



*Ketchikan*  
INDIAN COMMUNITY



April 19, 2023

The Right Hon. Justin Trudeau, P.C., M.P.  
Prime Minister of Canada  
House of Commons  
Ottawa, Ontario K1A 0A6

The Hon. David Eby, M.L.A.  
Premier of British Columbia  
P.O. Box 9041 STN PROV GOVT  
Victoria, BC V8W 9E1

Dear Prime Minister Trudeau and Premier Eby,

The undersigned Aboriginal First Nations and Indigenous Tribes of Canada and the United States call on the governments of Canada and British Columbia to honor their legal and ethical obligations and act immediately to protect our recognized traditional territories from legacy, operational, and proposed mining in British Columbia.

The transboundary rivers of British Columbia, Southeast Alaska, Washington, Idaho, and Montana have connected our people since long before the imposition of international borders. Our communities have relied on these rivers from time immemorial—just as we must do for generations to come. These waters are essential for our peoples’ survival and provide not only drinking water and critical foods, but also opportunity for cultural and traditional practices, community, transportation, and economic livelihood. Further, our intricate knowledge of these aquatic ecosystems, accumulated over countless

generations, has allowed our communities to develop complex systems for managing and protecting these natural resources. Our stewardship is essential today, as these massive transboundary watersheds now represent some of the planet's last remaining salmon rivers, corridors for migratory species, and climate refuges.

Pollution from mining in British Columbia has already damaged the integrity of our transboundary ecosystems and threatens to cause irreparable harm. Selenium contamination originating in mines in southeast British Columbia is harming our rivers and critical fish populations in Canada and the United States. Billions of cubic metres of toxic mining waste are being stored in tailings dams across British Columbia, many located in major transboundary watersheds. A catastrophic dam breach has already occurred at Mount Polley, and the threat of future breaches looms large, especially given British Columbia's own findings of widespread noncompliance with its mining regulations. As rapid climate change increases the frequency of severe weather events—such as unprecedented heat domes and atmospheric rivers—this toxic waste will only become more difficult to manage and contain. We discuss these dangers in greater detail in the Appendix to this letter.

Canada and British Columbia have a legal and ethical obligation to protect transboundary waters and the communities they sustain. In the Boundary Waters Treaty of 1909, Canada agreed that “waters flowing across the [U.S.-Canadian] boundary shall not be polluted on either side to the injury of health or property on the other.” Further, Canada has ratified the United Nations Declaration on the Rights of Indigenous Peoples (“UNDRIP”), including the principles of free, prior, and informed consent for all Indigenous groups impacted by the actions of the federal government. British Columbia, through the B.C. Declaration Act, has declared UNDRIP to be the province's framework for reconciliation, and has committed to bringing provincial laws into alignment with the Declaration.

For more than a decade, many of the undersigned First Nations and Tribes have sought Canadian and provincial action to reduce contamination from British Columbia's abandoned, developed, and operating mines in the headwaters of our shared transboundary rivers. Nonetheless, contamination has increased, and Canada and British Columbia are investing in large-scale mining expansions that would further damage our traditional territories and way of life, despite purported commitments from both your governments to honor our sovereign rights and the planet.

Canada and British Columbia's recklessness endangers our waters, territories, and cultural survival. We, the signatory First Nations and Tribes who have stewarded these transboundary watersheds since time immemorial, **expressly request that the governments of Canada and British Columbia take the following actions** to begin to fulfill their obligations to protect human health, honor Aboriginal and Indigenous nations, and preserve our shared transboundary ecosystems for future generations:

- Support a Joint Reference to the International Joint Commission (“IJC”) that addresses mining pollution in transboundary and traditional waterways. This Reference has been requested by the United States, First Nations and Tribes, the U.S. and Canadian IJC Commissioners, and thousands of concerned citizens—yet Canada has repeatedly delayed any material progress to this end;
- Support the IJC's creation of international Watershed Boards in each region along the U.S.-Canada border to oversee the governance of transboundary mining impacts. These Boards

must include leadership from affected First Nations and Tribes in Canada and the United States;

- Immediately institute a moratorium on mining permitting until a formal process is in place for consultation with First Nations and Tribes on both sides of the international border, as has been requested by the Transboundary Ktunaxa Nation, the Transboundary Syilx/Okanagan Nation, and Tribes from Southeast Alaska;
- Permanently prohibit mine waste dams immediately upstream from communities and sensitive ecosystems because of the catastrophic risks these dams inherently pose, especially in high seismic and precipitation areas, as demonstrated by historic and recent events, including the Mount Polley tailings dam breach. Implement the Mount Polley Independent Expert Panel’s recommendation to move away from watered tailings facilities toward paste or dry stack best management practices. Require all mines to adhere to the Global Industry Standard on Tailings Management;
- Expedite efforts under the B.C. Declaration Act to bring the province’s mining-related laws and regulations into conformity with UNDRIP;
- Address all concerns identified by the B.C. Auditor General regarding widespread noncompliance with, and nonenforcement of, mining regulations in British Columbia;
- Establish an industry-financed pooled fund (blind trust) to support reclamation of mines for which there is no legal or logistical “responsible” corporate/private party and to provide for immediate response to unforeseen disasters.

Canada and British Columbia can no longer stand in the way of the Indigenous-led call for an international response to the past damage and increasing threats posed by British Columbia mines. Through the steps specified above, we can finally implement effective plans to prevent further environmental degradation and allow the waters of all our nations to heal.

We look forward to your timely and substantive response on these matters.

Sincerely,



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Tom McDonald, Chairman  
Confederated Salish and Kootenai Tribes



Kathryn Teneese (Mar 28, 2023 14:18 MDT)

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Kathryn Teneese, Chair  
Ktunaxa Nation Council



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Gary Aitken, Vice Chairman  
Kootenai Tribe of Idaho



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Jarred Michael Erickson, Chairman  
Confederated Tribes of the Colville Reservation



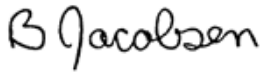
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Richard J. Peterson, President  
The Central Council of Tlingit & Haida  
Indian Tribes of Alaska



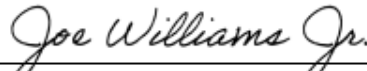
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Keith Crow kalʔlùpaqʼn, Chief  
Lower Similkameen Indian Band



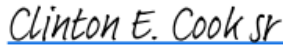
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Bonnie Jacobsen, Chief  
Upper Similkameen Indian Band



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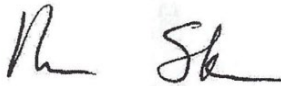
Joe Williams Jr., President  
Organized Village of Saxman Tribe



Clinton E. Cook sr (Apr 5, 2023 12:34 AKDT)

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Clinton Cook Sr., President  
Craig Tribal Association



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Norman Skan, President  
Ketchikan Indian Community



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Jaime Bricker, President/Chair  
Skagway Traditional Council

Enclosures:

Appendix

Confederated Salish and Kootenai Tribes Resolution Number 23-070  
Upper Columbia United Tribes Resolution 2022 on Transboundary Mining  
Southeast Alaska Indigenous Transboundary Commission Resolution Number 1222  
Central Council of Tlingit and Haida Indian Tribes of Alaska EC Resolution Number 22-68  
National Congress of American Indians Resolution Number ATL-14-082

CC:

Mélanie Joly, Minister of Foreign Affairs Canada  
Joyce Murray, Minister of Fisheries, Oceans and the Canadian Coast Guard  
Charlotte-Anne Malischewski, Interim Chief Commissioner, Canadian Human Rights Commission  
Marc Miller, MP, Minister of Crown-Indigenous Relations Canada  
Steven Guilbeault, Minister of Environment and Climate Change Canada  
Jonathan Wilkinson, Minister of Natural Resources Canada

Josie Osborne, Minister of Energy, Mines and Low Carbon Innovation, British Columbia  
George Heyman, Minister of Environment and Climate Change Strategy, British Columbia  
Murray Rankin, Minister of Indigenous Relations and Reconciliation, British Columbia  
Nathan Cullen, Minister of Water, Land and Resource Stewardship, British Columbia  
Silas Brownsey, Office of the Premier, Intergovernmental Relations Secretariat, British Columbia

The Right Hon. Joseph R. Biden, President of the United States  
Antony J. Blinken, Secretary of State, U.S. Department of State  
Rachel Poynter, Deputy Assistant Secretary for Mexico and Canada, U.S. Department of State  
Jennifer Savage, Director of Canadian Affairs, U.S. Department of State  
Deb Haaland, Secretary of the Interior, U.S. Department of the Interior  
Tanya Trujillo, Assistant Secretary for Water and Science, U.S. Department of the Interior  
Bryan Newland, Assistant Secretary, Indian Affairs, U.S. Department of the Interior  
Dave Applegate, Director, U.S. Geological Survey  
Michael S. Regan, Administrator, U.S. Environmental Protection Agency  
Jane Nishida, Assistant Administrator, Office of International and Tribal Affairs, U.S. Environmental Protection Agency  
Brenda Mallory, Chair, Council on Environmental Quality  
Anthony Morgan Rodman, Executive Director, White House Council on Native American Affairs  
PaaWee Rivera, Senior Advisor, White House Office of Intergovernmental Affairs  
Daron Carreiro, Senior Policy Advisor for Native Affairs, Domestic Policy Council

Pierre Béland, Canadian Chair & Commissioner, International Joint Commission  
Henry Lickers, Canadian Commissioner, International Joint Commission  
Merrell-Ann Phare, Canadian Commissioner, International Joint Commission  
Robert Sisson, United States Commissioner, International Joint Commission  
Lance Yohe, United States Commissioner, International Joint Commission

## APPENDIX:

Dangers associated with British Columbia mining operations include, but are not limited to, the following:

- *Tailings dam failure.* At least 172 tailing storage facilities at mines across the province store billions of cubic metres of toxic mine waste behind some of the tallest dams in the world. As many as 42 toxic tailings facilities are located within transboundary watersheds. These facilities are growing in height and size—corresponding to an increasingly severe risk of a potential dam failure into transboundary waters. For example, experts have determined that the tailings dam associated with the Copper Mountain mine in British Columbia has a shockingly high risk of failure, well above the range considered acceptable by most U.S. and Canadian guidelines. Such a failure would inundate the Similkameen Valley, covering surrounding areas with 10 metres or more of toxic waste, endangering hundreds of lives, and devastating ecosystems and communities in British Columbia and northern Washington. The catastrophic failure of the tailings dams at the Mount Polley mine in central British Columbia, and two sites in Brazil, have raised worldwide awareness of the hazards associated with toxic tailings storage.
- *Selenium contamination.* Selenium and nitrate contamination of the Elk River, Koocanusa Reservoir, the Kootenai River, and Kootenay Lake has increased steadily for over three decades with no significant binational response. The standard for dissolved selenium concentration established by the States of Idaho and Montana, and approved by the U.S. Environmental Protection Agency, is 0.8 ug/L. Waters flowing across the international boundary from British Columbia into Montana have substantially exceeded this water quality standard since the standard was approved under the U.S. Clean Water Act in February 2021. Measurements of selenium have reached 9.46 ug/L in the Elk River, 4.99 ug/L in Lake Koocanusa, and 1.4 ug/L in the Kootenai River. British Columbia is now several years behind its commitment to revise its own selenium objective at the international boundary, despite written commitments to the state of Montana to jointly adopt consistent, protective selenium criteria on both sides of the border.

Existing wastewater treatment plants and saturated rock fills are insufficient to stabilize or reduce selenium in these water systems. In fact, Teck Coal Limited—the company whose mines are the source of this selenium contamination—was recently sanctioned for failing to implement water treatment facilities and for exceeding selenium and nitrate concentrations at multiple compliance points throughout the watershed. Meanwhile, new selenium discharges continue to cause ongoing contamination. Fish from the Elk River, Lake Koocanusa, and the Kootenai River exceed selenium toxicity thresholds for fish health. Data from multiple Tribes demonstrate that selenium has caused reproductive deformities in aquatic species in these waterbodies, leading to significant population decline over time.

- *Threats to salmon in B.C. and Alaska.* The T'aaku (Taku), Shtax'héen (Stikine), and Jónax (Unuk) Rivers originate in northwest British Columbia and flow into Tlingit Aaní (Southeast Alaska). These rivers have been the centers of culture, commerce, and biodiversity since time immemorial. Each river supports significant customary and traditional, commercial, and sport

fisheries, producing more than 80% of the regions' king/chinook salmon. At the headwaters of these historic salmon systems, British Columbia has placed more than a dozen large-scale mines in various stages, many of which rival the size of the proposed Pebble Mine in Bristol Bay, and target gold, which is not essential for critical mineral interests. Mining these low-grade and acid-generating mineral deposits releases toxins into crucial salmon habitats, threatening fish populations in British Columbia and Alaska. Further, tailings facilities that use a water cover to prevent oxidation and production of acid rely on a precarious balance—there must be enough water to maintain a minimum cover, but if there is too much water, the dam will breach. It is impossible to predict this water balance in the time of climate change even for the short term, let alone for the thousands of years these structures must stand. Yet British Columbia continues to greenlight these projects without the consent of Indigenous communities and private property owners downstream, consideration for cumulative impacts, or financial assurances.

**RESOLUTION  
OF THE GOVERNING BODY OF  
THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD RESERVATION**

**A RESOLUTION TO ADDRESS SELENIUM CONTAMINATION IN  
TRANSBOUNDARY AND TRADITIONAL WATERS ORIGINATING FROM COAL  
MINING IN BRITISH COLUMBIA**

**BE IT RESOLVED BY THE COUNCIL OF THE CONFEDERATED SALISH AND  
KOOTENAI TRIBES THAT:**

**WHEREAS**, pursuant to Article VI, Section 1(a) of the Tribes' Constitution, the Tribal Council of the Confederated Salish and Kootenai Tribes has the power and duty to protect the health, economy, security, and general welfare of the Tribes and thereby all the residents of the Flathead Reservation; and

**WHEREAS**, the Tribes' Mission includes providing sound environmental stewardship to preserve, perpetuate, protect and enhance natural resources and ecosystems;" and

**WHEREAS**, the transboundary waters of the Kootenai and Elk River systems have sustained our people since long before the imposition of international borders and have not only provided drinking water and critical foods, but are also central to our cultural and traditional practices, community, transportation, and economic livelihood; and

**WHEREAS**, selenium and nitrate contamination from over a century of open-pit coal mining in British Columbia has already damaged the integrity of these transboundary and traditional waters and threatens to cause irreparable harm; and

**WHEREAS**, the standard for dissolved selenium concentration established by the States of Montana and Idaho, and approved by the U.S. Environmental Protection Agency, is 0.8 ug/L, and waters flowing across the international boundary from British Columbia into Montana have substantially exceeded this water quality standard since it was approved under the U.S. Clean Water Act in February 2021, including measurements of 9.46 ug/L in the Elk River, 4.99 ug/L in Lake Koocanusa, and 1.4 ug/L in the Kootenai River; and

**WHEREAS**, fish from the Elk River, Lake Koocanusa, and the Kootenai River exceed selenium toxicity thresholds for fish health, and data from multiple Tribes demonstrate that selenium has caused reproductive deformities in aquatic species in these waterbodies, leading to significant population decline over time; and

**WHEREAS**, Canada and British Columbia have a legal and ethical obligation to protect transboundary waters and the communities they sustain, as established by Canada's ratification



of the Boundary Waters Treaty of 1909 and both government's adoption of the United Nations Declaration of the Rights of Indigenous Peoples; and

**WHEREAS**, Canada and British Columbia have ignored the Tribes' call to address selenium contamination for decades, and are instead investing in large-scale mining expansions that would further damage our traditional waters and way of life, despite the fact that British Columbia is still several years behind its commitment to revise its own selenium objective at the international boundary, and despite the fact that Teck Coal Limited—the company whose mines are the source of contamination—was recently sanctioned for failing to implement water treatment facilities and for exceeding selenium and nitrate concentrations at multiple compliance points throughout the watershed; and

**WHEREAS**, a Joint Reference to the International Joint Commission (“IJC”) that addresses mining pollution in transboundary and traditional waters has long been requested by the Confederated Salish and Kootenai Tribes, as well as the United States, other First Nations and Tribes, all of the U.S. and Canadian IJC Commissioners, and thousands of concerned citizens—yet Canada has repeatedly delayed any material progress to this end;

**NOW, THEREFORE BE IT RESOLVED**, the Tribal Council of the Confederated Salish and Kootenai Tribes hereby formally calls on the governments of Canada and British Columbia to stop obstructing the international response to the ongoing environmental crisis caused by mining in British Columbia, and to act immediately to begin to fulfill their obligations to protect human health, honor Indigenous nations, and preserve our shared transboundary ecosystems for future generations;

**AND BE IT FURTHER RESOLVED**, the Tribal Council of the Confederated Salish and Kootenai Tribes hereby formally asks the government of Canada to support a Joint Reference to the IJC that addresses mining pollution in transboundary and traditional waters, and to support the IJC's creation of international, Indigenous-led Watershed Boards in each region along the U.S.-Canada border to oversee the governance of transboundary mining impacts.

#### CERTIFICATION

The foregoing Resolution was adopted by the Tribal Council on March 7, 2023, with a vote of 8 for, 0 opposed, and 0 not voting, pursuant to authority vested in it by Article VI, Section 1 (a), (c), and (u) of the Tribes' Constitution and Bylaws; said Constitution adopted and approved under Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended.

ATTEST:

  
Tribal Council Secretary

  
Chairman, Tribal Council



## UCUT Resolution 2022 Transboundary Mining

**WHEREAS:** the Upper Columbia United Tribes (UCUT) is a duly constituted intertribal commission of the Coeur d'Alene Tribe, Confederated Tribes of the Colville Reservation, Kalispel Tribe of Indians, Kootenai Tribe of Idaho, and the Spokane Tribe of Indians, by authority of the Constitution and By-Laws for the UCUT; and

**WHEREAS:** under the Constitution and By-Laws of the UCUT, the Commission is charged with the duty of protection, preservation, and enhancement of Treaty/Executive Order Rights, sovereignty, culture, fish, water, wildlife, habitat and other interests and issues of common concern; and

**WHEREAS:** headwaters of multiple rivers originate in British Columbia (BC), Canada and flow through BC Aboriginal territories and into Alaska, Washington State, Idaho and Montana through transboundary territories and lands of U.S. Native Tribes; and

**WHEREAS:** our ancestors relied upon the pristine waters of those territories and lands for survival, sustenance, transportation, health, spiritual wellness, culture, community and economy - just as we do today and as we wish for future generations; and

**WHEREAS:** commercial mining in BC is experiencing unprecedented expansion such that several proposed and operating British Columbia mines, some of the largest in the world, are located in the transboundary watersheds that sustain communities in Alaska, Washington State, Idaho, and Montana; and

**WHEREAS:** there are at least 172 tailings facilities at mines across the province storing billions of cubic meters of toxic tailings behind some of the highest dams in the world, and as many as 42 of these mines are in transboundary watersheds, many with substantial risk of failure including the potential for loss of human life; and

**WHEREAS:** over 30 U.S. Tribes, BC First Nations, tribal associations and communities from Alaska, Washington State, Idaho and Montana, have been and are actively voicing their concerns that BC mining upstream of their traditional lands could place at risk not just downstream economic interests, but also their traditional ways of life and their very culture; and

**WHEREAS:** the Government of Canada and Province of BC have not properly sought consultation with downstream U.S. Tribes from Alaska, Washington State, Idaho, and Montana in relation to ongoing and future likely harm from upstream mining in the province; and

**WHEREAS:** events such as the catastrophic failure of the tailings storage facility at Imperial Metals' Mt. Polley mine in BC, and at two sites in Brazil have raised worldwide awareness of the hazards associated with these facilities impounding saturated tailings, and the persistent concerns raised by BC First Nations, U.S. Tribes and experts regarding the growing legacy of tailings mine waste being stored at mines across the province; and

**WHEREAS:** the Government of Canada and the Province of British Columbia have been resistant to meeting their obligations under the Boundary Waters Treaty of 1909 to prevent disputes regarding the use of transboundary waters and prohibit pollution on one side of the boundary that would cause injury to life or property on the other side.

**NOW, THEREFORE, BE IT RESOLVED** that the Upper Columbia United Tribes who assembled a meeting with U.S. Tribes and BC First Nations in Wenatchee, Washington on September 26-27, 2022, calls upon the Government of British Columbia, as the jurisdiction where mines in the transboundary watersheds are regulated, to act immediately to protect the transboundary watersheds and all who depend on them from the impacts of mining by:

1. Implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), including the principle of Free, Prior, and Informed Consent, in all Indigenous communities and for all Indigenous people, including those in Alaska, Washington State, Idaho, and Montana, and
2. Expediting efforts under the BC Declaration Act to incorporate mining related laws and regulations into conformity with UNDRIP; and
3. Mandating Indigenous and community consent before building, expanding or closing mine waste facilities; prohibiting mine waste dams immediately upstream from communities and sensitive ecosystems as they are at greater risk of failures, especially in high seismic and precipitation areas; prohibiting 'upstream dams' which have a high risk of failure; and establishment of an industry financed pooled fund for unforeseen disasters to mitigate future downstream disasters on both sides of the international border.

**BE IT FURTHER RESOLVED** that the Upper Columbia United Tribes calls on the Government of Canada and the Province of British Columbia to consider the transboundary impacts of current and future mining operations in a comprehensive manner working jointly with U.S. Tribes and First Nations and the Government of

the United States to evaluate mining impacts on livelihoods and cultural practices, including commercial fisheries, sport fisheries and overall food security; and

**BE IT FURTHER RESOLVED** that the Upper Columbia United Tribes calls upon the Government of Canada to honor its obligations under the Boundary Waters Treaty of 1909, including, as may be necessary, the issuance of a Reference to the International Joint Commission as has been sought by the Government of the United States and currently rejected by the Government of Canada; and

**BE IT FINALLY RESOLVED** that the Government of the United States and Canada, at the highest levels, continue to utilize any and all powers under the US-Canada Boundary Waters Treaty of 1909 to ensure that tribal cultural existence and community health are not harmed by upstream development in BC through both international forums for dialogue, scientific study, and the identification of specific actions to secure long-term protections of these shared transboundary watersheds and to obtain adequate financial assurances, including a fund established by the BC government to compensate downstream interests should harm arise.

#### **CERTIFICATION**

The Upper Columbia United Tribes adopted the foregoing RESOLUTION on the 22nd day of November 2022, at Spokane, Washington, with the required quorum present, by a vote of

FOR, 5 AGAINST, 0 ABSTAIN, 0 ABSENT, 0



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Gary Aitken Jr., Chairman, Upper Columbia United Tribes



# Southeast Alaska Indigenous Transboundary Commission

## Protecting Tribal Lands and Waterways for Future Generations

**Resolution Number:** 1222

**Title: Calling for the Implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), for all Indigenous people and communities.**

WHEREAS, the Southeast Alaska Indigenous Transboundary Commission (SEITC) was formed by 15 sovereign Indigenous governments in 2014 to protect our way of life in the face of massive mine development in the headwaters of the rivers that sustain us; and

WHEREAS, headwaters of multiple rivers that originate in British Columbia (BC), Canada and flow through BC First Nations territories and into Alaska, Washington, Idaho and Montana through transboundary territories and lands of U.S. Native Tribes; and

WHEREAS, our ancestors relied upon the pristine waters of those territories and lands for survival, sustenance, transportation, health, spiritual wellness, culture, community and economy - just as we do today and as we wish for future generations; and

WHEREAS, commercial mining in BC is experiencing unprecedented expansion such that several proposed and operating British Columbia mines, some of the largest in the world, are located in the transboundary watersheds that sustain communities in Alaska, Washington, Idaho, and Montana; and

WHEREAS, there are at least 172 tailings facilities at mines across the province of BC storing billions of cubic meters of toxic tailings behind some of the highest dams in the world, and as many as 42 of these mines are in transboundary watersheds, many with substantial risk of failure including the potential for loss of human life; and

WHEREAS, over 30 U.S. Tribes, tribal associations, and communities from Alaska, Washington, Idaho and Montana, have been and are actively voicing their concerns that BC mining upstream of their traditional lands could place at risk not just downstream economic interests, but also their traditional ways of life and their very culture; and

WHEREAS, the Government of Canada and Province of BC have not properly sought consultation with downstream U.S. Tribes from Alaska, Washington, Idaho, and Montana in relation to ongoing and future likely harm from upstream mining in the province; and

WHEREAS, events such as the catastrophic failure of the tailings storage facility at Imperial Metals' Mt. Polley mine in BC and at two sites in Brazil have raised worldwide awareness of the hazards associated with these facilities impounding saturated tailings, and the persistent concerns raised by BC First Nations, U.S. Tribes and experts regarding the growing legacy of tailings mine waste being stored at mines across the province; and

WHEREAS, the Government of Canada and the Province of British Columbia have been resistant to meeting their obligations under the Boundary Waters Treaty of 1909 to prevent disputes regarding the use of transboundary waters and prohibit pollution on one side of the boundary that would cause injury to life or property on the other side.

NOW, THEREFORE, BE IT RESOLVED that SEITC and citizens from Tribes all along the U.S./British Columbia border assembled at Wenatchee, Washington from 26-27 September, 2022, calls upon the Government of British Columbia, as the jurisdiction where mines in the transboundary watersheds are regulated, to act immediately to protect the transboundary watersheds and all who depend on it from the impacts of mining by:



1. Implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), including the principle of Free, Prior, and Informed Consent, in all Indigenous communities and for all Indigenous people, including those in Alaska, Washington, Idaho, and Montana, and
2. Expediting efforts under the BC Declaration Act to incorporate mining related laws and regulations into conformity with UNDRIP; and
3. Mandating Indigenous and community consent before building, expanding or closing mine waste facilities; prohibiting mine waste dams immediately upstream from communities and sensitive ecosystems as they are at greater risk of failures, especially in high seismic and precipitation areas; prohibiting 'upstream dams' which have a high risk of failure; and establishment of an industry financed pooled fund for unforeseen disasters to mitigate future downstream disasters on both sides of the international border.

BE IT FURTHER RESOLVED that the SEITC calls on the Governments of Canada and the Province of British Columbia to consider the transboundary impacts of current and future mining operations in a comprehensive manner, working jointly with U.S. Tribes and the Government of the United States to evaluate mining impacts on livelihoods and cultural practices, including commercial fisheries, sport fisheries and overall food sovereignty; and

BE IT FURTHER RESOLVED that the SEITC calls upon the Government of Canada to honor its obligations under the Boundary Waters Treaty of 1909, including, as may be necessary, the issuance of a Reference to the International Joint Commission as has been sought by the Government of the United States and currently rejected by the Government of Canada; and

BE IT FINALLY RESOLVED that the Government of the United States, at the highest levels, continue to utilize any and all powers under the U.S.-Canada Boundary Waters Treaty of 1909 to ensure that tribal cultural existence and community health are not harmed by upstream development in BC through both international forums for dialogue, scientific study, and the identification of specific actions to secure long-term protections of these shared transboundary watersheds and to obtain adequate financial assurances, including a fund established by the BC government to compensate downstream interests should harm arise.



Signed: December 23, 2022

Rob Sanderson Jr  
Chair, SEITC



CENTRAL COUNCIL  
*Tlingit and Haida Indian Tribes of Alaska*  
Office of the President • Edward K. Thomas Building  
9097 Glacier Highway • Juneau, Alaska 99801

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Executive Council of the Central Council  
TLINGIT & HAIDA INDIAN TRIBES OF ALASKA

Resolution EC 22-68

Title: To Protect Our Transboundary Waters and Way of Life

WHEREAS, the Central Council of Tlingit & Haida Indian Tribes of Alaska (Tlingit & Haida) is a federally recognized tribe with more than 34,000 citizens; and

WHEREAS, under Article X of the Tlingit & Haida Constitution, the Executive Council is the governing body of Tlingit & Haida when the Tribal Assembly is not in session; and

WHEREAS, the Tribal Assembly is not in session; and

WHEREAS, the shared Taku (T'aaku), Stikine (Shtax'héen), and Unuk (Joonáx) Rivers are of tremendous and unique cultural, ecological, subsistence, economic, and recreational value as Indigenous peoples from several Nations have stewarded the transboundary region since time immemorial and this region is now home to nearly 80,000 people in dozens of communities; and

WHEREAS, salmon and other traditional foods are the foundation of our cultural existence and economic welfare, these transboundary rivers have nourished our tribal communities since time immemorial; and

WHEREAS, Tlingit & Haida has expressed by way of resolutions, letters and statements for years that the United States (US) must uphold its trust responsibility to tribes and to work with the Canadian government and to utilize all powers under the Boundary Waters Treaty to ensure that our cultural existence and community health are not harmed by upstream development in British Columbia (BC); and

WHEREAS, pursuant to Executive Order 13175 and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), affected tribal governments must be consulted with and represented in any policy discussion related to impacts to United States waters and communities; and

WHEREAS, in 2018, BC passed the Declaration of the Rights of Indigenous Peoples Act (DRIPA), and in 2021, Canada passed legislation to implement UNDRIP; and

WHEREAS, UNDRIP acknowledges that Indigenous people have rights to lands, territories, and resources which they have traditionally owned, occupied, or otherwise used or acquired (Articles 25, 26, and 32); and

WHEREAS, in *R. v. Desautel*, the Supreme Court of Canada ruled that non-citizens and non-residents can claim Aboriginal rights under Section 35 of the Constitution; and

WHEREAS, the Desautel court also held that “Aboriginal peoples of Canada,” under Section 35 of the Constitution, applies to the modern-day successors of societies that occupied Canadian territory at the time of European contact, even if such societies are now located outside of Canada; and

WHEREAS, in *Haida Nation v. British Columbia (Minister of Forests)*, the Canadian Supreme Court recognized that Canada has a duty to consult Aboriginal peoples when it acts in a manner that may adversely affect rights guaranteed by Section 35 of the Constitution; and

WHEREAS, the Haida Nation court also held that the right of Aboriginal peoples to consultation need not be proven but only credibly asserted in order to trigger Canada’s duty to consult in the early planning stages of projects, a duty that the court opined should not be acted upon so late that a project is fully defined, which would render any consultation difficult or impossible; and

WHEREAS, preliminary evidence indicates that recognized clan territories extended well into BC prior to the first European contact and that such territories reached land on which several BC mine developments are proposed, abandoned, or operating in the headwaters of the Taku, Stikine, and Unuk Rivers; and

WHEREAS, the Taku, Stikine, and Unuk Rivers are the largest wild salmon producing rivers in Southeast Alaska and some of the most productive on the entire west coast of North America, historically producing 80% of the region’s king salmon, and

WHEREAS, wild salmon populations in the Taku, Stikine, and Unuk Rivers are presently in decline, resulting in the Alaska Department of Fish and Game listing Unuk River king salmon as a Stock of Concern in 2017 and in the 2021 listing of Taku and Stikine River king salmon as Stocks of Concern; and

WHEREAS, the Taku, Stikine, and Unuk Rivers contribute nearly \$50 million in economic activity, \$34 million in direct spending, over 400 jobs, and almost \$20 million in labor income toward Southeast Alaska’s annual multi-billion salmon fishing and visitor industries; and

WHEREAS, more than two-dozen Canadian hardrock mining projects are in various stages of abandonment, permitting, development, or operation in the BC headwaters of the Taku, Stikine, and Unuk Rivers that drain into Southeast Alaska, most of which are large-scale and open-pit gold mines, occur in known acid-generating ore bodies, include tailings dams over 500 feet tall that have to store toxic mine waste forever, and the need for perpetual water treatment, roads, and other infrastructure, and threaten (both in the short term and on geological timescales) the productivity and ecological health of these watersheds through cumulative impacts, contamination, habitat destruction, and/or possible catastrophic failures; and



WHEREAS, BC's environmental assessment process does not set legal requirements or standards for assessing cumulative effects of existing and proposed development; and

WHEREAS, following BC's Mount Polley mine disaster in 2014, an expert panel appointed by the BC government found that if mining companies continue their business-as-usual operations the province could face an average of two dam failures every ten years; and

WHEREAS, the Tulsequah Chief Mine (TCM) has been discharging acid-generating waste into the Taku River watershed since the mine was abandoned in 1957, and despite the fact this pollution is in violation of BC provincial and Canadian federal law, tribes, the State of Alaska, and the US f have requested full cleanup and enforcement of the US-Canada Boundary Waters Treaty of 1909 at TCM for two decades, pollution into the shared Taku watershed continues and several additional BC gold mines are proposed nearby, including New Polaris and Hat; and

WHEREAS, hardrock mining at Greens Creek silver mine and Kensington gold mine are central to Juneau's economy, are not located along shared international rivers, are a fraction of the size of abandoned, proposed, and operating BC mines along the Taku, Stikine, and Unuk Rivers, and are subject to the State of Alaska's water quality regulations and bonding requirements that are more robust than those in BC; and

WHEREAS, thousands of Southeast Alaskans want assurance that BC's mining activities will not negatively impact our livelihoods downstream and if they do, that BC will be held accountable for damages incurred; and

WHEREAS, the Alaska-British Columbia Memorandum of Understanding and associated Statement of Cooperation on Protection of Transboundary Waters signed by the State of Alaska and the Province of BC in 2015 are important, but do not include affected Indigenous governments and cannot provide binding, enforceable protections for the residents, rivers, and watersheds of the Alaska-BC transboundary region;

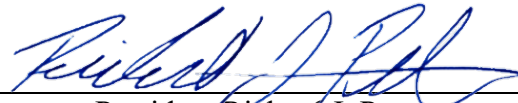
NOW THEREFORE BE IT RESOLVED, that the Executive Council of the Central Council of Tlingit & Haida Indian Tribes of Alaska calls on President Joe Biden and the United States government and Prime Minister Justin Trudeau and the Canadian government to expeditiously:

1. Utilize their authority under the United States-Canada Boundary Waters Treaty of 1909 to prevent and resolve disputes over the use of shared waters; and
2. Support the request of Alaska tribes and communities for an immediate temporary pause in permitting, exploration, development, and expansion of BC mines on the Canadian side of the border along shared Alaska-BC salmon rivers until a binding international agreement on watershed protections, developed by the federal, tribal, and First Nation governments in these shared transboundary watersheds and consistent with the Boundary Waters Treaty of 1909 is implemented; and

3. Convene with local communities, stakeholders, and indigenous leaders of the Taku, Stikine, and Unuk watersheds to develop the aforementioned binding international agreement on watershed protections; this agreement will identify and honor no-go zones and decisions by indigenous people and local residents on both sides of the international border, ensure mining companies and shareholders are liable for cleaning up their waste and compensating impacted communities for all damages, and enforce requirements for mining best practices, including a permanent ban on the perpetual storage of contaminated water and wet tailings behind earthen dams along these irreplaceable Alaska-BC transboundary salmon rivers.

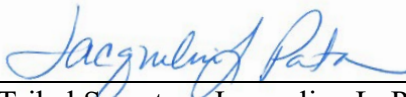
ADOPTED this 9<sup>th</sup> day of December 2022, by the Executive Council of the Central Council of Tlingit & Haida Indian Tribes of Alaska, by a vote of 5 yeas, 0 nays, 0 abstentions and 1 absence.

**CERTIFY**



\_\_\_\_\_  
President Richard J. Peterson

**ATTEST**



\_\_\_\_\_  
Tribal Secretary Jacqueline L. Pata



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #ATL-14-082

**TITLE: To Protect Transboundary Rivers in the Alaska/British Columbia Region by Requesting the United States to Implement the Boundary Waters Treaty through International Joint Commission (IJC) Involvement**

### EXECUTIVE COMMITTEE

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*Swinomish Indian Tribal Community*

**FIRST VICE-PRESIDENT**  
**Randy Noka**  
*Narragansett Tribe*

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**NORTHWEST**  
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*Soboba Band of Mission Indians*

**ROCKY MOUNTAIN**  
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**SOUTHERN PLAINS**  
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*Kiowa Tribe of Oklahoma*

**SOUTHWEST**  
**Manuel Heart**  
*Ute Mountain Ute Tribe*

**WESTERN**  
**Arlan Melendez**  
*Reno Sparks Indian Colony*

**EXECUTIVE DIRECTOR**  
**Jacqueline Johnson Pata**  
*Tlingit*

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**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, transboundary rivers of the Northwest British Columbia and Southeast Alaska region, including the Taku, Stikine and Unuk rivers, are of tremendous and unique ecological, customary and traditional use (“subsistence”), cultural and recreational value and are some of the most productive salmon rivers on the entire North American west coast; and

**WHEREAS**, salmon and other traditional foods are the foundation of our cultural existence and economic welfare and these transboundary rivers have nourished our tribal communities since time immemorial; and

**WHEREAS**, Alaska Native Tribes, B.C. First Nations, fishermen, local communities, elected leaders, and conservations groups on both sides of the United States/Canadian border have all raised concerns about the potential harm from the proposed developments to water quality, fish, wildlife and ultimately to the cultural existence, livelihoods, and local economies in the region; and

**WHEREAS**, healthy wild salmon populations in these river systems are a priority to our tribal nations and tribal citizens’ community health, cultural existence, and sovereignty; and

**WHEREAS**, Alaska Native Tribes and other organizations concerned about protecting water quality and salmon must be an integral to any transboundary watershed development decision making; and

**WHEREAS**, the United States must uphold its trust responsibility and obligation to consult with Tribes and protect our interests and citizens; and

**WHEREAS**, the Boundary Waters Treaty between the United State and Canada states that “waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other” and provides a mechanism for the United States and Canada to address transboundary river concerns known as the International Joint Commission.

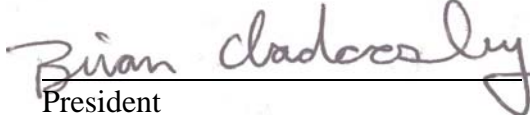
**NOW THEREFORE BE IT RESOLVED**, that NCAI strongly urges the United States government (Congress, White House, and federal agencies) to uphold its trust responsibility to Tribes and to work with the Canadian government by referring the transboundary issues to the International Joint Commission and to utilize any and all powers under the Boundary Waters Treaty to ensure that our cultural existence and community health are not harmed by upstream development in BC; and

**BE IT FURTHER RESOLVED**, that affected tribal governments be consulted with and represented in any policy discussion related to impacts to United States waters and communities per Executive Order 13175 and the United Nations Declaration on the Rights of Indigenous Peoples; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

#### CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2014 Annual Session of the National Congress of American Indians, held at the Hyatt Regency Atlanta, October 26-31, 2014 in Atlanta, Georgia, with a quorum present.

  
President

ATTEST:

  
Recording Secretary