

From: Zimmerman, Kathleen AGRI:EX [mailto:Kathleen.Zimmerman@gov.bc.ca] **Planning Committee Meeting of**
Sent: Tue 2013-01-29 4:38 PM **Tuesday, March 5, 2013.**

It seems like three issues have recently come to light in Richmond: a) the building of farm roads using fill; b) the building of plant nursery facilities using fill; and c) the use of recycled asphalt and concrete for farm roads. It's important to clarify the linkages between provincial regulation, provincial guidelines, and municipal bylaws with respect to these issues.

Provincial Regulation: The *Agricultural Land Commission Act* and the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* have relevant sections related to fill on the ALR. The *Regulation* allows for 5 types of fill for farm uses without an application (but with a notice of intent) if certain other restrictions are met: a) building a greenhouse that covers more than 2% of the parcel; b) building a farm building or structure for an intensive livestock production or mushroom production that covers more than 2% of the parcel; c) building an aquaculture facility that covers more than 2% of property; d) building a certain type of compost facility that covers more than 2% of the parcel; and e) a turf farm.

Does the Commission require a fill application for farm road construction?

Does the Commission require a fill application for plant nursery construction?

The *ALC Act* defines fill as "any material brought on land in an agricultural land reserve other than materials exempted by regulation." In 2006, the South Coast office of the Ministry of Environment gave permission for the BC Cranberry Growers' Association members who are located in this region to use recycled concrete and asphalt in the building of their cranberry berms. However, that permission only applied to the cranberry sector, and more specifically to cranberry growers in the Lower Mainland. The BCCGA had to write a letter showing how their re-use of this material was beneficial, and did not cause pollution. One of the key arguments they used was that cranberry berms are in place for 40+ years, and OceanSpray regularly monitors fruit and water quality and has never detected any residues from concrete/asphalt.

If the AAC/City/Commission would like to expand the use of recycled asphalt and concrete for other types of farm roads, I would strongly recommend connecting with MoE first to determine how this fits with their policies and regulations.

Provincial Guidelines: In 2006 Ministry of Agriculture and ALC staff worked together to produce a Factsheet titled "Guidelines for Farm Practices Involving Fill." (It's in your agenda package, marked "Item 3D.") Section d) on page 5-6 discusses the use of woodwaste or soil for on-farm access roads. It has the recommendation that the farm road would typically be 6 metres wide and up to 60 cm deep. Section h) on page 9 – 10 discusses the use of woodwaste/gravel/sand for container nursery bed production or ball and burlap production. Near the end there is this statement: "Note: In the ALR, the placement of soil fill materials, for container nursery bed production requires an application to the ALC."

Is the Commission still requiring fill applications for container nursery bed production?

When a farmer wants to build a farm road, what volumes of fill should trigger a notice of intent vs. a fill application? (Apparently under the old Soil Conservation Act, if a farmer applied less than 320 m3 of fill per 16 ha, a notice of intent was sufficient. (I'm assuming this was an annual limit?))

City Bylaw: Richmond's bylaw (marked "Item 3C" in your agenda package) defines fill as "soil or a permitted material." Permitted materials are those listed in the "Guidelines" factsheet (referenced above), or a material that is certified in writing as a standard farm practice by a Professional Agrologist, or any material authorized for deposit by the ALC. The factsheet only refers to soil or woodwaste materials (except for the broken concrete and ground asphalt that is specifically only used on cranberry berms with MoE permission.)

Is this definition of permitted material still sufficient/clear?

Is the City informed when the ALC approves a Notice of Intent to place fill on a Richmond property?

How can the AAC play a more supportive role in bylaw enforcement? For example, in Surrey, there is a fixed agenda item "Integrity of the Agriculture Land" at every AAC meeting. During that time, Committee members pass on the addresses of properties along with the details alleged bylaw infractions (e.g. illegal fill dumping, illegal truck parking). The addresses aren't recorded in the minutes, but the details are. A designated City staff passes on the information to bylaws, and then that staff person (or a bylaws rep.) regularly updates the committee on how the illegal use is being addressed (e.g. visited site, issued fine, started court action, etc.)

E-mail from Bill Jones and Dave Sandu to Kathleen Zimmerman, M.Sc., P.Ag. Regional Agrologist and her response and clarification underlined.

We are somewhat confused by your comments with respect to the use of recycled concrete for the construction of farm roads. We are following the exact guidelines that apply to the Cranberry Industry as per the direction set out to us by the Agricultural Land Commission (except we have decided on our own not to use asphalt). As you are aware we are building a small all weather road at the property on Finn Road. We are stripping and saving the topsoil then placing recycled concrete on the subsoil, then placing purchased 6 inch minus recycled concrete on top of this and finishing with ¾ inch minus. We understand that you said that the cranberry industry has 20 years of data on the safety of using not only recycled concrete but also asphalt for cranberry access roads and berms. (I did not say this.) You also state that Oceanspray has not detected any residues from concrete/asphalt in their monitoring. (I quoted the BCCGA letter.) You also stated that the Ministry of Environment gave their approval to the Cranberry growers to use asphalt and concrete on their berms. (I quoted the MoE letter.) We have several pictures taken recently of large pieces of asphalt being partially used as a retention pond liner for cranberry farms in Richmond, which are available if you would like to see them. If this does not cause pollution when it is subject to alternating covering by water and exposure to air then we find it hard to believe that our road can be a problem.

We are also aware that recycled concrete is used extensively throughout the lower mainland in non-agriculture areas for back filling pipe trenches and for road base. However, both Joe Davis and Bill McKinney stated at the Richmond Council meeting on Jan. 28, 2013 and again Bill McKinney made similar comments at the AAC meeting on Jan. 30, 2013 that recycled concrete may contaminate the soil which is in complete contradiction to allowing these products to be used by the cranberry industry and the wider construction industry in BC. Yet, at the same time Bill McKinney stated at the AAC on Jan. 30 that the cranberry farmers have been doing a good job for many years.

The following are excerpts taken from the minutes from the Jan. 28, 2013 Richmond Council meeting:

"Joe Davis, Hydro Geologist, made comments about how certain fill materials may contaminate soil, and stated specific concerns related to both cement and asphalt which included the existence of chromium, lead and zinc. He also spoke about the costly expense of removing such materials from a site..."

Bill McKinney, local resident, owner of a heavy construction business and mining exploration business, spoke about restrictions that companies in the industry are placing on the use of recycled concrete and asphalt products because of the related pollutants..."

As you can appreciate we have no intention of contaminating the soil but need to construct a road that will allow access to the tree farm throughout the year. We have no idea if the statements made by Mr. McKinney and Davis are true, and if so how the cranberry growers can be allowed to use the products.

Our intent is to build a good all weather road and by doing so we will: minimize soil damage caused by driving tractors through muddy fields; eliminate the use of hog fuel that I understand does cause pollution; not use silt and clay fill that is available and that we would be paid to take, but does not create a solid road base; reduce greenhouse gases by not having to use large four wheel tractors in muddy fields.

To be very blunt we are confused and we would therefore like to obtain the following information from you:

- a) Data from the cranberry industry indicating that the use of concrete is safe (we assume that this must have been submitted to the Ministry of Agriculture for the development of the guidelines), The approval process was between Ministry of Environment (MoE) and the cranberry industry. The Ministry of Agriculture referenced the MoE approval for the statements in our Factsheet.
- b) An explanation for why you stated that only the cranberry industry can use this material, when it is stated that the material is completely safe (also the ALC has provided us direction to use the same guidelines), MoE's approval letter was specifically for the cranberry industry in the Lower Mainland Region. MoE approval is region and applicant specific.
- c) Is there any truth in the statements made by Mr. McKinney and Davis? I did not attend the Council meeting on Jan. 28, I didn't hear their comments, and I am not a concrete/asphalt specialist. I cannot answer this question.
- d) Why the cranberry industry is allowed to use asphalt in a retention pond lining and others are advised not to even though the ALC approves its use? MoE approval was for cranberry roads, dykes and berms. Dykes and berms surround retention ponds. Only MoE can determine if a specific site or situation meets the terms of their approval.