

March 19th, 2010

Agricultural Land Commission

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www.alc.gov.bc.ca

Reply to the attention of Brandy Ridout ALC File: 51605

Bill DiPasquale Regional District of North Okanagan 9848 Aberdeen Road Coldstream, BC V1B 2K9

Dear Mr. DiPasquale:

Re: Application for a water main right of way in the Agricultural Land Reserve

Please find attached the Minutes of Resolution #2278/2010 and a sketch plan outlining the Commission's decision as it relates to the above noted application.

Please send two (2) paper prints of the final survey plans to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

Other approvals may be necessary. Prior to proceeding, the Commission suggests you contact your Local Government.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Erik Karlsen, Chair

Enclosure: Minutes/Sketch Plan

cc: Regional District of North Okanagan

BR/51605d1

A meeting was held by the Provincial Agricultural Land Commission on March 16, 2010 at the Ministry of Agriculture and Lands Office, located at 200-1690 Powick Road, Kelowna, B.C.

PRESENT: Roger

Roger Mayer

Chair, Okanagan Panel

Gerry Zimmermann

Commissioner

Brandy Ridout Martin Collins Staff Staff

For Consideration

Application:

51605

Applicant:

H.S. Jansen & Sons Farm Ltd

Agent:

Bill DiPasquale

Proposal:

To dedicate a right of way 7.5 metres wide and 310 metres long (0.2

ha) for a new 900 mm water main to improve water delivery for

irrigation and domestic use in the North Okanagan. The right of way is

proposed to be located on the westerly property boundary.

Legal:

Lot 1, District Lot 434 and 435, Osoyoos Division of Yale District, Plan

KAP55683

PID: 023-217-936

Location:

973 Whitevale Road, Vernon

Site Inspection

A site inspection was not conducted for the application.

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.

The agricultural capability of the soil of the subject property is

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- Class 2 Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.
- Class 3 Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

The primary limiting subclasses topography and stoniness.

Assessment of Agricultural Suitability

The Commission assessed whether external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission does not believe there are external factors that render the land unsuitable for agricultural use.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission believes that provided the pipe is installed at a sufficient depth that the land could continue to be cultivated for crops.

Assessment of Other Factors

The Commission was also concerned about ensuring that the soil horizons were replaced to ensure arability and cultivation. As such the topsoil must be preserved and replaced upon completion of the pipe installation. Furthermore weed control must be practiced during and after installation, either through annual cultivation or other processes.

Conclusions

- 1. That the land under application has agricultural capability, is appropriately designated as ALR, and is suitable for agricultural use.
- 2. That the proposal has the potential to negatively impact agriculture.
- 3. That the right of way and water pipe installation has the potential to benefit agriculture in the region.
- 4. That if the pipe is buried at a depth that permits cultivation, and if topsoil is conserved and replaced, then the agricultural use of the land can continue.

IT WAS

MOVED BY:

Commissioner R. Mayer

SECONDED BY:

Commissioner G. Zimmerman

THAT the application to dedicate a right of way 7.5 meters wide and 310 meters long be allowed subject to the following conditions;

- the right of way subdivision be in substantial compliance with the plan submitted with the application
- The installation of the water pipe at a sufficient depth that permits cultivation of the entire right of way (a minimum cultivation depth of 1.5 meters from the top of the pipe),
- The conservation and replacement of topsoil during construction,

- The submission of an agrologist's report upon completion of construction confirming that the pipe is installed at a depth that permits cultivation, and that topsoil was conserved and replaced to ensure the preservation of agricultural potential
- Weed control for five years on any uncultivated portion of the right of way,
- the right of way and pipe installation must be completed within three (3) years from the date of this decision.

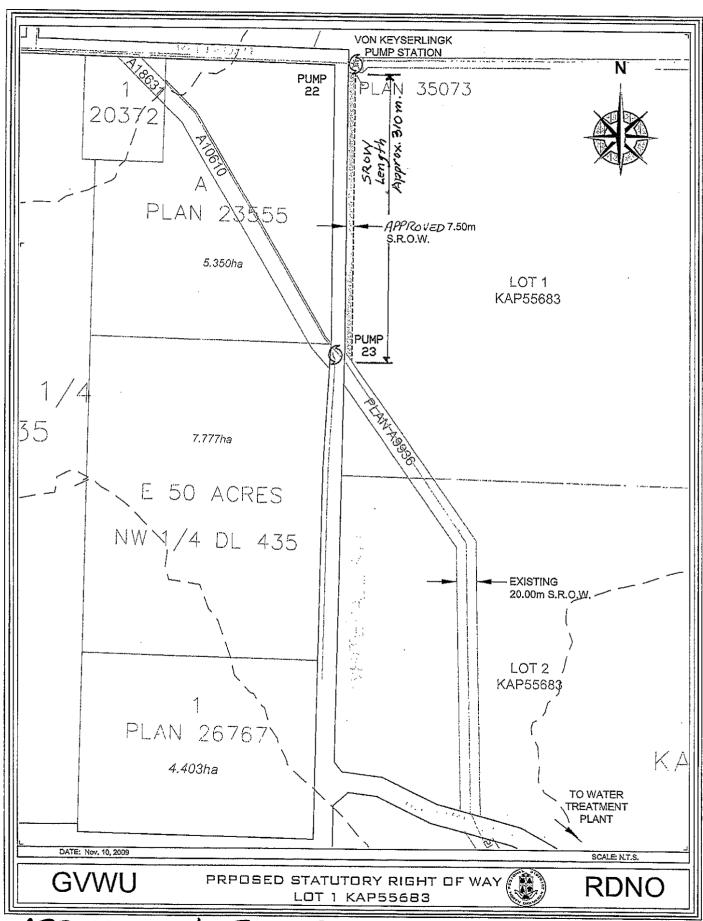
AND THAT the applicant be advised of the provisions of Section 33 of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration.

- S.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.
 - (2) The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.

AND THAT the applicant be advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration and the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter.

This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government. This includes zoning, subdivision, or other land use bylaws, and decisions of any authorities that have jurisdiction under an enactment.

CARRIED Resolution # 2278/2010



APPLICATION 51605 RESOLUTION 2278/2010