



Agricultural Land Commission
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July 25, 2016

ALC File: 54041

SENT BY ELECTRONIC MAIL

Regional District of Central Kootenay
Box 590
202 Lakeside Drive
Nelson, BC V1L 5R4

Attention: Mitchell King

Re: Application for Recreational Trail Use in the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #275/2016) 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 is also attached.

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, Director of Policy and Planning

Enclosures: Reasons for Decision (Resolution #275/2016)
Sketch plan



AGRICULTURAL LAND COMMISSION FILE 54041

REASONS FOR DECISION OF THE KOOTENAY PANEL

Application submitted pursuant to s. 6 of BC Regulation 171/2002 (ALR Use, Subdivision and Procedure Regulation)

Applicant:

**British Columbia
Transportation Financing
Authority c/o Daniel Green
(the “Applicant”)**

Agent:

**Regional District of Central
Kootenay
c/o Mitchell King
(the “Agent”)**

Application before the Kootenay Regional Panel:

**Sharon Mielnichuk, Panel Chair
Ian Knudsen**

THE APPLICATION

[1] The legal description of the properties involved in the application are:

Property 1

Parcel Identifier: 016-377-800

That Part of District Lot 273, Kootenay District, Shown as Nelson and Fort Sheppard
Railway Right-of-Way on Plan 1552, Plans NEP69535 and NEP 75839

Area: 9.3 ha

Property 2

Parcel Identifier: 016-708-113

Sublot 76, District Lot 1237, Kootenay District, Plan 700

Area: 3.6 ha

Property 3

Parcel Identifier: 016-708-130

Sublot 77, District Lot 1237, Kootenay District, Plan X70

Area: 6.5 ha

(collectively the “Properties”)

[2] The Properties are generally described as being located along Highway 6 north of Salmo.

[3] The Properties are located within a designated agricultural land reserve (“ALR”) as defined in s. 1 of the *Agricultural Land Commission Act* (the “ALCA”).

[4] The Properties are located within Zone 2 as defined in s. 4.2 of the *ALCA*.

[5] Pursuant to s. 6 of BC Regulation 171/2002 (Agricultural Land Reserve Use, Subdivision and Procedure Regulation) (the “Regulation”), the Applicant is applying to use a former rail right-of-way as a multi-use, motorized and non-motorized recreational trail as part of

the Nelson Salmo Great Northern Trail. The proposed ALR portion of trail is 4.8 kilometres long with a trail bed width of 4.5 metres and a trail corridor width of 10.0 metres (buffering space), affecting approximately 4.8 ha of the total 19.4 ha area (the "Application").

[6] On November 18, 2015, the Chair of the Agricultural Land Commission (the "Commission") referred the Application to the Kootenay Regional Panel (the "Panel").

RELEVANT STATUTORY PROVISIONS

[7] The Application was made pursuant to s. 6(d) of the Regulation:

6 Unless permitted under sections 2 and 3, a person must file an application under section 34 (6) of the Act directly with the office of the commission and in a form acceptable to the commission for any of the following uses:

(d) the new use of an existing right of way for a recreational trail.

[8] 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.

[9] The purposes of the Commission set out in s. 6 of the *ALCA* 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

[10] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Agricultural capability map, ALR context map and satellite imagery

SITE VISIT

[11] The Panel did not in the circumstances of this Application consider it necessary to conduct a site visit to the Properties.

FINDINGS

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

[12] 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 82F/3 for the mapping units encompassing the Properties are approximately 75% (2C) and 25% (7:4PM – 3:2C).

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

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

The limiting subclasses associated with this parcel of land are C (adverse climate), M (moisture deficiency) and P (stoniness).

[13] The Panel finds that although the Properties have good agricultural capability ratings, given their previous use for a rail line and the proximity to Highway 6, the current agricultural suitability is low.

[14] With respect to proposed buffering, the Applicant states that there is room for buffering between the trail and adjacent properties as the rail corridor is 30.0 to 60.0 metres wide. Natural vegetation is proposed to be retained where practical. The Applicant proposes to clear some existing vegetation in order to widen the trail and to provide site lines for trail users as well as managing noxious or invasive plant species.

[15] The surface is proposed to be compacted aggregate or asphalt to mitigate dust issues.

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

[16] In the Applicant's submission, it states the following economic considerations are relevant to the Application:

- *Development of connected trail networks will encourage trail-based tourism and eco-tourism throughout the Kootenays.*
- *The rail trail provides opportunities for local businesses offering rental services and tours along the trail.*

[17] In the Applicant's submission, they state the following social considerations are relevant to the Application:

- *The Nelson Salmo Great Northern Trail promotes healthy, active and interconnected communities in the Kootenays.*
- *The involvement of the community in the development and management of trail networks through local stewardship efforts helps to foster a sense of pride and a sense of community, as well as build partnerships between local government and the communities they serve.*

- *Trails provide communities with a platform for interaction with other members of the community and people of varying backgrounds.*
- *Activities offered on the rail trail such as walking, bicycling, cross-country skiing etc. are all relatively inexpensive activities, providing accessible recreation opportunities for all members of the community.*
- *The Nelson Salmo Great Northern Trail presents residents of the local communities it serves with a unique opportunity to understand and appreciate the heritage values of the former rail corridor and how it shaped the development of their communities.*

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

- *The Nelson Salmo Great Northern Trail is an important component of the regional parks network as it connects the communities of Nelson, Salmo, Ymir, Hall Siding and Porto Rico to the Cottonwood Lake Regional Park.*

Weighing the factors in priority

[18] The Panel recognizes that although rail lines and trails are both linear corridors, they can affect agricultural operations in very different ways. The issues related to an active or abandoned rail way in proximity to an agricultural property are different from the potential issues of a multi-use trail. The Panel found that the existence of the linear corridor previously used for rail purposes beside Highway 6 and the residential nature of the majority of the adjacent properties in the ALR results in limited negative impact to agriculture.

DECISION

[19] For the reasons given above, the Panel approves the Application to use the former rail right-of-way as a multi-use, motorized and non-motorized recreational trail as part of the Nelson Salmo Great Northern Trail. The approved ALR portion of trail is 4.8 kilometres in length with a trail bed width of 4.5 metres and a trail corridor width of 10.0 metres (buffering space), affecting approximately 4.8 ha of the total 19.4 ha area.

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

- a. Maintaining the existing vegetation as practical on the remainder of the Properties (ie. the area between the Properties' boundary line and the approved 4.5 metre trail bed and 10.0 metre trail corridor) for the purpose of maintaining the existing natural barrier between the trail corridor and the surrounding properties;
- b. The construction of additional appropriate fencing and planting of vegetation for buffering should negative interactions between trail users and adjacent agricultural operations in the ALR arise;
- c. Ongoing maintenance and repair of the trail and associated infrastructure; and
- d. Posting appropriate signage at entry points to the trail informing trail users to stay on trail, etc.

[21] 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.

[22] Panel Chair **Sharon Mielnichuk** concurs with the decision.
Commissioner **Ian Knudsen** concurs with the decision.

[23] Decision recorded as Resolution #275/2016.

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 #275/2016. The decision is effective upon release.



Colin J. Fry, Director of Policy and Planning

July 25, 2016

Date Released

Resolution #275/2016
 Approved Non-Farm Use for a recreational trail:
 4.5 metre trail bed width and 10.0 metre corridor
 width for 4.8 kilometres.

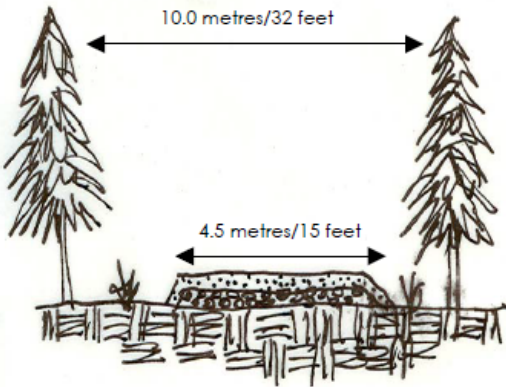
117°16'0"W

117°14'0"W

NELSON SALMO GREAT NORTHERN TRAIL SPECIFICATIONS

- Tread Width: 4.5 metres/15 feet
- Trail Corridor Width: 10 metres/32 feet
- Existing Trail Surface: Gravel
- Backslope: Rounded 2:1 ratio
- Crowned: 3-5%
- Grade: 3% max
- Difficulty Level: Easy

49°14'0"N



DL 1237

DL 1243

*Proposed Recreational Trail
 Total Area = ALR = 19.4 ha*

ALR

DL 273

DL 206A

SALMO

ALR

DL 206

DL 1236

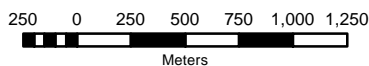
DL 1236

49°12'0"N



ALC Context Map

Map Scale: 1:35,000



ALC File #: 54041

Mapsheet #: 82F/3

Map Produced: Jun 3, 2015

Regional District: Central Kootenay