



Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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www.alc.gov.bc.ca

December 16, 2016

ALC File: 55698

FortisBC Energy Inc.
16705 Fraser Highway
Surrey, BC V4N 0E8

Attention: Patty Roney

Dear Ms. Roney:

Re: Application for Transportation, Utility or Recreational Trail Use within the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #435/2016) as it relates to the above noted application. As agent, it is your responsibility to notify the applicant accordingly. A sketch plan depicting the decision is also attached.

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

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Christopher Wilcott, RPP, MCIP
Land Use Planner

Enclosures: Reasons for Decision (Resolution #435/2016)
Sketch Plan
Delegation to CEO Minutes

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AGRICULTURAL LAND COMMISSION FILE 55698

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: Christopher Edwards
(the “Applicant”)

Agent: FortisBC Energy 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:

Parcel Identifier: 004-768-612

Lot B, Section 31, Township 4, and of Block 29, Comox District, Plan 12474

except that part in Plan VIP 59641 and SRW Plan VIP 66333

(the "Property")

[2] The Property is 32.7 ha in area.

[3] The Property has the civic address Lot B Deerfield Road, Campbell River.

[4] Pursuant to s. 6 of BC Regulation 171/2002 Agricultural Land Reserve Use, Subdivision and Procedure Regulation (the "Regulation"), the Agent is applying to subdivide a 2,100 m² (70 m by 30 m) portion of the Property, by way of a Section 114 Statutory Right of Way Plan, for the purpose of developing a natural gas transmission station (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] The CEO reviewed the following previous application involving the Property:

Application ID: 18830
Legacy File: 23037
(West Coast Energy Inc., 1989)

To construct a right-of-way for a natural gas pipeline originating in the Greater Vancouver Regional District through the Sunshine Coast, to Vancouver Island. The right-of-way's alignment will follow B.C. Hydro's transmission lines. The Commission reviewed the proposal and approved it subject to conditions. The application was approved by Resolution #252/89.

[9] The CEO reviewed one relevant application:

Application ID: 42646
Legacy File: 36441
(New Town Planning Services,
2006)

To lease a 1 ha portion of a 2 ha property to construct a new electrical substation for the community of Naramata. The Commission noted the need for the new substation and Fortis' commitment to decommission the existing substation site while also giving the adjacent landowner the first option to purchase and to consolidate with their farm. However, the Commission noted that the selected site has prime agricultural capability and the proposed use of the property would negatively impact agriculture. The Commission was willing to consider an alternative site. The application was refused by Resolution #61/2006.

A revised proposal was submitted through a request for reconsideration. The new proposal on a different property proposed to lease a 1.3 ha portion of an 8.8 ha property to construct a new electrical substation for the community of Naramata. The Commission noted that the property is limited by rockiness and not in agricultural

production. The application was approved by Resolution 176/2006.

Note: Subsequent to the approval noted above, Fortis BC determined that a different site was more suitable and subdivided the leased portion of the property by way of a Section 114 Statutory Right of Way Plan and sold it as a residential parcel.

DECISION

[10] After reviewing the Application, I am satisfied that the Proposal is consistent with Criterion #4 of Resolution #016N/2011 and approves the Proposal.

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

- a. the preparation of a right-of-way plan to delineate the area for utility uses per the drawing submitted with the Application;
- b. the right-of-way plan be in substantial compliance with the plan submitted with the Application;
- c. submission of two (2) paper copies or one (1) electronic copy of the final survey plan to the Commission;
- d. the right-of-way plan being completed within three (3) years from the date of release of this decision;
- e. the construction of a fence for the purpose of enclosing the site. Photographic proof that the fence has been constructed is required prior to the Commission's authorization for deposit of the right-of-way plan to the Registrar of Land Titles; and
- f. the registration of a covenant for the purpose of restricting residential development on the right-of-way and to require the land be consolidated back into the parent parcel should the Applicant no longer require the land for utility purposes.

[12] When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the right of way plan.



[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 #435/2016.

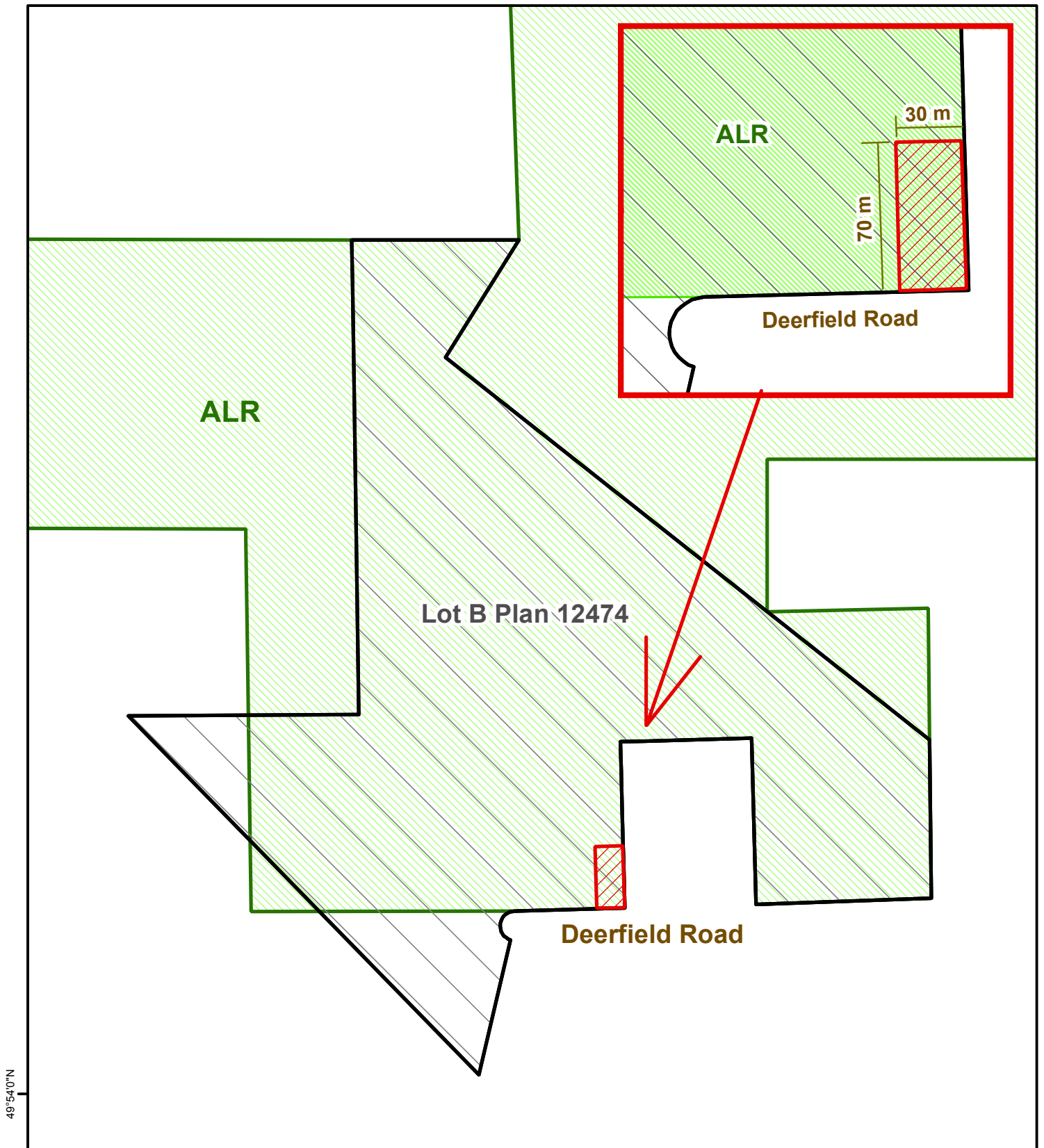
A decision of the CEO is a decision of the Commission pursuant to s. 27(5) of the *ALCA*.

CERTIFICATION OF DECISION



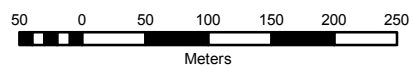
Kim Grout, Chief Executive Officer

December 16, 2016
Date Released



ALC Context Map

Map Scale: 1:6,000



ALC File #:	55698
Mapsheet #:	92F.094
Map Produced:	December 15, 2016
Regional District:	Strathcona



PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Executive Committee of the Provincial Agricultural Land Commission on June 27, 2011 at Burnaby, BC.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Roger Mayer	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jim Collins	Commissioner

COMMISSION STAFF PRESENT:

Shaundehi Runka	Policy Planner
Brian Underhill	Executive Director
Colin Fry	Executive Director

FILE: 135-45/ALC/CEO/APPL

ISSUE: To amend the criteria for delegation of decision-making to the CEO by adding the following as Criterion 14 to the Criteria for Delegation of Decision-Making to the CEO that was approved by the Commission by Resolution #008N/2011 on January 26, 2011.

PROPOSED CRITERION 14:

14. Exclusion, subdivision, non-farm use and inclusion applications that are not consistent with any of the existing approved criteria (Criteria 1 - 13) but nonetheless are minor in nature, and in the opinion of the CEO the interests of the Commission would be unaffected by an approval of the application.

EXISTING CRITERIA FOR DELEGATION OF DECISION-MAKING TO THE CEO

1. Exclusion, subdivision, non-farm use and inclusion applications that fulfill a requirement of the Commission contained in a previous decision made by resolution;

2. Exclusion, subdivision, non-farm use and inclusion applications that are consistent with a specific planning decision of the Commission made by resolution (e.g.: Peace River-Fort St. John Comprehensive Development Plan);

(Clarification: This criterion for decision-making does not include general comments or endorsement of the Commission regarding Official Community Plans, Zoning Bylaws or their respective amendments.)

3. Non-farm use applications made necessary by minor deviations from the permitted uses identified in sections 2 and 3 of BC Regulation #171/2002 (ALR Use, Subdivision and Procedure Regulation);
4. Non-farm use applications made pursuant to section 6 of BC Regulation #171/2002 (ALR Use, Subdivision and Procedure Regulation);
5. Non-farm use applications that involve the replacement of existing electrical transmission infrastructure and oil and gas pipelines located within an existing statutory right of way;
6. Applications that involve the dedication of a statutory right of way for existing electrical transmission infrastructure and oil and gas pipelines where the landowner(s) have no objection to the proposal;
7. Subdivision applications for boundary adjustments that are consistent with the intent of section 10 BC Regulation #171/2002 (ALR Use, Subdivision and Procedure Regulation) but cannot be approved by the local approving officer due to the limitations on parcel size and on the number of parcels involved in the proposed boundary line adjustment;

(Clarification: This criterion for decision-making does not include permission for the CEO to consider boundary adjustment subdivisions of non-contiguous parcels.)

8. Requests for minor variations of conditions of approval imposed by the Commission by resolution in exclusion, subdivision, non-farm use and inclusion applications provided the minor variations are consistent with the intent of the Commission's original decision;
9. Non-farm use applications involving proposals to reconstruct an existing golf course within the same area footprint, to construct or reconstruct golf course buildings, structures and amenities within the footprint of the existing golf course. Delegation only applies to golf courses that were constructed prior to the introduction of the ALR, constructed as a permitted use in the ALR or were subsequently approved for non-farm use in the ALR;
10. Subdivision applications involving the disposition (sale) of Crown land where Crown parcels are divided by existing rights of way;

11. Non-farm use applications for compressor stations for oil and gas development that exceed 450 m²; 5th or greater stand alone well sites (including associated roads, temporary camps, sumps, borrow pits etc) and well site applications where the area exceeds 7 ha. All other oil and gas-related applications such as processing facilities, drilling and production waste handling, produced water and gas handling; commercial waste handling and disposal facilities will continue to be referred directly to the panel for decision making; and
12. Subdivision applications that are consistent with the provisions and intent of the Commission's *Homesite Severance Policy*.
13. Non-farm use applications that involve the placement of not more than 1,000 m³ of fill on a property.

IT WAS

MOVED BY: Commissioner Bert Miles
SECONDED BY: Commissioner Jennifer Dyson

THAT the Commission add Criterion 14 to the Criteria for Delegation of Decision-Making to the CEO that was approved by the Commission on January 26, 2011 by Resolution #008N/2011;

AND THAT the CEO is not compelled to approve an application. If the CEO is not prepared to approve an application, the application must be referred to the appropriate regional panel for a decision;

AND THAT as to the delegation criteria, where the Chair and the CEO positions are occupied by the same individual, the Chair must not participate in deciding an application if as CEO, he/she chose not to approve an application under the delegated authority specified herein;

AND THAT as to the delegation criteria, where the Chair and the CEO positions are occupied by the same individual, the CEO must not exercise decision-making authority specified herein if he/she, as CEO, has participated in an enforcement action involving a person(s) and/or a property that is the subject of an application meeting the delegation criteria;

AND THAT the CEO may exercise decision-making in accordance with the established criteria effective this date; and

AND THAT the CEO is required to provide to the Executive Committee a semi-annual report regarding decisions made pursuant to the established criteria.

AND FINALLY THAT the complete list of criteria will now read:

1. Exclusion, subdivision, non-farm use and inclusion applications that fulfill a requirement of the Commission contained in a previous decision made by resolution;
2. Exclusion, subdivision, non-farm use and inclusion applications that are consistent with a specific planning decision of the Commission made by resolution (e.g.: Peace River-Fort St. John Comprehensive Development Plan);

(Clarification: This criterion for decision-making does not include general comments or endorsement of the Commission regarding Official Community Plans, Zoning Bylaws or their respective amendments.)

3. Non-farm use applications made necessary by minor deviations from the permitted uses identified in sections 2 and 3 of BC Regulation #171/2002 (ALR Use, Subdivision and Procedure Regulation);
4. Non-farm use applications made pursuant to section 6 of BC Regulation #171/2002 (ALR Use, Subdivision and Procedure Regulation);
5. Non-farm use applications that involve the replacement of existing electrical transmission infrastructure and oil and gas pipelines located within an existing statutory right of way;
6. Applications that involve the dedication of a statutory right of way for existing electrical transmission infrastructure and oil and gas pipelines where the landowner(s) have no objection to the proposal;
7. Subdivision applications for boundary adjustments that are consistent with the intent of section 10 BC Regulation #171/2002 (ALR Use, Subdivision and Procedure Regulation) but cannot be approved by the local approving officer due to the limitations on parcel size and on the number of parcels involved in the proposed boundary line adjustment;

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8. Requests for minor variations of conditions of approval imposed by the Commission by resolution in exclusion, subdivision, non-farm use and inclusion applications provided the minor variations are consistent with the intent of the Commission's original decision;
9. Non-farm use applications involving proposals to reconstruct an existing golf course within the same area footprint, to construct or reconstruct golf course buildings, structures and amenities within the footprint of the existing golf course. Delegation only applies to golf courses that were constructed prior to the introduction of the ALR, constructed as a permitted use in the ALR or were subsequently approved for non-farm use in the ALR;

10. Subdivision applications involving the disposition (sale) of Crown land where Crown parcels are divided by existing rights of way;
11. Non-farm use applications for compressor stations for oil and gas development that exceed 450 m²; 5th or greater stand alone well sites (including associated roads, temporary camps, sumps, borrow pits etc) and well site applications where the area exceeds 7 ha. All other oil and gas-related applications such as processing facilities, drilling and production waste handling, produced water and gas handling; commercial waste handling and disposal facilities will continue to be referred directly to the panel for decision making; and
12. Subdivision applications that are consistent with the provisions and intent of the Commission's *Homesite Severance Policy*.
13. Non-farm use applications that involve the placement of not more than 1,000 m³ of fill on a property.
14. Exclusion, subdivision, non-farm use and inclusion applications that are not consistent with any of the existing approved criteria (Criteria 1 - 13) but nonetheless are minor in nature, and in the opinion of the CEO the interests of the Commission would be unaffected by an approval of the application.

CARRIED
RESOLUTION #016N/2011

135-45/ALC/CEO/APPL