



**Agricultural Land Commission**  
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June 13, 2016

ALC File: 54578

Rocky Mountain Land Co.  
3421 Toby Creek Road  
Invermere, BC V0A 1K0

Dear Sir/Madam:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #215/2016) 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 send two (2) paper copies or one (1) electronic copy of the final survey plan to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

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 #215/2016)  
Sketch plan

cc: Regional District of East Kootenay (File: P 715 615)

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## **AGRICULTURAL LAND COMMISSION FILE 54578**

### **REASONS FOR DECISION OF THE KOOTENAY PANEL**

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

**Applicants:**

**Amanda Lee Jopp  
Blaine Mitchell Jopp  
(the “Applicants”)**

**Agent:**

**Rocky Mountain Land Co.  
(the “Agent”)**

**Application before the Kootenay Regional Panel:**

**Sharon Mielnichuk, Panel Chair  
Harvey Bombardier  
Ian Knudsen**

## **THE APPLICATION**

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

Parcel Identifier: 016-457-722

District Lot 9574

(the "Property")

[2] The Property is 63.4 ha in area.

[3] The Property is generally described as being located on Highway 95 in the Spur Valley 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 into two parcels of approximately 3 ha and 60 ha as divided by Highway 95 (the "Proposal"). The Proposal along with supporting documentation is collectively (the "Application").

## **RELEVANT STATUTORY PROVISIONS**

[7] 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.

[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 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

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

### **SITE VISIT**

[11] The Panel, in the circumstances of the Application, did not consider it necessary to conduct a site visit to the Property based on the evidentiary record associated with the Application.

## **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 82K/16 for the mapping units encompassing the Property are approximately 20% (8:4PM – 2:6T); 60% (6:5PT – 4:4P); 15% 6T; and 5% (3P).

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

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 6 - land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

The limiting subclasses associated with the Property are P (stoniness), M (soil moisture deficiency) and T (topographic limitations).

[13] The Panel reviewed the CLI ratings and find that the Property has agricultural capability that is consistent with the surrounding area. The Panel finds that the Property, in its current configuration, has agricultural suitability limitations on the small 3 ha portion severed from the remainder by Highway 95.

[14] The Agent commented as follows: *"the property is split by HWY 95 dissecting the western corner of the Parcel. The western portion of 3ha.+ is not suitable for grazing as the topography is quite dramatic as it falls off toward the west. The soils appear to be of poor quality and as such it does not complement the main property. This proposal will*

*support more intense Agricultural use of the main property as the Owners intention is to build their home on the property and further develop the property and intensify the Farm Usage.”*

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

[15] The Agent did not provide any evidence or rationale regarding economic, cultural and social values that may be pertinent to the Application.

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

[16] The Property is designated as “RR – Rural Resource” in the Steamboat-Jubilee Mountain OCP and as “A-2 – Rural Residential (Country)”; both of which require a minimum parcel size of 8.0 ha, with the exception of when a parcel is divided by an existing highway.

[17] Regional District of East Kootenay (the “RDEK”) Planning Staff recommend the RDEK Board support the Application as, *“The subdivision will have minimal negative impact on the agricultural capability of the proposed remainder and the neighbouring properties due to the local topography and the division of the parcel by the highway.”*

Weighing the factors in priority

[18] The Panel is of the opinion that the Application as proposed will have no negative impact on agriculture on the remainder of the Property due to the topographical features associated with the area of the Property lying west of Highway 95 and the Highway itself.

[19] The Panel put its mind to section 4.3 (b) but no arguments were provided by the Agent.

**DECISION**

[20] For the reasons given above, the Panel approves the Proposal to subdivide the 63.4 ha Property into two parcels of approximately 3 ha and 60 ha as divided by Highway 95.

[21] The Proposal is approved subject to the following conditions:

- a. the subdivision plan 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.

[22] 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.

[23] Panel Chair **Sharon Mielnichuk** concurs with the decision.

Commissioner **Harvey Bombardier** concurs with the decision.

Commissioner **Ian Knudsen** concurs with the decision.

[24] Decision recorded as Resolution #215/2016.

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

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Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #215/2016. The decision is effective upon release.



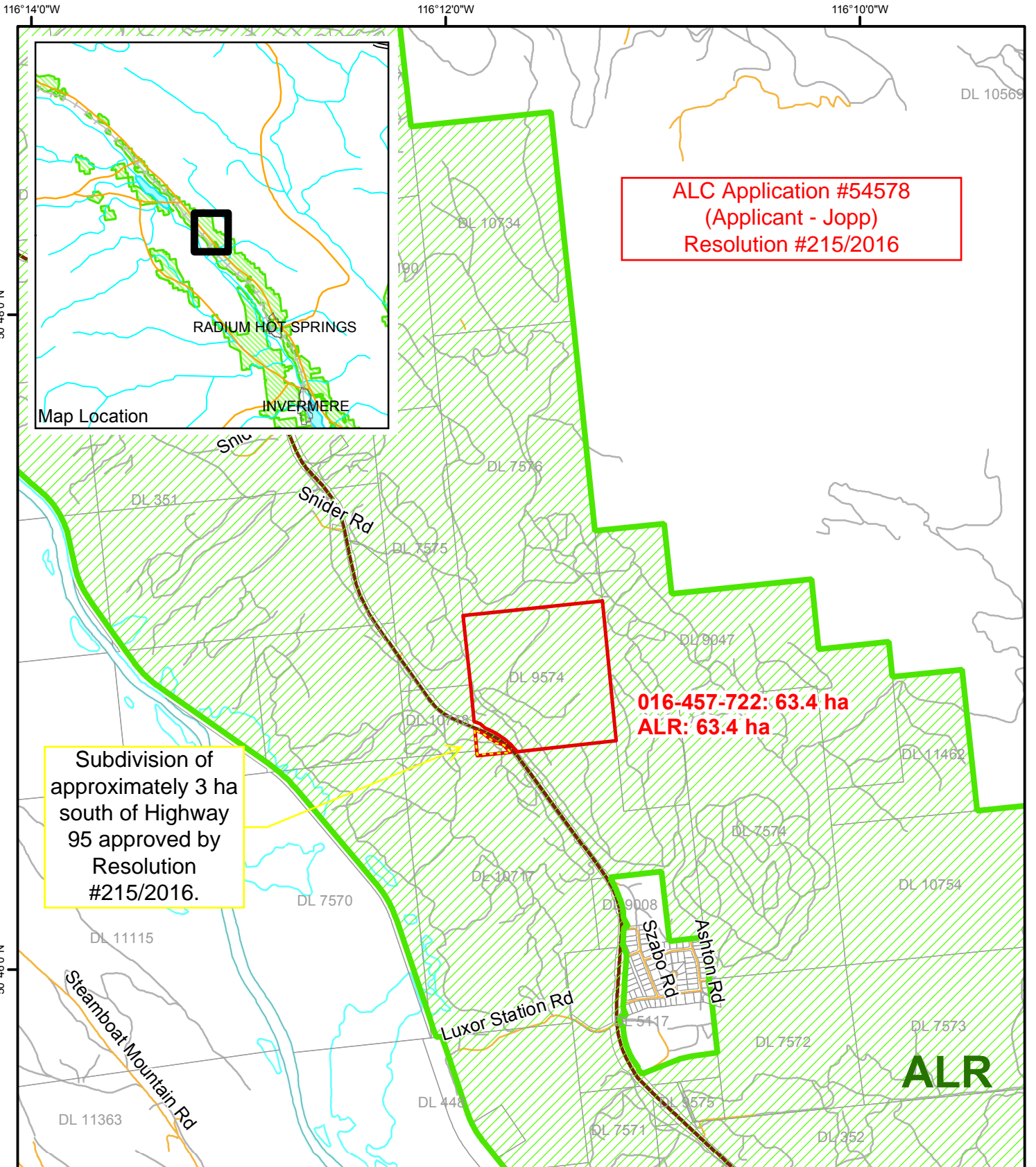
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**Colin J. Fry, Director of Policy and Planning**

**June 13, 2016**

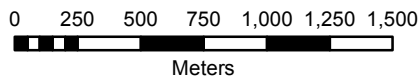
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**Date Released**



**ALC Context Map**

Map Scale: 1:30,000



ALC File #:	54578
Mapsheet #:	82K/16
Map Produced:	Mar 1, 2016
Regional District:	East Kootenay