

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

2321 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6301

(202) 225-6371

www.science.house.gov

September 17, 2015

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

Dear Administrator McCarthy:

The Committee on Science, Space, and Technology is continuing its oversight of the recent toxic water spill at the Gold King Mine near Durango, Colorado. On September 9, 2015, the Committee held a hearing examining the Environmental Protection Agency's (EPA) role in triggering the spill and EPA's response to the spill.¹ The hearing identified inconsistencies in EPA's handling of information related to the Gold King mine spill response.

After the Committee requested any existing videos in EPA's possession related to the Gold King Mine incident on August 27, 2015, EPA provided several unedited, onsite videos of the spill to the Committee on September 2, 2015.² The EPA posted edited versions of the same videos on the EPA website, noting that "EPA removed profanity contained in the audio of the videos and obscured visible license plates for privacy purposes. EPA did not edit the videos in any other way."³ However, a comparison of the unedited videos provided to the Committee with the edited videos posted by EPA on its public website reveals that at least one of the publicly-posted videos contains edits that go beyond efforts to address privacy concerns or profanity.⁴

The video in question captures the early stages of the Gold King Mine spill. The edited version obscures what the unedited version of the video reveals to be an onsite worker asking, "Should we get out of here? What do we do now?" These comments suggest that EPA's team on the ground may not have been prepared to properly respond to the spill. Additionally, while EPA has pledged to provide full transparency about events at the mine, the Committee is

¹ H. Comm. on Science, Space, and Technology, *Holding EPA Accountable for Polluting Western Waters* , 114th Cong. (Sep. 9, 2015).

² See <http://www2.epa.gov/goldkingmine>.

³ See <http://www2.epa.gov/goldkingmine/gold-king-mine-videos>

⁴ See <http://www2.epa.gov/goldkingmine/gold-king-mine-videos>, "Gold King Mine Video 8"

concerned that EPA may have edited these comments out of the video to avoid such an impression.

According to media reports that cite an EPA spokeswoman, the redacted video in question was “posted by mistake” and “[t]he unredacted version was meant to be shared on the EPA website.”⁵ EPA’s explanation for editing the video raises more questions than answers. A bipartisan group of law makers have raised concerns about EPA’s lack of transparency after the spill, including the timeliness of EPA’s communications with state and local officials.⁶ In some instances, the appropriate authorities were not notified of the spill until 24 hours after the incident.⁷ The manner in which EPA has released information to the public, including editing a video of the spill while providing an inaccurate description of the reason for that editing raises additional questions about the events following the Gold King Mine blowout. To assist the Committee in its oversight, please also provide the following by noon on September 30, 2015:

1. All documents and communications related to the decision to post the edited “Gold King Mine Video 8,”⁸
2. All documents and communications related to the EPA approval process in which “Gold King Mine Video 8,”⁹ was posted to the EPA website.
3. All documents and communications related to the reason for any edits made to the “Gold King Mine Video 8”.¹⁰
4. All documents and communications related to the purpose and use of the edited video “Gold King Mine Video 8”.¹¹
5. All documents and communications related to when the EPA received, and how the EPA acquired the “Gold King Mine Video 8”.¹²
6. All documents and communications related to the manipulation of any other raw materials in response to the Gold Kind min spill.

The Committee prefers, if possible, to receive all documents in electronic format. When producing documents to the Committee, please deliver production sets to the following locations:

⁵ Valerie Richardson, *EPA accused at hearing of doctoring video from Gold King Mine spill*, The Washington Times, Sep. 9, 2015, available at <http://www.washingtontimes.com/news/2015/sep/9/epa-accused-hearing-doctoring-video-mine-spill/?page=all>

⁶ 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>.

⁷ 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/>.

⁸ Video available at: <https://www.youtube.com/watch?v=CksfAExNA6s&feature=youtu.be>. (No longer available on EPA’s website).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

- Majority Staff of the House Science Committee in Room 2321 of the Rayburn House Office Building
- Minority Staff of the House Science Committee in Room 394 of the Ford House Office Building

If you have any questions about this request, please contact Drew Colliatie or Lamar Echols of the Science, Space, and Technology Committee staff at 202-225-6371. Thank you for your attention to this matter.

Sincerely,



Lamar Smith
Chairman



Barry Loudermilk
Chairman
Subcommittee on Oversight



Jim Bridenstine
Chairman
Subcommittee on Environment



Bill Johnson
Vice Chairman
Subcommittee on Oversight

cc: The Honorable Eddie Bernice Johnson, Ranking Minority Member, House Committee on Science, Space, and Technology

The Honorable Donald Beyer, Ranking Minority Member, Subcommittee on Oversight, House Committee on Science, Space, and Technology

The Honorable Suzanne Bonamici, Ranking Minority Member, Subcommittee on Environment, House Committee on Science, Space, and Technology