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## BC Farm Industry Review Board

May 20, 2024

Peter Pokorny  
Deputy Minister  
Ministry of Agriculture and Food  
[Peter.Pokorny@gov.bc.ca](mailto:Peter.Pokorny@gov.bc.ca)

Dear Peter:

**Re: Farmed Animal Welfare Recommendations Report**

I am writing in relation to the Deputy Minister of Agriculture and Food's Advisory Committee (Committee) on Farmed Animal Welfare, and the Committee's Recommendations Report on steps the BC Government can take to improve the welfare of farmed animals in BC.

Further to its release, the BC Farm Industry Review Board (BCFIRB) reviewed the Committee's report, and noted two of the nine recommendations relate to BCFIRB roles and responsibilities:

- ***Recommendation #1:*** Conduct a review of the current seizure appeal process, in which the Farm Industry Review Board is the tribunal and consider setting up a separate animal appeal tribunal that specializes in seizure dispute appeals in order to create a more efficient process; and
- ***Recommendation #2:*** Work with stakeholders to identify "unaffiliated" livestock producers and commence inspections of them to ensure minimum animal welfare standards are met.

I understand BCFIRB staff were instrumental in helping the Ministry of Agriculture and Food (Ministry) develop its Farmed Animal Welfare Legislative Framework (Framework) policy document, which supported the work of the Committee. While BCFIRB was not invited to participate in the Committee, the Committee's consultant, Alex Grzybowski, met with myself and our Executive Director to learn more about BCFIRB's role in farmed animal welfare. He assured us that, given BCFIRB's related mandates, our input would be sought on any draft Committee recommendations before they were released. This did not occur.

Given our tribunal mandates and the two recommendations above, I offer the following information as you continue to work with your Committee and contemplate next steps for the Ministry.

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### **Committee Recommendation #1**

As noted in the Ministry's Framework document, BCFIRB is the independent administrative tribunal that hears appeals of animal seizures by the British Columbia Society for the Prevention of Cruelty to Animals (BCSPCA) under the Ministry's *Prevention of Cruelty to Animals Act* (PCAA).

#### Animal Seizure Appeals Under the PCAA

The appeal provisions in the PCAA allow individuals an opportunity to appeal the seizure of their animals by the BCSPCA and the costs that accrue to the BCSPCA for the care of their animals while in the BCSPCA custody. It is important to note that under section 20.3 of the PCAA, animal seizure appeals have two parties, the Appellant and the Respondent. In PCAA animal seizure appeals, the BCSPCA, who has seized and has custody of the animal, is the Respondent. It seems highly unusual to BCFIRB that your Committee, the membership of which includes the BCSPCA who is the Respondent in animal seizure appeals, would make a recommendation about the efficiency of the animal seizure appeal process, without seeking any related information from the administrative tribunal responsible for the appeals process.

BCFIRB would be pleased to share with your Committee and the Ministry our animal seizure appeals process data, and our procedures and timelines, which we also publicly post. Under BC's *Administrative Tribunals Act* (ATA), BCFIRB is required to establish and make publicly available its practice directives that include process timelines. Per the ATA, BCFIRB may and has chosen to establish our rules of practice and procedure that describe the steps we take prior to, during, and after an appeal hearing, and we publicly post this information as required. We also post all tribunal written decisions of PCAA animal seizure appeals.

#### BCFIRB Timelines for Hearing PCAA Appeals

BCFIRB's publicly posted practice directives define and align our tribunal appeal process timeline with the timelines established in the PCAA. A key goal is and has always been *just and timely hearings* further to the authority accorded to us as an administrative tribunal under the ATA:

#### *General power to make rules respecting practice and procedure*

**11** (1) Subject to an enactment applicable to the tribunal, the tribunal has the power to control its own processes and may make rules respecting practice and procedure to facilitate the just and timely resolution of the matters before it.

By the time BCFIRB receives an animal seizure appeal application, the seized animals have already been in the custody of the BCSPCA for up to 28 days, and up to an additional four days – the period of time during which an individual can appeal the BCSPCA's seizure – as set out in the PCAA. BCFIRB's practice directive timelines were established with a full understanding of the need for a just and timely PCAA appeals process in accordance with the ATA, and through consultation with the Ministry of Agriculture and Food.

To that end, BCFIRB's practice directive concludes the full PCAA appeal process within 29 business days of the date an appeal is filed with BCFIRB. Appeal process steps include 'perfecting' the appeal and working with PCAA appellants to receive their filing fee as established in the PCAA Regulation by the Ministry, the establishment of a BCFIRB tribunal panel to hear the appeal, one or more pre-hearing conferences between BCFIRB's panel and the parties (the Appellant and the Respondent), full document disclosure by both parties including sworn affidavits and/or other information as required, approval of the witness lists (including expert witnesses) for the hearing, holding the hearing, and the issuance of a written decision on whether the animals were abandoned or in distress when taken into custody, and whether they will be returned to the Appellant with or without conditions.

#### Farmed Animal Seizure Appeals Under the PCAA

We would be pleased to share with the Committee and the Ministry data and other information about farmed animal seizure appeals in comparison to non-farmed animal seizure appeals under the PCAA. It may be helpful to know that more than three-quarters of the animal seizure appeals BCFIRB has heard since its PCAA mandate began in 2013 did not involve farmed animals. Of BCFIRB's 142 animal seizure appeal hearings since 2013, 32 have included farmed animals (cows, horses, pigs, goats, chickens, etc.), often in combination with non-farmed animals. Additionally, almost every one of the 32 appeals related to farmed animals being raised in a small scale or hobby setting, as opposed to a commercial agricultural enterprise.

Of the 32 PCAA appeals heard by BCFIRB that involved farmed animals, 90% (29) of BCFIRB's decisions were released within BCFIRB's practice directive timeline of 29 days, with the remaining 10% (6) being issued within 35 days. BCFIRB maintains no backlog of PCAA appeals, and almost every BCFIRB PCAA hearing is concluded within one day.

Given BCFIRB's ten years' experience hearing animal seizure appeals under the PCAA, we welcome the opportunity to share lessons learned as the Ministry considers the Committee's recommendations, further work it may ask the Committee to undertake, and the Ministry's own work to identify policy, legislative, regulatory and administrative tribunal changes that align with the Ministry's goals for farmed animal welfare.

Further, and as I shared with you previously, BCFIRB's Strategic Plan 2024 to 2027 includes BCFIRB undertaking a review of the effectiveness of our PCAA practice directives and rules of practice and procedure and completing a 10-year retrospective review of BCFIRB's PCAA mandate. I anticipate that following our review, BCFIRB will have recommendations to share with the Ministry including potential improvements to the PCAA and Regulation.

#### **Committee Recommendation #2**

As you know, BCFIRB is the provincial supervisor of BC's eight regulated marketing agricultural commodity boards and commissions per BCFIRB's mandate under the *Natural Products Marketing (BC) Act* (NPMA). Five of these eight regulators administer a type of small lot producer program, which they report on annually through BCFIRB's Public

Accountability and Reporting Project (PARP). As per our Strategic Plan 2024 to 2027, BCFIRB is keenly interested in the effectiveness of the biosecurity efforts of these boards and commissions and is currently increasing PARP compliance and enforcement reporting on biosecurity programs, many of which include elements of farmed animal welfare.

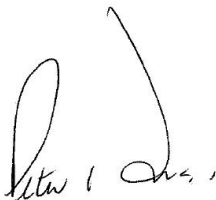
Each of the boards and commissions are unique and play an important role as agriculture industry regulators. They have excellent information to share and are a strong asset of BC's farmed animal welfare framework. While only one representative of a board or commission was invited to sit on your Committee, their role in farmed animal is important and I encourage the Committee and the Ministry to work more closely with them and BCFIRB as the Ministry develops future changes to the tracking of unaffiliated livestock producers.

*Request for Information and Meeting with the Deputy Minister*

As BC's administrative tribunal under the NPMA, BCFIRB hears appeals of board and commission decisions and orders; these appeals could relate to compliance and enforcement pertaining to biosecurity programs. As BC's administrative tribunal under the PCAA, BCFIRB hears appeals of farmed animal seizures. We anticipate the Committee's recommendations may raise questions with respect to BCFIRB's role as an independent administrative tribunal in these settings, including the efficiency of our processes. Information you can provide to BCFIRB now will help us answer questions and ensure our administrative tribunal work can continue efficiently and effectively.

To this end, I would like to invite you to attend an upcoming BCFIRB meeting to speak with us about your Committee's recommendations and future work, the Ministry's anticipated next steps, and any further information you can share with us.

Yours truly,



Peter Donkers  
Chair  
BC Farm Industry Review Board

Cc: Honourable Pam Alexis, Minister of Agriculture and Food  
Eric Kristianson, ADM, Ministry of Agriculture and Food  
Al Sakalauskas, Chair, BC Egg Marketing Board  
Bill Vanderspek, Chair, BC Broiler Hatching Egg Commission  
Kevin Klippenstein, Chair, BC Chicken Marketing Board  
Kalpna Solanki, Chair, BC Turkey Marketing Board  
Janice Comeau, Chair, BC Milk Marketing Board  
Bonnie Windsor, Chair, BC Hog Marketing Commission  
Martha Anslow, Executive Director, BCFIRB