



Okanagan-Kootenay Sterile Insect Release Program
Presentations to Regional District Boards on Apportionment
November, 2020

REQUEST FOR RESOLUTIONS

BACKGROUND

In late 2019, Okanagan-Kootenay Sterile Insect Release (SIR) Program Directors, Alternate Directors, and Regional District Chief Administrative Officers held a workshop to review the apportionment of the SIR Program's annual value tax burden among the four regional districts that participate in the Program. The workshop was convened as part of a broader SIR Governance Review that the SIR Board, with the support of the participating Regional Districts, initiated to examine the potential for legislative reform and related structural changes for the Program. The workshop was also held in response to concerns raised by the Regional District of North Okanagan regarding the fairness of the current value tax apportionment method, as well as the degree of consistency between the current method and that which is prescribed in the 1990 *OKSIR Regulation*.

Based on the outcomes of the workshop, the SIR Board of Directors established a Working Group on Apportionment comprised of equal numbers of representatives from each Regional District. The Working Group was asked to study the apportionment issue, consider alternate apportionment methods, and recommend a preferred path forward.

WORKING GROUP ON APPORTIONMENT

In the spring of 2020, members of the Working Group were interviewed to better understand the range of views to consider and to identify opportunities for consensus. In July, 2020, the members came together for a workshop to share

their views and consider specific apportionment options.¹

Foundation Points

The Group was guided in its discussions by a set of foundation points that emerged from the interviews:

- > *Partnership* — Working Group members recognize and wish to strengthen the importance of the inter-regional partnership at the heart of the SIR.
- > *Broad Benefit* — Members recognize that the Program provides broad and significant benefit to all communities, residents and ecosystems throughout the service area.
- > *Equity* — Members believe that equity will be strengthened under a formula that reflects each region's relative benefit from the Program. Such a solution will take into account inter-regional differences in pome fruit acreage in addition to differences in converted assessment.
- > *Pragmatism* — Working Group members recognize that the actual dollar amount assigned to each Regional District is important to consider, cost-sharing rationale notwithstanding. Shifts in the tax burden must be pragmatic to win support.
- > *Hybrid Approach* — Members support an approach to cost-sharing that recognizes the

¹ *Summary of Workshop* paper attached.

broad community benefit provided by the Program, and that reflects the inter-regional differences in the amount of service provided. Such an approach is achieved through a hybrid formula with two apportionment factors:

- some measure of converted assessment
 - total taxable acreage (that is, the number of acres of commercial pome fruit orchards)
- > *Potential New Revenues* — The Program anticipates growth in net revenues from sales of product. How these revenues are used will be determined by the SIR Board; however, it is expected that they will help at least in part to offset future tax increases and/or lower the overall tax burden.
- > *Change Over Time* — Members recognize that each Regional District's share of total assessment and taxable acres will change every year. As these shares change, so too will the Regional District's share of the value tax burden. The members support the view that changes to the shares of tax burden should occur over time as conditions change.
- > *Service Area* — The expansion of SIR service area to include new pome fruit lands needs to be considered by the parties. In the years ahead it is expected that climate change and other factors will create commercial pome fruit opportunities in local jurisdictions that are currently outside of the service area, particularly in the North Okanagan and Shuswap regions.

Apportionment Options

The Working Group examined three apportionment options that were developed based on the foundation points. Each of the options represented a hybrid approach that allocates the value tax burden based on a combination of converted assessment base and taxable acreage. Each of the options also produced a cost-sharing outcome that would change every year in response to changes in

the service area's underlying converted assessment figures and taxable acreage totals.

WORKING GROUP RECOMMENDATIONS

By consensus, the Working Group members recommended to the SIR Board an option that would apportion the Program's annual value tax burden using a combination of:

- each Regional District's share of the previous year's converted assessment base (land and improvements) for the Program's service area as a whole, weighted at 75%
- each Regional District's share of the previous year's taxable acreage for the Program's service area, weighted at 25%

This option emerged from the Working Group's discussion as the fairest option for a number of reasons, including:

- > *Broad Benefit* — The option's use of the full converted assessment base (i.e., land and improvements) combined with the relatively high 75% weighting of this factor best takes into account the Program's broad benefit to communities, residents and ecosystems.
- > *Familiar Basis* — Full converted assessment in cost-sharing approaches is standard for all four Regional Districts. None of the participating Regional Districts uses land-only for cost allocation in any shared service.
- > *RDCO's Land Values* — A reliance on land-only converted assessment would penalize the Regional District of Central Okanagan, whose share of the service area's converted land-only assessment base is disproportionately high compared to its share of the full converted base.

Phase-In Provision

The Working Group recommended that the proposed option be phased-in over four years to ease the transition for the Regional District of Okanagan Similkameen from the current cost-sharing arrangement to the new approach.

Service Area Extension

The Working Group agreed that further work is needed to develop an approach for expanding the SIR Program's service area. Criteria need to be developed and applied to identify jurisdictions and/or lands for possible addition to the service. A mechanism for adding the new areas needs to be developed and put into effect.

IMPACT OF RECOMMENDED APPORTIONMENT

The recommended approach would shift a portion of the value tax burden from the Regional Districts of Central Okanagan and North Okanagan to the Regional District of Okanagan Similkameen (Columbia Shuswap's portion would remain essentially unchanged). This shift is attributable primarily to the inclusion of taxable acreage in the apportionment formula. As the region with the largest amount of pome fruit acreage, RDOS receives more service from the Program than the other Regional Districts. The new apportionment approach is designed, in part, to reflect this difference. The decision to include the full converted assessment base in the formula also accounts for part of the shift.

The four-year phase-in provision is intended to ease the transition for RDOS to the new model. Design of the provision is complicated by the fact that the annual amount owing from each region under the new approach would change each year in response to changes in the underlying assessment base, and changes in the number of taxable acres. The total requisition for all Regional Districts combined — held constant for the past decade at \$1.7 million — is also expected to change in the years ahead.

Figure 1 projects the impact of the new apportionment method on the four Regional Districts. Embedded in the figure are two key assumptions:

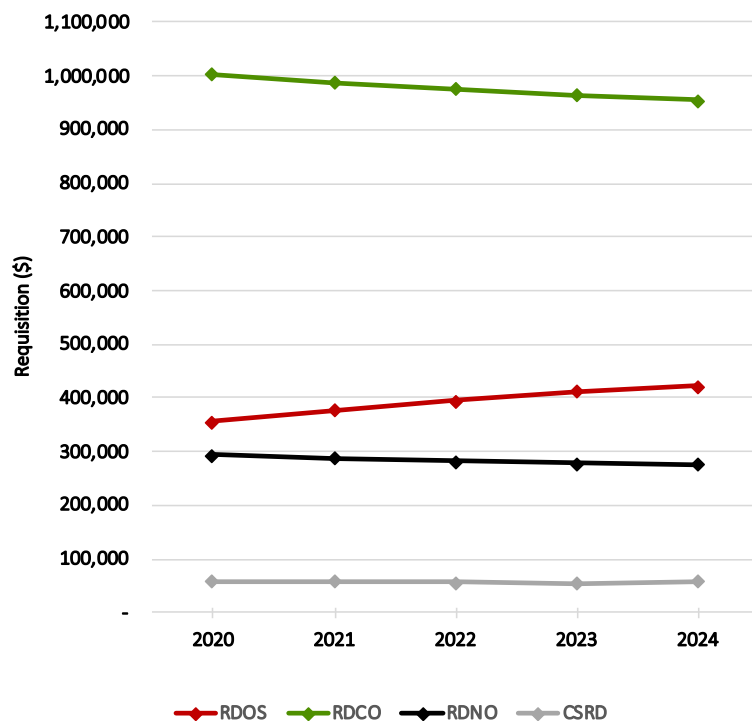
- a small annual reduction, beginning in 2022, to RDOS' proportion of the Program's total converted assessment base (land and improvements)
- a small annual reduction in RDOS' proportion of total taxable acres

Both of these assumptions reflect existing trends in the Program's service area.

REGIONAL DISTRICT SUPPORT

The legislative framework within which the SIR Program operates is prescriptive rather than permissive in nature. On the matter of apportionment, the legislation prescribes that the annual value tax burden is to be shared by participating Regional Districts on the basis of converted assessment (land only). In 2006, the Regional Districts themselves determined that

Figure 1
Impact of Recommended Approach
Four-Year Phase-In



converted assessment (land) was no longer fair given conditions in place at that time. The Regional Districts agreed, as part of a larger restructuring initiative, to introduce a fixed proportion cost-sharing model. The conflict between the resulting fixed-proportion model, developed by the participants, and the prescribed approach in the Program's legislative framework, contributed to the decisions to undertake the Governance Review and establish the Working Group on Apportionment.²

In the absence of legislative reform, proposed changes to the Program's cost apportionment method must be endorsed by the provincial government and implemented through an Order in Council (OIC). The Ministry of Municipal Affairs and Housing has indicated that the province will respond to a request for an OIC that is supported by all four participating Regional Districts. Support in the form of Board resolutions is the suggested course of action.

REQUEST FOR RESOLUTIONS

At its meeting of October 2, 2020, the SIR Board of Directors received the recommendation of the Working Group for a new value tax burden apportionment method based on a 75-25 combination of converted assessment (land and improvements) and taxable acreage. The Board also received the Working Group's recommendations for a four-year phase-in provision, and the development of a mechanism for expanding the SIR Program service area. The Board endorsed the Working Group's full set of recommendations.

The SIR Board seeks resolutions from the Boards of the participating Regional Districts in support of the proposed apportionment changes. Figure 2 presents the specific resolutions that are being requested.

Figure 2 Requested Resolutions

The SIR Board has endorsed the recommendations of the all-party Working Group on Apportionment. The support of all participating Regional Districts is required in order to implement the recommendations. To that end, the SIR Board requests that the Board of each Regional District pass the following resolutions:

- > THAT the Regional District Board supports apportioning the annual value tax burden of the SIR Program among participating Regional Districts using a hybrid formula that determines each Regional District's annual value tax requisition on:
 - the Regional District's proportion of the previous year's converted assessment base (land and improvements) for the Program's service area as a whole, weighted at 75%
 - the Regional District's proportion of the previous year's total taxable acreage for the Program's service area as a whole, weighted at 25%
- > THAT the Regional District Board supports phasing-in the new apportionment approach over a four-year period.
- > AND THAT the Regional District Board supports a request from the four participating Regional Districts to the Ministry of Municipal Affairs and Housing for an Order in Council to implement the new apportionment approach and phase-in provision.

² *Potential for Legislative Reform* paper attached.



Okanagan Kootenay Sterile Insect Release Program
Working Group on Apportionment
August, 2020

SUMMARY OF WORKSHOP

INTRODUCTION

On July 17, 2020, the members of the *Working Group on Apportionment* met in a facilitated workshop to examine options for sharing among participating Regional Districts the annual value tax burden incurred to provide the SIR service. This paper summarizes the workshop discussions and key outcomes.

DISCUSSIONS

Mandate

The workshop began with a brief review of SIR cost recovery, which includes three major sources of revenue:

- parcel taxes paid by commercial growers
- value taxes paid by all local taxpayers, including commercial growers, throughout the service area
- sales of sterile codling moths and egg sheets to buyers outside of the service area

A fourth revenue source for the past several years has been an accumulated operating surplus which the Board has relied on in

place of tax increases to fund Program costs. Value tax revenues comprise the largest single component of cost-recovery, and account for close to 60% of all property taxes raised (parcel taxes account for just over 40%).

Members noted that the Working Group was established to address the value tax component — more specifically, the allocation of the annual value tax burden among participating Regional Districts. The parcel tax and sale-of-product revenues are outside of the Group's mandate.

Foundation Points

In the lead-up to the workshop, the SIR Program consultant interviewed each Regional District's Working Group representatives to gather ideas, identify concerns, and understand needs. Arising from the interviews was a set of foundation points to guide workshop discussions. These points were presented to participants both before and at the workshop as follows:

- > *Partnership* — Working Group members recognize and wish to strengthen the importance of the inter-regional partnership at the heart of the SIR.
- > *Broad Benefit* — Members recognize that the Program provides broad and significant benefit to all communities, residents, and ecosystems throughout the service area.
- > *Equity* — Members believe that equity will be strengthened under a formula that reflects each region's relative benefit from the Program. Such a solution will take into account inter-regional differences in pome fruit acreage, in addition to differences in converted assessment.
- > *Pragmatism* — Working Group members recognize that the actual dollar amount assigned to each Regional District is important to consider, cost-sharing rationale notwithstanding. Shifts in the tax burden must be pragmatic to win support.
- > *Hybrid Approach* — Members support an approach to cost-sharing that recognizes the broad community benefit provided by the Program, and that reflects the inter-regional differences in the amount of service provided. Such an approach is supported by a hybrid formula with two cost-apportionment factors:
 - some measure of converted assessment
 - total taxable acreage (that is, the number of acres of commercial pome fruit orchards)
- > *Potential New Revenues* — The Program anticipates growth in net revenues from sales of product. How these revenues are

used will be determined by the SIR Board; however, it is expected that they will help at least in part to offset future tax increases and/or lower the overall tax burden. This point is important to keep in mind when considering future cost-sharing impacts.

- > *Change Over Time* — Members recognize that each Regional District's share of total assessment and taxable acres will change every year. As these shares change, so too will the Regional District's share of the value tax burden. The members support the view that changes to the shares of tax burden should occur over time as conditions change.
- > *Service Area* — The expansion of the SIR service area to include new pome fruit lands needs to be considered by the parties. In the years ahead it is expected that climate change and other factors will create commercial pome fruit opportunities in local jurisdictions that are currently outside of the service area, particularly in the North Okanagan and Shuswap regions.

Current Cost-Sharing Approach

Workshop participants were reminded of the cost-sharing approach that has been in place since 2010. This approach allocates the total value tax burden each year in accordance with fixed percentages for each of the participating Regional Districts, as shown in the accompanying pie chart (see next page). The percentages were set based on each Regional District's share of the total converted *land* assessment base that was in place in 2006. The percentages — or shares of value tax burden — have been fixed since 2010, and have not changed as a result of changes in converted assessment values or any other factor that

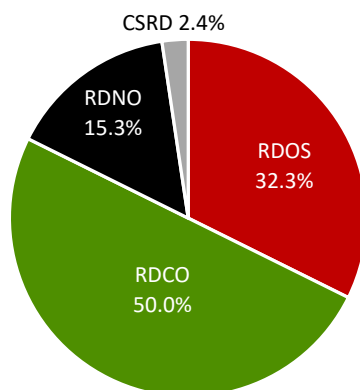
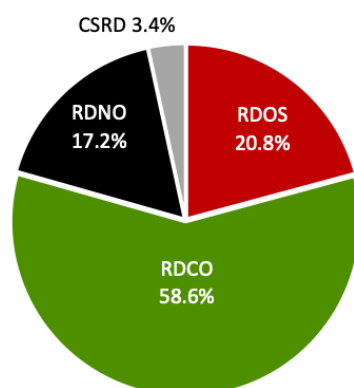
have occurred over time. The "fixed" nature of the approach is the defining feature of the current cost-sharing arrangement.

Options to Consider

Workshop participants reviewed the three options that were presented in the *Apportionment Options* paper prepared for the workshop. All three of the options represent a hybrid approach that allocates the value tax burden based on a combination of a converted assessment base and taxable acreage.

> Option 1 — 50-50 Converted Assessment (L + I) Taxable Acreage

This option allocates cost based on each Regional District's share of the previous year's full converted assessment base (land and improvements), and the region's share of the prior year's total number of taxable acres.¹ The option places equal weight on assessment and acreage.

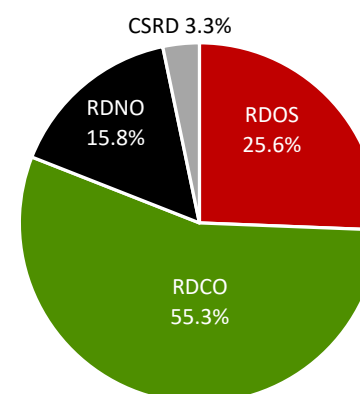


¹ The timing of BC Assessment's release of the revised assessment rolls relative to the Regional Districts' budget deadlines means that annual

As the pie chart illustrates, Option 1 shifts a considerable amount of the tax burden from the Regional Districts of Central Okanagan (RDCO), North Okanagan (RDNO), and Columbia Shuswap (CSRD) to the Regional District Okanagan Similkameen (RDOS). The total amount owed by each Regional District every year changes in response to changes in assessment and acreage.

> Option 2 — 75-25 Converted Assessment (L + I) Taxable Acreage

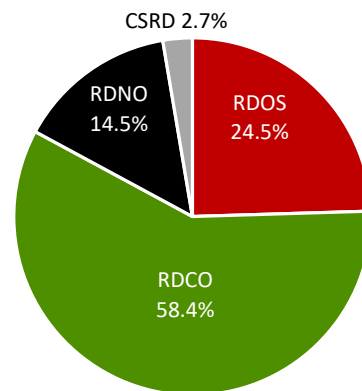
As with Option 1, Option 2 uses each Regional District's share of the previous year's full converted assessment base (land and improvements), and the region's share of the prior year's total number of taxable acres. Unlike the previous option, however, Option 2 places more weight on converted assessment than taxable acreage. This weighting reflects the importance of the Program's broad benefit to residents, communities, and ecosystems throughout the entire service area. The pie chart shows a shift to RDOS, but not as significant a shift as in Option 1. The total amount owed by RDOS and each of the other Regional Districts every year changes in response to changes in assessment and acreage.



cost-sharing must be determined based on the prior year's assessment figures. For a similar reason, the prior year's acreage must be used.

> **Option 3 — 75-25**
Converted Assessment (*Land*)
Taxable Acreage

This difference between Option 3 and Option 2 is the type of converted assessment base used to allocate costs (in combination with taxable acreage). Whereas Option 2 uses the full base of *land and improvements*, Option 3 uses the more selective base of *land* only. This difference helps to further moderate the shift in tax burden to RDOS, as shown in the pie chart. The total amount owed by each of the Regional Districts every year changes in response to changes in assessment and acreage, as is the case under all options.



The three options do not constitute the full, definitive set of cost-sharing options available. They do, however, reflect the key points raised by the Working Group representatives in the interviews that were conducted in advance of the workshop. In their use of converted assessment and taxable acreage, the options capture the desire for a hybrid approach that recognizes the Program's broad community benefit, and that reflects the inter-regional differences in the amount of service provided. The options also produce cost-sharing outcomes that change every year in response to changes in the service area's underlying converted assessment figures and taxable acreage totals.

Phase-In

Working Group members acknowledged that the financial impact on RDOS associated with the options is not insignificant. Members discussed the idea of phasing in the impact as a way to ease the transition from the current cost-sharing arrangement to a new model.

Service Area

The issue of service area was examined as the final discussion point. It was noted that each participating Regional District determines for itself, in conjunction with its own local jurisdictions, which municipalities and electoral areas, and how much of each, are included in the SIR Program service area. RDCO has historically taken the view that all local jurisdictions and all lands throughout the Regional District should be included. RDOS, RDNO, and CSR have chosen instead to limit Program participation to municipalities and electoral areas — or portions thereof — that had commercial orchards at the Program's inception.

In a cost apportionment system based at least in part on annual converted assessment, the amount of territory in each Regional District that is included in the SIR service area influences the amount each Regional District pays toward the service.

Working Group members noted that ongoing climate change is expected to make additional parts of the North Okanagan and Columbia Shuswap regions suitable for pome fruit commercial orchards. Members agreed on the importance of working with the Regional Districts and — as necessary — the Ministry of Municipal Affairs and Housing to ensure that lands with commercial pome fruit potential that meet specific criteria are

brought into the Program. Allowing pome fruit operations to develop on such lands, outside of the current service area, would put the entire Program at risk.

OUTCOMES

The Working Group reached consensus on a preferred cost-sharing approach, a cost-sharing phase-in provision, and the need for further work on the issue of service area.

Preferred Cost-Sharing Approach

By consensus, the Working Group members identified Option 2 as the cost-sharing approach to recommend to the SIR Board. For clarity, Option 2 is a hybrid approach that allocates the SIR Program's annual value tax burden on a combination of:

- each Regional District's share of the previous year's converted assessment base (land and improvements) for the service area as a whole, weighted at 75%
- each Regional District's share of the previous year's taxable acreage for the service area, weighted at 25%

Option 2 emerged from group discussion as the fairest — and, thus, preferred — option for a number of reasons, including:

- > *Broad Benefit*— The Option's use of the full converted assessment base (i.e., land *and* improvements) combined with the relatively high 75% weighting of this factor best takes into account the Program's broad benefit to communities, residents, and ecosystems.

- > *Familiar Basis* — Full converted assessment in cost-sharing approaches is standard for all four Regional Districts. None of the participating Regional Districts uses land-only for cost allocation in any shared service.
- > *RDCO's Land Values* — A reliance on land-only converted assessment would penalize RDCO, whose share of the service area's converted land assessment base is disproportionately high compared to its share of the full converted base.

Phase-In Provision

The Working Group agreed to the suggestion of a four-year phase-in provision. Design of this provision is complicated by the fact that the annual amount owing from each Regional District under the new hybrid approach would change each year over the four-year period, even if only slightly, in response to changes in the underlying assessment base and number of taxable acres. The total amount owing by all Regional Districts — an amount that has been held constant since 2011 — is also expected to change, even if only slightly.

A separate *Technical Paper on Phase-in*, prepared for Regional District staff, outlines the detailed methodology that would be used to determine the actual amounts owing by the Regional Districts each year during the phase-in period.

Service Area Extension Mechanism

The Working Group agreed that further work is needed to develop a mechanism for expanding the SIR Program's service area.² Specifically:

² The issue of service area expansion falls outside of the Group's mandate.

- GIS and other information need to be gathered from the Regional Districts and other sources to properly map the Program's current service area
- criteria need to be developed and applied to identify jurisdictions and/or lands for possible addition to the service area
- a mechanism for adding new areas needs to be developed and put into effect

> **Criteria**

The Working Group spent some time discussing criteria to identify potential changes to the service area. For starters, members felt strongly that jurisdictions, or portions thereof, that are currently included in the service area should not be permitted to withdraw from the area.

Members also suggested that jurisdictions, or portions thereof, with the agricultural conditions necessary to host commercially-viable pome fruit orchards should be considered for inclusion in the service area, but only when such areas are:

- contiguous or in close proximity to the existing area
- not separated from the existing service area by a mountain range or other feature that would effectively impede codling moth migration
- able to be serviced by SIR field staff

> **Mechanism**

Further thought needs to be given to the development of an

effective mechanism for making the additions to service area. One possibility would involve using Regional District establishing bylaws, guided by intra- and inter-regional memoranda of understanding (MOUs), to compel jurisdictions to join the service (or add lands, as the case may be) once criteria for expansion have been met.

Another possibility would involve working with the Ministry of Municipal Affairs and Housing to include jurisdictions (in whole or in part) through regulation.

NEXT STEPS

Based on the information in this paper, SIR's General Manager will prepare a Working Group report with recommendations to the SIR Board. If endorsed by the Board, the recommendations will be presented for consideration to the Boards of the participating Regional Districts. Each Regional District will be asked to provide a resolution in support of the recommended approach and the phase-in period. These resolutions will be submitted by the SIR Board to the Ministry of Municipal Affairs and Housing with a request for an Order in Council to implement the new approach.³

The suggested further work on service area additions will need to be discussed with, and subsequently directed by, the SIR Board.

³ It may be the case that the phase-in period is implemented using a memorandum of understanding involving the four Regional Districts.



Okanagan-Kootenay Sterile Insect Release Program
Governance Workshop — Discussion Paper
October 4, 2019

POTENTIAL FOR LEGISLATIVE REFORM

INTRODUCTION

On October 4, 2019, the SIR Board Directors, Alternate Directors, regional district Chief Administrative Officers (CAOs), and SIR Program staff will be meeting in the second governance workshop to consider cost apportionment methods, and to examine the potential for legislative reform. A briefing note with optional methods on cost apportionment has been provided to attendees. This *Discussion Paper* deals with the issue of legislative reform.

The *Paper* begins with a review of the SIR Program's existing legislative framework, including its strengths and shortcomings. The *Paper* then explores the fundamental question concerning decision-making authority over key elements of the Program's structure. The *Paper* ends with a comment on next steps.

EXISTING FRAMEWORK

The SIR Program's existing legislative framework is set out in the *Governance Manual* that was distributed to stakeholders before the first governance workshop. The main features of the framework are as follows:

- *Municipal Enabling and Validating Act (MEVA)* — The provincial MEVA gives authority to the participating regional districts to establish, through regional district establishing bylaws, a sterile insect release program. The MEVA stipulates that the regional districts must create a separate SIR Board to provide the service on the regional districts' behalf. In addition, the MEVA gives Cabinet the authority to make regulations (i.e., Orders in Council) to

direct the governance, finance, and operations of the Program.

- *Order in Council 124 (1990)* — This Order in Council (OIC), titled *OKSIR Regulation*, is the principal and most comprehensive regulation that has been created to date. It prescribes methods of cost-recovery and cost-sharing for the Program, and gives explicit authority to the SIR Board and its agents to enter onto property to release sterile insects, and to address instances of infestation.
- *Order in Council 396 (1992)* — This regulation gives the SIR Board natural person powers. This provision, combined with the authorities in the *OKSIR Regulation*, provides the Board with powers to determine the Program budget, take and be subject to legal action, hire employees, and enter into legal agreements.
- *Establishing Bylaws* — Using the authority granted by the MEVA, each of the participating regional districts passed an establishing bylaw in 1989 to formally establish the Program as a regional district service. The bylaws have been amended several times in the years since to reflect changing conditions.

Strengths

The existing legislative framework, rooted in the MEVA, was developed to provide for the establishment and operation of a service aimed at addressing an inter-regional issue — that is, an issue that crosses regional district boundaries. From the perspective of the SIR Board, the framework has a number of strengths:

- *Enforcement* — Program staff (on behalf of the Board) have the authority to enter onto private property to release sterile insects, prevent infestation from occurring, and clear wild moths. This authority is critical to the efficacy of the Program.
- *Annual Budget* — The SIR Board has the authority to set and approve the Program's annual budget. The participating regional districts apply the parcel tax and value tax rates to raise the necessary funds; however, the regional districts act in these matters at the direction of the SIR Board.
- *Service Area & Governance* — The participating regional districts have the authority, through their respective establishing bylaws, to determine structural issues that are not addressed in the provincial government's MEVA or OICs. For example, each regional district may determine which local jurisdictions within the regional district are included in the service. As well, through coordinated establishing bylaw amendments, the regional districts may determine the composition of the voting Board.

Shortcomings

The elected officials, managers, scientists, and fruit growers who worked to create the SIR Program in the late 1980s believed that the Program would result in the complete eradication of the codling moth from the Okanagan, Similkameen, southern Shuswap, and Central Kootenay regions.¹ The Program was, accordingly, viewed as and designed to be a limited-term service, put in place to eliminate a single pest.

The legislative framework that was created for the Program reflected, in part, the limited-term nature of the service. Key structural elements related to service scope, service finance, and service governance, were prescribed based on conditions in place at the time. Little thought was given to the need for flexibility to accommodate future changes

in conditions, simply because the Program was not expected to function once the goal of eradication had been achieved.

The legislative framework also reflected the Program's early dependency on funding from other orders of government. Both the provincial and federal governments provided capital funding to construct the rearing facility, and project funding for several years thereafter to address specific operating needs.²

The legislative framework may have been well-suited to a limited-term service dependent on senior government funding. For a program, however, that is long-term in nature, and that has evolved beyond the need for senior government support, the framework presents a number of shortcomings. Consider the following points:

- *Program Scope* — The MEVA identifies the SIR Program as a service that relies on sterile insect technology (SIT) to combat a single pest (i.e., the codling moth). Service participants have limited authority to use other forms of pest control, and have no authority to target invasive species other than the codling moth. Program stakeholders recognize that, as a result of climate change and the increased trade in agrifood products, new pests have emerged to threaten pome fruit orchards and other crops. The SIR Program may be ideally-positioned to address these threats using a range of control methods other than, or in addition to, SIT. The prescriptive legislation, however, does not allow the participating regional districts to direct the Program towards these other fronts.
- *Service Withdrawal* — The legislation is silent on the issue of service withdrawal, either by a participating regional district, or by a local jurisdiction within a regional district. No jurisdiction, to be clear, has raised the possibility of withdrawal for some time.

¹ Regional District Central Kootenay was a participant until 2007.

² Funding from other orders of government effectively ended in 2007.

Withdrawal has, however, been a serious issue in the past, and could arise again.

- *Regional District Approval* — On certain matters the SIR Board requires the approval of the participating regional districts. It is not clear in the legislation, however, what level of approval is required in different instances. In the absence of clear guidance, the SIR Board and regional districts must assume that unanimity among regions is needed in every case. On some issues unanimity may, indeed, be the best course. Requiring it in every instance, however, could be problematic.
- *Cost Recovery* — The legislation prescribes that service costs must be funded using a combination of property parcel taxes charged to growers, and property value taxes charged to all property owners (i.e., general taxpayers). Based on legal advice, and with the unanimous support of the regional districts, the SIR Board recently pursued multi-year supply contracts related to a third revenue source — namely, sales of excess codling moths produced at the SIR rearing facility. It is not clear whether the Program under its current legislation would be able to further develop commercial opportunities in the event that, at some future point, participants wished to pursue sales-of-product revenues more aggressively.
- *Cost Sharing* — The legislation prescribes how the portion of Program cost that is funded through the property value tax is to be shared among regional districts. The *OKSIR Regulation* states that costs must be apportioned on the basis of converted assessment (land only). In 1990, the choice of this particular assessment base was considered by the province to be equitable. In 2006, the regional districts themselves determined that converted assessment (land) was no longer fair, based on conditions in place at that time. The regional districts agreed, as part of a larger re-

structuring initiative, to introduce a fixed-proportion cost-sharing model.³ The conflict between this 2006 model, developed by the participants, and the prescribed approach in the province's *Regulation*, contributed to the decision to undertake the current Governance Review.

AUTHORITY TO DECIDE

The SIR Program enjoys considerable support as an innovative, effective, and environmentally-sensitive service in the control of a destructive invasive species. Ongoing appeals by industry for assistance with other pests, coupled with recent revenue figures from sales of excess product, suggest that the Program remains important throughout the Okanagan and Similkameen Valleys, and into the Shuswap.

The shortcomings in the SIR legislation speak to the prescriptive nature of the framework, a lack of flexibility, and the inability of the participating regional districts to determine for themselves important matters of scope, finance, and governance. The Governance Review is being undertaken to identify possible changes that could be pursued in order to allow the Program to evolve, and continue to succeed, in response to changing needs and opportunities. A fundamental question to consider in this context is:

- Who should have the authority to decide key matters of scope, finance, and governance?

Provincial Government

The regional districts could take the position that the province should retain the authority to make key decisions on structure. Continued provincial control would not preclude the possibility for change; however, it would — arguably — make change difficult to achieve. Provincial control may be preferred, therefore, if participants wished to:

- keep the Program focused on the use of SIT to combat a single pest (i.e., the codling moth)

³ Fixed proportions were determined using the converted land values in place in 2006. The proportions have been used since.

- rely on parcel and value tax revenues to fund the bulk of service costs, and limit the potential for (and risks associated with) other sources
- rely on the 1990 prescribed method of cost-apportionment for the value tax requisition
- ensure that unanimity among participating regional districts is required for all decisions that require regional district approval

Continued provincial control over key structural matters would be achieved by leaving the existing legislative framework in place. Any structural changes that service participants wished to make would need to be presented as requests to the Ministry of Municipal Affairs and Housing. If supportive, the Ministry would need to approach Cabinet to pass Orders in Council pursuant to the MEVA.

Continued provincial control could also be achieved by petitioning the province to remove the SIR Program from the local government arena, and place it under a provincial agency. This alternative was raised in the discussion at the first governance workshop, but did not appear to receive support from stakeholder representatives in attendance. It is also considered unlikely that the province would support the option.

Regional Districts

A transfer of greater decision-making authority to the regional districts would allow service participants to collectively determine, within broad parameters, the following types of matters:

- changes to the Program's scope to target other pests, in addition to the codling moth, using a variety of control methods
- the degree to which non-tax revenue sources should be pursued to fund the service
- the method for apportioning the value tax requisition among regional districts

If the regional districts wished to achieve greater decision-making authority over structure, some form of legislative change at the provincial level would be required. The province could, for example, create special-purpose, SIR legislation to set out the authorities of the SIR Board and the regional districts. The legislation could set out the levels of regional district approval required in different cases, and outline default voting rules to guide inter-regional decisions. Certain decisions, it is anticipated, would require unanimous approval, whereas others could be made on a weighted basis, as set out in the legislation. The regional districts could be given authority under the legislation to determine all other matters.⁴

The province could, alternatively, create legislation to provide for and govern all inter-regional services. The SIR Program is an example of an inter-regional service, established to address a specific issue — the codling moth — that can only be addressed at an inter-regional scale. There are other issues that transcend regional boundaries, and that could either only be addressed on an inter-regional basis, or that would be most effectively addressed at an inter-regional scale.

It is anticipated that interest in inter-regional approaches will increase over time to manage shared resources (e.g., watersheds, airsheds), capture economies of scale, combat common threats, or meet other shared needs. New legislation to provide for these types of services could set out inter-regional voting rules, dispute resolution processes, and all other terms required to help regional districts collaborate with one another. The SIR Program could be put forward as a test case for a new legislative initiative.

Finally, the province could turn to the existing *Local Government Act*. This *Act* is a permissive and relatively flexible piece of legislation that is used already to provide regional services. The legislation provides service participants with broad authority to define service scope, customize service governance, and determine their preferred cost-

⁴ In discussions with Ministry officials, the option of special-purpose legislation has been rejected.

recovery and cost-sharing methods. Service review provisions allow participants to amend these structural elements in response to changing circumstances.

The *Act* does not set out a framework specifically for *inter*-regional services. The *Act* does, however, provide tools that could be explored by regional districts, working together, to provide the SIR Program, and to structure other *inter*-regional arrangements. For example:

- *Local Government Corporations* — Section 265 of the *Act* could be explored as a way for two or more regional districts to create and become shareholders in an SIR local government corporation. The corporation's Articles of Incorporation and/or Members' Agreement could be used to define service scope, outline the structure and authority of the corporation's Board of Directors, set out voting rules, and identify the preferred methods of cost-recovery and cost-sharing. Importantly, the same tools could be used to specify the issues that required shareholder (i.e., regional district) approval, as well as the level of approval needed in any particular case, and the method for achieving approval.
- *Cabinet Regulations* — Section 296 of the *Act* allows Cabinet to confer powers to regional districts that are not conferred under other sections of the legislation. This section could be explored as a way to retain the SIR Board's current authority to enter onto property for the purpose of releasing moths, preventing infestation, and clearing infestation that has occurred.

NEXT STEPS

Shared services involving a variety of local governments can be difficult to structure and difficult to change. This observation applies to *intra*-regional services in which electoral areas and municipalities participate; it also applies to *inter*-regional services, such as the SIR Program, involving more than one regional district.

This *Discussion Paper* has outlined the Program's existing legislative framework and its shortcomings. The *Paper* has made the point that legislative reform may be required for the Program to evolve in response to changing circumstances, needs, and opportunities. Effort would be required by Program participants to identify the types of structural changes desired to the Program's scope of service and funding model, and to elements of the Program's governance. Before identifying possible changes for study, however, it is important for the participants to tackle the question of decision-making authority as it relates to structure. Should such authority rest as it does today with the province, or should it be held by the participating regional districts working together?

This question, which lies at the heart of the *Discussion Paper*, will be put forward for consideration at the October 4, 2019, workshop. The discussion at the workshop will help to determine next steps related to potential legislative reform.