

From: [Shaun ODea](#)
To: [Sandra Ballan-Brown](#)
Cc: [Karen Needham](#); [RDCO Planning Services](#)
Subject: Community feedback regarding Anderson Rd soil placement files
Date: January 4, 2023 3:54:56 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Shaun ODea
Sent: December 22, 2022 2:06 PM
To: [REDACTED]
Cc: Todd Cashin <todd.cashin@rdco.com>; Michael Ircandia <Michael.Ircandia@rdco.com>; RDCO Planning Services <planning@rdco.com>
Subject: FW: ALC Contact, ANDERSON RD SOIL FILL SITE

Hello Michael,

I have been asked to follow up with you regarding the ALC's and RDCO's procedures in relation to fill placement within the ALR.

Process overview

- Within the ALR, under the Agricultural Land Commission Act there are only limited circumstance where landowners may place or remove fill without the ALC's approval (*exempted activities*).
- If the soil or fill movement is not an exempted activity, the land owner may submit a *Notice of Intent* (NOI) to the ALC. Upon receipt of an NOI, the ALC Chief Executive may approve the fill placement or issue an order not to proceed. (For 5760 and 5630 Anderson Rd an order not to proceed was issued.)
- If a NOI is not approved by the ALC, landowners have the opportunity to submit a *Soil or Fill*

Use Application.

- This is a more comprehensive application, typically including reports from a Professional Agrologist and other technical assessments.
- A Soil and Fill Use Application is submitted to the ALC, who forwards it to the local authority whose elected officials may direct staff to;
 - 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.
- If the application is returned to the ALC, the Commission may approve the proposal.

Public input

The RDCO Development Application Procedures Bylaw No. 944 defines public notification process for a variety of development application types, however the bylaw does not apply to ALC referral applications. Furthermore the RDCO does not have local bylaws to regulate soil movement within the region's electoral areas. Although there is no RDCO-led notification process, applicants are encouraged to consult with their neighbours and seek support.

Based on current policy, the only soil movements that are subject to RDCO oversight are ALR Soil or Fill Use Applications, or development activities within the region's hazardous or environmentally sensitive Development Permit Areas. Since receiving the reports on the Anderson Road proposals, the Board has directed staff to report back on regulatory options for the management of soil and fill placement in the RDCO. These options may include a public notification process.

Anderson Rd fill placement – next steps

On December 1, 2022, the RDCO Board considered the application's professional reports, RDCO policies, and various mitigation measures intended to manage the impact of the fill placement at the Anderson Road properties. The Board;

- Conditionally supported the Anderson Road proposals, and
- Requested that the applicant validate the proposed fill volumes with the topographical survey before the application is forwarded to the ALC.

Staff anticipate that this information will be presented to the Board on January 19, 2022.

Although these files were not subject to a formal public notification, if you and other neighbouring properties wish to submit letters to the Regional Board, please use the ["email the Regional Board" link](#) on the RDCO website. Include "ALC Referral Applications – Anderson Road (A-22-06/A-22-07)" in the subject line. You may also wish to forward letters directly to the ALC quoting their application numbers; 66504 and 66506.

Kind regards,

Shaun O'Dea
Planner | Community Services

From: Todd Cashin <todd.cashin@rdco.com>

Sent: December 22, 2022 10:21 AM
To: Shaun ODea <Shaun.ODea@rdco.com>
Cc: Michael Ircandia <Michael.Ircandia@rdco.com>
Subject: FW: ALC Contact, ANDERSON RD SOIL FILL SITE

Shaun,

As discussed, please connect with Mr. Eakins and explain the process to date as well as next steps. Further, encourage him (and his neighbours) to submit letters to the Regional Board ASAP.

Michael Eakins



Anderson Road

Todd Cashin, Director
Community Services
Regional District of Central Okanagan
250-469-6227 | Todd.Cashin@rdco.com
Connect with us | rdco.com

I acknowledge my presence on the traditional, ancestral, and unceded [tmxwúla?xw](#) (land) of the syilx / Okanagan people who have resided here since time immemorial. I recognize, honour, and respect the syilx / Okanagan lands upon which we live, work, and play.



From: Michael B [REDACTED]
Sent: December 16, 2022 11:04 AM
To: Todd Cashin <todd.cashin@rdco.com>
Subject: ALC Contact, ANDERSON RD SOIL FILL SITE

CAUTION: This message was sent from outside the organization. Please do not click links, open attachments, or respond unless you recognize the source of this email and know the content is safe.

Good morning Todd!

This is Michael Eakins, [REDACTED] Anderson RD.

Kevin came out yesterday afternoon to discuss proposed fill sites on Anderson rd with me. Norm, who's property backs onto this site and another neighbour was here as well.

The amount of fill proposed is gigantic and a joke! guised in the name of "agricultural use".

Kevin suggested I provide you with contact details regarding whom I spoke with within ALC, so you can contact directly. They will likely be in touch with you faster and discuss things a bit further being your from local Gov RDCO than my self.

I did make a few notes from a conversation on the 20th September around 11.00 am with a lovely Alison Westin at ALC (head soils technician) answering my enquiry regarding the fill application they received for Anderson rd.

This is what I was told...

Her team at the time concluded no, issuing a "Do Not Proceed Order" for 5760 Anderson back in September. The land has a long file history and well known within the department. Their savvy to the fact Okanagan fill profiteering opportunities for land owners exists here. The obscene (her words) amount of fill requested was not required to return to agricultural use. It was clear the amount of fill required was sugar coated in the name of agriculture.

Alison went on saying, the land owner can reapply through the local government instead, this can take up to a year, which then circles back to ALC to re-review. She said she is moving onto another position within the department at the time, that Jenny Hugnh is taking over. Jenny is familiar with the file, welcome to contact them anytime with any concerns and to immediately contact the ALC bylaw enforcement if any activity ever commenced.

Listed on BC Gov directory here...

<https://dir.gov.bc.ca/gtds.cgi?show=Branch&organizationCode=ALC&organizationalUnitCode=AGLANCOM>

Jenny Hugnh (Soils Resource Technician) [REDACTED]

Also, Norm Duncan has lived on his property below since 1969, knowing the area better than most. He had no idea with the proposed amount of fill until yesterday. The Duncan family owns lots of land in the Ellison area for hay crop. Being very concerned knowing how his property will be directly affected with water and other issues. He has witnessed the spring on that land which pops up most years (unless a dry winter)

I was informed that Harman Bahniwal at the recent meeting agenda stated I was on board with his plans, that we had discussions to plant an orchard on our hay field too. I have never spoken with him!

I had discussed our options for possibly planting an orchard in our field with a guy named Sukh Kuhn Kuhn with no mention of other property activities.

Thanks for everything your all doing and thanks for reading my email!

Regards,

Michael

From: [Shaun ODea](#)
To: [Corporate Officer](#)
Cc: [RDCO Planning Services](#)
Subject: FW: ALC Referral Applications – Anderson Road (A-22-06/A-22-07)
Date: January 13, 2023 8:32:20 AM
Attachments: [REDACTED] [Rittich Rd.pdf](#)

Hi,

Could your team please send an acknowledgement to the sender and advice them of how this feedback will be shared with the Board.

Thanks

Shaun O'Dea
Planner | Community Services

From: Debbie Duncan [REDACTED]
Sent: January 13, 2023 8:17 AM
To: [REDACTED] ALC.Soil@gov.bc.ca;
Dave.Birchmore@gov.bc.ca; ALCBurnaby@victoria1.gov.bc.ca; Todd Cashin
<todd.cashin@rdco.com>; Michael Ircandia <Michael.Ircandia@rdco.com>; RDCO Planning Services
<planning@rdco.com>; Shaun ODea <Shaun.ODea@rdco.com>; Lenore Duncan
[REDACTED]
Subject: ALC Referral Applications – Anderson Road (A-22-06/A-22-07)

You don't often get email from [REDACTED]. [Learn why this is important](#)

CAUTION: This message was sent from outside the organization. Please do not click links, open attachments, or respond unless you recognize the source of this email and know the content is safe.

Dear Regional District and ALC,

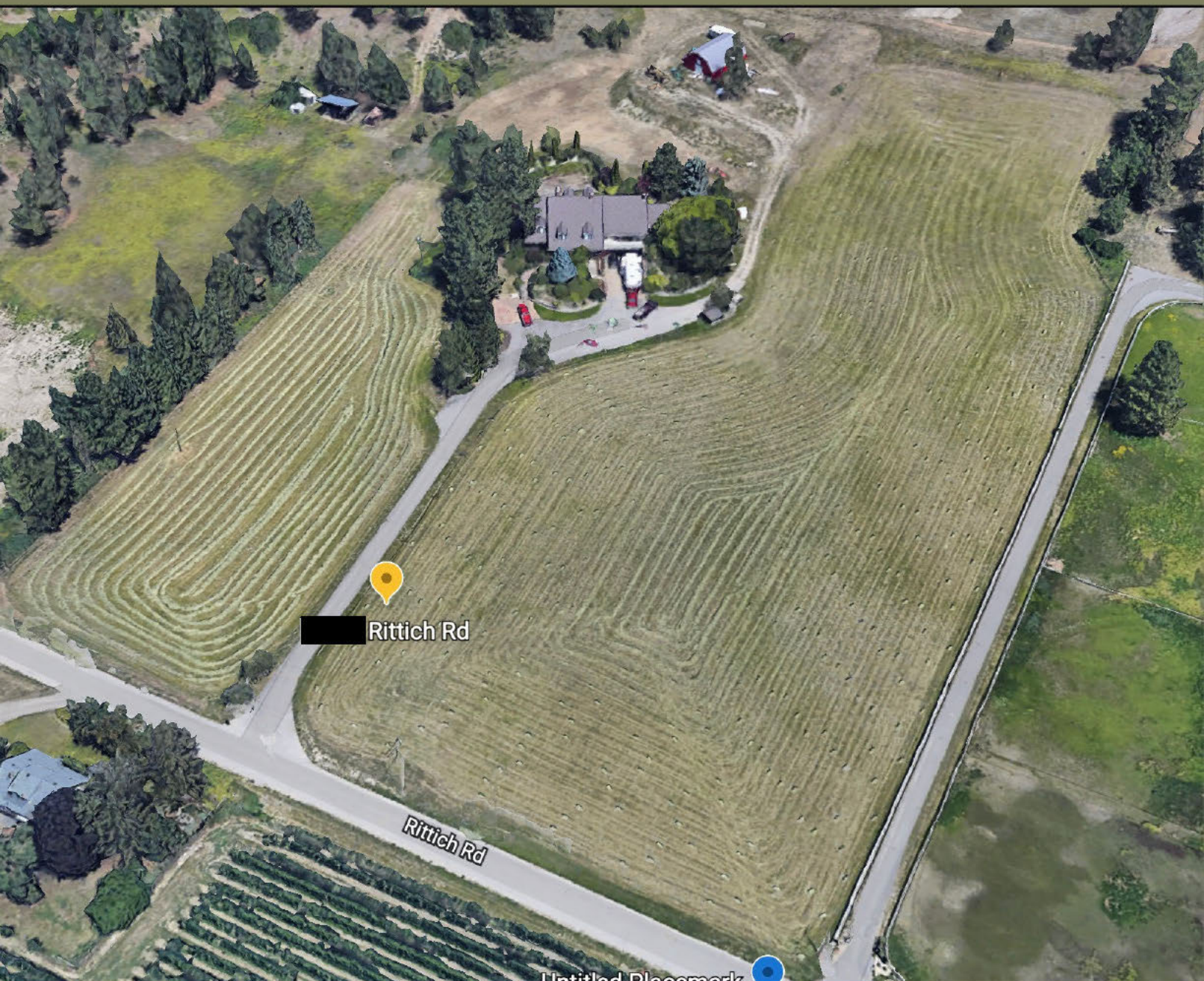
I am writing to provide my input on the proposed Anderson Road A-22-06/A-22-07#66504 & 66506 application submitted for referral to the ALC. This project has the potential to have a significant impact on our community and I believe it is important that due diligence be taken before any approval is granted.

I urge you to consider carefully the potential impacts of this project on our community before making a decision. As an adjacent landowner, there are risks involved should something go wrong in the future with this project. It is essential that those responsible for overseeing this project are held accountable for any possible litigation.

Thank you for taking my input into consideration, and I look forward to hearing from you soon.

Sincerely,

Norm & Lenore Duncan



RITTICH ROAD Impact Report

ALC Referral Application
Anderson Road
A-22-06/A-22-07
#66504 & 66506

January 2023

Introduction

For nearly half a century, Norm and Lenore Duncan have resided on their property located at [REDACTED] Rittich Road. The Duncan's have called [REDACTED] Rittich Road home for an incredible 49 years!



Norm was raised in Rutland and he spent his youth exploring the area that would one day be named Ellison.

After building a cozy three bedroom split level in 1974, the family grew with 2 boys & 1 girl, and the pair moved that house to another property on Rittich Road in 1983 before beginning construction on their current home. It's been a testament to their commitment and dedication, as they've continued to live at the same address all these years later.

As owners of this agricultural land, and two more properties in the Ellison Regional District, we strongly support and encourage agricultural activities, and we are firm believers in sustaining agriculture. We believe in taking action to move forward but always with a consideration that our actions should not negatively impact others.

When Norm and Lenore Duncan purchased the 10 acre property at [REDACTED] Rittich Road in 1969, they encountered bullrushes and a silage pit that had been left behind. The Duncan's set to work immediately, digging a well and starting construction on their home. With no power to the property, West Kootenay Power provided the Duncan's with a \$1 legal easement to cross their land.

As a local logging contractor in the Okanagan Valley, Norm sourced materials to construct a 3-rail criss crossed fence around the 10 acres of land. At the time, there were less than 12 homes within a 1.5 km radius of their property.

In 1976, Dick Rahn, the owner of 5760 Anderson Rd, and an employee of BC Tel, hired us to do the excavation for their future home and create a level area for their barn.

We drove our heavy-duty D8 H Bulldozer from [REDACTED] Rittich Road and cut our way through the log fence that separated us. Our destination was 5760 Anderson Road, where we started digging a new basement for the house. On this property, about one third of the way down its length, there was a natural spring.

To the west of the Anderson Road residence, there was always a steeper slope that dropped down about 10-12 feet.

Photos of 5760 Anderson Road show a virtually untouched landscape, with the exception of a hill that was removed from the south-west corner.

Google Photo
July 15, 2002



The Ecoscapes Agriculture Assessment proposes that 140,000 cubic metres of fill is needed at 5760 Anderson Road. As the owner of the adjacent property, I can confirm that there was never this much fill removed prior to 1969.

Why is 140,000 cubic metres of fill needed? The potential of 140,000 cubic metres of fill at 5760 Anderson Road is causing much concern. This massive amount of proposed land fill increases the risk of overflow and impact on the property at [REDACTED] Rittich Rd. Allowing such an extreme amount of fill can have unknown consequences, which can put people, and property in the area at risk.

My recommendation is

1. Level existing field
2. Put top soil back on property as needed to plant trees
3. Adding a bit of top soil if needed.

This will help protect against any possible overflow or impacts from someone else's dirt but also ensure that future generations are safe from any issues that could arise due to insufficient filling.

Filling in the property at 5760 Anderson Road with unknown cubic metres of material is an unnecessary move that could have far-reaching consequences, that could have devastating effects on the environment and surrounding properties.

Allowing such an extreme amount of fill could affect runoff that may overflow and have a negative impact on [REDACTED] Rittich Rd, as well as disturb the existing ecosystem that has been in place since prior to 1969. To limit any potential risks, it is important to carefully assess the need for this amount of fill, and take preventative measures to protect those in the area.

It's important to consider all potential consequences before taking any action, and take the necessary steps to ensure a safe and prosperous future for everyone in the area.

In reference to the Agricultural Assessment submitted by Ecoscapes

1.1 Property Information & Proposed Works

1) Retention of existing topsoil on the subject property, as much as possible given the historic stripping of the property, and reseeding of any disturbed areas or exposed slopes which are not proposed for cultivation, using an agricultural grass seed mix, to prevent invasive species and noxious weed growth within the subject property. The seed mix must include only species which are native to the Okanagan and non-invasive.

According to Mr Hitchman, the previous owner of 5760 Anderson Road, he took 10–12 loads of top soil from the centre of the field below the spring. However, most of the property disturbance was in the South West corner as per picture. There has been no historic stripping of any other parts of the property.

All ecological changes that have taken place since then are a result of natural forces such as weather and seasonal shifts. This makes it important to take necessary precautions before adding fill to any part of this property. Careful assessment and monitoring is essential in order to ensure that unexpected environmental effects do not arise and cause longterm damage to this area. By taking proper precautions now, we can help preserve ecological balance for future generations without negatively impacting our environment.

1.1 Property Information & Proposed Works

2) Placement of fill material in the amount of approximately 140,100 m³ within a placement area of approximately 34,000 m² with a maximum depth of 10 m in steep areas and an average depth of 4 m (Appendices 1 & 2).

There is no evidence that this quantity of fill was ever removed from the property. Photos of the surrounding area around 1969 when the Duncan's purchased the adjacent land also indicate that. It is important to note that any fill added to this property should be carefully assessed and monitored in order to prevent ecological disturbances from occurring. Taking proper precautions now can help ensure that our environment remains safe and healthy for years to come.

6.0 FARM PLAN

The purpose of the fill placement is to restore the property to its original state prior to disturbance of fill export and gravel extraction and to eliminate the introduced agricultural limitations of topography, by importing fill of agricultural quality and raising the land to a uniform grade to eliminate the frost pockets, draws, and low-lying areas, in order to plant sweet cherries.

It is important to note that since 1969, we have owned [REDACTED] Rittich Road and, if the property at 5760 Anderson Road was leveled and topsoil removed from the property, it would have had to be before that time (with the exception of a hill being removed from the south-west area).



In the words of the landowner, "this land is being wasted and not being put to use. Being in the Okanagan Valley it is very hard to come by useable ALR land, that being said if this land was filled and properly prepared it would serve as a great site for cherries or other fruit trees allowing us to maximize ALR land. Right now there is no use for the land, with the previous soil being taken out there is a big dip in the property. Bringing more soil and raising the level of the land would allow it to be used for planting because it would allow the cold air coming from the mountains to flow through the property rather than settling in the field, it would also allow for better air and precipitation drainage. This site would be amazing for late season cherries as there are other cherry orchard[s] in the area as well as apple orchards."

The potential for improved agricultural capabilities at 5760 Anderson Road is well acknowledged, however, the impact that fill placement can have on their surrounding environment must be carefully considered.

While there have been repeated mentions of 'historic stripping' of topsoil, no proof has been presented to back up these claims. Norm & Lenore Duncan, who have owned adjacent property for over fifty years, are also concerned about the potential impacts this project could have on their land and community as a whole. It is essential that every necessary step is taken to protect our environment and prevent any further ecological damage as a result of this project.

7.0 POTENTIAL ENVIRONMENTAL IMPACTS OF FILL PLACEMENT

Ecoscape has not completed an environmental impact assessment for this project. Ecoscape anticipates that, with due diligence and the appropriate mitigation measures in place, the risks for adverse impacts from fill placement to the environment and surrounding area can be appropriately

The company Ecoscapes has admitted that it has not completed an environmental impact assessment for its project at 5760 Anderson Road in lieu of fill placement. This is concerning as a lack of such assessment can cause significant detrimental impacts to the environment and surrounding areas due to potential contamination of soil, air, water, and other resources.

It is imperative that we take preventative action before any construction begins in order to minimize potential damage to our environment.

An important factor to consider when evaluating fill placement is its effect on water resources surrounding the area. Fill material's ability to absorb water makes it useful for drainage purposes but can also lead to contamination of nearby bodies of water if pollutants are introduced during transport or onsite use. Additionally, many streams and rivers have unique biodiversity which can be affected due to disruption from fill placement. Therefore, monitoring water quality near the active site is essential in order to identify any potential long-term effects on these habitats.

We must also acknowledge the potential airborne impacts from dust particulates generated by fill operations which can affect both humans and animals alike if inhaled at high levels for prolonged periods of time.

Although fill placement provides many benefits when implemented properly through careful planning and consideration for its potential environmental effects, we must still remain diligent in our efforts towards preventing further damage, so as not harm our fragile ecosystems further in any way possible.

8.6 Subgrade Preparation

The final contours of the subgrade must be gently sloping in such a manner as to conform to the surrounding landscape.

The final grade of the work that needs to be done must have a gentle slope running westward, away from the house located at the bottom of the steep decline.

Recently, the potential project at 5760 Anderson Road has raised vital environmental questions within the community. While the assessment of available data reveals that the agricultural capability on the subject property may be improved from Classes 4 – 6 to Class 1 and 3 with irrigation, there is no proof of any historic removal of topsoil from this property.

As a landowner and resident of this community, for over 50 years, we are deeply concerned about the potential level of impact this project could have not only on our property at [REDACTED] Rittich Road, adjacent properties, but on our entire community as a whole.

With the current owner of 5760 Anderson Road receiving a substantial sum of money for allowing 140,000 meters of fill to be placed on his land, it is important to ask if he would still be eager to have it done if he were required to pay for it. It is essential that any potential environmental risks associated with such operations are properly identified and assessed before any construction activities can begin, as these may lead to devastating and long-lasting effects on our communities and their ecosystems.

The current owner may remain enthusiastic about this project because he stands to gain financially from it, but we must consider the cost this could have on the environment and our collective health in the long-term.

The proposed project to fill 140,000+ cubic metres of space by Spring 2023 is not only impractical but also a threat to our community. Achieving this goal would require 307 dump trucks per day, 5 days a week, 12 hours a day – an effort that is both logistically and physically impossible. The potential repercussions of such an unrealistic deadline are simply too great to ignore.



View of 5760 Anderson Rd house showing sloped hillside

From the work being done, its clearly shown that the soil was not reduced.



Google Earth View
April 27, 2006

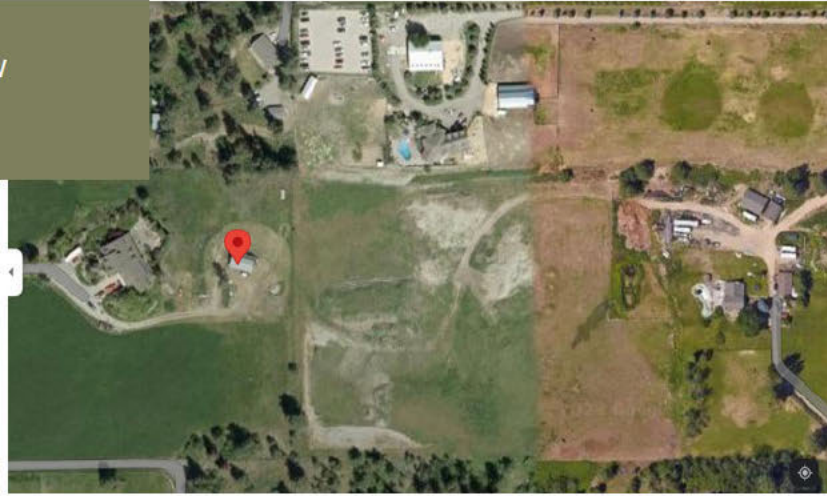


Google Earth View
July 15, 2002



Google Earth View
May 12, 2012

Google Earth View
Current



This project has a major impact on the entire community and should not be taken lightly. Furthermore, as an adjacent property owner to the proposed project, I was not consulted by the new owner, nor were any of the other property owners to the north. The safety of the residents of Ellison must be at the top of the board's priorities in regards to this project, as it affects many aspects of their lives.

We must consider the potential impacts of this project carefully, and ensure that all due diligence is taken before any approval is granted. As an adjacent landowner, my property could be at risk should something go wrong in the future. I urge the board to consider who will be held accountable for any possible litigation if such a scenario arises.

Thank you for taking the time to read my report. After considering all the historical facts, I believe that it is clear that this project will have a detrimental effect on our community and the families that call Ellison home. It is essential that we take appropriate action to ensure their safety and wellbeing. I hope that you will come to a different understanding of the potential impacts this project could have on our land, community and the families of Ellison.

Norm & Lenore Duncan

Norm & Lenore Duncan

[REDACTED] Rittich Road

Kelowna, BC V1X 7V6

[REDACTED]

[REDACTED]