



June 15, 2016

Agricultural Land Commission
133–4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

ALC File: 54983

WSP Canada Inc.
303 – 535 Victoria Ave North
Cranbrook, BC V1C 6S3

Dear Ms. Horton:

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 #210/2016) 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.

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 #210/2016)
Sketch plan
Delegation to CEO Minutes

cc: Regional District of East Kootenay
Ministry of Forests, Lands and Natural Resource Operations (File: 4403286) - Kootenay
Boundary Region, 1902 Theatre Road, Cranbrook, BC V1C 7G1

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AGRICULTURAL LAND COMMISSION FILE 54983

REASONS FOR DECISION OF THE CHIEF EXECUTIVE OFFICER

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

Applicant:

**Barry Brown-John
Rocky Mountain Land Co.
(the “Applicant”)**

Agent:

**Jean Horton
WSP Canada Inc.
(the “Agent”)**

Application before the Chief Executive Officer:

**Kim Grout
(the “CEO”)**

THE APPLICATION

- [1] The legal description of the property involved in the application is:
Lot 162, Plan 988, DL 376, KD
(the "Property")
- [2] The Property is 75.6 ha in area.
- [3] The Property is generally located on Bear Mountain Road.
- [4] Pursuant to s. 6 of BC Regulation 171/2002 (*Agricultural Land Reserve Use, Subdivision and Procedure Regulation*) (the "Regulation"), the Applicants are applying to use 0.9 ha of Crown land to provide public road access to the land locked parcel Lot 188, Plan 988, DL 4596, Kootenay District (the "Proposal"). The Proposal along with supporting documents is collectively the "Application".

RELEVANT STATUTORY PROVISIONS

- [5] The Application was made pursuant to s. 6 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:
- (a) widening of an existing road right of way;
 - (b) construction of a road within an existing right of way;
 - (c) dedication of a right of way or construction of any of the following:
 - (i) a new or existing road or railway;
 - (ii) a new or existing recreational trail;
 - (iii) a utility corridor use;
 - (iv) a sewer or water line other than for ancillary utility connections;
 - (v) a forest service road under the *Forest Act*;
 - (d) the new use of an existing right of way for a recreational trail.

[6] Pursuant to s. 27 of the *Agricultural Land Commission Act* (the “ALCA”) the CEO may approve some applications:

- 27 (1) The commission, by resolution, may establish criteria under which the following may be approved by the chief executive officer:
 - (a) specified types of applications for exclusion, subdivision or non-farm use;
 - (b) applications with respect to specified regions of British Columbia.
- (2) The commission must put the criteria established under subsection (1) in writing and make them available for inspection during ordinary business hours.
- (3) An application that meets the criteria established under subsection (1) may be approved by the chief executive officer on the terms that the chief executive officer may impose.
- (4) If the chief executive officer considers that the application does not meet the criteria specified under subsection (1) or for any other reason does not wish to approve the application under subsection (3), the application must be referred to the commission for a decision.
- (5) An approval of an application by the chief executive officer under subsection (3) is decision of the commission for the purposes of this Act.
- (6) The chief executive officer may not exercise a power that has been delegated to a local government, a first nation government or an authority by an agreement entered into under section 26.

[7] On June 27, 2011, the Agricultural Land Commission (the “Commission”) delegated decision-making to the CEO by Resolution #016N-2011 (File: 140-60/ALC/CEO/APPL). In accordance with section 27 of the *ALCA* the Commission has specified that the following applications may be decided by the CEO.

Criterion 4

Non-farm use applications made pursuant to section 6 of BC Regulation #171/2002 (ALR Use, Subdivision and Procedure Regulation);

BACKGROUND

- [8] A previous application to the Commission had established the land under application as a 30 metre right of way for a Forest Service Road by Resolution #418/85, with no expiration date.
- [9] The Application is to use the same area as previously authorized under Resolution #428/85, except to use it for public access to lands beyond (Lot 188, Plan 988, DL 4596, Kootenay District), which is outside of the ALR.
- [10] The ALR land proposed for Non-Farm Use on the Property has the improved agricultural capability ratings, as identified on the Canada Land Inventory (CLI) 'Soil Capability Classification for Agriculture' system map sheet 82K/09, for the mapping units encompassing the Application area are Class 5, Class 6, and Class 7.

DECISION

- [11] After reviewing the Application, I am satisfied that the Proposal is consistent with Criterion #4 of Resolution #016N/2011 and approve the Proposal.
- [12] The Proposal is approved subject to the following conditions:
- a. the Right of Way be in substantial compliance with the plan submitted with the Application;
 - b. the registration of the Right of Way plan must be completed within three (3) years from the date of this decision;
- [13] 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.
- [14] Decision recorded as Resolution #210/2016.

A decision of the CEO is a decision of the Commission pursuant to s. 27(5) of the ALCA.



I CERTIFY THAT THIS IS A TRUE RECORD OF THE DECISION

A handwritten signature in black ink, appearing to read "Kim Grout", is written over a horizontal line. The signature is fluid and cursive.

Kim Grout, Chief Executive Officer

June 15, 2016
Date Released