



## MEMO

**TO: BC Silkie and TC Asian Breeder Producers**

**STATUS: Important**

**FROM: The BC Hatching Egg Commission**

**DATE: June 10, 2016**

**SUBJECT: Letter received April 6, 2016**

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As a follow up to BC FIRB's decision dated March 29, 2016, the BC Hatching Egg Commission has the following information to share with the BC Asian Breeder Producers

1. The Commission has drafted and approved a work action plan, attached, that has been circulated to the identified Industry Stakeholders and will be posted to the Commission website regarding the regulation of the Asian Breeder Producers.
2. The Commission has received a letter from 5 of the Asian Breeder Producers expressing various requests, letter attached. The Commission is considering their request through the lens of the BC FIRB's decision.
3. The Commission has met at regularly scheduled board meetings and specially scheduled meetings to review its obligation to the BC FIRB's decision and to ensure that the decision made in regards to the Asian Breeder Producers meet the good governance standards of SAFETI.
4. The Commission has sent an update to BC FIRB regarding the status of each of premises in relation to the Biosecurity, Food Safety and Premise Identification programs.

Regards,

A handwritten signature in black ink, appearing to read "Casey", with a stylized flourish at the end.

Casey Langbroek FCPA, FCGA,  
Chair

## *Asian Breeder Hatching Egg Producers: Work Action Plan*

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### Stakeholders:

- BC Asian Breeder Hatching Egg Producers
- BC Broiler Hatching Egg Producers Association (BCBHEPA)
- BC Chicken Growers Association (BCCGA)
- BC Chicken Marketing Board (BCCMB)
- BC Processors
- Canadian Hatching Egg Producers (CHEP)
- BC Farm Industry Review Board

### Purpose:

- To undertake the requisite due diligence incumbent on the Commission to ensure fair and orderly marketing in the hatching egg sector.

### Outcomes:

- To determine the extent to which, if at all, the Asian Breeder Hatching Egg Producers ought to be subject to the existing regulations or to alternative regulations (other than Biosecurity, Food Safety and Premise ID).

### Scope:

- This undertaking will identify and assess the BC FIRB's decision in the Skye Hi/V3 appeal in regards to regularization of Asian Breeder Hatching Egg Producers.
- This undertaking will identify and assess the considerations material to the determination of the extent to which, if at all, the Asian Breeder Hatching Egg Producers ought to be subject to the existing regulations or to alternative regulations (other than Biosecurity, Food Safety and Premise ID).
- This undertaking will identify and assess the risk to the Industry in terms of Biosecurity, Food Safety and Premise Identification.

### Background:

In September 2015 the BC Hatching Egg Commission was the respondent in an appeal process regarding Amending Order 11. In March 2016 a decision was made by BC FIRB and the BC Hatching Egg Commission was given a list of orders and a timeline for completion. This work action plan was developed to ensure that both of those directives were completed.

### Phase 1:

#### *Food Safety, Biosecurity and Premise ID*

#### Approach:

- To update the consolidated orders to reflect the appeal decision to remove Amending Order 11.

## Asian Breeder Hatching Egg Producers Work Action Plan

- To review the Orders, in particular Schedule 5 which speaks to Biosecurity, Food Safety and Premise ID program audits.
- To instruct Commission staff to schedule, conduct and follow up on all Asian Breeder facilities that are engaged in hatching egg production by the BC FIRB's ordered deadline of April 29, 2016.

### Expected Outcome:

- Asian Breeder Hatching Egg Producers are to be Biosecurity and Food Safety audited by May 30, 2016.
- To ensure that all Asian Breeder Hatching Egg Producers have premise identification on all associated premises.

### Deliverables:

- Asian Breeder Hatching Egg Producers are yearly audited and compliant under the consolidated orders in terms of Biosecurity, Food Safety and Premise Identification Programs.

### **Phase 2:**

Review of Decision to determine course of action on regulating the Asian Breeder Hatching Egg sector or in the development of a Permit Program.

### Approach:

- Review the BC FIRB's Sky-Hi/V3 decision and create a list of considerations.
- Review the list of considerations with through the SAFETI lens of good governance, with all stakeholders considered.

### Expected Outcome:

- A SAFETI rationale regarding the Commission's decision.
- The ordered report to all Stakeholders.
- A consultative review of both the SAFETI review and the report.

### Deliverables:

- A sound decision delivered to the stakeholders in the form of a report, based on the SAFETI model of good governance delivered by the BC FIRB's deadline of June 29, 2016.

### **Phase 3:**

The development of the decision reached by the Commission by BC FIRB's deadline of September 29, 2016.

### Approach:

- Administrative involvement and execution of the Commission's decision.

### Expected Outcome:

- Asian Breeder Hatching Egg Producers that are in a system and/or program to ensure that Biosecurity, Food Safety and Premise ID are prioritized.

## Asian Breeder Hatching Egg Producers Work Action Plan

### Deliverables:

- Definition by way of a decision.



**MEMO**

**TO: All Hatching Egg Industry Stakeholders**

**STATUS: Important**

**FROM: Casey Langbroek**

**DATE: April 22, 2016**

**SUBJECT: Biosecurity, Food Safety and Premise ID**

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By a decision dated March 29, 2016 in the matter of *Skye Hi Farms Inc. et al. v. BC Broiler Hatching Egg Commission*, the BCFIRB set aside *Amending Order 11 to the Consolidated Order of September 30, 2012*, which *Amending Order* was subsequently incorporated into the *Consolidated Order of August 21, 2014*.

On April 14, 2016, the Commission passed its *Consolidated Order of May 1, 2016*, which reflects the reversal of *Amending Order 11*. Most notably, the new *Consolidated Order of May 1, 2016* no longer includes the *Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program* which was the focus of the appeal before the BCFIRB.

Despite the passage of the new *Consolidated Order of May 1, 2016*, it is important to note that *Schedule 5 – Biosecurity, Food Safety and Code of Practice* remains unchanged. *Schedule 5* contains the provisions which, among other things, oblige Producers to comply with the Commission's biosecurity standards, premise ID registration requirements, and food safety standards. Except to the extent that the BCFIRB's decision in *Skye Hi* might indicate otherwise, the *Consolidated Order* (including *Schedule 5*) applies to persons engaged in the production of Silkie or TC broiler hatching breeders, eggs or chicks.

**If you have any questions or concerns, please contact the office.**

Regards,

A handwritten signature in black ink, appearing to be "CL", written over a light blue circular stamp.

Chair, Casey Langbroek, FCPA, FCGA

British Columbia Hatching Egg Commission  
#108 – 32160 South Fraser Way  
Abbotsford, BC V2T 1W5

April 6, 2016

RE: TC and Silkie Production

Attn: British Columbia Hatching Egg Commission,

We the under signed have come to a general agreement in regards to British Columbia Specialty Hatching Egg and Chick production.

We are in agreement that 2015 production as determined by the British Columbia Chicken Marketing Board Chick Broker or Hatchery Reports will be the basis for the initial base quota allocation. This information will be verified with corresponding BCCMB BC101-S contracts as the initial quota allotment (export production will be accommodated by permit).

We ask the BCBHEC to complete a third party cost of production analysis for TC/Silkie hatching eggs/chicks. This information will be used to determine a minimum Board ordered chick price, and subsequently used to determine a “minimum economically viable farm size”. Any quota allotment at or below the “economically viable farm size” will be utilized at 100% allocation. Any industry growth would then be allocated to the uneconomical farms first until they reach the determined size, then pro rata to the entire industry forthwith.

We ask the BCBHEC to recognize the right for specialty hatching egg producers to operate as “virtual hatcheries” as already determined acceptable in a previous decision.

2009 will be used as the earliest “start date” for 10/10/10 calculations. Production documents have already been submitted and recognized by the BCBHEC for this time period.

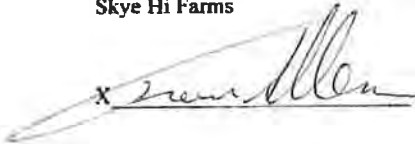
British Columbia Hatching Egg Commission  
April 6, 2016  
Page 2

We ask the BCBHEC to form a Specialty Marketing Advisory Committee comprised of the six producers recognized as currently producing specialty hatching eggs. This committee would be tasked with making recommendations to the BCBHEC regarding Pricing and Production.

The participants in this letter feel that these agreed upon principles will provide a strong and stable foundation for this specialty niche sector to build on, thus benefiting all participants in the value chain.

Respectively submitted.

Trevor Allen  
Skye Hi Farms

X 

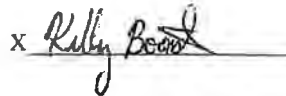
Casey Van Ginkel  
V3 Farms

X 

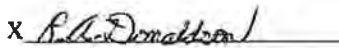
William Friesen  
W. Friesen Enterprises

X 

Kelly Boonstra  
Coastline Hatchery

X 

Rob Donaldson  
Bradner Farms

X 



## COMMISSION SPECIAL MEETING MINUTES

May 27, 2016

### CALL TO ORDER

Vice Chair, Calvin Breukelman called the meeting to order at 10:22 a.m.

In attendance: Joe Neels, Allan Cross, Allan Mulder, Stephanie Nelson, and Veronica Kushnerenko (Secretary).

Regrets: Casey Langbroek

*The Work Action Plan will be used as the agenda:*

#### Purpose:

To undertake the requisite due diligence incumbent on the Commission to ensure fair and orderly marketing in the hatching egg sector.

#### Outcomes:

To determine the extent to which, if at all, the Asian Breeder Hatching Egg Producers ought to be subject to the existing regulations or to alternative regulations (other than Biosecurity, Food Safety and Premise ID).

#### Scope:

This undertaking will identify and assess the BC FIRB's decision in the Sky-Hi/V3 appeal in regards to regularization of Asian Breeder Hatching Egg Producers.

This undertaking will identify and assess the considerations material to the determination of the extent to which, if at all, the Asian Breeder Hatching Egg Producers ought to be subject to the existing regulations or to alternative regulations (other than Biosecurity, Food Safety and Premise ID).

This undertaking will identify and assess the risk to the Industry in terms of Biosecurity, Food Safety and Premise identification.

*Would the risk be minimized if they were regulated?*

#### Background:

In September 2015, the BC Hatching Egg Commission was the respondent in an appeal process regarding Amending Order 11. In March 2016, a decision was made by BC FIRB and the BC Hatching Egg Commission was given a list of orders and a timeline for completion. This work action plan was developed to ensure that both of those directives were completed.



## Phase 1: Food Safety, Biosecurity and Premise ID

### Approach:

To update the consolidated orders to reflect the appeal decision to remove Amending Order 11. Asian Breeder Hatching Egg Producers Work Action Plan. *This has been completed and announced to producers in a memo via email on April 25, 2016.*

To review the Orders, in particular Schedule 5 which speaks to Biosecurity, Food Safety and Premise ID program audits. *This has been completed and agreed that hatching egg producers engaged in production are subject to these programs. This was addressed to producers in the memo emailed to producers on April 25, 2016.*

To instruct Commission staff to schedule, conduct and follow up on all Asian Breeder facilities that are engaged in hatching egg production by the BC FIRB's ordered deadline of April 29, 2016. *This has been completed by staff...*

### Expected Outcome:

Asian Breeder Hatching Egg Producers are to be Biosecurity and Food Safety audited by May 30, 2016 To ensure that all Asian Breeder Hatching Egg Producers have premise identification on all associated premises. *The audits are currently being administered by staff, who will update the Executive Director on the progress. All Asian breeder producers have premise identification implemented.*

### Deliverables:

Asian Breeder Hatching Egg Producers are yearly audited and compliant under the consolidated orders in terms of Biosecurity, Food Safety and Premise Identification Programs. *Staff will develop a report with the audit dates and work action plan, for the board to review. Notations will be made for those that are non-compliant. The final report will be sent to FIRB and posted to the BCBHEC website for public view.*

## Phase 2: Review of Decision to determine course of action on regulating the Asian Breeder Hatching Egg sector or on developing an exemption permit program.

### Approach:

Review the BC FIRB's Sky-Hi/V3 decision and create a list of considerations. *The decision review is complete and the list of considerations developed by staff.*

Review the list of considerations with through the SAFETI lens of good governance, with all stakeholders considered. *Today's meeting will address the drafted considerations in depth.*

### Expected Outcome:

A SAFETI rationale regarding the Commission's decision  
The ordered report to all Stakeholders.  
A consultative review of both the SAFETI review and the report.

Deliverables:

A sound decision delivered to the stakeholders in the form of a report, based on the SAFETI model of good governance delivered by the BC FIRB's deadline of June 29, 2016.

Considerations of the Decision Order:

134:

Before enacting any other regulation in regards to persons engaged in the production of Silkie or TC broiler hatching breeders, eggs, or chicks, the Commission is to consider the full scope of potential regulation, develop options and determine which best meet its objectives for the industry. At a minimum, the Commission must determine if production controls are necessary and whether or not the Commission should be setting chick price. As part of its consideration, we would expect the Commission to consider the role the Chicken Board currently plays in regulating the production of specialty chicken and the impact of its pricing orders which include a pricing component for Asian specialty chicks. To put it another way, should the Commission directly regulate the amount of production of Asian breeders, eggs or chicks and their price or should the Chicken Board indirectly regulate these components of Asian production through its regulation of specialty chicken?

In BC FIRB's March 2016 decision it describes the Asian Breeder Producer market place as "a type of niche production that formed the basis for the 2005 Specialty review" (paragraph 113). The Commission must use the lens of the BCFIRB's decision in making its considerations and although very different from the Commission's original position (paragraph 100), in fact the BC FIRB directly disagrees with that position (paragraph 109) that the Asian Breeder Producers were always subject to the Commission's regulation the BCFIRB has made it clear to the Commission that it must consider this production unique and "special" The Commission must also use the same BC FIRB decision lens to analyze the request letter dated April 6<sup>th</sup> sent by 5 of the Asian Breeder Producers.

There are concerns regarding setting price that include: differences between the types of chicks being sold, the unique market demands, integrated components and exported production versus domestic production. Asian breeders are not an exclusive BC market and are a seasonal market. Each grower could require a separate COP based on all aspects of their unique production and business model and example of this is many own their own parent stock.

Asian breeder producers are substantially different grower to grower in their business models and there is no overlap between Asian breeder producers and "Mainstream" Hatching Egg Producers, that is to say there is no disruption to the "mainstream" market due to any Asian Breeder Producer production issues. The two types of production share similar risk in terms of biosecurity, food safety and premise identification. The Commission cannot find common threads in terms of regulation outside of the 3 programs.

135. The Commission must decide if further regulation is needed to achieve sound marketing objectives including industry stability, innovation and diversification based on the application of the outcome based principles of a SAFETI analysis.

No, the commission is not aware of any issues in that sector. In the BC FIRB's March Decision (paragraph 116) it describes the entry of new producers into the sector,

*"Part of this ongoing change was the entry of Skye Hi and V3 into an unregulated (or not actively regulated) hatching egg industry in 2010. In the view of the panel, this is part of the industry's overall success story and is an indication of the growing strength of this small but important sector"*

*In the view of the panel, this is part of the industry's overall success story and is an indication of the growing strength of this small but important sector."*

There is industry stability and diversity and there are no concerns regarding Asian breeder producer's production supply, with the possible exception of industry pricing. Pricing is the result of supply and demand.

Pricing seems to self-resolve, under the current conditions a chick purchaser/broiler grower can move to another supplier if the quality does not suit the price. An example of this is one Asian broiler grower's ability to (paragraph 96) change suppliers when a new and innovative less expensive chick of better quality was offered to him. As per the testimony in the appeal, Sky hi and V3 could provide different qualities and the grower was more interested in their specific product, which differed in that Grower's opinion than the other suppliers.

During the Appeal several Asian Breeder Producers testified that their strains were very different from the other suppliers (paragraph 38)

Regulation could suppress Innovation and diversification because each growers business models differ and lack of regulation may have contributed to that diversity. Regulation could negatively impact the newer growers. Examples of diversity and innovation include: new entrants to the marketplace once occupied by only a few long term Producers, virtual hatcheries which have streamlined costs without having to build a brick and mortar facility and specific lineages of duo purpose birds that each producer has testified to have cultivated.

Regulation at this point may doom this innovation.

The Commission cannot see a positive side to regulation so will examine exemption from regulation with the exception of the minimum standards of regulation including Biosecurity, Food Safety and Premise ID as instructed by BC FIRB.

### **How is exempting Asian Breeder Producers from Regulation Fair?**

Asian Breeder Producers have professed to have earned their market share. In the BC FIRB's March 2016 decision, paragraph 117, the BC FIRB states that "diversity of Producers in the Asian hatching egg sector provides for a more resilient marketplace" and the Asian breeder producers have expressed passionately that they "Just want to farm" therefore regulation may be an excessive disruption to the orderly marketing of this unique and innovative market. Unlike a "mainstream" Producer who requires regulation in order to achieve industry fairness, the Asian Breeder Producer requires the maximum flexibility to respond to their very unique marketplace demand.

### **How is exempting Asian Breeder Producers from Regulation Inclusive?**

Ensure that the minimum regulations standards as described by BC FIRB in the appeal decision are upheld. An example of the inclusivity of the Commission in this regard, the Asian Breeder Producers were included in the Commission's updates and conference calls during Avian Influenza Outbreak of 2014. Asian Breeder Producers exist outside of the Commission's regulation with only the minimum standards to ensure that their risks are mitigated with Biosecurity, Food Safety and Premise ID as BC FIRB instructed.

136. No later than 90 calendar days from the date of this decision, the Commission is to provide a report to its stakeholders and BCFIRB with its recommendation(s) with respect to paragraphs 134 and 135 above, fully supported by a process consistent with SAFETI principles. This report will determine whether or not the Commission intends to exempt persons engaged in the production of Silkie or TC broiler hatching breeders, eggs or chicks, from regulation except with respect to any provisions regarding biosecurity, including identification and registration of premises, and food safety referred to in paragraph 133 above. If the Commission's choice is for exemption, the report must include draft changes to the existing regulatory scheme to support the exemption.

### **How is exempting the Asian Breeder Producers from Regulation Effective?**

The Commission would be effectively preserving the marketing already in existence, as per BC FIRB's March 16 decision, and ensuring that it continues to develop in terms of innovation and diversity while effectively managing the inherent risks of long term birds through Biosecurity, Food Safety and Premises ID as instructed by BCFIRB in the March 2016 decision.

### **How is exempting the Asian breeder Producers from Regulation Strategic?**

Often the best strategy is to not over regulate something that is not in need of regulation. As described above currently the only strategic need in the Asian Breeder Producer marketplace is that of risk mitigation and that can be accomplished with Schedule 5 of the Consolidated Orders.

### **How is exempting the Asian Breeder Producers from Regulation Transparent?**

The BC FIRB's decision is on the BC Hatching Egg Commission website. Post June 2<sup>nd</sup> Board meeting the Work Action Plan and the notes associated with the Asian breeder Meetings will also be posted. The BC Hatching Egg Commission is working through the lens of the BC FIRB's decision and will be ensuring that all Stakeholders are made aware of the process of the Commission's decision.

### **How is exempting the Asian Breeder Producers from Regulation Accountable?**

The Commission is accountable to the supply chain. Permitting is an accountable way to ensure that a small and unique market continues to be innovative and diverse. BC FIRB makes that clear in the March 2016 decision that sufficient weight must be given in the importance of diversity in the further development of this sector (paragraph 117).

### **How is exempting the Asian Breeder Producers from Regulation Sustainable?**

Exemption with the minimum standards of Biosecurity, Feed Safety and Premise ID provides a small, unique marketplace the freedom and flexibility to meet seasonal and producer specific business models. Regulation may not be sustainable to this small sector as often regulation does not allow for flexibility.

Asian Breeder Producers have written the Commission a letter, attached appendix 4. The Commission has received and reviewed the request for quota allotment as part of the phase 2 considerations of the work action plan, attached appendix 2. A secondary request was made to develop an Industry Advisory Committee.

The Commission discussed a recommendation that the Asian Breeder Producers use the specialty market advisory committee (SMAC) already in place at the BC Chicken Marketing Board. BC FIRB points out in the March 2016 decision (paragraph 74) that more consultation should have been conducted using the already established committee as it is fully aware of the history of this sector. The Commission may recommend to the Asian Breeder Producers to use the SMAC for further recommendation as the sector evolves as it is comprised of some of this unique market place's most knowledgeable stakeholders and may be able to provide insight as well as a layer of governance as some are not directly impacted by the Commission's decision and could act independently toward making recommendations.

Notwithstanding the questionable applicability of the Consolidated Order to persons engaged in the marketing of Silkie or Taiwanese broiler breeders, broiler hatching eggs or chicks, it would be prudent to clarify the nature and scope of any "exemption" that might be necessary in the following terms:

Except as otherwise determined by the BCFIRB in its March 29, 2016 decision in *Skye Hi Farms Inc. et al. v BCBHEC et al.*, persons engaged in the marketing of Silkie or Taiwanese broiler breeders, broiler hatching eggs or chicks are not bound by the provisions of the Consolidated Order, save for Schedule 5 and the definitions related thereto.

#### Action Items:

1. Staff to respond to the April 6 letter from the Asian breeder producers and include the work action plan.
2. Staff to develop a report on Phase 1. The Phase 1 report will be sent to FIRB with the work action plan, the questions and considerations and these meeting notes, once approved from board.
3. The work action plan, the questions and considerations document and notes from this meeting, will be reviewed at the next board meeting.
4. Staff will draft a decision report exempting the Asian breeder producers by permit from the considerations that took place at the May 27 meeting. This report will finalize at a special meeting, before the end of June.
5. Staff will upload the decision and the work action plan on the website.

#### **ADJOURNMENT**

Meeting adjourned at 12:21 p.m.