City of Richmond

Report to Committee

To:	General Purposes Committee	**Date:**	January 20, 2014
From:	John Irving, P. Eng, MPA Director, Engineering	**File:**	10-6125-30-001/Vol 01

Re: **Trans Mountain Pipeline Project NEB Review Update**

Staff Recommendations

That the attached staff report "Trans Mountain Pipeline Project NEB Review Update" from the Director, Engineering, providing details on the Kinder Morgan-led pipeline expansion project and National Energy Board review process, be received for information.

John Irving, P.Eng. MPA
Director, Engineering

(604-276-4140)

REPORT CONCURRENCE		
ROUTED TO:	**CONCURRENCE**	**CONCURRENCE OF GENERAL MANAGER**
Intergovernmental Relations & Protocol Unit	☐	
Emergency Programs	☐	
Richmond Fire-Rescue	☐	
Transportation	☐	
REVIEWED BY STAFF REPORT / AGENDA REVIEW SUBCOMMITTEE	**INITIALS:** DW	**APPROVED BY CAO**

Staff Report

Origin

Kinder Morgan is proposing to expand the Trans Mountain Pipeline system, including twinning the existing pipeline, enlarging the Westridge Marine Terminal, and expanding the storage capacity on Burnaby Mountain, to facilitate a tripling of capacity to move refined products and crude oil, primarily for export. On January 15, 2014, the National Energy Board (NEB) provided an update on project status and began receiving applications for persons or groups interested in participating in the Public Hearing phase of the NEB review.

In a memo dated July 15, 2013, Staff provided an update to Council relating to the Trans Mountain Expansion (TME) project and how it relates to other projects undergoing review (at that time, the Fraser Surrey Docks coal terminal project). This informational memo provides an update on the TME project review process.

Background

On December 16, 2013, Kinder Morgan filed a *Facilities Application* with the NEB for the Trans Mountain Expansion (TME) project. Kinder Morgan is proposing to expand the current Trans Mountain pipeline from Alberta to their terminal in Burnaby, BC. If approved, the expansion would twin the existing pipeline, and would increase the nominal capacity of the system from 300,000 barrels per day to 890,000 barrels per day. Attachment 1 shows the proposed alignment of the project in relation to other regional projects undergoing major environmental reviews.

The pipeline currently carries both refined products (gasoline, diesel, jet fuel) for the Greater Vancouver market and refined products and synthetic crude oils for export through the Westridge Marine Terminal on Burrard Inlet in Burnaby. The pipeline expansion will increase capacity, and add the ability to carry heavier crude oils (such as diluted bitumen, "dilbit") for export through an expanded Westridge terminal. This would see operations at the terminal increase from the current 5 tankers per month to at least 34 Panamax- to Afrimax-sized tankers per month.

The TME project will require a *Certificate of Public Convenience and Necessity* (CPCN), pursuant to Section 52 of the *National Energy Board Act.* which must include an Environmental and Socio-Economic Impact Assessment (ESA), and a Public Hearing. The December 16 filing by Kinder Morgan included the application for a CPCN, an ESA, preliminary risk assessment, and an overview of Aboriginal and stakeholder engagement activities. The filing also addressed the information required under section 19(1) of the *Canadian Environmental Assessment Act, 2012* (CEAA2012). Further, Kinder Morgan is participating in Transport Canada's voluntary *Technical Review Process of Marine Terminal Systems and Transshipment Sites* (TERMPOL) to address the increase in marine traffic required to support the Project. This review process is led by a committee of federal agencies, and is tasked with measuring the navigational risks associated with the location and operation of the marine terminals for large oil tankers, with the intent of mitigating risks to the environment related to accidents or malfunctions in Canadian waters.

The NEB review process will take approximately 18 months to complete from filing, with Public Hearings anticipated for third or fourth quarter of 2014.

The entirety of the TME project is located outside of Richmond, and is not directly related to the existing Vancouver International Airport jet fuel supply pipeline also operated by Kinder Morgan. The TME, as proposed, would pass through the Fraser Valley and cross the Fraser River well upstream of Richmond, connecting to existing storage and distribution terminals on Burnaby Mountain and Burrard Inlet.

Current Status

On January 15, 2014, the NEB provided an update on the TME project status, and began receiving applications for persons or groups interested in participating in the Public Hearing phase of the review. The opportunity to apply to be a Participant ends on February 12, 2014.

According to *Section 55.2* of the *NEB Act* (amended in 2012), the ability to participate in the hearings is limited to "*person(s) who, in the Board's opinion, [are] directly affected by the granting or refusing of the application, and... any person who... has relevant information or expertise.*" The NEB clearly states that Participation in the process is limited to persons with "*a specific and detailed interest, rather than a general public interest*"[1]. The NEB will also decide if an applicant may participate based on whether their concern or evidence relates directly to one or more of the 12 points they have set out as the scope of the review. Those 12 points are listed on Attachment 2.

Individuals and groups may participate in the process through one of the following ways:

- **Intervenor:** Intervenor status provides individuals or groups the opportunity to actively participate in the hearings. An Intervenor has the right to receive all documents filed during the hearing process, present written evidence during the hearing, question others on their written evidence, cross-examine other witnesses at the oral portion of the hearing, and give final a argument. An Intervenor may also be questioned on any evidence that they present.

- **Commenter:** A Letter of Comment allows the sharing of views with the Board, but will not be considered sworn evidence and will not be subject to questioning. Although Letters of Comment become public documents once they have been submitted and are able to be viewed on the public registry, they may not be given the same weight as sworn evidence that has been tested through questioning in a hearing. Commenters must apply to be a participant for a letter to be accepted, and Commenters do not have the opportunity to question the proponent or of other participants' evidence, nor are they permitted a final argument.

Some local municipal governments (e.g. the City of Vancouver), have declared their intent to participate in the hearings by seeking Intervenor status, while others (e.g. the District of West Vancouver) have indicated they will not seek Intervenor status at this time. Some Lower Mainland municipalities (City of Vancouver, City of Burnaby, District of West Vancouver) have passed motions opposing or expressing concerns regarding the TME project. Metro Vancouver has also indicated its intent to apply for Intervenor status, and will be reporting on potential

[1] National Energy Board website, retrieved January 17, 2014
http://www.neb-one.gc.ca/clf-nsi/rthnb/pblcprtcptn/pblchrng/pblchrng-eng.html

impacts to marine life, air quality, land use, and the local economy. Therefore, municipalities may provide comments through the Metro Vancouver staff advisory committees.

Analysis

The project's footprint is well outside of Richmond. The project is one of several large regional projects either just completing (VAFD project), undergoing (FSD coal Port), or soon to enter (Massey Tunnel Replacement project) environmental assessments of some type, and the City has raised concerns related to the cumulative impacts of these projects.

Metro Vancouver and some municipalities around the Burrard Inlet have demonstrated that they will apply for Intervenor status in the NEB review, and works do not directly impact Richmond. Staff can participate and comment through Metro Vancouver should major concerns for the City of Richmond arise. Given the size of the application, it will be likely that significant time for attendance at the hearings would be required.

However, as opportunities to provide input to the process are limited to those who apply as an Intervenor or Commenter, staff will complete an application for the latter before the February 12, 2014 deadline, in anticipation that one or more Letters of Comment will be sent to the NEB review committee on behalf of the City. Along with reiterating the aforementioned City concerns, this may also provide an opportunity to advocate to senior levels of government for the implementation of the numerous recommendations arising from recent marine spill response studies.

Financial Impact

None.

Conclusions

The project's footprint is well outside of Richmond, however some risks related to the project may impact Richmond's marine and estuarine foreshores. As opportunities to provide input to the process are limited to those who apply as a Participant prior to the deadline, Staff will complete an application in anticipation that one or more Letters of Comment will be sent to the NEB review committee on behalf of the City.

Staff will monitor the project and provide updates to Council as it proceeds.

Peter Russell
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Att. 2
PR:pj

Attachment 1

Locations of Projects and Transportation Corridors

Legend

- Vancouver Airport Fuel Delivery Project. (VAFD)
- Fraser Surrey Docks Coal Terminal Project. (FSD)
- Trans Mountain Pipeline Expansion Project. (KM)
- Robert Bank Terminal 2 Project. (T2)

Solid line = Land transport corridor
Dotted line = Marine corridor

1: Route information sourced from review documents provided by project proponent, and may reflect preliminary designs;

2: Routes shown only reflect those considered as part of the EA or alternate review process, and do not necessarily reflect all traffic or emissions impacts.

Trans Mountain Expansion Project – List of Issues*

The National Energy Board has decided on a list of 12 issues it will consider during the hearing process for the Kinder Morgan Trans Mountain Pipeline Expansion Project:

1. The need for the proposed project.

2. The economic feasibility of the proposed project.

3. The potential commercial impacts of the proposed project.

4. The potential environmental and socio-economic effects of the proposed project, including any cumulative environmental effects that are likely to result from the project, including those required to be considered by the NEB's Filing Manual.

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.

6. The appropriateness of the general route and land requirements for the proposed project.

7. The suitability of the design of the proposed project.

8. The terms and conditions to be included in any approval the Board may issue.

9. Potential impacts of the project on Aboriginal interests.

10. Potential impacts of the project on landowners and land use.

11. Contingency planning for spills, accidents or malfunctions, during construction and operation of the project.

12. Safety and security during construction of the proposed project and operation of the project, including emergency response planning and third-party damage prevention.

The Board does not intend to consider the environmental and socio-economic effects associated with upstream activities, the development of oil sands, or the downstream use of the oil transported by the pipeline.

** Source: NEB Website, retrieved January 16, 2014: http://www.neb-one.gc.ca/clf-nsi/rthnb/pplctnsbfrthnb/trnsmntnxpnsn/trnsmntnxpnsn-eng.html*