

Three-year deadline to lay charges for Mt. Polley dam failure approaching fast



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The joint federal-provincial investigation into the collapse of the Mount Polley mine's tailings dam continues. Contents from the pond raced down Hazeltime Creek, with some reaching Quesnel Lake, in 2014. *JONATHAN HAYWARD / CP*

A deadline looms for provincial charges to be laid in the failure of the tailings dam at Imperial Metals' Mount Polley mine, but the B.C. Conservation Officer Service says the investigation has not finished.

There is a three-year time limit to lay charges under B.C.'s Environmental Management Act. The deadline is less than two months away, on Aug. 4.

The conservation service has been leading a joint investigation with the federal Environment and Fisheries departments.

Chris Doyle, deputy chief of the B.C. Conservation Officer Service, said last week that when the investigation is complete, the findings will be forwarded to Crown counsel for review and to determine what charges will be laid, if any.

Doyle said he could not comment on whether the investigation would be complete before the three-year deadline.

A dedicated team of 15 to 16 B.C. conservation officers have been working on the case with several federal Environment and Fisheries officers, said Doyle. "It's a very complex investigation," he said.

There is a longer period to lay charges under the federal Fisheries Act — five years for summary convictions, and no time limit for the most serious charges that could result in jail time.

In a written statement, Environment Canada spokesman Pierre Manoni said because the investigation was continuing, it would be inappropriate to comment on when the investigation could be completed.

Some environmentalists are concerned the investigation will not be concluded in time to meet the charge deadline under B.C. laws.

"The three-year mark is coming very fast," said Ugo Lapointe, program coordinator for Mining Watch Canada.

Lapointe said another concern is potential delays during the transition period between the B.C. Liberal government and when the NDP-Green alliance is expected to form the government. The NDP-Green alliance has a one-seat advantage over the Liberals, who are expected to be brought down

in a non-confidence vote later this month before the alliance can seek approval from Lt.-Gov. Judith Guichon to form a government.

However, Robin Junger, a lawyer with McMillan LLP who specializes in environmental and aboriginal law, said the B.C. conservation service acts independently of political influence. "I don't think there's any change in timing because of the election outcome and its uncertainty," said Junger, a former deputy minister in the B.C. government.

The B.C. conservation service-led investigation started almost immediately after the Aug. 4, 2014, failure of the earth-and-rock dam at the gold and copper mine northeast of Williams Lake.

In early 2015, investigators armed with search warrants raided Imperial Metals' downtown Vancouver offices and its mine site in the Interior. Search warrants were also served on engineering firms AMEC in Prince George and BCG in downtown Vancouver.

The dam's failure scoured the nine-kilometre-long Hazeltine Creek, which empties into Quesnel Lake and is home to spawning trout and coho salmon. Some of the tailings reached Quesnel Lake, the migration path of more than one million sockeye salmon.

Since then, Imperial Metals has spent tens of millions of dollars on repairs and cleanup, including to the creek.

An investigation by the B.C. chief inspector of mine's office was completed in December of 2015 with no charges being recommended. While that investigation found poor practices and made a number of recommendations to improve regulations, no violations of the Mining Act were found.

The mining industry in B.C. and Canada was shaken by the dam failure, one of the largest failures in the world in the past 50 years. It caused concerns among the public, environmental groups and First Nations that aquatic life would be harmed, particularly salmon that use the Quesnel Lake system to spawn.

Studies on the effect of the spill are expected to continue for years.

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