



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604 660-7000  
Fax: 604 660-7033  
www.alc.gov.bc.ca

February 4, 2009

Reply to the attention of Ron Wallace  
ALC File: O-37610

Mr. John Lusney, President, BCR Properties Ltd.  
British Columbia Railway Company  
Suite 600 - 221 West Esplanade  
North Vancouver, BC V7M3J3

Dear Mr. Lusney:

**Re: Application to Establish and Construct a Road Right-of-Way within the Agricultural Land Reserve**

Please find attached the Minutes of Resolution # 15/2009 outlining the Commission's decision as it relates to the above noted application as modified by your letter of January 9, 2009. Would you please forward a copy to your contact at the Ministry of Transportation and Infrastructure (MOTI South Coastal).

Please note that approval of the proposed acquisition of road right-of-way alongside the rail line east of Highway 17 is subject to submission of an application to construct the 28 Avenue overpass. It is not necessary to await a Commission decision on such an application before completing acquisition of the road right-of-way needed to accommodate rail operations during construction of the South Fraser Perimeter Road.

When you are ready to finalize road acquisition, please send two (2) paper prints of the final survey plan(s) and lease document(s) to this office. When the Commission confirms that all conditions have been met to its satisfaction, it will authorize the Registrar of Land Titles to accept registration of the plan(s).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

  
Erik Karlsen, Chair

cc: The Corporation of Delta (with copy of 09 January letter)

Enclosure: Minutes

TP/37610 d2



A meeting was held by the Provincial Agricultural Land Commission on January 26, 2009 at Mission, B.C.

<b>PRESENT:</b>	Sylvia Pranger	Chair, South Coast Panel
	Michael Bose	Commissioner
	John Tomlinson	Commissioner
	Ron Wallace	Staff
	Tony Pellett	Staff

**For Consideration**

Application: # O- 37610-1  
 Applicant: British Columbia Railway Company  
 Proposal: Under Application #O-37610-0 the Commission allowed the applicant, through its subsidiary BCR Properties Ltd., to exercise a first right of refusal and an option to purchase a ± 60 m strip of land adjacent to its existing railway right of way, but the Commission deferred a decision on the applicant's proposal to acquire a ± 15 m strip of land adjacent to another length of its existing railway right of way to provide road access to rail operations in the event the proposed South Fraser Perimeter Road were to cut off the present access. On 18 November 2008 the Commission conditionally approved the South Fraser Perimeter Road and on 09 January 2009 the applicant provided a letter advising that

1. as a compensating benefit to agriculture, an agreement in principle has been reached with the Ministry of Transportation and Infrastructure for the design and construction of a 28 Avenue overpass of Highway 17 on an alignment illustrated in an attachment to the letter, and
2. the ± 15 m road strip may be shortened so as to allow the road to loop back into the existing rail right-of-way much farther to the west than originally planned. The applicant advised that the offer to reduce the length of the road strip was made reluctantly given that the South Fraser Perimeter Road designs are conceptual, thus the applicant wishes to be able to return to the Commission for additional right-of-way if major South Fraser Perimeter Road changes are initiated in a way which impacts rail operations.

Legal: PID: 024-612-197  
 Lot 2, District Lots 113 and 176 Group 2 NWD, Plan LMP43298

Location: South Delta in the Deltaport Way corridor.

**Site Inspection**

A site inspection was conducted 06 November 2007. Those in attendance were:

• Sylvia Pranger	Chair, South Coast Panel
• Michael Bose	Commissioner
• John Tomlinson	Commissioner
• Ron Wallace	Staff
• Tony Pellett	Staff
• John Lusney, Gordon Westlake and Lori Perry	BCR Properties Ltd.

At that time the commissioners and staff met with the applicants on site to discuss the application, including the proposal to acquire a road right-of-way to provide access to rail operations between Highway 17 and 64<sup>th</sup> Street.

A second site inspection was conducted 26 January 2009. Those in attendance were

- Sylvia Pranger                      Chair, South Coast Panel
- Michael Bose                        Commissioner
- John Tomlinson                     Commissioner
- Ron Wallace                        Staff
- Tony Pellett                        Staff

At that time the commissioners and staff viewed the area proposed for the 28 Avenue overpass, with particular reference to the potential impact on the 15.3 ha farm parcel on the southeast corner of Highway 17 and 28 Avenue, given that parcel's narrow (92 m) width entirely fronting on the proposed fill slope, and given that the drawing supplied by the applicant does not show any access to that parcel, identified and described as PID 024-722-146—Parcel 99, Section 23, Township 5, NWD, Plan LMP45178.

### **Discussion**

The Commission noted that at the time of its initial decision the proposed South Fraser Perimeter Road application had not been decided. Now that a decision has been made on that application, a specific benefit to agriculture has been committed and the area of the proposed road has been reduced, the only remaining issue appears to be the impact on adjoining farms of the proposed 28 Avenue overpass. After perusal of the concept plan and onsite review, it appears that the principal impact would be on the farm noted above.

### **Conclusions**

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal to acquire road right-of-way at this time is justified and that it is reasonable to base final road design on final design of the South Fraser Perimeter Road overpass system.
4. That the proposal to construct a 28 Avenue overpass will require an application under the ALR Regulations, with details being worked out at that time but with enunciation at this time of the general principle of ensuring access to the most adversely affected farm.

### **IT WAS**

**MOVED BY:**                      Commissioner Bose

**SECONDED BY:**                Commissioner Tomlinson

That the proposed road dedication and construction (as amended by the BC Rail letter dated 09 January 2009) be allowed subject to submission of an application to construct a 28 Avenue overpass of Highway 17 as proposed in that letter but subject to full and safe access to and from the relocated 28 Avenue being provided to the parcel currently described as Lot 99...Plan LMP45178.

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 # 169/2008**