

**IN THE MATTER OF THE ENVIRONMENTAL ASSESSMENT ACT S.B.C. 2002, c.43
(ACT)
AND
AN ENVIRONMENTAL ASSESSMENT OF THE
WESPAC TILBURY MARINE JETTY PROJECT (proposed Project)
ORDER UNDER SECTION 13 AMENDING SECTION 11 ORDER**

WHEREAS:

- A. On May 6, 2015, under Section 10(1)(c) of the Act, the Project Assessment Manager issued an Order to WesPac Midstream-Vancouver LLC (Proponent), designating the proposed Project as a reviewable project, requiring an Environmental Assessment Certificate, and ordering that the Proponent may not proceed with the proposed Project without an Environmental Assessment Certificate.
- B. The Executive Director has delegated to the undersigned, powers and functions under the Act, including the power to issue Orders under Sections 11 and 13 of the Act.
- C. On July 24, 2015, the Project Assessment Manager issued an Order under Section 11 of the Act, determining the scope of the required environmental assessment and the procedures and methods for conducting the assessment.
- D. On September 25, 2015, the Project Assessment Manager issued an Order under Section 13 of the Act, amending the Section 11 Order to make an administrative change to the definition of "Aboriginal Consultation Plan" in Section 1 of Schedule A; to move Tsleil-Waututh Nation from Schedule C to Schedule B; and to add People of the River Referrals Office to Schedule C.
- E. On May 11, 2016, the Project Assessment Manager issued an Order under Section 13 of the Act, amending the Section 11 Order to move Semiahmoo First Nation and Squamish Nation from Schedule C to Schedule B.
- F. On February 14, 2018, the Project Assessment Manager issued an Order under Section 13 of the Act, amending the Section 11 Order to remove Hwlitsum from Schedule B.
- G. On July 9, 2019, the scope of marine shipping was expanded to include an assessment of the effects of marine shipping activities from the Project's marine terminal to the 12-nautical-mile limit of Canada's territorial sea.

H. The expanded scope requires consultation with additional Indigenous nations.

NOW THEREFORE:

Pursuant to Section 13 of the Act, I order that the Section 11 Order, dated July 24, 2015 be amended as follows:

(1) The defined term “Aboriginal Groups” is replaced with the following:

“Aboriginal Groups” means the First Nations or aboriginal entities identified in Schedule B, Schedule C and Schedule D of this Order.

(2) The defined term “Marine Shipping Working Group” is added and reads:

“Marine Shipping Working Group” means an advisory group established under Section 4.1 of this Order, comprised of representatives of Aboriginal Groups identified in Schedule B and Schedule D, and federal, provincial and local government agencies.

(3) Section 3.1.3 is replaced with the following:

3.1.3 Potential adverse effects that are likely to result from the movement of Project-related vessels to and from the marine jetty along the designated shipping route within the South Arm of the Fraser River, from the pilot station at Sand Heads;

(4) Section 3.1.4 is added and reads:

3.1.4 Potential adverse effects that are likely to result from the movement of Project-related vessels along the marine shipping channel to and from the pilot station at Sand Heads to 12 nautical miles at sea limit; and,

(5) Section 4.3 is added and reads:

4.3 The Environmental Assessment Office will establish a Marine Shipping Working Group, as a sub-committee of the Working Group, comprised of those Aboriginal Groups identified in Schedules B and D, and provincial, federal and local government agencies identified by the Project Assessment Lead. The Marine Shipping Working Group will provide input as requested by the Project Assessment Lead on aspects of the environmental assessment regarding matters related to Section 3.1.4 of this Order.

(6) Sections 4.5 and 4.6 (previously 4.4 and 4.5) are replaced with the following:

- 4.5 The Proponent must, when requested by the Project Assessment Lead, consult with federal, provincial and local government agencies on an individual basis, as well as collectively through the Working Group or any sub-committee, with respect to issues and information requirements related to the environmental assessment and inform the Project Assessment Lead of the results of these discussions as requested.
- 4.6 The Proponent must prepare and submit to the Project Assessment Lead and Working Group or sub-committee members, within any set time limits, responses to comments received from any Working Group or sub-committee members. Comments and responses may be posted on the Environmental Assessment Office's Electronic Project Information Center.

(7) Sections 10.1 and 10.2 are replaced with the following:

- 10.1 The Project Assessment Lead will prepare an Assessment Report, taking into consideration the Proponent's Application and input provided by the Working Group, Aboriginal Groups identified in Schedule B, Schedule C, and Schedule D, and the public.
- 10.2 Members of the Working Group, Aboriginal Groups identified in Schedule B, Schedule C, and Schedule D, and the Proponent will have an opportunity to provide to the Project Assessment Lead their comments on a draft of the Assessment Report within timelines established by the Project Assessment Lead.

(8) Sections 12.1.11 and 12.2.4 are added and read:

- 12.1.11 Implement additional measures for consultation and accommodation of such Aboriginal Groups, where appropriate.
- 12.2.4 Implement additional measures for consultation and accommodation of such Aboriginal Groups, where appropriate.

(9) Section 12.3 is added and reads:

12.3 Following the issuance of this Order, the Environmental Assessment Office will consult with the Aboriginal Groups in Schedule D as follows:

- 12.3.1 Provide notification at the following milestones:
 - 12.3.1.1 Issuance of any Orders by the Environmental Assessment Office;
 - 12.3.1.2 Public comment period for the Application or other materials; and
 - 12.3.1.3 Decision on the Application.

- 12.3.2 Invite such Aboriginal Groups to be members of the Marine Shipping Working Group and to attend Marine Shipping Working Group meetings or relevant Marine Shipping Working Group subcommittee meetings;
- 12.3.3 Invite such Aboriginal Groups to identify their respective Aboriginal Interests and the potential adverse effects of the Proposed Project on those Aboriginal Interests, as part of the consultation process, independent of the Marine Shipping Working Group activities;
- 12.3.4 Provide such Aboriginal Groups the opportunity to submit comments on supplemental information related to potential effects of proposed Project-related marine shipping;
- 12.3.5 Determine the adequacy of the Proponent's responses to the comments received from such Aboriginal Groups;
- 12.3.6 At the request of any such Aboriginal Groups, meet to discuss any outstanding concerns, its Aboriginal Interests in relation to the Proposed Project and measures to avoid, mitigate, or otherwise address or accommodate potential adverse impacts on Aboriginal Interests, as appropriate;
- 12.3.7 Provide such Aboriginal Groups with opportunity to comment on the draft Environmental Assessment Office Consultation Report and draft Assessment Report within established timelines;
- 12.3.8 Provide such Aboriginal Groups the opportunity to provide a submission regarding their views on the Assessment Report should they disagree with the Environmental Assessment Office's conclusions. Any such submission must be provided within the timeline established by the Project Assessment Lead; and
- 12.3.9 Implement additional measures for consultation and accommodation of such Aboriginal Groups, where appropriate.

(10) Section 13.1 is replaced with the following:

- 13.1 The Project Assessment Lead may, at any time, notify the Proponent that one or more Aboriginal Groups are to be added to Schedule B, Schedule C or Schedule D of this Order; and in so doing may identify any modifications to any of the procedures and obligations contained in this Order, having regard to the status of existing procedures and obligations at the time the additions are made.

(11) Section 13.4 is added and reads:

- 13.4 With respect to Aboriginal Groups identified in Schedule D of this Order, the Proponent must:

- 13.4.1 Include an assessment of potential impacts of the Proposed Project pursuant to CEEA 2012;
- 13.4.2 As directed by the Project Assessment Lead, provide a response to comments received from such Aboriginal Groups, to the satisfaction of and within the timeframe specified by the Project Assessment Lead; and
- 13.4.3 Where directed by the Project Assessment Lead, implement additional measures for consultation and accommodation of such Aboriginal Groups.

(12) Schedule D – Aboriginal Groups is added and reads:

SCHEDULE D – ABORIGINAL GROUPS

- Ditidaht First Nation
- Pacheedaht First Nation
- Maa-nulth First Nations
 - Huu-ay-aht First Nations
 - Ka:yu:kth/Che:k:tles7eth First Nations
 - Toquaht Nation
 - Uchucklesaht Tribe
 - Ucluelet First Nation
- Pauquachin First Nation
- Tsawout First Nation
- Tsartlip Indian Band
- Malahat First Nation
- Tseycum Indian Band
- Esquimalt Nation
- Songhees Nation
- Scia'new (Beecher Bay) First Nation
- T'sou-ke (Sooke) First Nation



Kim Walters
Project Assessment Director
Environmental Assessment Office

Dated August 06, 2019