

Opening Statement of the Honorable Cory Gardner
United States Senator
Senate Committee on Environment and Public Works
“Oversight of the Cause, Response, and Impact of EPA’s Gold King Mine Disaster”
September 16, 2015

- Thank you Chairman Inhofe, Ranking Member Boxer and other members of the Environment and Public Works Committee for holding this oversight hearing to examine the August 5th, 2015, spill that took place at the Gold King Mine in southwest Colorado.
- I also appreciate the Committee for providing Senators Bennet, Heinrich, Udall and me with the opportunity to make statements about the impact this spill has in our states.
- We must also remember this spill had an impact on the Southern Ute Indian Tribe, Ute Mountain Ute, and the Navajo Nation.
- From the outset of the spill, it was crucial that the Environmental Protection Agency’s (EPA) full focus be on mitigation and slowing the flow of contaminants in the Animas River.
- Water testing shows that the surface water of the River has returned to pre-incident levels, but many uncertainties remain regarding long-term remediation and future monitoring for heightened contamination in the River during spring runoff.
- Once the national press disappears from the area, there are still serious concerns that exist for Coloradans and communities downstream that the EPA must address.
- Although the EPA has acknowledged the magnitude of the crisis, its initial lack of communication and coordination in events leading up to and following the spill are suitable for congressional oversight.
- Affected communities and stakeholders deserve transparency and accountability in the events surrounding this spill, particularly in understanding where EPA was during the first hours following the spill.
- For example, the Colorado Department of Public Health & the Environment was the first to notify the City of Durango of the Gold King release on August 5th.
- The Colorado Department of Natural Resources was the first to notify the Southern Ute Indian Tribe of the release on August 5th. The La Plata County Sheriff closed public access to the Animas River on August 6th.

- Where was the EPA during this initial notification and closure of the River? Did the agency follow the national contingency plan for notification and implementation of its response on this disaster?
- Was there anyone within the EPA with crisis management experience for a spill of this nature dispatched to the area or made aware of the spill? These are but a few of the questions I hope Administrator McCarthy will address.
- In the first few days following the spill, it was largely state, local and tribal officials responding. It was not until August 10th that the EPA established a unified command center in Durango. Along with the confusion over EPA's lack of notification, frustration began regarding the need for a timely release of a simple, straightforward interpretation of the water quality monitoring data from the EPA.
- My personal experience with EPA's response mirrors that of local communities. No one from EPA attempted to contact me until days after the spill. Upon first learning of the spill I attempted to speak with the Administrator but was told she was unavailable. After pushing back on the EPA and requesting answers I was told the regional director would contact me. That call came several hours later.
- I visited the spill sight on August 9th with Senator Bennet. This was four days after the 3 million gallons of contaminated water was released, and yet EPA did not yet have an appropriate crisis response plan or team in place.
- From the outset I've said that EPA should be held to the same standard as EPA would hold a private company for said spill. Which means investigations must be conducted, people must be held accountable and tough questions must be asked.
- Among the tough questions that must be asked a few I have are:
 - Whether the EPA knew that it was likely that water was impounded behind the Gold King Mine portal and a blowout was possible?
 - Whether the Health and Safety Plan for the Gold King Mine work was adequate?
 - It appears the plan was wholly inadequate because it fails to address safety risks associated with mines, and it even lists the site by the wrong name at one point.
 - Why did it take several days for the EPA to revise the amount of contaminated water? The agency initially said the amount was 1

million gallons and several days later said the surge consisted of 3 million gallons.

- Mr. Chairman, before concluding I request that the statement of Mike Olguin, a Southern Ute Indian Tribal Council Member, be included as part of my testimony for today's hearing.
- Councilman Olguin will be testifying this afternoon in front of the Senate Indian Affairs Committee on the Gold King Mine spill.
- Lastly, I thank you and your staff for being responsive during this time and while this hearing is to examine this incident and EPA's response, this spill shows a greater need for legislation that would allow Good Samaritans the opportunity to assist with cleaning up these abandoned mines across the West. I hope we can continue to work together on this effort.
- Thank you again for the opportunity to be here and I look forward to hearing the EPA's answers as we continue to work together to address this very serious situation.