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April 13, 2021

WHATCOM COUNTY
COUNCIL

Mr. Barry Buchanan, Chair
Whatcom County Council
311 Grand Avenue, Suite 105
Bellingham, WA 98225
Email: BBuchana@co.whatcom.wa.us

Re: Ordinance Granting Trans Mountain Pipeline (Puget Sound) LLC a Non-Exclusive Franchise for Pipeline Facilities – AB2012-171

Dear Chair Buchanan:

This law firm represents Trans Mountain Pipeline (Puget Sound) LLC (“Trans Mountain”) which has applied to the county for a non-exclusive franchise to enable it to maintain its pipeline in areas where it crosses county roads and other properties. An original franchise was granted in 1956. That franchise was renewed in 1996 for 25 years. AB2012-171 would extend the franchise for an additional 25 years. Given the limitations of virtual meetings and the difficulty which they pose in making formal presentations to the Council and public, Trans Mountain would like to offer this letter as written testimony to be considered at the hearing in the above-referenced matter scheduled for April 20, 2021.

Terms of AB2012-171

Following the Olympic Pipeline tragedy in 1999, the terms of franchise agreements for hazardous liquids came under close scrutiny. Pursuant to a legislative mandate, the Municipal Research & Service Center (“MRSC”), a non-profit organization dedicated to the success of local governments across Washington state, was tasked with the responsibility of developing a Model Franchise Ordinance for Hazardous Liquid Pipelines (“Model Ordinance”) for use by municipalities throughout the state. AB2021-171 closely tracks the Model Ordinance with the exception of several modifications mutually accepted by the drafters for the County and Trans Mountain. Notably, it requires Trans Mountain to indemnify and hold the County harmless from liability for damages to persons, property, or the environment arising out of the presence of the pipeline except to the extent caused by the County or its agents. It also requires Trans Mountain to maintain Commercial General Liability Insurance, including Pollution Legal Liability, in the amount of \$100 million dollars per occurrence. This is the same coverage that is required in the pipeline franchise ordinances adopted by the cities of Bellingham (2011, 2019), Kirkland (2011), Renton (2016), Bellevue (2016) and Pierce County (2017).

Background and Regulatory Framework

Trans Mountain owns and operates 69 miles of pipeline running from the Canadian border at Sumas to its terminus in Anacortes. The pipeline was placed into operation in 1954 and since that time, has provided continuous service to refineries at Cherry Point and Anacortes.

Trans Mountain is a common carrier engaged in interstate commerce. As such, the pipeline is subject to federal jurisdiction and operates under rules and regulations promulgated by the United States Department of Transportation and is overseen by the Pipeline and Hazardous Materials Safety Administration. The rates Trans Mountain charges for its services are established by the Federal Energy Regulatory Commission. Pursuant to a delegation of authority from the Pipeline and Hazardous Materials Safety Administration, Trans Mountain is required to file an oil contingency spill response plan with the Washington State Department of Ecology which has lead responsibility for protecting the citizens and environment of the State of Washington.

As a common carrier, Trans Mountain has no ownership interest in the petroleum products transported through its pipeline. Rather, its responsibility is to safely transport the products from the time they are received until they reach their final destination. Accordingly, Trans Mountain's top priority is to protect the safety of the public and the environment. To accomplish this objective, Trans Mountain has developed comprehensive safety, spill prevention and emergency response plans, the key features of which are summarized below.

Pipeline Integrity and Spill Prevention Program

Trans Mountain has proactive programs to identify all hazards that could affect pipeline safety and then to monitor and assess for the presence of these hazards with the goal of preventing pipeline failures. The following is a summary of the measures Trans Mountain employs to prevent and monitor common pipeline hazards:

- **Corrosion Protection**: All pipelines have a corrosion resistant external coating and are further protected with impressed current cathodic protection systems to identify coating defects.
- **Internal Inspection Tools**: Inline inspection tools or "smart pigs" form the foundation of the anomaly detection investigation and pipeline repair programs. Some of the tools use technologies similar to the ones used in medical imaging devices and they are used to identify a variety of pipeline defects. Magnetic Flux

Leakage (MFL) tools detect metal loss from corrosion. Caliper or ultrasonic tools detect corrosion related metal loss, as well as mechanical damage such as dents and gouges. Shear wave ultrasonic and Electronic Magnetic Acoustic Transmission (EMAT) tools are used for crack detection.

- Integrity Digs: Integrity digs are typically based upon the results of inline inspection using smart pigs. An integrity dig involves a segment of the pipe being excavated and inspected using non-destructive examination methods. If required, repairs are completed, the site is backfilled and restored to the original condition or better. Integrity digs require careful planning and preparation, including conducting environmental assessments and obtaining approvals and permits from landowners and governmental agencies.

Damage Prevention and Public Awareness Program

Trans Mountain's damage prevention and public awareness program is focused on preventing damage to the pipeline as a result of third-party activity. The pipeline is buried for mechanical protection, but can potentially be damaged by unauthorized excavation activities. To mitigate these risks, Trans Mountain employs the following safety measures:

- Aerial Patrols: Weekly helicopter patrols are used to monitor the pipeline for unauthorized activities near or on the pipeline right-of-way.
- Ground Patrols: Trans Mountain personnel walk or drive key segments of the pipeline right-of-way on a periodic basis to identify unauthorized activities near or on the pipeline right-of-way.
- Markings: The pipeline is marked at regular intervals with signs identifying the pipeline and containing appropriate warnings.
- Vegetation Management: Vegetation within the pipeline right-of-way is managed in such a way as to create a visual safety zone in and around the pipeline.
- One Call: Trans Mountain is a member of the One Call System that regularly monitors proposed ground disturbance activities in and around the pipeline.
- Crossing Permits: Any third-party activity adjacent to or on the pipeline right-of-way requires submission of plans and specifications to Trans Mountain for review and issuance of a permit for them to undertake the same.

- Crossing Inspections: If a crossing inspection is approved, Trans Mountain supplies its own inspectors to monitor the work done by third parties to ensure that the pipeline's integrity is not compromised.
- Public Awareness: Trans Mountain periodically contacts all residents within 300' on either side of the pipeline personally or by leaving an information packet at their homes reminding them of the presence of the pipeline and the steps needed to be taken to protect it against damage from unauthorized activities.

Spill Detection and Notification

Because safety is Trans Mountain's top priority, it needs to know right away if there is an emergency. Reports may come from a number of sources, including automated detection systems, staff members onsite or other personnel, as well as members of the public and/or first responders. Trans Mountain's automated detection system is comprised of the following elements:

- Supervisory Control and Data Acquisition (SCADA System): The SCADA System maintains direct control of pumps and valves along the system and monitors rate-of-flow in the pipeline, pressure, temperature and density of product, among other things.

Integral to the SCADA System is Trans Mountain's Leak Detection System which compares the flow parameters to a theoretical flow model, identifying any differences outside of prescribed norms that might indicate that a problem exists.

If a variance is found, an alarm will immediately be received by Trans Mountain's Control Center which is staffed by several operators on each shift, each responsible for a specific section of the pipeline. Monitoring takes place 24/7 and is divided into 12 hour shifts.

Upon receiving a report of a spill, the Control Center operator will activate a safe pipeline shutdown. This launches a series of emergency procedures, which include shutting down pump facilities and isolating the suspected areas by closing valves and notifying key responders. Trans Mountain personnel and/or contractors are also sent to investigate the area in question. Until the cause of the alarm has been established, control operators are not authorized to restart the line and resume operations.

From alert to isolation, this procedure takes about 15 minutes or less. Trans Mountain then activates its response personnel and procedures and notifies

regulatory agencies. Back-up power supplies exist at all of Trans Mountain stations and can safely perform the shut-down functions, including in the event of power failure.

- **Notification:** In the event of an actual spill, Trans Mountain uses the Incident Command System (ICS) to effectively manage its response. This system allows for coordinated action with government agencies and affected populations. Notification of local government agencies may occur through 911 and on-scene coordination with emergency services. Trans Mountain's Emergency Management Department maintains a database of all contacts and will contact affected communities as soon as possible.

Public notification during an emergency may occur through door-to-door visits, telephone, electronic notification, social media, broadcast media and community signage. Trans Mountain works with local municipalities to assist with public protection measures as needed.

Notification to governmental entities, such as the Washington State Department of Ecology and the Washington Utilities & Transportation Commission, are undertaken in accordance with applicable regulatory requirements.

Emergency Management

While the most critical emergency management strategy is to prevent a spill from occurring, if there is a spill, Trans Mountain is prepared to respond quickly with detailed emergency procedures and trained professionals.

Trans Mountain's Emergency Management Program (EMP) is a comprehensive set of policies, procedures and processes designed to support Trans Mountain's commitment to the safety and security of the public, workers, company property and the environment. The EMP is an all-hazards emergency management program of mitigation, preparedness and response designed to provide a continuous cycle of improvement as required by sound business practices and applicable governmental rules and regulations.

The goals and objectives of the EMP are to:

- Build and enhance relationships with external organizations that may be asked to respond to an emergency.
- Use an integrated-all-hazards-risk-based approach for mitigation, response and recovery during emergency.

- Enhanced preparedness capabilities through regular training and exercises.
- Ensure program documentation, equipment and prevention activities reflect current operations and best practices.
- Review emergency response activities after an event or exercise to maximize opportunities for continual improvement.
- Respond to emergency condition reports quickly.

Trans Mountain regularly updates its emergency response plans. The plans are location-specific. Trans Mountain identifies the location of emergencies and responds with materials and equipment and practices field deployment exercises with first responders and regulatory agencies.

Oil Spill Contingency Plan

Every five years, Trans Mountain submits an Oil Spill Contingency Plan to the Washington State Department of Ecology (Ecology) for approval. Ecology's standards are designed to ensure the best achievable protection (BAP) for citizens and the environment. Ecology defines BAP as "training procedures, operational methods and response technology that are critical to successful spill responses". This is achieved by the best available technology (BAT) which Ecology notes "includes the use of equipment appropriate for the operating environment, trained personnel and procedures that ensure the highest level of protection" in industry oil spill contingency plans. Ecology requires contingency plan holders to conduct periodic oil spill drills to demonstrate their ability to effectively implement their plans. Sometimes these drills are tabletop exercises where coordination of personnel and information is the focus. Other drills require the deployment of equipment to ensure the equipment is functional and the staff is trained to utilize it. Every three years, each Trans Mountain must demonstrate its ability to respond to a worst-case scenario which is observed and graded by the Ecology.

These are just some of the measures which Trans Mountain takes to ensure that its operations are conducted within a safe and responsible manner. Trans Mountain acknowledges that these plans could not be implemented without the cooperation and participation of a host of federal, state and local agencies and entities. In addition, Trans Mountain is indebted to the host of first responders who selflessly devote their time, energy and effort to help maintain safety by participating in drills and standing ever ready to assist in the unlikely event of a spill. Trans Mountain is also grateful to Whatcom

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County for making it possible to continue to serve the refineries at Cherry Point and Anacortes as well as the many families, businesses and communities which they support.

If you or other members of the Council have specific questions which you would like answered, please feel free to forward them to me so I can arrange for an appropriate response. Again, thanks to you and the Council for carefully considering Trans Mountain's application to renew its franchise with Whatcom County.

Very truly yours,



Philip E. Sharpe, Jr.

PES:kms/sc

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