



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

July 20, 2022

ALC File: 64604

Alvin Brulotte
Ministry of Transportation and Infrastructure
DELIVERED ELECTRONICALLY

Dear Alvin Brulotte:

Re: Reasons for Decision - Reconsideration of ALC Resolution #125/2022

The Chief Executive Officer (the “CEO “) received correspondence dated April 29, 2022 from Alvin Brulotte, requesting reconsideration of Resolution #125/2022 (the “Original Decision”). By the Original Decision, the CEO conditionally approved the replacement of the existing Daly Bridge structure. As approved, the project included 0.15 ha of additional ALR to complete the construction of the new bridge structure and the use of approximately 0.11 ha of ALR for temporary workspace.

Please note that the submission of a \$150 administrative fee may be required for the administration, processing, preparation, review, execution, filing or registration of documents required as a condition of the attached Decision in accordance with s. 11(2)(b) of the ALR General Regulation.

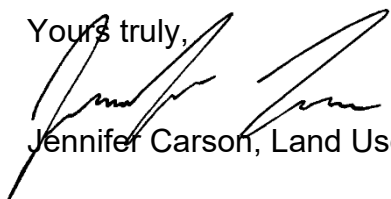
Section 33 of the *Agricultural Land Commission Act* (the “ALCA”) states that the Commission may reconsider a decision of the Commission upon written request of a person affected or on the Commission’s own initiative, if the Commission determines that evidence not available at the time of the original decision has become available, and/or the original decision was based on information that was in error or false.

After reviewing s. 33 of the ALCA, the file material and the request for reconsideration, the CEO concluded that the request for reconsideration met the requirements for reconsideration pursuant to s. 33 of the ALCA.

The Commission’s decision on reconsideration is attached.

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

Yours truly,



Jennifer Carson, Land Use Planner

Enclosures: Reasons for Decision (Resolution #250/2022)
 Schedule A: Decision Map
 Schedule B: Original Decision (Resolution #125/2022)

cc: North Okanagan Regional District

64604d2



**AGRICULTURAL LAND COMMISSION FILE 64604
RECONSIDERATION OF CEO DECISION
REASONS FOR DECISION OF THE CEO**

Reconsideration of Resolution #125/2022 (a decision made on a Transportation Use Application Submitted Under s.22 of the Agricultural Land Reserve General Regulation)

Original Applicant: Ministry of Transportation and Infrastructure

Property Owners: Verna & Ronald Shunter
Pan-Prairie Farms Ltd.
Mark Fruson

Agent: Alvin Brulotte, Ministry of Transportation and Infrastructure

Properties:

Property 1:
Parcel Identifier: 023-034-327
Legal Description: Lot 1 District Lot 182
Osoyoos Division Yale District Plan KAP54400
Area: 0.7 ha
Property Owners: Verna & Ronald Shunter

Property 2:
Parcel Identifier: 005-234-069



Legal Description: District Lot 17 Osoyoos
Division Yale District Except Plans B1304,
B3655, 2281, 16341, H15626, H15629 AND
37372

Area: 87.9 ha

Property Owner: Pan-Prairie Farms Ltd.

Property 3:

Parcel Identifier: 011-776-978

Legal Description: District Lot 182 Osoyoos
Division Yale District Except Plans 4580, 24793,
H15626 and KAP54400

Area: 60.3 ha

Property Owner: Mark Fruson

Chief Executive Officer:

Kim Grout
(the "CEO")

OVERVIEW

- [1] The Properties are located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act (ALCA)*.
- [2] Pursuant to s.22 of the Agricultural Land Reserve General Regulation (the “Regulation”), the Original Applicants applied to the Agricultural Land Commission (the “Commission”) to replace the existing Daly Bridge structure. The project required 0.15 ha of additional ALR to complete the construction of the new bridge structure and the use of approximately 0.11 ha of ALR for temporary workspace (the “Proposal”).
- [3] By Resolution #125/2022, dated April 6, 2022, the CEO conditionally approved the Proposal (the “Original Decision”). In reaching its decision, the CEO concluded that the Proposal was to upgrade an existing bridge and stabilize an existing road that the continuity of the ALR was not adversely impacted. Furthermore, the Commission found that any impacts associated with the temporary workspace would be appropriately mitigated.
- [4] On April 29, 2022, the Commission received from the Agent a Request for Reconsideration of Resolution #125/2022 (the “Request”). The Request submits that the acquisition drawing submitted with Application 64604 was incorrect and that changes to the temporary license areas for this project were necessary to accommodate the agricultural concerns brought forward by the owner of Property 2. The concerns of the owner of Property 2 were regarding the moving farm equipment between his feed lots and adjacent fields. Currently, there is a gated access to the property owner’s feed lots that will be permanently removed to accommodate design requirements of the replacement bridge. The solution to remedy this situation is that the Applicant will be providing a new gated access between an adjacent field and



the feed lots. As a result, the Applicant is requesting to expand the temporary workspace area to construct this new access.

[5] Section 33 of the ALCA states that the Commission may reconsider a decision of the Commission upon written request of a person affected or on the Commission's own initiative, if the Commission determines that evidence that was not available at the time of the original decision that could not have been obtained earlier through the exercise of due diligence has become available, and /or if the original decision was based on information that was incorrect or false, and the information would have been germane to the review of ALC Application 64604.

[6] In this case, the CEO found that the Request for Reconsideration contained evidence that was not available at the time of the Original Decision that could not have been obtained earlier through the exercise of due diligence, and that the Original Decision was based on information that was incorrect, as prescribed by s.33 of the ALCA, that would have been germane to the review of ALC Application 64604 and that the Original Decision should be reconsidered.

EVIDENTIARY RECORD

[7] The CEO considered the following evidence:

1. The Proposal and the Request for Reconsideration along with related documentation from the Original Applicant, Agent, local government, and Commission; and
2. The Original Decision.

EVIDENCE AND FINDINGS

[8] The Applicant in their request for reconsideration advises that the Commission used the incorrect drawings. After a review of the record, Commission finds that it did in fact use the incorrect drawings and therefore finds that its decision was based on incorrect information. The Commission is supportive of the Applicant wanting to alter the temporary license to construct areas based on the feedback provided by the owner who has an agricultural operation on Property 2 as it is of benefit to their agricultural operation.

DECISION

[9] For the reasons given above, the CEO approves the Proposal to the acquisition area and the temporary license to construct areas on this project subject to the following conditions:


- a. the submission of a surveyed subdivision plan to the Commission, within three years of the date of the release of this decision, that is in compliance with the plan shown Schedule A of this decision;
- b. the use of geotech fabric between the natural surface and any new work materials brought into the temporary works spaces to protect the ALR;
- c. The use of mats in the temporary workspaces, wherever necessary, to avoid adversely compacting soils in the ALR;
- d. Submission of a closure report prepared by an Agrologist, for the Commission's review and approval, confirming that the temporary workspace areas and the bridge and road work areas have been reclaimed to an agricultural standard consistent with the surrounding land.

- The closure report must be submitted to the Commission no more than 12 months after the completion of the projects; and,
- e. All noxious weeds will be controlled according to the Weed Control Regulation B.C. Reg. 66/85 or as per Section 15 of the Environmental Protection and Management Regulation B.C. Reg. 200/2010 and be monitored by an environmental monitor on site who will ensure the weed mitigation measures below are being met:
 - i. Cleaning (pressure washing) all equipment and trucks before mobilizing on site commencing the work;
 - ii. Limiting access to all designated/marked trails. Vehicles will only use designated pull outs and parking areas;
 - iii. Minimizing construction footprint; and,
 - iv. Re-vegetating all disturbed areas immediately.

[10] When the Commission confirms that the survey plan submitted in accordance with condition [9] (a) above has been received within the prescribed time frame and is in substantial compliance with Schedule A of this decision it will authorize the Registrar of Land Titles to accept registration of the subdivision plan.

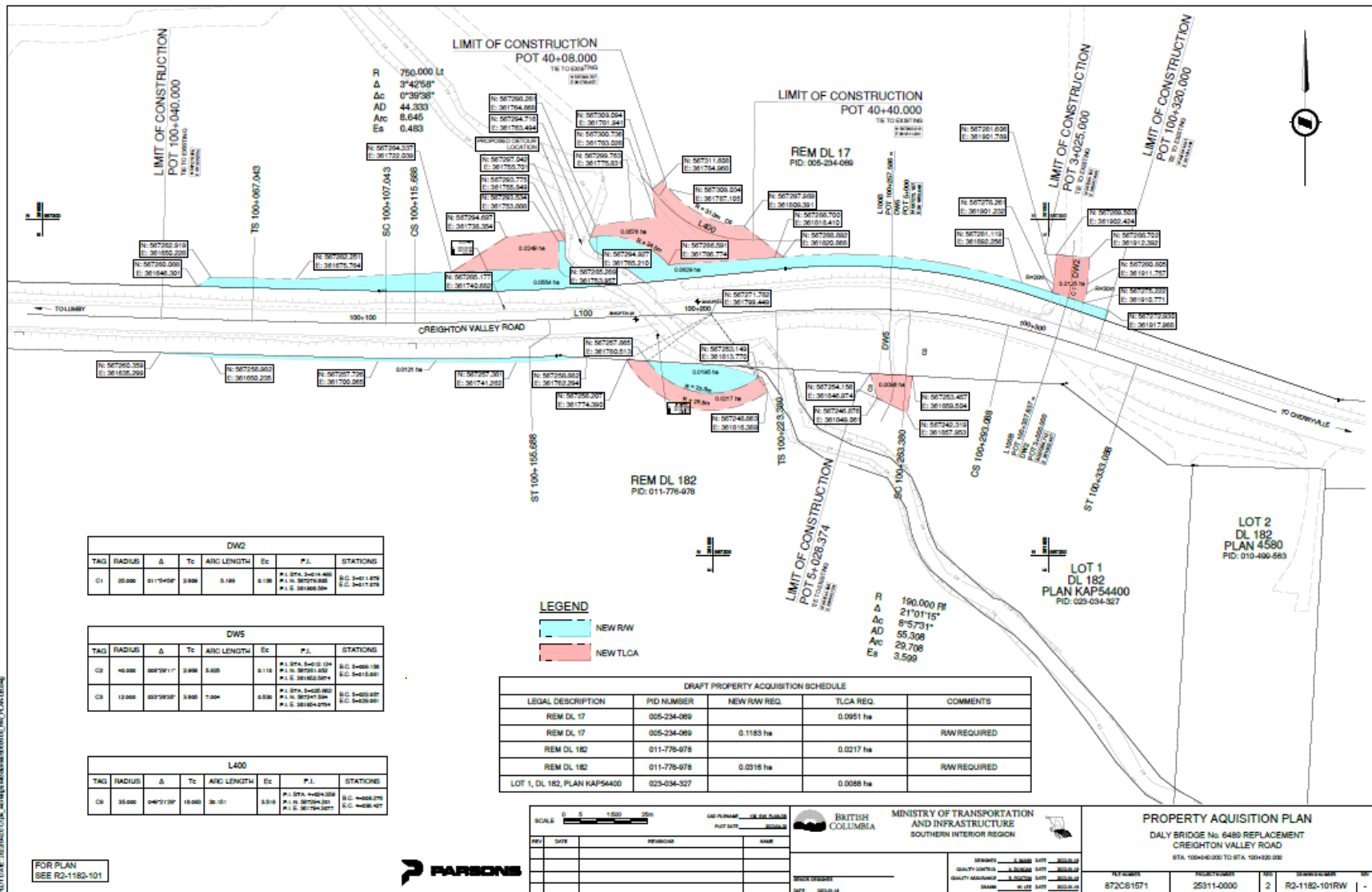
[11] A decision of the CEO is a decision of the Commission pursuant to s. 27(5) of the ALCA.

[12] Resolution #250/2022
Released on July 20, 2022


Kim Grout, Chief Executive Officer



Schedule A: Agricultural Land Commission Decision Sketch Plan
 ALC File 64604 (MoTI)
 Conditionally Approved Bridge Upgrade and Temporary Workspace
 ALC Resolution #250/2022



DW2						
TAG	RADIUS	Δ	Tc	ARC LENGTH	Ec	P.I.
C1	20,000	211°54'00"	3,800	5,189	4,128	P.I. STA. 3+014.489 P.L. S. 3+011.879 P.L. E. 3+018.099

DWS						
TAG	RADIUS	Δ	Tc	ARC LENGTH	Ec	P.I.
C2	40,000	50°29'17"	3,800	5,905	6,118	P.I. STA. 3+019.124 P.L. S. 3+016.504 P.L. E. 3+021.744
C3	13,000	253°39'37"	3,800	7,304	6,738	P.I. STA. 3+026.883 P.L. S. 3+024.263 P.L. E. 3+029.503

L400						
TAG	RADIUS	Δ	Tc	ARC LENGTH	Ec	P.I.
C4	35,000	149°17'30"	10,000	30,151	33,519	P.I. STA. 4+024.359 P.L. S. 4+021.739 P.L. E. 4+026.979

DRAFT PROPERTY ACQUISITION SCHEDULE				
LEGAL DESCRIPTION	PID NUMBER	NEW RAW REQ.	TLCA REQ.	COMMENTS
REM DL 17	005-234-089		0.0951 ha	
REM DL 17	005-234-089	0.1183 ha		RAW REQUIRED
REM DL 182	011-778-078		0.0217 ha	
REM DL 182	011-778-078	0.0318 ha		RAW REQUIRED
LOT 1, DL 182, PLAN KAP54400	025-034-327		0.0088 ha	

FOR PLAN
SEE R2-1182-101



SCALE: 1" = 500.00'

BRITISH COLUMBIA MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE SOUTHERN INTERIOR REGION

PROPERTY ACQUISITION PLAN
 DALY BRIDGE No. 6480 REPLACEMENT
 CREIGHTON VALLEY ROAD
 STA. 100+40.000 TO STA. 100+420.000

PROJECT NO.	872CS1571	PROJECT NAME	25311-0000	REV.	2	REVISION NUMBER	R2-1182-101RW
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Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

April 6, 2022

ALC File: 64604

Alvin Brulotte
Ministry of Transportation and Infrastructure
DELIVERED ELECTRONICALLY

Dear Alvin Brulotte:

Re: Reasons for Decision - ALC Application 64604

Please find attached the Reasons for Decision for the above noted application (Resolution #125/2022). As agent, it is your responsibility to notify the applicant accordingly.

Please note that the submission of a \$150 administrative fee may be required for the administration, processing, preparation, review, execution, filing or registration of documents required as a condition of the attached Decision in accordance with s. 11(2)(b) of the ALR General Regulation.

Under section 33 of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. A request to reconsider must now meet the following criteria:

- No previous request by an affected person has been made, and
- The request provides either:
 - Evidence that was not available at the time of the original decision that has become available, and that could not have been available at the time of the original decision had the applicant exercised due diligence, or
 - Evidence that all or part of the original decision was based on evidence that was in error or was false.

The time limit for requesting reconsideration of a decision is one year from the date of the decision's release, as per [ALC Policy P-08: Request for Reconsideration](#).

Please refer to the ALC's [Information Bulletin 08 – Request for Reconsideration](#) for more information. Please direct further correspondence with respect to this application to ALC.Okanagan@gov.bc.ca.

Yours truly,

Two handwritten signatures in black ink are present. The first signature is on the left and the second is on the right, both appearing to be cursive and somewhat stylized.

Jennifer Carson, Land Use Planner

Enclosures: Reasons for Decision (Resolution #125/2022)
 Schedule A: Decision Map

cc: North Okanagan Regional District

64604d1



**AGRICULTURAL LAND COMMISSION FILE 64604
REASONS FOR DECISION OF THE CHIEF EXECUTIVE OFFICER**

Transportation Application Submitted Under s.22 of the Agricultural Land Reserve
General Regulation

Applicant: Ministry of Transportation and Infrastructure

Property Owners: Verna & Ronald Shunter
Pan-Prairie Farms Ltd.
Mark Fruson

Agent: Alvin Brulotte, Ministry of Transportation and
Infrastructure

Properties:

Property 1:
Parcel Identifier: 023-034-327
Legal Description: Lot 1 District Lot 182
Osoyoos Division Yale District Plan KAP54400
Area: 0.7 ha
Property Owners: Verna & Ronald Shunter

Property 2:
Parcel Identifier: 005-234-069
Legal Description: District Lot 17 Osoyoos
Division Yale District Except Plans B1304,



B3655, 2281, 16341, H15626, H15629 AND
37372

Area: 87.9 ha

Property Owner: Pan-Prairie Farms Ltd.

Property 3:

Parcel Identifier: 011-776-978

Legal Description: District Lot 182 Osoyoos
Division Yale District Except Plans 4580, 24793,
H15626 and KAP54400

Area: 60.3 ha

Property Owner: Mark Fruson

Chief Executive Officer:

Kim Grout
(the "CEO")

OVERVIEW

- [1] The Properties are located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA).
- [2] Pursuant to s. 22 of the ALR General Regulation, the Applicant is applying to the Agricultural Land Commission (the “Commission”) to replace the existing Daly Bridge structure. The project requires 0.15 ha of additional ALR to complete the construction of the new bridge structure and the Applicant is requesting the use of approximately 0.11 ha of ALR for temporary workspace (the “Proposal”).
- [3] The Applicant notified the owners of the Properties as required under s. 22(2) of the Regulation.
- [4] The Proposal along with related documentation from the Applicant, Agent, and Commission, is collectively referred to as the “Application”. All documentation in the Application was available on the ALC Application Portal to the Agent in advance of this decision.
- [5] Under Section 27 of the ALCA the Commission, by resolution, may establish criteria under which the CEO may approve applications for exclusion, subdivision, non-farm use, non-adhering residential use, and soil or fill use applications. By resolution, the Commission as specified that the following applications may be decided by the CEO:
4. Non-farm use applications made pursuant to section 22 of the ALR General Regulation, except for those relating to recreational trails.

Clarification: Applications made under Section 22 of the ALR General Regulation and Section 20(2) of the ALCA are considered to be non-farm use applications. As such, Section 27 (1)(a) of the ALCA which delegates authority to the CEO to consider non- farm use applications is interpreted to encompass applications made under s. 22 of the ALR General Regulation.

[6] The Proposal was considered in the context of the purposes and priorities of the Commission set out in s. 6 of the ALCA:

6 (1) The following are the purposes of the commission:

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

(2) The commission, to fulfill its purposes under subsection (1), must give priority to protecting and enhancing all of the following in exercising its powers and performing its duties under this Act:

- (a) the size, integrity and continuity of the land base of the agricultural land reserve;
- (b) the use of the agricultural land reserve for farm use.

BACKGROUND

- [7] The Application submits that Daly Bridge needs to be replaced and indicates that the proposed construction is planned for the Fall of 2022. The Agent submits that the proposed project requires 0.15 ha of ALR to complete and the use of 0.11 ha of ALR as temporary workspace.
- [8] The Application indicates that both Property 2 and Property 3 have agricultural operations. Property 2 has range land, hay and grain crops and operates a cattle ranch. Property 3 has range land as well a hay and grain production. The owner of Property 3 will provide temporary fencing if required for their agricultural operation. The owner of Property 2 is still in discussion with Applicant and the Applicant may be providing the temporary fencing and may work with the Property 2 owner to move the cattle to another pasture temporarily.
- [9] The Agent explains that the proposed temporary workspace is currently used by the owner of the property for stock staging, corral and access, and no ALR under crop production will be impacted. The Agent submits that these impacted areas will be returned to its natural state once the project is finished.
- [10] When asked about the steps taken to reduce potential negative impacts on surrounding agricultural lands, the Application submits that access to the Properties' fields (which originate within the project limits) will be maintained

during and after construction. Furthermore, best management practices to mitigate invasive weeds are outlined as follows:

- a. there will be a check for invasive weeds prior to construction;
- b. invasive weeds will be marked out and staging areas will be located away from them;
- c. if applicable, invasive weeds may be pulled and placed in garbage bags for disposal at a landfill;
- d. any new equipment will be monitored for weeds and again removed;
- e. all equipment to be steam cleaned prior to arriving to site;
- f. monitoring to continue though out construction;
- g. any stockpiles of dirt will be covered with tarps; and,
- h. the Applicant will be distributing hydro-seed over any disturbed area of the project per Standard Specs once construction is complete.

[11] The Agent indicates that the following fill will be required for the Proposal:

- a. 3,400 m³ of soil;
- b. 3,632m³ of gravel from the Applicant's gravel pit;
- c. 907m³ of 25mm WGB for the temporary detour; and,
- d. 360 m³ of Class 100 Rip Rap.

FINDINGS

[12] The Commission finds that as the Proposal is upgrading an existing bridge and adding riprap to stabilize the existing road infrastructure, the continuity of the ALR is not adversely impacted. Furthermore, the Commission finds that any impacts associated with the temporary workspace will be appropriately mitigated and the construction Proposal only requires approximately 0.15 ha of ALR.

DECISION

- [13] After reviewing the Application, I am satisfied that the Proposal is consistent with Criterion #4 and approve the Proposal subject to the following conditions:
- a. the submission of a surveyed subdivision plan to the Commission, within three years of the date of the release of this decision, that is in compliance with the plan shown Schedule A of this decision;
 - b. the use of geotech fabric between the natural surface and any new work materials brought into the temporary works spaces to protect the ALR;
 - c. The use of mats in the temporary workspaces, wherever necessary, to avoid adversely compacting soils in the ALR;
 - d. Submission of a closure report prepared by an Agrologist, for the Commission's review and approval, confirming that the temporary workspace areas and the bridge and road work areas have been reclaimed to an agricultural standard consistent with the surrounding land. The closure report must be submitted to the Commission no more than 12 months after the completion of the projects; and,
 - e. All noxious weeds will be controlled according to the Weed Control Regulation B.C. Reg. 66/85 or as per Section 15 of the Environmental Protection and Management Regulation B.C. Reg. 200/2010 and be monitored by an environmental monitor on site who will ensure the weed mitigation measures below are being met:
 - i. Cleaning (pressure washing) all equipment and trucks before mobilizing on site commencing the work;
 - ii. Limiting access to all designated/marked trails. Vehicles will only use designated pull outs and parking areas;
 - iii. Minimizing construction footprint; and,
 - iv. Re-vegetating all disturbed areas immediately.

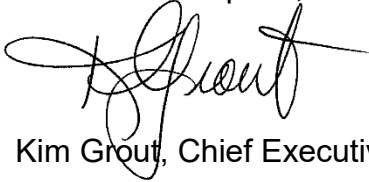
[14] When the Commission confirms that the survey plan submitted in accordance with condition [13] (a) above has been received within the prescribed time frame and is in substantial compliance with Schedule A of this decision it will authorize the Registrar of Land Titles to accept registration of the subdivision plan.

[15] 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.

[16] A decision of the CEO is a decision of the Commission pursuant to s. 27(5) of the ALCA.

[17] Resolution #125/2022

Released on April 6, 2022

A handwritten signature in black ink, appearing to read 'Kim Grout', is written over the printed name.

Kim Grout, Chief Executive Officer



Schedule A: Agricultural Land Commission Decision Sketch Plan
 ALC File 64604 (MoTI)
 Conditionally Approved Bridge Upgrade and Temporary Workspace
 ALC Resolution #125/2022

