



**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

March 29, 2011

Reply to the attention of Martin Collins  
ALC File: 52090

Brad Elenko  
Urban Connections  
PO Box 313  
Suite 100-8305 68<sup>th</sup> Avenue  
Osoyoos, BC V0H 1V0

Dear Sir,

**Re: Application to Exclude Land in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution # 87/2011 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in blue ink, appearing to read 'Martin Collins', is written over a horizontal line.

Brian Underhill, Executive Director

Enclosure: Minutes

cc: District of Summerland, Administration Department

LS/52090/d1



**A meeting was held by the Provincial Agricultural Land Commission on March 17<sup>th</sup> 2011 in Salmon Arm, B.C.**

<b>PRESENT:</b>	Roger Mayer	Vice Chair, Okanagan Panel
	Jim Johnson	Commissioner
	Bert Miles	Commissioner
	Liz Sutton	Staff
	Martin Collins	Staff

**For Consideration**

Application: 52090  
Applicant: Lance Valcourt  
Proposal: To exclude 1.6 ha from the ALR.  
Legal: That Part of Lot 1 shown on Plan B5507, District Lot 439, Osoyoos  
Division of Yale District, Plan 218 EXCEPT Plan 33956  
Location: Cedar Ave, Summerland

**Site Inspection**

A site inspection was conducted on March 16, 2011. Those in attendance were:

- Roger Mayer Chair, Okanagan Panel
- Jim Johnson Commissioner
- Bert Miles Commissioner
- Liz Sutton Staff
- Martin Collins Staff
- Lance Valcourt Applicant
- Brad Elenko Agent

Lance Valcourt and Brad Elenko confirmed that the staff report dated January 13, 2011 was received and no errors were identified.

Mr. Valcourt explained that the excluded property could be subdivided in the future for a housing development. The site visit confirmed that the property was bounded on three sides by residential uses, and that north-east corner of the property is rocky and steep, and had challenges for agricultural development. No agricultural activity is occurring on the property.

**Context**

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

## **Discussion**

### **Assessment of Agricultural Capability**

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system.

The agricultural capability of the soil of the subject property is improvable to :

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

The limiting subclasses are soil moisture deficiency and topography. The Commission recognized that small portions of the property had limitations for agricultural development due to steepness, and rockiness, but overall believed that with investment the land could be developed for agriculture.

### **Assessment of Agricultural Suitability**

The Commission assessed whether external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission acknowledged that the subject property is surrounded on three sides by residential uses. However this does not necessarily prevent the agricultural use of the property. For example, in the Okanagan the ALR/residential interface is extensive, and adjacent agricultural and residential uses are common. That being said the Commission also acknowledged that there are examples where active agricultural operations and residential uses have difficulty co-existing due to conflict and heightened expectations of land use change. The conundrum facing the Commission is that to adjust the ALR boundary to accommodate conflict or uncertainty will only shift the problem(s) to another agricultural parcel.

The Commission believed that the challenges to developing the land for agriculture were not insurmountable. The property is large enough to be used for agriculture. Fencing the property would eliminate trespass, and typical farm activities are protected from nuisance lawsuits (subject to conditions) by the *Farm Practices Protection Act*.

### **Assessment of Impact on Agriculture**

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The proposed exclusion represents the permanent loss of a relatively small arable area (~1.5 ha). However, the Commission also noted that the larger, adjacent ALR parcel to the south is in agricultural (orchard) production. It was very concerned that excluding the subject property would result in suburban residential development, residential/farm conflicts, raised expectations, and the cessation of agricultural activity on the large active farm parcel.



### **Assessment of Other Factors**

The Commission noted that it had refused five previous exclusion applications of the property, and that the Advisory Planning Commission recommended that the application be refused.

### **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 will negatively impact agriculture.
4. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

### **IT WAS**

**MOVED BY:** Commissioner J. Johnson

**SECONDED BY:** Commissioner B. Miles

THAT the application be refused on the grounds that property has agricultural capability.

AND THAT the applicant be advised of the provisions of Section 33 of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration.

- S.33 (1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that*
- (a) evidence not available at the time of the original decision has become available,*
  - (b) all or part of the original decision was based on evidence that was in error or was false.*
- (2) The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.*

AND THAT the applicant be advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration, that the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter, and that if the applicant sells or transfers the property within one (1) year of the decision the new owner is not eligible to submit a request for reconsideration.

This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government. This includes zoning, subdivision, or other land use bylaws, and decisions of any authorities that have jurisdiction under an enactment.

### **CARRIED**

**Resolution # 87/2011**