

NO: R089

COUNCIL DATE: MAY 26, 2014

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **May 13, 2014**

FROM: **Acting General Manager, Engineering
City Solicitor**

FILE: **5500-14**

SUBJECT: **Trans Mountain Expansion Project - National Energy Board Hearing Update**

RECOMMENDATION

That Council receive this report as information.

INTENT

The intent of this report is to update Council on the status of the Trans Mountain Expansion Project hearing currently before the National Energy Board (the "NEB").

BACKGROUND

As Council is aware, the Trans Mountain Expansion Project is a proposal currently before the NEB to expand Kinder Morgan's existing Trans Mountain pipeline system between Edmonton, AB and Burnaby, BC. The project involves a twinning of the existing Trans Mountain pipeline and includes an approximately 14 kilometre segment of new pipeline through North Surrey.

Council will recall that the City sought and obtained Intervenor status in the NEB hearing related to the Trans Mountain Expansion Project. Intervenor status provides the City with maximum participatory rights throughout the hearing process. Surrey's application for Intervenor status is attached as Appendix "I" and provides a general overview of several issues of concern to Surrey.

Since having been granted Intervenor status, the NEB has issued a Hearing Order outlining the hearing process and identifying key steps and deadlines. Some of these dates have been revised by subsequent correspondence/rulings issued by the NEB. The Hearing Order, as revised by NEB Ruling No. 9 dated April 24, 2014, is collectively attached as Appendix "II". From the revised Hearing Order you will note that the first substantive step in the hearing process involving Intervenors was the filing and service of Information Requests to Trans Mountain by May 12, 2014. In accordance with this revised deadline, the City's Information Request No. 1 was filed and served on Trans Mountain and is attached as Appendix "III" to this report.

Other notable dates and deadlines include:

- Intervenor Round 2 information requests to Trans Mountain – September 11, 2014;
- Intervenor file written evidence – November 3, 2014;
- Intervenor information requests to other Intervenor – November 14, 2014;
- Trans Mountain information requests to Intervenor – November 14, 2014;
- Intervenor respond to other Intervenor requests – November 26, 2014;
- Intervenor respond to Trans Mountain information requests – November 26, 2014;
- Board releases draft conditions for comment – December 3, 2014;
- Board information requests to Intervenor – December 18, 2014;
- Intervenor respond to Board information requests – December 18, 2014;
- Intervenor and Trans Mountain file affidavits swearing evidence – January 8, 2015;
- Oral hearings: to hear Trans Mountain's oral summary argument – Late January 2015;
- Intervenor file written argument-in-chief and reply to Trans Mountain including comments on draft conditions – February 6, 2015;
- Oral hearings: to hear Intervenor oral summary argument and/or reply argument;
- Trans Mountain files written reply argument – March 2015; and
- Board releases its Report to Governor in Council and provides it to the Minister of Natural Resources – July 2, 2015 (time limit end).

DISCUSSION

The primary focus of the City's Information Request No. 1 was to obtain additional details and information from Trans Mountain in order to properly assess the impacts to Surrey of the Trans Mountain Application. This includes detailed mapping on alternative alignments under consideration which have not been adequately described in Trans Mountain's Application. Further details and information have been requested related to:

- corridor selection and alternative corridors;
- corridor details and particulars;
- highway/road occupation and crossing issues and agreements including compensation to land owners;
- risk assessment and management;
- review of noise impacts to Surrey residents;
- review of visual impacts to Surrey residents;
- review of environmental submission related to Surrey Bend;
- clearing or disturbance of riparian habitat during maintenance and operations; and
- detailed review of engineering, drainage and environmental details.

Pursuant to the revised Hearing Order, Trans Mountain has until June 4th, 2014 to respond to the City's Information Request No. 1. Once the additional details and information sought are obtained from Trans Mountain staff will be in a better position to assess the impacts of the pipeline expansion proposal including the concerns raised by Surrey residents.

Several residents and groups have been in contact with City staff and have expressed a variety of concerns. In March 2014, the Fraser Heights Community Association held a meeting with Trans Mountain with an estimated 20 residents who expressed their concerns over Trans Mountain's proposed "alternate" pipeline route along 173 Street and through the residential neighbourhood. An Engineering staff member was invited to attend the meeting as a guest by the Fraser Heights Community Association to observe Trans Mountain's provision of information to the group. City Parks staff were contacted by residents near 181 Street and 99 Avenue who expressed their concerns over the proposed pipeline alignment in a neighbourhood park area. The residents expressed concerns over loss of a natural area that provides noise, dust and visual buffering for their homes from the future Golden Ears Connector as well as the associated impacts to the natural environment.

City Parks staff have also been in communication with staff from Metro Vancouver regarding Trans Mountain's study corridor through Surrey Bend Regional Park. The study corridor passes through both City owned and Metro Vancouver owned properties operated by Metro Vancouver as a Regional Park. Surrey and Metro Vancouver staff have concerns about environmental impacts as well as geotechnical and hydrological conditions for the proposed alignment through Surrey Bend.

While staff awaits the additional details and information requested from Trans Mountain, staff will continue to be available to meet with residents and gather issues of concern to residents. Upon receiving and reviewing the responses from Trans Mountain, a further report to Council will be prepared updating Council and seeking direction as necessary.

CONCLUSION

It is recommended that Council receive this report as information.



Gerry McKinnon
Acting General Manager, Engineering



Craig MacFarlane
City Solicitor

TC:ld

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LJD 5/20/14 3:27 PM

Appendix "I" - Surrey's Application for Intervenor Status

Appendix "II" - Hearing Order, as revised by NEB Ruling No. 9 dated April 24, 2014

Appendix "III" - City's Information Request No. 1

APPENDIX "I"

National Energy
Board



Office national
de l'énergie

Application to Participate(A57246)

Filing Date: 2014-02-06

Hearing Information

Project Name: Trans Mountain Pipeline Expansion Project

Company: Trans Mountain Pipeline ULC

File Number: OF-Fac-Oil-T260-2013-03 02

I am Applying as:

- An Individual
- Authorized Representative on Behalf of an Individual
- A Group

Select which one best describes your group:

- Company
- Association (Special Interest Group)
- Aboriginal
- Federal Government
- Provincial Government
- Territorial Government
- Municipal Government
- Others

- My group is an organization that will represent its own interests
- My group is a collection of individuals with common interest

Contact Information:

444 Seventh Avenue SW
Calgary, Alberta T2P 0X8

444, Septième Avenue S.-O.
Calgary (Alberta) T2P 0X8

Canada

Telephone/Téléphone : (403) 292-4800
Facsimile/Télocopieur : (403) 292-5503
<http://www.neb-one.gc.ca>
1-800-899-1265

- If you apply as individual, the contact information is for the Person Applying to Participate.
- If you apply as Authorized Representative, the contact information is for the Individual you are representing.
- If you apply as Group, the contact information is for the Group's main contact.

Salutation: Mr.

Last Name: Capuccinello

First Name: Anthony

Title: Assistant City Solicitor

Organization: City of Surrey

Telephone: 604-591-4188

Facsimile: 604-599-1613

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acapuccinello@surrey.ca

Address:

13450-104 Avenue
Surrey, British Columbia V3T 1V8
Canada

Authorized Representative(s) Information:

If you do not have an authorized representative this section will be blank.

Salutation: Mr.

Last Name: Neuman

First Name: Scott

Title: Manager

Organization: City of Surrey

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Facsimile:

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Salutation: Ms.

Last Name: Robertson

First Name: Judith

Title: Manager

Organization: City of Surrey

Telephone: 604-591-4498

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Method of Participation

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I wish to participate as a:

- Commenter
 Intervenor

Interest or Expertise

- The Group I am representing is directly affected by the proposed Project
 The Group I am representing has relevant information or expertise

Connection to Project Issues

1. The need for the proposed Project.
2. The economic feasibility of the proposed project.
3. The potential commercial impacts of the proposed Project.
4. The potential environmental and socio-economic effects of the proposed project, including any cumulative environmental effects that are likely to result from the project, including those required to be considered by the NEB's Filing Manual.
5. The potential environmental and socio-economic effects of marine shipping activities that would result from the proposed Project, including the potential effects of accidents or malfunctions that may occur.
6. The appropriateness of the general route and land requirements for the proposed project.
7. The suitability of the design of the proposed project.
8. The terms and conditions to be included in any approval the Board may issue.
9. Potential impacts of the project on Aboriginal interests.
10. Potential impacts of the project on landowners and land use.
11. Contingency planning for spills, accidents or malfunctions, during construction and operation of the project.
12. Safety and security during construction of the proposed project and operation of the project, including emergency response planning and third-party damage prevention.

As an urbanized area, the City of Surrey ("Surrey") would be directly affected by the Project because significant aspects of the Project are located in Surrey including approximately 14km of pipeline. Surrey owns roads, parks and other facilities and infrastructure in the area adjacent to and near the proposed pipeline ("City Property") including major roadways, utilities and infrastructure which are to be crossed by the pipeline. The pipeline will also cross 14 environmentally sensitive watercourses and Surrey's Fraser River foreshore. Being responsible for land use planning and approving land use applications, Surrey will have to address the Project's impacts on Surrey's land use plans and planned utilities, infrastructure and development. Surrey is also responsible for emergency services that would be required in the event of a rupture/spill and will require appropriate information, training and resources to properly respond and has a vested interest in emergency response planning. Surrey would also expect to incur significant costs in responding and requests assurances that any such costs would be paid for by the applicant. Surrey also understands that the applicant is considering alternative pipeline alignments through Surrey which would increase the risks, conflicts and direct impacts described herein.

The pipeline would cause significant disruption and utility and infrastructure challenges within Surrey's boundaries and to Surrey's operations. Surrey utilities and transportation infrastructure, such as underground water, sewerage and drainage pipes, and above ground facilities and roads, would be directly impacted by the proposed alignment and result in economic loss. Significant costs would also be faced by Surrey when upgrading, expanding and/or widening such utilities, infrastructure and roads. Surrey requests assurances that these economic impacts and costs will be borne by the applicant. There would also be direct impacts on landowners and on land use, including impacts on Surrey's land use plans and land development and potentially unresolvable impasses in obtaining the dedication of roads and parks in areas in proximity to the pipeline.

The proposed pipeline through Surrey would result in increased risks to Surrey. Any rupture/spill will directly impact the health and safety of nearby Surrey residents and workers, the natural environment including watercourses, foreshore areas and sensitive ecosystems (including the 348 hectare Surrey Bend), and would adversely affect utility and transportation infrastructure. The risks and potential impacts of the Project are exacerbated by the fact that the pipeline may be located in populated areas of Surrey and in proximity to residential, commercial, industrial and environmentally sensitive areas.

Any pipeline rupture/spill may expose a large number of residents and workers to hazardous materials, requiring evacuation. Surrey's emergency services would be involved in the evacuation and protection of the health and safety of persons affected. A rupture/spill would also have a direct and substantial impact on affected lands including City Property.

Surrey has relevant information and expertise related to the issues (engineering, planning, environmental, emergency services, etc.) and will provide the NEB with an important perspective on the interests of Surrey and its residents and on the potential negative impacts of the Project.

Access, Notification and Service

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Facsimile/Télécopieur : (403) 292-5503
<http://www.neb-one.gc.ca>
1-800-899-1265

Which official language do you wish to use in correspondence with the Board and at the public hearing?	English <input checked="" type="checkbox"/>	French <input type="checkbox"/>
Documents submitted electronically are available on the Board's electronic document repository, (Click 'View' under 'Regulatory Documents' at www.neb-one.gc.ca). If you have the capability to access the repository, the Board and other Participants in this proceeding may serve you by notifying you that a document has been filed and is available in the repository, instead of serving you with a hard copy of the document.		
Are you able to access the Board's electronic document repository?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Notification by email advising that a document has been filed will be sent to the following email addresses: Anthony Capuccinello [acapuccinello@surrey.ca] Judith Robertson [jirobertson@surrey.ca] Scott Neuman [sneuman@surrey.ca]		

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APPENDIX "II"

National Energy
Board



Office national
de l'énergie

**Trans Mountain Pipeline ULC
Trans Mountain Expansion Project**

**File Number OF-Fac-Oil-T260-2013-03 02
Hearing Order OH-001-2014
2 April 2014**

Canada

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1 HEARING OVERVIEW

1.1 Introduction

The National Energy Board (NEB or Board) has a responsibility to regulate the construction and operation of certain interprovincial and international pipelines and power lines. A three-member Panel, representing the Board, will review the proposed Trans Mountain Expansion Project (Project) and will prepare a report and make a recommendation to the Governor in Council as to whether or not the Project should proceed and, if so, under what conditions. Even if the Board recommends that the Project should not proceed, the Board must still provide conditions for any potential approval by Governor in Council.

On 16 December 2013, Trans Mountain Pipeline ULC (Trans Mountain) applied to the Board for permission to build and operate approximately 987 kilometres of new oil pipeline, and to reactivate 193 kilometres of existing oil pipeline, all between Edmonton, Alberta, and Burnaby, British Columbia. New pump stations would be added along the route. The Project would increase oil deliveries to Burnaby for export by marine tankers. To accommodate these deliveries and Project-related tanker traffic, Trans Mountain proposes to add new oil storage tanks and tanker berths at its Westridge Marine Terminal.

The Board will hold a public hearing to consider whether to recommend approval of this Project. During the hearing process, the Board will receive written evidence that will be available in an online public registry on the Board's website. The hearing will also include oral portions. The Board will use various ways to gather and test evidence and will review and consider all of the evidence on the record before making a recommendation. The Board will rely only on the evidence on the record.

The steps and deadlines in the hearing, as outlined in this Hearing Order, are important to make the hearing fair, transparent, and efficient, and they provide certainty to all those involved.

The Board's recommendation report to the Governor in Council (Report) will consider whether the Project is in the public interest. After receiving the Report, the Governor in Council has three months to make a decision as to whether the Board should issue a certificate of public convenience and necessity. Alternatively, the Governor in Council may refer the recommendation, or any conditions in the Report, back to the Board for reconsideration.

1.2 Hearing time limit

As detailed in a separate Board letter of 2 April 2014, the Board has determined that the Project application is complete to proceed to assessment.

The Board now has 15 months to complete its review. It must submit its Report to the Governor in Council no later than **2 July 2015**. This represents the maximum time to complete the review, subject to any modifications allowed under the *National Energy Board Act* (NEB Act).

The deadlines in this Hearing Order are critical to allow this hearing to be completed within the legislated time limit.

1.3 What issues will the Board consider?

The issues the Board will consider in this hearing are found in the previously released List of Issues (attached as Appendix 1).

1.4 Will there be an environmental assessment?

The Project involves constructing and operating more than 40 kilometres of new pipeline. Such activities are listed in the *Regulations Designating Physical Activities*, which makes the Project a “designated project” under the *Canadian Environmental Assessment Act, 2012*. As a result, the Board is required to conduct an environmental assessment of the Project under that Act. The Board also considers environmental matters under the NEB Act. The Board’s environmental assessment of the project will form part of its overall Report.

The Factors and Scope of the Factors for the Environmental Assessment pursuant to the Canadian Environmental Assessment Act, 2012 can be found on the online public registry as a separate document dated 2 April 2014.

1.5 What is evidence?

Evidence is what the Board will consider in its review of the Project. Evidence is comprised of the reports, statements, oral Aboriginal traditional information, photographs, letters, and other material that the hearing participants file during the hearing. Evidence is used to support one’s position on the Project application.

1.6 What did Trans Mountain request in its application?

Trans Mountain requested that the Board:

- recommend issuance of a certificate of public convenience and necessity, pursuant to section 52 of the NEB Act, authorizing the construction and operation of the Project;
- issue an order, pursuant to section 58 of the NEB Act, exempting Trans Mountain from the requirements of subsections 31(c), 31(d), and section 33 of the NEB Act in relation to yet-to-be-specified select temporary lands or infrastructure required for construction of the Project; and
- grant such further and other relief as Trans Mountain may request or the Board may consider appropriate.

1.7 Where can I see Trans Mountain’s Project application?

If you have internet access, you can find the Project application and all other documents filed in the hearing on the online public registry. The only exceptions are when a document is too large

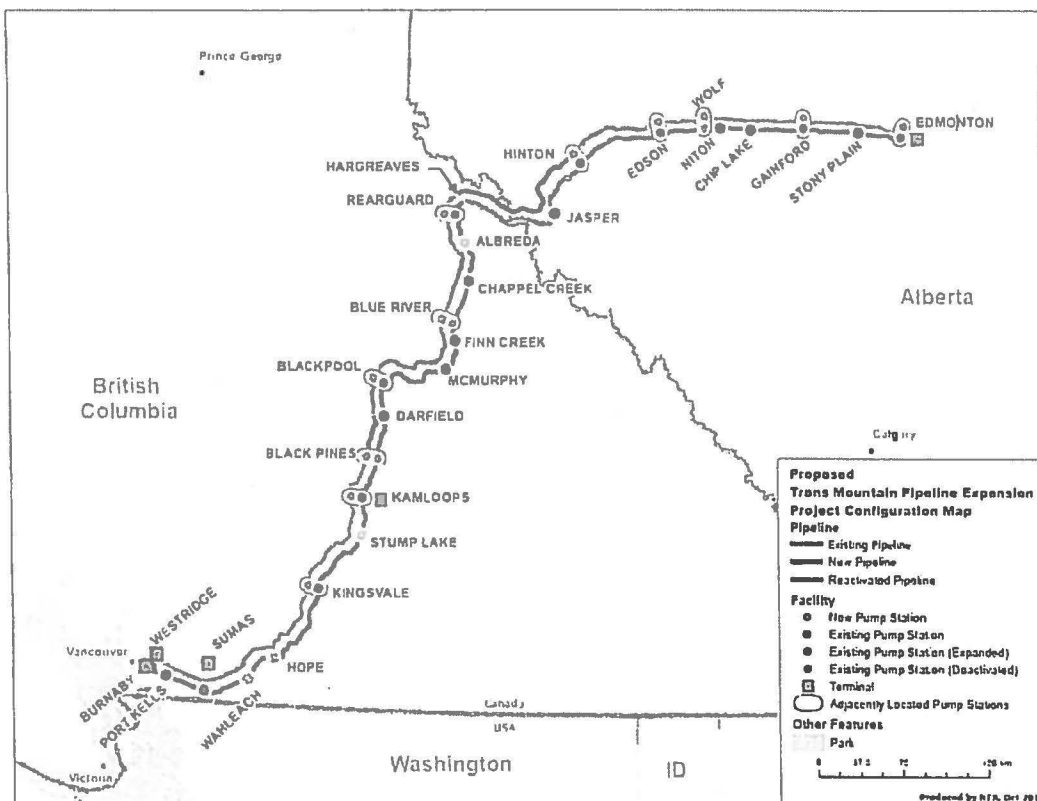
to upload (see Section 4.2.3) or the Board has approved it as confidential information (see Section 4.5).

If you do not have internet access, you can find the application at the NEB library located at 444 Seventh Avenue SW in Calgary, Alberta.

As directed in the cover letter to this Hearing Order, Trans Mountain will post on its [website](#) a list of libraries and municipalities that have agreed to house an electronic version of the project application. Please visit or contact individual locations for viewing information.

You can inquire about paper copies of the application by contacting Trans Mountain at 1-866-514-6700 (toll-free) or info@transmountain.com.

1.8 Project overview map



1.9 Where can I get help or more information about the hearing process?

The Board has many staff members that can answer questions throughout the hearing process. This includes a dedicated [Process Advisor Team](#) to provide you with information and assistance on how to effectively participate. Appendix II fully explains the Process Advisor Team's role. Section 5 contains contact information and lists other staff members that can help you with specific topics.

The Board has set up a dedicated [Project webpage](#) where you can access valuable information about this specific hearing process.

You can also sign up to receive email updates from the Board during the Project review. To sign up, click [here](#) or visit the Board's [Project webpage](#).

The Board has developed a [Hearing Process Handbook and related video](#) that provide an overview of its hearing processes, in general. You can request copies of NEB publications through the NEB library by emailing publications@neb-one.gc.ca or calling 403-292-3562 (toll-free: 1-800-899-1265).

The [National Energy Board Rules of Practice and Procedure, 1995](#) provides detailed information about the Board's hearing processes. In the event of a discrepancy between the Rules and this Hearing Order, this Hearing Order should be followed.

2 PARTICIPATION IN THE HEARING

The Board determined who will be allowed to participate in the hearing after holding an application process between 15 January and 12 February 2014. See the Board's 2 April 2014 [Ruling on Participation](#), found on the online [public registry](#), for information on how the Board determined the participants in this hearing, and their methods of participation.

There are two methods of participation: commenters (Section 2.1) and intervenors (Section 2.2).

The List of Participants in this hearing is attached to the Board's [Ruling on Participation](#). This list identifies all participants and their approved method of participation. [Part A](#) lists the intervenors; [Part B](#) lists the commenters.

2.1 Commenters

As a commenter, you are allowed to file one letter of comment. It will be placed on the online [public registry](#), will form part of the hearing record, and the Board will read and consider it. Any additional letters or submissions will not be included on the record or considered.

As a commenter, you will not be able to ask questions about evidence or present argument.

Commenters will not be notified of, or receive, documents that are filed on the online [public registry](#). You will need to monitor the registry if you wish to remain aware of new filings on the record.

More details on letters of comment are found in Section 3.1.

2.2 Intervenor

As an intervenor, you will be allowed to, among other things:

- file written evidence;
- ask written questions about Trans Mountain's and other intervenors' evidence;
- file, and potentially respond to, notices of motion;
- comment on draft conditions; and
- present written and oral argument.

If you give evidence, you must, in writing, answer any written questions from the Board, Trans Mountain, or other intervenors about your evidence.

Intervenors will be notified of, or receive, all documents that are on the online [public registry](#). This includes the application, evidence, notices of motion, and all related materials.

Depending on how active you are as an intervenor, you may face a significant time commitment during the hearing. You have a number of responsibilities. You also have various privileges, and participation opportunities afforded to you. Detailed information on intervenor deadlines and responsibilities is found in Section 3.

Intervenors may apply for funding under the Board's Participant Funding Program to assist in preparing for and participating in the hearing process (see Section 3.2.I for more details).

2.3 Can I withdraw?

If you have been allowed to participate, you can withdraw from the hearing process at any time by telling us in writing (through e-filing, mail, fax, or hand delivery), although you are not required to formally withdraw if you no longer wish to participate. You may choose to still retain your participation status, take no action, and simply monitor the progress of the hearing.

As an intervenor, unless you formally withdraw, you will continue to regularly receive email notifications and/or hard copies of documents.

3 HEARING EVENTS, STEPS, AND DEADLINES

Throughout the hearing process, the Board will issue Procedural Updates that will fully describe certain identified events and steps in detail so that all participants understand what is expected and how to fulfil their responsibilities. Cover letters to documents and information that the Board releases may also contain valuable information about hearing procedures.

Hearing events and steps (responsible person[s] in bold)¹	Date or deadline (noon Pacific time; 1:00 pm Mountain time)
Project application filed with the Board.	16 December 2013
Board makes determination on Project application completeness, establishes hearing time limit, identifies hearing participants, and releases Hearing Order.	2 April 2014
Trans Mountain serves Project application and all related documents on each intervenor who has not already received a copy. <i>If unable to do so via email (i.e., due to an invalid or no email address), Trans Mountain may serve a letter on those intervenors asking how they wish to receive the application (e.g., hard copy, other electronic media).</i>	Immediately after receiving Hearing Order
Intervenor workshop, part 1: written submissions (multiple online sessions)	8-14 April 2014
Board Round 1 information requests to Trans Mountain.	17 April 2014
Board releases draft conditions for information purposes.	17 April 2014
Intervenor Round 1 information requests to Trans Mountain. <i>Each information request must be relevant to one or more of the issues identified in Appendix I. Information requests must be served on Trans Mountain, its counsel, and all other intervenors.</i>	2 May 2014
Trans Mountain responds to Round 1 Board information requests. <i>Responses must be served on all intervenors.</i>	14 May 2014
Letter of comment workshop (multiple online sessions)	Mid-May 2014
Trans Mountain responds to Round 1 intervenor information requests. <i>Responses must be served on all intervenors.</i>	29 May 2014
Aboriginal intervenors file notices of intent to provide oral traditional evidence.	5 June 2014
Motion Day #1 – As considered necessary, intervenors file notices of motion on the adequacy of Trans Mountain's responses to information requests. <i>Notices of motion must be served on Trans Mountain, its counsel, and all other intervenors.</i>	11 June 2014
Board Round 2 information requests to Trans Mountain.	4 July 2014
Trans Mountain responds to Round 2 Board information requests. <i>Responses must be served on all intervenors.</i>	21 July 2014
Letter of comment workshop (multiple online sessions)	Mid-August 2014

¹ All produced documents must be filed with the Board so they can be placed on the hearing record and considered.

Hearing events and steps (responsible person[s] in bold) ¹	Date or deadline (noon Pacific time; 1:00 pm Mountain time)
Oral hearings: to collect, and allow questioning of, oral Aboriginal traditional evidence.	5 August 2014 – 4 September 2014
Trans Mountain files supplemental evidence.	4 September 2014
Commenters file letters of comment. <i>Letters must be served on Trans Mountain and its counsel.</i>	9 September 2014
Intervenor Round 2 information requests to Trans Mountain. <i>Each information request must be relevant to one or more of the issues identified in Appendix I. Information requests must be served on Trans Mountain, its counsel, and all other intervenors.</i>	11 September 2014
Trans Mountain responds to Round 2 intervenor information requests. <i>Responses must be served on all intervenors.</i>	25 September 2014
Motion Day #2 – As considered necessary, intervenors file notices of motion on the adequacy of Trans Mountain's responses to information requests. <i>Notices of motion must be served on Trans Mountain, its counsel, and all other intervenors.</i>	2 October 2014
Intervenors file written evidence. <i>Evidence must be relevant to one or more of the issues identified in Appendix I. Evidence must be served on Trans Mountain, its counsel, and all other intervenors.</i>	3 November 2014
Intervenor information requests to other intervenors. <i>Each information request must be relevant to one or more of the issues identified in Appendix I. Information requests must be served on the relevant intervenors, with a copy also served on Trans Mountain, its counsel, and all other intervenors.</i>	14 November 2014
Trans Mountain information requests to intervenors. <i>Each information request must be relevant to one or more of the issues identified in Appendix I. Information requests must be served on the relevant intervenors, with a copy also served all other intervenors.</i>	14 November 2014
Intervenors respond to other intervenor information requests. <i>Responses must be served on Trans Mountain, its counsel, and all other intervenors.</i>	26 November 2014
Intervenors respond to Trans Mountain information requests. <i>Responses must be served on Trans Mountain, its counsel, and all other intervenors.</i>	26 November 2014
Board releases draft conditions for comment.	3 December 2014

Hearing events and steps (responsible person[s] in bold)¹	Date or deadline (noon Pacific time; 1:00 pm Mountain time)
Intervenor workshop, part 2: oral submissions (multiple online sessions)	Mid-December 2014
Board Round 3 information requests to Trans Mountain.	18 December 2014
Board information requests to intervenors.	18 December 2014
Intervenors respond to Board information requests. <i>Responses must be served on Trans Mountain, its counsel, and all other intervenors.</i>	8 January 2015
Trans Mountain responds to Round 3 Board information requests. <i>Responses must be served on all intervenors.</i>	8 January 2015
Trans Mountain files reply evidence. <i>Evidence must be served on all intervenors.</i>	13 January 2015
Intervenors and Trans Mountain file affidavits swearing evidence.	13 January 2015
Intervenors and Trans Mountain file notices of intent to present oral summary argument and/or reply argument.	13 January 2015
Intervenor workshop, part 2: oral submissions (multiple online sessions)	Mid-January 2015
Trans Mountain files written argument-in-chief, including comments on draft conditions. <i>Comments on conditions must be included in written argument-in-chief; they cannot be raised for the first time during oral argument. No new evidence can be provided in written argument-in-chief. Written argument-in-chief must be served on all intervenors.</i>	20 January 2015
Oral hearings: to hear Trans Mountain's oral summary argument. <i>No new evidence can be provided in oral argument. Time limits will be imposed.</i>	Late-January 2015
Intervenors file written argument-in-chief and reply to Trans Mountain including comments on draft conditions. <i>Comments on conditions must be included in written argument-in-chief; they cannot be raised for the first time during oral argument. No new evidence can be provided in written argument-in-chief. Written argument-in-chief must be served on Trans Mountain, its counsel, and all other intervenors.</i>	6 February 2015
Oral hearings: to hear intervenors' oral summary argument and/or reply argument. <i>No new evidence can be provided in oral argument. Time limits will be imposed.</i>	February 2015

Hearing events and steps (responsible person[s] in bold) ¹	Date or deadline (noon Pacific time; 1:00 pm Mountain time)
Trans Mountain files written reply argument.	March 2015
Hearing record closes.	Immediately after finishing argument
Board releases its Report to the Governor in Council and provides it to the Minister of Natural Resources	2 July 2015 (time limit end)

3.1 More information for commenters

Your letter of comment should be in one of Canada's official languages (English or French). It should describe your views on the Project and include:

- your name, mailing address, and phone number;
- the name of your organization, if you represent one;
- comments on how you would be impacted positively or negatively by the Project, or any relevant information or expertise that you can offer to assist in the Board's review; and
- any information that explains or supports your comments.

There is no page limit to your letter, although clear and well-organized letters are encouraged.

3.2 More information for intervenors

3.2.1 Participant funding

The Board is making funds available through its Participant Funding Program to help intervenors prepare for and participate in the hearing process. To receive funding, intervenors must first apply for it. An independent funding committee will make funding decisions throughout the hearing process as applications are received. Funding will only be paid out for hearing-related activities conducted **after** your funding application has been approved.

The funding application process opened on **22 July 2013** to allow potential intervenors the opportunity to apply and receive funding decisions as early as possible, in the event they were granted intervenor status. Confirmed intervenors are again encouraged to apply for funding as early as possible, since, as noted above, funding will only be paid out for activities taking place after your application has been approved. The last day to apply for funding is **6 January 2015**.

Please review the *Participant Funding Program Guide* to determine how to apply and what funding will cover. To learn more about the Participant Funding Program, please visit the Board's [program webpage](#), or contact the Participant Funding Coordinator at PF.PAFP@neb-one.gc.ca or 1-800-899-1265.

3.2.2 Intervenor information requests to Trans Mountain

The Board has provided intervenors with two opportunities to ask information requests of Trans Mountain. The deadlines are **2 May** and **11 September 2014**. Although you may do so, you are not required to ask information requests on both deadlines. The Board notes that intervenors may wish to ask the majority of their questions in the first round in order to gather evidence early on. Should intervenors wish, the second round may be used for asking questions to clarify or supplement the answers received in the first round, and to question additional evidence that Trans Mountain may file.

3.3 More information about the oral hearings

The Board will hold two separate oral hearing portions: one to collect, and allow questioning of, oral Aboriginal traditional evidence; the other to hear oral argument by Trans Mountain and then intervenors. In both instances, Board staff will be available in the hearing room prior to the hearings to explain the layout of the hearing room and answer any process questions.

3.3.1 Oral Aboriginal traditional evidence

Between **5 August and 4 September 2014**, Aboriginal intervenors may choose to provide traditional evidence orally. This would be in addition to their written evidence, if any. This oral evidence may be questioned orally by other intervenors, Trans Mountain, or the Board.

Aboriginal intervenors must, by **5 June 2014**, notify us in writing of their intent to provide oral traditional evidence.

The Board will provide all of the necessary details (e.g., dates, location(s), expectations) at a later time.

3.3.2 Oral argument

In **January 2015**, the Board will hear oral summary argument from Trans Mountain. Intervenors will present oral summary argument and reply argument in **February 2015**.

Intervenors and Trans Mountain must, by **13 January 2015**, notify the Board in writing of their intent to present oral summary argument and/or reply argument.

Full details on oral argument (including procedures, time limits, dates, location[s]) will be provided at a later time.

3.3.3 Oral hearing broadcasts and transcripts

The Board will broadcast the oral hearings live over the internet. The Board will provide more information on this as the oral hearings approach. The oral hearings will also be transcribed daily. Transcripts will be available on the online [public registry](#).

Anyone can order transcripts directly from International Reporting Inc. This can be done at the oral hearings, by emailing bsprouse@irri.net, or by calling 1-800-899-0006. There may be a fee for this service.

3.4 More information about online workshops

Three distinct online workshops are planned to provide hearing participants with information and assistance in preparing submissions. To the extent that information is known at this time, these are summarized below.

Workshop	Session #	Date
Intervenor workshop, part 1: written submissions (writing information requests, evidence, notices of motion; how to file documents)	1	Tuesday, 8 April 2014
	2	Wednesday, 9 April 2014
	3	Thursday, 10 April 2014
	4	Friday, 11 April 2014
	5	Monday, 14 April 2014
Intervenor workshop, part 2: oral submissions (presenting argument, commenting on conditions, oral hearing format)	Workshops are planned for mid-December 2014 and mid-January 2015. The number of sessions and exact dates will be determined and communicated.	
Letter of comment workshop (writing and filing letters of comment)	Workshops are planned for mid-May and mid-August 2014. The number of sessions and exact dates will be determined and communicated.	

Please visit the Board's [Project webpage](#) for complete details and updates on these workshops and for sign-up information. The Board will also communicate details when future sessions are confirmed. In the meantime, please contact the [Process Advisor Team](#) with any questions you may have.

4 PROCEDURES AND GUIDANCE

4.1 How do I prepare documents?

Every document you file with the Board or serve on Trans Mountain or intervenors must refer to Hearing Order OH-001-2014.

Address all documents to the proper recipient. For example, anything intended for the Board should be addressed to the Secretary of the Board (see Section 4.2.4 for contact information). Documents directed at others (e.g., responses to other participants' information requests) should be addressed to them using the [List of Participants: Part A – Intervenors](#) as a guide.

All documents must be in Adobe® PDF format. To minimize technical issues, please use the latest version of Adobe® Acrobat®. Number document pages consecutively, including blank pages, so the electronic page numbers match the page numbers showing in your document.

Due to system constraints, all files must be kept under 5 megabytes (MB). If you have a document over that file size, you will need to split it up into files that fall under the size limit before filing.

Sign any document you file, unless it originates from an online form where signing is not an option (e.g., from your NEB account).

Do not provide references to websites. Instead, provide the actual information you want to refer to. If using information sourced from a website, it must be filed in Adobe® PDF format with an indication of the date the information was taken from the website.

4.2 How do I file documents with the Board?

The Board requires you to file your documents online if you are able to do so. This can be done through the Board's e-filing system (for intervenors and Trans Mountain) or through your existing NEB account (for commenters).

You **cannot** file documents by email. Documents received by email will not form part of the hearing record and will not be considered by the Board.

4.2.1 Intervenor document filing (e-filing)

Intervenor documents should be filed through the Board's online e-filing system, using the following steps:

- From the above link, follow the instructions to submit your Project-specific document(s). Refer to the *Filer's Guide to Electronic Submission* for more information (also linked to from the system's main page).
- You will receive an email containing a filing receipt. Print the receipt and sign it.
- Send the Board one signed hard copy of both the e-filed document(s) and the filing receipt by mail, fax, or hand delivery (see Section 4.2.4 for contact information).

4.2.2 Filing letters of comment

As a commenter, the easiest way to electronically file your letter is through your online NEB account, which you set up when applying to participate in this hearing process. That option will be available to you when you log into your account. If you are having difficulties doing this, you can also use the Board's e-filing system that is described in Section 4.2.1.

You must serve your letter on Trans Mountain and its counsel using their contact information from either Part A or Part B of the List of Participants. See Section 4.3 for guidance on serving documents electronically.

4.2.3 What if I cannot file documents online?

If you are unable to use the internet and cannot e-file documents, you can file documents with us in person, by mail, or by fax, using the contact information in Section 4.2.4. Mailed or couriered documents that are received after a filing deadline, but are date-stamped by the post office or courier on or before the deadline, will be considered as filed on time.

If filing in person, by mail, or by fax, you must file one signed hard copy with the Board. If you are an intervenor, you must also send one hard copy to Trans Mountain, its counsel, and on any other intervenor that has said it cannot access files online (indicated on the List of Participants: Part A – Intervenors). The Board will upload the file(s) to the online public registry.

If you are a commenter, you must also serve one hard copy on Trans Mountain and its counsel using their contact information found in either Part A or Part B of the List of Participants.

You can also use this method of filing if you have documents that cannot be scanned and made into an electronic copy (e.g. if it is physically too large to scan). In these cases, Board staff will put an electronic placeholder on the online public registry that indicates a document has been filed in hard copy and is available in the Board's library, but cannot be viewed or searched online.

4.2.4 Who do I send or address documents to at the Board?

Use the following information when sending correspondence and documents to the Board.

Secretary of the Board
National Energy Board
444 Seventh Avenue SW
Calgary, AB T2P 0X8
Fax: 403-292-5503 (toll-free: 1-877-288-8803)

4.3 How do I serve documents on others?

If you are an intervenor, you are required to serve your documents on Trans Mountain, its counsel, and all other intervenors. Trans Mountain is required to serve its documents on each intervenor.

The List of Participants: Part A – Intervenors identifies who is able to access online documents. Serving a document on these participants simply requires you to notify them by email when you have successfully filed the document; the easiest way being to forward them the filing receipt you received by email (see Section 4.2.1). Since you will need to send an email to multiple participants, you may want to consider creating an email group/list so that you can send one email to several addresses, as opposed to several emails to several addresses.

If the List of Participants: Part A – Intervenors indicates an intervenor is unable to access documents online, you must provide that intervenor with a hard copy of each document you file. Their preferred method of service (e.g., fax, mail) will be indicated next to their name.

If you, yourself, cannot use the internet, you will need to provide each intervenor and Trans Mountain with a hard copy of your filed documents, either by fax, mail, or hand delivery.

4.4 How do I raise a question of procedure or substance that requires a Board decision?

If you want to ask the Board to do something, such as to extend a particular deadline, you must file a request. This is called a notice of motion. A notice of motion must include:

- a concise statement of the facts;
- the grounds for the request;
- the decision or relief requested;
- the impact of granting the request on other hearing participants; and
- any other information which supports the request.

Your notice of motion must be:

- in writing;
- signed by the person making the request, or by an authorized representative;
- divided into consecutively numbered paragraphs;
- served on, as applicable, Trans Mountain and all intervenors; and
- filed separately from any other correspondence.

If you are relying on case law or other authorities to support your position, you must include a book of authorities and highlight the specific passages you are relying on.

The Board may provide an opportunity for Trans Mountain and intervenors to comment on a notice of motion. This decision would be based on the nature of the request, and the circumstances surrounding it.

For more information, see section 35 of the *National Energy Board Rules of Practice and Procedure, 1995*.

4.5 Will you keep my evidence confidential?

All evidence for this hearing will be available on the online public registry, unless you file a notice of motion to keep your evidence confidential under sections 16.1 or 16.2 of the NEB Act, and the Board grants your request for confidentiality. It is important to file your notice of motion, and await the Board's response, in advance of filing your evidence. This will prevent your evidence from appearing publically.

If the Board grants your request for confidentiality, there are specific and important procedures to follow when filing that evidence. Please contact the Process Advisor Team to discuss these steps (see Section 5 for contact information).

5 WHO CAN I CONTACT FOR HELP?

You are encouraged to contact Board staff with any questions you may have during the hearing process. By calling 403-292-4800 or 1-800-899-1265 (toll-free) and choosing the Trans Mountain Expansion Project from the list of hearings, you will be directed to someone who can help you with your Project-specific question. Callback numbers that are left will be followed-up on as soon as possible.

If you would prefer ask your questions by email, the following groups can help you:

Group and role	Email address	Type of help
Process Advisor Team	transmountainpipeline.hearing@neb-one.gc.ca	For questions or help regarding the hearing process and how to effectively participate in it. ²
Regulatory Officers	TMX.regulatoryofficer@neb-one.gc.ca	For questions or help with filing or serving documents, evidence or exhibit numbers, or if you are having technical issues.
Participant Funding Coordinator	PPF.PAFP@neb-one.gc.ca	For questions about the Board's Participant Funding Program and participant funding for this project.

² Appendix II provides more details on what the Process Advisor Team can and cannot do to help you during the hearing process.

Appendix I – List of Issues

1. The need for the proposed project.
2. The economic feasibility of the proposed project.
3. The potential commercial impacts of the proposed project.
4. The potential environmental and socio-economic effects of the proposed project, including any cumulative environmental effects that are likely to result from the project, including those required to be considered by the NEB's *Filing Manual*.
5. The potential environmental and socio-economic effects of marine shipping activities that would result from the proposed project, including the potential effects of accidents or malfunctions that may occur.
6. The appropriateness of the general route and land requirements for the proposed project.
7. The suitability of the design of the proposed project.
8. The terms and conditions to be included in any approval the Board may issue.
9. Potential impacts of the project on Aboriginal interests.
10. Potential impacts of the project on landowners and land use.
11. Contingency planning for spills, accidents or malfunctions, during construction and operation of the project.
12. Safety and security during construction of the proposed project and operation of the project, including emergency response planning and third-party damage prevention.

The Board does not intend to consider the environmental and socio-economic effects associated with upstream activities, the development of oil sands, or the downstream use of the oil transported by the pipeline.

Appendix II – Role of the Process Advisor Team

The Process Advisor Team can:

- Answer your questions about the hearing process.
- Explain what you can and cannot do in the role of a commenter or intervenor.
- Organize and run public workshops.
- Answer your questions about the Participant Funding Program and how to apply.
- Provide samples and templates and answer your questions about them.
- Explain your role in the hearing process.
- Answer your process questions in person during the oral hearings.

The Process Advisor Team cannot:

- Make your case for you. That means they cannot:
 - Interpret the evidence for you.
 - Tell you what information you should give to the Panel members.
 - Tell you how to best present your information.
 - Write your questions or evidence.
- Talk to the Panel members on your behalf.
- Talk to Trans Mountain on your behalf.



File OF-Fac-Oil-T260-2013-03 02
24 April 2014

To: Distribution List

**Hearing Order OH-001-2014
Trans Mountain Pipeline ULC (Trans Mountain)
Application for the Trans Mountain Expansion Project (Project)
Requests to extend deadline for Round 1 intervenor information requests to Trans
Mountain
Ruling No. 9**

The National Energy Board (Board) is in receipt of several requests to extend the 2 May 2014 deadline for intervenors to file their first round of information requests to Trans Mountain (IR No. 1 Deadline). On 16 April 2014, the Board received requests from:

- Ms. Lisa Craig;
- the City of Burnaby; and
- Ms. Frances Hawes.

These requests asked the Board to extend or postpone the IR No. 1 Deadline, but did not suggest an alternative date. On 17 and 18 April 2014, respectively, the Board received requests from Living Oceans Society and Raincoast Conservation Foundation (Living Oceans/Raincoast); and the Swinomish Indian Tribal Community, Tulalip Tribes, Squamish Tribe, and Lummi Nation (US Tribes). These two requests sought:

1. an extension of the IR No. 1 Deadline by 45 days to 16 June 2014; and
2. an extension of the statutory time limit to issue the Board's report on the Project, with the Chair's approval pursuant to subsection 52(5) of the *National Energy Board Act*, until Trans Mountain has filed detailed Quantitative Risk Assessments.

In this Ruling, the Board addresses the IR No. 1 Deadline extension request only. The Board is considering the other relief requested by Living Oceans/Raincoast and the US Tribes and will respond in due course.

.../2

The Board received letters in support of the request to extend the IR No. 1 Deadline from:

- the City of Abbotsford, Township of Langley, and Fraser Valley Regional District (filed 17 April 2014);
- North Shore No Pipeline Expansion (filed 17 April 2014);
- Cowichan Tribes (filed 18 April 2014);
- Katzie First Nation (filed 23 April 2014);
- Mr. Andrew Weaver, MLA (filed 23 April 2014); and
- Mr. Adam Olsen (filed 24 April 2014).

Katzie First Nation requested an extension to the deadline for themselves, as well as the general extension of the IR No. 1 Deadline as sought by the other requesters.

Trans Mountain filed comments on 24 April 2014 stating that, in its view, an extension to the IR No. 1 Deadline was not justified.

Decision

The Board has decided to extend the IR No. 1 Deadline for all intervenors by 10 calendar days to **12 May 2014**. The Board's reasons, as well as a revised schedule showing all dates impacted by this decision, are given below.

Views of intervenors

The grounds cited by the requesters in favour of extending the IR No. 1 Deadline include:

- the 30 days between the 2 April 2014 release of the Hearing Order and Ruling on Participation and the 2 May 2014 IR No. 1 Deadline provide insufficient time to review the 15,000-page application, including securing and retaining experts where necessary;
- participant funding was contingent on the Ruling on Participation;
- the two rounds of intervenor information requests are the only opportunity to test Trans Mountain's evidence and, if the extension is not granted, intervenors would lose the opportunity to ask follow-up or clarification questions in the second round of information requests;
- the Hearing Order suggests that intervenors ask the majority of their questions in the first round; and
- natural justice requires that intervenors be given notice, a meaningful opportunity to present their case, and to be heard.

In addition, individual requesters cited time commitments outside the hearing process. Mr. Andrew Weaver cited the time required to review the application and consult with his constituents.

Views of the Board

The Board recognizes that being an intervenor can involve a significant commitment of time and effort. The Board acknowledged this and provided guidance through the Application to Participate form, the Hearing Order, and in information sessions and workshops about the amount of time and personal investment required to participate as an intervenor in the hearing. In the Hearing Process Handbook, the Board explains the following:

The amount of preparation and work commitment depends on how you are participating. Writing a letter of comment is the least amount of work. Being an Intervenor requires a commitment to the hearing process and a commitment of your time. There may be costs associated with being an Intervenor, such as preparing your evidence, making copies and sending documents to other parties.

While the Board suggested that intervenors ask the majority of their questions in the first round of information requests, this is not a requirement. The Board notes that the application has been available since 16 December 2013, but recognizes practical constraints faced by intervenors and did not, when it released the Hearing Order, expect intervenors to complete their technical review of the application in 30 days. It also did not expect intervenors to have all of their questions put forward in the first round of information requests.

The Board released its first round of information requests to Trans Mountain on 15 April 2014. Intervenors may find them helpful and can review them to determine matters which may already be covered. Intervenors will have a further opportunity to pose questions to Trans Mountain in the second round of information requests on 11 September 2014. There is also considerable time before intervenors must file their evidence.

The process outlined in the Hearing Order provides all intervenors an opportunity to file written evidence, to pose questions to other intervenors, and to submit and present argument. These are all in addition to the ability to pose questions to Trans Mountain on two occasions, each with a specific opportunity to file motions regarding the adequacy of Trans Mountain's responses. In the Board's view, the process meets the natural justice requirements for notice, an opportunity to know the case to be met, and to be heard. In doing so, it provides for meaningful participation by all intervenors.

For these reasons, the request by Living Oceans/Raincoast and the US Tribes to extend the IR No. 1 Deadline by 45 days is denied. While the Board is not persuaded that natural justice or other reasons require that the deadline for the first round of information requests be extended, in this instance, it has decided that it will nevertheless extend the IR No. 1 Deadline for all intervenors by 10 days. As indicated in the revised schedule below, Trans Mountain will have less time to respond to information requests, and intervenors will have less time to file motions concerning the adequacy of Trans Mountain's responses. All other dates from the Hearing Order remain in effect.

Hearing events and steps (responsible person[s] in bold)	<u>Revised</u> date or deadline (noon Pacific time; 1:00 pm Mountain time)
Intervenor Round 1 information requests to Trans Mountain. <i>Each information request must be relevant to one or more of the issues identified in Appendix I. Information requests must be served on Trans Mountain, its counsel, and all other intervenors.</i>	12 May 2014
Trans Mountain responds to Round 1 intervenor information requests. <i>Responses must be served on all intervenors.</i>	4 June 2014
Motion Day #1 – As considered necessary, intervenors file notices of motion on the adequacy of Trans Mountain’s responses to information requests. <i>Notices of motion must be served on Trans Mountain, its counsel, and all other intervenors.</i>	13 June 2014

If you have questions about the Board’s hearing process and deadlines, please see the Board’s OH-001-2014 Hearing Order or, as required, contact the Board’s Process Advisor Team for this hearing by phone at 403-292-4800 or 1-800-899-1265 (toll-free), or by email at transmountainpipeline.hearing@neb-one.gc.ca.

Yours truly,



for
Sheri Young
Secretary of the Board

c.c. Trans Mountain and all intervenors

Attachment (Distribution List)

Distribution List

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Raincoast Conservation Foundation
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APPENDIX "III"



the future lives here.

Legal Services

CRAIG MA FARLANE, City Solicitor
MAUREEN ST. CYR, Assistant City Solicitor
KELLY RAYTER, Assistant City Solicitor
ANTHONY CAPUCCINELLO, Assistant City Solicitor
PHILIP C.M. HUYNH, Assistant City Solicitor
BENJIE LEE, Assistant City Solicitor
HUGH CAMPBELL, Assistant City Solicitor

Our File: 2430-20-591
Direct Line: (604) 591-4188

May 7, 2014

Mr. D. Scott Stoness
Vice President, Finance & Regulatory Affairs
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Calgary, AB T2P 5J2
Facsimile: 1-403-514-6622
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Mr. Shawn H. T. Denstedt, Q.C.
Osler, Hoskin & Harcourt LLP
Barristers & Solicitors
Suite 2500, 450 – 1st Street SW
Calgary, AB T2P 5H1
Facsimile: 1-403-260-7024
Email: Regulatory@transmountain.com

Dear Sirs:

**Re: Hearing Order OH-001-2014
Trans Mountain Pipeline ULC (Trans Mountain)
Application for the Trans Mountain Expansion Project (Project)
Information Request (IR) No. 1 to Trans Mountain**

Pursuant to the above noted National Energy Board Hearing Order, please find attached the City of Surrey's Information Request No. 1 to Trans Mountain.

We look forward to receipt of Trans Mountain's responses in accordance with the deadline established by the Board.

If you have any questions, please do not hesitate to contact me directly at 604-591-4188.

Yours truly,

for: 
ANTHONY CAPUCCINELLO
Assistant City Solicitor

AC:kl

Enclosure

u:\legal\litigation\general (misc)\trans mountain pipeline ulc (591)\correspondence\041714 1418 - k13.docx
KS 5/7/14 9:20 AM

c.c. National Energy Board (filed electronically)

OH-001-2014
Trans Mountain Pipeline ULC (Trans Mountain)
Application for the Trans Mountain Expansion Project (Project)
File OF-Fac-Oil-T260-2013-03 02

City of Surrey Information Request No. 1 to Trans Mountain

1.1 Corridor Selection and Alternative Corridor(s)

Reference:

- (i) A3SoRo, Application Volume 2, Project Overview, Economics and General Information, Section 4.2 Pipeline Corridor Selection, Section 4.2.3 Proposed Pipeline Corridor, Section 4.2.3.3 British Columbia
 - PDF pages 2-55 to 2-56;
- (ii) A3S1L4, Application Volume 5A: ESA- Biophysical, Section 4.0 Corridor and Facility Site Selection, Section 4.1 Overview of Corridor Selection Process, Section 4.3 Proposed Pipeline Corridor
 - PDF pages 4-13 to 4-14;
 - PDF page 4-24;
- (iii) A3SoY8 & A3S1A4, Application Volume 4A Project Design and Execution - Engineering, Appendix E-1 Proposed line 2 Pipeline Corridor Route Maps - British Columbia (Maps)
 - PDF pages 4A-6 to 4A-10;
 - PDF, Appendix E-1, Sheet Map 53 of 54;
- (iv) A3S3W9, A3S3X0, A3S3X1, A3S3X2, A3S3X3 and A3S3X4, Application Volume 6E, Environmental Alignment Sheets
 - PDF (A3S3X1 and A3S3X2) Sheets 292 of 301 and 293 of 301.

Preamble:

Reference (iii) states that a hierarchy of routing criteria was established that provides that where not feasible to install the Line 2 segments on or adjacent to the existing TMPL easement then the next preferred option would be to install the Line 2 segments adjacent to easements or rights of way of other linear facilities including other pipelines, power lines, highways, roads, railways, fiber optic transmission systems and other utilities.

References (i) & (ii) states that Trans Mountain chose to take advantage of the existing Canadian National (CN) railway right of way and new South Fraser Perimeter Road corridor on the south side of the Fraser River.

Reference (i) & (ii) also states that the corridor parallels the CN railway right of way and later the South Fraser Perimeter Road and traverses the edge of the Surrey Bend for about 3 km (with a minor deviation being considered to reduce the length through Surrey Bend by taking advantage of surplus land released from the recent South Fraser Perimeter Road Project).

References (iii) & (iv) (Route Maps and Environmental Alignment Sheets) identify a jog in the proposed Line 2 corridor between RK 1160 (Reference Kilometer Marking) and RK 1164 which takes the corridor through park land instead of maintaining the corridor through the existing South Fraser Perimeter Road corridor and the CN rail right of way.

Reference (iii) states that the strategies for the selection of the corridor included the assessment of alternative corridors for Line 2 and a recommendation of a proposed Line 2 alternative corridor.

Reference (iii) states where abutting the existing TMPL right of way is not feasible, Trans Mountain identified alternative routing for desktop review and subsequent field assessment.

Reference (iii) states that once routing field work was completed on the proposed alternative corridors (either along the TMPL easement or TMEP Line 2 alternatives), the corridor assessment then involved further detailed assessments by other disciplines to ensure that there were no significant impediments to endorsing a particular alternative corridor.

Reference (iii) states that the proposed pipeline corridor is shown on the Proposed Line 2 Pipeline Corridor Route Maps in Appendix E and the preliminary environmental alignment sheets in Volume 6E.

Reference (iii) states that it is recognized that additional landowner, stakeholder, environmental, socio-economic, geotechnical, and other information will come forward that will lead to improvements in the location of the pipeline corridor.

Request:

Please provide the following:

- a) a detailed explanation as to why a jog in the proposed Line 2 corridor between RK 1160 and RK 1164 (resulting in a proposed Line 2 corridor through City of Surrey and Metro Vancouver parks) was selected instead of continuing the corridor through the existing South Fraser Perimeter Road corridor and the CN right of way between RK 1160 and RK 1164;

- b) please confirm whether or not Trans Mountain has conducted or obtained any feasibility studies, assessments, investigations or reports considering an alternative alignment of the proposed Line 2 corridor between RK 1160 and 1164 through the existing South Fraser Perimeter Road corridor and/or the CN right of way:
- (i) if any feasibility studies, assessments, investigations or reports have been conducted or obtained, please provide the City of Surrey with copies of all such studies, assessments, investigations and reports and please identify the date and author(s) of each;
 - (ii) if Trans Mountain does not intend to conduct or obtain any such feasibility studies, assessments, investigations or reports, please provide an explanation as to why not;
 - (iii) if there are any known or perceived impediments/obstacles to locating an alignment of the proposed Line 2 corridor between RK 1160 and 1164 through the existing South Fraser Perimeter Road corridor and/or the CN right of way, please identify and describe in detail what those impediments/obstacles are, who identified them and what evidence was relied upon in determining that such impediments/obstacles actually exist. Please also indicate whether any assessment, review or investigation of these impediments/obstacles has been conducted or commissioned by Trans Mountain to ascertain whether they can be overcome or minimized; and
 - (iv) if any such assessments, reviews or investigations described in paragraph (b)(iii) above have been undertaken, please provide the City with copies of them and please identify the date and author(s) of each. If such assessments, reviews or investigations have not been undertaken, please provide an explanation as to why not;
- c) please confirm whether or not Trans Mountain has had discussions or communications with the Province and/or CN in relation to utilizing the existing South Fraser Perimeter Road corridor and/or the CN right of way between RK 1160 and RK1164 as the proposed Line 2 corridor:
- (i) if so, please provide details of such discussions and communications, a summary of the positions taken by each of Province and CN, the basis and rationale provided by the Province and by CN for the position each has taken, and the names and titles of those who represented each party in said discussions and communications; and
 - (ii) if there have not been any discussions or communications with either the Province or CN, please provide an explanation as to why not;

- d) a detailed explanation as to why the proposed Line 2 corridor between RK 1158 and RK 1159 (resulting in a proposed Line 2 corridor through City of Surrey parkland) was selected instead of continuing the corridor through the existing Golden Ears Connector corridor and the CN right of way between RK 1158 and RK 1159;
- e) please confirm whether or not Trans Mountain has conducted or obtained any feasibility studies, assessments, investigations or reports considering an alternative alignment of the proposed Line 2 corridor between RK 1158 and 1159 through the existing Golden Ears Connector corridor and/or the CN right of way:
 - (i) if any feasibility studies, assessments, investigations or reports have been conducted or obtained, please provide the City of Surrey with copies of all such studies, assessments, investigations and reports and please identify the date and author(s) of each;
 - (ii) if Trans Mountain does not intend to conduct or obtain any such feasibility studies, assessments, investigations or reports, please provide an explanation as to why not;
 - (iii) if there are any known or perceived impediments/obstacles to locating an alignment of the proposed Line 2 corridor between RK 1158 and 1159 through the existing Golden Ears Connector corridor and/or the CN right of way, please identify and describe what those impediments/obstacles are, who identified them and what evidence was relied upon in determining that such impediments/obstacles exist. Please also indicate whether any assessment, review or investigation of these impediments/obstacles has been conducted or commissioned by Trans Mountain to ascertain whether these impediments/obstacles can be overcome or minimized; and
 - (iv) if any such assessments, reviews or investigations described in paragraph (e)(iii) above have been undertaken, please provide the City with copies of them and please identify the date and author(s) of each. If such assessments, reviews or investigations have not been undertaken, please provide an explanation as to why not;
- (f) please confirm whether or not Trans Mountain has had discussions or communications with the Province and/or CN in relation to utilizing the existing Golden Ears Connector corridor and/or the CN right of way between RK 1158 and RK1159 as the proposed Line 2 corridor:
 - (i) if so, please provide details of such discussions and communications, a summary of the positions taken by each of Province and CN, the basis and rationale provided by the Province and by CN for the position each has

taken, and the names and titles of those who represented each party in said discussions and communications; and

- (ii) if there have not been any discussions or communications with either the Province or CN, please provide an explanation as to why not;
- (g) a detailed summary of any communications and copies of any agreement(s) with the Province related to the utilization of the South Fraser Perimeter Road corridor (in whole or in part) for the purposes of the proposed Line 2 corridor through the City of Surrey;
- (h) a detailed summary of any communications and copies of any agreement(s) with the Province related to the utilization of the Golden Ears Connector corridor (in whole or in part) for the purposes of the proposed Line 2 corridor through the City of Surrey; and
- (i) a detailed summary of any communications and copies of any agreement(s) with CN related to the utilization of the CN right of way corridor (in whole or in part) for the purposes of the proposed Line 2 corridor through the City of Surrey.

1.2 Corridor Details and Particulars

Reference:

- (i) A3SoRo, Application Volume 2, Project Overview, Economics and General Information, Section 4.2 Pipeline Corridor Selection, Section 4.2.3 Proposed Pipeline Corridor, Section 4.2.3.3 British Columbia
 - PDF pages 2-55 to 2-56;
- (ii) A3SoY8, Application Volume 4A Project Design and Execution – Engineering, Section 2.8 Pipeline Corridor and Route Centerline Selection Process, Section 2.8.1 Pipeline Corridor Selection Objectives, Strategies and Criteria, Section 2.8.2.3 Alternative Pipeline Corridors, Section 2.8.2.4 Pipeline Study Corridor
 - PDF pages 4A-6 to 4A-10;
- (iii) A3S1L4, Application Volume 5A: ESA- Biophysical, Section 4.0 Corridor and Facility Site Selection, Section 4.1 Overview of Corridor Selection Process, Section 4.3 Proposed Pipeline Corridor
 - PDF pages 4-13 to 4-14;
 - PDF page 4-24;

- (iv) A3S1A4, Application Volume 4A Project Design and Execution - Engineering, Appendix E-1 Proposed line 2 Pipeline Corridor Route Maps - British Columbia (Maps)
 - PDF, Appendix E-1, Sheet Map 53 of 54;
- (v) A3S3W9, A3S3X0, A3S3X1, A3S3X2, A3S3X3 and A3S3X4, Volume 6E, Environmental Alignment Sheets
 - PDF (A3S3X1 and A3S3X2) Sheets 292 of 301 and 293 of 301;
- (vi) A3SoZ5, Application Volume 4A Project Design and Execution – Engineering, Appendix D-1, Table 5.1.14 Preliminary Highway, Road and Railway Crossings
 - PDF (Table 5.1.14) pages D-25 to D-39.

Preamble:

References (iii), (iv) & (v) generally identify the proposed Line 2 corridor but do not provide sufficient detail to ascertain the location of the proposed Line 2 corridor in relation to current property lines/boundaries and in relation to highway/road boundaries. They also do not provide the precise area and degree of encroachment of the proposed Line 2 corridor in each impacted legal lot or in each impacted highway/road or in the impacted CN rail right of way corridor or in the impacted South Fraser Perimeter Road corridor or in the impacted Golden Ears Connector corridor.

References (i) to (v) and the Application as a whole do not identify specific alternative Line 2 corridors under consideration with sufficient detail to ascertain the location of the alternative Line 2 corridors under consideration in relation to current property lines/boundaries and in relation to highway/road boundaries. They also do not provide the precise area and degree of encroachment of the alternative Line 2 corridors under consideration in each impacted legal lot or in each impacted highway/road or in the impacted CN rail right of way or in the impacted South Fraser Perimeter Road corridor or in the impacted Golden Ears Connector corridor.

Reference (iii) states that Line 2 pipeline segments generally require a construction right of way of 45m, and that Trans Mountain decided to study and apply for a wider corridor (generally 150 m) to provide flexibility for minor alignment adjustments during the detailed engineering and design phase.

Request:

Please provide the following:

- a) a detail map(s) and/or plan(s) to a scale of at least 1:1000 identifying the proposed Line 2 corridor in the City of Surrey with sufficient detail:

- (i) to ascertain the precise location of the proposed Line 2 corridor with off-set dimensions in relation to current property lines/boundaries and in relation to highway/road boundaries; and
 - (ii) the precise area and degree of encroachment of the proposed Line 2 corridor in each impacted legal lot and in each impacted highway/road and in the impacted CN rail right of way corridor and in the impacted South Fraser Perimeter Road corridor and in the impacted Golden Ears Connector corridor;
- b) a detail map(s) and/or plan(s) to a scale of at least 1:1000 identifying all alternative Line 2 corridors under consideration in the City of Surrey with sufficient detail:
- (i) to ascertain the precise location of the alternative Line 2 corridors with off-set dimensions in relation to current property lines/boundaries and in relation to highway/road boundaries; and
 - (ii) the precise area and degree of encroachment of the alternative Line 2 corridors in each impacted legal lot and in each impacted highway/road and in the impacted CN rail right of way corridor and in the impacted South Fraser Perimeter Road corridor and in the impacted Golden Ears Connector corridor;
- c) a map(s) and/or plan(s) described in paragraphs (a) and (b) above, plotted on an updated aerial photograph that shows the recently constructed South Fraser Perimeter Road.

1.3 Highway/Road Occupation and Crossing Issues and Agreements

Reference:

- (i) A3SoY8, Application Volume 4A Project Design and Execution – Engineering, Section 2.8 Pipeline Corridor and Route Centerline Selection Process, Section 2.8.1 Pipeline Corridor Selection Objectives, Strategies and Criteria, Section 2.8.2.3 Alternative Pipeline Corridors, Section 2.8.2.4 Pipeline Study Corridor
 - PDF pages 4A-6 to 4A-10;
- (ii) A3S1A4, Application Volume 4A Project Design and Execution - Engineering, Appendix E-1 Proposed line 2 Pipeline Corridor Route Maps - British Columbia (Maps)
 - PDF, Appendix E-1, Sheet Map 53 of 54;

- (iii) A3S3W9, A3S3X0, A3S3X1, A3S3X2, A3S3X3 and A3S3X4, Volume 6E, Environmental Alignment Sheets
 - PDF (A3S3X1 and A3S3X2) Sheets 292 of 301 and 293 of 301;
- (iv) A3SoZ5, Application Volume 4A Project Design and Execution – Engineering, Appendix D-1, Table 5.1.14 Preliminary Highway, Road and Railway Crossings
 - PDF (Table 5.1.14) pages D-25 to D-39;
- (v) A3SoRo, Volume 2- Project Overview, Economics and General Information, Section 5.0 Land Relations, Rights and Acquisitions, Section 5.3 Land Rights, Section 5.4 Lands Acquisition Process, Section 5.4.1 Process, Section 5.5 Land Acquisition Agreements
 - PDF pages 2-59 to 2-62;
 - PDF pages 2-64 to 2-70;
- (vi) A3SoY8, Application Volume 4A Project Design and Execution – Engineering, Section 3.2 Pipeline System Design, Section 3.2.19 Parallel Facilities, Section 3.2.20 Crossings, Section 3.2.20.2 Highway, Road and Railway Crossings
 - PDF pages 4A-26 to 4A-27;
- (vii) Section 108 of the *National Energy Board Act*;
- (viii) Section 112 of the *National Energy Board Act*.

Preamble:

Reference (i) states that a hierarchy of routing criteria was established that provides that where not feasible to install the Line 2 segments on or adjacent to the existing TMPL easement then the next preferred option would be to install the Line 2 segments adjacent to easements or rights of way of other linear facilities including other pipelines, power lines, highways, roads, railways, fiber optic transmission systems and other utilities.

Reference (v) states that Trans Mountain will acquire the necessary easement interests, permits and rights from private land owners and Crown Licence agreements in both Alberta and BC for the construction, operation and maintenance of the Project and that in BC the width of the new easement area will vary up to 18.3 m.

Reference (v) states where the pipeline is to be installed within municipal streets, no easement is expected but instead, the pipeline will be operated and maintained under permit or licence from the municipal authority. Due to physical limitations with municipal streets, the effective width of license areas may be approximately 3 to 5m.

Reference (vi) states that Table 5.1.14 in Appendix D provides a preliminary list of the highway, road and railway crossings along the pipeline route.

Reference (v) states that for those lands within BC provincial parks, the appropriate authorities will be consulted regarding the statutory process that must be followed to acquire the necessary land tenure.

Reference (v) states that licences or permits may be acquired from municipal authorities for construction within some municipal lands.

Reference (vii) reads (emphasis added):

Section 108

Construction - utility

108. (1) Subject to subsection (4), **no company shall construct a pipeline that passes on, over, along or under a utility unless a certificate has been issued, or an order has been made under section 58, in respect of the pipeline, and**

(a) the certificate or order contains a term or condition relating to that utility;

(b) the company has been granted leave under subsection (2); or

(c) the company is constructing the pipeline in circumstances specified in an order or regulation made under subsection (4).

Authority to grant leave

(2) The Board may, by order, on application, grant a company leave to construct a pipeline that passes on, over, along or under a utility. It may require from the applicant any plans, profiles and other information that it considers necessary to deal with the application.

Terms and conditions

(3) **The leave may be granted in whole or in part and be subject to terms and conditions.**

Circumstances

(4) The Board may make orders or regulations specifying circumstances for the purposes of paragraph (1)(c).

Leave in emergency cases

(5) The Board may grant leave under subsection (2) after construction of the proposed work has commenced if it is satisfied that the work was urgently required and, before the commencement of construction, it was notified of the company's intention to proceed with the proposed work.

Definition of "utility"

(6) In this section, **"utility" means a highway, an irrigation ditch, a publicly owned or operated drainage system, sewer or dike, an underground telegraph or telephone line or a line for the transmission of hydrocarbons, electricity or any other substance.**

Reference (viii) reads (emphasis added):

Section 112

Construction of facilities across pipelines

112. (1) Subject to subsection (5), **no person shall, unless leave is first obtained from the Board, construct a facility across, on, along or under a pipeline or excavate using power-operated equipment or explosives within thirty metres of a pipeline.**

Use of vehicles and mobile equipment

(2) Subject to subsection (5), no person shall operate a vehicle or mobile equipment across a pipeline unless leave is first obtained from the company or the vehicle or mobile equipment is operated within the travelled portion of a highway or public road.

Terms and conditions

(3) **The Board may, on granting an application for leave under this section, impose such terms and conditions as it considers proper.**

Directions

(4) The Board may direct the owner of a facility constructed across, on, along or under a pipeline in contravention of this Act or the Board's orders or regulations **to do such things as the Board considers necessary for the safety or security of the pipeline and may, if the Board considers that the facility may impair the safety or security of the operation of the pipeline, direct the owner to reconstruct, alter or remove the facility.**

Exception

- (5) The Board may make orders or regulations governing
- (a) the design, construction, operation and abandonment of facilities constructed across, on, along or under pipelines;
 - (b) the measures to be taken by any person in relation to
 - (i) the construction of facilities across, on, along or under pipelines,
 - (ii) the construction of pipelines across, on, along or under facilities, other than railways, and
 - (iii) excavations within thirty metres of a pipeline; and
 - (c) the circumstances in which or conditions under which leave under subsection (1) or (2) is not necessary.

Temporary prohibition on excavating

(5.1) Without limiting the generality of paragraph (5)(c), orders or regulations made under that paragraph may provide for the prohibiting of excavations in an area situated in the vicinity of a pipe-line, which area may extend beyond thirty metres of the pipeline, during the period that starts when a request is made to a pipeline company to locate its pipeline and ends

- (a) at the end of the third working day after the day on which the request is made; or
- (b) at any later time that is agreed to between the pipeline company and the person making the request.

Exemptions

(6) The Board may, by order made on any terms and conditions that the Board considers appropriate, exempt any person from the application of an order or regulation made under subsection (5).

Inspection officers

(7) The provisions of sections 49 to 51.3 relating to inspection officers apply for the purpose of ensuring compliance with orders and regulations made under subsection (5).

Offence

(8) Every person who contravenes subsection (1) or (2), a direction made under subsection (4) or an order or regulation made under subsection (5) is guilty of an offence and liable

(a) on summary conviction, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding one year or to both; or

(b) on conviction on indictment, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding five years or to both.

Application of subsections 121(2) to (5)

(9) Subsections 121(2) to (5) apply, with any modifications that the circumstances require, to an offence under subsection (8).

Request:

Present and future costs arising as a consequence of the pipeline occupying or crossing highways/roads

- a) Please confirm whether or not Trans Mountain will agree to pay all present and future costs that will be incurred by the City of Surrey, other municipalities and the Province as a result of the location of: (i) the proposed Line 2 pipeline in highways or roads under their respective jurisdiction, or (ii) as a result of any future highway/road construction, widening or improvement project that occurs over or in the vicinity of the pipeline that might disturb the pipeline and that occurs within the existing or future boundaries of said highway/road, including, but not limited to:
- (i) costs to realign, raise or lower the pipeline;
 - (ii) costs to excavate material from around the pipeline;
 - (iii) costs to add casing or other appurtenances for the protection of the pipeline;
 - (iv) costs of all pipeline work required as a result of the construction, widening or carrying of highway or road across the pipeline which might disturb the pipeline or which necessitates realigning, raising or lowering the pipeline or excavating material from, over or around it, or adding casings or other appurtenances deemed necessary by Trans Mountain for the protection of the pipeline; and

- (v) costs necessary to accommodate any future widening or improvement of the highway or road that occurs over or in the vicinity of the pipeline;
- b) if Trans Mountain is not prepared to agree to pay all or some of the present and future costs described in paragraph a) above, then please identify which costs Trans Mountain is not prepared to pay and explain in detail why not. Please also identify and describe in detail which of the present and future costs described in paragraph a) Trans Mountain is prepared to agree to pay and under what circumstances it would agree to pay them;
- c) having regard to section 108 of the *National Energy Board Act* and the jurisdiction of the NEB, please confirm whether or not Trans Mountain is prepared to consent to including as a condition or term of any certificate or CPCN issued approving Trans Mountain's Application that Trans Mountain shall pay all or some of the costs described in paragraph (a) above, and if not, please provide a detailed explanation as to why not;

Necessary consent from Trans Mountain and other interest holders in Trans Mountain's statutory right of way/easement to enable municipalities and the Province to dedicate required land for highway/road.

- d) in respect of future widenings, expansions or improvements of the existing highways and roads that are proposed to be occupied by the pipeline, please confirm whether Trans Mountain is prepared to:
 - (i) consent (without conditions and without compensation) to the extinguishment of any statutory right of way or easement in favour of Trans Mountain over those portions of land required by the municipality or the Province to be dedicated as highway or road in order that those portions of land may be incorporated into and form part of the existing highway or road that is occupied by the pipeline;
 - (ii) obtain the consent (without conditions and without compensation) of any mortgagee or other person having an interest in the statutory right of way or easement to be extinguished over that portion of land to be dedicated as highway or road in order that those portions of land may be incorporated into and form part of the existing highway or road that is occupied by the pipeline; and
 - (iii) if Trans Mountain is not prepared to consent or obtain the consent described in paragraphs (d)(i) and (ii) without conditions and without compensation, then please provide a detailed explanation as to why not. Please also describe in detail under what circumstances Trans Mountain

would be prepared to consent or obtain the consent described in paragraphs (d)(i) (ii);

- e) having regard to section 108 of the *National Energy Board Act* and the jurisdiction of the NEB, please confirm whether or not Trans Mountain is prepared to consent to including as a condition or term of any certificate or CPCN issued approving Trans Mountain's Application that Trans Mountain shall consent or obtain the consent (without conditions and without compensation) to the extinguishment of its statutory right of way or easement in those circumstances described in paragraph (d) above, and if not, please provide a detailed explanation as to why not;
- f) in respect of creation of future dedicated highways and roads over the proposed pipeline that are approved or required by a municipality or imposed as a condition of development approval (whether as a condition of subdivision approval, rezoning, or other land development project approval and whether related to a land development project initiated by a private developer or by the municipality), please confirm whether Trans Mountain is prepared to:
 - (i) consent (without conditions and without compensation) to the extinguishment of any statutory right of way or easement in favour of Trans Mountain over that portion of land that is to be dedicated as highway or road;
 - (ii) obtain the consent (without conditions and without compensation) of any mortgagee or other person having an interest in the statutory right of way or easement to be extinguished over that portion of land that is to be dedicated as highway or road; and
 - (iii) if Trans Mountain is not prepared to consent or obtain the consent described in paragraphs (f)(i) and (ii) without conditions and without compensation, then please provide a detailed explanation as to why not. Please also describe in detail under what circumstances Trans Mountain would be prepared to consent or obtain the consent described in paragraphs (f)(i) and (ii);
- g) having regard to section 108 of the *National Energy Board Act* and the jurisdiction of the NEB, please confirm whether or not Trans Mountain is prepared to consent to including as a condition or term of any certificate or CPCN issued approving Trans Mountain's Application that Trans Mountain shall consent or obtain the consent (without conditions and without compensation) to the extinguishment of its statutory right of way or easement in those circumstances described in paragraph (f) above, and if not, please provide an detailed explanation as to why not;

- h) for those segments of the proposed pipeline in the City of Surrey, what is the life expectancy in years of said pipeline segments after the expiry of which those pipeline segments would have to be replaced? In other words, how many years are the said pipeline segments expected to last before they must be replaced?;
- i) what is the industry standard life expectancy in years of the type of pipeline proposed to be installed in the City of Surrey?;
- j) in assessing or quantifying the anticipated future costs of operating the proposed pipeline, what is the replacement schedule that has been used for those segments of the pipeline to be installed in the City of Surrey?;
- k) for financial statement purposes and for tax return purposes what is anticipated to be the rate(s) of depreciation on a percentage basis that will be applied to calculate depreciation of the pipeline on an annual basis? What is the rate(s) of depreciation applied to calculate annual depreciation of the existing pipeline for financial statement purposes and for tax return purposes;

Fixed timing of pipeline work to be performed by Trans Mountain to accommodate highway construction, widening and improvement projects so as not to delay municipal projects

- l) please confirm whether or not Trans Mountain is prepared to agree to perform all necessary pipeline related work within a fixed period of time so as not to delay any future highway construction, widening or improvement project that occurs across or in vicinity of the pipeline which might disturb the pipeline or which necessitates realigning, raising or lowering the pipeline or excavating material from, over or around it, or adding casings or other appurtenances deemed necessary by Trans Mountain for the protection of the pipeline;
- m) if Trans Mountain is not prepared to provide the agreement described in paragraph (l) above, please provide a detailed explanation as to why not and please describe in detail under what circumstances Trans Mountain would be prepared to do so. Please also explain how the City of Surrey and other municipalities and the Province can obtain assurances that all necessary pipeline work to accommodate the projects described in paragraph (l) above will be performed by Trans Mountain without delay to the highway construction, widening or improvement projects;
- n) having regard to section 108 of the *National Energy Board Act* and the jurisdiction of the NEB, please confirm whether or not Trans Mountain is prepared to consent to including as a condition or term of any certificate or CPCN issued approving Trans Mountain's Application that Trans Mountain shall perform all pipeline work

described in paragraph (l) above within a fixed time which may only be varied by NEB Order, and if not, please provide a detailed explanation as to why not;

Terms of licence agreements and permits existing and contemplated in the City of Surrey

- o) please provide a copy(ies) of the proposed form(s) of licence agreement(s) that Trans Mountain contemplates entering into with the Province and with the City of Surrey and with other municipalities in BC related to the proposed Line 2 pipeline occupying highways or roads or occupying the South Fraser Perimeter Road corridor or occupying the Golden Ears Connector corridor;
- p) please confirm whether or not Trans Mountain has existing agreements and permits in relation to existing highway or road crossings in the City of Surrey by the existing Trans Mountain pipeline (whether those highways or roads are under the jurisdiction of City of Surrey or the Province). If so, please provide copies of all such agreements and permits and please also identify the dates of each;
- q) please provide a copy(ies) of the proposed licence agreement(s) and permits that Trans Mountain contemplates entering into with the Province and with the City of Surrey and with other municipalities in relation to proposed highway and road crossings by the proposed Line 2 pipeline in the City of Surrey;
- r) having regard to s.112 of the *National Energy Board Act* and the jurisdiction of the NEB, please provide a copy of the form of permit that Trans Mountain contemplates the City of Surrey and other municipalities in BC would require to obtain from Trans Mountain before performing any work in existing highway or road to be occupied by the proposed Line 2 pipeline;
- s) please confirm whether or not Trans Mountain is prepared to pay the City of Surrey and other municipalities in BC compensation in the form of an annual fee for crossing and occupying highways or roads under municipal jurisdiction and if so, an explanation of how the compensation would be determined and if not, an explanation as to why not;
- t) please provide a detailed summary of the consultations made and the findings regarding the statutory process Trans Mountain expects to follow in attempting to acquire land tenure in dedicated park. Please also provide an explanation of how compensation payable to the authority having ownership of the dedicated park will be determined;

Compensation to Land Owners

- u) in describing how compensation payable to affected land owners from whom Trans Mountain must acquire interests in land will be determined, Trans Mountain's Application makes no reference to compensating owners for any of the following losses and damages resulting from the Trans Mountain acquisitions:
- (i) injurious affection and loss in value to the remainder land after the Trans Mountain taking/acquisition;
 - (ii) loss of development potential;
 - (iii) business and financial losses;
 - (iv) reasonable disturbance damages; and
 - (v) any other compensation an owner would be entitled to under an expropriation under the British Columbia Expropriation Act.

Please confirm whether Trans Mountain intends to compensate affected land owners for those losses and damages described in paragraphs (u)(i) to (v)? If not, please provide a detailed explanation as to why not? Please also describe in detail under what circumstances Trans Mountain would agree to pay affected land owners such losses and damages described in paragraphs (u)(i) to (v).

1.4 Risk Assessment & Management

Reference:

- (i) A3S4V5, Application Volume 7, Risk Assess Mgmt Spills, Section 3.1.6 Spill Outflow Modelling
 - PDF page 7.16;
- (ii) A3S4V5, Application Volume 7, Risk Assess Mgmt Spills, Section 4.3.1 Organizational Structure Employed within the ICS Framework
 - PDF pages 7.26 – 7.30;
- (iii) A3S4V5, Application Volume 7, Risk Assess Mgmt Spills, Section 4.6.1 Training
 - PDF page 7.35;
- (iv) A3S4V5, Application Volume 7, Risk Assess Mgmt Spills, Section 4.7 Community Awareness and Emergency Preparedness
 - PDF pages 7.36 – 7.45;
- (v) A3S4V5, Application Volume 7, Risk Assess Mgmt Spills, Section 4.8.2.5.2 In-Situ Burning
 - PDF page 7.47.

Preamble:

Reference (i) states that Trans Mountain - Kinder Morgan Canada (KMC) will use modeling of worst case full bore rupture scenario using a time interval of 10 minutes on High Consequence Area (HCA) damage risk assessment.

Reference (ii) suggests a Three – Tiered Response Structure with activation of the Kinder Morgan Control Centre. Reference is made to the process of notification by the Control Centre Operator to outside Agencies regarding the response level.

Reference (iii) indicates the level of ICS training achieved by Trans Mountain (KMC) employees. There is also mention of exercises and scenarios to evaluate the capacity of Trans Mountain (KMC) in the event of an incident on land or water.

Reference (iv) describes the community outreach and Emergency Planning, as well as plans to finalize certain Emergency Response Plans (ERPs) for response and recovery from an incident. There is also mention of the intent to perform a complete equipment review for response and recovery from an incident.

Reference (v) describes the use of In-Situ Burning to mitigate a spill or leak both on land and in water.

Request:

Please provide the following:

- a) a complete listing and ranking of High Consequence Area (HCA) identification in the area of consideration for Surrey;
- b) a complete overview of spill outflow modeling for all HCA areas in Surrey, as well as a complete risk scoring for same;
- c) a review of previous pipeline incidents with an analysis of After Action Reports, best practices and communication strategy for the public and first responders;
- d) a review of contingency allowances for purposes of evacuation, relocation, lodging, and recovery of public that has been displaced due to a Trans Mountain (KMC) incident;
- e) a review of the process of Communication and notification of First Responders early in an incident;
- f) a review of the policies regarding notification of outside Agencies by KMC Control Centre Operator. Provisions to include stakeholder input to ensure “alert status” notification of all incidents to provide pre-planning and better

prepare an agency/first responder, should there be public enquiries or the need for response;

- g) a comprehensive list of the number of Trans Mountain (KMC) employees with Firefighting training, Hazardous Materials/Dangerous Goods Response training;
- h) a complete fire and spill equipment review and availability study for the construction phase;
- i) a comprehensive finalized Emergency Response Plan for the planned corridor inclusive of all HCA areas in Surrey;
- j) a comprehensive review of Trans Mountain (KMC) equipment available for response along the proposed corridor in Surrey; and
- k) a comprehensive study of the advantages and disadvantages of In-Situ Burning as they would apply to all HCA areas of Surrey.

1.5 Review of Noise Impacts to Surrey Residents

Reference:

- (i) Application Volume 5A, ESA - Biophysical, Section 5.65 Acoustic Environment--Hope to Burnaby Segment
 - PDF page 308.

Preamble:

Reference (i) discusses the acoustic environment and potential impacts to areas in Surrey.

Request:

- a) The proposed alignment through the City of Surrey will result in tree loss that currently buffers residents from transportation corridors and industrial areas. Provide a detailed report on the noise and visual impacts to residents resulting from the planned alignment and measures planned to mitigate the impacts.

1.6 Review of Visual Impacts to Surrey Residents

Reference:

- (i) Application Volume 5C, ESA – Socio-Economic 7.8.6 Aesthetic Attributes – Metro Vancouver Region
 - PDF pages 629-630.

Preamble:

Reference (i) discusses the visual environment and potential impacts to areas in Surrey including disturbance of previous mitigation works.

Request:

- a) The proposed alignment through the City of Surrey will result in tree loss that currently buffers residents from transportation corridors and industrial areas. Provide a visual impact study for the alignment corridor through Surrey.

1.7 Review of Environmental Submission Related to Surrey Bend

Reference:

- (i) Application Volume 4A, Project Design & Execution, Section 2.8.1 Pipeline Corridor Selection Objectives, Strategies and Criteria
 - PDF pages 35-36;
- (ii) Application Volume 5A, ESA - Biophysical, Section 7.2.8 Wetland Loss and Alteration, Section 7.2.10, Wildlife and Wildlife Habitat, Section 7.10.4, Potential Residual Effects
 - PDF pages 730, 736, 1093 and 1095.

Preamble:

References (i) identifies that routing selection strategies, among others, follow the succeeding guidelines: avoid areas of significant environmental value, potential geotechnical hazards and where there is limited access.

Reference (ii) states that the proposed corridor has been routed to minimize effects on wetlands by: avoiding wetland where feasible and minimizing length traversing environmentally sensitive areas such as protected areas.

Reference (ii) suggests that there are no situations where there is a high probability of permanent or long term residual environmental effects that cannot be technically or economically mitigated.

Reference (ii) states that line patrols during operations will pay particular attention to the bed and banks of watercourse crossings following floods to further ensure the integrity of the pipeline and reduce the potential effects on the aquatic environment.

Reference (ii) discusses seismic activity and the potential to affect the integrity of the pipeline during the Operations phase of the project.

Request:

- a) Surrey Bend has some of the highest environmental values in the British Columbia Lower Mainland. Please provide an explanation as to why the above references are not adhered to for the pipeline route through Surrey Bend, including detailed engineering and environmental reports on the pipeline routing assessment and options through CN Rail land and the South Fraser Perimeter Road corridor, including evidence of written correspondence with CN Rail and MOTI. Properties in Surrey Bend carry restrictive covenants that disallow any alteration to the existing lands. The proposed pipeline corridor could impact over three kilometers of Surrey Bend Park which is a unique ecosystem (peat bog, marsh) which also has wildlife of special conservation status. Please provide a detailed report containing:
 - (i) an explanation of how and evidence that this project can adhere to the covenants on the property; and
 - (ii) considerations/plans to ensure that if this corridor is approved, Surrey Bend will not lose its environmental significance or function;
- b) construction, line patrols and operations and maintenance through the Surrey Bend will require access. How does TMEP intend to access the pipeline during and after construction through the approximate three kilometer stretch of Surrey Bend? Furthermore, how does TMEP intend to mitigate permanent loss to the wetland and habitat that would inevitably result from an access road and/or construction footprint?;
- c) the proposed alignment of the pipeline is through a high seismic potential location, with the highest risk closest to the Fraser River. Provide reports of the seismic assessment work completed along the corridor with explanation as to why the pipeline alignment is not proposed in CN Rail or MOTI property as these are expected to be of lower seismic vulnerability. How would the Surrey Bend section of the pipeline be accessed, isolated and inspected in the event of a seismic event and how would leaks resulting from damage be contained and managed?;

d) has TMEP reviewed the following reports:

- (i) *Ecohydrological Overview of Surrey Bend Park – Surrey, B.C.*, Prepared by Enterprise Geoscience Services Ltd. – December 2010; and
- (ii) *Ecohydrological Overview of Surrey Bend Regional Park During Summer Conditions*, Prepared by Elizabeth Baird, MSC Simon Fraser Hydrology Group Jan 2012.

Please address the findings of these reports in the detailed report in Request a).

1.8 **Clearing or Disturbance of Riparian Habitat During Maintenance and Operations**

Reference:

- (i) Application Volume 5A, ESA Biophysical, Section 7.2.7 Fish and Fish Habitat
 - PDF page 702.

Preamble:

Reference (i) states that vegetation control along the proposed right-of-way during operations will exclude riparian areas with the possible exception of some disturbance necessary for maintenance activities.

Request:

- a) This practice has not been followed along Trans Mountain's existing pipeline through Surrey. Most of the existing riparian crossing areas are kept clear of most vegetation. Please provide a copy of TMEP's detailed requirements for vegetation in the right-of-way through riparian areas, as well as assurance that the environmental recommendations will be adhered to.

1.9 **Detailed Review of Engineering, Drainage and Environmental Details**

Reference:

- (i) Application by Trans Mountain for Approval of the Trans Mountain Expansion Project, All Sections

Request:

- a) Upon review of the Application, the City of Surrey's Engineering Department has identified a number of detailed comments and questions regarding engineering, drainage and environment including but not limited to:
- Seismic risk and design;
 - Sediment control requirements;
 - Risk of flooding and residual effects of altering natural drainage patterns;
 - Clearance to existing infrastructure: parallel and crossing;
 - Valve spacing, isolation and spill monitoring;
 - Pipe thickness and cover depth; and
 - Specific detail requirements when crossing City of Surrey utilities and infrastructure.

If the proposed expansion project is approved, the City of Surrey requests that TMEP reserve the City of Surrey the right to provide more detailed reviews and comments throughout the detailed engineering and design phase of the project to ascertain TMEP is considering City of Surrey requirements, interests, bylaws, specifications and standards whilst constructing through the City of Surrey. Please confirm that there will be opportunity for the City of Surrey to conduct engineering and environmental design reviews throughout a later phase of this project and well in advance of construction.