

# United States Senate

WASHINGTON, DC 20510

August 19, 2015

Arthur A. Elkins, Jr.  
Inspector General  
U.S. Environmental Protection Agency  
Office of Inspector General  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Inspector General Elkins:

We welcome the announcement that the U.S. Environmental Protection Agency's (EPA) Office of Inspector General (OIG) will conduct a preliminary inquiry into the Gold King Mine spill that occurred this month in southwest Colorado, and request that the scope of the report includes the specific questions listed in this letter. It is our belief that there was a lack of transparency, coordination, and communication in the events leading up to and following EPA's spill of approximately three million gallons of contaminated water into Cement Creek and the Animas River. The EPA's actions at the Gold King Mine were intended to reduce the continual flow of acid mine drainage from mine sites in the Animas River basin. Communities in the basin have long sought solutions to improve water quality. But clearly, the EPA's execution of this project fell far short of the standards to which any cleanup operation should adhere.

The release of contaminated water from this legacy mine has polluted the Animas River in Colorado and spread through New Mexico, Utah, the Southern Ute Indian Reservation, and the Navajo Nation. Although the EPA has taken responsibility for this disaster, the OIG investigation and report will assist in determining the details of the accident, provide a better opportunity to improve future remediation projects, and prevent spills of this nature at other legacy mines across the West.

We, therefore, respectfully request the following be included in a report on the events surrounding the Gold King Mine spill:

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

7. Whether EPA's current policies and guidelines are adequate to ensure compliance with legal requirements and to keep tribal, state and local agencies adequately informed regarding a release of hazardous substances;
8. Whether the delay in providing information to tribal, state and local agencies created any health risk or delayed emergency responses from those agencies;
9. EPA's policies regarding indemnification of contractors and whether indemnification has any impact on the standard of care taken during response activities;
10. A timeline of actions and internal and external communications by EPA in the hours and days immediately following the release;
11. Whether, given known concerns that work at the Red and Bonita Mine could increase water in the Gold King Mine, EPA took appropriate care to determine water levels in the Gold King Mine before removing rock from the portal;
12. Whether 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; and
13. What additional policies should be in place to safeguard against future spills at abandoned mine sites during remediation projects.

Including these questions in an OIG report, along with a full investigation of the Gold King Mine accident, will help prevent future spills of this magnitude and ensure that recovery for tribal, state and local economies is expeditiously put on the best path forward.

Thank you for your attention and consideration of this request.

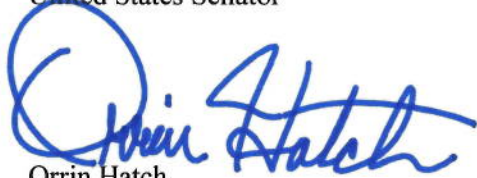
Sincerely,



Cory Gardner  
United States Senator



Michael Bennet  
United States Senator



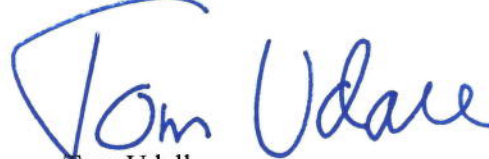
Orrin Hatch  
United States Senator



Martin Heinrich  
United States Senator



Mike Lee  
United States Senator



Tom Udall  
United States Senator