Date: January 15, 2019
Cliff No: 105901

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

I PREPARED FOR: Dave Nikolejsin, Deputy Minister, Ministry of Energy, Mines and Petroleum Resources

II ISSUE: Summary of Key Aspects of the Intergovernmental Partnership Agreement for the Conservation of the Central Group of Southern Mountain Caribou

III BACKGROUND:

The Province has been negotiating on caribou recovery efforts in Central Group of Southern Mountain Caribou with the federal Ministry of Environment and Climate Change Canada (ECCC) and two of the Treaty 8 First Nations, Saulteau First Nations (SFN) and West Moberly First Nations (WMFN), since receiving an updated Cabinet mandate in August 2018. The current draft of the Intergovernmental Partnership Agreement for the Conservation of the Central Group of Southern Mountain Caribou (Agreement) sets out the strategy for caribou recovery efforts within specific herd areas across northeastern BC.

The Central Group contains three Local Population Units (LPU): Pine, Quintette and Narraway. The Central Group has seen significant population declines in the past 20 years and currently sits at approximately 228 animals remaining. In May 2018, the federal minister of ECCC determined that ten herds in BC were deemed as being at imminent threat, two of those herds are found in the Central Group; the Quintette and Narraway herds.

The Agreement is structured to address caribou recovery within the Central Group and enhance the role of WMFN and SFN over the 30 years of the Agreement. The Agreement sets out specific objectives, protections and recovery areas across the Pine, Quintette and Narraway LPU areas. The areas addressed in the Agreement extend from the southern border of the Williston reservoir to South of Tumbler Ridge into the Narraway River area (Appendix 1).

Within this area, there are two broad categories of zones that have been negotiated: those that offer protection and conservation of habitat, and those that focus on sustainable resource development. A tripartite Caribou Recovery Committee will be established to review proposals for development within the sustainable resource development zone and must provide consensus recommendations to the statutory decision maker. Both this committee and the Agreement itself will be subject to specific dispute resolution processes involving mediation and recommendations from external parties.

Additional conservation measures within the Agreement area include habitat restoration, the establishment of Caribou Recovery Objectives, and updated forestry operating practices.

The Province has committed to enacting various regulatory measures to support the objectives of the Agreement and has carved out the opportunity to review the above-described protection and conservation measures on a bi-annual basis.

IV DISCUSSION:

Key components of the Agreement local governments are likely to raise include:

- Balancing Social and Economic Factors with the Recovery of Caribou:

  The Agreement aims to balance the need for ongoing development to support local economies and communities with the required conservation and protection efforts necessary to support recovery of caribou populations. The Agreement carves out mining interests in the short-term and allows previously approved mines and existing operations to continue alongside key areas for continued exploration and development. Similarly existing petroleum and natural gas infrastructure and previously approved developments would be carved out of the Agreement.

  Much of the Agreement's focus is on enhancing protections in the Pine LPU which has limited mining, petroleum and natural gas potential and activity. Petroleum and natural gas activity is generally focused on pipeline development, and mining is limited to small bundles of mineral claims.

  The enhanced protections in the Pine LPU include the expansion of the existing Klinse-za (Twin Sisters) Park by approximately 200,000 hectares, as well as the establishment of areas totalling approximately 200,000 hectares for additional conservation measures and actions. This will build upon the existing Ungulate Winter Range and Wildlife Habitat Areas, of approximately 80,000 hectares that already exist in the Pine LPU.

  Across the Quintette and Narraway LPUs measures include protection of approximately 552,489 hectares of high elevation habitat deemed critical to the ongoing recovery and survival of the caribou herds. Approximately 464,000 hectares of high elevation habitat had prior protections in place from coal mining activities through coal land reserves, however, the new areas within the Quintette and Narraway LPUs were the subject of repeated engagement with industry to identify properties that could be deferred without impacting sites critical to ongoing mine supply or future operations.

- Complexity of Decision Making in Sustainable Resource Areas:

  Areas of sustainable resource development activity will be subject to an enhanced decision making process that will entail review of proposed developments by the tripartite Caribou Recovery Committee, who in turn must provide consensus recommendations to the statutory decision maker. Both the mining and petroleum and natural gas industries have raised concerns with the process for adjudicating applications in the sustainable resource development areas as it is likely to be extremely complex and not increase certainty in permitting processes. Applications will be required to do more than current policy including restoration and habitat offsets, financial offsets and demonstrating projects are leading to net neutral or net benefit for caribou.

Pipelines intersect with the Pine LPU and proposed zones for conservation and protection, however, the pipelines are considered as existing developments. Any ancillary activities that require authorizations will require consensus recommendations from the Caribou Recovery Committee. While the Parties are committed to being reasonable and efficient, enhanced decision making may add some complexity.

- <u>Public Engagement to Date:</u>

  Engagement efforts by the Ministry of Energy, Mines and Petroleum Resources have been focused on industry through 2018 to ensure that any actions or measures contemplated by the Agreement would limit impacts to existing and reasonably foreseeable future operations.

  Broader provincial engagement efforts with a consortium of stakeholders have been led by Forests, Lands and Natural Resource Operations and Rural Development and the Ministry of Environment and Climate Change.

  Now that the Agreement is positioned as a more complete draft, the Province has developed a process and nine month timeline from signing of the Agreement to allow appropriate community, First Nations, industry and stakeholder engagement to inform the specific areas where the various levels of protection will be established.

V KEY MESSAGES:

- The Agreement has been structured to allow existing oil and gas activities as well as mining interests to continue, while being subject to a tripartite review process seeking consensus recommendations that demonstrate a proposed activity is in support of caribou recovery objectives.
- The various areas of differing conservation and protection activities under the Agreement will be engaged upon over the course of nine months prior to finalization of the Agreement.
- Balancing social and economic drivers with the protection and recovery of caribou within northeastern BC remains a key focus of the Province.

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Appendix 1: Maps of Central Group, Agreement zones and overlapping mining, and petroleum and natural gas interests.

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s.16; s.21

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s.21; s.16

MINISTRY OF ENERGY, MINES AND PETROLEUM RESOURCES

BRIEFING NOTE FOR INFORMATION

I PREPARED FOR: Dave Nikolejsin, Deputy Minister of Energy, Mines and Petroleum Resources

II ISSUE: National Energy Board's Reconsideration Report for the Trans Mountain Expansion Project

III BACKGROUND:

On August 30, 2018 the Federal Court of Appeal (FCA) decision found that the National Energy Board (NEB), in reviewing Trans Mountain's application for a Certificate of Public Convenience and Necessity (CPCN) for the Trans Mountain Expansion Project (TMEP), had unjustifiably excluded the project-related marine shipping from the scope of the "designated project" reviewed under the *Canadian Environmental Assessment Act*, 2012. The Order in Council (OIC) approving TMEP was quashed rendering the CPCN a nullity.

The Governor in Council (GIC), by OIC, directed the NEB to undertake a reconsideration of the effects of project-related marine shipping and to produce a Reconsideration Report by February 22, 2019. As with the original TMEP Certificate hearings, BC participated as an intervenor in the NEB's reconsideration process.

The Province's participation focused mainly on marine oil spill preparedness and response and on the impacts of increased marine shipping on Southern resident killer whales. Staff at the Ministry of Environment and Climate Change Strategy (ENV) reviewed the evidence on the record and provided subject matter expertise to inform the Province's submissions.

On February 22, 2019 the NEB released its Reconsideration Report, recommending that the GIC approve TMEP. If the project is approved, the NEB will attach 156 conditions to the CPCN issued for the project. The NEB also issued 16 recommendations to the GIC. One former certificate condition was reframed as a recommendation to the GIC.

The GIC will consider the NEB's Reconsideration Report, in conjunction with the outcomes of the additional First Nations consultation currently underway, and decide whether or not to approve TMEP again and, by OIC, order the NEB to issue a new CPCN for the project or to dismiss Trans Mountain's application.

IV DISCUSSION:

The NEB's Reconsideration Report[1] , which includes certificate conditions to be imposed on Trans Mountain and recommendations for the federal government, has been provided to the GIC

[1] https://apps.neb-one.gc.ca/REGDOCS/Item/Filing/A98021

for its consideration when deciding whether federal approval for TMEP should be reinstated and whether additional project requirements should be established.

The NEB has again found TMEP to be in the national interest and recommends that GIC reissue approval of the project. In doing so, the NEB found that TMEP-related marine shipping is likely to cause significant adverse effects on the Southern resident killer whale and on Indigenous cultural uses associated with that species, and to result in a measurable increase in greenhouse gas emissions. However, the NEB found that, in light of the benefits of the project and measures to mitigate its effects, the adverse effects of TMEP can be justified.

ENV upholds its concerns regarding the ability to respond to a significant project-related marine spill and the project's serious negative impacts on the Southern resident killer whales. The provincial government continues to question the necessity of the TMEP.

The NEB is not proposing any new conditions for TMEP, but there are proposed additions and alterations to existing conditions which serve to:

- update language in the conditions to incorporate new filed evidence;
- defer responsibility for Condition 131 (Marine Public Outreach Program) to federal authorities;
- ensure project tankers comply with enhanced tug escort requirements;
- require Trans Mountain to provide its Westridge Marine Terminal Regulations and Operations Guide to the NEB for review prior to and for the first five years after shipping commences;
- emphasize Trans Mountain's responsibility as terminal operator with regard to TMEP-related shipping;
- incorporate cumulative effects from shipping into mitigation strategies; and
- re-contextualize marine shipping-related commitments as marine spill prevention and response commitments in relation to the TMEP project.

The NEB found that marine shipping is outside its regulatory authority. Therefore, it found that it cannot attach conditions to the CPCN related to marine shipping due to its inability to oversee and enforce these conditions. For the matters it deemed to fall outside its regulatory mandate, the NEB issued 16 recommendations for initiatives which should be undertaken by federal authorities, in conjunction with the conditions placed on TMEP, to ensure that the marine shipping-related impacts of TMEP are mitigated or avoided. Ultimately, the GIC will decide whether and how to implement these recommendations, in full or in part.

IV CONCLUSION:

Section 54(3) of the *NEB Act* stipulates an order must be made by the GIC within three months after the NEB report is submitted to the Minister, but the GIC may, on the recommendation of the Minister, by order, extend that time limit by any additional period or periods of time.

Canada is continuing its Phase III First Nations consultation with no set timeline.

While the reconsideration report itself is not reviewable, the GIC's order directing the NEB to issue a CPCN for the project, or to dismiss Trans Mountain's application, may be reviewed by the FCA. Anyone "directly affected" by the decision may bring an application for judicial review within 30 days of the decision being communicated.

Trans Mountain continues to submit permit applications to the Province, which has an administrative obligation to review the applications it receives, based on their own merits.

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MINISTRY OF ENERGY, MINES AND PETROLEUM RESOURCES

BRIEFING NOTE FOR INFORMATION

I PREPARED FOR: Dave Nikolejsin, Deputy Minister of Energy Mines and Petroleum Resources

II ISSUE: Trans Mountain Pipeline Operations

III BACKGROUND:

The Trans Mountain Pipeline (TMPL) transports crude oil and refined petroleum products from Edmonton, Alberta to refineries and terminals in British Columbia and Washington State. Crude oil is also shipped to offshore markets in Asia and the U.S. west coast via the Westridge Marine Terminal in Burnaby, British Columbia (see map in Appendix I).

TMPL started operations in 1953 and is the only pipeline in North America that carries a spectrum of refined products and crude oil in a single pipeline.

The major entry point and source of supply to the TMPL starts at Kinder Morgan Canada Limited's Edmonton Terminal. It is in an area zoned for heavy industrial activity in Strathcona County (near Edmonton), Alberta.

Twenty feeder lines from throughout Alberta arrive at Edmonton Terminal. It has 20 regulated storage tanks with an overall volume of 2.9 million bbl. These tanks are used to support the operating requirements of the mainline system, by temporarily storing both crude oil and refined products before they are sent to their delivery destinations. In addition, there are currently 15 merchant tanks at the Edmonton Terminal leased to customers for storage and operational needs of those customers with a volume of 5.1 million bbl.

The Control Centre Operations for the pipeline and facilities has been located at the Edmonton Terminal since 2000. The control centre remotely monitors all aspects of the pipeline system operations.

At the Sumas delivery point, the TMPL connects with the Puget Sound Pipeline, owned by Trans Mountain Pipeline (Puget Sound) LLC, which delivers oil to four refineries on the west coast of Washington State.

At the Burnaby Terminal, connecting pipelines enable deliveries of crude oil and refined petroleum products to Parkland's Burnaby Refinery and to Suncor's Burrard refined products marketing terminal.

The Westridge Marine Terminal is located approximately three kilometres from the Burnaby Terminal. It facilitates marine exports from the TMPL to coastal refineries, such as those on the U.S. west coast or in Asia.

The TMPL has 300,000bbl/d capacity to transport crude oil, semi-refined and refined products. This process is known as "batching", where one product follows another product through the pipeline during a specific time period. It is like a series of rail cars carrying different products moving in a sequence along the pipeline. TMPL is the only pipeline in North America that carries both refined product and crude oil in batches.

II DISCUSSION:

In 2017, TMPL utilized its pipeline capacity by distributing product to four key delivery points (source: https://www.transmountain.com/product-destination):

- 4 percent capacity delivered refined products to Kamloops,
- 33 percent capacity delivered crude oil and refined products to a distribution terminal or local refinery at the Burnaby Terminal,
- 9 percent capacity delivered crude oil to the Westridge Marine Terminal for shipping, and
- 54 percent capacity delivered crude oil to Washington State refineries at Anacortes, Cherry Point and Ferndale via Kinder Morgan's Puget Sound pipeline.

Nomination Process

Each month shippers of the pipelines submit requests for the volume of petroleum (crude oil and refined products) they want to ship through the pipeline to service their customers. These requests are called 'nominations'.

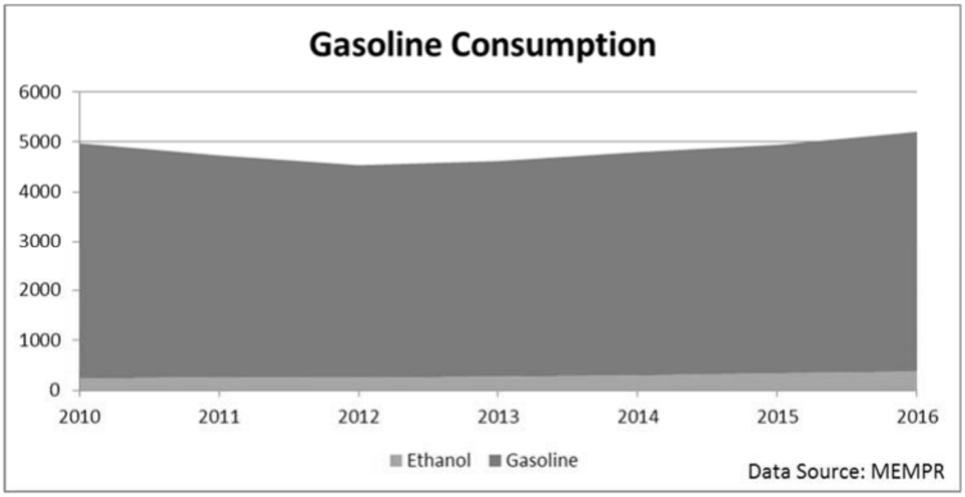
Based on shippers' nominations, TMPL then determines the 'capacity' available on the pipeline for the month. The types of products that have been nominated affect capacity, any pipeline system maintenance activities that will reduce flows that month and carry-over volumes that have not completed their transit of the pipeline by month's end.

When total nominations for product exceed the capacity of the pipeline to deliver product, nominations are then apportioned using a complex formula accepted by the National Energy Board and laid out in TMPL's tariff.

Apportionment (when nominations exceed the capacity of the pipeline) has been a regular monthly occurrence for the past decade.

In looking at TMPL activity there appears to be a trend of increased capacity of the pipeline going toward heavy oil exports at the Westridge terminal and in exchange a downward trend of refined product such as gasoline and diesel on TMPL (Appendix II).

Demand for gasoline has increased slightly in Alberta and Saskatchewan, while demand in B.C. has increased significantly, by 15 percent from 2012 to 2016 (4.5 percent from 2010 to 2016).



In 2017, British Columbia's gasoline came from a number of sources:

- About 21 percent is produced in British Columbia at the Parkland Refinery (formerly Chevron) in Burnaby and the Husky Refinery in Prince George. The crude oil for the Parkland Refinery is shipped from Alberta via TMPL.
- About 61 percent comes from Alberta. This is shipped to Kamloops and Vancouver primarily via the TMPL, and to the rest of the province via truck and rail.
- About 7 percent (in 2016) is ethanol imported from a diversity of jurisdictions and shipped to British Columbia primarily by rail.
- About 3 percent is imported from California in summer to meet the Cleaner Gasoline Regulation requirements for low volatility in the Lower Fraser Valley.
- The remaining quantities are imported from various jurisdictions as needed. In 2017, the source was Texas, while in other years it may have been Washington or any other jurisdiction that ships fuel by water.

IV CONCLUSION:

British Columbia relies heavily on the TMPL plus other methods of transport for its light crude and refined product needs. Pipeline capacity in British Columbia for receipt of light crude and refined petroleum products has not increased substantially for decades while demand for gasoline continues to increase.

Any disruption to the tight supply/demand network for transportation fuels on the west coast and Pacific Northwest can have quick and sometimes significant drawn out market impacts.

DRAFTED BY:	APPROVED BY:	
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Senior Regulatory Analyst	Richard Grieve, ED	✓
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Appendix I – Map
Appendix II – Throughput and Capacity Westbridge and Burnaby

Appendix I

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Appendix II

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MINISTRY OF ENERGY, MINES AND PETROLEUM RESOURCES

BRIEFING NOTE FOR INFORMATION

I PREPARED FOR: Dave Nikolejsin, Deputy Minister of Energy Mines and Petroleum Resources

II ISSUE: Gasoline Prices

III BACKGROUND:

British Columbia has a small supply of crude oil and little refining capacity for making gasoline in comparison to what is consumed by the Province. There are 15 refineries in Canada. Two refineries operate in British Columbia with 3.5 percent of Canada's refining capacity, which meets approximately 20 percent of the Province's gasoline needs. The remaining 80 percent of provincial gasoline demand is managed through importing gasoline supplies from refineries in Alberta and Washington State.

Gasoline prices are determined by market forces and influenced by a number of factors, such as Canada/U.S. exchange rate, pipeline outages, refinery outages, crude oil inventories, gasoline inventories, the cost of refining and processing crude oil, the cost of transporting gasoline to retail outlets and, federal and provincial taxes. There are also local factors such as access to refining crude, wholesale gasoline supplies, market size, market demand, competition and, retailing and distribution efficiencies.

The pipeline capacity in British Columbia for crude and refined petroleum products for the west coast has not increased substantially for decades while demand for gasoline on the west coast and Pacific Northwest continues to increase with population growth and increased transportation demand. Any disruption to the tight supply/demand network for transportation fuel such as ours on the west coast and Pacific Northwest has quick and sometimes significant drawn out impacts.

II DISCUSSION:

Disproportionate gasoline price increases are occurring along the U.S. and Canadian West Coast. On April 15, 2019 the Houston Chronicle reported that the U.S. national gasoline average price was $2.83/Gallon while California gasoline prices with ongoing refinery outages was firmly 40% higher at over $4US/gallon. https://www.houstonchronicle.com/business/energy/article/Houston-gasoline-prices-steadily-rising-before-13768023.php.

The U.S. West Coast has limited options for accessing crude and refined products. For example, one of California's traditional supplies of crude for refining was Alaska crude.

Alaska supply has been in decline since1988. Alaska oil production has declined by 68% from 2 million barrels a day in 1988 to current production levels of 600,000 barrels per day https://www.aoga.org/facts-and-figures. California has had to increase their use of foreign refinery feedstock to meet its needs (Appendix IV).

Retail prices reported on the Gas Price Map on GasBuddy.com show the entire west coast of North America having the highest retail prices of gasoline (Appendix I). Texas a producing region in the U.S. is one of the cheapest states for gasoline compared to California. Similarly, Alberta has cheaper gasoline compared to British Columbia.

Restricted refining capacity due to maintenance and refinery outages along the West Coast in both California and Washington State is putting downward pressure on gasoline inventories and disproportionate upward pressure on wholesale gasoline prices on the West Coast (Appendix II).

There appears to be no gouging between wholesale and retail gasoline prices in the Vancouver Market. You can see a consistent correlation between the two prices going back to April 2017 using public information from Kent Marketing Group in Appendix III.

IV CONCLUSION:

British Columbia and the U.S. West Coast have limited supply options for crude and refined product. The West Coast (Canada and the U.S.) relies heavily on the Trans Mountain Pipeline plus other sources for its light crude and refined product needs. Pipeline capacity for receipt of light crude and refined petroleum products has not increased substantially for decades while demand for gasoline and refining crude remains strong.

Any disruption to the tight supply/demand network for transportation fuels on the west coast and Pacific Northwest can have quick and sometimes significant drawn out market impacts. Sourcing of incremental supplies can come at an incremental cost due to less efficient transportation methods or exposure to a higher international market.

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Appendix I – Maps of North American retail gasoline prices.
Appendix II – Gasoline Inventories
Appendix II – Wholesale vs retail Gasoline prices
Appendix IV – California Refinery Oil Sources

Appendix I

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Appendix III

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