



File OF-Fac-Oil-T260-2013-03 02
24 September 2015

To: All participants

**Hearing Order OH-001-2014
Trans Mountain Pipeline ULC (Trans Mountain)
Application for the Trans Mountain Expansion Project (Project)
Procedural Direction No. 18 – Revised hearing events and steps table
(24 September 2015)**

On 21 August 2015, the National Energy Board (Board) [announced](#) that it was striking Trans Mountain's filed evidence that was prepared by or under the direction of Mr. Steven J. Kelly (Stricken Evidence). This evidence addressed, among other things, the issue of oil market supply and demand.

On 18 September 2015, the Board, with the approval of the Chairperson, decided to implement an excluded period, pursuant to subsection 52(5) of the *National Energy Board Act*, so that it can acquire information from Trans Mountain and intervenors in relation to the Stricken Evidence. This period will not be included in the calculation of the legislated 15-month time limit for the Board to complete its assessment of the Project and to make its recommendation to the Governor in Council. See the Board's [Ruling No. 92](#), also of today's date, for further details on this decision.

As a result of the excluded period, the legislated time limit for the Board to issue its report to the Governor in Council is now **20 May 2016**.

In light of this decision, the Board is releasing the attached **Revised hearing events and steps table (24 September 2015)** [Appendix 1], which updates and replaces the most recent version of the table found in [Procedural Direction No. 16](#). All dates and deadlines refer to noon Pacific time (1:00 pm Mountain time).

The Board notes the following regarding the revised schedule:

- The added steps are a direct result of Trans Mountain's upcoming filing of its replacement evidence. Once Trans Mountain files its revised written argument-in-chief, the hearing will follow similar process steps to those that were postponed on 21 August 2015.

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- Commenters and intervenors will have opportunities to specifically address Trans Mountain's replacement evidence (and any consequential additions or amendments to evidence of intervenors and Trans Mountain).
- Past steps having to do with all evidence on the hearing record other than the Stricken Evidence are considered complete. The excluded period does not result in those steps being "re-opened" or extended for the purposes of addressing that other evidence.
- The hearing dates previously scheduled to hear oral summary argument from Trans Mountain and intervenors in August and September 2015, respectively, have been moved to December 2015 and January/February 2016, respectively. At this time, the date and location for hearing Trans Mountain's oral summary argument are known, while the specific dates and location(s) to hear intervenors' oral summary argument are not.

If you have questions about the hearing process, please contact the Board's Process Advisor Team for this hearing by phone at 403-292-4800 or 1-800-899-1265 (toll-free), or by email at transmountainpipeline.hearing@neb-one.gc.ca.

Yours truly,

Original signed by

Sheri Young
Secretary of the Board

Attachments

Appendix 1: Revised hearing events and steps table (24 September 2015)

Important notes on revised hearing events and steps:

1. Past steps and deadlines have been deleted.
2. Guidance for certain steps may have been altered since past procedural directions in order to provide clarity and reflect current circumstances. Please read all guidance carefully.
3. The Board may revise hearing events and steps or associated dates in future based on new circumstances. If so, it will issue additional procedural directions with revised tables.

Revised hearing events and steps (24 September 2015) (responsible person[s] in bold) ¹	Date or deadline (noon Pacific time; 1:00 pm Mountain time)
<p>Trans Mountain files replacement evidence.</p> <p><i>In accordance with Trans Mountain’s 28 August 2015 letter, this replacement evidence will consist of an expert report by Muse Stancil to replace the direct evidence of Mr. Stephen J. Kelly, as well as consequential amendments to portions of other documents that relied on Mr. Kelly’s evidence.</i></p>	25 September 2015
<p>Board information requests to Trans Mountain about the subject matter of the replacement evidence.</p>	20 October 2015
<p>Intervenor information requests to Trans Mountain about the subject matter of the replacement evidence.</p> <p><i>If intervenors or the Board asked previous information requests and the answers were stricken because they were prepared by or under the direction of Mr. Kelly, then this information is no longer on the hearing record and will not be considered by the Board in its assessment of the Project. Therefore, intervenors may wish to pursue similar information.</i></p> <p><i>The stricken evidence remains viewable on the public registry because, in most cases, only portions of documents were stricken. See the Board’s 24 September 2015 Ruling No. 92 for details on the specific evidence stricken. Intervenors should not refer to any of the stricken evidence in their information requests.</i></p> <p><i>Information requests must be served on Trans Mountain, its counsel, and all other intervenors, except on those who have been removed from the email service list at their request.</i></p>	20 October 2015
<p>Board releases procedural direction with further details on oral summary argument, including hearing location(s) and requirements for notices of intent to provide oral summary argument.</p>	22 October 2015
<p>Trans Mountain responds to Board information requests about the subject matter of the replacement evidence.</p>	26 October 2015

¹ All produced documents must be filed with the Board so they can be placed on the hearing record and considered.

Revised hearing events and steps (24 September 2015) (responsible person[s] in bold)¹	Date or deadline (noon Pacific time; 1:00 pm Mountain time)
<p>Trans Mountain responds to intervenors' information requests about the subject matter of the replacement evidence.</p> <p><i>Trans Mountain is directed to respond <u>only</u> to questions about the subject matter of the replacement evidence at this time.</i></p>	<p>26 October 2015</p>
<p>Motion Day (replacement evidence) – As considered necessary, intervenors file notices of motion on the adequacy of Trans Mountain's responses to information requests about the subject matter of the replacement evidence.</p> <p><i>Motions must be in the chart format provided in Appendix 2 to Procedural Direction No. 18.</i></p> <p><i>Each motion must be served on Trans Mountain and its counsel only, not on all other intervenors.</i></p> <p><i>See Ruling No. 61 for general information on the Board's expectations for motions to compel. Ruling No. 69 provides insight into the Board's consideration and assessment of motions to compel.</i></p> <p><i>Through this process, the Board will only consider motions regarding inadequate information request responses to specific questions. The Board will not consider or respond to additional requests concerning other matters. Such requests must be filed as separate notices of motion, which will be addressed in the normal course, and not on the timelines set out for motions to compel full and adequate responses to information requests.</i></p>	<p>29 October 2015</p>
<p>Trans Mountain responds to intervenors' motions from Motion Day (replacement evidence).</p> <p><i>This is an optional step. Any responses must address specific motions pertaining to specific information requests.</i></p> <p><i>Responses to motions must be in the chart format provided in Appendix 2 to Procedural Direction No. 18.</i></p> <p><i>Trans Mountain must serve each response on the specific intervenor that brought the motion, not on all other intervenors.</i></p>	<p>2 November 2015</p>
<p>Intervenors reply to Trans Mountain's responses to their motions from Motion Day (replacement evidence).</p> <p><i>This step only applies <u>IF</u> Trans Mountain provides responses to specific motions which were made regarding specific information requests.</i></p> <p><i>Replies to motions must be in the chart format provided in Appendix 2 to Procedural Direction No. 18.</i></p> <p><i>Each reply must be served only Trans Mountain and its counsel, not on all other intervenors.</i></p>	<p>5 November 2015</p>

Revised hearing events and steps (24 September 2015) (responsible person[s] in bold)¹	Date or deadline (noon Pacific time; 1:00 pm Mountain time)
<p>Intervenors and Trans Mountain file notices of intent to present oral summary argument and/or reply argument.</p> <p><i>Presenting oral summary argument is optional for both Trans Mountain and intervenors. However, any party that chooses to present oral summary argument is required to file a notice of intent.</i></p>	<p>5 November 2015</p>
<p>Board releases procedural direction announcing the schedule for intervenors' oral summary argument.</p>	<p>late November 2015</p>
<p>Intervenors file supplemental written evidence in relation to the subject matter of the replacement evidence.</p> <p><i>Supplemental written evidence must be relevant to the subject matter of the replacement evidence. Evidence <u>not</u> meeting this requirement will not be considered by the Board.</i></p> <p><i>Supplemental written evidence must be served on Trans Mountain, its counsel, and all other intervenors, except on those who have been removed from the email service list at their request.</i></p>	<p>1 December 2015</p>
<p>Board information requests to intervenors about their supplemental written evidence.</p>	<p>7 December 2015</p>
<p>Intervenor information requests to other intervenors about their supplemental written evidence.</p> <p><i>Each information request must be relevant to the supplemental written evidence of the intervenor to which the question is directed.</i></p> <p><i>Information requests must be served on the relevant intervenors, with a copy also served on Trans Mountain, its counsel, and all other intervenors, except on those who have been removed from the email service list at their request.</i></p>	<p>7 December 2015</p>
<p>Trans Mountain information requests to intervenors about their supplemental written evidence.</p> <p><i>Each information request must be relevant to the supplemental written evidence of the intervenor to which the question is directed.</i></p> <p><i>Information requests must be served on the relevant intervenors, with a copy also served on all other intervenors, except on those who have been removed from the email service list at their request.</i></p>	<p>7 December 2015</p>
<p>Intervenors respond to the Board's, Trans Mountain's, and other intervenors' information requests on their supplemental written evidence.</p> <p><i>Intervenors are directed to respond <u>only</u> to questions about their supplemental written evidence at this time.</i></p> <p><i>Responses must be served on Trans Mountain, its counsel, and all other intervenors, except on those who have been removed from the email service list at their request.</i></p>	<p>11 December 2015</p>

Revised hearing events and steps (24 September 2015) (responsible person[s] in bold)¹	Date or deadline (noon Pacific time; 1:00 pm Mountain time)
<p>Commenters file letters addressing the replacement evidence.</p> <p><i>Any commenter that has already filed a letter of comment in this hearing may address the subject matter of the replacement evidence or intervenors' supplemental written evidence as an addendum, forming part of their initial letter.</i></p> <p><i>Any commenter that has <u>not</u> already filed a letter of comment in this hearing may address the subject matter of the replacement evidence or intervenors' supplemental written evidence in a letter.</i></p> <p><i>To the extent that any addendum or letter filed at this time comments upon matters that go beyond the subject matter of the replacement evidence or intervenors' supplemental written evidence, they will not be considered by the Board.</i></p> <p><i>Any letters must be filed through the Board's e-filing tool, or by fax, or mail. Commenters' NEB Accounts cannot be used at this time.</i></p>	<p>14 December 2015</p>
<p>Intervenors and Trans Mountain file any outstanding affidavits swearing evidence.</p> <p><i>These affidavits may pertain to <u>any</u> evidence filed in the proceeding, whether or not it pertains to the subject matter of the replacement evidence.</i></p>	<p>15 December 2015</p>
<p>Trans Mountain files revised written argument-in-chief, including amended comments on any draft conditions as a result of evidence filed since Trans Mountain's provided its initial comments on the draft conditions.</p> <p><i>Trans Mountain is directed to indicate in its revised argument-in-chief where changes have been made to its argument filed on 21 August 2015.</i></p> <p><i>Written argument-in-chief must be served on all intervenors, except on those who have been removed from the email service list at their request.</i></p>	<p>15 December 2015</p>
<p>Oral hearing to hear Trans Mountain's oral summary argument (Calgary, Alberta).</p> <p><i>No new evidence can be provided in oral summary argument. A time limit will be imposed.</i></p>	<p>17 December 2015 (formerly 24 August 2015)</p>
<p>Intervenors file written argument-in-chief and reply to Trans Mountain, including comments on draft conditions.</p> <p><i>Comments on draft conditions should be included in written argument-in-chief; they cannot be raised for the first time during oral argument. No new evidence can be provided in written argument-in-chief.</i></p> <p><i>Written argument-in-chief must be served on Trans Mountain, its counsel, and all other intervenor, except on those who have been removed from the email service list at their request.</i></p>	<p>12 January 2016 (formerly 3 September 2015)</p>

Revised hearing events and steps (24 September 2015) (responsible person[s] in bold) ¹	Date or deadline (noon Pacific time; 1:00 pm Mountain time)
Oral hearings to hear intervenors' oral summary argument and/or reply argument (location to be determined). <i>No new evidence can be provided in oral summary argument. Time limits will be imposed.</i>	January – February 2016 (formerly 9-30 September 2015)
Trans Mountain files written reply argument. <i>The exact date for this step will be communicated at a later time.</i>	February 2016 (formerly 5 October 2015)
Hearing record closes.	Immediately after reply argument is received
Time limit for the Board to release its Report to the Governor in Council and provide it to the Minister of Natural Resources.	20 May 2016 (formerly 25 January 2016)

