

APPEAL OF THE JANUARY 30, 2014 STOP WORK ORDER
ISSUED BY RICHARD BULLOCK, AGRICULTURAL LAND
COMMISSION CHIEF EXECUTIVE OFFICER

APPELLANTS:

GORDON JAMES RENDLE AND ROBERT RODERICK RENDLE

MAIN FLOOR TRAINING ROOM
DISTRICT OF CENTRAL SAANICH MUNICIPAL HALL
1903 MOUNT NEWTON CROSS ROAD
CENTRAL SAANICH, B.C.
JUNE 19, 2014

Appeal Hearing

BEFORE APPEAL COMMISSIONERS:

Mr. Gord Gillette,
Ms. Jennifer Dyson,
Mr. Jerry Thibeault,

Chair
Member
Member

Ms. L.R. LeBlanc, Appearing for the Appellants;

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1 SAANICH, B.C. JUNE 19, 2014

2 (PROCEEDINGS COMMENCED AT 9:00 A.M.)

3 THE CHAIRPERSON: Okay, can I have everybody's attention,
4 please? I'd like to call this to order.

5 First of all I would just like to thank
6 everybody for taking the time out of their day to be
7 here, I think it is an important matter and I
8 appreciate the time that's being donated to it.

9 First of all I will just introduce that
10 panel up here, this is the Appeal Panel. My name is
11 Gordon Gillette, and I am a commissioner with the
12 Agricultural Land Commission. To my right is
13 Commissioner Jennifer Dyson, and to my left is Jerry
14 Thibeault.

15 The table to my right in the front we have
16 ALC staff, Colin Fry, is the chief tribunal officer
17 and Eamonn Watson is a land use officer. Also sitting
18 at the table is Ludmila Herbst. Ludmila is counsel
19 for the Agricultural Land Commission and I will speak
20 to her role a little bit later as we go along.

21 Also we have the appellants present and
22 they're represented by, where is it, sorry, Lindsay --

23 MS. LEBLANC: Lindsay LeBlanc.

24 THE CHAIRPERSON: -- LeBlanc, sorry. Okay, I didn't have
25 that written down right here. And we also have
26 interveners present who will speak later in the

1 meeting. Representing the District to Central Saanich
2 is Alyssa Bradley; the Capital Regional District will
3 be represented by Susan Beach; Ray Baker and Lee
4 Hardy will be represented by Ray Baker; Michelle Bond
5 and David Bond will be represent by Michelle Bond;
6 Tanner Ridge Community members will be represented by
7 Becky Cotterel. And the Central Saanich Community
8 Members represented but Brenda Jordison.

9 So at the outset I would just like to make
10 a few statements just so that everybody has a clear
11 understanding of the purpose and the reasons why we
12 are here.

13 This is a hearing of an appeal brought
14 under section 55 of the *Agricultural Land Commission*
15 *Act* by Gordon James Rendle and Robert Roderick Rendle
16 against the stop-work order issued by Richard Bullock,
17 Agricultural Land Commission Chief Executive Officer
18 and it was issued on January the 30th, of 2014. A link
19 to the stop-work order and the documents referred to
20 in it were provided to the participants on June the
21 6th, 2014, and those documents were provided to the
22 Appeal Commissioners. The Appeal Commissioners have
23 also received further evidence and submissions in
24 accordance with the directions that they have made.

25 Under section 55 the Appeal Commissioners
26 may:

1 “(a) confirm or reverse the determination,
2 the decision, the order; or
3 (b) Refer the matter, with or without
4 directions, back to the person who made the
5 initial determination, decision, or order.”

6 Members of the public are welcome through
7 the appeal hearing but are asked to be respectful, to
8 observe quietly, to take no pictures, and make no
9 audio or video records.

10 I will at this time introduce Allwest.
11 Allwest will be doing a recording and the transcript
12 of the proceedings that happen here today and an
13 electronic copy of that will be available on the ALC
14 website probably by the end of next week. We will
15 also send an electronic copy of it to all of the
16 direct participants.

17 And I would also ask people to turn off
18 their cell phones, if you don't mind, so that the
19 hearing is not interrupted as we move through the day.

20 As I indicated earlier, presentations will
21 be made by the appellant and by the six interveners,
22 and those will be carrying on mainly throughout the
23 morning and the early afternoon with the intention
24 that this hearing ends by 3:30 this afternoon.
25 Participants are asked, and this should go without
26 saying, to respect others' ability to present their

1 points during their allocated time. The participants
2 should conduct themselves more generally in an orderly
3 and respectful manner. Participants may choose to
4 adopt the submissions of another participant if they
5 agree with them.

6 The counsel of the ALC is in attendance to
7 provide submissions on procedural issues and possibly
8 otherwise as may be of assistance to the appeal panel.
9 ALC's role, and I want to make it clear, is not
10 intended to be adversarial, or to either support or
11 oppose the appellants or any intervener. That is not
12 the role in this hearing.

13 So having said that I would like to open
14 the meeting, formally, and I would like to invite that
15 appellants' opening statements.

16 **OPENING STATEMENT BY MS. LeBLANC:**

17 Thank you. Just so I can summarize how we
18 intend to proceed with our time this morning, I will
19 be doing an opening statement and then going through
20 the documents that were previously provided to the
21 panel and to the interveners. And then we have Mr.
22 Gordon Rendle who's available to give evidence and
23 answers any questions that you may have. And we also
24 have Mr. Mansell who is here and also available.

25 Mr. Tattam will be available at
26 approximately 10 o'clock, I am advised. He had to

1 make some arrangements to make himself available. So
2 I will be trying to finish what I have as far as
3 opening summary by 10 o'clock and then having him
4 provide evidence quickly so that he can get on with
5 rest of his day.

6 This appeal concerns a stop-work order for
7 the property which is located at 6341 Old East Road.
8 It's owned by Gordon and Robert Rod Rendle, and the
9 farm is approximately 90 to 100 acres in size and
10 located in the District of Central Saanich. The stop-
11 work order prevents the appellants from importing a
12 list of farm inputs, and some of the restriction are
13 of no consequence to that appellants at this time.
14 However there are some that are having significant
15 harmful effects on the appellant's ability to engage
16 in their normal farming activities.

17 This appeal seeks removal or modification
18 of the stop-work order to permit importation of the
19 following farm inputs, and there's three of them. The
20 first one is brewery waste, and that is to be used as
21 animal feed on the farm. The second is untreated or
22 unprocessed wood residuals, and that is to be ground
23 for animal bedding for the cows that are located on
24 the property. And the third is yard and garden plant
25 waste to be composed, mixed with manure and used as
26 fertilizer.

1 In our submission there is no evidence to
2 support the continuation of this order that completely
3 restricts these inputs. As it stands, there is
4 nothing which is permitted to be brought on the
5 property, and of course that has completely shut down
6 the farm with respect to some of its main activities
7 including bringing in unprocessed wood residuals for
8 animal bedding, which had been the practice of the
9 farm for a number of years prior to this stop-work
10 order, as well as composting yard and garden waste for
11 fertilizer on the fields.

12 The evidence, which had been tendered to
13 date supports a conclusion that these three inputs are
14 required farm inputs as will the evidence tendered
15 today, and demonstrates that these inputs are
16 consistent with the *Act* and the *Agricultural Land*
17 *Reserve Use Subdivision and Procedure Regulation*. And
18 that is the only consideration which this panel should
19 be looking at today.

20 Turning to the stop-work order, it provided
21 at page 8, the following statement:

22 "Once the Agricultural Land Commission has
23 received, reviewed and commented on the
24 information provided by you and your
25 representatives in response to the inquiries
26 made by me and my staff, consideration maybe

1 given the to rescission or variance of this
2 stop-work order and the recommencement of
3 certain operations if warranted."

4 The very nature of the order permitted
5 future revision or rescission, and it was not intended
6 to be a final order. The appellants have proceeded
7 with the hearing of the appeal as it is their position
8 at this time, with the information that has been
9 provided to the Commission, the restrictions are no
10 longer required and are harming the appellants without
11 just cause.

12 The stop-work order made eight findings
13 that are being appealed, and I have attempted to group
14 those findings together as they relate to similar
15 evidence. And without going into the merits of those
16 findings as at January 30th when the stop-work order
17 was put on, we say that the order cannot continue to
18 be supported by the evidence which is available today,
19 and that is what I will be focusing my time on.

20 So the first three findings they were Roman
21 numeral (ii), (v), and (viii), concerned failure to
22 provide document and/or records. Finding two was
23 insufficient information has been provided to
24 substantiate the agricultural need for composting
25 facility of this side and production level. There is
26 a nutrient management plan outstanding, was finding

1 (v) And finding (viii) was that there wasn't a
2 satisfactory reply to prior requests.

3 The evidence in support of responding to
4 those requests for information is located at the
5 appellant's list of documents. And I will be going
6 through a number of letters which was exchanged from
7 the date of the stop-work order until most recently.

8 And the first document is document number
9 5. I believe it's the big white binder that you have
10 there. And that is a letter, which is dated March 7th,
11 it's from our law firm, the law firm of Cox Taylor,
12 and it was sent as a specific response to a number of
13 requests that were made for information. The way the
14 letter is set out is there's (a), (b), (c), and (d)
15 those were topics and then the specific requests are
16 in the bulleted, the first bulleted point. And the
17 appellants provided documents in response to each of
18 those specific requests.

19 There were approximately two banker boxes
20 of documents provided. They were all listed and
21 numbered and what the appellants did was advised which
22 documents responded to which request in order to
23 assist with the review of those. And it included
24 documents with respect to hay yields, cattle and hay
25 sales. Everything that had been requested was
26 provided with the exception of the nutrient management

1 plan which was in the process of being completed. The
2 appellants also provided a list of documents and asked
3 if there was anything further with respect to that
4 list they would be provided to the Commission.

5 The next document is document 6, and that's
6 simply just an acknowledgment that everything was
7 received March 13th, and that the ALC would endeavor to
8 review the documents and would respond in due course.

9 Document 7, was the letter of March 25th, in
10 which the appellants provided the nutrient management
11 plan which had been requested. And it indicated that
12 the stop-work order was having an impact on their
13 regular farming activities and that that impact
14 increases as they enter into the spring season and
15 they had asked for a timely response in March.

16 Moving to document 8, this was the ALC's
17 response indicating that they were reviewing the
18 nutrient management plan and that it was going to take
19 some time to review everything, and that it wouldn't
20 be reviewed in time with respect to the limitation
21 period for an appeal of that stop-work order.

22 Turning to document 14 next, and as a
23 result of that response the appeal was filed to
24 preserve any rights that the appellants had, and that
25 appeal indicated that the appellants continued to want
26 to work to find a resolution with respect to this

1 matter. The document at tab 14 is a letter from the
2 appellants dated April 2nd. Just providing the
3 Commission with further information concerning the
4 ongoing farm operations. And this was a letter to
5 indicate that they had entered into a new agreement
6 whereby there would be additional heifers located on
7 the property, and that there would be additional needs
8 for bedding, and as such, any restrictions with
9 respect to bringing in wood waste for bedding was
10 going to be harmful and prejudicial.

11 It also indicated that the only alternative
12 choice was to look to bring in bedding that had been
13 processed off-site, and that was at an additional cost
14 to the farm and would be cost-prohibited over time if
15 the stop-work order was not amended.

16 And document 17 was the response with
17 respect to notice of that additional agreement from
18 the ALC whereby additional information was requested,
19 and that information is listed (a) through (f).

20 And on the second page of that letter, it's
21 the first long paragraph at the end of it -- indicated
22 the stop-work order expressly permits reception of
23 required farm inputs that have been processed off-
24 site, such as unused animal bedding sawdust. And the
25 issue with that was the extra cost in having that
26 processed off-site as opposed to processed on-site,

1 which had been done prior to this stop-work order.

2 And at document 18, this was the response
3 which the appellants provided to each of the questions
4 concerning the agreement, and the answers can be
5 located at page 2. I won't go through each of those,
6 as Mr. Rendle is going to be providing evidence with
7 respect to that agreement.

8 And at paragraph 20 was an e-mail from Mr.
9 Alexander on behalf of the appellants. Again,
10 reiterating the request for a modification of the
11 stop-work order to allow those certain processes to
12 continue. And the third paragraph from the bottom, it
13 is stopping an absolute critical and absolutely normal
14 farm activity. It has never been the subject of
15 previous concern, including through reviews by your
16 staff and knowledgeable persons from the Agricultural
17 Ministry. And again, a request was made to have a
18 modification to the stop-work order.

19 And the next document, 21, was a
20 continuation of the dialogue, a further request for
21 information. And just clarification on a number of
22 points. And then moving to tab 22, was a reply on
23 that same day of May 6th, with respect to those
24 requests.

25 And at tab 26, on May 12th, the appellants
26 received a response and the response was simply that

1 there were -- there remained concerns. And at the
2 fourth paragraph down:

3 "However, it is my understanding that a
4 number of different materials, some of which
5 are associated with the composting
6 activities, with a variety of inputs still
7 exist on the property. As a result it is
8 challenging to confirm where unprocessed
9 material entering the property is being
10 directed. The receiving and processing,
11 grinding of wood and yard waste for animal
12 bedding, appears to be inter-related with
13 other materials and uses on the property,
14 and those should all be addressed together."

15 With respect to that statement, Mr. Rendle
16 and Mr. Mansell will be providing evidence that there
17 was a composting operation on the property that was
18 bringing in food waste pursuant to a licence with the
19 CRD. That licence has since been cancelled, and I'll
20 be referring to that document shortly for you.

21 There is also an indication of a concern
22 that there was unprocessed wood and yard waste
23 received on five dates in February. Mr. Mansell will
24 be addressing those particular five dates in his
25 evidence.

26 The document at tab 27 is the letter in

1 response to the prior letter. It was sent on May 16th.
2 And the third paragraph of that is indicating that all
3 material that was in the composting facility, and at
4 that time referring to the food waste composting
5 facility, has been removed and is currently sitting
6 empty. Foundation Organics no longer operates on the
7 property and the building will be turned over to
8 Stanhope Dairy Farm on Wednesday, May 21st, for use in
9 its general farm operations.

10 On Thursday, April 15th, Foundation Organics
11 surrendered its Class 3 composting facility recycler
12 licence issued under licence number -- and it's
13 listed. Foundation Organics' letter to the CRD along
14 with the photographs of the composting facility are
15 attached for your reference.

16 Then later in that letter it indicated
17 that:

18 "The stop-work order is impeding our
19 clients' farm operations in two distinct and
20 discrete ways."

21 And the first one was with respect to the unprocessed
22 food and yard waste, and the second was with respect
23 to the nutrient management plan which clearly
24 indicated that the soil was deficient and does require
25 some fertilizer. And we will be having evidence on
26 that later this morning.

1 Turning to document 28, that letter was
2 just a follow-up for a further request. As we were
3 getting into the spring season, this matter became
4 more and more harmful to the appellants.

5 And document 30 was the Commission's
6 response, which indicated that in the third paragraph:

7 "In general, your letter appears to present
8 a more simplified operation for the most
9 part from that which has been pursued in
10 November, 2013, and still appeared to be
11 predominantly the case in March of 2014.
12 Mr. Bullock has made no determination as to
13 potential rescission or variation of the
14 stop-work order on the basis of your May 16th
15 letter."

16 Then later:

17 "Although you state that some of these uses
18 are not new for Stanhope Dairy Farm,
19 clarification is required in this regard as
20 the previous operation plans apparently now
21 have been substantially changed and it is
22 not clear what the newly proposed operation
23 entails. ALC staff suggest that evidence
24 relevant to a potential rescission or
25 variation of the stop-work order would
26 include details of the totality of the uses

1 now contemplated or proposed on the
2 property, and how your clients intend to
3 conduct these uses moving forward.”

4 And at document 34 was the response
5 provided. And I apologize if this letter is quite
6 faint. It is in mine. But that letter indicated what
7 the proposed uses were with an explanation. And the
8 first one was with respect to brewery waste.

9 “Our client intends to import brewery waste
10 when available for use solely as cattle
11 feed. This material is highly sought after
12 as a feed product and utilization for any
13 other purpose would not be economically
14 feasible. Our client does not have any
15 current intention of importing wine waste.”

16 It then gets into the untreated and
17 unprocessed wood residuals, and indicated that the
18 number of cattle was expected to increase to 350 in
19 October, and indicated how much bedding would be
20 required for the average cow, which was 1.5 yards.
21 And that of course the importation would vary
22 depending on the number of cattle.

23 The cattle do vary on this particular
24 property, and Mr. Rendle will be available to explain
25 that and to give more detail as to why the cattle vary
26 and at what times of year they typically do.

1 And then on the second page was the yard
2 and plant waste, and that was simply for the
3 importation of that input in order to have that mixed
4 with spent animal bedding for use on the property.
5 And then also indicated that the other restrictions
6 were not an issue.

7 And this was essentially where the matter
8 was left, and it appeared as though all attention then
9 turned to the hearing of this appeal, and there has
10 been no further communication, and we're not aware of
11 any outstanding requests with respect to information
12 or documents at this time.

13 The appellants have also demonstrated their
14 ongoing willingness to allow for continuous monitoring
15 of the property with respect to any fertilizer from
16 compost which is put on the fields. They have
17 indicated that they are agreeable to soil tests being
18 taken to see what impact it will have on the farm, and
19 to ensure that the farm is not overly fertilized.

20 The next finding that I wish to turn to,
21 subject to any questions that there may be, is finding
22 number 3, material observed leaving the property.

23 Yes, material has been leaving the
24 property. This is an operating farm, and there will
25 be trucks which are coming and going from the
26 property. The stop-work order provided the following

1 with respect to that finding. On January 9th, 2014,
2 Mr. McLeod contacted Ms. Leigh Hardy regarding her
3 observations on the property. Ms. Hardy stated that
4 since December 17th, 2013, she observed a large number
5 of trucks dumping construction material on the
6 property. In addition, Mr. McLeod contacted Mr. David
7 Bond. Mr. Bond provided a daily log from December 18th
8 until January 9th of trucks and apparent content
9 entering and leaving the property, and this included
10 material that was observed leaving the property.

11 Until the stop-work order of January 30th,
12 there was no prohibition concerning the importation of
13 wood waste. As has been stated, the grinding of wood
14 waste for bedding has been an integral part of this
15 farm, so it's not surprising that there would be
16 trucks bringing that material onto the property.

17 There is no evidence of any material that's
18 left the property in contravention of the *Act* or the
19 *Regulations*.

20 I think it's also important to note that
21 any increase in trucking activities complained about
22 is not a consequence of an increase in activities
23 during this time, but a change in the traffic flow as
24 per a construction agreement and licence which was
25 entered into with the District of Central Saanich,
26 which diverted the flow of traffic from one area to

1 the area where Mr. and Mrs. Bond reside. I won't
2 refer to the document, but that construction agreement
3 is located at Tab 41 of our materials.

4 Mr. Rendle will provide evidence that the
5 appellants have never produced enough compost to
6 adequately fertilize their own property, and even if
7 they were able to do so, the amounts between that used
8 on the farm and that which could have, but did not, is
9 a municipal matter, unless it exceeds 50 percent as
10 provided in section 3 of the regulation.

11 In any event, if the stop-work order was
12 lifted, they would not be able to produce enough
13 compost for their own property needs, and that is
14 undeniably permitted by the Central Saanich bylaws.

15 The next finding I will move on to is not
16 consistent with the Regulations, and that is finding
17 number 3, that the appellants operate a composting
18 facility that has not consisted with the *ALC Act*, and
19 the *Reg.* I have referred to the letter, and that was
20 document 34 which summarizes the proposed uses, and
21 why variation is required to the stop-work order. Of
22 course those uses are entirely permitted within the
23 *ALC Act*, and the regulation, and we will have evidence
24 with respect to the nutrient management plan, and the
25 soil requirements for the property to support that.
26 So, I won't spend any more time on that.

1 Finding 6 was that the “non-compliant with
2 the operations plan”. The plan that is referenced
3 there was a revised operating plan, and it was only a
4 proposed plan, and it related to the licencing
5 composting operations, the CRD licencing operations.
6 That licence was surrendered on May 15th, and the
7 revised operating plan was sent to the Commission as a
8 reference document for particular licencing. The CRD
9 chose to refer the proposed plan to the ALC, but there
10 was no requirement to do so, and in my submissions, it
11 is wrong for the ALC to rely on that operating plan
12 for a very specific licenced operation that no longer
13 continues.

14 If reliance on the document was appropriate
15 at the time of the stop-work order, we say that, with
16 the change in the operation and that licencing
17 operation no longer existing, it is no longer
18 appropriate today.

19 The next finding was that there was no
20 impact. That the stop-work order would not impact
21 day-to-day operations of the farm as manure,
22 fertilizers, and composts should not be applied at
23 this time of year. Of course the stop-work order was
24 put on in the end of January. We are now at the end
25 of June, and of course we are in the peak of the
26 farming season.

1 It also indicates that this order was
2 always seen as a temporary order. Land application in
3 June is appropriate, and right now there is no
4 material composting and no material available to be
5 put on the land as a result of the stop-work order
6 that has been put in place. They haven't been able to
7 start the composting process. If there is any further
8 delay, there will be no compost available to be put on
9 the fields this year. Of course there is a curing
10 process with respect to compost, and unless they are
11 able to start immediately, that will not be ready
12 before land application is no longer appropriate for
13 this year, so it will get pushed in to the following
14 year.

15 THE CHAIRPERSON: But, if I might interrupt, in that
16 Section 7 of the stop-work order, it does say that
17 there was 3,000 cubic metres of finished material on
18 the property? Has that been utilized now by the farm?

19 MS. LeBLANC: Yes, that has been spread, that was spread
20 in the spring.

21 This would be an appropriate time to call
22 Mr. Rendle unless Mr. Tattam is available. I don't
23 know if he has arrived yet?

24 **EVIDENCE OF MR. RENDLE:**

25 Q Mr. Rendle, I will just have you explain how long you
26 have been an owner of this particular property, and

1 your relationship with this particular farm?

2 A I was born on Stanhope farm, but it was the second
3 Stanhope farm. The first Stanhope farm was on
4 Richmond Road in Victoria. The original Stanhope farm
5 that my grandfather established was at the gate of the
6 uplands. We came to -- in 1956 -- I was quite young,
7 but I was here -- we moved to Tanner Road. We were
8 moved out of Richmond Road because of a phrase. I
9 don't imagine was used then, but it was "urban
10 sprawl". When we first came here from the farmhouse,
11 you could see two lights. It was the Yulding Farm,
12 and Sanwood Farms. Now, the Yulding Farm is gone to
13 recreational farmers, or recreational property owners.
14 We bought them out. The Sanwood farm, as far as dairy
15 cattle goes, was dissolved 15 years ago, 12 anyhow.
16 Now, it's a nursery. So, that's pretty much the way
17 it came. I am a farmer, my brother is a farmer, my
18 father was a farmer, my grandfather was a farmer, my
19 son is a farmer, and I am really concerned that my
20 grandson's not going to have the opportunity to be a
21 farmer.

22 Q Can you explain your expertise with respect to the
23 operations of the cattle?

24 A We, ever since I have been -- you know, my school
25 years, livestock has been my passion, my area of
26 expertise. Fortunately, my brother is a machinery

1 guy. He runs most of the farmland, I deal with the
2 cattle. We own a company called Stanhope Wedgewood
3 that's -- we've slowed it down considerably now
4 because of my age actually, but we were one of the
5 biggest livestock exporters in the country. We sold
6 high end genetic cattle, we raised them all at the
7 facility in Cobble Hill, the facility in Victoria. We
8 milk 225 at the facility in Victoria, and another 175
9 probably in Cobble Hill. The Cobble Hill farm now
10 milks well over 200, and we would only milk -- we
11 don't milk any there, but we house all the replacement
12 cattle. We reply -- house all quarantine cattle for
13 export, we house all show and sale domestic cattle at
14 Stanhope. So, there can vary anywhere from -- you
15 know, we try because they are genetic cattle, we try
16 to pasture them all in the summer time. We have large
17 -- fairly, well reasonably large tracks of pasture
18 lands in Cobble Hill, and we put them -- we move a lot
19 of them. I am not sure how many are on the site right
20 now, but there is not significant amount. In saying
21 that, we used to pasture a lot locally, but we were
22 really becoming concerned with the number of
23 residential areas and we never had a problem of
24 significance, but we could see where, if they got out,
25 it was going to be one. So, everything now goes to,
26 for pastures to Cobble Hill.

1 So, now we have also, you know, simply to
2 help generate more farmgate revenues, we have entered
3 an agreement with the gentleman or a farm, I guess, in
4 Chemainus, Chemainus Dairy Farm, to house -- well, the
5 initial number is 200, but he was there a few days ago
6 with some and he suggested that there is more than
7 200, so we are housing those. So, I think by this
8 fall we will be well over 300 anyhow.

9 We also -- the boys, Matt and Scott want
10 to, simply its economics, the -- as you are probably
11 aware, the beef cattle business has never seen such
12 profitable times as it is right now, so we are going
13 to introduce some steer cattle, some stockers, and see
14 how that goes. It is not my passion but we will do
15 that.

16 I also manage one of Canada's most state of
17 the art AI studs. It is in Western Ontario. Stanhope
18 Wedgewood owns that company, and through that company,
19 and through Stanhope Wedgewood, we are currently
20 engaging or negotiating with an Asian country to
21 supply them with 2,500 head of pregnant Holstein
22 heifers. Because there is such vast areas of unfarmed
23 land on the Saanich peninsula, and because my partner
24 tells me that the port in Nanaimo is the most
25 preferred port these days because of costs. We are
26 talking about housing those cattle on the peninsula

1 and moving them through Nanaimo. It would be pretty
2 exciting, and pretty good for the -- you know,
3 obviously quite good for us, but would help farming I
4 think on the Saanich peninsula, too. So, that is
5 where we are at with the livestock right now.

6 Q Can you explain your process with respect to
7 contracts? There has been questions as to how you
8 make agreements with other farmers and --

9 A Oh, that, yeah. See, what happened to the Saanich
10 peninsula, was until the mid 1990s, between the
11 Saanich municipal border, and Mount Newton Crossroad
12 right here, there was probably 1500 head of dairy
13 cattle, and I think that would be conservative. By
14 2000, they were starting to go. The farmers were
15 getting aged. The cost of milk production on the
16 Saanich peninsula is really high as opposed to
17 everywhere else. One of the reasons is all of our
18 bedding comes from Duncan north, all of our grains
19 come from Duncan north. The farmers were moving out,
20 the recreational property owners were buying the land.
21 But what has happened is, there is large pieces of
22 land that people come to us frequently and say, "Can
23 you -- would you be willing to crop this land?" And
24 some, if they are big enough tracts, we do. And if
25 they are not, you know, we leave them for someone
26 else.

1 But it started out a dozen years ago where
2 we paid rents on these lands. And now, the reason for
3 this largely, quite frankly, is to aid these people in
4 property tax exemptions. So, there is very loose
5 contracts. It is a, "Sure, we'll get that. This is
6 what we need." There is not -- hardly anything more
7 formal. In fact, I don't think we -- well, we did
8 create a formal contract with one that we rent about
9 40 acres from, but it was, again, it wasn't necessary,
10 but it is done. So, that is how it's all done.

11 THE CHAIRPERSON: So, what is the range in size that you
12 are talking about?

13 A We cut -- actually, my brother cut two yesterday that
14 would be the smallest we get. One was 12 acres, one
15 was 10.

16 The other part of the equation that really
17 has happened on the Saanich peninsula and it is part
18 of the reason, I suppose, we are here is because when
19 all these dairy cattle moved off of the peninsula,
20 there was no organic fertilizer. It was gone. The
21 provincial ministry recognized this, they recognized
22 that all over the province, and they encouraged the
23 farmers to go into different kinds of composting and
24 you know, they were talking digesters and more simple
25 composting, but there was an encouragement from the
26 Ministry because they recognized the fact that --

1 particularly here -- in fact, even the District of
2 Central Saanich I believe, in their -- maybe their OCP
3 plan, suggests, in a study written by Ms. Hope-Burns
4 that the area is really, really, under value nutrient
5 wise.

6 Q Just expanding on that, can you explain what happened
7 more recently when you started to put fertilizer on
8 your particular fields?

9 A I am trying to get the dates. We put about, of this
10 fertilizer, that comes on site and is processed, I
11 think the first -- the fall of 2012, we did about six
12 acres of it, and the following spring it was 25
13 percent a head of the other grasslands that we had,
14 and it was very encouraging. So last July, early last
15 July after we took the second crop off we did about 70
16 acres, and it was very encouraging. We never put any
17 petroleum fertilizer on after that crop and we had a
18 -- I am not saying we had more crop than we would have
19 with petroleum on the third crop but it was an
20 incredibly dry year.

21 But the part that had no -- we never had
22 any kind of thought that it would work or it was
23 available to us was their thinking the water savings
24 -- and this was done by some of the agronomists. The
25 water savings were enormous from the cover of this
26 product. The potentials are really amazing.

1 Q And can you explain the plan for the farm with respect
2 to organic farming?

3 THE CHAIRPERSON: Can you repeat that, please?

4 MS. LeBLANC: I asked if he could explain the plan for
5 the future with respect to organic farming.

6 A Well firstly this is a next generation concept and
7 idea that's a bit over my head. But because of the
8 demand for organic products from the agriculture
9 community Mat and Scott, they really would like to try
10 to get to that point where we are growing everything
11 with organic fertilizers and removing the petroleum
12 based fertilizers from our farm. Obviously now like
13 we're sidetracked from that, so I'm not sure -- I hope
14 it can happen. I hope it can happen because these
15 guys are entitled to try things and find things that
16 work and find things that fail, so I hope it does come
17 back to where it is. Right now it's been stalled
18 quite dramatically.

19 Q I'm just going to back to the use of bedding. If you
20 can explain that process for the non-farmers.

21 A We've always used wood products for bedding. When the
22 farm was first there, quite a bit of it was those
23 trees and stuff, and that was ground up then and used
24 for added additional bedding. We've always brought in
25 some materials for grinding. We've also had, you
26 know, there used to a -- well, there used to be a

1 hundred dairy farms on the Saanich Peninsula, and like
2 that, there was 25 mills and it was easy to get. But
3 now it's all transported in and that's a huge, huge
4 expense now.

5 So the other part of the curve that's going
6 to be in the way right now is we've taken out our cow
7 stalls, which were -- they were known as free stalls
8 for each cow an individual stall you stepped into and
9 it was bedding friendly. I mean we used, when we
10 milked 200 cows, 60 units a week. We've put pack
11 barns in now and these -- the cattle just lay at will
12 on a big open floor walk to a concrete feeder area,
13 but these things will use a large amount. They have
14 to be bedded with, you know, worth considering 1.5 to
15 2 yards a week per animal, so it's going to be
16 considerable.

17 But also it's grown to be more livestock
18 friendly, and I guess we are all aware of a few of the
19 issues in dairy of the last week and it's become -- we
20 have to be concerned about being livestock friendly.

21 Q Can you explain the financial impacts that the stop-
22 work order has had with respect to not being able to
23 bring in material to process?

24 A Well, I really would rather not mention the financial
25 numbers but, it's been significantly -- we're not
26 making any money in the cattle business right now, I

1 can tell you that. You know, we're using is all on
2 bringing in these products. I did see last month for
3 the second crop, the fertilizer bill was \$22,000 the
4 first crop would have been probably half that again.
5 It's really been challenging. Financially speaking
6 it's been challenging.

7 Q And with respect to the bedding is the output the same
8 regardless whether it's processed off site or on site?

9 A Oh yeah, absolutely.

10 Q Can you explain how the brewery waste is used?

11 A Well, brewery waste is -- we've been feeding it since
12 the farm on Richmond Road and it came back then. It
13 was, Labatt's Brewery had a brewery on Government
14 Street in Victoria and we used to be one of the bigger
15 contractors of brewer's waste from there. That
16 continued -- I don't know when it closed, I was in my
17 late teens I suppose, but then we had a period where
18 there wasn't any. But now in the last 20 years
19 there's been these small cottage breweries that we've
20 been able to secure some. Not at a great rate but
21 right now Mathew is negotiating with a couple of these
22 places that have really, really, considerable expanded
23 and we're encouraged because that's about as cheap of
24 feed source, high energy feed source as we can get.
25 Like I say it's a high energy, which the only other
26 real high energies are barley and corn, which both

1 come from off shore.

2 Q Is there anything else that you wanted to say?

3 A Well, there was a couple things. I picked up the
4 *Federation* paper a couple of days ago and one thing I
5 did see in there was -- I guess we call it the *Country*
6 *Life* now it used be the *Federation* paper. Mr. Bullock
7 in that thing suggested that only five percent of the
8 land mass is in the ALR. He went on to suggest that
9 2.7 percent of this is suitable for crop production
10 and just 1 percent is prime agricultural land. He
11 went on to say that 90 percent of the applications to
12 the ALC are from people who are not farmers. And his
13 quote I found rather -- actually pretty -- it was
14 encouraging, he said:

15 "Just because you own it, does not make you
16 a farmer."

17 And I was encouraged by that because up till the last
18 little while most of my involvement with the ALC, I've
19 been a bit discouraged. But I was encouraged by that.

20 Q Thank you.

21 THE CHAIRPERSON: I do have a question. When you were
22 talking -- and maybe this is something that will come
23 up later, so feel free to tell me if that's the case.
24 You're talking in terms of the number of properties
25 that you have some type of agreement with to cut hay.
26 Are those also properties that you are fertilizing and

1 maintaining?

2 A With petroleum fertilizers. We don't have enough cow
3 manure to spread on any of those properties. We just
4 don't have enough. We had thought that with this
5 compost facility we were going to be able to start to
6 do that, that was our -- you know, we saw that as a
7 way to get some nutrients back in his land at a cost
8 that you could afford, you know, afford to make it
9 work. But we -- you know, right now that's all
10 stalled.

11 The other part of the equation when, you
12 know, when we were kind of following the Ministry of
13 Agriculture's lead it looked like the District of
14 Central Saanich, they have the only non-sale of
15 compost in British Columbia in this District. It
16 looked like they were maybe -- and they said they were
17 going to revisit that, and since they have revisited
18 it and they've said, "No, there will be no off sales
19 of compost." So that really has probably -- I don't
20 know if you lease it, does that mean -- I don't know,
21 I don't know the legalities of it so I don't know
22 where we're at.

23 MS. LeBLANC: There was reference to that in one of the
24 proposed operating plans. Certainly that's no longer
25 the case with that licence now being surrendered. So
26 there is not the possibility at this time to even use

1 fertilizer anywhere else, and certainly what's being
2 requested is just for application on this property.
3 THE CHAIRPERSON: On this property.
4 MS. LeBLANC: On this property, yes.
5 THE CHAIRPERSON: Okay, so the class three licence is the
6 one you're referring to that is cancelled?
7 MS. LeBLANC: That is correct, yes. Yes.
8 THE CHAIRPERSON: Okay.
9 MS. LeBLANC: I have no further questions.
10 A Thank you.
11 MS. LeBLANC: And we may require Mr. Rendle to provide
12 further evidence in reply if necessary with respect to
13 any of the intervener's submissions.
14 THE CHAIRPERSON: That would be fine.
15 MS. LeBLANC: Is Mr. Tattam here?
16 Mr. Tattam you have walked in at the
17 opportune time. Perhaps we could take a quick break
18 if now would be a convenient time. I don't anticipate
19 in taking all the way to the lunch hour this morning.
20 THE CHAIRPERSON: Okay, well maybe this would be an
21 appropriate time. We will take a ten-minute break.
22 MS. LeBLANC: Thank you.
23 THE CHAIRPERSON: Thank you very much.
24 (PROCEEDINGS ADJOURNED AT 9:55 A.M.)
25 (PROCEEDINGS RESUMED AT 10:09 A.M.)
26 THE CHAIRPERSON: Once again can I ask everybody to

1 please take your seats, please.

2 Thank you very much. I would like to
3 reconvene now and I will turn the meeting back to
4 Lindsay LeBlanc.

5 MS. LeBLANC: Thank you.

6 **EVIDENCE OF MR. TATTAM:**

7 Q Mr. Tattam I will have you explain to the panel your
8 credentials, background and occupation.

9 A I am an environmental farm planning advisor, I have
10 been doing that since 2004. My role and credentials,
11 I guess, for doing that is, one, I am a graduate of an
12 agricultural college from Vermillion Agricultural
13 College more years than I want to remember in animal
14 science and farm management. I'm also a more recent
15 graduate of the Malaspina University in resource
16 management.

17 My farming background, I grew up on a dairy
18 farm in Duncan. I dairy farmed there myself for over
19 22 years. I still live on that farm and I still have
20 livestock on my farm. My role with the Environmental
21 Farm Plan Program, we receive training in order to
22 take part in this program in delivering the
23 environmental farm plan. The environmental farm plan
24 program is a sort of non -- what's the word I am
25 looking for? It's not a requirement of farmers to do,
26 it's a volunteer program. There is basically a risk

1 assessment or an audit of their farm, and out of those
2 environmental farm plans other plans are evolved, and
3 in case of the Rendle farm, the nutrient management
4 plan which I completed for them.

5 Q And I will just get you -- do you have a copy of that
6 plan with you?

7 A I don't have the -- yeah, I have the written portion I
8 didn't print everything out.

9 Q If you have the written portion -- if you need any
10 other parts of it I can provide those to you.

11 A Okay.

12 Q But I will just get you to explain the report, and the
13 soil samples as well as your findings with respect to
14 the nutrient requirements of the property.

15 A Okay.

16 THE CHAIRPERSON: Is it one of the tabs that we have
17 here?

18 MS. LeBLANC: It is, it is tab number 38.

19 THE CHAIRPERSON: Thank you. Go ahead.

20 A Okay, the nutrient management plan is basically a
21 conglomeration of soil samples that are taken to
22 determine what's missing in the soil. Also there is a
23 sampling done of the manure, or any of the -- in the
24 case of the Rendles, the compost that's going to be
25 applied to the land. And then it is put into a
26 spreadsheet program where the numbers are sort of

1 crunched within that to determine the values or the
2 amounts that can be applied and what's missing and
3 what's not.

4 In the case of their farm I was asked to do
5 an environmental farm plan and from that plan a
6 nutrient management plan was targeted. I know that
7 the farm wanted to get on with it. I was busy at the
8 time with some other projects, so the Rendles went
9 ahead and did -- did their own soil sampling and did
10 their own sampling of the compost and manure that they
11 generate on the farm.

12 I took those. When I received those
13 numbers or those documents I incorporated them into
14 this spreadsheet program and that's where I sort of
15 generated my results. I wanted to -- because they're
16 using a -- you know, this is -- using the compost is
17 not outside of the realm but I have to admit it is one
18 of the first where I've actually had to use, you know,
19 compost in designing a nutrient management plan. Most
20 of the time I'm always just looking at manure.

21 So I ran a number of different scenarios
22 because when you're looking at a nutrient management
23 plan you're not only looking at nitrogen you're also
24 looking at phosphorous and potassium. And so I had to
25 sort of run the scenarios to see how much of those
26 inputs the compost or the manure generated could be --

1 and how they could be utilized, so I ran it for the
2 green waste and I ran it for the food waste and I ran
3 it both for nitrogen and I ran it for phosphorous
4 because phosphorous levels in some of the fields was
5 getting a bit high, so I wanted to see where we were.

6 Nitrogen, I don't know if most of you --
7 the farmers will recognize this, is always low and the
8 sampling I think was done in February the beginning of
9 February. At that time of year I have not seen a
10 sample on a farm taken that is very high in nitrogen
11 in the spring. We do factor in, and I did factor in
12 on this farm because they do apply a fair amount --
13 have in the past been applying manure and so forth to
14 their land we felt the fertility levels would be a
15 little higher so we factored in a nitrogen fertility
16 factor of -- basically I subtracted 100 kilograms per
17 hectare of nitrogen off of the soil sample
18 requirements or the crop requirements.

19 And I did that because as the soil warms in
20 the spring the organic nitrogen will mineralize and
21 then the nitrogen will be available to the plants. So
22 we wanted to -- it's a factor that we put in there.
23 It's not an exact science you have to remember this.
24 We're basing it on samples and everything. But it
25 gave me a number of actual nitrogen that I would want
26 to -- that we need to apply to meet the crop

1 requirements.

2 You also have to remember that the more
3 crops you remove from the soil or the plants that are
4 harvest, the more hay you cut, the more harvesting you
5 do, the greater amount of nutrients you're going to
6 extract from that soil. So that also factors in.

7 The protein levels of the feed factor in as
8 to the amount of nitrogen you're going to be pulling
9 away from that soil.

10 So those things are all sort of pumped
11 through the spreadsheet and that's where I get my
12 analysis from. I don't grab it out of thin air. And
13 then I base my recommendations on that. And I sort of
14 like did. I ran three different scenarios on the
15 thing and based -- if you were trying to meet your
16 nitrogen requirements, this is how much of your
17 compost that you could apply either as a green waste
18 or as a food waste. If you did it in relationship to
19 your phosphorus levels this is how much you could
20 apply.

21 I didn't look at it for potassium,
22 potassium levels in some of the fields and if you look
23 at my document I list out which -- some of them are at
24 optimum levels. I felt that potassium is one of the
25 one that's it's probably not that harmful to the
26 environment, it actually could be harmful to your

1 livestock if the levels get too high in your feed.
2 Because the grass or forage will take it up at excess
3 levels if it's in excess in the feed.

4 The management that most of the dairy
5 operators have around that is they want -- either if
6 they're finding that happening, they export feed off
7 the farm, and I do know the Rendles export a fair
8 amount of feed off their farm, so that would be one
9 way of containing that or controlling it. The other
10 one is you could probably look at finding more dirt to
11 spread your compost on.

12 One of the other things that kind of came
13 out of it, they are still putting the liquid manure,
14 separated liquids onto the land. And I do know in
15 talking, they were talking about eliminating that, so
16 there would be one other nutrient source that wouldn't
17 be going on if they were going to a different farming
18 scenario where they were going to a deep pack bedding
19 program and that solid waste was extracted and removed
20 from the farm like the solid waste is now. Then that
21 eliminates some of the other nutrients that are going
22 onto the farm.

23 Are there any questions around that?

24 Q Just for certainty, your findings were located on page
25 10 or your recommendations of your report which
26 indicate utilization of green waste compost and the

1 application rates, is that correct?

2 A Yes.

3 Q I don't have any further questions, subject to your
4 questions.

5 THE CHAIRPERSON: I would ask one question. The
6 Agricultural Land Commission, their staff and an
7 agrologist reviewed your report, and they did have
8 some comments that they presented back to you on that
9 report. Do you care to comment on those at all?
10 Particularly the sampling methods that were taken --
11 took place in preparation of your report.

12 A Oh, as far as who took the sampling, is that what the
13 concern is?

14 THE CHAIRPERSON: Mm-hmm.

15 A Quite often --

16 THE CHAIRPERSON: I'm not suggesting it's a concern I'm
17 just --

18 A Well, I guess what I will say, I will make a comment
19 on the -- the results indicate, I think if the Rendles
20 wanted to skew the results, they could have done a lot
21 better job. Because the results are pretty typical of
22 what I would find in a soil sample taken at that time
23 of year in a livestock operation.

24 THE CHAIRPERSON: So they were taken by the Rendles, the
25 samples?

26 A Yes. That's not out of the norm. I guess the reality

1 is that most time I'm doing -- I am always doing
2 nutrient management plans that, in some cases some of
3 the farmers already have them. You know, why would we
4 want to duplicate it? And I guess my thought always
5 is that the benefit is to the farmer. If he wants to
6 screw around with his results then, you know -- the
7 benefit is -- you know, I am looking at it from a
8 nutrients side. We're trying to get the most
9 agronomic use of the manure or the compost or whatever
10 you're applying to your land. So I do sometime use
11 them if they are relevant. I mean if they don't have
12 them I go out and do them, take the samples but if
13 they have them I -- you know, I'm not going to -- I
14 don't normally go out and do them again.

15 I would say 50 percent of the time some of
16 them have them. We look at samples within three
17 years, right? We don't sample every year we look at
18 -- if you've got some samples that are taken even two
19 years ago they're going to be -- not much is going to
20 change.

21 THE CHAIRPERSON: Thank you, Mr. Tattam.

22 MS. LeBLANC: Thank you.

23 MR. TATTAM: Is that it? Okay.

24 MS. LeBLANC: Thank you very much for your time.

25 Next Mr. Mathew Mansell will be providing
26 some evidence.

1 **EVIDENCE OF MR. MANSELL:**

2 Q Mr. Mansell how do you explain your role on this farm
3 and generally what you are in charge of?

4 A My role on the farm started some years ago as, you
5 know, just helping out on the farm, long time family
6 friends, and it's expanded and continues to expand in
7 more of a management position. I look after a lot of
8 things right from labour forces to transportation to
9 assisting with different crops and what we're doing on
10 that particular week or month on the farm.

11 Q And I will just have you explain if the stop-work
12 order is amended, what the composting activities will
13 look like on the farm?

14 A So if the stop-work order is amended what we would
15 proceed forward with is processing of wood waste,
16 processing that to a usable point on the farm. There
17 would be two uses for that. One would be as for
18 bedding and then the second use would go into a
19 compost end of it to produce nutrients for the land.

20 Q And when you say wood waste are you referring to
21 garden and yard waste inputs?

22 A Yes.

23 Q And it was your company that held the CRD class 3
24 licence, is that correct?

25 A Foundation Organics did, yes.

26 Q Yes. And have there been any inputs of food scrap

1 waste since the stop-work order?

2 A No, there hasn't.

3 Q And those operations are no longer continuing?

4 A No, there's been no food waste received from
5 substantially before the stop-work order.

6 Q Now there was a reference to five dates in February
7 where there is an indication that trucks may have been
8 brought in with respect to wood waste. Can you
9 explain those five dates? And if you need them I can
10 provide them to you.

11 A No, I'm okay without the five dates. When we reviewed
12 back onto those dates in question -- when we received
13 the stop-work order we had sent letters out to our
14 largest customers and explained to them that we were
15 under a stop-work order and that they would have to
16 divert their material elsewhere. In some instances
17 we've carried on looking after their needs and
18 shipping that material to other facilities. And in
19 other instances they have just looked after that
20 themselves.

21 These five dates in question, as you know
22 we have two entranceways, when the facility was stop-
23 work order and shut down, there was no need to have an
24 employee there anymore, so some of our smaller
25 customers brought material in while nobody was there.
26 We've always had a sign there that is at the entryway

1 when these people come in that that they can fill out
2 their own scale ticket. They went ahead and did that,
3 and that's with regards to that material. That
4 material there's still -- it hasn't been touched. It
5 hasn't been processed. It hasn't been removed. It is
6 sitting there right now.

7 Q All right, and what was the quantity of the material
8 that was brought in?

9 A It was a pretty insignificant number. I am not sure,
10 I think you might have it, 10 tonnes or somewhere in
11 that neighbourhood.

12 Q And they were from the individuals that hadn't
13 otherwise received a notice because they were smaller
14 operators?

15 A That's correct. They might bring us something once
16 every couple of months, or six months.

17 Q All right. I don't have any further questions for
18 you.

19 THE CHAIRPERSON: So, those five dates were all
20 deliveries to the farm?

21 MS. LeBLANC: They were. Yes, they were deliveries.

22 Q And I should follow up. Since those dates, have there
23 been any other deliveries of wood waste onto the
24 property?

25 A No, the only wood waste that we have received has been
26 processed wood waste. Yeah.

1 Q Thank you.

2 THE CHAIRPERSON: Thank you.

3 MS. LeBLANC: We'd like to reserve the remainder of our
4 time for reply, in that we may be recalling Mr.
5 Rendle, just to speak to the soil samples that were
6 taken, and then for any other reply that would be
7 necessary with respect to the intervener submissions.

8 THE CHAIRPERSON: Okay, thank you. Noted. Okay, we are
9 relatively well ahead of schedule in the sense that we
10 were going to possibly deal with the interveners after
11 our lunch break, but I see no reason not to continue
12 at this time, assuming that they are prepared?

13 I would therefore like to move forward with that portion,
14 and the first one forward, the first intervener
15 forward would be the District of Central Saanich.
16 They have been given 30 minutes for their
17 presentation. And maybe just a note for all of the
18 interveners, we are going to use the mic next to our
19 counsel there, if you wouldn't mind, for your
20 presentations.

21 Ms. Bradley, are you ready to start? Or
22 did you want a minute?

23 MS. BRADLEY: I am ready.

24 THE CHAIRPERSON: You are ready, okay. That is much
25 appreciated. Just for all of the interveners as we
26 move forward, I will be timing you, and I will give

1 you a little warning, polite warning.

2 MS. BRADLEY: Is there a red light or something?

3 THE CHAIRPERSON: Well, we don't have a red-green light
4 up here, but I will ask you to try to keep on time.
5 So, whenever you are ready.

6 **SUBMISSIONS BY MS. BRADLEY (DISTRICT OF CENTRAL SAANICH):**

7 As a starting point, I have my written --
8 the District's written statement which is the same
9 that has already been provided. Given the voluminous
10 amount of material the District has provided that is
11 relevant to this appeal, I have made another copy of
12 the written statement with the references to each
13 statement regarding evidence as far as where it can be
14 found, because I won't have time in 30 minutes to take
15 you to each one of those.

16 THE CHAIRPERSON: Appreciate it.

17 MS. BRADLEY: I have also just included one additional
18 little section to deal with the correspondence that
19 has occurred between the appellants and the ALC in the
20 past several months that the District was not privy to
21 until we received it when all the submissions were
22 provided. So, if I could hand those up.

23 Oh, I should also add that with respect to
24 the written statement, I've also included the
25 references to the applicable legislation in a second
26 tab there. Again, I don't propose within my 30

1 minutes to go through the very complex law surrounding
2 this issue, other than specifically dealing with the
3 *Agricultural Land Commission Act* and regulations, and
4 a little bit of the land-use bylaw as it relates to
5 that.

6 THE CHAIRPERSON: Okay.

7 MS. BRADLEY: So, perhaps I will also put my watch here
8 so I can have some sense -- because I could talk about
9 this topic for quite a long period of time, and I
10 appreciate the Agricultural Land Commission's comment
11 that this isn't litigation between the District and
12 the appellants. But, the District has been dragged
13 into this, in that grounds of appeal raised by the
14 appellants directly engage the District's interests,
15 and directly make statements regarding the District
16 that it is important that we address, and as to why we
17 are here today, and how we've ended up there. I
18 notice the appellants haven't spent any time leading
19 up to why this stop-work order was in fact issued in
20 the first place, and the concerns with respect to
21 documentation requests regarding for information that
22 are still outstanding. And yet, they come now saying
23 "We would like the stop-work order lifted for very
24 specific operations".

25 Well, every single bit of correspondence,
26 those operations seem to change. And I am finding out

1 today, even again, new information regarding what they
2 propose to do, without providing again documentation
3 to support what they are saying. And so, the concern
4 is that where we have been leading up to the stop-work
5 order, that it will continue. And it will continue
6 until we have answers and documentation to support
7 what exactly is going on on this property.

8 There has been several types of businesses
9 that appear to have been ongoing over time on this
10 property, and that is part of the concern. And I will
11 take the panel through just a couple instances
12 regarding that, but I do propose to follow my written
13 statement, but I won't read through it in detail or
14 anything like that. But I do think it is important to
15 hear the evidence as far as what lead up to the stop-
16 work order, and then I will talk about the proposal
17 since then. And the information that still seems to
18 be missing.

19 So, in the District's written statement, I
20 have set out some of the grounds of appeal that do
21 cause the District great concern, and do impact the
22 District. They have made assertions, very brought
23 statements regarding any composting activity operating
24 on the property is permitted pursuant to certain
25 sections of the Agricultural Land regulation. Well,
26 those are obviously live issues between the District

1 and the appellants in a court action. And it is not
2 appropriate, within this forum, to get some broad
3 determination from the Agricultural Land Commission
4 whether something is or isn't a farm use. That is
5 what the District's position has been all along, and
6 that is why we are deep into a court action, is we
7 need documentation to support what you are saying, to
8 support the statements that are being made. Well,
9 were is the evidence regarding that? Before you can
10 make any determination whether something is or isn't a
11 farm use, you need to see those documents, and the
12 District asserts that they do exist, it's just that
13 they may not want to provide them.

14 So, I won't go through those grounds of
15 appeal. They are there, I think they do explain why
16 the District has taken the position it has, in
17 particular causes the District great concern that they
18 would state in their grounds of appeal that the
19 concerns expressed by the local government were based
20 on inadequate factual foundation or understanding of
21 the farm and compost operation. Well, those are
22 factual findings. They are most certainly in dispute,
23 and that is why the District has put its information
24 forward concerning those activities. Certainly, in
25 this forum, the District doesn't have the ability to
26 cross-examine Mr. Rendle or Mr. Mansell. All we can

1 do is state what we understand or heard, and that is
2 what we are left with in this kind of forum. It would
3 be for court, in a trial to go through all those
4 proper processes and truly figure out what has
5 occurred.

6 As far as the District's position, it is
7 stated in the written statement. Certainly I think it
8 is obvious by now that the District takes the position
9 that the compost that has been produced on this
10 property is not being used entirely on the property,
11 and that most certainly it is required pursuant to
12 Section 2(2)(m) of the *Agricultural Land Reserve*
13 *Regulation*. I am just going to shorten it down, it's
14 a long title.

15 With respect to section 3(1)(p) of the
16 regulation, that section specifically engages the
17 District, because it says unless otherwise prohibited
18 by a local government bylaw, you may be able to sell
19 50 percent of your compost. And I don't think it is
20 in dispute. The District's bylaw clearly prohibits
21 the removal of compost. It clearly says it must all
22 be used on the land, and it cannot be sold. So,
23 really, the only section we are looking at is section
24 2(2)(m). The other section is not engaged because the
25 District's bylaw has prohibited it.

26 As far as the regulatory context, again I

1 have set it out there, and I don't propose to go
2 through it in detail. The District's land use bylaw
3 is also set out there, and again, I don't propose to
4 go through that in detail other than to make the
5 comment that this property is within the District's
6 territorial jurisdiction. It's zoned A1, and
7 agricultural composting is permitted as an accessory
8 use, and it clearly states that compost prepared in
9 agricultural zone must be applied to the land in the
10 same farm business, and it may not be sold or removed
11 from the property on which it's produced.

12 As far as the other -- I've included a few
13 sections from the *Agricultural Waste Control*
14 *Regulation*, and the *Organic Matter Recycling*
15 *Regulation*, and again, I don't propose to go through
16 those regulations with you today, other than to
17 indicate that there is obviously a layering within the
18 farm legislation to be looked at. And with respect to
19 animal bedding, the agricultural waste control
20 regulation does address animal bedding. It
21 specifically states in section 20 that wood waste is
22 the only non-agricultural waste that can be mixed or
23 composted with manure, and a wood waste is defined as
24 hog fuel, mill ends, wood chips, bark, and sawdust.
25 And so, within that context, under the agricultural
26 waste control regulation, that is what you are

1 permitted to use as far as animal bedding. Not
2 compost, not bringing on green waste and processing it
3 as the appellants have been doing, and propose to be
4 doing.

5 As far as the composting facility complying
6 with the agricultural land commission act and
7 regulations, there is certainly -- the District's
8 position is there is a lot of evidence that would
9 indicate that it has not been operating as a farm use.
10 And that, in fact, it appears that it is operating as
11 an industrial commercial composting facility. It has
12 in the past, and that questions remain regarding the
13 true farm operation. We don't dispute that Stanhope
14 Dairy Farm used to have a lot of cattle, and had a
15 thriving dairy farm. But cattle was sold a few years
16 back, and since then, the composting operation has
17 commenced, and it seems, based on the evidence, to be
18 the main use of the land.

19 The District has requested documentation
20 several times from Mr. Rendle as far as what cattle
21 are on the property? What cattle do you own? Where
22 is the documentation regarding that? And after a year
23 and a half of receiving answers that they didn't
24 exist, we do now see most recently provided to the
25 Agricultural Land Commission a package listing various
26 cattle. It is not clear where those cattle actually

1 are, whether they are up in Cobble Hill, or whether
2 they are in Stanhope Farms. One interesting point is
3 that only two cattle are independently owned by
4 Stanhope Farms within that big list, and I will get to
5 the oral agreement that has been mentioned most
6 recently, and how the numbers of cattle still seem to
7 keep changing. And from the very beginning, with
8 respect to this composting facility, there has been
9 statements made in documents that there is 200 to 300
10 cattle. Well, we have never seen that many cattle on
11 the property when we visited the property, and we have
12 requested again documentation to support that, and it
13 hasn't been provided.

14 So, as far as the evidence -- and again, I
15 should apologize for sending you massive amounts of
16 documents. You will be happy to hear that I only plan
17 on referring to the -- mostly the affidavit of Ken
18 Neurater, because I think the main documents are
19 included within his affidavit. We did include in our
20 list of documents that had other documents within
21 there as well as the documents attached to Mr.
22 Neurater's affidavit. And I also will probably be
23 going to the appellant's second list of documents,
24 because we didn't have copies of those.

25 THE CHAIRPERSON: Okay.

26 MS. BRADLEY: And as a starting point, I would like to

1 flip over to Mr. Neurater's affidavit at Exhibit B.

2 Do you have copies?

3 THE CHAIRPERSON: We do, yes. You are talking strictly
4 the affidavit?

5 MS. BRADLEY: The affidavit.

6 THE CHAIRPERSON: Yeah, okay.

7 MS. BRADLEY: Exhibit B.

8 THE CHAIRPERSON: There are not tabs, so it might take us
9 a minute to find them as we go through them, but that
10 is fine.

11 MS. BRADLEY: If it is helpful, page 9.

12 MS. DYSON: It is helpful.

13 THE CHAIRPERSON: Okay.

14 MS. BRADLEY: Again, I don't propose in my 30 minutes
15 here to go through this voluminous bylaw file history
16 regarding this property. The only point that I wish
17 to make with respect to this is that since the
18 commencement of the composting facility, there are
19 over 50 pages from the file history addressing this
20 property by the District. It has taken up a
21 significant amount of resources and time, and it is
22 extremely important to the District. This issue is
23 obviously as you can see today with so many people
24 being here, that there are a lot of questions that
25 need to be answered.

26 As far as the evidence concerning the

1 composting facility, I have set out in the District's
2 written statement several facts based on the
3 District's evidence. And that is as a starting point
4 that the application -- originally when this
5 composting facility was being proposed, 1) the
6 appellants did not approach and discuss with the local
7 governments before they kind of just jumped in to it.
8 And they found out after creating their operating
9 plan, that they had to submit it to the District, that
10 oh, wait a second, the land-use bylaw says that 100
11 percent of your compost has to be applied to the land.
12 Originally the operating plan indicated that 50
13 percent would be sold as a soil conditioner,
14 fertilizer for the landscape and horticulture
15 industry.

16 So, they changed their operating plan to
17 indicate that 100 percent would be applied on the
18 property. Other questions started popping up as far
19 as well, what is the land base? There is quite a
20 large land base being indicated here, and the property
21 itself is only 40 hectares, and so where is the rest
22 of this land base coming from?

23 The District and the ALC did some
24 investigations, did visit properties, list, owners
25 where a list of properties was provided to the ALC
26 indicating that these are the properties where the

1 compost is going to be applied. And when the ALC and
2 the District spoke to those owners, in fact, none of
3 them had had a discussion about compost being applied
4 to their land. And that continues today with
5 statements regarding, well, what land are we talking
6 about and where is the lease agreement? Is it in
7 exclusive possession of Stanhope Farms to be farming
8 that property? Those are significant questions that
9 need to be addressed.

10 With respect to starting in 2011 -- and I
11 notice there is a little typo there in my written
12 statements, it should be up until basically May this
13 year the District continues to receive complaints
14 regarding numerous truckloads of material, compost,
15 wood waste leaving the property. Most recently, as of
16 May 7th, so not that long ago, and after the stop-work
17 order, Mr. Neurater, the District's bylaw enforcement
18 officer followed a truck to one of the landscaping
19 companies and witnessed it being deposited and
20 confirmed with them that they just bought compost from
21 Foundation Organics. So, it is not old evidence, it
22 is continuing.

23 And so, as far as -- the District has also
24 received complaints regarding significant amounts of
25 wood waste and land clearing debris being imported and
26 exported from the property. Compost has been observed

1 being hauled out from the side of the compost
2 building. Residents, as well as the District have
3 followed those trucks, and again it's set out in Mr.
4 Neurater's affidavit and I won't go through the
5 details, other than it raises questions. Certainly
6 the material has been brought to Peninsula
7 Landscaping, Trio Gravel Mart, Arbutus Grove Nursery,
8 Marigold Nursery, Kimoff Wholesale Nursery, and the
9 Tervita Offloading Facility for the Esquimalt project,
10 dredging project. So, there is certainly material
11 going to various businesses, whatever that material
12 is. It seems that large quantities. Residents have
13 observed 20 truckloads in one day leaving the property
14 and being deposited at a nursery.

15 Mr. Neurater has confirmed with a couple of
16 those nurseries that in fact they were buying compost
17 from Foundation Organics, and that is set out in Mr.
18 Neurater's affidavit. And as far as when questioned,
19 when Mr. Neurater did go and talk to the
20 representatives of Stanhope Farm and Foundation
21 Organics, they were advised that the composting
22 materials are being used as animal bedding for the
23 cattle and when that bedding is changed, it is ground
24 and sold as manure or further composting sold as
25 manure. But it doesn't add up. It doesn't seem --
26 you know, we are trying to figure out, well, how many

1 cattle are there, how much manure is being produced,
2 how much animal bedding. Where is the documentation
3 regarding that? What exactly -- you know, where is it
4 all going then? Why are we seeing truckloads of
5 material leaving this property to the extent that it
6 is, and if it is that as Mr. Rendle indicated today,
7 that there is a need for fertilizer on this farm, well
8 then why is whatever you want to call it, manure,
9 compost, whatever, a fertilizer that can be used on
10 this farm, why are truckloads of it leaving the farm?
11 And being taken to a nursery for other people to use?
12 It just doesn't make sense.

13 Mr. Neurater did visit the property on
14 several occasions, and he witnessed only around 50 to
15 70 cattle, and on one occasion there were no cattle at
16 all. And as far as in December, Mr. Neurater was
17 there with Mr. McLeod from the ALC when the Rendles
18 indicated that there was approximately 3000 cubic
19 metres of compost still on the property. Now, my math
20 is a little off, because I keep trying to convert all
21 these cubic metres, yards, to tonnes, but I think that
22 is probably around 1800 tonnes. Around. But if that
23 is the case, and as Ms. LeBlanc indicated earlier,
24 that that has been applied to the land as of this
25 spring, well, when we look over to the nutrient
26 management plan which indicates for this particular

1 property that it can take something like 2,100 or
2 2,200 tonnes of waste and liquid manure a year. Well,
3 that is already 1,800 tonnes, so how is it that this
4 farm is hurting for fertilizer right now? Again, it
5 just doesn't add up.

6 Since the stop-work order, the District has
7 followed trucks on February 20th, as well as I already
8 mentioned, May 7th, hauling compost from this property
9 and witnessing that truck dump that compost into a bin
10 at the nursery. The District sent a sample of that
11 material to Dr. Timmenga, another Agrologist to take a
12 look at, and it certainly looks and smells like
13 compost. So, it is not quite clear to me again, why
14 material that looks and smells like compost, and if
15 this farm truly needs fertilizer, why is it leaving
16 the farm and being sold to a landscaping or nursery
17 business?

18 As well as other documents that -- and
19 again, it has been a bit of a big puzzle, because we
20 haven't actually received very much information from
21 the landowners themselves. So, the District as well
22 as other government agencies have been little piece by
23 piece trying to figure out what is going on. And so,
24 in the next part of the District statement, I have
25 kind of just set out some of the pieces of information
26 over time that have kind of been filling in the

1 blanks. From the CRD's request, eventually Foundation
2 Organics did provide scale data for January 2nd, to
3 August 16th, 2013, showing the amounts of food waste
4 and yard waste they have received. It's not clear if
5 that includes all of the waste that has been received.
6 It is certainly with respect to the kitchen scrap
7 program that CRD is running because there was some
8 check and balance there, but it's not clear about --
9 there is bin waste received from cruise ships, Thrifty
10 Foods. We don't know -- where are those contracts?
11 Where is that information? That documentation has not
12 been provided.

13 The CRD also obtained a report from Dr.
14 Timmenga leading up to the suspension of the
15 composting licence where he indicated that, based on
16 those calculations, it could be that there is about
17 6,200 to 7,800 tonnes of green waste and yard waste
18 individually being received at this property in one
19 year. That is a lot of material.

20 The ALC did their own calculation based on
21 their operating plan and came to the number that,
22 well, there should be probably maybe 2,100 tonnes,
23 based on their own calculations, that should be being
24 applied to the land each year as a fertilizer. Well,
25 in the District's claim, the appellants have alleged,
26 and again, there is no documentation to support this,

1 that they have applied 6,000 tonnes of compost to
2 their land last year, within one year. The District
3 has requested the information to support that. It
4 seems like an awful lot, and how is it then that this
5 – now – property is deficient? Why does it need more
6 fertilizer if it had 6,000 tonnes of compost placed on
7 it last year, and another 1,800 tonnes this spring.
8 And the only information we have is from sampling that
9 has been taken from the property owners, not even from
10 an independent agrologist.

11 As far as the nutrient management plan, at
12 the time that the District did their statement, we
13 didn't have a complete copy of the nutrient management
14 plan, and so we were kind of just basing it on the
15 bits and pieces that we had received. We did receive
16 -- the ALC's consultant, Mr. MacTavish had done a
17 review of the nutrient management plan, and he
18 identified several areas that needed to be addressed.
19 In particular, he noted that the nutrient management
20 plan shows very clearly that the application of high
21 volumes of food waste or green waste will lead to an
22 oversupply of phosphorus levels in the soil. And so
23 the management decisions have to be based on only
24 those two results.

25 Now, again, Mr. Tattam this morning didn't really address
26 that, and didn't really say anything regarding that,

1 and so those numbers within that nutrient management
2 plan would suggest that as far as result 4, if we are
3 looking at green waste, that that should be 2,200
4 tonnes of green waste, plus liquid manure to meet the
5 phosphorous needs of the crops. Well, that is the
6 number we are getting pretty close too then. They
7 have already applied 1,800 tonnes this year. 6,000
8 tonnes last year. And this is the first time that the
9 District has ever heard that now they don't even plan
10 to use liquid manure. And certainly the District's
11 position is, and this is one big question still out
12 there: Why is it, if you have a cattle farm, and you
13 have fertilizer being produced as Mr. Rendle said this
14 morning there was no longer as many cattle on the
15 island here, that there was a lack of fertilizer.
16 Well, you as a farm have that fertilizer. You're
17 creating manure. So why aren't you using it? Why
18 aren't you using the liquid manure? Why aren't you
19 using the solid manure? Why is it leaving the
20 property?

21 And of course, the District's position is,
22 based on their bylaw, it can't leave the property.
23 But it's a question as far as also farming. Why
24 aren't -- why isn't it being used? And the nutrient
25 management plan to date has not taken all of those
26 factors into account. It clearly states in the

1 nutrient management plan that they still intend on
2 selling manure, selling the solid manure and now maybe
3 even the liquid manure from the last bit of
4 information that we've heard today.

5 So, there is a lot of remaining questions.
6 I would like to quickly turn to -- and I'm aware of
7 the time, I have five more minutes here. And I'm
8 trying to go quickly.

9 It is set out on the written statement as
10 far as the specific dates in the most recent
11 correspondence between the ALC and the appellants.
12 There is a couple of things, though, the District --
13 that we just wish to highlight. One is that it was
14 February 4th when the ALC reiterated that the stop-work
15 order precluded receiving and processing wood waste.
16 Despite this, the District has confirmation from one
17 truck operator that they had delivered yard waste to
18 the property as recently as March 25th, 2014.

19 Again, because I don't have very much time,
20 but in the affidavit of Mr. Neurater, it's Exhibit W,
21 he took a picture of the yard and garden waste that he
22 observed on the property on February 20th, and he took
23 another picture on March 25th. So there is a whole
24 month period of time that the piles seem to continue
25 to grow.

26 As far as the one-year agreement, there is

1 nothing in writing regarding that. And the original
2 letter, if you look back from April that was provided
3 from the appellants, indicated that there was this
4 oral agreement that they would like to feed and board
5 150 to 200 dairy heifers for no shorter than 60 days
6 within the one-year term. No documentation appears to
7 have been provided to the ALC to support those
8 assertions. And then when you look at the
9 correspondence that occurred after that, between the
10 appellant's counsel and the Agricultural Land
11 Commission, all of a sudden the number of cattle
12 starts changing, and it's now indicating there might
13 be 200 to 300. There is also -- they seem to keep
14 changing as far as, well, what are they going to use
15 as animal bedding? Is it the wood waste? Is it the
16 green waste? Their last letter that Ms. LeBlanc took
17 you to indicated that it was going to be wood waste,
18 but today there is an indication that it's going to be
19 green waste. And the District's position is, that's
20 not permitted. It's not allowed. And it's also not
21 clear what other streams are being used; what other
22 businesses are going on that are going to be using
23 that material.

24 Specifically with respect in the
25 correspondence, there has been an indication that
26 there is going to be 1.5 yards of bedding per week per

1 cow. Well, if you look at the knowledgeable person's
2 report, and again I put the references in our
3 submissions and I won't take you to it given the time,
4 but based on what they said at the time was 120 cattle
5 and based on the volume of bedding they said they were
6 using – again, no documentation to support any of that
7 – that would actually be 0.5 yards of bedding per week
8 per cow. So the numbers are changing, and they're all
9 based on verbal representations, and the District says
10 that, in order to make any determination what is and
11 isn't a farm use, you need more information. You need
12 the documentation.

13 And so, again, it's not clear from that
14 correspondence -- there has been various assertions
15 from the appellant's counsel that they do intend on
16 composting the manure, and then they don't intend on
17 composting the manure. They do intend on using green
18 waste for animal bedding, and then they don't. And
19 again, without something clearly written, and without
20 documentation to support it, it's just not clear
21 what's going to occur.

22 Specifically, and I'm aware that I have
23 just a couple of minutes, but I would like to
24 highlight just one of those issues. And it's in
25 Exhibit B, of Mr. Neurater's affidavit. And it's
26 specifically page 48 to 50. And I won't take you to

1 it because, again, it's as far as the time here, I
2 don't have time. But I would like to highlight this
3 very specific concern as far as the wood waste. Well,
4 in November, 2012, Mr. Mansell indicated to Mr.
5 Neurater when he was questioned about wood waste
6 leaving the farm, that -- his response was that the
7 grinder creates some unusable wood chips that are too
8 big for composting without grinding them a second
9 time. Mr. Mansell indicated that they take the waste
10 chips, waste wood chips, to Ellis Recycling and trade
11 them for yard waste, and then the waste chips get
12 shipped down to the States.

13 Well, the explanation provided to the
14 Minister of Agriculture, in a knowledgeable person's
15 report, dated March 22nd, states something different.
16 It says that they were advised that treated
17 contaminated wood waste are separated out and not used
18 in the composting operation. The treated contaminated
19 wood waste is ground and shipped to Ellis Recycling.
20 So, slightly different.

21 Well, in January of this year, Mr. Neurater
22 was waiting outside the property and witnessed some
23 trucks loaded with material leaving the property. He
24 followed those trucks to a fenced area determined to
25 be a Tervita offload facility for the Esquimalt
26 grading dock dredging project. He contacted Tervita

1 to find out why material was being brought there from
2 the property. The representative from Tervita
3 indicated to Mr. Neurater that Foundation Organics ran
4 out of wood chips last week, so Foundation Organics
5 delivered two to three loads of a mixture of compost
6 material, but they were advised by Tervita that that
7 was not acceptable material.

8 The representative from Tervita confirmed
9 to Mr. Neurater that Foundation Organics has been
10 contracted to continue to deliver ground wood waste to
11 the offload facility. There is -- those contracts
12 haven't been provided in to the ALC as far as the
13 District can tell.

14 Mr. Neurater contacted Mr. Mansell
15 regarding this. And Mr. Mansell wasn't aware that Mr.
16 Neurater had followed those trucks. Well, Mr. Mansell
17 indicated to Mr. Neurater that Foundation Organics
18 does not supply Tervita with wood waste, he indicated
19 that it was Finish Line that supplies wood waste to
20 Tervita, and that the waste was coming from the Jordan
21 River log sort. He indicated that the material that
22 was delivered on those days, January 16th and 17th, was
23 wood waste delivered from the Jordan River site.

24 So things aren't matching up. And again,
25 in the forum we have today, those are live questions,
26 but they do raise red flags.

1 So, I'm aware that my time is pretty much
2 over here, and all I wish to indicate is that when I
3 say that the information hasn't provided -- if you
4 look back at the ALC's letter that was written on
5 November 29th, 2013, that was the letter that requested
6 records or documents from the appellants with respect
7 to the farm operation and the composting operation.
8 And that's tab 24 of the ALC's documents. Now the
9 District also wrote a very similar letter. We didn't
10 even get a response to our letter, and we only got
11 documentation through the list of documents through
12 the court action.

13 But if you go through each one of those
14 bullets in the November 29th letter, those documents
15 haven't been provided. One of them says, "All
16 documents relating to all businesses on the property
17 such as invoices, leases, and contracts have been
18 provided." Well, I haven't seen any -- very few
19 invoices. There may be just a summary of, here's how
20 much we've -- you know, how much manure we've sold, or
21 here's how many cattle we sold. But where is the
22 invoices? Where is the documentation to support those
23 statements? Where is the documentation and contracts
24 with respect to these businesses, like I just
25 mentioned, regarding wood waste being shipped to
26 Tervita?

1 Another one is documents relating to use
2 and sale of silage and hay and the number of cattle on
3 the property. Well, again, not all information has
4 been provided regarding that, and there is more
5 information, and again, the District has its own legal
6 proceedings, but we have certainly received more
7 documentation than has been provided to the ALC so we
8 are aware that documentation does exist.

9 THE CHAIRPERSON: I will have to ask you to close now.

10 MS. BRADLEY: Pardon me?

11 THE CHAIRPERSON: I will have to ask you to close now, if
12 you don't mind.

13 MS. BRADLEY: Yes. So in summary, the District certainly
14 says that information, documentation that has been
15 requested that supports the stop-work order still
16 remains outstanding and before considering to lift
17 this stop-work order, that information needs to be
18 provided because of the very concerns that we still
19 don't know what's going on on the property.

20 As far as the District's concluding
21 statements, that includes documentation regarding
22 volume of compost produced from the mixing of manure
23 and imported waste materials, and the adequacy of that
24 amount for the farm's agricultural needs. Why do you
25 need a composting facility until you figure out what
26 you already have on your property and how you can use

1 it?

2 And the second is, a clear commitment from
3 the appellants, Stanhope Farm, Foundation Organics,
4 that all compost produced on the property, if there is
5 a need for compost, that it's truly going to be
6 applied to the farm as a fertilizer, and have it in
7 writing, and lay out the terms of that.

8 And so at this point in time the District
9 submits there is just no basis for the Agricultural
10 Land Commission to conclude that there is a necessity
11 at this point in time to vary the stop-work order.

12 And that's the District's submissions.

13 THE CHAIRPERSON: Thank you very much, Ms. Bradley.

14 Ms. LeBlanc, do you have any questions at
15 this time?

16 MS. LeBLANC: No, I can reply after each intervener, if
17 that is something that would be helpful or save it
18 until the end. I understand that I am reserved to the
19 very end, and I'm content to stay that way.

20 THE CHAIRPERSON: You'd rather ask questions at the end,
21 then, you're saying?

22 MS. LeBLANC: Well, I can respond directly while it's
23 fresh in everybody's mind right now, if that's
24 acceptable.

25 THE CHAIRPERSON: Sure. Yes. Yes. Whichever you'd
26 wish.

1 **REPLY BY MS. LeBLANC:**

2 So I think there was a number of points
3 that I wrote down here. And if there is any questions
4 from the appellants directly, of course they'll make
5 themselves available.

6 Ms. Bradley has gone into detail about
7 trucks and what she defines as either compost or
8 manure leaving the property. Of course there is
9 manure leaving this property, and it is being sold.
10 It is manure. The sale of manure is a use or is an
11 activity that pre-dates any bylaw. So it is something
12 that has been going on prior to any of the District's
13 bylaws, and is a non-conforming use or activity. It
14 is something that is keeping this farm financially
15 viable, and to the extent that when they are farming,
16 they look at whether or not the needs are to have it
17 land applied, or whether the financial needs are to
18 sell it.

19 So, yes, there have been trucks leaving
20 with manure for sale.

21 With respect to outstanding documents, I do
22 take issue with that broad statement. There is
23 separate litigation ongoing between the appellants and
24 the District. It is not something that relates to
25 this particular hearing, but there has been full
26 disclosure of documents and there is no further

1 outstanding requests in that particular litigation.
2 If the District wants documents, they can ask for them
3 in that particular proceeding, and we'll deal with it
4 there. So to say that there is outstanding documents
5 is a mis-statement at this particular point in time.

6 There have been no bylaw sanctions with
7 respect to this property to date. The only particular
8 issue that I'm aware of is with respect to the order
9 that was rendered concerning the Class 3 licence. And
10 that is currently the only sanction that has ever been
11 rendered, if you can call it a sanction, and we
12 wouldn't go that far, with respect to this farming
13 business.

14 The District referred to its bylaw. And I
15 say that it's inappropriate for a determination to be
16 made with respect to the bylaw in this proceeding.
17 And this is something that is at issue with respect to
18 the District, and the appellants, and it is in
19 paragraph 18 of Ms. Bradley's submissions. And I just
20 wish to point out that she's made some underlines
21 there, but what hasn't been underlined is the same
22 farm business.

23 And the appellants do have an ongoing
24 dispute with respect to what that means, and it's a
25 bylaw interpretation issue. I say it's not an issue
26 with respect to the hearing today, and in any event

1 the appellants have stated that they will not be
2 applying at this particular time compost on any other
3 lands. It is only for their property.

4 And lastly, there are no restrictions to a
5 farm being commercial. There was reference that this
6 is a commercial operation. Of course our Court of
7 Appeal has confirmed that a farm can be commercial,
8 and of course farms have to be commercial in order to
9 keep them viable.

10 So those are my responding submissions,
11 thank you.

12 THE CHAIRPERSON: Thank you very much. Any questions?
13 No. Okay, thank you again.

14 As soon as I get organized. The stack of
15 paper is getting higher here. We'll move forward,
16 then, with the second intervener, that's the Capital
17 Regional District. And I understand that Susan Beach
18 is going to speak on behalf of the Capital Regional
19 District, and you have 20 minutes. Thank you very
20 much.

21 **SUBMISSIONS BY MS. BEACH (CAPITAL REGIONAL DISTRICT):**

22 MS. BEACH: Do you have the CRD's submissions in this
23 matter?

24 THE CHAIRPERSON: Yes, we do. If you give us a minute.

25 MS. BEACH: Yes, thank you.

26 THE CHAIRPERSON: I think we're ready.

1 MS. BEACH: Okay, thank you.

2 THE CHAIRPERSON: Go ahead.

3 MS. BEACH: The CRD's role in relation to this property
4 is that the CRD has been granted powers from -- I
5 guess I'm too close? CRD has been granted powers from
6 the province to enact the composting facilities bylaw
7 that it has enacted. So it's been granted the power
8 to create a service within the whole of the Capital
9 Regional District to regulate and manage compost
10 materials: solid waste and recyclable materials.

11 So it granted, based upon a 2010 operating
12 plan submitted by originally Stanhope Farm -- just
13 Stanhope Dairy Farm, not the Ltd. -- a Class 3 recycler
14 licence. And that's the top level of recycler licence
15 that you can get. By "top", I mean that it included
16 the most challenging composting materials, which are
17 those that come from residential, commercial, and
18 institutional cooked food products.

19 And they started that in 2010. And
20 throughout the next two years, they increased the
21 amount that they were bringing in quite substantially,
22 and caused challenges with their composting operation,
23 which resulted in a significant amount of odours. So
24 in August of 2013, their licence was suspended and
25 they weren't allowed to bring in any food, Class A or
26 B, food wastes at that time. That went under judicial

1 review, and that was -- so they appealed it.

2 So, the appeal was held in October, 2013
3 and at that point they weren't to bring in any
4 composting materials except our bylaw allows Class 1
5 materials -- and I'll refer to that later -- without a
6 licence. So, as of October 11th, they weren't supposed
7 to be bringing in any materials other than what was
8 Class 1 materials.

9 And they did submit two other operating
10 plans, neither of which were approved by the CRD,
11 primarily because they did not feel that they
12 addressed adequately their composting process to
13 reduce the odours. And by the time they surrendered
14 their licence in May of this year, the CRD still had
15 not approved an operating plan. So they were still
16 under suspension. There was words about canceling it,
17 but really they surrendered their licence to us while
18 it continued to be under suspension.

19 So the CRD's role in this situation is that
20 the CRD wants to ensure that its bylaw is upheld. And
21 at this point, the Stanhope Dairy Farm, or whoever is
22 operating that, and that does change from time to
23 time, can operate under a Class 1 licence, which you
24 don't have to have a licence for. Right? And there
25 are other farming activities going on in the Saanich
26 peninsula which other farm owners do the same type of

1 composting.

2 So in my brief, I'll just actually take you
3 right to the bylaw, so you can just see what our bylaw
4 allows. So it's under tab A of that bound volume.
5 And if you go quite close near the back, I think it's
6 one, two -- the third page from the very end of that
7 tab.

8 THE CHAIRPERSON: Third page?

9 MS. BEACH: Yes. From the very end. End. Yeah. So
10 this table in Schedule E, Table 1, feed stock
11 processing general organic matters, may be composted
12 on an impermeable surface or in vessel and will not
13 require a licence unless the operation contravenes 6.3
14 of this bylaw.

15 6.3 says that if they commit an offence and
16 are found guilty of committing an offence under the
17 bylaw, then they will require a licence. CRD
18 currently has ongoing prosecution for seven offences
19 under this Act that's going to trial in September. If
20 they are convicted of offences, they will require a
21 Class 1 licence as well.

22 So these are the items that currently that
23 Stanhope Farm is permitted under the CRD bylaw to
24 compost as long as they don't cause a public nuisance
25 or do anything else that causes -- and that's in
26 contravention of our bylaw. So with relation to their

1 stop-work order, CRD simply wants to ensure that only
2 the materials listed in a Class 1 licence are the ones
3 that they are required to do, as the *Environmental*
4 *Management Act* governs our legislation. So this is
5 not a CRD bylaw. This is an *Environmental Management*
6 *Act* bylaw, which is significantly different than the
7 powers granted under the *Local Government Act* or the
8 *Community Charter*, in that under the Section 25(2) of
9 the *Environmental Management Act*, despite any other
10 *Act*, they must comply with our bylaw.

11 So even if you were to order that they
12 could bring in more product, our bylaw would take
13 precedent over that, because it's despite any other
14 *Act*. Okay? So, we simply want to make sure that this
15 is the only products that they bring in. And my
16 understanding is at this point that it's brewery waste
17 that they are interested in. And yard waste, is my
18 understanding.

19 In one of their documents, they did talk
20 about construction debris in one of the last
21 arguments. And I -- that is not listed in our yard
22 waste, construction debris, in itself, if you look at
23 the definition of "yard waste". So I do have some
24 concerns about them bringing in any form of
25 construction debris.

26 So that was the initial thing that the CRD

1 wanted to get across to this Board, in relation to
2 that. We do have a little bit of information for you
3 with regards to the volume of product that they
4 brought in last year, and I'll just draw your
5 attention to that. So I'm going back to my
6 submissions now.

7 And if you go to paragraph -- it's two
8 different paragraphs. Paragraph 22 on page 4 of my
9 submissions. The CRD did retain Dr. Timmenga, who is
10 a professional agrologist with a Ph.D. in soil science
11 and post-doctoral fellowship in composting science, to
12 visit the Foundation Farms on numerous occasions, with
13 regards to both odour and volume, because they were
14 inter-related with regards to the suspension of their
15 licence. And this report was provided and part of the
16 judicial review, and that judicial review decision
17 which upheld the CRD's suspension of their licence is
18 also contained in your materials.

19 THE CHAIRPERSON: Right.

20 MS. BEACH: At G. And it contains this information as
21 well. So, specifically with regards to the volume
22 that the CRD was aware of, you'll see that under their
23 licence, they were permitted to have one thousand --
24 sorry, just a sec, we're on the wrong paragraph. I
25 want the paragraph that explains it better.

26 So, 22. Dr. Timmenga found that they had

1 exceeded the amount in their licence which was 1,000
2 of Class A and 3,000 of Class B food waste. You'll
3 see that between August -- I mean, January 2nd, 2013
4 and August 16th, 2013, they brought in 4,474 tonnes of
5 Class A and B food waste, which was 10 percent over
6 their amount.

7 In addition, Dr. Timmenga found that they
8 had -- sorry. Sorry, I'm waffling here. I think it's
9 Tom Watkins' affidavit that's far more particular --
10 yes, it is. Sorry.

11 If you just go to tab B. I thought it was
12 my argument, but Watkins' affidavit sets it out much
13 more clearly. I just remembered.

14 Paragraph 7 of that Tom Watkins -- so Tom
15 Watkins is the environmental resource management
16 policy and planning manager at the Capital Regional
17 District, and has been intricately involved in this
18 matter. And this is the affidavit from the judicial
19 review, and on page 3, paragraph 7, it sets out that
20 the licence was approved for 10,000 tonnes of food
21 waste with 1,000 tonnes of Class A and 4,000 -- and
22 3,000 tonnes of Class B. The remainder was to be yard
23 and garden. Organics are provided.

24 There was two different methods of
25 receiving food waste that the CRD had. One was the
26 kitchen scraps program, and that was a pilot program

1 that was being run in a few municipalities within the
2 CRD. And the second one was through an incentive
3 provider, where they paid the haulers to take scraps
4 for them.

5 So out of that amount, only they brought in
6 2,698.59 tonnes of food waste to the end of June. We
7 had to yet have an order as of August 16th for them to
8 order in the rest of their food waste, and at the end
9 of this tab we have the tabulations, which do not
10 include the cruise ship materials and their commercial
11 amount. So, at the end of the tab we have a
12 tabulation. You'll see it's labeled Appendix C, at
13 the end of this affidavit. So these were done from
14 just January to June. And this is the tabulation of
15 the two different types of contracts that the CRD had
16 in methods that they were getting in food waste. And
17 if you flip it over to the next page, this indicates
18 the kitchen scraps that were coming in.

19 Paragraph 23 of my submissions -- sorry, I
20 am going to take you back to paragraph 10 first. My
21 apologies. Between January 1 and August 16th,
22 Foundation's only -- only foundation's documents came
23 in at 4,574 tonnes of food waste. So, that included
24 the -- that was just really CRD documents. They never
25 did provide us full documentation with regards to what
26 they were receiving from the cruise ships, which was a

1 significant amount. So, CRD has always assumed it was
2 well above this amount, because this amount was just
3 what the CRD amounts, exceeding the 4,000 tons per
4 year. In March and April, and May they exceeded the
5 100 tonne maximum per week, and they proceeded to do
6 that throughout most of August. So, I think it is
7 important to realize with regards to the amount that
8 they have put on their property already, they were
9 ordered in October to take all the food waste that
10 they had, which would have been at least this much,
11 out and dispose of it in a landfill or an alternate
12 composting facility. Because they had brought in a
13 significant amount after our original suspension order
14 in August. So, between August and the end of
15 September, they brought in two or three thousand
16 tonnes extra of food waste. And so, because of the
17 odor problem, they were ordered to release it.

18 They never did, they continue to compost it
19 and mix it, and compost and mix it, and have never to
20 this day, complied with that order. And that is what
21 they say they put on their fields in April and May of
22 this year. And in fact we -- our bylaw officer, who
23 has essentially been there pretty well -- we have had
24 a bylaw officer there six days a week for months on
25 end. He indicated that it certainly was that material
26 taken from inside the composting facility that was put

1 onto the field, as well as there was a substantial
2 number of trucks that were trucked off with the rest
3 of their compost.

4 So, it is -- the CRD's submission with
5 respect to that, and we support the DCS in that the
6 amount that has been put on this field already is
7 substantial. And I do not note anywhere that we know
8 the dates that the samples were taken from, and
9 whether they were before or after this amount that was
10 just put on the fields. And also last year's amount
11 that was put on the fields. There was an indication
12 that they can go back three years. So, if they went
13 back three years to 2011-2012, the volume of compost
14 that they were receiving and applying to the fields
15 was significantly low at that time. They were not
16 receiving anywhere near the volume that they received
17 in 2013 until the CRD had to essentially shut them
18 down because they couldn't handle the volume they were
19 receiving.

20 So, volume is the most important aspect of
21 it. The CRD wants to see that there is compliance
22 with their bylaw in that any stop-work order respects
23 our schedule E, as I pointed it out to you. And
24 secondly, that they need to ensure that the volume
25 that they are receiving is only that that goes on the
26 fields, and because once they get beyond that volume,

1 they appear not to be able to control odors very much.

2 You will note in our Schedule E it has a
3 couple food type products in there which will create
4 increase smells. They are not asking for that to be
5 lifted at this point, and so the CRD is respectfully
6 asking that you just -- if you lift anything, you lift
7 only what they are asking for, specifically right now,
8 which is the brewery waste and the yard and garden
9 waste.

10 The issue of grinding is not really within
11 the jurisdiction of the CRD to discuss. We don't deal
12 with grinding in our bylaw at all, so I will leave
13 that within your hands. Thank you. Any questions?

14 THE CHAIRPERSON: Thank you very much. Ms. LeBlanc, you
15 have some questions?

16 MS. LeBLANC: No questions, just some more general
17 statements.

18 THE CHAIRPERSON: Okay.

19 **REPLY BY MS. LeBLANC:**

20 The appellants are only asking for the
21 class 1 items to be lifted at this time. So, I don't
22 believe that there is any dispute with respect to that
23 particular aspect of the CRD's submissions.

24 The remaining items don't pose an issue
25 right now. Of course, if this were to be a final
26 stop-work order, and changes in the farm occur,

1 rendering some of those other items to be problematic,
2 then that would be a problem.

3 The material was land applied. The
4 component of that stop work, or the order of the CRD
5 is under appeal. There is a dispute between the CRD
6 and the appellants with respect to whether it was
7 appropriate to require Class A compost to be sent to a
8 landfill. So, in keeping with what the Agricultural
9 Land Commission had indicated that it was to be land
10 applied, it was land applied on this property, and
11 this property only.

12 There has been some statements with respect
13 to the soil samples and the testing, and the
14 appellants are open to ongoing testing if any of the
15 parties disagree with respect to the soil conditions
16 of this farm, and of course, the CRD having somebody
17 there six days a week of course can take their own
18 soil samples if there is a concern. And that is all
19 this is, is concerns. And the appellants simply
20 cannot be prosecuted for concerns on what may happen
21 in the future with respect to this property.

22 Thank you.

23 MS. BEACH: I just have one comment. The CRD is not able
24 to take soils. Just to clarify that. The appellants
25 have been very clear to the CRD that they are not
26 allowed on any portion of the property that they

1 consider part of the farm. And so we are not at
2 liberty to take soil samples from the fields.

3 MS. LeBLANC: With respect to ongoing litigation that was
4 certainly the case. The soil samples are there, if
5 anybody wants to go and take other soil samples. The
6 appellants are not going to disagree with that. They
7 certainly are going to take issue with respect to
8 ongoing bylaw officers on the farm, on an ongoing
9 daily basis, and that is what the issue was.

10 THE CHAIRPERSON: Thank you very much. Okay, I think we
11 will move on. It is getting close to when we should
12 have a break I think for lunch. But I think I'd like
13 to carry on with one more of the intervener
14 submissions prior to that break. So we will move
15 forward with Ray Baker and Lee Hardy submission. And
16 I understand that Ray Baker will be the speaker in
17 this case, and I would like you to come forward. And
18 you have five minutes for your presentation, and we do
19 have your materials, so if you want to refer to them?

20 **SUBMISSION BY MR. BAKER (FOR RAY BAKER AND LEE HARDY):**

21 Thank you, commission, for allowing me this
22 time to speak. You will quickly learn that I am not a
23 lawyer and that I am very unfamiliar with the
24 procedures of this hearing. So, I apologize ahead of
25 time if I have stepped over the boundaries. I am
26 going to try and read a statement for you about our

1 concerns.

2 Right from the start, Stanhope Farm has
3 been trying to run a commercial composting operation
4 on agricultural land. The very first application for
5 a composting licence was for a commercial composting
6 operation. Ever since that day, they have been trying
7 to squeeze and manipulate a commercial business into
8 the farm operations. This is very much like trying to
9 fit a square peg into a round hole.

10 Was the stop-work order justified? That
11 does not seem to be an issue here today, as nobody
12 seems to be arguing the point. So, this brings us to
13 the question, should Stanhope be permitted to import
14 wood products onto the farm?

15 I think that we need to look at the
16 threshold question here. Do you, as a panel, have
17 faith in these people and this facility enough to open
18 that door? I'd like to break this down a little bit
19 more. Has the farmer been forthcoming with
20 information? I think the answer is clearly no.
21 Despite many letters from the law firm for Stanhope
22 Farm and Foundation Organic stating that they will
23 cooperate and that they want to work with all the
24 agencies, the CRD, the District of Central Saanich,
25 the ALC, those agencies are still waiting for
26 documentation. I, myself, in fact, asked for a little

1 assistance in trying to locate one of the documents
2 that the law firm had provided and I got no response
3 to my question. We have to ask ourselves, if these
4 people truly wanted to cooperate, would we all be here
5 today? Would the District of Central Saanich be here,
6 would the ALC be here, and would the CRD be here?

7 In a letter from Stanhope's law firm, the
8 firm states that some of the documentation is not
9 available. They claim that the farm has an organic
10 style of record keeping. I asked two separate
11 accountants if they had ever heard of this "organic
12 record keeping". Neither one had so I could not find
13 a definition for organic record keeping. My best
14 guess would be that the basic principles is that if
15 you don't keep good records, you don't have to produce
16 good records.

17 Have they demonstrated their willingness to
18 abide by the bylaws of Central Saanich and the
19 District? Well, I would have to say no to this as
20 well. The law firm for the District of Central
21 Saanich, had sent a letter to Stanhope Farms' legal
22 team. In that letter, there are no less than five
23 separate bylaw issues. In all five of these issues,
24 the author ends the paragraph with a warning that an
25 injunctive proceedings to enforce the bylaw. The
26 District of Central Saanich bylaw officer warned the

1 operators about not using Old East Road as a truck
2 route and he was told, "We don't care, that is the way
3 we are going to do it." So, when the stop-work order
4 was placed on the new composting -- when a stop-work
5 order was placed on the new composting building and
6 they were told that they could not continue work, and
7 if they continued work, it would result in fines.
8 They just kept working. I guess it would be just
9 considered the cost of doing business.

10 There are many, many incidents of non-
11 compliance on which the CRD bylaw officer -- and one
12 of those non-compliance dealt with the CRD bylaw
13 officer who, at one point, had to abandon his vehicle
14 for fear of personal injury. He had to get a police
15 escort back onto the property so that he could
16 retrieve the CRD vehicle.

17 I just want to touch on the reasons why
18 they want to bring wood waste on to the property.
19 They claim that it will be used for bedding for the
20 cow barn. They claim that they have been doing wood
21 grinding for years. Please take note of the open
22 ended term, "years". Does this mean two years? Does
23 it mean four years? Does it mean twenty years? I
24 wish to point out that in the farm industry review
25 board report, the knowledgeable professional states
26 that they were informed that the wood grinder had been

1 in operation for about ten months. That was in April
2 2012. The report also points out that composting at
3 Stanhope Farm started approximately August of 2011.
4 That is about nine months prior to the KPs visit.
5 This supports the neighbours claims that wood grinding
6 started at the same time or at least within a few
7 months of the composting operation.

8 It also was pointed out by Mr. Rod Rendle
9 on December 5th, 2012, at a public hearing I believe
10 held in this very building, that the grinding of wood
11 costs \$750 an hour to operate that piece of machinery.
12 This is on the internet, and it can be looked up for
13 everybody to see. I asked if I could bring it today,
14 I was told I wasn't allowed to.

15 In regards to the end use of the compost,
16 as bedding, they claim their own fields and having
17 lease agreements or a farm business agreement with
18 other land owners. I was under the impression from
19 the documentation that I received that the new
20 arrangement was with a farmland referred to as Rio
21 Land 1 and Rio Land 3. And it also referred to land
22 property referred to as "John Cook" property. This is
23 mentioned in their nutrient management plan. I
24 understand today that that game has been changed and
25 now they're not claiming those properties any more.

26 Well, what is interesting is the real

1 property in 2011, February 11th, 2011, again at a
2 public meeting held in this building, Mr. Rendle --
3 again Rod Rendle stood up and claimed that he was
4 leasing the Rio property.

5 The land owner of the Rio property stood up
6 and said, "I want to make something very clear. You
7 don't lease anything from me. You cut my hay, and
8 that's all."

9 The ALC requested a list -- the ALC
10 requested a list of lands that Stanhope Farm was going
11 to apply this property on. It was mentioned before.
12 They were 12 properties. Rio was one of those
13 properties. The ALC investigated this. All 12 of
14 those people chose not -- they denied having any kind
15 of an agreement. It was -- they had already told us
16 that. Rio had already explained to us that the year
17 before, but yet it was submitted again.

18 I've wondered since that time, is there a
19 basis for a fraud investigation?

20 My current understanding is now that
21 Stanhope Farm has -- sorry, that's a bit repetitive.
22 So, not to take up too much more of your time. My
23 last thing that I would like you to think about, or to
24 consider while you're reviewing all the binders,
25 please don't take anything at face value. When they
26 say "years", what does that mean? When they say it's

1 "historical", what does that truly mean? When it's
2 "the way we've always done it", please look at all the
3 documentation and make sure you're confident with how
4 long we're talking about.

5 Thank you again for your time.

6 THE CHAIRPERSON: Thank you very much. I realize that
7 your time is short. I do appreciate you sticking to
8 it. You have some questions, Ms. LeBlanc?

9 MS. LeBLANC: Nothing now, thank you.

10 THE CHAIRPERSON: Nothing? Okay. It's a little early,
11 maybe, from our schedule, but I don't want to seem
12 like we're ploughing through these, you know, just to
13 get this hearing over with. So I'm going to adjourn
14 the meeting right now for an hour. We'll say a
15 quarter to one, we'll reconvene. And give everybody a
16 chance to have lunch, stretch their legs. Thank you
17 very much.

18 (PROCEEDINGS ADJOURNED AT 11:41 A.M.)

19 (PROCEEDINGS RESUMED AT 12:45 P.M.)

20 THE CHAIRPERSON: Okay, thank you very much. We'll
21 reconvene the hearing. And we will start with Michele
22 Bond and David Bond's submission, which is five
23 minutes in length. And it will be carried out by
24 Michele Bond. Is she present? Yes. If you can just
25 use that mike there? Yes.

26 **SUBMISSIONS BY MS. BOND (MICHELLE AND DAVID BOND):**

1 MS. BOND: Good afternoon, and thank you for this
2 opportunity to speak.

3 My name is Michele Bond and I live at 6549
4 Lochside Drive. I am here to request that the stop-
5 work order issued to the Rendles, Stanhope Farms, and
6 Foundation Organics be upheld in its entirety. For
7 simplicity, I'll refer to this group as Stanhope.

8 My family and I have lived at this location
9 for 27 years. We are less than 500 metres from the
10 entrance to the industrial compost facility built in
11 our neighbourhood on agricultural land. As we are on
12 the main access route to the facility, we are also in
13 the unfortunate but unique position to view the
14 transport of materials in and out of Stanhope. As
15 such, we are able to comment on the need for the stop-
16 work order in the first place, and whether it should
17 be continued.

18 In our society, rules and regulations are
19 written for the benefit of all, with the expectations
20 that they will be followed. Penalties are intended as
21 a last resort when negotiations and warnings to comply
22 fail.

23 Since Foundation Organics partnered with
24 Stanhope, there has been a history of non-compliance
25 with the rules and regulations that govern this
26 operation. The *ALC Act*, Central Saanich bylaws, and

1 the CRD bylaws, have all been violated to a large
2 degree and we have been a direct witness to these
3 violations.

4 Since 2011, we've kept daily records of
5 trucks passing our house, to and from Stanhope
6 facilities. We have given this information to the
7 agencies involved, and this is part of the current
8 factual records. These observations are by no means
9 complete, but they clearly show violations of the *ALC*
10 *Act* and regulations, Central Saanich land use bylaws,
11 and the CRD compost bylaws. For example, we have
12 witnessed Stanhope grossly exceeds the ALC limit on
13 imported landfill material to their property. They
14 significantly exceeded the CRD limit on food waste
15 import, and they have exceeded the Central Saanich
16 limit on commercial trucking on Lochside Drive. They
17 emitted extremely foul odours and frequently and
18 persistently have allowed it to go well beyond their
19 property boundary, against CRD bylaws and against
20 their licence. They have regularly sold compost off-
21 site in violation of the Central Saanich bylaws, and
22 they have ground and sold wood waste as a commercial
23 business without the permission of the ALC, or Central
24 Saanich.

25 These violations completely support the
26 need for the stop-work order in the first place, and

1 our records and personal observations also show that
2 Stanhope ignored the stop-work order after it was
3 issued.

4 Stanhope is now asking you to amend the
5 stop-work order to allow them to bring in unprocessed
6 material to grind and use as bedding for their
7 animals. They say this has always been done in the
8 past and should be allowed to continue. Yet we and
9 our immediate neighbours do not recall importation or
10 the grinding of wood waste, old pallets, or
11 construction debris, prior to the involvement of
12 Foundation Organics. To our knowledge, Stanhope Farms
13 has always used processed material such as wood chips
14 and sawdust.

15 The statement that they now have
16 unprocessed wood waste for historical farming reasons
17 is yet another example of misrepresenting the facts.

18 The past four years have had a very serious
19 negative effect on our neighbourhood and on our lives,
20 our health and the enjoyment of our properties. We
21 submit that Stanhope's frequent and continual
22 disregard for the law and the rights of the
23 surrounding community made the stop-work order
24 absolutely necessary in the first place.

25 In conclusion, we believe that there is
26 sound reason and ample evidence to uphold the order in

1 its entirety. Thank you.

2 THE CHAIRPERSON: Thank you very much. Ms. LeBlanc, you
3 have some comments?

4 MS. LeBLANC: I have comments. I'll save them for my
5 reply. Thank you.

6 THE CHAIRPERSON: Okay. The next presentation from an
7 intervener is from the Tanner Ridge Community Members'
8 submission. Again, it's five minutes. And the
9 presenter is Becky Cotterel?

10 MS. COTTEREL: Yes.

11 THE CHAIRPERSON: Go ahead, then.

12 **SUBMISSIONS BY MS. COTTEREL (TANNER RIDGE COMMUNITY):**

13 MS. COTTEREL: The stop-work order issued January, 2014,
14 followed an established history of bylaw infractions
15 and land use mismanagement. It was neither capricious
16 nor hasty. It came in the course of due process with
17 thorough documentation. I am here to provide a voice
18 to the over 1,000 homeowners of Tanner Ridge, and
19 their families, many in the breezeway, whose nearby
20 properties and lives were affected by the inability of
21 Stanhope managers to comply with community bylaw
22 regulations in the pursuit of alternative farmland
23 use.

24 Prior to 2010, the property operated as a
25 dairy farm in harmony with the rest of the community,
26 which is of mixed residential/agricultural use. After

1 selling the dairy quota, alternative means of
2 utilizing the land were explored. Finish Line
3 Trucking, a commercial entity, began operating from
4 the farm. Fill was accepted from the Uptown building
5 project, burying over 10 acres of fine ALR land.
6 Foundation Organics was established to process kitchen
7 waste. None of these were appropriate use of ALR
8 land. All were problematic, and negatively impact the
9 immediate neighbours who are themselves farmers.

10 However, it was the kitchen waste
11 processing which most affected Tanner Ridge just
12 uphill and downwind from the facility. CRD complaint
13 records attest to the pervasive stench which settled
14 around our homes and made the neighbourhood a
15 wasteland. In the most beautiful weather, gardens
16 were untended, children were indoors, barbecues were
17 abandoned, and the streets were silent. Indoors,
18 residents had to choose between sweltering and
19 breathing, because to open windows was to lose the
20 last refuge you had.

21 The smell was deeply offensive – putrid,
22 produced by the noxious off-gassing of a massive
23 concentration of organic garbage diverted from the
24 landfill and ripened by warm weather. The smell
25 drifted as far as Brentwood Bay before it dissipated
26 on some days. For those in the heart of the

1 breezeway, that smell could knock you to your knees
2 when you got home on the best days of summer. No
3 potential buyer would leave their car to look at your
4 property, and you, yourself, found an excuse to leave
5 and stay away as long as possible, in the hopes that
6 with the cool of the evening it would be bearable to
7 return.

8 Those of us in good health felt the
9 physical impact of constant stress. Those whose
10 health was compromised, particularly those with
11 respiratory ailments, felt threatened, and their
12 health undermined in their own homes.

13 Property values were estimated to decline
14 by up to 10 percent last year, and this spring homes
15 listed for sale on Tanner Ridge are up by 63 percent
16 over the last two years. These neighbours would
17 rather realize the lost property value than risk
18 another year of being robbed of enjoyment of their
19 property or deteriorating health by the actions of one
20 neighbour.

21 The collective loss in property value is
22 staggering. The individual losses are overwhelming,
23 deeply personal, and in some cases life-changing.
24 Whether by inexperience or poor management, the
25 composting facility consistently failed to meet bylaw
26 regulations with regard to litter, odour, and vector,

1 and so doing grievously trespassed on the property
2 rights of others.

3 In September, 2013, 262 residents signed a
4 petition requesting government intervention to protect
5 them from the continued damage to their health and
6 property. Three hundred attended a town hall meeting
7 for this purpose. Each one represented others who
8 could not attend.

9 Documents supplied to the tribunal show a
10 clear and consistent pattern of regulatory abuse:
11 Commercial enterprise on land taxed for farm use.
12 Misrepresentation of available land on licence
13 application. Disregard of licence limits. Failure to
14 adhere to the operating plan or to utilize nuisance
15 protocols in the manner specified by the operating
16 plan. Routine commercial sales of compost, wood
17 chips, or in combination with manure Deliberate
18 disregard of removal order issued by the CRD. All
19 with an overwhelming impact on the surrounding
20 properties.

21 As you consider this appeal, and
22 appropriate agricultural use of ALR land, we ask you
23 to remember that these alternative uses of the
24 property have come at a high cost for many others who
25 share this community. We have lost financial property
26 value, personal property value, the solace and comfort

1 of our private space, and the security that at least
2 at home we can limit negative factors affecting our
3 health.

4 Our concern is that lifting the stop work
5 order will encourage further composting for off-sales
6 at our expense. Bylaws, like fences, make good
7 neighbours. We share this community, and we are all
8 accountable. Thank you.

9 THE CHAIRPERSON: Thank you very much. I appreciate it.

10 Okay, we'll move forward to the last
11 intervener for this meeting, and that's from Central
12 Saanich Community Members, and the presenter is Brenda
13 Jordison. Hi.

14 **SUBMISSIONS BY MS. JORDISON (CENTRAL SAANICH COMMUNITY):**

15 MS. JORDISON: Thank you. Good afternoon. My name is
16 Brenda Jordison. I am representing the central
17 Saanich Community Members. We are a group of
18 concerned family, friends, and neighbours of Stanhope
19 Farm.

20 In 2010, when Stanhope began bringing in
21 fill to prepare the site for the construction of a
22 farm-use compost facility, the complaints from a
23 select few neighbours began. Complaints about
24 increased truck traffic, noise, dust, and the
25 expectation that a compost facility would generate
26 odours, vector, and lost property values were

1 expressed in local news reports and at Council
2 meetings. This was the beginning.

3 Lee Hardy, Ray Baker, Michele and David
4 Bond, embarked on a mission to prevent the proposed
5 facility from being built. They wrote e-mails and
6 made complaints, only to be told that the compost
7 facility was allowed and approved use of the property.
8 They were told that nothing could be done to stop the
9 construction.

10 This did not make them happy. They
11 realized in 2011 that the only way to stop Stanhope
12 Farm from building and operating a compost facility
13 was to convince everyone involved that Stanhope was
14 conducting commercial and industrial activities.
15 Every complaint they made that was not pursued seemed
16 to fuel their ultimate goal and continued to find
17 things to complain about. They followed trucks, took
18 pictures, and appeared to be obsessed in their mission
19 to gather evidence against the farm and the facility.

20 As you can see from the volume of
21 documented e-mails between the Bonds, the District,
22 the CRD, and the ALC, it is apparent that they were
23 not going to accept the truth and continued to insist
24 that Stanhope was selling compost. They began
25 creating scenarios from things they observed, making
26 assumptions and harsh accusations, with no real

1 knowledge or proof to back up their findings.

2 In an effort to find some kind of proof,
3 the District even hired a private investigator.
4 Stanhope Farm was always open and always honest about
5 the activities they were doing on the property. Why
6 the District and the CRD felt that they were not being
7 honest, in my opinion, is a result of the accusations
8 made by neighbours. The accusations against Stanhope
9 are untruthful, unfounded, and have not been proven to
10 be true by anyone.

11 In the summer of 2013, some of the Tanner
12 Ridge residents became involved. The Tanner Ridge
13 website was created, and residents were told to
14 continue constant pressure on the authorities, and
15 take whatever actions necessary, including guerilla
16 tactics, to have this facility shut down -- even if it
17 meant bankrupting Stanhope Farm.

18 In August, 2013, after constant complaints
19 from some of the residents, the CRD suspended
20 Foundation Organics' recyclers' licence. The
21 suspension of the licence was not enough. Some of the
22 residents continued on their mission to collect
23 evidence against this farm.

24 In October, 2013, their efforts to have the
25 ALC declared a compost facility a non-farm use came to
26 realization and was openly and publicly celebrated by

1 these neighbours. It seems evident, especially after
2 reviewing all of the submissions, that the daily
3 complaints and constant accusations that Stanhope was
4 breaking laws and regulations and the lack of
5 documents in support of Stanhope created enough
6 pressure for the ALC to come to that conclusion.
7 Stanhope was attempting to carry on with its normal
8 farming practices, some of which included creating
9 bedding and selling manure produced on the farm. Even
10 though these activities have taken place for years,
11 the neighbours continued to monitor and log the farm
12 activities.

13 By January 30th, the ALC issued a stop-work
14 order completely restricting the farm operations.
15 Once again, the neighbours openly and publicly
16 celebrated. At one time, the Poplar Lanes Facebook
17 page stated:

18 "Tuesday's judgment came down on Foundation
19 Organics. They're toast. Yep, let's hope
20 the domino effect happens to them. They
21 deserve it."

22 This is just one of hundreds of malicious comments
23 made against Foundation Organics, Stanhope Farm, it's
24 owners and its operators, showing the character and
25 intent of these individuals. The stop-work order did
26 not appear to satisfy them. The logs and reports

1 continued. Bylaw officers followed trucks delivering
2 manure and harassed the customers.

3 Foundation Organics returned its recyclers'
4 licence, and they turned the building over to Stanhope
5 for use in its farm operations. It was clear modern
6 agriculture was not going to be accepted by these
7 residents and some governing bodies in the area.
8 Stanhope Farm carefully weighed its options and has
9 decided to go back to mainstream farming.

10 In addition to the Holsteins already being
11 housed and cared for at the farm, Stanhope is planning
12 on raising beef cattle. They are also hoping to
13 possibly raise hogs and put in an abattoir so they can
14 care for these animals full circle. These are all
15 normal farm practices. In the past, the neighbours
16 have said that they're not opposed to normal farming,
17 yet already after announcing its future plans, some of
18 the neighbours have started complaining.

19 We fear for the future of our local farms
20 if neighbours such as these are permitted to collect
21 evidence and make accusations used in the decisions
22 affecting farm operations. We are concerned that a
23 precedence will be set and that could affect the
24 future of all farms in B.C.

25 We ask that you please allow Stanhope Farm
26 to receive wood waste for livestock bedding, brewery

1 waste used for livestock feed, and yard and garden
2 waste used for fertilizers. Thank you for your time
3 and consideration.

4 THE CHAIRPERSON: Thank you very much.

5 MS. HERBST: Mr. Chair, sorry to interrupt the
6 proceedings. I just noticed that there is a camera in
7 the corner of the room, and I gather there is a
8 recording device toward the back. And of course this
9 morning you mentioned the request not to proceed in
10 that manner.

11 THE CHAIRPERSON: Can I ask who is using?

12 MR. ATWELL: Yeah, I if you like I can turn it off.

13 THE CHAIRPERSON: Yes, I appreciate it, yes. We did ask
14 at the beginning that there be no recordings.

15 MR. ATWELL: Okay, no problem.

16 MS. HERBST: There is something over here, too.

17 MR. ATWELL: Yeah, I'll get that. Apologies. Please
18 continue.

19 MS. HERBST: Who are you representing? Who are you
20 representing?

21 UNIDENTIFIED WOMAN: Can we ask who he's representing?
22 And why he's doing this?

23 MR. ATWELL: It's myself.

24 UNIDENTIFIED WOMAN: Are you a neighbour or something?

25 MR. ATWELL: My name is Richard Atwell. I live in
26 Saanich.

1 THE CHAIRPERSON: Okay. Okay. Ms. LeBlanc, do you want
2 to carry on?

3 MS. LeBLANC: Yes. Thank you, Mr. Chairman.

4 Moving forward, Mr. Mansell would like
5 to --

6 THE CHAIRPERSON: Can I just say, just for everyone's
7 information, I just want to conclude that that is the
8 end of the submissions by interveners. So there is no
9 other interveners coming forward. So this is an
10 opportunity for Ms. LeBlanc to bring forward any final
11 comments.

12 MS. LeBLANC: Yes, thank you. Mr. Mansell would like to
13 provide a short -- call it a bit of evidence, just to
14 respond to some of the information concerning the soil
15 samples with your indulgence.

16 THE CHAIRPERSON: Sure, that's fine.

17 **REPLY EVIDENCE BY MR. MANSELL:**

18 Q If you could just clarify when the samples were taken,
19 and the procedure concerning the soil samples that
20 were referenced in the nutrient management plan.

21 A Pardon me. The soil samples were taken by Rob Rendle
22 in the early part of February. I was present at that
23 time when that was -- on the day that it was taken.
24 So if there is, you know, some concerns that it was
25 taken three years ago before any compost was applied,
26 that's when it was -- the samples were taken.

1 MS. LeBLANC: All right, thank you. Were there any
2 questions with regard to the soil samples for Mr.
3 Mansell from the panel?

4 THE CHAIRPERSON: No.

5 MS. LeBLANC: All right, thank you.

6 **REPLY BY MS. LeBLANC:**

7 I'll be very brief in my conclusion. I
8 wish to just state that with respect to the
9 allegations of non-compliance that have been alleged,
10 the appellants have not been found in violation of any
11 bylaw. The only violation -- and it wasn't, it was a
12 suspension of a licence and that concerned the food
13 waste CRD licence. Outside of that there haven't been
14 any District violation of the bylaws.

15 The restriction sought by the District
16 would venture, in my submission, into a bylaw
17 interpretation. And it would subject the appellants
18 to what the District says are its interpretations of
19 its Bylaws and of course there is an ongoing dispute
20 with respect to that.

21 The allegation that there were not trucks
22 bringing material into the property beyond a year goes
23 back or the point that I previously made that the
24 access point has changed. So Ms. Bond would not see
25 trucking -- trucks going past her property prior to
26 that date as they were using a different access point.

1 The farm operations are not static operations.
2 There's been statements made that the farm has
3 changed. Of course it's changed. This particular
4 farm, as technology changes, it changes. As processes
5 become better known, and there is better processes
6 they change with that. They cannot be in a static
7 operation.

8 And as far as document production, they
9 have provided everything they possible can provide to
10 date but are open to further disclosure of information
11 as it's known to them. And they have been attempting
12 to do that in responding to particular questions. But
13 there may not be a document to substantiate what the
14 farmers know. Farmers know the land best and they're
15 not always the best at keeping documents. So in some
16 instances there is just not a document, and that
17 relates to agreements with other parties when there's
18 been an oral agreement. But certainly the appellants
19 have been and will continue to be open to providing
20 what information is requested of them.

21 In summary there is an obvious need for the
22 materials for support the farming operations
23 completely unrelated to the controversial food waste
24 composting, which is no longer taking place. The
25 absolute prohibition on importation of material which
26 is clearly permitted by the *Act* and the *Regulation* and

1 is needed, is not justified and it's just not
2 understood by the appellants. There is no evidence to
3 say that there can absolutely be no inputs into this
4 farm and that effectively will shut this farm down
5 over time.

6 I have provided my submissions and my reply
7 submissions. I won't go through those, as I
8 understand you've had an opportunity to read them.
9 But I do rely on those with respect to any reference
10 to the Act and the Regulation and the legal component
11 of that.

12 THE CHAIRPERSON: Thank you. Any questions? I think
13 we've reached that point in the hearing that we've
14 listened to both the appellants and we've also
15 listened to the interveners. I sincerely want to
16 thank everybody who has come out today and taken the
17 time to be here. We definitely do appreciate your
18 input and we will definitely take all of the
19 information that has been submitted in all forms,
20 including the verbal submissions today, under
21 advisement.

22 The Appeal Committee will, as you know,
23 make a decision on this matter. That decision, we
24 hope, will be completed within the next, I would say,
25 three to four weeks and it will be -- a copy of the
26 decision will be given to each of the parties that

1 taken -- that's been here today at this hearing, both
2 the appellants and the interveners.

3 Having said that, I would like to
4 officially close this hearing and I, once again, would
5 like to thank all of you for attending. I know this
6 is a trying matter for all parties. Thank you very
7 much.

8 (PROCEEDINGS ADJOURNED AT 1:09 P.M.)

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I HEREBY CERTIFY THAT THE FORGOING
is a true and accurate transcript
of the proceedings herein, to the
best of my skill and ability.



C. Beaton, Court Reporter