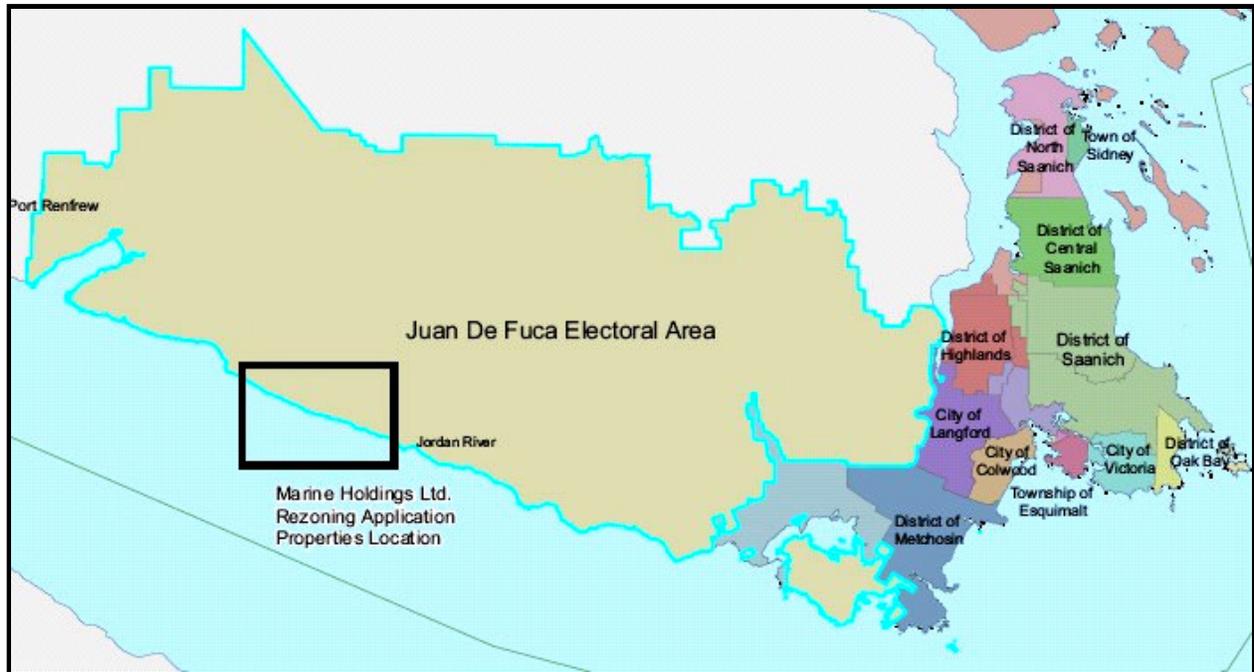


# Forest protection values, strategies, and tactics in the Juan de Fuca electoral area

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Vancouver Island Community Forest Action Network  
[www.WildCoast.ca](http://www.WildCoast.ca)



Capital Regional District, showing Juan de Fuca Electoral Area and Marine Trail Holdings properties

Much of Southern Vancouver Island is forestland. In the 1950's, vast tracts were deeded to logging companies, including the cedar, spruce, and hemlock forests between Sooke and Port Renfrew.

The land west of Sooke is called the Juan de Fuca Electoral Area. This part of the Capital Regional District (CRD) is outside city limits and unincorporated. The CRD typically provides services like electricity, water, administration, and planning for the region. The unincorporated communities in the area are Otter Point, Shirley, Jordan River, and Port Renfrew. This is the traditional territory of the T'Souke First Nation east of Jordan River and the Pacheedaht First Nation to the west. This area is home to elk, bears, cougars, mink, otters, seals, sea lions, eagles, and dozens of other species of wildlife.

A jewel of the region is Juan de Fuca Marine Trail Provincial Park, a strip of coast about 150 meters wide. Located just over an hour from Victoria, the wilderness park and trail are visited by an estimated 300,000 people each year.

Decades ago, forest companies placed much of the private land into a Tree Farm License managed by the province in exchange for logging rights on Crown lands. This plan was intended to promote "sustainable" practices like reforestation and local employment, while allowing the logging companies to reap greater profits.



In 2007, without any consultation, the province removed thousands of hectares of forestland from public management and gave them back to Western Forest Products (WFP) to be converted into real estate. An audit of the decision later found a "lack of consideration for the public interest." Regardless, WFP started splitting

up the parcels and listing them for sale. Seven properties bordering Juan de Fuca Marine Trail Park were purchased by Ender Ilkay, a West Vancouver real-estate baron, for an estimated \$3 million.

The same year, local groups formed a loose coalition called the Jordan River Steering Committee. Dogwood Initiative, Vancouver Island Community Forest Action Network (VIC FAN), Sea to Sea Greenbelt Society, Surfriders, Shirley and Otter Point residents, and environmentalist Vicky Husband began meeting regularly to discuss how to put the brakes on the rush to privatise and develop former forestlands.

The Capital Regional District provides planning services for smart growth, in part by following a Regional Growth Strategy that seeks to keep new development compact and limit sprawl, so that shared infrastructure like roads and water systems are more efficient and natural areas are preserved. This was the context of Ilkay's Marine Trail Resort proposal, first unveiled to the public in October 2010.

The Marine Trail Resort vacation home development was on a scale these rural lands had never seen. There are only about 160 households outside of settlements; this proposal would have added 257 private homes, plus lodges, caretaker residences, rec centres, a helipad, septic fields, and twenty kilometers of paved roads, many just meters from the park boundary. The plan was a massive, sprawling subdivision.

This development certainly would have set a new precedent for the forestlands. Allowing it to proceed could have spawned a flood of copycat proposal as landowners rushed to subdivide their own properties and potentially make millions of dollars on the resulting real-estate speculation. The prospect of a new real-estate bubble loomed.

The odds were certainly against us – a tiny non-profit versus a millionaire developer who was determined to get his way. The land-use committee that would decide the fate of the lands had never denied an application. In our assessment, this committee was firmly in favour of the plan.

Given this analysis, we developed a graduated response strategy, beginning with consultation and awareness-raising, and escalating to more high-pressure tactics.

## Strategies and tactics

“When Ender Ilkay first presented his proposal for the Juan de Fuca trail we were staring down some blindingly complicated and self-contradictory legislation, a biased voting structure, well-resourced opponents and a political system that discourages public involvement.” -- Gordon O'Connor, Dogwood Initiative.

VIC FAN dedicated more than a year of full-time work to stopping this proposal, for several reasons. First, we have a clear mandate from the community to preserve and restore forestlands. Second, many elected representatives appeared unwilling to consider the public interest with regard to the application. Third, we suspect they were unduly influenced by a small group of landowners intent on manipulating the process for their own benefit.

Since the odds were stacked against us, we looked for ways to level up. We sought opportunities for a decisive victory, while chipping away at the proponents by countering misinformation, making alliances, and raising awareness about problems with the application.

Many environmental groups are willing to compromise on land-use issues, and there may be times when that's appropriate. Allowing any sort of subdivision at Juan de Fuca Park, however, would break the Regional Growth Strategy and open the door for a wave of new subdivisions and developments everywhere in the former forestlands.

In the past few years, poorly-planned developments have caused irreparable damage to watersheds in the Juan de Fuca region. West Coast Road is littered with half-built, half-abandoned resorts and vacation-home subdivisions. Builders went bankrupt, buyers didn't materialize, and weeds sprouted along the pavement where there once was a thriving forest, creeks, and wildlife. The promised economic benefits from jobs and taxes did not materialize. It's worth noting that cleared forests regenerate within years, but asphalt and concrete can last for centuries.

This developer – like most developers – is funded by private investors, who are notoriously risk-averse. They put up millions, and they expect millions more in return. They research their investments to guard against loss. A property thronged by angry environmentalists is far less attractive than other opportunities just down the road.

With this in mind, we used "backcasting" to create our strategy. We started by envisioning the end result, then figured out what tactics could bring about that result.

The most effective tactics we used included:

- community consultation
- mass outreach and education
- targeted messaging
- legal research
- mobilization

## **Community consultation**

In spring and summer 2010, we were in Port Renfrew and Shirley speaking to residents about what they value in the forestlands, whether they had grievances about land-use, and what they preferred to see happen in the future.

An opinion survey was mailed to every rural household between Otter Point and Port Renfrew, and the response was substantial. Local residents' preferred outcomes were strikingly pro-environment. Most people favoured not just park creation and forest preservation, but habitat and watershed *restoration*. Those were the top three answers to the question "What would you prefer to see happen to the Juan de Fuca forestlands?" The three least popular choices were real estate development, resort tourism, and clearcut logging. Fewer than 6% of respondents preferred those outcomes.

In Port Renfrew, we met with environmentalists from Pacheedaht First Nation, the indigenous people living on the Port Renfrew reserve. They had serious concerns about the push for more development at all levels of government, from their band council to the government of Canada. They welcomed non-native environmentalists to their territory and urged us to help protect the forest ecosystems and wildlife. The Pacheedaht reserve is about 90 households, most of whom live in poverty. But the people we talked to were more concerned about preserving the environment and restoring due process than about promises of revenue from logging, mining and development.

## **Outreach and education**

When Ender Ilkay proposed his vacation-home project, local residents notified us of the item on the land-use committee agenda. We attended the first of two public information meetings in October 2010 in Sooke.

The information we found was inadequate. For example, the maps didn't show that, due to a historic surveying error, Ender Ilkay owns part of the provincial Juan de Fuca Marine Trail that lies outside the park. He didn't note he was planning to build a dozen cabins on the trail itself. Ilkay later said he was willing to accommodate park hikers by blasting a new path through the steep cliffs closer to shore. This solution is not acceptable, as a sensitive wildlife area on that rugged part of the coast would be permanently damaged. Blasting through a Class A provincial park is not allowed under the mandate of BC Parks to protect wildlife habitat.

At the October meeting, we witnessed the chief councillor of the Pacheedaht First Nation deliver a letter of support on behalf of the band members. Shortly after, I asked people on the reserve for their reaction. They said they had not been informed or consulted about the resort proposal. They hadn't given their approval. And they were angry that the elected chief was speaking for them without asking for their opinions or giving them a chance to talk to the developer.

The Jordan River Steering Committee was very concerned about the proposal and the support it was getting from Juan de Fuca director Mike Hicks, the elected representative for the area. We determined it should be our top priority and we began to organize the first of three public information meetings in Victoria in December 2010.

Hundreds came out to each public meeting. Delegates from the Pacheedaht First Nation repeatedly denounced the development plan. Dozens spoke out against the proposal and in favour of the park.

Along with the mass meetings, we organized mass outings. That winter, dozens of people hiked into the forest for mapping and surveying. They used GPS to survey the area and then overlaid Ilkay's development maps with the trail location and park boundaries. It was clear that Ilkay was planning to build houses right on the trail at Magdalena Point.

Responding to public pressure, Ilkay revised his proposal and moved those future homes to nearby Bear Beach, a popular surfing area. But the new plans still called for the zoning to allow houses on the trail at Magdalena Point. With that zoning, no one could have legally stopped him from building those houses and shutting down the wilderness trail.

The new plans concentrated more houses at Bear Beach and whittled away the 100-meter buffer zone between the park and the vacation home complex. This is significant because fire prevention in a district without any emergency services requires clearing and thinning of trees up to 100 meters from residential structures. The new development concept maps showed houses less than 30 meters from the park boundary.

More groups lined up against the development. BC Parks opposed it. Volunteer firefighters in Shirley said they could not respond to calls outside the fire protection district. Hikers and park lovers rejected the plan. By spring 2011, Wilderness Committee, Sierra Club, Council of Canadians, and the Protect Our Parks Alliance had joined up with the members of the former Jordan River Steering Committee to form a supergroup coalition.

In March and April, the push for development escalated and so did our tactics.

## **Messaging**

Positive messaging emphasized wildlife, wilderness, and local values, while negative messaging focused on the developer, his company, and the province. We took every opportunity to publicize the developer's shortcomings, and appealed to regional and national audiences. Our messages targeted park-lovers, outdoor groups, and other potential supporters.

Because we were working closely with people in Shirley, Jordan River, and Port Renfrew before the proposal was submitted, we understood what they value about these lands. It was clear that this proposal was an affront to those values. We disclosed our survey results to the media and the regional decision-makers, but the poll was largely ignored. Stories in the Globe and Mail and Sooke News in spring 2011 claimed local people supported the proposal and "outsiders" were trying to stop it. We challenged that narrative at every opportunity.

When people speak out against development, developers and their supporters use two arguments to try to discredit them. Either they are NIMBYs ("Not In My Back Yard") or they are meddlesome outsiders interfering with local decisions and economic opportunities, out of presumed selfishness rather than any public interest. In this case, our adversaries went with the "outsiders" argument, because it fit with their strategy of preventing a vote by the entire CRD board.

The plan was put forward as merely a local zoning change rather than a regionally-significant proposal. Voting is structured so that a CRD subcommittee of five people votes on local decisions. This subcommittee had approved every development proposal brought to it, and it unanimously supported the Juan de Fuca proposal. It refused to refer the issue to the CRD as a whole.

Since it was clearly a regional issue affecting a provincial park, and since the zoning proposal violated the Regional Growth Strategy, a full vote should have been called. But the committee would not give up control of the vote. The regional board, which heavily favoured upholding its Regional Growth Strategy, put the demand for a full vote to the province, over the strenuous objections of the subcommittee.

Despite intense lobbying, Minister of Communities Ida Chong refused to allow the whole board to vote. Frustration grew at the Regional Board and the battle lines were drawn.

Meanwhile, the property owner was pushing his agenda. Developers on Vancouver Island often attempt to frame their plans as a "green alternative," while also using threats of logging as political blackmail. So it was no surprise to hear, in spring 2011, that Ilkay was considering logging the properties or opening a gravel mine on the park boundary if he didn't get his resort zoning. Both logging and gravel mining are allowed by the existing zoning, but we suspected the developer was bluffing.

A VIC FAN supporter checked the mining rights on the properties and discovered they were available. Subsurface rights, also called mineral tenures, are sold separately from land titles, and anyone with a free miner's certificate can stake claims on private or public land outside of parks. Our supporter found that no one owned the rights to six of the seven resort properties. He staked them on the provincial mining tenures website for about \$150.



The regional directors were informed that the developer could mine gravel if he wanted, but he didn't have permission to take any minerals off the property. We suggested anyone who pays \$3 million for land and threatens to open a mine on it without securing the mining rights is probably incompetent.

This developer has a temper, and he lashed out. He told the Sooke News that we were "harassing" him. That struck some people as humorous. An anonymous supporter started a website -- "Marine Trail Resort Reviews" -- devoted entirely to mocking Ender Ilkay and his proposal.

The Marine Trail Reviews website and other parody websites like [marinetrailresort.net](http://marinetrailresort.net) and [marinetrailresort.org](http://marinetrailresort.org) are among the top search results for "Ender Ilkay" and "Marine Trail Resort."

Public opposition grew. In April, the phone and email blitz began. Groups in the coalition asked their supporters to contact the CRD and share their opinions. Land Use Committee A -- the five representatives from Langford, Colwood, Sooke, Metchosin, and Juan de Fuca -- was



inundated with email messages and phone calls. A thousand postcards addressed to individual committee members were printed with the message "Only you can protect Juan de Fuca Park." 1750 people signed the petition. Mayor John Ranns of Metchosin says he received one thousand messages about the development. Only three were in favour of the proposal.

Also in April, we organized Sprawlalooza and Rock for the Fuca to raise the profile of the campaign. Our representatives attended and spoke at every CRD board meeting, Planning Committee meeting, Local Land Use Committee meeting, and advisory committee where this proposal was discussed.



By summer 2011, our research on animal species included a photo collection and many first-hand wildlife observations. The website and promotional materials were branded with photos of baby elk, otters, sea lions (left), and mink to appeal to a wide audience and to illustrate the wildlife impacts of the plan.

## **Legal research**

From a legal perspective, the main problem with the resort plan was that it violates the Regional Growth Strategy. The RGS is an agreement between all the municipalities of the CRD and it has the power of law. It seeks to apply smart growth principles and stop urban sprawl. It's a conscious strategy to preserve green space, parkland, air quality, water quality, wildlife, and everything natural that exists outside of cities. The developer – and even the CRD planners on the public payroll – argued that the development wasn't a subdivision, but rather a strata development. However, the Local Government Act defines strata developments as subdivisions. So did the draft agreements in the rezoning application itself.

We noted this was not a tourist resort, as all the vacation homes would be privately and separately owned, and there was no incentive to rent temporary accommodations to the travelling public. This again contradicts the Regional Growth Strategy and the Official Community Plan for the area.

It appeared the development plan was technically illegal. Our lawyers helpfully pointed this out in the legal opinion delivered to the public hearing on September 6.

The lawyers were retained by VIC FAN and Sea to Sea Greenbelt Society (SSGS). These are tiny groups with no staff, no offices, and budgets under \$10,000 a year. But unlike some of the other groups, they are not charities and therefore have more flexibility regarding tactics like court cases. Charities can lose their tax-exempt status if they take on projects that go beyond educational programs.

For the legal challenge, VIC FAN and SSGS obtained a grant from West Coast Environmental Law. Their support, and the outstanding work by our lawyers Catherine Boies-Parker and Robin Gage, was timely and telling.

We had the support of many at the University of Victoria, including the Environmental Law Centre and lawyer Deborah Curran, who provided the first opinion on the development and the Regional Growth Strategy.

## **Mobilization**

The Marine Trail Resort bylaws were hundreds of pages long, and they were released only two weeks before the public hearing. We posted the documents on the website and made sure they got wide distribution, in order to crowdsource the research that was needed in a very short time.

Dozens of people put in long hours preparing for the public hearing. They pored over the development plans and reports and analysed them carefully. Planners, consultants, and other experts found serious errors and helpfully explained them to the decision-makers. Students, faculty, environmentalists, and local residents studied the piles of dense legal and technical info and emailed their findings to the "brain trust" – the core of the supergroup coalition.

The CRD rented the largest hall in Sooke and scheduled two days for the hearing. VIC FAN mailed 1700 postcards informing local residents of the hearing, explaining the development proposal, and asking people to come and give their opinions. We put up billboards on Highway 14 and posted signs along the Juan de Fuca trail and at every trailhead and parking lot.

By the time the date for the public hearing arrived, people were primed. Although it was the day after Labour Day and the first day of school, the biggest hall in Sooke couldn't hold everyone. We greeted the crowd with a barbecue, First Nations welcome, and live music. Three schoolbuses brought students and Greater Victoria residents to the hall. We broke the room and we set the record for the longest public hearing on the south island – three days and 13.5 hours in total. 250 people spoke at the hearing, and only four were in favour.

This was a demonstration of the public will elected officials could not ignore, especially with municipal elections coming in November.

From the opening speakers, it was obvious this public hearing was going to be different. The Raging Grannies performed a song they composed just for the occasion and declared that they expected another mass civil-disobedience protest like the one in Clayoquot Sound in the 1990's, where almost a thousand people were arrested. Many people made similar statements. They talked about how much they loved the forests and the wildlife, how much they loved the park, and how they would fight to save it.

Saul Arbess of Sea to Sea Greenbelt Society delivered the legal opinion, and Zoe Blunt of VIC FAN presented 1750 petition signatures and made two announcements. First, we would take the bylaw to court if it were adopted, and second, the Juan de Fuca director would face a challenger for his position in the fall election.

The morning after the public hearing, the walls came down. One after the other, three of the five committee members announced they were voting against the resort proposal. When the vote was taken on September 14, it was unanimous – all opposed. We won. The proposal was defeated.

# Thank you



Photo: Shannon Bukowski

**Vancouver Island Community Forest Action Network**  
**For more information:**  
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