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November 12, 2015

Regional Freedom of Information Officer
U.S. EPA, Region 6 (NM, AR, LA, OK, TX)
1445 Ross Avenue (6MD-OE)
Dallas, TX 75202-2733

Re: Releases from the Gold King Mine and Upper Animas Mining District

Dear Sir or Madam:

On behalf of the State of New Mexico (the "State"), please consider this request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 *et seq*. The State is proceeding with an investigation into the spill that commenced on August 5, 2015 at the Gold King Mine near Silverton, Colorado.

Within twenty (20) working days, please make available for inspection, or provide the State with copies of, all records[4] in the care, custody or control of U.S. EPA, Region 6 (NM, AR, LA, OK, TX) ("You" or "your") that relate or pertain to:

1. The physical condition of the mines in the Upper Animas Mining District,[5] including, but not limited to information regarding the impoundment, storage or damming of water in the mines, as well as any information regarding the hydrodynamic or geochemical (water quality) connections of those mines (at any time).

2. The physical and chemical quality of water impounded inside the mine workings in the Upper Animas Mining District including, but not necessarily limited to, data on pH, specific conductance, oxidation-reduction potential, total dissolved solids, total suspended solids, major cations and anions, cyanide, trace elements, dissolved and total metals, and Toxicity Characteristic Leaching Potential metals.

3. The release, drainage or escape of water and acidic sediment from any mines in the Upper Animas Mining District, including but not limited to, information regarding

[4] "**Records**" refers to any papers, reports, agreements, contracts, amendments, orders, documents, notes, work papers, memoranda, injury logs, data bases, spreadsheets, drawings, photographs, images, specifications, communications, electronic files, e-mails, voice mails, digital recordings, instant messages, text messages, PIN messages, or any other records in any form, including any electronically stored information, whether generated or received by You or your contractors, sub-contractors, agents or consultants, paid or unpaid.

[5] "**Upper Animas Mining District**" refers to the Site as that term is used by EPA Region 8 (see http://www2.epa.gov/region8/upper-animas-mining-district) and all mines is the Colorado Upper Animas River Watershed/Basin, including, but not limited to the Gold King Mine, Red and Bonita Mine, Mogul Mine, Sunnyside Mine and the American Tunnel.

drainage tunnels, water treatment facilities, and drainage directly into the Cement Creek watershed (at any time).

4. The volumes and physical and chemical quality of water released, drained or escaped from mine workings or tailings impoundments in the Upper Animas Mining District including, but not necessarily limited to, data on pH, specific conductance, oxidation-reduction potential, total dissolved solids, total suspended solids, major cations and anions, cyanide, trace elements, dissolved and total metals, and Toxicity Characteristic Leaching Potential metals.

5. The mass and physical and chemical quality of solids discharged from mine workings or tailings impoundments in the Upper Animas Mining District including, but not necessarily limited to, data on pH, metals, Toxicity Characteristic Leaching Potential metals, and mineralogical composition.

6. Local, state and/or federal permitting of the mines in the Upper Animas Mining District, including, but not limited to mining permits, discharge permits, reclamation permits, performance and financial warranties, inspection reports, geochemical (water quality) reports, hydrology reports, annual reports, environmental protection plans, and notices of violation and enforcement actions from any state or federal agency.

7. Reclamation activities[6] in the Upper Animas Mining District *prior to* the August 5, 2015 spill at Gold King Mine, including, but not limited to information regarding reclamation activities at the Gold King and Red and Bonita mines in 2014 and 2015, and any information regarding reclamation activities at Gold King Mine or Sunnyside Mine in 2008 and 2009.

8. The Gold King Mine spill that commenced on August 5, 2015, including the events immediately preceding the spill and all emergency response efforts, including, but not limited to all efforts to contain the spill and notify and coordinate with downstream stakeholders.

9. Response or remediation efforts to the Gold King Mine spill that commenced on August 5, 2015, including, but not limited to Incident Command System documents

[6] "**Reclamation activities**" refers to all activity, remediation, removal, response, containment, testing, procurement, design, installation, construction, or maintenance conducted by EPA and/or Colorado Division of Reclamation, Mining and Safety ("DRMS"), or any of their contractors, sub-contractors, agents or consultants, paid or unpaid, and/or any other state or federal agency and that agency's contractors, sub-contractors, agents or consultants, paid or unpaid. Information related to reclamation activities includes, but is not limited to, administrative orders, task orders, work plans, emergency action plans, alert and notification plans, health and safety plans, operation plans, work schedules, cost estimates, environmental risk and impact statements, pollution reports, field activities reports, communications, project summaries, technical memorandums, monitoring plans, and procurement contracts, whether in draft or final form.

(briefings, incident objectives, organization assignment lists, incident organization charts and action plans), wastewater treatment, assistance provided to downstream stakeholders, monitoring plans, and the plans for or construction of any temporary or permanent water treatment facility.

10. Sampling and analysis of surface and ground water quality, sediment quality, fish tissue, and sampling or observations of the biological community in the benthic, aquatic and riparian habitats of Cement Creek, the Animas River, the San Juan River, and Lake Powell *prior to* the August 5, 2015 spill, including, but not limited to complete analytical reports, including analytical results, QA/QC analysis (chain-of-custody, blank, matrix spike, duplicate samples, calibration, internal/external standards, etc.) provided by analytical laboratories, all laboratory forms and the raw analytical and logarithmic data gathered regarding heavy metal and other chemical contaminants.

11. Sampling of surface and ground water quality, mineralogy/characterization, sediment quality, fish tissue, and sampling or observations of the biological community in the benthic, aquatic and riparian habitats of Cement Creek, the Animas River, the San Juan River, and Lake Powell *during or following* the August 5, 2015 spill, including, but not limited to all laboratory forms and the raw logarithmic and analytical data gathered regarding heavy metal and other chemical contaminants.

12. All spill reports, water quality and sediment data, notices of violation, compliance orders, settlement agreements or other documentation concerning mine water releases, releases or discharges from mine tailings, waste water releases, enforcement actions, corrective actions or Reclamation Activities in the Upper Animas Mining District.

13. All calculations, methods, formulae and references used to quantify the volume and flux of water released from the Gold King Mine on and after August 5, 2015, and all information that supports or contradicts the estimate that approximately three million (3,000,000) gallons were released as a result of the August 5, 2015 activities.

14. Any and all species or family of fish that have ever been present in Cement Creek, the Animas River and the San Juan River, including all Records, documents, reports and forms used or developed from investigations that resulted in the classification of species and determination of abundance, size, population structure, and the health of individual specimens collected from any and all species or family of fish that have ever been present in Cement Creek, the Animas River and the San Juan River.

15. Potential designation of any mines in or portion of the Upper Animas Mining District as a Superfund site, including, but not limited to any assessment of Superfund listing, any impacts thereof, and all discussions or communications with any local, state or federal governments or agencies, the community or public representatives, and the Animas River Stakeholders Group concerning the same (at any time).

16. Ecological risk assessments, environmental impact assessments, and all similar evaluations related to the Upper Animas Mining District or any discharges therefrom, including any such assessments related to potential Superfund designations, from the Upper Animas Mining District or any mines therein (at any time).

17. The owners of the mines in the Upper Animas Mining District, including, but not limited to any communications with such owners or individuals concerning the physical condition of the mines, water quality, water and sediment discharges from the mines, any contemplated or actual remediation or Reclamation activities within the Upper Animas Mining District, and any potential or resolved responsibility therefor (at any time);

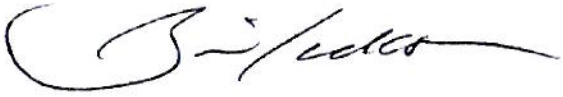
18. Any communications with, between or among the State of Colorado (and any of its Departments or Agencies, including without limitation the Colorado Division of Reclamation Mining & Safety) and the United States Environmental Protection Agency and any other federal departments and agencies, environmental consulting companies, or Universities concerning the Upper Animas Mining District, the physical and chemical condition of the mines therein or impacts to the environment therefrom, the owners of any mines therein or liabilities thereof, and any and all contemplated or actual remediation or Reclamation activities within the Upper Animas Mining District.

19. Reclamation and other activities in 2005 at the mines in Leadville, Colorado, including, but not limited to information regarding discharges of mine waste into the New Mikado Mine.

20. Your policies, practices, and criteria concerning mine closures or Reclamation activities that could apply to mines in the Upper Animas Mining District, including all Records related to potential Superfund designation and the categories of costs recoverable for any such Reclamation activities under state and federal laws.

If you have any questions or concerns regarding the above, please contact the undersigned at (713) 355-5050 or bjackson@jgdpc.com.

Sincerely,



William J. Jackson

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