



July 11, 2023

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

via [e-filing system](#)

Attention: Ms. Ramona Sladic
Secretary of the Commission of the
Canada Energy Regulator

Dear Mr. Charlebois:

Re:

**Trans Mountain Corporation (“Trans Mountain”)
Trans Mountain Expansion Project (the “Project”)
Position on Forthcoming Application for Deviation by Trans Mountain**

We write on behalf of Stk'emlúpsenc te Secwépemc Nation (“SSN”) and its constituent First Nations in respect of the Project.

It is SSN’s understanding, based on recent correspondence and meetings between Trans Mountain’s and SSN, that Trans Mountain intends to imminently submit an application pursuant to section 211 of the *Canadian Energy Regulator Act* to seek approval for a deviation to the approved Plan, Profile and Book of Reference in relation certain tracts for the Project (the “**Forthcoming Deviation Application**”). Based on information provided to date, the Forthcoming Deviation Application intends to deviate from a previous application for deviation made by Trans Mountain (the “**Previous Deviation Application**”), for which SSN provided a letter of support to the Canada Energy Regulator (“**CER**”) dated January 6, 2022. The Previous Deviation Application pertained to Trans Mountain’s construction methodology and associated routing of the Project that sought to minimize surface disturbances to the Pipsell (Jacko Lake) Corridor, which hold profound spiritual and cultural significance to SSN.

SSN writes this letter to ensure the CER is aware of SSN’s position as of this date in light of the Forthcoming Deviation Application.

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Brief Background

On October 30, 2019, SSN and Trans Mountain reached an agreement on the terms of their Mutual Benefits Agreement in respect of the Project (“MBA”). The MBA was previously referenced in a letter to the CER, dated November 4, 2019 ([C02680](#)).

Through discussions between Trans Mountain and SSN between May 27, 2021 and August 12, 2021, Trans Mountain proposed several trenchless construction options through the Pipsell (Jacko Lake) Corridor, including the current “micro-tunnelling” approach being deployed. SSN Joint Council approved the “micro-tunnelling” approach as an acceptable form of trenchless construction in the Pipsell (Jacko Lake) Corridor. As a result of these discussions, on January 6, 2022, SSN provided support to the CER for the “micro-tunnelling” approach as an acceptable form of trenchless construction in the Pipsell (Jacko Lake) Corridor.

SSN’s letter to the CER, dated January 6, 2022, highlights that the Previous Deviation Application (and SSN’s subsequent support of such) reflected the “good faith discussions and collaboration” between Trans Mountain and SSN. In contrast, at this time, the Forthcoming Deviation Application does not represent a collaborative process. SSN has concerns regarding the Forthcoming Deviation Application and its potential inconsistency with what SSN previously supported in respect of the construction methods in the Pipsell (Jacko Lake) Corridor (as evidenced in the Previous Deviation Application).

SSN is still gathering information with respect to what Trans Mountain is proposing. Based on the information provided to SSN to date by Trans Mountain, and limited engagement on the substance of the Forthcoming Deviation Application, SSN is not in a position to assess whether it is possible to support the Forthcoming Deviation Application.

SSN’s Support of the Project is Conditional

Pursuant to Article 11.1 of the MBA, SSN’s support for the Project was in return for the “consideration, obligations and responsibilities of Trans Mountain pursuant to this Agreement”. The form of support letter scheduled to the MBA further underscores the nature of SSN’s support for the Project as conditional on Trans Mountain’s compliance with its various environmental, culture and heritage, regulatory and consultation commitments. Similarly, the letter of support SSN provided to the CER on January 6, 2022 in respect of the current trenchless construction methodology was conditional on Trans Mountain completing construction through the Pipsell (Jacko Lake) Corridor in the manner agreed to by SSN and Trans Mountain following collaboration and engagement.

SSN entered into the MBA with Trans Mountain on the basis that Trans Mountain would fulfill its commitments with respect to trenchless construction in the Pipsell (Jacko Lake) Corridor. In arriving at a decision to enter into the MBA, SSN Joint Council provided SSN’s free, prior and informed consent on behalf of its collective membership. Given the critical cultural sensitivity of the Pipsell

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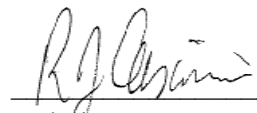
(Jacko Lake) Corridor, SSN members had, and continue to have, significant concerns about the impacts of construction resulting from the Project, in particular, should Trans Mountain seek to deviate from the previously agreed to construction methodology.

Next Steps

As stated above, there has been no collaboration and limited engagement between Trans Mountain and SSN on the Forthcoming Deviation Application. Accordingly, SSN has requested and will be requesting additional information from Trans Mountain in order to assess the technical aspects of any deviation application Trans Mountain may submit with respect to construction of the Project in the Pipsell (Jacko Lake) Corridor. Upon receipt of that information, SSN will undertake an analysis to determine its position on such an application. SSN looks forward to commenting on its position further to the CER once, and if, Trans Mountain makes an application for deviation and once application materials are available for review.

As a fundamental concern, SSN remains committed to the protection and preservation of the Pipsell (Jacko Lake) Corridor for future generations. Any previous support of the Project offered by SSN and articulated to CER was premised on this as a paramount consideration. SSN trusts the CER will not make decisions in relation to this highly significant cultural area without sufficient time for SSN to review and respond.

Sincerely,


Kukpi7 Rosanne Casimir


Kukpi7 Darrel Draney

cc. SSN Joint Council
Jordan McIsaac and Barbara Stewart, SSN
Dawn Farrell, CEO Trans Mountain
Rob Van Wellinghem, VP Trans Mountain

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