



scəwəθən məsteyəx^w

TSAWWASSEN FIRST NATION

August 2, 2022

VIA E-MAIL

Impact Assessment Agency of Canada

RegionalAssessmentRequest-DemandeEvaluationRegionale@iaac-aeic.gc.ca

Re: Salish Sea Indigenous Guardians Association (SSIGA) Request for Regional Assessment of the Salish Sea

I write on behalf of Tsawwassen First Nation (“**Tsawwassen**”) to provide comments on the Salish Sea Indigenous Guardians Association (“**SSIGA**”) request for a Regional Assessment of the Salish Sea under sections 92 and 93 of the *Impact Assessment Act*, SC 2019, c 28 (“**the Act**”).

Tsawwassen agrees that cumulative effects in the Salish Sea are a serious problem

Tsawwassen Territory, as set out in the *Tsawwassen First Nation Final Agreement* (“**Treaty**”), includes lands and waters in the the Salish Sea (in particular Roberts Bank), the Fraser River, the Fraser River Estuary, Pitt Lake, the Pitt River, the Serpentine River, the Nicomekl River, Boundary Bay and the Gulf Islands. This area includes the Metro Vancouver region, one of the most developed and heavily used areas in Canada, with much of that development involving infrastructure and activities in and around the waters of the Salish Sea and Fraser River. Because of this level of development, Tsawwassen Members are greatly impacted by cumulative effects including, but not limited to, the decline of salmon, deterioration of marshes and eelgrass beds, proliferation of invasive species, loss of foreshore access, noise, and impacts on air quality. Put simply, the cumulative effects of development in Tsawwassen Territory (including the Salish Sea) seriously affect the survival of the Tsawwassen way of life for seven generations and beyond. This problem cannot be overlooked or ignored.

Tsawwassen agrees that action respecting cumulative effects is urgently needed

The full exercise of Tsawwassen rights is dependent upon flourishing resources in Tsawwassen Territory. Cumulative effects significantly impair the ability of Tsawwassen Members to exercise the rights guaranteed by Treaty: the right to harvest, the right to culture, and the right to advance our stewardship aspirations. For that reason, Tsawwassen fully agrees with the principle we understand is animating the SSIGA request, namely that action on cumulative effects in the Salish Sea and Fraser River estuary is urgently needed. It is a key Tsawwassen interest (which we understand is shared by the Government of Canada) that all decision-makers with authority over matters pertaining to the Salish Sea and traditional resources that support the Tsawwassen way of life (including but not limited to those who have a role under the Act) have more information and improved decision-making criteria for better managing cumulative effects in Tsawwassen Territory and protecting our Treaty rights from these cumulative effects. This should have been developed decades ago and is needed on an urgent basis. The development of ecosystem health

#620730v2



scəwáθən məsteyəx^w

TSAWWASSEN FIRST NATION

indicators is necessary to support decision-making properly informed by cumulative effects analysis. We know from the recent *Yahey* decision¹ that failure to manage cumulative effects on the treaty rights of Indigenous peoples is unconstitutional.

Tsawwassen seeks an approach to cumulative effects assessment and management that is rooted in Treaty

While Tsawwassen agrees that there are gaps and deficiencies in how cumulative effects in this region are being researched, monitored, assessed and managed, Tsawwassen wants to ensure that these critical issues are tackled efficiently and through approaches that best reflect the government-to-government relationship established through the Treaty. It is not clear to us whether a Regional Assessment under the Act is the best mechanism or whether the outcomes we need relating to cumulative effects assessment and management could be achieved through something we create together as Treaty partners. In light of the many entities working on cumulative effects analysis and initiatives, including Tsawwassen through preliminary discussions with the federal and provincial Crowns, this warrants further discussion between Treaty partners prior to your decision on SSIGA's request.

If a Regional Assessment is initiated under the Act, it must be undertaken in full partnership with Tsawwassen

If the Minister of Environment and Climate Change (the "**Minister**") decides to proceed with a Regional Assessment, Tsawwassen sees the following elements as essential to the process:

- Canada must include Tsawwassen as a co-lead. Tsawwassen, as a party to the Treaty, unambiguously meets the definition of an *Indigenous governing body* under the Act. As a potential partner jurisdiction, Tsawwassen would seek an agreement with the Minister respecting our shared oversight and leadership over the conduct of the assessment.
- It must respect the self-determination of Indigenous communities. Since a Regional Assessment will consider matters relating to Indigenous rights, Canada must ensure it is working directly with Indigenous governments. Environmental groups and other non-profits will no doubt have important insights and information to bring forward in a Regional Assessment. But the Regional Assessment should be led by governments working in clearly established partnerships with other governments (Indigenous and Crown).
- It would have a clear focus on the Fraser River Estuary.
- Canada must provide Tsawwassen with financial support enabling full participation.

¹ *Yahey v British Columbia*, 2021 BCSC 1287



scəwáθən məsteyəx^w

TSAWWASSEN FIRST NATION

We look forward to further engagement with Canada regarding this request

This letter sets out some of Tsawwassen's initial views on SSIGA's request. We look forward to further engagement with federal representatives in the coming days to further discuss how Canada will best advance our shared objectives of tackling matters relating to cumulative effects in the Fraser River Estuary and Salish Sea in a manner rooted in our Treaty partnership.

Respectfully,

<original signed by>

Sheila Williams
Senior Territory Management Coordinator
Tsawwassen First Nation