



Friends *of the* San Juans

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June 5, 2023

The Honourable David Eby, Premier of British Columbia
The Honourable George Heyman, Minister of Environment and Climate Change Strategy
The Honourable Rob Fleming, Minister of Transportation and Infrastructure
The Honourable Nathan Cullen, Minister of Water, Land and Resource Stewardship
Submitted via Environmental Assessment Office comment portal:
<https://www.projects.eao.gov.bc.ca/p/588511e3aaecd9001b8274d4/project-details>

RE: Draft EAO assessment materials for Roberts Bank Terminal 2

To the Honourable David Eby, Premier of British Columbia; Honourable George Heyman, Minister of Environment and Climate Change Strategy; Honourable Rob Fleming, Minister of Transportation and Infrastructure; and Honourable Nathan Cullen, Minister of Water, Land and Resource Stewardship:

Thank you for the opportunity to comment on the draft assessment materials that you will use to decide if the Roberts Bank Terminal 2 project should proceed.

Friends of the San Juans represents over 2,000 members and works with diverse stakeholders and communities, including tribal and governmental agencies, and other non-profit organizations in the transboundary region of the Salish Sea to protect and restore the San Juan Islands and the Salish Sea for people and nature—since 1979. Friends of the San Juans works to protect and recover the 125 species at risk in the Salish Sea, with the most iconic being the critically endangered Southern Resident killer whales. In 2001, Friends of the San Juans was a co-petitioner for the US federal listing of the Southern Resident killer whales under the Endangered Species Act. The protection and recovery of the Southern Residents continues to be one of our top priorities.

Friends of the San Juans wants to be sure that this environmental assessment process complies with the Memorandum of Understanding Between the Washington State Department of Ecology and the British Columbia Environmental Assessment Office.¹ The lack of appropriate notice and the limited comment period has made it difficult to submit comments for this new 267 acre off-shore/over-water **Roberts Bank Terminal 2 which would be located in the Fraser estuary less than one mile from the US/Canadian border**. This new shipping terminal would be larger than 202 football fields. The project would add 520 additional container ship transits each year and will accommodate the Ultra-Large Container Vessels that carry up to 24,000 TEUs (twenty-foot equivalent units) and hold millions of gallons of propulsion fuel. This increase in vessel traffic impacts and accident and oil spill risk is unacceptable. **Friends of the San Juans respectfully requests an extended comment period with appropriate notice to impacted communities and Tribes in Washington State.**

While there are jurisdictional limitations that come with this project and its environmental review, it is well known that ecosystems are interdependent and the lasting environmental damages of this project will extend across jurisdictional lines, national boundaries, Indigenous fishing areas in Canada and Usual and Accustomed Tribal fishing places protected by US treaties, giving BC a tremendous amount of responsibility in deciding the fate of this project.

The Fraser River estuary is the largest Key Biodiversity Area in BC,² categorized as being of global importance and critical to the health of the Salish Sea ecosystem. Key Biodiversity Areas are sites that play critical roles for species and ecosystems. If BC is truly committed to the restoration and protection of its coastal ecosystems, you cannot ignore the amount of habitat destruction and further endangerment of at-risk species such as Southern Resident killer whales and Chinook salmon, resulting from this project.

Roberts Bank Terminal 2 would destroy critical habitat in the transboundary Salish Sea. Approval of this project would ignore a large body of evidence on the proposed project's lasting and irreversible environmental impacts, including threats to the survival of the Southern Resident killer whales and their primary prey, Chinook salmon.³ Friends of the San Juans urges you to reject the approval of Roberts Bank Terminal 2 and ensure a livable and sustainable future for people and nature – for generations to come.

As included in your current proposed Coastal Marine Strategy for British Columbia, you make commitments to a healthy and productive coast, and specifically to help recover Southern Resident killer whales and other at risk marine species and boost efforts to recover wild salmon.⁴ The draft Summary Assessment Report and draft Table of Provincial Conditions for the Roberts Bank Terminal 2 Project are contradictory to that commitment.

The draft Summary Assessment Report identifies the significant adverse project related (residual) and cumulative effects from Roberts Bank Terminal 2 that relate to Provincial Interests. These include the significant adverse effects from project related spills affecting the marine environment, specifically for “vulnerable species such as the Southern Resident Killer Whale and marine birds, marine commercial and recreational activities, current use, cultural heritage and health of Indigenous groups.”⁵ However, the Draft Table of Provincial Conditions for the Roberts Bank Terminal 2 Project lacks any specific spill prevention measures.

Condition 10, Construction Environmental Management Plan, only requires:

10.2. d) Emergency response and spill prevention mitigation measures, including procedures to notify Indigenous Nations – All, CCG, City of Delta, Metro Vancouver, and the City of Richmond of emergencies or spills

Condition 11, Operations Environmental Management Plan is equally vague regarding spill prevention:

- 11.2. d) Emergency response and spill prevention, incorporating and referencing established response plans, procedures, and organizations, as appropriate, including:
- i. A list of the cultural, socio-economic, ecological and biological resources that are known through publicly available sources or have been shared with the Holder, excluding any confidential Indigenous knowledge or Indigenous use information, that may be impacted by a spill from the Project and the emergency response and spill prevention mitigation measures that will be implemented by the Holder if a spill from the Project that is reportable under the *Environmental Management Act* occurs;
 - ii. Procedures to notify Indigenous Nations – All, CCG, City of Delta, Metro Vancouver, and the City of Richmond of emergencies or spills from the Project; and
 - iii. Mitigation measures that will be implemented by the Holder if a spill from the Project occurs;

Project-related spills to the marine environment are identified as a significant project related (residual) adverse effect: “a residual environmental effect is an environmental effect of a project that remains, or is predicted to remain, after mitigation measures have been implemented.”⁶ The draft conditions place more emphasis on notification requirements in the event of a spill. The residual environmental effects of a project related spill will remain even after spill notifications have occurred and response measures have been implemented. Preventing spills is paramount. A dedicated Emergency Towing Vessel (ETV) for the Haro Strait/Boundary Pass region is both feasible and an effective spill prevention measure that should be specifically required in Condition 11, Operations Environmental Management Plan.

Oil spill prevention is critical to the protection and recovery of the Southern Resident killer whales who are listed under both the Species at Risk Act and the US Endangered Species Act. The US recovery plan addresses the Southern Residents vulnerability to oil spills and includes management measure 2.1 Minimize the risk of oil spills. Given the Southern Residents’ social structure, a catastrophic event such as an oil spill could cause the extinction of the species.⁷

The Washington State Department of Ecology submitted comments to Canada’s National Energy Board recommending that, if approved, the Roberts Bank Terminal 2 project be required to fund an Emergency Response Towing Vessel to respond to vessels in distress and prevent accidents and oil spills in the Haro Strait/Boundary Pass region.⁸ The Canadian Government’s Decision Statement does not include the requirement to fund an ERTV for the Haro Strait/Boundary Pass region (or to help fund the existing Emergency Response Towing Vessel at Neah Bay which is funded by ships calling on ports in WA State).⁹

The Vessel Drift and Response Analysis for the Strait of Juan de Fuca to the Southern Strait of Georgia documents that an Emergency Response Towing Vessel stationed in Sidney, BC could be effective in preventing disabled vessels transiting Haro Strait/Boundary Pass from

groundings - and subsequent accidents and oil spills - in more than 80 percent of the cases modeled.¹⁰

The underwater noise from Project related vessel traffic would impact the Southern Residents' ability to communicate and catch salmon, decreasing their potential prey intake while increasing their energy expenditures.¹¹ The Draft Table of Provincial Conditions for the Roberts Bank Terminal 2 Project is vague in addressing underwater noise impacts. Condition 10, Construction Environmental Management Plan, only includes:

- 10.2. The CEMP must include, at a minimum, how the following will be addressed:
- e) Noise and vibration management

And Condition 11, Operations Environmental Management Plan, only includes:

- 11.2. The OEMP must include, at a minimum, how the following will be addressed:
- e) Noise management

Both the Canadian Government's Decision Statement and the Draft Table of Provincial Conditions for the Roberts Bank Terminal 2 Project include conditions that are too vague to be enforced or are otherwise not practically enforceable. In many instances the conditions fail to specify the means to mitigate Project impacts, instead leaving condition specifics and/or their feasibility to be identified by the Holder at some later date, with no criteria for determining feasibility, and no long-term enforceability.

Specific Provincial Conditions for the Roberts Bank Terminal 2 (RBT2) Project are necessary. If you approve RBT2, Friends of the San Juans respectfully requests that you require the following Provincial Conditions:

- 1. To address the increased risks of accidents and oil spills and cargo spills from the RBT2 vessel traffic, require a dedicated Emergency Response Towing Vessel for the Haro Strait/Boundary Pass region, with, or separately provided, fire-fighting capabilities for Ultra-Large Container Vessels.**
- 2. To reduce noise impacts from RBT2 shipping traffic that would be detrimental to the critically endangered and at risk Southern Resident killer whales and Chinook salmon and to document and enforce noise performance, require all container ships that call on RBT2 to participate in all ECHO slowdowns and lateral displacements¹² and to be accredited as quiet by a ship-classification society -- at the very least, require a classification such as the SILENT-E notation which ensures that ships do not exceed average-to-moderate Underwater Radiation Noise (URN) levels.¹³**
- 3. To address the Project's potential pollution from wet scrubber discharges, and to also reduce the environmental and economic impacts from potential oil spills, require all container ships that call on RBT2 to use propulsion fuels that comply with the IMO's 0.50% sulphur limit. This would prohibit the use of Heavy Fuel Oil – the high viscosity, tar-like fuel that can have significant environmental and economic and cultural impacts when spilled.**

Thank you for your attention to these comments on the draft assessment materials for Roberts Bank Terminal 2.

Sincerely,



Level Pratt
Marine Protection and Policy Director

Cc. The Honorable Jay Inslee, Governor, Washington State
The Honorable Liz Lovelett, Washington State Senator
The Honorable Debra Lekanoff, Washington State Representative
The Honorable Alex Ramel, Washington State Representative
The Honorable Sharon Shewmake, Washington State Senator
The Honorable Alicia Rule, Washington State Representative
The Honorable Joe Timmons, Washington State Representative
Peter Murchie, Puget Sound Federal Task Force
Laura Watson, Director, Washington State Department of Ecology
Tom Buroker Northwest Region Director, Washington State Department of Ecology
Tara Galuska, Orca Recovery Coordinator, Governor's Salmon Recovery Office

¹ Memorandum of Understanding Between the Washington State Department of Ecology and the British Columbia Environmental Assessment Office. <https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/environmental-assessments/working-with-other-agencies/eao-mous-and-agreements/eao-memorandum-of-understanding-with-washington-state.pdf>.

² KBA (Key Biodiversity Areas) Canada. 2022. Site Profile: Fraser River Estuary. <https://kbcacanada.org/site/?SiteCode=BC017>.

³ Letter from concerned scientists regarding environmental impacts of the proposed Roberts Bank Terminal 2 project proposal. February 9, 2022. <https://iaac-aeic.gc.ca/050/evaluations/proj/80054/contributions/id/57027>.

⁴ A Coastal Marine Strategy for British Columbia: Policy Intentions Paper. December 2022. <https://engage.gov.bc.ca/app/uploads/sites/121/2022/12/Coastal-Marine-Strategy-Intentions-Paper.pdf>.

⁵ Environmental Assessment Office. May 9, 2023. Summary Assessment Report for Roberts Bank Terminal 2 Project (RBT2) With respect to the application by Vancouver Fraser Port Authority (VFPA) for an Environmental Assessment Certificate pursuant to the Environmental Assessment Act, S.B.C. 2002, c. 43. Table 1: Summary of Panel Findings Relating to Provincial Interests. Page 21. https://www.projects.eao.gov.bc.ca/api/public/document/645993e10badf0002253edda/download/RBT2_Draft%20Summary%20Assessment%20Report.pdf.

⁶ *Ibid.* Footnote 11, page 20.

⁷ United States, National Marine Fisheries Service., Northwest Region. 2008. Recovery plan for southern resident killer whales (*Orcinus orca*). <https://repository.library.noaa.gov/view/noaa/15975>.

⁸ Washington State Department of Ecology. October 5, 2018. From the Washington State Department of Ecology to the Review Panel re: Comments on the Roberts Bank Terminal 2 Project. <https://iaac-aeic.gc.ca/050/evaluations/proj/80054/contributions/id/24980>.

⁹ The Honourable Steven Guilbeault, Minister of the Environment. April 20, 2023. Decision Statement Issued under Section 54 of the Canadian Environmental Assessment Act, 2012, to Vancouver Fraser Port Authority for the Roberts Bank Terminal 2 Project. <https://iaac-aeic.gc.ca/050/documents/p80054/147356E.pdf>.

¹⁰ Nuka Research & Planning Group, LLC. *Vessel Drift and Response Analysis for the Strait of Juan de Fuca to the Southern Strait of Georgia*. April 2021. <https://www.sanjuanco.com/DocumentCenter/View/24711/Vessel-Drift-and-Response-Analysis-Inland-Waters-SJC-Apr-2021?bidId=>.

¹¹ Southern Resident Orca Task Force Final Report and Recommendations. November 2019. <https://www.orca.wa.gov/wp-content/uploads/TaskForceFinalReport-2019.pdf>.

¹² Vancouver Fraser Port Authority ECHO (Enhanced Cetacean Habitat and Observation) Program. ECHO Program projects and initiatives: <https://www.portvancouver.com/environmental-protection-at-the-port-of-vancouver/maintaining-healthy-ecosystems-throughout-our-jurisdiction/echo-program/projects/>.

¹³ Vancouver Fraser Port Authority ECHO (Enhanced Cetacean Habitat and Observation) Program. An Evaluation of Vessel Quieting Design, Technology and Maintenance Options. January 2017. <https://www.portvancouver.com/wp-content/uploads/2017/01/Vessel-Quieting.pdf>.