



April 17, 2015

Chief Cyril Livingstone and Councillors
Lake Cowichan First Nation
P.O. Box 159
313B Deer Road
Lake Cowichan BC V0R 2G0

Re: Roberts Bank Terminal 2 Project - consultation approach for marine shipping within the federal environmental assessment process

Dear Chief Livingstone and Councillors,

Port Metro Vancouver proposes to construct and operate a new three-berth marine container terminal (the Project) located at Roberts Bank in Delta, British Columbia (B.C.). Located next to the existing Deltaport and Westshore Terminals, the Project would provide an additional 2.4 million twenty-foot equivalent units of container capacity per year at Roberts Bank, doubling the container capacity of the terminal.

The Port expects that up to an additional 260 ships per year could call on Roberts Bank Terminal 2 by 2030. These ships would use the main shipping route from Juan De Fuca Strait to Vancouver (see map in attachment #1).

On January 7, 2014, the Honourable Leona Aglukkaq, federal Minister of the Environment (the Minister) referred the proposed Roberts Bank Terminal 2 project to an environmental assessment (EA) by a review panel, based on the potential of the project to cause significant adverse environmental effects.

The Minister announced today that the Terms of Reference (<http://www.ceaa-acee.gc.ca/050/documents/p80054/101301E.pdf>) for the Review Panel assessing the proposed Roberts Bank Terminal 2 have been finalized. Based on feedback received during the comment period on the draft Terms of Reference, the Minister has identified two additional matters to be taken into account in the environmental assessment. These two additional factors are:

- The potential effects on the environment of container ships coming and going from the proposed terminal through Juan de Fuca Strait and the Strait of Georgia. This is referred to as “the environmental effects of marine shipping associated with the project which is beyond the care and control of the proponent and within the 12 nautical mile limit of Canada’s territorial sea. Consideration includes the environmental effects of malfunctions or accidents and any cumulative environmental effects, the significance of those effects, suggested mitigation measures and the possible requirements of any follow-up program that may be required”; and,

- The potential economic, social, heritage and health effects of the project, including cumulative effects that may not be encompassed by the definition of environmental effects under CEAA 2012, and practicable means to mitigate such potential adverse effects.

The Agency has asked Port Metro Vancouver to provide information on marine shipping associated with the project between the extent of the care and control of Port Metro Vancouver and the 12 nautical mile limit of Canada's territorial sea. As part of this process, we have asked the Port to talk to your Nation and describe any concerns or suggestions that you might have with respect to the proposed increase in shipping container traffic.

For more information on the addition of marine shipping to the factors to be considered in the environmental assessment (EA), please see the Information Sheet (attachment #1): *Additional Factors to be Considered in the Environmental Assessment*.

On the matter of an increase of marine shipping due to the Project, the government would like to understand if you have any concerns related to this issue in your territory. Please feel free to provide this information directly to the Agency before the Review Panel has been established. In addition, the Review Panel can collect information from your Nation about any potential or established Aboriginal or Treaty rights you feel may be impacted by marine shipping associated with the Project. We encourage you to participate in the Review Panel process by bringing those issues and concerns to the Review Panel.

Based on the Minister's changes to the Terms of Reference, the federal government is proposing to consult with your Nation on marine shipping associated with the proposed Roberts Bank Terminal 2 project.

The Agency is seeking the initial views of the Lake Cowichan First Nation on whether you believe there is the potential for marine shipping associated with the Project to impact your potential or established Aboriginal or Treaty rights or other interests. The federal government based its initial assessment of potential impacts from marine shipping associated with the Project on the following information:

- The marine shipping associated with the proposed project could potentially affect a small portion of your asserted traditional territory. The vessels bound for the Roberts Bank Terminal 2 are expected to transit through this territory for a short period of time.
- Some potential impacts to potential or established rights resulting from marine shipping associated with the Project may include:
 - increased marine traffic that may interfere with the ability to practice marine harvesting (including fishing) rights in your preferred manner;
 - environmental effects on marine environment and species; and
 - cumulative effects from increased shipping traffic in the region.

To assist you to prepare for, and participate in, Aboriginal consultation activities and key participation opportunities associated with the new requirements for marine shipping, the Agency's Participant Funding Program can provide you with funding. The Agency will follow up with you shortly regarding funding.

You can contact Candace Anderson at 613-957-0459 or by email at RobertsBank@ceaa-acee.gc.ca to discuss any questions or matters related to the environmental assessment or Aboriginal consultation.

Please indicate to the Agency at the earliest convenience if you have any information to provide the federal government on whether you believe there is the potential for marine shipping associated with the Project to impact your potential or established Aboriginal or Treaty rights or other interests.

Sincerely,

<Original signed by>

Candace Anderson and Analise Saely
Crown Consultation Coordinators, Review Panels
Canadian Environmental Assessment Agency
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Attachments:

#1 – Information Sheet: Additional Factors to be Considered in the Environmental Assessment

c.c.: Chris Hamilton, B.C. Environmental Assessment Office
Bryan Nelson, Port Metro Vancouver
Aaron Hamilton, Carole Livingstone & Kathleen Johnnie: LCFN

Attachment 1 - Additional Factors to be Considered in the Environmental Assessment**The Project**

The proposed Project is:

- the construction and operation of the Roberts Bank Terminal 2 expansion,
- the marine shipping in the immediate area of the existing Roberts Bank Terminals and north toward the mouth of the Fraser River, and
- the road and rail transportation from the terminal to where the causeway meets the land.

The Federal Review Panel

The federal Minister of the Environment has decided that an independent panel of experts will assess the environmental effects of this project. The Minister has established the Terms of Reference for the Review Panel giving the Panel directions on what to assess and setting out the process it will follow.

Based on comments heard during the public comment period on the draft Terms of Reference, the Minister has decided to add two factors or issues to be taken into account by the Review Panel during the environment assessment process.

What the environmental assessment will address

The potential effects to the environment if the Project is built and used will be considered, such as changes to fish habitat, for example. For this environmental assessment, the Minister will require the Review Panel to take into account additional factors. These additional factors are the environmental effects of marine shipping associated with the project and certain social, economic, heritage and health effects that would typically be assessed by the province of British Columbia under its environmental assessment process.

Inclusion of two additional factors to the environmental assessment

The information on marine shipping that Port Metro Vancouver is required to provide is set out in section 17 of the Updated Environmental Impact Statement Guidelines: <http://www.ceaa-acee.gc.ca/050/documents/p80054/101303E.pdf>.



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The potential effects on the environment of container ships coming and going from the proposed terminal through Juan de Fuca Strait and the Strait of Georgia will be taken into account (see map above). This is referred to in the Terms of Reference as “the environmental effects of marine shipping associated with the Project which is beyond the care and control of the proponent and within the 12 nautical mile limit of Canada’s territorial sea.” An example of potential environmental effects from the container ship movement could be noise impacts on wildlife migration routes.

In section 18 of the Guidelines, Port Metro Vancouver has been directed to provide information on social, economic, heritage and health effects of the Project that are not already included in the federal environmental assessment.

Once the Review Panel is appointed, it will gather information from people who want to share their knowledge and concerns about the possible environmental effects of the project and the two additional factors. Expert federal departments - such as Transport Canada, Fisheries and Oceans Canada and the Canadian Coast Guard –can provide expert information, including information on marine shipping. Aboriginal groups and other stakeholders are invited to provide information and concerns to the Agency or to the Review Panel once it is established.

The Review Panel will write a report based on the information received throughout the process. The Panel report will describe its rationale, conclusions and recommendations, including any mitigation measures and follow-up program, and a summary of comments received during the process. The Panel report will also summarize information on the potential effects of marine shipping associated with the project and the provincial issues, and it may include recommendations on how to prevent or reduce any adverse effects on these factors that the panel identifies.

Consultation with Aboriginal groups on the issue of marine shipping

The federal government will use the environmental assessment process to the extent possible to consult with Aboriginal groups whose Aboriginal rights may be impacted by the Roberts Bank Terminal 2 Project or by marine shipping associated with the Project.

The government would like to understand concerns Aboriginal groups may have about any increase in marine shipping in their territory resulting from the Roberts Bank Terminal 2 Project. The Review Panel can collect information from participants in the process about any potential or established Aboriginal or Treaty rights that may be impacted by marine shipping associated with the Project, what those impacts may be and suggestions to avoid or reduce impacts.

The federal government’s EA decision about the Project

The Minister of the Environment must decide whether or not the Roberts Bank Terminal 2 Project is likely to cause significant environmental effects. This decision and any conditions for Port Metro Vancouver, should the government allow the Project to go ahead, would be based on the

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consideration of the potential environmental effects of the construction and operation of the Project.

The assessment of potential environmental effects of marine shipping associated with the Project, as well as matters related to the potential social, economic, heritage and health effects associated with the Project will be informed by information collected in the environmental assessment process and summarized by the Panel in its report. This information will be considered by decision makers after the Panel Report is submitted.