



Intervenor's Evidence

Trans Mountain Pipeline Expansion Project

May 27th 2015

Submitted to the Joint Review Panel of the Trans Mountain Expansion Project: An Application Pursuant to Section 52 of the National Energy Board Act December 2013

Written and prepared by Emery Hartley, Dave Mills and Jen Dart

Introduction

The Tofino-Long Beach Chamber of Commerce (TLBCC) is a not-for-profit business organization, representing some 300 members. Started as the Tofino Board of Trade in 1929, the Tofino-Long Beach Chamber of Commerce is the original business organization of Tofino. The Chamber's mission is to actively represent and support the broad spectrum of businesses in Tofino by offering a range of programs, services and networking opportunities for our members; through the development of policies on, and being strong advocates for, social issues; and by promoting stewardship of the natural environment of our home, the Clayoquot Sound biosphere.

Tofino is an ocean-side community, with an ocean-based heritage, culture and economy. Despite being outside Western Canada Marine Response Corporation (WCMRC) immediate spill response zone, this remote community would be on the front line in the event of an accident.

The proponent, Kinder Morgan Trans Mountain Expansion Project Pipeline LLP has not demonstrated that Tofino can be sufficiently protected from an environmental mishap related to the proponent's shipping activities. In fact, to the contrary, WCMRC demonstrated its complete inability to both respond to and contain a spill within 15 kilometres of its Vancouver base on a calm day in April, let alone respond to a tanker accident hundreds of kilometres away during inclement weather.

The Tofino community and the surrounding ecosystem are in a vulnerable location: Clayoquot Sound, on Vancouver Island in British Columbia, includes extensive ancient coastal temperate rainforests, rivers, lakes, marine ecosystems and beaches. It is designated as a UNESCO Biosphere Reserve, and it also includes part of the renowned Pacific Rim National Park Reserve, Strathcona Provincial Park, and several other protected areas. Clayoquot Sound contains the largest area of intact temperate rainforest left on Vancouver Island. Tofino is a place of stunning natural beauty that depends on very complex ecosystems, including whale and migratory bird species.

Tofino has a year-round population of approximately 1,800, but that swells to as much as 22,000 people on some days during peak tourism months. Tofino municipality comprises 28.6 square km (11 sq mi) of land on the Esowista Peninsula, rimmed by beaches. It is bordered on the south by its boundary with Pacific National Park Reserve and on its other three sides by the Pacific Ocean.

0.5

The Tofino-Long Beach Chamber of Commerce received the response to our Intervenor Submission #1 and #2 and wishes to submit comments and evidence on the Kinder Morgan Trans Mountain Expansion Project. Though the authors of this submission are volunteers, they are also qualified experts in their fields. Emery Hartley holds a Bachelors of Science in Agriculture and Environmental Sciences from McGill University, and is employed on Vancouver Island in the environmental protection and monitoring field. He is intimately aware of the nature of the local environment and the role it plays in sustaining most of the economic activity that occurs in the region. Dave Mills holds a Bachelors of Science in Geography from the University of Victoria. He has worked as an Environmental Technician for the Port of Vancouver, has lived

on the west coast for 38 years and is intimately aware of the region's local geographies. The efforts of many other resident and non-resident volunteers have contributed to this process. Though not exclusive they include myself, Greg Blanchette, Alan Churchill, Warren Rudd and Patrick Canning.

Sincerely,

Jen Dart
Executive Director, Tofino-Long Beach Chamber of Commerce

Tofino-Long Beach Chamber of Commerce Position and Evidence

We would like to open our commentary by registering our position with regards to the Kinder Morgan Trans Mountain Expansion Project (the project). The expansion of tanker traffic around southern Vancouver Island should the project be approved is cause for alarm. For this reason and the potential for catastrophic environment damage in the event of an accident or spill, the Tofino-Long Beach Chamber of Commerce is opposed to this project. Though not exclusive, the following three points exemplify why this project is not in the best interest of west coast communities: the proponent has failed to adequately reflect the character of public interest and failed to directly consult with the communities on Vancouver Island's west coast; the proponent has failed to consider and/or disregarded the range of impacts Tofino is subject to; the proponent has failed to consider that Tofino is outside of the recoverable spill response zone and is therefore required to create its own spill response regime; and the proponent has failed to examine the cumulative economic impacts of the project.

The supporting information provided demonstrates the inadequate nature of the proponent's application.

1.0 Kinder Morgan's Trans Mountain Expansion Project findings did not accurately reflect the character of "public interest" expressed by coastal communities to the consultation process.

1.1

In our last submission of questions to Kinder Morgan the TLBCC asked questions regarding "public interest" as we feel that the proponent made liberal use of the term to imply support for the project (TLBCC IR # 2.2.5.1). We feel that "strong public interest" has been manifest several times over the last year with regards to the proposed TMEP and that this has not been supportive of the project.

1.2

We submit that the protests on Burnaby Mountain in response to the NEB approved drilling to determine the suitability of Burnaby Mountain as a right of way for the pipeline is significant evidence to the nature of "strong public interest" in this province. The Burnaby Mountain protests were some of the largest acts of civil disobedience of the last decade in British Columbia and should not be brushed aside by records from previous "community consultation". Indeed, when residents of Burnaby said they preferred the alternate route through Burnaby Mountain were they given the option of no TMEP?

1.3

Lastly, we feel that public interest for this project varies widely between regions, as does the project's purported benefits and risks. It is our position that consultation with west coast communities (one of the requirements in determining the public interest evidenced in the response to TLBCC IR #2.2.5.1) has been wholly inadequate (reference TLBCC IR's regarding consultation with Clayoquot Sound's First Nations TLBCC IR 1.01,1.08,1.09 and 2.1.5). The regional variability of public interest in the project is further demonstrated by the recent and significant opposition recorded at a recent community presentation in Sooke¹ a process that has yet to make its way to the more remote communities on Vancouver Island. It should be noted that not one of the 12 community members or any of the elected officials who spoke at the event supported the project.²

2.0 The TLBCC has been granted intervenor status, and represents a business community integral to the southwest coast of British Columbia. The proponent's consistent claim that the scope of the NEB's review does not require them to consider the range of impacts that would befall this community is unacceptable.

2.1

In our Information Request #2.2.2.5 we referenced the Simushir incident in November 2014 where a fuel laden Russian cargo ship carrying mining supplies lost power in stormy seas off Haida Gwaii and was adrift while Canadian Coast Guard (CCG) Vessels attempted to secure it. In this incident it took the CCG vessel almost 24 hours to reach and secure a line to the stricken vessel. During the course of the attempted rescue, the CCG Gordon Reid lost all three of its towlines, requiring the assistance of the American tug Barbara Foss to finally secure the vessel.³ This is one example of many recent (Burrard Inlet, April 8/9) failings by the CCG who appear unable to protect our coast from the hazards presented to them. Additional and ongoing cuts to the CCG including MTCS stations in Ucluelet and Comox further undermine the confidence residents of Tofino have in those who have operational jurisdiction over marine traffic. It is into this environment that the proponent is proposing a project that would be adding over 300 additional dangerous cargo transits per year, and it is into this environment, our environment, the proponent is proposing that a spill response time of 72 hours plus travel time is acceptable. It is not acceptable.

¹ <http://sooke.pocketnews.ca/op-ed-kinder-morgan-gets-a-respectful-hearing-in-sooke/>

² DISTRICT OF SOOKE Committee of -the Whole Minutes Meeting held TUESDAY, April 7, 2015, 7:00 pm

³ <http://www.cbc.ca/news/canada/british-columbia/simushir-fuel-laden-russian-cargo-ship-under-tow-off-haida-gwaii-1.2803590>

2.2

We asked the question: “It appears that the current Coast Guard response is inadequate, how can the proponent guarantee safe travel of these vessels?” The proponent claimed we were referencing a location outside the scope of the issues identified in the National Energy Board’s List of Issues for the Trans Mountain Expansion Project. We feel this characterization does nothing to build the proponents credibility as both Tofino and Haida Gwaii are now in the same Coast Guard traffic control zone. Furthermore, the example listed demonstrates how woefully unprepared our coastguard is to deal with large ships experiencing difficulty in adverse weather conditions. The proponent has repeatedly stated that they are not liable for ships carrying their products (i.e. Response to TLBCC IR # 2.2.2.3 a); thus we find it difficult to believe that more incidents similar to the one listed above would not occur. The proponent is dismissive of legitimate concerns faced by the Tofino area.

3.0 Tofino is outside of the recoverable spill response zone, and is therefore not subject to the proponents spill response plan. This is a fact. The proponent has not provided information that would allow Tofino to prepare its own spill response plan to address the proponent’s worst-case scenario.

3.1

In Trans Mountain Expansion Project Application, Vol. 8A, Table 5.5.2 the proponent states: “Response time for spills outside of the primary area of response, also known as the enhanced response area is 72 hours ‘plus travel time’”. Tofino and Long Beach are beyond the area known as the Enhanced Response Area and closest to “buoy J” which is expected to experience the greatest amount of bitumen weathering in the event of a large spill (Trans Mountain Expansion Project Application, Vol. 8A, Sec.5.4.4.9). The nature of diluted bitumen is such that “spills are only recoverable if the response is rapid.”⁴ As such, the proponent’s project forces Tofino to protect itself by creating its own spill response system. The evidence gap in the proponent's application does not provide enough information for west coast communities to prepare their own effective diluted bitumen recovery plans.

3.2

Furthermore, in the proponent’s response to IR TLBCC 2.2.1.3 b a number of factors limiting clean up success and inhibiting oil recovery are outlined. These further emphasize how weather dependent oil recovery operations are. The points provided by the Thomas King that rapid response is the only viable option for successful recovery of spilled oil and the evidence cited above suggest to us that to avoid the worst impacts of an oil spill on the west coast our communities would need to be prepared with their own spill response plan and capabilities. This is not accounted for by the NEB or considered by the proponent.

⁴ <http://www.cbc.ca/news/canada/nova-scotia/scientists-study-impact-of-diluted-bitumen-spilled-into-ocean-1.3083044>

4.0 Cumulative economic impacts to Tofino from potential spills generated by the project were never quantified.

4.1

The TLBCC requested information on both the economic impact as well as the quantification of non-commodified social and environmental factors resulting from oil spills on west coast communities (specifically Tofino). In response to our request 2.2.5.2.2 b the proponent suggested that it was “not meaningful to compare one-time worst-case spill costs, which are unlikely to happen, to Project benefits with certain positive annual impacts on taxes, employment, and incomes.” In the following months there was a minor spill in Burrard Inlet in which the proponents own company (Kinder Morgan has a 50% stake in WCMRC) bungled a minor spill in ideal conditions as well as a major pipeline leak on the West Coast in California resulting in a major release into the environment. Two points are relevant here: first, the proponents dismissal of the intervenors concern is, given the events of the past six weeks, clearly unwarranted. Second, it is highly likely that the cost alone of remedying the April 8th spill in Burrard Inlet exceeds the total tax revenue provided by the proponent for the past five years. This is not to say that Kinder Morgan was responsible for the Burrard Inlet spill, only that for them to claim that their revenue generation potential somehow compensates for the inevitable damage caused by the project given the extremely high cost of recovery is untenable.

4.2

After stating the comparison was not meaningful the proponent then proceeded to provide tax revenue figures for the duration of the project broken down by province, including net revenue for Ontario. To a community that has previously dealt with and can actually quantify the costs of a recoverable oil spill here on the coast, (Nestuca 1989) we find it outrageous that the proponent would minimize the real threat of an oil spill. It is also unconscionable to insist to a small community that will have to assemble its own spill response plan as a result of this project that the fact that another province receiving tax revenue somehow implies compensation.

Conclusion

In conclusion, the intervenor has found that the proponent has not properly considered how several key components of the project affect our community. The proponent has dismissed the intervenor’s economic impact concerns as not being comparable, therefore not relevant. The proponent has not provided enough information about the project to allow the intervenor to prepare a spill response plan while at the same time not acknowledging the demonstratively real threat facing the TLBCC and the community it represents. Finally, the proponent has failed to consult locally with west coast Vancouver Island communities, who stand directly in the path of potential spills (as minimal and unlikely as the proponent inaccurately portrays them).

There are many more issues that this project raises and that the proponent has not deemed worthy enough to address and that the NEB process refuses to consider. The TLBCC finds the scope of

this review to be inadequate, and the process non-transparent. The TLBCC is growing increasingly wary of the both actions taken by the NEB to limit public consultation, and the proponent's refusal to release detailed spill response data to the public. The TLBCC also finds that the NEB's refusal to account for climate change impacts is inexcusable as this project, should it ever be constructed, will play a measurable role in an increase in greenhouse gas emissions.

Under these circumstances, the TLBCC board will be meeting to consider the relevancy of the NEB project review process.