



Northern
Confluence

To: consultation@globaltailingsreview.org

Re: *Global Tailings Standard Review*

December 17, 2019

Dear Dr. Bruno Oberle and Co-convenors,

Thank-you for the opportunity to comment on the Global Tailings Standard Review draft. Given the impacts from the Mount Polley tailings disaster in British Columbia, Canada, we are very concerned about repeated failures and impacts to watersheds and communities. Northern Confluence is a small organization based out of Smithers that focuses on land-use decisions in northern British Columbia, including mining.

My comments will focus on the following key priorities: implementing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP); moving toward the goal of zero harm to people and the environment; and ensuring adequate financial assurances for closure and disasters.

1. **Implementing UNDRIP:**

While the draft Global Tailings Standard references in Topic II, Principle 3 UNDRIP in the footnotes, it is not adequately addressed. It is not enough for companies to understand how a tailings facility may impact the individual or collective rights of Indigenous peoples. There should be an explicit requirement for the Free, Prior and Informed Consent (FPIC) of Indigenous Peoples in order for a mine to even be developed. Engagement should also be throughout the life of the mine and consent an on-going requirement. This would also apply to existing tailings facilities.

The Global Tailings Standard should follow guidance from the Initiative for Responsible Mining Assurance (IRMA) Standard's chapter on FPIC (2.2). There needs to be a credible process and accountability to "meaningfully engage" people.

In addition, Principle 2 highlights the need to integrate various factors into selecting the site and design to minimize the risk of tailings facility failure. A missing requirement under this principle is to ensure no-go zones and land-use plans, whether established by Indigenous governments or state/provincial/federal ones, are respected. There are some areas (key archaeological sites, critical salmon habitat, etc) that should be off-limits to the risks of tailings facilities no matter what the design.

2. Moving toward the goal of zero harm to people and the environment:

The Mount Polley Expert Panel was told to examine a path to zero failures after the largest mining disaster in Canadian history. It came up with some key recommendations that British Columbia has yet to fully implement, and that the Global Tailings Standard draft falls somewhat short on.

The Mount Polley Expert Panel recognized that one pathway to get to zero failures was to eliminate the existing inventory of tailings storage facilities. Principle 11 outlined in the draft is about implementing levels of review and risk management for all stages of the tailings facility lifecycle. What it lacks is a requirement for closure and retiring tailings storage facilities at the end of the life of the mine. There are some site specific conditions and potentially acid mine drainage that may require other solutions, but the default should be dry closure and, for when not possible, getting so tailings facilities pose reduced risks under on-going care and maintenance. The use of dry tailings disposal methods reduces both the probability of failure and the consequences of failure through the facility lifecycle. This is especially important given old tailings facility designs and also increasing variability from climate change. In addition, there should be transparent, independent risk assessment of the thousands of tailings dams worldwide that should be publicly available and a global goal set to close at least half of the inventory by a set date. Reducing tailings failures must include a goal of reducing the current global inventory.

An overarching principle for new tailings facilities should be safety. Again, the Mount Polley Expert Panel report recommends ensuring that safety, not just cost, be the determining factor in tailings design. Principle 7 highlights the need to minimize risk, which is positive and includes iterative measures, but doesn't quite go far enough to ensuring that safety is the leading principle.

In this climate crisis, we are experiencing more extreme weather events. Droughts, floods, wildfires, hurricanes and other tropical storms, all need to be a required analysis when assessing tailings facility safety for its lifespan.

While the default for classifying tailings facilities is extreme, the definition outlined in the Annex for 'extreme' is the loss of 100 or more lives. This fails to meet the overall objective of the Global Tailings standard of zero harm to people.

Risk isn't just probability but also the potential consequences and the Global Tailings Standard should ensure that no new mine tailings facilities are located upstream from communities. The recent disasters in Brazil are evidence of brutal consequences of building upstream. An analysis of the worst case scenario of a total tailings breach should also be part of every proposed tailings facility in order for communities to be able to assess the potential consequences of catastrophic mine disasters.

We strongly support Principle 1 and ensuring detailed site characterization is done to an extensive level to ensure the best siting and design are made to further ensure safety and reduce the risks of failures.

3. Financial assurances for closure and disasters

Principle 2, Requirement 2.5 references financial assurances but this should be a key principle. Fully funded mine reclamation bonds up front help ensure that safer tailings facilities are built and that the polluter actually pays.

In addition to financial assurances for mine closures and remediation, there should also be a global fund set up for mine disasters. This has been done after other catastrophic events in other industries, such as the International Oil Spill fund after the Exxon Valdez tanker disaster. Given Mount Polley, Samarco and Brumadinho recent catastrophic tailings disasters, a tax or levy should be collected into a disaster fund that could be accessed by impacted communities. While the goal of the global tailings standard is zero harm to people or the environment, some financial assurance mechanism would help when accidents still do occur. Given the current inventory of tailings facilities and the increased sizes of more recent tailings facilities from lower grade ore, a global financial assurances regime for mining disasters would provide some level of compensation for those at risk. An independent panel should be appointed to hear from those impacted and decide on compensation measures.

Given the recent mining disasters and tragedies, there is a need to set a Global Tailings Standard and ensure compliance. However the current draft will likely fall short of achieving the goal of zero harm to people and the environment. We hope that the convenors will review submissions and aim to strengthen the Standard to help put mining on a path to zero failures.

Sincerely,



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