



Governance and Priorities Committee Report

For the Meeting of December 18, 2014

To: Governance and Priorities Committee **Date:** December 8, 2014
From: Robert Woodland, Director, Legislative and Regulatory Services
Subject: Trans Mountain Expansion Project – Information Request

Executive Summary

Trans Mountain has made an application to the National Energy Board of Canada to expand the Trans Mountain Pipeline System. The National Energy Board (NEB) is holding a public hearing to review Trans Mountain's application. The NEB has granted the City of Victoria intervenor status for this hearing.

The community was engaged regarding the proposed expansion in order to identify the particular impacts or issues that members of the public feel are important. Public input was collected through a public meeting, an online survey and a dedicated email address. The engagement program focussed on the potential environmental and socio-economic impacts to the City, its residents and businesses from the increase in tanker traffic.

Close to 90% of survey respondents were opposed to the proposed expansion, although some expressions of support were received. Some respondents identified potential benefits; however, the majority of respondents either felt there were no benefits to the proposed expansion, or that any benefits far outweighed the risks. In addition to specific concerns related directly to the increase in tanker traffic, many respondents expressed broader concerns related to climate change and the use and/or export of fossil fuels. It was frequently suggested that Trans Mountain, energy producers and/or governments explore alternative sources of energy.

Information requests are a formal opportunity for intervenors in the public hearing to raise questions about the application filed by Trans Mountain or request additional information. After reviewing relevant sections of the application, staff have prepared an information request that reflects the issues and concerns that members of the public identified. The information request must be submitted by January 9, 2015. Staff recommend that any questions raised during public consultation that are outside of the scope or purpose of the information request be directed to Trans Mountain via letter for response.

As an intervenor, the City has the opportunity to submit its own evidence regarding the impacts of the increase in tanker traffic. While awaiting Trans Mountain's response to the information request, staff will continue to identify and gather evidence that supports the public's views and concerns regarding the proposed expansion. This will include engaging with stakeholders and survey respondents who indicated they had relevant information or expertise to share with the City. The City's evidence must be filed by May 1, 2015.

Recommendation

That Council:

1. receive for consideration the Trans Mountain Expansion Project Engagement Summary Report provided with this report
2. direct staff to submit the information request to Trans Mountain attached as Appendix B to this report
3. direct staff to send a letter to Trans Mountain asking for answers to additional questions raised during public engagement activities and attached as Appendix C to this report, and
4. forward these motions to the Council meeting of December 18, 2014.

Respectfully submitted,



Shannon Craig
Policy Analyst
Legislative and Regulatory Services Department



Robert Woodland
Director, Legislative and
Regulatory Services Department

Katie Hamilton
Director, Citizen Engagement and Strategic Planning

Report accepted and recommended by the City Manager:

Date:



December 10, 2014

List of Attachments:

Appendix A – Tanker Route
Appendix B – Proposed Information Request
Appendix C – Questions for Inclusion in Proposed Letter to Trans Mountain

Trans Mountain Expansion Project Engagement Summary Report

Purpose

The purpose of this report is to

- provide Council with information regarding the results of public engagement on the Trans Mountain Expansion Project, and
- obtain Council approval of the City's information request to Trans Mountain.

Background

The Trans Mountain Expansion Project

Trans Mountain has made an application to the National Energy Board of Canada (the NEB) to expand the Trans Mountain Pipeline System. The proposed Trans Mountain Expansion Project (the proposed expansion) consists of three components:

- twinning (or looping) of existing pipeline segments in Alberta and British Columbia
- new and modified facilities (including pump stations and tanks), and
- three new berths at the Westridge Marine Terminal in Burnaby, BC.

The Terminal expansion will allow for an increase in handling capacity from the current five vessels per month to 34 vessels per month. The type of vessels loaded at the Terminal will remain the same. The tanker route from the Terminal commences in Burrard Inlet, and then traverses Boundary Pass, Haro Strait, and the Juan de Fuca Strait, passing to the south of Victoria, before reaching the Pacific Ocean. A map of the tanker route is attached as Appendix A.

The Public Hearing

The NEB is holding a public hearing to review Trans Mountain's application. The NEB hearing is a formal legal process. The NEB has granted the City of Victoria intervenor status for this hearing. Intervenors are allowed to:

- file written evidence
- ask written questions about Trans Mountain's and other intervenors' evidence
- file, and potentially respond to, notices of motion
- comment on draft conditions, and
- present written and oral argument.

The NEB has identified 12 issues that will be considered during the hearing. Of particular significance to Victoria is issue #5:

"the potential environmental and socio-economic effects of marine shipping activities that would result from the proposed project, including the potential effects of accidents or malfunctions that may occur."

The following table outlines key dates associated with the public hearing process:

January 9, 2015	Intervenor information requests submitted to Trans Mountain
February 10, 2015	Trans Mountain responds to intervenor information requests
May 1, 2015	Intervenors file written evidence
September 2015	Oral hearings to hear intervenors' oral summary argument and/or reply argument
January 25, 2016	NEB makes recommendations to the Federal Government

Council Direction

On January 30, 2014, Council authorized staff and the Mayor to apply to intervene in public hearings relating to the Trans Mountain Pipeline Expansion Project, determining the most appropriate form of participation in consultation with the City of Vancouver and other municipalities, to ensure that municipal interests as well as the specific interests of City of Victoria residents and property owners are represented in the hearing process.

On September 11, 2014, Council made the following motions:

1. That Council direct staff to work with interested individuals and stakeholder groups to compile and submit evidence for the National Energy Board public hearing on the Trans Mountain Pipeline Expansion Project regarding the potential environmental and socio-economic impacts to the City, its residents and businesses from a marine oil spill.
2. That the City of Victoria host a public meeting on October 2 to identify the particular impacts or issues that members of the public feel are important, and to provide an opportunity for people to submit their questions to the City of Victoria through the City's social media and the City's website, about the Trans Mountain Expansion Project.
3. That the City of Victoria collect written questions from members of the public about the Trans Mountain Expansion Project to identify the particular impacts or issues and use that to help shape the City's presentation as an intervenor.

Council has not formally expressed a position with regard to the proposed expansion.

Activities to Date

Since September 11, 2014, staff have:

- conducted preliminary research
- developed an engagement strategy
- engaged the public
- analysed engagement feedback to identify key findings and themes, and
- drafted an information request to Trans Mountain that reflects key themes expressed by engagement participants.

Research to date has included a review of relevant sections of Trans Mountain's application and other selected documents filed as part of the NEB hearing process. Staff with expertise in risk management, insurance and emergency management have reviewed and provided preliminary

comments on applicable sections of Trans Mountain's application.

The engagement program focussed on the potential environmental and socio-economic impacts to the City, its residents and businesses from the increase in tanker traffic. Engagement activities included:

- raising awareness of the City's role as an intervenor and opportunities for the public to provide input
- establishing, promoting and monitoring a dedicated pipeline@victoria.ca email address for public feedback. 23 email submissions were received.
- designing, promoting and compiling results from a survey hosted on the City's "Have Your Say" website. 505 online surveys were completed.
- hosting a public meeting at City Hall on the evening of October 2, 2014, where members of the public were invited to speak, complete the survey and/or provide written comments. 51 individuals attended the meeting.

An engagement summary report is provided with this report. The engagement summary report includes survey results, copies of written and electronic comments and correspondence, and comments from the October 2, 2014 public meeting.

Issues & Analysis

Key engagement findings

Participants in engagement activities were predominantly Victoria residents, although residents of neighbouring municipalities also participated. All neighbourhoods in Victoria had some representation.

Highlights of what we heard are provided below:

a) Opposition to Expanded Pipeline

- Close to 90% of respondents were opposed to the proposed expansion of the pipeline with strong concerns about the related increase in shipping activities off the waters of Victoria and the potential effects of shipping accidents or an oil spill.

b) Risks Outweigh Benefits

- A general theme was that the risks of the proposal outweigh the benefits.
- When asked about benefits of the proposal the most common response was "none."
- The second most common response was "the risks far outweigh the benefits".
- Benefits cited included: an increase in jobs, increased taxes to the Province, ability to get oil to market, profit, jobs in the marine services, profit for a few and funding for social services.

c) Impacts Relating to an Increase in Shipping

- An increased risk of oil spills, impacts to marine mammals and birds, impacts to fish populations, impacts to water quality and human health risks were of highest concern.
- Other concerning impacts mentioned were related to the risk of environmental damage, the need to move away from fossil fuels and towards sustainable energy and concerns about climate change.

d) Impacts Relating to Potential Oil Spills

- Damage to marine and shoreline habitats, impacts to marine mammals, impacts to fish and impacts to water quality were highly noted community concerns.
- Other issues mentioned included: local community would carry the environmental and economic burden, an ecosystem can never fully recover from a spill, ecological damage, long-term health issues, concerns about who will pay for the cleanup.

e) General

- Concerns about possible environmental damage, comments opposing the proposal, and concerns about putting corporate profit over community good. The theme of investing in sustainable energy solutions was consistent, as was a concern regarding climate change.

Proposed information request

Information requests are an opportunity for intervenors to raise questions about the application filed by Trans Mountain or request additional information. Information requests generally follow a consistent format and reference the portion of the application that is being questioned and the reason why the requested information is required.

The City of Victoria's proposed information request is attached as Appendix B. To help shape the City of Victoria's information request, survey respondents were invited to submit questions about the Trans Mountain proposal. A review of those questions, other survey comments, feedback received via other engagement channels and feedback from staff revealed a number of recurring themes, issues and concerns. These themes include:

1. Climate change – engagement participants were concerned that the proposed expansion will contribute to climate change.
2. The need for the proposed expansion – engagement participants questioned why alternative sources of energy were not being considered or why petroleum products could not be refined or used within North America.
3. How the proposed expansion will benefit Victoria, Vancouver Island or British Columbia – engagement participants wanted more information regarding the local or regional benefits of the proposed expansion and questioned whether those benefits would justify the identified risks.
4. The impacts of increased tanker traffic on whale populations – engagement participants questioned how Trans Mountain will minimize the impacts to the Southern Resident Killer Whale population associated with an increase in tanker traffic.
5. Marine accident and oil spill risk mitigation – engagement participants questioned what strategies Trans Mountain has in place to mitigate the risk of marine accidents and oil spills, including shipping routes and tanker construction and safety requirements.
6. Marine oil spill response capacity – engagement participants wanted to know who was responsible for marine oil spill response and what response plans and equipment are in place in the event of a marine oil spill.
7. Marine oil spill cleanup – engagement participants questioned the ability of Trans Mountain and its partners to effectively or sufficiently clean up a marine oil spill.

8. Marine oil spill liability and compensation – engagement participants questioned the sufficiency of insurance coverage in the event of a marine oil spill.

Staff have drafted the City of Victoria's information request to reflect these themes. The questions posed to Trans Mountain in the information request are a combination of questions identified by staff and those identified by the public.

Additional questions

Some of the questions submitted by respondents may be more appropriately and effectively answered outside of the formal information request process, either because they are outside of the scope of the issues being considered during the NEB hearing or are seeking general information about the proposed expansion or Trans Mountain's operations. Trans Mountain has committed to ongoing public consultation regarding the proposed expansion and has established a webpage for members of the public to submit questions and receive a response. There may be value in asking Trans Mountain to respond to these additional questions from engagement participants and staff are recommending that the City send a letter to Trans Mountain outlining the list of questions and requesting a response that can be made available to the public. That list of questions is presented in Appendix C. Questions may have been edited for clarification and to avoid duplication.

Next steps

If approved by Council, the proposed information request will be submitted no later than January 9, 2015. While awaiting Trans Mountain's response to the information request, staff will continue to identify and gather evidence that supports the public's views and concerns regarding the proposed expansion. This will include engaging with stakeholders and survey respondents who indicated they had relevant information or expertise to share with the City. Evidence is used to support one's position on the application and is what the NEB will consider in its review. The City's evidence must be filed by May 1, 2015.

As an intervenor, the City also has the opportunity to make information requests of other intervenors in the NEB hearing process. Other intervenors, such as the Province of BC, may be better able to address some areas of concern identified by staff, such as a lack of clarity over emergency response authority and jurisdiction in foreshore areas. Staff will review the evidence filed by other intervenors, once available, to determine whether any additional information requests to other intervenors are warranted.

Conclusions

As an intervenor in the NEB's public hearing on the Trans Mountain Expansion Project, the City of Victoria has a unique ability to put forward the views and opinions of local and regional residents and businesses with regard to the proposed pipeline expansion. The City has undertaken a variety of public engagement to solicit the views of the public on the proposed expansion, and has drafted an information request to Trans Mountain to obtain additional information on issues of concern identified by engagement participants. Once received from Trans Mountain, the answers to the questions posed in the City's information request will be useful in shaping the City's own evidence submission and argument to the NEB regarding the proposed expansion. In the interim, staff will continue to identify and gather evidence that supports the public's views and concerns, for submission to the NEB by no later than May 1, 2015.

Recommendation

That Council:

1. receive for consideration the Trans Mountain Expansion Project Engagement Summary provided with this report
2. direct staff to submit the information request to Trans Mountain attached as Appendix B to this report
3. direct staff to send a letter to Trans Mountain asking for answers to additional questions raised during public engagement activities and attached as Appendix C to this report, and
4. forward these motions to the Council meeting of December 18, 2014.

Appendix A – Tanker Route



Appendix B – Proposed Information Request

1. Project Need/Public Interest

References:

- i. Volume 2 - Project Overview, Economics and General Information (Page 2-37)
- ii. Engagement summary report, found online at www.haveyoursayvictoria.com

Preamble:

In reference (i), Trans Mountain states that:

- the marketplace has clearly demonstrated the need for the Project, and
- the Project is required from a broader public interest perspective to ensure that producers and governments obtain the highest value for their petroleum resources. Canadians are the ultimate owners of petroleum resources as represented through their provincial governments.

Reference (ii) includes the results of public engagement activities conducted by the City of Victoria to solicit input on the project from interested members of the public. A number of respondents questioned the need for the Project and how the Project is consistent with the public interest, based on:

- concerns regarding climate change and a required shift to alternative energy sources, and
- concerns regarding the export of Canada's natural resources.

In light of these concerns, it is important to know the factors that were considered by Trans Mountain in coming to its conclusions that the Project is needed and in the public interest.

Request:

- a) In coming to the conclusion that there is a need for the Project, did Trans Mountain give consideration to any factors other than the demand for transportation services and market for petroleum resources? If yes, please describe those factors.
- b) In coming to the conclusion that the Project is required from a broader public interest perspective, did Trans Mountain give consideration to any factors other than ensuring the highest value is obtained for petroleum resources? If yes, please describe those factors.

2. Project Benefits

References:

- i. Volume 2 - Project Overview, Economics and General Information (Page 2-41)
- ii. Engagement summary report, found online at www.haveyoursayvictoria.com

Preamble:

In reference (i), Trans Mountain states that:

- the construction and operation of the Project will provide substantial economic and fiscal benefits to Canada and its regions. There will be significant benefits to the parties directly involved, to all Western Canadian oil producers, and to all Canadians and their governments, and
- in addition to the tax benefits created at the federal and provincial levels, the Project will also yield benefits to communities along the right-of-way through employment and economic activity, and generating additional property taxes for the life of the pipeline.

Reference (ii) includes the results of engagement activities conducted by the City of Victoria to solicit input on the Project from the public. A number of engagement participants questioned the benefits of the Project to Victoria, the region and the province. Others asked whether Trans Mountain was willing to make additional investments that will be of benefit to the Victoria community in recognition of the risk posed by the increase in tanker traffic.

Request:

- a) Please provide information regarding the specific benefits that businesses and residents of the City of Victoria and the Capital Regional District could expect from construction and operation of the Project.
- b) Is Trans Mountain planning any initiatives in the City of Victoria or the Capital Regional District that will confer any additional community benefits?

3. Impacts of Increased Tanker Traffic on Whales

References:

- i. Engagement summary report, found online at www.haveyoursayvictoria.com
- ii. Volume 8A – Marine Transportation (Section 4.3.7, Page 8A-296 to 8A-332)
- iii. Volume 8A – Marine Transportation (section 4.4.5, Page 8A-470 to 8A-481)
- iv. Volume 8A – Marine Transportation (Section 1.4.2.11, Page 8A-52 to 8A-54)
- v. Volume 8A – Marine Transportation (Section 5.3.2.1 – page 8A-530 and Figures 5.3.1 and 5.3.2)

Preamble:

Reference (i) includes the results of engagement activities conducted by the City of Victoria to solicit input on the Project from the public. A number of engagement participants were concerned about the impact of the Project on whale populations.

In references (ii) and (iii), Trans Mountain states that the residual and cumulative effects of increased project-related marine vessel traffic on Southern Resident Killer Whales are significant because of sensory disturbance due to underwater noise. However, Trans Mountain proposes no direct mitigation for these effects because project-related marine vessels are owned and operated by third parties.

In reference (iv), Trans Mountain states that it maintains a Tanker Acceptance Standard, which governs the acceptance or rejection of all tankers calling at the Westridge Marine Terminal. It would appear that Trans Mountain has the ability under this Standard to incorporate either a requirement that tankers meet a minimum acoustic standard or have in place noise-quieting techniques that could mitigate the impact of tanker traffic on whale populations.

Request:

- a) Is Trans Mountain aware of any noise-quieting techniques or adaptations that could reduce underwater noise from project-related marine traffic and the resulting sensory disturbance to Southern Resident Killer Whale populations?
- b) Could Trans Mountain require that tankers calling at the Westridge Marine Terminal have underwater noise-quieting techniques or adaptations in place as part of its Tanker Acceptance Standard?
- c) Could Trans Mountain require that tankers calling at the Westridge Marine Terminal meet a minimum acoustic standard as part of its Tanker Acceptance Standard?
- d) Could Trans Mountain require that project-related tugs have noise-quieting techniques or adaptations in place?
- e) Could Trans Mountain require that project-related tugs meet a minimum acoustic standard?

4. Marine Accident and Oil Spill Risk and Mitigation**4.1 Pilotage Requirements****Reference:**

Volume 8A – Marine Transportation (Section 1.4.2.3 – page 8A-46 and 8A-47)

Preamble:

Trans Mountain indicates that laden tankers leaving the Westridge Marine Terminal are required to have two pilots to guide navigation on the return trip to the Pacific Ocean. The two pilots disembark from the tanker at the Victoria pilot station at Brothie Ledge.

Request:

Could marine collision and oil spill risk be further mitigated by moving the pilot disembarkation point, from south of Victoria, to a zone west of Race Rocks, stationed from Sooke, for laden oil tankers?

4.2 Tug escorts**References:**

- i. Volume 8A – Marine Transportation (Section 5.3.2.1 – page 8A-530 and Figures 5.3.1 and 5.3.2)
- ii. Volume 8A – Marine Transportation (Section 5.3.1 – page 8A-527)
- iii. TR 8C-12 TERMPOL S.3 “An Evaluation of Local Escort and Rescue Tug Capabilities in Juan de Fuca Strait”

Preamble:

In reference (i), Trans Mountain describes and illustrates the existing tug escort requirements for laden tankers, which include a tethered tug to Brothie Ledge and an untethered tug escort to Race Rocks. Trans Mountain proposes an expansion of the untethered tug escort route through the Juan de Fuca Strait to the Pacific Ocean.

In reference (ii), Trans Mountain states that a tethered tug is physically attached to the tanker and can exert enough force to prevent the oil tanker from grounding in the event of a mechanical failure of the oil tanker's equipment. Untethered escort tugs navigate with the outbound tanker but are not physically attached to it. In the event the oil tanker experiences a mechanical failure, an untethered escort tug can connect a line and exert enough force to prevent the tanker from grounding but the response time is greater.

In reference (i), Trans Mountain indicates that tug operators based in Vancouver have indicated that escort tugs with sufficient capability to control a laden oil tanker under conditions prevailing in the study area are now and will continue to be available for this service. The evaluation cited in reference (iii) recommends minimum criteria for escort tugs and concludes that there are only six BC-based tugs which have a clearly definable escort capability. These six tugs are already part of the existing escort tug regime, escorting laden tankers from Westridge Terminal to Race Rocks. These conclusions raise concerns about the availability of suitable tug escort vessels to support both the proposed increase in tanker traffic and the proposed increase in tug escort requirements.

Request:

- a) Would the risk of a marine oil spill be further mitigated by extending the tethered tug route either to Race Rocks or all the way through Juan de Fuca Strait to the Pacific Ocean?
- b) Please indicate whether the escort tugs that will be used to escort tankers as proposed in Trans Mountain's application will meet the minimum criteria recommended in reference (iii).

- c) Please provide further information regarding any steps that Trans Mountain is taking, or plans to take, to ensure that adequate tug resources are available to meet the proposed tug escort requirements.

4.3 Moving Safety Zone

Reference:

Volume 8A – Marine Transportation (Section 5.3.2.2 – page 8A-532 and 8A-533)

Preamble

Trans Mountain proposes that a Moving Safety Zone be established around all laden oil tankers to substantially reduce the probability of a vessel collision but provides few details regarding how a Moving Safety Zone would be implemented and monitored. In addition to vessel traffic, Victoria also has a significant amount of air traffic entering and exiting the Victoria Harbour Airport.

Request:

- a) Please provide more information regarding how the proposed Moving Safety Zone would be implemented and enforced.
- b) Would the Moving Safety Zone also apply to aircraft or are there other restrictions already in place limiting how close an aircraft can come to a project-related tanker?

5. Marine Oil Spill Fate and Behaviour

- i. Volume 8A - Marine Transportation (Section 5.2.4 – page 8A-523 and Table 5.2.2)
- ii. Volume 8A - Marine Transportation (Section 5.4.4.7 – page 8A-565 to 8A-596)
- iii. Volume 8A – Marine Transportation (Page 8A-634)

Preamble:

In reference (i), Trans Mountain indicates that seven locations along the tanker route, including one designated as location “F” (Brotchie Pilot Boarding Area) were identified as possible accident locations. Four locations were chosen for spill modelling. Location F is the possible accident location closest to the City of Victoria; however, Trans Mountain states that this location was not selected for spill modeling because a possible collision with another vessel is a low probability event.

The concept of risk is often expressed as probability multiplied by consequence. As a waterfront community with a downtown centred around an economically-vital harbour, the consequence of a marine oil spill in the waters off Victoria could be significant. This means that even if the probability of an accident is “low” at Location F, the risk to the City of Victoria and the region from an accident at this location could be “high.”

Reference (ii) includes a variety of stochastic simulation maps for a spill scenario at the four chosen locations. The maps show probability of oil presence from a spill at each location at 24

and 48 hours from the time of the spill, for each of the four seasons of the year. In reference (iii), Trans Mountain acknowledges that scenario-based hydrocarbon spill evaluations can provide decision makers and resource managers with a clearer understanding of potential effects pathways, the range of potential outcomes, vulnerable resources, and spill preparedness and response priorities and capabilities. Spill modelling from location F that shows when shoreline contact could be expected after a spill would provide critical information for local emergency planning purposes.

Request:

Please provide stochastic results for a representative marine oil spill at Location F.

6. Marine Oil Spill Response

6.1 Jurisdiction and Roles and Responsibilities for Oil Spill Response

Reference:

- i. Volume 8A – Marine Transportation (section 1.4.2 – pages 8A-44 to 8A-54)
- ii. Volume 8A – Marine Transportation (section 5.5.2 - page 8A-608, Table 5.5.3)

Preamble

In reference (i), Trans Mountain outlines the roles and responsibilities for navigational safety, emergency response and preparedness of various agencies, including:

- Transport Canada
- Fisheries and Oceans Canada – Canadian Coast Guard
- Pacific Pilotage Authority
- Port Metro Vancouver
- Western Canada Marine Response Corporation (WCMRC)
- Province of British Columbia
- Tanker Owners and Operators
- Pipeline Shippers, and
- Trans Mountain.

There is no section outlining the authorities or responsibilities of local governments that may be affected by a marine oil spill. City of Victoria staff with responsibility for emergency preparedness and response have indicated that there is a large gap in understanding among various stakeholders with regard to roles and responsibilities in the event of a marine oil spill.

On page 8A-50, Trans Mountain states that the province, through Ministry of Environment staff, plays a direct role with spills that threaten or impact shorelines and that WCMRC's spill response activities and planning are complementary to the BC Ministry of Environment's spill response planning. Further information would assist in clarifying the respective jurisdictional authorities and roles and responsibilities of the Ministry of Environment, WCMRC and local government emergency responders in the event of a marine oil spill that reaches the shoreline.

In reference (ii), Trans Mountain outlines proposed improvements to WCMRC's emergency response capacity and states that emergency response exercises are intended to validate response strategies and demonstrate capabilities of all those involved in a response, including government agencies and mutual aid providers. The current exercise plan does not appear to include all stakeholders, such as local governments.

Request:

- a) Please provide additional information regarding the jurisdictional authority and roles and responsibilities of local governments, the Province of BC and WCMRC for responding to a marine oil spill that reaches the shoreline.
- b) Who is responsible for wildlife response planning and is there a specific wildlife response plan that would be implemented in the event of a marine oil spill from a project-related tanker?
- c) Will representatives from affected local governments be included in any incident command centre established by a spill response team?
- d) Will representatives from the City of Victoria and other potentially-affected local governments be included in future response exercises, including orientation, training and exercise planning?

6.2 Equipment Staging Areas

References:

Volume 8A – Marine Transportation (Page 8A-610 to 8A-611 and Figure 5.5.2)

Preamble:

Trans Mountain indicates that the Western Canada Marine Response Corporation currently has an oil spill response equipment staging area in Esquimalt. Trans Mountain proposes a number of improvements to Western Canada Marine Response Corporation's current oil spill response capacity, including the establishment of new equipment staging locations along the tanker route. One of these proposed new equipment staging locations is in Sooke. It is unclear from Trans Mountain's application whether the existing staging area in Esquimalt would be eliminated with the proposed establishment of the Sooke staging area. If the Esquimalt staging area is to be eliminated, there is also no information provided as to the impact that decision would have on oil spill response times off the coast of Victoria.

Request:

- a) Please clarify whether the existing spill response equipment staging area in Esquimalt will be eliminated if the proposed new location in the Sooke area is established.
- b) Please indicate the response time for emergency crews to reach:
 - i. the existing Esquimalt oil spill response equipment staging area, and
 - ii. the proposed new Sooke staging area
- c) Please indicate the current distance from the existing Esquimalt oil spill response equipment staging area to hypothetical oil spill location F.

- d) Please indicate the estimated response time to an oil spill occurring in hypothetical oil spill location F from:
- i. the existing Esquimalt oil spill response equipment staging area, and
 - ii. the proposed new Sooke staging area.

7. Marine Oil Spill Cleanup

Reference:

- i. Volume 8A – Marine Transportation – section 5.6.2.5.1 – page 8A-692 to 8A-693)
- ii. Engagement summary report, found online at www.haveyoursayvictoria.com

Preamble:

In reference (i), Trans Mountain summarizes the potential ecological effects and recovery of shoreline habitat in a hypothetical spill scenario and states that shoreline clean-up and assessment techniques (SCAT) would be applied to spilled oil that reached the shore, and that most of this oil would be recovered.

Reference (ii) includes the results of engagement activities conducted by the City of Victoria to solicit input on the project from the public. A number of engagement participants questioned whether an oil spill can ever be effectively cleaned up.

Request:

Is there a guideline or standard used by WCMRC in determining when a marine oil spill has been sufficiently cleaned up and their response activities can cease (e.g., a certain percentage of oil recovered)? If yes, please provide the guideline or standard.

8. Marine Oil Spill Liability and Compensation

Reference:

- i. Volume 8A – Marine Transportation (section 1.4.1.6 – pages 8A-40 – 8A-41)
- ii. Engagement summary report, found online at www.haveyoursayvictoria.com
- iii. Exxon Valdez Oil Spill Trustee Council, "Oil Spill Facts Questions and Answers", found online at <http://www.evostc.state.ak.us/index.cfm?FA=facts.QA>

Preamble:

In reference (i), Trans Mountain outlines the framework for handling marine liability and compensation in Canada under the *Marine Liability Act*. Trans Mountain states that in the event of an oil spill in a marine environment, funding of up to \$1.3 billion is available in a tiered system to address the costs of emergency response, clean-up and compensation in the event of an oil spill from a tanker.

Reference (ii) includes the results of engagement activities conducted by the City of Victoria to solicit input on the project from the public. A number of engagement participants questioned the current liability and compensation scheme and whether it would be sufficient to cover all costs associated with a marine oil spill.

In reference (iii), the Exxon Valdez Oil Spill Trustee Council indicates that Exxon says it spent about \$2.1 billion on the cleanup effort from the Exxon Valdez oil spill. The cost of clean up associated with the Exxon Valdez oil spill raises concerns regarding the sufficiency of the current liability and compensation regime in the event of a significant oil spill resulting from the Project.

Request:

- a) Is it possible that costs of emergency response, clean-up and compensation associated with a marine oil spill from a Project tanker will exceed \$1.3 billion?
- b) If the answer to question a) is yes, who would be responsible for paying for these excess costs?

Appendix C – Questions for Inclusion in Proposed Letter to Trans Mountain

Project Need

1. Considering the ongoing environmental impacts of extraction, transportation, and use of petroleum products, as well as the economic and technological viability of alternative energy such as solar and wind as two examples, do you think it is morally sound and in the best interest for the City of Victoria and the residents it represents to accept your proposal?
2. Why has Trans Mountain not looked into developing alternatives to oil-based business? This short-term thinking is going to be the ruination of our planet.
3. In view of the increased emissions and the high risk to marine habitat due to proposed increase in shipping, how can the company justify the building of the pipeline?
4. Why are we not selling these resources within Canada or North America?
5. Can't the oil be processed in Alberta?
6. The burning of fossil fuels will increase climate change. Have you considered changing gear and putting your money and resources into alternative forms of energy?
7. When are you going to invest in alternative sources of energy? You could be part of the climate change solution.
8. With spills being such a concern for the public and the future of our social and economic environment, and also a very likely occurrence, why is it energy companies aren't pushing their resources into making a profit in the green sector instead of spill mitigation?
9. Can you put the money that is being spent towards additional trafficking of oil, and invest it in conserving and sourcing water based technology?
10. I am more concerned about the age of the current pipe infrastructure than new pipes. Older ones are more likely to fail. What is the plan to replace and upgrade aging infrastructure?
11. Why do you feel that economic growth trumps ecological health?
12. Have you considered the environmental and economic costs of climate change that would be linked to this expansion? Please show us full accounting of these costs, along with the benefits of the project.

Project Benefits

13. Who benefits financially, by exactly how much money, per additional and present tanker load?
14. Why should we risk ruining the ocean for profit?

15. Under the newly ratified FIPA agreement what real economic benefit could possibly be granted from this project that could offset the very real irreparable harm it will cause to our people and the environment?

Project Timing

16. How soon can you get it done?

Increased Tanker Traffic Impacts

17. How would oil tanker expansion affect Victoria's land values or our happiness levels?

Marine Accident/Oil spill risk and mitigation

18. When did you last have a major oil spill or shipping accident?
19. Turn Point and East Point are hazardous navigational areas with considerable traffic. What is your plan for mitigating the risk of having a three-fold increase in oil tanker traffic in these areas?
20. Are modern, three hulled tankers being built to transport this oil?
21. What are the standards you will require for the ships and their employees that will use the terminal?
22. How much safer are pipelines than road or rail transport?
23. What control do they have over the nature and quality of the ships that will be carrying this oil?
24. What guarantees do we have that the ships will be double hulled?
25. What strategies do they have in place to prevent a spill?
26. What resources do they have in place in the event of a spill?
27. Can they find an alternative shipping route other than the sensitive Salish Sea?
28. Based on worldwide statistical analysis and probability, how often will S. Vancouver Island (Port Renfrew to Victoria and Gulf Islands) suffer a major oil spill (greater than 100,000 litres) in the next 50 years?
29. Can Trans Mountain guarantee that there would never be a spill or impact of any kind on marine, human and/or animal life on this coast?
30. If an accident were to happen, what would Trans Mountain be prepared to re-evaluate about their current system?
31. Explain why even a very low risk assessment for marine spills of diluted bitumen would not be catastrophic if such an event occurred, i.e., why a low risk of an incident should not

be assessed as a high risk given the magnitude of irreversible damage major spillage would inflict.

32. Is Trans Mountain willing to contribute to the costs of reducing the risk of an oil spill into the marine environment? If so, would Trans Mountain work with others to develop a governance strategy where industries associated with this development each pay their fair share for reducing the risk?
33. Who enforces their safety regulations?
34. Where are the tankers supposed to sail? American or Canadian waters? Will the location make a difference in case of an accident?
35. What about the tankers themselves? Will they be antique? Old? Refurbished? New? Double hulled?

Marine Oil Spill Response

36. Does Kinder Morgan run safety drills (timing how quickly they can respond to an oil spill or mishap), and if so, what is the average response time that has been recorded in the last 5-10 drills?
37. How do you expect to contain any type of spill in the Strait of Juan de Fuca? The Juan de Fuca has stronger currents and swell than Haro & Georgia Straits which will make it extremely tough.
38. Please describe what your local oil spill response plan may be. How do you plan to deal with the considerable underwater tidal currents in the area, which would spread the bitumen rapidly?
39. What resources/funding are you prepared to kick in to federal and provincial coffers in order to be prepared from a major oil spill?
40. Would Kinder Morgan be willing to pay towards a fund set aside for cleanup, \$1 million dollars PER SHIP, in order to cross our waters? That is what we are talking about in terms of cost long and short term, plus the cost to the medical system and taxpayers.
41. What resources, including money, are in place in case of a major accident/spill?
42. Who is responsible for cleaning up an oil spill?
43. What portion of your budget will go to monitoring/preventing the possibility of leaks/spills? How much of this will be preemptive and how much will just be factoring in cleanup should something awful occur?
44. What plans do you have for dealing with inevitable spills and leaks? ‘
45. Because of an increase in marine traffic and according to the law of averages, what are the detailed response plans of a marine emergency such as collision and the impact on the environment from a large oil spill?

46. How do you plan to deal with any accidental discharge into the ocean? Specifically what infrastructure will be ready and in place to deal with any emergent situation and how will it be sufficient to the task.

Marine Oil Spill Liability and Compensation

47. How is the City of Victoria, which won't earn a dollar through the project, supposed to bear the costs of extended spill clean-up (which is never covered by oil transport companies) and manage the long-term economic impacts of a spill: severely reduced tourism revenue, potential loss of cruise ship revenue, impacts to fishing and shellfish sectors, etc; and the economic impacts in a no-spill scenario, such as loss of tax revenue from the whale watching sector, which the tankers associated with the project could displace.
48. When a spill occurs, what commitment will Trans Mountain make for cleanup, restitution for lost income (fisheries, tourism), lost quality of life?
49. Would Trans Mountain be willing to pay 100% of all clean-up costs regardless of that cost? If not, what percentage?
50. Will Trans Mountain's Insurance be 100% accountable for any environmental damage if an incident that may occur?
51. Will you pay 100% of the costs associated with an oil spill either on land or in the ocean?
52. What is your emergency response plan, not if but when petroleum products spill into our waterways? Can we hold you both legally and financially responsible when such an incident occurs?
53. What level of environmental liability does Kinder Morgan hold in responsibility WHEN an environmental disaster takes place?
54. Specifically re the tankers - what are the details of your insurance cover and how much does your maximum indemnity amount to?
55. Who would pay to clean up a spill and what is the worst case scenario in damage that could affect our marine ecosystem?
56. What kind of assurance could TransMountain provide that would guarantee legal recourse for our population, Indigenous Peoples and local government? It would appear the FIPA disallows ALL such remedies?
57. How much money and insurance are they earmarking for spill cleanup and how does this compare to how much the Exxon Valdez spill cost (in today's dollars\$)?
58. Would you agree to fully paying for an insurance package that did not utilize any form of limitation of liability?
59. How much collateral will Trans Mountain put in escrow as insurance protection for major spills?

60. What about liability after an oil spill disaster? Who will be on the hook financially after the insurance money runs out? A 15% clean up is acceptable to these companies.
61. In the event of an oil spill, how much money has Kinder Morgan put aside for clean up?
62. What happens in case of an unfortunate spill? How far does the responsibility of the oil company go? Are they fined? Will they have to deal with cleanup? How fast and how far? Is there an intent to pay compensation for losses in business, fisheries, tourism, environment, and/or quality of living here in Victoria?

Marine Oil Spill Cleanup

63. How do they propose to prevent the UNIMAGINABLE damage that would be done to marine life with any type of spill?
64. How will you repair the natural harmony and balance of the environment in the event of a major leakage or spill?
65. How do you propose to replace whole ecosystems and plant and animal species that will be destroyed by an oil spill?
66. Considering their abysmal record handling "accidents", how do they propose to clean up a spill?
67. How does Kinder Morgan intend to fully anticipate and address any sort of environmental impacts? Cleanup plan??
68. If I remember correctly, Kinder Morgan failed to provide vessel-specific data for any of their coastal impact assessments. Please request the provision of vessel-specific data for more accurate assessment of coastal impact. Please also request/demand confirmation about spill response, including for diluted bitumen, including liabilities for short and long term response and clean-up.
69. Has Kinder Morgan planned to have specialized oil clean up contractors? Who are they? How much money have they put aside for a spill? How many are there?

Consultation with First Nations

70. Have you contacted the Esquimalt, Songhees and Lekwungen nations for consultation and guidance?
71. Will Kinder Morgan negotiate with the local First Nations to seek their approval to allow this?
72. Does Kinder Morgan have free, prior and informed consent from all First Nations pipe crossings and areas with tanker travel?