



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000
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October 5, 2018

Review Panel
Roberts Bank Terminal 2 Project
c/o Canadian Environmental Assessment Agency
22nd Floor, 160 Elgin Street
Ottawa, ON K1A 0H3

Re: Roberts Bank Terminal 2 Project

Dear Review Panel:

Thank you for the opportunity to comment on the proposed Roberts Bank Terminal 2 Project. The Department of Ecology is Washington's environmental protection agency. Our mission is to protect, preserve, and enhance Washington's land, air, and water for current and future generations. We understand that there will be additional opportunities to comment after October 5, 2018. In addition to the comments we offer in this letter, we may provide more comments after we conduct further analysis of the proposal.

The Salish Sea is a biologically rich ecosystem with significant natural, cultural, and economic resources shared between British Columbia and Washington State and is home to many federally recognized Indian tribes with treaty reserved aboriginal fishing and hunting rights in this area. The Salish Sea is characterized by broad and deep passages, as well as narrow passages with swift flowing currents that are challenging to navigate.

As summarized by the Roberts Bank Terminal 2 Project (RBT2) in the initial EIS Report, approval of this project will result in an additional 260 container ships through U.S./Washington State and Canadian/Provincial shared waters. The location of the RBT2 is critical habitat for the Endangered Southern Resident Killer Whales (SRKW) as classified through the Endangered Species Act (ESA), and the Species at Risk Act (SARA). Following are recommendations to reduce the risk of impact to the Salish Sea and the remaining SRKW population.

Tugboat escorts for containerships in non-compliance of IMO (Annex 1, Regulation 12a, oil fuel tank protection)

Current issue:

According to Regulation 12a of the International Convention for the Prevention of Pollution from Ships (MARPOL), ships with an aggregate oil fuel capacity of 600m³ or more are required

to have oil fuel tanks located within the double hull. This requirement reduces the outflow of oil from fuel tanks, reducing the risk of a spill

(<http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Marine-Environment-Protection-Committee-%28MEPC%29/Documents/MEPC.141%2854%29.pdf>).

This regulation is required in Canadian waters. However, due to the phasing out of older vessels, not all vessels will have an independent oil fuel tank until 2030 (RBT2 EIS Report, Appendix 30A). Spill probabilities by 2025 are expected to be 8% to 9% larger, whereas spill amounts are predicted to be 2% to 4% smaller, due to smaller vessel size (<https://www.ceaa-acee.gc.ca/050/documents/p80054/101341E.pdf>) (pgs. 71-72). Yet, the Puget Sound Pilots predict vessel size to actually increase, not decrease (<https://www.pspilots.org/what-we-do/types-of-ships/>).

Recommendation:

Newer vessels must meet Regulation 12a, and the RBT2 Project should ensure, during their vetting process, that any ship making port complies with this regulation. For ships in non-compliance, it is recommended to provide capable tethered tug escorts to protect for potential incidents while transiting pilotage waters to and from RBT2. Current mitigation measures do not include capable tethered tug escorts for non-compliance ships (<https://www.ceaa-acee.gc.ca/050/documents/p80054/103691E.pdf>) (pgs. 10-15).

Vessel compliance for speed controls to reduce underwater noise

Current issue:

It is anticipated that underwater noise produced by marine shipping associated with the RBT2 Project can potentially have adverse impacts on marine mammals (RBT2 EIS, pg. 8.2-36). Specifically, SRKW may experience low to moderate severity behavioral responses from underwater noise, and are more vulnerable due to their Endangered status (RBT2 EIS, pg. 8.2-41). In a study conducted by the Enhancing Cetacean Habitat and Observation (ECHO) Program's Vessel Slowdown Trial, in conjunction with the Vancouver Fraser Port Authority, it was determined that a reduction in vessel speed was effective in reducing all broadband frequencies measured for bulk, container, cruise, tanker, and vehicle carriers (<https://www.flipsnack.com/portvancouver/echo-haro-strait-slowdown-trial-summary/full-view.html>) (pgs. 22-23).

Recommendation:

It is recommended to continue to enforce Port of Vancouver voluntary vessel slowdown through the ECHO Program, and permanently enforce non-voluntary vessel slowdown when SRKW are present to reduce vessel noise in the water column and the potential for vessel strikes.

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Canada to establish Emergency Response Towing Vessel (ERTV) in Boundary Pass and Haro Strait

Current issue:

Haro Strait and Boundary Pass are designated as critical habitat, and primary usage areas for SRKW (RBT2 EIS, pgs.14-3, 14-25). Specifically within Haro Strait, SRKW lose 55-97% of their communication space because of high vessel traffic generating underwater noise within the water column (RBT2 EIS, pg. 14-30). Haro Strait and Boundary Pass both have marine shipping lanes that have high navigational risk due to narrow geographic features, strong tidal currents, and navigational hazards. Vessel traffic through these areas may increase by 30%, not including RBT2, which may increase vessel traffic by 6% (RBT2 EIS, pgs. 9.2-23). According to the Marine Rail Report, tug escort requirements for Boundary Pass and Haro Strait are voluntarily promulgated under the Pacific Pilotage Authority, yet directives have the effect of law and are enforced by B.C. Pilots. Additionally, tankers 40,000 Dead Weight Tonnage or more must be escorted (<https://fortress.wa.gov/ecy/publications/documents/1508010.pdf>) (pgs. 300-303).

Recommendation:

To reduce the risk of spill incidents, the RBT2 Project should fund ERTV within this region. There is increased risk of spill incidents due to the RBT2 Project projected increase in vessel traffic. The only ERTV currently available is in Neah Bay. An ERTV in Haro Strait and Boundary Pass would help mitigate incidents, and provide a more timely response for incidents.

Canadian pay-in ERTV for Neah Bay

Current issue:

The ERTV at Neah Bay has been operating at the entrance to the Strait of Juan de Fuca since 1999. The tug is an important safety net to prevent disabled tank ships and tank barges from vessel emergencies in one of the busiest shipping lanes in the world. Washington State initially assumed financial responsibility for the tug in 2000. In order to ensure the permanent protection of the Strait of Juan de Fuca and Washington's outer coast, and to shift the financial responsibility of the program from the taxpayers to the maritime industry, in 2010 the Washington State legislature required exclusive funding from the vessel maritime industry (<https://marexps.com/emergency-response-towing-vessel/> & <http://nrcwaplan.nrc.com/PDFs/NRC%20Plan%20-%20Appendix%20E.pdf>). Although the requirement does not apply to vessels only going to Canadian ports, they are still allowed to use the ERTV during emergency response situations (<https://marexps.com/ertv-faq>). By 2018, Prime Minister Trudeau will implement 2 ERTV in B.C. One located between Alaska and Northern tip of Vancouver Island, the other on the west side of Vancouver Island and Strait of Juan de Fuca. This may reduce the need for Canadian vessels to use Neah Bay's ERTV (<https://www.vancouverislandfreedaily.com/news/67m-for-two-emergency-towing-vessels-for-b-c-coast/>).

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Recommendation:

The RBT2 Project should aid in funding the Neah Bay ERTV as part of the ERTV system of vessels for the outer coast, Strait of Juan de Fuca, and the Salish Sea. Canadian vessels have utilized this ERTV during emergency response situations, as it is available to *any* vessels in distress in the Strait of Juan de Fuca. Historically, this invaluable prevention asset has been used to assist Canadian vessels, even tank ships, in distress, even though these vessels are not obligated to, and do not, pay in advance to maintain the safety net. It is recommended that the RBT2 Project aids in funding this important asset.

For more information on these issues and recommendations, please contact Dale Jensen, Spill Prevention, Preparedness, and Response Program Manager, at ^{<contact information removed>} or by email at <email address removed>

Executive Order 18-02

Please find the link to Executive Order 18-02 Southern Resident Killer Whale Recovery and Task Force: https://www.governor.wa.gov/sites/default/files/exe_order/eo_18-02_1.pdf

The Task Force is charged with preparing a comprehensive report and recommendations for recovering Southern Residents, with a final report by November 1, 2018. The report should detail actions that will address all of the major threats to Southern Residents, including prey availability, toxic contaminants, and disturbance from noise and vessel traffic. The recommendations of the Task Force may inform additional comments for the Review Panel.

We appreciate the opportunity to comment on this project. Please contact me at ^{<contact information removed>} or by email at <email address removed> if we can provide more information or clarification.

Sincerely,
<Original signed by>

Tom Buroker
Regional Director

Sent by email: CEAA.PanelRBT2-CommissionRBT2.ACEE@canada.ca

ecc: Cindy Parker, Review Panel Manager