

**SUBPOENA**

**BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE  
CONGRESS OF THE UNITED STATES OF AMERICA**

Lieutenant General Thomas Bostick, Commanding General & Chief of Engineers, U.S. Army Corps of  
Engineers

To

You are hereby commanded to be and appear before the  
Committee on Natural Resources

of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 1324 Longworth House Office Building

Date: February 26, 2014

Time: 5:00 p.m.

- to testify at a deposition touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

- to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

To U.S. Marshals Service or any designated staff member of the Natural Resources Committee

\_\_\_\_\_ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at

the city of Washington, D.C. this 17th day of February, 2014.

  
Chairman or Authorized Member

Attest:



Clerk

**PROOF OF SERVICE**

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Subpoena for Lieutenant General Thomas P. Bostick, Commanding General and Chief of Engineers,  
U.S. Army Corps of Engineers

Address Attn: Jennifer Greer, U.S. Army Corps of Engineers,  
441 G Street NW, Washington, DC 20314

before the Committee on Natural Resources

*U.S. House of Representatives*  
*114th Congress*

Served by (print name) Jessica M. Conrad

Title Counsel

Manner of service by email to Jennifer Greer, USACE

Date 2/17/2014

Signature of Server Jessica M. Conrad

Address 1324 Longworth HOB

## SCHEDULE OF DOCUMENTS

In accordance with the attached schedule instructions, you Lieutenant General Thomas P. Bostick, Commanding General and Chief of Engineers, U.S. Army Corps of Engineers (“USACE”), are required to produce complete and unredacted copies of all records described below:

1. The following documents regarding the USACE peer review of the U.S. Department of the Interior’s *Technical Evaluation of the Gold King Mine Incident*:
  - a. item 1 -Gold King Final with Olsen comments
    - i. RECLAMATION, *Managing Water in the West*, Technical Evaluation of the Gold King Mine Incident (October 13, 2015)
  - b. item 2-2015-0925 00 Gold King USBR draft for R 5 -)o
    - i. RECLAMATION, *Managing Water in the West*, Technical Evaluation of the Gold King Mine Blowout (September 25, 2015)
  - c. item 2-2015-1013 00 Gold King USBR Final total 3 -)o
    - i. RECLAMATION, *Managing Water in the West*, Technical Evaluation of the Gold King Mine Incident (October 13, 2015)
  - d. GoldKingIndependentInvestigationDraftReportSep.doc
    - i. RECLAMATION, *Managing Water in the West*, Technical Evaluation of the Gold King Mine Blowout (September 25, 2015)
  - e. Soil Sampling and testing Summary
    - i. Appendix C of Technical Evaluation
  - f. Uncontrolled ReleasesUS
    - i. Appendix A of Technical Evaluation
  - g. GoldKingIndependentInvestigaitonDraftReportSep(002)
    - i. EPA Work Activities in 2015
  - h. Soil Sampling and testing Summary(attachment to Gold King Mine Report)
    - i. Appendix C of Technical Evaluation
  - i. Gold King Mine - Review Comments by D Gillett
    - i. Technical Evaluation of the Gold King Mine Blowout, Review Comments on Initial Draft, Dave Gillette (4 October 2015)
  - j. Gold King Mine report
    - i. Randall W. Jibson review of *Technical Evaluation of the Gold King Mine Blowout*
  - k. Gold King Mine report(001)
    - i. Randall W. Jibson review of *Technical Evaluation of the Gold King Mine Blowout*
  - l. GoldKingIndependentInvestigaitonDraftReportSep(Jibson)
    - i. Randall W. Jibson Comments on the RECLAMATION, *Managing Water in the West*, Technical Evaluation of the Gold King Mine Blowout (September 25, 2015)
  - m. EPA Gold Mine failure USBR draft USACE 2015+10

- i. USACE review of the USBR internal draft report on the investigation efforts for the EPA Gold Mine failure, submissions on 2015 Oct 6
- n. GKM BOR draftfinal part 1 (1)
  - i. RECLAMATION, *Managing Water in the West*, Technical Evaluation of the Gold King Mine Blowout (October 13, 2015)

2. Each of the following communications:

- a. Email from Richard S. Olsen, to Robert Bank, Joseph Koester. Subject: EPA Gold King Mine failure (last week in Colorado) and potential USACE geotechnical failure assistance (UNCLASSIFIED). Sent Friday, August 14, 2015 at 5:02:25 PM.
- b. Email from Richard S. Olsen, to Karen Baker, Robert Bank, James Dalton. Subject: RE: [EXTERNAL] Fwd: Reclamation Scope of Work – Gold King Mine (UNCLASSIFIED). Sent Tuesday, August 18, 2015 at 8:58 PM.
- c. Email from Randall Jibson, to David Gillette, Richard S. Olsen. Subject: Re: [EXTERNAL] Gold King review (UNCLASSIFIED). Sent Thursday, October 1, 2015 at 9:21 AM.
- d. Email from Richard S. Olsen, to David Gillette, Randall Jibson. Subject: Re: [EXTERNAL] Gold King review. Sent Wednesday, September 30, 2015 at 5:57 PM.
- e. Email from David Gillette to Richard S. Olsen, Randall Jibson. Subject: Re: [EXTERNAL] Gold King review. Sent Thursday, October 1, 2015 at 10:36:33 AM.
- f. Email from Randall Jibson, to Richard S. Olsen, David Gillette. Subject: Re: [EXTERNAL] Gold King review (UNCLASSIFIED). Sent Thursday, October 1, 2015 at 11:37:24 AM.
- g. Email from David Gillette, to Randall Jibson, Richard S. Olsen. Subject: Re: [EXTERNAL] Gold King review (UNCLASSIFIED). Sent Thursday, October 1, 2015 at 1:45 PM.
- h. Email from David Gillette, to Randall Jibson, Richard S. Olsen. Subject: Re: [EXTERNAL] Gold King review (UNCLASSIFIED). Sent Thursday, October 1, 2015 at 3:52:57 PM.
- i. Email from Randall Jibson, to David Gillette, Richard S. Olsen. Subject: Re: [EXTERNAL] Gold King review (UNCLASSIFIED). Sent Thursday, October 1, 2015 at 5:17:20 PM.
- j. Email from Richard S. Olsen, to Randall Jibson, David Gillette. Subject Re: [EXTERNAL] Gold King review (UNCLASSIFIED). Sent Thursday, October 1, 2015 at 5:53:16 PM.
- k. Email from David Gillette, to Randall Jibson, Richard S. Olsen. Subject Re: [EXTERNAL] Gold King review (UNCLASSIFIED). Sent Thursday, October 1, 2015 at 6:06:02 PM.
- l. David Gillette, to Randall Jibson, Richard S. Olsen. Subject Re: [EXTERNAL] Gold King review (UNCLASSIFIED). Sent Thursday, October 1, 2015 at 6:14:33 PM.
- m. Email from Michael Gobla to Richard S. Olsen, Randall Jibson, David Gillette, Leslie Stone, Christopher Gemperline, Thomas Luebke. Subject: [External] Gold King Mine Report. Sent Friday, October 02, 2015 at 4:17:21 PM

- n. Email from David Gillette, to Randall Jibson, Richard S. Olsen. Subject Re: [EXTERNAL] Gold King review (UNCLASSIFIED). Sent Friday, October 2, 2015 at 1:28:34 PM.
- o. Email from David Gillette, to Randall Jibson, Richard S. Olsen. Subject Re: [EXTERNAL] Gold King review (UNCLASSIFIED). Sent Sunday, October 4, 2015 at 2:48:01 PM.
- p. Email from Randall Jibson, to David Gillette, Richard S. Olsen. Subject Re: [EXTERNAL] Gold King review (UNCLASSIFIED). Sent Monday, October 5, 2015 at 12:38:31 PM.
- q. Email from David Gillette, to Randall Jibson, Richard S. Olsen. Subject Re: [EXTERNAL] Gold King review (UNCLASSIFIED). Sent Monday, October 5, 2015 at 2:11:55 PM.
- r. Email from Richard S. Olsen to James Dalton, Robert Bank. Subject: Re: Peer Review Progress. Sent Wednesday, October 14, 2015 at 1:13:42 PM.
- s. Email from Richard S. Olsen to Joseph Koester, Robert Bank, James Dalton. Subject: Re: [EXTERNAL] Request for Final Peer Review of the Gold King Mine Incident Report (UNCLASSIFIED). Sent Wednesday, October 14, 2015 at 1:30 PM.
- t. Email from Joseph Koester to Richard S. Olsen, Robert Bank. Subject: Re: [EXTERNAL] Request for Final Peer Review of the Gold King Mine Incident Report (UNCLASSIFIED). Sent Wednesday, October 14, 2015 at 1:35 PM.
- u. Email from Richard S. Olsen to Joseph Koester, Robert Bank, James Dalton. Subject: Re: [EXTERNAL] Request for Final Peer Review of the Gold King Mine Incident Report (UNCLASSIFIED). Sent Wednesday, October 14, 2015 at 1:55 PM.
- v. Email from Richard S. Olsen to Joseph Koester, Robert Bank, James Dalton. Subject: Re: [EXTERNAL] Request for Final Peer Review of the Gold King Mine Incident Report (UNCLASSIFIED). Sent Wednesday, October 14, 2015 at 1:56 PM.
- w. Email from David Gillette to Randal Jibson, Thomas Luebke, Richard Olsen, Leslie Stone, Michael Gobla, Christopher Gemperline. Subject: [EXTERNAL] Re: Gold Kind Mine Draft Final Report. Sent Thursday, October 15, 2015 at 2:29:55 PM.
- x. Email from Richard S. Olsen to Thomas Luebke. Subject: [EXTERNAL] Request for Final Peer Review of the Gold King Mine Incident Report (UNCLASSIFIED). Sent Friday, October 16, 2015 at 10:01 AM.
- y. Email from Richard S. Olsen to Thomas Luebke. Subject: Re: [EXTERNAL] Request for Final Peer Review of the Gold King Mine Incident Report (UNCLASSIFIED). Sent Friday, October 16, 2015 at 12:01:51 PM.
- z. Email from Richard S. Olsen to Thomas Luebke. Subject: [EXTERNAL] Request for Final Peer Review of the Gold King Mine Incident Report (UNCLASSIFIED). Sent Friday, October 16, 2015 at 12:02 PM.
- aa. Email from Joseph Koester to Richard S. Olsen, James Dalton, Robert Bank. Subject: Re: [EXTERNAL] Request for Final Peer Review of the Gold King Mine Incident Report (UNCLASSIFIED). Sent Friday, October 16, 2015 at 12:21:06 PM.

- bb. Email from Thomas Luebke to Richard Olsen. Subject: Re: [EXTERNAL] Request for Final Peer Review of the Gold King Mine Incident Report (UNCLASSIFIED). Sent Friday, October 16, 2015 at 12:32 PM.
- cc. Email from Richard S. Olsen to Thomas Luebke. Subject: Re: [EXTERNAL] Request for Final Peer Review of the Gold King Mine Incident Report (UNCLASSIFIED). Sent Friday, October 16, 2015 at 1:31 PM.
- dd. Email from Richard S. Olsen to Thomas Luebke. Subject: Re: [EXTERNAL] Request for Final Peer Review of the Gold King Mine Incident Report (UNCLASSIFIED). Sent Friday, October 16, 2015 at 1:52 PM.
- ee. Email from Richard S. Olsen to Thomas Luebke. Subject: RE: [EXTERNAL] Request for Final Peer Review of the Gold King Mine Incident Report (UNCLASSIFIED). Sent Friday, October 16, 2015 at 3:31 PM.
- ff. Email from Richard S. Olsen to Thomas Luebke. Subject: Re: [EXTERNAL] Request for Final Peer Review of the Gold King Mine Incident Report (UNCLASSIFIED). Sent Friday, October 16, 2015 at 3:32 PM.

### SCHEDULE INSTRUCTIONS

1. In complying with this Subpoena, you shall produce all responsive documents that are in your possession, custody, or control.
2. Documents responsive to the subpoena shall not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization or individual denoted in the subpoena has been, or is currently, known by any other name than that herein denoted, the subpoena shall be read also to include them under that alternative identification.
4. Each document produced shall be produced in a form that renders the document capable of being copied.
5. When you produce documents, you shall identify the paragraph or clause in the Committee's subpoena to which the documents respond.
6. Documents produced in response to this subpoena shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when this subpoena was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they shall be organized into separate folders by subject matter prior to production.
7. Each folder and box shall be numbered, and a description of the contents of each folder and box, including the paragraph or clause of the subpoena to which the documents are responsive, shall be provided in an accompanying index.
8. It is not a proper basis to refuse to produce a document that any other person or entity also possesses a nonidentical or identical copy of the same document.
9. If any of the subpoenaed information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), you shall consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format shall be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above. Documents produced in an electronic format shall also be produced in a searchable format.
10. In the event that a document is withheld on any basis, provide a log containing the following information concerning any such document: (a) the basis for withholding the document; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
11. If any document responsive to this subpoena was, but no longer is, in your possession, custody, or control, you shall identify the document (stating its date, author, subject and

recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.

12. If a date or other descriptive detail set forth in this subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the subpoena, you shall produce all documents which would be responsive as if the date or other descriptive detail were correct.
13. This subpoena is continuing in nature and applies to any newly-discovered document. Any document not produced because it has not been located or discovered by the return date shall be produced immediately upon location or discovery subsequent thereto.
14. All documents shall be bates-stamped sequentially and produced sequentially.
15. Two sets of documents shall be delivered, one set to the majority staff and one set to the minority staff. The majority set shall be delivered to the majority staff in Room 1324 of the Longworth House Office Building and the minority set shall be delivered to the minority staff in Room 1329 of the Longworth House Office Building. You shall consult with Committee staff regarding the method of delivery prior to sending any material.
16. Upon completion of the document production, you shall submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee or identified in a privilege log provided to the Committee.
17. In complying with the subpoena, be apprised that the U.S. House of Representatives and the Committee do not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.



## DEFINITIONS FOR SCHEDULE

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, whether classified or unclassified, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meeting or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto). The term also means any graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "documents in your possession, custody, or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that you have placed in the temporary possession, custody, or control of any third party.
3. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
4. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
5. The terms "person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships,

syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The terms "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.
7. "You" or "your" means and refers to you as a natural person and the United States and any of its agencies, offices, subdivisions, entities, officials, administrators, employees, attorneys, agents, advisors, consultants, staff, or any other persons acting on your behalf or under your control or direction at the U.S. Army Corps of Engineers.