



# EnviroFor Reporter

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### ENVIROFOR NEWS:

#### Quickscribe Launches New Platform

Navigating Quickscribe EnviroFor just got easier. With more content and features being added every year, we felt that it was time to devote some resources into enhancing the core navigation of your Quickscribe service. We think you will be pleased. The new platform includes a new, more intuitive user interface. Front and centre on the home page is our Latest News feature, which will allow us to more effectively communicate important amendments and other news that can be tailored to each client account. It is the new search engine, however, that we are most excited about. The new search is ten times faster than the old search, and includes smarter search functions including proximity operators.

Have a look, and let us know what you think!

#### New Bills Introduced

A number of new government bills have been introduced in March:

- [Bill 2](#), Great Bear Rainforest (Forest Management) Act
- [Bill 12](#), Forests, Lands and Natural Resource Operations Statutes Amendment Act, 2016
- [Bill 13](#), Safety Standards Amendment Act, 2016
- [Bill 15](#), Protected Areas of British Columbia Amendment Act, 2016
- [Bill 16](#), Community Care and Assisted Living Amendment Act, 2016
- [Bill 20](#), Supply Act (No. 1), 2016

The following members' bills were introduced as well:

- [M205](#), Post-Secondary Sexual Violence Policies Act, 2016
- [M206](#), Hydro Affordability Act, 2016
- [M207](#), Government Records Accountability Act, 2016
- [M208](#), Court Order Enforcement Amendment Act, 2016
- [M209](#), Speculator Tracking and Housing Affordability Fund Act, 2016
- [M210](#), Property Transfer Tax Fairness Act, 2016


A reminder that if you would like to track the progress of these bills, or to track changes to any laws that bills amend, we suggest signing up to the BC Legislative Digest alert via the new My Alerts tab. We will then monitor and alert you to changes for laws of your choosing.

**Tip: Log in to EnviroFor Online prior to clicking Reporter links**

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View [PDF](#) of this Reporter.

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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

## From Social License to Class Action – Climate Change Litigation Has Come to Canada, Project Proponents Beware

The bold move towards climate change litigation is progressing in Canada as seen in last year's [Voters Taking Action on Climate Change v. British Columbia \(Energy and Mines\)](#), 2015 BCSC 471 ("VTACC"). Examples of similar litigation in other jurisdictions around the world are outlined below. The Alberta Environmental Law Center noted that at the end of 2013, there were 420 climate change cases in the United States and 173 in the rest of the world out of which approximately 10 cases are in Canada. It has been observed that some of the cases are brought pursuant to common law tortious causes of actions while others challenge decisions of regulatory authorities pursuant to specific legislation and are aimed at driving the course of climate change regulation. Further, some of the cases arise in the context of specific project approvals and others are petitions affecting a particular industry sector. While climate change litigation in Canada is in its infancy and, as in other jurisdictions faces significant legal challenges to its success, it poses a tangible risk to development projects. Read the [full article](#) by Chidinma Thompson and Sandi Shannon of Borden Ladner Gervais LLP.

## McCarthy Tétrault Releases Fifth Annual Mining in the Courts

The firm McCarthy Tétrault recently published [Mining in the Courts, Year in Review](#), which provides an overview of legal developments and case law updates on matters that impacted the mining sector in the past year. In this publication, the firm provides perspective and insights on issues important to the mining sector, and is ideal for mining executives and in-house counsel looking to understand the impact of recent decisions on their business and investment strategies.

### ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
Direction to the British Columbia Utilities Commission Respecting Mining Customers (47/2016)	<b>NEW</b> Mar. 1/16	by <a href="#">Reg 47/2016</a>
Liquefied Natural Gas Facility Regulation (146/2014)	Mar. 16/16	by <a href="#">Reg 80/2016</a>
Mineral Tax Act	Mar. 10/16	by 2016 Bill 18, c. 15, sections 43, Sch 5, 44, Sch 6, 47, Sch 9 and 48, Sch 10 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>
Petroleum and Natural Gas Act	<b>RETROACTIVE to</b> May 17/80	by 2016 Bill 18, c. 15, section 27, only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>
	Mar. 10/16	by 2016 Bill 18, c. 15, section 48, Sch 10 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>
Utilities Commission Act	Mar. 10/16	by 2016 Bill 18, c. 15, section 48, Sch 10 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>
Water Sustainability Act	Mar. 10/16	by 2016 Bill 18, c. 15, section 48, Sch 10 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>

### FORESTRY AND ENVIRONMENT NEWS

## **Fines Could Triple under Proposed Legislative Amendments to BC Wildfire Laws**

The government of British Columbia has introduced legislative changes that, if passed, would result in "significantly increased ticket fines" for behaviour that contributes to increase wildfire risks.

Proposed legislative amendments introduced [in March] as part of the [Forests, Lands and Natural Resource Operations Statutes Amendment Act](#) (Bill 12) include provisions aimed specifically at people who interfere with firefighting efforts in BC, the Ministry of Forests, Lands and Natural Resource Operations said in a press release. The ministry said that the legislative changes would result in significantly increased ticket fines for 19 different violations under the [Wildfire Act](#) and for seven different violations under the [Wildfire Regulation](#). For example, the fine for failing to comply with a fire restriction under the *Wildfire Act* is increasing from \$345 (including a \$45 victim surcharge) to \$1,150 (including a \$150 victim surcharge). This represents a 333.33% increase over the old fine for that offence. Read the [full article](#) published on Canadian Underwriter.ca.

## **Polluter Still Pays: BC Court of Appeal Upholds Award of Damages Against Historical Polluter**

The British Columbia Court of Appeal [upheld](#) a lower court decision ordering ICI Canada Inc. (now PPG Architectural Coatings Canada Ltd) to pay \$4.75 million in remediation costs following a trial which enforced the "polluter pays" principle that underpins the [Environmental Management Act](#) (EMA). We previously discussed the 2014 trial decision of the British Columbia Supreme Court in an earlier post (see [BC Supreme Court Stresses "Polluter Pays" in Awarding Damages for Remediation of Contaminated Site](#)).

### **Background**

This case involved a property known as James Island, which lies just off the Saanich Peninsula and has a long history of use for the manufacture and storage of explosives. ICI owned and used the property for activities relating to explosives between 1954 and 1988 and remediated portions of the island in consultation with the BC Ministry of Environment and Parks in the mid-1980s. At the end of the remediation project, the Ministry provided ICI with a so-called "comfort letter" confirming that it had met the agreed criteria and that the Ministry "did not perceive any further environmental concern". In September 1988, ICI registered a restrictive covenant on a portion of the island which stated, among other things, that some soil may be contaminated despite rehabilitation measures.

Read the [full article](#) by [Laura Gill](#), [Brad Gilmour](#) and [Michael Theroux](#) of [Bennett Jones LLP](#).

## **Fish Habitat Damage Goes Unprosecuted Since Conservative Changes to Fisheries Act**

Fisheries and Oceans Canada has not laid a single charge of damaging fish habitat, despite almost 1,900 complaints nation-wide, since controversial changes to the [Fisheries Act](#) came into effect two a half years ago.

Fisheries data provided at *The Vancouver Sun's* request shows that of 1,865 complaints, federal staff concluded 1,290 posed a low risk to fish and fish habitat, or were referred to another agency such as Environment Canada or a provincial ministry.

Another 460 reports resulted in the federal fisheries department providing advice or education to the party involved to improve work practices or undertake mitigation.

In 44 cases, the department took action such as issuing warnings or ordering corrective measures to comply with the *Fisheries Act* and avoid charges. Three others were referred to a restorative justice process. Other cases remain under investigation. Read *The Vancouver Sun* [article](#).

## **Nadleh Whut'en and Stellat'en Hereditary Leaders Proclaim BC's First Aboriginal Water Laws**

The hereditary leaders of two northern BC First Nations proclaimed the first traditional aboriginal water laws in the province, which could have implications for industrial development including mining and LNG pipeline projects.

The Nadleh Whut'en and Stellat'en First Nation traditional leaders declared on [March 30<sup>th</sup>] no development would take place on their traditional territories in the Northern Interior unless the water laws were followed.

"We are here to make it safer for everybody. We are here to make it safer for the animals, ourselves and the plants," said Nadleh Whut'en chief Martin Louie. "You can do it our way, or not do business at all."

The First Nation leaders said their power to enact the water laws were backed by a historic 2014 Supreme Court

of Canada ruling that granted a Tsilhqot'in Nation title to 1,740 square kilometres of traditional territory in the Interior, and pushed consultation obligations for government to a higher threshold. They also cited a landmark BC Court of Appeal ruling involving the Stellat'en and nearby Saik'uz First Nation, which allows First Nations to launch lawsuits to protect their territory from companies, even before proving aboriginal title.

The First Nation leaders said they have notified the province and industry about their water policy. Read *The Vancouver Sun* [article](#).

### Environmental Appeal Board Decisions

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

#### [Water Act](#)

- [Bridge Creek Estate Ltd. v. Assistant Regional Water Manager](#) [Final Decision – Appeals Dismissed]

#### [Wildlife Act](#)

- [James Darin Weins v. Regional Manager](#) [Final Decision – Appeal Dismissed]

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

## FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties Regulation (Environmental Management Act) (133/2014)	Mar. 2/16	by <a href="#">Reg 54/2016</a>
Agrologists Act	Mar. 10/16	by 2016 Bill 18, c. 15, section 41, Sch 3 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>
Carbon Tax Act	<b>RETROACTIVE to</b> Mar. 1/16	by 2016 Bill 10, c. 3, sections 19 to 22 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2016</a>
	Mar. 10/16	by 2016 Bill 18, c. 15, section 39, Sch 1 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>
Code of Practice for the Discharge of Produced Water from Coalbed Gas Operations	Mar. 2/16	by <a href="#">Reg 54/2016</a>
College of Applied Biology Act	Mar. 10/16	by 2016 Bill 18, c. 15, sections 6 and 41, Sch 3 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>
Drainage, Ditch and Dike Act	Mar. 10/16	by 2016 Bill 18, c. 15, section 7 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>
Forest Act	Mar. 10/16	by 2016 Bill 18, c. 15, section 11 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>

Foresters Act	Mar. 10/16	by 2016 Bill 18, c. 15, sections 12 and 41, Sch 3 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>
Hunting Licensing Regulation (8/99)	Mar. 10/16	by <a href="#">Reg 68/2016</a>
	Apr. 1/16	by <a href="#">Reg 78/2016</a>
King Island Designated Area (73/2016)	<b>NEW</b> Mar. 15/16	see <a href="#">Reg 73/2016</a>
Limited Entry Hunting Regulation (134/93)	Apr. 1/16	by <a href="#">Reg 78/2016</a>
Livestock Identification Act	Mar. 10/16	by 2016 Bill 18, c. 15, section 48, Sch 10 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>
Logging Tax Act	Mar. 10/16	by 2016 Bill 18, c. 15, section 47, Sch 9 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>
Ministry of Lands, Parks and Housing Act	Mar. 10/16	by 2016 Bill 18, c. 15, section 44, Sch 6 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>
Motor Vehicle Emissions Control Warranty Regulation (116/96)	<b>REPEALED</b> Mar. 2/16	by <a href="#">Reg 54/2016</a>
Muskwa-Kechika Management Area Act	Mar. 10/16	by 2016 Bill 18, c. 15, section 24 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>
Scaling Regulation (446/94)	Mar. 15/16	by <a href="#">Reg 45/2016</a>
Sulphur Content of Fuel Regulation	<b>REPEALED</b> Mar. 2/16	by <a href="#">Reg 54/2016</a>
Transition Regulation (361/2006)	<b>REPEALED</b> Mar. 2/16	by <a href="#">Reg 56/2016</a>
Trellis Rust of Pear Control Regulation (72/61)	<b>REPEALED</b> Mar. 2/16	by <a href="#">Reg 57/2016</a>
University Endowment Land Act	Mar. 10/16	by 2016 Bill 18, c. 15, section 44, Sch 6 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2016</a>
Waste Discharge Regulation (320/2004)	Mar. 2/16	by <a href="#">Reg 54/2016</a>

Wildfire Act	Mar. 10/16	by 2016 Bill 10, c. 3, section 16 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2016</a>
Wildlife Act General Regulation (340/82)	Mar. 10/16	by <a href="#">Reg 68/2016</a>
	Apr. 1/16	by <a href="#">Reg 78/2016</a>
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