



EnviroFor Reporter

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ENVIROFOR NEWS:

New Bills Introduced

A number of new bills have been introduced in October:


- [Bill 35](#), Workers Compensation Amendment Act (No. 2), 2015
- [Bill 37](#), Miscellaneous Statutes Amendment Act (No. 2), 2015
- [Bill 38](#), Franchises Act
- [Bill 39](#), Provincial Immigration Programs Act
- [Bill 40](#), Natural Gas Development Statutes Amendment Act, 2015
- [Bill 41](#), Miscellaneous Statutes Amendment Act (No. 3), 2015
- [Bill 42](#), Electoral Districts Act
- [Bill 43](#), Local Elections Campaign Financing (Expense Limits) Amendment Act, 2015

A reminder that if you would like to track the progress of these Bills, or to track changes to any laws of your choosing, please feel free to make use of our BC Legislative Digest tracking tool via the top alerts tab.

Latest Annotations

New annotations have been added to the EnviroFor site. These annotations include contributions from [Robin Longe](#), Bull Housser & Tupper LLP – [Mineral Tenure Act](#) and [Mines Act](#). 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

National Instrument 43-101 and Early Production Decisions:

What are the Rules and What are the Risks?

Most mineral projects that proceed to commercial production do so on the basis of certain advanced technical studies. The key milestone is usually a feasibility study which demonstrates, among other things, the existence of mineral reserves. Canada's mining disclosure rule, [National Instrument 43-101 Standards of Disclosure for Mineral Projects](#) (NI 43-101), is largely based on the assumption that this is the route that a mining company will take. In most cases, having a feasibility study in hand is the only way for a mining company to get the substantial project financing that is required from third-party lenders in order to get a mine built and advanced to the commercial production stage.

However, there is usually an exception to every rule in life, and there are certain cases where mining companies are able to make a production decision and take a project to production without a feasibility study. For example, some companies elect to proceed to production only on the basis of a preliminary economic assessment (PEA), which can consist of an economic analysis of mineral resources (not reserves) with a greater degree of potential inaccuracy than a feasibility study. There are even exceptional cases where mining companies decide to proceed

to production without completing a PEA. For example, they may only have a resource estimate and not much more than that.

This begs the question: is such an approach permissible under NI 43-101? And if so, what are some of the potential risks and pitfalls of such an approach? Read the [full article](#) by [Don Collie](#) with DLA Piper.

Early Consolidation of *Liquefied Natural Gas Income Tax Act*

For your convenience, Quickscribe has published an early consolidated "red" version of the [Liquefied Natural Gas Income Tax Act](#), which includes 2015 Bill 26, c. 21 amendments. The Act, which achieved Royal Assent on November 27, 2014, is the foundation piece of legislation in the BC Government LNG taxation regime. The Act will come into law at a later date by regulation.

Legal Challenges to Site C Dismissed

In the past few months, several applications for judicial review relating to BC Hydro's Site C Project (the "Project") have been dismissed. These legal challenges to the Project followed the approval of its environmental assessment at both the provincial and federal levels. By way of background, the environmental assessment with respect to the Project proceeded by way of a Joint Review Panel representing both the provincial Environmental Assessment Office and the Canadian Environmental Assessment Agency. The Joint Review Panel issued a report (the "Report") setting out findings and recommendations relating to the Project, upon which both the provincial ministers responsible for the environmental assessment (the "Ministers") and the federal Governor in Council (the "GIC") were to make decisions respecting the Project. In October 2014, both the provincial Ministers and the federal GIC approved the Project. Aboriginal and affected landowners challenged this decision on several grounds in both Federal Court and the Supreme Court of British Columbia.

[Peace Valley Landowner Association v. British Columbia \(Environment\)](#), 2015 BCSC 1129

In this case, landowners affected by Site C challenged the environmental assessment certificate issued by the provincial Ministers on the grounds that the Ministers failed to consider or implement certain recommendations (the "Recommendations") made in the Joint Review Panel's Report. In particular, the landowners argued that the Ministers failed to consider the Report's recommendations that:

- (a) the issues of estimated project cost and revenue requirement be referred to the B.C. Utilities Commission (the "BCUC") for determination;
- (b) the issues of long-term pricing and load forecasts be referred to the BCUC;
- (c) BC Hydro undertake further research on issues relating to alternative energy sources; and
- (d) the issues of load forecast and demand side management be referred to the BCUC.

Contrary to these Recommendations, the Ministers issued an environmental assessment certificate for the Project without referring any issues to the BCUC or requiring any further study. The landowners argued that the Ministers erred in failing to implement these Recommendations as conditions attached to approval of the Project.

Read the [full article](#) by [Tim Pritchard](#) of Borden Ladner Gervais LLP.

ENERGY AND MINES

Act or Regulation Affected

Effective Date

Amendment Information

There were no amendments this month.

FORESTRY AND ENVIRONMENT NEWS

BC Expands Role of Safety Committees for Workplace Investigations

The government of British Columbia has introduced legislation that would require greater involvement of

members of the joint health and safety committee during workplace accident investigations. [Bill 35](#) is a response to the coroner's inquest recommendations following the accidents in 2012 that occurred at the sawmills at Lakeland Mills in Prince George and Babine Forest Products in Burns Lake.

The legislation will also specify meaningful participation for worker and employer representatives in employer accident investigations as well as specify a role for workplace health and safety committees to provide advice to the employer on significant proposed equipment and machinery changes that may affect worker health and safety. The bill will require employer investigation reports be provided to the workplace health and safety committee or worker health and safety representative, or be posted at the work site. View the [full article](#) on the Canadian Occupational Safety website.

New Mobile Radio Protocols on Track for Fraser Valley Resource Roads

New mobile radio communication protocols are being implemented throughout BC to improve safety for resource road users. The changes include new standardized road signs, radio call protocols and a bank of standardized mobile radio channels. The Chilliwack Natural Resource District will be implementing new resource road radio channels beginning November 16, 2015.

The district covers approximately 1.4 million hectares and is the most densely populated forest district in the province. The district extends from Metro Vancouver in the west to Manning Park in the east, Boston Bar to the north and the United States border to the south.

The new protocols will impact forest service roads and other road permit roads in the area. All affected road users must have the new channels programmed into their mobile radios before the transition dates. Mobile radio users are advised to retain current radio channels and frequencies until they are no longer required. Read the full government [news release](#).

FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Conservation Officer Service Authority Regulation (318/2004)	Nov. 1/15	by Reg 193/2015
Natural Resource Officer Authority Regulation (38/2012)	Nov. 1/15	by Reg 193/2015
Park, Conservancy and Recreation Area Regulation (38/2012)	Nov. 1/15	by Reg 193/2015

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