



File OF-Tolls-Group1-T260-2016-02
24 January 2017

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Dear Ms. Buchinski and Ms. Mark:

**Trans Mountain Pipeline ULC (Trans Mountain)
Complaint by U.S. Oil & Refining Co. (U.S. Oil) Respecting the Allocation
of Capacity Among Uncommitted Shippers Nominating to Barges
Ruling No. 1 – Trans Mountain Notice of Motion dated 20 January 2017**

The National Energy Board (Board) has received the filing of Trans Mountain with responses to Information Requests (IRs) and its Notice of Motion requesting that the Board issue an Order:

- a) that the information provided by Trans Mountain in response to U.S. Oil IR 2(a), (b) and (c) be filed in confidence with the Board pursuant to Section 16.1 of the *National Energy Board Act* (NEB Act), and that this information be made available only to Board Members and Board Staff, and U.S. Oil and Shell Trading Canada ("Shell"), and not be made part of the public record or otherwise disclosed;
- b) that U.S. Oil and Shell and their legal counsel are not permitted to share the information provided by Trans Mountain with any other person or entity, that these parties and their legal counsel only use the information provided by Trans Mountain for purposes of this proceeding and that these parties and their legal counsel destroy the information at the conclusion of this proceeding;
- c) that U.S. Oil and Shell and their legal counsel provide an undertaking confirming (b) above prior to the information being made available to them; and
- d) such other relief as may be necessary to give effect to the above paragraphs (a)-(c).

On 23 January 2017, U.S. Oil filed letters attaching an undertaking, and requested that Trans Mountain forthwith send its responses to U.S. Oil IR 2(a), (b) and (c) so that the remaining process steps can proceed without delay.

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The Board is of the view that the Trans Mountain responses to U.S. Oil IR 2(a), (b) and (c) (the Confidential Information) should be treated confidentially, pursuant to section 16.1 of the NEB Act.

The Board finds that disclosure of the Confidential Information could prejudice the competitive position of Trans Mountain and/or its shipper(s). The Board also finds that the Confidential Information is commercial information that has been consistently treated as confidential and that Trans Mountain's interest in confidentiality outweighs the public interest in disclosure in this proceeding.

The Board has issued Order PO-001-2017 attached as Attachment 1 hereto. Board Order PO-001-2017 sets out the procedure for the handling of the Confidential Information.

The Board asks parties to avoid referring to the Confidential Information in their final arguments, if possible. If it is necessary to reference Confidential Information, a redacted version of the argument can be filed, along with a request for confidentiality under section 16.1 of the NEB Act in respect of the redacted portions.

Yours truly,

Original signed by

Sheri Young
Secretary of the Board

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Attachment 1 – National Energy Board Order PO-001-2017