



File: ENVA-30200-25/MT POLLEY 21

Reference: 412267

September 17, 2024

SENT VIA EMAIL

Chief Rhonda Phillips
Xat'sūll First Nation
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Chief@xatsull.com

Dear Chief Phillips:

Thank you for your letter to the Honourable George Heyman, Minister of Environment and Climate Change Strategy and the Honourable Josie Osbourne, Minister of Energy, Mines and Low Carbon Innovation, dated August 12, 2024, regarding your request to designate the Mount Polley Mine Expansion as reviewable. The EAO has carefully considered the concerns in your letter. As the delegated statutory decision maker for matters under Section 11 of *Environmental Assessment Act* (2018) (the Act), I am providing you with the following information.

The Environmental Assessment Office (EAO) acknowledges that after the Mount Polley Mine went into care and maintenance and subsequently restarted in 2022, Xat'sūll First Nation continues to have very serious concerns about the historic and ongoing impacts and risks from Mount Polley Mine and other legacy mine projects in the area. The EAO understands that these concerns relate to existing impacts from the Mount Polley Mine tailings dam failure, and related impacts to your culture, way of life, and ability to transmit traditional knowledge. You also indicated that you have serious, ongoing, residual concerns about the current operation of the tailings storage facility, the management and monitoring of water at the mine site, and the proposed raise in elevation of the dam at the tailings storage facility.

The Mount Polley Mine has an [existing Environmental Assessment Certificate](#) (EAC) and changes to the project are governed by the terms and conditions of its EAC and the relevant provisions in the Act. Section 3(5) of the Reviewable Projects Regulation states that projects with an EAC are not reviewable projects.

The EAO has reached out to the Mount Polley Mining Corporation to better understand the changes proposed. Initial information indicates that the proposed Expansion at Mount Polley Mine includes an expansion of Springer Pit and a tailings storage facility dam raise. It is important to note that a designation application under Section 11 of the Act only considers the proposed changes that have not been started, not the full mine.

Although the Mount Polley Mine Expansion does meet the definition of an eligible project under Section 11 of the Act, in that the Expansion itself is not a reviewable project nor has it been substantially started, I am declining the request to designate the Expansion as requiring an environmental assessment because changes at the mine, and the process for assessing potential effects of those changes, are subject to the terms and conditions of Mount Polley Mine's existing EAC.

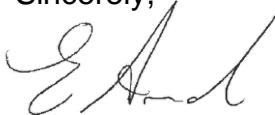
Of note, Condition 2 of the Mount Polley Mine EAC requires the Holder to obtain the written consent of the Minister of Energy, Mines and Low Carbon Innovation and the Minister of Environment and Climate Change Strategy prior to any material alteration to the project. The Minister of Energy, Mines and Low Carbon Innovation may determine what constitutes a material alteration. If it is considered material, an amendment to the EAC may also be required. Amendments under the Act must consider all assessment matters under Section 25 of the Act including effects to Indigenous nations and their rights, as applicable to the proposed changes.

Although my decision concludes the designation application process, once the EAO better understand the changes proposed and has made its determination what the potential process will look like for making those changes, the EAO will follow up with Xat'sull First Nation.

I also note your request for a section 6/7 agreement under the *Declaration on the Rights of Indigenous Peoples Act*. The EAO has connected with staff at the Ministry of Indigenous Relations and Reconciliation to follow up on this request.

If you have any questions or require further information, please do not hesitate to contact Katherine St James at Katherine.StJames@gov.bc.ca with any questions or concerns.

Sincerely,



Elenore Arend
Chief Executive Assessment Officer and Associate Deputy Minister

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