



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

January 30, 2014

ALC File: 47403

DELIVERED BY PERSONAL SERVICE

Gordon James Rendle
Robert Roderick Rendle
6341 Old East Road
Victoria, BC V8Y 1R7

Foundation Organics Ltd.
26 Bastion Square
Third Floor – Burnes House
Victoria, BC V8W 1H9

Stanhope Dairy Farm Ltd.
26 Bastion Square
Third Floor – Burnes House
Victoria, BC V8W 1H9

Dear Sirs:

RE: OPERATION OF A COMPOSTING FACILITY

Legal description of the property where the composting facility is sited:

Parcel Identifier: 009-409-653

Section 16, Range 5 East, South Saanich District, Except the Right of Way of the Canadian Northern Pacific Railway, Containing 2.05 Acres More or Less, as shown on Plan 3 RW

Civic Address: 6341 Old East Road, Victoria, BC V8Y 1R7

(Hereinafter referred to as the “Property”)

I am writing to you as Gordon James Rendle and Robert Roderick Rendle are the registered owners of the Property and Foundation Organics Ltd. and Stanhope Dairy Farm Ltd. are the primary operators of the composting facility on the Property. Set out below on page 8 is my **Production Order and Stop Work Order** with respect to the matters set out in items (1) and (2) on that page.

BACKGROUND:

- The Property is located within a designated agricultural land reserve.
- In or about August of 2010 the Agricultural Land Commission (ALC) was informed by Mr. Matthew Mansell (Mr. Mansell) and Dr. John Paul (Dr. Paul) that Stanhope Dairy Farm Ltd. (Stanhope) intended to develop a composting facility on the Property. The ALC was

further informed at this time that the composting facility would be compliant with the *Agricultural Land Commission Act* (the “Act”) and British Columbia Regulation 171/2002 (*Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, the “Regulation”).

- The ALC was provided a copy of a letter dated December 14, 2010 from the Capital Regional District (CRD) to Mr. Mansell that acknowledged “*receipt of your Recycler Licence Application*” and stated that “[o]ne of the requirements of Bylaw 2736 is that the operation receive approval from the host municipality, in this case the District of Central Saanich.” In addition, the letter stated that the CRD will “*be seeking comments on your application from the Agricultural Land Commission as these lands are in the Agricultural Land Reserve.*”
- The ALC was provided a copy of a letter dated December 15, 2010 from the Corporation of the District of Central Saanich (Central Saanich) to Mr. Gordon James Rendle (Mr. G. Rendle) and Mr. Robert Roderick Rendle (Mr. R. Rendle) that acknowledged “*receipt of your recent application for building permit for a new building to be located at 6341 Old East Saanich Road.*” This letter also noted that “*pursuant to the District of Central Saanich Land Use Bylaw no. 1309, 1999 as amended, the production and storage of compost are permitted on land zoned Agricultural (A-1) only for the purpose of applying the compost to land being used in the same farm business.*” Pursuant to Section 3 of the Regulation, a local government may prohibit uses listed within that Section. As a result, any composting facility in Central Saanich may only be operated pursuant to Section 2 of the Regulation.
- On January 18, 2011 Thomas Loo (Mr. Loo), ALC Compliance and Enforcement Officer, sent an email to Mr. Mansell as a follow-up to a January 12, 2011 meeting with Mr. Mansell, Dr. Paul, Mr. Rob Kline (Mr. Kline) of the Ministry of Agriculture and Mr. Ken Neurauter (Mr. Neurauter) of Central Saanich. Mr. Loo provided comments from Mr. Kline regarding the composting operation. Mr. Kline noted that it would be helpful if Stanhope did a Nutrient Management Plan as this would provide an objective analysis of the nutrient flow on the farm.
- On March 29, 2011 Mr. Loo wrote to Mr. G. Rendle and Mr. R. Rendle requesting information about the properties that comprised the farm operation that was indicated to be 120 hectares, of which 80 hectares were actively farmed. Mr. Loo had also requested this information by email to Mr. Mansell and Dr. Paul dated March 2, 2011 and again to Mr. Mansell on March 4, 2011.
- On March 31, 2011 the ALC received a letter from John Alexander (Mr. Alexander) of Cox Taylor Law Corporation, solicitor for Mr. G. Rendle and Mr. R. Rendle. Among other comments, Mr. Alexander stated that “*it is of some concern that the Land Commission would object or interfere with an activity that is clearly a permitted farm use.*” No information with respect to the March 29, 2011 letter was provided.
- On April 11, 2011 Mr. Loo responded to the March 31, 2011 letter from Mr. Alexander and stated that this “*office has been receiving a large number of inquiries and concerns with regards to the proposed composting facility at Stanhope. Given the great interest by the local community the Commission is attempting to gather all the information so that it may practice it’s due diligence to not only ensure the proposed activity is consistent*

within its regulations but so that it may competently respond to those inquiries.” In addition, Mr. Loo noted that “the Commission has not issued any orders or acted in any way that hindered the construction and development activities that have been occurring to date.”

- On May 16, 2011 the ALC wrote to Mr. G. Rendle and Mr. R. Rendle regarding the proposed composting facility. The ALC stated that “[b]ased on the information provided by Stanhope Dairy Farm, Mr. Matt Mansell and Dr. John Paul, the Commission believes the proposed composting facility located at Stanhope Dairy Farm home property is consistent with section 2(m) of BC Regulation 171/2002 (Agricultural Land Reserve Use, Subdivision and Procedure Regulation).” The “home property” is identified as the Property noted above.
- From approximately October 2011 until approximately April 2012, the ALC continued to work with Mr. Mansell and Dr. Paul with respect to the development of the composting facility on the Property, including, but not limited to the importation of fill related to the construction of infrastructure associated with the composting facility. During that time, ALC staff also sought comments from Ministry of Agriculture staff with respect to different attributes of the development and operation of the composting facility.
- The ALC was provided copies of letters to Mr. Mansell from the CRD dated January 30, 2013 and March 28, 2013. These letters were written warnings that “*nuisance odours identified as attributable to the composting activities...have been detected beyond the facility’s property boundary.*”
- The ALC received a letter from Central Saanich on May 8, 2013. Enclosed with this letter was an email dated May 3, 2013 “*from a concerned resident*” regarding activities on the Property.
- On May 15, 2013, the ALC provided a letter to Mr. G. Rendle, Mr. R. Rendle and Mr. Mansell ordering the production of documents related to the land base of the farm and farm and composting operations.
- On June 24, 2013 Mr. Loo sent a letter to Mr. Alexander with respect to the previous letter dated May 15, 2013. This letter stated that “*the deadline as set by the order was June 15, 2013. We still have not received any information to date.*” The letter went on to say that Mr. Alexander “*had indicated a willingness to cooperate with the investigation, yet at the time, I do not feel that we have received your clients’ full cooperation.*” The letter also indicated that a “[f]ailure to comply may result in the Commission taking further actions against your client.”
- The ALC received a package from Mr. Alexander dated July 2, 2013 in response to the letter from the ALC dated May 15, 2013. Mr. Alexander enclosed “*various documents which have been provided by my client and satisfy a number of the requests made by the Commission.*” Mr. Alexander indicated that “*scale information is kept electronically, slips are printed, but the information is not retained thereafter.*” Furthermore, with respect to finished compost volumes, Mr. Alexander stated that “*the tonnage is currently only about 35% of permit tonnage, no further record is kept.*” Enclosed with this letter were the following:

1. *Land Title – Stanhope Farm*
 2. *Various aerial photographs*
 3. *File with documents containing compost processing test data (temperatures etc.) (no volume information)*
 4. *Compost Sampling Analysis Data*
 5. *File containing CRD recycler licence and licence info.*
 6. *Various materials relating to utilization of finished compost material in cattle feed program and resource material Re: agricultural composting*
 7. *A & L Canada Laboratories Inc. Certificate of Analysis*
 8. *Letter of instruction and opinion letter from Dr. John Paul*
 9. *Agrologist Report dated January 4, 2011*
 10. *Transform Certified Process for composting operation*
 11. *Composting Permits – MOE Registration November 15, 2010, CRD June 3, 2011*
 12. *Drawings and site plans*
 13. *Notification to Ministry of Environment under O.M.R.R. September 10, 2010*
 14. *Operation Plan for composting dated December 27, 2010*
 15. *Soil Deposit Notification to ALC dated August 31, 2010*
 16. *Landfill/Food Waste/Compost/Hogg tonnages 2011-2013*
 17. *Manure Sales Summary 2004-2013*
- The ALC received a letter from Central Saanich dated August 27, 2013 that stated “[w]e are concerned that the scale of the composting operation at Stanhope Farm/Foundation Organics in Central Saanich may significantly exceed the capacity of the land base of the operation to beneficially utilize 100% of the compost product.”
 - From approximately September 6, 2013 until September 27, 2014 the ALC received numerous complaints with respect to the Property.
 - On October 25, 2013, I sent a letter to Mr. Alexander with respect to the composting facility on the property. This letter noted that Mr. Alexander’s “July 2, 2013 letter and documents forwarded with said letter have been reviewed by the ALC and only some of the details requested in Mr. Loo’s May 15, 2013 letter have been provided.” As a result of ALC inquires into the land base associated with the Stanhope farm operation and the composting facility on the Property I concluded that the “ALC does not believe the current composting operation is compliant with the Act and Regulation, and considers that the operation constitutes an unauthorized non-farm use of land in the Agricultural Land Reserve.” I advised that I would issue a stop work order if Mr. Alexander’s clients recommenced composting activities on the Property without first obtaining approval of the non-farm use from the ALC.
 - The ALC received a letter, dated November 6, 2013 from Mr. Alexander that included the following:
 1. *Letter from Foundation Organics Ltd. to the CRD dated November 6, 2013;*
 2. *Revised Operations Plan certified by Dr. John Paul [dated November 5, 2013];*
 3. *Documents entitled Rationale for Compost Application Rates for Stanhope Dairy dated November 4, 2013 authored by Dr. John Paul;*
 4. *Occupancy Certificate for compost building.*

In this letter, Mr. Alexander stated that “*Foundation has proposed in its Revised Operation Plan to only produce the volume of compost that can be land applied on the Stanhope property only.*” Furthermore, Mr. Alexander stated that, “[t]o avoid the other issues with respect to utilization of the compost material on lands other than Stanhope Farm, or utilization of it as bedding material, Stanhope Farms has switched back to the use of sawdust as bedding, and will utilize all of the compost for land application on its parcel alone.” Also, Mr. Mansell stated in his enclosed November 6, 2013 letter that “if [CRD] want further response from the DCS or ALC, that [CRD] ask them to respond immediately. We also welcome their involvement in any meeting, as long as it can happen quickly.” The operation outlined in the November 5, 2013 *Revised Operations Plan* included a compost material input capacity of 8,000 tonnes per year and application of composted material to 32 hectares of actively farmed land on the Property at a rate of up to 95 tonnes per hectare annually.

- On November 13, 2013, in response to Mr. Alexander and Mr. Mansell’s requests, Mr. Eamonn Watson (Mr. Watson) of the ALC, along with representatives from Central Saanich and CRD met with Mr. Alexander and Dr. Paul at Central Saanich municipal hall. As follow-up to this meeting, Mr. Watson sent a letter dated November 14, 2013 confirming that the ALC was prepared to review the November 5, 2013 *Revised Operations Plan* collaboratively with Central Saanich and CRD and that the ALC would be seeking additional information from Mr. Alexander’s clients.
- Mr. Watson sent a letter dated November 29, 2013 to Mr. Alexander that provided an overview of the review process of the November 5, 2013 *Revised Operations Plan* and requested “*additional information that you and your clients can provide to continue moving this process forward.*” Specific documents, document types and categories of information required to properly review the November 5, 2013 *Revised Operations Plan* were requested.
- On December 17, 2013 Mr. Ron MacLeod (Mr. MacLeod), ALC Compliance and Enforcement Officer, visited the Property and spoke with Mr. R. Rendle and Mr. G. Rendle. At this time, Mr. R. Rendle stated that there was approximately 3000 m³ of finished compost on the Property.
- The ALC received a letter dated December 18, 2013 from Mr. Alexander which provided a partial response to the information requests contained in Mr. Watson’s November 29, 2013 letter. Mr. Alexander also stated that “[i]n keeping with historical farming practices and understanding that the Rendle family has been farming the land in question for several generations, their knowledge and understanding of their farm operations, and the way in which they create and maintain records reflects a much more organic approach which makes the production of the documents that you have requested in some cases difficult, if not impossible.”
- From approximately December 23, 2013 until January 3, 2014 the ALC received numerous complaints with respect to the Property.
- On January 9, 2014 Mr. MacLeod contacted Ms. Lee Hardy (Ms. Hardy) regarding her observations of the Property. Ms. Hardy stated that since December 17, 2013 she observed a large amount of trucks dumping construction material on the Property. In addition, Mr. MacLeod contacted Mr. David Bond (Mr. Bond). Mr. Bond provided a daily

log from December 18, 2013 until January 9, 2014 of trucks and apparent content entering and leaving the Property, this included material that was observed leaving the Property.

- On January 9, 2014, I sent a letter to Mr. Alexander as a follow up to Mr. Watson's November 29, 2013 letter and in response to Mr. Alexander's December 18, 2013 letter. Enclosed with this letter was *Criteria for Development of a Nutrient Management Plan for Stanhope Dairy Farm and Foundation Organics Ltd. Composting Facility*, dated December 27, 2013 and prepared by Mr. Bruce McTavish, a Professional Agrologist and Registered Professional Biologist retained by the ALC. In this letter, I confirmed that the ALC continued *"to take a cooperative approach to reviewing the information submitted by you and your clients and has remained committed to the process outlined through previous communications."* In addition, I also indicated that *"[i]n accordance with your repeated indications that your clients are willing to work cooperatively with the regulatory agencies involved in this review, I have not issued a stop work order. However, to date your clients continue to operate and limited information has been provided to the ALC."* My letter also requested Mr. Alexander's *"response to this letter, indicating how your clients intend to proceed, by January 16, 2014. The ALC specifically requests that you state the date on which your client will be providing the remaining information outlined in the ALC's November 29, 2013 letter; confirmation that your clients will prepare a nutrient management plan as outlined by Mr. McTavish; and confirmation that your clients intend to voluntarily cease the importation of materials to the Property, save and except required farm inputs that have been processed offsite."*
- The ALC received a letter from Ms. Lindsay R. LeBlanc (Ms. LeBlanc) also of Cox Taylor Law Corporation on January 16, 2014 in response to my January 9, 2014 letter. Ms. LeBlanc stated that her clients would not voluntarily cease importation of materials to the Property and were continuing to accept garden and yard waste for use on the farm. She advised that her clients had retained Dr. John Paul to provide a nutrient management plan in accordance with the *Criteria for Development of a Nutrient Management Plan for Stanhope Dairy Farm and Foundation Organics Ltd. Composting Facility*. With respect to the outstanding request for information, Ms. LeBlanc reiterated that *"the documentation is sparse or non-existent given the nature of our client's farming business"*.
- On January 20, 2014 Mr. MacLeod visited the Property. Mr. MacLeod noted that there was no substantial change in the volume of compost material on the Property. On the same date, Mr. MacLeod also conducted interviews of complainants regarding the Property. Among the interviewees, Mr. Bond provided an additional log of trucks entering and leaving the Property from January 10, 2014 until January 20, 2014, this included material that was observed leaving the Property.

FINDINGS:

- I. Gordon James Rendle, Robert Roderick Rendle, Foundation Organics Ltd. and Stanhope Dairy Farm Ltd. continue to operate a composting facility on the Property;
- II. Despite repeated requests from the ALC, insufficient information has been provided to substantiate the agricultural need for a composting facility of this size and production level;
- III. Despite assurances that Stanhope Dairy Farms Ltd. *"will utilize all of the compost for land application on [the Property] alone"*, material has been observed leaving the Property;

- IV. Despite repeated assertions that Gordon James Rendle, Robert Roderick Rendle, Foundation Organics Ltd. and Stanhope Dairy Farm Ltd. are willing to work cooperatively, you continue to operate a composting facility on the Property that is not consistent with the *Agricultural Land Commission Act* and British Columbia Regulation 171/2002 (*Agricultural Land Reserve Use, Subdivision and Procedure Regulation*) and for which no non-farm use application has been made to the ALC;
- V. The ALC's review of the November 5, 2013 *Revised Operations Plan* is ongoing. Dr. Paul's nutrient management plan is outstanding, as are substantive portions of the ALC's requests for specific information made on November 29, 2013. You have advised through counsel that some of the requested documentation does not exist, but have not provided a detailed response indicating which documentation will be provided in future and which does not exist.
- VI. It appears that the composting operation on the Property is not being run in compliance with the November 5, 2013 *Revised Operations Plan*. Specifically, material has been observed leaving the Property which would not be consistent with the November 5, 2013 *Revised Operations Plan*.
- VII. Currently, as indicated by Robert Roderick Rendle, there is 3000 m³ of finished material on the Property. I find that a stop work order would not impact the current day-to-day operation of the farm as manure, fertilizers and compost high in nitrogen should not currently be applied to the land due to the season and conditions and you have indicated all inputs are for compost production and all composted material are to be land applied on the Property; and
- VIII. With respect to my January 9, 2014 letter, I do not consider Ms. Lindsay R. LeBlanc's January 16, 2014 letter to constitute a satisfactory response to the outstanding information requests and note that it also indicated that you intend to continue receiving material to the Property.

Based on the above, I consider that Gordon James Rendle, Robert Roderick Rendle, Foundation Organics Ltd. and Stanhope Dairy Farm Ltd. have operated or plan to operate a composting facility that is beyond what is permitted pursuant Section 2(2)(m) and/or Section 3(1)(p) of British Columbia Regulation 171/2002 (*Agricultural Land Reserve Use, Subdivision and Procedure Regulation*) on the Property.

LEGISLATIVE CONTEXT

Section 49 of the *Agricultural Land Commission Act* provides as follows:

Inspections

49 (1) For the purposes of administering this Act or of ensuring compliance with this Act, the regulations or an order of the commission, a member of the commission or an official may do one or more of the following:

- ...(d) make any inspection of records, things or activities reasonably related to the purpose of the inspection;

- (e) make copies of any records or documents reasonably related to the purpose of the inspection;
- (f) make an order requiring a person to produce for the member or official a record or thing in the person's possession or control.

Section 50 of the *Agricultural Land Commission Act* provides as follows:

Stop work order

- 50 If an official considers that a person is contravening or is about to contravene a provision of this Act or the regulations, the official, in accordance with the regulations, may order that
- (a) the contravention cease,
 - (b) the contravention cease to the extent specified by the order, or
 - (c) the person not take any action that would result in a contravention.

STOP WORK ORDER:

In my role as ALC Chief Executive Officer, and in accordance with Sections 49 and 50 of the *Agricultural Land Commission Act*, I hereby order Gordon James Rendle, Robert Roderick Rendle, Foundation Organics Ltd. and Stanhope Dairy Farm Ltd. to:

- 1. Immediately cease importation of all spent animal bedding, biosolids, brewery/winery waste, domestic septic tank sludge, fish wastes, food waste, hatchery waste, manure, milk processing waste, plant matter derived from processing plants, poultry carcasses, red-meat waste, untreated/unprocessed wood residuals, whey and yard waste (as defined by Schedule 12 of British Columbia Regulation 18/2002 (*Organic Matter Recycling Regulation*)) and construction debris to the Property. However, you may continue to receive required farm inputs that have been processed offsite, such as unused animal bedding (e.g. sawdust), commercial grade fertilizers and animal feed. For further clarity, spent animal bedding, manure and other such agricultural waste products are not considered to be imported to the Property for the purpose of this Order if created on the Property by Stanhope Dairy Farms Ltd. farm operation; and**
- 2. Provide all information outlined in my January 9, 2014 letter and all information outlined in Mr. Eamonn Watson's November 29, 2013 letter by February 28, 2014.**

Once the Agricultural Land Commission has received, reviewed and commented on the information provided by you and your representatives in response to the inquiries made by me and my staff, consideration may be given to the rescission or variance of this stop work order and the recommencement of certain operations, if warranted.

APPEAL:

Section 55 of the *Agricultural Land Commission Act* provides as follows:

Appeal

- 55 (1) A person who is the subject of a determination, a decision, an order or a penalty under section 50, 52 or 54 (1) may appeal the determination, decision, order or penalty to the commission by serving the commission with a notice of appeal.
- (2) On an appeal under this section, the commission may
- (a) confirm or reverse the determination, decision, order or penalty, or
 - (b) refer the matter, with or without directions, back to the person who made the initial determination, decision or order.
- (3) The commission must give notice of an appeal to any person the commission considers is affected by the appeal.
- (4) [Repealed 2004-45-65.]
- (5) For the purposes of an appeal under this section, sections 11 to 15, 17 to 21, 23 to 25, 31 (1) (a) to (e) and (g), (2) and (3), 32, 33, 35 to 37, 39, 40, 44, 46.3, 48, 50 to 55, 57, 58, 60 (a) and (b) and 61 of the *Administrative Tribunals Act* apply to the commission.

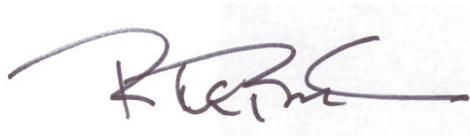
A notice of an appeal of a determination, decision, order or penalty made under Section 55 of the *Agricultural Land Commission Act* must be delivered to the ALC not more than 60 calendar days after the written determination, decision, order or penalty is personally served on the person. It is the responsibility of the appellant to make sure that the notice of appeal is fully and properly completed, including the grounds for the appeal and the relief requested, by any filing deadline.

The ALC's *Practice Directive* relating to appeals of compliance and enforcement orders issued under the *Agricultural Land Commission Act* can be viewed in full on the ALC's website at: http://www.alc.gov.bc.ca/commission/compliance_enforce.htm .

Should you have any questions or require any further clarification please contact Eamonn Watson by email to Eamonn.Watson@gov.bc.ca or by phone at 604.660.7014.

Sincerely,

PROVINCIAL AGRICULTURAL LAND COMMISSION



Richard Bullock, Chief Executive Officer



cc: Russ Smith and Larisa Hutcheson, Capital Regional District – via electronic mail
Patrick Robins, Bruce Greig and David McAllister, District of Central Saanich – via
electronic mail

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