



March 23, 2017  
BY EMAIL

**The Honourable Jody Wilson-Raybould**  
Minister of Justice and Attorney General of Canada

**The Honourable Catherine McKenna**  
Minister of Environment and Climate Change Canada

**The Honourable Dominic LeBlanc**  
Minister of Fisheries, Oceans and the Canadian Coast Guard

**Re: *Fisheries Act* violations for the biggest mining spill in Canada's history**

Dear Ministers,

I am writing to inform you of upcoming developments in response to the Mount Polley mine disaster in 2014—the biggest mining spill in Canada's history.

On Monday, March 27, 2017, MiningWatch will be at the Provincial Court in Williams Lake, British Columbia, as part of our private prosecution proceedings, launched in October 2016, for violations of the Fisheries Act. You will find enclosed a 'Backgrounder' with more details about the ongoing proceedings and the concerns we have with regard to the Crown's position and actions to date.

Also on March 27, we will announce a petition already endorsed by nearly 25,000 Canadians urging your government to take action and enforce the Fisheries Act in this case. We will continue to seek support for this petition and intend to deliver it to each of your Constituency Offices in the coming weeks. In this regard, we would like to make arrangements with you and your Constituency Offices for its delivery.

We and our regional partners also wish to schedule meetings with you about mining issues relevant to each of your ministerial portfolios, preferably in April or May 2017, in Ottawa. Please let us know your availability, at your earliest convenience. We are very open to discussing the format and agenda for these meetings ahead of time.

Thank you for your consideration, and please feel free to phone or email for further information,

Yours sincerely,

A handwritten signature in black ink, appearing to be "U. Lapointe", written over a horizontal line.

**Ugo Lapointe | MiningWatch Canada**  
Canada Program Coordinator  
Cell.514.708.0134 | T.613.569.3439 | [ugo@miningwatch.ca](mailto:ugo@miningwatch.ca)

c.c. Prime Minister Trudeau



## **BACKGROUND – Private Prosecution of Mount Polley Mining Company and British Columbia under the federal *Fisheries Act***

MiningWatch Canada, with the support of multiple local and provincial groups in British Columbia, as well as other national organizations, filed a [private prosecution](#) in October 2016 for violations of the Fisheries Act in connection with Imperial Metals' Mount Polley mine disaster in 2014—the biggest mining spill in Canada's history.

On August 4, 2014, the Mount Polley mine tailings dam collapsed, releasing 25 million cubic metres of contaminated mining waste. The massive spill destroyed or affected over 2.6 million square metres of aquatic and riparian habitats over a 10 km distance—equivalent to about 500 football fields or 1,500 hockey rinks. It also affected Quesnel Lake, one of the deepest lakes in the world, home to numerous species of fish, and a source of drinking water for local communities

Impact assessment reports of the spill provide strong evidence of physical and chemical alteration in sediments. Copper levels are elevated and concentrations of iron, selenium, arsenic, vanadium, manganese, and other contaminants exceed provincial Sediment Quality Guidelines in many areas. The [National Pollutant Release Inventory](#) (NPRI) reports that the Mount Polley Mine spill was the largest emitter of copper, arsenic and manganese in Canadian waters in 2014. Studies also indicate impacts on benthic invertebrates, which are protected under the Fisheries Act and a vital part of ecosystems that sustain fish habitat.

MiningWatch has taken action because we are concerned that nearly three years after the disaster, and despite clear evidence of damage to water, fish and fish habitat, no sanctions have been brought by any level of government. Worse, Imperial Metals, the owner of Mount Polley Mining Corporation, did not even have to pay the full cost of the cleanup. Instead, British Columbians and Canadians picked up the tab—over a third of the costs so far.

We fear that the government's failure to effectively enforce the law sends the wrong signal to industry and other mines across Canada. It further undermines public confidence in the Canadian mining sector, here and abroad, and erodes people's trust in the ability of our regulatory system to effectively protect our environment.

MiningWatch is using a specific provision of the Canadian Criminal Code which allows any citizen to initiate a private prosecution if he or she believes, on reasonable grounds, that a person has committed an indictable offence. These reasonable grounds clearly exist in this case under the Fisheries Act. The *Public Prosecution Service of Canada Deskbook* describes private prosecutions as “a valuable constitutional safeguard against inertia or partiality on the part of authorities,” particularly for public interest cases.

Environment Canada, the Department of Fisheries and Oceans, and the B.C. Conservation Officer Service have been investigating the case since 2014. We are concerned about the complete lack of results from this investigation to date. This is particularly troubling given that some potential offences have a limitation period of three years.

We are also concerned about the Public Prosecution Service of Canada's (PPSC) response to our action so far. The PPSC represents the federal Crown in this case. It recently announced its intention to stay (i.e. 'shelve') our charges at the outset, before we have a chance to present any evidence to the Court. The PPSC did not provide any detailed justification as to why it deems staying the charges at this stage to be in the public interest, nor did it indicate whether it will lay its own charges in this matter. We do not understand why allowing MiningWatch to present evidence would imperil the Crown's ability to proceed with its own charges later.

Whether or not the Crown is successful at staying the charges at this time, MiningWatch Canada, nearly 25,000 Canadians, and a growing number of organizations in Canada remain committed to ensuring that justice is served. We urge the federal government not to let Imperial Metals and those responsible off the hook for the biggest mining spill in Canada's history.

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*MiningWatch's legal action is supported by the following organizations: West Coast Environmental Law-Environmental Dispute Resolution Fund (main funder), Amnesty International Canada, Sierra Club BC, Wilderness Committee, First Nations Women Advocating for Responsible Mining, Council of Canadians, Fair Mining Collaborative, Rivers Without Borders, British Columbia Environmental Network, SumOfUs, Concerned Citizens of Quesnel Lake, Quesnel River Watershed Alliance, Clayoquot Action, Forest Protection Allies, Kamloops Area Preservation Association, Kamloops Physicians for the Environment Society, and Alaska Clean Water Advocacy. Website: [www.mountpolleyontrial.ca](http://www.mountpolleyontrial.ca)*

*MiningWatch Canada is an independent, not-for-profit organization created in 1999 as a co-ordinated public interest response to the threats to public health, water and air quality, fish and wildlife habitat, and community interests from irresponsible mineral policies and practices in Canada and internationally. It is supported by twenty-seven Canadian environmental, social justice, Indigenous, and labour organisations. Website: [www.miningwatch.ca](http://www.miningwatch.ca)*

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