



File OF-Fac-Oil-T260-2013-03 18  
20 April 2018

To: All filers of Applications to Participate in the Segment 6 detailed route hearings  
(MH-017-2018 to MH-045-2018)

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**Trans Mountain Pipeline ULC (Trans Mountain)  
Trans Mountain Expansion Project (TMEP)  
Certificate of Public Convenience and Necessity OC-064  
Segment 6 detailed route hearings (MH-017-2018 to MH-045-2018)  
Ruling No. 1 to all Parties – List of Parties and consolidation of Phase 1 and 2  
detailed route hearings**

**A. Background**

On 13 March 2018, the National Energy Board (Board) issued a Letter of Decision ([A90552](#)) announcing 29 detailed route hearings for Segment 6 of the TMEP. On the same day, the Board issued a general Hearing Order ([A90553](#)) that applies to all Segment 6 detailed route hearings, and which provides guidance, procedures, and deadlines for all those participating.

All persons wanting to participate in the Segment 6 detailed route hearings were required to apply to do so. The Hearing Order set out how to submit an Application to Participate (ATP), as well as the associated deadline.

Trans Mountain was required to publish a Notice of Detailed Route Hearings in a number of publications, which included details about the ATP process. The Board also required Trans Mountain to provide a copy of the Letter of Decision and Hearing Order to all Aboriginal groups that were provided a copy of the Plan, Profile, and Book of Reference for Segment 6, any additional Aboriginal groups that Trans Mountain was consulting with in the area of Segment 6, and all persons who filed a statement of opposition for Segment 6. On 26 March 2018, Trans Mountain confirmed it had completed its notification requirements ([A90784](#)).

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## B. Overview of the ATP process

Landowners and Affected Persons who were granted a detailed route hearing were guaranteed participation in their own hearing. Other interested persons were required to file an ATP for the Board's consideration and decision as to whether they would be allowed to participate in hearings granted to Landowners and Affected Persons. Landowners and Affected Persons who were granted their own hearing could also apply to participate in any other detailed route hearing.

The ATP form was available online from 13 March to 10 April 2018. It required those applying to describe their connection to the List of Issues for the detailed route hearings, which was available on the ATP form itself.

The Board's Process Advisors were available to assist any interested persons in filing ATPs.

## C. Board decisions on filed ATPs

Thirty five ATPs were filed with respect to the Segment 6 detailed route hearings. Twenty three of these were from Landowners and Affected Persons who were guaranteed standing in their detailed route hearing, as previously noted in Section B and the 13 March 2018 Hearing Order. The remaining twelve ATPs were filed by third parties, requesting participation in detailed route hearings granted to Landowners and Affected Persons. Table 1 outlines the Board's decisions with respect to these twelve ATPs.

**Table 1. Board decision on Segment 6 ATP's**

<b>Party</b>	<b>Hearing Applied For</b>	<b>Status Requested</b>	<b>Board Decision</b>
Salmon River Enhancement Society	MH-041-2018	Intervenor	Granted
The WaterWealth Project Society	MH-020-2018	Intervenor	Granted
Pro Information Pro Environment United People Network	MH-020-2018	Intervenor	Denied; granted Commenter
Pro Information Pro Environment United People Network	MH-027-2018	Intervenor	Denied; granted Commenter
Pro Information Pro Environment United People Network	MH-033-2018	Intervenor	Denied; granted Commenter
Pro Information Pro Environment United People Network	MH-037-2018	Intervenor	Denied; granted Commenter
Pro Information Pro Environment United People Network	MH-041-2018	Intervenor	Denied; granted Commenter
Eric Bickle	MH-040-2018	Commenter	Granted
Eric Bickle	MH-041-2018	Commenter	Granted
Lovepreet Singh	MH-037-2018	Commenter	Denied
Cutlas Lake Aquatic Stewardship Strategy	MH-020-2018	Commenter	Granted
Great Blue Heron Nature Reserve	MH-020-2018	Commenter	Granted

In assessing the ATPs, the Board applied the criteria it outlined in Section 3.2 of the Hearing Order. The Board had indicated that those applying to participate, other than those Landowners or Affected Persons who have been granted a detailed route hearing and are guaranteed participation, must describe in their ATP:

- which property or statement of opposition they intend to speak to at the detailed route hearing;
- their specific knowledge of, and information about, the land that is the subject of the specific detailed route hearing they are asking to participate in;
- the source of their knowledge and information (e.g., neighbour, proximity to the land subject to the detailed route hearing, a municipality in which the land is situated, a corporation, an Aboriginal person or community);
- their qualifications (e.g., specialist knowledge and experience);
- the extent to which their knowledge and information relates to the land that is the subject of the hearing (e.g., previous and current experience on or with the land);
- what supplementary information they may provide (e.g., detailed drawings, pictures, maps);
- how their participation will add value to or assist the Board in making its decision; and
- the official language in which applicants wish to be heard.

With respect to the ATP of Mr. Lovepreet Singh, the Board denies the ATP for MH-037-2018 (Hale). Mr. Singh's ATP merely restated the three issues in scope for a detailed route hearing. It did not describe any further information on his connection to project issues, such as specific knowledge of or information about the lands under consideration. Information on an applicant's connection to project issues is a fundamental requirement in order for the Board to consider an applicant's request to participate in a detailed route hearing.

With respect to Pro Information Pro Environment United People Network's (PIPE UP), five ATPs for MH-020-2018 (City of Chilliwack), MH-027-2018 (Gard), MH-033-2018 (McIntosh and Morton), MH-037-2018 (Hale) and MH-041-2018 (Township of Langley), the Board has granted Commenter status in place of the requested Intervenor status.

PIPE UP's ATPs refer to their members' "extensive experience in watercourse protection" in relation to three hearings (MH-041-2018, MH-027-2018, and MH-020-2018) and indicate the knowledge and information arises from the group's past participation in Board processes and related activities. The ATPs indicate that the extent of the connection of their knowledge and information relating to the lands arises from "[n]umerous PIPE UP members" being landowners in Chilliwack, Abbotsford, and Langley. The ATPs refer to an unnamed expert and provincial permit processes as additional supplementary information they may provide. The ATPs conclude with a statement that the value they may add or the manner of assisting the Board is through the "first-hand knowledge of the land and watercourses" in the three municipalities mentioned.

In reviewing each of PIPE UP's ATPs, the Board found they did not sufficiently describe any specific knowledge of or information about the lands under consideration in each of the five hearings. It was not clear to the Board how the knowledge or information discussed related to the three issues within the scope of the detailed route hearings. The specific credentials or expertise

of group members or the unnamed expert were also not provided. Overall, the ATPs were broad in nature, making it difficult to assess how PIPE UP's participation would add value to or assist the Board in making its detailed route decisions.

As a result, the Board does not accept PIPE UP's requests for Intervenor status. However, the Board accepts that PIPE UP could, despite the lack of specificity in these ATPs, still have relevant information to provide. The Board has, therefore, granted PIPE UP Commenter status in each of the five detailed route hearings requested.

The Board will give careful consideration to all letters of comment received. Detailed route hearings are focused on the three issues of the best possible route, and the most appropriate methods of construction and timing. The Board encourages Commenters to be as detailed and specific possible in their submissions, and to ensure that the information provided relates to the three issues in scope and the lands under consideration in the hearings. Letters of comment are not limited by length, and may include or attach any photographic or visual information that Commenters choose to submit.

The Board has decided to grant all other ATPs.

For further guidance on how to participate in the Board's detailed route hearings, please refer to the 13 March 2018 Hearing Order.

#### **D. List of Parties**

See the attached **Appendix 1 and 2** for the List of Parties for all Segment 6 detailed route hearings.

When a Party makes a filing in a hearing, he/she is reminded to provide (serve) Trans Mountain with a copy of that filing, or a notification that it was made. Similarly, Trans Mountain is required to serve the relevant Party when it makes filings. See Section 5.3 of the Hearing Order for information on serving documents.

#### **E. Consolidation of Phase 1 and 2 hearings**

On 18 April 2018, Trans Mountain requested that the Board consolidate the written and oral evidence processes for all Segment 6 detailed route hearings, as follows ([A91347](#)):

1. postpone the oral portion of Hearing Phase 1 scheduled in June 2018 and consolidate these hearings with the oral portion of Hearing Phase 2 scheduled in October 2018; and,
2. postpone the written evidence deadlines associated with Hearing Phase 1 and consolidate this process with the forthcoming written evidence deadlines for Hearing Phase 2.

Trans Mountain states that consolidating the Segment 6 route hearings is fair and efficient for all parties and would minimize, or eliminate, any prejudice. Trans Mountain and other

Hearing Phase 1 parties have yet to file written evidence and individual hearings have not been scheduled. Further, the Board has yet to schedule the written evidence deadlines for Hearing Phase 2.

On 18 April 2018, the Board received a letter from the Township of Langley that supports Trans Mountain's request ([A6D4U5](#)).

The Board agrees with Trans Mountain that consolidating Phase 1 and Phase 2 would not result in any prejudice to any Parties and creates process efficiencies. Therefore the Board grants Trans Mountain the requested relief.

This results in the Phase 1 detailed route hearings, both oral and written evidence processes, being consolidated with the Phase 2 detailed route hearings oral and written evidence processes.

The Board had previously indicated that the oral portion of the Phase 1 detailed route hearings would be heard in June 2018. They will now be held in October 2018 during the same period as the Phase 2 hearings.

The Board has yet to provide any evidentiary timelines for Phase 2 detailed route hearings. The Board will provide all Parties with further information and guidance about the hearing process in future procedural updates.

#### **F. Alternative Dispute Resolution (ADR)**

The Board continues to encourage Landowners and Affected Persons, and Trans Mountain, to use the Board's ADR services. ADR is voluntary and uniquely tailored to individual needs. It is facilitated by trained Board staff who can assist in developing a process that may help resolve outstanding issues. For more information about ADR options, please email [ADR-MRD@neb-one.gc.ca](mailto:ADR-MRD@neb-one.gc.ca) or call 1-800-899-1265 (toll-free).

#### **G. Assistance and resources**

General information about the detailed route hearings for all TMEP segments can be found on the Board's TMEP webpage: [www.neb-one.gc.ca/transmountainexpansion](http://www.neb-one.gc.ca/transmountainexpansion).

Each Segment 6 detailed route hearing has a dedicated online folder, within which all documents filed related to that hearing can be found. Documents are sorted by filer (e.g., the Landowner or Affected Person, Trans Mountain, the Board). All hearing folders are found here: <https://apps.neb-one.gc.ca/REGDOCS/Item/View/3466521>.

For any questions, please contact a Process Advisor by calling 1-800-899-1265 (toll-free) or emailing [TMX.ProcessHelp@neb-one.gc.ca](mailto:TMX.ProcessHelp@neb-one.gc.ca).

Yours truly,

*Original signed by*

Sheri Young  
Secretary of the Board

Attachments