



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

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Seattle, WA 98101-3188

August 27, 2020

REGIONAL  
ADMINISTRATOR'S  
DIVISION

Terence Hubbard  
Vice President of Operations  
Impact Assessment Agency of Canada  
terence.hubbard@canada.ca

Dear Mr. Hubbard:

The U.S. Environmental Protection Agency appreciates the opportunity to provide comments on the Federal Review Panel Report for the Roberts Bank Terminal 2 Project. Our comments are intended primarily to emphasize and amplify the comments raised by our regional partners in Salish Sea protection. We understand that Vancouver Fraser Port Authority has proposed the development of a new container terminal at Roberts Bank in British Columbia to accommodate additional road and rail infrastructure, and an expanded tug basin. This project would provide an additional 2.4 million twenty-foot equivalent units of container capacity per year by allowing for operational activities which would involve inbound and outbound container ship maneuvers, marine terminal operations to move containers on and off ships, railway procedures and drayage by trucks.

Since 1988, EPA Region 10 has administered the Puget Sound National Estuary Program under Section 320 of the U.S. Clean Water Act, overseeing tens of millions of dollars of federal funds annually appropriated by the U.S. Congress to the protection and restoration of the nationally significant Puget Sound estuarine ecosystem and the uses it supports. Puget Sound protection and restoration occurs in a large, collaborative governance framework, led by the Puget Sound Partnership, a state agency that serves in a backbone capacity, and engages U.S. tribal, local, state, and federal governments, and non-governmental entities. Tribes are leaders at all levels in our region's Puget Sound recovery efforts.

We are aware that several key entities from across this collaborative regional effort have submitted comments and otherwise engaged in the review process for the Roberts Bank Terminal 2 decision<sup>1</sup>. Consistent with this input, EPA recognizes that salmon, shellfish, and other marine life are the foundation of many of the Pacific Northwest tribes' subsistence, economy, culture, spiritual life, and day-to-day existence. EPA's actions are consistent with the federal government's treaty obligations and the federal government's trust responsibility to tribes. EPA encourages decisions – and, where appropriate, measures and practices – that ensure that the significance and integrity of way-of-life activities will be maintained during the proposed activities.

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<sup>1</sup> These include:

- October 5, 2018 letter to Honorable Panel Chair Beaudet and Panel Members Levy and Steyn from Leonard Forsman, Chairman of the Suquamish Tribe
- May 24, 2019 input provided by multiple U.S. tribes at the Review Panel Public Hearing for the Roberts Bank Terminal 2 Project
- August 23, 2019 closing remarks submitted by Melody Allen, Attorney, Suquamish Tribe
- July 17, 2019 letter to The Honourable Chrystia Freeland submitted by Lawrence Solomon, Secretary for the Lummi Nation
- May 22, 2020 letter to the Honorable Jonathan Wilkinson from Stanley Senner, Vice President for Bird Conservation, National Audubon Society
- April 15, 2019 letter to the Roberts Bank Terminal 2 Project Review Panel from Tom Buroker, Regional Director, Washington State Department of Ecology

We previously commented<sup>2</sup> on the potential cross-boundary issues related to the proposed Robert Banks Terminal 2 in October 2018, including shipping safety and project area utilization by marine mammals of concern, such as the Southern Resident Killer Whale (SRKW). During the summer months, southern resident orcas are found in the inland marine waters of Washington and southern British Columbia hunting Chinook salmon and other fish species. We recognize the Vancouver Fraser Port Authority's efforts undertaking the Enhancing Cetacean Habitat and Observation (ECHO) Program and the effort being undertaken to develop mitigation measures that will lead to quantifiable reduction in threats to whales from shipping activities. We support the many U.S. entities and stakeholders that have commented on additional measures to protect this population. In your final deliberations, we encourage the use of the *Southern Resident Orca Task Force Report and Recommendations* which outlines specific conclusions regarding vessel speed for certain areas of the Salish Sea. We agree that reducing vessel speed in critical SRKW habitat will decrease the impact of underwater vessel noise on this endangered species ability to forage, rest, and socialize.

As our regional partners have emphasized, Chinook salmon are an important subsistence resource and source of spiritual reverence, as well as an important food source for the orca population. Chinook salmon are listed as threatened under the U.S. Endangered Species Act and many of the remaining populations are far below U.S. federal recovery goals. The Puget Sound Partnership's Leadership Council is the designated regional salmon recovery organization for Puget Sound and is advised by the Puget Sound Salmon Recovery Council; both boards are supported by the Partnership. Since 2007, the Puget Sound Acquisition and Restoration program has provided more than \$200 million to recover salmon habitat by restoring more than 3,000 acres of estuarine habitat, protecting over 10,000 acres of land, and opening almost 80 miles of stream for fish passage.

Orcas living off the coast of Seattle, Tacoma, and other urban areas are exposed to polluted runoff from roads, rooftops, and buildings. Toxic contaminants in the runoff accumulate in orcas and can make them sick or vulnerable to disease. The Partnership tracks these harmful contaminants as part of the Toxics in Fish Vital Sign<sup>3</sup> and works with regional partners to develop a recovery plan, called an Implementation Strategy, that outlines recommendations on the most effective approaches to reduce toxic pollution in Puget Sound. This group also provides technical support to the Southern Resident Orca Task Force.

In addition, we urge consideration of substantive comments from U.S. stakeholders, such as those regarding the protections necessary for migratory birds including the Dunlin (*Calidris alpina pacifica*), Western Sandpiper (*Calidris mauri*) and Black-bellied Plover (*Pluvialis squatarola*). Their populations would be at risk should the ecological functions in the Fraser River Estuary, a significant migratory bird habitat, be degraded. Should the project move forward, we recommend that the Authority firmly commit to developing biofilm habitat in the Fraser River estuary to offset the potential impacts to these species. The Authority has recognized that this may be done by identifying and documenting best practices for implementation, consulting with international experts and interested indigenous groups to purposefully intertwine western scientific and Traditional Ecological Knowledge, and creating an adaptive monitoring program which would record biofilm abundance and density, chlorophyll-a, fatty acid and carbohydrate concentrations.

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<sup>2</sup> October 5, 2018 email correspondence from Teresa Kubo, EPA Region 10 to RBT2 Review Panel

<sup>3</sup> <https://vitalsigns.pugetsoundinfo.wa.gov/>

In general, we support the implementation of measures that would address the concerns raised by our partners. For example, measures such as the EcoAction Program would help to address some of the issues raised by the Lummi Nation, which is concerned about the impacts of noise pollution on the orcas of the Salish Sea. We recognize that this program is multimodal and would be responsible for implementing underwater noise reduction technologies, emission reduction measures, and other beneficial environmental practices. EPA recommends data collected as part of this program be used to support adaptive management practices to minimize the effects of existing and future commercial shipping traffic on at-risk cetaceans.

Given the national significance of the Puget Sound ecosystem to the United States and our constituents and the sovereign tribal governments of the region, we respectfully urge that the Government of Canada ensure that all significant matters of substance raised by U.S. interests be fully aired and resolved with those raising the matters prior to a final decision on this project. In addition, we urge the Government of Canada to address all significant matters of process raised by U.S. interests as well. Finally, should the project move forward, we hope that opportunities, forums and mechanisms will be provided to address ongoing issues or potential risk responses with the U.S. entities and stakeholders that have raised them.

Sincerely,

ANDREW  
BACA

Digitally signed by ANDREW  
BACA  
Date: 2020.08.27 12:48:33  
-0700

Andrew J. Baca  
Director

cc: Ms. Naina Sloan  
Regional Director General