

EPA's gross negligence at Gold King

Fear-mongering, pollution standards and negligence rules don't apply when EPA is at fault

Paul Driessen

On August 5, an Environmental Restoration company crew, supervised by US Environmental Protection Agency officials, used an excavator to dig away tons of rock and debris that were blocking the entrance portal of Colorado's Gold King Mine, which had been largely abandoned since 1923. Water had been seeping into the mine and out of its portal for decades, and the officials knew (or could and should have known) the water was acidic (pH 4.0-4.5), backed up far into the mine, and laced with heavy metals.

But they kept digging – until the greatly weakened dam burst open, unleashing a 3-million-gallon (or more) toxic flood that soon contaminated the Animas and San Juan Rivers, all the way to Lake Powell in Utah. To compound the disaster, EPA then waited an entire day before notifying downstream mayors, health officials, families, farmers, ranchers, fishermen and kayakers that the water they were drinking, using for crops and livestock, or paddling in was contaminated by lead, cadmium, mercury and arsenic.

Three million gallons of turmeric-orange poisonous water and sludge is enough to fill a pool the size of a football field (360x160 feet) seven feet deep. Backed up hundreds of feet above the portal into mine adits, stopes, rooms and other passageways that begin at 11,458 feet above sea level, the flash-flooding water had enough power to rip out a road and propel its toxic muck hundreds of miles downstream. (You can review EPA's incompetence and gross negligence in these [project photos](#)* and [post-disaster images](#).)

Anyone who follows mining, oil spill and power plant accidents knows the EPA, Obama White House and Big Green environmentalist rhetoric: There is no safe threshold for chemicals. They are toxic and carcinogenic at parts per billion. The water will be unsafe for years or even decades. Wildlife will die. Corporate polluters are criminals and must pay huge fines. We will keep our boots on their necks.

This time the White House was silent, and Democrats and eco-activists [rushed to defend EPA](#) and shift the blame to mining and mining companies. EPA officials [made statements](#) they would never use if a private company had caused the blowout: EPA had simply "miscalculated" how much water had backed up. It was just trying to stick a pipe into the top of the mine to safely pump liquid out for treatment. We were "very careful." Contaminants "are flowing too fast to be an immediate health threat." The river is already "restoring itself" back to pre-spill levels, EPA Administrator [Gina McCarthy insisted](#).

The evidence strongly suggests that EPA never studied or calculated anything, had no operations plan vetted and approved by state officials or mining experts, was not trying to install a pipe – and was grossly careless and negligent. Toxic sludge was carried and deposited along hundreds of miles, contaminating water and riverbeds, where it will be stirred up for years during every heavy rainfall and snowmelt.

Mining engineers told me the prudent approach would have been to push or drill a 4-inch pipe through the rubble into the mine, to determine the water pressure, toxicity and extent of water backup in the mine – and then build a strong cofferdam below the portal – before proceeding. Simply removing the debris was stupid, dangerous and negligent, they said. It will take years now to correct the damage and assess costs.

A week after the great flood, EPA finally built a series of retention ponds to contain and filter out heavy metals and chemicals. But the August 5 surge and sludge are still contaminating Colorado, Utah, Arizona and New Mexico rivers, in arid regions where water is scarce and precious. The Navajo Tribal Unity Authority says meeting EPA standards for clean drinking water could double the tribe's costs for building a new treatment plant and cost millions more in testing and operating expenses.

EPA says it will pay for testing, property damage, human injuries and hauling safe drinking water. But will it pay to truck in safe water for livestock and irrigation, and pay for crops and livestock lost because there is no water in the meantime, and cover millions in lost incomes for outfitters and hotel operators during what would have been their peak tourist seasons? Exxon paid such costs after the Valdez spill in Alaska; BP did likewise after its Macondo spill in the Gulf of Mexico; so have coal companies.

Shouldn't EPA do likewise, instead of asserting "sovereign immunity" despite its gross negligence? Shouldn't it cover these costs out of the millions of dollars it uses for employee bonuses and to pay [environmental activists](#) and public relations firms to promote its image and agenda – instead of sticking taxpayers with the tab via special appropriations? Will EPA reimburse state and local governments and private charities for assistance they have already rendered? Will it fire the irresponsible officials, or at least demote and discipline them? Will Environmental Restoration pay its fair share?

Under standards that EPA and environmentalists apply to the private sector, Gold King was a disaster. However, the accident could also be an impetus for reflection and responsible regulatory reform.

Anti-mining pressure groups and factions within EPA will use this accident to press for new layers of mining rules, bonds, payments and liabilities. They are unnecessary – and will only restrict the jobs, expertise and revenues needed to ensure that exploration, mining, reclamation and repair of abandoned (orphan) mines are done properly. Modern mining, processing and pollution prevention methods are vastly superior to those employed even 50 years ago, and do not cause the exaggerated impacts alleged by Earthwatch and others. Moreover, the metals and minerals are essential for the wondrous technologies and living standards, the health, housing, transportation and recreational pursuits, that we enjoy today.

The Gold King blowout was predictable and preventable. The mine was leaking slightly polluted water, but the problem was not serious and was being addressed, and the former mining town of Silverton, CO had repeatedly [asked EPA](#) not to intervene or make Gold King a Superfund site. Mining engineers and other experts were available, and some had offered their insights and expertise. EPA ignored them.

EPA – and all government agencies – should end their We-know-best and We-know-what-we're-doing attitudes ... and seek outside advice from real experts in the trenches. They should also develop careful operating plans, assess worst-case scenarios, and take steps to ensure that the worst doesn't happen. Sometimes they just need to do nothing, get out of the way, and let the private sector handle problems.

But they should support Clean Water Act and other revisions to make it easier, less costly and less fraught with potential liability for companies or coalitions of dedicated parties to fix pollution discharge problems at the relatively few abandoned mines that are leaking contaminated water at worrisome levels.

EPA's new view that these pollutants are not as toxic as previously claimed – and that nature can and does clean things up – is refreshing, even if self-serving. (My use of "toxic" in this article mostly reflects currently prevailing agency, activist and public health industry attitudes and safety standards.)

Standards for maximum contaminant levels and maximum safe exposures are often absurdly low, and the concept of "[linear no threshold](#)" (that there is no safe exposure or blood or tissue level for lead, cadmium, arsenic and other metals) is outdated and wrong, Dr. [Edward Calabrese](#) and other experts argue.

Pollution, exposure and blood levels are often safe at significantly higher levels than regulations currently allow. Moreover, low levels of exposure to radiation and many chemicals can actually provide protection from cancer, disease and pollutants. While this concept of [hormesis](#) is generally ignored by current regulations, we know that a little alcohol improves heart functions, whereas a lot causes multiple problems; an 80 mg aspirin can prevent strokes, but a bottleful can kill; and many vaccinations inject disease strains that cause a person's immune system to produce antibodies and prevent the disease.

The Obama EPA is already using [WOTUS rules](#) on water and a [Clean Power Plan](#) on electricity generation and climate change to control virtually everything we make, grow and do. Congressional committees, presidential candidates, businesses and citizens need to get involved, debate these issues, ask tough questions, and work to implement appropriate reforms. Our courts and Congress must not allow another collusive sue-and-settle lawsuit – or a new regime of government controls and mine closures that would drive yet another nail into the coffin of western state and local economies ... and cleanup efforts.

Gold King presents a teachable moment. Let's make sure we learn the correct lessons.

Paul Driessen is senior policy analyst for the Committee For A Constructive Tomorrow, author of [Eco-Imperialism](#): Green power - Black death, and coauthor of [Cracking Big Green](#): Saving the world from the Save-the-Earth money machine.

* It appears that EPA deleted its entire photo album, so that people can no longer view them. We are trying to find a citizen archive of the images and will link to it, if possible. Again we have “the most transparent administration in history” (quoting President Obama) at your service.