

Congress of the United States

Washington, DC 20515

August 31, 2015

Mr. Dennis Greaney
President
Environmental Restoration, LLC
1666 Fabick Drive
St. Louis, Missouri 63026

Dear Mr. Greaney:

An Environmental Protection Agency (EPA) spokesman identified your company, Environmental Restoration, LLC, as the contractor “whose work caused a mine spill in Colorado that released an estimated three million gallons of toxic sludge into a major river system.”¹ The toxic discharge affected the environment in at least three states and disrupted the livelihoods of nearly every person and business in the surrounding areas. The full damages and long-term consequences of the spill are still unknown. The House Committee on Oversight and Government Reform (OGR) and the House Committee on Natural Resources (HCNR) are conducting oversight into this toxic spill.

Environmental Restoration, LLC was reportedly working at the mine pursuant to “an agreement [with EPA] to provide emergency protection from pollutants from the Gold King Mine.”² On August 12, 2015, an EPA spokesman stated, “Environmental Restoration LLC was working at the direction [of] EPA in consultation with the Colorado Division of Reclamation, Mining and Safety.”³ According to media reports and the company’s website, Environmental Restoration, LLC has contracted extensively with EPA for emergency cleanup projects, including high-profile projects such as “the aftermath of Hurricane Katrina, the Sept. 11, 2001, terrorist attack ground zero cleanup, and the Deepwater Horizon Gulf of Mexico spill remediation.”⁴ Environmental Restoration, LLC received almost \$400 million worth of federal contracts—mostly from EPA—for cleanup projects over the last eight years.⁵

You and your company are well-positioned to help the Committee understand how and why the August 2015 Gold King Mine accident occurred. For that purpose, please provide the following documents and information:

¹ Amy Harder, Alexandra Berzon, and Jennifer Forsyth, *EPA Contractor Involved in Colorado Spill Identified as Environmental Restoration*, WALL ST. J., Aug. 13, 2015.

² *Id.*

³ *Id.*

⁴ *Id.*; See also, Environmental Restoration, LLC website, “Projects,” available at <http://www.erllc.com/index.php> (last visited Aug. 24, 2015).

⁵ *Id.* (citing USAspending.gov)

1. All documents referring or relating to the Gold King Mine, the Red and Bonita Mine and the Sunnyside Mine including, but not limited to, documents referring or relating to the toxic spill and the subsequent cleanup and investigative/review efforts.
2. All communications referring or relating to the Gold King Mine project, including, but not limited to:
 - a. Communications between any Environmental Restoration, LLC employee and any EPA employee, subcontractor employee, federal/state/local government employee, expert, or representative of a tribal group.
 - b. Communications referring or relating to the August 2015 toxic spill and the subsequent cleanup and investigative/review efforts.
3. All documents and communications referring or relating to violations of any state, local, or federal laws, regulations, or codes, by Environmental Restoration, LLC since January 1, 2000.
4. All certifications, licenses, or permits to perform the work at Gold King Mine.
5. All documents and information referring or relating to training, disaster prevention, pollution prevention plans, disaster planning, disaster cleanup and remediation, safety precautions, or emergency procedures at the Gold King Mine.
6. All documents and communications referring or relating to preparation, planning, and inspection of the Gold King Mine by Environmental Restoration, LLC or any other entity, including, but not limited to, documents referring or relating to installation of a pipe or other mechanism to remove toxic chemicals from the mine.
7. All documents, photographs, video, or other media depicting the Gold King Mine, the August 5, 2015 breach, the toxic spill, and/or the areas affected by the spill.
8. All documents and communications referring or relating to damage caused by the toxic spill.

Please provide the requested information as soon as possible, but no later than 5:00 p.m. on September 14, 2015. An attachment to this letter provides additional information about responding to the Committees' request. When producing documents to the Committees, please deliver production sets to the OGR Majority staff in room 2157 of the Rayburn House Office Building and the OGR Minority staff in room 2471 of the Rayburn House Office Building. Please deliver production sets for the HCNR Majority staff to 1327 in the Longworth House Office Building and for the Minority staff to room 1329 in the Longworth House Office Building. The Committees prefer, if possible, to receive all documents in electronic format.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. The House Committee on Natural Resources has broad jurisdiction with regard to the Department of the Interior and regarding relations of the United States with Native Americans and Native American tribes, public lands generally, fisheries and wildlife, mining interests generally and irrigation and reclamation as well.

Please contact William McGrath or Ryan Hambleton of the OGR Committee staff at (202) 225-5074 or Rob Gordon or Jessica Conrad of the HCNR staff at (202) 225-2761 with any questions about this request. Thank you for your prompt attention to this important matter.

Sincerely,



Jason Chaffetz
Chairman
Committee on Oversight and
Government Reform



Rob Bishop
Chairman
Committee on
Natural Resources



Cynthia M. Lummis
Chairman
Subcommittee on the Interior
Committee on Oversight and
Government Reform

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member
Committee on Oversight and Government Reform

The Honorable Brenda Lawrence, Ranking Member
Subcommittee on the Interior
Committee on Oversight and Government Reform

The Honorable Raul Grijalva, Ranking Member
Committee on Natural Resources

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.