



**Agricultural Land Commission**  
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July 22, 2014

ALC File: #53626

Earl & Eileen Warnock  
552 Wellspring Road  
Creston, BC V0B 1G2

Dear Mr. and Mrs. Warnock:

**Re: Application to Subdivide Land in the Agricultural Land Reserve (ALR)**

Please find attached the Minutes of Resolution #241/2014 as it relates to the above noted application.

The Commission draws your attention to Section 33(1) of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration based on specific criteria.

- 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.

A revised proposal does not constitute new evidence and as such is not a basis for reconsideration. The time limit for submitting a request for reconsideration is one (1) year from the date of this letter.

Further correspondence with respect to this application is to be directed to Lindsay McCoubrey ([lindsay.mccoubrey@gov.bc.ca](mailto:lindsay.mccoubrey@gov.bc.ca)).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosure: Minutes of Resolution #241/2014

cc: Regional District of Central Kootenay (File: 4810-20-A1312B-01348.250)



## MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 29, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, BC as it relates to Application #53626.

### COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner

### COMMISSION STAFF PRESENT:

Jennifer Carson	Planner
Lindsay McCoubrey	Planner
Colin Fry	Chief Tribunal Officer

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**PROPOSAL** (Submitted pursuant to s. 21(2) of the *Agricultural Land Commission Act*)

To subdivide the 14.5 ha property into two lots as divided by a gully which would result in the creation of one 4.5 ha lot and one 10.0 ha lot.

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### PROPERTY INFORMATION:

**Owner:** Earl & Eileen Warnock

**Legal:** PID: 006-200-656  
Lot A, District Lot 251, Kootenay District, Plan 973, Except: (1) SRW Plan 13863, (2) 14336

**Location:** 552 Wellspring Road, Creston

**Size:** 14.5 ha

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### SITE INSPECTION

A site inspection of the subject property was conducted on May 12, 2014. Those in attendance included Commissioners Thibeault and Johnson and Mr. Earl Warnock.

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. Commissioner Thibeault gave a verbal summary of the site inspection to all Commission members recorded above.

Commissioner Thibeault described the subject property and the characteristics of the terrain and surrounding area. Most notable is that Rykerts Creek gully essentially bisects the property. The portions of the property on both sides of the gully are used to grow hay using dry-land farming techniques.

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#### LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

- 6 The following are the purposes of the commission:
- (a) to preserve agricultural land;
  - (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
  - (c) 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.
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#### COMMISSION CONSIDERATION

The Commission reviewed a previous application involving the subject property:

Application ID:42660 (Hutchinson, 2006) To exclude the 14.5 ha property from the ALR to facilitate subdivision of the property into two lots as divided by Rykerts Creek gully.

A site inspection was conducted on March 1, 2006 by the Kootenay Panel members and staff who met with the applicant. The following is excerpted from the Minutes of Resolution #117/2006

*The applicant, Mr. Hutchinson, explained to the Commission that even though he made an exclusion application, his main intention is to subdivide the property into two lots as divided by Rykerts Creek.*

*During the on-site inspection and meeting the Commission noted that the property has two arable fields suitable for agriculture with Rykerts Creek and a steep ravine dividing the farm.*

#### **Commission Discussion**

*The Commission refused exclusion of the property from the ALR on the grounds that it has two arable fields suitable for agriculture. It was also felt that while Rykerts Creek creates a significant division between the two arable portions of the property, it is still feasible to farm the property as a whole.*

The application was refused by Resolution #117/2006 dated March 2, 2006.

After considering the information the Commission concluded as follows:

1. The Commission concurred with the rationale for the decision to refuse the previous application. More specifically, as part of the review of the 2006 application, and the application currently under consideration, site inspections were conducted. In both cases it was determined that the areas on both sides of the gully are farmable and that the gully does not prevent the use of these areas as a single agricultural unit.

**Conclusion:**

The Commission believes the subject property is suitable for agricultural pursuits and that agricultural options are maximized by leaving the property at its current size.

**IT WAS**

**MOVED BY:           Commissioner Bullock**

**SECONDED BY:       Commissioner Dyson**

THAT the proposal to subdivide the subject property be refused.

**CARRIED**

**Resolution #241/2014**