

Backgrounder

The Chapman Creek Watershed and the SCRD as a Local Board of Health

The purpose of this paper is to discuss the powers of the Sunshine Coast Regional District to act as a “local board of health” as described in the *Health Act* in regard to activities that have been initiated by Western Forest Products, Limited. A brief discussion of the nature of the current hazard is included.

Provisions of the Health Act (http://www.qp.gov.bc.ca/statreg/stat/H/96179_01.htm#section38)

Section 37 of the *Health Act* states: “A local board of health is established in each municipality, consisting of the council of the municipality.” In Section 1 a municipality is defined as including a regional district and also may include a special district established under any other Act. These definitions establish that the SCRD is and has authority to act as a “local board of health”. It is very probable that the Sechelt Indian Government District also has the authority to act as a “local board of health”.

Section 1 of the *Health Act* defines “health hazard” as (in part):

- (a) a condition or thing that does or is likely to
endanger the public health, or
- (ii) prevent or hinder the prevention or suppression of disease...

Section 57 empowers citizens to report a health hazard to the local board of health.

Section 58 states that the local board of health “must investigate the cause of the complaint” and Section 58(2) authorizes the local board of health to hear witnesses.

Under Section 59 (b) of the *Health Act* the local board of health may make an order requiring the owner or occupier of a property to terminate a health hazard if:

- (b) the local board has reason to believe that a health hazard exists
- or
- (c) the medical health officer advises the local board of health that a health hazard exists.

Note that the burden of proof established in the *Act* for determining whether or not to issue an order is that the local board of health must have *reason to believe* that a hazard exists. The *Act* does not specify any qualifiers to the word hazard such as long-term, short term, imminent, etc. It appears that an order from a local board of health is immediately in effect and does not require an enforcement order from the BC Supreme Court.

I am not aware of any provisions in the *Act* or any other Acts that prohibit application of these *Health Act* provisions to industrial activity in a public drinking watershed. Likewise, I am not aware of any provisions in the *Forest Practices Code Act* or the current *Forest and Range Practices Act* that protects activities authorized under these Acts from scrutiny by local boards of health as established under the *Health Act*.

Discussion

It appears that the SCRD, acting as a local board of health, does have authority to issue an order to terminate a health hazard. It also appears that the SCRD “has reason to believe that a health hazard exists” in the Chapman

watershed. I submit that it is an established fact that logging has degraded the public's Chapman Creek water supply to a significant degree. There is no clear evidence that more logging would not further degrade this water supply.

It may be that it is not the intention of the Province that the *Health Act* be applied in the way that a plain language interpretation indicates. If that is so, it is the Province's obligation to amend the *Act*. We are not obligated to assume that the *Act* is intended to function in a way that is not stated in the *Act*.

Assuming that the SCRD has reason to believe a health hazard exists after concluding an investigation, an order terminating the hazard is a reasonable course of action. If Western Forest Products has reason to believe that the *Act* has been misinterpreted or that the order should be overturned, they have access to the courts and can seek a remedy through a civil suit or a judicial review. I submit that the liabilities of the SCRD would be greatly minimized if it is Western Forest Products Ltd. that must initiate litigation, rather than if the SCRD were to seek an injunction and then be obligated to pursue litigation.

And finally, the problem of logging in the watershed is everyone's problem. Without any disrespect for the on-site protestors, our problem is best represented by the SCRD and not by a small group of individuals who have felt compelled to bring this situation to a head through an act of civil disobedience. The SCRD is the public's purveyor of water and has the means to confront the situation, and it should do so. If this course fails to achieve a satisfactory resolution, we should all share in the expense.

Hazards to the Chapman Creek Drinking Watershed

There is a vast abundance of scientific evidence and documentation of health hazards that were created by logging and logging road building activities in the Chapman and the Gray watersheds. The Cumulative Effects Analysis that was undertaken for the draft Integrated Water Management Plan (1996), for example, documented over 300 landslides in the Chapman Watershed Reserve caused by logging and road building activity prior to 1992. This inventory also documented 50 naturally caused landslides which is clear documentation that the Chapman watershed is naturally unstable. The Chapman Creek Experimental Project of 1974 also documented and mapped unstable lands in the watershed and made very strong recommendations against any further logging of these unstable lands. In subsequent years the Chapman watershed has proved to be unpredictable with landslides occurring in logged unstable areas as well as in areas previously thought to be stable. Many old landslides in the watershed are still contributing sediment and organic debris to stream flows.

While the risks of landslides and the subsequent problems of sediment loading are well known, there are other significant health hazards inherent in logging activity in the Chapman watershed. The removal of forest cover accelerates the movement of water across the landscape and increases the amount of sediment and organic debris that is carried into stream channels. As well, the removal of coniferous forest cover is followed by the explosive growth of herbaceous and woody deciduous ground cover. These in turn die back each year and contribute massive quantities of leaf litter and dissolved carbon to waterways. In the Chapman watershed, both Red Alder and Sitka Alder stands have been invasive after logging.

These massive yearly influxes of particulate organics and dissolved carbon pose a major risk to water users. The purpose of our water filtration plant is to remove as much organic debris as possible from raw water and reduce the amount of dissolved carbon. The more debris and dissolved carbon that is removed from raw water, the less chlorine is required to treat this water. This is extremely important because the mixture of chlorine and organic compounds (particulate or dissolved) within a closed distribution system is known to result in the formation of organo-chlorines which are dangerous carcinogenic substances. For this reason, any purveyor of water has an interest in keeping the organic content of raw water as low as possible. Any activity that increases sediment and organic content of raw water increases risk and should be discouraged to the fullest extent that the law allows.

Another hazard that is exacerbated by logging relates to water-borne diseases. I refer you to Medical Health

Officer Dr. Paul Martiquet for a discussion about water-borne diseases. Suffice to say that there are water-borne diseases known to occur in the watersheds and there is also potential for the effects of logging to accelerate the movement of pathogens such as “Beaver Fever” into the water supply.

Thank you for your attention to these issues.

Daniel Bouman

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