



November 16, 2017

File: 44200-20 BHEC ONFUND

DELIVERED BY EMAIL

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

Dear Mr. Collins:

BC FARM INDUSTRY REVIEW BOARD APPROVAL DECISION – TEMPORARY USE OF THE RESTRICTED (“ONTARIO”) FUND

The BC Broiler Hatching Egg Commission (Commission) filed a prior approval request with the BC Farm Industry Review Board (BCFIRB) on July 19, 2017 to temporarily use the monies in its Restricted Fund to backstop the Avian Influenza (AI) surveillance program and support AI response funding. The approval is requested for the 2017/18 AI season.

Decision Summary

BCFIRB approves the Commission’s request to temporarily use the Restricted Fund in support of the AI surveillance program and in case of an AI outbreak during the 2017/18 season.

Background

The Restricted Fund (Fund) of \$1.183 million arises from the historical transfer (in 2000) of hatching egg production from BC to Ontario. BCFIRB prior approved that transfer with the following conditions:

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.

On December 21, 2015, the Commission requested prior approval to use the Fund to purchase a building that would house staff, equipment, and vehicles.

BCFIRB reviewed the Commission's request in light of principles-based regulation and the SAFETI principles.¹ On June 22, 2016, BCFIRB approved the use of the Fund for the purchase of an office building, on the condition that the purchase results in co-location with the BC Chicken Marketing Board (Chicken Board).² To date, no building has been purchased.

On July 19, 2017, the Commission requested prior approval to temporarily use the Fund in support of AI surveillance and response funding for the 2017/18 AI season.

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 Process

BCFIRB established a two-member panel to consider the Commission's July 19, 2017 prior approval request.

Following an initial review of the prior approval request, the panel informed the Commission on August 29, 2017 that it was prepared to consider the Commissions' proposal. However, before it did so it would require further information. In particular:

1. a brief overview of the Avian Influenza surveillance program;
2. an explanation as to why providing assurance to hatching egg producers that funding to cover initial AI response is key to establishing and supporting an effective surveillance program;
3. an explanation of the current use made of the interest component of the Fund;
4. how the Commission intends to prioritize the use of this fund with the intention to purchase a building with the Chicken Board;
5. the Commission's intention regarding repopulating the Fund should it be used for AI compensation; and,

¹ SAFETI – Strategic, Accountable, Effective, Transparent, and Inclusive

² June 22, 2016. BCFIRB letter: [BC Farm Industry Review Board Prior Approval Decision – Reserve Fund](#)

6. some brief context on how the proposed use of the Fund fits together with the AI surveillance program, the poultry sector work on insurance, and the forthcoming authority to apply administrative penalties.

A comprehensive response to this request was received October 16, 2017.

On October 25, 2017 BCFIRB asked the Commission for further clarification on:

1. the timing gap between the provincial Rapid Response Plan and the federal compensation plan, and any financial gap between any provincial (including Commission) monies and federal monies; and,
2. additional tools the Commission plans to use to reinforce compliance, in the interest of the broader poultry sector.

A full response to these queries was received October 30, 2017.

Analysis

The panel considered the Commission's submission, its responses to the panel's questions and the July 21, 2017 letter of support from the BC Hatching Egg Producers Association (BCHEPA).

The panel agrees that the Commission has made a strong case for the strategic use of its Fund to support an AI surveillance program, and that such a program will be of principal importance to an early AI response. It also agrees that the proposed temporary use of the Fund is "to the overall benefit of the hatching egg industry". The BCHEPA letter of support indicates that the Commission did communicate with, and include producer considerations in its prior approval request (inclusive, transparent).

In its July 19, 2017 submission, the Commission identified a funding gap during those critical first days when AI is detected on a farm. Although the Commission has a contingency fund in place (the Fund for the Unforeseen), it reports that the fund is insufficient at this time to cover worst-case scenario costs. It also states that the Restricted Fund, together with the Fund for the Unforeseen, would provide sufficient monies to address cost concerns related to timely reporting of AI issues.

In its October 16, 2017 response, the Commission makes clear the role of AI surveillance in preventing costly outbreaks and also points out the broiler hatching egg industry's vulnerability to AI infections due to its long production cycle.

The Commission explains that providing assurance of timely compensation to its producers can support early reporting of flock health issues. The assurance of timely compensation is intended to significantly reduce possible disincentives related to monitoring and reporting on flock health. With the Fund on hand, the Commission can assure producers of the availability of timely compensation for bird loss. The Commission wants to encourage participation and compliance in flock monitoring and reporting in addition to any enforcement measures the Commission may choose to exercise. The ultimate goal is to reduce AI impacts on the poultry industry as a whole through early detection and management.

In its October 25, 2017 response, the Commission provides clarification concerning financial and timing gaps. It says that even though the Canadian Food Inspection Agency (CFIA) does have a process and funds in place to address AI outbreaks, the response is not rapid enough. The provincial Rapid Response Plan, on the other hand, aims to destroy infected birds within 24 hours of detection. The Commission adds that the CFIA may not reimburse all of the costs, particularly given challenges in assessing the full value of the breeder birds. With temporary access to the Restricted Fund, the Commission can fill timing and financial gaps, thereby minimizing the time during which affected producers are out of production and reducing negative impacts to the poultry industry as a whole.

The panel recognizes the Commission's strategic commitment to an effective AI surveillance program. In its submission, the Commission points to measures (in place or under development) it employs to manage the risk of AI. These measures include the Fund of the Unforeseen, active exploration of mandatory poultry insurance with the other poultry boards, effective biosecurity measures, and a suite of enforcement authorities. The Commission also indicates its efforts to work collaboratively with industry stakeholders, including the BC Hatching Egg Producers Association, the CFIA, the BC Ministry of Agriculture, the BC Poultry Association, and other poultry marketing boards.

The panel also acknowledges BCFIRB's previous approval of the Fund for the purchase of an office building based on the condition that the purchase results in co-location with the Chicken Board. The Commission told the panel that it continues to work with the Chicken Board on identifying an appropriate building. If such an opportunity does arise, the Commission reports it has access to financing and that temporary use of the Fund for AI emergency response will not prevent the Commission from pursuing a purchase. BCFIRB continues to see this joint endeavour as strategic as it supports information sharing, joint risk management, and the building of stronger industry relations.

BCFIRB Decision

For the reasons set out above, BCFIRB agrees that the Commission's prior-approval request is consistent with sound marketing policy and SAFETI principles. BCFIRB approves the Commission's request to temporarily use the Restricted Fund as additional assurance in support its AI surveillance program and rapid response plan, in the event of an AI outbreak during the 2017/18 season.

BCFIRB expects the Commission to be transparent and accountable in use of the Fund. Use of the Restricted Fund for any purpose other than to support of the AI surveillance program or to purchase a new building with the Chicken Board continues to be subject to BCFIRB's prior approval conditions set out above.

Administrative decisions made by the Commission in the implementation or application of the Fund are appealable under s. 8 of the *NPMA* within 30 days of a Commission decision. 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.”

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:



John Les
Chair



Diane Pastoor
Member

cc: BCFIRB website