

CITY OF PITT MEADOWS

RENEWAL OF TEMPORARY USE PERMIT NO. 2019-004

ISSUED BY:

THE CITY OF PITT MEADOWS, a City under the "Local Government Act" of the Province of British Columbia, and having its Municipal Offices at 12007 Harris Road, in the Municipality of Pitt Meadows, in the Province of British Columbia, V3Y 2B5
(hereinafter called the "City")

TO: **HANK BITTER**
HANK'S TRUCKING
17607 Ford Road Detour
Pitt Meadows, BC
V3Y 0A7
(hereinafter called the "Permittee(s)")

WHEREAS the Permittee(s) wishes to conduct a commercial operation upon ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of Pitt Meadows in the Province of British Columbia, and more particularly known and described as:

Parcel Identifier: 008-384-932
Legal Description: Lot 9 Section 4 Block 5 North Range 1 East New Westminster District Plan 37014

Parcel Identifier: 013-180-681
Legal Description: West Half of the North East Quarter Section 4 Block 5 North Range 1 East New Westminster District

(hereinafter called the "Lands")

AND WHEREAS the Permittee(s) has made application for a Temporary Use Permit in regard to the Lands;

AND WHEREAS the Local Government Act provides that in such a Permit certain matters may be regulated, required or limited;

NOW THEREFORE, the Council of the City of Pitt Meadows hereby issues a Temporary Use Permit in respect of the Lands as follows:

1. This Temporary Use Permit is issued subject to compliance with all City Bylaws except those bylaw conditions that are at variance with the conditions described in this Permit.
2. This Temporary Use Permit applies to and only to those lands within the City described below, and any and all buildings, structures and other development thereon:

Parcel Identifier: 008-384-932

Legal Description: Lot 9 Section 4 Block 5 North Range 1 East New Westminster District Plan 37014

Parcel Identifier: 013-180-681

Legal Description: West Half of the North East Quarter Section 4 Block 5 North Range 1 East New Westminster District

3. The Temporary Use described on this permit shall be discontinued on or before **March 31, 2024**.
4. The Temporary Use permitted on the said lands shall be to:

Allow the operation of a soil screening and mixing business on the south west corner of 17607 Ford Road Detour (Site A) and the north east corner of 17890 Ford Road Detour (Site B), shown cross hatched on the site plan appended as Attachment A.

5. The Temporary Use shall be carried out according to the following conditions:
 - a) The topsoil screening and mixing operations on Sites A & B must comply with the conditions of non-farm use approval granted by the Agricultural Land Commission under Resolution #151/2014, appended as Attachment B;
 - b) The top soil screening and mixing uses shall operate per the locations identified in the July 16, 2014 approval letter from the Agricultural Land Commission, appended as Attachment C, as follows:
 - Site A screens raw peat moss for the mushroom industry
 - Site B processes topsoil products;
 - c) All machinery, structures and facilities associated with the topsoil screening and mixing operation are to be restricted to the hatched area identified on the attached site plan (Attachment A);

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- d) The commercial use and operation of earth moving equipment including machinery, conveyors, bulldozers, backhoes and excavators shall operate only during the hours permitted by the City's Noise Control Bylaw (reference: A-1 Zone (General Agriculture – Quiet Zone));
 - e) An approved Highway Use Permit is required prior to the delivery of any materials related to the topsoil screening and mixing operation to the site. Compliance with the terms and conditions in that permit is required;
 - f) Surface drainage and run-off from the working area shall be maintained at all times in order to prevent erosion, flooding, siltation or other degradation of the subject property, adjacent lands or waterways. The operation shall comply with the Sediment Control Best Management Practices identified in Schedule D of the City's Soil Removal and Fill Deposit Regulations Bylaw 2593, 2013, as amended;
 - g) Weed control is to be practiced at all times. Mechanical and/or approved chemical control is acceptable;
 - h) No concrete, asphalt, construction or demolition debris, petroleum products, food waste, land clearing waste, yard waste, or any non-soil material, with the exception of horse/cattle manure and spent mushroom manure, is to be brought onto the property;
 - i) Under no circumstances is cedar hog fuel or any other form of cedar wood waste to be brought onto the property;
 - j) The sites are to be secured in such a manner as to prevent unauthorized deposition of fill. An unobstructed sign is to be posted in a prominent location on the properties prohibiting the unauthorized deposition of material. Additionally, a gate is required to ensure no unauthorized access to each site is allowed, and each site is required to be fenced with wire fencing for the purposes of security and safety;
 - k) If internal roads are to be used for transportation of materials between sites, that appropriate noise and dust mitigation measures must be undertaken to the satisfaction of the City;
 - l) Installation, to municipal standards, of a stop sign on the south west corner of Ford Road at Ford Road Detour;
 - m) Confirmation on an annual basis that the soil production and mixing facility uses have not exceeded the permitted boundaries of each site;

- n) This approval in no way relieves the owner or occupier of the responsibility of adhering to all other legislation which may apply to the land. This includes zoning, subdivision, or other land use bylaws, and decisions of any authorities which have jurisdiction;
 - o) The operation of the soil mixing and screening business is restricted to Monday through Saturday only;
 - p) Payment of annual amenity fee of \$9,333.
6. As a condition of the issuance of this Temporary Use Permit, Council is holding the security set out below to ensure that the temporary use is carried out in accordance with the terms and conditions of this permit. Should any interest be earned upon the security, it shall accrue the Permittee and be paid to the Permittee, if the security is returned.

The condition of the posting of the security is that, should the Permittee fail to comply with the terms and conditions of this permit within the time provided, the Municipality may retain the security and with its own forces or contractor under its direction enter onto the property and perform such work as is necessary to eliminate the Temporary Use and bring the use and occupancy of the property in compliance with the Zoning Bylaw.

There is filed accordingly:

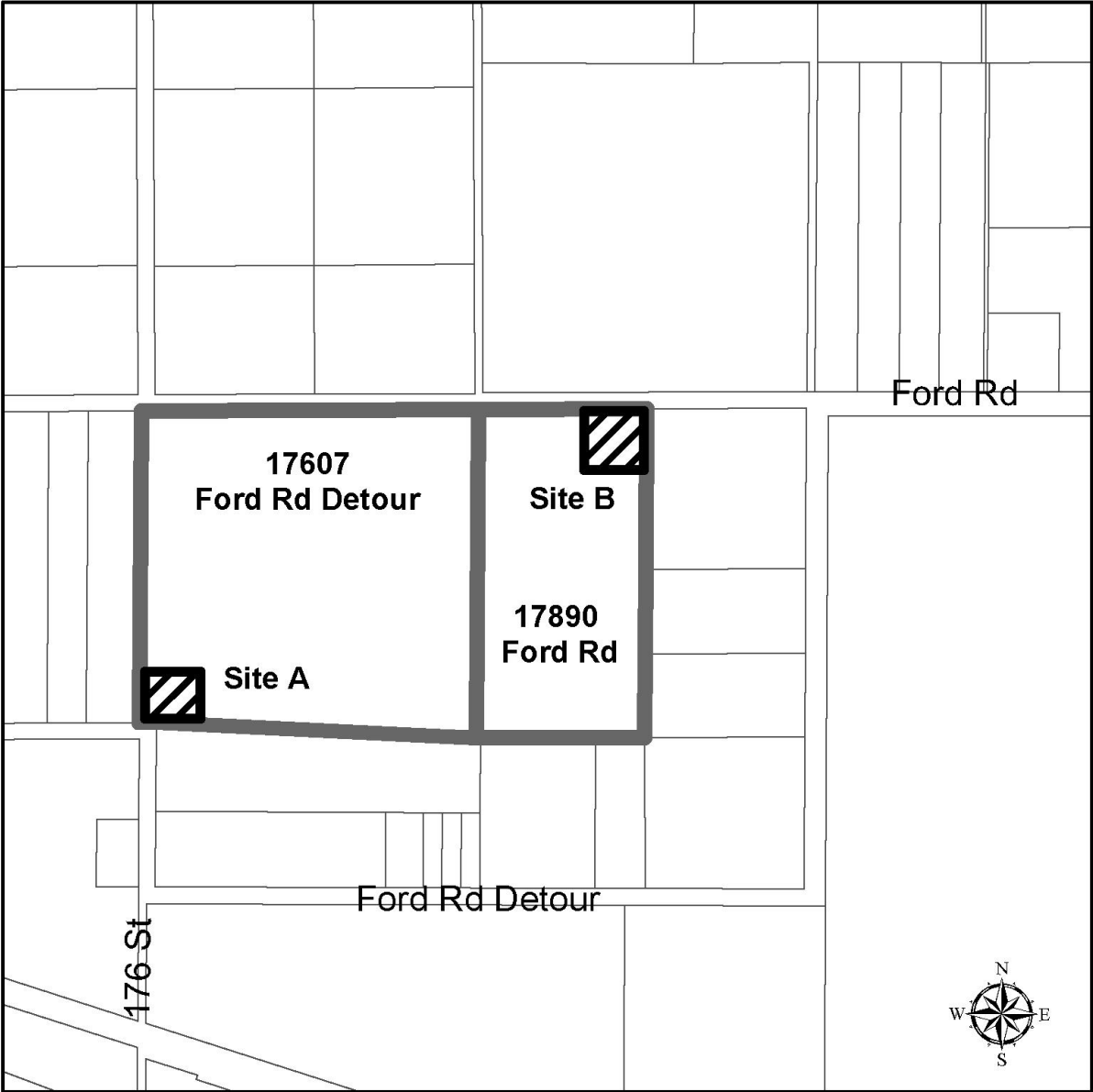
An irrevocable Letter of Credit in the amount of \$10,000.00 (Ten Thousand Dollars)

- 7. The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this permit and any plans and specifications attached to this permit shall form a part hereof.
- 8. Bylaw Enforcement Staff will monitor operations on the site on a yearly basis at a minimum, and more frequently whenever possible.
- 9. Neighbourhood consultation is required prior to any renewal of this permit.
- 10. This permit is not transferable. The permit may be amended or cancelled by Council resolution and in accordance with the regulations prescribed by the Lieutenant Governor in Council.
- 11. This permit is not a building permit.

AUTHORIZING BY COUNCIL RESOLUTION, passed on the day of , 2022

173352v1

Attachment "A"
Site Plan





Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

May 14, 2014

ALC File: 52028

Hank Bitter
16613 Middleton Road
Pitt Meadows, BC V3Y 1Z1

Dear Mr. Bitter:

Re: Application to Conduct a Non-Farm Use on Land in the Agricultural Land Reserve (ALR)

Please find attached the Minutes of Resolution #151/2014 as it relates to the above noted application. The Commission has also attached a sketch plan depicting the decision.

Further correspondence with respect to this application should be directed to Eamonn Watson at Eamonn.Watson@gov.bc.ca.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, consisting of a stylized 'C' followed by a long, horizontal, slightly wavy line that tapers off to the right.

Colin J. Fry, Chief Tribunal Officer

Enclosures: Minutes of Resolution #151/2014
Sketch plan

cc: City of Pitt Meadows (6635-20-2010-03-P)

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on March 28, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to the Request for Reconsideration of Application #52028.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner

COMMISSION STAFF PRESENT:

Jennifer Carson	Planner
Eamonn Watson	Planner
Colin Fry	Chief Tribunal Officer

REQUEST FOR RECONSIDERATION

The Commission received a letter dated April 13, 2012 requesting the reconsideration of its decision recorded as Resolution #133/2011, by which, the proposal to permit the screening and mixing of soil was refused. Further to this letter, Mr. Colin Fry, Chief Tribunal Officer, met with Mr. Hank Bitter and additional information was provided by way of an electronic mail correspondence dated February 25, 2014.

Owner: Hank John Bitter

Original Proposal: (Submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)

To permit the screening and mixing of soil for sale from the subject property.

Original Decision: That the application be refused.

Current Request: Mr. Bitter is requesting permission to continue operating the soil screening and mixing business.

Legal: PID: 013-180-681
West Half of the North East Quarter, Section 4, Block 5 North, Range 1 East, New Westminster District

Location: 17890 Ford Detour Road, Pitt Meadows

LEGISLATIVE CONTEXT FOR COMMISSION RECONSIDERATION

Section 33 (Reconsideration of decisions) of the *Agricultural Land Commission Act* states:

- 33(1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that:
- (a) evidence not available at the time of the original decision has become available,
 - (b) all or part of the original decision was based on evidence that was in error or was false.
-

DECISION REGARDING THE REQUEST FOR RECONSIDERATION

The Commission believes that the applicant has provided evidence that was not available at the time of the previous decision. In his email, Mr. Bitter explains the agricultural service he offers to other farmers in the area.

As a result, it was moved by Commissioner Bullock and seconded by Commissioner Dyson that there were no persons affected by the reconsideration and that the Commission reconsider Resolution #151/2014. The motion was carried unanimously.

After considering the new information the Commission concluded as follows:

1. The applicant is a bona fide farmer and the majority of the subject property is in active cranberry production. The topsoil screening and mixing operation provides financial support to the farm operation by way of a reliable income stream. The area that would be utilized for the topsoil screening and mixing operation would remain contained.

Conclusion:

The site used for the operation is relatively small and does not appear to have any negative impact on the existing agricultural operation. The Commission believes that the continuation of the topsoil screening and mixing operation does not have an adverse impact on agriculture as long as the area is rehabilitated before the property is sold.

2. The topsoil screening and mixing operation provides an important service to the agricultural community by redirecting and reusing horse manure and spent mushroom compost (a waste product of those industries) as a quality soil. The Commission was advised by Mr. Fry that he is not aware of any complaints received regarding the operation to date.

Conclusion:

The Commission believes that the topsoil screening and mixing operation provides a service to the agricultural community while also supporting the existing farm on the property.

3. Mr. Bitter also owns the property immediately to the west (Lot 9, Section 4, Block 5 North, Range 1 East, New Westminster District; PID: 008-384-932) and farms the two

properties as contiguous unit. Mr. Bitter's farm operation extends beyond these two properties and in total farms approximately 60 ha of land in Pitt Meadows. Neither the subject property nor Lot 9 currently have a home, and Mr. Bitter confirms that if a home were to be built, it would be built on the existing topsoil screening and mixing staging area.

Conclusion:

The Commission understands that the majority of the subject property (and Lot 9) are in active agricultural production and the applicant is willing to put a covenant(s) on the two properties to ensure the impact to the topsoil screening and mixing operation remains minimal. As a result, the Commission believes the proposed continuation of the topsoil screening and mixing operation would be consistent with the objective of the *Agricultural Land Commission Act* to encourage farming without having a negative impact on the preservation of the land.

IT WAS

MOVED BY: Commissioner Bullock

SECONDED BY: Commissioner Dyson

THAT the request to continue the topsoil screening and mixing operation on approximately 0.4 ha of the subject property be approved.

AND THAT the approval is subject to the following conditions:

1. The topsoil screening and mixing operation must be in substantial compliance with the information submitted with the application;
2. The topsoil screening and mixing operation must not expand outside the boundaries identified with the application;
3. The topsoil screening and mixing operation is permitted to continue for a further ten (10) years from the date of this decision (until March 31, 2024);
4. The topsoil screening and mixing operation must not be sold as a going concern and all associated infrastructure must be removed from the subject property in advance of a sale of the subject property and Lot 9;
5. The registration of a covenant on the subject property and Lot 9 for the purposes of restricting the sale, transfer, lease, or any other form of transacting the land, from the current owner to another person(s) prior to the cessation of the topsoil screening and mixing business; and one of the following:
 - a. the reclamation of the topsoil screening and mixing site to an agricultural standard, or
 - b. restricting the residential building area of the subject property and Lot 9 to the same area as the topsoil screening and mixing site instead of reclaiming the topsoil screening and mixing site to an agricultural standard; and
6. The approval for non-farm use is granted for the sole benefit of the applicant (Hank John Bitter) and is non-transferable.

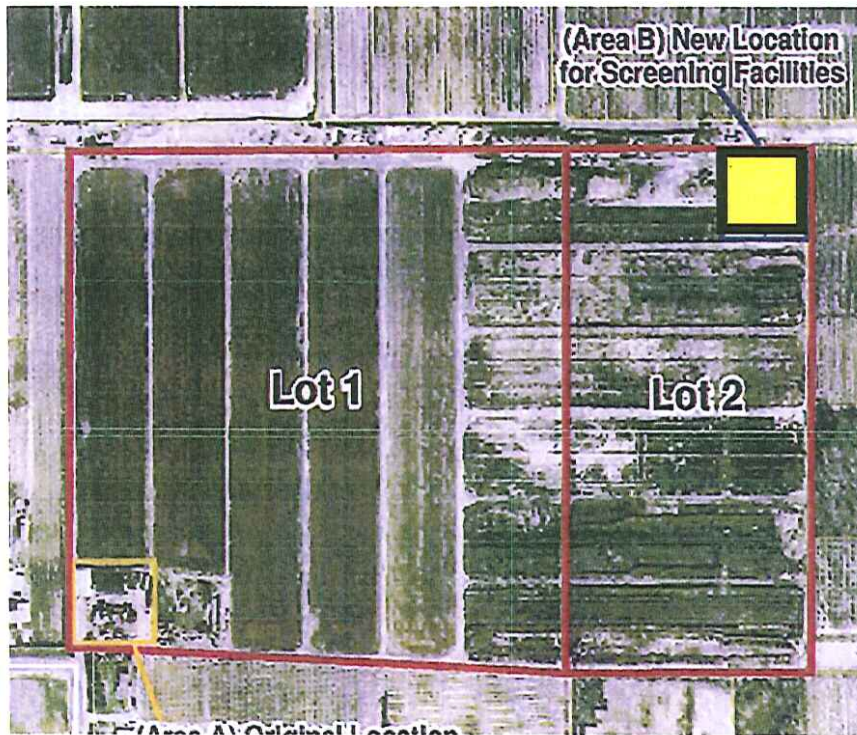
AND THAT the Commission has no objections to the continued use of the portion of existing right of way immediately north of the subject property and Lot 9 for topsoil screening and mixing activities associated with the approved use subject to approval from the City of Pitt Meadows.

AND FINALLY THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

CARRIED
Resolution #151/2014



Approved area for topsoil screening and mixing operation (approximately 0.4 ha)





Agricultural Land Commission
 133-4940 Canada Way
 Burnaby, British Columbia V5G 4K6
 Tel: 604 660-7000
 Fax: 604 660-7033
 www.alc.gov.bc.ca

July 16, 2014

ALC File: 52028

Your File: 6635-20-2010-03-P

City of Pitt Meadows
 12007 Harris Road
 Pitt Meadows, BC V3Y 2B5

Attention: Anne Berry, Manager of Development Services

Dear Ms. Berry:

Re: Hank's Trucking & Bulldozing Ltd.

This is further to our recent communication regarding the above which was prompted by new information regarding Mr. Hank Bitter's operational issues associated with his topsoil screening and mixing activities. On June 24, 2014 Mr. Bitter emailed you the following advice:

Just a note to clarify the importance of having both sites A and B operational on our Ford Road property.

Site A screens our Raw Peat Moss for the mushroom industry. Site B processes our topsoil products.

These sites are on opposite corners of the property because it is critical we keep our peat moss as far away from any topsoil as possible. The mushroom industry cannot have any form of bacteria in their casing soil. We also cannot run topsoil through the same screening plant without completely steralizing (sic) the entire plant which is not economically feasable (sic).

Both sites A and B are the same size (.4 hectare) and both sites are equally important to maintaining our operation.

I can confirm that when the Commission reconsidered the proposal on March 28, 2014, it was aware of the 1994 approval to conduct a topsoil screening and mixing business on a small portion of the property legally described as:

PID: 008-384-932

Lot 9, Section 4, Block 5 North, Range 1 East, New Westminster District, Plan 37014.

However, during its most recent review the Commission incorrectly assumed the project area as approved in 1994 (referred to as Site A in Mr. Bitter's email) was no longer in use. Based on the new information provided by Mr. Bitter, I reviewed the Commission's decision by Resolution #151/2014 and took note of its comments and conclusions:

1. *The applicant is a bona fide farmer and the majority of the subject property is in active cranberry production. The topsoil screening and mixing operation provides financial support to the farm operation by way of a reliable income stream. The area that would be utilized for the topsoil screening and mixing operation would remain contained.*

Conclusion:

The site used for the operation is relatively small and does not appear to have any negative impact on the existing agricultural operation. The Commission believes that the continuation of the topsoil screening and mixing operation does not have an adverse impact on agriculture as long as the area is rehabilitated before the property is sold.

2. *The topsoil screening and mixing operation provides an important service to the agricultural community by redirecting and reusing horse manure and spent mushroom compost (a waste product of those industries) as a quality soil. The Commission was advised by Mr. Fry that he is not aware of any complaints received regarding the operation to date.*

Conclusion:

The Commission believes that the topsoil screening and mixing operation provides a service to the agricultural community while also supporting the existing farm on the property.

3. *Mr. Bitter also owns the property immediately to the west (Lot 9, Section 4, Block 5 North, Range 1 East, New Westminster District; PID: 008-384-932) and farms the two properties as contiguous unit. Mr. Bitter's farm operation extends beyond these two properties and in total farms approximately 60 ha of land in Pitt Meadows. Neither the subject property nor Lot 9 currently have a home, and Mr. Bitter confirms that if a home were to be built, it would be built on the existing topsoil screening and mixing staging area.*

Conclusion:

The Commission understands that the majority of the subject property (and Lot 9) are in active agricultural production and the applicant is willing to put a covenant(s) on the two properties to ensure the impact to the topsoil screening and mixing operation remains minimal. As a result, the Commission believes the proposed continuation of the topsoil screening and mixing operation would be consistent with the objective of the Agricultural Land Commission Act to encourage farming without having a negative impact on the preservation of the land.

Given the above, I write to confirm that the Commission has no objections to the continued operation of both Sites A and B based on the conditions specified in Resolution #151/2014 noted below.

CONDITIONS

THAT the request to continue the topsoil screening and mixing operations on a 0.4 ha area of each of the following parcels be approved:

A. PID: 013-180-681

West Half of the North East Quarter, Section 4, Block 5 North, Range 1 East, New Westminster District; and

B. PID: 008-384-932

Lot 9, Section 4, Block 5 North, Range 1 East, New Westminster District, Plan 37014.

AND THAT the approval is subject to the following conditions:

1. The topsoil screening and mixing operations (combined 0.8 ha total area of Sites A and B) must be in substantial compliance with the information submitted with the application;
2. The topsoil screening and mixing operations must not expand outside the boundaries of Sites A and B;
3. The topsoil screening and mixing operations on Sites A and B are permitted to continue for a further ten (10) years from the date of this decision (until March 31, 2024);

4. The topsoil screening and mixing operations on Sites A and B must not be sold as going concerns and all associated infrastructure must be removed from Sites A and B prior to the sale or transfer of one or both of the properties to which this approval applies;
5. The registration of a covenant against the Certificates of Title of the properties to which this approval applies for the purposes of restricting the sale, transfer, lease, or any other form of transacting the properties, from the current owner to another person(s) prior to the cessation of the topsoil screening and mixing operations on Sites A and B; and one of the following:
 - a. the reclamation of Sites A and B to an agricultural standard, or
 - b. restricting the residential building area on the properties, to which this approval applies, to coincide with the areas of Sites A and B; and
6. The approval for non-farm use is granted for the sole benefit of the applicant (Hank John Bitter) and is non-transferable.

AND THAT the Commission has no objections to the continued use of the portion of existing right of way, immediately north of the properties to which this approval applies, for topsoil screening and mixing activities associated with the approved uses subject to approval from the City of Pitt Meadows.

AND FINALLY THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

I have attached a sketch plan depicting the approval as noted herein.

Further correspondence with respect to this application is to be directed to Eamonn Watson at Eamonn.Watson@gov.bc.ca.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION



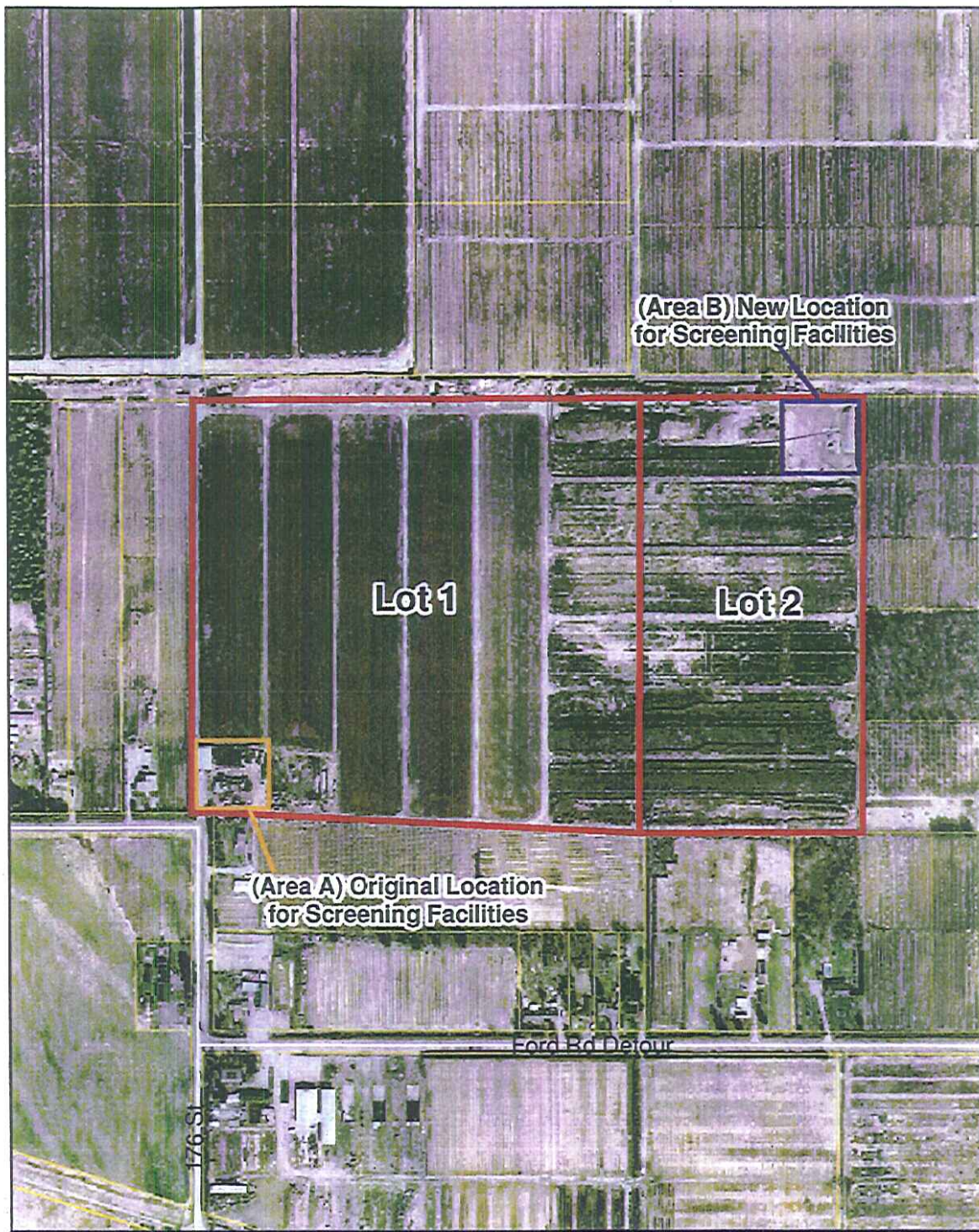
Colin J. Fry, Chief Tribunal Officer

Enclosures: Sketch Plan

cc: Mr. Hank Bitter
16613 Middleton Road, Pitt Meadows, BC V3Y 1Z1

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Attachment A – Map 1



Provincial Agricultural Land Commission
Application ID: 52028 (Hank Bitter)

Sketch Plan attached to ALC letter dated July 16, 2014



Subject properties



Site A (0.4 ha) – Approved topsoil mixing and screening



Site B (0.4 ha) – Approved topsoil mixing and screening