

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

In re: Gold King Mine Release in San Juan County,
Colorado, on August 5, 2015

No. 1:18-md-02824 WJ

This Document Relates to:
No. 18-cv-00744-WJ-KK

JOE C. ALLEN, JR., CAROL ANAGAL, CHERYL ARMENTA, DUANE ASPAAS, LEONTYNE ATCITY, LULA ATCITY, WILFORD ATSON, HILDA BALDWIN, AARON BARBER, DAISY BARBER AND LOUISE HENDERSON, PAUL BARBER, ROGER BARBER, ALICE BEGAY, ANDY BEGAY, ARLENE BEGAY, BERNITA BEGAY, BETTY BEGAY, CAROLINE BEGAY, CHARLENE BEGAY, ELIZABETH BEGAY, ERIC BEGAY, HELEN BEGAY, JACQUELINE L. BEGAY, JACQUELINE S. BEGAY, JONAH BEGAY, JUDY BEGAY, MAE BEGAY, MARYLITA BEGAY, ROY BEGAY, SANDRA BEGAY, VIRGINIA BEGAY, WAYNE BEGAY, TOMMY BEGAY, JR., CORLIVIA BEGAYE, ETTA BEGAYE, JENATHAN BEGAYE, RICHARD BEGAYE, LAURENCE BEKISE, ROBERT BEKISE, DAVID BEN, TIMOTHY BEN, REHELLEDA BENALLIE, DINA BENALLY, ERNEST BENALLY, HARRY BENALLY, JEANNIE BENALLY, MAX BENALLY, NINA BENALLY, PEARLENE BENALLY, ROSE BENALLY, STEVE BENALLY, SUSAN BENALLY, WANDA BENALLY, LUCINDA Y. BENNALLEY, LARENA BENN, LYNALLA BENN, SHIRLEY BIA, PRISCILLA BIGMAN, VERNIDA BISSONETTE, LORRAINE BLACK, MABLE BLACK, TAYLOR BLACK, TOM BLACKHORSE, ANNIE BLUEEYES, SCOTT BRADY, ANDREW BREWSTER, DARLENE BRONSTON, JANICE "TERRI" BROWN, JACKSON BUNNY, JR., ALBERT BYLILLY, HARRISON CATTLEMAN, JR., SAMMY CHARLEY, WILMA CHARLEY, THOMAS CHARLEY, DARRELL CLAH, BENJAMIN CLARK, MARY CLARK, TONI CLAW, LAHOMA CLY, STELLA CLY, DORIS COOLIDGE, JIMMIE COOLIDGE, WILBERT COWBOY, JR., ALFRED CURLEY, DON CURLEY, JR., MELVIN CURLEY, MARTHA CURTIS, KEE DAN, RACHEL DEE, DAVIDSON DEVORE, LUCY DICK, MARLENE

DOBEY, ELTON DODGE, SUSIE DODGE, TOMMY DRAPER, BESSIE DUNCAN, CECIL DUNCAN, THURSTON EDDIE, HERMAN ENOAH, MARY ENOAH, VERNESE ESPLAIN, ALLEN E. AND BERTHA A. ETSITTY, HURON ETSITTY, RENA FASTHORSE, JANICE FRANK, SARAH FRANK, GENE FRED, LOREN GARNANEZ, RILEY GARNANEZ, SHALINA GRANDSON, JAMES GRANT, CRYSTAL GREY, REYVETTE GREY, SHAWNA HAMM, JULIE HARRISON, MARGARET HARRISON AND SHERRELL G. MESA, HUBERT HARWOOD, EMERSON AND LORETTA HATATHLEY, ANITA HAYES, PERRY HAYES, ROBERT HAYES, ROBIN HAYES, WALLACE HAYES, ANNIE HENRY, ELSIE HENRY, FREDDIE HOBSON, JOANNE HOLLIDAY, TOM HORSE, DAISY HOUSER, HELEN HOWARD, HERMAN HUNT, IRITA JAMES, GARRY JAY, MARY AND EDDIE JAY, DANIEL JIM, DARRELL JIM, FANNIE MARIE AND CHARLEY JIM, GENEVA JIM, JONAH JIM, KYLE JIM, NORMAN JIM, SR., SHEILA JIM, VIRGINIA JIM, ELSIE JOE, LITA JOE, FRANK JOHN, JR., HERMAN JOHN, ANNE JOHNSON, HARRISON JOHNSON, JESSIE JOHNSON, JEAN JONES, LENA J. JONES, RAYMOND JONES, RENITA T. JONES, THERON JONES AND THE ESTATE OF LEON JONES, WESLEY JONES, LAURA TOM-JONES, DARREN KEE, JUANITA KEE, MAX KELLYWOOD, SR., FRANCINE KIEFERT, FLORENCE B. KING, MARLENA KING, TERRI LAMEMAN-AUSTIN, HARRY AND GLORIA LANE, ADA LANSING, JOHN LANSING, ALBERT H. LEE, EMERSON LEE, EVELYN M. LEE, LEONARD LEE, SR., MARIE LEE, MICHELLE A. LEE, ROSELYN LEE, MICHAEL N. LITTLE, ROWENA LITTLEHAT, IRENE LIVINGSTON, CARMELITA LOWE, CYNTHIA MADISON, MARY ANN MANYGOAT, ESTHER MARK, MAE MARTIN, GERALD MARYBOY, JAMES MASON, BEVERLY MAXWELL, WALLACE MCGILBERT, ESTATE OF ROSE MERRITT, ROSINA T. MERRITT, SHAWN MIKE, RON MILLER, EMMA MITCHELL, LAURA M. MITCHELL, LUCY B. MITCHELL, SYLVIA MITCHELL, MARILYN MUSTACHE, ANTHONY NABAHE, BETTY JONES NAKAI, HARRY S. NAKAI, JIMMY NAKAI, LAVERNE NAKAI, BYRON AND TONITA NELSON, PAULINE D. NELSON, RUBY NELSON, RUTH NEZ, ANNIE AND

RAYMOND OLDMAN, BESSIE S. PELT, HARRY PESHAKAI, SR., THOMAS PETE, RAYMOND PETTIGREW, RAMONA PETTIGREW, CHARLES PHILLIPS, CHARLES D. PHILLIPS, DOROTHY PHILLIPS, MARY J. PHILLIPS, VERNON PHILLIPS, WILSON PHILLIPS, SHANDIE PIOCHE, SARAH POLICE, ESTHER REDDOOR AND CECILIA WALLACE, ELLA REDHOUSE, LUCY RENTZ, PHILLIP RENTZ, NELSON ROCKWELL, PERFINA ROCKWELL, RONNIE ROSS, THE ESTATE OF WAYNE SALTWATER, LARRY B. SAM, BOBBY SANDOVAL, LULA SANDOVAL, SUSIE SCOTT, RAYMOND G. SELLS, ROGER SHAGGY, ROGER SHERMAN, BESSIE SHORTHAIR, DAVID SHORTHAIR, WADE SHORTHAIR, CELESTE SILAS, ELLA SILAS, MARILYN SILAS, RUBY B. SILAS, CHRISTINA SILENTMAN, JAMES SIMPSON, ROGER L. SIMPSON, GEORGE L. SISCO, JR., SARAH SLOWMAN, ERIC SMALLCANYON, TEDDY SMALLCANYON, GARY SMITH, JEROME SMITH, ROSE ANN TANNER, BESSIE TESSWOOD, DORA TODACHEENE, JERRY TODACHEENE, LEWIS TODACHEENE, HERBERT TODACHEENIE, IRENE TODACHEENIE, CHARLIE N. TODACHINNIE, BERNADINE AND VINCENT TODECHENE, DOROTHY TODECHINE, FLORA TODECHINE, ROSELYN TOLEDO, HELEN TOM, SARAH A. TONY (BENALLY), EVA TSO, JOHN TSO, MARY TSO, IVAN TYLER, THOMAS T. TYLER, PHYLLIS VALDEZ, ANNA VIGIL, JOHNSON WASHBURN, JR., JOHNSON WASHBURN, SR., ROSELYN WATCHMAN, CLARENCE D. WESTON, CORNELIA AND DELLA WESTON, HAROLD WILLIAMS, LENORA WILLIAMS, HERBERT WILLIE, LENA WILLIE, RAYMOND G. WILLIE, ESTHER A. YANITO, ALICE D. YAZZIE, CALVIN YAZZIE, EARL D. YAZZIE, IRVIN YAZZIE, JAY YAZZIE, LORENZO YAZZIE, MARIE YAZZIE, SUSIE YAZZIE

Plaintiffs,

Case No. 1:18-cv-00744-WJ

v.

UNITED STATES OF AMERICA; ENVIRONMENTAL RESTORATION, LLC; KINROSS GOLD CORPORATION; KINROSS GOLD U.S.A., INC.; SUNNYSIDE GOLD

**CORPORATION; GOLD KING MINES CORPORATION;
WESTON SOLUTIONS, INC.**

Defendants.

SECOND AMENDED COMPLAINT FOR PERSONAL INJURIES AND DAMAGES

Plaintiffs as set forth in the caption above (herein after collectively referred to as “Plaintiffs”) by and through their attorneys of record, Egolf + Ferlic + Martinez + Harwood, LLC, and for their Second Amended Complaint for Personal Injuries and Money Damages, states as follows:

INTRODUCTION

1. Plaintiffs are members of the Navajo Nation and residents of New Mexico, Colorado, Arizona and Utah. Plaintiffs farm land or raise livestock or both adjacent to the Animas River or San Juan River and depend upon these rivers for irrigation of their crops and livestock.
2. On the morning of August 5, 2015, the Defendant United States Environmental Protection Agency (“EPA”) and its contractors caused a blowout of the Gold King Mine while excavating it.
3. The blowout caused the release of at least three million gallons of contaminated water into Cement Creek which flows to the Animas and San Juan Rivers. The toxic waste water included dangerous contaminants such as arsenic and lead that were deposited along the Animas and San Juan Rivers.
4. EPA has conceded it is responsible for the spill and its impacts.
5. Plaintiffs experienced personal and property damage as a result of the negligence of EPA and the other Defendants in their causing of and mishandling of the Gold King Mine spill.

6. The Gold King Mine spill contaminated water from the Animas River and/or San Juan River that entered Plaintiffs' property and contaminated their land and crops.

7. The Gold King Mine spill prevented Plaintiffs from using water from the Animas River and/or San Juan River to water their crops and care for their animals. As a result, Plaintiffs were forced to locate alternative water sources at great expense of money, time and labor. Even where Plaintiffs were able to locate alternative water sources, these were inadequate to irrigate crops and Plaintiffs lost all or most of their harvests. In addition, even where Plaintiffs were able to salvage some of their harvest, public stigma resulting from the spill resulted in Plaintiffs being unable to sell their crops and livestock or being forced to sell at vastly reduced prices.

8. The Plaintiffs also depend on the San Juan River for household and personal use. As a result of the Gold King Mine spill, Plaintiffs were unable to use the water for drinking, cooking, gardening and bathing and had to purchase and haul water for replacement.

9. As members of the Navajo Nation, Plaintiffs have an enormous cultural and spiritual connection to the land and waters of the Animas River and San Juan Rivers. As a result of the spill, Plaintiffs have experienced and continue to experience great spiritual and emotional distress.

10. The claims herein are brought against the United States under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. Section 2671 *et seq.* and 28 USC 1346(b)(1) for money damages as compensation for personal injury and property damage caused by the negligent and wrongful acts and omissions of employees of the United States Government while acting within the scope of their offices and employment, under circumstances where the United States, if a private person, would be liable to the Plaintiffs in accordance with the laws of the State of New Mexico. 28 U.S.C. § 1346(b)(1).

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