
TO: CITY MANAGER **DATE:** 2014 May 06

FROM: DIRECTOR PLANNING AND BUILDING **FILE:** 33200 10
DIRECTOR ENGINEERING *Reference: Kinder Morgan*
CITY SOLICITOR

SUBJECT: CITY OF BURNABY INTERVENOR ROUND ONE INFORMATION REQUESTS TO TRANS MOUNTAIN (KINDER MORGAN)

PURPOSE: To inform Council of the City of Burnaby *Intervenor Round One Information Requests to Trans Mountain (Kinder Morgan)* submission to the National Energy Board (NEB), as filed by external legal counsel.

RECOMMENDATION:

1. **THAT** Council receive this report for information purposes.

REPORT**1.0 INTRODUCTION**

On 2014 April 02, the National Energy Board (NEB) determined that Kinder Morgan's *facilities* application for the expansion of the Trans Mountain Pipeline system was complete and issued a Hearing Order for the Project.

The Order lists the individuals or groups that are eligible to participate in the Public Hearing process; the manner in which approved applicants may participate (i.e. intervenor or commentator), as well the criteria used to select intervenors; and the issues¹ that the NEB is willing to consider as part of the Public Hearing process. The Hearing Order also outlines the form and process of the Public Hearing, including critical submission dates or deadlines which the NEB, proponent (Kinder Morgan) and intervenors must adhere to as part of their participation in the hearing process.

The initial critical date or deadline for intervenors who intend to participate in the above noted NEB Public Hearing process, was initially set by the NEB for 2014 May 02 - *Round 1 Information Requests to Trans Mountain*. Subsequent to the City of Burnaby seeking an extension to the deadline, the National Energy Board extended the deadline to 2014 May 12.

¹ *List of Issues* published by the NEB on 2013 July 29 outlines the 12 issues that the NEB is willing to consider as part of Kinder Morgan's TMEP.

To: City Manager
From: Director Planning and Building
Director Engineering
City Solicitor
Re: Round 1 – Information Requests to Trans Mountain
(Kinder Morgan)
2014 May 06..... Page 2

Round 1 is the opportunity for intervenors to seek further information and clarification from Kinder Morgan on all aspects of the Project, provided that each information request is relevant to one or more of the approved NEB *List of Issues* (see *attached*). Information sought from Kinder Morgan is also required to be submitted in written format through a series of referenced questions. Given the City’s intervenor status in the above noted Public Hearing for the Project, City staff and external legal counsel reviewed the eight volumes of the Kinder Morgan’s *facilities* application in order to produce the required information request document -- City of Burnaby *Intervenor Round One Information Requests to Trans Mountain (Kinder Morgan)*. Due to its size, this document has been provided to Council under separate cover, and is available on the City’s web site at www.burnaby.ca. Information received from Burnaby citizens regarding Kinder Morgan’s Project have also been collected and reflected in the City’s proposed submission.

The purpose of this report is to inform Council of the Round 1 submission to the NEB, which the City’s external legal counsel (Gregory McDade, Q.C., Ratcliff and Company) has now submitted to the NEB as the City’s *Round 1 Information Request to Trans Mountain (Kinder Morgan)*.

2.0 DISCUSSION

The City of Burnaby *Intervenor Round One Information Requests to Trans Mountain (Kinder Morgan)* document is the result of collective analysis and review of the Kinder Morgan *facilities* application by external legal counsel and City Departments and Divisions, including but not limited to Engineering, Finance, Fire, Legal and Lands, Parks, Planning, Risk Management/Emergency Response, and RCMP. With some significant impact to the day to day work program of City staff, the review was completed within the compressed time frame established by the NEB, as part of the Hearing Order (one month). External legal counsel, Gregory McDade, Q.C., Ratcliff and Company, has advised that Round 1 may be the only opportunity the City, as an intervenor, may have to raise issues and provide critical analysis of Kinder Morgan’s application.

The information requests document submitted by the City is over 250 pages in length. These ‘information requests’ regarding the Kinder Morgan’s Trans Mountain Pipeline Expansion Project, address critical aspects of the proposed pipeline routing, the Burnaby Mountain Terminal and the Westridge Marine Terminal. The information requests seek a response from Kinder Morgan on a broad range of issues, such as, locational considerations and criteria used to select Burnaby as the primary terminus of the expansion; broad City-wide and neighbourhood impacts; land use conflicts; infrastructure conflicts; technical issues; environmental and socio-economic impacts; risk impacts; safety and security; emergency response and other issues.

To provide Burnaby citizens an opportunity to raise questions regarding Kinder Morgan’s proposed expansion of the Trans Mountain Pipeline system, including Burnaby citizens that were not granted intervenor status by the NEB, an on-line public input forum was created on the

To: City Manager
From: Director Planning and Building
Director Engineering
City Solicitor
Re: Round 1 – Information Requests to Trans Mountain
(Kinder Morgan)
2014 May 06..... Page 3

City’s website. In addition, public comments were received by email and at the City’s public open house events on the Kinder Morgan proposal. The public input received was generally incorporated into the questions contained in the City’s submission.


The City of Burnaby *Intervenor Round One Information Requests to Trans Mountain (Kinder Morgan)* is now available on the City’s website at www.burnaby.ca, and will also be posted on the National Energy Board’s website as a public document.

3.0 CONCLUSION

As noted, the NEB Hearing Order has established a compressed timeframe for the City, as well as other intervenors, to provide analysis and critical review of Kinder Morgan’s *facilities* application for the expansion of the Trans Mountain Pipeline system (2014 May 12). Notwithstanding this constraint, a substantial submission to the NEB has been made, entitled: *City of Burnaby Intervenor Round One Information Requests to Trans Mountain (Kinder Morgan)*. This document also covers the questions and issues raised by the public, and has been formally submitted by the City’s external legal Counsel to the NEB for Kinder Morgan’s response.

This report is for Council’s information.


Lou Pelletier
DIRECTOR PLANNING AND BUILDING


Leon A. Gaus, P.Eng., MBA
DIRECTOR ENGINEERING


Bruce Rose
CITY SOLICITOR

ZT:tn
Attachment

cc: Deputy City Managers	Director Finance
Director Parks, Recreation and Cultural Services	Fire Chief
OIC RCMP	Chief Librarian
Chief Building Inspector	City Clerk

National Energy Board List of Issues for the Kinder Morgan Trans Mountain Expansion Project

The National Energy Board (NEB) has decided on a list of 12 issues it will consider during the hearing process.

1. The need for the proposed project.
2. The economic feasibility of the proposed project.
3. The potential commercial impacts of the proposed project.
4. The potential environmental and socio-economic effects of the proposed project, including any cumulative environmental effects that are likely to result from the project, including those required to be considered by the NEB's *Filing Manual*.
5. The potential environmental and socio-economic effects of marine shipping activities that would result from the proposed Project, including the potential effects of accidents or malfunctions that may occur.
6. The appropriateness of the general route and land requirements for the proposed project.
7. The suitability of the design of the proposed project.
8. The terms and conditions to be included in any approval the Board may issue.
9. Potential impacts of the project on Aboriginal interests.
10. Potential impacts of the project on landowners and land use.
11. Contingency planning for spills, accidents or malfunctions, during construction and operation of the project.
12. Safety and security during construction of the proposed project and operation of the project, including emergency response planning and third-party damage prevention.

The NEB does not intend to consider the environmental and socio-economic effects associated with upstream activities, the development of oil sands, or the downstream use of the oil transported by the pipeline.