



December 18, 2019

VIA EMAIL

Peter Donkers, Chair
BC Farm Industry Review Board
PO Box 9129, Stn Prov Govt
Victoria, BC V8W 9B5

Dear Mr. Donkers:

RE: PRIOR APPROVAL REQUEST - ONTARIO RESERVE FUND - UPDATED

By way of a June 22, 2016 letter (attached), the BC Farm Industry Review Board ("BCFIRB") advised that it was "satisfied that purchasing a building (with a cooler site) and co-locating with the BC Chicken Marketing Board ("Chicken Board") meets the Fund condition that it be used for the benefit of the hatching egg industry." BCFIRB prior approved the BC Broiler Hatching Egg Commission ("Commission") using the Ontario Reserve Fund "for the purchase of an office building and any related necessary improvements based on the condition that the purchase results in co-location with the Chicken Board."

Since 2016, the Commission and the Chicken Board have continued to agree with BCFIRB that "there are substantive benefits to co-location...[a]s part of closely linked industries in the chicken value chain, co-location...will help support information sharing, joint risk management, and build stronger relations." The two boards struck a Building Committee to examine potential co-location options.

The Building Committee examined a number of purchase options over the past three years. For various reasons - location, cost, terms, conditions of the building, etc. - no suitable purchase option was identified. In the past year, the boards authorized the Building Committee to expand its search to include long-term lease alternatives in order to provide more potential options.

Included in this reassessment was a decision to no longer include an egg cooler, related equipment and/or vehicles in the project. They will remain separate due to the cost and availability of commercial zoning to consolidate these activities with the office functions, and biosecurity concerns about having these activities co-located with the new office that is also intended as an emergency operations centre in response to disease outbreaks and other issues.

Current Situation

Several lease options were identified and considered. In addition to financial and other considerations, one option was considered especially suitable due to certain factors such as its location (#210 - 1848 McCallum Road, Abbotsford in McCallum Junction shopping centre) and availability of stakeholder parking. The boards commenced negotiations with the landlord and have secured a long-term, 10-year lease with an option for a further 10 years.

The building is new construction capable of serving both boards well for years to come in terms of condition and available space. It will have multiple meeting rooms that can be combined for producer meetings, emergency operations, etc. Building permit, other applications and architectural design processes are in progress. Occupancy is estimated in mid-2020. A formal memorandum of understanding between the boards is also being drafted that will govern the co-management of this shared space.

The boards have detailed leasing and cost information but in broad terms, initial occupancy and tenant improvement costs will be split evenly, and ongoing rent will be split on a two-thirds (Chicken Board), one-third (Commission) basis. The Commission will have increased space to alleviate its current cramped staffing conditions.

Since this increased space will cost the Commission about twice the amount (\$75,000 versus \$35,000) it currently pays in annual rent at the Central Agriculture Facility, it gave pause to the Commission. However, given that the Commission's financial reserves are currently greater than those of the Chicken Board, it has been proposed that the Commission pay the full amount of the tenant improvements and related costs up front (estimated at \$800,000). The Chicken Board would then subsidize 50% of the Commission's rent which would mean that in practice, the Commission's rental cost should remain unchanged for most, if not all, of the first ten-year leasing period. Rental of a separate egg cooler facility (currently \$4,800 per year) will continue.

New Consultation

Given that BCFIRB's prior approval was for the Ontario Reserve Fund to be used for the co-purchase of a building, the Commission renewed the consultation with producers it reported on in its December 21, 2015 and May 10, 2016 reports to BCFIRB (attached). At a December 12, 2019 meeting at which a majority of BC hatching egg production units were in attendance, the Commission provided an update on developments. The Commission advised that it could continue with the building project using its separate Building Fund of \$750,000 or make a new request to BCFIRB to prior approve the use of the OBHECC Reserve Fund for a long-term lease instead of a building purchase. The Commission then could redirect the money set aside in the Building Fund to other issues such as augmenting the Reserve for the Unforeseen and supporting the upcoming SE initiative. Any remaining Ontario Reserve Funds would also be targeted for other strategic measures in support of "industry improvement".

Some producers were concerned about using the Ontario Reserve Fund for a leasing option versus acquiring an asset following the purchase of a building. However, others thought the stability of a long-term leasing arrangement with the Chicken Board provided its own benefit. Concerns were also raised that after nearly 20 years, it would be beneficial to actually use the Ontario Reserve Fund for something in the overall best interests of the industry.

Following lengthy discussion and debate, producers voted overwhelmingly in support of the Commission requesting BCFIRB approve the use of the Ontario Reserve Fund for a long-term lease, including the rent-subsidizing proposal.

Conclusion

The Commission and Chicken Board both remain of the view that the SAFETI analysis and the advantages in co-locating the sector's two regulatory boards that existed in 2016, including those outlined in BCFIRB's June 22, 2016 letter, remain valid today. Perhaps even more so given the joint approach the Commission and the Chicken Board are taking to establish a strategic and co-regulatory framework for the BC Chicken industry in consultation with all their stakeholders. Greater regulatory coordination and resource management is in the best interests of both boards and the BC chicken sector at large.

The Commission requests that BCFIRB amend its June 22, 2016 decision regarding the Ontario Reserve Fund to allow for its use in support of the long-term lease option outlined above. As per above, the cost of the move is estimated at \$800,000 at this early stage and is not expected to exceed that amount. A complete accounting of Ontario Reserve Fund expenditures will be tracked and finalized once the move is completed. Details regarding the lease agreement, the financial breakdown of Commission costs and the memorandum of understanding being drafted by the Commission and Chicken Board are also available upon request.

Thank you for your attention to this matter.

Yours truly,

A handwritten signature in black ink, appearing to read "J. Collins".

Jim Collins, Chair
BC Broiler Hatching Egg Commission

Attachments

cc: Harvey Sasaki, Chair
BC Chicken Marketing Board

Bryan Brandsma, President
BC Broiler Hatching Egg Producers' Association

Ryan Whitmore, President
BC Egg Hatchery Association

Commission Website



December 21, 2015

To: BC Farm Industry Review Board

From: The BC Broiler Hatching Egg Commission

Request: The BC Broiler Hatching Egg Commission formally requests the release of the restricted fund to purchase a building to be used by Commission staff and Hatching Egg Producers.

History:

1. On March 22, 2000 The Ontario Broiler Hatching Egg & Chick Commission (O.B.H.E.C.C.) purchased 7,600,000 eggs allocation and the subsequent increase in imports from The BC Broiler Hatching Egg Commission (B.C.B.H.E.C or "the Commission) for \$1,800,000.00. [Contract attached as Appendix #1.]
2. In March 2000, the Provincial board granted approval to the Commission to enter an agreement with the Ontario Broiler Hatching Egg Commission, with the proviso that monies realized from this agreement would be used to fund projects for the improvement of the hatching egg industry. [FIRB letter attached as Appendix #2.]
3. The funds were accessed in January 2000 and used to provide each Producer a loading dock or scissor lift. The total costs associated with this project were capped at \$10,000 per Producer for a total of \$640,000 [Commission minutes attached in Appendix #3]
4. Currently \$1,179,249.00 remains in the restricted fund.

Rationale:

1. Currently the Commission Board office rents their office space on a month to month basis at the Central Agriculture Facility in Abbotsford as the lease expired and no long term arrangement could be made. Long term implications of this arrangement may include; instability of levies due to budget challenges should the rental rate be adjusted or notice given and another rental arrangement must be made.
2. Challenges to the available space have created a necessity to find a larger facility.

* Attached is a copy of that legal opinion which is provided to you subject to a common-interest privilege. The opinion is not to be disclosed to any other person and the Commission does not waive any privilege with respect to that legal opinion

Other Considerations:

1. The Commission has been approached by other commodity boards searching for more space. There is potential for purchasing a building with another commodity or leasing some office space to another commodity. This option will be explored in depth and every attempt will be made to ensure that the most can be made of the Commission's investment.
2. 3 examples of the planning that has been developed in terms of the purchase of a building have been provided [Attached as Appendix #5] Although these are projections, based on current real estate, it is indicative of the foresight the BCBHEC is undertaking to ensure the proper decision making opportunities are all addressed.
3. The Commission members, staff and Producer Directors have been involved in the planning and execution of the Risk Management Steering Committee and the subsequent Avian Influenza Captive Insurance Committees and most recently the 4 Feather Board Insurance committee. The Hatching Egg Plebiscite was the highest in favor of the insurance model and the Hatching Egg Producers continue to support this project.
4. With that in mind, the Commission's Finance Committee led by the Commission's Chairman, developed the "Fund for the Unforeseen." This fund is meant for unforeseen or unplanned expenses such as a disease crisis or the potential contribution of funds to an Avian Influenza Insurance Program. To date the timelines are not set for the implementation of an Insurance Program. The Commission projects the "Fund for the Unforeseen" to be at approximately \$400,000 by year end. This fund is separate from the Restricted Fund and will continue to as a contingency fund that will be maintained going forward.
5. As the Commission has been planning to relocate for 2 years, the staff have also budgeted for moving, building improvements and upgrades. The Moving Fund will retain \$60,000 at the end of this year.

Follow-Up:

1. The Commission has reviewed the letter from FIRB dated June 29, 2005 [attached as Appendix #6] and acknowledges that monies from this fund have previously been used without appropriate accountability and offers the following in terms of follow up with BC FIRB post building purchase.
 - All restricted fund monies will be carefully tracked and presented in The Commission's annual report to ensure accountability and transparency to Industry Stakeholders.
 - A copy of that report will be sent to BC FIRB.
 - The Annual Report is also posted to the BC Broiler Hatching Egg Website for stakeholder review.
 - The BC Broiler Hatching Egg Commission will prepare a decision report inclusive of a SAFETI analysis supporting its decision on a specific property.

*** Attached is a copy of that legal opinion which is provided to you subject to a common-interest privilege. The opinion is not to be disclosed to any other person and the Commission does not waive any privilege with respect to that legal opinion**



MEMO

TO: The BC FIRB

STATUS: Important

FROM: The BC Hatching Egg Commission

DATE: May 10, 2016

SUBJECT: Follow up regarding the Commission Owned Office

As a follow up to BC FIRB's letter dated February 18, 2016 The BC Hatching Egg Commission has the following information to share with BC FIRB.

1. Discussions with other groups on co-ownership or co-occupancy of a building are ongoing. Moving forward with another group has presented challenges when faced with the uncertainty of the availability of the release of our fund. The Commission will use the SAFETI principals including sustainability when making the decision to enter into a mutually acceptable arrangement with another organization and would request to do this in its sole discretion.
2. On February 23, 2016 the Commission's Executive Director attended a producer meeting and explained the Commission's intent to purchase a building using the restricted fund. It was also explained that a final consultation survey would be circulated to Producers electronically.
3. On February 26, 2016 Commission Staff created a survey using Survey Monkey to receive feedback from producers regarding the Commission purchasing a building.

4. The 3 Questions used read as follows:

1. Is there any feedback from Producers regarding the Commission purchasing a building with the Restricted Fund? (Otherwise known as the Ontario fund)
2. Is there any feedback from Producers on working with a partner (such as BC Chicken) or a tenant should the building allow?
3. Is there any feedback from Producers that the Commission should be aware of in regards to a building purchase?

5. The results:

1. The survey was open for 30 days.
2. 9 Registered Producers participated representing 18% of the Hatching Egg Producer membership.
3. On Question #1- 8 responses recorded- 100% of participants were in favor of the purchase of a building with 50% in favor of the Commission purchasing the building and 50% in favor of the Association using the fund to make the purchase.
4. On Question #2 -9 responses recorded- 67% in favor of working with another organization and 33% in favor of a building for the sole use of the Commission.
5. On Question #3- 8 responses recorded- This was a feedback and comment section. Several comments were made:
 - *Yes, use the money for the purchase*
 - *It should be producer owned not the commission. ontario quota sold was bought and paid for by producers and bldg should be producer owned*
 - *It is not the Commission's place to use the money from the sale of our quota. The Producers should own the office.*
 - *I support the idea of using this money to purchase property using the ontario fund. I also support the idea of co purchasing with another agri related commodity such as the chicken board*
 - *Great idea. Lets finally use the funds to do something positive for our industry.*
 - *use it do it*

The Commission reiterates its request to BC FIRB to release the Restricted (OBHEC) fund for the Commission to purchase an office space. The Commission would request that the release of the restricted fund for that purchase not be contingent on the Commission working with another organization or with limiting factors that would inhibit the Commission from making quick decision based on real estate market demands.

If possible the Commission would request that FIRB make this decision by June 30, 2016

Regards,

A handwritten signature in black ink, appearing to be 'Casey Langbroek', written in a cursive style.

Casey Langbroek FCPA, FCGA,
Chair

A handwritten signature in black ink, appearing to be 'Stephanie Nelson', written in a cursive style.

Stephanie Nelson
Executive Director



June 22, 2016

File: 44200—20 BHEC

DELIVERED BY EMAIL

Casey Langbroek
Chair
BC Broiler Hatching Egg Commission
180 – 32160 South Fraser Way
Abbotsford BC V2T 1W5

Dear Mr. Langbroek:

BC FARM INDUSTRY REVIEW BOARD PRIOR APPROVAL DECISION – RESERVE FUND

On December 21, 2015 the BC Broiler Hatching Egg Commission (Commission) requested the BC Farm Industry Review Board (BCFIRB) prior approve use of the Commission's Reserve Fund to purchase an office building.¹

Background

The Reserve Fund (Fund) arises from the historical transfer of hatching egg production from B.C. to Ontario. In accordance with the requirements of the 1993 World Trade Organization Agreement on Agriculture, the federal government of the time adjusted the broiler hatching egg import/export ratio. As a result, B.C. was required to reduce its hatching egg production. In March 2000 the Commission transferred a portion of B.C.'s share of the domestic national allocation to the Ontario Broiler Hatching Egg & Chick Commission (OBHECC). In return, the OBHECC paid the Commission \$1.8 million. BCFIRB prior approved the transfer with the proviso that monies realized from this agreement would be used to fund projects for the improvement of the hatching egg industry, and that BCFIRB must prior approve any expenditure.

¹ Note: This submission was incomplete. BCFIRB received a complete version on January 8, 2016.

**British Columbia
Farm Industry Review Board**

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Commission Proposal

The Commission submitted a prior approval request to BCFIRB on December 21, 2015 to use the Fund to purchase a building that would house staff, equipment and vehicles (including a cooler-site for the Non-Hatching Egg Program). It also noted it was exploring potential co-housing/co-purchasing arrangements with the BC Chicken Marketing Board (Chicken Board) and the incorporation of an emergency response centre.

On February 18, 2016, BCFIRB noted that stakeholder consultation wasn't sufficient and requested that the Commission provide an assessment of the likelihood of co-location with the Chicken Board and garner stakeholder views on this potential partnership. On May 11, 2016, the Commission reported back to BCFIRB, stating that the majority of respondents were in favour of co-location. It also reported it was difficult to provide an assessment of the likelihood of co-location given the uncertainty of the release of the Fund to purchase the building.

Subsequently BCFIRB was verbally informed that there was a joint offer in place to purchase a building with the Chicken Board.

Legal Authorities

In British Columbia, the production and marketing of broiler hatching eggs is regulated under the *Natural Products Marketing (BC) Act (NPMA)* and the British Columbia Broiler Hatching Egg Scheme.

Under s. 7.1 of the *NPMA*, BCFIRB is responsible for the general supervision of all marketing boards and commissions in the Province, including the Commission. Section 7.1(2) of the *NPMA* provides for this supervisory authority to be exercised "at any time, with or without a hearing, and in the manner [BCFIRB] considers appropriate to the circumstances".

Under s. 9 of the *NPMA*, BCFIRB "has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined by [BCFIRB] under [the *NPMA*]".

Prior Approval Requirements

In 2000 BCFIRB established the following conditions in relation to use of the Fund:

1. The fund is to be used for the overall improvement of the hatching egg industry.
2. The fund distribution plan must be prior approved by BCFIRB before any expenditure. BCFIRB previously approved the Commission plan to use an Industry Advisory Committee (IAC) as a screening and recommendation body in relation to applications made by producers and industry stakeholders for fund expenditures.
3. The Commission is to use good accounting procedures and reporting.

In recognition that circumstances change overtime, BCFIRB noted in a February 19, 2015 letter that BHEC could use a SAFETI²-based approach to review the fund distribution plan and determine whether changes were needed. BCFIRB stated it would accept changes on the following conditions:

1. Changes result from a SAFETI-based process;
2. Changes adhere to BCFIRB's overarching directions on fund use, accounting and reporting (thus, reaffirming conditions 1 and 3, above);
3. Changes meet legal and sound marketing policy requirements;
4. Changes are clearly communicated to producers and all hatching egg stakeholders; and,
5. Use of fund monies and rationale are reported publically.

BCFIRB Process

BCFIRB reviewed the Commission's December 21, 2015 and May 11, 2016 submissions and subsequent update in light of principles-based regulation and SAFETI at its June 9, 2016 board meeting. Its considerations included, but were not limited to: the history and intent of the Fund; and whether the Commission met BCFIRB's prior approval directions; including overall legal and sound marketing policy requirements.

BCFIRB Decision

BCFIRB approves use of the Fund for the purchase of an office building and any related necessary improvements based on the condition that the purchase results in co-location with the Chicken Board.

If the building purchase would not result in co-location with the Chicken Board the Commission must re-submit its prior approval request to BCFIRB.

Any remaining Fund monies continue to be subject to BCFIRB's prior approval conditions. BCFIRB expects the Commission will:

- a) Communicate any decisions and rationale related to the building purchase to all hatching egg stakeholders in a timely manner; and,
- b) Use good accounting procedures and reporting.

Rationale

In terms of process, Commission engagement with industry stakeholders was not as inclusive, transparent and informed as could be desired given the Fund is to be "used for the benefit of the hatching egg industry". However BCFIRB is satisfied that the Commission sufficiently met BCFIRB's consultation requirement in this instance by ensuring all producers were aware of the proposal to buy a building using the Fund and also sought their input on co-location with the Chicken Board

² Strategic Accountable Fair Effective Transparent Inclusive

BCFIRB also notes that it was not clear to what extent the Commission assessed alternative uses for the Fund in relation to the risks and opportunities identified in its Strategic Plan. Assessing resource use in light of all strategic outcomes is a key part of principles-based regulation. BCFIRB does note, however, that the Commission has established a separate unforeseen contingencies fund to ensure it has financial reserves to manage other industry risks, if needed.

In terms of legal requirements, *NPMA* s. 10(3) grants the Commission authority to “acquire, hold and dispose of real property”.

BCFIRB is satisfied that purchasing a building (with a cooler-site) and co-locating with the Chicken Board meets the Fund condition that it be used for the benefit of the hatching egg industry. The Commission proposal sets out that consolidating its current two facilities (office and off-site cooler) will provide efficiency gains, cost savings and resolution to on-going human resource challenges – an overall net benefit to the industry. BCFIRB agrees with this assessment.

In relation to long-term industry benefit (including sound marketing policy), BCFIRB notes there are substantive benefits to co-location with the Chicken Board. As part of closely linked industries in the chicken value chain, co-location by these two first instance regulators will help support information sharing, joint risk management, and build stronger relations.

In accordance with s. 57 of the *Administrative Tribunals Act*, “an application for judicial review of a final decision of (BCFIRB) must be commenced within 60 days of the date the decision is issued.”

Administrative decisions made by the Commission in the implementation or application of the Fund to purchase a building – as approved by BCFIRB – are appealable under s. 8 of the *NPMA* within 30 days of a Commission decision.

If you have any questions, please feel free to contact BCFIRB.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:



John Les, Chair

cc: BCFIRB web site