March 9, 2017   ALC File: 56162

Paul Mclean
Tough Country Communications Ltd
949 Waterton Avenue
Pincher Creek, Alberta T0K 1W0

Dear Paul McLean:

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 #56/2017) 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 Riccardo Peggi at
(Riccardo.Peggi@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Riccardo Peggi, Land Use Planner

Enclosures: Reasons for Decision (Resolution #56/2017)
                Sketch plan

56162d1

AGRICULTURAL LAND COMMISSION FILE 56162

REASONS FOR DECISION OFTHE CHIEF EXECUTIVE OFFICER

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

Applicant: **The Crown in Right of British Columbia (the "Applicant")**

Agent: **Paul Mclean, Tough Country Communications Ltd (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:

Property A:

Parcel Identifier: 023-352-507

Lot 2, Block 14, Lot 132, Kootenay District Plan 1181, Except Part Included In

Plan 7682

Area: 24.3 ha

Property B:

Parcel Identifier: 023-352-515

Lot 3, Block 14, Lot 132, Kootenay District Plan 1181

Area: 4.0 ha

(collectively the "Properties")

[2]   The Property is generally located south of Jaffray Baynes Lake Road in Baynes Lake.

[3]   Pursuant to s. 6 of BC Regulation 171/2002 (*Agricultural Land Reserve Use, Subdivision and Procedure Regulation*) (the "Regulation"), the Applicants are applying to install a communication tower in a 64 m² compound which will be serviced by a 420 metre long utility line. The utility line is proposed to be buried at a depth of 3 metres in a 0.3 metre wide trench that will be back filled with native soils from the excavation. A total of 0.046 ha of land will be affected (the "Proposal"). The Proposal along with supporting documents is collectively the "Application".

RELEVANT STATUTORY PROVISIONS

[4]   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.

[5] 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.

[6] 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);

DECISION

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

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

a. the communications tower and utility line be in substantial compliance with the plan submitted with the Application; and

b. topsoil removed to dig the trench for the utility line must be salvaged and backfilled.

[9] 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.

[10] Decision recorded as Resolution #56/2017 and is released on March 9, 2017.

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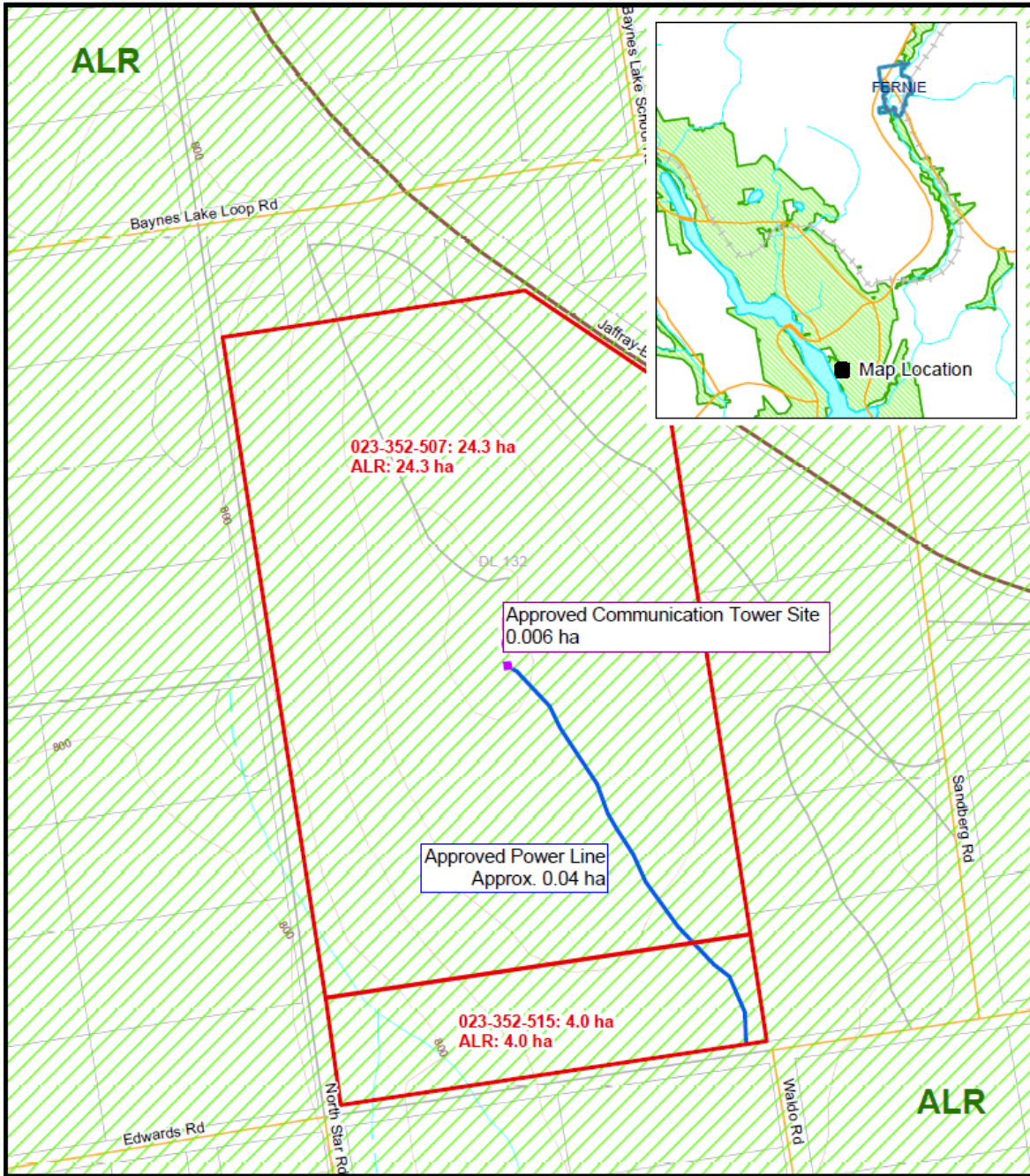
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CERTIFICATION OF DECISION

Kim Grout, Chief Executive Officer

ALR

Baynes Lake Loop Rd

Jaffray

023-352-507: 24.3 ha
ALR: 24.3 ha

DL 132

Approved Communication Tower Site
0.006 ha

Approved Power Line
Approx. 0.04 ha

Sandberg Rd

023-352-515: 4.0 ha
ALR: 4.0 ha

North Star Rd

Edwards Rd

Waldo Rd

ALR

FERNIE

Map Location

—— Conditionally approved power line

■ Conditionally approved communication tower

—— Property outline