

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Myron Ebell
Sent: Fri 6/16/2017 1:06:06 PM
Subject: Re: Rob Gordon: Exposing the EPA's Gold King Mine Cover-up

Great. Do you have five minutes to chat by phone on another subject today?

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On Jun 15, 2017, at 8:32 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

You will like what we are going to do.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 15, 2017, at 5:35 PM, Myron Ebell <Myron.Ebell@cei.org> wrote:

I think Rob's comment to me is correct: If EPA gets away with this under the new administration, they will feel invincible. If it is exposed, it will add steam for reform.

Rob spent hundreds of hours investigating the Gold King Mine disaster and scandalous cover-up when he was staff director of the House Natural Resources Committee's oversight and investigations subcommittee. He may be reached at Robert.Gordon@heritage.org.

<http://dailysignal.com/2017/06/14/exposing-epas-gold-king-mine-cover/>

[Politics](#)

Commentary

Exposing the EPA's Gold King Mine Cover-Up

[Robert Gordon](#) / June 14, 2017 / [comments](#)

<image001.jpg>

The EPA has sought to avoid responsibility for the Gold King Mine disaster, which caused 3 million gallons of toxic water to spill into the Animas River in 2015. (Photo: Jerry McBride/The Durango Herald/Polaris /Newscom)

Commentary By

[Robert Gordon](#)

Rob Gordon is a senior research fellow at The Heritage Foundation and has researched, testified, and written on endangered species, property rights, the federal estate, and other environmental issues. He previously served as staff director for the Subcommittee on Oversight and Investigations of the House Committee on Natural Resources.

Does the Environmental Protection Agency care more about its image than it does about the environment?

Its behavior in response to the massive 2015 Gold King Mine disaster in Colorado would suggest a very clear "yes."

The Environmental Protection Agency is hiding its incredible recklessness in the affair by giving official accounts that are clearly contradicted by ample evidence in the government's possession.

As the new EPA administrator, Scott Pruitt has an opportunity to drain a bit of the swamp by exposing the EPA's cover-up.

Americans need an alternative to the mainstream media. But this can't be done alone. [Find out more >>](#)

An Environmental Disaster

In August 2015, an EPA crew inexplicably dug out the rock and rubble “plug” to the long abandoned Gold King Mine, triggering a massive blowout that flooded the Animas River with 3 million gallons of acid mine drainage and, according to the EPA, over 550 tons of metals.

Had the EPA actually been doing what it claims it did, the disaster would never have happened. However, it seems the EPA could not allow its reputation to be tarnished with the truth.

The EPA has put forth the fiction that its crew had simply removed backfill that was blocking access to a mine tunnel, but did not disturb the natural plug that had formed in the tunnel’s opening that was holding back a sea of acid mine drainage.

The EPA claims its crew planned to wait for experts who would address the plug. It says its team was just further cleaning up the site when, through some inexplicable bad luck, the plug eroded, causing a blowout that turned the Animas River bright orange.

In essence, the agency wants us to believe that this was an accident that could have happened to anybody.

The truth the EPA is concealing is that its team did not stop after excavating to the tunnel’s opening, and never had any intention of stopping.

The EPA crew began removing the plug as it had planned, even though it anticipated acid mine drainage would flow out and that the drainage could be pressurized.

The EPA’s actions could be likened to poking a balloon with a pin to let out just a little air. At best, the EPA’s actions were incredibly reckless.

Numerous federal officials in and outside the EPA turned a blind eye to the truth, and never challenged the fiction that the EPA maintains to this day and that was just repeated Monday by the EPA’s inspector general.

For an agency more concerned about its own welfare than its environmental mission, the almost unfathomable incompetence is sufficient motive to cover up what really happened.

[<image002.jpg>](#)

Gina McCarthy presided over the Gold King Mine disaster as EPA administrator. (Photo: Jim Lo Scalzo/EPA/Newscom)

There are other reasons as well. Some grossly negligent acts can be criminally prosecuted under provisions the Clean Water Act—a measure the EPA has used against private parties in the past. Additionally, New Mexico has already brought a lawsuit seeking damages.

Further, the EPA's dishonest actions after the fact likely provide even more impetus to continue the deception.

Given the contradictory assertions they have made in public and the bogus reports they have produced for public and congressional consumption, it is difficult to imagine how the EPA officials involved could have possibly been honest with the inspector general investigators.

Pruitt's team has inherited a tangle of half-truths, misdirection, and deceit. Like the Gold King Mine disaster itself, this is a mess the agency needs to clean up.

A Prelude to Disaster

Years before the Gold King Mine disaster occurred, there had been a collapse within a tunnel (an adit) used to access, ventilate, and drain the mine's inner content.

Water can naturally accumulate within mines, and if there has been a collapse, fine solid matter like clay can eventually fill all the spaces between the collapsed rock, forming a natural plug. Eventually a pool of water forms behind the plug, and with enough time there can be so much water that it becomes pressurized.

In 2009, after this collapse, a pipe had been inserted into the mine in an attempt to prevent the accumulation of water. Then, the old structure at the entrance to the adit (posts and timbers supporting a roof to protect from debris sliding down from the slope above) was demolished, and the area in front of the mine opening was backfilled, burying all except the end of the drainage pipe.

Subsequently, water flowing from the mine had slowed to a trickle, a possible indicator that the mine was plugged.

When the EPA crew came to the mine in 2015, it came specifically to address the concern about conditions that could lead to a blowout.

The crew, however, was operating under outlandish assumptions that the agency had made one year before, which are covered in greater detail by a congressional committee [report](#).

In brief, based on almost no evidence, the EPA had concluded during a visit in 2014 that the floor of the mine was 6 feet lower than the ground immediately outside the mine.

It assumed that water in the mine would have to be over 6 feet deep before it would flow out of the pipe. Seeing little flow out, it conjectured the backfilled mine was only half-full and not pressurized.

This conclusion was contrary to available old photographs, documents from the Colorado's Division of Reclamation, Mining and Safety, and the basic fact that the tunnel was designed in part to drain the mine—so recessing the floor 6 feet would make no sense.

The ground immediately outside the mine was made of the waste rock removed to create the tunnel. Why and how would a tunnel be dug so it couldn't drain or be accessed?

An additional clue should have been clear to the crew: During a 2014 visit, the EPA removed a stinger—a pipe that is used to drive through a collapse to drain impounded water.

This is especially true given that when the crew yanked the stinger from the rubble, it found the front section mangled, indicating there had possibly been an unsuccessful attempt to penetrate a blockage.

In any case, whether the mine was full or not could have been determined by drilling to test for hydrostatic pressure. However, because drilling was difficult and expensive, the EPA chose to rely on faulty assumptions rather than data.

In 2015, the EPA crew set about removing unconsolidated backfill (material that was not holding back water) to reach the plugged tunnel opening cut into the mountain's rock face. This was accomplished the first day of digging.

The crew's outlandish assumptions were proven to be just that when it reached the tunnel's opening. It had exposed the entire plug from the bottom to the top of the tunnel, not just the upper half.

With the tunnel not recessed as anticipated, the crew should have realized, and likely did, that the basis of its assumption that the mine was not full of water had evaporated.

In what appears to have been a hopeless effort to account for this, the following day, the EPA crew reburied all but the very top portion of the plug. It built a large mound of earth (a berm) in front of the tunnel opening and constructed a makeshift channel to the side.

The crew apparently anticipated that when it dug a hole into the top of the plug, any water that came out would calmly flow through the channel and to a pre-existing ditch that ran down the mountain to settling ponds.

Hope springs eternal.

<image003.jpg>

The Animas River, which was contaminated by the spill, serves as a vital water source for parts of Colorado, New Mexico, and the Navajo Nation. (Photo: EPA/Zuma Press/Newscom)

Although the EPA fails to mention the reburial of the plug in any of its reports, several executive branch reports, along with an EPA inspector general report released this week, described what supposedly happened next.

All these reports are wrong, and most, if not all, are intentionally deceitful.

Rewriting History

First, the EPA produced a report that asserted its crew was just digging to clear the bedrock face, but not touching the plug. Then, somehow, the lower bedrock crumbled and the mine just blew out.

The Department of the Interior produced the next report, a bureaucratic treatise that says the EPA crew discussed a plan, but then ambiguously states “the contractor continued to excavate.”

Exactly what the crew was excavating—the dirt above the tunnel opening (which in fact had already been removed) or the plug itself—is left unsaid. The report asserts that the EPA crew planned to insert another stinger through the now-exposed plug to drain the mine.

The crucial fact omitted by the report is that the EPA did not have a stinger. So, the plan was pure fiction.

In fact, the Department of Interior report was so short on details that an Army Corps of Engineers peer-reviewer made his signature conditional on including additional text in the executive summary.

He included the line:

The report discusses field observations by EPA (and why they continued digging), but does not describe why a change in EPA field coordinators caused the urgency to start digging out the plug rather than wait for [Bureau of Reclamation] technical input as prescribed by the EPA project leader.

Unlike the Corps reviewer's comments, the remainder of the Interior report is nebulous.

Then, the night before a congressional hearing on the Interior report, the EPA issued an addendum to its first report, stating that the report was based on an unrecorded, untranscribed, simultaneous interview of the two EPA on-scene coordinators in charge of the site.

According to the addendum, the on-scene coordinator who was on vacation at the time of the blowout had handed supervision off to the other, along with an emailed list of instructions.

Curiously, this critically important email was not mentioned in the narrative of the two earlier reports. The email provides explicit instructions on steps to take to remove the upper portion of the plug.

The EPA's midnight addendum also asserts that its crew was following these instructions with one exception. Without any supporting evidence whatsoever, the report claims that after he sent the email, the on-scene coordinator who would be on vacation told his replacement not to remove the plug, something inconsistent with his instructions.

Even if this supposed "clear verbal direction" was ever given, it definitely wasn't followed.

The report goes on to repeat the fiction that the EPA crew was digging high above the tunnel opening and preparing the site for when the experts would arrive when, somehow, the mine inexplicably burst open.

Finally, the EPA Inspector General's Office released its report this Monday that at best demonstrates an inability to uncover the truth by repeating the fiction.

After omitting any serious discussion of the outlandish assumptions from the EPA's 2014 site visit, the EPA inspector general repeats the official EPA line, stating that:

According to the [on-scene coordinator] on-site, the team stopped excavation in front of the blockage on Aug. 4, 2015, after they reached material that was compacted, well consolidated, and considered by the [on-scene coordinator] on-site to be the blockage.

The EPA inspector general goes on to state that the next day, "[t]he excavator operator built a ramp to enable reaching higher." This was reportedly done so the excavator operator could "scratch" above the mine entrance where the plug was.

Like the other reports, the inspector general omits any mention that the plug that had been unearthed the day before was reburied—as is demonstrated in this series of photos—and that the rock face had already been “scratched” clean before the blowout, as demonstrated in this series of photos.

Time for Truth and Accountability

All these reports are clearly refuted by an email from the Department of Interior recently released by the House Committee on Natural Resources, which states:

On 8/5/2015, the EPA was attempting to relieve hydrologic pressure behind a naturally collapsed adit/portal of the Gold King Mine. The EPA’s plan was to slowly drain and treat enough mine water in order to access the inner mine working and assess options for controlling its discharge. While removing small portions of the natural plug, the material catastrophically gave-way and released the mine water.

This document, site photographs, and other information clearly contradict the fiction that the EPA has spun. The cover-up is so bold it fits the old saying, “Who you going to believe, me or your lying eyes?”

While the EPA crew did not snap a photo of the excavator bucket that was digging the last fateful scoop of the plug, it might as well have.

There are enough people inside the agencies that know the truth, and a trail of pictures and papers show that they know it.

It is time the cover-up be uncovered, and the EPA be exposed for caring more about its own institutional interests than protecting the quality of the environment.

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Stop continental drift!

To: Jackson, Ryan[jackson.ryan@epa.gov]

From: Ex. 6 - Personal Privacy

Sent: Sun 6/4/2017 9:08:27 PM

Subject: CV

Ex. 6 - Personal Privacy 2017.pdf