



Canada Energy  
Regulator

Régie de l'énergie  
du Canada

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File OF-Fac-Oil-T260-2013-03 63  
16 April 2021

Mr. Scott Stoness  
Trans Mountain Canada Inc.  
Suite 2700, 300 – 5<sup>th</sup> Avenue SW  
Calgary, AB T2P 5J2  
Email [regulatory@transmountain.com](mailto:regulatory@transmountain.com)

Mr. Shawn H.T. Denstedt, Q.C.  
Osler, Hoskin & Harcourt LLP  
Suite 2500, 450 – 1<sup>st</sup> Street SW  
Calgary, AB T2P 5H1  
Email [sdenstedt@osler.com](mailto:sdenstedt@osler.com)

Dear Mr. Stoness and Mr. Denstedt:

**Trans Mountain Pipeline ULC (Trans Mountain)  
Trans Mountain Expansion Project (TMEP)  
Certificate of Public Convenience and Necessity (Certificate) OC-065  
Application pursuant to sections 208 and 211 of the *Canadian Energy  
Regulator Act* (CER Act) – Segment 7.7 (Tracts PC 7722, PC 7723, PC 7755, and  
PC 8101.03)  
Order AO-002-OPL-004-2020 and Permit P-003-2021**

#### **A. Background**

On 18 June 2019, the Governor in Council approved the TMEP, subject to 156 conditions. Subsequently, on 21 June 2019, the National Energy Board<sup>1</sup> (NEB) issued Certificate OC-065 ([C00061](#)).

On 19 July 2019, the NEB directed 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 7 on 13 August 2019 ([C00965](#)), including PPBoR Sheets M002-PM03028-002 and M002-PM03028-003.

Via Order OPL-004-2020 ([C06676](#)) dated 2 June 2020, the Commission of the Canada Energy Regulator (Commission) approved various PPBoR sheets in Segments 5, 6, and 7, including PPBoR Sheets M002-PM03028-002 and M002-PM03028-003 in Segment 7.7. That Order brought forward conditions of approval from the previous (but now rescinded) Order OPL-T260-012-2018, including with respect to these PPBoR sheets.

Via Order AO-001-OPL-004-2020 dated 24 November 2020, the Commission approved two route deviations in Segment 7.7 pursuant to section 211 of the (CER Act) [[C09883](#)]. These deviations pertained to, among other lands, Tract PC 7722 on PPBoR Sheet M002-PM03028-002 and Tract PC 7755 on PPBoR Sheet M002-PM03028-003. The deviations were proposed to accommodate requests of the City of Burnaby (Burnaby), as described in a Burnaby letter dated 22 October 2019 and filed with the Canada Energy Regulator (CER) ([C02346](#)).

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<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.

The letter referred to an agreement between Trans Mountain and Burnaby regarding, among other things, changes to Trans Mountain's detailed route. Order AO-001-OPL-004-2020 also rescinded Conditions 9 and 10 of Order OPL-004-2020 from the approval of PPBoR Sheets M002-M03028-001 to M002-M03028-003.

## **B. Application**

On 26 February 2021, Trans Mountain filed an application ([C11686](#)) for approval of a route deviation (pursuant to section 211 of the CER Act) and a correction to an error (pursuant to section 208 of the CER Act) related to tracts of land shown on PPBoR Sheets M002-PM03028-002 and M002-PM03028-003, including tracts that were the subject of the deviations approved via Order AO-001-OPL-004-2020.

Trans Mountain included revised versions of PPBoR Sheets M002-PM03028-002 and M002-PM03028-003 in its application.

### ***Deviation***

The currently proposed deviation pertains to Tract PC 7722 on PPBoR Sheet M002-PM03028-002 and Tract PC 7755 on PPBoR Sheet M002-PM03028-003, both of which are owned by Burnaby. It also involves newly impacted Tract PC 7723 (owned by New Life Community Church [Church]) appearing on PPBoR Sheet M002-PM03028-002.

Trans Mountain confirms that the proposed deviation is entirely within the approved pipeline corridor. It states that the deviation is intended to accommodate further Burnaby requests as part of its agreement with Trans Mountain, as described in Burnaby's 22 October 2019 letter. The revised route seeks to avoid affecting certain Metro Vancouver rights-of-way.

Trans Mountain confirms that it served a CER Act subsection 322(1) notice regarding the revised route on the Church and Burnaby on 20 January and 26 February 2021, respectively. However, Burnaby was notified of the revised route on 16 February 2021.

As of the date of its application, Trans Mountain had not received any objection from Burnaby regarding the revised route. Trans Mountain states that the revised route results in a change to the tree clearing footprint within the city, that it has notified Burnaby of this change, and that it is engaging with Burnaby regarding permitting matters.

Trans Mountain states that it has engaged with the Church and that, on 17 February 2021, the Church inquired about the process for the deviation application, and indicated that it may file comments regarding the revised route. Trans Mountain adds that it will continue engaging with the Church to address any concerns.

Trans Mountain committed to updating the Commission if it receives any feedback from either landowner impacted by the proposed deviation.

In accordance with the Canada Energy Regulator 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).

**Correction**

Trans Mountain submits that it is replacing the easement showing for Tract PC 8101.03 (owned by Brunette River Conservation Area [Burnaby]) on PPBoR Sheet M002-PM03028-002 with a non-easement agreement on the basis that the lands are not titled lands. Trans Mountain adds that Burnaby was notified of this change in advance of filing the application.

**C. Comments received**

On 9 March 2021, the Commission invited comments from Burnaby and the Church, and reply comments from Trans Mountain, on the applied-for deviation ([C11853](#)). The Commission advised that, if no comments were received, it may approve the deviation. On 12 March 2021, the Commission granted the Church's request for an extension until 9 April 2021 to file any comments ([C11955](#)).

On 22 March 2021, Burnaby filed a letter indicating that it had no comments to provide ([C12093](#)). The Church did not file any comments.

**D. The Commission's decision**

The Commission notes Trans Mountain's confirmation that the proposed deviation is within the approved pipeline corridor.

Having considered the submissions made by Trans Mountain in its application and summarized above, the documents attached to the application, and that no comments were filed by the affected landowners regarding the deviation, the Commission approves the proposed deviation and correction, as well as revised PPBoR Sheets M002-PM03028-002 and M002-PM03028-003.

The Commission attaches Permit P-003-2021 reflecting its approval of the correction, and Order AO-002-OPL-004-2020 reflecting its approval of the deviation. The Commission notes that revised PPBoR Sheet M002-PM03028-002 contains both the correction and certain lands subject to the deviation. The Commission considers it redundant to approve this PPBoR sheet twice and, therefore, its approval is via Order AO-002-OPL-004-2020 only.

The Commission will forward to Trans Mountain three certified copies of each of Order AO-002-OPL-004-2020, Permit P-003-2021, and revised PPBoR Sheets M002-PM03028-002 and M002-PM03028-003 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 this approval.

Yours sincerely,

*Signed by*

Jean-Denis Charlebois  
Secretary of the Commission

Attachments

c.c. Trans Mountain Canada Inc., General Inbox, [info@transmountain.com](mailto:info@transmountain.com)  
Mr. Jeremy Barretto, Cassels Brock & Blackwell LLP, Email [jbarretto@cassels.com](mailto:jbarretto@cassels.com)  
Mr. Evan A. Cooke, Eyford Partners LLP, Email [ecooke@eyfordpartners.com](mailto:ecooke@eyfordpartners.com)  
Mr. Gregory J. McDade Q.C., Ratcliff & Company LLP, Email [gmcdade@ratcliff.com](mailto:gmcdade@ratcliff.com)



## ORDER AO-002-OPL-004-2020

**IN THE MATTER OF** the *Canadian Energy Regulator Act* (CER Act) and the regulations made thereunder; and

**IN THE MATTER OF** an application filed by Trans Mountain Pipeline ULC (Trans Mountain) under File OF-Fac-Oil-T260-2013-03 63, for approval of a deviation on lands depicted on, and a correction to, the Plan, Profile and Book of Reference (PPBoR) for Segment 7.7 of the Trans Mountain Expansion Project (TMEP), pursuant to sections 211 and 208 of the CER Act.

**BEFORE** the Commission of the Canada Energy Regulator (Commission) on 14 April 2021.

**AND WHEREAS** via Order OPL-004-2020 dated 2 June 2020, the Commission approved various PPBoR sheets in TMEP Segments 5, 6, and 7, including PPBoR Sheets M002-M03028-002 and M002-M03028-003 in Segment 7.7;

**AND WHEREAS** via Order AO-001-OPL-004-2020 dated 25 November 2020, the Commission approved two deviations related to lands shown on PPBoR Sheets M002-M03028-002 and M002-M03028-003;

**AND WHEREAS** on 26 February 2021, the Commission received an application from Trans Mountain, pursuant to section 211 of the CER Act, and including revised PPBoR Sheets M002-M03028-002 and M002-M03028-003, for approval of a route deviation on Tracts PC 7722 and PC 7755 (owned by the City of Burnaby) and PC 7723 (owned by New Life Community Church);

**AND WHEREAS** Trans Mountain's application also requested approval, pursuant to section 208 of the CER Act, of a correction to an error related to Tract 8101.03 appearing on revised PPBoR Sheet M002-M03028-002;

**AND WHEREAS** Trans Mountain submitted that the intent of the deviation is to accommodate requests of the City of Burnaby;

**AND WHEREAS** the Commission sought comments on the deviation from the City of Burnaby and New Life Community Church, and no comments were received;

**AND WHEREAS** Trans Mountain submitted 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, and no new studies or 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 (filed under Condition 72 of Certificate of Public Convenience and Necessity OC-065).

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**AND WHEREAS** on 14 April 2021, via Permit P-003-2021, the Commission approved the proposed correction to PPBoR Sheet M002-PM03028-002;

**IT IS ORDERED THAT** the revised PPBoR designated as the following, in the Province of British Columbia, is hereby approved pursuant to subsection 211(1) of the CER Act:

Sheet No.	Portion	Revision	Date
<b>Segment 7.7</b>			
M002-PM03028-002	Book of Reference	3	4 February 2021
	Plan and Profile	4	4 February 2021
M002-PM03028-003	Book of Reference	3	3 November 2020
	Plan and Profile	3	3 November 2020

THE COMMISSION OF THE CANADA ENERGY REGULATOR

*Signed by*

Jean-Denis Charlebois  
Secretary of the Commission



## PERMIT P-003-2021

**IN THE MATTER OF** the *Canadian Energy Regulator Act* (CER Act) and the regulations made thereunder; and

**IN THE MATTER OF** an application filed by Trans Mountain Pipeline ULC (Trans Mountain) under File OF-Fac-Oil-T260-2013-03 63, for approval of a correction to, and a deviation on lands depicted on, the Plan, Profile and Book of Reference (PPBoR) for Segment 7.7 of the Trans Mountain Expansion Project (TMEP), pursuant to sections 208 and 211 of the CER Act.

**BEFORE** the Commission of the Canada Energy Regulator (Commission) on 14 April 2021.

**AND WHEREAS** via Order OPL-004-2020 dated 2 June 2020, the Commission approved various PPBoR sheets in TMEP Segments 5, 6, and 7, including PPBoR Sheet M002-M03028-002 in Segment 7.7;

**AND WHEREAS** via Order AO-001-OPL-004-2020 dated 25 November 2020, the Commission approved two deviations related to lands shown on PPBoR Sheets M002-M03028-002 and M002-M03028-003;

**AND WHEREAS** on 26 February 2021, the Commission received an application from Trans Mountain, pursuant to section 208 of the CER Act, and including a revised PPBoR Sheet M002-PM03028-002, for approval of a correction to an error related to Tract 8101.03 (owned by Brunette River Conservation Area [City of Burnaby]);

**AND WHEREAS** Trans Mountain's application also requested approval, pursuant to section 211 of the CER Act, of a route deviation on two other tracts appearing on the same revised PPBoR Sheet M002-PM03028-002;

**AND WHEREAS** the Commission finds the correction proposed in Trans Mountain's application to be appropriate to ensure the accuracy of PPBoR Sheet M002-PM03028-002;

**AND WHEREAS** on 14 April 2021, the Commission approved the requested deviation and revised PPBoR Sheet M002-PM03028-002 via Order AO-002-OPL-004-2020;

**IT IS ORDERED THAT** the proposed correction pertaining to Tract 8101.03 is approved pursuant to subsection 208(2) of the CER Act, as reflected in revised PPBoR Sheet M002-PM03028-002 approved via Order AO-002-OPL-004-2020.

THE COMMISSION OF THE CANADA ENERGY REGULATOR

*Signed by*

Jean-Denis Charlebois  
Secretary of the Commission