

Opening Statement
September 17, 2015
Committee on Natural Resources

Over a year ago, EPA began to investigate remediation of the Gold King Mine near Silverton, Colorado. That work culminated last month in the disastrous spill of **3 million** gallons of orange mine water containing toxic heavy metals including lead, cadmium, and arsenic. The plume flowed along the Animas and San Juan Rivers from Colorado and into New Mexico, Utah, and Arizona.

EPA documents show the agency was aware as early as June 2014 that a massive blowout was possible. However, EPA decided not to test the hydrostatic pressure in the mine. Instead, it dug around with heavy machinery. If an individual or a private company had done this, EPA would have already made sure there was hell to pay.

Americans have repeatedly witnessed EPA's aggressive enforcement tactics, which often result in criminal charges for true mistakes or accidents. In Alaska, armed EPA agents descended on a small mining town based on speculation that individuals may have violated the Clean Water Act. In Wyoming, EPA is threatening a rancher with \$75,000 in fines a day because he built a stock pond on his own land. One

dismissed EPA Regional Director even spoke of crucifying someone to make an example for others.

Evidence from every state demonstrates EPA is more concerned with enforcing a heavy handed regulatory agenda than responsibly protecting our natural resources.

Now we hear *from EPA* that the Animas River is under control, despite EPA's violating environmental laws like the Clean Water Act and Endangered Species Act.

Making sure EPA is held accountable for the spill it caused is the primary reason for today's hearing. Another is to hear from those affected by EPA's actions.

Instead of notifying downstream users and the appropriate tribal, state, and local authorities that a toxic plume was headed towards them, EPA sat back and let others do the work. And when those authorities asked EPA for information about the spill and for access to the results of water quality and sediment sampling plans, EPA obfuscated and delayed. So much for "transparency."

EPA is not alone in its shameful behavior. The Department of the Interior has been nearly invisible in the wake of the spill – despite nearly every one of its agencies having jurisdiction. The Bureau of Reclamation—the agency tasked with conducting a

review of EPA's spill--released **1.3 billion gallons** of water from the Navajo Dam to help dilute the spill. The USGS has conducted sampling and helped estimate the spill's volume . The Fish and Wildlife Service, the National Park Service, and the BLM are entrusted with managing wildlife resources and federal lands. And finally, the Bureau of Indian affairs ensures the federal government's trust responsibility to tribes is honored.

Let me be clear. Secretary Jewell's refusal to testify today is especially egregious and disappointing, given the magnitude of this disaster and the breadth of its effect on her agency. As Chair of the White House Council on Native American Affairs, her absence runs counter to that Council's stated trust responsibilities. As Chairman, I will expect her to appear before the Committee in the near future to provide answers. An eleventh hour, unsigned statement and "no show" is simply unacceptable and cannot be tolerated.

I understand Administrator McCarthy agreed to come only if she appeared first and on her own panel – refusing to sit alongside representatives of states and tribes that traveled across the country to discuss the disaster her agency unleashed in their backyard.

Despite our government's foundation by states on the principles of Federalism, the Federal government's trust and

treaty obligations to tribes, the EPA Administrator, at least in my view, should not be given special treatment.

I expect we'll hear the words "1872 Mining Law" repeatedly from both the Administration and the minority, as they attempt to ignore EPA's culpability, shift blame, and pursue action on an agenda that would decimate the mining industry.

That isn't why we're here today. This hearing is to hold the EPA accountable for the disaster they caused and ensure states, tribes, and affected property owners know what to expect as recovery efforts move forward.