

# Congress of the United States

Washington, DC 20515

September 3, 2015

The Honorable Sally Jewell  
Secretary  
U.S. Department of the Interior  
1849 C Street NW  
Washington, D.C. 20240

Dear Secretary Jewell:

On August 5, 2015, the Environmental Protection Agency (EPA) caused mine waste to spill into the regional river system from the Gold King Mine in San Juan County, Colorado.<sup>1</sup> According to media reports, EPA's operation of heavy equipment on the site led to the spill.<sup>2</sup> The plume of mine waste eventually reached into Utah, New Mexico, and the Navajo Nation.<sup>3</sup> The spill released several hazardous contaminants into the regional river system, including arsenic, lead, and cadmium.<sup>4</sup>

The House Committee on Oversight and Government Reform ("OGR") and the House Committee on Natural Resources ("Natural Resources") are conducting oversight of this toxic spill. Internal EPA documents show the agency, and a contractor it retained for the mine project, knew in June 2014 that conditions at the site could "cause a release of large volumes of contaminated mine waters and sediment from inside the mine, which contain concentrated heavy metals."<sup>5</sup>

Despite knowing for more than one year that a catastrophic spill was possible, EPA struggled to respond to the disaster. For example, EPA initially announced that one million gallons of waste spilled into the water. Days later, EPA raised its estimate of toxic water spilled to three million gallons—three times more than previously stated.<sup>6</sup> Press reports also described

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<sup>1</sup> Gold King Mine Release Incident, Envntl. Protection Agency, Region 8, *available at* [http://epaoscr.org/site/site\\_profile.aspx?site\\_id=11082](http://epaoscr.org/site/site_profile.aspx?site_id=11082) (last visited Aug. 25, 2015).

<sup>2</sup> Jesse Paul and Bruce Finley, *Animas River Fouled By 1 Million Gallons Of Contaminated Mine Water*, THE DENVER POST, Aug. 6, 2015.

<sup>3</sup> *Gold Mine's Toxic Plume Extends to Utah*, THE DAILY TIMES, Aug. 11, 2015.

<sup>4</sup> *Id.*

<sup>5</sup> Gold King task Order Statement of Work, Envntl. Protection Agency, *available at* <http://www2.epa.gov/goldkingmine/gold-king-task-order-statement-work> (last visited Aug. 24, 2015).

<sup>6</sup> Steve Garrison and Joshua Kellogg, *EPA: Pollution From Mine Spill Much Worse Than Feared*, THE DAILY TIMES, Aug. 10, 2015.

tribal and state officials in the affected regions experiencing difficulty getting timely information from EPA.<sup>7</sup> One affected state environmental department official stated EPA did not take proper action to alert residents to possible dangers and failed to notify the state when the incident occurred.<sup>8</sup>

Furthermore, at some point after the spill, EPA chose the Department of the Interior to conduct an “independent review” of the disaster. The decision to assign that job to another Executive Branch agency raises concerns that the reviewers are not sufficiently independent, and therefore susceptible to political influence or liable to limit the scope of the review.<sup>9</sup> Moreover, the spill raises serious questions about the steps DOI has taken to protect its natural resource and trust interests.

The Committees are reviewing how EPA and other federal agencies responded to and handled the incident, the subsequent cleanup, and the threat of another waste spill in the area. In order for the Committees to better understand the circumstances relating to the toxic spill from the Gold King Mine, please provide the following documents and information:

1. All documents and communications between and among the Department of the Interior and its agencies or bureaus, including the Bureau of Indian Affairs, the Bureau of Land Management, the Bureau of Reclamation, the National Park Service, the U.S. Geological Survey, and the U.S. Fish and Wildlife Service, referring or relating to:
  - a. Providing notification of the spill to non-federal personnel.
  - b. Information about the spill and its effects.
  - c. The subsequent response and/or cleanup efforts.
2. All documents and communications between the Department of the Interior, including its agencies or bureaus, and state, local, and/or tribal officials referring or relating to:
  - a. Providing notification of the spill.
  - b. Information about the spill and its effects.
  - c. The subsequent response and/or cleanup efforts.
3. All documents and communications EPA has shared with DOI in the course of DOI’s review of the spill.

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<sup>7</sup> *Residents Demand Health Answers As Mine Spill Fouls Rivers*, ASSOC. PRESS, Aug. 10, 2015.

<sup>8</sup> Mariano Castillo, *Pollution Flowing Faster Than Facts In EPA Spill*, CNN, Aug. 10, 2015.

<sup>9</sup> Env’tl. Protection Agency Press Release, “EPA Announces U.S. Department of the Interior to Lead Independent Review of Gold King Mine Release” (Aug. 18, 2015), available at <http://www2.epa.gov/goldkingmine/epa-announces-us-department-interior-lead-independent-review-gold-king-mine-release> (last visited Aug. 25, 2015).

4. All documents and communications referring to or regarding any violations of federal or state laws or regulations related to the spill, including, but not limited to, violations by EPA or its contractors in the course of their activities at the Gold King Mine, and/or any subsequent efforts to control, contain, remediate or to make notifications regarding the spill. For the purposes of this request, federal or state laws and regulations include, but are not limited to, the Clean Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, the National Environmental Policy Act, and the Endangered Species Act.
5. All documents and communications referring or relating to any investigation, review, or analysis of the Gold King Mine, conducted by the Bureau of Reclamation or any other agency of the Department of the Interior, or by any agency or firm outside the Department, including, but not limited to, EPA.
6. All documents and communications referring or relating to EPA's decision to perform the work at the Gold King Mine, including, but not limited to, any studies, plans, feedback, opinions, and communications with any entity or person, including citizens, states, tribal organizations, or local/community leaders regarding the mine, its condition prior to work, and the need for the work.
7. All documents and communications referring or relating to the response and cleanup, including information exchanged with EPA, its employees, or any outside groups or entities, plans/proposals, estimates and bids for the remediation, and opinions regarding the cleanup and damages, and all information relating to notifying the public and state/local/community/tribal leaders of the spill and its effects and potential impacts.
8. All documents and communications with EPA, its employees, or any other federal agencies including, the Forest Service (USFS), the Federal Emergency Management Agency (FEMA), or the Agency for Toxic Substances and Disease Registry (ASTDR) regarding notification about the incident of the spill or refer or relate to the spill, the spill response and cleanup, or effects of the spill.
9. All documents, photographs, video, or other media that show any activities or work at the Gold King Mine, the breach on August 5, 2015, the spill, the damages, and/or the areas affected by the spill.
10. All documents and communications referring or relating to the possible designation of the Gold King Mine or other mines adjacent to the Animas River as a "superfund" or CERCLA site.

Please provide the requested information as soon as possible, but no later than Wednesday, September 16, 2015. When producing documents to the Committees, please deliver production sets to the OGR Majority staff in Room 2157 of the Rayburn House Office Building and the OGR Minority staff in Room 2471 of the Rayburn House Office Building. Please

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deliver production sets for the Natural Resources Majority staff to 1324 in the Longworth House Office Building and for the Minority staff to room 1329 in the Longworth House Office Building. The Committees prefer, if possible, to receive all documents in electronic format.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. The House Committee on Natural Resources has broad jurisdiction with regard to the Department of the Interior and as regards relations of the United States with Native Americans and Native American tribes, public lands generally, fisheries and wildlife, mining interests generally, and irrigation and reclamation. An attachment to this letter provides additional information about responding to the Committees’ request.

Please contact William McGrath or Ryan Hambleton of the OGR Committee at (202) 225-5074 or Rob Gordon or Jessica Conrad of the Natural Resources Committee at (202) 225-7107 with any questions about this request. Thank you for your prompt attention to this important matter.

Sincerely,



Jason Chaffetz  
Chairman  
Committee on Oversight and  
Government Reform



Rob Bishop  
Chairman  
Committee on Natural Resources



Cynthia M. Lummis  
Chairman  
Subcommittee on the Interior

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member  
Committee on Oversight and Government Reform

The Honorable Raúl Grijalva, Ranking Member  
Committee on Natural Resources

The Honorable Brenda Lawrence, Ranking Member  
Subcommittee on the Interior