



ENVIRONMENTAL ASSESSMENT OFFICE: ADMINISTRATIVE
PENALTY ASSESSMENT FORM

EAC NO: E14-03

PROJECT NAME: Coastal GasLink Pipeline Project

PART ONE: THE CONTRAVENTION

Party

Coastal GasLink Pipeline Ltd.(CGL)

Contravention or Failure

Failure to comply with order reference EN2020-011 (Appendix 1), issued under Section 53(1) of the *Environmental Assessment Act* (2018) (the Act)

Order EN2020-011 includes clause 1, which requires CGL to:

Control the risk of sediment transport to Environmentally Sensitive Receptors by implementing the following:

- Stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists;
- Plan and install erosion and sediment control measures before, during and after Project works; and,
- Maintain these measures during and after Project works to ensure they continue to function as intended.

Date of Contravention or Failure

CGL failed to comply with EN2020-011 on the following dates:

- April 27, 2021
- April 28, 2021
- April 29, 2021
- April 30, 2021
- May 2, 2021
- May 3, 2021
- May 4, 2021
- May 6, 2021

Background

Coastal GasLink Pipeline Project

1. Coastal GasLink Pipeline Ltd. is a company registered in British Columbia (BC) that is currently constructing the Coastal GasLink Pipeline Project (Project).
2. The Project is an approximately 670 kilometer (km) long natural gas pipeline connecting facilities near Chetwynd, BC to the LNG Canada facility near Kitimat, BC.

Assessment of the Project under the Environmental Assessment Act

3. The Project was subject to an environmental assessment pursuant to the *BC Environmental Assessment Act* and regulations.
4. Coastal GasLink Pipeline Ltd. submitted an Application (Application) for an Environmental Assessment Certificate (EAC) to the BC Environmental Assessment Office (EAO) in March of 2014. The Application identified impacts to fish, fish habitat, wetlands and water quality caused by soil erosion and sediment transport as potential adverse effects of the Project, and proposed measures to mitigate these effects within a proposed Environmental Management Plan.
5. During the environmental assessment conducted for the Project, which included a review of the Application, concerns regarding adverse impacts to fish and fish habitat, water quality and wetland function were identified by members of the public, Indigenous nations and technical experts on the working group and documented in the Assessment Report.
6. Ministers considered the adverse effects and mitigations for those effects presented in the Application and developed during the environmental assessment, as summarized in the Assessment Report, when determining whether or not to issue an EAC for the Project.

Certificate under the Environmental Assessment Act

7. Environmental Assessment Certificate (EAC) #E14-03 was issued to Coastal GasLink Pipeline Ltd. on October 23, 2014.
8. Schedule B to EAC #E14-03 (Appendix 5) included Condition 26 which requires the holder to develop and implement an Environmental Management Plan (EMP).
9. The EMP includes requirements for CGL to control soil erosion and sediment transport on the Project.

Project Construction

10. The Project commenced substantive construction in January of 2019. Construction continues as of December 2021.
11. Construction of the Project includes clearing and removal of vegetation along the right of way and the stripping, grading and excavation of soil to accommodate installation of the pipeline (see Photo 1).



Photo 1: CGL pipeline under construction April 29, 2021.

12. Pipeline construction exposes soils which are subject to erosion from environmental conditions including rain and snowmelt, and flowing water caused by rain accumulation and snowmelt.
13. Soil particles that have been subject to erosion are mobilized as sediment and transported by flowing water to downstream environments.

Potential Adverse Impacts to Watercourses, Wetlands, and Lakes

14. The Project crosses approximately 625 watercourses and other waterbodies, and runs adjacent to numerous other watercourses and wetlands throughout the approximately 670 km long route. Numerous other watercourses and wetlands are located in close proximity to the pipeline route.

15. Watercourses, wetlands and lakes crossed by or in proximity to the Project have the potential to receive project generated sediment laden water when soil erosion and sediment transport occur.
16. Sediment transported into sensitive environmental receptors is confirmed to have adverse impacts to aquatic life and habitat. Examples of the documented adverse impacts of sediment on aquatic life and habitat include but are not limited to:
 - A decrease in the penetration of light into and the transparency of water affecting fish feeding and leading to reduced growth and survival;
 - Irritation and damage of the gills of fish, which can lead to a decrease in growth, reproduction, and can cause direct fish mortality;
 - Damage to the protective mucous covering of fish eyes and scales of fish, making them more susceptible to infection and disease;
 - Sediment particles absorb warmth from the sun and thus increase water temperature. Increased water temperature causes stress for salmonids and other fish species;
 - Settling sediments can bury and suffocate fish eggs;
 - Sediment can both decrease the duration wetlands retain water and decrease wetland volume;
 - Sediment inputs can alter biogeochemical processes within wetlands;
 - Impacts to plant growth by smothering plants and/or the seed bank within wetlands; and
 - Sediment inputs to surface water reduces water quality for people and wildlife.
17. A subset of wetlands crossed or adjacent to the Project are classified as Environmentally and Socio-Economically Important Wetlands (ESIWs) which are defined as wetlands designated as ecologically-important to a region according to Environment and Climate Change Canada and wetlands identified as being of heightened interest to Indigenous nations.
18. Indigenous nations raised concerns during the Environmental Assessment conducted for the Project regarding project impacts to sensitive environmental receptors such as watercourses and wetlands during project construction.

Inspection Conducted by EAO Compliance and Enforcement that lead to Order EN2020-011

19. From October 19 to 23, 2020 and on November 2, 2020 Environmental Assessment Office Compliance and Enforcement Officers (EAO C&E) inspected the Project against the requirements of EAC #E14-03. The results of that inspection are documented in Inspection Record IR2020-055.

20. That inspection resulted in confirmed contraventions of the EMP requirements relating to installing sediment and erosion control measures, maintaining erosion and sediment control measures, stabilizing exposed surface materials on approach slopes to watercourses, and having approved contractor-specific and site-specific Erosion and Sediment Control Plans in place during works.
21. As a result of the confirmed noncompliances observed during the October to November 2020 inspection of the Project and documented in Inspection Record IR2020-055, EAO C&E issued enforcement under Section 53(1) of the Act (EN2020-011) to CGL on December 8, 2020.
22. The contraventions documented during the October to November 2020 inspection and documented in IR2020-055 are not included in this administrative penalty recommendation.

Order EN2020-011

23. The Definitions section of EN2020-011 includes the following definition:

Environmentally Sensitive Receptor: refers to the location of an environmental feature of importance, including but not limited to:

- Watercourses;
- Wetlands;
- Surface waters such as lakes and ponds; and,
- Other sensitive features that could be adversely impacted by sediment deposition (for example rare plant locations, sensitive ecosystems, traditional use plant sites).

24. Clause 1 of EN2020-011 requires Coastal GasLink to:

Control the risk of sediment transport to Environmentally Sensitive Receptors by implementing the following:

- Stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists;
- Plan and install erosion and sediment control measures before, during and after Project works; and,
- Maintain these measures during and after Project works to ensure they continue to function as intended.

Summary of Relevant Facts

Inspection Against the requirements of Order EN2020-011

25. From April 27 to May 6, 2021, EAO C&E conducted an inspection of the Project against requirements of the EAC and enforcement Order EN2020-011.
26. On July 8, 2021 EAO C&E provided an opportunity to respond version of the inspection record (OTR record) documenting the preliminary inspection findings and affording CGL the opportunity to identify any factual errors or omissions.
27. On July 22, 2021 CGL provided a written response to EAO C&E in response to the OTR record.
28. After considering the informaton provided by CGL in response to the OTR record, EAO C&E finalized the record and issued it to CGL (Inspection Record IR2021-014).

Findings

29. IR2021-014 documents CGL noncompliance with EN2020-011. Table 1 summarizes the dates and locations of contraventions of EN2020-011 that are included in this Administrative Penalty assessment form and for which an Administrative Penalty is being recommended.
30. As a result of confirmed noncompliance with EN2020-011, as documented in IR2020-014, an administrative penalty is recommended for the contravention of EN2020-011 on the following dates:
 - April 27, 2021
 - April 28, 2021
 - April 29, 2021
 - April 30, 2021
 - May 2, 2021
 - May 3, 2021
 - May 4, 2021
 - May 6, 2021



Table 1. Contraventions of EN2020-011 observed during the April 27 to May 6, 2021 inspection of the CGL Project.

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
1	April 27, 2021	47+772	Non fish-bearing stream	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden water flowing on the Right of Way (RoW). An unmaintained sediment fence installed at the margin of the RoW filled with sediment and overtopped resulting in sediment laden water entering the stream.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to maintain Erosion and Sediment Control (ESC) measures during and after Project works to ensure they continue to function as intended.
2	April 27, 2021	50+910	Non fish-bearing stream	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden water flowing on the RoW. An unmaintained sediment fence installed at the margin of the RoW filled with sediment and overtopped resulting in sediment laden water entering the stream.</p>

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
					<p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
3	April 28, 2021	53+137	Wetland	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden water flowing on the RoW. Sediment laden water was collected in a sump, then actively pumped off the RoW into a filter bag. The filter bag was placed within 5m of WL0723 and sediment laden water from the bag was observed flowing directly into the wetland. Additionally, the limited erosion and sediment control measures on the RoW were not functioning as intended and sediment laden Project water from the RoW was observed to be flowing directly into the portion of the wetland that was within the RoW.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to plan and install erosion and sediment control measures before, during and after Project works.

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
					<ul style="list-style-type: none"> Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
4	April 28, 2021	54+204	Fish-bearing stream	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden water flowing on the RoW. Sediment laden Project water left the RoW and deposited in the stream.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. Failure to plan and install erosion and sediment control measures before, during and after Project works.
5	April 28, 2021	55+310	Fish-bearing stream	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden flowing on the RoW. Sediment laden water was collected in sumps, however sumps were undersized and at capacity, resulting in sediment laden water flowing off the RoW and into the stream.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
6	April 29, 2021	214+804	Fish-bearing stream	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden water flowing on the RoW. Sediment laden water was collected in a sump, then actively pumped off the RoW into a filter bag. Sediment laden water from filter bag then flowed into the stream.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
7	April 29, 2021	215+000 (approximate – no signage)	Fish-bearing stream	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden water flowing on the RoW. Sediment laden water flowed into a non fish-bearing drainage which connects to a fish-bearing stream which crosses the RoW near KP 214+804.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to plan and install erosion and sediment control measures before, during and after Project works.

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
8	April 29, 2021	216+050	Fish-bearing stream	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden water flowing on the RoW. Sediment laden water flowed off the RoW via a water bar and into the stream.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to plan and install erosion and sediment control measures before, during and after Project works.
9	May 3, 2021	227+800	Fish-bearing stream, Wetland, ESIW	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden water flowing on the RoW. Sediment laden water from RoW flowed into the stream and wetland.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to plan and install erosion and sediment control measures before, during and after Project works.
10	April 29, 2021	244+510	Fish-bearing stream	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden water flowing on the RoW. Sediment laden water was collected in a sump, however the sump was undersized and overwhelmed,</p>

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
					<p>resulting in sediment laden water overtopping an unmaintained and incorrectly installed sediment fence and draining into the stream.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
11	May 2, 2021	277+187 (approximate – no signage)	Fish-bearing stream	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden water flowing on the RoW. Sediment laden Project water was observed to be directed off the RoW and into a previously existing roadside ditch. The sediment laden water flowed through a culvert beneath the road and downslope into the stream.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to plan and install erosion and sediment control measures before, during and after Project works.
12	May 2, 2021	281+200 (approximate – no signage)	Non fish-bearing drainage	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden water flowing on the RoW. Measures installed to prevent erosion and control sediment included</p>

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
					<p>plastic sheeting and filter cloth, however, these did not extend the entire length of the crossing which allowed sediment laden Project water to drain into the feature at the upper and lower extent of the measures.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to plan and install erosion and sediment control measures before, during and after Project works.
13	May 4, 2021	298+700	Wetland	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden flowing on the RoW. Sediment control measures installed along the RoW edge were incorrectly installed and not maintained. Sediment laden water flowed off the RoW and into a wetland located outside the Project footprint.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
14	May 4, 2021	298+861	Wetland, ESIW	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden flowing on the RoW. Sediment laden Project</p>

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
					<p>water was observed passing the sediment control measures and reaching the wetland outside of the RoW.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
15	May 6, 2021	329+282	Non fish-bearing drainage, Wetland feature,	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden flowing on the RoW. Soil stockpiles were placed within the wetted perimeter of the Environmentally Sensitive Receptor and eroded. Filter bags were placed within the wetted perimeter of the Environmentally Sensitive Receptor and sediment laden water was pumped directly to the Environmentally Sensitive Receptor. Measures to control sediment transport on the RoW were incorrectly installed and not maintained. Aquatic habitat at this location is connected to Clear Creek and no barrier to fish passage between the project works and fish-bearing stream.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists.

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
					<ul style="list-style-type: none"> Failure to plan and install erosion and sediment control measures before, during and after Project works. Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
16	May 6, 2021	335+200	Wetland	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden flowing on the RoW. Sediment laden water observed to be leaving the RoW and entering a wetland feature off the Project footprint.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. Failure to plan and install erosion and sediment control measures before, during and after Project works.
17	May 6, 2021	395+542	Non fish-bearing stream	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden flowing on the RoW. Sediment control measures installed along the RoW edge were incorrectly installed and not maintained. Sediment laden water left the RoW end entered the stream.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists.

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
					<ul style="list-style-type: none"> Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
18	April 29, 2021	422+250	Wetland, ESIW	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden flowing on the RoW. Sediment control measures installed on the RoW were incorrectly installed and not maintained. Sediment laden water left the RoW and entered the wetland. Sediment laden water pooled in a wetland south of RoW, off the Project footprint.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
19	April 29, 2021	435+200	Wetland	Yes	<p>Exposed soils were not stabilized and were subject to erosion, resulting in sediment laden flowing on the RoW. Sediment control measures installed along the RoW edge were incorrectly installed and not maintained. Sediment laden water left the RoW and flowed to the wetland. Project generated sediment laden water documented in wetland 275 m north of RoW boundary.</p>

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
					<p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
20	April 29, 2021	444+200	Wetland, ESIW	Yes	<p>Exposed soils were not stabilized and were subject to erosion. Sediment control measures installed along the RoW edge were incorrectly installed and not maintained, resulting in sediment laden flowing on the RoW. Sediment laden water flowed from the RoW to a wetland. The entire wetland was visibly turbid.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
21	April 29, 2021	450+400	Fish-bearing stream	Yes	<p>Exposed soils were not stabilized and were subject to erosion. Erosion on RoW resulted in slope failure and the left bank approach and sediment laden water flow on the right bank approach which overwhelmed water bars, sumps, and sediment fences on both the left and right banks and entered watercourse</p>

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
					<p>downstream of crossing. Attempts were made to stabilize areas of left and right bank approaches but significant erosion occurred upslope of these attempts, overwhelmed sediment control measures, and resulted in sediment deposition in the stream and small wetland feature south of the RoW on the right bank approach to the stream.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
22	April 29, 2021	462+170	Wetland, ESIW	Yes	<p>Exposed soils were not stabilized and were subject to erosion. Sediment laden water discharged from the RoW to the wetland. Ineffective sediment fence installation allowing flow under and around fence. Large spoil pile adjacent to wetland does not have erosion control measures implemented or sediment fence or other control preventing discharge to wetland.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists.

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
					<ul style="list-style-type: none"> • Failure to plan and install erosion and sediment control measures before, during and after Project works. • Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
23	April 29, 2021	463+900	Non fish-bearing drainage	Yes	<p>Exposed soils were not stabilized and were subject to erosion. Sediment fence, sump, and water bar were flooded and not effective. Sediment fence on the east bank was full of sediment and overtopped. Culvert under travel lane was damaged and not effective, contributing to sediment discharge. Sediment laden water observed discharged from the RoW to watercourse.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> • Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. • Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
24	April 30, 2021	586+700	Lake	Yes	<p>Project constructed road surface and RoW not stabilized. Project sediment discharge to lake was evident from deposition within lake and on remnant ice.</p>

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
					<p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists.
25	April 30, 2021	586+800	Fish-bearing stream	Yes	<p>Project constructed road surface not stabilized. Sediment laden water flowed from road surface to roadside ditch. Sediment control measures were being installed in the ditch at time of inspection, however, these were incorrectly installed and ineffective. Sediment laden water was collected in a sump, then pumped from roadside sump to sediment bag located 2m from watercourse. Sediment laden water flowed from reaching watercourse.</p> <p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none"> Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists. Failure to maintain ESC measures during and after Project works to ensure they continue to function as intended.
26	April 29, 2021	587+450	Lake	Yes	<p>Project constructed road surface and RoW not stabilized. Sediment laden Project water observed from the air to have reached a lake adjacent to the RoW at multiple locations.</p>

Contravention Occurrence number	Date	Kilometer Post (KP)	Environmentally Sensitive Receptor	Sediment in receptor?	Contravention Details
					<p>Mechanism of contravention of EN2020-011:</p> <ul style="list-style-type: none">• Failure to stabilize exposed surface material and subsoil during and after Project works where potential for erosion exists.



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 EN2020-011, issued to the Project on December 8, 2020, on the following dates:

- April 27, 2021
- April 28, 2021
- April 29, 2021
- April 30, 2021
- May 2, 2021
- May 3, 2021
- May 4, 2021
- May 6, 2021

Factors to be considered in penalty calculation:

A. Preliminary 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 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 contravention is considered to be **moderate to major**. Noncompliance with the requirements of the *Environmental Assessment Act* (2018) (the Act), including orders issued under the Act, undermines the effectiveness of the Act in addressing the adverse effects of regulated projects. Noncompliance with the requirements of the Act also undermines public and Indigenous nations confidence in the effectiveness of the environmental assessment process in BC. The contravention may also have resulted in adverse effects to the rights and interests of Indigenous nations.

b) Actual or Potential Adverse Effects

The failure to meet the requirements of Enforcement Order EN2020-011 has resulted in 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 are not fully known as they have occurred over a wide geographic area and over a prolonged period of time without quantitative measurement of the adverse effects. As a result of the widespread nature of the contravention evidenced by the number of sites, the likely duration of sediment inputs at those

sites, the lack of monitoring of sediment inputs to the Environmentally Sensitive Receptors at those locations, and the fact that these adverse effects cannot be easily remedied, the potential adverse effects of the contravention are considered to be **high**.

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

BOX A

\$ 62,500

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, AP's imposed or orders issued:	+\$ 5,000.
------------------------------------------------------------------------------------------------------------	-------------------

Table 2. Coastal GasLink Pipeline Project compliance history with respect to erosion and sediment control (ESC) requirements up to May 2021.

Inspection Record Number	Requirement	Enforcement Action	Comments	Appendix
IR2019-049/051	Condition 26	Warning.	Found noncompliant with the Environmental Management Plan (EMP) as erosion and sediment control (ESC) mitigations were not effective in specific inspected locations.	10
IR2020-024	Condition 26	Notice of Non-compliance.	Found noncompliant with the EMP as ESC measures for soils and berms were not installed in inspected areas.	11
IR2020-052	Condition 26	Notice of Non-compliance.	Found noncompliant with the EMP as ESC measures for soils and berms were not installed in inspected areas.	12
IR2020-055	Condition 26	Warning.	Noncompliant due to lack of contractor-specific and site-specific ESC plans.	7
IR2020-055	Condition 26	Order (EN2020-011).	Noncompliant due to lack of adherence to site-specific ESC plans in work packages 1 and 2.	7

Inspection Record Number	Requirement	Enforcement Action	Comments	Appendix
IR2020-055	Condition 26	Order (EN2020-011).	Noncomplaint regarding the installation of sediment fencing following the Best Management Practices in work package 2.	7
IR2020-055	Condition 26	Order (EN2020-011).	Noncompliant regarding effective installation of sediment fencing in work package 3.	7
IR2020-055	Condition 26	Order (EN2020-011).	Noncompliant regarding stabilizing exposed surface materials and installing ESC on approach slopes to all watercourses.	7
IR2020-055	Condition 26	Order (EN2020-011).	Noncompliant regarding installation of ESC measures as per Appendix B of the EMP.	7
IR2020-055	Condition 26	Order (EN2020-011).	Noncompliant regarding geotextile from bridges reaching the channel below and inputting sediment into watercourses.	7
IR2020-055	Condition 26	Order (EN2020-011).	Noncompliant regarding installation of ESC measures at watercourse #WC-272.	7
IR2020-055	Condition 26	Order (EN2020-011).	Noncompliant regarding stabilizing exposed surface material near KP244+540.	7
IR2020-055	Condition 26	Order (EN2020-011).	Noncompliant regarding not making all necessary Contractor equipment and personnel available as water erosion was evident.	7
IR2021-014	EN2020-011	Referral to Administrative Penalty.	Noncompliant as sediment laden Project water was observed flowing into watercourses at various inspected locations.	8
IR2021-014	EN2020-011	Referral to Administrative Penalty.	Noncompliant as sediment laden Project water was observed flowing into wetlands at various inspected locations.	8

Inspection Record Number	Requirement	Enforcement Action	Comments	Appendix
IR2021-014	EN2020-011	Referral to Administrative Penalty.	Noncompliant with maintenance of erosion and sediment control measures.	8

d) Whether contravention or failure was repeated or continuous:	(+\$ 10,000)
------------------------------------------------------------------------	---------------------

The contravention was repeated at 26 locations (Table 1).

e) Whether contravention or failure was deliberate :	(\$ 0)
-------------------------------------------------------------	---------------

EAO C&E has no direct evidence that the contravention was deliberate. CGL was aware that they are required by Conditon 26 and EN2020-011 to control soil erosion and sediment transport to Environmentally Sensitive Receptors.

f) Economic benefit derived by the party from the contravention or failure:	(+\$ 1,000) (\$ 0)
------------------------------------------------------------------------------------	-------------------------------

~~The Project derives an economic benefit by not expending resources to control soil erosion and sediment transport to Environmentally Sensitive Receptors. There is a potential cost saving for the Project in terms of person power, machine time and supplies.~~

See OTBH – position by CGL that no economic benefit was derived, and that costs to remediate ESC issues have outweighed any avoided costs is accepted.

g) Exercise of due diligence to prevent the contravention or failure:	(-\$ 3,000)
------------------------------------------------------------------------------	--------------------

On November 27, 2020, as a component of the Opportunity to Respond to Inspection Record IR2020-055, CGL provided the following responses regarding actions they would take to address future noncompliance related to soil erosion and sediment transport (Appendix 13):

- *All construction activities with potential to impact S1-S4 streams and wetlands stopped or in process of stopping work by December 1, 2020 until appropriate ESC mitigation has been validated in the field by an ESC Qualified Professional.*
- *All Prime Contractors are being directed to update their Contractor-Specific Plans. In addition to these required updates, Primes' QPs are updating the risk analysis and site-specific plans to ensure they address current and planned activities.*
- *Coastal GasLink is in the process of implementing an ArcGIS-based ESC field inspection tool for Environmental Inspectors to utilize during their inspections.*
- *In order to maintain better control and oversight over ESC compliance, Coastal GasLink will be mobilizing ESC-specific environmental inspectors in each work package, including facilities.*
- *Coastal GasLink commits to providing ESC performance reports to EAO on a schedule to be developed in consultation with EAO C&E.*

- *Coastal GasLink will be updating its Adverse Weather Contingency and Wet Soils Plans to provide Prime Contractors with further clarity regarding weather shutdown protocols.*

h) Efforts to correct the contravention or failure:	(-\$ 2,000)
------------------------------------------------------------	--------------------

CGL has reported information in their response to IR2021-014 (Appendix 8) that they had taken measures to correct the contravention at six occurrence locations, made partial attempts to correct the contravention at nine occurrence locations, and had not taken measures to correct the contravention at eleven occurrence locations documented in Table 1. CGL disputed the evidence provided regarding three of these eleven locations.

i) Efforts to prevent reoccurrence of the contravention or failure:	(\$ 0)
----------------------------------------------------------------------------	---------------

CGL reports that they allocated erosion and sediment control crews to implement and maintain erosion and sediment control features across the Project. The roles of these individuals included maintaining sump and pump measures and installing new erosion and sediment control features. However, these measures are consistent with the core compliance requirements of the Project, and have not been effective in bringing the Project back into compliance as observed on the April 27 to May 6, 2021 inspection.

j) Any additional factors that are relevant:	(\$ 0)
-----------------------------------------------------	---------------

During the Opportunity to Respond to Inspection Record IR2021-014, CGL provided the following response regarding impacts to the Project workforce as a result of orders by the Provincial Health Officer in response to COVID 19:

Coastal GasLink notes that starting January 8, 2021, Coastal GasLink was under an order from the Provincial Health Officer (PHO Order) to limit the spread of COVID-19 in northeastern British Columbia. The PHO Order limited the Coastal GasLink workforce to approximately 10% of its Q4 2020 numbers. While Coastal GasLink was later able to add some additional resources, with an approved COVID-19 mitigation plan, the workforce was never permitted to exceed 50% of what was originally planned for the winter construction season. By the time the PHO Order was rescinded on April 14, 2021, freshet had started, and Coastal GasLink had effectively lost its entire winter construction season. During this time period, instead of progressing construction, Coastal GasLink was forced to refocus and implement a significant emergency measures program to address potential ESC risks in locations where construction could not be completed as planned due to the PHO Order prior to the spring melt.

While Coastal GasLink acknowledges that when this inspection occurred, it was not able to achieve complete compliance with all the inspected EAC management plan commitments and EAO Order EN2020-11 requirements. Coastal GasLink notes that, despite the restrictions imposed by the PHO Order, its efforts represent a significant improvement in the implementation of its ESC requirements and were essential in mitigating potential ESC risks to the environment stemming from the reduced workforce numbers. Coastal GasLink is including these details in this response because the IR2021-014 Draft Inspection Record omits any mention of the workforce restrictions overcome by Coastal GasLink over the past seven months. The inspection record also omits any discussion of Coastal GasLink's improved ESC compliance since the fall of 2020 when EAO issued En2020-11 on December 8, 2020.

EAO C&E concluded that the non-compliances regarding erosion and sediment control deficiencies leading to impacts to watercourses did not stem from reduced workforce numbers, noting that Project wide non-compliances specific to ESC predate the January 2021 PHO Order and furthermore that workforce restrictions were no longer in place at the time of the inspection. However, given the time frame that workforce restrictions were in place it is not unreasonable to conclude that the workforce restrictions may have impacted the ability of crews to fully comply with Order EN2020-011.

Additional factors relevant to Indigenous Nations

The Assessment Report references concerns raised by Indigenous nations regarding adverse effects to fish and fish habitat, water quality and wetland function as a result of the Project. The noncompliances documented by EAO C&E relating to erosion and sediment control have included observation of direct impacts to, or potential impacts to, each of these valued components.

TOTAL PENALTY ADJUSTMENTS:

BOX B

Add factors (c) to (j)

=\$ ~~11,000~~ 10,000

PENALTY AFTER CONSIDERING ALL FACTORS:

Add or Subtract Box B from Box A

\$ ~~73,500~~ 72,500

IS A DAILY MULTIPLIER BEING APPLIED TO THIS PENALTY

NO

This penalty is applied to each of the contraventions:

- April 27, 2021
- April 28, 2021
- April 29, 2021
- April 30, 2021
- May 2, 2021
- May 3, 2021
- May 4, 2021
- May 6, 2021

TOTAL PRELIMINARY PENALTY ASSESSMENT

\$ ~~73,500~~ 72,500

NOTE: Project documentation referred to in this form is available on the EAO's electronic project information centre. (EPIC)

