



## INSPECTION OFFICER ORDER NO. AML – 001 – 2023

IN THE MATTER OF THE CANADIAN ENERGY REGULATOR ACT,  
AN ORDER UNDER SECTION 109

### NAME OF COMPANY TO WHOM THIS ORDER IS DIRECTED

Trans Mountain Pipeline ULC (**Trans Mountain**) is a Company conducting work located near Valemount, British Columbia.

On or about 01 May 2023 at the undersigned Canada Energy Regulator (**CER**) Inspection Officer conducted a meeting as part of compliance verification activity CV2223-314.

### RELEVANT FACTS

I, [REDACTED], designated as a CER Inspection Officer under subsection 102(1) of the *Canadian Energy Regulator Act* (CER Act), believe the following are the relevant facts relating to the issuance of this Order:

- The Socio-Economic Effects Monitoring Plan (**SEEMP**) is part of Volume 6 of the Trans Mountain Expansion Project (**Project**) Environmental Plans.
- The SEEMP states that: “*Project-specific indicators will be the key tool that Trans Mountain uses to identify adverse effects of the Project in a timely manner and to develop adaptive social performance management strategies, where needed*”. The SEEMP also states that data will be proactively collected and provided during construction<sup>1</sup>.
- Project specific indicators (**Indicators**) 2, 3 and 4 apply to the monitoring topic area of worker accommodation from the concern/issue of “worker accommodation strategy (e.g., housing, demand pressure, opportunities for commercial accommodations and other local businesses).”
- Table 5 of the SEEMP outlines the Management Objectives, Threshold for action/mitigation evaluation and Action to be taken, as seen below for Indicators 2, 3, and 4 (extracted from Table 5 of the SEEMP).

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<sup>1</sup> Construction is defined in Certificate of Public Convenience and Necessity OC-065.

Indicator	Management Objective(s)	Threshold for action/mitigation evaluation	Action to be taken
2. Number of worker days (by location) related to construction in field communities categorized by accommodation arrangements: a) Non-local, staying in TMEP camps; b) Non-local, not staying in TMEP camps; c) Local or regional residing at home.	Balance minimizing adverse impacts on local accommodation providers and infrastructure/service providers, with also providing positive opportunities for local businesses	Less than 75% of non-local workers are staying in camps (Indicator 2a)  And  Qualitative feedback received about adverse issue or concern from local authority or tourism/hotel association representative	Contractor to evaluate mechanisms to achieve the balance of accommodation mix desired by local community. Report to Trans Mountain on any adaptive management measures identified.
3. Living out allowance or related stipend: a) Number of worker days paid. b) total value (\$)	Balance minimizing adverse impacts on local accommodation providers and infrastructure/service providers, with also providing positive opportunities for local businesses	An increase in the value of Indicator 3a from the previous reporting cycle  And  Qualitative feedback received about adverse issue or concern from local authority or tourism/hotel association representative	Contractor to follow-up with local authority or tourism/hotel association to identify underlying concern and intersection with accommodation approach. Report to Trans Mountain on any adaptive management measures identified.
4. Qualitative feedback about Project use of local/regional commercial accommodations (e.g., hotel, motel, campgrounds).	Balance minimizing adverse impacts on local accommodation providers and infrastructure/service providers, with also providing positive opportunities for local businesses	Qualitative feedback received about adverse issue from local authority, tourism/hotel association or hotel used by contractor.	Contractor to evaluate and identify corrective action. Report to Trans Mountain on any adaptive management measures identified.

- Section 4.2.1 of the SEEMP states that “*while adaptive management will be a continual process (i.e., response will often happen in the short-term as an issue emerges in real-time), each SEEMP assessment and reporting period becomes an opportunity for reflection and course correction.*”
- The SEEMP defines adaptive management as “*a cycle in which the effectiveness of mitigation measures are evaluated based on monitoring results, and adjusted if needed, to achieved desired objectives*”
- During CV2223-314, the Undersigned Inspection Officer learned that Trans Mountain’s management threshold evaluations for the North Thompson Region were not being calculated in accordance with the approved SEEMP in three quarterly Socio-Economic Monitoring Reports – North Thompson Region between January 2022 and March 2023. Specifically, Trans Mountain excluded qualitative feedback from the threshold evaluations for Indicators 2, 3 and 4 as described below:
  - January to March 2022 Report – North Thompson Region:
    - The Regional District of Fraser Fort George expressed concern that an “increase of workforce in the Valemout area has exceeded the supply

for such things as permanent and temporary housing and goods and services”

- For Indicator 3, the report indicated the threshold was not triggered. The first part of the threshold was met.
- This qualitative feedback relates to Indicator 3 and its inclusion would have triggered the threshold and required action to be taken.
- October to December 2022 Report – North Thompson Region:
  - Valemout Affordable Rental Society and Housing Committee members sent two emails to the CER and cc'd [info@transmountain.com](mailto:info@transmountain.com) in December 2022 expressing concerns regarding housing shortages in the town due to inadequate work camps.
  - This qualitative feedback applies to Indicators 2 and 4.
  - For Indicator 2, the report indicated that the threshold was not triggered. The first part of the threshold was met. Inclusion of this qualitative feedback would have triggered the threshold and required action to be taken.
  - For Indicator 4, the report stated that no qualitative feedback was received.
  - Trans Mountain stated that that emails were not reflected in the Report because the emails were not directed to Trans Mountain and that Trans Mountain received a copy of the communication. Trans Mountain also submitted that the information was not received via an engagement mechanism identified as a data source in Item 12 of Table 3 of the SEEMP. The Inspection Officer does not accept this rationale for the following reasons: the SEEMP does not include qualifiers which would exclude emails on which Trans Mountain is copied; Item 12 of Table 3 lists “other engagement mechanisms” as a data source; and Trans Mountain stated in the SEEMP that data would be collected proactively.
- January to March 2023 Report – North Thompson Region:
  - Trans Mountain’s consultation logs indicate that a Village of Valemout Council Member “suggested [to Trans Mountain] the Valemout camp remain open beyond the planned closure to avoid additional use of local rental accommodation”.
  - This qualitative feedback applies to Indicators 2 and 4.
  - For Indicator 2, the report indicated that the threshold was not triggered. The first part of the threshold was met. Inclusion of this qualitative data would have triggered the threshold and required action to be taken.
  - For Indicator 4, the report stated that no qualitative feedback was received.
- The exclusion of this data disrupts Trans Mountain’s adaptive management process that is the basis of the SEEMP.
- In the absence of an effective adaptive management process, Trans Mountain is unable to demonstrate compliance to the approved Socio-economic Effects Monitoring Plan.

## PROVISIONS OF ACT OR REGULATIONS THAT ARE ALLEGED TO BE CONTRAVENED - AND ARE CONTINUING - OR ARE LIKELY TO BE CONTRAVENED

Socio-Economic Effects Monitoring Plan – Table 5

### MEASURES TO BE TAKEN

*Based on the facts referenced herein, where the Inspection Officer has reasonable grounds to believe that there is or is likely to be a contravention of Parts 2 to 5 or section 335 of the CER Act, or for a purpose referred to in subsection 102(2) CER Act, the Inspection Officer may, by order, direct a person to*

- a. stop doing something that is in contravention of Parts 2 to 5 or section 335 or cause it to be stopped;*
- b. take any measure that is necessary in order to comply with Parts 2 to 5 or section 335 or mitigate the effects of non-compliance;*
- c. stop doing something that may cause a hazard to the safety or security of persons, or damage to property or the environment or cause it to be stopped; or*
- d. take any measure that is necessary to prevent or mitigate the hazard to the safety or security of persons or damage to property or the environment.*

**Trans Mountain** is ORDERED pursuant to subsections 109(1) and 109(2) of the CER Act to:

- Take measures specified below under Specified Measures as per paragraphs (b) and (d) above
- Stop doing something as specified below under Specified Measures as per paragraphs (a) and (c) above
- Suspend work associated with a facility, including a regulated facility, abandoned facility or ground disturbance, until the hazardous or detrimental situation has been remedied to the satisfaction of an Inspection Officer or until this order is stayed or rescinded.

### SPECIFIED MEASURES

1. Trans Mountain shall take the following actions based on Table 5 of the SEEMP by **4 August 2023**:

For Indicator 2:

- i. Provide a description of the balance of accommodation mix desired by the local communities. This will include a detailed summary of engagement with the local community and will demonstrate Trans Mountain determined the balance of accommodation mix desired by the local community.

- ii. Provide an evaluation of mechanisms to achieve the balance of accommodation mix desired by the local community.
- iii. Provide a list of adaptive management measures identified.
- iv. Provide a timeline for implementation of adaptive management measures identified in part iii) or justification for any measures that Trans Mountain does not intend to implement.

For Indicator 3:

- v. Undertake follow-up with local authority or tourism/hotel association and other relevant stakeholders, to identify the underlying concern and intersection with accommodation approach from the period of 1 January 2022 until the completion of reclamation.
- vi. Provide a detailed summary of part v).
- vii. Provide a list of adaptive management measures identified.
- viii. Provide a timeline for implementation of adaptive management measures identified in part vii) or justification for any measure that Trans Mountain does not intend to implement.

For Indicator 4:

- ix. Provide an evaluation regarding Project use of local/regional commercial accommodation and identify corrective action.
  - x. Provide a list of any adaptive management measures identified.
  - xi. Provide a timeline for implementation of adaptive management measures identified in part x) or justification for any measures that Trans Mountain does not intend to implement.
2. Provide a description of any learnings related to the monitoring topic of worker accommodation that will be applied to other regions identified in the SEEMP **by 14 August 2023**.
3. Provide a corrective action plan detailing how Trans Mountain will ensure that qualitative feedback data will be accurately captured and assessed in future Socio-Economic Monitoring Reports (for all regions and Indicators) by **21 August 2023**.

## EFFECTIVE DATE OF THE ORDER

This Inspection Officer Order takes effect immediately on 04 July 2023 at the time of delivery of this Order to the Company to whom it is directed. Nothing in this Order shall be construed as reducing, increasing, or otherwise affecting what may be required of the Company to whom it is directed to comply with all applicable legislative or legal requirements.

## COMPLIANCE WITH THIS INSPECTION OFFICER ORDER IS MANDATORY

Failure to comply with an Inspection Officer Order issued under section 109 of the CER Act is an offence under section 112 of the CER Act.

<b>Inspection Officer</b>	04 July 2023	[REDACTED]
	<b>Date</b>	<b>Name</b>
	[REDACTED]	X [REDACTED]
	<b>IO Designation Number</b>	<b>Signature</b>
	210-517 10 Ave SW, Calgary AB T2R 0A8	

*Please note that:*

1. *In compliance with the CER's Enforcement Policy, this Order will be posted on the CER's website.*
2. *All submissions to the CER in response to the order are to be provided within the CER Operations Regulatory Compliance Application (ORCA) quoting the associated CVA #, Inspection Officer Order #, and any specific measure with which the submission is associated. The Company is requested to send a copy of any response provided in the OERS to the Inspection Officer via email.*