

**AMENDMENT TO H.R. 1937, AS REPORTED
OFFERED BY MR. BEN RAY LUJÁN OF NEW
MEXICO**

Add at the end the following:

1 **SEC. ____ . COMPENSATION FOR VICTIMS OF GOLD KING**

2 **MINE SPILL.**

3 (a) **FEDERAL TORT CLAIMS.—**

4 (1) **IN GENERAL.—**Subject to paragraph (4),
5 each injured person shall be entitled to receive from
6 the United States compensation for a claim filed, or
7 civil action brought, under chapter 171 of title 28,
8 United States Code (commonly known as the “Fed-
9 eral Tort Claims Act”), arising out of or relating to
10 an injury resulting from the Gold King Mine spill.

11 (2) **EFFECT OF ACCEPTANCE.—**The acceptance
12 by an injured person of compensation under para-
13 graph (1) shall have the same effect as acceptance
14 of compensation under chapter 171 of title 28,
15 United States Code (commonly known as the “Fed-
16 eral Tort Claims Act”), or any other Federal or
17 State law, arising out of or relating to the Gold
18 King Mine spill.

1 (3) REQUIREMENT.—The Administrator and
2 the Attorney General shall process a claim filed, or
3 civil action brought, pursuant to paragraph (1) as
4 expeditiously as practicable.

5 (4) NONAPPLICABILITY OF LIMITATION.—With
6 respect to any claim under this Act arising out of,
7 or relating to, an injury resulting from the Gold
8 King Mine spill—

9 (A) the maximum amount limitation on
10 claims described in the proviso of the first sen-
11 tence of section 2672 of title 28, United States
12 Code, shall be waived; and

13 (B) the Administrator may provide com-
14 pensation for the claim in an amount greater
15 than \$25,000 without prior written approval of
16 the Attorney General (or a designee), as the
17 Administrator determines to be appropriate.

18 (b) OFFICE OF GOLD KING MINE SPILL CLAIMS.—

19 (1) ESTABLISHMENT.—There is established
20 within the Environmental Protection Agency an Of-
21 fice of Gold King Mine Spill Claims.

22 (2) PURPOSE.—The Office shall receive, proc-
23 ess, and pay claims in accordance with this section.

24 (3) TREATMENT.—The establishment of the Of-
25 fice by this subsection shall not diminish the ability

1 of the Administrator to carry out the responsibilities
2 of the Environmental Protection Agency under any
3 other provision of law.

4 (4) DETAILEES.—On request of the Adminis-
5 trator, the head of any Federal department or agen-
6 cy may detail, on a reimbursable basis, any per-
7 sonnel of that department or agency to the Office to
8 assist in carrying out the duties under this Act.

9 (c) ALLOWABLE DAMAGES.—

10 (1) PROPERTY LOSS.—A claim that is paid for
11 loss of property under this section may include oth-
12 erwise-uncompensated damages resulting from the
13 Gold King Mine spill for—

14 (A) a cost resulting from lost tribal sub-
15 sistence from hunting, fishing, firewood gath-
16 ering, timbering, grazing, or agricultural activi-
17 ties, or from lost use for traditional or ceremo-
18 nial uses, conducted on land or water damaged
19 by the Gold King Mine spill;

20 (B) a cost of reforestation or revegetation
21 on tribal or non-Federal land, to the extent that
22 the cost of reforestation or revegetation is not
23 covered by any other Federal program;

24 (C) any costs borne by any injured person
25 to determine the extent of—

1 (i) the damages to agricultural land;

2 or

3 (ii) any other damages covered by this

4 Act;

5 (D) any costs borne by an injured person

6 who had to pay for water supplies or equipment

7 to treat water during the period for which a

8 water supply of the injured person was com-

9 promised by the Gold King Mine spill; and

10 (E) any other loss that the Administrator

11 determines to be appropriate for inclusion as

12 loss of property.

13 (2) BUSINESS LOSS.—A claim that is paid for

14 an injury under this section may include damages

15 resulting from the Gold King Mine spill for the fol-

16 lowing types of otherwise uncompensated business

17 loss:

18 (A) Damage to tangible assets or inven-

19 tory.

20 (B) Business interruption losses.

21 (C) Overhead costs.

22 (D) Employee wages for work not per-

23 formed.

1 (E) Any other loss that the Administrator
2 determines to be appropriate for inclusion as a
3 business loss.

4 (3) FINANCIAL LOSS.—A claim that is paid for
5 an injury under this section may include damages
6 resulting from the Gold King Mine spill for the fol-
7 lowing types of otherwise uncompensated financial
8 loss:

9 (A) An insurance deductible.

10 (B) Lost wages or personal income.

11 (C) Emergency staffing expenses.

12 (D) Debris removal and other cleanup
13 costs.

14 (E) Any other loss that the Administrator
15 determines to be appropriate for inclusion as a
16 financial loss.

17 (c) DEFINITIONS.—In this section:

18 (1) ADMINISTRATOR.—The term “Adminis-
19 trator” means the Administrator of the Environ-
20 mental Protection Agency.

21 (2) GOLD KING MINE SPILL.—The term “Gold
22 King Mine spill” means the discharge on August 5,
23 2015, of approximately 3,000,000 gallons of con-
24 taminated water from the Gold King Mine north of
25 Silverton, Colorado, into Cement Creek that oc-

1 curred while contractors of the Environmental Pro-
2 tection Agency were conducting an investigation of
3 the Gold King Mine.

4 (3) INJURED PERSON.—The term “injured per-
5 son” means a person that—

6 (A) suffered injury resulting from the Gold
7 King Mine spill; and

8 (B) is—

9 (i) an individual, regardless of the
10 citizenship or alien status of the individual;

11 (ii) an Indian tribe, tribal corporation,
12 or other tribal organization;

13 (iii) a corporation, business, partner-
14 ship, company, association, insurer, county,
15 township, city, State or political subdivi-
16 sion of a State, school district, ditch com-
17 pany, special district, water district, water
18 company, the Animas-La Plata Operation,
19 Maintenance and Replacement Association,
20 or other non-Federal entity; or

21 (iv) a legal representative of an indi-
22 vidual or entity described in any of clauses
23 (i) through (iii).

24 (4) INJURY.—The term “injury” means any
25 damage to, or loss of, property, or a personal injury

1 or death, caused by a negligent or wrongful act or
2 omission of a Federal officer, employee, contractor,
3 or subcontractor while acting within the scope of of-
4 fice, employment, or contract, under circumstances
5 in which the Federal officer, employee, contractor, or
6 subcontractor, if a private person, would be liable to
7 the claimant in accordance with the law of the juris-
8 diction in which the act or omission occurred.

9 (5) OFFICE.—The term “Office” means the Of-
10 fice of Gold King Mine Spill Claims established by
11 subsection (b)(1).

