



## Early Warning Note

Date: September 05, 2017 **CLIFF: 230865**

Email to: Vivian Thomas, Communications Director, GCPE  
Email to: Craig Sutherland, ADM, Coast Area  
CC to: Lisa Jones, A/Director, Executive Operations  
Gordon Robinson, Manager, Executive Issues

From: South Coast Region  
Contact: Kevin Haberl Ph: 604-586-4420

Issue: Trans Mountain Expansion Project (TMEP) – Receipt of late complete applications from Kinder Morgan for Fish & Wildlife Salvage Permits

Briefing Note to follow: No

### ***Background:***

The TMEP has five pipeline ‘sub-projects’ worth over \$1B each. The Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRO) is responsible for issuing permits in a number of business areas including fish and wildlife (F&W), dike maintenance, Forest Service Roads Works and Junction Permits, and impacts to forestry area-based tenures. FLNRO permits are ancillary to the major pipeline authorization decisions, which rest with the Oil and Gas Commission. TMEP has been issued certificates by both the Environment Assessment Office (EAO) and National Energy Board.

Working with the Ministry of Energy, Mines and Petroleum Resources (MEMPR), the F&W permits have been identified as the highest FLNRO priority of the proponent in order to prepare clearing for Rights of Way for construction purposes. There are several hundred F&W permit decisions required in support of the project.

**Issue #1 – Receiving timely and complete F&W applications:** As part of permitting process for the TMEP, FLNRO received applications for F&W salvage permit decisions. These permits are required prior to the clearing phase of construction for the project. TMEP anticipated approved F&W permits at least two weeks prior to the conveyed September 1, 2017 construction start.

Discussions regarding F&W application requirements between the proponent and FLNRO project and technical staff began in November, 2016. In an effort to expedite the permit assessment process, the proponent requested they batch applications to incorporate multiple sites at one time (up to 50 or more in one region). FLNRO staff conveyed the risks of this approach based on previous experience with other large linear projects. Most significant is the potential of differing levels of concern and associated FLNRO consultation effort between First Nation (FN) groups which could result in delaying the entire batch along with the multiple requirements for



such a large application. This was reinforced several times to the proponent prior to submitting the applications.

The proponent ended up batching the application and submitted it on April 7, 2017; upon review, significant application requirements were not met (e.g. Qualified Professionals (QPs) were not identified, and Animal Care Forms not included, as well as other technical requirements). The proponent was not in a position to identify QPs until July 2017.

Further application requirements were submitted throughout summer 2017 and final completed packages received on August 18, 2017. Originally, the proponent anticipated permitting to be completed by August 13, 2017 in order to start construction early September, 2017. This resulted in unrealistic turn-around times for FLNRO staff to process the application.

Further, while the proponent targeted receiving F&W Permits two weeks prior to anticipated construction dates in early September, FLNRO staff recommend that wildlife salvage be undertaken as closely as possible to the construction activities (“hours” to “days”). Commencement of construction is also expected to be held back, including clearing activities, until EAO Management Plan commitments are completed. This is not expected until mid-September or later and this timeline corresponds broadly with anticipated FLNRO permit decision timelines.

**Issue #2: First Nation Consultation:** August 13<sup>th</sup> was the target date requesting comments in FLNRO from FN consultation letters. Due in part to extensions resulting from the current provincial wildfire ‘state-of-emergency’, and as a result of ongoing engagement with a number of groups including the Nlaka’pamux Nation Tribal Council and Sto:lo, through the People of the River Referral Office, consultation remains incomplete on many FLNR decisions.

***Suggested Response:***

- FLNRO staff are continuing to manage the permitting process for these projects as diligently and quickly as possible. Staff are engaged with the proponent and with other Provincial permitting agencies to ensure accurate information and realistic timelines for decisions are communicated clearly.
- While FLNRO recommended not to batch the F&W salvage, the proponent chose to submit batches of approximately 50 sites per permit. The batching process resulted in delays along a significant area of the project corridor. This is impacting the ability to proceed in the Thompson Okanagan and South Coast Regions, due to continued engagement with several FN groups.
- Incomplete and late F&W application packages submissions resulted in the proponent missing their target dates for permit decisions. Adequate and complete applications were not all received until August 18, 2017.
- The current provincial wildfire ‘state of emergency’ has significantly impacted both FLNRO staff capacity to focus on the TMEP permit applications, and the ability for FN groups to respond to consultation requests, resulting in an extension of the consultation period.
- EAO is responsible for, and has communicated to the proponent, the requirement to adhere to the EAO Management Plan commitments.

**From:** [de Bree, Jennifer FLNR:EX](#)  
**To:** [Thomas, Vivian P GCPE:EX](#); [Lowther, Brett GCPE:EX](#)  
**Cc:** [Jones, Lisa FLNR:EX](#); [Robinson, Gordon FLNR:EX](#); [Haberl, Kevin J FLNR:EX](#); [Hamod, Wendy D FLNR:EX](#); [Short, Charles J FLNR:EX](#); [Johnsrude, Allan N FLNR:EX](#)  
**Subject:** 230865 EWN re TMEP  
**Date:** Wednesday, September 6, 2017 3:23:07 PM  
**Attachments:** [230865 EWN re TMEP.docx](#)

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Hi there.

Assistant Deputy Minister Craig Sutherland approved the attached 230865 Early Warning Note. I have completed and closed the cliff log.

**Jennifer de Bree**

**Executive Administrative Assistant**

Regional Operations Division – Coast Area

Ministry of Forests, Lands, Natural Resource Operations and Rural Development

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**From:** Sutherland, Craig FLNR:EX  
**Sent:** Wednesday, September 6, 2017 1:13 PM  
**To:** de Bree, Jennifer FLNR:EX  
**Subject:** Fwd: version 2 FINAL TMEP FLNR ewn 2017 08 31\_CS\_clean.docx

I approve

Craig Sutherland

Begin forwarded message:

**From:** "de Bree, Jennifer FLNR:EX" <[Jennifer.deBree@gov.bc.ca](mailto:Jennifer.deBree@gov.bc.ca)>  
**Date:** September 6, 2017 at 11:56:17 AM PDT  
**To:** "Sutherland, Craig FLNR:EX" <[Craig.Sutherland@gov.bc.ca](mailto:Craig.Sutherland@gov.bc.ca)>  
**Subject:** version 2 FINAL TMEP FLNR ewn 2017 08 31\_CS\_clean.docx

Hi Craig.

For your review and approval please.

**Jennifer de Bree**

**Executive Administrative Assistant**

Regional Operations Division – Coast Area

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**From:** Short, Charles J FLNR:EX  
**Sent:** Wednesday, September 6, 2017 11:42 AM

**To:** de Bree, Jennifer FLNR:EX  
**Cc:** Johnsrude, Allan N FLNR:EX  
**Subject:** version 2 FINAL TMEP FLNR ewn 2017 08 31\_CS\_clean.docx

Hi Jennifer,

For Craig's review. thx

Charlie