



**Ontario Pork
Fall Policy Conference
White Papers
November 19-20, 2008**

October 14, 2008

Dear Councillors, Presidents and Secretaries,

The one certainty for the Ontario Pork industry is that it is in a state of change.

The following is provided to give context to the documents that we now provide to councillors/ presidents/secretaries in preparation for attendance at the upcoming Fall Policy Conference on November 19th and 20th, 2008.

On June 11th, 2008 the Strategic Direction formulated to date was presented to the elected councillor body and received endorsement by over two thirds of the participants.

The Strategic Planning Process and Direction were elaborated on during presentations to the Farm Products Marketing Commission during the hearing process which took place during July of 2008.

The Farm Products Marketing Commission, in its October 6th, 2008 decision, issued 13 conclusions which are also attached. The conclusions reached by the Farm Products Marketing Commission will alter the Strategic Direction of Ontario Pork.

The enclosed White Papers were developed with the vision of implementing the Strategic Direction. They have since been altered to accommodate the conclusions of the Farm Products Marketing Commission.

At the time of amending the documents, the situation is continuing to evolve with the Commission. Ontario Pork is in discussions with the Commission to gain clarification on the Commission's ruling. The situation that the industry finds itself in on November 19th and 20th, 2008 may be different than the day these documents were written.

We are attempting to keep the councillor body informed as developments occur and will modify the format of the Fall Policy Conference as necessary.



Curtiss Littlejohn, Chairman
Ontario Pork

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WHITE PAPER ON ACCESSING FUNDS FOR PROCESSORS

Current Situation

In October 2006, Maple Leaf Foods (MLF) caught the Canadian pork industry by surprise in announcing a dramatically new strategic direction for the company. As a result of this announcement, Ontario Pork launched a major research and business intelligence project, called the Market Renewal Strategy (MRS), to evaluate the business strategy as announced by MLF and to develop an industry-wide strategy. The industry-wide strategy would work to mitigate the potential negative impacts that MLF's planned changes would have on the Ontario pork supply chain.

During calendar 2007, the MRS research was completed and analysis was conducted evaluating all aspects of the economics of the Ontario pork industry, including the impacts of MLF's new business strategy. A tremendous body of information and analysis was assembled during this work.

One of the recommendations coming from the MRS project calls for Ontario Pork to encourage processors to expand existing operations to provide incremental increases in processing capacity. However, the sector is in the midst of market conditions that discourage new investment under regular business terms. Strategic investment by government may improve the viability of the sector.

For example, Ontario Pork could lobby the Government of Ontario to set up a fund to provide financing so that primary processors could submit business expansion plans and access funds quickly, should their plans be worthy of public support.

Processors have indicated a range of assistance may be requested, including:

- Simplifying procedures for obtaining new permits and meeting other regulatory requirements
- Costs associated with permitting and regulatory approvals
- Financing of new equipment, technology or bridge construction loans
- Tax concessions
- Training allowances
- Assistance in developing expanded labour force

All of these options may be eligible for some level of government assistance.

Proposed Policy Direction

Ontario Pork is in a unique position to be successful in their request to government for assistance on behalf of all processors in Ontario. Firstly, the MRS project has provided a concrete foundation of economic research and analysis to support expansion of processing capacity in Ontario. Secondly, Ontario Pork represents all producers in the province of Ontario plus has strategic relationships with processors as important members of the industry supply chain.

There are a number of likely government funding sources that Ontario Pork and the pork processing sector in Ontario could tap into to help ensure the industry's sustainability and long-term competitiveness. New funding sources for the meat processing industry have also been announced during the federal election campaign. The existence of these programs should be looked at as an opportunity that should not go unexploited. Other industries could exhaust the availability of these funds and the opportunity would then be lost to secure greater long-term competitive advantage for the Ontario pork value chain.

Governments may view a request from Ontario Pork much more favourably than a request from an individual processing company. Ontario Pork has been advised to seek funding to upgrade its domestic processing community as this is in its immediate and long-term best interest.

Issues for Consideration

Through the processor interviews undertaken by Informa Economics, a number of investment needs of Ontario's pork processing sector have been suggested as potential eligible costs under the new program.

- Plant and equipment investments to maximize line speed, double shifting, slaughter relocation, improving the environmental footprint and freezer or cooler capacity
- Start-up or transitional financial assistance to bridge capacity expansion, relocation or start up
- Marketing/branded strategies support
- Employee relocation assistance should MLF Burlington close
- Employee training assistance
- Improvements to supply chain efficiencies
- Investments to achieve federally inspected status

At the current time, Ontario Pork is preparing for two eventualities. One assumes the successful sale of the MLF Burlington plant and its continued operation. The second assumes the plant cannot be sold and is closed. Under the latter scenario, Ontario Pork anticipates that the remaining processors will see this as an opportunity to build their own capacity and market share.

There are a number of steps that Ontario Pork could initiate:

- First, build the case through a commissioned economic research study of why the meat processing sector is an important economic cluster to Ontario, one that is worth investing in as a strategic industry that is just as important as other sectors. This analysis should look at total employment and other economic contributions as well as the key role of the primary processing sector in underpinning the secondary value-added processing sector and the primary production level of Ontario Pork. The analysis should examine the negative impact that this segment of the industry could have on the other elements should it decline or fail. Signs of this are already happening. The other important non-economic public policy values such as buying local/buying Ontario, food security, rural economic development and environmental protection should also be outlined in the analysis. This step is necessary if Ontario Pork is to substantiate its case for funding.
- Second, establish an 'industry value chain council' made up of Ontario Pork, primary and secondary processors, and government members that would review the results and examine the investment needs of the industry. One of the goals of the council would be to forge a consensus 'ask of government'. This step would envision the publication of a vision document that is upbeat about the future of the industry, and the partnership between all levels of the value chain to achieve the vision.
- Third, lobby the plan to government and engage producers and other value chain partners in a discussion of its merits. Ontario Pork will want to position itself as a partner that is willing to deliver the producer base and provide leadership to further improve the efficiency and effectiveness of the value chain.

Key Issues for Producers to Discuss

- 1) Given the new strategic direction of Ontario Pork as a result of the Commission decision, are you supportive of the above proposed direction? Do you believe expanding the processing sector in Ontario, or making it more sustainable and competitive is an issue that Ontario Pork should concentrate on?
- 2) Do you believe that this suggested policy has all the elements it needs – are there any important omissions or changes needed? What are the strengths and weaknesses of the proposed policy?
- 3) What implementation conditions or limitations, if any, would you want to impose on this policy as it is being implemented?

WHITE PAPER ON ONTARIO PORK'S UNIVERSAL FUNCTIONS

Current Situation

Ontario Pork's activities are often talked about in terms of activities related to the marketing of hogs or activities related to universal services. The marketing activities are all functions connected to the sale of hogs. These include everything from contract negotiations, logistics coordination and settlement. These activities involve many departments within the organization. The sales department manages contract negotiations, logistics, etc., while the finance and producer services departments manage the settlement of all hogs produced in Ontario. The IT (Information Technology) department provides the thread that links all activities related to the marketing of hogs.

The new role of Ontario Pork are those functions that are not directly linked to the sale of hogs but are instrumental to on-farm production and/or quality, education for producers and promotion of pork products to consumers.

The Farm Products Marketing Commission, in its October 6, 2008 decision has ordered Ontario Pork to return to the commission with a plan on how it would collect appropriate charges for industry services and what it proposes to be the nature and scope of its mandate for industry services. Ontario Pork is to consult with its membership and industry stakeholders in developing this plan.

Ontario Pork will review its roles based on need and budget constraints to evaluate what other activities can be downloaded to other agencies, modified or potentially eliminated, depending on available funding and resources. Final decisions will be made during the preparation of a new business plan. Ontario Pork is now looking for input from the councillor body to assist in the process.

Proposed Policy Direction

With the end of single desk selling, Ontario Pork may continue to have a marketing and sales function, but these services must be segmented out and paid for in a separate sales fee by those producers that utilize them. Ontario Pork will continue with some universal services, but these will be reviewed based on need and budget. All producers will be required to pay a service fee whether they utilize Ontario Pork's marketing services or not.

Issues for Consideration

Ontario Pork is looking for input from councillors regarding which universal services they would like Ontario Pork to continue delivering and which they would like to see downloaded, modified or eliminated. The following is a list of some of the functions of Ontario Pork with a brief description of the purpose of the function and Ontario Pork's current role.

1) Board Governance

Ontario Pork is currently governed by a Board of 14 Directors elected from 207 councillors in 12 districts. The elected structure of the Board is governed by the Farm Products Marketing Act Regulation 420/1990 and appropriate amendments. In 1946, it took a united Ontario Pork Producers' Association to obtain these legislative powers. Ensuring these regulations are adhered to and complied with is important for the strength of the organization.

Our political structure is dynamic and requires continual interaction between all elected representatives. The councillors bring forth the interests of producers into the policy development processes at meetings held at district and zone levels. Input into policy is gathered at general meetings of all elected representatives to ensure the Board has targeted and responsive policies that benefit the industry. Further opportunities exist for councillors, producers and industry representatives to have direct input on Board committees and with special task forces. This interaction is critical to having a successful and representative organization.

Changes are being considered to the electoral structure, however a dynamic interaction between producers and Board will remain a critical key.

2) Environmental Policy Review, Monitoring, Education, Crisis Intervention

Several areas related to the environment are currently being worked on by Ontario Pork:

- Nutrient Management Act
- Clean Water act
- Green House Gas and Climate Change
- Ongoing policy monitoring and crisis intervention

For each of these issues, Ontario Pork works with producers and government to ensure the producers' messages are clearly understood. These lobbying, communication and education activities have been especially important, given moratoriums on expansion of hog production in other provinces.

3) Industry and Producer Relations (IPR) Unit

The IPR Unit is comprised of Customer Service Representatives and Field Representatives that work together to be the primary provider of customer relations with producers and industry partners.

The objective of the IPR is to enhance the customer service experience. Protocols and procedures were developed to provide consistency and efficiency in producers' inquiries and concerns. By maintaining a database and creating a case tracking and filing system this allows for observing trends and a proactive approach. The Field Representatives have continued to enhance their role with the County Associations and Industry to present a prepared report which ensures that councillors and producers receive consistent information.

4) Canadian Quality Assurance (CQA) and Animal Care Assessment (ACA)

The purpose of CQA is to assure consumers at home and abroad that Canadian pork producers are following standards of production that promote safe and wholesome products and that meets the highest of food safety standards. Although the program is national, it is delivered on a provincial basis. Ontario Pork is currently responsible for managing the CQA program for all producers in Ontario.

Animal Care Assessment was recently added to the CQA program. ACA provides an evaluation tool to Canadian pork producers to demonstrate that industry approved animal care standards are being met on the farm. As with CQA, it is a national program but delivered by Ontario Pork and other provincial organizations.

5) Ontario Pork Grading Authority (OPGA)

OPGA provides a private and centralized third party organization responsible for grading of pork at processing plants in Ontario. The Board of Directors for OPGA includes representatives from Ontario Pork, federally inspected processing plants and the Ontario Independent Meat Processors.

6) Research

Ontario pork producers fund research through a check off on each hog marketed. Ontario Pork has a team of producers and industry representatives that set research priorities, thoroughly evaluate all research proposals and recommend funding to the Ontario Pork Board of Directors.

7) Safety Nets

Ontario Pork works directly with OMAFRA and Agricorp staff on safety net program implementation and participation. Ontario Pork ensures the Ontario Minister of Agriculture Food and Rural Affairs understands how safety net programs are impacting hog producers in Ontario. Ontario Pork also makes recommendations on how safety net programs can be improved to better meet the objectives of the program.

8) National Hog Identification and Traceability System

A National Hog Identification and Traceability System is in the process of being developed by the Canadian Pork Council and its member provincial organizations, including Ontario Pork. The objectives of the program are:

1. To help minimize the impacts of a foreign animal disease outbreak or a food safety crisis by reducing response time
2. To reinforce our domestic and export market access by responding to consumer preference
3. To improve the competitiveness of our industry

9) Canadian Pork Council (CPC) and Canada Pork International (CPI)

The members of the Canadian Pork Council are the nine provincial hog organizations which in turn represent over 12,000 hog producers. Ontario Pork and the other provincial organizations fund the CPC through a per hog check off that is reviewed on an annual basis. The CPC is the national voice of the hog sector through its national and international policy advocacy efforts, as well as through the development and implementation of initiatives dealing with food safety, animal care, traceability, animal health, environmental management, international trade and nutrition.

Canada Pork International is the export promotion agency of the Canadian pork industry and is funded jointly by the Canadian Meat Council and the Canadian Pork Council. CPI works primarily on technical barriers to trade and market access issues. CPI also provides foreign customers with information on Canadian pork products and the industry.

10) Trade Advocacy

The Canadian hog industry is built on the ability of Canadian producers and processors to export live animals and pork. Trade actions launched by the U.S. through antidumping and countervail as well as Country of Origin Labeling have meant Ontario Pork has been involved in both monitoring trade activities and responding with legal action to ensure market access.

11) Animal Care and Welfare

Ontario Pork participates in a number of Animal Care activities, including developing and promoting a series of resources on animal welfare related topics for producers and transporters. The most important activity is as a founding and funding member of the Ontario Farm Animal Council which provides the Animal Care Helpline and other Animal Welfare initiatives to all farm livestock sectors.

12) Government Relations and Lobbying

Ontario Pork invests in Government relations by maintaining relationships with people who work with and within government who are capable of influencing policy, legislation and regulatory change of specific interest to Ontario pork producers. Ontario Pork also works with all provincial government stakeholders on various fronts to reinforce the interests of Ontario pork producers by participating in the timely development and implementation of effective regulations for agricultural operations. The organization also develops policy positions in consultation with producers (eg. Policy Day) and lobbies for these policy positions at the provincial and federal government level. Often Ontario Pork works on its own but at times it partners with other livestock organizations and the Canadian Pork Council.

13) Communications and Media Relations

Ontario Pork develops and places advertisements, editorials, news releases and information items for the media on an ongoing basis. Ontario Pork also coordinates responses and assists others, including producers and processors, in responding to media requests. The role of communications and media relations is to ensure everyone is informed of issues and activities of interest to the industry and to ensure producers' messages are heard, particularly on issues such as the environment.

14) Consumer Marketing

Ontario Pork consumer marketing activities are designed to make consumers aware of the quality, value and versatility of Ontario pork through advertising, co-sponsorships, and targeted promotions. They provide technical support and information to processors, retailers, health professionals, food writers, restaurants and other food professionals.

15) Licensing Agreements

The Farm Products Marketing Commission decision of October 6, 2008 includes an amendment to Regulation 419 to permit Ontario Pork to license producers for the purpose of collecting a license fee to support the delivery of industry services. Ontario Pork is to fulfill its role in a national traceability system consistent with the parameters established by the Canadian Pork Council and to collect and disseminate price information on market hog sales in an aggregate manner.

Key Issues for Producers to Discuss

- 1) Are you supportive of the above proposed direction? Do you believe all the important universal functions have been included?
- 2) What priorities would you like us to concentrate on? Thinking of value, what services are the most valuable for you as a producer?
- 3) What **implementation conditions or limitations**, if any, would you want to impose on this policy as it is being implemented?

WHITE PAPER ON ELECTORAL STRUCTURE

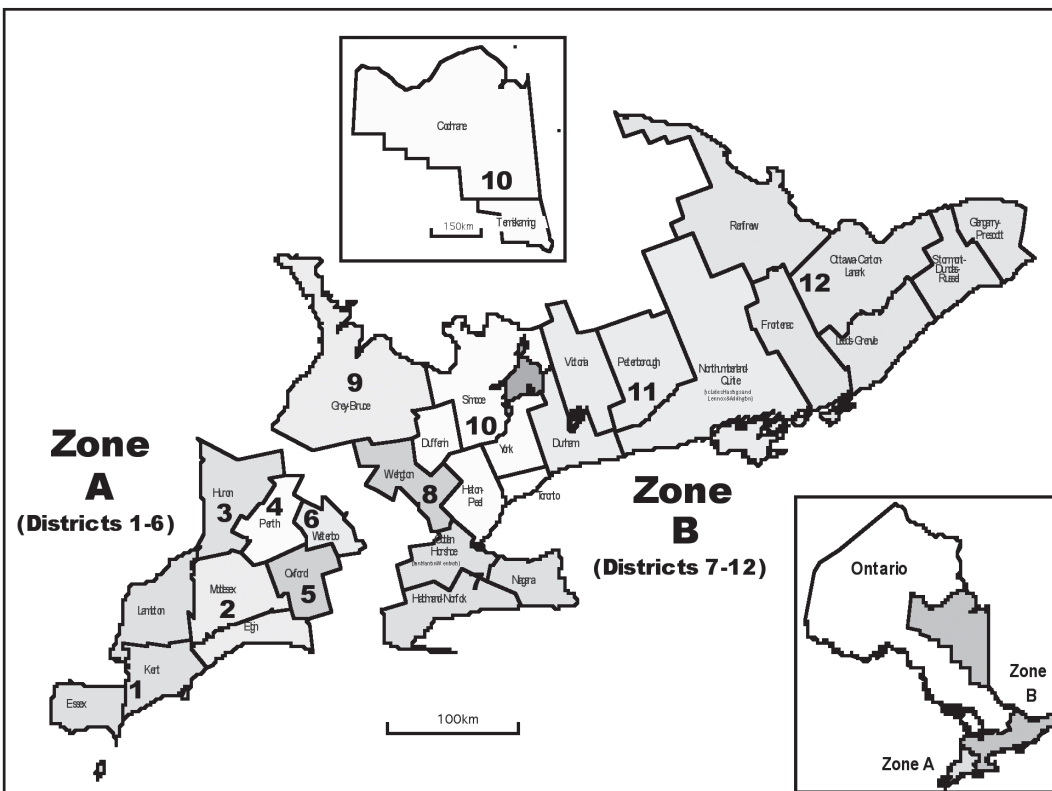
Current Situation

Ontario Pork is currently governed by a Board of 14 Directors, each elected for a two-year term by 207 councillors in 12 districts and two zones (each zone has six districts). The councillors are elected by their county while one Director is elected to represent each district. There are an additional two directors elected by each zone to total 14. This electoral structure is governed by the Farm Products Marketing Act. The key to a strong organization is an electoral structure that provides fair representation of all producers across all geographies, production type, size and demographics.

Ontario Pork included a review of the electoral structure in its 2004-2007 Strategic Plan. A review was necessary given the consolidation in the industry. The number of producers in Ontario decreased 57% from 1996 to 2007. The counties are currently divided into 12 districts as follows:

- District 1: Essex, Kent, Lambton
- District 2: Elgin, Middlesex
- District 3: Huron
- District 4: Perth
- District 5: Oxford
- District 6: Waterloo
- District 7: Haldimand-Norfolk, Niagara, Golden Horseshoe
- District 8: Wellington
- District 9: Grey-Bruce
- District 10: Dufferin, Halton-Peel, Simcoe, York, Temiskaming-Cochrane
- District 11: Durham, Northumberland-Quinte, Peterborough, Victoria
- District 12: Frontenac, Renfrew, Glengarry-Prescott, Nation Valley, Ottawa-Carleton-Lanark

Current District and Zone Alignment



The following chart outlines the 12 districts, average number of hogs per producer in the district, and the percentage of producers and hog production that each district represents in the province.

| OP District | Average # of hogs marketed/producer | % of Total | |
|-------------|-------------------------------------|----------------|-----------|
| | | # of Producers | # of Hogs |
| 1 | 2,558 | 10.4% | 13.7% |
| 2 | 2,649 | 8.7% | 12.0% |
| 3 | 2,176 | 15.2% | 17.2% |
| 4 | 2,228 | 14.7% | 17.0% |
| 5 | 2,781 | 8.4% | 12.2% |
| 6 | 665 | 9.6% | 3.3% |
| 7 | 2,259 | 5.3% | 6.2% |
| 8 | 1,431 | 9.4% | 7.0% |
| 9 | 1,107 | 8.1% | 4.7% |
| 10 | 1,209 | 3.7% | 2.3% |
| 11 | 905 | 4.5% | 2.1% |
| 12 | 2,204 | 2.0% | 2.3% |

Source: Ontario Pork

In the October 6, 2008 Farm Products Marketing Commission decision, the commission strongly supported efforts to update the board governance model to more appropriately reflect the current size and structure of the sector. In light of the proposed changes to Regulation 419, the commission recognizes the need for Ontario Pork to re-evaluate its proposed governance model and engage producers in this process. The commission, subject to the Minister of Agriculture, Food and Rural Affairs' approval, may amend Regulation 420 once the local board has completed its producer consultations and reported back to the commission by December 1, 2008.

Proposed Policy Direction

A committee of staff and Board Directors reviewed the electoral structure and has suggested the following changes.

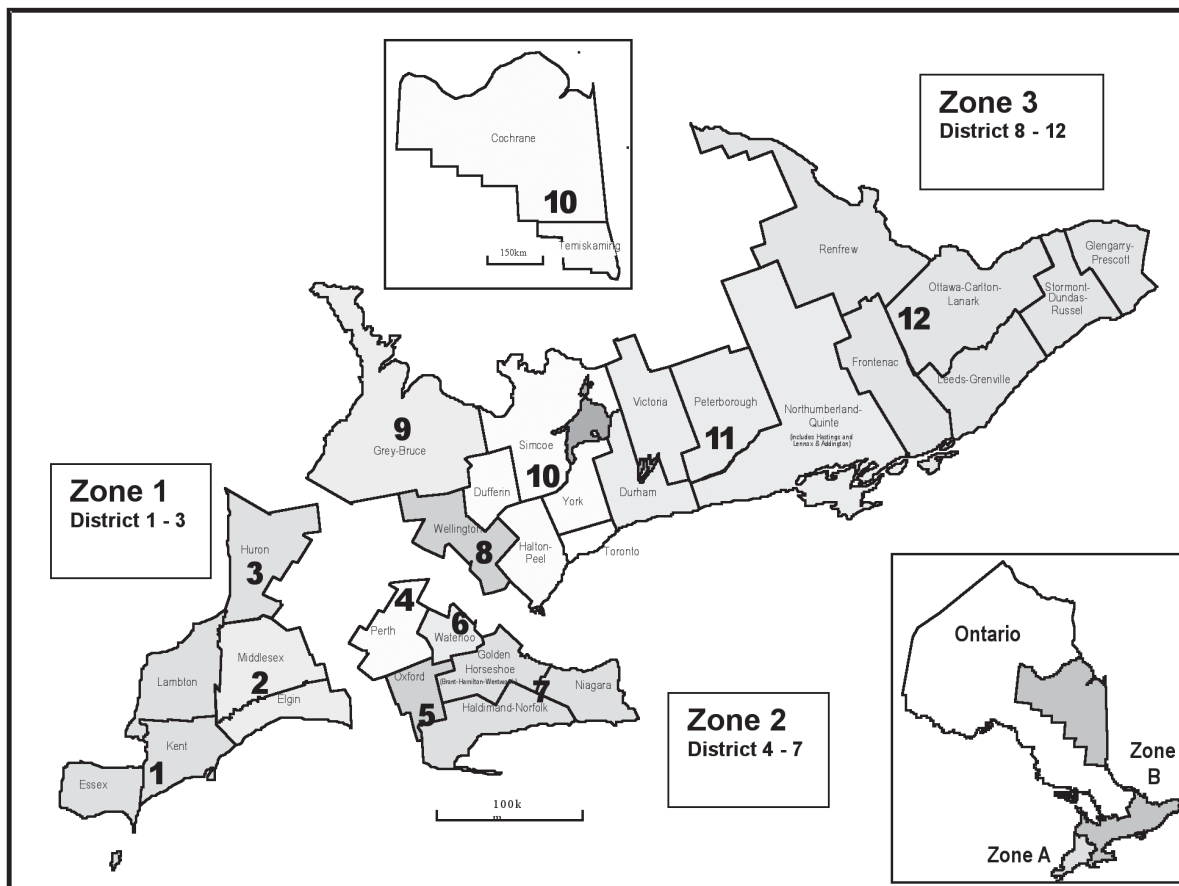
In order to achieve a more equitable distribution, the committee has recommended maintaining the current 12-district structure but grouping the districts into three zones rather than two, resulting in a more equal distribution of the producer base among the zones.

Three Zones

| Zone | OP Districts | % of Producers | % of Hogs |
|--------------|--------------|----------------|-------------|
| 1 | 1-3 | 34% | 43% |
| 2 | 4-7 | 38% | 39% |
| 3 | 8-12 | 28% | 18% |
| Total | | 100% | 100% |

Source: Ontario Pork

Proposed Three Zone Alignment



Councillor Representation

The new structure would reduce the total number of councillors to 80 (approximately 60% reduction to reflect the change in the number of producers over the past 10 years). Each district will elect councillors to represent them. The number of councillors from each district will be determined based on a formula that takes into consideration the number of producers in the district and the number of hogs produced in the district.

Board Director Representation

Each of the three zones will elect three directors for a total of nine members for the Board of Directors. Due to the large geographical area of Zone 3, one of the directors should be from District 10, 11 or 12 if there is a willing and eligible candidate. A tenth Board Director will be elected from a group of producers who market in excess of 10,000 swine units per year.

Other recommendations

- Each Board Director and councillor is elected for a three-year term
- A Board Director can serve a maximum of four consecutive terms
- Current years of service for Directors who are re-elected in the proposed system would count
- Directors will not be eligible for re-election after 12 years unless:
 - Years of service will exceed 12 years as a result of proposed three-year terms and the restructuring
 - An extension requested for national representation is granted

Issues for Consideration

The key to a successful organization is an electoral structure that represents the producers across geography as well as demographics. Ontario Pork is asking councillors to provide input on the proposed structure. The structure is designed to allow councillors to represent the interests of producers in the policy development process at district and provincial meetings to ensure the Board has targeted and responsive policies that benefit the industry. The Board currently receives input from councillors, producers and industry representatives who provide direct input on some Board committees and with special task forces. Ontario Pork wants to ensure this continues with the new structure.

There are two key issues that need to be considered when evaluating a change in structure.

- 1) The first is ensuring the new structure provides for adequate representation of the industry for all issues and policy requirements.
- 2) One of the most significant changes in this new structure is that councillors will be elected to represent districts rather than counties. Key to this change will be a clearly defined councillor job description. The councillor role will be one of policy creation and no longer just a county liaison. This will mean the county associations may need to change their structure as well.

Key Issues for Producers to Discuss

- 1) Are you supportive of the above proposed direction?
- 2) Do you believe that this suggested policy has all the elements it needs – are there any important omissions or changes needed? What are the strengths and weaknesses of the proposed policy? Are there any groups of producers that have been left out or need special consideration under the policy?
- 3) What implementation conditions or limitations, if any, would you want to impose on this policy as it is being implemented?

WHITE PAPER ON MANDATORY PRICE REPORTING

Current Situation

Ontario Pork currently manages sales and settlement data for all market hogs in Ontario. Therefore Ontario Pork has access to all pricing information for market hogs in Ontario. Ontario Pork compiles these prices and price information from other markets and publishes the aggregate data to producers and industry members.

Three times a day, Ontario Pork's sales department prepares a media report that is circulated via fax and also recorded on a phone line that can be accessed by producers and industry stakeholders. The media report details the average weighted hog price (a daily average of all contract and auction hog prices), the U.S. CME price, and the opening Ontario Pork's forward contract price for the period four months from the date of the report. On Thursdays, the media report includes the weekly Pool and Pool Plus prices, which are calculated based on the auction and block contract hog sales for the week. Friday's media report features a range of the prices paid for hogs sold on contract throughout the week.

The daily, weekly and monthly aggregate prices are also available on Ontario Pork's website. Prices reported on the website include: the standard contract average price, the Pool and Pool Plus prices, the CME price, the 100% and 102.5% formula prices, the Quebec average price, the United States Department of Agriculture (USDA) wholesale pork price, the eastern and western cornbelt closing average, the Iowa-Southern Minnesota closing average, and the national direct closing average.

What other provinces do:

Alberta

- Has no official price reporting system since removal of single desk selling.
- The Western Hog Exchange (WHE) and independent dealers report prices to their clients as they see fit. This information includes hog futures, Canadian dollar, U.S. hog prices, U.S. daily hog slaughter, a base hog price for WHE members and some commentary on the grain markets.
- Individual contract prices between producer and processors are not reported to the public.
- Alberta Hog Market Commentary and Outlook by Kevin Grier, Senior Market Analyst, George Morris Centre.

Saskatchewan

- The marketing organization called SPI, reports both a daily price which is the Maple Leaf Foods Signature 3 base 100 contract price and a weekly average. SPI's prices have marketing service charges deducted.

Manitoba

There are three different price reports available to the public:

- The first report is published weekly by the provincial government and is referred to as an all-in-slaughter price. This price represents the total dollars paid for hogs within a week by the two main federally inspected plants that are located in Manitoba. This price is FOB the plant and includes all premiums, discounts, grid adjustments, etc.
- The second price series is supplied by Maple Leaf Foods on a weekly basis. This price series reflects the Signature 3 contract prices, which is the majority of the animals slaughtered at the Brandon plant. This price series is a base price before any premiums, discounts and grid adjustments.
- The third price series is supplied by Manitoba Pork Marketing and is distributed daily. This report calculates the base price for the two largest federally inspected plants in the province at 100 index.

Quebec

- All prices reported in Quebec are supplied by the FPPQ (Federation of Quebec Pork Producers) on their website. The first price series released by the FPPQ is an average price which is reported daily and is based on three different price series: the U.S. base price report – 50% of the hog volume; English type auction – 25% of the volume; and dutch auction – 25% of the volume.
- The second price series reported is a pooled price that accounts for all collective marketing expenses.
- All prices reported in Quebec are FOB the plant and exclude premiums, discounts and grid adjustments. Further, the prices are formulated at 100 index.

United States Price Reporting

The U.S. made price reporting part of law. The prices are reported by the processors. Processors are required to report the details of all purchase transactions three times a day. The morning submission includes information on all swine purchased, priced or slaughtered on the previous business day. The mid-day reports and the end of day report include estimates of the number of hogs purchased for each pricing method as well as a base price paid for all negotiated purchases of market hogs and all other purchase methods. From this data the USDA compiles the information into 12 different reports throughout each day. Ontario Pork has been using one of these reports (201 report) as a base price for price discovery.

Proposed Policy Direction

As part of the strategic planning process, Ontario Pork identified mandatory price reporting as an important component of any marketing structure of the Ontario swine industry. There are two parts to the policy of price reporting. The first is what information to collect and the second is how to compile or aggregate the information for publishing. As outlined in the backgrounder, there are many different models ranging from no formal pricing situation in Alberta to the U.S. system where price reporting is part of the law and is audited to ensure integrity in the pricing information.

USDA implemented mandatory pricing because many marketing arrangements were not being reported which makes it difficult for producers to determine the actual purchase prices of hogs.

By making the reporting of market information mandatory, USDA is able to facilitate price discovery, make the market more open and provide all market participants with market information that can be easily understood.

The Farm Products Marketing Commission decision of October 6, 2008 concluded that Ontario Pork will retain the power to collect and disseminate price information on market hog sales in an aggregate manner. Ontario Pork now needs to develop a process for collection and dissemination of pricing information. This process needs to ensure integrity of data to meet the purpose of mandatory price reporting.

Issues for Consideration

Ontario Pork is looking for input on what information producers need to ensure fair price discovery systems in Ontario. Generally prices are collected from producers or processors. It may be easier to collect from processors as there are fewer processors than producers. However, it is not clear how the processors might provide the information. In the United States the processors are required by law to provide the pricing information and they are audited to ensure compliance.

Ontario Pork also needs input from producers on what information they require. Most public pricing information includes number of hogs marketed and an aggregate price of actual dollars spent on the hogs.

Key Issues for Producers to Discuss

- 1) Do you believe it is an important issue for Ontario Pork?
- 2) As a producer, what do you believe is the information you need? All information systems have costly and less costly ways of being built. What do you think is needed?
- 3) What implementation conditions or limitations, if any, would you want to impose on this policy as it is being implemented?

WHITE PAPER ON NEW EXIT STRATEGY

Current Situation

Ontario's hog industry is at risk of a sudden loss in processing capacity should the Maple Leaf Foods processing plant in Burlington close with only 60 days notice. Even if the plant closes for a short time for retrofitting by new owners, surplus market hogs will cause considerable hardship for producers. As such, Ontario Pork is considering the development of an emergency exit strategy for producers that would help remove market hogs from the market quickly. This could be used as a permanent exit from the business or an opportunity to depopulate and repopulate with improved genetics or high health livestock.

It is clear that the economic factors that drove the rapid expansion of Ontario's pork industry since the mid 1990s led to an imbalance between the level of slaughter, production and domestic demand. The growth drivers have reversed course since 2005/06 and this has driven the industry into a period of economic stress which will inevitably lead to an industry contraction/downsizing of the hog production base; a process which has already started.

The factors that have negatively impacted Ontario's relative competitiveness, particularly in the North American market, are described below.

Appreciation of the Canadian Currency: The 1990's expansion was supported primarily by the erosion in the Canadian dollar, which resulted in large revenue and margin advantages to Canadian producers relative to U.S. producers. When the Canadian dollar began to appreciate from 2002 onward and ultimately pushed to an all time high against the U.S. dollar of \$1.10 in early 2008, hog revenues took a major hit driving down Ontario's relative competitiveness. Quite simply, the industry would not be in its current state had the exchange rates of several years ago prevailed.

Record High Feed Costs: Prior to 2006, feed costs in Canada and Ontario were competitive relative to the U.S. and other regions; however, record high feed costs brought negative margins for producers throughout 2007 and thus far in 2008. Margins in the U.S. did not turn negative until Q4 of 2007, following three years of exceptionally strong positive margins. While the recent corn basis in Ontario has been favourable, it will be difficult to maintain a feed grain surplus in the province and Ontario is likely to return to an import basis on corn.

Record High Hog Production Costs: Ontario's hog production costs are at all time record high levels due to record high costs of feed, energy and most inputs (land, labour, medications, utilities, etc.); however, hog revenues have not offset these costs. Margins in Ontario became challenged in 2006 mostly due to the stronger Canadian dollar, but since 2007 the magnitude of farrow-finish losses have been staggering, reaching \$30 to up to \$75 per head in 2008. In an industry where being the low cost producer is the key advantage, being a higher cost producer creates the need for change.

Small and Shrinking Domestic Market: Ontario's domestic market for pork is close to a third of Ontario's production base, and has trended downwards on a per capita basis. Additionally, Ontario suppliers are losing market share to competition from the U.S. It is disconcerting at the moment to witness a rapid rise in the volume of pork being imported into Canada (mostly Ontario) while at the same time, domestic production is scrambling for a market outlet and at values far short of production costs.

Proposed Policy Direction

To cushion the impact of a sudden loss in processing capacity should MLF's Burlington plant be taken out of production, Ontario Pork has identified the need for a short-term exit strategy to support an orderly industry exit in the short term. This could also play a role in a medium to longer term strategy to develop a sustainable producer base in Ontario.

One of those options is to request the creation of a cull breeding swine program in Ontario similar to the national program. Ontario was the largest participant in the Cull Breeding Swine Program, exceeding the 10% target by roughly 1% with final totals culling 45,859 breeding animals. Efforts to extend the National Cull Breeding Swine Program were unsuccessful, therefore the focus on a new program needs to be at the Provincial level.

The largest breeding herd declines are expected to take place during 2008, with additional modest sow herd reductions forecast during 2009 as well. Within five years, and barring Burlington's closure or other special considerations, the Ontario breeding herd size is forecast to level off at 345,000 head; that is 8% below July, 2008 inventories. This will result in a pig crop decline of about 5% in the next five years.

This is not enough to balance production supply and processing capacity, particularly if the MLF plant in Burlington closes. The imbalance will be addressed one way or another – with or without support.

Issues for Consideration

The 8% contraction (i.e., 345,000 head level) would result in a marketable hog supply of 6.4 million head. Without the Burlington, Ontario plant the maximum slaughter capacity is estimated at 2.9 million head per year. This would create an immediate additional surplus of market hogs that would be forced into the U.S. or to Western provinces and without any planning, at transacted prices that would be highly detrimental to the Ontario hog producer.

A short-term domestic solution to the imbalance does not exist given the time required to ramp up local slaughter capacity. MLF's 60-day notice of closure will provide insufficient time for any of the current Ontario processors to ramp up slaughter activity other than making some minor changes that could improve weekly kills a few thousand head.

The hog sector either would further downsize and/or convert a sizeable number of sows from farrow-to-finish to farrow operations. To bring Ontario's domestic market hog production/slaughter capacity into balance (without additional slaughter capacity or feeder pig exports increasing) a liquidation of 30% to 35% relative to July 1 would be needed.

In any discussion around financial support programs for producers, the potential for triggering trade actions from the U.S. must be considered. A program aimed at responding to market signals such as reducing breeding stock is far less likely to be seen as trade distorting than other options.

Key Issues for Producers to Discuss

- 1) Are you supportive of the above proposed direction? Do you believe it is an important issue for Ontario Pork?
- 2) Do you believe that this suggested policy has all the elements it needs – are there any important omissions or changes needed? What are the strengths and weaknesses of the proposed policy? Are there any groups of producers that have been left out or need special consideration under the policy? e.g. beginning farmers, etc, What are the major risks that need to be considered? e.g. trade implications
- 3) What implementation conditions or limitations, if any, would you want to impose on this policy as it is being implemented?

WHITE PAPER ON SAFETY NETS POLICY

Current Situation

The federal, provincial and territorial ministers of agriculture have met over the past three years to put in place, **Growing Forward**, the new federal-provincial agricultural policy. Growing Forward is comprised of a new suite of business risk management programs which replace CAIS including:

- **AgriInvest** is a savings account for producers, supported by governments, which provides coverage for small income declines and allows for investments that help mitigate risks or improve market income. To assist producers in the transition to the new suite of business risk management programs, the Government of Canada has announced a \$600 million investment to kickstart the AgriInvest accounts. Producers will receive a letter informing them of the amount of their Kickstart benefit. In all provinces except Quebec, the \$600 million is being delivered by the federal government.
- **AgriStability** provides support when a producer experiences larger farm income losses. The program covers declines of more than 15% in a producer's average income from previous years.
- **AgriRecovery** is a disaster relief framework which provides a coordinated process for federal, provincial and territorial governments to respond rapidly when disasters strike, filling gaps not covered by existing programs.
- **AgriInsurance** is an existing program which includes insurance against production losses for specified perils (weather, pests, disease) and is being expanded to include more commodities.

This program has now been for the most part accepted by all the provinces including Ontario. Ontario Pork and the other members of the Canadian Pork Council (CPC) have approached the federal and provincial ministers of Agriculture with the following request and industry position:

Canadian hog producers are facing the most severe economic circumstances in their farming histories. Producers are looking at every means on their operations to adjust, but they also need supportive government actions in these troubling times.

The Canadian Pork Council has requested that action be taken in a number of areas to assist the industry; we support these requests and urge you to help move them forward.

A stable business climate through streamlined and efficient regulations, timely access to veterinary and other regulated products, enhanced market access through strong bilateral and multilateral trade agreements and a solid business risk management base are critical.

With regard to business risk management, the improvements needed include:

- *Remove the caps on the AgriStability program. At a minimum, the caps need to be raised to \$10 million for the 2007 and 2008 program years;*
- *Provide producers with the option of the new AgriInvest program or enhanced coverage under AgriStability (coverage of losses between 85-100% of the reference margin);*
- *Enhance the negative margin coverage in AgriStability from 60 to 70%;*
- *Waive downward structural change for hog producers for 2007 and 2008;*
- *Provide a Production Insurance Equivalent payment for producers that experienced disease outbreaks on their farms in the reference years for AgriStability, beginning with the 2007 program year (reference years 2002-2006); and*
- *Extend emergency advances to hog farmers under the Agricultural Products Marketing Act (APMA) for one year so that that the outstanding advances not be required to be repaid, but rather that they be rolled over for a second year.*

Election Announcements

During the current federal election, both the Conservatives and the Liberals have proposed a new AgriFlex program that would provide funding to address regional issues in the neighbourhood of \$500 million. In addition, the Conservatives have proposed a \$50 million fund to provide funding to expand meat processing capacity and meet other needs such as environmental enhancements to plants and equipment. The details of both of these programs are not known at the current time but the AgriFlex program would appear to offer some capability to cover off unique regional needs.

Proposed Policy Direction

Ontario Pork is proposing to continue to endorse the CPC position as just stated and to approach the provincial and federal government for assistance under the AgriRecovery program for producer losses resulting from the 2006 circo virus outbreak that has damaged producer margins and subsequent CAIS payments.

Issues for Consideration

Because the AgrInvest Kickstart and the Ontario Cattle, Hog, and Horticulture Program are based on historical Allowable Net Sales averages (ANS) new and expanding farmers either did not get the full benefit of the program or were left out of the program entirely. Ontario Pork brought this concern to the provincial government that has ruled out making top-up payments. The provincial government has indicated that no further funds will be advanced without federal government participation. Ontario Pork is also on record that any new programs should have an appeal process available for new and expanding farms.

Ontario Pork has developed a model with accounting firm BDO to test the impact of several scenarios on CAIS/ AgriStability payments. The model shows that a disease outbreak in 2006 will have a major impact on program reference margins in 2008. The model also shows that all farms will face significant declines in reference margins in 2009 and 2010 regardless of disease problems. Ontario Pork is pursuing a production insurance offset request to the federal government to help rectify this problem.

Along with the improvements to CAIS/AgriStability outlined above, Ontario Pork has remained generally supportive of the whole farm and needs based structure of the CAIS program.

Key Issues for Producers to Discuss

- 1) Has the CAIS/AgriStability program benefitted your farm? Do you agree with Ontario Pork's ongoing support of the CAIS/AgriStability program?
- 2) Do you believe this is an important issue for Ontario Pork? Why? What aspects are most important? Least important? Is the CPC position the best one for Ontario Pork?
- 3) Do you believe that this suggested policy has all the elements it needs – are there any important omissions or changes needed? Are there any groups of producers that have been left out or need special consideration under the policy? For example, how should beginning farmers be included?

WHITE PAPER ON SUPPLY CHAIN COORDINATION

Current Situation

Following a year and a half strategic review of Ontario's pork production competitiveness, Informa Economics has observed the following key findings from the MRS research:

1. On average, hog production in Ontario is currently, and will over time, be less cost competitive than in the U.S., particularly in a dollar parity environment. This makes continuing to follow a low cost, commodity supplier to the U.S. strategy unsustainable over the short and long run.
2. The pork processing industry in Ontario will similarly lose competitiveness if it is supported by a high cost hog production base. Declines in Ontario's hog production base would, at a point, threaten processing viability.
3. U.S. processors continue to gain a noticeable share of Ontario's pork market through large retailers and Quebec pork production (subsidized by ASRA) is being put in the Ontario marketplace at low prices.

Conclusion Reached

As a consequence, Ontario's pork supply chain needs to embrace a supply chain philosophy to extract additional value from the products produced by producers and processors to create an industry which is driven on a 'demand pull' basis as opposed to one which is too often based on 'supply push'. Moreover, improved supply chain coordination will continue to remove unnecessary costs from the supply chain making both producers and processors more competitive.

Proposed Policy Direction

A supply chain body, called the Pork Supply Chain Council, is needed to coordinate, initiate, and resource the interactions required. The Ontario Pork Supply Chain Council, representing both producers and processors will work together to:

- Lower production, processing, transaction, transportation and other costs throughout the supply chain in Ontario to the benefit of producers and processors.
- Promote investment (funds, resources, efforts) in the development of higher value pork market segments, niches and markets, and pork quality features and attributes which will support both processors and producers to achieve premium prices.
- Intervene on behalf of the entire pork value chain with government to correct unfair trade practices in the Ontario market (e.g. ASRA) and to secure investment participation where necessary and practical by government (e.g. training, recruitment, branding, R&D, upgrading plant and equipment, major project funding etc.).
- Promote supply chain innovation and development.
- Where required or desired, develop common services (possibly information technology, settlement infrastructure, and transaction data) and efficiently manage regulatory requirements (e.g. traceability).

Issues for Consideration

There are several important issues which impact on the type of structure and governance that the Council should consider in its formation.

First it must represent processors and producers. Ontario pork producers and processors, each acting alone, cannot effectively create the changes needed or effect the coordination required to move the entire supply chain forward. Collective action and coordination is required.

Secondly, most supply chain participants are already active members of many other provincial and national industry associations and committees. The new council should therefore operate in such a way so as to minimize the time commitment of its members.

Finally, the Council must operate economically with a minimal administrative requirement.

The following structure is proposed for discussion:

- The Council may have two co-chairs, one from the hog production sector and one from processing.
- Membership should be limited initially to the primary processing industry in Ontario and pork producers as represented by Ontario Pork – reserving any expansion in this membership for the Council to decide after its founding meetings.
- The Council would meet at the call of the co-chairs, but only a few meetings per year are envisioned.
- The Council would be task oriented, accomplishing its day-to-day work through the formation of task forces. A task force chair will manage the task force and produce any deliverables or reports to put before the council for decision or direction.

Key Issues for Producers to Discuss

- 1) Do you believe this is an important issue for Ontario Pork? What aspects of the proposed policy are most important? Least important? What is the relative priority of this issue for you compared to other issues that Ontario Pork should examine?
- 2) Does this proposed policy go far enough? What other areas could the proposed Council examine? Are there other segments of the industry that should be represented on the proposed Council?
- 3) What implementation conditions, if any, would you want to impose on this policy – e.g. review, evaluation, budget limit, pilot project test, etc., prior to, or as part of implementation?

APPENDIX FARM PRODUCTS MARKETING COMMISSION

Pork Decision – October 6, 2008

IN THE MATTER OF the Farm Products Marketing Act, R.S.O. 1990, c. F-9 and the Ministry of Agriculture, Food and Rural Affairs Act, R.S.O. 1990, c. M-16;

AND IN THE MATTER OF a request made to the Ontario Farm Products Marketing Commission pursuant to subsection 17(4) of the Ministry of Agriculture, Food and Rural Affairs Act to reconsider Regulation 419, Hogs - Marketing, made by the commission under the Farm Products Marketing Act;

AND IN THE MATTER OF Regulation 420, Hogs - Plan, made by the Lieutenant Governor in Council under section 5 of the Farm Products Marketing Act, which, in the commission's opinion, may need to be reconsidered pursuant to section 5.1 of the Farm Products Marketing Act, to determine whether it should be amended in order to effectively implement Regulation 419.

Before:

Dave Hope, Chair; Elmer Buchanan, Vice Chair; Deborah Whale, Vice Chair; Anna Andres, Member; Bob Aumell, Member; Jim Clark, Member; Carolyn Fuerth, Member; Tom Richardson, Member

Appearances:

Sean G. Foran, Weir Foulds LLP, Solicitors for the Ontario Pork Producers' Marketing Board (Ontario Pork or local board); Larry Skinner; Conestoga Meat Packers/Progressive Pork Producers Coop; Synergy Swine Inc, Paragon Farms and Great Lakes Pork, and RFW Farms Ltd; The Open Market Group; and Nicholas A. Richter, Solicitor for Zantingh Direct Inc. and Zantingh Swine Inc.

DECISION

This matter was heard in Guelph, Ontario over four days commencing on July 22, 2008 and concluding on July 25, 2008. The Ontario Farm Products Marketing Commission (commission) heard evidence from three expert witnesses whose qualifications as experts were unopposed:

- John Groenewegen, who submitted a report, dated October 2006, titled "Hog Marketing and Market Access: Review of Hog Marketing Channels in Ontario" (Exhibit 2);
- Ken McEwen, who submitted a report, dated July 2008, titled "A Review of the Functions and Service Fee Levies Applied to the Swine Sector by Province" (Exhibit 9); and
- Kevin Grier, who submitted a report, dated July 2008, titled "Hog Marketing and Processing Overview" (Exhibit 18).

The commission heard evidence from 19 other witnesses, including representatives of all the parties as follows: Dennis McKerracher, Curtis Littlejohn, Andrew Marks, Lloyd Bauernhuber, Mary Ann Hendrikx, Larry Skinner, Bob Hunsberger and Arnold Drung (who were permitted to testify as a panel), James Reesor, Mark Yungblut and Rob McDougall (who were permitted to testify as a panel), Brian Simpson and Jim Van Nes (who were permitted to testify as a panel), Allan Van Ravenswaay, Jim Wilhelm and Ron Wouters (who were permitted to testify as a panel), Lou Thompson (who was permitted to testify by telephone), Eric Van Boekel and Brad Zantingh.

Background

The Ontario Pork Producers' Marketing Board was established in the 1946. The hog marketing system evolved from one dominated by sales through drovers to packers to one where hogs moved to board-organized assembly points and centralized selling. By regulation, the board was delegated broad authority over the marketing of hogs. In the 1960s, an auction system was developed by the local board which established both the price and the allocation of hogs to buyers. Prices were pooled weekly with all producers receiving the same price adjusted for quality. Market hogs were sold on a common pricing grid which accounted for weight and a measure of leanness. In the early 1990s, a limited number of hogs were sold to processors by direct contracts approved by the board. During the 1990s, the auction system was replaced by a formula price system.

In 1995, processors appealed to the commission following a local board decision to end formula pricing and return to an auction system. The commission held a hearing and directed the parties to negotiate a system for pricing and develop criteria for contracting within a specified timeline. When the parties were unable to negotiate a solution to these issues, the commission held a second hearing on pricing and criteria for contracting in 1996.

The decision of the commission was that the local board would retain the authority to determine the manner in which Ontario hogs would be sold. In the matter of contracting between Ontario hog producers and buyers of Ontario hogs, the local board would establish contracting protocols and procedures that would facilitate contracting between producers and processors, and specified principles would be incorporated in the board's contracting protocols and procedures.

The commission also established that the board would work in conjunction with the processors and have regard to the submissions of the processors and other parties to the hearing in establishing contracting protocols and procedures.

Over the past 50 years considerable change has occurred in the hog industry as in many sectors of agriculture. Extensive consolidation has occurred in both hog production and processing. Changes in farm business structure have also occurred. While single-enterprise farrow to finish operations still exist, multiple site units have become increasingly common with the growth of arrangements involving many farm families. Similar changes have occurred in the hog industry in other regions of North America.

In the period since the commission hearing in 1996, the percentage of hogs sold through supply contracts has increased to 80 to 85 percent of Ontario market hog sales. In 1999, Ontario Pork introduced Pool Plus as a way for producers to participate in supply contracts through the board. Approximately 10 to 15 percent of hogs are sold in this manner. At the same time, the number of hogs sold through the pool has decreased to about five percent.

Globalization of hog markets has occurred. Exports of Canadian hogs and pork products have increased substantially over the last couple of decades.

Against this background, a request was made to the commission by several industry stakeholders to reconsider Regulation 419, Hogs - Marketing, made by the commission under the Farm Products Marketing Act. Other concerns beyond Regulation 419 were raised about the conduct and governance of Ontario Pork.

The commission held a pre-hearing meeting on May 28, 2008 to gather input from industry stakeholders on what issues should be examined within a hearing on hog marketing. A total of 23 industry stakeholders appeared before the commission and correspondence was received from another three. After considering the input, the commission called a hearing to receive evidence and submissions. The commission determined that it would address four issues.

Issues

1. What should be the scope of Ontario Pork's regulatory authority with respect to all pig production segments (breeding stock and all classes of pigs raised for slaughter)? This question will include a review of the following:
 - a. What marketing issues or other issues that impact the production and marketing of pigs should be within the mandate of Ontario Pork? What type of authority does the board require to manage this mandate?
 - b. Should the exemption from regulation of some classes of pigs (breeding stock and immature market hogs) be revoked?
 - c. Should Ontario Pork have authority over the production of pigs, including the licensing of producers?
2. What role should Ontario Pork play in the selling/marketing of all types and classes of pigs? What type of regulatory authority does the local board require to manage this mandate? This question will include a review of the following issues:
 - a. Ontario Pork's oversight and approval of producer-processor supply contracts;
 - b. Ontario Pork's role in the logistics and scheduling of market hogs to processors;
 - c. Ontario Pork's role in the settlement of payment between processor and producers;
 - d. Ontario Pork's role in the selling/marketing of classes of pigs other than market hogs; and
 - e. Ontario Pork's role in the receipt and dissemination of sales and marketing data.
3. What role should Ontario Pork play in serving the interests of the Ontario pork industry? This question will include a review of the following questions:
 - a. What additional issues impacting the production and marketing of pigs should fall within the mandate of Ontario Pork? What priority should be given to each issue? What should be the nature and scope of the mandate?
 - b. To enable Ontario Pork fulfill its mandate, what financial contribution is required and by whom?
4. What representation model and board structure will best enable Ontario Pork to achieve its mandate?

The Regulation

Hogs Marketing Authority

In Regulation 419 under the Farm Products Marketing Act, local board, means The Ontario Pork Producers' Marketing Board.

Ontario Pork has the authority, as delegated by the commission, in Regulation 419 to control and regulate the producing and marketing of hogs within Ontario. The commission also delegates to the local board the power to make regulations providing for the licensing of any or all persons before commencing to engage in the assembling, processing, shipping, or transporting of hogs.

Section 3 of Regulation 419 provides:

3. The commission exempts from this Regulation,
 - (a) hogs marketed for any purpose except slaughter; and
 - (b) hogs produced in the County of Haliburton and the territorial districts other than Cochrane and Timiskaming.

Section 9 provides:

1. All hogs shall be marketed by or through the local board.
2. No person shall market hogs except by or through the local board.

Section 10 vests the following powers in the local board with regard to marketing:

1. to direct and control by order or direction either as principal or agent, the marketing of hogs, including the times and places at which hogs may be marketed;
2. to determine the quality of each class, variety, grade and size of hogs that shall be marketed by each producer;
3. to prohibit the marketing of any class, variety, grade or size of hogs;
4. to determine from time to time the price or prices that shall be paid to producers or to the local board, as the case may be, for hogs or for any grade of hogs and to determine different prices for different parts of Ontario;
5. to fix and impose service charges from time to time for the marketing of hogs;
6. to require the price or prices payable or owing to the producer for hogs to be paid to the local board;
7. to collect from any person by action in a court of competent jurisdiction the price or prices or any part thereof of hogs; and
8. to pay to the producers the price or prices for hogs less service charges imposed under paragraph 5, and to fix the times at which or within which such payments shall be made.

Section 11 details Ontario Pork's authority to sell hogs by auction or contract and its responsibilities for record keeping:

11. (1) The local board may sell hogs by auction or by contract under the powers vested in it under section 10.

(2) In a sale by auction,

- (a) where the local board does not establish regular times and one or more regular places for auctions, it shall give notice of the time and place of an auction in such a way that every licensed processor may have a reasonable opportunity to bid as each lot of hogs is offered;
- (b) the local board shall offer lots of hogs without discrimination and in such a way that the processors may bid competitively on the hogs;
- (c) the buyer of the hogs shall be the processor who first bid the highest price; and
 - (d) the local board shall make and keep for at least one year a record showing:
 - (i) the number of hogs in the lot;
 - (ii) the location of the hogs at the time of the sale;
 - (iii) the name and address of the buyer; and
 - (iv) the price at which the hogs were sold O. Reg. 88/92, s. 1.

(3) In a sale by contract, the local board shall make and keep for at least one year a record showing:

- (a) the number of hogs sold per delivery;
- (b) the place from which the hogs were delivered;
- (c) the place to which the hogs were delivered; and
- (d) the price at which the hogs were sold.

Licensing Authority

The local board's licensing authority is contained in sections 5 and 6 of Regulation 419:

5. The commission delegates to the local board its powers to make regulations with respect to hogs:
 - (a) providing for the licensing of any or all persons before commencing or continuing to engage in the assembling, processing, shipping or transporting of hogs;
 - (b) prohibiting persons from engaging in the assembling, processing, shipping or transporting of hogs except under the authority of a licence;
 - (c) providing for the refusal to grant a licence where the applicant is not qualified by experience, financial responsibility and equipment to engage in properly the business for which the application was made, or for any other reason that the local board considers proper;
 - (d) providing for the suspension or revocation of, or the refusal to renew, a licence for failure to observe, perform or carry out the act, the regulations, the plan or any order or direction of the local board;
 - (e) providing for the fixing of license fees payable by any or all persons engaged in the assembling, processing, shipping or transporting of hogs;
 - (f) prescribing the forms of licences;
 - (g) requiring the furnishing of security or proof of financial responsibility by any person engaged in the marketing of hogs and providing for the administration and disposition of any money or securities so furnished;
 - (h) providing for the control and regulation of the marketing of hogs, including the times and places at which hogs may be marketed;
 - (i) requiring any person who produces and processes hogs to furnish to the local board statements of the amounts of hogs that the person produced in any year and used for processing;
 - (j) requiring any person who produces hogs to offer to sell and to sell hogs through the local board;
 - (k) prohibiting any person from processing, packing or packaging any hogs that have not been sold by or through the local board;
 - (l) subject to section 3, providing for the exemption from any or all of the regulations, orders or directions under the plan of any class, variety or grade of hogs, or any person or class of persons engaged in the producing or marketing of hogs or any class, variety or grade of hogs; and
 - (m) providing for the making of agreements relating to the marketing of hogs by or through the local board, and prescribing the forms and the terms and conditions of such agreements.
6. (1) The commission authorizes the local board to use any class of license fees, service charges and other money payable to it, for the purposes of paying the expenses of the local board, carrying out and enforcing the act and the regulations and carrying out the purposes of the plan.
- (2) The commission authorizes the local board to establish a fund in connection with the plan for the payment of any money that may be required for the purposes mentioned in subsection (1).

Summary of Evidence

Ontario Pork

In their submissions to the commission, representatives of Ontario Pork outlined four requests:

1. that all of the powers it currently has in Regulation 419 be retained;
2. that the section 3 exemption - hogs marketed for any purpose except slaughter - be removed;
3. that Regulation 419 be amended to grant Ontario Pork authority over all domestic swine; and
4. that section 5 of Regulation 419 be expanded to include the licensing of all producers.

Ontario Pork called Dr. John Groenewegen to the stand and he was qualified as an expert witness. Dr. Groenewegen presented selections from his "Hog Marketing and Market Access; Review of Hog Marketing Channels in Ontario" report that he prepared in 2006 for Ontario Pork. He also presented a summary slide presentation (Exhibit 2a) of his report. He presented an overview of the evolution and changes experienced in the Ontario hog industry over the past 50 years, including marketing. He stated that Ontario Pork provides some flexibility in marketing options and outlined the options available to producers. Ontario has an excess supply of hogs and pork products, with 7.7 million hogs produced and only 5 million slaughtered in Ontario by processors. He stated that Ontario Pork facilitates the movement of the excess hogs to other markets outside Ontario. He also stated that U.S. price equivalency was not an appropriate benchmark to measure the performance of Ontario Pork, given the supply-demand balance, and that U.S. equivalent pricing would result in an uncompetitive Ontario processing sector. Further, he stated that Ontario producers are obtaining market prices that are, at least, comparable to neighbouring provinces, and that Ontario Pork provides market power for Ontario producers. He suggested that access to superior market information and the ability to direct supply were necessary to effectively utilize increased bargaining power through collective action. Data was presented that showed Pool and Pool Plus hogs were often shipped by Ontario Pork out of province, and that the pool was mostly used by smaller producers.

Dr. Groenewegen suggested that Ontario hog producers and processors are competing with producer-processor supply chains in Québec and in the U.S.. He explained how supply contracts allow for supply chain coordination and provide more supply certainty than reliance on spot market sales.

Ontario Pork presented the summary of an IPSOS Reid survey suggesting that when a majority of producers were surveyed, they supported Ontario Pork's involvement in a variety of services offered, and that they were satisfied with the services received. The survey also showed that the level of support dropped as the size of operation increased. Dr. Groenewegen suggested that producer satisfaction is linked to the price of hogs and the price is linked to the exchange rate. Further, the survey suggested that only 49 percent of those surveyed who shipped over 3000 hogs per year were completely or somewhat satisfied with Ontario Pork's marketing services.

Dr. Groenewegen's report made a total of 18 suggestions for improvement of the marketing system that could be made within current regulatory authorities, including the following:

1. On the issue of market access, the report stated that Ontario Pork cannot provide access through contracts to all producers wanting a contract with an Ontario processor, and the report suggested communications to explain that the inability to enter into a supply agreement does not mean that market access has been denied.
2. The report identified dissatisfaction with the current booking and scheduling system, and that dissatisfaction can be linked to the lack of accountability of producers, truckers and processors. This issue needs to be addressed.
3. Several suggestions related to supply chain issues, including the need to facilitate innovation through contract design. Contract design should allow the business relationship to benefit from innovation. With respect to contracted hog volume, Ontario Pork should monitor volumes in relation to plant capacity and enforce contracts and apply remedies for contract default.
4. All processors are not providing letters of credit as previously was the case. Ontario Pork should require letters of credit to cover financial risk between the sale and payment of hogs. The report also recommended that the local board require the same payment terms for processors.

Mr. Dennis McKerracher, former Chair of the National Traceability Committee of the Canadian Pork Council (CPC), presented information on the CPC's plans to establish a hog identification and traceability system for Canada. Mr. McKerracher outlined the role of the provincial boards and associations, including establishing a premise identification system. The national system has been under development since 2002 and continues to evolve. The national tattoo system is in place, and premise identification will move forward pending available resources.

Mr. McKerracher explained that he previously raised and marketed around 3,000 market hogs per year in Alberta, and he considered himself a small producer. He explained that he was involved in hog production when Alberta Pork moved to a dual marketing approach. He shared his problem of getting paid directly from a processor with whom he had a contract.

During cross examination, Mr. McKerracher indicated Alberta Pork was granted new authorities to implement traceability. He also acknowledged that

- Alberta Pork no longer has the sole marketing authority for pigs.
- Alberta Pork has the ability to license swine producers.
- Regulated marketing authorities are not required to implement a traceability system.

Mr. McKerracher further explained that there are four pieces of information that are required to implement a traceability system. They are: 1) a site or premise ID (registry); 2) an animal identification (national tattoo system); 3) destination; 4) conveyance (i.e. livestock trailer license plate).

Mr. Curtiss Littlejohn, Chair of Ontario Pork, outlined the changes that have taken place in the hog production sector within Ontario, as it has moved from single-site farrow to finish operations to multiple-site systems consisting of sow, nursery, weaner and finisher.

Mr. Littlejohn also outlined the strategic planning process Ontario Pork has been following since 2005. An IPSOS Reid producer survey, completed in 2005 for Ontario Pork reported that the lowest level of producer satisfaction scores were in the areas of marketing, sales and logistics. He outlined a strategic approach (Exhibit 3) which had been presented to councillors at a policy day in June, 2008 and supported by 67 percent of councillors (Exhibit 30). This approach would expand the marketing choices offered within Ontario by licensing agents to take on the marketing roles currently provided by Ontario Pork for those who preferred to use an agent other than Ontario Pork.

Ontario Pork's board of directors identified eight "must have" elements in their strategic direction:

1. producer choice in marketing options;
2. mandatory price reporting and access to markets;
3. traceability, food safety and foreign animal disease preparedness;
4. code of conduct for any licensed selling agents;
5. maintenance and expansion of regulatory authority;
6. timeliness and security of payment;
7. Canadian Quality Assurance (CQA); and
8. an organizational focus of customer service.

Mr. Littlejohn suggested that further amendments to sections 3 and 5 of Regulation 419 are required to fully equip Ontario Pork to represent all domestic swine producers.

Mr. Littlejohn stated that licensing producers would enable Ontario Pork to standardize production practices and that licensing powers would allow Ontario Pork to implement measures regarding traceability, food safety and foreign animal disease preparedness.

Finally, Mr. Littlejohn stated that Ontario Pork has a significant number of programs and services that are providing benefit to all hog producers regardless of their production or marketing classification. An inequitable share of these industry services is being paid for by market hog producers only. Removing the exemption in section 3 of Regulation 419 would enable a fee to be collected from all producers.

During cross examination Mr. Littlejohn was asked a number of questions from various parties. He was asked if regulated marketing was required to implement programs such as Homegrown Ontario or the ethnic marketing program. He acknowledged that the existing regulations allow the service fee to be collected and used to pay for these programs. In response to questions concerning settlement and guarantee of payment, Mr. Littlejohn stated Ontario Pork does not guarantee payment to producers. Ontario Pork establishes credit worthiness and credit policies for processors. He indicated that an equivalent of the U.S. Packers and Stockyards Act was identified in Ontario Pork's strategic direction as a "must have." He also indicated that the local board has neither reviewed options in any detail nor investigated options, such as the Ontario Beef Cattle Financial Protection Fund.

Mr. Littlejohn responded to a question concerning the Hog Industry Advisory Committee that last met in the summer of 2006. He indicated that Ontario Pork withdrew from discussions after Maple Leaf Foods restructuring announcement in the fall of 2006. He further noted that currently, the local board uses bilateral talks between itself and industry stakeholders.

Mr. Andrew Marks, Director of Sales and Logistics with Ontario Pork, provided information on the role of Ontario Pork in overseeing and approving supply contracts; logistics and scheduling; payment settlement; receipt and dissemination of sales; and marketing data. He described the protocols and procedures for developing supply agreements, including the number and types (Exhibit 6). He indicated that a component of this protocol was Ontario Pork's review for preliminary approval and response within seven days to proposed direct supply agreements.

In response to questions from other parties, Mr. Marks acknowledged that of the 35 different contracts (there are about ten listed on the board's secure website) four to five are currently open, and two to three would be available for standard hogs. He acknowledged that producers don't always receive kill sheet data from Ontario Pork. The number of producers who have hogs in a single load was cited as a determining factor. He also stated that Ontario Pork must sell all hogs that producers direct through the board and in some cases, the hogs are of lower quality, making them harder to sell, which can cause conflicts with processors.

Mr. Lloyd Bauernhuber, Director, Finance and Operational Services with Ontario Pork, presented the local board's 2008 fiscal year budget summary. Ontario Pork operates under a service fee of \$1.75 per market hog. The budget document (Exhibit 7) included a breakdown of the major sources of revenue and expenditures on a per hog basis. It was explained that the budget document, as presented, is a special report with a greater level of detail than what is traditionally produced. The budget presented a breakdown of expenses by department, but did not attempt to allocate costs by activity centre, nor did it attempt to allocate overhead expenses.

During cross examination, Mr. Bauernhuber responded to several questions concerning guarantee of payment to producers. He stated or confirmed that:

- Ontario Pork uses its working capital requirement of \$5 million per year to ensure producers are paid, however, the board does not guarantee payment.
- Ontario Pork's role is to assess the credit worthiness of processors using public and available company financial data and/or ratios.
- While the majority of the Ontario processors have provided a letter of credit, the three largest pork processors do not provide letters of credit.
- Québec processors provide letters of credit, and U.S. processors are subject to the U.S. Packers and Stockyards Act.

Ontario Pork called Mr. Ken McEwen to the stand who was qualified as an expert witness. Mr. McEwen reviewed a report he completed for Ontario Pork in July 2008. The report titled, "A Review of the Functions and Service Fee Levies Applied to the Swine Sector by Province" was entered as Exhibit 9. The report included a comparison of services and service fees of various hog marketing boards and associations across Canada.

During cross examination Mr. McEwen concurred with a statement by Mr. Hunsberger that the western Canadian provinces are the only provinces with a total open marketing system. Based on information in his report, Mr. McEwen also concurred that, on average, the cost of marketing a hog in Manitoba, Saskatchewan or Alberta is approximately one dollar. Mr. McEwen also clarified that he did not have discussions with independent sales agents in western Canada during his research for his report.

Ms. Mary-Ann Hendriks, a director of Ontario Pork, presented information on a proposal to update the governance structure of Ontario Pork. Ms. Hendriks is a member of Ontario Pork's Electoral Structural Review Committee, which developed the proposal. The proposal had not been approved by the local board. She explained that past attempts to update the governance structure were not successful, as Ontario Pork did not receive sufficient support from the councillors. The swine industry has seen a 50 percent drop in producers since 1996. The key features of the proposed governance model are listed below:

- ten provincial directors; three zones representing the existing twelve districts: District 1-3, District 4-7, and District 8-12;
- each zone elects three directors at large;
- the tenth director elected from large producers (greater than 10,000 hogs), who represents large producers and who does not have to be a councillor;
- directors elected to three year terms (like the Ontario Federation of Agriculture);
- maximum of 12 years (four terms) with some exceptions; and
- eighty councillors elected from the 12 districts.

Committee work continues, with a board discussion in July and a decision in August. Comments from producers are accepted until the policy conference. If changes are approved and supported, the committee would like to see them in place by March 2009.

Larry Skinner

Mr. Larry Skinner, a pork producer from Perth County, addressed two topics which he felt were the key issues for the hearing.

On the issue of Ontario Pork having third-party status in direct supply contracts, he stated that the current process, which was meant to be automatic, has at times become protracted and burdensome. He suggested there is a conflict between the marketing powers, which were granted in the era when hogs were predominately sold by auction. He stated that he agreed that it is not possible to permit fully functioning direct contracting with the existing marketing powers of Ontario Pork. He suggested the corollary is also true, that the marketing powers of Ontario Pork cannot be fully exercised with direct contracting in place. He suggested the principles for contracting protocols and procedures needed to be revised, and that the relevant sections of the regulations needed to be revised to more accurately reflect the current marketing environment. He suggested a greater role for the commission in implementation and enforcement of the resulting system.

In the area of the service fee, Mr. Skinner compared the Manitoba fee structure and amounts with Ontario Pork's fees. He indicated that under the open system in Manitoba, the producers pay an \$0.80 per hog fee to Manitoba Pork Council, and if they use the services of the Manitoba Pork Marketing Coop, they pay another \$0.70 per hog, for a total of \$1.50 per hog. He indicated that there will always be a transactional cost borne by producers regardless of the selling system, and that producers need to know exact costs. He suggested that a greater transparency of Ontario Pork's true costs with regard to various marketing services would address much of the producer dissatisfaction with the current system.

Conestoga Meat Packers/Progressive Pork Producers Coop (jointly Conestoga/3P)

Mr. Bob Hunsberger, Chair of Conestoga/3P, and Arnold Drung, General Manager of Conestoga Meat Packers Ltd. made a joint submission. Conestoga/3P suggested that the marketing powers given to Ontario Pork need to be revoked as they are in conflict with Conestoga/3P operating model. They stated that to be successful, they need an open and flexible hog marketing system in Ontario, or at the very least an irrevocable exemption from the current marketing authorities of Ontario Pork. They outlined their business model which is to ensure slaughter space for the hogs produced by members, with members receiving compensation for their hogs based on the value of the meat.

They suggested that the ongoing conflicts with Ontario Pork arising from the legislated monopoly powers granted to the board, and the model of operating a producer-owned plant threaten the viability of their operation.

They suggested that the economics of the hog processing sector had resulted in reduced margins for pork processors. They outlined changes they had made and were making to increase the viability of their operation. They stated that they had to pay Ontario Pork for services that didn't add value for their members, and that requested exemptions have not been approved. They outlined the resulting conflicts between themselves and Ontario Pork, as they attempted to change the payment time, the method of price determination, payment settlement and the scheduling of hogs to be delivered by their members to their plant.

Synergy Swine Inc, Paragon Farms and Great Lakes Pork, and RFW Farms Ltd.

Mr. Mark Yungblut, Mr. Rob McDougall and Mr. James Reesor, representing the above three businesses, chose to make a joint submission at the hearing. They outlined that they collectively produce over 700,000 market hogs annually, involve over 220 Ontario farm families and contribute over \$1 million annually to the budget of Ontario Pork.

They stated that the sole marketing authority of Ontario Pork is the key issue to be addressed. They suggested it is not possible to fully permit direct contracting between producers and processors, while leaving in place the marketing powers of Ontario Pork, in particular Section 10 of Regulation 419. They suggested the marketing roles of Ontario Pork should become voluntary. They recommended that the board should have no authority over producer-processor contracts. They stated that the issue of marketing fees, while important, was secondary to the main issue of compulsory marketing powers. They stated that the existing marketing authorities could negatively impact the decision of processors to invest in Ontario.

Mr. Kevin Grier, Senior Market Analyst with the George Morris Centre, was called to the stand and was qualified as an expert witness. Mr. Grier stated that in western Canada and the U.S., hog marketing is a business transaction between producer and processor. He also described the existence of private marketers in western Canada. He suggested that 85 to 90 percent of hogs in North America are on contract with packers or owned by packers. Hog transport is in most jurisdictions the producer's responsibility. Hog pricing is based on hog and pork supply and demand, and pricing is open and transparent. The Ontario price is the Chicago Mercantile Exchange price adjusted for exchange rate minus transportation costs. In other jurisdictions the producers are paid directly by the processor. Producer and packer relationships are highly developed, and open marketing is the norm.

Mr. Grier suggested that Ontario Pork inserts itself in the relationship between producers and processors by being involved in approval of direct contracts, scheduling and settlement. He also stated that posting contract information for others to view is counter productive and a barrier to innovation. Additionally, he suggested that Ontario Pork's current marketing authorities are redundant. Further, he stated that Ontario Pork does not require marketing powers to provide producers with protection against a default in payment.

Mr. Grier stated that a new pork processing plant costs upwards of \$200 million to build, plus another \$50 to \$100 million in operating capital. He raised the issue of Maple Leaf Foods announcing plans to sell or close its Burlington, Ontario plant as a major concern, as it is the largest buyer of Ontario market hogs.

The Open Market Group (The OMG)

Mr. Brian Simpson and Mr. Jim Van Nes spoke as representatives of The OMG. They stated that Ontario Pork is often put in a difficult position representing all producers. The OMG group requested that Ontario Pork be split into two stand-alone organizations: an association; and a marketing/logistics arm. The association would be involved in all things except marketing, and The OMG supported a fee on all classes of swine. The fee must be competitive with other jurisdictions in North America.

They requested that producers be given the choice of whether or not to use the marketing services of Ontario Pork, and that the marketing services be funded on a user-pay system. They stated that separating marketing from the association provides a choice for producers. A report prepared by Serecon Management Consultants Inc. for Ontario Pork and titled "Marketing Systems for Ontario Pork - A Working Document-" was entered as Exhibit 21. They explained that the concept of creating a marketing/logistics arm separating the marketing functions was listed as an option in this report, but was never implemented in Ontario.

Mr. Allan Van Ravenswaay, Mr. Jim Wilhelm, Mr. Ron Wouters and Mr. Eric VanBoekel also spoke for The OMG. Mr. Van Ravenswaay, Mr. Wilhelm, Mr. Wouters and Mr. VanBoekel testified that they are not satisfied with the effectiveness of Ontario Pork as a marketer, and that producers could achieve a better price by marketing directly. Mr. Van Ravenswaay presented an example of a spot market sale to a U.S. processor by Ontario Pork on his behalf that was significantly less competitive than another spot sale on the same day to the same U.S. processor by a U.S. producer. Mr. Wilhelm and Mr. Wouters explained that when their direct contract with an Ontario processor was terminated due to a plant fire, the only marketing option available through Ontario Pork was the pool program. They stated that they sought other options, and within a couple of weeks had negotiated a direct contract with a U.S. packer that was comparable to their previous direct contract. They also shared their experience in trying to resolve outstanding service fees and the subsequent legal conflicts between themselves and Ontario Pork.

Mr. Van Ravenswaay stated that he has 25 years experience as a commissioned order buyer of different livestock species, including hogs. In 2007, he was elected to Ontario Pork's Marketing Committee. He stated that the committee met once in 2007 and was subsequently terminated in the fall of 2007 due to budget cuts.

Mr. Van Ravenswaay further testified that Ontario Pork interferes with a producer's relationship with packers. He stated that in 2005, when he was attempting to negotiate a direct contract with a Québec processor, Ontario Pork became aware of the negotiations and became upset. He stated that the Québec processor was subsequently unwilling to discuss further or conclude a direct contract for risk of being shorted hogs by Ontario Pork.

Mr. Lou Thompson, a hog buyer for Cargill Meat Solutions, was called as a witness by conference call. Mr. Thompson worked for Tyson Foods for 14 years before joining Cargill. Mr. Thompson testified that he deals with Ontario hog producers and Ontario Pork. He has a good working relationship with Ontario independent producers through long-term supply contracts. He deals mainly with Ontario Pork on spot market sales. While at Tysons, he investigated the possibility of a long-term supply agreement with Ontario Pork, but the local board indicated that that it did not want to enter into long-term agreements at that time. Mr. Thompson stated that while hog volume is a factor in negotiating agreements, the most important factor is the relationship between processor and producer. He cited examples of Ontario producers that continued to honour their supply agreement throughout the last U.S. trade challenge on Canadian hogs.

The OMG cited the importance of getting kill data records from processors on a timely basis so they can make future management and marketing decisions. They experienced ongoing difficulty in getting this information from Ontario Pork in a timely manner.

During cross examination, evidence was entered as Exhibits 23, 24, 25 and 27 by Ontario Pork about legal conflicts between the board and Mr. Van Ravensway, Mr. Wilhelm, Mr. Wouters and Mr. VanBoekel. Ontario Pork suggested that the evidence given by these producers was not reliable.¹

¹ It is important to remember that this is not an adjudicative proceeding. The purpose of this proceeding is to determine regulatory policy questions that are of importance to the pork industry as a whole. The evidence must be viewed in this light. The commission finds that, despite their disagreements and history of disputes, all of the parties are genuinely committed to the success of the pork industry and gave their evidence honestly and sincerely.

Zantingh Direct Inc. and Zantingh Swine Inc. (collectively Zantingh)

Mr. Brad Zantingh, Business Manager, testified about the Zantingh business model acting as a marketing agent for sellers of various classes of hogs. Some classes are regulated by Ontario Pork while other classes are not under the marketing authority of Regulation 419. Zantingh indicated that they were a pioneer in developing markets for "light market" or "off-sort" market hogs, and indicated they had invested significant resources to build these markets. Zantingh has developed relationships with 14 U.S. specialty processors. Changes to regulatory structure should be flexible and allow parties other than Ontario Pork to be involved in the marketing of various classes of pigs in Ontario.

Zantingh believes Ontario Pork has an important role to play in representing the Ontario pork industry on a number of issues. Zantingh supports a swine traceability system in a way that protects and safeguards the business information of Zantingh. It suggests the commission should consider the role of the Hog Industry Advisory Committee or similar groups in advising Ontario Pork.

Zantingh requested that any regulation change be made in a way that does not threaten the business they have built.

Intervenors

A total of 18 intervenors filed written submissions with the commission. Eight of the 18 also made presentations at the hearing. There was a wide range of opinions expressed, from support for the status quo to requests for significant change in the area of Ontario Pork's marketing authorities and governance structure.

Maple Leaf Foods and Quality Meat Packers outlined difficulties they experienced in attempting to get board approval of supply contract language. They suggested that issues were discussed for several years and sometimes were never resolved. They felt that the process of contract approval negatively affected their business. Quality Meats also suggested that the current system of Ontario Pork's involvement in scheduling and logistics has disadvantages, such as a longer communications chain from supplier to purchaser; multiple accountabilities between the players; multiple communications paths and opportunities to create incongruities among the actions and needs of the parties; higher operating costs than a tighter supply chain would have; and additional levels of resistance to change due to the wide range of entities and organizations involved.

The Christian Farmers Federation of Ontario suggested that, while Ontario Pork has a role to play in positioning producers in a competitive North American market, producers should have the option to market their hogs without working through Ontario Pork; producers should have the option to arrange their own transportation; and producers should have the option to collect their payment directly from the packer.

Mr. Eric Schwindt proposed that Ontario Pork's governance model undergo a significant change to better represent the different sectors in pig production but also reflect the scale of production. He supports the need for a strong voice for pork producers and that the local board could play this role. He also noted that a clear delineation of roles is needed to eliminate the duplication of efforts between Ontario Pork and the Canadian Pork Council.

Ms. Ursula van den heuval-O'Neil, representing a group of beginning hog producers, supported an expanded role for Ontario Pork in the selling/marketing of all types and classes of pigs. Ontario Pork must serve the interests of all producers fairly and with emphasis on government support programs.

Mr. Rein Minnema supported Ontario Pork's current role in marketing hogs and suggested others should focus on other classes of hogs. The local board should maintain its role in settlement and that transportation costs should also remain pooled. He neither supports removing the exemption for other classes of swine nor allowing a fee to be assessed to other classes of swine.

Mr. Bruce Hudson, representing District 12 producers, expressed concern about proposed changes to the role and function of Ontario Pork during the current economic situation. He explained that many producers in eastern Ontario shipped to Québec processors, but changes to marketing agreements in Québec have had ramifications for these producers who are now shipping hogs west to Ontario processors.

Mr. Greg Haskett, District 5, indicated that all producers representing all segments of the pork industry should contribute financially to support Ontario Pork's role in addressing a number of industry issues. A number of intervenors, including representatives from District 3, 7, 11, Perth County Pork Producers and Grey Bruce Pork Producers Association, also supported the principle that those who benefit should contribute financially.

Mr. Haskett stated that in regard to marketing powers Ontario Pork's role in marketing hogs should be a matter of choice for producers. In regard to Ontario Pork's governance model, he indicated the number of councillors and provincial directors needs to be reduced to be more representative.

Rulings made during the Hearing

Conestoga Meat Packers / Progressive Pork Producers Cooperative Inc. included in their disclosure package a draft proposal for a resolution of outstanding issues between them and the local board prepared by mediator, Frank Handy, dated June 12, 2006. Ontario Pork objected to the admission of this document on the ground of settlement privilege. Mr. Hunsberger acknowledged that the parties had agreed that the mediation would be confidential. Accordingly, the commission has disregarded this document.

Ontario Pork objected to the admissibility of the report, dated September 1998, prepared by Serecon Management Consulting Inc, titled "Marketing Systems for Ontario Pork - A Working Document", on the ground that it was not the final report. The commission was satisfied that The Open Market Group had made reasonable efforts to obtain the final report, without success. By the end of the hearing, the local board produced copies of the final report. The local board also objected on the ground that the report is no longer accurate in its description of the pork industry, because there have been many changes in that industry since 1998. Given that The OMG sought to rely on it solely as a convenient means of presenting regulatory options and not as a source of factual information, the commission admitted it (Exhibit 21). They referred only to options III and IV on page 5 of Exhibit 21. Though the commission accepts that the report does not describe the current state of the pork industry, it does provide useful historical background.

The local board objected to some evidence on the ground of hearsay. For example, they objected to the evidence of Mr. Reesor regarding what an unidentified person said at a board Policy Day; of Mr. Van Ravensway regarding the price obtained by an unidentified producer; and of Mr. Van Boekel regarding a conversation with a representative of Meadowbrook Farms. The commission acknowledges that hearsay must be treated with caution because its accuracy cannot be tested, but also recognizes that the concerns regarding hearsay are of less significance in a hearing to determine questions of policy than in an adjudicative proceeding. In any event, the commission's findings do not turn on any of this hearsay evidence.

Analysis

The commission has considered the testimony and evidence presented at the hearing regarding the four issues cited above. In reviewing the evidence, it was clear that the issue of Ontario Pork's marketing authority was central, and required the commission's consideration. It was recognized by all that Ontario Pork had been delegated the authority to market Ontario hogs by the commission, however, several parties called for the removal of the powers that require the mandatory marketing of all hogs by or through the board.

All parties accepted that there is a role for Ontario Pork in representing the industry on a variety of issues. There is general support that all hog producers benefit from these industry services and therefore should contribute financially to pay for them. There were differences on the issue of giving Ontario Pork control over the licensing of producers including the authority over production practices. There is support for an update in the governance model, however, several parties suggested that the appropriate governance structure was an issue to be addressed after the future role of Ontario Pork in the selling/marketing of hogs was determined.

Role of Ontario Pork in the selling/marketing of all types and classes of pigs.

A major principle that was discussed throughout the hearing was producer choice in marketing options. Ontario Pork argued that it offers considerable choice to producers; that it has plans within its authority to increase the choices available; and that it is necessary to maintain all the powers it had previously been granted to meet its legitimate goals. Several parties argued that the local board's current marketing authorities were delegated decades ago and are no longer relevant or appropriate to allow the industry to operate efficiently. Several parties argued that there is incongruence between the marketing authorities that were delegated to Ontario Pork and the operation of direct supply contracts. They also suggested that this incongruence has led to inefficiencies, conflicts, and poor relationships within the industry, in particular those between Ontario Pork and many of its producers and pork processors.

The commission heard no compelling evidence from Ontario Pork that all of the powers and authorities within Regulation 419, section 10 are necessary for the successful marketing of Ontario hogs now and in the future. In fact, in response to a question, Ontario Pork indicated that they had not done a review of the need for particular subsections of Regulation 419. The commission was not convinced that the current efforts of Ontario Pork to make changes to their marketing role would lead to a timely resolution that was satisfactory to producers and stakeholders. The commission heard evidence that the issues being addressed were long standing and that the current strategic planning process being undertaken by the local board has been underway since 2005.

The commission recognizes that Ontario Pork's current marketing authorities were delegated to it when the structure of the industry, the marketing methods used, and the access to market information were quite different. The marketplace is increasingly moving away from demanding commodities and to differentiated products. The number of hogs marketed through direct supply contracts has grown to approximately 85 percent. The commission heard from Mr. Grier that North American supply and demand were the primary determinants of the price paid for market hogs in Ontario and in other jurisdictions in North America. While there was mention that market power should be a benefit, no evidence was presented to quantify this benefit, and thus the commission was not convinced that the market power held by Ontario Pork resulted in increased returns for Ontario producers.

The commission was not convinced that Ontario Pork's involvement in all producer-processor supply contracts adds value for participants. In fact, there was evidence that Ontario Pork's involvement was becoming an impediment to building and sustaining good supply chain relationships. While their contracting protocols suggest that Ontario Pork would respond to requests for approval of supply contracts within seven days, the commission heard that this is often not the case. Based on the submissions from processors, the commission finds that issues take considerable time to resolve and in some cases no resolution appeared to occur. The commission heard no evidence that relations between Ontario producers and U.S. processors were hindered by the lack of Ontario Pork's participation in the contract development.

The commission was told that full U.S. equivalency was not an appropriate target for sales through the board, and heard no compelling evidence that the local board's marketing powers allowed Ontario producers to achieve prices superior to those in regions without a body with similar powers. The commission recognizes that competitiveness is an important issue to the success of both producers and processors, and that there are considerable interdependencies within a supply chain. The commission believes that the benefits of direct relationships between buyer and seller are important to competitiveness, and that business models, such as producer cooperatives, would be more efficient in a model where costs were not added unnecessarily by a third party.

Ontario Pork stated that timeliness and security of payments are key "must haves" in its strategic direction. Ontario Pork indicated that its mandatory powers and current level of working capital allowed it to provide producers with an assurance of payment. However, the commission heard that producers are not guaranteed payment by the current system.

The commission was not convinced that this provided sufficient reason to maintain the local board's mandatory powers. The commission recognises there are programs in existence for other agriculture commodities, such as the Beef Cattle Financial Protection Program, that could serve as a model for the Ontario pork sector.

The commission heard evidence that jurisdictions in western Canada had moved to a dual marketing system. While there was some suggestion that investment and growth had occurred in the time period after these changes, it was not clear to the commission the extent to which the changes in regulation were the cause of investment and growth. The commission, however, heard no evidence to suggest that the financial position or competitiveness of producers in those regions were damaged by the move to a voluntary marketing system.

In addition, the commission heard testimony that there was significant dissatisfaction with Ontario Pork's role in logistics and scheduling of hogs to processors. The report presented by Dr. Groenewegen recommended improvements to these processes. The commission heard that the local board was updating its computer system with the intent to make improvements in these areas. The commission also heard that some processors wished to take on these roles and felt that the duplication of activities added unnecessary costs. The commission also heard that in Manitoba, the voluntary marketing cooperative provided these services to at least one processor on a fee-for-service basis. The commission heard that in most jurisdictions producers are responsible for the transportation of hogs to market, and heard no evidence that the current system in Ontario provided cost savings to participants.

Further, the commission heard that for "off-sort" market hogs and cull breeding stock that settlement is handled between buyer and seller and appears to be functioning without issue. Conestoga/3P stated they have the technology to do settlement with its members and that the duplication in services by Ontario Pork is adding unnecessary costs. The commission finds that scheduling, logistics and settlement decisions should be decided between the buyer and seller. This approach would allow the buyers and sellers to choose the most cost effective alternative, which should contribute to the competitiveness of the whole industry.

The commission finds that Ontario Pork should continue to offer marketing services, including logistics, scheduling, and settlement of payment and to collect a service fee for those services, but that these services should not be mandatory. Service fees should only be collected from those who choose to use Ontario Pork's services. Ontario producers may choose to continue to market their pigs through whatever methods Ontario Pork offers including pooled sales or board negotiated contracts. Producers shall have the option to enter into supply contracts with processors, make spot sales to buyers, sell through other agents or use any other method they wish to use to market their hogs. Accordingly, it is appropriate that Ontario Pork should develop an implementation plan to move from a mandatory marketing organization to one offering producers choices in marketing methods and report back to the Commission with its plan. Ontario Pork shall consult with all interested industry stakeholders in the establishment of this plan.

For these reasons, the commission will revoke section 5(j) in section 9 in Regulation 419 that stipulates all hogs shall be marketed by or through the local board, as well as revoke the prohibition that no person shall market hogs except by or through the local board. The commission may make any further consequential amendments. Stakeholders will be able to choose whether or not they wish to use Ontario Pork's selling, logistics, transportation and settlement services.

Role of Ontario Pork in serving the interests of the Ontario pork industry.

Ontario Pork listed the following activities as essential elements in their strategic direction: mandatory price reporting and access to markets; traceability, food safety and foreign animal disease preparedness; and Canadian Quality Assurance (CQA). Within its budget, Ontario Pork listed the resources used for research, promotion animal care and trade advocacy.

The commission heard from various parties to the hearing that there was broad support within the industry for Ontario Pork's continued involvement in many of these activities which provided benefits to all producers. Zantingh stated that they are supportive of a swine traceability system, and would be willing to cooperate with Ontario Pork in delivering traceability services if its clients or customers required them. The commission heard that those planning a national traceability system for hogs see an important role for provincial pork organizations in traceability.

Ontario Pork stated that an inordinate portion of the cost of providing these services is being borne by market hog producers. The local board requested that the exemption in Regulation 419 be removed to allow it to collect a license fee from all classes of domestic swine. The commission heard that under a revenue-neutral approach, the fees would be reduced on market hogs and re-distributed proportionally across weaners, breeding, and cull classes of domestic swine. Evidence was presented demonstrating producer support through Ontario Pork's annual resolution process for a redistribution of the service fee revenue. The commission heard that there was support among some producers of weaner pigs to contribute to the cost of these activities. Additionally, the commission was told that even producers who prefer to market their own hogs are willing to contribute financially to support these activities. Zantingh would not oppose a fee on cull sows and boars as long as it provided benefits to the industry, the fee was reasonable, and the fee did not come with additional regulatory powers or interfere with Zantingh's ability to do business.

Accordingly, the commission finds that Ontario Pork should continue to provide industry services for the benefit of all producers, and that all classes of domestic swine should be subject to license fees to facilitate them.

The commission did not hear clear evidence on the amount of financial contribution that was required from each group of producers or on each class of domestic swine. Evidence was presented that producers in the western provinces paid \$0.80 to \$1.00 per market hog, and \$0.19 to \$0.25 per weaner exported toward the industry services.

The commission also heard that while the Hog Industry Advisory Committee did not adequately represent all sectors of the pork industry, it could have been a useful forum for parties to bring forth issues for discussion. Several parties supported re-establishing the committee with representation from the entire pork industry value chain.

The commission finds that this committee can play an important role during the near-term transition. In the long term, it can provide a forum for the industry to address issues in a proactive manner. Accordingly, the commission will appoint a new chair and will seek the appropriate representation from the industry.

For these reasons, the commission will revoke the exemptions in section 3 of Regulation 419 for hogs marketed for any purpose except slaughter, such that Ontario Pork will have authority to collect a fee on all classes of domestic swine produced in Ontario. All producers will financially support the delivery of industry services.

Ontario Pork's authority over the production of pigs, including the licensing of producers.

The commission heard testimony from Ontario Pork that it should have full power to regulate on-farm production practices to deal with critical issues, such as traceability, food safety and foreign animal disease preparedness. In order to help ensure that producers comply with these initiatives and regulations, the board suggested all producers should be licensed. Ontario Pork currently has authority to license persons engaged in assembling, processing, shipping or transporting of hogs, but has no authority to license producers.

While the commission heard broad support for the board's involvement in traceability, there were concerns expressed with Ontario Pork being given additional authority over producers. The board currently has broad authority to collect information under 4(a) and 4(b) of Regulation 419. The commission finds that these paragraphs, as well as paragraphs 4(d) and (e), would allow Ontario Pork to implement its part of a national traceability system consistent with the parameters established by the Canadian Pork Council. The local board should retain these powers in order to collect and disseminate price information on market hog sales in an aggregate manner.

For these reasons, the commission will amend Regulation 419 to permit Ontario Pork to license producers for the purpose of collecting a license fee to support the delivery of industry services.

The representation model and board structure that will best enable Ontario Pork to achieve its mandate.

The commission heard evidence on the extent of the changes that have occurred to the production sector in terms of numbers of producers since the governance model was last updated. It also heard testimony on the need and desire for change, and that the last two or three attempts at change have been unsuccessful. The commission was presented with a potential model for change, but understands that the proposal had not been approved by the local board, and producers have not had the opportunity to review and provide input on it.

The commission strongly supports efforts to update the board governance model to more appropriately reflect the current size and structure of the sector. In light of the proposed changes to Regulation 419 herein, the commission recognizes the need for Ontario Pork to re-evaluate its proposed governance model and engage producers in this process. The commission, subject to the Minister of Agriculture, Food and Rural Affairs' approval, may amend Regulation 420 once the local board has completed its producer consultations and reported back to the commission by December 1, 2008.

Conclusion

Subject to any further analysis and consequential regulatory amendments that are necessary and prudent to give effect to this decision, the commission intends to implement the following measures:

1. Effective immediately, the requirement for Ontario Pork to review and approve direct supply contracts negotiated between buyers and sellers is revoked. Ontario Pork may continue to review and approve direct supply contracts negotiated between buyers and sellers if requested by either party.
2. Ontario Pork will retain the authority to offer marketing services, including logistics, scheduling, and settlement of payment and to collect a service fee for those services, but these services shall not be mandatory and the service fee would be collected from those who choose to use the services.
3. Ontario Pork will retain the power to collect and disseminate price information on market hog sales in an aggregate manner.
4. Producers may choose to continue to market their pigs through whatever methods Ontario Pork offers including pooled sales or board negotiated contracts.
5. Producers shall have the option to enter into supply contracts with processors, make spot sales to buyers, sell through other agents or use any other method they wish to use to market their hogs.
6. The commission finds that scheduling, logistics and settlement decisions should be decided between the buyer and seller.
7. The commission will revoke paragraph 5(j) in section 5 in Regulation 419.
8. The commission will revoke section 9 in Regulation 419.

9. The commission will revoke the exemptions in section 3 in Regulation 419 for hogs marketed for any purpose except slaughter, such that Ontario Pork will have authority to collect a fee on all classes of domestic swine produced in Ontario. All producers will financially support the delivery of industry services.
10. The commission hereby orders Ontario Pork to develop an implementation plan to move from a mandatory marketing organization to one offering producers choices in marketing methods, and to return to the commission with a preliminary plan by January 15, 2009 and a completed plan by March 1, 2009. Ontario Pork shall consult with all interested industry stakeholders in the establishment of this plan.
11. The commission orders Ontario Pork to return to the commission with a plan on how it would collect appropriate charges for industry services and what it proposes to be the nature and scope of its mandate for industry services. Ontario Pork is to consult with its membership, and industry stakeholders in developing this plan.
12. The commission will appoint a new chair to the Hog Industry Advisory Committee and will seek the appropriate representation from the industry.
13. Ontario Pork is hereby ordered to complete consultations with its members and return to the commission with a proposal to align its governance model with the current industry size and structure by December 1, 2008.

Except where otherwise provided, the above changes will come into effect in or about April 2009.

This decision has been unanimously approved by the commission.

Dated at Guelph, Ontario, this 6th day of October, 2008.

Elmer Buchanan
A/Chair
Ontario Farm Products Marketing Commission

Gloria Marco Borys
Secretary
Ontario Farm Products Marketing Commission



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