

## Deltaport Third Berth Expansion - Scope of the Cumulative Effects Assessment

### Background

- A harmonized environmental assessment of the Deltaport Third Berth Project commenced in June 2004 under the *Canadian Environmental Assessment Act* (CEAA) and the *BC Environmental Assessment Act*. Environment Canada and Fisheries and Oceans Canada are Responsible Authorities under CEAA.
- Environment Canada is a Responsible Authority under CEAA on the basis of a Disposal at Sea permit trigger.
- The Deltaport Third Berth Project includes construction of a wharf, a 20 hectare fill area for container storage, road and rail lines and other works.
- A separate Vancouver Port Authority proposal for an entirely new and much larger Terminal 2 development at Roberts Bank is anticipated to be submitted in 2005.

### Current Status

- The Responsible Authorities are in the process of developing a Track Recommendation Report to the Minister of the Environment on a comprehensive study or panel review process.

### Issue

#### ***Whether or not to include the proposed Terminal 2 project for Robert's Bank in the Cumulative Effects Assessment for the EA of the Deltaport Expansion Project.***

- The scoping document for the Deltaport Project was put out for public comment on July 23, 2004.
- In that scoping document it specifically references the proposed future development of Container Terminal 2 at Robert's Bank as a project to be considered in the Cumulative Environmental Effects.
- Recently, in drafting the Track Recommendation Report for this EA, DFO has suggested removing Terminal 2 from the scope of the Cumulative Effects Assessment, and do not feel it is necessary to go back out for public consultation if we remove it from the scope of the EA.
- DFO's rationale for wanting to scope T2 out of the CEA is because the T2 project is in a preliminary design phase, there is no project description available and it is not in an approval stage at this point. Conceptually how can it be included in the CEA?
- The proposed T2 would be larger than the current Deltaport Terminal, including the Third Berth Expansion.
- Difficulties in bringing this scale of project into CEA for a smaller expansion project.
- General sense is that Terminal 2 is such a large proposal, that any consideration of it's potential effects cumulatively with Deltaport at that point, would push the Deltaport review to a panel.

The 2 RA Departments (EC and DFO) are currently trying to come to a decision on how to approach Terminal 2 in the CEA for Deltaport.

Adam LaRusic has presented his position and an analysis on the situation. I am in agreement with his rationale. I do not think that the draft letter from VPA on the status of Terminal 2 provides a basis or rationale for excluding it from the CEA for Deltaport.

### **Options for Proceeding**

#### Option 1

- Remove consideration of T2 from the scope of the CEA for Deltaport, using the letter from VPA on the status of T2, along with the rationale that we do not have adequate project information to address the potential cumulative effects of T2 in the Deltaport (DP3) assessment. If and when T2 designs and plans become available and it enters into the approval process, then the residual cumulative effects of T2 and DP3 in Roberts Bank can be more appropriately addressed.
- We proceed with finalizing the Track Recommendation report for DP3, without consideration of T2 in the CEA section and without any further public consultation on the scoping document for DP3. The letter from VPA would be posted on the public registry along with all other documentation. The rationale for the change in the scope of the CEA would be provided in the Track Recommendation report and in a joint letter from the RAs, to be included on the public files.

#### Potential Risks:

- VPA has been actively consulting and communicating both projects to various communities in the Delta region
- Public is aware of the Roberts Bank Strategy (DP3 and T2), inclusive of both proposed projects
- Public perception /questioning government reasoning behind excluding it when it was already included in the scope and presented to the public?
- Future implications for the interpretation of cumulative effects under the Act; could set a precedent for consideration of "future projects/activities" in future CEAs; potential to undermine intent of cumulative environmental effects analysis (what projects would be included?)
- Are we required to go back out to the public to consult when aspects are removed from the scope of the assessment?

#### Option 2

- Same approach as described in Option 1
- Go back out to public with the revised scoping document and an explanation/justification for our approach to T2 within the Deltaport assessment.

#### Option 3

- Keep the proposed Terminal 2 project in the DP3 CEA. Identify and parcel out what we do know about the proposed project and scope out what we can in fact address in

the context of the DP3 assessment. What do we know and what can we attempt to address/mitigate in DP3? Where there are obvious uncertainties that limit our ability to do this analysis, then we state those and provide justification for why it can't be adequately addressed at this point, within the scope of DP3.

Considerations:

- RAs have the discretion under s.16 to select what is to be considered and to provide a rationale and reasons for why they can not be addressed (no information, not ready, hesitations on approval based on past application to DFO, etc.). Outline the uncertainties and provide the rationale within the scope of the DP3 CEA.
- CEAA OPS on Addressing CEE under CEAA provides guidance to RAs on the "Level of Effort" directed to the assessment of cumulative environmental effects. It states that:

"The level of effort directed to the assessment of cumulative environmental effects should be appropriate to the nature of the project under assessment, its potential effects and the environmental setting."

"Information concerning the cumulative effects of the project under assessment combined with hypothetical projects may contribute to future environmental planning. However, it should not be the determining factor in the environmental assessment decision under the Act."

- RAs would proceed to finalize the Track Recommendation Report and continue with this approach to T2 in the assessment process.

Potential Risks:

- RAs need to determine now whether the Comprehensive Study process can adequately address all of the issues for DP3 (inclusive of T2 in the CEA if it remains in).
- No referral to panel – RAs need to be fairly certain that this can be accomplished under the CSR process, and no significant concerns/issues/impacts will arise requiring a panel review for DP3
- Essentially can we bring in consideration of T2 at this point, and not come to a significance determination?

## Other Considerations

- In 2002/03 VPA proposed two container terminal expansion projects at Roberts Bank: addition of a third berth to the Deltaport Container Terminal and development of a new container terminal called Terminal 2. DFO advised that it would not be able to issue an authorization for the destruction of critical fish habitat. As such, DFO stated it “cannot exercise any power, duty or function” that would permit the Deltaport expansion or two of the four Terminal 2 options, as initially proposed, to proceed.
- VPA withdrew the proposed options to study how the proposal could be modified so that it would be reviewable by DFO. The current proposal includes only the Deltaport Third Berth, and not the larger Terminal 2 proposal. VPA is still planning Terminal 2 as a separate project and intends to initiate a proposal for the Terminal 2 development in about a year.
- EC and DFO officials are of different views on what and how you consider “future projects” for the purpose of a cumulative effects assessment.

“Every screening or comprehensive study of a project and every mediation or assessment by a review panel shall include a consideration of the environmental effects of the project, including ... any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out.”

### Policy guidance:

According to the Guide, the selection of future actions to consider in the CEA should reflect “the most likely future scenario”. Emphasis is given to projects with greater certainty of occurring; however, hypothetical projects might be discussed on a conceptual basis in some cases

Accordingly, in identifying future projects to include in the CEA, RAs should consider projects that are “certain” and “reasonably foreseeable”, as recommended by the Guide.

RAs should be guided by a clear rationale in selecting future projects to include in the CEA. RA staff will need to exercise judgment in distinguishing projects that are certain, reasonably foreseeable and hypothetical.

In selecting future projects to include in the CEA of a project undergoing a federal environmental assessment, RAs should focus on the “most likely future scenario”. The rationale for including specific projects should take account of the level of certainty that those selected will actually proceed.

***It is the interpretation of paragraph 16(1)(a) “will be carried out” and the conclusion on “certainty”, where our understandings of the Terminal 2 project seem to divert.***

- DFO's interpretation seems to be that in the absence of design or project description material, and the fact that it is not in an approval stage/review process, that it cannot be considered as a project or activity that "will be carried out" for the purpose of a CEA.
- DFO seems to be interpreting this section to mean that the project is "certain" to be approved, versus EC's interpretation that the project is "certain" to proceed, meaning that the development project application will come forward and have to be considered by government agencies.
- Question to address:
  1. Does a project/activity (as defined under the Act) have to be in an advanced design phase or at an approval stage to be considered for CEA?
  2. What framework/boundary should be used to make a decision on "certainty" for the purpose of identifying a project for CEA?
- EC's analysis concludes that, based on the available information that T2 is "certain" or at least "reasonably foreseeable", whereas DFO's evaluation concludes that the project is "hypothetical" and too little information is available to conceptually consider T2 within the assessment of Deltaport 3.

## **APPENDIX A – Information on the proposed Container Terminal 2 Project**

This is what we know about the proposed Container Terminal 2 at Roberts Bank:

As indicated in the memo from Adam LaRusic:

- The proponent has officially stated to regulatory agencies of their intent to proceed, notably a Letter of Intent to proceed with the environmental assessment of the project from the proponent to the BC Environmental Assessment Office (BC EAO) on February 23, 2003. In their most recent draft correspondence to Fisheries and Oceans Canada, they have stated that submission for regulatory review of Terminal 2 is imminent.
- Material provided by the Terminal 2 proponent (VPA), including promotional material, press releases, public statements by senior managers, and website materials all indicate that it is intent on proceeding with the Terminal 2 project. The proponent has publicly stated that several engineering and environmental studies have been or are being undertaken with respect to Terminal 2.
- Terminal 2 is still in its early design stages, however it is also evident that the project is “certain” to proceed, based on definitions provided in Canadian Environmental Assessment Agency policy documents.
- Minutes from a June 10, 2004 meeting regarding VPA’s plans for Deltaport Third Berth Expansion and the Container Terminal 2 project, available at [http://www.eao.gov.bc.ca/epic/output/documents/p213/1089157029234\\_b43a2b13b7b14778b905b2b8a6315567.pdf](http://www.eao.gov.bc.ca/epic/output/documents/p213/1089157029234_b43a2b13b7b14778b905b2b8a6315567.pdf)

Responses to questions asked during the presentation:

- In essence, information being collected benefits both proposed projects;
- CT2 is still a viable project in VPA’s 20 year plan;
- For CT2 still lots of work planned with BC Rail and transportation authorities;
- In VPA’s consultation work, emphasis is to provide as much information as possible to
- the public and First Nation on the proposed projects;
- VPA tentatively plans to submit a DP3 Application by mid November 2004; and
- VPA can only speculate on a submission date for the CT2 Application; it could be anywhere between 6 to 24 months after DP3 is submitted.

**From VPA Website – Development and Projects – Roberts Bank Expansion Strategy** [http://www.portvancouver.com/the\\_port/roberts.html](http://www.portvancouver.com/the_port/roberts.html)

### **Terminal 2 Development**

The Terminal 2 project is the second phase of the Roberts Bank Container Expansion Program that proposes the development of a new container terminal facility at Roberts

Bank. The Terminal 2 project description has not been fully defined as comprehensive environmental, technical and social studies are still being conducted. It is anticipated that the new terminal will include:

- the construction of approximately 90 hectares (225 acres) of new land for terminal infrastructure development
- the construction of a wharf to accommodate three ship berths
- eight to ten gantry cranes
- on-site container storage and intermodal facilities

### **Frequently Asked Questions**

#### **Project Description**

##### **1. What is the Roberts Bank Container Expansion Program?**

The Roberts Bank Container Expansion Program is a Vancouver Port Authority proposal to expand container handling facilities at Roberts Bank in Delta from 900,000 TEU's to an anticipated capacity of 3.2 million TEUs\*. The Program will initially add a third-berth to the existing Deltaport container terminal, followed by the development of a new three-berth container terminal - Terminal 2.

*\* A TEU, or Twenty-foot Equivalent Unit, is a standard unit for measuring container volumes based on a container 20 feet in length.*

##### **5. What will the increased container capacity be with the completion of Terminal 2?**

It is estimated that Terminal 2 will increase container capacity by 1.9 Million TEUs.

#### **Regulatory Review Process**

##### **1. What approvals must the Roberts Bank Container Expansion Program receive?**

Both the Deltaport terminal expansion and Terminal 2 development will require provincial approval under the B.C. Environmental Assessment Act and federal approvals following a review under the Canadian Environmental Assessment Act. The review processes will identify potential environmental, economic, social, heritage and health impacts and define how these will be avoided or mitigated.

##### **3. When will you submit your Project Application for Terminal 2?**

The timeline for Terminal 2 is still to be determined. We continue to undertake a broad range of technical, environmental and social studies for the Terminal 2 development. Upon completion, these studies will form the basis for the Application, to be submitted for government and public review at a later date.

### **Regulatory Process**

#### **Terminal 2 Development**

The VPA expects to finalize its technical, environmental and social studies for the Terminal 2 proposal in 2005, and submit its application at that time.

### **Public Consultation** Roberts Bank Newsletter July 2004

Since our last newsletter in November 2003, the Roberts Bank Container Expansion Program team has focused on:

- meeting with interested parties
- furthering the development of the impact assessment studies
- selecting preferred sites for the Deltaport terminal expansion and Terminal 2 development
- defining the Deltaport terminal expansion project
- hosting public open houses in Delta (June 2004)

*The Roberts Bank Container Expansion Program is a Vancouver Port Authority initiative to expand container-handling facilities at Roberts Bank in Delta, B.C. The Program will add a third berth to the existing Deltaport container terminal and develop a new threeberth container terminal known as Terminal 2.*

A project description for Terminal 2 is currently being developed and will be available at a future date.

#### Environmental Impact Assessment

##### **Program Studies Update**

A comprehensive study program for the Deltaport terminal expansion and Terminal 2 projects is currently underway. The study program includes: environmental studies, e.g. air quality, marine environment, terrestrial environment, waterfowl and coastal seabirds, water and sediment quality

- socio-community studies, e.g. archaeological/heritage resources, noise, socio-economic impacts, transportation and traffic (road, rail and marine), and visual and lighting impacts
- technical studies, e.g. coastal geomorphology, wind and waves, and seismic conditions

It is anticipated that the VPA will complete technical, environmental and social studies for the Deltaport terminal expansion this summer, and submit its Project Application for government and public review in late fall 2004. The impact assessment studies will continue for the proposed Terminal 2 project and should be completed in 2005.

#### **Study Programs and Reports**

##### **Terminal 2 Development**

The impact assessment studies for the proposed Terminal 2 development will address similar factors as with the Deltaport terminal expansion study program. Impact assessment studies for Terminal 2 are expected to be completed in 2005.

##### **Site Option Study Areas**

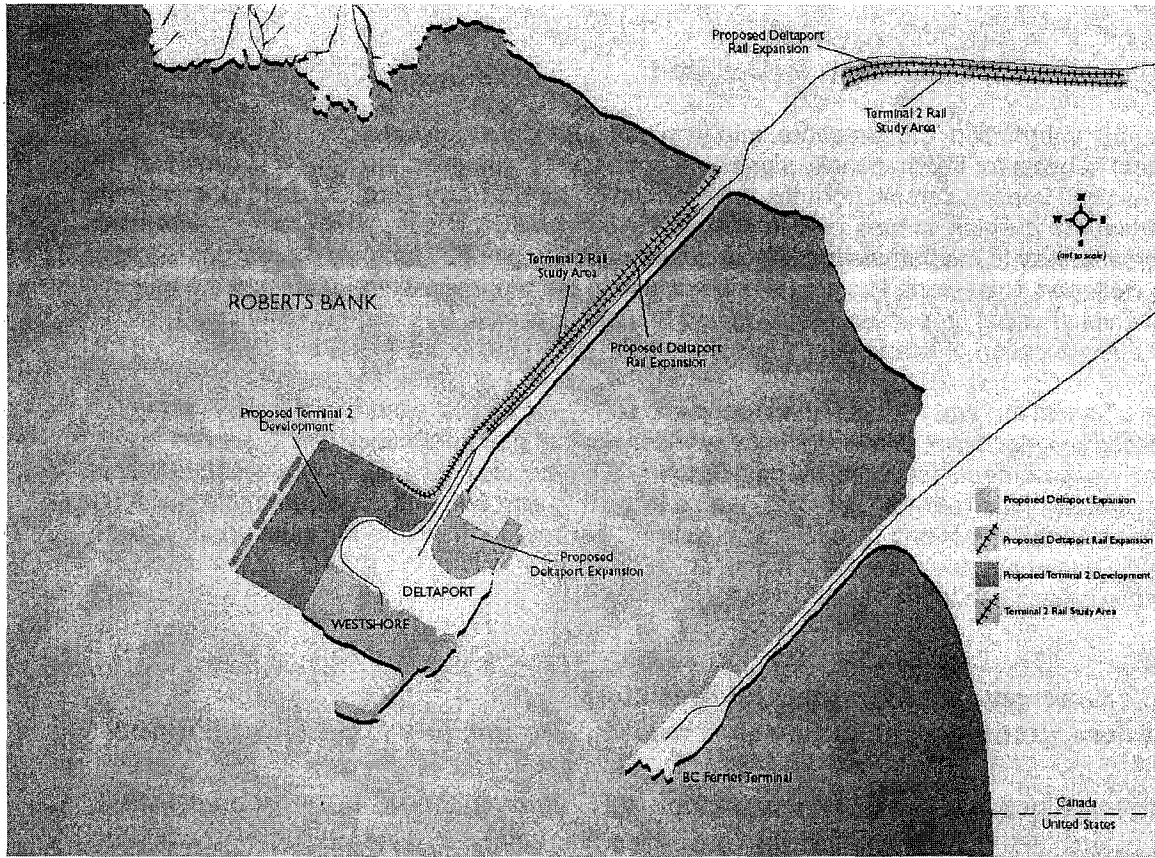
The Port identified study areas for the Deltaport terminal expansion and Terminal 2. Within those study areas there were four site options for container expansion.



## Project Maps

### **Preferred Site Locations**

The Port has identified preferred site locations for the Deltaport terminal expansion and Terminal 2. The preferred site locations can be viewed below in PDF format:



## **APPENDIX B – Points of Interest/Issues for Environment Canada to consider in the Roberts Bank Estuary**

- The foreshore, intertidal and sub-tidal areas of Roberts Bank constitute critical habitats for internationally significant populations of migratory birds. Canadian Wildlife Service will be heavily involved in assessing potential impacts of the proposed expansion on birds.
- Specific CWS comments on Deltaport

For your information, the foreshore, intertidal and sub-tidal areas of Roberts Bank constitute critical habitats for internationally significant populations of migratory birds. It is clear that unresolved impacts remain from the construction of the BC Ferry Terminal and Roberts Bank Terminal, and which, in turn, predispose sensitive and valuable ecosystem components within the intercauseway to the cumulative effects of further development. One major concern is that the Deltaport Third Berth Project (and in addition to the proposed Terminal 2) has the potential to influence physical processes - flushing and nutrient flux rates, for example - that could result in the eutrophication of intertidal and foreshore habitats within the intercauseway.

The potential for, and impacts of eutrophication can only be addressed, in our view, through detailed biogeochemical investigations of which coastal geomorphology, sediment and water quality assessments form integral components. The aforesaid should be modelled in such a way that all of the relevant variables can be taken into account, and considered under different environmental conditions. Model outputs should be used to draw inferences upon, and make predictions about, the potential adverse environmental effects of the project upon sensitive intercauseway habitats.

### **EC's Greenlane – Environmental Indicators**

#### **Western Sandpiper: an indicator of wildlife sustainability in the Georgia Basin**

The small sparrow-sized Western Sandpiper (*Calidris mauri*) is the most numerous shorebird on the Pacific Coast of North America. Its abundance in southwestern British Columbia has been monitored by Environment Canada since 1992. In the Georgia Basin, annual counts are made on the mud and sand flats of the Fraser River delta during their spring migration and on Sidney Island during their southbound fall migration ([see map](#)). These census data show that declines have been occurring in both spring and fall migrants. As can be seen in the graphs below, these declines have been significant for spring migrants and for the juvenile southbound fall migrants. Declines have also occurred among the fall migrating adult birds but they are not statistically significant.

Fraser River delta changes have included habitat loss due to port facilities on Roberts Bank and urbanization of farmland. Roberts Bank has also been affected by ferry and port causeways which have altered nutrient distribution to the mud flats from the Fraser River. Increases in the estuary's human population have also likely contributed to intertidal habitat degradation including the contamination of food supplies. The uptake of toxic chemicals may effect sandpiper navigation and breeding success.