

Page 01 to/à Page 12

Withheld pursuant to/removed as

s.12;s.14

From: [Beltrano, Linda MNGD:EX](#)
To: [Nikolejsin, Dave MNGD:EX](#); [Plecas, Bobbi ENV:EX](#); [Mihlar, Fazil ITT:EX](#)
Subject: RE: filing in Court of appeal
Date: Friday, September 1, 2017 1:16:12 PM
Attachments: [AGBC MOFL signed 17 09 01.pdf](#)

Sorry folks it is now attached.

Linda Beltrano
Executive Lead
Oil and Strategic Initiatives Division
Ministry of Energy, Mines & Petroleum Resources
778-698-3661

From: Nikolejsin, Dave MNGD:EX
Sent: Friday, September 1, 2017 1:14 PM
To: Beltrano, Linda MNGD:EX
Subject: RE: filing in Court of appeal

What attached?

From: Beltrano, Linda MNGD:EX
Sent: September 1, 2017 1:10 PM
To: Nikolejsin, Dave MNGD:EX <Dave.Nikolejsin@gov.bc.ca>; Plecas, Bobbi ENV:EX <Bobbi.Plecas@gov.bc.ca>; Mihlar, Fazil MIT:EX <Fazil.Mihlar@gov.bc.ca>
Subject: filing in Court of appeal

Dave, Bobbi, and Fazil

s.13

Linda Beltrano
Executive Lead
Oil and Strategic Initiatives Division
Ministry of Energy, Mines & Petroleum Resources
778-698-3661

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Withheld pursuant to/removed as

s.14;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, Honourable Harry Bains, Minister of Labour, Honourable George Heyman, Minister of Environment and Climate Change Strategy

II ISSUE: Meeting with International Union of Operating Engineers (IUOE)

III BACKGROUND:

- It is estimated that the Trans Mountain Expansion Project (Project) will provide 189,000 person-years of employment in B.C.
- Four Craft Unions sent a letter to Premier Horgan, dated July 19, 2017, in which a meeting was requested to discuss their discontent at having not been selected to participate in building the Project. They also expressed concern that Kinder Morgan (KM) had prioritized cost effectiveness over worker qualification in its contract procurement.
- The Four Craft Unions who expressed concerns were the International Union of Operating Engineers (IUOE), the Labourer's International Union of North America (LIUNA), United Association (UA) Canada (Canadian Piping Trades), and Teamsters Canada.
- Unions play an important role in protecting workers' rights and safety. This role is of particular importance in risky industries including construction.
- The International Union of Operating Engineers (IUOE) Canada represents over 50,000 Canadian workers, with 11,000 members in British Columbia (B.C.)
- IUOE primarily represents operating engineers (heavy equipment operators, mechanics and surveyors) and stationary engineers (workers in operations and maintenance in building and industrial complexes, and in the service industries).
- IUOE is a member of the Canadian Labour Congress.

IV DISCUSSION:

Trans Mountain Expansion Project

- The Government of B.C. has stated that it will use every tool available to defend B.C.'s interests regarding Kinder Morgan's (KM's) Trans Mountain Expansion Project (Project).
- The contract procurement process on the Project consisted of a submission of bids by contractors utilizing union, non-union and First Nations labour, with the exception of Spread 6 (Fraser Valley) which was reserved for union and First Nations labour. Contracts were awarded based on the competitiveness of the bids.

- KM released a list of head contractors selected on each spread of the Project on September 6, 2017. Of the contractors selected for spreads other than Spread 6, several employ unionized labour through the Canadian Iron, Steel and Industrial Workers Union, which is not among the Four Craft Unions.
- IUOE will be meeting with KM this week. KM has indicated that it continues to meet with unions, and is willing to meet with government to address concerns regarding hiring and labour.

According to the April 6, 2016 Agreement, TMP is committed to a “British Columbia First” policy and contracting with respect to the work in BC on the Project. TM is to make reasonable efforts to hire locally and to competitively and openly contract with BC business and First Nations. These requirements are subject to TM’s standards, competitive pricing and existing commitments. In light of the bid approach and the efforts on Spread 6 to identify BC firms TMP has met the Agreement conditions. KM has indicated that there are future opportunities for unionized work and that Unions should continue to meet and discuss possibilities with KM.

V CONCLUSION:

- IUOE is encouraged to continue discussions with KM regarding opportunities for union labour on the Project.

PREPARED BY:

Linda Beltrano

REVIEWED BY:

Dave Nikolejsin ✓

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: UBCM 2017 meeting with District of Kitimat to discuss pipeline leak detection.

III BACKGROUND:

Mayor Philip Germuth, Chief Administrative Officer Warren Waycheshen, and Councillors Claire Rattée, Edwin Empinado, Larry Walker, Mario Feldhoff, Mary Murphy and Rob Goffinet wish to discuss leak detection in pipelines.

IV DISCUSSION:

- The regulatory authority for overseeing provincial pipelines lies with British Columbia's (B.C.'s) Oil and Gas Commission (OGC), while interprovincial pipelines are regulated by the National Energy Board (NEB).
- Both regulators follow the Canadian Standards Association (CSA) standards for pipeline security, leak detection and integrity management planning (CSA Z662). These standards are enforced through regulation, through the *Oil and Gas Activities Act (OGAA) Pipeline Regulations*, Section 7 for provincial pipelines and the *NEB Onshore Pipeline Regulations*, Section 37, 40 and 41 for interprovincial pipelines.
- CSA Z662 establishes the standard of quality to which pipelines must be constructed and operated, which includes in-line testing for leaks prior to commencing operation. CSA Z662 also requires operators to establish an Integrity Management Plan, which includes specifications for pipeline inspection practices and frequency, and also requires that a record be kept of all incidents.
- Additionally, OGC and NEB conduct routine inspections of pipelines in accordance with internal prioritization methods, oversee quality testing of pipelines during construction and operation, and review Integrity Management and Emergency Response Plans.
- While CSA Z662 establishes the baseline standards for pipeline security and leak detection, the NEB has set additional requirements for Kinder Morgan Canada's (Kinder Morgan) Trans Mountain Expansion Project (Project). As per NEB Condition 115, Kinder Morgan is required to install a secondary Computational Pipeline Monitoring (CPM) system to operate in parallel with its existing CPM, and to implement aerial surveillance systems along the pipeline.

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- The proponent must also consider leading practices established by the American Petroleum Institute, and must conduct testing to validate performance targets for sensitivity, accuracy, reliability and robustness of leak detection systems.
- While regulation of pipeline operations is handled by OGC and the NEB, B.C.'s Ministry of Environment and Climate Change Strategy (ENV) has authority over terrestrial spill preparedness and response. May 10, 2017, the Government of B.C. passed amendments to the *Environmental Management Act, 2016*, allowing ENV to establish a regime which will ensure world-leading preparedness, response and recovery measures are in place in B.C.
- This regime is to be established on the principle of "polluter pays", and will focus on increased requirements for preparedness, response and recovery, increased transparency, cooperation with First Nations, strong government oversight, and continuous improvement. The first phase of regulations is expected in the coming months, with additional phases of regulation to follow.

V RECOMMENDED RESPONSE

- Provincial pipeline safety and spill prevention in B.C. is regulated by the OGC. Requirements for leakage prevention, identification and response are established in accordance with CSA Z662, as codified in *OGAA Pipeline Regulation*, Section 7.
- Interprovincial pipeline safety is regulated through the NEB. CSA Z662 also establishes the standards for leak prevention, identification and response for interprovincial pipelines, as codified in *NEB Onshore Pipeline Regulations*, Sections 37, 40 and 41.
- Kinder Morgan's Project will be required to meet high standards for pipeline leak detection, including parallel CPM systems and aerial surveillance.
- ENV is developing a world-leading terrestrial spill prevention, response and recovery regime. The first phase of regulations will be established in the coming months, with additional phases of regulation to follow.

PREPARED BY:
s.22

REVIEWED BY:
Linda Beltrano, EL, OSID ✓
Dave Nikolesjin, DM —

MINISTRY OF ENERGY, MINES AND PETROLEUM RESOURCES

BRIEFING NOTE FOR INFORMATION

I PREPARED FOR: Honourable Michelle Mungall, Minister of Energy, Mines and Petroleum Resources, Honourable Harry Bains, Minister of Labour, and Honourable George Heyman, Minister of Environment and Climate Change Strategy

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According to the April 6, 2016 Agreement, Trans Mountain Pipeline ULC (TMP) is committed to a "British Columbia First" policy and contracting with respect to the work in B.C. on the Project. TMP is to make reasonable efforts to hire locally and to competitively and openly contract with B.C. businesses and First Nations. These requirements are subject to TMP's standards, competitive pricing and existing commitments. In light of the bid approach and the efforts on Spread 6 to identify B.C. firms TMP has met the Agreement conditions. KM has indicated that there are future opportunities for unionized work and that Unions should continue to meet and discuss possibilities with KM.

V CONCLUSION:

IUOE is encouraged to continue discussions with KM regarding opportunities for union labour on the Project.

PREPARED BY:

Linda Beltrano, EL, OSID

APPROVED BY:

Dave Nikolejsin, DM

**MINISTRY OF ENERGY, MINES AND PETROLEUM RESOURCES
OIL AND STRATEGIC INITIATIVES DIVISION**

ISSUE: Meeting with Hon. Shannon Phillips, Alberta Minister of Environment and Parks, Regarding Kinder Morgan's Trans Mountain Expansion Project

KEY MESSAGES:

- As an interprovincial pipeline, the authority for approval of the Trans Mountain Expansion Project (Project) rested with the Federal Government. Approval was granted on November 29, 2016, on the basis of the pipeline being found to be in the national interest.
- The Province in its final argument could not support the pipeline based on the information filed with the National Energy Board (NEB). The Province had concerns over emergency management plans and spillage responses on land and water.
- British Columbia's (B.C.'s) Ministry of Environment and Climate Change Strategy has been mandated to defend B.C.'s interests with respect to the Project.
- B.C. has been granted intervener status in the Federal Court of Appeal case which seeks to overturn the Federal approval of the Project. It is absolutely appropriate and necessary that we have the opportunity to defend B.C.'s interests in this very important case.
- B.C. filed its written Memorandum of Fact and Law on September 1, 2017.
- The Project requires an estimated 1,200 provincial permits requiring First Nation consultation. Permitting is presently underway.
- The provincial permits will ensure the Project is constructed properly and in accordance with the 157 conditions laid out by the NEB, as well as the 37 additional conditions set down by the Province in its Environmental Assessment Certificate. The Province's conditions further protect wetlands, wildlife habitat and caribou and grizzly populations.

BACKGROUND:

- The Trans Mountain Expansion Project (Project) falls under the jurisdiction of the NEB, as it crosses provincial borders. It begins near Edmonton, Alberta and terminates on the B.C. coast. Hearings for the NEB approval process began in April, 2014 and concluded mid-February, 2016.

- As an intervenor in the NEB process, the Province submitted 139 information requests focused on marine and terrestrial spill response, prevention and recovery.
- In its Final Argument, submitted on January 11, 2016, the Province stated it could not support the Project at that time based on the information filed with the NEB. B.C. was concerned over emergency management plans and spillage response on land and water.
- The Project was granted approval by the federal Governor in Council on November 29, 2016, subject to 157 conditions placed upon it during the NEB review process. B.C. granted the Project an Environmental Assessment (EA) certificate on January 11, 2017, subject to an additional 37 conditions.
- In April, 2017 B.C. signed an Agreement with Kinder Morgan on benefits to the Province from the project.
- The Government of B.C.'s official position is that it will defend B.C.'s interests regarding the Project. As an interprovincial pipeline the Federal Government has the ultimate authority over the Project, as per the *Constitution Act*, Section 92 (10)(a).
- The Province of Alberta has stated its support for the Project, on the grounds of the economic benefits provided through access to Pacific markets. Alberta will be representing its interests as an intervenor in support of the Project in the Federal Court of Appeal case to be heard in October, 2017.

Legal Challenges

- The Governor in Council approval of the Project is facing judicial review by First Nations, interest groups and municipalities. All of the judicial reviews of the decision before the Federal Court of Appeal have been consolidated into a single case, which is to be heard over seven days in the period of October 2-13, 2017.
- B.C. was granted intervenor status in the consolidated Court of Appeal case, siding in favour of the plaintiff. B.C.'s Memorandum of Fact and Law, filed September 1, 2017, outlines the failure of the federal process to properly consider the economic risks associated with a Project-related spill on B.C.'s coast.
- Alberta¹ is also an intervenor in the Court of Appeal's case, and is supporting the Project as being in the public interest by presenting economic benefits of market access and providing details of its Climate Leadership Plan, which was cited by the Federal Government during Project approvals.
- Additional legal challenges of the environmental certificate granted to the Project by B.C. have been filed by the Squamish First Nation and the City of Vancouver. These cases will be heard by the Supreme Court of B.C., though hearings have not yet been scheduled.

Construction and Operation

- Kinder Morgan's plans include: work to begin on the Westridge Marine Terminal in September 2017; clearing to begin in September 2017; pipeline construction to be completed by 2019; and operations to commence December 2019.

¹ <https://www.alberta.ca/release.cfm?xID=46931B8CC3E4E-05F5-1203-490C12379414BD16>

- The Operational and Construction phase of the Project has begun. Permit applications are being submitted to Ministry of Forests, Lands, Natural Resource Operations and Rural Development, Ministry of Environment (including BC Parks), Ministry of Transportation and Infrastructure and the B.C. Oil and Gas Commission.
- First Nation consultation has begun with certain procedural aspects to be undertaken by Kinder Morgan. The ultimate legal responsibility for consultation and accommodation rests with the Provincial Crown.
- Provincial permitting agencies consider consultation that has occurred to date through the NEB and EA processes and may rely on existing accommodations to address any novel or incremental impacts of a particular permit application where appropriate.
- Statutory Decision Makers (SDMs) cannot slow their decision-making for any improper purpose and cannot be fettered by anyone in making their decisions. SDMs continue to consider permit applications.