



# New Mexico Environment Department

## Update on the Gold King Mine Spill and Restoration Project Program

Rebecca Roose, Deputy Cabinet Secretary of Administration

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Radioactive and Hazardous Materials Interim Committee





# Gold King Mine Spill

- Aug. 5, 2015, U.S. EPA crew doing exploratory work at the Gold King Mine near Silverton, Colorado, caused a blowout of impounded mine water.
  - ▣ More than 3 million gallons of acidic mine water contaminated with heavy metals flowed into Cement Creek.
  - ▣ The plume reached the Animas River and flowed into New Mexico and the San Juan River, which runs through the Navajo Nation and Utah.
- In 2016, New Mexico sued the EPA, its contractors and mining companies for damages sustained by the state.
- In 2016, under the Water Infrastructure Improvements for the Nation (WIIN) Act, Congress authorized \$4 million per year in 2017–2021 for a long-term water quality monitoring program for the San Juan watershed.
- Today's data, from extensive monitoring and research over the past six years, demonstrates crops irrigated with water from the San Juan River are safe to eat, yet farmers still face a stigma among consumers.

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## Projects to Address Contamination from the GKM Spill



# Completed Watershed Projects

- Analysis of Contaminants on Attainment of Livestock Watering and Crop Irrigation Uses
  - Water quality meets criteria for livestock watering and irrigation.
- Regional Groundwater Monitoring
- Aztec Reservoir #1 Sediment Coring Study
- Four San Juan Watershed conferences (2017-2020)
- USGS Lake Farmington Coring
  - Concentrations of metals in the lake sediments were found to be non-toxic (non-hazardous) based on the regulatory limit, which means the sediment can be disposed of in landfills.
- Agriculture Outreach and Communication Pilot



# Completed Project Highlight

## *Healthy Food Grows Where Healthy Rivers Flow*

- Collaborative campaign between NMED, New Mexico State University and the San Juan Soil and Water Conservation District
- Educate the public about the safety of eating these crops and the health benefits of eating locally grown foods
- Deliver fresh local produce to communities





# Active and Upcoming Projects

- Nutrient and Metals Source Investigation (ongoing)
- Install and implement best management practices (ongoing)
- San Juan Watershed Conferences (scheduled for 2022, 2023, and 2024)
- Wetland assessment and/or restoration (grant award expected in 2022)



# Additional NMED Activities

Surface Water Program Activities in the San Juan-Animas Watershed include:

- 2017-2018 Ambient Water Quality Monitoring
  - Collected over 850 discreet water quality samples:
    - sediment, nutrients, total and dissolved metals, bacteria, volatile organic compounds, semi-volatile organic compounds, and radionuclides
    - Continuous dissolved oxygen and temperature data
    - Streamflow
    - E. coli bacteria, chlorophyll, phytoplankton, fish tissue
- Data assessment
  - One new dissolved lead impairment on the Animas River
- Since 2016, NMED has funded one watershed planning project and six restoration projects

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# Litigation Status





# Early Case History (NM v. EPA et al)

- State of New Mexico on behalf of NMED v. EPA, Gina McCarthy, Environmental Restoration, LLC, Kinross Gold Corporation, Kinross Gold USA, Inc., Sunnyside Gold Corporation (US District Court)
  - Filed May 23, 2016
  - Alleged violations of CERCLA, RCRA, and Clean Water Act; also alleged negligence, gross negligence, nuisance, and trespass
  - New Mexico seeks cost recovery, damages, injunctive relief, and attorneys' fees
  - RCRA and Clean Water Act claims are no longer in play
  - Navajo Nation filed similar claims against same defendants, and Judge consolidated these cases



# New Mexico Damages (NM v. EPA et al)

- Submitted notice of damages to EPA of \$130 million on May 12, 2016
- Tort damages include lost income, taxes, fees, and revenues that the state suffered as a result of the spill
- After expert analysis, completed in July 2021, NM's actual losses total over \$237 million
- NM can recover up to \$130 from EPA and may recover up to \$237 million from a combination of EPA and contractor defendants



# Settlement (Mining Company Defendants)

- New Mexico entered into a settlement agreement with Kinross Gold Corporation, Kinross Gold USA, Inc., Sunnyside Gold Corporation in January 2021
- Settlement brought \$11 million into the state
  - \$1 million to ONRT for natural resource damages
  - \$10 million went to the state (NMED and NM Attorney General's Office) for response costs and tort damages
    - NMED received a special appropriation allocating \$2.5 million of the settlement for protection and restoration of the environment.
- Navajo Nation reached their own settlement with the mining companies for \$10 million



# Current Litigation Status

- New Mexico is preparing for trial against remaining defendants (EPA and its contractors); trial anticipated for late summer or fall 2022
  - Discovery phase is complete
  - Parties have exchanged all expert reports
  - Judge will entertain no more motions to dismiss by remaining defendants
  - Judge continues to rule favorably to New Mexico on evidentiary motions

# NMED Contact Information

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