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s.16;s.13

MINISTRY OF ENERGY, MINES AND PETROLEUM RESOURCES**BRIEFING NOTE FOR INFORMATION**

I PREPARED FOR: Honourable Michelle Mungall, Minister of Energy, Mines and Petroleum Resources

II ISSUE: Update – Trans Mountain Expansion Project.

III BACKGROUND:

Trans Mountain Pipeline ULC (TMP) is a Canadian corporation with its head office located in Calgary, Alberta. TMP is a general partner of Trans Mountain Pipeline L.P. (collectively “Trans Mountain”), a limited partnership registered in Alberta and the owner of the existing Trans Mountain Pipeline system. Trans Mountain is a wholly-owned subsidiary of Kinder Morgan Energy Partners, L.P. (Kinder Morgan). Kinder Morgan is the largest midstream and the fourth largest energy company in North America.

TMP filed its regulatory Application with the National Energy Board (NEB) on December 16, 2013 for approval to proceed with the \$7.4 billion twinning of the existing 1,150 kilometer pipeline within the existing right-of-way, where possible, from Edmonton to Vancouver. The proposed Trans Mountain Expansion Project (Project) would increase the current pipeline capacity of 300,000 barrels per day (bbl/d) to two continuous pipelines with a sustainable capacity of 890,000 bbl/d.

NEB conducted a review and a public hearing process which began in April 2014 and concluded mid-February 2016. The Province participated as an intervenor submitting 139 information requests focused on marine and terrestrial spill response, prevention and recovery. In its final written argument on January 11, 2016 the Province stated it could not support the project at this time based on the current information filed with the NEB by TMP. The Province was concerned over emergency management plans and spillage responses on land and water.

May 19, 2016 the NEB released its recommendations report to Governor in Council (GiC) supporting the Project subject to 157 conditions. As per the June 20, 2016 Federal Court of Appeal decision¹ that Canada must fulfil its duty to consult with affected First Nations, the Federal Government embarked on deeper consultation with First Nations.

November 29, 2016 the GiC approved the Project taking into consideration information from a Ministerial Panel on engagement, greenhouse gas assessment and deeper First Nations consultation. To that end the Prime Minister has said the Project is in the national interest. Section 92(10)(a) of the *Constitution Act*, gives the federal government jurisdiction over interprovincial works and undertakings (e.g., pipelines) and the Province would be limited in its ability to prevent the Project.

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¹ *Gitxaala Nation et. al. v. Canada* (Environment) 2016 FCA 187

In January 2016 the B.C. Supreme Court (Court) released its decision on the validity of the Equivalency Agreement entered into by the B.C. Environmental Assessments Office (EAO) and the NEB for the Northern Gateway Pipelines Project (NGP). The Court found that while Provincial Ministers can rely on the environmental assessment (EA) conducted by the NEB, they must render a decision on whether to issue a Certificate for the NGP and by extension to the TMP Project. TMP applied to the EAO in May 2016.

The EAO worked collaboratively on deeper First Nations consultation with Natural Resources Canada's Major Projects Management Office (MPMO). Ninety-six B.C. Aboriginal groups were identified to be consulted, based on the strength of claim and potential impact. EAO produced a Summary Assessment Report, a Joint Federal/Provincial Consultation and Accommodation Report. Decision to issue an EA Certificate was made on January 10, 2017 with an additional 37 conditions.

January 11, 2017 the Province announced TMP had successfully addressed B.C.'s Five Conditions. B.C. signed an Agreement with TMP on benefits to the Province. As part of the Agreement the Province has an obligation to maintain a Project Office (PO) and to continue to endeavour to have a timely and efficient regulatory and decision making process. The PO and a management structure are in place at the Ministry of Energy, Mines and Petroleum Resources.

TMP reached a financial investment decision on May 31, 2017 and plans to begin pipeline construction in September 2017 and commence operation December 2019.

IV DISCUSSION:

s.13,s.14

s.13,s.14

V RECOMMENDED RESPONSES:

s.13,s.14

REVIEWED BY:

Linda Beltrano, EL, OSID	<u>✓</u>
Simon Coley, LC, LSB, AG	<u>✓</u>
Dave Nikolejsin, DM	<u>✓</u>

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