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

Add at the end the following:

SEC. ___. COMPENSATION FOR VICTIMS OF GOLD KING MINE SPILL.

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

(2) EFFECT OF ACCEPTANCE.—The acceptance by an injured person of compensation under paragraph (1) shall have the same effect as acceptance of compensation under chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”), or any other Federal or State law, arising out of or relating to the Gold King Mine spill.
(3) REQUIREMENT.—The Administrator and the Attorney General shall process a claim filed, or civil action brought, pursuant to paragraph (1) as expeditiously as practicable.

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

(A) the maximum amount limitation on claims described in the proviso of the first sentence of section 2672 of title 28, United States Code, shall be waived; and

(B) the Administrator may provide compensation for the claim in an amount greater than $25,000 without prior written approval of the Attorney General (or a designee), as the Administrator determines to be appropriate.

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

(1) ESTABLISHMENT.—There is established within the Environmental Protection Agency an Office of Gold King Mine Spill Claims.

(2) PURPOSE.—The Office shall receive, process, and pay claims in accordance with this section.

(3) TREATMENT.—The establishment of the Office by this subsection shall not diminish the ability
of the Administrator to carry out the responsibilities of the Environmental Protection Agency under any other provision of law.

(4) DETAILLEES.—On request of the Administrator, the head of any Federal department or agency may detail, on a reimbursable basis, any personnel of that department or agency to the Office to assist in carrying out the duties under this Act.

(e) ALLOWABLE DAMAGES.—

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

(A) a cost resulting from lost tribal subsistence from hunting, fishing, firewood gathering, timbering, grazing, or agricultural activities, or from lost use for traditional or ceremonial uses, conducted on land or water damaged by the Gold King Mine spill;

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

(C) any costs borne by any injured person to determine the extent of—
(i) the damages to agricultural land;

or

(ii) any other damages covered by this Act;

(D) any costs borne by an injured person who had to pay for water supplies or equipment to treat water during the period for which a water supply of the injured person was compromised by the Gold King Mine spill; and

(E) any other loss that the Administrator determines to be appropriate for inclusion as loss of property.

(2) BUSINESS LOSS.—A claim that is paid for an injury under this section may include damages resulting from the Gold King Mine spill for the following types of otherwise uncompensated business loss:

(A) Damage to tangible assets or inventory.

(B) Business interruption losses.

(C) Overhead costs.

(D) Employee wages for work not performed.
(E) Any other loss that the Administrator determines to be appropriate for inclusion as a business loss.

(3) FINANCIAL LOSS.—A claim that is paid for an injury under this section may include damages resulting from the Gold King Mine spill for the following types of otherwise uncompensated financial loss:

(A) An insurance deductible.

(B) Lost wages or personal income.

(C) Emergency staffing expenses.

(D) Debris removal and other cleanup costs.

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

(c) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) GOLD KING MINE SPILL.—The term “Gold King Mine spill” means the discharge on August 5, 2015, of approximately 3,000,000 gallons of contaminated water from the Gold King Mine north of Silverton, Colorado, into Cement Creek that oc-
curred while contractors of the Environmental Protection Agency were conducting an investigation of the Gold King Mine.

(3) INJURED PERSON.—The term “injured person” means a person that—

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

(B) is—

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

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

(iii) a corporation, business, partnership, company, association, insurer, county, township, city, State or political subdivision of a State, school district, ditch company, special district, water district, water company, the Animas-La Plata Operation, Maintenance and Replacement Association, or other non-Federal entity; or

(iv) a legal representative of an individual or entity described in any of clauses (i) through (iii).

(4) INJURY.—The term “injury” means any damage to, or loss of, property, or a personal injury
or death, caused by a negligent or wrongful act or omission of a Federal officer, employee, contractor, or subcontractor while acting within the scope of office, employment, or contract, under circumstances in which the Federal officer, employee, contractor, or subcontractor, if a private person, would be liable to the claimant in accordance with the law of the jurisdiction in which the act or omission occurred.

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