

**VIA EMAIL SUBMISSION**

18 April 2016

National Energy Board  
517 Tenth Avenue S.W.  
Calgary, Alberta T2R 0A8

**To: Ms. Chantal Briand, Regulatory Approaches**

Dear Ms. Young:

**Re: Comments on the Proposed Pipeline Damage Prevention Regulations in Canada Gazette Part I**

Kinder Morgan Canada Inc. (“Kinder Morgan”), operator of Trans Mountain Pipeline ULC, has reviewed the proposed *National Energy Board Pipeline Damage Prevention Regulations – Authorizations* (“Authorizations Legislation”) and *National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies* (“Obligations Legislation”) as posted in Canada Gazette Part I, dated 19 March 2016.

The Canadian Energy Pipeline Association (“CEPA”) has submitted comments to the National Energy Board (the “Board”) concurrent to this submission. Kinder Morgan is a member of CEPA, and has been involved in discussions leading up to those comments, and fully supports the comments of CEPA.

Further to those comments, Kinder Morgan would like to emphasize the following points for consideration of the Board:

Incorporation of CSA Z247

Canadian Standards Association (“CSA”) Z247, Damage Prevention for the Protection of Underground Infrastructure, prescribes the industry standard for damage prevention activities, and was developed, in part, to offer damage prevention harmonization across regulatory jurisdictions. For this reason, Kinder Morgan supports the incorporation of CSA Z247 into the proposed legislation, much in the same manner that CSA Z662 is required by section 4 of the *National Energy Board Onshore Pipeline Regulations*.

Authorizations Legislation – Section 13(2)

Section 13(2) of the proposed Authorizations Legislation identifies the suite of activities defined as an “agricultural activity” that would be exempt from the provisions of section 112(2) of the *National Energy Board Act*. Included in that suite of activities are mushroom growing, nursery and sod operations. These operations in particular do result in reduction in the depth of ground cover over the pipeline, and for this reason offer a direct threat to the integrity of the pipeline. For this reason, Kinder Morgan requests that mushroom growing, nursery and sod operations are removed as exempted activities under section 13(2) of the proposed Authorizations Legislation.

Obligations Legislation – Section 3(1)

Section 3(1) of the proposed Obligations Legislation requires that a pipeline must, within ten (10) working days after receiving the request, inform the person that made the request as to whether the consent has been granted or denied. Kinder Morgan understands that, in part, this language is continued from section 7 of the *National Energy Board Crossing Regulations, Part II*, and is not intended to change in the proposed Obligations Legislation.

In Kinder Morgan's view, ten (10) working days is a short period of time to request, receive and assess all required information to complete the necessary studies that determine whether such ground disturbance is safe. Provincial legislation allows for 21 working days, which takes into consideration the time needed to carry out complex studies often required by the application review process.

Obligations Legislation – Section 9(1)

Section 9(1) of the proposed Obligations Legislation requires pipelines to carry out any inspections that are necessary to ensure that any deterioration of a facility that might adversely affect a pipe is detected. Pipelines may not have the authorization, ability or access to a third-party owned facility, and for this reason, would not be able to carry out inspections of that facility. To reflect a pipeline's limited access to a third-party facility, Kinder Morgan suggests that the word "inspection" be replaced with "observation".

Obligations Legislation – Section 16(b)

Section 16(b) of the proposed Obligations Legislation requires pipelines to monitor any changes in the use of land for which a pipeline is located, and lands adjacent to. There is no limitation as to the size of the adjacent lands. For this reason, Kinder Morgan suggests that the adjacent lands be limited to the prescribed area, which is in alignment with ground disturbance philosophy in the proposed regulations.

Kinder Morgan thanks the Board for the opportunity to provide feedback on the proposed legislation.

Yours truly,



Hugh Harden  
Vice President, Operations and Engineering  
Kinder Morgan Canada Inc.