

Campbell River Environmental Committee (CREC)  
PO Box 20092 STN. A, Campbell River, BC V9W 7Z5

The Director,  
MOE, Authorizations South

February 23, 2020

Dear Director,

**Re: The Comox Strathcona Waste Management Services (CSWM) application to amend Operational Certificate 2401**

The Campbell River Environmental Committee (CREC) submits comment regarding the CSWM application to amend Operational Certificate (OC) 2401 for the management of waste and recyclable material on Block M and Block J of District Lot 85, Sayward Land District.

The proposed amendment and Draft OC are for **waste management on Block M and Block J** of the Campbell River Waste Management Centre. While the waste footprint of the landfill is currently confined to Block M, CREC is concerned that the wording of the Draft OC **does not appear to prohibit waste on Block J**, creating the potential for solid waste to be added to Block J, less than 500 meters from the neighbouring residential property at 5900 Argonaut Road and contrary to BC's Landfill Criteria for Municipal Solid Waste (Second Edition, June 2016) (the "Criteria").

The Minister's legal authority to issue Operational Certificates for municipal landfills is found under s. 28(1) of the *Environmental Management Act*, SBC 2003 c. 53 (the "EMA"):

- (1) If a waste management plan is approved by the minister, a director may, in accordance with the regulations, issue an operational certificate, with or without conditions, to the municipality or to any person who is the owner of a site or facility covered by the waste management plan.

Section 28(2) of the *EMA* places an important limitation on this authority:

- (2) An operational certificate issued under subsection (1) **forms part of and must not conflict with the approved waste management plan**. [Emphasis added]

The relevant waste management plan in this case is the CSWM. The CSWM states in section 1.1:

*"All CSWM landfills will be designed and operated to minimize impact on the environment and the surrounding community **and to satisfy the BC Landfill Criteria for Municipal Solid Waste.**" [Emphasis added]*

Section 3.1 of the Criteria states as follows:

*"The landfill footprint **must not be located within 500 meters of an existing or planned sensitive land use**. A planned sensitive land use is one that has been identified as **an allowed use** in a regional growth*

*management plan, official community plan or zoning by-law but has not yet been built/established.”*  
[Emphasis added]

*“Sensitive land uses include, but are not limited to: schools, residences, hotels, restaurants, cemeteries, food processing facilities, churches, and municipal parks. Land uses such as heavy industry, forestry operations, aggregate extraction/mining, railways/rail yards, etc. are not considered sensitive land uses.”* [emphasis added]

The entire property at 5900 Argonaut Road has been zoned residential, meaning that the entire property has been ‘identified’ in a zoning by-law for the ‘allowed use’ of ‘residences’. Thus, the entire property (not just the current building footprint) constitutes either an existing or planned ‘sensitive land use’ under the Criteria.

The Criteria describes itself as a “planning document” and generally affords the director some leeway in the application of its standards. However, per s. 28(2) of the *EMA*, the Minister is without jurisdiction to issue an OC that conflicts with the CSWM, and the CSWM incorporates the Criteria by reference. Thus, any OC issued by the Minister for a landfill to which the SCWM applies must “satisfy the BC Landfill Criteria for Municipal Solid Waste.” Furthermore, the language in s. 3.1 of the Criteria is emphatic and mandatory (a landfill **must not** be located within 500 meters of a sensitive land use), highlighting the importance of this requirement, in direct contrast to other, more permissive sections. For example, the very next section, 3.2, says that, “The landfill footprint **is recommended not to be located** with 100m of a heritage or archaeological site.”

Therefore, the landfill footprint must be at least 500 meters from the entire zoned property, not just from the house.

CREC opposes the approval of the proposed amendments to OC 2401, as currently drafted, for the following reasons:

- **Block J is 250 meters from the residence at 5900 Argonaut Road, which is less than the 500 meters required** at s. 3 of the Criteria, measured using Google Earth, which the Regional District Waste Board staff informed CREC they use to measure distance.
- **The residence at 5900 Argonaut Road is less than 500 meters to landfill waste on Block M.**

**Please explain why a Draft OC was issued that does not meet the BC Landfill Criteria for Municipal Solid Waste for distance from a residence.**

- CREC was advised by MOE staff that no waste would be approved for Block J, but the Draft OC wording does not appear to prohibit this. Section 1.1.2 of the Draft OC says that “Waste may be discharged to the sanitary landfill shown on attached Site Plan A.” The Draft Site Plan A shows a boundary labelled “Landfill Site Boundary” extending around both Blocks M and J. While the Draft Site Plan A does show an orange line on Block M labelled “approximate limit of waste,” it is far from clear that this is a legal limitation and that waste could not legally be added to Block J under s. 1.1.2 of the Draft OC. Section 1.1.4 of the Draft OC says that “The authorized works are a sanitary landfill, and related appurtenances **approximately located as shown on attached Site Plan A.**” [Emphasis added] Again, however, it is far from clear that an “approximate limit of waste” located “approximately as shown” on Draft Site Plan A amounts to a legal requirement that waste not be stored on Block J and within 500 meters of the nearest residential property, given the blanket permission in s. 1.1.2.

- In addition, waste (identified by the CSWM staff as recyclable material) is currently deposited on Block J. The waste consists of piled tires and mattresses. Please see the picture attached. It is CREC's understanding that this waste has been there for at least 7 months. The waste is deposited in an area that has no liner and no catchment, and due to the permeable geology, runoff is going into the ground. Drainage from this location is northeast and upstream of residences, an aquifer and Flintoff Creek, which flows to the Quinsam River. There is concern from the residents in close proximity to the waste piled within 300 meters of the closest residence. This concern is due to drainage to their well and that storage of this waste presents a fire hazard. **CREC requests this waste be removed.**
- 6.7- LANDFILL FIRE MANAGEMENT – The BC Landfill Criteria for Municipal Solid Waste states that the “Landfill site should have year-round and immediate access to a water supply capable of a sustained flow of water for firefighting purposes that exceeds 4,000 litres per minute or suitable alternative fire suppression equipment specified in the Fire Safety Plan.”
- 6.0- Appendix J-Fire Safety and Emergency Contingency Plan of the 2017 Design, Operations, and Closure Plan, Campbell River Waste Management Centre states that “The Landfill Site should have year-round and immediate access to a water supply capable of a sustained flow of water for firefighting purposes that exceeds 4,000 liters per minute or suitable alternative fire equipment.”

**Question: There are no fire hydrants at the applied-for site and lake access is limited. Does this landfill amendment meet section 6.7 of the Landfill Criteria and section 6.0 of the 2017 DCOP?**

- There is no Hydrogeology and Hydrology Characterization Report associated with this application for amendment of landfill OC 2401, as required at s. 10.1 of the Criteria, including:
  - Hydraulic Conductivity;
  - Groundwater Flow Direction;
  - Groundwater Flux;
  - Springs/Groundwater Discharge within 1 km of the landfill footprint including types of water use (drinking, aquatic life, irrigation and livestock watering, etc.);
  - Surface Hydrology within 1 km of the landfill footprint;
  - Water Quality analysis, of the baseline water quality within 1 km of the landfill footprint;
  - A tabulation of background water quality for all applicable monitoring parameters and indicator parameters identified in the environmental monitoring program;
  - Land and Water Use, including a well map and well information within 1 km of the landfill footprint;
  - Current and allowed land uses within 1 km of the landfill footprint including:
    - Types of land use (residential, commercial, industrial, agricultural, recreational, etc.).
    - Types of crops.
    - Types of livestock;
  - Number and location of dwelling units; and

- Groundwater and Surface Water Uses – Current and planned future uses of groundwater and surface water within 1 km of the landfill footprint including types of water use (drinking, aquatic life, irrigation and livestock watering, etc).

**Please provide a Hydrogeology and Hydrology Characterization Report associated with this application as required under the BC Landfill Criteria for Municipal Solid Waste.**

- The CSWM has demonstrated a lack of faith to operate within their current OC. The intent of this OC amendment is to bring existing, out-of-compliance operations into compliance.
- The Intention to use Block J for a regional compost facility presents numerous other concerns. Should the MOE director issue an OC for the management of waste to Block J, any structure or facility existing or in the future must meet the Criteria.

CREC does not support the amendment to OC 2401 as currently drafted, as the requirements of waste landfill do not meet the BC Landfill Criteria for Municipal Solid Waste.

CREC requests that due to the close proximity to residences, Block J be removed from the Draft OC for landfill waste management and recyclable material. CREC also requests that site contamination on Block J be remediated and a plan for a stormwater pond be put in place.

In the alternative, CREC proposes that additional language be added to the Draft OC to eliminate any ambiguity that waste is not to be stored on Block J. For example, subsection 1.1.2 could be amended from:

*Waste may be discharged to the sanitary landfill shown on attached Site Plan A.*

to:

*Waste may be discharged to the sanitary landfill shown on attached Site Plan A, within the area identified as Block M. For greater certainty, nothing in this Operational Certificate authorizes the discharge of waste onto the area identified as Block J on attached Site Plan A.*

CREC urges the Ministry of Environment and the Regional District Comox Strathcona Waste Management Board meet with the neighbour whose residence is at a distance less than 500 m from waste on Block M to work out an agreement to bring Block M into compliance.

Sincerely,

The Campbell River Environmental Committee

Per:

LeRoy McFarlane, President Campbell River Environmental Committee

Attachment: photo of landfilled/recyclables

cc: Luc Lachance; Todd Thompson; Minister George Heyman; Premier John Horgan; Minister Claire Trevena; MLA Sonia Furstenu; Elle Brovold, City of Campbell River; Andrew McGifford; Marc Rutten; Gabriel Bau; Leroy McFarlane