

**REPORT TO SEATERRA PROGRAM COMMISSION
MEETING OF FRIDAY, JUNE 27, 2014**

**SUBJECT STATUS OF SEATERRA PROGRAM PROJECTS AS A RESULT OF THE
MINISTERS' LETTER**

ISSUE

The Seaterra Program, as mandated by the Capital Regional District (CRD) Board, has been proceeding with implementation based on the current Liquid Waste Management Plan (LWMP). A number of actions are now required as a result of the Ministers' May 27, 2014 letter and the subsequent decisions made by the Core Area Liquid Waste Management Committee (CALWMC) on June 18, 2014.

BACKGROUND

Following the Township of Esquimalt's rejection of the CRD's revised rezoning application, the CRD wrote to the Minister of Environment requesting intervention to enable the facility at McLoughlin Point to proceed. The CRD also requested direction from the Province on how to move forward with the Seaterra Program in the event that the Province was unwilling to suspend the operation of provisions of the existing zoning bylaw.

In response the Ministers' stated that the Province will not attempt to override the zoning decisions of the duly elected Esquimalt Council. The Ministers' further state that the CRD is expected to fully comply with its LWMP. The Minister has also stated that if the CRD does not meet the implementation timelines, the federal and provincial funding will be at risk. The Ministers did not provide direction to the CRD on how to move forward with the project.

As a result, at the June 18 CALWMC meeting, the committee recommended that the Seaterra Commission pause a majority of the current Seaterra Program work, (except for the construction of Craigflower Pump Station and the design of Arbutus Road Attenuation Tank), while proceeding with a number of other concurrent actions.

The rationale for completing the construction of Craigflower Pump Station and the design of Arbutus Road Attenuation Tank are provided in Attachment No. 1.

ALTERNATIVES

That the Seaterra Program Commission:

1. Receives this report for information ; or
2. Request further information from the Core Area Liquid Waste Management Committee or the Board.

IMPLICATIONS

The implications of Esquimalt's decision not to approve the CRD's rezoning variances and the Minister's decision not to intervene are provided in June 11, 2014 staff report (CAL 14-12) to the CALWMC (which is attached to this report).

CONCLUSION

The Minister has made it clear that the CRD is fully expected to comply with the approved LWMP however has not provided any direction to the CRD on how to move forward with the project despite the decision not to intercede to override the zoning decisions of the duly elected Esquimalt Council. The CALWMC at its June 18 meeting recommended that the Seatterra Commission pause a majority of the current Seatterra Program, except for the construction of the Craigflower Pump Station and the design of the Arbutus Tank, while pursuing a number of concurrent actions.

RECOMMENDATION

That the Seatterra Program Commission receives this report for information.

Malcolm Cowley, P. Eng
Project Manager, Conveyance Infrastructure
Seatterra Program

Albert Sweetnam, P. Eng
Program Director
Seatterra Program

MC/AS:hr

Attachments: 2

Craigflower Pump Station

The existing Craigflower Pump Station was originally constructed in 1971 and served a population of about 1,000 people in a small service area adjacent to the pump station. Today, in 2014, the pump station now serves over 30,000 people in a service area that includes residents of Langford, Colwood, View Royal, Esquimalt Nation, Songhees Nation and the Esquimalt panhandle.

The existing pump station has overflowed into Portage Inlet and backed up into basements due to failing equipment and inadequate pumping capacity during peak flow events.

In 2003, an assessment was completed and it was confirmed that the existing pump station is:

- Too old and small to meet current needs;
- Unable to pump peak wet weather flows resulting in occasional overflows and backups;
- Significantly below standard and does not meet current code requirements;
- Poorly located beside a school field and parking lot that can get very busy during the school season; and
- Unable to be reconfigured or expanded to meet existing or future needs on its current site.

Therefore, a new pump station was approved and a construction contract was awarded in 2013. Construction of the new pump station is now about 50% complete. Some members of the Core Area Liquid Waste Management Committee inquired if the project should be cancelled and redesigned in the future should a decentralized treatment system be implemented. In response, the following points are noted:

- with a distributed treatment plant system, a new pump station is still required in this location;
- the new pump station is designed to pump a wide range of flows so it can still be utilized even if some participants decide to direct their wastewater elsewhere in the future;
- it could take many years to decide on a particular treatment system and in the meantime the new station will prevent overflows into Portage Inlet;
- it is much more cost effective to complete the current Craigflower project than to terminate, redesign, and construct something different (even if it is a slightly smaller pump station).

Arbutus Road Attenuation Tank

Arbutus tank was approved as part of the LWMP in order to attenuate peak flows which will prevent overflows along the coastline of Saanich, Oak Bay, and Victoria.

In 2013, Saanich Council approved the rezoning and subdivision of two properties on Arbutus Road. The two parcels of land, 2391 Arbutus Road owned by the CRD and 2435 Arbutus Road owned by Saanich, were exchanged in order to facilitate the construction of the underground attenuation tank on lands that are already partially cleared and have been previously disturbed by existing sewers

A consulting contract was awarded in 2013 to design the tank which is now about 70% complete. The total estimated cost to terminate this project is slightly less than to complete the design, but the design would be incomplete. Conversely, completing the detailed design would bring this project to a logical closing point and realize the value of the work completed to date by obtaining a complete set of design drawings and specifications.

**REPORT TO CORE AREA LIQUID WASTE MANAGEMENT COMMITTEE
MEETING OF WEDNESDAY, JUNE 11, 2014**

SUBJECT IMPLICATIONS OF THE MINISTERS' DECISION ON THE SEATERRA PROGRAM

ISSUE

In response to the Capital Regional District's (CRD) request for intervention by the Province on the impasse between Esquimalt and the CRD in the rezoning of McLoughlin Point, the Minister of Environment and the Minister of Community, Sport and Cultural Development have indicated that the Province will not intervene and restated the requirement for the CRD to comply with its Core Area Liquid Waste Management Plan (CALWMP) and with the federal and provincial regulations for implementation of secondary sewage treatment. The Ministers' letter is attached as Appendix A.

BACKGROUND

Following the Township of Esquimalt's rejection of the CRD's revised rezoning application, the CRD wrote to the Minister of Environment requesting intervention to enable the facility at McLoughlin Point to proceed.

The CRD also requested direction from the Province on how to move forward with the Seaterra Program in the event that the Province was unwilling to suspend the operation of provisions of the existing zoning bylaw.

In response the Ministers' stated that the Province will not attempt to override the zoning decisions of the duly elected Esquimalt Council. The Ministers' further state that the CRD is expected to fully comply with its CALWMP. The Minister has also stated that if the CRD does not meet the implementation timelines, the federal and provincial funding will be at risk. The Ministers did not provide direction to the CRD on how to move forward with the project.

The refusal of the Province to intervene puts the CRD in the position of having the responsibility for implementation of the CALWMP but not the authority to discharge those responsibilities.

The CALWMP Amendment No. 8 approved by the Province in August 2010, includes approval of McLoughlin Point as the location of the wastewater treatment plant and Hartland as the location of the resource recovery centre and required the CRD to comply with the CALWMP by the end of 2016. With the delays in funding approvals, the CRD has requested an extension until the end of 2018 (Amendment No. 9). The funding agreements have been negotiated with consideration of this revised completion date.

Under the *Wastewater Systems Effluent Regulations* (WSER), unless the CRD applies for and obtains a transitional authorization, it would be obliged to comply with the WSER by January 1, 2015. Under the regulation, the CRD has until June 30, 2014, to apply for a transitional authorization to deposit effluent that contains deleterious substances (as defined by the regulation). The application must include 'a plan for modifications to be made to the wastewater system, including a description of the modifications to be made to its processes, so that the effluent deposited via its final discharge point is not acutely lethal and meets the conditions for authorization set out in paragraph 6(1) (a) and (b) (25 mg/L CBOD, 25 mg/L SS) along with a schedule for implementation of the plan.'

Failure to submit a plan would mean that the CRD must comply with the *Wastewater Systems Effluent Regulations* (WSER) by January 1, 2015, i.e. have secondary sewage treatment in place. If the CRD does not comply, it is subject to prosecution and potentially to fines under the *Fisheries Act*.

Staff has an obligation to recommend the actions that are the ones most likely to enable the Board to comply with Federal and Provincial regulations and to advise the Board of the potential financial implications of not proceeding according to an approved CALWMP. Accordingly, this report recommends a course of action that allows the current funding agreement to be preserved, that follows the approved CALWMP and for the CRD to apply to Federal and Provincial authorities by the June 30, 2014 deadline, with the option to modify the current plan at a later date as necessary.

ALTERNATIVES

- 1) That the Core Area Liquid Waste Management Committee recommend to the Capital Regional District Board:
 - a. The Capital Regional District respond to the Province's letter of May 27, 2014 as detailed in the closed report on today's agenda.
 - b. The Capital Regional District submit a request for an amendment to the CALWMP including the details of the McLoughlin Sewage Treatment Plant, such that the Minister of Environment has the full information in order to consider the result of the procurement process approved and/or delegated by the Board.

- 2) That the Capital Regional District respond to the Ministers' letter of May 27, 2014 as detailed in the closed report.

FINANCIAL IMPLICATIONS

The Esquimalt decision not to rezone the McLoughlin Point property has significant implications for the funding agreements and Program schedule. All four funding agreements will have to be renegotiated (for details refer to the section 'Intergovernmental Implications'). Optimistically, even if a new site for a central treatment plant could be selected after public consultation, the necessary environmental assessments completed, the CALWMP amended and approved by the MOE and the site rezoned by June 2015, the current completion dates cannot be met.

As clearly stated by the Minister, the ongoing delays to proceeding with the Program will place the \$501 million senior level funding at risk. If the funding is withdrawn, the implications for a typical household will vary in each jurisdiction based on the results of the CRD's earlier review. The following table provides an estimate only on the range of how the sample annual charges might vary with or without the grant funding. These sample charges are based on the current capital cost estimate of \$788.5 million. The sample charges for the 6 plant distributed option is based on a capital cost of \$1.54 billion and the 12 plant option is based on a capital cost of \$1.85 billion. The table below should be read as follows – if a household was expected to pay \$200 per year under the proposed Seaterra Program they would have to pay \$440 per year if the provincial and federal funding was lost and \$802 or \$950 per year if a one of the two distributed systems were implemented.

Sample Annual Costs per Household (\$)			
Current Plan (Centralized System)		Decentralized System Options Previous Reviewed	
with funding	without funding	6 plant system - option 2	12 plant system - option 3
200	440	802	950
250	550	1,002	1,188
300	660	1,203	1,425
350	770	1,403	1,662
400	880	1,604	1,900

The operating and maintenance cost for the current plan irrespective of grant funding remains unchanged. For the distributed system options the operating and maintenance costs would however increase significantly and the relative increase in operating cost is not included in the numbers above.

Suspending or cancelling the current Program has significant consequences and liabilities for the CRD. The exposure of the CRD to potential liabilities is estimated at \$27 million. These are summarized in the closed report to the Committee.

INTERGOVERNMENTAL IMPLICATIONS

A change in location of the treatment plant site from McLoughlin Point will require renegotiations of the funding agreements. The changes that would be required are summarized below:

Funding Agreement	Change Required
PPP Canada (Resource Recovery Centre)	Replace references to the McLoughlin WWTP
	Revise clause - RFP for McLoughlin Wastewater Treatment Plant to be issued by November, 2013
	Revise date - Financial Agreement by March 31, 2015
	Update Key Projected Project Milestone dates
	Update Schedule B – Project Costs

Funding Agreement	Change Required
Building Canada Fund – McLoughlin Treatment Plant and Marine Outfall	Replace references to the McLoughlin WWTP and Victoria Harbour Crossing with new site
	Update dates where applicable: - Project Completion Date (January 31, 2019) - Duration of Agreement (March 31, 2019) - Time limit for claims (January 31, 2019)
	Update Schedule B – Project Components, Timeline and Cost Breakdown

Funding Agreement	Change Required
Green Infrastructure Fund – Conveyance System Project	Update dates where applicable: - Project Completion Date (January 31, 2019) - Duration of Agreement (March 31, 2019) - Time limit for claims (January 31, 2019)
	Update Schedule B – Project Scope, Project Components, Timeline and Cost Breakdown

Funding Agreement	Change Required
Province of BC	Update Schedule A , if applicable – reference to heat reuse in Esquimalt and Victoria
	Update dates where applicable: - Project Completion Date (March 31, 2019) - No payment after March 31, 2020

CONCLUSION

In order to comply with Federal and Provincial regulations and the current funding agreements it is necessary that the CRD follow an approved CALWMP. The Minister has made it clear that the CRD is fully expected to comply with the plan however has not provided any direction to the CRD on how to move forward with the project despite the decision not to attempt to override the zoning decisions of the duly elected Esquimalt Council. This report recommends a course of action that allows the current funding agreements to be preserved and for the CRD to apply to Federal and Provincial authorities by the June 30, 2014 deadline, with the option to modify the current plan at a later date as necessary.

The Federal *Wastewater Systems Effluent Regulations* (WSER) require the CRD to apply for a transitional authorization by June 30, 2014 and to submit an acceptable plan outlining proposed sewage treatment infrastructure. Failure to submit a plan would make the CRD subject to fines under the *Fisheries Act* in January 2015.

RECOMMENDATIONS

That the Core Area Liquid Waste Management Committee recommend to the Capital Regional District Board:

- a. That the Capital Regional District respond to the Ministers' letter of May 27, 2014 as detailed in the closed report on today's agenda.
- b. That the Capital Regional District submit a request for an amendment to the Core Area Liquid Waste Management Plan including the details of the McLoughlin Sewage Treatment Plant such that the Minister of Environment has the full information in order to consider the result of the procurement process approved and/or delegated by the Board.

Albert Sweetnam, P. Eng
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Ted Robbins, B. Sc, CTech
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General Manager Parks Environmental Services

Robert Lapham, MCIP, RPP
Chief Administrative Officer
Capital Regional District

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Attachments: 1

Appendix A: Letter from Minister Polak May 27, 2014

Reference: 206424

Alastair Bryson, Chair
and Directors
Capital Regional District
625 Fisgard Street
PO Box 1000
Victoria BC V8W 2S6

Dear Chair Bryson and Directors:

Further to your letter of April 10, 2014, the Province has considered your request for the Provincial Cabinet to issue an order under Section 37(6) of the *Environmental Management Act* to suspend the operation of those provisions of the existing rezoning bylaw (as amended by Bylaw No. 2806) of the Township of Esquimalt.

After giving careful consideration to your request, the Province will not attempt to override the zoning decisions of the duly elected Esquimalt Council. How locally elected municipal officials in the Capital Region achieve consensus on sewage treatment logistics is not something for the provincial government to dictate. Even if the Province were willing to intervene, the facts at this time do not provide a strong basis for intervention using the provisions of the *Environmental Management Act*.

While we fully appreciate the timelines the Capital Regional District (CRD) is working under to implement secondary sewage treatment in order to comply with the requirements of both the federal and provincial governments, the CRD is expected to fully comply with its Liquid Waste Management Plan (LWMP).

With respect to your request to approve Core Liquid Waste Management Plan Amendment No. 9, my decision will follow in a separate letter that you will be receiving shortly.

As you continue with your efforts, provincial staff are available to assist the CRD in achieving compliance with its LWMP. In the meantime, please feel free to contact Deputy Minister Wes Shoemaker, at 250 387-5429 or at Wes.Shoemaker@gov.bc.ca, should you have any questions regarding this matter.

Sincerely,



Mary Polak
Minister of Environment



Coralee Oakes
Minister of Community, Sport and Cultural
Development