

Stephen Hume: Regulatory chaos leaves taxpayers on hook for mining messes



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Mine debris and waste from a tailings dump eroding into the Jordan River, once a stream whose abundant salmon runs sustained the Pacheedaht people who trace their ancestral origins from near here. *STEPHEN HUME / PNG*

Provincial mining regulation is a dysfunctional mess that exposes taxpayers to billions of dollars in liabilities and puts ecosystems, 33 First Nations communities and 208 other B.C. cities and settlements at risk, says the University of Victoria's Environmental Law Centre.

It has petitioned Premier Christy Clark for a full judicial inquiry into how the province regulates mining.

The Centre prepared the petition for the Fair Mining Collaborative, a charitable foundation assisting First Nations and communities in reaching informed land use decisions. But it's supported by the B.C. First Nations Energy and Mining Council, which is backed by the B.C. First Nations Leadership Council, the B.C. Assembly of First Nations, the First Nations Summit and the Union of B.C. Indian Chiefs.

Other First Nations organizations supporting the call include West Moberly First Nations; the Northern Secwepemc te Qelmucw Leadership Council, which includes bands from Williams Lake, Soda Creek and Canim Lake; Gitxaala First Nation in Prince Rupert; and First Nation Women Advocating Responsible Mining, led by Bev Sellars, chief of the Soda Creek Band for 20 years and now historian, writer, lawyer and former adviser to the B.C. Treaty Commission.

Environmental organizations supporting the petition include Mining Watch, Salmon Beyond Borders, an Alaska-based group concerned about the impact of mining in B.C. on downstream salmon resources in the United States, the Sierra Club of B.C., Wilderness Committee, Rivers Without Borders, Kamloops Physicians for a Healthy Environment, Thompson Rivers University Faculty Association's human rights committee, and a number of smaller groups.

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The call comes at an inconvenient moment for the provincial government. Elections B.C. has just announced an investigation into the nature and scope of corporate donations and party financing in the province. Historically, the mining industry has been among the biggest donors to the ruling Liberals. Since 2005, a Vancouver Sun analysis found in February, two mining companies alone contributed close to \$4 million to the party.

Last year, B.C.'s auditor general said the provincial ministry of energy and mine was in a conflict of interest and "at risk of regulatory capture" (a term used when enforcement authorities act in the interest of those being regulated rather than the public).

The public auditor recommended regulatory enforcement be moved out of the ministry and run by an independent agency.

There is "irrefutable evidence" that the provincial mine regulatory systems doesn't properly protect the public interest, the university lawyers said. Taxpayers could be on the hook for more than \$1 billion in unfunded liabilities for unsecured cleanup and remediation.

"This matter is clearly in the highest 'public interest,'" the petition says. "A series of major systemic failures demonstrate the need for wide-ranging reform."

It cites the Mount Polley incident, in which a mine's dam breached in 2014 and emptied 25 million cubic metres of contaminated water and slurry from a four-square kilometre tailings pond into Quesnel Lake, a key salmon watershed on the Fraser River system.

And government had failed to inspect a closed mine at Jordan River on Vancouver Island's West Coast, allowing decades of undetected damage to valuable salmon and game fish stocks from toxic metals leaching from the site.

Another example says the province overlooked seismic deficiencies in a mining company's dam for 14 years.

The petition says research shows B.C.'s rules for environmental assessment fall short of other jurisdictions. For example, a Canadian mining company operating in Alaska must post a \$560-million bond to cover mine reclamation costs. The same company's mines in B.C. potentially expose taxpayers to reclamation costs of hundreds of millions of dollars.

In September, an abandoned mine on the Tulsequah River, just 35 kilometres upstream from one of Alaska's most important salmon rivers — which has been leaking acid into nearby streams and rivers for 60 years — went into receivership, potentially leaving future cleanup bills to the public.

“How can the province best ensure that mining companies — not taxpayers — pay to reclaim mines?” the petition asks Clark. “What is the best way to protect taxpayers and others from the current massive potential liability identified by the auditor general?”

“B.C. ranks worst in Canada for unsecured environmental liability of contaminated mines site cleanup costs,” says the environmental group Mining Watch Canada, supporting the call for a judicial inquiry.

Mining Watch says B.C. is the only large mining jurisdiction in Canada that hasn't yet reformed and modernized its mineral tenure system. Amplifying risk, it warns, is the fact that B.C. remains the only large province in Canada without limits on political donations from corporate interests.

“This system exposes taxpayers, the environment, private land owners, municipalities and indigenous peoples to unnecessary and unacceptable levels of risks, impacts and conflicts,” says Mining Watch.

“All these things have combined to create a crisis in public confidence in the regulatory regime for mining,” the petition claims.

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