

NEB REVIEW OF TRANS MOUNTAIN EXPANSION PROJECT APPLICATION

- On May 19th of this year the National Energy Board recommended to the federal government that the project be approved, subject to 157 conditions.
- On November 29th, the federal government announced its approval of the Trans Mountain Expansion Project.
- The provincial environmental assessment process has been underway for more than seven months but, I understand, is nearing conclusion. Aboriginal consultation efforts have been conducted jointly with the federal government.
- The Environmental Assessment Office informs me that they anticipate referring the project to me and Minister Coleman for decision shortly.
- The Province has been considering the National Energy Board's report and information obtained through consultation with Aboriginal groups and government agencies to help inform its analysis and recommendations to Ministers.
- If a provincial Environmental Assessment Certificate is issued, Ministers may decide to attach additional conditions.

Background:

- As a result of a January 2016 Supreme Court of British Columbia decision regarding the Environmental Assessment Office's equivalency agreement with the National Energy Board, Ministers can rely on the Environmental Assessment conducted by the National Energy Board for the Trans Mountain Expansion Project but are required to render a decision under the British Columbia Environmental Assessment Act.
- The Province has the authority to conduct an environmental assessment on an interprovincial pipeline or project because the Court found that the *Environmental Assessment Act* represents a valid exercise of provincial authority even if it may affect certain aspects of an interprovincial pipeline, which is under federal jurisdiction. There may be limits to the Province's jurisdiction (for example, the conditions that the Province may be able to place on an interprovincial project), but that can only be considered once the Province has made a decision.
- The National Energy Board (NEB) issued its report to the federal Cabinet recommending that the project should proceed, subject to 157 conditions, on May 19, 2016. On November 3, 2016, Natural Resources Canada released a report from the Ministerial Panel tasked with engaging local and Aboriginal communities to identify any additional views not heard during the NEB review process. On November 29, 2016, the federal government announced its approval of the Trans Mountain Expansion Project with 157 conditions.
- Kinder Morgan Canada's proposed twinning of the existing oil pipeline from Edmonton to Burnaby triggers an NEB review process because it crosses an interprovincial border.
- The Environmental Assessment Office (EAO) will accept the NEB's report and the information considered throughout the remaining provincial process, including Aboriginal consultation, to help inform the Ministers' Environmental Assessment (EA) decision. The EAO coordinated Aboriginal consultation with the federal government's Major Projects Management Office - Natural Resources Canada (MPMO).
- EAO and MPMO consulted with 96 Aboriginal groups in British Columbia (BC) about the proposed project and provided Aboriginal groups with two opportunities to review and submit comments on their joint draft consultation report.
- The first draft of the consultation report was shared with Aboriginal groups for review and comment in August 2016.
- EAO and MPMO shared the second draft (with explanations about how Aboriginal input on the first draft was considered) with Aboriginal groups for additional review and comment in November 2016. EAO provided additional draft supporting documents for review and comment at the same time.
- The Province participated as an intervenor in the NEB review and in its final submission, the Province stated that it cannot support the project based on evidence presented by the company, because it is not sufficient for BC to determine if Kinder Morgan will use a world-leading spills regime. The Province also stated that it will continue to evaluate the project, based on the company's ability to meet its "five requirements".
- BC's minimum requirements for any heavy oil pipeline are:
 - successful completion of an EA;
 - establishment of world-leading marine oil spill response, prevention and recovery systems for BC's coastline and ocean;

- establishment of world-leading land oil spill prevention, response and recovery systems;
- legal requirements regarding Aboriginal and treaty rights are addressed and First Nations are provided with the opportunities, information and resources to participate and benefit from the project;
- BC receives a fair share of the fiscal and economic benefits.

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