Boundary Bay Conservation Committee **Fraser Voices**
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Political interference in the environmental assessment of Roberts Bank Container Terminal 2 (RBT2) **spells disaster for the Fraser River Estuary, B.C.**

- **The Federal Liberal Government has muzzled government scientists and manipulated the environmental assessment that is 6 years out of date. *CEAA 2012* is no longer law but the federal government is proceeding under the old Act.**
- **Reports from federal Government scientists should be submitted directly to the Independent Review Panel that is overseeing the environmental assessment under the *Canadian Environmental Assessment Agency*. Instead, the submissions have been censored at the Deputy Minister level before these reports ever reach the Review Panel. These ministries are: Environment and Climate Change, Fisheries and Oceans, and Health Canada. There has been ongoing correspondence between the so-called independent Review Panel and the Deputy Ministers.[1]**
- **It is particularly egregious that the Deputy Minister of Environment and Climate Change has managed the scientific reports as it is the Minister of Environment who is responsible for approving the Project.**
- **Transport Canada is a participant in the environmental assessment which is a conflict of interest as Transport Canada is responsible for the actions of the Proponent, the Port of Vancouver, which is a government corporation. The Review Panel has been inappropriately corresponding directly with the Deputy Minister of Transport.[2]**
- **Speakers from the public were not allowed to speak at the Public Hearing on interpretation of 'alternative means' under the *Canadian Environmental Assessment Act* *(CEAA 2012).* This is a critical issue as there are viable alternatives to RBT2 for expanding Canada's west coast container capacity.**
- **The Port of Vancouver skewed container statistics to present a false business case.**
- **The B.C. Government improperly transferred BC estuarine wetlands to the federal government to facilitate RBT2 even though the Project has not yet been approved.**
- **In conflict of interest, the B.C. Government made it a legal requirement in the environmental assessment to include information from the Gateway Transportation Collaboration Forum, a narrowly focussed group representing shipping interests, not environmental issues at all. (This is a joint effort of business with federal and provincial ministries) that has received millions in tax dollars**
- **The B.C. Government has not meaningfully participated in the environmental process as required under the B.C. Environment Assessment Act.**

The Governments of Canada and British Columbia plan to dredge and fill 460 acres in the globally significant Fraser River estuary to build an island and expanded causeway for a massive container terminal that is not needed.

330-acre island for containers, 122 acres for widening existing causeway and 8 acres to extend tug basin

1. Government scientists were required to send their reports to Ottawa before they were submitted to the independent Review Panel that is in charge of the environmental assessment of the Roberts Bank Terminal 2 Project (RBT2).[3] Requests for information through Freedom of Information legislation have been withheld.
2. The federal government obstructed due process by ordering that government scientists were not permitted to submit closing comments to the Review Panel. Their buried reports reveal that the Vancouver Port's scientific information was flawed and skewed. Furthermore, the Vancouver Port's scientific evidence was not peer-reviewed. The Review Panel did not request reports from independent scientists.
3. On Sept. 28, 2016, The Port of Vancouver sent a secret newsletter to the federal government claiming to state facts on RBT2 in an attempt to undermine input to the environmental assessment by the public and government scientists:[4]

   "Welcome to our first newsletter, written exclusively for a government audience,"
4. The Port of Vancouver is a federal government corporation operating under the Minister of Transportation who claims no responsibility:

   "Canada Port Authorities…have the authority and flexibility to determine strategic direction and make commercial decisions. In this context, the federal government has no power to direct or influence the actions of Canada Port Authorities." *Letter from Marc Garneau, July 21, 2016*

   This contravenes Canadian constitutional law of accountability:

   "Ministers are responsible for all actions taken under their authority."[5]

   Transport Canada is a participant in the environmental assessment which is a conflict of interest as Transport Canada is responsible for the actions of the Proponent, the Port of Vancouver. There is no arm's-length here as both the Review Panel and the Port of Vancouver are working with the Office of the Minister of Transport.

   In January, 2019, on invitation from the Review Panel, Transport Canada made a public presentation promoting the business of Canada's west coast ports. [6]

5. Although environmental assessments are now reviewed under a new *Impact Assessment Act, 2019*, the Roberts Bank Container Terminal Project is being reviewed under the old *Canadian Environmental Assessment Act 2012 (CEAA 2012)*. The Review Panel took liberties with interpretation of 'alternative means' under *CEAA 2012* and would not permit oral presentations at the Public Hearing on interpretation of this term. The position of the Review Panel cannot be found in *CEAA 2012,* the Review Panel Mandate, or the Terms of Reference.
6. Speakers were not permitted to address interpretation of 'alternative means' under *CEAA 2012*. Three years after their appointment, the Review Panel publicly announced their interpretation of *CEAA 2012*[7] indicating they would not consider alternative locations for a BC container terminal even though the Port of Prince Rupert offers a cheaper and more efficient alternative. The Panel stated they would not consider, "where the B.C. Coast requires development of a container terminal," even though a Government Report by three transportation experts advised that, "policy makers develop container capacity in Prince Rupert before making investments in Vancouver."[8]
7. The Port of Vancouver inflated forecasts and failed to provide accurate information on Vancouver's container business capacity and slow growth. *(See information below, pages 4, 5)*
8. Under Order-in-Council 311, August 30, 2017[9], the B.C. Government transferred public estuarine wetlands to the federal government to facilitate RBT2 even though the Project has not been approved. This sent a message that the B.C. Government intends to approve the Project.
9. In their legal document, *Order Under Section 14, Section 4.1: 4.1.4,*[10] the B.C. Government inappropriately states that information from the Gateway Transportation Collaboration Forum[11] must be considered. This is conflict of interest as the Forum consists of government and private business interests that received $200 million from the federal government in May/June, 2018.[12] The Port of Vancouver received $100 million funding from the federal government on July 23, 2019,[13] for Projects that were identified by the Forum.
10. The B.C .Government has failed to meaningfully address effects on neighbouring municipalities, provincially listed species, B.C. Agreements, and cumulative effects.

It is no wonder that public perception is that the "fix is in".

Roberts Bank Container Terminal 2 (RBT2) a Disaster for the Environment

Scientists warn of deadly, irreversible impacts to:

- endangered Southern Resident Killer Whales
- millions of migrating salmon – to and from the Fraser River, the world's greatest salmon river
- millions of shorebirds and thousands of waterfowl of the Pacific Flyway from Alaska to South America
- 3.5 million western sandpipers – most rely on irreplaceable biofilm at Roberts Bank
- 23 species of wildlife listed under the Species at Risk Act
- the salinity balance in the Fraser estuary with consequences to the entire marine food web

These impacts cannot be mitigated or compensated.

Environment and Climate Change Canada stated at the Public Hearing:

> "that the predicted Project-induced changes to Roberts Bank constitute an unmitigable, species- level risk to Western Sandpipers and shorebirds more generally due to the predicted disruption to the salinity regime that supports fatty-acid production and biofilm."[14]

Engineers warn of compounding safety risks and impacts of pollution:

- larger container ships sharing narrow routes with increasing numbers of tankers, cruise ships, freighters, and tugs
- increased potential for collisions, explosions, and spills
- water, air and light pollution of the Fraser River Estuary and Salish Sea

Local Governments and the public express concerns of congestion, pollution, job losses from automation, as well as stress on the Agricultural Land Reserve (ALR) and public services:

- rail and road congestion in Vancouver area - more than double the number of trucks
- The Port of Vancouver claims that RBT2 will need 2,500 acres of industrial land and has stated it could use land from the Agricultural Land Reserve.[15]
- Port workers claim that RBT2 threatens the viability of the existing Deltaport Container Terminal leading to job losses.

Some First Nations warn of harm and risk to resources that support their traditional way of life and claim lack of meaningful consultation.

No Need for Roberts Bank Container Terminal 2 (RBT2)

If it is built and not needed, the new island terminal could be used for cruise ships or export of LNG, or export of Alberta bitumen.

There is no need for the Roberts Bank Container Terminal 2. B.C. handled **4.4 million TEUs** in 2018. Current and planned expansions, as well as improved efficiencies, without RBT2, show B.C. container capacity **of 10.7 million TEUs.** (*Container capacity endnote*[16]*)*

Note: 1 TEU = one twenty-foot equivalent unit *1 TEU is equal to one twenty-foot container*

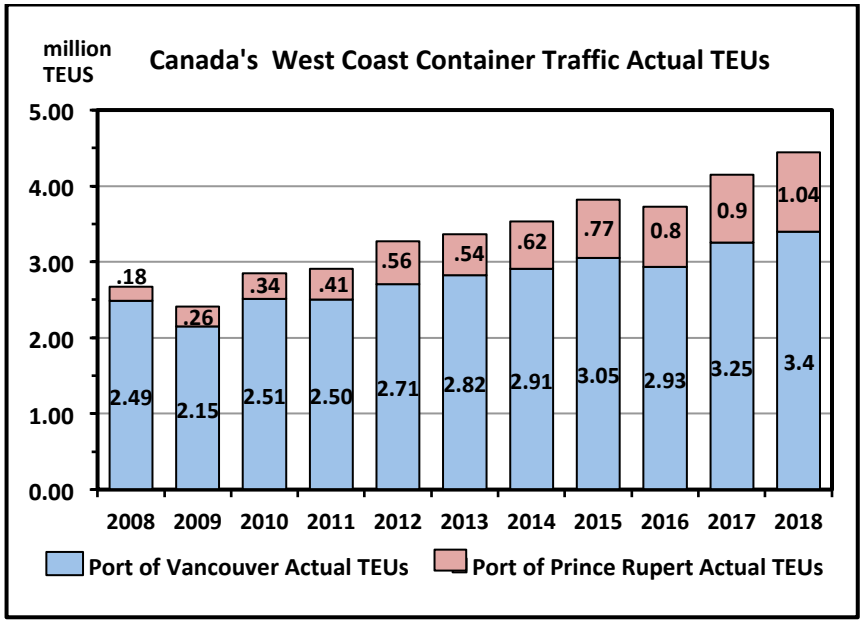
Prince Rupert:	Fairview Terminal	1.8 million TEUs
	Announced new Terminal	2.5 million TEUs
Vancouver:	Deltaport	3.0 million TEUs
	Vanterm	1.0 million TEUs
	Centerm	1.8 million TEUs
	Fraser Surrey Docks	0.6 million TEUs
	Total:	**10.7 million TEUs**

Skewed Statistics used to promote Roberts Bank Container Terminal 2 (RBT2)

Port of Vancouver skews statistics to promote approval of RBT2:

- uses Port of Prince Rupert statistics to inflate Vancouver's actual container business
- inflates forecasts of the container business for Vancouver area ports
- misrepresents actual container capacity in the Vancouver area

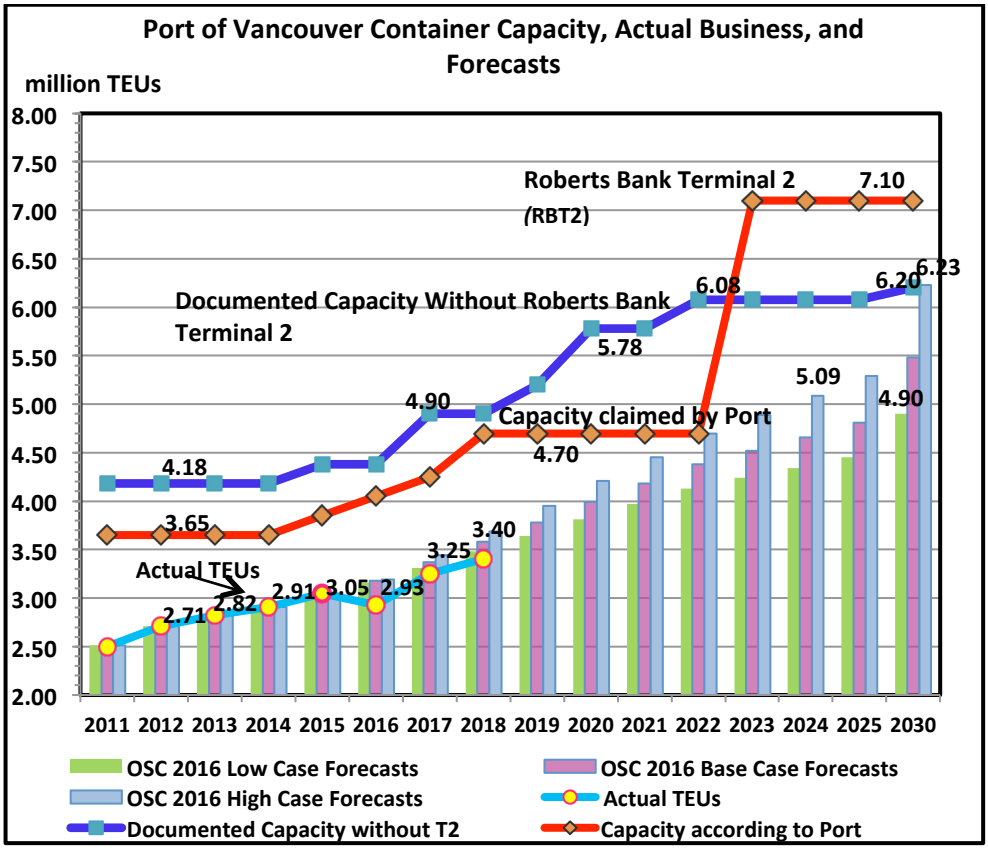
The Port of Vancouver combines their container statistics with the statistics from the Port of Prince Rupert in order to conceal the slower growth in Vancouver. The following graph indicates that the container business at the Port of Prince Rupert is growing considerably faster at a Compound Annual Growth Rate (CAGR) of 19% from 2008-2018 compared to a CAGR of 3% in Vancouver ports over the same period.



The Compound Annual Growth of 3% in Vancouver is for US-bound containers. Canadian-bound container business has been almost flat since 2010[17]. The Port of Vancouver wants federal approval and millions of tax dollars to provide road, rail, and shore-power, as well as public services and utility, infrastructure to service a massive island in the Fraser River Estuary to funnel US-bound containers through Vancouver.

The Port of Vancouver has inflated container business forecasts for the last 16 years. The container business has not achieved even the lowest case forecasts in at least 7 studies since 2003.[18]

The following graph confirms inflated forecasts and ample capacity for the Port of Vancouver's container business.



Notes:
OSC- Ocean Shipping Consultants, Container Traffic Forecast Study, Port of Vancouver, 2016
TEU= twenty-foot equivalent unit 1 TEU = one twenty-foot container

Sources of Information

Actual container business at the Port of Vancouver
Website for Port of Vancouver, Reports, Statistics and Resources, Container Statistics
https://www.portvancouver.com/about-us/statistics/

Container Capacity claimed by Port: Ocean Shipping Consultants Report, 2016, page 225
Forecasts claimed by Port: Ocean Shipping Consultants Report, 2016, page 219
Ocean Shipping Consultants Report, 2016, Studies
https://www.portvancouver.com/about-us/statistics/

Documented Port of Vancouver Container Capacity without Roberts Bank Terminal 2
Endnote 16

Endnotes

[1] Roberts Bank Terminal 2 Project: Environmental Assessment, *Canadian Environmental Assessment Agency,* Documents: Deputy Minister of ECCC and Review Panel: 1486; 1232; 1177; 1121; 1070; 1063; 993; 950; 450; 431,

Deputy Minister of Fisheries and Oceans and Review Panel: 1630; 1485; 1229; 1221; 1201; 1102; 1062; 1057; 988; 994; 969; 959; 951; 461; 432;

Deputy Minister of Health and Review Panel: 1487; 1231; 1214; 1194; 1083; 1066; 1059; 992; 446; 427;

[2] Roberts Bank Terminal 2 Project, Environmental Assessment, Documents: Office of Transport Canada, correspondence with Deputy Minister: 1490; 1404; 1351; 1230; 1178; 1128; 426

[3] It's official — the Harper government muzzled scientists. Some say it's still happening
https://www.cbc.ca/news/health/second-opinion-scientists-muzzled-1.4588913
More than half of federal government scientists still feel muzzled, poll finds
https://www.cbc.ca/news/technology/muzzled-scientists-1.4545562

[4] Port of Vancouver, Newsletter for Government, Sept. 28, 2016:
https://www.ceaa-acee.gc.ca/050/documents/p80054/116082E.pdf
image from Government email shown in RBT2 environmental assessment, Document 1642, p.14

[5] Government of Canada, Responsibility in the Constitution, VI Ministers and Their Departments
https://www.canada.ca/en/privy-council/services/publications/responsibility-constitution.html

[6] Transport Canada, Presentation to the Review Panel, Roberts Bank Terminal 2 Project, January 30, 2019
1404

[7] Review Panel, Roberts Bank Terminal 2 Project, Public Meeting, January 30, 2019, Announcement by Chair, Jocelyn Beaudet, page 7/181, Document #1413.

> "Now, the Panel would like to clarify a few points regarding its mandate. According to CEAA 2012 the Panel is required to look at the purpose of the project but not the need for the project. Its mandate is to examine a specific container terminal proposed by a proponent and evaluate its environmental effects and not where the B.C. West Coast requires the development of a container terminal."

https://www.ceaa-acee.gc.ca/050/documents/p80054/126674E.pdf

[8] Strategic Advisors Report, Asia Pacific Gateway and Corridor Initiative Report and Recommendations, 2008: Burghardt, DeFehr and Turner, Recommendation: 1.7

> 1.7 We recommend that policy makers develop container capacity in Prince Rupert before making investments in Vancouver, beyond what have been announced to date. We believe that capacity can be expanded in Prince Rupert relatively quickly and such a strategy will allow time for Vancouver to develop solutions to its congestion.

Note: this recommendation has been changed since the Report came out. It now reads:

> *1.7* We recommend that development of container capacity in Prince Rupert be given priority over investment in Vancouver. This is more economical, can be done more quickly and will allow time for Vancouver to develop solutions to its congestion.

http://artdefehr.com/documents/bl190-a-asia-pacific-gateway-report-may-28-07-final.pdf

[9] Order in Council 311, August 30, 2019
http://www.bclaws.ca/civix/document/id/oic/OIC_CUR/0311_2017

[10] B.C. Government Environmental Assessment Office (EAO), Roberts Bank Terminal 2, Procedural Order Issued: *Order Under Section 14, Section 41: 4.1.4,* December 19, 2014

> "The Executive Director will consider in the assessment relevant information created by the Gateway Transportation Collaboration Forum to the extent such information is available prior to referral to provincial Ministers for decision as prescribed in Section 4.2"
> https://projects.eao.gov.bc.ca/p/588511e3aaecd9001b8274d4/project-details;currentPage=1;pageSize=10;sortBy=-dateAdded;ms=1568396446043

[11] Gateway Transportation Collaboration Forum is a joint organization of the federal and provincial ministries of transportation, TransLink, Port Metro Vancouver and the Greater Vancouver Gateway Council.
The Greater Vancouver Gateway Council is government and business working together with most of the voting power from business interests. http://www.gvgc.ca/AboutCouncil.aspx

The Gateway Transportation Collaboration Forum plans infrastructure needs and seeks federal funding. The organization plans to use $53 billion tax dollars over 10 years (2014-2024).
Port of Vancouver, Gateway Transportation Collaboration Forum, January 21, 2015
https://www.portvancouver.com/wp-content/uploads/2015/05/January-21-2015-Presentation-Gateway-Transportation-Collaboration-Forum-by-M.-Dekovic-PCLC.pdf

[12] Gateway Transportation Collaboration Forum secures federal funding commitments, September, 2018
http://vancouvergateway.ca/wp-content/uploads/2018/10/GVG2030-Factsheet-September-2018.pdf

[13] Port of Vancouver, Media Release, July 26, 2019
https://www.portvancouver.com/news-and-media/news/vancouver-to-benefit-from-100-million-in-federal-funding-to-support-trade-enabling-infrastructure/

[14] Public Hearing Transcript, RBT2, May 27, 2019, scrolled page 77/287; page 2680
https://iaac-aeic.gc.ca/050/documents/p80054/129998E.pdf

[15] '*The Industrial Land Market and Trade Growth in Metro Vancouver, Oct. 2015*', prepared for Port Metro Vancouver, Site Economics Ltd., Scrolled pages 2, 7, and 78.

> "The container industry with RBT2 will require approximately 2,500 acres of well-located developable industrial land by 2035, even with dramatically improved efficiency". *Scrolled page 7*
>
> ''Agricultural Land Reserve: There is the theoretical potential for lands currently located with the ALR to be redesignated to industrial in order to ensure a strong local economy". *Scrolled page 78*

https://www.portvancouver.com/wp-content/uploads/2015/12/SiteEconomics-Study_MetroVancouver-Industrial-Land-Market.pdf

Robin Silvester: CEO of Port of Vancouver: "I don't think we would be bound (by the Agricultural Land Reserve). As a federal body here at Port Metro Vancouver, we have supremacy," he said."

Richmond mayor sees 'war' with federal port authorities over agricultural land
https://theprovince.com/news/local-news/richmond-mayor-sees-war-with-federal-port-authorities-over-agricultural-land

[16] Prince Rupert Port Authority

Prince Rupert to add second container terminal, quadruple capacity, Vancouver Courier, May 14, 2019
https://www.vancourier.com/prince-rupert-to-add-second-container-terminal-quadruple-capacity-1.23822494

Port of Vancouver

Deltaport: *Deltaport Road and Rail Improvement Project* (DRRIP) confirms that Deltaport, without RBT2, can handle 3 million TEUs by 2020 with the transportation upgrades, intermodal yard reconfiguration and improved efficiencies. The road and rail upgrades have added capacity of 600,000 TEUs and the associated upgrades will further increase capacity.

> "Case 1: Deltaport has a sustainable capacity of 2.4 million TEU. Deltaport has maximum capacity of 3.0 million TEU in the interim years of high demand up to about 2020.
> Cases 2 and 3: Deltaport has a sustainable capacity of 3.0 million TEU."

Projections of Vessel Calls and Movements at Deltaport and Westshore Terminals, Deltaport Terminal Road and Rail Improvement Project (DTRRIP), November 28, 2011, pages 21&22
http://www.robertsbankterminal2.com/wp-content/uploads/Projections-of-Vessel-Calls-and-Movements-at-Deltaport-and-Westshore-Terminals.pdf

Vanterm: GCT Global Container Terminals to invest $160 million in Vanterm, Vancouver Courier, May 10, 2019: "Grosman said the investment would allow the terminal to handle one million 20-foot-equivalent units (TEU) annually."

Centerm: Port Metro Vancouver, Container Capacity Improvement Program, Program Update, November, 2014, Pg. 3
http://www.robertsbankterminal2.com/wp-content/uploads/PMV-Container-Capacity-Improvement-Program-Update-November-2014.pdf

"… Port Metro Vancouver announced that it is considering design options to increase container capacity at the Centerm terminal in the Burrard Inlet, from its current 900,000 TEUs to as much as **1.8 million TEUs**"

Fraser Surrey Docks: Container docks in Surrey idle after $190m expansion, Vancouver Sun, June 21, 2006
http://www.canada.com/vancouversun/news/story.html?id=243c5a27-053e-49c4-8bde-f94f9ffef45d

[17] Insufficient evidence in Introduction, Rationale, Purpose, Forecasts, Container Traffic Capacity, and Alternate Means of Carrying out the Project, Boundary Bay Conservation Committee, page 20/25
https://www.ceaa-acee.gc.ca/050/documents/p80054/125387E.pdf

[18] Insufficient evidence in Introduction, Rationale, Purpose, Forecasts, Container Traffic Capacity, and Alternate Means of Carrying out the Project, Boundary Bay Conservation Committee, pages 2-5/25
https://www.ceaa-acee.gc.ca/050/documents/p80054/125387E.pdf