



File OF-Fac-Oil-T260-2013-03 03
3 August 2017

Mr. Scott Stoness
Vice-President, Regulatory and Finance
Kinder Morgan Canada Inc.
c/o Trans Mountain Pipeline ULC
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Dear Mr. Stoness:

**Trans Mountain Pipeline ULC (Trans Mountain)
Trans Mountain Expansion Project (Project)
Condition Compliance – Pre-Construction Conditions
Westridge Marine Terminal (Phase 1)
National Energy Board Condition Compliance Letter Report No. 1**

As part of the approval for the Trans Mountain Expansion Project, the National Energy Board (NEB or the Board) imposed 157 conditions on the Project¹. These conditions address the entire lifecycle of the project and can apply during the various stages: before construction, during construction, and before or during operation of the Project. Conditions typically require the company to submit additional detailed information that was not available during the time of the hearing. Conditions also mitigate possible risks identified during the application process.

These conditions cover a wide range of topics, including:

- safety and integrity of the pipeline;
- emergency preparedness and response;
- protection of the environment;
- ongoing consultation with those affected, including Aboriginal communities;
- socio-economic matters;
- commercial support; and
- financial responsibility.

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¹ On 1 December 2016, the National Energy Board (Board) issued Certificates of Public Convenience and Necessity OC-064, AO-003-OC-2, and AO-002-OC-49. On 6 June 2016, the Board issued Orders XO-T260-007-2016, XO-T260-008-2016, XO-T260-009-2016, XO T260-010-2016, and MO-015-2016 in relation to the Project (Orders). Pursuant to subsection 19(1) of the National Energy Board Act, the Orders only took effect upon the issuance of the Certificates. The Certificate and Orders authorize the construction and operation of the Project.

Trans Mountain has proposed a phased or staggered approach to the construction of the Project and has indicated that the Westridge Marine Terminal would be the first component to commence construction. This letter report addresses a portion of the conditions that must be complied with before construction begins at Westridge Marine Terminal (Phase 1).

The Board has examined the condition filings listed below, and any follow-up information provided by Trans Mountain and others. As set out in Appendix 1 of this report, the Board is of the view that Trans Mountain has fulfilled the requirements of the following pre-construction conditions for the Westridge Marine Terminal:

Conditions Covered In This Letter Report*:
10 – Phased Filings 12 – Training and Education Monitoring Plan 14 – Technical working group (TWG) – Terms of Reference 33 – Westridge Marine Terminal Onshore Geotechnical Report 35 – Marine Sediment Management Plan 49 – Technical working group (TWG) reports 57 – Commercial Support for the Project 62 – Construction Schedule 63 – Security Management Programs 73 – Traffic Control Plans for public roadways 88 – Project organizational structure for Project construction 89 – Emergency Response Plans for construction 90 – Consultation on improvements to Trans Mountain’s Emergency Management Program 91 – Plan for implementing, monitoring, and complying with marine shipping-related commitments 94 – Consultation reports – protection of municipal water sources 98 – Plan for Aboriginal group participation in construction monitoring 103 – Utility Crossings 117 - Reporting on improvements to Trans Mountain’s Emergency Management Program 127 (b) – Terminal fire protection and firefighting systems * bolding indicates that the condition is for approval

All condition filings and related correspondence were assessed with rigor to determine whether Trans Mountain had complied with the condition, and whether the filed information is acceptable within the context of regulatory requirements and standards, best practices, professional judgement and, the goals the condition sought to achieve. In these filings, the Board notes Trans Mountain provided additional detailed mitigation and commitments to address outstanding Project issues. The Board expects Trans Mountain to include and track all additional commitments as part of Condition 6 (Commitments Tracking Table).

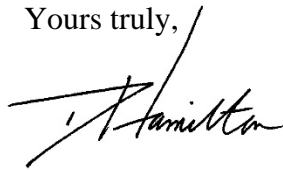
Trans Mountain is required to comply with all 157 Project conditions and must satisfy all conditions with pre-construction requirements before the commencement of construction at the Westridge Marine Terminal (Phase 1). Those conditions requiring approval of the Board are noted as “Approved by the Board,” while the other conditions are noted as “Reviewed and Compliant.” It is important to note that this list (see above) is not all of the pre-construction conditions included in the Certificates and Orders. The Board will issue further reports as assessments are completed.²

² Trans Mountain’s submissions and the Board’s correspondence can be found in the Board’s regulatory documents repository, which contains this project’s compliance documents ([REGDOCS Certificate and Compliance](#)).

The Board also notes that the Trans Mountain has carried out, as required, and continues to carry out public consultation. The Board regards engaging the public as an essential and ongoing activity throughout the Project's entire lifecycle, and in particular during construction. Trans Mountain is reminded to continue its efforts to implement public consultation programs for the public, landowners, governments, Aboriginal groups, and other stakeholders and groups to learn about the Project, and how to provide their views and concerns to the company. In addition, the NEB is looking forward to a collaborative, inclusive Indigenous involvement in the review and monitoring of the environmental, safety and socio-economic issues related to the Project with the Indigenous Advisory and Monitoring Committee (IAMC).

Public safety and the protection of the environment is of paramount importance to the NEB, and will hold Trans Mountain accountable for its performance during the construction and operation of this Project, including full compliance with all regulatory requirements and commitments. The NEB is responsible for verifying and enforcing compliance with the Project requirements, including conditions. It does this through a number of compliance activities, such as: inspections, compliance meetings, management system audits, and reviews of manuals. The NEB will also continue to update its [Interactive Compliance Tracker](#) on a regular basis to ensure the public can be informed on the status of condition compliance.

Yours truly,

A handwritten signature in black ink, appearing to read 'D. Hamilton', with a long, sweeping horizontal line extending to the left.

David Hamilton
Board Member

Attachment

c.c. Ms. Naina Sloan, Co-Chair, IAMC, Major Projects Management Office – West,
Email naina.sloan@canada.ca

Chief Ernie Crey, Co-Chair, IAMC, Cheam First Nation
Email ernie.crey@cheamband.com

Trans Mountain System Expansion Project, IAMC
Email nrcan.tmxcommittee-comitetmx.rncan@canada.ca

Appendix 1: Condition Compliance for Westridge Marine Terminal (Phase 1)

Condition 10: Phased Filings		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A81219 dated 6 January 2017	<p>The NEB/Board of the view that Trans Mountain has adequately provided a list of construction spreads, regions, or work areas, which will assist The NEB in tracking and verifying compliance for all of the filings required for each lifecycle phase of the Project. The information provided by Trans Mountain should also assist the public in anticipating and tracking Trans Mountain submissions and NEB correspondence in the geographic area of interest to them.</p> <p>The NEB is of the view that Trans Mountain has met the requirements of Condition 10.</p>	Reviewed and Compliant
Condition 12: Training and Education Monitoring Plan		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A81759 dated 16 February 2017 A83547 dated 15 May 2017	<p>Trans Mountain has partnered with various training service providers to develop training initiatives, with a number underway or already completed. Further proposals are currently under evaluation for further partnership funding opportunities. Trans Mountain's program was developed through consultation with Aboriginal groups, industry partners, Aboriginal Skills and Employment Training Strategy organizations, Aboriginal training service providers, post-secondary institutions and private training service providers.</p> <p>The NEB is of the view that the selection of and rationale for indicators, data sources and data reporting periods reflect Trans Mountain's commitments regarding training and education opportunities for the Project. Input received from governments, Aboriginal groups and service providers offer realistic and reliable basis for data capture and reporting to allow for adaptive management during the construction period.</p> <p>The NEB notes that Trans Mountain continues to consult with Appropriate Government Authorities, potentially affected Aboriginal groups, business, industry, and education and training organizations regarding the Plan.</p>	Approved by the Board

	The NEB is of the view that Trans Mountain has met the requirements of Condition 12 and approves the plan.	
Condition 14: Technical working group (TWG) – Terms of Reference		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A81760 dated 16 February 2017 A82110 dated 16 March 2017 A82241 dated 24 March 2017 A82251 dated 27 March 2017 A82492 dated 4 April 2017	<p>The NEB notes that the Board’s objective of Condition 14 was to facilitate the establishment and development of the TWGs in collaboration with participating affected municipalities in order to effectively address issues and concerns. The NEB is of the view that the filing has provided adequate information to demonstrate this. With regard to the letter of concern filed by the Township of Langley, the NEB notes that Trans Mountain’s reply letter committed to include the Township of Langley’s feedback regarding the draft Terms of References along with a complete list of all outstanding concerns in its NEB Condition Compliance 49 filing.</p> <p>With regard to the letter of concern filed by the City of Burnaby, the NEB notes that Trans Mountain’s reply letter indicated that both parties were reinitiating engagement opportunities and a TWG meeting was scheduled with the City of Burnaby on 4 April 2017. The NEB is satisfied with Trans Mountain’s responses to the letters, and specifically its commitment to ongoing dialogue with the respective municipalities through the TWGs.</p> <p>The NEB notes that all future discussions and outcomes from the TWGs will be summarized in submissions made pursuant to Condition 49 to be filed four months prior to commencing construction, which is addressed below.</p> <p>The NEB is of the view that Trans Mountain has met the requirements of Condition 14.</p>	Reviewed and Compliant
Condition 33: Westridge Marine Terminal Onshore Geotechnical Report		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A81765 dated 16 February 2017 A83661 dated 17 May 2017	<p>The NEB is of the view that Trans Mountain has adequately provided geotechnical design information that was not available at the time of the hearing, including consultant reports that were prepared or reviewed by registered professional engineers.</p>	Reviewed and Compliant

	<p>Trans Mountain is reminded of its commitment to follow the recommendations of its consultants included in its Condition 33 compliance filings.</p> <p>The NEB is of the view that Trans Mountain has met the requirements of Condition 33.</p>	
Condition 35: Marine Sediment Management Plan		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A81712 dated 10 February 2017	<p>Trans Mountain confirmed that dredging is not required at the Westridge Marine Terminal during construction of the Project and as a result, a Marine Sediment Management Plan is not required. Trans Mountain is reminded that should dredging be required, it does not have approval to carry out dredging activities.</p> <p>The NEB is of the view that Trans Mountain has met the requirements of Condition 35.</p>	Reviewed and Compliant
Condition 49: Technical working group (TWG) reports		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A82625 dated 13 April 2017	<p>The NEB notes that Trans Mountain continues to work with municipalities through TWGs, pursuant to the TWG Terms of Reference (see Condition 14), to address outstanding Project-related matters. The consultation efforts and outcomes for the period of 1 October 2016 to 31 March 2017 are summarized in this Filing. The NEB further notes that this Condition Filing is the first TWG Consultation Report for the Project provided to the Board pursuant to Condition 49. Trans Mountain is reminded that Condition 49 requires an update every 6 months until after commencing operations.</p> <p>The NEB is of the view that Trans Mountain's first consultation report filing has met the requirements of Condition 49.</p>	Reviewed and Compliant

Condition 57: Commercial Support for the Project		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A83349 dated 10 May 2017	<p>Trans Mountain confirmed that the Project secured 15 and 20 year firm service commitments from 13 shippers totaling 707,500 barrels (112,300 cubic metres), which is 80 per cent of the Project's total capacity.</p> <p>The NEB is of the view that Trans Mountain has met the requirements of Condition 57.</p>	Reviewed and Compliant
Condition 62: Construction Schedule		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A82596 dated 15 May 2017	<p>The NEB is of the view that Trans Mountain has filed a detailed construction schedule, which adequately identifies the major construction activities, associated with the various work areas and spreads as identified in the Condition 10 filing. These filings should assist the public in anticipating and tracking Trans Mountain construction presence and progress in the geographic area of interest to them.</p> <p>The NEB notes this is an ongoing condition requiring monthly updates upon commencement of construction until after commencing operations.</p> <p>The NEB is of the view Trans Mountain has met the pre-construction requirements of Condition 62.</p>	Reviewed and Compliant
Condition 63: Security Management Programs		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A83588 dated 15 May 2017	<p>Trans Mountain confirmed that it has developed a Project-specific Security Management Program for the construction phase of the Project.</p> <p>The NEB notes that Trans Mountain will be required to file an amended update to its operations phase Security Management Program to include the operation of the Project.</p>	Reviewed and Compliant

	The NEB is of the view that Trans Mountain has met the pre-construction requirements of Condition 63.	
Condition 73: Traffic Control Plans for public roadways		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A84151 dated 1 June 2017 A84150 dated 1 June 2017 A84149 dated 1 June 2017 A84908 dated 13 July 2017	<p>The NEB note that Trans Mountain's Traffic Control Plans for public roadways (Plan) contains an assessment of construction-related traffic on the key Project construction activities (pipeline, higher impact roadways, equipment mobilization and staging from construction yards, pipeline stockpiles and Project camps, terminal and pump facilities, First Nation Reserves and reactivation). The NEB further notes that Trans Mountain consulted with appropriate government authorities and Aboriginal groups when developing the Plan. The NEB is of the view that Trans Mountain's Plan will minimize traffic management impacts and risks.</p> <p>The NEB is of the view that Trans Mountain has met the requirements of Condition 73.</p>	Reviewed and Compliant
Condition 88: Project organizational structure for Project construction		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A84621 dated 23 June 2017	<p>The NEB is of the view that Trans Mountain has satisfied the condition with the submission of an organizational structure that identifies the key relationships from the President of Trans Mountain to the numerous contractors retained by Trans Mountain to carry out the construction activities in the work areas and spreads along the Project route.</p> <p>The NEB is of the view that Trans Mountain has met the requirements of Condition 88.</p>	Reviewed and Compliant
Condition 89: Emergency Response Plans for construction		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A84571 dated 23 June 2017	<p>The NEB is of the view that Trans Mountain has appropriate plans in place to protect workers and public safety and the environment during construction, including provisions for 24-hour medical evacuation, fire, hazardous chemical, and fuel spill response, as well as security issues.</p>	Reviewed and Compliant

	The NEB is of the view that Trans Mountain has met the requirements of Condition 89.	
Condition 90: Consultation on improvements to Trans Mountain's Emergency Management Program		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A83970 dated 31 May 2017	<p>The NEB is of the view that Trans Mountain is developing Emergency Preparedness and Response Plans for the pipeline and marine terminal that take into account federal, provincial, Aboriginal, and community consultation. The Trans Mountain filing for Condition 90 established an ongoing consultation plan and provided the Board with details related to the exchange and documentation of information, obtaining input and feedback as well as monitoring and resolving identified issues between the company and Appropriate Government Authorities, first responders, potentially affected Aboriginal groups and affected landowners/tenants.</p> <p>The NEB is of the view that Trans Mountain has met the requirements of Condition 90.</p>	Reviewed and Compliant
Condition 91: Plan for implementing, monitoring, and complying with marine shipping-related commitments		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A84433 dated 15 June 2017	<p>Trans Mountain's plan outlines how it will implement, monitor, and comply with marine shipping-related commitments identified in Condition 133 pertaining to: (i) enhanced tug escort through for laden tankers; and (ii) an enhanced marine oil spill response regime capable of delivering 20,000 tonnes of capacity. The NEB is of the view that Trans Mountain has demonstrated that it is engaging the appropriate parties and proactively working towards ensuring that its commitments regarding enhanced tug escort and enhanced marine spill response capacity will be in place prior to Project operation.</p> <p>The NEB is of the view Trans Mountain has met the requirements of Condition 91.</p>	Reviewed and Compliant

Condition 94: Consultation reports – protection of municipal water sources		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A84464 dated 15 June 2017	<p>The NEB finds Trans Mountain’s consultation with municipalities, regional districts, communities and Aboriginal groups regarding the protection of municipal and community water supplies to be acceptable as of 28 April 2017.</p> <p>The NEB notes that Trans Mountain continues to consult with municipalities, regional districts, communities and Aboriginal groups regarding the protection of municipal and community water supplies. The NEB further notes that this condition filing is the first consultation report for the protection of municipal water sources provided to the Board pursuant to Condition 94.</p> <p>The NEB is of the view that Trans Mountain’s first consultation report filing has met the pre-construction requirements of Condition 94.</p>	Reviewed and Compliant
Condition 98: Plan for Aboriginal group participation in construction monitoring		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A84466 dated 15 June 2017	<p>The NEB finds that the proposed scope, methods and reporting outlined in the plan will enable the effective participation of Aboriginal monitors during construction and post-construction activities. The NEB notes that Trans Mountain has been engaging with Aboriginal groups since 2012, and circulated the draft plan for input and comment from affected Aboriginal groups.</p> <p>The NEB is of the view that Trans Mountain has met the requirements of Condition 98.</p>	Reviewed and Compliant
Condition 103: Utility Crossings		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A84965 dated 14 July 2017	<p>The NEB finds that Trans Mountain’s Condition filing pursuant to Condition 103 is acceptable, as it has provided a list of all underground utilities to be crossed by the Project, including the location and owners of the utilities. Trans Mountain has also provided confirmation</p>	Reviewed and Compliant

	that all the agreements or crossing permits for those utilities to be crossed have been acquired or will be acquired prior to construction.	
	The NEB is of the view that Trans Mountain has met the requirements of Condition 103.	
Condition 117: Consultation on improvements to Trans Mountain's Emergency Management Program		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A84431 dated 15 June 2017	<p>The NEB finds that the filing meets the intent of the condition. The filing provides a detailed summary of consultation activities and how the input collected from those consulted (see Condition 90) were considered and how their input helped to inform enhancements to the company's Emergency Management Program. The filing also described the approximate timing for completing remaining work up to and beyond the in service date.</p> <p>Trans Mountain indicated that it has received valuable input from stakeholders (including First Nations and Aboriginal Groups), particularly for its Incident Command System Guide, Incident Notification Procedure, Criminal Acts Procedures and equipment at the Westridge Marine Terminal.</p> <p>The next filing for this condition is expected one year prior to the commencement of operations (approximately August 2018). The NEB will review the filing and compare it to the 15 June 2017 filing to ensure that the company has continued to collect stakeholder, Aboriginal community, and landowner feedback and input as well as document and consider the input in enhancing Trans Mountain's Emergency Management Program.</p> <p>The NEB is of the view that Trans Mountain has met the requirements of Condition 117.</p>	Reviewed and Compliant
Condition 127 (b): Terminal fire protection and firefighting systems		
Filing(s) made pursuant to this Condition	Views of the Board	Compliance Status
A81709 dated 10 February 2017	Trans Mountain has proposed Haines Fire Risk and Consulting (HFRC) of Southampton, New Jersey, USA to perform the fire protection and firefighting systems assessment for the terminals, including Westridge Marine Terminal.	Approved by the Board

A83331 dated 9 May 2017	<p>The NEB is of the view that HFRC has sufficient expertise in fire protection engineering and in the application of fire codes pertinent to Canadian hydrocarbon facilities. Trans Mountain confirmed that HFRC is an independent consulting company with no financial interest in the Project.</p> <p>The NEB is of the view that Trans Mountain has met the requirements of Condition 127 (b) and approves HFRC for the use of preparing reports as required in Condition 127 (a).</p>	
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