



EnviroFor Reporter

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Vol: XI – Issue: VI – June 2018

ENVIROFOR NEWS:

Latest Annotations


New annotations have recently been added to the EnviroFor site. These annotations include contributions from:

- [Richard Bereti](#), Harper Grey LLP – [Environmental Management Act](#)
- [OnPoint Legal Research Corporation](#) – [Wildfire Regulation](#) (38/2005), [Canada Water Act](#) [Federal]

Watch this 20-minute [YouTube video](#) to learn more about annotations including how to receive alerts when new annotations are published to the laws that matter most to you.

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

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CATEGORIES

[ENERGY & MINES](#)

[FORESTRY & ENVIRONMENT](#)

[OCCUPATIONAL HEALTH & SAFETY](#)

ENERGY AND MINES NEWS

B.C. Court of Appeal Decision Clarifies Scope of Collateral Attack Doctrine: Lawyer

The B.C. Court of Appeal has reinstated an energy company's civil action for misfeasance against the province over its denial of a permit for a hydro project, saying a lower court judge erred when she determined the case was a collateral attack against provincial decision-makers. The genesis of the case dates back to run-of-river hydropower project Greengen was proposing at Fries Creek, which is near Squamish, BC, on the traditional territories of the Squamish First Nation. Greengen applied for a water licence and a Crown law tenure and began some preliminary work, providing a \$300,000 performance bond to BC Hydro and obtaining an archaeological review assessment of Fries Creek, which said Indigenous people had not used the site extensively in the past. In July 2007, the province entered into a land use agreement with the Squamish Nation, providing for the protection of 22 cultural sites, including Fries Creek. In August 2009 it denied Greengen's applications, citing the land use agreement as an "important consideration" in denying the Crown land tenure and referring to Squamish Nation's concerns about the impact the project would have on the practice of "spiritual bathing." Greengen appealed the decision denying the water licence to the Environmental Appeal Board (EAB), which was dismissed in November 2015 for "lack of jurisdiction to provide the remedies sought" because Greengen, as an applicant without land tenure, was not eligible to hold a water licence. Read the [full article](#) by Ian Burns on *The Lawyer's Daily*.

Mining Association of BC Comments on Release of BC Professional Reliance Review Report

As part of the consultation process, MABC made several recommendations including that any changes considered for the professional reliance model need to ensure that all government oversight and reviews are performed by suitably qualified and experienced professionals and that a clear chain of responsibility is maintained for professional work.

The [Mines Act](#) (the Act) and [Health, Safety and Reclamation Code for Mines in British Columbia](#) (the Code) govern mineral exploration and mining in the province and provide the overall context for the professional reliance regime in the mining sector.

"The current professional reliance regime provided by the Act and Code is comprehensive and clearly articulates the roles and responsibilities of qualified professionals in relation to mine-related approvals," continued Cox. "Additionally, the environmental assessment and permitting processes for mines in BC provide government oversight and review, as well as Indigenous and public input into the planning and design work performed by qualified professionals for BC's mines." Read the [full article](#) on the *Mining Association of BC* website.

Petronas Invests in British Columbia LNG Project

Less than a year after cancelling the \$36-billion Pacific Northwest LNG megaproject in British Columbia, Petronas announced on May 31, 2018, that one of its wholly-owned entities will assume a 25 per cent stake of the LNG Canada project located in Kitimat, BC.

Petronas, a Malaysian oil and gas company, cancelled their original Pacific Northwest LNG megaproject in July 2017 due to "the extremely challenging environment brought about by the prolonged depressed prices and shift in the energy industry." The company had cited the decreased price of natural gas and local concerns as the main barriers that caused their exit from the Pacific Northwest LNG project, which was created in 2012. Petronas had spent upwards of \$10 billion on the project before its cancellation.

Natural gas prices have remained low over the past six months, and the industry outlook has predicted that 2018 will be a challenging year for producers. Read the [full article](#) by Zoë Thoms and Peter Dalglish of Aird Berlis on *Energy Insider*.

ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
Oil and Gas Activities Act	June 26/18	by 2018 Bill 15, c. 15, section 15 only (in force by Reg 131/2018), Energy, Mines and Petroleum Resources Statutes Amendment Act, 2018
Petroleum and Natural Gas Act	June 26/18	by 2018 Bill 15, c. 15, sections 27 and 28 (part) only (in force by Reg 131/2018), Energy, Mines and Petroleum Resources Statutes Amendment Act, 2018
Petroleum and Natural Gas General Regulation	June 26/18	by Reg 131/2018

FORESTRY AND ENVIRONMENT NEWS

Independent Panel Appointed to Review BC's Forest Inventory Program

In February 2018, Doug Donaldson, Ministry of Forests, Lands and Natural Resource Operations and Rural Development, announced the appointment of an independent panel to conduct an evaluation of the province's forest inventory program. "We have a robust forest inventory program, but it has been 10 years since the program was last reviewed, and since that time, we've seen significant changes to our forests, most notably from the mountain pine beetle epidemic and wildfires," Donaldson said at the announcement. "Having a reliable

inventory is important to garner public trust in how we manage our public forests." The forest inventory, including growth and yield models, provide fundamental information that supports decisions regarding: allowable annual cuts (AAC); wildfire management; wildlife habitat and species at risk; managing hydrology; carbon sequestration accounting; and long-term capital investments such as re-opening, building, or shutting down mills. Maintaining BC's forest inventory program is no small task. With more than 60 million hectares of forest, BC has the most diverse range of ecosystem types on the largest publicly-managed land base in North America. Read the [full article](#) by [Jeff Waatainen](#) of DLA Piper in this issue of *BC Forest Professional*.

BC Government Announces New Approach to Salmon Farm Tenures

The Government of British Columbia will establish rigorous new rules and expectations for the renewal of salmon farm tenures in BC waters. "The challenges facing our wild salmon have been ignored for far too long," said Lana Popham, Minister of Agriculture. "That's why we are putting in place a new approach to provide clarity and outline our expectations moving forward for a sustainable industry that protects wild salmon, embraces reconciliation, and provides good jobs." The new requirements provide clarity on the salmon farming tenure process, establishing key criteria for tenures past 2022. "We need to take the necessary steps – steps that should have been taken years ago – to ensure that fish farm operations do not put wild salmon stocks in jeopardy," said Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development. "The thousands of British Columbians who rely on our clean ocean waters for jobs, culture and recreation expect no less." Effective June 2022, the Province will grant [Land Act](#) tenures only to fish farm operators who have satisfied Fisheries and Oceans Canada (DFO) that their operations will not adversely impact wild salmon stocks, and who have negotiated agreements with the First Nation(s) in whose territory they propose to operate. A key court ruling in 2009 clarified that the federal government has the exclusive jurisdiction for regulating fisheries, including fish farms. Read the full government [news release](#).

Environmental Appeal Board Decisions

There were three Environmental Appeal Board decisions in the month of June:

[Water Sustainability Act](#)

- [Bruce Gibbons v. Assistant Water Manager](#) [Preliminary Issue of Standing – Appeal Dismissed]

[Environmental Management Act](#)

- [Emily Toews; Elisabeth Stannus; Unifor Local 2301 v. Director, Environmental Management Act](#) [Preliminary Applications – Granted in Part; Granted]

[Wildlife Act](#)

- [Leslie S. Allen v. Deputy Director](#) [Consent Order – Appeal Allowed]

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

FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Boundaries Regulation (137/2014)	June 25/18	by Reg 124/2018
Closed Areas Regulation (115/2018)	July 1/18	by Reg 115/2018
Code of Practice for Soil Amendments (210/2007)	June 14/18	by Reg 116/2018
Contaminated Sites Regulation (375/96)	June 14/18	by Reg 116/2018
Forest Planning and Practices Regulation	June 25/18	by Reg 124/2018

(14/2004)		
Great Bear Rainforest (Forest Management) Regulation (327/2016)	June 25/18	by Reg 124/2018
Greenhouse Gas Emission Control Regulation (250/2015)	June 4/18	by Reg 107/2018
Greenhouse Gas Industrial Reporting and Control Act	June 4/18	by 2016 Bill 19, c. 15, sections 1 (a) and (d), 3, 4, 6, 8 and 11 to 13 only (in force by Reg 107/2018), Greenhouse Gas Industrial Reporting and Control Act
Hunting Regulation (190/84)	July 1/18	by Reg 115/2018
Limited Entry Hunting Regulation (134/93)	June 13/18	by Reg 113/2018
Motor Vehicle Prohibition Regulation (196/99)	July 1/18	by Reg 115/2018
Open Burning Smoke Control Regulation (145/93)	June 15/18	by Reg 117/2018
Permit Regulation (253/2000)	June 15/18	by Reg 117/2018
Public Access Prohibition Regulation (187/2003)	July 1/18	by Reg 115/2018
Wildlife Act Commercial Activities Regulation (338/82)	July 1/18	by Reg 115/2018
Wildlife Management Areas Regulation (12/2015)	June 20/18	by Reg 123/2018
May 25/18	by 2016 Bill 12, c. 11, sections 8 and 24 (part) (in force by Reg 101/2018), Forests, Lands and Natural Resource Operations Statutes Amendment Act, 2016	
Protected Areas of British Columbia Act	May 17/18	by 2018 Bill 19, c. 21, sections 1 to 6 only (in force by Royal Assent), Protected Areas of British

		Columbia Amendment Act, 2018
Water Protection Act	May 31/18	by 2018 Bill 24, c. 23, section 53, Schedule 1 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2018

OCCUPATIONAL HEALTH AND SAFETY NEWS

Quickscribe Introduces New OH&S Category

We are pleased to announce a new category for your Reporter. While occupational health and safety amendments and articles were included in the Reporter in the past, we didn't have a dedicated category to house them. In addition to seeing more related OH&S articles, Quickscribe is looking to bring on a dedicated expert annotator who will provide you with additional commentary and references to relevant case law pertaining to this section. Stay tuned!

Board Bulletin, Volume 18: Fire Hazard Assessment

Logging and most other industrial activities on forested land can create or contribute to an existing fire hazard. In British Columbia, the [Wildfire Act](#) requires a person carrying out an industrial activity such as logging to assess and abate fire hazards.

A fire hazard assessment considers the risk of a fire starting, the hazard associated with the industrial activity, the difficulty in controlling a fire and the potential threat to values. A fire hazard assessment must also include an assessment of the fuel hazard, which is the potential behavior of a fire based on the arrangement, condition and amount of forest fuels such as branches, leaves and stems.

Assessing fire hazard is the law and therefore it must be done. But fire hazard assessment is also a critical step in demonstrating due diligence. Due diligence means taking all reasonable steps to comply with the law. [Section 29](#) of the *Wildfire Act* states that a person may not be found to have contravened the Act if they can demonstrate due diligence. Read the [full article](#) on the Forest Practices Board website.

Mentorship Program Helps Young Carpenters

Young workers are the backbone of Fourth-Rite Construction – in fact, many of their current senior staff got their start at the company. Now, they give back to their new employees with training, mentorship, and a safety culture that starts in recruitment.

Carpenter and superintendent Dimitri Margaritis has been doing the job he loves for three decades, but he still remembers his early days in the industry – and how daunting a construction site initially seemed.

"I worked hard," Margaritis recalls. "But I remember what it was like: When you go onto a site for the first time, it's intimidating."

Margaritis got his start as an apprentice for Fourth-Rite Construction – the same Abbotsford-based company he works at today as a superintendent. While the company put him through apprenticeship training through Kwantlen Polytechnic University, he tended to keep quiet on the job and didn't ask a lot of questions.

His early experience was a common one. Canadian research studies on young workers have shown that young workers can be reluctant to speak up and may feel that they lack the authority or experience to address workplace health and safety. Margaritis wanted to change that. Read the [full article](#) in *Worksafe Magazine* by Gail Johnson.

Policy Item R5.48-1 RE: Occupational Exposure Limits

[Section 5.48](#) [of the [Occupational Health and Safety Regulation](#)] provides established limits for a worker's exposure to hazardous chemical substances. Generally, these exposure limits are established according to the Threshold Limit Values ("TLVs") adopted by the American Conference of Governmental Industrial Hygienists ("ACGIH"). However, the Board has authority to make exceptions and adopt occupational exposure limits for specific chemical substances that are not consistent with the TLVs established by the ACGIH. This policy sets out those exceptions. Read the [full policy](#) on the WorkSafeBC website.

OCCUPATIONAL HEALTH AND SAFETY

Act or Regulation Affected	Effective Date	Amendment Information
Mental Disorder Presumption Regulation (136/2018)	NEW June 26/18	see Reg 136/2018
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