



November 28, 2014

File: 44200-00

DELIVERED BY EMAIL

Bill Vanderspek
Executive Director
BC Chicken Marketing Board
101-32450 Simon Ave
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Dear Mr. Vanderspek:

FINANCIAL ACCOUNTABILITY – FOLLOW UP TO DECEMBER 18, 2013 RAINBOW POULTRY LTD ET AL V. BC CHICKEN MARKETING BOARD

The December 18, 2013 BC Farm Industry Review Board (BCFIRB) decision *Rainbow Poultry Ltd. et al v. BC Chicken Marketing Board*¹, addressed whether funding of the BC Chicken Growers Association, as implemented in 2012 by the Chicken Board was authorized within the scope of the British Columbia Chicken Marketing Scheme, 1961 (Scheme).

Although you have been providing updates to this office (as well as participating in reviews at recent meetings of BCFIRB and commodity board executive staff), I have been tasked with requesting the Chicken Board provide a formal update of its progress in meeting the directions provided in the decision. The purpose of this update is not only to provide the BCFIRB board with a detailed recap, but also for use by other commodity boards in support of meeting their own obligations in establishing and maintaining transparent, accountable procedures for the expenditure of funds in support of their produce associations.

As you know, the decision dismissed the appeal regarding the legality of the 2012 funding of the Association. However, the panel also concluded the Chicken Board, as the first instance regulator, needed to satisfy itself that the Association expenses it funds are legally authorized under the Scheme and consistent with sound marketing policy. It agreed with the appellants that when collecting mandatory levies under legislated authority, the Chicken Board is responsible for how that money is used on an on-going basis and has the obligation to be transparent and accountable. To that end, the

¹ December 18, 2013. BCFIRB. *Rainbow Poultry Ltd., Stam's Egg & Poultry Ltd., and V & H Joint Venture v British Columbia Chicken Marketing Board*.

http://www.firb.gov.bc.ca/appeals/chicken/rainbow_et_al_v_bccmb_decision_dec18_13.pdf

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panel directed the Chicken Board to modify its process of approving funding for the Association as follows:

Purposes of the Scheme

The Chicken Board must identify the statutory framework under which it is prepared to fund the Association and clarify any activities or expenses that are either not within the purposes of the Scheme or that it is not prepared to fund as a matter of sound marketing policy. The Chicken Board also needs to identify what supporting documents it requires from the Association to demonstrate that proposed expenditures fall within the purposes of the Scheme.

Budget Process

Currently, to obtain funding the Association submits a draft budget to the Chicken Board for discussion and recommended approval by the Finance and Audit Committee and then final approval by the Chicken Board. Going forward, before the Chicken Board can consider the Association's draft budget, the Chicken Board must have sufficient documentation or explanation from the Association to demonstrate how each activity or category of expenditure fits within the statutory framework and is consistent with sound marketing policy. The draft budget and supporting documents must be sufficiently detailed to allow the Chicken Board to know what activities or categories of expenditure the Association proposes as well as the estimated expense in each case and the basis for the estimate. The Association must also provide an explanation of how those activities and expenditures relate to the purposes of the Scheme and sound marketing policy in order for the Chicken Board to make informed funding decisions within the statutory mandate in relation to the Association's funding request.

Annual Reporting

The Chicken Board currently publishes the Association's audited financial statements in the Chicken Board's Annual Report. However, going forward the Chicken Board must also receive a comprehensive summary from the Association reporting on the past year's activities and expenditures in relation to the approved budget for that year. This Funding and Uses Report must be published in the Chicken Board's Annual Report. The purpose of this Report is to provide a meaningful discussion of what money was received by the Association from the Chicken Board in the past year and how the activities and categories of expenditure in the approved budget for that year relate to the purposes of the Scheme and sound marketing policy, what the money was spent on in reference to the various budgeted activities and categories of expenditure, and what was ultimately accomplished with the funding. As well, the Report is to compare the past year's expenditures with the budgeted amounts for that year and actual expenditures in the prior year. Growers must be given an opportunity to raise questions or concerns and any issues raised are to form part of the Chicken Board's discussions with the Association in the next year's funding process.

Meeting Requirements

The Finance and Audit Committee indicated the intention to review Association expenditures under the approved budget quarterly; however in 2012 this did not occur. In our view, the Chicken Board or the Finance and Audit Committee need to meet at least quarterly with the Association to review budget performance. The purpose of these meetings is to review Association expenditures on a year-to-date basis including variances from the approved budget for the year and from actual expenditures in the prior year. Potential cost overruns need to be identified and addressed in a timely fashion. If required, approvals for

increased funding need to be sought from the Chicken Board. Areas of surplus must be identified and any net surplus as at the end of the year must be returned to the Chicken Board forthwith.

The Chicken Board's report should provide a summary of how these directions have been met to date and what, if any, further steps are required. As indicated above, BCFIRB will be using this information as part of its assessment of the processes employed by other boards, so any 'lessons learned' by the Chicken Board might be helpful for all of us.

Thank you for your attention to this matter and I would be pleased to answer any questions you or your staff may have.

Yours truly,



Katia Gauvin
Issues Management Analyst

cc: Stephanie Nelson, Executive Director
BC Broiler Hatching Egg Commission

Dianne Driessen, General Manager
BC Cranberry Marketing Commission

Al Sakalauskas, Executive Director
BC Egg Marketing Board

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BC Hog Marketing Commission

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Tom Demma, General Manager
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BCFIRB website