

DELTAPORT THIRD BERTH PROJECT ("PROJECT")

RECOMMENDATIONS OF THE EXECUTIVE DIRECTOR AND REASONS FOR RECOMMENDATIONS

Pursuant to section 17 of the *Environmental Assessment Act* S.B.C. 2002, c. 43 (Act), the Executive Director of the Environmental Assessment Office (EAO) provides the following recommendations and reasons relating to the Project. In preparing this document, the following have been considered:

- Deltaport Third Berth Project Application (Application) for an environmental assessment certificate (Certificate), submitted by Vancouver Port Authority (Proponent);
- All subsequent Project review documentation identified in Schedule A to the proposed environmental assessment certificate ;
- Deltaport Third Berth Project Assessment Report (Assessment Report); and,
- The *Owners' Table of Commitments and Assurances*, agreed to by the Proponent and enclosed as Appendix E to the Assessment Report

The Executive Director recommends that the Certificate for the Project be issued for the following reasons:

1. EAO established an initial 75-day formal public comment period on the Application. EAO extended this formal public comment period by a further 7 days so that Langley residents could identify their concerns about increased rail traffic even though this was outside the scope of the environmental assessment review. During these two public comment periods, EAO received a total of 607 public comments, which included 371 form letters and/or petition-type of emails. The public raised concerns and issues with respect to traffic, rail crossing and safety, noise, visual impacts, air quality, fish and bird habitat and proposed compensation plans, cumulative effects assessment, public health and general social impacts of the Project on local communities. The Proponent has satisfactorily responded to issues raised by the public and these responses have been posted on the EAO website.
2. During these two formal public comment periods, EAO also received detailed review comments by a number of public stakeholders including the Federation of BC Naturalists, the Boundary Bay Conservation Committee and the BC Great Blue Heron Society. These comments focused on the Project's bio-physical and socio-community impacts, including potential impact on bird habitat, marine mammals, cumulative effects and the other public comments summarized in section 1 above. The Proponent has satisfactorily responded to the issues raised by the public stakeholders and these responses have been posted on the EAO website.

3. As a result of public, stakeholder and review agency comments on the Application, the Proponent submitted additional information during the review including two amended Application chapters and two new review documents. This additional material was made available to the public during a 41-day third formal public comment period. During this third public comment period, EAO received a total of 50 public comments directly related to these four documents. These submissions included comprehensive comments by seven public stakeholder groups. The issues raised expanded upon many of the issues raised during the earlier two formal public comment periods. In addition, EAO received comments on the proposed Roberts Bank inter-causeway environmental management strategy. The Proponent has satisfactorily responded to the issues raised by the public and public stakeholders and these responses have been posted on the EAO website. EAO also received comments that were not specific to the additional material that was the subject of the third formal public comment review. These comments were placed on the EAO Project file.
4. The environmental assessment of the Project addressed, to the satisfaction of federal and provincial review agencies, the effects identified in the Project Terms of Reference, issued on October 8, 2004, including the potential effects to: coastal geomorphology; water quality; sediment quality; the marine environment; waterfowl and coastal seabirds; terrestrial wildlife and vegetation and air quality. The environmental assessment also addressed, to the satisfaction of federal and provincial review agencies, noise; visual and lighting effects; socio-community and economics issues; archaeology; cumulative environmental effects; effects of accidents and malfunctions; effects of the environment on the Project; sustainability; and First Nations issues. The review material also addressed public health effects of Project impacts that were assessed as part of the review. Finally, through the environmental assessment review process, mitigation measures were identified to reduce assessed effects to an acceptable level. A series of environmental management plans and measures for the Project's construction and operation is part of the Proponent's commitments developed through the environmental assessment review process.
5. EAO's First Nation consultation efforts for the Project review fell into three main groups: firstly, the Tsawwassen First Nation who have an Indian Reserve on the shoreline and uplands, close to the Project; secondly, other mainland First Nations, such as the Musqueam Indian Bands, the Katzie First Nations, the Semiahmoo Nation, and the Sto:lo Nation who were also deemed at the beginning of the EAO process to have a potential interest in the Project; thirdly, the Vancouver Island First Nations, the members of the Sencot'en Alliance and the members of the Hul'qumi'num Treaty Group who were not identified as having a potential interest in the project until the fall of 2004.

6. Various opportunities have been provided by EAO for First Nations to comment on the Application and related review documentation and to participate in the Working Group established for the Project. Funding was provided by the Proponent to allow First Nations who expressed an interest in the Project to retain independent consultants to review documents provided by the Proponent and EAO. Measures relating to the distribution of information about the Project to First Nations have been carried out by the Proponent in accordance with EAO's Section 11 Order (the Order) issued on September 17, 2004, including distribution of all relevant environmental assessment documents and reports; meetings with the individual First Nations, and being available to meet with First Nations who wished to be consulted.
7. Although the First Nations, apart from the Tsawwassen First Nation, engaged late in the Project review, EAO is satisfied that the consultations carried out by the Proponent and/or EAO meet applicable policy and legal requirements, and that the Proponent and the Crown have made a series of good-faith efforts to consult with those First Nations who have not engaged in the review.
8. The Tsawwassen First Nation, the Sencot'en Alliance and the Hul'qumi'num Treaty Group attended a number of Working Group meetings and contributed input used in the Assessment Report. They raised a number of similar concerns during the assessment process including: use of traditional knowledge during the review; historical use of Project lands and potential impacts on rights and title; cumulative effects of the Project relating to aboriginal resources; the proposed fish habitat compensation plan as it may impact subsistence fishing and the need for more time to do additional studies. The Island First Nations also expressed concern about proceeding with a decision on the Certificate prior to resolution of accommodation discussions with them.
9. EAO concludes that while there may be potential impacts from the Project on the asserted aboriginal rights of the identified First Nations, these impacts are mitigated through commitments of the Proponent and First Nations should reasonably be able to continue to exercise asserted aboriginal rights around the Project's impact area.
10. All potential significant adverse effects of the Project are considered to be manageable to an acceptable level through:
 - the implementation of commitments and mitigation measures identified in the Application, the Assessment Report and conditions of the Certificate; and,
 - compliance with subsequent statutory permits, licences and approvals, or any authority required under any other enactment.
11. Issues identified by First Nations, the public, and municipal, provincial and federal government agencies that fall within the purview of the environmental assessment review of the Project have been considered, and the Assessment Report identifies these issues and documents practical means to prevent or reduce to an acceptable level any potential significant adverse effects.

12. The Project is in the broad public interest. In addition to providing significant employment opportunities, the Project is a key element of the federal and provincial *Pacific Gateway Strategy*. Increasing capacity at the container terminal will assist BC and Canada to keep pace with the expanding world economies.

ORIGINAL SIGNED BY

Joan Hesketh
Executive Director and Associate Deputy Minister
Environmental Assessment Office

Dated: June 30, 2006