



April 8 2014  
RMWB Mayor & Council & Distribution noted below

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## **CN Lynton Rail Yard Land Use Concerns**

The following is our understanding of an immediate issue requiring the active involvement of the RMWB.

Our concerns are two-fold. **First, we have grave reservations about the physical impacts of land use and associated developments by Canadian National Railway [CN] at its Lynton Rail Yard at the end of Highway #69. Such development will increase the volume of heavy truck traffic on this already overburdened road as well as driving increased volume of heavy truck traffic through Fort McMurray.**

**Second, it appears that CN's has suggested it is "exempt from all reporting, assessment, land use controls and financial accountability" obligations to the local government.** It is the opinion of much of our Membership that this is an insult to the orderly planning and development of the fastest growing community in Canada. Even though these lands may be outside the Urban Service Area of Fort McMurray, the Lynton Rail Yard is on its doorstep, and the only way through the door is through Fort McMurray. We consider it essential that CN cooperate with, and be accountable to the RMWB in all its development and land use aspirations as any other developer would.

As residents and professionals involved in the development of Wood Buffalo we bring these concerns forth in the hope that Regional Council will immediately convene a meeting that includes **all** affected stakeholders [including, but not limited to: CN, the Fort McMurray Airport Authority, Fort McMurray Rotary Club, Keyano College Land Trust, Pacific Developments, Rotary Development Lands, Alberta Environment and Sustainable Resource Development, Alberta Infrastructure, Alberta Municipal Affairs, Alberta Transportation, the Oil Sands Sustainable Development Secretariat, Alberta Finance/Treasury, the Oil Sands Community Alliance, and UDI Wood Buffalo] to coordinate the development of the Southlands area consistent with the aspirations of the Council and citizens of Wood Buffalo as have been earlier expressed in such documents as the Municipal Development Plan of 2011, the Athabasca Oil Sands Comprehensive Regional Infrastructure Sustainability Plan of 2008 and Responsible Actions.

## BACKGROUND

When the Urban Development Sub-Region [UDSR] was designated, a holding reservation previously placed by ESRD on all the land within the initially-proposed UDSR boundary, was lifted. Subsurface leases were cancelled on everything within the UDSR and lands not included were 'reopened' for resource development.

We have received unconfirmed reports that almost immediately thereafter, CN applied for, and received, an expansion of its leased area of unknown size. Some rumours have implied a four-fold expansion.

Further, we are aware that CN is now actively courting new customers such as Oxbow Sulphur on the basis of land being available to new sub-lessors and users who will truck product from plant sites north of Fort McMurray to the expanded rail yard.

We understand that CN also applied for, and apparently obtained a "**Protective Notation**" [PNT] on 4,500 acres of additional land to the east of the Lynton Rail Yard, right up to the western border of the UDSR. This was allegedly obtained on the basis of the argument that CN needed to protect potential expansion lands for new rail capacity as bitumen, sulphur and petroleum coke are added to the products shipped by rail out of Wood Buffalo.

We have been advised that the **PNT requires that CN be consulted on any potential land use within the PNT. Further it has been reported to our members, based on interactions between CN and other project proponents that CN believes it has been granted at least preferential treatment, if not actual "control" over these lands.**

Two years ago, CN was in negotiations with the Province to partner on a combined road/rail crossing of the Clearwater River as the central piece of infrastructure in the Clearwater East Multi-User Corridor. CN withdrew its participation and immediately applied to expand the Lynton Rail Yard. CN appears to have decided that it would rather truck product from north of Fort McMurray to the Lynton Rail Yard and load it onto multi-unit trains (100+ cars per day) there.

This we feel is unacceptable. The insufficiency of Highway 69 was dramatically illustrated this past year when the Province did not fund improvements in its April 2013 budget. Both the Fort McMurray Airport redevelopment and the Saline Creek residential community projects were effectively shut down due to inadequate roadway capacity. **It has taken most of a year, and considerable investment by the RMWB, to structure a partial solution to traffic congestion that enables both projects to go ahead.** This partial solution did not envision the long-term issues associated with increasing development and various industrial uses of the Lynton Rail Yard.

To further complicate the matter, when AT reviewed CN's expansion application, it appears to have determined that CN is not required to contribute to highway improvements, even though the existing highway was already deemed inadequate to its current use, and that CN's intended use would dramatically increase heavy truck traffic past the new Saline Creek development and the Fort McMurray Airport. At the very same time, AT withheld approvals and thus frustrated the Saline Creek residential development, which were only resolved after considerable involvement of the RMWB. We find it difficult to reconcile AT's disparate standards with respect to developers along High #69. We would have hoped that AT would treat all developers equally.

Both the Saline Creek developers [Keyano Land Trust and Fort McMurray Rotary Club] have made significant offsite levy contributions and are obligated to future development charges to the RMWB, ESRD and AT. However, it appears that AT has given preferential treatment to CN that makes it somehow exempt from similar financial responsibilities. Even though CN activities will increase the traffic on both Highways #69 and #63 it will not bear the financial burden of upgrades or maintenance of these roadways.

## **SUMMARY**

UDI Wood Buffalo objects to a situation where any private company, even one with some measure of “constitutional privileges” [which we are advised extends only to its rail lines and not its rail yards] is granted preferential treatment that enables it to ignore its responsibilities to this Region that are required of other developers.

This measure of “constitutional privilege” has been successfully challenged and limited in other locations where the political will has been sufficient to do so.

Moreover, it is reasonable to expect that all local stakeholders will be required to pay for future upgrades to Highway #69 as it fails or requires rehabilitation, not the least of which will result in large part from increased volume of heavy truck traffic imposed by CN's expanded rail yard and use of the roads by their sub-lessors and tenants.

Until the Clearwater East Multi-User Corridor and associated river crossing is in place, all the new truck traffic to the Lynton Rail Yards will pass directly through Fort McMurray. This will include substantial new volume of large industrial loads and dangerous goods.

Rumours and speculation abound that are very concerning. For example: it has been reported that Oxbow Sulphur is preparing to develop a plant in the Lynton Rail Yard that could involve trucking yellow cake or molten sulphur through Fort McMurray for processing less than half a mile from the Sapræe Creek residential community. The potential air pollution and odour problems could well surpass anything previously experienced in the Region.

A representative of Ledcor Construction reported to RMWB staff, that he was told that “CN is now in control of transportation in this area”, and that future development would be contingent upon CN's approval including the Highway #69 extension to Highway #881, which is the first leg of the Clearwater River crossing identified in CRISP and confirmed as the first priority by the Transportation Coordinating Committee in December 2012.

CN's PNT appears even to overlap with, or otherwise compromise a number of Municipal Land Leases [MLLs] that have been in place for many years along Highway #69.

**UDI Wood Buffalo believes that the Government of Alberta cannot [and most certainly *should* not] grant CN privileges within the PNT that are over and above, or exclusive of, those granted by the Regional Municipality to any other developer.**

How can anyone be expected to sensibly plan the development of the Southlands area – including Prairie Creek Business Park, Saline Creek, the Fort McMurray Airport and adjacent lands, existing businesses along Highway #63 and the proposed Government of Alberta Southlands 2 Industrial Land development – if CN is not a participant and the RMWB is not the lead planning authority?

Whether or not the Lynton Rail Yard is inside the Urban Service Area is very nearly immaterial since the only road access through the Urban Service Area is impacted.

**CN must be held to the same standard as any other developer in the Regional Municipality.**

**CN must not be allowed to externalize costs for which it is, or should be, responsible to the RMWB and its residents.**

We would like to know much more about the effect of CN's Lynton Rail Yard expansion and the parameters of the PNT that has been placed on such a large, and critically situated parcel of Crown land on our doorstep.

It is our understanding that the RMWB [Comprehensive Planning] is working on the preparation of an Area Structure Plan for the lands south of Highway #69 and east of Highway #63 called the Southgate ASP. Although we have not yet seen this document, we are told that it contains a proposal to realign Highway #69 towards the south. Such a re-alignment could divert some of the traffic pressures from the CN Lynton Rail Yard and other lands in the area. Clearly the works envisioned within such an ASP need to be dovetailed with CN's development plans and financial responsibilities. We would hope to see this ASP while there is still time to have meaningful input.

## **RECOMMENDATION**

**To repeat our immediate imperative: UDI Wood Buffalo requests a meeting [or series of meetings] be convened by the RMWB that includes those stakeholders identified above, to clarify the intent and implications of the PNT and to confirm that CN is not exempt from charges and responsibilities that are imposed on all other developers.**

The immediacy is underscored since the RMWB is currently preparing a new Area Structure Plan for all the lands below the Clearwater River and east of Highway 63, within and beyond the Urban Service Area.

We consider it essential that that the RMWB's planning authority is recognized by both the Government of Alberta and CN such as any private company is not able to exempt itself from due process and to ensure the principles of responsible stewardship of land are maintained.

Respectfully Submitted;  
UDI Wood Buffalo

CN, RMWB Administration, GOA Premier, GOA Transportation, GOA ESRD, GOA Energy, GOA Infrastructure, GOA Treasury, Chamber, OSCA,