



**REPORT TO JUAN DE FUCA WATER DISTRIBUTION COMMISSION  
MEETING OF TUESDAY, MAY 1, 2012**

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**SUBJECT BYLAW 3821, CAPITAL REGIONAL DISTRICT WATER DISTRIBUTION LOCAL SERVICE CONDITIONS, FEES AND CHARGES BYLAW NO.1, 2012**

**ISSUE**

To update Bylaw 3821, Capital Regional District Water Distribution Local Service Conditions, Fees and Charges Bylaw No.1, 2012.

**BACKGROUND**

The bylaw defines the conditions of service, fees and charges for the retail distribution services for the participating municipalities and electoral area. Periodically, the Bylaw is reviewed and updated in light of experience with application of the Bylaw. This year, we have conducted a comprehensive review with input from legal counsel. As a result, a number of changes are proposed, most of which are housekeeping in nature to ensure consistency and clarity in the wording. Housekeeping changes are not referenced in this report, but all changes are indicated in 'track changes' in the attached copy of the bylaw. In addition, the new Schedules A & B of the Bylaw have been updated to reflect actual costs.

The following changes are based on recommendations of our legal counsel:

In **section 23, 87.1 and 114.3**, remove the "sole discretion" language, and reword. Courts do not accept that "sole discretion" (sounds arbitrary) can be exercised by officials administering regulatory schemes.

In **section 49, Conditions for the CRD Ownership of Waterworks Extension**, the phrase "CRD shall assume ownership" is in mandatory language, which could be interpreted as requiring the CRD to take ownership. Remove "shall" and replace with "may". Generally, we would only assume ownership of a waterworks extension through a Complex or Strata where the water main is looped.

In **section 52.3 and 52.4, Construction of Waterworks Extensions**, "Any Waterworks or Private Waterworks" that it is to be connected to..."shall be constructed in accordance with the Engineering Specifications and Standard Drawings". Remove "Private Waterworks" as the CRD does not have jurisdiction to enforce CRD standards on private property as it falls under the BC Building Code.

In **sections, 76 to 80, System Development Charges**, the requirements for application of System Development Charges are described. Remove this section, as it appears to duplicate development cost charges, which would directly contradict section 931(6) of the Local Government Act.

**Schedule D, System Development Charge Local Costs – Mine Road Utilities** – Remove this schedule.

In **section 82, Billing Surcharges for Fire Pump Stations**, describes charges for providing a fire pump station for a property. The purpose of the section was to add a surcharge for construction, maintenance and operation of the pump station. We have not utilized this section. Legal counsel indicated that is likely the surcharges are unlawful. Remove this section.

In **section 84, Appeal of Water Bill**, a new paragraph 89.2 provides more structure for the General Manager's review of an appeal, as follows: The General Manager may review the complaint and, where the General Manager considers that: (a) there is an error in the calculation of the amount of the water bill; or (b) another circumstance exists that renders the payment of the full bill unjust, the General Manager may reduce the amount of the water bill.

**ALTERNATIVES**

Alternative 1 – That the Juan de Fuca Water Commission recommend to the CRD Board that *Bylaw No. 3821, Capital Regional Water Distribution Local Service Conditions, Fees and Charges, Bylaw No.1, 2012*, be introduced and read a first and second time, read a third time and adopted.

Alternative 2 – That the Juan de Fuca Water Distribution Commission receive this report for information.

**IMPLICATIONS**

Alternative 1 – the revisions to the Bylaw provide clarity and ensure the legal language is current.

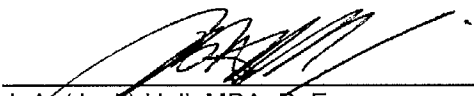
Alternative 2 – We are now aware of some of the inconsistencies and where the legal language needs to be revised in the current Bylaw. Inaction would make it difficult to apply the Bylaw in certain circumstances.

**RECOMMENDATION**

That the Juan de Fuca Water Commission recommend to the CRD Board that *Bylaw No. 3821, Capital Regional District Water Distribution Local Service Conditions, Fees and Charges, Bylaw No.1, 2012*, be introduced and read a first and second time, read a third time and adopted.



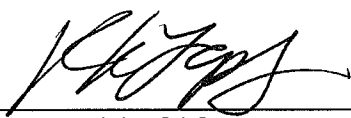
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Attachment: 1