



Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
Tel: 604-660-7000
Fax: 604-660-7033
www.alc.gov.bc.ca

December 5, 2005

Reply to the attention of Simone Rivers

Albert Piva
General Delivery
McClure, BC – V0E 2H0

Dear Mr. Piva:

**Re: Application # ZZ- 36223 -0
District Lot 38, Kamloops Division Yale District, Except Plan B472 & 22808**

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to subdivide 24.6 ha from the above-mentioned property. The application was submitted pursuant to section 21(2) of the *Agricultural Land Commission Act* (the "ALCA").

The Commission wishes to thank you for taking the time to meet with its representatives on November 22, and again on November 23, 2005. The Commission appreciated the chance for Commissioner Campbell to view the property as well as the chance for the entire panel to discuss your proposal with you the following day.

The Commission noted that you have owned the property since 1969 and therefore qualify for consideration under the Commission's Homesite Severance Policy (copy attached). However, the Commission also noted that the size of the lot you are requesting to subdivide is quite large and that there is an area of productive hay field towards the south of the property. As such, the Commission writes to advise that it has refused your application as proposed.

However, the Commission would be prepared to allow subdivision as outlined below (and illustrated on the attached plans).

1) OPTION 1 - Subdivision of 24.6 ha from DL 38 subject to the consolidation or binding of titles of the remainder of DL 38, KDYD, with Lot 1, District Lot 39, Kamloops Division Yale District, Plan 9576, Except plan 22808.

OR

2) OPTION 2 - Subdivision of 24.6 ha from DL 38 subject to the consolidation or binding of titles of the remainder of DL 38, KDYD, Except Plan B472 & 22808 with District Lot 1443.

OR

3) OPTION 3 - Subdivision of 4 ha from DL 38 located to the north of DL 38

Should you choose to proceed on this basis, the Commission approval is also conditional upon the following:

- that the homesite lot not be sold for five (5) years except in the case of estate settlements. The Commission requires your commitment in this regard which can be done by signing below and returning to our office a copy of the letter. The Commission requires your commitment prior to it approving deposit of the subdivision plan.
- that you obtain Commission approval for an increase in the size of the homesite lot or a change in its location deemed necessary by other approval agencies.
- That you 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. The Commission suggests you contact Thompson-Nicola Regional District at your earliest convenience.

The decision noted above is recorded as Resolution #632/2005.

This Commission notes that this approval is given in lieu of any further consideration under the Homesite Severance Policy.

Please send two (2) paper prints of the final survey plans to this office well in advance of commencing registration at the Land Titles Office. When the Commission confirms that the subdivision plan is acceptable and verifies that all conditions of approval have been met it will authorize the Registrar of Land Titles to accept the application for deposit of the plan. Please quote your application number in any future correspondence.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

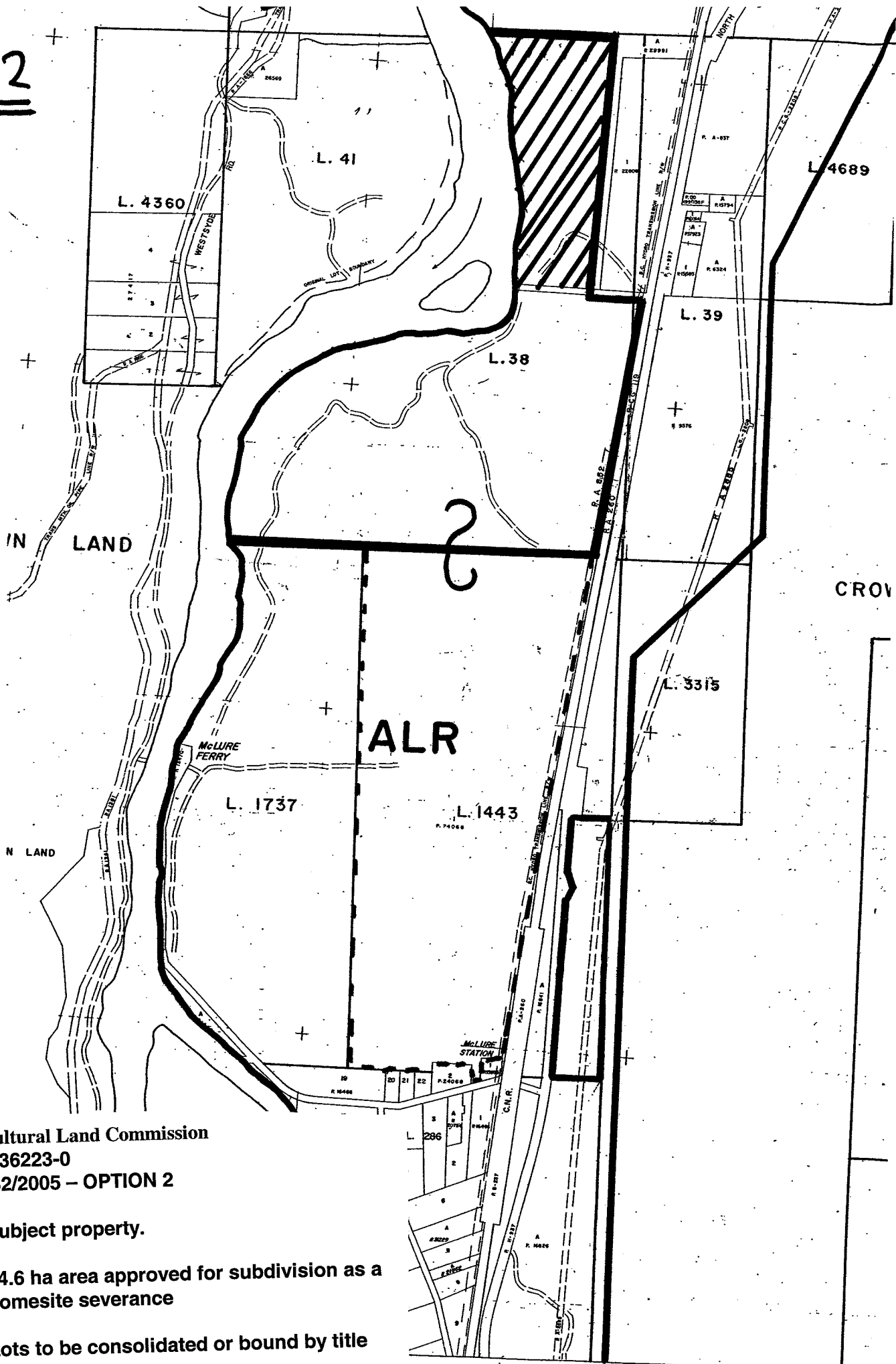
Erik Karlsen, Chair

cc: Thompson-Nicola Regional District (file # ALR-P-95)

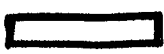


Enclosure

SR/eg
I/36223d1

OPTION 2



Provincial Agricultural Land Commission
Application: ZZ-36223-0
Resolution # 632/2005 – OPTION 2

-  Subject property.
-  24.6 ha area approved for subdivision as a homesite severance
-  Lots to be consolidated or bound by title

I/we being the registered owner(s) of the property which is the subject of this application and for whom the homesite lot was approved, hereby agree not to sell, transfer, or otherwise dispose of the homesite lot for five (5) years from the date of registration of the subdivision plan creating the homesite lot, save and except for estate purposes following the death of the owner, or any one of the owners, if there are more than one.

Owner's Name (Please Print)

Signature

Owner's Name (Please Print)

Signature

Witnessed By (Please Print Name)

Occupation of Witness

Signature of Witness

Date

HOMESITE SEVERANCE

The purpose of this policy is to provide a consistent approach to situations where property under application has been the principal residence of the applicant as owner-occupant since December 21, 1972 and the applicant wishes to dispose of the parcel but retain a homesite on the land.

An application under Sec. 21(2) of the Agricultural Land Commission Act is required.

Persons making use of this policy should understand clearly that:

- a. no one has an automatic right to a "homesite severance";
- b. the Commission shall be the final arbiter as to whether a particular "homesite severance" meets good land use criteria; *(see #4 below)*
- c. a prime concern of the Commission will always be to ensure that the "remainder" will constitute a suitable agricultural parcel. *(see #5 below)*.

Without limiting the generality of the foregoing, the following guidelines apply to "homesite severance" applications.

1. A *once only* severance may be permitted where the applicant submits documentary evidence that he or she has continuously owned and occupied the property as his or her principal place of residence since 21 December 1972.
2. Where an applicant for a "homesite severance" has had a previous subdivision application approved by the Commission resulting in the creation of a separate parcel, the Commission may consider the previous approval as having fulfilled the objectives of the Homesite Severance Policy and may deny any further consideration under the Homesite Severance Policy.
3. An application for a "homesite severance" will be considered only where the applicant submits documentary evidence showing a legitimate intention to sell the remainder of the property upon the approval of the "homesite severance" application. [An interim agreement for sale, a prospective buyer's written statement of intent to purchase, a real estate listing, or some other written evidence of pending real estate transaction would be acceptable as documentation.]

In considering the application, the Commission may make its approval subject to sale of the remainder within a specified period of time.

A Certificate of Order authorizing the deposit of the subdivision plan will be issued to the Registrar of Land Titles only when a "transfer of estate in fee simple" or an "agreement for sale" is being registered concurrently.

4. There will be cases where the Commission considers that good land use criteria rule out any subdivision of the land because subdivision would compromise the agricultural integrity of the area, and the Commission must therefore exercise its discretion to refuse the "homesite severance".

Homesite Severance

Agricultural Land Commission

Where the Commission decides to allow a "homesite severance", there are two options:

- a. the existing homesite may be created as a separate parcel where it is of a minimum size compatible with the character of the property (plus a reasonable area, where required, for legal access purposes); or
 - b. where the location of the existing homesite is such that the creation of a parcel encompassing the homesite would, in the Commission's opinion, create potential difficulty for the agricultural operation or management of the "remainder", the Commission may, as it deems appropriate, approve the creation of a parcel elsewhere on the subject property.
5. The remainder of the subject property after severance of the homesite must be of a size and configuration that will, in the Commission's opinion, constitute a suitable agricultural parcel. Where, in the Commission's opinion, the "remainder" is of an unacceptable size or configuration from an agricultural perspective, there are three options:
- a. the Commission may deny the "homesite severance";
 - b. the Commission may require that the "remainder be consolidated with an adjacent parcel; or
 - c. the Commission may require the registration of a covenant against the title of the "remainder" and such a covenant may prohibit the construction of dwellings.
6. A condition of every "homesite severance" approved by the Commission shall be an order stipulating that the homesite is not to be resold for five years except in the case of estate settlements. Prior to the issuance of a Certificate of Order authorizing deposit of the subdivision plan, the owner shall file with the Commission a written undertaking or standard notarized contractual commitment to this effect.
7. Where a "homesite severance" application has been approved by the Commission, local governments and approving officers are encouraged to handle the application in the same manner as an application under Section 996 of the *Municipal Act* insofar as compliance with local bylaws is concerned.

Homesite Severance

Agricultural
Land
Commission

IT WAS

MOVED BY: Commissioner Campbell

SECONDED BY: Commissioner Huffman

THAT the staff report be received and the application to subdivide 24.6 ha from the 104.6 ha property described as District Lot 38, Kamloops Division Yale District, Except Plan B472 & 22808 be refused as proposed.

And THAT the Commission would allow subdivision in one of the following three circumstances to be chosen by the applicant.

1. The subdivision of 24.6 ha from DL 38 be allowed subject to the consolidation of the remainder of DL 38, KDYD, with Lot 1, District Lot 39, Kamloops Division Yale District, Plan 9576, Except plan 22808

Or

2. The subdivision of 24.6 ha from DL 38 be allowed subject to the consolidation of the remainder of DL 38, KDYD, Except Plan B472 & 22808 with District Lot 1443.

Or

3. The subdivision of 4 ha from DL 38 located to the north of DL 38.

And THAT this subdivision is allowed in lieu of any further consideration under the Commission's *Homesite Severance Policy*.

This approval is subject to compliance with any other enactment, legislation or decision of any agency having jurisdiction.

CARRIED



Staff Report
Application # ZZ – 36223 - 0
Applicant: Albert Piva

DATE RECEIVED: August 19, 2005

DATE PREPARED: October 25, 2005

TO: Chair and Commissioners – Interior Panel

FROM: Simone Rivers, Regional Research Officer

PROPOSAL: To subdivide a 24.6 ha lot from the 104.6 ha property.

This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The applicant is proposing to subdivide the property as split by Diana Road. He states that he wishes to retire and use the land as a homesite. The applicant does not appear to currently live on the subject property.

Local Government:

Thompson-Nicola Regional District

Legal Description of Property:

PID: 012-940-348
District Lot 38, Kamloops Division of Yale District, EXCEPT Plan B472 & 22808

Purchase Date

July 1969

Location of Property:

McClure

Size of Property:

104.6 ha (The entire property is in the ALR).

Present use of the Property:

Small field, mostly treed

Surrounding Land Uses:

WEST: River (non-ALR)
SOUTH: Hay fields (ALR)
EAST: Small holdings (non-ALR)
NORTH: Hay field (ALR)

Agricultural Capability:

Data Source: Agricultural Capability Map # 92P/1
The majority of the property is identified as having Mixed Prime and Secondary ratings.

Official Community Plan and Designation:

Kamloops North OCP Designates the parcel as Agricultural

Zoning Bylaw and Designation:

Zoning Bylaw No. 940 designates the parcel as SH-1 Small Holding.
Minimum parcel size 2 ha.

STAFF COMMENTS:

Staff recommend that the Commission consider the following:

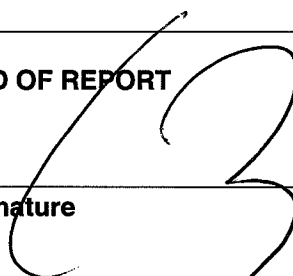
- The applicant states that he has owned the land since 1969 although only provides a title showing ownership since 2000. If he has owned it since 1969 then he may qualify for consideration under the *Homesite Severance Policy*.
- The applicant does not appear to live on the subject property (he is not asking for subdivision of an existing homesite).
- The area of the proposed subdivision larger than a typical homesite severance.

Staff recommend a site visit in order to clarify Mr. Piva's plans for the property as well as to determine the impact on agriculture of the proposed subdivision.

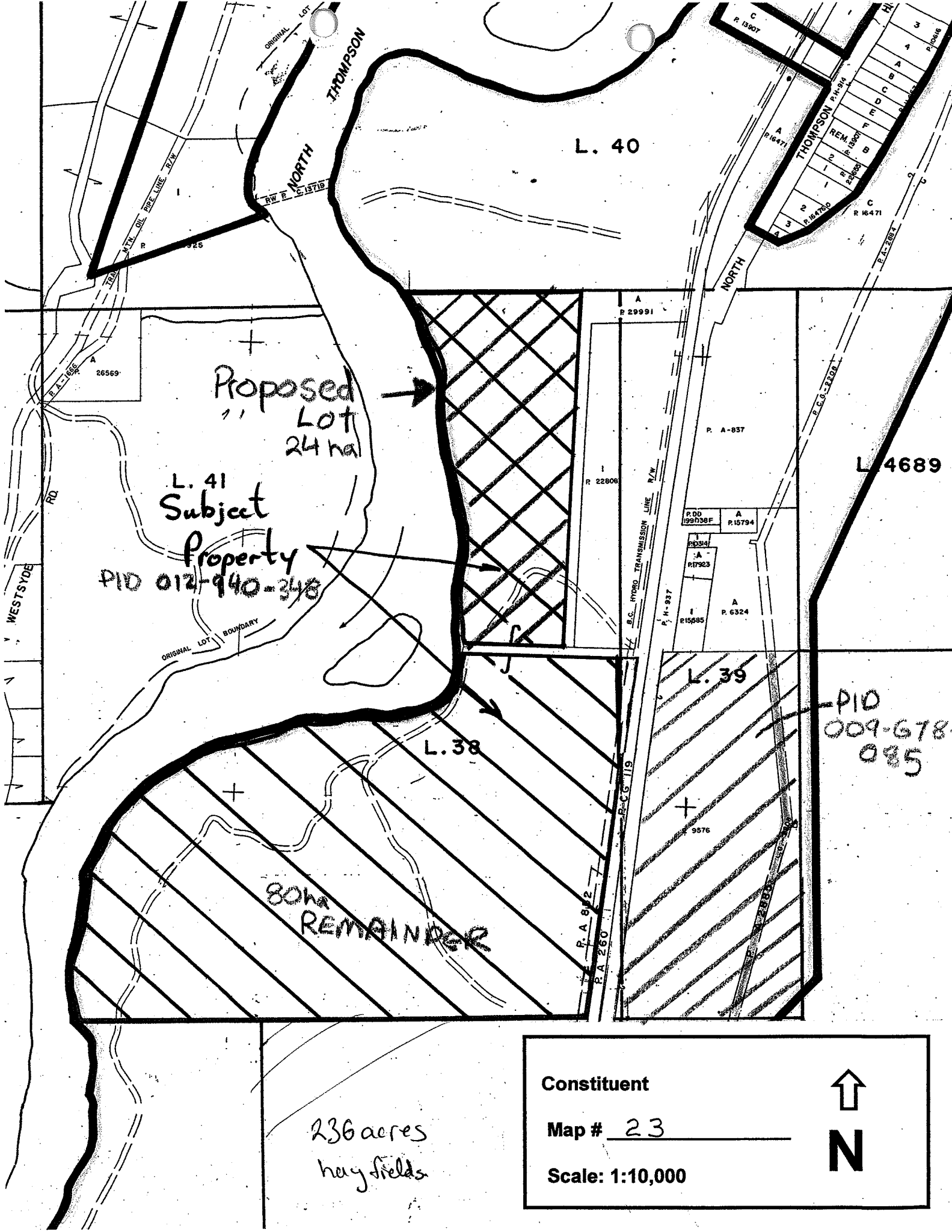
END OF REPORT

Signature

Date



Oct 25/05



Proposed Lot
24 ha

L. 41
Subject
Property
PID 012-940-348

80 ha
REMAINDER

236 acres
hay fields

Constituent

Map # 23

Scale: 1:10,000

↑
N