

Area I Crab Fisherman Association

August 22, 2019

Review Panel, Roberts Bank Terminal 2 Project Secretariat
Canadian Environmental Assessment Agency
160 Elgin Street, 22nd Floor
Ottawa, On
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Sent by email to RobertsBank@ceaa-acee.gc.ca, Panel.RBT2@ceaa.gc.ca and ceaa.panelrbt2-commissionrbt2.acee@canada.ca

Subject: Area I Crab Fisherman Association's Closing Remarks for the proposed Roberts Bank Terminal 2 Project.

Dear Review Panel:

The Area I Crab Fisherman Association (“AICFA”) has been participating in the Environmental Assessment of the Vancouver Fraser Port Authority's (the Proponent) proposed Roberts Bank Terminal 2 (“RBT2”) project. This has included receiving and reviewing the RBT2 Environmental Impact Statement, the Marine Shipping Addendum, the Proponent information requests responses pertaining to crab harvesting, attending meetings with representatives of the Proponent and providing three previous submissions of comment, proposal and requests for information to the Review Panel (dated October 26, 2016, June 4, 2018 and January 22, 2019).

Please read and review the AICFA’s January 22, 2019 submission to the Panel (CEAA Doc #1397) prior to these closing remarks as the concerns and issues identified, requests for information and evaluation of mitigation proposal provided have to date not been addressed adequately.

The most significant issue remains the potential for further loss of valuable commercial crab fishing grounds resulting from the proposed structure footprint and expansion of the Roberts Bank Navigational Closure, and the absence to date of an adequate evaluation of mitigation options to address this potential loss of commercial crab fishing grounds, harvests and revenues.

The Proponent’s statement of Dungeness crab productivity loss being within the range of natural variability and the Proponent’s view that the Project would not affect the availability of eligible male crabs for commercial crab harvesting in the LAA is heavily contingent upon adequate mitigation, especially given there is no assertion that Dungeness crab migration behavior would suffice to repopulate adjacent commercial crab fishing areas during the commercial season. Without this adequate mitigation, the AICFA cannot accept the further loss of its most valuable commercial fishing grounds and the resulting significant and long term loss of harvests and revenues for commercial crab harvesters.

As previously submitted on June 4, 2018 (CEAA Doc #1208), the AICFA has identified and presented to the Proponent a viable and tangible mitigation measure to be implemented during the construction and operations of RBT2 that would alleviate navigational hazards and minimize loss of commercial fishing grounds on a longer term basis by allowing use of the proposed navigational closure area for commercial harvesting purposes during the limited season. To date, the AICFA has not received an adequate evaluation of the technical, economic and operational feasibility of this mitigation proposal.

During the Public Hearing Sessions, Mr. Sean Baxter, VFPA's Manager of Marine Operations, provided information on safety incidents and navigational concerns regarding a historical "no-float zone" in the existing navigational closure (CEAA Doc #1797 Page 1803). The AICFA notes that these incidents occurred prior to commercial vessels being "real-time" tracked, monitored and enforced by DFO using cellular signals. Furthermore the implementation of the previous no-float zone was not adequately understood by certain inexperienced harvesters with poor English language skills who were involved in the past incidents. After experiencing the highly detrimental loss of the existing navigational closure area, combined with improvements in vessel monitoring technology, commercial harvesters would not dare operate in a fashion to jeopardize the loss of further fishing grounds in this area. The group of commercial harvesters that remain active in the LAA are now much more experienced and would work together to ensure licencing terms are followed and enforced amongst themselves, aside from DFO, in order to retain harvesting access in the proposed navigational closure.

As part of the Proponent's "Applicable Mitigation Measures and Other Project Commitments" (CEAA Doc #2001 Updated Project Commitments, Appendix A, Page 24) the "VFPA commits to specific consultation with Tsawwassen First Nation, Musqueam First Nation, other Indigenous groups (as appropriate), and DFO on the terms of licencing to use the navigational closure areas for domestic or food, social, and ceremonial (FSC) crab harvesting purposes." To date, there has been no commitment to specific consultation with commercial harvesters and DFO on the terms of licencing and use of this same area for commercial harvesting purposes, even though the area is currently designated as commercial crab fishing grounds, and includes the most productive commercial crab fishing grounds in Crab Management Area I. For reasons stated in previous AICFA submissions, this transfer of use and harvest in a highly productive fishing area is a significant contributing factor towards the demonstrable reduction to harvests and landings that will be realized by commercial crab harvesters.

The AICFA has been led to understand by the Proponent and DFO that independently collected and government validated data on domestic, food, social, and ceremonial (FSC) crab harvests does not exist that would support the need for exclusive access to harvest crab within the proposed navigational closure area during the five and a half month commercial season to satisfy the related annual domestic and FSC requirements.

Within the Proponent's submission IR7-33 Marine Commercial Use – Crab, Effects Assessment, the following conclusion was supported in the absence of sufficient mitigation measures:

- *The Project terminal and proposed navigational closure expansion would displace a large portion of commercial crab harvesting in the LAA, and result in a demonstrable change to harvest landings and revenues, particularly from sub-area 29-6*

The Proponent has cited ongoing consultation regarding timing, spatial area and progress of the project as a mitigation measure; however, consultation alone is simply a communication process that disseminates information and not a tangible mitigation measure that will replace lost commercial crab harvests. Such consultations to date have not identified or produced tangible mitigation options that adequately address compensation for the demonstrable loss of commercial crab fishing grounds, crab harvests and revenues.

During the Public Hearing Session, when addressing the loss of commercial fishing grounds, Ms. Roxanne Scott with Golder Associates stated, "This could increase harvest competition in the area, which may manifest in the form of a decrease in the number of crabs caught per unit of time spent fishing and possible gear conflicts." (CEAA Doc #1797 Page 1796) Ms. Tessa Richardson with DFO stated "the ability of fisheries regulations and fish management measures to address the loss of fishing grounds is really uncertain and unclear." (CEAA Doc #1797 Page 1805)

If the losses realized by displaced commercial crab harvesters from the demonstrable change to harvest landings and revenues are deemed to be not significant from the perspective of the Proponent in relation to the magnitude of this project, then the Proponent should be obligated to financially compensate the commercial harvesters that will be realizing and accruing such losses in the future. Such losses are very significant to the individual harvesters and their families.

The Proponent has not yet quantified the potential effects on commercial crab harvesting for all stages of the project including the reductions in harvests and revenues resulting from the loss of commercial crab fishing area. As a starting point, the AICFA suggests that this be done using available data as follows:

- 1) Analyze historical Electronic Monitoring (EM) Data to determine which commercial vessels/licences currently licenced to fish in Crab Management Area I have harvested crab within the proposed navigational closure area ("NCA") or terminal footprint according to their entire trap scanning/hauling history.
- 2) For those vessels/licences the total historical number of trap hauls occurring within the proposed NCA and terminal footprint can be determined as a percentage of the total historical number of trap hauls occurring in Crab Management Area I for each vessel/licence. This data and resulting calculation should be accumulated from each vessel/licence entire history of EM records as far back as the current owners, operators and crew have earned revenue from harvesting on that vessel/licence.
- 3) Aggregate landings and revenue figures can then be accumulated from the DFO fish slips of those same vessels/licences during the same relevant time period. Those figures will determine the value of their landings and revenues resulting from the applicable percentage of crab harvesting activity within the proposed NCA and terminal footprint.
- 4) Those same fish slips will also indicate the percentage distribution of what current and active entities (vessel/licence owners, operators and crew) have earned those revenues from crab harvesting activity within the proposed NCA and terminal footprint.
- 5) For those currently active entities, the resulting calculation of their estimated reduction in annual revenues can be extrapolated and projected into the future over a reasonable time frame to compensate them until their retirement from the fishery.

- 6) The estimated reduction in annual revenues should also be projected into the future over the life of RBT2 operations to determine the impact the lost harvests will have on other commercial harvesters in Crab Management Area I and coast wide due to the increased competition from the shift in fishing effort away from the lost fishing grounds.
- 7) Losses to commercial crab harvesters should also take into account crab injury and mortality resulting from project construction activities and crab productivity loss from the reduction and alteration of crab habitat and increase in pollutants resulting from RBT2 operations.
- 8) The level of compensation should be reasonable and fair in comparison to how First Nations and recreational groups will be compensated for losses of fishing grounds of similar value and importance in terms of historical use.

If the RBT2 project is to proceed and result in the loss of commercial crab fishing grounds, adequate tangible mitigation, unlike what has been identified by the Proponent to date, will be necessary to compensate affected commercial crab harvesters for their impending long term significant and demonstrable losses of harvests and revenues.

Thank you in advance for your careful consideration of how the proposed RBT2 project will detrimentally impact the ability of commercial crab harvesters in the area to provide for their families.

Please publish this letter in the public registry for the RBT2 project assessment.

Sincerely,

Area I Crab Fisherman Association