

**TRANSCRIPT OF A DELEGATION BEFORE THE
GREATER VANCOUVER REGIONAL DISTRICT BOARD,
MARCH 27, 1997,
ON THE GREATER VANCOUVER WATER DISTRICT'S
AMENDING INDENTURE**

**Written and presented
by Will Koop.**

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1. MARCH 27, 1997 ADDRESS BEFORE THE GREATER VANCOUVER REGIONAL BOARD

The reason I am appearing before the Board this morning is because my questions and recommendations to the Water Committee on March 14th, regarding the Amending Indenture, were not referred to staff for a report.

For the Board's and the public's further consideration, I have provided a twelve page summary on the history of the original Indenture and the Amending Indenture, the 999 year Crown lease agreements for our watershed lands with the Ministry of Environment. I gathered the information from the Greater Vancouver Water District's (GVWD's), the Ministry of Environment's, and the Ministry of Forests' files, at my own expense. Last week I spent three days in Victoria looking at the Ministry of Forests' files, information which I have also included in this summary. You will no doubt find this information of considerable interest, most of which has not been revealed to the Board or the public. And in this summary are some of the answers to the questions I presented to the Water Committee in my delegation, answers which I recently uncovered. For the Board's related interest, I have also provided a list of my current correspondence with the GVWD and my delegation to the Water Committee, which is attached to this transcript.

The 1991 public review document, on the management of the Greater Vancouver watersheds, recommended a revision of the Amending Indenture by mid-1993, with a budget of \$100,000. The Amending Indenture, signed in 1967, is the altered lease agreement which still permits sustained yield logging in our three watersheds. The GVRD Board passed a short-term action resolution on November 27th, 1991, for GVWD staff to revise the Amending Indenture with the Province. Though negotiations were taken somewhat seriously with only the Ministry of Forests staff up until the Spring of 1993, and sporadically since then, the matter has been left unresolved. Since 1991, the Ministry of Forests, and more recently the Ministry of Environment, have spent a lot of staff time, effort, and taxpayer's money in attending to the Board's resolution, with the result that the Amending Indenture is still unrevised (refer to the summary outline). How much has this process cost the taxpayers of B.C. since 1991?

There are two escape clauses in the Amending Indenture which allow the GVWD to opt out of the Amending Indenture, and to return to the original Indenture, without much cost to the public. Clause #6 and #25 simply state that, upon a written request to the Minister of Lands, the Amending Indenture will be terminated.

Clause #6. Subject to the original Indentures, on notice in writing (a) the Lessor may notify the Lessee that the lands described in the notice are no longer subject to the terms and conditions of this amending Indenture; (b) the Lessee may notify the Lessor that the lands described in the notice are required for the development and utilization of the water supply and are no longer subject to the terms and conditions of this amending Indenture.

Clause #25. That this amending Indenture may be terminated by either party giving to the other twenty-four months' notice in writing.

Isn't this a rather simple alternative to a process which has been ongoing and unresolved for years, costing municipal and provincial staff their time and aggravation, and taxpayers much of their money. Why is it that the GVWD have not pursued this obvious course of action?

Recently, GVWD staff provided information in the February 13th Water Committee Agenda announcing that the Amending Indenture would now be revised after the upcoming Watershed Management Plan No.5 is finalized. Because this statement conflicted with the Board's 1991 resolution, I asked Water District administrators why the Board's short-term action resolution was unresolved, and who instructed the Water District to revise the Board's resolution. Though my questions went unanswered, I recently discovered that Ministry of Forests staff most likely suggested to the GVWD staff that it was more to both of their advantages to await the outcome of the ecological inventory, and then produce a management plan for logging, before revising the Amending Indenture (see April 3, 1993 of Amending Indenture outline). In other words, the logging plan, which would dictate the policy for a revised Amending Indenture, would ensure the likelihood of future forestry intervention. This is evident in the Water District's Terms of Reference Document, dated January 31st, 1997, which staff provided to the Ministry of Forests, but not to the public, before the outcome of the ecological inventory.

The August 1991 public review document, the Final Summary Report, advocated the continued maintenance of over three hundred kilometers of roads, and for more logging and road building in our watersheds. The "panel of experts" strangely concluded that a "hands off" approach is almost as risky to our watersheds as an accelerated program of sustained yield logging. The panel also concluded that the total release of sediments from over three hundred kilometers of roads and from hundreds of clearcuts over a period of decades were inconsequential to the long term water quality considerations in our watersheds, and that these sediments were substantially lower than sediments released from natural processes. These conclusions were made without the support of scientific data. The multiple use philosophy of continued intervention from this review panel is what is essentially guiding the ecological inventory, and the revision process of the Amending Indenture. The GVRD Board should have the Final Summary Report professionally reexamined and peer reviewed, as this is the document which the Ministry of Forests, the Ministry of Environment, the Ministry of Health, the forest industry, consultants, and the public are continually referring to, writing policy reports and briefing notes on, and being misinformed from. This is a matter which has been left unattended for far too long.

The Board must seriously consider the fact that the cities of Portland, Oregon, and Greater Victoria have recently banned logging in their water supply watersheds. The history of these two watersheds are similar to ours, in that they were once protected from logging by legislation, and then subsequently logged, with almost the exact same excuses for logging as presented in our watersheds. Surely the original Water District's administration policy for no logging in the Greater Vancouver watersheds, as embraced in the original Indenture, was, in comparison, exceedingly sensible. As a consequence of the commercial logging activities in our watersheds, the Greater Vancouver public has to face long term health and economic costs. The GVRD's public image has been blemished by the GVWD's philosophy of multiple use.

Legislation and policy for the management of our three watersheds must be publicly investigated, debated, and finally adopted BEFORE management plans are created by Water District staff. I propose to the GVRD Board that you endorse and recommend:

1. That there be a comprehensive public review of the original Indenture and the Amending Indenture before Management Plan No.5 is tabled before the public, with a goal of returning to the original Indenture.
2. That, consistent with the mandate of the original Indenture, you support a policy of single use to end road building and logging in the Greater Vancouver watersheds.

2. RECENT INFORMATIONAL ACTIVITIES AND CORRESPONDENCE REGARDING THE AMENDING INDENTURE

February 13, 1997 Water Committee Agenda. Water District staff inform the Water Committee that the Amending Indenture will be revised after the upcoming Watershed Management Plan No. 5 is completed.

One page letter to John Morse from Will Koop. Questions about the GVRD's 1991 resolution on the Amending Indenture.

FEBRUARY 14, 1997.

ATTENTION: JOHN MORSE.
RE: THE AMENDING INDENTURE.

I tried calling your office this morning but you were unavailable, so I have sent you this fax.

The information regarding the Amending Indenture, provided in the Information Only Item No. 4.4 of the February 13th, 1997 Water Committee Agenda package, under point no.9 Intergovernmental, indicates that the Amending Indenture will be negotiated "once the Management Plan No.5 is complete." Under point no.3 Policy, in the same Item 4.4, the GVRD's November 27, 1991 policy for the Amending Indenture states "That the GVWD commence discussions with the Province to revise the terms of the Amending Indenture Agreement...."

I bring this matter forward to your attention simply because the 1991 policy stated that the revision of the Amending Indenture be commenced at that time, contrary to the statement in the February 13th, 1997 information to the Water Committee. Could you please indicate to me when the Water District, or the GVRD Board, officially decided to revise the Amending Indenture after the upcoming management plan, rather than earlier? Should the Water District and the GVRD Board not have already dealt with this matter before formulating its intentions with the upcoming management plan no.5 as expressed in the policy statement?

February 21, 1997. John Morse's brief response letter to Will Koop.

Will Koop response letter to John Morse.

February 24, 1997.

ATTENTION: JOHN MORSE,
MANAGER, WATER & CONSTRUCTION.

RE: Your facsimile, dated February 21, 1997, being a reply to my facsimile dated February 14, 1997, regarding the Amending Indenture.

Thankyou for your response. Unfortunately, you have not answered my question regarding the process of revising the Amending Indenture with the province....

In your fax you state that “procedurally, it is apparent to all involved” that the upcoming Management Plan No. 5 be finalized before the Amending Indenture is revised. First of all, who is the “all” that you are referring to? Is this the GVRD Board Directors? Is this the Water District staff? Is this the staff from the Ministry of Environment and the Ministry of Forests? Is this the public who have taken a long term interest in matters relating to the governance of our three water supply watersheds?

The revision of the Amending Indenture is critical in determining the future of our three watersheds, a matter which was acknowledged and recommended in the Final Summary Report. Could you please indicate to me where it is formally stated by either Water District staff, or GVRD staff, that the Amending Indenture would be revised after the issuance of a new watershed management plan?

Three page letter to Johnny Carline, from Will Koop.

MARCH 7, 1997.

ATTN: JOHNNY CARLINE,
GVRD CHIEF ADMINISTRATIVE OFFICER.

I wish to bring your attention to a number of matters which relate to the legal agreement between the provincial government and the Greater Vancouver Regional District (GVRD), known as the Amending Indenture.

In 1927, the year after the official establishment of the Greater Vancouver Water District (GVWD), the GVWD negotiated a contract with the provincial government on Crown Lands within the Seymour and Capilano watersheds, known as the Indenture. In the original mandate of the GVWD, all Crown Lands within these two watersheds were to be protected from any logging and mining. The Coquitlam watershed, which was under the jurisdiction of the City of New Westminster, and later incorporated with the GVWD, had already been protected from logging by a 1910 federal Order-In-Council, a fact which has been consistently misrepresented in all of the GVWD’s recent informational literature.

After the formation of the GVWD, all privately held lands within the two watersheds were acquired by a GVWD mandate to control these lands from future logging proposals. These alienated lands

were purchased from 1927 to the mid 1940's by Greater Vancouver taxpayers. In other words, the GVWD wisely gained control not only over all Crown Lands, but over all private lands as well.

The original mandate to protect the watersheds from logging has been reinterpreted by GVWD in the recent past. For instance, Water Committee Item 2(A)5, dated January 22, 1991, states that:

the original leases from the Crown did not address active management of the forest cover [i.e., no logging] and virtually no management activities occurred for several decades even on the fee-simple lands.

I bring this example to your attention because the history of the GVWD's formation is deeply rooted in a policy of single use for water quality and water runoff, which excluded logging, a history which has been consistently neglected and reinterpreted by the GVWD since the 1960's. As another example, in the public review document of watershed management, being the August 1991 Final Summary Report, there is no accurate account in this document to let the reader understand this history and its context.

On March 7th, 1967, the GVWD and the provincial government signed an amendment to the Indenture, known as the Amending Indenture. This new contract reversed the policy to protect our watersheds from logging by instituting a policy for long-term annual commercial logging. The arguments and motivations for the Amending Indenture by Water District staff were never carefully investigated and challenged either by government agencies or the public. Logging and roadbuilding activities have damaged the integrity of our three watersheds. Data in the appendix of the 1991 consultant's report clearly shows that, on the steeper slopes of all three watersheds, landslides were two to three times more frequent in areas where logging and roadbuilding activities had occurred. The 1991 Final Summary Report recommended that the Amending Indenture be revised, and that this process be finalized with the provincial government by mid- 1993 (refer to page 78 of the Final Summary Report).

On November 27th, 1991, the GVRD Board passed a resolution to revise the Amending Indenture, requiring that the GVWD "commence" discussions with the Province over this matter. There were a number of meetings held between GVWD and Ministry of Forests staff up until the end of 1992, but the Ministry of Forests held the negotiations in abeyance, due to what they referred to as other "priorities". However, there were no meetings held with the Lands Branch in the Ministry of Environment, the agency otherwise referred to as the landlord of the Indenture and the Amending Indenture, until July 1995, and none subsequent. In other words, the 1991 Short-term Action GVRD Board resolution has been left unresolved.

And now, according to information presented by GVWD staff in the February 1997 Water Committee Agenda, the Amending Indenture will be revised after the upcoming presentation of the GVWD's management plan for the Greater Vancouver watersheds later this year. What is the origin behind this new directive to have the Amending Indenture revised after the completion of the management plan, and did the GVRD Board formally approve this? The reason I am concerned about this matter is because the adoption of resource policy for the Greater Vancouver watersheds must precede a management plan.

I have recently and repeatedly attempted to get a written and oral response from John Morse, the Manager of Water and Construction, as to why the Amending Indenture is now planned to be revised after the upcoming management plan is finalized, but without success. I have attached the correspondence with Mr. Morse for your information. I contacted Mr. Morse's secretary on the

afternoon of March 5th, 1997, to learn that Mr. Morse has concluded that he has adequately responded to my questions. I do not think that he has, and I would ask that you to look into this important matter on my behalf. After my first fax to Mr. Morse, dated February 14th, 1997, I called his office the following week twice each day up until Thursday February 13th to speak with him personally, without success. And after his fax to me on February 21st, I sent him another fax on February 24th, responding to his brief inadequate reply and restated my questions, from which I received no reply.

Regarding the Amending Indenture. There is a provision in the Amending Indenture, namely clause #6, which grants the GVWD authority to cancel the stipulation for logging, a provision which has been left unattended by the GVWD since 1991. In other words, the GVWD can revert back to the requirements of the original Indenture at any time.

Before the GVWD proceeds with the provincial government in revising the Amending Indenture, a matter which has recently been re-initiated with the relevant provincial ministries, and that the Amending Indenture be revised before the management plan is presented to the public, it is critical that there should be a full public consultation process on the adoption of a new policy for the Greater Vancouver watersheds. This is a very important public issue, and such decisions, where the intentions for more logging and roadbuilding is anticipated from the GVWD staff, should not be left to GVRD staff alone. Only after the Amending Indenture is revised would it then be appropriate to begin developing a management plan.

March 11, 1997. Johnny Carline response letter to Will Koop, 2 pages.

Dear Mr. Koop

Thank you for your letter faxed to me on March 7, 1997 in which you set out your views on the timing of the revisions to the Amending Indenture. There are clearly some different points of view on this matter and I appreciate you sharing yours with me.

I understand the Board commissioned a considerable amount of scientific work to be done concerning the ecology and terrain of the watersheds. This work may well throw light on the question of the type and degree of activities which should be carried on in the watersheds in the future. The conclusion reached in this regard should be central to the content of both the Watershed Management Plan and any revisions to the Amending Indenture.

Once this scientific work has helped us define and assess the range and consequences of the alternatives open to us, I expect we will engage in a public consultation program to assist the Board in choosing the appropriate scientifically-based strategies for watershed management.

At this point, it seems to me, that we will be able to both adopt a suitable Watershed Management Plan and appropriately revise the Amending Indenture. Each is a corollary of the other and both need to flow from the results of the scientific analysis, public consultation and discussions with the appropriate Provincial officials.

So my point of view, at this early stage of my familiarity with this issue, is that the precise order in which the Watershed Management Plan and any revisions to the Amending Indenture are adopted are less important than the realization that neither can be determined in isolation from the other. Having

said this, the approach that we are taking is to assess the scientific findings prior to making further policy decisions on the matter.

Thank you for your interest in this issue. Your further comments will be welcome, and may I encourage you to participate fully in the upcoming public consultation process.

Delegation to the March 14, 1997 Water Committee meeting. The Water Committee received a five page historical outline of the Greater Vancouver watersheds, as well as recent correspondence relating to the delegation concerns around the Amending Indenture. Though the Water Committee Chair began a motion to refer the delegation report, with its questions and recommendations, to Water District staff, for a report back to the Water Committee, Councillor Puil, the GVRD Board Chair, recommended that the motion not be considered.

**A PREPARED DELEGATION SPEECH TO THE
GVRD WATER COMMITTEE, MARCH 14TH, 1997,
ON THE GREATER VANCOUVER WATER DISTRICT'S
INDENTURE AND AMENDING INDENTURE.**

By Will Koop

The Amending Indenture is the altered legal contract between the provincial ministry of Lands and the Greater Vancouver Water District (GVWD), signed on March 7, 1967, to permit commercial logging of Crown lands for a long-term annual basis in Greater Vancouver's three water supply watersheds. The intent of the original Indenture was to protect the watersheds from logging.

The original Indenture, signed in 1927, was a provincially unique and powerful lease agreement which gave the GVWD control over Crown Lands for water supply in the Capilano and Seymour watersheds for a period of 999 years. Because of the damage to the Capilano watershed from logging and logging-related fires in the early 1900's by the Capilano Timber Co., and the imminent threat of logging above the Seymour watershed intake, the Indenture was created to protect the two watersheds from future logging, a matter which was carefully maintained until the 1960's. The Coquitlam watershed, originally under the control of New Westminster City, was expressly protected from logging by a 1910 federal order-in-council.

... in view of the necessity for the protection of the water supply of the City of New Westminster, and in view of the necessity for conserving and regulating the run-off of the said watershed is pleased to Order ... that the land ... shall be reserved from all settlement and occupation and the timber thereon shall be reserved from sale.... [P.C. 394, March 4, 1910.]

In 1942, the Water District revised the legislation with the Province to incorporate the Coquitlam watershed under the 999 year Indenture.

After the establishment of the GVWD in February 1926, one of the GVWD mandates was to purchase all alienated lands within the Seymour and Capilano watersheds. By early 1931 the GVWD had already acquired about "13,000 acres of subdivided and unsubdivided lands from private owners" [The Water Supply of Greater Vancouver, by E.A. Cleveland, May 15, 1931.] The Water District was so proud of its accomplishments to gain complete control over all private logging and development interests that Chief Commissioner Cleveland proclaimed in a letter:

The District's policy is to preserve all the timber both commercially loggable and otherwise in the watersheds for the conservation of the run-off and to preserve the area from human occupation either temporary or permanent.... I would not attempt to set a value on the watershed lands in the Coquitlam, Seymour and Capilano watersheds as they constitute an almost invaluable asset of the District permitting the complete and entire control of the purity of the water supply for all time so that neither now nor in the future will filtration or sterilization of the water be required. [December 16th, 1936.]

In early February 1963, eleven years after the passing of Commissioner Cleveland, the new Commissioner of the Water District sent a controversial letter and an accompanying thirteen page brief to the Minister of Lands requesting that he alter the Indenture to permit the logging of Crown lands in our three watersheds. The main argument for the commencement of logging was because foresters declared that the balsam woolly aphid, an insect which attacks only amabilis fir, was posing a threat to the remainder of the Greater Vancouver watersheds' mixed forests. The brief stated that the insect "has spread over the entire watershed areas", a situation which would most likely threaten the watershed forests from fire. In the same breath, the letter also declared that the mature and overmature forest stands were "an otherwise wasting asset", and that the Water District wished to reap financial profits from the removal of all commercial forest species. Was the Water District's new ambition to address the balsam woolly aphid or was it for commercial logging? According to the Minister of Lands' internal correspondence, both the letter and the brief were sent to him without formal consent by the Greater Vancouver Water Board ("It is concluded that Mr. Berry's letter is strictly on an exploratory basis as it does not speak for the Board itself...." May 27, 1963).

From 1961 to early 1967, before the Amending Indenture was signed, the Water District began clearcut logging its old-growth fee simple lands in the Seymour and Capilano watersheds, the very lands they had redeemed through purchase from loggers, cutting mostly ancient cedar, hemlock, and douglas fir. In 1924, E.A. Cleveland, who was at that time the provincial Water Comptroller, stated:

To allow anybody to get entrenched on Seymour Creek with logging and shingling operations would be almost criminal. The watersheds on the north shore are a heritage for this whole area. [Address to the Engineering Institute of Canada, February 19, 1924]

In the context of the balsam woolly aphid attack, it is strange that all of the other unaffected trees had to be cut down. Some of the finest remaining stands of low elevation cedar and douglas fir, only a stone's throw away from the suburbs of Greater Vancouver, were logged. The balsam woolly aphid was never the cataclysmic threat to our watersheds, as declared by foresters and more recently by Water District staff: the greatest threat to our watersheds was from a systematic network of roads and clearcutting.

On November 27th, 1991, the GVRD Board passed a number of resolutions, some of which were based on recommendations from the 1991 public review document, the Final Summary Report, on the management of the Water District's three drinking supply watersheds. One of these resolutions was to revise the Amending Indenture. Under a section entitled "Short-term Actions", the Board's resolution stated:

That the GVWD commence [emphasis] discussions with the Province to revise the terms of the Amending Indenture Agreement in order that resource management to protect water quality be the prime concern in the watershed rather than an annual allowable cut and sustained yield harvest program.

In contrast to the other Short-term Actions, such as the Greater Vancouver watersheds' ecological inventory, which has been ongoing and heavily funded for five years, the resolution to revise the Amending Indenture was not completed. Why has the Amending Indenture not been successfully revised with the provincial government since 1991, in light of the fact that the 1991 Final Summary Report recommended that it be done by mid-1993 (Exhibit S-13, page 78)?

There were a number of private meetings held between GVWD and Ministry of Forests staff up until the end of 1992 to revise the Amending Indenture, but the Ministry of Forests held the negotiations in abeyance because of "other priorities". However, there were no meetings with the Ministry of Environment's Lands Branch, the Lessor, or landlord agency of the Indenture and the Amending Indenture, until July 1995, and none subsequent. Despite the Ministry of Forests' abstention, why is it that Water District staff have not ardently pursued this matter with the provincial government and have had virtually no meetings with the Ministry of Lands?

Under clause #6 of the Amending Indenture, it stipulates that the GVWD can negate all of the terms for continued logging in the Amending Indenture, and can revert back to the original Indenture, by simply notifying the Ministry of Lands, a matter which is further related in clause #25:

Clause #6. Subject to the original Indentures, on notice in writing (a) the Lessor may notify the Lessee that the lands described in the notice are no longer subject to the terms and conditions of this amending Indenture; (b) the Lessee may notify the Lessor that the lands described in the notice are required for the development and utilization of the water supply and are no longer subject to the terms and conditions of this amending Indenture.

Clause #25. That this amending Indenture may be terminated by either party giving to the other twenty-four months' notice in writing.

Why is that these clauses have not been acknowledged and acted upon by the GVWD as an option to extended negotiations with the provincial government? The 1991 Final Summary Report recommended that the Water District spend \$100,000 to revise the Amending Indenture with the Province. Why are going through these negotiations when we can simply invoke clause #25, and how much money has already been spent by the Water District on this issue?

According to a recent statement from Water District staff in the Water Committee Agenda package of February 13th, 1997, the Amending Indenture will now be revised AFTER the Water District finalizes Management Plan No.5, the plan which will undoubtedly call for more logging and road building in our three watersheds.

I recently tried to get an official explanation over this particular matter from John Morse, Manager of Water and Construction, who has been reluctant to answer my questions (see attached correspondence). On March 7th I sent a letter of concern regarding this matter to Johnny Carline (attached), copies of which were also sent to the Water Committee and the GVRD Board Chairs. I would ask the Water Committee to enquire from Mr. Morse directly where it is formally stated by the GVRD Board that the Amending Indenture be revised after the presentation of the upcoming management plan. I would also ask the Water Committee to have staff provide a detailed summary of all Water District staff meetings, discussions, and correspondence since the beginning of 1991, and for provincial government ministries to provide similar detailed information, regarding the revision of the Amending Indenture, and to make this information available to the public as soon as possible.

The directive to revise the Amending Indenture stems from the findings and recommendations of the "panel of experts" in the 1991 public review document, where they state that there has been no

apparent effect to water quality from 30 years of logging in our watersheds, a conclusion which was made without the support of scientific data.

The Panel has found no compelling water quality reason to suspend the present timber harvesting program, however all future watershed activities should reflect the risk management philosophy. [August 1991 Final Summary Report, page ES12.]

From this, the panel of experts recommended that logging could continue at reduced levels, but not at the levels required under the Amending Indenture. However, upon closer scrutiny, the panel also recommended in exhibit S-5 in the Final Summary Report (page 25) that the Water District should log 10,000 hectares of old-growth forest over a forty year period, from 1990 to 2030, that is a two and one half times increase in logging than that which occurred in our watersheds from 1961 to 1990. This is a blatant contradiction of the panel's recommendation for a reduction in logging, a matter which has not been publically retracted by the Water District. Other data contained in the appendix of the Final Summary Report clearly shows that, on the steeper slopes of all three watersheds, landslides were two to three times more frequent in areas where road building and logging activities occurred. The cities of Greater Victoria and Portland, Oregon, which have faced similar problems, have recently banned logging in their watersheds.

Legislation and policy for the management of our three watersheds must be publically investigated, debated, and finally adopted BEFORE management plans are created by Water District staff. The fact that a management plan is to be completed before a publically debated policy is established is much like placing the proverbial cart before the horse. The policy adopted and maintained by the Water District when it was first established in 1926, and supported by all Greater Vancouver municipalities, where single use of the public's water supply watersheds in the original Indenture for water, and not for logging, must be seriously investigated and endorsed by the public and our governments.

I propose to the Water Committee that you endorse and recommend to the GVRD Board:

1. That there be a comprehensive public review of the original Indenture and the Amending Indenture before Management Plan No.5 is tabled before the public, with a goal of returning to the original Indenture.
2. That, consistent with the original Indenture, you support a policy to end road building and logging in the Greater Vancouver watersheds.

3. Delegation presentation included a 12 page outline on the history of the Indenture and Amending Indenture.

**AN OVERVIEW OF NEGOTIATIONS AND RELATED MATTERS
BETWEEN THE PROVINCIAL GOVERNMENT
AND THE GREATER VANCOUVER WATER DISTRICT
REGARDING THE AMENDING INDENTURE
(REVISED AND UPDATED)**

[Note: The majority of information in the following outline was compiled from Greater Vancouver Water District (GVWD), B.C. Ministry of Environment, and B.C. Ministry of Forests files.]

1905-1906. The provincial government designates the unalienated Crown Lands in the Capilano and Seymour watersheds as watershed reserves. The reserve legislation officially shields the Crown Lands from all forms of disposition, in order to protect Greater Vancouver's water supply from further exploitation. Much of the lower Capilano Valley and the Seymour Valley are divided into private parcels known as District Lots, most of which were purchased by timber speculators during and prior to 1905. The Minister of Lands and Forests, T.D. Pattullo, almost transgresses the watershed reserve legislation in 1924 when he proposed to lease a parcel of Crown timber to the Capilano Timber Company.

1910. The Vancouver Power Co., the subsidiary of the B.C. Electric Railway Co., who complete construction of the 70 foot dam at the mouth of Coquitlam Lake in 1913, are successful in getting a federal Order-In-Council to protect the undeveloped Coquitlam watershed from any logging in order to protect water run-off and New Westminster's water supply.

November 1922. E.A. Cleveland, the provincial Water Comptroller, hands over a long report, "The Question of Joint Control of Water Supply to the Cities and Municipalities on Burrard Inlet", on the Capilano and Seymour drainages to T.D. Pattullo, the Minister of Lands and Forests. Cleveland advises that the accelerated logging in the Capilano and the threat of logging above the Seymour intake should cease, that the Greater Vancouver municipalities should organize a metropolitan Water Board, and the watershed lands be under the control of and protection by this Board. Cleveland's report is not released to the public until 1925.

February 1926. The Greater Vancouver Water District is officially born, after legislation was passed for its operation in December, 1924. E.A. Cleveland leaves his prestigious position as provincial Water Comptroller and brings his expertise to the post as the Water District's first Commissioner, a position which he maintains for the next 26 years.

August 1927. The Water District signs a long term agreement with the provincial government on all Crown lands in the Capilano and Seymour watersheds.

The Lieutenant-Governor in Council may grant to any incorporated city, owning and operating its own system of water-works, a lease of the vacant Crown lands which form the whole or any portion of the natural watershed from which such city derives its water supply, for such term, not exceeding nine hundred and ninety-nine years, and upon such conditions as may be deemed advisable, and may in such lease define the limits of such natural watershed. (B.C. Statutes, 1908, Crown Lands, Chapter 30, Section 8.)

On August 11, 1927, Water District Commissioner Cleveland writes to the Minister of Lands:

May I, as Commissioner, add this expression of my gratitude to you for the way in which you met our various requests in connection with the details of this lease and to say that in my judgment it is of very great value to the City of Vancouver and the communities surrounding it.

As part of the Indenture's 999 year lease, the Water District's policy is to protect these two water supply watersheds' Crown lands from future logging. In 1931 the Coquitlam watershed is incorporated in the GVWD administration, and in 1942, the Coquitlam is included in the Indenture.

After the establishment of the GVWD in February 1926, one of the GVWD mandates was to purchase all alienated lands within the Seymour and Capilano watersheds. By early 1931 the GVWD had already acquired about "13,000 acres of subdivided and unsubdivided lands from private owners" (*The Water Supply of Greater Vancouver*, by E.A. Cleveland, May 15, 1931). The Water District was so proud of its accomplishments to gain complete control over all private logging and development interests that Chief Commissioner Cleveland proclaimed in a letter:

The District's policy is to preserve all the timber both commercially loggable and otherwise in the watersheds for the conservation of the run-off and to preserve the area from human occupation either temporary or permanent.... I would not attempt to set a value on the watershed lands in the Coquitlam, Seymour and Capilano watersheds as they constitute an almost invaluable asset of the District permitting the complete and entire control of the purity of the water supply for all time so that neither now nor in the future will filtration or sterilization of the water be required. (December 16th, 1936)

1930. Establishment of the Greater Vancouver Watershed Mineral Reserve Act (*An Act creating a Mineral Reserve within the Watershed Area of Greater Vancouver Water District*, March 25, 1930). Watershed lands in the Capilano, Seymour, and Coquitlam are reserved from "being entered upon, prospected, mined, located, recorded or acquired under the 'Mineral Act' an the 'Placer-Mining Act'.

February, 1952. During the Forestry Panel workshop of the Fifth Annual British Columbia Natural Resources Conference in Victoria, a resolution was passed to allow logging in British Columbia community watersheds, a number of which were protected through the establishment of watershed reserves:

... Whereas endorsement of the plan by those best qualified to judge, i.e. professional engineers and foresters and other technical men concerned with the resources of a watershed, is tantamount to guaranteeing that the plan provides for all the factors that govern proper use of the land; BE IT RESOLVED that this Conference endorses a programme of forest management on a sustained yield basis for watershed lands where surface water is impounded for domestic and industrial water supply.

September, 1953. One and a half years after the passing of Water District Commissioner Cleveland (February 1926-January 1952), who consistently maintained the policy of no logging in the three watersheds for 26 years, the Water District hires the C.D. Schultz Co. to provide an inventory of the timber in the Greater Vancouver watersheds.

December, 1956. After a careful revision, the 2 volume timber inventory report, produced by the forestry consultant firm C.D. Schultz Co., is completed and (not surprisingly) recommends a shift in the Greater Vancouver Water District's thirty year policy from no development in the Greater Vancouver watersheds to a commercial sustained yield logging operation.

1958. The Water District hires its first forester, Kel Blakeney, a former employee with the C.D. Schultz Co. Blakeney supervises the clearing of forest for the Seymour dam (1958-1960) and stays on as the Water District's forester until the late 1970's. David Bakewell, the president of Consolidated Services Ltd., the company which is contracted to clear the forest for the extended dam site, was the former vice president of the C.D. Schultz Co., and participated in the 1953-1955 inventory of the watersheds. (Note: 27 years later, in 1985, Bakewell returns to the scene and is contracted by the Water District to write a proposal to initiate the formation of the Seymour Advisory Committee and the Seymour Demonstration Forest, to counter an initiative to have the lower Seymour become a public park.)

1959 to 1960's. Announcement and subsequent claims by the Water District's forester regarding the extent, damage, and invasion of the balsam woolly aphid, the insect which feeds on amabilis fir (balsam) stands in the Greater Vancouver watersheds. There is no to extremely scanty scientific data available on the nature, extent, and damage to the Greater Vancouver watersheds from the balsam woolly aphid. Accelerated clearcut logging of the magnificent old growth stands begin in the Water District's private lands below the Seymour dam, the very lands that were purchased and protected from logging.

February 6, 1963. 2 page letter and accompanying 13 page brief to the Minister of Lands and Forests from the Water District's Commissioner, T.V. Berry, requesting that the 1927 Indenture be altered to allow for sustained yield logging in the Greater Vancouver watersheds. According to the Minister, the (controversial) letter and brief were delivered without the approval of the Water District Board.

July 1963. The Forests and Lands Minister suggests that the Water District Commissioner introduce to the Water Board a concept of a Tree Farm Licence: “The Water District private lands would be managed with the Crown lands, and the resulting unit would constitute a good operation.” November 1963. The Water District Commissioner, the Chief Engineer, and the Water District’s forester meet with the Deputy Minister and the Minister of Forests, and the Chief Forester. The Minister “made the point that the Water Board could anticipate making a good profit out of their forestry operations....”

December 13, 1963. The Water District Administration Board passes a resolution to amend the 999 year Indenture leases “to management of the forests of the watersheds on a sustained yield basis ... for the purposes of protecting and improving water yielding characteristics of the watersheds and of producing a net revenue to this Corporation....”

In Water District Commissioner Patrick’s attached report for the Board, he discussed the recent history of why the Water District wanted to pursue sustained yield logging. After 1956, the intentions of some staff in the Water District was to:

develop a small management program on lands owned outright by the Water District ... The area below Seymour Falls Dam was selected ... However before such a program could be started the infestation of the balsam woolly aphid changed the situation ... it became a program of removal of dead and dying balsam trees together with whatever growth it was interspersed with

What Commissioner Patrick was referring to by “whatever growth”, was a predominant canopy of ancient douglas fir, western red cedar, western hemlock, pacific yew, etc.

1964 to late 1966. Negotiations between the Ministry of Forests and the Water District on the legal terms for commercial logging in the watersheds. The Ministry of Forests provides a standard Tree Farm Licence document as a model for the Amending Indenture. The exact terms for the Amending Indenture take three years to develop. The basis of the agreement stems from the final 1956 Schultz Co. Report’s recommendations. First draft of the Amending Indenture is completed in September 1964. On October 30, 1964, the Deputy Minister of Forests writes to Water District Commissioner Patrick: “The considerable time elapse involved in bringing this matter to this stage is regretted but is largely accountable to the fact that the document is the first of its kind and was necessarily carefully prepared and scrutinized from a legal standpoint.”

May 9, 1966. Deputy Minister of Forests to Water District Commissioner Ken Patrick:

You will appreciate that in attempting to complete an indenture to give effect to the District’s wishes, the Lands Service, as the Department of Government responsible in respect to the land tenure held by the District, must necessarily take the advice and give full weight to the opinion of the Forest Service when the existing lease indentures are to be enlarged to deal with the matter of timber operations.

September 9, 1966. Water District Commissioner Ken Patrick to Water District Chief Engineer, F. R. Bunnell, as reported in a Water District Report of September 6, 1966:

I have carefully read the terms of the draft amending indenture forwarded to our Solicitor from the Assistant Deputy Minister of Lands with his letter of August 29th, 1966.

This amending indenture is the result of lengthy negotiations with the Province carried out by the Commissioner and Chief Engineer of the Water District and by its Solicitor.... It modifies the terms of the 999-year leases held by the Water District from the Province with respect to watershed areas of this District and thus permits the proper control and management of the watershed forests which was economically impossible under the terms of the original leases. It follows the philosophy of sustained yield removal of mature and over-mature timber and carefully protects the primary objective of the Water District, that is the supplying of and adequate quantity of highest quality water to its member municipalities. This is made abundantly clear by paragraph 24 of the amending indenture which reads -

That the parties hereto recognize that the highest priority in the management of the lands to which this amending indenture applies must be given to water supply purposes, both in terms of quality and quantity of water and that the provisions of the forest management plan must be secondary to this objective.

This amending indenture will make it economically possible for the Water District to control the quality and possibly increase the quantity of water from the watersheds by developing and implementing a long term rotating program of removal of forest products from its watersheds and the replacing of over-mature, decadent and diseased trees with young, thrifty stands of growing timber. It is also expected that an annual income will be achieved in perpetuity from this operation.

March 7, 1967. The Amending Indenture is formally accepted by the Social Credit provincial cabinet through an Order-In-Council:

... the parties hereto have mutually agreed that the timber on the said lands should be managed on a sustained yield basis for the purpose of developing, protecting and improving the water-yielding characteristics of the lands. ... the parties hereto recognize that the highest priority in the management of the lands to which this amending Indenture applies must be given to water supply purposes, both in terms of quality and quantity of water and that the provisions of the forest management plan must be secondary to this objective.

From 1968 to 1992, a systematic network of over 300 kilometers of roads are constructed in the Capilano, Seymour, and Coquitlam watersheds, and between 4000 to 5000 hectares of old growth forests are logged and liquidated.

1973. The Water District begins to be concerned “that their primary access road systems should not be extended” and request the Ministry of Forests for a reduction in the annual allowable cut. The Water District consistently violates the Ministry of Forests’ conditions for an allowable annual cut, but the Ministry is unable to penalize the Water District because of a clause in the Amending Indenture.

It [the Water District] entertains the opinion that an implementation of such a high cut could impair the water quality. Empirical data and studies are apparently on hand to back up this opinion.

Nevertheless, the Chief Forester keeps on insisting that the Water District comply with the allowable annual cut.

The following table indicates from 1968 to 1978 the demands by the Ministry of Forests in comparison to amounts actually cut by the Greater Vancouver Water District (allowable annual cuts continued until the year end of 1991).

YEAR	WATER DISTRICT’S ALLOWABLE ANNUAL CUT (CUBIC FEET)	MINISTRY OF FORESTS ALLOWABLE ANNUAL CUT (CUBIC FEET)
1968	2,653,984	3.3 million
1969	2,260,502	3.3 million
1970	5,047,878	4.0 million
1971	2,752,422	4.5 million
1972	2,381,450	5.0 million
1973	3,561,489	5.5 million
1974	2,440,354	6.03 million
1975	1,746,973	4.614 million
1976	2,204,074	4.614 million
1977	1,726,268	4.614 million
1978	5,630,195	4.614 million
TOTAL	32,405,589	58.086 million

1976. The Water District divides watershed lands into two categories: a Watershed Reserve Area, where land is “unsuitable for logging under any circumstances because of detrimental effects on water quality”; and a Forest Management Area “which in our judgement may be suitable for logging without impairing water quality.” The annual allowable cut is to be reduced.

1979. The Deputy Minister of Forests, T.M. Apsey, writes:

This tenure is not a Tree-farm Licence, in spite of the fact that it is numbered in sequence as one ... This has led to much confusion over the years, for this “management agreement” is almost universally known as and treated as a tree-farm licence tenure.

The Water District requests that the Tree Farm Licence designation be removed from the watersheds.

1983. The Ministry of Forests interprets that the “GVWD are “unique” in that they hold an “Amending Indenture”, and NOT as TFL tenure.” Legal Counsel for the government investigates that the Amending Indenture is not subject to the bulk of the Forest Act. Suggestions that the government create a new Amending Indenture are entertained, in order that the Ministry of Forests have more power over the Water District.

1987 - 1989. Public concern over logging in the watersheds mounts. Health officials criticize the effects of the logging program to water quality in the watersheds. The Western Canada Wilderness Committee begins a public campaign with former Ministry of Forests forester, Mark Wareing, in 1988.

December 1988. The Water District writes to the Ministry of Forests stating that the allowable annual cut is too high, and that they wish a 10% reduction. A Ministry of Forests memo states that there should be no reduction, and the Regional Manager writes: “I have reviewed the matter and I am prepared not to make any recommendation or consideration for a reduction of the AAC....”

March 1989. The Water District begins its public review over watershed management in the Greater Vancouver watersheds. The “panel of experts” meets 19 times in 1989 and 1990 and then formulates the Draft Summary Report in January 1991, recommending that there should be no allowable annual cut controlling the Amending Indenture, and that the Amending Indenture should be modified. Two months before the draft Report is released to the public, a large landslide, which initiated in a clearcut, renders the Seymour Reservoir murky for weeks. The Panel advised that to modify the *Amending Indenture* it

“may require lengthy negotiations and administrative and legal changes.”

The Panel does not consider clause number 25 in the Amending Indenture, which allows the Water District to return to the original Indenture, a simple and inexpensive procedure, to protect the watersheds from logging. The apparent reason for the Panel not deliberating on this escape clause is that the majority of the Panel is in favour of continued road building and logging in the watersheds. 1991. As a result of the recommendation to modify the Amending Indenture from the review panel, the provincial Legal Services Branch is requested by the Ministry of Forests to study the nature of the original Indenture and the Amending Indenture. They produce a thirty page document, which is unavailable for public viewing. Their conclusion is that the Indenture and the Amending Indenture are very unique and powerful agreements, which are not subject to the bulk of provisions in the Forest Act. The Indentures stipulate that the Greater Vancouver watershed lands are to be used “only as a source of water supply”. This legal interpretation will guide discussions by Ministry of Forests staff from 1991 onward.

March 12, 1991. Water Committee In-Camera report: “Watersheds - Implications of a Moratorium on Logging Operations”, from John Morse, Manager, Water and Construction.

Report: At the February 27, 1991, meeting of the Administration Board a motion was passed that staff report to the March meeting of the Water Committee on the legal and financial implications of a moratorium on logging in the watersheds. The major issues considered in this assessment were the legal provisions of the Amending Indenture and the existing contracts and the financial impact on those contracts and the Provisional Budget.

Amending Indenture. Most of the watershed lands are leased from the Crown for a 999-year term with the remainder, a relatively small total area, being owned outright by the Water District. The original leases specifically excluded timber harvesting. In 1967, modifications were made to these leases to permit management of the timber in a document referred to as the “Amending Indenture”.

This document contains 27 clauses to provide for the management of timber in the watersheds and constitutes a legal agreement between the Crown and the Water District. The attached letter from the District’s Solicitors dated February 27, 1991, reviews the impact of a logging moratorium on the terms of the Amending Indenture. Clause 25 of the document states that the Amending Indenture may be terminated by either party giving to the other 24 months notice in writing. The document can be amended under Clause 26 by mutual agreement of the parties, however, it should be noted that the Province receives significant revenue under the terms of the agreement as stumpage royalties. Undoubtedly, this will be a significant issue in any amendment discussions. In 1990, the stumpage royalties paid to the Province from harvesting amounted to approximately \$1.1 million.

Provisional Budget. The fixed Watershed Management costs not related to harvesting activities are approximately \$4 million. It is proposed in the 1991 Revenue and Expenditure Budget to transfer the security cost of approximately \$1 million securities and a further \$ 1 million arising from property taxes, watershed protection, creek clearing activities and the Seymour Demonstration Forest from the Watershed Management program to the water rate. The remaining fixed Watershed Management costs of approximately \$ 2 million are scheduled to be funded from revenues obtained from the logging program. A termination of the harvesting program would remove the funding source for these remaining fixed costs and another source such as the water rate would need to be found.

September, 1991. As part of the 1991 public review of the Greater Vancouver watersheds, the Water District’s Review Panel published the *Greater Vancouver Watershed Management Evaluation and Policy Review - Final Technical Report*. The report covered a multitude of carefully worded material, such as the following brief description on the original Indenture:

This Original Lease established two very important measures that would ensure that the Region would have a high quality drinking water for many years. First, it gave the highest priority in the watersheds to providing for and protecting the water supply, and second it gave long term control over the lands to GVWD, which further ensured their protection. **It is significant that this Original Lease from the Crown did not recognize active management of the land and vegetation by the GVWD as integral to the protection of the watersheds.** (Page II-1)

The last sentence (in bold) was undoubtedly tacked on by the Water District's consultant to obscure and distort public perception of the early Water District's mandate. The reason for the creation of the Water District and the 999 year lease in the 1920's was to explicitly protect the area from being logged. The report should have instead emphasized the following: **"It is significant that the original Indenture between the Water District and the Province for the long term lease of Crown lands recognized the protection of the watersheds from logging."**

October 31, 1991. Ministry of Forests correspondence, the day before the GVRD Board meeting, and the discussion of the future management on the watersheds:

I received a call from Ed Hamaguchi (Administrator of GVWD Watershed Management Dep't.) yesterday asking for the Ministry's position on the continued harvesting within the three watersheds ... Ed has indicated that the GVWD will be meeting in November to decide on one of 3 options ... My impression is that Ed and the rest of the forestry staff are concerned that once harvesting is stopped for any reason, it will never start again. I believe that he wants Ministry confirmation that the Amending Indenture does not allow for the cessation of harvesting for an ecological inventory or any other reason.

November 27, 1991. The GVRD Board pass the following short-term action:

"(d) That the GVWD commence discussions with the Province to revise the terms of the Amending Indenture Agreement in order that resource management to protect water quality be the prime concern in the watershed rather than an annual allowable cut and sustained yield harvest program."

December 19, 1991. Letter from Chief Forester John Cuthbert to Water District Commissioner Ben Marr, shortly after Ed Hamaguchi's concerns, as referred to above:

The suggested revisions to the Amending Indenture are supported and I have instructed my staff to meet with yours at an early date to draft the appropriate changes.

I am concerned about the Board's suggestion of terminating existing logging contracts and restricting future harvesting operations to those stands that are categorized as "diseased or insect affected, fire hazard or erosion control." This would appear to be a technically unwarranted action, in view of the independent Panel's conclusion that road building and timber harvesting do not appear to have created a water quality problem. I'm concerned that this would set a precedent for other community watersheds, and restrict future development in the Vancouver watersheds.

February 20, 1992. Watershed Management Administrator Ed Hamaguchi writes the Ministry of Forests Regional Manager:

Further to our meeting of 20 January 1992 please find enclosed a copy of the Amending Indenture. The Amending Indenture needs to be reviewed considering the recent

recommendations of the Administration Board. To commence this process some of the more pertinent sections have been high-lighted.

February 26, 1992. John Cashore, Minister of the Environment, writes to the president of SPEC (Society Promoting Environmental Conservation), after a meeting with representatives from the group on January 31, 1992. Paul Hundal presented a brief to the Minister, which considered the role of his Ministry in the Amending Indenture.

... the suggested revisions to the Amending Indenture arising from the Board's recent review, are supported by the Province and Ministry of Forests staff (and) have been instructed to meet with GVWD staff at an early date to draft the appropriate changes. We have found no evidence to suggest that the Board of the Greater Vancouver Water District feels in any way constrained in its management practices by the possibility that the Province may decide to terminate either the Amending Indenture or the original leases.

... we can find no justification for intervention by this Ministry in the ongoing process and we could certainly not support the invoking of Clause 25, the Termination Clause, within the Amending Indenture.

The Minister of the Environment may have been misled by provincial staff in his understanding of the role that the Ministry of Lands, the landlord agency, which John Cashore was in charge of, has over the lease of Crown Lands in the Amending Indenture. In fact, John Cashore, in his capacity as opposition critic of the environment, wrote a letter to Dave Parker, the Minister of Lands on September 18, 1991, specifically asking him about the Amending Indenture. Over a month later, when John Cashore was Minister of the Environment, he finally received a response letter from Frank G. Edgell, the Acting Deputy Minister of Lands and Parks, on November 1, 1991, wherein he was told that:

The timber management issues arising from the 1967 amendment to the lease are the responsibility of the Ministry of Forests.

This statement is, of course, untrue. Four months after that, on March 12, 1992, John Cashore received a letter from Dan Miller, the Minister of Forests, which implied that the Minister of Forests and his ministry would like to see logging continue in the Greater Vancouver watersheds:

“Notwithstanding any change to the annual volume of harvest, the real key to protecting water quality is found in the individual cutting permits which authorize logging of specific tracts of timber. Each cutting permit includes the requirements and constraints which the Ministry of Forests District Manager feels are needed to protect not only the water quality, but also the land itself.... In the long run, there is no doubt that the Province and the GVWD must work together to provide the citizens of [Greater] Vancouver with the highest quality water possible. At the same time, I know that the City of Vancouver is very happy to receive substantial revenues from the sale of logs from the watershed.”

Perhaps this may suggest why it wasn't until July of 1996 that the Ministry of Environment first became involved in the negotiations with the *Amending Indenture*, negotiations which the Ministry of Environment should have been involved in from the outset.

March 10, 1992. Four Ministry of Forests' staff representatives meet in Victoria to discuss the Amending Indenture. A letter recommends the Ministry of Environment, Lands and Parks to be involved in the negotiations (which doesn't happen for a number of years). After the interagency meeting, a meeting is to be held with GVWD staff.

March 23, 1992, April 1, 1992, April 30, 1992, May 7, 1992. The Legal Services Branch provide ongoing correspondence and interpretation of the Amending Indenture for Ministry of Forests staff. Letters are restricted from public viewing.

July 1992. Ministry of Forests staff remind themselves of their commitment to meet together with the GVWD.

September 18, 1992. Ministry of Forests staff provide a four page Briefing Note document for Chief Forester John Cuthbert entitled "Strategy for the Future Management of the Crown's Forest and Water Resources Within the Greater Vancouver Water District." The Briefing Note provides three options, the first of which is to have the Ministry of Environment, Lands and Parks "to be the lead agency" in revising the Amending Indenture, to which the GVWD would submit a "Water Management Plan".

The other two options: would have the Ministry of Forests as the lead agency, to which the GVWD would submit an "Integrated Watershed Management Plan"; and the last to "maintain the status quo but amend the Amending Indenture and Management and Working Plan to eliminate the need to harvest an AAC." The recommendation was for the first option, to have the Ministry of Environment as the lead agency. The Briefing Note was no doubt prepared for the meeting with the GVWD staff on October 27, 1992, and it is not known if the contents of the report were tabled before GVWD staff, or if the recommendation was accepted at that time.

October 27, 1992. Meeting between Ministry of Forests representatives and GVWD staff in the offices of the GVRD. Notes taken by Ministry of Forests staff announce the primary role of the Ministry of Environment for water management. The notes also mention that GVWD "will identify those areas that should be harvested based on this new criteria."

January 28, 1993. GVWD staff start enquiring how the Ministry of Forests' staff are proceeding since the October 1992 meeting. Ministry of Forests staff start preparing another Briefing Note for the Chief Forester. Staff consider planning a meeting between GVWD Commissioner Ben Marr and Deputy Minister of Forests Phillip Halkett.

March 3, 1993. GVWD staff send a letter to the Ministry of Forests enquiring about the status of the Amending Indenture: "To date we have not been advised as to what stage things are at or what direction is being taken."

April 3 1993. Ministry of Forests staff notes on the Briefing Note for the Chief Forester discuss a new strategy: the

ecological inventory will identify if there are areas that could be harvested for water quality. One option would be to wait for this report,

before revising the Amending Indenture. This strategy, which was obviously first considered by the Ministry of Forests staff, is the very strategy which the Water District has recently adopted, as recorded in the Water Committee Agenda of February 13th, 1997, and mentioned before the GVRD Board by John Morse on April 28, 1995.

April 5, 1993. A draft seven page Briefing Note prepared for Phillip Halkett, the Deputy Minister of Forests, on “The Strategy for the Future Management of the Crown’s Forest and Water Resources Withing the Greater Vancouver Water District”, is written. The Briefing Note provides two options, the first being that the “cut control provisions” (or AAC) “will not be enforced”. According to the Briefing Note, the disadvantage to this option is that **“this may send a message to the many other municipal watersheds in the province that an AAC on the land within their watersheds may not be necessary.”** The second option is continue with a “cut control”. The advantage to this, according to the brief, is that “it does not send a message to the municipal watersheds that an AAC on their lands is no longer necessary.” The recommendation is for option #1. The following are other quotes from the Briefing Note:

One of the most important recommendations accepted by the GVWD was to eliminate the requirement of the Amending Indenture to harvest an AAC. This recommendation brings into question the effectiveness of managing this area the same way a TFL [Tree Farm Licence] is managed, especially since there is no Forest Act authority to do so.

The authority to manage the timber resource similar to a TFL results solely from the Amending Indenture and not the Forest Act.

The GVWD is actively preparing an ecological inventory of the watershed. This inventory will identify if there are any timber types that should be harvested to improve water quality. Until the results of the inventory are known, the harvest has been reduced to a reactive level in which they harvest only timber that has blown down, been fire killed or may be soon lost to insects or disease. The results of the ecological inventory will strongly influence the proposed future management of the GVWD’s watersheds.

The Amending Indenture is an anomaly in terms of a tenure administered by the Ministry of Forests. It is subject to the Land Act, not the Forest Act.

Here the Legal Services Branch have properly identified the fact that it is the Ministry of Environment, Lands and Parks that is the landlord agency, not the Ministry of Forests (see comment above, chronology date February 26, 1992) . It is not known if this Briefing Note was tabled before the Ministry of Lands or the GVWD staff.

April 21, 1993. The Ministry of Forests responds to the Water District's letter of March 3rd: "Your letter has prompted our Branch to re-priorize this issue and a draft briefing note for the Deputy Minister has just been completed. Once we have received direction from the Deputy Minister we hope to address the issue of the GVWD being required to harvest an AAC and, as well, we would like to initiate discussions with the GVWD and Ministry of Environment, Lands and Parks on the future administration of the Indenture and Amending Indenture."

August 31, 1993. Water District staff meet with Ministry of Forests staff in Victoria.

September 8, 1993. Ministry of Forests Chilliwack District Manager, John Hall, writes to the Regional Manager:

On August 31, 1993, I met with staff from the GVWD to discuss, among other things, a potential reduction in the annual allowable cut for the Amending Indenture as a result of undercutting during the last cut control period (1988-1992).

The Amending Indenture document is currently under review by Timber Harvesting Branch for replacement by a more appropriate tenure. GVWD expressed some concern that the AAC would be reduced by this Ministry for failing to comply with the minimum cut requirements, especially considering that activities in the three watersheds are under intense scrutiny by public interest groups.

I recommend that the AAC for the Amending Indenture not be reduced at this time I also recommend that the process to determine the proper form of tenure be resolved as soon as possible.

April 15, 1994. Internal Ministry of Forests' correspondence:

I understand there has been some thought and discussions towards updating the arrangement with the GVWD but it wasn't my intention to stir that up.

I had a more of a casual musing as to whether the Forest Practices Code applies to the GVWD.

The Forest Practices Code team here doesn't have the answer and has asked me for my comments.

April 18, 1994. The Ministry of Forests Acting Regional District Manager R.C. Scarrow expresses concern that the Greater Vancouver watersheds may be exempt from provisions in the policy formation of the Forest Practices Code (FPC):

A staff member has alerted me to the issue as to whether the Forest Practices Code applies, or should apply, to the Vancouver watershed. Due to the tight security around the development of the FPC, he has been unable to do a complete analysis of this issue.

Before we automatically assume that the FPC should apply to the GVWD watershed, someone who is an expert in the provisions of the FPA [Forest Practices Act], Rules, and Standards should determine if there is anything contained in them that would conflict with the priority of providing quality and quantity of water rather than timber production.

August 11, 1994. Concerns are raised by the Ministry of Forests Tree Farm Licence Officer regarding the Water District's Allowable Annual Cut:

Due to other priorities there has been no progress in addressing the GVWD's concerns resulting from the public review about harvesting in the watershed. A very real possibility would be the amending indenture being replaced with a new agreement that does not include an AAC or cut control or any of the standard TFL obligations. Given this and the fact that there is no cut control penalties suggests to me that we should not be too worried about the GVWD meeting the AAC until we get this process ironed out - its going to be a big job.

December 12, 1994. Ministry of Forests correspondence from the Chilliwack District office:

Would you please inquire if operations under the GVWD Amending Indenture will be subject to the Forest Practices Code. Both Crown and privately held land is involved.

January 9, 1995. Briefing Note for information only, stamped DRAFT, is prepared for the Minister of Forests, Andrew Petter. It is the same document written in April, 1993. Handwritten note, signed on May 28, 1995, states "I do believe we should do clean-up as quickly as possible."

February to March 1995. The Legal Services Branch prepares a report on whether the GVWD watersheds are subject to the Forest Practices Code. On March 23 a three page memo is sent to the Ministry of Forests.

April 28, 1995. GVRD Board Chair, Richmond mayor Halsey-Brandt at the Board meeting, asks the Water District's Chief Engineer and Manager of Water, John Morse, on what has happened to the Board's November 27, 1991 resolution to have the Amending Indenture revised. John Morse:

... the discussion of the Amending Indenture are in abeyance until such a time as the Board has developed a management plan and a direction as to where they wish to go for the watershed lands, so that we can amend them in the appropriate style.

Paul Hundal, president of Society Promoting Environmental Conservation (SPEC), comments from the podium during his delegation:

I suggest to the Board that there should be a more public process for a change in the Amending Indenture, since it is a very serious step. Essentially it is behind closed doors and we don't know what is going on.

July 26, 1995. GVWD staff send their 4 page draft Terms of Reference document for the Watershed Management Plan #5 to the Ministry of Forests Regional office (the draft document fails to undergo a public review process). Under a section called Objectives, it states:

(c) to conduct all management activities, utilizing the most conservative means to ensure that water quality is not compromised. (d) to utilize ecologically-based principles and inventories. The Plan will guide all watershed activities including erosion control programs, forest and vegetation management and management of a road system to provide essential access.

In defense of the Water District's forest management activities, the document also states, without the support of technical data, that:

the (1991) Technical Panel reported that the watershed management program met the current mandates; watershed control and road development programs were sound; and that forest practices were evolving appropriately over time and were environmentally sensitive.

August 8, 1995. The Ministry of Forests staff provides comments on the GVWD draft Terms of Reference document:

The issue of harvesting timber in the watershed is neatly avoided. This should be the primary issue included in the terms of reference as it is the issue of highest sensitivity.

November 10, 1995. Internal Ministry of Forests' correspondence:

I agree that the mandate under which MP (Management Plan) 5 is being prepared is on very shaky ground, and indeed the Amending Indenture is outdated. Resolution of the agreement issue would be welcome as I anticipate the MP process to become messy, particularly the TSA [Timber Supply Area] and any determination of AAC. It would be convenient if a new or revised "tenure" was developed that would see the MOF become an agency to which plans are referred to.

The efforts being done to redo the Management Plan (#5) sound good but I don't believe they are fundamental enough. The amending indenture agreement has outlived its usefulness and needs to be rewritten or cancelled. And if we are working at that level, maybe the original indentures need to be overhauled. They are very old.

The issue won't really be resolved until the 3 parties (Environment, Lands and Parks - Forests - GVWD) get together and work out a solid plan. The Briefing Note, which was done a couple of years before "will probably be dusted off and put through to get some official direction.

March 18, 1996. A three page Briefing Note on the Amending Indenture is prepared for Janna Kumi, the Assistant Deputy Minister of Operations, Ministry of Forests:

There appears to be a strong desire on the part of the GVWD Board, to move away from the original intent of the Amending Indenture. This, if approved by the government (the Amending Indenture is administered by the Ministry of Environment, Lands, and Parks),

would require a change to the Amending Indenture, that would have to be signed off by the Minister of Environment, Lands, and Parks.

Public focus, reflected in the municipal representatives, over the past few years has been towards pristine preservation of the watersheds with little or no harvesting permitted. It would appear that rather than consider the MP (Management Plan) for forest management purposes it should primarily be a water management plan.

The Briefing Note was prepared in advance of a private meeting between Gerry Armstrong, Deputy Minister of Forests, Janna Kumi, and Water District staff administrator Bob Cavill and Regional Manager Ben Marr in March or April 1996.

July 1996. The first meeting between Ministry of Environment, Lands and Parks staff with Ministry of Forests staff regarding the revision of the Amending Indenture.

January 31, 1997. The GVWD's most recent revision of their Terms of Reference document for Management Plan #5 is sent to the Ministry of Forests:

In fulfilling its purpose and objectives, the GVWD will: (c) utilize ecological principles and resource inventories as a guide in the implementation of watershed management strategies for erosion control, forest and vegetation management and road access; (d) develop harvesting strategies within a forest and vegetation plan thereby removing a risk to water quality and maintaining the water supply.

February 10, 1997. Ten government staff from Ministry of Environment, Lands and Parks, and Ministry of Forests meet in the Burnaby Lands office to discuss the Amending Indenture. A ten page briefing document is sent to participants from the Chilliwack Ministry of Forests District office. On the day's Agenda is a review of the original Indenture and the Amending Indenture by Ministry of Forests' staff; a review of watershed evaluation and policy review by Environment; current operations and current management plan status by Forests; and Ministry objectives, management requirements, the government's intent, and next steps by both ministries.

February, 1997. Briefing Note for Deputy Minister of Environment, Lands and Parks (MELP), and for the Deputy Minister of Forests, after the February 10th meeting:

The GVWD is currently working on a new management plan and in accordance with the GVWD's resolutions, the focus of a new plan will significantly shift from sustainable harvesting to watershed resource protection. This shift results in the objectives and content of the management plan now aligning with the mandate and expertise found within the Ministry of Environment, Lands and Parks (MELP).

MOF (Ministry of Forests) and MELP staff recently met and agreed to the following:

- 1) there is a need to update the Amending Indenture to reflect current and future management strategies for the watershed;
- 2) with the exception of the term and legal description, MELP has the authority to amend the

Amending Indenture at the regional level;

3) MELP has the mandate and expertise to take the lead role in the review and approval of future management plans that focus on water quality protection; and,

4) the role of the MOF should shift to a reactive role around timber harvesting tenure administration.

February 26, 1997. Five page Briefing Note prepared for Larry Pedersen, Chief Forester. In the discussion of the Amending Indenture clauses, under Clause 12 , the brief states that “there is no evidence or indication that past harvesting has or will affect GVWD’s water quality or quantity.”

As a separate initiative, middle managers in both the Ministry of Forests and the Ministry of Environment, Lands and Parks (MOELP) are currently developing a joint proposal for their respective deputy ministers, suggesting the Amending Indenture be amended or replaced with a more contemporary lease arrangement, probably under the jurisdiction of MOELP, and concentrating on water management instead of forest management; GVWD is aware of that initiative.

There are four options presented in the brief, from a program of logging which is overseen by the Ministry of Forests to a situation where there is no logging, but the Ministry of Forests still is provided a management plan. Recommendations are that the Water District move away from timber harvesting:

Although selection of this option would further reduce the availability of provincial wood supply (“this approval would result in less wood being delivered to market in a time of diminishing timber supplies”), the alternative of requiring harvesting within the Greater Vancouver watershed appears politically unpalatable.

The motivating rationale behind this change in philosophy is adequately documented in several reports and analyses; in significant measure, the change is motivated through public pressure to reduce or eliminate harvesting because of its perceived deleterious effect on water quality and quantity. By approving the plan and exempting the lessee from cut control, the ministry will be clearly indicating it has no objection to the GVWD’s philosophy, and will probably face little public criticism over such a stance.