



Agricultural Land Commission
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January 10, 2013

ALC File: #52270
Your File: Dossier 12.0048

Madrone Environmental Services Ltd.
1081 Canada Avenue
Duncan, BC
V9L 1V2

Attention: Gordon Butt:

Dear Mr. Butt:

Re: Reconsideration – Placement of Fill in the ALR (8645 – 256th Street, Langley)

Please find attached the Minutes of Resolutions #473/2012 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to be 'Brian Underhill', written over a long, thin horizontal line that extends across the page.

Brian Underhill, Executive Director

Enclosure: Minutes

cc: Township of Langley (SO000049)

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on November 21, 2012 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to the Request for Reconsideration of Application #52270.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jim Collins	Commissioner

COMMISSION STAFF PRESENT:

Eamonn Watson	Land Use Planner
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REQUEST FOR RECONSIDERATION

The Commission received a letter dated August 29, 2012 requesting reconsideration of its decision recorded as Resolution #13/2012, by which, the proposal to place fill was refused.

Owner: William Nesteruk
Agent: Gordon Butt, Madrone Environmental Services Ltd.

Original Proposal: The applicant is proposing to place fill on approximately 6.1 hectares of the subject property. 41,000 cubic metres of fill would be used to elevate the project area approximately 0.6 metres. The intention of the proposed fill is to re-establish a hay field that has been affected by flooding in recent years.
(Submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)

Original Decision: Resolution #489/2011 – That the application to deposit soil be refused.

1st Reconsideration: Resolution #13/2012 – That the previous decision be upheld.

Current Request: Reconsider the application as originally proposed.

Legal: PID: 013-002-651
Parcel "F" (Plan with Fee Deposited 52857E), District Lot 325, Group 2,
New Westminster District

Location: 8645 – 256th Street, Langley

LEGISLATIVE CONTEXT FOR COMMISSION RECONSIDERATION

Section 33 (Reconsideration of decisions) of the *Agricultural Land Commission Act* states:

- 33 (1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that:
- (a) evidence not available at the time of the original decision has become available,
 - (b) all or part of the original decision was based on evidence that was in error or was false.

DECISION REGARDING THE REQUEST FOR RECONSIDERATION

The Commission believes that the applicant has provided evidence that was not available at the time of the previous decision. More specifically, the new information is contained in the September 6, 2012 submission from Mr. Gordon Butt, M.Sc., P.Ag., P.Geo, of Madrone Environmental Services Ltd. (the "Madrone Submission"). Mr. Butt described the new information as:

1. *A letter from the Town[ship] of Langley (August 16, 2012) stating that drainage improvements are low priority and that other culverts on private land downstream of Mr. Nesteruk's property are in any case not the jurisdiction of the Town[ship];*
2. *A report from Northwest Hydraulics (August 15, 2012) stating that impeded capacity of culverts on private land downstream of Mr. Nesteruk's property may have exacerbated his drainage problem;*
3. *An assessment of surface water flow regimes by Horizon Engineering Ltd. (August 10, 2012) stating that natural surface flow is from east to west across Mr. Nesteruk's field and that a fill operation in the property to the west (25300 88th Ave.) may have exacerbated the drainage on the subject property."*

The Commission determined that there were no persons affected by the reconsideration and that it proceeded to reconsider Resolution #13/2012.

COMMISSION CONSIDERATION

After considering the Madrone Submission, including the attached reports prepared by Northwest Hydraulic Consultants regarding culvert capacities and drainage, Horizon Engineering Inc. regarding a geological interpretation and comments regarding drainage and the previously submitted file information the Commission concluded as follows:

Conclusions:

The Commission is satisfied that excess surface and groundwater (high water table) are limiting the agricultural use of the property. However, the Commission remains convinced that water management solutions other than placing fill on the property are preferred.

The Commission acknowledges that any such solutions will likely be longer term and will require some effort on the part of your client, either by implementing specific on site surface and groundwater management, working with the neighbours and local government to work towards a broader area solution or a combination of the two.

IT WAS

MOVED BY: Commissioner Thibeault

SECONDED BY: Commissioner Dowswell

THAT the request to place fill be refused.

CARRIED

Resolution #473/2012