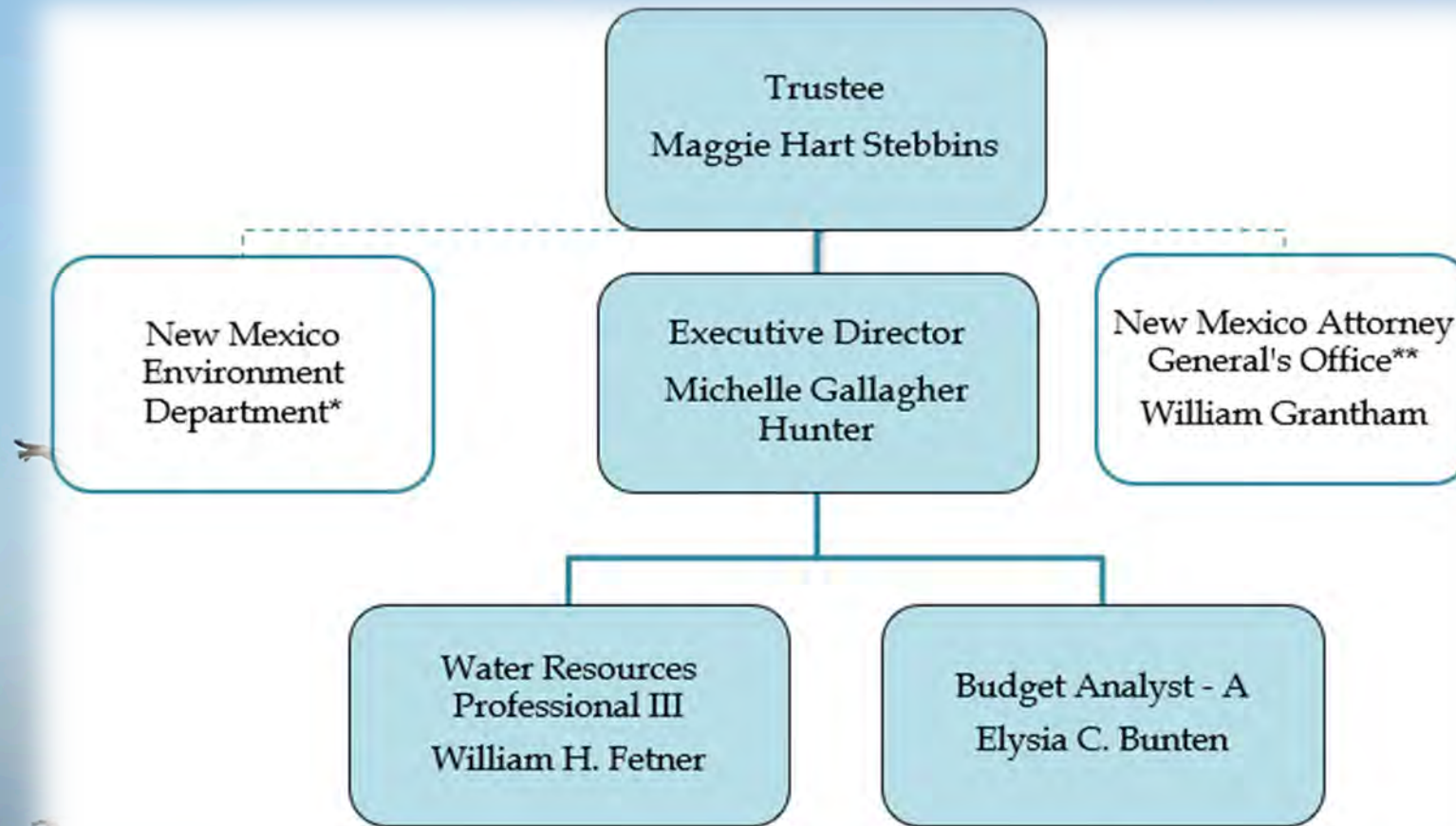


Water & Natural Resources Committee October 22, 2021

Maggie Hart Stebbins, Trustee
Michelle Gallagher Hunter, Executive Director
William H. Fetner, Water Resources Professional III
Elysia C. Bunten, Budget Analyst - Advanced
William Grantham, Legal Counsel, NM Attorney General's Office



Office of the Natural Resources Trustee - Org Chart



**Administratively attached to the New Mexico Environment Department.
**Legal services provided by the New Mexico Attorney General's Office per statute.*





ONRT's Mission

to return injured natural resources and the services they provide to the condition that would have existed absent the release of contamination.

ONRT's authority through:

- New Mexico Natural Resources Trustee Act [NMSA 1978, §§75-7-1 et seq]
- Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) [42 USC §9601 et seq]
- Oil Pollution Act of 1990 [33 USC §2701 et seq]
- Federal Water Pollution Control Act or Clean Water Act of 1972 [33 USC §1321 et seq]

New Mexico's natural resources are critical to our state's prosperity.

New Mexico residents depend on natural resources for their livelihoods, health, recreation, and quality of life.

New Mexico's tourism and recreation industries depend on our unspoiled and scenic landscapes, natural wonders, clean waters, forests, abundant fish and wildlife, and other natural resources.

Unfortunately, Accidents Happen



[Image: www.mining.com]

Following the release of a hazardous substance:

Under federal and state law, **natural resource restoration** is an essential component of the State's authority to hold polluters accountable.

- When toxic substances contaminate water, wildlife, fish, habitat, soils and other natural resources, laws require:
 - A complete and timely clean up to protect public health
 - Natural Resources restored to the way they were, pre-contamination
 - Compensation for lost natural resources and the services they provide



Natural Resources Trustee Role

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

NM Environment Department

Responsible for remediation:

- clean up to protect public health

NM Natural Resources Trustee

Responsible for restoration:

- returning affected natural resources to pre-contamination condition
- If that's not possible, replacing or acquiring equivalent resources
- ensuring that communities are compensated for the loss of natural resources AND loss of use of those resources and the services they provide.



ONRT Process

Conduct Damage Assessment



Pursue Settlement or Litigation



Develop Restoration Plan



Implement Restoration Projects

ONRT Partners and Project Locations

Current Partners Include:

Navajo Nation, Pueblo of Zuni, Pueblo of San Ildefonso, Santa Clara Pueblo, Jemez Pueblo, Cochiti Pueblo, State of Utah, US Dept of Energy, US Dept of Interior, Bureau of Indian Affairs, US Fish and Wildlife Service, US Dept. of Agriculture, US Forest Service, Cimarron Watershed Alliance, Amigos Bravos, Trout Unlimited, Village of Questa, Town of Silver City, Albuquerque/Bernalillo County Water Utility Authority, NM Environment Department, NM Dept of Game and Fish, NM Soil and Water Conservation Districts, private landowners,

Current/Past Project Locations:

Questa, Cimarron, Silver City, Santa Clara, Bayard, Hurley, Isleta Pueblo, central Rio Grande corridor, Rio Rancho, Cebolleta, Bibo, Bosque Farms, Los Lunas, Belen, Socorro, Albuquerque, Alamogordo, Aztec, Clovis, Grants, Milan, Gallup, Farmington, Los Alamos, White Rock, Hanover, Faywood, White Signal, Gila, Pinos Altos, Cliff, and the Town of Red River.



Current and Potential Natural Resource Damage Assessments



▲ Current Cases

- Los Alamos National Laboratory
- NASA White Sands Test Facility
- Bonita Peak Mining District (BPMD)/Gold King Mine Spill
- Rio Algom Quivira Mill and Mine Sites
- Ft Wingate Army Depot

◆ Potential New Cases

1. Cannon Air Force Base - PFAS (Clovis)
2. Holloman Air Force Base PFAS (Alamogordo)
3. Grants Mineral District - Researching ONRT Jurisdiction and Responsible parties across basin as US EPA moves forward addressing contamination at San Mateo Creek Basin Legacy Uranium Mines Site. Over 85 Legacy mines in the area.
4. Researching potential PFAS releases at other military installations/facilities (Army National Guard Armory in Rio Rancho, Army National Guard Armory in Roswell, Army Aviation Support Facility in Santa Fe, NASA WSTF, KAFB, Roswell Army Air Field (Walker AFB).
5. 1,4, Dioxane at former industrial facility 1 (Albuquerque)
6. 1,4, Dioxane at former industrial facility 2 (Albuquerque)



Settlements Since 2000 - \$31,890,157



- Gold King Mine Spill/Kinross Gold: \$1,000,000 (Jan 2021)
- Fronk Oil/Cimarron River: \$150,000 (Dec 2020)
- Freeport-McMoRan Groundwater: Chino, Cobre, and Tyrone Mines (\$12,794,308)
- Freeport-McMoRan Wildlife and Wildlife Habitat: Chino, Cobre, and Tyrone Mines (\$5,500,000)
- AT&SF: Albuquerque's South Valley Tie Treater Facility (\$989,417)
- South Valley Superfund Site: Various Parties in Albuquerque's South Valley (\$4,857,548)
- Sparton Technology: Albuquerque Facility (\$1,000,000)
- SOHIO Western Mining L-Bar: Tailings Facility near Moquino, (\$29,830)
- AT&SF: Clovis Rail Yard (\$404,456)
- Van Waters & Rogers: Albuquerque's South Valley Facility (\$135,000)
- ASARCO (Five Facilities): Blackhawk Mine near Hanover, (\$1,029,598)
- Chevron Mining: Chevron Mine in Questa, (\$4,000,000)

Case Example: Chino, Cobre, and Tyrone Mines

The Chino, Cobre, and Tyrone mine facilities are open-pit and underground copper and iron mining, beneficiation, and processing facilities owned and operated by Freeport-McMoRan Corporation (FMI).

- ▶ Hazardous substances released from the mine facilities included sulfuric acid and metals/metalloids, including arsenic, beryllium, cadmium, chromium, cobalt, copper, lead, manganese, mercury, nickel, selenium, and zinc.



2 Natural Resource Damage Settlements

2011 - \$13,000,000 settlement for groundwater resource injuries

2012 - \$5,500,000 settlement for injury to wildlife and wildlife habitat resources.



Chino, Cobre, and Tyrone Mines - continued

8 Groundwater Restoration Projects

- San Vicente Creek Mill
- Bayard Wastewater Reuse
- Hurley Sewer Line Replacement
- Santa Clara Gravity Sewer Improvements
- Santa Clara Wellhead Protection
- Silver City North/Blackhawk Sewer Line Extension
- Silver City Ridge Road East Sewer Line Extension
- Indian Hills Sewer Line Extension

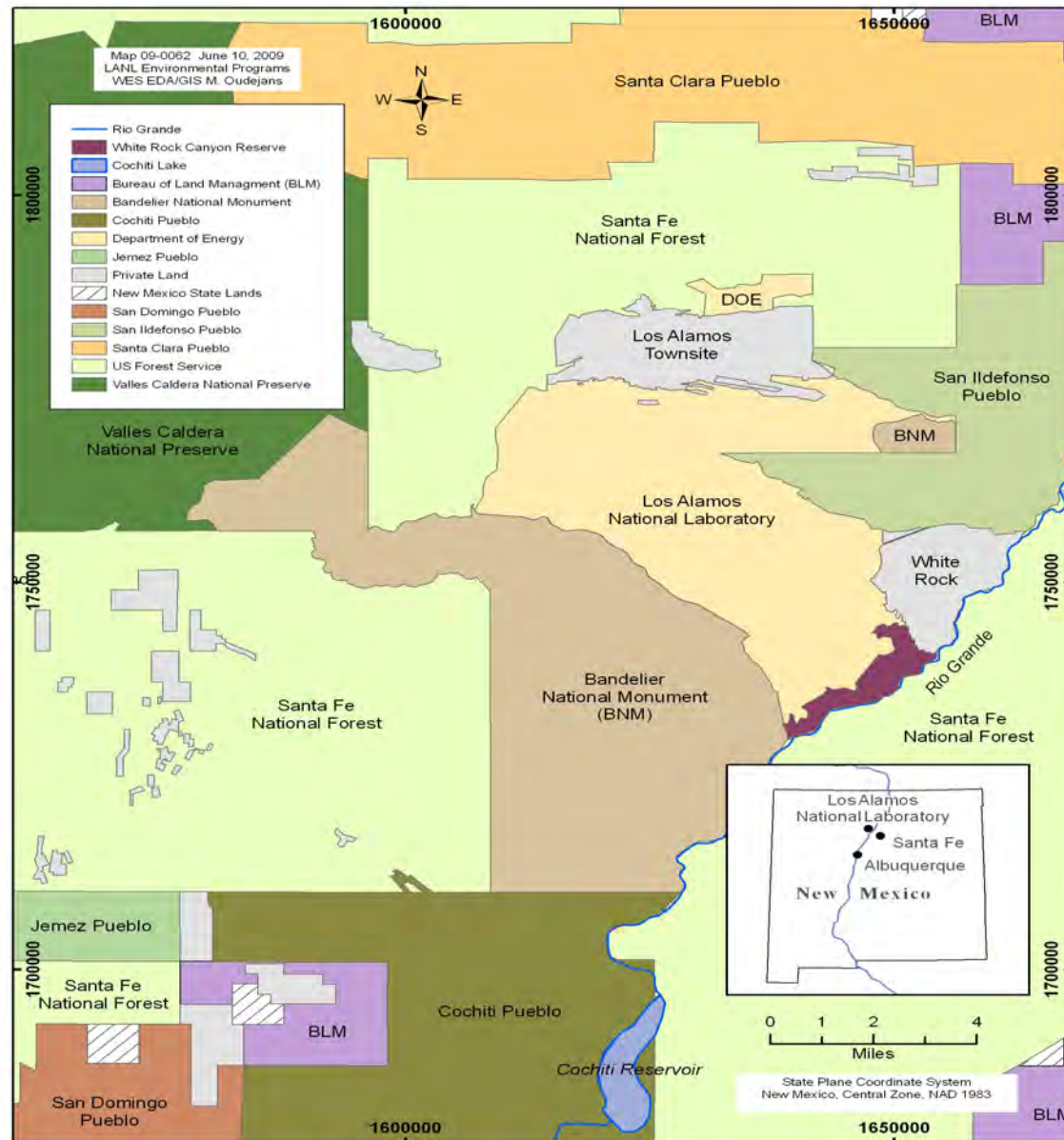


Chino, Cobre, and Tyrone Mines - continued

12 Wildlife & Wildlife Habitat Restoration Projects

- Ancheta Springs Ranch Conservation Easement & Restoration
- Burro Ciénega Side Channel, Floodplain, & Low Terrace Restoration
- Burro Ciénega Watershed Restoration
- City of Rocks State Park Wildlife Habitat Restoration
- Double E Ranch Habitat Protection & Improvement
- Gila River Farm Riparian Preserve
- Headwaters Burro Ciénega Watershed Restoration
- Mimbres River Wildlife & Habitat Restoration
- Prevost Ranch Conservation Easement
- River Ranch Habitat Protection & Improvement
- Southwest Sufi-Bear Creek Conservation Easement & Habitat Improvement
- Upper Whiskey Creek Restoration

Damage Assessment Example - LANL



Co-Trustees: ONRT, Pueblo of San Ildefonso, Cochiti Pueblo, Santa Clara Pueblo, Jemez Pueblo, DOE, USDA/Forest Service

- **Radionuclides:** americium, cesium, plutonium, strontium, tritium, and uranium;
- **Metals:** arsenic, beryllium, barium, chromium, lead, mercury, and selenium;
- **Organic Compounds:** PCBs, benzo(a)pyrene, TCE, TCA;
- **Inorganic Compounds:** perchlorate;
- **Explosives:** RDX, TNT, HMX (octahydro-1,3,5,7-tetranitro-1,3,5,7-tetrazocine);
- **Oil:** petroleum hydrocarbons

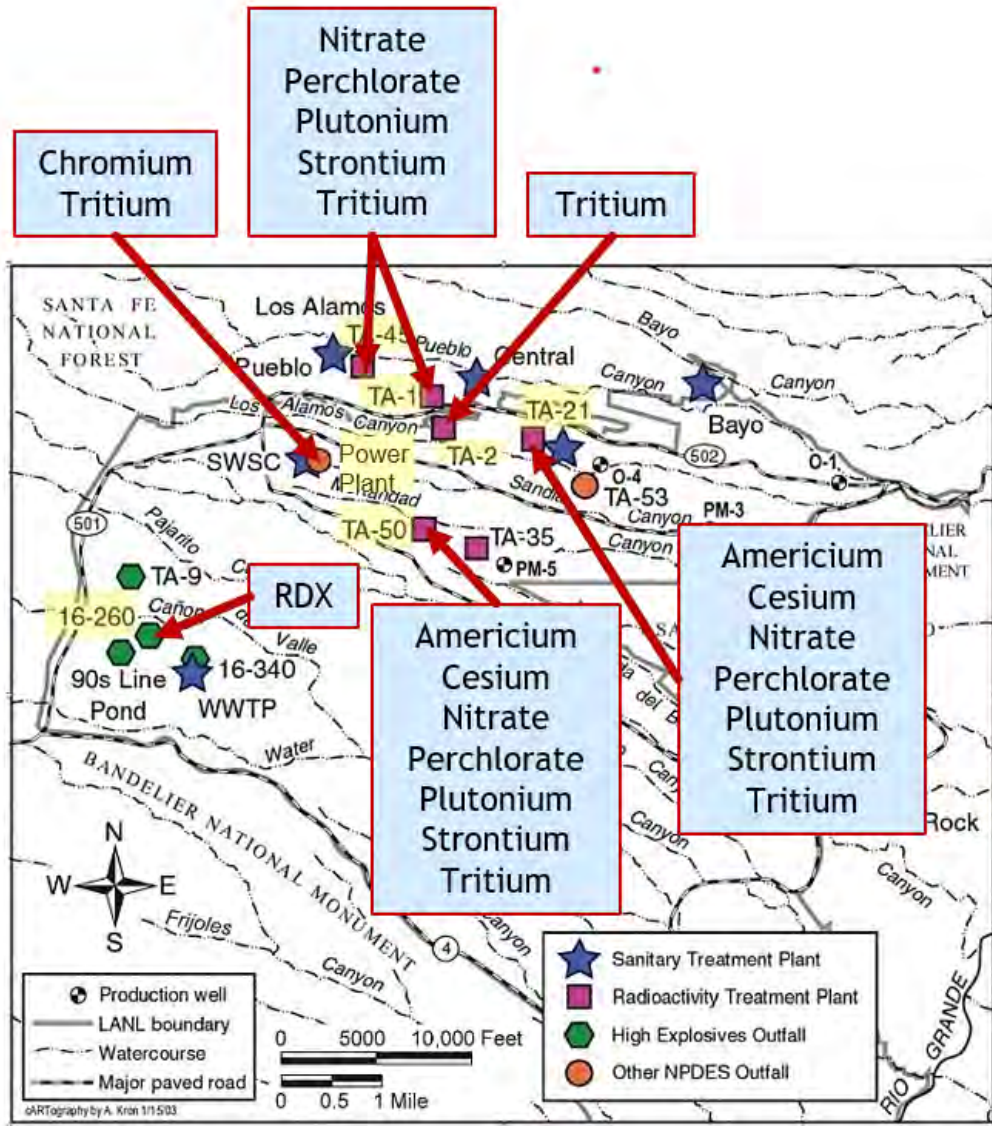
LANL Natural Resource Damage Assessment, continued

INJURED RESOURCES

- groundwater, surface water & drinking water
- soil, wildlife, fish, amphibians, insects, plants and organisms that live in/on soils and sediments
 - impact on future generations

LOST USE OF RESOURCES

- use of water resources for drinking, irrigation, and other purposes
- harvest of fish, wildlife, and plants
- cultural uses of sacred places and areas of traditional practice
- gathering of soils for traditional and economic purposes
- recreation: hiking, swimming, education





Bridsell et al. 2006. Selected Key Contaminant Sources from Los Alamos National Laboratory Including Liquid Outfalls and Material Disposal Areas. LA-UR-06-8481.

2020/2021 Highlights

- Settled 2 cases - \$1.15 million in FY21
 - Gold King Mine/Kinross Gold
 - Fronk Oil/Cimarron River
- Initiated 7 new restoration projects - \$5,914,000
- Resumed assessment on 4 significant contamination sites

Impact


- Restoration projects create/restore opportunities for tourism, recreation, agriculture, and cultural uses



The CWA, Trout Unlimited, Reineke Construction, and the NM Department of Game and Fish are working on a project to provide better winter habitat for trout on the Cimarron River. The Project is funded by the NMED River Stewardship Program and the New Mexico Office of Natural Resources Trustee.

During September, October and November there will be trucks and heavy equipment moving boulders in the area and working in the river channel.

The project will be completed by the end of November 2021.



Brown Trout

We thank you for your patience while this trout habitat enhancement project is being implemented.
<http://cimarronwatershed.com>

Gold King Mine Release August 5, 2015



Photo Credit: *Farmington Daily Times*



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



Future for ONRT

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

Questions?

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Supplemental Information

ONRT Restoration Projects

New Projects in FY21-22

- \$2.3m - to Village of Questa for two projects
 - drinking water well
 - extension of wastewater infrastructure
- \$1.2m Questa Red River Aquatic Habitat Restoration project
- \$267,000 for Midnight Meadows Wetland project
- \$1.4m to Town of Silver City for wastewater system extension
- \$597,000 for proposed South Valley habitat and water quality improvement project
- \$150,000 for Cimarron River trout habitat restoration project

FY23 Anticipated

- Gold King Mine Restoration Project(s)
- Ft. Wingate
- White Sands Test Facility
- Gold King Mine (EPA)



ONRT Status Since Year 2000 - as of January 2021

		Cumulative Dollar Amounts
NRD settlements achieved by ONRT/co-trustees:	12 Frank Oil (\$150,000), Kinross/Gold King Mine (\$1,000,000), Van Waters (\$135,000) ¹ , Sparton (\$1,000,000) ² , SOHIO L-Bar (\$29,830) ³ , So. Valley Superfund (\$4,857,548) ⁴ , AT&SF/Tie Treater (\$989,417) ⁵ , AT&SF/Clovis (\$404,456) ⁶ , ASARCO (\$1,029,598) ⁷ , FMI Mines Groundwater (\$12,794,308) ⁸ , FMI Mines Wildlife Habitat (\$5,500,000) ⁹ , Chevron Questa Mine (\$4,000,000) ¹⁰ .	\$31,890,157
Non-NRD grant won by ONRT:	1 Grant from the Water Trust Board (\$284,000) ¹¹ . (project: the RGVSP Re-Vegetation)	\$284,000
Restoration projects completed:	32 Middle Rio Grande Liquid Waste Groundwater Protection ^{1.&2.} , Municipal Water Conservation ² , Bosque Non-Native Plant Removal ² , L-Bar Sewer Projects ³ , Mt. View Nitrate Plume ⁴ , RGVSP Re-Vegetation ⁵ , Whitfield WA Re-Vegetation ⁵ , Isleta Pueblo Bosque Non-Native Plant Removal ⁵ , So. Valley Sewer & Water Connections ⁵ , Curry County Playa Conservation ⁶ , WTB RGVSP Re-Vegetation ¹¹ , Blackhawk Mine Repairs ⁷ , San Vicente Creek Mill Remediation ⁸ , St. Clara Sewer Improvements ⁸ , St. Clara Wellhead Protection ⁸ , Silver City Blackhawk Sewer Extension ⁸ , Bayard Wastewater Re-Use ⁸ , Hurley Sewer Line Improvements ⁸ , Silver City Ridge Rd. East Sewer Extensions ⁸ , Burro Cienega/Pitchfork Ranch Restoration ⁹ , Mimbres River Wildlife Restoration ⁹ , Burro Cienega Watershed Restoration ⁹ , Double E Ranch Acquisition ⁹ , River Ranch Acquisition ⁹ , Ancheta Springs Easement ⁹ , Ancheta Springs Restoration ⁹ , Prevost Ranch Easement ⁹ , Southwest Sufi-Bear Creek Easement ⁹ , Gila River Farm Wetland Restoration ⁹ , City of Rocks State Parks Habitat Restoration ⁹ , Upper Whiskey Creek Restoration ⁹ , Headwaters Burro Cienega Watershed Restoration- U.S. Forest Service ⁹ .	\$22,742,597
Restoration projects in progress (funds dedicated):	8 Headwaters Burro Cienega Watershed Restoration- Grant S&WCD ⁹ , Restoration of the Midnight Meadows Wetland ¹⁰ , Red River Aquatic Habitat Restoration within the Village of Questa ¹⁰ , Questa Municipal Sewer Improvements ¹⁰ , Questa Municipal Water Supply Well ¹⁰ , Silver City Indian Hills Sewer Extensions ⁸ , Water Authority Effluent Outlet ^{4.&5.} , Cimarron River Trout Habitat ¹¹ .	\$6,020,591
Land transfers as part of settlement with RPs:	2 City of Rocks State Parks Land Transfer ⁹ , Anderson Ranch Land Transfer ¹⁰ .	N/A
NRD assessments cases in progress:	5 Ft. Wingate, LANL, Rio Algom, WSTF/NASA, BPMD/GKM	N/A

