



**Agricultural Land Commission**  
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July 8, 2011

Reply to the attention of Lily Ford  
ALC File 52044

Paul-Emile and Francoise Senecal  
8234 Highway 3/93  
Wardner BC  
V0B 2J0

Dear Mr. and Ms. Senecal:

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

Please find attached Minutes of Resolution # 242/2011 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

  
Richard Bullock, Chair

Enclosure: Minutes

cc: Regional District of East Kootenay

LF/52044d1



## PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 26, 2011 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C.

### COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Roger Mayer	Commissioner
Jim Johnson	Commissioner
Bert Miles	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jim Collins	Commissioner

### COMMISSION STAFF PRESENT:

Roger Cheetham	Regional Planner
Lily Ford	Land Use Planner
Eamonn Watson	Land Use Planner
Shaundehl Runka	Policy Planner
Brian Underhill	Executive Director
Colin Fry	Executive Director

### APPLICATION ID: #52044

**PROPOSAL:** To exclude 8.7 ha of ALR land on two adjoining lots with a total area of 10.5 ha.  
(Application submitted pursuant to section 30(1) of the *Agricultural Land Commission Act*)

### PROPERTY INFORMATION:

<b>Owners:</b>	Paul-Emile and Francoise Senecal (as Joint Tenants)
<b>Date of Acquisition:</b>	April 29, 2005
<b>Parcel ID # (Lot 1):</b>	028-128-770
<b>Title # (Lot 1):</b>	LB363496
<b>Legal Description (Lot 1):</b>	Lot A, District Lot 812, Kootenay District Plan 1494
<b>Parcel ID # (Lot 2):</b>	028-128-788
<b>Title # (Lot 2):</b>	LB363497
<b>Legal Description (Lot 2):</b>	Lot B, District Lot 812, Kootenay District Plan 1494
<b>Civic Address:</b>	8234 Highway 3/93, Wardner
<b>Size:</b>	10.5 ha
<b>Area in ALR:</b>	8.7 ha
<b>Current Land Use:</b>	Residential
<b>Farm Classification:</b>	No
<b>(BC Assessment)</b>	

#### SITE INSPECTION MEETING:

A site inspection and exclusion meeting was conducted on April 28, 2011 following which a report was prepared. The site inspection and exclusion meeting report was certified by Commissioner Thibeault on May 19, 2011.

Section 14(2) of the *Agricultural Land Commission Act* provides that a member of the Commission who was not present at a meeting to determine an application or other matter may vote on the application or matter only if a summary of the meeting is given to the member before the vote. The site inspection and exclusion meeting report, certified by Commissioner Thibeault on May 19, 2011, constitutes a written record of the site inspection and exclusion meeting and has been provided to all Commission members recorded above.

#### COMMISSION CONSIDERATION:

##### Context

Section 6 of the *Agricultural Land Commission Act* identifies the purposes of the Commission as: (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.

##### Agricultural Capability

Based on the information contained in Map 82G/5 (Scale 1:50,000) of the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system, the agricultural capability ratings are identified as:

Unimproved Rating: 5T      Improved Rating: 5T

**Note:** This rating covers approximately 60% (or 5.2 ha) of the 8.7 ha portion of the property that is in the ALR. However, this rating appears to be in error as the site is flat and has no topographic constraints.

Unimproved Rating: 6W      Improved Rating: 6W

**Note:** This rating covers approximately 40% (or 3.5 ha) of the 8.7 ha portion of the property that is in the ALR.

##### Class and Subclass Descriptions

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

Class 6 – Land in this class is non-arable but is capable of producing native and or uncultivated perennial forage crops.

T      topography (slope)

W excess water

### **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 subject properties are located alongside Highway 93/3, in a rural area with a range of parcel sizes, from 2 ha to over 500 ha. Several nearby properties, including some of the smaller parcels, appear to be farmed and the overall character of the area is rural. The nearest urban development is approximately 15 km away in Wardner. For these reasons, the Commission does not believe that there are external factors that render the land unsuitable for agricultural use.

### **Assessment of Potential 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 while a portion of the site is constrained by excess water, the site as a whole has agricultural potential. Furthermore, the Commission noted that because no local zoning exists for the area, the land could potentially be divided into several parcels if excluded from the ALR. For these reasons, the Commission believes that the proposal, if approved, could impact existing or potential agricultural use of the subject site and surrounding lands.

### **Other Factors**

- On November 5, 2010, the Regional District of East Kootenay Board adopted Resolution 41924 to advise that it does not support the proposal.
- The Agricultural Advisory Commission does not support the application as presented.
- The Advisory Planning Commission for Area C recommended approval of the proposal subject to a restrictive covenant that the land will not be subdivided into lots of less than 5 acres.
- The two subject properties are the result of a subdivision application that was approved by the Commission in July 2008.

<b>DECISION:</b>
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**IT WAS**

**MOVED BY:** Commissioner Roger Mayer

**SECONDED BY:** Commissioner Jennifer Dyson

THAT the application be refused for the following reasons:

1. The land has agricultural potential.

2. The land is located in a rural area and is suitable for agricultural use. No external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture.
3. Exclusion of the property could impact the existing and potential agricultural use of the subject property and adjacent ALR lands.

AND THAT the applicants 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 applicants 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.

**CARRIED**  
**Resolution # 242/2011**