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The Honourable Steven Guilbeault  
Minister of Environment and Climate Change Canada  
House of Commons  
Ottawa, Ontario  
K1A 0A6

March 15, 2022

### RE: Roberts Bank Terminal 2 Project

Dear Minister Guilbeault,

Thank you for the opportunity to comment on the additional information<sup>1</sup> provided by the Vancouver Fraser Port Authority, in response to the information request sent by the Minister of the Environment and Climate Change back in August 2020, regarding the Roberts Bank Terminal 2 (RBT2) project.

After having read through the additional information provided by the Port Authority, I remain strongly opposed to the RBT2 project. The Port Authority fails to adequately address significant concerns regarding the threats to local ecosystems and wildlife – particularly the impact on shoreline birds such as the western sandpiper, chinook salmon, Dungeness crab and the endangered southern resident killer whales. Similarly, concerns remain regarding the infringement on Indigenous and treaty rights posed by the RBT2 project, and the lack of proper engagement and consultation with First Nations.

As you know, the *Canadian Environmental Assessment Act* was replaced by the *Impact Assessment Act* as the basis for the federal environmental assessment process. The *Impact Assessment Act* falls below the standard of acceptability, as conflict of interest is embedded within the legislation. The act further eroded the federal environmental assessment process. An eroded federal environmental assessment framework will inevitably result in substandard environmental assessments.

### Significant Threat to Shoreline Birds

The Fraser River Delta is one of the most critical regions in North America for migratory birds. The Delta is home to several species at risk, including the western sandpiper, several freshwater and sea-going ducks, and the barn owl. The RBT2 proposal poses notable risk to the western sandpiper, a species of shorebird unique to the West Coast of North America that feeds in the nutrient-rich Fraser Delta during migration. The estuaries

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<sup>1</sup> Government of Canada, "From Vancouver Fraser Port Authority to Impact Assessment Agency of Canada re: Response to Information Requests." Accessed March 15, 2022. <https://iaac-aeic.gc.ca/050/evaluations/document/141453?culture=en-CA>.



and ecologically rich mudflats of the Fraser River Estuary are a critical stop for several other migratory birds, including western grebe diving ducks and snow geese.

As you may know, shoreline birds feast on biofilm, a collection of micro-organisms that contain a fatty acid produced through changes in salinity, to fuel up for migratory flights. These fatty acids are essential nutrients for long-distance flights. The Port Authority states that project design decisions can mitigate effects on biofilm and the correlated impact on migratory birds. However, mudflat ecology experts have recommended that the review panel reject the port authority's case due to concerns regarding scientific credibility and errors in scientific studies.<sup>2</sup>

Environment and Climate Change Canada (ECCC) scientists conclude that the "project-related changes to the salinity regime would impact the quality and quantity of biofilm available to shorebirds." Furthermore, the department "remains concerned that there are no practical mitigation measures available to address the potential large-scale impacts of changes to biofilm in Roberts Bank."

These concerns were not considered in the federal review panel's final report published in March 2020<sup>3</sup>, as these concluding remarks made by departmental scientists were not submitted to the panel.

Following the RBT2 public hearings, in the summer of 2019, the review panel requested closing arguments from all participants, including the proponent, the public, stakeholders, and government agencies including ECCC. While many closing remarks were put forward, a submission made by ECCC was not included in the materials given to the environmental assessment review panel and was therefore not considered in the panel's final report on the proposed expansion project. It was later made known to the public that ECCC scientists had written closing remarks; however, the federal government omitted these remarks stating that "closing remarks would not alter or add value to the Department's analyses, conclusions and recommendations already on record."

In their closing remarks, ECCC scientists state that the department "continues to conclude that predicted Project-induced changes to Roberts Bank constitute an unmitigable species-level risk to Western Sandpipers, and shorebirds more generally, and that therefore the only way to be confident of avoiding the impacts on biofilm and shorebirds from these predicted geomorphological processes is with a Project redesign."<sup>4</sup>

The key point is that ECCC's own scientists highlight how the RBT2 project would lead to the collapse of the world's population of the western sandpiper. It is completely unacceptable that this unequivocal conclusion made by departmental scientists was omitted in the draft conditions. This is a clear violation of ECCC's Policy on Scientific Integrity. The federal government must act on its own scientist's concerns and deny approval for the RBT2 expansion project.

### **Additional Concerns Outlined by the Federal Review Panel**

The federal review panel confirmed that the RBT2 project would have "numerous" adverse effects on the environment, including, but not limited to, "significant adverse effects on Chinook salmon" and "significant adverse and cumulative effects on southern resident killer whales."

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<sup>2</sup> Review of Report: "Biofilm Dynamics during 2018 Northward Migration", prepared for Vancouver Fraser Port Authority. Accessed March 15, 2022, <https://iaac-aeic.gc.ca/050/documents/p80054/129234E.pdf>.

<sup>3</sup> Federal Review Panel Report for the Roberts Bank Terminal 2 Project. March 27, 2022. Accessed March 14, 2022. <https://iaac-aeic.gc.ca/050/documents/p80054/134506E.pdf>.

<sup>4</sup> Closing Remarks for the Roberts Bank Terminal 2 Project. Retrieved March 15, 2022 at <https://registrydocumentsprd.blob.core.windows.net/commentsblob/project-80054/comment-56833/ECCC%20Closing%20Panel%20Submission%20RBT2.pdf>.



The federal review panel also identified infringements on Indigenous and treaty rights. The panel concluded that the project would have significant adverse impacts on the use of lands and resources for traditional purposes by the Tsawwassen First Nation and Musqueam Indian Band. Tsawwassen First Nation reserve lands border on Roberts Bank and the expansion would exacerbate risks to their community, associated with increased pollution and noise.

The Vancouver Fraser Port Authority determined that a collision of ships associated with the project would be most likely to occur in the Southern Gulf Islands (Segment B), close to Plumper Sound where two vessels collided in March 2020. The proponent assessed the risk of a vessel grounding or collision to be very low but did not adequately consider human error and non-compliance. The risk of a potential spill of heavy-duty fuel, oil, or other contaminants would be devastating to the sensitive ecosystem, human health, and cultural heritage of the region.

In February, councillors in the City of Delta, in the Lower Mainland, joined the multitude of those requesting the federal government to reject or postpone the construction of the new marine container terminal, citing environmental concerns as expressed in the federal review panel report. I share these concerns.

Ecojustice lawyer Dyna Tuytel released the following statement in response to the panel's report: "The federal review panel report on the Roberts Bank Terminal 2 Project confirms what Ecojustice and its clients have said all along: If built, this project would cause significant harm to the environment and threaten precarious salmon populations and endangered killer whales. The project threatens the safety and health of local communities and ecosystems by not considering local species at risk or greenhouse gas emissions."<sup>5</sup>

We are in a climate emergency. The federal government has committed to advance reconciliation and the implementation of the United Nations Declaration on Indigenous Peoples. Approving this project does not demonstrate a respect nor willingness to honour either of those commitments, nor can it be justified as being in the public's interest.

Sincerely,



Elizabeth May, O.C.  
Member of Parliament  
Saanich-Gulf Islands  
Parliamentary Leader of the Green Party of Canada

cc President Terry Hubbard, Impact Assessment Agency of Canada

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<sup>5</sup> "Ecojustice: Minister should not approve terminal expansion that will have 'adverse' impacts on endangered killer whales". Posted March 31, 2020. Accessed March 15, 2022, <https://ecojustice.ca/pressrelease/ecojustice-minister-should-not-to-approve-terminal-expansion-that-will-have-adverse-impacts-on-endangered-killer-whales/>.

