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February 11, 2022

FILED ELECTRONICALLY

Canada Energy Regulator Suite 210, 517 10 Ave SW Calgary, AB T2R 0A8

Ms. Ramona Sladic

Secretary of the Commission of the

Canada Energy Regulator ("Commission")

Dear Ms. Sladic:

Attention:

Re: Trans Mountain Pipeline ULC ("Trans Mountain")

Trans Mountain Expansion Project ("TMEP" or "Project")

File OF-Fac-Oil-T260-2013-03 60

Section 211 Deviation Application for PPBoR Sheets M002-PM03011-014 and M002-PM03011-015

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1. We act for Trans Mountain with respect to the Project. Trans Mountain applies to the Commission under Section 211 of the *Canadian Energy Regulator Act* ("**CER Act**") for approval of a deviation to the approved Plan, Profile and Book of Reference ("**PPBoR**") for Segment 5 of the Project, on the following lands:

TABLE 1 – SECTION 211 DEVIATION LANDS

Tract	Kilometre Post ("KP")	Legal	Landowner	PPBoR Page	CER Order
1614	851.54 to 851.93	004-542-932	KGHM Ajax Mining Inc.	M002- PM03011-014 R1	OPL-003- 2020
PC 7130	851.93 to 852.44	004-543-068	KGHM Ajax Mining Inc.	M002- PM03011-014 R1	OPL-003- 2020
PC 7129	852.44 to 853.01	012-712-426	Sugarloaf Ranches Limited	M002- PM03011-014 R1	OPL-003- 2020



Tract	Kilometre Post ("KP")	Legal	Landowner	PPBoR Page	CER Order
PC 7128	853.01 to 853.09; and 853.12 to 853.74	012-712-442	Sugarloaf Ranches Limited	M002- PM03011-014 R1	OPL-003- 2020
PC 7128.09	853.09 to 853.12	025-548-654	The Crown in Right of British Columbia as represented by the Minister of Sustainable Resource Management c/o BC Oil and Gas Commission	M002- PM03011-014 R1	OPL-003- 2020
PC 7126	853.14 to 854.20	012-713-678	Sugarloaf Ranches Limited	M002- PM03011-014 R1	OPL-003- 2020
PC 7125	854.20 to 854.60	012-713-619	Sugarloaf Ranches Limited	M002- PM03011-014 R1	OPL-003- 2020
PC 7124	854.60 to 855.01	012-715-476	Sugarloaf Ranches Limited	M002- PM03011-015	OPL-003- 2020
PC 7123	855.01 to 855.15	011-801-531	KGHM Ajax Mining Inc.	M002- PM03011-015	OPL-003- 2020
PC 7121	855.15 to 855.57	012-715-387	Sugarloaf Ranches Limited	M002- PM03011-015	OPL-003- 2020
PC 7120.01	855.57 to 855.77	PIN 2383631	The Crown in Right of British Columbia c/o BC Oil and Gas Commission	M002- PM03011-015	OPL-003- 2020
PC 7120	855.77 to 856.12	012-704-733	Sugarloaf Ranches Limited	M002- PM03011-015	OPL-003- 2020
	(collectively, "Lands")		(collectively, "Landowners")		



2. The revised detailed route ("Revised Route") is shown on the revised PPBoR Sheets attached as Appendix A and the location of the Revised Route in relation to the approved detailed route ("Approved Route") is illustrated in the maps attached as Appendix B. The Revised Route is entirely within the corridor approved by Certificate of Public Convenience and Necessity ("CPCN") OC-065.

Background

- 3. On February 22, 2019, the National Energy Board ("**NEB**") issued its Reconsideration Report recommending that the Governor in Council ("**GIC**") approve the TMEP, subject to 156 conditions (A98021).
- 4. On June 18, 2019, the GIC re-approved the TMEP and directed the NEB to issue a new CPCN and CPCN Amending Orders (Order in Council P.C. 2019-0820). On June 20, 2019, the NEB issued to Trans Mountain CPCN OC-065 and Amending Orders AO-005-OC-2 and AO-004-OC-49 in respect of the TMEP (C00061).
- 5. On July 19, 2019, the NEB issued a decision which, among other things, required Trans Mountain to file a new PPBoR for the TMEP (C00593-1) ("NEB Decision").
- 6. Following the NEB Decision, on July 31, 2019, Trans Mountain submitted to the NEB pursuant to Subsection 33(1) of the *National Energy Board Act* ("**NEB Act**"), a PPBoR for Segment 5 of the Project. This included PPBoR Sheets M002-PM03011-014 R1 ("**Sheet 14**") (C00798-5, PDF 9-10) and M002-PM03011-015 ("**Sheet 15**") (C00798-5, PDF 11-12).
- 7. On May 4, 2020, the Commission issued Order OPL-003-2020 approving certain PPBoR for certain lands within Segments 3, 4 and 5.3 of the Project, including Sheet 14 and Sheet 15 (C06126).

Canada Energy Regulator Filing Manual – Guide D Requirements for Deviation Applications ("CER Filing Manual, Guide D")

- 8. The CER Filing Manual, Guide D requires that a deviation application include the rationale for the deviation, as well as information with respect to the proposed route, the landowners' comments (if any), the service of notices on landowners and the land acquisition process.
- 9. On September 5, 2019, Stk'emlupsemc te Secwepemc Nation ("**SSN**") filed a Statement of Opposition ("**SOO**") raising concerns about construction of the TMEP on certain lands, including the Lands (<u>C01501</u>). On November 4, 2019, following negotiations with Trans Mountain, SSN withdrew its SOO on the basis that "SSN's pipeline route concerns have been addressed by Trans Mountain" (<u>C02680</u>).

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- 10. As part of its engagement with SSN, Trans Mountain committed to explore routing and/or construction methodology alternatives for the TMEP on the Lands. The Approved Route was developed on the basis of a conventional open trench construction methodology, but Trans Mountain continued to engage with SSN following the withdrawal of SSN's SOO based on this commitment to explore alternatives and its approach of early and continuous engagement with Indigenous communities.
- 11. Trans Mountain and SSN have collaboratively developed a construction methodology and associated routing that seeks to minimize surface disturbances at Pipsell, including Jacko Lake and surrounding areas, which hold spiritual and cultural significance to SSN based on this engagement.
- 12. Between May and August 2021, Trans Mountain assessed the feasibility of various trenchless construction methodologies for the Lands and engaged with SSN on options. Based on this assessment, Trans Mountain has determined that the most appropriate construction methodology for the Lands to address SSN's concerns is microtunneling. As shown in the attached Appendix B, the Revised Route incorporates revisions to the right of way for the TMEP to accommodate the change in construction methodology from conventional open trench to microtunneling. Trans Mountain anticipates that the proposed microtunnel will minimize surface disturbances on the Lands. In January 2022, SSN consented to the Revised Route and the proposed construction methodology and confirmed that they address SSN's concerns.
- 13. Between November 2021 and January 2022, Trans Mountain engaged with the Landowners with respect to the Revised Route and received consent or no concerns. On December 29, 2021, the owners of Tracts 1614, PC 7130, PC 7129, PC 7128, PC 7126, PC 7125, PC 7124, PC 7123, PC 7121 and PC 7120—KGHM Ajax Mining Inc. and Sugarloaf Ranches Limited (collectively, ("Private Landowners")—consented to the Revised Route and stated that they have "no objection to the regulatory approval of the Revised Route". On January 11, 2022, Trans Mountain notified the owner of Tracts PC 7128.09 and PC 7120.01, the BC Oil and Gas Commission ("BCOGC"), that it would file this deviation application. Trans Mountain noted its understanding that the Revised Route would not require an amendment of the existing BCOGC permit and requested that the BCOGC provide any comments or concerns. To date, Trans Mountain has not received any comments or concerns from the BCOGC.



14. The other requirements in the CER Filing Manual, Guide D are set out in Table 2 and Table 3 below.

TABLE 2 – CER MANUAL, GUIDE D.1 REQUIREMENTS

CER Manı	ual, Guide D Requirements	Trans Mountain Response
D.1(1)	Provide the order number and date of the approval of the original PPBoR.	Order OPL-003-2020 dated May 4, 2020 (C06126).
D.1(2)	Provide a PPBoR drawing showing the approved route.	PPBoR Sheets M002-PM03011-014 R1 (C00798-5, PDF 9-10) and M002-PM03011-015 (C00798-5, PDF 11-12).
D.1(3)	Provide a PPBoR drawing showing the location of the proposed deviated route for approval.	Attached as Appendix A .
D.1(4)	Provide the starting and ending points of the deviation (kilometre post to kilometre post).	KP 851.5 to KP 856.12.
D.1(5)	Include a map at an appropriate scale that indicates the location of the deviation in relation to both the approved detailed route and the certificated route of the pipeline. Include surrounding natural and man-made features on the map.	Attached as Appendix B .
D.1(6)	Describe any new lands required including the status of acquisition of the lands and the status of service of CER Act subsection 322 (1) notices.	Trans Mountain confirms that it served a NEB Act Section 87(1) notice and/or a Section 322(1) notice regarding the Revised Route on the Private Landowners and the BCOGC. There are no additional landowners or land parcels impacted by the Revised Route relative to the Approved Route shown on Sheet 14 and Sheet 15.



CER Manu	ual, Guide D Requirements	Trans Mountain Response
D.1(7)	Describe any landowner concerns and how those concerns will be addressed, including the date(s) responses will be provided to the landowner(s) or evidence to demonstrate that the affected landowners consent to the deviation.	On December 29, 2021, the Private Landowners consented to the Revised Route and stated that they have "no objection to the regulatory approval of the Revised Route".
	iandowners consent to the deviation.	On January 11, 2022, Trans Mountain notified the BCOGC that it would file this deviation application. Trans Mountain noted its understanding that the Revised Route would not require an amendment of the existing BCOGC permit and requested that the BCOGC provide any comments or concerns. To date, Trans Mountain has not received any comments or concerns from the BCOGC.



15. Trans Mountain submits the following information in Table 3 with respect to the filing requirements for environmental and socio-economic assessment ("**ESA**") under CER Filing Manual, Guide D:

TABLE 3 - CER MANUAL, GUIDE D.2 ESA REQUIREMENTS

CER Manu	ual, Guide D Requirements	Trans Mountain Response
D.2(1)	Describe how the effects have already been considered in an ESA by the CER; or	Potential environmental and socioeconomic effects are similar to those addressed in Volumes 5A and 5B of the Facilities Application (A56004) and related filings (ESA Update [A4F4Z3] and plans prepared in response to CER conditions). No additional studies are required to support this assessment. No new mitigation measures are recommended beyond those identified during the OH-001-2014 and MH-052-2018 proceedings and the subsequent condition compliance filings, which are incorporated within the updated Pipeline Environmental Protection Plan filed pursuant to Condition 72 ("Pipeline EPP") (C01961). Trans Mountain's assessment team reviewed the proposed deviation and determined that it will not change the effects assessment criteria or significance conclusions of the original ESA and related filings. The assessment concludes that, with the appropriate mitigation, the predicted Project-related effects, and cumulative effects of the proposed deviation are not significant and are consistent and based on the original study corridor.
D.2(2)	If the environmental and socioeconomic effects have not been previously addressed by an ESA, provide the filing requirements outlined in Guide A, Section A.2.	Not applicable.



TABLE 4 – CONDITION COMPLIANCE

Condition Compliance	Trans Mountain Response
Include references to associated condition and compliance matters, where appropriate.	Trans Mountain confirms that there are no new condition and compliance requirements associated with the Lands as a result of this deviation application.
	Trans Mountain will continue to follow all planning considerations and mitigation measures outlined in the Pipeline EPP, which is based on applicable condition plans.

Relief Sought

16. Trans Mountain requests approval of the Revised Route as detailed herein. Trans Mountain submits that it has fulfilled all relevant requirements of the CER Act and CER Filing Manual that are applicable to this application.

Should you have any questions regarding the above, please do not hesitate to contact the undersigned.

Yours truly,

Cassels Brock & Blackwell LLP

Jeremy Barretto

Partner

Enclosures

cc: SSN and Landowners

Appendix A Revised PPBoR Sheets

BOOK OF REFERENCE - TRANS MOUNTAIN EXPANSION PROJECT



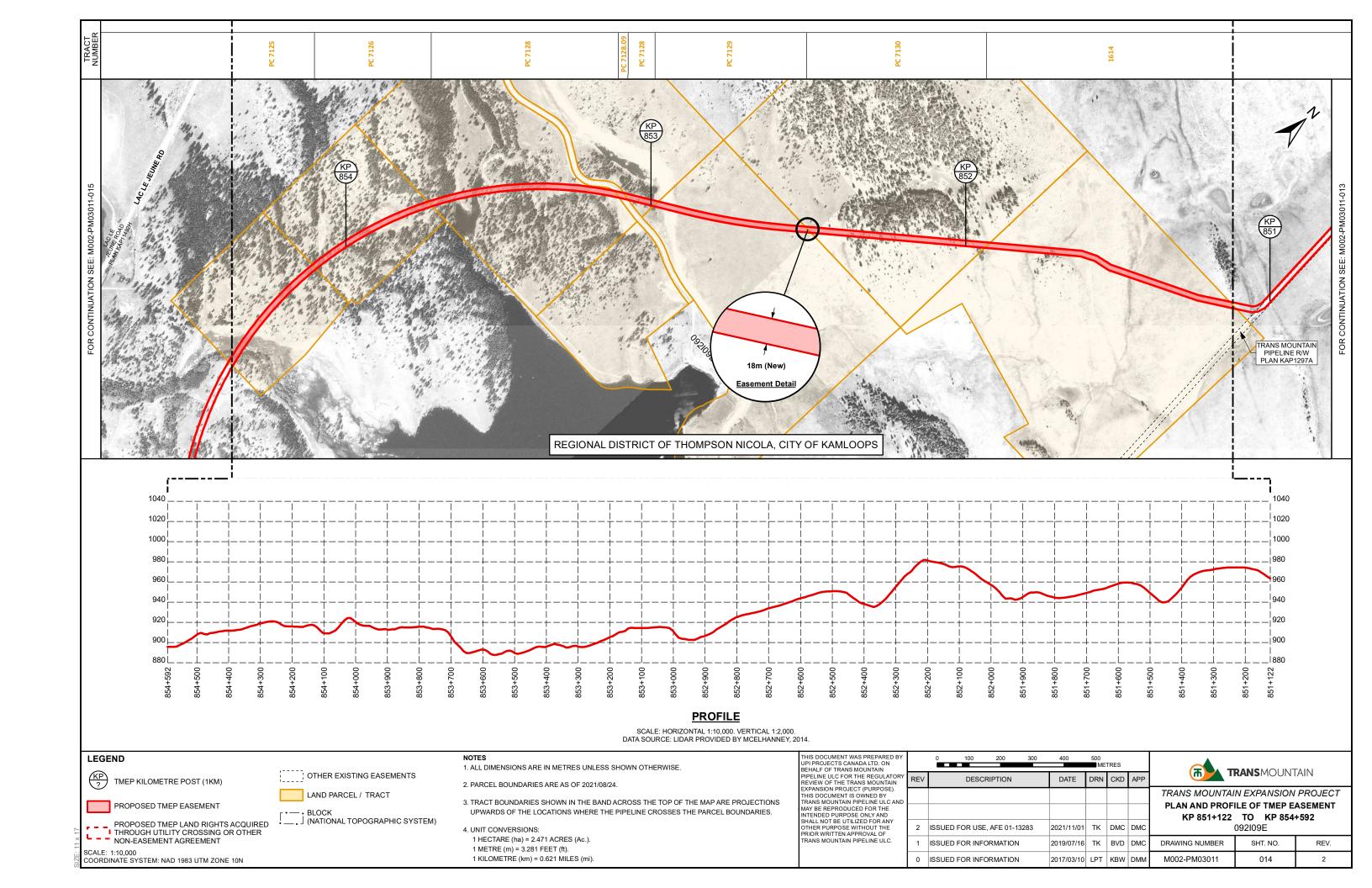
BLACK PINES - WAHLEACH SEGMENT 5.3 SHEET: 14 KP 851+122 TO KP 854+592

TDAGT		LANDOWNER/OCCUPANT				N EASEN	EASEMENT	
TRACT PID NUMBER		LANDOWNER/OCCUPANT					AREA	
		OWNER(S)	OCCUPANT(S)	(m)	(m)	(ha)	(Ac.)	
1614	004-542-932	KGHM Ajax Mining Inc. Attention: Neil Milner	Sugarloaf Ranches Limited Attention: Neil Milner	18	803.47	1.447	3.58	
PC 7130	004-543-068	KGHM Ajax Mining Inc. Attention: Neil Milner	Sugarloaf Ranches Limited Attention: Neil Milner	18	567.05	1.021	2.52	
PC 7129	012-712-426	Sugarloaf Ranches Limited Attention: Neil Milner		18	485.92	0.875	2.16	
PC 7128	012-712-442	Sugarloaf Ranches Limited Attention: Neil Milner		18	692.77	1.246	3.08	
PC 7128.09	025-548-654	The Crown in Right of British Columbia as Represented by The Minister of Sustainable Resource Management c/o BC Oil and Gas Commission Attention: Garth Thoroughgood		18	29.13	0.053	0.13	
PC 7126	012-713-678	Sugarloaf Ranches Limited Attention: Neil Milner		18	421.35	0.759	1.87	
PC 7125	012-713-619	Sugarloaf Ranches Limited Attention: Neil Milner		18	398.44	0.717	1.77	

NOTES:

- 1. Easement lengths are the length of centre line at the easement location. Areas noted represent actual areas, not necessarily length times width.
- 2. Areas and lengths are calculated in UTM coordinates.
- 3. Owner/Occupant information is as of 2021/08/24.
- 4. Unit Conversions:
- 1 Hectare (ha) = 2.471 Acres (Ac.).
- 1 Metre (m) = 3.281 Feet (ft).
- 1 Kilometre (km) = 0.621 Miles (mi).

DOCUMENT NUMBER	PAGE	REV.	DESCRIPTION	DATE	BY
M002-PI03011	16	2	ISSUED FOR USE	2021/11/01	TK



BOOK OF REFERENCE - TRANS MOUNTAIN EXPANSION PROJECT



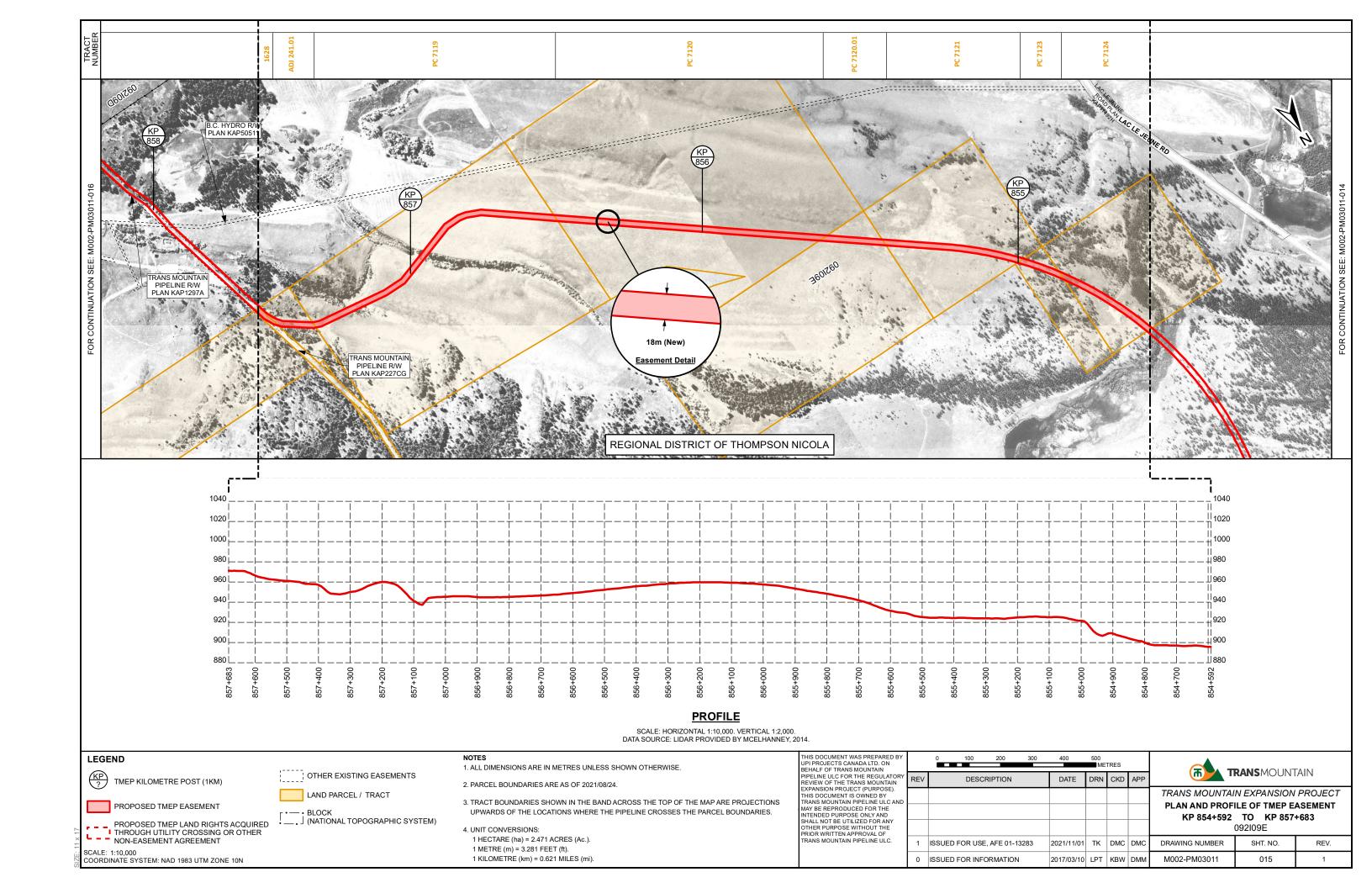
BLACK PINES - WAHLEACH SEGMENT 5.3 SHEET: 15 KP 854+592 TO KP 857+683

TDACT	CT LANDOWNER/OCCUPANT			PROPOSED NEW EASEMENT				
TRACT NUMBER	PID	· · · · · · · · · · · · · · · · · · ·			LENGTH		AREA	
		OWNER(S)	OCCUPANT(S)	(m)	(m)	(ha)	(Ac.)	
PC 7124	012-715-476	Sugarloaf Ranches Limited Attention: Neil Milner		18	326.52	0.589	1.45	
PC 7123	011-801-531	KGHM Ajax Mining Inc. Attention: Neil Milner	KGHM Ajax Mining Inc. Attention: Neil Milner Sugarloaf Ranches Limited Attention: Neil Milner 18		137.07	0.247	0.61	
PC 7121	012-715-387	Sugarloaf Ranches Limited Attention: Neil Milner		18	414.76	0.783	1.93	
PC 7120.01	PIN 2383631	The Crown In Right Of British Columbia c/o BC Oil and Gas Commission Attention: Garth Thoroughgood	3401770 (AG Lease - Grazing) Sugarloaf Ranches Limited Attention: Neil Milner	18	192.81	0.349	0.86	
PC 7120	012-704-733	Sugarloaf Ranches Limited Attention: Neil Milner		18	844.27	1.518	3.75	
PC 7119	012-705-535	Sugarloaf Ranches Limited Attention: Neil Milner		18	887.93	1.597	3.95	
ADJ 241.01	PIN 2383921	The Crown In Right Of British Columbia c/o BC Oil and Gas Commission Attention: Garth Thoroughgood	3401770 (AG Lease - Grazing) Sugarloaf Ranches Limited Attention: Neil Milner	18	191.35	0.251	0.62	
1628	013-193-376	Her Majesty The Queen In Right Of The Province Of British Columbia c/o BC Oil and Gas Commission Attention: Garth Thoroughgood	3401770 (AG Lease - Grazing) Sugarloaf Ranches Limited Attention: Neil Milner	18	57.95	0.100	0.25	

NOTES:

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Appendix B

Differences Maps

