

National Energy
Board



Office national
de l'énergie

File OF-Fac-Oil-T260-2013-03 02
2 April 2014

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Dear Mr. Stoness and Mr. Denstedt:

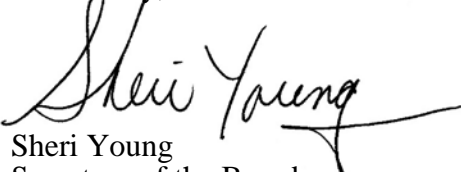
Hearing Order OH-001-2014
Trans Mountain Pipeline ULC (Trans Mountain)
Application for the Trans Mountain Expansion Project dated 16 December 2013
Factors and Scope of the Factors for the Environmental Assessment pursuant to the
Canadian Environmental Assessment Act, 2012 (CEAA 2012)

On 16 December 2013, Trans Mountain applied to the National Energy Board (Board) for a certificate of public convenience and necessity and related approvals for its proposed Trans Mountain Expansion Project.

The proposed project is a designated project under the CEAA 2012 and the Board is the Responsible Authority. Pursuant to the CEAA 2012, the Board has developed the attached Factors and Scope of the Factors for the Environment Assessment. This document has also been posted on the Canadian Environmental Assessment Registry Internet Site (Reference No. 80061).

If there are any questions regarding this document, please contact the Board's Process Advisor Team for this project by phone at 403-292-4800 or 1-800-899-1265 (toll-free), or by email at transmountainpipeline.hearing@neb-one.gc.ca.

Yours truly,


Sheri Young
Secretary of the Board

Attachment

c.c. List of Participants

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**Trans Mountain Pipeline ULC
Trans Mountain Expansion Project
Application dated 16 December 2013**

**Factors and Scope of the Factors for the Environmental Assessment pursuant to the
*Canadian Environmental Assessment Act, 2012***

1.0 INTRODUCTION

On 16 December 2013, Trans Mountain Pipeline ULC (Trans Mountain) filed an application with the National Energy Board (Board or NEB) proposing to construct and operate the Trans Mountain Expansion Project (Project). As the Project would require more than 40 kilometres of new pipeline and would be regulated under the *National Energy Board Act* (NEB Act), it is a designated project under the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) and requires a CEAA 2012 environmental assessment for which the NEB is the Responsible Authority.

For the purposes of the environmental assessment under the CEAA 2012, the designated project includes the various components and physical activities as described by Trans Mountain in its 16 December 2013 application submitted to the NEB. The Board has determined that the potential environmental and socio-economic effects of increased marine shipping activities to and from the Westridge Marine Terminal that would result from the designated project, including the potential effects of accidents or malfunctions that may occur, will be considered under the NEB Act (see the [NEB's Letter](#) of 10 September 2013 for filing requirements specific to these marine shipping activities). To the extent that there is potential for environmental effects of the designated project to interact with the effects of the marine shipping, the Board will consider those effects under the cumulative effects portion of the CEAA 2012 environmental assessment.

As noted in the List of Issues (attached to Hearing Order [OH-001-2014](#)), the Board does not intend to consider the environmental and socio-economic effects associated with upstream activities, the development of oil sands, or the downstream use of the oil transported by the pipeline.

In accordance with paragraph 79(2)(b) of the CEAA 2012, the following provides a description of the factors to be taken into account in the environmental assessment under the CEAA 2012 and of the scope of those factors.

2.0 FACTORS AND SCOPE OF THE FACTORS

2.1 Factors to be considered

The CEAA 2012 environmental assessment for the designated project will take into account the factors described in paragraphs 19(1)(a) through (h) of the CEAA 2012:

- (a) the environmental effects¹ of the designated project, including the environmental effects of malfunctions or accidents that may occur in connection with the designated project and any cumulative environmental effects that are likely to result from the designated project in combination with other physical activities that have been or will be carried out;
- (b) the significance of the effects referred to in paragraph (a);
- (c) comments from the public or any interested party received in accordance with the CEAA 2012;
- (d) mitigation measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the designated project;
- (e) the requirements of the follow-up program in respect of the designated project;
- (f) the purpose of the designated project;
- (g) alternative means of carrying out the designated project that are technically and economically feasible and the environmental effects of any such alternative means; and
- (h) any change to the designated project that may be caused by the environment.

In addition, the environmental assessment will also consider community knowledge and Aboriginal traditional knowledge.

2.2 Scope of the factors to be considered

The environmental assessment will consider the potential effects of the designated project within spatial and temporal boundaries within which the designated project may potentially interact with and have an effect on components of the environment. These boundaries will vary with the issues and factors considered, and will include, but not be limited to:

- construction, operation and maintenance, foreseeable changes, and site reclamation, as well as any other undertakings proposed by the proponent or that are likely to be carried out in relation to the physical works proposed by the proponent, including mitigation and habitat replacement measures;
- seasonal or other natural variations of a population or ecological component;
- any sensitive life cycle phases of species (e.g., wildlife, vegetation) in relation to the timing of Project activities;
- the time required for an effect to become evident;

¹ Section 5 of the CEAA 2012 further describes the environmental effects that are to be taken into account.

- the area within which a population or ecological component functions; and
- the area affected by the Project.

Any works and activities associated with additional modifications or associated with the decommissioning or abandonment phase of the Project would be subject to a future application under the NEB Act and assessed in detail at that time. Therefore, at this time, any works or activities associated with these phases of the Project will be examined in a broad context only. As indicated above, the environmental assessment will consider cumulative environmental effects that are likely to result from the designated project in combination with effects from other physical activities that have been or will be carried out.

Subsection 2(1) of the CEEA 2012 provides definitions potentially relevant to the scope of the factors, including:

“environment” which means the components of the Earth, including

- (a) land, water and air, including all layers of the atmosphere;
- (b) all organic and inorganic matter and living organisms; and
- (c) the interacting natural systems that include components referred to in paragraphs (a) and (b);

and

“mitigation measures” which means measures for the elimination, reduction or control of the adverse environmental effects of a designated project, and includes restitution for any damage to the environment caused by those effects through replacement, restoration, compensation or any other means.