



Agricultural Land Commission
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December 1, 2016

ALC File: 55215

Dave Cunliffe
8-5260 Squilax Anglemont Road
Celista, BC
V0E 1M6

Dear Mr. Cunliffe:

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

Please find attached the Reasons for Decision of the Interior Panel (Resolution #415/2016) as it relates to the above noted application. A sketch plan depicting the decision is also attached. 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:

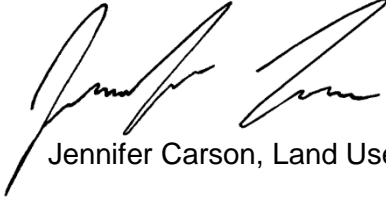
- (a) evidence not available at the time of the original decision has become available,
- (b) all or part of the original decision was based on evidence that was in error or was false.

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 Jennifer Carson at (Jennifer.Carson@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read 'Jennifer Carson', is written over the typed name below.

Jennifer Carson, Land Use Planner

Enclosures: Reasons for Decision (Resolution #415/2016)
Sketch plan

cc: City of Kamloops (File: ALR00041)

55215d1



AGRICULTURAL LAND COMMISSION FILE 55215

REASONS FOR DECISION OF THE INTERIOR PANEL

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

Applicants:

**Susan McGillivray
Ralph Michell
(the “Applicants”)**

Agent:

**Dave Cunliffe
(the “Agent”)**

Application before the Interior Regional Panel:

**Lucille Dempsey, Panel Chair
Richard Mumford
Roger Patenaude**



THE APPLICATION

[1] The legal description of the Properties involved in the applications are:

Property 1

Parcel Identifier: 009-442-677

Lot A, Section 3, Township 20, Range 18, West of the 6th Meridian, Kamloops Division, Yale District, Plan 12258, except Plan 41264

Area: 1.1 ha

Civic Address: 2450 Trans-Canada Highway W, Kamloops

Property 2

Parcel Identifier: 013-872-621

All that portion of the South West $\frac{1}{4}$ of Section 3, Township 20, Range 18, West of the 6th Meridian, Kamloops Division, Yale District, which is not contained within them mining limits of mining location No. 1326, Except Plan 5942, 6952, 12258, 20457, 34043, Part Shown on Plan H14938 (DF V7627) and Plan 41264

Area: 34.3 ha

Civic Address: 2600 Trans-Canada Highway W, Kamloops BC

Property 3

Parcel Identifier: 014-398-494

Legal Description: Block D of the South East $\frac{1}{4}$ of Section 20, Range 18, West of the 6th Meridian, Kamloops Division, Yale District, Except Plan 41264

Area: 0.9 ha

Civic Address: no assigned address, Kamloops

(collectively the "Properties")

[2] The Properties are located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[3] The Properties are located within Zone 2 as defined in s. 4.2 of the *ALCA*.

[4] Pursuant to s. 30(1) of the *ALCA*, the Applicants are applying to exclude the Properties which total 36.3 ha from the ALR (the "Proposal"). The Proposal along with supporting documentation is collectively the application (the "Application").

RELEVANT STATUTORY PROVISIONS

[5] 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.

[6] 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.

[7] 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

[8] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Planning history in the area
4. Agricultural capability map, ALR context map, and satellite imagery
5. Site Visit Report on October 4, 2016
6. Agricultural Assessment Report, Graham Strachan, P. Ag Report dated October 15, 2015

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

[9] At its meeting of May 31, 2016, the City of Kamloops resolved to forward the Application to the Commission for its consideration.

[10] The Panel reviewed a previous application involving the Property:

Application ID: 29714
Legacy File: 17742
(Mitchell, 1984)

To exclude the 46.5 ha area from the ALR. Refused on the grounds that exclusion would have a negative impact on the surrounding agricultural area. ALC Resolution #993/1984.

SITE VISIT AND APPLICANT MEETING

[11] On October 4, 2016, the Panel conducted a walk-around site visit and meeting in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[12] 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 October 20, 2016 (the “Site Visit Report”).

[13] This site visit also served as a meeting with the Applicant (the “Applicant Meeting”) in accordance with s. 22(1) of the Regulation.

FINDINGS

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

[14] 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 92I/9 for the mapping units encompassing the Properties are improvable to Class 4 and Class 6; more specifically the majority of the Properties are improvable to (8:4TP-2:6TE) and the northeastern corner is unimprovable from 6TR.

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

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 R (bedrock near the surface), E (erosion), P (stoniness) and T (topographic limitations).

[15] In addition, the Panel received a professional agrologist report, prepared by Graham Strachan dated October 15, 2015 (the “Strachan Report”). The Strachan Report finds:

Although there are two areas on the properties without topography restrictions for arable agriculture, the underlying soils on these sites make tillage practices difficult. In addition,

access to water for irrigation is limited to City water which would be cost prohibitive. The properties have not been identified in the recently completed Kamloops Agriculture Plan as important for future agricultural use. The site is not considered suited to arable agriculture.”

Furthermore the Strachan Report indicates that “*at best the property would be classified as poor range condition providing 280+/- kg/ha of forage (Rangeland Handbook for BC)*”.

[16] The Panel reviewed the CLI ratings and the portion of the Strachan Report discussing the agricultural capability and finds that both indicate that the Properties have some agricultural capability for range purposes.

[17] The Strachan Report also discussed the adverse impacts of the surrounding uses and indicates that:

Commercial and public access through the subject properties, whether legal or by trespass, has been ongoing and increasing over the years. Improving the site for livestock grazing would come at considerable risk in addition to the investment cost. The risk of gates being left open would result in potential livestock losses on the Trans-Canada highway and cattle escaping into the Park. The subject properties are a considerable distance from the Mitchell’s main ranch buildings making it difficult to take immediate corrective action when needed.

The Panel discussed this issue of trespass with the Applicants at the Site Visit and understands the risk associated with having cattle on the Properties outweighs the modest benefit of grazing cattle on the Properties for only one month per year.

[18] The Panel also discussed the land to the west of the Properties which is currently used for grazing purposes. It is understood that the Properties have numerous issues associated with its surrounding uses, trespassing from the adjacent park and weed infestation from the many right-of-ways on the Properties, all which make them very undesirable for the adjacent rancher to the west to incorporate into his operation.

[19] The Strachan Report also discussed that:

The only agricultural impact that could result from the removal of the subject properties from the ALR would be on the adjacent agricultural use along the west boundary. This property is owned by Domtar and currently leased to Mr. Sam Strand for winter grazing. There is an existing fence at this location and there would be an ongoing need for it to be adequately maintained. Removal of the subject properties from the ALR would have no impact on the other surrounding uses.

The Panel believes that impacts to the adjacent agricultural parcels could be mitigated provided that appropriate fencing is maintained.

[20] The Panel also discussed the numerous utility corridors which transect the Properties as well as the surrounding uses of the busy highway, the Correction Centre and Kenna Cartwright Park which serves to fragment and isolate the Properties.

[21] The Strachan Report concludes with the following summary:

In the past the three subject properties were successfully used for agriculture in conjunction with neighbouring crown lands. Over time, surrounding uses have significantly changed away from agriculture which has isolated the subject properties and significantly reduced their agricultural potential. In the opinion of the writer, these limitations have exceeded the ability of the subject properties to make a valuable contribution to the agriculture industry and support their removal from the ALR. It is the hope that the removal of these marginal properties, and their development for an alternate use would lessen the pressure on other more valuable agricultural properties.

The Panel concurs with the conclusions of the Strachan Report in that the Panel finds that the limitations placed on the Properties has diminished their agricultural suitability.



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

[22] The Panel understands that the Applicants wish to sell these Properties as they are not useful for their agricultural operation. As the Agent explained during the site visit, selling land which has been excluded from the ALR will likely get a higher return than if the Properties remain within the ALR and as such the Applicants applied for exclusion before selling them.

[23] While respectful of the personal benefits that would accrue to the Applicants and their family members if the proposed exclusion is approved, the Panel finds that the Applicants' rationale for making the Application with regard to economic, cultural and social values whether considered individually or collectively, would be insufficient to outweigh the first priority that must be given to agriculture relative to land that is both capable and suitable for agricultural use.

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

[24] The Panel noted that the Proposal is consistent with the current zoning and OCP designation. While respectful of the City of Kamloop's current zoning as it pertains to the Property, the Panel finds that this alone, would be insufficient to outweigh the first priority that must be given to agriculture relative to land that is both capable and suitable for agricultural use.

Weighing the factors in priority

[25] The Properties have agricultural capability for range purposes.

[26] The Properties have limited agricultural suitability based on their isolation from the rest of the ranch, the surrounding uses and subsequent challenges such as the issues of trespass and the fragmentation caused by the numerous utility corridors traversing the Properties.

[27] While there are economic benefits derived by the Applicants through excluding the Properties from the ALR, they were not a contributing factor given the assessment of the agricultural capability.

[28] The proposed exclusion is consistent with the City of Kamloops zoning and Official Community Plan designation.

DECISION

[29] For the reasons given above, the Interior Panel approves the Application subject to the following condition:

a fencing covenant to be registered on Title in favor of the Commission to ensure the maintenance of appropriate fencing between the Properties and the land to the west (defined as Part of the south ½ lying north of Savona and Kamloops, Wagon Road, Section 4, Township 20, Range 18, West of the 6th Meridian, Kootenay District Yale Division, Except which Portion is not included within the limits of mining locations numbered 1302 and 1340) is the responsibility of the landowner of the Properties.

[30] The Commission will advise the Registrar of Land Titles that the property has been excluded from the ALR when it has received confirmation that the conditions of approval have been met.

[31] 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.

[32] These are the unanimous reasons of the Interior Panel of the Agricultural Land Commission.

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



[34] This decision is recorded as Resolution #415/2016 and is released on December 1, 2016.

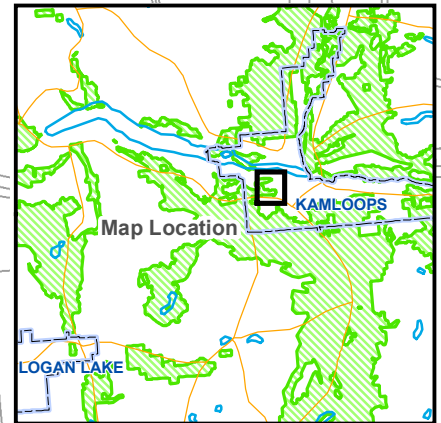
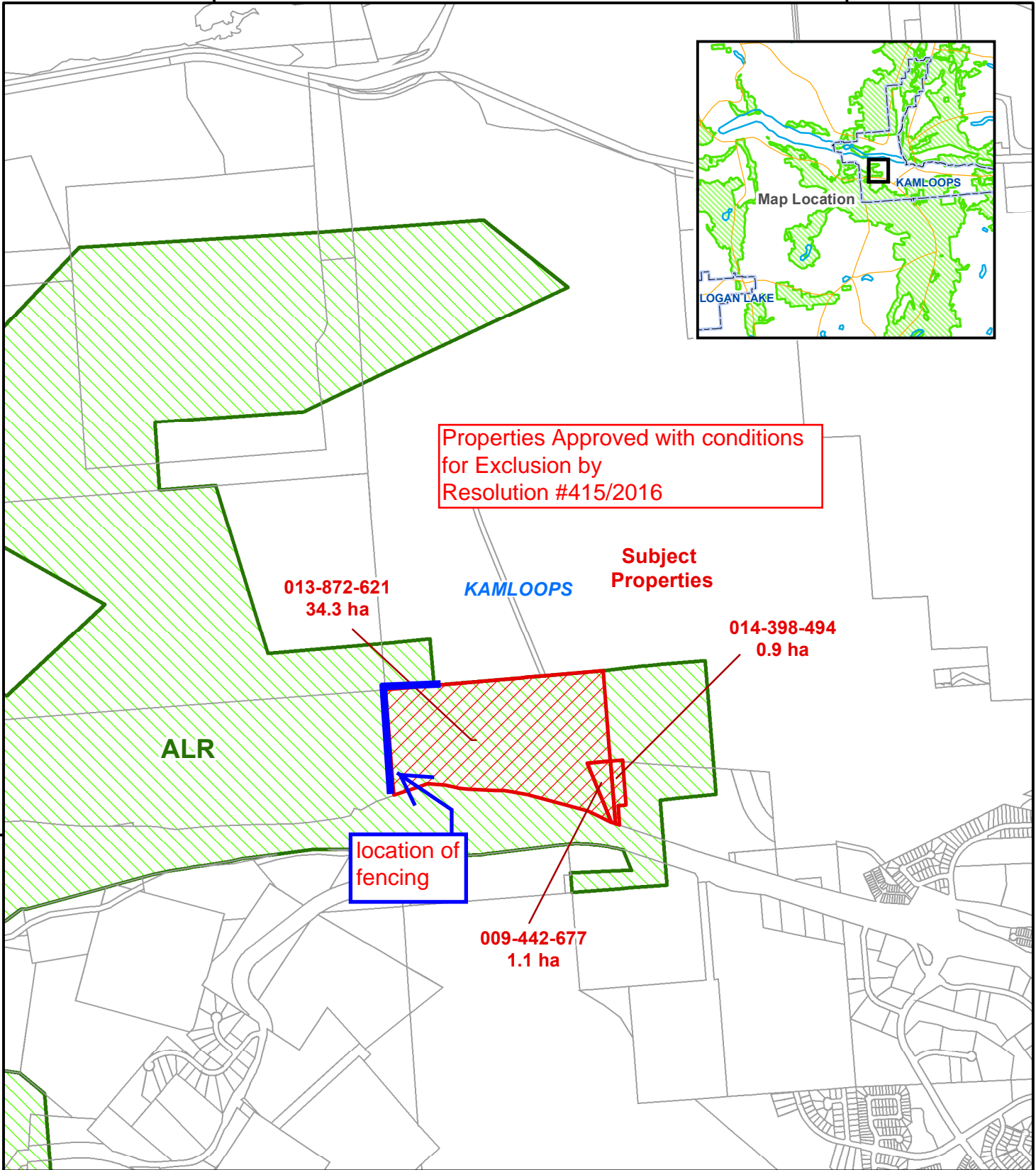
CERTIFICATION OF DECISION

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Lucille Dempsey, Panel Chair, on behalf of the Interior Panel

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120°24'0"W

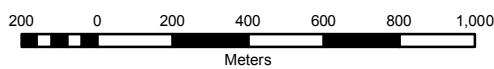


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ALC Context Map

Map Scale: 1:20,000



ALC File #:	55215
Mapsheet #:	921.068
Map Produced:	Aug 4, 2016
Regional District:	Thompson-Nicola