

**Vouriot, Melody EAO:EX**

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**Subject:** DFO's second set of comments to the VPA on the proposed Deltaport Third Berth Project - September 2005

---Original Message---

**From:** FanosB@pac.dfo-mpo.gc.ca

**Sent:** September 6, 2005 4:28 PM

**To:** XT:Desjardin, Darrell Port of Vancouver EAO:IN

**Cc:** LeoneN@pac.dfo-mpo.gc.ca; AuVivianEC@DFO-MPO.GC.CA; CarterDaveEC@DFO-MPO.GC.CA; Hagen, Jan E EAO:EX; XT:Johansen, Jeff Fisheries and Oceans Canada EAO:IN

**Subject:** DFO's second set of comments to the VPA on the proposed Deltaport Third Berth Project - September 2005

Darrell,

Thank you for the Vancouver Port Authority (VPA) response to Fisheries and Oceans Canada (DFO) comments on the Deltaport Third Berth Proposal, submitted to the Environmental Assessment Office (EAO) back in April 2005. After reviewing your responses on the Compendium of Working Group Comments posted on the EAO website, I have the following comments. Many of VPA responses adequately answered DFO questions. However, I am concerned at the manner and adequacy in which a number of the issues were addressed. Firstly, there are several references to information that has been provided to DFO during meetings held between DFO and the VPA outside of the Working Group process (i.e. focused Fisheries Working Group with the VPA, EC and DFO). As a result, other groups interested in seeing the VPA's response to DFO's questions are left without clear answers. To ensure transparency and inclusiveness in the EA process, the EAO Compendium of Working Group Comments should include a summary of the information that was provided to DFO outside of the Working group process. This will enable the public and other working group members an opportunity to review the VPA's response to DFO's questions and improve public knowledge of the issues and the technical quality of the project review.

Secondly, the VPA chose to answer several DFO questions by referring to large sections of the project proposal documents (i.e. Technical Volume 5 section 3). This is not a satisfactory response to these question/issues as, based on the initial detailed review of the project documents, the questions were asked because they were not available in the project documents or difficult to locate in the 1000+ pages of material. DFO was expecting to get a focused response to the issue and not be directed to a large general section of the application to locate the information. As one example, we were directed to an Appendix that does not exist (Appendix 4.4.1 of the Marine Studies Report). If the information that we have requested is readily available within the existing project reference material, please extract and make the relevant information available for our review. This will support an effective environmental assessment review process and facilitate a timely and productive dialogue for resolving any outstanding technical issues related to fish and fish habitat.

The following is a summary of the questions / issues that were not satisfactorily addressed from DFO's preliminary comments submitted on April 22, 2005 (A) and a new second set of comments and points of clarification dated September 2005 (B).

**A. Outstanding issues from April 22, 2005 DFO submission comments not adequately**

**addressed in the EAO Compendium of Working Group Comments:**

1. General comment- In cases where the VPA response to DFO comments make reference to information that has been provided to DFO, the VPA should provide a brief summary answer in the compendium or reference that the information will be provided in some form of application supplement.
2. 5.20 and 5.23 - DFO does not believe enough information has been provided to conclude that there will be no residual impacts on juvenile Dungeness crab. Intertidal quadrat samples do not appear to have been collected in the area where the new embayment will be located. In the absence of direct sampling data, DFO's view is that the new embayment area already functions as productive intertidal habitat (i.e. crab nursery habitat) currently and that this habitat would in no way compensate for the permanent loss of crab nursery habitat in the project footprint. Please provide the physical and biological information/evidence that was used to support the VPA's conclusion that nursery crab habitat will re-establish here in excess of what is there now and in what quantity. How will the productive capacity of Dungeness crab not be impacted by the permanent removal of greater than 2 ha of intertidal habitat in the project footprint area?
3. 5.22 - How will adult crabs effectively be removed from the ~20 Ha project site. Where will captured crabs be relocated and how will crabs be excluded from re-entering the disturbed work zone while the containment dykes are being built? Will the new project schedule and dredging activity meet the Roberts Bank dredge timing windows for the protection of salmon and crab?
4. 5.23 - Page 295 June sampling data for intertidal quadrat sampling of juvenile Dungeness crab is not provided in appendix A3.3-5
5. 5.27 - Marine Ballast Water Exchange - What is the frequency of occurrence for ships being exempt from conducting ballast discharges offshore and permitted to conduct discharges in local waters? Based on the frequency of occurrence, are there feasible options/technologies for conducting onsite treatment of ballast water?
6. 5.29 - Question 9 - Salmonid sampling data on Roberts Bank - A summary of the information provided to DFO (Distribution of juvenile salmonids on both sides of the Deltaport causeway provided April 22, 2005) provides a more detailed description of salmonid distribution on either side of the Deltaport Causeway and should be included in the EAO Compendium of Comments or referenced and included in the application supplement. This information identifies significant gaps in our knowledge of salmonid distribution patterns in the intercauseway area and provides important insight into salmonid distribution patterns on Roberts Bank and potential compensation measures.

**B. 2<sup>nd</sup> Set of DFO Review Comments and Additional Points of Clarification -September 2005**

As indicated back on April 22, 2005, DFO is providing additional comments on the Deltaport Third Berth proposal as part of our involvement in the Comprehensive Study review process. These comments are based on our continued review of the application and supporting technical reports, information provided to the Working Group Forum and information received

through communication with various public and First Nation groups.

Application page 274

Chapter 10 Marine Environment

1. The application identifies that Southern Resident Killer Whales are susceptible to a variety of anthropogenic disturbances, including acoustic pollution from shipping and construction. Excerpt from technical Volume 5 - "resident killer whales also react to boat traffic (Williams et al. 2002a, Williams et al. 2002b) and disturbances caused by whale watching vessels and shipping traffic have been noted as a potential cause of decline in this population(Anonymous 2002b)" In Technical Volume 5 (page 157) there is a brief description of acoustic pollution related to large commercial vessels with no assessment of the current acoustic environment in the study area (at the proximate, local or regional scale) or predicted impacts with the proposed increase of vessel traffic. Understanding that main shipping routes are through critical killer whale habitat, what are the current ambient noise levels along these routes and the zone of influence for the noise that is generated? Does sonar equipment used on marine vessels generate frequencies and sounds that have the potential to impact marine mammals?
2. Technical Volume.5 page 123 - "Neither species (killer whales) is considered at real risk from boat noise or boat collisions." Please provide the biological rationale and reference studies that were used to support this conclusion.

Application page 288

Chapter 10 Ballast mitigation

1. How effective is the current Ballast Management Program? Have any non-compliance issues occurred to date? If so please describe.
2. Who is responsible for monitoring and enforcing the Ballast Management Program?

Application page 645

Chapter 19 Section 19.3.1 Fuel management of rail

1. As described in the application, "Occasionally a line haul engine may require fuelling at Roberts Bank at which time a TDG regulated fuel truck will conduct fuelling on the causeway for CP and CN" What is the frequency of this occurrence now and into the future based on Third Berth operations?
2. Have any fuel spills occurred on the causeway over the history of operations at Deltaport? If so what was the efficacy of the spill response plan?
3. Can train refuelling operations be modified to be conducted off the causeway or at least in designated areas with appropriate containment facilities?

Application page 578

Chapter 16 Section 16.7.4 Flora and Fauna (lighting impacts)

1. As referenced on page 578 "Discussion on lighting impacts on flora and fauna is provided in Chapter 10 Marine environment". I could not locate a reference to lighting impacts in this section? Please provide an assessment of any potential impacts to the marine environment that are related to the proposed lighting changes for the construction and operational phases of the project.
2. Construction lighting. Is dredging still planned for 24 hours/day for 7 days a week? Can construction activities be adjusted to avoid a 24 hours /day work schedule requiring night lighting?

#### Application page 670

#### Chapter 20 Summary of Project Mitigation....

1. Boat collision risks: The mitigation measures for reducing boat collision risks to marine mammals, identified in Technical Volume 5 page 158, should be included in the Mitigation Measures section 20 of the application.

#### Chapter 23

#### Cumulative effects -

Understanding that the ultimate design, specific location and footprint of T2 has not been determined, the minimum required operations to make a viable container terminal development are likely available and could be used to provide a qualitative assessment of the Terminal 2 in terms of additive and synergistic effects on past and present activities on Roberts Bank. As described in the project scoping document:

"...Consequently, the cumulative effects assessment will consider the potential cumulative effects of the Terminal 2 proposal, as well as of other proposed projects in an approval process in the study area, cumulatively to residual impacts of the Deltaport Third Berth Expansion proposal, This will be based on the information available and to the extent that is feasible and reasonable knowing that Terminal 2 would undergo a separate environmental assessment. "

As described in the CEAA project scope the cumulative effects assessment should include:

1. Underwater noise related to expected changes in marine traffic in the shipping lanes of Georgia Strait that overlap with Southern Resident Killer Whale critical habitat. How will the background/ambient acoustic environment in Haro Strait and Boundary Pass be altered by the addition of approximately 70 vessels per year? What are the likely impacts to all marine mammal species? What increase in vessel traffic in Georgia Strait (Haro St / Boundary Pass) is expected with other container terminal expansion projects currently underway or planned for terminals in Burrard Inlet and the Fraser River.
2. Pier lighting and fish movements on Roberts Bank. Pier lighting may facilitate nocturnal predation on juvenile salmon by visual predators (i.e. piscivorous birds). The nature and extent of the site and pier lighting is a concern with respect to potential impacts on fish migration and behaviour. What are the lighting requirements for the Coal port operations? Have light control systems, similar to what is proposed for Deltaport, been explored for the Westshore Coal port operations? Will the proposed Terminal 2 development have a significant footprint in terms of potential pier lighting? Could the

potential pier lighting changes expected with Terminal 2 work synergistically with the proposed DP3 project to impact salmon migration?

3. Would additional intertidal impacts be expected along the causeway, assuming that additional rail and road infrastructure is required to support a Terminal 2 development. Does the conceptual location of Terminal 2, off pods 2 and 3, have the potential to work synergistically with the proposed DP3 project to impact salmon migration, crab habitat and wildlife populations?

DFO is committed to working with the VPA on minimizing and mitigating impacts in the marine environment through the current environmental assessment process. VPA's responses to the above issues will help to facilitate DFO's review of the proposed project in terms of assessing the potential impacts to fish and fish habitat. Recent discussions between the VPA, DFO and Environment Canada have been productive in terms of identifying opportunities for mitigation and identifying priorities for compensation that address DFO's *Policy for the Management of Fish Habitat*. DFO looks forward to reviewing VPA's updated fish habitat compensation plans and concepts in the coming weeks. If you have any questions regarding the above, please do not hesitate to call me directly at 604-666-0845. Regards, Brad

**Brad Fanos**

Habitat Biologist / Biologiste de l'habitat

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