



ENVIRONMENTAL ASSESSMENT OFFICE: 20230030_AP002
ADMINISTRATIVE PENALTY ASSESSMENT FORM
EAC NO: E14-03 ([Appendix 1](#))
PROJECT NAME: Coastal GasLink Pipeline Project

PART ONE: THE CONTRAVENTION

Party

Coastal GasLink Pipeline Ltd.

Contravention or Failure

Failure to comply with Order EN2022-028 ([Appendix 2](#)), issued under Section 53(1) of the *Environmental Assessment Act* (2018) (the Act).

Date of Contravention or Failure

- May 4, 2023;
- May 5, 2023; and,
- May 6, 2023.

Summary of Relevant Facts

Coastal GasLink Pipeline Project

- Coastal GasLink Pipeline Ltd. is a company registered in British Columbia (B.C.) that is currently constructing the Coastal GasLink Pipeline Project (Project).
- The Project is an approximately 670 kilometre (km) long natural gas pipeline connecting facilities near Chetwynd, B.C. to the LNG Canada facility near Kitimat, B.C. ([Appendix 3](#))

Inspection conducted by EAO Compliance and Enforcement Officers that lead to Order EN2022-028

- On July 13, 2022, the Minister of Environment and Climate Change Strategy entered into a Compliance Agreement (the Agreement) with the Holder pursuant to Section 55 of the Act ([Appendix 4](#)).
- The Agreement requires that the Holder develop and comply with Work Execution Plans (WEP).

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- On October 4 and 5, 2022, Environmental Assessment Office (EAO) Compliance and Enforcement (C&E) Officers conducted a site inspection of the Project and documented that the Certificate Holder was not compliant with the requirements of the Agreement and specific WEP.

Order EN2022-028

- On October 14, 2022, EAO Compliance and Enforcement Branch (CEB) issued to the Project Enforcement Order EN2022-028, containing the following four clauses:
 - 1) Construction may not occur in any Identified Area unless in full compliance with an Approved WEP or Approved amended WEP, or as otherwise provided for in the Agreement.
 - 2) The Certificate Holder must cease all variations from an Approved Work Execution Plan that are not in accordance with the Agreement.
 - 3) The Certificate Holder must cease installation of Measures that are not as specified in the Work Execution Plans.
 - 4) The Certificate Holder must complete the actions identified in clauses 1 through 3 of this Order to the satisfaction of EAO C&E.

Inspection against the requirements of Order EN2022-028

- From May 4 to 6, 2023, EAO CEB conducted an inspection of the Project against requirements of the Agreement and Enforcement Order EN2022-028. It was determined that the Certificate Holder was not compliant with the requirements of the Agreement specific to observations within the following WEP:
 - KP 146+200 to 149+200;
 - KP 149+200 to 154+000;
 - KP 154+000 to 157+000; and,
 - KP 157+000 to 161+015.

Findings

- Inspection Record 20230030_IR003 ([Appendix 5](#)) documents the Certificate Holder's non-compliances with EN2022-028 from May 4 to 6, 2023.
- Specifically, 20230030_IR003 documents that the Project installed measures that are not specified in the WEP as per clause 3 of EN2022-028 in the following Identified Areas:
 - KP 146+200 to 149+200 on May 4 & 5, 2023;
 - KP 149+200 to 154+000 on May 6, 2023;
 - KP 154+000 to 157+000 on May 5 & 6, 2023; and,
 - KP 157+000 to 161+015 on May 6, 2023.

- As a result of confirmed non-compliances with EN2022-028, as documented in Inspection Record 20230030_IR003, an Administrative Penalty (AP) is recommended for the contravention of Order EN2022-028.

PART TWO: PENALTY CALCULATION

Based on the information provided above, an Administrative Penalty is being considered for failure to comply with Section 53(1) enforcement Order EN2022-028, issued to the Project on October 14, 2022.

Factors to be considered in penalty calculation:

A. Base Penalty:

The maximum penalty for failure to comply with an Order issued under *the Environmental Assessment Act* (2018) (the Act) listed in the Administrative Penalties (*Environmental Assessment Act*) Regulation (B.C. Reg. 64/2020) is: **\$100,000**.

The base penalty reflects the seriousness of the contravention or failure, based on the following two factors:

a) Nature of Contravention or Failure

The nature of the non-compliance is considered to be **Major**.

Non-compliance with the requirements of the Act, including Orders and the Agreement issued under Sections 53 and 55 of the Act respectively, undermines the effectiveness of the Act in addressing the adverse effects of regulated projects.

The contravention in this Penalty Assessment Form documents a failure to comply with the Agreement between the Coastal GasLink Pipeline Project and the Minister of Environment and Climate Change Strategy and Minister Responsible for Translink. This Agreement was reached between these two parties following the Project's significant history of non-compliance and previous progressive enforcement under the Act. The contravention has resulted in adverse effects on the environment.

b) Actual or Potential Adverse Effects

The potential adverse effects are considered to be **Medium**.

The failure to meet the requirements of Enforcement Order EN2022-028 has resulted in both environmental and social impacts.

Environmental:

Officers have observed adverse effects to water quality, wetlands and fish habitat, and potential adverse effects to fish and other aquatic life. The significance of these impacts is not fully known as they have occurred over a wide geographic area and over a prolonged period of time. There was some measurement completed by CGL Aquatics Qualified Professionals that identified low

fish habitat sensitivity, no habitat or no adverse effect observed at 7 sites within the KP146+200 to 161+015 range. This has been taken into account and resulted a change from high to medium potential adverse effects.

Social:

Non-compliance with the requirements of the Act undermines public and First Nations' confidence in the effectiveness of environmental assessment certification in B.C. and may impact individuals trust in the function of Government. Re-occurring contraventions have led to increased pressure on Government resources to ensure compliance on the Coastal GasLink Project, while taking away those resources from other projects regulated by the Act.

As a result of the widespread nature of the contravention, evidenced by the over fourteen-km range the WEPs cover (totalling from KP146+200 to 161+015), the likely duration of sediment inputs at those sites, and the fact that these adverse effects cannot be easily remedied, the potential adverse effects of the contravention are considered to be **High**.

The *base penalty* for this non-compliance is:



\$ 65,000

B. Application of Penalty Adjustment Factors

The following factors reflect the unique circumstances of this file, including what happened before, during and after the contravention or failure.

c) Compliance History including previous contraventions or failures, APs imposed or Orders issued:	(+/-)\$ <i>10,000</i>
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The following table outlines the enforcement actions issued by the EAO CEB to the Certificate Holder relating to non-compliance with erosion and sediment control requirements over the course of the Project.

Table #1. Summary of Enforcement Actions issued to the Project relating to non-compliance with erosion and sediment control requirements as of May 4, 2023.

<u>Enforcement Action</u>	<u>Total Number Issued</u>
Notice of Non-compliance	4
Warning / Warning Letter	2
Section 53 Order	8
Administrative Penalty – Issued	3

d) Whether contravention or failure was repeated or continuous:	(+\$) <i>10,000</i>
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The CEB of the EAO references the following as evidence that this contravention was repeated four times prior to this contravention:

- Inspection Record number IR2022-054 ([Appendix 6](#)) – November 3, 2022;
- Inspection Record number 20230019_IR001 ([Appendix 7](#)) – April 6, 2023;
- Inspection Record number 20230030_IR001 ([Appendix 8](#)) – April 24, 2023; and,
- Inspection Record number 20230027_IR001 ([Appendix 9](#)) – May 3 and 4, 2023.

Each of the above referenced Inspection Records document the failure to comply with Order EN2022-028, issued under Section 53(1) of the Act.

e) Whether contravention or failure was deliberate:	(+\$)0
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EAO CEB has no evidence that the contravention was deliberate.

f) Economic benefit derived by the party from the contravention or failure:	(+\$)0
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The EAO recognizes significant time and resources have been expended by CGL in efforts to come into compliance with requirements, while not following the WEPs fully it is possible that there were some savings; however, EAO CEB has no evidence to support this.

g) Exercise of due diligence to prevent the contravention or failure:	(-\$)0
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EAO CEB has no evidence the Certificate Holder exercised due diligence to prevent the Project from failing to comply with Order EN2022-028.

h) Efforts to correct the contravention or failure:	(-\$)0
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EAO CEB has no evidence that the Certificate Holder tried to correct the contravention prior to detection by EAO CEB.

i) Efforts to prevent reoccurrence of the contravention or failure:	(-\$)5,000
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The Certificate Holder reports that they have worked with the Prime Contractor in charge of construction in this section of the Project to implement the required WEP(s) and improve communication between the two parties in the future.

j) Any additional factors that are relevant:	(+/-)\$0
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No additional factors.

Additional factors relevant to First Nations

First Nations raised concerns during the Environmental Assessment conducted for the Project regarding Project impacts to environmentally sensitive receptors such as watercourses and wetlands during project construction.

TOTAL PENALTY

Add factors (c) to (j)

= \$ 15,000

ADJUSTMENTS:



PENALTY AFTER
CONSIDERING ALL FACTORS:

Minus Box B from Box A

\$ 80,000

IS A DAILY MULTIPLIER BEING APPLIED TO THIS PENALTY

No

IF YES, HOW MANY DAYS?

N/A



\$ 80,000.

Appendices:

- Appendix 1. [Environmental Assessment Certificate E14-03](#)
- Appendix 2. [EN2022-028 Coastal GasLink CGL WEP Order](#)
- Appendix 3. [CGL - EAC E14-03 - Schedule A - Certified Project Description](#)
- Appendix 4. [2022-07-14 CGL Compliance Agreement](#)
- Appendix 5. [Final Coastal GasLink Inspection Record 20230030 IR003](#)
- Appendix 6. [CGL 2022-11-2 to 4 Inspection Record IR2022-054 Final](#)
- Appendix 7. [Final CGL Inspection Record 20230019 IR001](#)
- Appendix 8. [Final Coastal GasLink Inspection Record 20230030 IR001](#)
- Appendix 9. [Coastal GasLink Inspection Record 20230027 IR001 Final](#)