



Agricultural Land Commission
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December 21, 2011

Reply to the attention of Lily Ford
ALC File 52248

Todd Eveland
Pennco Engineering Ltd.
Suite B6 – 625 Front Street
Nelson, BC
V1L 4B6

Dear Mr. Eveland:

Re: Application to Exclude Land from the Agricultural Land Reserve

Please find attached Minutes of Resolution # 507/2011 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly.

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 CA144351.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:


Colin Fry, Executive Director

Enclosure: Minutes

cc: BC Land Title & Survey, Kamloops
BC Assessment, Nelson/Trail
Regional District of Central Kootenay

LF/52248d1



PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on October 27, 2011 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C.

COMMISSION MEMBERS PRESENT:

Gordon Gillette	Chair
Jim Collins	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jerry Thibeault	Commissioner

COMMISSION STAFF PRESENT:

Lily Ford	Land Use Planner
Colin Fry	Executive Director

APPLICATION ID: #52248

PROPOSAL: To exclude the 14.7 ha ALR portion of a 26.5 ha parcel.

(Application submitted pursuant to section 30(1) of the *Agricultural Land Commission Act*)

PROPERTY INFORMATION:

Owner:	C.J. Logging Ltd.
Date of Acquisition:	November 18, 2005
Parcel ID:	016-370-155
Title No.	CA144351
Legal Description:	Block A, District Lot 10708, Kootenay District
Civic Address:	Duncan Forest Service Road, north of Argenta Road
Size:	26.5 ha
Area in ALR:	14.7 ha
Current Land Use:	Equipment storage/gravel extraction
Farm Classification:	No
<small>(BC Assessment)</small>	

SITE INSPECTION MEETING:

A site inspection and exclusion meeting was conducted on September 15, 2011 following which a report was prepared. The site inspection report was certified by Commissioner Thibeault on October 24, 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 report, certified by Commissioner Thibeault on October 24, 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.

Previous Exclusion Approval

On June 16, 1983, the Commission acted on a proposal to exclude the subject property (Resolution #915/1983). The Commission allowed exclusion of the land lying east of Duncan River Forest Service Road, which it considered of marginal agricultural value, and refused exclusion of the remaining lands. The Commission further recommended that the excluded area be subdivided from the parent parcel, and stated that once it had reviewed the final survey plans for the subdivision, it would issue a Certificate of Order confirming exclusion of the land. However, this recommendation was not pursued and the Certificate of Order was not issued; the excluded area therefore remains in the ALR. In considering the current application, the Commission noted that because the previous approval has no expiry date, it remains valid and no further Commission action is required. The Commission therefore withdrew that portion of the property from consideration, but agreed to reiterate its approval of the exclusion in correspondence with the Land Titles Office.

Agricultural Capability

Based on the information contained in Map 82K/2 -1 (Scale 1:50,000) of the Canadian Land Inventory (CLI), 'Land Capability Classification for Agriculture in B.C.' system, the agricultural capability ratings for the ALR portion of the property are identified as:

Unimproved Rating: 6P

Improved Rating: 6P

Note: These ratings apply to the approximately 5 ha area east of Duncan Forest Service Road (FSR), and an approximately 1 ha area immediately west of Duncan FSR, in the southern portion of the property.

Unimproved Rating: 8:2C – 2:3X

Improved Rating: 8:2C – 2:3X

Note: These ratings apply to the northernmost portion of the property (approximately 3 ha).

Unimproved Rating: 6:5PM – 4:4M

Improved Rating: 6:5PM – 4:4M

Note: These ratings apply to the remainder of the property (approximately 6 ha).

Class and Subclass Descriptions

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

C	adverse climate
M	moisture deficiency
P	stoniness
X	combination of soil factors

The Commission considered these ratings and the observations provided by Commissioner Thibeault and the site inspection report. It noted that the southern portion of the subject property has experienced major flooding, and that test pits in the southern portion of the property reveal rocky and sandy materials typical of fluvial deposits. It further noted that the northernmost approximately 3 ha of the property, which is located in a Class 8:2C – 2:3X area on the CLI map, is a low lying forested area that contains soils and vegetation indicative of excess water. Lastly, it noted that the southwest corner of the property is located in the channel of Hamill Creek. Having considered all of the above evidence, the Commission concluded that the physical characteristics of the property significantly limit its agricultural potential.

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 subject property, which is confined on three sides by either mountainside or river, shares a common land boundary with only one other ALR parcel. It is distinguished from this parcel, and other farmland to the north and west, by its narrow and fragmented configuration, relatively small size, and high percentage of low capability land. Conversion of this anomalous, relatively isolated property to light industrial use, for which it is designated in the Electoral Area "D" OCP, or to residential use, would have minimal impact on agriculture in the area. It would furthermore have minimal impact on agricultural potential of the subject property, which is already limited by poor agricultural capability. For these reasons, the Commission concluded that the proposed exclusion would have no significant impact on the ALR in this area.

Other Factors

- On May 5, 2011, the Board of the Regional District of Central Kootenay adopted Resolution 337/11 in support of the application.
- On April 19, 2011, the Advisory Planning Commission for Electoral Area "D" recommended approval of the proposal. The APC noted that the northwest portion of the property has agricultural potential, but recommended that this area also be excluded "as a practical decision."

DECISION:

IT WAS

MOVED BY: Commissioner Gordon Gillette

SECONDED BY: Commissioner Jerry Thibeault

THAT the application be allowed for the following reasons:

1. The subject property has limited agricultural capability.
2. The proposed exclusion of the property will not significantly impact agricultural use of the subject property or surrounding lands.

AND THAT with this approval, all ALR lands in the entire parcel (PID# 016-370-155) are excluded from the ALR, and staff is directed to advise the Registrar of Land Titles accordingly.

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 # 507/2011