



Canada Energy  
Regulator

Régie de l'énergie  
du Canada

Suite 210  
517 Tenth Avenue SW  
Calgary, Alberta  
T2R 0A8

517, Dixième Avenue S.-O.  
bureau 210  
Calgary (Alberta)  
T2R 0A8

File OF-Fac-Oil-T260-2013-03 63  
21 April 2020

To: All parties to Detailed Route Hearing MH-027-2020

**Trans Mountain Pipeline ULC (Trans Mountain)  
Trans Mountain Expansion Project (TMEP)  
Detailed Route Hearing MH-027-2020 (Hearing) – S'ólh Téméxw Stewardship Alliance  
(STSA) [Phase 1]  
Sharing of Indigenous knowledge – Comment process**

**A. Background**

On 31 January 2020, the Commission of the Canada Energy Regulator (Commission) issued the Hearing Order for Hearing MH-027-2020 ([C04468](#)). The Hearing Order contemplated that the STSA would share Indigenous knowledge in-person with the Commission.

In response to the COVID-19 pandemic, the Commission issued a Procedural Direction on 20 March 2020 ([C05377](#)) advising that it was looking at alternative ways to optimize participant involvement to ensure that the Hearings continue in a manner that is fair and transparent, while protecting the health of those involved.

The Commission is in receipt of Trans Mountain's 19 March 2020 reply evidence ([C05368](#)) in this Hearing, the cover letter of which suggested that Indigenous knowledge could be shared through a variety of means that do not involve in-person contact.

In a 27 March 2020 letter to the Commission ([C05504](#)), the STSA submitted that Indigenous knowledge should be shared in-person in a manner that respects proper protocols. The STSA also submitted that maintaining physical distancing could be compromised if someone has to assist an Elder with videoconferencing technology.

In its letter, the STSA also said that, "[t]aking into account the risks to Indigenous Elders and the STSA communities and culture as a whole, STSA submits that the most prudent option is for the [Canada Energy Regulator (CER)] to wait until it is safe to conduct the oral Indigenous Knowledge portion in person."

On 3 April 2020, Trans Mountain replied ([C05620](#)) to the STSA's 27 March 2020 letter. It agreed that stringent precautions must be taken to protect the health and safety of those involved in this Hearing. Trans Mountain suggested that it could provide devices to enable Elders and knowledge holders to share Indigenous knowledge orally through remote participation.

On 21 April 2020, the Commission issued a Procedural Direction outlining modifications it has made to the MH-027-2020 Hearing process ([C05817-5](#)). The cover letter to the Procedural Direction set out the reasons for those modifications ([C05817-1](#)).

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The Commission indicated that in-person Indigenous knowledge sessions will not be held at this time, that it is unclear when it would be possible to hold such sessions, and that it would be seeking to work with the STSA in order to identify alternative means by which Indigenous knowledge can be shared.

## **B. Comment process**

To inform its decision on a procedural path forward, the Commission wishes to understand the manner(s) in which Indigenous knowledge can be received in this proceeding while respecting, to the extent possible, the STSA's cultural protocols and assures the safety of everyone involved. The Commission will consider the correspondence filed to date, and invites submissions from the STSA and Trans Mountain in accordance with the schedule set out below.

The Commission notes that it has received Indigenous knowledge in the past by:

- teleconference with the Commission and other parties to the proceeding;
- videoconference with the Commission and other parties to the proceeding;
- pre-recorded audio filed on the record;
- pre-recorded video filed on the record;
- written submissions filed on the record; and
- filing transcripts from prior Indigenous knowledge sessions or other forms of Indigenous knowledge.<sup>1</sup>

Comments on proper protocols, capacity, and accessibility would be of particular assistance to the Commission. Specifically, the Commission seeks the following information:

- The number of Elders and knowledge holders who wish to share Indigenous knowledge.
- Whether the Elders and knowledge holders likely to participate would be willing to share Indigenous knowledge through any of the means set out above or any other means that do not involve in-person sessions.

For Elders and knowledge holders willing to share Indigenous knowledge by means of technology such as teleconference or videoconference:

- Whether each of the individual Elders and knowledge holders have internet, landline telephone, and/or cellular service in their homes.
- The familiarity of each individual Elder and knowledge holder with electronic devices, such as using an iPad or tablet, an iPhone or smart phone, or video calling software/apps.
- Understanding that some Elders and knowledge holders may not have such electronic devices and/or familiarity with using them, an indication of whether the provision of these devices, as well as offsite (remote) technical support, would enable Elders and knowledge holders to share their Indigenous knowledge via technology. Technical support could be provided in advance of any Indigenous knowledge session(s), as well as during the session(s) in the event that any issues might arise.

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<sup>1</sup> The Commission notes that the STSA's 12 March 2020 written evidence ([C05179](#) and [C05180](#)) references a 29 November 2018 transcript ([A6L2F4](#)) in which the Stó:lō Collective provided oral traditional evidence during the MH-052-2018 TMEP reconsideration proceeding. That transcript is incorporated by reference into the record of Hearing MH-027-2020.

Comments must be filed according to the following schedule:

<b>Party</b>	<b>Submission</b>	<b>Deadline</b>
STSA	Comments	11 May 2020
Trans Mountain	Comments	15 May 2020

During the pandemic, CER staff are not in the office to process filings received by mail or fax.

The STSA and Trans Mountain are reminded that filings should be made using the online [e-filing tool](#). The requirement to file a hard copy within three business days is postponed until further notice. Hard copies should be prepared, along with a signed receipt, and provided to the CER a later date. If experiencing difficulties filing a document through the e-filing tool, it may be emailed to [secretary@cer-rec.gc.ca](mailto:secretary@cer-rec.gc.ca) (emailed documents must be in PDF format 10 mB or less in size). More information about the CER's response to the COVID-19 pandemic is available in its [March 16 update](#).

For any questions, please contact a Process Advisor by phone at 403-560-7323 or 1-800-899-1265 (toll-free), or by email at [TMX.ProcessHelp@cer-rec.gc.ca](mailto:TMX.ProcessHelp@cer-rec.gc.ca).

Yours sincerely,

*Original signed by*

L. George  
Secretary of the Commission

c.c. Trans Mountain Canada Inc. General inbox, Email [info@transmountain.com](mailto:info@transmountain.com)