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PPST Prepares To Take Trans Mountain to Court over Non-Compliance

Unceded Coast Salish Territories (BURNABY, BC) — The current order from Canada Energy Regulator (CER) to stop all cutting and mowing along the Trans Mountain pipeline expansion (TMX) project has raised many eyebrows. To the community coalition, Protect the Planet Stop TMX (PPST), this latest order reinforces the belief that this Crown corporation is systemically failing to implement basic standards. With support from West Coast Environmental Law, PPST intends to hold TMX accountable in the courts for its violations, particularly to species and ecosystems.

On [Thursday June 3, 2021](#), the Canada Energy Regulator (CER) issued an order that restricts clearing activities across the project – specifically tree clearing and mowing. CER is the agency that enforces safety and environmental guidelines for all Canadian pipeline projects. Although the timing coincides with the discovery by community volunteers on Tuesday of a chickadee nest on an active TMX construction site, Trans Mountain denies this, stating [“the regulator’s order was issued after a subcontractor started tree cutting and mowing activities without completing the necessary environmental compliance work”](#). We believe this is another way of saying: without checking for the presence of active nests.

Rod Marining, director of the BC Environment Network said, “The CER issuing a work stoppage for the entire pipeline route suggests there is more going on than a few contractors breaking the rules.”

Sara Ross, one of the co-founders of the Community Nest Finding Network, said: “As community monitors we have witnessed, documented

and reported countless violations and broken rules over the course of this pipeline project. This stop-work order echoes the [one issued in December for worker safety violations](#), and the one in [April to protect hummingbirds and other nesting birds](#).”

Two members of PPST, Dr. Christine Thuring and Rod Marining, have sought legal advice to explore why and how TMX is permitted to flagrantly disregard the requirements of endangered species and ecosystems. To date, the legal team had focused on compliance issues with relation to endangered species, like Oregon forest snail and Nooksack dace, as well as legislation protecting riparian areas.

Dr. Christine Thuring, a plant ecologist and co-litigant on the pending legal action by PPST, said, “One might expect a Crown Corporation to be more transparent than a regular corporation, yet we have witnessed the opposite with TMX. There is a significant disparity between TMX's published work on the CER schedule and what is actually happening on the ground. We believe this recent development is only the tip of the iceberg of untruths on the part of TMX, and we are retaining our lawyers to prepare a warning letter. We are prepared to issue a lawsuit for the environmental infractions we’re seeing. These environmental infractions are being funded completely by Canadian taxpayers.”

Rod Marining, co-litigant, continued: “We understand that two Project Managers have quit their jobs with TMX because they do not wish to be associated with this project. Actions speak louder than words. Our legal case will expose the record of infractions that this Crown Corporation is hiding from taxpayers”.

PPST and the Community Nest Finding Network have financed a legal letter warning TMX that further violations of the law will be met with legal actions.

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BACKGROUND

The \$12-18 billion pipeline project was purchased from Texas oil giant Kinder Morgan by the federal government in 2018. Costs on the pipeline have ballooned since the purchase. The project is opposed by the Squamish Nation, Tsleil-Waututh Nation and Coldwater Indian Band, who were denied leave to appeal by the Supreme Court of Canada. It also conflicts with Canada's commitment under the Paris Climate Agreement to keep global temperatures from rising above 1.5 degree Celsius. The project would impact numerous drinking water sources along the route, Burrard Inlet and Tsleil-Waututh, Qayqayt and other First Nations, Burnaby Mountain and Simon Fraser University. It would also spell a 7-fold increase in tanker traffic in the Burrard inlet and an increased threat to the endangered Southern Resident Orcas. The Province of British Columbia, the State of Washington, and 20 municipalities oppose the pipeline project, including the Cities of New Westminster and Burnaby.

The existing Trans Mountain pipeline is already a major environmental and public health hazard with a [long history of disastrous spills](#). In June 2020, 50,000 gallons of crude oil [spilled](#) from a pump station located above an aquifer that supplies the Sumas First Nation with drinking water. The thirteen 67-year old tanks at the terminus of the pipeline are too close together to put out in the event of a fire, according to the Burnaby Fire Department. 240,000 people live within the 4.2 km radius of the site that is considered an evacuation zone including 32,000 members of the SFU community. A [growing number](#) of insurers have pulled out of the pipeline project; those still involved [are facing pressure to divest](#). In November 2020, the Canada Energy Regulator [released a report](#) stating that there is no need for any pipeline expansion if Canada takes measures to curb GHGs, and a [recent warning from economists](#) notes that the TransMountain project is no longer financially viable. Indigenous groups, as well as the final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls have pointed out the connection between resource extraction man-camps and [violence against Indigenous women](#).

The coalition of environmental groups supporting Protect the Planet Stop TMX (PPST) include, but are not limited to, Mountain Protectors, Protect the Inlet, STAND.earth, Extinction Rebellion Vancouver, Burnaby Residents Opposing Kinder Morgan Expansion (BROKE), Climate Convergence, Dogwood, Wilderness Committee and Colony Farms Regional Park.

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