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Lars Olthafer

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VIA ELECTRONIC FILING

January 21, 2022

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

Reference: 00087442/000058

Attention: Ramona Sladic, Secretary of the Commission

Dear Ms. Sladic:

**Re: Trans Mountain Pipeline ULC (Trans Mountain)
Trans Mountain Expansion Project (Project)
OF-Fac-Oil-T260-2013-03-ROE 23
Section 69 Application to Rescind Order (Application)
William Elmer Ehlers and Mary Jacoba Ehlers (Owner)
Short Legal: 012-988-511 / Tract: 1007 (Lands)**

Further to the Order RE-010-2020 (**Right of Entry Order**) issued by the Commission of the Canada Energy Regulator (**Commission**) on July 27, 2020 ([C07814](#)), Trans Mountain is pleased to inform the Commission that it has now concluded an agreement with the Owner to enter the Lands for the purposes of the Project (**Agreement**).

The Agreement represents a material change in circumstances that has arisen since the Commission's issuance of the Right of Entry Order. Consequently, Trans Mountain submits the attached Application pursuant to subsection 69(1) of the *Canadian Energy Regulator Act*, and in compliance with section 44 of the *National Energy Board Rules of Practice and Procedure, 1995*, requesting that the Commission review and rescind the Right of Entry Order.

Should the Commission require any additional information, please do not hesitate to contact the undersigned.

Yours truly,

Lars Olthafer

Enc.

cc: Owner (*by personal service*)

Trans Mountain Pipeline ULC
Alain Parise (*by email*)
tmep_land@transmountain.com

Progress Land Services Ltd.
Trisha Lucas (*by email*)
Joey Andries (*by email*)

31556332.1

CANADA ENERGY REGULATOR

IN THE MATTER OF the *Canadian Energy Regulator Act*, SC 2019, c 28, s 10 (Canada) (the "**Act**") and the regulations made thereunder;

AND IN THE MATTER OF Certificate OC-065, as amended, authorizing the construction and operation of the Trans Mountain Expansion Project (the "**Project**");

AND IN THE MATTER OF Order RE-010-2020 ("**Right of Entry Order**") issued by the Commission of the Canada Energy Regulator ("**Commission**") pursuant to subsection 324(1) of the Act granting Trans Mountain Pipeline ULC ("**Trans Mountain**") the right to enter certain lands as described herein;

AND IN THE MATTER OF an application by Trans Mountain pursuant to subsection 69(1) of the Act and section 44 of the *National Energy Board Rules of Practice and Procedure, 1995*, SOR/95-208 ("**Rules**") for the Commission to review and rescind the Right of Entry Order.

TRANS MOUNTAIN PIPELINE ULC

APPLICATION TO REVIEW AND RESCIND RIGHT OF ENTRY ORDER

January 21, 2022

To: Secretary of the Commission
Canada Energy Regulator
Suite 210, 517 - 10th Avenue SW
Calgary, Alberta T2R 0A8

And to: Mr. William Elmer Ehlers
Ms. Mary Jacoba Ehlers
Box 17
Avola, British Columbia, Canada V0E 1C0

(hereinafter referred to as "**Owners**")

Application to Review and Rescind Order Pursuant to Subsection 69(1) of the Act

1. Trans Mountain hereby applies to the Canada Energy Regulator pursuant to subsection 69(1) of the Act and section 44 of the Rules for the Commission to:
 - a. review the Right of Entry Order due to a material change in circumstances; and
 - b. issue an order rescinding the Right of Entry Order ("**Rescinding Order**").
2. On June 21, 2019, the National Energy Board issued Certificate OC-065 authorizing Trans Mountain to construct and operate the Project.
3. On November 28, 2019, the Commission approved the relevant Plan, Profile and Book of Reference by Order OPL-005-2019, as amended in Order AO-001-OPL-005-2019.
4. Prior negotiations between Trans Mountain and the Owner for land rights required by Trans Mountain to construct the Project were unsuccessful.
5. On January 20, 2020, Trans Mountain filed an application with the Commission for an order pursuant to subsection 324(1) of the Act granting Trans Mountain an immediate right to enter certain portions of the lands of the Owner ("**Right of Entry Application**").
6. On July 27, 2020, the Commission issued the Right of Entry Order granting Trans Mountain the immediate right to enter those lands of the Owner shown as Pipeline ROW Area and Temporary Workspace Area attached as Appendix "A" to the Schedule attached to and forming part of the Right of Entry Order ("**Lands**"). The Right of Entry Order was registered on title to the Lands as Registration Number CA8415512.
7. On November 1, 2021, Trans Mountain and the Owner settled all matters relating to compensation and land rights between them and entered into an Agreement for Statutory Right of Way ("**Agreement**").
8. On November 18, 2021, the Agreement was registered on title to the Lands as Statutory Right of Way, Registration Number CA9517216, and Modification, Registration Number CA9517217 (collectively, "**Statutory Right of Way**"), attached as Exhibit "C" to this Application.
9. Pursuant to subsection 69(1) of the Act and section 44 of the Rules, the Commission may consider an application to review and rescind the Right of Entry Order where changed circumstances have arisen since the close of the Right of Entry Application. Trans Mountain respectfully submits that the execution of the Registered Agreement and the registration of the Statutory Right of Way on title to the Lands is a material change in circumstances that supersedes the Right of Entry Order, such that the Right of Entry Order is no longer required by Trans Mountain.
10. Trans Mountain does not intend to rely on the Right of Entry Order and, therefore, has discharged the Right of Entry Order from the title to the Lands. A copy of the current certificate of title for the Lands showing the discharged Right of Entry Order is attached as Exhibit "D" to this Application.
11. In support of this Application, and in accordance with the requirements of the Act and the Rules, the following Exhibits are attached to and form part of this Application:

- Exhibit "A"** Copy of the Right of Entry Order RE-010-2020;
- Exhibit "B"** Copy of the current Certificate of Title for the Lands described in Exhibit "A";
- Exhibit "C"** Copy of the Statutory Right of Way; and
- Exhibit "D"** Copy of the Current Certificate of Title for the Lands showing the discharged Right of Entry Order.

Relief Sought

12. Trans Mountain requests that the Commission:
- a. review and rescind the Right of Entry Order pursuant to subsection 69(1) of the Act;
 - b. issue a Rescinding Order reflecting the rescission of the Right of Entry Order; and
 - c. grant such further and other relief as Trans Mountain may request and the Commission may consider appropriate.

Dated at Calgary, Alberta, this 21st day of January, 2022.

Trans Mountain Pipeline ULC

By its counsel
Blake, Cassels & Graydon, LLP

Per: 

Lars Olthafer

Please direct all communications regarding this Application to:

Alain Parisé
Director, Land
Trans Mountain Canada Inc.
Suite 2700, 300 – 5th Avenue S.W.
Calgary, AB T2P 5J2
Tel: 403-514-6700
Email: TMEP_Land@transmountain.com

and to: Lars Olthafer
Blake, Cassels & Graydon, LLP
855 – 2nd Street SW
Suite 3500, Bankers Hall East Tower
Calgary, AB T2P 4J8
Tel: (403) 260-9633
Fax: (403) 260-9700
Email: lars.olthafer@blakes.com

Exhibit "A"

Copy of the Right of Entry Order RE-010-2020



ORDER RE-010-2020

IN THE MATTER OF the *Canadian Energy Regulator Act* (CER Act) and the regulations made thereunder; and

IN THE MATTER OF an application made by Trans Mountain Pipeline ULC (Trans Mountain) as General Partner of Trans Mountain Pipeline L.P., for a Certificate of Public Convenience and Necessity and other related approvals pursuant to Part III of the *National Energy Board Act*; and,

IN THE MATTER OF an application made by Trans Mountain dated 20 January 2020 for an order pursuant to subsection 324(1) of the CER Act granting the right to enter certain lands in British Columbia filed with the Commission of the Canada Energy Regulator (Commission) under File OF-Fac-Oil-T260-2013-03 ROE 23, Tract 1007 (Application).

BEFORE the Commission on 27 July 2020.

WHEREAS on 21 June 2019, the National Energy Board issued Certificate of Public Convenience and Necessity OC-065 to Trans Mountain in respect of the Trans Mountain Expansion Project;

AND WHEREAS the CER Act came into force on 28 August 2019;

AND WHEREAS the relevant Plan, Profile and Book of Reference was approved by the Commission on 28 November 2019 in Order OPL-005-2019 and amended in Order AO-001-OPL-005-2019;

AND WHEREAS on 20 January 2020, Trans Mountain filed the Application for an immediate right to enter the lands identified as 012-988-511 (Lands);

AND WHEREAS the registered owners of the Lands are William Elmer Ehlers and Mary Jacoba Ehlers (Landowners);

AND WHEREAS the Commission is satisfied that the Landowners were properly served with a notice of the right of entry application pursuant to subsection 324(2) of the CER Act on 10 December 2019 and 21 December 2019;

AND WHEREAS the Commission is satisfied the Application was properly served on the Landowners' Representative on 18 February 2020;

AND WHEREAS the Landowners have filed a written objection with respect to the Application;

.../2

AND WHEREAS the Commission has considered the public interest and fairness and grants Trans Mountain relief from subsection 55(2) of the *National Energy Board Rules of Practice and Procedure, 1995*;

AND WHEREAS the Commission is of the view that it would be appropriate to issue the order as applied for;

IT IS ORDERED THAT Trans Mountain is granted the immediate right to enter the Lands, all of which lands and rights are more particularly described in the Schedule attached to and forming part of this Order, subject to the terms set out in that Schedule.

THE COMMISSION OF THE CANADA ENERGY REGULATOR

Original signed by S. Wong

for
Jean-Denis Charlebois
Secretary of the Commission

**SCHEDULE
RE-010-2020**

**1. LANDS IN RESPECT OF WHICH ORDER IS SOUGHT
LEGAL DESCRIPTION**

DISTRICT LOT 2514 KAMLOOPS DIVISION YALE DISTRICT EXCEPT:

(1) PART OUTLINED RED ON PLAN B123

(2) PLANS 16981 AND H8060

(the "**Lands of the Owner**")

- (a) That portion of the Lands of the Owner containing 0.097 hectares / 0.24 acres, more or less, shown as Right of Way (ROW) on the Individual Ownership Plan attached as Appendix "A" and forming part of this Schedule.

(the "**Pipeline ROW Area**")

- (b) That portion of the Lands of the Owner containing 2.38 hectares / 5.88 acres, more or less, shown as Temporary Workspace on the Individual Ownership Plan attached as Appendix "A" and forming part of this Schedule.

(the "**Temporary Workspace Area**")

2. DEFINED TERMS

The words and phrases defined in Appendix "B" hereto shall have the respective meanings set out in Appendix "B" when used in this Schedule.

3. RIGHTS OR INTERESTS APPLIED FOR IN RESPECT OF LANDS OF THE OWNER, THE PIPELINE ROW AREA AND THE TEMPORARY WORKSPACE AREA

Trans Mountain requires the following rights, titles or interests in respect of the Lands of the Owner:

- (a) the right and interest in, on, over, upon, across, along, under and through the Pipeline ROW Area to:
- (i) survey and carry out tests and examinations for, lay down, construct, operate, maintain, inspect, patrol (including aerial patrol), alter, remove, replace, reconstruct and repair the Pipeline within the Pipeline ROW Area and, for such purposes, remove from the Pipeline ROW Area any Incompatible Use, including any Improvement, Soil, Placed Soil or Vegetation that is an Incompatible Use; and
 - (ii) generally to do all things necessary for or incidental to the exercise of the foregoing rights and interests;

(referred to herein as the "**Pipeline ROW Area Rights**").

- (b) the right and interest in, on, over, upon, across, along, under and through the Temporary Workspace Area to carry out any activities necessary for or incidental to the Pipeline Construction, including to survey and carry out tests and examinations for the Pipeline and, for such purposes, remove from the Temporary Workspace Area any Incompatible Use, including any Improvement, Soil, Placed Soil or Vegetation that is an Incompatible Use;

(referred to herein as the “**Temporary Workspace Area Rights**”)

for so long as required to complete the Pipeline Construction and the related Pipeline ROW Area Restoration and Temporary Workspace Area Restoration, at which time the Temporary Workspace Area Rights shall lapse and be of no further force or effect; and

- (c) the right of access to and egress from the Pipeline ROW Area and the Temporary Workspace Area on, over, upon, across and through the remainder of the Lands of the Owner, from and to neighbouring lands (including public roads), for all purposes necessary or incidental to the exercise and enjoyment of the Pipeline ROW Area Rights and the Temporary Workspace Area Rights; provided, however, that Trans Mountain shall not use or exercise such right of access or egress for the purpose of Pipeline Construction;

(the rights and interests referred to above being collectively referred to herein as the “**Easement Rights**”)

for Trans Mountain, its successors and assigns, and its and their respective employees, agents, contractors, and subcontractors, on foot and/or with vehicles, supplies, machinery and equipment at any and all times, by day and by night, and, subject to subclause (b) above, for so long as Trans Mountain may desire to exercise them.

4. **RIGHTS, OBLIGATIONS, RESTRICTIONS AND TERMS**

- (a) **Use of the Lands of the Owner:** Trans Mountain’s use of the Lands of the Owner pursuant to the Easement Rights shall be restricted to use in connection with the Pipeline.
- (b) **Restoration:** Trans Mountain shall, upon completion of the Pipeline Construction and following any other exercise of the Easement Rights thereafter, as soon as weather and soil conditions permit, and to the extent it is practicable to do so, complete the related Pipeline ROW Area Restoration and, if applicable, Temporary Workspace Area Restoration except as otherwise agreed to by the Owner.
- (c) **Compensate Owner:** Trans Mountain shall compensate the Owner for all damages caused by the operations, Pipeline or abandoned Pipeline of Trans Mountain to the extent contemplated by the provisions of the CER Act governing compensation including: (i) any restrictions on use of the Pipeline ROW Area by operation of s. 335 of the CER Act; and (ii) any adverse effect on the remaining Lands of the Owner, including restrictions on the use of the remaining Lands of the Owner by operation of s. 335 of the CER Act

- (d) **Indemnify Owner:** Trans Mountain shall indemnify the Owner from all liabilities, damages, claims, suits and actions resulting from the operations, Pipeline or abandoned Pipeline of Trans Mountain, other than liabilities, damages, claims, suits and actions resulting from the gross negligence or willful misconduct of the Owner.
- (e) **Incompatible Use:** The Owner shall not make, do, install or construct, or permit or suffer to be made, done, installed or constructed, any Incompatible Use within the Pipeline ROW Area or, prior to the lapse of the Temporary Workspace Area Rights as described in subclause 3(b), within the Temporary Workspace Area. Subject to the foregoing and to the provisions of the CER Act and any regulations or orders made thereunder, the Owner shall have the right to use and enjoy the Pipeline ROW Area and the Temporary Workspace Area.
- (f) **Ownership of Pipeline:** Notwithstanding any rule of law or equity, the Pipeline shall at all times remain the property of Trans Mountain notwithstanding that it may be annexed or affixed to the Lands of the Owner and shall at any time and from time to time be removable in whole or in part by Trans Mountain.
- (g) **Quiet Enjoyment:** Trans Mountain, in performing and observing the covenants and conditions on its part to be observed and performed, shall and may peaceably hold and enjoy the Easement Rights hereby granted without hindrance, molestation or interruption on the part of the Owner or of any person, firm or corporation claiming by, through, under or in trust for the Owner.
- (h) **Other Rights Preserved:** Nothing contained herein shall affect or prejudice any right, present or future, which Trans Mountain may have under the provisions of the CER Act or otherwise to acquire, use or occupy the Pipeline ROW Area, the Temporary Workspace Area or any other portions of or any right or interest registered against the title to the Lands of the Owner.
- (i) **Successors and Assigns:** The Easement Rights are and shall be of the same force and effect as a covenant that runs with the Lands of the Owner. The Easement Rights and all rights, obligations, restrictions, terms and conditions set forth in this Schedule shall extend to, be binding upon, and enure to the benefit of the heirs, executors, administrators, successors and assigns of the Owner and Trans Mountain, respectively.
- (j) **Interpretation:** Wherever the singular or masculine or neuter gender is used in this Schedule, it shall be construed as if the plural or other appropriate gender, as the case may be, had been used where the context so requires. If the Owner is comprised of more than one person, the obligations and liabilities of the persons included in the Owner hereunder shall be joint and several.
- (k) **Notices:** Any notice or other communication or delivery required or permitted to be given by one party to the other shall be in writing and may be given by either:

- (i) delivery by hand, in which case it shall be deemed to have been received on delivery; or
- (ii) sent by prepaid registered post mailed at a post office in Canada, in which case it shall be deemed to have been received on the third (3rd) business day following the day of mailing;

provided that any notice delivered by hand that is delivered after 4:00 p.m. local time at the address of the addressee on a business day shall be deemed to be received on the next following business day.

The address of Trans Mountain for such purpose shall be

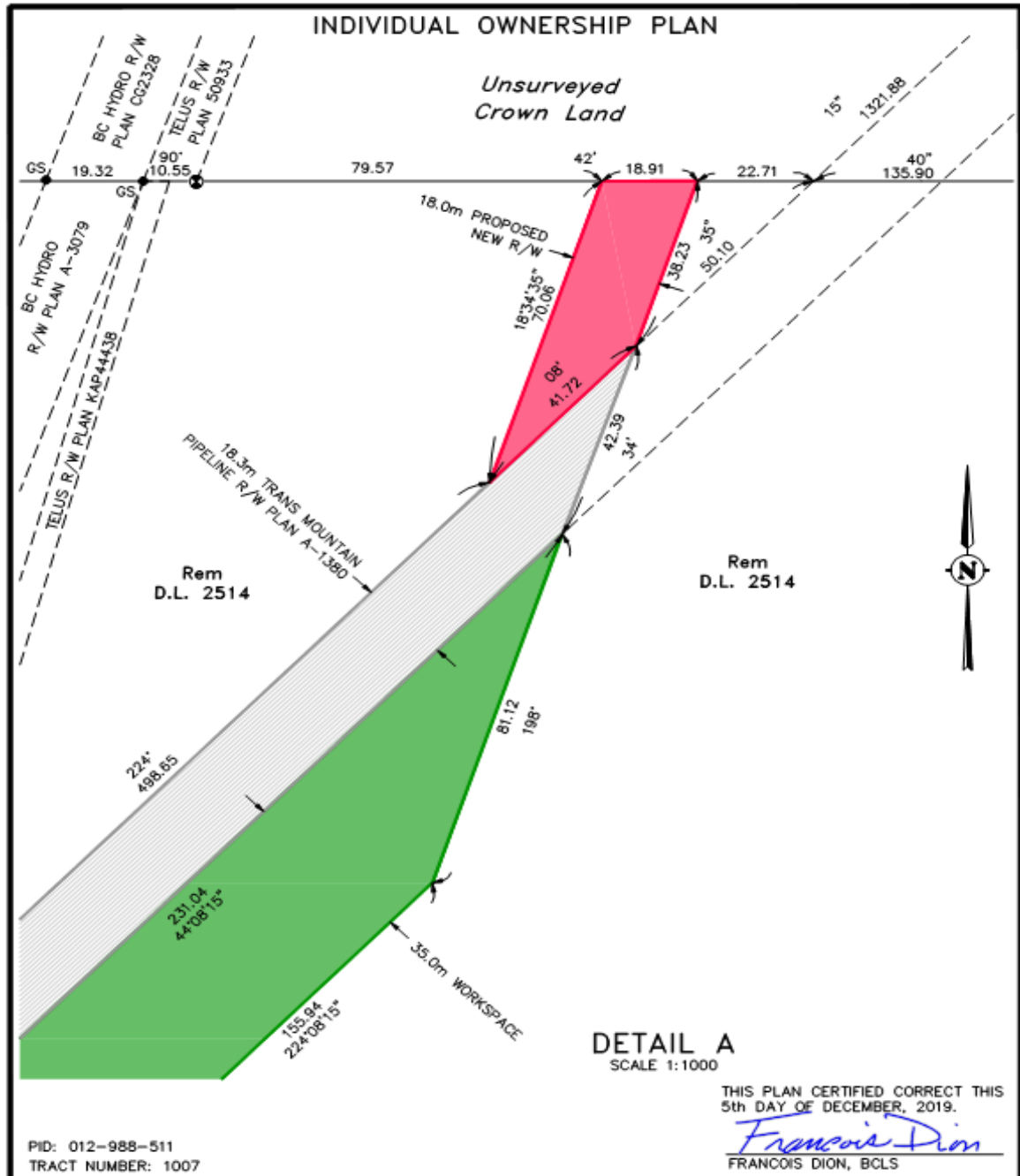
Trans Mountain Pipeline ULC
Suite 2700, Stock Exchange Tower
300 – 5th Avenue S.W.,
Calgary, Alberta, T2P 5J2
Attention: Legal Department

The address of the Owner for such purpose shall be the address that appears on the certificate of title for the Lands of the Owner maintained by the LTO at the time the notice is given.

A party may from time to time notify the other party of a change of address to another address inside Canada. Notwithstanding anything contained herein to the contrary, if a strike, lockout or other labour disruption involving postal employees is in effect or generally known to be impending, every notice or other communication or delivery given under this provision must be given by personal delivery.

Appendix A

Individual Ownership Plan of the Lands of the Owner



TRANS MOUNTAIN PIPELINE ULC

INDIVIDUAL OWNERSHIP PLAN SHOWING
 PROPOSED PIPELINE RIGHT-OF-WAY
 AND TEMPORARY WORKSPACE
 WITHIN

DISTRICT LOT 2514 KAMLOOPS DIVISION YALE DISTRICT EXCEPT:
 (1) PART OUTLINED RED ON PLAN B123 (2) PLANS 16981 AND H8060
 THOMPSON-NICOLA REGIONAL DISTRICT - BRITISH COLUMBIA



WSP Surveys (BC)
 Limited Partnership
 Fort St John BC
 (250) 787 0300

KMC No.: 01-13283-M002-PP-06578

DWG: 38290-SRB-82M11K

FILE No.: ED41-38290

SCALE: 1:7500

DATE: DEC. 05, 2019

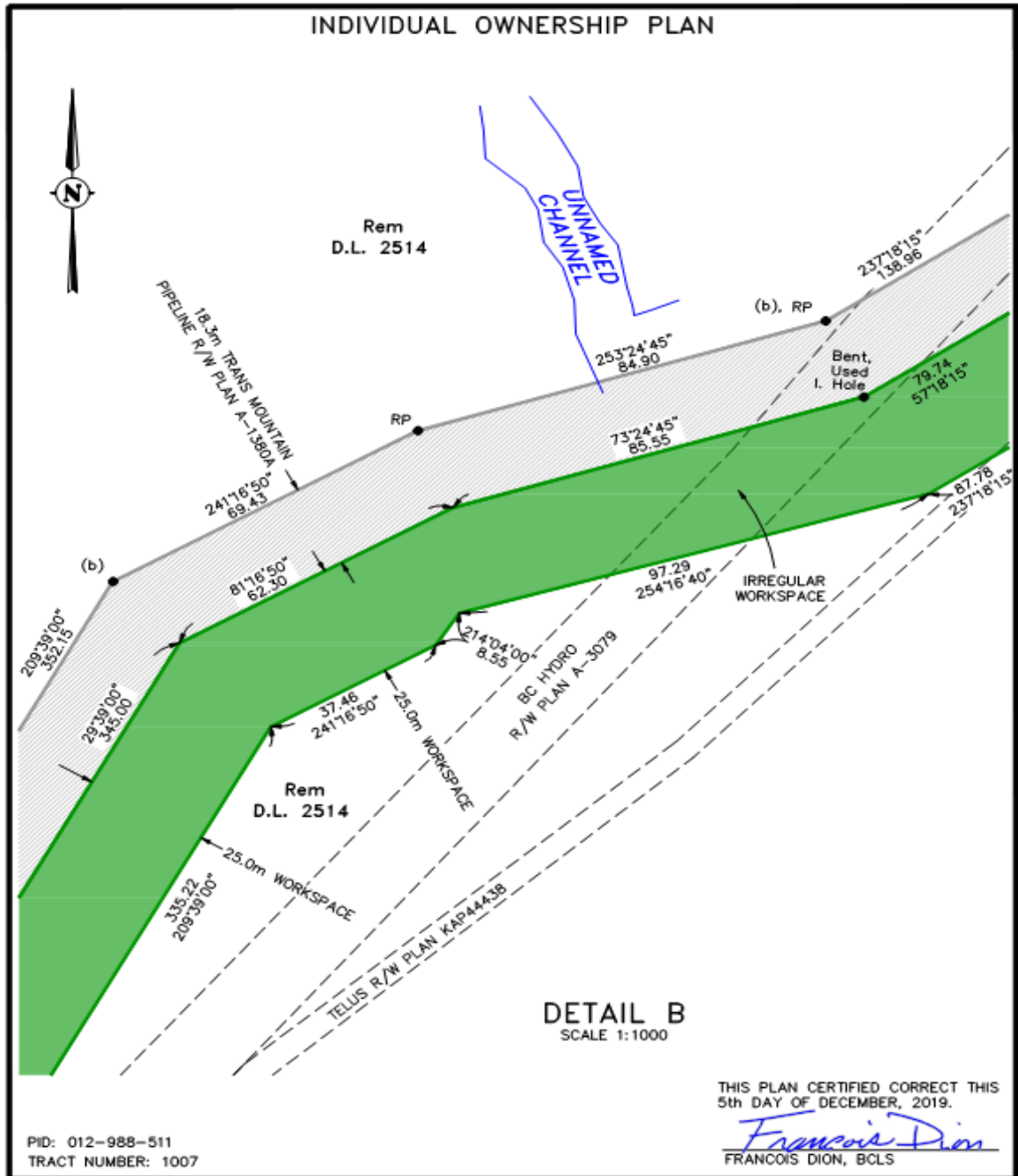
REVISION: B

PGE: 2 OF 4

DWG BY: JW


CKD BY: NE

Appendix A
Individual Ownership Plan of the Lands of the Owner

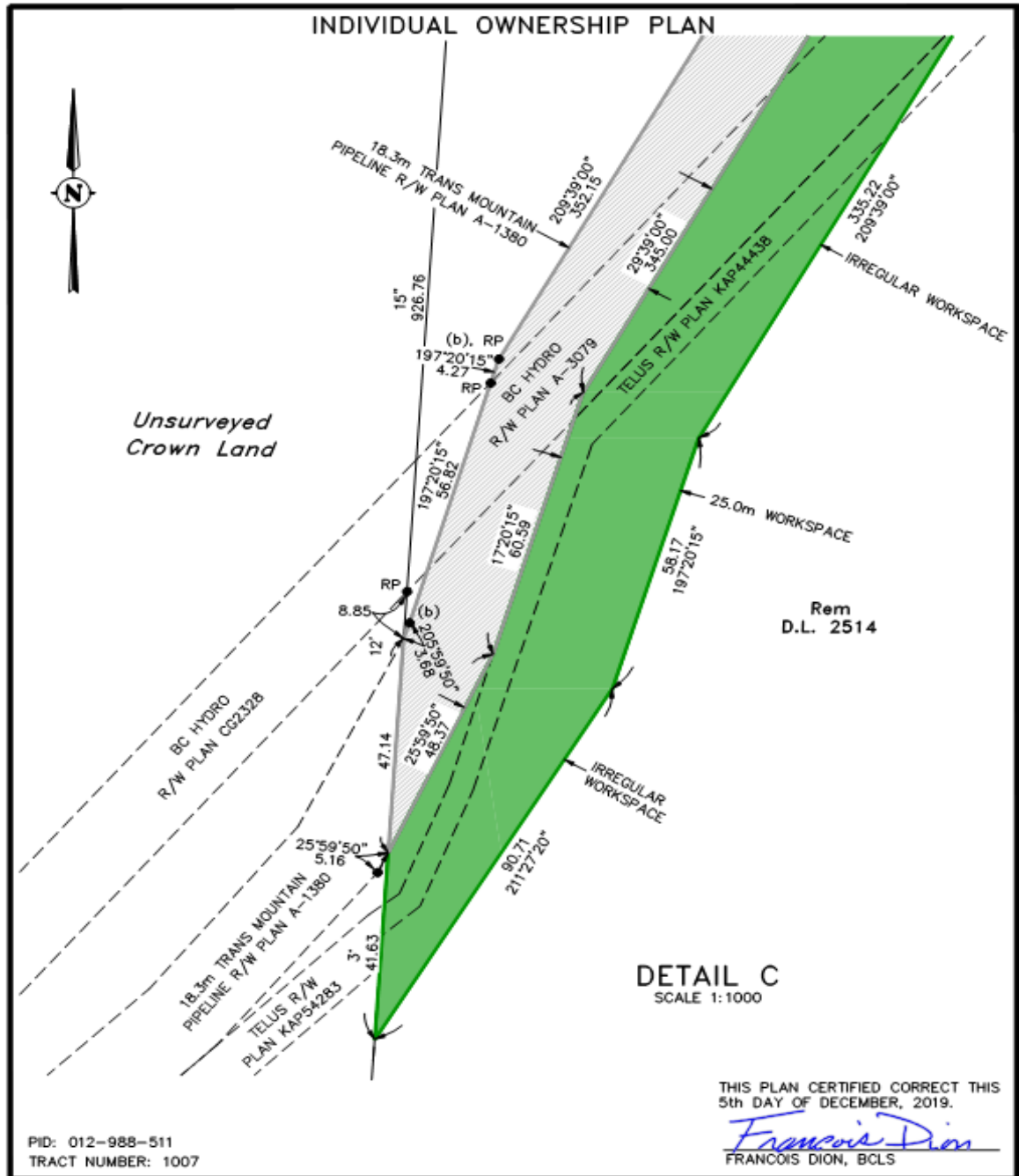


TRANS MOUNTAIN PIPELINE ULC

INDIVIDUAL OWNERSHIP PLAN SHOWING
 PROPOSED PIPELINE RIGHT-OF-WAY
 AND TEMPORARY WORKSPACE
 WITHIN
 DISTRICT LOT 2514 KAMLOOPS DIVISION YALE DISTRICT EXCEPT:
 (1) PART OUTLINED RED ON PLAN B123 (2) PLANS 16981 AND H8060
 THOMPSON-NICOLA REGIONAL DISTRICT - BRITISH COLUMBIA

 WSP Surveys (BC) Limited Partnership Fort St John BC (250) 787 0300	KMC No.: 01-13283-M002-PP-06578		REVISION: B
	DWG: 38290-SRB-82M11K		PGE: 3 OF 4
	FILE No.: ED41-38290		DWG BY: JW
	DATE: DEC. 05, 2019		CKD BY: NE

Appendix A
Individual Ownership Plan of the Lands of the Owner




PID: 012-988-511
 TRACT NUMBER: 1007

DETAIL C
 SCALE 1:1000

THIS PLAN CERTIFIED CORRECT THIS
 5th DAY OF DECEMBER, 2019.
Francois Dion
 FRANCOIS DION, BCLS

TRANS MOUNTAIN PIPELINE ULC

INDIVIDUAL OWNERSHIP PLAN SHOWING
 PROPOSED PIPELINE RIGHT-OF-WAY
 AND TEMPORARY WORKSPACE
 WITHIN
 DISTRICT LOT 2514 KAMLOOPS DIVISION YALE DISTRICT EXCEPT:
 (1) PART OUTLINED RED ON PLAN B123 (2) PLANS 16981 AND H8060
 THOMPSON-NICOLA REGIONAL DISTRICT - BRITISH COLUMBIA

 WSP Surveys (BC) Limited Partnership Fort St John BC (250) 787 0300	KMC No.: 01-13283-M002-PP-06578		REVISION: B
	DWG: 38290-SRB-82M11K	SCALE: 1:7500	PGE: 4 OF 4
	FILE No.: ED41-38290	DATE: DEC. 05, 2019	DWG BY: JW
			CKD BY: NE

APPENDIX B

DEFINED TERMS

“Approval” means an approval in writing by Trans Mountain pursuant to this Schedule or otherwise, including any conditions of approval.

“Improvement” means a building, structure, erection, pipe, pole, fence, tower, road, pavement, foundation, improvement or thing of any kind or nature constructed or installed within land.

“including” means including without limitation.

“Incompatible Use” means:

- (a) as to the Pipeline ROW Area, any use, activity or thing within the Pipeline ROW Area that would materially interfere with, disrupt or delay the exercise of the Easement Rights, or that imperils the safety or security of the Pipeline or any person or property associated therewith, and includes the use of any part of the Pipeline ROW Area for any Improvement that is not a Permitted Improvement; and
- (b) as to the Temporary Workspace Area, any use, activity or thing within the Temporary Workspace Area that would materially interfere with, disrupt or delay the exercise of the Easement Rights, or that imperils the safety or security of the Pipeline or any person or property associated therewith.

“LTO” means the land registry or land titles office in which land transactions affecting the Lands of the Owner may be deposited, registered, recorded or filed.

“CER Act” means the *Canadian Energy Regulator Act* (Canada), and regulations thereunder, all as amended or replaced from time to time.

“Owner” means the Registered Owner or occupant or other person interested in the Lands of the Owner, or all of them, where the context so requires.

“Permitted Improvement” means an Improvement within the Pipeline ROW Area for which there is an Approval and for which there has been compliance with any conditions that are part of that Approval.

“Pipeline” means a pipeline for which Trans Mountain has approval under the CER Act for the transportation, storage and handling of oil, other liquid or gaseous hydrocarbons, and any products or by-products thereof together with all installations, equipment, fittings and facilities included in, associated with, appurtenant, affixed or incidental thereto, including all such pipes, drips, valves, fittings, connections, meters and cathodic protection equipment, and telecommunication and electrical facilities used for or in the operation and maintenance of the pipeline.

“Pipeline Construction” means the initial construction and installation of the Pipeline within the Pipeline ROW Area.

“Pipeline ROW Area Restoration” means the restoration of any part of the Pipeline ROW Area or anything within it disturbed by the exercise of the Pipeline ROW Area Rights in accordance with the following, if and to the extent applicable:

- (a) cause all construction debris to be removed from the Pipeline ROW Area;
- (b) replace all topsoil removed from, grade and contour and otherwise restore the Pipeline ROW Area so it is suitable for its use as a pipeline ROW and any prior use thereof that is not an Incompatible Use; and
- (c) restore Permitted Improvements within the Pipeline ROW Area.

“Placed Soil” means Soil that has been deposited, dumped or placed on land.

“Registered Owner” means the owner of the fee simple estate in the Lands of the Owner.

“Soil” means soil, fill, earth, sand, gravel, and other material of any kind or nature of which land is composed.

“Temporary Workspace Area Restoration” means the restoration of any part of the Temporary Workspace Area or anything within it disturbed by the exercise of the Temporary Workspace Area Rights in accordance with the following, if and to the extent reasonably practicable:

- (a) cause all construction debris to be removed from the Temporary Workspace Area;
- (b) replace all topsoil removed from, grade and contour and otherwise restore the Temporary Workspace Area so it is suitable for any prior use thereof; and
- (c) restore pre-existing Improvements within the Temporary Workspace Area.

“Trans Mountain” means Trans Mountain Pipeline ULC.

“Vegetation” means trees, shrubs, nursery stock and other vegetation and includes the limbs or growth of any Vegetation.

“within” means across, over, under, in, through and on.

Exhibit "B"

Copy of the Current Certificate of Title for the Lands

TITLE SEARCH PRINT

2022-01-21, 07:19:12

File Reference: 12012

Requestor: Kirsten Nowak

Declared Value \$70,000

****CURRENT INFORMATION ONLY - NO CANCELLED INFORMATION SHOWN****

Land Title District

KAMLOOPS

Land Title Office

KAMLOOPS

Title Number

KG92186

From Title Number

T50954

Application Received

1993-09-21

Application Entered

1993-10-06

Registered Owner in Fee Simple

Registered Owner/Mailing Address:

WILLIAM ELMER EHLERS, SAWMILL WORKER

MARY JACOBA EHLERS, COOK

PO BOX 17

AVOLA, BC

V0E 1C0

AS JOINT TENANTS

Taxation Authority

Kamloops Assessment Area

Description of Land

Parcel Identifier:

012-988-511

Legal Description:

DISTRICT LOT 2514 KAMLOOPS DIVISION YALE DISTRICT EXCEPT:

(1) PART OUTLINED RED ON PLAN B123

(2) PLANS 16981 AND H8060

Legal Notations

THIS CERTIFICATE OF TITLE MAY BE AFFECTED BY THE AGRICULTURAL LAND COMMISSION ACT, SEE AGRICULTURAL LAND RESERVE PLAN NO. M11379

TITLE SEARCH PRINT

2022-01-21, 07:19:12

File Reference: 12012

Requestor: Kirsten Nowak

Declared Value \$70,000

Charges, Liens and Interests

Nature:	RIGHT OF WAY
Registration Number:	50757E
Registration Date and Time:	1952-08-05 11:19
Registered Owner:	TRANS MOUNTAIN PIPELINE ULC INCORPORATION NO. A0070893 CA9041135
Transfer Number:	
Remarks:	DL 2514 KDYD EXCEPT PORTIONS (1) OUTLINED RED ON PLAN B123 AND (2) INCLUDED WITHIN THE BOUNDARIES OF PLAN 16981 PART OUTLINED RED ON PLAN A1380 EXTENDED BY CA9517216 MODIFIED BY CA9517217

Nature:	RIGHT OF WAY
Registration Number:	B4666
Registration Date and Time:	1967-03-13 13:05
Registered Owner:	BRITISH COLUMBIA HYDRO AND POWER AUTHORITY INTER ALIA
Remarks:	PART OF DL 2514 KDYD EXCEPT THOSE PARTS THEREOF (1) OUTLINED RED ON PLAN B123 AND (2) INCLUDED WITHIN THE BOUNDARIES OF PLAN 16981 OUTLINED RED ON PLAN A3079

Nature:	STATUTORY RIGHT OF WAY
Registration Number:	KB25114
Registration Date and Time:	1988-11-01 14:16
Registered Owner:	BRITISH COLUMBIA TELEPHONE COMPANY(REG NO 1801A) INTER ALIA
Remarks:	ANCILLARY RIGHTS

Nature:	STATUTORY RIGHT OF WAY
Registration Number:	CA9517216
Registration Date and Time:	2021-11-18 15:39
Registered Owner:	TRANS MOUNTAIN PIPELINE ULC INCORPORATION NO. A0070893
Remarks:	PART IN PLAN EPP113985 EXTENSION OF 50757E

Nature:	MODIFICATION
Registration Number:	CA9517217
Registration Date and Time:	2021-11-18 15:39
Remarks:	MODIFICATION OF 50757E

Duplicate Indefeasible Title

NONE OUTSTANDING

TITLE SEARCH PRINT

File Reference: 12012
Declared Value \$70,000

2022-01-21, 07:19:12
Requestor: Kirsten Nowak

Transfers NONE

Pending Applications NONE

Exhibit "C"

Copy of Statutory Right of Way

DECLARATION(S) ATTACHED



Land Title Act
Charge
 General Instrument - Part 1

KAMLOOPS LAND TITLE OFFICE
 NOV 18 2021 15:39:10.001
CA9517216-CA9517217

1. Application

**Bryce Kustra, Partner of Osler, Hoskin & Harcourt
 LLP
 Suite 2700, Brookfield Place
 225 - 6th Avenue S.W.
 Calgary AB T2P 1N2
 403-260-7032**

Tract 1007
 File No. 1192501 REGLW

2. Description of Land

PID/Plan Number	Legal Description
012-988-511	DISTRICT LOT 2514 KAMLOOPS DIVISION YALE DISTRICT EXCEPT: (1) PART OUTLINED RED ON PLAN B123 (2) PLANS 16981 AND H8060

3. Nature of Interest

Type	Number	Additional Information
STATUTORY RIGHT OF WAY	50757E	Extension of Statutory Right of Way 50757E (transferred by LB44831) as to part shown outlined on Plan EPP113985
MODIFICATION	50757E	Modification of Statutory Right of Way 50757E (transferred by LB44831 and as extended by the terms of this Instrument) Page 2, Clause #2

4. Terms

Part 2 of this instrument consists of:
(b) Express Charge Terms Annexed as Part 2

5. Transferor(s)

WILLIAM ELMER EHLERS
MARY JACOBA EHLERS

6. Transferee(s)

TRANS MOUNTAIN PIPELINE ULC SUITE 3500, 855 - 2ND STREET S.W. CALGARY AB T2P 4J8	A0070893
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7. Additional or Modified Terms



Land Title Act
Charge
General Instrument - Part 1

8. Execution(s)

This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Witnessing Officer Signature

Execution Date

Transferor Signature(s)

Maria Frankova
Commissioner for Taking Affidavits
for British Columbia
7815 Shellmont St
Burnaby BC V5A 4S9

YYYY-MM-DD

2021-10-28

WILLIAM ELMER EHLERS

My Commission expires April 30, 2024

MARY JACOBA EHLERS

Officer Certification

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

Witnessing Officer Signature

Execution Date

Transferor Signature(s)

Maria Frankova
Commissioner for Taking Affidavits
for British Columbia
7815 Shellmont St
Burnaby BC V5A 4S9

YYYY-MM-DD

2021-11-01

TRANS MOUNTAIN PIPELINE ULC
By their Authorized Signatory

My Commission expires April 30, 2024

ALAIN PARISE, Director, Land - TMEP

Officer Certification

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.



Land Title Act

Charge

General Instrument - Part 1

Electronic Signature

Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996 c.250, that you certify this document under section 168.41 (4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.

**Bryce Linden
Kustra 1SVZ62**

Digitally signed by
Bryce Linden Kustra 1SVZ62
Date: 2021-11-18
14:55:22 -08:00

LAND TITLE ACT
TERMS OF INSTRUMENT – PART 2

Extension and Modification of Statutory Right Of Way

BETWEEN:

WILLIAM ELMER EHLERS and MARY JACOBA EHLERS
PO Box 17
Avola, BC
V0E 1C0

(the “**Grantor**”)

AND:

TRANS MOUNTAIN PIPELINE ULC
Suite 2700, 300 – 5th Avenue SW
Calgary, AB
T2P 5J2

(the “**Grantee**”)

- A. By a Statutory Right of Way (the “**Original Charge**”) dated July 21, 1952 made between Wayne Forrest Knowlton, a predecessor in interest to the Grantor (the “**Original Grantor**”), and Trans Mountain Oil Pipe Line Company, a prior name of the Grantee, registered in the Land Title Office under instrument 50757E, the Original Grantor granted a right of way over a portion of the lands and premises currently known as:

DISTRICT LOT 2514 KAMLOOPS DIVISION YALE DISTRICT EXCEPT:

- (1) PART OUTLINED RED ON PLAN B123
(2) PLANS 16981 AND H8060

PID: 012-988-511

(the “**Lands**”), as shown on Plan A1380.

- B. The Grantor and the Grantee desire that the Original Charge be extended to charge that portion (the “**Extended Area**”) of the Lands as shown on EPP113985.
- C. The Grantor and the Grantee wish to amend the Original Charge, as set out in this Instrument.

- 2 -

THEREFORE in consideration of the amount of \$10.00 paid by each of the Grantor and the Grantee to each other, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor and the Grantee covenant and agree as follows:

1. Extension of Original Charge

The Grantor hereby extends the charge of the Original Charge by granting all its right, title and interest in and to the Extended Area in favour of the Grantee in the same manner and to the same extent as if the Extended Area had been included in and subject to all the terms, conditions, covenants and stipulations contained in the Original Charge and as if the Extended Area were described in the Original Charge at the time of the original execution thereof.

2. Amendments

The Grantor and the Grantee hereby amend the Original Charge by:

- (a) deleting the “Third” section of the Original Charge in its entirety and replacing it with “Intentionally Deleted”;
- (b) by adding a new “Sixteenth” section as follows: “**Sixteenth:** In respect of the area set out on Plan EPP113985 (the “**Extended Area**”), the Grantee shall compensate the Grantor for damages caused by the Grantee's operations, pipelines or abandoned pipelines to the extent contemplated by the provisions of the *Canadian Energy Regulator Act* (the “**CER Act**”) governing compensation including any adverse effect on the remaining lands of the Grantor resulting from the Grantee’s operations, pipelines or abandoned pipelines within the Extended Area, including, (i) subject to the rights granted to the Grantor under this Agreement, any restrictions on the use of the Extended Area by operation of s. 335 of the CER Act; and (ii) restrictions on the use of the remaining lands of the Grantor by operation of s. 335 of the CER Act. In this section and the following section, “pipelines” and “abandoned pipelines” have the meanings given in the CER Act.”; and
- (c) by adding a new “Seventeenth” section as follows: “**Seventeenth:** In respect of the Extended Area, the Grantee shall indemnify the Grantor from all liabilities, damages, claims, suits and actions resulting from the Grantee's operations,

- 3 -

pipelines or abandoned pipelines, other than liabilities, damages, claims, suits and actions resulting from the gross negligence or willful misconduct of the Grantor.”

3. Construction.

The Original Charge will henceforth be read and construed in conjunction with this Instrument and will be regarded as modified and extended accordingly.

In Witness Whereof the parties acknowledge that this Instrument has been duly executed and delivered by the parties executing the Form C attached to and forming part of this Instrument.

END OF DOCUMENT

**LAND TITLE ACT
FORM DECLARATION**

Related Document Number: CA9517216

PAGE 1 OF 1 PAGES

Your electronic signature is a representation that

(a) you are a subscriber under section 168.6 of the Land Title Act, RSBC 1996 c.250, and that you are authorized to electronically sign this document by an e-filing direction made under section 168.22(2) of the act, or

(b) you are a designate authorized to certify this application under section 168.4 of the Land Title Act, RSBC 1996, c.250, that you certify this application under section 168.43(3) of the act, and that the supporting document or a true copy of the supporting document, if a true copy is allowed under an e-filing direction, is in your possession, or

(c) if the purpose of this declaration is to bring to the attention of the registrar an error, omission or misdescription in a previously submitted document under section 168.55 of the act, you certify that, based on your personal knowledge or reasonable belief, this declaration sets out the material facts accurately.

Bryce Linden Kustra 1SVZ62	Digitally signed by
	Bryce Linden Kustra
	1SVZ62
	Date: 2022.01.04
	22:37:54 -07'00'

The Plan referred to in both Part 1 and Part 2 of the Form C, being Plan EPP113985, is now registered.

BRYCE KUSTRA

NOTE:

A Declaration cannot be used to submit a request to the Registrar for the withdrawal of a document.

Fee Collected for Document: \$14.34

**LAND TITLE ACT
FORM DECLARATION**

Related Document Number: CA9517216

PAGE 1 OF 2 PAGES

Your electronic signature is a representation that

(a) you are a subscriber under section 168.6 of the Land Title Act, RSBC 1996 c.250, and that you are authorized to electronically sign this document by an e-filing direction made under section 168.22(2) of the act, or

(b) you are a designate authorized to certify this application under section 168.4 of the Land Title Act, RSBC 1996, c.250, that you certify this application under section 168.43(3) of the act, and that the supporting document or a true copy of the supporting document, if a true copy is allowed under an e-filing direction, is in your possession, or

(c) if the purpose of this declaration is to bring to the attention of the registrar an error, omission or misdescription in a previously submitted document under section 168.55 of the act, you certify that, based on your personal knowledge or reasonable belief, this declaration sets out the material facts accurately.

Bryce Linden Kustra 1SVZ62	Digitally signed by
	Bryce Linden Kustra
	1SVZ62
	Date: 2022.01.17 11:19:25 -07'00'

I, Bryce Kustra, solicitor of Trans Mountain Pipeline ULC, have in my possession an email received January 17, 2022, from the Provincial Agricultural Land Commission titled "Agricultural Land Commission SRW Notification ID: SRW64639 Receipt of Notification of Statutory Right of Way" that pursuant to the Agricultural Land Commission Act is required to be filed in support of the accompanying statutory right of way. The material facts of this Receipt of Notification of Statutory Right of Way in my possession are as set out in the attached imaged copy.

BRYCE KUSTRA

NOTE:

A Declaration cannot be used to submit a request to the Registrar for the withdrawal of a document.

Fee Collected for Document: \$0.00

Kustra, Bryce

From: noreply@gov.bc.ca
Sent: Monday, January 17, 2022 11:00 AM
To: Kustra, Bryce
Subject: Agricultural Land Commission SRW Notification ID: SRW64639 Receipt of Notification of Statutory Right of Way
Attachments: SRW64639m1.pdf



Monday, January 17, 2022

ALC Notification ID: SRW64639

Your File Number: 1192501

Dear Bryce Kustra,

The ALC's attached PDF response is proof that the notification of statutory right of way has been provided for a s. 218 Statutory Right of Way of the *Land Title Act* as required by s.18.1(2) of the *Agricultural Land Commission Act*.

The ALC's attached PDF response will need to be appended as an additional document to the LTSA SRW application package.

Please be advised that receipt of the notification of registration of a statutory right of way does not constitute an approval to use, construct works, or remove soil or place fill (including gravel) within the statutory right of way nor does it compel the Commission to approve the construction of works in a statutory right of way.

An application to use or construct works, or a notice of intent to place fill on or remove soil from the statutory right of way must be submitted and approved by the Commission before any works are undertaken.

Please refer to ALC Notification ID SRW64639 in all future correspondence with this office. If you are acting on behalf of the registered owner of the statutory right of way, it is your responsibility to advise your client(s) of this, and any future, correspondence.

Further correspondence with respect to this notification should be directed to ALC.LUPRT@gov.bc.ca.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Attachment: SRW64639m1

Exhibit "D"

Copy of the Current Certificate of Title for the Lands showing the discharged Right of Entry Order

TITLE SEARCH PRINT

File Reference: 87442/58

Declared Value \$70,000

2022-01-21, 12:11:33

Requestor: Lily Sung

****CURRENT AND CANCELLED INFORMATION SHOWN****

Land Title District

Land Title Office

KAMLOOPS

KAMLOOPS

Title Number

From Title Number

KG92186

T50954

Application Received

1993-09-21

Application Entered

1993-10-06

Registered Owner in Fee Simple

Registered Owner/Mailing Address:

WILLIAM ELMER EHLERS, SAWMILL WORKER

MARY JACOBA EHLERS, COOK

PO BOX 17

AVOLA, BC

V0E 1C0

AS JOINT TENANTS

Taxation Authority

Kamloops Assessment Area

Description of Land

Parcel Identifier:

012-988-511

Legal Description:

DISTRICT LOT 2514 KAMLOOPS DIVISION YALE DISTRICT EXCEPT:

(1) PART OUTLINED RED ON PLAN B123

(2) PLANS 16981 AND H8060

Legal Notations

THIS CERTIFICATE OF TITLE MAY BE AFFECTED BY THE AGRICULTURAL LAND COMMISSION ACT, SEE AGRICULTURAL LAND RESERVE PLAN NO. M11379

TITLE SEARCH PRINT

2022-01-21, 12:11:33

File Reference: 87442/58

Requestor: Lily Sung

Declared Value \$70,000

Charges, Liens and Interests

Nature: RIGHT OF WAY
 Registration Number: 50757E
 Registration Date and Time: 1952-08-05 11:19
 Registered Owner: TRANS MOUNTAIN OIL PIPE LINE COMPANY
 Transfer Number: 50757E TRANSFERRED TO LB44831
 Registered Owner: TRANS MOUNTAIN PIPELINE INC.
 INCORPORATION NO. A70893
 Transfer Number: LB44831 NAME CHANGED BY CA9041135
 Registered Owner: TRANS MOUNTAIN PIPELINE ULC
 INCORPORATION NO. A0070893
 Transfer Number: CA9041135
 Remarks: DL 2514 KDYD EXCEPT PORTIONS (1) OUTLINED RED ON
 PLAN B123 AND (2) INCLUDED WITHIN THE BOUNDARIES
 OF PLAN 16981
 PART OUTLINED RED ON PLAN A1380
 EXTENDED BY CA9517216
 MODIFIED BY CA9517217

Nature: RIGHT OF WAY
 Registration Number: B4666
 Registration Date and Time: 1967-03-13 13:05
 Registered Owner: BRITISH COLUMBIA HYDRO AND POWER AUTHORITY
 Remarks: INTER ALIA
 PART OF DL 2514 KDYD EXCEPT THOSE PARTS THEREOF
 (1) OUTLINED RED ON PLAN B123 AND (2) INCLUDED
 WITHIN THE BOUNDARIES OF PLAN 16981
 OUTLINED RED ON PLAN A3079

Nature: STATUTORY RIGHT OF WAY
 Registration Number: KB25114
 Registration Date and Time: 1988-11-01 14:16
 Registered Owner: BRITISH COLUMBIA TELEPHONE COMPANY(REG NO 1801A)
 Remarks: INTER ALIA
 ANCILLARY RIGHTS

Nature: MORTGAGE
 Registration Number: KC43618
 Registration Date and Time: 1989-06-09 09:32
 Registered Owner: MONTREAL TRUST COMPANY, IN TRUST
 Remarks: INTER ALIA OF KB25114
Cancelled By: CA3401495
Cancelled Date: 2013-10-15

TITLE SEARCH PRINT

2022-01-21, 12:11:33

File Reference: 87442/58

Requestor: Lily Sung

Declared Value \$70,000

Nature: MORTGAGE
 Registration Number: KG3374
 Registration Date and Time: 1993-01-14 12:40
 Registered Owner: KENNETH HAWKINS
Cancelled By: KG95190
Cancelled Date: 1993-09-29

Nature: RIGHT OF ENTRY
 Registration Number: CA8415512
 Registration Date and Time: 2020-09-08 14:01
 Registered Owner: TRANS MOUNTAIN PIPELINE ULC
 INCORPORATION NO. A0070893
 Remarks: PURSUANT TO SECTION 324 CANADIAN REGULATOR ACT
Cancelled By: CA9517218
Cancelled Date: 2021-11-18

Nature: STATUTORY RIGHT OF WAY
 Registration Number: CA9517216
 Registration Date and Time: 2021-11-18 15:39
 Registered Owner: TRANS MOUNTAIN PIPELINE ULC
 INCORPORATION NO. A0070893
 Remarks: PART IN PLAN EPP113985
 EXTENSION OF 50757E

Nature: MODIFICATION
 Registration Number: CA9517217
 Registration Date and Time: 2021-11-18 15:39
 Remarks: MODIFICATION OF 50757E

Duplicate Infeasible Title NONE OUTSTANDING

Transfers NONE

Pending Applications NONE

Corrections NONE

PARCEL IDENTIFIER (PID): 012-988-511

SHORT LEGAL DESCRIPTION:U/KDYD/////2514

MARG:REM *

TAXATION AUTHORITY:

1 Kamloops Assessment Area

FULL LEGAL DESCRIPTION: CURRENT

DISTRICT LOT 2514 KAMLOOPS DIVISION YALE DISTRICT EXCEPT:

(1) PART OUTLINED RED ON PLAN B123

(2) PLANS 16981 AND H8060

MISCELLANEOUS NOTES:

PL A1380 & A3079

HWY VESTING (FORM 12) - DF X13910 (PL H8060)

RD - DF 51100

CG DD 23331

SRW PL KAP44438 DF KE2140

PP KAP83777

ASSOCIATED PLAN NUMBERS:

RIGHT OF WAY PLAN KAP1380A

STATUTORY RIGHT OF WAY PLAN KAP44438

PLAN KAP51100

ROAD PLAN KAP8060H

POSTING PLAN KAP83777

STATUTORY RIGHT OF WAY PLAN EPP113985

AFB/IFB: MN: Y PE: 0 SL: 1 TI: 1