



Canada Energy Régie de l'énergie  
Regulator du Canada

Suite 210 517, Dixième Avenue S.-O.  
517 Tenth Avenue SW bureau 210  
Calgary, Alberta Calgary (Alberta)  
T2R 0A8 T2R 0A8

File OF-Fac-Oil-T260-2013-03 61  
23 December 2022

Dorothy Golosinski  
Trans Mountain Canada Inc.  
Suite 2700, 300 – 5<sup>th</sup> Avenue SW  
Calgary, AB T2P 5J2  
Email [dorothy\\_golosinski@transmountain.com](mailto:dorothy_golosinski@transmountain.com)

Jeremy Barretto  
Cassels Brock & Blackwell LLP  
Suite 3810, Bankers Hall West  
888 – 3<sup>rd</sup> Street SW  
Calgary, AB T2P 5C5  
Email [jbarretto@cassels.com](mailto:jbarretto@cassels.com)

Dear Dorothy Golosinski and Jeremy Barretto:

**Trans Mountain Pipeline ULC  
Trans Mountain Expansion Project  
Certificate of Public Convenience and Necessity OC-065  
Application pursuant to sections 208 and 211 of the *Canadian Energy  
Regulator Act* Segment 5.3 (Coldwater 3)  
Order AO-020-OPL-004-2020 and Permit P-014-2022**

**Before: K. Penney, Presiding Commissioner; M. Watton, Commissioner;  
W. Jackknife, Commissioner**

#### **A. Background**

On 18 June 2019, the Governor in Council approved the Trans Mountain Expansion Project (**TMEP**), subject to 156 conditions. Subsequently, on 21 June 2019, the National Energy Board<sup>1</sup> (**NEB**) issued Certificate of Public Convenience and Necessity (**Certificate**) OC-065 ([C00061](#)).

On 19 July 2019, the NEB directed Trans Mountain Pipeline ULC (**Trans Mountain**) to file its Plan, Profile and Book of Reference (**PPBoR**) for the entire TMEP route ([C00593](#)). Trans Mountain filed its PPBoR for Segment 5 on 31 July 2019 ([C00798](#)), including PPBoR Sheets M002-PM03011-052 and 053 in Segment 5.3.

Via Order OPL-004-2020 dated 2 June 2020 ([C06676](#)), the Commission of the Canada Energy Regulator approved various PPBoR sheets in Segments 5, 6, and 7, including PPBoR Sheets M002-PM03011-052 and 053. No conditions were attached to the approval of these PPBoR sheets.

.../2

---

<sup>1</sup> On 28 August 2019, pursuant to the *Canadian Energy Regulator Act*, the National Energy Board was replaced with the Canada Energy Regulator. The National Energy Board's adjudicative work has been transferred to the Commission of the Canada Energy Regulator.

## **B. Application**

On 30 November 2022, Trans Mountain filed an application ([C22280](#)) for approval of a route deviation (pursuant to section 211 of the *Canadian Energy Regulator Act* [**CER Act**]) and corrections (pursuant to section 208 of the CER Act) related to certain tracts of land shown on PPBoR Sheets M002-PM03011-052 and 053. Trans Mountain included revised versions of these PPBoR sheets in its application. Trans Mountain responded to a Commission information request on 15 December 2022 ([C22551](#)). Its submissions are summarized below.

### ***Deviation***

The deviation is located entirely within the approved pipeline corridor and is limited to Tracts PC 7112.04 and PC 7112.02 (appearing on PPBoR Sheet M002-PM03011-052) and Tract PC 7110 (appearing on PPBoR Sheet M002-PM03011-053), each of which is owned by The Crown in Right of British Columbia c/o BC Oil and Gas Commission (**BCOGC**).

Trans Mountain indicates that the deviation is intended to minimize potential environmental impacts. Trans Mountain proposes the revised route in order to relocate the TMEP centreline to avoid a recently identified Chinook Salmon (*Oncorhynchus tshawytscha*) redd (a spawning site/nest). In addition to the revised route, Trans Mountain committed to implementing additional mitigation measures to protect the redd during construction, including installing a small coffer dam formed from metre bags and irrigating the redd throughout the period that the channel is isolated. Trans Mountain also committed to developing a site-specific monitoring plan for the redd.

Trans Mountain confirmed that spawning deterrents installed at the site encompass the revised route and indicated that equivalent or better-quality spawning habitat is abundant and available elsewhere within that reach of the Coldwater River.

On 17 November 2022, Trans Mountain notified the BCOGC that it would file the deviation application. In accordance with a prior understanding between the parties, it also confirmed that it would file this application in advance of filing a permit amendment application with the BCOGC, which it committed to file in the future. At the time of filing its deviation application, Trans Mountain had not received any comments or concerns from the BCOGC.

Trans Mountain states that it served on the BCOGC a *National Energy Board Act* subsection 87(1) and/or CER Act subsection 322(1) notice regarding the revised route.

In accordance with the Filing Manual, Trans Mountain submits that the potential environmental and socio-economic effects associated with the deviation are similar to those addressed in its application for the TMEP and related filings. No new studies are required and no new mitigation measures are recommended beyond those identified during the OH-001-2014 and MH-052-2018 proceedings and subsequent condition compliance filings, which are incorporated within the updated Pipeline Environmental Protection Plan for the TMEP (filed under Condition 72 of Certificate OC-065).

Trans Mountain states that there are no new condition or compliance requirements associated with the impacted lands as a result of the deviation.

### ***Corrections***

The proposed corrections impact Tracts PC 7110 and PC 7110.01 on PPBoR Sheet M002-PM03011-053.

Due to errors in parcel data, the approved PPBoR showed an incorrect Property Identification Number for Tract PC 7110, which Trans Mountain is now correcting.

Also due to errors in parcel data, which were identified during a land survey, the approved PPBoR showed incorrect parcel boundaries for Tract PC 7110.01. According to the revised boundaries, the TMEP does not impact this tract and it is therefore being removed from the PPBoR.

### **C. Commission analysis and findings**

Having considered the submissions made by Trans Mountain in its application and summarized above, and the documents attached to the application, the Commission approves the deviation and corrections, as well as revised PPBoR Sheets M002-PM03011-052 and 053.

The Commission reminds Trans Mountain of the NEB's 22 September 2017 letter of direction ([A86239](#)) indicating that, prior to commencing construction activities (including the installation of spawning deterrents) at a given location along the TMEP, it must obtain all necessary permits and authorizations related to the TMEP's construction at that location. Compliance verification activities are ongoing for this Coldwater River crossing under a separate process.

The Commission attaches Permit P-014-2022 reflecting its approval of the corrections, and Order AO-020-OPL-004-2020 reflecting its approval of the deviation. The Commission notes that revised PPBoR Sheet M002-PM03011-053 contains both the corrections and certain lands impacted by the deviation. The Commission considers it redundant to approve this PPBoR sheet twice and, therefore, its approval is via Order AO-020-OPL-004-2020 only.

The Commission will forward to Trans Mountain three certified copies of each of Order AO-020-OPL-004-2020, Permit P-014-2022, and revised PPBoR Sheets M002-PM03011-052 and 053 for deposit in the appropriate Land Titles or Registry Office(s), pursuant to paragraph 198(d) and subsection 208(3) of the CER Act.

Trans Mountain is reminded that it must satisfy all applicable pre-construction conditions of Certificate OC-065 before it can proceed with construction on the lands covered by the approved deviation.

The Commission directs Trans Mountain to serve on the BCOGC, **on or before 30 December 2022**, a copy of this letter, Order AO-020-OPL-004-2020, and Permit P-014-2022.

Yours sincerely,

*Signed by*

Ramona Sladic  
Secretary of the Commission

Attachments

c.c. Trans Mountain Canada Inc., General Inbox, Email [info@transmountain.com](mailto:info@transmountain.com)