

To: Electoral Area Services Committee
From: Hasib Nadvi, Manager of Planning

Date: 2023-05-11
File No: 3015-20 2023-03

Subject: Agricultural Land Commission Application Non-Farm Use at 810 Iverson Road, Electoral Area H

RECOMMENDATION

THAT the Fraser Valley Regional District Board refuse to forward the application for a non-farm use at 810 Iverson Road, Electoral Area H, to the Agricultural Land Commission.

BACKGROUND

The Fraser Valley Regional District has received an application from Terra West Environmental Inc. for a non-farm use in the Agricultural Land Reserve at 810 Iverson Road, Electoral Area H. The purpose of the application is to allow for the final screening and curing of waste and/or compost that was transported to the site in 2022. The applicant imported non-Class A material to the site from a facility in Surrey, BC. The subject property is in the Agricultural Land Reserve (ALR). Under the ALR Use Regulations, only Class A compost is considered farm use. Since the subject property has stored materials that do not meet the standards of Class A compost under the Organic Matter Recycling Regulation (OMRR), the storing and screening of the material requires a non-farm use application.

The application referral under consideration is an Agricultural Land Commission (ALC) application. The Board must determine whether the non-farm use application should proceed to the ALC or not for a final decision. If forwarded, the Board should consider whether to provide any additional comment **beyond this staff report for ALC's consideration. The Board** also has the option to not forward the application to the ALC, which would end the application without ALC consideration.

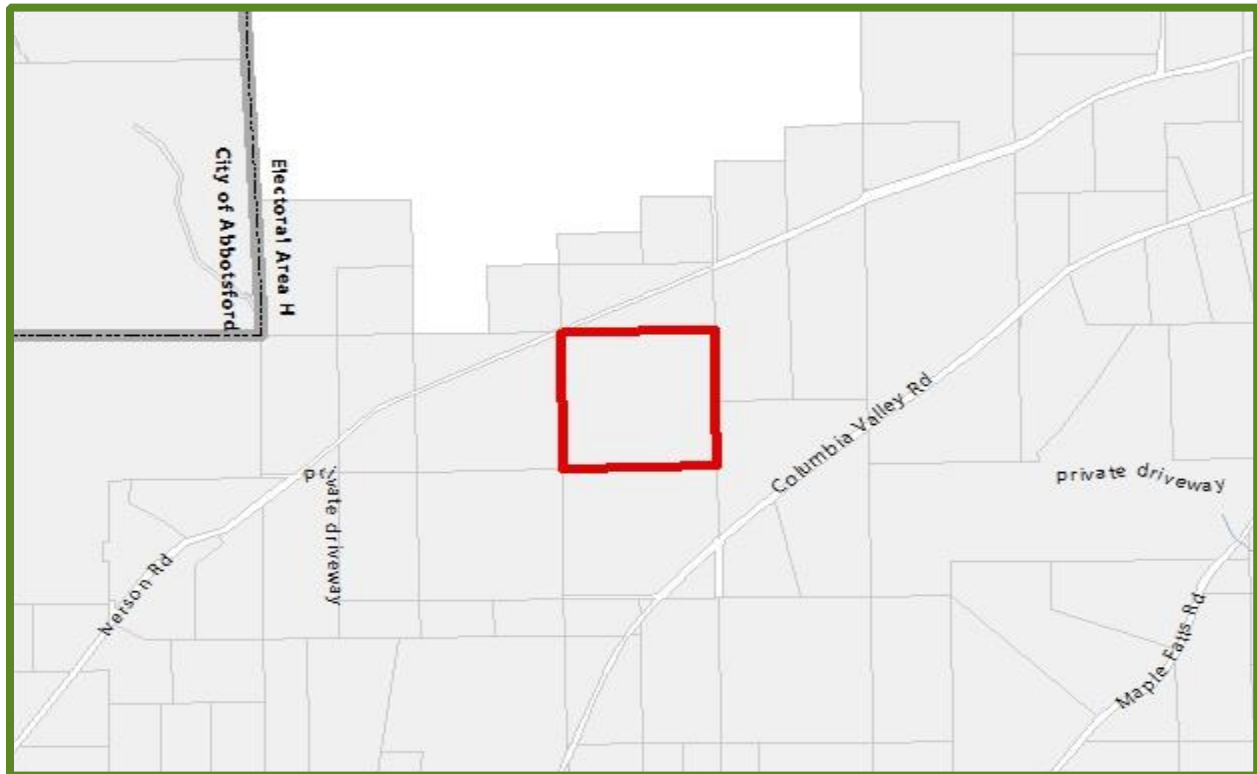
PROPERTY DETAILS

Address	810 Iverson Road	Area	H
PID	002-384-302	Owner	Bruce Vander Wyk
Folio	733.02925.850	Agent	Adam Mabbott – Terra West Environmental Inc.
Lot Size	40 acres		
Current Zoning	Agricultural 1 (AG-1)	Proposed Zoning	No change
Current OCP	Agricultural (AG)	Proposed OCP	No change
Current Use	Compost facility	Proposed Use	
Development Permit Areas	5-E Riparian Areas		
Agricultural Land Reserve	Yes		

ADJACENT ZONING & LAND USES

North	^	Agricultural 1 (AG-1); farm
East	>	Agricultural 1 (AG-1); farm
West	<	Agricultural 1 (AG-1); farm
South	v	Agricultural 1 (AG-1); farm

NEIGHBOURHOOD MAP



PROPERTY MAP



DISCUSSION

Starting in 2022, the property owner of 810 Iverson Road and Fraser Valley Renewables started transporting materials from a Lower Mainland facility to the subject property. The property owner and



Figure 1: Soil Quality

Fraser Valley Renewables entered into a lease agreement to deposit these materials over 20 acres of field to add soil nutrients and improve farming operations. It is understood from

speaking with Fraser Valley Renewables that the soil consists of glacial till deposits at shallow depths which makes farming difficult due to resistance to root penetration and poor water retention.

According to the ALC non-farm use application, approximately 9,000 tonnes of Class B compost materials have been imported to the site from a Surrey Biofuel Facility. The imported compost meets the vector and pathogen reduction requirements for Class B compost under the Organic Matter Recycling Regulation (OMRR) but does not meet the carbon-nitrogen ratio or foreign matter threshold (i.e. plastics). Per the information provided, the non-farm use application is to process the Class B compost within a secure impermeable lined and bermed processing pad through a screen to meet the Class A quality requirements of OMRR. Additional soil conditioners may be added to increase the carbon content of the compost material. The property owner and the operator Fraser Valley Renewables have commissioned Terra West Environmental (the agent) to oversee the ALC application and ensure quality control and an action plan to meet the OMRR and ALC requirements. Terra West Environmental states in their application that the compost is classified as Class B due to a slightly low carbon: nitrogen ratio of 12:1 instead 15:1 and the high foreign matter (i.e., plastics).

Provincial enforcement summary

In August 2022, upon receipt of complaints of refuse and a landfill operation, the ALC and the Ministry of Environment (MOE) conducted site visits and began their enforcement. In subsequent months, the MOE and ALC required various technical memos from Qualified Professionals to review the imported material in reference to the ALC Act, Environmental Management Act, Waste Discharge Regulation, and OMRR. Upon review of the ALC Contravention Notice and the Closure Report, the MOE determined that imported material did not meet either Class A or Class B compost quality under the OMRR due to its carbon-nitrogen ratio and foreign matter content. The MOE letter dated October 31, **2022, classified the imported material as “waste.”** Based on the MOE conclusion, this report will reference the imported material as waste despite the discrepancy in the ALC application that refers to it as Class B compost.

According to the Terra West Environmental ‘Response & Action Plan – Warning Letter 199678’ dated January 3, 2022, a notification form for the construction or beginning operation of a compost facility of less than 5,000 tonnes was submitted to MOE on April 22, 2022, and assigned preauthorization number 111265 and tracking number 415325. The status of the notification is **‘pending’ and requires** the submission of a final Plans & Specifications report. While the current ALC application is for the on-site processing of the imported and stockpiled materials and not for a permanent composting facility, it seems that the property owner wishes to operate a permanent composting facility in the future. A compost facility is also not a permitted use in the Agricultural 1 (AG-1) zone under the [FVRD Zoning Bylaw](#). It would **require a rezoning application for Board’s consideration. Further discussion on the** FVRD Bylaws and policies is provided in the subsequent sections of the report.

Since the current use of the site is out of compliance, the ALC and MOE ordered the current operations to stop and prohibited further discharge of waste into the environment until further remedial actions could be considered. The MOE sent the following letters to the property owner and operator, FVR (*see attached*).

- Non-compliance Advisory Letter, dated September 29, 2022
- Warning Letter, Unauthorized Discharge, dated October 31, 2022

- Warning Letter, Unauthorized Discharge, dated December 5, 2022

Based on the MoE Warning Letters, the agent, Terra West Environmental provided the following information (*see attached*):

- Closure Plan dated October 20, 2022
- Response & Action Plan dated January 3, 2023
- Request for More Information dated March 27, 2023

The current non-farm use ALC application is to screen the waste material to bring it into compliance with provincial regulations. It is not to run a permanent compost facility at 810 Iverson Road.

Current Site Status

All waste material has been stockpiled and covered with an impermeable liner as per the MOE requirements (*see Figure 2 and attached site plan*). Staff observed operations were on hold during the site visit on April 25, 2023. This is consistent with the Ministry-issued advisory and warning letters.



Figure 2: Imported Waste Material

Management options for the waste material

The agent, Terra West Environmental Inc., has submitted a detailed memo named ‘Request For More Information’ dated March 27, 2023, that discusses options and a timeline to remove the imported waste materials from the site (*see attached*). These options are briefly laid out in the ALC application as well. There are two options for the removal of the materials:

1. On-site screening of the waste materials (non-farm use application)
2. Disposal of waste material off-site with no on-site processing

1. On-site screening of the waste materials

The on-site screening process will be done in two steps. The first steps will be to complete a small-scale pilot project, which would include collecting baseline samples, creating an impermeable layer for screening the material, screening a batch to remove foreign matters (i.e., plastic), and testing the screened material for compliance with OMRR. The findings of the pilot project would determine the next steps toward processing the remainder of the waste material. The pilot project would take approximately 4-6 weeks. If successful, the remainder of the waste material would take approximately another 10-12 weeks for full-scale processing. Depending on good weather, the full process may take up to 14-18 weeks.

With the on-site processing, Terra West estimates that after the removal of foreign material, there may be approximately 285 tonnes of material to transport off-site, and thus they will be required to be disposed of off-site at a licensed facility. They have identified Bailey Landfill in Chilliwack as the off-site disposal facility.

Per the applicant, the general risks associated with the processing of the material onsite include but are not limited to dust, unpleasant or subjective odours, and potential leachate generation. It would be anticipated that these risks are present during the pilot project (i.e. 4 to 6 weeks) and again during full-scale processing and land application of the (then) Class A compost, less the concerns about leachate.

2. Disposal of waste material to an off-site facility

The second option is to physically load and haul the 9,000 tonnes of waste materials to an off-site facility. The disposal of waste offsite at an approved facility would require the following:

- Mobilize the excavator to the site, and prepare piles for hauling – 3 days
- Load and haul up to 9,000 tonnes (approximately 50,000 yards) of material, assume 4 trucks on rotation (with each truck capable of hauling 25 tonnes of material), 3 hour round trip – at minimum 90 days of continuous hauling
- Final site cleanup and mobilize off-site – 3 days
- Total approximate timeline up to 20 weeks of consistent loading and hauling

Per the applicant, the general risks associated with the off-site disposal of the material with no further processing include but are not limited to significant noise disruption to local residents, continuous heavy truck traffic on country roads (i.e. road safety and road quality), dust, carbon emissions generation that undermine the BCENV climate change mandate, and a significant financial burden to FVR.

Applicant rationale

Terra West recommends option 1; screening the waste materials on-site as opposed to physically loading and hauling them to an approved facility. They have provided the following reasons:

- Dust, noise, and disruption concerns caused by continuous hauling for a minimum of 20 weeks.
- Estimated materials to be hauled off-site is 285T, if screened on-site, compared to hauling 9,000T to an off-site facility. The latter would result in significantly more daily trips on Columbia Valley Road.
- Since the property owner wishes to bring ALC and OMRR-compliant Class A compost to improve his farming capabilities, on-site screening would be the least disruptive option. Hauling all the waste material off-site and then bringing Class A compost to the site will require additional trips.
- The total estimated cost will be as below:
 - Option 1: cost of on-site screening and curing will be \$168,345 plus installation of an impermeable pad and leachate collection sump (\$15k)
 - Option 2
 - off-site disposal as waste to a landfill will be approximately \$1,053,000; or
 - off-site disposal costs for relocation and reprocessing at an approved compost facility at \$468,000.

FVRD policies and regulations

Zoning

The subject property is zoned as Agricultural 1 (AG-1) under the FVRD Zoning Bylaw No. 1638, 2021. The AG-1 zone allows farm use and intensive farm use. The definitions are provided below:

Farm means the use of land, buildings, and structures for the production of agricultural products and livestock. May include the following: Storage and processing of agricultural products produced on that lot; Storage and repair of equipment necessary to farming on that lot; Storage of feeds and fertilizers necessary to farming on that lot.

Intensive Agriculture means farming of any of the following: Poultry; Fur-bearing animals; Mushrooms; Swine.

Based on the definitions, a compost facility or on-site screening of the waste material is not a permitted use. The subject property is also in the Agricultural Land Reserve (ALR). Composting of waste or bringing non-Class A compost is not a permitted farm use under Section 7 of the [ALR Use Regulations](#). A zoning amendment or temporary use permit application is required to screen the imported waste materials on site. Such a process requires a review of consistency with the Official Community Plan considerations and a public hearing process.

Official Community Plan

The subject property is designated Agricultural (Ag) under the Fraser Valley Regional District (FVRD) Area E and H Official Community Plan Bylaw No. 1115, 2011. The OCP seeks to preserve the Agricultural Land Commission Act regulations, and Orders of the Commission take precedence on matters of land use and subdivision in the ALR. The policies established in the Ag designation aim to guide future Regional Board comments on ALC applications.

The following uses are supported by Ag designation:

- a. Farm use;
- b. Conservation use;
- c. Park and park reserve;
- d. Single-family residential use;
- e. Natural campground use,
- f. Associated rural residential use; and
- g. Accessory farm employee dwelling.

The table below intends to highlight the proposal's compliance with the highlighted OCP policies.

Policy #	Policy	Staff Comment
5.1.6	This Plan intends to designate as AGRICULTURAL those areas best suited to farm production including all lands within the Agricultural Land Reserve.	Bringing waste material on site and screening waste material is not supported by the OCP policies. The current proposal to screen the waste material is not a farm use. The proposal of screening the waste material is intended to bring it into compliance with Class A compost standards which is a permitted farm use.
5.1.12	The Regional Board may support re-zoning applications for non-farm uses approved by the Agricultural Land Commission provided the property remains designated as AGRICULTURAL.	There is conflicting information regarding the wish of the property owner and the operator. As mentioned earlier, the operator, FVR has submitted a notification to MoE in April 2022 to operate a permanent compost facility at the subject property. The ALC application states that at this time, the property owner intends to screen the imported waste material to meet the Class A compost standards so that they can be applied to the land to improve future farming capabilities.
5.1.14	Notwithstanding Section 5.1.10, where land use is proposed but not permitted within the AGRICULTURAL designation, the applicable zoning bylaw, or the regulations of the Agricultural Land Commission, the Regional Board may	While not recommended by staff, the Board has the option to forward the application to ALC for final decision. In the event, ALC approves the on-site screening of the materials to bring them into compliance with the ALC and OMRR, the property owner

	<p>issue a Temporary Use Permit (TUP) provided the following are all met:</p> <ul style="list-style-type: none"> a. the Agricultural Land Commission approves the non-farm use; b. the use is temporary and compatible with surrounding uses; c. the use will not interfere with long term agricultural capabilities on the parcel and surrounding area; d. no extension of services or public infrastructure is required; e. the use is small-scale in nature; and f. a public meeting is held. 	<p>or agent could apply for a temporary use permit. As mentioned above, according to the memo by Terra West Environmental, on-site screening of the material would be the most expedient and cost-effective way to handle the waste to bring them into compliance.</p> <p>While considering a TUP is an option in front of the Board, it will put FVRD in a position to require technical reports and permit conditions that indirectly administer remediation actions under provincial legislation. The Province has the authority and expertise to enforce provincial legislation regardless of the FVRD decision. Staff believes that the remediation and closure of the site should remain with provincial staff who have the expertise and authority under provincial legislation to impose the best course of action.</p>
15.1.4	<p>As a condition of issuing a Temporary Use Permit, the Regional Board will normally require security in an amount adequate to facilitate the completion of permit conditions and the return of the land to its pre-existing state.</p>	<p>The Regional Board has the option to hold a security in an amount adequate to facilitate the remediation and cleanup of the site. The Board could also restrict the Temporary Use Permit to a time limit required to complete the remediation and action plan provided by Terra West Environmental. Remediation of the site to bring into a pre-existing state needs to meet the legislative requirements of the Environmental Management Act, Waste Discharge Act, and OMRR. Staff believe it would be difficult to impose and enforce permit conditions that require us to indirectly administer provincial legislation.</p>

Development Permit

The subject property is located within Riparian Areas Development Permit Area 5-E. This development permit is required for the protection of the natural environment, its ecosystems, and biological diversity and applies to any construction, land alteration, or subdivision within 30 metres of any watercourse.

Agricultural Capability Classification

Lands within the Agricultural Land Reserve are classified according to their ability to produce a range of crops when considering climate and topography. Soils are classified on a scale of 1 through 7; Class 1 is applied to land where the climate and soil allow growth of the widest range of crops and Class 7 is applied to land considered non-arable, with no potential for soil-bound agriculture. Capability classes are designated as unimproved and improved. Unimproved ratings are based on soil characteristics without physical improvements, whereas improved ratings are based on assumptions that improvements can be made.

The subject property has an improved soil capability classification of Class 2. The Agricultural Land Commission is the most appropriate agency to decide and comment on matters such as soil capability for agriculture. However, **for the Committee's benefit**, we provide the following summary of the agricultural capability:

- Class 2: Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops or both.

Land in Class 2 has limitations that constitute a continuous minor management problem or may cause lower crop yields compared to Class 1 land but which does not pose a threat of crop loss under good management. The soils in Class 2 are deep, hold moisture well, and can be managed and cropped with little difficulty.

Per the above, class 2 soil is high-quality soil that could produce high crop yield with good management. The OCP also supports the preservation and protection of farmland. Given the soil capabilities and being in the ALR, the OCP policies in general are not supportive of non-farm uses on the subject property.

Summary of Public Comments

A public consultation process is not a mandatory step in considering ALC referrals; however, a local government may wish to hold a public information meeting to gather public comments when necessary. Due to the contentious nature of this application, FVRD has received over 200 submissions in opposition to the unpermitted activities on the subject property without soliciting public feedback. A majority of the submissions also explicitly state opposition to the proposed non-farm use ALC application. All public submissions have been circulated to the Board members for information. The key comments are highlighted below:

- Concerns regarding unpermitted and illegal dumping
- Concerns related to a lack of enforcement to prohibit and regulate such activities
- Wish to hold the parties responsible for the remediation of the site
- Concerns related to the contamination of the aquifer
- Concerns related to odour and air quality

- Opposition to processing or screening of the materials above the aquifer
- **Opposition to building a permanent “waste facility” on the subject property**
- Concerns related to the complete disregard of the provincial legislation
- **Concerns related to the content of the “dumped” material**
- Inquiries related to the remediation of the site

Staff Recommendation

Composting facilities play an essential role in **the region’s solid waste system, in achieving solid waste diversion targets**, in developing the circular economy, and in fostering a better and higher use for food scraps as compared to landfilling. The FVRD requires organic waste to be separated from **everyone’s** garbage prior to disposal and then taken to an appropriate facility for processing. As more people and businesses begin to separate their organic waste, there is a growing issue with contamination from food packaging such as wrapping and plastic bags. The contamination is screened out, but usually near the end of the process after the organic waste has gone through most of the composting process. It adds an extra step to the composting process and creates ongoing challenges and costs for the industry. Maintaining sufficient food waste processing capacity in the region is essential for the health of the solid waste system, and more collective effort is needed to address contamination to support this sector and allow it to grow to keep up with population growth and demand. There is also an onus on the composting sector to maintain public trust and confidence in these facilities, as that is critical for the system to succeed. FVRD staff are supportive of composting facilities and practices that are in alignment with Provincial legislation and regulations. Approved and regulated facilities are critical to achieving our zero waste target. Staff would be amenable to working with the proponent to identify a site that is suitable for an approved composting facility.

Staff are not supportive of forwarding the ALC non-farm use application for the following reasons:

- The current proposal to screen the waste material is not a farm use. Bringing waste material on site and screening waste material is not supported by the OCP policies.
- Class 2 soil is high quality soil that could produce high crop yield with good management. The OCP policies generally support the preservation and protection of farmland. Given the soil capabilities and being in the ALR, the OCP policies in general are not supportive of non-farm uses on the subject property.
- A compost facility or on-site screening of the waste material is not a permitted use under the FVRD Zoning Bylaw. A zoning amendment or temporary use permit application is required to screen the imported waste materials on site.
- While considering a TUP is an option in front of the Board, it will put FVRD in a position to require technical reports and permit conditions that indirectly administer remediation actions to bring the site to a pre-existing state to meet the legislative requirements of the

Environmental Management Act, Waste Discharge Act, and OMRR. Staff believe it would be difficult to impose and enforce permit conditions that require us to indirectly administer provincial legislation.

- If the Province ultimately decides that on-site screening is the best technical solution in the present set of facts, the Province has sufficient legal authority to impose whatever remediation plan it wishes. **All local governments are “creatures of the province,”** and there are provincial powers that can be used to proceed with an option that is deemed most suitable by the Province. **The Board’s refusal to forward the non-farm use application** to the ALC would not limit the range of remediation orders the Province could impose (including on-site screening).
- If the ALC application is forwarded and approved by the ALC, the next step for the applicant would be to apply for a Temporary Use Permit or Zoning Amendment application. Staff are **unsure of supporting an application that may have brought “prohibited fill” under Section 36** of the [ALR Use Regulations](#). Section 36 (1) of the regulations considers synthetic polymers as a prohibited fill that cannot be brought to an ALR land. Staff would potentially have to seek legal opinion to understand the implications of recommending approval of a temporary use permit that allows screening of materials (i.e., prohibited fill) contrary to the provincial legislation.
- FVRD does not have the professional expertise or mandate as ALC or MOE does to implement and enforce an action plan based on the environmental best management practices to remediate the site through a Temporary Use Permit.

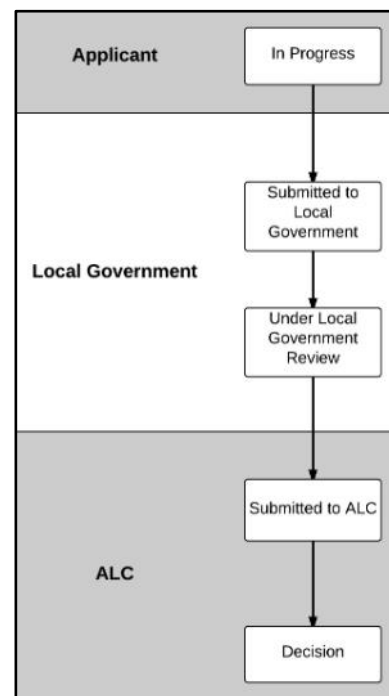
ALC Application Process

Non-Farm Use applications are submitted by the applicant to the ALC portal. The portal then forwards the application to the appropriate local government for review.

The FVRD Board must decide if the application should proceed to the ALC for further review. The FVRD Board may either:

1. Authorize the application to proceed to the ALC, or
2. Refuse to authorize the application to proceed to the ALC (staff recommendation)

If the application is not forwarded, it will refuse the application without ALC consideration. If the application is forwarded then the ALC will make the final decision.



COST

The \$750 FVRD portion of the application fee has been paid. The applicant will pay the Agricultural Land Commission portion of the fee (\$750) if this application is forwarded to the Agricultural Land Commission.

CONCLUSION

The purpose of the ALC non-farm use application is to allow for the final screening and curing of waste and/or compost that was transported to 810 Iverson Road in 2022. Approximately 9,000 tonnes of waste materials have been imported to the site from a Surrey Biofuel Facility.

The agent, Terra West Environmental Inc., has submitted a detailed memo that discusses options and timelines to remove the imported waste material from the site. These options are briefly laid out in the ALC application as well. There are two options for the removal of the materials:

1. On-site screening of the waste materials (non-farm use application)
2. Disposal of waste material off-site with no on-site processing

The applicant estimates that option 1 may take up to 14-18 weeks for full on-site processing and option 2 hauling the material off-site may take up to 20 weeks. The cost of processing the waste material on-site will be approximately \$168,000 vs. the cost of hauling it to an off-site facility could range from \$468,000 to \$1M depending on disposal options as waste or relocation to an approved composting facility.

Staff are not supportive of the non-farm use application due to general non-conformance with OCP policies and being an unpermitted use under the zoning bylaw. Despite the FVRD decision, the Province has the authority to ultimately decide on a remedial action that is deemed most suitable by the Province.

OPTIONS

Option 1 Refuse (Staff Recommendation)

If the Board wishes to refuse the application, the following motion would be appropriate:

MOTION: THAT the Fraser Valley Regional District Board refuse to forward the application for a non-farm use at 810 Iverson Road, Electoral Area H, to the Agricultural Land Commission.

Option 2 Forward to the ALC

If the Board wishes to approve the application, the following motion would be appropriate:

MOTION: THAT the application for non-farm use within the Agricultural Land Reserve at 810 Iverson Road, Electoral Area H, be forwarded to the Agricultural Land Commission for consideration;

AND THAT the Agricultural Land Commission consider the staff report dated May 11, 2023, under file number 3015-20-2023-03.

COMMENTS BY:

Graham Daneluz, Director of Planning & Development: reviewed and supported

Kelly Lownsbrough, Director of Corporate Services/CFO: Reviewed and supported.

Jennifer Kinneman, Chief Administrative Officer: Reviewed and supported.