



**Agricultural Land Commission**  
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Burnaby, British Columbia V5G 4K6  
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November 28, 2016

ALC File: 54773

Arthur Tremblay  
RR#2 - 1580 Highway 21  
Creston, BC V0B 1G2

Dear Mr. Tremblay:

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

Please find attached the Reasons for Decision of the Kootenay Panel (Resolution #405/2016) as it relates to the above noted application. As agent, it is your responsibility to notify the applicant accordingly.

**Reconsideration of a Decision as Directed by the ALC Chair**

Please note that pursuant to [s. 33.1 of the \*Agricultural Land Commission Act\*](#), the Chair may direct the executive committee to reconsider any 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 s. 6, or does not adequately take into consideration s. 4.3.

You will be notified in writing if the Executive Committee is directed to reconsider your decision. The Commission advises you to take this 60 day period into consideration prior to proceeding with any actions upon this decision.

**Reconsideration of a Decision by an Affected Person**

We draw your attention 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.

For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

Further correspondence with respect to this application is to be directed to Riccardo Peggi at (Riccardo.Peggi@gov.bc.ca).

Page 2 of 2

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read "Riccardo Peggi". The signature is written in a cursive, flowing style.

Riccardo Peggi, Land Use Planner

Enclosure: Reasons for Decision (Resolution #405/2016)

cc: Regional District of Central Kootenay (File: A1603C)

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## **AGRICULTURAL LAND COMMISSION FILE 54773**

### **REASONS FOR DECISION OF THE KOOTENAY PANEL**

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

**Applicants:**

**Ronald Keith Evans  
Larry Clifton Evans  
(the “Applicants”)**

**Agent:**

**Arthur Tremblay,  
Kootenay Columbia Discovery  
Centre Society  
(the “Agent”)**

**Application before the Kootenay Regional Panel:**

**Sharon Mielnichuk, Panel Chair  
Harvey Bombardier  
Ian Knudsen**



## **THE APPLICATION**

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

Parcel Identifier: 013-665-235

Lot 3, District Lot 14878, Kootenay District, Plan 6352

(the "Property")

[2] The Property is 3.8 ha in area.

[3] The Property is generally described as being located south of Highway 3 & East of the Old Kootenay River channel in the Creston Valley.

[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 2 as defined in s. 4.2 of the *ALCA*.

[6] The Agent, who represents the Kootenay Columbia Discovery Centre Society (the "KCDCS") and the Applicants, is identified on the Property's certificate of title as having 'option to purchase' the Property.

[7] Pursuant to s. 30(1) of the *ALCA* the Applicants are applying to exclude the Property for the purposes of constructing a wildlife interpretation centre in connection to the Creston Valley Wildlife Management Area located adjacent to the Property (the "Proposal"). The Proposal along with supporting documentation is collectively the application (the "Application").

## **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 pursuant to its mandate in s. 4.3 of the *ALCA*:

4.3 When exercising a power under this Act in relation to land located in Zone 2, the commission must consider all of the following, in descending order of priority:

- (a) the purposes of the commission set out in section 6;
- (b) economic, cultural and social values;
- (c) regional and community planning objectives;
- (d) other prescribed considerations.

[10] The purposes of the Agricultural Land Commission (the “Commission”) set out in s. 6 are as follows:

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**

[11] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Evidence from any third parties of which disclosure was made to the Agent
4. Agricultural capability map, ALR context map, and satellite imagery

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



**SITE VISIT**

[12] On September 20, 2016, the Panel conducted a walk-around 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*. The site visit report was certified as accurately reflecting the observations and discussions of the Site Visit by the Agent on November 3, 2016 (the “Site Visit Report”).

**APPLICANT MEETING**

[14] On September 20, 2016, the Panel conducted a meeting with the Applicant (the “Applicant Meeting”) in accordance with s. 24 of the Regulation. The Applicant Meeting was held at the Creston Valley Visitor Centre immediately following the Site Visit. Those in attendance were:

Sharon Mielnichuk	Chair, Kootenay Panel
Ian Knudsen	Commissioner, Kootenay Panel
Harvey Bombardier	Commissioner, Kootenay Panel
Kim Grout	Chief Executive Officer
Gordon Bednard	Regional Planner
Riccardo Peggi	Land Use Planner
Kamelli Mark	Land Use Planner
Art Tremblay	Agent, Member of KCDCS
Murray Oswald	Chair of Kootenay KCDCS
John Huscroft	Member of Kootenay KCDCS

**FINDINGS***Section 4.3(a) and Section 6 of the ALCA: First priority to agriculture*

[15] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings identified on CLI map sheet 82F/02 for the mapping units encompassing the Property are approximately 70% (1) and 30% (8:1 – 2:2W).

Class 1 - land is capable of producing the very widest range of crops. Soil and climate conditions are optimum, resulting in easy management.

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

The limiting subclass associated with this parcel of land is W (excess water).

[16] The Property is currently used for hay production and cattle grazing. In this regard, the Panel finds that the Property has prime agricultural capability and is appropriately designated as ALR.

[17] The Proposal is to exclude land from the ALR in order to construct the Wildlife Discovery Centre and build a bridge to access the nearby Creston Valley Wildlife Management Area (the "CVWMA"). The Creston Valley Wildlife Interpretative Center is located on the adjacent CVWMA, however, the centre is no longer mandated to provide interpretive programming. As the Creston Valley Wildlife Interpretive Centre will be discontinuing its educational programs, the Applicants are proposing to create a new unaffiliated centre in order to continue an interpretive program within the area. In an email dated October 12, 2016, Murray Oswald (Agent representing the KCDCS) states that the Interpretative Centre Committee considered a number of other properties in the area for the proposed centre, however all but one site was located within the ALR, and that the one non-ALR site was unsuitable due to distance from the wildlife area. In addition, the Application states that

*“...having the Centre adjacent to the CVWMA and the valley’s main highway maximizes the opportunity for exposure and public access which is consistent with the goal of increasing public use and awareness of our natural surroundings”.*

[18] Despite the Application’s rationale for the proposed location of the Wildlife Discovery Centre, the Panel is not convinced of the necessity to exclude land within the ALR in order to accommodate the Proposal especially given the Property’s prime agricultural capability. In this regard, the Panel finds that the Proposal could be carried out on lands outside of the ALR that would not sacrifice land designated for agricultural priority.

*Section 4.3(b) of the ALCA: Second priority to economic, cultural and social values*

[19] The Panel gave consideration to the objective of the Kootenay Columbia Discovery Center Society to maintain interpretive programming for the CVWMA given the current centre is no longer mandated to provide interpretive programming. In this case, the Panel finds that these considerations are not contributory to the decision given the Panel’s finding following its review of the agricultural considerations.

*Section 4.3(c) of the ALCA: third priority to regional and community planning objectives*

[20] The Property is zoned as Agriculture 3 (AG3) in the zoning portion of *Electoral Area ‘C’ Comprehensive Land Use Bylaw No. 2317, 2013 (Zoning Bylaw)* and designated as Agriculture (AG) in the Official Community Plan portion of *Electoral Area ‘C’ Comprehensive Land Use Bylaw No. 2317, 2013 (OCP)*. The Proposal would require amendments to both the OCP and Zoning Bylaw in order to allow for parks and recreational uses. The Panel finds that the Proposal is contrary to local government planning objectives in the area which designates the land for agricultural use.

*Weighing the factors in priority*

[21] The Panel is not convinced of the necessity to exclude the Property from the ALR in order to accommodate the Proposal especially given the Property’s prime agricultural



capability. In this regard, the Panel finds that the Proposal could be carried out on lands outside of the ALR that would not sacrifice land designated for agricultural priority.

[22] In this case, the Panel finds that economic, social and cultural considerations are not contributory to the decision given the Panel's finding following its review of the agricultural considerations. The Panel finds that the Proposal does not supersede the priority use of prime agricultural land for farm purposes, and thus confirms the Property's appropriate designation within the ALR.

### **DECISION**

[23] For the reasons given above, the Panel refuses the Proposal.

[24] These are the unanimous reasons of the Kootenay Panel of the Agricultural Land Commission.

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

[26] This decision is recorded as Resolution #405/2016 and is released on November 28, 2016.

### **CERTIFICATION OF DECISION**

A handwritten signature in black ink, appearing to read 'Sharon Mielnichuk', is written over a horizontal line.

Sharon Mielnichuk, Panel Chair, on behalf of the Kootenay Panel

**END OF DOCUMENT**