



# BRITISH COLUMBIA CATTLEMEN'S ASSOCIATION

Representing the Beef Cattle Industry of British Columbia

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February 23, 2024

**Hon. Nathan Cullen**  
**Minister of Water, Land and Resource Stewardship**  
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BCCA File: 2024-011  
SENT BY EMAIL

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**RE: Land Act Announcement & Joint-Decision Making**

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Thank you for meeting with the BCCA Board of Directors and staff on February 6<sup>th</sup> to discuss, and answer questions on, the proposed *Land Act* amendments. We appreciated your candor and sincerity in our discussion.

Your recent announcement demonstrates that you listened to our members' concerns. We fully support your decision to take additional time to engage with stakeholders on these matters. Thank you.

BC's Ranchers remain deeply concerned that:

- (a) Co-management is an enormous change to the legal relationship between British Columbia and its Indigenous communities. It exceeds the current obligations of British Columbia to its Indigenous communities as set out in Supreme Court of Canada case law and seems to affect an unprecedented transfer of elected government jurisdiction to Indigenous communities;
- (b) Joint decision-making on decisions involving Crown resources will affect our ability to continue raising beef cattle in British Columbia. Like other resource sector businesses, Crown tenures, in our case for grazing and water, are essential for continued cattle ranching businesses to exist in BC as they now do;
- (c) Consultation and transparency regarding the amendments to the Land Act and such other acts, such as the Forest and Range Practices Act under Bill 23 have been inadequate. Amendments of this magnitude should have a set procedure on how to consult with stakeholders, ensuring that their voices are heard on proposed changes, and then consulted with again once the draft legislation is prepared to ensure there was no misunderstanding of a stakeholders' position;
- (d) While government has indicated that it is motivated to reduce the amount of litigation relating to aboriginal law issues, it seems unlikely that amendments such as were proposed for the *Land Act* will accomplish this. As to the wish to avoid litigation, and given that nothing changes on the consultation requirement for government per the *Haida* decision from 2004, the alleged failures of which have produced much of the recent litigation, we are skeptical about the likely success of this rationale for the initiative; and
- (e) Government workers in decision-making roles simply defer to expressed Indigenous community interests as their lowest risk option. This is an abdication of government responsibility although one can understand the pressure these mid-level government workers are facing.

At this point, our Board of Directors asks for further clarification on the following:

1. Since UNDRIP deals exclusively with the interests of Indigenous community members and has no mechanism for balancing those interests and the interests of other members of the society, please provide specific detail of the Province's strategy to ensure that those interests are balanced throughout the process of government

decision-making and broader societal engagement. **How exactly does the Province propose to see that the interests of Indigenous community members and those of the larger society remain balanced?**

2. There is a lack of clarity as to whether, and in what circumstances, Indigenous communities will be statutory decision makers, or not, under this initiative. We note that while judicial review of statutory decision makers' decisions is theoretically possible, it is generally a review of process only, not of the correctness of the decision; and given concerns about the required level of transparency and the Courts' tendency to defer to statutory decision makers, the utility of judicial review for these decisions is more theoretical than real. **How will the province ensure a sound decision is made in the greater public interest?**
3. In the context of Indigenous community decision makers who will be located in the area affected by the decision, it would seem that conflicts of interest will be a significant problem. **What steps is the Province going to take to ensure that Indigenous community members will not have conflicts of interest in relation to the initiatives that they are asked to co-manage, and that there is complete transparency around the decision-making process?**
4. **If there is an absence of consent with consequent loss of tenure or licensing, what if any further processes will be stipulated by government to try to resolve the absence of consent?**
5. **In those circumstances, what are the intended compensation or mitigation strategies of government to ameliorate the resulting economic effects on ranch operations?**
6. In the consultation process you have assured stakeholders that tenures and renewals would not be affected by the implementation of the land act amendments. **In the event these changes to the legislation go forward, how will the province limit the scope and scale for Section 7 agreements?**
7. **What other Acts, if any, are you considering for amendment to allow for Section 7 agreements? What is the timeline for these amendments, and will a more formal consultation process be put in place to ensure full transparency?**
8. **What steps is the Province going to take to strengthen and support government field-staff to allow them to move to a position of interest exploration, assessment, and balancing the respective interests of Indigenous communities and the rest of BC's citizens?**

Similar to the process of building a strategy for watershed security plans BCCA wishes to be fully engaged with the consultation process for this legislation including reviewing draft copies of the proposed amendments to the legislation, regulations, and agreements.

In an effort to find a workable solution, BCCA would like to recommend that you develop a small discussion table of resource industry representatives as soon as possible. The goal of this table would be to share information and develop an understanding about the province's plan for reconciliation and alignment of legislation.

I appreciate the personal commitment you have made to further explain the process and listen to the stakeholders. Thank you for meeting with our Board of Directors and for reaching out to me personally in my role as President. I welcome any future discussions you may wish to have on this matter. Please feel free to contact me at the ranch at (250) 486-3552 or contact Kevin Boon our General Manager at the office (250) 573-3611.

Best Regards,



Brian Thomas, President  
BC Cattlemen's Association