



MATAGORDA BAY MITIGATION TRUST

Steven J. Raabe, P.E., Trustee

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TRUSTEE'S ANNUAL REPORT FOR 2024

CORRECTED

Formation (Consent Decree Paragraphs 51-54)

The Matagorda Bay Mitigation Trust (Trust) was created as a result of the settlement of a Clean Water Act lawsuit, *San Antonio Bay Estuarine Waterkeeper and S. Diane Wilson, vs. Formosa Plastics Corp., Texas and Formosa Plastics Corp., U.S.A.*, in the United States District Court for the Southern District of Texas, Victoria Division ("Consent Decree"). The settlement called for, among other things, the establishment of the Matagorda Bay Mitigation Trust with funding provided by Formosa in the amount of \$50 million over a five-year period. The final Consent Decree was filed with the United State District Court for the Southern District of Texas, Victoria Division on December 6, 2019.

In accordance with Paragraph 52 of the Consent Decree, the Parties to the lawsuit jointly agreed to appoint Steven J. Raabe, P.E. as Trustee for the Trust in February 2020.

The Trustee developed a Trust Agreement which prescribes in greater detail the administration of the Trust, role and responsibilities of the Trustee, and the management and distribution of funds paid by Formosa for mitigation projects. The Parties to the lawsuit executed the Trust Agreement on May 8, 2020 which formally established the Trust, whose EIN is 84-7112993. The Trust is classified as a Qualified Settlement Fund for which the Trustee serves as Administrator.

The Consent Decree required Formosa to make the first payment of mitigation funds to the Trust within 14 days of the establishment of the Trust. The first \$10 million payment was received by the Trust on May 19, 2020. The Consent Decree specifies that Formosa's subsequent annual payments to the Trust are due within one week of the anniversary of the

first payment which is May 26 of each year through 2024. The second \$10 million payment was received by the Trust on May 10, 2021. The third \$10 million payment was received by the Trust on May 10, 2022. The fourth \$10 million payment was received by the Trust on May 18, 2023. The fifth and final \$10 million payment was received on May 16, 2024.

The Consent Decree and the Trust Agreement provide that the Trustee shall send an annual report to the Parties to the lawsuit, of which this report is the fifth, and make the report publicly available. With the end of the fifth fiscal year of the Trust, this annual report, along with the audited financial statements for the Trust's fiscal year ending December 31, 2024, is posted on the Trust's website at www.mbmTrust.com.

Administration (Consent Decree Paragraphs 53-54, Trust Agreement)

As noted above, the Trust Agreement executed by the Parties to the lawsuit established the Trust which allowed the Trustee to begin developing and instituting the required processes, procedures, and contractual relationships to administer the Trust and the funds paid to the Trust by Formosa. The Trust has contracted with professionals for the following services: operations administration, legal, bookkeeping, audit, insurance, funds management, and website design and hosting.

The Trustee developed a budget for the administrative costs for 2024 in accordance with Section 2.5.3 of the Trust Agreement and it is included as Attachment A to this report. Actual expenditures were 3.0% under budget and were 0.015% when compared to the total monies received in 2024.

Additional mitigation payments were made to, or accrued by, the Trust in 2024 pursuant to Paragraph 36 of the Consent Decree, in the amount of \$11,080,904.00 representing 164 reported violation events.

The financial statements of the Trust were audited by the independent public accounting and consulting firm of Baker Tilly, LLP, headquartered in New York, NY. The result of the audit of the Trust's 2024 operations and financial statements was an unqualified opinion. This means that the Trust's financial statements and supporting documentation fairly represent the financial position of the Trust.

The Trust's mission statement is: To support and fund environmental mitigation projects, studies, and initiatives in the Matagorda Bay and San Antonio Bay ecosystems and other purposes allowed under the Consent Decree.

Environmental Mitigation Projects (Consent Decree Paragraphs 56-62)

Since inception, the Trust has made awards and/or contracts totaling \$48,601,862.34, of which \$16,259,339.00 was in the 2024 funding cycle. These mitigation projects are described in more detail below.

Matagorda Bay Cooperative Development Project (Consent Decree Paragraph 56)

The purpose of this mitigation project is to form a Matagorda Bay Fishing Cooperative and netting or transportation cooperatives, if necessary, to support the Fishing Cooperative.

The Trust has executed contracts with the Federation of Southern Cooperatives totaling \$1,681,820.50 to support the development of the fishing cooperative(s) and affiliated enterprises.

The Federation continues to work with Texas A&M SeaGrant to leverage grant funds provided by Texas A&M SeaGrant to acquire oyster mariculture leases and permits for the fishing cooperative. Texas A&M SeaGrant and the Texas A&M AgriLife Marine Extension agent for Calhoun County have facilitated aquaculture training and apprenticeships so the fishermen can gain experience in the aquaculture industry.

The Matagorda Bay Fishing Cooperative held its first membership meeting on February 24, 2024 and elected its board of directors. It also authorized the filing of its articles of incorporation which were filed with the Texas Secretary of State on February 27, 2024. The Calhoun County Commissioners Court recognized the members of the Matagorda Bay Fishing Cooperatives for their work in developing the fishing cooperative.

The Federation is assisting the Cooperative in negotiations for the acquisition of processing and dock facilities.

The Federation funded the completion of the natural resources survey of the area being considered for oyster farming and submitted that report to the Texas Parks and Wildlife Department in support of the Cooperative's permit application for oyster farming. The permit applications for 30 sub-permittees (individual Cooperative members) were submitted to Texas Parks and Wildlife Department in August 2024.

Of the \$20 million the Trust has received to date for the Matagorda Bay Cooperative Development project, \$997,545.50 has been expended by the Federation as of the end of 2024.

Green Lake Park (Consent Decree Paragraph 57)

The purpose of this mitigation project is for the development, protection, operation, and maintenance of Green Lake Park owned by Calhoun County.

The Trust executed a contract in 2020 with Calhoun County in the amount of \$2,000,000.00 for the design and repair of a breach in the Green Lake shoreline that is causing seepage from Green Lake into adjacent waters. The surveys were completed in the fall of 2021 and the engineering feasibility analysis and site selection for the breach repair was completed in early 2022. In 2024 the project design underwent a value engineering analysis to bring the project within budget. The project is currently undergoing environmental permitting review. Final engineering and construction are scheduled to commence in 2025.

The Trust executed a contract in 2022 with Calhoun County in the amount of \$260,000.00 for engineering services for the design and construction administration of the Phase 1 improvements for the Green Lake Park Development project. The Trust executed an amendment in the amount of \$23,250.00 in December 2023 for additional environmental services. The environmental, historical and cultural permitting process has extended the schedule for Phase 1. The project was advertised for bids in December 2024 with the construction award scheduled for early 2025 and construction completion by the end of 2025.

Calhoun County YMCA Summer STEM Program (Consent Decree Paragraph 58)

The purpose of this mitigation project is to fund camps for children and teenagers in the Matagorda and San Antonio Bay area, which will be focused on education about how to be a good steward of the local ecosystems, will teach outdoor education, and provide recreation activities.

The Trust executed a contract amendment with the Calhoun County YMCA for the remaining \$225,000.00 for the 2024 summer STEM program. The educational activities for the youth participants in the 2024 summer STEM program concluded in August 2024. Over 247 youth participated in the program. A final report of the results of the 2024 Summer STEM program is located on the Trust's website at <https://mbmtrust.com/media/zx0jyaep/mbmt-ymca-001-final-report-2024.pdf>.

Magnolia Beach Erosion Control and Beach Restoration (Consent Decree Paragraph 59)

The purpose of this mitigation project is for erosion control and beach restoration at Magnolia Beach. Funds may be used for purchase and use of clean and uncontaminated fill material, planting of native plants, necessary construction to prevent future erosion, and necessary maintenance to prevent beach erosion.

All the funding for this mitigation project became available in 2022. Calhoun County has procured an engineering consultant to design the project. The Trust entered into a contract with Calhoun County on November 18, 2023 to complete this project. The project is currently in the engineering design phase.

University of Texas Marine Science Institute Nurdle Patrol (Consent Decree Paragraph 60)

The purpose of this mitigation project is for environmental quality assessment and environmental education, specifically to support the Nurdle Patrol and environmental conferences.

The final report documenting the fourth year's activities is located on the Trust's website at <https://www.mbmtrust.com/media/0t2ft3gf/mbmt-utmsi-002-report-final-yr-4-5-24.pdf>.

The Trust executed a contract amendment with the University of Texas Marine Science Institute for the final \$200,000.00 for the fifth year's activities which are scheduled to conclude on December 31, 2025.

Environmental Research Mitigation Project (Consent Decree Paragraph 61)

The purpose of this mitigation project is to provide funding for environmental research regarding the Matagorda and San Antonio Bay Systems, or the river deltas in Calhoun or Jackson Counties feeding into those systems. Funding may be distributed for environmental research topics, including but not limited to, the ecology, pollution, fisheries, or habitat and wildlife restoration of the ecosystems.

The Trustee was charged by Consent Decree Paragraph 61 to establish a system to provide funding for research, including providing public notice of the funding opportunity and setting up a review process for applications with researchers in applicable fields. The Trustee felt it was in the best interests of the Trust to solicit and award Paragraph 61 proposals in conjunction with the process utilizing the Award Committee specified in Consent Decree Paragraph 62. The Trustee issued a request for proposals on September 1, 2024 soliciting proposals for the 2024 funding cycle. The Trustee funded two environmental research projects from the submittals received in response to the request for proposals totaling \$896,214. They are listed as follows:

- Assessment of groundwater quality and dynamics near Formosa plant and Alcoa Superfund Site, Lavaca Bay, Texas A&M University - Galveston, (\$470,925)
- Trace element concentrations in sediment from the Alcoa (Point Comfort)/Lavaca Bay Superfund site, Texas State University, (\$425,289)

Progress reports from Paragraph 61 projects funded in previous funding cycles can be found on the Trust's website at <https://mbmtrust.com/project-summaries/>.

Matagorda Bay Mitigation Trust Mitigation Projects (Consent Decree Paragraph 62)

The purpose of this mitigation project is to research, protect, and restore the water bodies and surrounding ecosystems of the Bay Systems or the river deltas feeding into those systems. The Trust shall award funds for the benefit of these waterbodies and the public, including for:

- providing public education about those waterbodies;
- sponsoring youth camps such as described in paragraph 57 of the Consent Decree;
- purchasing land in the watersheds of those waterbodies for conservation purposes, in order to reduce runoff and other pollution into those waterbodies, and/or to improve public access (physical or visual) to them;
- environmental research of those waterbodies as described in paragraph 59 of the Consent Decree;
- environmental advocacy, except for litigation;

- habitat restoration; and/or,
- additional funding for the dedicated Mitigation Projects described in paragraphs 52-57 of the Consent Decree.

The Award Committee, specified in Consent Decree Paragraph 62, established the 2024 funding priorities for proposals. The Trustee issued a request for proposals (RFP) on September 1, 2024 which was publicly advertised. The Trust received 60 proposals. The Award Committee recommended the award of 29 projects from the submittals received totaling \$15,363,125. The projects being funded, by category, are:

Habitat Restoration (Eleven projects totaling \$7,459,000)

Derelict Crab Trap Removal Project: Texas Mid-Coast-2026, San Antonio Bay Partnership, (\$30,000)

Protection and Restoration of Ayres Point Oyster Reefs: Final Engineering/Design and Bid Package Development, Coastal Bend Bays and Estuaries Program, (\$200,000)

Oliver Point and Oliver Reef Restoration Project - Phase I, Matagorda Bay Foundation, (\$2,000,000)

Dressing Point Island Restoration Project Phase 2, Ducks Unlimited, (\$2,000,000)

Acquisition and Restoration of ICF's Texas Flagship Property, International Crane Foundation, (\$380,000)

Little Bird Island North Permitting and Final Design, San Antonio Bay Partnership, (\$443,000)

Swan Point Resiliency and Restoration, Calhoun County, (\$1,500,000)

San Antonio & Espiritu Santo Bay Shorelines Cleanup and Reduction, San Antonio Bay Partnership, (\$36,000)

Habitat Restoration of the Hog and Schwing Bayou Preserve-Phase II, Guadalupe-Blanco River Trust, (\$500,000)

Clive Runnells Family Mad Island Marsh Preserve Management and Shoreline Protection, The Nature Conservancy, (\$200,000)

Cedar Bayou Maintenance Dredging Permit Amendment to Create DMPA on Matagorda Island, Coastal Bend Bays and Estuaries Program, (\$170,000)

Environmental Research (Two projects totaling \$693,704)

The Status and Historical Trends of Estuarine Organisms of the Colorado-Lavaca Estuary-Effects of Anthropogenic, Hydrologic, and Climate Related Influences on Species Abundance and Community Composition, Matagorda Bay Foundation, (\$446,981)

Managing for Gulf American Oystercatchers: Monitoring the Gulf Coast Populations and Investigating Wintering and Foraging Behaviors, Gulf Coast Bird Observatory, (\$246,723)

Public Education (Four projects totaling \$1,296,186):

Nurdle Patrol Citizen Science Project, Texas A&M University – Corpus Christi, (\$749,999)

City of Port Lavaca Mid-Coast Birding Festival Boat Tours, City of Port Lavaca, (\$16,250)

YMCA Field Education Transportation Initiative, Calhoun County YMCA, (\$465,510)

Calhoun County Extension Office Truck for Public Education on Waterbodies and Surrounding Ecosystems, Calhoun County, (\$64,427)

Improving Public Access (Nine projects totaling \$4,694,735):

Expansion of King Fisher Beach Park, Calhoun County, (\$480,000)

Purchase of Kitchen Tract on Lavaca Bay for Conservation and Improve Public Access to the Waterfront, City of Port Lavaca, (\$479,500)

Port Alto Shoreline Restoration and Habitat Protection, Callhoun County, (\$2,000,000)

New Matagorda Harbor Boat Ramp, Port of Bay City Authority, (\$338,500)

Seadrift A. D. Powers Bayfront Park Improvements, City of Seadrift, (\$335,000)

Adopt-a-Beach: Magnolia and Indianola Beaches, Magnolia Beach VFD Auxiliary, (\$15,000)

City of Point Comfort – Public Access to City’s Waterfront Park & Boat Ramp, City of Point Comfort, (\$457,129)

Little Chocolate Bayou Park Restrooms, Calhoun County, (\$249,926)

King Fisher Pier Project, Calhoun County, (\$339,680)

Youth Camps (Three projects totaling \$1,219,500):

Matagorda Manana, Texas Floating Classroom, Inc., (\$94,500)

Port Lavaca YMCA Summer Camp, Calhoun County YMCA, (\$750,000)

Bay City YMCA Summer Camp, Calhoun County YMCA, (\$375,000)

Progress reports from Paragraph 62 projects funded in previous funding cycles can be found on the Trust's website at <https://mbmtrust.com/project-summaries/>.

ATTACHMENT A

Matagorda Bay Mitigation Trust

Administrative Costs

Actual vs. Budget – Audited

Fiscal Year Ending 2024

<u>Expense Item</u>	<u>Actual</u>	<u>Budget</u>
Advertising	\$ 1,455.71	\$ 1,000.00
Award Committees	3,023.00	3,000.00
Bank Fees	690.30	1,200.00
Compensation – Trustee	107,721.32	96,500.00
Compensation - Operations Administrator	66,763.79	62,500.00
Contract Services		2,000.00
Contributions		1,000.00
Dues and Subs		300.00
Insurance	7,538.50	18,000.00
Investment Fees	83,987.30	60,000.00
Office Supplies	313.51	200.00
Printing/Duplication		300.00
Postage/Shipping	16.45	100.00
Professional Services-Legal	15,775.00	50,000.00
Professional Services-Tax		5,000.00
Professional Service-Accounting	52,600.00	40,000.00
Professional Services-Audit	31,350.00	34,000.00
Professional Services-Other		5,000.00
Rent – Equipment		300.00
Seminars		1,000.00
Telephone/Internet	550.08	780.00
Travel/Mileage	1,250.61	2,000.00
Webservices/Host	718.89	1,000.00
TOTAL	<u>\$ 373,754.46</u>	<u>\$ 385,180.00</u>

Under budget by \$11,425.54 = 3.0%