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April 23, 2014

Filed Electronically

National Energy Board
444 Seventh Avenue SW
Calgary, AB T2P 0X8

Attention: Ms. Sheri Young, Board Secretary

Dear Ms. Young:

**Re: Trans Mountain Pipeline ULC
Application for the Trans Mountain Expansion Project
Hearing Order OH-001-2014
Board File OF-Fac-Oil-T260-2013-03 02
Response to the Notice of Motion by Living Oceans Society & Raincoast
Conservation Foundation dated April 17, 2014
Response to the Notice of Motion by R. Allan dated April 14, 2014**

I am writing as an intervenor in the National Energy Board Hearings on the Trans Mountain Expansion Project Application to express my support for the following two Notices of Motion:

1. The Notice of Motion submitted by Living Oceans Society and Raincoast Conservation Foundation dated April 17, 2014, specifically as it pertains to extending the timeline for Intervenor Round 1 information requests by 45 days to June 16, 2014.
2. The Notice of Motion submitted by Robyn Allan dated April 14, 2014, to include an oral cross-examination phase in the hearing process.

Extending the timeline for Intervenor Round 1 Information Requests

As the MLA for Oak Bay-Gordon Head, I applied to participate as an intervenor in the National Energy Board hearings on the Trans Mountain Expansion Project because I believe my constituents—and, indeed, all British Columbians—deserve a voice in the hearing process. I am deeply concerned that the restrictive timeline offered by the NEB on intervenor participation will severely impede my ability to effectively represent my constituents in this process. In particular, I have two specific concerns:

Firstly, as an elected representative, I have a duty to engage with my constituents so that I can effectively represent them. At 15,000 pages, Trans Mountain's application is highly complex and intricate. Like me, my constituents need time to fully review the application



prior to offering their feedback to me through an active engagement process. Many of my constituents own land along the coast, while others frequent public beaches or rely on coastal industries. All would be affected in the event of an oil spill and hence their participation and their voices are important as we move through this process.

Secondly, as an intervenor, and in the absence of an oral cross-examination process, I effectively only have two opportunities to ask written questions of the proponent. In the Hearing Order, the National Energy Board notes that it is in intervenors' best interests to submit the full scope of their information requests in the first round, so the second round can be used for clarification and supplemental questions. This recommendation is made, of course, because there is no further opportunity for direct clarification or supplemental questions on Information Requests submitted during the second round. In other words, I cannot directly ask follow-up questions of the proponent on any key points that I miss during the first round due to the rushed process.

Effective participation in the hearing process therefore requires that I review the entire application in detail, such that I can submit the full scope of my information requests in the first round. I submit that one month is not a sufficient amount of time for me to fully and thoroughly review the proponent's application and prepare my information requests. Add to this the importance of consulting with my constituents, and I submit that my ability to effectively participate in the hearing process is severely constrained under the current timeline.

With this in mind, and with full appreciation of the 15-month timeline for the hearing process, I strongly support the motion to postpone the deadline for Intervenor Round 1 information requests by 45 days to June 16, 2014.

Oral Cross Examination

I would also like to take this opportunity to voice my complete support of the motion tabled by Robyn Allan, which called for the Hearing Order to include an oral cross-examination phase available to all intervenors.

I applied as an intervenor twice, once in my capacity as an MLA to represent the citizens in my region who would be affected by this pipeline, and a second time as a scientist with applicable knowledge in the area of physical oceanography. I understood it was my right, were I to be accepted as an intervenor, to orally cross-examine witnesses, to inquire into areas of concern for members of my community, and to adjudicate the scientific evidence that was put before the panel. This belief was shared by many, if not most, who applied as intervenors for this process.

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There is considerable public interest in this hearing, as is reflected by the quantity and diversity of people and groups who applied to participate in the process. British Columbians are watching this process closely, looking for any bias to show itself. Failing to include oral cross-examination will be interpreted as a clear sign that this process is designed to limit the influence that citizens can have on its outcome. The issue of citizen involvement is of particular concern given that intervenors in the Trans Mountain Expansion Toll Application, who primarily came from the oil industry, were granted the opportunity to orally cross-examine witnesses.

There is a great risk here that people will ultimately determine that this hearing process itself cannot be supported, and that any decision reached by the panel was done so contrary to established democratic practice. This will negatively affect the prospects of the Trans Mountain project and will preclude the proponent from developing the required social license to proceed.

As with most major industrial projects currently being debated in British Columbia, achieving a social license is what will ultimately allow a project to advance. This requires a demonstration of good faith consultation, and a process that allows an open and transparent analysis of the evidence on which a project is based. Without an oral cross examination component, the Trans Mountain Expansion Project will fail to meet this standard.

Conclusion

In conclusion, I submit that I support both of the abovementioned motions and respectfully request that the Board amend the Hearing Order to:

1. Extend the deadline for Intervenor Round 1 information requests by 45 days, to June 16, 2014.
2. Include a significant oral cross-examination component, open to all intervenors, in the hearing process.

Best wishes,

A handwritten signature in black ink, appearing to read 'Andrew Weaver'.

Andrew Weaver
MLA, Oak Bay-Gordon Head