



BC Ministry of Environment and Climate Change Strategy

# Placer Mining Waste Control Regulation

Summary of consultation in response to July 2018 Regulatory Proposal Paper

Report prepared for public distribution

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## Executive Summary

In July 2018, the BC Ministry of Environment and Climate Change Strategy (ENV) released a Regulatory Proposal Paper outlining proposed changes to the Placer Mining Waste Control Regulation (PMWCR). In a joint effort with the BC Ministry of Energy, Mines and Petroleum Resources (EMPR), the Province proposed rescinding Section 3(c)(i) of the regulation in spring 2019, in order to address concerns related to placer mining discharges and to establish provincial consistency.

Consultation on the proposed changes took place from January 2018 until January 2019. Many groups including placer operators, Indigenous communities, and local Atlin residents and business owners were involved in the process and a substantial amount of feedback was received in the form of face-to-face meetings and written submissions.

Feedback indicated mixed support for the proposed regulatory changes. Several themes emerged in both support and opposition.

### Support:

- Long term environmental sustainability
- Protection of water resource
- Consistent provincial approach

### Opposition/Concerns:

- Impact to the placer mining industry
  - Individual livelihood
  - Impact to community
- Perceived lack of scientific approach
- Short timelines

As a result of input from the consultation process, the regulatory approach to the PMWCR has changed. The new approach involves rescinding Section 3(c)(i) in fall 2019, with an effective date of January 1, 2022. This means operators can continue operating as they have been (without regulated discharges) until January 1, 2022. By this date, the ministries will establish a formal authorization mechanism to allow for regulated discharge. There are currently several options being evaluated; however, it is likely a permit process will be used for the purpose of the fall 2019 regulatory change.

Beginning in summer 2019, the Taku River Tlingit First Nations (TRTFN) will begin a two-year environmental monitoring program with the support of both ENV and EMPR. Along with input from the local placer mining industry and community, these results will inform the future discharge standards and authorization approach.

A second regulatory change may be required in advance of January 1, 2022 based on results obtained from this program.

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## 1. Introduction

In July 2018, the BC Ministry of Environment and Climate Change Strategy (ENV), released a Regulatory Proposal Paper outlining proposed changes to the Placer Mining Waste Control Regulation (PMWCR). In a joint effort with the BC Ministry of Energy, Mines and Petroleum Resources (EMPR), the PMWCR is under review, specifically with respect to requirements associated with placer mines in the Atlin and Dease Lake areas.

The intention of the regulatory change is to ensure protection of water sources and fish habitat and to provide increased regulatory consistency for placer mining across the province.

Early engagement with affected placer miners began before the formal release of the regulatory proposal paper at the Association for Mineral Exploration (AME) Roundup in January 2018 and continued following the formal release with letters addressed to individual proponents and engagement sessions. Community engagement sessions were hosted by EMPR in August 2018 in Atlin. In these sessions the proposal was presented, and time was allocated for questions to be asked and concerns to be voiced. Affected placer miners were asked to volunteer information about the nature of their placer mine operations to allow for a better understanding of the extent of the mining operation discharges.

## 2. Background

The PMWCR (BC Reg. 107/89) under the *Environmental Management Act* (EMA) has been in place since 1989 and broadly authorizes waste discharges associated with placer mining operations across the province of British Columbia.

Placer mines located in the Northwest, specifically the Atlin and Dease areas of the province, which do not use mercury or chemicals in their processes, are currently exempt from the specific requirements to control suspended solids downstream of their operations under Section 3(c)(i) of the regulation. Although placer operators have voluntarily worked to monitor and reduce the sediment discharges, placer mines under this exemption are able to discharge into the named streams. The province shares the concerns presented by Indigenous communities and stakeholders, and wishes to ensure water is treated as a valuable resource, and that water sources and fish habitats in the area are protected.

Several reports have been issued addressing the potential for environmental impacts associated with exempt placer mines in the northwest region of the province. These include:

- “Water Quality, Stream Sediments, and Hydrology in the Atlin Placer Mining Area – A Pilot Study” by Eric Smith and Dave Wilford (2013)
- “Arctic Grayling Spawning and Production in Surprise Lake” by Envirocon Ltd for Placer Development Ltd. Adanac Property (1980)
- “Xeiti Micro Hydro Project – 5 Year Monitoring Program” by Mark Conner and Richard Erhardt (2014)
- “Water Quality and Streambed Sediments in Pine and Indian Creek, B.C” by Eric Smith (2015)

In addition, Fisheries and Oceans Canada released a paper in 2005 titled “Commentary on the Management of Fish Habitat in Northern Canada: Information Requirements and Policy Considerations Regarding Diamond, Oil Sands and Placer Mining”.

The province proposed rescinding Section 3(c)(i) of the regulation under the EMA to establish a consistent provincial regulatory approach for placer mines and to address concerns related to the discharges. Proponents were individually notified by a letter in July 2018 which outlined the proposed changes.

The July 2018 letter included a policy proposal for rescinding Section 3(c)(i) in spring 2019, thereby removing the ability to discharge into watercourses. Existing placer operations would have been able to finish their current permitted works. New placer operations would have been subject to the same regulations as the rest of BC, i.e., no discharges, and by 2023 all placer mines across the province would be subject to the same waste discharge requirements. A summary of the engagement on these proposed changes and feedback received is outlined in the following sections.

### 3. Summary of engagement and input received

In response to the proposed changes, EMPR and ENV conducted consultation with affected parties from January 2018 through until January 2019. The feedback was received from a variety of sources, including: placer operators, Indigenous communities and local Atlin business community members and residents. The engagement indicated mixed support for the proposal and provided further insight into this complex issue, including identifying impacts on the community.

Generally, each of the groups consulted recognized the contribution placer mining has on the broad Atlin area community. More specifically, views on the environmental impacts varied. Some parties requested increased environmental standards, while others did not believe that environmental impacts had been adequately demonstrated or had sufficient scientific merit. The perceived scale of potential economic impacts also varied, but the proposed amendment was predominantly viewed as adversely impacting the industry and local businesses.

During the consultation period outlined in Table 1, ENV received 25 written responses from 18 unique respondents. The respondents included:

- 1 Indigenous community
- 5 Atlin community residents
- 2 Mining service providers
- 10 Placer mining operators

A unique written response was provided to each of the 25 submissions that was received. These were sent directly to respondents from the Director of Clean Technologies at ENV on behalf of both ENV and EMPR.

Notification on the proposed changes and requests for information were sent to 38 mines in July 2018. Information pertaining to 10 of these mines was received as part of the 25 responses, resulting in a 26% response rate.

In addition to local community meetings hosted in August 2018, additional meetings were held in December 2018 in Whitehorse between EMPR, ENV and the Taku River Tlingit First Nations (TRTFN) and between EMPR, ENV and the Yukon Government.

Table 1. Consultation Summary

Date	Event
November 2015	Commitment for BC government to review PMWCR made by The Honourable Carolyn Bennett, Minister of Crown–Indigenous Relations, to TRTFN
January 2018	Consultation between ENV, EMPR, placer mining services and placer mine operators at AME Roundup on potential for regulatory change
July 2018	ENV posted Regulatory Proposal
	ENV requested mine operation data from 38 miner operators
August 2018	EMPR hosted Atlin community meeting
December 2018	TRTFN and EMPR/ENV engagement in Whitehorse
	EMPR/ENV and Yukon government meeting in Whitehorse
January 2019	EMPR Engaged with Tahltan and Kaska Nations at Government to Government table
	ENV and EMPR and placer miners met at AME Roundup conference.

A summary of feedback is shown below in Table 2, and further described in the following sections.

Table 2. Summary of Consultation Feedback

		First Nation and Stakeholder Feedback			
		First Nations (1)	Atlin Community (5)	Mine Services (2)	Mine Operations (10)
Strategic Themes	View on Environmental Impacts	Request for increased standards	Mixed views on impact	No credible science to back claims	Impacts have not been demonstrated
	View on Community Impacts	Placer mining important	Placer mining vital part of community	Losing mining will ruin community	Mining is community backbone
	Economic Affect on Industry	Pit water will need to be discharged	Significant impacts to industry	Changes cannot be sustained by operators	Changes make mining uneconomical
	Basis of Regulatory Change	Support for removing exemption	Mixed support for regulatory change	Government 'hasty' to make change	Lack of consultation and scientific justification
	Desired Future Regulatory State	Participation and control	Participation and economic stability	Economic certainty	Certainty in regulatory frame work

	Opposition
	Concerns
	Support

### 3.1 Taku River Tlingit First Nations

Consistent with BC’s approach of collaborating with Indigenous communities, EMPR engaged TRTFN on the proposed regulatory changes through existing Government to Government (G2G) channels.

Concerns raised from TRTFN, among other consulted parties, prompted an initial review of the existing regulation, and provided a basis for the proposed regulatory change. Having an exemption for one area of the province has seemingly instilled a sentiment of segregation, as placer miners in the traditional territory of TRTFN have not been legally held to the same environmental standard for wastewater discharge as the rest of the province.

In addition to feedback at G2G meetings, Spokesperson John D. Ward and Clan Directors provided a formal letter expressing support for updated regulations in January 2019 regarding placer mining use of water in the Atlin area.

Feedback indicates a strong desire for the establishment of high standards for the protection of fresh water, and collaborative co-management of regulatory development between governments for the Atlin-Taku region.

Furthermore, TRTFN expressed concern about any method that would rely on several years of environmental monitoring data before enacting change. It is the position of the nation that “negative impacts of sediment on aquatic life are well documented and do not need to be reassessed for the Atlin area.” However, TRTFN supports “programs and initiative that could collect baseline and monitoring data” and taking a proactive approach “to ensure degradation does not occur.”

### 3.2 Atlin Community Residents

Atlin community residents were defined for the purposes of this report as individuals not currently active in placer mining or placer mining support roles such as water sampling and reporting. Five responses were received from individuals in this category. Of these responses, four contained some level of opposition and one letter supported the proposal. The varying opinions from the community further exemplified the complexity of the issue.

Letters received from residents expressing opposition contained strongly worded statements that conveyed a sentiment of concern. Primarily, these concerns focused on potential economic pitfalls that could be experienced by the community if the proposed regulatory changes impacted the ability for a profitable placer industry in the area. As a primary employer for the remote community, the placer mining industry is regarded as the economic driver for much of the area.

Residents also expressed frustration with a lack of communication with non-placer industry residents and the absence of ENV staff from local community meetings.

Support was also received from the community from a perspective of balancing economic and environmental goals to protect the local watershed and ecosystems to ensure long term sustainability of the area.

#### **Specific Excerpts:**

- “I want to emphasize my firm support for enhancing regulatory oversight of placer mining in B.C. Any resource extraction we undertake in the province needs to consider not only short-term economic gain, but also the long-term sustainability of the multiple uses of lands and ecosystems upon which multiple economies depend.”
- “If this regulation goes through our community could be in an economic crisis. As an unincorporated community, Atlin is not able to apply for government funding for the extra services our community needs, so we survive by volunteers and locally raised funds which the miners have helped raise.”

### 3.3 Placer Mining Service Providers

Mine service providers were considered to be anyone actively involved in the local placer industry, without being a direct permit holder. Two responses were received in this category, both of which expressed strong opposition to the proposed regulatory changes. Concerns predominantly focused on the impact to placer mining operations and the Atlin community, as well as the perceived lack of scientific evidence for regulatory decision making.

Many of these letters also contained suggestions for alternative approaches for managing placer mining wastewater in the region. These suggestions included reducing bonding to promote mining, to in turn promote mining/reclamation of historic mine sites. As well, reference was made to initiating a methodology similar to the Yukon which involves each creek and waterway having an established set of discharge standards.



In addition, mining service providers supported operators in delivering data on permitted mine site and emailed opinion papers opposing each of the four reports identified in Section 2 of this summary, which specifically relate to the northwest region of the province.

**Specific Excerpts:**

- “Placer mining is supported by the vast majority of the residents of Atlin and is critical to their fragile economy. It is not justifiable to destroy their livelihoods due to unscientific misconceptions about the effects of modern regulated placer mining on the environment and/or for administrative convenience.”
- “If the B.C. government in their great wisdom, make the changes they have stated this will in all likelihood be the demise of placer mining in the Atlin area and will certainly hurt the economy of the community severely”

### 3.4 Placer Mine Operators

Placer mining operators were defined to be anyone holding an active mine permit. A total of 10 responses were received from mine operators, and include opposition, mine information and review of published technical data/papers. These responses contained overwhelming concern about proposed changes and the potential detrimental impact on the placer mining industry in the Atlin area, which would subsequently affect all aspects of the local Atlin community. Concerns regarding the quick pace the government was taking for substantial regulatory change. Criticism of available scientific data and research papers was also presented, with opinions that adequate scientific information is not available to support enacting change.

Operators were also frustrated that representatives from ENV were not present at the August 2018 community engagement meeting hosted by EMPR.

The mine operators did not provide a detailed alternative path forward but did suggest delaying any action until appropriate environmental monitoring has been completed and/or abandoning any proposed changes to the existing regulation.

A total of 10 mine data submissions were received, and eight additional letters of opposition. Mine locations and permit numbers for the 10 data submissions are included below in Figure 1.



Figure 1. Locations of mine operations that submitted requested data

#### Specific Excerpts:

- “This we find is both unethical and unprofessional with respect to the Ministry of Environment [sic] as to not attending the meeting which was directly organized to get the users’ input.”
- “The sampling process of locating only 3 sample sites in the “Placer Mine Area” was insufficient to draw any conclusions as to effect of the placer operations on the sedimentation of the individual creeks. Please note that no sampling took place on any of the following Creeks – Ruby, Boulder, Otter, Wright or Spruce Creek therefore any inference to high sedimentation rates due to these placer operations cannot be stated or implied.” – From letter providing opposition/review of “Water Quality and Streambed Sediments in Pine and Indian Creek, B.C”

#### 4. Ministry Response – Revised Regulatory Approach

The feedback received from industry, the public and Indigenous communities supported revision of the regulatory approach in January 2019. The new approach involves rescinding Section 3(c)(i), in fall 2019, with an effective date of January 1, 2022. This means operators can continue operating as they have been (without regulated discharges) until January 1, 2022. By this date, ENV and EMPR will establish a mechanism for formal authorization to allow for regulated discharge. There are currently several options being evaluated; however, it is likely a permit process will be used for the purpose of the anticipated fall 2019 regulatory change.

Beginning in summer 2019, the TRTFN will begin a two-year environmental monitoring program, with the support of both ENV and EMPR. Along with input from the local placer mining industry and community, the results of the monitoring program will inform future discharge standards and authorization approaches.

A second regulatory change may be required in advance of January 1, 2022, based on the results obtained from the environmental monitoring program.