

EPA: 'not legally able' to pay on mine spill lawsuits

Written by gallupsun
Friday, 13 January 2017 16:07

Staff Reports

DENVER – The independent claims officer within the Environmental Protection Agency – guided by the U.S. Department of Justice – made a decision on the administrative claims brought under the Federal Tort Claims Act in connection with the Aug. 5, 2015 Gold King Mine spill Jan. 13.

"After careful analysis, the claims officer concluded that the agency is not legally able to pay compensation for the claims," the EPA stated in a news release.

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According to the EPA, when passing the FTCA, Congress wanted to encourage government agencies to take action without the fear of paying damages in the event something went wrong while taking the action.

"So the act does not authorize federal agencies to pay claims resulting from government actions that are discretionary – that is, acts of a governmental nature or function and that involve the exercise of judgment," the EPA stated.

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The agency also stated that it was conducting a site investigation at the Gold King Mine under the Comprehensive Environmental Response, Compensation, and Liability Act, that work is considered a “discretionary function” under this law.

"Therefore, the circumstances surrounding the Gold King Mine incident unfortunately do not meet the conditions necessary to pay claims," the agency asserted.

However, those who have filed claims and whose claims have been denied may challenge this decision with the United States District Court within six months of the date of the denial.

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Navajo Nation President Russell Begaye is expected to issue a statement on the matter sometime Friday afternoon. New Mexico Attorney General Hector Balderas called the EPA's refusal to pay as "reckless."

"New Mexico's children, families and economy have already been devastated by the EPA's horrific actions, and now the EPA is re-victimizing our state and the Navajo Nation with its reckless refusal to take full responsibility for the toxic Gold King Mine spill," he said "Our families and farmers rely on this water, and I will continue to aggressively pursue litigation to obtain justice for our culturally unique population and fragile economy."



The EPA claims that it has taken responsibility for the Gold King Mine incident, including providing financial support, continued water treatment and monitoring, developing and implementing a permanent remedial plan for the broader mining region, and research to improve their understanding of how contaminants move through complex river systems.

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