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**TO:** CITY MANAGER **DATE:** 2014 June 30

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

**SUBJECT: CITY OF BURNABY NOTICES OF MOTION TO TRANS MOUNTAIN  
(KINDER MORGAN)**

**PURPOSE:** To inform Council of the submission of City of Burnaby Notices of Motion to the National Energy Board for the Trans Mountain Expansion Project

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**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 Hearing Order listed individuals or groups eligible to participate in the Public Hearing process; the manner in which approved applicants could participate through written evidence; the criteria used to select the intervenors or commentators; the issues NEB was willing to consider hearing as part of the hearing process; and critical timelines or deadlines which the NEB, the proponent (Kinder Morgan) and intervenors must adhere to as part of their participation in the hearing process.

On 2014 May 12, the City submitted its *Round 1 Information Requests to Trans Mountain (Kinder Morgan)*. This submission, which was over 300 pages, was a result of collective review and analysis of the Kinder Morgan *facilities* application by City Departments including Engineering, Finance, Fire, Legal and Lands, Parks, Planning and Building, Risk Management/Emergency Response, and the RCMP. The document also included questions received from the public through an on-line public input forum and at the City's open house events on the Kinder Morgan proposal.

To: City Manager  
From: Director Engineering, Director Planning & Building,  
City Solicitor  
Re: CITY OF BURNABY NOTICE OF MOTION TO  
TRANS MOUNTAIN (KINDER MORGAN)  
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Given the large number of *Information Requests* submitted by Intervenors to Kinder Morgan for the Trans Mountain Expansion Project, Kinder Morgan requested an extension for responding to the *Information Requests* to the NEB. On 2014 June 02, NEB released the attached revised hearing events and steps table (see Attachment #1). Based on this, the critical date or deadline for submitting Notices of Motion to Trans Mountain (Kinder Morgan) is noted to be 2014 July 04.

The purpose of this report is to inform Council of the submission of City of Burnaby Notices of Motion to the National Energy Board for the Trans Mountain Expansion Project arising from a City review of the responses provided by Kinder Morgan to the City's *Information Requests*.

## **2.0 CITY OF BURNABY NOTICES OF MOTION FOR THE TRANS MOUNTAIN EXPANSION PROJECT**

On 2014 June 18, Kinder Morgan submitted to the NEB its Responses to the *Information Requests* from City of Burnaby. Upon receipt of the document by the City, staff from various City Departments began their collective review and analysis of the document.

The City of Burnaby Notices of Motion to the National Energy Board for the Trans Mountain Pipeline Expansion Project is being finalized as a 'work in progress' (a copy is available from the Deputy City Clerk). This document will be finalized and submitted to the NEB on 2014 July 04. The final document will be made available on the City's website [www.burnaby.ca](http://www.burnaby.ca) and on the NEB's website as a public document.

For Council's information, the findings of the review of Responses to the City's *Information Request* noted that only 24% of questions raised by the City were answered by Kinder Morgan. The responses to 62% of the *Information Requests* or questions did not respond to or address the questions asked and the remaining 14% of questions were partially answered.

The review and analysis of Responses to the City's *Information Requests* within a compressed timeframe was made even more challenging and time consuming as Kinder Morgan often directed the City to review its response(s) provided to *Information Requests* of other Intervenors.

It is to be noted that Kinder Morgan had identified "new commitments" to some of the City's *Information Requests*. However, these were largely commitments to "work or discuss with the City" various issues, however, no real or tangible commitments were made by Kinder Morgan to the substantive issues raised.

To: City Manager  
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TRANS MOUNTAIN (KINDER MORGAN)  
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### 3.0 CONCLUSION

Staff have reviewed and analyzed the Kinder Morgan's Responses to the City's *Information Requests* for the Trans Mountain Expansion Project. Based on the review, it is noted that only 24% of the Information Requests or questions raised by the City have been answered. The responses to 62% of the *Information Requests* or questions did not respond to or address the questions asked and the remaining 14% have been partially answered. The final City of Burnaby Notices of Motion to the National Energy Board for the Trans Mountain Pipeline Expansion Project will be finalized and submitted to the NEB on 2014 July 04 and will be made available on the City's website [www.burnaby.ca](http://www.burnaby.ca) and on the NEB's website as a public document as well.

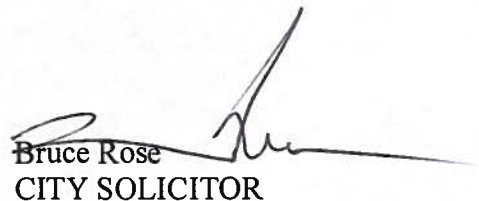
This report is provided for Council's information.



Lou Pelletier  
DIRECTOR PLANNING AND BUILDING



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



Bruce Rose  
CITY SOLICITOR

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#### Attachments

Copied to: City Clerk  
Deputy City Managers  
Director Finance  
Director Parks, Recreation and Cultural Services  
Fire Chief  
RCMP OIC

National Energy  
Board



Office national  
de l'énergie

File OF-Fac-Oil-T260-2013-03 02

2 June 2014

To: Intervenors and Trans Mountain Pipeline ULC

**Hearing Order OH-001-2014  
Trans Mountain Pipeline ULC (Trans Mountain)  
Application for the Trans Mountain Expansion Project  
Procedural Direction No. 2 – Revised hearing events and steps table (2 June 2014)**

In light of recent correspondence, the National Energy Board (Board) is releasing the attached **Revised hearing events and steps table (2 June 2014)**, which updates and replaces the table found in Hearing Order OH-001-2014. Changes within the table are highlighted in yellow.

Please note that dates and deadlines refer to noon Pacific time (1:00 pm Mountain time).

For questions about the Board's hearing process, please see the OH-001-2014 Hearing Order or, as required, contact the Board's Process Advisor Team for this hearing by phone at 403-292-4800 or 1-800-899-1265 (toll-free), or by email at [transmountainpipeline.hearing@neb-one.gc.ca](mailto:transmountainpipeline.hearing@neb-one.gc.ca).

Yours truly,

A handwritten signature in black ink, appearing to read 'S. Young'.

for  
Sheri Young  
Secretary of the Board

Attachment

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Calgary, Alberta T2P 0X8

444, Septième Avenue S.-O.  
Calgary (Alberta) T2P 0X8

**Canada**

Telephone/Téléphone : 403-292-4800  
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<http://www.neb-one.gc.ca>  
Telephone/Téléphone : 1-800-899-1265  
Facsimile/Télécopieur : 1-877-288-8803

**Procedural Direction No. 2 – Revised hearing events and steps table (2 June 2014)**

**Important Notes on revised hearing events and steps:**

1. Past steps and deadlines have been deleted and can be found in Hearing Order OH-001-2014.
2. Events and steps and associated dates that have changed or been added at this time are highlighted in yellow.
3. The Board may revise hearing events and steps or associated dates in future based on new circumstances (e.g., rulings on motions, following comments received on procedural directions). In these cases, it will issue additional procedural directions with revised tables.

<b>Revised hearing events and steps (2 June 2014) (responsible person[s] in bold)<sup>1</sup></b>	<b>Date or deadline (noon Pacific time; 1:00 pm Mountain time)</b>
<b>Aboriginal intervenors</b> file notices of intent to provide oral traditional evidence.	5 June 2014
<b>Trans Mountain</b> responds to Round 1 intervenor information requests. <i>Responses must be served on all intervenors.</i>	18 June 2014 (formerly 4 June 2014)
Motion Day #1 – As considered necessary, <b>intervenors</b> file notices of motion on the adequacy of Trans Mountain’s responses to information requests. <i>Notices of motion must be served on Trans Mountain. The Board will issue a future Procedural Direction with guidance on this step shortly.</i>	4 July 2014 (formerly 13 June 2014)
<b>Board</b> Round 2 information requests to Trans Mountain.	4 July 2014
<b>Trans Mountain</b> responds to intervenors’ motions on adequacy of responses to information requests. <i>This is an optional step. Any responses must address specific motions pertaining to specific IR questions. The Board will issue a future Procedural Direction with guidance on this step shortly.</i>	11 July 2014 (formerly not scheduled)
<b>Intervenors</b> reply to Trans Mountain’s responses to their motions. <i>This step only applies IF Trans Mountain provides responses to specific motions which were made regarding specific IR questions. The Board will issue a future Procedural Direction with guidance on this step shortly.</i>	16 July 2014 (formerly not scheduled)
<b>Trans Mountain</b> responds to Round 2 Board information requests. <i>Responses must be served on all intervenors.</i>	21 July 2014
Letter of comment workshop (multiple online sessions)	Mid-August 2014
<b>Oral hearings: to collect, and allow questioning of, oral Aboriginal traditional evidence.</b>	<b>5 August 2014 – 4 September 2014</b>
<b>Trans Mountain</b> files supplemental evidence.	4 September 2014
<b>Commenters</b> file letters of comment. <i>Letters must be served on Trans Mountain and its counsel.</i>	9 September 2014

<sup>1</sup> All produced documents must be filed with the Board so they can be placed on the hearing record and considered.

<b>Revised hearing events and steps (2 June 2014)</b> <b>(responsible person[s] in bold)</b>	<b>Date or deadline</b> <b>(noon Pacific time;</b> <b>1:00 pm Mountain time)</b>
<b>Intervenor</b> Round 2 information requests to Trans Mountain. <i>Each information request must be relevant to one or more of the issues identified in Appendix I. Information requests must be served on Trans Mountain, its counsel, and all other intervenors.</i>	11 September 2014
<b>Trans Mountain</b> responds to Round 2 intervenor information requests. <i>Responses must be served on all intervenors.</i>	25 September 2014
Motion Day #2 – As considered necessary, <b>intervenors</b> file notices of motion on the adequacy of Trans Mountain’s responses to information requests. <i>Notices of motion must be served on Trans Mountain, its counsel, and all other intervenors.</i>	2 October 2014
<b>Intervenors</b> file written evidence. <i>Evidence must be relevant to one or more of the issues identified in Appendix I. Evidence must be served on Trans Mountain, its counsel, and all other intervenors.</i>	3 November 2014
<b>Intervenor</b> information requests to other intervenors. <i>Each information request must be relevant to one or more of the issues identified in Appendix I. Information requests must be served on the relevant intervenors, with a copy also served on Trans Mountain, its counsel, and all other intervenors.</i>	14 November 2014
<b>Trans Mountain</b> information requests to intervenors. <i>Each information request must be relevant to one or more of the issues identified in Appendix I. Information requests must be served on the relevant intervenors, with a copy also served all other intervenors.</i>	14 November 2014
<b>Intervenors</b> respond to other intervenor information requests. <i>Responses must be served on Trans Mountain, its counsel, and all other intervenors.</i>	26 November 2014
<b>Intervenors</b> respond to Trans Mountain information requests. <i>Responses must be served on Trans Mountain, its counsel, and all other intervenors.</i>	26 November 2014
<b>Board</b> releases draft conditions for comment.	3 December 2014
Intervenor workshop, part 2: oral submissions (multiple online sessions)	Mid-December 2014
<b>Board</b> Round 3 information requests to Trans Mountain.	18 December 2014
<b>Board</b> information requests to intervenors.	18 December 2014
<b>Intervenors</b> respond to Board information requests. <i>Responses must be served on Trans Mountain, its counsel, and all other intervenors.</i>	8 January 2015

<b>Revised hearing events and steps (2 June 2014)</b> <b>(responsible person[s] in bold)</b> <sup>1</sup>	<b>Date or deadline</b> <b>(noon Pacific time;</b> <b>1:00 pm Mountain time)</b>
<b>Trans Mountain</b> responds to Round 3 Board information requests. <i>Responses must be served on all intervenors.</i>	8 January 2015
<b>Trans Mountain</b> files reply evidence. <i>Evidence must be served on all intervenors.</i>	13 January 2015
<b>Intervenors</b> and <b>Trans Mountain</b> file affidavits swearing evidence.	13 January 2015
<b>Intervenors</b> and <b>Trans Mountain</b> file notices of intent to present oral summary argument and/or reply argument.	13 January 2015
Intervenor workshop, part 2: oral submissions (multiple online sessions)	Mid-January 2015
<b>Trans Mountain</b> files written argument-in-chief, including comments on draft conditions. <i>Comments on conditions must be included in written argument-in-chief; they cannot be raised for the first time during oral argument. No new evidence can be provided in written argument-in-chief.</i> <i>Written argument-in-chief must be served on all intervenors.</i>	20 January 2015
<b>Oral hearings: to hear Trans Mountain's oral summary argument.</b> <i>No new evidence can be provided in oral argument. Time limits will be imposed.</i>	<b>Late-January 2015</b>
<b>Intervenors</b> file written argument-in-chief and reply to Trans Mountain including comments on draft conditions. <i>Comments on conditions must be included in written argument-in-chief; they cannot be raised for the first time during oral argument. No new evidence can be provided in written argument-in-chief.</i> <i>Written argument-in-chief must be served on Trans Mountain, its counsel, and all other intervenors.</i>	6 February 2015
<b>Oral hearings: to hear intervenors' oral summary argument and/or reply argument.</b> <i>No new evidence can be provided in oral argument. Time limits will be imposed.</i>	<b>February 2015</b>
<b>Trans Mountain</b> files written reply argument.	March 2015
Hearing record closes.	Immediately after finishing argument
<b>Board</b> releases its Report to the Governor in Council and provides it to the Minister of Natural Resources	2 July 2015 (time limit end)