

National Energy
Board



Office national
de l'énergie

DECISION

File OF-Fac-Oil-T260-2013-03 15
6 February 2018

Mr. Gerald Stroud
Box 6462
Edson, AB T7E 1T8

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Dear Mr. Stroud, Mr. Stoness, Mr. Denstedt, and Ms. Oleniuk:

**Trans Mountain Pipeline ULC (Trans Mountain)
Trans Mountain Expansion Project - Certificate OC-064
Decision for Detailed Route Hearing MH-030-2017
Mr. Gerald Stroud**

1. Background

On 19 May 2016, the National Energy Board (NEB or Board) issued its Report recommending that Governor in Council approve the Trans Mountain Expansion Project (TMEP), subject to 157 conditions ([A77045](#)).

The TMEP included twinning the existing 1,147 kilometre long Trans Mountain Pipeline (TMPL) system in Alberta (AB) and British Columbia (BC) with approximately 981 kilometres of new buried pipeline; new and modified facilities, such as pump stations; additional tanker loading facilities at the Westridge Marine Terminal in Burnaby; and reactivating 193 kilometres of existing pipeline between Edmonton and Burnaby. Trans Mountain requested approval of a 150 metre-wide corridor for the TMEP pipeline's general route.

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On 29 November 2016, Governor in Council directed the Board to issue the Certificate of Public Convenience and Necessity OC-064 (Certificate) ([A80871](#)), the effect of which was to approve the TMEP, including the 150 metre wide corridor.

On 17 and 24 February 2017, Trans Mountain applied to the Board for Segments 1 and 2 of its TMEP detailed route, submitting the Plan, Profile, and Book of Reference (PPBoR). Under section 34 of the *National Energy Board Act* (NEB Act), Trans Mountain made available for public viewing copies of its PPBoR, served notices on owners of lands proposed to be acquired for the proposed detailed route¹, and published notices in newspapers in the vicinity of the proposed detailed route².

In all detailed route hearings, the Board considers the following issues:

1. the best possible detailed route of the pipeline;
2. the most appropriate method of constructing the pipeline; and
3. the most appropriate timing of constructing the pipeline.

In its 31 August 2017 Letter of Decision ([A85762](#)), the Board stated that it would not consider the issue of compensation to be paid to landowners as that matter is not within its jurisdiction.

2. Detailed Route Hearing MH-030-2017

Mr. Gerald Stroud is the registered owner of lands located at NE 19-53-17 W5M and NW 20-53-17 W5M in the Rural Municipality of Yellowhead County in AB. Trans Mountain identified these lands as Tracts 559 and 560, and the property is shown on PPBoR M002-PM03006-060. Trans Mountain proposes crossing these lands with the new TMEP pipeline in Segment 2 (see Figure 1³).

Mr. Stroud filed his statement of opposition on 16 May 2017([A83604](#)). The Board granted him a detailed route hearing and issued Hearing Order MH-030-2017 ([A85764](#)) on 31 August 2017. The Hearing Order set a November-December 2017 timeframe for the oral portion of the hearing. Mr. Stroud did not request a site visit.

The oral portion of the detailed route hearing was held on 27 November 2017 in Edson, AB. Trans Mountain presented a panel of witnesses for cross-examination. Mr. Stroud was also present, asked questions of Trans Mountain's witness panel, and answered questions.

Regarding current land use, Mr. Stroud indicated he lives on the property. During the hearing, he stated that Mr. Arthur Fossheim, who is identified as an occupant in the PPBoR, runs cattle there every summer.

¹ As required by [paragraph 34\(1\)\(a\)](#) of the NEB Act.

² As required by [paragraph 34\(1\)\(b\)](#) of the NEB Act.

³ The map in Figure 1 was filed by Trans Mountain as part of its evidence for detailed route hearing MH-030-2017 ([A86680](#)).

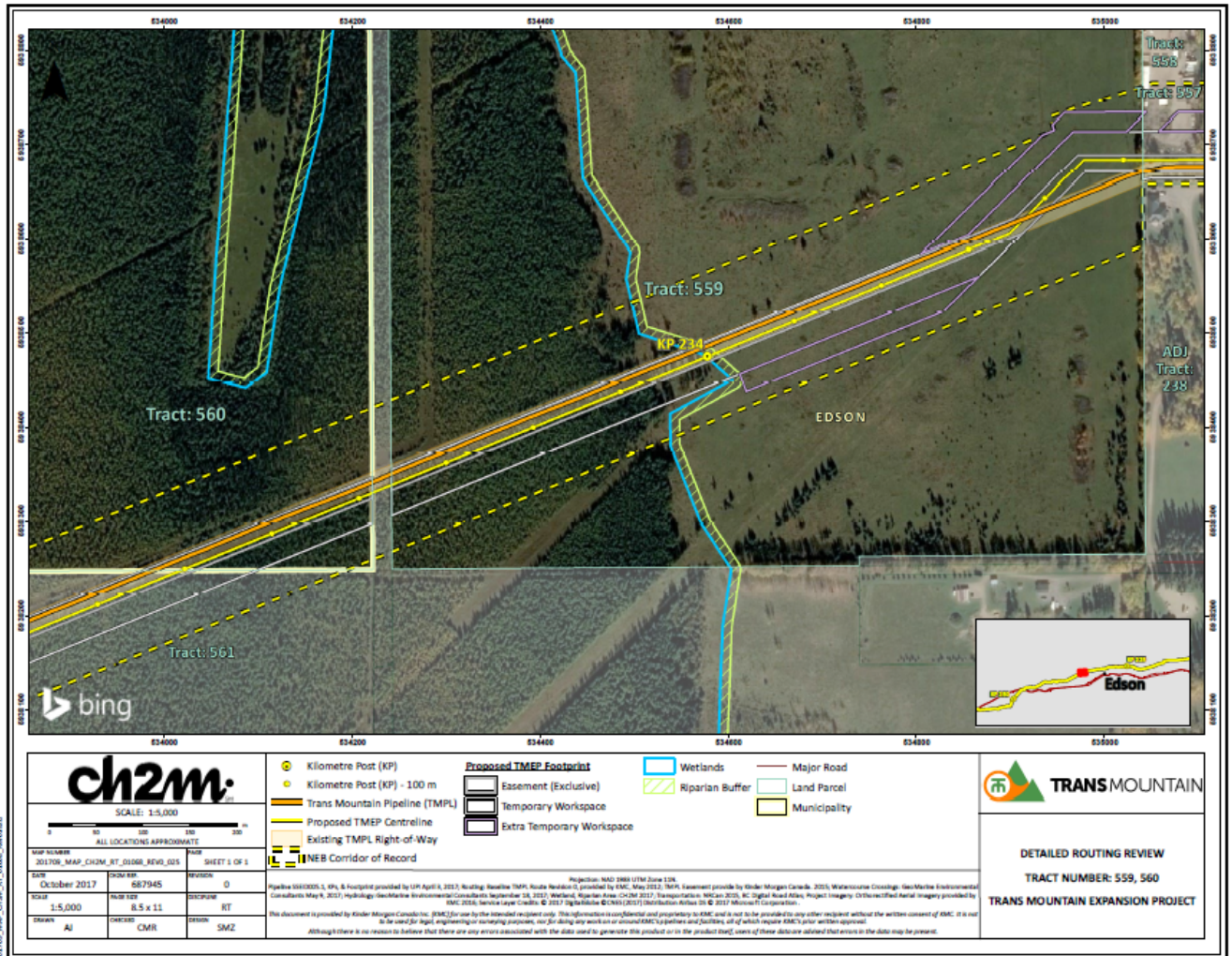


Figure 1 Map of Gerald Stroud's property

2.1 Proposed Detailed Route

2.1.1 Trans Mountain's Routing Criteria

In selecting its 150 metre wide corridor and detailed route for the new TMEP pipeline, Trans Mountain submitted in its written evidence and opening statement at the detailed route hearing that it had established a hierarchy of routing principles. In descending order of preference, these were:

1. where practicable, co-locate the new TMEP pipeline on or adjacent to the existing TMPL easement;
2. where co-location was not practicable, minimize the creation of new linear corridors by installing the new TMEP pipeline adjacent to existing easements or rights-of-way for other linear facilities including other pipelines, power lines, highways, roads, railways, fibre optic cables and other utilities;

3. if co-location with any existing linear facility was not feasible, install the new TMEP pipeline in a new easement selected to balance safety, engineering, construction, environmental, cultural and socio-economic factors; and
4. in the event a new easement was necessary, minimize the length of the new easement before returning to a contiguous right-of-way.

Trans Mountain stated that it had been engaging landowners in its routing discussions since 2012 and used feedback received to optimize the location of its 150 metre wide corridor. It also stated that the corridor width provided flexibility for minor route adjustments, including those informed by landowner input.

Trans Mountain also submitted that paralleling the existing TMPL is beneficial because it leverages the existing pipeline protection program, as well as landowner knowledge of the location and nature of the existing pipeline, to optimize pipeline integrity and safety.

2.1.2 Proposed Detailed Route on Mr. Stroud's Lands

As shown in Figure 1, the proposed detailed route crosses through the southern portion of Mr. Stroud's property near kilometre post 234, and is identified by Trans Mountain as Tracts 559 and 560. For Tract 559, approximately 883.67 metres of pipeline and a corresponding permanent easement area of 1.582 hectares (3.91 acres) would be situated on the property. For Tract 560, approximately 219.44 metres of pipeline and a corresponding permanent easement area of 0.416 hectares (1.03 acres) would be situated on the property.

Views of Mr. Gerald Stroud

In his statement of opposition, Mr. Stroud explained that he already has two major pipelines crossing his land, and expressed concern that pipeline failure will result in substantial damage.

Mr. Stroud did not file any written evidence other than his statement of opposition. However, at the hearing, he did restate his safety concerns, indicating that "quite a conglomeration of pipes all in the same place with all the gas pipes...seems like a mess of too much power in there, if any little mistake."

During the oral portion of the detailed route hearing, Trans Mountain stated that it understood that Mr. Stroud's concerns related to the safety of the new TMEP pipeline and the existing TMPL, as well as the future development of his lands, as he had mentioned these to a land agent. Trans Mountain noted that his land is located next to Edson, AB. Trans Mountain was not aware of any specific plans for development. Mr. Stroud did not raise future land development in evidence or as an issue at the oral portion of the detailed route hearing.

Mr. Stroud did not provide any evidence that he opposed the methods or timing of construction of the pipeline.

Mr. Stroud confirmed at the hearing that he had no other outstanding concerns.

Views of Trans Mountain

Trans Mountain acknowledged Mr. Stroud's opposition to the proposed detailed route due to concerns about pipeline failure. Trans Mountain said that its number one objective was to follow the existing TMPL easement and install the new TMEP pipeline within that easement to the extent possible.

Trans Mountain indicated that it currently proposes its construction footprint to be within a construction right-of-way that is generally 45 metres wide, and that the permanent right-of-way will be 18 metres wide. Trans Mountain stated that, by installing the new TMEP pipeline within the existing TMPL easement, it would also avoid encumbering the land any more than necessary. Trans Mountain noted during questioning that, due to other utility corridors located on Mr. Stroud's property, there had to be a deviation of the new TMEP pipeline route out of the existing TMPL right-of-way, and that the route would return to the existing TMPL right-of-way within a short distance.

Trans Mountain stated that the new TMEP pipeline has been designed in compliance with the *Canadian Standard Association Standard Z662* and the *NEB Onshore Pipeline Regulations*. The new TMEP pipeline's depth of cover on Mr. Stroud's lands (i.e., how deep the pipe will be buried) varies from a minimum of 0.9 metres, up to 2.0 metres or more where it passes underneath existing pipelines.

Trans Mountain noted that, on Mr. Stroud's property, the new TMEP pipeline is proposed to follow the existing TMPL easement, consistent with its routing principles.

2.1.3 Other Issues - Safety

In response to Mr. Stroud's concerns about safety, Trans Mountain filed written evidence and provided information during the oral portion of the detailed route hearing concerning integrity management; emergency avoidance, preparedness and response; and other safety issues. Trans Mountain also said that it has employed a risk-based design that takes into considerations the landscape, as well as multiple receptors such as water bodies, aquifers, population, and Aboriginal reserves. Trans Mountain stated that this enhances the pipeline design and adds safety measures.

Trans Mountain emphasized that it reduces the interaction of its pipeline with third party rights-of-way to cross at a right angle and limits the amount of overlap between them. It also mentioned that the space between two crossing pipes depends on the method of construction. Trans Mountain submitted that, if the method is open cut and the other pipeline can be visually seen, the pipelines can be as close as 30 centimetres (1 foot) to each other. Trans Mountain stated that the company that owns the other pipeline usually dictates the amount of space needed. In many cases, there can be 0.6 metres clearance between two pipelines. If using a trenchless technique or bore of some nature, clearance can be up to 1.0 metre.

Trans Mountain also stated that regarding pipe thickness, where an open cut installation technique is used, line pipe may be used, which is nominal pipe wall thickness. It also stated that if pipelines are part of a multi-pipeline crossing, a horizontal drill bore or slip bore method of construction can be used and that usually involves thicker pipe.

2.1.4 Sharing of information with Mr. Stroud

At the oral portion of the detailed route hearing, Trans Mountain stated that it started contacting Mr. Stroud in 2012 to provide information on the proposed TMEP, that he has been consistent in his views and concerns about safety, and that he continues to hold those concerns today. Trans Mountain committed to providing Mr. Stroud with information generally, and to continue to engage with him regarding safety and emergency management. It indicated that it would provide him with contact information for emergencies, collect information about his concerns, and attempt to address those concerns.

3. Board Decision for Detailed Route Hearing MH-030-2017

The Board appreciates the time spent by both Mr. Stroud and Trans Mountain in discussing their concerns during this detailed route hearing.

The Board recognizes that the matters of integrity management; emergency avoidance, preparedness and response; and other safety issues related to the TMEP are important. However, the Board is of the view that those matters are not for consideration in a detailed route hearing. These matters were assessed in the original OH-001-2014 Certificate hearing for the TMEP. Trans Mountain has committed to meeting the conditions and commitments it made related to safety and emergency management during that hearing. The Board notes that there are extensive views provided on these issues in the NEB Report ([A77045-1](#)), specifically in Chapters 6, 7, 8, and 9, and that the Board imposed numerous conditions.

The routing on Mr. Stroud's lands is consistent with Trans Mountain's routing criteria to route its pipelines within or adjacent to existing right-of-way, cross other pipelines safely, and return to the existing right-of-way as quickly as possible. The Board notes that the new TMEP pipeline detailed route proposed to cross Mr. Stroud's lands is in alignment with the existing TMPL route other than where it deviates for a short distance. The Board notes that this is to address safety as the new TMEP pipeline crosses other pipelines and utilities.

The Board also notes Trans Mountain's commitment to continued engagement with Mr. Stroud. Mr. Stroud is entitled to seek remedy from the Board if the commitments are not being fulfilled.

Having considered all of the evidence filed on the record by both Parties, the representations made at the oral portion of the detailed route hearing, and the matters described above, the Board finds that the route proposed by Trans Mountain is the best possible detailed route of the pipeline, and the methods and timing of constructing the pipeline are the most appropriate, subject to the commitments made by Trans Mountain.

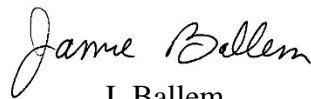
Any approval by the Board of a PPBoR for the Stroud lands will include a condition requiring Trans Mountain to fulfill the commitments it made in the course of the detailed route proceeding, and update its environmental alignment sheets. Trans Mountain is reminded that the relevant conditions of approval in Certificate OC-064 apply to the construction and operation of the TMEP on Mr. Stroud's lands.



L. Mercier
Presiding Member



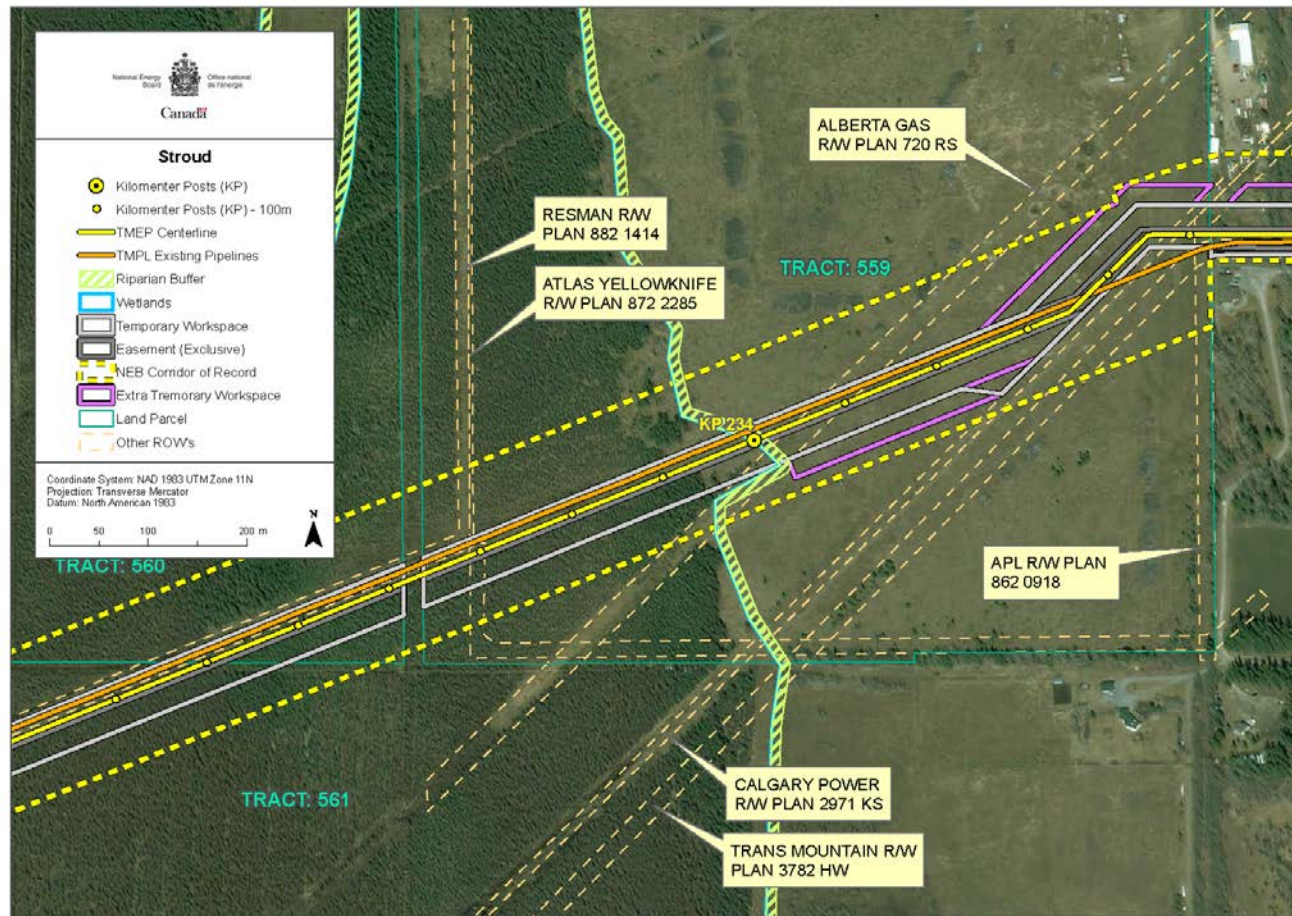
S. Parrish
Member



J. Ballem
Member

Appendix I – Map of Gerald Stroud’s property

This map was created by the NEB for illustrative purposes only.



MAP PRODUCED BY THE NEB, JANUARY 2018. THIS MAP HAS BEEN GENERATED BY THE NEB FOR ILLUSTRATIVE PURPOSES ONLY. THE NEB DISCLAIMS ALL RESPONSIBILITY FOR ANY ERRORS, OMISSIONS AND INACCURACIES. READERS WISHING TO CONSULT THE ACTUAL MAPS AS THEY WERE FILED SHOULD REFER TO THE OFFICIAL RECORD.