



Trans Mountain Pipeline

Update to Council
May 13, 2014
Sadhu Johnston,
Deputy City Manager

Agenda

1. Background
2. Key Issues Regarding NEB Process:
 - Incompleteness of Trans Mountain's Application
 - NEB Process
 - Scope of NEB Review
3. City Activity to Date
4. Conclusion



Background

Background Council - December 2013

- Key issues:
 - Trans Mountain expansion would increase pipeline capacity from 300,000 barrels per day to nearly 900,000
 - 7-fold increase in tanker traffic through the Burrard Inlet (more than one a day)
 - A major spill would be catastrophic to Vancouver's environment, economy and international reputation
 - Vancouver already faces costs from climate change, this project would lead to more emissions
- December 19, 2013 - Council directed staff to seek intervenor status at National Energy Board hearings

Background NEB Panel



David Hamilton

Former Deputy Minister
and Clerk of the Legislative
Assembly of the Northwest
Territories



Lyne Mercier

29 years at Gaz Métro
Former director of the
gas supply division
Graduate degree in "oil
company management"



Philip Davies

30 years of experience in
oil, gas and electric power
industries
Former Vice-President of
both SaskPower and Encana

- No significant environmental or marine experience

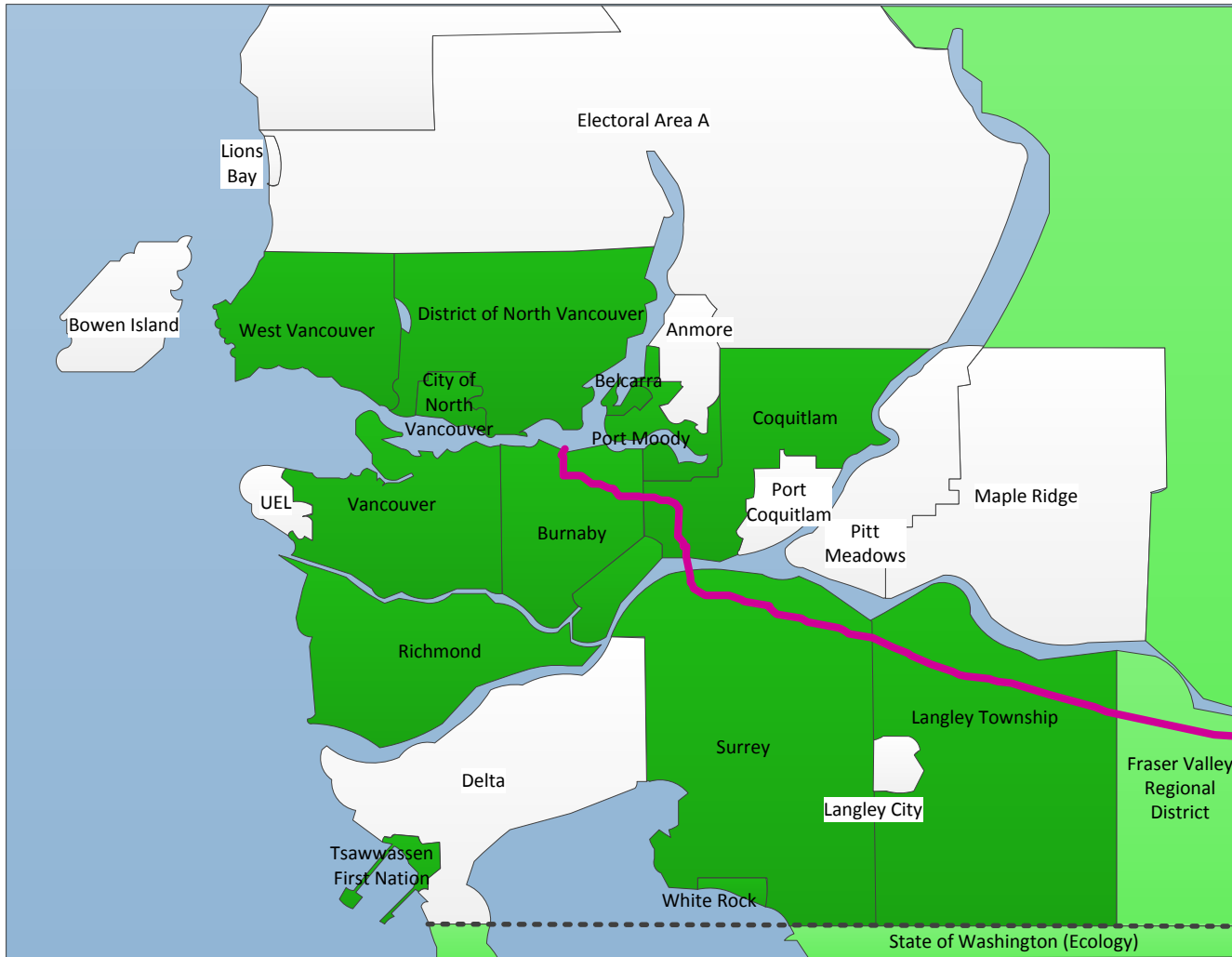
Background Regulatory Approval Process

- National Energy Board (NEB) required interested parties to apply to participate
- NEB determined level of involvement:
 - “Intervenor” - able to ask questions, submit evidence, provide an oral summary
 - “Commenter” - limited to one written submission
 - No status - not even able to submit a letter to the NEB
- Over 2100 individuals and groups applied

Background Participants

- City of Vancouver was successful in becoming an intervenor
- Fewer than half 853 intervenor applicants were successful
 - 400 intervenors
 - 453 intervenor applicants downgraded
- 1250 commenters
- 468 completely kept out of the process
- No other forum for public participation

Background Municipal Intervenors



Including:
Vancouver
Burnaby
City of North Vancouver
Coquitlam
District of North Vancouver
New Westminister
Port Moody
Richmond
Surrey
Township of Langley
West Vancouver
White Rock
Metro Vancouver

Background

Excluded or Downgraded Parties

- Excluded from the process:
 - Business Council of British Columbia
 - Canadian Centre for Policy Alternatives
 - Dogwood Initiative
 - Macdonald-Laurier Institute
 - Surrey Board of Trade
- Downgraded to commenter status
 - Conversations for Responsible Economic Development BC
 - Capital Regional District
 - Concerned Professional Engineers



Key Issues Regarding NEB Process

Key issues

1. Incompleteness of Application
2. Inadequate Scope of NEB Review
3. NEB Process

Issue 1: Incompleteness of Application Assessments Not Complete

- Trans Mountain's application is over 15,000 pages long, yet contains significant gaps
- City of Vancouver supported a motion to delay the process until gaps were filed
 - The NEB decided that the application was complete

Issue 1: Incompleteness of Application Qualitative Human Health Risk Assessment

- Trans Mountain only includes high level screening assessment
 - Does not consider health impacts from a spill
 - Have not looked at health impacts from fires or explosions
- Vancouver Coastal Health:
 - “It’s very difficult to fully assess the validity of the proponent's assertions of minimal health risks associated with the above settings without these HHRA reports”
- Trans Mountain will provide the assessment after we submit our first round of questions

Issue 1: Incompleteness of Application Full Seismic Risk Assessment

- Trans Mountain only includes high level desk-top study
- No detailed assessment to support the design of the pipeline or tank farm
- Peer reviewer John Clague:
 - “ [this] is the first step in a more detailed investigation that would be required to definitively characterize the hazard”
- Trans Mountain says it has accounted for seismic issues in its application

Issue 1: Incompleteness of Application Emergency Management

- Trans Mountain's "credible worst case" spill scenarios assume:
 - Calm, warm water
 - Availability of all responders
 - Long daylight hours
 - No complicating response factors
- Assessment of probability of accident in English Bay is flawed
 - Analysis only considers risk of collision between anchored tanker in English Bay with Fraser River traffic
- No plans or impact assessments provided for spills, fires, explosions impacting the City of Vancouver

Issue 1: Incompleteness of Application Information on Diluted Bitumen (Dilbit)

- Dilbit is highly volatile, toxic, non-conventional crude
- Flawed methods used in Kinder Morgan tests to assess the fate and behaviour of dilbit:
 - Warm water temperature used to test a dilbit blend that would only be shipped in winter; no future climate projections included in tests
 - Assumed no sediment exists in Burrard Inlet waters that would cause dilbit to sink
 - No testing to investigate a spill in fresh water from a pipeline
- Conflicts with results from Environment Canada research, which shows dilbit can sink

Issue 2: Inadequate Scope of NEB Review Consideration of Climate Impacts

- The NEB does not intend to consider upstream and downstream climate change impacts
- BUT, Trans Mountain's economic justification includes the upstream benefits to Albertan oil sand producers
- Vancouver already faces real costs from climate change
- This is a major energy infrastructure decision
- If the NEB does not consider climate impacts – who will?

Issue 3: NEB Process

No Oral Cross Examination

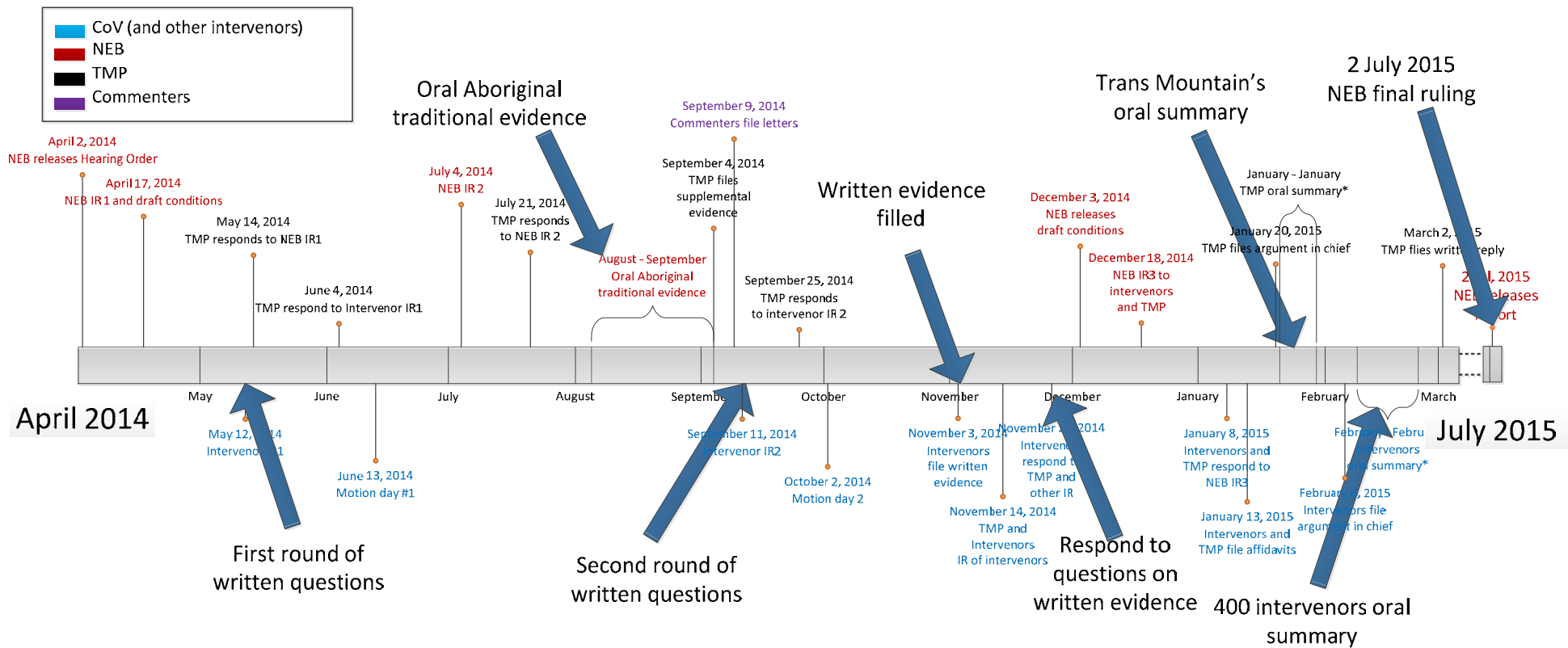
- NEB ruled that there will be no oral cross examination - no decision of this type without cross examination for 20 years
 - Only oral cross examination will be of Aboriginal groups providing traditional evidence
- Robyn Allan filed a motion to seek reconsideration
 - CoV wrote in support:

“The opportunity to cross-examine witnesses ... has long been regarded as fundamental to a participant's ability to ... answer the case against it”
- On May 7, the NEB confirmed there would be no oral cross examination

Issue 3: NEB Process Unreasonable Timeline

- NEB have already issued draft conditions for approval
- Intervenors have had 6 weeks from confirmation to analyze 15,000 page document and prepare questions
- 7 days to determine if Trans Mountain properly answered our questions and file a motion with the NEB
- After we submit our written evidence we only have 12 days to respond to questions from Trans Mountain and the other 399 intervenors
- Time limits for oral statements by the 400 intervenor
 - No new evidence or questioning allowed
- NEB makes recommendation to Governor in Council on July 2nd, 2015

Issue 3: NEB Process Unreasonable Timeline



Issue 3: NEB Process Unreasonable Timeline

- 4 June, 2014 - Trans Mountains responds to our questions
- 13 June - CoV to challenge their response to questions
- August 2014 - Oral Aboriginal traditional evidence
- 11 September 2014 - City asks its 2nd round of questions
- 25 September 2014 - Trans Mountain responds to our 2nd set of questions
- 2 October - CoV to challenge their response to questions (end of our “cross examination” of Trans Mountain)
- 3 November 2014 - City has to file its written evidence
- 14 November 2014 - City receives questions on our evidence
- 26 November 2014 - City responds to questions on our evidence
- 13 January 2015 - filling of affidavits
- 20 January 2015 - Trans Mountain files its final argument
- January 2015 - Trans Mountain’s oral summary
- 21 February 2015 - City provides an oral summary

Issue 3: NEB Process Unreasonable Timeline

- NEB has already made 14 rulings
- Very quick process to decide on vital process issues:
 - Oral cross examination
 - Apprehension of bias of the panel chair
 - Completeness of application
 - Deadlines for information requests
- Intervenors only get 10 days to comment

Issue 3: NEB Process Lack of Public Input

- General public cannot even write a letter to the NEB
- No public forum for expressing concerns
- 468 individuals and groups who managed to fill in the online application form in time are also barred from participating
- NEB have not even announced where the hearings will take place

Key issues Trans Mountain Process Comparison to Northern Gateway

	Northern Gateway	Trans Mountain
Panel	2 members of NEB 1 from Minister of Environment	3 members of NEB
Period for hearing evidence	37 months	11 months
Period for NEB decision making	6 months	4 months
Publically available hard copies of proponents application	27	0
Oral evidence	77 days of community hearings	No new evidence to be given orally Only Aboriginal traditional evidence
Oral cross examination	91 days	None of Trans Mountain Only of Aboriginal groups giving traditional evidence
Number of participants who cross examined witnesses	268	0
Intervenors	206	400
People registered that were excluded from process	0	468
Letters of comment	9000 (no pre-approval required)	1250 (pre-approval required)
Oral statements (non intervenor)	1179 individuals	None



City Activity to Date

City Activity to Date Information requests

- Information request #1 submitted on May 12th, 2014
- Over 400 questions submitted to the NEB on 88 topic areas including:
 - Socio-economic impacts
 - Environmental protection plans
 - Greenhouse gas emissions
 - Extreme flood events
 - Accidents and malfunctions
 - Marine emergency management
 - Marine transport risks
 - Fate and behaviour of diluted bitumen

City Activity to Date

Letters to support motions

- COV (with input from Chief Medical Officer, Vancouver Coastal Health) submitted formal support of a motion to delay of process until the health assessment is provided
- COV formal support of a motion regarding lack of oral cross-examination
 - Absence of cross examination is a significant limitation to a public hearing process

Conclusion

- City staff are actively involved in the NEB process.
- There are significant areas of concern, including:
 - Incompleteness of Application
 - Scope of NEB Review
 - NEB Process
- Staff are actively representing the City and its residents
- Staff will continue to update Council as we pursue these activities