

From: [Danielson, Steven](#)
To: [Planning](#)
Subject: West Bench, RDOS (F2022.001-SOIL)
Date: October 31, 2022 10:59:18 AM
Attachments: [image001.png](#)

FortisBC (Electric) ("FBC(E)") has reviewed the proposed bylaws and have the following comments.

FBC(E) has primary distribution and transmission facilities within the affected area details in the bylaw. As this bylaw pertains to soil removal and deposits, FBC(E) has concerns about property owners changing the ground elevation within our right of way areas, particularly for electric transmission facilities. Any construction or works within FBC(E) right of ways must be reviewed and approved by FBC(E) prior to installation for safety and operational purposes. With this in mind, FBC(E) proposed the following for consideration in the draft of this bylaw.

1. It is recommended that the General Application Requirements of Bylaw 2500.29 be modified to include a clause informing the applicant of their responsibility when working within a utility right of way, much in the same manner as that has been required for MOTI – clause .7 (a). Suggested wording does not need to be specific to FortisBC, but could apply to all utility providers in the area as I suspect other utility providers for sanitary sewer, water, storm, electric, gas, cable, etc. would also have concerns about property owners adding or removing fill from above their facilities without proper oversight and should be afforded the opportunity to review the application.

"For an application to amend a bylaw adopted under s. 327 of the Local Government Act, a copy of any requirements by the Utility Provider has imposed in relation to completing the proposed soil deposition and/or removal works within their right of way areas or around their facilities."

2. Perhaps a definition for "Utility Provider" should be included in Bylaw 2974 to include, but not limited, to the mainstream providers.

If you have any questions or comments, please contact us at your convenience.

Best Regards,

Steve Danielson, AACI, SR/WA
Contract Land Agent | Property Services | FortisBC Inc.
2850 Benvoulin Rd
Kelowna, BC V1W 2E3
Mobile: 250.681.3365
Fax: 1.866.636.6171
FBCLands@fortisbc.com

Lauri Feindell

Subject: FW: Bylaw Referral - RDOS File No. F2022.001-SOIL - Soil Removal and Deposit Bylaw

From: HBE <HBE@interiorhealth.ca>
Sent: September 28, 2022 7:38 AM
To: Planning <planning@rdos.bc.ca>
Subject: RE: Bylaw Referral - RDOS File No. F2022.001-SOIL - Soil Removal and Deposit Bylaw

Good morning RDOS Planning,

The IH Healthy Community Development Team has received the above captioned referral from your agency. Typically we provide comments regarding potential health impacts of a proposal. More information about our program can be found at [Healthy Built Environment](#).

An initial review has been completed and no health impacts associated with this proposal have been identified. As such, our interests are unaffected by this proposal.

If you have any questions, please feel free to email us back or call 1-855-744-6328 (Ext. 4).

Regards,

Mike Adams

Team Leader, Healthy Community Development

Interior Health

1440 14th Avenue

Vernon, BC V1B 2T1

c: 250-309-1887

p: 250-549-6348

e: mike.adams@interiorhealth.ca

www.interiorhealth.ca



Interior Health

We recognize and acknowledge that we are collectively gathered on the traditional, ancestral, and unceded territories of the seven Interior Region First Nations, where we live, learn, collaborate and work together. This region is also home to 15 Chartered Métis Communities. It is with humility that we continue to strengthen our relationships with First Nation, Métis, and Inuit peoples across the Interior.

From: Lauri Feindell <lfeindell@rdos.bc.ca>
Sent: Monday, September 26, 2022 4:13 PM
To: sara.huber@gov.bc.ca; christina.forbes@gov.bc.ca; 'development@penticton.ca' <development@penticton.ca>; HBE <HBE@interiorhealth.ca>; Ross.Hyam@gov.bc.ca; Alan.Mccammon@gov.bc.ca; referrals@fortisbc.com; 'fbclands@fortisbc.com' <fbclands@fortisbc.com>; sd67@sd67.bc.ca

Lauri Feindell

From: McCammon, Alan W ENV:EX <Alan.Mccammon@gov.bc.ca>
Sent: November 24, 2022 1:10 PM
To: Christopher Garrish
Cc: Shannon Duong; Friesen, Carley MUNI:EX
Subject: RE: Proposed Soil Removal and Deposit Bylaw - RDOS
Attachments: Bylaw2974v20220922.pdf

Hi Chris and thanks again for the opportunity to comment. I hope the following form of response will be sufficient.

< Please note that the following comments are solely from the perspective of Part 4 of the *Environmental Management Act* (EMA) which addresses remediation of contaminated sites and includes legal provisions regarding soil relocation >

The Minister of Environment and Climate Change Strategy is the authority to approach for any necessary approval of draft bylaws that prohibit the *deposit* of soil or other material by reference to the quality of the soil or material or to contamination. Proposed bylaws that prohibit soil *removal* are referred to the minister responsible for the administration of the Ministry of Energy and Mines Act.

Based on our review of the proposed bylaw (copy attached), references to soil or other materials do not appear to make reference to environmental quality or to contamination. Under these circumstances and, again, solely in the context of the provisions and operation of Part 4 of the EMA, our interests are unaffected by the proposed bylaw. We make no comment about the proposed bylaw beyond this review outcome.

Please don't hesitate to let me know if there are any questions about this response.

Regards,
Alan

Alan W. McCammon, MSc PGeo | Manager, Site Information | Land Remediation | **Ministry of Environment and Climate Change Strategy** | 200 - 10470 152nd Street, Surrey BC V3R 0Y3 Canada | (236) 468-2238 | www.gov.bc.ca/siteremediation

From: Christopher Garrish <cgarrish@rdos.bc.ca>
Sent: November 21, 2022 3:45 PM
To: McCammon, Alan W ENV:EX <Alan.Mccammon@gov.bc.ca>
Cc: Shannon Duong <sduong@rdos.bc.ca>; Friesen, Carley MUNI:EX <Carley.Friesen@gov.bc.ca>
Subject: RE: Proposed Soil Removal and Deposit Bylaw - RDOS

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hi Alan,
Just touching base again.
Chris.

From: Christopher Garrish
Sent: November 3, 2022 9:16 AM
To: 'McCammon, Alan W ENV:EX' <Alan.Mccammon@gov.bc.ca>

Cc: Shannon Duong <sduong@rdos.bc.ca>; 'Friesen, Carley MUNI:EX' <Carley.Friesen@gov.bc.ca>
Subject: RE: Proposed Soil Removal and Deposit Bylaw - RDOS

Hi Alan,

I am not sure if our formal bylaw referral would have been provided to you, but we had asked for any comments on the draft soil bylaw to be submitted to the Regional District by October 31, 2022. I was just reviewing the submissions and it appears that we did not receive anything from the Ministry.

Do you know if comments are being prepared and if additional time is required?

Sincerely,

Chris.



Christopher Garrish MCIP, RPP • Planning Manager
Regional District of Okanagan-Similkameen
101 Martin Street, Penticton, BC V2A 5J9
p. 250-490-4101 • tf. 1-877-610-3737 • f. 250-492-0063 • www.rdos.bc.ca • cgarrish@rdos.bc.ca

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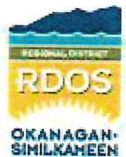
From: Christopher Garrish
Sent: September 26, 2022 3:16 PM
To: 'McCammon, Alan W ENV:EX' <Alan.Mccammon@gov.bc.ca>
Cc: Shannon Duong <sduong@rdos.bc.ca>; Friesen, Carley MUNI:EX <Carley.Friesen@gov.bc.ca>
Subject: RE: Proposed Soil Removal and Deposit Bylaw - RDOS

Hi Alan,

We took a draft soil bylaw forward to the Planning and Development (P&D) of our Board last week. You should be receiving a formal referral from us shortly and I would be interested in any comments that you might have regarding it. Additional information can be found here: <https://www.rdos.bc.ca/development-services/planning/strategic-projects/soil-bylaw/>

Sincerely,

Chris.



Christopher Garrish MA, MSS, MCIP, RPP • Planning Manager
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From: McCammon, Alan W ENV:EX <Alan.Mccammon@gov.bc.ca>
Sent: Monday, June 20, 2022 8:51 AM
To: Christopher Garrish <cgarrish@rdos.bc.ca>
Cc: Shannon Duong <sduong@rdos.bc.ca>; Friesen, Carley MUNI:EX <Carley.Friesen@gov.bc.ca>
Subject: RE: Proposed Soil Removal and Deposit Bylaw - RDOS

Sounds good Chris.

It subsequently occurred to me that I could also have pointed out to you and your legal advisors that amendments regarding the soil relocation provisions of the *Environmental Management Act* and Contaminated Sites Regulation will take legal effect on March 1, 2023.

More information on those changes may be found at the following website... specifically, the June 8th Site Remediation News item: <https://www2.gov.bc.ca/gov/content/environment/air-land-water/site-remediation/site-remediation-news>

Regards,
Alan

From: Christopher Garrish <cgarrish@rdos.bc.ca>
Sent: June 17, 2022 9:48 AM
To: McCammon, Alan W ENV:EX <Alan.Mccammon@gov.bc.ca>
Cc: Shannon Duong <sduong@rdos.bc.ca>; Friesen, Carley MUNI:EX <Carley.Friesen@gov.bc.ca>
Subject: RE: Proposed Soil Removal and Deposit Bylaw - RDOS

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Hi Alan,

This is very helpful, thanks for looking into it further for me. At this point, we have forwarded a very preliminary draft of our bylaw for legal review and are hoping to have something back in the coming weeks. At which point, I would like to forward a copy to the Ministry for review to see if you think Ministerial approval is required and if there are any elements of concern to the Ministry in the bylaw that might need to be addressed.

Sincerely,

Chris.



Christopher Garrish MA, MSS, MCIP, RPP • Planning Manager

Regional District of Okanagan-Similkameen

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From: McCammon, Alan W ENV:EX <Alan.Mccammon@gov.bc.ca>
Sent: June 15, 2022 7:57 AM
To: Christopher Garrish <cgarrish@rdos.bc.ca>
Cc: Shannon Duong <sduong@rdos.bc.ca>; Friesen, Carley MUNI:EX <Carley.Friesen@gov.bc.ca>
Subject: RE: Proposed Soil Removal and Deposit Bylaw - RDOS

Hello again Chris,

In addition to the information I provided on June 3 (below), and further to your additional queries, we're able to provide the following comments for your information and consideration:

- The majority of proposed soil deposit bylaws forwarded to ENV (the ministry) for review have not required the Minister's approval because the bylaws did not prohibit the deposit of soil or other material and make

reference to the quality of the soil or material or to contamination. Please note, too, that not all local governments may have forwarded their draft bylaws to ENV for review over the years.

- As for exemptions in a bylaw, the authority in s.327 of the LGA and s.9 of the CC includes the authority to make exemptions from the prohibition for the deposit or removal of soil. There is no specific provision to allow exemptions. Since these bylaws need to be approved individually (because there is no regulation) by the minister responsible for the administration of the *Environmental Management Act* (in the case of deposit of soil) it would be up to the discretion of the minister responsible to allow for certain exemptions when approving a bylaw.
- Regarding engagement of the ministry's interests, it's possible that proposed soil deposit bylaws may contain provisions/language that are of interest to the ministry when compared to the soil, waste etc. and authorization-related provisions of the *Environmental Management Act*; however, it's not possible for the ministry to make comment prior to seeing actual proposed bylaw content.
- In all circumstances, local governments need to rely on their own legal advisors to draft bylaw language including, in part, consideration of the above.
- If there is uncertainty on the part of the Regional District as to whether ministerial approval may be required, then it is acceptable to submit an earlier draft to ENV for review. Just a reminder that the minister cannot sign until after 3rd reading and before adoption per s. 135 (4) of the Community Charter [given that s. 9 is applied].

I hope this is of some additional assistance to RDOS.

Regards,
Alan

Alan W. McCammon, MSc PGeo | Manager, Site Information | Land Remediation | **Ministry of Environment and Climate Change Strategy** | 200 - 10470 152nd Street, Surrey BC V3R 0Y3 Canada | (236) 468-2238 | www.gov.bc.ca/siteremediation

The information in this email is for guidance only and in no way limits a director's exercise of discretion under the *Environmental Management Act*.

From: Aikens, Patricia ENV:EX <Patricia.Aikens@gov.bc.ca>
Sent: June 10, 2022 10:41 AM
To: Christopher Garrish <cgarrish@rdos.bc.ca>
Cc: Friesen, Carley MUNI:EX <Carley.Friesen@gov.bc.ca>; Shannon Duong <sduong@rdos.bc.ca>; McCammon, Alan W ENV:EX <Alan.Mccammon@gov.bc.ca>
Subject: RE: Proposed Soil Removal and Deposit Bylaw - RDOS

Hi Chris

I've just sent Alan some of my thoughts so I will let him get back to you.

From: Christopher Garrish <cgarrish@rdos.bc.ca>
Sent: June 10, 2022 10:07 AM
To: McCammon, Alan W ENV:EX <Alan.Mccammon@gov.bc.ca>; Aikens, Patricia ENV:EX <Patricia.Aikens@gov.bc.ca>
Cc: Friesen, Carley MUNI:EX <Carley.Friesen@gov.bc.ca>; Shannon Duong <sduong@rdos.bc.ca>
Subject: RE: Proposed Soil Removal and Deposit Bylaw - RDOS

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Hello,

Just touching base again as we are trying to determine what is going to be required for the Soil Bylaw we are working on.

Sincerely,

Chris.



Christopher Garrish MA, MSS, MCIP, RPP • Planning Manager

Regional District of Okanagan-Similkameen

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From: McCammon, Alan W ENV:EX <Alan.Mccammon@gov.bc.ca>

Sent: June 6, 2022 10:09 AM

To: Christopher Garrish <cgarrish@rdos.bc.ca>

Cc: Friesen, Carley MUNI:EX <Carley.Friesen@gov.bc.ca>; Shannon Duong <sduong@rdos.bc.ca>; Aikens, Patricia ENV:EX <Patricia.Aikens@gov.bc.ca>

Subject: RE: Proposed Soil Removal and Deposit Bylaw - RDOS

Hello Chris, those are excellent questions you've raised.

I've added my colleague Patricia Aikens (ENV Strategic Policy Branch) to this conversation as she may be able to address some of those questions.

Trish, please feel free to contact me if I can be of any assistance to you.

Thanks all,

Alan

From: Christopher Garrish <cgarrish@rdos.bc.ca>

Sent: June 6, 2022 9:33 AM

To: McCammon, Alan W ENV:EX <Alan.Mccammon@gov.bc.ca>

Cc: Friesen, Carley MUNI:EX <Carley.Friesen@gov.bc.ca>; Shannon Duong <sduong@rdos.bc.ca>

Subject: RE: Proposed Soil Removal and Deposit Bylaw - RDOS

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Hi Alan,

Thanks for the quick overview regarding Soil Bylaws. In looking around at other local government soil bylaws, it does not appear than many (any?) have previously secured the province's consent for a soil bylaw (judging by the absence of a signature line for the Minister in the various reading dates).

Consequently, I am wondering if the Ministry's interests become engaged if the soil bylaw has allowance for Exemptions and also for property owners to apply to obtain a discretionary permit from the RDOS Board of Directors allowing deposition or removal?

If the Ministry's interests are engaged, are there any red lines that the Ministry is not prepared to sign off on in one of these soil bylaws?

Also, I am hopeful that, if the bylaw we are preparing does require Ministerial approval, that we can get that hammered out prior to consideration of 1st reading by the RDOS Board. I don't see it as being a productive use of any of our time to present a bylaw to the Ministry after 3rd reading to see if there are any issues.

Sincerely,

Chris.



Christopher Garrish MA, MSS, MCIP, RPP • Planning Manager

Regional District of Okanagan-Similkameen

101 Martin Street, Penticton, BC V2A 5J9

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From: McCammon, Alan W ENV:EX <Alan.Mccammon@gov.bc.ca>

Sent: June 3, 2022 5:53 PM

To: Christopher Garrish <cgarrish@rdos.bc.ca>

Cc: Friesen, Carley MUNI:EX <Carley.Friesen@gov.bc.ca>

Subject: RE: Proposed Soil Removal and Deposit Bylaw - RDOS

Hello Christopher,

Thank you for your enquiry which was forwarded to me for consideration.

The following two resources are a good starting point for an enquiry of this nature:

- [Local Government & Provincial Concurrent Authority](#)
- [A Guide to Local Government Actions Requiring Approval by the Province \(PDF\)](#)

As indicated in the Guide, the Minister of Environment and Climate Change Strategy is the authority to approach for any necessary approval of proposed bylaws that prohibit the deposit of soil or other material by reference to the quality of the soil or material or to contamination. Proposed bylaws that prohibit soil removal are referred to the minister responsible for the administration of the *Ministry of Energy and Mines Act*, the Minister of Energy, Mines and Low Carbon Innovation.

A bylaw that prohibits the deposit of soil or other material, and that makes reference to the quality of the soil or material or to contamination, cannot be adopted unless approved by the Minister or by regulation or agreement with the local government. To date, no regulations or agreements address soil deposit, soil quality, and contamination.

Bylaws requiring approval should be directed to ENV.Minister@gov.bc.ca and must be received between the 3rd Reading and prior to Council adoption. The local government should provide a copy of the bylaw with a space for the Minister to complete, indicating their approval, should that approval be necessary to give legal effect to the bylaw.

Ministry staff will review the proposed bylaw to confirm whether or not it requires the approval of the Minister and provide a response back.

I hope this information will be of some assistance.

Regards,
Alan

Alan W. McCammon, MSc PGeo | Manager, Site Information | Land Remediation | **Ministry of Environment and Climate Change Strategy** | 200 - 10470 152nd Street, Surrey BC V3R 0Y3 Canada | (236) 468-2238 | www.gov.bc.ca/siteremediation

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B.C. Home

**Ministry of
Transportation and
Infrastructure**


eDAS ver. 5.1

My Applications
Other Applications
Apply for Approval
Apply for Permit
Apply for Subdivision
Request Access
My Profile
(Feindell, Lauri)

Exit this e-service 

Approval Application

Approval Type: Zoning Bylaw

 **Status:** Submitted

File Number: 2022-05040

MoT Office: Penticton Area Office

Project Description: To introduce a Soil Removal and Deposit Regulation Bylaw under Section 327 of the Local Government Act in order to regulate the removal and deposit...

Dev Tech: Blaine Garrison

Approver: Blaine Garrison

Applicant: Feindell, Lauri - Regional District Okanagan...

Owner:

Applicant File #: F2022.001-SOIL

Road Name:

Location: Greater West Bench Area

Date Received: Sep 28, 2022

**Confirmed
Local Gov't:**

Tasks

Application Details

Parties

Locations


Fees

Security

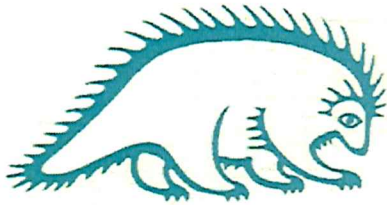
Agencies

Documents

Task	Assigned To	Outcome	Start Date Completed Date
Correspond with Applicant Hello, Thank you for referring this bylaw for our information. We have no objection. Only comment/suggestion is to consider adopting a similar bylaw for the Naramata area. Kind Regards, Blaine Garrison Sr. Development Officer Ministry of Transportation and Infrastructure	Blaine Garrison	Request Sent	Jan 06, 2023 Jan 06, 2023
Check Submission	Blaine Garrison	Correspond with Applicant	Sep 28, 2022 Jan 06, 2023
<u>Enter Application</u>	Lauri Feindell	Submit Application	Sep 28, 2022 Sep 28, 2022

 **Provide Information**

 **Top**



Okanagan Indian Band

12420 Westside Road • Vernon, BC, • V1H 2A4

Telephone: 250-542-4328 • Facsimile 250-542-4990

Email: okibreferrals@okanagan.org

"This correspondence will not be construed so as to to prejudice, limit, or derogate from any rights, claims or interests in respect of any Aboriginal title, rights and interests of Okanagan or Syilx Nation recognized and affirmed under Section 35 of the Constitution Act, 1982 and nothing in this letter indicates acceptance by Okanagan of federal or provincial Crown jurisdiction over or ownership of land, water or other resources within the Territory."

Project Name:

F2022.001-SOIL

FN Consultation ID:

Consulting Org Contact:

Chris Garrish

Consulting Organization:

[Regional District of Okanagan Similkameen](#)

Date Received:

Wednesday, September 28, 2022

Attention: Chris Garrish

The Territorial Stewardship Division would like to acknowledge receipt of the above referral. The Okanagan Indian Band ("OKIB") has conducted a desktop review of the project. The location of the project to which the referral relates is within Syilx (Okanagan Nation) territory, and may have impacts on Syilx Aboriginal Title and Rights, which OKIB holds as part of the Syilx. However, the project is located outside the OKIB's Area of Responsibility as a member of the Syilx. At this time, we defer to the Penticton Indian Band and Lower Similkameen Indian Band for a more in depth review. Please keep us informed of any updates or changes to the project as this may change our assessment and our view on the need for further consultation with OKIB.

Regards,

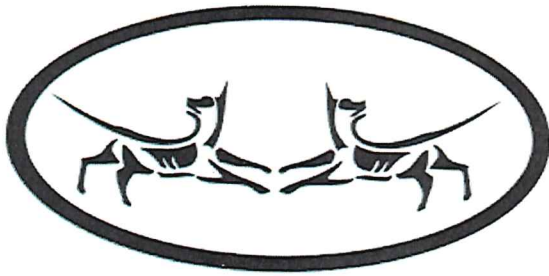
Colleen Marchand

Director, Territorial Stewardship Division

250.542.7132 (office)

250.306.9796 (cell)

Colleen.Marchand@okanagan.org



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Project Name:

F2022.001-SOIL

FN Consultation ID:

L-221003

Consulting Org Contact:

Planning RDOS

Consulting Organization:

[Regional District of Okanagan Similkameen](#)

Date Received:

Wednesday, September 28, 2022

November 1, 2022

Attention: Planning RDOS,

We are in receipt of the above referral. The proposed activity is located within syilx (Okanagan) Nation Territory and the Penticton Indian Band (PIB) Area of Responsibility. All lands and resources within the vicinity of the proposed activity are subject to our unextinguished Aboriginal Title and Rights.

The Penticton Indian Band has now had the opportunity to review the proposed project. Our preliminary office review indicates while any soil removal and ground disturbance should be permitted. The Greater West Bench area is located in an area of cultural significance. Cultural use and occupancy is known to have occurred in this area and there is potential for archaeological materials to exist. Our *tmx'ulax'* and *siw'tk'* is sacred to the syilx nation and it is PIB's responsibility to take care of all lands, waters and living things within the PIB Area of Responsibility.

As the proposed activity has the potential to impact irreplaceable syilx cultural heritage, the PIB is requiring a Cultural Heritage Resource Assessment be undertaken by qualified PIB Cultural Heritage Technicians to determine the nature and extent of any potential impacts **prior to any ground disturbance activities** and to work along side the soil removal permitting. The PIB CHRA process involves in-field pedestrian surveys using either systematic or judgmental site sampling techniques undertaken by qualified PIB Technicians to assess the archaeological, cultural, and environmental resource potential of the study area, and to identify the need for project modifications and/or appropriate scope of further field studies if required.

Please note that our participation in the referral and consultation process does not define or amend PIB's Aboriginal Rights and Title, or limit any priorities afforded to Aboriginal Rights and Title, nor does it limit the positions that we may take in future negotiations or court actions.

Please contact me at your earliest convenience to discuss.

limləmt,

Maryssa Bonneau
Referrals Coordinator

Natural Resources Department
Penticton Indian Band
W: 250-492-0411
C: 250-486-3241
Referrals@pib.ca

**RDOS Soil Removal and Deposit Regulation Bylaw no. 2974 (Electoral Area "F":
Greater West Bench area)**

Feedback Form

File no. D2022.001-SOIL

From: Anne Cossentine

February 5, 2023

I DO support the proposed bylaw

Comments:

I support the proposed soil removal and deposition bylaw because it protects against sinkholes and landslides in the greater West Bench area. In particular the bylaw protects against further damage to the West Bench gullies. Many of the gullies have underlying water and the impact of added compacted soil must impact water drainage, including downstream water.

I support the proposed soil removal and deposition bylaw because it protects against the import of contaminated soil. Over many years West Bench residents watched with concern as wood, wires and other construction waste, and broken cement and asphalt were buried on the property at 219 Russett Drive. On properties where soil deposition is not adjacent to a road it is unclear if similar contaminants are being buried.

I support the proposed soil removal and deposition bylaw because soil surface disturbance attracts invasive weeds. The heavy equipment used to compact imported soil and the dump trucks that move it damage larger and larger areas. Invasive weed growth has increased on all roadsides travelled by these vehicles. Invasive weed growth in damaged gullies has also increased. In addition, large areas of imported rocks increase invasive weeds. Approximately ten years ago, the property at 708 Bartlett Drive imported dozens of dump truck loads of large rocks. Since that time leaves and dust have settled in the crevices between these rocks, forming soil. This steeply sloped landscaping feature is now one of the most difficult to maintain source of invasive weeds on the West Bench. Controlling the increasing number of invasive weeds is costly for all residents as well as for the RDOS.

I support the proposed soil removal and deposition bylaw because the noise and dust is a constant irritant for residents. The property at 1607 Duchess Drive has been importing and compacting soil for many, many years. This work can run from morning to 10 pm, seven days a week. This property, at the top of a steep gully, is a noise irritant for hundreds of meters in all directions. There is no intervening hill so all neighbours suffer the noise. The same property is the source of dust for most of the lower West Bench. This property appears to be accepting and depositing soil as a business, to the detriment of all other residents.

I support the proposed soil removal and deposition bylaw because this work damages residential roads. In October of 2022 the property at 1402 Veteran Drive was levelled for a new house. Over two days between 60 – 120 dump truck loads of soil were removed from 1402 Veteran Drive and taken to 1607 Duchess Drive. The asphalt on Veteran Drive was broken down by this heavy truck traffic. There is little likelihood of residential road repairs on the West Bench therefore increasing road damage will be permanent.

I support the proposed soil removal and deposition bylaw because it protects the remaining gullies for wildlife. West Bench gullies are needed as wildlife refuges and wildlife corridors. To serve this purpose the gullies need to be maintained including maintaining their native vegetation.

Suggestions for 12 month review of the soil deposition and removal bylaw:

- Ensure fines are two-tiered so that properties depositing soil as a business operation are fined at a higher level.
- Consult an expert to see if vegetative, surface-spread mulches (bark mulch, grass clippings, sawdust) should be exempted from the bylaw because of their benefit in reducing invasive weeds. These mulches decompose from below and new mulch must be added to continue the work of suppressing invasive weeds. Properties 'topping up' existing mulch fit within the bylaw volumes however properties working to suppress invasives for the first time would require larger volumes of mulch.
- Consult an expert to see if imported soil testing should be required to ensure there are no contaminants in permitted soil imports.

Eva Durance

Penticton, BC
V2A 8Z6

January 18, 2023

Regional District Okanagan Similkameen

Re: proposed Soil Removal and Deposit Bylaw No. 2974, 2022

I am very glad that the RDOS is proposing this Bylaw in Electoral Area "F" to control what has become in a few cases industrial-scale soil deposition and in a number of other places significant changes to the topography of land on the West Bench where I live. The presentation and Q&A during the public meeting January 12 was appreciated. I have a few comments to make as follow-up from that meeting about issues I trust will be addressed in the final Bylaw.

The Bylaw should specifically prevent the filling in and other forms of degradation to the gullies on the West Bench and elsewhere in our Area. This has been of concern to me for many years. I have lived at my present address for almost 19 years and before that for two years in the 1990s, and during that time have seen a number of gullies filled in mainly for vineyards. The gullies are important wildlife habitat for nesting birds, shelter for many kinds of wildlife in inclement weather, and as protected routes for wildlife moving around the area. They are also means by which water can drain safely from the upper benches downhill through vegetated, and therefore stabilized depressions that allow the water to sink into the soil rather than running off and causing erosion.

I am also very concerned that soil brought into the area could well contain contaminants and/or seeds of noxious weeds/alien invasives. I would like to have the Bylaw include measures to ensure that the origins of any such soil be clearly shown in the owners' permit and that it must be tested beforehand for contaminants. Failure to do either or subsequent addition of soil from any other site would be subject to fines and remediation required. I would also like to have provisions for the RDOS to refuse to allow soil from a particular site brought into the Area.

Finally, I am fully in support of controls in the Bylaw against what is essentially industrial-scale soil deposition. This occurred over the past couple of years off Newton Drive and was discussed during the public meeting. Aside from my other concerns about filling in of gullies and other depressions, the extent of the heavy-vehicle traffic is incompatible with a rural-residential community, posed a nuisance and a danger in the vicinity of the West Bench School, and was very hard on the roads and bridges over the KVR.

I commend the RDOS for developing this Bylaw and look forward to seeing revisions in light of public comments and concerns.

Eva Durance

Lauri Feindell

Subject: FW: Website Contact Form Submission

From: Anne Hargrave
Sent: January 17, 2023 1:55 PM
To: Shannon Duong <sduong@rdos.bc.ca>
Subject: RE: Website Contact Form Submission

Hi Shannon,

I just remember that this bylaw is to be a monitoring tool as well, and the mapping system seemed to be a good place to "store" the info given that it already exists.

If you don't track these existing known ones, how will the folks issuing building permits be aware that there may be geotechnical issues beyond the inherent native soil conditions? It could put RDOS in a liability position if not noted.

There are actually 4 fairly recent major "soil repositories": Newton Drive south east of the bridge, Duchess, West Bench Drive just SW of the Bartlett, and east of Sunglo south of that bridge.

There have been major complaints about all of them, and have spawned the need for the bylaw. Your enforcement folks would be well aware of the exact addresses. They should be flagged as part of the implementation of this bylaw.

Thanks,

Anne Hargrave

From: Shannon Duong <sduong@rdos.bc.ca>
Sent: January 17, 2023 1:44 PM
To:
Subject: RE: WEBSITE CONTACT FORM Submission

Hi Anne,

Thank you for your submission regarding the proposed Soil Removal & Deposition Bylaw for the Greater West Bench Area in Electoral Area "F".

The mapping that you have proposed would require the undertaking of a new geotechnical assessment.

That being said, your comment does speak to another recommendation which was raised as part of the *Greater West Bench Geotechnical Review* in 2021. More specifically, the report recommended that the RDOS develop a web-based reporting tool to record geotechnical events to allow for appropriate response.

I have added your submission to the application file and will ensure that it is added to the Board's applicable meeting agenda for their consideration.

Regards,



Shannon Duong, MRM • Planner II
Regional District of Okanagan-Similkameen
101 Martin Street, Penticton, BC V2A 5J9
p. 250-490-4384 • tf. 1.877-610-3737 • f. 250-492-0063
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I acknowledge that I work within the traditional, unceded territory of the syilx people in the Okanagan Nation.

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From: no-reply@cms.rdos.bc.ca <no-reply@cms.rdos.bc.ca>
Sent: Thursday, January 12, 2023 9:45 PM
To: Planning <planning@rdos.bc.ca>
Subject: Website Contact Form Submission

The following comment was submitted from the RDOS website:

Contact Information

First Name

Anne

Last Name

Hargrave

Street Address

City / Town

Penticton

Province

BC

Postal Code

V2A8Y2

Phone

Email

Questions / Comments

Comments

Hi Shannon, apologies for not sitting in on the meeting regarding the soil bylaw.

My one comment is that I assume that unconsolidated fill would not be an appropriate building substrate; if so, is it possible to add major fill locations to the geotechnical hazards layer on the GIS?

There are at least 3 known ones on the West Bench already; if permitting proceeds under the bylaw, future ones could also be mapped and added to the layer.

Thanks!

Comments from Melanie Rupitz following the public meeting regarding the proposed Soil Deposition/Removal Bylaw

I have lived at 1614 Duchess Dr. for 31 years & have first hand knowledge of the dumping of Fill in our neighborhood for the past 5 years.

I enjoyed the lively discussion the other night, regarding the proposed Bylaw. I too have some comments/concerns/suggestions.

Firstly, I believe the \$200 fine per day for breaking this bylaw is far too light. These Excavating Companies make huge money dumping Fill & I believe they would gladly pay the \$200 fine as a cost of doing business. I'm not sure that a two-tiered system (one fine for residents a different, larger one for businesses) would work either. These companies can get around that, by purchasing properties in their family's/friend's names & getting those people to authorize the Filling process. I know for a fact that one Excavating Company has been adopting this practise of purchasing properties in names other than his own or his Business name.

If the RDOS decides to increase the Fine substantially, then perhaps there could be an appeal process put into place? Let's say a resident inadvertently breaks the Bylaw.....stops immediately... & it is determined that there was no malicious intent....then that Resident could receive a far smaller fine. This way the Resident is not put in the poor house for his/her transgression. The RDOS could be responsible for the appeal process.

Someone had mention proposing a new Bylaw that would restrict Industrial Vehicles/Equipment from coming into Residential Areas. I think this is an excellent idea. Types of vehicles/equipment, size, weight, description, & frequency could all be laid out in a new bylaw.

Perhaps even restricting the times of day, weekends, & holidays.
Again, substantial Fines would need to be put in place & again there could be an appeal process for those fines.

I am absolutely flabbergasted that the Ministries responsible for Environment, Wildlife & Transportation have not been the least be interested or helpful regarding the Soil Deposition issue. Many times...too many times to count...& have watched one particular excavating company dump storm sewer waste water onto the property on Duchess Dr. Apparently, the Company has the contract for Storm sewer water removal for the City of Penticton & it has been brought into our neighborhood & dumped without abandon. Just think of all the damage that has been done to the Ecosystem in that Gully. It is a natural drainage area...that too has been forever altered ,not to mention all the wildlife that has called that particular Gully home for hundreds of years. And our roads? Who is going to pay for all the damage that has been done to our roadways for the past 5 years? Is there any way that we can get those Ministries to step up ? I believe they must have some sort of power that they can use to stop or at least control the Filling of natural gullies in our area. Perhaps it's time for them to get involved & help to protect the future of the Westbench.

I know that you & all the Staff of the RDOS have been working tirelessly on this issue, & for that I am forever grateful. It is up to all of us to come together & protect our little slice of heaven. It's sad to think we have to create bylaws to prevent unscrupulous people/companies from ruining our residential neighborhoods but it seems to be a necessary evil.

Thanks you so much for all that you do.
Sincerely,
Melanie Rupitz

Comments on Proposed Soil Removal and Deposit Bylaw No.2974,2022

General comment

Why are we permitting any large scale ($>100\text{ m}^3$) filling on the West Bench at all? Filling of this magnitude generally constitutes industrial dumping of waste excavation material. Why would the Board allow this activity in a residential neighbourhood?

Specific Comments

1. The bylaw needs to have provisions to monitor soil deposition projects. I would suggest the planning section take a close look at the Agricultural Land Commission Information Bulletin 07 entitled 'Soil or Fill Uses in the ALR'. In section 3A is a list of prohibited fill materials. I suggest we utilize the same list in the RDOS Soil Bylaw. Prohibited fill materials include construction or demolition waste, asphalt, glass, plastics, treated wood and unchipped lumbar.
2. How is the quantity and quality of the fill materials to be monitored. I would suggest that the permittee be required to employ a Qualified Professional to do this. Otherwise, how will this be done? In my view, depending on neighbours to lodge complaints if they suspect quantity or quality variances is a poor form of enforcement.
3. In large soil deposition projects ($>100\text{ m}^3$) I think an environmental assessment in addition to any geotechnical assessment should be a requirement. Specifically, any hydrological impacts should be identified and evaluated by a qualified professional (hydrologist or hydrogeologist).
4. I wonder what the rationale is in approving any deposition exceeding 100 m^3 ? What is the objective in depositing more than 100 m^3 of fill? Topographic alteration of one's lot is not landscaping, nor should it be justification for industrial scale dumping.
5. I would like to see a requirement for the posing of a public notice with 30 days open for public comment to RDOS on any application for removal or filling $>100\text{ m}^3$ of soil material. This would allow the RDOS Board to better understand neighbourhood views on the proposed activity.

Lauri Feindell

Subject: FW: Website Contact Form Submission

From: "no-reply@cms.rdos.bc.ca" <no-reply@cms.rdos.bc.ca>

Reply to:

Date: Friday, January 13, 2023 at 3:28 PM

To: Riley Gettens <rgettens@rdos.bc.ca>

Subject: Website Contact Form Submission

Questions / Comments

Comments

Good afternoon Riley,

Bob and I attended the webinar last night concerning fill being used up here in the Westbench. I learned all about the rules and regulations we have concerning the dumping of fill in the gullies by contractors and homeowners.

My question is this: In this day and age with extreme weather happening all over the world, why are we even thinking about dumping anything into our gullies? Why is it still allowed? Never mind all the contaminants and noxious weeds. We know how it has destroyed the animal corridors and natural runoffs in our area.

Of all the natural disasters that can happen to us, besides a major earthquake, deluge rain is the one that is the most concerning to our little area of paradise - deluge rain that causes landslides. Why have an area that the soil or whatever is dumped, is loose and can cause havoc below the site?

The other thing is that we are not an industrial area and to be clear, I am also tired of the dust, poor roads, traffic noise and being woken at 7 am to who knows what they are doing on the Grizzly Property, off Duchess. Please pass my concerns onto Shannon Duong.

Thank you for the opportunity to become more informed and I sure hope this dumping is stopped.

Yours sincerely

Beverley (and Robert) Stirling