

**Notice of Issuance of an
Order
Pursuant to section 94 of the
*Canadian Environmental Assessment Act, 2012***

December 2, 2016

File: CEAA Registry # - 63919

PURPOSE OF THE NOTICE

The purpose of this Notice is to notify BC Hydro (the proponent), to whom the order is directed, that the undersigned Enforcement Officers designated under s.89 of the *Canadian Environmental Assessment Act, 2012*, (CEAA 2012) have issued an Order.

AUTHORITY

This document constitutes a Notice for an Order issued to the proponent of the Site C Clean Energy Project, pursuant to section 94 of CEAA 2012.

NAME OF PERSON(S) TO WHOM THIS ORDER IS DIRECTED

This Order is directed to the following:

BC Hydro
333 Dunsmuir St.
Vancouver, B.C.
V6B 5R3

c/o

Jeff Belanger and Tracy Earle
7007 269 Road,
Charlie Lake, B.C.
V0C 1H0

ORDER

After conducting an inspection, the undersigned have reasonable grounds to believe that the following provisions of CEAA 2012 have allegedly been violated:

Failure of the proponent to comply with condition 2.6 which states:

"The Proponent shall implement the plan and provide to the Agency a review and summary of the implementation of the plan as well as any updates required to the plan on an annual basis commencing with construction. In the event of an occurrence of an accident or malfunction, the Proponent shall update the plan to incorporate new procedures and measures to avoid a reoccurrence, as necessary."

Relevant details of the Accidents and Malfunctions Plan are included in Annex I.

By failing to comply with a condition of the decision statement issued by the Minister of the Environment and Climate Change for the Site C Clean Energy Project, you have allegedly contravened s.6(b) of CEAA 2012. In so doing, you have allegedly committed an offence contrary to s.99(1) of CEAA 2012, punishable on summary conviction and liable, for a first offence, to a fine of not more than \$200,000 and, for any subsequent offence, to a fine of not more than \$400,000. Furthermore, s.99(4) states that if an offence under s.99(1) is committed or continues on more than one day, it constitutes a separate offence for each day on which it is committed or continued.

REASONABLE GROUNDS

I, Nicolas Courville, and I, Carl Johansson, Enforcement Officers designated under s.89 of CEAA 2012 and employed by Compliance promotion and Enforcement Unit of the Agency, have reasonable grounds to believe that these are the relevant facts surrounding the alleged contravention(s).

FACTS

The following constitutes the relevant facts surrounding the alleged contravention. We have personal knowledge of the facts herein deposed, except where stated to be on information or advice, in which case we believe them to be true:

1. The following constitutes the previously recorded actions taken by enforcement officers related to the alleged contravention:

On April 28, 2016, an inspection was conducted by Michel K. Vitou, Chief of Compliance promotion and Enforcement and Enforcement Officer Magali Francoeur. During this inspection Mr. Vitou used his powers under s.90(2)(i) of CEAA 2012 to cause machinery to cease in-water works until a boat was present and available for spill response.

2. At approximately 1600 hrs, MST, 30 November, 2016 – Enforcement Officers Courville and Johansson attended the eastern laydown area of the Moberly Bridge construction site:
 - a. It was observed that two inactive cranes were present at the laydown area.
3. At approximately 1300 hrs MST, 1 December, 2016 - A party of federal and provincial enforcement officers, accompanied by employees and contractors of BC Hydro travelled, on foot along the west bank of the Moberly river towards the Peace River from the west Moberly River Bridge laydown area. It was observed that:
 - a. No absorbent boom was present or observed along the west bank; and
 - b. In the event of an accident or malfunction, an emergency boat with spill materials must be launched from the north bank of the Peace River to respond to spills into the Moberly River.
4. At approximately 1400 hrs MST, 1 December, 2016 – Enforcement Officers Courville and Johansson once again attended the eastern laydown area of the Moberly Bridge construction site:

- a. It was observed that the two inactive cranes were still present at the laydown area; and
 - b. There were no workers present in the laydown area aside from those escorting the federal and provincial inspectors.
- 5. At 1412 hrs MST, 2 December, 2016 – Enforcement Officers Courville and Johansson attended the eastern laydown area of the Moberly Bridge construction site and observed:
 - a. 3 crew members were present in the laydown office but no workers were observed working while the inspection was taking place;
 - b. 2 cranes were noted idling within the laydown area; and
 - i. One idling crane was overhanging the constructed portion of the Moberly Bridge.
 - ii. No measures for secondary containment were observed on or adjacent to the bridge.
- 6. At 1447 hrs MST, 2 December, 2016 – Enforcement Officers Courville and Johansson attended the boat launch, where the emergency response boat is moored:
 - a. EO Johansson inspected the spill kit in the boat, and concluded it did not meet the requirements for an aquatic spill kit listed in the Environmental Protection Plan for the Moberly Bridge construction site.
- 7. At approximately 1500 hrs MST, 2 December, 2016 – Adjacent to the boathouse on the northern bank of the Peace River:
 - a. EO Courville observed an excavator operating on the Moberly Bridge;
 - b. EO Johansson corroborated EO Courville's observation and confirmed the presence and movement of an excavator on the Moberly Bridge using binoculars; and
 - c. EO Courville directed Tracy Earle to cease the activities of the excavator and have it removed from the bridge given the boat was inadequately prepared to respond if a spill occurred in the Moberly River, and that an appropriate absorbent boom was not previously observed on the banks of the Moberly River.
- 8. At 1737 hrs MST, 2 December, 2016– BC Hydro Offices;
 - a. Tracy Earle and Jeff Belanger are issued a verbal version of this Order.

MEASURES TO BE TAKEN

Under the authority given to us pursuant to subsection 94(1) of CEAA 2012, we hereby order you to take the following measures:

- 1. The proponent must cease or cause to cease all construction activities on the Moberly Bridge until:
 - a. An appropriate aquatic spill kit is present in the boat which would respond to spills at the Moberly Bridge construction site;
 - b. The absorbent boom can be appropriately placed in the Moberly River construction site area; and
- 2. Provide photo documentation that the above steps have been taken prior to recommencing work, to the Agency's satisfaction, within 30 days

EFFECTIVE DATE OF THE ORDER

This Order took effect immediately, as of 1737 hrs MST on 2 December, 2016.

COMPLIANCE WITH THIS ORDER IS MANDATORY

Failure to comply with an order issued under section 94 of CEEA 2012 is an offence under subsection 99(2) of the Act. The penalty for a first offence is a fine of not more than \$200,000, and the penalty for any subsequent offence is a fine of not more than \$400,000. If the offence of failure to comply with this order continues on more than one day, each day that the proponent fails to comply with the order constitutes a separate offence. A court may apply a penalty for each day that the non-compliance with the order continues.

DATE OF ISSUANCE

This order is the written form of the verbal order issued on December 2, 2016 at the Site C Clean Energy Project, Fort St. John, B.C, jointly by Enforcement Officers Courville and Johansson.

<Original signed by>

Nicolas Courville
Senior Enforcement Officer
Compliance promotion and Enforcement Unit
Canadian Environmental Assessment Agency

<Original signed by>

Carl Johansson
Senior Compliance and Enforcement Analyst
Compliance promotion and Enforcement Unit
Canadian Environmental Assessment Agency

Please note that in accordance with the Compliance and Enforcement Policy for the *Canadian Environmental Assessment Act, 2012* and the Canadian Environmental Assessment Agency's policy on transparency, this Order will be posted on the Agency's Compliance Promotion and Enforcement website.

ANNEX I – DETAILS OF CONDITION 2.6

Accidents and Malfunctions Plan

Revision 0: June 5, 2015

3.2 Release or Spills of Chemicals and Hazardous Materials

Measures to Reduce the Likelihood of Occurrence

Additional measures to reduce the likelihood of a release or spill of chemicals and hazardous material are described in the following sections of the **CEMP** (see below):

- Section 4.13 - Spill Prevention and Response.

Construction Environmental Management Plan (CEMP)

Revision 4: July 26, 2016

4.13 Spill Prevention and Response

EPPs (see below for Moberly River Construction Bridge EPP) will address, at a minimum, the following requirements if applicable:

- Spill Response Equipment

The minimum required content of vehicle spill kits is:

5. When working within, above, or within 15 metres of a watercourse or wetland with equipment that may result in a spill of a hazardous substance that suitable absorbent and containment booms be onsite and available for deployment in the event of a spill.

Moberly River Construction Bridge (MRCB) Environmental Protection Plan

Revision 6: September 26, 2016

6.13.1.2 General Measures for Spill Prevention and Containment

Primary protection measures will include:

- All equipment, including pickup trucks, working within 50 m of the Moberly or Peace River or their tributaries will be equipped with appropriate spill prevention and spill response measures, and all personnel will be adequately trained in response procedures.
- An emergency boat consisting of a skiff with a motor will be present on site throughout construction to allow for immediate response to spills or emergency situations.
- Spill kits will be stored:
 - In all pieces of large equipment (i.e., excavator at laydown area)
 - At the refueling area
- An aquatic containment boom will be included in the spill kit and stored along the riverbanks during instream works.

Additionally, the following controls will be implemented and maintained:

- Aquatic and poly drum spill kits will be located at the laydown area. Additional aquatic kits will be present within the emergency boat at the site during all works to allow immediate response to spills.

ANNEX I – DETAILS OF CONDITION 2.6

6.13.1.3 Spill Kit Contents

- For works near water, an aquatic spill kit, including an aquatic containment boom, will be stored along the banks of the Moberly River, where it can be quickly and easily accessed.

POLY DRUM SPILL RESPONSE KIT

- 1 Shovel
- 1 Flagging tape
- 2 pair Safety Goggles
- 2 pair Coveralls
- 2 pair Disposable respirators
- 1 Tarp and rope
- 20 Empty sand bags
- 100 Absorbent pads (oil, gas, and diesel)
- 5 18" x 18" oil absorbent pillows
- 10 3"x4" absorbent socks (oil, gas, diesel)
- 1 36" x 36" neoprene drain cover
- 1 250 mL commercially available bentonite clay
- 8 Hazmat disposal bags
- 2 pair Nitrile gloves
- 1 Laminated spill instructions
- 1 Laminated list of contents

AQUATIC SPILL RESPONSE KIT

A containment boom in addition to the Poly Drum Spill Kit.