



Implementation Report / 2009–2010



**TSAWWASSEN FIRST NATION
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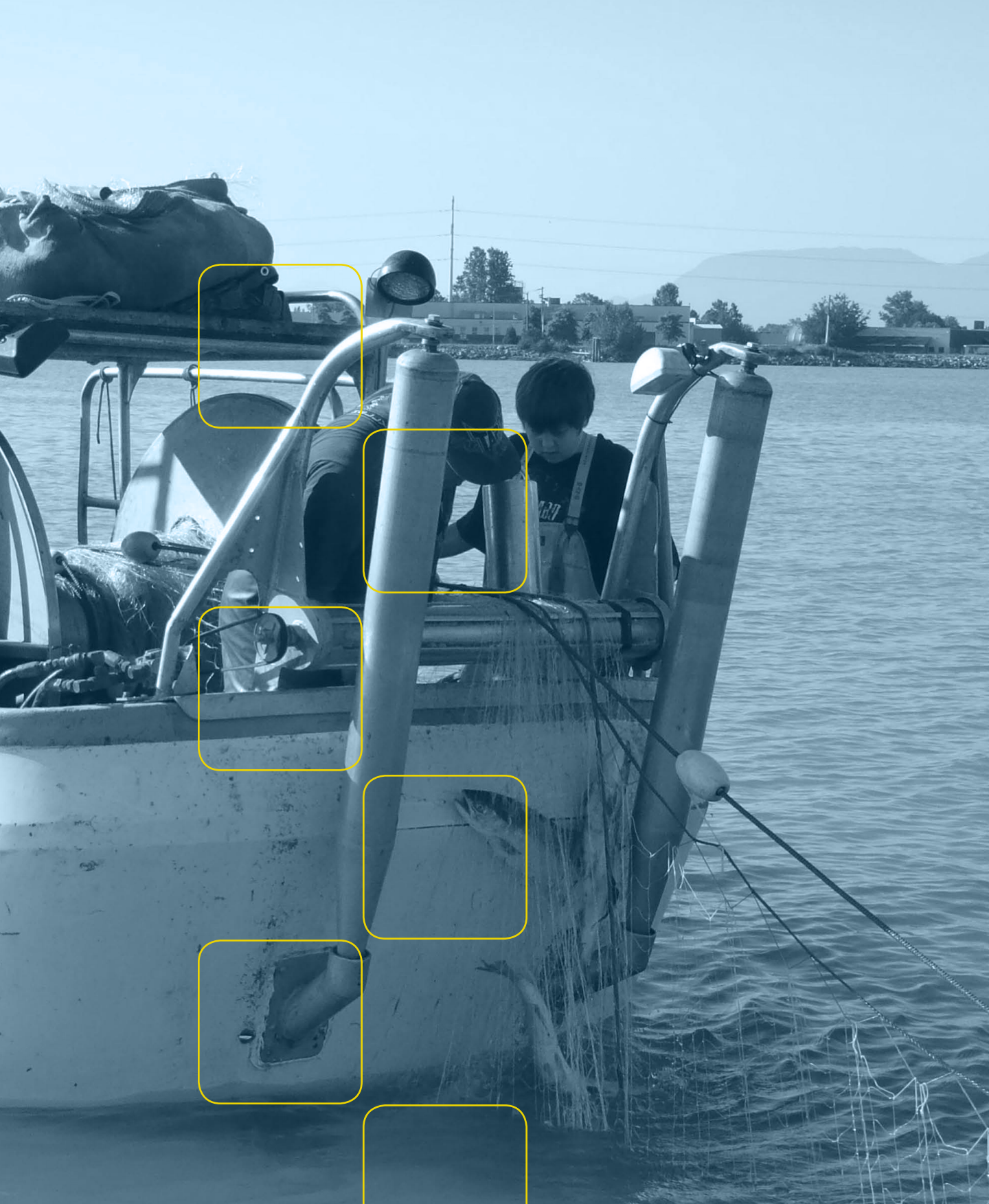
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The Tsawwassen First Nation Final Agreement is British Columbia's first modern urban treaty and the first treaty completed under the British Columbia Treaty Commission. The governments of Canada, British Columbia, and the Tsawwassen First Nation are partners in the Tsawwassen First Nation Final Agreement (the Treaty), which comprises a land claim and self-government agreement. The Treaty came into force on the Effective Date of April 3, 2009.

Because three governments share responsibility for the Treaty, a committee was formed to provide a forum for the Parties to discuss and facilitate its implementation. This report summarizes the progress made in the first year of the Treaty, from April 3, 2009 to March 31, 2010.



respect & opportunity

TSAWWASSEN: LAND FACING THE SEA

A PLACE

Since time immemorial, the Tsawwassen people have used and occupied a large coastal territory rich with fish, wildlife, and other natural resources. Tsawwassen traditional territory ranges across southern sections of what is now British Columbia—as far east as New Westminster, south to the international border, and west to the southern Gulf Islands. Tsawwassen is a *Hun'qum'ínum* word that means “Land Facing the Sea.” Tsawwassen First Nation’s home and treaty lands are situated near Roberts Bank on the shore of the Salish Sea.

A PEOPLE

The Tsawwassen people belong to the seafaring Coast Salish. The Tsawwassen First Nation includes 405 Members. Approximately half live on Tsawwassen Lands and the rest reside in British Columbia’s Lower Mainland, Whatcom County (Washington), the interior of British Columbia, and elsewhere in North America. The community is young and growing, with forty percent of Members under the age of 18. Tsawwassen people are proud of their heritage, cultural traditions, and reputation as a welcoming, close-knit community.

TSAWWASSEN FIRST NATION FINAL AGREEMENT

The governments of Canada, British Columbia, and the Tsawwassen First Nation (the Parties) entered the BC Treaty Commission negotiation process with several objectives. These objectives included: enabling Tsawwassen First Nation (TFN) to evolve and flourish as a self-governing, self-sufficient, and sustainable community; achieving certainty in respect of land ownership and resource rights; and providing opportunity for Tsawwassen Members to participate more fully in the economic, political, and social life of British Columbia. The Parties sought a treaty that would herald a new government-to-government relationship based on mutual respect and reconciliation.

The Tsawwassen First Nation Final Agreement (the Treaty) is a historic achievement. The Treaty clarifies legal rights to lands and resources, and self-government for Tsawwassen First Nation. The Treaty provides certainty for residents and investors, benefitting all Canadians. It achieves true reconciliation—proving that a modern society can correct the mistakes of the past, while providing for differences in values and cultures.

A comprehensive land claim and self-government agreement, the Treaty provides for:

- › the transfer of over 724 hectares of land (Tsawwassen Lands) previously held either by Canada or the Province of British Columbia, and registration of those lands in the B.C. Land Title Office;

*place people
land & sea*

- › the resolution of TFN's title claim over its 10,000 square kilometer traditional territory and the retention of hunting, fishing, and gathering rights in that territory;
- › an agreed-upon percentage of the total annual allowable sockeye catch on the Fraser River and commercial fishing opportunities for both crab and various species of salmon;
- › self-government provisions, including jurisdiction over land management, and aspects of health care, education, post-secondary education, social assistance, and child and family services.

The transfer of land from British Columbia and Canada to TFN began at 12:01 a.m. on April 3, 2009, the Effective Date of the Treaty. Over 6,000 individual documents were submitted to the B.C. Land Title Office and registered in the following days, representing the largest single transaction or 'closing' in the history of British Columbia. This successful land transfer required the commitment, cooperation, and dedication of the Parties.

On the Effective Date, TFN received a Capital Transfer as part of the financial component of settlement. In addition, TFN began receiving annual transfers from Canada and British Columbia for the ongoing delivery of government programs and services and incremental treaty implementation activities. These transfers are subject to an Own-Source Revenue Agreement that reduces transfers as TFN develops its own government revenue capacity.

On April 3, 2009, a celebration was held at the Tsawwassen Longhouse to mark the Effective Date of the Treaty. Honoured guests included Premier Gordon Campbell, Minister of Indian Affairs Chuck Strahl, Delta Mayor and Metro Vancouver Chairperson Lois Jackson, Chiefs from across British Columbia, and other federal and provincial officials. The event was well attended by both Tsawwassen Members and members of the general public. Thanks to the efforts of all three Parties, the celebration was a tremendous success.

TSAWWASSEN GOVERNMENT

Tsawwassen Government is designed to ensure democracy, transparency, and accountability for its citizens. TFN's self-governing authority includes responsibility for the management of Tsawwassen Lands, resources, social services, and many other areas of jurisdiction previously held by the federal, provincial, or municipal governments. On April 3, 2009, the new Tsawwassen Legislature passed 23 laws, including the *Constitution Act*, which sets out TFN's key governing structures. Each of these structures was implemented and became operational on the Effective Date.

The **Tsawwassen Legislature** consists of 12 Tsawwassen Members and the Chief. The highest body of Tsawwassen Government, the Legislature discusses and makes laws, and approves an annual budget. The first formal Tsawwassen Legislature was elected in a general election on September 17, 2009, and the historic first session was held in February and March, 2010. Between April 3, 2009 and March 31, 2010 (the reporting period),

the Tsawwassen Legislature enacted a total of 26 laws, all of which are available on the TFN website. (The actual names and numbers of laws appearing on the website will vary due to consolidation of Acts and Amendments.)

The **Executive Council** consists of the Chief and the four members who received the highest number of votes in the election for the Tsawwassen Legislature. The first formal Executive Council was also elected on September 17, 2009.

The **Advisory Council** ensures that proposed laws, regulations, and other actions are considered by the Membership in an open forum prior to being passed or presented to the Executive Council for approval. Established under the Tsawwassen Constitution, the Advisory Council is open to all Members and meets regularly throughout the year.

The **Judicial Council** is made up of a mix of Tsawwassen Members and others with significant legal and judicial experience. They are responsible for hearing challenges to the validity of Tsawwassen laws, resolving disputes between Members and elected officials, making recommendations to courts on the sentencing of Members where requested, investigating financial irregularities, and other duties assigned by Tsawwassen Government.

The **Consultation Committee** is a group of non-Members established by the Executive Council. Comprised of representatives of leaseholders on Tsawwassen Lands, the committee is consulted on issues that significantly and directly impact leaseholder interests, including various regulatory structures and TFN's economic development initiatives.

The **Property Tax Authority** is made up of Members of Executive Council and non-Member ratepayers, and is responsible for approving tax rates and expenditures in respect of residential property taxation.

Leading up to the Effective Date, Tsawwassen Members developed a strategic plan to set treaty implementation goals for their community and government. That plan is articulated in the following vision statement.

“What We Are Working Toward: Tsawwassen First Nation will be an ideal location to raise a family, and a working model of an environmentally sustainable, self-sufficient, and culturally proud First Nation community. Tsawwassen First Nation Government will, at all times, be oriented towards serving our Membership, and will exercise the self-government powers of the TFN Treaty.”

TREATY IMPLEMENTATION COMMITTEE

The Parties view the Treaty as the start of a new government-to-government relationship. To oversee this relationship, a Treaty Implementation Committee was formed. Comprised of one representative each from the governments of Canada,

British Columbia, and TFN, the committee attempts to resolve implementation matters and issues as they arise, and to assist and facilitate each Party in meeting its obligations under the Treaty.

A Treaty Implementation Plan was developed prior to the ratification of the Treaty and became operational on the Effective Date. The plan, which does not create any legal obligations, is a working document designed to facilitate treaty implementation by setting out the agreed-upon expectations of what activities each Party would undertake. The plan does this by categorizing each treaty paragraph as either a “statement,” “permissive clause,” or “obligation.” Only those paragraphs identified as obligations require a Party to provide a product or service. Permissive clauses clarify how a Party may choose to act, while statements do not require any activity.

The Implementation Committee held its first meeting on May 19, 2009, and met a total of six times during the reporting period. The Parties worked to resolve several significant issues, including:

- › arranging funding to assess slope stability on English Bluff;
- › facilitating discussion between TFN and British Columbia on access to court scheduling;
- › developing an online Treaty Obligation Tracking System (led by British Columbia);
- › facilitating discussions with other government departments, including the Department of Fisheries and Oceans Canada (DFO).

Further work is required to resolve outstanding items from the Treaty Closing Plan, including: the transfer of land from Port Metro Vancouver, the provision of powers to enforce property taxes on non-Member occupiers, and clarification of harvesting rights in the Gulf Islands National Park Reserve. Another significant tripartite project involves securing the ability to borrow through the First Nation Finance Authority, under the *First Nation Fiscal and Statistical Management Act*.

The operation of the Implementation Committee fulfils specific obligations in Chapter 25, Paragraphs Four to Six of the Treaty (25.4-6). Throughout this report, for ease of reference, corresponding Treaty Chapter and Paragraph numbers are included where appropriate.

For more information, visit:

- › Tsawwassen First Nation Final Agreement (www.tsawwassenfirstnation.com/finalagreement.php)
- › the complete Treaty Implementation Plan (www.tsawwassenfirstnation.com/finalagreement.php)
- › Canada’s treaty policy (www.ainc-inac.gc.ca/al/ldc/ccl/pubs/sg/sg-eng.asp)
- › British Columbia Ministry of Aboriginal Relations and Reconciliation (www.gov.bc.ca/arr/treaty/default.html)
- › British Columbia Treaty Commission (www.bctreaty.net/index.php).



environmentally & culturally sustainable

TSAWWASSEN LANDS

Located just 30 kilometers from both downtown Vancouver and the international border, adjacent to both the Tsawwassen Ferry Terminal and Port Metro Vancouver's Deltaport facility, Tsawwassen Lands are in an enviable position to take advantage of economic opportunities. As the Lower Mainland's population and economy continue to grow, Tsawwassen Members are able to realize benefits from the development of Tsawwassen Lands through the Treaty. At the same time, the Treaty equips TFN with the power to ensure that development proceeds in a manner that is both environmentally and culturally sustainable.

TREATY LANDS

On April 3, 2009, 724 hectares of land were transferred from British Columbia and Canada to the Tsawwassen First Nation. These lands include 290 hectares of former federal Crown land (reserves), 372 hectares of former provincial Crown land, and subsurface rights. It also includes 62 hectares of land comprised of Boundary Bay and Fraser River parcels that TFN owns in fee simple, but remain under the jurisdiction of the Corporation of Delta.

These lands were transferred to TFN subject to all pre-existing interests on Tsawwassen Lands (i.e. third-party rights of way, leases, and Tsawwassen Member property interests), accomplishing key obligations, as set out in Chapter Four and Appendix D of the Treaty. The transfer of Tsawwassen Land enables TFN to begin building a long-term revenue base to support its self-government goals. TFN intends to pursue development initiatives that will generate jobs and economic growth in the local and regional economy.

All land transfers were concluded on the Effective Date, with the exception of a small parcel occupied by Port Metro Vancouver (Lot A plan BCP12878). This delay was due to unforeseen complications with land title at the Effective Date. The Parties continued working on this last land transfer through collaboration among the Port Metro Vancouver, Transport Canada, Natural Resources Canada, Indian and Northern Affairs Canada, and TFN.

In addition to land transfers, British Columbia issued 99-year water lot leases to TFN for District Lots 954 and 955 (4.26 and Appendix F-2).

On the Effective Date, British Columbia amended the B.C. Agricultural Land Reserve Plan to confirm changes made to the Agricultural Land Reserve (4.31-32) required by the Treaty.

LAND SURVEY

Where adequate surveys did not already exist, Canada and British Columbia agreed to pay the cost of surveying the boundaries of Tsawwassen Lands and Other Tsawwassen Lands as set out in Appendix E-2 of the Treaty (4.102-103).

treaty lands

These surveys were completed prior to the Effective Date, with the exception of Lot A plan BCP12878, which will be completed as soon as practical.

LAND REGISTRY

For the sake of consistency with the surrounding system, TFN chose to register Tsawwassen Land interests in the B.C. Land Title Office. The B.C. Land Title Office is based on the Torrens system of land registry, which provides certainty and security of title to interest holders. Registration in the B.C. Land Title Office improves TFN's system of land tenure, provides investor confidence, and assists TFN in managing its land affairs. Provincial legislation was amended to accommodate the registration of TFN treaty lands in the Land Title Office, as well as to accommodate TFN fee simple title.

TFN LAND USE PLANNING

The Tsawwassen First Nation Lands Department develops and administers land use planning and regulation on Tsawwassen Lands. This includes assisting with registering land interests; implementing and enforcing land related acts, regulations, and bylaws; issuing permits; and undertaking other municipal-like functions. The Lands Department has also been involved in the management of TFN's capital assets and projects.

TFN's Land Use Plan, approved in July 2008, sets forth land use designations for Tsawwassen Lands, identifying portions for community lands, and for residential, industrial, or commercial development. It also sets aside significant portions for recreation, agriculture, and conservation. On the Effective Date, TFN implemented the plan, which included zoning regulations (17.20-21).

During the reporting period, TFN also finalized an Industrial Land Use Master Plan. The plan sets out how a major industrial development could facilitate international movement of cargo through Deltaport, Canada's largest container terminal, which is adjacent to TFN Lands.

SERVICE AGREEMENTS

TFN worked with Canada, British Columbia, Metro Vancouver, and the Corporation of Delta to provide services on Tsawwassen Lands. TFN and Delta negotiated agreements for the provision of local government services (17.17) and police services (16.139) on Tsawwassen Lands. TFN managed and maintained its roads and dikes (7.4-11, 7.24). TFN also paid for and received regional services from Metro Vancouver (17.11-12).

DEVELOPMENT REVIEW & CONSULTATION

The Treaty empowers TFN to evaluate all proposed developments on Tsawwassen Lands, including the environmental effects of those developments (6.12). In collaboration with TFN, British Columbia implemented a custom referral process and letter for applications within Tsawwassen Lands.

British Columbia and Canada are required to consult TFN before authorizing new works within the Deltaport Way Corridor (4.57). During the reporting period, British Columbia and TFN began negotiations on the location of the 41B overpass over Deltaport Way.

The Treaty also requires Canada and British Columbia to consult TFN on any proposed federal or provincial projects, respectively, that may be expected to adversely affect Tsawwassen Lands, residents of Tsawwassen Lands, or TFN (15.4 and 15.7). During the reporting period, Port Metro Vancouver consulted TFN on the proposed Vancouver Airport Fuel Delivery project through a harmonized environmental assessment with the British Columbia Environmental Assessment Office.



food, social & ceremonial

NATURAL RESOURCES

Although development and urbanization have impacted the natural environment in the Tsawwassen First Nation's traditional territory, for countless generations Tsawwassen people have respected and protected the gifts of the land and sea. Through the Tsawwassen First Nation Final Agreement, TFN exercises its rights to this natural bounty and cooperatively manages these resources for long-term sustainability.

FISHERIES MANAGEMENT

Prior to the Treaty, TFN harvested under its aboriginal right to fish. DFO managed a number of programs to accommodate Aboriginal fishing, including the Aboriginal Fisheries Strategy. These programs provided less certainty regarding actual fishing areas and allocations than those established by the Treaty for TFN (9.1 and 9.23).

The Parties are obligated to develop, update, and maintain the Fisheries Operational Guidelines (FOG) that describe operating principles and procedures for a Joint Fisheries Committee, which makes recommendations on fisheries matters (9.68-78 and 9.80). The FOG details procedures for monitoring and reporting domestic catch, accounting for salmon harvests, and regulating non-commercial fishing. The Parties completed these guidelines and worked to improve them for subsequent fishing seasons.

Food, Social, & Ceremonial (FSC) Fishery

After viewing the Tsawwassen Annual Fishing Plan and recommendations from the Joint Fisheries Committee, Canada issued Harvest Documents to TFN that set out fishing terms and conditions to fish for salmon, eulachon, crab, and ground fish for domestic needs (9.59, 9.61, and 9.65). Under the Treaty, TFN provides catch information to Canada (9.5 and 9.22). In light of extremely low abundance of sockeye, TFN requested and received a temporary increase in its non-commercial chinook allocation from 625 to 900 pieces.

The Treaty includes a commitment for the Parties to adjust for the difference between salmon allocations and the total actual catch (9.27). These "underages" and "overages" for sockeye are calculated from the Canadian Total Allowable Catch (CTAC) formula. During the 2009 season, the CTAC was changed drastically from the pre-season estimate to the in-season estimate. As a result, the TFN FSC allocation fell from 15,226 pieces to 1,610. Given the high degree of uncertainty about the future of the sockeye fishery, the Joint Fisheries Committee recommended that the 2009 sockeye allocation be set to equal the actual sockeye catch of 1,132 pieces, with no underage carried forward to future harvests. TFN harvested less than its Treaty allocations for pink, coho, and chum salmon and agreed that no underage be carried forward. TFN exceeded its temporary allocation of 900 chinook by 95, and this overage will be carried forward.

natural resources

Tsawwassen Members harvested the following species and amounts during the reporting period:

› 1,132 sockeye	› 1,320 chum (FSC)
› 995 chinook	› 24,712 Dungeness crab
› 72 pink	› 49 lbs of eulachon.
› 57 coho	

Commercial Fishery

On the Effective Date, the Parties entered into a 25-year Harvest Agreement, which sets out commercial allocations of Fraser River sockeye, chum, and pink salmon, as well as crab license conditions in the lower Strait of Georgia and Boundary Bay (9.102). The agreement has requirements comparable to those governing general commercial fisheries.

During the reporting period, TFN had a commercial allocation of 8,113 chum salmon and harvested 3,416. TFN transferred the remainder to the Sto:lo Nation in exchange for employment opportunities to ensure TFN benefited from its total allocation.

TFN NATURAL RESOURCES DEPARTMENT

The Natural Resources Department of Tsawwassen Government administers the Treaty agreement between TFN, British Columbia, and DFO on the Annual Total Allowable Catch for crab, salmon, eulachon, other fisheries, and aquatic plants. It organizes, monitors, and enforces TFN activities and regulations in relation to the harvest and conservation of fish, wildlife, migratory birds and plants; reviews requests for referrals from other governments and industry; and, where possible, negotiates Impact Benefit Agreements. The department leads TFN's participation in environmental assessments undertaken by other governments and has overall responsibility for archaeology and heritage.

In addition to the activities previously mentioned, the department undertook the following initiatives:

- › implemented the Tsawwassen Fisheries Plan;
- › trained departmental staff (catch monitors, enforcement officers, etc.) to implement a fisheries program that complies with the terms and conditions of the Treaty and TFN's *Fisheries, Wildlife, Migratory Birds and Renewable Resources Act*;
- › managed consultations for over 500 referrals for proposed projects on Tsawwassen Lands;
- › compiled fisheries data and reported to DFO through the Joint Fisheries Committee.

FISHERIES ENFORCEMENT

On the Effective Date, Canada and TFN entered into an agreement to facilitate cooperation on enforcement of both federal and Tsawwassen laws for Tsawwassen domestic fisheries (9.92-9.93). While the agreement does not cover prosecution, it aims to clarify the activities of enforcement officers of both Parties. These activities include education, issuing warnings and tickets, using restorative justice, seizing gear and catch, collecting fines, and making arrests for fisheries offences.

FISHERIES INVESTMENTS

On the Effective Date, Canada transferred \$1 million to TFN to establish a Fisheries Fund (9.96) for promoting the conservation and protection of fish, aquatic plants, and fish habitat; facilitating the sustainable management of fish and fish habitat; and promoting and supporting participation by TFN in the stewardship of fish and fish habitat in Tsawwassen Territory. In addition, Canada transferred \$1.6 million to help increase TFN commercial fishing capacity (9.105). This one-time payment is intended to aid Tsawwassen Members in becoming more active participants in the commercial fishing industry and to support the local economy. TFN purchased one commercial fishing license and vessel with a portion of these funds.

OTHER NATURAL RESOURCES

While there is no standing tripartite committee to manage wildlife, migratory birds, renewable resources, or plants, Tsawwassen Government interacts with appropriate federal departments or provincial ministries to manage these natural resources. Activities undertaken included the preparation of harvesting plans by TFN, approval of these plans by federal or provincial agencies, and consultation on conservation and harvesting issues. TFN resource use is evolving as rights are now clarified under the Treaty.

TREATY RIGHTS IN NATIONAL PARKS

The Treaty guarantees Tsawwassen Members the right to harvest Renewable Resources for food, social, or ceremonial purposes in National Parks and National Marine Conservation Areas that are wholly or partly in Tsawwassen Territory (12.1). This includes plants, birds (including migratory birds), land mammals and traditional foods, but does not include fish and aquatic plants. The right is limited by measures necessary for conservation, public health or public safety, and Canada retains authority for managing and controlling these and other national protected areas.

During the reporting period, it was anticipated that the Gulf Islands National Park Reserve (GINPR) would soon be scheduled under the *Canada National Parks Act*. Before that happened, TFN and Parks Canada met to discuss harvesting and other matters related to park management and operations (12.29, 12.31, 12.33-35). TFN was also among the First Nations that Parks Canada consulted regarding human remains discovered in the GINPR.

TREATY RIGHTS IN PROVINCIAL PARKS

Similarly, the Treaty ensures Tsawwassen Members the right to gather plants for food, social, or ceremonial purposes in areas set out in Appendix M-2 of the Treaty (13.1), according to an approved gathering plan issued by British Columbia (13.23-28). The Treaty stipulates that any gathering plan that includes provincial Crown land within Burns Bog be consistent with the Burns Bog Management Agreement. Gathering plans for Golden Ears and Pinecone Burke provincial parks were developed and approved by British Columbia during the reporting period. In addition, British Columbia developed a Marine Plant Identification and Harvesting document.



policies, procedures & protection

GOVERNANCE

The self-government provisions of the Treaty have transformed how the Tsawwassen First Nation is governed. The move towards self-government is an enormous undertaking and preparation for the transition began well before April 3, 2009. A comprehensive Treaty Transition Plan, consisting of 40 major projects, was developed to help guide the work up to the Effective Date and beyond.

TSAWWASSEN GOVERNMENT SERVICES

On the Effective Date, Tsawwassen Government began to operate according to its Constitution and legal framework (16.8). It established a Government Services Department to facilitate the transition to self-government. The Government Services Department ensures that TFN meets its Treaty obligations and works effectively with its Treaty partners through the Treaty Implementation Committee. In addition, it supports the day-to-day operations of Tsawwassen Government; helps develop Tsawwassen Government's policies and procedures; liaises with other levels of government and First Nations organizations; and provides information to Tsawwassen Government Members, other governments, and the general public.

In addition to the Treaty implementation activities previously noted, Tsawwassen Government undertook the following:

- › established a public registry of Tsawwassen laws (16.16);
- › established the TFN Police Services Agreement with British Columbia for the enforcement of Tsawwassen law on Tsawwassen Lands (16.138-139);
- › appointed a Local Government Liaison Officer;
- › established and operationalized forums for working with non-Member leasehold communities (Consultation Committee and Property Taxation Authority) and ensuring that they are consulted (16.17-22);
- › developed a protocol agreement with the B.C. Assessment Authority, operationalizing TFN's powers under the Real Property Taxation Coordination Agreement to apply property taxes to non-Member occupiers of Tsawwassen Lands;
- › established rules and procedures for the Tsawwassen Legislature and for decision-making by Tsawwassen Government institutions;
- › provided Canada and/or British Columbia with notice of certain TFN legislative enactments, including minor amendments to the *Property Tax Act* and the *Education, Health and Social Development Act*;
- › complied with the terms of the Tax Treatment Agreement to ensure that Tsawwassen Government receives the rebate on certain taxes;
- › reviewed and responded to six proposed provincial laws or amendments to existing laws.

governance

TSAWWASSEN LEGISLATION

In keeping with its obligations under the Treaty, TFN drafted and implemented the following legislation:

- › *Constitution Act*
- › *Administrative Review and Judicial Proceedings Act*
- › *Children and Families Act*
- › *Community Governance Act*
- › *Community Safety and Security Act*
- › *Conflict of Interest Act*
- › *Culture and Heritage Act*
- › *Economic Development Act*
- › *Education, Health and Social Development Act*
- › *Election Act*
- › *Financial Administration Act*
- › *Fisheries, Wildlife, Migratory Birds and Renewable Resources Act*
- › *Freedom of Information and Protection of Privacy Act*
- › *Interpretation Act*
- › *Government Employees Act*
- › *Government Organization Act*
- › *Land Act*
- › *Land Use Planning and Development Act*
- › *Laws Enforcement Act*
- › *Members' Guarantees Act*
- › *Membership Act*
- › *Property Taxation Act*
- › *Traditional Territory Boundary Commission Act*
- › *Election Amendment Act*
- › *Technical Amendments Act*
- › *Appropriations Act 2010*
- › *Education, Health and Social Development Amendment Act*
- › *Freedom of Information and Protection of Privacy Amendment Act*
- › *Government Employees Amendment Act.*

In addition, TFN has passed over 50 regulations under Tsawwassen laws. Updated on a regular basis, a full list of Tsawwassen laws is available to the public on TFN's website, www.tsawwassenfirstnation.com.

PROVINCIAL LEGISLATION

In order to fulfill its Treaty obligations and help actualize self-government for TFN, British Columbia brought into force the *Tsawwassen First Nation Final Agreement Act* and the *Final Agreement Consequential Amendments Act* (FACAA) on the Effective Date, as well as numerous regulations and Orders in Council. The FACAA amended 43 statutes including the *Child, Family and Community Service Act*, the *Liquor Control and Licensing Act*, and the *Dike Maintenance Act*.

Under the Treaty, British Columbia is required to provide written notice to TFN of proposed introduction of, or changes to, provincial legislation or regulation that may affect Tsawwassen Government law-making, except in circumstances of emergency or confidentiality (16.29-38). British Columbia notified TFN regarding numerous statutes, including the:

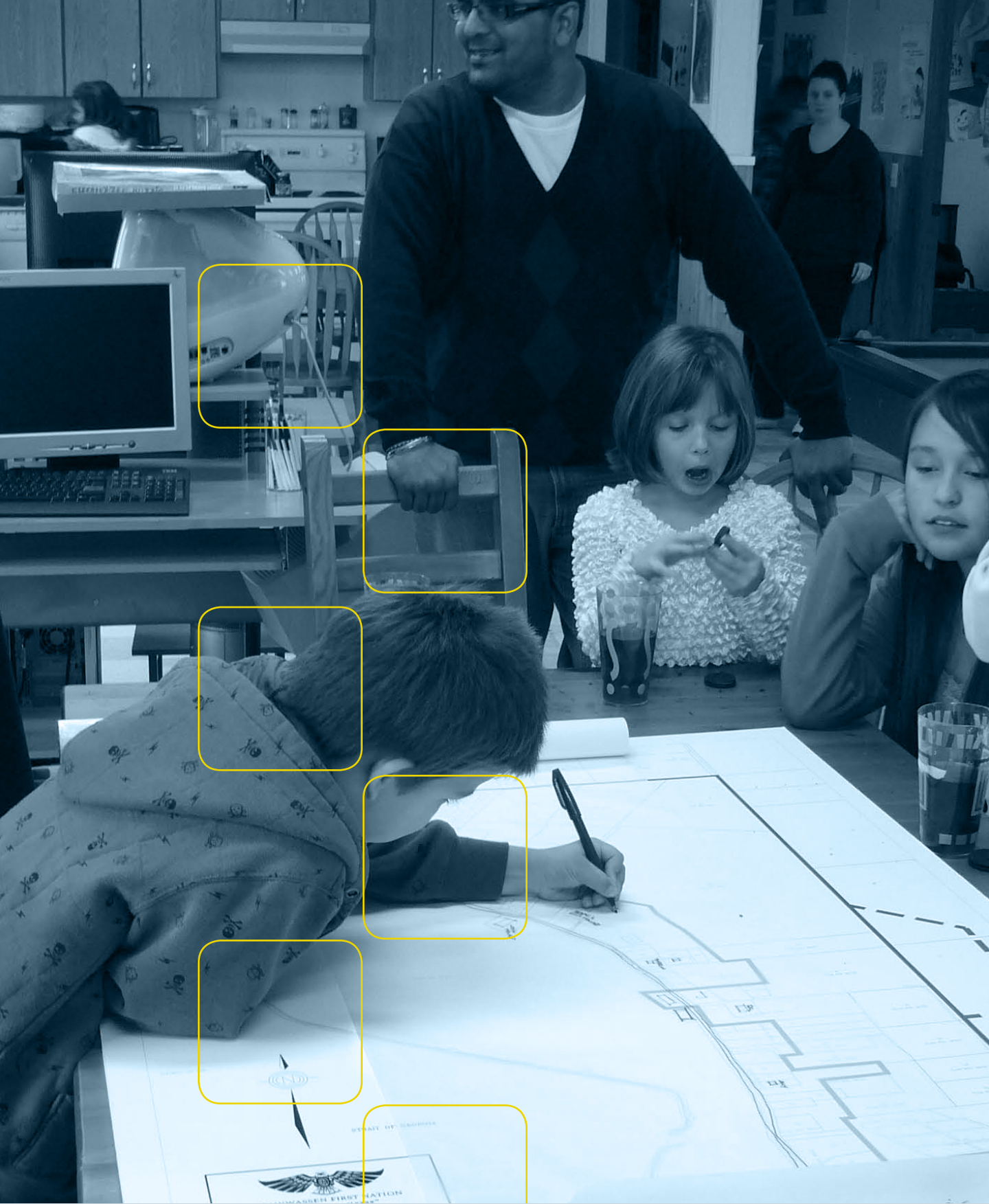
- › *Wills, Estates and Succession Act*
- › *Motor Vehicle Amendment Act*
- › *Haida Gwaii Management Area Act*
- › *Treaty First Nation Taxation Act*
- › *Miscellaneous Statutes Amendment Act, 2009.*

CULTURE, HERITAGE, & LANGUAGE

On the Effective Date, British Columbia transferred to TFN \$1,111,765 to establish a Cultural Purposes Fund for the protection and preservation of Tsawwassen culture, heritage, and language (14.13). In addition, British Columbia added the place names suggested by TFN in Appendix O-4 to the British Columbia Geographical Names Database (14.29).

OTHER TRUST FUNDS

Two legacy trust funds were established under the Treaty: the Treaty Settlement Fund and the aforementioned Fisheries Fund. In addition, new special funds were created for Implementation, Commercial Crab and Fish, Reconciliation, Economic Development, Capital Assets—Management and Replacement, and Local Services. These funds, in addition to the Minors' Trust Fund and the Business Loans and Training Fund, will be audited yearly and those audits made available to Tsawwassen Members.



strong community involvement

PROGRAMS & SERVICES

The Treaty enables Tsawwassen Government to assume responsibility for delivering agreed-upon government programs and services previously provided by Canada or British Columbia. At the same time, Tsawwassen First Nation remains eligible for government programs and services for which it has not assumed responsibility through the Fiscal Financing Agreement (FFA). Tsawwassen Members, the Tsawwassen Government, or Tsawwassen public institutions on behalf of Tsawwassen Members may apply for funding from such programs, subject to program eligibility criteria. In some instances, TFN has broadened programs or eligibility beyond the requirements in the FFA.

HEALTH & SOCIAL DEVELOPMENT

TFN delivers a number of programs and services for the health and wellbeing of Tsawwassen Members through the Health and Social Development Department, including:

› Community Health Program (Pre-Natal, Drug and Alcohol Counseling)	› Adult Care Program
› Homemaking Services	› Home Care Services
	› Elders' Program.

The department began a community health needs assessment, which will provide input into the development of a Community Health Plan, as required under the FFA. In addition, TFN worked with Canada and British Columbia to clarify responsibilities and authorities on Tsawwassen Lands.

TFN provides social assistance to TFN Members and Aboriginal people living on Tsawwassen Lands. Under the Treaty, the provision of service by TFN to non-Aboriginals ceased on the Effective Date. Non-Aboriginals living on Tsawwassen Lands now access social assistance from provincial offices. Social assistance program components cover basic needs, guardian financial assistance, shelter, and National Child Benefit reinvestment. Funding for social assistance is provided through the federal block funding negotiated under the Treaty. The new funding model and the transfer of jurisdiction from Canada to TFN provides increased flexibility in the use of this funding.

CHILD & FAMILY SERVICES

On the Effective Date, Tsawwassen Government passed the *Tsawwassen Child and Families Act*, which delegates all protective duties regarding children and families to British Columbia. During the reporting period, TFN and British Columbia worked to develop a unique protocol agreement to ensure that both parties put the needs of Tsawwassen

programs & services

children first. The agreement, which is expected to be signed in the coming reporting period, includes a dispute resolution process, mandatory annual review, and provisions for strong community involvement in the lives of Tsawwassen children.

EDUCATION & SKILLS DEVELOPMENT

TFN's Education and Skills Development Department delivers the following programs and services:

- › Smuyuq'wa' Lelum Early Childhood Education Centre (infant/toddler program, preschool, and group daycare program);
- › support programs for K-12 education;
- › administration of a Local Education Agreement for the delivery of K-12 education by Delta School District;
- › post-secondary funding for Tsawwassen Members;
- › Aboriginal Family Resources on the Go (funded by British Columbia);
- › HeadStart (outreach services to parents with children aged 0-6);
- › youth program (through the TFN Youth Centre).

TFN chose to make its Post-Secondary Education program funding available to both status and non-status Members. TFN's Employment program was under re-development, as contract arrangements with Canada and other partners were being renegotiated and re-established. Of those Members living on Tsawwassen Lands, 41 were enrolled in kindergarten, primary, and secondary school, and three were enrolled in post-secondary institutions.

As prescribed by the Treaty, TFN consulted with British Columbia in advance of enacting the *Education, Health, and Social Development Act* and in advance of subsequent minor amendments.

CULTURAL PROGRAMMING

TFN began developing cultural programming to encourage use of the Hun'qum'ínum language, cultural transfer opportunities, and traditional knowledge sharing. In addition, TFN formed a Standing Committee on Language and Culture to encourage, monitor, and support Tsawwassen Government's efforts to make its systems culturally relevant.

PUBLIC WORKS

Upon achieving self-government, TFN assumed jurisdiction for local government functions similar to a municipal government. These functions include land use planning, public works and infrastructure, environmental management, and economic development.

TFN's Public Works Department provides reliable and safe infrastructure along with community surroundings that contribute to Tsawwassen Members' quality of life. The department has a major role in the community's health, safety, and emergency preparedness. Other responsibilities include:

- › operating TFN's sewage plant;
- › maintaining social housing, TFN-owned housing and buildings, grounds, and infrastructure;
- › contracting for public safety (police, fire, ambulance), road maintenance, street lighting, snow removal, and garbage collection;
- › recycling;
- › liaising with utility companies (i.e. Terasen, Telus, BC Hydro, Delta Cable).

Under the Treaty, the responsibility for water quality monitoring changed from Health Canada to the provincial Fraser Health Authority. The Public Works Department manages TFN's compliance with provincial standards. Fourteen samples were collected, seven of which were tested. No water quality issues were detected.

INFRASTRUCTURE

In order to begin the first phase of an industrial lands site servicing project, TFN applied to British Columbia and Canada for funding under Infrastructure Stimulus Fund, a part of Canada's Economic Action Plan (CEAP). Many Aboriginal Canadians benefitted from programs administered by Indian and Northern Affairs Canada under CEAP. However, due to its municipal-like status, TFN was the only First Nation in Canada to receive funding from the \$4 billion Infrastructure Stimulus Fund. Once the project is complete, TFN will be connected to Metro Vancouver's water system and will have sufficient water services in place for future developments (17.24). With the support of its Treaty partners, TFN was successful in securing \$6 million in funding towards this \$9 million initiative. Work began during the reporting period and is scheduled for completion by March 31, 2011.

ECONOMIC DEVELOPMENT

TFN incorporated the TFN Economic Development Corporation (TEDC) to support a healthy economy; provide jobs, business opportunities, and profits to TFN; and contribute to an enhanced quality of life for Tsawwassen Members. Through a Letter of Expectations, TFN set out TEDC's mandate and expected performance targets, and appointed an experienced Board of Directors.

In its first year of operation, TEDC undertook necessary start-up activities, including the completion of a critical plan for the Tsawwassen Industrial Lands, and assuming responsibility for various existing ventures and interests of TFN. TEDC also began exploring new opportunities related to development on lands targeted for industrial use and lands targeted for commercial use.

TEDC informs Members about procurement and employment opportunities. During the reporting period, TEDC generated almost \$200,000 in revenue for Member entities (wages for employees, contracts for Member businesses), and created over two "person years" of employment.



financially responsible

FINANCE

Through the Tsawwassen First Nation Final Agreement, Canada, British Columbia, and the Tsawwassen First Nation have established an on-going government-to-government relationship. The Parties report that Tsawwassen Government was managed in a financially responsible manner during its first year of operation.

CAPITAL TRANSFER & FISCAL RELATIONS

Canada and TFN are obliged to make various one-time and ongoing scheduled payments to each other as Treaty settlement costs. These include a capital transfer from Canada to TFN (18.1), and negotiation loan repayments from TFN to Canada (18.3 and 18.8).

Through the Treaty, TFN receives a capital transfer of \$13.9 million over ten years, less outstanding loans of \$5.6 million taken to negotiate the Treaty. In consideration of the release by TFN of rights to mines and minerals under previously surrendered reserve lands, Canada provided TFN an additional \$2 million. All capital transfer amounts and negotiation loan repayments, payable at the Effective Date and according to schedule, were made.

FISCAL FINANCING AGREEMENT

The Treaty requires the Parties to negotiate and attempt to reach agreement on a Fiscal Financing Agreement (FFA) describing the financial relationship among the Parties (19.2). The FFA sets out funding amounts from Canada and British Columbia to TFN for supporting agreed-upon government programs and services, and for supporting Treaty implementation activities.

On the Effective Date, the Parties entered into a five-year FFA, which sets out terms, conditions, and reporting requirements for transfer payments. Canada paid to TFN the first of three equal installments (to total \$14.6 million) for start-up costs and to establish an income-generating fund managed by TFN. In addition, Canada pays approximately \$2.8 million each year as a block-fund for federally-supported programs and services, including: education, social development, health, physical works, local government, and non-commercial fisheries. British Columbia pays \$100,000 annually for a Liaison Officer. All federal and provincial transfers were completed on time.

OWN SOURCE REVENUE AGREEMENT

On the Effective Date, the Parties entered into a 20-year Own Source Revenue Agreement (OSRA), which calculates the contribution TFN will make from its own source revenue for the agreed-upon programs and services in the FFA (19.4-5). As part of the transition to self-government, Canada and British Columbia agreed that TFN's contribution for the first

finance

five years will be zero, after which contributions will increase over a defined period. The intent of the OSRA is to decrease TFN's reliance on financial transfers from Canada and British Columbia as TFN becomes more self-sufficient over time.

TAXATION POWERS

The Treaty provides for the Parties, either together or separately, to negotiate on Tsawwassen Government taxation powers (20.4). On the Effective Date, British Columbia confirmed that the TFN plan for the Tsawwassen Taxation Authority was acceptable (20.4) and that TFN is exempt from payment of Property Transfer Tax on Other Tsawwassen Lands and leases (20.4).

While Canada remains willing to negotiate other taxation powers agreements (e.g., First Nations GST or Personal Income Tax), TFN did not seek to negotiate those powers during the reporting period. No residents of Tsawwassen Lands saw any practical changes to their taxes on the Effective Date.

EXEMPTIONS

The tax exemptions for Tsawwassen Members under the *Indian Act* will discontinue as a result of the Treaty (2.10, 2.39 and 20.16-18). Exemption from Transaction Taxes will cease as of May 1, 2017, and exemption from all other taxes will cease as of January 1, 2022. Before these dates, TFN may elect to impose a new tax that applies to both Members and non-Members. During the reporting period, these exemptions continued to be available for Tsawwassen Members.

On the Effective Date, British Columbia and TFN entered into the Tsawwassen First Nation Real Property Tax Coordination Agreement (20.7), which vacates provincial property tax room in favour of TFN's property tax regime.

TAX TREATMENT AGREEMENT

The Treaty stipulates that the Parties enter into a Tax Treatment Agreement (20.22), which sets out a number of technical tax treatment rules and is given force and effect under federal and provincial settlement legislation. On the Effective Date, the Parties entered into a Tax Treatment Agreement for a term of at least 15 years.

TSAWWASSEN FIRST NATION

Consolidated Statement of Financial Activity (2009/10)

REVENUE

1. Final Agreement Proceeds	23,069,426
2. FFA Block Fund	2,449,440
3. INAC Contributions	2,168,592
4. Province of British Columbia	813,621
5. B.C. Ministry of Transportation	804,933
6. Property Taxes	676,844
7. Other	630,509
8. Interest income on FA receivable	367,678
9. Lease and Rental	359,833
10. Economic Development	294,925
11. First Nations Employment Society	272,893
12. Permit and Registry Fees	211,824
13. Social Housing	160,561
14. Utilities	73,542
15. Interest income	71,119
16. Share of business enterprise income	57,669
17. Total	32,483,409

EXPENSES

1. Local Government Services	2,642,695
2. Administration	2,258,066
3. Amortization Expense	1,345,058
4. Fisheries	872,317
5. Economic Development	708,931
6. Education	680,797
7. Social Development	674,892
8. Community Benefits (Includes expenses from Tsawwassen Settlement Trust Fund)	535,540
9. Employment	302,369
10. Interest on Final Agreement	153,514
11. Social Housing	135,031
12. Total	10,309,210
Excess of revenues over expenses	
Total	22,174,199

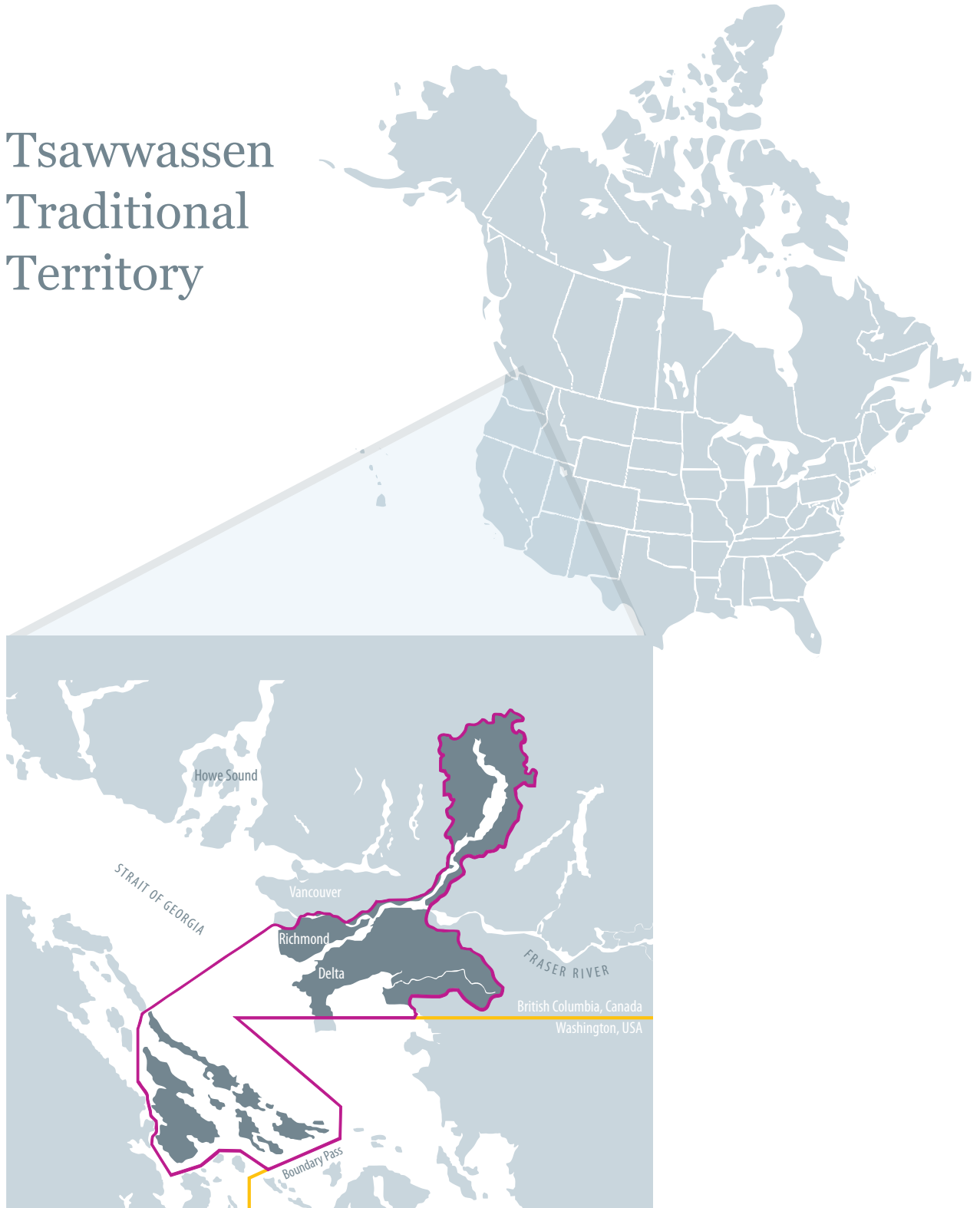
Notes:

(1) The year-end surplus of revenue over expenditures is indicative of several one-time capital transfers and the net present value of certain, limited payments that occurred on the Effective Date. Excluding the Final Agreement proceeds, TFN had a deficit of \$895,227.

(2) The Budgeted Deficit for the 2009-10 Fiscal Year was approximately \$2,000,000. The budgeted deficit was covered by Treaty Implementation Funds; however, to the extent it can, Executive Council has established a mandate to reduce reliance on the use of the implementation funds

(3) TFN's cash position on year end was \$182,585.

Tsawwassen Traditional Territory



*These maps are representational (not to scale) and are for general information purposes only.

Tsawwassen Lands

