



File OF-Fac-Oil-T260-2013-03 03  
22 September 2017

Mr. Ian Anderson  
President  
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Dear Mr. Anderson:

**Trans Mountain Pipeline ULC (Trans Mountain)  
Trans Mountain Expansion Project (Project)  
Certificate OC-064  
Letter of Direction**

The National Energy Board (the Board or NEB) is in receipt of information from Trans Mountain concerning the status of the Project as it relates to compliance to the conditions placed on Certificate OC-064.

The Board has a duty to ensure that its regulated companies are operated and maintained in a manner that is safe and protects the Canadian public and the environment. In addition, the Board holds companies accountable for their performance and compliance to the Board's regulatory requirements.

Section 31 of the *National Energy Board Act* (NEB Act) states that:

*“Except as otherwise provided in this Act, no company shall begin the construction of a section or part of a pipeline unless*

- (a) the Board has by the issue of a certificate granted the company leave to construct the line;*
- (b) the company has complied with all applicable terms and conditions to which the certificate is subject;*
- (c) the plan, profile and book of reference of the section or part of the proposed line have been approved by the Board; and*

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*(d) copies of the plan, profile and book of reference so approved, duly certified as such by the Secretary, have been deposited in the offices of the registrars of deeds for the districts or counties through which the section or part of the pipeline is to pass.”*

Based on the information available to the Board, it appears as though Trans Mountain is in violation of one or both of subsections 31(b) and 31(c) of the NEB Act. The Board notes that Trans Mountain appears to have commenced construction along the pipeline portion of the Project by installing fish spawning deterrent mats in watercourses that will be crossed by the pipeline. In addition it appears that Trans Mountain intends to install similar mats at an additional 21 watercourse sites in the near future.

The Board notes that numerous conditions on Certificate OC-064 have not yet been approved by the Board which are required in advance of the commencement of construction on the pipeline portion of the Project. The Board reminds Trans Mountain that construction is defined in the Certificate and Orders issued on the Project, and that construction of the pipeline shall not be undertaken until such time that Trans Mountain receives the applicable approvals pursuant to those conditions. The Board may also use this information to determine if follow up is warranted under the Board's enforcement process.

Pursuant to subsections 12(b) and 13(b) of the NEB Act, the Board directs Trans Mountain to comply with section 31 of the NEB Act, by discontinuing any further installation of fish spawning deterrent mats. Trans Mountain must obtain all applicable approvals from the Board which permit the commencement of construction on the pipeline route where Trans Mountain proposes to commence construction, including the installation of mats.

Should Trans Mountain chose to respond to this letter, responses should be filed using the NEB's electronic repository and the response must include the NEB file reference numbers **OF-Fac-Oil-T260-2013-03 03**.

Yours truly,

*Original signed by L. George for*

Sheri Young  
Secretary of the Board

c.c. Mr. Steve Stoness, Trans Mountain ULC  
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Indigenous Advisory and Monitoring Committee  
c/o Chief Ernie Crey and Ms. Naina Sloan  
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