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Sent by E-Mail

Jocelyne Beaudet
Panel Chair, Roberts Bank Terminal 2 Project
Canadian Environmental Assessment Agency
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Dear Ms. Beaudet:

Re: The Panel's Request to use MTUS from the Trans Mountain Expansion Project Assessment

I write in response to your [June 28, 2019](#) letter seeking T'Sou-ke's consent for the Panel to use a marine traditional use study ("MTUS") prepared by T'Sou-ke for the National Energy Board's assessment of the Trans Mountain Expansion Project in these proceedings.

As you know, T'Sou-ke has strenuously objected to the proponent Vancouver Fraser Port Authority's use of the Trans Mountain MTUS for the environmental assessment of the Roberts Bank Terminal 2 Project (the "**Project**").¹

In brief, the reasons for that objection are:

- the Port did not obtain T'Sou-ke's prior informed consent to use that MTUS, directly contrary to Canadian Environmental

¹ See our correspondence dated: [October 27, 2016](#); [November 20, 2017](#); [October 26, 2018](#); and [March 28, 2019](#); and [April 15, 2019](#); see also the [transcript](#) for T'Sou-ke's Community Hearing Session (June 13, 2019) at pp. 4570-72; 4580-81, 4600.

Assessment Agency guidance on that topic;² and

- because the Trans Mountain MTUS was prepared for a different regulatory approval process and a different proposed project, it is inappropriate to simply “plug it in” to the assessment of this Project.

Those objections apply with equal force to the Panel’s purported use of the Trans Mountain MTUS. Accordingly, T’Sou-ke does not consent to its use in the Panel proceedings.

As T’Sou-ke has noted in its correspondence on this issue, the proper, lawful course of action is for the Panel to direct the Port to: (i) prepare a specific and tailored MTUS that captures the Project’s impacts to T’Sou-ke’s Aboriginal title, rights, treaty rights, and interests; and (ii) submit a revised Environmental Impact Statement containing this information. You have the power to do so under s. 44(2) of the *Canadian Environmental Assessment Act, 2012*.

Until that occurs, T’Sou-ke’s position remains that the Panel has no information properly before it on the Project’s impacts to T’Sou-ke.

Yours sincerely,

<Original signed by>

Chief Gordon Planes

Cc: Scott A. Smith, Gowling WLG (Canada) LLP

² Canadian Environmental Assessment Agency, [“Reference Guide – Considering Aboriginal Traditional Knowledge in Environmental Assessments Conducted under the Canadian Environmental Assessment Act, 2012”](#) (March 2015) at 3-4.