

INSPECTION RECORD

Project Name:	Progress Energy dams D-048-h and D-042-k	Inspection Report Status:	FINAL
Certificate #:	No Certificate	Inspection No:	FY17/18-16, FY16/17-30
Certificate Status:	Non-Certified	Inspection Date:	2017-01-10 2017-06-22
Region:	Peace	Office:	Victoria
Trigger:	Planned	EAO Inspector(s):	Chris Parks, Senior Compliance and Enforcement Officer (C&E Parks)
Sector:	Energy	Location (UTM):	D-048-H: 10V 555188.00 E, 6303591.00 N D-042-K: 10V 514042.00 E, 6340516.00 N
Location Description	This record is specific to the inspection of two water storage facilities constructed by Progress Energy located in the Peace Region of BC. D-048-H is located approximately 105km northwest of Fort St. John and 6km west of the Alaska Highway, accessed off the Mile 120 Road. D-042-K is located approximately 160km Northwest of Fort St. John, approximately 3.5km West of the Alaska Highway and 1.5km South of the Sikanni River, accessed off the Mile 156 Road.		
Incidents of Non-Compliance Observed	Yes		
Inspection Summary:	<p>C&E Parks Inspected the dam locations on January 9 (D-042-K) and 10 (D-048-H), 2017. The inspection was attended by Progress Energy representatives on both days. C&E Parks walked the perimeter of the facilities and collected notes and photographs specific to the onsite conditions. Both locations were under approximately 1m of snow cover which limited the ability of C&E Parks to identify some site features, such as small streams. C&E Parks completed a verbal debrief of inspection observations with Progress Energy representatives on the afternoon of January 11th, 2017.</p> <p>C&E Parks completed a follow-up inspection of the dam locations under snow-free conditions on June 22, 2017. Progress energy representatives did not attend.</p> <p>After review of observations and information obtained during and subsequent to the inspections, C&E Parks has reached the preliminary determination that Progress Energy is noncompliant with section 8 of the <i>Environmental Assessment Act (Act)</i>. Both dam structures constitute a reviewable project under the Reviewable Projects Regulation of the <i>Act</i>, are constructed, and operating (collecting water), and Progress Energy has not obtained either an environmental assessment certificate as required by section 8 of the <i>Act</i>, or a determination under section 10(1)(b) of the <i>Act</i> that these facilities do not require an environmental assessment certificate.</p>		

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Certificate or Act:	<i>Environmental Assessment Act</i>
Activity:	On Site
Response:	Order under section 34(1)(b)

Regulated Party:	Progress Energy Ltd.
Certificate Holder's Contact(s):	Jarred ANSTETT, Regulatory Advisor, Progress Energy
In Attendance:	Matt EDGAR, Progress Energy Eduardo ROSSI, Progress Energy Ken McLean, BC Oil and Gas Commission
Mailing Address:	Progress Energy 1200, 205 Fifth Ave. SW Calgary, AB Canada T2P 2V7
Phone No:	403.351.6870
Fax No:	
Contact Email:	janstett@progressenergy.com

INSPECTION DETAILS

Types of Compliance:	Pre-Construction
Requirement Description:	<p>Section 8 of the BC <i>Environmental Assessment Act</i> states:</p> <p>8 (1) Despite any other enactment, a person must not</p> <ul style="list-style-type: none"> (a) undertake or carry on any activity that is a reviewable project, or (b) construct, operate, modify, dismantle or abandon all or part of the facilities of a reviewable project, <p>unless</p> <ul style="list-style-type: none"> (c) the person first obtains an environmental assessment certificate for the project, or (d) the executive director, under section 10 (1) (b), has determined that an environmental assessment certificate is not required for the project.

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	<p>(2) Despite any other enactment, if an environmental assessment certificate has been issued for a reviewable project, a person must not</p> <ul style="list-style-type: none"> (a) undertake or carry on an activity that is authorized by the certificate, or (b) construct, operate, modify, dismantle or abandon all or part of the project facilities that are authorized by the certificate, <p>except in accordance with the certificate.</p>
Findings:	<p>In response to information received from the Oil and Gas Commission, C&E Parks attended the D-042-K and D-048-H dam locations. The dams are fully constructed and impounding water. Appendix A and B provide “Overland Flow Assessments” completed by Progress Energy for both dams, which identify that both structures are fed by watercourses that are classified as streams under the <i>Water Act</i>, and the <i>Water Sustainability Act</i>, which replaces the <i>Water Act</i> as of February 2016. Photos 1 and 2 show D-042-K and D-048-H under snow-free conditions.</p> <p>Appendices C and D provide the “Dam Registration Letters” for the D-042-K and D-048-H structures, which identify the dam heights as 23m (D-042-K) and 16.1m (D-048-H). Part 5 of the <i>Reviewable Projects Regulation</i> of the <i>Environmental Assessment Act</i> identifies that new dam structures for the purposes of storing water that are greater than 15m in height constitute a reviewable project under the <i>Environmental Assessment Act</i>.</p> <p>After considering the above information C&E Parks has determined Progress Energy is not compliant with section 8 of the EA Act given that the dams exceed 15m in height, are therefore reviewable projects under the Environmental Assessment Act, and that Progress Energy has constructed and operated these facilities without first obtaining either an environmental assessment certificate or a determination that these projects were not reviewable under section 10(1)(b) of the Act.</p> <p>Please see “Actions Required by Proponent(s) & Additional Comments” for additional information.</p>

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Photo 1: D-048-H, June 22, 2017.



Photo 1: D-042-K, June 22, 2017.

Compliance:

Out

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Actions Required by Proponent(s) & Additional Comments:	
See Order under section 34(1) of the Act, attached as Appendix E to this record	
Inspection Conducted by:	
Signature: Chris Parks	Date Signed: 2017-10-31
Enclosure(s) to Proponent(s) & Description:	
Appendix A: Dam Registration Letter D-042-K Appendix B: Dam registration Letter D-048-H Appendix C: Overland Flow Assessment D-042-K Appendix D: Overland Flow Assessment D-048-H Appendix E: Order under section 34 of the EA act, issued October 31, 2017	
Regulatory Considerations:	
<p>EAO Compliance and Enforcement has determined that Progress Energy is noncompliant with section 8 of the Act, specific to the construction of the dam facilities described in this inspection record. Consequently Progress Energy is required to cease water collection and storage at the D-042-K and D-048-H, as per an Order under section 34 of the Act issued October 31, 2017, and attached to this record as Appendix E. EAO Compliance and Enforcement will consider additional enforcement under the Act should conditions at D-042-K and D-048-H make this necessary to prevent adverse effects.</p> <p>On July 20, 2017, Progress Energy applied to the Environmental Assessment Office for exemption orders under section 10(1)(b) of the Act. That application is under review by the Environmental Assessment Office, as of the date of this inspection record. Should an exemption not be granted, Progress Energy may choose to make an application for an environmental assessment certificate or certificates for these facilities.</p> <p>Should the executive director decline to issue an exemption, and should Progress Energy choose not to apply for an Environmental Assessment Certificate, or should Ministers decline to issue an Environmental Assessment certificate if applied for, additional enforcement may be forthcoming. Additional enforcement may also be issued in the event that conditions at the dam facilities change.</p>	

Environmental Assessment Office	Mailing Address: PO Box 9426 Stn Prov Govt Victoria BC V8W 9V1	Telephone: 250 387-0131 Fax: 250 387-2208 Email: eao.compliance@gov.bc.ca Website: http://www.eao.gov.bc.ca
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