



File OF-Fac-Oil-T260-2013-03 02
22 October 2015

To: All intervenors and Trans Mountain Pipeline ULC

**Hearing Order OH-001-2014
Trans Mountain Pipeline ULC (Trans Mountain)
Application for the Trans Mountain Expansion Project (Project)
Procedural Direction No. 19 – Revised oral summary argument process: locations,
notices of intent, and guidance**

At this time, the National Energy Board (Board) is announcing that it will hear oral summary argument as follows:

- From Trans Mountain in the Board's hearing room at its offices in Calgary, Alberta (517 – 10th Avenue SW) on **17 December 2015, beginning at 9:00 am Pacific time (10:00 am Mountain time).**
- From intervenors:
 - at the Delta Burnaby Hotel and Conference Centre (4331 Dominion Street, Burnaby, British Columbia) **between 18 and 29 January 2016;** and
 - in the Board's hearing room at its offices in Calgary, **between 1 and 12 February 2016.**

The Board has indicated the date range within which intervenors' oral summary argument will take place at each location. Exact dates will be determined once the Board has the necessary information on hand after receiving all notices of intent from intervenors wanting to provide oral summary argument.

Prior to [postponing](#) oral summary argument on 21 August 2015, the Board was to hear from intervenors from 9 to 30 September 2015 in Burnaby only. After announcing the revised hearing schedule in its 24 September 2015 [Procedural Direction No. 18](#), the Board investigated venue options that met the Board's hearing requirements for the time period needed. On such short notice, only the Delta Burnaby was able to meet the Board's venue requirements and have available space to accommodate this event. However, this venue is only available for two weeks, from 18 to 29 January 2016, which is less time than the Board had originally scheduled in Burnaby. Therefore, to provide additional time for intervenors, the Board will also sit in Calgary between 1 and 12 February 2016.

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The Board confirms that the attendance limitations (two representatives per intervenor/Trans Mountain in the hearing room) outlined in [Procedural Direction No. 15](#) remain the same (see Section E of this procedural direction for more details). Where the Board has issued rulings on past intervenor requests to vary the attendance limitations specifically for them, those decisions remain applicable to the extent that those intervenors still require those attendance limitation variations, given the new dates and locations for oral summary argument.¹

The Board points out that, due to the revised process, schedule, and locations, intervenors' and Trans Mountain's previously filed notices of intent to provide oral summary argument may no longer be accurate. Any intervenor (and Trans Mountain) wanting to provide oral summary argument (in person or by phone) **must file** new notices of intent to do so **on or before 5 November 2015**. This will give the Board sufficient time to make logistical decisions (e.g., sitting hours, exact dates, time limits, etc.) and create a schedule of speakers. See Section H and Appendix 1 for details on the format and content required for notices of intent.

Although, in Procedural Direction Nos. [13](#) and [15](#), the Board issued guidance on preparing for oral summary argument, that information has been updated in this procedural direction. Please follow this document for the most up-to-date information and requirements.

Overview of final argument

In this hearing, final argument involves two steps: written argument-in-chief and oral summary argument. You may undertake either one of these steps, or both. You may also choose not to undertake final argument at all.

Intervenor written argument-in-chief and oral summary argument both follow Trans Mountain's opportunity to provide revised written argument-in-chief and oral summary argument so that intervenors may respond to Trans Mountain's argument. Trans Mountain, as the applicant, will have the opportunity to file written reply argument after intervenors file their written argument-in-chief and provide their oral summary argument.

Final argument is your opportunity to express your views and opinions about the Project after you have considered the evidence filed on the hearing record by Trans Mountain and all intervenors. It represents your chance to persuade the Board to take certain positions on the issues and evidence at hand and on the Project as a whole. You may also make recommendations to the Board about matters within the List of Issues during final argument.

Oral summary argument allows you to summarize your views and opinions directly in front of the Panel that is assessing the Project application. Because time limits are imposed on oral summary argument presentations, the Board strongly encourages the use of written argument-in-chief to convey the majority, if not all, of your points ahead of oral summary argument. This will help ensure that, if you miss mentioning a point orally, it will still form part of the record in writing.

¹ The requesting intervenors and associated rulings are: Mr. Masanobu Shoji, [Ruling No. 88](#); the City of Burnaby, [Ruling No. 89](#).

[Procedural Direction No. 14](#) provides guidance on preparing written argument-in-chief, as well as an optional template. Please note when reading that procedural direction that the current deadlines for Trans Mountain to file revised written argument-in-chief and for intervenors to file written argument-in-chief are **15 December 2015** and **12 January 2016**, respectively.

Guidance and logistics

A. What is the difference between written argument-in-chief and oral summary argument?

The Board designed the hearing process to have intervenors and Trans Mountain file their argument in writing (as written argument-in-chief). Oral summary argument provides the opportunity to summarize your argument before the Panel.

Providing argument in writing allows participants to more clearly reference the evidence upon which their argument is based. If you are providing written argument-in-chief, the Board expects that you include in your filing any comments you have on the Board's draft conditions ([released on 12 August 2015²](#)), and not bring these comments up for the first time in oral summary argument. Additional guidance on providing written argument-in-chief is found in Procedural Direction No. 14.

To assist those providing oral summary argument, the Board recommends focusing on the main points that you want the Board to consider in deciding whether or not to recommend approval of the Project.

B. What cannot be provided in oral summary argument?

The following types of information should **not** be included in any oral summary argument presentation:

- New evidence* – No new evidence can be entered onto the record during the argument phase (written or oral) of the hearing. The Board will not consider any new evidence introduced during argument.
- Visual aids – Time for oral summary argument will be limited. The Board wishes to gain the greatest value possible from each presentation; that being to listen to participants' opinions and views about the Project, the evidence that has been filed, and the Board's upcoming recommendation to the Governor in Council. Therefore, to maintain focus, visual aids will not be permitted.
- Questions that require an answer from either Trans Mountain, intervenors, or the Board.

² Regardless of the Board's recommendation on a project, the *National Energy Board Act* requires that all conditions the Board considers necessary and desirable in the public interest, should the project be approved by the Governor in Council, be included with its recommendation. Releasing draft conditions in advance of a recommendation is not an indication of the Board's forthcoming recommendation to either approve or deny a project application.

* The Board notes, however, that previously filed evidence can be referred to during argument. You may refer to any filed evidence, regardless of the participant that filed it. You are not limited to referring only to evidence that you or your group has filed.

C. Remote participation

Intervenors will be able to provide oral summary argument by phone if they are unable or choose not to attend the hearing in person.

Please keep in mind that the media will be present in the hearing room and, at certain times, will likely be recording video and taking photographs. The Board will also be streaming video of the proceeding over its website and may be taking photographs. If you do not wish to appear in videos or photographs, you may wish to provide your oral summary argument by telephone.

D. Time limits

In order to hear from all intervenors that wish to provide oral summary argument, time limits will be imposed on those speaking and they will be strictly enforced. Trans Mountain will also be subject to a time limit. These limits will be established after all notices of intent to provide oral summary argument are filed (i.e., after 5 November 2015).

The Board will hear from intervenors at two locations. Intervenors have the opportunity to notify the Board where and when they wish or are able to speak. Their time limits can be influenced by the number of individuals/groups wanting to speak at a given location. The Board anticipates that many intervenors will prefer to speak in Burnaby during the available two-week period, which could have the effect of reducing time limits. Therefore, the Board encourages those intervenors that have the means to consider providing oral summary argument during the Calgary dates, either in person or by telephone. While the Board will carefully consider all date/location preferences received, it may not be able to accommodate each of them.

E. Attendance limitations

The Board is looking forward to hearing from Trans Mountain and those intervenors that have signed up to provide oral summary argument. The Board wishes to limit potential distractions and to provide a fair, efficient and safe opportunity for all participants that will be providing oral summary argument in front of the Panel members. In line with these goals, and considering the past history of disruptions and the publically available information regarding occurrences of civil disobedience associated with the Project, the Board maintains its decision to limit access to the hearing room to intervenors, Trans Mountain, and accredited media. As stated above, the general public will have access to live video and audio broadcasts of the hearing sessions, as well as daily transcripts, in addition to any media reporting.

The process will be as follows for **intervenor** and **Trans Mountain** representatives wanting to attend oral summary argument in person:

1. Intervenors and Trans Mountain may each have two representatives in the hearing room when the hearing is in session, regardless of whether they are speaking that day or simply watching the hearing.
2. The specific individuals attending on behalf of each intervenor or Trans Mountain may change from day to day, however, their names **must be on the List of Participants** in order to gain entry to the hearing room.
3. To that end, each intervenor and Trans Mountain may have a maximum of four individuals listed on the List of Participants at any time. Board staff will email a link to all intervenors and Trans Mountain, which they may use to request updates to the List of Participants (i.e., to remove or add names of people who may attend on their behalf).³
4. The Board encourages intervenors and Trans Mountain to request updates to the List of Participants as soon as possible. However, in any event, changes **must be requested 24 hours in advance of a particular day that a newly added individual wishes to attend the hearing**. Board staff will be checking photo identification to verify that individuals are on the List of Participants before they will be allowed entry.
5. Those wanting access to the hearing room will be subject to the following each time they want entry or re-entry (unless individuals remain within the area beyond the registration desk):
 - a) Individuals must show photo identification to prove they are on the List of Participants.
 - b) Individuals will be provided a lanyard identifying the intervenor they represent, which must be worn at all times. A maximum of two lanyards per intervenor will be given out at any one time. The same applies for Trans Mountain and its representatives.
 - c) When leaving the area beyond the registration desk, individuals must return their lanyard to Board staff. Failure to return one or both lanyards may result in refused entry for an intervenor's or Trans Mountain's representative(s) until the missing lanyard(s) is located and returned to Board staff.

³ Board staff will make the requested updates as long as the maximum of four representatives per intervenor is not exceeded. Questions about requesting updates can be directed to the Process Advisor Team. Please consult the online List of Participants (main list [here](#); supplemental list [Burnaby Mountain corridor] [here](#)) to make yourself aware of the contacts showing for you or your group. Board staff will regularly update the List of Participants, based on the most recent requests.

The Board reminds participants that, because the List of Participants is used as the basis for serving filing notifications on intervenors, individuals added to it will receive email notifications of filings from the Board, Trans Mountain, and other intervenors. Added individuals that do not wish to receive filing notifications must file a letter with the Board as per Item 6(ii) of [Procedural Direction No. 10](#).

Accredited media: Media who wish to attend the hearing in person must register for accreditation prior to entering the hearing room. Each media representative will be subject to the process described under Point 5 above. For information on the media accreditation process, as well as for all media inquiries, please contact Tara O'Donovan, Communications Officer, by email at tara.odonovan@neb-one.gc.ca, or by phone at 403-299-3633.

The requirements listed above will be strictly enforced at each hearing location. The Board reminds Trans Mountain, intervenors, and media to review the requirements carefully, as not adhering to them may jeopardize your ability to attend the hearing at a given time.

F. Interpreters

Intervenors providing oral summary argument in a language other than French or English must provide their own interpreter and incur those costs (or use participant funding approved for that purpose). Only the English translation will be included in the hearing transcript. It is up to the intervenor to confirm the accuracy of any translations they have ordered.

G. Online broadcast and transcripts

The Board will offer live video and audio streaming of all oral summary argument presentations (Trans Mountain and intervenors) via its [website](#). The video and audio files will also be available for later streaming and downloading.

When completing notices of intent, intervenors will have the opportunity to indicate whether they will appear in person (and, therefore, appear on the video broadcast) or by telephone (and, therefore, only be heard on the audio broadcast).

Presentations will also be transcribed daily. Electronic transcripts will be available on the online [public registry](#). Anyone can order printed transcripts directly from International Reporting Inc. This can be done by emailing bprouse@irri.net, or by calling 1-800-899-0006. There may be a fee for this service.

H. Notices of intent to provide oral summary argument

In order to provide oral summary argument, you must register your intent to do so with the Board by filing a written notice using the template attached as Appendix 1. If you do not file a notice of intent to provide summary argument, you will not be able to provide oral summary argument.

Since Trans Mountain is not granted the options available to intervenors regarding the method of attendance or time slot preferences, it may either use the attached form or file a letter with the Board to indicate its intention, should it choose to provide oral summary argument. For ease of populating the template, Board staff will email a copy of the template (in Microsoft Word [.doc] format) to all intervenors and Trans Mountain.

If you have questions, please contact the Board's Process Advisor Team for this Project 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

Attachment

Appendix 1 Template for notice of intent to provide oral summary argument

**Hearing Order OH-001-2014
Trans Mountain Pipeline ULC
Application for the Trans Mountain Expansion Project**

Notice of intent to provide oral summary argument

General

Name of registered intervenor or project proponent	
Type of intervenor	<input type="checkbox"/> Individual <input type="checkbox"/> Group
Name of contact person in relation to this form (for individuals, only fill in if different from the name of intervenor)	
Contact email	
Contact phone number	
Confirmation that your presentation will align with the description of oral summary argument (Sections A and B of Procedural Direction No. 19)	<input type="checkbox"/> I confirm

Method of attendance

Please familiarize yourself with Section C of Procedural Direction No. 19 regarding videos and photos being taken at the hearing, which may affect your choice below.

Please check only one:

- I will provide oral summary argument in person.
- I will provide oral summary argument by telephone.

Preferred and alternative time slots

A. General

The Panel is committed to hearing from all intervenors that wish to provide oral summary argument. In order to create a schedule that allows this to occur, the Board must understand when you are available to speak. Please indicate as many time slots as possible.

- Put a “1” in boxes that represent your *preferred time slots*.
- Put a “2” in boxes that represent *alternative time slots* that would work for you.
- Put an “x” in boxes that represent time slots where you are not available.

The Board will hear from intervenors at two locations. In identifying your preferences, please note that intervenors’ time limits can be influenced by the number of individuals/groups wanting to speak at a given location. The Board anticipates that many intervenors will prefer to speak in Burnaby during the available two-week period, which could have the effect of reducing time limits. **Therefore, the Board encourages those intervenors that have the means to consider providing oral summary argument during the Calgary dates, either in person or by telephone.** While the Board will carefully consider all date/location preferences received, it may not be able to accommodate each of them.

Between 18 and 29 January 2016 in Burnaby, British Columbia			
Day of the week	Morning	Afternoon	Evening
Mondays			
Tuesdays			
Wednesdays			
Thursdays			
Fridays			
Saturdays*			

*subject to venue availability

Between 1 and 12 February 2016 in Calgary, Alberta		
Day of the week	Morning	Afternoon
Mondays		
Tuesdays		
Wednesdays		
Thursdays		
Fridays		

B. Exceptions

Despite your general preferences in Section A of this form, there may be specific dates between 18 and 29 January and 1 and 12 February 2016 that you cannot attend. Please list those dates here:

1.	4.	7.
2.	5.	8.
3.	6.	9.
Other dates:		

Other information

Please provide any other information that you feel the Board should consider when setting up the logistics and schedule for oral summary argument.