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REPORT TO TRANSPORTATION COMMITTEE MEETING OF WEDNESDAY, JUNE 15, 2022

SUBJECT **Island Rail Corridor (E&N Corridor) Advocacy**

ISSUE SUMMARY

To present the Capital Regional District (CRD) Board advocacy next steps in support of Island Rail Corridor (formerly referred to as the E&N Corridor) protection.

BACKGROUND

The Island Rail Corridor is an approximately 295 km rail corridor owned by the Island Corridor Foundation (ICF). ICF is responsible for infrastructure maintenance and repair along the corridor to ultimately restore rail service on Vancouver Island. The ICF is governed by a 12-member Board of Directors composed of six members representing regional districts and six members representing First Nations whose territories are wholly or partly within the geographic area of the corridor. Since 2011, numerous studies have been completed by ICF and the Ministry of Transportation and Infrastructure (MoTI) to define a scope of work for corridor repairs and identify the level of public investment required from local and senior levels of government. Current estimates range from \$326.5 million (M) to \$728.8M, depending on scope and assumptions.

As senior governments, both the federal and provincial governments provide funding for transportation infrastructure as a matter of public interest. In its 2020 South Island Transportation Strategy (SITS), MoTI identifies the Island Rail Corridor as a component of the existing transportation network on the South Island and calls for exploring the use of the corridor for commuter rail as a long-term action. MoTI's current funding priorities for the region are focused on implementing BC Transit's RapidBus service, supporting post-pandemic BC Transit ridership recovery and various transit, active travel and safety improvements on provincial highway corridors. Through different granting streams, MoTI also supports local government-led road projects, including for active travel. The federal government's position on the corridor is unknown at this point.

The CRD Board has consistently recognized the Island Rail Corridor as a key component of the regional transportation system. The 2014 Regional Transportation Plan (RTP) identifies the Island Rail Corridor as part of its Regional Multi-Modal Transportation Network and calls for the long-term protection of the corridor for transportation. The RTP is based on robust technical and policy analysis and input from member municipalities and partner agencies responsible for RTP implementation. The RTP has informed all CRD advocacy positions on the Island Rail Corridor.

Since 2019, the CRD Board has been guided by its Advocacy Strategy. The strategy identifies that successful advocacy should be targeted, focused, and requires message discipline and consistency. For this reason, the CRD Board Priorities anchor the organization's advocacy efforts, aligned to the region's defined initiatives and desired outcomes. Advocacy tactics identified in the strategy can include formal letters, requests for meetings, presentations, partnering with agencies, campaigns, advisories and announcements. Primary level target audiences identified in the strategy include the Premier's Office, the Minister and executive of MoTI, the Minister and executive of relevant federal government ministries and elected officials representing the island federally and provincially.

The 2019-2022 Board Strategic Plan identifies protection of the E&N Corridor for transportation as a priority initiative. Chief Administrative Officer (CAO) quarterly updates have regularly reported progress on this priority. On May 11, 2022, the CRD Board confirmed its 2019-2022 Board priorities with the following motion:

“That the CRD Board heighten its advocacy regarding protection of the E&N Corridor as a transportation corridor including reinstatement of passenger and freight rail services.”

In May, 2022, ICF released an initial business case for rail (Appendix A), seeking to build support for senior government investment in corridor repairs and subsequent rail operation. The ICF Executive Director has been invited to present the business case at the July 13, 2022 CRD Board meeting.

The CRD advocacy position to protect the Island Rail Corridor for transportation is targeted, focused and consistent. The advocacy position is based on a CRD Board Priority and supported by technical and policy direction from the RTP. The target audience to date has been ICF and MoTI. Tactics used to date include letters, meetings, presentations and partnerships. Notable advocacy achievements include:

- A long term priority in SITS to explore the viability of commuter rail on the Island Rail Corridor between Victoria and the West Shore.
- Two meetings between the Board Chair and Vice Chair with MoTI Minister Rob Fleming to explore opportunities for taking a partnership approach to Island Rail Corridor protection.
- Regular staff-level meetings with MoTI executive and staff to establish a partnership and share information about corridor protection efforts.
- The CRD is a partner in the ICF, with a CRD representative on the ICF Board of Directors.

IMPLICATIONS

Service Delivery Implications

Using the CRD Advocacy Strategy, staff have analyzed opportunities to heighten advocacy based on target audience roles in securing Island Rail Corridor protection. Based on this analysis, staff will heighten advocacy by:

1. Deepening partnerships with MoTI.
2. Exploring potential for partnerships with the four other regional district boards along the Island Rail corridor.
3. Targeting engagement with relevant federal ministries at both the political and senior staff level through letters and meetings.

Staff can implement the heightened advocacy approach within existing work plans.

Advocacy for reinstatement of passenger and freight rail service is the responsibility of the ICF, as the entity that owns the corridor and is responsible for its infrastructure and assets. The CRD has a representative on the ICF Board of Directors. Such representation demonstrates a successful partnering tactic, where the CRD can advance its priorities through ICF membership.

Per the Advocacy Strategy, it is best for the CRD to remain targeted, focused and consistent in its advocacy objectives: to protect the Island Rail Corridor as a transportation corridor, in alignment with the strategic direction set out in Board priorities and policy and technical direction in the RTP.

Intergovernmental Implications

The Island Rail Corridor crosses the land of 14 First Nations and bisects the reserve lands of seven different First Nations, including Esquimalt and Songhees within the CRD. CRD staff understand that there are ongoing unresolved claims related to interests within and along the Island Rail Corridor, including land ownership. Resolution of these Indigenous claims is critical to understanding any viable uses of the corridor.

The ICF initial business case indicates they expect senior levels of government to resolve outstanding Indigenous claims. Within the context of the United Nations Declaration on the Rights of Indigenous Peoples and the British Columbia *Declaration Act*, both the federal and provincial governments are responsible for ensuring that Indigenous interests and rights are integrated into decision-making about the future use of the Island Rail Corridor.

In relation to one of the unresolved claims, the BC Court of Appeal¹ decision made on September 14, 2021 found that the federal government has not provided a position or commitment on the rail corridor. This appeal court ruling upheld an initial finding from the BC Supreme Court² on June 30, 2020 that “*in light of ICF’s continued maintenance of the rail corridor, the interest of the stakeholders in restoring rail service, and the provincial government’s consideration of restoring the rail corridor as a public transportation option.*” The BC Court of Appeal found that the matter could be brought back before the court in 18 months (i.e., March 2023) if the federal government does not make a determination regarding its intent for the corridor.

The approach to heightened advocacy reflects the BC Court of Appeal decision. Heightened CRD advocacy is best targeted to relevant federal ministries as the senior government funder that has not yet provided a position on whether preservation of the corridor is in the public interest. Advocacy will focus on building federal government support to protect the corridor for transportation. Heightened advocacy will also focus on deepening a partnership approach with MoTI to define and achieve shared objectives for the corridor. This could include creating a process for determining a viable long-term use of the corridor for transportation. In continuing to undertake this advocacy, note that senior government decisions to make significant public investment in the rail corridor could impact the level of funding available for other regional transportation priorities such as active travel and improvements to transit and road safety.

Heightened CRD advocacy will also target the four other regional districts located along the corridor. Tactics will focus on creating partnerships to identify and confirm shared interests in corridor use.

Financial Implications

Staff can implement the heightened advocacy approach within existing service budgets.

Alignment with Board & Corporate Priorities

Undertaking heightened advocacy for protection of the Island Rail Corridor supports delivery of Board Priority 1(b) “Protect the Island Rail Corridor as a transportation and participate in a Provincial working group to come to agreement on the future use of the Island Rail Corridor.”

¹ Court of Appeal of British Columbia, *Snaw-Naw-As First Nation v. Canada (Attorney General)*, 2021 BCCA 333

² Supreme Court of British Columbia, *Snaw-Naw-As First Nation. Attorney General of Canada and Island Corridor Foundation*, 2020 BCSC 979

Alignment with Existing Plans & Strategies

Informed by the RTP, the CRD Board has consistently advocated for the protection of the Island Rail Corridor. It is likely that heightened advocacy could result in a process to come to agreement about the viable future use of the corridor. A possible future use could include reinstatement of passenger and freight rail services.

The current regional objective to protect the Island Rail corridor for transportation could require refinement should such a process be initiated. Three CRD plans and strategies should guide refinement of regional objectives for the Island Rail Corridor: the RTP, the CRD Climate Action Strategy and the CRD Statement of Reconciliation. Any process to identify a viable use for the corridor should include full participation of impacted First Nations in decision-making. Further, rail service reinstatement has not been subject to the policy and technical analysis that supported creation of the RTP and has not been endorsed by partners responsible for RTP implementation. A partnership approach to work with all affected parties to come to agreement on the future use of the corridor is aligned to existing CRD plans and strategies.

CONCLUSION

The CRD Advocacy Strategy identifies that successful advocacy should be targeted, focused, and requires message discipline and consistency. The CRD Board has consistently advocated for Island Rail Corridor protection, informed by its RTP and prioritized for action in the 2019-2022 Board Strategic Plan. On May 11, 2022 the Board approved a motion to heighten advocacy regarding Island Rail Corridor protection. Based on this motion, these documents and a review of current context, staff have identified three approaches to heighten advocacy for corridor protection:

1. Deepen partnerships with MoTI.
2. Explore the potential for partnerships with the four other regional district boards along the Island Rail corridor.
3. Target engagement with relevant federal ministries at both the political and senior staff level through letters and meetings.

Staff and the CRD Board can begin immediate implementation of the heightened advocacy approach.

RECOMMENDATION

There is no recommendation. This report is for information only.

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ATTACHMENT

Appendix A: Vancouver Island Rail Initial Business Case