

Boundary Bay Conservation Committee

Box 1251, Delta, B.C. V4M 3T3

Corporation of Delta
4500 Clarence Taylor Crescent
Delta, B.C. V4K 3E2

October 18, 2008

Re: Call for Action on Burns Bog Covenant and Delta-owned “environmentally-sensitive” properties on the route of the South Fraser Perimeter Road Project

Dear Mayor and Council,

The Boundary Bay Conservation Committee (BBCC) thanks Delta Council for seriously considering our letter of October 7, 2008, documenting concerns about the South Fraser Perimeter Road Project contravening the Conservation Covenant on Burns Bog. Delta Council has received well-documented information from the BBCC, Don Hunt and others proving that government and independent scientists raised serious concerns about the impact of the freeway on Burns Bog. Some of these concerns and their outcome are reiterated in Attachment #1 of this letter. The well-documented reports from the scientists provide Delta Council with credible grounds to take immediate action to initiate the dispute resolution process under Section 5 of the *Conservation Covenant* on Burns Bog.

A question may arise as to how the provincial and federal governments can justify approval of the South Fraser Perimeter Road alignment if scientists expressed irrefutable concerns about the Project. Unfortunately, that is what has happened to the Environmental Assessment process in British Columbia and Canada. Only the uninformed now give credibility to the process. One good example is the approval of the Harmonized Environmental Assessment of the Deltaport Third Berth. Concerns expressed by government scientists were ignored and the project is proceeding. The impacts are occurring to fish and wildlife habitat with lip-service being paid to the assurances. The proverbial fox is in the henhouse.

It would be naïve to suggest that government scientists should speak up and go public with the fact that the governments have ignored their concerns about the impacts of the South Fraser Perimeter Road on Burns Bog. Their jobs are on the line. We now have several examples where scientists have been removed from projects because they have had the courage to speak out. This happened very close to home with a credible scientist working for the Department of Fisheries and Oceans on the Deltaport Third Berth Project. When he went on record saying that the Department of Fisheries and Oceans would not partake in a review of the Third Berth Project because the Project would result in the destruction of critical fish habitat, he was removed from the Project. These days the Department of Fisheries and Oceans has nothing but praise for the Project.

It is up to our elected politicians to have the courage to speak up. When the issue involves public lands in Delta and when the issue affects the environment in Delta, it's up to Delta Council to show leadership and take steps to ensure protection of Burns Bog and the associated Fraser River delta ecosystem. The issue of the South Fraser Perimeter Road negatively impacting Burns Bog is of international significance. The *Conservation Covenant* provides all levels of government with a tool to preserve the ecological integrity and viability of Burns Bog. Delta Council needs to step up to the plate

The Staff Report to Delta Council on this issue (*F.06: Council Meeting Agenda for October 20, 2008*) advises passing on responsibility to the federal Ministry of Environment and getting a response from that department. This is an evasive measure which will waste important time. The reply is predictable. Do members of Delta Council seriously believe that the federal Ministry of Environment will take responsibility for a flawed Environmental Assessment?

In reference to Staff information to Delta Council concerning the *Conservation Covenant*:

"... It is staff's understanding that the covenant was not intended to address land use activities such as the SFPR, that are outside of the Local Government and Provincial Lands. Rather, section 4.1 was intended to prevent any of the parties from doing anything on the Local Government Lands or Provincial Lands that would affect those lands."

Note: Section 4.1 of the Burns Bog *Conservation Covenant*:

"Except as expressly permitted in section 6 of this Agreement, the Province, Delta and the GVRD shall not do anything, or allow anything to be done, that does or could be reasonably be expected to destroy, impair, diminish, negatively affect, or alter the Bog or Amenities from the condition thereof described in the Report."

The comment from staff is a curious statement and the Boundary Bay Conservation Committee suggests that Delta Council query the source. It reads like advice from the provincial Gateway offices.

This is the second time staff has advised Delta Council that the South Fraser Perimeter Road does not relate to the *Conservation Covenant*. Compare the staff comments with information from Environment Canada and the Scientific Advisory Panel to the Burns Bog *Ecological Conservancy Area*.

Scientific Advisory Panel – Opinion to the Environmental Assessment of the SFPR

If the highway is placed through this lagg we will fail to uphold the management principles subscribed to in the Conservation Covenant by: 1) not protecting a large contiguous undeveloped natural area along with all its flora and fauna; 2) not managing the Bog as a functional raised bog ecosystem which includes its runoff and transition into lagg; and 3) not preventing any occupation or use of the Bog that will impair the current state of the Bog or the natural, scientific, environmental, wildlife or plant life values relating to the Bog.

(Note: The Conservation Covenant is attached only to the 2042 ha (5045 ac) of land purchased by Canada, BC, GVRD, and Delta in 2004. However, the SAP believes that the lagg is an integral part of Bog and essential to its proper functioning as explicitly recognized in the 2000 Ecosystem Review (Hebda et al, 2000) and the SAP's February 2006 Lagg Workshop held at the University of BC.)...(PAGE 13)

The *Ecosystem Review* referred to in the above quote is **included in the Conservation Covenant:**

Page 8/15 of the Covenant states:

"(f) Report means those parts of the document known as the "Burns Bog Ecosystem Review" conducted by the Environment Assessment Office of British Columbia (Hebda, et al. 2000) consisting of Chapter 4, Biophysical Characteristics of Burns Bog, and Chapter 7, Key Findings and Conclusions, copies of which are on file with each of the parties at the addresses listed above."

Then on page 10 the Covenant states:

"3.0 Baseline Documentation Report

3.1 The parties acknowledge that the Report establishes a baseline from which any change in the physical character of the Bog, and the performance of any covenant in this Agreement in relation to the Bog, may be measured or assessed.

3.2 The parties acknowledge that the Bog and the location of current Amenities are described in the Report, a copy of which is on file with each of the parties at the addresses set out in Section 8.4.

3.3 The parties acknowledge that the Report is intended to serve as an objective information baseline for monitoring compliance with the terms of the Agreement.

Delta Council does not seem to be apprised of this information which is critical to upholding the intent of the *Conservation Covenant*.

Environment Canada (EC) also expressed concerns about adherence to the *Conservation Covenant*:

EC concludes that the hydrological and mineral deposition effects associated with constructing and operating the proposed roadway adjacent to Burns Bog will negatively reduce water levels and contribute to the degradation of the Sphagnum ecosystem and conversion of the bog to forest. Any further disruption of the ecological integrity of Burns Bog, through changes to bog hydrology, deposition of mineral material or degradation of Sphagnum, poses a high risk to the long term viability of an ecosystem which support important wildlife habitat. Such changes are expected to be significant and irreversible with ecological effects that cannot be adaptively managed. Environment Canada acknowledges MoT's commitment for additional funding to support the implementation of the Burns Bog Management Plan. However, Environment Canada does not consider compensation to be an effective mitigation measure in these circumstances.

Environment Canada concludes that the management objectives for restoration of Burns Bog, to which the Province of BC, GVRD and Corporation of Delta committed to Canada in the Conservation Covenant, and further articulated in the Burns Bog Management Plan, are likely not attainable should the project proceed as proposed. (Environment Canada letter to EA process, November 19, 2007)

It appears that staff at the Corporation of Delta does not agree with these scientists. Staff states it is the public who suggest contravention of the *Conservation Covenant*. However, the information above clearly indicates concerns by scientists that the conditions of the covenant are not likely attainable.

On reading the reports from scientists on the South Fraser Perimeter Road, it becomes clear that damage to the Burns Bog ecosystem cannot be mitigated or compensated. It should be noted that money was offered to Environment Canada for the Burns Bog Management Plan and even that incentive was rejected.

The Boundary Bay Conservation Committee appreciates the knowledge of these scientists and their courage in writing their opinions. The BBCC suggests that by approaching the federal Ministry of Environment, Delta Council will be placing these scientists in a difficult position and their jobs will be on the line. The scientists will not be asked for further input. Rather a bureaucrat will be asked to send a reply to Delta with some kind of spin on it.

Delta staff suggests that Delta Council seek a formal position from Environment Canada “with respect to any potential breach of the *Conservation Covenant* as a result of the SFPR alignment.” As mentioned above the Boundary Bay Conservation Committee suggests this is an evasive measure that will put scientists’ job on the line and will reap a typical bureaucratic reply.

The *Conservation Covenant* is not the sole responsibility of the federal government which insisted on the covenant because federal money was included in the purchase. There are four equal signatories: Canada, British Columbia, Metro Vancouver and Delta. In this case it is up to Delta to show leadership as Burns Bog is in Delta and also because Delta owns 8 properties directly on the route of the South Fraser Perimeter Road. These are not part of the *Burns Bog Ecological Conservancy Area*. Four of the properties are designated as “**environmentally sensitive**” in Delta’s Official Community Plan. These are shown on Attachments #2 & #3. Attachment #2 is a Delta Environmentally Sensitive Area Map from the Official Community Plan. The map has been altered to include boundaries of the *Burns Bog Ecological Area*, the route of the South Fraser Perimeter Road and circles indicating public properties. Attachment #3 is another Delta Map that has been altered to include the South Fraser Perimeter Road.

Three of the public properties are identified as habitat for red-listed species which are extirpated, endangered or threatened in B.C. The areas for Red-listed species are shown by red lines on Attachment #4 which is Wildlife Resource Mapping from the Environmental Assessment of the South Fraser Perimeter Road. Please also note the pictures indicating important habitat for small mammals.

Attachment #5 is a map depicting basic vegetation coverage of Burns Bog. The map has been altered to show the boundaries of the *Burns Bog Ecological Area* and the route of the South Fraser Perimeter Road. It can be seen that the freeway will destroy large tracts of habitat causing failure to uphold the management principles of the *Conservation Covenant* by not protecting a large contiguous undeveloped natural area along with its flora and fauna and by not preventing use of the Bog that will”

“impair the current state of the Bog or the natural, scientific, environmental, wildlife or plant life values relating to the Bog.” (page 13 of SAP Opinion)

Attachment #6 also shows that the South Fraser Perimeter Road will destroy critical habitat along the edges of Burns Bog. It shows vegetation areas along the perimeter of the Bog. There has been further depletion since this aerial picture from 1999. Environment Canada has expressed concerns of the impact to the “endangered” Pacific water shrew due to ongoing habitat loss within an extremely confined range.

In reference to the South Fraser Perimeter Road, Environment Canada noted that the Project will:

“result in the loss of habitat of this species situated along the perimeter of Burns Bog and at Fraser Heights. Even with the implementation of MoT’s proposed mitigation and compensation measures, EC is of the opinion that Project effects to PWS (Pacific Water Shrew) habitat, habitat effectiveness, and population dispersion are predicted to result in significant adverse effects to this species.

If achievable, EC advises that long-term maintenance and protection of habitats along the perimeter of Burns Bog, including the intact lagg zone habitat on the southwest side of the bog, will likely be consistent with the recovery strategy required by SARA, since:

a) The PWS (Pacific Water Shrew) is known to be associated with Burns Bog;

b) One of the objectives of the Burns Bog Management Plan (BBMP) is to restore lagg zone habitat, which, if executed as planned, will very likely benefit the species; and,

c) Maintaining connectivity between the lagg zone and adjacent areas along the northern perimeter of the bog, in particular all the way to the Fraser River, will provide critical dispersal opportunities for this species. Maintaining connectivity would also benefit other species, including landbirds, and be consistent with the BBMP.” (page 5, Environment Canada, Technical Comments, November 19, 2007),

The Scientific Advisory Committee (SAP) was established in January, 2005, to advise the signatories to the Burns Bog Covenant on the lands included in the Burns Bog Management Plan. The Plan also includes the Delta Nature Reserve and Parcel 2 which adjoins the southwest corner of the *Ecological Reserve* lands. The Scientific Advisory Panel has stated keen interest in all of Burns Bog:

“...whether within or outside of the Bog Lands, for purposes of ecological integrity Hebda et al (2000) (Figure 6.10) (Burns Bog Ecosystem Review) defined an area required for the long-term ecological integrity of Burns Bog. This area is larger than the Bog Lands and includes critical ecosystems forming the Bog’s edge.” (page 3, SAP Opinion)

The Scientific Advisory Panel stresses that:

“The original form and processes of the Bog have been changed, and the present challenge is the reversal of the major effects of desiccation and the spread of forests from the Bog edge to its interior...Furthermore, in only a few small areas around the Bog do the original hydrological-hydrochemical-ecological features of the Bog’s lagg remain undisturbed. The lagg provides a critical transition zone for mixing of bog water with mineral-soil water adjacent to the Bog. (Note: One SAP member believes that the word ‘critical’ should read ‘important’.) The lagg suffers from drainage, landfilling and other types of disturbances.”...
(page 3 , SAP Opinion)

...“In order to effectively conserve and restore Burns Bog, it should be managed as a complex hydromorphologic system, consisting of the Bog, plus its surrounding mire types, plus the encompassing mineral-soil uplands and terrain with its runoff.” (page 4 , SAP Opinion)

In their report on the South Fraser Perimeter Road Project, the Scientific Advisory Panel concluded:

“The proposed SFPR route unambiguously passes over bog peat, enters the water mound, and passes through zones of water chemistry (Types 1 and 2) considered to be part of the Bog water system...”

...The route also passes through ecosystems that are directly part of the bog complex and previously identified as required for the Bog’s ecological integrity (Hebda et al, 2000).” (page 5, SAP Opinion)

These findings should cause concern to the signatories of the Burns Bog Conservation Covenant. The Corporation of Delta should pay particular attention as under the Management Plan, Delta has specific responsibility for drainage management in and around the Burns Bog Lands. Attachment #7 is a map showing general drainage patterns. The map has been altered to include boundaries of the *Burns Bog Ecological Area* and the route of the South Fraser Perimeter Road.

The Sunbury Neighbourhood Association has researched the Harmonized Environmental Assessment of the South Fraser Perimeter Road. Attachment #8 is an edited version of their comments which document misrepresentation of the facts about the impacts of the South Fraser Perimeter Road on Burns Bog.

These are well-documented adverse impacts from the South Fraser Perimeter Road alignment along the edge of Burns Bog. The Boundary Bay Conservation Committee requests that Delta Council initiate the dispute resolution process under Section 5 of the *Conservation Covenant* on Burns Bog and take action to inform the Government of British Columbia that four Delta-owned properties along the route of the South Fraser Perimeter Road are designated as “*environmentally sensitive*” in Delta’s Official Community Plan and Delta will not permit the South Fraser Perimeter Road to be built on these lands.

Yours sincerely,



Susan Jones
Director: Boundary Bay Conservation Committee

- c.c. The Honourable Gordon Campbell, Premier of B.C.
Environmental Assessment Office, Government of B.C.
The Right Honourable Stephen Harper, Prime Minister of Canada
The Honourable John Baird, Minister of Environment, Government of Canada
Canadian Environmental Assessment Agency
Metro Vancouver Board of Directors
John Cummins, M.P. Delta-Richmond East
Sukh Dhaliwal, M.P. Newton-Delta North
Val Roddick, M.L.A. Delta South
Guy Gentner, M.L.A. Delta North
Burns Bog Conservation Society
North American Wildlife Management Plan
Global Peatland Action Plan
Convention on Wetlands of International Importance

List of Attachments

- Attachment #1: Additional Information on Reports from Government and Independent Scientists
- Attachment #2: Delta Environmentally Sensitive Area Map from the Official Community Plan (*Corporation of Delta Bylaw 6350, November 7, 2005*)
<http://delta.fileprosite.com/contentengine/launch.asp?ID=2198>
- Attachment #3: Delta Map showing plans for purchase of Bog (*Corporation of Delta*)
- Attachment #4: Wildlife Resource Mapping EA SFPR Figure 3, Technical Vol. 12
http://a100.gov.bc.ca/appsdata/epic/html/deploy/epic_document_196_22436.html
- Attachment #5: Joho Map of Burns Bog Vegetation
<http://johomaps.com/na/canada/bc/vancouver/burnsbog1.html>
- Attachment #6: Figure 3.1 from Burns Bog Ecosystem Review: Synthesis Report
http://a100.gov.bc.ca/appsdata/epic/html/deploy/epic_document_60_11998.html
- Attachment #7: Joho Map of Burns Bog general drainage
<http://johomaps.com/na/canada/bc/vancouver/burnsbog/guide/maps/watermap/main.html>
- Attachment #8: Edited comments from Sunbury Neighbourhood Association