



MUSQUEAM INDIAN BAND

6735 SALISH DRIVE
VANCOUVER, B.C.
CANADA V6N 4C4
TELEPHONE: 604 263-3261
FAX: 604 263-4212

June 28, 2022

SENT VIA EMAIL

Meaghan Hoyle
Project Assessment Director
BC Environmental Assessment Office
Meaghan.Hoyle@gov.bc.ca

Re: Fraser River Tunnel (FRT) Project Participating Indigenous Nation

Dear Meaghan Hoyle,

On behalf of Musqueam Indian Band (“Musqueam”), we are writing to confirm Musqueam’s intent to participate in the Environmental Assessment of the Fraser River Tunnel (“the Project”). In this process, Musqueam will be represented by the Musqueam administration, as directed by Musqueam’s elected officials (See Appendix A).

Musqueam anticipates significant impact to its rights and title based on the *Initial Project Description* (IPD). These impacts relate to but are not limited to: fishing rights, including use of the Fraser River as affirmed by the *Sparrow* decision; sense of place and identity; cultural continuity and heritage; and health. Anticipated impacts can be described as both acute due to the potential impacts of the Project itself, and cumulative, due to the historic colonial developments and high number of simultaneous projects currently underway and proposed in this part of Musqueam Territory.

In regard to the Project area, Musqueam is a priority rights holder and stands to be among the most heavily impacted by this Project. Musqueam Indian Band's location at the mouth of the Fraser River is deeply connected with Musqueam Indian Band oral histories, identity and cultural continuity, and trading relationships. Musqueam Indian Band, or x^wməθk^wəy̓ əm, translates to “Place of məθk^wəy̓”, signifying the məθk^wəy̓ plant, which grew in the Fraser River delta and tidal flats. The Project site is in close proximity to some of Musqueam’s most sacred, spiritually relevant and culturally significant sites and these sites, alongside over 125 other named sites, form a network in the region that is critical to Musqueam’s cultural continuity.

Musqueam’s location at the mouth of the Fraser River Delta is deeply entwined with Musqueam oral histories and cultural identity and Musqueam rights and title in the territory are firmly established. This information is laid out in the *Musqueam Declaration* (1976), our Statement of Intent filed with the BC Treaty Commission, through various engagements and negotiations with BC (e.g. the 2008 Reconciliation Agreement) and by litigation outcomes in key Supreme Court of Canada decisions such as



MUSQUEAM INDIAN BAND

6735 SALISH DRIVE
VANCOUVER, B.C.
CANADA V6N 4C4
TELEPHONE: 604 263-3261
FAX: 604 263-4212

Sparrow and *Guerin*. Moreover, Musqueam possesses constitutionally protected section 35 rights that will be directly impacted by the proposed project. Therefore, it is critical that Musqueam's position as a priority rights holder is respected and appropriately taken into consideration throughout the Environmental Assessment Process, from initiation to conclusion.

Fishing Rights

Musqueam holds a constitutionally protected right to harvest fish to meet our food, social and ceremonial needs that is consistently being threatened. Musqueam historical use, land and relationship-based governance, and control of the river were recognized in the 1990 *R. v. Sparrow* decision. We have exercised our inherent right to fish within our territory since time immemorial. Our ability as a community to exercise our inherent right to fish is consistently challenged, including from the industrialization and development of the Fraser River. Musqueam continues to rely upon the fishery to meet our community's requirements for fish for food, social and ceremonial requirements.

Section 8.2.3 of the IPD describes the anticipated effects to fish and fish habitat that may result from the Project. Given the importance of this area to Musqueam, any alteration of Musqueam's ability to fish for food, social or ceremonial purposes results in substantial impacts. A loss of fish or access to fish resources in one season can lead to economic impacts for Musqueam fishers who rely on the resource for economic well-being. Further, fish are a critical source of food for community members and at community gatherings and ceremonies. Any alteration is deeply disruptive, and as not all salmon runs are available every year, loss of access in one year has a multiyear effect. Impacts of projects and industrial activity along the Fraser river are readily observable – e.g. 2019 was the worst sockeye season on record for Musqueam fishers – and any further impacts are considered to have significant effects on Musqueam rights.

The increased presence of marine traffic along the Fraser River Corridor has been steadily increasing due to a number of other projects, and this increase represents a great concern to Musqueam. For many Musqueam members who travel and fish on the Fraser River, more marine traffic means increased stressors and greater concerns over safety. During short fishing windows, increased vessel traffic on the river can lead to more frequent, dangerous interactions, decreasing the ability and desire to engage in traditional fishing practices. The presence of construction equipment, including a staging barge, will further limit already limited access to the fishing area.

According to the IPD, “[s]ite preparation, in-river construction activities, temporary 48-hour closure of the marine shipping channel during tunnel element immersion, temporary shifting of navigation channels during tunnel construction, and removal of the Existing Tunnel and Deas Slough Bridge could potentially affect marine access and area use, the presence and availability of marine resources (e.g., fish for harvesting purposes)”. These activities will have an enormous impact on



MUSQUEAM INDIAN BAND

6735 SALISH DRIVE
VANCOUVER, B.C.
CANADA V6N 4C4
TELEPHONE: 604 263-3261
FAX: 604 263-4212

Musqueam's fishing rights, particularly if a closure was to take place during an Aboriginal fisheries window. The impact on sturgeon, a species critical to Musqueam that is already endangered, will be extensive. The removal of the existing tunnel will greatly disturb habitat and migratory areas, jeopardizing ongoing revitalization efforts. These impacts are significant and cannot be fully mitigated.

Sense of Place and Identity

Many places in Deas Slough and the surrounding area have a high level of significance for Musqueam. These sites and place names are clear representations of Musqueam ancestral and ongoing ties to the territory and are important spaces that connect Musqueam members to their heritage. These spaces contribute to sense of place and identity through their meaning to contemporary Musqueam, and by tying together the past, present, and the territory. Many Musqueam people also consider such sites to be sacred or spiritually relevant and not to be disturbed.

Potential Project interactions with the Musqueam Sense of Place and Identity include: increased disruption of Musqueam members' sense of place as a result of changes to valued places and place characteristics (e.g., from marine traffic, noise disturbances, visual changes during construction and ecological changes); disruption of Musqueam identities and increased disconnection from Musqueam cultural heritage due to direct and indirect Project effects on fishing, ceremonies, gatherings, and consumption of traditional foods, and other cultural practices; increased psychological and emotional stress from uncertainty over Project effects (e.g., reduced safety from marine traffic, disruptions to fishing, accident and spill potential); and increased disruption to the protection, persistence, and living of Musqueam *šx^wtəhim* (i.e., ways, manners, and customs) and *snəwəyət* (i.e., teachings received since childhood, including identity and responsibilities) as a result of Project construction and operations.

Cultural Continuity

The area that the Project is situated in is an area of critical importance to the exercise of Musqueam rights, including associated knowledge, use, and occupancy. Section 9.4 of the IPD writes that "potential effects to current use of lands and resources for traditional purposes may result from in-river and upland construction activities and subsequent decommissioning of the Existing Tunnel." Potential impacts include increased interruptions to knowledge transmission and lost opportunities to transmit knowledge due to the loss of access and quality of access to the area; the compounding effects of industrial development projects, urbanization, and environmental stressors on the resources, lands, and waters in the vicinity of the Project; rapid environmental change caused by Project activities, rendering Musqueam knowledge outdated; avoidance of the area as a result of increases in marine traffic, hydrological and ecological changes, and noise disturbances; and Project restrictions that reduce



MUSQUEAM INDIAN BAND

6735 SALISH DRIVE
VANCOUVER, B.C.
CANADA V6N 4C4
TELEPHONE: 604 263-3261
FAX: 604 263-4212

Musqueam members' abilities to freely access preferred resources and waters in the area. An important aspect of cultural continuity is preservation and respect for cultural heritage, including historic archaeological sites.

Health

As Musqueam members frequently exercise their rights to make use of the Fraser River and Salish Sea for fishing, travel, harvesting, and other activities, Musqueam stands to be significantly impacted by any risks to health. These include the impacts referenced in the IPD, including air and dust and GHG emissions, and increased noise resulting from construction, as well as health impacts stemming from a loss of access to traditional foods, sense of place and identity, and access to the project area.

Health impacts stemming from loss of access to traditional foods stem from the Project's adverse impact on migratory birds due to the loss of habitat from Project construction (ancillary sites, barges) and operations (physical occupation by Project infrastructure). The Project may cause changes in bird behaviour, distributions, and flight patterns due to construction and operations. In particular, sensory disturbances, such as lighting, noise, and the presence of infrastructure, will impact bird species that Musqueam depends on for food. Musqueam members will experience a loss of access to traditional hunting grounds due to Project activities and to fishing area where a large amount of traditional food is harvested. Musqueam will also lose access to traditional plants for food and medicine due to project disturbance as well as potential reductions in quality of plants that remain.

With a loss of access to those cultural food and medicines comes a loss of knowledge transmission as well. Without the ability to gather on the land where those species occur, the opportunity to transfer knowledge about those foods, medicines, and locations is also lost, impacting community health and individual mental health.

These risks are amplified by the cumulative effects of other projects in the area, including but not limited to:

- Tilbury Island Marine Jetty
- Fortis Tilbury Island LNG
- Vancouver Airport Fuel Delivery Project
- Annacis Island Wastewater Treatment Plant
- Pattullo Bridge Replacement Project
- Roberts Bank Terminal 2

Governance Role

Musqueam's territory is depicted in the Musqueam Statement of Intent, filed with the British Columbia Treaty Commission in 1993. Musqueam has a proven right to fish for food, social, and ceremonial



MUSQUEAM INDIAN BAND

6735 SALISH DRIVE
VANCOUVER, B.C.
CANADA V6N 4C4
TELEPHONE: 604 263-3261
FAX: 604 263-4212

("FSC") purposes in the waters of the Fraser River Delta where this project is located – including its North Arm, Middle Arm, and South Arm – downstream of the Port Mann Bridge to the Strait of Georgia. Historically, Musqueam regulated access for other Nations through protocol arrangements. Since time immemorial, Musqueam has harvested salmon, sturgeon, eulachon, and other fish, and harvested foreshore resources from the Fraser River down to the Salish Sea. Our oral histories detail a time when the Fraser river delta was only water, and Point Roberts was an island. This is corroborated by archaeological evidence at villages like səwǰʷeqsən (Glenrose/St. Mungo) dating back 9,000 years, a time when səwǰʷeqsən was at the mouth of the river. Musqueam has established rights-based practices in the Project area. *R. v. Sparrow* articulates that salmon is an integral facet of Musqueam economic, social, cultural, and spiritual lives. Musqueam territorial claims and Musqueam's governance role in the Project area are irrefutable, and we expect that the Environmental Assessment process will reflect this accordingly.

Process

Musqueam was deeply involved in the process related to the replacement of the Existing Tunnel for many years under the previous George Massey Tunnel (GMT) project and associated EA. The work undertaken and the information and knowledge shared during the previous process was substantial and remains highly relevant. We request that the EAO and the Proponent build on this work and incorporate this information and knowledge shared previously wherever possible, as deemed appropriate by Musqueam.

Since the previous Environmental Assessment process, the Government of British Columbia has also adopted the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) and the associated *Act* (2019) and *Action Plan* (2022). As emphasized throughout this letter, this project stands to have significant and asymmetrical impacts on Musqueam rights and title, in an area where Musqueam engages in rights-based and cultural practices on a continual basis. Musqueam expects direct bilateral consultation on this Project that is commensurate with established Musqueam rights and title in the project area. In particular, we are seeking a response from the EAO regarding their engagement approach and how Musqueam's involvement and feedback in this process will be weighed appropriately alongside the interests of other Indigenous groups. In alignment with DRIPA, Musqueam expects an EA governance structure where Musqueam has agency in decision-making and involvement in the process in the role of a host nation.

Conclusion

We trust that this letter satisfies the EAO requirements for a participating Indigenous Nation. As is our consistent practice, Musqueam continues to be open to having discussions and sharing information to assist with developing a greater understanding of the very real, potential impacts set out in this letter. If



MUSQUEAM INDIAN BAND

6735 SALISH DRIVE
VANCOUVER, B.C.
CANADA V6N 4C4
TELEPHONE: 604 263-3261
FAX: 604 263-4212

you would like to discuss this matter further, please direct any questions or clarifications to Erin LaRocque, Major Projects Coordinator at elarocque@musqueam.bc.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wade Grant', is written over a horizontal line.

Wade Grant
Chief Intergovernmental Affairs (IGA) Officer
Musqueam Indian Band
wgrant@musqueam.bc.ca

Technical contact: Erin LaRocque, IGA Coordinator, elarocque@musqueam.bc.ca

CC Kayla Phillips, Agreements Liaison
Musqueam Indian Band
kphillips@musqueam.bc.ca

Kim Walters, Executive Project Director
Environmental Assessment Office
Kimberly.Walters@gov.bc.ca

Jillian Zavediuk Project Assessment Officer
Environmental Assessment Office
Jillian.Zavediuk@gov.bc.ca

Peter Boldt, Project Assessment Analyst
Environmental Assessment Office
Peter.Boldt@gov.bc.ca



MUSQUEAM INDIAN BAND

6735 SALISH DRIVE
VANCOUVER, B.C.
CANADA V6N 4C4
TELEPHONE: 604 263-3261
FAX: 604 263-4212

APPENDIX A

For the purposes of the Fraser River Tunnel Project Environmental Assessment, Musqueam interests will be represented by The Chief and Council of Musqueam Indian Band. The *Musqueam Declaration (1976)* states that Musqueam people are members of the Musqueam Indian Band and will exercise Musqueam aboriginal rights as such. The Council of the Musqueam Indian Band are the elected officials of the Band, under Section 74 of the Indian Act. Musqueam Chief and Council represents Musqueam Indian Band's collective rights under Section 35 of the Constitution Act, 1982.