



INSPECTION OFFICER ORDER NO. DLB – 001 – 2024

IN THE MATTER OF THE CANADIAN ENERGY REGULATOR ACT,
AN ORDER UNDER SECTION 109

NAME OF COMPANY TO WHOM THIS ORDER IS DIRECTED

Trans Mountain Pipeline ULC (Trans Mountain) is a Company conducting work located near Abbotsford, BC.

On or about 30 January 2024 at 15:19 the undersigned Canada Energy Regulator Inspection Officer conducted a compliance verification activity (CV2324-296).

RELEVANT FACTS

I, [REDACTED], designated as a CER Inspection Officer under subsection 102(1) of the *Canadian Energy Regulator Act* (CER Act), believe the following are the relevant facts relating to the issuance of this Order:

- 1) The CER IO was deployed to Spread 6 in response to flooding events reported to the CER (INC2024-005) on 29 January 2024. Over the past few weeks, heavy snowfall and an increase of wet weather events contributed to flooding conditions along the right-of-way (RoW). Trans Mountain representatives stated the following:
 - a. On the evening of 27 January 2024, there was 60mm of rain over a 24 hour period followed by an additional 15mm the next day.
 - b. At 8am on 28 January 2024, Trans Mountain representatives were made aware that the isolated watercourse crossing (BC713e) was overwhelmed and the isolation was lost.
 - c. Additional pumps to maintain an increased flow were onsite and in position but the pumps were not turned on until 3:00pm on 29 January 2024.
 - d. There are three crews maintaining erosion and sediment control (ESC) during the day and one during the night. On Sundays the day shift goes down to 2 smaller crews.
- 2) CER IO inspected the RoW between KP 1112+960 to KP 1113+650. ESC crews were not observed and deficiencies remained outstanding on 31 January 2024.
 - a. The CER IO noted multiple environmental deficiencies including:
 - i. ~100m landslide of saturated soil from high road location onto lower travel lane at KP1113+360.
 - ii. Erosion and sediment control measures in need of amendment at KP 1113+650.
 - iii. Wildlife exclusion fencing in need of maintenance at multiple locations.
 - iv. Poly sheeting covering exposed soils in need of maintenance and saturated soils slumping at multiple locations.

- v. Dewatering pump and sump locations in need of maintenance and repair.
- 3) CER IO inspected the RoW at watercourse crossings BC-728e and BC-728h and noted multiple deficiencies including sediment laden water entering the watercourse.
- a. Trans Mountain representatives stated:
 - i. Pumps managing surface water were not turned on as per contingency measures during heavy rains resulting in sedimentation impacts to watercourse BC728e.
 - ii. Watercourse BC728h clean water conveyance across the right-of-way was lost during the heavy rains.

PROVISIONS OF ACT OR REGULATIONS THAT ARE ALLEGED TO BE CONTRAVENED - AND ARE CONTINUING - OR ARE LIKELY TO BE CONTRAVENED

Provisions of the Act and/or Regulations that are alleged to have been contravened:

1. GENERAL DUTY – REASONABLE CARE

Pursuant to section 94 of the CER Act, the holder of a certificate or permit must take all reasonable care to ensure the safety and security of persons, the safety and security of regulated facilities and abandoned facilities and the protection of property and the environment.

2. CERTIFICATE OC-065

Condition 3: Environmental protection: Trans Mountain must implement or cause to be implemented, at a minimum, all of the policies, practices, programs, mitigation measures, recommendations, and procedures for the protection of the environment included or referred to in its Project application or to which it otherwise committed on the record of the OH-001-2014 proceeding.

MEASURES TO BE TAKEN

Based on the facts referenced herein, where the Inspection Officer has reasonable grounds to believe that there is or is likely to be a contravention of Parts 2 to 5 or section 335 of the CER Act, or for a purpose referred to in subsection 102(2) CER Act, the Inspection Officer may, by order, direct a person to

- a. stop doing something that is in contravention of Parts 2 to 5 or section 335 or cause it to be stopped;*
- b. take any measure that is necessary in order to comply with Parts 2 to 5 or section 335 or mitigate the effects of non-compliance;*
- c. stop doing something that may cause a hazard to the safety or security of persons, or damage to property or the environment or cause it to be stopped; or*
- d. take any measure that is necessary to prevent or mitigate the hazard to the safety or security of persons or damage to property or the environment.*

Trans Mountain is ORDERED pursuant to subsections 109(1) and 109(2) of the CER Act to:

- Take measures specified below under Specified Measures as per paragraphs (b) and (d) above
- Stop doing something as specified below under Specified Measures as per paragraphs (a) and (c) above
- Suspend work associated with a facility, including a regulated facility, abandoned facility or disturbance, until the hazardous or detrimental situation has been remedied to the satisfaction of an Inspection Officer or until this order is stayed or rescinded.

SPECIFIED MEASURES

Specified measures:



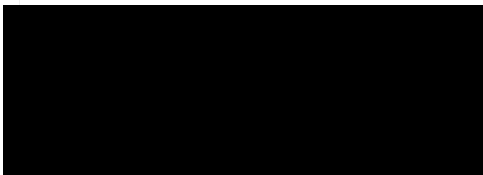
1. Immediately respond with all available resources to address environmental deficiencies and non-compliances on Trans Mountain Expansion Project Spread 6 from recent significant rain events. The scope of the response will include but not be limited to items currently identified in its Corrective Action Log (CAL). A written description and photographic evidence of completion will be submitted to the CER as soon as practicable.
2. Conduct investigations to determine the root cause of the lost watercourse crossing isolation and related flooding at BC-713e as well as rain event impacts to the watercourses BC-728e, BC-728h and BC-728i1. The scope of the investigation will include but not be limited to why contingency measures were not implemented in a timely manner, contractor oversight, resourcing, and assessment of needs as it applies to water management on Spread 6 for the duration of Project construction.
3. Submit to the CER a copy of the investigation report which will include but not be limited to an action plan for the implementation of the corrective and preventive actions identified in item 2.
4. Develop and implement a water management resourcing plan for Spread 6. The scope of the plan will include but not be limited to environmental compliance on the RoW for the remainder of the project. The plan will consider but not be limited to resourcing, training and competency as well as capacity to effectively respond to extreme weather events at all times. Should additional resources be required to complete works stated above in a timely manner these will be retained and actioned as soon as possible.
5. Submit to the CER a commitment from the Accountable Officer that the contingency plans in its Environmental Protection Plan as well as those plans developed in response to items 3 and 4 above will be implemented as described.

EFFECTIVE DATE OF THE ORDER

This Inspection Officer Order takes effect immediately on 31 January 2024 at the time of delivery of this Order to the Company to whom it is directed. Nothing in this Order shall be construed as reducing, increasing, or otherwise affecting what may be required of the Company to whom it is directed to comply with all applicable legislative or legal requirements.

COMPLIANCE WITH THIS INSPECTION OFFICER ORDER IS MANDATORY

Failure to comply with an Inspection Officer Order issued under section 109 of the CER Act is an offence under section 112 of the CER Act.

Inspection Officer	31 January 2024	
	Date	Name
		
	IO Designation Number	Signature
	210 - 517 10 Ave SW Calgary AB T2R 0A8	

Please note that:

1. *In compliance with the CER's Enforcement Policy, this Order will be posted on the CER's website.*
2. *All submissions to the CER in response to the order are to be provided within the CER Operations Regulatory Compliance Application (ORCA) quoting the associated CVA #, Inspection Officer Order #, and any specific measure with which the submission is associated. The Company is requested to send a copy of any response provided in the OERS to the Inspection Officer via email.*