

An Opinion on an Application to Exclude Land from the Agricultural Land Reserve

Client: Alex Baumbartner

Mustang Powder Lodge Inc

Date: October 22, 2018

1.0 Introduction

Alex Baumgartner owns land in the Craigellachie area in the Columbia Shuswap Regional District identified as:

The West 1/2 of the Northwest 1/4 of Section 30 Township 23 Range 5 West of the 6th Meridian, Kamloops Division Yale District, which lies to the North of the Right Bank of Eagle River Except the Right of Way of The Canadian Pacific Railway Company Except Plans R298, Epp26704, Epp31189 and Epp37411

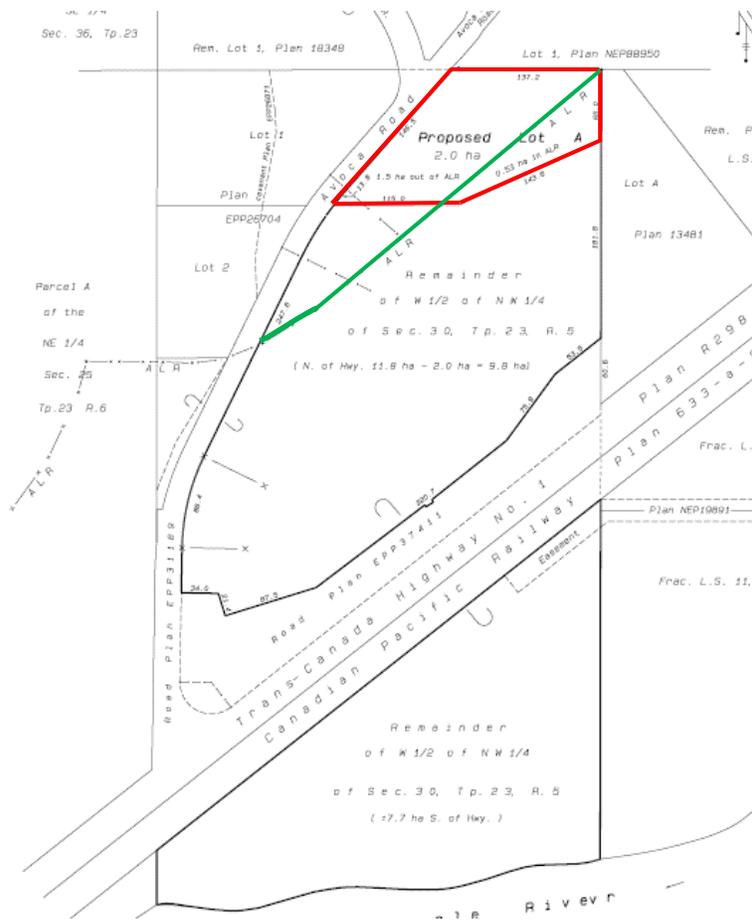
Containing 49.34 acres or 19.97 hectares and located at 5459 Trans Canada Highway.

Mr. Baumgartner has agreed to sell 2.0 hectares of the parcel to Mustang Powder Lodge Inc. for a heliport, staging area and parking lot. The intent of the purchaser is to have the area serve clients to park, await other skiers, and then move up to the mountain chalet by helicopter. The area would also serve as a departure area once the ski touring is completed. Previously, skiers would assemble at the nearby gas station.

It is my understanding that the area was selected because it is close to the highway and at the base of the mountains.

The surveyors plan is shown in Figure 1.

Figure 1: Plan of Area for Exclusion



An Aerial View of the Property is shown in Figure 2.

Figure 2: Aerial View of Proposed Exclusion



2.0 Qualifications

I am a licensed Agrologist and have been a full member of the B.C. Institute of Agrologists since 1971 (except 2001-2002). I am a graduate from the University of British Columbia with a Bachelor of Science degree in 1967, specializing in Agriculture Economics, and a Master of Science degree in 1972, specializing in Farm Management. My thesis for my Master's degree was entitled *Resource Allocation for the Median Peace River Farm in British Columbia*

I have been involved in the work of the Agricultural Land Commission since 1974 when the reserve boundaries were proclaimed. At that time, I was District Agriculturist for the British Columbia Ministry of Agriculture in Prince George. In October 1978 I entered private practice and have provided professional opinions for clients who have sought amendments to the Agricultural Land Reserve boundaries, subdivision within the ALR, or who have needed assistance in compliance with requests from the Commission.

I have also written and spoken of the need to address the unintended consequences of the provincial land use policy.

All agricultural assessments, whether they are for feasibility or management purposes, start with the soils. Past that point one needs an understanding of plant science, animal science and farm management to properly assess the farming potential of any site. I have demonstrated that understanding throughout my career.

During my years in both public and private practice, Courts and Review Boards have accepted me as an expert regarding farming practices in British Columbia. Consequently, I feel qualified to provide an assessment of a proposal under the *Agricultural Land Commission Act*. My qualifications and experience allow me to comment on the value of agricultural land and the practices of farming on that land. While not formally trained in

soil science, I have been exposed to the principles of that discipline through short courses, field trips, and by accompanying pedologists during soils assessments.

Consequently, I believe I am qualified to comment on the two main purposes of the Agricultural Land Commission. That is: to preserve agricultural land, and to encourage farming on agricultural land in collaboration with other communities of interest.

I have been a member of the Environmental Appeal Board and the Forest Appeals Commission. Following these appointments, I have received training in Administrative Law and the Rules of Natural Justice.

Since the inception of the Application Portal, I have been identified in the application as the “Agent.” The reader should note that I do not act as an agent in the normal use of the term. That is, I have no fiduciary responsibility to the applicant.

Section 3 of the Code of Ethics of the BC Institute of Agrologists includes the paragraph:

- ensure that they provide an objective expert opinion and not an opinion that advocates for their client or employer or a particular partisan position.

Given the complexity of the Portal, it is more expeditious for me to enter the data and forward correspondence than to expect the applicants to learn the procedure for what may be a one time process.

I have requested that the Commission use the term “Consultant” rather than “Agent” as it describes the work performed. Given the refusal to amend the title, I am content in the understanding that I am acting in concert with the requirements of my profession whatever term is used.

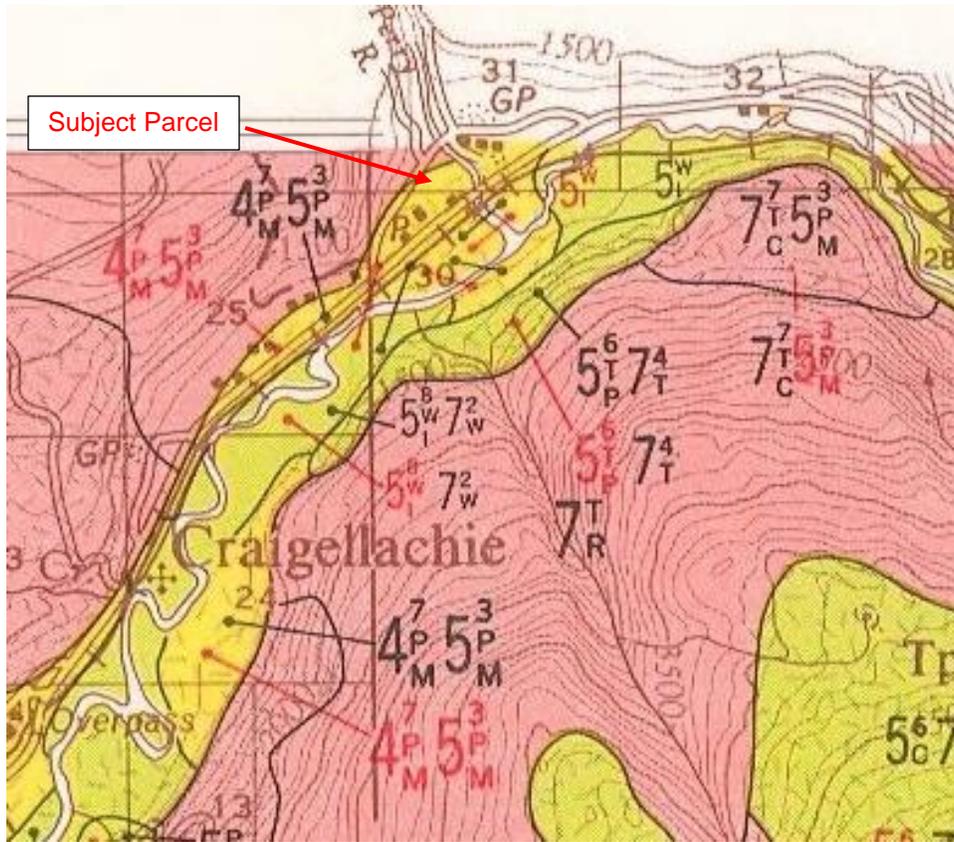
3.0 Arability of Subject Property

The main source of information on the soil capability for the subject parcel is from the Canada Land Inventory maps as shown in Figure 3.

According to the CLI map, the land is rated as 70% Class 4 limited by stoniness and the lack of moisture and 30% Class 5 limited by the same. With irrigation the classes are expected to remain the same. I assume the improved classification comes from the limited moisture holding capacity of the soil. As Figure 1 shows, the subject parcel contains both ALR land (0.53 ha or 1.3 acres) and non ALR land (1.47 ha or 3.6 acres).

As Photographs 1 and 2 show, there is little discernible difference between soils inside or outside of the ALR.

Figure 3: Canada Land Inventory Rating of Subject Area



Photograph 1: Pit outside of the ALR



Photograph 2: Pit Inside the ALR

The meaning of these classifications, according to the ALC webpage is:¹

CLASS 4	LAND IN THIS CLASS HAS LIMITATIONS THAT REQUIRE SPECIAL MANAGEMENT PRACTISES OR SEVERELY RESTRICT THE RANGE OF CROPS, OR BOTH
Land in Class 4 has limitations which make it suitable for only a few crops, or the yield for a wide range of crops is low, or the risk of crop failure is high, or soil conditions are such that special development and management practises are required. The limitations may seriously affect one or more of the following practises: timing and ease of tillage, planting and harvesting, and methods of soil conservation.	
CLASS 5	LAND IN THIS CLASS HAS LIMITATIONS THAT RESTRICT ITS CAPABILITY TO PRODUCING PERENNIAL FORAGE CROPS OR OTHER SPECIALLY ADAPTED CROPS
Land in Class 5 is generally limited to the production of perennial crops or other specially adapted crops. Productivity of these suited crops may be high. Some Class 5 lands can be used for cultivated field crops provided unusually intensive management and/or the use of particularly well-adapted crops. Where adverse climate is the main limitation, a broader range of cultivated field crops may be grown, but periodic crop failure can be expected under average conditions. <u>Note that in areas that are climatically suitable for growing tree fruits and grapes, stoniness and/or topography are not significant limitations.</u>	

Having spent a considerable part of my career in the Central Interior of the province, I am very familiar with Class 4 and 5 soils. There, the limitations were mainly a cooler

¹ <https://www.alc.gov.bc.ca/alc/content/alr-maps/agricultural-land>

climate with shorter growing season while seasonal moisture was usually adequate, at least in the early part of the growing season.

There is, however, a significant difference between capabilities of the soils and productivity.

In his 1973 paper, the late G.G. Runka, P.Ag. specified twice:²

Please remember the agriculture capability classifications take into account the range of crops possible, and not productivity (i.e. yield/acre) of any crop.

If I were to conduct a remediation on this site, I would use a mix of grasses and legumes and heavy fertilization to be spread using a broadcast spreader. I would not use tillage equipment or ground seeders due to the rocky nature of the soils as shown in the photographs. In fact, I have conducted such a reclamation many times on gravel pits. The resultant forages would be consistent with Classes 4 and 5.

However, I would not attempt to farm the land or recommend that it be farmed. That is because the severe stoniness prevents any cultivation with farm equipment. Also, the lack of organic matter in the soil dominated by sand and gravel severely limits the moisture retention. While forages may grow on the site, its productivity are judged to be extremely low.

Consequently, my opinion on the arability of the soils is based on the lack of productivity, not classification. Policy P-10, Criteria for Agricultural Capability Assessments should be ignored.

The document by Gary Runka, P.Ag. is available in the ALC Library³ I am disappointed that the Commission considers only Land Classification as a criterion for exclusion or subdivision and not questions of arability or productivity.

4.0 Summary and Conclusion

Section 6 of the Agricultural Land Commission Act provides the purpose of the Commission as:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest;
- (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.

Section 1 of the act, the Definitions defines “Agricultural Land” as:

² Runka, G.G., P.Ag., *Methodology, Land Capability for Agriculture, B.C. Land Inventory [CLI]*, Soil Survey Division, B.C. Department of Agriculture, Kelowna, B.C., January, 1973, Page 1. (paraphrased on Page 3.

³ https://www.alc.gov.bc.ca/assets/alc/assets/library/agricultural-capability/methodology_land_capability_for_agriculture_bcli_1973.pdf

...land designated as agricultural land under this Act and includes agricultural land under a former Act;

Under this mandate from the legislature, the ALC, must preserve all Agricultural Land, that is land which is in the Agricultural Land Reserve, whether it is capable of production or not. However, if the legislature were adamant about that preservation, there would be no need for sections in the *Agriculture Land Commission Act* that specifies procedures for excluding land from the ALR.

There is another definition of Agricultural Land from Section 15 (1) of the *Act*. That states:

15 (1) For the purposes of section 6, the commission may designate as agricultural land, land, that is suitable for farm use ...

It is my opinion that the land under application for exclusion has no suitability for farm use for the reasons stated above. According to Section 15(1) of the *Act*, it should not have been included in the first place.

The land has never been cleared for production since alienation from the Crown. The removal of the land from the ALR will have no effect on surrounding farms since there are none.

I remain available to discuss my findings in this opinion.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'R.G. Holtby', written in a cursive style. The signature is positioned below the text 'Respectfully submitted,' and extends across the width of the page.

R.G. (Bob) Holtby, P.Ag.

October 22, 2018