



BC FARM INDUSTRY  
REVIEW BOARD

May 29, 2025

File: F2504

**DELIVERED BY EMAIL**

Ulrich Jaeckel  
[REDACTED]

Gobind Farms  
Satnam Dheensaw  
[REDACTED]

Dear Parties:

**A COMPLAINT FILED UNDER THE FARM PRACTICES PROTECTION (RIGHT TO FARM) ACT CONCERNING NOISE AND EXCESS RUNOFF WATER**

The British Columbia Farm Industry Review Board (BCFIRB) received a complaint and filing fee from Ulrich Jaeckel (the Complainant) on March 26, 2025 alleging that he is aggrieved by disturbances related to noise, improper storage of a diesel cistern, and excess water runoff arising from drainage alterations and the operation of a water pump on a neighbouring farm, Gobind Farms (the Respondent), operated by Satnam Dheensaw.

On April 15, 2025, the Respondent applied for summary dismissal of the complaint pursuant to Rule 7(1)(b) of the Rules of Practice and Procedure for Complaints (Rules) under the *Farm Practices Protection (Right to Farm) Act* (FPPA), and sections 31(1)(b) and (g) respectively of the *Administrative Tribunals Act* (ATA) asking BCFIRB to dismiss the complaint as it was not filed within the applicable time limit, or alternatively that the substance of the complaint has been appropriately dealt with in another proceeding.

By email on April 15, 2025, BCFIRB established a submission process to give the Complainant an opportunity to respond to the summary dismissal application and for the Respondent to reply to any new issues raised in the response. I have now reviewed those submissions.

**Summary Dismissal Application**

The Respondent submits that the complaint should be dismissed under section 31(1)(g) of the ATA as the substance of the complaint is being litigated in the Supreme Court of British Columbia in *Gobind Farms Inc et al v Jaeckel et al*, BCSC Victoria Registry Action No. S223424. The trial is tentatively set for October 2026.

The Respondent further submits that the complaint should be dismissed under section 31(1) (b) of the ATA for not being filed within the applicable time limit since the two-year limitation period had expired as per the *Limitation Act*, SBC 2023, c13. The Respondent submits that the dispute started a few months after the November 2021 atmospheric

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river event which occurred in the southern coastal region of British Columbia, and the subsequent civil action filed with the Supreme Court on November 1, 2022. In that action, the Complainant filed a counterclaim on December 15, 2022 which included a claim for nuisance for the matters described in the Notice of Complaint and also sought orders for specific injunctive relief which reflect the relief being sought from BCFIRB. The Respondent says the two-year limitation period expired well before the complaint was filed with BCFIRB in March 2025.

Alternatively, the Respondent submits that if the complaint is not dismissed, it should be stayed under Rule 7(1) pending the determination of the Supreme Court litigation.

### **The Complainant's Response**

The Complainant has submitted that the complaint should not be deferred while litigation is proceeding at the Supreme Court, and implicit in that submission is the Complainant's position that the complaint should not be summarily dismissed. The Complainant submitted that there is no merit to the legal claims made by the Respondent in those proceedings, therefore, the complaint filed with BCFIRB should not be hindered.

The Complainant's response to the summary dismissal application identifies the following orders that it is seeking from BCFIRB through the complaint process:

- Gobind Farms to adhere to the "Good Neighbour" farm practices and establish a relationship and communication with the neighbouring property owners;
- Gobind Farms to stop pumping stormwater towards any neighbouring properties;
- Gobind Farms to remove the diesel cistern positioned on unprotected soil within 30m from the neighbouring property without any precautionary safeties and spillage preventions;
- Gobind Farms to work with the Municipality of North Saanich to find a long-term solution for their farm operation and directing the excess stormwater into proper municipal drainage ditches/channels.

The Complainant included two videos in its response submission which purportedly show the water pump on the Respondent's property pumping water near the shared property line.

### **Respondent's Reply**

In reply, the Respondent submitted that the Complainant did not address the grounds set out in the dismissal application. Specifically, the Complainant did not address the expiration of the limitation period and did not contest that the substance of the complaint was included in ongoing proceedings in the Supreme Court.

The Respondent further submitted that the videos provided by the Complainant were not relevant to the dismissal application but did indicate that the Respondent was in fact following normal farm practices by pumping water into a ditch and not flooding the Complainant's property.

The Respondent reiterated that the complaint must be summarily dismissed under Rule 7(1)(b) of the *Rules* or, in the alternative, stayed under Rule 7(1) of the *Rules*.

## Analysis

### Expiration of Limitation Period

Rule 7(1) of the *Rules* reads as follows:

- (1) A party may file with BCFIRB a pre-hearing application to:
  - (a) vary the application of one or more of these Rules,
  - (b) summarily dismiss a complaint (ATA, s. 31)
  - (c) adjourn the hearing of a complaint (ATA, s. 39(2), Rule 13)
  - (d) address a jurisdictional issue, or
  - (e) address any other interim or procedural matter

When BCFIRB hears farm practices complaints, the additional ATA powers set out in FPPA section 11.1 apply:

11.1 (1) For the purposes of carrying out its powers and duties under this Act, the following provisions of the Administrative Tribunals Act apply to the board...:

- (a) Part 4 [Practice and Procedure], except the following:

...(vi) section 31(1)(b) [summary dismissal for not filing within time limit]

(emphasis added)

The FPPA specifically excludes the summary dismissal of a farm practices complaint for not having been filed within a time limit, and the FPPA does not include a particular time limit with respect to filing a complaint. The purpose of the legislation is to address farm operations undertaken by a farm business that are not in accordance with normal farm practices. Practices by their nature are not singular events; they are ongoing. If the practices being complained of are found to be not in accordance with normal farm practice, then BCFIRB will order the practice to be ceased or modified to alleviate the impact of the disturbance on neighbours going forward. When a particular practice may have commenced is not determinative of whether a person is aggrieved by a disturbance.

The *Limitation Act* applies to court proceedings, not to administrative proceedings unless a tribunal's governing enactment includes reference to the *Limitation Act*. The *Limitation Act* is not referenced in the FPPA for the reasons noted above, and in fact the FPPA specifically excludes summary dismissal of a complaint for not having been filed within a time limit. As such, the Respondent's application for the complaint to be summarily dismissed based on the expiration of the two-year limitation period under section 6(1) of the *Limitation Act* is dismissed.

### Concurrent Proceedings

Section 31(1)(g) of the ATA reads as follows:

- 31 (1) At any time after an application is filed, the tribunal may dismiss all or part of it if the tribunal determines that any of the following apply:
- ...  
(g) the substance of the application has been appropriately dealt with in another proceeding.

The instance in which a complaint would be dismissed pursuant to section 31(1)(g) would be one in which a decision had already been rendered in another proceeding and the complainant was seeking to relitigate a matter in another forum where it had been substantively adjudicated. That is not the case with respect to this complaint as the Supreme Court action is ongoing and is not scheduled for trial until the fall of 2026.

The Respondent's alternative submission is that the complaint process should be stayed until the Supreme Court action has completed as the substance of the complaint is captured in the Complainant's counterclaim in that proceeding.

BCFIRB has no specific authority to stay or defer a proceeding under the FPPA or the *Rules*. However, BCFIRB can adjourn the hearing of a complaint pursuant to Rule 7(1)(c) and Rule 13 of the *Rules* on the application of a party or on its own initiative. Rule 13(4) reads as follows:

- (4) In deciding whether or not to grant an application for adjournment, BCFIRB will take into account the following factors:
- (a) the reason for the adjournment;
  - (b) whether the adjournment would cause unreasonable delay;
  - (c) the impact of refusing the adjournment on the other parties including any interveners;
  - (d) the impact of granting the adjournment on the other parties including any interveners;
  - (e) the impact of the adjournment on the public interest.

Having considered the parties' submissions and having reviewed the pleadings filed in the Supreme Court action, I agree with the Respondent's submission that this complaint should not be heard until such time as the Supreme Court action has completed. While the Respondent framed their alternative submission as a "stay", and the Complainant referenced a "deferral", the result of granting an adjournment pursuant to Rule (13) provides the same legal result. In making the decision to adjourn the complaint I note as follows:

- The FPPA limits nuisance complaints against farmers and provides a process for the consideration of those complaints. While BCFIRB is tasked with hearing nuisance complaints brought against farmers by their neighbours, it does not have sole jurisdiction in determining whether a farm practice accords with normal farm practice and in making related orders. Under section 2 of the FPPA, the Supreme Court has jurisdiction to consider a farm's normal farm practice defense made in response to nuisance actions and/or injunctive relief as part of civil actions which may also include other claims.

- In this case, the Complainant has counterclaimed in nuisance in the Supreme Court action and is seeking injunctive and other relief that mirror the orders being sought through his Notice of Complaint filed with BCFIRB. Any decision made by BCFIRB, and any findings made as part of that decision would be limited to the very narrow issue of whether the Complainant was aggrieved by the practices of the farm and whether an order ceasing or modifying a particular practice was warranted. This decision would not bind the Supreme Court in the civil action and thereby raises the possibility of conflicting findings and inconsistent orders.
- The complaint proceeding would likely not be completed until the end of 2025, at the earliest. While that represents a shorter time frame than what is currently contemplated in the Supreme Court action, the delay between orders being made by BCFIRB and the Supreme Court would likely only be one growing season. In the interim, if circumstances warrant, the Complainant has the option of seeking interlocutory relief from the court.
- In these circumstances, proceeding with the complaint risks inconsistent findings, procedural inefficiency, and the unnecessary expenditure of resources by the parties and by BCFIRB. Courts and administrative tribunals generally avoid the multiplicity of proceedings for exactly these reasons.

I am satisfied that it is in the interests of justice and procedural economy to adjourn this complaint proceeding generally, pending resolution of the related Supreme Court action.

### **Decision**

I order that this complaint proceeding be adjourned generally, without prejudice to any party's right to apply to BCFIRB for further directions should circumstances materially change.

Either party may apply to lift the adjournment if the Supreme Court action has been resolved or discontinued, or if other circumstances arise that would justify resuming this proceeding

Dated at Victoria, British Columbia this 29<sup>th</sup> day of May, 2025.

### **BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD**

**Per:**

A handwritten signature in black ink, appearing to read 'Gunta Vitins', is written over a faint, light blue watermark of the British Columbia Farm Industry Review Board logo. The signature is fluid and cursive.

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Gunta Vitins  
Chair, BC Farm Industry Review Board