

ANNEX 1: Advice to the Agency

Table 1: Advice for the Agency’s consideration in its recommendation to the Minister of Environment and Climate Change

Please see Suzanne’s note at bottom of this table.

| Questions | Responses/Comments |
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| <ul style="list-style-type: none"> Has the proponent described all project components and activities in sufficient detail to understand all relevant project-environment interactions? If not, identify what additional information is needed. | |
| <ul style="list-style-type: none"> Were the study areas sufficient to predict potential effects from all relevant project-environment interactions, and to consider the effects within a local and regional context? Is the baseline information sufficient to characterize the existing environment, predict potential effects and obtain monitoring objectives? If not, identify what additional information is needed. | |
| Alternatives Assessment | |
| <ul style="list-style-type: none"> Has the proponent adequately described the criteria it used to determine the technically and economically feasible alternative means? Has the proponent listed the potential effects to valued components (VCs) within your mandate that could be affected by the technically and economically feasible alternative means? Has the proponent adequately described why it chose each preferred alternative means? Are there other alternative means that could have been presented? If so, please describe. | |
| Environmental Effects Assessment | |
| <ul style="list-style-type: none"> Has the proponent clearly described all relevant pathways of effects to be taken into account under section 16 of the former Act? Has the proponent identified all potential effects to VCs, including relevant species at risk, within your mandate? Were all potential receptors considered? | |
| <ul style="list-style-type: none"> Were the methodologies used by the proponent appropriate to collect baseline data and predict effects, why or why not? Describe your level of certainty in the predictions based on the methods used. If there is uncertainty, what are the options for increasing certainty in the predictions presented by the proponent in the EIS? | |
| <ul style="list-style-type: none"> Are the predicted effects described in objective and reasonable terms (e.g., beneficial or adverse, temporary or permanent, reversible or irreversible)? | |
| <ul style="list-style-type: none"> Has the proponent adequately assessed the potential cumulative environmental effects, including using an appropriate study area and proposing mitigation and follow-up program requirements? Provide rationale. | |
| <ul style="list-style-type: none"> Has the proponent adequately described the potential for environmental effects caused by accidents and malfunctions, including the types of accidents and malfunctions, their likelihood and severity and the associated potential environmental effects? If not, identify | Yes for TC-Marine Safety – The use of tug and barge to move aggregate is common |

| Questions | Responses/Comments |
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| what additional information is needed. | and risks are well understood and mitigated by current marine safety regime. |
| <ul style="list-style-type: none"> • Are you satisfied with the proponent’s assessment of effects of the environment on the Project? • Has the proponent characterized the likelihood and severity appropriately? Provide rationale. | Yes for TC-Marine Safety |
| <ul style="list-style-type: none"> • Has the proponent sufficiently described and characterized the project activities and components as they relate to federal decisions within your mandate? If not, identify what additional information is needed. • Are changes to the environment, as they relate to federal decisions within your mandate, sufficiently described? If not, identify what additional information is needed. | <p>Yes for TC-Marine Safety</p> <p>Yes for TC-Marine Safety</p> |
| Mitigation | |
| <ul style="list-style-type: none"> • Are the proposed mitigation measures described in sufficient detail to have certainty in their effectiveness? If not, identify what information is needed. • Is it clear how each proposed mitigation measure links to each potential pathway of effect? | Yes for TC-Marine Safety |
| <ul style="list-style-type: none"> • Would you propose different or additional mitigation measures? If so, provide a description of the mitigation measure(s), with rationale. | <p>TC-Navigation Protection Program: The proponent has stated that they intend to establish a “control zone” to restrict vessel traffic in the vicinity of the construction activities. There is no regulatory mechanism that will allow the proponent to establish and conduct their own enforcement of a vessel exclusion zone in the form described.</p> |
| <ul style="list-style-type: none"> • Which of the proposed mitigation measures and/or project design elements do you consider to be necessary to reduce the likelihood of significant adverse environmental effects? Provide rationale. | <p>TC-Navigation Protection Program: Mitigations for navigation safety will be included as requirements in the conditions of any authorization issued by</p> |

| Questions | Responses/Comments |
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| | TC at the conclusion of the permitting phase, and will be determined in conjunction with proponent and marine stakeholder input, including any accommodations required for impacts on Aboriginal rights with respect to navigation. |
| Residual Adverse Environmental Effects | |
| <ul style="list-style-type: none"> Are the identification and documentation of residual environmental effects described by the proponent adequate? If not, what are the aspects for which there is uncertainty and, where possible, indicate how these residual effects can be best described. If there is uncertainty, what are the options for increasing certainty? | |
| <ul style="list-style-type: none"> Did the proponent provide a sufficiently precise, ideally quantitative, description of the residual environmental effects related to your mandate? Identify any areas that are insufficient. | |
| Determination of Significance | |
| <ul style="list-style-type: none"> Are the conclusions on significance in the EIS supported by the analysis that is provided? Are the proponent's proposed criteria (magnitude, geographic extent, duration, frequency, reversibility, and social/ecological context) for assessing significance appropriate? This includes how they were characterized, ranked, and weighted. Provide rationale. | Yes for TC-Marine Safety |
| <ul style="list-style-type: none"> Were appropriate methodologies used in developing the conclusions on significance? | |
| <ul style="list-style-type: none"> Do you agree with the proponent's analysis and conclusions on significance? Provide rationale. | |

| Monitoring and Follow-up | |
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| <ul style="list-style-type: none"> Does the proposed monitoring and follow-up program verify the predictions of the environmental assessment? Please explain additional monitoring or follow-up needed to address uncertainty in the effects assessment. | |
| <ul style="list-style-type: none"> Does the proposed monitoring and follow-up program verify the effectiveness of proposed mitigations? Please explain additional monitoring or follow-up needed to address uncertainty in the proposed mitigation. | |

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| <ul style="list-style-type: none"> • Is the objective of the follow-up program clear and measurable? • Does the follow-up program include sufficient detail, and technical merit, for the Agency to achieve the stated objective (e.g., sufficient baseline dataset, monitoring plans, acceptable thresholds of change, contingency procedures)? | |
| <ul style="list-style-type: none"> • Are you aware of any federal or provincial authorizations or regulations that will achieve the same follow-up program objective(s)? If so, how do these achieve the objective(s)? | |
| Additional comments, views, advice | |
| <ul style="list-style-type: none"> • Provide any other comments. | Please see below this table. |

Additional comments, view, advice

- TC notes much emphasis has been put on Squamish Nation. When it comes to assess potential impacts on Aboriginal rights, titles and interests, all concerned Indigenous groups shall be considered equally.
- TC notes that information gathered by the proponent on heritage relied on public and government sources only. TC is curious as to why the concerned Indigenous groups were not approached to share that kind of information.
- The last sentence of Section 20.0 (Conclusion) of Vol. 3, Part F, reads as follows: “BURNCO requests that the BC Minister of the Environment issue an Environmental Assessment (EA) Certificate for the Proposed Project and the federal Minister of the Environment’s issue a favourable Environmental Assessment Decision Statement.” The word “requests” seems a bit strong. It is not up to the proponent to request but to the Province of BC and Canada to decide of the EA outcome.

ANNEX 2: Information requests directed to the proponent

Table 2: Comments and suggestions for information requests to be directed to the proponent

| IR Number (e.g. HC-IR-01) | Valued Component | Reference to EIS guidelines | Reference to EIS | Context and Rationale | Specific Question/ Request for Information |
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| TC-IR-01 | <ul style="list-style-type: none"> • Marine Resources • Marine Transportation • Non-Traditional Land and Resource Use • Current Use of Lands and Resources for traditional purposes by Aboriginal persons | <p>Part A, Section 2.2 (Proposed Project Description)</p> <p>Part D, Section 15 (Requirements for Federal Assessments); Part E, Section 16.2 (Operational Environmental Management Programme)</p> | Vol. 1, Part A, Section 2.5, Table 2-5, page 2-20 | <p>TC is requesting this information to have a complete picture of the potential effects associated to fuel spills in the marine environment caused by vessel sinking/running aground/colliding with another vessel or the terminal structures. This information would have to be considered for Section 15.1.4 (Accidents and Malfunctions) in Vol. 3, Part D. This information would also have to be considered in Section 16.6 of Vol. 3, Part E (Spill Prevention and Emergency Response Procedures).</p> | <p>Will bunkering of the tug boats occur at the barge loading facility or elsewhere? If elsewhere, where would it be?</p> |

ANNEX 3: Advice to the proponent

Table 3: Additional advice to the proponent, such as guidance or standard advice related to your departmental mandate

| Departmental number (e.g. HC-01) | Reference to EIS | Context and Rationale | Advice to the Proponent |
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| | Identify which section(s) of the EIS report and appendices are related to the comment (Volume, section, page number). | Provide the context of why you are providing the advice to the proponent. | Provide specific advice to the Proponent that would not be considered an information request (Annex 2) to help determine the sufficiency of the EIS. This may include the guidance or standard advice related to your departmental mandate. Make clear whether this information pertains to the environmental assessment or the regulatory phase. |
| TC | Volume 1 – Section 2.11 – page 2-65 | Incorrect reference | There is no permit or approval required under the Canada Shipping Act. As such, this row should be either deleted from the Table or have a caveat stating such. |
| TC | Volume 1 – Section 2.11 – page 2-65 | Potential incorrect reference | If an ERAP is required for the project and if the proponent will be offering for transport any dangerous goods (and they won't be shipped by a 3 rd party) then this row can be left in place. If TDG's will be transported by a 3 rd party, this row should be deleted. |
| TC | Vol. 2, Section 4.2.2.2 – Table 4-2 – Page 4-12 | Potential incorrect reference | Reference to <i>Marine Liability Act</i> – is this accurate? |
| TC | Vol. 1, Part A, Section 2.5, Table 2-5, page 2-20 | Potential incorrect reference | |
| TC | Vol. 2, Part B, Section 7.2.5.1 including Table 7.2-11 - Project-VC Interactions | Definition in a regulatory context | Project related vessel movements have been identified in the submission as an interference to navigation. For the purpose of Transport Canada's review under the <i>Navigation Protection Act</i> , all vessel movements, project-related or otherwise, are a form of navigation and are not included as interferences to |

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| | | | <p>it. The impacts of vessel movements on navigation are mitigated by the <i>Collision Regulations</i> of the <i>Canada Shipping Act</i>. For regulatory permitting purposes, the interference to navigation is caused by physical works themselves, and not by vessel movements.</p> |
| TC | Vol. 2, Part B, Section 7.2.5.2.1.1.1 – Page 7.2-35 | Definition in a regulatory context | <p>The term “navigability”, in the context of the <i>Navigation Protection Act</i>, is used incorrectly here. “Navigability” is a positive or negative state that is determined based on a test that considers whether the water body is capable of supporting a canoe/kayak or larger vessel, historical use, traditional Aboriginal use, and potential future use. Howe Sound is a navigable waterway by definition of the Act. Perhaps the term in sec 7.2 could be rephrased as “impacts on navigation” or similar.</p> |
| TC | Vol. 2, Part B, Section 7.2.5.2.1.1.1 – Page 7.2-35 | Plan cannot be implemented as described. | <p>The proponent has stated that they intend to establish a “control zone” to restrict vessel traffic in the vicinity of the construction activities. TC wishes to advise the proponent that there is no regulatory mechanism that will allow the proponent to establish and conduct their own enforcement of a vessel exclusion zone in the form described.</p> <p>The public right to navigation, as defined by common law, continues to exist throughout the</p> |

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| | | | <p>waterway. Interferences to this right may only be authorized by an Act of Parliament, and any enforcement may only be conducted by individuals designated by the responsible Minister.</p> <p>The proponent is advised to consider alternative measures to mitigate hazards to navigation during the construction phase. Mitigations may include, but are not limited to cautionary lights, buoys and signage, maintaining radio watch, Notices to Shipping, timing of work, and/or providing tug assist services.</p> <p>Mitigations will be included as requirements in the conditions of any authorization issued by TC, and will be determined in conjunction with the proponent, marine stakeholder input, and accommodation measures for adverse impacts on traditional Aboriginal rights.</p> |
| TC | Vol. 2, Part B, Section 7.2.5.3.1 – Page 7.2-41 | Incorrect reference | The third bullet under the list of specific mitigation measures states that infrastructure mitigations will be based on recommendations following the NPP review. Suggest changing |

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| | | | “recommendations” to either “requirements” or “conditions” as all required mitigations related to navigation (with respect to the mandate of the NPA) will be included as conditions in any NPA authorizations issued. |
| TC | Vol. 2, Part B, Section 7.2.5.3.1 – Page 7.2-41 | Suggested change of wording | In the 6 th (bottom) bullet, since CHS is a division of Fisheries and Oceans Canada, suggest rephrasing that bullet to indicate that CHS will be notified of the changes so they can update relevant nautical publications and charts. |
| TC | Vol. 2, Part B, Section 7.2.5.3.2 – Page 7.2-42 | Suggested change of wording | In the second paragraph, the phrase “highly experienced” is a qualitative statement that may not be definable or defensible by the proponent. Suggest changing to a quantitative or defensible statement? Some additional statements within this section are already within the requirements of the Canada Shipping Act. |
| TC | Vol. 3, Part D, Section 15.1.4 (Accidents & Malfunctions) | | The proponent should indicate the estimated volumes of petroleum products that may be transferred to and from the facility |
| TC | Vol. 3, Part D, Section 15.1.4 (Accidents & Malfunctions) | | The proponent needs to include details to the effect to determine if they |

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| | | | <p>meet the definition of an Oil Handling Facility (OHF). If they meet the definition to be an OHF, they have to indicate that they will meet all requirements set by of the <i>Response Organizations and OHF Regulations</i> (http://laws-lois.justice.gc.ca/eng/regulations/SOR-95-405/FullText.html) and the <i>Environmental Response Arrangements Regulations</i> (http://laws-lois.justice.gc.ca/eng/regulations/SOR-2008-275/) to be an OHF (i.e. receive more than 100 tonnes of product in 365 days and an indication of the size/ volume/capacities of the vessels that will transfer the product).</p> |
| TC | Vol. 3, Part D, Section 15.1.4 (Accidents & Malfunctions), Table 15-4, p. 15-17, last 2 items | Insufficient details with regards to environmental sensitive areas that could potentially be impacted | The proponent should identify environmental sensitive areas that may be impacted in the event of an oil spill and indicate protection of these sensitive areas. |
| TC | Vol. 3, Part E, Section 16.6 (Spill Prevention & Emergency Response Plan), p. 16-22, 2 nd paragraph | Marine oil spill response – Incorrect assumption | The proponent creates an assumption of response by WCMRC to all spills. WCMRC’s response is limited to members and to being contracted for an incident. The proponent has to specify if they will become a member or will contract WCMRC on a case by case basis. |

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| TC | Vol. 3, Part E, Section 16.6 (Spill Prevention & Emergency Response Plan), p. 16-24, last bullet | Spill reporting – Other requirements | Spill reporting should be done to meet CSA 2001 and the <i>Fisheries Act</i> and not just the <i>Environmental Management Act</i> . |
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