CLAIM FOR DAMAGE, INJURY, OR DEATH

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

FORM APPROVED
OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency:

U.S. Environmental Protection Agency
Attn: Gold King Mine Release (A8K9) Claims
1595 Wynkoop St. (MC-8RC)
Denver, CO 80202-1129

2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.
Mary and Eddie Jay
(b) (6) [redacted]

3. TYPE OF EMPLOYMENT	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME (A.M. OR P.M.)
(b) (6) [redacted]	(b) (6) [redacted]		08/05/2015	

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).
Address of property affected:
(b) (6) [redacted]

Facts, circumstances, and cause in Attachment A.

9. **PROPERTY DAMAGE**

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side
(b) (6) [redacted]
Damages in Attachment B and C

10. **PERSONAL INJURY/WRONGFUL DEATH**

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

11. **WITNESSES**

NAME	ADDRESS (Number, Street, City, State, and Zip Code)
Witness in Attachment D.	

12. (See instructions on reverse). **AMOUNT OF CLAIM** (in dollars)

12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).
Not more than $100,000			Not more than $100,000

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).	13b. PHONE NUMBER OF PERSON SIGNING FORM	14. DATE OF SIGNATURE
B attorney for claimants	303-757-3300	8/1/17

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM

The claimant is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☒ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

***(d)* Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. *Authority:* The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. *Principal Purpose:* The information requested is to be used in evaluating claims.

C. *Routine Use:* See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. *Effect of Failure to Respond:* Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

Attachment A

Response to Question 8.

The known facts and circumstances attending the damage include that according to the Technical Evaluation of the Gold King Mine Incident by the U.S. Dept. of Interior Bureau of Reclamation, on the morning of August 5, 2015, mine reclamation activities led by the U.S. Environmental Protection Agency (EPA) onsite project team triggered an uncontrolled rapid release of approximately 3 million gallons of acid mine water from the Gold King Mine located about 5 miles north of Silverton, Colorado. As the flow continued downstream, deposition of soil particles mixed with heavy metals continued to occur along the Animas River and the San Juan River until the plume reached Lake Powell in Utah on August 14, 2015.

This occurred because in attempting to reopen the Gold King Mine, the EPA concluded the adit was partially full of water based on excavations made in 2014 and 2015 into the downstream side of backfill placed at the portal. The EPA incorrectly concluded that the water level inside the mine was at a similar elevation, a few feet below the top of the adit roof. This error resulted in development of a plan to open the mine in a manner that led directly to the failure. After the EPA project team concluded that the adit was not full to the top with water, they implemented a plan to open the mine.

According to the report in the case of the Gold King incident, there was an absence of, among other things, 1) an understanding that water impounded behind a blocked mine opening can create hydraulic forces similar to a dam, 2) an analysis of potential failure modes, 3) an analysis of downstream consequences if failure were to occur, 4) engineering considerations that analyze the geologic and hydrogeologic conditions in the general area, 5) monitoring to ensure that the structure constructed to close the mine portal continues to perform as intended, and 6) an understanding of the groundwater system affecting all the mines in the area and the potential for work on one mine affecting conditions at another. According to the peer reviewer of the report, the actual cause of failure is some combination of issues related to EPA internal communications, administrative authorities, and/or a break in the decision path.

The metals and other substances released from the Gold King mine to the Animas and San Juan Rivers can be harmful to the health of people and animals. The release of chemicals from the Gold King Mine by the EPA caused damage to my property interests.

The persons involved include employees of the U.S. E.P.A.

The persons involved also include me, who is and was affected, my family, and other members of the Navajo Nation.

The property involved includes the source property which is the Gold King Mine in San Juan County, Colorado. The property involved includes the Animas and San Juan Rivers and the tribal land of the Navajo Nation. The property involved also includes the property that I use including the address listed in box 2 or 9 of the form.

The evidence that or information that has bearing on the responsibility for the United States includes the Technical Evaluation of the Gold King Mine Incident by the U.S. Dept. of Interior Bureau of Reclamation, the investigation and testing by the U.S. E.P.A. and the investigation by the Navajo Nation Department of Agriculture and the Navajo Nation E.P.A. and the various newspaper articles.

Attachment B

Response to Question 9

The contamination from EPA's release of contamination from The Gold King Mine on August 5, 2015 affected the use of our property and our use of the water from the San Juan River. We use our property as our residence. In addition to the damages identified in Attachment C, we have suffered loss of use of the property, loss of use and enjoyment of the property. We have suffered annoyance, inconvenience and concern, and loss of time because of the contamination. We have suffered damage to the value of our heritage lands as a member of the Navajo Nation and our spiritual use of them has been impacted. Our property also may need some type of clean-up of the contamination.

Attachment C

Additional Response to Question 9.

The damages we have suffered because of the EPA's release of contamination from The Gold King Mine Incident on August 5, 2015 also include:

Loss of Use of Water for Household and Personal Uses (bathing, cooking, vehicle, pets, gardens, washing, etc.

We did use water from the San Juan River, provided by the NTUA, for personal uses including drinking, cooking, bathing, and watering plants. Following the contamination, the NTUA shut off our water because the NTUA draws water from the San Juan River. Consequently, we were forced to purchase and haul replacement water from Cortez, Colorado (100 miles round trip) for approximately 1 month. We had to haul this water twice a week in three 15 gallon jugs. In addition to the expense of fuel and wear and tear on our vehicle, we had to purchase the jugs to haul the water.

Attachment D

Response to Question 11.

Witnesses include employees of U.S. E.P.A., employees of Colorado Division of Reclamation, Mining and Safety and employees of Environmental Restoration, LLC. Witnesses also include the Navajo Nation Division of Natural Resources Department of Agriculture and the Navajo Nation E.P.A.

Witnesses also include us, (b) (6) [redacted] (sister), other members of my family, and other members of the Navajo Nation.