



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

December 15, 2005

Reply to the attention of Brandy Ridout

Jack and Sonja Powell
PO Box 734
Princeton, BC V0X 1W0

Dear Sir/Madam:

RE: Application #V-36297
PID: 013-024-833
Parcel A (DD 264513F), District Lot 1185, Kamloops Division of Yale District,
EXCEPT Plans 18782, 18862 and 29645

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to subdivide one (1) lot of approximately 0.8 ha from the 22.5 ha subject property in accordance with its *Homesite Severance Policy* (copy attached). The application was submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*.

The Commission wishes to thank you for taking the time to meet with its representatives on December 6, 2005. Although the Commission was initially concerned about the size of the requested homesite lot, the site visit allowed the Commissioners to discuss the matter and observe that the lot configuration was logical from an agricultural perspective.

The Commission writes to advise that it approved your application subject to:

- the subdivision being in substantial compliance with the attached plan
- the construction of a fence around the perimeter of the homesite lot
- that the homesite lot not be sold for five (5) years except in the case of estate settlements. The Commission requires your commitment in this regard, which can be done by signing below and returning to our office a copy of the letter, prior to approving deposit of the subdivision plan.
- that you obtain Commission approval for changes that might be deemed necessary by other approval agencies (i.e. an increase in the size of the homesite lot or a change in its location).
- compliance with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment. The Commission suggests you contact the Regional District of Okanagan-Similkameen at your earliest convenience.

The decision noted above is recorded as Resolution #650/2005.

If you wish to proceed on this basis please undertake the following steps:

1. Commence approval procedures of other agencies that must approve the subdivision.
2. Have a surveyor prepare the subdivision plan.
3. Obtain a recent State of Title Certificate for the property.
4. Prepare a "Transfer of an Estate in Fee Simple" document indicating the transfer of the remainder of the property from you to the purchaser.
5. Prior to approaching the Registrar of Land Titles to register the subdivision, please submit the following to this office:
 - a) two (2) paper prints of the plan of subdivision
 - b) the State of Title Certificate
 - c) a copy of the "Transfer of an Estate in Fee Simple" document
 - d) your signed commitment that the homesite lot will not be sold for five (5) years except in the case of estate settlements.

When all the required documentation has been received the Commission will authorize the Registrar of Land Titles to accept the application for deposit of the subdivision plan.

Please quote your application number in any future correspondence.

Yours truly

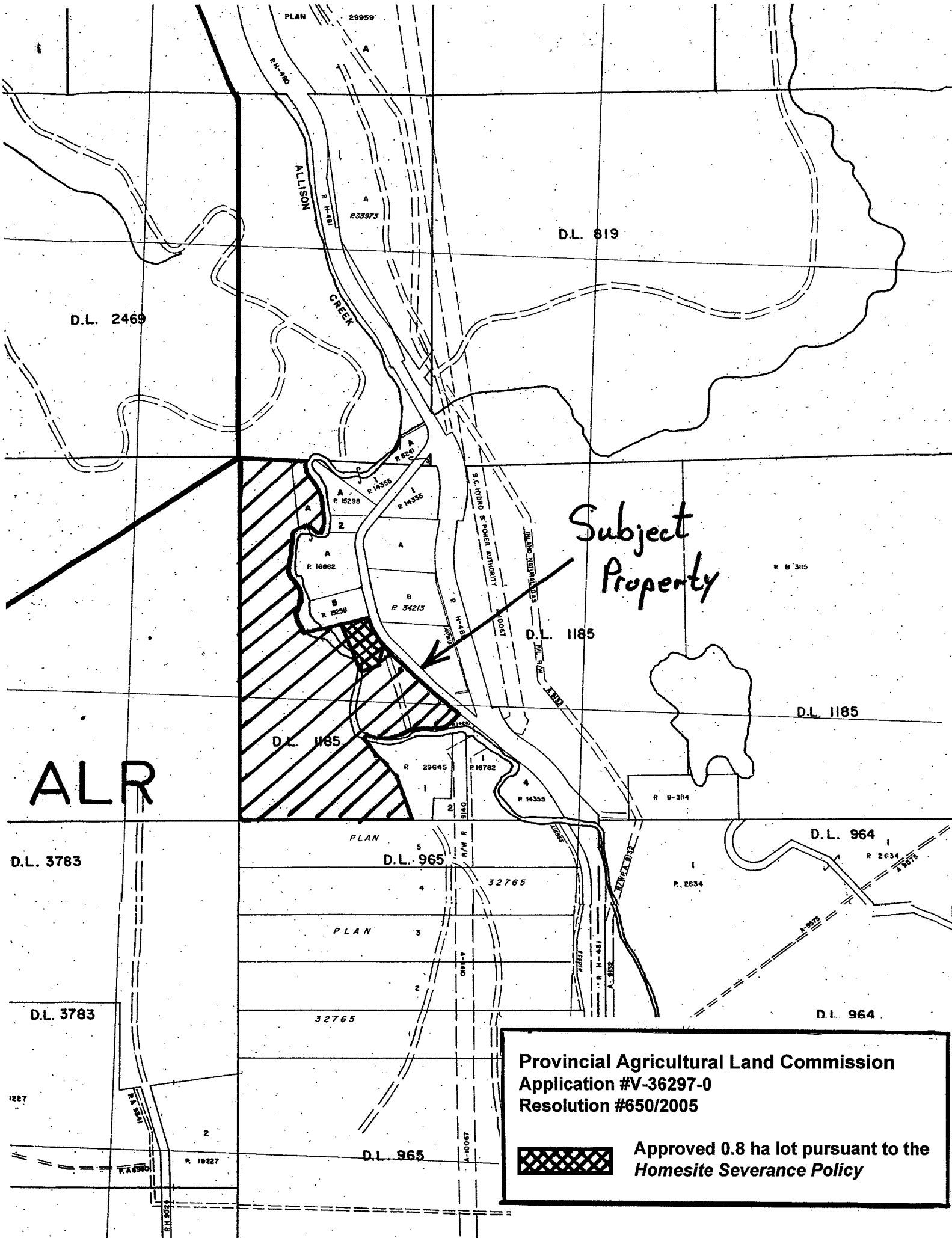
PROVINCIAL AGRICULTURAL LAND COMMISSION

per:

Erik Karlsen, Chair

cc: Regional District of Okanagan-Similkameen - H-05-00905.100
Murray R. Woodward, 12833 106th Avenue, Surrey, BC - V3T4Y7


BR/lv/Encl.
36297d1



Subject Property

ALR

Provincial Agricultural Land Commission
 Application #V-36297-0
 Resolution #650/2005

 Approved 0.8 ha lot pursuant to the
 Homesite Severance Policy



*Agricultural Land
Commission Act*

**Policy #11
March 2003**

HOMESITE SEVERANCE ON ALR LANDS

This policy provides advice to assist in the interpretation of the Agricultural Land Commission Act, 2002 and Regulation. In case of ambiguity or inconsistency, the Act and Regulation will govern.

The purpose of this policy is to provide a consistent approach to situations where property under application has been the principal residence of the applicant as owner-occupant since December 21, 1972 and the applicant wishes to dispose of the parcel but retain a homesite on the land.

An application under Section 21 (2) of the *Agricultural Land Commission Act* is required.

Persons making use of this policy should understand clearly that:

- a. no one has an automatic right to a "homesite severance";
- b. the Commission shall be the final arbiter as to whether a particular "homesite severance" meets good land use criteria; (see #4 below)
- c. a prime concern of the Commission will always be to ensure that the "remainder" will constitute a suitable agricultural parcel. (see #5 below).

Without limiting the generality of the foregoing, the following guidelines apply to "homesite severance" applications.

1. A once only severance may be permitted where the applicant submits documentary evidence that he or she has continuously owned and occupied the property as his or her principal place of residence since 21 December 1972.
2. Where an applicant for a "homesite severance" has had a previous subdivision application approved by the Commission resulting in the creation of a separate parcel, the Commission may consider the previous approval as having fulfilled the objectives of the Homesite Severance Policy and may deny any further consideration under the Homesite Severance Policy.
3. An application for a "homesite severance" will be considered only where the applicant submits documentary evidence showing a legitimate intention to sell the remainder of the property upon the approval of the "homesite severance" application. [An interim agreement for sale, a prospective buyer's written statement of intent to purchase, a real estate listing, or some other written evidence of pending real estate transaction would be acceptable as documentation.]

In considering the application, the Commission may make its approval subject to sale of the remainder within a specified period of time.

A Certificate of Order authorizing the deposit of the subdivision plan will be issued to the Registrar of Land Titles only when a "transfer of estate in fee simple" or an "agreement for sale" is being registered concurrently.

4. There will be cases where the Commission considers that good land use criteria rule out any subdivision of the land because subdivision would compromise the agricultural integrity of the area, and the Commission must therefore exercise its discretion to refuse the "homesite severance".

Where the Commission decides to allow a "homesite severance", there are two options:

- a. the existing homesite may be created as a separate parcel where it is of a minimum size compatible with the character of the property (plus a reasonable area, where required, for legal access purposes); or
 - b. where the location of the existing homesite is such that the creation of a parcel encompassing the homesite would, in the Commission's opinion, create potential difficulty for the agricultural operation or management of the "remainder", the Commission may, as it deems appropriate, approve the creation of a parcel elsewhere on the subject property.
5. The remainder of the subject property after severance of the homesite must be of a size and configuration that will, in the Commission's opinion, constitute a suitable agricultural parcel. Where, in the Commission's opinion, the "remainder" is of an unacceptable size or configuration from an agricultural perspective, there are three options:
- a. the Commission may deny the "homesite severance";
 - b. the Commission may require that the "remainder be consolidated with an adjacent parcel; or
 - c. the Commission may require the registration of a covenant against the title of the "remainder" and such a covenant may prohibit the construction of dwellings.
6. A condition of every "homesite severance" approved by the Commission shall be an order stipulating that the homesite is not to be resold for five years except in the case of estate settlements. Prior to the issuance of a Certificate of Order authorizing deposit of the subdivision plan, the owner shall file with the Commission a written undertaking or standard notarized contractual commitment to this effect.
7. Where a "homesite severance" application has been approved by the Commission, local governments and approving officers are encouraged to handle the application in the same manner as an application under Section 946 of the *Local Government Act* insofar as compliance with local bylaws is concerned.

I/we being the registered owner(s) of the property which is the subject of this application and for whom the homesite lot was approved, hereby agree not to sell, transfer, or otherwise dispose of the homesite lot for five (5) years from the date of registration of the subdivision plan creating the homesite lot, save and except for estate purposes following the death of the owner, or any one of the owners, if there are more than one.

Owner's Name (Please Print)

Signature

Owner's Name (Please Print)

Signature

Witnessed By (Please Print Name)

Occupation of Witness

Signature of Witness

Date

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on December 8, 2005 at 8090 Highway 97, Lake Country, BC.

PRESENT: Sue Irvine Chair
Sharon McCoubrey Commissioner

ABSENT: Sid Sidhu Commissioner

STAFF: Brandy Ridout, Regional Research Officer
Martin Collins, Planner

For Consideration

Brandy Ridout presented the November 15, 2005 staff report regarding application #V-36297-0.

Site Inspection

A site inspection was conducted on December 6, 2005 from 8:30 to 8:50 am. Those in attendance were:

- Sue Irvine & Sharon McCoubrey, Commissioners
- Brandy Ridout and Martin Collins, Agricultural Land Commission staff
- Jack Powell, applicant
- Murray Woodward, agent

Commission Discussion

As the applicant qualified under the *Homesite Severance Policy*, the Commissioners' main concern was the size of the requested homesite lot. However, the site visit and meeting with the applicant enabled the Commissioners to observe that the lot configuration was logical from an agricultural perspective.

IT WAS

MOVED BY: Commissioner McCoubrey
SECONDED BY: Commissioner Irvine

THAT the staff report be received

AND THAT the application to subdivide a 0.8 ha homesite lot from the 22.5 ha property under the *Homesite Severance Policy* be approved

AND FINALLY THAT this approval is subject to compliance with any other enactment, legislation or decision of any agency having jurisdiction.

CARRIED



Staff Report
Application # V – 36297-0
Applicant: Jack and Sonja Powell
Agent: Murray R. Woodward
Location: north of Princeton

DATE RECEIVED: October 7, 2005

DATE PREPARED: November 15, 2005

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Regional Research Officer

PROPOSAL: To subdivide a 0.8 ha homesite lot from the 22.5 ha property under the *Homesite Severance Policy*.

This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

A contract of purchase and sale was included with the application for the proposed remainder of the property.

Local Government:

Regional District of Okanagan-Similkameen

Legal Description of Property:

PID: 013-024-833

Parcel A (DD 264513F), District Lot 1185, Kamloops Division Yale District, EXCEPT Plans 18782, 18862 and 29645

Purchase Date:

March 17, 1965

Location of Property:

852 Old Highway Road, 5 km north of Princeton just off Highway 5

Size of Property:

22 ha (The entire property is in the ALR).

Present use of the Property:

Residence and hay barn, pasture and forested hillside

BACKGROUND INFORMATION (continued):

Surrounding Land Uses:

WEST: Forested hillside (grazing land) within the ALR
SOUTH: Rural residential properties
EAST: Larger rural residential properties
NORTH: Small holdings within the ALR (1-2 ha)

Agricultural Capability:

Data Source: Agricultural Capability Map # 92H/10
The majority of the property is identified as having Mixed Prime and Secondary ratings.

Official Community Plan and Designation:

Electoral Area H Rural Land Use Bylaw No. 1725 (1997) (Electoral Area H has no Official Community Plan)
Designation: Resource Area

Zoning Bylaw and Designation:

A minimum parcel size of 8 ha is permitted.

PREVIOUS APPLICATIONS:

Application #03966-0

Applicant: J.A. & S. Powell
Decision Date: May 17, 1977
Proposal: To subdivide one 2.8 ha lot and one 0.7 ha lot from the 25.4 ha subject property.
Two separate families have occupied the two proposed parcels since 1972.
Decision: Allowed.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Regional District of Okanagan Similkameen: Forwarded the application without comment as per policy.

STAFF COMMENTS:

Staff suggests that the Commission consider the following:

- The application is consistent with *Homesite Severance Policy* in that the applicant has owned and lived on the property continuously since March 1965.
- As the homesite may be somewhat larger than typical, a site visit will ascertain the necessity of a 0.8 ha lot.

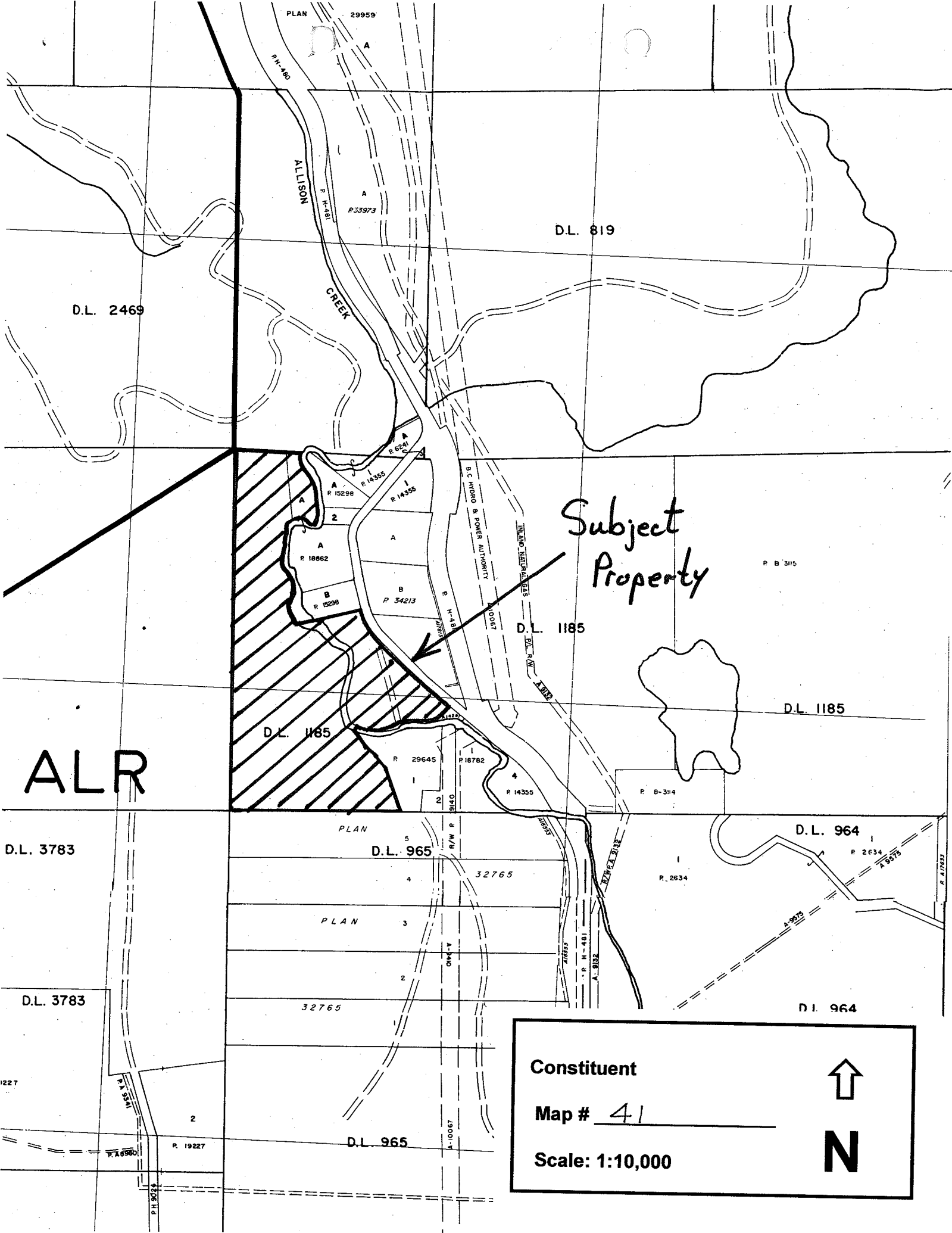
END OF REPORT

Signature



Date

16 November 2005



D.L. 2469

D.L. 819

Subject Property

D.L. 1185

D.L. 1185

ALR

D.L. 1185

D.L. 3783

D.L. 965

D.L. 964

D.L. 3783

D.L. 965

D.L. 964

Constituent

Map # 41

Scale: 1:10,000

↑
N