



DECISION

File OF-Fac-Oil-T260-2013-03 17
27 July 2018

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Dear Mr. Steele, Mr. Rainey, Mr. Stoness, and Mr. Denstedt:

**Trans Mountain Pipeline ULC (Trans Mountain)
Trans Mountain Expansion Project (TMEP)
Certificate of Public Convenience and Necessity (Certificate) OC-064
Decision for Detailed Route Hearing MH-003-2018
1054408 BC Ltd.**

1. Background

On 16 December 2013, Trans Mountain filed an application with the National Energy Board (Board) under section 52 of the *National Energy Board Act* (NEB Act) for a Certificate authorizing the construction and operation of the TMEP.

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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Following a hearing process, on 19 May 2016, the Board issued its OH-001-2014 Report recommending that Governor in Council (GIC) approve the TMEP, subject to 157 conditions ([A77045](#)).

On 29 November 2016, GIC directed the Board to issue Certificate OC-064 ([A80871](#)), the effect of which was to approve the TMEP, including the proposed 150-metre-wide corridor.

On 10 March 2017, Trans Mountain applied to the Board for Segment 5 of the TMEP detailed route ([A82031](#)), submitting the Plan, Profile, and Book of Reference (PPBoR). As per section 34 of the NEB Act, Trans Mountain made copies of its PPBoR available for public viewing, served notices on owners of lands proposed to be acquired for the proposed detailed route,¹ and published notices in newspapers in the vicinity of the proposed detailed route.²

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

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

2. Detailed Route Hearing MH-003-2018

Mr. Mark Steele is the President of 1054408 BC Ltd., which is the registered owner of lands located in Parcel Identifier 001-502-883 in Hope, BC. Trans Mountain identified these lands as Tract 2008, and the property is shown on PPBoR No. M002-PM03013-002. Trans Mountain proposes to cross these lands with the new TMEP pipeline in Segment 5.5. See Figure 1 below for a map showing the detailed route across 1054408 BC Ltd.'s property, as depicted in Trans Mountain's 6 March 2018 written evidence ([A90424](#)).

1054408 BC Ltd. filed a statement of opposition on 31 May 2017 ([A84015](#)). On 23 January 2018, the Board granted 1054408 BC Ltd. a detailed route hearing ([A89486](#)) and, via the Hearing Order of the same date ([A89487](#)), assigned Hearing Number MH-003-2018.

No persons or groups applied to participate in 1054408 BC Ltd.'s detailed route hearing.

1054408 BC Ltd. stated that it acquired its property in 2016 for the purpose of residential development. It proposes to construct 41 new housing units on its lands as Phase 2 of an ongoing development plan in Hope.

A site visit of 1054408 BC Ltd.'s property occurred on 7 May 2018. The oral hearing was held on 8 May 2018 in Merritt, BC. Both Parties presented a panel of witnesses for cross-examination and gave final argument.

¹ As required by paragraph 34(1)(a) of the NEB Act.

² As required by paragraph 34(1)(b) of the NEB Act.

The written record considered by the Board for this proceeding can be found in the Board’s online [public registry](#). A written transcript of the oral hearing is also available online ([A91858](#)).

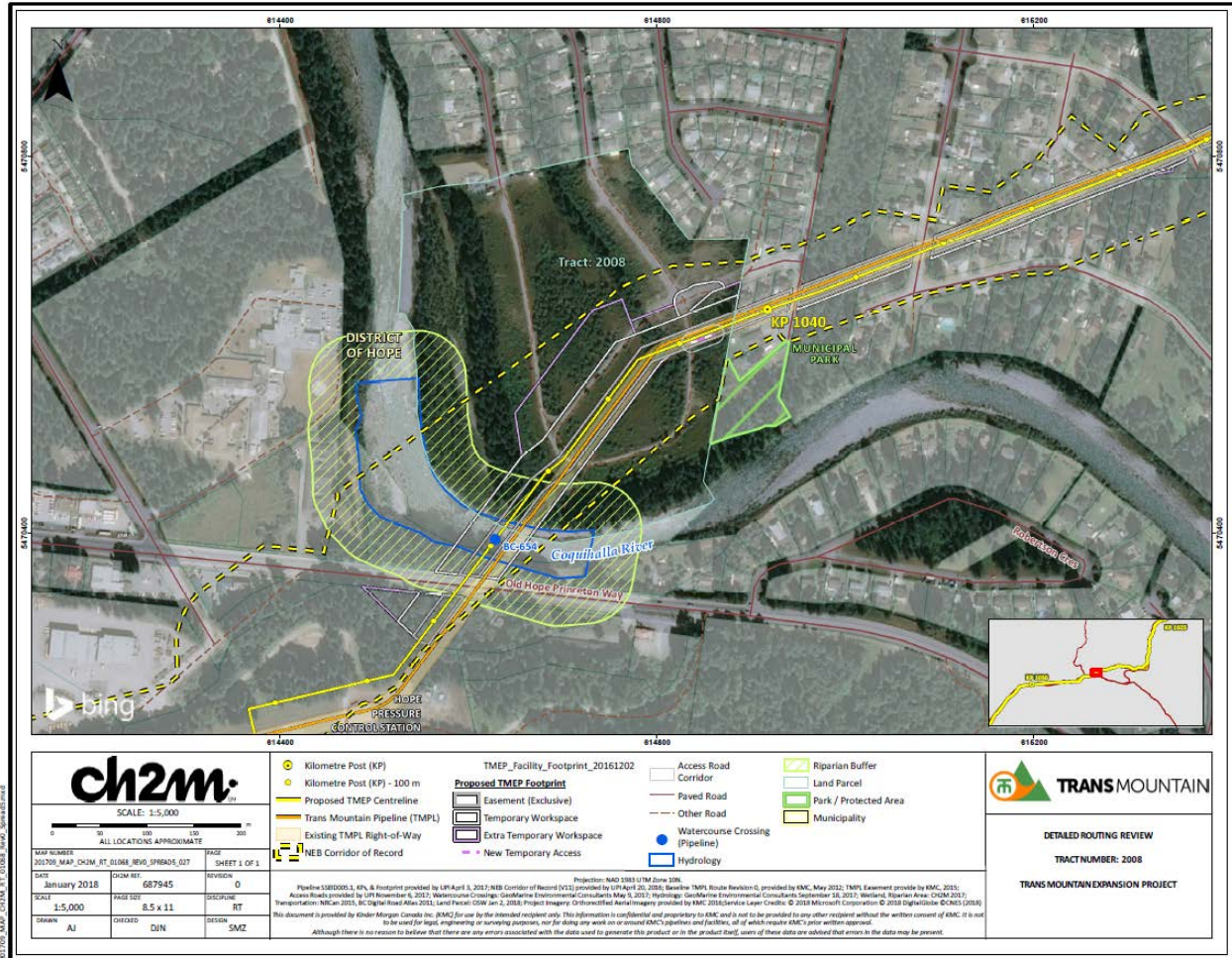


Figure 1 – Map showing the proposed detailed route across 1054408 BC Ltd.’s property (Tract 2008), as depicted in Trans Mountain’s written evidence

2.1 Proposed detailed route

2.1.1 Trans Mountain’s routing criteria

Trans Mountain submitted that its pipeline corridor was developed based on a standard set of routing criteria designed to enable the pipeline to be installed safely, and to reinforce the protection and integrity of the pipeline, while minimizing the adverse effects of pipeline installation and operation to the extent practicable.

During its route selection process, Trans Mountain 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 is not practicable, minimize creating new linear corridors by installing the new TMEP pipeline adjacent to existing easements or rights-of-way (RoWs) of 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 is not feasible, install the new 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 is necessary, minimize its length before returning to a contiguous RoW.

Trans Mountain submitted that, while the TMEP's installation will generally require a 45-metre-wide construction RoW, it studied and applied for a wider corridor (generally 150 metres wide) to provide flexibility for minor pipeline alignment adjustments during the detailed engineering and design phase.

Trans Mountain stated that, as a practice, determining routing feasibility for the entire TMEP included the consideration of a range of factors, including: constructability; long-term geotechnical stability; and environmental, cultural, and socio-economic suitability.

2.1.2 Proposed detailed route on 1054408 BC Ltd.'s property

The proposed detailed route follows the existing TMPL alignment on 1054408 BC Ltd.'s property between Kilometre Posts 1040+000 and 1040+400. On the eastern side of the property, the proposed TMEP alignment is on the south side of the TMPL. The detailed route crosses over to the north side of the TMPL on the western portion of the property.

Views of 1054408 BC Ltd.

1054408 BC Ltd. submitted that the proposed RoW means that a house cannot be built on Lot No. 36. In addition, the future owners of Lot Nos. 37 to 41 will have restricted use of approximately 140 square metres of their property, while the future owners of Lot No. 42 will have restricted use of approximately 1,200 square metres.

1054408 BC Ltd. stated that, in selecting the TMEP details, Trans Mountain failed to take into consideration the following established route selection criteria:

- a) avoiding existing residential, commercial, industrial, and other developments;
- b) avoiding frontages of developed and yet-to-be-developed affected parcels, thereby reducing the impact on landowners;
- c) considering future development proposals;
- d) proposing any route modification;
- e) reducing the RoW; and
- f) reducing the workspace.

In oral argument, 1054408 BC Ltd. stated that it is not arguing the best possible detailed route of the pipeline.

Views of Trans Mountain

Trans Mountain stated that its proposal to construct the TMEP pipeline within or directly adjacent to the existing TMPL RoW is consistent with its routing principles.

At the oral hearing, Trans Mountain indicated that its plans in the area revolved around trying to stay within, or as close as possible to, the existing easement to minimize the effect on the landowner's plans. Trans Mountain noted that, even if it had been aware of the specific conflicts between the residential development project and the TMEP when the corridor was selected, it would have made the same decision to follow the existing TMPL, due to the limited corridors through the area. When questioned about its consideration of socio-economic factors (e.g., human occupancy) in determining routing, Trans Mountain stated that, while it is one component of the decision-making process, it is one of a multitude of factors considered.

Trans Mountain stated that routing on 1054408 BC Ltd.'s lands is influenced by the locations of the Coquihalla River along the south side of the property boundary, and an existing BC Tel easement³ directly south of the TMPL.

At and in the vicinity of the Coquihalla River crossing, Trans Mountain requires additional separation between the TMPL and the TMEP pipeline to ensure adequate distance between the two pipelines, as well as to avoid disturbing the TMPL and material surrounding the pipeline during construction (see Figure 1). The location of the BC Tel easement eliminates the possibility of placing the TMEP pipeline on the south side of the TMPL.

With respect to 1054408 BC Ltd.'s concerns regarding impacts on its development, Trans Mountain noted that the proposed TMEP alignment partially overlaps the TMPL easement and, although it adds to the easement, it does not create a new encumbrance upon the lands. Given the location of the TMEP pipeline adjacent to the TMPL, Trans Mountain is of the view that the development and use of the lands following the TMEP pipeline's installation will not be significantly different than what currently exists.

2.2 Methods of construction

Views of 1054408 BC Ltd.

In its written evidence ([A90821](#)), 1054408 BC Ltd. expressed the view that Trans Mountain's temporary and extra temporary workspace is located in areas that will cause the most significant impacts to its own development.

³ The Parties also referred to this as a Telus easement. In this decision, the Board refers to it solely as the BC Tel easement.

1054408 BC Ltd. suggested that Trans Mountain shift the workspace from the north side of the RoW to the south, to reduce the number of affected lots. It requested that the Board deny the detailed route as proposed, or in the alternative, direct Trans Mountain to reduce and change the easement, temporary workspace, and extra temporary workspace, consistent with its submissions.

In response to the Board’s Information Request No. 1 ([A91535](#)), 1054408 BC Ltd. noted that, in its revised site plan, there is a link between Swallow Place and Riverview Drive. The TMEP’s temporary workspace would prevent the creation of that link, without which 1054408 BC Ltd. stated that its development application could be in jeopardy due to concerns over emergency vehicle access.

1054408 BC Ltd. provided the drawing in Figure 2 below to illustrate the TMEP’s effect on its residential development.

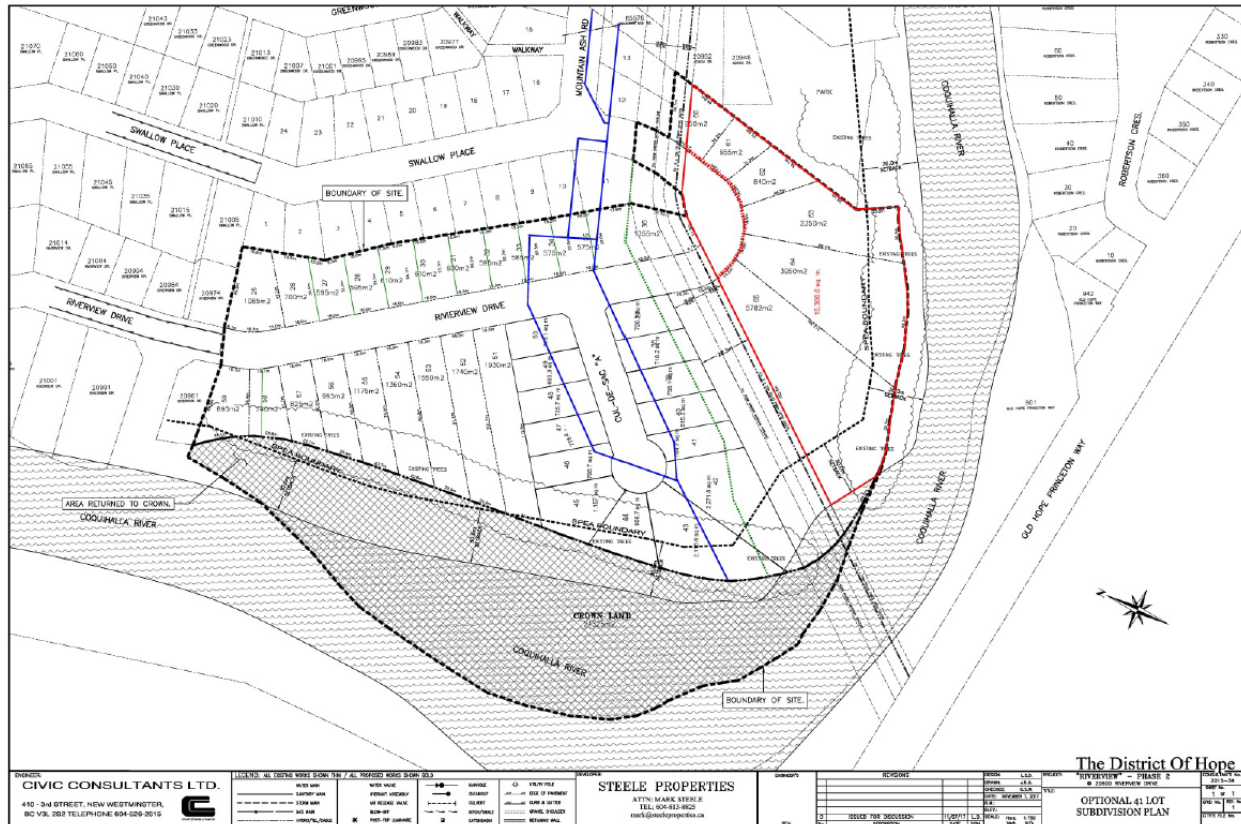


Figure 2 – Drawing illustrating the TMEP’s effect on 1054408 BC Ltd.’s residential development, as included in the landowner’s written evidence

At the oral hearing, 1054408 BC Ltd. described how portions of its development need to be built up with as much as three metres of fill as part of flood-proofing requirements, including at areas where the new TMEP pipeline would be installed. It indicated that it has had past discussions with Trans Mountain regarding this fill addition.

Views of Trans Mountain

Trans Mountain submitted that the chosen workspace scenario was based on local topography, the required working space for a wet open-cut crossing of the river, and limited available workspace on the south side of the river. Although minimizing the area used for temporary workspace is a standard practice – to minimize cost, environmental impacts, and the amount of restoration required – the crossing complexity and safety and environmental concerns require additional workspace in this situation.

Specialized construction techniques are required for the complex crossings of the Coquihalla River⁴ and the Old Hope Princeton Way immediately to the south, which need to be completed coincidentally. While a horizontal directional drill was considered to minimize impacts on 1054408 BC Ltd.'s development plans, the aquatic environment, and the road, geotechnical investigations deemed it to be unfeasible.

Extra depth of cover is required to ensure the long-term integrity of the crossing at the Coquihalla River, which will result in a significant volume of excavated material and require a greater amount of workspace for its storage. Increased workspace is also needed for laydown areas for activities such as concrete coating and section welding. Trans Mountain noted that this is a concentrated construction location over a short period of time. Generally, the increased workspace allows for the safest and most productive construction methods that would limit the amount of time required to build this section of pipeline.

The construction methodology and required workspace are also influenced by the location of the existing TMPL and a BC Tel easement that abuts the southeast side of the TMPL easement. Work plans must be compatible with the safety of conditions for work in proximity to existing infrastructure. The workspace and separation between the TMEP pipeline and the TMPL is needed to accommodate the extra depth of excavation required adjacent to the operating pipeline. It also ensures the uninterrupted operation of the TMPL throughout the full duration of construction.

Regarding 1054408 BC Ltd.'s concern that, until the TMEP is complete, its installation may affect land development by blocking access, Trans Mountain stated that it intends to work with 1054408 BC Ltd. and will only restrict access on the construction footprint during the construction period. A Traffic Control Plan will be developed that will enable safe access to and from the site. Prior to construction, Trans Mountain will discuss its plans and schedule with 1054408 BC Ltd. and work to minimize impacts on access, to the extent practicable.

In relation to 1054408 BC Ltd.'s proposal to using lands on the southeast side of the TMPL for workspace, Trans Mountain stated that the complex nature of the crossing, large volumes of

⁴ At the oral hearing, Trans Mountain explained that, at the same time that the TMEP's Coquihalla River crossing is constructed, for integrity reasons, it plans on replacing the existing TMPL crossing, which would also entail some on-land pipe installation. Trans Mountain confirmed that this work would be subject to a future, separate application to the Board.

material, and quantity of heavy construction equipment required make the prospect of using those lands impractical, inefficient, and unsafe. Trans Mountain explained the following with respect to its workspace requirements:

- Approximately 700 truckloads of spoil from the crossing and associated on-land portion require storage. Space is needed in a confined area for travel paths, and there will be a very focused and large workforce in a small area.
- Limiting access to additional temporary workspace for spoil storage at the dedicated crossing locations makes it much more difficult to handle that material safely. In this case, it introduces constant crossings of the TMPL, BC Tel line, and potentially the TMEP and replacement line, which increases risks to infrastructure and worker safety.
- The distance for a truck to travel up a narrower path where other activities are taking place, to a dedicated crossing of existing infrastructure, is potentially three times longer. This potentially doubles the number of trucks needed to keep up with the production of material coming out of the crossing, and extends the time required to conduct this work. Proximity of the temporary workspace (for storage) to the river is very important to complete the crossing during the least-risk window restriction.
- The crossing requires workspace for the make-up of the straight, roughly 100-metre-long, concrete-coated pipe string that will be placed in the river. This pipe string will not bend and, therefore, the extra temporary workspace requirement on the north side of the TMPL cannot be eliminated. It is the only practical way to construct the crossing.

In response to Board questioning, Trans Mountain discussed the option of reconfiguring its workspace to run along the river, rather than the pipeline. It also noted that, due to the limited space available and the complex nature of the river crossing, its options are limited, and a reduction in the area required for workspace is unlikely. Trans Mountain was not certain whether this reconfiguration option would address 1054408 BC Ltd.'s concern over emergency vehicle access to the development. It said that it would continue to engage with 1054408 BC Ltd. on the possibility of reconfiguring the workspace to impact fewer lots.

With respect to 1054408 BC Ltd.'s plans to add fill as part of flood-proofing requirements, Trans Mountain noted that additional fill would add significantly to the depth of excavation and the volume of material that would need to be stored. It indicated that its construction plans involve installing the new TMEP pipeline and any TMPL replacement section at a depth of cover that allows for the additional fill 1054408 BC Ltd. intends to place above them.

2.3 Timing of construction

Views of 1054408 BC Ltd.

In its statement of opposition, 1054408 BC Ltd. indicated that its own construction timing is identical to that of Trans Mountain.

1054408 BC Ltd. stated that the TMEP will completely halt its development plans until Trans Mountain's construction and remediation is complete and the temporary and extra temporary

workspaces are released back to 1054408 BC Ltd. It contends that Trans Mountain has failed to give fair and proper consideration to the effects on its development plans. 1054408 BC Ltd. requested that the Board deny the detailed route as proposed, or in the alternative, direct Trans Mountain to delay the construction of the TMEP on the lands until 2020, when the Landowner will complete Phase 2 of its residential development.

In response to the Board's Information Request No. 1, 1054408 BC Ltd. stated that conceptual planning for Phase 2 began in 2015. As required by the Community Development Department for the District of Hope (Planning Section), 1054408 BC Ltd. completed hydrology and environmental studies in 2017. 1054408 BC Ltd. indicated that its application for a preliminary letter of assessment (PLA) has been frustrated by Trans Mountain due to the timing and location of the TMEP.

1054408 BC Ltd. indicated that its general timeline for Phase 2 is as follows:

	Start/submission	Completion
PLA	Spring 2018	Summer/Fall 2018
Services construction	Fall 2018	Winter 2018
Residential construction	Spring 2019	Spring/Summer 2021

1054408 BC Ltd. explained that, once the Planning Section receives the application, it will proceed with its assessment and involve other departments. 1054408 BC Ltd. would require and receive a PLA containing conditions to be met in order to obtain final approval. In addition to approvals from the District of Hope, 1054408 BC Ltd. indicated that it would also need approvals or permits from BC Hydro, Telus, Shaw, Fortis, Kinder Morgan, and the BC Ministry of Health.

At the oral hearing, 1054408 BC Ltd. stated that it expected to make its PLA application the following week and that it did not see any reason why a PLA would not be issued soon after. It estimated that it could begin construction in a month and a half to two months following that submission.

1054408 BC Ltd. indicated that, due to the cyclical nature of the real estate market, it is critical that developers take advantage of good market conditions. It stated that it is imperative that its own construction timeline not be delayed so it can avoid a devastating market downturn. 1054408 BC Ltd. elaborated upon this at the oral hearing, describing how the real estate market typically results in five to seven good years. It submitted that it is in year five of the current cycle, with 1.5 to 2.5 good years left to finish its development. 1054408 BC Ltd. is of the view that Trans Mountain should commence construction in 2020, after presales have happened, rather than having potential homebuyers witness pipeline construction.

At the oral hearing, 1054408 BC Ltd. was asked whether it would consider developing a portion of Phase 2 while TMEP construction was occurring. It explained its understanding of the local

bylaw pertaining to emergency vehicle access, and that it would only likely receive approval for 10 to 12 lots in the west of its development, while the remainder of its application would be turned down. It stated that it did not consider proposing its development in sub-phases because it could not get services through to the remaining lots and it would not be economically feasible to do so.

1054408 BC Ltd. confirmed that, even if the temporary workspace were reconfigured on the west side of the route (where it is currently proposed), it would not be able to proceed with Phase 2. 1054408 BC Ltd. suggested that it would not proceed with the development, even if it were possible for Trans Mountain to maintain the link between Swallow Place and Riverview Drive to allow emergency vehicle access, as suspending marketing activities during pipeline construction would result in a loss of momentum in terms of house sales. It stated that the two businesses cannot coexist as the pipeline's construction would be too upsetting to homebuyers and, on that basis, 1054408 BC Ltd. would not market the development.

Views of Trans Mountain

Given the regulatory conditions for the Coquihalla River crossing (which has a prescribed least-risk window of 1-31 August to protect fish and fish habitat), Trans Mountain submitted that every effort will be made to complete all work in the second half of 2019. Trans Mountain intends to work with 1054408 BC Ltd. regarding its development plans and timing to minimize impacts of the TMEP's construction, to the extent practicable.

In response to the Board's Information Request No. 1 ([A91531](#)), Trans Mountain clarified its construction timing. It estimated that it will initiate main construction activities on 1054408 BC Ltd.'s lands in mid-June 2019, and complete them by mid-September 2019. These activities would include installing the pipeline and completing clean-up, including replacing grade materials and topsoil. It estimated that temporary and extra temporary workspaces could be returned back to 1054408 BC Ltd. as early as mid-September 2019. Unless 1054408 BC Ltd. agrees otherwise, Trans Mountain submitted that it will implement standard remediation procedures (including re-establishing vegetation on the construction footprint), which it estimates would be complete by July 2020.

In its reply evidence ([A91129](#)), Trans Mountain stated that it could not agree to 1054408 BC Ltd.'s request to delay TMEP construction until 2020 because its current timeline requires construction to advance on the lands prior to 2020 in order to meet the 31 December 2020 in-service date. Any delays would result in material impacts to the TMEP that would risk the project.

At the oral hearing, Trans Mountain stated that it endeavours to work with landowners to accommodate timing restrictions. However, in this case, the Coquihalla River crossing must be completed during the 1-31 August 2019 window, in advance of the landowner's development plans, as that crossing will not be feasible if the development is advanced and the workspace becomes unavailable.

Trans Mountain confirmed that TMEP construction could not occur during the current (2018) summer window for a variety of reasons, including the need to obtain Fisheries and Oceans Canada (DFO) authorization for the river crossing, and Ministry of Transportation and Infrastructure approvals for the open cut of Old Hope Princeton Way.

Regarding the certainty that the crossing could be completed in August 2019, Trans Mountain said that it was very confident in its plan. It explained how it is a very difficult crossing that has been and remains a very high priority. It is scheduled during the first year of the TMEP's two-year construction timeframe and involves a contractor that has been on board for over a year. The crossing is assigned a dedicated specialty crew that will be on-site a month ahead of time preparing for the crossing in order to begin work on 1 August. Trans Mountain noted that, while it is still finalizing its engineering designs for submission to DFO, DFO is aware of this crossing. It stated that DFO has been adamant that construction occur during the least-risk window. It noted that DFO applications typically involve a six-month period and that it is unlikely that an authorization cannot be obtained for work in August 2019.

Trans Mountain expected that, should it encounter issues during the crossing, its contingency would remain an open cut with an extension beyond the August least-risk window, which would require DFO authorization and offsets for any damage done. Trans Mountain was of the view that it would be less impactful to continue the crossing until it is complete, as opposed to demobilizing and returning a year later.

2.4 Summary of commitments

During the detailed route hearing, Trans Mountain committed to, among other things, the following:

- Engaging and working with 1054408 BC Ltd. regarding:
 - options for reconfiguring temporary workspace, where practicable; and
 - establishing access plans and scheduling construction activities to minimize the TMEP's impacts on the residential development and on 1054408 BC Ltd.'s access road and access to its lands, to the extent practicable.
- Restricting access on the construction footprint only during the construction period.
- Developing a Traffic Control Plan, including signage, to enable safe access onto, and egress from, the site.
- Once construction is complete, cooperating with 1054408 BC Ltd. in providing proximity and crossing permits, if required, to accommodate future development of its lands.

3. Board decision for Detailed Route Hearing MH-003-2018

The Board appreciates the time and effort spent by the Parties in participating in the detailed route hearing process.

The Board recognizes 1054408 BC Ltd.'s concerns with respect to the impacts of the TMEP on Phase 2 of its residential development project. The Board finds that this proposed project is not speculative. The Board notes that 1054408 BC Ltd.'s evidence as to the likelihood of obtaining the necessary approvals and permits was uncontested.

The Board's decision on the issues considered in this hearing follow.

3.1 The best possible detailed route of the pipeline

The Board notes that it assessed Trans Mountain's original routing criteria during the Certificate hearing for the TMEP and found them to be appropriate. The corridor was approved with the subsequent issuance of Certificate OC-064, to which 157 conditions were attached.

Trans Mountain's proposal to situate the detailed route across 1054408 BC Ltd.'s lands within or adjacent to the existing TMPL RoW is consistent with its routing criteria. The Board accepts Trans Mountain's evidence that the route is influenced by the locations of the Coquihalla River along the south side of the property and the existing BC Tel easement south of the TMPL. While 1054408 BC Ltd. discussed how the proposed route may restrict certain lots within its proposed residential development, it indicated in oral argument that it is not disputing that the proposed route is the best possible detailed route for the new TMEP pipeline.

The Board is of the view that co-locating the TMEP with the existing TMPL minimizes the impacts on 1054408 BC Ltd.'s development plans. The Board finds that Trans Mountain's proposed route is the best possible detailed route across 1054408 BC Ltd.'s lands.

3.2 The most appropriate timing and methods of constructing the pipeline

As discussed in evidence, Trans Mountain must obtain an authorization from DFO for the Coquihalla River crossing, and there is a least-risk activity window of August 1-31 in any given year to conduct it. Preparation work will need to be done on 1054408 BC Ltd.'s lands in advance of the crossing, and clean-up activities following it. To avoid disrupting the lands a second time, the Board is of the view that work to install the TMEP pipeline on 1054408 BC Ltd.'s property should be done at the same time as the river crossing. Accordingly, the Board finds that the most appropriate timeframe for pipeline construction on 1054408 BC Ltd.'s lands is between June and September.

The necessary authorizations, including this detailed route approval, were not provided to Trans Mountain in time to conduct crossing- or pipeline-related work on 1054408 BC Ltd.'s lands in August 2018. While the August 2020 timeframe is possible from a regulatory perspective, the Board is of the view that, from a constructability perspective, pipeline construction on 1054408 BC Ltd.'s lands must precede construction of the residential development. The Board agrees with Trans Mountain that the river crossing will not be feasible if the workspace becomes unavailable through development by 1054408 BC Ltd. The Board also recognizes Trans Mountain's concerns around additional excavation and storage of material if fill has been added

to the lands as part of requirements for 1054408 BC Ltd. to implement flood-proofing measures for the residential development.

For these reasons, the Board finds that June to September 2019 is the most appropriate timing for the TMEP's construction on 1054408 BC Ltd.'s property.

In terms of the methods of construction, 1054408 BC Ltd. opposes the amount and location of Trans Mountain's temporary and extra temporary workspace. Trans Mountain submitted that its workspace requirements were driven by the location of existing infrastructure and the compressed timeframe for completing the Coquihalla River crossing within the least-risk activity window. The Board agrees that workspace design must consider the need to safely work around existing infrastructure and, in this case, to allow for the continued operation of the TMPL during the TMEP's construction. The Board also agrees, as noted above, that every attempt must be made to complete the river crossing in August.

Trans Mountain submitted that increased workspace is required for the storage of large quantities of spoil and for laydown areas for activities such as concrete coating and section welding. The Board is persuaded that Trans Mountain has adequately considered and determined the amount of workspace that is required and that a large-scale reduction in the amount of workspace is likely not feasible.

1054408 BC Ltd. proposed that temporary workspace be relocated to the south side of the RoW to reduce the number of affected lots. However, the Board is of the view that this suggested alternate workspace location is not appropriate due to the legitimate concerns expressed by Trans Mountain with respect to safety, efficiency, and constructability. Trans Mountain's proposed workspace location minimizes vehicle crossings of the existing TMPL, as well as the travel distance for dump trucks transporting spoil from the crossing. It also allows for the river crossing pipe to be strung, welded, coated, and moved in a straight line towards the river.

The possibility of reconfiguring the workspace to run parallel to the river, rather than along the pipeline, was explored at the oral hearing. At that time, it was unknown whether such a reconfiguration was possible. It was also unknown whether it would better accommodate 1054408 BC Ltd.'s development plans; for example, by allowing access between Swallow Place and Riverside Drive for emergency vehicles, thereby addressing 1054408 BC Ltd.'s concern with respect to its ability to obtain approval of the full development. The notion of applying for or building the residential development in sub-phases to accommodate pipeline construction was also raised at the oral hearing, but was rejected by 1054408 BC Ltd.

1054408 BC Ltd. provided evidence regarding the difficulties with having potential homebuyers witness pipeline construction and the loss of momentum that would result if it were to suspend marketing activities during pipeline construction. The Board understands these concerns, but is of the view that 1054408 BC Ltd.'s ability to market its homes and the price at which it is able to market them are matters of compensation that are outside the scope of this detailed route hearing.

In light of 1054408 BC Ltd.'s evidence with respect to marketing, it is unclear to the Board whether 1055408 BC Ltd. would proceed with its development concurrent with pipeline construction under any temporary and extra temporary workspace configuration north of the RoW, which is the location the Board has found to be the most appropriate. As a result, the Board will not require Trans Mountain to further investigate a reconfiguration parallel to the river, but notes Trans Mountain's commitment to continue consulting with 1054408 BC Ltd. about reconfiguring workspace, to the extent practicable.

It was discussed at the oral hearing that 1054408 BC Ltd. must add up to three metres of fill to portions of its development as part of flood-proofing requirements, including in areas where the new TMEP will be installed. The Board understands that the Parties have had discussions regarding adding fill and encourages ongoing collaboration on this matter. The Board notes Trans Mountain's commitment to install the TMEP at a depth that will allow the additional fill above it.

Having considered all of the evidence filed on the record by 1054408 BC Ltd. and Trans Mountain, as well as the representations made at the oral hearing, the Board finds that Trans Mountain's proposed timing and methods of constructing the new TMEP pipeline, including with respect to its proposed temporary and extra temporary workspace, are the most appropriate, subject to the commitments that Trans Mountain has made.

Any future order approving the PPBoR for 1054408 BC Ltd.'s lands will include a condition requiring Trans Mountain to fulfill the commitments it made in the course of this detailed route hearing. 1054408 BC Ltd. is entitled to seek remedy from the Board if the commitments are not being fulfilled.

Trans Mountain is reminded that the conditions of approval in Certificate OC-064 apply to the construction and operation of the TMEP on 1054408 BC Ltd.'s lands.


L. Mercier
Presiding Member


S. Parrish
Member


J. Ballem
Member