



**DELTAPORT THIRD BERTH EXPANSION  
PROJECT:**

**Hul'qumi'num Mustimuhw's Use and  
Occupancy of the Roberts Bank and Lower  
Fraser River Estuary, British Columbia**

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**Introduction**

This report presents background documentation of the Hul'qumi'num Mustimuhw's use and occupancy of the Roberts Bank area and the Lower Fraser River Estuary in British Columbia. The Hul'qumi'num Treaty Group represents seven Coast Salish First Nations of over 6,000 people on eastern Vancouver Island, the Gulf Islands and the Lower Fraser River, including the Chemainus First Nation, Cowichan Tribes, Halalt First Nation, Hwlitsum First Nation, Lake Cowichan First Nation, Lyackson First Nation and Penelakut Tribe, who are currently engaged in the latter juncture of Stage 4 Agreement-in-Principle treaty negotiations with British Columbia and Canada in the BC Treaty Process.

The Hul'qumi'num Treaty Group ('HTG') has prepared this background report in response to the application of the Vancouver Port Authority's proposed Deltaport third berth expansion submitted to the harmonized Canadian Environmental Assessment and British Columbia Environmental Assessment process. This report reflects the failure of this application, the proponent and the harmonized federal/provincial process to: 1) identify the HTG membership on the list of affected First Nations for consultation during the early planning stage; 2) acknowledge the Hul'qumi'num Mustimuhw's use and occupancy of the project management area in the application report; and 3) fully appreciate the Crown duty to avoid any unjust infringement of the Hul'qumi'num Mustimuhw's Aboriginal interests, including rights and the treaty-related interests in the Roberts Bank and Lower Fraser River Estuary.

In the following report, a selection of publicly available historical and ethnographic information is provided that attests to the Hul'qumi'num Mustimuhw's connection to the Roberts Bank and Lower Fraser Estuary, substantiates the Hul'qumi'num Treaty Group's Statement-of-Intent Core Aboriginal Title line, and supports the full participation of the HTG and Member Nations in the consultation and accommodation process for the Delta Port Authority CEA/BCEA Application.

## **The Lower Fraser Estuary in the Hul'qumi'num World**

Hul'qumi'num, or Island Halkomelem, is the main dialect of the Central Coast Salish Halkomelem language spoken by the First Nations on eastern Vancouver Island from Malahat to Nanoose Harbour. Hul'qumi'num further incorporates several local dialects on Vancouver Island, known as Cowichan, Chemainus, and Nanaimo (Rozen 1985). On the mainland of British Columbia, the Halkomelem language is further divided into Hunq'umnum, a Downriver dialect spoken by the First Nations from the mouth of the Fraser to the Stave River, and Halq'eméylem, an Upriver dialect of the language spoken by the Sto:lo peoples from Matsqui to Yale in the Fraser Canyon (Suttles 1990:453). Thus, from the coastal mainland of the Lower Fraser Valley to Vancouver Island's eastern coast, the Halkomelem language embodies a broadest sphere of cultural interaction on the Pacific Northwest Coast.

The Lower Fraser River is the central feature of the regional landscape that connects Hul'qumi'num culture across Vancouver Island to the Fraser Canyon. The Fraser River is the main transportation corridor that bridged the Island Hul'qumi'num communities to their relatives on the Mainland. The Fraser River Estuary is also recognized as one of the most productive riverine ecosystems on the Pacific Coast, particularly for anadromous fish species of salmon, sea-run trout, sturgeon and eulachon (Hart 1973; Schmitt *et al.* 1994), as well as an important location on the Pacific flyway – one of the largest bird and waterfowl migrations routes in North America (Butler and Campbell 1987). Burley (1980) has argued that the economic intensification of the productive seasonal resources on the Lower Fraser River, particularly salmon, became a defining element for the development of Coast Salish regional settlement patterns, economic subsistence, trade and exchange over the last 2500 years. Other archaeological and linguistic evidence support that the historical patterns of close social and economic interactions between Vancouver Island, Gulf Island and Mainland Coast Salish communities have been stable for the past 1500 to 2500 years (Brown 1996; Carlson and Hobler 1996; Grier 2004; Mitchell 1971; 1990; Suttles and Elmendorf 1970).

Suttles (1987:29) has described the ethnographic social and economic patterns of the Central Coast Salish as a cultural adaptation to an environment distinguished by "a variety of types of resources, local diversity and seasonal variation in their occurrence, and year to year fluctuation in their abundance". The structure of regional settlement and economic activity of the Central Coast Salish is characterized by the "intensive use of specific places at specific times in the year" (Suttles 1951:50). In the early historical era, Hul'qumi'num households reportedly involved between 3 to 5 residential movements in the course of a year, which could achieve a return distance of up to 400 km across the region (Duff 1952: 25; Mitchell 1971). Thom (2005) has

argued that this activity is typical of property relationships on the Northwest Coast, where households or village groups have a network of owned locales throughout a territory.

The Lower Fraser River estuary historically represented the most important economic location within the Hul'qumi'num regional settlement system. In early summer, flotillas of canoes in catamaran formation are described to have freighted entire households with their dismantled house planks and supplies from winter settlements on Vancouver Island and Gulf Islands to resettle across the Strait of Georgia to engage the runs of salmon on the Lower Fraser River Estuary and Point Roberts and later further upstream (Barnett 1938:122; 1955:22; Duff 1952:25; Jenness 1934-1935: 25; Rozen 1978: 19-22; Rozen 1985:245-247; Wilson 1866). As described by William Colquhoun Grant (1857: 268-320):

"The Cowitchins and Sanetch both have fishing grounds at the mouth of Frazer [sic] River, on the opposite side of the Gulf of Georgia. To these fishing stations they emigrate in the salmon season, with their wives and families and all their goods and chattels, leaving their villages tenanted by merely a few old dogs and their doleful ululations".

In 1792, the Spanish expedition of Alcala Galiano and Caetano Valdes provide valuable early ethnographic observations that illustrate the seasonal nature of Hul'qumi'num regional settlement patterns on Vancouver Island and the Gulf Islands. On June 15<sup>th</sup>, 1792, for instance, the navigation of Porlier Pass in the southern Gulfs Islands witnessed the apparent regional abandonment of many Hul'qumi'num villages:

In these inlets there are numerous abandoned villages, and one occupied one, [which is] on the west shore of the entry, and from which five canoes came off, with two old men and nineteen lads, all very robust, well-favoured and of good appearance (Kendrick 1991:116).

Importantly, the Spanish expedition observed a Hul'qumi'num village in the process of undertaking a large-scale residential population movement. On June 16, 1792, commanders Galiano and Valdes observed Hul'qumi'num households transporting houseplanks by canoe from permanent winter villages at the Nanaimo River towards the northeast of Gabriola Island:

At nightfall we noticed some natives pass in four canoes loaded with house [planks] such as they have in their villages, which rounded the northeast point of the harbour. On the morning of the 17<sup>th</sup>, Salamanca went with five armed men and an assortment of baubles and beads with the intention of going towards [the place] where the Indians had their villages...[We wanted] to see whether they had abandoned them, as one could infer from the passing of the loaded canoes and the howling of the dogs, which had not ceased all night. [Salamanca] found the frames of their houses, the remains of the fire and shellfish, and found that they had entirely moved their home, leaving the dogs, which according to tribal customs would soon follow them by land (Kendrick 1991: 120-121)

This early account supports later ethnographic descriptions of Hul'qumi'num residential village population movements to the Lower Fraser River, such as by anthropologist Homer Barnett (1955:22), who described, "In July, all the able-bodied Cowichans left for the Fraser River for two months, where they camped on Lulu Island, on the south arm of the river". The Fort Langley Journals (1827-1830) establish a wealth of historical information detailing Hul'qumi'num presence on the Fraser River, such as MacMillan's description of September 20 to 24<sup>th</sup>, 1828, when 565 'Cowichan' canoes were counted passing downriver from the Fraser Canyon's salmon fishery, and their extensive trade of salmon in large quantities to the Hudson's Bay Company (MacLachlan 1998: 74-75).

Hul'qumi'num villages are historically documented at the mouth of Canoe Pass and along the south arm of the Lower Fraser River estuary. In 1824, prior to the establishment of Fort Langley, John Work of the Hudson Bay Company first referred to the mouth of the Fraser River at Canoe Pass as the 'Coweechan River' (Elliot 1912: 212). During his exploration of the river, Work observed a large village site on the south arm of the river that "extends at least  $\frac{3}{4}$  of a mile along the shore", and "while passing counted 54 houses but on coming near where they are found to be situated that not more than  $\frac{1}{2}$  of them were counted" (Elliot 1912: 223). Between August 20 to 24<sup>th</sup> of 1825, Dr. John Scouler (1905:202-203) on the HBC ship *William and Anne* later described several encounters with the 'Cowitchens' when the vessel camped near the mouth of the Fraser River estuary. On July 24<sup>th</sup>, 1827, George Barston's Hudson Bay Company journal relates the following important description of the village on the south arm of the Fraser River during their travel up the river to establish Fort Langley (MacLachlan 1998:27):

At 3 P.M. sail was set on a Breeze springing up from the southwest, and we passed the Cowitchen Villages Saumause [Somenos] Pinellahutz [Penelakut] & Quomitzen [Quamichan] about 6 o'clock and anchored about a mile above them, two hundred yds from the north bank... The population of the Cowitchen Villages may be at a rough guess nearly 1500 Souls".

The location of these Hul'qumi'num villages on the Fraser River are illustrated on the 1827 map made by George Simpson of the Hudson Bay Company marked 'Cowitchin villages' (MacLachlan 1998: 8).

The Hul'qumi'num villages on the Fraser River are today recognized by Hul'qumi'num Elders as the village place-name of *Tl'uqtinus*, or 'Long Beach' (Rozen 1979: 62; 1985: 247-248). Hudson Bay Company officer, George Simpson, related as many as 3,000 'Cowichan' persons crossed over in the summer to settle in their villages on the Fraser River estuary (Mackie 1997). However, anthropologist Wilson Duff's (1952:25) informants on the Fraser River importantly related to him that, while most occupied the area only in summer, some Hul'qumi'num people stayed all year

round on the Lower Fraser River estuary (also Rozen 1985: 247). Duff (1952:27) documented from information provided by one of his Kwantlen informants that Lower Fraser River groups jointly held the south arm of the Fraser River with Hul'qumi'num communities from Vancouver Island:

"Part of Kwantlen territory on the South Arm was held in common by several Cowichan villages across the strait. The area was called *Tl'uqtinus*, and extended from Woodward's Landing to Ewens Cannery, some mile and a half.

Hul'qumi'num Elder Abner Thorne recently confirmed this understanding of the use and occupancy of the *Tl'uqtinus* area (Thom 2005: 371):

We didn't go there just for fishing. *Tl'uqtinus* [place name for Lulu Island, South Shore portion] was a year round settlement, it wasn't just a camp. When the white man got there was 700 Indians there and they just took that land from under them, people didn't know, but they're still there and until such time as they got kicked out. And they just didn't go there for the fishing, they went for *stth'equn* [bull rush/reeds] that's the reeds and cranberries and blueberries. While people were fishing they were also making the mats and other stuff and drying the berries. [13-07-01-EMM:451-457]

The village site of *Tl'uqtinus* was a settlement location for not just villagers from the Cowichan Valley, but other Island Hul'qumi'num village populations on Vancouver Island and Gulf Islands. As described by Barnston in his 1827 observation of the 'Cowitchen villages' on the Fraser River, the *S'amuna* (Somena), *Kwa'mutsun* (Quamichan) are known to be Hul'qumi'num permanent winter villages located in the Cowichan Valley, but the *Puneluxutth'* (Penelakut) is a Hul'qumi'num village located on Kuper Island (Rozen 1985). Duff's (1952b) unpublished field notes further describe a 'Chemainus camp on Fraser' at *Tl'uqtinus* in an interview with 'Big Joe' of Chemainus Bay [Kulleet Bay I.R.13] on Vancouver Island:

The camp *Tl'uqtinus* was on the north bank of the main channel opposite Deas Island. Four 'nations' had houses there. Beginning at the upper end of the camp they were: 1. *Thuq'min* winter village at Shell beach on the east shore of Ladysmith Harbour, 2. *Q'ul'its'at* Kulleet ('Chemainus Bay'), 3. *Pun'e'luxutth'* at Penelekuts Spit on Kuper Island, 4. *Leey'qsun* on Valdes Island. The camp consisted of single row of plank houses facing the river. While the whole camp was divided into these four segments, each group had several houses and my impression is that they were standing rather closely side by side with no particular break between segments. The *Xul'el't'hw* [Halalt] people, whose winter village was at *Tsi'xwum* on Willy Island used to go with the Kuper Island people. The Nanaimo had their own camp on the river but Big Joe is not sure where. The Cowichan came only to Cannery Point off Point Roberts. The Chemainus people must have gone farther up the river long ago because they know the names of all the tribes up there.

Several of Rozen's (1978:21) Hul'qumi'num informants from Cowichan Tribes whom he worked with in the 1970's later questioned the historical importance of the village of *Tl'uqtinus*, 'feel[ing]

that many more of their ancestors utilized the Point Roberts area, *Tsel-lhtenem*, or the mouth of the Fraser River for sockeye fishing". Lane (1953:7) similarly noted that "A few Cowichan also camped at Point Roberts during the sockeye run". Jenness (1934-35: 25) specifically describes that "the Westholme natives [Halalt] owned the fishing rights at Cuwassim [Tsawwassen]". Several of Rozen's Hul'qumi'num informant's agreed that, "the area around the present Tsawwassen Indian Reserve [at the entrance to the Tsawwassen Ferry Terminal Causeway] was used by the Island Halkomelem during the summer months", although they equally respected the rights of the Tsawwassen people in this shared territory area (Rozen 1978:21).

Several other Hul'qumi'num village sites are known at the mouth of the Fraser River. The Hul'qumi'num village site, *Xwulits'um*, 'Place for Cutting [cat-tails]' is located at the entrance to Canoe Pass on the south arm of the Lower Fraser River estuary (Rozen 1979:56; 1985:248). In his description of the place-name *Xwulits'um*, Rozen (1985: 248) provides the following oral historical information related from Hul'qumi'num Elders concerning traditional use of the Fraser River estuary:

In the marshy areas south of the entrance to Canoe Pass, the Cowichan and Nanairno used to cut several types of cattails and rushes. These were dried and made into rush mats that could be used to construct temporary shelters at the summer fishing camps. They could also be used for mattresses, canoe kneeling-mats and to wrap prepared fish (ADS; AS). White sturgeon were caught by the Cowichan in the Canoe Pass area and tidal weirs were also used there to trap salmon (AS).

Rozen (1978:116) elsewhere describes such a type of salt water fishing trap or tidal weir, known in Hul'qumi'num as *tkap*:

"The trap itself consisted of a series of posts, driven into the shallow salt water, near the mouths of rivers and streams, to herd migrating salmon. Sometimes the posts were positioned in front of a river, leaving a small opening through which the fish were forced by the changing of the tide. The fish were harpooned or speared from canoes."

Hul'qumi'num Elder Abel Joe reports "such tidal weirs [were] used by Cowichan people fishing near Point Roberts, at Boundary Bay, Semiahmoo Bay and at Canoe Pass at the mouth of the Fraser River" (Rozen 1978:116). Barnett (1939: 229; field notes) supports that the Cowichan and Chemainus used intertidal weirs as a component of their fishing technology, not only for salmon, but the harvest of sturgeon, flounder and herring and other marine fish on the foreshore.

Thom (2005: 372-374) describes several other Hul'qumi'num settlements on the south arm of the Fraser River. Importantly, Hul'qumi'num Elder Rose James from Penelakut recalls oral history of a campsite where the Stevestown Cannery now occupies (Thom 2005:372-373):

They had little sheds, little shacks made out of split cedar, just split cedar and they built it there and made their beds there for themselves those elders. When fishing, when the fish went up the rivers and they used to go there to get the fish to smoke and dry and put it away for the winter. [...] And that's what they used to do for them, they were never stuck for any thing what to live on for the winter months. They stayed there and helped themselves. [28-03-01-EMM:1011-1026]

The Hul'qumi'num Treaty Group's Traditional Use Study (2001-2004) has documented additional unpublished information relating to place-names, village locations and resource use practices on the Roberts Bank, Canoe Pass and south arm of the Lower Fraser River.

### **Historical Alienation of Hul'qumi'num Mustimuhw from the Lower Fraser Estuary**

In 1877, Joint Reserve Commissioner, Gilbert Malcolm Sproat (1878) recorded the following memorandum describing Cowichan Tribe's complaint concerning their right to protect their access to lands and resources on the Lower Fraser River:

"They complained that they had heard that white men had bought the fishing station on the lower Fraser River where they had been accustomed to get their winter food. It is stated to be true that the old fishery station on the Fraser known as the "Cowichan Fishery" and annually used by them from time immemorial in getting fish for winter food, has been sold many years ago. The owner being an absentee, there has been no trouble about the land as yet. About one thousand Indians encamped there last season. This question will come up when the Indian Reserves generally for the New Westminster District are considered".

It is known that several petitions were made by Hul'qumi'num persons in the late 19<sup>th</sup> Century to obtain reserve lands on the Lower Fraser River in protect their village lands and their salmon fishery. Despite these protests; however, no reserve lands were ever granted to the Hul'qumi'num people at Canoe Pass and the south the Lower Fraser River.

The establishment of commercial salmon canneries on the Lower Fraser River subsequently transformed Hul'qumi'num's relationship to land and resources in the region. In 1881, Hul'qumi'num people began to work as fisherman and cannery workers, or sell the majority of their catches to the canneries as part of the wage economy (Harris 2001:141). In 1889, however, the Cowichan were refused government licenses to commercially fish on the Fraser River. The rationale provided by the Department of Fisheries was that the Cowichan do not need Fraser River licenses as they already earn enough selling fish to the local markets (Harris 2001:144-145; Neary 2003). The commercial competition for Fraser River salmon increased the level of dispossession of Hul'qumi'num Mustimuhw from their historical lands and resources on the Fraser River. As Rozen (1978:62) summarizes:

"The seasonal migrations made by the Indian people from Vancouver Island to the mainland for sockeye salmon were severely altered after the arrival of non-Indians and, in

particular, with the heavy exploitation of salmon by commercial fisheries interests around the last decade of the Nineteenth Century. Suttles (1914, p. 271) points out that reef netting was discontinued at Point Roberts in 1894, and it is fair to assume that the same reasons for discontinuation by these fishermen (i.e. as a result of commercial fisheries) had a great impact for all of the salmon fishing by the Indian people around the Fraser River”.

Yet, several Hul'qumi'num families continued to remain on their historical lands, such as the parents of Hul'qumi'num Elder, Abel Joe, who was born at Canoe Pass in 1914 A.D. Rozen (1985: 248) notes that Abel Joe's birthplace “proves, to some extent, that the Island Halkomelem were still travelling to the mainland to catch fish in the early decades of this century”. Today, a large group of recently recognized status Indians living in this Steveston and Canoe Pass area trace their Hul'qumi'num descent from the former Penelakut village at Lamalchi Bay. This group is petitioning the Federal Government for recognition as an Indian Band under the collective name Hwulitsum First Nation, taken from the Hul'qumi'num village place name on Canoe Pass. A recent decision has been made to incorporate the Hwulitsum First Nation into the treaty negotiations of the Hul'qumi'num Treaty Group.

## **Conclusion:**

Based on this evidentiary record, it is an established fact that the Hul'qumi'num Mustimuhw possess a long-term use and occupancy of the Lower Fraser River estuary, including Roberts Bank and Canoe Pass area. The connection of the Hul'qumi'num Mustimuhw to these lands has been consistently expressed by Elders' testimony and historical documentation as based on their property ownership of residential village sites and a network of productive resource locations throughout a territory (Thom 2005).

The relationship of the Hul'qumi'num Mustimuhw to the lands and resources on the Lower Fraser River have been historically denied by government and commercial interests over the last century, which has resulted in alienation of the title and rights protected under the Charter of Rights and Freedoms. Rooted in the long historical connection of the Hul'qumi'num Mustimuhw to the Lower Fraser River estuary, the Chiefs of the Hul'qumi'num Treaty Group continue to assert an aboriginal title claim to the area in treaty negotiations through the BC Treaty Process.

Based on this claim, the Hul'qumi'num Treaty Group argues that the Crown has a duty to fully consult and accommodate the HTG First Nations and membership in order to avoid any unjust infringement of Aboriginal title and rights and treaty-related interests that may result from the Vancouver Port Authority's proposed Deltaport Third Berth Expansion Project.



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