



Vol: XVI – Issue 7 – July 2023

EnviroFor News

New Annotations

New Annotations have been added to Quickscribe:

- [Scott Marcinkow](#), Harper Grey LLP – [Employment Standards Regulation](#)

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ENERGY & MINES NEWS

With Great Power Over Ratepayers Comes Regulation: BCUC Finds Submetering Provider is Subject to Regulation as a Public Utility

On June 28, 2023, the British Columbia Utilities Commission ("BCUC") released [Decision and Order G-168-323](#), finding that Wyse Meter Solutions Inc. ("Wyse"), a submetering provider, was a "public utility" under the British Columbia [Utilities Commission Act](#) (the "UCA") and, therefore, was subject to regulation by the BCUC. The decision confirms that the BCUC's regulatory reach extends to services that may not be considered typical of public utility service, including submetering to tenants and condo owners.

Background

Wyse is a submetering provider that has offered services in British Columbia since 2016. Submetering involves measuring the consumption of electricity, water and sewer, natural gas and/or thermal consumption in individual units of multi-residential buildings (i.e., rental / condo units) downstream of a bulk meter. The associated contracts with building owners are exclusive and long-term (often up to 20 years in length). Individual unit holders (i.e., tenants / condo owners) then enter into a "Utility Services Contract" with Wyse for service to their unit.

Read the [full article](#) by [Tariq Ahmed](#) and [Niall Rand](#) with Fasken Martineau DuMoulin.

Canada Joins Nations Calling for Moratorium on Deepsea Mining

The international community has spent the last two years striving to meet a deadline set to expire this month for mining rules and environmental protections.

Canada is joining the tide of nations calling for a moratorium on deepsea mining in the high seas.

"The protection, conservation, restoration and sustainable use of ocean ecosystems is essential to all life on Earth," said a federal government news release last week as an international meeting got underway on the issue.

The meeting this month of the International Seabed Authority is a last-ditch attempt by the international community to finalize regulations for deepsea mining. The international community has spent the last two years striving to meet a deadline set to expire this month for mining rules and environmental protections around extracting metals off the sea floor. Read the [Vancouver Sun article](#).

Federal Critical Minerals Funding Unearthed

The energy transition and global demand for critical minerals, and the opportunities these present for Canada, continue to be areas of focus for the Government of Canada (Canada). Building upon the release of the [Canadian Critical Minerals Strategy](#) in late 2022 (discussed in our [previous blog post](#)), Canada recently announced two new funding opportunities in the critical minerals space.

Strategic Innovation Fund

To better position Canada to take advantage of the opportunity presented by the energy transition and ongoing demand for critical minerals, Budget 2022 proposed \$1.5 billion in funding through the Strategic Innovation Fund (SIF) to accelerate investments in critical minerals projects. Additionally, Budget 2023 included another \$500 million over 10 years to the SIF to support these targeted investments. On July 14, Canada [announced the criteria](#) for funding eligibility.

Read the [full article](#) by [Brian Bidyk](#), [Louis-Nicolas Boulanger](#), [Dominique Amyot-Bilodeau](#), [Ashley Urch](#) and [Artem Sushko](#) with McCarthy Tetrault.

Reforming BC's Mineral Tenure Act in Alignment with UNDRIP

The province of British Columbia (the "Province") created the Declaration Act Action Plan (the "Action Plan") under section 4 of the [Declaration on the Rights of Indigenous Peoples Act](#) (DRIPA). The Action Plan aims to bring to life the aspirations of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and to see that Indigenous peoples can fully enjoy their inherent rights to own, use, develop and control lands and resources in their traditional territories.

The Urgency of Modernizing the Mineral Tenure Act

The clock is ticking on the Action Plan, slated for implementation between 2022-2027. One of the key steps of the Action Plan is to "modernize the [Mineral Tenure Act](#) in consultation and cooperation with First Nations and First Nation organizations." The existing free-entry mining system, a pillar of the current [Mineral Tenure Act](#) (MTA), disregards their inherent rights to the land, necessitating an urgent reform. Both Indigenous governments and the Province agree that the MTA and its [Regulations](#) need to be reformed so that Indigenous peoples can meaningfully actualize their rights and title.

Read the [full article](#) by [Tolu Kolawole](#) and [Nick Leeson](#) with Woodward & Company LLP.

BC Hydro's New Clean Power Call: What it Means for the BC Power Industry

On June 15, 2023, the BC government [announced](#) that BC Hydro and Power Authority ("BC Hydro") will be launching a new call for sources of renewable, emission-free electricity in the province of BC. More information about the announcement and the new call can be found in our recent [blog post](#).

Concurrent with announcing the new call, BC Hydro filed its first [signpost update](#) (the "Signpost Update") to the 2021 Integrated Resource Plan (the "IRP") with the BC Utilities Commission (the "BCUC"). The Signpost Update, among other things, confirmed the need for new sources of clean or renewable energy in the province sooner than previously anticipated in the IRP. Clean or renewable energy, as defined in Section 1 of the [Clean Energy Act](#) (British Columbia), includes technologies focused on biomass, biogas, geothermal heat, hydro, solar, ocean, wind, biogenic waste, waste heat, and waste hydrogen. BC Hydro published a [2023 update](#) to the IRP (the "IRP Update" and, together with the Signpost Update, the "2023 Updates") to reflect the developments in the Signpost Update. The 2023 Updates come after BC Hydro sent a [letter](#) to the BCUC on March 23, 2023, anticipating the need to renew Electricity Purchase Agreements ("EPAs") expiring after 2026, acquire new greenfield energy resources, and advance capacity resources such as transmission projects and utility-scale batteries. Read the [full article](#) by [Sven O. Milelli](#), [Robin Sirett](#) and [Josh Friedman](#) with McCarthy Tetrault.

ENERGY & MINES

Act or Regulation Affected	Effective Date	Amendment Information
First Nations Clean Energy Business Fund Regulation (185/2023)	July 12/23	by Reg 185/2023
Greenhouse Gas Reduction (Clean Energy) Regulation (102/2012)	July 10/23	by Reg 175/2023

Petroleum and Natural Gas Act	July 17/23	by 2015 Bill 40, c. 40, sections 27 and 28 only (in force Reg 192/2023), Natural Gas Development Statutes Amendment Act, 2015
		by 2022 Bill 37, c. 42, sections 48 and 50 only (in force by Reg 192/2023), Energy Statutes Amendment Act, 2022
Petroleum and Natural Gas Storage Reservoir Regulation (192/2023)	NEW July 17/23	see Reg 192/2023
Petroleum and Natural Gas Storage Reservoir Regulation (350/97)	REPEALED July 17/23	by Reg 192/2023



FOREST AND ENVIRONMENT NEWS

Recent Forest Legislation Amendments

As mentioned in the last Quickscribe Reporter, provisions of 2021 Bill 28, the [Forest Amendment Act, 2021](#), came into force on July 15. These amendments added Parts 15 to 19 to the [Forest Act](#), which will allow areas of Crown land to be designated as special purpose areas, for an access purpose, for a non-timber production purpose, or for one or more first nation purposes, BCTS licence purposes or community forest agreement purposes. The bill also provides for compensation to certain licence or permit holders who may be impacted by special purpose areas. Other amendments authorize the reduction to allowable annual cuts of forest licences for the purposes of entering into forest licences with first nations or entering into BCTS licences.

Never Going to Let You Go: BC's EMA May Allow Creditors to Seek Recovery from Third Parties for Environmental Remediation Claims

The recent decision from the Supreme Court of British Columbia (the "Court") in *Cordy Environmental Inc. v Obsidian Energy Ltd.*, [2023 BCSC 1198](#) ("*Cordy Environmental*") has opened the door for creditors of an insolvent company to recover pre-filing amounts relating to environmental remediation from certain third parties. The main issue in *Cordy Environmental* was whether a service company that performed remediation work on a pipeline spill could rely on the statutory indemnification provisions under the [Environmental Management Act](#), S.B.C. 2003, c. 53 (the "EMA") to recover unpaid amounts from a prior owner of the pipeline with whom the service company had no contractual relationship.

The trial judge found that, pursuant to EMA s. 47, the prior owner of the pipeline may be jointly and separately liable for the costs of remediation incurred by the service company, and that such liability is independent of any contractual relationship between the parties. Further, the Court held that the prior owner's liability for the costs of remediation continues to operate notwithstanding the insolvency of the party that originally created the obligations owing to the service company for its remediation work. Read the [full article](#) by [Robyn Gurofsky](#), [Anthony Mersich](#) and [Rebecca Barclay Nguinambaye](#) with Fasken Martineau DuMoulin LLP.

Practicing Landscape Fire Management – Technical Bulletin

As a companion document to its special report, [Forest and Fire Management in BC: Toward Landscape Resilience](#), the Forest Practices Board has produced a technical bulletin to help land managers put Landscape Fire Management into practice. The bulletin describes six key principles for practicing landscape fire management, including:

1. Defining the landscape
2. Understanding current and projected conditions
3. Understanding risks to values
4. Setting complementary wildland fire objectives across land use zones
5. Coordinating intervention
6. Adaptive management

Read the [bulletin](#) from the Forest Practices Board.

Legal Challenges Threaten Net-Zero Pledges

The legal risks associated with voluntary climate action to transition to net-zero emissions are becoming real for companies as they face the possibility of prosecution for antitrust violations. To guarantee the effectiveness of their net-zero pledges, firms are now calling for a more stable and predictable legal environment.

According to [Net Zero Tracker](#), almost half of the world's largest firms have set net-zero commitments. Among them are banks, asset owners and insurers. Different net-zero financial alliances were established in the lead-up to COP26 to mobilize the financial sector around the goals of the Paris Agreement. Financial institutions recognized the long-term business risks of climate change and understood the commercial value of collaborating towards net-zero. But we know that pollution is an environmental externality. In the absence of regulatory sticks or financial carrots to reduce emissions, firms are incentivized to emit greenhouse gases without restraint, leading to the everlasting tragedy of the commons. Read the [full article](#) by [Julien O. Beaulieu](#) in the *CBA National* magazine.

British Columbia Takes Action on Plastic Waste

On July 14, 2023, the Province of British Columbia published the [Single-Use and Plastic Waste Prevention Regulation](#), which will

come into effect on December 20, 2023. This regulation will lead to the phasing-out of oxo-degradable plastic packaging and products, shopping bags, and food service ware and accessories in British Columbia.

The publication of this regulation ends a multi-year consultation process pursuant to the CleanBC Action Plan, which launched in 2019. Read the [full article](#) by [Mark Youden](#), [Emma Hobbs](#) and [Wynona Klemt](#) with Gowling WLG.

International Sustainability Standards Board Releases Sustainability Disclosure Standards

On June 26, 2023, the International Sustainability Standards Board (ISSB) released the final versions of its first two global sustainability disclosure standards for financial reporting (the ISSB Standards). The ISSB aims to position the ISSB Standards as the global baseline for voluntary sustainability reporting. Canada and British Columbia have indicated strong support for the ISSB Standards, but have refrained from outlining whether they will adopt them, and if they do, to what extent and when. The Canadian Sustainability Standards Board (CSSB), which became fully operational following the release of the ISSB Standards, will guide the implementation of the ISSB Standards in Canada. Read the [full article](#) by [Erik Coates](#), [Radha Curpen](#) and [Sharon Singh](#) with Bennett Jones LLP.

Nuxalk, KITASOO XAI'XAIS Guardians Appointed with Park Ranger Authority

The KITASOO XAI'XAIS and Nuxalk First Nations, along with BC Parks, have launched a new pilot program that designates 11 Indigenous guardians with the same legal authorities as park rangers within the parks and protected areas in their ancestral territories.

Six KITASOO XAI'XAIS and five Nuxalk guardians recently received park ranger appointments during ceremonies held in Klemtu and Bella Coola to mark the official launch of the Shared Compliance and Enforcement Pilot Program. The pilot is the first project of its kind in B.C. Read the full government [news release](#).

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Environmental Management Act](#)

- [District of Sicamous v. Director, Environmental Management Act](#) [Dismissal Order – Appeal Dismissed]
- [Halcyon Hot Springs Resort Ltd. v. Director, Environmental Management Act](#) [Dismissal Order – Appeal Dismissed]

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



FOREST AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties Regulation (Environmental Management Act) (133/2014)	July 17/23	by Reg 188/2023 and Reg 189/2023
Administrative Penalties Regulation (Integrated Pest Management Act) (134/2014)	July 17/23	by Reg 188/2023
Advertising, Deposits, Disposition and Extensions Regulation (55/2023)	July 15/23	by Reg 158/2023
Allowable Annual Cut Administration Regulation (69/2009)	July 15/23	by Reg 159/2023
Code of Practice for Agricultural Environment Management (8/2019)	July 15/23	by Reg 8/2019
Community Tenures Regulation (352/2004)	July 15/23	by Reg 158/2023
Deletions and Expropriations (for Parks, Conservancies and Recreation Areas) Regulation (156/2023)	NEW July 15/23	see Reg 156/2023
Designated Areas Compensation Regulation (154/2023)	NEW July 15/23	see Reg 154/2023
Disposition and Change of Control Regulation	July	by Reg 158/2023

(351/2004)	15/23	
Forest Act	July 15/23	by 2021 Bill 28, c. 38, sections 18, 25, 29, 31, 34, 41, 44, 51, 56, 57 and 61 to 65 only (in force by Regs 153/2023 , 154/2023 , 155/2023 and 156/2023), Forest Amendment Act, 2021
		by Reg 157/2023
Forest and Range Practices Act	July 15/23	by 2021 Bill 28, c. 38, sections 18, 25, 29, 31, 34, 41, 44, 51, 56, 57 and 61 to 65 only (in force by Reg 158/2023), Forest Amendment Act, 2021
Forest Planning and Practices Regulation (14/2004)	July 15/23	by Reg 158/2023
Greenhouse Gas Emission Control Regulation (250/2015)	July 7/23	by Reg 169/2023
Greenhouse Gas Industrial Reporting and Control Act	July 7/23	by 2023 Bill 10, c. 23, sections 41 (d), (e), (f) and (h) only (in force by Reg 169/2023), Budget Measures Implementation Act, 2023
Hazardous Waste Regulation (63/88)	Aug. 1/23	by Reg 170/2023
Park Act	July 15/23	by 2021 Bill 28, c. 38, sections 71 to 74 only (in force by Reg 156/2023), Forest Amendment Act, 2021
Reductions for First Nation Purpose or BCTS Licence Purpose Regulation (155/2023)	NEW July 15/23	see Reg 155/2023
Special Purpose Areas Regulation (153/2023)	NEW July 15/23	see Reg 153/2023



OCCUPATIONAL HEALTH AND SAFETY NEWS

WorkSafeBC Keeps Premium Rate Steady at 1.55 Percent for 2024

In a move aimed at providing financial stability and predictability for employers, WorkSafeBC has revealed that the preliminary average base rate for 2024 will remain unchanged at 1.55 per cent of employers' assessable payroll. If approved by WorkSafeBC's Board of Directors, this will mark the seventh consecutive year that the average base rate has been kept at this level, reflecting the organization's commitment to maintaining steady rates. Read the [full article](#) by [Shane Mercer](#) on Canadian Occupational Safety Magazine.

Underpaid Foreign Worker with Workplace Injury Faced Harassment, Discrimination: Tribunal

An employer that underpaid a foreign worker for more than three years and accused her of lying about a workplace injury discriminated against her, the BC Human Rights Tribunal has ruled. Many of the issues in the case were related to employment standards and workers' compensation, but the worker's vulnerable position crossed into the human rights jurisdiction, says Jessica Fairbairn, a partner at Harris & Company in Vancouver. Read the [full article](#) by Jeffrey R. Smith on HRReporter.

Consultation on Proposed Amendments to Part 14 of the Occupational Health and Safety Regulation

– from [WorkSafeBC](#)

Our Policy, Regulation and Research Department is requesting feedback on proposed amendments to [Part 14, Cranes and Hoists, sections 14.73.1 to 14.75, of the Occupational Health and Safety Regulation](#). The consultation phase gives stakeholders an opportunity to provide feedback before the proposed amendments are taken to public hearing. Feedback will be accepted until 4:30 p.m. on August 25, 2023.

Proposed Policies Regarding Duty to Cooperate and Duty to Maintain Employment

– from [WorkSafeBC](#)

The *Workers Compensation Amendment Act (No. 2), 2022* ([Bill 41](#)) amended the [Workers Compensation Act](#) to add a duty to

cooperate and a duty to maintain employment. These new provisions will come into force January 1, 2024. Our Policy, Regulation and Research Department is releasing a discussion paper with proposed policies to provide guidance on these new provisions. You're invited to provide feedback on the discussion paper and proposed policies until **4:30 p.m. on Friday, September 1, 2023**.

New Public Health Orders

The Public Health Office (PHO) recently issued the following notice:

- [Notice of Repeal of Health Professionals COVID-19 Vaccination Status Information Order – July 14, 2023 \(PDF, 291KB\)](#)

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

OHS Policies/Guidelines – Updates

Guidelines – Occupational Health and Safety Regulation

- Part 20 Construction, Excavation and Demolition
[G20.112 Hazardous materials – Asbestos](#)

Visit the [WorkSafeBC website](#) to explore this and previous updates.



OCCUPATIONAL HEALTH AND SAFETY

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

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