



MEMO

TO: All Hatching Egg Industry Stakeholders

STATUS: Important

FROM: Stephanie Nelson

DATE: July 28, 2016

SUBJECT: Asian Breeder Producer Consultation Update



The Commission's Recommendation Report, as instructed by BC FIRB in their March 2016 decision, was circulated on June 24, 2016 to all Industry stakeholders.

The Commission asked Stakeholders for feedback on the Recommendation Report by July 24, 2016 as a part of their consultative process.

Please find the consultative feedback provided by each stakeholder attached for your information and review.

Additionally, the submissions will be posted to the BC Hatching Egg Commission's website.

The Commission will be considering each of the attached positions before making a decision.

If you have any questions, please contact the office.

Regards,

A handwritten signature in black ink, appearing to read "Stephanie Nelson".

Stephanie Nelson
Executive Director



BC Chicken Growers'
ASSOCIATION

July 11, 2016

BY EMAIL

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

Dear Stephanie,

Commission Recommendation Report on Asian Breeder Producers, June 24, 2016

Thank you for inviting our Association, as one of the industry stakeholders, to provide feedback on the Commission's Recommendation Report to BCFIRB on Asian Breeder Producers.

BC Chicken Growers' Association directors at the regularly scheduled Directors' meeting of July 7, 2016, reviewed the Commission's recommendations in detail. In our opinion, the Commission's hypothesis and recommendations to not regulate the Asian breeder hatching egg sector is highly speculative and not based on actual data.

For this reason our Association is unable to support the recommendations as presented. We request that the Commission first provide us with factual reasons behind its recommendations and backup of its analysis with solid data.

Thank you for your attention to this matter. We look forward to hearing from you.

Sincerely,

Dale Krahn
President
BC Chicken Growers' Association

cc. Mr. John Les, Chair, BC Farm Industry Review Board
Mr. Bill Vanderspek, Executive Director, BC Chicken Marketing Board

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Joint Submission re: British Columbia Broiler Hatching Egg Commission Report to the British Columbia Farm Industry Review Board on Asian Breeder Producers

on behalf of Skye Hi Farms Ltd., Casey van Ginkel dba V3 Farms, Wilhelm Friesen & Lillian Fehr dba W. Friesen Enterprises, Robert and Patricia Donaldson dba Bradner Farms, Unger's Chick Sales (1974) Ltd. dba Coastline Chicks

1. This joint submission is made on behalf of Skye Hi Farms Ltd., Casey van Ginkel dba V3 Farms, Wilhelm Friesen & Lillian Fehr dba W. Friesen Enterprises, Robert and Patricia Donaldson dba Bradner Farms, Unger's Chick Sales (1974) Ltd. dba Coastline Chicks (the "producers"), five of the six¹ producers of Silkie and Taiwanese ("specialty") hatching eggs in British Columbia in response to the June 24, 2016 report of the British Columbia Broiler Hatching Egg Commission (the "Commission") to the British Columbia Farm Industry Review Board ("BCFIRB"). In that report, the Commission communicates its decision not to regulate specialty production and has invited stakeholders to provide feedback on the report.
2. The undersigned write to express significant process and substantive objections to the contents of the report and to urge the Commission to apply principles of supply management to the specialty hatching egg sector in a manner that comports with the regulatory principles set out in BCFIRB's 2005 Specialty Review in order to ensure that the industry continues to develop and interact with the specialty chicken industry in a manner consistent with sound marketing policy.

Failure to Consult Stakeholders

3. As an initial matter the producers note that following the release of BCFIRB's March 29, 2016 decision in the appeal from the Commission's Amending Order 11, all five participating producers – notwithstanding the different positions taken in the appeal – met and arrived at an agreement with respect to the regulation and allocation of quota using the conceptual framework in the Commission's Amending Order 11 as a starting point. The producers made a joint submission to the Commission setting out the agreement dated April 6, 2016.
4. Despite the efforts of the producers in this regard, the Commission took no steps to consult with any of the producers in developing their report (nor to the knowledge of the producers have they consulted with any other stakeholder, including processors or PPAC).
5. In the Commission's report, while reference is made to the producers' letter to the Commission under point 7 of its "SAFETI" analysis but the Commission does not explain why it appears to have completely disregarded the common view expressed by these five producers that the sector should be subject to regulation, that quota should be issued and the agreement reached as to the allocation of that quota, the most contentious issue on the appeal.

¹ The sixth, K&R Farm Holdings Ltd. ("K&R"), is not a party to this submission.

6. While the Commission has now circulated its report to the producers for comment, the report appears to reflect a decision already made by the Commission in the absence of any meaningful – or perhaps any – consultation with stakeholders. For example, the minutes of the Commission’s May 27, 2016 special meeting provide under “Action Items” that staff will draft a “decision report exempting the Asian breeder producers” and that the “decision and work action plan” are to be uploaded onto the Commission’s website. Consistent with this position, the work action plan developed by the Commission provides that phase 2 consists of the following:

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

(emphasis added)

7. Consistent with the work plan, the Commission’s report sets out a SAFETI analysis in support of the decision in the report, notwithstanding that no consultation with stakeholders appears to have occurred prior to the decision being made.
8. The SAFETI principles, in particular the fairness principle, require that consultation with stakeholders be undertaken *prior* to a decision being made, not after, and that stakeholder views be taken into account in arriving at a decision.
9. Here, it appears that *no* industry participants were consulted prior to the decision being made. While the Commission’s work plan provides for a “consultative review” of the SAFETI and the report, it is unclear from a review of the Commission’s work plan, how – if at all – the Commission intends to take into account stakeholder comments.
10. A review of BCFIRB’s March 29, 2016 decision supports the view that the Commission was required to consult with stakeholders prior to making the decision set out in the

report. That this was not done is of serious concern to the producers. While the Commission's work plan contemplated a final decision being developed by September 29, 2016, the producers have a serious concern based on the process and communications to date that the Commission has already made a decision not to regulate specialty hatching egg production beyond premise ID, food safety and biosecurity, without considering the input of the producers or any other industry stakeholder.

Failure to apply BCFIRB's 2005 specialty directions

11. More substantively, the producers are concerned that the decision of the Commission set out in the report is not consistent with and does not appear to take account of the policy framework and directions provided by BCFIRB as part of its 2005 Specialty Review.
12. While passing reference is made to the fact of BCFIRB's 2005 Specialty Review, the Commission appears to have made no effort to apply the policy framework set out in *Specialty Market and New Entrant Submissions: Policy, Analysis, Principles and Directions*, which provides that as a general matter "Specialty production and marketing should be managed using a distinct and restricted class of quota." (p. 7).
13. While it is contemplated in the Specialty Review that marketing boards and commissions will develop rules for personal use and small lot exemptions in the specialty sector, specific policy directions and principles are set out in respect of exemption (section 5.10) which also do not appear to have been considered or applied by the Commission.
14. The producers are of the view that a proper application of the policies and directions set out by BCFIRB in the 2005 Specialty Review would require that the Commission manage Silkie and Taiwanese hatching egg production using a distinct and restricted class of quota. Such a program should be designed in a manner that supports industry innovation, for example by making provision for new entrants and exemption for small lot producers, as further contemplated by the 2005 review, but creation of a specialty hatching egg quota class should be a starting point of regulation of this sector.

Supply management principles should apply

15. Supply management of agricultural products provides benefits to Canadian consumers as well as to those involved in the supply chain of regulated products. It ensures that Canadian market demand for agricultural products is met by local farmers while providing assurance to Canadian consumers as to the quality of agricultural products.
16. The Commission itself acknowledges the importance of supply management for the hatching egg sector. On its website, under the heading "What is Supply Management?", the Commission explains:

Starting the early 1970's the Canadian government realized that our market would be regularly oversupplied and this could trigger drastic reductions in producer prices. Supply Management is necessary to ensure Canadian farms can continue to contribute to our thriving nation.

Supply management has enabled hatching egg producers to become true partners with hatcheries and chicken growers.

Supply management enables provincial boards and commissions to regulate production and negotiate prices through the provincial governments. Stability of production and pricing has become invaluable to both producers and consumers. All pricing at the wholesale, supermarket or restaurant levels are not part of the supply managed pricing system. All hatching egg producers are paid at the farm gate only.

Today, six provinces have hatching egg marketing boards or commissions and work together in a joint body called 'Canadian Broiler Hatching Egg Producers' (CHEP).

Hatching egg production is regulated under supply management and this sensible approach to growth and expansion is much more environmentally friendly than the systems of other countries, where overproduction and concentration can be common. Thanks to supply management this serious concern is not the case in Canada.

Responsibility for supply is the cornerstone of supply management. The BC Broiler Hatching Egg Commission administers a quota system to ensure that BC Hatching Egg producers meet the required volume according to the National allocation system. BC's market share is 15.83% of the national system.

BC's Hatching Egg producers contribute 82.57% of the yearly provincial allocation and allow for 17.43% of domestic throughput for imports.

Managed Supply attributes to Partnerships between hatcheries and producers, is environmentally friendly by controlling overpopulation, and is a direct input from producers, working for producers.

(emphasis added)

17. The specialty hatching egg sector is no different from mainstream hatching eggs or other regulated products in terms of the potential benefits to industry participants and consumers (in this case specialty chicken growers) of a system of supply management. The producers are all of the view that sound marketing policy requires that the three pillars of supply management: control of imports, pricing and production, be applied to the specialty hatching egg sector.
18. While the Commission suggests in its most recent decision that the sector is operating effectively as an unregulated industry, the producers view is that the current unregulated state of the specialty hatching egg industry is unstable and unsustainable. While producers have made do in a state of uncertainty for some time due to the Commission's changing position with respect to regulation and lengthy decision-making process, it is the view of the producers that regulation is necessary in the specialty hatching egg industry in order to assure continued supply to specialty chicken producers.

19. While the specialty hatching egg sector has developed as a free market, the market is sufficiently large and tightly integrated with specialty chicken production (which is of course subject to supply management regulation by the Chicken Board) that sound marketing requires principles of supply management be applied to specialty hatching egg production.
20. To permit the industry to continue to operate outside of supply management and without import or production controls risks creating instability for the supply of specialty chicken growers: either underproduction of the particular breeds required or conversely an oversupply of specialty hatching eggs in the province for which no specialty chicken quota is available to grow chicken.
21. Similarly, a lack of pricing control for specialty hatching eggs in a situation where specialty chicken is subject to pricing control by the Chicken Board is not sound marketing policy and deprives those producing specialty hatching eggs of the benefits of supply management.
22. A contentious issue between the producers in the process to date has been the allocation of specialty hatching egg quota if such a system were implemented. That issue has now been resolved as between the five participating producers and all agree that it is in the interest of the industry that the specialty hatching egg sector be supply managed through the implementation of a specialty quota system, consistent with BCFIRB's directions in the 2005 Specialty Review.
23. The five participating producers propose that a class of specialty hatching egg quota be created and quota issued commensurate with each producers' 2015 specialty hatching egg production. The only other industry participant, K&R, is not a party to this submission but those who are have no objection to K&R being grandfathered at current (ie 2015) levels. For those producers who have been in operation for longer than ten years (including W. Friesen Enterprises), this quota should be fully transferable, upon Commission approval. To the extent additional production is required going forward to meet increasing needs of specialty chicken producers, the Commission should coordinate with the Chicken Board and an industry SMAC in determining what additional quota is required and how and to whom it should be issued in order to ensure the needs of specialty chicken growers and processors are met.

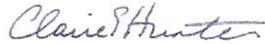
Conclusion

24. The lengthy process undertaken by the Commission since it first announced its intention to regulate (which decision it seems has now been abandoned) has caused and continues to cause great uncertainty in the specialty hatching egg industry, which is stressful to all industry participants. By way of example Mr. Friesen and Ms. Fehr, who have wished to retire for some time now, continue to be unable to accept an offer for sale of their specialty hatching egg operation due to the uncertainty of the status of the industry. The producers urge the Commission to regulate the specialty sector by creating a class of specialty quota, issuing quota as set out in our joint letter of April 6, 2016 based on 2015

production levels and creating an SMAC to advise on establishment of price controls and other aspects of regulation.

25. Alternatively, the producers would request that the Commission meet with all stakeholders as a matter of urgency, with the assistance of BCFIRB to facilitate the consultation, in order to ensure stakeholder concerns are properly taken into account prior to finalizing the decision set out in the report.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 12th DAY OF JULY 2016



Claire E. Hunter

Counsel for Skye Hi Farms Ltd.,
Casey van Ginkel dba V3 Farms,
and Wilhelm Friesen & Lillian Fehr
dba W. Friesen Enterprises



Christopher Harvey, Q.C.

Counsel for Robert and Patricia Donaldson
dba Bradner Farms and Unger's Chick Sales
(1974) Ltd. dba Coastline Chicks

July 18, 2016

VIA FAX & EMAIL

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Affleck Hira Burgoyne LLP
700 - 570 Granville Street
Vancouver, BC, V6C 3P1

Farm Industry Review Board
780 Blanshard Street
Victoria, BC, V8W 2H1

Attention: Robert Hrabinsky

Attention: Gloria Chojnacki

Dear Sirs/Mesdames:

**Re: K & R Farm Holdings Ltd.
Report of BC Hatching Egg Commission June 24, 2016
Joint Submission of certain Asian Breeder Producers**

I represent K&R Farm Holdings Ltd.

My client received a report from the Commission dated June 24, 2016, followed by a submission made by Claire Hunter on behalf of certain Asian breeder producers.

My client does not seek the issuance of quota and full regulation of the specialty sector, as urged by other producers. K&R is content with the regulation of biosecurity, premises ID and food safety as the total intervention of the Commission in specialty sector.

However, my client does share the concern of the other producers that the Commission appears to have acted again in the absence of any consultation with the current participants in this sector. The Commission was heavily criticized by FIRB for failing to properly and meaningfully consult with the specialty sector. Yet, the Commission appears to have learned nothing from that experience.

The sector is small, just six producers. There is no reason why the Commission could not have met with this group when addressing the issues articulated in its report dated June 24, 2016. Consultation is not adequate if it occurs after the decision is made. The Commission ought to meet with all the producers before formulating its decision, and then base its decision on that input from the producers. This has not occurred, and represents a continuing failing of the Commission.

K&R agrees with the other producers that the Commission needs to meet with all stakeholders urgently, with the assistance of FIRB, in order to ensure that stakeholder concerns are taken into account prior to finalizing the decision as set out in the Commission's June 24 report.

Yours truly,

MILLER THOMSON LLP

Per:

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Wendy A. Baker, Q.C.
WAB/ajb

Encl.





British Columbia Broiler Hatching Egg Commission
180 – 32160 South Fraser Way
Abbotsford, BC V2T 1W5
By email: stephanie@bcbhec.com

July 22, 2016

RE: Commission recommendation report on Asian Breeder producers June 24, 2016

Dear Ms. Nelson,

Thank you for the opportunity to comment and provide feedback on the above noted report. The directors of the BC Chicken Marketing Board reviewed and discussed the report at its regularly scheduled meeting on July 18, 2016 and has a number of observations and comments.

You have quoted Section 134 of the BCFIRB decision in the Skye Hi/V3 decision which relates to the pricing of specialty chicks. At present, the role played by the BCCMB in this process is restricted to the collection of chick pricing data from individual hatcheries by Serecon for the purpose of updating the periodic cost of production for TC and silkie chickens. The BCCMB regulates the number of these birds that are produced under the CFC Specialty Chicken Program under specialty quota in the amount requested and committed to by processors on a period by period basis. The question posed by BCFIRB “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 through its regulation of specialty chicken” is unclear. The BCCMB has not had chick pricing authority in its Scheme since the late 1980’s and the term “indirectly regulate” would require an explanation and understanding between our two organizations.

In section 7 of your document you refer to the BCCMB Specialty Markets Advisory Committee (SMAC) as a possible venue for discussions by the specialty breeder sector. This could be the case in general terms, but the BCCMB is not prepared to ask the SMAC to address the current issues in the specialty breeder/hatchery/chick sector without a clear understanding of the rules of engagement and expected outcomes.

I would be happy to discuss these issues further at your convenience.

Thank you for your attention to this matter.


B. Vanderspek
Executive Director
BRITISH COLUMBIA CHICKEN MARKETING BOARD

c.c. W. Gorsuch, BCFIRB

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BC Broiler Hatching Egg Producers' Association
PO Box 191
Abbotsford, BC V4X 3R2

July 23, 2016

VIA EMAIL

Stephanie Nelson, Executive Director
BC Broiler Hatching Egg Commission
#180-32160 South Fraser Way
Abbotsford, BC V2T 1W5

Dear Stephanie,

RE: COMMISSION'S RECOMMENDATION REPORT

The BC Broiler Hatching Egg Producers' Association is in favor of the Commission's recommendation report on Asian Breeder Producers, dated June 24, 2016.

Although this is a reversal of their previous decision to regularize the Asian Breeder sector through the allotment of quota, we see this as a simplified, clean decision that meets nearly all SAFETI standards, and includes no further involvement of the Commission apart from enforcement of Food Safety, Biosecurity, and Premise ID.

Noted above is that the decision meets "nearly" all SAFETI standards. Of concern to the BCBHEPA is the absence of any recognition of cost coverage for the enforcement of the programs noted above, or that of cost recovery. In fact, we are extremely disappointed in all parties involved in this process - Asian Breeder producers, BCFIRB, and the BCBHEC - that there has been virtually no recognition of who is bearing the financial burden of this undertaking; that is, regularized BC Broiler Hatching Egg Producers who have purchased quota, built farms, pay levies, and participate in Food Safety, Biosecurity, and Premise ID programs. For some reason, for the past decade, hatching egg producers have essentially footed the bill, easily in the tens of thousands of dollars, for the undertaking of regulating a tiny industry of a few producers that has next to no relation to our industry other than a hatching egg is produced. There are people in BC who hatch pigeons, pheasant, quail, and who even hatch falcons! Should regularized hatching egg producers be responsible for footing the bill to regulate them too? There is no common sense there.



We hope that any further decisions and work done, by all parties, in regards to Asian Breeder Hatching Egg Producers, will keep in mind that any cost born by the Hatching Egg Commission regarding the aforementioned is cost born by regularized BC Broiler Hatching Egg Producers. We hope that implementation of any programs will be cost neutral, but ideally, will involve compensation to Hatching Egg Producers, thus fulfilling the aspects of Fair and Accountable, and to take it one step further: Sustainable.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryan Brandsma", with a long, sweeping horizontal stroke extending to the right.

Bryan Brandsma, President
BC Broiler Hatching Egg Producers' Association