



Agricultural Land Commission
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October 15, 2015

ALC File: 54067

Ron D. Effa
5990 Waterton Place
Nanaimo, BC V9T 6A9

Re: Application to Exclude Land from the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #314/2015) as it relates to the above noted application. A sketch plan depicting the decision has been attached.

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 Ron Wallace at (Ron.Wallace@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Colin J. Fry, Chief Tribunal Officer

Enclosures: Reasons for Decision (Resolution #314/2015)
Sketch plan

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cc: Town of Osoyoos

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AGRICULTURAL LAND COMMISSION FILE 54067

**REASONS FOR DECISION
OF THE OKANAGAN PANEL**

Application submitted pursuant to s. 30(1) of the *Agricultural Land Commission Act*

Applicant:

**Ron D. Effa
(the "Applicant")**

Application before the Okanagan Regional Panel:

**Gerry Zimmermann, Panel Chair
Jim Johnson
Greg Norton**



THE APPLICATION

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

Parcel Identifier: 025-941-445

Lot A District Lot 2450S Similkameen Division Yale District Plan KAP75533

(the "Property")

[2] The Property is 0.5 ha in area, 0.3 ha within the ALR.

[3] The Property has the civic address 9419 Spartan Drive, Osoyoos.

[4] The Property is located within a designated agricultural land reserve ("ALR") as defined in s. 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. 30(1) of the ALCA, the Applicants are applying to exclude the 0.3 ha ALR portion of the 0.5 ha Property from the ALR (the "Application").

[7] On September 4, 2015, the Chair of the Agricultural Land Commission (the "Commission") referred the Application to the Okanagan Regional Panel (the "Panel").

RELEVANT STATUTORY PROVISIONS

[8] The Application was made pursuant to s. 30(1) of the ALCA:

30 (1) An owner of land may apply to the commission to have their land excluded from an agricultural land reserve.

[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 Town of Osoyoos Council recommended support for the proposed exclusion of the subject property from the ALR.

SITE VISIT

[12] On September 9, 2015, the Panel conducted a walk-around and meeting site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[13] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications* and was provided to the applicant on September 28, 2015 (the "Site Visit Report").



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 agricultural capability ratings identified on BCLI map sheet 82E.003 for the mapping units encompassing the Property is Class 6.

Class 6 - land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

The limiting subclasses associated with this parcel of land are A (soil moisture deficiency) and P (stoniness).

[15] Based on a review of the BCLI ratings and the site visit conducted on September 9, 2015 the Panel finds that the Property is non-arable and has no capability for agriculture.

DECISION

[16] For the reason given above, the Panel approves the Application to exclude the ALR portion of the Property from the ALR.

[17] 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.

[18] Panel Chair **Gerry Zimmermann**, concurs with the decision.

Commissioner **Jim Johnson**, concurs with the decision.

Commissioner **Greg Norton**, concurs with the decision.

[19] Decision recorded as Resolution #314/2015.

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



Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #314/2015. The decision is effective upon release.

A handwritten signature in blue ink, appearing to be "CJF", is written over a horizontal line. The signature is stylized and cursive.

Colin J. Fry, Chief Tribunal Officer

October 15, 2015

Date Released