



Vol: X – Issue: II – February 2017

ENVIROFOR NEWS:

New Bills Introduced

A number of new government bills were recently at the time this Reporter was published:

- [Bill 1](#), An Act to Ensure the Supremacy of Parliament
- [Bill 2](#), Adoption Amendment Act, 2017
- [Bill 5](#), Forests, Lands and Natural Resource Operations Statutes Amendment Act, 2017
- [Bill 7](#), Prevention of Cruelty to Animals Amendment Act, 2017
- [Bill 8](#), Budget Measures Implementation Act, 2017
- [Bill 11](#), Supply Act

A significant number of non-government bills were also introduced. Please refer to our [Bills page](#) for more details.

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 My Alerts tab on the top menu bar. We will then monitor and alert you to changes for laws of your choosing.

Significantly Faster Load Times

Over the years, Quickscribe has continued to add new content and features to the legislation database. While the addition of new features are necessary, they have resulted in an increase in the time required to load the laws to your page. In the coming days, we will be implementing an update to our database that will ensure all the laws on Quickscribe load to your page within seconds – *significantly faster than ever before*.

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

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

[\[Previous Reporters \]](#)

ENERGY AND MINES NEWS

Amendments to [Mines Act](#)

Effective February 27, 2017, [B.C. Reg. 47/2017](#) brought into force sections 1 and 3 of the [Mines Amendment Act, 2016](#), S.B.C. 2016, c. 7. Among other things, these amendments authorize the chief inspector to impose administrative penalties on a person after giving that person an opportunity to be heard and grants a person the right to appeal to an appeal tribunal the imposition of an administrative penalty.

Amendments to [Oil and Gas Activities Act](#)

Effective February 20, 2017, [B.C. Reg. 38/2017](#) brought into force sections 48, 49 and 51 of [Miscellaneous Statutes Amendment Act, 2015](#), S.B.C. 2015, c. 23. Among other things, the amendments add the following paragraphs to the definition of "oil and gas activity" in [section 1](#):

(e.1) the construction or operation of a manufacturing plant designed to convert natural gas into

other organic compounds,
(e.2) the construction or operation of a petroleum refinery,

Also in force is a transitional section providing that operation of specified petroleum refineries is not an oil and gas activity despite the amendment made by this Bill to section 1 of the *Oil and Gas Activities Act*.

British Columbia Court of Appeal Rules on Corporate

Veil Case: *Garcia v. Tahoe Resources Inc.*

The latest court decision in a line of cases attempting to hold Canadian mining companies liable for the actions of their foreign subsidiaries was released at the end of January. The case concerns a claim for damages brought by Guatemalan plaintiffs against a Canadian parent company, Tahoe Resources Inc. ("Tahoe"), over the actions of mine security personnel at the Escobal mine in Guatemala. The mine is owned by two subsidiaries of Tahoe. The case has been tied up in jurisdictional arguments since it was commenced.

In this recent decision (*Garcia v Tahoe Resources Inc.*, [2017 BCCA 39](#)), the British Columbia Court of Appeal overturned a stay imposed by a lower court in 2015. The Chambers judge had previously held that Guatemala was the more appropriate jurisdiction to hear the plaintiffs' application as there was evidence of a criminal proceeding and also a potential civil suit in Guatemala regarding the same event. However, the Court of Appeal disagreed and overturned the decision, allowing the action to proceed against Tahoe in British Columbia, on finding that there was a serious risk of unfair process in Guatemala. Read the [full article](#) by [Fred R. Pletcher](#), [Rick Williams](#) and [Ramsey Glass](#) of Borden Ladner Gervais LLP.

BC Budget Allows Environmental Study & Consulting

Costs to be Eligible for Flow Through

If you conduct grassroots mineral exploration in B.C., you may qualify for the mining exploration tax credit (METC).

To be eligible, you must incur qualified mining exploration expenses before January 1, 2020 for determining the existence, location, extent or quality of a mineral resource in B.C.

The credit applies to exploration for all base and precious metals, coal and some industrial minerals. Drilling expenses for oil and gas do not qualify. Exploration expenses may include expenses incurred in the course of prospecting, carrying out geological surveys, trenching, digging test pits or preliminary sampling.

B.C.'s Budget 2017 proposes to include for the first time expenses incurred after February 28, 2015 for **environmental studies and community consultation** incurred to obtain a right, licence or privilege for the purpose of determining the existence, location, extent or quality of a mineral resource in B.C. Read the [full article](#) by [Bernard Pinsky](#), Q.C., and [Richard Weiland](#) of Clark Wilson LLP.

Amendments to Greenhouse Gas Reduction Regulation

Government has approved an [amendment](#) to the [Greenhouse Gas Reduction Regulation](#) (GGRR) under the [Clean Energy Act](#) that will enable BC Hydro to offer incentives to customers to help them transition from more carbon-intensive fuels to clean electricity to run their equipment and operations.

A further amendment to the regulation supports the development of additional transmission infrastructure in northeast BC to serve increasing demand for electricity from the upstream natural-gas sector.

With 98% of the electricity supply in British Columbia coming from clean or renewable sources there is an opportunity to achieve significant GHG reductions through electrification. BC Hydro already provides a range of incentives to customers to help them conserve and manage their energy consumption, and these amendments will support further programs to help customers reduce their emissions. The goal is to encourage customers to use clean electricity instead of more carbon-intensive fuels while also helping customers use that electricity efficiently.

The amendments build on the Province's decision – announced in Balanced Budget 2017 – to phase out the provincial sales tax (PST) on electricity purchases. The PST exemption provides an added incentive for businesses large and small to switch to clean BC electricity, supporting BC's Climate Leadership Plan. Read the full government [news release](#).

Site C and the Honour of the Crown: *Prophet River*

First Nation v Canada (Attorney General)

On January 23, 2017, the Federal Court of Appeal upheld the approval of the Site C Clean Energy Project (Site C) in *Prophet River First Nation v Canada (Attorney General)*. The appeal was made by Prophet River First Nation

(PRFN), who contended that the Governor in Council (GIC) failed to consider whether their treaty rights were infringed by Site C in accordance with the *Sparrow* framework. The Court concluded that the *Sparrow* framework had been superseded by the *Haida Nation* framework, which prioritizes consultation rather than the determination of Aboriginal rights.

Understanding Treaty Rights

Aboriginal and treaty rights are constitutionally protected rights. The protection owed to these rights by the Crown depends on where they fall on a spectrum, between claimed but unaffirmed rights and affirmed and recognized rights.

The treaty rights asserted by PRFN fall between claimed and affirmed rights. While PRFN is a party to Treaty 8 which provides rights including hunting and fishing rights, "the scope of [treaty rights] on Aboriginal peoples' traditional territories still needs to be delineated." PRFN's treaty rights would only cover a fraction of the Treaty 8 lands which cover an area larger than Manitoba. According to the test set out in *Sparrow*, PRFN argued that it was the duty of the GIC to evaluate and conclude on PRFN's rights, and justify their infringement.

Read the [full article](#) by [Thomas Isaac](#) and [Arend J.A. Hoekstra](#) of Cassels Brock & Blackwell LLP.

ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties (Mines) Regulation (47/2017)	NEW Feb. 27/17	see Reg 47/2017
Oil and Gas Activities Act	Feb. 20/17	by 2015 Bill 23, c. 23, sections 48 and 49 only (in force by Reg 38/2017), Miscellaneous Statutes Amendment Act, 2015
Mines Act	Feb. 27/17	by 2016 Bill 8, c. 7, sections 1 and 3 only (in force by Reg 47/2017), Mines Amendment Act, 2016
PREI Exemption Regulation (26/2017)	NEW Feb. 7/17	see Reg 26/2017
QCS Exemption Regulation (239/2012)	Feb. 16/17	by Reg 28/2017

FORESTRY AND ENVIRONMENT NEWS

Fish-protection Laws Should Be Beefed Up: Parliamentary Committee

Among [the recommendations](#), from a Fisheries and Oceans standing committee, is one that says fish that are harmed – and not killed – would be safeguarded; Langer said adoption of the recommendations would restore wording in the [Fisheries Act](#) that was taken out by the Stephen Harper government in 2012.

"The committee made some safe recommendations yet compromised on others," said Langer, a former senior biologist for 32 years with the DFO.

Almost three dozen suggestions were made that will form the basis of government action during its promised review of the 2012 *Fisheries Act*. Another recommendation from the committee would ensure that significant investments are made to hire more enforcement personnel to protect habitat. Read *The Vancouver Sun* [article](#).

Can Managing Coarse Woody Debris at the Stand-Level

Have Implications for Marten Habitat Suitability?

Unless one has been living under the proverbial rock over the past two decades, one is aware of the mountain pine beetle (MPB) epidemic in BC. A vast percentage of the BC Interior (some 18 million hectares) has been affected by MPB and much of this area has experienced high levels of salvage harvesting. While much effort has been placed on understanding the implications of this for future timber supply and related socioeconomic consequences for communities, very little effort has been placed on understanding its implications on habitat supply (especially for those species that are old forest dependent). Read the [full article](#) by Dexter Hodder, MSC, and Shannon Crowley, MSc, RPBio and published in the latest edition of the ABCFP publication "BC Forest Professional Magazine".

Ombudsman Reports Serious Gaps in Access to Helicopter Emergency Transport for Rural Workers

Calls on BC government to review current legislation and guarantee equal access for all BC residents

Injured forestry workers in remote or rural parts of the province must wait – often for many hours – to access air ambulance, reports the BC Forest Safety Ombudsman in a [report](#) released today.

"Rural communities today are impacted twice compared to urban centres – first, in reduced access to medical care and again in reduced access to emergency medical transportation," said BC Forest Safety Ombudsman Roger Harris. "For remote communities, as the distance to the nearest medical facility increases, the access to HEMS should be enhanced, not reduced." Read the *BC Forest Safety* [article](#).

Environmental Appeal Board Decisions

There were no new Environmental Appeal Board decisions released in the month of February. Visit the Environmental Appeal Board [website](#) for more information.

FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Base Mapping and Geomatic Services Product and Services Price List Regulation (373/2005)	Mar. 1/17	by Reg 48/2017
Hunting Regulation (190/84)	Feb. 6/17	by Reg 25/2017
Limited Entry Hunting Regulation (134/93)	Feb. 6/17	by Reg 25/2017
	Mar. 1/17	by Reg 49/2017

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