

Response

From: Minister, MAH MAH:EX
Sent: October 19, 2017 4:08 PM
To: 'stopbowseroceansewage@outlook.com'
Cc: Fraser.MLA, Scott LASS:EX; Faganello, Tara MAH:EX
Subject: 207211: Bowser Village Sanitary Sewer Service

Ref: 207211

Thomas Gates
Email: stopbowseroceansewage@outlook.com

cc: Scott.Fraser.MLA@leg.bc.ca
Tara.Faganello@gov.bc.ca

Dear Mr. Gates:

Thank you for your emails addressed to Honourable Scott Fraser, MLA, Mid Island-Pacific Rim, and me, regarding the Regional District of Nanaimo's (RDN) Bowser Village Sanitary Sewer Service. I also note the attachment of relevant background information as well as the petitions signed by area residents – the background information was helpful in providing additional context to your request.

I appreciate that you are concerned about the validity of the RDN's petition and the RDN's choice of sewage disposal system. Local governments are expected to provide for the stewardship of the public assets of their communities and in so doing they are often faced with the difficult challenge of balancing the economic, social and environmental well-being of their communities and the different interests citizens may have in a given matter.

Under section 337 of the *Local Government Act*, in order for a regional district to establish a service area (sanitary or otherwise) it would need to secure approval from those that would be receiving that service. As you may be aware, the RDN undertook a petition process for the proposed sewer service and related borrowing in which property owners in the proposed service area had the opportunity to petition the RDN to establish the sewer service area.

In order for the petition to be sufficient and valid, it must have been signed and submitted by the owners of at least 50 percent of the parcels liable to be charged for the proposed service, and the persons signing must be the owners of parcels that in total represent 50 percent of the net taxable value of all land and improvements within the proposed service area. I understand that more than 62 percent of the property owners (representing more than 67 percent of the net taxable value of all land and improvements in the proposed service area) signed and submitted petitions to the RDN in favour of proceeding with the project.

It is my understanding that the boundaries of the RDN's service encompass the properties that will receive, and therefore pay for, the service. Since the pipeline and outfall will move and dispose of the treated sewage and not provide collection and treatment services to the properties along the pipeline itself, those properties have not been included within the boundary of the service area and therefore their owners are not eligible to participate in the process. The overland route of the pipeline is, in part,

determined by the location of the outfall. The regulations that determine outfall location are under the responsibility of the Ministry of Environment.

Although property owners outside the service area would not be participants in the petition process, it is always good practice for local governments to engage with community members about services, especially when there may be impacts on residents outside the service area. It is, however, up to the local government to determine the appropriate extent and scope of community engagement on a particular service.

I note your request, on behalf of the signatories to the Bowser Village Centre Wastewater Project petition, that the Inspector of Municipalities not approve RDN Bylaws 1760 and 1761. The Inspector's primary role is to consider for approval certain types of local government bylaws, such as regional district service establishment bylaws, and to address issues that may affect the fundamental viability of a local government or that could have serious consequences across the entire local government system in British Columbia. In seeking to approve bylaws, the Inspector considers whether the statutory requirements have been met. The Inspector's role does not include reviewing and reversing decisions made or actions taken by local governments – the situation that you have described is very much a local matter and best addressed by the RDN.

If you believe that the RDN has in some manner failed to comply with provincial legislation, or has otherwise acted outside of its authority, you may wish to seek legal counsel to determine any potential remedies available through the courts.

In regards to your concerns about the sewer service not meeting the eligibility criteria of the Clean Water and Wastewater Fund (CWWF), I understand that you have spoken about this with Brian Bedford, Director, Infrastructure and Engineering, Local Government Division, and that Mr. Bedford has indicated that the project does in fact meet the requirements under the CWWF and that Tara Faganello, Assistant Deputy Minister, Local Government Division, will be following-up with you in this regard.

Lastly, you have asked specific questions about the sanitary sewer service budget in regards to nuisance and injurious affection claims. I recommend that you request that financial information directly from the RDN, as it would be in the best position to provide you with the finer details of the budget.

Thank you again for writing.

Sincerely,

Selina Robinson
Minister of Municipal Affairs
and Housing

From: stopbowseroceansewage@outlook.com [mailto:stopbowseroceansewage@outlook.com]

Sent: Thursday, August 31, 2017 5:20 PM

To: Minister, MAH MAH:EX

Cc: Sean Hern; CSCD LG Governance CSCD:EX; Fraser.MLA, Scott LASS:EX; gord.johns.a2@parl.gc.ca; Gord Johns; gord.johns@parl.gc.ca; Bryan Holyk <bryanholyk@gmail.com>

Subject: Approval of Regional District of Nanaimo Draft Bylaws No. 1760 and 1761

I respectfully request a response from you on this letter and the attached petition.

We would be pleased to meet with you to discuss this matter in Bowser.

Sincerely,

Thomas Gates

<http://sosbowser.ca>