

**In-camera****DATE:** September 7, 2017**FILE:** 5610-04**TO:** Chair and Directors  
Comox Valley Water Committee**FROM:** Russell Dyson  
Chief Administrative Officer

**NOTE:** This report was made public by the Comox Valley Water Committee at its September 12, 2017 meeting.

**RE:** Comox Valley Water Treatment Project – Update**Purpose**

To provide an update regarding the Comox Valley Water Treatment Project (CVWTP) and to describe the developments related to the timing of grant funding, the impacts to the project schedule, meetings with Island Health (VIHA), K'ómoks First Nation (KFN) and next steps including meetings with MLAs/MPs and Ministers.

**Policy Analysis**

At the September 13, 2016 Comox Valley Water Committee meeting the following motion was approved:

*THAT the Comox Valley Regional District proceed with property acquisition, permits and approvals, detailed design, and grant funding applications for the deep water lake intake and direct filtration treatment as recommended by Opus Dayton Knight in their Water Treatment Options Study – Project Definition Report dated August 12, 2016 immediately to progress the project and maximize opportunities for grant funding.*

At the November 15, 2016 Comox Valley Water Committee meeting the following motion was approved:

*THAT the Comox Valley Water System Treatment Project be delivered following a design build project delivery method, with further consideration given to construction financing and a performance period to ensure a high quality, operable facility.*

This report is to be in-camera because this report involves municipal service negotiations and related discussions that are at their preliminary stages and could harm the interests of the municipality if held in public pursuant to Section 90 of the *Community Charter* (Bill 14, 2003).

**Executive Summary**

Multiple items of significance came to light on the CVWTP in July and August:

- The Federal Minister of Infrastructure published a letter they sent to our incoming BC Premier clarifying the schedule of the next phase of infrastructure funding. It is significantly later than expected and is unlikely to allow tendering prior to announcement;
- Staff evaluated the project delay of this revised grant schedule and presented a revised schedule to VIHA;
- Staff met with the Ministry of Municipal Affairs and Housing to discuss the possibility of the CVWTP being funded through a special treasury allocation rather than the next formal grant funding program to reduce the delay and have requested a meeting with our MLAs and the Minister of Municipal Affairs at Union of British Columbia Municipalities to discuss this option;

- Staff began evaluating the possibility of purchasing ultraviolet (UV) light equipment early and temporarily installing within the existing chlorination station to reduce boil water notices (BWN) until the CVWTP is completed;
- Staff, the Comox Valley Water Committee Chair and CVRD Board Chair have met with KFN and they continue to be interested in the project. Further discussions and technical evaluations will be ongoing;
- Staff are assessing the options for electoral assent for the CVWTP and are seeking merit in further consideration of an AAP to authorize borrowing for the project subject to grant funding;
- Staff will deliver comprehensive project information at an extended session of the Comox Valley Water Committee in October to support a number of implementation related decisions.

### **Grant Funding**

The letter from the Federal Minister of Infrastructure to our incoming Premier on July 6 outlines a target for finalising the parameters of the next phase of infrastructure grants in March 2018. After subsequent discussions with staff from the Ministry of Municipal Affairs and Housing, CVRD staff understand that grant applications will most likely be due in the second or third quarter of 2018 and announcements delayed until the first quarter of 2019. In addition to this, Ministry of Municipal Affairs and Housing staff have indicated that the next phase of grant funding is unlikely to allow tendering prior to grant announcement.

CVRD staff evaluated the impact of the expected infrastructure grant dates on the overall project schedule and conclude that project completion will be delayed until mid-2021. This is two additional winters on top of our existing operating permit deadline (September 2019) and the completion date which has been communicated to the public.

### **Special Treasury Allocation**

Staff have been investigating grant funding acceleration to minimise project delay. An opportunity has been identified in discussions with the Ministry of Municipal Affairs and Housing, who administer the infrastructure grants, to gain funding for the CVWTP through a special treasury allocation. If this option were supported by the Treasury Board, funding would be available for the CVWTP in 2018, rather than waiting until 2019, facilitating project completion in 2020 and avoiding an additional winter of BWN. Staff have requested meetings with our MLAs as soon as possible and with the Minister of Municipal Affairs and Housing at the upcoming Union of British Columbia Municipalities conference in Vancouver (September 25 – 29, 2017) to gain support for this opportunity.

### **VIHA**

Comox Valley Regional District (CVRD) staff met with staff from VIHA and the Ministry of Municipal Affairs and Housing on July 27, 2017 to discuss this potential schedule delay. CVRD's position was that any project schedule which negates our ability to qualify for significant additional grant funding was not acceptable for the CVRD. VIHA indicated that an extension would not be granted to our Permit to Operate and outlined potential penalties if the CVRD did not comply with the existing permit (listed below). VIHA also followed up this meeting with a letter sent to CVRD which was received on August 14, 2017 (attached as Appendix A) which reiterates their position regarding the project, and the following potential penalties should the project not be complete by September 2019:

- The issuing of a public health advisory notice regarding the risk to human health inherent to our system until the surface water treatment objectives are met;
- Fines totalling approximately \$3000 per day in value, delivered daily;

- Withholding approval of construction permits by the VIHA Drinking Water Officer, effectively halting development in the CVRD;
- The issuance of a formal order to build the plant, which would negate our ability to wait for funding and would come with fines up to \$200,000/day if not complied with (not likely).

### **UV Filtration at the Chlorination Station**

Also discussed at the meeting with VIHA was the potential for installing UV filtration at the existing chlorination station to reduce the health risks of the project delay. It was discussed that if the CVRD used existing funds to purchase UV equipment that is required for the water treatment facility in advance of tendering the project, the equipment could potentially be retrofitted to our existing infrastructure and our turbidity threshold for BWN could be raised to at least two NTU. VIHA voiced their support for this temporary option, which provides a second form of disinfection to significantly reduce the protozoan risk to the public, and indicated this would reduce their likelihood of imposing penalties. Additionally, staff from the Ministry of Municipal Affairs and Housing expressed that working with VIHA on issues such as this increases likelihood of grant success as they don't want to 'reward bad behaviour'. Since the meeting, CVRD staff have been busy evaluating this option with the CVWTP design consultant Opus, as well as the chlorination station designer Koers and Associates. If a feasible option exists, staff shall present the proposed rationale, design and budget at the October Comox Valley Water Committee meeting.

### **Use of an AAP to Authorize the CVWTP**

While acknowledging concerns that the Comox Valley Water Committee have about the use of AAPs, staff are considering recommending the use of an AAP for the approval of borrowing funds for this project, subject to achieving a minimum level of grant funding. The current bulk water rates forecast approved by the Board in February 2017 assume 50% grant funding based on the current budget and thus, if public assent is sought to borrow funds in line with this, there would be no additional changes to water rates other than those reflected in the current bylaw. An AAP for borrowing funds in line with 50% grant funding maybe warranted for this project for the following reasons:

1. The project is mandated by provincial regulations and significant penalties shall be enforced against the Comox Valley if we remain out of compliance;
2. By decreasing the borrowing approval limit in the AAP to be in line with 50% grant funding there is no additional financial impact to the tax payer that is not already approved by the Board, the current bulk water rates structure forecast will be sufficient to service this loan;
3. An AAP is more likely to succeed than a referendum as it is harder to mobilise supportive residents to vote than those opposed to the project. Knowing the implications of a failed assent process (VIHA penalties, order to proceed under strict guidelines) a successful assent process is a key milestone to a successful project; and
4. Further discussion on the merits of an AAP or referendum process will occur in October at which time it is important that a decision is made for the most favourable schedule.

### **October Comox Valley Water Committee Meeting**

Staff will deliver comprehensive project information at an extended session of the Comox Valley Water Committee meeting in October to support the following desired outcomes:

1. Endorsement of the project funding strategy identifying grant targets and the impact to water users.
2. Approval of a public assent process to authorize the CVRD to borrow funds in line with 50% grant funding (AAP or referendum to be completed in March 2018);

3. Approval of the award of a one year renewable communications contract to support the CVWTP;
4. Approval of the advanced purchase of UV filtration for the CVWTP and their temporary installation at the chlorination station (if the analysis shows this to be a feasible and cost effective option);
5. Approval of Phase two of the CVWTP including a value planning process.

**Recommendation from the Chief Administrative Officer:**

For information purposes only.

Respectfully:

***R. Dyson***

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Russell Dyson  
Chief Administrative Officer

Prepared by:

***C. Gore***

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Charlie Gore, P.Eng.  
Manager of Capital Projects

Concurrence:

***K. La Rose***

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Kris La Rose, P.Eng.  
Senior Manager of  
Water/Wastewater Services

Concurrence:

***M. Rutten***

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Marc Rutten, P.Eng.  
General Manager of  
Engineering Services

Attachments: Appendix A – VIHA letter “CVRD Water Treatment Project Scenario Analysis Meeting July 27, 2017” dated August 1, 2017

Excellent health and care, for everyone,  
everywhere, every time.



August 1, 2017

Marc Rutten  
General Manager of Engineering Services Branch  
Comox Valley Regional District  
600 Comox Road  
Courtenay, BC V9N 3P6

RE  
File: 5610-04

AUG 14 2017

To: M. Rutten

cc: R. Dyson, K. LaRose  
M. Herschmiller

Dear Mr. Rutten:

**Re: CVRD Water Treatment Project Scenario Analysis Meeting July 27, 2017**

Further to our July 27, 2017 meeting with you and your staff, and with representatives of the Ministry of Municipal Affairs and Housing regarding your proposed timetable to build the Comox Valley Regional District (CVRD) water treatment facility and associated works, the following is provided.

Your proposed timelines were either to have a referendum in February 2018 and complete the project by June 2021 or to have a referendum in October 2018 and complete the project by January 2021. The CVRD is planning to go to referendum over the alternative approval process as they feel the latter would not pass and is not supported by the Board. The referendum question will ask the public to support the construction with 50% grant funding. The CVRD has not brought forward a proposal to meet their permit conditions and will only build the treatment plant and works without grant funding or with a referendum failure if an Order is issued by Island Health.

Island Health is not supportive of your proposed delay in constructing the filtration plant and related works for the following reasons:

- the potential health effects to the community from a system that does not protect them from protozoan has not been sufficiently factored into the timeline;
- the CVRD originally proposed and agreed to the timelines on their permit which has not significantly changed since 2013;
- lack of progress in previous years to fund the project through user rates or being prepared for other grant opportunities is not a reason to postpone construction;
- Island Health has been working with the CVRD to implement treatment for 11 years and we are still in the planning stage; and,
- there will also be significant disruption and risk to the system as BC Hydro undertakes required piping upgrades during the extended build timeline.

At this time Island Health will not consider issuing an Order under the DWPA to construct a filtration plant. CVRD staff acknowledged that they no longer prefer an Order but may need to as the DWO to reconsider if the public assent process fails and/or grant funding is not received. Island Health is disappointed that the CVRD Staff does not feel there is sufficient knowledge of the project or the requirements for clean, safe water by the public and politicians to support the project at referendum or reverse petition at this time.

Island Health has a number of enforcement tools that can be considered for non-compliance with terms and conditions of an Operating Permit. These tools can range from education and collaboration to injunctions and prosecutions. These are listed in the *Drinking Water Protection Act*, the *Drinking Water Protection Regulation*, the *Health Act*, and the Drinking Water Officer's Guide, which can all be found through <http://www2.gov.bc.ca/gov/content/environment/air-land-water/water/water-quality/drinking-water-quality>. Island Health is developing a policy to inform the public when water systems do not protect them from protozoan risk which may help with education. Although the CVRD has indicated that the water treatment facility will not be completed by September 2019, you would only be in noncompliance with this condition once the deadline has passed, and the works are incomplete. At that time, Island Health would look at enforcement options, including such alternatives as ticketing for noncompliance, preventing distribution system expansion (in other words not issuing Construction Permits), or various other enforcement alternatives.

As discussed during the meeting, risk communication for the public can be challenging. This is exacerbated when the community of water users have not been kept informed on the regulatory requirements for their drinking water, rates remain low over time and do not match the infrastructure investments necessary to provide potable water and there are not aggressive conservation measures in place. However, of all the difficult decisions and public informing that local governments do, the sell of the need to invest in clean, safe water should be one of the easiest. Due to the current water system not providing any barriers against protozoa the CVRD should prepare a specific communication to its users about this.

At this time, Island Health will not be adjusting the permit condition dates but would support the CVRD to install additional treatment/disinfection to reduce the risk from protozoan. The installation of a second primary disinfectant as soon as possible would significantly reduce the health risk to the community.

Also, Island Health would be supportive of a phased construction approach to start some of the project with the existing reserves which would assist in reducing the overall project cost due to the delays and inflation.

The participation of the Ministry of Municipal Affairs and Housing in this meeting was very helpful for a shared understanding of the requirements for a public assent process and process for grants. It is noteworthy that grant funding is not a sure thing, that systems progressing towards compliance are looked on favourably when funding is awarded and that a history of recurrent boil water notices does not give any advantage for systems seeking funding.

Please inform Island Health by September 15, 2017 of your preferred upgrade schedule.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dave Cherry', with a large, stylized flourish extending to the right.

Dave Cherry, C.P.H.I.(C)  
Environmental Health Officer

c.c: Dr. Charmaine Enns, Medical Health Officer  
Charlene MacKinnon, Senior Environmental Health Officer  
Liam Edwards, Executive Director, Local Government Infrastructure and Finance, Ministry of  
Municipal Affairs and Housing

DC/hj