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ENVIROFOR NEWS:

Parliament Resumes February 8th

The BC Legislative Assembly will resume on Tuesday, February 8, 2022, with Budget Day scheduled for February 22nd. The 2022 [Parliamentary Calendar](#) is now available and provides an overview of the proposed days that the legislature is expected to sit.

If you wish to be notified when new legislation is introduced in the upcoming session, check out the customizable alerts via the [My Alerts](#) page. Quickscribe alerts are included with your subscription so feel free to select the alerts that work best for you!

Latest Annotations

New annotations were recently added to Quickscribe. The annotations include contributions from [Richard Bereti](#) of Harper Grey LLP – [Environmental Management Act](#).

If you wish to be alerted when new annotations are published by our contributors, select "[My Alerts](#)" via the top navigation, then select the "View Expert Annotators". Here you can view and "follow" any contributor from the list.

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

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CATEGORIES

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[OCCUPATIONAL HEALTH & SAFETY](#)

ENERGY AND MINES NEWS

BC Supreme Court Dismisses Aboriginal Rights-based Claim Against Private Owner of Historic Dam

In its January 7, 2022 decision in [Thomas and Saik'uz First Nation v. Rio Tinto Alcan Inc.](#), the British Columbia Supreme Court (Court) affirmed the plaintiffs' Aboriginal right to fish but denied their claim for relief against the private owner of a hydroelectric dam because it was constructed and operated strictly in accordance with applicable laws and permits. This case will have significant implications for owners and operators of historic infrastructure in Indigenous territory across Canada. Read the [full article](#) by Roy Millen, Sam Adkins and Caolan Lemke with Blake, Cassels & Graydon.

First Nations Staking Claim over Mining in BC

When the Association of Mineral Exploration (AME) annual Roundup conference convenes next week, a good deal

of oxygen may get be taken up by what First Nations in BC are demanding: a complete overhaul of mining and minerals acts to give First Nations more regulatory control over mining. The First Nations Energy and Mining Council (FNEMC), backed by the Union of BC Indian Chiefs and BC Assembly of First Nations, issued a report Thursday [January 27] with 25 recommendations that, if implemented, would require a complete overhaul of BC [Mines](#) and [Mineral Tenure Act](#) to conform to the United Nations Declaration on the Rights of Indigenous People (UNDRIP) and BC's own enabling act, the [Declaration on the Rights of Indigenous Peoples Act](#) (DRIPA). Read the BIV [article](#).

Skagit Park "Donut Hole" to be Closed

The BC government has reached an agreement with Imperial Metals (TSX:III) not to exercise its mineral exploration rights in an area between two provincial parks, commonly known as the Skagit "donut hole." The hole is an exclusion zone between Skagit and Manning Parks, where both logging and mineral exploration were permitted. It was left out of Class A park designation when the Skagit Valley recreation area was declared a provincial park in 1996. Skagit Valley Provincial Park merges with E.C. Manning Provincial Park, except in the donut hole area. In 2019, the Wilderness Committee raised concerns about logging in the area by BC Timber Sales, and mineral claims held by Imperial Metals. The Silverdaisy and Skagit watersheds are important habitat for salmon. Read the BIV [article](#).

Recent BCOGC Bulletins

The BCOGC has recently issued the following bulletins:

- [INDB 2022-01](#) – Date Change for Methane Leak Detection and Repair Submissions
- [INDB 2022-02](#) – Montney Well Fluid Analyses Available
- [INDB 2022-03](#) – Lanching New Compliance Management Information System
- [IB 2022-01](#) – Results of the Commission's 2021 Aerial Leak Detection Survey

Visit the [BCOGC website](#) to view this and other bulletins.

ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
PREI Exemption Regulation (3/2022)	REPEALED Jan. 12/22	by Reg 3/2022

FORESTRY AND ENVIRONMENT NEWS

BC Court of Appeal Confirms that the Rule of Law is the Dominant Public Interest in Injunction Proceedings

In *Teal Cedar Products Ltd. v. Rainforest Flying Squad*, [2022 BCCA 26](#), the BC Court of Appeal ("BCCA") confirmed that upholding the rule of law continues to be the dominant public interest in determining the outcome of injunction proceedings involving civil disobedience against a private entity. This decision affirms that private entities can seek and rely on the protection of injunctions when their legal rights are being infringed by acts of civil disobedience. Read the [full article](#) by Kevin O'Callaghan, Niall Rand and Paige Mueller with Fasken Martineau DuMoulin LLP.

Contaminated Sites Litigation: New Law on Recovery of Legal Costs

The BC Court of Appeal has spoken, providing fresh guidance on recovering your legal fees and remediation costs when pursuing those responsible for contamination under the [Environmental Management Act](#): *Victory Motors (Abbotsford) Ltd. v. Acton Super-Save Gas Stations Ltd.*, [2021 BCCA 129](#). This case dealt with two neighbouring sites contaminated by gas that leaked from fuel storage tanks on one of the sites. The Appellant companies owned the sites, one was owned by Victory Motors and the other by Jansen Ltd. The respondent, Super-Save, was one of many historical operators of the gas station. Read the Environmental Law Update [article](#) published by Richard Bereti, Una Radoja and Nicola Virk with Harper Grey LLP.

US to Reduce Tariffs on Most Softwood Producers, Raise Them for West Fraser

With its latest preliminary review on Canadian softwood lumber shipments, the U.S. Department of Commerce is indicating it will reduce tariffs for most Canadian producers but increase them for BC-based West Fraser. The department announced yesterday the combined countervailing and anti-dumping duties for most lumber companies will be reduced from 17.91 per cent to 11.64 per cent. West Fraser's new rate will be 13.09 per cent, a bump up from its current 11.14 per cent. Read the [full article](#) published by Canadian Forest Industries.

BC Watershed Security Strategy Could Put Province on the "Cutting Edge"

The BC government has rolled out the early stages of a water security strategy meant to protect the province's freshwater resources from drought, flooding and long-term shortages. The BC government has kickstarted a plan it says will protect the province's freshwater from climate change – step one, ask British Columbians to weigh in. In a discussion paper released Tuesday [January 25], the Ministry of the Environment and Climate Change Strategy outlined 10 goals under a new [Watershed Security Strategy and Fund](#). Read the *BIV* [article](#).

Environmental Law Update: Moving Dirt In BC – New Rules

The Government of British Columbia is in the process of revamping laws around soil relocation with the objective of reducing the complexity of the existing rules, facilitating compliance, and limiting the amount of soil that ends up in landfills. To achieve these objectives, amendments have been proposed to the [Environmental Management Act](#) ("EMA"), the Contaminated Sites Regulation ("CSR"), and the Waste Discharge Regulation ("WDR"). The amendments to the EMA received Royal Assent in March 2020 and will come into force when the other regulatory amendments are finalized and adopted. Stakeholder feedback on the proposed amendments to the CSR and WDR are currently under review and final consideration is targeted for this year. Read the [full article](#) by Richard Bereti and Nicola Virk with Harper Grey LLP, published in the firm's Environmental Law Update.

Canadian Product Stewardship and EPR: A Review of 2021 and Beyond

Provincial governments (and non-governmental agencies) have been busy implementing various innovative waste management programs to divert waste away from landfills. In 2021, important changes were implemented across all product categories, including tires, batteries, electronic products, packaging and printed paper, beverage containers, and hazardous and special products. Key changes include: i) new programs in jurisdictions that formerly did not have programs, ii) expanded product lists for existing programs, iii) shifts from product stewardship models to extended producer responsibility ("EPR") models, and iv) expanded regulatory enforcement mechanisms and activity. Read the [full article](#) by Mark Youden, Emma Hobbs and Lauren Mar with Gowling LG.

BC Forest Watchdog Recommends Improving Forest Management to Protect Water

A report by the Forest Practices Board says that at least a third of the public complaints it has received since 1995 have involved the potential for forestry and range practices to affect water, including drinking water, the integrity of ecosystems, as well as public infrastructure and private property. It says that while the board usually found forest licensees were in compliance with provincial laws, gaps in legal requirements mean that forestry activities, including harvesting and the construction of forest service roads, can contribute to the risk of landslides, flooding and other water-related problems downstream. Read the Journal of Commerce [article](#).

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Environmental Management Act](#)

- [Gibraltar Mines Ltd. v. Director](#) [Application to Reconsider Stay Decision – Denied]
- [Brookwood Fernridge Community Association: IronGait Ventures Inc.; Inge and Carl Thielemann: Nicomekl Enhancement Society: Little Campbell Watershed Society: Semiahmoo Fish and Game Club: Sonja Kroecher: Gabriel Farms Ltd. v. District Director, Environmental Management Act](#) [Applications to Strike – Granted in Part]

[Water Sustainability Act](#)

- [Geoffrey Fox v. Assistant Water Manager](#) [Final Decision – Order Confirmed in Part; Appeal Dismissed]

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

FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Guiding Territory Certificate Regulation (115/2015)	Jan. 17/22	by Reg 12/2022
Recycling Regulation (449/2004)	Feb. 1/22	by Reg 162/2020
Renewable and Low Carbon Fuel Requirements Regulation (394/2006)	Jan. 1/22	by Reg 196/2021
Wildlife Act Commercial Activities Regulation (338/82)	Jan. 17/22	by Reg 12/2022

OCCUPATIONAL HEALTH AND SAFETY NEWS

Fall Protection Violations Lead to Fine for BC Employers

WorkSafeBC has penalized three British Columbia employers for violations relating to fall protection rules in the workplace. Rainbow Siding Ltd. was fined \$5,000. The firm was installing exterior cladding at a two-storey house in Surrey when WorkSafeBC found out about their violation. A worker walking on the sloped roof and no form of fall protection was in place, exposing the worker to a fall risk of about 6.1 m (20 ft.). "The firm failed to ensure fall protection was used, a repeated and high-risk violation," according to WorkSafeBC. Read the [full article](#) by Jim Wilson with Canadian Occupational Safety.

Raising Health and Safety Concern Real Motivation for Terminating Worker for "Poor Fit" During Probationary Period

A recent [decision](#) by the British Columbia Workers' Compensation Appeal Tribunal ("WCAT") upheld a Workers' Compensation Board (the "Board") decision that determined an employer's termination of a worker during her probationary period for "poor fit", was likely motivated by her raising a health and safety concern.

What Happened?

The worker was employed as a warehouse production worker commencing November 20, 2018. She was also the on-site occupational first aid attendant. On January 4, 2019, one of the owners of the company advised the worker that some of the warehouse staff were not correctly shutting down the machinery, including closing off the nitrogen cylinder safety valves. After this discussion, the worker suspected that her recent symptoms of burning eyes and a sore throat could be due to an exposure to nitrogen gas. On January 8, 2019, the worker reported her concerns to her supervisor and exercised her right to refuse unsafe work due to a potential nitrogen gas leak. She subsequently left the workplace as she felt unsafe.

Read the [full article](#) by Cathy Chandler with Fasken Martineau DuMoulin LLP.

BC Proposes Asbestos Licensing Rules in Workplace Safety Bid

Asbestos-related diseases are the "leading cause of workplace deaths in BC". The provincial government of British Columbia is proposing asbestos licensing rules under its [Workers Compensation Act](#) in a bid to improve workplace safety. Asbestos is a fibrous silicate mineral that can cause long-term health issues, and even deaths, after exposure. WorkSafe BC said that breathing in asbestos fibres can damage the lungs, causing serious problems including asbestosis, lung cancer, mesothelioma (a cancer), and pleural thickening (a lung disease). Read the [full article](#) by Dexter Tilo, published by Canadian Occupational Safety.

BC Human Rights Tribunal Dismisses Best Buy Mask Complaint

The BC Human Rights Tribunal has dismissed a complaint from an electronics store shopper who claims he was discriminated against for not wearing a mask. John Ratchford alleges Best Buy Ltd. discriminated against him on

the grounds of physical disability by not allowing him to shop without a mask. Ratchford was maskless when he was stopped from entering a Best Buy store by an employee in October 2020. When asked to put on a mask, Ratchford told the employee that he had asthma and could not wear one. Read the BIV [article](#).

Proposed Policy Amendments Regarding Permanent Psychological Disability Benefits

– from WorkSafeBC

Our Policy, Regulation and Research Department is releasing a [discussion paper](#), with options and draft policy, on permanent psychological disability benefits.

New Public Health Orders

The Public Health Office (PHO) recently issued the following orders, notices and guidance:

Orders:

- [Gatherings and Events – January 27, 2022 \(PDF, 571KB\)](#)
 - [Medical Reporting Form: COVID-19 Vaccine Medical Deferral – January 19, 2022 \(PDF, 636KB\)](#)
- [Workplace Safety – January 20, 2022 \(PDF, 383KB\)](#)
- [School Staff Member Vaccination Status Information Reporting – January 17, 2022 \(PDF, 401KB\)](#)
- [Food and Liquor Serving Premises – January 17, 2022 \(PDF, 482KB\)](#)
- [Regulated and Unregulated Health Professionals SARS-CoV-2 Immunization Order – January 9, 2022 \(PDF, 467KB\)](#)
- [Emergency Medical Assistants SARS-CoV-2 Immunization Order – January 9, 2022 \(PDF, 295KB\)](#)
- [Medical Reporting Form: COVID-19 Vaccine Medical Deferral – January 19, 2022 \(PDF, 636KB\)](#)
- [Medical Reporting Form: COVID-19 Vaccine Medical Deferral – January 19, 2022 \(PDF, 636KB\)](#)
- [Food and Workplace Safety – January 20, 2022 \(PDF, 383KB\)](#)

Guidance:

- [Indoor Exercise, Fitness, & Dance Class Facility COVID-19 Guidance – January 27, 2022 \(PDF, 370KB\)](#)
- [Guidance for Courthouse Users During the COVID-19 Pandemic – January 14, 2022 \(PDF, 384KB\)](#)

Visit the [PHO website](#) to view these and other related orders and notices.

OHS Policies/Guidelines – Updates

WorkSafeBC recently issued the following OHS Updates:

WorkSafeBC's Board of Directors ordered the deletion of the the following policy items to reflect amendments to the Occupational Health and Safety Regulation. These deletions are effective February 1, 2022.

- [R16.25-1 Operation and Maintenance \(Fuel Tank Filler and Vent Outlet Locations\)](#) [deleted]
- [R16.33-1 Protective Structures \(Hydraulic Excavators\)](#) [deleted]
- [R16.34-1 Rollover Protective Structures \(Pipe Layers\)](#) [deleted]
- [R16.36-1 ROPS Certification \(Sweep Arms\)](#) [deleted]

Guidelines – *Workers Compensation Act*:

Published on January 1, 2022

The following guideline has CPI adjustments effective January 1, 2022, as well as an editorial revision to align with amendments to the OHS Regulation:

- G-P2-94-1 [OHS citations](#)

Guidelines – OHS Regulation:

Published on January 17, 2022

Editorial revisions were made to the following guidelines.

- Part 3 - Rights and Responsibilities
 - [G3.16 First aid assessment](#)

Part 7, Division 2 - Vibration Exposure

- [G7.11-2 Exposure limits - Whole-body vibration](#)
- [G7.13 Exposure control plan](#)

Policies – *Workers Compensation Act*:

The following policies were updated to reflect CPI adjustments, effective January 1, 2022:

- [P2-94-1 - OHS Citations](#)
- [P2-95-4 - Non-Exclusive Ways to Impose Financial Penalties](#)
- [P2-95-5 - OHS Penalty Amounts](#)
- [P5-251-1 - Claims Costs Levies](#)

Check the [WorkSafeBC website](#) to explore these and other important OHS updates.

OCCUPATIONAL HEALTH AND SAFETY

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

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