

May 17, 2005

**BC Farm Industry Review Board**

Richard Bullock, Chair  
PO Box 9129, Stn. Prov. Govt  
Victoria, BC  
V8W 9B5

Dear Mr. Bullock;

Thank you for your letter of April 18, 2005. We are pleased to learn that the BC FIRB considers our proposed Amending Order and New Producer Program (Schedule 1) to be sound.

Our response to the comments and questions set out in your letter is as follows:

1. Provide statistics and an analysis of total quota issued and outstanding, production volumes allocated, changes in hen productivity, and changes in average broiler chicken market weights over the past 5 years.

**ALLOCATION FOR BC - Chicken & Hatching Eggs**

Year	Chicken	Meat - to - egg ratio	Hatching Eggs (domestic)
	growth +/-		
1999	120,257,000 kgs	1.06758	101,881,426
	15.50%		8.90%
2000	138,908,961 kgs	1.07723	110,939,798
	-0.008%		0.00078%
2001	137,782,653 kgs	1.04082	111,026,214
	4.42%		-1.54%
2002	143,867,777 kgs	1.08639	109,345,185
	2.25%		1.31%
2003	147,100,272 kgs	1.0964	110,781,273
	3.67%		1.28%
2004	152,489,094 kgs	1.1222	112,199,344

Note: The chicken growth is a bit misleading as it's based on kgs and not birds. As you can see hatching egg production for chicken is approx. 50% of chicken growth. Chicken is strictly based on kgs and not chicks placed.

Future growth seems to indicate that National growth will be around 2% in chicken which gives hatching eggs close to 1% annual growth.

Our production volume is partially controlled by the "kill age" determined by the Commission. In the recent past, the Commission directed a kill age of 57 weeks to account for increases in production efficiencies (eggs per bird placed). Today, we are striving for a 60 week kill age.

It is important to note that the Commission does not closely follow the period-by-period allocation system employed in the chicken industry. Because of the life span of our birds, current hatching egg production levels reflect decisions made 18 months earlier. Consequently, future hatching egg requirements cannot be accurately estimated solely by having regard to current conditions in the chicken industry. Therefore, the Commission looks to the National Chicken Allocation growth (year past over projected year) to determine a "meat to egg ratio" which we use to forecast demand for the following year.

As at March 2005, the growth in chicken is projected to be around 2% for the year. This means that hatching egg production should increase by approximately 1% to meet demand. This does not mean that more birds will be placed. Instead, the Commission will increase the kill age, if necessary, to achieve this 1% increase in production.

The industry seems to have peaked with respect to large growth issuances for Canada. The Commission is confident that future growth will be within the range of 1% to 2% for the next few years. Therefore, it will be several years before the industry recovers from its present 12% cutback in placements.

2. What is the amount of growth allocation that has been issued to quota holders as transferable Placement Quota units over the past fifteen (15) years?

The Commission is unable to provide statistics for the past 15 years. However, set out below is a chart detailing the amount of growth allocation for British Columbia (chicken and hatching eggs) since 1999.

Year	2 yr. Quota	Issuance	Hen production
99 /00	1,698,582 birds	114,200 (new)	130 egg/per quota bird placed
01/02	1,812,782 birds	no issuance	133 egg/per quota bird placed
03/04	1,722,143 birds	5% cutback (04)	138 egg/per quota bird placed
05/06	1,592,248 birds	12% cutback (05)	145 egg/per quota bird placed

3. Explain how the Production Permit proposed for new entrants will compare and contrast with Placement Quota. Where the policies and procedures differ, explain the rationale for the difference. Specifically, address the matter of renewal every quota period and consider the option to provide for vesting of Production Permit to Placement Quota after a certain number of successful renewals.

Fundamentally, "production permit" differs from "placement quota" in this respect only: "placement quota" is transferable; while "production permit" is not. The term "production permit" is employed to underscore this fundamental difference, and to help protect the interests of unsuspecting third parties. For example, we are aware of one instance (occurring in another commodity) where a program participant fraudulently "transferred" non-transferable quota to an unsuspecting third party. Unfortunately, that third party had paid full value for what he thought was "quota". The concept of "annual renewal" is similarly employed to underscore the necessity for participants to abide by the rules of the program. We believe that program participants are less likely to engage in impermissible transactions if they have in mind the possibility that their breach may result in a decision not to renew the production permit. Notably, this concept differs little from the principles applicable to "placement quota". Even where a producer has acquired placement quota by purchase, it remains a revocable license to produce that may be taken away by the Commission in the event of breach. Please note, however, that the program expressly provides that production permit "will" be renewed every quota period if the program participant is compliant with the program rules.

The proposed New Producer Program does provide for the surrender of production permit where a new entrant sells transferable quota acquired by purchase or by general allotment, except in the event of financial distress. The rationale for this concept is simply this: the program is intended to provide assistance to those who need it. New entrants who do not "need" quota that they have acquired should be obligated to surrender the production permit so that it may be made available to other new entrants who do "need" that assistance.

The concept of "vesting" proposed by the BC FIRB requires some additional comment.

As you know, the terms of the New Producer Program were specifically developed by the Commission to allow participants to establish economically viable production units. Consequently, we do not believe that there is a need, or a compelling rationale to create two classes of producers – one of which is to be given the privilege of realizing a significant monetary gain from the sale of quota not acquired by purchase. On the contrary, we believe that the provision of transferable quota will invite abuses of the program, and we believe that the objective of quota re-distribution strays beyond the true mandate of the Commission.

It has been suggested that the vesting of transferable quota is justifiable as a means of recognizing demonstrated commitment and performance by new entrants who have proven themselves over a period of years. The Commission does not believe that a principled application of this rationale will provide a basis to distinguish new entrants from existing producers. In other words, if the privilege of realizing a significant monetary gain from the sale of quota not acquired by purchase is to be conferred on the basis of demonstrated "commitment and performance", what justification could there be for denying that privilege to existing producers? Existing producers might successfully argue that they have demonstrated greater "commitment" than "new entrants" by actually investing significant funds to purchase

quota as a means to produce. In summary, the Commission is of the view that it is not tenable to support the vesting proposal on the basis that existing producers (who have been in production for some period of years) demonstrate less commitment and performance than new entrants.

The Commission is aware that one of the arguments frequently advanced by persons seeking "free quota" is that most existing broiler hatching egg producers acquired quota at no cost when the Scheme was first promulgated. For the record, it is important to note that virtually all of our existing producers acquired quota by purchase. Specifically, our records indicate that 56 of our current producers (out of a total of 60) were themselves "new entrants" who purchased quota at their own cost as a means of engaging in the business of producing broiler hatching eggs. We feel that it is important to state that the development of the New Entrant Program (at the direction of the BC FIRB) should not be taken to suggest that there are (or were) any meaningful barriers to entry in the industry. In other words, we submit that there are no barriers to entry in the broiler hatching egg industry that would justify the vesting proposal.

The Commission holds firm to the view that the provision of transferable quota, or quota that will become transferable, will invite serious abuses of the program. Past experience demonstrates that this approach attracts persons whose main interest is in realizing short-term profit from the disposition of quota. We believe that these kinds of abuses are inevitable, whether the quota provided is immediately transferable or transferable at some later date. In the latter circumstance, there are instances where "new entrants" are believed to have immediately (and surreptitiously) transferred their production right upon entry into the program. Abuses of this nature, of course, come at the expense of persons who sincerely desire to engage in the business of producing broiler hatching eggs. We invite you to contact us should you require additional details of these suspected, illicit transactions.

Finally, it is our observation that the "vesting" proposal seems to be driven by the desire to achieve some form of quota re-distribution. We hold this view simply because there is no other apparent rationale for the proposal. The issue of "vesting" seems to concern individuals, not industries. Though these matters may raise real political issues, the Commission does not typically concern itself with the comparative equities among persons who enjoy a financial interest in a production right and those who do not. Because the Commission's mandate is prescribed by regulation, the Commission typically focuses on administering the prescribed quota system, ensuring compliance, and satisfying the twin objectives of maintaining stability and meeting the demands of the market. To the extent that the objective now is to achieve some form of quota re-distribution among individuals, we believe that the objective strays beyond the Commission's mandate. Further, we believe that this is an objective that can never truly be satisfied. Whether the regulatory system concerns the right to produce broiler hatching eggs, the right to fish, the right to drive a taxi cab, or the right to sell auto insurance, there will necessarily be some who enjoy the right, and some who do not, regardless of the extent of any re-distribution effort. The issue of "who" should enjoy that right, and "who" should not, is largely political in nature, and beyond the scope of the Commission's mandate to "promote,

regulate and control in any and all respects, the production, transportation, packing, storing and marketing" of broiler hatching eggs and chicks.

4. Explain how the allocation for Production Permit will compare and contrast with allocation to Placement Quota presently and as envisioned in the future.

New producers under the Commission's program are entitled to growth allocations in the same manner, and to the same extent, as any other producer.

5. Provide an analysis and discussion of the proposed transfer assessment, including a listing of exceptions to transfer assessment and calculation of the amount of quota that would have been realized by the Commission had the proposed amended assessment been in effect over the past five (5) years.

The New Producer Program expressly provides for a 5% assessment on all quota transfers. Only transfers to a spouse or to children are exempt from the transfer assessment. The Commission submits that this limited exception to the transfer assessment is consistent with the objective of supporting the "family farm" within British Columbia. We do not expect that this exception will have any material bearing on the volume of quota surrendered to the Commission.

The following is the amount of quota transferred in the past 6 years:

1999	-	270,884	birds transferred
2000	-	122,900	birds transferred
2001	-	127,750	birds transferred
2002	-	158,000	birds transferred
2003	-	50,600	birds transferred
2004	-	85,100	birds transferred

For quota period 1999/2000, assessments on transfers would have generated 19,689 units of quota for allocation under the program (2 new growers of 10,000 birds each) for the 01 /02 quota cycle.

For quota period 2001/2002, assessments on transfers would have generated 14,288 units of quota for allocation under the program (1 new grower of 10,000 birds) for the 03 /04 quota cycle.

For quota period 2003/2004, assessments on transfers would have generated 6,785 units of quota, which would not be sufficient to invite a new entrant for the 04 / 05 quota cycle. However, there would be a carry-forward of 4,288 birds from the previous (01 / 02) period which together with the carry-forward from the last period (03 / 04) would be sufficient to invite a new entrant for the 05 / 06 quota cycle.

6. Provide details concerning the waiting list, including the number foreseen to be continuing on the list after it has been sanitized in accordance with the new criteria. Discuss the options for the new program waiting list including starting over, numbers on the list, and access to the list.

We have further revised our New Producer Program to provide for a list of only 10 names. On each occasion that the list is reduced to 5 names, the Commission will invite persons to submit applications. A lottery will be conducted to select 5 names from the pool of applicants to "refresh" the list back to 10 names.

Sincerely;

A handwritten signature in dark ink, appearing to read "Bruce Cook". The signature is stylized with a large, circular flourish at the beginning.

Bruce Cook, Chair