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STATE OF COLORADO
DEPARTMENT OF LAW

AGENDA

Colorado Natural Resources Trustees Meeting
May 9, 2024
3:00 pm to 5:00 pm

Location:
Durango Public Library
1900 E.3rd Ave
Durango, CO

Note: A hyperlink to a Microsoft Teams meeting will be emailed to Trustees and staff and will be posted on the Trustee website:
<https://coag.gov/office-sections/natural-resources-environment/trustees/whats-new/>

Open Session

1. Approve Agenda – 1 minute
2. Approval of Minutes from January 8, 2024 Meeting – 5 minutes

Action Item:

- (1) Review and approve minutes from January 8, 2024 meeting

Document:

- (1) Draft minutes from January 8, 2024 meeting

3. Budgets Update – (Jennifer Talbert) - 5 minutes

Action Items: None

Document:

- (1) Budget Spreadsheet

Executive Session

4. Home Lake State Wildlife Area – (Shelley Hickerson, Mindi May) – 10 minutes

Action Items: None

Documents: None

Open Session

5. Report from Executive Session – (Lukas Staks) – 1 minute

Action Items: None

Documents: None

6. Natural Resource Damages 101 – (David Banas) – 15 minutes

Action Items: None

Document:

(1) NRD 101 PowerPoint Slides

7. Department of Interior NRD Regulations – (David Kreutzer) – 10 minutes

Action Items: None

Documents:

(1) April 3, 2024 Comments to Department of Interior

8. Suncor Final Report – (Susan Newton, Ducks Unlimited) – 15 minutes

Action Items: None

Documents: None

9. North St. Vrain – (Jason King, Melody Mascarenaz) – 5 minutes

Action Items: None

Documents: None

10. MOU with Department of Interior – (Jennifer Talbert) – 5 minutes

Action Items: None

Documents: None

11. Bonita Peaks Mining District – (All) – 50 minutes

Action Items: None

Documents: None

ITEM #2

Colorado Natural Resource Damages Trustees
Meeting Minutes
February 8, 2024
(Approved _____)

In Attendance:

TRUSTEES

Phil Weiser, Attorney General
Dan Gibbs, Executive Director, Colorado Department of Natural Resources (DNR)
Trisha Oeth, Director of Environmental Programs, Colorado Department of Public Health and Environment (CDPHE)

TRUSTEE STAFF

Lukas Staks, Senior Assistant Attorney General, Office of the Attorney General, Natural Resources and Environment Section (NRE)
David Kreuzer, First Assistant Attorney General, NRE
David Banas, Senior Assistant Attorney General, NRE
Jason King, Senior Assistant Attorney General, NRE
Emily Splitek, Senior Assistant Attorney General, NRE
Shelley Hickerson, Assistant Attorney General, NRE
Jennifer Talbert, CDPHE
Susan Newton, CDPHE
Melody Mascarenez, CDPHE
Robert Harris, DNR

OTHER STATE STAFF

Laura Kelly, Senior Paralegal, NRE
Savannah Padilla, Administrative Assistant, NRE

FELLOWS AND INTERNS

Benjamin Elrod, Attorney General Fellow
Michael McCarthy, NRE Intern
Ashton Danneels, NRE Intern
Griffin Mansi, NRE Intern
Haley Maher, NRE Intern

PUBLIC

None

Open Session

Trustee Weiser called the hybrid meeting (held at DNR, 1313 Sherman Street, and via Teams) to order at approximately 9:30 a.m. on February 8, 2024. The meeting's purpose was to brief the Trustees on the current status of issues relating to Natural Resource Damages (NRDs) projects, and to request direction and/or approval for various actions.

Minutes

Following introductions, Trustee Weiser presented the minutes from the November 14, 2023 Trustee Meeting. Trustee Oeth moved to approve the November 14, 2023 minutes. Trustee Gibbs seconded the motion, and the motion was unanimously approved.

Budgets Update

Jennifer Talbert presented an updated budget spreadsheet for all NRDs matters. There were no questions.

Department of Interior NRDs Regulations

David Kreutzer reported that staff is reviewing the proposed federal regulations for NRDs which are more efficient in terms of time and cost (he noted that the federal regulations have not been used by States for decades). Staff is developing comments which are focused on aligning the federal regulations with Colorado's regulations, and will provide the draft comments to their respective Trustees. Ms. Talbert noted that she is part of the State Natural Resource Damages Alliance and will learn if other states are planning to provide comments.

Memorandum of Understanding between Colorado and Department of Interior (MOU)

Emily Splitek reported that the purpose of this MOU is to serve as a universal MOU so that when there are both federal resources and State resources that are impacted by a release, staff can coordinate without needing a separate MOU for each release. She added that this MOU outlines the State's general process, but if there are circumstances specific to a certain release, another MOU could capture those situations. Ms. Splitek explained that DOI has already approved the MOU and it is ready to sign after the Trustees approve it.

Trustee Oeth moved that the Trustees approve and sign the MOU. Trustee Gibbs seconded the motion, and the motion was unanimously approved.

Durango Trustee Meeting on May 9, 2024

David Banas reported that staff is working on logistics for a public Trustee Meeting at the Durango Public Library during the afternoon of May 9. He added that the Trustees and many staff members plan to attend in person.

Silverton Meetings on May 9

Trustee Weiser explained that two separate meetings in Silverton on May 9 would accommodate two distinct interests: 1) the Citizens Advisory Group which is concerned with restoration of the River; and 2) others who are concerned about the town and community interests. Mr. Banas noted that the Silverton meetings will not be the regular course of business for a Trustee meeting, but they will be publicly noticed pursuant to the Colorado Open Meetings Law. Jason King noted that these meetings should focus on the NRDs program (rather than Superfund cleanup efforts). The Trustees and staff agreed that there are some misunderstandings with area stakeholders and these meetings will be an opportunity to offer some clarification on the NRDs process. Discussion ensued regarding ways to educate stakeholders about the NRDs process in general, guidance regarding project selection, how potential future claims might be handled, and the distinction between the Gold King Mine blowout and decades of mining in the region.

Bonita Peak Mining District

Mr. King reminded the Trustees that they previously discussed a March kick-off meeting for the BPMD Solicitation for Project Proposals (SPP). Since then, Mr. King and Mark Rudolph have held a series of meetings with stakeholders including La Plata and San Juan County Commissioners, NGOs, local governments, and other interested parties. Mr. King reported a similar message at all of the meetings: a request for additional time to solicit matching funds and develop quality project proposals, partially due to a current lack of resources. He noted that Peter Butler has volunteered to head up communication between the stakeholders and the Trustees.

Staff explained the requirement of a Restoration Plan for BPMD which will be completed by May 2025. Discussion ensued about how to develop a schedule for project proposals which will accommodate the stakeholders but still keep the process moving forward. It was decided that the SPP for roughly half the total NRD funds (the first distribution phase) would be published in March 2024, followed by a kick-off meeting as originally planned, and the deadline for project proposals would be extended from three months to six months (to approximately September 2024). As usual, project proponents can request to further extend the deadline if they demonstrate it is needed. It was also noted that the Trustees and staff should be aware of tribal engagement going forward.

Executive Session

Senior AAG Lukas Staks recommended the Trustees make a motion to go into Executive Session to consider Agenda Item #8 on the Trustee Meeting agenda, concerning the Home Lake State Wildlife Area. He stated the Executive Session is authorized pursuant to section 24-6-402(3)(a)(II), C.R.S. and other laws that allow the Trustees to enter Executive Session for specific purposes. At approximately 10:20 a.m., Trustee Oeth moved to begin an Executive Session to discuss Agenda Item #8. Trustee Gibbs seconded the motion, and the motion was unanimously approved. It was noted that no members of the public were in attendance. The Executive Session was digitally recorded.

At approximately 10:49 a.m., Trustee Oeth moved to end the Executive Session. Trustee Gibbs seconded the motion, and the motion was unanimously approved, whereupon Executive Session was ended.

Open Session

Senior AAG Staks stated that pursuant to statute, the Trustees went into Executive Session to consider Agenda Item #8. The discussion during Executive Session was limited to that item and no formal action was taken.

At approximately 10:50 a.m., Trustee Oeth moved to adjourn the meeting. Trustee Gibbs seconded the motion, and the motion was unanimously approved.

ITEM #3

Natural Resource Damages Accounts

NRD Matter	Bonita Peak	California Gulch	Fountain Creek	Idarado	Lowry	N. St. Vrain
Total Settlement	\$6,600,000.00	\$10,000,000.00	\$345,000.00	\$1,000,000.00	\$1,606,930.00	\$245,305.00
Total NRD dollars spent	\$0.00	\$14,264,768.10	\$0.00	\$1,561,412.98	\$1,257,894.52	\$0.00
Account Balance as of 3/25/2024	\$6,808,604.22	\$4,673,872.86	\$378,788.69	\$210,824.24	\$710,586.67	\$256,453.49
Most recent TT Resolution Date	NONE	11/14/2023	4/23/2019	6/24/2019	8/14/2023	NONE
Current Trustee awarded amount	\$0.00	\$3,953,875.00	\$378,788.69	\$287,000.00	\$675,000.00	\$0.00
Contract Encumbrances	\$0.00	\$4,305,976.38	\$0.00	\$168,200.00	\$674,998.58	\$0.00
Remaining funds	\$6,808,604.22	\$367,896.48	\$378,788.69	\$42,624.24	\$35,588.09	\$256,453.49
Type of Restriction	Restoration Plan required	Follow Restoration Plans developed by State and USFWS	None	None	Groundwater nexus to the South Platte	None
Remaining funds available	\$239K from Blue Tee will be added from the HSRF in Phase 2.	Interest and remaining funds available	Interest to CPW, no remaining funds available	Interest to Governor's Basin Project, no remaining funds available	Interest to USFWS, no remaining funds available.	Settlement from December 2022, all funds available
Update	CDPHE contracted with Abt for the restoration plan. An initial briefing was provided to San Juan and La Plata counties.	All SPP projects are under contract	CPW is obtaining matching funds - need CDPHE contract by December 2024	Society Turn is completed; TLR to acquire Silver Mountain Mine; Governor Basin delayed due to EPA remedial requirements.	CDPHE is waiting on USFWS Office of the Solicitor to approve the contract	The SPP was published on January 15, 2024 and a public meeting occurred in Lyons.

Natural Resource Damages Accounts

NRD Matter	RMA Recovery Fund	RMA Foundation Fund	Shattuck	Standard Metals	Summitville	Suncor	Uravan	Vail Mill Creek
Total Settlement amount	\$17,400,000.00	\$10,000,000.00	\$1,250,000.00	\$415,368.00	\$5,000,000.00	\$1,230,000.00	\$1,000,000.00	\$248,660.00
Total NRD dollars spent	\$12,261,786.30	\$8,697,832.00	\$1,272,904.00	\$0.00	\$5,144,896.92	\$1,072,893.64	\$1,177,922.42	\$0.00
Account Balance as of 3/25/2024	\$8,545,307.42	\$1,553,905.93	\$24,510.42	\$490,300.94	\$254,754.69	\$209,717.46	\$200,847.78	\$253,347.84
Most recent TT Resolution Date	3/24/2021	3/28/2018	3/17/2022	12/9/2022	1/21/2021	6/9/2022	3/24/2021	NONE
Current award	\$5,707,087.93	\$1,388,523.00	\$30,000.00	\$0.00	\$1,171,620.00	\$1,267,454.00	\$270,000.00	\$0.00
Contract Encumbrances	\$1,079,170.22	\$550,000.00	\$30,000.00	\$0.00	\$225,396.00	\$183,104.76	\$183,813.87	\$0.00
Remaining funds	\$7,466,137.20	\$1,003,905.93	-\$5,489.58	\$490,300.94	\$29,358.69	\$26,612.70	\$17,033.91	\$253,347.84
Type of Restriction	None	Funds can only be used with NGC	None	None	Money must be spent in the Alamosa River Watershed	None	None	None
Remaining funds available	All funds available on line I9	Waiting for Amended Consent Decree to remove NGC requirements	Only available funds will be paid out	\$230K awarded; remaining funds for Silverton	Interest to TU, no remaining funds available	Interest to TU, no remaining funds available	Interest to WEEDC, no remaining available funds	All funds available on line P9
Update	These funds were combined for the SPP, which was published in September. We are waiting for project proposals to be submitted.		Project is underway.	Gossan Creek Project delayed due to Lowline Gunnison Fire	In Stream Flow Project is under contract	Restoration is almost completed	Restoration projects are almost completed	CPW identifying project in Gore/ Mill Creek


ITEMS #4-5
NO
DOCUMENTS

ITEM #6



Natural Resource Damages

NRD Trustee Meeting
May 9, 2014
Durango



What are Natural Resource Damages?

Natural Resource Damages are monetary damages that compensate the State for injuries to its natural resources

Colorado's NRDs Program

1. Recover damages (money) from parties that injure the State's natural resources
2. Allocate that money to project proponents whose projects restore, replace or acquire the equivalent of the injured resources

Colorado's Natural Resource Trustees

Colorado Attorney General - Phil Weiser

Executive Director of Colorado Department of Natural Resources - Dan Gibbs

Executive Director of Colorado Department of Public Health and Environment (designee) - Trisha Oeth

NRDs vs. Superfund Cleanups

Superfund Cleanups protect human health and the environment by cleaning up contaminated sites.

- Example: EPA moves mine tailings out of a flood plain and builds and operates a water treatment plant

NRDs make the public whole by restoring natural resources

- Example: NRD Trustees fund a project that acquires open space along a river and restores native fish habitat

NRDs vs. Superfund Cleanups

EPA implements the Superfund side of CERCLA, Superfund is not delegated to States

–Some states have their own Superfund and / or NRDs statutes

State and Federal Trustees are different entities and bring NRDs claims as separate actions

– Federal Trustee is the land management agency; EPA rarely has any NRDs involvement

Goals - Cleanup vs. NRD

Goal of Cleanup

- Respond to the release
- Address threats
- Protect human health and environment



Goal of Natural Resource Damages:

- Identify and quantify the adverse effect, or “injury” to natural resources caused by a release
- Restore injured resources or resources with nexus to the injured resources
- i.e., “Make the public whole”



Steps for NRD Assessment and Restoration



Release of hazardous substance or oil



Exposure to natural resources



Determine injuries to NRs (extent and magnitude)



Assess monetary damages to compensate for loss



Present claim for compensation to responsible party



Settlement or litigation



Restoration of NRs

Bonita Peaks Mining District Settlements

Colorado's Natural Resources Trustees have reached four settlements with owners and operators of mines in the Bonita Peaks Mining District

We have about \$7 million to spend on restoring, replacing or acquiring natural resources similar to those injured by BPMD mining, the last step in the previous slide

We have decided to spend about half of that money now, and half following completion of EPA's BPMD Superfund Remedy. (It would be hard to know where to spend all of the money until EPA completes the Remedy.)

The final agenda item today will include a discussion about the process for spending this money near BPMD.

ITEM #7

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STATE OF COLORADO
DEPARTMENT OF LAW

April 3, 2024

Emily Joseph
Director
Office of Restoration & Damage Assessment
U.S. Department of the Interior

Via Electronic Transmission – <https://www.regulations.gov/document/DOI-2022-0016-0024>

**Re: Comments on DOI Proposed Rule on Natural Resource Damage Type A Regulations;
Regulation Identifier Number (RIN) 1090-AB26**

Dear Ms. Joseph,

The Colorado Natural Resource Trustees appreciate the opportunity to offer comments in response to the Office of Restoration and Damage Assessment's proposed revisions to the Natural Resource Damage Type A Regulations, 89 Fed. Reg. 733. We submit these comments to convey suggestions on areas where the revisions could be strengthened and clarified.

We understand DOI proposed the revisions to Type A procedures to broaden the scope of releases where they can be used. We believe the proposed revisions to the existing Type A regulations continue to have restrictions that will preclude most Trustees from using the procedures. The bulk of our comments seek to further remove restrictions on the use of Type A procedures.

Generally, we are in favor of revising the existing Type A regulations. However, we believe the Type A process should be less restrictive and allow for greater opportunities for use. Our proposed modifications focus on a strategy for efficiency in government. Specifically, the Type A regulations should focus on the assessment using an approved method with existing or easily obtainable data instead of how much the potential damages might be. Additionally, the requirement of entering into a tolling agreement with the potentially responsible party promotes inefficient government practices. While some assessments may take longer to conduct, this requirement should be optional, and Trustees should be encouraged to complete their Type A assessments as quickly as possible. Similarly, requiring the Trustees to have agreement from the potentially responsible party in order to pursue the Type A process undermines the Trustees' ability to use the simplified process when it chooses to pursue claims against recalcitrant parties. Further, we think the Type A regulations should clarify any Trustee may enter into a settlement at any time throughout the process.

The proposed changes below will help align DOI's damages assessment process with Colorado's and other State's Natural Resource Trustees processes. This alignment should help encourage potentially responsible parties to settle natural resources claims more quickly. Many potentially responsible parties are represented by a subset of insurance companies that negotiate and pay claims for their clients. Increasing the alignment of how federal and state natural resources trustees process claims will help establish consistent processes for trustees and payors to identify, value and resolve claims. This should lead to more settlements and quicker settlements.

DOI also frequently cooperates with Colorado and other states to jointly process claims and to select and oversee restoration projects. Aligning DOI's claims process with state processes will simplify the parties' joint efforts to identify, value and resolve claims.

Colorado's Natural Resources Trustees respectfully propose the following changes to the proposed Regulations:

§ 11.33

What types of assessment procedures are available?

There are two types of assessment procedures:

(a) Type A procedures are simplified procedures that require minimal field observation. Subpart D of this part describes the Type A procedures. Type A procedures may be used for negotiated settlements or litigation of natural resources damages claims. Following Type A procedures entitles the Trustee to a rebuttable presumption that the injuries assessed and damages calculated are correct.

(b) Type B procedures require more extensive field observation than the Type A procedures. Subpart E of this part describes the Type B procedures.

§ 11.34

When may a Trustee use a Type A procedure?

A Trustee may use a Type A procedure if all of the following are satisfied:

(a) The Trustee has decided that existing models (for replacement of resources or habitats, equivalency analysis, recreational losses, benefits transfer, etc.) are appropriate for determining damages to fund restoration activities at the site.

(b) All Federal, State, and Tribal trustees with probable jurisdiction over the injured natural resources who have elected to participate in the claim have discussed and may in the future agree ~~consent in the~~ use of the Type A procedure in the circumstances presented;

(c) ~~Either That~~ The claim that will be resolved using the Type A procedure is expected to be less than \$203 million (excluding reasonable assessment costs); or the claim relates to injury resulting from a hazardous substance release over a relatively short period of time (e.g., a discrete spill) with a small number of potentially responsible parties and is expected to be less than \$5 million;

~~(d) At least one potentially responsible party has voluntarily agreed to utilize the Type A procedure. If a claim involves multiple potentially responsible parties (PRPs), the Type A process may not be appropriate unless resolution of the claim involves all significant PRPs, or the resolution of the claim represents a final settlement of the claim for injury to specific natural resources at the site.~~

~~(e) The PRP agrees to toll the running of the statutory limitations period for filing the claim for at least one year and to reimburse the trustees for reasonable Type A assessment costs until the claim is resolved or the PRP gives formal notice of withdrawal from voluntary participation in the Type A procedure.~~

(d) Trustees may use a Type A procedure if they determine that a Habitat Equivalency Analysis, Resource Equivalency Analysis, and other methods listed in 43 CFR § 11.83 are appropriate models for assessing damages to natural resources.

§ 11.35

How does the Trustee decide whether to use Type A or Type B procedures?

(a) If the Trustee determines under § 11.34 that a Type A procedure is available, the Trustee must then decide whether to use that procedure or use a Type B procedure. The Trustee must make this decision by weighing the difficulty of collecting site-specific data against the suitability of the averaged data and simplifying assumptions in the Type A procedure for the release being assessed. The Trustee may use a Type B procedure if they can be performed at a reasonable cost and if the increase in accuracy provided by those procedures outweighs the increase in assessment costs.

(b) If there is no appropriate Type A procedure, the Trustee must use a Type B procedure to calculate all damages.

§ 11.36

May the Trustee use both a Type A and Type B procedure for the same release?

(a) The Trustee may use both a Type A procedure and Type B procedure for the same release if:

(1) The Type B procedure is cost-effective and can be performed at a reasonable cost;

(2) There is no double recovery; and

(3) The Type B procedure is used only to determine damages for injuries or compensable values that do not fall into the categories addressed by the Type A procedure.

(b) Type A procedures may be used for any compensable injury to natural resources. When using Type B and Type A, The Type A procedure addresses the following categories of injury and compensable value:

(1) Lethal and sub-lethal injuries to individual organisms within discrete species or guilds;

(2) Injuries to habitat and ecological productivity;

(3) Impairments to human use, cultural use, and enjoyment of natural resources;

(c) If a Trustee elects to use both a Type A procedure and a Type B procedure, the Assessment Plan must explain how the double recovery will be prevented.

(d) When the Trustee uses a Type B procedure for injuries not addressed in a Type A procedure, they must follow all of subpart E of this part (which contains standards for determining and quantifying injury as well as determining damages), § 11.31(c) (which addresses content of the Assessment Plan), and § 11.37 (which addresses confirmation of exposure). When the Trustee uses a Type B procedure for compensable values that are not included in a Type A procedure but that result from injuries that are addressed in the Type A procedure, they need not follow all of subpart E, § 11.31(c), and § 11.37. Instead, the Trustee may rely on the injury predictions of the Type A procedure and simply use the valuation methodologies authorized by § 11.83(c) to calculate compensable value. When using valuation methodologies, the Trustee must comply with § 11.84.

Subpart D—Using the Type A Procedures

§ 11.40

How does a Trustee use the Type A Procedure?

Once a Trustee has decided that the Type A Procedure is appropriate to resolve a claim ~~and the potentially responsible party has agreed to utilize the Type A Procedure~~, the Trustee should notify and invite other affected Co-trustees to participate in the Type A Procedure. The Type A Procedure must be documented in a Type A Report or similar public and stakeholder involvement document. The term “Type A Report” includes a similar public and stakeholder involvement document deemed appropriate by the Trustee.

§ 11.41

What information is included in a Type A Report or similar public and stakeholder involvement document?

(a) The Type A Report is a document to provide the public with notice of, and an opportunity to comment on, the use of the Type A Procedure.

(b) The Type A Report must:

- (1) State that the Trustee is following this rule and provide a citation to the rule;
- (2) Explain the basis for concluding that conditions for pursuing an assessment were met;
- (3) Describe any agreements among Co-Trustees and potentially responsible parties;
- (4) Identify ongoing or planned response activities that could affect the natural resources being assessed;
- (5) Explain how conditions for using a Type A Procedure listed in § 11.34 are met;
- (6) Identify and describe the model(s) selected to determine damages to fund restoration activities, including the following:
 - (i) Data inputs and the assumptions used for the model(s);

(ii) Possible existing restoration alternatives that make these model assumptions valid for the purpose of restoration; [*US FWS tends to have an on-going list of possible restoration projects with costs somewhat known that allows FWS to quickly propose and even start restoration projects. Many states have no such basket of projects at the ready.*]

(iii) Results of the modeling exercise;

(7) Note the establishment of an administrative record for the assessment and explain how to gain access to that record;

(8) Explain how to submit comments and state the deadline for comments; and

(9) Identify a contact person.

(c) The Type A report must be made available to the public and provide for a comment period of at least 30 days.

§ 11.42

What documents must be in the Administrative Record when the Type A Report or similar public and stakeholder involvement document is published?

(a) Evidence of efforts to coordinate with response agencies (this need not include any evidence of the substance of discussions, nor documentation of every contact);

(b) Evidence of efforts to consult with other Co-trustees (this need not include any evidence of the substance of discussions, nor documentation of every contact) and documentation of any agreements among Co-trustees;

(c) The invitation to potentially responsible parties inviting them to participate in the Type A Procedure and documentation of any agreements reached with potentially responsible parties.

(d) Information considered when developing data inputs and assumptions for modeling, including complete citations to any literature used;

(e) A printout of the model(s) sufficient for reproducibility (or a copy of the file used to generate the model(s));

(f) Documentation of any assessment costs incurred, if Trustees plan to seek reimbursement of such costs.

(g) Copy of the final Type A Report and each published version of the Type A Report.

§ 11.43

What is the process for Type A Report comments?

(a) Comments received during the comment period must be placed in the Administrative Record and reviewed by the Trustees.

(b) If the Trustees decide after their review that no changes to the Type A Report are needed, the Trustees must publish a notice that:

(1) States that the Type A Report has been finalized; and

(2) Provides substantive responses to significant comments received during the comment period.

(c) If the Trustees decide after their review that it is inappropriate to use the Type A Procedure, the Trustees may decide to use a Type B Procedure for the assessment or stop the assessment.

(d) If the Trustees decide after their review to select different model(s), or substantially change the model data inputs or assumptions to conduct the Type A Procedure, the Trustees must prepare a revised Type A Report or similar public and stakeholder involvement document that reflects the changes, provides any new information about the modified data inputs and assumptions, and substantively responds to significant comments received during the comment period. Minor changes require a statement of explanation of the changes, explanation of why they are not considered substantial, and discussion of any effects on results to be appended to the original Type A Report.

(e) When the Trustees make significant changes to the Type A Report or similar public and stakeholder involvement document based on public comment, ~~T~~he Trustees must provide an additional comment period of at least 30 days for a revised Type A Report.

§ 11.44

How do the Trustees conclude the Type A Procedure?

(a) ~~After the Type A Report is finalized,~~ Trustees may enter into a settlement agreement with potentially responsible parties at any time.

(b) Trustees must involve members of the public and relevant stakeholders in any decisions to spend ~~d~~Damages to fund or undertake restoration activities, ~~must be utilized pursuant to a publicly reviewed Restoration Plan consistent with subpart F of this part.~~

(c) The comment period for Administrative Settlement Agreements, Consent Decrees, and Restoration Plans may run earlier, concurrently, or after ~~with~~ the comment period for the Type A Report or similar public and stakeholder involvement document, if appropriate.

Thank you for the consideration of our comments,

PHILIP J. WEISER,
Colorado Attorney General
Natural Resources Trustees Chair

FOR THE ATTORNEY GENERAL

DAVID KREUTZER
First Assistant Attorney General
Natural Resources and Environment Section

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ITEMS #8-11
NO
DOCUMENTS