

# August 2017 Regulatory Bulletin for the Oil and Gas Industry in Western Canada



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## FEDERAL

### Supreme Court of Canada on Aboriginal Consultation

In late July 2017, the Supreme Court of Canada (SCC) addressed questions about the practical dimensions of the duty to consult in [Clyde River \(Hamlet\) v. Petroleum Geo-Services Inc.](#) and its companion case [Chippewas of the Thames First Nation v. Enbridge Pipelines Inc.](#) surrounding consultation in BC Hydro's Site C dam.

In its decision, the SCC held that the approval of a project by an independent regulatory agency can trigger the duty to consult, and held that the Crown may rely on regulatory processes to satisfy its duty to consult Indigenous communities. If the duty to consult has been triggered, a regulatory agency may only approve a project if consultation is adequate. If approval has been given absent satisfactory consultation, the decision will be overturned on judicial review.

In its decision, the SCC at last provided some clearer guidance for carrying out a successful Aboriginal consultation process.

## BRITISH COLUMBIA (BC)

### Changes in Application Management System (AMS) Spatial Data Requirements for Pipeline Installation

As of 18 August 2017, the British Columbia Oil and Gas Commission (BCOGC) has implemented changes to the [spatial data submission standards \(SDSS\)](#) for new and amended pipeline installations in order to increase business validation and functionality. The changes to new applications include operators setting the Installation Number field (INSTL\_NUM) to zero for the system to auto assign each pipeline installation in a sequential order. The changes to amendments include displaying permitted pipeline installation data while the operator inputs amended installation spatial data. The recent changes will only affect new spatial data, not previously uploaded installations.

### BC Government Versus the Kinder Morgan Trans Mountain Pipeline Expansion

The federally approved Kinder Morgan Trans Mountain pipeline expansion may experience setbacks as the newly elected NDP government plans to enter a legal battle against the project by hiring a [high powered legal advisor](#). BC's government will heavily focus their case on the adequacy of consultations with First Nations to delay the September 2017 construction start date. The September 2017 construction start date could also be delayed as the company has only received approval for three of the eight environmental management plans required for compliance with their provincial environmental assessment certificate. Provincial Environment and Climate Change Minister George Heyman, states the provincial government is "committed to stepping up and fighting for BC interests".



## Inter Pipeline Ltd. Regulatory Appeal

The Alberta Energy Regulator (AER) will hold a [public appeal hearing](#) to determine if the AER should revoke or confirm its decision to deny Inter Pipeline Ltd.'s proposed project to armour the Red Deer River bank and construct an instream rock sill. The AER rejected the application under Section 38 of the *Water Act* on 28 March 2017 and issued the notice of the hearing on 29 June 2017. The hearing can be viewed via [webcast](#) on 1 November 2017.

## Syncrude Canada Ltd. Charged for Death of Blue Herons

Syncrude Canada Ltd. (Syncrude) faces fines of up to \$500,000 related to the deaths of [31 Great Blue Herons](#) at the Mildred Lake Oilsands Mine. Charges have been laid against Syncrude under the *Environment Protection and Enhancement Act* for improper storage of hazardous substances that led to the death of the herons on 7 August 2015. Syncrude, who have consulted with wildlife industry experts and made updates to their waterfowl protection plan, will appear in court on 27 September 2017.

## Second 2017/2018 Orphan Fund Levy

The AER will collect the second installment of a two-part orphan fund levy in September 2017. The \$30 million orphan fund levy was approved by the Orphan Well Association (OWA), Canadian Association of Petroleum Producers (CAPP), and Explorers and Producers Association of Canada (EPAC) to fund the OWA's 2017/18 fiscal year budget. The initial levy of \$15 million was collected in March 2017 and the second levy of \$15 million will be collected in September 2017. Licensees and approval holders included within the Licensee Liability Rating (LLR) and Oilfield Waste Liability (OWL) programs will be invoiced for their share of the orphan fund levy on 24 August 2017. More information about the second 2017/18 orphan fund levy can be accessed via the [AER Bulletin 2017-14](#).

## Debtor Registry Publicized

On 17 August 2017, the AER publicized a [Debtor Registry](#) which lists the names of any person or AER regulated company that owes the AER a levy, fees, penalties, or any outstanding costs. The Debtor Registry is intended to hold regulated companies more accountable for their actions, promote the industry to enhance performance, and provide more clarity about energy industries activities. The Debtor Registry will be updated monthly and any company that has paid its debt since the last update will be removed. More information about the Debtor Registry can be accessed via the [AER Bulletin 2017-15](#).

## Did You Know?

Our Facility Infrastructure Team has been busy assisting numerous clients with preliminary engineering and detailed engineering designs associated with recycling and reusing produced water and wastewater. We evaluate water treatment technologies and determine the best areas for process optimization by considering the upstream and downstream effects of removing, replacing or upgrading technology and equipment. The Facility Infrastructure Team looks forward to continuing to provide services that require process modelling (VMG Sim or equivalent), chemical modelling (OLI) and facility construction services.

## Contact Us



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