



Agricultural Land Commission
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June 1, 2016

ALC File: 54618

Active Earth Engineering Ltd.
160 – 2250 Boundary Road
Burnaby, BC V5M 3Z3

Attention: Jeff Taylor

Dear Mr. Taylor:

Re: Application to Conduct a Non-Farm Use in the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #175/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly.

Your attention is drawn to s. 33(1) of the *Agricultural Land Commission Act* which provides a person affected the opportunity to submit a request for reconsideration.

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.

Please note that pursuant to s. 33.1 of the *Agricultural Land Commission Act*, the Chair may direct the executive committee to reconsider this panel decision if, within 60 days from the date of this decision, he considers that the decision "may not fulfill the purposes of the commission as set out in section 6". I can advise you that in this case, the Chair has already reviewed the decision and has instructed me to communicate to you that he does not intend to exercise that authority in this case.

Further correspondence with respect to this application should be directed to Eamonn Watson at (Eamonn.Watson@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Colin J. Fry, Chief Tribunal Officer

Enclosure: Reasons for Decision (Resolution #175/2016)

cc: Squamish-Lillooet Regional District
Attention: Kyle Vash (File No.: DL 182 – 748-01215.00)
Via electronic mail (kvash@slrd.bc.ca)

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AGRICULTURAL LAND COMMISSION FILE 54618

**REASONS FOR DECISION
OF THE SOUTH COAST PANEL**

Application submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act*

Applicant: **Pemcap Organics Ltd.**
(the “Applicant”)

Agent: **Jeff Taylor**
Active Earth Engineering Ltd.
(the “Agent”)

Application before the South Coast Regional Panel: **William Zylmans, Panel Chair**
Gordon McCallum
Satwinder Bains



THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 005-223-181

Lot 1, District Lot 182, Lillooet District Plan 24518

(the "Property")

[2] The Property is 3.1 ha in area.

[3] The Property has the civic address 8409 Pemberton Meadows Road, Pemberton (Electoral Area C).

[4] The Property is located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[5] The Property is located within Zone 1 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 20(3) of the *ALCA*, the Applicant is applying to retain approximately 200 m³ of fill material that was imported onto the Property, which was placed over an area approximately 200 m² in size to construct a BMX bike track (the "Proposal"). The Proposal along with supporting documentation is collectively referred to hereafter as the "Application".

[7] On January 29, 2016, the Chair of the Agricultural Land Commission (the "Commission") referred the Application to the South Coast Regional Panel (the "Panel").



RELEVANT STATUTORY PROVISIONS

[8] The Application was made pursuant to s. 20(3) of the *ALCA*:

20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land.

[9] The Panel considered the Application within the context of s. 6 of the *ALCA*:

6 The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

EVIDENTIARY RECORD BEFORE THE PANEL

[10] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Previous application history
4. Agricultural capability map, ALR context map, and satellite imagery

All documentation noted above was disclosed to the Applicant and Agent in advance of this decision.



[11] The Squamish-Lillooet Regional District resolved to forward the Application to the Commission.

[12] The Panel reviewed one (1) previous application involving the Property:

Application ID: 2494
Legacy File: 29175
(LeBlanc, 1994)

In 1994, the Commission considered an application to subdivide the Property into two (2) lots. The Commission, by Resolution #943/1994, refused the application in part because the proposed subdivision would reduce the agricultural potential of the land.

SITE VISIT

[13] The Panel, in the circumstances of the Application, did not consider it necessary to conduct a site visit to the Property based on the evidentiary record associated with the Application.

FINDINGS

[14] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings identified on CLI map sheet 92J/7 for the mapping units encompassing the Property are Class 1 and Class 2, more specifically ([8:1 – 2:2W]) and (2W).

Class 1 - land is capable of producing the very widest range of crops. Soil and climate conditions are optimum, resulting in easy management.

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

The limiting subclass associated with this parcel of land is W (excess water).

In this regard, the Panel finds that the land making up the Property is capable of supporting agriculture and is appropriately designated within the ALR.

[15] The amount of fill imported and placed on the Property was very limited, only 200 m³. As noted in the Application, should the BMX bike track be decommissioned the fill could be spread over a 0.5 ha area to a depth of less than 5 cm. Furthermore, the Application states that a soil analysis of the imported material was conducted and that “[r]esults indicate that all parameters meet Agricultural Land Use standards”. The Panel finds that the BMX bike track could readily be reclaimed and the limited amount of fill material used could be spread over the Property with no impact on the agricultural capability of the land or Property.

[16] The area where the material was placed on the Property and where the BMX bike track is located is only 200 m² in size. This could likely be considered ancillary to the residence on the Property provided the BMX bike track is used solely for the Applicant’s personal use. The Panel does not object to the use of the BMX bike track in this manner. If the Applicant is considering providing public access (regardless of whether or not a fee is charged) to the BMX bike track an application pursuant to s. 20(3) of the ALCA to obtain approval for such public use would be required.

DECISION

[17] For the reasons given above, the Panel approves the Proposal to retain approximately 200 m³ of fill material that was imported onto the Property, which was placed over an area approximately 200 m² in size to construct a BMX bike track.

[18] The Proposal is approved subject to the following conditions:

- a. No further material may be imported to the Property without first obtaining approval of the Commission by way of an appropriate application pursuant to s. 20(3) of the ALCA, except as permitted by BC Regulation 171/2002 (*Agricultural Land Reserve Use, Subdivision and Procedure Regulation*);



- b. The BMX bike track may not be expanded and structures related to the BMX bike track may not be developed without obtaining approval of the Commission by way of an appropriate application pursuant to s. 20(3) of the *ALCA*;
- c. The area where the BMX bike track is located must be reclaimed, the imported material must be spread in an appropriate manner and the area must be planted to an appropriate agricultural crop or ground cover should the BMX bike track no longer be in use by the Applicant;
- d. The BMX bike track may only be used for personal use by the Applicant. If public use of the BMX bike track is being contemplated an appropriate application pursuant to s. 20(3) of the *ALCA* to obtain Commission approval must be submitted.
- e. Approval for non-farm use is granted for the sole benefit of the Applicant and is non-transferable without written consent from the Commission.

[19] This decision should not be construed as support for any future application related to the BMX bike track that may be submitted. Although the Commission may consider this decision should a future application be reviewed, this decision does not fetter the Commission in adjudicating such an application based on the merits of the particular application.

[20] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

[21] Panel Chair **William Zylmans** concurs with the decision.

Commissioner **Gordon McCallum** concurs with the decision.

Commissioner **Satwinder Bains** concurs with the decision.

[22] Decision recorded as Resolution #175/2016.

A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *ALCA*.



Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #175/2016. The decision is effective upon release.

A handwritten signature in blue ink, appearing to be 'CJF', is written over a horizontal line.

Colin J. Fry, Chief Tribunal Officer

May 31, 2016
Date Released