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File: 44200-60 EMB QUOTA
EXCHANGE

DELIVERED BY E-MAIL

Brad Bond
Chair
BC Egg Marketing Board
250 – 32160 South Fraser Way
Abbotsford, BC V2T 1W5

Dear Mr. Bond:

**PRIOR APPROVAL DECISION -- BC EGG MARKETING BOARD QUOTA
EXCHANGE REFORM**

Quota management forms one of the three pillars of supply management¹ and is a core BC Egg Marketing Board (Egg Board) responsibility. This letter sets out the BC Farm Industry Review Board's (BCFIRB) prior approval decision concerning the Egg Board's pilot BC Egg Quota Exchange (Quota Exchange).

Issue

On October 22, 2015, the Egg Board requested BCFIRB's prior approval of its pilot Quota Exchange, with a review to follow one cycle. The stated intent behind the proposed changes is to provide better transparency and fair access to quota transfers in order to maintain producer and public confidence.

Decision Summary

1. BCFIRB approves the pilot BC Egg Quota Exchange with the following conditions:
 - a. The Egg Board establishes a public "Quota Exchange" web page prior to the completion of the first pilot Quota Exchange cycle. The web page is to include, at minimum, a description of the Quota Exchange intent and operation along with

¹ Production control, price control, import control

**British Columbia
Farm Industry Review Board**

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regularly published Exchange results. Given the pilot status, the web page (or a related public page) should include information on the pilot, such as:

- i. background documents;
 - ii. the previous industry stakeholder survey; and,
 - iii. BCFIRB submissions to date, along with the pilot review process, schedule and opportunities for stakeholder input.
- b. Given the inter-related nature of quota management policies and programs, including an exchange, and the upcoming 2015-16 Egg Board review of said policies and programs, BCFIRB does not accept the Egg Board's proposal to review the pilot Quota Exchange after one cycle. Rather, BCFIRB directs the Egg Board to publish a pilot Quota Exchange review schedule that forms part of its overall 2015-16 quota policy and program review process.
- c. The Egg Board provides a complete, evidence-based report to BCFIRB and its stakeholders on the outcome of the pilot Quota Exchange review, in relation to the broader quota policy and program review, including any proposed changes. BCFIRB expects the Egg Board will follow due process, including:
- i. establishing and reporting on review criteria and how the criteria address the objectives of the reform and sound marketing policy;
 - ii. engaging stakeholders;
 - iii. using expert analysis where appropriate; and,
 - iv. providing a full rationale for any conclusion(s) reached.
- d. BCFIRB approval is required before the Quota Exchange is finalized whether or not there are any changes that flow out of item c. above.
2. In order to provide a responsive decision on the pilot quota exchange, BCFIRB determined it was effective and strategic to separate the prior approval request and the proposed amendments to its 2005 transfer assessment directions in the Egg Board submission. This decision only addresses the Quota Exchange prior approval. BCFIRB continues to extend its 2014 invitation to all the supply managed commodity boards to review BCFIRB's transfer assessment directions arising from the 2005 Specialty Review.² If, after a full, appropriate SAFETI³ process taking into consideration how egg quota allocations are issued and managed in light of sound marketing policy, the Egg Board determines changes are needed to its overall quota management policies and the transfer assessment directions it is welcome to submit its recommendations, with a complete rationale, to BCFIRB.

² September 1, 2005. BC Farm Industry Review Board. [Specialty Market and New Entrant Submissions --Policy, Analysis, Principles and Direction.](#)

³ Strategic, Accountable, Fair, Effective, Transparent, Inclusive

Authorities

3. In British Columbia, the production and marketing of eggs is regulated under the *Natural Products Marketing (BC) Act (NPMA)* and the British Columbia Egg Marketing Scheme, 1967 (Egg Scheme). Section 37(c) of the Egg Scheme sets out that the Egg Board requires the prior approval of BCFIRB to prescribe "...the terms and conditions upon which they [quota] shall be issued or transferred..."
4. 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 Egg Board. 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*]".

Decision Process

5. BCFIRB continues to work in cooperation with BC's regulated boards and commissions (including the Egg Board) to put into practice principles-based regulation using founding principles – Strategic, Accountable, Fair, Effective, Transparent, Inclusive (SAFETI) – as a tool. BCFIRB expects the Egg Board to demonstrate the application of SAFETI principles in all its processes and outcomes, including its management of quota transfers, to ensure that quota distribution is market responsive, alongside meeting public policy objectives.
6. BCFIRB outlined its expectations of the quota exchange review in an August 28, 2015 letter⁴ to the Egg Board. The expectations included SAFETI-based process and outcome considerations previously shared with the Egg Board. BCFIRB also noted that:

In particular, the Quota Exchange submission must take into account the overall context the egg industry operates in and provide current information and stakeholder input.

And

The Egg Board has the responsibility to clearly demonstrate to BCFIRB how its proposed Quota Exchange is effective, strategic and accountable in terms of sound marketing policy. This includes balancing the business needs of the industry and the public interest through a fair, inclusive and transparent exchange process.

7. BCFIRB received the Egg Board proposal for its pilot BC Egg Quota Exchange on October 22, 2015, which included models of how the pilot Exchange would run and draft Amending Orders. BCFIRB then conducted its own due diligence in reviewing the submission against BCFIRB's August 28, 2015 expectations. In deciding to approve this submission at its November 18, 2015 meeting, BCFIRB took into account its supervisory

⁴ BC Farm Industry Review Board. August 28, 2015. [Quota Exchange Review and Update](#).

responsibilities in ensuring a principled approach to quota management outcomes in the interest of sound marketing policy.

BCFIRB Reasons and Decision

8. The following provides some background on the Quota Exchange and sets out BCFIRB's reasons and decision.

Background

9. A quota exchange is an instrument for transferring quota between sellers and buyers. Exchanges are intended to enable efficient transfer of quota and provide a 'one stop shop' for transparent quota buying and selling. Absent an exchange, it is difficult if not impossible for all producers wanting to buy quota to know when quota is available, or for sellers to efficiently find buyers – impacting equality of access. Quota exchanges provide other benefits including a venue for completing the transaction, a transparent record of the transaction and certainty for both buyers and sellers.
10. In a 1996 dairy decision⁵, BCFIRB found that the newly established mandatory BC Milk Marketing Board quota exchange supported equality of access to quota.
11. Although boards may operate quota exchanges to facilitate equality of access to quota, it is important to note that, by regulation, BC marketing boards (e.g. the Egg Board) may not assign a value to quota.
12. In its October 26, 2000 egg allocation prior approval decision⁶, BCFIRB directed the Egg Board to establish a provincial quota exchange by February 1, 2001. The intent was to provide transparency and fair access (including regional access) to quota transfers in order to maintain producer and public confidence.
13. The Egg Board concluded in its review that its Quota Exchange, as it was structured before the Exchange was suspended, was not working as intended "...to provide transparency and fair access to quota while maintaining producer and public confidence in the supply management system." The Egg Board reported many complaints from producers that the suspended Quota Exchange was complex and costly (both legally and emotionally) and that larger producers were able to outbid the smaller producers, restricting their ability to enter the industry or grow.

Egg Board Process

14. BCFIRB is generally satisfied the Egg Board demonstrated sufficient development and delivery of a SAFETI-based review process. For example, the Egg Board recognized a need for change, consulted stakeholders on potential solutions, and provided a final report on the findings, recommendations and rationale to BCFIRB.

⁵ BC Farm Industry Review Board. May 30, 1996. [In the Matter of an Appeal from a Decision Concerning a Quota Exchange Program. Bifano et al. vs British Columbia Milk Marketing Board.](#)

⁶ British Columbia Marketing Board. October 26, 2000. [Supervisory Decision – Egg Quota Allocation.](#)

15. However, BCFIRB sees opportunities for ongoing improvement with regards to the consultation documents, survey processes, communication with stakeholders and the evidence and analysis provided for Egg Board decisions and or/recommendations to BCFIRB.
16. BCFIRB expects any future prior approval requests will clearly demonstrate further improvement in the Egg Board SAFETI-based review processes.

Egg Board Proposal

17. The proposal requested prior approval of the pilot Quota Exchange, with the understanding that the pilot would be run for one cycle, after which the Egg Board would review the process in consultation with buyers and sellers to help determine if the pilot Quota Exchange meets the objectives of a fair and transparent exchange.
18. The Egg Board noted that the Exchange is currently suspended pending implementation of the pilot Quota Exchange. Upcoming changes in Egg Board leasing rules mean some producers may need to transfer quota in 2015 to be in compliance with leasing and barn space requirements.
19. The following table summarizes BCFIRB’s understanding of the general operation of the current Quota Exchange (suspended) and the proposed pilot Quota Exchange.

Current Exchange	Proposed Exchange
<ol style="list-style-type: none"> 1. A producer wishing to sell quota submits an Offer to the Exchange, indicating volume and desired price. 2. Potential buyers submit bids to the Exchange, indicating desired volume and price. 3. Offers and bids are categorized into value stratum. The stratum with the least difference in value is the “Clearing Price”. There is no mechanism to publish clearing price (transparency). Quota has traded on average at \$345/bird in the last three years. 4. Quota is exchanged at the point where the volume of quota and price offered for sale equals or comes closest to the amount of quota bid for. 	<ol style="list-style-type: none"> 1. A producer wishing to sell quota submits the volume to the Exchange. 2. A producer wishing to buy quota submits the desired volume to the Exchange. 3. Market clearing price is set for the first Exchange at \$345 per unit⁷. Market clearing price will be adjusted up or down by \$5 each based on conditions established in the Orders. 4. When there is insufficient quota for sale to satisfy all buyers, a portion is prioritized for small producers, with remaining quota shared among remaining buyers. 5. If there are more offers to buy than quota available, the Exchange may be cancelled OR quota distributed pro rata to buyers. Same if reverse (more quota available than offers to buy).

⁷ The Egg Board proposes to reflect the market clearing price by taking the average of the market clearing price over the previous three years operation of the suspended Exchange.

20. The Egg Board is looking to address some long-standing issues that may or may not be directly arising from the quota exchange.
21. Markets are complex. It is extremely challenging to untangle why quota management tools, (e.g. quota exchange as one example), are not delivering on desired outcomes and what changes may be needed. There can be consequences with interfering with the normal order of market activities, but sometimes it is necessary to achieve certain regulatory and policy objectives. It is unclear from the Egg Board submission how much weight to give to the Quota Exchange as the structure causing the existing issues versus external issues being highlighted by the Quota Exchange. For example, BCFIRB assesses that it is much more likely that systemic pricing and allocation issues at the national level influence quota values more than does any exchange structure.
22. That said, BCFIRB also recognizes it is not sound marketing policy to freeze the transfer of quota between producers indefinitely until these complex, inter-related questions are further addressed.
23. BCFIRB's policy position has been to support quota exchanges as a means of providing equality of access for quota. The suspended Quota Exchange model may not support equality of access. For a variety of reasons, producers wishing to sell quota can make side arrangements with potential buyers as to volume and price before the buyer and seller go to the Quota Exchange. This can effectively reduce opportunities for others looking to purchase quota who are not 'in on the deal'. While select buyers and sellers may share inside information between themselves, this information is not available to all who may be selling/buying on the Exchange. The characteristics of an effective quota exchange include sellers and buyers having as close to perfect information and equal access to information about the opportunity. Under the proposed pilot Quota Exchange, the proportional fulfillment and market clearing price formula may support equality of access.
24. In its submission the Egg Board notes it would like a new Quota Exchange that more accurately reflects the price of quota assigned by the market. Although the proposed approach to market price was first taken by the BC Milk Marketing Board in 2010 (and continues to today), it remains unclear that reflecting a marketing clearing price based on historical markets will truly reflect the market going forward, even with the proposed system of administrative adjustments. As stated above, it is assessed as more likely that the current market price for quota may be inflated due to systemic pricing and allocation issues. For quota value to see a meaningful change it will likely take more than a well designed quota exchange.
25. BCFIRB agrees with the Egg Board that priority access on the Quota Exchange in support of smaller producers is appropriate. Supporting new and/or small producers is in line with BCFIRB's 2005 Specialty Review policies⁸ and the Ministry of Agriculture Regulated Marketing Economic Policy (2004). Growth can support efficiency and

⁸ September 1, 2005. BC Farm Industry Review Board. [Specialty Market and New Entrant Submissions --Policy, Analysis, Principles and Direction.](#)

innovation. However a quota exchange is not the only tool that can be used to meet this objective effectively and strategically. The Egg Board may need to consider on an on-going basis additional measures to support the growth of smaller growers. This could include increasing the amount of new entrant quota, targeting quota to defined value added, niche or regional marketing needs or other measures in response to defined marketing requirements. The value of quota may be a major barrier to growth alongside equality of access concerns.

26. While it could be argued that supporting the growth of small producers may come at the expense of increasing efficiencies that may be found with larger production units it is also important to look at the national and global context the BC egg industry operates in. Given its circumstances (including the cost of importing feed from the Prairies), BC's egg industry is not well positioned to compete solely with other provinces or the US as a "commodity" sector. Although it flies in the face of some views on economic efficiency theory, a robust, successful BC egg industry may include many diverse farms across regions serving distinct, value added markets alongside larger production units.
27. Given the complexities of developing and managing market tools to achieve objectives such as equity of access, more accurate pricing and support of smaller growers, on-going, transparent assessment is necessary. Appropriate review, assessment and changes as necessary to support effective, strategic and accountable outcomes.
28. BCFIRB agrees with the Egg Board proposal to pilot its proposed changes to the Quota Exchange.
20. Going forward, in support of the Egg Board's transparency objective, it is to:
 - a. establish a public "Quota Exchange" web page prior to the completion of the first pilot Quota Exchange cycle. The web page is to include, at minimum, regularly published Exchange results. Given the pilot status, the web page (or a related public page) should include information on the pilot, such as: background documents, the previous industry stakeholder survey, BCFIRB submissions to date, along with the pilot review process, schedule and the opportunities for stakeholder input.
21. In its submission the Egg Board noted that the Quota Exchange is "...just one of many tools used to manage layer quota in BC and it may be difficult for BCFIRB to assess the Quota Exchange proposal in isolation...". The Egg Board is correct. The Egg Board announced in its submission that it is starting a review of several of its quota management policies and programs -- Quota Distribution Policy, Quota Transfer Assessment Policy, Whole Farm Transfer Policy, Quota Lease Policy, Small Lot Permit Program and the New Producer Program -- in 2015-16.
22. Given the inter-related nature of quota management policies and programs, including an exchange, and the upcoming review of said policies and programs, BCFIRB does not accept the Egg Board's proposal to review the pilot Quota Exchange after one cycle.

23. Rather, BCFIRB directs the Egg Board to publish a pilot Quota Exchange review schedule that forms part of its overall 2015-16 quota policy and program review.
24. To support an effective Quota Exchange review process, BCFIRB directs the Egg Board to
 - a. Provide a complete report to BCFIRB and its stakeholders on the outcome of the pilot Exchange review in relation to the broader quota policy and program review, including any proposed changes. BCFIRB expects the Egg Board will follow an appropriate SAFETI process, including establishing and reporting on review criteria, engaging stakeholders, using expert analysis where appropriate and providing a full rationale for any conclusions reached.
25. BCFIRB approval is required before the Quota Exchange is finalized, whether or not there are any changes that flow out of the report to BCFIRB and stakeholders.
20. 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.”
21. Administrative decisions made by the Egg Board in the implementation or application of its pilot Quota Exchange – as approved by BCFIRB – are appealable under s. 8 of the *NPMA* within 30 days of an Egg Board 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