



News Release

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For immediate release

PIPE UP CHALLENGES JUDICIAL INDEPENDENCE OF NEB

Lower Mainland, BC. On Tuesday, October 12, 2015, the PIPE UP Network filed application to challenge the judicial independence of the National Energy Board in its review of Trans Mountain ULC's proposed pipeline expansion.

In its application, PIPE UP says that the NEB's judicial independence has been compromised in two ways: First, the NEB has not been transparent and accountable to the public in its behind-the-scenes dealings with Trans Mountain's key witness, Steven Kelly, who was appointed as a member of the NEB mid-hearing on July 28, 2015. Second, two of three members of the Panel presiding over the Trans Mountain hearing are temporary members of the NEB who serve "during pleasure" for three-year terms that were renewed mid-hearing in the Spring of 2015. Members of the NEB who serve "during pleasure" lack security of tenure and may be dismissed arbitrarily and without cause.

"Parliament intended for the NEB to act as a court of record to adjudicate economic issues of national importance and vital health and public safety issues," said Lynn Perrin, of PIPE UP. "PIPE UP does not believe that the NEB are simply government employees; the NEB is a court of record". If the NEB is to command the respect accorded to a court, its members should have security of tenure."

The NEB does have full-time members with security of tenure who sit "during good behaviour", one of whom is on the Panel hearing the Trans Mountain application.

PIPE UP seeks an order quashing the Trans Mountain proceedings and remitting the application of Trans Mountain Pipeline ULC for reconsideration before a differently constituted Panel consisting only of NEB members with security of tenure. PIPE UP also seeks an order declaring that members of the NEB who are appointed to act "during pleasure" pursuant to s.4 of NEBA should not conduct public hearings on pipeline applications.

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Useful links:

Notice of Motion dated October 13, 2015 <http://docs.neb-one.gc.ca/fetch.asp?language=E&ID=A73168>

Aug. 21 NEB ruling re Kelly appointment <http://docs.neb-one.gc.ca/fetch.asp?language=E&ID=A72283>

Sept 4 letter from PIPE UP <http://docs.neb-one.gc.ca/fetch.asp?language=E&ID=A72431>

Sept. 11 Trans Mountain response <http://docs.neb-one.gc.ca/fetch.asp?language=E&ID=A72501>

Sept. 11 letter from PIPE UP <http://docs.neb-one.gc.ca/fetch.asp?language=E&ID=A72521>

Sept. 24 NEB Ruling 92 <http://docs.neb-one.gc.ca/fetch.asp?language=E&ID=A72730>