



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

November 4, 2015

MEMORANDUM

SUBJECT: Project Notification:
Gold King Mine Release
Project No. OPE-FY15-0059

FROM: Carolyn Copper, Assistant Inspector General
Office of Program Evaluation

TO: Shaun McGrath, Regional Administrator
Region 8

Mathy Stanislaus, Assistant Administrator
Office of Solid Waste and Emergency Response

The Office of Inspector General (OIG) for the U.S. Environmental Protection Agency (EPA) announced plans on August 17, 2015, to initiate preliminary research on the August 5, 2015, release from the Gold King Mine in Colorado. In our August 17, 2015, announcement, we informed you that, in response to a congressional request, we are reviewing the cause of, and the EPA's response to, the August 5, 2015, release. In addition, we informed you that you may receive additional notification memos as our work progresses.

The purpose of this memorandum is to notify you of additional issues we plan to review in response to a second congressional request, and additional matters learned since our work began, including issues disclosed in the U.S. Bureau of Reclamation's October 2015 report, [Technical Evaluation of the Gold King Mine Incident](#). The OIG may modify its planned work at any time and will determine the scope of its work as we obtain information on the matters below.

- Details on the work the EPA was conducting at the Gold King Mine prior to the spill on August 5, 2015.
- Details on the expertise of the EPA employees and contractors carrying out that work.
- Criteria the EPA would apply before approving a contractor for a similar cleanup performed by a private party and whether the EPA applied the same criteria to itself.
- The EPA's legal requirements and current policies and guidelines on reporting a release of a hazardous substance.
- The EPA's legal requirements and current policies and guidelines on contacting tribal, state and local government agencies when the agency creates a release of a hazardous substance.

- Whether the EPA followed its legal requirements, current policies and guidelines in this particular spill at Gold King Mine.
- How the EPA's current policies and guidelines are designed to ensure compliance with legal requirements and to keep tribal, state and local agencies adequately informed regarding a release of hazardous substances.
- Whether any reported delay in providing information to tribal, state and local agencies created any reported health risks or delayed emergency responses from those agencies.
- The EPA's policies regarding indemnification of contractors, and whether indemnification policies have created any impediments or obstacles on the standard of care taken during response activities.
- Whether, given known concerns that work at the Red and Bonita Mine could increase water in the Gold King Mine, the EPA took appropriate care to determine water levels in the Gold King Mine before removing rock from the portal.
- Whether the EPA should have conducted pressure tests on the trapped water behind the mine pool before attempting to open the Gold King Mine, as was done at the Red and Bonita Mine in 2010.
- What additional policies should be in place to safeguard against future spills at abandoned mine sites during remediation projects.
- How the EPA defined and assured the independence of the Bureau of Reclamation staff, officials, contractors or others involved in conducting, supervising, reviewing or overseeing the EPA's requested external assessment of the factors that led to the Gold King Mine release on August 5, 2015.
- The basis for material differences between the Bureau of Reclamation report and other official EPA or EPA OIG information collected on the factors that led to the Gold King Mine release.

This planned work is separate from any criminal, civil and administrative matters the EPA OIG Office of Investigations may be conducting.

We will contact you to arrange a mutually agreeable time to discuss our work and the purpose of the preliminary research phase of our project. We will answer any of your questions about the project process, reporting procedures, methods used to gather and analyze data, and what we should expect of each other during the course of the project. We would also be particularly interested in any areas of concern that you may have. Throughout the project, we will provide updates on a regular basis, as agreed upon at this meeting. The OIG may also issue subsequent notification memos as our work progresses.

We respectfully note that the OIG is authorized by the Inspector General Act of 1978 to have timely access to personnel and all materials necessary to complete its objectives. We will request your resolution if an agency employee or contractor refuses to provide requested records to the OIG, or otherwise fails to cooperate with the OIG. We may report unresolved access matters to the Administrator and include the incident in the Semiannual Report to Congress.

The project will be supervised by Tina Lovingood, Director. If you or your staff have any questions, please contact me at (202) 566-0829 or Tina Lovingood at (202) 566-2906 or lovingood.tina@epa.gov.

cc: Barry Breen, Principal Deputy Assistant Administrator, Office of Solid Waste and
Emergency Response
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