



File OF-Fac-Oil-T260-2013-03 61
3 March 2022

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Dear Scott Stoness and Jeremy Barretto:

**Trans Mountain Pipeline ULC (Trans Mountain)
Trans Mountain Expansion Project (TMEP)
Certificate of Public Convenience and Necessity (Certificate) OC-065
Application pursuant to section 211 of the *Canadian Energy Regulator Act*
(CER Act) – Segment 5.3
Order AO-001-OPL-003-2020**

**Before: D. Côté, Presiding Commissioner; K. Penney, Commissioner;
M. Watton, Commissioner**

A. Background

On 18 June 2019, the Governor in Council approved the TMEP, subject to 156 conditions. Subsequently, on 21 June 2019, the National Energy Board¹ (**NEB**) issued Certificate OC-065 ([C00061](#)).

On 19 July 2019, the NEB directed Trans Mountain to file its Plan, Profile and Book of Reference (**PPBoR**) for the entire TMEP route ([C00593](#)). Trans Mountain filed its PPBoR for Segment 5 on 31 July 2019 ([C00798](#)), including PPBoR Sheets M002-PM03011-014 and 015 in Segment 5.3.

Via Order OPL-003-2020 ([C06126](#)) dated 30 April 2020, the Commission of the Canada Energy Regulator (**Commission**) approved various PPBoR sheets in Segments 3, 4, and 5, including PPBoR Sheets M002-PM03011-014 and 015. The Commission attached conditions to its approval of these PPBoR sheets, which arose through Detailed Route Hearings MH-002-2020 (Sugarloaf Ranches Limited [**Sugarloaf**]) and MH-003-2020 (KGHM Ajax Mining Inc. [**KGHM**]).

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¹ On 28 August 2019, pursuant to the *Canadian Energy Regulator Act*, the National Energy Board was replaced with the Canada Energy Regulator. The National Energy Board's adjudicative work has been transferred to the Commission of the Canada Energy Regulator.

B. Application

On 11 February 2022, Trans Mountain filed an application ([C17686](#)), pursuant to section 211 of the CER Act, for approval of a route deviation on the following tracts appearing on PPBoR Sheets M002-PM03011-014 and 015. Trans Mountain included revised versions of these PPBoR sheets in its application.

PPBoR Sheet	Landowner	Tract(s)
M002-PM03011-014	KGHM	1614, PC 7130
	Sugarloaf	PC 7129, PC 7128, PC 7126, PC 7125
	The Crown in Right of British Columbia as represented by the Minister of Sustainable Resource Management c/o BC Oil and Gas Commission (BCOGC)	PC 7128.09
M002-PM03011-015	KGHM	PC 7123
	Sugarloaf	PC 7124, PC 7121, PC 7120
	The Crown in Right of British Columbia c/o BCOGC	PC 7120.01

The proposed deviation is entirely within the approved pipeline corridor. No landowners or land parcels, other than those noted above, are impacted by the proposed deviation.

Trans Mountain states that the proposed deviation was developed collaboratively through engagement with Stk'emlupsemc te Secwepemc Nation (**SSN**). It is intended to minimize surface disturbances in the Pipsell area, which holds spiritual and cultural significance to SSN. The revised route incorporates changes to the TMEP right-of-way to accommodate a change in construction methodology from conventional open trench to micro-tunneling. In January 2022, SSN consented to the revised route and proposed construction methodology and confirmed that they address SSN's concerns.

Between November 2021 and January 2022, Trans Mountain engaged with the impacted landowners with respect to the revised route. It submits that, on 29 December 2021, KGHM and Sugarloaf consented to the revised route and stated that they have no objection to its regulatory approval.

On 11 January 2022, Trans Mountain notified the BCOGC that it would file the deviation application, noted its understanding that the revised route would not require an amendment to the existing BCOGC permit, and requested that the BCOGC provide any comments or concerns. At the time of its application, Trans Mountain had not received any comments or concerns from the BCOGC.

Trans Mountain confirms that it served on the impacted landowners a *National Energy Board Act* subsection 87(1) and/or a CER Act subsection 322(1) notice regarding the revised route.

In accordance with the Canada Energy Regulator Filing Manual, Trans Mountain submits that the potential environmental and socio-economic effects associated with the deviation are similar to those addressed in its application for the TMEP and related filings.

No new studies are required and no new mitigation measures are recommended beyond those identified during the OH-001-2014 and MH-052-2018 proceedings and subsequent condition compliance filings, which are incorporated within the updated Pipeline Environmental Protection Plan for the TMEP (filed under Condition 72 of Certificate OC-065).

Trans Mountain states that there are no new condition or compliance requirements associated with the impacted lands as a result of the proposed deviation.

C. Commission analysis and findings

Decision

The Commission notes Trans Mountain's confirmation that the proposed deviation is within the approved pipeline corridor.

Having considered the submissions made by Trans Mountain in its application and summarized above, and the documents attached to the application, the Commission approves the proposed deviation, as well as revised PPBoR Sheets M002-PM03011-014 and 015. The Commission attaches Order AO-001-OPL-003-2020 reflecting its approval.

The Commission will forward to Trans Mountain three certified copies of each of Order AO-001-OPL-003-2020 and revised PPBoR Sheets M002-PM03011-014 and 015 for deposit in the appropriate Land Titles or Registry Office(s), pursuant to paragraph 198(d) of the CER Act.

Conditions

The conditions of approval attached to Order OPL-003-2020 pertain to only certain of the lands impacted by the deviation.

The Commission notes that Trans Mountain made a filing with respect to Conditions 2 and 3 on 28 May 2020 ([C06534](#)). In relation to Condition 2, Trans Mountain filed a commitments tracking table listing one commitment (regarding access plans), which Trans Mountain indicated had been addressed. In relation to Condition 3, Trans Mountain filed updated environmental and construction alignment sheets.

As a result of the Commission's approval of the proposed deviation, the Commission directs Trans Mountain to file, **within 30 days of the issuance of the attached Order**, updated environmental and construction alignment sheets under Condition 3 of Order OPL-003-2020 depicting the TMEP route from Kilometre Posts 851.5 to 856.12 to reflect the revised route. The updated environmental and construction alignment sheets should also contain any revisions to the included technical information, should any updates be required as a result of the approved deviation.

Trans Mountain is reminded that it must also satisfy all applicable pre-construction conditions of Certificate OC-065 before it can proceed with construction on the lands covered by the approved deviation.

Trans Mountain is directed to serve on the impacted landowners and SSN, **on or before 10 March 2022**, a copy of this letter and Order AO-001-OPL-003-2020.

Yours sincerely,

Signed by S. Wong

for
Ramona Sladic
Secretary of the Commission

Attachment

c.c. Trans Mountain Canada Inc., General Inbox, info@transmountain.com