



Agricultural Land Commission
133–4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

June 29, 2016

ALC File: 55184

DELIVERED VIA ELECTRONIC MAIL

Cam McIvor
PO Box 494
Pemberton, BC V0N 2L0

Dear Mr. McIvor

Re: Application to Conduct a Non-Farm Use in the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #241/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your clients accordingly.

Your attention is drawn to s. 33(1) of the *Agricultural Land Commission Act* which provides a person affected the opportunity to submit a request for reconsideration.

33(1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that:

- (a) evidence not available at the time of the original decision has become available,
- (b) all or part of the original decision was based on evidence that was in error or was false.

Please note that pursuant to s. 33.1 of the *Agricultural Land Commission Act*, the Chair may direct the executive committee to reconsider this panel decision if, within 60 days from the date of this decision, he considers that the decision “may not fulfill the purposes of the commission as set out in section 6”. I can advise you that in this case, the Chair has already reviewed the decision and has instructed me to communicate to you that he does not intend to exercise that authority in this case.

Further correspondence with respect to this application should be directed to Liz Sutton at (Elizabeth.Sutton@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Director of Policy and Planning

Enclosure: Reasons for Decision (Resolution #241/2016)

cc: Squamish-Lillooet Regional District – Attention: Kimberly Needham, via electronic mail

Village of Pemberton – Attention: Nikki Gilmore, via electronic mail

Huka Entertainment – Attention: David Buttrey, via electronic mail

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AGRICULTURAL LAND COMMISSION FILE 55184

REASONS FOR DECISION OF THE SOUTH COAST PANEL

Application submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act*

Applicants:

**Brenda Lynn McLeod
Marion Doreen Ayers
Garth Phare
Valerie Phare
(the “Applicants”)**

Agent:

**Cam McIvor
(the “Agent”)**

Application before the South Coast Regional Panel:

**William Zylmans, Panel Chair
Gordon McCallum
Satwinder Bains**



THE APPLICATION

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

Property 1

Parcel Identifier: 013-256-378

District Lot 213, Lillooet District, Except Plan 35687

("Property 1")

Property 2

Parcel Identifier: 009-810-382

Lot 11, District Lot 210, Lillooet District, Plan 1241

("Property 2")

(also collectively referred to hereafter as the "Properties")

[2] Property 1 is 84.7 ha in area and Property 2 is 4.1 ha in area.

[3] Property 1 has the civic address 1691 Sea to Sky Highway and Property 2 has the civic address 7312 MacRae Road, both in Pemberton.

[4] The Properties are located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[5] The Properties are located within Zone 1 as defined in s. 4.2 of the ALCA.

[6] Pursuant to s. 20(3) of the ALCA, the Applicants are applying to use the Properties as part of the Pemberton Music Festival (the "Festival"). More specifically, the Applicants are applying to use Property 1 for parking and Property 2 for staff camping (the "Proposal"). The Proposal along with supporting documentation is collectively referred to hereafter as the "Application".



RELEVANT STATUTORY PROVISIONS

[7] The Application was made pursuant to s. 20(3) of the *ALCA*:

20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land.

[8] The Panel considered the Application within the context of s. 6 of the *ALCA*:

6 The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

EVIDENTIARY RECORD BEFORE THE PANEL

[9] The Panel considered the following evidence:

1. The Application, including, but not limited to:

The report with the title *1691 Sea to Sky Highway and 7312 Macrae Road Pemberton BC Agrologist Report* prepared by Stewart Brown, M.Sc., P.Ag., R.P.Bio., and Ned Pottinger, M.Sc., P.Geo., P.Ag., of PGL Environmental Consultants dated April 2016, and

The letter with the title *RE: Response to Squamish Lillooet Regional District Comments* prepared by Stewart Brown, M.Sc., P.Ag., R.P.Bio., and Ned Pottinger, M.Sc., P.Geo., P.Ag., of PGL Environmental Consultants dated May 13, 2016.

- (collectively referred to hereafter as the "P.Ag. Reports");
2. Local government documents;
 3. Submissions from third parties of which disclosure was made to the Agent;
 4. Previous application history;
 5. Letter from the Village of Pemberton (the "Village") dated May 27, 2016;
 6. Additional submissions provided by the Agent on June 14, 2016; and
 7. Agricultural capability map, ALR context map and satellite imagery.

All documentation noted above was disclosed to the Agent in advance of this decision.

[10] The Squamish-Lillooet Regional District (the "Regional District") resolved to forward the Application to the Commission subject to a number of conditions.

[11] The Panel reviewed two (2) previous applications involving the Festival:

Application ID: 52853
(2012)

In 2012, the Commission considered an application advanced by the Village on behalf of multiple land owners to use three (3) properties as the site for the Festival. The proposal involved approximately 78.6 ha of land in the ALR. The Commission, by the decision recorded as Resolution #327/2012, approved the first year of the Festival subject to a number of conditions, including, but not limited to, the execution of a memorandum of understand (the "MOU") which outlined "the expectations, roles and responsibilities of each party as they relate to the Festival; as well as a commitment to identify opportunities to meaningfully enhance agriculture in the region and to facilitate the enhancement." The Commission also stated that it would "consider the request for future events after it evaluates the outcome of the 2013 Festival and receives an executed memorandum of understanding it considers acceptable".

Request for
Reconsideration

Shortly after the decision recorded as Resolution #327/2012 was made by the Commission, a request for reconsideration was received from the Village with respect to Application ID 52853. Generally, the request for reconsideration from the Village was regarding clarification of some matters addressed in the decision recorded as Resolution #327/2012. The Commission, by the decision recorded as Resolution #395/2012, made two (2) minor amendments to the decision as per Resolution #327/2012, clarified and confirmed two (2) additional matters related to the decision as per Resolution #327/2012 and further confirmed that the Village had satisfied a number of conditions identified in the decision as per Resolution #327/2012.

One of the two (2) clarifications provided in the decision recorded as Resolution #395/2012 stated, in part:

[I]t should be noted that the Commission will conduct a performance evaluation and impact assessment of the land following each festival, hence the need for the involvement of a Professional Agrologist. If at any point, the Commission determines there to be a substantial lack of performance and/or believes the agricultural quality of the land has been compromised, it will be compelled to re-assess the appropriateness of subsequent festivals. The ability to continue holding festivals as approved by the Commission is completely dependent on the adherence to the conditions of approval contained in Resolution #327/2012, and as amended herein, and provided the agricultural capability of the land is maintained.



Application ID: 53089
(2013)

In 2013, the Commission considered an additional application with respect to the Festival. The proposal involved two (2) properties that would be used for event camping in conjunction with the Festival as approved by the decisions recorded as Resolutions #327/2012 and #395/2012. The two (2) properties in question were within the District and as a result required a separate application from Application ID 52853. However, the Village was acting as agent on behalf of the land owners associated with Application ID 53089. The Commission, by the decision recorded as Resolution #259/2013, approved the application subject to the conditions outlined in the decisions recorded as Resolutions #327/2012 and #395/2012.

(the decisions of the Commission recorded as Resolutions #327/2012, #395/2012 and #259/2013 are collectively referred to hereafter as the “Previous Decisions of the Commission”)

SITE VISIT

[12] The Panel, in the circumstances of the Application, did not consider it necessary to conduct a site visit to the Properties based on the evidentiary record associated with the Application.

FINDINGS

[13] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), ‘Soil Capability Classification for Agriculture’ system. The improved agricultural capability ratings identified on CLI map sheet 92J/07 for the mapping units encompassing the Properties are Class 1 and Class 2. More specifically, Property 1 has the improved capability rating ([8:1 – 2:2W]) and Property 2 has the improved capability rating (8:2M – 2:1).

Class 1 - land is capable of producing the very widest range of crops. Soil and climate conditions are optimum, resulting in easy management.

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

The limiting subclasses associated with these parcels of land are M (moisture deficiency (droughtiness)) and W (excess water).

In this regard, the Panel finds that the land making up the Properties is capable of supporting agriculture and is appropriately designated within the ALR.

[14] In addition to the CLI information, the Panel considered the P.Ag. Reports. The P.Ag. Reports generally confirm the CLI information with respect to the agricultural capability of the Properties. The P.Ag. Reports also provide information with respect to the potential impacts of the Proposal on the future agricultural use of the Properties. Based on the P.Ag. Reports as well as the previous editions of the Festival, the Panel finds that the Properties could be used in conjunction with the Festival without presenting a significant risk the future agricultural capability of the Properties.

[15] Although some of the land associated with the Proposal has historically been cleared for agriculture and used for agricultural production, the southern portion of Property 1 was cleared for agricultural use, in part, as a result of the Festival. The Panel finds that the large area of cleared land presents an improvement to the agricultural utility of Property 1 and that this may not have occurred in the short term without the support of the Festival.

[16] The Panel is cognisant of the Previous Decisions of the Commission with respect to the Festival and is in general concurrence with the objectives of the Commission in approving the Festival as it relates to supporting agriculture in the Pemberton Valley while also supporting a land use that is being pursued by the Village and Regional District as beneficial for the community in general.

- [17] On May 17, 2016, the Panel communicated a number of items to the Village. The Village provided a response in this regard by letter dated May 27, 2016. The Village has outlined a number of policies that have been adopted with respect to agriculture in the Village and the Pemberton Valley more generally. However, the only direct infrastructure related to agricultural production appears to be primarily focused on Property 1 and the Festival properties more generally. The Panel is supportive of the work done by the Village with respect to the agricultural objectives outlined in the May 27, 2016 letter. However, the Panel finds that the agricultural enhancements are not sufficient with respect to the understanding that the Panel has in this regard based on the Previous Decisions of the Commission and the MOU.
- [18] The Panel takes the position that meaningful agricultural enhancements would be infrastructure related to agricultural production, such as drainage, irrigation, dyking, ditching, etc. These enhancements should impact as large an area as possible and should extend beyond the Festival sites, potentially including, but certainly not limited to, the Properties. The Panel finds that these enhancements should be led by the Village with input and support from the Regional District and the Commission. The implementation of such enhancement(s) would be either implemented by the Festival organizers, or, more likely, funded by the Festival as outlined in the May 27, 2016 letter from the Village that identified funds created as a result of the Festival. Furthermore, the Panel finds that substantive steps with respect to identifying, planning and implementing, if possible, agricultural infrastructure must be accomplished before the 2017 edition of the Festival.
- [19] The Panel understands that achieving large scale agricultural enhancements in the Pemberton Valley will require an ongoing willingness by the Village and the Regional District to work collaboratively. However, this collaboration is paramount for the success of the Festival more generally and to ensure that compliance with the Previous Decisions of the Commission is maintained at all times.



[20] One of the conditions of approval outlined in the decision recorded as Resolution #327/2012 states that:

The proposed uses are restricted to areas of the [Festival site]. Satellite parking facilities and other amenities associated with the event are strictly prohibited on other ALR lands.

Furthermore, the MOU states that:

The [Village and Regional District], with the support of the Commission, will ensure that the Festival does not significantly impact the agricultural use of ALR lands adjacent to or near the Festival Site. The Village will ensure that ALR lands, not associated with the Festival and within jurisdiction of the Village, are not used in a manner inconsistent with the ALCA during the Festival.

The Panel is of the opinion that the Commission was not necessarily supportive of the Festival expanding beyond the area that was considered as part of the Previous Decisions of the Commission. However, the Panel understands that expanding the Festival should allow for more effective operation of the Festival which should aid in achieving compliance with the Previous Decisions of the Commission. Despite the Panel's positions with respect to the Proposal, the Panel is concerned that the Application may encourage further consideration to expand the Festival, either by the Village, Regional District, Festival organizers and/or individual land owners and the Panel does not agree that this is warranted or appropriate. With respect to this concern, the Village stated although it supports the Application this "is not to say that the [Village] is carte blanche supportive of any and all future requests for Non-Farm Use applications to expand the Festival's operations into lands within the ALR."

[21] The Panel finds that the current size of the Festival combined with the areas identified in the Application are more than adequate. The Village, Regional District and Festival organizers are strongly encouraged to consider reconfiguring the Festival layout and the number of participants before approaching the Commission with any future request to

further expand the Festival. Furthermore, any future request to further expand the Festival site would cause the Panel to question the appropriateness of continuing the Festival more generally as further expansion would continue to encroach onto ALR land.

[22] The Village must continue to provide appropriate oversight for the Festival. The Previous Decisions of the Commission state that the approvals “are for the sole benefit of the Village and are not transferrable.” Although neither the Commission nor the Panel are concerned about the use of a third party Festival organizer, the Village must remain responsible for the general administration of the Festival as it related to the Previous Decisions of the Commission. As stated in the MOU, the role of the Village in this regard will be achieved in concert with the Regional District and with the support of the Commission but the responsibility rests primarily with the Village.

[23] As noted at paragraph [11], the Festival is subject to ongoing performance evaluations and impact assessments. Although the Panel finds that the Festival has successfully maintained and, in some instances, improved the agricultural capability of the land used by the Festival to date, the performance of the Festival extends beyond the land used for the Festival. In this regard, the Panel finds that an extensive review of the Festival is warranted in advance of the 2017 edition of the Festival especially in light of the Proposal. This may include Commission Compliance and Enforcement staff attending parts of the Festival site or the Pemberton Valley more generally during the Festival.

[24] A number of issues related to the operation of the Festival on the Properties have been raised by area residents. Although these concerns should not be discounted, the Panel finds that the matters that fall within the purview of the *ALCA* are properly addressed in the Application and/or managed by suitable conditions. However, the Panel points to s. 31 of the *ALCA*, that states:

It is a condition of permission granted under section 25(1)(b) or (c), 29(1) or 30(2)(b) or (c) that the owner or occupier must comply with applicable Acts, regulations, bylaws

of the local government, laws of the first nation government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

DECISION

[25] For the reasons given above, the Panel approves the Proposal to use Property 1 for parking and Property 2 for staff camping in conjunction with the Festival.

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

- a. The use of the Properties must be in substantial compliance with the information submitted with the Application;
- b. In advance of the 2016 edition of the Festival, the submission of a detailed plan for the entire Festival site that includes areas, locations and specific Festival uses for each property, including all access paths and roads. Should the Festival layout change between subsequent editions of the Festival, the Commission must be provided an updated plan. Any change to the plan must be in substantial compliance with the Previous Decisions of the Commission and the information submitted with the Application;
- c. The required financial security is increased to \$500,000. The financial security, in the form of an Irrevocable Letter of Credit (the "ILOC"), must be posted with the Minister of Finance, in favour of the Provincial Agricultural Land Commission. The ILOC must be received by the Commission no later than 30 days prior to the Festival;
- d. The MOU must be updated to reflect the use of the Properties as part of the Festival site;
- e. The continued submission of a closure report within 30 days following the last day of the Festival. The closure report must be prepared by a qualified registered professional Agrologist specializing in soil reclamation and must confirm the post-event clean-up has been successfully completed to an agricultural standard. Upon receipt of the closure report, the Commission will release the ILOC for that year's edition of the Festival, if appropriate;

- f. The closure report may include the required pre-event plan for the following edition of the Festival. However, should anything occur that would impact the pre-event plan between the submission of the closure report and the following edition of the Festival, the qualified registered professional Agrologist must provide an addendum to the closure report identifying any required measures or changes;
- g. The properties used by the Festival must be actively farmed, to the extent possible, during the remainder of the year and information in this regard should be included for each property used by the Festival in the annual closure report;
- h. Any internal roads on the properties used by the Festival, in particular the Properties, must be constructed in a manner that can be readily reclaimed by the Festival and/or the land owners should they no longer be required. Information in this regard must be included in the closure report;
- i. Appropriate temporary fencing must be installed in advance of the Festival and maintained throughout the Festival to ensure attendees are contained to only the approved locations on the properties approved for the Festival;
- j. The Village, with input from the Regional District, must submit a preliminary plan identifying agricultural enhancement opportunities in the Pemberton Valley by October 31, 2016 for review, comment and approval, if applicable, by the Commission;
- k. The Village, with input from the Regional District, must provide updates every six (6) months with respect to the status of the planning and implementation of any agricultural enhancements in the Pemberton Valley that have been supported by the Commission in conjunction with the Festival;
- l. All documentation with respect to the 2016 edition of the Festival must be submitted by October 31, 2016 to enable a review of the Festival in advance of the 2017 edition of the Festival; and
- m. The Proposal is subject to all the conditions identified in the Previous Decisions of the Commission (Resolutions #327/2012, #395/2012 and #259/2013), except as amended herein.

[27] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.



[28] The Panel hereby instructs staff to refer this decision and the matter of the Festival more generally to Commission Compliance and Enforcement staff to review this matter and coordinate with the Village and Regional District to prepare a report with respect to the 2016 edition of the Festival. This should include the properties used by the Festival as well as properties in the vicinity of the Festival site and the Pemberton Valley more generally.

[29] Panel Chair **William Zylmans** concurs with the decision.

Commissioner **Gordon McCallum** concurs with the decision.

Commissioner **Satwinder Bains** concurs with the decision.

[30] Decision recorded as Resolution #241/2016.

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

Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #241/2016. The decision is effective upon release.

A handwritten signature in black ink, appearing to be 'CJF', is positioned above the printed name of the Director of Policy and Planning.

Colin J. Fry, Director of Policy and Planning

June 29, 2016
Date Released



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

September 4, 2013

ALC File: 53089

Village of Pemberton
Box 100
Pemberton, BC
V0N2L0

Attention: Mr. Daniel Sailland, Chief Administrative Officer

Dear Mr. Sailland:

**Re: Application: Non-Farm Use on Land in the Agricultural Land Reserve (ALR)
Pemberton Music Festival**

Please find attached the Minutes of Resolution # 259/2013 as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly.

Further correspondence with respect to this application is to be directed to Mr. Eamonn Watson (Eamonn.Watson@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #259/2013

cc: Squamish-Lillooet Regional District (Attention: Ian Holl)

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PROVINCIAL AGRICULTURAL LAND COMMISSION

Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on July 9, 2013 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, BC.

FOR CONSIDERATION

Application: 53089

Agent: Village of Pemberton

Proposal: (Submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)
To use the two (2) subject properties for "Event Camping" associated with the Pemberton Music Festival (Application #52853) approved by Resolution #327/2012 dated October 25, 2012, and as amended by Resolution #395/2012 dated November 22, 2012.

Legal: 1. PID: 007-915-268
Lot "B", District Lot 210, Lillooet District, Plan 20157

Civic Address: 1873 Highway 99, Pemberton

Owners: Patricia Ritchie and Leonard James Ritchie
(As Joint Tenants)

2. PID: 007-915-179
That Part of Lot "A" Lying North of the Road Shown on Plan 20157; District Lot 210, Lillooet District, Plan, Plan 20157

Civic Address: 1865 Highway 99, Pemberton

Owner: Randall Scott West

Note: Both properties fall within the jurisdictional area of the Squamish-Lillooet Regional District – the Village of Pemberton is acting as agent on behalf of the property owners.

Background: The subject properties formed part of the Village of Pemberton's 2012 application (#52853) for the Pemberton Music Festival. However during a review of the application it was noted that the properties were not situated within the jurisdiction of the Village and as such, any application made pursuant to the *Agricultural Land Commission Act* must be submitted to the Squamish-Lillooet Regional District (the "Regional District"). Moreover, the Regional District Board would have to pass a resolution to forward the application to the Commission before it is in a lawful position to consider an application.

Attachment: Minutes of Resolution #327/2012
Minutes of Resolution #395/2012

DELEGATION OF DECISION-MAKING TO THE CHIEF EXECUTIVE OFFICER (CEO)

On October 25, 2012 the Commission delegated decision-making to the CEO by Resolution #327/2012. In accordance with section 27 of the *Agricultural Land Commission Act* the Commission has specified:

THAT if the owners of the properties whose land is situated in the Regional District make a non-farm use application(s) consistent with the proposed Festival development outlined in this application, and the Regional District forwards the application(s) to the Commission, the Commission acting pursuant to section 27 of the Agricultural Land Commission Act hereby delegates to its Chief Executive Officer, the authority to approve the application(s) based on the criteria that the approval(s) will be subject to the terms and conditions contained in this decision. For greater clarity, this delegation is specific to an application(s) involving:

- PID: 007-915-268
Lot "B", District Lot 210, Lillooet District, Plan 20157; and
- PID: 007-915-179
That Part of Lot "A" Lying North of the Road Shown on Plan 20157; District Lot 210, Lillooet District, Plan, Plan 20157

If the Chief Executive Officer considers that the application(s) does not meet the established criteria, or for any other reason does not wish to approve the application, the application must be referred to the Commission for a decision.

DECISION:

After reviewing the entire file material, I, Richard Bullock, Chief Executive Officer of the Commission, am satisfied that the proposal is consistent with Resolution #327/2012 and approve the application on behalf of the Commission.

Approval is subject to the terms and conditions outlined in both Resolutions #327/2012 and #395/2012.

This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

RESOLUTION # 259/2013

I CERTIFY THAT THIS IS A TRUE RECORD OF THE DECISION



Richard Bullock, Chief Executive Officer



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

October 29, 2012

ALC File: # 52853

Village of Pemberton
Box 100
Pemberton, BC
V0N2L0

Attention: Mr. Daniel Sailland, Chief Administrative Officer

Dear Mr. Sailland:

**Re: Application: Non-Farm Use on Land in the Agricultural Land Reserve (ALR)
Pemberton Music Festival**

Please find attached the Minutes of Resolution #327/2012 as it relates to the above noted application.

Further correspondence with respect to this application should be directed to Mr. Eamonn Watson.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Colin Fry, Executive Director

Enclosures: Minutes of Resolution #327/2012
Example Irrevocable Letter of Credit

cc: Squamish-Lillooet Regional District
Box 219, 1350 Aster Street, Pemberton, BC V0N 2L0
Attention: Lynda Flynn, Chief Administrative Officer
Patricia Ritchie and Leonard James Ritchie
1873 Highway 99, Pemberton, BC V0N 2L0
Randall Scott West
PO Box 1046, 1865 Highway 99, Pemberton, BC V0N 2L0
580049 B.C. Ltd.
106 - 1656 Martin Drive, Surrey, BC V4A 6E7
Sunstone Ridge Developments Ltd.
14185 Rio Place, Surrey, BC V3S 0L2
Lori Ann Mitchell and Rice Howard Drew Meredith
PO Box 281, 1759 Highway 99, Pemberton, BC V0N 2L0

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Letter of Credit - Example

BENEFICIARY: Minister of Finance
c/o Provincial Agricultural Land Commission
#133 - 4940 Canada Way
Burnaby, BC V5G 4K6

Re: ALC Application # _____

We hereby issue in your favour our Irrevocable Letter of Credit # _____ for CAD

\$ _____ in the account of _____

(Name of Individual or Company)

(Street Address and/or Legal Description)

TERMS AND CONDITIONS:

1. Expiry Date: _____
2. Drawings are to be made in writing to _____
(Name of Financial Institution)
3. Partial drawings are permitted.
4. The Bank/Credit Union will not inquire as to whether or not the Agricultural Land Commission has right to make demand on this Letter of Credit.
5. This Letter of Credit is irrevocable up to the expiry date.
6. This Credit is irrevocable up to the expiry date and unless it is extended in writing will be null and void after the expiry date whether or not the original credit is returned to us for cancellation. The amount of this credit may be reduced from time to time only by the amount drawn upon it by you or by formal notice in writing received by us from you that you desire such reduction.
7. Request for any amendment except reduction in amount must be made directly to our customer who will then instruct us accordingly.
8. Any drawings made under this letter of credit must be accompanied by the original of this credit.
9. **Mandatory Condition:**
"It is a condition of this letter of credit that it shall be deemed to be automatically extended without amendment from year to year from the present or any future expiration date hereof, unless at least 30 days prior to the present or any future expiration date, we notify you in writing, that we elect not to consider this letter of credit to be renewable for any additional period."
10. We engage to honour presentations submitted within the terms and conditions indicate above.



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on October 25, 2012 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #52853.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Gordon Gillette	Vice-Chair
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner

COMMISSION MEMBERS PRESENT VIA CONFERENCE CALL:

Jim Collins	Commissioner
Jennifer Dyson	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner

COMMISSION STAFF PRESENT:

Eamonn Watson	Land Use Planner
Shaundeh Runka	Policy Planner
Brian Underhill	Executive Director
Colin Fry	Executive Director

PROPOSAL

The Village of Pemberton (the "Village") requests permission to use five (5) properties in the Agricultural Land Reserve (ALR) as the site for an annual music festival (the "Festival"). The proposal involves 91.14 ha of ALR land. Estimated attendance is 40,000 people per day over the three (3) days of the Festival. The Village requests a 10 year approval which may include a proviso for the Village to fulfill certain conditions which would enable subsequent events to proceed (i.e.: 1 year approval with 3 subsequent 3 year extensions).

(Submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)

PRE-CONSIDERATION REVIEW OF APPLICATION DOCUMENTATION

The Commission reviewed the application material and identified several issues that needed to be addressed to establish the basis for considering the proposal.

ISSUE NO. 1 – Lot 1, District Lot 211, Lillooet District, Plan KAP87819

A review of Certificate of Title No. LB254469 indicates there are four (4) Pending Applications.

- a. EPP21848 (Subdivision Plan)
- b. CA2723155 to CA2723160 (Freehold Transfer)
- c. CA2723161 (Mortgage)
- d. CA2723154 (Covenant)

Following registration of the subdivision plan, the new legal description of the property associated with the Festival will be Lot 4, District Lot 211, Lillooet District, Plan EPP21848. The size of Lot 4 will be 23.13 ha.

The Freehold Transfer pertains to Lot 1, District Lot 211, Lillooet District, Plan EPP21848 of the Pending Subdivision Plan. Lot 1 is not in the ALR. The current owner of the property will retain ownership of Lot 4 following completion of the Freehold Transfer.

ISSUE NO. 2 – Properties not within the jurisdiction of the Village

Two of the properties under application are not situated within the jurisdiction of the Village and as such, any application made pursuant to the *Agricultural Land Commission Act* must be submitted to the Squamish-Lillooet Regional District (the "Regional District"). Moreover, the Regional District Board would have to pass a resolution to forward the application to the Commission before it is in a lawful position to consider an application.

In the Report to Council (In Camera) dated July 6, 2012, it was acknowledged that these two properties fall within the jurisdiction of the Regional District. The properties are legally described as:

1. PID: 007-915-268

Lot "B", District Lot 210, Lillooet District, Plan 20157

Owners: Patricia Ritchie and Leonard James Ritchie (As Joint Tenants)

2. PID: 007-915-179

That Part of Lot "A" Lying North of the Road Shown on Plan 20157; District Lot 210, Lillooet District, Plan, Plan 20157

Owner: Randall Scott West

Relevant sections of the *Agricultural Land Commission Act*:

Section 1 – Definitions

"local government" means

- (a) in relation to land within a municipality, the municipal council,
- (b) in relation to land within an electoral area but not within a local trust area, the board of the regional district, and
- (c) in relation to land within a local trust area under the *Islands Trust Act*, the local trust committee or the executive committee acting as a local trust committee for that area;

Subsection 20(3) – Use of agricultural land reserve

- 20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land:

Relevant section of BC Regulation 171/2002 (Agricultural Land Reserve Use, Subdivision and Procedure Regulation):

Subsections 29(1) and (2)(b) – Application must be filed with local government or treaty first nation government

- 29(1) An owner of agricultural land who wishes to use that land for a non-farm use or who wishes to subdivide that land may apply for permission under section 20 or 21 of the Act.
- (2) An application under section 20 or 21 of the Act must be in a form acceptable to the commission and must be filed,
- (b) in any other case, with the applicable local government or treaty first nation government.

ISSUE NO. 3 – Status of the Village to act as agent on behalf of the property owners

The Commission noted the following facts from the application material:

1. Mr. Cam McIvor was appointed as agent for the property owners to act on their behalf with respect to an application to the Commission for the Festival. Nowhere in these appointments is Mr. McIvor granted authority to re-assign his agent status to another person or agency.
2. On June 19, 2012 Mr. McIvor signed applications on behalf of the property owners and sometime thereafter filed the applications with the Village.
3. On July 5, 2012 Mr. McIvor of Intuitive Management Ltd. provided a document to the Village advising, *"I, Cam McIvor – President of Intuitive Management Ltd. 'Intuitive', as agents for the lands listed below, hereby authorize and assign to The Village of Pemberton to act as agent with respect to the Agricultural Land Commission non-farm use application for a music festival in Pemberton...."*
4. On July 9, 2012 the Village coalesced the five (5) applications into a single application and identified itself as agent. The application was executed by Nikki Gilmore, Acting Chief Administrative Officer for the Village.

ISSUE NO. 4 – Representations made by the Village on behalf of the Regional District

This issue arises from a document submitted by the Village as part of the application material. The document is entitled, *Music Festival, Proposed Commitments for the Memorandum of Understanding*. While it is recognized that the draft is subject to the approval of the Regional District, the Commission believes it is inappropriate to consider the proposed terms and commitments as applying to the Regional District in the absence of the Regional District's direct representations.

ISSUE NO. 5 – Lack of Clarity regarding who is the Applicant

In a June 15, 2012 letter submitted with the application material, Sunstone Ridge Developments Ltd. (owner of the primary Festival site) wrote, "*Sunstone Ridge Developments Ltd., respectfully requests non-farm use approval from the Agricultural Land Commission to host an annual summer music festival in the Pemberton Valley.*" The letter went on to describe an overview of the proposal and was signed by Mr. Cam McIvor acting as agent for Sunstone Ridge Developments Ltd.

However, in the Report to Council (In Camera) dated July 6, 2012, the Commission noted the comment on page 4 in the paragraph entitled DISCUSSION, "*It is requested that the Village be the agent for the landowners, as to provide a constant approving body that can administer (Emphasis Added) the Pemberton Music Festival.*"

COMMISSION DECISIONS ON THE IDENTIFIED ISSUES

ISSUE NO. 1 – Lot 1, District Lot 211, Lillooet District, Plan KAP87819

Decision: This issue was identified for clarification only. The pending applications noted on Certificate of Title No. LB254469 (Lot 1, District Lot 211, Lillooet District, Plan KAP87819) are not impediments to the Commission's consideration of the proposal as it pertains to this property.

ISSUE NO. 2 – Properties not within the jurisdiction of the Village

Decision: The application, as it relates of the properties legally described as 1) Lot "B", District Lot 210, Lillooet District, Plan 20157, and; 2) That Part of Lot "A" Lying North of the Road Shown on Plan 20157; District Lot 210, Lillooet District, Plan, Plan 20157, is inconsistent with the *Agricultural Land Commission Act* and BC Regulation 171/2002 (Agricultural Land Reserve Use, Subdivision and Procedure Regulation). As such, the Commission is not in a lawful position to consider these properties as part of the Village's application. The Commission's deliberation regarding the non-farm use application will be restricted to the three (3) properties situated within the jurisdiction of the Village.

The Village is directed to return its portion of the ALR application fee to the owners of the properties whose land is situated within the Regional District. The Commission will also arrange for the return of its portion of the ALR application fee to the owners.

ISSUE NO. 3 – Status of the Village to act as agent on behalf of the property owners

Decision: Mr. Cam McIvor was appointed as agent for the property owners to act on their behalf with respect to an application to the Commission for the Festival. These appointments did not empower or authorize Mr. McIvor to re-assign his agent status to another person or agency. As such, it is the Commission's position that the Village does not have status as agent to act on behalf of the property owners. This said, the Commission is satisfied that this is likely an administrative oversight that can be easily remedied.

The Commission has decided that it will continue with its deliberation regarding the non-farm use application involving the properties within the jurisdiction of the Village. This decision is subject to the Village providing, on or before November 30, 2012, written authorization from the property owners confirming the Village as agent. Please note that the Village can also act as agent on behalf of the property owners whose land is situated within the Regional District's jurisdiction if the owners wish to submit an ALR application to the Regional District to join the Festival proposal.

ISSUE NO. 4 – Representations made by the Village on behalf of the Regional District

Decision: The document entitled, *Music Festival, Proposed Commitments for the Memorandum of Understanding*, and the proposed terms and commitments therein, will only be considered as if they apply solely to the Village.

ISSUE NO. 5 – Lack of Clarity regarding the Applicant

Decision: The Commission acknowledges that it is impractical for the individual property owners to manage the Festival as it relates to their properties. It is also acknowledged that a single agency with the authority and oversight to engage promoters and administer all aspects of the Festival is considerably more prudent. The Commission believes this is what the Village envisions when it stated, "*It is requested that the Village be the agent for the landowners, as to provide a constant approving body that can administer (Emphasis Added) the Pemberton Music Festival.*"

In this regard, the Commission will continue with its deliberation regarding the non-farm use application, involving the properties within the jurisdiction of the Village, on the understanding that it is the Village seeking permission for the Festival. In this manner, the relationship between the property owners and the Village would be more akin to the relationship that would exist between a landlord and tenant.

This decision is subject to the Village providing written acknowledgment from the property owners and the Village that the Commission's decision, if approved, will be exclusive to the Village. The acknowledgment is to be received by the Commission on or before November 30, 2012.

REVISED DESCRIPTION OF PROPOSAL

The Village requests permission to use three (3) properties in the Agricultural Land Reserve (ALR) as the site for an annual music festival (the "Festival"). The proposal involves 78.6 ha of ALR land. Estimated attendance is 40,000 people per day over the three (3) days of the Festival. The Village requests a 10 year approval which may include a proviso for the Village to fulfill certain conditions which would enable subsequent events to proceed (i.e.: 1 year approval with 3 subsequent 3 year extensions).

(Submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)

LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

- 6 The following are the purposes of the commission:
 - (a) to preserve agricultural land;
 - (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
 - (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.
-

BACKGROUND

Property Information

1. PID: 027-701-522*

Lot 1, District Lot 211, Lillooet District, Plan KAP87819

Current Owner (Lot 1, District Lot 211, Lillooet District, Plan KAP87819) – 580049 B.C. Ltd.
Owner of Lot 4 after registration of subdivision plan EPP21848 – 580049 B.C. Ltd.

Size of Property: 23.13 ha (Entirely within the ALR)**
ALR area to be used for the Festival – 11.2 ha

* See Issue No. 1

** The size of the property and proposal area have been taken from Pending Subdivision EPP21848

2. PID: 027-950-191

Lot 2, District Lot 211, Lillooet District, Plan EPP1353

Owner: Sunstone Ridge Developments Ltd. (0857673 B.C. Ltd.)

Size of Property: 111.0 ha (46.3 ha within the ALR)
ALR area to be used for the Festival – 46.3 ha

3. PID: 027-950-182

Lot 1, District Lot 211, Lillooet District, Plan EPP1353

Owners: Lori Ann Mitchell and Rice Howard Drew Meredith (As Joint Tenants)

Size of Property: 21.1 ha (Entirely within the ALR)
ALR area to be used for the Festival – 21.1 ha

Previous Festival Applications (All submitted in 2008)

Application #YY-37970

Application #YY-38570 (Submitted by the Squamish-Lillooet Regional District)

Application #YY-38597 (Submitted by the Village of Pemberton)

Information from the Minutes of Resolutions 726/2008 and 727/2008
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A meeting was held by the Provincial Agricultural Land Commission on November 18, 2008 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, BC.

FOR CONSIDERATION

(Properties within the Squamish-Lillooet Regional District)

Application: #YY- 38570

Applicant: Live Nation

Local Government: Squamish-Lillooet Regional District

Proposal: To hold an annual Pemberton Music Festival on land in the Agricultural Land Reserve (ALR) for a period of ten (10) years.

Properties:

1. **PID: 007-915-179**

That Part of Lot "A" Lying North of the Road Shown on Plan 20157, District Lot 210, Lillooet District, Plan 20157

Size: 7.5 ha (7.5 ha in the ALR)

Proposed Use: Campsite

2. **PID: 007-915-268**

Lot "B", District Lot 210, Lillooet District, Plan 20157

Size: 9.2 ha (8.9 ha in the ALR)

Proposed Use: Campsite

3. **PID: 004-464-532**

The Fractional North West ¼ of District Lot 211, Lillooet District, Except Plans A21, B3576, B4215, KAP59366 and KAP59592

Size: 51.2 ha (16.7 ha in the ALR)

Proposed Use: Parking

4. **PID: 010-309-306**

The Easterly 310 Acres more or less of District Lot 211, Lillooet District, Except Plans 9479, A21 and 39509

Size: 116.4 ha (47.2 ha in the ALR)

Proposed Use: Main Festival Site that includes the main stage, secondary stage, dance tent, barn dance tent, food & beverage operations, artist compound and camping

Area of proposal in the ALR - 80.3 ha

(Properties within the Squamish-Lillooet Regional District)

FOR CONSIDERATION

(Properties within the Village of Pemberton)

Application: #YY- 38597

Applicant: Live Nation

Local Government: Village of Pemberton

Proposal: To hold the Pemberton Music Festival on land in the Agricultural Land Reserve (ALR) for a period of ten (10) years.

Properties:

1. PID: 013-292-021

District Lot 766, Lillooet District

Size: 31.8 ha (31.8 ha in the ALR)

Proposed Use: Camping & parking

2. PID: 002-606-801

District Lot 4769, Lillooet District, Except Plan KAP44479

Size: 15.6 ha (15.6 ha in the ALR)

Proposed Use: Camping & parking

3. PID: 002-606-780

District Lot 4674, Lillooet District

Size: 5.6 ha (5.6 ha in the ALR)

Proposed Use: Camping & parking

*Area of proposal in the ALR - 53.0 ha
(Properties within the Village of Pemberton)*

Total area of proposals in the ALR - 133.3 ha

PREVIOUS APPLICATION

Application #YY- 37970

Applicant: Live Nation

Proposal: To hold the Pemberton Music Festival on land in the ALR in July 2008.

Decision: By Resolution #84/2008, dated March 12, 2008

THAT the application be allowed for the 2008 event only and be subject to the following conditions:

- 1. The proposed uses must be restricted to the areas outlined in the application. Satellite parking facilities and other amenities associated with the event are strictly prohibited on other ALR lands.*
- 2. A Professional Agrologist specializing in soil reclamation must be retained*
 - a. to prepare a pre-event plan to mitigate soil damage and*
 - b. to oversee reclamation and to submit a closure report confirming the post event clean-up has been satisfactorily completed to an agricultural standard.*
- 3. The Professional Agrologist's pre-event soil management plan must be submitted to the Commission for review and approval. The approved plan must be in place at least one (1) month prior to the event.*

4. A \$250,000 irrevocable letter of credit in the Commission's favour must be submitted to ensure the land is reclaimed. The funds will be used by the Commission to reclaim the land, to rectify any reclamation deficiencies and/or to secure the necessary advice and closure report from the Professional Agrologist in the event of default by the applicant.
5. The irrevocable letter of credit must be in place at least one (1) month prior to the event.

AND THAT this approval is for the 2008 event only and will not be renewed.

AND FINALLY THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

POST EVENT 2008

The Commission received a Post-Event Closure Report prepared by Pottinger Gaherty Environmental Consultants Ltd. (PGL) dated August 2008. PGL determined that activities associated with the Pemberton Festival including site preparation and post-event reclamation did not negatively impact the agricultural capability of the site or site soils. PGL also noted that pre-event activities resulted in an improvement to agricultural capability and suitability.

DISCUSSION

Preserve agricultural land

The Commission is satisfied that the applicant has demonstrated the logistical difficulties in finding a non-ALR site for the Pemberton Festival. The Commission also accepts that with proper pre-event and post-event efforts, the agricultural capability and suitability of the Pemberton Festival site will not be diminished. The Commission concluded that with proper pre-event planning and post-event reclamation overseen by a qualified Professional Agrologist, the agricultural utility of the land will not be jeopardized. Imposing these safeguards is consistent with this aspect of the Commission's mandate.

Encourage farming in collaboration with other communities of interest, and

Encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

Both the Village and Regional District have enthusiastically argued the benefits of the Pemberton Festival to the local agricultural economy. Promoting locally grown produce as well as exploring opportunities to enhance agriculture in the region have been common themes by both the Village and Regional District in expressing their support for the festival. The meeting that was held on November 5, 2008 was initiated by the Commission to ascertain the level of commitment of the parties to preserve agricultural land and enhance agriculture in the area. ALC Staff attending the meeting was satisfied with the genuine commitment of the parties to ensure the Pemberton Festival is not held to the detriment of agriculture.

While the Commission accepts these commitments it would take greater comfort in knowing that the Village and Regional District share its agricultural objectives and are prepared to actively participate in seeing that they are achieved. If the Village and Regional District are prepared to work with the Commission to preserve the agricultural integrity of the festival site as well as to identify opportunities to enhance agriculture in the area, such collaboration is considered consistent with these aspects of the Commission's mandate.

It was suggested at the November 5, 2008 meeting that perhaps a memorandum of understanding between the parties may be an appropriate method of outlining the expectations, roles and responsibilities of each party as they relate to the Pemberton Festival and the commitment to explore and facilitate the enhancement of agriculture in the region.

CONCLUSIONS

- 1. That the land under application has high agricultural capability and is appropriately designated as ALR.*
- 2. That the land under application is highly suited for a wide range of agricultural uses.*
- 3. That with appropriate safeguards the agricultural capability and suitability can be maintained.*
- 4. That the cooperation of the Village and Regional District is integral in achieving agricultural enhancements and is contingent to the Commission's favourable consideration of the proposal.*

IT WAS

MOVED BY: Commissioner Pranger

SECONDED BY: Commissioner Bose

THAT the overall application be approved in principle.

AND THAT approval for the 2009 festival is subject to the following conditions:

- 1. The proposed uses must be restricted to the areas outlined in the application. Satellite parking facilities and other amenities associated with the event are strictly prohibited on other ALR lands.*
- 2. A Professional Agrologist specializing in soil reclamation must be retained*
 - to prepare a pre-event plan to mitigate soil damage, and*
 - to oversee reclamation and to submit a closure report on or before August 30, 2009. The report must confirm the post-event clean-up has been satisfactorily completed to an agricultural standard.*
- 3. The Professional Agrologist's pre-event soil management plan must be submitted to the Commission for review and approval. The approved plan must be in place at least one (1) month prior to the event.*
- 4. A \$250,000 irrevocable letter of credit in the Commission's favour must be submitted to ensure the land is reclaimed. The funds will be used by the Commission to reclaim the land, to rectify any reclamation deficiencies and/or to secure the necessary advice and closure report from the Professional Agrologist in the event of default by the applicant. The irrevocable letter of credit must be received by the Commission at least one (1) month prior to the event.*

AND THAT the 2009 festival is granted on the understanding that the Village and Regional District will provide written notification that they will work collaboratively with the Commission to develop and execute a tripartite memorandum of understanding which outlines the expectations, roles and responsibilities of each party as they relate to the Pemberton Festival as well as a commitment to explore and facilitate the enhancement of agriculture in the region.

AND THAT the guiding principles of the memorandum of understanding will be:

- *To create a collaborative working relationship with the Commission to secure approval for the Pemberton Festival while preserving the agricultural integrity of the festival site and enhancing agriculture in the Pemberton area.*
- *That the lands comprising the Pemberton Festival site that are within Agricultural Land Reserve (ALR) remain in the ALR.*
- *That the agricultural quality of the ALR lands used by the Pemberton Festival is not diminished by festival activities.*
- *That in using ALR lands, the Pemberton Festival will participate in enhancing agriculture in the Pemberton area.*
- *That the Village and Regional District have roles to play to assist the Commission in ensuring the agricultural quality of the ALR land used by the Pemberton Festival is not diminished by festival activities.*
- *That the Village and Regional District have roles to play to assist the Commission in ensuring the activities associated with the festival do not significantly impact adjacent or nearby ALR lands.*
- *That the Village and Regional District have roles to play to assist the Commission in ensuring that ALR lands not associated with the festival are not used in a manner inconsistent with the Agricultural Land Commission Act during the festival.*

AND THAT written notification of each party's willingness to develop and execute a memorandum of understanding be received by the Commission on or before December 12, 2008.

AND THAT the memorandum of understanding will be completed and executed by the parties on or before July 1, 2009.

AND THAT once the memorandum of understanding is executed Live Nation will be permitted an additional three (3) years for the Pemberton Festival with the possibility of two (2) extensions of three (3) years each. Extensions will be subject to a joint performance evaluation by the Village, Regional District and Commission.

AND THAT with regard to all Pemberton Festival events the Commission requires a "No Footprint" approach be adopted by Live Nation so that any and all facilities, structures, equipment and roads are removed from the properties following each annual event. The existing condition of the properties as of the date of this decision form the baseline for subsequent

events and the level to which Live Nation must comply with this condition. The road built on the Ravens Crest property in 2008 may be retained for farm purposes as requested by the owner.

AND THAT the Commission strongly recommends the Village, Regional District and Live Nation continue their dialogue with Lil'Wat Nation, Mount Currie Band to address the non-agricultural concerns expressed by the Band Council and members.

AND THAT the approvals contained herein are for the sole benefit of Live Nation and are not transferrable.

AND FINALLY THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

CARRIED

Resolution #726/2008 (Application #YY-38570)

Resolution #727/2008 (Application #YY-38597)

COMMISSION CONCLUSION REGARDING APPLICATION #52853

The Commission acknowledged the prior approvals for the Festival. The Commission also acknowledged that Live Nation could pursue more events, if it chose to do so, given the prior approvals.

IT WAS

MOVED BY: Commissioner Pranger

SECONDED BY: Commissioner Thibeault

THAT this decision applies to the following properties:

1. PID: 027-701-522
Lot 1, District Lot 211, Lillooet District, Plan KAP87819;
2. PID: 027-950-191
Lot 2, District Lot 211, Lillooet District, Plan EPP1353; and
3. PID: 027-950-182
Lot 1, District Lot 211, Lillooet District, Plan EPP1353.

(Hereinafter referred to as the "Properties")

AND THAT approval for the 2013 festival is granted subject to the following conditions:

- The Village providing written confirmation that it has returned its portion of the ALR application fee to the owners of the properties whose land is situated within the Regional District. Written confirmation is to be received by the Commission on or before November 30, 2012;

- The Village providing written authorization from the property owners confirming the Village as their agent. Written authorization is to be received by the Commission on or before November 30, 2012;
- The Village providing written confirmation from the property owners that the Commission's decision will be exclusive to the Village. Written confirmation is to be received by the Commission on or before November 30, 2012;
- The Village providing written authorization from the current owners of the properties associated with Application #YY-38570 (Submitted by the Squamish-Lillooet Regional District), Application #YY-38597 (Submitted by the Village of Pemberton) and from Live Nation agreeing to the Commission rescinding Resolutions #726/2008 and #727/2008 and canceling the files. Written authorization is to be received by the Commission on or before November 30, 2012;
- The proposed uses are restricted to the areas of the Properties outlined in the application. Satellite parking facilities and other amenities associated with the event are strictly prohibited on other ALR lands;
- A Professional Agrologist specializing in soil reclamation must be retained to prepare a pre-event plan to mitigate soil damage, to oversee reclamation and to submit a closure report within 30 days following the last day of the Festival. The report must confirm the post-event clean-up has been successfully completed to an agricultural standard;
- The pre-event plan prepared by a Professional Agrologist must be submitted to the Commission for review and approval. The approved plan must be in place no later than 60 days prior to the Festival;
- A \$250,000 irrevocable letter of credit in the Commission's favour must be submitted to ensure the land is reclaimed. The funds will be used by the Commission to reclaim the land, to rectify any reclamation deficiencies and/or to secure the necessary advice and closure report from the Professional Agrologist in the event of non-compliance with the terms and conditions expressed herein. The irrevocable letter of credit must be received by the Commission no later than 30 days prior to the Festival;

AND THAT the 2013 Festival is granted on the understanding that the Village will provide written notification that they will work collaboratively with the Commission to develop and execute a memorandum of understanding which outlines the expectations, roles and responsibilities of each party as they relate to the Festival; as well as a commitment to identify opportunities to meaningfully enhance agriculture in the region and to facilitate the enhancements.

The guiding principles of the memorandum of understanding will be:

- To create a collaborative working relationship with the Commission to secure approval for the Festival while preserving the agricultural integrity of the lands and enhancing agriculture in the Pemberton area;

- That the lands comprising the Festival site are within Agricultural Land Reserve (ALR) and will remain in the ALR;
- That in using ALR lands, the Village will participate in enhancing agriculture in the Pemberton area;
- That the Village will ensure the agricultural quality of the ALR land used by the Festival is not diminished by festival activities;
- That the Village will ensure the activities associated with the festival do not significantly impact adjacent or nearby ALR lands; and
- That the Village will ensure that ALR lands, not associated with the Festival, are not used in a manner inconsistent with the *Agricultural Land Commission Act* during the Festival.

AND THAT the Commission will consider the request for future events after it evaluates the outcome of the 2013 Festival and receives an executed memorandum of understanding it considers acceptable;

AND THAT with regard to the Festival, the Commission requires a “No Footprint” approach be adopted by the Village so that any and all Festival facilities, structures, equipment and roads are removed from the properties following the Festival;

AND THAT the approvals contained herein are for the sole benefit of the Village and are not transferrable. This condition does not preclude the Village from entering into an agreement with Live Nation or any other promoter;

AND THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

AND FINALLY THAT if the owners of the properties whose land is situated in the Regional District make a non-farm use application(s) consistent with the proposed Festival development outlined in this application, and the Regional District forwards the application(s) to the Commission, the Commission acting pursuant to section 27 of the *Agricultural Land Commission Act* hereby delegates to its Chief Executive Officer, the authority to approve the application(s) based on the criteria that the approval(s) will be subject to the terms and conditions contained in this decision. For greater clarity, this delegation is specific to an application(s) involving:

- PID: 007-915-268
Lot “B”, District Lot 210, Lillooet District, Plan 20157; and
- PID: 007-915-179
That Part of Lot “A” Lying North of the Road Shown on Plan 20157; District Lot 210, Lillooet District, Plan, Plan 20157

If the Chief Executive Officer considers that the application(s) does not meet the established criteria, or for any other reason does not wish to approve the application, the application must be referred to the Commission for a decision.

CARRIED
Resolution #327/2012



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

December 4, 2012

ALC File: 52853

Village of Pemberton
Box 100
Pemberton, BC
V0N2L0

Attention: Mr. Daniel Sailland, Chief Administrative Officer

Dear Mr. Sailland:

**Re: Application: Non-Farm Use on Land in the Agricultural Land Reserve (ALR)
Pemberton Music Festival**

Please find attached the Minutes of Resolution #395/2012 as it relates to the above noted application.

Further correspondence with respect to this application is to be directed to Mr. Eamonn Watson.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Colin Fry, Executive Director

Enclosures: Minutes of Resolution #395/2012

cc:

52853d2



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on November 22, 2012 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, BC.

REQUEST FOR RECONSIDERATION

The Commission received a letter dated November 15, 2012 requesting reconsideration of its decision recorded as Resolution #327/2012, by which, the proposal to hold an annual Pemberton music festival was conditionally approved.

Agent: Village of Pemberton (the "Village")

Original Proposal:

The Village requested permission to use five (5) properties in the Agricultural Land Reserve (ALR) as the site for an annual music festival (the "Festival"). The proposal involved 91.14 ha of ALR land. Estimated attendance is 40,000 people per day over the three (3) days of the Festival. The Village requested a 10 year approval which may include a proviso for the Village to fulfill certain conditions which would enable subsequent events to proceed (i.e.: 1 year approval with 3 subsequent 3 year extensions).

(Submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)

Original Decision:

By Resolution #327/2012 dated October 25, 2012

THAT this decision applies to the following properties:

1. PID: 027-701-522
Lot 1, District Lot 211, Lillooet District, Plan KAP87819;
2. PID: 027-950-191
Lot 2, District Lot 211, Lillooet District, Plan EPP1353; and
3. PID: 027-950-182
Lot 1, District Lot 211, Lillooet District, Plan EPP1353.

(Hereinafter referred to as the "Properties")

AND THAT approval for the 2013 festival is granted subject to the following conditions:

- The Village providing written confirmation that it has returned its portion of the ALR application fee to the owners of the properties whose land is situated within the Regional District. Written confirmation is to be received by the Commission on or before November 30, 2012;
- The Village providing written authorization from the property owners confirming the Village as their agent. Written authorization is to be received by the Commission on or before November 30, 2012;

- The Village providing written confirmation from the property owners that the Commission's decision will be exclusive to the Village. Written confirmation is to be received by the Commission on or before November 30, 2012;
- The Village providing written authorization from the current owners of the properties associated with Application #YY-38570 (Submitted by the Squamish-Lillooet Regional District), Application #YY-38597 (Submitted by the Village of Pemberton) and from Live Nation agreeing to the Commission rescinding Resolutions #726/2008 and #727/2008 and canceling the files. Written authorization is to be received by the Commission on or before November 30, 2012;
- The proposed uses are restricted to the areas of the Properties outlined in the application. Satellite parking facilities and other amenities associated with the event are strictly prohibited on other ALR lands;
- A Professional Agrologist specializing in soil reclamation must be retained to prepare a pre-event plan to mitigate soil damage, to oversee reclamation and to submit a closure report within 30 days following the last day of the Festival. The report must confirm the post-event clean-up has been successfully completed to an agricultural standard;
- The pre-event plan prepared by a Professional Agrologist must be submitted to the Commission for review and approval. The approved plan must be in place no later than 60 days prior to the Festival;
- A \$250,000 irrevocable letter of credit in the Commission's favour must be submitted to ensure the land is reclaimed. The funds will be used by the Commission to reclaim the land, to rectify any reclamation deficiencies and/or to secure the necessary advice and closure report from the Professional Agrologist in the event of non-compliance with the terms and conditions expressed herein. The irrevocable letter of credit must be received by the Commission no later than 30 days prior to the Festival;

AND THAT the 2013 Festival is granted on the understanding that the Village will provide written notification that they will work collaboratively with the Commission to develop and execute a memorandum of understanding which outlines the expectations, roles and responsibilities of each party as they relate to the Festival; as well as a commitment to identify opportunities to meaningfully enhance agriculture in the region and to facilitate the enhancements.

The guiding principles of the memorandum of understanding will be:

- To create a collaborative working relationship with the Commission to secure approval for the Festival while preserving the agricultural integrity of the lands and enhancing agriculture in the Pemberton area;
- That the lands comprising the Festival site are within Agricultural Land Reserve (ALR) and will remain in the ALR;
- That in using ALR lands, the Village will participate in enhancing agriculture in the Pemberton area;

- That the Village will ensure the agricultural quality of the ALR land used by the Festival is not diminished by festival activities;
- That the Village will ensure the activities associated with the festival do not significantly impact adjacent or nearby ALR lands; and
- That the Village will ensure that ALR lands, not associated with the Festival, are not used in a manner inconsistent with the *Agricultural Land Commission Act* during the Festival.

AND THAT the Commission will consider the request for future events after it evaluates the outcome of the 2013 Festival and receives an executed memorandum of understanding it considers acceptable;

AND THAT with regard to the Festival, the Commission requires a “*No Footprint*” approach be adopted by the Village so that any and all Festival facilities, structures, equipment and roads are removed from the properties following the Festival;

AND THAT the approvals contained herein are for the sole benefit of the Village and are not transferrable. This condition does not preclude the Village from entering into an agreement with Live Nation or any other promoter;

AND THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

AND FINALLY THAT if the owners of the properties whose land is situated in the Regional District make a non-farm use application(s) consistent with the proposed Festival development outlined in this application, and the Regional District forwards the application(s) to the Commission, the Commission acting pursuant to section 27 of the *Agricultural Land Commission Act* hereby delegates to its Chief Executive Officer, the authority to approve the application(s) based on the criteria that the approval(s) will be subject to the terms and conditions contained in this decision. For greater clarity, this delegation is specific to an application(s) involving:

- PID: 007-915-268
Lot “B”, District Lot 210, Lillooet District, Plan 20157; and
- PID: 007-915-179
That Part of Lot “A” Lying North of the Road Shown on Plan 20157; District Lot 210, Lillooet District, Plan, Plan 20157

If the Chief Executive Officer considers that the application(s) does not meet the established criteria, or for any other reason does not wish to approve the application, the application must be referred to the Commission for a decision.

Recent Information:

1. The Village has confirmed that it returned its portion of the ALR application fee to the owners of the properties whose land is situated within the Regional District;
2. The Village has provided written authorization from the owners of the properties whose land is situated within the Regional District to facilitate a future application(s) to the Regional District to join the music festival proposal;
3. The Village has provided written authorization from the current owners of the properties associated with Application #YY-38570 (Submitted by the Squamish-Lillooet Regional District) and Application #YY-38597 (Submitted by the Village of Pemberton) agreeing to the Commission rescinding Resolutions #726/2008 and #727/2008 and canceling the files;
4. The Village raised a correction regarding the Commission's comments pertaining to Lot 1, District Lot 211, Lillooet District, Plan KAP87819. At the time of its initial consideration of the file material the Commission reviewed Certificate of Title No. LB254469 and noted there were four (4) Pending Applications.
 - a. EPP21848 (Subdivision Plan)
 - b. CA2723155 to CA2723160 (Freehold Transfer)
 - c. CA2723161 (Mortgage)
 - d. CA2723154 (Covenant)

The Commission determined that following registration of the subdivision plan, the new legal description of the property associated with the festival will be Lot 4, District Lot 211, Lillooet District, Plan EPP21848 and that the size of Lot 4 will be 23.13 ha.

The Commission believed the ALR area to be used for the festival was 11.2 ha being that portion of the property lying east of the road which bisects the property.

The Village has advised that the entire 23.13 ha of the property is meant to be used during the festival;

5. The Village raised a point for clarification relating to the need for Live Nation to authorize and agree to the rescission of the 2008 applications. The Village pointed out that Live Nation was never a registered owner of any lands associated with the 2008 applications and its involvement was limited to acting as agent on behalf of the property owners. In the Village's opinion Live Nation's agreements with the property owners have expired and it does not have any further legal standing in these matters as the 2008 approvals run with the lands that are the subject of the 2008 approvals. The Village does not believe that Live Nation's authorization is required.
6. The Village has confirmed that the proposed uses will be restricted to the areas of the properties outlined in the application and that no satellite parking facilities and other amenities associated with the event will be permitted on other ALR lands;
7. The Village has confirmed that a Professional Agrologist specializing in soil reclamation will be retained to prepare a pre-event plan to mitigate soil damage, to oversee reclamation and to submit a closure report within 30 days following the last day of the

festival. The report must confirm the post-event clean-up has been successfully completed to an agricultural standard;

8. The Village has confirmed that a \$250,000 irrevocable letter of credit in the Commission's favour will be submitted to ensure the land is reclaimed in accordance with the Commission's requirements set out in Resolution #327/2012;
9. The Village has confirmed that it will work collaboratively with the Commission to develop and execute a memorandum of understanding which outlines the expectations, roles and responsibilities of each party as they relate to the festival; as well as a commitment to identify opportunities to meaningfully enhance agriculture in the region and to facilitate the enhancements.
10. With respect to future events the Village requested clarification regarding the Commission's position on the proposed 10 year approval which may include a proviso for the Village to fulfill certain conditions which would enable subsequent events to proceed (i.e.: 1 year approval with 3 subsequent 3 year extensions).

The Village pointed out that the 2008 approvals provided for an additional three (3) years for the festival with the possibility of two (2) extensions of three (3) years each, subject to satisfaction of the Commission's requirements in relation to the 2008 approvals. The Village assumes the same conditions will apply to Resolution #327/2012. The Village's expectation would be that the extensions would be subject to satisfying all terms and conditions of Resolution #327/2012 for the 2013 festival and at the conclusion of each extension period.

11. The Village has confirmed that it will adopt a "*No Footprint*" approach so that any and all festival facilities, structures, equipment and roads are removed from the properties following the festival;
12. The Village requests clarification that the approvals contained in Resolution #327/2012 apply to the lands that are the subject of Resolution #327/2012 and that these approvals will continue to apply to those lands while the resolution remains in effect, subject to the satisfaction of all the terms and conditions of Resolution #327/2012.

SUMMARY OF INFORMATION PROVIDED BY THE VILLAGE

In summary, the information provided by the Village falls into three (3) categories.

1. Confirmation of certain terms and conditions of approval (Points 1, 2, 3, 6, 7, 8, 9 and 11);
 2. Request for clarification of certain terms and conditions of approval (Points 10 and 12); and
 3. Request for reconsideration (Points 4 and 5).
-

LEGISLATIVE CONTEXT FOR COMMISSION RECONSIDERATION

Section 33 (Reconsideration of decisions) of the *Agricultural Land Commission Act* states:

33(1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that:

- (a) evidence not available at the time of the original decision has become available,
 - (b) all or part of the original decision was based on evidence that was in error or was false.
-

DELEGATION OF DECISION-MAKING TO THE CHIEF EXECUTIVE OFFICER (CEO)

On June 27, 2011 the Commission delegated decision-making to the CEO by Resolution #016N/2011 (File: 135-45/ALC/CEO/APPL). In accordance with section 27 of the *Agricultural Land Commission Act* the Commission has specified that the following application may be decided by the CEO.

Criterion 8

Requests for minor variations of conditions of approval imposed by the Commission by resolution in exclusion, subdivision, non-farm use and inclusion applications provided the minor variations are consistent with the intent of the Commission's original decision.

REGARDING THE REQUESTS FOR RECONSIDERATION

After reviewing the Village's November 15, 2012 correspondence as it relates to Point 4, the area of Lot 4, Plan EPP21848 to be used during the festival, I, Richard Bullock, Chief Executive Officer of the Commission believe the Village has provided evidence that part of the original decision was based on evidence that was in error.

As to Point 5, the requirement relating to the need for Live Nation to authorize and agree to the rescission of the 2008 applications, I believe the Village has provided evidence that was not available at the time of the original decision.

DECISION REGARDING THE REQUEST FOR RECONSIDERATION

After reviewing the file material, I am satisfied that the points of reconsideration are consistent with Criterion No. 8 of Resolution #016N/2011 and as such have decided as follows:

That Resolution #327/2012 be amended to the extent that 23.13 ha of Lot 4, Plan EPP21848 is approved for use as part of the festival; and

That Resolution #327/2012 is further amended to remove as a condition of approval, the need for Live Nation to authorize and agree to the rescission of the 2008 applications. With respect to this amendment, it is done so based on the Village's argument that Live Nation's agreements with the property owners have expired and that Live Nation does not have any further legal standing in regard to the 2008 approvals. However, should Live Nation dispute

Minutes of Resolution #395/2012 – Application # 52853

the Village's opinion in this regard, the Commission requires written assurance from the Village that it will be responsible for seeking a resolution to the dispute at no cost to the Commission.

CLARIFICATIONS REGARDING RESOLUTION #327/2012

Point 10 – Future festivals

The Village pointed out that the 2008 approvals provided for an additional three (3) years for the festival with the possibility of two (2) extensions of three (3) years each, subject to satisfaction of the Commission's requirements in relation to the 2008 approvals. The Village assumes the same conditions will apply to Resolution #327/2012. The Village's expectation would be that the extensions would be subject to satisfying all terms and conditions of the Resolution for the 2013 festival and at the conclusion of each extension period.

Clarification: The Commission has approved a festival for 2013. If the Village satisfies all terms and conditions of Resolution #327/2012 and there are no negative impacts to the land, authorization will be granted for another 3 years. However, it should be noted that the Commission will conduct a performance evaluation and impact assessment of the land following each festival, hence the need for the involvement of a Professional Agrologist. If at any point, the Commission determines there to be a substantial lack of performance and/or believes the agricultural quality of the land has been compromised, it will be compelled to re-assess the appropriateness of subsequent festivals. The ability to continue holding festivals as approved by the Commission is completely dependent on the adherence to the conditions of approval contained in Resolution #327/2012, and as amended herein, and provided the agricultural capability of the land is maintained.

Point 12 – Application to subject properties

Approvals contained in Resolution #327/2012 apply to the lands that are the subject of Resolution #327/2012 and that these approvals will continue to apply to those lands while the resolution remains in effect, subject to the satisfaction of all the terms and conditions of Resolution #327/2012.

Clarification: The Village's understanding is confirmed.

CONFIRMATION OF TERMS AND CONDITIONS OF APPROVAL

On behalf of the Commission I acknowledge the Village's confirmation of certain terms and conditions of approval, more specifically Points 1, 2, 3, 6, 7, 8, 9 and 11. With these in place, and in accordance with Resolution #327/2012, Application #YY-38570 (Submitted by the Squamish-Lillooet Regional District) and Application #YY-38597 (Submitted by the Village of Pemberton) are cancelled and Resolutions #726/2008 and #727/2008 are rescinded.

RESOLUTION #395/2012

I CERTIFY THAT THIS IS A TRUE RECORD OF THE DECISION

A handwritten signature in dark ink, appearing to read 'R. Bullock', is written above a horizontal line.

Richard Bullock, Chief Executive Officer



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

December 4, 2012

ALC File: 52853

Village of Pemberton
Box 100
Pemberton, BC
V0N2L0

Attention: Mr. Daniel Sailland, Chief Administrative Officer

Dear Mr. Sailland:

**Re: Application: Non-Farm Use on Land in the Agricultural Land Reserve (ALR)
Pemberton Music Festival**

Please find attached the Minutes of Resolution #395/2012 as it relates to the above noted application.

Further correspondence with respect to this application is to be directed to Mr. Eamonn Watson.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Colin Fry, Executive Director

Enclosures: Minutes of Resolution #395/2012

cc:

52853d2



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on November 22, 2012 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, BC.

REQUEST FOR RECONSIDERATION

The Commission received a letter dated November 15, 2012 requesting reconsideration of its decision recorded as Resolution #327/2012, by which, the proposal to hold an annual Pemberton music festival was conditionally approved.

Agent: Village of Pemberton (the "Village")

Original Proposal:

The Village requested permission to use five (5) properties in the Agricultural Land Reserve (ALR) as the site for an annual music festival (the "Festival"). The proposal involved 91.14 ha of ALR land. Estimated attendance is 40,000 people per day over the three (3) days of the Festival. The Village requested a 10 year approval which may include a proviso for the Village to fulfill certain conditions which would enable subsequent events to proceed (i.e.: 1 year approval with 3 subsequent 3 year extensions).

(Submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)

Original Decision:

By Resolution #327/2012 dated October 25, 2012

THAT this decision applies to the following properties:

1. PID: 027-701-522
Lot 1, District Lot 211, Lillooet District, Plan KAP87819;
2. PID: 027-950-191
Lot 2, District Lot 211, Lillooet District, Plan EPP1353; and
3. PID: 027-950-182
Lot 1, District Lot 211, Lillooet District, Plan EPP1353.

(Hereinafter referred to as the "Properties")

AND THAT approval for the 2013 festival is granted subject to the following conditions:

- The Village providing written confirmation that it has returned its portion of the ALR application fee to the owners of the properties whose land is situated within the Regional District. Written confirmation is to be received by the Commission on or before November 30, 2012;
- The Village providing written authorization from the property owners confirming the Village as their agent. Written authorization is to be received by the Commission on or before November 30, 2012;

- The Village providing written confirmation from the property owners that the Commission's decision will be exclusive to the Village. Written confirmation is to be received by the Commission on or before November 30, 2012;
- The Village providing written authorization from the current owners of the properties associated with Application #YY-38570 (Submitted by the Squamish-Lillooet Regional District), Application #YY-38597 (Submitted by the Village of Pemberton) and from Live Nation agreeing to the Commission rescinding Resolutions #726/2008 and #727/2008 and canceling the files. Written authorization is to be received by the Commission on or before November 30, 2012;
- The proposed uses are restricted to the areas of the Properties outlined in the application. Satellite parking facilities and other amenities associated with the event are strictly prohibited on other ALR lands;
- A Professional Agrologist specializing in soil reclamation must be retained to prepare a pre-event plan to mitigate soil damage, to oversee reclamation and to submit a closure report within 30 days following the last day of the Festival. The report must confirm the post-event clean-up has been successfully completed to an agricultural standard;
- The pre-event plan prepared by a Professional Agrologist must be submitted to the Commission for review and approval. The approved plan must be in place no later than 60 days prior to the Festival;
- A \$250,000 irrevocable letter of credit in the Commission's favour must be submitted to ensure the land is reclaimed. The funds will be used by the Commission to reclaim the land, to rectify any reclamation deficiencies and/or to secure the necessary advice and closure report from the Professional Agrologist in the event of non-compliance with the terms and conditions expressed herein. The irrevocable letter of credit must be received by the Commission no later than 30 days prior to the Festival;

AND THAT the 2013 Festival is granted on the understanding that the Village will provide written notification that they will work collaboratively with the Commission to develop and execute a memorandum of understanding which outlines the expectations, roles and responsibilities of each party as they relate to the Festival; as well as a commitment to identify opportunities to meaningfully enhance agriculture in the region and to facilitate the enhancements.

The guiding principles of the memorandum of understanding will be:

- To create a collaborative working relationship with the Commission to secure approval for the Festival while preserving the agricultural integrity of the lands and enhancing agriculture in the Pemberton area;
- That the lands comprising the Festival site are within Agricultural Land Reserve (ALR) and will remain in the ALR;
- That in using ALR lands, the Village will participate in enhancing agriculture in the Pemberton area;

- That the Village will ensure the agricultural quality of the ALR land used by the Festival is not diminished by festival activities;
- That the Village will ensure the activities associated with the festival do not significantly impact adjacent or nearby ALR lands; and
- That the Village will ensure that ALR lands, not associated with the Festival, are not used in a manner inconsistent with the *Agricultural Land Commission Act* during the Festival.

AND THAT the Commission will consider the request for future events after it evaluates the outcome of the 2013 Festival and receives an executed memorandum of understanding it considers acceptable;

AND THAT with regard to the Festival, the Commission requires a “*No Footprint*” approach be adopted by the Village so that any and all Festival facilities, structures, equipment and roads are removed from the properties following the Festival;

AND THAT the approvals contained herein are for the sole benefit of the Village and are not transferrable. This condition does not preclude the Village from entering into an agreement with Live Nation or any other promoter;

AND THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

AND FINALLY THAT if the owners of the properties whose land is situated in the Regional District make a non-farm use application(s) consistent with the proposed Festival development outlined in this application, and the Regional District forwards the application(s) to the Commission, the Commission acting pursuant to section 27 of the *Agricultural Land Commission Act* hereby delegates to its Chief Executive Officer, the authority to approve the application(s) based on the criteria that the approval(s) will be subject to the terms and conditions contained in this decision. For greater clarity, this delegation is specific to an application(s) involving:

- PID: 007-915-268
Lot “B”, District Lot 210, Lillooet District, Plan 20157; and
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That Part of Lot “A” Lying North of the Road Shown on Plan 20157; District Lot 210, Lillooet District, Plan, Plan 20157

If the Chief Executive Officer considers that the application(s) does not meet the established criteria, or for any other reason does not wish to approve the application, the application must be referred to the Commission for a decision.

Recent Information:

1. The Village has confirmed that it returned its portion of the ALR application fee to the owners of the properties whose land is situated within the Regional District;
2. The Village has provided written authorization from the owners of the properties whose land is situated within the Regional District to facilitate a future application(s) to the Regional District to join the music festival proposal;
3. The Village has provided written authorization from the current owners of the properties associated with Application #YY-38570 (Submitted by the Squamish-Lillooet Regional District) and Application #YY-38597 (Submitted by the Village of Pemberton) agreeing to the Commission rescinding Resolutions #726/2008 and #727/2008 and canceling the files;
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The Commission believed the ALR area to be used for the festival was 11.2 ha being that portion of the property lying east of the road which bisects the property.

The Village has advised that the entire 23.13 ha of the property is meant to be used during the festival;

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festival. The report must confirm the post-event clean-up has been successfully completed to an agricultural standard;

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SUMMARY OF INFORMATION PROVIDED BY THE VILLAGE

In summary, the information provided by the Village falls into three (3) categories.

1. Confirmation of certain terms and conditions of approval (Points 1, 2, 3, 6, 7, 8, 9 and 11);
 2. Request for clarification of certain terms and conditions of approval (Points 10 and 12);
and
 3. Request for reconsideration (Points 4 and 5).
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LEGISLATIVE CONTEXT FOR COMMISSION RECONSIDERATION

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- (a) evidence not available at the time of the original decision has become available,
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DELEGATION OF DECISION-MAKING TO THE CHIEF EXECUTIVE OFFICER (CEO)

On June 27, 2011 the Commission delegated decision-making to the CEO by Resolution #016N/2011 (File: 135-45/ALC/CEO/APPL). In accordance with section 27 of the *Agricultural Land Commission Act* the Commission has specified that the following application may be decided by the CEO.

Criterion 8

Requests for minor variations of conditions of approval imposed by the Commission by resolution in exclusion, subdivision, non-farm use and inclusion applications provided the minor variations are consistent with the intent of the Commission's original decision.

REGARDING THE REQUESTS FOR RECONSIDERATION

After reviewing the Village's November 15, 2012 correspondence as it relates to Point 4, the area of Lot 4, Plan EPP21848 to be used during the festival, I, Richard Bullock, Chief Executive Officer of the Commission believe the Village has provided evidence that part of the original decision was based on evidence that was in error.

As to Point 5, the requirement relating to the need for Live Nation to authorize and agree to the rescission of the 2008 applications, I believe the Village has provided evidence that was not available at the time of the original decision.

DECISION REGARDING THE REQUEST FOR RECONSIDERATION

After reviewing the file material, I am satisfied that the points of reconsideration are consistent with Criterion No. 8 of Resolution #016N/2011 and as such have decided as follows:

That Resolution #327/2012 be amended to the extent that 23.13 ha of Lot 4, Plan EPP21848 is approved for use as part of the festival; and

That Resolution #327/2012 is further amended to remove as a condition of approval, the need for Live Nation to authorize and agree to the rescission of the 2008 applications. With respect to this amendment, it is done so based on the Village's argument that Live Nation's agreements with the property owners have expired and that Live Nation does not have any further legal standing in regard to the 2008 approvals. However, should Live Nation dispute

the Village's opinion in this regard, the Commission requires written assurance from the Village that it will be responsible for seeking a resolution to the dispute at no cost to the Commission.

CLARIFICATIONS REGARDING RESOLUTION #327/2012

Point 10 – Future festivals

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Clarification: The Village's understanding is confirmed.

CONFIRMATION OF TERMS AND CONDITIONS OF APPROVAL

On behalf of the Commission I acknowledge the Village's confirmation of certain terms and conditions of approval, more specifically Points 1, 2, 3, 6, 7, 8, 9 and 11. With these in place, and in accordance with Resolution #327/2012, Application #YY-38570 (Submitted by the Squamish-Lillooet Regional District) and Application #YY-38597 (Submitted by the Village of Pemberton) are cancelled and Resolutions #726/2008 and #727/2008 are rescinded.

RESOLUTION #395/2012

I CERTIFY THAT THIS IS A TRUE RECORD OF THE DECISION

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Richard Bullock, Chief Executive Officer



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

October 29, 2012

ALC File: # 52853

Village of Pemberton
Box 100
Pemberton, BC
V0N2L0

Attention: Mr. Daniel Sailland, Chief Administrative Officer

Dear Mr. Sailland:

**Re: Application: Non-Farm Use on Land in the Agricultural Land Reserve (ALR)
Pemberton Music Festival**

Please find attached the Minutes of Resolution #327/2012 as it relates to the above noted application.

Further correspondence with respect to this application should be directed to Mr. Eamonn Watson.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION



Colin Fry, Executive Director

Enclosures: Minutes of Resolution #327/2012
Example Irrevocable Letter of Credit

cc: Squamish-Lillooet Regional District
Box 219, 1350 Aster Street, Pemberton, BC V0N 2L0
Attention: Lynda Flynn, Chief Administrative Officer
Patricia Ritchie and Leonard James Ritchie
1873 Highway 99, Pemberton, BC V0N 2L0
Randall Scott West
PO Box 1046, 1865 Highway 99, Pemberton, BC V0N 2L0
580049 B.C. Ltd.
106 - 1656 Martin Drive, Surrey, BC V4A 6E7
Sunstone Ridge Developments Ltd.
14185 Rio Place, Surrey, BC V3S 0L2
Lori Ann Mitchell and Rice Howard Drew Meredith
PO Box 281, 1759 Highway 99, Pemberton, BC V0N 2L0

52853d1

Letter of Credit - Example

BENEFICIARY: Minister of Finance
c/o Provincial Agricultural Land Commission
#133 - 4940 Canada Way
Burnaby, BC V5G 4K6

Re: ALC Application # _____

We hereby issue in your favour our Irrevocable Letter of Credit # _____ for CAD

\$ _____ in the account of _____

(Name of Individual or Company)

(Street Address and/or Legal Description)

TERMS AND CONDITIONS:

1. Expiry Date: _____
2. Drawings are to be made in writing to _____
(Name of Financial Institution)
3. Partial drawings are permitted.
4. The Bank/Credit Union will not inquire as to whether or not the Agricultural Land Commission has right to make demand on this Letter of Credit.
5. This Letter of Credit is irrevocable up to the expiry date.
6. This Credit is irrevocable up to the expiry date and unless it is extended in writing will be null and void after the expiry date whether or not the original credit is returned to us for cancellation. The amount of this credit may be reduced from time to time only by the amount drawn upon it by you or by formal notice in writing received by us from you that you desire such reduction.
7. Request for any amendment except reduction in amount must be made directly to our customer who will then instruct us accordingly.
8. Any drawings made under this letter of credit must be accompanied by the original of this credit.
9. **Mandatory Condition:**
"It is a condition of this letter of credit that it shall be deemed to be automatically extended without amendment from year to year from the present or any future expiration date hereof, unless at least 30 days prior to the present or any future expiration date, we notify you in writing, that we elect not to consider this letter of credit to be renewable for any additional period."
10. We engage to honour presentations submitted within the terms and conditions indicate above.



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on October 25, 2012 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #52853.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Gordon Gillette	Vice-Chair
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner

COMMISSION MEMBERS PRESENT VIA CONFERENCE CALL:

Jim Collins	Commissioner
Jennifer Dyson	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner

COMMISSION STAFF PRESENT:

Eamonn Watson	Land Use Planner
Shaundehi Runka	Policy Planner
Brian Underhill	Executive Director
Colin Fry	Executive Director

PROPOSAL

The Village of Pemberton (the "Village") requests permission to use five (5) properties in the Agricultural Land Reserve (ALR) as the site for an annual music festival (the "Festival"). The proposal involves 91.14 ha of ALR land. Estimated attendance is 40,000 people per day over the three (3) days of the Festival. The Village requests a 10 year approval which may include a proviso for the Village to fulfill certain conditions which would enable subsequent events to proceed (i.e.: 1 year approval with 3 subsequent 3 year extensions).

(Submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)

PRE-CONSIDERATION REVIEW OF APPLICATION DOCUMENTATION

The Commission reviewed the application material and identified several issues that needed to be addressed to establish the basis for considering the proposal.

ISSUE NO. 1 – Lot 1, District Lot 211, Lillooet District, Plan KAP87819

A review of Certificate of Title No. LB254469 indicates there are four (4) Pending Applications.

- a. EPP21848 (Subdivision Plan)
- b. CA2723155 to CA2723160 (Freehold Transfer)
- c. CA2723161 (Mortgage)
- d. CA2723154 (Covenant)

Following registration of the subdivision plan, the new legal description of the property associated with the Festival will be Lot 4, District Lot 211, Lillooet District, Plan EPP21848. The size of Lot 4 will be 23.13 ha.

The Freehold Transfer pertains to Lot 1, District Lot 211, Lillooet District, Plan EPP21848 of the Pending Subdivision Plan. Lot 1 is not in the ALR. The current owner of the property will retain ownership of Lot 4 following completion of the Freehold Transfer.

ISSUE NO. 2 – Properties not within the jurisdiction of the Village

Two of the properties under application are not situated within the jurisdiction of the Village and as such, any application made pursuant to the *Agricultural Land Commission Act* must be submitted to the Squamish-Lillooet Regional District (the "Regional District"). Moreover, the Regional District Board would have to pass a resolution to forward the application to the Commission before it is in a lawful position to consider an application.

In the Report to Council (In Camera) dated July 6, 2012, it was acknowledged that these two properties fall within the jurisdiction of the Regional District. The properties are legally described as:

1. PID: 007-915-268

Lot "B", District Lot 210, Lillooet District, Plan 20157

Owners: Patricia Ritchie and Leonard James Ritchie (As Joint Tenants)

2. PID: 007-915-179

That Part of Lot "A" Lying North of the Road Shown on Plan 20157; District Lot 210, Lillooet District, Plan, Plan 20157

Owner: Randall Scott West

Relevant sections of the *Agricultural Land Commission Act*:

Section 1 – Definitions

"local government" means

- (a) in relation to land within a municipality, the municipal council,
- (b) in relation to land within an electoral area but not within a local trust area, the board of the regional district, and
- (c) in relation to land within a local trust area under the *Islands Trust Act*, the local trust committee or the executive committee acting as a local trust committee for that area;

Subsection 20(3) – Use of agricultural land reserve

- 20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land:

Relevant section of BC Regulation 171/2002 (Agricultural Land Reserve Use, Subdivision and Procedure Regulation):

Subsections 29(1) and (2)(b) – Application must be filed with local government or treaty first nation government

- 29(1) An owner of agricultural land who wishes to use that land for a non-farm use or who wishes to subdivide that land may apply for permission under section 20 or 21 of the Act.
- (2) An application under section 20 or 21 of the Act must be in a form acceptable to the commission and must be filed,
- (b) in any other case, with the applicable local government or treaty first nation government.

ISSUE NO. 3 – Status of the Village to act as agent on behalf of the property owners

The Commission noted the following facts from the application material:

1. Mr. Cam McIvor was appointed as agent for the property owners to act on their behalf with respect to an application to the Commission for the Festival. Nowhere in these appointments is Mr. McIvor granted authority to re-assign his agent status to another person or agency.
2. On June 19, 2012 Mr. McIvor signed applications on behalf of the property owners and sometime thereafter filed the applications with the Village.
3. On July 5, 2012 Mr. McIvor of Intuitive Management Ltd. provided a document to the Village advising, *"I, Cam McIvor – President of Intuitive Management Ltd. "Intuitive", as agents for the lands listed below, hereby authorize and assign to The Village of Pemberton to act as agent with respect to the Agricultural Land Commission non-farm use application for a music festival in Pemberton...."*
4. On July 9, 2012 the Village coalesced the five (5) applications into a single application and identified itself as agent. The application was executed by Nikki Gilmore, Acting Chief Administrative Officer for the Village.

ISSUE NO. 4 – Representations made by the Village on behalf of the Regional District

This issue arises from a document submitted by the Village as part of the application material. The document is entitled, *Music Festival, Proposed Commitments for the Memorandum of Understanding*. While it is recognized that the draft is subject to the approval of the Regional District, the Commission believes it is inappropriate to consider the proposed terms and commitments as applying to the Regional District in the absence of the Regional District's direct representations.

ISSUE NO. 5 – Lack of Clarity regarding who is the Applicant

In a June 15, 2012 letter submitted with the application material, Sunstone Ridge Developments Ltd. (owner of the primary Festival site) wrote, *"Sunstone Ridge Developments Ltd., respectfully requests non-farm use approval from the Agricultural Land Commission to host an annual summer music festival in the Pemberton Valley."* The letter went on to describe an overview of the proposal and was signed by Mr. Cam McIvor acting as agent for Sunstone Ridge Developments Ltd.

However, in the Report to Council (In Camera) dated July 6, 2012, the Commission noted the comment on page 4 in the paragraph entitled DISCUSSION, *"It is requested that the Village be the agent for the landowners, as to provide a constant approving body that can administer (Emphasis Added) the Pemberton Music Festival."*

COMMISSION DECISIONS ON THE IDENTIFIED ISSUES

ISSUE NO. 1 – Lot 1, District Lot 211, Lillooet District, Plan KAP87819

Decision: This issue was identified for clarification only. The pending applications noted on Certificate of Title No. LB254469 (Lot 1, District Lot 211, Lillooet District, Plan KAP87819) are not impediments to the Commission's consideration of the proposal as it pertains to this property.

ISSUE NO. 2 – Properties not within the jurisdiction of the Village

Decision: The application, as it relates of the properties legally described as 1) Lot "B", District Lot 210, Lillooet District, Plan 20157, and; 2) That Part of Lot "A" Lying North of the Road Shown on Plan 20157; District Lot 210, Lillooet District, Plan, Plan 20157, is inconsistent with the *Agricultural Land Commission Act* and BC Regulation 171/2002 (Agricultural Land Reserve Use, Subdivision and Procedure Regulation). As such, the Commission is not in a lawful position to consider these properties as part of the Village's application. The Commission's deliberation regarding the non-farm use application will be restricted to the three (3) properties situated within the jurisdiction of the Village.

The Village is directed to return its portion of the ALR application fee to the owners of the properties whose land is situated within the Regional District. The Commission will also arrange for the return of its portion of the ALR application fee to the owners.

ISSUE NO. 3 – Status of the Village to act as agent on behalf of the property owners

Decision: Mr. Cam McIvor was appointed as agent for the property owners to act on their behalf with respect to an application to the Commission for the Festival. These appointments did not empower or authorize Mr. McIvor to re-assign his agent status to another person or agency. As such, it is the Commission's position that the Village does not have status as agent to act on behalf of the property owners. This said, the Commission is satisfied that this is likely an administrative oversight that can be easily remedied.

The Commission has decided that it will continue with its deliberation regarding the non-farm use application involving the properties within the jurisdiction of the Village. This decision is subject to the Village providing, on or before November 30, 2012, written authorization from the property owners confirming the Village as agent. Please note that the Village can also act as agent on behalf of the property owners whose land is situated within the Regional District's jurisdiction if the owners wish to submit an ALR application to the Regional District to join the Festival proposal.

ISSUE NO. 4 – Representations made by the Village on behalf of the Regional District

Decision: The document entitled, *Music Festival, Proposed Commitments for the Memorandum of Understanding*, and the proposed terms and commitments therein, will only be considered as if they apply solely to the Village.

ISSUE NO. 5 – Lack of Clarity regarding the Applicant

Decision: The Commission acknowledges that it is impractical for the individual property owners to manage the Festival as it relates to their properties. It is also acknowledged that a single agency with the authority and oversight to engage promoters and administer all aspects of the Festival is considerably more prudent. The Commission believes this is what the Village envisions when it stated, *"It is requested that the Village be the agent for the landowners, as to provide a constant approving body that can administer (Emphasis Added) the Pemberton Music Festival."*

In this regard, the Commission will continue with its deliberation regarding the non-farm use application, involving the properties within the jurisdiction of the Village, on the understanding that it is the Village seeking permission for the Festival. In this manner, the relationship between the property owners and the Village would be more akin to the relationship that would exist between a landlord and tenant.

This decision is subject to the Village providing written acknowledgment from the property owners and the Village that the Commission's decision, if approved, will be exclusive to the Village. The acknowledgment is to be received by the Commission on or before November 30, 2012.

REVISED DESCRIPTION OF PROPOSAL

The Village requests permission to use three (3) properties in the Agricultural Land Reserve (ALR) as the site for an annual music festival (the "Festival"). The proposal involves 78.6 ha of ALR land. Estimated attendance is 40,000 people per day over the three (3) days of the Festival. The Village requests a 10 year approval which may include a proviso for the Village to fulfill certain conditions which would enable subsequent events to proceed (i.e.: 1 year approval with 3 subsequent 3 year extensions).

(Submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)

LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

- 6 The following are the purposes of the commission:
- (a) to preserve agricultural land;
 - (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
 - (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.
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BACKGROUND

Property Information

1. PID: 027-701-522*

Lot 1, District Lot 211, Lillooet District, Plan KAP87819

Current Owner (Lot 1, District Lot 211, Lillooet District, Plan KAP87819) – 580049 B.C. Ltd.
Owner of Lot 4 after registration of subdivision plan EPP21848 – 580049 B.C. Ltd.

Size of Property: 23.13 ha (Entirely within the ALR)**
ALR area to be used for the Festival – 11.2 ha

* **See Issue No. 1**

** **The size of the property and proposal area have been taken from Pending Subdivision EPP21848**

2. PID: 027-950-191

Lot 2, District Lot 211, Lillooet District, Plan EPP1353

Owner: Sunstone Ridge Developments Ltd. (0857673 B.C. Ltd.)

Size of Property: 111.0 ha (46.3 ha within the ALR)
ALR area to be used for the Festival – 46.3 ha

3. PID: 027-950-182

Lot 1, District Lot 211, Lillooet District, Plan EPP1353

Owners: Lori Ann Mitchell and Rice Howard Drew Meredith (As Joint Tenants)

Size of Property: 21.1 ha (Entirely within the ALR)
ALR area to be used for the Festival – 21.1 ha

Previous Festival Applications (All submitted in 2008)

Application #YY-37970

Application #YY-38570 (Submitted by the Squamish-Lillooet Regional District)

Application #YY-38597 (Submitted by the Village of Pemberton)

Information from the Minutes of Resolutions 726/2008 and 727/2008
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A meeting was held by the Provincial Agricultural Land Commission on November 18, 2008 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, BC.

FOR CONSIDERATION

(Properties within the Squamish-Lillooet Regional District)

Application: #YY- 38570

Applicant: Live Nation

Local Government: Squamish-Lillooet Regional District

Proposal: To hold an annual Pemberton Music Festival on land in the Agricultural Land Reserve (ALR) for a period of ten (10) years.

Properties:

1. PID: 007-915-179

That Part of Lot "A" Lying North of the Road Shown on Plan 20157, District Lot 210, Lillooet District, Plan 20157

Size: 7.5 ha (7.5 ha in the ALR)

Proposed Use: Campsite

2. PID: 007-915-268

Lot "B", District Lot 210, Lillooet District, Plan 20157

Size: 9.2 ha (8.9 ha in the ALR)

Proposed Use: Campsite

3. PID: 004-464-532

The Fractional North West ¼ of District Lot 211, Lillooet District, Except Plans A21, B3576, B4215, KAP59366 and KAP59592

Size: 51.2 ha (16.7 ha in the ALR)

Proposed Use: Parking

4. PID: 010-309-306

The Easterly 310 Acres more or less of District Lot 211, Lillooet District, Except Plans 9479, A21 and 39509

Size: 116.4 ha (47.2 ha in the ALR)

Proposed Use: Main Festival Site that includes the main stage, secondary stage, dance tent, barn dance tent, food & beverage operations, artist compound and camping

Area of proposal in the ALR - 80.3 ha

(Properties within the Squamish-Lillooet Regional District)

FOR CONSIDERATION
(Properties within the Village of Pemberton)

Application: #YY- 38597

Applicant: Live Nation

Local Government: Village of Pemberton

Proposal: To hold the Pemberton Music Festival on land in the Agricultural Land Reserve (ALR) for a period of ten (10) years.

Properties:

1. **PID: 013-292-021**
District Lot 766, Lillooet District
Size: 31.8 ha (31.8 ha in the ALR)
Proposed Use: Camping & parking
2. **PID: 002-606-801**
District Lot 4769, Lillooet District, Except Plan KAP44479
Size: 15.6 ha (15.6 ha in the ALR)
Proposed Use: Camping & parking
3. **PID: 002-606-780**
District Lot 4674, Lillooet District
Size: 5.6 ha (5.6 ha in the ALR)
Proposed Use: Camping & parking

Area of proposal in the ALR - 53.0 ha
(Properties within the Village of Pemberton)

Total area of proposals in the ALR - 133.3 ha

PREVIOUS APPLICATION

Application #YY- 37970

Applicant: Live Nation

Proposal: To hold the Pemberton Music Festival on land in the ALR in July 2008.

Decision: By Resolution #84/2008, dated March 12, 2008

THAT the application be allowed for the 2008 event only and be subject to the following conditions:

1. The proposed uses must be restricted to the areas outlined in the application. Satellite parking facilities and other amenities associated with the event are strictly prohibited on other ALR lands.
2. A Professional Agrologist specializing in soil reclamation must be retained
 - a. to prepare a pre-event plan to mitigate soil damage and
 - b. to oversee reclamation and to submit a closure report confirming the post event clean-up has been satisfactorily completed to an agricultural standard.
3. The Professional Agrologist's pre-event soil management plan must be submitted to the Commission for review and approval. The approved plan must be in place at least one (1) month prior to the event.

4. A \$250,000 irrevocable letter of credit in the Commission's favour must be submitted to ensure the land is reclaimed. The funds will be used by the Commission to reclaim the land, to rectify any reclamation deficiencies and/or to secure the necessary advice and closure report from the Professional Agrologist in the event of default by the applicant.
5. The irrevocable letter of credit must be in place at least one (1) month prior to the event.

AND THAT this approval is for the 2008 event only and will not be renewed.

AND FINALLY THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

POST EVENT 2008

The Commission received a Post-Event Closure Report prepared by Pottinger Gaherty Environmental Consultants Ltd. (PGL) dated August 2008. PGL determined that activities associated with the Pemberton Festival including site preparation and post-event reclamation did not negatively impact the agricultural capability of the site or site soils. PGL also noted that pre-event activities resulted in an improvement to agricultural capability and suitability.

DISCUSSION

Preserve agricultural land

The Commission is satisfied that the applicant has demonstrated the logistical difficulties in finding a non-ALR site for the Pemberton Festival. The Commission also accepts that with proper pre-event and post-event efforts, the agricultural capability and suitability of the Pemberton Festival site will not be diminished. The Commission concluded that with proper pre-event planning and post-event reclamation overseen by a qualified Professional Agrologist, the agricultural utility of the land will not be jeopardized. Imposing these safeguards is consistent with this aspect of the Commission's mandate.

Encourage farming in collaboration with other communities of interest, and

Encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

Both the Village and Regional District have enthusiastically argued the benefits of the Pemberton Festival to the local agricultural economy. Promoting locally grown produce as well as exploring opportunities to enhance agriculture in the region have been common themes by both the Village and Regional District in expressing their support for the festival. The meeting that was held on November 5, 2008 was initiated by the Commission to ascertain the level of commitment of the parties to preserve agricultural land and enhance agriculture in the area. ALC Staff attending the meeting was satisfied with the genuine commitment of the parties to ensure the Pemberton Festival is not held to the detriment of agriculture.

While the Commission accepts these commitments it would take greater comfort in knowing that the Village and Regional District share its agricultural objectives and are prepared to actively participate in seeing that they are achieved. If the Village and Regional District are prepared to work with the Commission to preserve the agricultural integrity of the festival site as well as to identify opportunities to enhance agriculture in the area, such collaboration is considered consistent with these aspects of the Commission's mandate.

It was suggested at the November 5, 2008 meeting that perhaps a memorandum of understanding between the parties may be an appropriate method of outlining the expectations, roles and responsibilities of each party as they relate to the Pemberton Festival and the commitment to explore and facilitate the enhancement of agriculture in the region.

CONCLUSIONS

- 1. That the land under application has high agricultural capability and is appropriately designated as ALR.*
- 2. That the land under application is highly suited for a wide range of agricultural uses.*
- 3. That with appropriate safeguards the agricultural capability and suitability can be maintained.*
- 4. That the cooperation of the Village and Regional District is integral in achieving agricultural enhancements and is contingent to the Commission's favourable consideration of the proposal.*

IT WAS

MOVED BY: Commissioner Pranger

SECONDED BY: Commissioner Bose

THAT *the overall application be approved in principle.*

AND THAT *approval for the 2009 festival is subject to the following conditions:*

- 1. The proposed uses must be restricted to the areas outlined in the application. Satellite parking facilities and other amenities associated with the event are strictly prohibited on other ALR lands.*
- 2. A Professional Agrologist specializing in soil reclamation must be retained*
 - to prepare a pre-event plan to mitigate soil damage, and*
 - to oversee reclamation and to submit a closure report on or before August 30, 2009. The report must confirm the post-event clean-up has been satisfactorily completed to an agricultural standard.*
- 3. The Professional Agrologist's pre-event soil management plan must be submitted to the Commission for review and approval. The approved plan must be in place at least one (1) month prior to the event.*
- 4. A \$250,000 irrevocable letter of credit in the Commission's favour must be submitted to ensure the land is reclaimed. The funds will be used by the Commission to reclaim the land, to rectify any reclamation deficiencies and/or to secure the necessary advice and closure report from the Professional Agrologist in the event of default by the applicant. The irrevocable letter of credit must be received by the Commission at least one (1) month prior to the event.*

AND THAT the 2009 festival is granted on the understanding that the Village and Regional District will provide written notification that they will work collaboratively with the Commission to develop and execute a tripartite memorandum of understanding which outlines the expectations, roles and responsibilities of each party as they relate to the Pemberton Festival as well as a commitment to explore and facilitate the enhancement of agriculture in the region.

AND THAT the guiding principles of the memorandum of understanding will be:

- To create a collaborative working relationship with the Commission to secure approval for the Pemberton Festival while preserving the agricultural integrity of the festival site and enhancing agriculture in the Pemberton area.
- That the lands comprising the Pemberton Festival site that are within Agricultural Land Reserve (ALR) remain in the ALR.
- That the agricultural quality of the ALR lands used by the Pemberton Festival is not diminished by festival activities.
- That in using ALR lands, the Pemberton Festival will participate in enhancing agriculture in the Pemberton area.
- That the Village and Regional District have roles to play to assist the Commission in ensuring the agricultural quality of the ALR land used by the Pemberton Festival is not diminished by festival activities.
- That the Village and Regional District have roles to play to assist the Commission in ensuring the activities associated with the festival do not significantly impact adjacent or nearby ALR lands.
- That the Village and Regional District have roles to play to assist the Commission in ensuring that ALR lands not associated with the festival are not used in a manner inconsistent with the Agricultural Land Commission Act during the festival.

AND THAT written notification of each party's willingness to develop and execute a memorandum of understanding be received by the Commission on or before December 12, 2008.

AND THAT the memorandum of understanding will be completed and executed by the parties on or before July 1, 2009.

AND THAT once the memorandum of understanding is executed Live Nation will be permitted an additional three (3) years for the Pemberton Festival with the possibility of two (2) extensions of three (3) years each. Extensions will be subject to a joint performance evaluation by the Village, Regional District and Commission.

AND THAT with regard to all Pemberton Festival events the Commission requires a "No Footprint" approach be adopted by Live Nation so that any and all facilities, structures, equipment and roads are removed from the properties following each annual event. The existing condition of the properties as of the date of this decision form the baseline for subsequent

events and the level to which Live Nation must comply with this condition. The road built on the Ravens Crest property in 2008 may be retained for farm purposes as requested by the owner.

AND THAT *the Commission strongly recommends the Village, Regional District and Live Nation continue their dialogue with Lil'Wat Nation, Mount Currie Band to address the non-agricultural concerns expressed by the Band Council and members.*

AND THAT *the approvals contained herein are for the sole benefit of Live Nation and are not transferrable.*

AND FINALLY THAT *this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.*

CARRIED

Resolution #726/2008 (Application #YY-38570)

Resolution #727/2008 (Application #YY-38597)

COMMISSION CONCLUSION REGARDING APPLICATION #52853

The Commission acknowledged the prior approvals for the Festival. The Commission also acknowledged that Live Nation could pursue more events, if it chose to do so, given the prior approvals.

IT WAS

MOVED BY: **Commissioner Pranger**

SECONDED BY: **Commissioner Thibeault**

THAT this decision applies to the following properties:

1. PID: 027-701-522
Lot 1, District Lot 211, Lillooet District, Plan KAP87819;
2. PID: 027-950-191
Lot 2, District Lot 211, Lillooet District, Plan EPP1353; and
3. PID: 027-950-182
Lot 1, District Lot 211, Lillooet District, Plan EPP1353.

(Hereinafter referred to as the "Properties")

AND THAT approval for the 2013 festival is granted subject to the following conditions:

- The Village providing written confirmation that it has returned its portion of the ALR application fee to the owners of the properties whose land is situated within the Regional District. Written confirmation is to be received by the Commission on or before November 30, 2012;

- The Village providing written authorization from the property owners confirming the Village as their agent. Written authorization is to be received by the Commission on or before November 30, 2012;
- The Village providing written confirmation from the property owners that the Commission's decision will be exclusive to the Village. Written confirmation is to be received by the Commission on or before November 30, 2012;
- The Village providing written authorization from the current owners of the properties associated with Application #YY-38570 (Submitted by the Squamish-Lillooet Regional District), Application #YY-38597 (Submitted by the Village of Pemberton) and from Live Nation agreeing to the Commission rescinding Resolutions #726/2008 and #727/2008 and canceling the files. Written authorization is to be received by the Commission on or before November 30, 2012;
- The proposed uses are restricted to the areas of the Properties outlined in the application. Satellite parking facilities and other amenities associated with the event are strictly prohibited on other ALR lands;
- A Professional Agrologist specializing in soil reclamation must be retained to prepare a pre-event plan to mitigate soil damage, to oversee reclamation and to submit a closure report within 30 days following the last day of the Festival. The report must confirm the post-event clean-up has been successfully completed to an agricultural standard;
- The pre-event plan prepared by a Professional Agrologist must be submitted to the Commission for review and approval. The approved plan must be in place no later than 60 days prior to the Festival;
- A \$250,000 irrevocable letter of credit in the Commission's favour must be submitted to ensure the land is reclaimed. The funds will be used by the Commission to reclaim the land, to rectify any reclamation deficiencies and/or to secure the necessary advice and closure report from the Professional Agrologist in the event of non-compliance with the terms and conditions expressed herein. The irrevocable letter of credit must be received by the Commission no later than 30 days prior to the Festival;

AND THAT the 2013 Festival is granted on the understanding that the Village will provide written notification that they will work collaboratively with the Commission to develop and execute a memorandum of understanding which outlines the expectations, roles and responsibilities of each party as they relate to the Festival; as well as a commitment to identify opportunities to meaningfully enhance agriculture in the region and to facilitate the enhancements.

The guiding principles of the memorandum of understanding will be:

- To create a collaborative working relationship with the Commission to secure approval for the Festival while preserving the agricultural integrity of the lands and enhancing agriculture in the Pemberton area;

- That the lands comprising the Festival site are within Agricultural Land Reserve (ALR) and will remain in the ALR;
- That in using ALR lands, the Village will participate in enhancing agriculture in the Pemberton area;
- That the Village will ensure the agricultural quality of the ALR land used by the Festival is not diminished by festival activities;
- That the Village will ensure the activities associated with the festival do not significantly impact adjacent or nearby ALR lands; and
- That the Village will ensure that ALR lands, not associated with the Festival, are not used in a manner inconsistent with the *Agricultural Land Commission Act* during the Festival.

AND THAT the Commission will consider the request for future events after it evaluates the outcome of the 2013 Festival and receives an executed memorandum of understanding it considers acceptable;

AND THAT with regard to the Festival, the Commission requires a “No Footprint” approach be adopted by the Village so that any and all Festival facilities, structures, equipment and roads are removed from the properties following the Festival;

AND THAT the approvals contained herein are for the sole benefit of the Village and are not transferrable. This condition does not preclude the Village from entering into an agreement with Live Nation or any other promoter;

AND THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

AND FINALLY THAT if the owners of the properties whose land is situated in the Regional District make a non-farm use application(s) consistent with the proposed Festival development outlined in this application, and the Regional District forwards the application(s) to the Commission, the Commission acting pursuant to section 27 of the *Agricultural Land Commission Act* hereby delegates to its Chief Executive Officer, the authority to approve the application(s) based on the criteria that the approval(s) will be subject to the terms and conditions contained in this decision. For greater clarity, this delegation is specific to an application(s) involving:

- PID: 007-915-268
Lot “B”, District Lot 210, Lillooet District, Plan 20157; and
- PID: 007-915-179
That Part of Lot “A” Lying North of the Road Shown on Plan 20157; District Lot 210, Lillooet District, Plan, Plan 20157

If the Chief Executive Officer considers that the application(s) does not meet the established criteria, or for any other reason does not wish to approve the application, the application must be referred to the Commission for a decision.

CARRIED
Resolution #327/2012