

## UPDATE ON FIRST NATIONS CONSULTATION / ENGAGEMENT

November 2009

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### **INITIATIVES TO DATE**

The Capital Regional District's (CRD) approach to working with First Nations on the Core Area Wastewater Management Program is to create a clear understanding of roles, responsibilities and expectations at the front end of the program to ensure the potential of a strong working relationship throughout its completion. As a result, the CRD has entered into a protocol with the province to form a partnership on consultation and engagement by outlining those issues which are the responsibility of the CRD, and those that ultimately lie with senior governments. To date, this arrangement has resulted in a productive working relationship between the CRD and Ministry of Environment, and has facilitated meaningful engagement with potentially affected First Nations.

Within that agreement, the province retains overall responsibility for consultation with First Nations including outlining which First Nations need to be engaged and to what extent. The CRD is taking the "on the ground" responsibility for making sure First Nations are well informed about the project, have real opportunities to provide input, and can see how that input is being used, where practical, in the design and construction of the project. If issues remain, it will then be the provincial or federal government's responsibility to respond to, and, where appropriate accommodate assertions concerning potential impacts on a First Nation's existing aboriginal or treaty rights. Where possible and practical, the CRD is willing to address mitigation and avoidance of potential adverse affects to aboriginal interests through plan modifications and/or other monitoring and mitigation options.

In addition to the protocol with the provincial government, the CRD has taken the following steps to engage First Nations on the wastewater management program:

- The CRD has renewed its secondment of a senior official from the Province with a strong background in aboriginal relations to help work with First Nations on these issues.
- The CRD and the province have signed tripartite protocols (attached) with the Songhees, Esquimalt, and Beecher Bay Nations laying out a common understanding of the consultation/engagement process.
- The CRD is also trying to address other issues with these First Nations which have the potential to affect progress on a good working relationship on this project.
- The Province has provided initial capacity funding to the Songhees, Beecher Bay and Esquimalt Nations to support the consultation process.
- The CRD has met with federal agencies to ensure a common understanding with regard to consultation duties with First Nations if federal decisions are required to complete the project.
- The CRD is conducting an information sharing process with Songhees, Esquimalt and Beecher Bay Nations on project design, siting work, and marine monitoring, recording interests and providing these records to MOE officials (summary of interests attached).
- The CRD is engaging the Tsawout First Nation on marine monitoring issues related to the potential construction of new outfalls.

The status of First Nations engagement to date is outlined in the attached chart (Appendix A). First Nations feedback on the project has now focused primarily on the potential effects of up to two new outfalls on the foreshore and fisheries resources in general, and shellfish harvesting in particular. The CRD is engaging First Nations directly on these issues by inviting them to identify areas or particular concern for harvesting to focus marine monitoring initiatives, and by inviting direct involvement in the marine monitoring process. Given the potential location of the new outfalls, the Tsawout Nation has been engaged directly in this process, as well as the three First Nations who have signed tripartite Memorandums of Understanding: Songhees, Esquimalt and Beecher Bay.

First Nations also continue to be opposed to the use of Crown land for sewage treatment facilities, as well concerned about potential impacts on archeological sites. Each of the communities has been invited to participate directly in archeological assessment work being carried out by Westland Resources.

### **GOALS FOR 2010**

- Continue to provide information to First Nations on project design and most specifically, marine monitoring and outfall design and location issues, gather interests and feedback, and use that information where possible in project design. Resolve issues, as possible, and refer those not resolvable within the CRD legislative mandate to the provincial or federal government.
- Continue to use the wastewater management program as a vehicle to address other relationship issues between the CRD and First Nations.

It is important to recognize that consultation and engagement with First Nations on this project will run well into 2010 given the marine monitoring required to appropriately design, site and build up to two new outfalls.

## FIRST NATION ENGAGEMENT CHART

Update November 2009

First Nation	Status	Interests Identified to Date	Engagement On other Issues	Actions/Next Steps
<b>Songhees</b>	Consultation MOU signed Engagement underway	<ul style="list-style-type: none"> <li>• Potential effects on and closures for shellfish harvesting as a result of new outfalls</li> <li>• Any outfall located near Chatham and Discovery Islands</li> <li>• Any use of federal Crown land and its impact on land available for treaty</li> <li>• Impacts to the foreshore</li> <li>• Protection of natural resources</li> <li>• Adequate sewage capacity for Songhees lands including future Treaty Settlement Land</li> <li>• Would like to take part in archaeological work near any new outfalls and piping</li> </ul>	<ul style="list-style-type: none"> <li>• Regional Growth Strategy</li> <li>• E&amp;N rail trail</li> <li>• Treaty Negotiations</li> </ul>	<ul style="list-style-type: none"> <li>• No Federal land identified for project to date</li> <li>• Songhees representative invited to be directly involved in archaeological/EIS assessment work</li> <li>• Songhees representative invited to be directly involved in marine monitoring</li> <li>• Working to identify sensitive Songhees shellfish harvesting areas for direct monitoring</li> <li>• Provided briefing on costing models and a commitment to provide information directly to INAC if requested</li> <li>• Continue Meeting to gather interests</li> </ul>
<b>Esquimalt</b>	Consultation MOU signed Engagement underway	<ul style="list-style-type: none"> <li>• Meaningful participation in the project and concerns about the timelines for input</li> <li>• Potential effects on and closures for shellfish harvesting as a result of new outfalls.</li> <li>• Impacts on the environment including the foreshore and marine species</li> <li>• Affects on archaeological sites</li> <li>• Challenges in building a better overall relationship with the CRD</li> </ul>	<ul style="list-style-type: none"> <li>• Sewer infrastructure</li> <li>• Regional Growth Strategy</li> <li>• E&amp;N rail trail</li> </ul>	<ul style="list-style-type: none"> <li>• Esquimalt representative invited to be directly involved in marine monitoring</li> <li>• Working to identify Sensitive Esquimalt shellfish harvesting areas for direct monitoring</li> <li>• Esquimalt representative invited to be directly involved in archaeological/EIS assessment work</li> <li>• Working with Esquimalt staff to identify relationship-building opportunities</li> <li>• Continuing sewer infrastructure project</li> </ul>

<b>Beecher Bay</b>	Consultation MOU signed Engagement underway	<ul style="list-style-type: none"> <li>• Potential effects on and closures for shellfish harvesting as a result of new outfall</li> <li>• Any use of Crown land in the Western Communities and its impact on land available for treaty</li> <li>• Potential employment opportunities arising out of the project</li> <li>• Want equitable access to service if/when it is available in the area</li> </ul>	<ul style="list-style-type: none"> <li>• Sea to sea greenbelt</li> <li>• Beecher Bay sewage treatment plant</li> <li>• Treaty Negotiations</li> </ul>	<ul style="list-style-type: none"> <li>• No Federal land identified for project to date</li> <li>• Beecher Bay representative invited to be directly involved in marine monitoring work</li> <li>• Working to identify Sensitive Beecher bay shellfish harvesting areas for direct monitoring</li> </ul>
<b>Tsawout</b>	Engagement on potential new outfall begun	<ul style="list-style-type: none"> <li>• Identified that they have no interests in Saanich East location</li> <li>• Potential affects and closures for shellfish harvesting as a result of new or extended outfall</li> <li>• Affects of discharges into inland water bodies</li> </ul>	<ul style="list-style-type: none"> <li>• Expansion of service agreement</li> <li>• Partnering on foreshore restoration</li> <li>• Tsawout sewage treatment plant</li> </ul>	<ul style="list-style-type: none"> <li>• Briefed staff on potential outfall plans and marine monitoring approach</li> <li>• Invited Tsawout representative to be directly involved in marine monitoring work</li> <li>• Working to identify Sensitive Tsawout shellfish harvesting areas for direct monitoring</li> </ul>
<b>Saanich Tribes</b> <ul style="list-style-type: none"> <li>• Tsartlip</li> <li>• Tseycum</li> <li>• Pauquachin</li> </ul>	Information packages provided			<ul style="list-style-type: none"> <li>• Continue to forward information packages and be prepared to provide information</li> </ul>