

**British Columbia  
Farm Industry Review Board**

February 7, 2020

File: 44200-20\BHEC

**DELIVERED BY EMAIL**

Jim Collins, Chair  
BC Broiler Hatching Egg Commission  
180 – 32160 South Fraser Way  
Abbotsford BC V2T 1W5

Dear Mr. Collins:

**PRIOR APPROVAL REQUEST – ONTARIO RESERVE FUND FOR BUILDING  
LEASE**

On December 18, 2019 the BC Broiler Hatching Egg Commission (Commission) requested BC Farm Industry Review Board (BCFIRB) prior approval to use the Ontario Reserve Fund in support of a long-term office building lease with the BC Chicken Marketing Board (Chicken Board).

BCFIRB had previously prior approved use of the Ontario Reserve Fund (Ontario Fund) for the purchase of an office building based on several conditions, including co-location with the Chicken Board (June 22, 2016<sup>1</sup>).

The Ontario Fund arises from the historical transfer of hatching egg production from BC to Ontario. 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 expenditures.

**Commission Proposal**

The Commission reports that since BCFIRB's 2016 decision, the Building Committee, made up of Commission and Chicken Board representatives, has considered a number of purchase options. However, for various reasons, such as location, cost, terms, building condition, no suitable building was identified. As such, the Commission is now considering other options that would still result in co-housing with the Chicken Board.

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<sup>1</sup> 2016, June 22. BCFIRB. [BC Farm Industry Review Board Prior Approval Decision – Reserve Fund](#)

The Building Committee has identified a newly constructed office space as a suitable lease option. However, as per the Commission's reassessment of needs (cost, availability of commercial zoning, and biosecurity concerns) the project will no longer include an egg cooler, related equipment, and/or vehicles.

The Commission consulted with the majority of hatching egg production units at a December 12, 2019 meeting. The Commission reports that the majority voted in support of the Commission requesting use of the Ontario Fund for a long-term lease, including a rent subsidization agreement with the Chicken Board.

In summary, the Commission states that the Commission and Chicken Board remain of the view that the advantages of co-locating remain valid today. And that greater regulatory coordination and resource management is in the "...best interests of both boards and the BC chicken sector at large".

### **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]".

### **Analysis**

In March 2000 BCFIRB established the following conditions regarding use of the Ontario Fund:

- The fund be used for the overall improvement of the hatching egg industry.
- The fund distribution plan be prior approved by BCFIRB before any expenditure.
- BHEC is to use good accounting procedures and reporting.

On February 19, 2015,<sup>2</sup> recognizing that circumstances change over time, BCFIRB recommended that if the Commission determines any changes to its fund distribution plans were necessary, the plans would be approved by BCFIRB based on the following conditions:

- Changes result from a SAFETI-based process;
- Changes adhere to BCFIRB's overarching directions on fund use, accounting and reporting;
- Changes meet legal and sound marketing policy requirements;
- Changes are clearly communicated to producers and all hatching egg stakeholders; and,

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<sup>2</sup> 2015, February 19. BCFIRB. [Disposition of Funds Received from Transfers of Quota to Ontario](#)

- Use of fund monies and rationale are reported publicly.

In its June 2016 decision BCFIRB agreed that use of the Ontario Fund to purchase an office building fulfilled BCFIRB's criteria established in 2000, and amended in 2015 on the conditions that:

- The building purchase resulted in co-location with the Chicken Board; and,
- That any remaining Fund monies continue to be subject to BCFIRB's prior approval conditions.

BCFIRB is satisfied that the use of the Ontario Fund to support a long-term lease continues to accord with its approval criteria as set out in 2000, 2015, and 2016. The additional consultation carried out in December 2019 affirms producer support for investing in a long-term lease. It remains unclear, as in 2016, the extent to which the Commission consulted with other stakeholders given the Fund is to be "used for the benefit of the hatching egg industry".

### **BCFIRB Decision**

BCFIRB approves use of the Ontario Fund to support a long-term office building lease and any necessary improvements based on the condition that the lease results in co-location with the Chicken Board.

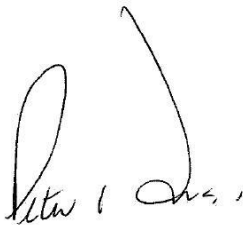
Any remaining Ontario Fund monies continue to be subject to BCFIRB's prior approval conditions.

Commission staff are to work with BCFIRB staff on establishing an effective and transparent system for monitoring and reporting on Fund expenditures.

Administrative decisions made by the Commission in the implementation or application of the Ontario Fund to support a long-term lease – as approved by BCFIRB – are appealable under s. 8 of the *NPMA* within 30 days of a Commission decision.

### **BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD**

Per:

A handwritten signature in black ink, appearing to read 'Peter Donkers', is written over a horizontal line.

Peter Donkers,  
Chair

Cc: Stephanie Nelson  
BCFIRB website