

RESOLUTION NO. 670

A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF BIRCH BAY WATER & SEWER DISTRICT, WHATCOM COUNTY,  
WASHINGTON, TO ACCEPT REQUEST FROM BP WESTCOAST PRODUCTS LLC TO  
INITIATE PROCESS FOR A CHANGE IN ITS SERVICE AREA FOR DOMESTIC  
WASTEWATER TREATMENT SERVICE

WHEREAS, the Birch Bay Water and Sewer District ("District") has the capacity to treat additional domestic wastewater flows; and

WHEREAS, on March 12, 2002, the District entered into a Project and Services Agreement ("Contract") with BP West Coast Products LLC ("BP") pursuant to which the District agreed to provide domestic wastewater services to BP property ("Property") as specified in the Contract; and

WHEREAS, the parties continue to work together to address various Contract breaches by BP; and

WHEREAS, one such Contract breach occurred when BP constructed sewers outside the Property, which is also outside the District's sewer service area boundaries, and therefore outside the area authorized for service under the Contract; and

WHEREAS, the District is in receipt of a letter dated September 23, 2008 from BP requesting that the District take the lead in pursuing an addition to the District's domestic wastewater service area, in order to serve area outside the Property and outside the District's current sewer service area boundaries; and

WHEREAS, to serve that portion of the BP facility currently outside the District's sewer service area boundaries, the District must at minimum (a) file a notice of intention with the Boundary Review Board ("BRB") that the District intends to serve the BP facility outside the District's current sewer service area boundaries and obtain BRB approval; (b) obtain a fully executed amendment to the Contract; and (c) amend the District's Comprehensive Sewer Plan; and

WHEREAS, completion of the tasks in the foregoing recital requires that the District complete the required environmental review process under SEPA; and

WHEREAS, completion of all the above-described tasks will remedy one of the existing Contract breaches by BP (but not others); and

WHEREAS, the foregoing recitals are findings of the Board of Commissioners of the Birch Bay Water & Sewer District and are a material part of this resolution;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Birch Bay Water and Sewer District, Whatcom County, Washington as follows:

Section 1: The District hereby resolves to accept the request of BP set forth in its letter dated September 23, 2008 to initiate and take the lead in the process of expanding the District's wastewater service area in order to accurately describe the Property and lawfully serve the area

into which BP recently extended sewers; provided that, the necessary SEPA process shall be completed and the necessary amendment to the Contract shall be in place prior to filing a notice of intention with the BRB and prior to amendment of the District's Comprehensive Sewer System Plan.

Section 2: BE IT FURTHER RESOLVED that any resolutions or parts or resolutions in conflict herewith are hereby repealed insofar as they conflict with the provisions of this Resolution.

Section 3: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Board hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact than any one or more sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional, and if, for any reason, this Resolution should be declared invalid or unconstitutional, then the original Resolution or Resolutions shall be in full force and effect.

Section 5: This Resolution shall be in full force and effect on date of adoption set forth below.

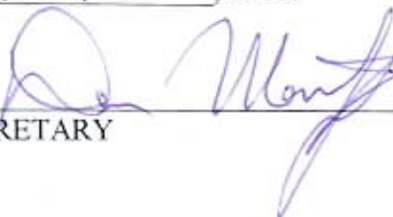
PASSED by the Board of Commissioners of Birch Bay Water & Sewer District, Whatcom County, Washington, at a regular meeting held the 9 day of October, 2008.

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. 610 of Birch Bay Water & Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on October 9, 2008.

  
SECRETARY