



# EnviroFor Reporter

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## Vol: IX – Issue: I – January 2016

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### ENVIROFOR NEWS:

#### Parliament to Resume February 9<sup>th</sup>

The BC Legislature is set to resume next week, with the Speech from the Throne on February 9<sup>th</sup>. The spring session is expected to last until May 19<sup>th</sup>. A reminder to take advantage of Quickscribe's BC Legislative Digest email alert tool if you would like to track new and proposed changes to the laws that matter most to you. The BCLD is accessible via the alerts tab on the top menu bar.

#### Latest Annotations


New annotations have been added to the Quickscribe site. These annotations include contributions from [Jeff Waatainen](#), DLA Piper LLP – [Forest And Range Practices Act](#), [Forest Act](#) and [Forestry Service Providers Protection Act](#).

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

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[\[ Previous Reporters \]](#)

### ENERGY AND MINES NEWS

#### Alberta's New Royalty Framework – Same Idea, New Structure?

On January 29, 2016, Alberta Premier Notley announced Alberta's long awaited new royalty framework. The new royalty framework was based on adopting the recommendations from the Royalty Review Advisory Panel Report (the "Panel's Report").

The focus of the Panel's Report was to make recommendations on a modernized royalty framework for crude oil, liquids and natural gas operators to:

1. Provide optimal returns to Albertans as owners of the resource,
2. Continue to encourage industry investment,
3. Encourage diversification opportunities such as value-added processing, innovation or other forms of investment in Alberta, and
4. Support responsible development of resources.

Read the [full article](#) by Alan L. Ross, Beth Reimer-Heck, Q.C., Miles Pittman, Perry Feldman, Steven Morrison of Borden Ladner Gervais LLP.

#### Equivalency Agreements, Environmental Assessment and Aboriginal Consultation – Implications of *Coastal First Nations v. British Columbia (Environment)*

[Recently], the BC Supreme Court released its decision in [Coastal First Nations v. British Columbia \(Environment\)](#), holding the Province could not rely on a federal / provincial environmental assessment

"equivalency agreement" that applied to (among other things) the Northern Gateway Project. Unless the decision is changed through appeal or addressed by legislative / regulatory amendments, it could have significant consequences not only for the Northern Gateway Project, but also for other projects for which governments have sought to streamline environmental assessment through a single decision-making process.

### **Background**

In 2008 and 2010, in an effort to streamline environmental assessment processes for projects that fell under both federal and provincial jurisdiction, the British Columbia Environmental Assessment Office and the National Energy Board ("NEB") signed equivalency agreements pursuant to sections [27](#) and [28](#) of the BC [Environmental Assessment Act](#). Under these agreements, the Environmental Assessment Office accepted that any NEB assessment of a project that required approval under the [Environmental Assessment Act](#) and the [National Energy Board Act](#) constituted an "equivalent" assessment under the [Environmental Assessment Act](#), and that these projects would not then require a separate assessment under the [Environmental Assessment Act](#).

Read the [full article](#) by [Robin M. Junger](#), [Nika Robinson](#), Natalie Cuthill, Student-at-Law, and Brent Ryan, Student-at-Law of McMillan LLP.

### **BC's LNG Export Industry: 2016 Kick-Off**

Anyone following the development of British Columbia's nascent liquefied natural gas (LNG) export industry will have a lot to watch out for in 2016. According to both government and industry-watchers, two major LNG projects – Pacific NorthWest LNG and LNG Canada – may reach final investment decisions (FID) in 2016.

In June 2015, Petronas-owned Pacific NorthWest LNG announced a positive FID on its proposed export facility on Lelu Island near Prince Rupert, B.C. subject to two conditions. The first condition, approval by the BC Legislature of the Project Development Agreement with Pacific NorthWest LNG, was satisfied in July 2015. The second condition, Federal environmental assessment approval, is anticipated to be obtained in 2016. In mid-January 2016, Fisheries and Oceans Canada issued a letter to the Canadian Environmental Assessment Agency indicating that the potential impact of Pacific NorthWest LNG's proposed suspension bridge and pipeline from Lelu Island to its tanker loading docks would be low.

Unlike Pacific NorthWest LNG, LNG Canada (led by Shell) has yet to announce an FID but in the first week of 2016, became the first LNG proponent to receive a permit from the B.C. Oil and Gas Commission to construct an export facility. Among other things, the permit sets out the environmental and safety requirements for the design, construction and operation of LNG Canada's Kitimat facility. Within days of receiving its facility permit, LNG Canada also obtained a 40 year export license from the National Energy Board, replacing the 25 year license previously granted for its Kitimat project. LNG Canada's extended export license must still be approved by the Prime Minister and his Cabinet. Read the [full article](#) by Madeleine Hawkins, [Sebastian Nishimoto](#) and [Paul Cassidy](#) of McCarthy Tétrault.

### **Taseko Mines Loses Defamation Suit Against Wilderness Committee**

*Judge dismissed lawsuit and awarded rare special costs to environmental organization in case involving Taseko's controversial New Prosperity mine proposal*

An environmental group has won a defamation case brought against it by Vancouver-based mining company Taseko Mines (TSX:TKO).

The suit, which was filed in 2012 in B.C. Supreme Court, alleged that the Wilderness Committee had made defamatory comments in three articles published on its website.

The articles followed Taseko Mines' failure to get approval for its proposed copper-gold Prosperity Mine near Williams Lake, which would have involved draining a lake called Fish Lake and using it as a tailings pond.

The Wilderness Committee articles were about Taseko Mines' second proposal, called New Prosperity, in which the company would have used a smaller lake as the tailings pond site. The Wilderness Committee described how mine tailings from the smaller lake would eventually drain into and pollute Fish Lake.

Both the Prosperity and New Prosperity proposals were rejected by the federal Canadian Environmental Assessment Agency. Taseko argued that the articles published by the Wilderness Committee portrayed the company as having "callous disregard" for the environment. Read the full [Business in Vancouver article](#).

## **ENERGY AND MINES**

| Act or Regulation Affected    | Effective Date | Amendment Information   |
|-------------------------------|----------------|---|
| Hydro and Power Authority Act | Jan. 1/16      | by 2014 Bill 2, c. 29, section 63 only (in force by <a href="#">Reg 247/2015</a> ), <a href="#">Greenhouse Gas Industrial Reporting and Control Act</a> |
| Mineral Tenure Act            | Jan. 1/16      | by RS2015, c. 1, <a href="#">Revision Schedule</a> (in force by <a href="#">Reg 257/2015</a> ), Local Government Act                                    |
| Oil and Gas Activities Act    | Jan. 1/16      | by RS2015, c. 1, <a href="#">Revision Schedule</a> (in force by <a href="#">Reg 257/2015</a> ), Local Government Act                                    |

## FORESTRY AND ENVIRONMENT NEWS

### Halalt First Nation's Lawsuit Calls for Catalyst Paper's Closure

*The First Nation wants the paper mill to cease its operations on Vancouver Island*

The [Halalt First Nation](#) and its business partners are suing [Catalyst Paper](#), alleging that a 59-year-old mill is trespassing and that the company has disclosed sensitive information, despite signing a confidentiality agreement.

The paper and pulp company, based in Richmond, BC, says it denies the allegations contained in two separate civil suits and plans to defend itself vigorously.

Among other things, it says the trespassing suit is seeking \$2 billion and a permanent order to prevent Catalyst from conducting operations at the Crofton Mill on the southeast coast of Vancouver Island, near Duncan, BC.

Catalyst says the Halalt First Nation claims the Crofton mill – operating since 1957 – interferes with its water and land rights and has caused damage to fisheries and land within the Halalt's territory.

A second suit filed by the Halalt, Sunvault Energy Inc. and Aboriginal Power Corp. seeks \$100 million from Catalyst and an order from court to permanently stop Catalyst from building, owning or operating an anaerobic digester facility. Read the [CBC article](#).

### Commissioner of the Environment and Sustainable Development Releases Fall 2015 Reports

*January 26* – In her 2015 Fall Reports tabled today in Parliament, Commissioner of the Environment and Sustainable Development, Julie Gelfand, presents the results of three audits which were completed in the Fall of 2015. These audits looked at the Pest Management Regulatory Agency's efforts to protect Canadians and the environment from unacceptable risks relating to the use of pesticides, the National Energy Board's oversight of federally regulated pipelines, and selected government departments and agencies' progress in implementing their sustainable development strategies. The annual report on environmental petitions is also included in the Commissioner's Fall Reports.

Moreover, in her Perspective, the Commissioner of the Environment and Sustainable Development raises the topics of climate change and sustainable development, in reference to *The 2030 Agenda for Sustainable Development* and the related 17 sustainable development goals which Canada and 192 other countries committed to in September 2015.

*"A clear indicator of Canada's commitment to sustainable development and responding to climate change will be the full integration of the 2030 Agenda and the Paris climate change targets into this country's next Federal Sustainable Development Strategy, which is due in 2016",* said Ms. Gelfand. Read the [news release and report](#).

## FORESTRY AND ENVIRONMENT

| Act or Regulation Affected | Effective Date | Amendment Information |
|----------------------------|----------------|-----------------------|
|----------------------------|----------------|-----------------------|

|   |                              |  |
|---|------------------------------|--|
| Application Regulation (229/2003)   | <b>REPEALED</b><br>Jan. 1/16 | by <a href="#">Reg 207/2015</a>  |
| Carbon Tax Act  | Jan. 1/16                    | by 2014 Bill 2, c. 29, section 56 only (in force by <a href="#">Reg 247/2015</a> ), <a href="#">Greenhouse Gas Industrial Reporting and Control Act</a>                      |
| Controlled Recreation Area (Resort Timber Administration Act) Regulation (166/2007) | Jan. 29/16                   | by <a href="#">Reg 11/2016</a>   |
| Emission Offsets Regulation (393/2008)  | <b>REPEALED</b><br>Jan. 1/16 | by <a href="#">Reg 250/2015</a>  |
| Environmental Management Act  | Jan. 1/16                    | by RS2015, c. 1, <a href="#">Revision Schedule</a> (in force by <a href="#">Reg 257/2015</a> ), Local Government Act   |
| Fish Protection Act   | Jan. 1/16                    | by RS2015, c. 1, <a href="#">Revision Schedule</a> (in force by <a href="#">Reg 257/2015</a> ), Local Government Act   |
| Greenhouse Gas Emission Administrative Penalties and Appeals Regulation (248/2015)  | <b>NEW</b><br>Jan. 1/16      | see <a href="#">Reg 248/2015</a>   |
| Greenhouse Gas Emission Control Regulation (250/2015)                               | <b>NEW</b><br>Jan. 1/16      | see <a href="#">Reg 250/2015</a>   |
| Greenhouse Gas Industrial Reporting and Control Act                                 | <b>NEW</b><br>Jan. 1/16      | c. 29 [SBC 2014], <a href="#">Bill 2</a> , whole Act, except except Part 4, Division 4, s. 43 (1) (f) and item 1 of the Schedule (in force by <a href="#">Reg 247/2015</a> ) |
| Greenhouse Gas Reduction (Cap and Trade) Act  | <b>REPEALED</b><br>Jan. 1/16 | by 2014 Bill 2, c. 29, section 55 only (in force by <a href="#">Reg 247/2015</a> ), <a href="#">Greenhouse Gas Industrial Reporting and Control Act</a>                      |
| Greenhouse Gas Reduction Targets Act  | Jan. 1/16                    | by 2014 Bill 2, c. 29, sections 58 to 62 only (in force by <a href="#">Reg 247/2015</a> ), <a href="#">Greenhouse Gas Industrial Reporting and Control Act</a>               |
| Oil and Gas Activities Act  | Jan. 1/16                    | by RS2015, c. 1, <a href="#">Revision Schedule</a> (in force by <a href="#">Reg 257/2015</a> ), Local Government Act   |
| Private Managed Forest Land Act   | Jan. 1/16                    | by RS2015, c. 1, <a href="#">Revision Schedule</a> (in force by <a href="#">Reg 257/2015</a> ), Local Government Act   |
| Reporting Regulation (272/2009)   | <b>REPEALED</b><br>Jan. 1/16 | by <a href="#">Reg 249/2015</a>  |
| Water Act   | Jan. 1/16                    | by RS2015, c. 1, <a href="#">Revision Schedule</a> (in force by <a href="#">Reg 257/2015</a> ), Local Government Act   |

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