



**Agricultural Land Commission**  
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January 16, 2020

ALC File: 58712

**Thomas Dunkley**  
**McElhanney Associates Land Surveying Ltd.**  
**DELIVERED ELECTRONICALLY**

Dear Thomas Dunkley:

**Re: Application 58712 to construct a road in the Agricultural Land Reserve**

Please find attached the Reasons for Decision of the Okanagan Panel for the above noted application (Resolution #26/2020). As agent, it is your responsibility to notify the applicant(s) accordingly.

**Review of Decisions by the Chair**

Under section 33.1 of the *Agricultural Land Commission Act (ALCA)*, the Chair of the Agricultural Land Commission (the “Commission”) has 60 days to review this decision and determine if it should be reconsidered by the Executive Committee in accordance with the ALCA. You will be notified in writing if the Chair directs the reconsideration of this decision. The Commission therefore advises that you consider this 60 day review period prior to acting upon this decision.

**Request for Reconsideration of a Decision**

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision’s release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

Please direct further correspondence with respect to this application to  
ALC.Okanagan@gov.bc.ca.

Yours truly,

A handwritten signature in black ink that reads 'Celeste'. The signature is written in a cursive, flowing style.

Celeste Barlow, Land Use Planner

Enclosures:   Reasons for Decision (Resolution #26/2020)  
                  Schedule A: The Properties  
                  Schedule B: Decision Map  
                  Schedule C: Trans-Canada High No.1 Ford Road to Tappen Valley Acquisition Plan

cc: Columbia Shuswap Regional District



**AGRICULTURAL LAND COMMISSION FILE 58712**  
**REASONS FOR DECISION OF THE OKANAGAN PANEL**

**Transportation Application Submitted Under s. 6 of the *Agricultural Land Reserve General Regulation***

**Applicant:** BC Ministry of Transportation and Infrastructure (TRAN)

**Agent:** Thomas Dunkley, McElhanney Associates Land  
Surveying Ltd.

**Properties:** See Schedule A: The Properties

**Panel:** Gerald Zimmermann, Okanagan Panel Chair  
Jim Johnson

## **OVERVIEW**

- [1] The Properties are located partially within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA).
- [2] Pursuant to s. 6 of the Agricultural Land Reserve General Regulation (the "Regulation), the Applicant is applying to the Agricultural Land Commission (the "Commission") to widen and re-align a 4.2 km section of Highway 1 near Tappen, BC. The total ALR area impacted by the project is approximately 14.4 ha (the "Proposal"). The rationale for the Proposal is to improve highway mobility, traffic operation and safety, and to better accommodate slow-moving farm equipment or vehicles.
- [3] The first issue the Panel considered is whether the Proposal could be accommodated on lands outside of the ALR.
- [4] The second issue the Panel considered is whether the Proposal would impact the agricultural utility of the Properties.
- [5] The Proposal was considered in the context of the purposes of the Commission set out in s. 6 of the ALCA. These purposes are:
- (a) to preserve the agricultural land reserve;
  - (b) to encourage farming of land within the agricultural land reserve 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 land within the agricultural land reserve and uses compatible with agriculture in their plans, bylaws and policies.

## **EVIDENTIARY RECORD**

- [6] The Proposal along with related documentation from the Applicant, Agent, local government, and Commission is collectively referred to as the "Application". All documentation in the Application was disclosed to the Agent in advance of this decision.

[7] On August 20, 2019, the Panel conducted a meeting with the Agent and Applicant representatives at McElhanney Associates Land Surveying Ltd. in Kamloops, BC (the “Applicant Meeting”). An applicant meeting report was prepared and was certified as accurately reflecting the observations and discussions of the Applicant Meeting by the Agent on September 10, 2019 (the “Applicant Meeting Report”).

## **EVIDENCE AND FINDINGS**

### **Issue 1: Whether the Proposal could be accommodated on lands outside of the ALR**

[8] The Application states that the Proposal could not be accommodated outside of the ALR as the section of Highway 1 proposed for widening and re-alignment is surrounded by ALR land. The chosen highway alignment is based on the Applicant’s best engineering practices which include redesigning dangerous access points and creating new frontage roads that parallel Highway 1. The Application states that these modifications will improve safety for property owner(s) when accessing the highway with slow-moving farm equipment or vehicles. The Panel is satisfied with the Applicant’s rationale for locating the Proposal as proposed.

### **Issue 2: Whether the Proposal would impact the agricultural utility of the Properties**

[9] The Panel considered the impacts of the highway alignment on the Properties that have agricultural operations and the mitigation measures the Applicant has taken. Nine of the eighteen Properties are actively farmed or used for grazing. The Panel acknowledges that the Applicant has undertaken extensive consultation with each property owner(s) with land impacted by the Proposal. Based on discussions at the Applicant Meeting, it is the Panel’s understanding that although there have been no finalized contracts, consultation had been underway for over a year and that the Applicants will soon be drafting purchase agreements. These agreements include compensation or replacement of residences, storage buildings or infrastructure impacted by the Proposal. In addition, the Application states that the Applicant has rigorous standards for handling soils in the Proposal area which require engaging a

qualified professional with expertise in topsoil management, invasive plant management, and noxious weed management. The Panel is satisfied that with continued discussion between the Applicant and the property owner(s), agreements can be reached that mitigate the impact on the surrounding agricultural operations, and that overall the Proposal will not negatively impact the agricultural utility of the Properties.

[10] The Panel notes that the Proposal may impact residences on the Properties. The Panel reminds the Applicant that the replacement of residences on the Properties must be consistent with s. 20.1(1) of the ALCA and may require submission of a Non-Adhering Residential Use application in some circumstances.

## **DECISION**

[11] For the reasons given above, the Panel approves the Proposal to widen and re-align a 4.2 km section of Highway 1 near Tappen, BC subject to the following conditions:

### **Pre-Construction Phase:**

- a. The Proposal be conducted in substantial compliance with Schedule B: Decision Map and Schedule C: Trans-Canada High No.1 Ford Road to Tappen Valley Acquisition Plan;
- b. the construction be in substantial compliance with Schedule B: Decision Map and Schedule C: Trans-Canada High No.1 Ford Road to Tappen Valley Acquisition Plan;
- c. the construction be completed five years from the date of release of this decision (January 16, 2020);
- d. any soil disturbance on the Properties must be overseen by a qualified registered professional, with expertise in soils and land reclamation. The Commission must be notified of the qualified registered professional prior to commencement of the project;
- e. should the qualified registered professional listed on the application be replaced by any other qualified registered professional, the Commission must be immediately notified and review and approve the change. The new qualified registered professional must conduct all activities in substantial compliance with the information submitted with the Application and conditions set out in this decision;

**Construction Phase:**

- f. in consultation with the identified qualified registered professional, topsoil within the project footprint must be salvaged and relocated either within the affected parcel or in compliance with the ALCA and ALR Regulations;
- g. the Proposal is to be carried out in a manner that minimizes disturbance to the Properties; any disturbance resulting from the Proposal must be corrected to the pre-disturbed agricultural capability without the introduction of new limiting subclasses;
- h. conduct the project in the manner identified within the Ministry of Transportation and Infrastructure Standard Specification 165 for highway construction and Standard Specification 751 regarding topsoil and landscape grading; and

**Post-Construction Phase:**

- i. a final report, prepared by the identified qualified registered professional, must be submitted to the ALC upon completion of the project. The final report must include, but is not limited to, the following:
  - 1. A written description of the completed project;
  - 2. Description of any infrastructure replacement (ie. farm buildings, fencing, etc.); and
  - 3. Confirmation that any disturbance to the Properties resulting from the Proposal is reclaimed to the pre-disturbance agricultural capability.

[12] 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.

[13] These are the unanimous reasons of the Panel.

[14] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the ALCA.



[15] Resolution #26/2020

Released on January 16, 2020

A handwritten signature in black ink, appearing to read 'G. Zimmermann', is written over the printed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

**Gerald Zimmermann, Panel Chair**

On behalf of the Okanagan Panel



## AGRICULTURAL LAND COMMISSION FILE 58712

### SCHEDULE A: THE PROPERTIES

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

Property	Parcel Identifier	Legal Description	Property Size (ha)	Area of ALR Affected (ha)
Property 1	006-123-449	The North West 1/4 Of Legal Subdivision 13 Section 22 Township 21 Range 10 West Of The 6th Meridian Kamloops Division Yale District Shown On A Plan Of Survey Of The North East 1/4 Of The Said Township Dated At Ottawa On The 9th Of March, 1917 Except Plans H716, KAP64787 And KAP72795	3.9	0.7
Property 2	028-403-169	Lot 1 Section 21 Township 21 Range 10 West Of The 6th Meridian Kamloops Division Yale District Plan EPP5548	0.5	0.03
Property 3	026-824-647	Lot 1 Sections 21 And 22 Township 21 Range 10 West Of The 6th Meridian Kamloops Division Yale District Plan KAP82055	9.4 (3.4 ha ALR)	0.3
Property 4	003-659-861	Lot 2 Section 21 Township 21 Range 10 West Of The 6TH Meridian Kamloops Division Yale District Pan 31527 Except Plan KAP73027	4.6 (3.7 ha ALR)	0.7
Property 5	012-139-262	Lot 2 Section 21 Township 21 Range 10 West Of The 6th Meridian Kamloops Division Yale District Plan 670 Except Plans 14216 And H716	3.5 (2.5 ha ALR)	0.5
Property 6	009-052-691	Lot 1 Section 21 Township 21 Range 10 West Of The 6TH	0.1	0.02





## ALC File 56624 Schedule A: The Properties

		Meridian Kamloops Division Yale District Plan 14216 Except Plan KAP78373		
Property 7	012-139-254	Lot 1 Section 21 Township 21 Range 10 West of the 6th Meridian Kamloops Division Yale District Plan 670 Except Plan H716	3.8 (2.8 ha ALR)	0.4
Property 8	004-955-358	That Part Of The West 1/2 Of The North East 1/4 Section 21 Shown On Plan B1802 Township 21 Range 10 West of the 6th Meridian Kamloops Division Yale District Except Plan H716	4.4	0.3
Property 9	004-402-979	Legal Subdivision 8 Of Section 21 Township 21 Range 10 West of the 6th Meridian Kamloops Division Yale District Except Plans H9620 And H716	15.4 (14.4 ha ALR)	1.3
Property 10	025-724-410	Lot 2 Section 21 Township 21 Range 10 West Of The 6th Meridian Kamloops Division Yale District Plan KAP73813	21.7	2.6
Property 11	004-402-898	Legal Subdivision 1 Of Section 21 Township 21 Range 10 West Of The 6th Meridian Kamloops Division Yale District Except Plan H716	16.5	1.0
Property 12	025-724-401	Lot 1 Section 21 Township 21 Range 10 West Of The 6th Meridian Kamloops Division Yale District Plan KAP73813	8.5	2.2
Property 13	014-066-939	Those Parts Of Legal Subdivisions 6, 7, 10, 11, 14, 15 And 16 Of Section 16 Shown On Plan B1093; Township 21 Range 10 West Of The 6th Meridian Kamloops Division Yale District Except Plans 6960, 10109, 33874, H9620 And H445	6.5	0.5
Property 14	003-070-603	Lot 1 Section 16 Township 21 Range 10 West Of The 6th Meridian Kamloops Division Yale District Plan 33874 Except Plan A17616	45.5	3.4
Property 15	009-623-906	Lot A Section 16 Township 21 Range 10 West Of The 6th	0.2	0.07



## ALC File 56624 Schedule A: The Properties

		Meridian Kamloops Division Yale District Plan 10109		
Property 16	005-459-834	That Part Of Fractional North West 1/4 Of Section 9 Shown On Plan B17670 Township 21 Range 10 West Of The 6th Meridian Kamloops Division Yale District	1.3	0.06
Property 17	007-132-565	Lot 2 Section 9 Township 21 Range 10 West Of The 6th Meridian Kamloops Division Yale District Plan 21979 Except Plan H12982	0.9	0.01
Property 18	003-441-636	The Fractional North West 1/4 Of Section 9 Township 21 Range 10 West Of The 6th Meridian Except 1) Part 3.18 Acres More Or Less Shown On A Plan Attached To AFPB Vol 4 FOL 460 No. 5326A 2) That Portion Of Said 1.4 Section Which Lies To The South Of A Line Drawn Due East From A Point On The West Boundary Of Said 1/4 Section Distant 3 Chains And 74 Links Measured Northerly Along Said West Boundary From The South West Corner Of Said ¼ Section Containing By Admeasurement 3 Acres More Or Less 3) Plans 21979 And H445	9.3	0.3

(collectively the “Properties”)