

**Trans Mountain Pipeline ULC (Trans Mountain)  
Onshore Pipeline Regulations and Filing Manuals Update  
Phase 2 – Engagement Overview  
Due Date: March 31, 2025**

## **B. OPR – Deactivation and End of Lifecycle Topic Paper**

This paper describes potential amendments to the OPR to improve the CER's oversight of end of lifecycle activities. Any suggestions for improvement regarding this topic are welcome, and in particular, the CER seeks your comments on proposed improvements related to:

- the definitions associated with end of lifecycle activities;
- types of submissions for OPR-related end of lifecycle activities;
- record retention; and
- surveillance and monitoring related to end of lifecycle activities.

### **Background: End of Lifecycle**

#### **Subtopic 1: Definitions**

In this phase of engagement, the CER would like to obtain feedback on additional topics that may not have been discussed in the first phase of engagement. Based on learnings from implementing the OPR, the CER has identified an opportunity to improve the OPR by adding or clarifying the definitions of in-service, decommission, operate and lifecycle. The CER is also seeking to clarify the definitions of restoration and reclamation, please see the Topic Paper on Environmental Protection for more details.

#### **Objective for Improvement**

The objective of the new requirements will be to help companies, Indigenous Peoples, and the public understand what constitutes an end of lifecycle activity. For example, under what circumstances are deactivation, decommissioning, or abandonment appropriate for a pipeline?

#### **Proposed Options**

The CER is considering the following options to meet the objective outlined above:

- Adding definitions for:
  - **In-service** – when the pipeline is actively flowing, including the delivery or transport of oil, gas or other commodity by pipeline, as a whole, to an end point, and
  - **Lifecycle** - refers to the phases and activities involved in building, operating, and retiring energy infrastructure. For a pipeline, these would include design, construction, operation, decommissioning and abandonment (whether abandoned in-place or removed), including reclamation/restoration as well as monitoring of an abandoned pipeline.
- Amending the definitions of:
  - **Decommission** - means to permanently cease active flow of a pipeline or part of one where the pipeline, or part of one, is located in a shared right of way, with other pipelines in active flowing service, and
  - **Operate** - includes repair, maintain, deactivate, and reactivate.

#### **Discussion Questions**

- b.1) Are there any comments on, or further suggestions regarding the new or amended definitions above?

**Response:**

Trans Mountain offers the following feedback on the CER's proposed added or amended definitions:

**CER proposed definition of "In-service" - when the pipeline is actively flowing, including the delivery or transport of oil, gas or other commodity by pipeline, as a whole, to an end point.**

Trans Mountain believes that the proposed definition for "in-service" creates misalignment or potential confusion with the current Leave to Open requirement under section 213 of the CER Act, which requires leave of the Commission prior to the introduction of product – which in many cases is required *prior* to the commencement of transportation service (i.e., wet commissioning) in the case of oil pipelines. If the proposed definition of "in-service" is adopted, a defined interim step should be considered to reflect the introduction of product prior to commencement of transportation service.

Defining 'in-service' to mean when a pipeline is actively flowing may create challenges as there are times where there may be disruption in active flow due to scheduled (i.e., cut out and repairs, tank cleanings and inspections) or unscheduled (i.e., malfunctions) service outages where there is temporary interruption to product movement. Under the proposed definition the pipeline would not be 'in-service'. Instead, the CER may want to consider "in transportation service" in lieu of "actively flowing", in the definition of in-service as scheduled and unscheduled service outages are reasonably expected to take place over the normal course of transportation service. It is when the pipeline is no longer in transportation service, where it is no longer commercially or physically viable, it has reached end of life.

**CER proposed definition of "Lifecycle" - refers to the phases and activities involved in building, operating, and retiring energy infrastructure. For a pipeline, these would include design, construction, operation, decommissioning and abandonment (whether abandoned in-place or removed), including reclamation/restoration as well as monitoring of an abandoned pipeline.**

Trans Mountain suggests that clarification on end of construction activities be added into the definition of "construction". This would include wet commissioning activities for oil pipelines, as discussed above under the definition of "in-service" and clean up and reclamation activities as discussed below. Trans Mountain suggests the following definitions for activities included in the construction phase:<sup>1</sup>

- **Rough/machine clean up:** general restoration and stabilization of the right of way by replacing grade cuts and recontouring the right of way to re-establish grade
- **Final clean up:** replacement of topsoil, removal of debris and vehicle crossings, preparation of soils for seeding and installation of permanent drainage, erosion and sediment control measures
- **Reclamation:** initial ornamental planting, revegetation, seeding and reforestation (off right of way)

These definitions were accepted by the Commission of the CER to be included in the construction phase on the Trans Mountain Expansion Project (TMEP).<sup>2</sup> As noted in the CER's Letter Decision No 275, once these activities are completed the phase of construction is complete and therefore all construction related conditions are closed. The CER also agreed with Trans Mountain's interpretation that construction does not include ongoing monitoring and remediation activities that fall under the post-construction environmental monitoring program.<sup>3</sup> As per Trans Mountain's experience on the TMEP, the construction phase may occur concurrently with the operations phase.

There is an additional benefit in clarifying the end stage activities included in the definition of construction as it can provide clarity around adherence to order conditions and application of management systems. For the TMEP, Trans Mountain found that some conditions were unclear on when they could be closed or completed based on the definitions of construction and operations. With the CER's agreement to denote

<sup>1</sup> Trans Mountain's letter submission on Timing for Compliance Filings related to Trans Mountain Expansion Project (TMEP) Conditions (TMEP Letter) [C26671-1].

<sup>2</sup> CER's Condition Compliance Letter Decision No. 275 (CER Letter) [C29724].

<sup>3</sup> CER Letter, PDF p.6

final construction activities, as noted in the TMEP Letter, Trans Mountain was able to ensure appropriate compliance occurred on each respective condition. The clarification of this definition in the OPR would allow for clarity on end of construction (rough/machine clean up, final clean up and reclamation) and operations (monitoring and remediation) phases and activities. This clarity supports stakeholder understanding on end of project activities and supports clarity between the CER and company of how conditions and management systems apply to each project phase and associated activities.

**CER amended definition of “Decommission” - means to permanently cease active flow of a pipeline or part of one where the pipeline, or part of one, is located in a shared right of way, with other pipelines in active flowing service.**

Trans Mountain disagrees with the proposed definition of ‘decommissioning’. There are many shared rights of way regulated by the CER which can contain pipelines owned by a variety of operators. Should a company make the determination that the pipeline is no longer physically or economically viable and decide to abandon a specific pipeline, it would proceed with filing an abandonment application with the CER. A company should not be limited by the presence of adjacent active pipelines, owned by itself or by others, in the contemplation of abandonment decisions for the asset. The proposed definition results in business risk that in Trans Mountain’s view is unacceptable.

Trans Mountain supports the definitions of decommissioning and abandonment contained within the Land Matters Guide and referenced in the *Five-Year Review of Abandonment Cost Estimates and Set-Aside and Collection Mechanisms 2021 Report* (Five-Year Report) [C24949-3]:

*Decommissioning is when a company permanently shuts down the operation of a pipeline, but service is still provided through other pipelines owned by the operator. For example, the same service (i.e. product transportation) still continues through other methods, such as newly built pipelines through the same or a similar route or different pipelines within the same system. When a pipeline is abandoned, its operation permanently shuts down and all service ceases. There are no new pipelines built to provide the same service and service does not continue through other pipelines within a system (CER Land Matters Guide).<sup>4</sup>*

Trans Mountain would also suggest that the CER align the definitions within the OPR with the definitions within the Five-Year Report, the Land Matters Guide and any other CER documents (including those around the abandonment trusts) that may utilize these definitions for consistency. The review should include the definitions proposed, as well as the potential definitions around rights of way. The CER could also consider existing definitions within the Canadian Standards Association (CSA) standards such as CSA Z662.

## **Subtopic 2: Decommissioning**

In the first phase of engagement on the OPR Review, the CER heard that:

- the OPR should be more explicit about what is required of companies in relation to impacts to Indigenous Peoples and the environment;
- companies need to provide more information to the CER, including a decommissioning plan focused on the manner in which pipelines can be safely decommissioned; and
- more clarity is required regarding the distinction between decommissioning and abandonment.

In response to this feedback, the CER is interested in hearing your perspectives on how section 45.1 of the OPR could be further improved.

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<sup>4</sup> Five-Year Report PDF p.74, footnote 41.

### Objective for Improvement

The objectives of new requirements will be to help ensure that companies:

- Have clarity regarding when it is appropriate to decommission a pipeline, and working towards eventual abandonment when feasible;
- Take into account impacts to the rights and interests of Indigenous Peoples when planning and undertaking decommissioning activities; and
- Plan their decommissioning activities in a manner that is safe and restores the environment appropriately, recognizing there are other active pipelines in the right-of-way.

### Proposed Options

The CER is considering making changes to section 45.1 of the OPR, in addition to changes to the definition, discussed above.

### Discussion Questions

- b.2) Do you have feedback on how section 45.1 could be improved to address the comments received; for example, what elements should be included in a decommissioning plan?

### Response:

In Trans Mountain's view the current definitions for decommissioning and abandonment ought to continue in their current form.

The CER's expectations for decommissioning projects including engineering, environmental and socio-economic assessment, engagement, lands, economics and finance are clear and contained in *Filing Manual* Guide K.

The expectations for engagement of Indigenous Peoples and other potentially impacted parties are relayed in the *Early Engagement Guide*, and supported by external communication requirements within the management systems requirements of the OPR. While the *Early Engagement Guide* is not a prescribed tool for decommissioning activities, Trans Mountain considers its guidance in planning for these activities. Through engagement activities, companies can understand how the proposed decommissioning activity may impact the rights and interests of Indigenous Peoples, and to help support plans to avoid or mitigate those impacts.

In Trans Mountain's view, the decommissioning requirements of OPR section 45.1, *Filing Manual* Guide K, external communication requirements of the management system and guidance in the *Early Engagement Guide*, the requirements are currently robust. However, should additional guidance be required, Trans Mountain suggests that such elements be incorporated into a guidance document or the *Filing Manual*, rather than the OPR.

### **Subtopic 3: Management System**

In this phase of engagement, the CER would like to obtain feedback on additional topics that may not have been discussed in the first phase of engagement. Based on learnings from implementing the OPR, the CER has identified an opportunity to expand its oversight of management systems to include decommissioned and abandoned pipelines as these are not currently covered by the OPR.

### Objective for Improvement

The objective of new requirements will be to help ensure that companies:

- Maintain appropriate oversight through the implementation of relevant management system processes in relation to their decommissioned and abandoned pipelines.

## Proposed Options

The CER is considering the following option to meet the objective outlined above:

- Changes to section 6.5 of the OPR to include decommissioned and abandoned pipelines; that is, incorporating the establishment and implementation of management system processes, as appropriate, to decommissioned and abandoned pipelines.

## Discussion Questions

- b.3) What is your feedback on requiring companies to establish, implement and maintain a management system for decommissioned and abandoned pipelines?

### Response:

Trans Mountain notes that abandoned pipelines are included in the OPR management system requirements pursuant to section 6.1(1)(c), and as such, does not support the proposal to incorporate a management system for abandoned pipelines for two reasons: (1) abandonment is not an operational phase of the pipeline lifecycle, and (2) should a company look to abandon a pipeline, it would need to seek leave to abandon pursuant to section 241 of the CER Act and would not be able to abandon a pipeline without leave from the Commission. Through this process, the Commission would be required to assess the merits of the application and render a decision, *with conditions*, as to whether the pipeline abandonment is in the Canadian public interest. Abandonment of the pipeline is a unique activity relative to an operational activity, and while it would warrant extensive plans to ensure the safe isolation, abandonment in place or removal and restoration, given its limited and finite scope, especially after abandonment, which would be limited to monitoring and remediation where required, the full application of the management system governance structure and its corresponding requirements are not commensurate with the hazards and risk of the post-abandonment state. The application of a management system structure for abandonment activities imposes a long-term obligation on the part of the pipeline company that stretches beyond a reasonable horizon, a level of oversight that is not commensurate with hazards and risks and may result in insufficient funds in the company's set-aside mechanism that has been mandated, structured and approved by the CER.

Trans Mountain is supportive of having decommissioned pipelines included in Section 6.5 as these assets reside within the operational phase of the lifecycle and would appropriately be included in section 6.1(1)(c)

- b.4) What should the scope of the management system be for decommissioned and abandoned pipelines?

### Response:

Please see the response to request b.3), above.

## Subtopic 4: Notification for Deactivation

In the first phase of engagement on the OPR Review, the CER heard that the OPR should consider alternatives to requiring applications for activities such as deactivations and reactivations, including the submission of notifications for deactivations as opposed to applications, which are currently required pursuant to section 44 of the OPR. In response to this feedback, the CER wishes to obtain feedback in relation to a potential change in this regard.

## Objective for Improvement

The objective of new requirements will be to help ensure that companies can:

- Deactivate their pipelines in an efficient manner. Changing the requirement from an application to a notification proactively informs the CER of plans to manage pipelines which will not be in service for a period of 12 months or more, but which may be needed for future service.

## Proposed Options

The CER is considering the following option to meet the objective outlined above:

- Companies would be required to submit notifications rather than applications for deactivations.
- Such notifications must be submitted prior to the end of a twelve (12) month deactivation period and provide reasons for the deactivation.
- For pipelines that will be deactivated for prolonged periods, companies would be required to submit notifications to the CER before the end of every two (2) year deactivation period confirming the status of the deactivated pipeline. This requirement must be fulfilled until an application for change of status (application to reactivate, decommission or abandon the pipeline) is made to the CER.

## Discussion Questions

b.5) Are there risks associated with requiring companies to file a notification for deactivation activities instead of filing an application, and if so, how could they be mitigated?

### Response:

Trans Mountain does not anticipate foreseeable risk because of notifications, as opposed to applications for deactivation activities, and supports this change. Consideration should be given to establishing specific information required, lead times and the CER process for acceptance. Trans Mountain sees an opportunity to align deactivation notification requirements and lead time to that of an activity that takes place under the [Operations and Maintenance Activities on Pipelines Regulated under the Canadian Energy Regulator Act: Requirements and Guidance Notes](#).

b.6) Are there any concerns with the requirement to provide notifications on status to the CER every two (2) years during which the pipeline is deactivated to confirm that it is still being safely maintained in an operating state?

### Response:

Trans Mountain does not believe that providing notifications on a set schedule (every two years) on the status of deactivated pipelines would mitigate risks of deactivation. In its view, this would only increase reporting burden. However, there may be value in requiring companies to notify the CER of a change of status if the deactivated line has been observed to have deteriorated, the deactivated state has been compromised or there has been a containment failure on a deactivated pipeline (i.e., nitrogen blanket has deteriorated).

Should a company need to reactivate a pipeline, it is currently required to apply to the Commission pursuant to section 45(1) of the OPR demonstrating that the pipeline is fit for service prior to being placed into operation. In the absence of an application being submitted, or a notification that deactivation has been compromised, the asset would continue to be maintained in a deactivated state.

## **Subtopic 5: Surveillance and Monitoring**

In the first phase of engagement on the OPR Review, the CER heard that the OPR should consider how surveillance and monitoring could be applied to abandonment and how Indigenous Peoples should be involved in the development of indicators in that regard. Section 39 of the OPR requires companies to develop a surveillance and monitoring program to protect the pipeline, the public and the environment; however, this section does not explicitly mention monitoring of decommissioned and abandoned pipelines. In response to this feedback, the CER is seeking comments on whether section 39 is the appropriate place in the OPR to include explicit provisions around the monitoring of abandoned and decommissioned pipelines.

### **Objective for Improvement**

The objectives of new requirements will be to help ensure that companies:

- Effectively monitor decommissioned and abandoned pipelines;
- Involve Indigenous Peoples in the planning of surveillance and monitoring activities for decommissioned or abandoned pipelines.

### **Proposed Options**

The CER is considering the following option to meet the objectives outlined above:

- Expansion of section 39 to include surveillance and monitoring for decommissioned and abandoned pipelines.

### **Discussion Questions**

b.7) Do you have feedback regarding the applicability of section 39 of the OPR (surveillance and monitoring) to include provisions around monitoring of abandoned pipelines?

#### **Response:**

Trans Mountain agrees that abandoned pipelines need to be monitored by owner companies but notes that monitoring activities are better captured under abandonment plans that would be subject to review, assessment and decision of the Commission of the CER, subject to conditions to be determined by the CER, rather than included in the OPR. Please also see the response to request b.3).

b.8) Do you have feedback on how Indigenous Peoples can be involved in the monitoring of decommissioned and abandoned pipelines.

#### **Response:**

Trans Mountain believes that involvement of Indigenous Peoples should be considered and included within the abandonment plans. Please see the response to request b.2), and response to Paper M, requests m.20) and m.21).

### **Subtopic 6: Records Retention**

The CER has identified an opportunity to strengthen requirements relating to records retention for decommissioned and abandoned pipelines. The CER notes that CSA Z662, which is incorporated by reference into the current OPR, is not clear on records retention for pipelines that are decommissioned and abandoned.

### **Objective for Improvement**

The objective of new requirements will be to help ensure that companies:

- Retain records for decommissioned and abandoned pipelines.

### **Proposed Options**

The CER is considering the following option to meet the objectives outlined above:

- Expanding section 56 to ensure that records relating to decommissioned and abandoned pipelines are maintained.

**Discussion Questions**

- b.9) Do you have feedback on including decommissioned and abandoned pipelines in section 56 of the OPR? For example, what is the appropriate record retention duration for these pipelines?

**Response:**

Trans Mountain agrees that records need to be retained for decommissioned and abandoned pipelines and considers the requirement to maintain such records to be a current requirement under section 56, which sets out record retention requirements (section 56(e)), and applies to pipelines that are decommissioned in place. Section 56(f) infers that records of removed buried facilities do not need to be retained. Section 56(g) requires retention of records for abandoned facilities to be retained for at least two years. In Trans Mountain's view, the record retention requirements for decommissioned and abandoned pipelines are appropriate.

Trans Mountain would suggest that details of what should be kept on record should be included under guidance documents and aligned with the requirements of other standards, such as CSA Z662.