

ASSESSMENT *of the* TRANS MOUNTAIN PIPELINE *and* TANKER EXPANSION PROPOSAL



TREATY, LANDS & RESOURCES DEPARTMENT
Tsleil-Waututh Nation

“WE STAND HERE TOGETHER as Tsleil-Waututh people and we say ‘no.’ We say ‘no’ the risk is too great. Our obligation is not to oil. Our obligation is to our land, our water, our people, our life, our *snəwayəł*. According to our *snəwayəł*, our law, this project represents a risk that we the Tsleil-Waututh people, are not willing to take.”¹



¹Oral Aboriginal traditional evidence given by Leah George-Wilson on October 16, 2014, during the National Energy Board's hearing for the TMEX proposal, held in Chilliwack, British Columbia.

EXECUTIVE SUMMARY

Tsleil-Waututh are the “People of the Inlet” and a distinct Coast Salish nation whose territory includes Burrard Inlet. The Tsleil-Waututh people occupied, governed, and acted as stewards of our territory prior to contact, at contact (AD 1792), at the British Crown’s assertion of sovereignty (AD 1846), and continue to do so today. Our ancestors maintained villages in eastern Burrard Inlet, exclusively occupied and defended the area, and intensively used all the natural resources there, especially marine and intertidal resources.

The Tsleil-Waututh Nation has a sacred, legal obligation to protect, defend, and steward the water, land, air, and resources of our territory. Our stewardship obligation includes the responsibility to maintain or restore conditions that provide the environmental, cultural, spiritual, and economic foundation for our nation and community to thrive.

The decline of Burrard Inlet was evident by 1885 after herring were massively over-harvested and became locally extinct. By 1972 when harvest of bivalves like clams, oysters, and mussels was banned, cumulative effects of urban, commercial, and industrial development had exceeded what is allowable under Tsleil-Waututh law. The best indicator of this is that our subsistence economy was devastated, leaving us without the natural resources we once depended upon for food or trade like salmon, herring, clams, and birds.

After thousands of years of supporting our Tsleil-Waututh way of life, in less than 200 years key marine resources in Burrard Inlet were scarce, contaminated, or made inaccessible. It is essential to know both the historical context and the compromised environmental integrity that exists today in order to understand what our stewardship obligation requires of us.

While Tsleil-Waututh is actively involved in responsible development in our territory, our nation cannot consent to new development proposals that further contribute to

cumulative effects, threaten our objectives for marine stewardship, and delay or deny re-establishment of our subsistence economy. To do so would be contrary to our stewardship obligation.

Tsleil-Waututh has a Stewardship Policy that is an expression of our inherent jurisdiction and law. It mandates a review of all proposed water, land, and resource policies, plans, and developments inside what is referred to as our Consultation Area (see **Map**). Assessments carried out under the Stewardship Policy provide us with the information we require to make informed decisions on whether to consent to a proposal or withhold support.

In December 2013, Kinder Morgan Canada filed an application with the National Energy Board for the Trans Mountain pipeline and tanker expansion (TMEX) proposal, which would triple the volume of crude oil moved along the existing pipeline route. Approximately 70% of the diluted bitumen, or dilbit, transported would be shipped from the Westridge Marine Terminal in Burnaby, B.C. This would lead to a roughly seven-fold increase in the frequency of tanker departures from Burrard Inlet, from about once a week to at least one every day.

The Tsleil-Waututh Nation has assessed the TMEX proposal in accordance with our Stewardship Policy. The assessment was required because many components of the proposed TMEX fall inside our Consultation Area and have the potential to affect us. For example, the Westridge Marine Terminal lies less than two kilometres across the water from the main Tsleil-Waututh Reserve and the wake of every arriving or departing tanker strikes our shoreline (see photo on next page).

The **Table** on the following page provides a description of a representative set of Tsleil-Waututh title, rights, and interests threatened by the TMEX proposal.



TSLEIL-WAUTUTH TITLE, RIGHTS, *and* INTERESTS

Table

| TITLE, RIGHT, OR INTEREST | DESCRIPTION |
|--|---|
| <i>Archaeological and Cultural Heritage Sites</i> | The right to preserve and protect sensitive sites and to ensure they are kept physically intact |
| <i>Contemporary Economy</i> | The right to derive benefit from the territory and pursue economic development opportunities in a variety of ways, related or unrelated to natural resources |
| <i>Cultural or Spiritual Practices and Places</i> | The right to access important places with the assurance that they will be physically and culturally intact, without disturbances of the view, violation of privacy, noise intrusions, polluted water, or contaminated sediment |
| <i>Cultural Transmission</i> | The right to access sites for activities, such as resource harvest, that foster elder-youth interaction and provide elders with opportunities to share history, knowledge, traditional ways, and skills with youth |
| <i>Cultural Travel</i> | The right to safe, unobstructed travel throughout Burrard Inlet |
| <i>Environmental Integrity</i> | The right to an environment that is not significantly degraded and is well within its capacity to sustain a robust subsistence economy and the Tsleil-Waututh people as a nation |
| <i>Environmental Stewardship</i> | The right and responsibility to manage natural resources and the environment in Burrard Inlet |
| <i>Individual and Community Health</i> | The right to conditions conducive to healthy bodies, minds, and spirits—that is, to the intertwined environmental, cultural, spiritual, social, and economic conditions that ensure the well-being of individuals and of the community as a whole |
| <i>Marine Fish and Wildlife Habitat and Species</i> | The right to a healthy, diverse, and interconnected habitat that supports diverse and abundant species free from contamination |
| <i>Subsistence Economy, including Resource Access and Harvest or Use</i> | The right to access and use natural resources for ceremonial, cultural, spiritual, subsistence, and economic purposes including as staple foods for the living community and for our ancestors, and the right to sell or trade these resources |
| <i>Title and Governance</i> | The right to possess our territory and exclusively occupy and use it for the benefit of the Tsleil-Waututh Nation, exercising authority and jurisdiction over its water, land, air, and resources in accordance with Tsleil-Waututh law |
| <i>Tsleil-Waututh Benefit</i> | The right and responsibility to steward the territory for the benefit of past, present, and future generations |
| <i>Tsleil-Waututh Reserve</i> | The right to environmental, cultural, and socio-economic conditions that pose no harm to our reserve or its infrastructure |
| <i>Water</i> | The right to clean water, free from pollution, for drinking and for ceremonial, cultural, spiritual, subsistence, and economic purposes |



Maj. J.S. Matthews' 1932 Map of "Slailwit Tuth," City of Vancouver Archives

As part of our assessment, Tsleil-Waututh commissioned five expert reports related to the TMEX proposal. The internationally recognized experts reviewed the risk, response, and consequences of potential oil spills in Burrard Inlet. Their major findings included:

- » Implementation of the TMEX proposal will make oil spills in Burrard Inlet more likely.
- » Spilled oil has the potential to foul every corner of Burrard Inlet and most of it will land on the nearest beaches.
- » Less than half of the volume of spilled oil can be cleaned up even under ideal circumstances like those found in Burrard Inlet.
- » Any delay in spill cleanup response will decrease the total volume of oil recovered significantly.
- » Dilbit is likely to sink in Burrard Inlet, especially during late spring and summer when the Fraser River is flooding, and sending freshwater and sediment into Burrard Inlet (see photo above).
- » Small spills can cause significant, long lasting environmental damage especially to intertidal habitats like shellfish beaches and eelgrass beds.
- » Large spills will be an environmental catastrophe including killing up to 500,000 birds.
- » A large spill has the potential to expose over one million residents around Burrard Inlet to acute health effects from toxic air emissions.

The assessment described the seriousness of the potential effects of the TMEX proposal on Tsleil-Waututh title, rights, and interests, including:

- » The consequences of spilled oil are dire for Tsleil-Waututh sensitive sites, habitats, and species, and for our subsistence economy, cultural activities, and contemporary economy.
- » Any delay in spilled oil clean up response will increase the negative effects and consequences.
- » The direct effects of marine shipping like shoreline erosion add to the effects and consequences of spilled oil amplifying the negative effects of the TMEX proposal.
- » The effect of the TMEX proposal on Tsleil-Waututh cultural activities is as large as if not larger than its effect on natural resources.
- » The Tsleil-Waututh Nation cannot accept the increased risks, effects, and consequences of even another small incident like the 2007 Westridge or 2015 MV *Marathassa* oil spills, let alone a large spill.
- » Implementation of the TMEX proposal will 1) slow or deny achievement of Tsleil-Waututh marine stewardship objectives and 2) violate Tsleil-Waututh law because it will undermine our stewardship obligations.

The assessment concluded that the TMEX proposal does not represent the best use of Tsleil-Waututh territory and its water, land, air, and resources to satisfy the needs of our ancestors, and the needs of present and future generations. It has the potential to deprive past, current, and future generations of our community control and benefit of the water, land, air, and resources in our territory. **The assessment recommends that Chief and Council continue to withhold Tsleil-Waututh Nation's support for the TMEX proposal.**

The full assessment report and expert reports are available at: twnsacredtrust.ca.



Westridge Marine Terminal from Tsleil-Waututh Reserve



Outer Harbour, 2015, after MV *Marathassa* oil spill

Regional Overview



TSLEIL-WAUTUTH NATION CONSULTATION BOUNDARY

Legend

- ★ Westridge Marine Terminal
- Tanker Route
- KMC Existing Infrastructure
- Trans Mountain System
- Jet Fuel System

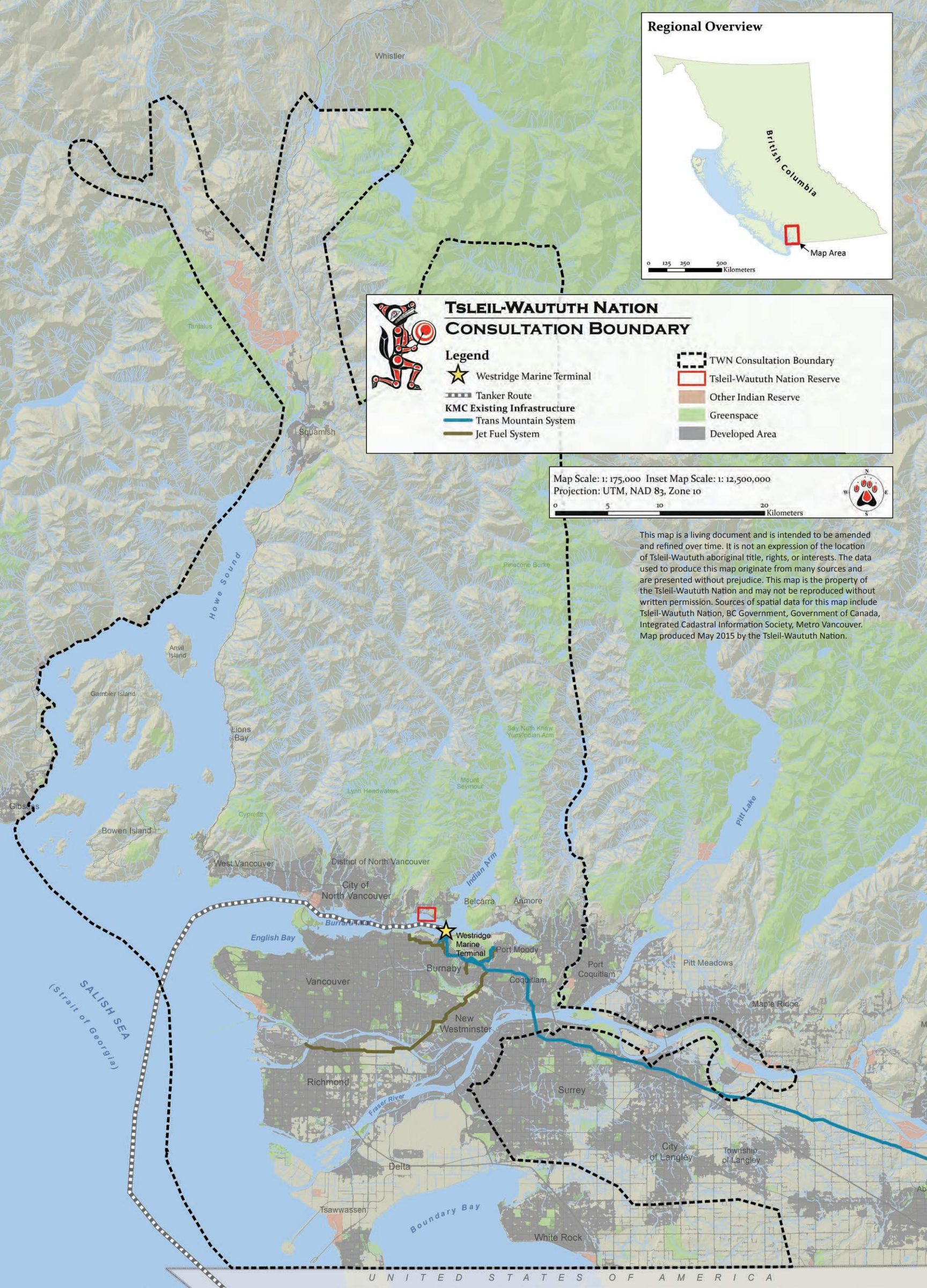
- TWN Consultation Boundary
- Tsleil-Waututh Nation Reserve
- Other Indian Reserve
- Greenspace
- Developed Area

Map Scale: 1:175,000 Inset Map Scale: 1:12,500,000
Projection: UTM, NAD 83, Zone 10

0 5 10 20 Kilometers



This map is a living document and is intended to be amended and refined over time. It is not an expression of the location of Tsleil-Waututh aboriginal title, rights, or interests. The data used to produce this map originate from many sources and are presented without prejudice. This map is the property of the Tsleil-Waututh Nation and may not be reproduced without written permission. Sources of spatial data for this map include Tsleil-Waututh Nation, BC Government, Government of Canada, Integrated Cadastral Information Society, Metro Vancouver. Map produced May 2015 by the Tsleil-Waututh Nation.







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