



MNNA

Mount Newton Neighborhood Association

Fact Sheet:

District of Central Saanich

Senanus urban servicing proposal

sources : <http://senanus.net/documents/2011facts.pdf>

Background: The District of Central Saanich proposes to install a water main in an area with important heritage, agricultural, archaeological, First Nations and environmental values.

Project Proposal: According to a [Heritage Canada Permit application](#), the District's proposed project is a "3.7 kilometre long water main extension", which would involve "a trench excavated to approximately 1.5m deep; the trench itself will measure approximately 2m wide." The line is proposed to run "within the southern side of the roadway or on its southern shoulder. Between West Saanich Road and Henderson Point, the alignment will run within the roadway because of the narrowness of the road."

Mount Newton Crossroad: [Constructed in 1874](#), this narrow heritage road is lined on both sides by mature Garry oak, Arbutus, Fir, and Broadleaf maple trees. These extend over the roadway in many places, forming an archway which greatly contributes to the rural character of this important heritage roadway. As the portion of the District first settled by non-native settlers, the majority of the District's heritage sites are in the area of the proposed project, including many heritage homes, Woodwynn farm barns, and St. Stephens church.

"**Lauwelnew**," is the Wsanec First Nations name for Mount Newton, and is an important sacred site for the Tsartlip First Nation. On October 16, 2010, "members of the Tsartlip First

Nation blocked West Saanich Road at Mount Newton cross road to draw attention to what they say are treaty rights violations." [[Times Colonist](#)] A sacred ceremony was held on Mount Newton crossroad, followed by a celebration of the "reclaiming of the Saanich territory in 1987" with national Chief of the Assembly of First Nations, Shawn Atleo, at Lauwelnew school.

Archaeological Overview

Assessment (AOA) requested by MNNA states that Wsanec people have occupied this land for an estimated 9000 years. The AOA notes: "One of the most sacred and significant sites in Saanich territory is LAUWELNEW or Ihelhwulnuhw, also known as Mount Newton ([Elliot 1983](#); [Hudson 1971](#))."

Important artifacts have been previously found along Mount Newton Crossroad— the "[Mount Newton Cross Roads Bowl](#)" may be the best known archaeological find from this area. The AOA suggests there are four main areas of archaeological interest on Mount Newton Crossroad, and two on Senanus Drive.

The District has applied for a Heritage Canada permit for the proposed excavation, because the permit notes: "[Expected sites within the project area include shell midden, lithic scatters, inland midden, isolated finds and human burials; burial cairns are considered possible but unlikely.](#)"

Tsartlip First Nation opposed the project in a January 20, 2009 letter to the District.

MNNA also opposed the proposal, because of the flawed petition brought forward by the Central Saanich West Voters Association and the District's use of misleading information and flawed process to support the proposal. [The MNNA took the District to the BC Supreme court, with, CSWVA added as respondent.](#)

[The MNNA won its case](#), and the District has initiated the repeal of the water main bylaw, and is paying MNNA's court costs. The District proceeded with the bylaws for the project against the advice of its Municipal Solicitor, who "[advised that...the petition does not likely comply with the requirements of the Community Charter.](#)"

Following the District's Bylaw repeal, [Councillor Kubek introduced a motion to enlarge the pipe to the original catchment](#), to service a larger "Northwest Quadrant" area, with the original project as Phase 1 of his proposal. An affidavit submitted to court states: "[Kubek also said that the watermain was needed for future development of the area.](#)"

Environmental concerns raised have still not been addressed, and the District has [indicated](#) it intends to retain the Federal-Provincial grant it obtained for the original project, which was deficient with respect to environmental requirements.

A professional arborist has indicated that the project will result in the death of many protected trees.

Local solutions have been [recommended](#) in [many](#) earlier reports, and MNNA continues to request that these solutions be pursued, as they are: congruent with provincial and federal water policies, more cost effective and significantly less environmentally harmful.

In the interests of protecting this important area, MNNA requests solutions which: will not promote urban sprawl, will not impinge on First Nations sacred sites, will not kill trees or otherwise destroy the rural character and nature of this important heritage road and area.



Mount Newton Valley - photo ©Lynne Johnson

Despite the recent court loss & bylaw rescindment, the District still plans to proceed with this unnecessary project.



Professional arborist statements indicate many mature trees will be killed as a result of the project.

“...the existing road is bordered, up and downslope, by Big leaf maple... Douglas fir... Garry oak ... and Pacific madrone (Arbutus) ... deemed protected under the District of Central Saanich's Tree Protection Bylaw No.1595. ... The proposed cutline will require the outright removal of native trees. ...

...Those adjacent to the cutline will be subjected to mechanical wounding and loss of mechanical support roots, subsequently exposing them to structural failure or "windthrow". ... longterm effect of the cutline will manifest in the trees as a direct result of the hydrological changes which will be realized. ... the existing trees will not withstand this sudden change. Consequently, trees will enter into a state of dysfunction which most often leads to strain (irreversible stress).

It is in this state of strain that a slow undignified death is inevitable.”

The project will also involve a large amount of blasting. According to Saanich's tree bylaw: ["Blasting causes more damage to trees than almost any other construction activity"](#)

In 2000, water main proponents petitioned the area for a water main. Recent Supreme Court documents note that *"while that petition was ultimately certified by the District, concerns were expressed about residents being misled by the petitioning process."* Council did not proceed on the basis of the petition, but instead expressed concern about inaccurate information and the lack of information provided. Council wrote to the CRD correcting proponents assertions that water had been *"denied."*

Council's letter states: *"in fact, to date Council has only stated that it is not prepared to apply for Infrastructure Grant funding for a Mount Newton waterline project, nor is it prepared to see the project proceed by way of a Specified Area Bylaw which would result in an unacceptable number of property owners being charged for a service which they neither require nor support."*

In 2007, the current District Council had staff submit a Federal-Provincial Infrastructure Grant.

This grant application was flawed, and was part of the basis of the MNNA court case against the District.

In support of their grant application, the District supplied the 2000 CSWVA petition, which was by that time no longer legal: it was seven years old, had been certified under the *Municipal Act*, which was rescinded in 2000, and was for a project with a different catchment and different project values.

In September 2008, MNNA's lawyer wrote to the granting ministry and Rona Ambrose, then Federal Minister of Western Economic Diversification -- the Federal agency responsible for the Canada-British Columbia Infrastructure grant program. MNNA requested that the grant be rescinded.

Supporting information and process for the District of Central Saanich's C-BC-MRIF Senanus water main grant #17304 was flawed:

- CBCMRIF rules and policies & basic *Grant Eligibility Criteria*, were not met: No LSA bylaw was in place (and a bylaw later put in place was then rescinded as a result of the MNNA court case); the project was not priority-ranked and is contrary to the District's Official Community Plan and the CRD's Regional Growth Strategy;
- District's application was based on a petition from 2000 for a different project with different costs. A 2003 District memo questions the validity of the very same petition it used in 2007;
- a subsequent petition process was held in 2007 (*perhaps to correct the 2000 irregularity*);
- the 2007 petition was certified by a narrow margin of owners,
- a public meeting held three months *after* certification to provide accurate project information and address significant problems wrt petitioning process;
- after the public information meeting a number of residents asked the District to remove their petition signatures but were told that this was not possible;
- significant errors in process & substance demonstrated in court documents called the petition certification into question;
- the proposal was contrary to stated CBCMRIF "green" objectives supporting sustainable approaches to infrastructure;
- the District omitted key corrective reports, while including incorrect reports;
- significant errors, omissions, and a failure to accurately describe the project and subject area in the environmental questionnaire have resulted in a lack of environmental oversight.

"Based on the WATF [Central Saanich water advisory task force] research, corroborated by the Lowen Report, we concluded that the aquifer is fully useable, and the groundwater on Senanus Drive did not constitute a health problem, either bacteriologically or chemically." [affadavit]

Misleading water quality information has been provided by the Central Saanich West Voters Association (CSWVA) water main proponents. Water quality characteristics provided to the District, other organizations and the public via the media is misleading.

For example, CSWVA letters characterize Senanus water as: a ["very serious, potentially deadly problem,"](#) and having been ["essentially condemned"](#). CSWVA likens their situation to the ["water-related deaths in Walkerton,"](#) and labels the District's Water Advisory Task Force, (which was tasked with solving any water issues and included Senanus residents), as a ["useless and evil vehicle."](#)

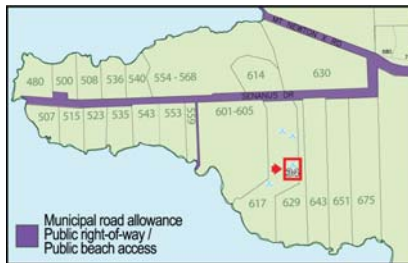
CSWVA's assertions ultimately led Dr. Stanwick, the Chief Medical Health Officer, to analyze the water. [His conclusions](#) agreed with those of earlier experts whose reports consistently stated, from 1999 on, that there are no water-related health concerns indicated for the aquifer.

Significant data supports MNNA claims that the purported need for water is based on information which is false and/or misleading, incorrect, or noticeably absent.

Insufficient water quantity information has been provided to the District by water main proponents to support assertions of lack of water.

When asked which specific wells have run dry, water main proponents stated ["no lists have been kept, as people are sensitive about this."](#)

The primary source of water quantity data provided to the District to demonstrate water levels on the Senanus peninsula is BC Ministry of Environment monitoring well #333 at 617 Senanus drive (marked in red on the maps below).



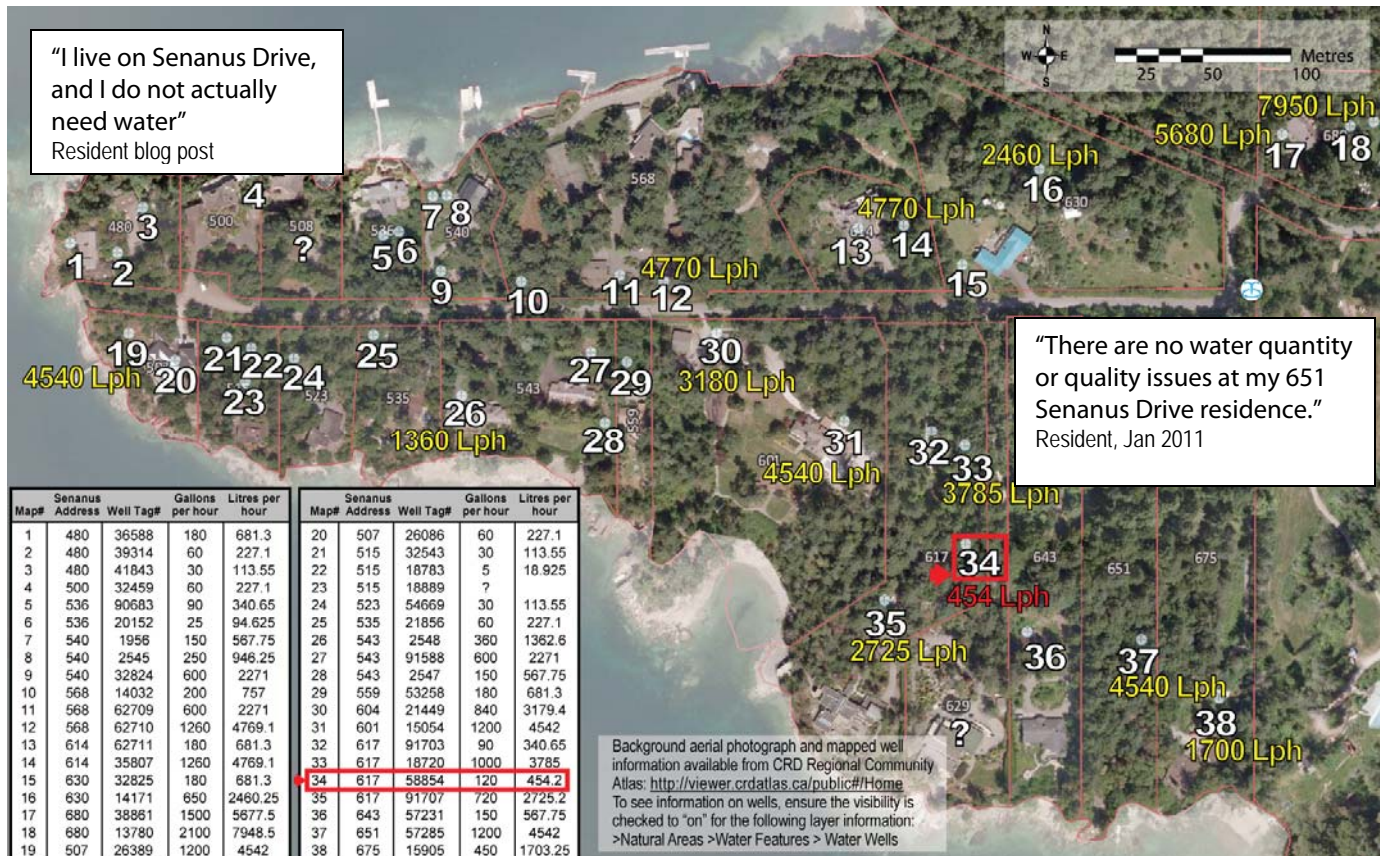
The ministry well database and the CRD Regional Atlas well information show that this well was drilled in 1989 with an estimated flow rate of 454 litres/hour.

In addition to the monitoring well, data shows three other wells at the home of this water main proponent.

Available well data from 617 Senanus wells demonstrates that using the 454 litres per hour (lph) flow data for the #333 monitored well independent of other wells does not appear to accurately represent water quantity available from the property. Flow rate estimates of the wells are 90, 120, 720 & 1000 lph (1930 lph total).

Similar well analysis for the entire Senanus Peninsula shows that the use of a single monitored well as the sole source of quantity data for the area is a flawed methodology.

Available information does not support CSWVA assertions about Senanus water, but does suggest a need for accurate comprehensive study.



“ Dr. Stanwick advised that the water did not contain any elements, under the 6th Edition Canadian Drinking Water Guidelines, that would pose a significant risk to health.”

[[Capital Regional District Board minutes](#), Nov 2001]

“ There is no health concern.” [[Bradbury Report](#)]

“ There are no health concerns indicated, for the Senanus Peninsula aquifer.” [[Lowen Report](#)]

The reports stating that Senanus water is healthy go on to state that the water is hard water, with treatable aesthetic issues. Economical in-home treatments were repeatedly recommended.

Despite recommendations and health assurances, water main proponents continued to lobby subsequent Councils for a water main. The District continued to seek factual verification. Water main proponents stated that they “[do not wish to be studied](#)” and that they were “[not willing to support Council's decision on further testing and sampling of Senanus Drive well water.](#)” As a result, no comprehensive quality and quantity study of the wells has been completed.

In 2000, the [District applied for a Federal Green Municipal Enabling Fund \(GMEF\) grant](#) to test and providing solutions to any Senanus water issues. The project, based on the fundamental principle of curbing urban sprawl, included conservation and waste reduction elements. In response, CSWVA wrote directly to the federal grant manager to block the District's application, saying the project was “[known not to be community supported](#)” and that they were “[contemplating legal action.](#)”

As noted by the CBCMRIF Grant reviewer, development is a driving factor for urban servicing.

Statements made by water main proponents suggest this concern is warranted. “...existing Municipal and Provincial bylaws for water main extensions, however, have been created with land developers in mind... Through the creation of profit, land developers are able to pay for extensions to Municipal water systems.” [[CSWVA letter](#)]

“An estimated 127 additional single-family units could be serviced by the potential water main extension” [[District Report](#)]

“The availability of water could encourage some property owners to either develop under the existing zoning, or to apply for rezoning.” [[District Memo](#)]

“Gordon Denford, a retired builder with more than 100 projects in dozens of communities... argues the push to preserve farmland has turned into an opposition of growth of any kind... Denford... lives on Senanus Drive and has been a vocal proponent of extending the water pipes to his neighbourhood... Denford says that councils have shifted the urban containment boundary in a way that puts all undeveloped land into the farming category whether it's arable or not, a move that has curbed building of all kinds.” [[Times Colonist](#)]

“Will this lead to further development of agricultural lots in the area?” [CBCMRIF Grant committee notes on grant application]

One Senanus residents stated “In summary, the highest and best use of the theoretical 1.5 acre vacant subject site is site development “ [[Assessment Appeal 009-01-00068](#)]

MNNA seeks sustainable alternatives to protect the Mount Newton / Lauwelnew area, and requests government support at all levels to:

- designate and protect Mount Newton Crossroad as a heritage road
- place a moratorium on urban servicing to rural and agricultural lands in keeping with OCP and RGS policies
- work with local residents to implement sustainable water solutions.

Reports earlier recommended:

in home treatment systems, point of entry treatment, enhanced storage capacity, groundwater management, ion exchange, rainwater collection and recharge, (inserting check dams, perforated storm drains, soak-a-way pits for roof drainage, establishment of a groundwater management area based on available draft legislation.

MNNA suggests that any future projects in the area be designed to:

- comply with laws and policies of the District and regional, provincial and federal governments,
- address development concerns
- not damage the environment, including trees, sacred or archaeological sites
- include consultation with affected residents
- include First Nations consultation
- take best practices into account
- be evidence-based & appropriately scaled, using innovative technology
- account for all project costs prior to proceeding

Initiatives following these criteria could likely be supported by provincial policy, via organizations like POLIS, the UVic Environmental Law Centre and other organizations. Provincial policies in the new "Living Water Smart" Plan support these environmentally-friendly initiatives.

Many positive and non-destructive alternatives exist to the District's unnecessary Senanus proposal.

