

**NATIONAL ENERGY BOARD
OFFICE NATIONAL DE L'ÉNERGIE**



**Hearing Order OH-001-2014
Ordonnance d'audience OH-001-2014**

**Trans Mountain Pipeline ULC
Trans Mountain Expansion Project**

**Trans Mountain Pipeline ULC
Projet d'agrandissement du réseau de Trans Mountain**

VOLUME 39

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L'audience tenue à**

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Canada

--- FINAL ARGUMENT BY/ARGUMENTATION FINALE PAR THE CITY OF VANCOUVER:

20290. **MR. HUNTER:** Thank you, Mr. Chairman, Members of the Panel.

20291. As you I think know my name is John Hunter; I'm counsel for the City of Vancouver. With me is Susan Horne.

20292. May I say at the outset I'd be quite happy to be interrupted at any point with questions. I would welcome that opportunity. This is, as you pointed out, the last day of the session and so this is the last day -- although not the last time today -- that you will be receiving submissions asking you not to approve this project.

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20293. You have heard all the municipalities in the vicinity of the terminal; Surrey, Burnaby, North Vancouver, West Vancouver, Metro Vancouver, Langley, Points East and now the City of Vancouver speak in opposition to this proposal.
20294. You've also heard all the First Nations in the vicinity of the Terminal; the Musqueam, the Squamish, Tsleil-Waututh express their opposition to the pipeline.
20295. Despite the economic advantages that might flow for communities near the end of the pipeline, all the local governments -- municipal, First Nations, even the Province of British Columbia -- oppose this pipeline being built based on the proposal before the Panel.
20296. Now, I will endeavour not to be repetitive this morning, but I do want to address the questions that must arise from this unanimity of viewpoint. Why is there such opposition and what weight should you give to it? That will be the focus of my submissions this morning.
20297. I do not intend to repeat the concerns raised previously by the City of Vancouver about the limitations of the hearing process that you have chosen, except to note that without the benefit of broad public involvement or the proving ground of cross-examination, it becomes incumbent on you to treat Trans Mountain's application with greater skepticism and apply the precautionary approach more broadly than you would in a less constrained process.
20298. Now, in terms of weighing the community concerns, the traditional approach the Board has taken to this argument is to emphasize the national nature of its mandate so long as it's satisfied that all of the available options have been assessed in a satisfactory fashion. I say that in the case before you Trans Mountain has done virtually nothing to satisfy you, that all available options have been considered. And I am of course concerned with the endpoint of the pipeline at the terminal in Burnaby at Burrard Inlet.
20299. Trans Mountain seems simply to have assumed that since it had an existing pipeline that brought oil to Burrard Inlet, the new pipeline should also bring oil to Burrard Inlet even though the existing pipeline was never the subject of environmental assessment.
20300. Trans Mountain's attitude to the legitimate concerns of all of the affected communities at the terminal end is summed up in the following statement

from its written argument:

“Further, the Board recently acknowledged that ‘various decisions of the courts have established that a specific individual’s or locale’s interest is to be weighed against the greater public interest, and if something is in the greater public interest, the specific interests must give way.’”

20301. One source for this reference can be taken from the dissenting judgement in the Board’s recent decision concerning the North Montney Mainline. But it’s noteworthy that this dissenting judgement goes on to say the following:

“However, this statement assumes that there is sufficient investigation of the various options to accomplish the objective, and that this evidence is put before the decision-maker to consider when looking at options to fulfill the objective.”

20302. The majority said this:

“Applicants are required to justify their projects to the Board, and to demonstrate that, taking into consideration all technically and economically viable alternatives available, the proposed project is the most appropriate option to meet the needs that would be satisfied by the project while serving the public interest. The Board’s regard for the public interest refers to a balance of economic, environmental and social considerations.”

20303. But I say there’s no satisfactory evidence that Trans Mountain has taken into consideration all technically and economically viable alternatives. Rather, as the Township of Langley pointed out last week:

“Trans Mountain has chosen to pursue approval for the Trans Mountain Expansion Project through the most densely populated corridor it could have chosen, between Alberta and the Pacific Ocean.”

20304. Why have they done that? Because they have an existing pipeline to

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the Westridge Terminal and twinning it is the cheapest alternative for them. But the existing pipeline was never the subject of the kind of searching examination that pipeline proposals now require.

20305. The risk of an oil spill in the Burrard Inlet, which is the primary concern of so many of the communities at the end of this line, is an avoidable risk. But Trans Mountain has made no serious effort to avoid it.

20306. Trans Mountain repeated its dismissive approach to the concerns of the municipal and First Nations governments in its oral argument stating that:

“Public interest is not defined or determined by loud voices, by politics, by special interests, by the company, or by individuals.”

20307. And then a little later on they said: ...

“So regardless of the clamour, the authorities are clear that a specific individual’s or locale’s interest must be weighed against the greater public interest. And if a project is in the greater public interest, the specific interests must give way.”

20308. Again, the principle without the qualification.

20309. Now, are the concerns expressed by affected municipal governments and local First Nations to be dismissed as simply "loud voices and special interests"?

20310. On June 9th, 2015, City of Vancouver counsel confirmed its opposition to the Trans Mountain pipeline proposal following consideration of the expert evidence because of the extreme risks to the people, businesses and environment of Vancouver. The City of Vancouver is the most densely populated urban marine centre in Canada with 630,000 residents and 70,000 businesses, and Metro Vancouver contributes more than \$40 billion per year to the Canadian economy.

20311. Vancouver is also the third most densely populated city in North America after New York and San Francisco. Twenty-five thousand (25,000) of Vancouver's residents live within 300 metres of the Burrard Inlet and English Bay shorelines.

20312. These residents share the downtown core with close to 40,000 businesses, so that the daytime population of downtown is 223,000 people. That's a quarter of a million people on the peninsula between Burrard Inlet and English Bay alone. It does not include the people across the bay in the False Creek, Kitsilano and West Point Grey neighbourhoods or the large population that lives east of the downtown core, extending all the way east to the Burnaby boundary.
20313. A spill anywhere in Burrard Inlet has the potential to impact all of these near-shore communities and the residents, tourists and businesses that use the waterfront beaches and parks. Vancouver has almost 70 kilometres of waterfront, 18 kilometres of beaches and a 22-kilometre long seawall that extends around Stanley Park, a designated historic site of Canada.
20314. To give you some sense of the importance of the city's waterfront to its residents and to tourists, many of whom are Canadians visiting Vancouver from all across the country, there are about 5.5 million visitors to Vancouver's seawall annually.
20315. Vancouver also has significant economic activity and residential development along the Fraser River, an area that would be impacted by a pipeline spill that flows into the Fraser River from any one of the 80 water crossings that the new pipeline would make within the lower Fraser River watershed or from a rupture along the many kilometres of pipeline running adjacent to the river.
20316. East Fraserlands on the Fraser River is a 130 acre development that will house 12,500 people and includes a K-7 elementary school, four child care facilities, a high school and a community centre, and that's just Vancouver.
20317. You've heard from Metro Vancouver and numerous other municipalities and First Nations who would be impacted by a pipeline, terminal or a tanker spill, and all of whom oppose the project, as does the Province of British Columbia.
20318. This is not a local or special interest, nor does it represent simply a clamour of loud voices. The City of Vancouver has serious interests at stake in this project.
20319. Now, the original source of the comment that if a project is in the greater public interest, the specific interest must give way, appears to be this

Board's Sumas Energy 2 decision, where the Board went on to say, and I quote, because there's always a however:

"However, in this situation, where the benefits of the proposed IPL and associated facilities are not substantially in the greater Canadian public interest, the specific locale's interest has more weight than would otherwise be the case. Overwhelming community opposition to the IPL and Power Plant, while not determinative, is not irrelevant. This is particularly so in this proceeding where there is an absence of support for the IPL and power plant from industry, commercial interests, selected officials, governments, et cetera; no compelling evidence of specific benefits of the IPL and Power Plant to the Canadian public interests generally, and" [-- and I put some emphasis on this --] "where the burdens of the IPL and Power Plant would be borne almost exclusively by these local and regional communities."

20320. In affirming this decision, the Federal Court of Appeal pointed out that,

"By definition, the term 'public interest' includes the interests of all the affected members of the public."

20321. Now, I will address the question of need in a moment, but for purposes of assessing the weight to be placed on the opposition of the surrounding municipal and First Nations communities, I note that the benefits of this project have largely been defined as economic benefits. It cannot be convincingly argued that this project is, *"Substantially in the greater Canadian public interest."*

20322. And furthermore, that Trans Mountain's dismissive approach to the legitimate concerns of the affected municipalities and First Nations must now be evaluated in the context of the interim principles to be applied to the assessment of pipeline proposals announced by the Federal Government last week.

20323. One of the five principles to be applied to this proposal assessment is that, *"The views of the public and affected communities will be sought and considered."*

20324. Now, how should you be weighing these concerns against the

economic benefits said to be produced by the project? Panel member, Ms. Scott, asked counsel for North Shore NOPE a couple of weeks ago whether -- or last week -- whether there's an example of a "superordinate national interest" that justified a project in this country now.

20325. Well, the original Trans Mountain pipeline is arguably one example, although it was approved at a time when there was no environmental impact assessments and the pipeline would not have met today's engineering or safety standards.
20326. In contrast to the new pipeline that is the subject of the Board's review today, the original Trans Mountain pipeline had full approval of the Province of British Columbia, which was acquiring most of its oil from tankers shipping foreign oil from California.
20327. The original Trans Mountain pipeline was considered to be a direct benefit to British Columbia and to Canada's national interest, as it would result in the supply of cheap, accessible Canadian oil to British Columbia refineries, and it would also serve as a strategic defence purpose in the event of war with the Soviet Union.
20328. So the original Trans Mountain pipeline had a broad public interest purpose of allowing us to substitute Canadian oil for foreign oil. This project doesn't have that purpose and doesn't have any broad Canadian public interest purpose, in my submission.
20329. The times have changed since the original pipeline was built. None of the interests that have been mentioned are served by the new pipeline. Further, an environmental impact assessment is now a key component of the project review, and in this case, the evidence clearly demonstrates that the adverse impacts of the proposed pipeline are significant.
20330. Now, while a number of concerns have been expressed by local municipalities and affected First Nations, the most serious has been the increase in the risk of an oil spill in Burrard Inlet with the enormous consequences such a spill would have, particularly for the City of Vancouver and its citizens.
20331. Trans Mountain recognizes that increased traffic -- tanker traffic is the biggest cause of concern for intervenors, but has approached the issue solely by reference to the risk of a tanker spill occurring and without regard to the

consequences of a spill, if one does occur.

20332. There's ample evidence to support the common sense conclusion that the proper way to conduct a comprehensive risk assessment is to consider both the likelihood of an event occurring and the severity of impact if it does occur. A low probability event that would have catastrophic consequences must be assessed just as a higher probability event that has lesser consequences must be considered. And yet, Trans Mountain's risk assessment excluded low probability, high consequence events from the DNV risk assessment.
20333. But even Trans Mountain's methodology for estimating spill likelihood is flawed, as the Gunton and Broadbent analysis demonstrates. The conclusion of the company that the risks of an oil spill in the region, if the project is approved, will be fundamentally the same as it is today, is consistent with neither the evidence nor common sense. That's the proposition of the company, that the risk of an oil spill in the region, if the project is approved, will be fundamentally the same as it is today.
20334. That can't be right. The project will result in a seven-fold increase of oil tanker traffic in Burrard Inlet. It's apparent that the likelihood of an oil spill will be significantly higher with this increased tanker traffic.
20335. A report commissioned for Transport Canada's tanker safety expert panel came to the common sense conclusion that doubling the volume of oil passing through the Pacific sub-sector 5 would likely increase the spill risk to very high for all zones; near shore, intermediate and deep sea for 10,000 cubic metres spill volume and greater.
20336. Trans Mountain's own evidence assessed the probability for a terminal spill at 77 percent, for a pipeline spill at 99 percent, and a tanker spill between 16 and 67 percent.
20337. Perhaps the most obvious inadequacy of Trans Mountain's spill likelihood estimations can be found in their expert's analysis of the likelihood of a spill in Burrard Inlet. The risk assessment originally made by Trans Mountain's experts, DNV, failed to consider the prospect of an oil spill in Burrard Inlet between the first and second narrows, segment two.
20338. The hazard report prepared by DNV specified a hazard rating for segment 2 as above average -- above average for collision and grounding; above

- average for collision with a fixed object; above average for collision due to congestion of traffic; above average for collision with small craft; and above average for collision with a vessel in anchorage within the harbour. That's the evidence from Trans Mountain's experts.
20339. But since segment 2 is not even included in the list of locations to be considered, no risk assessment was done by DNV.
20340. Now, Trans Mountain took a last minute stab at addressing this omission, filing a brief technical memo from DNV last November, the very latest possible moment for filing evidence in this process. The late filing left no opportunity whatsoever for intervenors or their experts to examine or respond to the technical memo. And it can be given no weight by this Panel.
20341. The risk analysis that DNV did undertake is extremely weak for the reasons identified in the Gunton and Broadbent report. It's also internally inconsistent with DNV identifying segment 2 as presenting an above average risk for a tanker spill yet failing to model and assess the impacts of a spill in segment 2.
20342. Further, as other intervenors including the Province of British Columbia have identified in their submissions, the underlying evidence which is required to support DNV's risk assessment has not been disclosed by Trans Mountain nor has DNV been cross-examined on its risk assessment methodology and conclusions.
20343. The Board's statutorily mandated precautionary approach to the CEAA assessment requires that it prefer the more conservative and, in Vancouver's submission, more reliable evidence of risk set out in the Gunton and Broadbent report.
20344. One of the major concerns of the City of Vancouver is Trans Mountain's failure to come to grips with the consequences of an oil spill should one occur.
20345. I've already described the complex economic, social and environmental conditions and the number of people in businesses in Vancouver alone that are at risk of exposure from a spill in the Burrard Inlet.
20346. The evidence before the Panel demonstrates that the confined setting

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- of Burrard Inlet can result in oil spreading quickly with potential to affect the entire inlet from Port Moody to the Indian Arm, to the outer harbor and beyond. Winds and tides are major drivers of oil movement in the inlet with strong winds tending to strand oil on the leeward shore while weak winds allow tidal currents to distribute oil over a larger area.
20347. The results of the Genwest model show, in a simulation representing springtime conditions that within the first 24 hours of an oil spill at First Narrows, more than 10 kilometers of Vancouver's shoreline could be oiled, impacting Stanley Park, much of the seawall, beaches, marinas and other waterfront amenities and businesses in Vancouver.
20348. The recent Marathassa oil spill provides additional confirmation of the reliability of the modelling of Genwest showing how quickly and how far even a relatively small amount of oil is likely to spread after a spill.
20349. Now, a diluted bitumen spill in the densely populated Vancouver area would have devastating human health consequences. We don't need to rely solely on modelling to confirm this. We have the real life example of the Enbridge spill of diluted bitumen from -- into Kalamazoo River.
20350. The small town of Marshall, Michigan was directly affected by the spill and 320 people reporting exposure symptoms, a significant number given that there were only 61 houses in the spill area. The residents evacuated but human health impacts were widespread despite these measure; and the recovery efforts still have not cleaned up all of the spilled oil.
20351. In Vancouver, depending on the direction of the wind and the location of the spill, evacuation would be difficult, if not impossible. There are too many people who live and work close to the water. These people would be at risk of exposure to the toxins identified in the Levelton Report with severe efforts -- or effects including neurological damage that could impair the ability to take protective action.
20352. The second factor that is unique to diluted bitumen, and which again Trans Mountain ignored, is that diluted bitumen will submerge and sink, and it will do so quickly. Once submerged, there is no spill response technology currently available to recover the oil.
20353. Furthermore, in the case of a spill in Burrard Inlet, diluted bitumen that

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does submerge will quickly spread to Vancouver's shoreline and will be very difficult to remove. Dr. Short's evidence is that it could remain there for decades.

20354. The City of Vancouver's written argument addresses many of the other gaps in Trans Mountain's application and the unrealistic assumptions used in the Arachne reef scenario, all of which lead to the conclusion that Trans Mountain's evidence of oil spill response and recovery should be rejected by the Board.

20355. Now, Trans Mountain is the responsible party in the case of a pipeline spill. Its own modelling confirms that diluted bitumen released from a pipeline rupture at the Port Mann Bridge flows from the river to the Salish Sea and will also impact Vancouver's coastal shorelines; yet it has failed to do any of the critical work that would be required to assess the coastal shorelines that its own modelling confirms will be impacted by a spill into the Fraser River.

20356. Not only has Trans Mountain failed to provide any impact assessment of this spread of oil to Vancouver's shoreline, it's also failed to provide any evidence on which the Board could assess Trans Mountain's capacity or the capacity of its contractor to respond concurrently to all three spill conditions and environments -- river, marine-based and coastal shorelines -- over such an extensive geographic area.

20357. The only evidence before the Panel of socio-economic impacts of the oil spill on the city is the evidence provided by the City of Vancouver. And this evidence presents a bleak picture.

20358. The costs that would be incurred if an oil spill took place would be extremely high in environmental terms, in human health terms, in economic terms, and in the reputational impact on the City of Vancouver, at a minimum. These costs would be borne, at least in the first instance, by the City of Vancouver and its citizens.

20359. I read you an excerpt from this Board's decision in Sumas 2 Energy where a proposed power plant was rejected by the Board largely on the basis of opposition from the affected communities.

20360. One of the factors the Board took into account in putting greater weight on this opposition was where the burdens of the project would be borne almost exclusively by local and regional communities. This has direct application to the project at issue here.

20361. The existing response regime, the absence of a suitable compensation scheme and Trans Mountain's response proposals are inadequate to deal with the severe consequences of an oil spill should they occur.
20362. Trans Mountain says that isn't likely but the company had the opportunity to demonstrate their confidence in that conclusion by proposing a risk transfer mechanism so that the real risk of the impact of an oil spill would be borne by the project Proponent instead of the citizens of Vancouver and the surrounding communities.
20363. The evidence is that the most efficient means of allocating the risk to those who would benefit from this project would be by the purchase of a catastrophe bond. A catastrophe bond, particularly well-named for this project, would transfer some of the financial risk of the oil spill to sophisticated financial investors.
20364. The rate of return required by the investors is a function of the risk of the oil spill occurring. If the risk of a catastrophic oil spill occurring were really as small as Trans Mountain asserts, the company should have had no difficulty in purchasing one and at least assuming the financial risk of a spill.
20365. But of course a catastrophe bond has that name for a reason. The evidence is that such a mechanism would be expensive and difficult to arrange. Far easier is to impose the risk, not just financial but environmental and reputational, on the City of Vancouver and surrounding localities and First Nations.
20366. A failure of Trans Mountain to assume any of the responsibilities of such a marine spill demonstrates how unjustifiable it would be to impose all the risks on Vancouver without any return to Vancouver for accepting that risk.
20367. The other steps Trans Mountain might have taken in this application include oil spill contingency planning of the type you heard explained by the Washington State Department of Ecology earlier this week. The Department of Ecology suggested a number of conditions that might be imposed on Trans Mountain.
20368. But it's our submission that conditions for proper contingency planning and financial assurance are not enough. It should be part of the

application so that they can be tested.

20369. It's incumbent on Trans Mountain to explain in its application how the risks can be mitigated, and the financial consequences borne by those benefiting from the project. This has not been done. The consequence is that many, the many risks that have been identified are borne by local communities, including the City of Vancouver.

20370. Now, the need for such a pipeline in this location would have to be very significant to outweigh the risks identified in the evidence. And I say Trans Mountain's evidence on need does not meet this test.

20371. Trans Mountain's case for the need for this pipeline rests on assumptions that are not only unsubstantiated, but ignore the very great uncertainties that are facing the oil industry at this time.

20372. While the weaknesses in Trans Mountain's assumptions are reviewed at length in the City of Vancouver's written argument, I want to emphasize two in particular this morning. The failure to consider the likelihood of policy changes, both in Canada and in the markets identified by Trans Mountain for their product, and the optimistic price scenarios on which this application is based.

20373. This uncertainty was highlighted in the recent comments of the Chair and CEO of the National Energy Board, Peter Watson, in his introduction to the NEB 2016 Energy Futures Report released just last week.

20374. Mr. Watson made the following comments about the high degree of uncertainty about Canada's energy future. And I quote:

"To use 'uncertain' to characterize the past 18 months in Canadian energy would be an understatement. I doubt there is a single market observer who could have foreseen the dramatic fall in the global price of crude oil, one of Canada's largest exports, from US\$110 per barrel in mid-2014 to less than US\$40 per barrel by end of December 2015 and then to less than US\$30 per barrel in January 2016. Among many other factors contributing to the lack of clarity on Canada's energy future were the unprecedented market volatility, the rapid deployment of advanced technologies for renewable and fossil fuel energy production, a historic climate agreement in Paris,

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the denial of the Keystone XL project in the US, the lifting of the US oil export ban, as well as the lifting of sanctions on Iran.”

20375. And a little later in the introduction he continues:

“In recent months the federal and many provincial governments in Canada have made announcements about new climate policy initiatives and the momentum is increasing, especially following the agreement at the 21st Conference of the Parties in Paris. Many of these policies are quite bold and put Canada in the position of having some of the most advanced climate change policies in the world. EF 2016 does not include these recent announcements, as it only reports on policies and programs that are law, or near law at the time of analysis, but it does highlight their significance. The insights from the report suggest to me that these policy developments will be critical factors in Canada’s energy and environmental future, and the possible addition of climate policy developments beyond those just announced will represent a considerable uncertainty for long-term energy projections.”

20376. Now, the foundation of Trans Mountain’s case for need is the Muse Stancil Report. This report consistently takes the most favourable assumptions available and ignores factors that undercut Trans Mountain’s position.

20377. The City of Vancouver’s written argument addresses the frailties in the Muse Stancil Report extensively, and I commend it to you. In the limited time we have today, I do not propose to review those in depth but rather to direct your attention to evidence that may be more useful to you.

20378. The City of Vancouver commissioned a report from Dr. Kathryn Harrison entitled “Review of Destination Country Policies with Potential to Impact Demand for Canadian Oil Exports”, in order to provide a detailed review of existing or planned government policies and regulations in jurisdictions other than Canada to limit or reduce GHG emissions.

20379. Dr. Harrison concludes that these policies will result in a substantial reduction in oil consumption over the lifetime of the pipeline that has been proposed. Dr. Harrison describes it as -- and I quote:

“A virtual certainty that legal requirements and regulatory standards will become more stringent over time.”

20380. And who could disagree with that?

20381. Trans Mountain, in its written argument, spends some time disputing Dr. Harrison’s critique of Muse Stancil but does not even attempt to address Dr. Harrison’s analysis of the likely effects of policy changes on demand for Trans Mountain’s product.

20382. The findings in the Harrison report are consistent with the work of the leading economists that have researched the impacts of the global commitment to limit global warming to two degrees Celsius, on demand for oil, and more specifically unconventional oil products such as oil sands bitumen.

20383. One such analysis concludes that 74 percent of Canadian oil reserves will remain unused as a result of global regulatory measures to limit global warming. Even without significant policy changes, Dr. Jaccard’s economic analysis, which is supported by the actual emissions reducing measures identified in the Harrison report, demonstrates that oil sands bitumen, one of the most expensive oil products to produce, will be uncompetitive long before 2040.

20384. The second though related weakness in Trans Mountain’s assumptions arises from the uncertainty about whether oil prices will support continued production of the high cost bitumen that is intended to flow through this pipeline.

20385. The Muse Stancil Report relies on an outdated 2014 forecast from IEA that estimates prices will remain above \$100 per barrel throughout the forecast period. And it’s perhaps an indication of how fast things are moving right now that a 2014 forecast from the IEA could be outdated so quickly.

20386. The more recent 2015 report from the IEA provides two forecast scenarios, one that assumes oil prices will remain below \$80 until 2020 and gradually rise after that, and one that assumes oil prices will remain in the \$50-60 range until 2020 and gradually rise to \$85 by 2048. Neither of them contemplated a \$30 barrel price.

20387. But under the low oil price scenario of \$50-60 range until 2020, the IEA concludes that growth in Canadian oil sands production will be cut by more

- than half. The IEA forecasts a 60 percent reduction between 2014 and 2040.
20388. Peter Watson commented on the unforeseen drop in prices from \$110 U.S. per barrel in mid-2014 to less than \$30 a barrel last week and this week.
20389. Trans Mountain has failed to provide any analysis of the need for or the economic feasibility of this pipeline in the event that prices remain well below \$100 per barrel for the next 20 years.
20390. In the absence of this evidence, the Board cannot give any weight to the analysis of Muse Stancil on which the case for need is based.
20391. The third weakness in Trans Mountain's set of assumptions is the failure of the company to give adequate or any consideration to the likelihood that Canada's federal and provincial governments will take regulatory action to reduce GHG emissions in order to meet Canada's international commitments. This action alone has the potential to result in production levels below that forecast by Trans Mountain.
20392. The Auditor General of Canada's Commissioner of the Environment and Sustainable Development released a report in 2012 which concluded that Canada is on a path to be 74 percent above its 2005 level of GHG emissions instead of the targeted 17 percent below.
20393. **THE CHAIRMAN:** I think you have noticed, Mr. Hunter, you have five minutes remaining.
20394. **MR. HUNTER:** Yes, thank you.
20395. Let me -- I will reference simply some of the evidence on the GHG emissions that the City of Vancouver has provided with you and move into a more conclusory position.
20396. Since this evidence was filed, Canada has agreed to new objectives at the Paris Climate Conference that requires even more GHG emission reductions in order to achieve international objectives, which are now intended to limit the increase in global average temperature to 1.5 degrees Celsius.
20397. All of the indications are that Canadian governments relax their regulatory changes to limit GHG emissions in the very near future. The City of

Vancouver is already taking steps towards reduced fossil fuel consumption with the introduction last year of a strategy for 100 percent renewable energy use by 2015.

20398. These new climate policy initiatives, which Peter Watson has described as “critical factors in Canada’s energy and environmental future,” have not been taken into account in Trans Mountain’s needs analysis. This is a serious omission.

20399. This discussion of operation and construction-related GHG emissions also does not take into account the increased GHG emissions from the upstream production of the volume of oil sands crude that would be transported on the pipeline or the downstream use of the oil.

20400. Now, the Panel has ruled against Vancouver’s application for consideration of the upstream production activities and downstream uses in the List of Issues. However, there can be no dispute that if these increased GHG emissions were taken into account, the Board’s public interest analysis, considering as it must the detrimental effects of the proposed project, would weigh even more heavily in favour of rejection of the proposed pipeline.

20401. On that subject we note that the government’s interim principles announced last week included the statement that in relation to the Trans Mountain proposal:

“Direct and upstream greenhouse gas emissions linked to the projects under review will be assessed.”

20402. The position of Vancouver has consistently been that the Panel should be considering the increased GHG emissions from upstream production of the volume of oil sands crude that would be transported along this pipeline. It appears that will now be done in some fashion.

20403. Now, other intervenors -- and you will hear from one later on this morning -- have pointed out additional deficiencies in the Applicant’s position on the need for this project. But simply taking into account the uncertainties of regulatory change and the overly optimistic scenarios on oil prices, it seems clear, in my submission, that the case for the need for this project at this time has not been made out.

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20404. This is a project that meets neither the public interest standards of the NEB Act nor the environmental tests of CEAA. A balance of the economic, environmental, and social considerations leads to the conclusion that the case has not been made for the construction of this pipeline to the terminal in Burnaby and the resulting seven-fold increase in tanker traffic in Burrard Inlet.
20405. The strong opposition of all the affected municipal and First Nations governments surrounding Burrard Inlet demonstrates the weakness of this proposal on public interest grounds.
20406. Given the high degree of uncertainty around future Canadian oil production growth, it would be wrong for the Board to accept on the one hand unreasonably optimistic economic benefits evidence filed by Trans Mountain that do not take into account this high degree of uncertainty, and to reject on the other hand the evidence of significant risk and extreme impacts of an oil spill in Burrard Inlet on the basis of uncertainty around when and where an oil spill will happen.
20407. There's a strong risk of significantly adverse environmental effects of this project that outweigh any benefits. This additional regulatory consideration of the CEAA Standards cannot be met by Trans Mountain. Trans Mountain has not assessed these risks adequately and has not presented a proposal to the Board that addresses them in any convincing way.
20408. The Board must recommend that a Certificate of Public Convenience and Necessity should not be issued for this pipeline project.
20409. These are my submissions.
- (A short pause/Courte pause)
20410. **THE CHAIRMAN:** Thank you, Mr. Hunter.