



## Pacheedaht First Nation

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### Submitted online

Impact Assessment Agency of Canada

Pacific Yukon Region

210a-757 West Hastings Street

Vancouver, BC V6C 3M2

Canada

To whom it may concern:

**Re: Roberts Bank Terminal 2 Project (the Project)**

### **Pacheedaht First Nation Comments on Draft Project Conditions**

On behalf of the Pacheedaht First Nation (Pacheedaht), I am writing to provide Pacheedaht's preliminary comments on the draft conditions for the Project.

**Marine Mammals (8.1):** Please see Pacheedaht's comments on the Proponent's response to IR2020-3, also submitted on today's date. In our view, the measures identified by the Proponent so far to mitigate impacts to SRKW from marine shipping have not been sufficient.

**Marine Mammals (8.4):** Pacheedaht's strong view is that the plan to reduce underwater noise from the vessels associated with the Project needs to be completed before any decision is made in relation to the Project so that Indigenous groups, the Agency, and the Minister can assess whether it sufficiently addresses impacts to marine mammals. Furthermore, in our view the measures identified by the Proponent, Transport Canada, and DFO to address underwater noise need to be implemented at the outset of the Project, not at some later date. There are currently only seventy-four SRKW left. When it comes to protecting SRKW, the time for action is now. We know from the recent work completed by Dr. Sheila Thornton that SRKW are experiencing significant disruption to their foraging activities as a result of underwater noise, including at Swiftsure Bank. In order to ensure their survival, the Project and its impacts need to be considered in the most careful and precautionary manner possible. Canada has an obligation under the Species at Risk Act to take a precautionary approach to any threats to species at risk. In our view, it is not sufficiently precautionary to allow the Proponent to "wait and see", especially considering the strong findings made by the Review Panel in terms of how SRKW will be impacted by the Project.

**Communication Plan (11.1):** It is expected that vessels associated with the Project will have serious impacts on Pacheedaht's ability to safely access their marine territory for cultural uses and to exercise their Aboriginal rights and title. The requirement that the Proponent prepare a communication plan must also include the Indigenous groups impacted by marine shipping rather than being restricted to the terminal.



We note that communication plans have limited effectiveness in mitigating impacts to Pacheedaht's ability to safely access their marine territory because they put the onus on individual Pacheedaht fishers and harvesters to get out of the way in order to avoid a potential collision with vessels associated with the Project. This results in maximum disruption of fishing and harvesting activities, as well as risks to human safety and gear as Pacheedaht members have to try to quickly pull up their gear and move their vessels.

**Current use of land and resources (12.3):** In terms of the Agency's consideration of additional conditions regarding mitigating effects of the Project on the current use of lands and resources from marine shipping, Pacheedaht can confirm that the likelihood of the vessels interrupting Pacheedaht fishers and harvesters is high. The frequency of existing shipping traffic is so high as to make it practically impossible for Pacheedaht fishers and harvesters to schedule their activities to avoid vessels even if this schedule were known to Pacheedaht fishers. At a minimum, the Conditions should include the following requirement relating to avoiding impacts to current use from vessels associated with the Project in the shipping lanes:

- a) Prior to construction, the Proponent shall consult with regulatory authorities and Indigenous groups (marine shipping) to develop and implement a program that facilitates safe harvesting in the marine shipping area, including at Swiftsure Bank.
- b) The Proponent shall carry out follow-up programs to determine the effectiveness of the safe harvesting program.
- c) Mandatory speed reductions for vessels need to be imposed on container vessels calling on the Project in order to reduce the impacts of vessel traffic on current use of lands and resources, including safety risks and loss of equipment and gear.

**Accidents and malfunctions (19):** Additional safety requirements and mitigation measures are required in order to reduce impacts to Pacheedaht fishers, including at Swiftsure Bank which the Review Panel found was the most likely area for an interaction with a large vessel associated with the Project. Please include the following in the Conditions:

- a) A requirement that tankers be tethered by enhanced tug escorts while travelling the open waters adjacent to the southwestern shore of Vancouver Island through the Strait of Juan de Fuca to the J Buoy.
- b) A requirement that the Proponent fund additional emergency responses resources dedicated to the area around the J Buoy (an area of known increased risk) including for the marine safety centre at Port Renfrew, in order to enhance the marine emergency response regime capability, including response time.

**Support for engagement with Indigenous groups:** Finally, given the need for Pacheedaht to devote staff time and resources to the operation of the Project, should it be approved, capacity funding from the Proponent, as well as continuing opportunities for engagement with the Agency is required. Accordingly, please include the following to the Conditions:

- a) A requirement that the Proponent provide capacity funding to Pacheedaht and other impacted Indigenous groups to fully participate in the engagement activities set out in the Project conditions.



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- b) A requirement that the Project conditions include a process whereby impacted Indigenous groups can provide a formal response to the Agency in respect of any of the Proponent's reporting or information provided pursuant to any follow-up programs.

Yours truly,

PACHEEDAHT FIRST NATION

A handwritten signature in black ink, appearing to read "Kristine Gatzke", positioned above a horizontal line.

Kristine Gatzke

Referrals Coordinator

cc: Chief and Council