

Grace, David H EAO:EX

From: MacKnight, Heather FLNR:EX
Sent: Wednesday, May 28, 2014 12:10 PM
To: Hamilton, Chris EAO:EX
Cc: Grace, David H EAO:EX; Gow, Lisa A TRAN:EX; Anderson, Keith FLNR:EX
Subject: RE: Follow-up on Port Metro Vancouver's Habitat Enhancement Program

Hi Chris,

s.13,s.16,s.17

s.22 but if you have any questions in the meantime, please contact Keith Anderson, Manager of Authorizations in the South Coast Region.

Heather

From: Hamilton, Chris EAO:EX
Sent: Thursday, May 22, 2014 3:58 PM
To: MacKnight, Heather FLNR:EX
Cc: Grace, David H EAO:EX; Gow, Lisa A TRAN:EX
Subject: RE: Follow-up on Port Metro Vancouver's Habitat Enhancement Program

Hi again Heather. One of the things we struggle with on the T2 project is compensation and offsetting. DFO usually has a 1:2 or 1:3 ration for compensation, so a 200 ha project has the potential to require hundreds of ha of compensation. The EA Act trigger for ports is disturbance of more than 1000 meters of linear foreshore or 2ha of submerged land. To date, PMV has maintained that they will identify compensation during the EA. However, we know that they continue to pressure EAO exempt all their habitat banking proposals along the Fraser River, at least some of which we expect to be used for T2. We exempted one habitat banking program last year, s.13,s.17

s.13,s.17

For your specific question about dredging, the Act says that "periodic maintenance dredging for an existing facility is not reviewable." But any dredging for a new project would be. I hope that helps.

Let's chat next week, or feel free to call David, who is my colleague on the T2 project.

C

Chris Hamilton

Executive Project Director

British Columbia Environmental Assessment Office

phone 250.387.1032 cel 250.213.9032 fax 250.387.2208

From: MacKnight, Heather FLNR:EX

Sent: Wednesday, May 21, 2014 4:46 PM

To: Hamilton, Chris EAO:EX

Subject: RE: Follow-up on Port Metro Vancouver's Habitat Enhancement Program

Hi Chris,

I've been trying to find someone in EAO who can help me on a related matter and it looks like you might be it! In statusing the land for the T2 project, we became aware of the attached OIC 908 from 1977. s.13,s.16

s.13,s.16

Heather MacKnight

Regional Executive Director, South Coast

Ministry of Forests, Lands and Natural Resource Operations

604-586-2892

From: Hamilton, Chris EAO:EX

Sent: Wednesday, May 21, 2014 4:09 PM

To: 'Ruffo, Gord'

Cc: 'Scoble, Jemma'; Berthin, Helen C TRAN:EX; Grace, David H EAO:EX; MacKnight, Heather FLNR:EX

Subject: RE: Follow-up on Port Metro Vancouver's Habitat Enhancement Program

Hi Gord, thanks. I was just talking to some of my colleagues at MOTI and I understand that we might not quite have consensus on the scoping of these habitat banking programs and whether they are included as part of the T2 project. You will recall me mentioning this several times. I will probably want to chat a bit with FLNRO and MOTI and get back to you with a bit of a strategy. I actually won't be in Vancouver this week but hope to find some time over the next few weeks.

Chris

Chris Hamilton

Executive Project Director

British Columbia Environmental Assessment Office

phone 250.387.1032 cel 250.213.9032 fax 250.387.2208

From: Ruffo, Gord [<mailto:Gord.Ruffo@portmetrovanancouver.com>]
Sent: Tuesday, May 20, 2014 11:37 AM
To: Hamilton, Chris EAO:EX
Cc: Scoble, Jemma
Subject: Follow-up on Port Metro Vancouver's Habitat Enhancement Program

Hi Chris

We have been looking for an opportunity to meet up with you to continue our discussions on our Habitat Enhancement Program with regard to our projects that could trigger a review by the BCEAO. At our meeting in March, you had requested that we include Sharleen Dumont in this discussion to establish the process for PMV advancing its habitat projects and the role of the BCEAO. I understand from Jemma that you may be in Vancouver on Thursday and may have time for this discussion. I will send a meeting invitation and hopefully this works for you.

Thanks – we appreciate your time.

Gord Ruffo P.Eng.
Program Manager
Habitat Enhancement Program



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Please consider the environment before printing this email

Grace, David H EAO:EX

From: MacKnight, Heather FLNR:EX
Sent: Wednesday, June 18, 2014 2:31 PM
To: Grace, David H EAO:EX
Subject: Out of Office: REQUEST: Legal Advice on Conditions of an Authorization for Habitat Bank Site Development

s.22

(5)

of 63

Page 05 to/à Page 09

Withheld pursuant to/removed as

s.14;s.16;s.13

Grace, David H EAO:EX

From: Grace, David H EAO:EX
Sent: Thursday, August 21, 2014 4:53 PM
To: Berthin, Helen C TRAN:EX; MacKnight, Heather FLNR:EX
Cc: Strueby, Earl TRAN:EX; Hamilton, Chris EAO:EX; Anderson, Keith FLNR:EX; Crozier, David TRAN:EX; Vinette, Nicole EAO:EX
Subject: RBT2 Habitat Banking issue

Hi there and FYI,

PMV shared their "concept" paper on habitat banking (see attached email) and CEAA responded (second attached email)

Chris and I participated in a call today with PMV and CEAA to discuss the issue.

s.13,s.16

I have also share the attached with JAG (Lisa, Chris, Debbie and Jeff).

Feel free to give Chris or I a call if you would like to discuss.

David

David Grace

Project Assessment Manager | BC Environmental Assessment Office
Tel: 250 387-1417 | Fax: 250-387-2208
Cell: 250 818-7485 | david.grace@gov.bc.ca



FW: PMV's

Proposed Appro...



RE: PMV's

Proposed Appro...

From: Grace, David H EAO:EX

Sent: Wednesday, June 18, 2014 2:31 PM

To: Anderson, Keith FLNR:EX; Berthin, Helen C TRAN:EX; McBain, Lisa JAG:EX

Cc: MacKnight, Heather FLNR:EX; Brace, Andrea JAG:EX; Trotter, Ward FLNR:EX; Woodland, Tracey FLNR:EX; Psyllakis, Jennifer FLNR:EX; Gow, Lisa A TRAN:EX; Zigay, Michelle TRAN:EX; Strueby, Earl TRAN:EX; Hamilton, Chris EAO:EX

Subject: RE: REQUEST: Legal Advice on Conditions of an Authorization for Habitat Bank Site Development

Grace, David H EAO:EX

From: Robertson, Kyle <Kyle.Robertson@portmetrovanancouver.com>
Sent: Friday, August 15, 2014 9:58 AM
To: 'Myles,Debra [CEAA]'; Hamilton, Chris EAO:EX; Grace, David H EAO:EX; McLean,Robyn [CEAA]; Saely,Analise [CEAA]
Cc: Hunter, Rhona; Dumont, Sharleen; celesa. horvath@ventus. ca (celesa.horvath@ventus.ca); Matt Skinner; Lachmann, Michelle
Subject: FW: PMV's Proposed Approach to Describing Marine Habitat Mitigation in RBT2 EIS
Attachments: 2014-07-17-03-30704-HEM-EAO BN RBT2 Mitigation Plan_DFO_CEEA.PDF

Debra,

Please find below DFO's response to our proposed approach to describing marine habitat mitigation in the EIS. Based on their feedback, we believe we'll meet their expectations for the review and Fisheries Act Authorisation requirements s.13

We'll await CEAA's response as to whether the approach is reasonable and satisfies the requirements for the completeness review.

I am also sharing the proposed approach with BCEAO in advance of CEAA's response and would like to plan a meeting next week between BCEAO / CEAA to discuss this and other forthcoming developments for RBT2 (i.e. Panel TOR, Fall Public & FN Consultation, etc.).

ALL: Please advise of your availability late next week (Wed-Fri) for a ~ 1.5hr meeting and if there are any other agenda items you'd like to add to the discussion. I'm proposing Wednesday afternoon or anytime Friday.

If you have any questions or concerns, please do not hesitate to contact me at your convenience.

Kind regards,

KYLE ROBERTSON, M.Sc., P.Eng.
Manager, Environmental Assessment & Permitting
Container Capacity Improvement Program



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From: Magnan, Alain [mailto:Alain.Magnan@dfo-mpo.gc.ca]
Sent: August-15-14 8:09 AM
To: Robertson, Kyle; Antcliffe, Bonnie
Cc: Hunter, Rhona; Matt Skinner; Dumont, Sharleen
Subject: RE: PMV's Proposed Approach to Describing Marine Habitat Mitigation in RBT2 EIS

Kyle,

Further to our discussions, the following is provided in response to Port Metro Vancouver's proposed approach to describing marine habitat mitigation for the Delta Port expansion project.

In reviewing the memo, DFO feels it accurately, albeit generally-summarizes the regulatory framework governing the RBT2 development and the process by which the PMV's Habitat Enhancement Program is carried out.

With regards to the proposed approach to addressing mitigation in the RBT2 EIS, DFO must defer to CEAA in regards to whether the approach as outlined will explicitly satisfy the requirements of EIS guidelines for which CEAA is the administrative authority. I trust the Panel Manager will provide you with the information necessary to clarify this uncertainty.

s.13,s.16

If required, we can discuss this issue in greater detail when we meet in person next Monday.

Yours truly,

Alain (Al) Magnan, RPBio

A/Manager - Regulatory Reviews | Interiminaire/Gestionnaire - Examens Réglementaires
Fisheries Protection Program | Programme de Protection des Pêches
Fisheries and Oceans Canada | Pêches et Océans Canada
Pacific Region | Région du Pacifique
Government of Canada | Gouvernement du Canada
3190 Hammond Bay Road, Nanaimo, BC V9T 6N7
alain.magnan@dfo-mpo.gc.ca | Tel: 250-756-7021

From: Robertson, Kyle [<mailto:Kyle.Robertson@portmetrovanancouver.com>]

Sent: 2014–August-14 6:07 PM

To: Antcliffe, Bonnie; Magnan, Alain

Cc: Hunter, Rhona; Matt Skinner; Dumont, Sharleen

Subject: RE: PMV's Proposed Approach to Describing Marine Habitat Mitigation in RBT2 EIS

Alain,

Further to my voice mails, I was hoping you might be able to provide me a status update on when we might hear DFO's response to PMV's proposed approach to describing marine habitat mitigation in the RBT2 EIS (attached).

In speaking with Analise yesterday, I understand there may have been concern regarding accommodation of FN Rights through the use of the Habitat Bank.

PMV acknowledges that DFO will consult with Aboriginal groups prior to agreeing to the withdrawal of credits from the bank to ensure that impacts to the exercise of Aboriginal rights have been adequately addressed.

I would like to include this discussion to our agenda on Monday as understanding DFO's position is critical to the development of the RBT2 EIS and PMV's Habitat Enhancement Program going forward.

Let me know of any questions or concerns you may have.

Kind regards,

KYLE ROBERTSON, M.Sc., P.Eng.

Manager, Environmental Assessment & Permitting
Container Capacity Improvement Program



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From: Loth-Bown, Christine [<mailto:Christine.Loth-Bown@dfo-mpo.gc.ca>]

Sent: July-21-14 10:56 AM

To: Robertson, Kyle; Hunter, Rhona; Winfield, Nicholas; Nutton, Byron; Antcliffe, Bonnie; Magnan, Alain

Cc: Ruffo, Gord; Dumont, Sharleen; Matt Skinner; Stewart, Andrew

Subject: Re: PMV's Proposed Approach to Describing Marine Habitat Mitigation in RBT2 EIS

Thank you Kyle for sending this letter. By way of this email, I will ask Nick and Bonnie to review and get back to you to advise on DFO's views and perspectives.

Thanks

Christine

Christine Loth-Bown
Director General
Ecosystems Management

From: Robertson, Kyle
Sent: Thursday, July 17, 2014 8:38 PM
To: Hunter, Rhona; Loth-Bown, Christine; Winfield, Nicholas; Nutton, Byron
Cc: Ruffo, Gord; Dumont, Sharleen; Matt Skinner
Subject: PMV's Proposed Approach to Describing Marine Habitat Mitigation in RBT2 EIS

Christine,

Further to our earlier discussions regarding our challenges with the Province granting permits to advance our Habitat Enhancement Program Projects for the Habitat Bank, I would like to share our proposed approach to describing marine habitat mitigation in the RBT2 EIS for DFO's comment.

I understand our proposed approach is consistent with standard EA practice and the expectations of DFO, but I wanted to confirm this prior to sharing this memo with the BC Environmental Assessment Office for their consideration. I will also be discussing the matter with our Panel Manager at CEAA as it relates to the approach meeting their expectations for the completeness review of the EIS.

If you or your staff have any questions or concerns, please do not hesitate to contact me at your convenience.

Kind regards,

KYLE ROBERTSON, M.Sc., P.Eng.
Manager, Environmental Assessment & Permitting
Container Capacity Improvement Program



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Port Metro Vancouver
Proposed Approach to Describing Marine Habitat Mitigation in RBT2 EIS

July 17, 2014

PURPOSE

This memo summarizes how Port Metro Vancouver (PMV) proposes to describe mitigation of adverse project-related effects on marine habitat in the RBT2 Environmental Impact Statement (EIS) to satisfy the requirements of the EIS Guidelines. The purpose of this memo is to assist regulatory agencies to understand the role of PMV's Habitat Enhancement Program (HEP), and in particular PMV's Habitat Bank, in the approach to marine habitat mitigation for the RBT2 Project.

REGULATORY FRAMEWORK

- The RBT2 EIS Guidelines (Jan. 7, 2014) outline requirements for describing specific commitments to mitigation measures in the EIS (more details attached).
- Construction of the RBT2 Project will require an Authorization under the *Fisheries Act* and must comply with the *Species at Risk Act*, both of which are expected to require mitigation, which may include offsetting.
- The *Fisheries Act* and Fisheries Productivity Investment Policy guide proponents on offsetting requirements to address project-related effects to fish and fish habitat.
- The use of PMV's Habitat Bank within its Habitat Enhancement Program (HEP), described below, is consistent with Fisheries and Oceans Canada's (DFO) new policy.
- In some cases, a habitat enhancement project may involve shoreline modification or disturbance of foreshore or submerged land that constitutes a reviewable project pursuant to the *Reviewable Projects Regulation* under the *BC Environmental Assessment Act*. In such cases, the BC Environmental Assessment Office (EAO) must determine whether an Environmental Assessment Certificate (EAC) is required. To date, EAO has determined that reviewable habitat enhancement projects proposed by PMV do not require an EAC.

PMV'S HABITAT ENHANCEMENT PROGRAM

- The Habitat Enhancement Program (HEP) is a PMV initiative focused on creating and enhancing fish and wildlife habitat in the port. Increases in habitat productivity that result from habitat enhancement projects carried out under the HEP are recorded in PMV's Habitat Bank. A habitat enhancement project may generate multiple units and types of productivity for various fish and wildlife species. Each habitat enhancement project and the productivity it generates is reviewed and confirmed by DFO. Once units of productivity have been confirmed, they may be withdrawn from the Habitat Bank to offset remaining adverse effects (*i.e.*, those that are not technically or

(23) of 63

economically feasible to avoid, eliminate, or reduce) on fish habitat productivity resulting from port development projects. Withdrawals may also comprise multiple units and types of productivity, depending on the nature of the adverse effects being offset. The productivity units generated by any one habitat enhancement project carried out under the HEP may be used by any one or multiple port development projects, as determined by DFO.

- Creating and enhancing habitat ahead of proposed port development projects allows for the productivity of that habitat to be verified by regulators, prior to those productivity units being applied to offset an adverse effect of a port development project. This effectively removes the temporal lag in productivity that would occur if habitat creation or enhancement is advanced *after* the loss of habitat due to a port development project that has already occurred.
- Prior to undertaking a habitat enhancement project under the HEP, PMV consults with regulatory agencies, First Nations, communities, and the public with respect to its planning, design, implementation, and monitoring.
- Prior to the use or “withdrawal” of Habitat Bank productivity units or “credits”, those productivity units are reviewed by DFO to ensure they are appropriate (*e.g.*, supporting similar species or habitat types) to offset the predicted adverse effects of the specific port development project.
- PMV has been undertaking habitat creation and enhancement works since 1991. In July 2012, PMV and DFO signed a working agreement¹ on the procedures for the development and operation of PMV’s Habitat Bank.

PROPOSED APPROACH TO ADDRESSING MITIGATION IN RBT2 EIS

- PMV is taking an ecosystem approach to assessing the potential environmental effect of the RBT2 Project on the ongoing productivity of Roberts Bank. Using an ecosystem approach to measure changes in productivity is consistent with recent amendments to the *Fisheries Act*, the Fisheries Productivity Investment Policy (November 2013), and advice provided by DFO through RBT2’s Technical Advisory Group process.
- The EIS will describe changes in ongoing productivity in terms of biomass (tonnes per year), rather than habitat area (hectares). These changes will be used to determine the need for and scope of mitigation, including offsetting.
- In accordance with the requirements outlined in the EIS Guidelines, the EIS will describe mitigation of adverse effects on marine habitat productivity. This will include:
 - **Mitigation by Design:** The EIS will specify the actions, works, minimal disturbance footprint techniques, best available technology, corrective measures, or additions planned during the Project to avoid, eliminate, or reduce potential adverse effects on marine habitat productivity.
 - **Project-Specific Mitigation:** Technically and economically feasible Project-specific mitigation measures, including habitat enhancement in the immediate Project area, will be described in detail in the EIS. Measures will be written as specific commitments that describe how PMV intends to implement them.

¹ The Working Agreement concerning Procedures for the Development and Operation of PMV’s Habitat Bank is available online:
<http://porttalk.ca/document/show/355>

- **Offsetting:** The EIS will describe how PMV proposes to offset remaining Project-related adverse effects on marine habitat. The EIS will include a description of PMV's experience with habitat creation, enhancement, and compensation, a description of the HEP and Habitat Bank, a general description of potential offsetting opportunities in the port (either constructed or planned, and those that are already in the Bank and those that are not), and the process by which PMV would work with regulators to determine the appropriateness of withdrawals from the Habitat Bank and the need for and scope and adequacy of additional offsetting. Confirmation by DFO of the suitability of Habitat Bank credits to offset remaining adverse effects of the RBT2 Project is expected to occur prior to issuance of a *Fisheries Act* Authorization (anticipated after completion of the EA process).
- **Complementary Measures:** The EIS may describe proposed complementary measures (if required), such as investments in data collection and scientific research related to maintaining or enhancing the productivity or knowledge of species, habitat and the ecosystem, or funding of programs operated by local stewardship groups, if any.

SUMMARY

- The RBT2 EIS will provide sufficient detail on proposed mitigation, including offsetting, to satisfy the requirements of the EIS Guidelines (Jan. 7, 2014).
- The offsetting requirements for the RBT2 Project will be based on predicted Project-related changes to the ongoing productivity of Roberts Bank measured in biomass (tonnes per year), rather than hectares of habitat.
- No existing or planned habitat enhancement project under the HEP is expected to be exclusively tied to RBT2 alone. Productivity units generated by existing or planned habitat enhancement projects may be used to offset adverse effects of one or more port development projects in PMV's jurisdiction.
- An Offsetting Plan will be prepared to meet DFO's requirements for a *Fisheries Act* Authorization, which would be issued after completion of the EA process.
- Habitat enhancement projects under the HEP undergo project-specific consultation and permitting on a project-by-project basis.
- The key benefit of the Habitat Bank is to minimize temporal lag in habitat productivity and potential requirements for additional offsetting to address this temporal lag.

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Attachment: Relevant references to mitigation measures in the EIS Guidelines, Jan. 7, 2014

<p>Section 3.1: Scope of Project</p>	<ul style="list-style-type: none"> • <i>"Finally, it is understood that some elements of the project must still be defined and that it will be necessary to include in the scope of the project, among other things, the environmental mitigation and compensation measures that would require the construction and management of works that may cause effects (e.g. sills, spits, upstream and downstream migration works for fish, temperature control structures, minimum flow control structures and management)."</i>
<p>Section 3.2: Scope of Assessment</p>	<ul style="list-style-type: none"> • <i>"For the purposes of this project, the scope of the assessment should include the effects of project components and activities on the environment, including those that may extend beyond the scope of the project.</i> • <i>... factors to be considered in this environmental assessment include:</i> <ul style="list-style-type: none"> ○ <i>Mitigation measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project;</i>
<p>Section 11: Mitigation</p>	<ul style="list-style-type: none"> • <i>The EIS will then describe mitigation measures that are specific to each environmental effect identified in section 10 (Effects Assessment). Measures will be written as specific commitments that clearly describe how the proponent intends to implement them. Where mitigation measures have been identified in relation to species listed under the Species at Risk Act or critical habitat, the mitigation measures will be consistent with any applicable recovery strategy and action plans.</i> • <i>The EIS will specify the actions, works, minimal disturbance footprint techniques, best available technology, corrective measures or additions planned during the project's various phases (construction, operation, modification, or other undertaking related to the project) to eliminate or reduce the significance of adverse effects.</i>

Full references in EIS Guidelines (<http://www.ceaa-acee.gc.ca/050/documents/p80054/97463E.pdf>)

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Grace, David H EAO:EX

From: Myles,Debra [CEAA] <Debra.Myles@ceaa-acee.gc.ca>
Sent: Wednesday, August 20, 2014 2:11 PM
To: Robertson, Kyle
Cc: Hamilton, Chris EAO:EX; Grace, David H EAO:EX; McLean,Robyn [CEAA]; Saely,Analise [CEAA]
Subject: RE: PMV's Proposed Approach to Describing Marine Habitat Mitigation in RBT2 EIS

Kyle,

The following is provided in response to your email of August 15th inquiring as to whether the approach proposed by PMV to Marine Habitat Mitigation is reasonable and will satisfy the requirements of the Agency EIS completeness review.

Prior to receiving the final EIS, it is not possible for the Agency to determine or judge whether any particular approach or methodology will meet the requirements of the completeness review. In order for the Agency to determine that the EIS is complete, information about the proposed mitigation, including potential offsets done through a habitat banking program, must be present in the EIS in a manner that fully reflects the requirements of Section 11 of the EIS Guidelines.

s.13,s.16

In preparing the EIS, the proponent will ensure that Aboriginal people and groups have access to the information that they require in respect of the project and of how it may impact them. The proponent will describe all efforts, successful or not, taken to solicit the information required to prepare the EIS.

Debra Myles

Panel Manager | Gestionnaire de commission
Canadian Environmental Assessment Agency | Agence canadienne d'évaluation environnementale
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Telephone | Téléphone 613-957-0626
debra.myles@ceaa-acee.gc.ca

From: Myles,Debra [CEAA] [<mailto:Debra.Myles@ceaa-acee.gc.ca>]
Sent: August-15-14 2:26 PM
To: Robertson, Kyle
Cc: Chris.Hamilton@gov.bc.ca; Haddon,David [CEAA]; McLean,Robyn [CEAA]; Saely,Analyse [CEAA]
Subject: FW: PMV's Proposed Approach to Describing Marine Habitat Mitigation in RBT2 EIS

Thank you Kyle. We will get back to you early next week.

Debra

From: Robertson, Kyle [<mailto:Kyle.Robertson@portmetrovanancouver.com>]
Sent: August 15, 2014 12:58 PM
To: Myles,Debra [CEAA]; Hamilton, Chris EAO:EX; 'Grace, David H EAO:EX'; McLean,Robyn [CEAA]; Saely,Analyse [CEAA]
Cc: Hunter, Rhona; Dumont, Sharleen; celesa.horvath@ventus.ca (celesa.horvath@ventus.ca); Matt Skinner;

Grace, David H EAO:EX

From: MacKnight, Heather FLNR:EX
Sent: Friday, August 22, 2014 7:56 AM
To: Grace, David H EAO:EX
Cc: Anderson, Keith FLNR:EX
Subject: RE: RBT2 Habitat Banking issue

Thanks, David. How are provincial laws being figured into the CEAA? For example, two Wildlife Management Areas (WMAs) have been identified by PMV for habitat mitigation, including the Robert's Bank WMA. We would want to ensure that PMV seeks the necessary authority under the Wildlife Act to use the WMAs for mitigation, and in making their statutory decision on the mitigation, the CEAA panel was aware as to whether or not the WMA was authorized for this purpose.

From: Grace, David H EAO:EX
Sent: Thursday, August 21, 2014 4:53 PM
To: Berthin, Helen C TRAN:EX; MacKnight, Heather FLNR:EX
Cc: Strueby, Earl TRAN:EX; Hamilton, Chris EAO:EX; Anderson, Keith FLNR:EX; Crozier, David TRAN:EX; Vinette, Nicole EAO:EX
Subject: RBT2 Habitat Banking issue

Hi there and FYI,

PMV shared their "concept" paper on habitat banking (see attached email) and CEAA responded (second attached email)

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s.13,s.16

I have also share the attached with JAG (Lisa, Chris, Debbie and Jeff).

Feel free to give Chris or I a call if you would like to discuss.

David

David Grace
Project Assessment Manager | BC Environmental Assessment Office

Grace, David H EAO:EX

From: Grace, David H EAO:EX
Sent: Friday, August 22, 2014 9:43 AM
To: MacKnight, Heather FLNR:EX
Cc: Anderson, Keith FLNR:EX; Hamilton, Chris EAO:EX; Vinette, Nicole EAO:EX
Subject: RE: RBT2 Habitat Banking issue

Hi Heather,

The CEAA approved EIS guidelines describe what PMV must include in their EIS (EA application) and can be found on the registry at:

<http://www.ceaa-acee.gc.ca/050/documents-eng.cfm?evaluation=80054&type=1>

However, that being said the independent Panel can request any information that they deem necessary. The Panel has not yet been appointed. PMV has committed to address Provincial requirements in their application. We will ask PMV about their intention to use the necessary "authority under the Wildlife Act to use the WMAs for mitigation".

s.13,s.16

FYI, the EIS guidelines require the Application to include:

6.2 Regulatory Framework and the Role of Government

To understand the context of the EA, this section will identify, for each jurisdiction, the government bodies involved in the EA as well as the EA processes. More specifically, it will identify:

- any federal power duty or function to be exercised that may permit the carrying out (in whole or in part) of the project or associated activities;
- environmental and other specific regulatory approvals and legislation that are applicable to the project at the federal, provincial, regional and municipal levels;
- any differences in the scope of assessment between the federal and provincial environmental assessments for this proposed project and include a concordance table which lists the locations within the EIS where specific provincial requirements are addressed;
- government policies, resource management, planning or study initiatives pertinent to the project and EA and discuss their implications;
- any treaty or self-government agreements with Aboriginal groups that are pertinent to the project or EA;
- any relevant Land Use Plans, Land Zoning, Community Plans, or Aboriginal communities' plans or initiatives; and
- a summary of the objectives, standards or guidelines that have been used by the proponent to assist in the evaluation of any predicted environmental effects.

In planning for a port proposal in coastal British Columbia and in developing the EIS and technical supporting documentation, the proponent is advised to consider the document entitled "Climate Change Adaptation Guidelines for Sea Dikes and Coastal Flood Hazard Land Use: Sea Level Rise Guidelines for the Management of Coastal Flood Hazard Land Use (Process Infrastructure: Ports, Marine, and Offshore)" published by the British Columbia Ministry of Environment in 2011 or any subsequent replacement guidelines.

The submission of additional regulatory and technical information, necessary for federal authorities to make their regulatory decisions during the conduct of the environmental assessment is at the discretion of the proponent. Although that information is not necessary for the EA decision, the proponent is strongly encouraged to submit it concurrently with the EIS to ensure timely completion of regulatory reviews.

Grace, David H EAO:EX

From: MacKnight, Heather FLNR:EX
Sent: Tuesday, August 26, 2014 8:33 AM
To: Grace, David H EAO:EX
Cc: Anderson, Keith FLNR:EX; Hamilton, Chris EAO:EX; Vinette, Nicole EAO:EX
Subject: RE: RBT2 Habitat Banking issue

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Heather

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<http://www.ceaa-acee.gc.ca/050/documents-eng.cfm?evaluation=80054&type=1>

However, that being said the independent Panel can request any information that they deem necessary. The Panel has not yet been appointed. PMV has committed to address Provincial requirements in their application. We will ask PMV about their intention to use the necessary "authority under the Wildlife Act to use the WMAs for mitigation".

s.13,s.16

FYI, the EIS guidelines require the Application to include:

6.2 Regulatory Framework and the Role of Government

To understand the context of the EA, this section will identify, for each jurisdiction, the government bodies involved in the EA as well as the EA processes. More specifically, it will identify:

- any federal power duty or function to be exercised that may permit the carrying out (in whole or in part) of the project or associated activities;

- environmental and other specific regulatory approvals and legislation that are applicable to the project at the federal, provincial, regional and municipal levels;

- any differences in the scope of assessment between the federal and provincial environmental assessments for this proposed project and include a concordance table which lists the locations within the EIS where specific provincial requirements are addressed;
- government policies, resource management, planning or study initiatives pertinent to the project and EA and discuss their implications;
- any treaty or self-government agreements with Aboriginal groups that are pertinent to the project or EA;
- any relevant Land Use Plans, Land Zoning, Community Plans, or Aboriginal communities' plans or initiatives; and
- a summary of the objectives, standards or guidelines that have been used by the proponent to assist in the evaluation of any predicted environmental effects.

In planning for a port proposal in coastal British Columbia and in developing the EIS and technical supporting documentation, the proponent is advised to consider the document entitled "Climate Change Adaptation Guidelines for Sea Dikes and Coastal Flood Hazard Land Use: Sea Level Rise Guidelines for the Management of Coastal Flood Hazard Land Use (Process Infrastructure: Ports, Marine, and Offshore)" published by the British Columbia Ministry of Environment in 2011 or any subsequent replacement guidelines.

The submission of additional regulatory and technical information, necessary for federal authorities to make their regulatory decisions during the conduct of the environmental assessment is at the discretion of the proponent. Although that information is not necessary for the EA decision, the proponent is strongly encouraged to submit it concurrently with the EIS to ensure timely completion of regulatory reviews.

I hope this helps for now.

From: MacKnight, Heather FLNR:EX
Sent: Friday, August 22, 2014 7:56 AM
To: Grace, David H EAO:EX
Cc: Anderson, Keith FLNR:EX
Subject: RE: RBT2 Habitat Banking issue

Thanks, David. How are provincial laws being figured into the CEAA? For example, two Wildlife Management Areas (WMAs) have been identified by PMV for habitat mitigation, including the Robert's Bank WMA. We would want to ensure that PMV seeks the necessary authority under the Wildlife Act to use the WMAs for mitigation, and in making their statutory decision on the mitigation, the CEAA panel was aware as to whether or not the WMA was authorized for this purpose.

From: Grace, David H EAO:EX
Sent: Thursday, August 21, 2014 4:53 PM
To: Berthin, Helen C TRAN:EX; MacKnight, Heather FLNR:EX
Cc: Strueby, Earl TRAN:EX; Hamilton, Chris EAO:EX; Anderson, Keith FLNR:EX; Crozier, David TRAN:EX; Vinette, Nicole EAO:EX
Subject: RBT2 Habitat Banking issue

Hi there and FYI,

PMV shared their "concept" paper on habitat banking (see attached email) and CEAA responded (second attached email)

Chris and I participated in a call today with PMV and CEAA to discuss the issue.

s.13,s.16

I have also share the attached with JAG (Lisa, Chris, Debbie and Jeff).

Feel free to give Chris or I a call if you would like to discuss.

David

David Grace

Project Assessment Manager | BC Environmental Assessment Office
Tel: 250 387-1417 | Fax: 250-387-2208
Cell: 250 818-7485 | david.grace@gov.bc.ca

<< Message: FW: PMV's Proposed Approach to Describing Marine Habitat Mitigation in RBT2 EIS >> << Message: RE: PMV's Proposed Approach to Describing Marine Habitat Mitigation in RBT2 EIS >>

From: Grace, David H EAO:EX

Sent: Wednesday, June 18, 2014 2:31 PM

To: Anderson, Keith FLNR:EX; Berthin, Helen C TRAN:EX; McBain, Lisa JAG:EX

Cc: MacKnight, Heather FLNR:EX; Brace, Andrea JAG:EX; Trotter, Ward FLNR:EX; Woodland, Tracey FLNR:EX; Psyllakis, Jennifer FLNR:EX; Gow, Lisa A TRAN:EX; Zigay, Michelle TRAN:EX; Strueby, Earl TRAN:EX; Hamilton, Chris EAO:EX

Subject: RE: REQUEST: Legal Advice on Conditions of an Authorization for Habitat Bank Site Development

s.13,s.14,s.16

Grace, David H EAO:EX

From: Grace, David H EAO:EX
Sent: Tuesday, August 26, 2014 1:29 PM
To: Anderson, Keith FLNR:EX
Cc: Hamilton, Chris EAO:EX; Cavill, Jacqueline FLNR:EX; MacKnight, Heather FLNR:EX; Crozier, David TRAN:EX; Berthin, Helen C TRAN:EX; Vinette, Nicole EAO:EX
Subject: RE: Port Metro T2 expansion

Hi Keith,

s.22

s.13,s.16

When I get back in the office tomorrow I will book some time for a call.

Regards,
David

From: Anderson, Keith FLNR:EX
Sent: Tuesday, August 26, 2014 10:53 AM
To: Grace, David H EAO:EX
Cc: Hamilton, Chris EAO:EX; Cavill, Jacqueline FLNR:EX; MacKnight, Heather FLNR:EX; Crozier, David TRAN:EX; Berthin, Helen C TRAN:EX
Subject: Port Metro T2 expansion

Good Morning David.

I was talking this morning to Heather MacKnight and to MOTI regarding the PMV T2 Terminal expansion proposal.

FLNR wants to make sure that we are, from the beginning, part of both the EAO and CEAA processes. We would also like to make sure that the FLNR application process and the EAO are concurrent permitting. To that end we need to know when is the best time to have PMV submit an application for a *Land Act* tenure for the T2 terminal site, and also for other sites that will be used for habitat mitigation for T2. We especially want to determine who is going to take the lead on First Nations Consultation for the EAO Certificate, the CEAA authorization and how that will relate to the FN Consultation that FLNR must undertake as part of the *Land Act* review process. Again this is something that we would like to see run as part of the concurrent permitting process.

s.13,s.16

I would like to discuss this with you further.
Please let me know when would be a good time for us to talk,
thanks

Keith Anderson

Acting Director, Authorizations

South Coast Natural Resource Region

Ministry of Forests, Lands and Natural Resource Operations

Suite 200, 10428 153rd Street

Surrey BC V3R 1E1

http://www.for.gov.bc.ca/Land_Tenures/crown_land_application_information/policies.html

Grace, David H EAO:EX

Subject: FW: RBT2
Location: conference call

Start: Thu 8/28/2014 9:30 AM
End: Thu 8/28/2014 10:00 AM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Grace, David H EAO:EX

-----Original Appointment-----

From: Grace, David H EAO:EX

Sent: Wednesday, August 27, 2014 1:33 PM

To: Grace, David H EAO:EX; Hamilton, Chris EAO:EX; Anderson, Keith FLNR:EX; MacKnight, Heather FLNR:EX; Crozier, David TRAN:EX; Berthin, Helen C TRAN:EX; Strueby, Earl TRAN:EX

Subject: RBT2

When: Thursday, August 28, 2014 9:30 AM-10:00 AM (UTC-08:00) Pacific Time (US & Canada).

Where: conference call

Hi there,

I have booked this time (apologies as it is over lunch) to discuss RBT2. Most of your calendars are jammed.

Let me know if this time can't work?

Conference call #s.17

Participant # s.17

Grace, David H EAO:EX

From: MacKnight, Heather FLNR:EX
Sent: Wednesday, August 27, 2014 4:04 PM
To: Grace, David H EAO:EX
Subject: Accepted: RBT2

Grace, David H EAO:EX

From: MacKnight, Heather FLNR:EX
Sent: Wednesday, August 27, 2014 4:21 PM
To: Hamilton, Chris EAO:EX
Cc: McBain, Lisa JAG:EX; Grace, David H EAO:EX; Vinette, Nicole EAO:EX; Anderson, Keith FLNR:EX; Gow, Lisa A TRAN:EX; Watson, Lori A EAO:EX
Subject: Re: Westam Island and T2

s.13,s.14,s.16

Requirement for environmental assessment certificate

8 (1) Despite any other enactment, a person must not

- (a) undertake or carry on any activity that is a reviewable project, or
- (b) construct, operate, modify, dismantle or abandon all or part of the facilities of a reviewable project,

unless

- (c) the person first obtains an environmental assessment certificate for the project, or
- (d) the executive director, under section 10 (1) (b), has determined that an environmental assessment certificate is not required for the project.

(2) Despite any other enactment, if an environmental assessment certificate has been issued for a reviewable project, a person must not

- (a) undertake or carry on an activity that is authorized by the certificate, or

(b) construct, operate, modify, dismantle or abandon all or part of the project facilities that are authorized by the certificate,

except in accordance with the certificate

Effect on approvals under other enactments

9 (1) Despite any other enactment, a minister who administers another enactment, or an employee or agent of the government or of a municipality or regional district, must not issue an approval under another enactment for a person to

(a) undertake or carry on an activity that is a reviewable project, or

(b) construct, operate, modify, dismantle or abandon all or part of the facilities of a reviewable project,

unless satisfied that

(c) the person has a valid environmental assessment certificate for the reviewable project, or

(d) there is in effect a determination under section 10 (1) (b) that an environmental assessment certificate is not required for the project.

(2) Despite any other enactment, an approval under another enactment is without effect if it is issued contrary to subsection (1).

From: MacKnight, Heather FLNR:EX

Sent: Wednesday, May 28, 2014 12:10 PM

To: Hamilton, Chris EAO:EX

Cc: Grace, David H EAO:EX; Gow, Lisa A TRAN:EX; Anderson, Keith FLNR:EX

Subject: RE: Follow-up on Port Metro Vancouver's Habitat Enhancement Program

Hi Chris,

s.13,s.16

s.22

but if you have any questions in the meantime, please contact Keith Anderson, Manager of Authorizations in the South Coast Region.

Heather

Chris Hamilton

Executive Project Director

