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ENVIROFOR NEWS:

Latest Annotations

New annotations have been added to the Quickscribe site. These annotations include contributions from [Paul Wilson](#), Fasken Martinau LLP – [Petroleum and Natural Gas Act](#), [Geophysical Exploration Regulation](#) (280/2010), [Emergency Management Regulation](#) (204/2013), and [Drilling and Production Regulation](#) (282/2010).

Watch this 20-minute [YouTube video](#) to learn more about the new annotation features.

View [PDF](#) of this Reporter.

FEDERAL LEGISLATION — For notification of federal amendments, we recommend you use our [Section Tracking](#)  tool.

[\[Previous Reporters \]](#)

ENERGY AND MINES NEWS

2015 Year in Review: Top 10 Legislative, Regulatory and Policy Changes of Import to the Canadian Oil and Gas Industry

In 2015 politics drove policy. With new federal and Alberta governments, last year ushered in unprecedented changes for the Canadian oil and gas industry. There is more to come. Greenhouse gas regulation and a revised royalty regime are poised to be two of the sector's leading business challenges in 2016 – along with stubbornly low price – as energy companies determine the impact to their bottom lines.

There are significant transitions happening to Canada's energy economy. Pipelines remain elusive. M&A activity is nascent and waiting for further price and policy clarity. International oil supply, buoyed by an end of year U.S. policy shift to permit crude exports, continues to be robust. Green energy and renewable sources will play a larger role in the country's energy mix. As the year progresses, companies with strong balance sheets and a low cost of capital are likely to be some of the biggest winners in 2016.

Canada's oil and gas sector looks ahead to not only the implementation of provincial carbon initiatives, but also the federal government pursuing its own climate change agenda. Read the [full article](#) by Alan Ross, Michael A. Marion, Michael G. Massicotte, Karen A. Salmon, Rick Williams and Lorelle Binnion of Borden Ladner Gervais LLP.

Proposed BC Mine Plans to Reduce Water Content in Waste but Still Use Tailings Dams

KGHM International's proposed Ajax copper and gold project will be one of the first tests of the BC government's approval of waste storage for large open pit mines after the Mount Polley mine dam failure in 2014.

The company, whose parent is Polish company KGHM Polska Miedz SA, plans to submit its project application early this month for review by the BC government. It will kick off an 180-day environmental assessment.

The \$795-million project is controversial and has met with community resistance, in part, because of its proximity to Kamloops.

KGHM proposes to reduce water quantities in its mine-waste facility – and entirely buttress the large dams with rock – to increase safety at the planned mine.

However, it will not be using the dry-stacking technique to store mine waste as planned in its initial design. That method recommended by an engineering panel appointed by the BC government to investigate the Mount Polley failure. Read *The Vancouver Sun* [article](#).

BC Takes Action on Chief Inspector of Mines' Recommendations

Source: *Canadian Occupational Safety Magazine*

In response to the findings and recommendations of the chief inspector of mines' investigation into the tailings storage facility at Mount Polley Mine in August 2014, the British Columbia government is introducing new regulations and requirements for tailings storage facilities.

"We've learned from this investigation that in the case of Mount Polley, the allowable margin of risk around the design, construction and management of the tailings storage facility was too narrow to allow for an unknown factor, the layer of unstable soils below the dam embankment," said Energy and Mines Minister Bill Bennett. "We've also learned that weak practices on the mine site increased the risk of dam failure and exacerbated environmental consequences from the breach. This is unacceptable."

The report found, as did the Independent Expert Panel in January 2015, that the dam failed because the strength and location of a layer of clay underneath the dam was not taken into account in the design or in subsequent dam raises. The chief inspector also found other factors including the slope of the perimeter embankment, inadequate water management, insufficient beaches and a sub-excavation at the outside toe of the dam exacerbated the collapse of the dam and the ensuing environmental damage.

While the breach would not have occurred had it not been for the undetected glaciolauustrine layer of soils, the consequences of the breach were made worse by the other factors, said the government. Although operations on the mine site were not in contravention of any regulation, the chief inspector found the mine failed to operate using best available practices.

The chief inspector of mines investigation team conducted approximately 100 interviews and reviewed over 100,000 pages of documents going back to 1989. This is the largest and most-complex investigation and analysis ever done in BC. Read the *Canadian Occupational Safety Magazine* [article](#).

BC Mulls Rescue as Miners Struggle

Energy and Mines Minister Bill Bennett rang in 2016 with thoughts of a potential rescue package for BC's beleaguered mining industry on his mind to ward off potential shutdowns.

Options for assistance to mining companies struggling with low commodity prices could include deferrals on payment of power bills and delayed payments on mineral taxes, Bennett said in an interview. There are real potential consequences if the province can't offer any help.

"There's urgency to this," Bennett said. "If we don't find something to do that will help in early January, then by mid-January, I think you're going to see some mining companies go down. You're not going to see bankruptcies, but you're going to see closures, and we're talking about thousands of jobs."

BC mines in 2014 directly employed 9,954 British Columbians, according to the latest industry survey by accounting and consulting firm PwC, down from 10,720 a year earlier. See more [here](#).

Good Faith Efforts to Understand – Supporting a Balanced Approach to Constitutional and Procedural Fairness Obligations in Environmental Assessment in British Columbia

From [CLEBC](#) website – Practice Points: This paper, authored by Becky Black with the Ministry of Justice reviews the purposes of the environmental assessment ("EA") process and surveys the legal requirements that frame the relationship between the Crown and proponents and the Crown and First Nations. Click [here](#) to view a PDF version of the paper.

ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
		by 2014 Bill 2, c. 29, section 63 only (in force by

Hydro and Power Authority Act	Jan. 1/16	Reg 247/2015), Greenhouse Gas Industrial Reporting and Control Act
Mineral Tax Costs and Expenditures Regulation (405/89)	Dec. 1/15	by Reg 187/2015
Mineral Tax Disposition of a Mine Regulation (400/89)	Dec. 1/15	by Reg 187/2015
Mineral Tax General Regulation (401/89)	Dec. 1/15	by Reg 186/2015
Mineral Tax Reclamation Regulation (8/98)	Dec. 1/15	by Reg 187/2015
Mineral Tax Return Form Regulation (86/98)	Dec. 1/15	by Reg 188/2015
Mineral Tenure Act	Jan. 1/16	by RS2015, c. 1, Revision Schedule (in force by Reg 257/2015), Local Government Act
Oil and Gas Activities Act	Dec. 18/15	by 2015 Bill 18, c. 10, section 146 only (in force by Reg 240/2015), Administrative Tribunals Statutes Amendment Act, 2015
	Jan. 1/16	by RS2015, c. 1, Revision Schedule (in force by Reg 257/2015), Local Government Act
Partnership Election Form Regulation (60/91)	Dec. 1/15	by Reg 187/2015

FORESTRY AND ENVIRONMENT NEWS

BC Lumber Trade Delegation to Asia Encouraged by Response

Climate-change policies could steer China and Japan toward use of more value-added wood products

It sounds a bit contradictory to call the province's recent forestry trade mission to Japan and China a success when British Columbia's lumber shipments into the region are on the slide.

For industry officials, however, the trip at the end of November was about maintaining their presence, even during a slowdown in those countries, and to "move up the value chain" in those markets toward higher-value forest products and away from plain lumber, said industry representative Rick Jeffrey.

In that sense, "it was quite a successful mission," he said. Read *The Vancouver Sun* [article](#).

Greater Community Consultation = Better Forestry Decisions

Is your community troubled by mill closures, lay-offs or forest stewardship plans that don't clearly articulate what is actually happening on the ground in your area? If yes, then the UBCM's Community Economic Development (CED) Committee wants to hear from you. Please provide feedback by completing [UBCM's Forestry Survey](#).

At the November CED meeting, Councillor Brian Frenkel, UBCM's appointment to the Minister's Forests and Range Practices Advisory Council, advised that the Council is interested in hearing from communities on forest policy matters. Specifically, the Council would like communities to identify what specific policy decisions would be better served by greater community consultation.

Acknowledging that communities are more than just stakeholders, Councillor Frenkel has been advocating to his

Advisory Council colleagues for greater community consultation prior to forestry decisions being made. By undertaking the forestry survey, UBCM is seeking to provide Councillor Frenkel with the quantitative and qualitative information necessary to encourage the Advisory Council to respond to local government concerns. Read the UBCM [article](#).

Legal Case Study: The Latest Word from the BC Court of Appeal on Cost Recovery under the EMA

On November 20, 2015, the British Columbia Court of Appeal issued reasons for judgment in the much-anticipated decision of [J.I. Properties Inc. v. PPG Architectural Coatings Canada Ltd.](#), 2015 BCCA 472, the latest major case dealing with key aspects of the cost recovery regime under the [Environmental Management Act](#), S.B.C. 2003, c. 53 (the "EMA"). The plaintiff, J.I. Properties Inc. ("JIP"), obtained judgment against the defendant, PPG Architectural Coatings Canada ("PPG"), in the amount of \$4,750,000, respecting the reasonable costs of remediation incurred by JIP in investigating and remediating James Island (the "Property"), located between the Saanich Peninsula and Sidney Island, BC. A detailed summary of the reasons of the trial judge can be found in [the] previous article here. PPG, formerly known as ICI Canada Inc. ("ICI"), owned the Property from 1954 to 1988 and undertook remediation of part of the Property from 1968 to 1988. At the time when ICI undertook its remediation efforts, there were no legislated standards for contaminants in BC. As such, in conjunction with the BC Ministry of Environment (the "Ministry"), ICI and the Ministry collectively agreed on the criteria to apply to its remediation. Following a completion of remediation, ICI obtained a letter from the Ministry confirming that it had remediated to the standards agreed and that no further environmental concerns existed, based on the existing land use (commercial and industrial) (the "Comfort Letter"). A restrictive covenant was registered on title that gave notice to successors in title that portions of the Property were previously used for manufacturing explosives and batching chemicals, and that there was a risk of contamination. Read the [full article](#) by Adam Way, [Harper Grey LLP](#) and published on the BCEIA website.

BC Forestry Watchdog Finds Timber Companies Have Too Much Power

Change recommended so public interest can be protected by district managers

The BC government has given away so much power to timber companies that district forest managers no longer have the authority to stop suspect harvesting practices in the public good, a Forest Practices Board report reveals.

The independent provincial watchdog says that in recent years it has seen "situations arise where forestry development was putting local environmental and community values at risk, yet district managers could do little to affect the development and protect the public interest."

The board adds that "conflicts between resource users could have been avoided if district managers had the authority to intervene to ensure operations would meet local management objectives and respect tenured interests." Read *The Vancouver Sun* [article](#).

Environmental Appeal Board Decisions

There were two Environmental Appeal Board decisions released in the month of December:

[Environmental Management Act](#)

- [Emily Toews; Elisabeth Stannus v. Director, Environmental Management Act](#) [Final Decision – Appeal Dismissed]

[Water Act](#)

- [Harrison Hydro Project Inc.; Fire Creek Project Limited Partnership; Lamont Creek Project Limited Partnership; Stokke Creek Project Limited Partnership; Tipella Creek Project Limited Partnership; Upper Stave Project Limited Partnership v. Comptroller of Water Rights](#) [Final Decision – Appeals Dismissed]

Visit the Environmental Appeal Board [website](#) for more information.

FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information

Administrative Review and Appeal Procedure Regulation (12/2004)	Dec. 18/15	by Reg 240/2015
Application Regulation (229/2003)	REPEALED Jan. 1/16	by Reg 207/2015
Carbon Tax Act	Jan. 1/16	by 2014 Bill 2, c. 29, section 56 only (in force by Reg 247/2015), Greenhouse Gas Industrial Reporting and Control Act
Emission Offsets Regulation (393/2008)	REPEALED Jan. 1/16	by Reg 250/2015
Environmental Appeal Board Procedure Regulation (240/2015)	NEW Dec. 18/15	see Reg 240/2015
Environmental Appeal Board Procedure Regulation (1/82)	REPEALED Dec. 18/15	by Reg 240/2015
Environmental Management Act	Dec. 18/15	by 2015 Bill 18, c. 10, sections 60 to 65 only (in force by Reg 240/2015), Administrative Tribunals Statutes Amendment Act, 2015
	Jan. 1/16	by RS2015, c. 1, Revision Schedule (in force by Reg 257/2015), Local Government Act
Fish Protection Act	Jan. 1/16	by RS2015, c. 1, Revision Schedule (in force by Reg 257/2015), Local Government Act
Forest Act	Dec. 18/15	by 2015 Bill 18, c. 10, sections 74 to 82 only (in force by Reg 240/2015), Administrative Tribunals Statutes Amendment Act, 2015
Forest and Range Practices Act	Dec. 18/15	by 2015 Bill 18, c. 10, sections 83 to 89 only (in force by Reg 240/2015), Administrative Tribunals Statutes Amendment Act, 2015
Forest Practices Code of BC Act	Dec. 18/15	by 2015 Bill 18, c. 10, sections 90 to 93 only (in force by Reg 240/2015), Administrative Tribunals Statutes Amendment Act, 2015
Greenhouse Gas Emission Administrative Penalties and Appeals Regulation (248/2015)	NEW Jan. 1/16	see Reg 248/2015
Greenhouse Gas Emission Control Regulation (250/2015)	NEW Jan. 1/16	see Reg 250/2015
Greenhouse Gas Industrial Reporting and Control Act	NEW Jan. 1/16	c. 29 [SBC 2014], Bill 2 , whole Act, except except Part 4, Division 4, s. 43 (1) (f) and item 1 of the Schedule (in force by Reg 247/2015)
		by 2014 Bill 2, c. 29, section 55 only (in force by

Greenhouse Gas Reduction (Cap and Trade) Act	REPEALED Jan. 1/16	Reg 247/2015), Greenhouse Gas Industrial Reporting and Control Act
Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act	Dec. 18/15	by 2015 Bill 18, c. 10, section 95 only (in force by Reg 240/2015), Administrative Tribunals Statutes Amendment Act, 2015
Greenhouse Gas Reduction Targets Act	Jan. 1/16	by 2014 Bill 2, c. 29, sections 58 to 62 only (in force by Reg 247/2015), Greenhouse Gas Industrial Reporting and Control Act
Integrated Pest Management Act	Dec. 18/15	by 2015 Bill 18, c. 10, sections 109 and 110 only (in force by Reg 240/2015), Administrative Tribunals Statutes Amendment Act, 2015
Oil and Gas Activities Act	Jan. 1/16	by RS2015, c. 1, Revision Schedule (in force by Reg 257/2015), Local Government Act
Petroleum and Natural Gas Act	Dec. 18/15	by 2015 Bill 18, c. 10, sections 148 and 149 only (in force by Reg 240/2015), Administrative Tribunals Statutes Amendment Act, 2015
Private Managed Forest Land Act	Dec. 18/15	by 2015 Bill 18, c. 10, sections 152 to 156 only (in force by Reg 240/2015), Administrative Tribunals Statutes Amendment Act, 2015
	Jan. 1/16	by RS2015, c. 1, Revision Schedule (in force by Reg 257/2015), Local Government Act
Private Managed Forest Land Regulation (371/2004)	Dec. 18/15	by Reg 240/2015
Range Act	Dec. 18/15	by 2015 Bill 18, c. 10, section 157 to 160 only (in force by Reg 240/2015), Administrative Tribunals Statutes Amendment Act, 2015
Reporting Regulation (272/2009)	Dec. 18/15	by Reg 240/2015
	REPEALED Jan. 1/16	by Reg 249/2015
Waste Discharge Regulation (320/2004)	Dec. 18/15	by Reg 245/2015
Water Act	Dec. 18/15	by 2015 Bill 18, c. 10, section 191 only (in force by Reg 240/2015), Administrative Tribunals Statutes Amendment Act, 2015
	Jan. 1/16	by RS2015, c. 1, Revision Schedule (in force by Reg 257/2015), Local Government Act
Wildfire Act	Dec. 18/15	by 2015 Bill 18, c. 10, sections 194 to 196 only (in force by Reg 240/2015), Administrative Tribunals

		Statutes Amendment Act, 2015
Wildlife Act	Dec. 18/15	by 2015 Bill 18, c. 10, section 197 only (in force by Reg 240/2015), Administrative Tribunals Statutes Amendment Act, 2015

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