



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

Ref: 8SEM-EMR

ACTION MEMORANDUM

SUBJECT: Request for continued Approval and Funding for a Time Critical Removal Action and continued Consistency Exemptions from the \$2-million Ceiling and 12-month Performance Statutory Limits at the Gold King Mine Site, Bonita Peak Mining District Superfund Site, San Juan County, Colorado

FROM: Eric Sandusky
Federal On-Scene Coordinator

Craig Myers
Federal On-Scene Coordinator

Joy Jenkins
Remedial Project Manager

THRU: Kerry Guy, Supervisor
Emergency Response

Christina Proggess
Acting Superfund Remedial Branch

Deirdre Rothery, Manager
Emergency Management Branch

Ben Bielenberg, Acting Director
Superfund and Emergency Management Division

TO: KC Becker, Regional Administrator
EPA Region 8

Site ID# A8M5

I. PURPOSE

The purpose of this Action Memorandum Amendment is to document continued approval of the removal action and Consistency Exemptions from the \$2-million Ceiling and 12-month Performance Statutory Limits described herein for the Gold King Mine located within the Bonita Peak Mining District Site in San Juan County, Colorado, as well as to

correct some typographical errors found in the original document. This time-critical removal action (TCRA) involves the extension of the portal shed to minimize the risk of rock and avalanche debris from hindering the access to the flow control structure for maintenance and inspections. Conditions existing at the Site present a threat to public health or welfare or the environment and meet the criteria for initiating a removal action under 40 CFR 300.415(b)(2) of the National Contingency Plan (NCP).

This removal action involves no nationally significant or precedent-setting issues. This time-critical removal action will not establish any precedent for how future response actions will be taken and will not commit the US Environmental Protection Agency (EPA) to a course of action that could have a significant impact on future responses or resources.

II. SITE CONDITIONS AND BACKGROUND

Site Name:	Gold King Mine Portal Shed Extension
Superfund Site ID (SSID):	A8M5
Operable Unit (OU):	OU00
NRC Case Number:	
CERCLIS Number:	CON000802497
Site Location:	San Juan County, Colorado
Lat/Long:	37.894712, -107.638595
Potentially Responsible Party (PRP):	
NPL Status:	Listed on the NPL, September 2016
Removal Start Date:	TBD FY23/4Q

A. Site Description

1. Removal Site Evaluation

Please refer to the original Action Memorandum dated June 22, 2023.

2. Physical Location

Please refer to the original Action Memorandum dated June 22, 2023.

3. Site Characteristics

Please refer to the original Action Memorandum dated June 22, 2023.

4. Release or Threatened Release into the Environment of a Hazardous Substance, Pollutant, or Contaminant

Please refer to the original Action Memorandum dated June 22, 2023.

5. NPL Status

Please refer to the original Action Memorandum dated June 22, 2023.

6. Maps, Pictures, Other Geographic Representations

Please refer to the original Action Memorandum dated June 22, 2023.

B. Other Actions to Date

1. Previous Actions

Previous EPA response action activities conducted at the Gold King Mine adit are described below:

1/2017 A Non-Time Critical Removal Action (NTCRA) to collect acid mine water flowing from the Gold King adit for treatment at the Gladstone Interim Water Treatment Plant (IWTP) for 3 years.

7/2017 A Time Critical Removal Action (TCRA) to install a flow control structure in the Gold King Mine Level 7 “new” adit, construction of a horizontal drain from the new adit to the level 7 “old adit and construct an earthen stabilization berm in front of the collapsed portal of the old adit.

10/2019 An Action Memo Amendment to the NTCRA to increase funding in order to support operations at the IWTP for an additional 7 years.

6/2023 An Action Memo to extend the portal shed of the Gold King Mine Level 7.

2. Current Actions

Please refer to the original Action Memorandum dated June 22, 2023.

C. State and Local Authorities’ Role

1. State and Local Actions to date

Please refer to the original Action Memorandum dated June 22, 2023.

2. Potential for Continued State/Local Response

Please refer to the original Action Memorandum dated June 22, 2023.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

Conditions at the Site present a threat to public health and the environment and meet the criteria for initiating a removal action under 40 CFR 300.415(b)(2) of the NCP.

EPA considered all the factors described in 40 CFR 300.415(b)(2) of the NCP and determined that the following factors were to be addressed at the Site.

(v) "Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; "

Please refer to the original Action Memorandum dated June 22, 2023.

(vii) "The availability of other appropriate federal or state response mechanisms to respond to the release;"

Please refer to the original Action Memorandum dated June 22, 2023.

(viii) "Other situations or factors that may pose threats to public health or welfare of the United States or the environment. "

Please refer to the original Action Memorandum dated June 22, 2023.

IV. EXEMPTIONS FROM STATUTORY LIMITS

A consistency exemption was requested as part of the January 12, 2017 Action Memorandum "because the proposed action (continuing water treatment) would exceed the \$2 million ceiling" limitation as well as the 12-month performance limit. The basis for this exemption was based on the need to treat water at the on-site treatment plant over a three-year period to allow CERCLA investigations and engineering analyses to proceed regarding further response actions addressing water treatment for the Gold King Mine. While this TCRA does not individually exceed the 12-month or \$2- million criteria by itself, the original removal is on-going and continues to meet the previously approved exemption criteria.

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed Action Description

Please refer to the original Action Memorandum dated June 22, 2023.

2. Contribution to Remedial Performance

Please refer to the original Action Memorandum dated June 22, 2023.

3. Engineering Evaluation/Cost Analysis (EE/CA)

Please refer to the original Action Memorandum dated June 22, 2023.

4. Applicable or Relevant and Appropriate Requirements (ARARs)

Please refer to the original Action Memorandum dated June 22, 2023.

5. Project Schedule

This removal action began in Summer of 2023. While the initial estimate had Site work being completed within 2 weeks, work has had to proceed in small pieces as Site conditions and material availability allowed. Completion is still expected by December 31, 2023.

B. Estimated Costs*

	Estimated Costs
ERRS contractor	\$ 220,000
START contractor	\$70,000
SUBTOTAL	\$ 290,000
Contingency costs (20% of subtotal)	\$ 58,000
Estimated Removal Project Ceiling	\$ 348,000
Previous BPMD Total Project Ceiling (10/15/2019)	\$26,783,000
TOTAL BPMD REMOVAL ACTIONS' CEILING (OU00)	\$27,131,000

*EPA direct and indirect costs, although cost recoverable, do not count toward the Removal Ceiling for this removal action. Liable parties may be held financially responsible for costs incurred by the EPA as set forth in Section 107 of CERCLA

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

A delay in action or no action at this Site would increase the actual or potential threats to the public health and/or the environment.

VII. OUTSTANDING POLICY ISSUES

None

VIII. ENFORCEMENT

A separate Enforcement Addendum has been prepared providing a confidential summary of current and potential future enforcement activities.

IX. RECOMMENDATIONS

This decision document represents the selected removal action for the Gold King Mine within the Bonita Peak Mining District Site in San Juan County, Colorado developed in accordance with CERCLA as amended, and is not inconsistent with the NCP. This decision is based on the administrative record for the removal action.

Conditions at the Site continue to meet the NCP section 300.415(b)(2) criteria for a removal action, and Consistency Exemptions from the \$2-million Ceiling and 12-month Performance Statutory Limits. I recommend your approval of the proposed removal action. The total removal project ceiling, if approved, will be \$348,000; this amount will be funded from the Bonita Peak Mining District Special Account.

APPROVE

KC Becker
Regional Administrator
EPA Region 8

DISAPPROVE

KC Becker
Regional Administrator
EPA Region 8

Attachments:

Attachment 1: June 22, 2023 Action Memorandum