



# BOARD REPORT

**TO:** Chair and Directors

**SUBJECT:** City of Enderby Request to Install Utility Works (water trunk main) within the Rail Trail Lands

**DESCRIPTION:** Report from Fiona Barton, Manager Community Services, dated October 4, 2024.

Request from the City of Enderby to register a Statutory Right of Way for future construction of a water truck main within the Rail Trail Lands and parallel to the rail trail.

**RECOMMENDATION:** THAT: the Board empower the authorized signatories to sign a Statutory Right of Way, to be registered as a charge on the following Rail Trail Lands:

PID: 012-955-931, legally described as That Part of District Lot 150 Shown on Plan A402; Kamloops (Formerly Osoyoos) Division Yale District Except Plan 29134; and

PID: 011-769-343, legally described as That Part District Lot 226 Shown on Plan A402 Kamloops (Formerly Osoyoos) Division Yale District

in the name of the City of Enderby, for a future water trunk main as shown on legal survey Plan EPP111993.

*Corporate Vote Weighted*

**SUMMARY:**

The Shuswap North Okanagan Rail Trail Governance Advisory Committee (GAC) is recommending that the Rail Trail Partners empower the authorized signatories to sign the Statutory Right of Way (SROW) for the City of Enderby (the City) as a charge against two of the Rail Trail properties. If approved, the SROW will allow the City to construct a water trunk main within the Rail Trail Lands, parallel to the rail trail.

**BACKGROUND:**

In 2019, the GAC, when considering the many types of encroachments on the Rail Trail Lands, recommended to the CSRD and RDNO Boards, and Splat-sin Kukpi7 and Tkwamipla7, that Statutory Rights of Way be granted to local government to replace existing Canadian Pacific Railway (CPR) Agreements for utility works. The CSRD and RDNO Boards and Splat-sin Kukpi7 and Tkwamipla7 subsequently considered and passed the recommendation. During the discussion at the GAC Meeting, the GAC advised that it did not support SROWS for parallel use of the Rail Trail Lands, as such use could hamper future use of these public lands.

City of Enderby Request – Future Construction of a trunk Watermain line:

In February 2021, the City of Enderby (the City) sent a request to the TOC, asking that the Governance Advisory Committee support its request for a linear SROW within the rail trail corridor and parallel to the future rail trail, for a trunk water main between Mill Avenue and Bass Avenue. See sketch attached.

When making the request, the City stated that it appreciated the concern that comes with encumbering the rail trail lands with linear infrastructure for third-party utilities, but noted the following:

- The infrastructure would be local government works owned by a service participant;
- The alignment is part of the City's long-range planning to meet the fire-flow needs of the municipality;
- The proposed infrastructure would have minimal impact on the use and enjoyment of the rail trail; and
- The water trunk main would be located approximately six feet below the surface.

The TOC reviewed the request, and it was placed on the Agenda of the March 19, 2021, GAC Meeting. The GAC supported the City's request with the following motion:

"That the Governance Advisory Committee support in principle a linear SROW for a trunk water main between Mill Ave. and Bass Ave., within the rail corridor." (refer to attachment 'Minutes of GAC March 19, 2021').

There was no associated recommendation made at the March 19, 2021, GAC Meeting, and therefore, the City's request was not brought to Splitsin, Splitsin Kukpi7 and Tkwamipla7 and the RDNO and CSRD Boards for consideration and direction.

However, based on the GAC approval in principle, and subsequent follow-up with the TOC, the City hired a surveyor to prepare a legal survey plan, for the future trunk water main line (refer to attachment 'EPP111993'). The Plan has not yet been registered as a charge against the title of the Rail Trail Lands.

At its meeting of May 6, 2024, the GAC considered additional requests for local government utility works to be placed within, and parallel to the Rail Trail Lands. The following recommendation was considered and passed by the GAC at its May 6, 2024, meeting:

*THAT: as recommended by the Shuswap North Okanagan Rail Trail Governance Advisory Committee, requests to place utility infrastructure within and running parallel to the rail trail lands, and to register associated Statutory Rights of Way (SROWs), be considered on an individual basis by the Governance Advisory Committee (GAC);*

*AND THAT: following consideration by the GAC of such requests, that a subsequent recommendation be made to CSRD and RDNO Boards and Splitsin Kukpi7 and Tkwamipla7s.*

The GAC supported the request from the City of Enderby at its meeting of March 19, 2021, and again at its meeting of August 30, 2024. Consistent with the May 6, 2024, GAC recommendation above, which was subsequently approved by Splitsin Kukpi7 and Tkwamipla7 and the RDNO and CSRD Boards, the GAC is recommending that the CSRD and RDNO Boards, and Splitsin Kukpi7 and Tkwamipla7, grant approval for the SROW for the City of Enderby water trunk main, and empower the authorized signatories to sign a Statutory Right of Way.

The RDNO Board and Splitsin Kukpi7 and Tkwamipla7 have considered the request from the City of Enderby and have approved the recommendation of the GAC. Prior to registering the SROW, all three Rail Trail Partners must approve the recommendation.

As part of the process to replace the old agreements between CPR and local governments, Terms of Instrument for local government utilities were prepared, and copies of those Terms were forwarded to local governments for their review. (refer to attachment '24 05 01 Requests to place Utility

Infrastructure’).

In addition to the covenants set out in the Terms of Instrument, in the letter from the Rail Trail Owners to the City of Enderby, granting approval for the SROW, the Rail Trail Owners can set out specific conditions regarding archaeological requirements, and restoration of vegetation and soft landscaping to its original state.

**POLICY:**

Refer to attachment ‘MINUTES SNO Rail Trail Governance Advisory – May 06 2024 FINAL’

**FINANCIAL:**

If the Rail Trail Partners grant the authorized signatories the approval to sign the Statutory Right of Way, the City of Enderby will be responsible for all costs associated with registration of the SROW on the Rail Trail Lands, and for compliance with all applicable municipal, provincial and federal bylaws, codes, regulations and laws, related to construction of the trunk water main.

**KEY ISSUES/CONCEPTS:**

In 2019, when the GAC initially reviewed and considered the many types of encroachments on the Rail Trail Lands, it provided recommendations to the CSRD and RDNO Boards, and Słatsin Kukpi7 and Tkwamipla7, addressing each type of encroachment. The GAC recommendation was to grant Statutory Rights of Way to local governments for utility works. The CSRD and RDNO Boards and Słatsin Kukpi7 and Tkwamipla7 subsequently considered and passed the recommendation. During the discussion at the GAC Meeting, the GAC advised that it did not support SROWs for parallel use of the Rail Trail Lands, including for corporate utilities such as BC Hydro and Fortis BC, as these utility works could hamper future use of these public lands.

When considering the request from the City of Enderby for parallel use of the rail trail lands, the GAC noted that the request was related to local government works owned by a service participant, that the works were required to meet the fire-flow needs of the municipality, that the works would be located approximately six feet below the surface, would be located outside of the area of the built trail, and would have minimal impact on the use and enjoyment of the rail trail.

In addition to the covenants set out in the Terms of Instrument, when granting its approval to the City of Enderby, the Rail Trail Owners can set out additional conditions, including, but not limited to archaeological requirements, and restoration of vegetation.

**IMPLEMENTATION:**

If the City’s request is approved, the RDNO and CSRD Chief Administrative Officers will sign the SROW document, it will be registered on title of the two rail trail properties, and the City of Enderby will have the authorization to construct the water trunk main within the rail trail lands, parallel to the rail trail.

**COMMUNICATIONS:**

If the request is approved by the Rail Trail Partners, a letter will be sent to the City of Enderby advising that the SROW may now be registered against the referenced rail trail properties. The letter will outline any conditions that the City of Enderby must address prior to construction of the water trunk main.

**DESIRED OUTCOMES:**

That the Board endorse the staff recommendation(s).

**BOARD'S OPTIONS:**

1. *Endorse the Recommendation(s).*
2. *Deny the Recommendation(s).*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

**Report Approval Details**

Document Title:	2024-10-17_Board_CPS_SNORT_City_of_Enderby_request_for_SRW.docx
Attachments:	- EPP111993.pdf - MINUTES Shuswap North Okanagan Rail Trail Governance Advisory - March 19, 2021 FINAL.pdf - MINUTES SNO Rail Trail Governance Advisory - May 06 2024 FINAL.pdf - 24 05 01 Requests to place Utility infrastructure.pdf
Final Approval Date:	Oct 11, 2024

This report and all of its attachments were approved and signed as outlined below:



Derek Sutherland



Jennifer Sham



John MacLean