



## LETTER OF DECISION

File OF-Fac-Oil-T260-2013-03 15  
31 August 2017

To: All persons listed in Appendix I and Appendix II

**Trans Mountain Pipeline Expansion Project Certificate OC-064  
Letter of Decision on the Filed Statements of Opposition to the Proposed Detailed  
Route of the Pipeline for Segment 1 and Segment 2**

### **Background Information**

On 19 May 2016, the National Energy Board (the Board) issued a report recommending that Governor in Council (GIC) approve the Trans Mountain Expansion Project (TMEP), subject to 157 conditions ([A77045](#)). On 29 November 2016, GIC approved the TMEP and GIC directed the Board to issue Certificate of Public Convenience and Necessity OC-064 (Certificate).

On 9 December 2016, Trans Mountain Pipeline ULC (Trans Mountain) filed its draft Plan, Profile, and Book of Reference (PPBoR), sample notices for service, and its publication plan ([A80988](#)). On 10 February 2017, the Board approved these documents ([A81698](#)).

With this approval, Trans Mountain began publishing notices with information about the detailed route approval process in local newspapers along the pipeline route, and providing a copy of the publication notice and the Board letter of 10 February 2017 to various Aboriginal groups. Trans Mountain was also required to provide hard copies of the relevant segmented PPBoR filings to local libraries, municipal offices and Indian Band offices, and to include details of the locations where the PPBoR filings can be viewed, in the published notices.

Trans Mountain also began serving written notice to landowners whose lands will be crossed by the pipeline. This notice showed where the detailed route is proposed to cross the landowner's property and provided information on how the landowner can oppose the proposed route.

During and following the time Trans Mountain was providing notification, landowners and persons, other than an owner of lands who anticipates that their lands may be adversely affected in accordance with subsections 34 (3) and 34 (4) of the *National Energy Board Act* (NEB Act) respectively, were able to file with the Board a statement of opposition to the proposed detailed route.

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As of February 2017, the Board made available on its website information about the NEB Act requirements for a statement of opposition, a template with additional instructions on the requirements for a statement of opposition, and instructions on how to file a statement of opposition. Process Advisors were available by email or phone to provide one-on-one support and answer any questions about the requirements and how to file the statement with the Board. The Process Advisors also held online tutorials about the detailed route approval process and the statement of opposition.

The Board received a total of 452 statements of opposition for the entire TMEP detailed route.

### **Detailed Route Hearings for Segment 1 and Segment 2**

On 17 and 24 February 2017, Trans Mountain filed with the Board the specific sections of the PPBoR for Segment 1 ([A81784](#)) and Segment 2 ([A81852](#)) of the proposed TMEP pipeline route.

This Letter of Decision only considers those statements of opposition filed for Segment 1 and Segment 2. The Board received one statement of opposition related to a tract in Segment 1, and 30 statements of opposition related to tracts in Segment 2.

A decision by the Board on the statements of opposition for the other segments in the TMEP detailed route process, being 3 through 7, will be issued at a later date.

### **Overview of the Statements of Opposition for Segment 1 and Segment 2**

When assessing the statements of opposition, the Board applied the criteria provided in subsections 34 (3) and (4) of the NEB Act. The assessment was based on the information provided in the statements of opposition. The Board considered:

- 1) If the person opposing is a landowner as defined under subsection 34 (3) of the NEB Act, or a person, other than an owner of lands, who anticipates that their lands may be affected as defined under subsection 34 (4) of the NEB Act;
- 2) If the opposition was about the location of the detailed route, the timing or the methods of construction; and
- 3) If the opposition was filed on time according to subsections 34 (3) and 34 (4) of the NEB Act.

### **Statements of Opposition that met the Requirements of the NEB Act**

Of the statements of opposition filed for Segment 1 and Segment 2, the Board determined that the one statement filed for Segment 1, and 27 of the 30 statements filed for Segment 2 met the requirements of the NEB Act.

The Board grants a detailed route hearing for each of the Landowners or Affected Persons listed below<sup>1</sup> (and also listed in Appendix 1 to this Letter of Decision):

- Asini Wachi Nehiyawak Traditional Band (Mountain Cree)
- Cody Baker and Stacey Fehr
- Michael Bembeneck
- Shawn Berry
- Tom and Lucille Booker
- Trudy Challborn
- Cribb Construction
- Elite Modarba Group Ltd.
- Dan Gottert
- Tim Gylander
- Dan Harris
- John Homeniuk
- Sharon McGuire
- Dianne Murray
- Stuart Palk and Wendy Bailer-Palk
- Keelan Petterson
- Lynn Petrin
- Linda Pinette
- Erich Ploentzke
- Dale and Lorna Plummer
- Rainbow Beach Developments Inc.
- Janet and Lyle Russell
- Javier and Annmarie Sarango
- Calvin and Susan Shantz
- Jesse Smith
- Dale Soetaert
- Gerald Stroud
- Harvey William Wild, Sharon Arlene Wild and Blaine Wild (Segment 1)

The Board issued a single Hearing Order on 31 August 2017, which is applicable to all the detailed route hearings for Segment 1 and Segment 2.

You should refer to the Hearing Order, which will be provided to you, for information about your roles and responsibilities as a Landowner or Affected Person in a detailed route hearing, as well as for the steps and deadlines in the hearing process. The Hearing Order assigns an individual number for each detailed route hearing. Your individual numbers are also included in Appendix I of this Letter of Decision.

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<sup>1</sup> Note that the one detailed route hearing granted for Segment 1 contains beside it that notation. All others listed are for detailed route hearings in relation to Segment 2. Further note those listings that contain a group of names are only granted one detailed route hearing, i.e. Tom and Lucille Booker.

Being granted a detailed route hearing does not prevent you and Trans Mountain from continuing to negotiate or consult. Additional support is offered by the Board to support dialogue between a company and Landowners or Affected Persons. For instance, you may be interested in the Board's Alternative Dispute Resolution (ADR) process.

An ADR process is uniquely tailored to individual needs and could take the form of a meeting between the Landowner or Affected Person, and Trans Mountain. To take advantage of ADR, both the Landowner or Affected Person, and Trans Mountain, must agree to take part. This process is voluntary and facilitated by trained Board staff, or by another neutral third party. The facilitator will assist those participating in ADR to develop a process that may help resolve issues related to the statement of opposition.

If you are interested in the Board's ADR services, a session can be scheduled at a location and time agreeable to the Landowner or Affected Person, and Trans Mountain. For more information about ADR options, please email [ADR-MRD@neb-one.gc.ca](mailto:ADR-MRD@neb-one.gc.ca) or call 1-800-899-1265.

### **Statements of Opposition that did not meet the Requirements of the NEB Act**

The Board determined that three statements of opposition in Segment 2 did not meet the requirements of the NEB Act. These are listed in Appendix II and were from:

- Edna Lilian Calvert
- John Gordon McKay and Victoria Maitland
- Wanchulak Holdings Ltd.

These statements of opposition did not meet the criteria set out in the NEB Act because they were one or more of the following:

- Lacking sufficient information for the Board to make a determination;
- Comments and information of a general nature and did not demonstrate that the opposition was related to the location of the detailed route, the timing, or the methods of construction;
- Unclear about the impact of the TMEP detailed route on the lands or the interests in lands that the person who filed the statement of opposition has; or
- About concerns outside of the detailed route process (e.g., compensation).

The Board does not have authority to determine compensation for Landowners. Compensation matters are within the authority of the Minister of Natural Resources Canada in accordance with Part V of the NEB Act. Sections 88 and 90 of the NEB Act provide that parties have the right to apply to the Minister for negotiation and binding arbitration. For information about compensation matters, contact Natural Resources Canada at [PAS-SAG@NRCan-RNCan.gc.ca](mailto:PAS-SAG@NRCan-RNCan.gc.ca) or visit <http://www.nrcan.gc.ca/energy/infrastructure/natural-gas/pipeline-arbitration-secretariat/5907>.

### **Other Opportunities to Participation in a Detailed Route Hearing**

As outlined in the Hearing Order, there will be an opportunity for persons to apply to participate in any of the detailed route hearings as a Commenter or Intervenor. This can be done by filing an application to participate using the Board's Application to Participate portal **before 4:00 pm Mountain Time on 21 September 2017**. Complete instructions are provided in section 3 of the Hearing Order. The Board will determine who will be allowed to participate as a Commenter or Intervenor in each of the detailed route hearings.

If you have any questions regarding the Hearing Order, please contact the Board's Process Advisor for this Project at [TMX.ProcessHelp@neb-one.gc.ca](mailto:TMX.ProcessHelp@neb-one.gc.ca) or toll-free 1-800-899-1265.

### **Trans Mountain Service and Notification Requirements**

The Board directs Trans Mountain to serve **by 4:00 pm Mountain Time on 7 September 2017** a copy of this Letter of Decision, the Hearing Order and its appendices, and its cover letter on all persons listed in Appendix I and Appendix II attached to this Letter of Decision (being Appendix II and Appendix III of the Hearing Order).

Further notification requirements, including requirements for the publication of the Notice of Public Hearing and providing information to Aboriginal groups are noted in the Hearing Order in sections 2.6 and 2.7.

If you have any questions regarding this Letter of Decision or the detailed route hearing process, please contact the Board's Process Advisor for this Project at [TMX.ProcessHelp@neb-one.gc.ca](mailto:TMX.ProcessHelp@neb-one.gc.ca) or toll-free 1-800-899-1265.

Yours truly,

*Original signed by L. George for*

Sheri Young  
Secretary of the Board

cc: Scott Stoness, Vice President, Regulatory and Finance, Kinder Morgan Canada Inc.  
Shawn H.T. Denstedt, counsel for Kinder Morgan Canada Inc.  
Terri-Lee V. Oleniuk, counsel for Kinder Morgan Canada Inc.

Attachments: Appendix I and Appendix II

## Appendix I – List of Landowners and Affected Persons who have met the requirements of the NEB Act

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Note that each of these listed below has a separate detailed route hearing <sup>2</sup>

First Name	Last Name	Segment	Landowner or Affected Person	Address	PPBoR Sheet Number(s)	Tract Number(s)	REGDOCS Number	Individual Hearing Order Number
Asini Wachi Nehiyawak Traditional Band (Mountain Cree)		2	Aboriginal group	Box 718, 1572 Prairie Ridge Ave., Blackfalds, AB, T0M 0J0	#N/A	#N/A	A82645	MH-004-2017
Cody Stacey	Baker Fehr	2	Landowner	Box 6591, Hinton, AB, T7V 1X8	M002-PM03006-090	728	A82870	MH-005-2017
Michael	Bembeneck	2	Landowner	4 Carldale Road, PO Box 5162, Hinton, AB, T7V 1X4	M002-PM03006-082	652	A83628	MH-006-2017
Shawn	Berry	2	Landowner	16215 Twp Rd 534, Yellowhead County, AB, T7E 3H8	M002-PM03006-056	524	A82527	MH-007-2017
Tom and Lucille	Booker	2	Landowner	19418 Township Road 530, Yellowhead County, AB, T7E 3A3	M002-PM03006-068	601	A83514	MH-008-2017
Trudy	Challborn	2	Landowner	c/o Ryan F. O'Connor 7712-104 Street, Edmonton, AB, T6E 4C5	M002-PM03006-014	283	A83098	MH-009-2017

<sup>2</sup> Note that those listings that contain a group of names are only granted one detailed route hearing, i.e. Tom and Lucille Booker.

First Name	Last Name	Segment	Landowner or Affected Person	Address	PPBoR Sheet Number(s)	Tract Number(s)	REGDOCS Number	Individual Hearing Order Number
Cribb Construction		2	Landowner	c/o J. Darryl Carter 102, 10126-97 Avenue, Grande Prairie, AB, T8V 7X6	M002- PM03006-043,  M002- PM03006-044	442, 443, 444, 445, 446	A83073	MH-010-2017
Elite Modarba Group Ltd.		2	Landowner	258 Hilliard Green, Edmonton, AB, T6R 3G5	M002- PM03006-060	554	A83107	MH-011-2017
Dan	Gottert	2	Landowner	Box 6062, Hinton, AB, T7V 1X5	M002- PM03006-090	720	A83383	MH-012-2017
Tim	Gylander	2	Landowner	394 Lessard Rd, Edmonton, AB, T6M 1A7	M002- PM03006-027	353 / 356	A82831	MH-013-2017
Dan	Harris	2	Affected Person	583217 RR 74A Box 502, Entwistle, AB, T0E 0S0	#N/A	#N/A	A82959	MH-014-2017
John	Homeniuk	2	Landowner	#205 4102-6th Ave., Edson, AB, T7E 1A4	M002- PM03006-057	533	A82551	MH-015-2017
Sharon	McGuire	2	Landowner	c/o Jeff McGuire 1 Ouellette Place, St Albert, AB, T8N 6E4	M002- PM03006-013	275	A83064	MH-016-2017
Dianne	Murray	2	Affected Person	c/o J. Darryl Carter 102, 10126-97 Avenue, Grande Prairie, AB, T8V 7X6	M002- PM03006-011	#N/A	A82315	MH-017-2017

<b>First Name</b>	<b>Last Name</b>	<b>Segment</b>	<b>Landowner or Affected Person</b>	<b>Address</b>	<b>PPBoR Sheet Number(s)</b>	<b>Tract Number(s)</b>	<b>REGDOCS Number</b>	<b>Individual Hearing Order Number</b>
Stuart Wendy	Palk Bailer-Palk	2	Landowner	c/o J. Darryl Carter 102, 10126-97 Avenue, Grande Prairie, AB, T8V 7X6	M002- PM03006-056	522	A82320	MH-018-2017
Keelan	Petterson	2	Landowner	53108 RR 20, Parkland County, AB, T7Y 2G8	M002- PM03006-011	254	A82482	MH-019-2017
Lynn	Petrin	2	Landowner	53222 Range Road 182, Yellowhead County, AB, T7E 3T9	M002- PM03006-062	576	A82465	MH-020-2017
Linda	Pinette	2	Landowner	Box 156, Wildwood, AB, T0E 2M0	M002- PM03006-033	399	A83375	MH-021-2017
Erich	Ploentzke	2	Landowner	Box 6452, Edson, AB, T7E 1T8	M002- PM03006-068	602	A82301	MH-022-2017
Dale and Lorna	Plummer	2	Landowner	Box 5165, Hinton, AB, T7V 1X4	M002- PM03006-081	648 / 649	A82595	MH-023-2017
Rainbow Beach Developments Inc.		2	Landowner	2432 Township Road 521, Parkland County, AB, T7Y 2K6	M002- PM03006-029	PC: 9107	A82516	MH-024-2017
Janet and Lyle	Russell	2	Landowner	c/o Foothills Surveys, Main Floor, Unit #1 764 Carmichael Lane, Hinton, AB T7V 1T1	M002- PM03006-090	ADJ: 262.01	A83643	MH-025-2017



<b>First Name</b>	<b>Last Name</b>	<b>Segment</b>	<b>Landowner or Affected Person</b>	<b>Address</b>	<b>PPBoR Sheet Number(s)</b>	<b>Tract Number(s)</b>	<b>REGDOCS Number</b>	<b>Individual Hearing Order Number</b>
Javier and Annmarie	Sarango	2	Landowner	c/o J. Darryl Carter 102, 10126-97 Avenue, Grande Prairie, AB, T8V 7X6	M002-PM03006-011	ADJ: 60	A82453	MH-026-2017
Calvin and Susan	Shantz	2	Landowner	53013 Rge Rd 194, Yellowhead County, AB, 7E 3A3	M002-PM03006-067	599	A82804	MH-027-2017
Jesse	Smith	2	Affected Person	Box 153, Niton Junction, AB, T0E 1S0	M002-PM03006-046	432, 432.01, 432.02,459	A84014	MH-028-2017
Dale	Soetaert	2	Landowner	c/o Keith Wilson 195, 3-11 Bellerose Drive, St. Albert, AB, T8N 5C9	M002-PM03006-021	318 / .9102	A83888	MH-029-2017
Gerald	Stroud	2	Landowner	Box 6462, Edson, AB, T7E 1T8	M002-PM03006-060	560 / 559	A83604	MH-030-2017
Harvey, Sharon and Blaine	Wild	1	Landowner	c/o John A. Kosolowski 2800 Scotia Place, 10060 Jasper Avenue, Edmonton, AB, T5J 3V9	M002-PM03005-008	180	A83769	MH-003-2017

## Appendix II

### List of Persons who submitted a statement of opposition and did not meet the requirements of the NEB Act

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First Name	Last Name	Segment	Landowner or Affected Person	Address	PPBoR Sheet Number(s)	Tract Number(s)	REGDOCS Number
Edna Lilian	Calvert	2	Landowner	c/o Dennis C. Calvert Box 6658, Edson, AB, T7E 1V1	M002-PM03006-064	583	A82917
John Gordon Victoria	McKay Maitland	2	Affected Person	c/o J. Darryl Carter 102, 10126-97 Avenue, Grande Prairie, AB, T8V 7X6	#N/A	#N/A	A82318
Wanchulak Holdings (2004) Ltd.		2	Landowner	1419-55 Street, Edson, AB, T7E 1P1	M002-PM03006-058	543	A82871