



Agricultural Land Commission
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July 6, 2015

ALC File: 53873

David Dyck
15300 Hutter Road
Burns Lake, BC V0J 1E1

Dear Mr. Dediluke:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #182/2015) as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly. A sketch plan depicting the decision has been attached.

Your attention is drawn to s. 33(1) of the *Agricultural Land Commission Act* which provides a person affected the opportunity to submit a request for reconsideration.

- 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.

Please note that pursuant to s. 33.1 of the *Agricultural Land Commission Act*, the Chair may direct the executive committee to reconsider this panel decision if, within 60 days from the date of this decision, he considers that the decision "may not fulfill the purposes of the commission as set out in section 6 or does not adequately take into account the considerations set out in section 4.3".

Further correspondence with respect to this application is to be directed to Laurel Eyton at (Laurel.Eyton@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Colin J. Fry, Chief Tribunal Officer

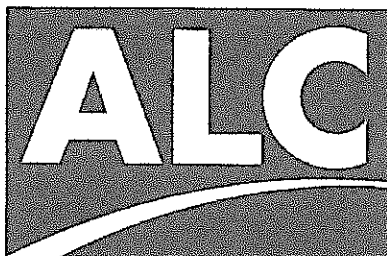
A large, stylized handwritten signature in black ink, appearing to be 'CJF', is written over the typed name and extends upwards into the 'Per:' line.

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Enclosures: Reasons for Decision (Resolution #182/2015)
Sketch plan

cc: Regional District of Bulkley-Nechako (File: 1167)

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AGRICULTURAL LAND COMMISSION FILE 53873

REASONS FOR DECISION OF THE NORTH PANEL

Application submitted pursuant to s. 21(2) of the *Agricultural Land Commission Act*

Applicants:

**David Dyck
Susan Dyck
(As to an undivided ½ interest
as Joint Tenants)**

**Glenn Dyck
Joanna Dyck
(As to an undivided ½ interest
as Joint Tenants)**

(the “Applicants”)

Agent:

**David Dyck
(the “Agent”)**

Application before the North Regional Panel:

**Dave Merz, Panel Chair
Sandra Busche
Garry Scott**



THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 007-447-043

District Lot 567, Range 5, Coast District, Except Plans 3072, PRP12894 and PRP13272

(the "Property")

[2] The Property has the civic address 14852 Palling Road W, 15 km west of Burns Lake.

[3] The Property is 62.2 ha in area.

[4] The Property is located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[5] The Property is located within Zone 2 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 21(2) of the *ALCA*, the Applicants are applying to subdivide the Property along Orr Road to create two parcels; one of approximately 36.4 ha and another of 24.3 ha (the "Application").

[7] On February 5, 2015, the Chair of the Agricultural Land Commission (the "Commission") referred the Application to the North Regional Panel (the "Panel").

RELEVANT STATUTORY PROVISIONS

[8] The Application was made pursuant to s. 21(2) of the *ALCA*:

21(2) An owner of agricultural land may apply to the commission to subdivide agricultural land.



[9] The Panel considered the Application pursuant to its mandate in s. 4.3 of the ALCA:

4.3 When exercising a power under this Act in relation to land located in Zone 2, the commission must consider all of the following, in descending order of priority:

- (a) the purposes of the commission set out in section 6;
- (b) economic, cultural and social values;
- (c) regional and community planning objectives;
- (d) other prescribed considerations.

[10] The purposes of the Commission set out in s. 6 are as follows:

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.

EVIDENTIARY RECORD BEFORE THE PANEL

[11] The Panel considered the following evidence:

- 1. The Application
- 2. Local government documents
- 3. Previous application history
- 4. Agricultural capability map, ALR context map and satellite imagery

All documentation noted herein was disclosed to the Agent in advance of this decision.

[12] The Regional District of Bulkley-Nechako (the "RDBN") has resolved to forward the Application recommending approval.



[13] The Panel reviewed a previous application involving the Property:

Application ID: 41842
Legacy File: 35882
(Dyck, 2005)

To subdivide the property as divided by Orr Road. Refused by Resolution #247/2005. The Commission instead recommended that the applicants apply to have an additional dwelling on the Property for use by a member of the owners' immediate family.

Reconsideration

The Commission received a request that it meet with the all the applicants regarding the proposal. A meeting was held following which the Commission did not believe that there was any "compelling bio-physical evidence indicating that the property is not suitable for farm uses or cannot be farmed as a unit". The Commission reconfirmed Resolution #247/2005 by Resolution #182/2007.

FINDINGS

Section 4.3(a) and Section 6 of the ALCA: First priority to agriculture

[14] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The agricultural capability ratings identified on CLI map sheet 93K/5 for the mapping units encompassing the subject property are Class 4 and Class 5; more specifically (6:5X 4:4C).

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

The limiting subclasses associated with this parcel of land are C (climate) and X (combination of soil factors).

[15] Ministry of Agriculture Regional Agrologist John Stevenson reports that "from an agricultural perspective I have no concerns with this subdivision proposal from the Dyck



family. The parcel is essentially bisected by Orr Road and thus has created 2 farm units, albeit Orr Road does not likely receive a large amount of vehicle traffic. I am optimistic that by enabling the subdivision to proceed as proposed, the result is a greater net benefit to agriculture as finance options become available to Glenn and Joanna, and will also result in greater flexibility for farm succession options in the future.”

[16] Two members of the Panel believe that the Application, as proposed, will have a negligible negative impact to agriculture, as it reflects the current situation of the Property. However, the Panel Chair disagrees that the negative impact will be negligible, as he believes that subdividing the Property into two parcels will reduce the agricultural options available and that Orr Road is not a significant impediment to agriculture.

[17] Two of the members of the Panel believe that the Application, as proposed, will provide a net benefit to agriculture as it encourages farming by helping a young farmer to be on the land and to farm. As the applicant wishes “to further develop the property but cannot acquire a separate mortgage to do so as the property is in both names,” the proposal to subdivide will “allow Glenn Dyck to obtain his own financing to further develop the east portion of the property.” However, the Panel Chair disagrees that the impact will be negligible, as he believes that subdividing the Property into two parcels will reduce the agricultural options available and that Orr Road is not an impediment to the agricultural use of the Property as a single unit.

Section 4.3(b) of the ALCA: Second priority to economic, cultural and social values

[18] The Applicants were given an opportunity to provide further information relevant to s. 4.3. In their letter dated January 15, 2015, the Applicants advised that they had nothing further to submit.

[19] Two of the Panel members believe that the Application, if approved, support the social and economic values in the area as the building of a family farm business supports economic growth and having the son on the property support social values.



[20] The Panel Chair, while mindful of the considerations of family farm succession planning, would prefer to see the farm remain as one unit and encourages the Applicant to pursue other options for farm succession planning.

Section 4.3(c) of the ALCA: third priority to regional and community planning objectives

[21] The Application is consistent with the Agricultural designation in the RDBN's Burns Lake Rural and Francois Lake (North Shore) Official Community Plan Bylaw No. 1514, 2009 and the Agricultural zoning in the RDBN Zoning Bylaw No. 700, 1993, as it meets the minimum parcel size for the designations.

Weighing the factors in priority

[22] Two of the Panel members believe that the Application, if approved, will have a net positive impact on agriculture, as the number of dwellings on the Property will not change and there is increased potential that the eastern portion of the Property will be farmed. Further, two of the Panel members believe that the Application, if approved, will have a positive social and economic impact.

DECISION

[23] For the reasons given above, the Panel approves the Application to subdivide the Property along Orr Road to create two parcels; one of approximately 36.4 ha and another of 24.3 ha.

[24] The Application is approved subject to the following conditions:

- a. the subdivision being in substantial compliance with the plan submitted with the application; and
- b. the subdivision plan being completed within three (3) years from the date of release of this decision.



[25] 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.

Commissioner **Sandra Busche** concurs with the decision.

Commissioner **Garry Scott** concurs with the decision.

[26] Panel Chair **Dave Merz** opposes the decision.

[27] I, Dave Merz, am opposed to the decision recorded above as I believe the Property has agricultural capability is suitable for agriculture. The Application, if approved, will divide a viable farm unit into two parcels which will reduce the agricultural options for the Property and will result in the Property being less likely to be farmed in the future. Moreover, I do not believe that Orr Road is a significant impediment to the use of the Property as a single agricultural unit as was found by the Commission in its 2005 decision and 2007 reconsideration pertaining to a similar subdivision proposal. While mindful of the applicant's considerations related to family farm succession planning, the Panel Chair believes that paths to succession planning other than subdivision should be pursued.

[28] Decision by majority vote is recorded as Resolution #182/2015.

A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the Agricultural Land Commission Act.

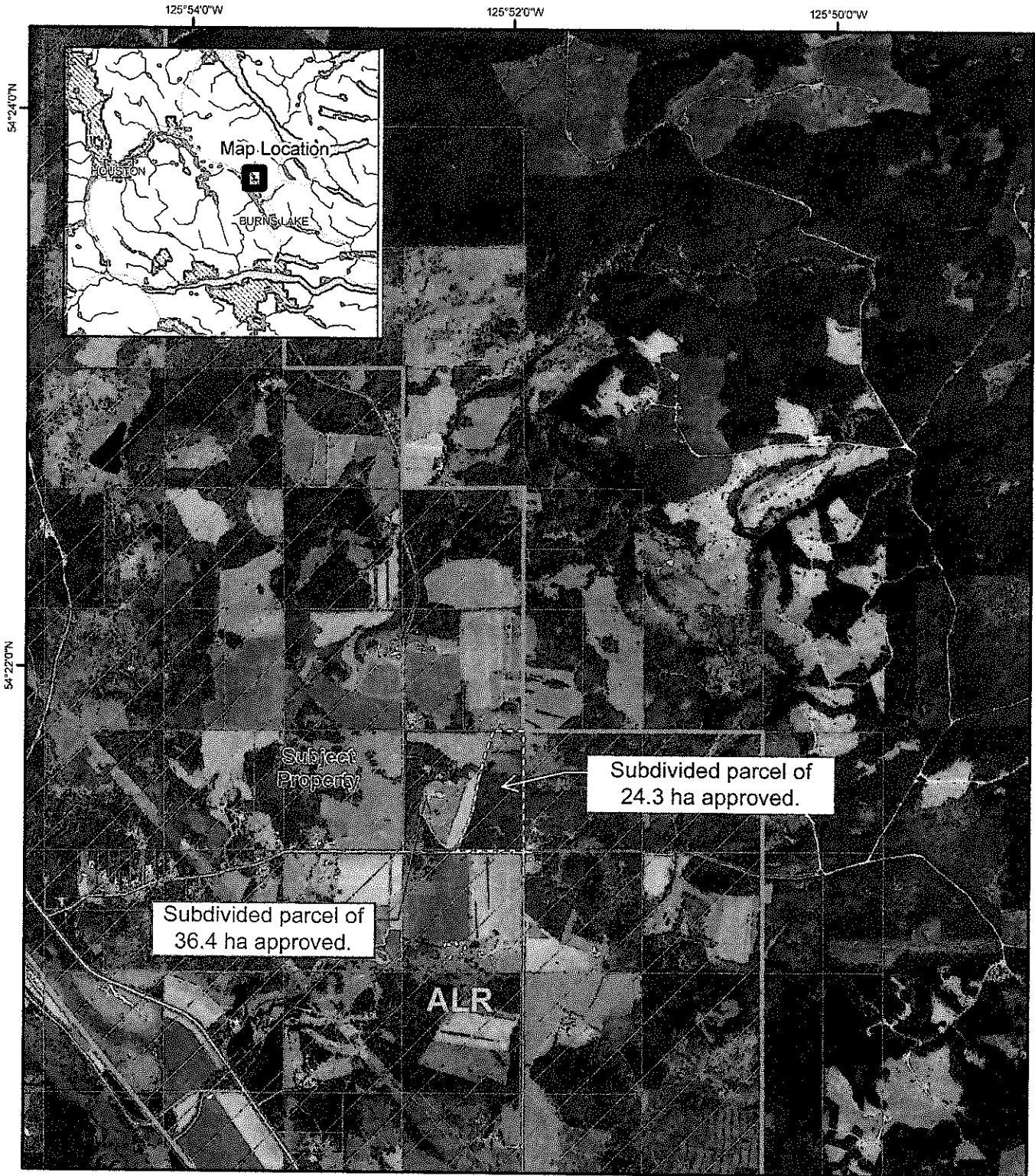
Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #182/2015. The decision is effective upon release.



Colin J. Fry, Chief Tribunal Officer

July 6, 2015
Date Released

ALC application #53873
(applicant - David Dyck)
Resolution #182/2015



Orthophoto Map
2009 Natural Colour - Ortho
Map Scale: 1:35,000
250 0 250 500 750 1,000 1,250
Meters

ALC File #:	53873
Mapsheet #:	93K/5
Map Produced:	Dec 12, 2014
Regional District:	Bulkley-Nechako