



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

June 13, 2012

Reply to the attention of Eamonn Watson
ALC File: 52270

William Nesteruk
8645 – 256th Street
Langley, BC
V1M 3N3

Dear Mr. William Nesteruk:

Re: Request for reconsideration – Application to deposit soil in the Agricultural Land Reserve, 8645 – 256th Street, Langley

Please find attached the Minutes of Resolutions # 13/2012 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to be 'B. Underhill', written over a long horizontal line.

Brian Underhill, Executive Director

Enclosure: Minutes

cc: Township of Langley (SO000049)
Victoria Stevens, Madrone Environmental Services Ltd. 1081 Canada Avenue, Duncan,
BC, V9L 1V2

EW/52270d2



PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 17th, 2012 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Commissioner
Sylvia Pranger	Commissioner
Bert Miles	Commissioner
Jim Johnson	Commissioner

COMMISSION STAFF PRESENT:

Colin Fry	Executive Director
Eamonn Watson	Land Use Planner

APPLICATION ID: # 52270

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*)

PROPERTY INFORMATION:

Owner: William Nesteruk
Date of Acquisition: June 25, 2007
Parcel ID: 013-002-651
Title No. CA481148
Legal Description: Parcel "F" (Plan with Fee Deposited 52857E), District Lot 325, Group 2, New Westminster District
Civic Address: 8645 256 Street, Langley
Size: 8.4 ha
Area in ALR: 8.4 ha
Current Land Use: Home business, residence, barn, mobile office and hay field.
Farm Classification: No
(BC Assessment)

COMMISSION CONSIDERATION:

Background

On October 27th, 2011 the Commission considered an application to place fill on the subject property. By Resolution # 489/2011 the Commission refused the proposed fill placement project.

On March 9th, 2012 the Commission received, via email, a request for reconsideration from Victoria Stevens, of Madrone Environmental Services Ltd., on behalf of the applicant. Included with the request for reconsideration was a report, dated March 5th, 2012, prepared by Madrone Environmental Services Ltd.

Context

Section 6 of the *Agricultural Land Commission Act* identifies the purposes of the Commission as: (1) to preserve agricultural land; (2) to encourage farming on agricultural land in collaboration with other communities of interest; and (3) 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.

Reconsideration

The application was considered under Section 33 of the *Agricultural Land Commission Act* (the "Act") which states:

- S33(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, or
 - (c) a recommendation by a facilitator under section 13 relating to a dispute warrants a reconsideration of the original decision.

Site Specific Report

Report Prepared By: Madrone Environmental Services Ltd.
Authors: Victoria Stevens, B.Sc., G.I.T. and Gordon Butt, M.Sc., P.Ag., P.Geo.
Date Prepared: March 5th, 2012

The Commission considered the *Proposed Placement of Fill on Agricultural Land* (the "P.Ag. Report") received with the request for reconsideration.

The P.Ag. Report provided additional information regarding the proposed placement of fill; the Commission considered this to be new information and believed a reconsideration under section 33 of the Act was warranted. More specifically, the P.Ag. Report provided information regarding the proposed 6.1 ha project area, including: a site description (with photos), soils mapping information and assessment (with photos), an overview of the proposed filling, potential impacts of the proposed filling, and recommendations with respect to the proposed filling.

The P.Ag. Report stated that "a culvert located downstream on Palmateer Creek has been identified for upgrading by the Township of Langley. Upgrading the culvert could alleviate some of the flooding, however, action on this item is not under the control of Mr. Nesteruk, nor is it certain that it would solve the flooding issue at the property."

The Commission, in its previous decision, stated that "the importation of soil should only be used in situations where all other options have been demonstrated to be either unsuccessful or unjustified."

The Commission also understands that the majority of the downstream culverts on Palmateer Creek have been identified for upgrading by the Township of Langley. The Commission believes that the identified upgrading to the Palmateer Creek culverts would be a more appropriate method to deal with the problems currently affecting the subject property.

DECISION:

IT WAS

MOVED BY: Commissioner Bert Miles

SECONDED BY: Commissioner Jennifer Dyson

THAT the previous decision be upheld and the application to the place fill be refused.

AND THAT the applicant be advised of the provisions of Section 33 of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration.

- S.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.*
- (2) *The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.*

AND FINALLY THAT the applicant be advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration and the time limit for submitting a request for reconsideration is one (1) year from the date of the original decision letter.

CARRIED

Resolution # 13/2012