

**U.S. House of Representatives
Committee on Science, Space, and Technology**

HEARING CHARTER

Holding EPA Accountable for Polluting Western Waters

Wednesday, September 9, 2015
10:00 a.m. – 12:00 p.m.
2318 Rayburn House Office Building

Purpose

On September 9, 2015, the Committee on Science, Space, and Technology will hold a hearing titled *Holding EPA Accountable for Polluting Western Waters*. The hearing will examine circumstances surrounding the 3 million gallon toxic waste spill at the Gold King Mine in Colorado that was apparently caused by a contractor acting at the direction of the Environmental Protection Agency (EPA). The hearing will also address EPA's response to the incident and the long-term impacts of the spill on health, the environment, and local economy.

Witnesses

- **The Honorable Mathy Stanislaus**, Assistant Administrator, Office of Solid Waste and Emergency Response, Environmental Protection Agency
- **Mr. Dennis Greaney**, President, Environmental Restoration LLC
- **The Honorable Donald Benn**, Executive Director, Navajo National Environmental Protection Agency
- **The Honorable Dean Bookie**, Mayor, Durango, Colorado
- **Dr. Mark Williamson**, Geochemist, Geochemical Solutions LLC

Background

On August 5, 2015, a team of contractors from Environmental Resources, LLC (ER), acting at the direction of the Environmental Protection Agency (EPA), "accidentally caused" contaminated water from the Gold King Mine near Durango, Colorado to flow into the Animas River.¹ While removing debris from a collapsed/covered adit (opening) a small leak appeared that eventually turned into a large opening.² The spill "sent a yellow plume south into the Animas River and turned Western waterways into a mustard ribbon, causing three states and the Navajo Nation to declare states of emergency."³

¹ Eli Watkins, *EPA Crew Accidentally Turns Animas River Orange*, CNN, Aug. 8, 2015, available at <http://www.cnn.com/2015/08/07/us/colorado-epa-mine-river-spill-irpt/>.

² Mariana Castillo, *Pollution Flowing Faster Than Facts in EPA Spill*, CNN, Aug. 10, 2015, available at <http://www.cnn.com/2015/08/10/us/colorado-epa-mine-river-spill/>.

³ See Julie Turkewitz, *Colorado Spill Heightens Debate Over Future of Old Mines*, The New York TIMES, Aug. 16, 2015, available at <http://www.nytimes.com/2015/08/17/us/animas-river-colorado-mine-spill-epa.html>.

The toxic spill was so substantial that it traveled nearly 300 miles through Colorado, New Mexico and Utah, to Lake Powell on the Arizona-Utah border.⁴ The wastewater contained lead, arsenic, thallium and other heavy metals that may cause health problems and harm aquatic life.⁵ At one point, the lead level in the Animas River was nearly 12,000 times higher than the acceptable standard set by EPA.⁶ Moreover, “[p]ublic drinking water systems were temporarily shut down and farmers from the Navajo Nation stopped using river water for irrigation.”⁷ Many local businesses that rely on the river were reportedly forced to shut down for several days after the accident.⁸

Many questions have been raised about the timeliness of EPA’s communications with state and local officials immediately following the spill.⁹ In some instances, the appropriate authorities were not notified of the spill until 24 hours after the incident.¹⁰ EPA was also slow to provide the public with information about the accident. For example, EPA initially admitted to only spilling 1 million gallons of waste from the mine, but the severity of the spill was later changed to 3 million gallons, three times the amount initially disclosed.¹¹

More troubling, EPA officials apparently knew the potential for a blowout of toxic wastewater from the mine more than a year before the spill occurred.¹² Only after facing increased public scrutiny, EPA finally released documents regarding concerns about a blowout of toxic wastewater from the Gold King Mine.¹³ One of the documents, an EPA task order from June 2014, showed that a blowout could cause the release of large volumes of contaminated mine waters.¹⁴ The EPA task order also called for the construction of a holding pond to capture water so contaminants could be removed by settling out or treatment, but the pond was not completed before the spill.¹⁵ Further, EPA’s response plan for an accidental spill lacks many necessary details.¹⁶

⁴ Matthew Brown, *New Documents Raise More Questions About Colorado Mine Spill*, ASSOCIATED PRESS, Aug. 24, 2015, available at <http://abcnews.go.com/US/wireStory/documents-raise-questions-colorado-mine-spill-33290547>.

⁵ *EPA Knew of ‘Blowout’ Risk for Tainted Water at Gold Mine*, ASSOCIATED PRESS, Aug. 22, 2015, available at <http://www.nytimes.com/aponline/2015/08/22/us/politics/ap-us-mine-waste-leak.html>; see also *Supra*, note 5.

⁶ Elizabeth Cohen, *Health Impact of Animas River Toxic Spill: ‘This is a Real Mess’*, CNN, Aug. 11, 2015, available at <http://www.cnn.com/2015/08/10/us/animas-river-toxic-spill-colorado/>.

⁷ Brown, *supra* note 4.

⁸ See Julie Turkwitz, *Environmental Agency Uncorks Its Own Toxic Water Spill at Colorado Mine*, THE NEW YORK TIMES, Aug. 10, 2015, available at <http://www.nytimes.com/2015/08/11/us/durango-colorado-mine-spill-environmental-protection-agency.html>; see also *Supra* note 3.

⁹ See Hon. Tom Udall & Hon. Martin Heinrich, et al., U.S. Congress, to Hon. Gina McCarthy, Administrator, EPA, available at http://www.tomudall.senate.gov/?p=press_release&id=2067; see also Dan Frosch, *Colorado, New Mexico Free Up State Funds for Gold-Mine Spill*, WALL STREET JOURNAL, Aug. 10, 2015, <http://www.wsj.com/articles/colorado-pledges-funds-to-help-clean-up-gold-mines-sludge-spill-1439237643>.

¹⁰ See Mariano Castillo, *Damage to Navajo Nation Water Goes Beyond Money*, CNN, Aug. 13, 2015, available at <http://www.cnn.com/2015/08/12/us/navajo-nation-water-epa-spill/>.

¹¹ Steve Garrison & Joshua Kellogg, *EPA: Pollution from Mine Spill Much Worse Than Feared*, USA TODAY, Aug. 10, 2015, available at <http://www.usatoday.com/story/news/nation/2015/08/09/navajo-nation-epa-spill/31384515/>.

¹² Assoc. Press, *supra* note 5.

¹³ *Id.*

¹⁴ Brown, *supra* note 4.

¹⁵ *Id.*

¹⁶ *Id.*

On August 10, 2015, the Committee wrote EPA requesting documents and information about the toxic spill by August 24.¹⁷ While the agency did not provide any documents or information directly to the Committee by the deadline, EPA began posting selected information to a public website. The Committee again wrote to EPA on August 27, requesting among other things, unredacted documents and video footage of the incident.¹⁸ In response to the Committee's second letter, EPA provided the Committee with a portion of the requested materials on September 3.

To date, the EPA has reportedly spent nearly \$4 million on the response to the spill.¹⁹

¹⁷ Letter from Hon. Lamar Smith, Chairman, House Committee on Science, Space, and Technology, to Hon. Gina McCarthy, Administrator, EPA (Aug. 10, 2015), *available at* <http://science.house.gov/sites/republicans.science.house.gov/files/documents/8-10-15%20CLS%20to%20McCarthy%20re%20Gold%20King%20Mine.pdf>.

¹⁸ Letter from Hon. Lamar Smith, Chairman, House Committee on Science, Space, and Technology, to Hon. Gina McCarthy, Administrator, EPA (Aug. 27, 2015).

¹⁹ See Jesse Paul, *Gold King Mine: EPA Was Told of Blowout Danger in June 2014*, Aug. 22, 2015, *available at* http://www.denverpost.com/news/ci_28685398/gold-king-mine-epa-was-told-danger-blowout.