

# Energy and Natural Resources Regulatory Bulletin

March 2023

## Federal Investment in Critical Minerals

+ Budget 2023 Release: Incentives and  
Growth in Green Economy

+ Borrow Pits & *Water Act* Authorization



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# Welcome to the regulatory bulletin...

Published monthly for the last 5 years, the regulatory bulletin highlights the regulatory changes and updates within the energy and natural resource sectors in North America that the Integrated Sustainability team has been tracking over the past month.

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## Feature Report

This month's feature report highlights potential non-compliance through the Alberta Energy Regulator (AER) pertaining to water diversions from borrow pit locations.



## New Guideline On Climate Risk Management Reporting For Canadian Banks & Insurers

On 7 March 2023 the Office of the Superintendent of Financial Institutions (OSFI) of Canada published [Guideline B-15: Climate Risk Management](#) which outlines expectations for the management of climate-related risks. The guideline currently includes Governance and Financial Disclosures and will be effective fiscal-year end 2024 for Domestic Systemically Important Banks (DSIBs) and Internationally Active Insurance Groups (IAIGs) headquartered in Canada. The guideline objectives are:

1. “The federally regulated financial institutions (FRFI) understands and mitigates against potential impacts of climate-related risks to its business model and strategy.
2. The FRFI has appropriate governance and risk management practices to manage identified climate-related risks.
3. The FRFI remains financially resilient through severe, yet plausible, climate risk scenarios, and operationally resilient through disruption due to climate-related disasters.” (OSFI 2023)

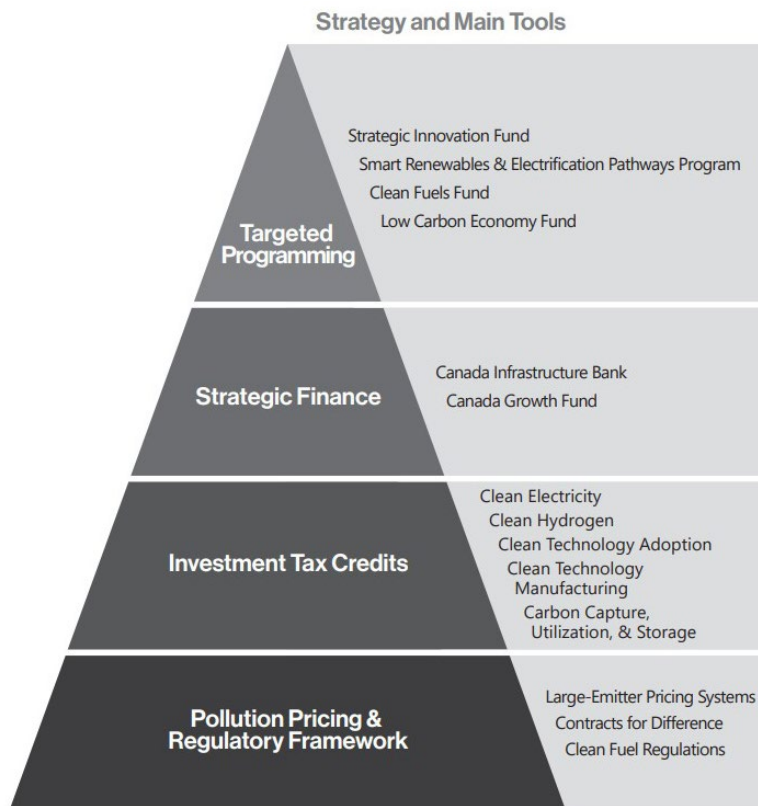
OSFI plans to amend the guide as standards change, including some of those issued by the International Sustainability Standard Board. Climate risk management reporting for banks and insurers are likely to impact natural resources and energy projects looking for capital or insurance.

## Government Of Canada Releases 2023 Budget

On 28 March 2023 the Government of Canada released [Budget 2023—A Made-in-Canada Plan: Strong Middle Class, Affordable Economy, Healthy Future](#) (the Budget) which includes both budget and incentives for the growth of the Green Economy in Canada.

The Green Economy growth includes an [investment framework](#) with a “set of clear and predictable investment tax credits, low-cost strategic financing, and targeted investments and programming, where necessary, to respond to the unique needs of sectors or projects of national economic significance” (Government of Canada 2023). In the budget, it is estimated that an average of \$60 -140 billion dollars a year will be needed to reach net-zero by 2050, and that it will be largely up to the private sector to make these investments.

Some areas of interest to the Energy and Mining sectors include are a Clean Hydrogen Investment Tax Credit, Clean Technology Investment Tax Credit – Geothermal Energy, Investment, Tax Credit for Clean Technology Manufacturing, Investment Tax Credit for Carbon Capture, Utilization and Storage, Investment Tax Credit for Clean Electricity. Also, the budget proposes to include lithium from brines as a mineral resource and which would make it eligible for the Critical Mineral Exploration Tax Credit.



## Prime Minister Trudeau and President Biden Joint Statement

On 24 March 2023, following a meeting between Prime Minister Trudeau and President Biden a [joint statement](#) was released saying the leaders, “advanced work to strengthen trade ties, create good jobs, grow the middle class, drive economic growth that benefits everyone on both sides of the border and increase collaboration on defence and security, climate action and nature protection, and immigration” (Government of Canada, 2023).

Some of the plans between the two countries related to energy and environment include:

- Establish a one-year Energy Transformation Task Force to strengthen renewable energy and electric vehicle supply chains, critical minerals and rare earths, grid integration and resilience, advanced and conventional nuclear energy, and areas that advance collective energy security.
- Undergo a joint technical review of the Canada-US Air Quality Agreement from 1991.
- Seek training and work opportunities in the skilled trades and clean energy sector.
- Create an “integrated, responsible, and sustainable North American battery ecosystem and invest in projects that benefit both countries and further promote an integrated approach to supply chain development” (Government of Canada 2023).
- Advance Canada's Semiconductor research, development, and manufacturing opportunities via a memorandum of understanding with IBM. Canada has also committed \$250 million to semiconductor projects, as they are required for clean energy technologies and goods like electric vehicles.
- Conservation and environmental protection of the Arctic ecosystem, in partnership with Indigenous Peoples and local populations. This includes reduction of local emissions (carbon dioxide, methane, black carbon) and oil spill and environmental disaster response.
- Canada's investment of \$420 million over 10 years as part of the Freshwater Action Plan dedicated to protection and restoration of the Great Lakes.



## Federal Spending For Critical Minerals

On 07 March 2023, Minister Wilkinson [announced](#) over \$344 million to support Canadian critical minerals development. This announcement is following the commitment released in December 2022 to spend up to \$3.8 billion in federal funding with the [Canadian Critical Minerals Strategy](#). The \$344 million announced in March is for the following new programs and initiatives:

- Critical Minerals Technology and Innovation Program – \$144.4 million towards new technologies and processes that facilitate the growth of critical mineral value chains and innovation systems.
- Critical Minerals Geoscience and Data Initiative – \$79.2 million to support digital technologies (geoscience and mapping) for improved data quantity and quality.
- Global Partnerships Program – \$70 million to support international collaborations by aiding Canada’s global leadership role.
- Northern Regulatory Initiative – \$40 million for regulatory dialogue, regional studies, land-use planning, impact assessments and Indigenous consultation under the northern and territorial agendas.
- Renewal of the Critical Minerals Centre of Excellence (CMCE) – \$10.6 million for ongoing development and implementation by the CMCE.

Six projects were approved under the [Critical Minerals Research, Development and Demonstration](#) (CMRDD) program with a federal investment of over \$14 million. The objective of this funding is to help these projects and processing technologies progress to commercial readiness to allow for of zero-emission vehicles in Canada.

In addition, in March the government launched the [Critical Minerals Infrastructure Fund](#); \$1.5 Billion towards energy and transportation projects to access critical minerals.

## Appeal Of Bill C-69

On 21 March 2023, Alberta Minister of Justice Tyler Shandro issued a [statement](#) on the Supreme Court of Canada hearing for the Alberta Court of Appeal decision on the federal *Impact Assessment Act*. In his statement, the Minister outlined a number of recent issues the Province has raised related to Federal revenues and Federal spending, noting that this “Act is a threat to the long-term economic prosperity of our province, our energy industry and the entire country,” while emphasizing that “over the past 25 years, our province has contributed \$400 billion more to the federal government’s revenues than it has received in federal spending.”

Following a 4-1 decision last May by Alberta’s Court of Appeal, which ruled that the *Impact Assessment Act* was unconstitutional, seven other provinces are joining Alberta as interveners in this case and to defend provincial rights. A [two-day hearing](#) began on March 21, in which Alberta presented its arguments to appeal the federal *Impact Assessment Act*, also known as Bill C-69.



## New Directive For Oil And Gas Companies To Address Unpaid Municipal Taxes

On 20 March 2023, the Minister of Energy issued [Ministerial Order 043/2023](#) directing the Alberta Energy Regulator (AER) to make [payment of municipal taxes](#) a condition for approval.

The minister has directed the AER that the actions noted in the ministerial order are to take effect on or before 30 April 2023. The [AER](#) is establishing a process so applicants for a well licence or well licence transfer do not have unpaid municipal taxes above a yet-to-be-established threshold on or before 30 April 2023.

## Re-Energizing Alberta's Minerals Sector

In addition to all the federal announcements regarding critical minerals this month, the Government of Alberta [proclaimed](#) that parts of the [Mineral Resource Development Act](#) (MRDA) are now in effect for brine-hosted minerals, allowing for the AER to be the full life-cycle regulator. The Government of Alberta also released [mineral mapping resources](#) available for use. The [Brine-Hosted Mineral Resource Development Rules](#) are now available as well as the AER's [Directive 090: Brine-Hosted Mineral Resource Development](#). The AER has also provided updates to Directive 056 Energy Development Applications and Schedules the Oil and Gas Conservation Rules, the Geothermal Resource Development Rules and Manual 012: Energy Development Applications to allow for regulation of brine hosted mineral resources. Industry can now apply for new wells, or convert wells for the purpose of brine-hosted mineral resource exploration and production via OneStop.

The Government of Alberta also plans to add helium as a critical mineral, and will be looking at rock-hosted mineral development next.



## New Guide To Groundwater Authorization

In February, a new [Guide to Groundwater Authorization](#) (the Guide) was released by the Alberta Environment and Protected Areas (EPA), and the previous guide from 2011 has been archived. The Guide includes references to updated regulatory bodies clarifies the application process for activities that may impact groundwater or divert and use groundwater. Some of the changes in the Guide include:

- Added verbiage that an approval is issued, under the *Water Act* where no groundwater use is intended, but activity has, or has potential to alter flow, direction of flow, level of water or impact aquatic environment.
- Clarifications on exemption of licensing requirements for household purposes (per Schedule 3 of *Water (Ministerial) Regulation*) and exemption of licensing saline groundwater.
- Changed review process for licenses to include one review by EPA prior to public notice, formerly there was an administrative review and then public notice (if required) then a separate technical review.
- Added that EPA applications to be submitted through Digital Regulatory Assurance System (DRAS) and now require point of use and timing of diversions (e.g. seasonal, annual).
- Added clarification of documents to be submitted with Temporary Division Licence application, when a groundwater evaluation report is not required.
- Added references to the Water Wells and Ground Source Heat Exchange Systems Directive (Wells Directive).
- Added clarification to requirements for determining hydraulic connectivity where there are multiple water bearing zones.
- Pump test now referred to as yield test, and requirements reinforced.
- Groundwater quality to be reported as total quantity, not dissolved quantity.
- Water wells 150 m or more deep require well license from AER.
- Added direction on determining if there is surface/groundwater connectivity in an area with an Approved Water Management Plan.
- For a replacement water well, amendment application required with a reclamation report for the original well.
- Added clarification on when approvals are not required for a **horizontal** closed-loop system for geothermal purposes.
- Added clarification to when *Water Act* authorization is required for oil and gas wells producing non-saline groundwater (removed reference to base of groundwater protection).
- New water licenses for springs are not permitted in a closed basin.



## Haisla First Nation Granted EA Certificate For Floating LNG Facility

Haisla First Nation has been [granted](#) a provincial environmental assessment (EA) certificate for Cedar LNG; a proposed \$3.28-billion floating liquefied natural gas (LNG) facility. [Cedar LNG project](#) is developed in a partnership between Haisla First Nation and Pembina Pipeline Corp on Haisla-Nation-owned land on Douglas Channel in Kitimat. Cedar LNG will use electricity from BC's hydro grid to operate and will be supplied with natural gas from the Coastal GasLink pipeline, which is still under construction. Cedar LNG is expected to be the largest First Nations majority owned infrastructure project in Canada, and with BC's Hydro supply it will be considered a low-emitting facility. The province of BC plans to enter into an MOU with Haisla Nation to achieve further climate objectives.

The Cedar LNG project will have an export capacity of three million tonnes a year, employing 500 people during construction and 100 people once the project is operational.

## New Energy Action Framework To Cap Emissions, Electrify The Clean Economy

On 14 March 2023, the province of B.C. described their new [energy action framework](#). With the energy action framework, the province will:

- "Require all proposed LNG facilities in or entering the environmental assessment (EA) process to pass an emissions test with a credible plan to be net zero by 2030.
- Put in place a regulatory emissions cap for the oil and gas industry to ensure B.C. meets its 2030 emissions-reduction target for the sector.
- Establish a clean-energy and major projects office to fast track investment in clean energy and technology and create good, sustainable jobs in the transition to a cleaner economy.
- Create a BC Hydro task force to accelerate the electrification of B.C.'s economy by powering more homes, businesses and industries with renewable electricity." (Government of B.C. 2023)

## Suspensions Lifted On Coquihalla River And Hunter And Wahleach Creeks

As of 22 March 2023, the BC Energy Regulator (BCER) lifted withdrawal suspensions for the [Coquihalla River and Hunter and Wahleach Creeks](#). However, suspensions remain in effect for Section 10 Licences under the *Water Sustainability Act* (WSA) due to drought conditions for the following watersheds:

- Nicola River Watershed
- Peace River Watershed
- Liard River Watershed

Applications for water diversions from certain streams in the watersheds with an active suspension may be considered if the stream has sufficiently recovered. Applications considered for review would need to demonstrate an effort to limited water allocations, selection of suitable point of diversion (POD), include discharge measurements and flow conditions at the POD and bathymetric data for lake sources. New applications in suspended watersheds would be reviewed on a case-by-case basis. Furthermore, proponents can continue to divert and use of water from dugouts, dams and the main channel of the Peace River or Dinosaur Lake within the watershed as these sources are not suspended.



## “Blue” Economy In B.C.

Seven projects recently received a total of \$7 million in funding from the Province's Innovative Clean Energy (ICE) Fund, two of which will support the ocean-based economy.

The ICE Fund is part of CleanBC, the Province's pathway to a more prosperous, balanced and sustainable future. CleanBC guides government's commitment to climate action to meet B.C.'s emissions targets and build a cleaner, stronger economy for everyone.

### Quick Facts:

- B.C. is home to a growing clean-energy sector and accounts for nearly 35% of Canada's clean-technology firms.
- Since 2008, the ICE Fund has committed approximately \$112 million to support pre commercial clean-energy technology projects, clean-energy vehicles, research and development, and energy-efficiency programs.
- ICE funding comes from a levy on the final sale of specified energy products – natural gas, fuel oil and propane distribution systems.
- ICE partnerships include First Nations, universities, municipalities and many emerging clean-technology companies throughout British Columbia.

Projects that received funding from the ICE Fund can be found [here](#).

To learn about the CleanBC plan, visit: <https://cleanbc.gov.bc.ca/>

## New Water Management Framework In Northeast British Columbia (NEBC)

Beginning 1 April 2023, proponents planning to request approval for water use authorizations within Treaty 8 territory reference the updated [Environment Flow Needs \(EFN\) Framework for Water Management](#). The updated EFN Framework aligns with the [Blueberry River First Nations Implementation Agreement](#) (the Agreement) that sets out to manage industrial water use as to not adversely impact the aquatic environment. In addition to the updated EFN assessment, the EFN Framework also provides improved hydrometric monitoring and the proposal to implement monetary penalties for non-compliances. The EFN Framework will be first piloted within the Blueberry River, Upper Beaton River and Lower Sikanni Chief River when reviewing water use authorization applications. The EFN Framework is set to be released April 2023, where proponents will incorporate the new EFN policy until the new Water Allocation Tool (WAT) is available for use (tentatively scheduled to be released in October 2023), which will initiate the pilot phase. Upon reviewing the results of the pilot phase, final recommendations and adjustments will be incorporated into WAT.



# Feature Report

## Borrow Pits and *Water Act* Authorization

In Alberta, borrow pits that have the potential to either alter the flow, level or location of water, and/or expose groundwater (i.e. impoundment of water) and have a total storage capacity greater than 2,500 m<sup>3</sup>, require Authorization under the [Water \(Ministerial\) Regulation](#) (the Regulation). While Approval for borrow excavation activities has always been a requirement under the Regulation, it has not always been actively monitored and enforced. As a result, there are thousands of borrow pits throughout the province that have been historically used as fresh water sources without proper borrow excavation approval. To address this issue, the Alberta Energy Regulator (AER) is currently flagging select borrow pit locations without an approval, so that water diversions cannot be permitted until the pit is rectified. In this context, rectifying the pit means undergoing an Audit process with the regulator. Operators must exercise due diligence to confirm that the borrow pit holds the proper authorizations before applying for a Water Licence for diversion purposes. Additionally, operators should be aware of the potential environmental impacts associated with borrow pit operations and implement appropriate management practices to minimize these impacts.

Integrated Sustainability can support clients to determine compliance status, and where pits are non-compliant, support in discussions with the AER rectify non-compliant borrow pit locations, as well as prepare new applications for proposed borrow pit sites as per the [Guide to Water Act Authorizations Required for Excavations \(Dugouts, Borrow Pits and other types of Pits/Excavations\)](#).



**Read more**  
on Borrow Pit  
Compliance Updates  
Under the *Water Act*



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*Integrated Sustainability acknowledges that our Vancouver Office is located on the unceded territories of the xʷməθkʷəy̓əm (Musqueam), Skwxwú7mesh (Squamish), and Selílwitlh (Tsleil-Waututh) Nations.*

*Furthermore, we also acknowledge that our Calgary Office is located on the traditional territories of the Blackfoot Confederacy (Siksika, Kainai, Piikani), the Tsuut'ina, the Îyâxe Nakoda Nations, the Métis Nation (Region 3), and all people who make their homes in the Treaty 7 region of Southern Alberta. We thank all these peoples for having cared for these lands and waters since time out of mind.*