

**TO:** Chair and Directors

**FROM:** Gerald Christie  
Manager Development Services

**SUBJECT:** Soil Removal and Deposit Bylaw No. 646

File No: BL No. 646


Date: July 19, 2012

**RECOMMENDATION:** THAT:  
Bylaw No. 646, cited as "Soil Removal and Deposit Bylaw No. 646", be read a second time this 19<sup>th</sup> day of July, 2012;

**AND THAT:**

Bylaw No. 646 be referred to the following:

- Ministry of Community, Sport and Cultural Development;
- Ministry of Transportation and Infrastructure;
- Interior Health;
- Ministry of Environment;
- Ministry of Energy and Mines;
- Ministry of Forests, Lands and Natural Resource Operations;
- Ministry of Forests, Lands and Natural Resource Operations – Archaeology Branch
- All relevant First Nations Bands and Councils;
- Town of Golden;
- City of Revelstoke;
- City of Salmon Arm; and
- District of Sicamous.

**APPROVED for Board Consideration:**Meeting Date: July 19<sup>th</sup>, 2012  
Charles Hamilton, CAO**SHORT SUMMARY:**

The Board gave first reading to Soil Removal and Deposit Bylaw No. 646 on August 18, 2011 and directed staff to undertake a consultation process with other local governments, provincial ministries and agencies, First Nations, CSRD legal counsel and Advisory Planning Commissions (APC). This consultation was conducted throughout the fall of 2011 and winter of 2012 and resulted in a number of amendments to the bylaw. Although the response to the proposed bylaw was mostly positive, due to the length of time that was necessary to solicit feedback from the various groups and agencies, and the resulting amendments to the bylaw, staff is recommending that the Board give Bylaw No. 646 second reading as amended, and refer the amended bylaw to referral agencies again as a courtesy and to solicit further feedback.

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**VOTING:**

Unweighted Corporate ☒ Weighted Corporate ☐ Stakeholder ☐ LGA Part 26 ☐  
(Weighted) (Unweighted)

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**BACKGROUND:**

At the request of Director Bacigalupo, information regarding *Soil Removal and Deposit Bylaws* was first brought forward to the February 3, 2011 meeting of the Electoral Area Directors Committee (EAD). On May 3, 2011 a draft Soil Removal and Deposit Bylaw was presented to the EAD and subsequently the Board gave first reading to Soil Removal and Deposit Bylaw No. 646 at the August 18, 2011 regular Board meeting.

Following first reading of Bylaw No. 646, the bylaw was referred to several provincial agencies and ministries, First Nations, local governments, and APCs. The consultation consisted of several meetings and phone calls in order to solicit comment on the bylaw which resulted in numerous amendments to the bylaw. The most significant amendments came from a review of the bylaw by CSRD legal counsel as well as from discussions with Ministry of Energy and Mines (MEM) staff.

Following presentations and discussion with APC members in Electoral Areas 'B', 'C', 'D' and 'E', the response to the bylaw was overwhelmingly positive. Proposed changes to the bylaw resulting from the APC comments were mainly related to wording in order to better clarify the intent of the bylaw and to make the regulations and requirements more easily understood. The Area 'F' APC did not support the proposed bylaw and had concerns with the amount of extra regulation and cost that such a bylaw would bring to their area and to existing businesses and felt that the MEM provided adequate oversight regarding mining permits.

Comments from the APCs include:

- noxious weeds must be dealt with appropriately by the applicant;
- support requirements for public consultation by applicant;
- exemption level requiring permit may need to be increased;
- exemption level should be decreased;
- regulatory language could be stronger;
- bylaw cannot be retroactive to previously approved permits by MEM but wish that it could be;
- there are too many regulations for mining permits already;
- consider a maximum land area that could be disturbed after which a Soil Removal and Deposit permit would be required;
- ability of the Board to grant the permit for up to ten years is too long;
- base soil removal and deposit exception limit on the size of the parcel; and,
- more awareness by the public of soil-related issues is needed.

Comments received from other referrals include:

- Ministry of Energy and Mines noted that the Mines Act is the authority for mining approvals in the province and the permits granted by the CSRD must make it clear that CSRD approval does not mean that Mines Act approvals have been granted. There is always concern with such bylaws that there may be overlap and duplication with local government permitting processes and requirements regarding the information required of the applicant and security that would be taken.
- No concerns were expressed by the City of Salmon Arm, District of Sicamous, CSRD Environment and Engineering, CSRD Finance, or Agricultural Land Commission (ALC).
- Interior Health (IH) supported the principles of the bylaw as it will provide greater management and oversight of soil removal and deposit activities. Recommended assessment of activities within 100m of drinking water sources.
- Adams Lake Indian Band requested a fee for referral processing prior to commenting.
- Ministry of Transportation and Infrastructure (MoT) requires the CSRD Soil Removal and Deposit permit to note clearly that such a permit does not grant any other necessary approvals from other agencies, e.g. access permit. Further, prior to granting a soil removal and deposit permit, the CSRD should require confirmation from the applicant that MoT has given approval for an access permit if necessary.

The consultation process and legal review has resulted in many amendments to Bylaw No. 646, although the intent of the bylaw, its application, information requirements, conditions of permit, enforcement, security and penalties remain substantively unchanged.

#### **POLICY:**

The intent of Bylaw No. 646 is to provide a mechanism to the CSRD Board to approve soil removal or deposit on lands within the CSRD. The bylaw may supplement and inform the mining permit approval process at MEM and gives the Board authority over how, when and where mining operations may occur if those operations include the transportation of soil or quarry material onto or off of the site. Site, operational and reclamation planning along with provision of professional reports regarding geotechnical engineering, water quality, noise mitigation, habitat protection, etc. may be requested by the Board for its consideration of the permit. Furthermore, the applicants are requested to conduct consultation with the public prior to coming to the Board for consideration of their applications. Security may also be required of the applicants as determined by the qualified professionals completing the reports noted above, e.g. for reclamation works.

The proposed bylaw is consistent with several OCP policies of the CSRD including the need for better environmental and riparian protection, protection of lake and aquifer water quality, and geotechnical safety of property owners and residents. Large scale, soil-related operations can have a significant impact on community infrastructure, nearby property owners, the environment and residents' quality of life.

Prior to adoption of Soil Removal and Deposit Bylaw No. 646, the Soil Removal Permits Policy P-4 (April 1981) will need to be removed from the CSRD Policy Manual. This thirty year old policy has not been in use for some time. Under the policy the Area Director and 'Soil Conservation Enforcement Officer' would consider soil removal permit applications prior to issuance.



An amendment to the CSRD Fees Bylaw No. 638 will be required prior to adoption of Soil Removal and Deposit Bylaw No. 646 to allow for a Soil Removal and Deposit Permit application fee.

#### **REFERRAL PROCESS:**

Staff is recommending that the bylaw be referred again to all agencies included in the first referral. Most of the referral agencies had either no comment or very minor comments regarding the bylaw. Due to the extensive collaboration and overlapping jurisdiction with MEM within the permitting process for new mining permits, of which this bylaw will be part, it is important that MEM staff understand the CSRD's intentions with respect to the bylaw. Furthermore, aside from approval of the bylaw being granted by the Minister of Community, Sport and Cultural Development (MCSCD), the Minister of Energy and Mines (MEM) is also a required signatory to this bylaw. For this reason there must be agreement between the CSRD, MCSCD and MEM that the bylaw meets the requirements of the Local Government Act, respects the spheres of concurrent authority between the local government and the province, and does not inhibit the authority of MEM in any way.

A second referral will also provide those referral agencies that did not respond the first time an opportunity to comment on the bylaw. Except for the Area 'F' APC, there was unanimous support from the members of all the other APCs for implementation of the bylaw. The minutes of the Area 'F' APC meeting note that it is not in support of such a bylaw due to the extra regulation and bureaucracy that it would bring to mining (gravel) operations in the North Shuswap.

The following agencies and organizations would be referred the amended bylaw:

- Ministry of Community, Sport and Cultural Development;
- Ministry of Transportation and Infrastructure;
- Interior Health;
- Ministry of Environment;
- Ministry of Energy and Mines;
- Ministry of Forests, Lands and Natural Resource Operations;
- Ministry of Forests, Lands and Natural Resource Operations; Archaeology Branch
- All relevant First Nations Bands and Councils in the CSRD;
- Town of Golden;
- City of Revelstoke;
- City of Salmon Arm; and
- District of Sicamous.

If there are further amendments required as a result of referral comments, this bylaw will be returned to the Board for second reading as amended and a recommendation to proceed to a public hearing.

**SUMMARY:**

Following first reading, consultation on proposed Soil Removal and Deposit Bylaw No. 646 was conducted and resulted in numerous amendments to the bylaw. Overall the response to the bylaw has been very positive, however due to the extent of the amendments it is recommended that the amended bylaw be given second reading and be sent out again to referral agencies for information and to solicit further comment.

**LIST OF REPORTS / DOCUMENTS:**


1. Soil Removal and Deposit Bylaw No. 646, as amended	Attached to Agenda <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
2. Soil Removal and Deposit Bylaw No. 646 (Redlined)	Attached to Agenda <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>

**DESIRED OUTCOME:**

That the Board endorse staff recommendation.

**ELECTORAL AREA DIRECTOR COMMITTEE OPTIONS:**

1. Endorse recommendation; Bylaw No. 646 will be given second reading and forwarded to referral agencies.
2. Decline recommendation; Bylaw No. 646 will be defeated.
3. Defer.
4. Any other action deemed appropriate by the Board.

REVIEWED BY:	Date Signed Off (MO/DD/YR)	Approval Signature of Reviewing Manager or Team Leader
Development Services	07/09/12	

## COLUMBIA SHUSWAP REGIONAL DISTRICT

SOIL REMOVAL AND DEPOSIT BYLAW NO. 646

A bylaw to regulate the application, approval, suspension or denial of permits for the removal and deposit of soil material within the Columbia Shuswap Regional District.

WHEREAS sections 723 and 797.1 of the Local Government Act, authorize the *Board* of the Columbia Shuswap Regional District to regulate or prohibit the *removal* or *deposit* of *soil* in the *Regional District*;

AND WHEREAS the *Board* desires to regulate, and require permits for, both the *removal* and *deposit* of *soil* within the Columbia Shuswap Regional District;

NOW THEREFORE the *Board* of the Columbia Shuswap Regional District, in open meeting assembled, HEREBY ENACTS as follows:

## ADMINISTRATION

1. This Bylaw applies to all land within Electoral Areas 'A', 'B', 'C', 'D' 'E' and 'F' of the Columbia Shuswap Regional District.

## DEFINITIONS

2. For the purpose of this bylaw:

**Administrator** means the Chief Administrative Officer (CAO) of the *Regional District* or the officer delegated by the *Board* to act on the CAO's behalf.

**Board** means the Board of Directors of the *Regional District*.

**Deposit** includes the placement, storage, spilling or releasing, directly or indirectly, of *soil* on lands in the *Regional District* where the *soil* was not previously located.

**Qualified Professional** means a person who is registered or duly licensed as a Professional Engineer or a professional geoscientist under the provisions of the Engineers and Geoscientists Act.

**Regional District** means the Columbia Shuswap Regional District.

**Remove** includes the act of removing, excavating, or transporting *soil* from any lands where it originally existed, including the movement of soil from one location to another location within the same lot.

**Soil** includes topsoil, silt, clay, sand, gravel, rock, peat or other substances of which natural land is composed but does not include soil that exceeds provincial contaminated soil guidelines, or sewage sludge.

**REGULATIONS****3. Fees**

- a. An application for a Soil Removal and Deposit Permit must be submitted with the appropriate fee as prescribed by the Columbia Shuswap Regional District Fees Bylaw No. 638, as amended.

**4. Applicability**

- a) All lands within the Regional District are designated Soil Removal and Deposit Permit Areas unless exempted under Section 5.b).
- b) No person shall:
  - i. remove soil from; or
  - ii. deposit soil or other material on any land within a designated Soil Removal and Deposit Permit Area without first obtaining a Soil Removal and Deposit Permit, unless otherwise specifically permitted under this Bylaw.

**5. Exemptions**

- a) Unless exempted by this section, a permit for *soil removal* or *deposit* is required.
- b) A Soil Removal and Deposit Permit is not required for any of the following:
  - i. *Removal* or *deposit* of less than 350m<sup>3</sup> of *soil* during a twelve month period;
  - ii. Movement of *soil removed* from and *deposited* entirely within a parcel and an adjacent parcel owned by the same private landowner;
  - iii. *Removal* or *deposit* of *soil* located on Agricultural Land Reserve (ALR) land which is exempted from a permit under the Agricultural Land Commission Act;
  - iv. *Removal* or *deposit* of *soil* undertaken by a florist, nursery worker, horticulturalist or farmer where the *soil* is used on the parcel on which that person carries on that trade;
  - v. *Removal* or *deposit* of *soil* for the purpose of constructing or maintaining provincial roadways, forest service roads, or walkways or trails;
  - vi. *Removal* of *soil* from or *deposit* of *soil* on land owned by the Regional District or its member municipalities;



- vii. *Removal of soil from or deposit of soil on land if a permit for exploration or production of minerals or coal on the land has been obtained pursuant to the Mines Act;*
- viii. *Removal of soil from or deposit of soil on land managed under the Forest Act or regulated under the Highways Act and for which a soils permit has been obtained, so long as the land continues to be used as managed forest or highways; or,*
- ix. *Removal or deposit of soil pursuant to a Development Permit approved by the Board, the Administrator, or Manager of Development Services which specifies conditions recommended in a report from a Qualified Professional for soil removal or deposit.*

## 6. **Application**

- a) Application for Soil Removal and Deposit Permits shall be made on a form provided by the *Regional District*. Applications must be submitted with the applicable fee as prescribed in the Columbia Shuswap Regional District Fees Bylaw No. 638, as amended.
- b) The application for a Soil Removal and Deposit Permit must be accompanied by the following information prepared by a *Qualified Professional*:
  - i. Civic address(es) and legal description(s) of the subject parcel or the Crown land, as applicable, where the *soil removal* and/or *deposit* will take place;
  - ii. Current title search of land(s) and written consent of the parcel owner or Crown land lessee to the *soil removal* and/or *deposit* activities, and agent authorization (if applicable);
  - iii. Start and end date of *soil deposit* and *removal* activities, including reclamation;
  - iv. Detailed information on the proposed or completed notification of the proposal to the public and adjacent property owners;
  - v. Site plan(s) illustrating all of the following on and within a minimum of 30 metres of the proposed site(s):
    - 1. Legal boundaries and zoning setback requirements of the subject parcel or leased area including all legal, natural and constructed features such as berms, buildings, fences, wells, sewage systems, rights-of-way, easements, driveways, roadways, watercourses, and vegetation;
    - 2. Land uses and designations, such as agricultural land reserve (ALR), zoning, flood plain area, environmentally sensitive area, and reserve land;



3. Existing and proposed site contours with contour interval of 2 metres or less;
  4. Proposed locations of accesses and haul routes to and from the site; and,
  5. Illustrated plan for reclamation works to be completed prior to permit expiry including proposed use, contours, and landscaping.
- vi. Report(s) detailing all of the following:
1. Primary person/position responsible for *soil removal* and *deposit* operations on site;
  2. Method(s) of *soil removal* and *deposit*;
  3. Equipment and processing proposed for the site;
  4. Phases and dates of *soil removal*, *deposit*, and reclamation;
  5. Proposed construction on the site, including any buildings, roads or servicing;
  6. Hours of operation, noise mitigation, dust control, visual and landscape buffering, erosion and drainage control, noxious weed management, and traffic impact and control;
  7. Site reclamation plan and estimated cost;
  8. Riparian Area Assessment if any proposed disturbance is within 30m of the natural boundary of any watercourse;
  9. Impacts on adjacent riparian areas and proposals for protecting the riparian areas; and,
  10. Identification, assessment and management of impacts of sources of drinking water, e.g. surface water intake or ground water wellhead, within 100m of the proposed soil removal or deposit activities.
- vii. Copies of all other necessary approvals from authorities having jurisdiction over the lands for which the Soil Removal and Deposit Permit application has been submitted;
- viii. Copies of comprehensive liability insurance for the operations to occur on site to a minimum coverage of \$2,000,000 per occurrence; and,
- ix. Any other information the *Regional District* deems necessary to review the Soil Removal and Deposit Permit application.

- c) Upon completion of the *soil removal or deposit*, and prior to the release of security taken from the applicant as a condition of the permit, the applicant must provide to the *Regional District* a certificate from a *Qualified Professional* stating that all works have been completed as required by the applicable Soil Removal and Deposit Permit, in accordance with report recommendations and details submitted in support of the application for the permit.
- d) Upon receipt of a Soil Removal and Deposit Permit application the *Regional District* will undertake the following:
  - i. Notify all property owners within 100m of the parcel boundary of the proposed application;
  - ii. Require that the applicant schedule a public information meeting in regard to the application if one has not already been held;
  - iii. Consider the application, submitted information, comments from staff, and the public, and referrals;
  - iv. Notify the public of the *Board* meeting at which the application will be considered; and
  - v. In the sole discretion of the *Board*, issue the permit, issue the permit with conditions or refuse the permit.

## 7. **Conditions**

- a) A Soil Removal and Deposit Permit must include requirements such as setbacks, landscaping, buffering, temporary (e.g. soil watering) or permanent (e.g. landscaping, paving) dust controls, fencing, hours of operation, permit expiry, phasing and reclamation measures, and covenants further to findings or recommendations in reports prepared by the *Qualified Professional*;
- b) Upon approval by the Administrator or their delegate, minor changes to a Soil Removal and Deposit Permit may be undertaken if the applicant provides a report from a *Qualified Professional* which, in the opinion of the Administrator or their delegate, provides sufficient details of the changes and if the changes do not substantially deviate from the original application or information previously provided;
- c) At the *Board's* discretion, the term of a Soil Removal and Deposit Permit may be from one to ten years;
- d) Prior to expiry of the Soil Removal and Deposit Permit, the Administrator or their delegate may renew the permit for an additional twelve months for completion of reclamation works;

- e) If the works authorized by the Soil Removal and Deposit Permit have not substantially started within twelve months after issuance of the permit, or the activity permitted under the permit is discontinued for longer than twelve months, the permit shall lapse and have no further force or effect and a new Soil Removal and Deposit Permit must be obtained from the *Regional District*; and,
- f) The applicant is required to receive approval from the Ministry of Transportation and Infrastructure for any access to a Ministry road pursuant to Sec. 5 of the Industrial Road Act and/or Sec. 48 of the Transportation Act as a condition of permit issuance.

## ENFORCEMENT

### 8. Enforcement

- a) The *Administrator*, Manager of Development Services, a Bylaw Enforcement Officer, those persons retained by the *Regional District* for inspection purposes, and Agents of the *Regional District* are authorized individually or in any combination to enter at all reasonable times on any *parcel* or leased Crown land and into any *building* or structure to ascertain whether the provisions of this *bylaw* are being observed.
  - i. Notwithstanding 8 a), a mine manager may, in the fulfilling of his obligations pursuant to the Mines Act, temporarily withhold authorization to enter the worksite providing that the mine manager describes to *Regional District* staff the reasons why access is unsafe and what is being done to remedy the unsafe situation.
- b) For the purposes of ascertaining compliance with this bylaw the *Administrator* or their delegate or the Manager of Development Services may require a permit holder to provide records of *soil removal* and *deposit* and/or a specified report from a *Qualified Professional*.
- c) The suspension of a Soil Removal and Deposit permit is authorized by this bylaw and may be issued by the *Administrator* or their delegate, acting reasonably, if *soil removal* or *deposit* activities have not been undertaken in accordance with the terms and conditions of the permit.
  - i. The *Regional District* may reinstate a Soil Removal and Deposit Permit if the *Administrator* or their delegate agrees with the recommendations and conclusions contained in a report from a *Qualified Professional* confirming compliance with this bylaw or providing recommendations as to how the bylaw can be complied with within a timely manner; and,

- ii. The *Administrator* or their delegate may revoke a Soil Removal and Deposit Permit if the permit holder contravenes a stop work order on the site, contravenes a *Regional District* bylaw, or if in the opinion of the *Administrator* or their delegate, the permit holder provided false or misleading information as part of the application for the Soil Removal and Deposit Permit.

## 9. **Security**

- a) A Soil Removal and Deposit Permit will not be issued prior to the *Regional District* receiving a Security Deposit in the form of an unconditional, irrevocable letter of credit or cash in an amount equal to one hundred and twenty five percent (125%) of a *Qualified Professional's* estimate of the cost of the reclamation (including contingencies and as approved by the *Administrator* or their delegate).
- b) If the *Board* approves a phasing plan for the *soil removal* or *deposit*, the permit holder may provide security specific to each phase of development and such security may be returned to the permit holder upon completion and reclamation of that phase. Security for the first phase of *soil removal* or *deposit* must be received by the *Regional District* prior to issuance of the permit.
- c) Upon written request of the permit holder, the *Regional District* may consider returning a portion of the security amount in acknowledgement of site phasing or reclamation and based upon a report from a *Qualified Professional* detailing completed works and cost estimates.
- d) The *Board* may consider that security has been, or will be, taken by the provincial government respecting reclamation on the permitted lands, and if that security would have the same effect as security taken by the *Regional District*, the Board may reduce or waive the requirement for reclamation security.
- e) If the site has not been reclaimed in accordance with the recommendations from the *Qualified Professional* prior to the expiry of the permit, or if the use has been discontinued longer than twelve months, the *Regional District* will notify the permit holder in writing that the security may be forfeited to the *Regional District* after 60 days from delivery of the notice, and the forfeited security may be used to begin reclamation of the site.
- f) The *Board* may consider an extension to the permit and retention of security to be used for reclamation purposes based upon a *Qualified Professional's* report detailing the site works remaining and the timing required to reclaim the site.



**10. Penalties**

- a) Every person who violates any provision of this bylaw, or who permits any act or thing to be done in contravention of this bylaw or who fails to do any act or thing required by this bylaw will be deemed to have committed an offence against this bylaw and:
  - i. will be liable to a fine as prescribed in the *Regional District Ticket Information Utilization Bylaw*; and
  - ii. will be liable, upon summary conviction, to penalties prescribed by the Offence Act.
- b) Any person who violates any of the provisions of this Bylaw, or fails to comply with a permit or order, or prevents or obstructs those authorized to enforce this bylaw, commits an offence and on summary conviction may be liable to a penalty of up to \$2000.00 per offence, plus the cost of prosecution, pursuant to the Offence Act.
- c) Each day's continuance of an offence under this bylaw constitutes a new and distinct offence.

**SEVERABILITY AND INDEMNIFICATION**

- 11. If any Section or portion of this bylaw is held to be invalid by a Court of competent jurisdiction, such invalid Section or portion shall be severed and such invalidity shall not affect the remainder of this bylaw.
- 12. The holder of a Soil Removal and Deposit Permit is responsible for the conditions of the permit and is responsible for any damage or harm to person or property caused directly or indirectly by the work authorized by the permit and saves harmless the *Regional District* from all claims whatsoever in respect of the work or permit.

**CITATION**

13. This bylaw may be cited as "Soil Removal and Deposit Bylaw No. 646."

READ a first time this 18<sup>th</sup> day of August, 2011.

READ a second time this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

READ a third time this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

RECEIVED THE APPROVAL of the Minister of Energy and Mines this \_\_\_\_\_ day of \_\_\_\_\_, 2012

RECEIVED THE APPROVAL of the Minister of Community, Sport and Cultural Development  
this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
MANAGER OF CORPORATE  
ADMINISTRATION SERVICES (SECRETARY)

\_\_\_\_\_  
CHAIR

CERTIFIED a true copy of Bylaw No. 646  
as read a third time.

CERTIFIED a true copy of Bylaw No. 646  
as adopted.

\_\_\_\_\_  
Manager of Corporate  
Administration Services (Secretary)

\_\_\_\_\_  
Manager of Corporate  
Administration Services (Secretary)

## COLUMBIA SHUSWAP REGIONAL DISTRICT

SOIL REMOVAL AND DEPOSIT BYLAW NO. 646

A bylaw to regulate the application, approval, suspension or denial of permits for the removal and deposit of soil material within the Columbia Shuswap Regional District.

WHEREAS sections 723 and ~~799~~797.1 of the Local Government Act, ~~authorizes~~authorize the *Board* of the Columbia Shuswap Regional District to regulate or prohibit the *removal* or *deposit* of *soil* in the *Regional District*;

AND WHEREAS the *Board* desires to regulate, and require permits for, both the *removal* and *deposit* of *soil* within the Columbia Shuswap Regional District;

NOW THEREFORE the *Board* of the Columbia Shuswap Regional District, in open meeting assembled, HEREBY ENACTS as follows:

**ADMINISTRATION**

1. This Bylaw applies to all land within Electoral Areas 'A', 'B', 'C', 'D' 'E' and 'F' of the Columbia Shuswap Regional District.

**DEFINITIONS**

2. For the purpose of this bylaw:

**Administrator** means the Chief Administrative Officer (CAO) of the Regional District or the officer delegated by the *Board* to act on the CAO's behalf.

**Board** means the Board of Directors of the *Regional District*.

**Deposit** ~~means~~includes the placement, storage, spilling or releasing, directly or indirectly, of *soil* on lands in the *Regional District* where the *soil* ~~did~~was not previously ~~exist~~located.

**Qualified Professional** means a person who is registered or duly licensed as a Professional Engineer or a professional geoscientist under the provisions of the Engineers and Geoscientists Act.

**Regional District** means the Columbia Shuswap Regional District.

**Remove** ~~means~~includes the act of removing, excavating, or transporting *soil* from any lands where it originally existed, including the movement of soil from one ~~lot~~location to another ~~portion of~~location within the same lot.

**Soil** ~~means~~includes topsoil, silt, clay, sand, gravel, rock, peat or other substances of which natural land is composed but does not include soil that exceeds provincial contaminated soil guidelines, or sewage sludge.

**REGULATIONS****3. Fees**

- a) ~~Application~~ An application for a Soil Removal and Deposit Permit ~~is to be accompanied by a fee as noted in~~ must be submitted with the appropriate fee as prescribed by the Columbia Shuswap Regional District Fees Bylaw No. 638, as amended.

**4. Applicability**

- a) All lands within the Regional District are designated Soil Removal and Deposit Permit Areas unless exempted under Section 3.2.b).
- b) No person shall:
- i. remove soil from; or
  - ii. deposit soil or other material on any land within a designated Soil Removal and Deposit Permit Area without first obtaining a Soil Removal and Deposit Permit, unless otherwise specifically permitted under this Bylaw.
- ~~c) The requirements of this Bylaw are exclusive of all Mines Act requirements and applicants are advised to contact the Province of British Columbia for more information.~~

**5. Exemptions**

- a) Unless exempted by this section, a permit for *soil removal* or *deposit* is required.
- b) A Soil Removal and Deposit Permit is not required ~~under~~ for any of the following ~~conditions~~:
- i. ~~For the removal~~ Removal or *deposit* of less than 350m<sup>3</sup> of *soil* during a twelve month period;
  - ii. ~~For the movement~~ Movement of soil ~~on~~ removed from and deposited entirely within a parcel and an adjacent parcel owned by the same private landowner's ~~sole property~~;
  - iii. ~~The soil removal and~~ Removal or *deposit* ~~is of soil~~ located on Agricultural Land Reserve (ALR) ~~lands and are~~ land which is exempted from a permit under the Agricultural Land Commission Act;
  - iv. ~~The soil removal and~~ Removal or *deposit* ~~is used for the commercial operation of soil undertaken~~ by a florist, nursery worker, horticulturalist or farmer ~~and where~~ the soil is used on the ~~lands where these persons carry on their~~ parcel on which that person carries on that trade;



- v. Removal or deposit of soil for the purpose of constructing or maintaining provincial roadways, forest service roads, or walkways or trails;
- vi. ~~If the~~ Removal of soil is from or deposit of soil on ~~properties~~ land owned by the Regional District or its member municipalities;
- vii. ~~If Removal of soil from or deposit of soil on land if~~ a permit ~~has been obtained pursuant to Section 10 of the Mines Act~~ for exploration or production of minerals or coal on the land has been obtained pursuant to the Mines Act;
- viii. ~~If a soils permit has been obtained for lands~~ Removal of soil from or deposit of soil on land managed under the Forest Act or regulated under the Highways Act and for which a soils permit has been obtained, so long as the ~~lands continue~~ land continues to be used as managed ~~forests~~ forest or highways; or;
- ix. ~~If Removal or deposit of soil pursuant to a Development Permit approved by the Board, the Administrator, or Manager of Development Services has approved a Development Permit~~, which specifies conditions recommended in a report from a *Qualified Professional* for soil removal or deposit.

## 6. Application

- a) Application for Soil Removal and Deposit Permits shall be made on a form provided by the *Regional District*. Applications must be submitted with the applicable fee as ~~noted~~ prescribed in the Columbia Shuswap Regional District Fees Bylaw No. 638, as amended.
- b) The application for a Soil Removal and Deposit Permit must be accompanied by the following information prepared by a *Qualified Professional*:
  - i. Civic address(es) and legal description(s) of ~~property~~ the subject parcel or the Crown land, as applicable, where the soil removal and/or deposit will take place;
  - ii. Current title search of land(s) and written consent of ~~landowner(s)~~ the parcel owner or Crown land lessee to the soil removal and/or deposit activities, and agent authorization (if applicable);
  - iii. Start and end date of soil deposit and removal activities, including reclamation;
  - iv. Detailed information on the proposed or completed notification of the proposal to the public and adjacent property owners;

- v. Site plan(s) illustrating all of the following on and within a minimum of 30 metres of the proposed site(s):
  - 1. Legal boundaries and zoning setback requirements of the ~~land~~subject parcel or leased area including all legal, natural and constructed features such as berms, buildings, fences, wells, sewage systems, rights-of-way, easements, driveways, roadways, watercourses, and vegetation, ~~etc~~;
  - 2. Land uses and designations, such as agricultural land reserve (ALR) ~~lands, residential, First Nations, etc~~; zoning, flood plain area, environmentally sensitive area, and reserve land;
  - 3. Existing and proposed site contours with contour interval of 2 metres or less;
  - 4. Proposed locations of accesses and haul routes to and from the site; and
  - 5. Illustrated plan for reclamation works to be completed prior to permit expiry including proposed use, contours, and landscaping;
- vi. Report(s) detailing all of the following:
  - 1. Primary person/position responsible for *soil removal* and *deposit* operations on site;
  - 2. Method(s) of *soil removal* and *deposit*;
  - 3. Equipment and processing proposed for the site;
  - 4. Phases and dates of *soil removal*, *deposit*, and reclamation;
  - 5. ~~Construction of infrastructure~~Proposed construction on the site, including any buildings, roads or servicing;
  - 6. Hours of operation, noise mitigation, dust control, visual and landscape buffering, erosion and drainage control, noxious weed management, and traffic impact and control;
  - 7. Site reclamation plan and estimated cost; ~~and~~
  - 8. Riparian Area Assessment if any proposed disturbance is within 30m of the natural boundary of any watercourse; ~~details as to how any adjacent riparian areas may be impacted or protected~~;
  - 9. Impacts on adjacent riparian areas and proposals for protecting the riparian areas; and



10. Identification, assessment and management of impacts of sources of drinking water, e.g. surface water intake or ground water wellhead, within 100m of the proposed soil removal or deposit activities.
  - vii. Copies of all other necessary approvals from authorities having jurisdiction over the lands ~~proposed for permit in regard to soil removal and deposit~~ for which the Soil Removal and Deposit Permit application has been submitted;
  - viii. Copies of comprehensive liability insurance for the operations to occur on site to a minimum coverage of \$~~1,000,000~~ 2,000,000 per occurrence; and
  - ix. Any other information the *Regional District* deems necessary to review the Soil Removal and Deposit Permit application.
- c) ~~The~~ Upon completion of the *soil removal or deposit*, and prior to the release of security taken from the applicant as a condition of the permit, ~~the~~ applicant must provide to the *Regional District* ~~upon completion of the soil removal or deposit, and prior to the release of security taken from the applicant as a condition of the permit,~~ a certificate from a *Qualified Professional* stating that all works have been completed as ~~per the requirements of the permit, or permit as amended, if applicable, and as per~~ required by the applicable Soil Removal and Deposit Permit, in accordance with report recommendations ~~or~~ and details submitted in support of the application for ~~the~~ permit ~~approval~~.
- d) Upon receipt of a Soil Removal and Deposit Permit application the *Regional District* will undertake the following:
- i. Notify all property owners within 100m of the parcel boundary of the proposed application;
  - ii. ~~Request~~ Require that the applicant schedule a public information meeting in regard to the application if one has not already been ~~undertaken~~ held;
  - iii. Consider the application, submitted information, comments from staff, and the public, and referrals;
  - iv. Notify the public of the *Board* meeting at which the application will be considered; and
  - v. ~~The~~ In the sole discretion of the *Board* ~~will~~ issue the permit, issue the permit with conditions or refuse the permit.

## 7. Conditions

- a) ~~Approval of a permit may~~ A Soil Removal and Deposit Permit must include requirements ~~as deemed appropriate by the Regional District~~ such as setbacks, landscaping, buffering, temporary (e.g. soil watering) or permanent

(e.g. landscaping, paving) dust controls, fencing, hours of operation, permit expiry, phasing and reclamation measures, and covenants further to findings or recommendations ~~in respect of~~ reports ~~from~~ prepared by the *Qualified Professional(s)*;

- b) Upon approval by the Administrator or their delegate, minor changes to ~~the permit~~ Soil Removal and Deposit Permit may be undertaken if the applicant provides a report from a *Qualified Professional* which, in the opinion of the Administrator or their delegate, provides sufficient details ~~as to those of the~~ changes and ~~which if the changes~~ do not substantially deviate from the original application or information previously provided;
- c) At the *Board's* discretion, the term of ~~the permit~~ Soil Removal and Deposit Permit may be from one to ten years;
- d) Prior to expiry of the ~~permit~~ Soil Removal and Deposit Permit, the Administrator or their delegate may renew the permit for an additional twelve months for completion of reclamation works;
- e) If the works authorized by the ~~permit~~ Soil Removal and Deposit Permit have not substantially started within twelve months after issuance of the permit, or the ~~use~~ activity permitted under the permit is discontinued for longer than twelve months, the permit shall lapse and have no further force or effect and a new Soil Removal and Deposit Permit must be obtained from the *Regional District*; and,
- f) The applicant is required to receive approval from the Ministry of Transportation and Infrastructure for any access to a Ministry road pursuant to Sec. 5 of the Industrial Road Act and/or Sec. 48 of the Transportation Act, as a condition of permit issuance.

## ENFORCEMENT

### 8. Enforcement

- a) The *Administrator*, Manager of Development Services, a Bylaw Enforcement Officer, those persons retained by the *Regional District* for inspection purposes, and Agents of the *Regional District* are authorized individually or in any combination to enter at all reasonable times on any *parcel* or leased Crown land and into any *building* or structure to ascertain whether the provisions of this *bylaw* are being observed~~;~~<sub>2</sub>
  - i. Notwithstanding Section ~~34.1~~ 34.1(a), a mine manager may, in the fulfilling of his obligations pursuant to the Mines Act, temporarily withhold authorization to enter the worksite providing that the mine manager describes to *Regional District* staff the reasons why access is unsafe and what is being done to remedy the unsafe situation~~;~~<sub>2</sub> ~~or~~<sub>2</sub>
- b) ~~ii.~~ For the purposes of ascertaining compliance with this bylaw the *Administrator* or their delegate or the Manager of Development Services may ~~request~~ require a



permit holder to provide records of *soil removal* and *deposit*; and/or a specified report from a *Qualified Professional*.

- c) ~~b)~~ The suspension of ~~the~~ Soil Removal and Deposit permit, ~~e.g. stop work order~~, is authorized by this bylaw and may be issued by the *Administrator* or their delegate, acting reasonably, if *soil removal* or *deposit* ~~does~~ activities have not ~~appear to be been~~ undertaken in accordance with the terms and conditions of the ~~Permit~~ permit.
- i. ~~Reinstatement of the permit may be granted by the~~ The *Regional District* ~~may reinstate a Soil Removal and Deposit Permit~~ if the *Administrator* or their delegate agrees with the recommendations and conclusions contained in a report from a *Qualified Professional* confirming compliance with this bylaw or ~~which provides~~ providing recommendations as to how the bylaw ~~will~~ can be complied with within a timely manner; and.
- ii. ~~Revocation of the permit by the~~ The *Administrator* or their delegate may ~~occur~~ revoke a Soil Removal and Deposit Permit if the permit holder ~~has contravened~~ contravenes a stop work order on the site, ~~contravened~~ contravenes a *Regional District* bylaw, or if in their ~~the~~ opinion ~~has of the Administrator or their delegate, the permit holder~~ provided false or misleading information ~~previously considered~~ as part of the application for the *Soil Removal and Deposit Permit* ~~application~~.

## 9. Security

- a) ~~The~~ A *Soil Removal and Deposit Permit* ~~shall~~ will not be issued prior to the *Regional District* receiving a Security Deposit in the form of an unconditional, irrevocable letter of credit or cash in an amount equal to one hundred and twenty five percent (125%) of ~~the~~ a *Qualified Professional's* estimate of the cost of the reclamation (including contingencies and as approved by the *Administrator* or their delegate); ;
- b) If the *Board* approves a phasing plan for the *soil removal* or *deposit*, the permit holder may provide security specific to each phase of development and ~~which~~ such security may be returned to the permit holder upon completion and reclamation of that phase. Security for the first phase of *soil removal* or *deposit* must be received by the *Regional District* prior to issuance of the permit; ;
- c) Upon written request of the permit holder, the *Regional District* may consider ~~drawing down~~ returning a portion of the security amount ~~due to~~ in acknowledgement of site phasing or reclamation and based upon a report from a *Qualified Professional* detailing completed works and cost estimates; ;
- d) The *Board* may consider that ~~if~~ security has been, or will be, taken by the provincial government respecting reclamation on the permitted lands, and if that ~~security~~ would have the same effect ~~of the~~ as security taken by the *Regional District*, ~~that~~ the *Board* may reduce or waive the requirement for reclamation security; ;

- e) If the site has not been reclaimed ~~as per~~ in accordance with the recommendations from the *Qualified Professional* prior to the expiry of the permit, or if the use has been discontinued longer than twelve months, the *Regional District* will notify the permit holder in writing ~~indicating~~ that the security may be forfeited to the *Regional District* after 60 days of receipt from delivery of the letter and notice, and the forfeited security may be used to begin reclamation of the site;
- f) The *Board* may consider an extension to the permit and retention of security to be used for reclamation purposes based upon a *Qualified Professional's* report detailing the site works remaining and the timing required to reclaim the site.

#### 10. Penalties

- a) Every person who violates any provision of this bylaw, or who permits any act or thing to be done in contravention of this bylaw or who fails to do any act or thing required by this bylaw will be deemed to have committed an offence against this bylaw and
  - i. will be liable to a fine as prescribed in the *Regional District Ticket Information Utilization Bylaw*; and
  - ii. will be liable, upon summary conviction, to penalties prescribed by the *Offence Act*.
- b) ~~a)~~ Any person who violates any of the provisions of this Bylaw, or fails to comply with a permit or order, or prevents or obstructs those authorized to enforce this bylaw, commits an offence and on summary conviction may be liable to a penalty of up to \$2000.00 per offence, plus the cost of prosecution, pursuant to the Offence Act ~~of British Columbia~~.
- c) ~~b)~~ Each day's continuance of an offence under this bylaw constitutes a new and distinct offence.

#### SEVERABILITY AND INDEMNIFICATION

- 11. If any Section or portion of this bylaw is held to be invalid by a Court of competent jurisdiction, such invalid Section or portion shall be severed and such invalidity shall not affect the remainder of this bylaw.
- 12. The holder of ~~the permit~~ a Soil Removal and Deposit Permit is responsible for the conditions of the permit and is responsible for any damage or harm to person or property caused directly or indirectly by the work authorized by ~~this~~ the permit and saves harmless the *Regional District* from all claims whatsoever in respect of the work or permit.

**CITATION**

13. This bylaw may be cited as "Soil Removal and Deposit Bylaw No. 646."

READ a first time this 18<sup>th</sup> day of August, 2012.

READ a second time, as amended, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

READ a third time this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

RECEIVED THE APPROVAL of the Minister of Energy and Mines this

\_\_\_\_\_ day of \_\_\_\_\_, 2012.

RECEIVED THE APPROVAL of the Minister of Community, Sport and Cultural Development this

\_\_\_\_\_ day of \_\_\_\_\_, 2012.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
MANAGER OF CORPORATE  
ADMINISTRATION SERVICES (SECRETARY)

\_\_\_\_\_  
CHAIR

CERTIFIED a true copy of Bylaw No. 646  
as read a third time.

CERTIFIED a true copy of Bylaw No. 646  
as adopted.

\_\_\_\_\_  
Manager of Corporate  
Administration Services (Secretary)

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Manager of Corporate  
Administration Services (Secretary)

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