

The Right Honourable Justin Trudeau, P.C., M.P.,
Prime Minister of Canada,
Langevin Block
Ottawa, ON K1A 0A2

The Honourable Catherine McKenna P.C., M.P.,
Minister of Environment and Climate Change
House of Commons
Ottawa, ON K1A 0A6

November 12, 2015

Dear Prime Minister Trudeau and Minister McKenna,

Congratulations on your victories in the recent election and we wish you success as Prime Minister of Canada and Minister of the Environment and Climate Change respectively.

We are writing to request that you immediately stop oil pipeline reviews currently underway, including Kinder Morgan's Trans Mountain and TransCanada's Energy East proposals, and fix the problems and weaknesses in the environmental assessment process identified through a public review process.

We represent a broad cross-section of interests, and many of us are, or were, participants in the current National Energy Board (NEB) reviews of the Kinder Morgan Trans Mountain and TransCanada Energy East pipelines and tankers projects. This gives us first-hand experience of the many ways these processes are failing to serve the Canadian public interest. Enclosed with this letter is a list of some of the fatal flaws in the current review process led by the NEB.

We were heartened to hear your comments during the campaign that the Kinder Morgan Trans Mountain review needs to be redone. It follows that the same consideration be given to the review of the TransCanada Energy East pipeline. This will ensure First Nations, municipalities, organizations and individuals engaged in these reviews do not waste further time or resources on a process whose credibility is so damaged that its outcome can never yield social license or certainty. Time is particularly of the essence with the Kinder Morgan review, which has final arguments scheduled from December, 2015 to February, 2016. TransCanada will be submitting its proposal to the NEB by the end of 2015.

To set the stage for implementation of your platform commitments, it is essential that both the Kinder Morgan Trans Mountain and Energy East review processes be halted immediately. Doing so will send a signal that your government is serious about following through on your commitments to:

- Launch an immediate public review of Canada's environmental assessment processes, and
- In full partnership and consultation with First Nations, Inuit and Metis Peoples, undertake a full review of regulatory law, policies, and operational practices [to] ensure that the Crown is fully executing its consultation, accommodation, and consent obligations on project reviews and assessments, in accordance with its constitutional and international human rights obligations. These include Aboriginal and Treaty rights and the United Nations Declarations on the Rights of Indigenous Peoples.

We are looking forward to working with you and Indigenous Peoples to ensure this public review process is comprehensive and is conducted in an open, collaborative manner, informed by the best available scientific and Indigenous knowledge, in order to fix our broken regulatory regime.

A meaningful review of regulatory law, policies and operational practices should result in a regime that assesses all proposed projects and policies for their potential individual and cumulative impacts and

positive contribution to sustainability. This would include reviewing upstream and downstream greenhouse gas emissions, enabling early, ongoing and meaningful public participation and ensuring the ability of Indigenous Peoples to exercise their decision making authority according to their respective laws and governance systems.

This review is also an opportunity to undo the damage done by your predecessor to our environmental laws, including but not limited to *CEAA*, *the NEB Act*, *the Fisheries Act* and *Navigable Waters Protection Act*.

Only after our broken review processes are fixed can credible reviews of the Kinder Morgan Trans Mountain and TransCanada Energy East pipelines be carried out.

Once built, energy infrastructure lasts a long time and comes to define the landscape we have to work within for decades. Therefore, the issues that are being debated in these reviews strike at the heart of the kind of future we envision for Canada. We see this as a moment to rebuild environmental laws in Canada, and to be bold and imaginative. We can be better than the past. We look forward to contributing to the dialogue about real change in Canada's energy and climate strategies.

Once again, we respectfully request that you stop the Trans Mountain and Energy East reviews while these important national conversations take place.

Yours sincerely,



Joanna Kerr
Executive Director
Greenpeace Canada



Tim Gray
Executive Director
Environmental Defence Canada



Christianne Wilhelmson
Executive Director
Georgia Strait Alliance

National: Greenpeace Canada, Environmental Defence Canada, Council of Canadians, Fondation David Suzuki, Sierra Club Canada, 350.org, Forest Ethics

British Columbia: Burnaby Residents Opposing Kinder Morgan Expansion, Council of Canadians/Vancouver Burnaby Chapter, Forest Action Network, Georgia Strait Alliance, Living Oceans Society, Manitoba Energy Justice Coalition, North Shore NOPE, Pacific Paddle Sports, Pipe Up Network, Save our Shores, Sierra Club British Columbia, T Buck Suzuki Foundation, Tofino -Long Beach Chamber of Commerce, WaterWealth Project, We Love This Coast, West Coast Environmental Law Association, Wildcoast.ca, Wilderness Committee, Dogwood Initiative, Salmon River Enhancement Society, Burnaby City Council, UFAWU – Unifor, Conversations for Responsible Development (CRED)

Ontario: Ecology Ottawa, Toronto 350.org, Transition Kenora

Quebec: Action Climat Montréal (ACMCA), Action Environnement Basses Laurentides, Alerte Pétrole Rive-Sud, Alternatives, Association québécoise de lutte contre la pollution atmosphérique (AQLPA), apPAF, Association des Propriétaires Privés, Agricoles (acéricoles) et Forestiers, Association des étudiantes et des étudiants de Laval inscrits aux études supérieures, Centrale des syndicats du Québec (CSQ), (ÆLIÉS), Association madelinienne pour la sécurité énergétique et environnementale (AMSÉE), Citoyens au courant, Chorale du peuple (Occupons Montréal), Coalition vigilance oléoducs, Collectif Moratoire Alternatives Vigilance Intervention (CMAVI), Collectif scientifique sur la question du gaz de schiste au Québec, Conseil des Canadiens chapitre de Montréal, Conseil régional de l'environnement de Laval, Comité Citoyens et Citoyennes pour la Protection de l'Environnement Maskoutain, Comité vigilance hydrocarbures Trois Rivières, Comité vigilance hydrocarbures Brandon, Comité vigilance hydrocarbures St-Norbert, Comité vigilance hydrocarbures Lanoraie, Comité vigilance hydrocarbures Berthierville, Comité vigilance hydrocarbures Lavaltrie, Convoi-citoyen, Eau Secours! coalition québécoise pour une gestion

responsable de l'eau, Élan global, Énergie Alternative, regroupement citoyen des Îles-de-la-Madeleine, ENvironnement JEUnesse, Environnement Vert Plus, Equiterre, Fondation Cowboys Fringants, Fondation Rivières, Front d'action populaire en réaménagement urbain, FRAPRU, GRAME - Groupe de recherche appliquée en macroécologie, IFMSA-Québec, Justice Climatique Montréal, Les AmiEs de la Terre de Québec, Les Potagers sauvages, Mur de femmes contre les oléoducs et les sables bitumineux, Nature Québec, NON à une marée noire dans le St-Laurent, Marche des Peuples pour la Terre Mère, Municipalité Tadoussac, Mur de femmes contre les oléoducs et les sables bitumineux, Projet de la Réalité Climatique Canada, Projet ÉCOSPHÈRE, Regroupement citoyen contre les bitumineux et pour le développement durable, Regroupement national des conseils régionaux de l'environnement du Québec, Regroupement des organismes de bassins versants du Québec, Regroupement vigilance hydrocarbures Québec, Réseau québécois des groupes écologistes (RQGE), Saint-Antoine-de-Tilly – Milieu de vie, Sierra Club Québec, Société pour vaincre la pollution (SVP), STOP À LA POLLUTION DE NOS TERRES AGRICOLES, STOP Oléoduc Bellechasse, Stop Oléoduc Capitale nationale, Stop oléoduc Île d'Orléans, STOP Oléoduc Kamouraska, STOP oléoduc Montmagny-L'Islet, Stop Oléoduc Portneuf Saint-Augustin, Syndicat de la fonction publique et parapublique du Québec, Terra Terre Solutions Écologiques, Conseil central du Montréal métropolitain-CSN

New Brunswick: Conservation Council of New Brunswick, Red Head / Anthony's Cove Preservation Association

Nova Scotia: Ecology Action Centre

United States: Bold Nebraska, Centre for Biological Diversity, Energy Action Coalition, Friends of the Earth, Friends of the San Juans, Natural Resources Defence Council

Cc:

The Honourable James Carr PC, Minister of Natural Resources Canada

The Honourable Stéphane Dion, Minister of Foreign Affairs

The Honourable Kirsty Duncan PC, Minister of Science

The Honourable Jody Wilson-Raybould PC, Minister of Justice and Attorney General of Canada

The Honourable Hunter Tootoo PC, Minister of Fisheries and Oceans

Appendix: Fatal flaws in the current NEB review process

Many of the signatories to this letter have been involved in the NEB led environmental reviews of the Kinder Morgan TransMountain and TransCanada Energy East pipelines. Through this shared experience, the following list of flaws has been identified. It is expected that a proposed review will identify and address these and additional challenges.

- Failure to properly engage and consult with First Nations governments affected by pipeline proposals;
- Failure to include an assessment of upstream and downstream impacts of greenhouse gas emissions;
- Inability of the review process to consider, and thereby provide mitigation parameters for, the cumulative impacts of all large energy infrastructure projects, both underway and proposed;
- Exclusion of affected members of the public from the review process;
- Commencement of review processes before the proponent has filed all of the requisite studies;
- Removal of oral cross-examination from hearings;
- Perception of bias towards the proponents, most strikingly with the previous government's recent appointment to the NEB of the Trans Mountain consultant who had prepared key evidence on the economic justification for the project.
- Inadequacy and cuts to participant funding allocations in the face of increasingly complex project proposals;
- Cabinet's power to override NEB decisions;
- Unrealistic review timelines of 15-18 months that undermine the conclusions and recommendations stemming from those reviews; and
- Documents from the proponent not available in French for a project like Energy East that crosses the province of Quebec and could affect other French-speaking communities.