



City of Richmond

Report to Committee

To: General Purposes Committee

Date: February 22, 2013

From: Phyllis L. Carlyle
General Manager

File: 12-8080-12-01/Vol 01

Re: **Fee and Enforcement Options for Soil Removal and Deposit Activities in the Agricultural Land Reserve**

Staff Recommendation

1. That the proposed enhancements to the City's permit and enforcement processes for soil management in the Agricultural Land Reserve, as presented in the report titled *Fee and Enforcement Options for Soil Removal and Deposit Activities in the Agricultural Land Reserve* from the General Manager, Law & Community Safety dated February 22, 2013, be approved in principle for the purpose of consultation.
2. That the report be forwarded to the City's Agricultural Advisory Committee for comment; and
3. That staff analyze and report back to Council on any comments received from the Agricultural Advisory Committee.

Phyllis L. Carlyle
General Manager
(604-276-4104)
Att. 2

REPORT CONCURRENCE			
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER	
Law	<input checked="" type="checkbox"/>		
Policy Planning	<input checked="" type="checkbox"/>		
Budgets	<input checked="" type="checkbox"/>		
REVIEWED BY DIRECTORS	INITIALS:	REVIEWED BY CAO	INITIALS:

Staff Report

Origin

On a January 14th, 2013 Council meeting, a number of concerns were brought forward regarding soil deposit and land filing activities on agricultural land and a request was made for staff to review the City's *Soil Removal and Fill Deposit Regulation Bylaw* ("Bylaw 8094") to identify any deficiencies in relation to regulating soil deposit activities on lands within the Agricultural Land Reserve ("ALR").

This report is in response to some of the referrals made by Council at a subsequent meeting on January 28, 2013;

- *That staff be directed to report back on the options and implications for charging fees for soil removal and deposit activities in the Agricultural Land Reserve;*
- *That an education and "Soil Watch" program, as outlined in the staff report dated January 16, 2013 titled "Regulation of Soil Removal and Deposit Activities on Agricultural Land" be implemented;*

This report supports Council's Term Goal #8: *to demonstrate leadership in sustainability through continued implementation of the City's Sustainability Framework*, which includes the continued commitment to the protection of the City's Agricultural Land Reserve (ALR) for future agricultural viability.

Analysis

At its January 28, 2013 meeting, Council gave first, second and third reading to a bylaw to amend the *Soil Removal and Fill Deposit Regulation No. Bylaw 8094* ("Bylaw 8094"). The amending bylaw repeals the permit exemption for soil removal or deposit associated with an existing "farm use" under the *Agricultural Land Commission Act* or a "non-farm use" supported by a notice of intent under the *Agricultural Land Commission Act*. In accordance with the requirements of the *Community Charter*, the amendment bylaw has been forwarded to the following provincial Ministries for review and approval:

- 1) Ministry of Community, Sport and Cultural Development;
- 2) Ministry of Environment; and
- 3) Ministry of Energy, Mines and Natural Gas.

Currently one ministry has responded to the City's submission.

Following Provincial approval and Council adoption of the amendment Bylaw 8094, the City would regulate soil deposit and removal activities for both "farm use" and "non-farm use" on agricultural land through the same permit system.

Soil is an important resource in Richmond. Approximately 4,993 ha (12,338 ac) of Richmond's land base, or 39% is within the ALR. This significant percentage of farmable land puts Richmond in the enviable yet difficult position of managing municipal growth while protecting some of the most productive agriculture land in the country (Attachment 1).

Soil removal and deposit on lands within Richmond's ALR is regulated by Bylaw 8094 and the provincial "*Agricultural Land Commission Act*". Provisions under the "*Agricultural Land Commission Act*" allow for an application to be submitted to the local government for review for certain soil removal and deposit activities considered to be "non-farm use" on land in the ALR. For these types of "non-farm use" soil removal or deposit activities, the Council of the local government has the authority to either refuse the application or to authorize the application to proceed to the Agricultural Land Commission (ALC) for review and approval.

Currently the City and ALC simultaneously receive all "non-farm use" applications related to soil fill and removal. Applications are reviewed by both agencies and appropriate approvals and permits are supported or denied as per municipal and provincial legislation. The City's Agricultural Advisory Committee reviews these applications and provides recommendations to assist the City in the decision making process.

Service Demand

The following table indicates the number of files related to the ALR that were managed by the Community Bylaws Division in the past three years.

Year	2010	2011	2012
Investigative Files / Complaints	11	14	12
Farm Use Application	7	2	2
Non Farm Use Application	7	1	2
Total	25	17	16

Currently the City's Community Bylaws Division is mandated with the processing, reviewing and administration of all "non-farm use" soil removal and deposit applications. This includes: issuing permits, responding to complaints, and maintaining patrol services to respond pro-actively to complaints. In addition, Community Bylaws responds to complaints about soil removal and deposit activity associated with "farm use", even though the City is not yet involved in issuing permits for these activities.

The administrator of soil processing permits for soil management in the ALR is the Community Bylaws Supervisor, with final approval by the Manager, Community Bylaws. This duty is in addition to the other supervisory and managerial duties and responsibilities, resulting in a lengthy application process.

At present, the absence of a dedicated staff resource for soils results in monitoring and enforcement being conducted only in response to calls for service. Furthermore, some soil applications which are suspended or cancelled due to applicant delays remain active for years, which can require additional monitoring and further hinders a proactive response.

The ALC received approximately 39 soil related calls for service in Richmond from 2008 to 2012. The ALC, which holds the responsibility to protect agricultural land throughout the province, is minimally resourced, with two enforcement officers monitoring the entire province.

A review of four municipalities near Richmond found that all have dedicated resources, as well as permit and enforcement programs (Attachment 2). These programs include the ability to charge fees for soil removal and deposit activities in the ALR.

Comparisons made with other local municipalities indicate that permits, fees and enforcement activities are consistent in both Metro Vancouver and the Fraser Valley.

Processes and Implications for Charging Fees

To develop and implement an effective permit system, several factors need to be considered:

1. In order to minimize the cost to farmers, fees should be reasonable and “red tape” reduced. Farms periodically require soil to be imported for various reasons.
2. Applications should be categorized by volume with a corresponding approval process for each category. See chart below.
3. Council may wish to consider an exemption limit for any road or dyke maintenance or construction.
4. The City should have the ability to levy fines for those projects conducting fill activity without a permit. Enforcement provisions and fines should be significant enough to encourage the removal of unauthorized fill and land remediation.
5. Drainage remains a significant concern with all soil deposit applications. Applications should be accompanied by detailed information regarding the impact of added soil on the property.
6. Referring to standard best practices may negate the need to obtain agrologist reports in some cases. The Ministry of Agriculture already has guidelines for standard farm practices involving fill and these can be made available to applicants and to staff that review applications. Alternatively, the City can use the services of a professional agrologist to write best practices specifically for Richmond.
7. Council may also wish to consider that Permit holders be required to maintain a daily record of soil removal or deposit activity. For permits of volumes exceeding 500 cubic metres, the permit holders would be required to maintain monthly reports. These records and reports would allow City personnel to better track soil removal and deposit activities and to confirm that permit conditions are being met.
8. In addition posted signage at the main access point of a property could provide notice of permitted soil removal or deposit activity. Signage in conjunction with the Soil Watch program will assist local residents and City staff to be more aware of soil activities on a property.
9. Currently the City is only able to pursue violations of Bylaw 8094 through prosecution in the Provincial Court which is a lengthy and expensive process. In reviewing options, Council may wish to consider implementing a process that would permit the City to issue violation notices for non-compliance with Bylaw 8094.

Council may wish to consider that a permit be maintained for larger operations (over 100 cubic metres), with some enhancements to the permit requirements. The following table delineates proposed permit requirements for Council's consideration:

Permit Requirements

Volume* (cubic metres)	Approval	Proposed Fee	Insurance Required	Security Required	Advise AAC	Council Resolution Required
0-15	No permit or notification required	N/A	No insurance required	No security required	No	No
16-100	Notification required	No Fee	No insurance required	No security required	No	No
101 – 35,000	Permit required	\$500.00 application fee plus 0.50 per cubic meter	\$5,000,000	\$20/cubic metre	Yes	No
35,000+	Permit required	\$500.00 application fee plus 0.50 per cubic meter, plus \$300.00 (ALC portion of non- farm use application)	\$5,000,000	\$20/cubic metre	Yes	Yes

*in any consecutive 12-month period

Consultation and Ministerial Approval

Should Council decide to impose bylaw amendments, this may have an impact on farmers and property owners in the ALR. Therefore it is recommended that this report be forwarded to the City's Agricultural Advisory Committee for comment.

As directed by Council, staff have begun reviewing the authority and process for the ALC to delegate to the City its decision-making and enforcement powers relating to non-farm uses of land within the ALR. Should an agreement be reached, additional resources outside of the recommendations provided in Options 2 and 3 (outlined below) may be required. At this point there is no accurate method of anticipating what those needs may be.

The *Community Charter* provides that certain bylaws relating to soil removal require the approval of the Minister of Energy, Mines and Natural Gas and that certain bylaws relating to soil deposit require the approval of the Minister of Environment. Furthermore bylaws imposing a fee relating to soil removal or deposit require approval by the Minister of Community, Sport and Cultural Development. It is required that any bylaw amendments be forwarded to the three Provincial ministries for review and approval before adoption. Should a decision be made to pursue this bylaw amendment a second round of approval would need to be launched. This process would be considered independently to the earlier submitted bylaw amendments.

Enforcement Program Options

Option 1

Council could choose to remain with the *status quo* with regard to the service levels that are currently in place for soil management in the ALR. This option provides modest or *status quo* revenue levels as a result of additional permits being processed for soil deposit and fill activities.

Identified negatives would be:

1. Enforcement efforts will remain reactive.
2. The repeal of the permit exemption under section 3.2.1(a) of Bylaw 8094 together with the implementation of a soil watch program will result in the City having to process additional applications and/or calls for service with limited staff resources.

Option 1 is currently funded from the Community Bylaws operational budget.

Option 2

Option 2 would require the hiring of a clerk to manage permit applications and a bylaw officer to conduct preventative patrols and field investigations. The clerk's position would handle permit applications during regular work days (Monday to Friday). The bylaw officer position would handle proactive patrols and enforcement also during regular work days. Calls for service outside of regular hours and on the weekend would be addressed by the bylaw officer on an overtime call-out basis.

With only one officer dedicated to soil enforcement option 2 does not provide coverage during the officer's periods of vacation, statutory holidays or illness. Option 2 does provide for some increase in proactive patrols and a soil watch program which is an enhancement over Option 1. Council may wish to consider a bylaw amendment that would allow for the charging of incremental fees for soil removal and deposit activities in the ALR. This could provide for some revenue as a result of additional permits being processed and the issuance of fines for violations. Estimated revenue numbers are included below. There is no current funding source in place for option 2.

Costs to implement an enhanced full time program:

Capital Costs (One Time):

Initial purchase cost of vehicle	\$ 35,000
Two office workstations (Workstations, phones, computers, office supplies, etc...)	\$ 20,000
Total:	\$ 55,000

Operating Costs (Net On-going):

One full time bylaw officer	\$ 81,245
One department associate clerk	\$ 63,552
Operating costs for vehicle (fuel, insurance, Maintenance and replacement)	\$ 12,000

Overtime for callouts	\$ 10,000
Agrologist or Geo Technician	\$ 5,000
Soil Watch Educational Program (Without materials, pamphlets, etc...)	\$ 10,000
General Operating Expenses	\$ 2,500
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Total Expenses	\$ 239,297
Offsetting Permits and Fees (See "Permit Fees" below)	\$ 100,000
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Total Tax Base Funded Cost Option 2	\$ 139,297

All financial figures are based on projected permit and volume fees, and on the assumption that at least one half of Richmond's ALR land is dedicated for farm use that yields one to two crops per year.

Option 3

Option 3 would require the hiring of a clerk to manage permit applications and two bylaw officers to conduct preventative patrols and field investigations. The clerk's position would handle permit applications during regular work days (Monday to Friday). The bylaw officer position would handle proactive patrols and enforcement not only during regular work days but also on the weekends. Calls for service outside of regular shifts would be addressed by the bylaw officers on an overtime call-out basis. Option 3 would permit for an aggressive level of enforcement by identifying any soil deposit issues, with Community Bylaws staff implementing a systematic approach to proactive patrol, investigation, and enforcement of the soil violations in Richmond's ALR.

Option 3 provides for increased proactive patrols and a complete soil watch program. With two officers dedicated to soil enforcement option 3 provides coverage when one of the officers are away during vacation, statutory holidays or illness. Option 3 provides for an enhanced level of service over both options 1 and 2.

A bylaw amendment that would allow for the charging of incremental fees for soil removal and deposit activities in the ALR could provide for some revenue as a result of additional permits being processed and the issuance of fines for violations. Estimated revenue numbers are included below.

There is no current funding source in place for option 3.

Costs to implement an aggressive full time program:

Capital Costs (One Time):

Initial purchase cost of vehicle	\$ 35,000
2.5 office workstations (Workstations, phones, computers, office supplies, etc...)	\$ 25,000

Total:	\$ 60,000
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Operating Costs (Net On-going):

Two full time bylaw officers	\$ 162,490
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One department associate clerk	\$ 63,552
Operating costs for vehicle (fuel, insurance, Maintenance and replacement)	\$ 12,000
Overtime for callouts	\$ 10,000
Agrologist or Geo-Technician	\$ 5,000
Soil Watch Educational Program (Includes materials, pamphlets, etc...)	\$ 12,000
General Operating Expenses	\$ 3,500
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Total	\$ 328,542
Offsetting Permits and Fees (See "Permit Fees" below)	\$ 100,000
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Total Tax Base Funded Cost Option 3	\$ 228,542

All financial figures are based on projected permit and volume fees, and on the assumption that at least one half of Richmond's ALR land is dedicated for farm use that yields one to two crops per year.

Permit Fees

Geographic, demographic, and economic variances hinder the compilation of accurate permit fee predictions. Local municipalities such as Langley Township and Delta report permit fees for similar programs ranging from \$124,000 to \$232,000 respectively. It is difficult to estimate these levels based on programs in other cities; however if necessary there is a high probability that the Soil Bylaw amendments may provide for some offsetting costs near \$100,000. Fees will offset some of the costs associated with this initiative.

Financial Impact

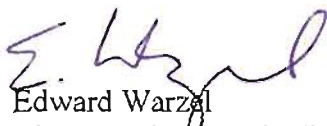
The Enforcement Program Options (Option 1, Option 2, and Option 3; above) outline financial impacts expected for 2013. There is no funding for options 2 or 3 in the 2013 budget.

If either option 2 or 3 are chosen, staff recommend that the rate stabilization account be utilized to fund this as a one-time expenditure in 2013 and the five year Financial Plan (2013-2017) be amended accordingly.

In 2014, the financial impact would vary depending upon the option chosen. Funding for the program (if applicable) would be advanced by staff as part of the 2014 budget process.

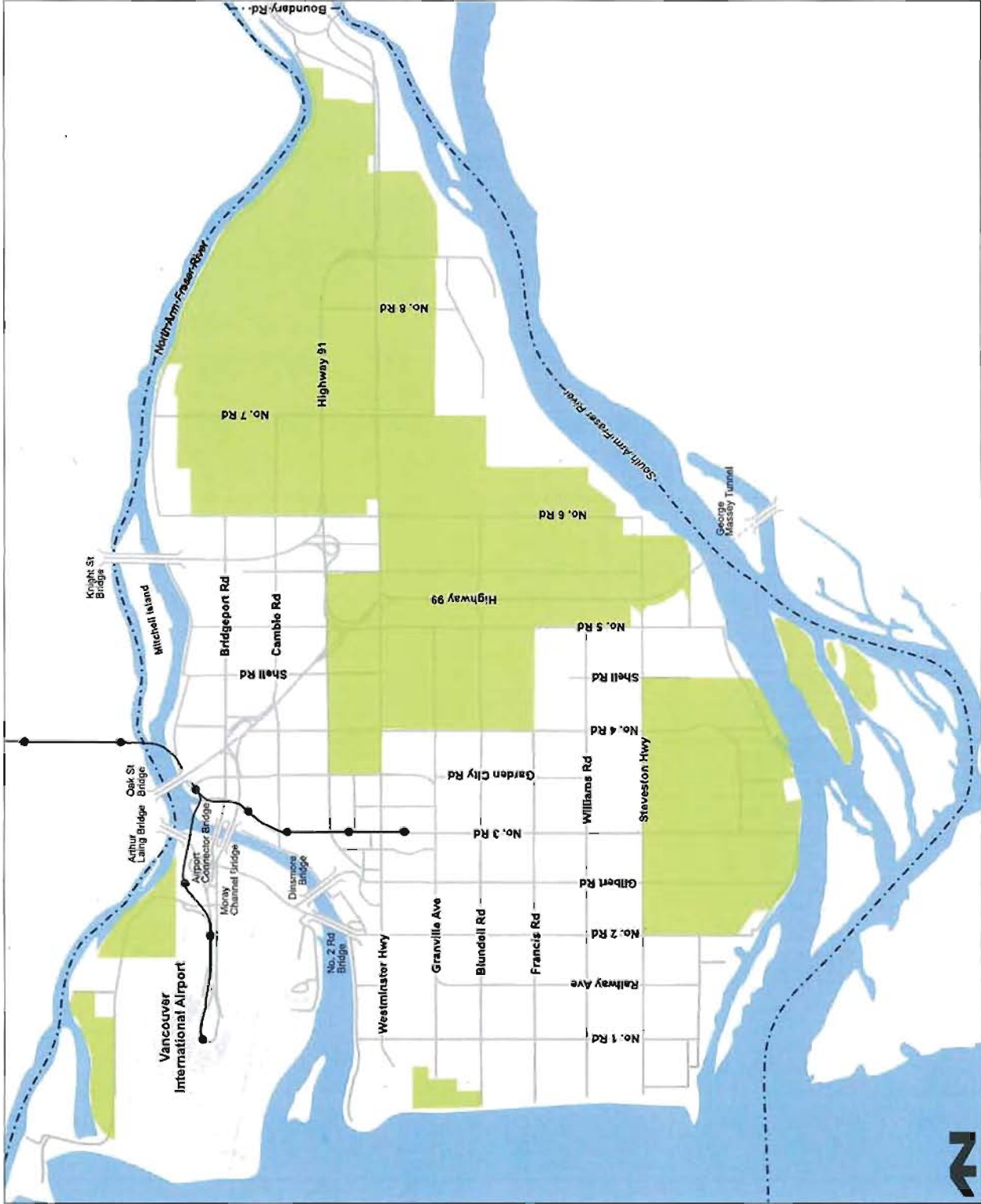
Conclusion

This report provides information on the City's current regulations pertaining to soil deposit activities in the ALR, as well as measures of the current resource levels dedicated to the permit process. This report also provides information related to the monitoring of soil offences in the City of Richmond and options for maintaining and or enhancing the delivery of education and enforcement programs to better manage soil related issues. Furthermore the report provides to Council the implications of charging fees for soil activities on ALR lands within Richmond.



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Agricultural Land Reserve Map



Municipality	Monitoring Activity	Permits Issued	Fees Charged	Staffing Resources	Soil Watch Program
<p>City of Abbotsford</p>	<p>40 active sand and gravel pits. Proactive monitoring of active/permitted sites conducted by Public Works Inspectors. Permit applications reviewed and processed by the Manager of Engineering Inspections and Permits. Projects involving 20,000 cubic meters or more must go before Council.</p>	<p>Soil permit</p>	<p>Currently no application fee. Report going forward to consider charging application fee plus royalties. 0.67 per cubic meter charged from source site only. No level for charges, all fill activity is subject to permit fee. \$600.00 fee for non-farm use application - \$300.00 forwarded to ALC once approved by Council</p>	<p>1 Manager 1 RFT Public Works Inspector 2 RPT Public Works Inspectors 1 Clerical Staff</p>	<p>Yes</p>
<p>Corporation of Delta</p>	<p>Permitted sites required to provide daily log sheet of soil deposits to Delta. Proactive monitoring of sites by 9 Bylaw Officers.</p>		<p>\$500.00 application fee plus 0.50 per cubic meter for all soil projects over 100 cubic meters. Security bond/deposit for soil deposition \$5.00/meter In addition \$300.00 for the ALC portion for non-farm use application which is only taken from the applicant once the project receives Council approval to be forwarded to the ALC</p>	<p>1 RFT Bylaw Officer In addition sites monitored by all general duty officers (8) in specific zones. Permits are processed by Bylaw Supervisor in conjunction with City Planner.</p>	<p>Yes</p>

Municipality	Monitoring Activity	Permits Issued	Fees Charged	Staffing Resources	Soil Watch Program
City of Surrey	<p>Bylaw Officer closely monitors permitted sites for soils and erosion sediment activity.</p> <p>Engineering Technologist processes and issues permits, in addition the Technologist monitors the projects in the field making sure that permitted fill sites are in compliance with the conditions.</p> <p>All fill projects over 100 cubic meters are forwarded to the Engineering Technologist.</p> <p>All fill projects over 35,000 cubic meters go through the City's non-farm use application process requiring Council Resolution and ALC approval.</p>	Soil Permit	<p>\$580.00 flat fee for a "farm use" permit. (permit is required for fill projects over 100 cubic meter and valid for 1 year applicants may apply for renewal but must pay an additional \$580.00 each year).</p> <p>In addition Surrey charges 0.57 per cubic meter for aggregate extraction operations only.</p> <p>Applicants must pay the additional \$300.00 for the ALC portion if the project is a "non-farm use" application.</p> <p>Security bond/deposit for soil deposition \$5.00/meter</p>	<p>1 RFT Bylaw Officer</p> <p>1 RFT Engineering Technologist</p>	Yes
Township of Langley	<p>Monitor soil concerns on complaint based only - soils hotline.</p> <p>Officers able to issue a stop work order and bylaw violation notices through the adjudication system.</p>	Soil Permit	<p>\$250.00 regular application permit fee. Plus 0.50 per cubic meter charged on anything over 100 cubic meters.</p> <p>Security bond of \$1000.00 minimum can be higher based on project.</p> <p>In addition \$300.00 for the ALC</p>	2 RFT Bylaw Officers	Yes (telephone number is also forwarded to Officer's email address)

Municipality	Monitoring Activity	Permits Issued	Fees Charged	Staffing Resources	Soil Watch Program
Township of Langley (continued)	<p>Penalties include fill w/o permit, deposit or removal, filling on stat holidays or weekends, affecting drainage, causing run offs into City ditches.</p> <p>A Soil declaration is required for all projects including building. The declaration must show where source sites are.</p> <p>All projects over 600 cubic meters must go to Council.</p> <p>Township provides proponent with a sign that must be erected at the project site and requires 48 hours notice from the land owner prior to start of project.</p>		<p>portion for non-farm use application which is only taken from the applicant if the project once the project receives Council approval to be forwarded to the ALC.</p>		