

SAGINAW RIVER AND BAY NRDAR TRUSTEE COUNCIL

TRUSTEE COUNCIL RESOLUTION 2021 – 01

BACKGROUND: In 1998, the United States, the State of Michigan, and the Saginaw Chippewa Indian Tribe of Michigan (Tribe), together acting as Trustees for natural resources in the Saginaw River and Bay, negotiated a settlement for natural resource damages with the General Motors Corporation, Bay City, and the City of Saginaw. The settlement provided for substantial cleanup of contamination resulting from the release of polychlorinated biphenyls (PCBs) and for the acquisition and restoration of multiple properties containing ecologically valuable fish and wildlife habitats in the Saginaw River and Bay. Today, in addition to supporting the continued monitoring of contaminants in the Saginaw River and Bay, sufficient funding from the 1998 settlement remains for the Trustees to undertake additional restoration actions. The Trustees' 2021 Final Restoration Plan¹ describes the purpose and need for restoration and describes the selected alternative to guide the use of approximately \$5 million in remaining funds.

In addition to the remaining funds administered by the Trustees, the Shiawassee National Wildlife Refuge (NWR) acquired funding dedicated to the restoration of the Green Point Area as part of the 1998 settlement. These funds are being administered by the Fish and Wildlife Service (FWS), are accounted for separately from the remaining funds administered by the Trustees, and will be used to supplement the remaining funds administered by the Trustee Council. The FWS published a restoration plan for these dedicated funds in 2016.² The FWS will provide an annual accounting of the use of these dedicated funds to the Trustees.

The Trustees propose to transfer funds from the DOI's Natural Resource Damage Assessment and Restoration Fund to the Michigan Field Office of the FWS to fund costs related to restoration planning and administration of the Trustee Council; and, to transfer funds to the Shiawassee NWR, Michigan Department of Natural Resources (MDNR), and to the Tribe for the purpose of funding the implementation of restoration activities described in the 2021 Final Restoration Plan (Table 1).

The Trustees for the Saginaw River and Bay Natural Resource Damage Assessment and Restoration (NRDAR) are the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Michigan Department of Natural Resources (MDNR), and Michigan Department of Attorney General (MDAG); the United States Department of the Interior (DOI) acting through U.S. Fish and Wildlife Service (FWS); and the Saginaw Chippewa Indian Tribe of Michigan (Tribe).

¹ U.S. Fish and Wildlife Service (FWS). 2021. Final Restoration Plan & Environmental Assessment for Use of Remaining Funds – 1998 Saginaw River and Bay Settlement. Michigan Ecological Services Field Office, East Lansing, MI. Available at: https://www.fws.gov/midwest/es/ec/nrda/SaginawNRDA/documents/01_SRB_Finalized_Restoration_Plan_March_5_2021.pdf

² U.S. Fish and Wildlife Service. 2016. Final Restoration Plan and Environmental Assessment for the Green Point Area Restoration Project, Shiawassee National Wildlife Refuge. Michigan Ecological Services Field Office, East Lansing, MI. Available at <https://www.fws.gov/midwest/es/ec/nrda/SaginawNRDA/documents/FinalGreenPointAreaRestorationPlanAndEA10June2016.pdf>

Table 1. First year funding for administrative costs and implementation of the 2021 Final Restoration Plan for the Saginaw River and Bay Natural Resource Damage Assessment and Restoration case.

| Entity | Description | Funding |
|-----------------------------|---|---------------------|
| FWS – Michigan Field Office | Funding of costs related to case administration and planning | \$80,000.00 |
| Shiawassee NWR | Implementation of the Charity Islands Restoration Plan | \$25,500.00 |
| Shiawassee NWR | Implementation of the Green Point Area Restoration Plan | \$213,772.00 |
| Michigan DNR | Restoration of state properties acquired in the 1998 settlement | \$411,500.00 |
| Saginaw Chippewa Tribe | Implementation of the Saginaw River Mouth Restoration Project | \$135,465.00 |
| Total | | \$866,237.00 |

THE RESOLUTION BEFORE THE TRUSTEES:

WHEREAS, the 1998 settlement³ resulted in the payment of natural resource damages to the United States, the Tribe, and the State of Michigan. The Administrative Record for the 1998 Saginaw River and Bay NRDAR, including the 1998 Consent Judgment, a summary of projects and elements of the 1998 settlement, and Trustee reports, is available at the FWS Michigan Ecological Services Field Office and key documents and reports are available at <https://www.fws.gov/midwest/es/ec/nrda/SaginawNRDA>.

WHEREAS, funding totaling approximately \$5.7 M remains from the 1998 settlement and the Consent Judgment makes provision for the use of these remaining funds at the direction of the Trustees.

WHEREAS, as described in the 2021 Final Restoration Plan, the Trustees are proceeding with the use of funds remaining from the 1998 settlement. The Trustees will support continued monitoring of contaminants in the Saginaw River and Bay, restoration and maintenance of previously implemented restoration actions, and implementation of future restoration actions in the Saginaw River and Bay watershed.

WHEREAS, the Michigan Ecological Services Field Office (Field Office) for the FWS is the federal lead administrative trustee for the Trustee Council. In this role, the Field Office expends substantial time and resources for restoration planning and administrative oversight. To continue its role as lead administrative trustee, the Field Office needs funding to cover future salary costs related to planning, environmental compliance, and administration of the Trustee Council. The Trustees will provide \$80,000 to cover Field Office salary and related costs for administration of the Trustee Council, conducting restoration planning, and ensuring environmental compliance through approximately March of 2022. This allocation is expected to cover administrative costs of the Field Office over four fiscal quarters.

³ Consent Judgment, dated November 24, 1998, United States District Court, Eastern District of Michigan, Docket No: 98CV10368

WHEREAS, over 1,670 acres were acquired as elements of the 1998 settlement, including: most of Big and Little Charity Islands as part of Michigan Islands NWR, managed by the Shiawassee NWR; multiple parcels were added to MDNR's Tobico Marsh Unit of the Bay City State Recreation Area, Wigwam Bay State Wildlife Area, Quanicassee State Wildlife Area, Fish Point State Wildlife Area, and Wildfowl Bay State Wildlife Area; and, a parcel consisting of the delta of the Saganing River was acquired on behalf of the Tribe.

WHEREAS, to restore, enhance, and maintain conservation properties acquired as a result of the 1998 settlement, the Trustees intend to submit annual funding requests to the DOI NRDAR Fund, based upon annual workplans submitted to the Trustee Council by the implementing agency or entity.

WHEREAS, the 2021 Final Restoration Plan describes a restoration project to be undertaken by the Tribe. The 110-acre Saganing River Mouth Property was conveyed to the Tribe as a component of the 1998 settlement for natural resource damages in the Saginaw River and Bay. Implementation of the restoration project and maintenance of the property is estimated to require funding in the amount of \$800,673 over approximately 20 years. The Trustees have reviewed and approved a workplan for \$135,465 to support staff, training, implementation, and maintenance activities over the first year of the restoration project.

WHEREAS, the 2021 Final Restoration Plan describes a restoration project to be undertaken by the MDNR. The State of Michigan acquired a substantial inventory of conservation and recreational properties as a result of the 1998 settlement for this NRDAR case. Implementation of the restoration of these properties and subsequent maintenance of the properties is estimated to require funding in the amount of \$709,500 over approximately 20 years. The Trustees have reviewed and approved a workplan for \$411,500 for the purpose of equipment purchase, contract support, staff training, restoration, and maintenance activities over the first year of the restoration project.

WHEREAS, the 2021 Final Restoration Plan describes a restoration project to be undertaken by the Shiawassee NWR. As a part of the 1998 settlement, the Shiawassee NWR received a 99-year lease for the Green Point Environmental Learning Center and an adjoining 80 acres of riparian and upland habitats. It also received an option to renew this lease for an additional 99 years. In May of 2014, the Shiawassee NWR received the former 135-acre Germania Town and Country Club golf course as a donation from The Nature Conservancy. Restoration of the Green Point Area, and subsequent maintenance of the area, is estimated to require funding in the amount of \$2,116,283 over approximately 20 years. The Trustees have reviewed and approved a workplan for \$213,772 to provide staff support, restoration, and maintenance activities over the next year.

WHEREAS, the 2021 Final Restoration Plan describes a restoration project to be undertaken by the FWS's Michigan Islands NWR, administered by the Shiawassee NWR. The Charity Islands, located in Arenac County within Saginaw Bay, Lake Huron, southeast of the village of Au Gres, MI, are two of the eight islands in Lakes Michigan and Huron that comprise the Michigan Islands NWR. The National Wildlife Refuge System acquired the Charity Islands in 1999 as a part of the 1998 settlement. Restoration and related activities of the Charity Islands, and subsequent maintenance of the islands, is estimated to require funding in the amount of \$250,000 over 20 years. The Trustees have reviewed and approved a workplan for \$25,500 in initial restoration and maintenance activities over the next year.

THEREFORE, BE IT RESOLVED that the Trustees agree, by unanimous consent, to transfer funds from the Saginaw River and Bay NRDAR account, in support of annual plans of work, to transfer \$80,000 to the Michigan Field Office of the FWS; to transfer \$135,465 to the Tribe in support of the Saginaw River Mouth Restoration plan of work; to transfer \$411,500 to the MDNR in support of restoration of the State of Michigan properties acquired as a part of the 1998 settlement; to transfer \$213,772 to the Shiawassee NWR in support of the Green Point Area Restoration plan of work; and, to transfer \$25,500 to the Shiawassee NWR in support of the Michigan Islands Restoration plan of work.

This Resolution No. 2021-01 may be executed in counterparts and shall be effective upon execution of all parties. The date of execution shall be the date of the last party's signature. A copy of the resolution with all original executed signature pages affixed shall constitute the original resolution.

Signature Page For:

U.S. Department of the Interior, Fish and Wildlife Service

**CHARLES
TRAXLER**

Digitally signed by
CHARLES TRAXLER
Date: 2021.07.01
13:58:40 -05'00'

for

By: Charles M. Wooley
Authorized Official for DOI
Regional Director for FWS
Bloomington, MN

Date

Signature Page For:

Michigan Department of Attorney General

/s/ Megan E. Miller

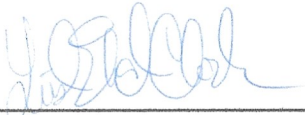
By: Megan Miller
Environment, Natural Resources, and Agriculture (ENRA) Division

July 14, 2021

Date

Signature Page For:

Michigan Department of Environment, Great Lakes, and Energy

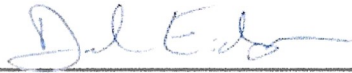


By: Liesl Eichler Clark
Director, Michigan Department of Environment, Great Lakes, and Energy

July 19, 2021
Date

Signature Page For:

Michigan Department of Natural Resources



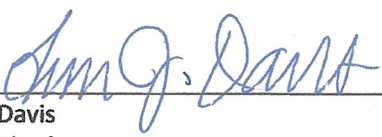
By: Daniel Eichinger
Director, Michigan Department of Natural Resources

8/11/2021

Date

Signature Page For:

Saginaw Chippewa Indian Tribe of Michigan



By: Tim J. Davis
Tribal Chief



Date