



Tsleil-Waututh Nation

səlilwətał



Standing Committee on Environment and Sustainable Development
Sixth Floor, 131 Queen Street
House of Commons
Ottawa ON K1A 0A6
Via e-mail: ENVI@parl.gc.ca

February 2, 2021

Dear House of Commons Standing Committee on Environment and Sustainable Development,

Re: Tsleil-Waututh Nation Written Submission on Bill C-12

The Tsleil-Waututh Nation (“TWN”) submits this written brief outlining our comments regarding Bill C-12, *the Canadian Net-Zero Emissions Accountability Act*.

I. Introduction

Tsleil-Waututh are the People of the Inlet and a distinct Coast Salish Nation whose territory includes Burrard Inlet and the greater Vancouver region in the lower mainland of British Columbia. Tsleil-Waututh holds a sacred, legal obligation to past, current, and future generations to protect, defend, and steward the water, land, air, and resources of our territory. Our stewardship responsibility includes the need to maintain and restore conditions that provide the environmental, cultural, spiritual, and economic foundation for our nation and community to thrive. Tsleil-Waututh does this through actively exercising our governance and stewardship rights, as we have done since time out of mind.

In recent years, TWN spearheaded a Tsleil-Waututh Climate Change Program with two distinct branches: the Climate Resiliency Branch, which includes climate change adaptation and mitigation planning and action at the local level; and the Policy and Engagement Branch, which engages in policy and legislative development at the provincial, national, and international levels including at the United Nations Intergovernmental Panel on Climate Change (IPCC). We continue to assess the impacts of the hundreds of development projects proposed within our territory every year in accordance with our Stewardship Policy.

At the federal level, Tsleil-Waututh has previously reviewed and commented on numerous policies and regulations including:

- the Pan-Canadian Framework on Clean Growth and Climate Change;
- the Federal Carbon Pricing Plan;

- Bill C-68;
- Bill C-69;
- the Strategic Assessment on Climate Change;
- the development of the Clean Fuel Standards;
- greenhouse gas (GHG) emissions regulations;
- project-specific GHG assessments;
- the 4th Biennial Report and 2030 GHG Projections;
- the Commission for Environmental Cooperation Strategic Plan.

The TWN Climate Resiliency Branch developed a GHG Inventory and Reduction Plan for our lands, alongside a Climate Action Plan. We are also a member of the International Alliance to Combat Ocean Acidification (OA). Tsleil-Waututh's involvement on these files has informed our review of Bill C-12.

We commend the government of Canada for taking this critical step to reach net-zero emissions by 2050. We anticipate Bill C-12 will offer a framework under which the aforementioned plans, legislation and regulations may interact more cohesively.

II. Procedural Comments

Firstly, we would like to comment on Canada's process to date regarding engaging Indigenous governments. Tsleil-Waututh Nation is proactively seeking and responding to all available ECCC climate-related policy, legislative and regulatory reviews where capacity allows. We are attempting to grow a relationship with the ECCC Strategic Policy Branch for this purpose. Despite the concerted efforts of both parties to achieve this, it remains difficult for us to track ECCC releases, as there are no formal consultation or communication processes with Indigenous communities for climate change policy, legislative and regulatory reviews.

We remind ECCC that national umbrella organizations cannot be solely relied upon to provide Indigenous input on federal climate initiatives. While they do provide important input, climate leadership is demonstrated at the local level across Canada, and as governments and rights-holders within our territory, our input must be considered and dialogue occur on a nation-to-nation basis.

Our experience shows us that the government of Canada remains structurally siloed, rather than positioned to respond holistically to the climate crisis, limiting the federal government's ability to address this overarching and complex issue. Tsleil-Waututh Nation's engagement with Canada demonstrates potential for a whole-of-government approach, adds value by working towards this end, and contributes a necessary, rights-based Indigenous perspective. Our concerns and recommendations often require cross fertilization between varying ministries, such as ECCC, Department of Fisheries and Oceans (DFO), and Transport Canada. The climate change challenge requires us to work together for decades to come – and we must start now.

Recommendations:

1. We understand the government of Canada has a large number of climate initiatives being administered by different departments, which is why we recommend ECCC establish an improved and focused consultation and communication process with Indigenous communities, to build a meaningful government-to-government relationships for long-term effectiveness.
2. Provide capacity funding to enable Tsleil-Waututh to fully engage and participate in climate-related consultation processes.
3. Develop, or continue to develop new roles or positions within ECCC to facilitate a cohesive approach, open communication, and collaboration across federal departments focused on the cross-cutting issue of climate change. Relationship-building with Indigenous communities should be included in such roles.

III. Indigenous Rights

Indigenous peoples are disproportionately impacted by climate change, both directly and by the exacerbation of existing cumulative effects. Indigenous communities, however, also disproportionately demonstrate climate leadership and the sustainable management of ecosystems including stewardship of biodiversity. Non-Indigenous science is catching up to what our Elders and Knowledge Holders have been witnessing, saying and teaching for decades. We are doing our part, and we need the government of Canada to uphold the nation-to-nation relationship as well as its fiduciary duty to TWN and other Indigenous nations through meaningful, inclusive, and just climate action.

The lack of collective action and leadership on behalf of all levels of government, and consequent failure to curb emissions and prevent runaway catastrophic climate change has the potential to constitute an infringement of Indigenous rights and abandonment of the government of Canada's fiduciary duty to Indigenous communities.

Recommendations:

4. Illustrate within the legislation how the Government of Canada will harmonize Bill C-12 with the United Nations Declaration on the Rights of Indigenous People (UNDRIP).
5. Ensure the protection of Indigenous rights are enshrined in the legislation and in the mandate of the advisory body and Commissioner.
6. Seek opportunities for Indigenous partnership and ensure meaningful Indigenous engagement and input in the development of emissions reduction plans.

IV. Robustness of Bill C-12

While we credit the current government for initiating Bill C-12, Canada's track record of failing to meet any of its targets means stronger enforcement and compliance measures must be written into legislation. There is currently no legal penalty for missing a target, which risks a continued failure to meet targets.

Canada must therefore develop a detailed Action Plan that outlines steps in order to transition to net-zero by 2050 and meet the targets set out in Bill C-12. This must include a detailed emissions-reduction roadmap, steps to ensure a just transition for workers and the economy, and ensuring Indigenous communities and vulnerable populations are meaningfully included and their unique circumstances addressed.

There must be a mechanism that ensures compliance and enforcement of adherence to climate targets laid out in Bill C-12. Should emissions accounting demonstrate that these targets are not being achieved, there must be strong accountability measures including legal obligations, and steps outlined for how to course correct in accordance with necessary timelines. TWN would be happy to discuss this further with ECCC.

Recommendations:

7. Conduct an alternative pathway analysis and weigh the effectiveness of five-year carbon budgets versus the proposed milestone targets. Please provide a public rationale for the path chosen for the *Canadian Net-Zero Emissions Accountability Act*.
8. Develop a detailed Action Plan that outlines steps to achieve targets outlined in Bill C-12, including a detailed emissions-reduction roadmap.
9. Bill C-12 must enable the federal government to backstop climate action where necessary, like the *Carbon Pricing Act*. Bill C-12 should also provide incentives and facilitate provincial ambition.¹
10. Legislate a restricted use of carbon offsets in reaching targets. Reducing domestic emissions must be the central focus of the *Canadian Net-Zero Emissions Accountability Act*.
11. Align the accountability cycle set out in Bill C-12 with the Paris Agreement's 5-year stocktake process (and its goal of ratcheting up ambition).²
12. Bill C-12 must hold government to account by prescribing robust minimum standards for planning and reporting and imposing a legal obligation to meet the established targets.³

V. Targets and Emissions Reduction Plans

Targets must be based on science. Canada must rely on domestic emissions reductions rather than carbon credits and offsets.⁴

Further, TWN urges Canada to fill the existing 2025 gap in Bill C-12. The first milestone and target must be set for 2025. Without a meaningful and accountable measure for 2025, Tsleil-Waututh seeks a more stringent 2030

¹ Briefing note prepared by Climate Action Network; Ecojustice; Environmental Defence; Equiterre; Pembina Institute; and West Coast Environmental Law, November 26, 2020: <https://www.wcel.org/publication/how-strengthen-bill-c-12-canadian-net-zero-emissions-accountability-act>

² *Ibid.*

³ *Ibid.*

⁴ Tsleil-Waututh also supports the recommendation developed by a coalition of environmental organizations that states: "Bill C-12 should ensure targets and plans are set further in advance, provide for earlier and more regular progress reporting, and place a low cap on the use of international offsets (or even restrict offsets altogether, other than to exceed targets)." (<https://www.wcel.org/publication/how-strengthen-bill-c-12-canadian-net-zero-emissions-accountability-act>).

target, and immediate actions in place to start working towards achieving or exceeding the 2030 target. Should ECCC not make this adjustment, Tsleil-Waututh requests ECCC provide rationale as to why there is no target or measurable action for this crucial decade.

Recommendations:

13. Engage directly with TWN on Bill C-12, and other related climate legislation, regulation, and policies, including action plans.
14. Increase reliance and ambition on earlier targets. TWN supports the more ambitious target recommended by the Assembly of First Nations (AFN) and environmental organizations to reduce GHG emissions by 60% below 2005 levels by 2030.
15. Legislate a cap for the use of carbon credits and international offsets. For example, Sweden's Climate Act limits offsets to 15% of its 2050 goal.
16. Emissions reductions plans must be developed through the inclusive lens of social, gender, racial, and environmental justice and equity, as well as the recognition, respect and protection of Indigenous rights.
17. Our oceans are often overlooked in the climate mitigation discussion. Integrated ocean policy, management, and conservation, as well as the marine shipping, transportation, and industry sectors must be a critical component of Canada's climate plans and actions.

VI. Bill C-12 in TWN Territory

Cumulatively, there are significant sources of GHG emissions within TWN territory, including the Port of Vancouver, the Vancouver International Airport, and others. Tsleil-Waututh would like to better understand how Bill C-12 will enable regulations or enforcement over federal agencies such as these that oversee GHG-intensive operations on federal lands and waters.

Recommendations:

18. Engage directly with TWN on Bill C-12, and other related climate legislation, regulation, and policies.
19. Make amendments to the *Canada Marine Act* and the *Canada Airports Act* to enable net-zero emissions regulations for Canada's major ports and airports, in consultation with affected Indigenous groups.

VII. Emissions accounting

We have previously argued that the utility of the Pan Canadian Framework on Clean Growth and Climate Change is seriously limited without comprehensive project-level GHG emissions assessments. The government of Canada cannot track, plan and monitor progress towards climate targets and commitments without understanding the data at the ground level.

Currently, project-level GHG emissions assessments do not provide sufficient quality and quantity of information to support informed decision-making *or* provide confidence that specific and/or cumulative project development will not risk Canada's climate change commitments and exacerbate climate impacts.

The Strategic Assessment on Climate Change (SACC) directs project proponents to submit a "credible plan" for how the project will achieve net-zero emissions by 2050, and that plan "should describe emissions reductions at specific intervals up to 2050"; however, this does not account for the cumulative emissions of smaller-scale projects that do not trigger an Impact Assessment (IA) or are captured under the SACC.

Recommendations:

20. Re-evaluate the SACC and Canada's GHG inventory methods in consideration of the goals of Bill C-12 and adjust accordingly.
21. Require the inclusion of downstream emissions and all indirect emissions in project-level GHG assessments and national GHG inventories.

VIII. Advisory Body

TWN supports all measures to insulate the advisory body from political pressure or input – the advisory body must be comprised of scientific experts and Indigenous Knowledge Holders. The advisory body should be empowered to perform an oversight role to enhance government compliance and accountability.

Recommendations:

22. The advisory body established under Bill C-12 must include Indigenous representation who can contribute an Indigenous climate lens to the roles and functions of the advisory body.
23. Place greater emphasis on science and expertise by strengthening the advisory body's role in establishing targets, plans and reports, and ensuring that the body is comprised of independent experts.
24. Ensure the advisory body coordinates with other federal departments to prepare or provide input on reports that assess climate risks and impacts in Canada, inform adaptation planning, and assess energy futures.

IX. Financial Reporting

Bill C-12 requires the government of Canada publish an annual report describing how departments and Crown corporations are considering the financial risks and opportunities of climate change in their decision-making. TWN has the following recommendations related to this measure:

Recommendations:

25. TWN commends the inclusion of climate risk reporting for federal departments and Crown corporations in Bill C-12. We urge the Government of Canada to retain, or strengthen, this section as the bill passes through the legislative process.

26. TWN encourages the Government of Canada to require climate risk reporting for large companies in Canada.
27. Include climate risk reporting requirements for all projects under review by the Impact Assessment Agency (IAA) and the Canada Energy Regulator (CER).
28. The Minister of Finance annual report should incorporate workforce transition investments, creation of new job markets and training, and transparency on social, racial and gender equity measures in place.

X. Commissioner of the Environment and Sustainable Development

We would like to better understand the role and activities of the Commissioner of the Environment and Sustainable Development (CESD). As the consideration of Indigenous rights is inherently linked to the assessment of climate change, and the resulting mitigations and adaptations, we seek assurances that our recommendation below is taken into consideration by the Commissioner.

Recommendation:

29. Through its oversight responsibilities, the CESD must incorporate the recognition, respect and protection of Indigenous rights, implementation of UNDRIP, and protection of basic human rights including the right to clean, free, and accessible drinking water.

XI. Conclusion

The further development of Bill C-12 provides us with an opportunity to ensure meaningful inclusion of Indigenous knowledge and decision-making on these critical matters, by ensuring Indigenous governments have a meaningful role at the table at all stages of policy and legislative development and implementation. We look forward to continuing this conversation. Please do not hesitate to get in touch with us should you wish to discuss our comments further, at ehanson@twnation.ca.

Sincerely,



Erin Hanson
Policy Advisor, Treaty, Lands and Resources Department
Tsleil-Waututh Nation

Cc: Gabriel George, Director, Treaty, Lands and Resources, Tsleil-Waututh Nation
Matt Jones, Assistant Deputy Minister, ECCC
John Moffet, Assistant Deputy Minister, ECCC
Marlo Reynolds, Chief of Staff, ECCC
Terry Beech, MP