



# Regional Board Report

## Request for Decision

**To:** Regional Board

**From:** Todd Cashin, Director of Community Services

**Date:** December 1, 2022

**Subject:** Agricultural Land Commission – Soil of Fill Use Application (A-22-06)  
H Bahniwal Holdings Ltd, Inc. No. BC1360023 (Owner)  
Ecoscape Environmental Consultants Ltd. (Agent)  
Lot 54, District Lot 1, ODYD, Plan KAP475, Except Plan H13691 – 5760 Anderson Road  
Central Okanagan East Electoral Area

***Voting Entitlement:*** All Directors - Unweighted Corporate Vote - Simple Majority (LGA s.208)

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**Purpose:** To consider an Agricultural Land Commission (ALC) referral application to permit the placement of 140,100m<sup>3</sup> of fill on approximately 3.4 Ha (8.4 acres) of the subject property.

### Executive Summary:

This application proposes placement of 140,100 m<sup>3</sup> of soil and fill on the subject property, remediating disturbance caused by historical gravel extraction and creating topography that will be more favorable for sweet cherry orchards. This proposal is aligned with a fill placement application for 5630 Anderson Road, immediately south of the subject property. The applicant has submitted an agrologist report, grading plan and soil survey that supports the proposed fill placement, agricultural improvement, irrigation, and orchard development.

Given the proposal's alignment with the Ellison Official Community Plan, which aims to support the improvement of agricultural activities, staff recommend that the Regional Board grant conditional support for this application. Furthermore, staff recommend that the Board's response to the Agricultural Land Commission includes requirements for the applicant to adhere to all best management practices and mitigation measures outlined in the agrologist report, and that they endeavour to minimize disruption to neighbouring properties and road networks within the RDCO.

### Recommendations:

**THAT** the Regional Board receives the report from the Director of Community Services, dated December 1, 2022, with respect to RDCO File: A-22-06 (ALC application #66504) for the property located at 5760 Anderson Road and legally described as Lot 54, District Lot 1, ODYD, Plan KAP475, Except Plan H13691 ("the Subject Property");

**AND THAT** the Regional Board conditionally supports application A-22-06, to allow fill placement upon the Subject Property as outlined in the report dated December 1, 2022;

**AND FURTHER THAT** staff be directed to forward application A-22-06 to the Agricultural Land Commission with the following comments and recommendations;

The Regional District of Central Okanagan supports ALC application #66504 subject to the following conditions;

- Adherence to all best management practices and mitigation measures recommended in the agrologist report prepared by Ecoscape Environmental Consultants Ltd.
- A Transportation Route Plan reviewed and approved by the Ministry of Transportation and Infrastructure that outlines:
  - routes plans;
  - number of trips; and
  - measures to minimize impacts to roads, road users and residents on routes.

**AND FURTHER THAT** the Regional Board directs staff to review regulatory options for the management of soil and fill placement, and to report back to the Regional Board with recommendations.

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*Respectfully submitted by: Shaun O'Dea, Planner*

Approved by:



Todd Cashin, Director of Community Services

Attachment(s):

1. Orthophoto Map
2. ALC Application # 66504
3. Agrologists Report
4. Grading Plan
5. Presentation Slides

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**Strategic Plan Alignment:**

Priorities: Sustainable Communities

Values: Resiliency

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**Background:**

No agricultural activities currently take place at the property which is developed with a single-family home and accessory buildings.

There is evidence of gravel extraction from much of the western portion of the site which has resulted in a topographical depression. On July 5, 2022, the owners submitted a Notice of Intent (NOI) to the ALC,

requesting permission to place fill and restore the natural grade of the land to maximize the agricultural potential. A similar application was also submitted for 5630 Anderson Road (directly south of the subject property) to create a consistent grade across the two parcels. The ALC declined these NOIs and directed the applicant to apply for a Soil and Fill Permit which is subject to review by the local government.

The RDCO has previously considered two (2) ALC Soil and Fill Use Application referrals in the Community of Ellison:

- A-12-01 - 5499 Postill Lake Rd – approved placement of fill upon 0.9 ha of the property.
- A-18-01 - 2624 Lakha Rd – approved placement of 3,550m<sup>3</sup> of fill in a ravine.

This summary does not include soil and fill placement activities that may be approved by the ALC through a NOI, or activities outside of the Agricultural Land Reserve. Under current RDCO regulations, only fill placement within the ALR or Development Permit Areas (where there are potentially hazardous geotechnical conditions or sensitive ecosystems) may be subject to Regional District approval.

#### Property overview:

<b>Owner/Applicant:</b>	H. Bahniwal Holdings Ltd.
<b>Agent:</b>	Ecoscape Environmental Consultants Ltd.
<b>Address:</b>	5760 Anderson Road
<b>Legal Descriptions:</b>	Lot 54, District Lot 1, ODYD, Plan KAP475, Except Plan H13691
<b>Lot Size:</b>	5.11 ha (12.63 acres)
<b>OCP Designation:</b>	Agriculture
<b>Zoning:</b>	A1 - Agriculture
<b>Existing Use:</b>	Single Family Dwelling
<b>Surrounding Uses:</b>	<b>North:</b> A1 - Single Family Dwelling <b>South:</b> A1 - Single Family Dwelling <b>East:</b> A1 - Single Family Dwelling <b>West:</b> A1 - Grain and Forage / Single Family Dwelling
<b>ALR:</b>	Yes
<b>Fire Protection:</b>	Ellison Fire Protection Area
<b>Water Supply:</b>	Glenmore Ellison Irrigation District
<b>Wastewater Disposal:</b>	On-site wastewater disposal

#### Proposal:

The RDCO has received a Placement of Fill application with an associated agrologist report, grading plans and a soil survey. These reports indicate that the current land capability is class 4 – 6 (conditions that severely restrict the range of suitable crops), and that the proposed remediation measures will increase the capability to class 1 and 3 with irrigation (land with relatively minor limitations). Fill placement in low-lying areas and grading of steep slopes will help reduce frost pockets and improve the agricultural viability of cherry orchards which are proposed for the site.

The total fill placement area is 3.4 ha, with an average fill depth of 4 m a maximum fill depth in some areas of 10 m. The total anticipated volume of fill is 140,100 m<sup>3</sup>. Existing topsoil will be retained where possible and areas that are not cultivated will be reseeded with an agricultural seed mix.

Section 8 of the agrologist report included with this application (Attachment 3) lists management practices and mitigation measures intended to optimize the project outcomes and minimize disturbance to the surrounding environment and community, including:

- Analysis of soil sources prior to fill placement
- Maintenance of road surfaces adjacent to the project area

- Onsite management of drainage and sediment discharge
- Monitoring by a professional agrologist throughout the project
- Delineation of disturbance limits
- Observance of avian nesting periods and completion of surveys prior to any clearing activities
- Topsoil salvage
- Dust suppression with onsite watering, fully enclosed trailers, and vehicle speed limits
- Working hours limited to between 7:00am and 7:00pm, Monday to Friday
- Weed management and reseeded of exposed soils for invasive plant management and to promote site restoration.

**Site Context:**

Provincial maps indicate an ephemeral stream running from the north-eastern corner of the property to the western boundary, however no evidence of a stream channel was observed by the consulting agrologist or RDCO staff during site visits. Although this area is within a Development Permit Area, this project will meet the exemption criteria detailed in Section 18.4.3 of Ellison Official Community Plan Bylaw No. 1124 and a Development Permit is not required.

**Regional Growth Strategy Bylaw No. 1336:**

The following goals and policies of the RGS are relevant to the Placement of Fill application:

- Our Land - Goal 3.2.1 - To manage the land base effectively to protect natural resources and limit urban sprawl.
- Policy 3.2.5.2 - Preserve and support sustainable agricultural activities and land base that enhances local agriculture through the strengthening of best practices, support of local and regional food systems and the expansion of local food markets and agri-tourism.
- Policy 3.2.5.7 - Protect the supply of agricultural land and promote agricultural viability.

**Ellison Official Community Plan Bylaw No. 1124:**

The following objectives and policies of the OCP are relevant to the Placement of Fill application:

- Section 14, Objective 1.5 - Support the development, improvement, and expansion of agricultural activities.
- Section 15, Policy 2.7 - Evaluate and consider the effect of any altered drainage patterns on down slope agricultural areas in development proposals.

**Regional District of Central Okanagan Agricultural Plan (2005):**

- Item 3.3.4.c – Infrastructure Recommendations - Seek the support of the Agricultural Land Commission in requiring that improvement works on farmlands are carried out such that on-site and off-site drainage conditions are not adversely impacted.
- Objective 8.2.2 – Farm Succession & Research - Ensure continued and/or improved productivity from the agricultural land base during changes in land ownership or changes in agricultural production.

**RDCO TECHNICAL COMMENTS:**

No comments or concerns were received from internal stakeholders including RDCO Inspections, Fire, Parks, or Engineering Services.

**AGENCY REFERRAL COMMENTS:**

Ministry of Agriculture and Food - Ministry staff appreciate the rationale of integrating the landscape of both properties into a larger, functional cherry production block. In addition to ensuring runoff and siltation issues are not caused to adjacent properties, they recommend that the proponent also ensures there are

no adverse impacts to groundwater on adjacent properties. Ministry staff have no objection to the applications proceeding to the Agricultural Land Commission for decision.

No comments or concerns were received from B.C. Hydro, Fortis, Telus, Shaw Cable, City of Kelowna, or Ministry of Transportation and Infrastructure.

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**Considerations:**

**External:** RDCO Development Application Procedures Bylaw No. 944, regarding public notifications, does not apply to this ALC referral application.

**Financial:** As per the Agricultural Land Commission Fee Schedule, the Regional District of Central Okanagan has received the required application fees to process this referral application.

**Statutory Authority:** Section 6 of the ALCA states that the purposes of the commission is to preserve the agricultural land reserve. An approving body may only authorize a soil or fill use permitted under section 20.3, 25 or 45 of the ALCA.

Section 34.1 (2) of the ALCA indicates that, if a local government review of an application is required, the Regional Board may:

- Forward the application to the commission with comments and recommendations, or,
- Notify the applicant that the application will not be forwarded to the commission if the application is refused.

**Alternate Recommendation:** **THAT** the Regional Board receives the report from the Director of Community Services, dated December 1, 2022, with respect to RDCO File: A-22-06 (ALC application #66504) for the property located at 5760 Anderson Road and legally described as Lot 54, District Lot 1, ODYD, Plan KAP475, Except Plan H13691 (“the Subject Property”);

**AND THAT** the Regional Board not support application A-22-06, to allow fill placement upon the Subject Property as outlined in the report dated December 1, 2022.

**AND FURTHER THAT** the Regional Board directs staff to review regulatory options for the management of soil and fill placement, and to report back to the Regional Board with recommendations.

Considerations not applicable:

- Organizational
- Legal

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**Approved for agenda**



Brian Reardon, CAO