

Re: Topsoil Removal in Agricultural Land Reserves

Attached is a report from the Director of Planning regarding appointment of a Municipal official to serve as the administrator of Sections 4A to 4D of the Soil Conservation Act. These sections read as follows:

- No removal of topsoil. 4A. No person shall remove topsoil from agricultural land that is part of an agricultural land reserve, unless he has a valid and subsisting permit under this Act or any other Act to do so.
- Application for permit. 4B. (1) A person may apply, in the form and manner prescribed by the regulations, to the local authority of the area in which land is situated for a permit to remove topsoil therefrom.  
 (2) Where the local authority is satisfied that the applicant has paid the prescribed fee, and has complied with all the regulations, it may issue a permit to the applicant.  
 (3) The permit issued under subsection (2) shall be subject to all the terms and conditions prescribed by the regulations, and to such additional terms and conditions as may be prescribed by the local authority and set out in the permit.  
 (4) The local authority shall grant a permit where it is satisfied that a contract for removal of topsoil was made before the fifteenth day of September, 1973.
- Appeal 4C. A person who is dissatisfied with a decision of the local authority under section 4B, upon being authorized to appeal by a resolution of the local authority, may apply, in the manner prescribed in the regulations made under the Land Commission Act, to the Environment and Land Use Committee established under the Environment and Land Use Act, and, for the purpose of the appeal, the provisions of subsections (8) and (9) of section 9 of the Land Commission Act apply.
- Penalty 4D. (1) Every person who contravenes  
 (a) this Act, or the regulations; or  
 (b) the terms and conditions of a permit issued under section 4B is guilty of an offence.  
 (2) In addition to subsection (1), where the local authority determines that a person has contravened the regulations or the terms and conditions of his permit, it may, without a hearing,  
 (a) immediately suspend the permit and any other permit held by that person issued by that local authority, if the local authority is satisfied that the contravention has ceased; or  
 (b) immediately cancel the permit and any other permit held by that person issued by that local authority, if the local authority is satisfied that the person has, by reason of the contravention, put it beyond his power to comply with the regulations or the terms and conditions of the permit."

A copy of the Act and related supplementary material are available in the Planning Department for those members of Council who may wish to study this matter in greater detail.

The B.C. Land Commission has advised that the legislation is basically a land use control device designed to preserve the soil capabilities of the designated agricultural lands. In other words it is not how topsoil should be removed but whether it should be removed. It is therefore more appropriate that this be a matter under the jurisdiction of the Planning Director for the time being.

RECOMMENDATION:

THAT the Director of Planning be appointed as the officer to enforce and administer sections 4A to 4D of the Soil Conservation Act within this Municipality, as provided for in section 4E of the Act.

ITEM 13  
MANAGER'S REPORT NO. 33  
COUNCIL MEETING April 29/74

Planning Department,  
March 28, 1974.

RE: TOPSOIL REMOVAL IN AGRICULTURAL LAND RESERVES.

The Municipality has received a memorandum dated February 25, 1974, from the Department of Agriculture explaining various documents which deal with recent legislation governing topsoil removal from properties contained within the Agricultural Land Reserves.

Section 4E of the Amending Act stipulates that Council shall appoint an officer to enforce and administer topsoil removal within the Municipality.


The only lands within the Municipality affected by this legislation are those properties within the Big Bend area having an Agricultural Land Reserve designation. In that this area has been the subject of a recent land use review and Development Plan adoption, this department would recommend that it initially be charged with administering this legislation to provide an additional means of guiding the implementation of the agricultural land use component of the development plan concept. To date, this department has maintained a liaison with the B. C. Land Commission with respect to the designated land reserve areas in the Municipality.

This appointment should be regarded as an interim measure until the whole question of removal and fill deposition for the Municipality in general can be reviewed and resolved. It might, for example, be more logical at a later date for the Municipal Engineer to administer this aspect of soil removal under a comprehensive soil removal and fill deposition by-law.

Recommendation

IT IS RECOMMENDED THAT the Director of Planning be appointed as the officer to enforce and administer sections 4A to 4D of the Soil Conservation Act within this Municipality, as provided for in section 4E of the Act.

Respectfully submitted,

  
A. L. Parr,  
DIRECTOR OF PLANNING.

JSB:ew

c.c. Municipal Engineer, Municipal Solicitor