

San Juans Alliance

*A consortium of Lopez NO COALition, Orcas NO COALition,
San Juan Islanders for Safe Shipping & the Friends of the San Juans*

January 22, 2014

San Juan County Council
350 Court Street, No. 1
Friday Harbor, WA 98250

Dear Council,

To ensure that San Juan County's economic and environmental interests are addressed in the Trans Mountain pipeline expansion project application review process, we are writing to request that the Council apply for intervenor status to Canada's National Energy Board.

On December 16, 2013, Trans Mountain Pipeline ULC (Trans Mountain) operated by Kinder Morgan Canada and owned by Kinder Morgan Energy Partners, L.P. (NYSE: KMP), filed a Facilities Application with its regulator, the National Energy Board of Canada, for authorization to build and operate facilities for the company's proposed Trans Mountain expansion project. Kinder Morgan proposes to expand its pipeline capacity from 300,000 barrels per day to 890,000 barrels per day. For years, Kinder Morgan's Trans Mountain pipeline has been pumping Alberta tar sands crude to the Westridge Terminal in Burnaby, British Columbia (just outside Vancouver) and the four northern refineries in Washington State (the BP and Phillips 66 refineries in Whatcom County and the Shell and Tesoro refineries in Skagit County). The current 300,000 barrels per day capacity primarily goes to Washington State refineries through a spur pipeline. If the expansion occurs, most of the new capacity will be destined for Westridge Terminal for export via marine oil tankers.

Kinder Morgan's Trans Mountain expansion project will result in a major increase in the number of oil tankers navigating the marine waterways of San Juan County. The Trans Mountain expansion project's vessel route includes the Strait of Georgia, Boundary Pass, Haro Strait, the Strait of Juan de Fuca, and critical habitat for species listed as endangered including our Southern Resident Killer Whales. Kinder Morgan estimates that in 2010, 71 tankers docked at the Westridge Terminal. By 2016, the company plans to have 400 tankers per year docking at the terminal. These 800 additional oil tanker transits each year will significantly increase the risk of a major oil spill (both propulsion fuel and crude oil cargo) in the waters surrounding San Juan County.

Canada's National Energy Board (NEB) is the federal regulatory agency charged with reviewing this project application. Kinder Morgan's official application initiated the review process. The NEB will announce specific details of the hearing process in an order that is expected within 1-2 months. Ultimately, the NEB will recommend to the federal Cabinet whether the project should be approved; the decision lies with the Cabinet.

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Although the pipeline itself rests solely on Canadian soil, the project, with its substantial increase in oil tanker traffic, will have a direct impact on San Juan County. The increased vessel traffic will have potential adverse impacts to the Southern Resident Killer Whales, Chinook salmon, and other marine inhabitants from exposure to chronic vessel noise and physical disturbance. Issues of concern related to the increased risk of a major oil spill include

- Whether existing oil spill response technologies and preparedness are adequate to effectively address a major spill
- The fate and behaviour of tar sands crude oil, more precisely known as diluted bitumen (dilbit), in the marine environment, especially whether a fraction of it sinks
- The volatile components of diluted bitumen and related first responder health and safety issues
- Adverse impacts to San Juan County waterfront and water-view property values and the subsequent redistribution of the tax burden to all San Juan County property owners if waterfront and water-view property valuations are reduced
- Adverse impacts to San Juan County's economy, including tourism, real estate sales, and housing construction related revenues
- Adverse impacts to marine species that are federally listed as endangered and their critical habitat, including Southern Resident Killer Whales and Chinook salmon
- Adverse impacts to intertidal areas including commercial and recreational shellfish harvest as well as the potential adverse impacts to the marine mammals and seabirds that feed in the intertidal areas
- Adverse impacts to Washington State Ferry and recreational vessel traffic

A motion to intervene, if granted, would allow San Juan County to participate as a party in the proceedings. The NEB requires that a person or entity be "directly affected" in order to participate, meaning that they have a "specific and detailed interest, rather than a general public interest." Comment letters are generally not considered part of the evidence in the record. As a party in the proceedings, San Juan County would be able to introduce evidence. In order to correctly assess the potential adverse impacts of Kinder Morgan's Trans Mountain expansion project, it is critical that credible expert evidence be presented to the NEB about the potential risks and threats to San Juan County and its citizens, visitors, economy and environment. Such evidence is also necessary to shape mitigation that may be required (such as tug escorts; limitations on numbers of tankers; spill response equipment, training, and personnel; etc.) if the project is ultimately approved by the Canadian Cabinet.

Kinder Morgan's Trans Mountain expansion project application identifies possible locations for an accident with a project-related tanker, with five of the eight locations modeled to develop hypothetical spill scenarios. Attached are some of the application documents related to two of those spill scenarios: location "D," the Strait of Georgia (at the main ferry route crossing) and location "E," Arachne Reef /Turn Point, which is the

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location rated with greatest level of navigational complexity for the entire passage. While we have concerns about the accuracy of these spill scenarios, they none-the-less clearly illustrate the potential adverse impacts to San Juan County. Also attached is a presentation from the NEB that describes the application process in detail.

We urge you to take this opportunity to participate as an intervenor in the NEB's review of the Trans Mountain expansion project application and thereby ensure that San Juan County's interests are addressed and protected. **Please note that the deadline to apply with the NEB for intervenor status is February 12th.**

Thank you for considering this urgent request.

Sincerely,

San Juans Alliance

Attachments