



File: 30050-25/TMEX-18

Reference: 385180

February 24, 2022

**SENT VIA EMAIL**

Scott Stoness  
Vice President, Regulatory & Compliance  
Trans Mountain Corporation  
300 5<sup>th</sup> Avenue, Suite 2700  
Calgary, AB T2P 5J2  
[regulatory@transmountain.com](mailto:regulatory@transmountain.com)

Dear Scott Stoness:

I am writing to you today regarding the provincial reconsideration process for the Trans Mountain Expansion Project (TMX Project). As you are aware, the Environmental Assessment Office (EAO) was directed by the Minister of Environment and Climate Change Strategy and the Minister of Energy, Mines and Petroleum Resources to provide a report for their consideration in response to the BC Court of Appeal (BCCA) decisions regarding the TMX Project's Environmental Assessment Certificate (EAC) (*Squamish Nation v. British Columbia (Environment)*, 2019 BCCA 321 and *Vancouver (City) v. British Columbia (Environment)*, 2019 BCCA 322). As described previously, the scope of the Ministers' direction to the EAO was to:

- Identify and consider the portions of the National Energy Board (NEB)'s reconsideration report that differ from the initial NEB panel report; and
- Provide recommendations regarding any new or amended EAC conditions in response to those portions, within the limits of provincial jurisdiction.

On February 24, 2022, the Minister of Environment and Climate Change Strategy and the Minister of Energy, Mines and Low Carbon Innovation (the Ministers) issued a decision to amend the EAC to reflect the recommendations outlined by the EAO in Appendix A of the Reconsideration Report. Trans Mountain was provided the opportunity to make submissions on that report, including the EAO's recommendations for new and amended conditions, and was active throughout the reconsideration process.

...2

Through the EAO's detailed analysis and engagement, several areas were identified as outstanding concerns that did not meet the criteria set out above, either because they would appropriately fall within the responsibility of other regulatory authorities and response organizations, or because there were no changes between the NEB reports regarding the issues. So that the effort made by the entities that were engaged in the provincial reconsideration process, and that appropriate agencies can consider their valuable input, the EAO identified recommendations to government agencies and response organizations outlined in Appendix B of the Reconsideration Report. The Ministers agreed with our recommendations to the federal government and the Western Canada Marine Response Corporation (WCMRC) and communicated them to the federal government.

The Order is attached, and full details of the Ministers' decision, including the EAO's Reconsideration Report can be found at the EAO's Project Information Centre (EPIC) website: <https://projects.eao.gov.bc.ca/p/5885121eaaecd9001b82b274/project-details>.

Thank you for your contributions and feedback regarding proposed and amended conditions to the EAC for the TMX Project. If you have any questions, please reach out to me at 778-974-3361.

Yours truly,

*[original signed by]*

Meaghan Hoyle  
Project Assessment Director

Attachment (1)

cc: Mike Shepard, Acting Assistant Deputy Minister  
Environmental Assessment Office  
[Michael.Shepard@gov.bc.ca](mailto:Michael.Shepard@gov.bc.ca)

Jessica Warner, Project Assessment Officer, Environmental Assessment Office  
[Jessica.Warner@gov.bc.ca](mailto:Jessica.Warner@gov.bc.ca)

Katie McKinnon, Regulatory Advisor, Trans Mountain Corporation  
[Katie\\_McKinnon@transmountain.com](mailto:Katie_McKinnon@transmountain.com)

**IN THE MATTER OF ENVIRONMENTAL ASSESSMENT CERTIFICATE #E17-01  
HELD BY TRANS MOUNTAIN PIPELINE ULC (TRANS MOUNTAIN)**

**FOR THE  
TRANS MOUNTAIN EXPANSION PROJECT (PROJECT)**

**RECONSIDERATION OF  
CERTIFICATE # E17-01**

**WHEREAS:**

- A. In May 2016 the National Energy Board (NEB) issued its report respecting the Project (2016 Report) after an approximately two-year review.
- B. On December 1, 2016, the NEB issued Certificate OC-064 (CPCN OC-064) for the Project.
- C. On January 10, 2017, the Minister of Environment and the Minister of Natural Gas Development issued Environmental Assessment Certificate #E17-01 (Certificate) to Trans Mountain.
- D. The Certificate authorizes Trans Mountain to expand the existing Trans Mountain pipeline system for the transport of oil between Edmonton, Alberta and Burnaby, British Columbia (B.C.).
- E. On August 30, 2018, the Federal Court of Appeal ordered that Order in Council P.C. 2016-1069 should be quashed, rendering CPCN OC-064 a nullity.
- F. On September 20, 2018, the Governor-in-Council (GIC) referred the recommendations and all terms or conditions relevant to Project-related marine shipping back to the NEB for reconsideration.
- G. On February 22, 2019, the NEB issued its 2019 Reconsideration Report which recommended 156 conditions to be attached to a certificate of public convenience and necessity for the Project.
- H. On June 21, 2019 the NEB issued Certificate OC-065 for the Project with the 2019 Reconsideration Report and conditions attached.
- I. On August 28, 2019, the Assistant Deputy Minister of the Environmental Assessment Office (EAO) issued Amendment #1 to the Certificate, replacing the definition of 'NEB Condition' and the condition providing for an Aboriginal Marine Outreach Program.
- J. In September 2019 the British Columbia Court of Appeal (BCCA) made two decisions regarding the Certificate: *Squamish Nation v. British Columbia (Environment)*, 2019 BCCA 321 and *Vancouver (City) v. British Columbia (Environment)*, 2019 BCCA 322. The BCCA remitted the conditions in the Certificate to provincial Ministers for reconsideration and adjustment in light of the changes to the 2016 Report as set out in the 2019 Reconsideration Report.
- K. In March 2020, we asked the EAO to undertake a reconsideration process and prepare a report to inform our decision. We asked the EAO to consider potential adjustments to the Certificate conditions in accordance with the BCCA's decisions. We also asked the EAO to: work closely with Squamish Nation, Tsleil-Waututh Nation and the City of Vancouver; consult Aboriginal Groups – Marine Shipping identified in the Certificate; engage with Trans Mountain; and consult the public and other stakeholders.

- L. The EAO carried out this process and has provided us with: a report summarizing it; and its recommendations regarding Certificate conditions that should be added or amended.

**NOW THEREFORE,**

We amend the Certificate as follows:

1. Condition #35 in Schedule B to the Certificate is rescinded and replaced with Condition #35 in Appendix A of this Order.
2. Condition #38 (Human Health Risk Report) and Condition #39 (Shoreline Existing Conditions Data Report) in Appendix A of this Order are added to Schedule B of the Certificate.
3. Snuneymuxw First Nation is added to the list in the definition of Aboriginal Groups – Marine Shipping in Schedule B of the Certificate.
4. The following is added to the Definitions in Schedule B of the Certificate: Potentially Affected Coastal Local Governments means the following entities, and the local governments within them that border the ocean:
  - Alberni-Clayoquot Regional District
  - Capital Regional District
  - Cowichan Valley Regional District
  - Islands Trust
  - Metro Vancouver Regional District
  - Nanaimo Regional District
  - Squamish-Lillooet Regional District
  - Sunshine Coast Regional District



Honourable George Heyman  
Minister of Environment and Climate Change Strategy  
Ministry of Environment and Climate Change Strategy



Honourable Bruce Ralston  
Minister of Energy, Mines and Low Carbon Innovation  
Ministry of Energy, Mines and Low Carbon Innovation

Issued this 24 day of February, 2022

**APPENDIX A**  
**TABLE OF CONDITIONS**  
**FOR THE**  
**TRANS MOUNTAIN EXPANSION PROJECT**  
**(PROJECT)**  
**RECONSIDERATION OF**  
**ENVIRONMENTAL ASSESSMENT CERTIFICATE # E17-01**

No.	Condition
Condition 35	<p data-bbox="370 264 943 296"><b>Fate and Behaviour of Bitumen Research</b></p> <p data-bbox="370 327 1422 594">The Holder must provide a report regarding the current and future research programs that the Holder is leading, jointly leading, supporting, or otherwise involved in regarding the behaviour and recovery of heavy oils spilled in freshwater and marine aquatic environments, including research programs having the objective of providing spill responders with improved information on how to effectively respond to spills. The report must be developed in consultation with the MOE, MNGD, OGC, ECCC, Canadian Coast Guard, Aboriginal Groups, and Potentially Affected Coastal Local Governments.</p> <p data-bbox="370 625 683 657">The report must include:</p> <ul style="list-style-type: none"> <li data-bbox="415 663 1409 730">a) A statement of the funding provided or allocated to ensure the research is undertaken and concluded within a specified period;</li> <li data-bbox="415 730 1409 856">b) Specifics of the Holder's approach to ongoing engagement with the NEB, ECCC, Canadian Coast Guard, MOE, MNGD, OGC, Aboriginal Groups, and Potentially Affected Coastal Local Governments in the research programs;</li> <li data-bbox="415 856 1409 1056">c) Research topics, including the different physical and chemical properties of the oil (including blends) and other products intended to be shipped from the Westridge Marine Terminal, product weathering, dispersion and oil/sediment interactions, product submergence, product behaviour and cleanup following in-situ burning, and cleanup and remediation options for sediments and shoreline;</li> <li data-bbox="415 1056 1377 1087">d) The scope, objectives, methods, and timeframe for the research topics;</li> <li data-bbox="415 1087 1393 1155">e) How the Holder will incorporate applicable results of the research into its emergency preparedness and response plans;</li> <li data-bbox="415 1155 1409 1255">f) How the Holder will work with spill responders to support the incorporation of the results of the research into their emergency preparedness plans and programs; and</li> <li data-bbox="415 1255 1393 1356">g) A plan for reporting to the NEB, ECCC, Canadian Coast Guard, NRCan, MOE, MNGD, OGC, Aboriginal Groups, and Potentially Affected Coastal Local Governments on the progress of the research program.</li> </ul> <p data-bbox="370 1388 1409 1623">The Holder must provide the report to the EAO, MOE, MNGD, OGC, ECCC, Canadian Coast Guard, Aboriginal Groups, and Potentially Affected Coastal Local Governments prior to the commencement of Operations and must provide progress updates pursuant to g) above at one year following commencement of Operations and every five years following during the period of Operations, or as otherwise authorized by the EAO. The EAO may amend these timelines and may request additional reports at any time by providing written notice to the Holder.</p>
Condition 38	<p data-bbox="370 1644 732 1675"><b>Human Health Risk Report</b></p> <p data-bbox="370 1707 1409 1801">The Holder must retain a Qualified Professional to prepare a report that describes the potential impacts to human health resulting from the following spill scenario (the "Spill Scenario"):</p> <p data-bbox="370 1833 1409 1906">A Project-related ship-source marine spill of 16,500m<sup>3</sup> at location B (English Bay) identified in Trans Mountain Expansion Project, an Application pursuant to</p>

No.	Condition
	<p>Section 52 of the <i>National Energy Board Act</i>, December 2013, Volume 8A Marine Transportation.</p> <p>The report must be developed in consultation with MOE, Ministry of Health, Health Canada, Canadian Coast Guard, Natural Resources Canada, Island Health Authority, Fraser Health Authority, Vancouver Coastal Health Authority, B.C. First Nations Health Authority, Aboriginal Groups – Marine Shipping, and Potentially Affected Coastal Local Governments.</p> <p>The report must include at least the following with respect to the Spill Scenario:</p> <ol style="list-style-type: none"> <li>a) The potential for human exposure to contaminants;</li> <li>b) The potential impacts to human health, including potential mental health effects;</li> <li>c) How the identified potential impacts could affect distinct human populations;</li> <li>d) The identification of human exposure pathways, including exposure via marine subsistence foods and air emissions;</li> <li>e) A determination of the most significant impacts on human health, and an uncertainty and sensitivity analysis showing the degree of confidence in that determination;</li> <li>f) The roles and responsibilities of the Holder and local, provincial, and federal authorities related to impacts to human health; and</li> <li>g) The measures that should be taken to reduce human exposure or negative health effects, and the appropriate party or parties to carry out the measures.</li> </ol> <p>Following consultation, the Holder must provide the report to the EAO, MOE, MOH, Health Canada, Canadian Coast Guard, Transport Canada, Natural Resources Canada, Island Health Authority, Fraser Health Authority, and Vancouver Coastal Health Authority, B.C. First Nations Health Authority, Aboriginal Groups – Marine Shipping, and Potentially Affected Coastal Local Governments no later than 18 months after the issuance of the order of the ministers under which this condition was added to the Certificate.</p> <p>The report, and any updates made pursuant to Condition 1 or 2(h), must be prepared under the direction of a Qualified Professional retained by the Holder and to the satisfaction of the EAO.</p>
Condition 39	<p><b>Shoreline Existing Conditions Data Report</b></p> <p>The Holder must retain a Qualified Professional to prepare a report containing shoreline baseline data for the areas described below in (b), for the purpose of assisting recovery and restoration in the event of a ship-sourced marine spill.</p> <p>The report must be developed in consultation with FLNRO, MOE, ECCC, Transport Canada, Fisheries and Oceans Canada, Natural Resources Canada, Aboriginal Groups – Marine Shipping, and Potentially Affected Coastal Local Governments.</p>

No.	Condition
	<p>The report must include at least the following:</p> <ul style="list-style-type: none"> <li>a) Identification of existing guidelines and objectives that have been established for the recovery of spilled product, including those from jurisdictions other than British Columbia.</li> <li>b) Description of the baseline pre-spill conditions of the shore 500 metres on either side of a point on the shore closest to the following locations, identified in Trans Mountain Expansion Project, an Application pursuant to section 52 of the <i>National Energy Board Act</i>, December 2013, Volume 8A Marine Transportation: <ul style="list-style-type: none"> <li>a. English Bay (Location B);</li> <li>b. Roberts Bank (Location C);</li> <li>c. Strait of Georgia (Location D);</li> <li>d. Arachne Reef (Location E);</li> <li>e. Strait of Juan de Fuca (south of Race Rocks) (Location G); and</li> <li>f. Buoy J (Location H).</li> </ul> </li> <li>c) The following information for each location: <ul style="list-style-type: none"> <li>a. Geographical location and context including: <ul style="list-style-type: none"> <li>i. Maps and photographs</li> <li>ii. Land ownership</li> <li>iii. Indigenous traditional and cultural uses</li> </ul> </li> <li>b. Nearby water bodies and water withdrawal locations</li> <li>c. Abundance of typical, sensitive, and at-risk flora and fauna species in the location</li> <li>d. Soil, water, and sediment characteristics</li> <li>e. Dominant current and wind direction</li> <li>f. Past and present land-uses (e.g., commercial, agriculture, industry)</li> <li>g. Infrastructure</li> </ul> </li> <li>d) Description of how the information referred to in paragraph c) was collected, including the methods of collection, specific locations and timing of collection.</li> </ul> <p>Following consultation, the Holder must provide the report to the EAO, FLNRO, MOE, ECCC, Natural Resources Canada, Transport Canada, Fisheries and Oceans Canada, Aboriginal Groups – Marine Shipping, and Potentially Affected Coastal Local Governments no later than 18 months after the issuance of the order of the ministers under which this condition was added to the Certificate.</p> <p>The report, and any updates made pursuant to Condition 1 or 2(h), must be prepared under the direction of a Qualified Professional retained by the Holder and to the satisfaction of the EAO.</p>