



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
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November 17, 2006

Reply to the attention of Gordon Bednard  
ALC File: F-36877

John & Margaret Dunphy  
8463 - 64th Avenue, NW  
Calgary, AB T3B 4M2

Dear Sir/Madam:

**Re: Application to Exclude land from the Agricultural Land Reserve**

Please find attached the Minutes of Resolution # 551/2006 outlining the Commission's decision as it relates to the above noted application.

By way of a copy of this letter, the Commission is advising the Registrar of Land Titles of its order and confirming that the ALR notation is to be removed from Certificate of Title.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Erik Karlsen', is written over a white background.

Erik Karlsen, Chair

cc: Regional District of Central Kootenay (#0622-D-05800000)  
BC Land Title & Survey, Nelson

Encl.: Minutes/Sketch Plan  
GB/eg/36877d1



A meeting was held by the Provincial Agricultural Land Commission on September 28, 2006 at Kaslo, B.C.

<b>PRESENT:</b>	Monika Marshall	Chair, Kootenay Panel
	Carmen Purdy	Commissioner
	Erik Karlsen	Chair, ALC
	Gordon Bednard	Staff, ALC

**For Consideration**

Application: # F- 36877  
 Applicant: John & Margaret Dunphy

Proposal: To exclude two properties (total area 3.8 ha) to create five lots with lake frontage, approximately 0.8 ha each.  
 Legal: PID: 013-020-188  
 Lot 8, District Lot 7451, Kootenay District, Plan 1137  
 Location: Kootenay Lake near Argenta

**Site Inspection**

A site inspection was conducted on September 28, 2006. Those in attendance were:

Monika Marshall	Chair, Kootenay Panel
Carmen Purdy	Commissioner
Erik Karlsen	Chair, ALC
Gordon Bednard	Staff, ALC
Stan Combs	Staff, Ministry of Agriculture and Lands
John Dunphy	Landowner

The Commission walked the area under application and discussed the application with the landowner.

**Exclusion Meeting**

An exclusion meeting was conducted on September 28, 2006 at the property. Those in attendance were:

Monika Marshall	Chair, Kootenay Panel
Carmen Purdy	Commissioner
Erik Karlsen	Chair, ALC
Gordon Bednard	Staff, ALC
Stan Combs	Staff, Ministry of Agriculture and Lands
John Dunphy	Landowner

### **Context**

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. 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.

### **Discussion**

#### **Assessment of Agricultural Capability**

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system. Available agricultural capability mapping of the property shows the land rated as improved class 4-5 (secondary). This was confirmed by onsite observations of the panel which found very little area on which agriculture could be reasonably expected to be practiced.

### **Conclusions**

1. That the land under application has limited agricultural capability and is not appropriately designated as ALR.
2. That the proposed exclusion will not impact agriculture as there is very little agriculture being practiced in the area, and the surrounding lands exhibit steep topography, similar to the subject site.

### **IT WAS**

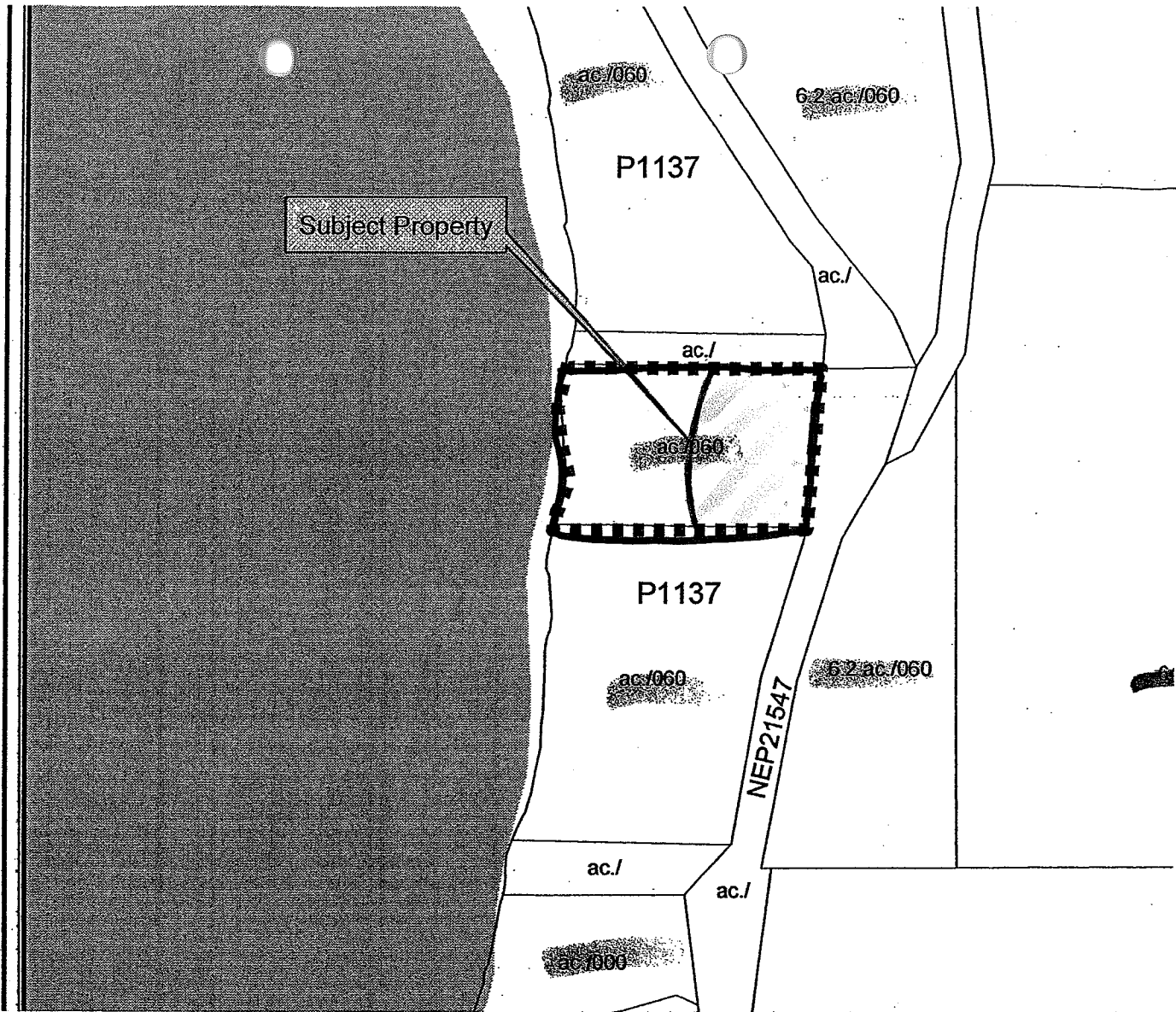
**MOVED BY:** Commissioner Carmen Purdy  
**SECONDED BY:** Commissioner Monika Marshall

THAT the application be allowed and the property be excluded from the ALR.

AND THAT the approval is granted to the applicant only and must be acted upon within three (3) years from the date of this decision.

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.

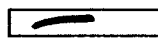
**CARRIED**  
**Resolution # 551/2006**



**Provincial Agricultural Land Commission**

Application: F-36877

Resolution # 551/2006



Subject property.



1.3 ha area approved for exclusion from the ALR.

Note: This approval excludes all ALR land from the subject property.



**Staff Report**  
**Application # F – 36877**  
**Applicant: John & Margaret Dunphy**

**DATE RECEIVED:** August 18, 2006

**DATE PREPARED:** September 12, 2006

**TO:** Chair and Commissioners – Kootenay Panel

**FROM:** Simone Rivers, Land Use Planner.

**PROPOSAL:** To exclude two properties (total area 3.8 ha) to create five lots with lake frontage, approximately 0.8 ha each.

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

**BACKGROUND INFORMATION:**

Approximately one third (1.3 ha) of the property is within the ALR, the remaining 2.5 ha is not.

There are thirteen letters submitted with this application. Of these, twelve oppose the removal of the property from the ALR and one is in favour. In general, the letters speak to the rural character of the area as well as the agricultural history of small homesteads in the area. A petition with 34 signatures opposing the removal of the land from the reserve was also submitted.

**Local Government:**

Regional District of Central Kootenay

**Legal Description of Property:**

PID: 013-020-188  
Lot 8, District Lot 7451, Kootenay District, Plan 1137;

**Purchase Date:**

May 1989

**Location of Property:**

Kootenay Lake near Argenta

**Size of Properties:**

3.8 ha

**ALR Area:**

1.3 ha

**Present use of the Property:**

Summer cabins, workshed, hayshed

**Surrounding Land Uses:**

**WEST:** Kootenay Lake  
**SOUTH:** Acreage/summer cabin  
**EAST:** Residence, machine shop, cabin, and storage sheds  
**NORTH:** Acreage/summer cabin

**Agricultural Capability:**

Data Source: Agricultural Capability Map # 82K/2  
The majority of the property is identified as having Secondary ratings.

**PREVIOUS APPLICATIONS:**

This area was considered as part of application # 78-06496, a fine-tuning of the ALR boundary in the Regional District of Central Kootenay completed in 1978.

**STAFF COMMENTS:**

**Agricultural Capability:**

Although only a portion of the property is within the ALR, the entire property is within the same agricultural capability polygon and is rated as 80% Class 4TP – 20% Class 5T  
Class 4 – Land in this class has limitations that require special management practices or severely restrict the range of crops, or both.

Class 5 – Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.

Subclasses: T – Topography P - Stoniness

**ATTACHMENTS:**

- ALR Context Map: BCGS 82K.016 – 1:20,000 (created by ALC Staff)
- Plan showing proposed subdivision of Lots A and B... (submitted by the applicant)
- Orthophoto (Submitted by Central Kootenay Regional District)
- Petition signed by 34 people in Argenta and Johnson's Landing opposing removal of the property from the ALR (submitted by Central Kootenay Regional District).

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**END OF REPORT**

  
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Signature

  
\_\_\_\_\_  
Date