

Memorandum of Understanding

Intergovernmental Partnership Agreement
for the Protection of Environmentally Sensitive Areas (ESA)
2000/2003

BETWEEN:

**The Regional District of Nanaimo
6300 Hammond Bay Road, Lantzville, BC VOR 2H0**

(hereinafter called the "RDN")

AND:

**Regional Director, Vancouver Island Region
Ministry of Environment, Lands and Parks
Nanaimo, BC**

(hereinafter called "MELP")

AND:

**Area Chief
Fisheries and Oceans Canada
Habitat and Enhancement Branch, South Coast Area
Nanaimo, BC**

(hereinafter called "DFO")

1. Purpose:

- 1.1 This agreement is a statement of intent on the part of the signatories to develop and implement a new collaborative process for the efficient delivery of services in the areas of environmental permitting and protection.
- 1.2 The focus of this agreement is to build a more cooperative framework to support the protection of designated aquatic, fish, and wildlife habitats, and enhance water management and pollution prevention activities.
- 1.3 To recognize that this agreement provides the RDN with authority to assess and determine environmental impacts associated with the development of land within the RDN.

2. Application

- 2.1 The parties agree to jointly promote, support and participate in the integration of fish and wildlife habitat protection interests in local government land use, development control, infrastructure and operations decisions by:
 - 2.1.1 Identifying and prioritizing the areas requiring protection for fish and wildlife and sensitive ecosystems information, planning and regulation;
 - 2.1.2 Coordinating annual work planning for the provision of habitat information to local governments needed to classify streamside protection areas;

- 2.1.3 Participating in and supporting the classification of streams and streamside areas for local planning and regulatory attention;
 - 2.1.4 Coordinating annual work planning for the collection and classification of sensitive ecosystem information to be made available as a resource for local government planning processes and regulations; and
 - 2.1.5 Continuing to utilize and update the ESA Atlas as the environmental framework document.
- 2.2 The parties agree that the RDN has responsibility for the management of land development projects and that the collection of information for assessment of development applications will:
- 2.2.1 Use agreed upon guidelines (attached in Schedule 'A') and existing bylaws (attached in Schedule 'B'); and
 - 2.2.2 Include the information necessary to review proposals and assist in reaching a decision on the development.
- 2.3 The parties agree that the guidelines, standards, and criteria as set out in Schedule 'A' provide a reliable and acceptable mechanism for RDN decision-making with respect to the approval, modification, or rejection of proposals based on their impact on fish, wildlife, and related habitat areas.
- 2.4 In order to facilitate the cost-effective and timely protection of fish and wildlife habitat, and sensitive ecosystems, as it pertains to this agreement, DFO and MELP agree to:
- 2.4.1 Joint consultations where the RDN is unable to make a decision without technical assistance;
 - 2.4.2 Contribute the necessary support to update existing and prepare new model practices guidelines on how to avoid harm to the environment; and
 - 2.4.3 Provide for the timely review of applications.
- 2.5 The parties accept that the scope of this Agreement may be expanded to include other environmental management issues, with the concurrence of all signatories. These may include but are not limited to groundwater initiatives, stormwater management initiatives, Section 9 of the Water Act process, and coordinating subdivision approval.
- 2.6 This agreement shall include a dispute-resolution mechanism to address any unresolved conflicts between the parties.

3. Data Management and Data Sharing

- 3.1 Over the course of the term of this agreement the parties agree to develop an environmental data management plan to be complete by January 2001. The purpose of this data management plan will be to:
- 3.1.1 Define roles and responsibilities for the parties;
 - 3.1.2 Define which data sets can be shared with whom;
 - 3.1.3 Identify compatible technologies;
 - 3.1.4 Identify costs and time frames; and
 - 3.1.5 Define how data models can be established to show linkages to data sets.
- 3.2 As part of this Memorandum of Understanding the parties agree that the RDN is maintaining maps locating streams and other information to advance the terms of this MOU and that DFO and MELP will assist the RDN by:
- 3.2.1 Completing timely reviews and verification of the RDN mapped locations of streams, watersheds, wildlife areas and sensitive ecosystems as required;

- 3.2.2 Following an agreed process for publishing new information and updating existing publications including the ESA Atlas and web sites that utilize RDN mapped information; and
- 3.2.3 Participating in and supporting the electronic linking of data sources to RDN mapped information.

4. Process Framework

4.1 Development Application Reviews

DFO and MELP agree:

- 4.1.1 That the RDN will utilize a 'one window' approach for development applications.
- 4.1.2 The RDN will use the ESA Atlas and agreed upon guidelines, standards, and criteria as set out in Schedule 'A' regarding ESAs, watercourses and other comparable areas when reviewing development proposals.
- 4.1.3 The guidelines, standards and criteria as set out in Schedule 'A' are considered minimum average requirements; however, the parties agree that the RDN may approve minor variations in special cases, such as:
 - a) where increased protection of fish, wildlife or related habitat areas may be achieved;
 - b) where strict application of the guidelines is impractical and a minor variance will neither damage nor destroy existing sensitive habitats, or
 - c) where positive conservation and land development goals may be achieved through the approval of a variance.
- 4.1.4 In the following instances, the signatories agree to meet as required to review proposals and report to the RDN as required:
 - a) where the width of the riparian protection and enhancement area can not be clearly determined in accordance with the standards and criteria as set out in Schedule 'A' or by any other enactment;
 - b) where the RDN considers that the information submitted in support of a variance to existing guidelines, standards and criteria as set out in Schedule 'A' is not included;
 - c) where roads, works or services that are needed to support the development of otherwise developable land beyond a riparian protection and enhancement area will infringe on the riparian protection and enhancement area;
 - d) where concerns have been documented and acknowledged by one of the parties that suggests the criteria or information requirements are inadequate to make assessments or decisions;
 - e) where the likely impacts on identified sensitive habitats of any proposal is thought to be potentially severe;
 - f) in drainages or parts thereof which DFO and MELP have identified as particularly valuable or sensitive;
 - g) where substantive variances to the guidelines, standards and criteria as set out in Schedule 'A' are requested; or
 - h) where other technical assistance is required
- 4.1.5 The parties agree to provide support for the RDN to make independent judgments about development requirements for single residential lots.
- 4.1.6 The RDN together with DFO and MELP may develop criteria for special cases, practices or other activities that may compliment the guidelines, standards and criteria as set out in Schedule 'A'.

5. Training

- 5.1 For the purposes of having consistent/common understanding of the protection of ESAs, DFO and MELP will provide the RDN with advice on training requirements and assist with training program delivery.

6. Community Stewardship

- 6.1 The RDN together with DFO and MELP will develop terms of reference or protocols for working with community streamkeeper groups.

6.2 Public Awareness

- 6.2.1 The RDN together with DFO and MELP agree to pursue the following:
 - a) develop links from the RDN's Web site to sites and documents supported by DFO and MELP that are related to the subject of this agreement;
 - b) develop a brochure for streamkeeper groups outlining RDN's role in development and protection processes, ESA Atlas, with specific reference to the information and materials available in support of this agreement;
 - c) promote information and develop or obtain a brochure that includes information on tax incentives for covenants; and
 - d) develop a brochure outlining development process with reference to the Delegation Bylaw, relevant contact agencies and the roles of MELP and DFO in the process.

7. Environmental Policy Review

7.1 Official Community Plans

- 7.1.1 The RDN agrees to refer drafts and the proposed amendments of OCPs to DFO and MELP for review and comment.
- 7.1.2 DFO and MELP staff will participate in the review of OCPs and other bylaws that relate to their jurisdiction.
- 7.1.3 DFO and MELP staff will use their best efforts to attend public forums and submit information to the public as part of the OCP review process.
- 7.1.4 DFO and MELP agree to provide technical advice related to the establishment of Development Permit Areas and in the preparation of Development Permit Area Guidelines.

7.2 Growth Management Plan

- 7.2.1 The RDN agrees to advance the goals and policies for environmental protection as set out in the Growth Management Plan that are consistent with this agreement.

7.3 Parks

- 7.3.1 The RDN agrees to advance the goals and policies for environmental protection as set out in the RDN of Nanaimo Parks Plan that are consistent with this agreement.

8. Waste Management

8.1 Liquid and Solid Waste Management

- 8.1.1 The RDN agrees to advance the goals and policies of environmental protection and management as set out in the RDN Liquid Waste Management Plan and the RDN Solid Waste Management Plan.

8.2 Stormwater Management

- 8.2.1 The RDN will consult with its member municipalities, neighbouring Regional Districts, and the appropriate federal and provincial agencies, regarding stormwater management issues to ensure that stormwater management planning is undertaken on a regional scale, with local participation, control and enforcement by agencies which already have jurisdiction over stormwater.
- 8.2.2 With support funding from the Georgia Basin Ecosystem Initiative, the RDN will work in partnership with MELP and Environment Canada to develop a RDN Stormwater Management Plan and a stormwater management planning guidebook that can be utilized by local governments to develop their own stormwater management plans.

8.3 Source Control

- 8.3.1 The RDN will establish and maintain contact with representatives of other jurisdictions to share information on source control regulatory strategies, educational approaches, data collection and management, and potential funding sources for water quality monitoring programs and will undertake to develop bylaws and/or other appropriate mechanisms to control the discharge of contaminants into the sanitary sewer systems.

9. Emergency Planning

- 9.1 The RDN will respond to emergencies as per the RDN Emergency procedures manual.

10. Term

- 10.1 The term of this agreement is three years for signing. Prior to the expiration of this agreement, the signatories will review the terms and conditions of the agreement and amend and/or extend the agreement as determined at that time.

11. Meeting Schedule

- 11.1 Every four months, the signatories or their designates, will meet to review selected development proposals or planning issues identified by any signatory during that time.

12. Liability

- 12.1 The RDN assumes no liability or responsibility under this Agreement in addition to that normally assumed through its jurisdiction over land use and other matters enabled under the *Local Government Act*, *Land Act*, *Land Title Act* and other applicable legislation.
- 12.2 Nothing in this Agreement alters the legislatively mandated roles, responsibilities and duties of any of the signatories

13. Enforcement

- 13.1 Signatories when possible will consult prior to undertaking enforcement actions that may negatively affect the enforcement ability of another signatory when the matter is cross jurisdictional.
- 13.2 The parties agree to collaborate and coordinate compliance and enforcement activities when the matter is cross-jurisdictional and apply the most effective enforcement actions to resolve non-compliance.
- 13.3 The parties agree to respond in a timely and effective manner, within the limits of their legislative mandate, to reports of environmental damage.

14. Dispute Resolution

- 14.1 The parties agree to pursue methods of dispute resolution that will ensure the timely resolution of disagreements and non-compliance before negative impacts on the environment or the economy occur. Appropriate staff will conduct dispute resolution. However, should resolution not be possible, the parties agree to bring the issue forward to senior staff, if necessary to resolve the issue. The ultimate responsibility for unresolved dispute resolution shall be with the signatories to this agreement as outlined in section 15.1.

15. Signatories

15.1 The signatories of this Agreement are the following:

- a) Area Chief, Habitat and Enhancement Branch, South Coast Area, Fisheries and Oceans Canada; (Except Article 8)
- b) Regional Director, Ministry of Environment, Lands and Parks; (Articles 1 to 13) and
- c) Board Chair and Secretary, Regional District of Nanaimo (Articles 1 to 13).

Bruce MacDonald

January 8, 2001

The Area Chief
Habitat & Enhancement Branch
South Coast Area
Fisheries and Oceans Canada

Date _____

Earl Warnock

December 22, 2000

Regional Director, Vancouver Island
Region Ministry of Environment,
Lands and Parks

Date _____

George Holme

February 6, 2001

Chairperson
Regional District of Nanaimo

Date _____

Schedule 'A'
Guidelines, Standards and Criteria

Department of Fisheries & Oceans and Ministry of Environment, Lands and Parks. Land Development Guidelines for the Protection of Aquatic Habitat, Victoria, BC, May 1992

Department of Fisheries & Oceans and Ministry of Environment, Lands and Parks, and the Ministry of Municipal Affairs. The Stewardship Series, "Stream Stewardship: A Guide for Planners and Developers". Vancouver, BC, 1994.

Department of Fisheries & Oceans, et al. The Stewardship Series, "Access Near Aquatic Areas: A Guide to Sensitive Planning, Design and Management". Vancouver, BC, 1996.

Department of Fisheries & Oceans, et al. The Stewardship Series, "Community Greenways: Linking Communities to Country, and People to Nature". Vancouver, BC, 1996.

Department of Fisheries & Oceans, et al. The Stewardship Series, "Stewardship Bylaws: A Guide for Local Government". Vancouver, BC, 1997.

Department of Fisheries & Oceans, et al. The Stewardship Series, "Watershed Stewardship: A Guide for Agriculture". Vancouver, BC, 1997.

Ministry of Environment, Lands and Parks Vancouver Island Region. Environmental Requirements and Best Management Practices for the Review of Land Development Proposals. Nanaimo, BC, February, 2000

Ministry of Environment, Lands and Parks. Water Management: A Users Guide to Working in and Around Water.

McPhee, Michael, Larry Wolfe, Nick Page, Katherine Dunster and Inga Nykwist, with Peggy Ward and Neil K. Dawe. 2000. Sensitive Ecosystems Inventory: East Vancouver Island and Gulf Islands 1993 – 1997, DRAFT Volume 2: Conservation Manual. Technical Report Series, Canadian Wildlife Service, Pacific and Yukon Region, British Columbia.

Regional District of Nanaimo, Fisheries and Oceans Canada, Ministry of Environment, Lands and Parks. Regional District of Nanaimo Environmentally Sensitive Areas Atlas. November 1997

Schedule B

Regional District of Nanaimo Arrowsmith Benson – Cranberry Bright Official Community Plan Bylaw No. 1148, 1999

Regional District of Nanaimo East Wellington – Pleasant Valley Official Community Plan Bylaw No. 1055, 1997

Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1116, 1998

Regional District of Nanaimo Electoral Area 'F' Official Community Plan Bylaw No. 1152, 1999

Regional District of Nanaimo Englishman River Official Community Plan Bylaw No. 814, 1990

Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998

Regional District of Nanaimo Impact Assessment Bylaw No. 1165, 1999

Regional District of Nanaimo Growth Management Plan Bylaw No. 985, 1998

Regional District of Nanaimo Lantzville Official Community Plan Bylaw No.974, 1995

Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998

Regional District of Nanaimo Shaw Hill – Deep Bay Official Community Plan Bylaw No. 1007, 1996