



June 19, 2015

Valerie Jacobsen  
5335 Batty Road  
Port Alberni, BC V4Y 8T9

Dear Ms. Jacobsen:

**Re: Application to Subdivide Land in the Agricultural Land Reserve (ALR)**

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #174/2015) as it relates to the above noted application.

Your attention is drawn to s. 33(1) of the *Agricultural Land Commission Act* which provides a person affected the opportunity to submit a request for reconsideration.

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.

Please note that pursuant to s. 33.1 of the *Agricultural Land Commission Act*, the Chair may direct the executive committee to reconsider this panel decision if, within 60 days from the date of this decision, he considers that the decision "may not fulfill the purposes of the commission as set out in section 6". I can advise you that in this case, the Chair has already reviewed the decision and has instructed me to communicate to you that he does not intend to exercise that authority in this case.

Further correspondence with respect to this application is to be directed to Liz Sutton at Elizabeth.Sutton@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

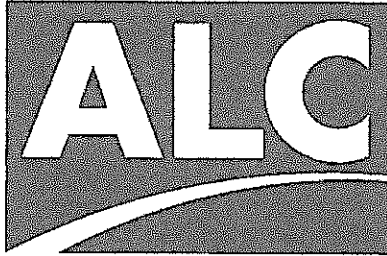
Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosure: Reasons for Decision (Resolution #174/2015)

cc: Alberni-Clayoquot Regional District (LG File #AB14002)

**Agricultural Land Commission**  
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Burnaby, British Columbia V5G 4K6  
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ALC File: 53818



**AGRICULTURAL LAND COMMISSION FILE 53818**

**REASONS FOR DECISION OF THE ISLAND PANEL**

**Application submitted pursuant to s. 21(2) of the *Agricultural Land Commission Act***

**Applicant:**

**Valerie Jacobsen  
(the "Applicant")**

**Application before the Island Regional Panel:**

**Jennifer Dyson, Panel Chair  
Honey Forbes  
Clarke Gourlay**



## **THE APPLICATION**

[1] The legal description of the property involved in the application is:

Parcel Identifier: 007-642-261

Lot 3, Loop Farms, Alberni District, Plan 1297, Except Part in Plan VIP64086  
(the "Property")

[2] The Property has the civic address 5335 Batty Road, Port Alberni.

[3] The Property is 14.4 ha in area.

[4] The Property is located within a designated agricultural land reserve ("ALR") as defined in sec. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[5] The Property is located within Zone 1 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 21(2) of the *ALCA*, the Applicant is applying to subdivide the Property to create a 2.0 ha parcel and a 12.4 ha remainder (the "Application").

[7] On February 5, 2015, the Chair of the Agricultural Land Commission (the "Commission") referred the Application to the Island Regional Panel (the "Panel").

## **RELEVANT STATUTORY PROVISIONS**

[8] The Application was made pursuant to s. 21(2) of the *ALCA*:

21(2) An owner of agricultural land may apply to the commission to subdivide agricultural land.

[9] The Panel considered the Application within the context of s. 6 of the *ALCA*:



- 6 The following are the purposes of the commission:
- (a) to preserve agricultural land;
  - (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
  - (c) 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.

### EVIDENTIARY RECORD BEFORE THE PANEL

[10] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Agricultural capability map, ALR context map and satellite imagery

All documentation noted above was disclosed to the Applicant in advance of this decision.

[11] The Alberni-Clayoquot Regional District (the "ACRD") resolved to forward the Application noting that the Application complies with the Beaufort Official Community Plan and the ACRD's Zoning Bylaw.

[12] The Panel reviewed previous application involving the Property:

ALC ID: 20634  
ALC Legacy: 19143  
(Agricultural Land Commission,  
1985)

A "fine-tuning" application initiated by the Provincial Agricultural Land Commission (Application #01/10-A-19143) to include certain lands into, and exclude certain lands from, the Agricultural Land Reserve of the Regional District of Alberni Clayoquot. Approved by Resolution #345/89.

**Note: Lot 3, Plan 1297, Alberni District, Loop Farms (PID 007-642-261) was identified in Area 60 which was included into the ALR.**



## SITE VISIT

[13] The Panel did not in the circumstances of this Application consider it necessary to conduct a site visit to the Property.

## FINDINGS

[14] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system. The improved agricultural capability ratings identified on BCLI map sheet 92F.036 for the mapping units encompassing the Property are Class 3, Class 4 and Class 5, more specifically the majority of the Property is classified as improvable to 8:3TP 2:4T, while a small portion the northeast corner is classified as 6:3TP 4:O5W ("O" indicates organic soils).

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

The limiting subclasses associated with this parcel of land are W (excess water), P (stoniness) and T (topographic limitations).

[15] The Applicant describes the Property as being, "*in its natural state: Treed, clay, soil, swampy areas and rock. A portion of the land does have some areas with nice soil*".

[16] The Applicant believes the agricultural capability of the Property is Class 7 (no productivity) with liming subclasses of A (soil moisture deficiency), M (moisture



deficiency), F (low fertility), N (salts), P (stoniness), and R (bedrock near the surface). The Applicant advised, *"Although I am not an expert, I have walked the subject property numerous times and can verify the soil type and terrain."* However, in this regard the Panel notes that the Applicant did not include with the Application, any technical information or agricultural capability assessment prepared by a qualified registered professional to support her assertions. The Panel finds that the published BCLI ratings applicable to the Property indicate that the Property has agricultural capability and is appropriately designated as ALR.

[17] In support of the Application the Applicant advised that, *"the Property is already zoned for 2 ha (5 acre) lots, the Property's size is too small to be used for agricultural activities to produce agricultural products, and that improvements to the Property would not be cost effective as the terrain is not suitable for animals or vegetation"*. However, in this regard the Panel notes the following:

- The Applicant purchased the Property in October 2012;
- The Property is not classified "Farm" by BC Assessment indicating there is no agricultural activity being conducted on the Property sufficient to obtain this classification;
- The Property is, and has been, classified "Residential" by BC Assessment since at least the 2013 taxation year;
- The Applicant has not provided evidence in the Application to suggest any attempts have been made by the Applicant to improve the Property for agricultural purposes; and
- the Applicant has no plans, at least in the immediate future, to pursue the agricultural development of the Property; this based on the evidence provided in the ACRD's Staff Report wherein it was noted the Applicant's future plan is to build a new home on the remainder of the Property with on-site sewage disposal.

[18] Regarding the Applicant's comments that the Application complies with ACRD planning documents. While respectful of the ACRD's current planning as it pertains to



the Property, the Panel finds that this alone, is insufficient to justify the subdivision of land that is both capable and suitable for agricultural use.

[19] The Panel finds that the proposed subdivision, if approved, will reduce the overall agricultural potential of the Property. By creating a rural residential parcel, the direct impact will be a reduction to the overall area of the Property available for agricultural pursuits in the future.

**DECISION**

[20] For the reasons given above, the Panel refuses the Application to subdivide the Property to create a 2.0 ha parcel and a 12.4 ha remainder.

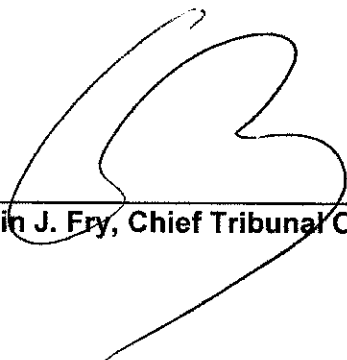
[21] Panel Chair **Jennifer Dyson** concurs with the decision.  
Commissioner **Honey Forbes** concurs with the decision.  
Commissioner **Clarke Gourlay** concurs with the decision.

[22] Decision recorded as Resolution #174/2015.

A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

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Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #174/2015. The decision is effective upon release.

  
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**Colin J. Fry, Chief Tribunal Officer**

**June 19, 2015**

\_\_\_\_\_  
**Date Released**