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Filed Electronically

Canada Energy Regulator
 Suite 210, 517 10 Ave SW
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Attention: Ms. Ramona Sladic, Secretary of the Commission

Dear Ms. Sladic:

**Re: Trans Mountain Pipeline ULC (“Trans Mountain”)
 Trans Mountain Expansion Project (“TMEP”)
 File OF-Fac-Oil-T260-2013-03 60
 Certificate of Public Convenience and Necessity (“CPCN”) OC-065
 Section 211 Deviation Application for Plan, Profile and Book of Reference
 (“PPBoR”) Sheet M002-PM03011-014**

1. We act for Trans Mountain with respect to the TMEP.
2. By way of this letter, Trans Mountain applies to the Commission (“Commission”) of the Canada Energy Regulator (“CER”) under section 211 of the *Canadian Energy Regulator Act* (“CER Act”) for approval of a deviation to the approved PPBoR in respect of the following lands in Segment 5.3 of the TMEP (“Application”):

TABLE 1 – SECTION 211 DEVIATION LANDS

Tract	Kilometre Post (“KP”)	Legal	Landowner	PPBoR Sheet	CER Order
1614	851.60 to 851.93	004-542-932	KGHM Ajax Mining Inc.	M002- PM03011-014 R2	AO-001-OPL-003-2020
PC 7130	851.93 to 852.44	004-543-068	KGHM Ajax Mining Inc.	M002- PM03011-014 R2	AO-001-OPL-003-2020
PC 7129	852.44 to 852.95	012-712-426	Sugarloaf Ranches Limited	M002- PM03011-014 R2	AO-001-OPL-003-2020
	(collectively, “Lands”)		(collectively, “Landowners”)		

3. The revised detailed route that is being applied for in this Application (“Revised Route”) is shown on the revised PPBoR Sheet attached as Appendix A.

4. The location of the Revised Route in relation to the detailed route approved by the Commission in Order AO-001-OPL-003-2020 (“Approved Route”) is shown in the map attached as Appendix B.
5. The Revised Route is the same detailed route that was initially approved by the Commission for this segment of the TMEP in Order OPL-003-2020.
6. The Revised Route is entirely within the CER-approved corridor for the TMEP, which was fully assessed in the proceeding established by the Commission to consider the application for approval of the TMEP ([A56004](#)).

I. Background

7. On June 18, 2019, the Governor in Council approved the TMEP, subject to 156 conditions.
8. On June 20, 2019, the National Energy Board (“NEB”) issued CPCN OC-065 in respect of the TMEP ([C00061](#)).
9. On July 19, 2019, the NEB directed Trans Mountain to file a PPBoR for the entire TMEP route ([C00593](#)). Trans Mountain filed a PPBoR for Segment 5 of the TMEP on July 31, 2019 ([C00798](#)), including PPBoR Sheets M002-PM03011-014 R1 (“Sheet 14”) and M002-PM03011-015 (“Sheet 15”) in Segment 5.3.
10. On May 4, 2020, the Commission sent a letter to Trans Mountain enclosing Order OPL-003-2020 ([C06126](#)), which approved PPBoR Sheets for lands in Segments 3, 4 and 5.3 of the TMEP, including Sheet 14 and Sheet 15 in Segment 5.3 of the TMEP.
11. On February 11, 2022, Trans Mountain filed an application ([C17686](#)) (“Previous Deviation Application”) under section 211 of the CER Act for approval of a deviation on tracts that appeared on Sheet 14 and Sheet 15 (“Previous Deviation”).
12. Trans Mountain agreed to pursue the Previous Deviation to accommodate requests from the Stk’emlúpsenc te Secwépemc Nation (“SSN”) to change the construction methodology from conventional open trench to a trenchless method for a distance of approximately 4.2 kilometres.
13. Pursuing the Previous Deviation and filing the Previous Deviation Application with the Commission was based on Trans Mountain’s assessment at that time of the feasibility of various construction methodologies including micro-tunneling for tracts that appeared on Sheet 14 and Sheet 15, including the Lands. Based on Trans Mountain’s assessment of the feasibility of various construction methodologies at

that time, the Previous Deviation Application requested Commission approval for a revised route that would accommodate the change in construction methodology from conventional open trench to micro-tunneling.

14. On March 3, 2022, the Commission sent a letter to Trans Mountain enclosing Order AO-001-OPL-003-2020 ([C17990](#)) approving the Previous Deviation Application (i.e., referred to herein as the Approved Route) and the revised PPBoR Sheets reflecting the Previous Deviation, including a revised Sheet 14.
15. In this Application, Trans Mountain is requesting approval to change an approximately 1.3-kilometre portion of the route back to what was proposed on Sheet 14 in CER Filing ID [C00798](#), and which was previously approved by the Commission in Order OPL-003-2020 ([C06126](#)), due to the significant technical challenges with micro-tunneling along a portion of the Approved Route, as discussed in section II.a below.
16. In other words, Trans Mountain is requesting that the Commission re-approve the route on the Lands for an approximately 1.3-kilometre portion of the TMEP, as was initially applied for by Trans Mountain and approved by the Commission prior to the Previous Deviation Application.

II. Filing Manual – Guide D (“Guide D”) Requirements for Deviation Applications

17. Guide D requires that a deviation application include information with respect to the proposed route, the landowners’ concerns (if any), the service of notices on landowners and the land acquisition process.

a. Rationale for the Deviation and Revised Route

18. Since the Commission’s approval of the approximate 4.2-kilometre Previous Deviation in March 2022, Trans Mountain has proceeded with construction in accordance with the Commission’s approval. However, Trans Mountain is encountering significant technical challenges with the micro-tunneling along an approximate 1.3-kilometre portion of the Approved Route.
19. Specifically, Trans Mountain is encountering significant issues with the micro-tunnel drive between pads 1 and 2,¹ which is one of the longest micro-tunnel drives that has ever been attempted in a hard rock formation anywhere in the world, with

¹ See the construction alignment sheet filed on March 31, 2022 that corresponds to the approved Sheet 14 ([C18372-2](#)).

the type of micro-tunneling machine (“MTBM”) that Trans Mountain is using (AVN2000). This micro-tunnel drive has been particularly difficult with abnormal upward migration of the Reinforced Concrete Jacking Pipe (“RCJP”) that has substantially limited the ability to apply jacking force to the MTBM (from 1400 tons to 300 tons). As a result, RCJP deflection at the joints has increased over time as micro-tunneling has progressed, which has increased the risk of losing watertight seal and/or damage to the RCJPs. If either of these risks were to materialize, successful completion of the micro-tunnel could be jeopardized.

20. Trans Mountain has made several unsuccessful, costly attempts to address the problem of upward RCJP migration to date. Trans Mountain is currently constructing a new launch shaft along the alignment, and abandoning the section of RCJP which has been affected by the vertical deflection. Construction of this new shaft requires a shutdown of tunneling activities. During this downtime, the annular space between the tunnel wall and RCJP may restrict in diameter or drain of lubrication fluids which will require high jacking forces to move the tunnel forward and may create significant delays in restarting tunneling. If the construction of the new shaft is successful and the tunnel commences forward progression, there remains approximately 800 metres of tunnel length to be constructed in medium to hard rock formations (with the potential to encounter other unfavourable construction conditions), which has its own material risk to the Project and schedule.
21. Based on the above, Trans Mountain has determined that if an alternative construction methodology is not used, the significant technical challenges experienced on the micro-tunnel drive between pads 1 and 2 will not only extend the mechanical completion date of the TMEP but, despite best efforts to mitigate, could hinder successful pipeline installation in this area.
22. Further, to date, the costs of micro-tunneling have significantly exceeded the typical costs of completing trenchless construction. In addition, every month of delay to mechanical completion (and by extension, the TMEP in-service date) results in significant increased construction costs well beyond initial cost estimates for the micro-tunneling, not including costs and impacts to various third parties who are relying on the timely completion of the TMEP.
23. Based on its assessment of the options available to avoid these potential outcomes, Trans Mountain has determined that the only feasible option is to change the construction methodology for an approximately 1.3-kilometre segment to a combination of horizontal directional drilling (“HDD”) and conventional open trench. This change in methodology requires route adjustments that would change the route back to the detailed route on the Lands that was previously approved by

the Commission in Order OPL-003-2020 ([C06126](#)). This proposed approach will still result in trenchless construction being used for approximately 80 percent of the Pipsell area of interest to SSN.²

24. In light of Trans Mountain's suite of proven mitigation measures to avoid or minimize potential environmental, traditional land use ("TLU") and cultural impacts, including in other important cultural areas for Indigenous groups, Trans Mountain is confident that its proposed combination of HDD and conventional open trench construction will allow Trans Mountain to reasonably avoid or minimize impacts on the Lands.
25. In that regard, while there is one registered archaeological site and two culturally modified trees within the Revised Route, they will be protected and avoided to ensure there are no impacts to them. Trans Mountain has worked directly with SSN to identify and avoid such sites, including site visits with SSN leadership and various shovel tests over the years from 2016 to present. Construction of the TMEP along the Revised Route will not have any impacts on other registered archaeological sites or site-specific TLU interactions.

b. Engagement with SSN

i. Overview of Engagement

26. The Approved Route and the Revised Route are within the traditional territory of SSN and in particular, within the Pipsell area that has spiritual and cultural significance for SSN. As such, Trans Mountain has engaged extensively with SSN on routing and mitigation measures through this area.
27. As indicated in the Previous Deviation Application, Trans Mountain has been engaging with SSN regarding TMEP construction in the Pipsell area (including the Lands) since before November 4, 2019.³
28. As part of its engagement with SSN, Trans Mountain explored alternatives to conventional open trench construction in the area. Trans Mountain assessed the feasibility of various trenchless construction methodologies and engaged with SSN

² See the Statement of Opposition that SSN filed on September 5, 2019 ([C01501](#)) ("SOO") in relation to the detailed route for various segments of the TMEP, including Segment 5.3.

³ Paragraph 9 of the Previous Deviation Application ([C17686](#)) noted that SSN's November 4, 2019 withdrawal of its SOO — on the basis that SSN's pipeline route concerns had been addressed by Trans Mountain — followed negotiations between SSN and Trans Mountain, while paragraph 10 indicated that Trans Mountain began to engage with SSN before the withdrawal of its SOO on November 4, 2019.

on options. Based on Trans Mountain's assessment of the feasibility of various construction methodologies at the time, Trans Mountain filed the Previous Deviation Application for a route change to accommodate micro-tunneling to address SSN's concerns.

29. As explained above, Trans Mountain is now encountering significant challenges with micro-tunneling between pads 1 and 2. Trans Mountain has undertaken significant efforts to engage with SSN regarding these specific challenges and options to address them since the challenges were identified in April 2023. This engagement has included providing all information requested by SSN, making repeated offers for site tours of the area where open trench and HDD construction methodologies are proposed, and offers of capacity funding, among other things, over the course of several months.
30. Trans Mountain is committed to continued engagement with SSN to undertake the change in construction methodology in a manner that minimizes impacts to the Pipsell/Jacko Lake area.

ii. Engagement with SSN Regarding the Proposed Deviation

31. After attempts to address the problem of upward RCJP migration proved unsuccessful in April 2023, Trans Mountain commenced engagement with SSN in May 2023 specifically regarding the significant challenges associated with the micro-tunnel drive between pads 1 and 2.
32. As described in further detail below, Trans Mountain has undertaken significant efforts to engage with SSN Joint Council and its technical advisors on the challenges encountered in undertaking trenchless construction within the Pipsell/Jacko Lake corridor and the mitigation strategy as reflected in this Application. These significant technical challenges and geotechnical hazards have been described in correspondence with SSN Joint Council and discussed directly with SSN Joint Council, including in a meeting between Trans Mountain and SSN leadership on July 6, 2023.
33. On May 4, 2023, a Trans Mountain representative discussed with an SSN consultant the possibility of using conventional open trench construction on the Lands. Contingency plans for construction on the Lands were again discussed by a Trans Mountain representative and an SSN consultant on May 10, 2023.
34. Between May 15, 2023 and May 24, 2023, a Trans Mountain representative and an SSN consultant had a discussion and exchanged email messages related to a presentation that would be delivered to SSN staff regarding the technical challenges with micro-tunneling and the proposed combination of HDD and conventional open

trench construction along the 1.3-kilometre section across the Lands. That presentation was delivered on May 25, 2023, during a meeting between Trans Mountain representatives and SSN staff.

35. Following the May 25, 2023 meeting, SSN technical staff proposed a June 1, 2023 meeting between Trans Mountain and SSN leadership. Trans Mountain accepted that proposal and Trans Mountain's leadership prepared to attend that meeting to discuss the important and time-sensitive challenges with micro-tunneling. However, on May 30, 2023, SSN postponed the meeting with Trans Mountain leadership on the basis that it was preparing correspondence to Trans Mountain regarding the proposed change in construction methodology, and it wished to schedule the meeting with Trans Mountain's leadership after Trans Mountain's receipt of that correspondence.
36. On May 31, 2023 Trans Mountain received the correspondence from SSN leadership regarding the proposed change in construction methodology. SSN leadership expressed concerns that Trans Mountain was proposing to deviate from entirely trenchless construction methods in the Pipsell area and that proceeding with the micro-tunneling was not consistent with the prior agreement between Trans Mountain and SSN.
37. Between May 31, 2023 and June 18, 2023, SSN and Trans Mountain exchanged several letters in which SSN reiterated its concerns about changing the construction methodology in the Pipsell area, and Trans Mountain responded to those concerns while making urgent requests for a meeting with SSN leadership. During that time period, Trans Mountain representatives held a technical meeting with SSN staff on June 14, 2023 regarding the proposed deviation.
38. On July 6, 2023, Trans Mountain leadership met with SSN leadership to discuss SSN's concerns further. In advance of that meeting, Trans Mountain wrote to SSN representatives identifying the significant technical challenges and geotechnical hazards encountered with micro-tunneling between pads 1 and 2. During the July 6, 2023 meeting, SSN leadership again expressed their regret that open trench construction is now being proposed, when Trans Mountain had previously agreed to use entirely trenchless methods. Trans Mountain's President and Chief Executive Officer shared regret that this segment of the TMEP cannot be completed using the micro-tunneling method of construction, as previously planned. However, Trans Mountain leadership expressly committed to continued engagement with SSN during the process of confirming implementation plans for construction on the Lands, including HDD and open trench methods, as well as the process for obtaining necessary regulatory approvals. Trans Mountain also committed to reflecting SSN engagement, including their dissatisfaction with the proposed

change in construction, in any regulatory application to the CER and agreed to provide additional information as requested by SSN, as well as capacity funding.

39. During the July 6, 2023 meeting, Trans Mountain expressed the urgency of the matter and its desire to commence construction on the Lands using the proposed HDD and open trench methodologies in early August 2023, and agreed to SSN's request for a site tour of the proposed deviation for SSN leadership.
40. On July 7, 2023, Trans Mountain followed up regarding the agreed-upon action items from the July 6, 2023 meeting, including the site tour for SSN leadership, and provided a response to all of the information requested by SSN's professional advisors on July 4, 2023.
41. On July 10, 2023 and July 11, 2023, Trans Mountain followed up additional times with SSN regarding the site tour for SSN leadership and reiterated its offer of capacity funding to support SSN's review of information related to the proposed deviation. Trans Mountain also requested a timeline for SSN's review of the information provided, and asked if SSN had any further questions.
42. On July 12, 2023, SSN's professional advisors requested extensive additional information about the proposed deviation. Trans Mountain provided all of the requested information between July 15 and July 19, 2023.
43. Between July 13, 2023 and July 19, 2023, Trans Mountain followed up additional times regarding the site tour for SSN leadership and its offer of capacity funding. Trans Mountain also requested updates on the status of SSN's review of the additional information provided between July 15 and July 19, 2023 and asked if Trans Mountain could provide additional information to aid in SSN's review.
44. In email messages and a telephone call between July 19, 2023 and July 27, 2023, SSN representatives stated that: (i) SSN would need to complete its technical review before the site tour for SSN leadership; (ii) its technical review is focused on the feasibility of continuing with micro-tunneling (as opposed to the proposed deviation); (iii) questions or comments would be provided on an ongoing basis, as identified; and (iv) SSN has no timeline for the completion of its technical review or feedback from SSN leadership. Trans Mountain suggested a site tour with SSN staff in the meantime, which SSN accepted, but SSN staff stated that it did not want to view the area for which open trench construction is proposed.
45. On July 24, 2023, Trans Mountain provided SSN with a draft of a CER deviation application for its review and comments. Trans Mountain committed to SSN that it would notify SSN before filing a deviation application with the CER and also

provided responses to additional SSN questions that were in follow up to Trans Mountain's responses to the initial SSN information requests.

46. A site tour with SSN staff occurred on July 27, 2023 to review ongoing micro-tunnel construction throughout the Pipsell area. During that site tour, SSN representatives again declined to view the area for which open trench construction is proposed, despite Trans Mountain's further offer to tour that area.
47. On July 28, 2023, Trans Mountain emailed SSN leadership, noting that: (i) SSN staff declined Trans Mountain's offer to tour the area for which open trench construction is proposed; (ii) Trans Mountain remains available to provide the agreed-upon site tour for SSN leadership and would be pleased to arrange it early the week of July 31, 2023; (iii) Trans Mountain has been responding to the information requests from SSN's professional advisors and is not aware of any outstanding responses; (iv) Trans Mountain is awaiting an update on the status of SSN's review of the proposed deviation; and (v) Trans Mountain remains committed to continued engagement with SSN on next steps.
48. On August 3, 2023, Trans Mountain provided notice to SSN leadership that it would be filing a deviation application with the CER in the near future. Trans Mountain stated in the letter that it remained committed to engaging with SSN in good faith as it moves ahead with the proposed deviation.
49. By letter dated August 4, 2023, SSN wrote to Trans Mountain to advise that based on its desktop assessment review, it considered that micro-tunneling remains a viable construction option and did not see a need for Trans Mountain's deviation application to the CER. Trans Mountain responded to SSN on August 9, 2023 reiterating the rationale for the deviation and that it would be proceeding with filing the application with the CER.
50. Details of Trans Mountain's engagement with SSN up to August 9, 2023, including with respect to the proposed deviation and Revised Route, are included in Appendix C.

c. Engagement with Landowners

51. Trans Mountain has engaged with the Landowners with respect to the Revised Route and received no concerns.
52. On June 29, 2023, each of the Landowners confirmed that they have "no concerns about the Revised Route" and "no objection to the regulatory approval of the Revised Route."

d. Notifications to Other Indigenous Groups

- 53. The Approved Route and the Revised Route are within the traditional territories of other Indigenous groups listed in Appendix D.
- 54. On August 4, 2023, Trans Mountain provided a written notice to each of these Indigenous groups in respect of the Revised Route. To date, Trans Mountain has not received any comments from these Indigenous groups in respect of the Revised Route.

e. Other Requirements in Guide D of the CER Filing Manual

- 55. The information required by the other requirements in Guide D of the CER Filing Manual are set out in Table 2 and Table 3 below.

TABLE 2 – GUIDE D, D.1 REQUIREMENTS

Guide D Requirement		Trans Mountain Response
D.1(1)	Provide the order number and date of the approval of the original PPBoR.	Refer to paragraphs 10 and 14 above.
D.1(2)	Provide a PPBoR drawing showing the approved route.	PPBoR Sheet M002-PM03011-014 R2 (C17686-1 , PDF 10-11).
D.1(3)	Provide a PPBoR drawing showing the location of the proposed deviated, changed or altered 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 851.60 to 852.95
D.1(5)	Include a map at an appropriate scale that indicates the location of the deviation, alteration or change 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 subsection 322(1) notices.	Trans Mountain confirms that it served subsection 322(1) notices regarding the Revised Route on each of the Landowners. There are no additional landowners or land parcels impacted by the Revised Route relative to the Approved Route shown on Sheet 14.
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.	Refer to section c. above <i>Engagement with Landowners</i>

Guide D Requirement		Trans Mountain Response
D.1(8)	Describe the maximum distance of deviation from centre line.	The centre line for the Revised Route is located a maximum distance of 60 metres from the centre line for the Approved Route.

56. Table 3 below addresses the filing requirements for environmental and socio-economic assessment (“ESA”) under Guide D.

TABLE 3 – GUIDE D, D.2 ESA REQUIREMENTS

Guide D Requirement		Trans Mountain Response
D.2(1)	Describe how the effects have already been considered in an ESA by the Commission; or	<p>Potential environmental and socioeconomic effects of the proposed deviation 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”) (C20382).</p> <p>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 concluded that, with the appropriate mitigation, the predicted TMEP-related effects, and cumulative effects, of the proposed deviation are not significant and are consistent with those assessed in the original ESA.</p>
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.

57. Table 4 below addresses applicable condition and compliance matters, based on previous requests from the Commission.

TABLE 4 – CONDITION COMPLIANCE

Condition Compliance	Trans Mountain Response
<p>Include references to associated condition and compliance matters, where appropriate.</p>	<p>Trans Mountain confirms that there are no new condition or compliance requirements as a result of this deviation application.</p> <p>In the letter decision that approved the Previous Deviation (C17990), the Commission directed Trans Mountain to file, within 30 days, updated environmental and construction alignment sheets to reflect the Previous Deviation. Consistent with that direction, updated environmental and construction alignment sheets that reflect the Revised Route will be filed with the Commission as a supplement to this application.</p> <p>Trans Mountain has previously filed a Noise Management Plan (“NMP”) for HDD sites with no nearby dwellings under Condition 74 (C13545), which includes the proposed Jacko Lake HDD site near KP 853. The NMP was approved by the Commission on October 1, 2021 (C15201). Accordingly, no additional Condition 74 filing is required.</p> <p>Trans Mountain will continue to follow all planning considerations and mitigation measures outlined in the Pipeline EPP, which is based on applicable condition plans.</p>

III. Relief Sought

58. Trans Mountain submits that it has fulfilled all applicable requirements of the CER Act and the CER Filing Manual with respect to the deviation requested in this Application. In addition to the information included herein, Trans Mountain encloses the following in support of this Application:
 - Appendix A PPBoR – Revised Route
 - Appendix B Differences map
 - Appendix C Record of Engagement
 - Appendix D Indigenous Groups
59. Accordingly, Trans Mountain respectfully requests approval of the deviation pursuant to section 211 of the CER Act.
60. Trans Mountain will commence construction on the Lands using HDD and conventional open trench as soon as possible following the issuance of Commission approval for the deviation.

61. Trans Mountain respectfully requests the Commission's consideration of this Application within a time frame that will allow Trans Mountain to proceed with construction of the deviation at the earliest possible date and maintain its currently anticipated construction schedule for the Pipsell area. In this regard, Trans Mountain respectfully requests a decision on this application no later than August 21, 2023.
62. In addition to the approval of the deviation, Trans Mountain also respectfully requests relief from the timing requirement in subsection 211(2) of the CER Act that would require Trans Mountain to deposit the certified PPBoR Sheet in advance of construction. Granting relief from the timing requirement set out in subsection 211(2) of the CER Act would authorize Trans Mountain to proceed with construction of the deviation immediately following the Commission's approval of it, without Trans Mountain having first deposited the certified PPBoR Sheet.
63. Subsection 211(3) of the CER Act states:

Exemptions

(3) The Commission may exempt a company from all or any of the provisions of this section if the deviation was made or is to be made for the purpose of benefitting a pipeline, or for any other public purpose, if it considers it appropriate to do so, but the deviation must not exceed the distance that is specified by the Commission from the centre line of the pipeline located or constructed in accordance with the plans, profiles and books of reference approved by the Commission under this Act.

64. Subsection 211(3) of the CER Act authorizes the Commission to exempt a company from all or any of the provisions of section 211 if the following requirements are met: (i) the deviation is made for the purpose of benefitting a pipeline or for any other public purpose; and (ii) the deviation must not exceed the distance that is specified by the Commission from the centre line of the pipeline located or constructed in accordance with the approved PPBoR. With respect to this second requirement, Guide D requires that an application pursuant to subsection 211(3) of the CER Act include "the maximum distance of deviation from centre line".
65. Trans Mountain submits that its request for an exemption from the timing requirement under subsection 211(2) related to the deposit of the certified PPBoR Sheet in advance of construction meets both requirements in subsection 211(3) of the CER Act.
66. With respect to the first requirement, this Application describes the rationale for the proposed deviation in section II.a above. The narrow exemption requested from the timing requirement in subsection 211(2) of the CER Act will allow Trans Mountain

to initiate construction of the deviation immediately upon the Commission's issuance of an approval of the deviation. Such relief will avoid construction delay to the TMEP associated with the filing requirement, which Trans Mountain submits is in the public interest.

67. The second requirement in subsection 211(3) of the CER Act is addressed in Table 2 above with respect to Guide D requirement D.1(8).
68. For these reasons, Trans Mountain respectfully requests that it be permitted to proceed with construction of the proposed deviation in advance of Trans Mountain depositing the Commission-certified PPBoR Sheet.
69. Trans Mountain confirms that, if this Application is approved, Trans Mountain will, as soon as reasonably possible following the Commission's approval, deposit copies of the Commission-certified PPBoR Sheet, as required under subsection 198(d) of the CER Act.

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

Yours truly,



Sander Duncanson

Encl.

cc: SSN, Landowners and Other Indigenous Groups