



Tsleil-Waututh Nation

səlilwətał



March 10th, 2022

URGENT: Trans Mountain Pipeline Risk

To: Bharat Masrani
Chief Executive Officer of TD Bank Group

Dear Mr. Masrani,

I am writing to you on behalf of the Tsleil-Waututh Nation Sacred Trust Initiative to request a meeting to discuss your company's potential business relationship with the Trans Mountain Corporation.

The Trans Mountain Pipeline Expansion Project's ("TMX") recent construction cost estimate of \$21.4 billion is a 70% increase in the two years since the last estimate; double the cost estimate at the time Canada purchased TMC in 2018; and four times the original cost estimate when Kinder Morgan proposed TMX in 2013. Minister of Finance, Chrystia Freeland, announced that no further public funds would be invested in TMX, and that the remaining \$10-15 billion needed to complete construction would have to come from public debt markets or financial institutions like yours.

We believe that you may be considering financing for TMX, based on your history of supporting the oil and gas sector and TD's role advising the Minister of Finance on this matter. Since the Paris Agreement was signed in 2015, TD has provided over USD\$121 billion in financing for the fossil fuel sector, the 9th highest in the world.¹

It is our view that TD is not adequately considering the material risks associated with Trans Mountain as it relates to climate change and infringing Indigenous human rights. Furthermore, we are concerned that your analysis that TMX remains commercially viable at \$21.4 billion does not adequately assess the impacts of TMX's tolls which will prevent the owners from recovering the cost of construction and operations of the pipeline. The Parliamentary Budget Officer, Yves Giroux recently stated that TMX is "clearly non-profitable."

Tsleil-Waututh Nation does not consent to the Trans Mountain Expansion project proceeding in our territory as it poses a risk too great for us to accept. The Project is a violation of Tsleil-Waututh's constitutionally-protected Aboriginal title, rights, and interests, and Tsleil-Waututh has banned the project according to our own unextinguished laws. Tsleil-Waututh respectfully requests that TD decline to finance Trans Mountain given the grave risk this project poses to our Nation and to the climate.

As a signatory to the Equator principles, you have committed to due diligence requirements in respect of climate change and human rights considerations, including the need to seek the "free, prior and informed consent" (FPIC) of Indigenous peoples impacted by proposed projects. We write today to let you know that should you

¹ Source: Rainforest Action Network, *Banking on Climate Chaos 2021*, <https://www.ran.org/wp-content/uploads/2021/03/Banking-on-Climate-Chaos-2021.pdf>

decide to finance TMX, it must be reported as Category A: Projects with potential significant adverse environmental and social risks and/or impacts that are diverse, irreversible or unprecedented.

The Tsleil-Waututh Nation withholds Consent

The Tsleil-Waututh Nation are the “People of the Inlet” and a distinct Coast Salish First Nation whose territory includes Burrard Inlet, the location of the terminus of the Trans Mountain Pipeline in Burnaby, British Columbia, Canada. The Tsleil-Waututh people have lived in, occupied, governed, and acted as stewards of our territory since time immemorial and continue to do so today. Tsleil-Waututh holds protected Aboriginal rights, title, and interests as recognized and affirmed by the Canadian Constitution and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

The same inlet from which we take our name is also home to the Westridge Marine Terminal where the Trans Mountain pipeline reaches the Pacific coast. Our community is less than 2 kilometers across the water from the tanker terminal. Our members look at the tanks at Westridge every day from their front porches. If the Trans Mountain Expansion Project were to go ahead, two Aframax-sized oil tankers would pass our community every day.

The Tsleil-Waututh Nation’s Treaty, Lands, and Resources Department prepared an Assessment Report in 2015 to assess the impacts the Project would pose. A copy can be found on TWN’s website at twnsacredtrust.ca/assessment-report-download and has been filed electronically with the National Energy Board (“NEB”) and provided to other levels of government, financial analysts and credit ratings agencies. The Assessment Report outlines the result of a carefully designed assessment process conducted pursuant to our Stewardship Policy. The assessment is grounded in our unextinguished Tsleil-Waututh law and policy, and is based on both cutting-edge western science led by recognized experts as well as traditional knowledge. The assessment found that the following impacts would infringe our Indigenous rights and title, including our ability to practice our culture:

1. oil spills from the project are inevitable,
2. spilled oil cannot be completely cleaned up,
3. if diluted bitumen (dilbit—the product to be shipped by the Trans Mountain pipeline) is spilled, it will likely submerge and linger for years,
4. spilled oil will have dire consequences for human health and the environment and,
5. climate change associated sea level rise will directly affect our waterfront community.

After receiving and reviewing the Assessment Report, TWN’s Chief and Council, at a duly convened band council meeting, resolved that, in view of the conclusions of the Assessment Report, the Project should not be granted the legal authority required under Tsleil-Waututh law to proceed in our territory. Therefore TWN has declined to consent to or otherwise authorize the Project proceeding in our territory.

This pipeline, and by extension your business relationship with Trans Mountain, is a threat to our land, our water, our people, our life. It is, further, a violation of Tsleil-Waututh’s constitutionally-recognized Aboriginal rights, title, and interests. Tsleil-Waututh is prepared to use all legal means necessary to stop the TMX.

We also note that the UN committee on the elimination of racial discrimination (CERD) issued a directive in 2020 for Canada to stop work immediately on TMX due to violations of UNDRIP and the UN Convention on the Elimination of All Forms of Racial Discrimination.

I trust that should you and I have the opportunity to meet, you would come to agree that this project presents a risk that no one, including the Tsleil-Waututh, should be asked to take.

Yours sincerely,

Gabriel George
Director, Treaty, Lands and Resources Department
Tsleil-Waututh Nation