

**Decision Statement**  
**Issued under Section 54 of the *Canadian Environmental Assessment Act, 2012***

to  
Vancouver Fraser Port Authority  
c/o Robin Silvester, President and Chief Executive Officer

100 The Pointe, 999 Canada Place  
Vancouver, British Columbia  
V6C 3T4

for the  
**Roberts Bank Terminal 2 Project**

**Description of the Designated Project**

The Vancouver Fraser Port Authority proposes the construction and operation of a new three-berth marine container terminal located at Roberts Bank in Delta, British Columbia, approximately 35 kilometres south of Vancouver. The proposed project, to be located next to the existing Deltaport and Westshore Terminals, would provide an additional 2.4 million twenty-foot equivalent units of container capacity per year at Roberts Bank.

**Conduct of the environmental assessment**

The former Minister of the Environment referred the Roberts Bank Terminal 2 Project to a review panel on January 7, 2014. The Review Panel was established on May 31, 2016. The Review Panel conducted its review in a manner that met the requirements of the *Canadian Environmental Assessment Act, 2012* and submitted its report to the former Minister of Environment and Climate Change on March 27, 2020. On August 24, 2020, the former Minister of Environment and Climate Change asked the Vancouver Fraser Port Authority to provide more information. The Proponent provided its response to the information request on September 24, 2021. On January 23, 2023, I determined that the Vancouver Fraser Port Authority responded to the questions posed in the August 2020 information request in sufficient detail.

**Decisions on environmental effects referred to in subsection 5(1) of the *Canadian Environmental Assessment Act, 2012***

In accordance with paragraph 52(1)(a) of the *Canadian Environmental Assessment Act, 2012*, after considering the report of the Review Panel on the Designated Project, the additional information provided since the Review Panel report, and the implementation of mitigation measures that I consider appropriate, I have determined that the Designated Project is likely to cause significant adverse environmental effects referred to in subsection 5(1) of the *Canadian Environmental Assessment Act, 2012*.

In accordance with subsection 52(2) of the *Canadian Environmental Assessment Act, 2012*, I referred to the Governor in Council the matter of whether those significant adverse environmental effects referred to in subsection 5(1) were justified in the circumstances.

In accordance with paragraph 52(4)(a) of the *Canadian Environmental Assessment Act, 2012*, the Governor in Council decided that the significant adverse environmental effects referred to in subsection 5(1) that the Designated Project is likely to cause are justified in the circumstances.

In accordance with subsection 53(1) of the *Canadian Environmental Assessment Act, 2012*, I have established the conditions below in relation to the environmental effects referred to in subsection 5(1) of the *Canadian Environmental Assessment Act, 2012*, with which the Proponent must comply.

**Decisions on environmental effects referred to in subsection 5(2) of the *Canadian Environmental Assessment Act, 2012***

The carrying out of the Designated Project may require the following federal authorities to exercise a power or perform a duty or function conferred on them under an Act of Parliament other than the *Canadian Environmental Assessment Act, 2012*:

- The Minister of Fisheries and Oceans may issue authorization(s) under paragraph 35(2)(b) of the *Fisheries Act*;
- The Minister of Fisheries and Oceans may issue authorization(s) under section 73 of the *Species at Risk Act*; and
- The Vancouver Fraser Port Authority may issue building and occupancy permit(s) through authority granted under the *Canada Marine Act*.

In accordance with paragraph 52(1)(b) of the *Canadian Environmental Assessment Act, 2012*, after considering the report of the Review Panel on the Designated Project, the additional information provided since the Review Panel report, and the implementation of mitigation measures that I consider appropriate, I have determined that the Designated Project is likely to cause significant adverse environmental effects referred to in subsection 5(2) of the *Canadian Environmental Assessment Act, 2012*.

In accordance with subsection 52(2) of the *Canadian Environmental Assessment Act, 2012*, I referred to the Governor in Council the matter of whether those significant adverse environmental effects referred to in subsection 5(2) were justified in the circumstances.

In accordance with paragraph 52(4)(a) of the *Canadian Environmental Assessment Act, 2012*, the Governor in Council decided that the significant adverse environmental effects referred to in subsection 5(2) that the Designated Project is likely to cause are justified in the circumstances.

In accordance with subsection 53(2) of *Canadian Environmental Assessment Act, 2012*, I have established the conditions below in relation to the environmental effects referred to in subsection 5(2) of *Canadian Environmental Assessment Act, 2012*, with which the Proponent must comply.

## **Decision Statement under the *Impact Assessment Act***

Pursuant to section 184 of the *Impact Assessment Act*, a Decision Statement issued by me under subsection 54(1) of the *Canadian Environmental Assessment Act, 2012* is deemed to be a Decision Statement issued under subsection 65(1) of the *Impact Assessment Act*, other than for the purposes of section 70.

## **Consultation with Indigenous groups**

In establishing the conditions below in relation to the environmental effects referred to in subsections 5(1) and 5(2) of the *Canadian Environmental Assessment Act, 2012*, I took into account the concerns and interests identified in the consultation process with Indigenous groups. I also considered the measures to address these concerns and interests that have been identified in the environmental assessment and consultation processes. I am satisfied that the consultation process undertaken is consistent with the honour of the Crown and, with the conditions I have established, that the concerns and interests of Indigenous groups are appropriately accommodated for the purpose of issuing this Decision Statement.

### **1 Definitions**

- 1.1 *Agency* means the Impact Assessment Agency of Canada.
- 1.2 *Baseline* means the environmental conditions prior to initiating construction of the Designated Project.
- 1.3 *Construction* means the phase of the Designated Project during which the Proponent undertakes the site preparation, building or installation of any components of the Designated Project and the decommissioning of temporary infrastructure, including periods during which these activities may temporarily cease.
- 1.4 *Construction activity* means any physical activity that is carried out by the Proponent for the purpose of construction of the Designated Project.
- 1.5 *Day* means calendar day.
- 1.6 *Daytime* means from one hour before sunrise to one hour after sunset, as calculated by the National Research Council of Canada for Vancouver (British Columbia).
- 1.7 *Designated Project* means all components and activities associated with the Roberts Bank Terminal 2 Project, which consist of construction and operation of the marine terminal, the widened causeway, and the expanded tug basin, and incidental marine shipping as described in the Designated Project Description dated September 24, 2021 (Canadian Impact Assessment Registry Reference Number 80054, Document Number 2084) and the implementation of conditions.
- 1.8 *Designated Project area* means the geographic area occupied by the Designated Project as indicated on Figure 1 (Project Overview) of the Designated Project Description dated September 24, 2021 (Canadian Impact Assessment Registry Reference Number 80054, Document Number 2084).

- 1.9 *Environment and Climate Change Canada* means the Department of the Environment as established under subsection 2(1) of the *Department of the Environment Act*.
- 1.10 *Environmental assessment* means “environmental assessment” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.11 *Environmental effects* means “environmental effects” as described in section 5 of the *Canadian Environmental Assessment Act, 2012*.
- 1.12 *Environmental impact statement* means the March 27, 2015 document entitled *Roberts Bank Terminal 2 Project, Roberts Bank, Delta, B.C., Environmental Impact Statement* (Canadian Impact Assessment Registry Reference Number 80054, Document Number 181).
- 1.13 *Exclusion zone* means the area within which a marine mammal may be potentially exposed to sound levels from a construction activity that are above injury thresholds for marine mammals or behavioural disturbance thresholds for Southern Resident Killer Whales (*Orcinus orca*) established in accordance with condition 8.2.1.
- 1.14 *Federal Review Panel Report* means the report submitted on March 27, 2020 by the Federal Review Panel established by the Minister of Environment and Climate Change (Canadian Impact Assessment Registry Reference Number 80054, Document Number 2062).
- 1.15 *Fish* means “fish” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.16 *Fish habitat* means “fish habitat” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.17 *Fisheries and Oceans Canada* means the Department of Fisheries and Oceans as established under subsection 2(1) of the *Department of Fisheries and Oceans Act*.
- 1.18 *Follow-up program* means “follow-up program” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.19 *Health Canada* means the *Department of Health* as established under subsection 2(1) of the *Department of Health Act*.
- 1.20 *Heritage value* means the aesthetic, historic, scientific, cultural, social or spiritual importance or significance for past, present or future generations.
- 1.21 *In-water work activities* means any works associated with the Designated Project undertaken in water frequented by fish.
- 1.22 *Indigenous groups (Roberts Bank)* means the following Aboriginal Peoples: Tsawwassen First Nation, Musqueam Indian Band (Musqueam), Cowichan Nation Alliance members, Halalt First Nation, Ts’uubaa-asatx Nation, Lyackson First Nation, Malahat First Nation, Maa-nulth First Nations (Huu-ay-aht First Nation, Ka:'yu:'k't'h'/Che:k'tles7et'h First Nations, Toquaht Nation, Uchucklesaht Tribe and Yuułuʔiłʔatḥ (Ucluelet) Nation), Pauquachin First Nation, Penelakut Tribe, Semiahmoo First Nation, Stz’uminus First Nation, Tsartlip First Nation, Tsawout First Nation, Tseycum First Nation, and Tseil-Waututh Nation.

- 1.23 *Indigenous groups (Fraser River)* means the following Aboriginal Peoples: S'ólh Téméxw Stewardship Alliance (Chawathil First Nation, Cheam First Nation, Kwaw-Kwaw-Apilt First Nation, Scowlitz First Nation, Skawahlook First Nation, Skwah First Nation, Sumas First Nation, Yale First Nation each on their own behalf, and Aitchelitz First Nation, Shxwhá:y Village, Skowkale First Nation, Soowahlie First Nation, Squiala First Nation, Tzeachten First Nation and Yakweawkwoose First Nation), Kwantlen First Nation, Leq'á:mél First Nation, Matsqui First Nation, Shxw'ow'hamel First Nation, Popkum First Nation, and Seabird Island First Nation.
- 1.24 *Indigenous groups (marine shipping)* means the following Aboriginal Peoples: Scia'new (Beecher Bay) First Nation, Ditidaht First Nation, Esquimalt Nation, Pacheedaht First Nation, Snuneymuxw First Nation, Songhees Nation, and T'sou-ke First Nation.
- 1.25 *Invasive plant species* means a plant species introduced outside its natural range to an area where it did not previously exist, and that presents an environmental, safety, or economic threat.
- 1.26 *Listed species at risk* means a species that is listed on the List of Wildlife Species at Risk set out in Schedule 1 of the *Species at Risk Act*.
- 1.27 *Local assessment area* means the area within which the Designated Project is expected to interact with and potentially cause effects to a component of the environment and are delineated for various components of the environment in the Environmental Impact Statement, unless otherwise indicated in the conditions.
- 1.28 *Marine mammals* means all mammal species, which are morphologically adapted to the marine environment, including cetaceans and pinnipeds.
- 1.29 *Migratory bird* means “migratory bird” as defined in subsection 2(1) of the *Migratory Birds Convention Act, 1994*.
- 1.30 *Ministry of Environment and Climate Change Strategy* means British Columbia’s Ministry of Environment and Climate Change Strategy as established under Appendix A of Order in Council No. 213-2017.
- 1.31 *Ministry of Forests* means British Columbia's Ministry of Forests as established under Schedule 2 of Order in Council No. 92-2022.
- 1.32 *Ministry of Health* means British Columbia’s Ministry of Health as established under subsection 1(1) of the *Ministry of Health Act*.
- 1.33 *Ministry of Land, Water, and Resource Stewardship* means British Columbia’s Ministry of Land, Water, and Resource Stewardship as established under Schedules 1 and 2 of Order in Council No. 92-2022.
- 1.34 *Ministry of Transportation and Infrastructure* means British Columbia’s Ministry of Transportation and Infrastructure as established under Appendix A of Order in Council No. 430-2008.
- 1.35 *Mitigation measures* means “mitigation measures” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.

- 1.36 *Natural Resources Canada* means the Department of Natural Resources as established under subsection 3(1) of the *Department of Natural Resources Act*.
- 1.37 *Offsetting plan* means “offsetting plan” as described in Schedule 1 of the *Authorizations Concerning Fish and Fish Habitat Protection Regulations*.
- 1.38 *Operation* means the phase of the Designated Project during which vessels are accepted for berthing and cargo transfer. This phase includes periods when vessel berthing and vessel cargo transfer may temporarily cease. This phase includes any activities associated with commissioning the marine terminal in whole or in part.
- 1.39 *Parks Canada* means the Parks Canada Agency constituted under section 3 of the *Parks Canada Agency Act*.
- 1.40 *Participate* means to directly or indirectly assist or support initiatives through the provision of resources, including knowledge, time, data, access and other means that are economically and technically feasible and, where the participation of the Proponent is required or requested, within the care and control of the Proponent.
- 1.41 *Port of Vancouver* means the lands and waters in the Vancouver Fraser port Authority’s Letters Patent as amended from time to time.
- 1.42 *Pre-construction survey* means any physical activity that is carried out by the Proponent for the purpose of gathering data to establish existing physical or environmental conditions prior to the commencement of construction, other than any physical activity carried out in relation to a follow-up program that is a requirement of a condition set out in this Decision Statement or any physical activity required by any other condition set out in this Decision Statement.
- 1.43 *Productivity* means the amount of plant and animal biological material (or biomass) produced within an ecosystem over a given amount of time.
- 1.44 *Proponent* means Vancouver Fraser Port Authority and its successors or assigns.
- 1.45 *Qualified individual* means someone who, through education, experience and knowledge relevant to a particular matter, provides the Proponent with advice within their area of expertise. Knowledge relevant to a particular matter may include community and Indigenous knowledge.
- 1.46 *Qualified professional* means a person who has training, experience and expertise in a discipline relevant to the field of practice set out in the condition, and who is registered with the appropriate professional organization in British Columbia, is acting under that organization's code of ethics and is subject to disciplinary action by that organization.
- 1.47 *Record* means “record” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.48 *Relevant authorities* means federal and/or provincial and/or municipal authorities that are in possession of specialist or expert information or knowledge, or that have a responsibility for the administration of a law or regulation, with respect to the subject matter of a condition set out in this Decision Statement.

- 1.49 *Reporting year* means January 1 of a calendar year through December 31 of the same calendar year.
- 1.50 *Salish Sea* means the inland sea east of Juan de Fuca traffic separation scheme light buoy JA, including the Strait of Juan de Fuca, Strait of Georgia and Puget Sound.
- 1.51 *Structure, site or thing of historical, archeological, paleontological or architectural significance* means a physical structure, site or thing that is determined by a qualified individual, on the basis of heritage value, to be associated with an aspect of the history or culture of the people of Canada, including Indigenous Peoples.
- 1.52 *Transport Canada* means the Department of Transport as established under subsection 3(1) of the *Department of Transport Act*.
- 1.53 *Water frequented by fish* means “water frequented by fish” as defined in subsection 34(1) of the *Fisheries Act*.
- 1.54 *Wetland* means land that is saturated with water long enough to promote wetland or aquatic processes as indicated by poorly drained soils, hydrophytic vegetation and various kinds of biological activity which are adapted to a wet environment and as further defined in the Canadian Wetland Classification System.
- 1.55 *Wetland functions* means the natural processes and derivation of benefits and values associated with wetland ecosystems, including economic production, fish and wildlife habitat, organic carbon storage, water supply and purification (e.g. groundwater recharge, flood control, maintenance of flow regimes, shoreline erosion buffering), and soil and water conservation, as well as tourism, heritage, recreational, educational, scientific, and aesthetic opportunities.

## **Conditions**

These conditions are established for the sole purpose of the Decision Statement issued under the *Canadian Environmental Assessment Act, 2012*. They do not relieve the Proponent from any obligation to comply with other legislative or other legal requirements of the federal, provincial, or local governments. Nothing in this Decision Statement shall be construed as affecting what may be required of the Proponent to comply with all applicable legislative or legal requirements. In this Decision Statement, a reference to a statute will include every amendment to it, every regulation made under it, every amendment made to a regulation made under it and any law enacted in substitution for, or in replacement of, it.

## **2 General conditions**

- 2.1 The Proponent shall ensure that its actions in meeting the conditions set out in this Decision Statement during all phases of the Designated Project are considered in a careful and precautionary manner, promote sustainable development, are informed by the best information and knowledge available at the time the Proponent takes action, including policies, guidelines and directives and community and Indigenous knowledge, available at the time the Proponent takes action, are based on methods and models that are recognized by standard-setting bodies, are

undertaken by qualified individuals, and have applied the best available technically and economically feasible technologies.

- 2.2 The Proponent shall ensure that its actions in meeting the conditions set out in this Decision Statement are taken in a way that is consistent with any applicable management plan, recovery strategy and action plan for listed species at risk that is prepared or established pursuant to the *Species at Risk Act*.

### **Consultation**

- 2.3 The Proponent shall, where consultation is a requirement of a condition set out in this Decision Statement:
- 2.3.1 provide a written notice of the opportunity for the party or parties being consulted to present their views and information on the subject matter of the consultation at least 90 days prior to the commencement of the activity or activities to which the consultation pertains;
  - 2.3.2 provide the information that is available and is relevant to the scope and the subject matter of the consultation and a reasonable period of time not less than 30 days, or as otherwise agreed upon with the party or parties being consulted, to prepare their views and information;
  - 2.3.3 undertake an impartial consideration of all views and information presented by the party or parties being consulted on the subject matter of the consultation; and
  - 2.3.4 advise as soon as feasible in writing, the party or parties being consulted on how the views and information received have, or have not, been integrated into the subject matter of the consultation by the Proponent, including a rationale for why the views have, or have not, been integrated.
- 2.4 The Proponent shall, where consultation with Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), and/or Indigenous groups (Fraser River) is a requirement of a condition set out in this Decision Statement:
- 2.4.1 discuss with each Indigenous group within the Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), and/or Indigenous groups (Fraser River) separately whether it is interested in being consulted on the condition(s) where indicated. The Proponent shall revisit this every year, or at a frequency agreed upon with each group, with each Indigenous group within Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), and/or Indigenous groups (Fraser River) and only conduct consultation requirements referred to in condition 2.3 for the condition(s) of interest to each group;
  - 2.4.2 communicate with each Indigenous group within the Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), and/or Indigenous groups (Fraser River) with respect to the manner to satisfy the consultation requirements referred to in condition 2.3, including:
    - 2.4.2.1 methods of notification;
    - 2.4.2.2 the type of information, resources and the period of time to be provided when seeking input;



- 2.4.2.3 whether consultation is to be done separately from other parties being consulted;
- 2.4.2.4 the process to be used by the Proponent to undertake impartial consideration of all views and information presented on the subject of the consultation; and
- 2.4.2.5 the period of time and the means to advise the Indigenous groups identified in condition 2.4.1 of how their views and information were considered by the Proponent.

***Follow-up requirements***

- 2.5 The Proponent shall, where a follow-up program is a requirement of a condition set out in this Decision Statement, determine, as part of the development of each follow-up program and in consultation with the party or parties being consulted during the development, the following information, unless already specified in the condition:
  - 2.5.1 the methodology, location, frequency, timing and duration of monitoring associated with the follow-up program;
  - 2.5.2 the scope, content and frequency of reporting of the results of the follow-up program;
  - 2.5.3 the frequency at which the follow-up program must be updated;
  - 2.5.4 the levels of environmental change relative to baseline that are caused by the Designated Project and that would require the Proponent to implement modified or additional mitigation measure(s), including instances where the Proponent may require Designated Project activities causing the environmental change to be stopped;
  - 2.5.5 the potential technically and economically feasible mitigation measures that may be implemented by the Proponent if monitoring conducted as part of the follow-up program shows that the levels of environmental change referred to in condition 2.5.4 have been reached or exceeded as well as measures suggested by the party or parties being consulted that cannot be implemented and the reasons why they cannot be implemented; and
  - 2.5.6 the specific and measureable end points that must be achieved before the follow-up program can end. Those end points should indicate that the accuracy of the environmental assessment has been verified and/or that the mitigation measures are effective.
- 2.6 The Proponent shall update the follow-up programs, including the information determined for each follow-up program pursuant to condition 2.5, during the implementation of each follow-up program, at the minimum frequency determined pursuant to condition 2.5.3 and in consultation with the party or parties being consulted during the development of each follow-up program.
- 2.7 The Proponent shall provide the follow-up programs, including the information determined for each follow-up program pursuant to condition 2.5, to the Agency and to the party or parties being consulted during the development of each follow-up program prior to the implementation of each follow-up program. The Proponent shall also provide any update made pursuant to condition 2.6 to the Agency and to the party or parties being consulted during the development of each follow-up program within 30 days of the follow-up program being updated.

- 2.8 The Proponent shall, where a follow-up program is a requirement of a condition set out in this Decision Statement:
- 2.8.1 implement the follow-up program according to the information determined pursuant to condition 2.5 and any requirements specified in conditions specific to each follow-up program;
  - 2.8.2 conduct monitoring and analysis to verify the accuracy of the environmental assessment as it pertains to the particular condition and/or to determine the effectiveness of mitigation measure(s);
  - 2.8.3 determine whether modified or additional mitigation measure(s) are required based on the monitoring and analysis undertaken pursuant to condition 2.8.2;
  - 2.8.4 if modified or additional mitigation measures are required pursuant to condition 2.8.3, develop and implement these technically and economically feasible mitigation measure(s) as soon as feasible and monitor them pursuant to condition 2.8.2. The Proponent shall notify the Agency within 24 hours of any modified or additional mitigation measure being implemented and provide a detailed description of the measure, if not previously submitted to the Agency, within 7 days; and
  - 2.8.5 report all results of the follow-up program including all data collected, analyses, and monitoring reports to the Agency no later than March 31 following any reporting year during which the follow-up program is implemented and, subject to information determined pursuant to 2.5.2, to the party or parties being consulted during the development of the follow-up program.
- 2.9 Where consultation with Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), and/or Indigenous groups (Fraser River) is a requirement of a follow-up program, the Proponent shall discuss the follow-up program with each group and shall determine, in consultation with each group, opportunities for their participation in the implementation of the follow-up program, including the conduct of monitoring, the analysis and reporting of follow-up results and whether modified or additional mitigation measure(s) are required, as set out in condition 2.8.

### ***Annual reporting***

- 2.10 The Proponent shall prepare an annual report that sets out, for each reporting year:
- 2.10.1 the activities undertaken by the Proponent to comply with each of the conditions set out in this Decision Statement;
  - 2.10.2 how the Proponent complied with condition 2.1;
  - 2.10.3 for conditions set out in this Decision Statement for which consultation is a requirement, a summary and full record of any views and information received during or as a result of consultation and how the Proponent considered and addressed the views and information received as well as any outstanding issues and whether the outstanding issues impede compliance with any conditions;
  - 2.10.4 the Indigenous knowledge the Proponent has received and how it was considered in the development and implementation of conditions set out in this Decision Statement. The Proponent shall respect Indigenous knowledge protocols and shall keep received

Indigenous knowledge confidential, if requested, and/or if required by legal and regulatory requirements;

- 2.10.5 the information referred to in conditions 2.5 for each follow-up program and any update to that information made pursuant to condition 2.6;
  - 2.10.6 a summary of the results of the follow-up program requirements;
  - 2.10.7 any modified or additional mitigation measure implemented or proposed to be implemented by the Proponent, as determined pursuant to condition 2.8;
  - 2.10.8 for any conditions where implementation is specifically stated to be dependent in whole or in part upon economic or technical feasibility, and the Proponent determines it is not economically or technically feasible, the Proponent shall provide a reasonable justification for that determination;
  - 2.10.9 the activities undertaken by the Proponent related to its participation in regional initiatives; and
  - 2.10.10 for any plan that is a requirement of a condition set out in this Decision Statement, any update(s) to the plan that have been made during the reporting year.
- 2.11 The first reporting year for which the Proponent shall prepare an annual report pursuant to condition 2.10 shall start on the day the Minister of the Environment issues the Decision Statement to the Proponent pursuant to subsection 54 (1) of the *Canadian Environmental Assessment Act, 2012*.
- 2.12 The Proponent shall submit to the Agency the annual report referred to in condition 2.10, including a plain language executive summary in both official languages, no later than March 31 following the reporting year to which the annual report applies.

### ***Information sharing***

- 2.13 The Proponent shall publish on the Internet the annual reports and the executive summaries referred to in conditions 2.10 and 2.12, greenhouse gas reduction plan and monitoring results referred to in conditions 3.2 and 3.3, biofilm follow-up program results referred to in conditions 10.4, the reports related to accidents and malfunctions referred to in conditions 20.6.3 and 20.6.4, the accident and malfunction communication plan referred to in condition 20.7, the schedules referred to in conditions 21.1 and 21.2, and any update or revision to the above documents, upon submission of these documents to the parties referenced in the respective conditions. The Proponent shall keep these documents publicly available for 15 years following their publication. The Proponent shall notify the Agency and Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), and Indigenous groups (Fraser River) of the availability of these documents within two business days of their publication.
- 2.14 When the development of any plan is a requirement of a condition set out in this Decision Statement, the Proponent shall submit the plan to the Agency prior to the commencement of the activity or activities to which the plan pertains, unless otherwise required through the condition.

### ***Change of Proponent***

- 2.15 The Proponent shall notify the Agency and Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), and Indigenous groups (Fraser River) in writing no later than 30 days after the day on which there is any transfer of ownership or control of the Designated Project in whole or in part.

### ***Change to the Designated Project***

- 2.16 If the Proponent is proposing to carry out the Designated Project in a manner other than described in condition 1.7, the Proponent shall notify the Agency in writing in advance of carrying out the proposed activities. As part of the notification, the Proponent shall provide:
- 2.16.1 a description of the proposed change(s) to the Designated Project and the environmental effects that may result from the proposed change(s);
  - 2.16.2 any modified or additional measure to mitigate any environmental effect that may result from the proposed change(s) and any modified or additional follow-up requirement; and
  - 2.16.3 an explanation of how, taking into account any modified or additional mitigation measure referred to in condition 2.16.2, the environmental effects that may result from the proposed change(s) may differ from the environmental effects of the Designated Project identified during the environmental assessment.
- 2.17 The Proponent shall provide to the Agency any additional information required by the Agency about the proposed change(s) referred to in condition 2.16, which may include the results of consultation with one or more of the Indigenous groups identified in conditions 1.22, 1.23, and 1.24 and relevant authorities on the proposed change(s) and environmental effects referred to in condition 2.16.1 and the modified or additional mitigation measures and follow-up requirements referred to in condition 2.16.2.

## **3 Air quality and greenhouse gas emissions**

- 3.1 The Proponent shall provide and maintain, during operation, electrical power connection(s) so that all container vessels equipped to plug into land-based electrical power while berthed at the marine terminal can do so to reduce the use of diesel powered auxiliary engines.
- 3.2 The Proponent shall develop, in consultation with Indigenous groups (Roberts Bank), Environment and Climate Change Canada, British Columbia's Ministry of Environment and Climate Change Strategy and Metro Vancouver, greenhouse gas management plans for construction and operation of the marine terminal, the widened causeway, and the expanded tug basin, to improve energy efficiency and reduce greenhouse gas emissions. The Proponent shall develop each plan prior to the relevant phase of the Designated Project and implement each plan throughout the relevant phase of the Designated Project. The Proponent shall take into account applicable federal, provincial and regional greenhouse gas reduction strategies when developing and implementing the plans. As part of each plan, the Proponent shall:
- 3.2.1 identify the sources of direct and indirect greenhouse gas emissions applicable to each phase of the Designated Project covered by the greenhouse gas management plan;

- 3.2.2 identify the commercially available technologies and practices which have the potential to reduce greenhouse gas emissions from each phase of the Designated Project covered by the greenhouse management plan, including emerging technologies and practices at a sufficiently advanced stage of technological development to become technically and economically feasible over the life of the Designated Project;
  - 3.2.3 determine how each technically and economically feasible technology or practice identified pursuant to condition 3.2.2 will be implemented by the Proponent during each phase of the Designated Project, including consideration of when any equipment associated with the Designated Project that contributes to the emission of greenhouse gases will need to be replaced with equipment of lower greenhouse gas intensity;
  - 3.2.4 review the Proponent's existing voluntary and incentive-based greenhouse gas reduction programs, as indicated in Table 7-3 of the Federal Review Panel Report, indicate within each plan whether the existing programs could be improved to include mandatory measures, and apply any applicable mandatory measures to the Designated Project;
  - 3.2.5 establish greenhouse gas emission reduction targets for specific intervals that aim to reduce overall emissions and that take into account how the Proponent plans to implement the technologies and practices in the manner referred to in condition 3.2.2 and any greenhouse gas reduction programs referred to in condition 3.2.4;
  - 3.2.6 review the operational greenhouse gas management plan every five years from the start of operation of the marine terminal, the widened causeway, and the expanded tug basin. The Proponent shall take into account the results of the follow-up program referred to in condition 3.3 when reviewing and, if necessary updating the plan. If the Proponent updates the plan, the Proponent shall submit any updated plan to the Agency and to Environment and Climate Change Canada within 30 days of the revision of the plan. As part of the review of the plan, the Proponent shall:
    - 3.2.6.1 review the technologies and practices referred to in condition 3.2.2 and update the plan if it identifies other emerging technologies and practices that are at a sufficiently advanced stage of technological development to become technically and economically feasible over the life of the Designated Project;
    - 3.2.6.2 review the greenhouse gas reduction programs referred to in condition 3.2.4 for any additional improvements; and
    - 3.2.6.3 determine whether the reduction targets referred to in condition 3.2.5 need to be revised in light of the information referred to in condition 3.2.6.1 and, if so, revise the targets.
- 3.3 The Proponent shall develop, prior to construction, and implement, during all phases of the Designated Project, a follow-up program to determine the effectiveness of the mitigation measures as it pertains to greenhouse gas emissions. The Proponent shall develop and implement the follow-up program in consultation with Indigenous groups (Roberts Bank), Environment and Climate Change Canada, British Columbia's Ministry of Environment and Climate Change Strategy, and Metro Vancouver and in accordance with conditions 2.5 to 2.9. As part of the implementation of the follow-up program, the Proponent shall:
- 3.3.1 quantify and report annually, during operation and as part of the annual report referred to in condition 2.10, annual greenhouse gas emissions resulting from operation of the

- marine terminal, the widened causeway, and the expanded tug basin, including the methodology, assumptions and all supporting data;
- 3.3.2 quantify and report annually, as part of the annual report referred to in condition 2.10, annual greenhouse gas emissions arising from construction activities, transportation activities not directly supporting the operation of the marine terminal, and other types of indirect emissions attributable to the Designated Project, including the methodology, assumptions and all supporting data. The Proponent shall specify if indirect emissions data is unavailable or if estimates have been made based on available information; and
- 3.3.3 use methods outlined in the *Canada's Greenhouse Gas Quantification Requirements*, as updated, or, where emission source methods are not specified for a certain activity, methods consistent with the *2006 Intergovernmental Panel on Climate Change Guidelines for National Greenhouse Gas Inventories*, to quantify emissions pursuant to conditions 3.3.1 and 3.3.2. The Proponent shall justify the methodology used to quantify emissions from any activity not specified in *Canada's Greenhouse Gas Quantification Requirements*.
- 3.4 The Proponent shall develop, prior to the commencement of activities to which they pertain and in consultation with Environment and Climate Change Canada, British Columbia's Ministry of Environment and Climate Change Strategy, the City of Delta, Metro Vancouver, and Indigenous groups (Roberts Bank), measures to mitigate adverse environmental effects caused by air emissions emitted from the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin during each phase of the Designated Project. The Proponent shall implement the measures throughout the relevant phase of the Designated Project. As part of these measures, the Proponent shall:
- 3.4.1 mitigate emissions of dust attributable to the construction of the marine terminal, the widened causeway, and the expanded tug basin, while minimizing freshwater use where technically and economically feasible, including by:
- 3.4.1.1 regularly sweeping any paved surface located within the Designated Project area;
- 3.4.1.2 installing and using a wheel washer;
- 3.4.1.3 regularly using water spray on any unpaved surface and exposed stockpiles within the open storage area located within the Designated Project area;
- 3.4.1.4 stabilizing any exposed earthwork as soon as possible;
- 3.4.2 provide incentives to third-party contractors to use zero-emission mobile and stationary off-road equipment required for any physical activity undertaken in relation to the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin or, if zero-emission equipment is not available or its use is not technically or economically feasible, provide a rationale for that determination and require third-party contractors to use equipment that:
- 3.4.2.1 uses diesel engines operating on diesel or low-carbon diesel fuel that meet Tier 4 emissions standards where technically and economically feasible or, at a minimum, Tier 3 emission standards and is equipped with verified diesel particulate filters and for which both the engines and the filters are maintained in accordance with maintenance instructions provided by the manufacturer; or

- 3.4.2.2 uses low-carbon fuel, which may include natural gas, propane or hydrogen, while meeting Tier 4 emissions standards where technically and economically feasible or, at a minimum, Tier 3 emission standards and being maintained in accordance with maintenance instructions provided by the manufacturer;
  - 3.4.3 ensure emission control technologies are not removed from any diesel-powered equipment, unless removal is necessary for repair and maintenance activities, after which the emission control technologies shall be replaced prior to resuming work; and
  - 3.4.4 require, from the start of operation, on-site cargo handling equipment required for operation of the marine terminal to be zero-emitting through the use of electric, hydrogen fuel cell or other technology, except the horizontal transport equipment. The Proponent shall use low-emission horizontal transport equipment, until such a time as it becomes technically and economically feasible to transition the fleet of selected horizontal transport equipment.
- 3.5 The Proponent shall develop, prior to construction, and implement, during all phases of the Designated Project, a no-idling policy for all mobile equipment and vehicles within the Designated Project area. The Proponent shall require that all persons abide by this policy, unless not technically feasible or not feasible for health or safety reasons. The Proponent shall submit the policy to the Agency prior to construction.
- 3.6 The Proponent shall develop, prior to each phase of the Designated Project and in consultation with Environment and Climate Change Canada, Health Canada, British Columbia's Ministry of Environment and Climate Change Strategy, British Columbia's Ministry of Health, the City of Delta, Metro Vancouver, and Indigenous groups (Roberts Bank), and to the satisfaction of a qualified professional, a follow-up program as described in Table C21 of Appendix G in the Federal Review Panel Report to verify the accuracy of the environmental assessment and determine the effectiveness of mitigation measures as it pertains to adverse changes to air quality attributable to the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin and related environmental effects on human health. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9. As part of the follow-up program, the Proponent shall:
  - 3.6.1 determine, for each phase of the Designated Project, the criteria air contaminants and trace organic contaminants to be monitored and reported on, including NO<sub>2</sub>, O<sub>3</sub>, SO<sub>2</sub>, TPM, PM<sub>10</sub> and PM<sub>2.5</sub>, the equipment to be used to obtain air quality concentrations and meteorological data, the frequency of data analysis and reporting requirements, and the human health thresholds to be used for the purpose of condition 3.6.5;
  - 3.6.2 conduct, during construction, inventories of emissions of the contaminants determined for the construction phase pursuant to condition 3.6.1 within the Roberts Bank port complex, including emissions from the Deltaport Terminal and Westshore Terminals, as well as the BC Ferries Tsawwassen Terminal, to the extent such information is available to the Proponent;
  - 3.6.3 monitor, during construction, the contaminants determined for the construction phase pursuant to condition 3.6.1 at existing air quality monitoring stations operated by Metro Vancouver and at additional air quality monitoring station(s) in locations potentially affected by the construction of the marine terminal, the widened causeway, and the

- expanded tug basin, as determined in consultation with the parties involved in the development of the follow-up program;
- 3.6.4 monitor, during operation, the contaminants determined for the operation phase pursuant to condition 3.6.1 at existing air quality monitoring stations operated by Metro Vancouver and at additional air quality monitoring station(s) in locations potentially affected by the operation of the marine terminal, the widened causeway, and the expanded tug basin, as determined in consultation with the parties involved in the development of the follow-up program;
- 3.6.5 if the results of the monitoring referred to in conditions 3.6.3 or 3.6.4 demonstrate any exceedance of the most stringent applicable air quality criteria set out in the *Canadian Ambient Air Quality Standards* or *British Columbia Air Quality Objectives* or human health thresholds, notify Metro Vancouver and determine, in consultation with the parties involved in the development of the follow-up program, the source of any such exceedance;
- 3.6.6 for any exceedance determined pursuant to condition 3.6.5 to be attributable to the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin, develop and implement modified or additional measures to mitigate air quality emissions, which may include the reduction or cessation of one or more construction activities; and
- 3.6.7 share the results of the follow-up program on a regular basis with the parties being involved in the development of the follow-up program, including through meetings and the provision of monthly summaries of measured ambient air quality concentrations.

#### **4 Atmospheric noise and vibration**

- 4.1 The Proponent shall develop, prior to the relevant phase of the Designated Project and in consultation with Indigenous groups (Roberts Bank), Environment and Climate Change Canada, Health Canada, and the City of Delta, technically and economically feasible measures to mitigate adverse environmental effects of atmospheric noise and vibration emitted from the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin. The Proponent shall implement the measures during the relevant phase of the Designated Project. As part of these measures, the Proponent shall:
- 4.1.1 use soft start procedures to increase the sound levels emitted by construction equipment gradually before use at full operational power;
- 4.1.2 use alarms on moving or operating equipment with sound levels that adjust to the surrounding ambient sound levels subject to safety requirements;
- 4.1.3 require employees and contractors involved in or responsible for noise-generating activities in the Designated Project area to undertake training related to best practices for noise reduction related to those activities;
- 4.1.4 use and maintain atmospheric noise-dampening technologies on all vehicles and equipment used by the Proponent for construction and operation of the Designated Project in the Designated Project area and keep them in good working order, including through the implementation of a regular inspection program; and



- 4.1.5 install and maintain, to the satisfaction of a qualified professional, acoustic barriers around atmospheric noise-emitting components and activities to mitigate noise that may result in injury or behavioral changes to wildlife.
- 4.2 The Proponent shall develop, prior to construction and in consultation with Tsawwassen First Nation and Health Canada, mitigation measures to reduce low-frequency noise caused by the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin. The Proponent shall implement these measures during construction and operation and submit these measures to the Agency prior to implementing them.
- 4.3 The Proponent shall develop, prior to each phase of the Designated Project and in consultation with the City of Delta, Health Canada, and Indigenous groups (Roberts Bank), a follow-up program as described in Table C22 of Appendix G in the Federal Review Panel Report to verify the accuracy of the environmental assessment and determine the effectiveness of mitigation measures as it pertains to adverse environmental effects on human health caused by noise and vibration attributable to the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9. As part of the follow-up program, the Proponent shall:
  - 4.3.1 determine, prior to construction, the data requirements for noise monitoring for all phases of the Designated Project;
  - 4.3.2 consider Health Canada's noise guidance and associated thresholds that are available at the time the follow-up program is developed when determining human health threshold(s) that would require the Proponent to implement modified or additional mitigation measure(s) pursuant to condition 4.3.6;
  - 4.3.3 consider the most sensitive human receptors, including potential receptors in the marine environment, when determining the location of noise monitoring;
  - 4.3.4 monitor sound levels, including low-frequency noise, continuously during construction and the first two years of operation at a minimum of two locations on Tsawwassen First Nation lands, to be determined in consultation with Tsawwassen First Nation;
  - 4.3.5 monitor sound levels, including low-frequency noise offshore from the marine terminal, the widened causeway, and the expanded tug basin at a frequency and location and for a duration determined in consultation with Indigenous groups (Roberts Bank); and
  - 4.3.6 develop and implement modified or additional mitigation measures to mitigate the noise contribution of the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin, at source or at any receptor location where sound levels are monitored, if the results of any monitoring conducted as part of the follow-up program demonstrate that noise levels attributable to the Designated Project at any receptor location are higher than noise levels predicted during the environmental assessment and/or are above the relevant human health threshold(s) defined in the follow-up program.
- 4.4 The Proponent shall develop, prior to construction and in consultation with the City of Delta, a protocol for receiving complaints related to human health effects from exposure to noise attributable to the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin. The Proponent shall implement the protocol during construction and

operation. The Proponent shall provide the protocol to the Agency prior to construction. As part of the implementation of the protocol, the Proponent shall:

- 4.4.1 communicate, prior to construction, with residents and communities located within the upland noise and vibration study area indicated by the Proponent on Figure 9.3-1 of the environmental impact statement, to provide the details of the protocol, including how to record a complaint;
- 4.4.2 provide notification of noise-generating construction activities to the residents and communities referred to in condition 4.4.1 prior to carrying them out;
- 4.4.3 respond to any noise complaint attributed to any component of the Designated Project within 48 hours of the complaint being received and implement any technically and economically feasible corrective action, if required to reduce exposure to noise to below human health thresholds defined in the follow-up program referred to in condition 4.3, in a timely manner; and
- 4.4.4 provide, on a quarterly basis, a report to the Agency and residents and communities referred to in condition 4.4.1. The report shall include any corrective actions taken during the reporting period.

## **5 Light**

- 5.1 The Proponent shall develop, prior to the relevant phase of the Designated Project and in consultation with Indigenous groups (Roberts Bank), Environment and Climate Change Canada, Fisheries and Oceans Canada, Transport Canada, and the City of Delta, measures to mitigate adverse environmental effects caused by light emitted during construction and operation of the marine terminal, the widened causeway, and the expanded tug basin, while meeting safety, operational, or regulatory requirements. As part of these measures, the Proponent shall:
  - 5.1.1 avoid the use of decorative terminal lighting and solid burning or slow pulsing warning lights;
  - 5.1.2 orient terminal lights downward and limit light use to areas where Designated Project activities are occurring, including through the use of down-shielded lighting fixtures;
  - 5.1.3 control terminal light levels and reduce light intensity;
  - 5.1.4 install terminal light fixtures that emit light with wavelengths and/or correlated colour temperatures that are shown to reduce effects to fish, birds and/or other wildlife, to the satisfaction of a qualified professional;
  - 5.1.5 design and install, on terminal structures, obstruction avoidance lighting of reduced intensity and flashing frequency;
  - 5.1.6 design and install nighttime terminal lighting to avoid exceedances of 100 lux on the adjacent sea bed within 50 m of the terminal; and
  - 5.1.7 implement measures to reduce effects caused by light emitted from the marine terminal on Brunswick Point.
- 5.2 The Proponent shall develop, prior to construction and in consultation with Environment and Climate Change Canada, Fisheries and Oceans Canada, the City of Delta, Transport Canada,

Tsawwassen First Nation, and other Indigenous groups (Roberts Bank), a follow-up program as described in Table C20 of Appendix G in the Federal Review Panel Report to verify the accuracy of the environmental assessment and determine the effectiveness of mitigation measures as it pertains to adverse changes to ambient lighting attributable to the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin, including in the marine environment. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9. As part of the follow-up program, the Proponent shall:

- 5.2.1 monitor light trespass and sky glow at the points of reception POR 1, POR 2, POR 7, POR 11 indicated on Figure 7-2 of the Federal Review Panel Report and at the nighttime points of reception N-POR 5 and N-POR 6 indicated on Figure 20-1 of the Federal Review Panel Report, and compare monitoring results to the relevant classification from the International Commission on Illumination referred to in Tables 7-8 and 7-9 of the Federal Review Panel Report;
- 5.2.2 establish pre-construction light levels in the marine environment from natural light and artificial light from existing infrastructure, including during the spring-summer period when salmon are present at Roberts Bank;
- 5.2.3 monitor light levels in the marine environment during operation and compare monitoring results to the pre-construction light levels established pursuant to condition 5.2.2; and
- 5.2.4 develop and implement modified or additional mitigation measures, while meeting safety, operational, and regulatory requirements, if the results of the monitoring referred to in condition 5.2.1 or 5.2.3 demonstrate that modified or additional mitigation measures are required to mitigate light trespass, sky glow, or marine light levels attributable to the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin.

## **6 Marine environment**

- 6.1 The Proponent shall have a qualified professional design the dykes in a manner to minimize channel formation in the seabed, and shall construct the dykes according to this design.
- 6.2 The Proponent shall construct the northwest corner of the terminal in a manner that reduces the potential for seabed scour and sediment deposition identified on Figures IR2020-4-25 and IR2020-4-26 (Canadian Impact Assessment Registry Reference Number 80054, Document Number 2083).
- 6.3 The Proponent shall not use vibro-replacement techniques for construction of the Designated Project in the marine environment.
- 6.4 The Proponent shall take into account the Canadian Council of Ministers of the Environment's *Water Quality Guidelines for the Protection of Aquatic Life* and British Columbia's *Approved Water Quality Guidelines: Aquatic Life, Wildlife and Agriculture* when undertaking in-water work activities required for the Designated Project that use concrete, and do so in a manner consistent with the *Fisheries Act* and its regulations. In doing so, the Proponent shall:
  - 6.4.1 use pre-cast concrete or, if the use of pre-cast concrete is not technically or economically feasible, isolate concrete from the receiving environment until properly cured, using

concrete tight forms or other equivalent method, unless otherwise authorized under the *Fisheries Act*; and

- 6.4.2 if using cast-in-place concrete, monitor pH concentrations in the receiving environment, and implement modified or additional mitigations measures if pH concentrations exceed levels outlined in the Canadian Council of Ministers of the Environment's *Water Quality Guidelines for the Protection of Aquatic Life* or British Columbia's *Approved Water Quality Guidelines: Aquatic Life, Wildlife and Agriculture* or otherwise required under the *Fisheries Act*. If baseline levels exceed the guidelines, the Proponent shall follow the Canadian Council of Ministers of the Environment's *Guidance on the Site-Specific Application of Water Quality Guidelines in Canada: Procedures for Deriving Numerical Water Quality Objectives*.
- 6.5 The Proponent shall develop, prior to the relevant phase of the Designated Project, in consultation with Indigenous groups (Roberts Bank) and to the satisfaction of a qualified professional, measures to control erosion and sedimentation in the Designated Project area, taking into account future climate change scenarios. The Proponent shall implement the measures during all phases of the Designated Project and submit the measures to the Agency prior to implementing them.
- 6.6 The Proponent shall regularly inspect, subject to safety requirements, all erosion and sediment control measures installed within the Designated Project area pursuant to condition 6.5, including during and following rainfall events, and shall document and repair any defective or damaged control measure in a timely manner.
- 6.7 The Proponent shall collect and treat any storm water from new impervious areas associated with the marine terminal and widened causeway within the Designated Project area in a manner consistent with the *Fisheries Act* and its regulations and any authorization issued to the Proponent pursuant to the *Fisheries Act* before discharging that storm water into waters frequented by fish or in any place under any conditions where the storm water or any other deleterious substance that results from the discharge of the storm water may enter waters frequented by fish. The Proponent shall design the storm water treatment system(s) taking into account future climate change scenarios.
- 6.8 The Proponent shall, prior to fill placement, characterize representative samples of all fill material from an off-site location, including quarry material, Fraser sand, dredged material and other material that may be used as fill and shall evaluate whether the use of the fill material during Designated Project construction activities, including supernatant discharge, would result in marine pollution as defined in the *London Protocol* and according to advice received from Environment and Climate Change Canada during the environmental assessment (Canadian Impact Assessment Registry Reference Number 80054, Document Number 1091) or in pollution as defined in subsection 1(1) of British Columbia's *Environmental Management Act*. The evaluation of the potential for marine pollution shall be conducted by a qualified professional and shall be based on consideration of the Government of Canada's *Recommended Environmental Quality Guidelines for the Protection of Southern Resident Killer Whales and their Prey* and on existing ambient concentrations in the receiving environment. The Proponent shall not use any materials as fill if the evaluation indicates that marine pollution is likely to occur, unless modified or additional mitigation measures are implemented to prevent marine pollution.

- 6.9 The Proponent shall not use material dredged from the upper 0.5 metres of the existing tug basin and the tug basin expansion area as fill for land development for the Designated Project, nor for offsetting plans unless the Proponent:
- 6.9.1 prevents the discharge of supernatant containing material dredged from the upper 0.5 metres of the existing tug basin and the tug basin expansion area; or
  - 6.9.2 ensures that:
    - 6.9.2.1 sediment polychlorinated biphenyl levels in the supernatant do not exceed concentrations protective of Southern Resident Killer Whale (*Orcinus orca*), including those in the Government of Canada's *Recommended Environmental Quality Guidelines for the Protection of Southern Resident Killer Whales and their Prey* and in the British Columbia's *Working Sediment Quality Guidelines*, prior to discharge; or
    - 6.9.2.2 discharge of supernatant will not increase ambient polychlorinated biphenyl concentrations in Southern Resident Killer Whale (*Orcinus orca*) critical habitat, including in the water column, sediment, and prey species.
- 6.10 The Proponent shall develop, prior to construction and in consultation with Environment and Climate Change Canada, British Columbia's Ministry of Land, Water, and Resource Stewardship, British Columbia's Ministry of Environment and Climate Change Strategy, and Indigenous groups (Roberts Bank), measures to mitigate the release of sediments to the water column during dredging activities, taking into account the *Fraser River Estuary Management Program Dredge Management Guidelines*. As part of these measures, the Proponent shall:
- 6.10.1 minimize the dispersal of sediments when dredging the upper 0.5 metres of sediments from the existing tug basin and tug basin expansion area;
  - 6.10.2 establish site-specific water quality thresholds, including for turbidity and total suspended solids;
  - 6.10.3 define the perimeter of the work areas around dredging activities within which water quality is monitored;
  - 6.10.4 monitor water quality in real-time during dredging activities, including total suspended solids and turbidity at the perimeter of the work areas defined pursuant to 6.10.3; and
  - 6.10.5 implement additional mitigation measures, including temporarily stopping or slowing dredging activities, if water quality monitoring results exceed the water quality thresholds established pursuant to condition 6.10.2.
- 6.11 The Proponent shall develop, prior to the relevant phase of the Designated Project and in consultation with Fisheries and Oceans Canada, Natural Resources Canada, British Columbia's Ministry of Land, Water, and Resource Stewardship, British Columbia's Ministry of Environment and Climate Change Strategy, and Indigenous groups (Roberts Bank), a follow-up program as described in Table C2 of Appendix G in the Federal Review Panel Report to verify the accuracy of the environmental assessment as it pertains to sediment erosion and deposition and any associated eutrophication. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9. As part of the follow-up program, the Proponent shall:

- 6.11.1 establish, prior to construction, baseline seabed geomorphic and sediment characteristics of the area predicted to be affected by the Designated Project using imagery and field measurements;
- 6.11.2 monitor scour along the northwest corner of the terminal at a frequency and for a duration determined in consultation with the parties involved in the development of the follow-up program;
- 6.11.3 implement additional mitigation measures if scour and/or environmental effects resulting from scour attributable to the Designated Project are greater than predicted in the environmental assessment unless not warranted in the circumstances as determined in consultation with Fisheries and Oceans Canada;
- 6.11.4 monitor relevant locations surrounding the Designated Project area prior to construction and for at least 10 years following the end of construction of the containment dykes to determine changes in sedimentation rates and patterns; and
- 6.11.5 verify the predictions of the environmental assessment regarding eutrophication by monitoring changes in organic enrichment indicators, including on tidal flats.

## **7 Fish and fish habitat**

- 7.1 The Proponent shall investigate the technical and economic feasibility of a causeway breach to allow fish passage. The Proponent shall develop the feasibility report in consultation with the British Columbia's Ministry of Transportation and Infrastructure, the British Columbia Railway Company and other landowners and tenants at Roberts Bank. The Proponent shall provide a draft of the feasibility report to Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), Indigenous groups (Fraser River), Fisheries and Oceans Canada, Environment and Climate Change Canada, British Columbia's Ministry of Transportation and Infrastructure and the landowners and tenants at Roberts Bank and provide each with at least 60 days to comment. The Proponent shall provide the Agency with the final feasibility report within six months of the issuance of the Minister's Decision Statement describing whether and under what conditions a causeway breach would be technically and economically feasible, and shall include a description of how the views and information received during the consultation have been considered and addressed.
- 7.2 The Proponent shall install a breach to allow fish passage through either the existing and proposed widened areas of the causeway, if determined feasible pursuant to condition 7.1, or at the east end of the marine terminal identified on Figure IR2020-2.2-1 (Canadian Impact Assessment Registry Reference Number 80054, Document Number 2083). The Proponent shall implement the breach at the location that Fisheries and Oceans Canada determines will result in greater benefit to juvenile salmon productivity at Roberts Bank if both are technically and economically feasible. The Proponent shall develop and implement the breach in consultation with Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), Indigenous groups (Fraser River), Fisheries and Oceans Canada, Environment and Climate Change Canada, and other relevant authorities, landowners and tenants.
- 7.3 The Proponent shall have a qualified professional develop, prior to construction and in consultation with Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), Indigenous groups (Fraser River) and Fisheries and Oceans Canada, measures to avoid and

mitigate adverse environmental effects of the Designated Project on marine species during in-water work activities during construction. The Proponent shall implement the mitigation measures during construction. As part of the measures, the Proponent shall:

- 7.3.1 conduct in-water work activities in the local assessment area indicated on Figure 13-1 of the environmental impact statement during timing windows of least risk for marine species, including those identified in condition 8.1.7 and during the following timing windows:
    - 7.3.1.1 for in-water work activities below -5 metre chart datum, during the timing window of least risk for Dungeness crab (*Cancer magister*) (March 31 - October 15), unless otherwise authorized under the *Fisheries Act*;
    - 7.3.1.2 for in-water work activities above -5 metre chart datum, during the timing window of least risk for juvenile salmon (August 16 - February 28), unless otherwise authorized under the *Fisheries Act*; and
    - 7.3.1.3 any additional timing windows of least risk identified through any authorization under the *Fisheries Act* for the Designated Project;
  - 7.3.2 monitor for presence of sensitive life phases of salmon and crab during least risk timing windows, and if sensitive life phases are encountered implement any additional mitigation measures to mitigate any adverse effects of construction on these sensitive life phases;
  - 7.3.3 monitor for spawning herring presence during in-water work activities conducted outside the timing window of least risk for juvenile salmon and from February 15 to February 28, in areas that spatially overlap with herring spawning habitats, and use this information to inform the development and implementation of additional mitigation measures; and
  - 7.3.4 determine the means, timing, frequency and location(s) of monitoring in condition 7.3.3.
- 7.4 The Proponent shall conduct dredging during operation, if required, only within the timing window of least risk for juvenile salmon (August 16 - February 28) and avoid the Southern Resident Killer Whale (*Orcinus orca*) peak use period in accordance with condition 8.1.7.
  - 7.5 The Proponent shall implement underwater noise monitoring during in-water work activities during construction to ensure sound levels remain below 206 decibels at a reference pressure of one micropascal within 10 metres of in-water pile driving for finfish.
  - 7.6 The Proponent shall develop and implement, in consultation with Indigenous groups (Roberts Bank) and relevant authorities, a Dungeness crab (*Cancer magister*) salvage program. The Proponent shall develop the program prior to construction and shall implement it prior to the commencement of any in-water work activity that has the potential to cause direct mortality of crab, including dredging. As part of the development of the program, the Proponent shall conduct a test to evaluate the use of baiting as a means to relocate crabs and minimize crab handling. If the Proponent concludes that the use of baiting is not an effective means to relocate crabs and minimize crab handling, the Proponent shall implement alternative salvage protocols.
  - 7.7 The Proponent shall develop, prior to construction and in consultation with Fisheries and Oceans Canada, Tsawwassen First Nation, Musqueam, and the other Indigenous groups within Indigenous groups (Roberts Bank), a follow-up program as described in Table C7 of Appendix G in the Federal

Review Panel Report to verify the accuracy of the environmental assessment as it pertains to the potential effects on juvenile Dungeness crab (*Cancer magister*) nursery habitat. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9.

- 7.8 The Proponent shall transplant, prior to construction, a minimum of 10 percent of the orange sea pen (*Ptilosarcus gurneyi*) colony that occurs within the Designated Project area. The Proponent shall determine, prior to transplanting and in consultation with Indigenous groups (Roberts Bank) and relevant authorities, the means by which transplanting will be carried out.
- 7.9 The Proponent shall develop, prior to construction and in consultation with Indigenous groups (Roberts Bank) and relevant authorities, a follow-up program as described in Table C8 of Appendix G in the Federal Review Panel Report to verify the effectiveness of the orange sea pen (*Ptilosarcus gurneyi*) transplant referred to in condition 7.8. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9.
- 7.10 The Proponent shall develop, prior to construction and in consultation with Fisheries and Oceans Canada, British Columbia's Ministry of Land, Water, and Resource Stewardship, and Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), Indigenous groups (Fraser River), and relevant authorities, and implement measures during construction dredging activities to avoid or mitigate effects to marine fish and fish habitat, including:
  - 7.10.1 measures to reduce direct mortality of Pacific sand lance (*Ammodytes hexapterus*) during dredging of the berth pocket; and
  - 7.10.2 measures to limit disturbance to eulachon (*Thaleichthys pacificus*), including:
    - 7.10.2.1 implementing, during dredging in April, and prior to and during dredging in the dredge basin, hydroacoustic monitoring to detect eulachon in real-time and, where technically and economically feasible, modify or stop dredging activities or guide dredging activities away from eulachon.
- 7.11 The Proponent shall develop, prior to construction, as required by Fisheries and Oceans Canada for authorization under the *Fisheries Act*, and in consultation with Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), Indigenous groups (Fraser River), Environment and Climate Change Canada and British Columbia's Ministry of Land, Water, and Resource Stewardship, any offsetting plan(s) related to the alteration, destruction or disturbance of fish habitat, and death of fish associated with the carrying out of the Designated Project based on the draft offsetting plan in IR2020-1.2 (Canadian Impact Assessment Registry Reference Number 80054, Document Number 2083). The Proponent shall implement the plan(s) during construction and operation. The Proponent shall submit any approved offsetting plan(s) to the Agency prior to implementation. The plan shall include:
  - 7.11.1 a description of anticipated losses of fish and fish habitat remaining after avoidance, reduction, and other mitigation measures have been implemented;
  - 7.11.2 a description of the amount and type of offsets required and the selection of offsetting sites, including consideration of Indigenous priorities;
  - 7.11.3 an assessment of the ability of offsetting measures to counterbalance residual effects, using both a productivity approach and a habitat area equivalency approach;



- 7.11.4 a description of how potential eutrophication, anoxia and changes in water drainage have been considered in the design of the offsetting measures; and
- 7.11.5 offsetting measures to compensate for effects to fish and fish habitat remaining after avoidance, reduction, and other mitigation measures have been implemented.
- 7.12 The Proponent shall, for any fish habitat offsetting measure proposed in any offsetting plan referred to in condition 7.11 that may cause adverse environmental effects not considered in the environmental assessment, develop and implement, prior to construction, following consultation with Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), Indigenous groups (Fraser River) and relevant authorities, measures to mitigate those effects. The Proponent shall submit these measures to the Agency prior to implementing them.
- 7.13 The Proponent shall develop, prior to construction and in consultation with Indigenous groups (Roberts Bank), Indigenous groups (marine shipping) and Indigenous groups (Fraser River) and as required by Fisheries and Oceans Canada, a follow-up program in accordance with the requirements of any applicable *Fisheries Act* authorization to determine the effectiveness of the offsetting measures implemented as part of the offsetting plan(s) referred to in condition 7.11. The Proponent shall implement the follow-up program once offsetting habitats have been established and until requirements of the authorization under the *Fisheries Act* have been met. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9.
- 7.14 The Proponent shall develop, prior to construction and in consultation with Fisheries and Oceans Canada, Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), and Indigenous groups (Fraser River), a follow-up program as described in Table C9 of Appendix G in the Federal Review Panel Report to verify the accuracy of the environmental assessment as it pertains to changes to productivity of juvenile salmon as a result of the Designated Project. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9. As part of the follow-up program, the Proponent shall:
- 7.14.1 monitor, prior to, during and after construction, the abundance and distribution of Pacific salmon (*Oncorhynchus*) in the local assessment area indicated on Figure 13-1 of the environmental impact statement using a statistically defensible sampling program; and
- 7.14.2 monitor the use of the breach for fish passage by juvenile salmon.
- 7.15 The Proponent shall develop, prior to construction and in consultation with Fisheries and Oceans Canada, Environment and Climate Change Canada and Indigenous groups (Roberts Bank), a follow-up program as described in Table C3 of Appendix G in the Federal Review Panel Report to verify the accuracy of the environmental assessment as it pertains to changes in marine vegetation as a result of the Designated Project, including to evaluate the accuracy of the Roberts Bank ecosystem model forecasts. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9.
- 7.16 The Proponent shall develop, prior to construction and in consultation with Fisheries and Oceans Canada and Indigenous groups (Roberts Bank), a follow-up program to verify the accuracy of the environmental assessment as it pertains to changes in infauna and marine invertebrate productivity as a result of the Designated Project, including to evaluate the accuracy of the Roberts Bank ecosystem model forecasts. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9.

7.17 The Proponent shall develop, prior to construction and in consultation with Fisheries and Oceans Canada and Indigenous groups (Roberts Bank), a follow-up program to verify the accuracy of the environmental assessment as it pertains to changes in rockfish species and lingcod (*Ophiodon elongates*) productivity as a result of the Designated Project, including to evaluate the accuracy of the Roberts Bank ecosystem model forecasts. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9.

## **8 Marine mammals**

8.1 The Proponent shall develop, prior to the relevant phase of the Designated Project and in consultation with Indigenous groups (Roberts Bank), Fisheries and Oceans Canada and Transport Canada measures to mitigate adverse environmental effects caused by underwater noise emitted from the construction of the marine terminal, the widened causeway, and the expanded tug basin. The Proponent shall implement the measures during the construction of the marine terminal, the widened causeway, and the expanded tug basin. As part of these measures, the Proponent shall:

8.1.1 use soft start procedures, where technically feasible, to increase the sound levels emitted by construction equipment gradually before use at full operational power;

8.1.2 minimize impulse noise emitted by construction activities, including by giving preference to the use of vibratory pile-driving over impact pile-driving unless not technically feasible;

8.1.3 sequence in-water work activities to limit underwater noise aggregation to the extent feasible, as determined by a qualified professional;

8.1.4 use sound attenuation method(s) and/or technology(ies) when conducting impact pile-driving underwater;

8.1.5 conduct vibratory hammer and impact pile driving only on weekdays and during daytime hours;

8.1.6 require all construction vessel operators to implement applicable management measures established by the Government of Canada to protect Southern Resident Killer Whale (*Orcinus orca*) that are in effect, unless not feasible for safety reasons;

8.1.7 avoid, from June 1 or the date Southern Resident Killer Whale (*Orcinus orca*) are confirmed by marine mammal observers to be present in the Salish Sea, whichever is later, to September 30:

8.1.7.1 all vibratory and impact pile driving;

8.1.7.2 vibro-densification of the caisson foundation mattress rock; and

8.1.7.3 removal of the piles for the temporary barge ramps;

8.1.8 limit, to the extent feasible as determined by a qualified professional, the number of dredge equipment in use and tug and barge movements required for dredging activities when Southern Resident Killer Whale (*Orcinus orca*) are confirmed present in the Salish Sea by marine mammal observers.

8.2 The Proponent shall have a qualified professional develop, prior to construction and in consultation with Indigenous groups (Roberts Bank) and Indigenous groups (marine shipping), a marine mammal detection and response plan to reduce adverse effects to marine mammals

caused by construction, consistent with any Fisheries and Oceans authorization under the *Fisheries Act*. The Proponent shall implement the plan during all in-water work activities during construction that pose a risk to marine mammals, and have a qualified professional oversee the implementation of the plan. As part of the marine mammal detection and response plan, the Proponent shall:

- 8.2.1 establish behavioral disturbance threshold(s) for continuous (non-impulse) noise for Southern Resident Killer Whale (*Orcinus orca*) and group-specific injury threshold(s) for impulse and continuous (non-impulse) noise for other marine mammal species, and describe the expected effects to marine mammals above and below the thresholds;
- 8.2.2 identify the in-water work activities that are predicted to generate impulse and continuous (non-impulse) underwater noise (which shall include pile driving and dredging) during construction;
- 8.2.3 establish minimum exclusion zone(s) for each activity referred to in condition 8.2.2 corresponding to the distance from each activity at which the underwater noise levels are below the thresholds established pursuant to condition 8.2.1, and implement and maintain these exclusion zones(s) when carrying each of these activities;
- 8.2.4 monitor underwater noise within and directly outside the injury threshold exclusion zone(s) established pursuant to condition 8.2.3 during activities that generate impulse noise identified pursuant to condition 8.2.2 to validate the size of the exclusion zone(s) based on the injury threshold(s) established pursuant to condition 8.2.1. If underwater noise directly outside the exclusion zone(s) exceeds injury thresholds established pursuant to condition 8.2.1, the Proponent shall implement modified or additional mitigation measures, which may include expanding the exclusion zone;
- 8.2.5 at the start of each new in-water work activity identified pursuant to condition 8.2.2 that generates impulse and continuous noise, validate the exclusion zone(s) established based on the behavioral disturbance threshold(s) for Southern Resident Killer Whale (*Orcinus orca*) referred to in condition 8.2.1 to confirm it is of appropriate size. If the exclusion zone is not of the appropriate size, the Proponent shall modify the exclusion zone to be applicable;
- 8.2.6 establish a monitoring buffer zone around the exclusion zone implemented for Southern Resident Killer Whale (*Orcinus orca*) to account for the time needed to initiate stop/modify work procedures before Southern Resident Killer Whale (*Orcinus orca*) enter the applicable exclusion zone;
- 8.2.7 monitor for the presence of the applicable marine mammal(s) within their applicable exclusion zone(s) established pursuant to condition 8.2.3 and, also for Southern Resident Killer Whale (*Orcinus orca*) within the buffer zone established pursuant to condition 8.2.6 during all activities identified pursuant to condition 8.2.2. The Proponent shall conduct year-round visual monitoring, using marine mammal observer(s) in combination with non-visual monitoring, in order to observe if a marine mammal enters the exclusion zone. In doing so, the Proponent shall:
  - 8.2.7.1 determine minimum training and experience requirements of the marine mammal observer(s) to determine, verify, and monitor exclusion zones and record the location and behavior of observed marine mammals;

- 8.2.7.2 develop and implement procedures to adjust the location and number of marine mammal observer(s) if Southern Resident Killer Whale (*Orcinus orca*) are approaching the exclusion zone(s) established pursuant to condition 8.2.3 or the buffer zone established pursuant to condition 8.2.6;
  - 8.2.7.3 determine the type and placement of monitoring technologies, including passive acoustic or other technically and economically feasible technologies, which may include infrared technologies, to be deployed for detecting cetaceans;
  - 8.2.7.4 develop and implement protocols that specify the conditions under which any non-visual monitoring shall be used, including during periods of low visibility, darkness and fog;
  - 8.2.7.5 develop and implement procedures for marine mammal observer(s) to receive any available information on the presence of cetaceans in the area surrounding the local assessment area from whale sighting networks, and use this information to inform observation requirements in condition 8.2.7;
  - 8.2.7.6 develop and implement protocols to document cetaceans observed as part of the marine mammal detection and response plan, and communicate these observations to British Columbia's Cetacean Sightings Network and Fisheries and Oceans Canada;
- 8.2.8 develop and implement stop work procedures to shut down or modify in-water work activities identified pursuant to condition 8.2.2 when marine mammals are present within their applicable exclusion zone(s) established pursuant to condition 8.2.3, including communication protocols to facilitate stop work procedures. In doing so, the Proponent shall:
- 8.2.8.1 grant authority to initiate stop work procedures to the marine mammal detection team;
  - 8.2.8.2 initiate stop work procedures prior to Southern Resident Killer Whales (*Orcinus orca*) entering the exclusion zone(s) established pursuant to condition 8.2.3;
  - 8.2.8.3 start or restart in-water work activities identified pursuant to condition 8.2.2 only once it has been visually confirmed that marine mammal(s) are not present within their applicable exclusion zone(s), or if a minimum of 30 minutes has elapsed since the marine mammal was last sighted within the applicable exclusion zone(s); and
- 8.2.9 if marine mammals are observed in distress notify Fisheries and Oceans Canada, implement mitigation measures, including stopping, if it is safe to do so, or modifying in-water work activities identified pursuant to condition 8.2.2 to address the situation of marine mammal distress as a result of the Designated Project under the advisement and to the satisfaction of a qualified professional.
- 8.3 The Proponent shall implement, in consultation with Transport Canada and Fisheries and Oceans Canada, technically and economically feasible technologies for reducing underwater noise related to berthing activities. In doing so, the Proponent shall:
- 8.3.1 require tugs to reduce speeds when transiting between the tug basin and the arrival and berth areas when Southern Resident Killer Whales (*Orcinus orca*) are present to mitigate acoustic effects to Southern Resident Killer Whale (*Orcinus orca*), if feasible and safe to do so.

- 8.3.2 evaluate, prior to operation, the effectiveness of technologies to reduce underwater noise, associated with berthing activities, including the use of electric tugs. The Proponent shall determine, as part of its evaluation, whether the use of the technology would increase underwater noise at frequencies at which Southern Resident Killer Whales (*Orcinus orca*) are most sensitive or increase the extent to which environmental effects, other than underwater noise, are adverse. The Proponent shall submit the evaluation to the Agency one year prior to the start of operation and shall include the sources of information and methodology used;
- 8.3.3 upon completion of the initial evaluation referred to in condition 8.3.2, conduct a review every three years in order to identify and evaluate any new and emerging underwater noise reduction technologies for berthing activities. The Proponent shall conduct a review until such time that the Proponent has determined, in consultation with Transport Canada and Fisheries and Oceans Canada, that a review is no longer warranted. The results of the review shall be included as part of the annual report referred to condition 2.10; and
- 8.3.4 implement any technically and economically feasible new or emerging underwater noise reduction technologies for berthing activities determined by the Proponent, as part of a review conducted pursuant to condition 8.3.2, to be effective at reducing underwater noise associated with berthing activities, without increasing the extent to which other environmental effects are adverse, and to meet requirements for safe operations. The Proponent shall submit these measures to the Agency prior to implementing them.
- 8.4 The Proponent shall develop and implement, in consultation with Indigenous groups (Roberts Bank), Fisheries and Oceans Canada, Canadian Coast Guard, Pacific Pilotage Authority, and other relevant authorities, procedures to delay, where necessary, the daytime departure of container vessels calling on the Designated Project to mitigate effects to Southern Resident Killer Whale (*Orcinus orca*). The procedures shall include communication protocols, monitoring and criteria for determining whale presence, and safety and regulatory requirements. As part of the development of the procedures, the Proponent shall take into account the potential impacts of procedures on the Proponent's tenants and users of the Proponent's facilities at Roberts Bank.
- 8.5 The Proponent shall, in consultation with Indigenous groups (Roberts Bank), Fisheries and Oceans Canada, Canadian Coast Guard, Pacific Pilotage Authority, and other relevant authorities, evaluate the technical and economic feasibility of measures to mitigate exposure of Southern Resident Killer Whale (*Orcinus orca*) to underwater noise attributable to the Designated Project at night in the vicinity of the marine terminal, including the feasibility of a real-time passive acoustic monitoring system and delayed unberthing at night. If any such measures are feasible and effective at reducing potential acoustic effects to Southern Resident Killer Whale (*Orcinus orca*), the Proponent shall implement them in consultation with Fisheries and Oceans Canada.
- 8.6 The Proponent shall develop, prior to construction and in consultation with Fisheries and Oceans Canada, Transport Canada, and Indigenous groups (Roberts Bank), a follow-up program as described in Table C13 of Appendix G in the Federal Review Panel Report to verify the accuracy of the environmental assessment as it pertains to changes in levels of underwater noise and associated effects to Southern Resident Killer Whale (*Orcinus orca*) as a result of operation of the marine terminal. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9. As part of the follow-up program, the Proponent shall:

- 8.6.1 establish the metrics to be used to determine sound exposure levels to Southern Resident Killer Whales (*Orcinus orca*) due to operation of the marine terminal, which shall include annual time-averaged equivalent continuous sound level or other equivalent metrics determined in consultation with Fisheries and Oceans Canada;
  - 8.6.2 establish thresholds based on the predicted effects described in IR2020-3 (Canadian Impact Assessment Registry Reference Number 80054, Document Number 2083) that would, if exceeded, require the Proponent to implement modified or additional mitigation measure(s);
  - 8.6.3 monitor underwater noise using hydrophones prior to construction and during operation. The Proponent shall conduct monitoring, at a minimum, for 60 days in winter and 60 days in summer for every year of monitoring;
  - 8.6.4 determine, using the underwater noise data collected during monitoring pursuant to condition 8.6.3 and the acoustic models developed in IR2020-3 (Canadian Impact Assessment Registry Reference Number 80054, Document Number 2083), estimated sound exposure levels for Southern Resident Killer Whale (*Orcinus orca*) due to operation of the marine terminal;
  - 8.6.5 evaluate and determine whether the estimated sound exposure levels generated by operation of the marine terminal are as predicted in IR2020-3 (Canadian Impact Assessment Registry Reference Number 80054, Document Number 2083);
  - 8.6.6 if the results of the modelling referred to in condition 8.6.4 demonstrate that levels of sound exposure are exceeding the levels predicted in IR2020-3 (Canadian Impact Assessment Registry Reference Number 80054, Document Number 2083), consult with Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), Transport Canada, Fisheries and Oceans Canada, and other relevant federal authorities to determine whether modified or additional measures are required to mitigate any potential adverse effects on Southern Resident Killer Whale (*Orcinus orca*), and identify those measures;
  - 8.6.7 if the modified or additional measures that are determined pursuant to condition 8.6.6 to be the most effective to mitigate acoustic effects to Southern Resident Killer Whale (*Orcinus orca*) are within the Proponent's care and control, the Proponent shall implement them. The Proponent shall submit these measures to the Agency prior to implementing them; and
  - 8.6.8 monitor the effectiveness of any technologies implemented pursuant to condition 8.3.
- 8.7 The Proponent shall contractually obligate the terminal operator to require container vessels calling on the Designated Project to participate in the *Enhancing Cetacean Habitat and Observation Program* vessel slowdown initiative, or any future equivalent program, to reduce the potential effects of container vessels calling on the Designated Project on cetacean species. As part of the annual report referred to in condition 2.10, the Proponent shall:
- 8.7.1 request and make available to the Agency, reported underwater noise levels related to container vessels calling at the Designated Project and the Port of Vancouver measured and available as part of the *Enhancing Cetacean Habitat and Observation Program*, or any future equivalent program, throughout operation.

- 8.8 The Proponent shall manage underwater noise produced as a result of marine shipping incidental to the Designated Project in a manner to avoid adverse effects to Southern Resident Killer Whales (*Orcinus Orca*). In doing so, the Proponent shall:
- 8.8.1 establish, through underwater noise modelling, no earlier than two years prior to the start of operation, baseline levels of underwater noise produced by container vessel traffic calling to the Port of Vancouver in consultation with Transport Canada and to the satisfaction of Fisheries and Oceans Canada. In doing so, the Proponent shall:
    - 8.8.1.1 establish underwater noise source levels for all size classes of container vessels calling to the Port of Vancouver;
    - 8.8.1.2 establish, through underwater noise modelling, baseline underwater noise levels and spatial and temporal distribution of underwater noise within Southern Resident Killer Whale (*Orcinus Orca*) critical habitat produced by container traffic calling to the Port of Vancouver;
  - 8.8.2 avoid, throughout operation, adverse effects to Southern Resident Killer Whale (*Orcinus Orca*) by maintaining underwater noise levels below or at the baseline established in condition 8.8.1. In doing so, and prior to the start of operation, the Proponent shall, in consultation with Transport Canada and to the satisfaction of Fisheries and Oceans Canada:
    - 8.8.2.1 develop an underwater noise monitoring framework;
    - 8.8.2.2 establish underwater noise thresholds that would indicate the need for modified or additional mitigation measures to be undertaken in order to maintain underwater noise levels below or at the baseline established in condition 8.8.1;
    - 8.8.2.3 identify modified or additional mitigation measures consistent with, but not limited by, the Government of Canada's initiatives to reduce underwater noise to be undertaken if underwater noise levels reach identified thresholds. Measures may include, but shall not be limited to:
      - 8.8.2.3.1 mandatory speed reductions for vessels in addition to those required pursuant to condition 8.3;
      - 8.8.2.3.2 offsets for underwater noise in Southern Resident Killer Whale (*Orcinus orca*) critical habitat in the Salish Sea;
      - 8.8.2.3.3 other necessary vessel management measures and/or actions;
    - 8.8.2.4 implement, during operation, modified or additional mitigation measures identified in condition 8.8.2.3 if underwater noise levels reach thresholds identified in condition 8.8.2.2; and
  - 8.8.3 review and update, in consultation with Transport Canada and to the satisfaction of Fisheries and Oceans Canada, measures taken in response to condition 8.8.2 five and ten years following the start of operation.
- 8.9 The Proponent shall distribute, prior to and throughout operation, the marine mammal awareness pamphlet *Marine Mammals of the Roberts Bank Area and Mariner's Guide to Whales, Dolphins, Porpoises of Western Canada*, or any future equivalent document, to marine pilots working within the Port of Vancouver.
- 8.10 The Proponent shall sign on, as a party to the *Species at Risk Act Section 11 Conservation Agreement to Support the recovery of the Southern Resident Killer Whale*, to an additional five year term of the agreement, or equivalent, if the other parties of the agreement also agree.

- 8.11 The Proponent shall participate, at the request of a relevant federal authority, in regional initiatives aimed at effective management and recovery of the Southern Resident Killer Whale (*Orcinus orca*), including the Oceans Protection Plan, the Whales Initiative, or equivalent, and any other initiative supporting the recovery objectives for the Southern Resident Killer Whale (*Orcinus orca*) outlined in the *Northern and Southern Resident Killer Whale Action Plan*.
- 8.12 The Proponent shall participate, at the request of a relevant federal authority, in regional initiatives aimed at managing underwater noise due to commercial vessel traffic.
- 8.13 The Proponent shall participate, at the request of a relevant federal authority, in regional initiatives aimed at identifying the portions of the Salish Sea where marine shipping overlaps spatially and temporally with Southern Resident Killer Whale (*Orcinus orca*) habitat use.

## **9 Terrestrial vegetation and wetlands**

- 9.1 The Proponent shall implement site-specific measures to monitor and control invasive plant species prior to and during construction, and for a minimum period of five years following construction of offsetting habitats, including by:
- 9.1.1 limiting, in consultation with British Columbia's Ministry of Forests, seed dispersal of English cordgrass (*Spartina anglica*) prior to and during construction;
  - 9.1.2 managing and disposing, in consultation with British Columbia's Ministry of Forests, of existing English cordgrass (*Spartina anglica*) within the Designated Project area; and
  - 9.1.3 managing and disposing of invasive plant species found within offsetting habitats constructed as part of the Designated Project.
- 9.2 The Proponent shall develop, prior to construction, and in consultation with Environment and Climate Change Canada, British Columbia's Ministry of Land, Water, and Resource Stewardship, and Indigenous groups (Roberts Bank), a wetland compensation plan, which shall consider the principles outlined in Environment and Climate Change Canada's *Operational Framework for Conservation Allowances* and meet the objective of no net loss of the Federal Policy on *Wetland Conservation on Federal Lands* (Government of Canada, 1991), and include measures to compensate for residual adverse environmental effects on wetland functions caused by the Designated Project that cannot be avoided or reduced and that are not already accounted for as part of the offsetting plan(s) required pursuant to condition 7.11. The Proponent shall begin implementing the compensation plan during construction. As part of the implementation of the compensation plan, the Proponent shall:
- 9.2.1 determine the compensation area required for each wetland and its associated functions remaining after the implementation of the offsetting requirements set out in the offsetting plan(s) referred to in condition 7.11 and that must be included in the wetland compensation plan;
  - 9.2.2 delineate, based on field data, all wetland habitat that will be lost as a result of the Designated Project;
  - 9.2.3 identify habitat suitable to be used as compensation for the lost wetland habitat referred to in condition 9.2.2, including by prioritizing wetlands within the local assessment area



shown in Figure 11-1 of the environmental impact statement. For wetlands located outside the local assessment area, the Proponent shall favor sites located as close to the Designated Project as possible and that reflect equivalent wetland functions to those that are lost;

- 9.2.4 prioritize wetland restoration over enhancement and wetland enhancement over creation;
  - 9.2.5 take into account time lags, technical limitations, and uncertainty when meeting the objective of no net loss as per the Federal Policy on *Wetland Conservation on Federal Lands* (Government of Canada, 1991);
  - 9.2.6 use, if technically feasible, wetland plant species native to the Designated Project area, of importance to Indigenous groups (Roberts Bank), and of value to migratory birds, including plant species salvaged in condition 9.3; and
  - 9.2.7 include intertidal marsh habitat offsets to promote the growth of native species that would compensate for the loss and degradation of ecological communities listed as red or blue by the British Columbia Conservation Data Centre identified in Figure 11-5 of the Federal Review Panel Report resulting from the expanded causeway.
- 9.3 The Proponent shall, in consultation with Indigenous groups (Roberts Bank), salvage and transplant native plant species, including ecological communities listed as red or blue by the British Columbia Conservation Data Centre and those of interest to Indigenous groups (Roberts Bank), prior to clearing vegetation within wetland habitats. The Proponent shall relocate salvaged plants to reclaimed areas or compensation habitats referred to in condition 9.2, if technically feasible. The Proponent shall develop, in consultation with Indigenous groups (Roberts Bank), criteria in order to evaluate the success of the transplantation.
- 9.4 The Proponent shall develop, prior to construction and in consultation with Environment and Climate Change Canada, Natural Resources Canada, British Columbia's Ministry of Land, Water, and Resource Stewardship, Tsawwassen First Nation, Musqueam, and other Indigenous groups (Roberts Bank), a follow-up program to determine the effectiveness of the wetland compensation plan referred to in condition 9.2, and verify the accuracy of the environmental assessment as it pertains to the effects of the Designated Project on wetlands. The Proponent shall consider the implementation of the offsetting conducted pursuant to condition 7.11 and associated follow-up program when implementing the follow-up program and shall implement it in accordance with conditions 2.5 to 2.9. As part of the follow-up program, the Proponent shall:
- 9.4.1 establish performance standards for wetland functions, including criteria by which functions will be measured;
  - 9.4.2 monitor, using a qualified professional, wetland compensation habitats that are not included in the offsetting plan required pursuant to condition 7.11 at the same frequency as monitoring of offsetting habitats determined in the *Fisheries Act* authorization until performance standards have been met;
  - 9.4.3 monitor the effects of the marine terminal, the widened causeway, and the expanded tug basin on wetlands predicted to be affected by the marine terminal, the widened causeway, and the expanded tug basin, including:

- 9.4.3.1 ecological communities listed as red or blue by the British Columbia Conservation Data Centre in the local assessment area predicted to be affected by the marine terminal, the widened causeway, and the expanded tug basin identified on Figure IR-11-22-A in the response to Information Request 11-22 (Canadian Impact Assessment Registry Reference Number 80054, Document Number 1275);
- 9.4.3.2 the intertidal marsh communities, including at Brunswick Point, predicted to be affected by the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin; and
- 9.4.4 identify and implement additional or modified mitigation measures if, by year 10, monitoring conducted pursuant to condition 9.4.2 indicates performance standards established pursuant to condition 9.4.1 have not been met or are not expected to be met within the expected timeline or are no longer being met and/or the monitoring conducted pursuant to condition 9.4.3 indicates that the effects of the Designated Project exceed those predicted in the environmental assessment.

## **10 Avifauna**

- 10.1 The Proponent shall carry out the Designated Project in a manner that protects migratory birds and avoids harming, killing or disturbing migratory birds, or destroying, disturbing or taking their nests or eggs. In this regard, the Proponent shall take into account Environment and Climate Change Canada's *Guidelines to avoid harm to migratory birds*.
- 10.2 The Proponent shall document, prior to construction and in consultation with qualified internationally recognized experts that are in possession of specialist or expert information or knowledge with respect to biofilm ecology and other relevant disciplines, Indigenous groups (Roberts Bank), and Environment and Climate Change Canada, methods and best practices to create biofilm habitat, including details about the production of lipids, with specific reference to fatty acids in the Fraser River estuary. The Proponent shall publish a document compiling the results of this work on its website and shall provide it to the Agency prior to construction. The Proponent shall incorporate current knowledge and peer-reviewed science in the document and shall update the document at years 2, 5, and 10 following the end of construction based on emerging knowledge and science, including knowledge and science developed in accordance with conditions 10.3 and 10.4.
- 10.3 The Proponent shall develop, in consultation with Indigenous groups (Roberts Bank) and Environment and Climate Change Canada, and implement prior to operation of the Designated Project, biofilm habitat creation or enhancement to support the western sandpiper (*Calidris mauri*) population within the Lower Mainland region. In doing so, the Proponent shall:
  - 10.3.1 design and implement biofilm habitat creation or enhancement, including any biofilm habitat creation or enhancement included in any wetland compensation plan developed pursuant to condition 9.2 and any biofilm habitat creation or enhancement implemented as a mitigation measure pursuant to condition 2.5.5, or 9.4.4, by applying the methods and best practices documented pursuant to condition 10.2. If the methods and best practices documented pursuant to condition 10.2 cannot be applied to biofilm habitat creation or enhancement undertaken by the Proponent, the Proponent shall document

the reasons and the alternative methods or practices applied. The Proponent shall provide the reasons and the alternative methods or practices applied to the Agency, Indigenous groups (Roberts Bank), and Environment and Climate Change Canada.

- 10.4 The Proponent shall develop, in consultation with Indigenous groups (Roberts Bank), Environment and Climate Change Canada, relevant authorities, and qualified individuals that are in possession of specialist or expert information or knowledge with respect to biofilm ecology and other relevant disciplines, and implement prior to and during construction, a follow-up program to verify predicted changes caused by the Designated Project on salinity, and predicted effects of those changes on biofilm, and western sandpiper (*Calidris mauri*). The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9. As part of the follow-up program, the Proponent shall:
- 10.4.1 identify monitoring parameters, methods, and thresholds and submit those monitoring parameter, methods, and thresholds to the Agency for review and advice by an independent scientific body established by the Agency. The thresholds must include thresholds beyond which a potential adverse environmental effect on biofilm or Western sandpiper (*Calidris mauri*) is likely to occur as a result of salinity changes caused by the Designated Project;
  - 10.4.2 establish, prior to construction, baseline conditions, taking into account variability, for the parameters identified pursuant to condition 10.4.1;
  - 10.4.3 monitor, for a minimum of 36 months immediately following construction of the east basin containment dyke of the marine terminal, the parameters identified pursuant to condition 10.4.1 and compare these against the thresholds established pursuant to condition 10.4.1;
  - 10.4.4 submit the baseline conditions information established pursuant to condition 10.4.2 and the results of monitoring conducted pursuant to condition 10.4.3 to the Agency for review by the independent scientific body; and
  - 10.4.5 if the monitoring pursuant to in 10.4.3 indicates that changes to the monitoring parameters attributable to the Designated Project are exceeding thresholds identified in condition 10.4.1, as confirmed by the independent scientific body, the Proponent shall develop and implement modified or additional mitigation measures to return the monitoring parameters below thresholds or to offset the effects. These modified or additional mitigation measures may include but are not limited to biofilm habitat creation or enhancement and infrastructure redesign or removal.
- 10.5 The Proponent shall develop, prior to construction and in consultation with Indigenous groups (Roberts Bank), Environment and Climate Change Canada, relevant authorities, and qualified individuals that are in possession of specialist or expert information or knowledge with respect to biofilm ecology and other relevant disciplines, and implement during the remainder of construction not covered by condition 10.4 and operation, a follow-up program to verify the accuracy of the environmental assessment as it pertains to the effects of the Designated Project on salinity, biofilm, and western sandpiper (*Calidris mauri*). The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9. As part of the follow-up program, the Proponent shall:

- 10.5.1 conduct monitoring using the parameters and methods established pursuant to condition 10.4.1; and
- 10.5.2 implement additional or modified mitigation measures to mitigate any adverse environmental effect on western sandpiper (*Calidris mauri*) caused by any exceedance of thresholds established pursuant to condition 10.4.1 caused by the Designated Project.
- 10.6 The Proponent shall identify, in consultation with Environment and Climate Change Canada, Birds Canada, British Columbia's Ministry of Transportation and Infrastructure, and Indigenous groups (Roberts Bank), types of and suitable locations for, and install physical barrier(s) within either the local and/or regional assessment areas, shown in Figures 15-1 and 15-2 of the environmental impact statement, to mitigate road-associated mortality risk for barn owls (*Tyto alba*) as a result of the Designated Project. The Proponent shall install the barrier(s), prior to operation, in a manner that does not attract other avian species, including barn swallows (*Hirundo rustica*), and shall, where technically feasible, conserve barn owl (*Tyto alba*) roadside grass verge hunting habitat. The Proponent shall maintain the barriers throughout operation and shall consider the lifespan and long-term maintenance requirements when identifying the types and locations of the barrier(s).
- 10.7 The Proponent shall identify, in consultation with Environment and Climate Change Canada, Birds Canada and Indigenous groups (Roberts Bank) and to the satisfaction of a qualified professional, the number and locations of artificial nest structures that shall be installed within the regional assessment area shown in Figure 15-2 of the environmental impact statement to enhance barn owl (*Tyto alba*) productivity. The Proponent shall install at least five nest structures during the first year of construction and shall maintain the nest structures throughout construction and operation.
- 10.8 The Proponent shall contribute to third-party program(s) to establish and maintain barn owl (*Tyto alba*) foraging habitat close to existing or newly installed artificial nest structures.
- 10.9 The Proponent shall cap all hollow steel pipes following their installation in the Designated Project area, and shall maintain capping throughout construction and operation.
- 10.10 The Proponent shall determine, in consultation with Environment and Climate Change Canada, the extent to which the offsetting required pursuant to conditions 7.11 and 9.2 includes great blue heron (*Ardea herodias*) foraging habitat, and shall compensate residual productivity loss to great blue heron (*Ardea herodias*) foraging habitat in the intertidal zone of the local assessment area indicated on Figure 15-1 of the environmental impact statement that has not otherwise been compensated.
- 10.11 The Proponent shall determine, in consultation with British Columbia's Ministry of Transportation and Infrastructure and Environment and Climate Change Canada, if the implementation of measures to decrease the potential for bird-vehicle collisions within the local and regional assessment area indicated by the Proponent on Figures 15-1 and 15-2 of the environmental impact statement (including reduced speed limits) is technically and economically feasible. If technically and economically feasible, the Proponent shall provide these measures to the Agency prior to construction. The Proponent shall ensure vehicles associated with the Designated Project adhere to these measures during construction and operation within the Designated Project area.

- 10.12 The Proponent shall develop and implement measures to increase awareness among employees, contractors and truck drivers associated with the Designated Project, who may encounter wildlife within the Designated Project area, to reduce collisions between birds and vehicles.
- 10.13 The Proponent shall develop, prior to each phase of the Designated Project, in consultation with Environment and Climate Change Canada and Metro Vancouver and to the satisfaction of a qualified professional, waste management measures to minimize waste generation and to avoid harm to birds. The Proponent shall implement these measures during the relevant phase of the Designated Project and shall provide them to the Agency prior to implementing them.
- 10.14 The Proponent shall develop and implement, in consultation with Indigenous groups (Roberts Bank), protocols to notify Indigenous groups (Roberts Bank) of any mortality of birds of interest within the Designated Project area and for the safe harvest of the birds by or for the use of Indigenous groups (Roberts Bank).
- 10.15 The Proponent shall develop, prior to construction and in consultation with Environment and Climate Change Canada and Indigenous groups (Roberts Bank), a follow-up program as described in Table C4 of Appendix G in the Federal Review Panel Report to verify the accuracy of the environmental assessment and determine the effectiveness of mitigation measures as it pertains to the abundance and use of foraging habitat, including any created as a result of condition 10.10, by great blue heron (*Ardea herodias*). The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9.
- 10.16 The Proponent shall develop, prior to construction and in consultation with Environment and Climate Change Canada, British Columbia's Ministry of Environment and Climate Change Strategy, City of Delta, City of Richmond and Indigenous groups (Roberts Bank), a follow-up program as described in Table C16 of Appendix G in the Federal Review Panel Report to determine the effectiveness of mitigation measures as it pertains to the artificial nest structures for barn owl (*Tyto alba*) installed pursuant to condition 10.7 in the local and regional assessment areas. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9.
- 10.17 The Proponent shall develop, prior to construction and in consultation with Environment and Climate Change Canada, British Columbia's Ministry of Environment and Climate Change Strategy, British Columbia's Ministry of Transportation and Infrastructure, and Indigenous groups (Roberts Bank), a follow-up program as described in Table C17 of Appendix G in the Federal Review Panel Report to verify the accuracy of the environmental assessment in the local assessment area shown in Figures 15-1 of the environmental impact statement and determine the effectiveness of mitigation measures as it pertains to barn owl (*Tyto alba*). The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9. As part of the follow-up program, the Proponent shall:
- 10.17.1 monitor the effectiveness of physical barrier(s) installed to reduce vehicle collision with barn owl (*Tyto alba*) and other avian species, including barn swallow (*Hirundo rustica*), pursuant to condition 10.6.
- 10.18 The Proponent shall develop, prior to construction and in consultation with Environment and Climate Change Canada and Indigenous groups (Roberts Bank), a follow-up program as described in Table C18 of Appendix G in the Federal Review Panel Report to verify the accuracy of the

environmental assessment as it pertains to the abundance, density and diversity of diving birds. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9.

10.19 The Proponent shall develop, prior to construction and in consultation with Environment and Climate Change Canada and Indigenous groups (Roberts Bank), a follow-up program as described in Table C19 of Appendix G in the Federal Review Panel Report to verify the accuracy of the environmental assessment as it pertains to the effect of artificial light from the Designated Project on coastal bird population viability. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9. As part of the follow-up program, the Proponent shall:

10.19.1 conduct surveys of light-induced stranding events of migratory birds aligned with the periods for which light-induced stranding events are expected to occur taking into consideration methodology information provided by Environment and Climate Change Canada.

10.20 The Proponent shall develop, prior to construction and in consultation with Environment and Climate Change Canada and Indigenous groups (Roberts Bank), a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of mitigation measures as it pertains to barn swallow (*Hirundo rustica*) habitat. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9.

## **11 Communication plan**

11.1 The Proponent shall develop, prior to construction and in consultation Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), relevant authorities, and commercial and recreational marine users (including the Area I Crab Fisherman Association and the Lower Fraser Sport Fishing Advisory Committee), a communication plan. The Proponent shall implement the plan during construction and operation. The plan shall include measures applicable to each phase of the Designated Project to provide up-to-date information to Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), and commercial and recreational marine users about activities related to the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin that may adversely affect access within the local assessment area for land and water use indicated on Figure 26-1 of the environmental impact statement. As part of the plan, the Proponent shall include the following:

11.1.1 the type of information that will be communicated to Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), and commercial and recreational marine users about the nature, location, status and progress of planned and unplanned activities associated with the Designated Project, including:

11.1.1.1 information on navigational closure areas implemented during construction or operation of the Designated Project;

11.1.1.2 vessel traffic schedules for vessels associated with the Designated Project; and

11.1.1.3 procedures for navigational safety and any other measures implemented by the Proponent to mitigate adverse effects to navigation as a result of the Designated Project.

11.1.2 procedures to communicate the information referred to in condition 11.1.1 to Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), and commercial and

recreational marine users, including timing and frequency of distribution of this information;

- 11.1.3 procedures for Indigenous groups (Roberts Bank) and Indigenous groups (marine shipping) to communicate information to the Proponent about timing, duration and location of fishing for food, social and ceremonial purposes and how Designated Project activities may interfere with this practice;
- 11.1.4 procedures for Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), and commercial and recreational marine users to provide feedback to the Proponent on adverse effects related to marine use as result of construction and operation of the marine terminal, the widened causeway, and the expanded tug basin including unanticipated issues and interactions with other users; and
- 11.1.5 procedures for the Proponent to document and respond in a timely manner to the information communicated pursuant to 11.1.3 and feedback received pursuant to 11.1.4, and to demonstrate how it has been addressed.

## **12 Current use of lands and resources for traditional purposes**

- 12.1 The Proponent shall allow access to closure area(s), including navigational closure area(s) that are within the care and control of the Proponent, for the purpose of Indigenous harvesting of crab for domestic or food, social and ceremonial purposes, to the extent that such access is safe. In doing so, the Proponent shall:
  - 12.1.1 consult with Tsawwassen First Nation, Musqueam, and other Indigenous groups (Roberts Bank) on the development and implementation of the closure area(s), including the timing of implementation, location and spatial extent;
  - 12.1.2 provide the final details related to the closure area(s) referred to in condition 12.1.1 to Tsawwassen First Nation, Musqueam, other Indigenous groups (Roberts Bank), and Fisheries and Oceans Canada prior to implementation, and any update to that information; and
  - 12.1.3 develop and implement measures, in consultation with Tsawwassen First Nation, Musqueam, other Indigenous groups (Roberts Bank), and Fisheries and Oceans Canada, to address safety concerns and the practicality for members of Tsawwassen First Nation and Musqueam and other Indigenous groups (Roberts Bank) to harvest crab for food, social and ceremonial purposes within the navigational closure area(s).
- 12.2 The Proponent shall undertake a study to investigate the use of alternative technologies and methods for harvesting crab for food, social and ceremonial purposes in the navigational closure area. The Proponent shall develop the study prior to construction, in consultation with Tsawwassen First Nation and Musqueam and to the satisfaction of Fisheries and Oceans Canada, and undertake the study, starting prior to the initiation of the Designated Project construction. The Proponent shall adapt the study over time as additional information is gathered with the goal of identifying a viable long-term option, to the satisfaction of Fisheries and Oceans Canada, that would allow Tsawwassen First Nation and Musqueam to harvest crab for food, social and ceremonial purposes in the navigational closure area while meeting safety and regulatory requirements. The Proponent shall implement any aspect of the identified viable long-term option within its care and control, throughout operation of the Designated Project.

- 12.3 The Proponent shall, prior to construction, work collaboratively with Musqueam and Tsawwassen First Nation on a stewardship initiative to retrieve and dispose of lost or discarded fishing gear in the Roberts Bank area.
- 12.4 The Proponent shall develop prior to construction and in consultation with Transport Canada and Indigenous groups (Roberts Bank) and Indigenous groups (marine shipping), a follow-up program to verify the predictions of the environmental assessment as it pertains to changes in container vessel traffic as a result of the Designated Project and related effects on current use of lands and resources for traditional purposes by Indigenous groups (Roberts Bank) and Indigenous groups (marine shipping). The Proponent shall implement the follow-up program during construction and operation in accordance with conditions 2.5 to 2.9. As part of the follow-up program, the Proponent shall:
- 12.4.1 monitor the number, capacity based on twenty-foot equivalent units, and route of container vessels calling at the Port of Vancouver;
  - 12.4.2 report annually, as part of the annual report referred to in condition 2.10 and to Indigenous groups (Roberts Bank) and Indigenous groups (marine shipping), the parameters referred to in condition 12.4.1 starting at the beginning of construction;
  - 12.4.3 consult with Indigenous groups (Roberts Bank) and Indigenous groups (marine shipping) to develop and implement a process to determine whether any increase in container vessels attributable to the Designated Project is resulting in incremental interference with current use of lands and resources for traditional purposes in the marine shipping area. The process shall include documenting the specific nature and characteristics of the interference, based on input received from the Indigenous groups consulted; and
  - 12.4.4 if incremental interference with the current use of lands and resources for traditional purposes is identified pursuant to 12.4.3, identify, in consultation with Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), Transport Canada, and Canadian Coast Guard, modified or additional measures that could be implemented to mitigate the incremental interference. The Proponent shall implement any technically and economically feasible measures that are identified that are within its care and control. The Proponent shall submit these measures to the Agency prior to implementing them.
- 12.5 The Proponent shall develop, prior to construction, and implement, throughout the first eight years of operation, a follow-up program in consultation with Tsawwassen First Nation, Musqueam, and other Indigenous groups (Roberts Bank) as it relates to their current use of lands and resources for traditional purposes. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9. As part of the development of the follow-up program, the Proponent shall identify:
- 12.5.1 parameters to monitor changes in environmental components identified as important for the current use of lands and resources for traditional purposes, including crab and juvenile salmon, and the contribution of the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin to these changes;
  - 12.5.2 how the Proponent will monitor the parameters identified pursuant to condition 12.5.1, including the means, timing and location of monitoring, and how monitoring conducted as



part of the other follow-up programs set out in this Decision Statement for environmental components referred to in condition 12.5.1 will be utilized;

- 12.5.3 the levels of changes to environmental components referred to in condition 12.5.1 relative to baseline and attributable to the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin that would require the Proponent to implement modified or additional mitigation measure(s);
  - 12.5.4 a process for developing and implementing any modified or additional mitigations if the levels of environmental change identified pursuant to condition 12.5.3 are exceeded; and
  - 12.5.5 opportunities for the participation of Tsawwassen First Nation, Musqueam, and other Indigenous groups (Roberts Bank) in monitoring and reporting on the follow-up program.
- 12.6 The Proponent shall participate, at the request of Transport Canada and/or Fisheries and Oceans Canada, in the development and implementation of regional initiatives, including as part of the Oceans Protection Plan, or equivalent, related to effects on current use of lands and resources for traditional purposes as a result of marine shipping.

### **13 Health and socio-economic conditions**

- 13.1 The Proponent shall develop, prior to construction and in consultation with Indigenous groups (Roberts Bank), Health Canada, British Columbia's Ministry of Health, Fraser Health Authority and other relevant authorities, and to the satisfaction of a qualified individual or professional, a follow-up program to verify the accuracy of the environmental assessment as it pertains to the effects of the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin on Indigenous health related to the quality of marine traditional food. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9. As part of the follow-up program, the Proponent shall:
- 13.1.1 collect, prior to, during and post in-water construction, samples of marine species consumed by Indigenous groups (Roberts Bank);
  - 13.1.2 develop a list of potential contaminants of concern to be analyzed;
  - 13.1.3 conduct laboratory analysis of tissue samples of the marine species identified pursuant to condition 13.1.1 for the contaminants of concern identified during the development of the follow-up program; and
  - 13.1.4 conduct analysis of results of the follow-up program using a human health risk assessment prior to, during and post in-water construction.
- 13.2 The Proponent shall develop, prior to construction and in consultation with Indigenous groups (Roberts Bank), Health Canada, British Columbia's Ministry of Health, Fraser Health Authority and other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment as it pertains to the effects of the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin on Indigenous health related to food security. The Proponent shall implement the follow-up program in accordance with conditions 2.5 to 2.9. As part of the follow-up program, the Proponent shall:

- 13.2.1 survey Indigenous communities regarding consumption patterns of marine traditional foods in the area potentially impacted by the Designated Project, prior to, during and post-in water construction;
  - 13.2.2 survey Indigenous communities regarding their response to the results of analysis conducted pursuant to condition 13.1 to determine factors influencing any changes to consumption patterns; and
  - 13.2.3 implement additional or modified mitigation measures should results indicate that changes in consumption patterns are occurring and are a result of real or perceived effects of the Designated Project.
- 13.3 The Proponent shall participate, at the request of a relevant federal authority, in any regional initiative related to improving the understanding of shellfish quality at Roberts Bank.
- 13.4 The Proponent shall develop, prior to construction and in consultation with Tsawwassen First Nation and the Maa-nulth First Nations, a process for Tsawwassen First Nation and the Maa-nulth First Nations to report concerns to the Proponent about any adverse environmental effect caused by the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin and incidental marine shipping activities on their commercial ventures. The Proponent shall implement the process during construction and the first five years of operation or until the marine terminal has reached full capacity. As part of the implementation of the process, the Proponent shall:
- 13.4.1 document the concerns received from Tsawwassen First Nation and the Maa-nulth First Nations, including a description of how these concerns relate to effects of the Designated Project on their commercial ventures;
  - 13.4.2 implement technically and economically feasible modified or additional mitigation measures, in consultation with Tsawwassen First Nation and the Maa-nulth First Nations, to address concerns documented in accordance with condition 13.4.1 that relate to issues within the Proponent's care and control;
  - 13.4.3 report concerns documented in accordance with condition 13.4.1 that relate to issues outside the Proponent's care and control to Transport Canada and the Canadian Coast Guard; and
  - 13.4.4 provide to the Agency, as part of the annual report referred to in condition 2.10, all concerns received during the reporting year and how the Proponent has addressed all concerns related to issues within the Proponent's care and control, including any modified or additional mitigation measure that the Proponent has implemented or plans to implement, or a rationale as to why no modified or additional mitigation measure(s) is/are required to address the concerns received.
- 13.5 The Proponent shall develop, prior to construction and in consultation with the Area I Crab Fisherman Association, Indigenous groups that hold commercial licenses to harvest crab within the local assessment area indicated on Figure 21-3 of the environmental impact statement, the Lower Fraser Sport Fishing Advisory Committee, and Fisheries and Oceans Canada, measures to mitigate adverse environmental effects on the commercial and recreational crab fisheries attributable to the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin. The measures to mitigate potential impacts to the commercial crab

fishery must consist of measures to determine the extent of any reduction in commercial crab harvest resulting from any loss of access to commercial crab fishing grounds for Area I commercial license holders, and measures to mitigate any reduction in commercial crab harvests resulting from any loss of access. The Proponent shall implement these mitigation measures during construction and operation and shall submit these measures to the Agency prior to implementing them.

- 13.6 The Proponent shall annually undertake monitoring and analysis, during construction and the first five years of operation, of commercial crab harvest landing data within the local assessment area to the extent that such data is available to the Proponent and evaluate the effectiveness of the mitigation measures developed pursuant to condition 13.5, to inform activities pursuant to condition 13.7. The Proponent shall, if the evaluation determines that the mitigation measures developed pursuant to condition 13.5 are not effective, develop, in consultation with the Area I Crab Fisherman Association, Indigenous groups that hold commercial licenses to harvest crab within the local assessment area indicated on Figure 21-3 of the environmental impact statement, the Lower Fraser Sport Fishing Advisory Committee, and Fisheries and Oceans Canada, and implement modified or additional measures.
- 13.7 The Proponent shall invite commercial crab harvesters, including the Area I Crab Fisherman Association, Indigenous groups that hold commercial licenses to harvest crab within the local assessment area indicated by the Proponent on Figure 21-3 of the environmental impact statement, and the Lower Fraser Sport Fishing Advisory Committee, to meetings annually during construction and the first five years of operation to discuss:
  - 13.7.1 the effectiveness of mitigation measures developed pursuant to condition 13.5 and any modified or additional measures developed pursuant to condition 13.6, including the nature, location and status of relevant Designated Project activities; and
  - 13.7.2 the results of the annual commercial crab harvest landing data monitoring, analysis and evaluation referred to in condition 13.6.
- 13.8 The Proponent shall evaluate the feasibility of implementing land use options related to or in support of agriculture, for portions of the land referred as Lot 3 in the Vancouver Fraser Port Authority's 2018 Approved Land Use Plan Amendments that are not required for Designated Project components or activities. The Proponent shall provide the Agency with the results of the evaluation, provide a reasonable justification for options determined not economically or technically feasible, and implement technically and economically feasible land use options related to or in support of agriculture.
- 13.9 The Proponent shall participate, at the request of a relevant authority, in any regional initiative related to the prevention, monitoring and compensation of any adverse environmental effect attributable to the Designated Project on Agricultural Land Reserve properties located adjacent to the Designated Project area.

**14 Physical and cultural heritage and structures, sites or things of historical, archaeological, paleontological or architectural significance**

- 14.1 The Proponent shall develop, prior to construction and in consultation with Tsawwassen First Nation, Musqueam, and other Indigenous groups (Roberts Bank), and to the satisfaction of a

qualified professional, and implement a plan to conduct an inventory of fish trap stakes across the eastern end of the causeway expansion area within the area of moderate archaeological potential indicated by the Proponent on Figure 8 of Appendix 28-A of the environmental impact statement. If the Proponent encounters any fish trap stakes during the inventory, it shall expand excavation towards the existing causeway. The Proponent shall implement the procedures developed pursuant to condition 14.3 when encountering any fish trap stake.

- 14.2 The Proponent shall monitor annually, in consultation with Indigenous groups (Roberts Bank) and to the satisfaction of a qualified professional, during construction and for the first five years of operation, erosion of the area of moderate archeological potential indicated by the Proponent on Figure 28-3 of Volume 4 of the environmental impact statement and of the historic tidal channel that lies northwest of the terminal, formerly draining Canoe Passage, to identify potential exposure of buried fish trap stakes or other archeological resource(s). The Proponent shall implement procedures developed pursuant to condition 14.3 when encountering any fish trap stake(s) or archeological resource(s).
- 14.3 The Proponent shall develop, prior to construction, in consultation with Indigenous groups (Roberts Bank) and relevant authorities and to the satisfaction of a qualified professional, a Physical Heritage Resources Management Plan for any structure, site, or thing of historical, archaeological, paleontological, or architectural significance or physical heritage resources within the local assessment area indicated on Figure 28-1 of the environmental impact statement. The Proponent shall implement the Physical Heritage Resources Management Plan during all phases of the Designated Project. The plan shall include:
  - 14.3.1 a description of how Indigenous knowledge and traditional use studies conducted as part of the environmental assessment have been integrated into the development of the plan, while respecting Indigenous knowledge protocols and keeping Indigenous knowledge confidential, if requested;
  - 14.3.2 a description of the predicted impacts of activities associated with the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin on physical heritage resources and structures, sites, or things of historical, archaeological, paleontological or architectural significance within the local assessment area;
  - 14.3.3 protocols with respect to the discovery, handling, recognition, recording, transferring and safekeeping of fish trap stakes identified through the inventory conducted by the Proponent pursuant to condition 14.1 or through monitoring pursuant to condition 14.2;
  - 14.3.4 procedures to record, analyze, and mitigate the adverse environmental effects of the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin on physical heritage resources and structures, sites, or things of historical, archaeological, paleontological or architectural significance;
  - 14.3.5 a process for reporting information about physical heritage resources and structures, sites or things of historical, archaeological, paleontological or architectural significance to Indigenous groups (Roberts Bank) and relevant authorities;
  - 14.3.6 a chance find protocol to apply in the event that previously unidentified physical heritage features or structures, sites or things of historical, archaeological, paleontological or architectural significance are discovered by the Proponent. As part of the chance find protocol, the Proponent shall:

- 14.3.6.1 as soon as it is safe to do so, halt work at the location of the discovery, except for actions required to be undertaken to protect the integrity of the discovery;
  - 14.3.6.2 delineate an area of at least 30 metres around the discovery as a no-work zone;
  - 14.3.6.3 have a qualified professional, whose expertise pertains to the requirements of British Columbia's *Archaeological Impact Assessment Guidelines* and British Columbia's *Heritage Conservation Act*, conduct an assessment at the location of the discovery; and
  - 14.3.6.4 inform the Agency and Indigenous groups (Roberts Bank) within 24 hours of the discovery, and allow Indigenous groups (Roberts Bank) to monitor archaeological works.
- 14.3.7 a process for qualified individuals to provide training to employees and contractors involved in or overseeing Designated Project construction activities that involve physical disturbance of previously undisturbed ground about:
- 14.3.7.1 how to identify physical heritage features or structures, sites or things of historical, archaeological, paleontological or architectural significance;
  - 14.3.7.2 how to implement the protocols developed pursuant to conditions 14.3.3 and 14.3.6;
  - 14.3.7.3 the locations of sensitive physical heritage resources and structures, sites or things of historical, archeological, paleontological or architectural significance within the Designated Project area; and
  - 14.3.7.4 cultural sensitivity, confidentiality and heritage values in relation to these sensitive physical heritage resources and structures, sites or things of historical, archeological, paleontological or architectural significance within the Designated Project area.
- 14.4 The Proponent shall develop, in consultation with Indigenous groups (Roberts Bank), criteria that the Proponent shall apply when retaining the services of the qualified individual(s) and professional(s) referred to in conditions 14.1 through 14.3.
- 14.5 The Proponent shall develop and implement, in consultation with Indigenous groups (Roberts Bank), additional or modified mitigation measures if the Proponent must conduct any pre-construction survey that may impact any structure, site, or thing of historical, archaeological, paleontological, or architectural significance or physical heritage resources. The Proponent shall implement these measures prior to conducting these surveys, and shall provide these measures to the Agency prior to implementing them. The Proponent shall implement the procedures developed pursuant to condition 14.3 when encountering any structure, site, or thing of historical, archaeological, paleontological, or architectural significance or physical heritage resources during these activities.
- 14.6 The Proponent shall ensure Indigenous monitors referred to in condition 15.1 are notified prior to being on site when archeological works are being undertaken pursuant to conditions 14.1 through 14.3 and shall ensure those Indigenous monitors have access to the area where the archeological works are being undertaken while they are underway, subject to meeting safety requirements.
- 14.7 The Proponent shall develop, prior to construction and in consultation with Indigenous groups (Roberts Bank), and implement measures to mitigate effects caused by the construction and

operation of the marine terminal, the widened causeway, and the expanded tug basin on cultural heritage, including:

- 14.7.1 painting the cranes to be used during operation in colours that reduce contrast and enhance blending with the surrounding landscape, determined in consultation with Transport Canada, and shall maintain these colours throughout operation, subject to safety and regulatory requirements.
- 14.8 The Proponent shall develop, prior to construction and in consultation with Tsawwassen First Nation, Musqueam, and Tsleil-Waututh Nation, nation-specific measures to address the effects described in the Federal Review Panel Report caused by the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin on cultural heritage, including tangible and intangible cultural losses. The Proponent shall invite each of Tsawwassen First Nation, Musqueam, and Tsleil-Waututh Nation to co-lead the development of the measures specific to their nation. The Proponent shall implement the measures during all phases of the Designated Project and shall submit these measures to the Agency prior to implementing them, while ensuring that confidential information is protected. As part of the annual report referred to in condition 2.10, the Proponent shall report its discussions with Tsawwassen First Nation, Musqueam, and Tsleil-Waututh Nation, including the level of satisfaction of Indigenous groups on the implementation of the measures. As part of the measures, the Proponent shall consider:
- 14.8.1 supporting continued access for cultural practices to the sea on a nation-specific basis; and
  - 14.8.2 developing or contributing to Indigenous-led programs to preserve and enhance cultural heritage.
- 14.9 The Proponent shall develop, prior to construction and in consultation with Tsawwassen First Nation, Musqueam, and Tsleil-Waututh Nation, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects on cultural heritage caused by the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin. The Proponent shall invite Tsawwassen First Nation, Musqueam, and Tsleil-Waututh Nation to co-lead the development of the follow-up program. As part of the follow-up program, the Proponent shall monitor, during construction and the first 10 years of operation, cultural heritage indicators identified in consultation with Tsawwassen First Nation, Musqueam, and the Tsleil-Waututh Nation, and shall establish thresholds for implementing additional mitigation measures, in accordance with conditions 2.5 to 2.9.

## **15 Indigenous monitors**

- 15.1 The Proponent shall retain, prior to construction, the services of Indigenous monitors to observe, record, and report on the implementation of the conditions set out in this Decision Statement during construction. Prior to retaining the services of Indigenous monitors, the Proponent shall undertake a collaborative and consensus-based process to determine, in consultation with Indigenous groups (Roberts Bank), the scope, purpose and objectives of the participation of Indigenous monitors and shall provide that information to the Agency prior to construction. As part of that process, the Proponent shall determine:

- 15.1.1 how each Indigenous monitor shall be involved in monitoring their areas of interest, including the location, frequency, timing and duration of their participation;
- 15.1.2 how the Proponent shall support the participation of Indigenous monitors, including through the provision of training (including safety or skills certifications), equipment (including personal protective equipment), and access to the Designated Project area;
- 15.1.3 how Indigenous monitors shall collect information and shall communicate that information to the Proponent, the independent environmental monitor referred to in condition 16.1, the Indigenous Advisory Committee referred to in condition 17.1, and the Agency;
- 15.1.4 how monitoring conducted by Indigenous monitors shall be informed by and shall inform the monitoring activities conducted by the independent environmental monitor referred to in condition 16.1 and any other monitor associated with the Designated Project;
- 15.1.5 how each Indigenous monitor shall be involved in Proponent initiated stop work and corrective action processes should non-compliance with the conditions set out in this Decision Statement be identified; and
- 15.1.6 how the Proponent shall consider the information obtained from Indigenous monitors and how the Proponent shall report to Indigenous groups, relevant authorities and the Agency about how information obtained from Indigenous monitors has been considered by the Proponent, including a rationale for why any action recommended by Indigenous monitors has, or has not been taken.

## **16 Independent Environmental Monitor**

- 16.1 The Proponent shall retain, prior to construction, the services of a third-party independent environmental monitor, who is a qualified professional with a minimum of five-years' experience as it pertains to environmental monitoring in British Columbia and who has experience working with Indigenous groups. The Proponent shall make all reasonable efforts to obtain the approval of Tsawwassen First Nation and Musqueam for the retention of the services of the independent environmental monitor and, following retention, notify Tsawwassen First Nation and Musqueam of any change to the qualified professional occupying the independent environmental monitor position.
- 16.2 The Proponent shall require the independent environmental monitor to report to the Proponent, in writing, about the implementation of any condition set out in this Decision Statement during construction. The Proponent shall also require the independent environmental monitor to recommend to the Proponent, in writing, which action(s) in their view, should be taken by the Proponent in respect to the implementation of conditions set out in this Decision Statement during construction.
- 16.3 The Proponent shall require the independent environmental monitor to provide directly to the Agency, at a frequency to be determined in consultation with the Agency, the information reported to the Proponent pursuant to condition 16.2.
- 16.4 The Proponent shall consider the information obtained from the independent environmental monitor and shall report to the Agency and relevant authorities about how information obtained from the independent environmental monitor has been considered by the Proponent, including a

rationale for why any action recommended by the independent environmental monitor has, or has not been taken.

- 16.5 The Proponent shall require the independent environmental monitor to retain the information reported to the Proponent pursuant to condition 16.2 for five years following submission to the Agency pursuant to condition 16.3.

## **17 Indigenous Advisory Committee**

- 17.1 The Proponent shall establish, prior to construction and in consultation with Indigenous groups (Roberts Bank), and maintain, throughout construction and operation, an Indigenous Advisory Committee (IAC) to support dialogue and issue resolution between the Proponent and Indigenous groups (Roberts Bank). The Proponent shall invite Indigenous groups (Roberts Bank) to participate in all IAC activities, and shall consult participating Indigenous groups on the development of Terms of Reference for the IAC. The Proponent shall make reasonable efforts to come to agreement on the Terms of Reference with participating Indigenous groups. The Proponent shall submit the final Terms of Reference to the Agency prior to construction. As part of the Terms of Reference, the Proponent shall include:

- 17.1.1 the means by which the Proponent and Indigenous groups shall jointly identify issues to be discussed by the IAC and the means by which the Proponent shall document these issues;
- 17.1.2 the frequency, timing and location of IAC meetings during each phase of the Designated Project and the means by which the Proponent shall document meeting minutes and shall seek approval of the meeting minutes by Indigenous groups;
- 17.1.3 the means by which IAC meetings will be chaired, which may be jointly by the Proponent and a representative of the Indigenous groups and/or by a mutually-acceptable third-party facilitator retained by the Proponent;
- 17.1.4 the means by which the Proponent may consult the IAC when consultation with an Indigenous group is a requirement of a condition set out in this Decision Statement, should it be agreeable to the Indigenous group(s) specified;
- 17.1.5 the means by which the Proponent shall share with the IAC the following information, including when and how this information will be shared:
  - 17.1.5.1 the results of the follow-up programs, including any modified or additional mitigation measure implemented or proposed to be implemented by the Proponent as a result of each follow-up requirement;
  - 17.1.5.2 activities associated with the Proponent's participation in regional initiatives; and
  - 17.1.5.3 other information as determined by the IAC;
- 17.1.6 the means by which the Proponent shall document the activities of the IAC, including:
  - 17.1.6.1 all views and information received through the IAC from Indigenous groups; and
  - 17.1.6.2 how the Proponent has considered all views and information received through the IAC from Indigenous groups;



- 17.1.7 the means by which the Proponent shall document any issue for which IAC members are unable to find a resolution, including a rationale for the lack of resolution, and any solutions for finding a resolution proposed by the IAC;
  - 17.1.8 the means by which the Proponent shall share the information documented by the Proponent pursuant to conditions 17.1.6 and 17.1.7 with IAC members and with the Agency, including when and how this information shall be shared; and
  - 17.1.9 the means by which the Proponent shall evaluate, in consultation with Indigenous groups, the Terms of Reference throughout construction and operation to determine whether administrative or management improvements are required to increase the efficiency and effectiveness of the IAC.
- 17.2 The Proponent shall implement the Terms of Reference developed pursuant to condition 17.1 throughout construction and operation, including any revision to the Terms of Reference made pursuant to condition 17.1.9.

## **18 Environmental Monitoring Committee**

- 18.1 The Proponent shall participate, during all phases of the Designated Project and at the request of relevant federal authorities, in any Environmental Monitoring Committee (EMC), should one be established in relation to the Designated Project.
- 18.2 The Proponent shall provide to the EMC, upon request, information relating to the mitigation measures and follow-up programs set out in this Decision Statement to the EMC. If requested by the EMC, the Proponent shall also provide non-proprietary data files of the results of the follow-up programs.
- 18.3 When provided with a written recommendation by the EMC that pertains to the Designated Project, the Proponent shall provide a response in writing to the EMC, which set out whether the Proponent accepts the recommendation, and if it does not, the reasons for not accepting the recommendation.
- 18.4 The Proponent shall report to the Agency as part of the annual report referred to in condition 2.10, or more frequently if required by the Agency, on the Proponent's actions with respect to the EMC and the associated outcomes of the Proponent's actions.
- 18.5 The Proponent shall allow access to the Designated Project area, to the extent that such access is safe, to any monitor(s) established as part of the EMC. The Proponent shall communicate with monitor(s) regarding coordination of monitoring activities.

## **19 Financial Guarantee**

- 19.1 The Proponent shall, prior to the first day of construction, deliver to the Government of Canada an irrevocable standby letter of credit from an approved financial institution, or performance bond in a form and content directed by the Agency in the amount of CDN \$150 million dollars (\$150,000,000.00 CDN) to stand as security for the execution of any condition set out in this Decision Statement through the first three years of construction. The Government of Canada shall be entitled to draw on and use the standby letter of credit or performance bond, to fulfill any

condition set out in this Decision Statement in the event the Proponent fails to fulfill any such condition.

## **20 Accidents and Malfunctions**

- 20.1 The Proponent shall take all reasonable measures to prevent accidents and malfunctions associated with the Designated Project that may result in adverse environmental effects and all reasonable measures to mitigate any adverse environmental effect from accidents and malfunctions that do occur. As part of these measures, the Proponent shall:
- 20.1.1 consider sensitive time periods for vulnerable species found in the vicinity of the Designated Project (including juvenile salmon and migratory birds); and
  - 20.1.2 implement measures for the safe storage, refueling and handling of all substances identified pursuant to condition 20.3.1 in the Designated Project area, including containment specifications and equipment staging, and provide training about these measures to all persons involved in and responsible for safe storage, refueling and handling of these substances. The Proponent shall describe how it will ensure that these persons abide by these measures.
- 20.2 The Proponent shall consult, prior to the phase to which the measures pertain, Indigenous groups (Roberts Bank), Indigenous groups (marine shipping) and relevant authorities on the measures referred to in condition 20.1 to be implemented to prevent accidents and malfunctions resulting from the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin.
- 20.3 The Proponent shall develop, in consultation with Indigenous groups (Roberts Bank), Indigenous groups (marine shipping), the City of Delta, British Columbia's Ministry of Environment and Climate Change Strategy, British Columbia's Ministry of Land, Water, and Resource Stewardship, Transport Canada, the Canadian Coast Guard, Parks Canada, Environment and Climate Change Canada, Western Canada Marine Response Corporation and other relevant authorities, an Accident and Malfunction Response Plan in relation to the each phase of the Designated Project. The Proponent shall develop each Accident and Malfunction Response Plan prior to the phase to which it pertains, and shall keep it up to date during that phase of the Designated Project. The Proponent shall incorporate and reference established response plans, procedures and organizations, as appropriate, into each Accident and Malfunction Response Plan, so as to avoid duplication with established plans, procedures and organizations. The Proponent shall implement each Accident and Malfunction Response Plan during the phase to which it pertains. As part of the Accident and Malfunction Response Plans, the Proponent shall describe:
- 20.3.1 the types, location, and quantities of all substances expected to be stored within the Designated Project area, other than substances contained in containers or in vessels, trucks or trains passing through or temporarily stored in the marine terminal, that may cause adverse environmental effects in case of a spill;
  - 20.3.2 information on marine and terrestrial wildlife oil spill vulnerability for species, populations, and their habitats that may be affected by a spill attributable to the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin, including their spatial and temporal distributions;

- 20.3.3 the types of accidents and malfunctions that may cause adverse environmental effects during any phase of the Designated Project, including unplanned releases or spills of fuels, oils, concrete, lubricants and other hazardous and noxious substances attributable to the construction and operation of the marine terminal, the widened causeway, and the expanded tug basin;
  - 20.3.4 for each type of accident and malfunction identified pursuant to condition 20.3.3, the roles and responsibilities of each relevant party, including Tsawwassen First Nation and Musqueam, involved in the response to the accident or malfunction, including potential limitations associated with responding to an accident or malfunction in an effective and coordinated manner, and proposed solutions to these limitations;
  - 20.3.5 thresholds for reporting and notification to the relevant parties identified pursuant to condition 20.3.4;
  - 20.3.6 for each type of accident and malfunction identified pursuant to condition 20.3.3, the measures, appropriate to the accident or malfunction and under the control of the Proponent, to mitigate any adverse environmental effect caused by the accident or malfunction;
  - 20.3.7 for each type of accident and malfunction identified pursuant to condition 20.3.3, the measures under the control of the Proponent for the long-term monitoring of any adverse environmental effect caused by the accident or malfunction; and
  - 20.3.8 the measures under the control of the Proponent for documenting, reporting, and correcting instances of non-compliance with the Accident and Malfunction Response Plans.
- 20.4 The Proponent shall participate in or conduct regular and coordinated training exercises for spill prevention and control of fuels, oils, lubricants and other hazardous and noxious substances that may be released during construction and operation of the marine terminal, the widened causeway, and the expanded tug basin. The Proponent shall document any deficiency observed during these training exercises, update the applicable Accident and Malfunction Response Plan to address these deficiencies, and provide the results of the training exercises and any update to the Accident and Malfunction Response Plan to the parties involved in the development of the plan. The Proponent shall provide opportunities for participation by Indigenous groups (Roberts Bank) in the training exercises.
- 20.5 The Proponent shall participate, at the request of the Canadian Coast Guard, in the development of all applicable integrated response plans to ensure effective and coordinated response to marine shipping accidents that may occur within the Proponent's navigational jurisdiction.
- 20.6 In the event of an accident or malfunction associated with the Designated Project with the potential to cause adverse environmental effects, the Proponent shall, in conjunction with other relevant authorities, immediately implement the measures appropriate to the accident or malfunction referred to in condition 20.3.6, under the control of the Proponent, and shall:
- 20.6.1 implement the communication plan referred to in condition 20.7;
  - 20.6.2 notify, as soon as possible through the means established pursuant to 20.7, Indigenous groups (Roberts Bank) and Indigenous groups (marine shipping) and, through established notification procedures, relevant authorities, of the accident or malfunction, and notify

the Agency in writing no later than 24 hours following the accident or malfunction, except where notification is required to be undertaken by another relevant authority. For the notification to Indigenous groups (Roberts Bank), Indigenous groups (marine shipping) and the Agency, the Proponent shall specify:

20.6.2.1 the date when and location where the accident or malfunction occurred;

20.6.2.2 a summary description of the accident or malfunction; and

20.6.2.3 a list of any substance potentially released into the environment as a result of the accident or malfunction.

20.6.3 submit a written report to the Agency no later than 30 days after the day on which the accident or malfunction occurred. As part of the report, the Proponent shall not include information that, if disclosed, could cause specific harm to the environment or people. The written report shall include:

20.6.3.1 a detailed description of the accident or malfunction and of its adverse environmental effects;

20.6.3.2 a description of the measures that were taken by the Proponent and other relevant authorities to mitigate the adverse environmental effects caused by the accident or malfunction;

20.6.3.3 a description of any residual adverse environmental effect and any modified or additional measures under the control of the Proponent to mitigate residual adverse environmental effects;

20.6.3.4 any view from Indigenous groups (Roberts Bank) and Indigenous groups (marine shipping) and advice from relevant authorities received with respect to the accident or malfunction, its adverse environmental effects and the measures under the control of the Proponent to mitigate these adverse environmental effects; and

20.6.3.5 details concerning the implementation of the Accident and Malfunction Response Plan referred to in condition 20.3.

20.6.4 submit a written report to the Agency no later than 90 days after the day on which the accident or malfunction occurred that includes a description of the changes made to avoid a subsequent occurrence of the accident or malfunction and of the modified or additional measure(s) under the control of the Proponent to mitigate and monitor residual adverse environmental effects and to carry out any required progressive reclamation, taking into account the information submitted in the written report pursuant to condition 20.6.3. The report shall include all additional views from Indigenous groups (Roberts Bank) and Indigenous groups (marine shipping) and advice from relevant authorities received by the Proponent since the views and advice referred to in condition 20.6.3.4 were received by the Proponent. As part of the report, the Proponent shall not include information that, if disclosed, could cause specific harm to the environment or people.

20.7 The Proponent shall develop, in consultation with Indigenous groups (Roberts Bank) and Indigenous groups (marine shipping), a communication plan for accidents and malfunctions identified pursuant to condition 20.3.3. The communication plan shall not duplicate or conflict with communication aspects of any integrated response plan relevant to the Designated Project.

The Proponent shall develop the communication plan prior to construction and shall implement and keep it up to date during all phases of the Designated Project. The plan shall include:

- 20.7.1 the types of accidents and malfunctions requiring the Proponent to notify each of the Indigenous groups (Roberts Bank) and Indigenous groups (marine shipping);
- 20.7.2 the manner by which Indigenous groups (Roberts Bank) and Indigenous groups (marine shipping) wish to be notified by the Proponent of an accident or malfunction during each phase of emergency management, including clean-up, and of any opportunity for the Indigenous groups (Roberts Bank) and the Indigenous groups (marine shipping) to assist in the response to the accident or malfunction; and
- 20.7.3 the contact information of the representatives of the Proponent that the Indigenous groups (Roberts Bank) and the Indigenous groups (marine shipping) may contact and of the representatives of each of the Indigenous groups (Roberts Bank) and Indigenous groups (marine shipping) to which the Proponent provides notification.

## **21 Schedules**

- 21.1 The Proponent shall submit to the Agency, Indigenous groups (Roberts Bank) and the Indigenous groups (marine shipping) a schedule for all conditions set out in this Decision Statement no later than 60 days prior to the start of the phase of the Designated Project to which they pertain. This schedule shall detail all activities planned to fulfill each condition set out in this Decision Statement and the commencement and estimated completion month(s) and year(s) for each of these activities.
- 21.2 The Proponent shall submit to the Agency, Indigenous groups (Roberts Bank) and the Indigenous groups (marine shipping) a schedule outlining all activities required to carry out all phases of the Designated Project no later than 60 days prior to the start of each phase. The schedule shall indicate the commencement and estimated completion month(s) and year(s) and duration of each of these activities.
- 21.3 The Proponent shall submit to the Agency, Indigenous groups (Roberts Bank) and the Indigenous groups (marine shipping) in writing an update to schedules referred to in conditions 21.1 and 21.2 every year no later than December 31, until completion of all activities referred to in each schedule.

## **22 Record Keeping**

- 22.1 The Proponent shall maintain all records relevant to the implementation of the conditions set out in this Decision Statement. The Proponent shall retain the records and make them available to the Agency for 25 years following their publication. The Proponent shall provide the aforementioned records to the Agency upon demand within a timeframe specified by the Agency.
- 22.2 The Proponent shall retain all records referred to in condition 22.1 at a facility in Canada and shall provide the address of the facility to the Agency. The records may be retained in electronic form. The Proponent shall notify the Agency at least 30 days prior to any change to the physical location of the facility where the records are retained, and shall provide to the Agency the address of the new location.

22.3 The Proponent shall notify the Agency of any change to the contact information of the Proponent included in this Decision Statement.

**Issuance**

This Decision Statement is issued in Ottawa, Ontario by:

<Original signed by>

\_\_\_\_\_  
**The Honourable Steven Guilbeault**  
Minister of the Environment

April 20, 2023  
Date \_\_\_\_\_