



# EnviroFor Reporter

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## ENVIROFOR NEWS:

### Legislative Assembly Set to Resume

The 4th Session, 41st Parliament is scheduled to resume with the throne speech on Tuesday, February 11th, and the budget on the 18th. The NDP currently holds 41 seats and the Liberals have 42, with 2 Green MLAs and 2 Independents (including former Green Party leader Andrew Weaver). The spring session is scheduled to run through to May 28th.

### Latest Annotations

New annotations have recently been added to the Quickscribe site by [Richard Bereti](#) of Harper Grey LLP – [Environmental Assessment Act](#).

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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](#)

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## ENERGY AND MINES NEWS

### Perfection not Required as Part of Consultation, Court says in Trans Mountain Ruling

Yet another chapter in the saga of the controversial Trans Mountain pipeline project has concluded after the Federal Court of Appeal ruled the Trudeau government's consultation process fulfilled its obligations to a number of First Nations who had raised concerns about the project's effect on their traditional territories. The Federal Court of Appeal originally quashed the federal government's approval of the project in August 2018, saying the consultation was a "failure" and ordering further consultation to be done (*Tsleil-Waututh Nation v. Canada (Attorney General)*, 2018 FCA 153). But the Feb. 4 decision, jointly authored by Chief Justice Marc Noël and Justices J.D. Denis Pelletier and John Laskin, said there was no basis to interfere with the federal government's June 2019 decision to reapprove Trans Mountain, which occurred after a period of consultation led by former Supreme Court Justice Frank Iacobucci (*Coldwater Indian Band v. Canada (Attorney General)*, 2020 FCA 34).

"This was anything but a rubber-stamping exercise. The end result was not a ratification of the earlier approval, but an approval with amended conditions flowing directly from the renewed consultation," the court wrote. "It is

true that the applicants are of the view that their concerns have not been fully met, but to insist on that happening is to impose a standard of perfection, a standard not required by law." Read the [full article](#) by [Ian Burns](#), published in *The Lawyers Daily*.

## Canadian Power – Key Developments in 2019, Trends to Watch for in 2020: British Columbia – Overview

### Introduction

2019 proved to be another year of transition for BC's power sector. Following the completion of Phase 1 of its comprehensive review of BC Hydro early in the year, the provincial government embarked on its second stage, which will involve a deeper assessment of the province's energy policy and markets, utility models, and emerging technologies. At the same time, BC Hydro's historical power purchases from independent power producers ("IPPs") were the subject of a highly critical government-commissioned report, which further reinforced the continuing moratorium on power procurement opportunities in the province. Meanwhile, development activities for the province's two largest energy projects continued, with construction beginning in earnest for LNG Canada's liquid natural gas project in Kitimat following its final investment decision in October 2018 and key construction milestones being achieved for BC Hydro's 1,100 MW Site C Project as both projects target a 2024 in-service date. In the face of these developments, the provincial government continued to pursue its CleanBC climate strategy, aimed at further electrifying the province's large industrial operations and accelerating the adoption of zero-emission vehicles. Finally, the BC government enacted historic legislation committing it to align provincial laws with the United Nations Declaration on the Rights of Indigenous Peoples and, further to the achievement of this goal, substantially updated its environmental assessment processes to incorporate Indigenous considerations at all stages. Read the [full article](#) by [Michael Alty](#), [Stephanie Axmann](#), [Maureen Gillis](#), [Ainslie Hurd](#), [Selina Lee-Andersen](#), [Sven O. Milelli](#), [Robin Sirett](#) and Morgan Troke with McCarthy Tétrault LLP.

### BC's UNDRIP Law a Big Step, but Not Necessarily a Big Change for Mining

The work BC's mineral-exploration sector has been doing to respect court-determined Indigenous rights goes a long way to honouring the spirit of the [United Nations Declaration on the Rights of Indigenous Peoples](#). BC's new law on living up to the UN Declaration on the Rights of Indigenous Peoples is a big development, but it shouldn't change much about how mining exploration happens in the province. The [legislation](#) writes into law the requirement that government seek informed, prior consent of First Nations on resource development, but "I bet you recognize in industry, you've been doing this for a long time," a senior civil servant, Doug Caul, told the Association for Mineral Exploration Roundup conference in Vancouver. Read the [article](#).

### BCOGC Bulletins January

The BCOGC has issued the following bulletins in the month of January:

- [INDB 2020-05](#) Updates to the Application Management System
- [INDB 2020-04](#) Industry Review Period for Updated LMR Liability Model
- [INDB 2020-03](#) Changes In Requirements for Pipeline Notice of Intent (NOI) Submissions
- [IB 2020-01](#) Methane Emissions Request for Investigation Application Form
- [INDB 2020-02](#) Commission Clarifies Use of Ecologically Suitable Species
- [INDB 2020-01](#) Spatial Data Reconciliation Enhancements

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

## ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
Drilling and Production Regulation (282/2010)	Jan. 1/20	by <a href="#">Reg 286/2018</a>
Energy Efficiency Standards Regulation (14/2015)	Jan. 1/20	by <a href="#">Reg 29/2018</a>
Investigations Regulation (134/2019)	<b>NEW</b>	see <a href="#">Reg 134/2019</a>

	Jan. 1/20	
Oil and Gas Activities Act	Jan. 1/20	by 2018 Bill 56, c. 54, sections 13, 16 and 18 only (in force by <a href="#">Reg 134/2019</a> ), <a href="#">Oil and Gas Activities Amendment Act, 2018</a>

## FORESTRY AND ENVIRONMENT NEWS

### Environment | The Crown's Duty to Consult

*20/20: Looking back over the last 20 years*

What is the most important environmental law case in Canada since the turn of the century? Twenty years is a long time in Canadian environmental law, given that this area of law has only existed as a 'thing' for a little more than twice that length of time. One well-reasoned view is that choosing such a case is an impossible task because courts routinely sidestep the important environmental issues, seeing them as primarily political rather than legal matters. (See the analysis by Professor Shaun Fluker from the University of Calgary in a piece he wrote for ABLawg in 2010 titled "[The Nothing that is: The leading environmental law case of the past decade](#)".) The subject matter of environmental law is vast, complex and varied. Over the past twenty years, cases have been decided by all levels of courts and by an assortment of administrative tribunals. Read the [full article](#) by [Jeff Surtees](#) and published on *LawNow*.

### BCFSC to Launch New Website in 2020

To support our on-going efforts to improve communication and be recognized as an industry leader for value-added health and safety and training resources, we will be launching a new website in 2020. The new website will have an updated look that will be easier to navigate with simplified, filtered search options for easier access to resources and improved navigation tools for a better user experience. We will also be enhancing communication with targeted messaging and digital initiatives using BCFSC's new Customer Relationship Management (CRM) system. Read the [full article](#) in the December 2019 issue of *Forest Safety News*.

### Does My Project Need an Environmental Assessment?

#### The New Reviewable Projects Regulation in BC

On December 16, 2019, several regulations came into force under BC's new [Environmental Assessment Act](#) (the "New BCEAA"). The most notable of these is the new [Reviewable Projects Regulation](#) (the "New RPR"), which sets out the types of projects that are automatically reviewable (i.e. subject to the New BCEAA) if they meet certain criteria. The New RPR introduces some significant changes for those who wish to start new projects or modify existing projects. Read the [full article](#) by [Jennifer S. Nyland](#), [Cole Rodocker](#) with Lawson Lundell LLP.

### Environmental Appeal Board Decisions

There were four Environmental Appeal Board decision in the month of January:

#### [Environmental Management Act](#)

- [GFL Environmental Inc. v. District Director, Environmental Management Act](#) [Interim Relief Application – Granted]
- [Michael Dumancic; Nathalie McGee; Meaghan Lyall; Margaret & Foster Richardson; Wendy Betts; David Frame; Carol Ann La Croix; Joss Rowlands; Shelley Lee; Barry Mah; Trish Steinwand; Harry Dhaliwal; Joan Hislop; Douglas Burgham; Jennifer Burgham; Douglas McDougall; Michael W. Betts v. District Director, Environmental Management Act](#) [Interim Relief Application – Denied]

#### [Water Sustainability Act](#)

- [Robert Craig; Julie Craig v. Assistant Water Manager](#) [Final Decision – Appeal Dismissed]

#### [Wildlife Act](#)

- [Richard Alan Snyder v. Deputy Regional Manager, Skeena Region](#) [Final Decision – Appeal Allowed]

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

## FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Cut Control Regulation (578/2004)	Jan. 1/20	by <a href="#">Reg 258/2019</a>
Manufactured Forest Products Regulation (240/2003)	Jan. 21/20	by <a href="#">Reg 2/2020</a>

**OCCUPATIONAL HEALTH AND SAFETY NEWS**

**Board of Directors Approves Regulatory Amendments Related to Statutory Revisions of the *Workers Compensation Act***

– from WorkSafe BC Website

At its November 2019 meeting, WorkSafeBC's Board of Directors approved consequential amendments related to statutory revisions to the [Workers Compensation Act](#) (Act). Consequential amendments to the [Occupational Health and Safety Regulation](#) and the [Lower Maximum Administrative Penalties Regulation](#) are approved in [Resolution No. 2019/11/20-01](#). Consequential amendments were made to the following Regulations under Part 1 of the Act:

- the [Fishing Industry Regulations](#);
- the [Occupational Disease Recognition Regulation](#);
- the [Reports of Injuries Regulations](#); and
- the [Review of Old Permanent Disability Awards Regulation](#).

These amendment are approved in [Resolution No. 2019/11/20-02](#). These amendments will become effective on April 6, 2020. Read the WorksafeBC [article](#).

**OCCUPATIONAL HEALTH AND SAFETY**

Act or Regulation Affected	Effective Date	Amendment Information
Electrical Safety Regulation (100/2004)	Jan. 1/20	by <a href="#">Reg 183/2019</a>

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