



VIA ELECTRONIC SUBMISSION

March 4, 2021  
Canada Energy Regulator  
Suite 210, 517 – 10th Ave SW  
Calgary, AB T2R 0A8

**Attention: Mr. Jean-Denis Charlebois, Secretary of the Commission**

Dear Mr. Charlebois:

Re: Trans Mountain Pipeline ULC (“Trans Mountain”)  
Financial Resource Requirement Plan  
Order AO-001-FRO-002-2017 (“Amended Order”)  
Request to Treat Certificate of Insurance Information Confidentially  
CER File: OF-Gen-06 FRR

I am writing to you as the Canadian Oil and Gas Program Director for the environmental group Stand.earth. Our organization has over 150,000 Canadian supporters and has demonstrated a long track record of working on issues related to climate change, forest protection, and corporate responsibility. We have a long standing campaign against the Trans Mountain Pipeline Expansion that includes participation as an intervenor in both the assessment and reconsideration of the pipeline that were conducted by the National Energy Board.

On February 22, 2021, Trans Mountain requested that its filing of Certificates of Insurance be treated confidentially.<sup>1</sup> On page two of that letter Trans Mountain cites a letter that I wrote to Liberty Mutual CEO, David Long,<sup>2</sup> on May 27, 2020 as evidence of the public campaign calling on insurance companies to cut ties with their pipeline. As a result we felt we had no choice but to respond.

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<sup>1</sup> Trans Mountain Letter, [Confidentiality Request](#), February 22, 2021, A7R4F6

<sup>2</sup>Sven Biggs, “URGENT: Insuring the Trans Mountain Pipeline,” Stand.earth (May 27, 2020), online: [https://www.stand.earth/sites/stand/files/insuring\\_the\\_trans\\_mountain\\_pipeline\\_-\\_liberty\\_mutual.pdf](https://www.stand.earth/sites/stand/files/insuring_the_trans_mountain_pipeline_-_liberty_mutual.pdf).

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Granting Trans Mountain's request will do nothing to reduce the amount of criticism or scrutiny that their project faces, which is the real reason that a growing number of insurers are rethinking their involvement with the pipeline. In fact many will see any decision by the CER to give Trans Mountain special treatment as self dealing by a federal government that acts simultaneously as owner and regulator of the project. If, as the CER predecessor ruled, this project is truly in the national interest then the Regulator should demand, and Trans Mountain should welcome, the highest possible level of public scrutiny, including making public their steps they have taken to protect taxpayers from being stuck with the costs in the case of a catastrophic oil spill.

**1. Insurers have good reason to be concerned about climate change and the projects that drive it including the Trans Mountain pipeline.**

Trans Mountain attempts to make the case in their submission that the only reason that insurance companies are reconsidering their policies on their project is because of pressure from pipeline critics. However the move away from projects like Trans Mountain is driven by the bottom lines of the insurance industry who are increasingly aware of the existential threat that climate change poses to their business model.

In fact climate change is already having a huge impact on the insurance industry which will only grow, as demonstrated by the Insurance Institute of Canada's 2020 report *Climate Risks Implications for the Insurance Industry in Canada*, which found that "since the 1980s, the payouts for severe weather damage claims have doubled every 5 to 10 years. If the trend continues it will drive profound, transformative change in Canada's insurance industry...the average annual severe weather claims paid by insurers in Canada is expected to double over the next 10 years, increasing from \$2.1 billion a year to \$5 billion."<sup>3</sup>

It is therefore logical that many insurance companies are reconsidering their business connections through the lens of climate change and choosing to cut ties with companies and projects that increase the extraction of the most carbon intensive fossil fuels. To date 19 major insurance and reinsurance companies worldwide have adopted climate policies that limit or end all insurance coverage for coal and/or oil sands projects.<sup>4</sup>

**2. The Trans Mountain insurance campaign is a very small part of a global movement to divest from fossil fuels.**

Trans Mountain attempts to make the case that they are uniquely and unfairly being signaled out by the organizations like Stand.earth who are behind the Trans Mountain Insurance

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<sup>3</sup> [Climate Risks: Implications for the Insurance Industry in Canada](#), Insurance Institute of Canada,

<sup>4</sup> [Insure Our Future](#)

campaign. Nothing could be further from the truth, our campaign is a very small part of a global movement that calls on all major institutions to divest from fossil fuels.

This movement is not focused on just pipelines or insurance companies, it's about universities endowment funds, churches and faith based organizations, local governments, and pension funds and it is led by students, shareholders, churchgoers, and workers.

To date this movement has led to 1312 institutions divesting over \$14 trillion in assets in full or in part from fossil fuels.<sup>5</sup> Institutions that have divested include the United Church of Canada,<sup>6</sup> the University of British Columbia,<sup>7</sup> the Wall St. hedge fund BlackRock,<sup>8</sup> Norway's sovereign wealth fund,<sup>9</sup> and New York City<sup>10</sup> just to name a few.

Clearly the divest movement is much larger than just Trans Mountain and since it has the power to move trillions of dollars in investment decisions around the globe there is little that the CER could do to shelter this pipeline from its impacts even if it wanted to.

### **3. As a publicly owned project Trans Mountain should face the highest levels of public scrutiny and transparency.**

Since Trans Mountain is wholly owned by the federal government and Canadians, not private investors, the public has a higher expectation for transparency and accountability when it comes to this project. This request for more secrecy around any detail of this pipeline not only runs counter to that expectation it has the potential to create the impression that Trans Mountain is getting special treatment because it is a government owned project.

The CER was created to replace its forerunner the National Energy Board (NEB) in large part because the public had lost trust in the NEB.<sup>11</sup> This erosion in trust was caused by a series of high profile decisions on a series of controversial pipeline projects, including the Trans Mountain Expansion Project, that seemed to many Canadians to be motivated in whole or in part by the political agenda of the government of the day.

Any decision by the CER to reduce the transparency around this project, which continues to be

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<sup>5</sup> <https://gofossilfree.org/divestment/commitments/#>

<sup>6</sup> [United Church votes to sell off its fossil fuel assets](#), CBC, Aug 11, 2015

<sup>7</sup> [UBC votes to divest \\$380M from fossil fuels, but students demand more](#), CBC,

<sup>8</sup> Larry Fink's 2021 letter to CEOs,

<https://www.blackrock.com/corporate/investor-relations/larry-fink-ceo-letter>

<sup>9</sup> [World's biggest sovereign wealth fund dumps dozens of coal companies](#), The Guardian, 5 Feb 2015

<sup>10</sup> [New York City plans to divest \\$5bn from fossil fuels and sue oil companies](#), The Guardian, 10 Jan 2018

<sup>11</sup> [NEB lacks public trust, poll suggests](#), CBC, Mar 17, 2016

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controversial, may be seen by the public as a step backwards in the mission to restore public confidence in the integrity and independence of the Regulator. I suggest that you should carefully consider this political context when making this decision.

#### **4. Trans Mountains track record on safety and oil spills demands more public scrutiny, not less.**

As the CER should be well aware, the existing Trans Mountain has a long record of oil spills and accidents. Evidence submitted to the NEB review of the Trans Mountain Expansion shows that between 1961, when the NEB started keeping records, and 1996 there were a total of 91 spills that met the reporting threshold.<sup>12</sup> The oil spills of course did not stop in 1996 and most recently a major spill at Trans Mountains Sumas pump station on June 12, 2020 led to the removal of 14,829,620 kg of solid waste and 429,209 kg of liquid waste as part of the clean up.<sup>13</sup>

Safety concerns also extend to the construction of the Trans Mountain Expansion Project which have led to a recent voluntary shut down of construction,<sup>14</sup> the firing of several contractors from the project,<sup>15</sup> and tragically the death of a worker.<sup>16</sup>

Clearly this is a project and a company that would benefit from more public scrutiny not less.

#### **5. Our campaign calling on insurance companies to drop Trans Mountain will continue**

Finally I wish to clarify that access to the documents in question will have no effect on whether or not we continue our campaign to get Trans Mountains insurers to divest from the pipeline. In fact we conceived of this campaign and began planning it with knowing that this document was on the public record and we are committed to continuing this area of work regardless of the decision of the Regulator on this issue.

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<sup>12</sup> [Historical Background Report: Trans Mountain Pipeline](#), 1947-2013, Sean Kheraj, Department of History York University, pg. 24

<sup>13</sup> Crude Oil Release near Abbotsford, BC Ministry of Environment and Climate Change Strategy, <https://www2.gov.bc.ca/gov/content/environment/air-land-water/spills-environmental-emergencies/spill-idents/crude-oil-release-near-abbotsford>

<sup>14</sup> [Trans Mountain project goes into voluntary shutdown after workplace safety 'incidents'](#), CBC, Dec 17, 2020

<sup>15</sup> [Trans Mountain fires contractor amid construction shutdown, safety review](#), CTV.ca, December 19, 2020

<sup>16</sup> [Father of 4 identified as worker killed at Trans Mountain pipeline site in west Edmonton](#), Global News, October 28, 2020

So if it is the desire of the CER to protect Trans Mountain and their insurers from the public scrutiny that has resulted from our campaign, making these documents secret will not achieve that end. I therefore submit to you that the only outcome of granting Trans Mountains request in this matter will be to reduce the public's access to information and their trust in your institution.

In summary, Trans Mountains ongoing challenges finding insurance at a price they consider reasonable is caused by wider trends in the insurance industry, and growing awareness by financial institutions that climate change is a threat to their bottom lines, both because the real world impacts of a changing climate and because consumers demand action. Deciding to make the details of Trans Mountains insurance certificate secret will do nothing to address those changing realities. It will however contribute to the public's scepticism that energy regulators work on behalf of big oil and not the people.

I therefore urge you to err on the side of transparency and openness and reject Trans Mountain's request in this matter.

Thank you

Sven Biggs  
Canadian Oil and Gas Program Director  
Stand.earth

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