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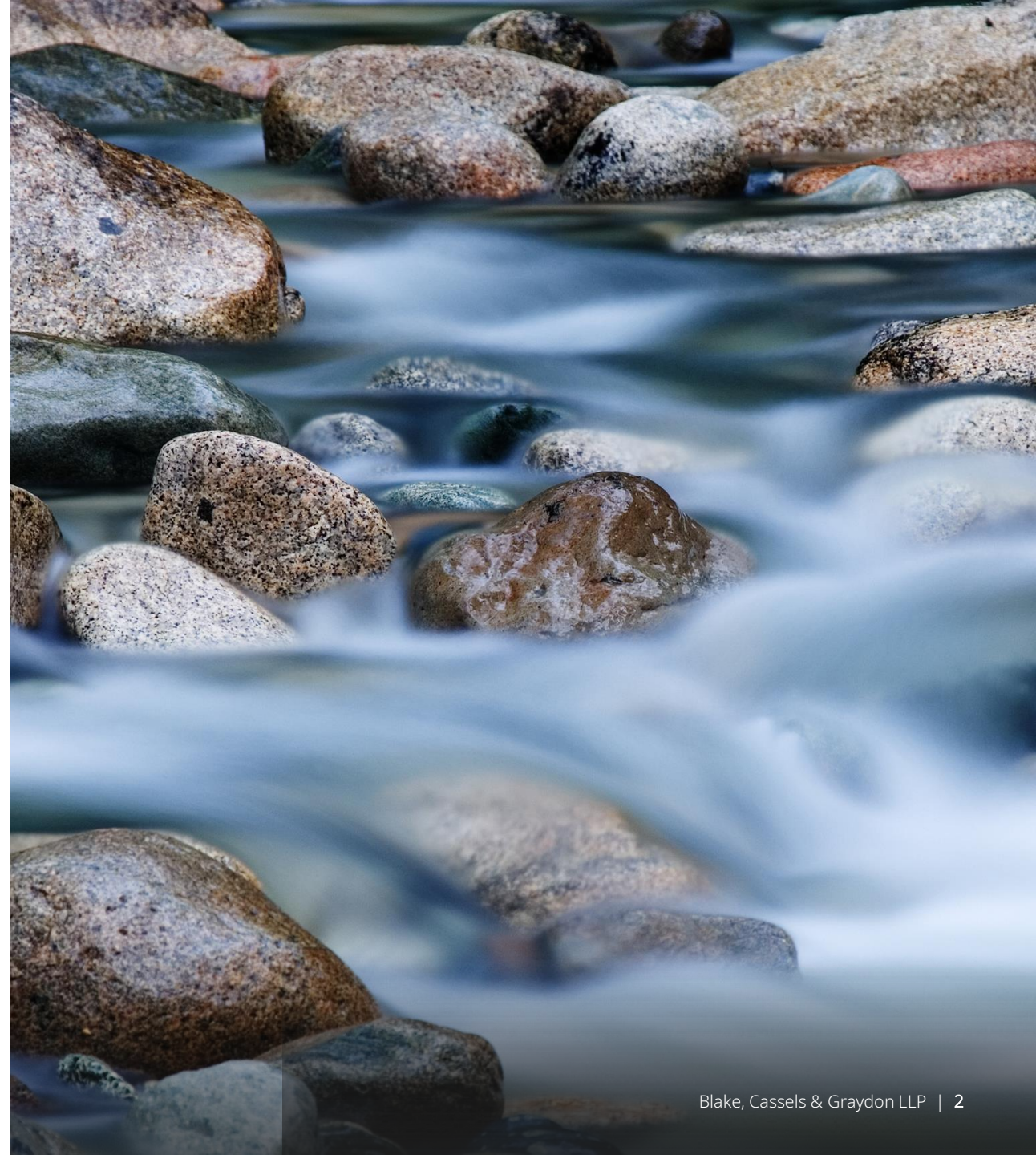
Recent Legislative and Regulatory Developments of Interest to Energy Lawyers

Jessica Mercier, Nicole Bakker, Elyse Bouey

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Agenda

1. Climate Change and Decarbonization
2. Oil and Gas
3. Pipelines
4. Environmental Law
5. Indigenous Law
6. Power
7. Critical Minerals



Climate Change and Decarbonization

Federal Clean Fuel Regulations

- Obligation for producers and importers of gasoline and diesel to achieve prescribed carbon intensity reduction requirements came into force on July 1, 2023.

Fuel	Baseline (gCO ₂ e/MJ)	2023	2024	2025	2026	2027	2028	2029	2030+
Gasoline	95	91.5	90.0	88.5	87.0	85.5	84.0	82.5	81.0
Diesel	93	89.5	88.0	86.5	85.0	83.5	82.0	80.5	79.0

- Regulated parties that owe compliance credits for the first period (July 2023 – December 2023) have until July 2024 to register their credits via the Credit and Tracking System.



Federal Clean Electricity Regulations (Draft)

- Emissions intensity standards on electricity generated from fossil fuels starting in 2035 (30 CO₂e/GWh)
- Goal: Achieve net-zero GHG emissions from the electricity sector by 2050
- Potential amendments include:
 - Tailoring emissions limits to each unit's capacity
 - Adjusting the Performance Standard to allow for retrofiting
 - Permitting owners to pool emissions from multiple assets
 - Permitting limited use of offsets
 - Extending the end-of-prescribed life period to minimize stranded assets
 - Delaying the application of emission standards to new units
 - Providing time-limited allowances for emissions from existing cogeneration units
 - Adjusting minimum size thresholds
 - Allowing provincial grid operators declaring emergencies to temporarily suspend emissions standards



Carbon Capture, Utilization & Storage

- CCUS Investment Tax Credit (Federal)
- Alberta Carbon Capture Incentive Program
 - Grant to incentivize CCUS projects located within Alberta
- Pathways Alliance CO₂ Transportation Network and Storage Hub
 - Pipeline applications filed
 - Storage hub applications expected later in 2024
- Capital Power's Genesee CCUS recently cancelled citing investment uncertainty



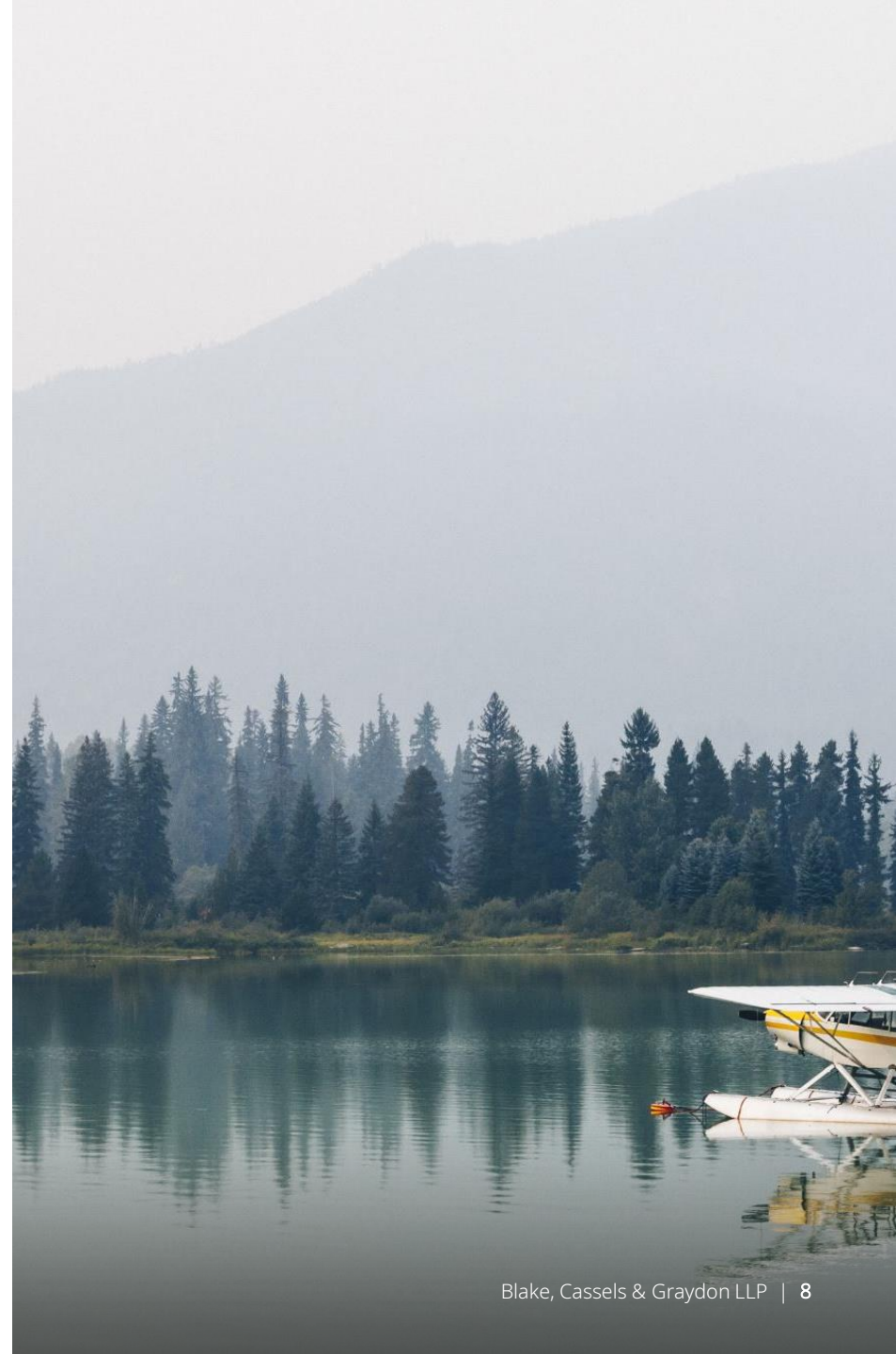
Oil and Gas

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British Columbia PCA Framework

Permittee Capability Assessment (PCA) Program

- As of June 1, 2023: the 100 percent corrective action requirements are triggered if a permittee's assessed risk factor is over 66.6.
 - Corrective action requirements no longer be limited to 50 percent of the permittee's dormant, inactive and marginal (DIM) site liability; \$10 million cap still applies
- Starting June 1, 2024: the program will be expanded to include dormant facilities and pipelines.



Alberta Liability Management Framework

Inventory Reduction Program

- Updates to the program under *Directive 088: Licensee Life-Cycle Management*.
- The program includes two components:
 - Closure nomination process, and
 - Closure spend quotas.
- Option for supplemental closure spend in lieu of other requirements removed January 2024

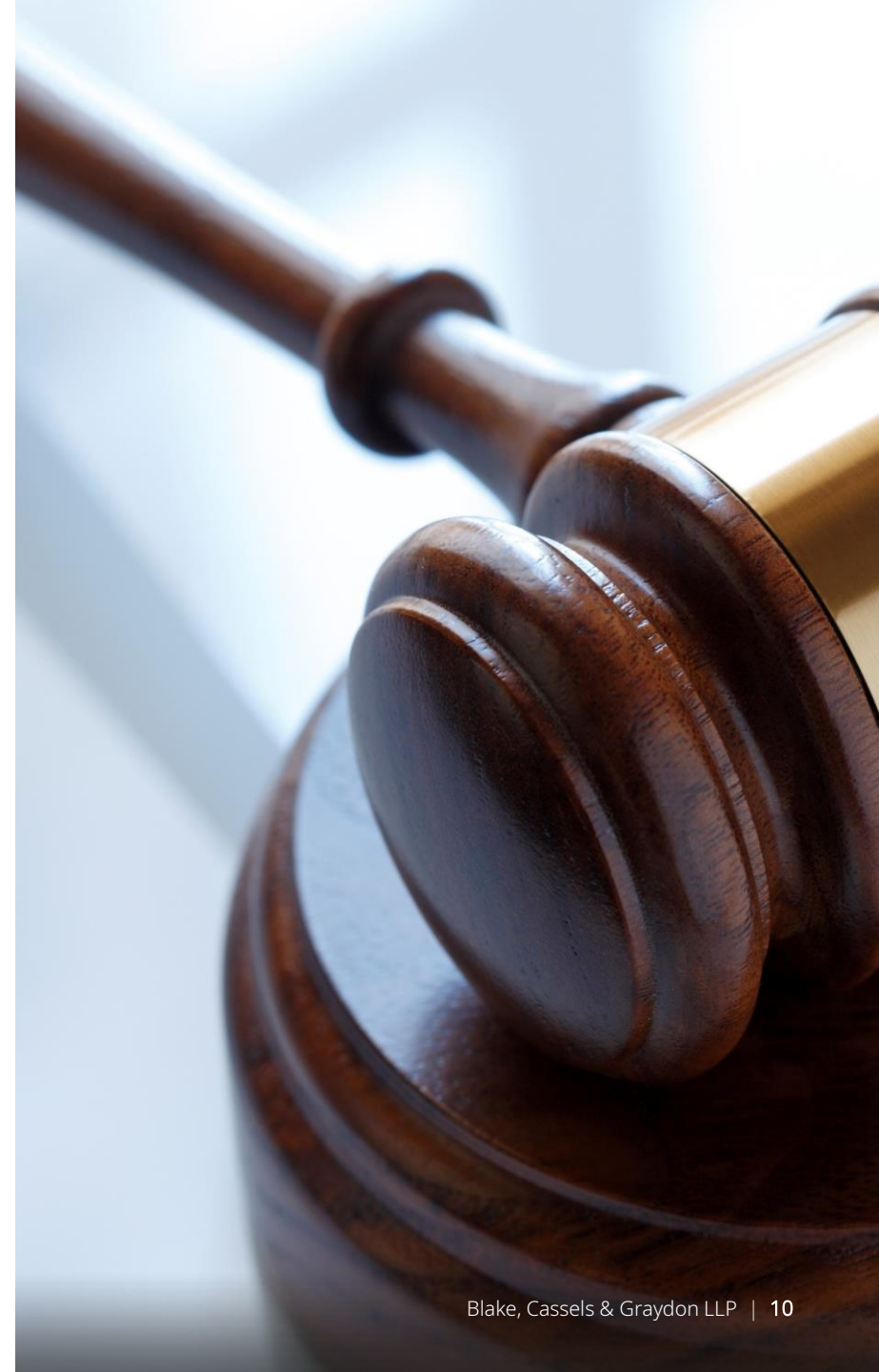
Liability Management Rating (LMR)

- Bulletin 2023-45: AER intends to replace the LMR and establish a new security framework.
- Stakeholder consultation regarding these amendments will take place in 2024.



AlphaBow Energy Ltd.

- March 30, 2023: AER's Closure and Liability Management (CLM) branch issued order to AlphaBow related to concerns about its management of assets
- June 5, 2023: the CLM ordered AlphaBow to suspend its operations after its failure to comply with the March Order.
- The AER considered Alphabow's regulatory appeals of the orders. AlphaBow alleged that the Orders were procedurally unfair and that the requirements were unreasonable.
- The Panel considered AlphaBow's argument that section 27 of the OGCA can only be used on a site-specific basis
 - The AER must provide justification when seeking to address multiple sites in a single section 27 order.
 - However, not necessary to require site-specific justifications where a licensee's record demonstrates a need for broad enforcement.



Pipelines

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Trans Mountain Pipeline Expansion Interim Toll

- November 2023: CER issued preliminary decision approving preliminary interim toll
 - Benchmark toll of \$11.46/bbl for shippers with 15-year contract transporting <75,000 bbl/d from Edmonton to Burnaby
- RH-002-2023: Proceeding to set final interim toll based on detailed cost review is ongoing
- Final interim toll will be subject to true-up for actual costs



Recent Developments

Updated Alberta Pipeline Rules

- Effective November 15, 2023
- Goals: Modernization, reduce administrative burden, align with CSA Z662 and pipeline safety recommendations, eliminate prescriptive and duplicative requirements

Pipelines and the Energy Transition

- Rate applications re: providing natural gas service to new subdivisions and upgrading existing natural gas supply infrastructure
 - Ontario Energy Board: EB-2022-0200 - Enbridge Gas Inc. Application for 2024 Rates, Phase 1
 - British Columbia Utilities Commission: G-361-23 - FortisBC Energy Inc. Okanagan Capacity Upgrade Project Application
- Regulators considered the energy transition and decarbonization policies/legislation when assessing reasonableness of applicants' economic projections

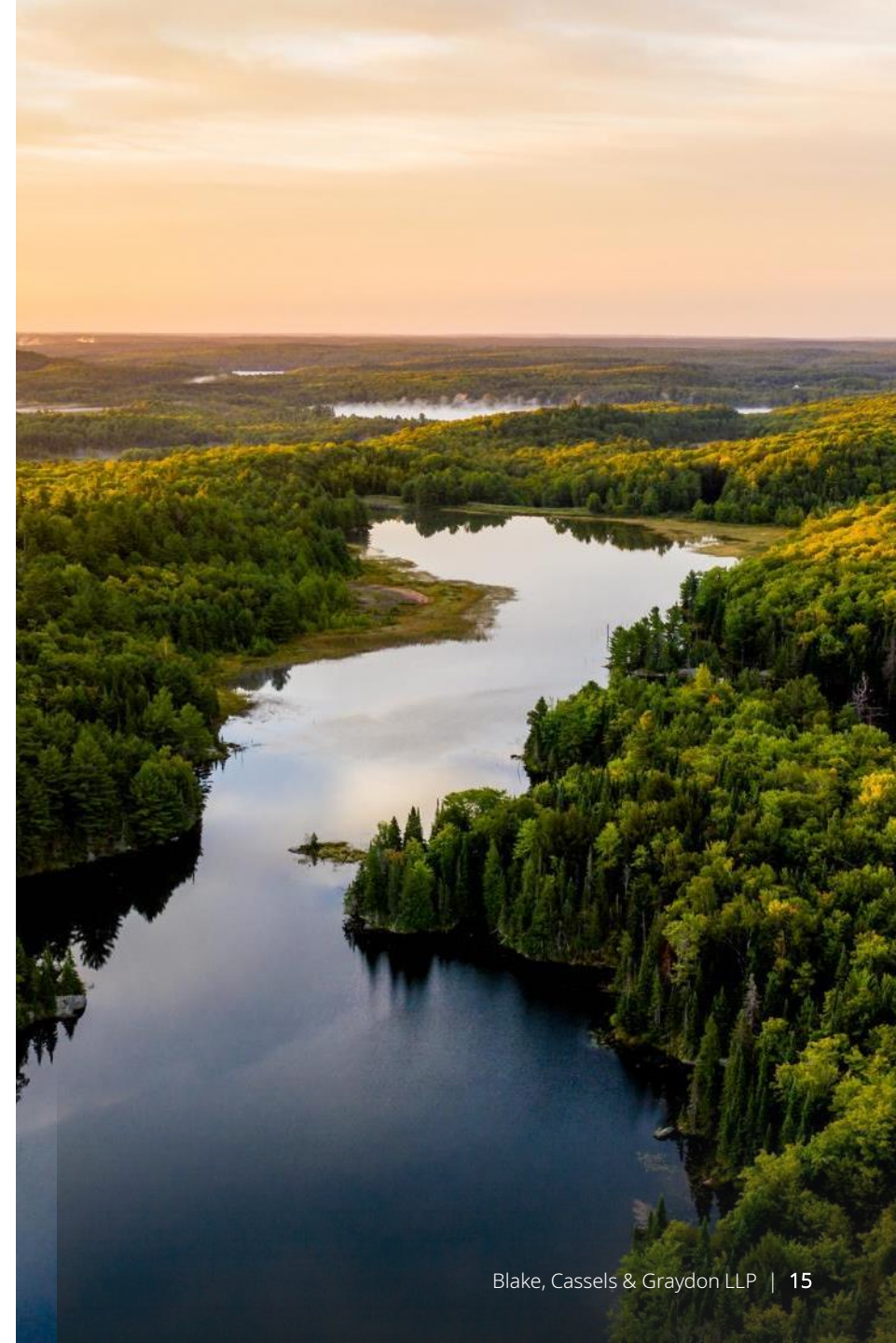


Environmental Law

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Impact Assessment Act

- *Reference Re Impact Assessment Act*
 - Designated project scheme unconstitutionally extends federal decision-making authority
- Interim Guidance re: IAA Administration
 - Ongoing assessments: Agency to apply SCC analysis and provide views on whether impacts fall under federal jurisdiction
 - New assessments: Pause on designating projects until amended legislation is in force
- Proposed amendments introduced April 30, 2024
 - "adverse effects within federal jurisdiction"
 - Non-negligible adverse changes
 - 2-step decision-making
 - Are adverse effects within federal jurisdiction likely to be significant
 - Are such effects justified in the public interest having regard to s. 63 factors



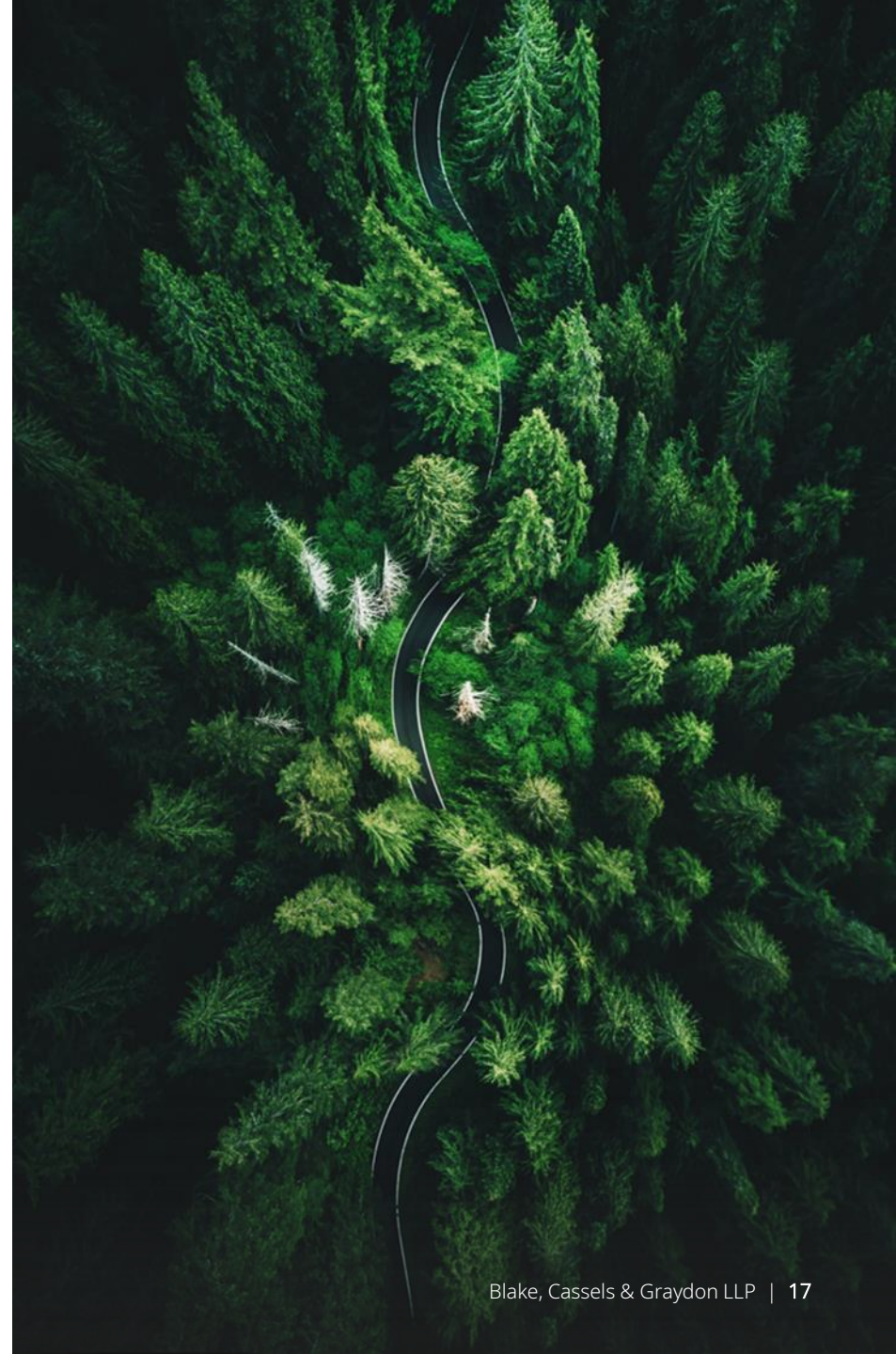
Charges under EMCRA and TIER

- Alberta Environment and Protected Areas laid 25 charges against Amberg Corp. and its employee
- Charges include:
 - Performing the functions of a third-party assurance provider without the requisite qualifications
 - Failing to comply with the requirements of the Standard for Validation, Verification and Audit
 - Knowingly providing false or misleading information
- Employee entered guilty plea
- Charges against Amberg Corp. withdrawn
- Case highlights importance of third party assurance and verification processes under TIER



CEPA Amendments

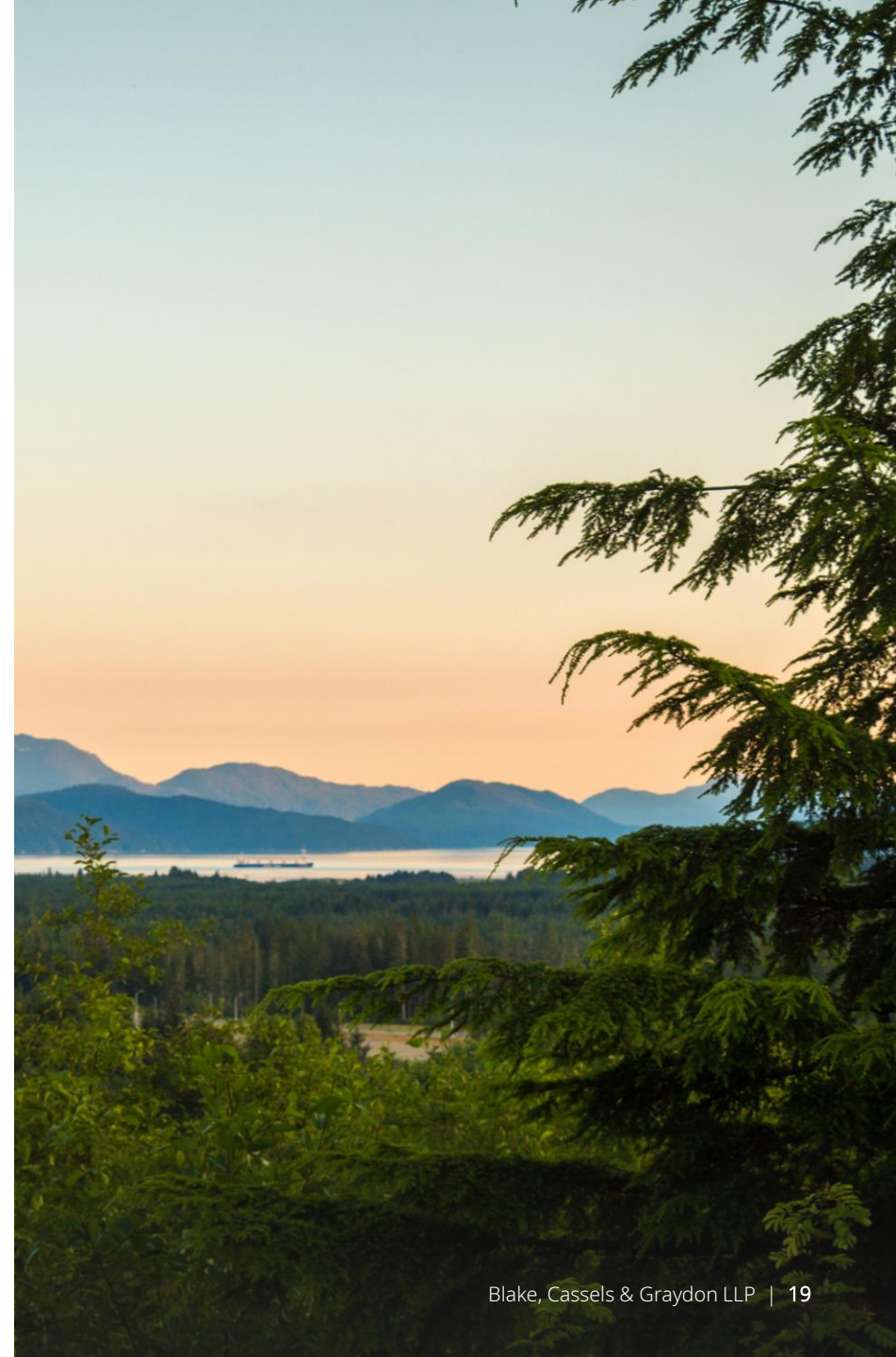
- *Strengthening Environmental Protection for a Healthier Canada Act*
- Right to a healthy environment “as provided under this Act, subject to any reasonable limits”
- Commitments to:
 - Implement UNDRIP
 - Uphold principles of environmental justice
 - Avoid adverse effects that disproportionately affect vulnerable populations
- Expanded information gathering powers, including with respect to hydraulic fracturing and tailings ponds
- Mechanism for Canadians to request assessment of chemicals for inclusion in Schedule 1



Indigenous Law

UNDRIP Action Plan

- Created pursuant to s.6 of the *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14
- 181 guiding measures spanning the 2023-2028 period.
- Measures are categorized according to policy priorities that are considered to be:
 - Shared priorities;
 - First Nations priorities;
 - Inuit priorities;
 - Métis priorities; and
 - Indigenous Modern Treaty Partner priorities.



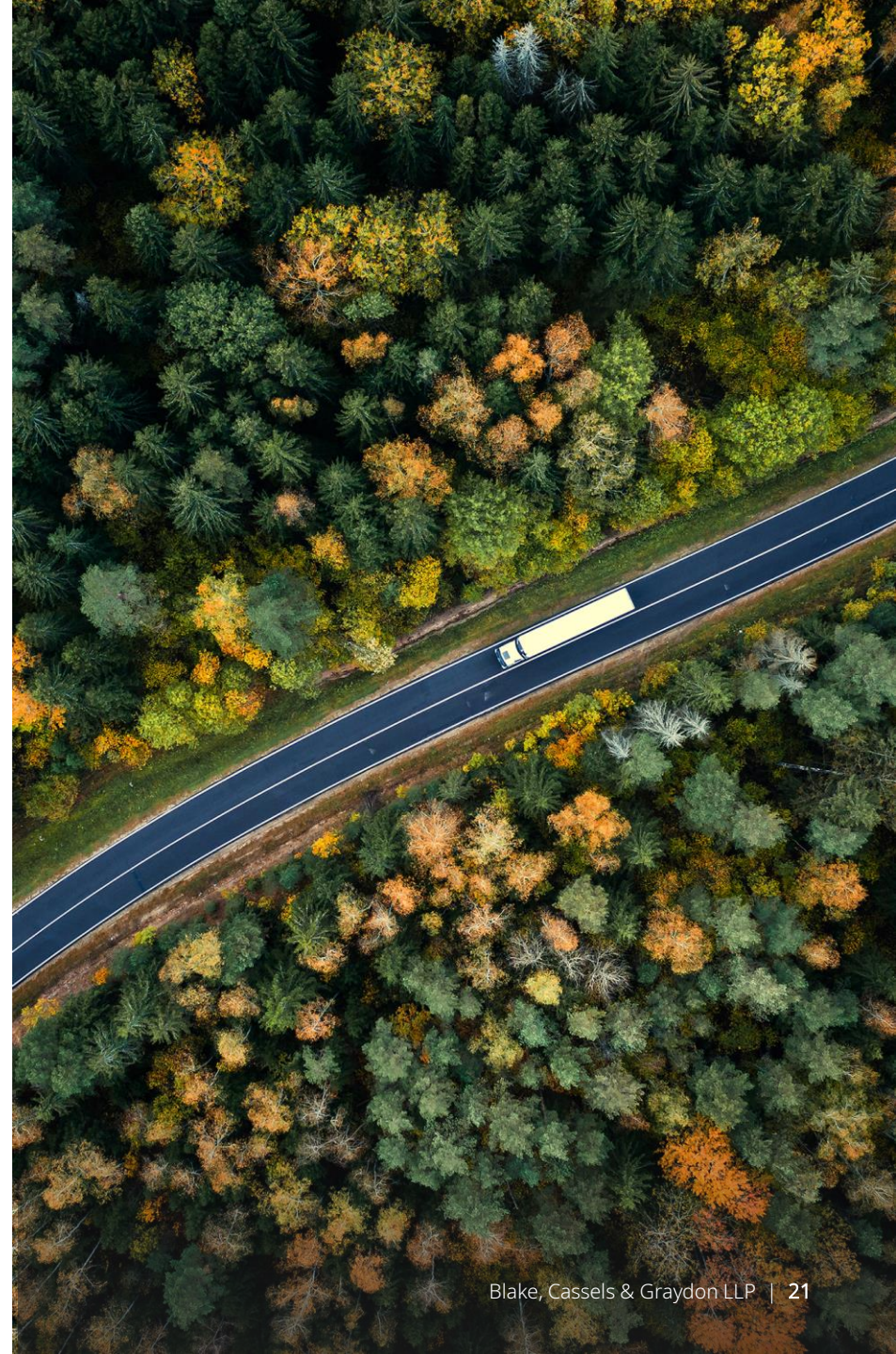
NEBC Connector Project

- Located within Treaty 8 and traverses the Blueberry River First Nations Claim Area
- Previously, in *Yahey v British Columbia*: The BCSC held that the Province may not continue to authorize activities that unjustifiably infringe Treaty 8 rights of the Blueberry River First Nation
- CER found that the BC Supreme Court's declarations in *Yahey v British Columbia* applied to the provincial Crown and were not binding on it
- CER recommended approval of the Project subject to 49 conditions, many of which are informed by submissions from Indigenous interveners



BCER Cumulative Effects Management

- *Blueberry River First Nations Implementation Agreement* effective January 2023
 - BCER and BRFN co-developed consultation process for development in the BRFN Claim Area
 - Prescribed BRFN Implementation Agreement Form
- Treaty 8 Planning and Mitigation Measures
 - Updated May 2024
 - Baseline planning and mitigation measures for seismic activity, water withdrawal, roads, aggregate/ borrow pits, pipelines and other facilities
 - Treaty 8 consultation processes anticipated, including enhanced guidance for Nation-specific pre-engagement practices and process timelines



BCER Cumulative Effects Management



Power

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Renewables

- Alberta:
 - *Generation Approvals Pause Regulation* and AUC Inquiry
 - Module A: land impact issues and role of municipal governments.
 - Module B: generation supply mix and electricity system reliability.
 - Government of Alberta policy guidance issued February 28, 2024
 - Enhanced interim information requirements and AUC Rule 007 consultation under Bulletin 2024-08
- Ongoing provincial renewable procurement in other jurisdictions, including Ontario (5,000 MW), Nova Scotia (350 MW) and British Columbia (3,000 GWh/year).



Nuclear

- Alberta & Saskatchewan:
 - Bilateral MOU to advance nuclear power generation
 - Capital Power Corp. and Ontario Power Generation partnered to complete SMR feasibility assessment in Alberta
 - SaskPower is evaluating two potential SMR sites and selected GE Hitachi BWRX-300 as preferred technology
- Ontario:
 - *Plan for a Clean Energy Future* to align with interprovincial MOU (Ontario, Saskatchewan, Alberta, New Brunswick)
 - Early works underway for a 300 MW SMR at Ontario's Darlington Nuclear Generating Station
 - Additional SMRs are earmarked for future development
- New Brunswick:
 - Application filed with Canadian Nuclear Safety Commission for Licence to Prepare Site Application located west of existing Point Lepreau Nuclear Generating Station



Energy Storage

Updated *Hydro and Electric Energy Regulation* (Alberta)

- Introduces process for energy storage facility applications
- Reduced reporting and application requirements to support energy storage and self-supply and export
- New AUC Rule 007 requirements under section 10 (energy storage facilities) and public consultation for further Rule 007 changes



Electricity

Alberta:

- Short and long-term plans for a Restructured Energy Market:
 - Interim price cap under *Market Power Mitigation Regulation*
 - Supply requirements for long lead time generators under *Supply Cushion Regulation*
- Anticipated amendments to the *Transmission Regulation*:
 - Removal of prescribed GUOC rates
 - System-wide average for line loss calculation
 - Expansion of non-wires solutions for reliability

Interties:

- Complaints from NorthPoint Energy Solutions Inc. (domestic) and BHE Canada Limited (international)
- Nova Scotia approval of the NS-NB Reliability Intertie Project

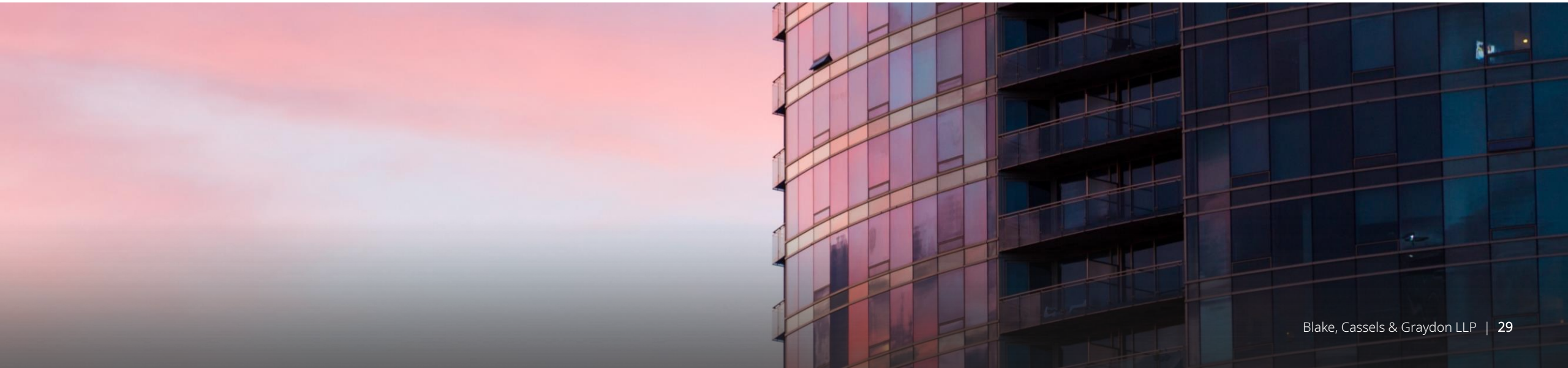


Critical Minerals

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Critical Minerals

- Federal Funding
 - \$300 million in contribution funding in two streams: preconstruction activities and shovel-ready projects
- *Alberta Mineral Resources Development Act*
 - Centralized the regulatory functions for minerals exclusively under the AER
 - Brine-hosted minerals and rock-hosted minerals
 - Uncertainty regarding issuance of permits for operating mining facilities not previously under AER jurisdiction (i.e., licensee eligibility under AER Directive 067)
- *Saskatchewan Helium and Brine Mineral Tenure Policy*
 - Overlapping helium and brine mineral tenure dispositions in the same stratigraphic horizon



Summary

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Q&A

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Contact Us



Jessica Mercier
Counsel, Imperial Oil
+1-587-962-4642
jessica.a.mercier@esso.ca



Nicole Bakker
Associate, Calgary
+1-403-260-9645
nicole.bakker@blakes.com



Elyse Bouey
Associate, Calgary
+1-403-260-9651
elyse.bouey@blakes.com

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