



File OF-Fac-Oil-T260-2013-03 61
25 September 2023

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Dear Dorothy Golosinski, Sander Duncanson, and Joelle Walker:

**Trans Mountain Pipeline ULC
Trans Mountain Expansion Project
Certificate of Public Convenience and Necessity OC-065
Application pursuant to section 211 of the *Canadian Energy Regulator Act*
Segment 5.3 – Pípsell (Jacko Lake) area
Decision of the Commission of the Canada Energy Regulator**

**Before: K. Penney, Presiding Commissioner; M. Watton, Commissioner;
S. Luciuk, Commissioner**

A. Background

On 10 August 2023, Trans Mountain Pipeline ULC (**Trans Mountain**) filed an application ([C25832](#)) pursuant to section 211 of the *Canadian Energy Regulator Act* (**CER Act**) for approval of a deviation on lands between Kilometre Posts 851.60 and 852.95 in Segment 5.3 of the Trans Mountain Expansion Project (**TMEP**), which appear on Plan, Profile and Book of Reference (**PPBoR**) Sheet M002-PM03011-014.

The deviation is located in the Pípsell (Jacko Lake) area of British Columbia, which holds profound spiritual and cultural significance to Stk'émłúpsemc te Secwépemc Nation (**SSN**). It impacts Tracts 1614 and PC 7130 (each of which is owned by KGHM Ajax Mining Inc.) and Tract PC 7129 (owned by Sugarloaf Ranches Limited).

Trans Mountain also requested relief, pursuant to subsection 211(3) of the CER Act, from the requirement to deposit the certified PPBoR prior to constructing the deviation, should the application be approved.

On 16 August 2023, the Commission of the Canada Energy Regulator established a process to adjudicate the application ([C25914](#)), which it subsequently revised on 30 August 2023 ([C26015](#)) and 11 September 2023 ([C26148](#)). In addition to written procedural steps, an oral hearing was held on 18-20 September 2023 in Calgary, Alberta to hear oral Indigenous knowledge and allow for cross-examination and argument.

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The Commission received and considered the written submissions of Trans Mountain and SSN, the oral submissions made by Trans Mountain and SSN at the oral hearing, including the oral Indigenous knowledge of SSN's Knowledge Keeper, Jeannette Jules, and a letter of comment from the Indigenous Caucus of the Indigenous Advisory and Monitoring Committee for the Trans Mountain Expansion and Existing Pipeline.

B. Commission decision

In its application and subsequently in argument, Trans Mountain requested an urgent decision to provide scheduling and practical certainty for the continued construction of this section of the TMEP. In their submissions, SSN noted the critical importance of the decision and the need for additional time and process steps to consider the application. With this in mind, the Commission conducted an expedited process for this application that incorporated various additional process steps requested by SSN. For reasons of certainty, the Commission also considers it appropriate to take the exceptional step of issuing its decision with reasons to follow as soon as possible.

Having thoroughly and carefully considered all written and oral submissions received, the Commission approves the deviation and revised PPBoR Sheet M002-PM03011-014. Order AO-003-OPL-003-2020 is attached, reflecting the Commission's approval.

The Commission further grants Trans Mountain's request for relief from the requirement to deposit the certified PPBoR before constructing the deviation. Upon receipt of this decision, in the absence of having deposited the certified PPBoR, Trans Mountain may begin constructing the deviation, subject to any other necessary regulatory requirements being met.

C. Direction

The Commission will forward to Trans Mountain three certified copies of each of Order AO-003-OPL-003-2020 and revised PPBoR Sheet M002-PM03011-014. Trans Mountain is directed to deposit these documents in the appropriate land titles or registry office(s) **as soon as possible** and to file confirmation that they were deposited **within two business days of doing so**.

The Commission directs Trans Mountain to serve, **on or before 28 September 2023**, a copy of this letter and Order AO-003-OPL-003-2020 on KGHM Ajax Mining Inc., Sugarloaf Ranches Limited, and each of the Indigenous communities listed in Appendix D to Trans Mountain's application.

Yours sincerely,

Signed by

Ramona Sladic
Secretary of the Commission

Attachment

c.c. Trans Mountain Canada Inc., General Inbox, Email info@transmountain.com
Raymond Cardinal, Indigenous Caucus of the Indigenous Advisory and Monitoring Committee for the Trans Mountain Expansion and Existing Pipeline,
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