

# Hunter Litigation Chambers

HUNTER / McEWAN / KAARDAL / SMART

June 30, 2017

File No: 2141.001

## By Email

British Columbia Farm Industry Review Board  
780 Blanshard Street (1<sup>st</sup> Floor)  
Victoria, BC V8W 2H1

**Attention: Wanda Gorsuch**

Dear Sirs/Mesdames:

**Re: *British Columbia Broiler Hatching Egg Commission – Supervisory Review re: Regulation of Specialty Hatching Egg Production***

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We write on behalf of Skye Hi Farms Inc., Casey van Ginkel dba V3 Farms and Bill Friesen and Lillian Fehr dba W Friesen Enterprises (the “appellants”) in respect of the above-captioned matter and the outstanding appeals #16-12, 16-13 and 16-14 (the “Appeals”). The background to the Appeals is lengthy and will not be set out completely here.

In brief, on June 24, 2016, the British Columbia Broiler Hatching Egg Commission (the “Commission”) released a Recommendation Report that it would not be regulating specialty hatching egg production. That Recommendation Report was provided pursuant to a March 29, 2016 decision of the British Columbia Farm Industry Review Board (“BCFIRB”) in *Skye Hi Farms et al. v. British Columbia Broiler Hatching Egg Commission*, which required that the Commission take certain steps including providing a report to stakeholders and BCFIRB within 90 days of the decision setting out its recommendations with respect to regulation of the specialty hatching egg sector. The appellants filed appeals from the June 24, 2016 Recommendation Report but on August 16, 2016, BCFIRB determined those appeals from the Recommendation Report were not properly before them as the Recommendation Report was not a “decision or determination” within the meaning of section 8 of the *Natural Products Marketing Act*.

On August 19, 2016, the Commission requested “prior approval for the exclusion permit program of the Asian Breeder Producers”. The Appeals were then filed from the decision to make that request. On September 15, 2016, BCFIRB wrote to the Commission to advise that the August 19, 2016 prior approval request would be considered as part of a supervisory review. The following day, the consideration of the Appeals was “deferred until the conclusion of the supervisory process established in BCFIRB’s letter dated September 15, 2016”.

The BCFIRB website includes a section entitled 2017 Review of Asian Hatching Egg Production Regulation, which sets out a three phase review process culminating in Phase 3: Prior Approval Assessment, which is described as “Commission to submit its final prior-approval report with recommendations to BCFIRB on June 26, 2017 (extended from June 12, 2017)”. The appellants are not aware of any hearing having been scheduled or other process having been established through which they (or any other stakeholders) might make submissions to BCFIRB in respect of the prior-approval request.

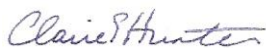
The appellants have seen a copy of a document entitled BCBHEC Recommendation to BCFIRB Regarding the Asian Breeder Sector, dated June 28, 2017. The recommendation in that document appears in substance to be the same as the recommendations made by the Commission on June 24, 2016 and again on August 19, 2016. Given the lengthy delays in the Commission’s process, the Appeals remain in abeyance over a year after the first Recommendation Report with the appellants having had no opportunity to be heard by BCFIRB either within the appeal or supervisory review processes.

The appellants continue to object to the substance of the recommendation made by the Commission seek an opportunity to be heard by BCFIRB in that regard whether in the context of the Appeals or the supervisory review.

Yours truly,

Hunter Litigation Chambers

Per:



Claire E. Hunter

CEH/RJR

cc. Robert Hrabinsky (by email)  
Christopher Harvey, Q.C. (by email)  
Wendy Baker, Q.C. (by email)