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January 7, 2014

Chief James Thomas and Councillors
Halalt First Nation

<contact information removed>

Dear Chief Thomas and Councillors,

Re: Roberts Bank Terminal 2 Project - consultation approach for the federal environmental assessment

The Honourable Leona Aglukkaq, federal Minister of the Environment, announced today that the proposed Roberts Bank Terminal 2 Project (the Project) will undergo an environmental assessment by a review panel.

The purpose of this letter is:

- (1) to share a summary of the information we currently have regarding the potential adverse impacts of the Project on your potential or established Aboriginal rights so that you may review it and provide comments;
- (2) to share with you the draft consultation workplan which outlines the consultation approach for this Project so that you may review it and provide comments; and
- (3) to respond to your comments on the draft Environmental Impact Statement (EIS) Guidelines.

The proposed consultation workplan is based on information we currently have regarding the potential adverse impacts of the Project on your potential or established Aboriginal rights. This information is outlined in Attachment 1. Please review this information and provide us with any additional information that you feel would contribute to this analysis.

Based on this information, the Agency has determined on a preliminary basis that the depth of the duty to consult with Halalt First Nation in relation to the Project is at the moderate end of the consultation spectrum. The Agency therefore is proposing a consultation workplan as outlined in Attachment 2.

.../2



The Agency's Participant Funding Program is a limited fund and, with respect to Aboriginal groups, is meant to assist groups to prepare for and participate in Aboriginal consultation activities and key participation opportunities associated with federal environmental assessments. The Agency will contact the Halalt First Nation to inform you when the funding application period will begin. To obtain additional information on the program in advance of the application period, please visit the [Agency's web site](#) or contact Carrie Crull at 613-957-0573 or by email at Carrie.Crull@ceaa-acee.gc.ca.

As well, you will find attached the final EIS Guidelines (Attachment 4). Your comments were taken into account while finalizing these EIS Guidelines and responses to your comments have been provided (Attachment 3). These EIS Guidelines have been provided to the proponent, who will prepare the EIS based on the Guidelines. The EIS identifies the potential adverse environmental effects of the Project including cumulative effects, the measures to mitigate those effects measures, and evaluates whether the Project is likely to cause any significant adverse environmental effects.

Information that you provide to the Agency is considered public and may be subject to public access-to-information requests. Should you have any documents that contain confidential or sensitive information that you believe should be protected from release to the public, please contact me to discuss.

I will follow up with you in the coming weeks to discuss the proposed consultation approach. As well, you can contact me directly at 604-666-9162 or by email at [Analise Saely@ceaa-acee.gc.ca](mailto:Analise.Saely@ceaa-acee.gc.ca) to discuss any questions or matters related to the environmental assessment or Aboriginal consultation.

Sincerely,

<original signed by>

Analise Saely
Crown Consultation Analyst, Review Panels

Attachments:

- #1 - Summary of information used to develop the consultation approach
- #2 – Proposed consultation approach
- #3 – EIS Guidelines response table
- #4 – EIS Guidelines

c.c.: Chris Hamilton, B.C. Environmental Assessment Office
Cliff Stewart and Jemma Scoble, Port Metro Vancouver
Carrie Crull, Participant Funding Program
June Yoo Rifkin, Environment Canada
Byron Nutton, Fisheries and Oceans Canada
Gina Aitchison, Transport Canada
Kathy McPherson, Natural Resources Canada
Carl Alleyne, Health Canada

Attachment 1

Summary of information used to develop the consultation approach

The information the Agency considered in developing its consultation approach is provided below:

- The traditional territory asserted by the Halalt First Nation includes the proposed Project area, sections of the Fraser River, as well as the Strait of Georgia marine areas. The proposed project has the potential to adversely affect a moderate portion of the asserted traditional territory. [Note: The Crown's understanding of the Halalt First Nation asserted traditional territory is based on the Writ of Summons filed with the Supreme Court of British Columbia on December 10, 2003].
- Some key potential impacts to potential or established Halalt First Nation rights may include:
 - impacts to fishing and marine harvesting from environmental effects such as loss of marine habitat and physical changes to coastal areas;
 - impacts to gathering plants from environmental effects such as loss or contamination of vegetation; and
 - impacts to hunting wildlife and migratory birds from environmental effects such as loss of food sources and habitat.

As stated above, the Agency has determined on a preliminary basis that the depth of the duty to consult with the Halalt First Nation in relation to the Project is at the moderate end of the consultation spectrum.

If you have information with regard to: 1) the potential impacts of the Project on the exercise of your rights; or 2) your potential or established Aboriginal rights, please provide this information to the Agency so that the consultation approach may be adjusted as necessary.

Attachment 2**Proposed Consultation Approach – Halalt First Nation**

Based on the information summarized in Attachment 1, the Agency has outlined the following consultation approach. The features in this proposal can be modified, and we invite your input to assist us in refining the approach as necessary. If you have additional questions, or believe that consultation with your community could be enhanced by adding to this section, please contact me at your earliest convenience.

Halalt First Nation
PROPOSED CONSULTATION WORK PLAN
Environmental Assessment of the Proposed Roberts Bank Terminal 2
Project
January 7, 2014

1. Introduction

This proposed Aboriginal consultation work plan is intended to guide federal Crown-Aboriginal consultation activities during the environmental assessment of the proposed Roberts Bank Terminal 2 Project (the Project). It communicates the federal Crown's objectives for consultation, the proposed structure for integrating consultation into the environmental assessment process, and the proposed consultation activities for the Halalt First Nation. This document is intended to be a "living document" that will be updated by the Canadian Environmental Assessment Agency (the Agency) and reviewed with the Halalt First Nation regularly during the environmental assessment of the proposed Project.

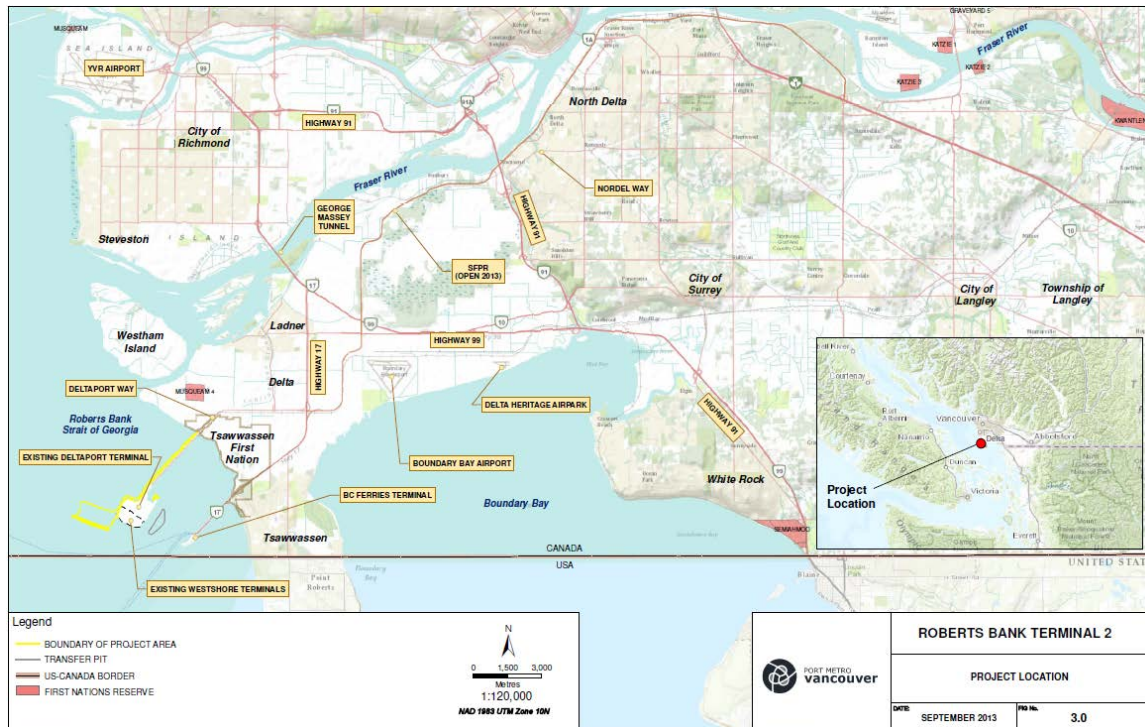
2. Description of the Proposed Roberts Bank Terminal 2 Project

The proponent proposes to construct and operate a new three-berth marine container terminal located at Roberts Bank in Delta, British Columbia, approximately 35 kilometres south of Vancouver. The proposed project would provide an additional 2.4 million units of container capacity at Roberts Bank per year. The full project description and summary can be downloaded at www.ceaa-acee.gc.ca (Registry reference number [80054](#)).

For additional information on the proposed Roberts Bank Terminal 2 Project, we encourage you to contact Port Metro Vancouver (the proponent), at:

Jemma Scoble
Manager, Project Development, Port Metro Vancouver
100 The Pointe, 999 Canada Place Vancouver, BC Canada V6C 3T4
direct: 604.665.9562 main: 604.665.9000 fax: 1.866.284.4271
Jemma.Scoble@portmetrovancover.com

Figure 1: Regional Setting for the Proposed Roberts Bank Terminal 2 Project



3. Aboriginal Groups

The following is a list of Aboriginal groups that have been identified by the federal government for consultation related to the environmental assessment of the proposed Project, on the basis that existing or potential Aboriginal or Treaty rights and interests may be affected by the proposed Project. This list may change as more information becomes available throughout the process. The Crown will consult with any Aboriginal groups who have asserted or established Aboriginal or Treaty rights which may be impacted by the proposed Project.

- Tsawwassen First Nation
- Musqueam First Nation
- Semiahmoo First Nation
- Tsleil-Waututh Nation
- Cowichan Tribes
- Stz'uminus First Nation
- Halalt First Nation
- Lake Cowichan First Nation
- Lyackson First Nation
- Penelakut Tribe
- Métis Nation British Columbia

- Stó:lō Tribal Council (Seabird Island First Nation, Scowlitz First Nation, Soowahlie Band, Kwaw'Kwaw'Apilt First Nation, Kwantlen First Nation, Shxw'ow'hamel First Nation, Chawathil First Nation, Cheam Indian Band)
- Stó:lō Nation (Aitchelitz First Nation, Leq'a:mel First Nation, Matsqui First Nation, Popkum First Nation, Skawahlook First Nation, Skowkale First Nation, Shxwha:y Village, Squiala First Nation, Sumas First Nation, Tzeachten First Nation, Yakwekwioose Band)

4. Federal Crown's Consultation Objectives

The federal Crown has identified the following as key objectives to achieve throughout the consultation and environmental assessment process:

- To establish a positive and productive working relationship with Aboriginal groups during the environmental assessment and regulatory phases related to the Project.
- To communicate and listen to potentially adversely impacted Aboriginal groups about the Project and the way in which it may affect potential or established Aboriginal or Treaty rights and related interests throughout the environmental assessment and regulatory phases.
- To create an environment that facilitates the identification of potential or established Aboriginal or Treaty rights and related interests that may be adversely impacted by the Project so that the proponent can consider options to avoid, mitigate or accommodate adverse impacts to those Aboriginal or Treaty rights where appropriate.
- To work with Aboriginal groups to identify potential effects of changes to the environment from the Project on: current use of lands and resources for traditional purposes; health, cultural and socio-economic conditions; and potential or established Aboriginal or Treaty rights; and to consider options for avoiding or mitigating adverse impacts where appropriate.
- To respond to specific requests by potentially impacted Aboriginal groups, address topic-specific issues related to the Project, if possible, and to gather input from potentially impacted Aboriginal groups regarding their concerns about the Project.
- To cooperate with the Province of British Columbia on Aboriginal consultation.
- To guide the proponent to gather information about potential adverse impacts from the Project on established or potential Aboriginal or Treaty rights; and to work with the proponent to avoid or mitigate as many impacts as possible through revisions during the project planning stage.
- To work with the Halalt First Nation and the proponent to respond to specific questions and requests regarding issues raised related to the Project.

- To listen carefully to concerns raised by Halalt First Nation and meaningfully consider your feedback, perspectives and issues in order to inform decision-making.

5. Halalt First Nation Consultation Objectives

This section is intentionally left blank as the federal government would like to invite the Halalt First Nation to share your consultation objectives. You may also communicate your objectives directly to Analise Saely at analise.saely@ceaa-acee.gc.ca or 604-666-9162

6. Integrating Consultation into the Environment Assessment

Table 1 provides a description of the main steps in the federal environmental assessment process and a description of how the federal Crown proposes to integrate consultation activities into those steps. This table describes what the Halalt First Nation should receive, have access to or expect from the Agency, on behalf of the federal Crown, and what the Halalt First Nation could share and provide to the environmental assessment process.

Environmental assessments conducted by review panel are subject to timelines under the *Canadian Environmental Assessment Act, 2012*. An environmental assessment by review panel must be completed and an environmental assessment decision statement issued by the Minister of the Environment within 24 months of the referral of a project to a review panel.

The Roberts Bank Terminal 2 project is currently in the 24 months period as described. The Minister of the Environment referred the project to review panel on January 7, 2014. Consultation activities with Halalt First Nation, as proposed, are in keeping with these timelines.

While information and concerns relating to many issues associated with the potential impacts of the Project may be brought forth and addressed during the various stages of the environmental assessment process, it may not be feasible to address all of these concerns through this process. Some issues and concerns may best be discussed and addressed in other ways, for instance, through the regulatory approvals process that may follow the environmental assessment.

Table 2: Integrating Consultation into the Environmental Assessment (Adapted from the BC First Nations Environmental Assessment Technical Working Group Toolkit Workshop)

Environmental Assessment Step	Description of the Environmental Assessment Step/Phase	What the Halalt First Nation should receive, have access to or expect FROM the federal Crown	What the Halalt First Nation may provide TO the federal Crown/ Review Panel (or DO)
Panel Terms of Reference (TOR) (or joint review panel agreement, if required)	The Agency conducts a public comment period on the terms of reference (or joint review panel agreement if required).	<ul style="list-style-type: none"> • Advance notice of the public comment period. 	<ul style="list-style-type: none"> • Comments on the TOR (or joint review panel agreement, if required).
Government Environmental Impact Statement (EIS) Completeness Review	<p>The Agency assesses the completeness of the proponent's EIS.</p> <p>The EIS identifies potential adverse environmental effects of the Project, identifies feasible mitigation measures, evaluates whether the Project will result in any significant adverse environmental effects, and describes a follow-up program.</p>	<ul style="list-style-type: none"> • Opportunity to review and comment on the completeness of the proponent's EIS and supporting studies; • Opportunity to review and comment on the completeness of the proponent's responses to issues raised by Aboriginal groups, the public, federal and provincial agencies. 	<ul style="list-style-type: none"> • Comments on the EIS and the supporting studies and the completeness of the proponent's responses to your concerns; • Provide your thoughts on the accuracy of the proponent's information about issues you have raised and your opinion on any proposed ways of addressing those impacts.
Panel Environmental Impact Statement (EIS) sufficiency review	The review panel assesses the sufficiency of the EIS as required by the Terms of Reference.	<ul style="list-style-type: none"> • Provision of information on panel process; • Notice of public hearings held by the panel (provided directly by the review panel). 	<ul style="list-style-type: none"> • Decide if you want to participate in the panel sufficiency review process.
Public Hearing	The review panel will hold a public hearing in a manner that offers any interested party an opportunity to participate in the environmental assessment.	<ul style="list-style-type: none"> • Formal standing before the review panel as an interested party (if permitted by the review panel). 	<ul style="list-style-type: none"> • Decide if you want to present your views to the review panel; • Provide information in writing to the review panel and, if permitted by the review panel, in person, on any issue within the panel's mandate.

Environmental Assessment Step	Description of the Environmental Assessment Step/Phase	What the Halalt First Nation should receive, have access to or expect FROM the federal Crown	What the Halalt First Nation may provide TO the federal Crown/ Review Panel (or DO)
Panel Report	The review panel completes its report which includes its conclusions, recommendations and rationale regarding the significance of the adverse environmental effects, mitigation measures, and follow up programs. Depending on the review panel's terms of reference, its report may include accommodation measures related to any potential adverse impacts on potential or established Aboriginal or Treaty rights.	<ul style="list-style-type: none"> • Opportunity to review and comment on the panel report. 	<ul style="list-style-type: none"> • Comments on the panel report.
Minister's EA Decision	The Minister of the Environment determines whether the project is likely to cause significant adverse environmental effects, taking into account mitigation measures, and, if significant adverse environmental effects are likely, the federal Cabinet decides whether these effects are justified in the circumstances. A decision statement is issued that sets out the decision and, as necessary, associated conditions with which the proponent must comply should the Project be allowed to proceed.	<ul style="list-style-type: none"> • An opportunity to be consulted during the development of potential conditions to be included in the decision statement, should the project be allowed to proceed; • Notification of the Minister's EA decision. 	<ul style="list-style-type: none"> • Comments on draft potential conditions.
Throughout the Environmental Assessment		<ul style="list-style-type: none"> • Exchange of information, notifications and correspondence; • Opportunity for traditional knowledge about the environment and possible effects to be used in the assessment; 	<ul style="list-style-type: none"> • Share information regarding the potential adverse impacts of the project on your Aboriginal rights and traditional uses; • Provide any traditional knowledge

Environmental Assessment Step	Description of the Environmental Assessment Step/Phase	What the Halalt First Nation should receive, have access to or expect FROM the federal Crown	What the Halalt First Nation may provide TO the federal Crown/ Review Panel (or DO)
		<ul style="list-style-type: none"> • Opportunities to identify issues to be addressed, as appropriate, through consultation on all aspects of the environmental assessment; • Written reasons for federal Crown decisions when requested; • Opportunity to collaborate to identify potential adverse impacts to Aboriginal rights, traditional uses, and generating options for changes to the project plan or other forms of accommodation; • Opportunity to collaborate to generate options for changes to the project plan or other forms of accommodation; • Consideration of changes to proposed government action (e.g. attaching terms and conditions to permits or authorizations, where possible and appropriate); • Opportunities for additional meetings with the federal Crown to address concerns as appropriate. 	<p>that may improve the environmental assessment;</p> <ul style="list-style-type: none"> • Make recommendation on how to avoid, mitigate or compensate for impacts to your Aboriginal rights; • Request one-on-one meetings with federal representatives to discuss your issues of concern; • Request reasons for federal Crown decisions.

7. Federal Agencies Roles and Responsibilities

Environmental assessment type: Environmental assessment by review panel

Potential decisions by federal agencies (information to be confirmed as environmental assessment progresses):

Federal Agencies Roles and Responsibilities

Federal Agency	Roles and Responsibilities
Canadian Environmental Assessment Agency Name: Analise Saely Email: analise.saely@ceaa-acee.gc.ca Phone: 604-666-9162	Crown Consultation Analyst responsible for coordinating federal Crown consultation and the environmental assessment.
Environment Canada Name: June Yoo Rifkin Email: June.Yoo.Rifkin@ec.gc.ca Phone: 604-666-7829	Potential Federal Authority responsible for <i>Species at Risk Act</i> (SARA), Section 73(1) or 74 and <i>Canadian Environmental Protection Act</i> , Section 127 (Disposal at Sea) authorization. Potential expert advice on migratory birds, <i>Species at Risk Act</i> , water quality, wetlands, greenhouse gases and air quality and climate impacts on the project.
Transport Canada Name: Gina Aitchison Email: gina.aitchison@tc.gc.ca Phone: 604-666-1741	Potential Federal Authority responsible for <i>Navigable Waters Protection Act</i> , Section 5 authorization. Potential expert advice on navigation and regulatory issues under the <i>Navigable Waters Protection Act</i> .

Fisheries and Oceans Canada Name: Byron Nutton Email: Byron.Nutton@dfo-mpo.gc.ca Phone: 250-756-7221	Potential Federal Authority responsible for <i>Fisheries Act</i> , Section 32 and 35(2) Authorization Potential expert advice on fish and fish habitat.
Natural Resources Canada Name: Kathy McPherson Email: Kathy.McPherson@NRCan-RNCan.gc.ca Phone : 250-363-6463	Potential expert advice on geotechnical, geohazards, and coastal geomorphology and seabed stability.
Canadian Transportation Agency Name: John Woodward Email: John.Woodward@otc-cta.gc.ca Phone: 819-953-8353	Potential Federal Authority responsible for <i>Canada Transportation Act</i> , Section 98 authorization.
Health Canada Name: Carl Alleyne Email: Carl.Alleyne@hc-sc.gc.ca Phone: 604-666-4693	Potential expert advice on the health impacts of proposed development projects (which involve the federal government) with a focus on the bio-physical environment, including: air quality, country foods contamination, drinking and recreational water quality, radiation effects, electric and magnetic fields, and noise.

Attachment 3: Federal Responses to Cowichan Nation Alliance Comments

Thank you very much for your comments. Below is a table providing some feedback on where information can be found in the EIS Guidelines about the issues that you raised, as well as rationale for why certain comments could not be incorporated into the EIS Guidelines.

Cowichan Nation Alliance Comment	Federal Response
Please note that the Draft Guidelines mistakenly reference the Hul-qumi 'num Treaty Group. The Cowichan Nation Alliance is handling this matter, not the Hul-qumi'num Treaty Group	Thank you for your comment, the EIS Guidelines have been revised to include all the member Nations of the Hul-qumi'num Treaty Group, as the Project is within their asserted traditional territory.
The Cowichan Nation Alliance is concerned that the Draft Guidelines present the Project scope and the scope of the assessment in a manner that will lead to components of the Project being assessed in a vacuum.	<p>The project components and activities to be assessed in the EA are described in Section 7 <i>Project Description</i>. This includes marine, road and rail traffic within the Port of Metro Vancouver's jurisdiction. The proponent is directed to establish the spatial and temporal scope of the assessment in Section 3.3 <i>Scope of the Factors</i>. This section notes that "<i>The scope of the assessment can be broader than the scope of the project. For the purposes of this project, the scope of the assessment should include the effects of project activities on the environment, including those may extend outside of scope of the project.</i>"</p> <p>Given the unique past development in this project area, the proponent has been directed in the EIS Guidelines to provide a narrative discussion of existing development and studies of the project area with the goal of better informing the potential effects of the Project and how such effects</p>

	may be addressed.
While we acknowledge that the proponent would be required to assess the Project's cumulative effects, the Draft Guidelines identify cumulative effects as "residual effects" and are presented as one of the last sections of the Draft Guidelines. It is CNA's position that the consideration of cumulative effects must infuse all aspects of assessment for the Project. For example, the Draft Guidelines requires that the proponent identify marine and cargo traffic associated with the Project, 3 and that the Project scope is restricted to marine (tanker and cargo), road and rail transportation within the port's jurisdiction. We ask that the proponent be required to identify and assess the Project and its components in a contextual manner that incorporates the current and reasonably foreseeable activities that will likely be proceeding in the relevant area and at the relevant time.	Section 12.1.2 <i>Cumulative Environmental Effects</i> outlines that the proponent will assess any cumulative effects that may occur in combination with other past, present and reasonably foreseeable future projects. The Agency has developed an operational policy statement on the assessment of cumulative effects, which can be found on our website under Policy and Guidance . As detailed in this guidance, only those adverse effects that remain following the implementation of technically and economically feasible mitigation measures (i.e. residual effects) are assessed for relationships with other physical activities that have been or will be carried out.
The Draft Guidelines must also clearly require the proponent to scope the assessment such that spatial and temporal boundaries acknowledge the Aboriginal perspective, that is, the effects of the Project cannot be limited to an arbitrary physical and temporal line within which impacts will cease to flow. Any spatial boundaries assigned to scope the assessment must be capable of modification in the event First Nations present evidence of potential impacts to Aboriginal rights, or evidence of previously unforeseen environmental consequences.	Section 3.3.2 states that “ <i>Spatial boundaries will be defined taking into account as applicable the appropriate scale and spatial extent of potential environmental effects, community and Aboriginal traditional knowledge, current land and resource use by Aboriginal groups, ecological, technical and social and cultural considerations. The description of the project setting will be presented in sufficient detail to address the relevant environmental effects of the project.</i> ” The Agency encourages the Cowichan Nation Alliance to provide information to the Proponent that may assist them in establishing appropriate spatial scope for any Valued

	<p>Components about which you have traditional knowledge.</p> <p>Also, should relevant new information be brought forward during the course of the environmental assessment, it will be considered by the review panel in its review.</p>
<p>Further, the Draft Guidelines must obligate the proponent to assess the Project beyond the restoration stage of the Project life in the event of uncertainty with respect to impacts on Valued Components and Aboriginal rights.</p>	<p>Section 11.4 requires the proponent to include in the EIS a Follow-up Program that is designed to verify the accuracy of the effects assessment and the effectiveness of the mitigation measures. In describing the Follow-up Program, the proponent must include a schedule of the frequency and duration of the effects monitoring. Section 11.4 also requires the proponent to describe how Aboriginal groups will be involved in the design, implementation and evaluation of the Follow-up Program.</p> <p>For potential impacts of the project to Aboriginal rights, the Crown will consider the potential impact of Crown conduct on the exercise of potential or established Aboriginal rights.</p>
<p>Working with an accurate and thorough presentation of baseline conditions is critical to properly understand the potential for impacts on the various values identified for consideration and assessment. The Draft Guidelines however require the proponent to "examine changes in the distribution, populations, behaviour, and availability of wildlife, fish and flora in the important context of implications to current use of lands and resources by Aboriginal peoples."</p> <p>The Draft Guidelines fail to account for a number of criteria that must be identified and assessed to ensure a</p>	<p>Section 9.2 <i>Potential or Established Aboriginal and Treaty Rights and Related Interests</i> directs the proponent to include information on each group's potential or established rights (including geographical extent, nature, frequency, timing), including maps and data sets (e.g. fish catch numbers) when this information is provided by a group to the proponent. In addition, Section 10.2 <i>Adverse Impacts on Aboriginal and Treaty Rights and Related Interests</i> requires a description of potential adverse impacts of the Project on Aboriginal rights.</p> <p>Additionally Section 9.1.8 <i>Aboriginal Peoples</i> requires the proponent's description of the existing environment to</p>

<p>complete picture of the potential impacts that may be experienced by Aboriginal peoples in relation to their aboriginal rights. Accordingly, we ask that the Draft Guidelines require the proponent to identify and assess the following additional criteria: the location of past, present and future reserves and communities; past, current and future traditional uses practiced that could be affected by the Project; and the location of hunting camp, cabins and villages. We are in the era of constitutional reconciliation; future community residence and traditional use, based on overdue Crown reconciliation with past aboriginal occupation and use of lands and resources as protected by aboriginal rights, including title, is fundamentally relevant to a constitutional assessment of the potential impacts of the Project.</p>	<p>include the location of reserves and communities, as well as hunting camps, cabins and villages. Section 10.1.3 <i>Effects of Changes to the Environment</i> requires a description of how the changes to the environment caused by the Project would affect Aboriginal peoples' current use of lands and resources for traditional purposes.</p> <p>The Cowichan Nation Alliance is encouraged to provide to the Proponent and the review panel any information it feels is relevant regarding the location of past, present and future reserves and communities; past, current and future traditional uses practiced that could be affected by the Project; and the location of hunting camp, cabins and villages. However, please note that CEAA 2012 only requires the assessment of an effect of any change that may be caused to the environment on the current use of lands and resources for traditional purposes, physical and cultural heritage and any structure, site or thing that is of historical, archaeological, paleontological or architectural significance.</p> <p>The future use of areas is not considered in the environmental assessment outside of the context of the cumulative effects assessment. However if there are areas of historic use or historic activities tied to the exercise of Aboriginal rights, please provide information about how the Project may impact the areas or activities.</p>
<p>We further ask the proponent to also examine changes in the distribution, populations, behaviour, and availability of birds in the important context of</p>	<p>The Canadian Environmental Assessment Agency did not receive a letter dated October 15, 2013 from the Cowichan Nation Alliance, please re-send the letter.</p>

<p>implications to current use of lands and resources by Aboriginal peoples. As noted in the Cowichan Nation Alliance letter to the Canadian Environmental Assessment Agency dated October 15, 2013, Cowichan Nation Alliance community members harvest migratory birds in the Project area.</p>	<p>Section 9.1.6 <i>Birds, Wildlife and their Habitat</i> includes coastal and migratory bird and their habitat. Additionally Section 9.1.8 <i>Aboriginal Peoples</i> has been amended to require a description of “<i>traditional uses currently practiced (e.g. fishing for crab, bivalves and fin-fish, harvesting plants, birds, trapping wildlife and gathering berries) that could be affected by the project</i>)”</p>
<p>The Draft Guidelines requires the application of the "precautionary approach", and provides that the proponent must identify any proposed follow-up and monitoring activities where scientific uncertainty exists in the prediction of effects. In order to truly reflect the precautionary principle, we propose the Draft Guidelines require that where there is scientific uncertainty, the cause for the potential impact must not proceed until the extent of the impact is known.</p>	<p>Section 2.4 has been added to the EIS Guidelines “<i>Application of the Precautionary Approach: In documenting the analyses included in the EIS, the proponent will demonstrate that all aspects of the project have been examined and planned in a careful and precautionary manner in order to ensure that it would not cause serious or irreversible damage to the environment, especially with respect to environmental functions and integrity, system tolerance and resilience, and the human health of current or future generations. The proponent will also ensure that in designing and operating the project, priority has been and would be given to strategies that avoid adverse effects.</i>”</p>
<p>Further to our comments regarding the need for the Draft Guidelines to require the proponent to consider cumulative effects throughout the assessment, the Draft Guidelines understate the land- based implications of the Project, such as the expansion of road systems, assembly areas, increased commercial and passenger traffic, secondary business development, additional homes and a general increase</p>	<p>Please see responses above about the scope of the project and the approach for cumulative effects assessment in the environmental assessment.</p>

<p>of human pressure in the region surrounding the Project. All of these factors contribute to a cumulative challenge to existing users of the area, including the Cowichan Nation Alliance, and serves to diminish the land base. Accordingly, the scope for the assessment of cumulative effects must include the noted features.</p>	
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Attachment 4: EIS Guidelines

See attached PDF