

APPROVALS

RE: Determination of Application Area Number 100111288

Approval Holder: Trans Mountain Pipeline ULC

Date of Issuance: November 6, 2020

Effective Date: November 6, 2020

Application Submitted Date: August 5, 2020

Application Determination Number: 100111288

CUTTING PERMITS

“Permit Area” means the areas described in condition 1 of Schedule A of the following Licence of Occupation

Tenure No.: 9000842

Document No.: 960812

but does not include any areas described above that are located within:

1. A Community Forest Agreement, First Nations Woodland Licence, Tree Farm Licence, Timber Licence, Occupant Licence to Cut or Woodlot Licence unless there is an agreement with the Agreement or Licence holder to harvest the timber located within the Agreement or Licence area under the relevant Master Licence to Cut and associated cutting permit indicated below, or
2. A subsisting cutting permit issued to another party.

APPROVAL

Pursuant to section 47.4 of the *Forest Act*, and subject to the conditions of these permits the Commission hereby approves the removal of Crown timber from the Permit Area under the cutting permits associated with the Master Licences to Cut as follows:

Master Licence to Cut No.: M02363

Cutting Permit No.: 30

Timber Mark No.: MTD173

Total New Cut: 0.18 ha

Forest District: (DKA) Thompson Rivers Natural Resource District

Region: Interior

Conditions

1. Timber harvesting under the above cutting permits must not commence until the Permit Holder has submitted the relevant appraisal documents to the Ministry of Forests, Lands and Natural Resource Operations and Rural Development and received confirmation of the stumpage rate.
2. Stumpage for the cutting permits will be determined according to the Interior Appraisal manual, as amended from time to time.
3. Clearing must be confined to the areas approved in the spatial data referenced in condition 1 of Schedule A of the Licence of Occupation, and must not, without leave of the Commission, occur within:
 - a) an area containing a significant mineral lick, bear den, Trumpeter Swan nest, other nesting site, significant wallow, or Sharp-tailed Grouse Lek, unless it is not damaged by activities approved under this permit;
 - b) a Riparian Management Area, except as approved in the spatial data referenced above, unless the Riparian Management Area has been previously cleared.
4. Despite condition 3, the Approval Holder is permitted to fell any trees located on Crown land within 1.5 tree lengths of the Permit Area that are considered to be a worker safety hazard under applicable regulations and must be felled in order to eliminate the hazard. Trees or portions of these trees that can be accessed from the permit area without causing damage to standing timber may be harvested.
5. All harvested Crown Timber must be marked with the cutting permits' associated Timber Mark (identified above) in accordance with timber marking requirements of the *Forest Act*.
6. Any timber removed from the Permit Area must be scaled in accordance with scaling requirements of the *Forest Act*.
7. The interior and coastal merchantability specifications identified in the Provincial Logging Residue and Waste Measurement Procedures Manuals in place at the time the timber is harvested apply to these cutting permits.
8. The holder of the cutting permits must pay to the Province any waste billing determined in accordance with the Master Licence to Cut and the terms of this approval.

Termination

9. The cutting permits terminate upon the submission of the post construction plan required under the Licences of Occupation identified in the definition of Permit Area above or upon either the cancellation or expiry of those Licences.

Advisory Guidance

1. The Approval Holder should be aware that the approval under the *Forest Act* to harvest timber does not extend to harvesting within private land.
2. The Approval Holder should be aware that impacts to recreation features, trails, recreation facilities, interpretative forest sites or recreation sites identified, authorized or established under the *Forest and Range Practices Act* are subject to additional authorizations by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development.

All pages included in this permit and any attached plan(s) form an integral part of this permit.



Lori Phillips
Authorizations Manager

Licence No. 960812

File No. 9000842

THIS AGREEMENT is dated for reference November 6, 2020 and is made under the *Land Act*.

BETWEEN:

OIL and GAS COMMISSION, a corporation continued under the *Oil and Gas Activities Act*, S.B.C. 2008, c. 36, an agent of Her Majesty the Queen in Right of the Province of British Columbia, having its offices at 6534 Airport Road, Fort St. John, British Columbia V1J 4M6

(the "**Commission**")

AND:

TRANS MOUNTAIN PIPELINE ULC (Inc. No. A0070893)

2700, 300 – 5th Avenue SW

Calgary, Alberta T2P 5J2

(the "**Licensee**")

The parties agree as follows:

ARTICLE 1 - INTERPRETATION

1.1 In this Agreement:

"**Agreement**" means this license of occupation;

"**Certificates**" means Certificates OC-064, AO-004-OC-049, and AO-005-OC-02 issued by the Canada Energy Regulator (formerly National Energy Board) on December 1, 2016;

"**Commencement Date**" means November 6, 2020;

"**Disposition**" has the meaning given to it in the *Land Act* and includes a licence of occupation;

"**Fee**" means the fees set out in Article 3;

"**Financing Entities**" means the Persons, if any, or their agent or trustee, providing the Licensee with any or all of its development, construction, operating, term or project financing with respect to the Improvements or the Pipeline or any activity related thereto, whether at the time of execution of this Agreement or during the term of this Agreement;

"**Improvements**" includes anything made, constructed, erected, built, altered, repaired or added to, in, on or under the Land, and attached to it or intended to become a part of it, and also includes any clearing, excavating, digging, drilling, tunneling, filling, grading or ditching of, in, on or under the Land;

"**Land**" means:

Crown land within the Thompson-Okanagan Natural Resource Region (within Unit 75, Block B, Group 92-P-8 & Unit 58, Block B, Group 92-P-9), identified in the spatial data submitted to the

Commission in permit application 100111288, on August 5, 2020 containing 0.381 hectares more or less;

except for those parts of the land that, on the Commencement Date, consist of highways (as defined in the *Highway Act*) and land covered by water;

"Person" means any individual, partnership, limited partnership, firm, trust, body corporate, agency, administrative board, unincorporated body of persons, association or government authority;

"Pipeline" has the same meaning as prescribed in the *Canadian Energy Regulator Act* (formerly *National Energy Board Act*) (Canada) and shall include the Pipeline approved by the Certificates;

"Province" means Her Majesty the Queen in Right of the Province of British Columbia;

"Road" means a road or portion of a road constructed, maintained or used to facilitate the construction or operation of the Pipeline as more specifically identified as Activity Details in Schedule "A";

"Security" means the security referred to in section 6.1 or 6.2 as replaced or supplemented in accordance with section 6.5;

"Term" means the period of time set out in section 2.2;

"we", "us" or "our" refers to the Commission alone and never refers to the combination of the Commission and the Licensee: that combination is referred to as **"the parties"**; and

"you" or "your" refers to the Licensee.

- 1.2 In this Agreement, "person" includes a corporation, firm or association and wherever the singular or masculine form is used in this Agreement it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa where the context or parties require.
- 1.3 The captions and headings contained in this Agreement are for convenience only and do not define or in any way limit the scope or intent of this Agreement.
- 1.4 This Agreement will be interpreted according to the laws of the Province of British Columbia.
- 1.5 Where there is a reference to an enactment of the Province of British Columbia or of Canada in this Agreement, that reference will include a reference to every amendment to it, every regulation made under it and any subsequent enactment of like effect and, unless otherwise indicated, all enactments referred to in this Agreement are enactments of the Province of British Columbia.
- 1.6 If any section of this Agreement, or any part of a section, is found to be illegal or unenforceable, that section or part of a section, as the case may be, will be considered separate and severable and the remainder of this Agreement will not be affected and this Agreement will be enforceable to the fullest extent permitted by law.
- 1.7 Each schedule to this Agreement is an integral part of this Agreement as if set out at length in the body of this Agreement.
- 1.8 This Agreement constitutes the entire agreement between the parties and no understanding or agreement, oral or otherwise, exists between the parties with respect to the subject matter of this Agreement except as expressly set out in this Agreement and this Agreement may not be modified except by subsequent agreement in writing between the parties.

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- 1.9 Each party will, upon the request of the other, do or cause to be done all lawful acts necessary for the performance of the provisions of this Agreement.
- 1.10 All provisions of this Agreement in our favour and all of our rights and remedies, either at law or in equity, will survive the termination of this Agreement.
- 1.11 Time is of the essence of this Agreement.
- 1.12 Wherever this Agreement provides that an action may be taken, a consent or approval must be obtained or a determination must be made, then you or we, as the case may be, will act reasonably in taking such action, deciding whether to provide such consent or approval or making such determination.

ARTICLE 2 - GRANT AND TERM

- 2.1 On the terms and conditions of this Agreement, including the conditions specified in Schedule 'A', we grant you a licence for you, and your employees, invitees, agents, consultants, Financing Entities, and contractors and their subcontractors to occupy the Land only for the purposes of construction, maintenance and use of the Roads, and you acknowledge this licence of occupation does not grant you exclusive use and occupancy of the Land.
- 2.2 Subject to conditions of the approval and Article 8, this Agreement is effective as of the date of execution and the Term shall commence on the Commencement Date and terminates on the date you notify the Commission in writing that you no longer require the Land for the purpose identified in section 2.1
- 2.3 Except as permitted by law or as otherwise permitted pursuant to this Agreement, you will not restrict, or permit the restriction of, the use of the Land or any Roads thereon to a defined or limited group of persons, it being the intention of the parties that such services and facilities will be available for use by all members of the public.

ARTICLE 3 - FEES

- 3.1 You will pay to us the Fee for the Term, being **\$500.00**, payable within 90 days of the effective date of this Agreement.

ARTICLE 4- COVENANTS

- 4.1 You must:
 - (a) pay, when due;
 - (i) the Fee to us at the address set out in Article 10;
 - (ii) all charges for electricity, gas, water and other utilities supplied to the Land for use by you or on your behalf or with your permission;
 - (b) observe, abide by and comply with:
 - (i) all applicable laws, bylaws, orders, directions, ordinances, of any competent governmental authority, having jurisdiction over the Pipeline, Roads, Improvements and associated activities, or your use or occupation of the Land, Road or the Improvements; and
 - (ii) the provisions of this Agreement;

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- (c) in respect of the use of the Land by you or by anyone you permit to use the Land, keep the Roads and Improvements in a safe, clean and sanitary condition satisfactory to us, and at our written request, make the Land and the Improvements safe, clean and sanitary;
- (d) use and occupy the Land only in accordance with and for the purposes set out in section 2.1;
- (e) not construct, place or affix any Improvement on or to the Land except as necessary for the purposes set out in section 2.1;
- (f) pay all accounts and expenses as they become due for work performed on or materials supplied to the Land at your request, on your behalf or with your permission, except for money that you are required to hold back under the *Builders Lien Act*;
- (g) if any claim of lien over the Land is made under the *Builders Lien Act* for work performed on or materials supplied to the Land at your request, on your behalf or with your permission, immediately take all steps necessary to have the lien discharged, unless the claim of lien is being contested in good faith by you and you have taken the steps necessary to ensure that the claim of lien will not subject the Land or any interest of yours under this Agreement to sale or forfeiture;
- (h) not cut or remove timber on or from the Land without being granted the right under the *Forest Act* to harvest Crown timber on the Land;
- (i) dispose of raw sewage and refuse only in accordance with the requirements and regulations of appropriate federal and provincial agencies;
- (j) store bulk hazardous petroleum products and other toxic substances in accordance with the provisions of the *Environmental Management Act*;
- (k) permit us, or our authorized representatives, to enter on the Land at any time to inspect the Land and the Improvements;
- (l) indemnify and save us, the Province and our and the Province's servants, employees and agents harmless against all claims, actions, causes of action, losses, damages, costs and liabilities, including fees of solicitors and other professional advisors, arising out of:
 - (i) your breach, violation or non-performance of a provision of this Agreement, and
 - (ii) any personal injury, bodily injury (including death) or property damage occurring or happening on or off the Land that was caused by your entry upon, use or occupation of the Land,the amount of all such losses, damages, costs and liabilities will be payable to us or the Province immediately upon demand; and
- (m) on the termination of this Agreement, you will:
 - (i) within 90 days, remove from the Land any Improvement you want to remove, if the Improvement was placed on or made to the Land by you and you are not in default of this Agreement;
 - (ii) not remove any Improvement from the Land if you are in default of this Agreement unless we direct or permit you to do so under paragraph (iii);
 - (iii) remove from the Land any Improvement that we, in writing, direct or permit you to remove, other than any Improvement permitted to be placed on or made to the

Land under another disposition or direction of the applicable government agency governing the Improvement; and

- (iv) thereafter, peaceably quit and deliver possession of the Land and Roads to us and, subject to (i),(ii),(iii) above the Improvements in a safe, clean and sanitary condition,

and all of your right, interest, and estate in the Land will be absolutely forfeited to us, and to the extent necessary, this covenant will survive the termination of this Agreement.

- 4.2 Except as permitted by law or as otherwise permitted in this Agreement, you will not permit any person that you are legally responsible for to do anything you are restricted from doing under this Article.
- 4.3 Except as permitted law, or as otherwise permitted in this Agreement, we will not do anything on the Land that will interfere materially with the Roads and Improvements or your use of the Roads or Improvements, or that creates a public hazard.

ARTICLE 5 - LIMITATIONS

- 5.1 You agree with us that:

- (a) we and the Province are under no obligation to provide access or services to the Land or to maintain or improve existing access roads;
- (b) this Agreement is subject to:
- (i) all subsisting dispositions and subsisting grants to or rights of any Person made or acquired under the *Coal Act, Forest Act, Mineral Tenure Act, Petroleum and Natural Gas Act, Land Act, Range Act, Wildlife Act* or *Water Sustainability Act*, or any extension or renewal of the same, whether or not you have actual notice of them, and
- (ii) the exceptions and reservations of interests, rights, privileges and titles referred to in section 50 of the *Land Act*;
- (c) without limiting subsection 4.1(l), you must indemnify and save us, the Province and our and the Province's servants, employees and agents harmless from and against all claims, actions, causes of action, losses, damages, costs and liabilities, including fees of solicitors and other professional advisors, arising out of any conflict between your rights under this Agreement and the rights of any person under a disposition or under a subsisting grant to or right of any person made or acquired under the *Coal Act, Forest Act, Mineral Tenure Act, Petroleum and Natural Gas Act, Range Act, Wildlife Act* or *Water Sustainability Act* (or any prior or subsequent enactment of the Province of British Columbia of like effect), or any extension or renewal of the same, whether or not you have actual notice of them, and the amount of all such losses, damages, costs and liabilities will be payable to us immediately upon demand;
- (d) you release us and the Province from all claims, actions, causes of action, suits, debts and demands that you now have or may at any time in the future have against us or the Province arising out of any conflict between your rights under this Agreement and the rights of any person under a disposition or under a subsisting grant to or right made or acquired under the enactments referred to in subsection (c), and you acknowledge that this Agreement and your rights under this Agreement are subject to those grants and rights referred to in subsection (c) whether or not you have actual notice of them;

- (e) we or the Province may make other dispositions of or over the Land, provided that we are satisfied that access to the Pipeline can continue or alternate access to the Pipeline can be reasonably obtained;
- (f) you will make no claim against us or the Province for compensation, in damages or otherwise, in respect of a disposition made under subsection (e), where such disposition does not materially affect the exercise of your rights under this Agreement;
- (g) subject to subsection (f), all of your costs and expenses, direct or indirect, that arise out of any lawful interference with your rights under this Agreement as a result of the exercise or operation of the interests, rights, privileges and titles reserved to us and the Province in subsections (b) and (e) will be borne solely by you;
- (h) you will not commence or maintain proceedings under section 65 of the *Land Act* in respect of any lawful interference with your rights under this Agreement that arises as a result of the exercise or operation of the interests, rights, privileges and titles described in subsections (b) and (e);
- (i) you will not remove or permit the removal of any Improvement from the Land except as expressly permitted or required under this Agreement and the *Canadian Energy Regulator Act* (Canada) or any other applicable legislation;
- (j) any interest you may have in the Improvements ceases to exist and becomes our property upon the termination of this Agreement, except where an Improvement may be removed under paragraph 4.1(o)(i), (ii) or (iii) in which case any interest you may have in that Improvement ceases to exist and becomes our property if the Improvement is not removed from the Land within the time period set out in paragraph 4.1(o)(i) or the time period provided for in the direction or permission given under paragraph 4.1(o)(ii); and
- (k) if, after the termination of this Agreement, we permit you to remain in possession of the Land and we accept money from you in respect of such possession, a tenancy from year to year will not be created by implication of law and you will be deemed to be a monthly occupier only subject to all of the provisions of this Agreement, except as to duration, in the absence of a written agreement to the contrary.

ARTICLE 6 - SECURITY AND INSURANCE

- 6.1 You acknowledge that we may notify you to deliver to us security within 60 days' of such notice, which will;
- (a) guarantee the performance of your obligations under this Agreement;
 - (b) be in the form and amount required by us; and
 - (c) remain in effect until we certify, in writing, that you have fully performed your obligations under this Agreement.
- 6.2 Despite section 6.1, your obligations under that section are suspended for so long as you maintain in good standing other security acceptable to us to guarantee the performance of your obligations under this Agreement and all other dispositions held by you.
- 6.3 We may use the Security for the payment of any costs and expenses incurred by us and the Province to perform any of your obligations under this Agreement that are not performed by you or to pay any overdue Fees and, if such event occurs, you will, within 30 days of that event, deliver further Security to us in an amount equal to the amount drawn down by us.

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6.4 After we certify, in writing, that you have fully performed your obligations under this Agreement, we will return to you any Security maintained under section 6.1, less all amounts drawn down by us under section 6.3.

6.5 You acknowledge that we may, from time to time, notify you to:

- (a) change the form or amount of the Security; and
- (b) provide and maintain another form of Security in replacement of or in addition to the Security posted by you under this Agreement, such replacement or additional Security will be appropriate and reasonable for your activities under the Agreement.

and you will, within 60 days of receiving such notice, deliver to us written confirmation that the change has been made or the replacement or additional form of Security has been provided by you.

6.6 You must:

- (a) without limiting your obligations or liabilities under this Agreement, at your expense, effect and keep in force during the Term Comprehensive/Commercial General Liability insurance protecting us and the Province as additional insured in an amount of not less than \$1,000,000.00 inclusive per occurrence insuring against liability for personal injury, bodily injury (including death) or property damage, and claims for liability assumed under contract, arising from all accidents or occurrences on the Land or the Improvements;
- (b) on the Commencement Date and immediately upon demand, deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance required to be maintained by you under this Agreement;
- (c) ensure that all insurance required to be maintained by you under this Agreement is:
 - (i) placed with insurers licensed in British Columbia;
 - (ii) primary and does not require the sharing of any loss by any insurer that insures us; and
 - (iii) endorsed to provide us with 30 days' advance written notice of cancellation; and
- (d) allow us, upon written request, to review and inspect at your premises all policies of insurance required to be maintained by you under this Agreement. No copies or photos of your policies shall be made.

6.7 You acknowledge that we may, from time to time, notify you to;

- (a) reasonably change the amount of insurance set out in subsection 6.6(a); and
- (b) provide and maintain another type or types of insurance in replacement of or in addition to the insurance previously required to be maintained by you under this Agreement.

Such replacement or additional insurance will be appropriate and reasonable for your activities under this Agreement; and you will, within 60 days of receiving such notice, cause the amounts and types to be changed and deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance then required to be maintained by you under this Agreement.

ARTICLE 7 – ASSIGNMENT

- 7.1 Except as otherwise permitted in this Agreement, you must not sublicense, assign, mortgage or transfer this Agreement or permit any person to use or occupy the Land, without our prior written consent, which may not be unreasonably withheld with respect to an assignment to a party authorized to construct and operate the Pipeline by the Canada Energy Regulator (formerly National Energy Board) or any successor thereto.

ARTICLE 8- TERMINATION

- 8.1 You agree with us that:

- (a) if you:

- (i) default in the payment of any money payable by you under this Agreement; or
- (ii) fail to observe, abide by and comply with the provisions of this Agreement (other than the payment of any money payable by you under this Agreement),

and your default or failure continues for 60 days after we give written notice of the default or failure to you;

- (b) if a Certificate authorizing you to construct and operate the Pipeline has expired, or been terminated or cancelled and you are not pursuing reinstatement, an appeal or other available cure options, or a Certificate has not been reinstated, reissued or otherwise replaced to allow for the construction and operation of the Pipeline; or

- (c) if:

- (i) any case, proceeding or other action shall be instituted in any court of competent jurisdiction against you, seeking in respect of you an adjudication in bankruptcy, reorganization of your indebtedness, dissolution, winding up, liquidation, a composition, proposal or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, liquidator sequestrator or other person with similar powers with respect to you or of all or any substantial part of your property, or any other like relief in respect of you under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada), or any other bankruptcy, insolvency or analogous law and:

- (A) such case, proceeding or other action results in an entry of an order for relief or any such adjudication or appointment; or

- (B) the same shall continue undismissed, or unstayed and in effect, for any period of 60 days; or

- (ii) you make any assignment in bankruptcy or you make any other assignment for the benefit of creditors, you make any proposal under the *Bankruptcy and Insolvency Act* (Canada) or any comparable law, you seek relief under the *Companies' Creditors Arrangement Act* (Canada), or any other bankruptcy, insolvency or analogous law, or you file a petition or proposal to take advantage of any act of insolvency; or

- (d) if this Agreement is taken in execution or attachment by any person and such execution or attachment is not released, bonded, satisfied, discharged, vacated or stayed within 60 days after the entry, commencement or levy.

- (e) if
- (i) we or the Province require the Land for our or the Province's own use or, in our opinion, it is in the public interest to cancel this Agreement;
 - (ii) we have given you 6 months' written notice of such requirements or opinion; and
 - (iii) we are satisfied that alternate access to the Pipeline can be reasonably obtained;
- this Agreement may be, at our option and with or without entry, terminated and your right to use and occupy the Land will cease, except that such termination must not become effective on any date between the Commencement Date and the date that construction of the Powerline is completed.

- 8.2 We agree that any termination under this Article 8 does not prevent you from seeking lawful authority to use the Land pursuant to another statutory authority.
- 8.3 If the condition complained of (other than the payment of any money payable by you under this Agreement) reasonably requires more time to cure than 60 days, you will be deemed to have complied with the remedying of it if you commence remedying or curing the condition within 60 days and diligently complete the same.
- 8.4 You agree with us that:
- (a) you will make no claim for compensation, in damages or otherwise, upon the lawful termination of this Agreement under section 8.1; and
 - (b) our remedies under this Article are in addition to those available to us under the *Land Act*.

ARTICLE 9 - DISPUTE RESOLUTION

- 9.1 If any dispute arises under this Agreement, the parties will attempt to resolve the dispute within 60 days of the dispute arising (or within such other time period agreed to by the parties) and, subject to applicable laws, provide candid and timely disclosure to each other of all relevant facts, information and documents to facilitate those efforts.
- 9.2 If a dispute under this Agreement cannot be resolved under section 9.1, we or you may refer the dispute to arbitration conducted by a sole arbitrator appointed pursuant to the *Arbitration Act*.
- 9.3 The cost of the arbitration referred to in section 9.2 will be shared equally by the parties and the arbitration will be governed by the laws of the Province of British Columbia.
- 9.4 The arbitration will be conducted at our offices (or the offices of our authorized representative) in Fort St. John, British Columbia, and if we or our authorized representative have no office in Fort St. John, British Columbia, then our offices (or the offices of our authorized representative) that are closest to Fort St. John, British Columbia.

ARTICLE 10 - NOTICE

- 10.1 Any notice required to be given by either party to the other will be deemed to be given if mailed by prepaid registered mail in Canada or delivered to the address of the other as follows:
- (a) to us:

OIL and GAS COMMISSION
Bag 2
Fort St. John, BC V1J 2B0;

(b) to you:

TRANS MOUNTAIN PIPELINE ULC

2700, 300 – 5th Avenue S.W.
Calgary, AB T2P 5J2;

or at such other address as a party may, from time to time, direct in writing, and any such notice will be deemed to have been received if delivered, on the day of delivery, and if mailed, 7 days after the time of mailing, except in the case of mail interruption in which case actual receipt is required.

- 10.2 In order to expedite the delivery of any notice required to be given by either party to the other, a concurrent facsimile copy of any notice will, where possible, be provided to the other party but nothing in this section, and specifically the lack of delivery of a facsimile copy of any notice, will affect the deemed delivery provided in section 10.1.
- 10.3 The delivery of all money payable to us under this Agreement will be effected by hand, courier or prepaid regular mail to the address specified above, or by any other payment procedure agreed to by the parties, such deliveries to be effective on actual receipt.

ARTICLE 11 - MISCELLANEOUS

- 11.1 No provision of this Agreement will be considered to have been waived unless the waiver is in writing, and a waiver of a breach of a provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other provision of this Agreement, and a consent or approval to any act requiring consent or approval will not waive or render unnecessary the requirement to obtain consent or approval to any subsequent same or similar act.
- 11.2 No remedy conferred upon or reserved to us under this Agreement is exclusive of any other remedy in this Agreement or provided by law, but that remedy will be in addition to all other remedies in this Agreement or then existing at law, in equity or by statute.
- 11.3 The grant of a sublicense, assignment or transfer of this Agreement does not release you from your obligation to observe and perform all the provisions of this Agreement on your part to be observed and performed unless we specifically release you from such obligation in our consent to the sublicense, assignment or transfer of this Agreement.
- 11.4 This Agreement extends to, is binding upon and enures to the benefit of the parties, their heirs, executors, administrators, successors and permitted assigns.
- 11.5 If, due to a strike, lockout, labour dispute, act of God, inability to obtain labour or materials, law, ordinance, rule, regulation or order of a competent governmental authority, enemy or hostile action, civil commotion, fire or other casualty or any condition or cause beyond your reasonable control, other than normal weather conditions, you are delayed in performing any of your obligations under this Agreement, the time for the performance of that obligation will be extended by a period of time equal to the period of time of the delay so long as
- (a) you give notice to us within 30 days of the commencement of the delay setting forth the nature of the delay and an estimated time frame for the performance of your obligation;
- and (b) you diligently attempt to remove the delay.
- 11.6 You agree with us that:
- (a) we are under no obligation, express or implied, to provide financial assistance or to contribute toward the cost of servicing, creating or developing the Land or the Improvements and you are solely responsible for all costs and expenses associated with

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- your use of the Land and the Improvements for the purposes set out in this Agreement;
and
 - (b) nothing in this Agreement constitutes you as our agent, joint venturer or partner or gives you any authority or power to bind us or the Province in any way.
- 11.7 This Agreement does not override or affect any powers, privileges or immunities to which you are entitled under any enactment of the Province of British Columbia.

The parties have executed this Agreement as of the date of reference of this Agreement.

SIGNED on behalf of the **OIL and GAS COMMISSION** by a duly authorized signatory



Authorized Signatory – Lori Phillips
Authorizations Manager

SIGNED on behalf of **TRANS MOUNTAIN PIPELINE ULC** by a duly authorized signatory

Authorized Signatory

SCHEDULE A – ADDITIONAL CONDITIONS

Approval Holder: Trans Mountain Pipeline ULC
Application Submitted Date: August 5, 2020
Application Determination Number: 100111288
Approved Disturbance Footprint: 0.381 ha

Activity Area

- 1. The approvals granted under this Agreement to occupy and use the Land are limited to the areas identified in the spatial data submitted to the Commission in the application as identified in the following table:

CER Road Right of Way No.: 05894	Segment No.: 400, 401	Tenure No.: 9000842 Document No.: 960812
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ACTIVITY DETAILS

Seg No.: 400	From: N 5688391.429 E 696668.216	To: N 5688393.198 E 696647.782
Seg No.: 401	From: N 5713694.908 E 692874.054	To: N 5713855.548 E 692754.202

- 2. The approvals to occupy and use the Land identified in the above table are subject to the following:
 - a) The total disturbance caused by the approved activities must not exceed the total approved disturbance footprint as referenced above.
 - b) The permission to occupy and use the Land excludes the area within map reserves designated under sections 16 and 17 of the *Land Act*, unless:
 - (i) the map reserves have been amended for the purposes of the Trans Mountain Expansion Project; or
 - (ii) the Trans Mountain Expansion Project has been deemed compatible use with the overlapped map reserves.

Notification

- 3. A notice of construction start must be submitted, as per the relevant Commission process at the time of submission, at least 48 hours prior to the commencement of activities under this permit.
- 4. At least 48 hours prior to the commencement of activities under this Agreement, you must provide notice to any First Nation(s) who may have Aboriginal Interests identified, as per the BC First Nations Consultative Areas Database, within the area in which the work is to commence.
- 5. On or before April 30 of each year until construction is completed, you must submit to the Commission an interim post-construction plan as a PDF plan accurately identifying the location any roads constructed under this approval during the preceding year (April 1 to March 31).
- 6. Within 60 days of the completion of construction activities under this approval, you must submit to the Commission a final post-construction plan as a shapefile and PDF plan accurately identifying the location of the total area actually disturbed under this approval.

Road Construction, Use and Maintenance

- 7. Unless a condition or its context suggests otherwise, terms used in the following conditions have the same meaning as the Environmental Protection and Management Regulation and the Oil and Gas Road Regulation under the *Oil and Gas Activities Act*.

8. You must ensure that the road is cleared to the width necessary to ensure all of the following:
 - a) the safety of Approval Holders using the road;
 - b) the integrity of the topography of the area;
 - c) the maintenance of draining of water in the area;
 - d) the stability of terrain in the area; and
 - e) the safe conduct of operations, considering the following:
 - (i) the placement of pits, quarries, landings or waste areas;
 - (ii) the storage of bridge or culvert material;
 - (iii) the amount of area required to operate equipment within the clearing width, including equipment turnaround sites;
 - (iv) the need to remove snow; and
 - (v) the need to construct fencing or other ancillary structures.
9. You must ensure that any temporary access is constructed and maintained in a manner that provides for proper surface drainage, prevents pooling on the surface and maintains slope integrity.
10. You must ensure that the road, including stream crossings and the road right of way, is designed, constructed and maintained in a manner that does each of the following:
 - a) enables industrial and non-industrial users of the road to use the road safely;
 - b) maintains the natural drainage patterns of water in the area;
 - c) protects stability of the terrain in the area;
 - d) ensures watercourse crossing structures and any other in-stream works associated with the road are functional and appropriate for the uses of the road; and
 - e) road surface and slope drainage systems are functional and prevent pooling of water on the road surface.
11. If the Agreement Holder temporarily stops using the road for the purposes specified in article 2.1 for a period anticipated to be greater than 6 months, the person is not required to perform the maintenance and undertake the modifications set out in condition 10 but must ensure:
 - a) the structural integrity of the road prism and clearing width are stable, and
 - b) the drainage systems of the road are functionalto the extent necessary to ensure there is no material adverse effect on fish, fish habitat, water quality or quantity, wildlife or wildlife habitat.
12. You must not operate a motor vehicle at a speed that is unsafe for the conditions and exceeds the lesser of 80km/h or the speed posted on a relevant traffic control device.
13. You must not close or restrict access to the road by another person except temporarily as set out below:
 - a) To address an existing or imminent threat to the road or environment, or that may endanger human life or property;
 - b) To address something that would impede you from using the road; or
 - c) To carry out maintenance on the road as required by this Agreement.
 - d) If access to the road is restricted in accordance with the provisions of this Agreement, you must notify the Commission immediately.

Environmental

14. You must ensure that the activities under this Agreement do not result in any deleterious materials being deposited into a stream, wetland or lake.

15. You must make reasonable efforts to prevent establishment of invasive plants and organisms resulting from the carrying out of activities authorized under this approval.
16. If construction activities result in the removal or rendering ineffective of a range barrier, you must, before livestock is turned out on the area, or, if livestock turnout has occurred, as soon as practicable, construct a replacement barrier that is at least as effective as the one removed or rendered ineffective was before the removal or rendering ineffective.
17. Recreation sites, recreation trails, or recreation facilities established or authorized under the Forest and Range Practices Act that are adversely affected by construction activities must be restored to their pre-construction condition.
18. The Permit Holder must ensure operating areas on top of an aquifer do not cause a material adverse effect on the quality, quantity or natural timing of flow in the aquifer.
19. Clearing and site preparation must be confined to areas approved in the spatial data referenced in Approvals, above, and must not, without leave from us, occur within an area containing a significant mineral lick, bear den, Trumpeter Swan nest, other nesting site, significant wallow, or Sharp-tailed Grouse Lek, unless it is not damaged by activities approved under this Agreement.
20. Construction and significant maintenance activities within American Badger habitat, as identified in Trans Mountain's American Badger Mitigation and Habitat Restoration Plan, must be carried out in accordance with the following unless alternate mitigation is recommended by a qualified professional and accepted by the Commission:
 - a) Prior to commencing the activities, conduct a survey to identify American Badger burrows as necessary to comply with b) and c);
 - b) Not conduct the activities within 50 meters of any occupied badger burrow; and
 - c) Not conduct the activities within 500 meters of any occupied natal badger burrow between April 1 and July 15.
21. To protect karst features you must:
 - a) Prior to construction, ensure a qualified professional completes an assessment identifying any mapped karst features within 150 m of approved activities,
 - b) Submit a report, satisfactory to us, identifying the results of the assessment, including any potential impacts to a karst feature and any planned mitigation of those impacts, and
 - c) Implement the mitigations, if any, specified in the report under b).
22. The road must be maintained such that dust resulting from construction or use does not affect safe travel on a road or significantly impair the use and enjoyment of lawfully occupied permanent dwellings, significant public use areas or other similar areas.
23. Dust control measures must be undertaken to ensure that dust resulting from construction or maintenance activities do not affect safe travel on a road or significantly impair the use and enjoyment of lawfully occupied permanent dwellings, significant public use areas or other similar areas.
24. Except with leave of the Commission, the temporary or permanent storage of acid rock within the operating area is not authorized under this approval.
25. Open trenches and excavations must be backfilled as soon as practicable.
26. Immediately prior to conducting any clearing or significant maintenance activities between November 1 and April 15, the approval holder must have a Qualified Environmental Professional survey for any bear dens located within 250 metres of that activity.
27. Except with leave of the Commission, the approval holder must not undertake construction or significant maintenance activities within 250 metres of any active bear den between November 1 and April 15 that was identified by the survey conducted in accordance with condition 28.
28. The Approval Holder must ensure that any Crown land within the activity area is maintained in a condition so as to minimize hazards, including but not limited to hazards associated with storage of materials and equipment.

29. The Approval Holder must ensure that any Crown land within the activity area is maintained free of garbage, debris and unused equipment.
30. At the completion of construction activities the permit holder must restore any identifiable trails traditionally used by First Nations that were impacted by construction, to the level of access that existed prior to construction, if the location of the trail is made known to the permit holder by a First Nation or the Commission prior to the permit holder's notice of construction start.

Archaeology

31. An Archaeological Impact Assessment Report must be submitted to the Commission as soon as practicable
32. If artifacts, features, materials or things protected under Section 12.1 of the Heritage Conservation Act are identified the permit holder must, unless the permit holder holds a permit under Section 12.4 of the Heritage Conservation Act (site alteration permit) in respect of that artifact, feature, material or thing, immediately cease all work in the vicinity of the artifacts, features, materials or things.

Deactivation

33. Prior to deactivating any road segment approved under this permit, the Permit Holder must provide written notice of the intention to users of the road known to the Permit Holder, and the Commission via the Notice of Intent to Deactivate form.
34. The permit holder must not begin deactivating the road for 15 days from the date of submission of the Notice of Intent to Deactivate Form to the Commission.
35. Except with leave of the Commission, you must deactivate the road when the road is no longer required for the purposes specified in article 2.1 of the Agreement. At a minimum, you must:
 - a) Barricade of the road surface width in a clearly visible manner to prevent access by motor vehicles, other than all-terrain vehicles;
 - b) Remove stream pipe culverts and arch culverts;
 - c) Remove bridge and log or box culvert superstructures; and
 - d) Stabilize the road prism and the clearing width of the road.
36. Any road segment approved by this Agreement that is not included in the notice to deactivate must continue to be maintained by you.

ADVISORY GUIDANCE

1. Construction Plans are for your internal reference only and were not reviewed as a decision tool for this Agreement, nor do they form an integral part of the Agreement.
2. You should be aware that the approval under s.39 of the *Land Act* does not extend to Indian Reserves; parks, protected areas or recreation areas designated under the *BC Parks Act*; municipal Crown land; or private land.
3. You should be aware that the approval under the *Forest Act* to harvest timber does not extend to harvesting within private land or area based tenures, specifically woodlots, tree farm licences, First Nations woodland licences, and community forests.
4. You should be aware that impacts to recreation features, trails, recreation facilities, interpretative forest sites or recreation sites identified, authorized or established under the *Forest and Range Practices Act* are subject to additional authorizations by the Ministry of Forests, Lands and Natural Resource Operations.
5. You should be aware that there may be First Nation's traditional, cultural, or spiritual activities occurring concurrently with maintenance activities, as well as areas of current use or cultural resources that overlap the activity area. All reasonable efforts should be made to minimize interference with those activities while carrying out the activities authorized herein.

6. Temporary access is intended to be short-term access to facilitate construction of an oil and gas activity. It is not intended for sustained use and is not constructed to oil and gas road standards.
7. Instructions for submitting notice of construction start can be found in the Oil and Gas Activity Operations Manual on the Commission's website.