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ENVIROFOR NEWS:

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ENERGY AND MINES NEWS

Legislation Introduces Ban on Oil-tankers on Canadian West-Coast

On May 12, 2017, the Government of Canada introduced Bill C-48, the proposed [Oil Tanker Moratorium Act](#) (the "Act"), in Parliament. The Act's central purpose is to formalize the oil tanker moratorium on British Columbia's north coast. If brought into force, the Act will complement the existing voluntary Tanker Exclusion Zone which was created in 1985 to help avoid potential spills from oil tankers travelling between Alaska and the continental United States as well as the prohibitions on oil tanker travelling within Inside Passage.

The Act applies to oil tankers that are capable of carrying more than 12,500 metric tons of crude or persistent oil. Crude oil is defined within the Act as any liquid hydrocarbon mixture that occurs naturally in the Earth. Other oil products, such as lubricating oils, partially upgraded bitumen, synthetic crude oil, pitch, slack wax, and bunker C fuel oil, are included within the Act's definition of persistent oil. Certain oil products are not included within the definitions of crude or persistent oil, including liquefied natural gas, gasoline, naphtha, jet fuel, and propane. Accordingly, oil tankers carrying these products as cargo are not subject to the Act's prohibitions. It is important to note that liquefied natural gas is not included within the definition of crude or persistent oil and as such British Columbia's liquefied natural gas industry would not be affected by the Act's prohibitions. Currently, the British Columbia government has proposals for 19 liquefied natural gas ports along the coast, many located in the moratorium area. The Act will also not have any effect on crude or persistent oil not being transported by oil tanker. Accordingly, this Act will have no impact on the KM Trans Mountain expansion project, the terminus for which is in Vancouver. Read the [full article](#) by Nils Goeteyn, Sarah Sweet and Dionysios Rossi of Borden Ladner Gervais LLP.

Ian Mulgrew: Mining Firm's SLAPP at Environmental Protest to Get Public Airing

A landmark provincial defamation case that scrutinizes big business's use of SLAPP suits to suppress environmental protest and dissent will be webcast by the B.C. Court of Appeal.

Taseko Mines Ltd. is appealing a B.C. Supreme Court decision that tossed its libel action against the Western Canada Wilderness Committee over harsh criticism of the plan for storing toxic tailings at the proposed New Prosperity gold-copper mine near Williams Lake.

The company launched the litigation to douse a public campaign by the environmental group against the \$1.5-billion mine (approved by BC but twice rejected by Ottawa) while denying it was a so-called "Strategic Lawsuit

Against Public Participation."

The case and another – later abandoned by Trans Mountain Pipeline against five individuals linked to Burnaby Mountain protests – set off a debate over whether BC should revisit then-Liberal premier Gordon Campbell's 2001 decision to scrap months-old anti-SLAPP legislation.

At the time, the Liberals argued that the *Protection of Public Participation Act*, the first law of its kind in Canada, was unnecessary and would lead to a provincial "protest culture." Read *The Vancouver Sun* [article](#).

Court Dismisses Injunction Seeking to Halt Industrial Development

The British Columbia Supreme Court has dismissed an application for an injunction that would have restrained the Province of British Columbia from authorizing various industrial developments within a 10,000 sq. km area in Northeast British Columbia (*Yahey v. British Columbia*, [2017 BCSC 899](#)).

The application was brought by Blueberry River First Nations (Blueberry River), who are signatories to Treaty 8. Blueberry River brought an action against the Province in 2015, alleging that the cumulative effects of various industrial developments within their claimed territory (particularly forestry and oil and gas activities) have taken away the meaningful ability to exercise their Treaty rights. (BLG represented the Province of British Columbia).

This is the first action in British Columbia to allege a breach of Treaty rights on the basis of cumulative effects.

Background

In August 2015, the Court dismissed an earlier injunction application by Blueberry River. That application sought to enjoin the Province from selling certain Timber Sales Licenses, which were within what Blueberry River alleged to be "Critical Areas" in its territory. The Court [dismissed the injunction](#) on the basis that it was not satisfied the timber sales would materially increase the cumulative impacts on Treaty rights. The Court observed that the relief sought would not accomplish what Blueberry River alleged was needed to address its concerns over cumulative effects – effectively an embargo on industrial development within its territory.

Read the [full article](#) published on *The Resource*, BLG Energy Blog – Borden Ladner Gervais LLP.

ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
Drilling and Production Regulation (282/2010)	June 1/17	by Reg 146/2017
Fee, Levy and Security Regulation (8/2014)	June 1/17	by Reg 147/2017

FORESTRY AND ENVIRONMENT NEWS

BC Market Pricing System (Abridged Version)

If you've ever sponsored someone working towards becoming a forest professional, you probably found describing the stumpage system challenging. The appraisal manuals are highly technical and assume one already understands the stumpage system. Providing this understanding is the goal of this article.

Generally, in the United States, sawmills purchase timber at the gate or on the stump in exchange for cash. In BC, when sawmills with tenure purchase timber from the Crown, they provide cash and services. The cash portion of these transactions is stumpage, and the services provided are items like road development and reforestation. At the risk of a gross oversimplification, this difference in how timber is sold, along with who owns the majority of the land, lies at the heart of the current softwood trade dispute with the US. Read the [full article](#) by Allan Bennett, RPF published in the May-June Edition of *BC Forest Professional Magazine*.

BC Timber Sales Undergoes Audit

The Forest Practices Board will examine the activities of the BC Timber Sales (BCTS) program and timber sale licence holders in the Skeena-Stikine Natural Resource District portion of the Babine Business Area from June 5 to 9.

Auditors will examine harvesting, road and bridge construction and maintenance, silviculture, fire protection, and associated planning for compliance with the [Forest and Range Practices Act](#) and the [Wildlife Act](#).

The audit includes all forestry activity from June 2015 to June 2017. The audit area is located within the Bulkley Timber Supply Area, which is located in northwestern BC and covers about 760 000 hectares. The area includes the communities of Smithers, Telkwa, Moricetown and Fort Babine.

This BCTS business area was chosen randomly for audit from among all the BCTS business areas in the province. The board audits two BCTS business areas each year. Read the full Forest Practices Board [news release](#).

Canada, U.S. Unlikely to Get Lumber Deal by Mid-Aug: Canada Source

Canada and the United States are unlikely to strike a deal on a dispute over lumber exports by the time talks on renewing NAFTA start in mid-August, a source close to the matter said on [May 18th].

U.S. Trade Representative Robert Lighthizer said earlier in the day he hoped the issue would be solved before the formal start of negotiations on the trilateral North American Free Trade Agreement.

"It's hard to imagine a deal being done that soon," said the source, who declined to be identified due to the sensitivity of the matter.

Washington last month imposed tariffs on Canadian softwood lumber exports, triggering the fifth formal bilateral dispute over timber in less than 40 years. The legal battles can take years to resolve. Read the [full article](#) reported by Reuters.

Occupational Health and Safety Regulation Amended

Effective May 1, numerous changes were made to the [Occupational Health and Safety Regulation](#) by B.C. Reg. 9/2017. For starters, this regulation amended definitions for "combustible liquid" and "flammable liquid", and added the definition "B.C. Electrical code". Next, an exception to having guardrails was added if you're working with a moveable work platform and scaffold. Pursuant to concerns around e-cigarettes, they are now treated similarly to tobacco. Part 4, Environmental Tobacco Smoke, now includes e-cigarettes on controlled exposure, with exceptions. Asbestos, lead, and crystalline silica figured strongly in these new amendments. As for asbestos, inventory must now be more detailed, with additional requirements placed on the owner. Both employer and owner are now responsible for identifying asbestos-containing materials present in the workplace. The employer must now maintain for at least 10 years records for instruction and training of workers, and incident investigation reports, with regard to asbestos-containing materials. Amendments to specific requirements for lead were updated and several sections concerning requirements for respirable crystalline silica were added. A section was added on the scope to which the new rules apply. Monitoring, housekeeping, and training sections are all given greater regulatory detail. A new section on testing motor vehicles on chassis dynamometers was introduced. Requirements for mobile equipment that may be struck by saw chain shot during use in forestry operations are outlined in a new section, *Saw chain shot*.

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were released in the month of March:

[Environmental Management Act](#)

- [Harvest Fraser Richmond Organics Ltd. v. District Director, Environmental Management Act, \(City of Richmond, Third Party\), \(Participants\)](#) [Preliminary Decision – Constitutional Question – Not Impede Exclusive Federal Jurisdiction]

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

FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
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There were no amendments this month.

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