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May 28, 2014

Toronto

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Our Matter Number: 1136516

Montréal

**Filed Electronically**

Ottawa

National Energy Board  
444 Seventh Avenue SW  
Calgary, AB T2P 0X8

New York

Attention: Ms. Sheri Young, Board Secretary

Dear Ms. Young:

**Re: Trans Mountain Pipeline ULC  
Application for the Trans Mountain Expansion Project ("Application")  
Hearing Order OH-001-2014  
Board File OF-Fac-Oil-T260-2013-03 02  
Notice of Motion**

We act for Trans Mountain Pipeline ULC ("Trans Mountain") in respect of the Application for the Trans Mountain Expansion Project ("Expansion").

We enclose a copy of a Notice of Motion on behalf of Trans Mountain.

If you have any questions regarding the above, please contact the undersigned.

Yours truly,



for Shawn Denstedt, Q.C.

c: Intervenors

**NATIONAL ENERGY BOARD**

**IN THE MATTER OF** the *National Energy Board Act*, R.S.C. 1985, c. N-7, as amended, ("*NEB Act*") and the Regulations made thereunder;

**AND IN THE MATTER OF** the *Canadian Environmental Assessment Act, 2012*, S.C., c. 19, s. 52, as amended and the Regulations made thereunder;

**AND IN THE MATTER OF** an application by Trans Mountain Pipeline ULC as General Partner of Trans Mountain Pipeline L.P. (collectively "Trans Mountain") for a Certificate of Public Convenience and Necessity and other related approvals pursuant to Part III of the *NEB Act*.

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**NOTICE OF MOTION OF TRANS MOUNTAIN**

**May 28, 2014**

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To: The Secretary  
National Energy Board  
444-7<sup>th</sup> Avenue S.W.  
Calgary, AB T2P 0X8

## DECISION OR ORDER REQUESTED

1. That the National Energy Board (“NEB” or “Board”) amend the deadline for Trans Mountain to provide a response to Round 1 intervenor information requests in Hearing Order OH-001-2014 (“Hearing Order”) by June 27, 2014, and make consequential amendments to the Hearing Order, including rescheduling Motion Day #1.

## STATEMENTS OF FACTS

2. The Board issued the Hearing Order on April 2, 2014.<sup>1</sup>
3. The Hearing Order required intervenors to submit Round 1 information requests to Trans Mountain by May 2, 2014 and Trans Mountain’s responses to the intervenor Round 1 information requests by May 29, 2014.<sup>2</sup>
4. In its Ruling No. 9, dated April 24, 2014, the Board considered requests from several intervenors to extend the deadline for submitting Round 1 information requests to Trans Mountain. The Board extended the deadline for submitting Round 1 information requests by 10 days to May 12, 2014 and Trans Mountain’s response deadline by 6 days to June 4, 2014. Motion Day #1 was rescheduled to June 13, 2014.<sup>3</sup>
5. Trans Mountain has received over ten thousand questions in information requests from a total of 122 intervenors.<sup>4</sup>

## GROUND FOR REQUEST

6. Pursuant to section 34(1)(a) of the *National Energy Board Rules of Practice and Procedure*, 1995<sup>5</sup> (“Rules”) a party served with an information request shall provide a full and adequate response in writing to each information request “within any time limit fixed by the Board”.

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<sup>1</sup> National Energy Board Hearing Order OH-001-2014 (2 April 2014) [“Hearing Order”].

<sup>2</sup> Hearing Order, 8.

<sup>3</sup> National Energy Board Ruling No. 9, “Request to extend deadline for Round 1 intervenor information requests to Trans Mountain” (24 April 2014) [“Ruling 9”]

<sup>4</sup> Refer to the NEB’s public registry for all intervenor information requests to Trans Mountain: Trans Mountain Expansion Project Regulatory Documents Folder 2392873, intervenors, available at: [www.neb-one.gc.ca](http://www.neb-one.gc.ca).

<sup>5</sup> SOR/95-208.

7. The Hearing Order requires that each information request be relevant to one or more of the List of Issues.<sup>6</sup> The Board stated that intervenors may wish to ask the majority of their questions in the first round in order to gather evidence early on.<sup>7</sup>
8. Trans Mountain has worked, and is working, diligently to provide a full and adequate response to all information requests that it believes are relevant to the List of Issues. Despite these efforts, because of the large number of information requests posed, Trans Mountain simply cannot respond with full and adequate responses to those information requests it believes are relevant to the List of Issues by June 4, 2014.
9. Trans Mountain is working systematically through the information requests and is able to respond to Round 1 information requests filed by 60 intervenors by the current deadline of June 4, 2014. Refer to the list in Schedule "A".
10. In respect of the remaining information requests, Trans Mountain has canvassed its team and in order to permit full and adequate responses, Trans Mountain is unable to file the remaining responses until June 27, 2014. Refer to the list in Schedule "B".
11. In Trans Mountain's view, the proposed schedule meets the Board's natural justice requirements since all intervenors will have an additional opportunity to test Trans Mountain's evidence during Round 2 information requests.<sup>8</sup> Round 2 information requests are due on September 11, 2014. Accordingly, if Trans Mountain files the remaining responses by June 27, 2014, intervenors will still have more than two months to review the responses in advance of filing Round 2 information requests.
12. In addition, intervenors will also have the opportunity to test the adequacy of Trans Mountain's information request responses on Motion Day #1,<sup>9</sup> which Trans Mountain respectfully submits should be moved from June 13, 2014 to July 7, 2014, to accord with the requested time extension for responding to Round 1 information requests.

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<sup>6</sup> Hearing Order, 8.

<sup>7</sup> Hearing Order, 12.

<sup>8</sup> Ruling 9, 3.

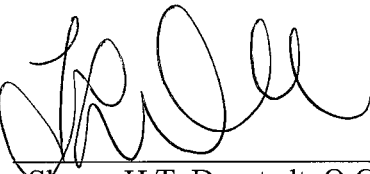
<sup>9</sup> Ruling 9, 3.

## DECISION SOUGHT

13. Trans Mountain requests that the Board amend the deadline for Trans Mountain's response to Round 1 intervenor information requests by June 27, 2014 and make consequential amendments to the Hearing Order, including rescheduling Motion Day #1.

May 28, 2014

Date Submitted

for 

Shawn H.T. Denstedt, Q.C.  
Counsel for Trans Mountain

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## **Schedule “A”- Round 1 Information Request Responses - June 4, 2014**

### **Intervenor**

1. Adams Lake Indian Band
2. Allan, Robyn
3. Ashcroft Indian Band
4. Asini Wachi Nehiyawak Traditional Band
5. British Columbia Hydro and Power Authority (BC Hydro)
6. Burnaby Teachers’ Association
7. Burrard Inlet Marine Enhancement Society (BIMES)
8. Canadian Parks and Wilderness Society (CPAWS-BC)
9. Chris, Amy
10. City of Abbotsford
11. City of Coquitlam
12. City of New Westminster
13. City of Port Moody
14. City of Surrey
15. Collaborative Group of Landowners Affected by Pipelines (CGLAP)
16. Corcoran, Karen
17. Craig, Lisa
18. Danderfer, Karen
19. Dayson, Paul
20. Deng Tianmei
21. Earle, Thomas
22. Eliesen, Marc
23. Farquhar, Edward

24. Fraser Valley Watersheds Coalition
25. Friends of the Earth – US
26. Government of Canada
27. Government of Canada – Aboriginal Affairs and Northern Development Canada
28. Government of Canada – Natural Resources Canada
29. Government of Canada – Parks Canada Agency
30. Hackett, Angelika
31. Hackett, Robert
32. Hayden, Maurice F
33. Inskip, Terence
34. Katzie First Nation
35. Kerr, Kandace
36. Kingman, Brian
37. Klakowich, Ken
38. Lin, Ping
39. Makah Tribal Council
40. McDonald, Kenneth
41. Michel First Nation
42. Miller, Brahm
43. Neskonalith Indian Band
44. Nooaitch Indian Band
45. Parents from Cameron Elementary School Burnaby
46. Preston, Daniel K
47. Redwoods Golf Course
48. Stk'emlupsemc of the Secwepemc Nation (SSN)
49. Sto:Lo Collective

50. Surrey Teachers' Association
51. Syme, Neil
52. T. Buck Suzuki Environmental Foundation
53. Township of Langley
54. Unifor
55. Vancouver Fraser Port Authority DBA Port Metro  
Vancouver
56. Veirs, Val
57. Vezina, Danielle
58. Village of Belcarra
59. Wright, Ken
60. Yarrow Ecovillage



**Schedule “B”-**  
**Round 1 Information Request Responses - June 27, 2014 [proposed]**

- |     |  |      |   |
|-----|--|------|---|
| 61. | Bickle, Eric   | 81.  | Hawes, Frances  |
| 62. | Black, John  | 82.  | Jensen, Catherine                                     |
| 63. | BC Nature and Nature Canada                                | 83.  | Kwantlen First Nation                                 |
| 64. | Board of the Friends of the Ecological Reserves            | 84.  | Living Oceans Society                                 |
| 65. | Burnaby Residents Opposing Kinder Morgan Expansion (BROKE) | 85.  | Lotus Sports Club                                     |
| 66. | City of Burnaby  | 86.  | MacDonald, Sheilagh                                   |
| 67. | City of Vancouver  | 87.  | MacVicar, Rod   |
| 68. | Coldwater Indian Band                                      | 88.  | Matsqui First Nation                                  |
| 69. | Cowichan Tribes  | 89.  | May, Elizabeth  |
| 70. | Concerned Owners of Village Del Ponte                      | 90.  | Metro Vancouver                                       |
| 71. | Dennert, Shauna  | 91.  | Milillo, Teresa                                       |
| 72. | District of North Vancouver                                | 92.  | Moon, Kyung-Mee                                       |
| 73. | District of West Vancouver                                 | 93.  | New Democratic Party of Canada                        |
| 74. | Doherty, Dorothy   | 94.  | North Shore NOPE                                      |
| 75. | Farmer, David  | 95.  | O’Chiese First Nation                                 |
| 76. | Fraser Valley Regional District                            | 96.  | Pacheedaht First Nation                               |
| 77. | Government of Canada – Environment Canada                  | 97.  | Pine Ridge Housing Co-Operative                       |
| 78. | Hale, Michael  | 98.  | Pro Information Pro Environment United People Network |
| 79. | Halston Hills Co-Op  | 99.  | Porter, Glen  |
| 80. | Hayden, Carlin   | 100. | Province of British Columbia                          |
|     |  | 101. | Raincoast Conservation Foundation                     |

102. Regional District of Fraser-Fort George
103. Simpcw First Nation
104. Squamish Nation
105. Strata Council NW313
106. Stz'uminus First Nation
107. Sucker Creek First Nation, Ermineskin Cree First Nation, Samson Cree Nation, Whitefish Lake First Nation #128 and Kelly Lake Cree Nation (Nations)
108. Swinomish, Tulalip, Suquamish and Lummi (U.S. Tribes)
109. Taplay, Calvin
110. Tartini, Gina
111. Taylor, B.
112. Tofino Long-Beach Chamber of Commerce
113. Tsartlip First Nation
114. Tsawout First Nation
115. Tsawwassen First Nation
116. Tsleil-Waututh Nation
117. Upper Nicola Band
118. Varto, Hannah
119. Washington State Department of Ecology
120. Waterwealth Project
121. Weaver, Andrew
122. Wembley Estate Strata Council