



Agricultural Land Commission
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June 16, 2015

ALC File: 53950

Viktor & Lisa Bugaychuk
Box 927
McBride, BC V0J 2E0

Dear Mr. and Mrs. Bugaychuk:

Re: Application to Conduct a Non-Farm Use in the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #171/2015) as it relates to the above noted application. As agent, it is your responsibility to notify your client 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". I can advise you that in this case, the Chair has already reviewed the decision and has instructed me to communicate to you that he does not intend to exercise that authority in this case.

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

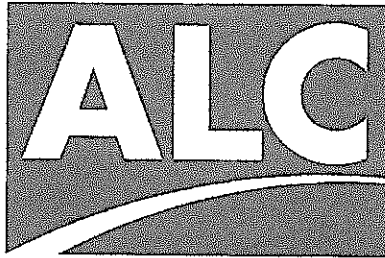
A large, stylized handwritten signature in black ink, appearing to be 'CJF', is written over the typed name and title of the Chief Tribunal Officer.

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Enclosures: Reasons for Decision (Resolution #171/2015)
Sketch plan

cc: Regional District of Fraser Fort-George (File: ALR: UCL 7218)
Lavona Liggins, Regional Agrologist – Ministry of Agriculture, Prince George Office

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AGRICULTURAL LAND COMMISSION FILE 53950

REASONS FOR DECISION OF THE NORTH PANEL

Application submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act*

Applicant:

**Province of British Columbia
(the "Applicant")**

Agents:

**Viktor Bugaychuk
Lisa Bugaychuk
(the "Agents")**

Application before the North Regional Panel:

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



THE APPLICATION

- [1] The legal description of the Crown Land involved in the application is:
Unsurveyed Crown Land in the Vicinity East of District Lot 7218, Cariboo District –
Crown Land License of Occupation for Sand and Gravel #7408744
(the "Property")
- [2] The Property is generally described as being located southeast of McBride.
- [3] The Property is 48.6 ha, with 39.1 ha of the Property located within the ALR.
- [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. 20(3) of the ALCA, the Applicants are applying to use a 4.1 ha area for a gravel pit and aggregate extraction (the "Application").
- [7] On March 2, 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. 20(3) of the ALCA:
- 20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of 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 above was disclosed to the Agent in advance of this decision.

[12] The Regional District of Fraser Fort George has resolved to forward the application.

[13] The Panel reviewed a previous application and a Notice of Intent involving the Property:



Application ID: 50295
(Molodowich, 2008)

Notice of Intent - Gravel extraction for cement & construction. Aggregates will be sold as is pitrun and in a screened state. Allowed with conditions.

Application ID: 52667
(Bugaychuk-Robson, 2012)

Non-farm Use - To operate a screening and crushing facility in conjunction with a currently established gravel pit operation. Approved with conditions by Resolution #258/2012. Expired in October 2014.

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 improved agricultural capability ratings identified on CLI map sheet 82E/4 for the mapping units encompassing the Property are Class 4, Class 5 and Class 7; more specifically the majority of the Property is classified as 7TP, whereas the southwest corner is classified as 6:4X 4:5P.

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.

Class 7 - land has no capability for soil bound agriculture.

The limiting subclasses associated with this parcel of land are X (combination of soil factors), P (stoniness) and T (topographic limitations).

[15] The Panel is of the opinion that the proposed non-farm use is consistent with the Commission's prior approvals for gravel extraction and processing.



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

[16] In the Application, the Agent stated the following: “we currently own a farm, that uses the gravel also we sell to the local community.”

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

[17] The Robson Valley-Canoe Downstream OCP designates the subject area Agriculture/Resource (Ag/Res). The local government report notes that “The Ag/Res designation does not support the establishment of an asphalt and/or concrete plant use on the subject area. An amendment to the OCP is required to allow the proposed use.”

Weighing the factors in priority

[18] The Panel has approached this application recognizing that first priority must be given to the purposes of the Commission in section 6, and that the other “zone 2” factors listed in ss. 4.3(b) and (c) of the ALCA are to have lesser priority than the section 6 purposes.

[19] The Panel took note of the prior Commission approvals for gravel extraction and processing. Based on a May 28, 2013 letter from the Agent’s representative at the time, the volume of gravel to be extracted on an annual basis was approximately 10,000 m³. The Application simply represents a request to continue gravel extraction as previous sanctioned by the Commission.

[20] The Notice of Intent (Application ID: 50295) established the following terms and conditions for the operation of the gravel pit.

1. That the aggregate extraction and gravel pit related activities be restricted to the 4.0 ha ‘proposed development (site) area’ on the subject property.
2. That the total aggregate extraction shall be limited in depth to achieve the finished grade elevations as proposed and identified on transect A as submitted with the



Notice. Note that no depressional or elevated areas should be left following reclamation of the site.

3. That all existing 'topsoil' on the authorized site shall be stripped and salvaged for future soil reclamation purposes. Salvaged 'topsoil' shall not be removed from the property.
4. Unauthorized fill material shall not be placed on the 'aggregate extraction' site.
5. That appropriate weed control must be practiced on all disturbed areas.
6. That all soil stockpiles shall be seeded and established to an appropriate plant cover, or other suitable soil erosion control measure shall be applied to protect the stockpiles from wind, runoff or other removal process. Protection is also to extend to damage which may be caused by recreational vehicles such as motorcycles etc.
7. That the access and egress of all vehicle traffic associated with the aggregate extraction, and other related gravel pit activities, be restricted to the access road as shown on the site layout submitted with the Notice.
8. That dust suppression practices, and/or restrictions on gravel pit vehicle traffic be applied when necessary to minimize air-borne dust from traffic on the access road and thereby potential negative impacts resulting from the dust on adjacent properties.
9. That the soils within the indicated 20m 'setback' distance from the identified property boundaries (as shown on the site layout submitted with the Notice) shall be left undisturbed.
10. That an annual report be submitted to update the Commission on the progress of the extraction and reclamation.
11. That a final report prepared by a qualified registered professional be submitted to the Commission upon completion of the project. The final report shall include



professional assessments specific to the soil reclamation outcomes for all side slopes and other areas within the 'aggregate extraction' site.

12. That the proposed gravel extraction project, including all reclamation activities, be completed by October 30, 2014. Should you require an extension of time beyond this date to complete the project, a request shall be submitted to the Commission prior to June 30, 2014. The request shall include a status report regarding the project and the extent of soil reclamation achieved on the reclaimed 'aggregate extraction' site.

13. That to ensure the successful reclamation of the site, a financial security in the amount of \$5,000 be posted with the Minister of Finance, in favour of the Provincial Agricultural Land Commission (see attached example of Letter of Credit). Release of the bond will be dependent on receipt of evidence that soil reclamation is achieved on the 'aggregate extraction' site to a standard deemed satisfactory by the Commission. In this regard, the Commission shall take into consideration the assessment and final report that is prepared by a qualified registered professional and submitted to this office in fulfillment of condition #11 above. Please note that as a consequence of posting a reclamation security with the Commission, the Ministry of Energy and Mines, at its discretion, may elect to waive further reclamation bonding for this project.

[21] The Panel noted that the Commission still holds the \$5,000 bond posted under Application ID: 50295.

DECISION

[22] For the reasons given above, the Panel approves the Application to use a 4.1 ha area for a gravel extraction processing.

[23] The Application is approved subject to the following conditions established under Application ID: 50295, save and except, Condition 12 which will now read :



12. That the proposed gravel extraction project, including all reclamation activities, be completed by June 1, 2020. Should you require an extension of time beyond this date to complete the project, a request shall be submitted to the Commission prior to April 1, 2020. The request shall include a status report regarding the project and the extent of soil reclamation achieved on the reclaimed 'aggregate extraction' site.

[24] 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.

[25] Panel Chair **Dave Merz** concurs with the decision.
Commissioner **Sandra Busche** concurs with the decision.
Commissioner **Garry Scott** concurs with the decision.

[26] Decision recorded as Resolution #171/2015.

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 #171/2015. The decision is effective upon release.

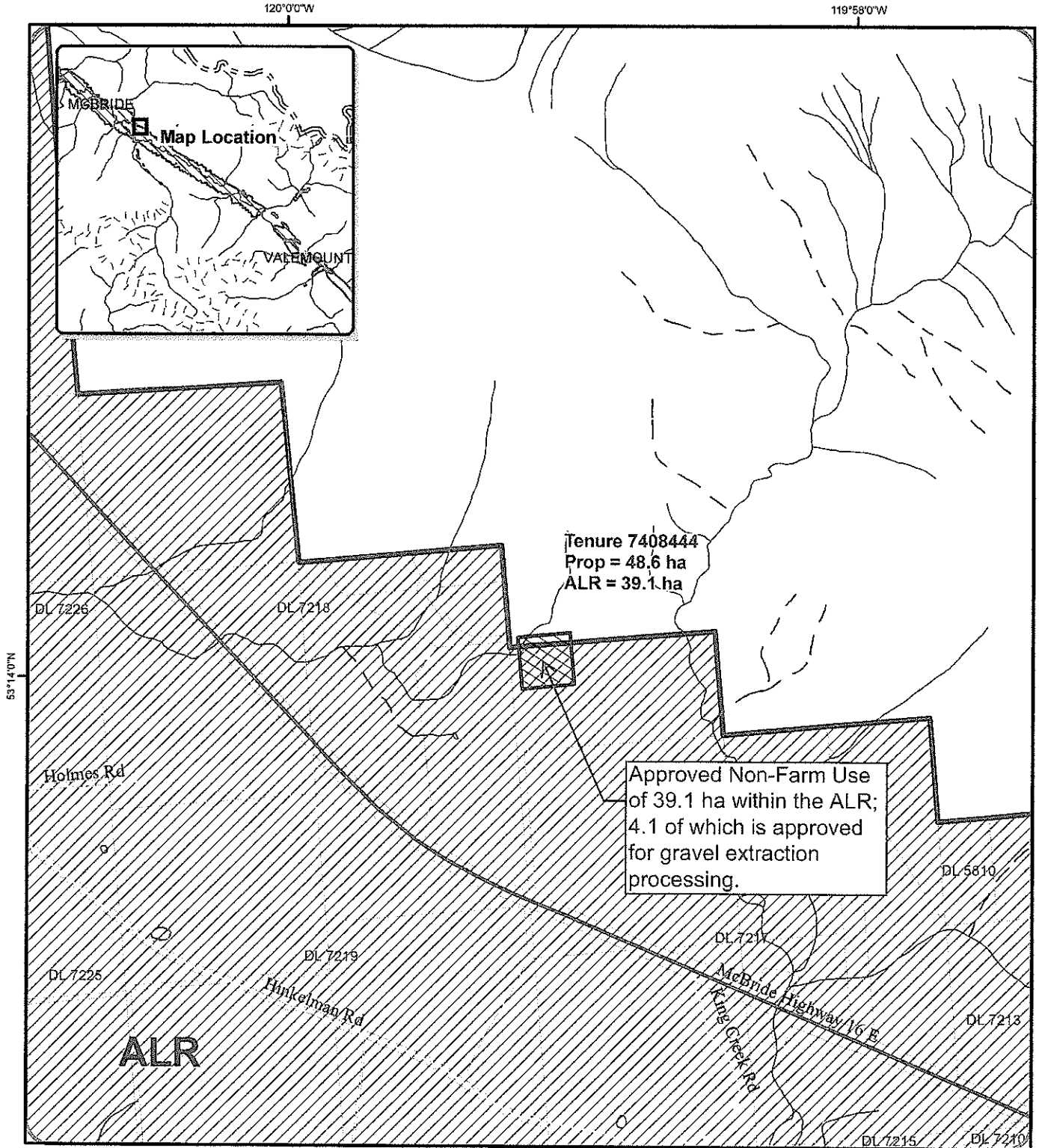


Colin J. Fry, Chief Tribunal Officer

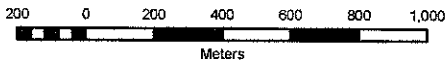


Date Released

ALC application 53950
(applicants - Viktor and Lisa Bugaychuk)
Resolution #171/2015



ALC Context Map
Map Scale: 1:20,000



ALC File #:	53950
Mapsheet #:	82E.021
Map Produced:	Jan 12, 2015
Regional District:	Fraser Fort-George