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Via Email: nrcan.paneltmx-comitetmx.rncan@canada.ca

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Rt. Hon. Justin Trudeau, PC, MP
Prime Minister of Canada

Hon. James Carr, PC, MP
Minister of National Resources

Kim Baird, CM
Ministerial Panel Chair

RE: Decision of TMX Ministerial Panel to change public participation rules at the last minute

Prime Minister, Minister, and Madam Chair,

It has come to our attention that the Ministerial Panel tasked with conducting additional public process of the Kinder Morgan Trans Mountain Expansion Project (“TMX Ministerial Panel” or “Panel”) has recently communicated new limitations on the type of public input they will consider, threatening to disregard, only two days before the consultation period ends, hundreds if not thousands of Canadians’ responses. In short, the Panel states that it will not accept submissions facilitates through third party websites if the content is repetitive. This last minute change strikes us as unclear and arbitrary and will erode public

confidence in the fairness of this process – which has already been the subject of public criticism in relation to its process. We have expressed our concerns in the past about the National Energy Board shutting out the public from its hearings and making public participation difficult – this move by the Panel reinforces these concerns.

As you are aware, the Panel held a series of in-person meetings along the pipeline route over July and August, 2016. They also received online submissions via a questionnaire and email until today, September 30, 2016. The TMX panel suggests interested citizens can “submit documents directly to the panel” and provides an email address to do so.

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We understand that a number of third party groups – both in favour of and opposed to the TMX Project – have engaged their constituencies to participate in the TMX Ministerial Panel process in good faith. Some of those groups have provided a template or suggestions for submission, while others have only provided links to the email address and questionnaire. In our view, the role of these third parties in facilitating the engagement of Canadians with government processes should be applauded, not censured.

Yet on September 28, 2016, the Panel sent an email to several groups stating:

*While we appreciate your interest in this consultative process, input from mass email campaigns initiated through third party web sites will **not be considered** if they contain content which is repetitive or does not relate to the mandate of the Panel, or are not identifiably sent by Canadians. (emphasis added)*

The introduction of these new rules of engagement, just two days before the deadline to submit, is unfair and arbitrary. In addition, it is an unreasonable interference with the freedom of expression

of these individuals and their participation in a government public consultation process. Many individuals on either side of the issue choose to express their individual opinions to the Panel using the facilitation of a third party group with which they associate or that they support. This has always been a feature of democratic life as people have come together in associations, signed petitions, and organized. Their opinions should not be rejected by the government simply because they choose to express them to the Panel in individualized emails that are collected and sent by a group that they support.

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Their opinions should also not be disregarded based on their being “repetitive”. If a million people sign a petition, for example, it would be completely absurd for Parliament or the government to disregard their opinion, simply because the million people all signed onto the same political message. Similarly, it is absurd for the Panel to disregard the messages of Canadians who share similar views – whether their messages are worded uniquely but express similar opinions, or whether they express themselves in identical language on a common topic of interest. In some of the emails setting these new rules, the TMX Ministerial Panel characterises mass email campaigns as ‘SPAM’ campaigns. This characterization completely disrespects and disregards the constitutionally protected expression of thousands of opinions, which you have expressly sought.

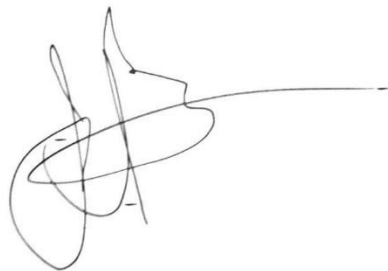
Limiting the easiest and most utilized method of communication also violates the spirit and intent of the Panel’s mandate to “create further opportunities for people from potentially affected communities close to the proposed pipeline and shipping route to provide their views on the project.” Disqualifying views based solely on the method of communication, only days before the submission deadline unfairly excludes the views of thousands of Canadians who have relied on the publicly available methods of communication.

The Government of Canada has recently made changes to the way in which citizens and residents can communicate with legislators in its E-Petition service. As stated above, the exclusion of 'mass email campaigns' because they are repetitive is akin to stating that the government will not consider the content of these petitions because they are repetitive, and undermines the principles of open democracy and public participation in government processes specifically designed to receive public input.

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We call on the TMX Ministerial Panel to immediately reverse its unilateral and arbitrary blanket exclusion of emails facilitated through third party organizations with which individuals may be affiliated. While the Panel does not have any decision making authority, and rather has been described as the 'ear' of the government, selectively refusing to hear certain input based solely on the method of communication violates the trust and arguably the mandate of the Panel. It is also an unreasonable interference with the freedom of expression of those who wish to participate, and with their participation in a public consultation process.

Sincerely,

A handwritten signature in black ink, appearing to be 'Josh Paterson', with a long horizontal line extending to the right.

Josh Paterson
Executive Director