

## *Dear Friends and Clients,*

With our newsletter we would like to inform you of recent and significant legal developments in the field of energy law in Argentina.

Best regards,

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### NEW REFERENCE VALUES FOR MINING AND PRODUCTION RIGHTS IN ENTRE RIOS

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By means of the Resolution No. 0599 DMMARN, published in the Official Gazette on July 31, 2018, the Directorate of Mining, Environment and Natural Resources of the Province of Entre Rios established new reference values for calculating rights for the mining and production of minerals on private and public property outside city grounds, including those applicable to frac sands used in Neuquen unconventional wells.

The new reference values are the following:

Material	Marketing and Promotion Agents	Material	Marketing and Promotion Agents
Construction Sand	\$ 3,00	Shell	\$ 12,75
Quartz Sand	\$ 3,97	Quarry Stone	\$ 4,95
Frac Sand	\$ 14,70	Plaster	\$ 8,02
Silicate Gravel	\$ 1,50	Sand for Pool Filter, Purification Plants and Drilling	\$ 14,70
Calcareous Gravel	\$ 1,65	Gravel for Pool Filter, Purification Plants and Drilling	\$ 14,70
Brushwood	\$ 1,95	Foundation Sand	\$ 10,80
Selected Soil	\$ 1,65	Boulder	5%
Clay	\$ 1,20		

## SUPREME COURT RULES ON CONCURRENT JURISDICTION BETWEEN THE FEDERAL GOVERNMENT AND THE PROVINCE OF NEUQUÉN IN RELATION TO NATIVE COMMUNITIES

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On September 11, 2018 the Federal Supreme Court ruled against the Federal Government –Ministry of Social Development– and in favor of the Province of Neuquén, after considering that the former had violated Section 75, Subsection 17, of the Argentine Constitution.

The Province of Neuquén filed a claim with the Supreme Court, requesting the latter to:

(i) issue a declaratory judgement against the Federal Government, ruling conclusively on the concurrent jurisdiction of the Federal Government and the Province of Neuquén to grant tribal recognition to native communities;

(ii) exercise judicial review over Section 2 of Law No. 23,302, which provides that native communities shall be granted tribal recognition upon registration under the Federal Native Communities Registry (the “Registry”), thus preventing the Province from exercising its concurrent jurisdiction under Section 75, Subsection 17, of the Argentine Constitution;

(iii) exercise judicial review over Disposition No. 470/2006 (the “Disposition”), by means of which the Federal Ministry of Social Development rejected the appeal filed by the Province of Neuquén against Resolution No. 27/2003 (along with the Disposition, the “Regulations”), in which the National Institute of Native Matters granted tribal recognition to certain native communities in the Province of Neuquén.

The Province of Neuquén argued that, by granting tribal recognition to native communities within provincial territory without granting the Province any participation in the process, the Federal Government had violated Section 75, Subsection 17, of the Argentine Constitution.

Upon answering the claim, the Federal Government argued that (i) the Province of Neuquén lacked standing to bring the claim, as it had failed to prove the damage caused by the Regulations, nor did it have any relevant interest in pursuing the exercise of judicial review over the same; and (ii) the Regulations were valid, as the relevant authority had complied with all proceedings provided by Section 7 of Law No. 19,549 and Section 2 and 6 of Law No. 23,302. Moreover, the Federal Government requested the intervention of the native communities which had been granted tribal recognition as a third-party defendant. The native communities answered the claim supporting the Federal Government's position.

After considering that the Province of Neuquén had standing to file the complaint, the Supreme Court established that the Federal Government had ignored the concurrent jurisdiction set forth by the Argentine Constitution in favor of the Province of Neuquén with regard to issues involving native communities within its territory, thus declaring the Resolutions null and void.

## OIL COMPANY DIRECTORS FOUND GUILTY OF CHARGES OF ENVIRONMENTAL CONTAMINATION

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On October 5, 2018, the Federal Criminal Court of the Province of Mendoza (the “Court”) found three former directors of an oil company guilty of charges of environmental contamination related to oil spills, and sentenced them to three (3) years of probation.

The public prosecutor brought the case against the directors of Vintage Oil –former operator of the Piedras Coloradas block– in 2003, after an inspector from the Irrigation Department of the Province of Mendoza reported that the company was discharging large quantities of formation water into local streams.

The investigations conducted in the block and the nearby area determined that the discharges of formation water had caused

the death of numerous animals and endangered local crops. The Court established that, due to their hierarchical position within the company, it was not possible for the directors to be unaware of these practices, particularly since the discharges were not the result of an accident, but the product of a decisions taken by the directors.

Consequently, the directors were found guilty under Section 55 of the Hazardous Waste Law No. 24,051, which provides that a person who engages in the poisoning, alteration or contamination of land, water, the atmosphere or the general environment by the unauthorized disposal of hazardous waste, having detrimental effects on the public health, shall be punished with a prison term of three (3) to ten (10) years.

# CONTACTS

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