



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
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April 18, 2008

Reply to the attention of Ron Wallace
ALC File: O-37610

Mr. John Lusney, President, BCR Properties Ltd.
British Columbia Railway Company
Suite 600 - 221 West Esplanade
North Vancouver, BC V7M3J3

Dear Mr. Lusney:

Re: Application to Establish and Construct Road and Rail Rights-of-Way within the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 169/2008 outlining the Commission's decision as it relates to the above noted application.

Please send two (2) paper prints of the final survey plan(s) and lease document(s) to this office. When the Commission confirms that all conditions have been met to its satisfaction, it will authorize the Registrar of Land Titles to accept registration of the plan(s).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: The Corporation of Delta
Delta Farmers' Institute
Vancouver Fraser Port Authority
TransLink, attention: Robin Johnston

Enclosure: Minutes



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on March 12, 2008 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C.

PRESENT:	Sylvia Pranger	Chair, South Coast Panel
	Michael Bose	Commissioner
	John Tomlinson	Commissioner
	Ron Wallace	Staff
	Tony Pellett	Staff

For Consideration

Application: # O- 37610
Applicant: British Columbia Railway Company
Proposal: The applicant, through its subsidiary BCR Properties Ltd., proposes to exercise a first right of refusal and an option to purchase a ± 60 m strip of land adjacent to its existing railway right of way and eventually use it for additional trackage. The applicant also proposes to acquire a ± 15 m strip of land adjacent to another length of its existing railway right of way to provide road access to rail operations in the event the proposed South Fraser Perimeter Road cuts off the present access.

Legal:

1. PID: 024-612-197
Lot 2, District Lots 113 and 176 Group 2 NWD, Plan LMP43298
2. PID: 024-592-366
Lot 2, District Lots 111 and 172, Group 2 NWD Plan LMP43300
Except Part dedicated road on Plan BCP5703
3. PID: 024-489-077
Parcel 1, District Lots 108, 109 and 127, Group 2 NWD,
Reference Plan LMP41894
4. PID: 024-492-329
Parcel 1, District Lot 184, Group 2 NWD, Plan LMP41899,
Except Firstly: Part Dedicated Road on Plan LMP41900,
Secondly: Part Dedicated Road on Plan LMP45251
5. PID: 009-286-462
Lot 3, District Lot 184, Group 2 NWD, Plan 839 Except Firstly:
Parcel D (Plan 38001), Secondly: Part Dedicated Road on Plan
LMP40488
6. PID: 009-188-126
Parcel 2 (Reference Plan 7637), District Lot 183, Group 2 NWD
Except Firstly: Part subdivided by Plan 19032, Secondly: Parcel
C (Plan 38001)
7. PID: 009-012-982
Lot 4, District Lot 183, Group 2 NWD, Plan 28898 Except Firstly:
Parcel F (Reference Plan 38001), Secondly: Part Dedicated
Road on Plan LMP40488,
8. PID: 009-187-715
Parcel 1 (Reference Plan 6994), of Parcel A, (Reference Plan
4574) District Lot 183, Group 2 NWD, Except Firstly: Part
Subdivided by Plan 28898, Secondly: Parcel C (Reference Plan

30741), Thirdly: Parcel A (Plan 38001), Fourthly: Parcel B (Plan 38001), Fifthly Parcel D, (Plan 42153), Sixthly: Part on Statutory Right of Way Plan 49448, Seventhly: Part on Statutory Right of Way Plan 77524, Eighty: Part on Statutory Right of Way Plan 38797, Ninthly: Part Dedicated Road on Plan LMP40488

9. PID: 006-677-711

Lot 5, District Lot 183, Group 2 NWD, Plan 31806 EXCEPT Firstly: Parcel A Statutory Right of Way Plan 42153, Secondly: Part Dedicated Road on Plan LMP40488,

Location: South Delta in the Deltaport Way corridor.

Site Inspection

A site inspection was conducted on 6 November 2007. Those in attendance were:

- Sylvia Pranger Chair, South Coast Panel
- Michael Bose Commissioner
- John Tomlinson Commissioner
- Ron Wallace Staff
- Tony Pellett Staff
- John Lusney BCR Properties Ltd., Applicant
- Gordon Westlake BCR Properties Ltd., Applicant
- Lori Perry BCR Properties Ltd., Applicant

The commissioners and staff met with the applicants on site to discuss the application to acquire additional right-of-way for railway purposes and to acquire a road right-of-way to provide access to their operations between Highway 17 and 64th Street.

The applicants confirmed that the staff report dated October 24, 2007 was received.

Additional Information

The applicants provided supplemental information dated 8 November 2007 regarding the staff report and meeting. This information was reviewed by the Commission during its 12 December 2007 and 21 February 2008 meetings. The Commission identified the need for further discussion of a number of issues related to the impact of the proposal.

Meeting

A meeting was held by the Provincial Agricultural Land Commission on 12 March 2008 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. Those in attendance were:

- Sylvia Pranger Chair, South Coast Panel
- Michael Bose Commissioner
- John Tomlinson Commissioner
- Ron Wallace Staff
- Tony Pellett Staff
- John Lusney BCR Properties Ltd., Applicant
- Gordon Westlake BCR Properties Ltd., Applicant
- Lori Perry BCR Properties Ltd., Applicant

The applicant presented a letter responding to the issues raised by the Commission. These issues were then discussed in some detail and the applicant stressed that the urgent matter is meeting the May 2009 rail right of way acquisition deadline.

Discussion

The Commission acknowledged that in 1999, as part of the sale of Roberts Bank back-up lands (acquired by the Province prior to the ALR for potential industrial development) back to farmers, it was clearly the Province's intention to provide for possible rail expansion subject to conditions which might be imposed by the Commission to mitigate and compensate for any and all negative impacts of such a project on agriculture. While many agricultural issues have been identified, the Commission was not certain it could at this time identify all issues which will be related to long term port expansion, thus it would not be appropriate to approve new rail construction at this time. Nevertheless the Commission acknowledged that the applicant had presented a compelling case that it is highly likely that rail expansion will be required in the future as the port expands and that it is therefore essential to exercise the 1999 agreements before they expire in 2009.

Regarding the proposal to establish a new right of way for road access to the rail line east of Highway 17, the Commission noted that no such access would be required unless the South Fraser Perimeter Road is approved for construction following Environmental Assessment procedures and a subsequent application to the Commission.

Conclusions

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal to acquire additional railway right-of-way at this time is justified provided agriculture can continue until the land is needed for railway purposes.
4. That the proposal to construct railway infrastructure should not be decided until it is known when the railway infrastructure will be needed, so that the Commission can decide on conditions protective of agriculture in the light of the needs of that time.
5. That the proposal to acquire road right-of-way and to construct road infrastructure should be brought forward if and when the Commission is reviewing an application to dedicate and construct the proposed South Fraser Perimeter Road.

IT WAS

MOVED BY: Commissioner Pranger

SECONDED BY: Commissioner Tomlinson

That the proposal to acquire additional right-of-way for railway purposes be allowed as submitted subject to

- the preparation of a plan (in substantial compliance with the plan submitted with the application) to delineate the area to be dedicated as railway right of way, and
- retention of existing agricultural infrastructure and production of a beneficial lease or leases to allow the land to be farmed until such time as rail construction has been approved and construction is imminent,

And that the balance of the application be deferred at this time.

This approval is granted for the sole benefit of the applicant and is non-transferable.

This decision does not relieve the owner or occupier of the responsibility to comply 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.

CARRIED

Resolution # 169/2008