



BC MINING LAW REFORM

Fact Sheet

The Need to Modernize the *Mineral Tenure Act*

- British Columbia's *Mineral Tenure Act* has changed little since the 1850s gold rush era and continues to be a source of **conflict between various land users**. As they did since the 1859 *Gold Fields Act*, prospectors today still require a "free miner's certificate" for a cost of as little as \$25. The certificate grants the right of free entry to explore for minerals in more than three quarters of the province.
- "**Free-entry**" rights include the right for a "free miner" to enter and access land that may contain minerals, the right to locate and register a claim, and the right to apply for a mineral lease. If the miner has paid the required fees, completed a survey, and published a notification of the application, the Chief Gold Commissioner is obligated by law to grant the lease. Neither claim staking, nor lease applications require further information or consultation, much less the consent of any affected land users or rights holders.
- Since 2005, B.C. has had an **online claim registration** system which automates the claim staking process for individuals and companies. Claims are selected online with the click of a mouse, virtually anywhere in the province. Mineral claims are \$1.75 per hectare, and placer claims are \$5 per hectare to stake. Predictably, mining activities have increased substantially with on-line staking, with mining claims now covering 10 to 45% of some regions (see some examples here: reformbcmining.ca/maps).
- The *Mineral Tenure Act* does prohibit prospectors from entering **specific types of lands** including "orchard land," "land under cultivation," "land occupied by a building,"

and land that is within "the curtilage of a dwelling house" (tens of metres at most). However, other sensitive areas, such as old growth management areas, wildlife habitat areas, Indigenous cultural areas, prime touristic areas, sensitive watershed areas, and municipal drinking sources are not properly protected from mining. Particular parcels of land can also be granted "No Registration Reserve" status either arbitrarily by the province's Chief Gold Commissioner, or on application by a third party, but essentially mining exploration can take place in **over 76% of the province**.

- The *Mineral Tenure Act* does not require that miners give even a simple notice to local First Nations despite potential impacts on their rights and title. Landowners are merely entitled to a notice no later than eight days prior to any mining activity taking place. Unless the land is specifically a protected heritage property, or enumerated under the *Park Act*, *Land Act*, *Environment and Land Use Act*, *Protected Areas of British Columbia Act*, *Ecological Reserve Act*, or *Local Government Act*, current mining laws do not accommodate or defer to any other land use plan or watershed plan.
- B.C. remains one of the **last main mining jurisdictions in Canada** that has not yet modernized its mining laws to keep pace with other jurisdictions (Ontario, Quebec, Yukon, and the NWT have all modernized their law in recent years).
- B.C. has indicated its intent to modernize the *Mineral Tenure Act*. In 2022, the government released the Declaration Act Action Plan, the province's roadmap to implementing the 2019 *Declaration on the Rights of Indigenous Peoples Act*. It included the specific action to "modernize the *Mineral Tenure Act* in consultation and cooperation with First Nations and First Nations organizations." This was also included in the mandate letter for Josie Osborne in her new role as the Minister of Energy, Mines and Low Carbon Innovation.



Implementing the Polluter-Pays Principle and Financial Assurances

- If B.C.'s mining laws are going to fully minimize the damage mining afflicts on the land, air, and water, they must require **polluters to pay** the true costs of their pollution. Full cost, or "true-cost" accounting of reclamation bonds, and securities also act as motivation for companies to adopt best practices and technologies, and reduce reclamation and environmental costs.

- Due to **lax security and bonding legislation**, Canadian taxpayers are now liable for more than \$700 million in remediation costs at Yukon's Faro Mine and \$1 billion at the NWT's Giant Mine—with no confirmation yet that these are the full and final costs.
- The **legacy of poor remediation policies** persists today in B.C. The remediation of the Britannia mine near Squamish cost taxpayers an estimated \$46 million but also requires ongoing water treatment at a cost of \$3 million per year, payable by the public in perpetuity. A Ministry historic mine inventory identifies 1,171 legacy sites throughout the province which have metal leaching potential and/or acid mine drainage potential.
- As a result of the province not taking full security from mining companies for cleanup costs, there is currently a **\$1.05 billion unfunded taxpayer liability**, according to the 2022 B.C. Chief Inspector of Mines' report. This does not include long term water treatment costs, nor the potential costs arising from accidental spills or damages.
- In 2022, the B.C. government released an interim Mines Reclamation Security Policy, outlining assurances to be paid by mines based on the stage of development or operation. This is a significant step that could encourage mining companies to minimize the environmental damage they cause and reduce the public liability, however, the policy remains to be finalized as part of the broader Public Interest Bonding Strategy for large industrial projects.
- While other industries, like oil shipping, have industry **levied funds for spills and disasters**, there are none for the mining sector. First Nations and downstream communities have been calling for a pooled fund that could compensate those affected by mine failures and assist with clean-up costs if companies go bankrupt (see fnemc.ca/mining).

Protecting B.C. Waters and Communities

- The 2014 **Mount Polley mine dam failure** dumped 25 million cubic metres of wastewater and mine waste tailings released into Quesnel Lake, one of B.C.'s most important sockeye salmon-rearing lakes. Many mines in B.C. use the same type of waste storage facility that Mount Polley used. These dams store wet mine tailings in massive disposal lakes, mixed with mine waste materials. Despite clear evidence of damages to water and fish habitat, the company Imperial Metals never faced any government sanctions.
- The government-appointed panel of independent expert engineers investigating the incident predicted that many similar events could be expected in the future. Noting the **123 active tailings dams** across the province, the Expert Panel stated: *"[If] performance in the future reflects that in the past, then on average there will*

be two failures every 10 years and six every 30. In the face of these prospects, the Panel firmly rejects any notion that business as usual can continue." The Panel recommended cutting the current inventory in half and moving to implement Best Available Technology, including alternatives to wet tailings impoundments, such as densified or filtered (dry) tailings with proper covers to prevent wind erosion and acid generation. (For more details and analysis on B.C. tailings storage facilities, see our interactive map at reformbcmining.ca/tailings-map)

- Globally, mines are becoming much bigger with dramatically lower quality ore, resulting in **more tailings disasters** (see worldminetailingsfailures.org). The 2015 and 2019 mine tailings dam collapses in Brazil killed over 280 people and decimated houses and buildings for kilometres before flowing for hundreds of kilometres into the rivers and waterways downstream. Despite claiming to the contrary, **B.C. still falls short of meeting best practices and international standards** (see bit.ly/BCMLR-BridgingtheGap and miningwatch.ca/safety-first).
- **Acid rock drainage and metal leaching** can continue indefinitely and require ongoing water treatment (some European mines from medieval and Roman times continue to pollute today). For example, the Brenda mine on Babine Lake and the Silver Creek mine near Smithers will require water treatment for over 200 years. Only fourteen major B.C. mine sites have been required to have water treatment facilities. There is also a growing awareness of the significant risks and impact mining can have on B.C. waters and fish (e.g., selenium pollution in the entire Elk River Watershed — see thenarwhal.ca/teck-resources-elk-valley-mines-bc-fish).

