



# BRITISH COLUMBIA CATTLEMEN'S ASSOCIATION

Representing the Beef Cattle Industry of British Columbia

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March 12, 2024

**Honourable Murray Rankin**  
**Minister of Indigenous Relations and Reconciliation**  
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SENT VIA EMAIL

## RE: The Declaration Act & Land Act Amendments

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The BC Cattlemen's Association board of directors recently met with Deputy Minister McCarthy about the *Declaration Act*. The information sharing at this meeting was valuable. We are eager to schedule more frequent meetings so that we can better understand the province's plan for reconciliation and the *Declaration Act*.

Last month we had the opportunity to meet with Minister Cullen. I'd like to share the points and questions we've addressed to Minister Cullen with you as well. They are outlined below.

BC's Ranchers remain deeply concerned that:

- 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;
- 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;
- 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;
- 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
- Government decision-makers have shown reluctance to challenge Indigenous community positions. While we recognize the pressures they face, we firmly believe that this constitutes an abdication of government responsibility.

The BCCA Board of Directors is seeking 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?

BCCA has proposed to Minister Cullen the establishment of a small discussion table comprising resource industry representatives at the earliest opportunity. The objective of this table would be to exchange information and foster broader understanding about the province's reconciliation plan and alignment of laws.

We wish to share our concerns and areas of uncertainty to ensure you have a clear understanding of our perspective. Our representatives will be in Victoria on May 14th, BC Beef Day, and would welcome the opportunity to meet with you. Please feel free to call me at the ranch (250-486-3552) or via our office.

Best regards,



Brian Thomas, President

cc: Tom McCarthy, Deputy Minister (via email: Tom.McCarthy@gov.bc.ca)