



United States Department of the Interior

FISH AND WILDLIFE SERVICE
134 Union Blvd
Lakewood, Colorado 80228



In Reply Refer to:
FWS/IR05/IR07

Memorandum

To: Program Manager, NRDAR, USDO, Washington, D.C.
Attention: Bruce Nesslerage

From: Regional Director, Interior Regions 5 and 7 *Norman E. Wahlh*

Subject: Request for Settlement Funds from the Department's Natural Resource Restoration Fund Account for the Sharon Steel and Portland Cement Natural Resource Damage Assessment and Restoration Cases, Utah, for Restoration Implementation and Monitoring

As the Authorized Official for the above cases, I request that \$939,393.81 be released to U.S. Fish and Wildlife Service (FWS), Interior Region 7, from the Sharon Steel Restoration Funds Account (Department of the Interior Natural Resource Damage Assessment and Restoration (DOI NRDAR) Project No. 0011) and the Portland Cement Restoration Funds Account (DOI NRDAR Project No. 0074). Any additional accrued interest from these accounts shall be released to the FWS as well, closing out both accounts. Funds released to the FWS shall be directed to the Utah Ecological Services Field Office (UT ESFO). Released funds will be disbursed to the Utah Department of Environmental Quality (UT DEQ) and the UT ESFO as follows:

<u>Fund</u>	<u>UT DEQ</u>	<u>UT ESFO</u>
Sharon Steel (0011)	\$ 399,992.63	\$ 117,322.31
Portland Cement (0074)	\$ 420,967.31	\$ 1,111.56
Agency Total	\$ 820,959.94	\$ 118,433.87
GRAND TOTAL	\$ 939,393.81	

These funds will allow the implementation of the Final Restoration Plan for the Sharon Steel NRDAR case and incorporate restoration plans for the Portland Cement NRDAR case. Detailed instructions for the allocation and use of these funds, as well as electronic deposit information for the UT DEQ, are provided in the Trustee Council Resolution (TCR) accompanying this memo.

INTERIOR REGION 5 MISSOURI BASIN

KANSAS, MONTANA*, NEBRASKA, NORTH DAKOTA,
SOUTH DAKOTA

*PARTIAL

INTERIOR REGION 7 UPPER COLORADO RIVER BASIN

COLORADO, NEW MEXICO, UTAH, WYOMING

The TCR describes the implementation of the restoration actions by the City of West Jordan under a contract with the State Trustee and monitoring by the UT ESFO, described on March 18, 2019, in the *Final Sharon Steel Natural Resources Restoration Plan and Environmental Assessment Addendum*.

If you have any questions or require further information, please contact Mark Sattelberg, Interior Regions 5 and 7, NRDAR Coordinator, at (303) 236-4261; or Chris Cline, Sharon Steel, and Portland Cement UT ESFO Case Manager, at (385) 285-7910.

Resolution No. 1

Natural Resource Restoration Sharon Steel Site Natural Resource Trustee Council Portland Cement Natural Resource Trustee Council

1. The United States Department of the Interior (DOI), acting through the U.S. Fish and Wildlife Service (FWS), and the State Trustee and Co-Trustee appointed by the Governor of Utah pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9607(f)(2)(b) are trustees for natural resources (Sharon Steel Trustees) injured in connection with the Sharon Steel and Midvale Slag Superfund sites (Sharon Steel Site) in West Jordan, Utah. DOI, acting through FWS, pursuant to CERCLA is the trustee for natural resources (Portland Cement Trustee) injured in connection with the Portland Cement Kiln Dust sites (Portland Cement Site) in Salt Lake City and northern Salt Lake County, Utah.
2. On February 5, 1990, the Federal District Court for the District of Utah approved a Partial Consent Decree which resolved the Trustees' claims against the responsible parties (UV Liquidating Trust, Atlantic Richfield Corporation, and other entities identified in the Partial Consent Decree) for natural resource damages associated with the Sharon Steel Site. In particular, the settlement resolved claims for damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from the release of hazardous substances, as provided in Section 107(a)(4)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9607(a)(4)(C), and certain other statutes. As part of the settlement, Sharon Steel Corporation and other settling defendants paid \$2.3 million for natural resource damages; these funds were deposited into a site-specific sub-account within the Natural Resource Damage Assessment and Restoration Fund, managed by the Department of Interior for the joint benefit and use of the Trustees as described in the Partial Consent Decree.
3. Pursuant to a Memorandum of Understanding executed on July 11, 1991, the Trustees agreed to coordinate and cooperate in the application of any recovered natural resource damages toward the restoration, rehabilitation, replacement, and/or acquisition of equivalent natural resources which had been injured, destroyed, or lost as a result of the release of hazardous substances from the Sharon Steel Site. The undersigned duly authorized Trustees or Trustee Representatives are jointly acting as the Sharon Steel Site Natural Resource Trustee Council (Sharon Steel Trustee Council).
4. The FWS, with the support of the State Trustees, developed a Sharon Steel Site Restoration Plan and Environmental Assessment (RP/EA) which described the Trustees' priorities and plans for restoring, rehabilitating, replacing, and/or acquiring the equivalent of the injured natural resources, and presented the RP/EA to the public on November 13, 1997. The RP/EA was finalized on December 30, 1997.

5. Since its finalization on December 30, 1997, two of the three projects identified in the RP/EA (the City of South Jordan Riverway Wildlife Enhancement Project and the Audubon/Tree Utah Migratory Bird Habitat Restoration Project) have been implemented, leaving a balance of approximately \$515,952.56 in the Sharon Steel Site account in the DOI NRDAR Fund. The third project, the Big Bend Migratory Bird Habitat Restoration Project (Big Bend Project) proposed by and located in the city of West Jordan, Utah, experienced setbacks shortly after it got underway in 1998 and was never implemented.
6. On September 20, 2018, the Trustees issued for public review and comment the Sharon Steel Site Draft RP/EA Addendum, which proposed using the remaining funds in the Sharon Steel Site NRDAR account and the funds in the Portland Cement Kiln Dust Site in Salt Lake City (Portland Cement Site) to implement the Big Bend Project. After review of public comments received, the Trustees issued a Sharon Steel Site Final RP/EA Addendum on March 15, 2019.
7. Pursuant to the Sharon Steel Site Final RP/EA Addendum, the Trustees will use \$399,992.63 of the remaining funds in the Sharon Steel Site NRDAR fund (approximately \$515,952.56) for planning and implementation of the Big Bend Project. These activities will be implemented as part of an expanded planning approach that will “connect people with nature” through integration of a regional trail system, an urban fishery, and opportunities for remote observation of habitat areas and wildlife.
8. In 1994, DOI was awarded \$200,000 for natural resource damages at the Portland Cement Site through bankruptcy proceedings involving Lone Star Industries, Inc. In a separate action at about the same time, DOI received a total of \$20,000 in exchange for United States and State of Utah covenants not to sue several parties having past or prospective ownership of property which is part of the Portland Cement Site. According to the settlement document, the funds received by DOI may be used for restoration, rehabilitation, replacement, and/or acquisition of natural resources in the State of Utah. These monies and accrued interest now total approximately \$420,967.31.
9. Because the natural resources injured by releases of hazardous substances from the Portland Cement Kiln Dust Site (migratory birds and supporting habitat in the Jordan River watershed) are essentially the same as those injured at the Sharon Steel and Midvale Slag Superfund sites, the Trustees incorporated the Portland Cement Kiln Dust Site restoration plan into the Sharon Steel Site Final RP/EA Addendum. In the Sharon Steel Site Final RP/EA Addendum, the Trustees selected to fund the Big Bend Project with \$420,967.31 of the Portland Cement funds.
10. The remaining balance in the Sharon Steel NRDAR fund, approximately \$115,595.94, will be retained and used by FWS for long-term monitoring of the Big Bend Project.
11. This Trustee Council Resolution follows issuance of the Final Sharon Steel Site RP/EA Addendum, and approves and effectuates transfer of the combined Sharon Steel Site and Portland Cement Kiln Dust Site funds in the amount of \$820,959.94 from the DOI

NRDAR Fund to the State Trustees. Of this amount, \$805,000 is accounted for in the budget that West Jordan City developed for the Big Bend Restoration Project. The remaining balance (approximately \$15,959.94) will be used by the State Trustees as contingency funding or will otherwise be spent on restoration actions at the Big Bend project site. It is the understanding and intent of the Trustees that the Trustees' transfer of these monies from the DOI NRDAR Fund to the State Trustees would enable the State Trustees to pass-through these monies to the City of West Jordan for administration as non-federal matching funds for purposes of seeking grants to support implementation of the Big Bend Project.

NOW THEREFORE IT IS HEREBY RESOLVED

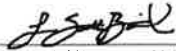
12. The State Trustees agree to receive money transfers from the DOI NRDAR Fund to the State Treasurer bank account referred to in the payment instructions (Appendix A) and subsequently transfer funds to the City of West Jordan to be used solely to restore injured trust resources as described in the Sharon Steel RP/EA and the Sharon Steel RP/EA Addendum.
13. The Trustee Council directs FWS, acting as the Lead Administrative Trustee, to request that the manager of the DOI NRDAR Fund electronically transfer the amounts referenced in Paragraph 14 to the State of Utah, for the specific purpose of passing-through these monies in the amount of \$805,000 to the City of West Jordan to support implementation of the Big Bend Project.
14. The Restoration Fund Manager will transfer \$820,959.94 from the Restoration Fund (combined monies of \$399,992.63 from Fund Account Number 0011 Sharon Steel Superfund Site, UT; and \$420,967.31 plus all accrued interest from Fund Account Number 0074 Portland Cement Superfund Site, UT) to the State Trustee Account. See Appendix A for routing instructions.
15. The City of West Jordan will set up an electronic account to receive a fund transfer from the State Trustees.
16. The State Trustees will transfer a total of \$805,000.00 to the City of West Jordan according to the schedule presented in Table 1 of this Resolution, below, to be used solely for purposes that support implementation of the Big Bend Project. Adjustments to this schedule and the amounts dispersed will be made based on written request by West Jordan City, justifying the reallocation(s), and by agreement with the co-Trustees, as described in the contract between Utah Division of Water Quality and West Jordan City.
17. General Use. The Settlement Funds may be used by the Trustees solely to plan and implement appropriate actions to restore, replace, rehabilitate, and/or acquire the equivalent of natural resources or resource services injured, destroyed, or lost as a release of hazardous substances consistent with the Final Sharon Steel Restoration Plan/EA Addendum and Big Bend Contract Attachment B and the schedule provided in Table 1 below.

18. Intended Use. The Trustees acknowledge that the joint Settlement funds are intended to be applied to the City of West Jordan Natural Habitat Restoration Project (Big Bend Project) provided that the implementation of the project remains feasible. For purposes of this agreement, the Big Bend project shall mean the restoration of 68 acres of land on the west side of the Jordan River upstream from the Sharon Steel Mill and Midvale Slag sites for use by migratory birds and other wildlife.
19. In accordance with the 1991 Memorandum of Understanding Between the State of Utah and the United States Department of the Interior for the Sharon Steel Site, and in accordance with the 2016 Memorandum of Agreement Among State of Utah Natural Resource Trustees and United States Department of the Interior, the Trustees will coordinate to ensure the funds disbursed will be expended consistent with the Final Sharon Steel Restoration Plan/EA Addendum and Big Bend Contract Attachment B and in accordance with decisions made by the Trustees for the use of such funds.
20. The effective date of this resolution shall be the date of the last Trustee signature below.

Table 1. Big Bend Restoration Project Planned Use of NRDAR Funds (FY2020-2023), from Scope of Work provided by RiverRestoration, Inc. to West Jordan City, May 3, 2019.

State Fiscal Year (Starts July 1)	Amount	Notes
2020	\$150,000	Use of funds for partial installation of irrigation system to provide for establishment of native and recreational landscapes and design of river and riparian improvements
2020	\$205,000	Final design of river and riparian improvements and beginning installation of those features
2021	\$250,000	Implementation of river and riparian improvements
2022	\$150,000	Finalization of river and riparian improvements
2023	\$50,000	Establishment monitoring and maintenance
TOTAL	\$805,000	Completed Project

By their signatures below, representatives of the Trustees hereby approve this Resolution and certify to its adoption in compliance with decision making procedures adopted by the Trustees, and that the expenditures so approved are consistent with the terms of the Consent Decree, settlement agreements, and applicable law.



Scott Baird (Aug 18, 2020 12:02 MDT)

L. Scott Baird
Director, Utah Department of Environmental Quality
Utah State Co-Trustee, Utah Department of Environmental Quality

08/18/2020

Date



Brian Steed

Director, Utah Department of Natural Resources

Utah State Co-Trustee, Utah Department of Natural Resources

8-26-2020

Date

Noreen E Walsh

Noreen Walsh
Regional Director, DOI Unified Regions 5 and 7
DOI Trustee

November 23, 2020

Date

Appendix A

UTAH DEQ PAYMENT INSTRUCTIONS

Agency	Contact Person	Mailing Address
Utah Department of Environmental Quality (DEQ)	Valerie Warr Phone 801-536-4447 vwarr@utah.gov	Attn: OSS PO Box 144810 North SLC, UT 84114-4810 ID 83706-1255

WIRE INSTRUCTIONS

- Instruct your bank to include the following data (if applicable) in the Originator to Beneficiary Information (OBI) section:
 - Your Company Name
 - Loan Number/Invoice Number
 - Invoice Date

ACH INSTRUCTIONS

- Instruct your bank to transmit your payment to the State Treasurer's bank account at least one business day prior to the payment due date. If an addenda record is included, please use an RMT addenda record format (below).

<i>RMT Addendum (Record 7)</i>		
<i>Position</i>	<i>Description</i>	<i>Value</i>
1	Record Type	7
2-3	Addenda Type	05
4-6	Segment Identifier	RMT
7	Separator	*
8-9	Invoice Data Qualifier	IV
10	Separator	*
11-28	Reference/Invoice	Alpha
29	Separator	*
30-39	Amount Paid	Numeric
40-45	Separator	*
47-52	Invoice Date	YYMMDD
53	Data Terminator	\

Example: \$123,427.16; Loan #0456-78; Invoice Date: July 31, 2010RMT*IV*DEQ-LOAN#0456-78*12342716*****100731\

Utah Dept. of Environmental Quality Bank Account information for WIRE and ACH:

Wells Fargo Bank
1955 W North Temple
Salt Lake City, Ut 84116
Deposit only account
Routing Transit # : 107005432 (ACH)

Routing Transit # : 121000248 (Wire)

Bank Account # (17 digits): 6000-07000000000006

Please note that this account information should only be used for payment to Dept. of Environmental Quality, Division of Water Quality. It should not be used to make payments to any other Environmental Quality divisions or other State entities.