



IR2020-5 Effects to Indigenous peoples

Background

The minister of environment and climate change (the minister) has asked the Vancouver Fraser Port Authority (the port authority) to provide any additional information from ongoing consultation led by the port authority with Indigenous groups on the Roberts Bank Terminal 2 (RBT2) Project, or consultation that has occurred since the public hearing concluded in June 2019, regarding the effects to current use of lands and resources for traditional purposes (current use) and human health identified in the Federal Review Panel Report, dated March 30, 2020.¹ The minister's request—referred to herein as IR2020-5—includes four questions, which are identified in Part 1 through Part 4 of this response.

Since the public hearing concluded in June 2019, and prior to receiving the request from the minister on August 24, 2020, the port authority conducted extensive ongoing consultation with Indigenous groups on key areas of interest as identified by each group. In that consultation, the port authority received only limited additional information related to the subject matter of IR2020-5. Recognizing this, on December 9, 2020, the port authority sent letters to all 46 Indigenous groups identified for consultation on RBT2 by the Impact Assessment Agency of Canada (IAAC²; see **Appendix IR2020-5-A11** for a list of Indigenous groups), providing the minister's questions, requesting comments, and offering to meet to discuss the questions. In the letters, the port authority advised that any information received in response to those questions would be reported to the minister. The port authority asked the Indigenous groups to provide the information by February 12, 2021 to allow the port authority to incorporate it into the overall response to IR2020-5.

In the months that followed the December 9, 2020 letters, the port authority offered support and clarification to Indigenous groups in meetings and in written correspondence and provided several extensions to the timeline to provide Indigenous groups additional time to consider the minister's questions relative to RBT2 and develop responses. A detailed summary of consultation efforts related to IR2020-5 is included in **Appendix IR2020-5-A11**.

The information provided by Indigenous groups is discussed below.

Response

The port authority requested information from the 46 Indigenous groups identified for consultation by IAAC in response to the minister's request. Ten Indigenous groups provided written responses. Full copies of all written responses received from Indigenous groups are appended to this response (**Appendices IR2020-5-A1** through **-A10**). For convenience, in the sections that follow, the port authority provides some comments on the information received in the written responses from Indigenous groups. Comments received from Indigenous groups during consultation meetings and workshops are also included in the following sections.

The written response of Tsawwassen First Nation included at **Appendix IR2020-5-A9** is an interim report entitled "TFN Community Health and Food Security Study," dated June 15, 2021. The information contained in the interim report has been considered in this response. Tsawwassen First Nation submitted the final report by the same title to the port authority and directly to the federal and provincial government on September 20, 2021.

¹ CIAR Document #2062 Report of the Review Panel, Vancouver Fraser Port Authority Roberts Bank Terminal 2 Project. <https://iaac-aeic.gc.ca/050/documents/p80054/134506E.pdf>

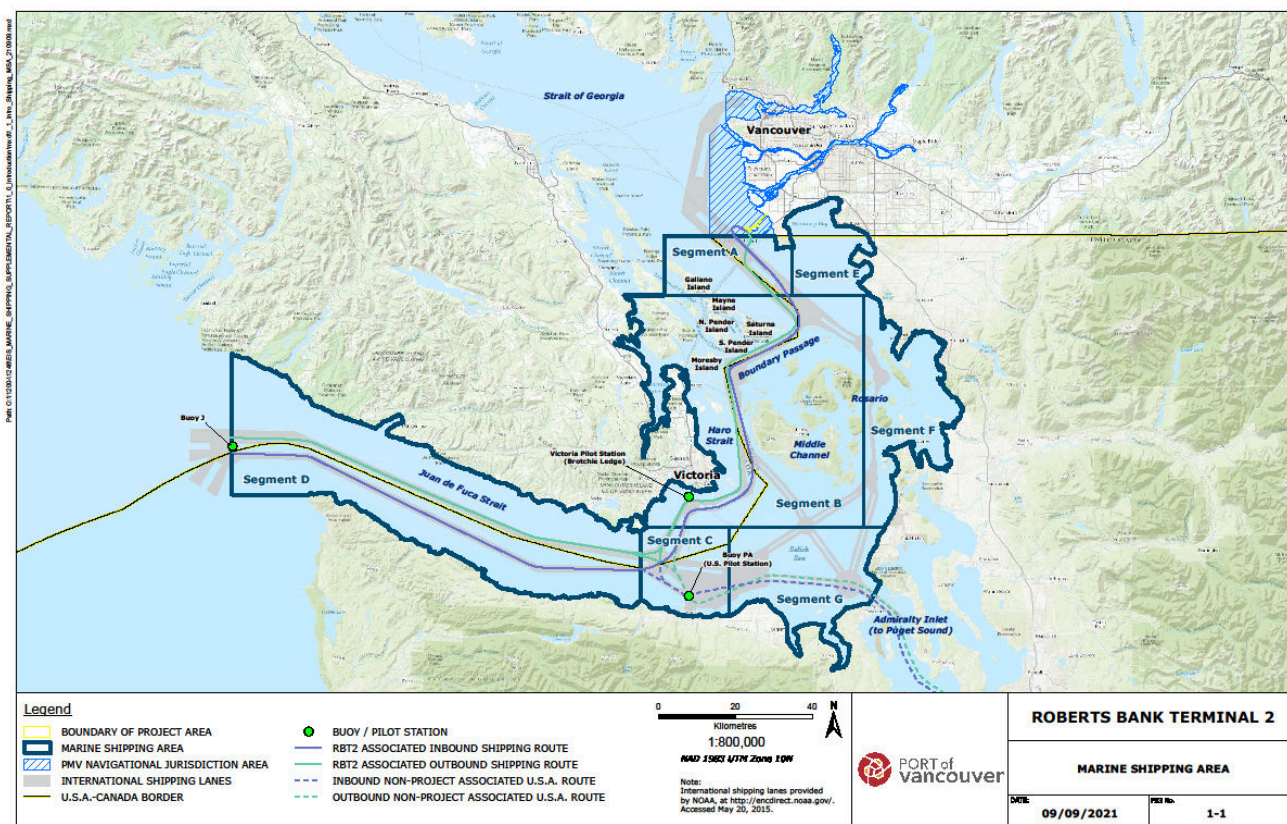
² At the time these Indigenous groups were identified, the agency was the Canadian Environmental Assessment Agency. Throughout this IR2020-5 response, we have used the term Impact Assessment Agency of Canada, or IAAC, even when referring to actions taken by the former agency prior to it being continued under the *Impact Assessment Act* as the Impact Assessment Agency of Canada.

Part 1 – Minister’s request: Are there additional details regarding the extent of current use of Indigenous groups who traverse the shipping lanes to practice traditional activities? Present any new information, if available, specific to each Indigenous group. The information shall, where appropriate, consider socio-economic and gender differences within individual communities.

Effects identified in the Federal Review Panel Report

The review panel described the potential effects of marine shipping associated with the project on current use in the marine shipping area in section 16.2.3 (pp. 278-285) of its report (the marine shipping area is shown in **Figure IR2020-5-1**). In summary, the review panel concluded that marine shipping associated with the project would result in not-significant residual adverse effects on current use by Pacheedaht First Nation, Ditidaht First Nation, and the First Nations of the Maa-nulth Treaty Society (Maa-nulth First Nations). In reaching this conclusion, the review panel concluded that the added number of ships due to the project would not be large enough to interact with, and therefore affect, each harvester. The review panel was unable to determine the significance of the residual adverse effects on current use by the other Indigenous groups identified by IAAC.

Figure IR2020-5-1: Marine shipping area



Information received from Indigenous groups

As outlined above, the complete copies of the information received from Indigenous groups are appended with this response (**Appendices IR2020-5-A1 through -A10**). Comments received during consultation meetings and workshops are included in **Table IR2020-5-1** below.

Much of the information provided by Indigenous groups was available to and considered by the review panel. In the view of the port authority, the responses provided by Indigenous groups to the minister’s first question do not affect the conclusions of the review panel. This is in part because the review panel’s conclusions were based on very conservative assumptions (i.e., high) about the increase in number vessels that would result from the operation of RBT2 (see **IR2020-3**). However, the minister may find the comments in the **Table IR2020-5-1** of assistance in reviewing the information provided by Indigenous groups.

Table IR2020-5-1: Consultation feedback and responses from Indigenous groups regarding additional details on the extent of current use in relation to the shipping lanes

Indigenous group	Comments
Halalt First Nation	<ul style="list-style-type: none"> Halalt summarized information regarding the extent of their traditional territory, its overlap with the project site and shipping lanes, and the type and importance of traditional activities carried out in relation to the shipping lanes (i.e., fishing and harvesting for food, social, and ceremonial (FSC) and economic purposes). Halalt said that, since the public hearing, they have conducted a traditional foods survey and learned that, for a variety of reasons, from physical limitations to lack of equipment, far fewer harvesters are providing traditional foods to a greater number of individuals across all Cowichan Nation communities, and that their FSC quotas (which they generally describe as harvested from areas overlapping the project area and marine shipping area) play a far more critical role in providing Elders with a healthy traditional diet than previously understood.
Lyackson First Nation	<ul style="list-style-type: none"> Lyackson said they believe the information submitted to date in previous submissions and testimony to the review panel (appended to Lyackson’s response) to be complete and fully responsive to the minister’s four questions. Lyackson said they have documented and shared information on their “intensive past, present, and planned future use of Le’eyqsun (Valdes Island) and surrounding waters and foreshore,” as well as “large portions of the Salish Sea, including the historic village area of TI’uqtinus on the south arm of the Fraser.” Lyackson said they have previously shared information about their “past and ongoing practice of fishing rights (commercial and subsistence) at Roberts Bank and the mouth of the Fraser River,” including that they hold FSC fishing licenses in these areas.
Maa-nulth First Nations	<ul style="list-style-type: none"> Maa-nulth said both their treaty rights and vessel traffic from the project extend beyond currently regulated shipping lanes, with container ships from Port of Vancouver following paths through both Maa-nulth’s Northern and Southern Domestic Fishing Areas. Maa-nulth said it is difficult to identify important current use areas, stating that there are many places within Maa-nulth waters that are important to them and that bear Nuu-chah-nulth names reflecting that importance. Maa-nulth are also guided by their sacred principle of <i>hišuk ma cáwak</i> (everything is one, everything is connected). Maa-nulth confirmed they continue to harvest the species indicated in their prior submissions, including species that utilize the Fraser River estuary (i.e., Fraser River sockeye, ocean Chinook, and ocean coho).
Musqueam Indian Band	<ul style="list-style-type: none"> Musqueam said it relies on the ability to safely traverse the shipping lanes in the Salish Sea to conduct traditional activities and exercise rights, and subsequently, to facilitate intergenerational knowledge transfer and cultural continuity. Musqueam said it has a network of named sites and important locations throughout the Salish Sea, some of which are only accessible to Musqueam by water, and a variety of site-specific values in the vicinity of the shipping lanes, as reported in the <i>Musqueam Knowledge and Use Study</i> conducted for the project.

Indigenous group	Comments
	<ul style="list-style-type: none"> • Musqueam said that many harvesting locations require navigating the shipping lanes. For example, Musqueam shellfish harvesting sites are located on both sides of the shipping lanes and <i>q̓əχmin</i> (<i>Lomatium nudicaule</i> or Indian consumption plant) is now primarily available only from sites located near the shipping lanes. • Musqueam said other cultural activities, such as canoe journeys, also require Musqueam people, especially Musqueam youth, to be able to safely navigate the territorial waters occupied by the shipping lanes. • Musqueam said that canoe cultural revitalization has increased in recent years.
Pacheedaht First Nation	<ul style="list-style-type: none"> • Pacheedaht said they have no additional information to submit at this time relating to their current use and human health.
Penelakut Tribe	<ul style="list-style-type: none"> • Penelakut asked the port authority why fishing for FSC (current use) purposes was included in the question but not fishing for economic purposes.³ • The port authority said it would record whatever information Penelakut provided for the information of the minister. No further information has been received from Penelakut.
Popkum First Nation	<ul style="list-style-type: none"> • Popkum said there were four main areas of concern with respect to the effects of the project on Popkum First Nation. These are described in Appendix IR2020-5-A6.
S'ólh Téméxw Stewardship Alliance (STSA)	<ul style="list-style-type: none"> • STSA said there are increasing numbers of events relating to the Salish Sea wherein Indigenous members participate in ocean-canoeing. • STSA said that safety is an issue.
Tseil-Waututh Nation (TWN)	<ul style="list-style-type: none"> • TWN said currently membership cannot sustain a whole traditional diet as harvesting marine foods is closed due to sediment and water quality contamination. • TWN said they continue to make efforts to ensure the health of their lands, air, and waters but large-scale development projects, including RBT2, continue to minimize any progress to gaining back their harvesting practices. As an example, TWN said that changes in migration of salmon could negatively impact the harvest and consumption of marine traditional foods by TWN.
Ts'uubaa-asatx First Nation	<ul style="list-style-type: none"> • Ts'uubaa-asatx said they have no proponent-specific comments that are not spoken to in their comments on other information requests, in their Lake Cowichan First Nation Policy: South Arm of the Fraser River and Approaches (June 1, 2018) or as relayed previously. • Ts'uubaa-asatx said this was the only area that they were able to acquire salmon, seals, crabs, and other seafood harvests. They said the area is very crowded during crab openings and that makes it difficult to harvest crab here now.
Tsawwassen First Nation (TFN)	<ul style="list-style-type: none"> • TFN said that before salmon declined, Tsawwassen fishers used the areas that are now shipping lanes for salmon fishing during the night, but they are no longer using these areas because of the decline in salmon populations.

³ Comment provided by Penelakut Tribe at a consultation workshop on October 6, 2020.

Part 2 – Minister’s request: How would health effects documented in Section 21 of the Panel Report affect vulnerable sub-groups of each Indigenous group? Present any new information, if available, specific to each Indigenous group. The information shall, where appropriate, consider socio-economic and gender differences within individual communities.

Effects identified in the Federal Review Panel Report

The review panel described the potential effects of the project on human health in section 21 of its report. The review panel concluded that the project would result in significant residual adverse effects on human health from chronic exposure to NO₂ during construction and operation. With respect to noise, the review panel concluded that the project would result in a residual adverse effect on human health from noise during construction and operation (p. 400) and a significant adverse cumulative effect on human health from noise (p. 401).

The review panel concluded that there would be no air quality or noise effects on human health as a result of project-associated marine shipping (pp. 391, 401), and that there would be no effects to human health as a result of exposure to shellfish contamination (p. 406).

The review panel was unable to conclude on project effects to human health as a result of a change in diet due to predicted project-related effects on crab (p. 410; refer to **Part 3** of this response) or stress and annoyance (p. 413; refer to **Part 4** of this response).

The review panel was unable to conclude definitively on the effects to human health related to health inequity or to what extent health inequity could be reduced or aggravated by the project for specific vulnerable groups (p. 415), and made no recommendations related to health inequity.

Information received from Indigenous groups

As outlined above, the complete copies of the information received from Indigenous groups are appended with this response (**Appendices IR2020-5-A1 through -A10**). Comments received during consultation meetings and workshops are included in **Table IR2020-5-2**.

As with the first question, much of the information provided by Indigenous groups was available to and considered by the review panel. In the view of the port authority, the responses provided by Indigenous groups in response to this second question do not affect the conclusions of the review panel. However, the minister may find the comments in the **Table IR2020-5-2** of assistance in reviewing the information provided by Indigenous groups.

Table IR2020-5-2: Consultation feedback and responses from Indigenous groups regarding how the health effects documented in the Federal Review Panel Report would affect vulnerable sub-groups

Indigenous group	Additional information
Halalt First Nation	<ul style="list-style-type: none"> • Halalt said they have a higher number of Elders within the community compared to some other groups, and that they are nearly completely dependent on relatives and FSC quota distribution for traditional foods in their diet. • Halalt said that, since their 2019 panel submission, they have been able to further understand just how essential these FSC quotas are to a healthy cultural diet for the Elders within the Halalt community. • Halalt said that, as specified in their 2019 panel submission, RBT2 and its associated shipping would have a direct impact on Halalt’s FSC fishing areas.
Lyackson First Nation	<ul style="list-style-type: none"> • Lyackson said they believe the information submitted in previous submissions and testimony to the review panel (appended to Lyackson’s response) to be complete and fully responsive to the minister’s four questions.

Indigenous group	Additional information
	<ul style="list-style-type: none"> Lyackson said that, despite having contributed the least to greenhouse gases, they are the ones most at risk from the consequences of climate change because of their close relationship with the natural environment and their reliance on its resources. Lyackson said that noise and air emissions from RBT2 will have negative impacts on their land and marine resource use, especially FSC fisheries and the re-establishment of Lyackson use and occupancy at <i>Tl'uq̓tinus</i> village on the South Arm of the Fraser River.
Maa-nulth First Nations	<ul style="list-style-type: none"> Maa-nulth said that impacts to lands, waters, and resources that Maa-nulth value have a ripple effect on Maa-nulth well-being, including vulnerable populations.
Musqueam Indian Band	<ul style="list-style-type: none"> Musqueam said they do not have dis-aggregated data regarding impacts on sub-groups, and it is Musqueam's view that attempting to disaggregate impacts on individuals, or sub-groups, from impacts to the community as a whole is inconsistent with Musqueam's perspective on Indigenous health. Musqueam said that food security (see Part 3) is a key impact pathway to health inequity.
Pacheedaht First Nation	<ul style="list-style-type: none"> Pacheedaht advised they have no additional information to submit at this time relating to their current use and human health.
Popkum First Nation	<ul style="list-style-type: none"> Popkum said there were four main areas of concern with respect to the effects of the project on Popkum First Nation. These are described in Appendix IR2020-5-A6.
S'ólh Téméxw Stewardship Alliance (STSA)	<ul style="list-style-type: none"> STSA said they had previously identified their concern regarding atmospheric pollutants, as discussed in section 21 of the Federal Review Panel Report, and their effect on health and traditional food sources.
Tseil-Waututh Nation (TWN)	<ul style="list-style-type: none"> TWN said currently membership cannot sustain a whole traditional diet as harvesting marine foods is closed due to sediment and water quality contamination. TWN said they continue to make efforts to ensure the health of their lands, air, and waters but large-scale development projects, including RBT2, continue to minimize any progress to gaining back their harvesting practices.
Tsawwassen First Nation (TFN)	<ul style="list-style-type: none"> TFN said there is a need to ensure the role of men is upheld and kept strong, as they are a vulnerable sub-group in relation to project effects. TFN said the primary pathway of impact of the project is on young men because harvesting and practicing harvesting rights is mostly male-dominated. Young men do the seasonal harvesting and that is all they will do all year, whereas meaningful employment opportunities tend to be mostly female dominated (for example, even in the TFN legislature, it is predominantly female with only two males).⁴ TFN said the changing landscape of their harvesting will negatively affect their male population, requiring some sort of accommodation measure or something that will help balance that out. TFN said that a mechanism that would permit less of a reliance on the harvesting aspect of being economically sustainable, opening a new pathway to self-sufficiency, such as having youth trained in monitoring, may be one way of working to balance that disproportionate effect.⁵ TFN said they have noticed an increase in dust over the last decades and that the dust has been tested as coming from trucks moving in and out of Deltaport. They

⁴ Comments provided by TFN during a consultation meeting on November 24, 2020 and in a scope of work, dated December 2, 2020, provided by TFN to support the TFN's submission included in **Appendix IR2020-5-A9**.

⁵ Comments provided by TFN during a consultation meeting on November 24, 2020.

Indigenous group	Additional information
	<p>said they are concerned that the dust is causing health problems, and that it is an issue for those with lung problems, like allergies and asthma.</p> <ul style="list-style-type: none"> • TFN said groups of premature births have been noted and attributed to environmental factors. • TFN said noise from ship engines, trains, and road traffic was an issue.
Ts'uubaa-asatx First Nation	<ul style="list-style-type: none"> • Ts'uubaa-asatx said they have no proponent-specific comments that are not spoken to in their comments on other information requests, in their Lake Cowichan First Nation Policy: South Arm of the Fraser River and Approaches (June 1, 2018), or as relayed previously.

Part 3 – Minister’s request: For Indigenous groups that have indicated they harvest crab for the purpose of consumption, how will Project effects, including loss of abundance and loss of access, affect food security? Present any new information, if available, specific to each Indigenous group. The information shall, where appropriate, consider socio-economic and gender differences within individual communities.

Effects identified in the Federal Review Panel Report

The review panel described the potential effects of the project on crab abundance, harvesting access, and food security in section 12 on marine invertebrates, section 16 on current use, and section 21 on human health.

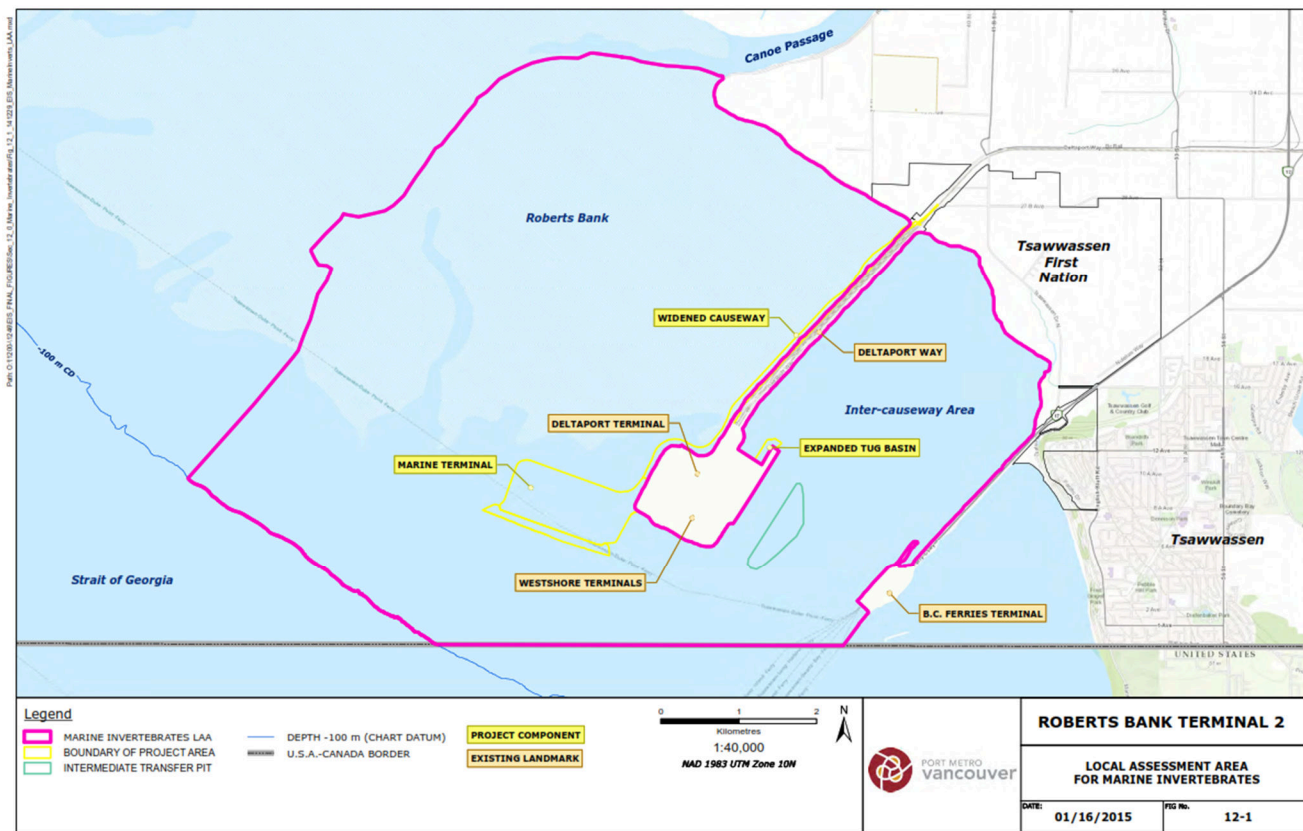
The review panel concluded that there would be a significant residual and cumulative effect on Dungeness crab as a result of the project (pp. 172-173).

The review panel concluded that there would be residual adverse effects on the current use of some Indigenous groups in terms of changes in access and the availability of traditional resources in the project area (p. 409), but not on the quality of those traditional resources (p. 261). Specifically, the review panel concluded the following:

- There would be significant residual and cumulative effects on current use of lands and resources for traditional purposes for Tsawwassen First Nation and Musqueam Indian Band (pp. 264, 266). In reaching that conclusion, the review panel discussed effects on availability of crab and access to preferred harvesting areas.
- There would be a not-significant residual effect on access to and availability of crab for other Indigenous groups that harvest crab in the vicinity of the project footprint; however, the review panel said it was not completely clear how many Indigenous groups, besides Tsawwassen and Musqueam, currently use the project area for crab harvesting activities and to what extent (p. 266).

The review panel concluded that the predicted project effects on crab would cause a change in the diet and have an adverse effect on food security for Indigenous groups using the local assessment area (**Figure IR2020-5-2**), specifically Tsawwassen. The effect would be small in magnitude, long term, continuous, and irreversible. Due to the variety of available marine resources, the effect would not be significant. The review panel was unable to conclude if the change would result in an adverse effect on human health (p. 410).

Figure IR2020-5-2: Local assessment area for marine invertebrates



Information received from Indigenous groups

As discussed above, the complete copies of the information received from Indigenous groups are appended with this response (**Appendices IR2020-5-A1 through -A6 and -A8 through -A10**). Comments received during consultation meetings and workshops are included in **Table IR2020-5-3**.

As with the first two questions, much of the information provided by Indigenous groups was available to and considered by the review panel. However, the minister may find the comments in the **Table IR2020-5-3** of assistance in reviewing the information provided by Indigenous groups.

As discussed above, the review panel made conclusions regarding how the predicted project effects on crab would affect food security (p. 410). In the view of the port authority, the responses provided by Indigenous groups in response to this third question do not affect the conclusions of the review panel. However, the port authority notes the information provided by Musqueam in response to this question, including Musqueam’s concern about overlapping regulations and the potential to directly impact food security for Musqueam.

Table IR2020-5-3: Consultation feedback and responses from Indigenous groups harvesting crab for consumption on how project effects on crab abundance and harvesting access will affect food security

Indigenous group	Additional information
Halalt First Nation	<ul style="list-style-type: none"> Halalt said decreased access to crab and other significant marine species within the project area—and thus the greater marine territory—has substantial, negative implications for traditional food access and overall food security. They said these

Indigenous group	Additional information
	<p>species are critical subsistence and cultural components of Halalt members' way of life, and that further damage to such resources from marine shipping activities will have major, negative implications on both the quantity and quality of the marine harvest and, in turn, the cultural practices of Halalt.</p> <ul style="list-style-type: none"> • Halalt said the individual who harvests crab, or other marine resources, is not necessarily the end consumer of the traditional food. They said that many of the Elders in the community are no longer physically able to harvest themselves and are provided with traditional foods from harvesting completed by their relatives across communities.
Lyackson First Nation	<ul style="list-style-type: none"> • Lyackson said they believe the information submitted to date in previous submissions and testimony to the review panel (appended to Lyackson's response) to be complete and fully responsive to the minister's four questions. • Lyackson said local food security is hugely important for Lyackson and asked the minister to take into account the impacts to their traditional food sources and food security from project-related activities in the shipping lanes and project area. Lyackson said these areas are historic, current, and desired future use locations that have been and are important for harvested species and supporting the food chain. • Lyackson said changes and losses in biodiversity adversely affect, among other things, traditional hunting, fishing, and harvesting practices. They said cultural and spiritual practices are related to specific species and specific annual cycles, as well as specific places and spiritual sites, the health of the community, and revenues from tourism. Together these changes and losses negatively impact Lyackson's overall well-being. • Lyackson said their relationship to the land is based in their cultural practices, and the harvesting of traditional foods is a central, material part of that relationship. Problems, including those related to health and well-being, ensue when exercising cultural practices becomes difficult and well-established ways of being are disrupted, as in the case of the project and its marine shipping. • Lyackson referred the minister to a prior submission regarding health and income disparities and connection to traditional foods.⁶
Maa-nulth First Nations	<ul style="list-style-type: none"> • Maa-nulth said they have both domestic and commercial harvesting rights for crab, and that in addition to food security, impacts on crab within Maa-nulth license areas could also have economic impacts on Maa-nulth. • Maa-nulth said an accident or malfunction involving a project vessel could have a detrimental effect on Maa-nulth's ability to harvest crab (and other species), including crab larvae. • Maa-nulth said that because crabs are migratory, moving inshore and offshore, potential effects are spatially broad throughout Maa-nulth territories.
Musqueam Indian Band	<ul style="list-style-type: none"> • Musqueam said they currently harvest in the project footprint area. • Musqueam said crab has always been a critical food source for them, but that severe depletion of other fish resources has led to even greater reliance on this resource in recent years.

⁶ Contemporary & Desired Use of Traditional Resources in a Coast Salish Community: Implications for Food Security and Aboriginal Rights in British Columbia (CIAR Document #1108, <https://iaac-aeic.gc.ca/050/documents/p80054/121116E.pdf>)

Indigenous group	Additional information
	<ul style="list-style-type: none"> • Musqueam said that, throughout the environmental assessment for RBT2, they have raised concerns about access restrictions that will directly result from the project and will lead to potential impacts on Musqueam’s crab harvesting for FSC purposes. • Musqueam said they remain concerned that overlapping regulations governing the proposed navigational closure area (NCA) will significantly infringe on Musqueam harvesting rights and the ability to harvest crab in the area, which will have a direct impact on food security for Musqueam through potential changes in diet, loss of knowledge transmission, and impacts to cultural continuity and well-being of the community as a whole.
Pacheedaht First Nation	<ul style="list-style-type: none"> • Pacheedaht said they have no additional information to submit at this time relating to their current use and human health.
Popkum First Nation	<ul style="list-style-type: none"> • Popkum said there were four main areas of concern with respect to the effects of the project on Popkum First Nation. These are described in Appendix IR2020-5-A6.
Tseil-Waututh Nation (TWN)	<ul style="list-style-type: none"> • TWN said currently membership cannot sustain a whole traditional diet as harvesting marine foods is closed due to sediment and water quality contamination. • TWN said they continue to make efforts to ensure the health of their lands, air, and waters but large-scale development projects, including RBT2, continue to minimize any progress to gaining back their harvesting practices.
Tsawwassen First Nation (TFN)	<ul style="list-style-type: none"> • TFN said the food security trend for the last 20 years or more has been to move to another species when other species are no longer available to harvest. Tsawwassen relied on sockeye, which was very abundant 10 years ago, and before that, it was cockles, clams, and mussels that were on the foreshore, which are now no longer accessed. TFN said the different salmon species have been dwindling year after year and that this is the reason that Tsawwassen has been switching more to crab than salmon because they are more abundant for Tsawwassen to harvest.⁷ • TFN said some TFN members barter crab and salmon with other Indigenous groups for deer and other hunted animals. • TFN said they distribute food through TFN’s Food Fish Program, which distributes crab, salmon, and canned fish. • TFN said marine traffic and no-float zones influence where TFN crab harvesters set their traps, and that the expanded no-float zone for RBT2 will take away access to a large area of prime crab habitat.
Ts’uubaa-asatx First Nation	<ul style="list-style-type: none"> • Ts’uubaa-asatx said this was the only area that they were able to acquire salmon, seals, crabs, and other seafood harvests. They said the area is very crowded during crab openings and that makes it difficult to harvest crab here now. Ts’uubaa-asatx said they anticipate the area will become more congested, unless other measures are made to increase Indigenous crab harvesting. Ts’uubaa-asatx said this is a Crown-First Nation matter of consideration and that the proponent is not the authority on such matters and therefore not responsible for addressing this issue.

⁷ Comment provided by TFN during consultation meeting on November 24, 2020.

Part 4 – Minister’s request: For nearby residents, including members of the Tsawwassen First Nation, how may the contributions of the Project’s additional stress and annoyance affect individuals? Present any new information, if available, specific to each Indigenous group. The information shall, where appropriate, consider socio-economic and gender differences within individual communities.

Effects identified in the Federal Review Panel Report

The review panel described the potential effects of the project on stress and annoyance in section 21.4.2 of the Federal Review Panel Report.

The review panel concluded that the re-suspension of sediments due to dredging for the creation of the terminal berth pocket and the expansion of the tug basin would not result in shellfish contamination. The review panel said it was of the view that shellfish contamination, as presently perceived, is unwarranted and unassociated with current port authority operations (p. 412).

The review panel stated it was of the view that present concerns expressed by participants who reside in the project area related to air, light, and noise pollution indicate a potential for stress and annoyance, and that their stress and annoyance risk could be exacerbated by the project (p. 412)

The review panel was unable to conclude on the project effects on human health due to stress and annoyance given these aspects of human health are perceived differently by individuals. The review panel made no specific recommendations related to stress and annoyance (p. 413).

Information received from Indigenous groups

Although this question was specifically directed at “nearby residents,” the port authority provided an opportunity to all 46 Indigenous groups as identified by IAAC to respond to this question. As outlined above, the complete copies of the written information received from Indigenous groups are appended with this response (**Appendices IR2020-5-A1 through -A6 and -A8 through -A10**).

As with the first three questions, much of the information provided by Indigenous groups was available to and considered by the review panel. However, the minister may find the comments in **Table IR2020-5-4** of assistance in reviewing the information provided by Indigenous groups.

In the view of the port authority, the responses provided by Indigenous groups in response to this fourth question do not affect the conclusions of the review panel. However, the port authority notes that Musqueam has expressed the project area is also a high use area for Musqueam and an important location for both harvesting and cultural practices; therefore, increases in air, light, and noise pollution have a potential to create stress and annoyance for Musqueam members using the area.

Table IR2020-5-4: Consultation feedback and responses from Indigenous groups on how the contributions of the project’s additional stress and annoyance may affect individuals

Indigenous group	Additional information
Halalt First Nation	<ul style="list-style-type: none"> Halalt advised that community members are frequently unable to obtain enough desired traditional foods or access to traditional foods to meet their personal inherent rights and desired FSC requirements.
Lyackson First Nation	<ul style="list-style-type: none"> Lyackson said the focus on nearby residents does not acknowledge Lyackson’s deep historical connection to the area or the additional stress and annoyance of Lyackson members who have been historically excluded from their historical village site (<i>Tl’uq̓tinus</i>, on the south arm of the Fraser River). Lyackson said the review panel should have considered the impacts of the project in relation to Lyackson’s efforts to strengthen their use and occupancy of the area and

Indigenous group	Additional information
	<p>the losses that have resulted from being excluded, such as youth being able to acquire knowledge to carry out traditional use and practices in the area.</p>
Maa-nulth First Nations	<ul style="list-style-type: none"> Maa-nulth said residents near the proposed terminal are not the only individuals that feel stress due to the project. They said Maa-nulth are feeling stress from the project and other marine shipping projects proposed or currently operating in Maa-nulth waters because (1) participating in the environmental assessment process to ensure that Maa-nulth lands, waters, and resources are protected takes time and focus away from other priorities; and (2) the pressures that stressful interactions with large vessels in Maa-nulth waters place on Maa-nulth and the risk they pose to already suffering resources.
Musqueam Indian Band	<ul style="list-style-type: none"> Musqueam said the Federal Review Panel Report primarily characterizes health effects related to stress and annoyance in terms of effects on Tsawwassen First Nation and residents of Ladner. Musqueam said the project area is also a high use area for Musqueam and an important location for both harvesting and cultural practices; therefore, increases in air, light, and noise pollution have a potential to create stress and annoyance for Musqueam members using the area. Musqueam said there are some Musqueam members currently living at Musqueam IR4 (approximately 3.5 km from the project site) and in nearby communities. Musqueam said that in the future, IR4 may be used for additional residence or other uses, but it is currently used for traditional hunting and gathering, particularly waterfowl, which play a particularly important role in Musqueam ceremonies and cultural events. Musqueam said that project effects, such as pollution, and stress and annoyance, could have an adverse effect on Musqueam's ability to exercise traditional rights and the wellbeing of nearby community members, Musqueam said that, despite the review panel's conclusion regarding shellfish contamination, Musqueam remains concerned that ongoing pollution has reached levels where anxiety, concerns, and avoidance impacts related to perceived and observed shellfish contamination and contamination of waterfowl have been negatively impacting the health of the community. Musqueam said they are unable to provide more detailed information on the anticipated impacts of the project on stress, annoyance, and human health of nearby residents at this time.
Pacheedaht First Nation	<ul style="list-style-type: none"> Pacheedaht advised they have no additional information to submit at this time relating to Pacheedaht current use and human health.
Popkum First Nation	<ul style="list-style-type: none"> Popkum said there were four main areas of concern with respect to the effects of the project on Popkum First Nation. These are described in Appendix IR2020-5-A6.
Tseil-Waututh Nation (TWN)	<ul style="list-style-type: none"> TWN said currently membership cannot sustain a whole traditional diet as harvesting marine foods is closed due to sediment and water quality contamination. TWN said they continue to make efforts to ensure the health of their lands, air, and waters but large-scale development projects, including RBT2, continue to minimize any progress to gaining back their harvesting practices.
Tsawwassen First Nation (TFN)	<ul style="list-style-type: none"> TFN said they have noticed an increase in dust over the last decades and that the dust has been tested as coming from trucks moving in and out of Deltaport. They said they are concerned that the dust is causing health problems, and that it is an issue for those with lung problems, like allergies and asthma. TFN also said that houses are covered in black dust, laundry cannot be hung out to dry due to dust, the dust makes it more difficult to grow things, and there is also potential loss of soil nutrients.

Indigenous group	Additional information
	<ul style="list-style-type: none"> TFN said groups of premature births have been noted and attributed to environmental factors. TFN said noise from ship engines, trains, and road traffic was an issue.
Ts'uubaa-asatx First Nation	<ul style="list-style-type: none"> Ts'uubaa-asatx said they have no proponent-specific comments that are not spoken to in their comments on other information requests, in their Lake Cowichan First Nation Policy: South Arm of the Fraser River and Approaches (June 1, 2018), or as relayed previously.

Conclusion

Since the conclusion of the public hearing, the port authority has continued to consult extensively with Indigenous groups as described above and in **Appendix IR2020-5-A11**. In the course of ongoing consultation on the project and information requests, Indigenous groups have provided substantial amounts of information, but little new information with respect to the subject matter of the questions posed by the minister in the IR2020-5 request. The port authority provided Indigenous groups with the minister's questions and sought feedback through meetings and written submissions. The information provided by Indigenous groups in response is appended to this response in **Appendices IR2020-5-A1 to -A10**.

As noted in sections above, the primary concern expressed is mitigation of impacts already identified and with measures proposed to address those impacts. No new impacts to or intersections with the exercise of rights were identified. Some additional information was shared and documented as received from Indigenous groups residing more distant from Roberts Bank expressing concern about use in the vicinity of Roberts Bank, although with this information no new health impacts to vulnerable subgroups were identified. In addition, no new crab or food security concerns were identified, though Musqueam reiterated concern about overlapping regulations impacting food security.

In view of this information, the assessment conclusions of the review panel remain unchanged. The mitigation measures proposed by the port authority, including the additional measures proposed in response to the minister's request (see **IR2020-1** through **IR2020-4**) and in consultation with Indigenous groups, are appropriate and will be effective in mitigating the potential to adversely affect current use and health of Indigenous peoples.

Appendices

Appendix IR2020-5-A1 Halalt First Nation Responses to Minister's Questions

Appendix IR2020-5-A2 Lyackson First Nation Responses to Minister's Questions

Appendix IR2020-5-A3 Maa-nulth First Nations (Huu-ay-aht First Nations, Ka:'yu:k't'h'/Che:k'tles7et'h First Nations, Toquaht Nation, Uchucklesaht Tribe, and Ucluelet First Nation) Responses to Minister's Questions

Appendix IR2020-5-A4 Musqueam Indian Band Responses to Minister's Questions

Appendix IR2020-5-A5 Pacheedaht First Nation Responses to Minister's Questions

Appendix IR2020-5-A6 Popkum First Nation Responses to Minister's Questions

Appendix IR2020-5-A7 S'ólh Téméxw Stewardship Alliance (Scowlitz First Nation, Soowahlie Band, Kwaw'Kwaw'Apilt First Nation, Chawathil First Nation, Cheam Indian Band, Aitchelitz First Nation, Skawahlook First Nation, Skowkale First Nation, Shxwha:y Village, Squiala First Nation, Tzeachten First Nation, Yakweakwioose Band) Responses to Minister's Questions

Appendix IR2020-5-A8 Tseil-Waututh Nation Responses to Minister's Questions

Appendix IR2020-5-A9 Tsawwassen First Nation Responses to Minister's Questions

Appendix IR2020-5-A10 Ts'uubaa-asatx First Nation Responses to Minister's Questions

Appendix IR2020-5-A11 Summary of Consultation Efforts Related to IR2020-5