



July 20, 2015

Agricultural Land Commission
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ALC File: 53830

EBB Environmental Consulting Inc.
PO Box 18180, 1215C – 56th Street
Delta, BC V4L 2M4

Attention: Oliver Busby

Dear Mr. Busby:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #207/2015) as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) 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 is to 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 #207/2015)

cc: Corporation of Delta – Attention: Susan Elbe (File: LU006963)
4500 Clarence Taylor Crescent, Delta, BC V4K 3E2

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AGRICULTURAL LAND COMMISSION FILE 53830

REASONS FOR DECISION OF THE SOUTH COAST PANEL

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

Applicant:

**519090 BC Ltd.
(the "Applicant")**

Agent:

**EBB Environmental Consulting
Inc.
(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: 013-028-839

Parcel "B" (483662E), Except: Part on Statutory Right of Way Plan 45999A; District Lot 177, Group 2, New Westminster District
(the "Property")

[2] The Property is 66.1 ha in area.

[3] The Property has the civic address 3752 Arthur Drive, Delta.

[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 import and place approximately 79,350 m³ of fill material over a proposed project area of approximately 11 ha on the Property with a maximum depth of 1.38 m (the "Application").

[7] On April 21, 2015, 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. Agricultural capability map, ALR context map and satellite imagery

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

[11] The Corporation of Delta resolved to forward the Application to the Commission for consideration with no further comment.

SITE VISIT

[12] 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

[13] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system. The improved agricultural capability ratings identified on BCLI map sheet 92G/3(a) for the mapping units encompassing the Property are Class 1, Class 2 and Class 3.

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.

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

The limiting subclasses associated with the Property are D (undesirable soil structure), N (salts) and W (excess water).

[14] In addition, the Panel reviewed the report titled, *Soil Deposit/Fill Application 3752 Arthur Drive, Delta BC* prepared by Oliver Busby ("Mr. Busby"), MBA, R.P.Bio, P.Ag., of EBB Environmental Consulting Inc., dated August 2013 along with the letter dated December 30, 2013, also prepared by Mr. Busby, that were provided with the Application (collectively referred to hereafter as the "EBB Report"). The EBB Report refers primarily to the proposed 11 ha project area identified in the Application.

[15] The Panel reviewed the BCLI ratings and the EBB Report and finds that the land comprising the Property is capable of supporting agriculture and is appropriately designated within the ALR. However, the 11 ha area specifically proposed for the placement of fill is limited and requires improvements in order to support soil based agricultural pursuits.



[16] A large portion of the Property is in agricultural production, specifically two (2) large greenhouse located in the northwest corner, and the Application is intended to increase the agricultural capability of the proposed 11 ha project area. The Panel finds, in this instance, that the placement of fill along with appropriate reclamation of the proposed project area would be the most appropriate way to improve the agricultural capability of the area identified in the Application.

DECISION

[17] For the reasons given above, the Panel approves the Application to import and place approximately 79,350 m³ of fill material over a proposed project area of approximately 11 ha on the Property.

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

- a. all fill placement activities must be conducted in substantial compliance with the information submitted with the Application, including, but not limited to the EBB Report;
- b. fill placement activities must be restricted to the 11 ha area shown in the EBB Report;
- c. the total fill placement must be limited in depth to achieve the finished grade elevations as identified in the EBB Report. The final elevation of the project area must coincide with the grade elevation identified in the EBB Report and the total volume of material is limited to 79,350 m³;
- d. the project must be overseen by a qualified registered professional, with specific knowledge of soils, drainage, fill placement and land reclamation, who must complete the following:
 - status reports every month, as identified in the EBB Report, to update the Commission on the progress of the project. The first such report is due one (1) month after the commencement of the project; and



- a final report submitted to the Commission upon completion of the project. The final report must include, but is not limited to, the following:
 - a written description of the completed project;
 - evidence that the fill placement project has been completed as described in the information submitted with the Application;
 - final cross section profiles of the fill project area showing final contours,
 - clear and accurate measurements of the fill project area, depths and volumes of imported material;
 - photographs of the fill project area accompanied by a scale drawing (map) showing the location and direction the photos were taken; and
 - hydrological overview with respect to drainage of the fill project area and adjacent lands.

The Commission recognizes Mr. Busby, MBA, R.P.Bio, P.Ag., of EBB Environmental Consulting Inc. as the qualified registered professional of record with respect to this project;

- e. under the direction of the qualified registered professional, all existing topsoil over the fill placement area must be stripped and salvaged for use during project completion where appropriate. Stock piled topsoil must not be removed from the Property without expressed written permission from the Commission;
- f. unauthorized fill material must not be placed on the Property;
- g. appropriate weed control must be practiced on all disturbed areas;
- h. soil stock piles must be seeded and established to an appropriate plant cover, or other suitable soil erosion control measure must be applied to protect the stock piles from wind, runoff or other removal process;
- i. access and egress of all vehicle traffic associated with the fill placement project, and other related activities, must be restricted to a single access road onto the Property;



- j. dust suppression practices and/or restrictions on fill placement related vehicle traffic must be applied when necessary to minimize air-borne dust from traffic on the access road;
- k. approval is granted for a three (3) year term (until July 20, 2018);
- i. to ensure the successful reclamation of the project area and appropriate oversight should the Applicant cease to consult with a qualified registered professional, a financial security in the form of an Irrevocable Letter of Credit (the "ILOC") in the amount of \$150,000 must be posted with the Minister of Finance, in favour of the Provincial Agricultural Land Commission. The ILOC is to ensure:
 - the fill placement project is conducted in accordance with the information submitted with the Application;
 - the project continues to be overseen by a qualified registered professional;
 - status reports are submitted; and
 - the Property is returned to an agricultural standard.

For greater clarity, some or all of the ILOC will be accessible to and used by the Commission upon default of the Applicant and/or the Applicant's agents to comply with all aspects of the conditions of approval contained herein.

Release of the ILOC will be dependent on receipt of evidence that the fill placement project is completed to a standard deemed satisfactory by the Commission. In this regard, the Commission will consider the status and final reports that must be prepared by a qualified registered professional and submitted to this office in fulfillment of condition d. above; and

- m. approval to place fill is granted for the sole benefit of the Applicant and is non-transferable without written approval of the Commission.

[19] 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.



- [20] Panel Chair **William Zylmans** concurs with the decision.
Commissioner **Gordon McCallum** concurs with the decision.
Commissioner **Satwinder Bains** concurs with the decision.

[21] Decision recorded as Resolution #207/2015.

A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the Agricultural Land Commission Act.

Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #207/2015. The decision is effective upon release.



Colin J. Fry, Chief Tribunal Officer

July 20, 2015
Date Released