

RESOLUTION NO. 473

A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF BIRCH BAY WATER & SEWER DISTRICT, WHATCOM COUNTY,
WASHINGTON, AUTHORIZING APPLICATION TO THE BOUNDARY
REVIEW BOARD TO AMEND THE DEFINITION OF THE BP CHERRY
POINT REFINERY FACILITY "PROPERTY" AND EXPAND THE AREA PROVIDED
WITH 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 District is aware that BP has 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 received 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 required that the District complete the required environmental review process under SEPA; and

WHEREAS, the District issued a final Determination of Nonsignificance ("DNS") for the foregoing tasks on October 20, 2008; and

WHEREAS, the District recently adopted Resolution No. 670 to accept BP's request to initiate the process for a change in the District service area for wastewater treatment service; and

WHEREAS, RCW 36.93.090 requires that a notice of intention be filed with the BRB that the District intends to serve the BP facility outside the District's current sewer service area boundaries with domestic wastewater service; and

WHEREAS, the District will, by separate resolution, amend its Comprehensive Sewer Plan to reflect provision of wastewater treatment service to the additional area requested by BP; 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 file a notice of intention application with the BRB pursuant to Chapter 36.93 RCW to expand the District's wastewater service area as described in the recitals herein; provided that, the necessary amendment to the Contract shall be in place prior to filing a notice of intention application with the BRB. The total area for service intended to be provided to the BP facility located in Whatcom County, Washington is described at Exhibit A hereto.

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 4: 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 13th day of November, 2008.


COMMISSIONER


COMMISSIONER


COMMISSIONER

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. 673 of Birch Bay Water & Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on Nov. 13, 2008.


SECRETARY

**EXHIBIT A
LEGAL DESCRIPTION**

Parcel No.	Legal Description
390107-317235-0000	ALL OF SECTION 7-EXC SW NW-TOG WI 3 ACRE TRACT IN SW NW FOR FLARE STACK SITE-EXC 1/2 INT IN GAS-OIL-MIN RTS AS RES AF 837812-954410-1021944-EXC PTN TO WHATCOM CO FOR RD DESC AF 1059679-LESS
390107-480470-0000	NE NE-LESS RDS
390107-086341-0000	SW NW-EXC 1/2 INT IN OIL-GAS-MIN RTS AS RES AF 954410-1021944-837812-EXC FLARE STACK SITE-LESS RDS
390108-018023-0000	THAT PTN OF LOT 2 LIQUID CARBONIC SHORT PLAT AS REC BOOK 3 SHORT PLATS PG 164 LY WITHIN 1/2 ACRE TR IN SW SW FOR PIPELINE BASE DAF-BEAP 150 FT N-50 FT E OF SW SEC COR-TH N 150 FT-TH E 150 FT-TH S 150 FT-
390108-059042-0000	LOT 1 LIQUID CARBONIC SHORT PLAT AS REC BOOK 3 SHORT PLATS PG 164
390108-067476-0000	NW NW-EXC MIN RTS AS RES AF 1054865 THRU 1054872-LESS RD-SUBJ TO FERNDAL E PIPELINE
390108-071094-0000	LOT 2 LIQUID CARBONIC SHORT PLAT AS REC BOOK 3 SHORT PLATS PG 164-EXC PTN DAF- 1/2 ACRE TR IN SW SW FOR PIPELINE BASE DAF-BEAP 150 FT N-50 FT E OF SW SEC COR- TH N 150 FT-TH E 150 FT-TH S 150 FT-TH W
390108-074214-0000	NW SW-VAC BLAINE RD-BROWN RD-EXC OIL-GAS RTS AS RES AF 1054865 THRU 1054872-SUBJ TO FERNDAL E PIPELINE
390108-074352-0000	SW NW-VAC BROWN RD-BLAINE RD-EXC MIN- OIL-GAS RTS AS RES AF 1054865 THRU 1054872-SUBJ TO FERNDAL E PIPELINE
390108-191484-0000	NE NW-EXC ALL OIL-GAS-MIN RTS ON E 1/2 NE NW AS RES AF 9664021054286-LESS RD- SUBJ TO FERNDAL E PIPELINE
390108-204081-0000	SE SW-EXC OIL-GAS-MIN RTS AS RES AF 1054865 THRU 1054872-LESS RD-RR- SUBJ TO FERNDAL E PIPELINE
390108-204346-0000	SE NW BROWN RD VAC CP VOL 46 PG 168-EXC OIL-GAS-MIN RTS AS RES AF 1054865 THRU 1054872
390108-208209-0000	NE SW-BROWN RD VAC CP VOL 46 PG 168-EXC OIL-GAS-MIN RTS AS RES AF 1054865 THRU 1054872
390108-331342-0000	SW NE-LESS RD
390108-336471-0000	NW NE-EXC MIN RTS ON NW NE AS RES AF 1054286-LESS RD-SUBJ TO FERNDAL E PIPELINE
390108-334207-0000	NW SE-LESS RD
390108-437396-0000	N 175.94 FT OF THAT PTN OF SE NE LY WLY OF W LI OF BONNEVILLE POWER TRANSMISSION LI ESMT DESC AF 992681-LY ELY OF E LI OF GREAT NORTHERN RR CO TR DESC AF 950790
390118-052092-0000	THAT PTN OF GOVT LOT 4 LY NWLY OF LI DRAWN FR NE COR OF GOVT LOT 4 TO SW COR OF GOVT LOT 4-TOG WI VAC JACKSON RD
390118-008350-0000	BEG AT NW SEC COR-TH E 278 FT-TH S 158 FT-TH S 45 DEG W 98 FT-TH S 3165 FT-TH S 45 DEG W 50 FT-TH W TO W SEC LI-TH N TO POB-LESS RD
390118-084466-0000	NW NW-EXC PTN DAF-BEG AT NW COR OF NW NW TH E 278 FT-TH S 158 FT-TH S 45 DEG W 98 FT-TH S TO S LI OF NW NW-TH W TO W LI OF NW NW-TH N TO POB-LESS RD
390118-086345-0000	SW NW-EXC WLY PTN FOR PIPELINE R/W- TOG WI VAC LONGSETH RD
390118-088200-0000	NW SW-EXC PTN FOR PIPELINE R/W-TOG WI VAC JACKSON RD
395113-488166-0000	S 660 FT AS MEAS ALG E LI OF GOVT LOT 3- S 920 FT OF GOVT LOT 4-ALL GOVT LOT 5- TOG WI 2ND CLASS TIDELANDS IN FRONT OF- OR ADJ TO-OR ABTG N 318 FT OF S 1058 FT OF GOVT LOT 5 HAVING FRONTAGE OF 6.06