

November 26, 2020

Sent via E-mail to IAAC.Deltaport.AEIC@canada.ca

Impact Assessment Agency of Canada
Suite 210A - 757 West Hastings Street
Vancouver, BC V6C 3M2

To the Impact Assessment Agency:

Re: Comments on initial project description for GCT Deltaport Expansion - Berth Four Project

We write on behalf of the David Suzuki Foundation, Georgia Strait Alliance, Raincoast Conservation Foundation, and Wilderness Committee to provide their comments on the initial project description for the GCT Deltaport Expansion - Berth Four Project (“DP4”).

Timing of impact assessment

Our clients participated in the Agency’s review of the Roberts Bank Terminal 2 Project (“T2”), also proposed for the Fraser River estuary, and currently awaiting ministerial and Cabinet decisions concerning its approval. The initial project description characterizes DP4 as an alternative to T2.

Given that two projects – DP4 and T2 – are proposed for this area, and given that GCT presents DP4 as an alternative to T2, our clients’ opinion is that it would be appropriate to pause further progress towards a decision on T2. To proceed with an assessment of DP4 when T2 might be approved in the interim risks wasting the Agency’s, the proponent’s, and participants’ time and resources.

Our clients note that the timeline for the Minister’s decision on T2 is currently suspended under s. 48 of the *Canadian Environmental Assessment Act, 2012* (“CEAA 2012”) due to the Minister requiring further information from its proponent under s. 47(2) of CEAA 2012. A further pause would require the Minister to extend the time limit for his decision under s. 54(3), which he may do for up to three months in order to “take into account circumstances that are specific to the project” – in this case, the fact that DP4 has been proposed as an alternative.

Comments on initial project description to inform summary of issues and nature of assessment

Our clients have reviewed the initial project description submitted to the Agency by Global Container Terminals Canada Limited Partnership (“GCT”).

Any project with the potential for impacts on the environmentally important and sensitive Fraser River estuary, including adverse effects within federal jurisdiction – in this case, changes to fish and fish habitat and to aquatic species protected by the *Species at Risk Act* – must be closely scrutinized through an impact assessment. As GCT notes in the initial project description, DP4 meets the criteria for a designated project in the Physical Activities Regulations under the Impact Assessment Act (the “IAA”). With respect to the Agency’s forthcoming decision under s. 16 of the IAA concerning the need for an impact assessment, our clients’ position is that DP4 should be subject to an impact assessment. DP4 should receive the equivalent of the rigorous federal environmental assessment that the Roberts Bank Terminal 2 Project (“T2”) did, under the new *Impact Assessment Act*. Further, our clients’ opinion is that the project should be scrutinized by a review panel, as T2 was, due to the potential for adverse effects within federal jurisdiction; the Minister should refer the impact assessment to a review panel under s. 36.

The impact assessment for DP4 should address the same issues that the assessment of T2 did. This includes impacts on salmon that depend on the Fraser River estuary, which in the case of DP4 would be affected by changes to eel grass beds and fish habitat in the intertidal, inter-causeway area, and changes to fish movement around the causeway. This also includes the impacts of marine shipping on the *Species at Risk Act* listed endangered Southern Resident Killer Whales. Additionally, the impacts of short sea shipping on the marine environment, including noise impacts in Southern Resident Killer Whale critical habitat, must be examined.

The assessment should also better address areas that were overlooked or under-scrutinized in the T2 assessment. T2 is currently subject to post-assessment information requests from the Minister, who is seeking further information on topics that were not adequately addressed by that project’s proponent in the environmental assessment; in this case, GCT should be required to address all issues in a satisfactory manner during the impact assessment. In particular, to avoid similar shortcomings, GCT must provide thorough information concerning plans for mitigation and offsetting of impacts on fish habitat that speaks to the feasibility and effectiveness of those measures, rather than stating that the effects can be mitigated and that the details will be worked out at some later time.

Furthermore, the review panel assessing T2 found that it would impact juvenile chum and Chinook salmon and have “significant” adverse effects on Chinook due to a combination of disruption caused by its footprint, which would restrict access to productive salmon habitat in the inter-causeway area, and acoustic and light impacts during construction and operations.¹ Despite the different location of DP4, it can be expected to have some similar, or similarly disruptive, effects in this important salmon habitat. Given the impacts of construction and operations in the Fraser River estuary on salmon, and the importance of those salmon to First Nations not only in

¹ Review Panel, Roberts Bank Terminal 2 Protect, “Federal Review Panel Report for the Roberts Bank Terminal 2 Project” (27 March 2020), online at <https://iaac-aeic.gc.ca/050/documents/p80054/134506E.pdf>, at 187.

the immediate area but along the Fraser River, there should be consultation with a broader range of First Nations than there was with respect to T2.

Addressing cumulative effects

Our clients further note that a regional impact assessment of marine shipping impacts on the west coast would be appropriate given the number of projects proposed for the area, its environmental significance, and the extensive impacts that this area already experiences from commercial and other human activities.

A regional assessment would assist in addressing the cumulative effects of marine shipping. This issue continues to come up in reviews of major projects with marine shipping aspects, such as T2 the Trans Mountain Expansion Project. The review panel assessing T2 noted that “underwater noise levels in the Salish Sea area already high, and are too noisy for SRKW”, and that enhanced measures are needed to address this issue.²

The impact assessment of DP4 must address the contribution of each project to the existing untenable levels of ocean noise in the Salish Sea and the cumulative impacts of DP4 along with the many other existing and planned projects, regardless of whether a regional assessment is conducted.

Sincerely,

<Original signed by>

Margot Venton
Barrister & Solicitor

<Original signed by>

Dyna Tuytel
Barrister & Solicitor

- c. David Suzuki Foundation, Georgia Strait Alliance, Raincoast Conservation Foundation, and Wilderness Committee

Hon. Jonathan Wilkinson, Minister of Environment, via email to ec.ministre-minister.ec@canada.ca

² Review Panel, Roberts Bank Terminal 2 Protect, “Federal Review Panel Report for the Roberts Bank Terminal 2 Project” (27 March 2020), online at <https://iaac-aeic.gc.ca/050/documents/p80054/134506E.pdf>, at 118.