

**STATEMENT FOR THE RECORD
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP
UNITED STATES SENATE**

October 1, 2015

Thank you for the opportunity to provide testimony for the record on the U.S. Environmental Protection Agency's role in the August 5, 2015, Gold King Mine release and subsequent response efforts.

This was a tragic and unfortunate incident, and the EPA has taken responsibility to ensure that it is cleaned up appropriately. The EPA's core mission is to ensure a clean environment and protect public health, and we are dedicated to continuing to do our job to protect the environment and to hold ourselves to the same high standard we demand from others.

EPA Response

The EPA was at the Gold King Mine on August 5, 2015, conducting an investigation to assess mine conditions and ongoing water discharges, dewater the mine pool, and assess the feasibility of further mine remediation. While excavating above a mine opening, the lower portion of the bedrock crumbled and approximately three million gallons of pressurized water discharged from the mine into Cement Creek, a tributary of the Animas River. EPA and Colorado officials

informed downstream jurisdictions in Colorado within hours of the release, and before the plume reached drinking water intakes and irrigation diversions.

Notifications to other downstream jurisdictions continued the following day, allowing for those intakes to be closed prior to the plume's arrival.

In the aftermath of the release, we initiated an internal review of the incident and released an Internal Review Summary Report on August, 26, 2015, which includes an assessment of the events and potential factors contributing to the Gold King Mine incident. The report provides observations, conclusions, and recommendations that regions should consider applying when conducting ongoing and planned site assessments, investigations, and construction or removal projects at similar types of sites across the country. The EPA will implement the recommendations from the report and has shared its findings with external reviewers.

In addition to the internal review, the U.S. Department of the Interior is leading an independent assessment of the factors that led to the Gold King Mine incident. The goal of DOI's independent review is to provide the EPA with an analysis of the incident that took place at Gold King Mine, including the contributing causes. Both internal and external reviews will help inform the EPA for ongoing and planned site assessments, investigations, and construction or removal projects.

One of our foremost priorities is to keep the public informed about the impacts from the Gold King Mine release and our response activities. The EPA has closely coordinated with our federal partners and with officials in Colorado, New Mexico, Utah, the Southern Ute and Ute Mountain Ute tribes and the Navajo Nation to keep them apprised of water and sediment sampling results, which are routinely posted on our website. These results indicate that water and sediment have returned to pre-event conditions and supported local and state decision-makers as they made the decision to lift water restrictions along the Animas and San Juan Rivers on August 14 and August 15.

Finally, the agency wants to clarify that the EPA was working with the state of Colorado to take action at the Gold King Mine to address both the potential for a catastrophic release and the ongoing adverse water quality impacts caused by the significant mine discharges into the Upper Animas Watershed. Based upon 2009 – 2014 flow data, approximately 330 million gallons of contaminated water was being discharged from mines in the Watershed each year to Cement Creek and the Animas River – 100 times more than the estimated release from the Gold King Mine on August 5. The EPA was and continues to work with the State of Colorado and the Animas River Stakeholder Group to address these significant discharges from mines in the Upper Animas Watershed that are impacting these waterways.

It is important to note, that all across the country, the EPA's Superfund program has successfully cleaned up more than 1,150 hazardous waste sites and successfully responded to or provided oversight for thousands of removal actions to protect human health and the environment. This reflects our long-standing commitment to protect human health and the environment that we will continue to pursue and continue to support the Administration's request for an Abandoned Mine Lands fee to help cover the costs of cleanups at these sites.

Federal Tort Claims Act Process

Regarding potential damages resulting from the release, individuals, businesses or governmental entities that have a claim for money damages caused by negligent or wrongful U.S. government actions may file a claim for consideration under the Federal Tort Claims Act (FTCA) for money damages within two years from the date of the event. A claim may be submitted for a broad range of damages caused by negligence or wrongful acts, including damage to property or personal injury. The Standard Form 95 can be used to submit claims caused by the incident, although claims may be documented and submitted through other means. Claims may be amended at any time prior to reaching a settlement with the EPA, or before a lawsuit is filed under the FTCA.

All of the affected residents of Colorado and New Mexico and members of the Southern Ute, Ute Mountain Ute, and Navajo Nation Tribes can be assured that the EPA has and will continue to take responsibility to help ensure that the Gold King Mine release is cleaned up appropriately.

Thank you Mr. Chairman that concludes my statement.