

Congress of the United States

Washington, DC 20510

August 4, 2017

The Honorable Scott Pruitt
Administrator
The Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

Dear Mr. Administrator:

Tomorrow is the second anniversary of the tragic spill at the Gold King mine. As you know, the spill had a devastating effect on the state of New Mexico, the Navajo Nation, and many others. Earlier this year, we expressed strong opposition and deep disappointment with a decision by the previous Environmental Protection Agency (EPA) and the Department of Justice (DOJ) announcing that they had determined the EPA was not liable under the Federal Tort Claims Act (FTCA) for damages caused by the Gold King Mine spill. EPA and DOJ asserted that the actions of EPA and its contractor at the site which led to the spill were “discretionary acts” for purposes of the FTCA and thus claims would be denied due to that liability exception. This decision has left many impacted citizens without compensation for damages they sustained as a result of the spill caused by mistakes in an EPA led cleanup operation.

We now understand that EPA is reconsidering this decision and its past assertion of the “discretionary act” exception from the FTCA. We write to you asking to fully compensate those who have been impacted. We have heard from several of our constituents that they have received letters stating that EPA will reconsider their filed claims. We welcome and appreciate any actions to enable our constituents to seek compensation for their damages, but want to be assured that you are reaching all of the impacted individuals and that the reviews are being done on a consistent basis to pay out all legitimate claims. Given the importance of these issues, we believe EPA should be transparent with the public about what has changed in regards to its handling of compensation claims for the Gold King Mine spill. We believe it would be helpful for public clarification on what EPA’s new approach means for those who have been impacted and are still awaiting compensation.

It is also our understanding that claims made by the Navajo Nation and the State of New Mexico are not going to be reconsidered. If true, this unequal treatment would be very disappointing and we would seek clarification on this matter, and reconsideration of this decision as well. Finally, we strongly believe EPA needs to support and provide funding for independent water monitoring by the state of New Mexico.

Please respond to us and the public with a clear and detailed explanation of how EPA is reconsidering claims and the timeline for doing so. Thank you for your attention to this matter and if we can be of any assistance on this topic please do not hesitate to contact us.

Sincerely,



Tom Udall
United States Senator



Steve Pearce
United States Representative



Martin Heinrich
United States Senator



Ben Ray Lujan
United States Representative



Michelle Lujan Grisham
United States Representative