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March 31, 2021

Hon. Lana Popham
Minister of Agriculture, Food and Fisheries
PO Box 9043 STN PROV GOVT
Victoria, BC V8W 9E2

Dear Minister,

RE: ALR Use Regulation – Request for amendment

I am writing to you in my capacity as President and CEO of Ecowaste Industries Ltd., which owns and operates the Ecowaste Landfill in Richmond. The purpose of this letter is to:

1. alert you to the possibility that our landfill may be forced to close in 2035 as a result of the 2019 amendment to the ALR Use Regulation prohibiting certain types of demolition, land clearing and construction waste and
2. suggest a minor amendment to the new prohibited fill regulation to exempt those commercial landfills authorized to accept such waste by the Ministry of Environment and Climate Change Strategy (MOE) if it was not your government's intention to force the landfill to close.

Background

Ecowaste has 50 years of waste management experience in Richmond. From 1971 to 1986, the company (then called Richmond Landfill Ltd.) operated a municipal solid waste landfill on 65 hectares of land. As that site was being filled, Ecowaste purchased the two Agricultural Land Reserve (ALR) properties on which it currently operates the landfill. There is no record of either of these properties ever having been farmed, and the peat and topsoil were removed over a period of several decades starting in World War II.

The authority to operate the demolition, land clearing and construction Ecowaste Landfill is granted by Operational Certificate 4922 issued by the MOE under section 28 of the *Environmental Management Act* and in accordance with the Metro Vancouver Solid Waste Management Plan. An operating permit was initially issued by the MOE in 1986. That permit was converted to an operational certificate in 1992, amended in December 2004 and updated to the current operational certificate dated September 6, 2017. Under section 1.1.5 of the certificate, the types of waste that can be accepted by Ecowaste and deposited as fill include construction, demolition and landfill clearing debris, contaminated soils and other wastes.

The landfill also operates under License L-005 issued by the Greater Vancouver Sewerage & Drainage District (GVS&DD) and License C-007 issued by the GVS&DD for the Yard Waste Compost Operation.

The operational certificate issued by MOE authorizes us to accept the following products in our landfill: wood products (including composite, dimensional lumber, flooring, shakes, shingles, pallets and saw dust); asphalt; building materials; rubble; plastic; and other materials including land clearing debris, metal, textiles, soil, paper, carpet, various types of roofing, rubber, aggregate, masonry, concrete and insulation.

However, some of the types of waste authorized by the MOE's operational certificate are the materials prohibited as fill under the new section 36(1) of the ALR Use Regulation:

- a. construction or demolition waste, masonry rubble, concrete, cement, rebar, drywall and wood waste;
- b. asphalt;
- c. glass;
- d. synthetic polymers;
- e. treated wood; and
- f. unchipped lumber.

The Ecowaste Landfill is the only fully licensed and bonded disposal option in the region for such waste. The Vancouver Landfill in Delta offers limited disposal options for these types of waste, but is not located in the ALR and is therefore not subject to the amended regulations. However, the Vancouver Landfill discourages intake of demolition, land clearing and construction waste because of its emphasis on preserving its limited capacity for receiving general municipal solid waste.

Over the past 30 years, Ecowaste has continually invested in recycling operations at the site. Our operations now convert yard waste into compost, clean wood into biofuels and concrete into aggregate. We also provide an area of the landfill for treating contaminated soils through bioremediation and storage. We do not accept hazardous waste.

Approximately 30% of the materials received at the landfill are currently recycled and/or recovered to be sold. Some of the recycled materials – including concrete, yard waste, glass, tile, asphalt millings and asphalt shingles – are approved for beneficial use on site and for landfill closure activities. If Ecowaste pursues its intent to invest in a state-of-the art materials recovery facility, it has the potential to recycle 80% of the received volumes of waste, and less than 20% of received volumes will be disposed of in the landfill.

Permits and Authorizations

In addition to the MOE Operational Certificate and Metro Vancouver licenses referred to above, the Ecowaste Landfill has been approved by the provincial Agricultural Land Commission (ALC) for non-farm use in the Agricultural Land Reserve (ALR). We received initial approval in 1993 with ALC Resolution #173/93 and this non-farm use approval was renewed in 1998. Subsequently, in 2015 under ALC resolutions #384/2015 and #385/2015, the ALC approved our request to locate four materials recovery facility (MRF) operations on the property related to the existing landfill and to continue the operation of the landfill for a period of 20 years, or until 2035.

In 2019 we applied to the ALC to:

- a. replace one of the MRF's operators;
- b. increase the footprint of that MRF;
- c. operate two additional MRFs and
- d. extend the term of our operations until 2055.

Items (a) through (c) were approved by the Commission in Resolution #504/2020 but item (d) was not. The Panel specifically referred to section 36(1) of the ALR Use Regulation to justify its refusal to grant an extension:

36(1) Except as permitted under subsection (2), the following must not be used as fill on agricultural land: (a) construction or demolition waste, including masonry rubble, concrete, cement, rebar, drywall and wood waste; (b) asphalt; (c) glass; (d) synthetic polymers; (e) treated wood; (f) unchipped lumber.

The ALC Panel determined that although some materials received at the landfill were removed after recycling/recovery, because other materials would remain on the landfill they were considered to be prohibited fill as defined in section 36(1). The Panel then applied section 23(1) of the Agricultural Land Reserve General Regulation:

23(1) Subject to subsection (2), the Commission must reject an application for permission to place fill on agricultural land if the fill to be placed includes any of the materials referred to in section 36 of the Agricultural Land Reserve Use Regulation.

Our research into the 2019 changes suggests that when section 36(1) of the ALR Use Regulation was being developed your ministry may not have been informed that the Ecowaste Landfill was in the ALR and that it was already authorized to deposit the materials proposed for prohibition. Even if the ministry were aware, your officials might have believed – as we did – that because the landfill operated with an operational certificate issued under the *Environmental Management Act* (which prevails over the *Agricultural Land Commission Act*), the new prohibited fill regulation would not apply. We only became aware of the problem when the ALC informed us in October 2020 that it believed it was unable to extend the term of our non-farm use approval to 2055 because of the new prohibited fill regulation.

Preventing Illegal Dumping

We have always supported government's efforts to stop the illegal dumping of waste, which is a potentially hazardous action with negative impacts on human health and the environment. We understand that the revisions to the ALR Use Regulation were motivated by the justified desire to stop this practice, which has grown in recent years. Many landowners with properties in the ALR have illegally accepted waste and were able to do so because dumping was not regulated. They could charge a very low cost as they were not investing in recycling facilities or applying any engineered controls to prevent harm to human health and the environment.

We are a regulated business operating under the strict requirements of our operational certificate and in compliance with all regulations. As such, the Ecowaste Landfill offers a valuable and essential service to Metro Vancouver. Our operations recycle and safely dispose of construction and demolition waste, provide sustainable jobs to local residents, reduce illegal dumping and its negative impacts on the environment, and reduce the increased greenhouse gas emissions associated with having to transport waste out of the region for disposal.

As the City of Richmond said as recently as March 2, 2021, in a separate letter to the ALC about the Ecowaste Landfill:

"The landfill operation plays an important role in the City's and regional demolition and construction waste and recycling program, including significant environmental benefits associated with the increased recycling capacity of the facility, and will soon be the only landfill of any type in the region (anticipated in 2028)."

The Ecowaste Landfill is part of the solution to the problem of illegal dumping. We salute you for taking action against the practice. However, we do not believe it was government's intent to effectively shut down a facility authorized by the MOE, Metro Vancouver, the City of Richmond and the ALC to accept demolition, land clearing and construction waste. If the Ecowaste Landfill is shut down, the problems of illegal dumping of both demolition, land clearing and construction waste and other waste on ALR and non-ALR lands will only get worse.

Proposed Solution

If you agree that the recent prohibited fill provisions in the ALR Use Regulation were not intended to shut down a landfill specifically authorized to accept and process demolition, land clearing and construction waste, we would like to suggest that a minor amendment be made to section 36(1) of the ALR Use Regulation, as follows:

36 (1) Except as permitted under subsection (2) or as authorized by the Ministry of Environment and Climate Change Strategy under the Environmental Management Act, the following must not be used as fill on agricultural land:

- (a) construction or demolition waste, including masonry rubble, concrete, cement, rebar, drywall and wood waste;*
- (b) asphalt;*
- (c) glass;*
- (d) synthetic polymers;*
- (e) treated wood;*
- (f) unchipped lumber.*

A consequential amendment to section 23 of the Agricultural Land Reserve General Regulation may also be required, perhaps with the addition of a new subsection (3):

23 (3) Notwithstanding subsection (1) the commission may accept an application for permission to place fill including any of the materials referred to in section 36 of the Agricultural Land Reserve Use Regulation if the fill is to be placed in a landfill authorized by the Ministry of Environment and Climate Change Strategy under the Environmental Management Act.

More information and images outlining our operation, including a drone video, maps and other materials can be viewed at www.ecowaste.com. I would also be pleased to show you and your officials the landfill and provide any additional information you require.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read 'T. Land', is enclosed in a thin black rectangular border.

Thomas G. Land
President & CEO
Ecowaste Industries Ltd.

Cc: Arlene Anderson, Director of Policy & Legislation, Ministry of Agriculture
Kim Grout, CEO, Agricultural Land Commission
Luc Lachance, Section Head, Mining, Ministry of Environment and Climate Change Strategy
Paul Henderson, General Manager Solid Waste, Metro Vancouver
John Moonen, John Moonen & Associates Ltd.