

FOR IMMEDIATE RELEASE

March 9, 2010

---

## **Private sewage treatment would make CRD vulnerable to trade restrictions**

BURNABY—If local governments opt for public private partnerships (P3s), something which is under consideration for the Capital Regional District's new sewage treatment, they are more vulnerable to the restrictions of the Canada-United States Procurement Agreement (CUPA).

A new legal opinion by Steven Shrybman of Sack Goldblatt Mitchell says the CUPA contains temporary rules that will make it difficult for the CRD to achieve environmental protection and local economic development objectives. Shrybman concludes that the best way to avoid the CUPA requirements is to go with conventional public procurement rather than a P3.

"This opinion should give elected councillors in the CRD cause for serious concern about what they will be able to achieve as part of the sewage treatment project if they opt for a P3. The CRD has placed a high priority on things like community economic development and environmental and resource conservation goals and they should have the right to pursue these goals," said CUPE BC president Barry O'Neill.

In the 20 page opinion, Shrybman identifies a number of vulnerabilities for the CRD – including being prohibited from specifying some portion of local or even Canadian goods, services and labour and from supporting a market for innovative Canadian environmental or energy design or Canadian green technologies. He also cautions that the agreement creates a litigation risk arising from the rights US companies have under the CUPA to challenge both the method and the terms of certain CRD procurements.

Shrybman says that the conventional public approach to procurement offers several important advantages over a P3 model, allowing the sewage treatment project to avoid being captured by the CUPA rules.

The Canadian Union of Public Employees commissioned the opinion from Steven Shrybman of Sack Goldblatt Mitchell LLP Lawyers. A backgrounder and the full opinion are available at [www.cupe.bc.ca/campaigns/water-watch/reports-research](http://www.cupe.bc.ca/campaigns/water-watch/reports-research).

-30-

For more information: Roseanne Moran, CUPE Communications: 778.835.7537