

Kinder Morgan TransMountain Case

Intervenor Quotes – Final Written Arguments Submitted to NEB

City of Burnaby Final Argument

“Between 1961 and 2013, the company has *reported* 81 oil spill events to the NEB for a total volume of nearly 5.8 million litres. This total averages out to more than three spills every two years, and almost 110,000 litres of spilled oil per year...In 2005, 210,000 litres of crude oil spilled near Abbotsford; in 2007, 234,000 litres of crude oil spilled in Burnaby and drained into the Burrard Inlet; in 2009, 277, 000 litres spilled from the tanks at the Burnaby Terminal Tank Farm. If past performance is an indicator of future success, the tripling of dilbit that would be carried by Trans Mountain is an ominous prospect.”

City of Vancouver Written Argument

“Regardless of the investment in preparedness, there are conditions under which no response will be possible.”

“Even under the most optimal conditions for oil spill response and recovery, only a small percentage of oil spilled can be contained and recovered. In the case of an oil spill in Burrard Inlet, oil will quickly strand on Vancouver’s beaches and shoreline, resulting in much more difficult and costly clean-up efforts. Further, diluted bitumen can be expected to submerge within a short period of time, as little as 24 hours after the spill, and, given the current lack of recovery technology for submerged oil, has the potential to remain in the marine environment indefinitely.”

“In addition to weather and sea-state conditions, air quality and risk of explosion also contribute to the range of conditions under which no response will be possible. The risk of fire and explosion of potential vapours at or near the spill site is increased in the case of a diluted bitumen spill.”

Final Argument of the Province of British Columbia

Trans Mountain has also stated that the methodology resulting in the Marine Accident Risk Calculation System (MARCS) model estimates of incident frequencies is commercially valuable intellectual property that cannot be disclosed, beyond what is already stated in the DNV RA. Trans Mountain further states that any data not described in the RA or set out in IRs cannot be shared as they are DNV’s intellectual property.”

However, the Province submits that Trans Mountain has not provided sufficient evidence in this proceeding to show how a major spill in the marine environment would be addressed. That is, no marine spill response plans, or other detailed information, have been put on the record to show the means by which a marine spill would be responded to. In the absence of this information, the Province is not satisfied that a ‘world-leading’ marine spill response capability will in fact be in place.”

Washington State Department of Ecology Written argument-in-chief

“Canadian and provincial prevention, preparedness, and response standards are less stringent than U.S. and Washington State standards, and will not adequately protect shared waters from the risks associated with Project-related tanker traffic

“[S]pills in Canadian waters have the potential to impact the adjacent U.S. waters. One example of a situation where a spill in U.S. waters affected Canada illustrates the point...The Nestucca spill occurred on the southwestern coast of Washington State; however, it soon spread to Canadian waters. More than 231,000 gallons (875,000 liters) of fuel oil spilled into the northerly offshore coastal current. In Washington, the oiling impacted beaches from northern Oregon to Dungeness Spit in the Strait of Juan de Fuca, in the Salish Sea. Tens of thousands of oiled sea birds died. In British Columbia shoreline oiling eventually extended over 300 miles.”

Musqueam Indian Band Written argument-in-chief

“The approach of a tanker is like a weather storm displacing air on the water and pulling small vessels into their wake.”

“Musqueam’s concerns about the safety of fishermen are dismissed with statements about provision of information about Project-related shipping to other marina users. In other words, if you value your life, give up your fishing and get out of the way – we are coming through”

Final Argument of Squamish Nation

“Industrial development has threatened the existence of the Squamish subsistence economy with many resources becoming scarce, contaminated or inaccessible. In testimony before the Board, Squamish Elder David Jacobs (Paitsmauk) spoke of his experience with the harvest of seafood near the Capilano Reserve: ‘In my wildest dreams I would never have thought they would destroy that, take our food away from our mouths. But that happened. It’s – I can’t tell – I can’t teach my grandchildren, my great grandchildren how to dig clams, get crab, cook the crab, dry the seaweed. I can’t do that. It’s gone. I don’t know how to explain that to my grandchildren.’”

“Trans Mountain has further not shown that it has the capability to effectively prevent or respond to spills associated with the Project. Trans Mountain has refused to provide detailed emergency response plans, and not shown that either it or the Western Canada Marine Response Corporation (WCMRC) has the capability of recovering submerged or sunken diluted bitumen.”

Written Argument-in-Chief of the Intervenor Tsleil-Waututh Nation

Rather, approving the Project would result in a decades-long infringement of rights, given that the Project is expected to operate for over 50 years. Infringements would occur on a daily basis, each and every time an oil tanker transits Burrard Inlet. TWN would be forced to confront Canada’s dishonorable decision to ignore and disregard its decision on the Project each day for decades. Such infringements would be effectively permanent.”