



March 24, 2015

To the Applicants of the Historically Non-Compliant Program:

As previously stated in my memo dated March 4, 2015 we requested your submissions in writing to address your concerns regarding "the minimum efficient farm size" and the prospect of increasing or decreasing the allocations on a pro rata basis to best reflect the current, aggregate market conditions.

We have received the submissions from applicants and they are included with this memo.

Applicants have until April 3, 2015 to reply in writing to these submissions.

Regards,

Stephanie Nelson
Executive Director



BRADNER FARMS

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March 18, 2015

BC Broiler Hatching Egg Commission
180-32160 South Fraser Way,
Abbotsford, V2T 1W5

Dear Members of the Board,

This letter is a response to your letter dated March 04, 2015 related to the “minimum efficient farm size”.

1. What is the minimum efficient farm size for the production of Silkie or Taiwanese Chicks expressed in chicks per year?

We think the Commission recent quota allocation should be respected since it's based on historical sales. It will be in the best interest of the specialty chicken industry to avoid imposing a minimum farm size. To our knowledge, Skye Hi Farms and V3 Farms have always operated as a production unit and therefore, they should be treated likewise and not as two separated farm units.

2. What are the details of the economic analysis to support your submission concerning minimum efficient farm size?

In the past there have been new breeds of specialty that have created a demand for new markets. The creation of a minimum farm size would be detrimental for the development of new niche markets.

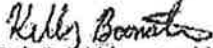
3. If the minimum efficient farm size requires production in volumes greater than that provided for under the quota allotted to any applicant, should that applicant be allotted additional quota?

We don't agree to a minimum farm size because of the reasons explained above.

4. Are the allocations made by the Commission appropriate having regard to current, aggregate market conditions? If not, should the allocations made by the Commission be increased or decreased on a pro rata basis to best reflect the current, aggregate market conditions? If so, what % increase or decrease is recommended?

We believe the Commission should increase allocations on a pro rata basis to meet actual market demand. The current annual market demand for specialty chicks is about 3,800,000 excluding Farm Fed Silkie production. The recent allocation made by the Commission adds up to about 3,062,678. We agree with the idea to allocate the difference on a prorated basis to all the producers.

Sincerely,



Rob Donaldson and Kelly Boonstra

Bradner Farms and Unger's Chick Sales (1974) Ltd.

March 18, 2015

Gloria Chojnacki
Case Manager
BC Farm Industry Review Board
sent via email

Dear Gloria:

**RE: Submissions Re: "Minimum Efficient Farm Size" and Pro-Rata
Increases or Decreases to Allocations**

1. What is the minimum efficient farm size for the production of Silkie or Taiwanese Chicks expressed in chicks per year?

The BC BHEC determined the viable Minimum Farm size in 2005. While we do not have the resources to conduct this type of study, our experience re-enforces their decision.

We started into the specialty chicken market in response to specific requirements from potential customers. For years we have invested in different breeds of chicken and feeding programs to develop the specific quality of chicken to satisfy the discerning palate of the Asian market. Once we found the breed that both satisfies the customer and was also feasible to grow we have stayed with it.

Since the BC HEC had the Minimum Farm Size assessed, costs for feed and housing have increased. Our mixed farming operation allowed us to supplement our hatching egg operation as we grew the business. Our experience leads us to believe that the Minimum Farm size as determined by BC HEC is absolutely the minimum farm size required for specialty chicken.

The question remains as to how the Minimum Farm Size based upon breeders can be translated to chicks. The financial viability of any farm is based upon revenues and expenses. Since our product is the Chick to the Grower, not the Egg to the Hatchery, additional considerations need to be addressed.

2. What are the details of the economic analysis to support your submission concerning minimum efficient farm size?

In addition to the standard challenges of Regular Broiler farms, we must deal with the following conditions which have a negative impact on our bottom line.

- **In order to keep flocks at the optimum size for the specialty growers orders, our eggs are shipped to the hatchery every 2 or 3 weeks not twice a week. This reduces the fertility for TC and more significantly for silkies.**
- **Because our business has been built on the quality of the bird, we maintain parent and grandparent stock for both TC and Silkies. This adds significantly to our costs.**
- **Under the proposed plan, there is not a profitable or even economical way to deal with the excess eggs.**
- **Currently some costs are offset by the sale of spent breeders. The question arises whether this will be allowed to continue?**
- **How are the allocations for chicks vs eggs factored in?**

3. If the minimum efficient farm size requires production in volumes greater than that provided for under the quota allotted to any applicant, should that applicant be allotted additional quota?

Yes, since the BC HEC has determined the efficient farm size, then the applicant should be allotted additional quota and allocation.

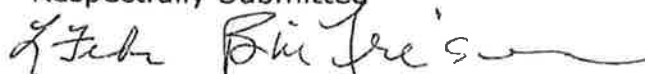
4. Are the allocation made by the Commission appropriate having regard to current, aggregate market conditions? If not, should the allocations made by the Commission be increased or decreased on a pro rata basis t best reflect the current, aggregate market conditions? If so, what percentage increase or decrease is recommended?

The BC HEC is used to working with live 'widgets". While chickens are live, in Specialty they are not all the same. Simply lumping TC and Silkie into one allocation is not practical. When have any of us purchased a Silkie for a meal? Why did we have a specialty super market wanting to exclusively purchase all of our product? Why do growers prefer to purchase our chicks?

We developed a product to meet the requirements of both the consumer and grower. To suggest that chicks can be purchased to ship to a grower and processor and be equal, indicates a lack of understanding on the specialty market.

The BC HEC has chosen to use out dated statistics to determine the initial allocation. Since Specialty producers were told there would be no quota, and their business were developed based on market requirements, allocations should be made based upon the business they have developed in conjunction with the BC Chicken Marketing Board. Only once all producers have obtained sufficient quota and allocation to meet their current commitments, should increases and decreases be determined.

Respectfully Submitted



Lillian Fehr Bill Friesen

Hunter Litigation Chambers

HUNTER / BERARDINO / SMART / McEWAN / KAARDAL

March 19, 2015

File no: 2141.001

By Email

British Columbia Broiler Hatching Egg Commission
180-32160 South Fraser Way
Abbotsford, BC V2T 1W5

Attention: Stephanie Nelson, Executive Director

Dear Sirs/Mesdames:

Re: Submissions Re: “Minimum Efficient Farm Size” and Pro-Rata Increases or Decreases to Allocations

We write on behalf of Skye Hi Farms Inc. (“Skye Hi”) and Casey van Ginkel dba V3 Farms (“V3”), in response to the Commission’s Memo of March 4, 2015 inviting submissions concerning “minimum efficient farm size” and whether it is necessary or desirable to increase or decrease the allocations on a pro rata basis to best reflect the current, aggregate market conditions.

These submissions are further to their applications filed February 5, 2014 and our letter of April 4, 2014 setting out the particulars of their exceptional circumstances, including in respect of minimum efficient farm size. As you know, Skye Hi and V3 have filed notices of appeal in respect of the Commission’s decisions to make Amending Order 11 and its February 27, 2015 decision allotting quota pursuant to that Amending Order and those appeals remain outstanding. Skye Hi and V3 make these submissions without prejudice to those appeals.

In response to the questions posed by the Commission in the March 4, 2015 memo, Skye Hi and V3’s submissions are as follows:

1. *What is the minimum efficient farm size for the production of Silkie or Taiwanese Chicks expressed in chicks per year?*

V3 and Skye Hi submit that the minimum efficient farm size for production of Silkie or Taiwanese chicks expressed in chicks per year is 580,000 chicks (or 1,160,000 chicks per two year quota period). This number is based on 10,000 breeder pullets per quota period. The calculation of the number of chicks is 10,000 x 145 eggs per breeder pullet x 80% hatchability.

The rationale for the use of the 10,000 breeder pullet number is based on the position taken by the Commission in its submissions to the British Columbia Farm Industry Review Board (“BCFIRB”) as part of the 2005 Specialty Market and New Entrant Submissions Policy,

Analysis, Principles and Directions (“2005 Specialty Review”). In that submission the Commission proposed a new entrant grower program equivalent to a notional quota allotment of 10,000 units per quota period on the basis that this amount “was determined as being required to establish an economically viable farm unit” (Appendix 1 Response to BCBHEC Specialty and New Entrant Submission at p. 4, section 2.6).

While ultimately the Commission established the new producer program¹ with a 5,000 broiler pullet entry level (Consolidated Order, Schedule 1) as an exception to the Commission’s ordinary minimum farm size of 12,000 broiler breeder pullets set out in para. 8(2)(d) of the Consolidated Orders, this minimum farm level evolved out of BCFIRB’s direction to balance the minimum efficient farm size estimated by the Commission with the length of time it would take to build up sufficient quota to invite a new entrant producer to participate in the program. The proposal of the Commission in 2005 was to establish a transfer assessment, to hold the quota collected pursuant to the assessment in a new entrant quota account, and to make new entrant placement quota available when 10,000 units were in the new entrant quota account. As BCFIRB noted in its assessment of the Commission’s proposal, the Commission ordinarily

requires a minimum farm size of 12,000 units and therefore an incentive of 10,000 units would require the new entrant to purchase 2,000 units of Placement Quota. However, since quota does not usually trade openly it can be difficult for new producers to find quota to purchase regardless of the price. Accordingly, the Commission in proposing to provide an exception in its Orders for new entrants by allowing them to have a minimum farm size of 10,000 quota units compared to the existing regulations of 12,000 units.

Noting that setting the minimum farm size at 10,000 units would take a long time to raise sufficient units to provide a new entrant invitation, BCFIRB went on to state that the Commission

could consider relaxing its minimum farm size for new entrants or re-examining ways quota could be made available for new entrants by transfer. While there is no easy answer, the size of the incentive and the time required to raise sufficient units to provide a new entrant invitation suggest that more thinking should be done concerning how smaller holdings might work in the industry and how quota might be made available to new entrants.

The issue of balancing the time it would take to bring in a new entrant with the minimum efficient farm size in setting the level of quota allotment for new producers does not arise where—as here—a class of quota is being issued for the first time.

¹ A small lot innovative self-marketer program was also later established with a 5,000 breeder pullet minimum was also established (Schedule 8)

Skye Hi and V3 are not aware of any reason that the analysis as to the number of breeder pullets required to establish an economically viable hatching egg farm would be any smaller in the production of Asian and Taiwanese hatching eggs than they are in mainstream. Accordingly, it is submitted that the Commission's analysis that 10,000 breeder pullets is necessary to establish an economically viable farm should be applied here to set the minimum efficient farm size for the production of Silkie or Taiwanese chicks.

2. *What are the details of the economic analysis to support your submission concerning minimum efficient farm size?*

The production of Silkie or Taiwanese chick hatching eggs is similar to the production of mainstream hatching eggs. Both require similar infrastructure such as feed delivery, egg pick up, pullet catching, vaccinating, hauling and the use of hatcheries. Accordingly, it is submitted that the minimum efficient farm size for mainstream hatching eggs determined by the Commission in its 2005 submissions to BCFIRB is an appropriate guide for the establishment of a minimum efficient farm size for specialty hatching eggs.

The formula employed to convert breeder hen placements to chicks is based on 80% hatchability, which T&C Chick Sales (the joint venture chick broker through which Skye Hi and V3 operate) uses as a low average based on experience for business planning purposes.

If the Commission does not believe that its 2005 analysis that 10,000 breeder pullets per quota period are "required to establish an economically viable farm unit" is readily transferable to the specialty context and further economic analysis is required, Skye Hi and V3 submit that it would be sound marketing policy for the Commission to retain a consultant who is qualified to conduct a more detailed economic analysis in order to determine minimum efficient farm size for the specialty hatching egg industry.

3. *If the minimum efficient farm size requires production in volumes greater than that provided for under the quota allotted to any applicant, should that applicant be allotted additional quota?*

Yes, it is sound marketing policy that all market participants be allotted sufficient quota to make their farm units economically viable.

4. *Are the allocation (sic) made by the Commission appropriate having regard to current, aggregate market conditions? If not, should the allocations made by the Commission be increased or decreased on a pro rata basis t[o] best reflect the current, aggregate market conditions? If so, what percentage increase or decrease is recommended?*

The quota allocations made by the Commission are not appropriate having regard to current, aggregate market conditions because they are based on historical market share, which bears no relationship to the current market conditions, particularly in respect of Skye Hi and V3

who commenced production part way through the historical period used. As set out in our previous submissions, the starting point for quota allocations for new classes of specialty quota should be production volumes for the most recent twelve month period or nearest applicable period.

Skye Hi and V3 propose that the quota allocations should be adjusted to permit the smaller producers, Skye Hi, V3 and Mr. Friesen, to continue to meet current contractual commitments, which amounts—at least in respect of Skye Hi and V3—are below the 10,000 breeder hen minimum efficient farm size level described above. If quota were allocated using Bradner and Coastline’s historical production and using our proposed industry-acknowledged 10,000 bird-based chick quota placement equivalent for Skye Hi, V3 and Mr. Friesen, all industry participants would be over allocated at a 100% allocation level. Skye Hi and V3 propose that using this quota allotment as a base, each participant should be allocated production based on current market contracts.

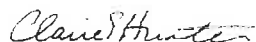
The specialty hatching egg market is dynamic and evolving. Accordingly, the market demands of today are not properly represented by market demands prior to the commencement of the regularization of the historically non-compliant producers. This quota allocation should allow for the market of specialty chicken growers to be able to continue to access the specialty product that they have chosen and the market presently demands. It is important that all specialty producers have sufficient quota allocation so that chick customers may continue to source chicks that they desire in order to meet the demands of consumers with the end product being offered to the market.

In the applicants’ submission, to set a proper allocation that meets the controlled market of the British Columbia Chicken Marketing Board (the “Chicken Board”), the Commission should consider using the Chicken Board’s records of annualization to determine appropriate quota allocation levels. The annualization requests are to be submitted and approved prior to the start of the year and the projections are derived by both the specialty chicken growers and the processors that purchase and market the product, thus reflecting actual current market needs and desires. Because the Chicken Board requires all specialty producers to submit their planned chick placement date and quantity and this information is submitted by the grower and must be approved by the processor, these records are the best records of which Skye Hi and V3 are aware that reflect current market conditions.

Yours truly,

Hunter Litigation Chambers

Per:



Claire E. Hunter

cc: Robert Hrabinsky, counsel to Commission
clients