



# The Mount Polley Mine Disaster

An Informational Session regarding the impacts of an Ecological disaster  
on Indigenous communities and the Government that failed them

# What Happened? Who Was Affected?

The Mount Polley Mine Disaster occurred in 2014, wherein the tailings pond dam failed and resulted in about 24 million cubic meters of contaminated materials to spill into Quesnel Lake, Hazeltine Creek, and Polley Lake (Meissner 2019).

Furthermore, “The collapse of the Mount Polley tailings pond dam destroyed or permanently affected more than 2.6 million square metres of aquatic and riparian habitat” (Lavoie 2016).

The ʔEsdilagh First Nation, Lhtako Dene First Nation, Nak'azdli Band, Simpcw First Nation, Sekw'el'wás First Nation, Spuzzum First Nation, Stswemecem'c Xgat'tem, T'it'q'et First Nation, T'exelcemc, T'eqt'aqtn'mux First Nation, Tl'azt'en Nation, Tl'esqox First Nation, Tl'etingox First Nation, Tsal'alh First Nation, Tsi Deldel First Nation, Xaxli'p First Nation, Xat'sull First Nation, Xení Gwet'in First Nation, Xwisten First Nation, and Yunesit'in Government all reported to be affected either emotionally, physically, spiritually, or economically (Shandro et al. 2016).



<https://thenarwhal.ca/mount-polley-mine-expert-recommendations-not-implemented-report/>

# It All Begins with Salmon

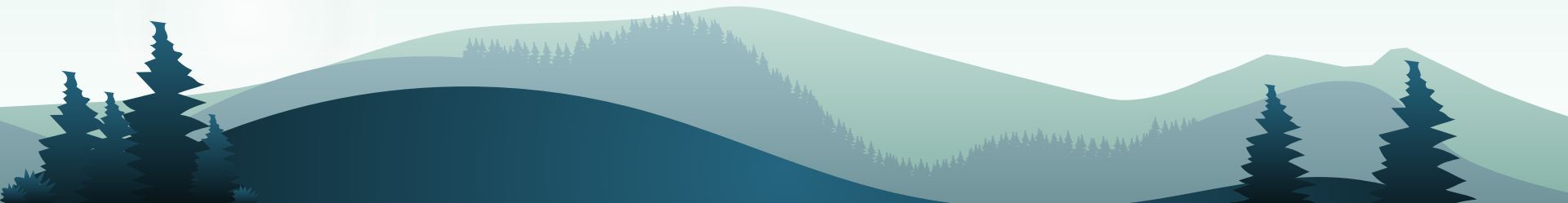

Polley Lake, Hazeltine Creek, and Quesnel Lake all drain into the Fraser River, an incredibly important watershed for salmon spawning. The Fraser River is one of the main entryways Pacific BC salmon use to get to their spawning grounds, including the salmon populations of Adam's River and Shuswap Lake.

A group of researchers conducted tests on the contaminated areas affected by the tailings pond failure. Particularly, they were studying invertebrates like freshwater scuds, or "*Hyalella*", an important food source for juvenile salmon and other fish species. They found that "*Hyalella* having direct access to metal-contaminated sediments showed reduced survival and growth relative to those in reference or control treatments" and that "These results suggest that metals from the fine sediments associated with the Mount Polley mine disaster are bioavailable and potentially toxic to epibenthic invertebrates, even several years after the initial breach" (Pyle et al. 2022).



# Salmon Continued

The relationship between the Indigenous peoples located within the Fraser watershed and the salmon that spawn there cannot be understated. The cultural and traditional significance of the salmon is paramount for all First Nation communities on the Fraser who have depended on and harvested salmon in these areas since time immemorial. In a health assessment report published in 2016 that looked at the affects of the Mount Polley Mine Disaster on the aforementioned First Nation communities, 21 reported experiencing a “decrease in individual fishing practices” (Shandro et al. 2016).

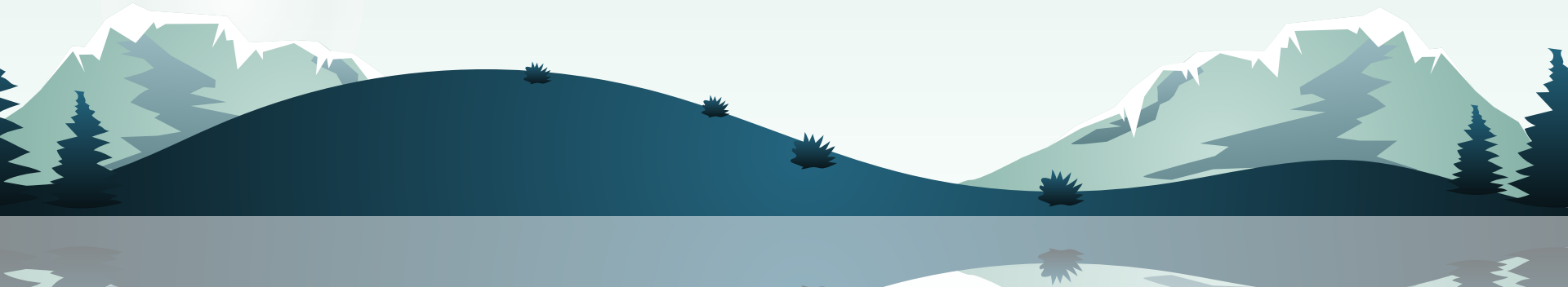


# **3 Ways the BC Government Failed in respect to the Mount Polley Mine Disaster and the Affected Indigenous Communities**

**Regulations and Management**

**Fiscal Accountability**

**Fiduciary Duty**



# 1) Regulations and Management

Since the Mount Polley Mine Disaster, the BC Government has introduced new regulations and legislature to amend the Mines Act. However, "While the government now requires independent expert panels to advise owners (and regulators) on whether tailings storage facilities at new mines are "designed, constructed and operated appropriately, safely and effectively," this advice is non-binding. The company is under no legal obligation to act on it" (Pollon 2017). While the BC Government did announce that they were going to fine Imperial Metals, the company that owns Mount Polley mine, no such fines have been issued, in fact, Mount Polley Mine has been allowed to continue operations by the BC Government less than a year after the spill.

In a section of Hart's publication, "Negligence, Mens Rea, and Criminal Responsibility", he focuses primarily on what negligence is, and provides a multitude of definitions for negligence in its varying forms. Specifically, the definition by which I will be referencing is what he says is "a failure to take reasonable precautions against harm, unaccompanied either by intention to do harm or an appreciation of the risk of harm" (Hart 1968, p. 137). If the governmental agencies which oversaw this industry had done their due diligence and fulfilled their fiduciary duty to the public and environment (public interest), then one could easily speculate that the events of Mount Polley Mine Disaster would have never transpired. If the laws already in place were sufficient, then the disaster never would have occurred.

# Fiscal Accountability

A promise made by the BC Government was that BC taxpayers would not be contributing to the clean-up cost of the tailings breach. However, even though Mount Polley has paid \$12 million in restitutions, “One economist has estimated that British Columbians are on the hook for a \$40 million clean-up bill for the Mount Polley disaster” (Pollon 2019). The BC Government also gave themselves a deadline to fine Imperial Metals under the Mines Act as well as the Environmental Management Act, both of which are provincial statutes. However, they’ve issued no fines and the time limit to do so has already passed, and in 2019, the window to issue fines under the federal Fisheries Act also passed with no government action (Meissner 2019). Furthermore, in an official statement in the “Biennial Report on Contaminated Sites”, which details over 80 mining sites the Crown is responsible for, it is stated that “the Province has recognized \$508 million in liabilities related to contaminated sites” (Forests 2016).



# Fiduciary Duty

As was decided in R v. Sparrow, “The words “recognition and affirmation”, however, incorporate the government's responsibility to act in a fiduciary capacity with respect to aboriginal peoples and so import some restraint on the exercise of sovereign power” (R. v. Sparrow 1990). The court further quoted Section 35 of the Constitution Act, 1982, wherein the following is provided: “The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed” (R. v. Sparrow 1990). What this means is that there has to be reasonable grounds for the government to impose restrictions on Aboriginal Rights. In a study researching the social impacts of the dam breach on local Indigenous communities, they state that “the dam breach has resulted in changes to First Nation fishing practices, which has resulted in shifts in diet composition, physical activity, and cultural practices” (Shandro et al. 2016). Bev Sellars, chair of the First Nations Women Advocating for Responsible Mining and a councillor of the Xat’sull First Nation in Williams Lake said “The disaster that was the Mount Polley tailings pond collapse is not over for those of us who live and depend on the lands and waters and particularly on the salmon that have always sustained us” (Lavoie 2016). The continuing effects of the disaster are impacting Indigenous people’s ability to practice their rights through cultural and traditional means of subsistence and commercial fishing. Deficiencies in the BC Mines Act have allowed for the unreasonable infringement of Indigenous rights.



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