

# REPORT TO COUNCIL



**Date:** March 20, 2023

**To:** Council

**From:** City Manager

**Department:** Development Planning Department

**Application:** A23-0001      **Owner:** Black Mountain Irrigation District

**Address:** 2458 Joe Riche Road      **Applicant:** Black Mountain Irrigation District

**Subject:** Application to the Agricultural Land Commission for a Soil or Fill Use in the Agricultural Land Reserve for the Placement of Fill

**Existing OCP Designation:** R-AGR - Rural – Agricultural and Resource, NAT – Natural Areas, PSU – Public Services/Utilities

**Existing Zone:** A1 – Agriculture, P4 - Utilities

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## 1.0 Recommendation

THAT Agricultural Land Reserve Application No. A23-0001 for Lot 8, Sections 18 and 19, Township 27, ODYD, Plan 1991, Except Plans KAP80286 and KAP87038, located at 2458 Joe Riche Road, Kelowna, BC for a Soil or Fill Use in the Agricultural Land Reserve pursuant to Section 20.3 of the Agricultural Land Commission Act, be supported by Council.

AND THAT Council directs staff to forward the subject application to the Agricultural Land Commission for consideration.

### Purpose

To support an application to the Agricultural Land Commission (ALC) to allow for a Soil or Fill Use to place residual sediment resulting from the water quality treatment.

### Development Planning

Black Mountain Irrigation District (BMID) is seeking ALC approval to allow placement of residual sediment from the Mission Creek water quality treatment facility onto their property at 2458 Joe Riche Road. The fill is proposed to be placed in a shallow depression within the rolling hill topography of the site. The capacity of the fill area is 34,680 cubic meters and is estimated to take ten years of water treatment operations to fill. Sampling and analysis indicate the dried sediment satisfies applicable criteria under the Canadian Soil

Quality Guidelines for the Protection of Environmental and Human Health and the BC Hazardous Waste Regulation.

The ALC has determined that Soil and Fill Use applications that are not expressly allowed under the Agricultural Land Reserve Regulation may not proceed to the ALC for permit review unless authorized by a resolution of the local government. There are several common reasons why the ALC will not accept fill applications without first obtaining consent from local government, which are as follows:

- Applicants were initially caught placing fill without permits from the ALC.
- The fill may not aid the farm/farming activity.
- Work is planned to extend beyond two years.
- A waterway may be fouled, obstructed, or impeded.
- The agricultural capability of the land may be degraded.
- Fill placement has not been demonstrated as the only means available to address implementation of standard agricultural best practices.

In this particular instance, the ALC will not accept this proposal directly, since the work is planned to extend beyond two years. Subsequently, the applicant has hired a professional agrologist to prepare a plan to seek ALC support for a fill application to improve the agricultural capability of the site. As a result, staff support this Soil or Fill Use proposal to be sent to the ALC for their consideration.

## **2.0 Proposal**

### **2.1 Background**

BMID seeks a long term solution for placement of sediment material derived from their Mission Creek water treatment facility. Currently, sediment storage at the water treatment facility is at capacity and a new location is needed for the material. Subsequently, BMID proposes to haul the waste sediment from the treatment facility to the subject property to fill a topographical depression and reclaim for agriculture. The close vicinity of the fill site to the treatment facility will reduce hauling costs and fuel use as opposed to transporting it to the landfill.

### **2.2 Project Description**

BMID is seeking ALC approval to allow placement of residual sediment from the drying containment areas of the Mission Creek water treatment facility onto their property at 2458 Joe Riche Road. Hauling of the material would only occur for approximately seven days each year. The proposal is guided by a plan prepared by a professional agrologist to ensure improvement in farming capability. Additionally, an environmental assessment was prepared for the project area to ensure environmentally sensitive areas are not impacted.

Prior to placement of fill, any suitable topsoil will be stripped and stockpiled for site reclamation activities. The fill will be placed in a manner that improves the agricultural capability of the land and to avoid disturbance of adjoining vegetation. The finished grade of the fill will complement adjoining landforms and provide a smooth transition between the land contours and drainage patterns in the area.

The project area is comprised of a low-lying area with steep side slopes within a rolling hill topography. The area has been disturbed by various land uses including fill placement, trail/road development and rangelands used for grazing livestock. The adjoining lands include several disturbed access corridors and a Fortis BC electrical substation and transmission line. There is a mapped stream and wetland habitat located beyond

the transmission line to the northwest of the project area. The stream and wetland habitats drain to the southwest and are isolated from the project area by higher elevation uplands.

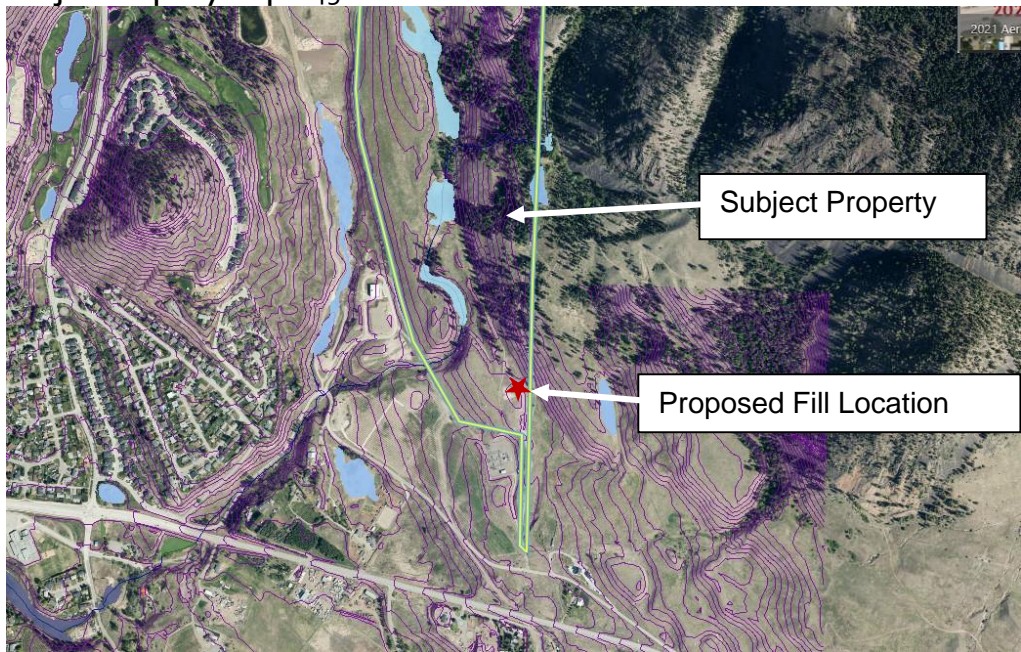
2.3 Site Context

The subject property is located in the Belgo – Black Mountain OCP Sector north of Joe Riche Road and 530 meters north of Highway 33 near the base of Black Knight Mountain. The fill site is approximately 100 m north of a Fortis BC electric substation. The parcel is within the Agricultural Land Reserve with a Future Land Use of Rural – Agricultural and Resource (R-AGR), Public Services/Utilities (PSU) and Natural Areas (NAT) and is zoned A1 – Agriculture and P4 – Utilities.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	P3 – Parks and Open Space	R – AGR - Rural – Agricultural and Resource
East	A1 - Agriculture	R – AGR - Rural – Agricultural and Resource
South	A1 – Agriculture P4 - Utilities	R – AGR - Rural – Agricultural and Resource PSU – Public Services/Utilities
West	A1 – Agriculture P4 – Utilities	R – AGR - Rural – Agricultural and Resource PSU – Public Services/Utilities NAT – Natural Areas REC – Private Recreational S-RES – Suburban - Residential

**Subject Property Map: 2458 Joe Riche Road**



3.0 **Current Development Policies**

<b>Objective 8.1 Protect and preserve agricultural land and its capability (Chapter 8: Rural Lands)</b>	
Policy 8.1.6 Non Farm Uses	<p>Restrict <u>non-farm uses</u> that do not directly benefit agriculture except where such <u>non-farm uses</u> are otherwise consistent with the goals, objectives and other policies of this OCP. Support <u>non-farm use</u> applications only where approved by the <u>ALC</u> and where the proposed uses:</p> <ul style="list-style-type: none"> <li>• Are consistent with the Zoning Bylaw and the 2040 OCP;</li> <li>• Provide significant benefits to local agriculture;</li> <li>• Do not require the extension of municipal services;</li> <li>• Will not utilize productive <u>agricultural lands</u>;</li> <li>• Will not preclude future use of the lands for agriculture; and</li> <li>• Will not harm adjacent farm operations.</li> </ul>
	<p>The agricultural capability of the proposed fill placement area is low for most crops without significant site improvements. Site reclamation will be undertaken in general conformance with best practices as directed by a qualified professional, to improve agricultural capability. The final finished grade of the site will transform from disturbed, steep side slopes to flatter topography, which will also improve farming characteristics.</p>

**4.0 Technical Comments**

**4.1 Development Engineering Department**

The applicant must take all temporary and permanent measures to control contamination from sediment and pollutants and to control erosion as outlined in the Subdivision , Development and Servicing Bylaw No. 7900.

**5.0 Application Chronology**

Date of Application Received: January 16, 2023

**Report prepared by:** Corey Davis, Development Technician

**Reviewed by:** Lydia Korolchuk, Urban Planning Manager

**Reviewed by:** Terry Barton, Development Planning Department Manager

**Approved for Inclusion:** Ryan Smith, Divisional Director, Planning & Development Services

**Attachments:**

Attachment A: Agricultural and Environmental Assessment – Fill Placement

Attachment B: Applicant’s Rationale