

VIA ELECTRONIC SUBMISSION

January 19, 2022

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

To: Ramona Sladic, Secretary of the Commission

Dear Ms. Sladic:

**Re: Trans Mountain Pipeline ULC (Trans Mountain)
Trans Mountain Expansion Project (Project or TMEP)
Filing Timelines for TMEP Conditions
Linkages to Leave to Open Process and Commencement of Operations
CER File: OF-Fac-Oil-T260-2013-03 61**

Introduction

As the TMEP construction program continues to progress, and as the various expansion assets are completed and hydrostatically tested, Trans Mountain will be positioned to file a series of leave to open (LTO) applications. These applications will generally be filed on a phase-specific or facility-specific basis.

The onset of physical operations will likewise be staged. In conjunction with the eventual line fill operation, the TMEP facilities will generally be brought on stream in an east-to-west order. Additionally, select TMEP assets may be brought on stream prior to the commencement of full TMEP commercial services to integrate with and support existing Trans Mountain operating infrastructure or to address other interim needs.

Many of the conditions that are set out in the TMEP regulatory instruments contain filing timelines that are linked to either the LTO process or the commencement of operations. These timing linkages must be viewed in the context of the efficient facilitation of full TMEP commercial services which necessarily involves a staged LTO process.

The purpose of this submission is to provide the CER with an explanation of how these timing linkages work in conjunction with the LTO process and the necessary operations stages that must be choreographed to facilitate full TMEP commercial services. At the same time, Trans Mountain would also seek any relief that the CER deems necessary to facilitate Trans Mountain's planned approach to achieving full commercial operations.

TMEP Regulatory Instruments

The Project is being carried out to expand the capacity of the Trans Mountain pipeline system from 47,690 m³/d to 141,500 m³/d (300,000 bbl/d to 890,000 bbl/d). The Project involves the twinning of the existing mainline and the construction of various above-ground facilities including at existing terminal and pump station sites.

TMEP was authorized under Part III of the *National Energy Board Act* through the issuance of a series of regulatory instruments.¹ Each regulatory instrument is accompanied by the same series of conditions with concordance columns mapping their applicability to each TMEP component.² As addressed in Trans Mountain's response to Condition 10, the Project is broken into thirty-nine distinct "phases" covering terminals, Line 1 pumps, Line 2 pumps, Line 1 work areas, and Line 2 work areas.³

Sequence of Events Leading to Commencement of Operations

As demonstrated in the TMEP construction schedule filings that are being made under Condition 62, construction activities are happening concurrently at many sites.⁴

Hydrostatic testing will be performed on the discrete piping sections or terminal and station facilities that will be used for oil transmission service as they are completed, thereby positioning Trans Mountain to file a series of facility-specific LTO applications.^{5,6} These applications will generally be broken down by pipeline spread, terminal, and pump station group or individual pump station, with the added potential for earlier or later partial applications within individual Project phases as circumstances dictate.

The LTO program will therefore feature a series of individual LTO applications for oil transmission and storage assets as the construction program proceeds (i.e., rather than a singular all-encompassing LTO application towards the end of the overall construction and commissioning program).

¹ The TMEP regulatory instruments are Certificate OC-065, as amended (CPCN), AO-005OC-2 (OC2), AO-001-XO-T260-007-2016 (Temp), AO-002-XO-T260-008-2016 (Pump1), AO-002-XO-T260-009-2016 (Pump2), AO-003-XO-T260-010-2016 (Tanks), and MO-015-2016 (Deact).

² See for example Certificate OC-065 (Filing ID [C00061-3](#))

³ Filing ID [A81323](#)

⁴ See for example the latest Condition 62 filing that was made on January 3, 2022 (Filing ID [C17006](#)).

⁵ Pressure testing program to be carried out per the specifications and procedures filed by Trans Mountain on July 15, 2019 and pursuant to Condition 112 and accepted by the CER on November 15, 2019 (Filing IDs [C00484](#) and [C03023](#)); also reference the updated hydrostatic testing specification filed on May 25, 2020 (Filing ID [C06449](#)).

⁶ Section 213(1) of the *Canadian Energy Regulator Act* provides as follows: "A pipeline or section of a pipeline must not be opened for the transmission of hydrocarbons or any other commodity by a company unless an order granting it leave to do so has been made by the Commission."

On a selective basis, Trans Mountain is filing LTO exemption requests for certain small-scale facilities within terminal and pump station sites that carry significant timing implications.⁷ More particularly, these requests pertain to small-scale TMEP facilities that must be tied into existing facilities on a timely basis and returned to service immediately thereafter to maintain orderly, safe, and efficient operations on the existing pipeline system. In these cases, granting an LTO exemption allows an efficient return to service and preempts the commercial impacts that would result from extended outages or the missing of pre-scheduled outage timing windows on the existing Line 1 pipeline system.

The first of these exemption requests was filed and approved in relation to the preliminary tie-in facilities at the Edmonton Terminal, and a second similar request has followed in relation to the preliminary tie-in facilities at the Burnaby Terminal.⁸ These tie-in programs are essential building blocks for the establishment of TMEP commercial services as they provide the necessary level of integration and connectivity with existing facilities. Trans Mountain has also requested exemption for the small-diameter low-pressure piping at Line 2 pump stations as well as exemption from any LTO requirement that may apply to the Westridge Marine Vapour Control System.⁹

The Project will culminate with the completion and active operation of all expansion facilities with east-west transportation service provided on Line 2 from the system starting point at the Edmonton Terminal to the system terminus at the Westridge Marine Terminal. To facilitate final commissioning and overall start-up, line fill will be sourced out of the Edmonton Terminal.

Trans Mountain will plan to file a notification letter with the CER once full TMEP commercial services have commenced.

Categorization of TMEP Conditions

The overall set of conditions that is attached to each of the TMEP regulatory instruments is divided into four broad categories, as follows:

Table 1 – Condition Categories

Conditions	Category
1-5	Overarching conditions
6-103	Conditions with initial filings due prior to commencing construction, or prior to commencing construction of specified Project component(s)
104-138	Conditions with initial filings due during construction / prior to commencing operations
139-157	Conditions with initial filings due after commencing operations

⁷ Section 214 of the *Canadian Energy Regulator Act* provides the Commission with the ability to grant leave to open exemptions for any pipeline facilities within the scope of that section.

⁸ Filing IDs [C12524](#), [C13745](#), and [C14437](#)

⁹ Filing ID [C14614](#) and [C15762](#)

For the third and fourth categories, there are multiple different timing references that are specifically linked to the LTO process¹⁰ and “commencement of operations”.^{11,12} The relative timing of these associated filings is discussed in the following two sections.

Timing Linked to Leave to Open

For ease of reference, Trans Mountain has compiled the following table showing the various LTO timing references in the TMEP certificate conditions.¹³

Table 2 – TMEP Conditions with Leave to Open Timing Links

Condition	Topic and Extracts with Leave to Open Timing Links
115	<p style="text-align: center;">SCADA and Leak Detection System Design</p> <p style="text-align: center;">◆◆◆◆</p> <p><i>a) Trans Mountain must file with the [CER], reports describing the final design of the expanded Trans Mountain Pipeline System’s SCADA and leak detection systems. These reports must include ... b) <u>At least 3 months prior to applying for leave to open the Project</u> ... [various information requirements regarding the leak detection system]</i></p>
121	<p style="text-align: center;">Financial Assurances Plan – Operations Phase</p> <p style="text-align: center;">◆◆◆◆</p> <p><i>a) Trans Mountain must file with the [CER] for approval, <u>at least 6 months prior to applying for leave to open Line 2</u>, a Financial Assurances Plan that includes ... [various information requirements]</i> <i>b) Trans Mountain must file the following with the [CER] ... i) <u>At least 6 months prior to applying for leave to open Line 2</u>, a report from an independent third party ... ;ii) <u>At least 3 months prior to applying for leave to open Line 2</u>, a supplement to the report described in b)i) ... ;iii) <u>with its first leave to open application for Line 2</u>, a report describing the steps it took to eliminate any deficiencies in its Financial Assurances Plan that were identified in the independent third party report ...</i></p>
122	<p style="text-align: center;">Changing Pipeline Segment Operating Conditions (Hinton-Hargreaves; Darfield-Black Pines)</p> <p style="text-align: center;">◆◆◆◆</p> <p><i>Trans Mountain must file with the [CER] for approval, <u>at least 6 months prior to applying for leave to open Line 2</u>, the following ... [references to an engineering assessment and a certificate with a supporting report issued by an independent certification body]</i></p>
127	<p style="text-align: center;">Terminal Fire Protection and Firefighting Systems</p> <p style="text-align: center;">◆◆◆◆</p> <p><i>(a) Trans Mountain must file with the [CER] for approval, <u>at least 3 months prior to applying for leave to open of any Project component at each respective terminal</u>, an independent third party report confirming the adequacy of the proposed fire protection systems implemented or planned to be implemented at [each of four terminal sites]</i></p>

¹⁰ Conditions 115, 121-122, 127-129, 135, and 137

¹¹ Conditions 105-110, 117-119, 121, 123-126, 131-132, 135, 138-143, 145-149, and 153

¹² Apart from the commitments listed in the preceding footnote that specifically refer to the commencement of operations, the Commission has also recently varied the timing requirement set out in Condition 19 from “six months prior to construction” to “six months prior to commencing line filling of each Reactivation Phase, respectively”. (Filing ID [C14695](#)).

¹³ For the full text of the conditions in the TMEP regulatory instruments, see for example Certificate OC-065 at Filing ID [C00061-3](#).

	<i>b) Trans Mountain must file with the [CER] for approval, at least 2 months prior to beginning the assessment leading to the report in a), the name and qualifications of the proposed independent third party that will prepare the report in a).</i>
128	<p style="text-align: center;">Offset Measures Plan for Residual Effects on Caribou Habitat</p> <p style="text-align: center;">◆◆◆◆</p> <p><i>Trans Mountain must file with the [CER] for approval, in accordance with the timelines below, an Offset Measures Plan for each affected caribou range ... The Offset Measures Plan must include: a) A preliminary version, to be filed <u>at least 3 months prior to applying for leave to open</u>, with the plan's criteria and measurable goals and that includes ...</i></p>
129	<p style="text-align: center;">Final Terminal Risk Assessments</p> <p style="text-align: center;">◆◆◆◆</p> <p><i>Trans Mountain must file with the [CER] for approval, <u>at least 3 months prior to applying for leave to open for each terminal</u>, final risk assessments for... [list of four terminals followed by content requirements]</i></p>
135	<p style="text-align: center;">Slack Line Flow Conditions</p> <p style="text-align: center;">◆◆◆◆</p> <p><i>Trans Mountain must file with the [CER], at least 2 months prior to commencing operation of Line 1, and <u>at least 2 months prior to applying for leave to open Line 2</u>, respectively, the following: ... a) a list of locations having potential for slack line flow ... b) a description of the following regarding detecting and preventing slack line flow conditions: i) operational measures on Line 1 and Line 2; and ii) design measures on Line 2.</i></p>
137	<p style="text-align: center;">Tank Roof Design for Tanks at the Edmonton Terminal</p> <p style="text-align: center;">◆◆◆◆</p> <p><i>Trans Mountain must install steel pontoon internal floating roofs with odour control systems on all of its five proposed tanks at the Edmonton Terminal¹⁴, Trans Mountain must file with the [CER], <u>at least 30 days prior to applying for leave to open the five proposed tanks</u>, a letter signed by an officer of the company that confirms that these roofs were installed.</i></p>

As this table shows, there are five conditions that point in broad terms to the application of leave to open for “the Project” or “Line 2” (i.e., Conditions 115, 121, 122, 128, and 135). As already noted, there will be no single LTO application for the Project or Line 2, but rather a series of phase-specific or facility-specific LTO applications as the construction program progresses.

As these specific conditions have wide scope, Trans Mountain proposes to tie the associated condition filing timelines to the filing of the last Line 2 pipeline segment LTO application. In Trans Mountain’s respectful submission, the last of the LTO applications for Line 2 represents the best proxy for any notional overall LTO application.

As the table also shows, Conditions 127, 129, and 137 apply more narrowly to specific facilities. In these cases, Trans Mountain proposes to tie the timing to the principal LTO application for each applicable terminal site or storage tank, as opposed to any early partial LTO application for

¹⁴ Subsequent of the initial issuance of the TMEP regulatory instruments, the design of the expansion facilities at the Edmonton Terminal has been modified such there will be four new tanks as opposed to five. Reference Edmonton Terminal West Tank Area Design Changes submission made by Trans Mountain on March 1, 2017 (Filing ID [A81919](#)), as later approved through Order XO-003-XO-T260-010-2016 (Filing ID [C02383](#)).

a smaller facilities subset. Trans Mountain respectfully submits that tying the timing to the principal LTO application for each terminal/tank is aligned with the intent of the regulatory instruments.

Timing Linked to Commencement of Operations

In the TMEP regulatory instruments, “commencing operations” is defined as follows:

The Project is opened for oil storage and transmission. Unless otherwise specified, “prior to commencing operations” means an action must be completed prior to commencing operation of any component of the Project, and “after commencing operations” means an action must be completed after all components of the Project are operating.

This definition inherently recognizes that the onset of physical operations for the TMEP assets will be staged. In conjunction with the eventual line fill operation, the TMEP facilities will generally be brought on stream in an east-to-west order. Additionally, select TMEP assets may be brought on stream prior to the overarching line fill operation to integrate with and support existing operating infrastructure or to address other interim needs.

For ease of reference, the following table itemizes those eleven conditions which contain a “prior to commencing operations” timing trigger:

Table 3 – TMEP Conditions with “Prior to Commencing Operations” Timing Links

Condition	Topic	Scope
117	Reporting on Emergency Management Improvements	General
118	Firefighting Capacity at Terminals	Terminals
119	ERP Exercise and Training Program	General
123	Evacuation Plans	Terminals
124	Implementing Emergency Management Improvements	General
125	Emergency Response Plans for Pipeline and Terminals	Pipeline, Terminals
126	Emergency Response Plan for Westridge (updated)	Westridge Terminal
130	Groundwater Monitoring Program	General
132	Marine Mammal Protection Program	Westridge Terminal
136	Pre-Operations Full-Scale Emergency Response Exercises	Burnaby Terminal Westridge Terminal
138	Confirmation of Firefighting Capacity at Terminals	Terminals

Trans Mountain has already made its compliance filings for Conditions 117 and 119, meaning that nine conditions in this category remain to be satisfied.¹⁵

As the table shows, the other two conditions having a general scope are Condition 124 on “Implementing Emergency Management Improvements” and Condition 130 on “Groundwater Monitoring Program”. It is Trans Mountain’s respectful submission that these two conditions should be treated as needing to be satisfied in advance of any flows through Line 2, without precluding the early use of TMEP terminal assets to support existing Line 1 operations.

Condition 125 also has a wide overall scope, with reference to: (i) an Emergency Response Plan to include the pipeline expansion; (ii) updated Emergency Response Plans for the Edmonton, Sumas, and Burnaby Terminals; (iii) all related and accompanying site-specific plans and documents; and (iv) an ERP table indicating which plans and documents will be referred to in an emergency response for each 10-kilometre-long pipeline segment.

Trans Mountain submits that Condition 125 should also be considered in relation to the commencement of Line 2 flows, without precluding the early use of TMEP terminal assets to support existing operations. Furthermore, Trans Mountain considers that this condition can be appropriately addressed on a phase-specific or facility-specific basis (i.e., the updated ERP for the Edmonton Terminal would be required prior to commencing operations of the TMEP assets at the Edmonton Terminal, and the updated ERP for the Burnaby Terminal would be required prior to commencing operations of the TMEP assets at the Burnaby Terminal).

The scope of the remaining six conditions in this category is more tightly focused on terminals, with Trans Mountain having a clear ability to make compliance filings on a facility-specific basis.¹⁶

In summary, Trans Mountain submits that the “prior to commencing operations” series of conditions in the TMEP regulatory instruments should be administered as follows:

- First, there should be a baseline expectation that any pertinent “prior to” conditions be addressed before the operational use of any specific TMEP phase or TMEP facility for Line 2 flows, with the ability for Trans Mountain to satisfy the condition on a facility-specific or phase-specific basis.
- Second, these same conditions should not be seen as prerequisite to any early use of TMEP facilities in support of existing Line 1 operations (e.g., if all necessary conditions are met for the Edmonton Terminal and Trans Mountain determines that certain TMEP assets at the Edmonton Terminal can be used to support Line 1 operations, the fact that

¹⁵ Reference Filing IDs [A84431](#) and [C09290](#) for the filings made in January 2017 and November 2020 in satisfaction of Condition 117, and Filing ID [C12609](#) for the filing made in April 2020 in satisfaction of Condition 119.

¹⁶ The four terminals being expanded have been assigned unique phase numbers, as follows: Phase 1 – Westridge Marine Terminal; Phase 2 – Edmonton Terminal; Phase 3 – Sumas Terminal; and Phase 4 – Burnaby Terminal.

conditions remain outstanding for other TMEP assets would not preclude Trans Mountain from commencing service at the Edmonton Terminal to support Line 1 operations).

As expressed in the “commencing operations” definition, the timing marker for the “after commencing operations” series of conditions will be the onset of operations for the entirety of the TMEP. That is, end-to-end operation of the TMEP assets with the commencement of long-haul service from Edmonton to Westridge. The conditions falling into this category include Conditions 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, and 153.

In the event certain TMEP assets come on stream early, Trans Mountain would be prepared to split out the completion confirmations required under Condition 139.

Closure

Through this submission, Trans Mountain has taken the opportunity to articulate its views on the appropriate and orderly administration of those TMEP conditions with filing timelines linked to the LTO process and the commencement of operations.

In Trans Mountain’s respectful submission, the approaches described in this submission can be accommodated within the existing framework of the TMEP conditions. Should the Commission determine that relief is required under any conditions to implement Trans Mountain’s proposed framework, Trans Mountain respectfully requests that the Commission grant any such relief under Condition 1 of the TMEP regulatory instruments. Trans Mountain further respectfully asks that the Commission address this matter at its earliest convenience, to provide certainty to all parties regarding the process and timing for condition compliance related to commencement of TMEP operations.

In closing, should you have any questions relating to this submission, please contact the undersigned at regulatory@transmountain.com or at 403-514-6400.

Yours truly,

Original Signed by

Scott Stoness
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Trans Mountain Canada Inc.