

Canada Agricultural
Review Tribunal



K1R 7Y3

Commission de révision
agricole du Canada

Date: 20190307
Docket: CART | CRAC-1988

Way-Alta Livestock Ltd.

APPLICANT

- and -

Canadian Food Inspection Agency

RESPONDENT

**BEFORE: Patricia L. Farnese
Part-time Member**

**WITH: Ms. Lacey Barkley representing the Applicant; and
Ms. Jennifer Lee representing the Respondent**

In the matter of an application to the Canada Agricultural Review Tribunal (Tribunal) pursuant to subsection 12(2) of the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#), for a review of decision #1718WA0181, rendered June 8, 2018, in which the Minister's delegate held that the Applicant violated paragraph 138(2)(a) of the [Health of Animals Regulation](#).

ORDER ARISING FROM REQUESTS TO SUBMIT ADDITIONAL DOCUMENTS

1. BACKGROUND TO THE CURRENT ORDER

[1] On January 30, 2019, the Tribunal held a Case Management Conference Call where I allowed the Parties to make a written request to submit additional documents.

[2] On February 8, 2019, the Tribunal received a request, by email, from each Party. The Applicant requests the following documents be admitted:

- a. Roseburn/Tongue Creek Feedlot Papers for the month of August 2017
- b. Humane Transportation of Animals (Task 1101) Form
- c. Printouts from Three Auction Marts
- d. Letter of Dr. Ted Shacklady, DVM

The Respondent requests the following documents be admitted:

- a. Transportation of Animals Program Compromised Animals Policy
- b. Recommended Code of Practice for the Care and Handling of Farm Animals
- c. Alberta Farm Animal Care Association Humane Handling Guidelines for Dairy Cattle and for Beef Cattle.

[3] On February 15, 2019, the Respondent sent an email to the Tribunal objecting to the admission of Applicant documents (a) and (b) in their entirety and the first 5 pages of Applicant document (c).

[4] On March 8, 2019, the Tribunal received an email from the Applicant in reply to the Respondent's objection to the admissibility of their documents.

[5] The Applicant raised no objections to the admission of the Respondent's documents.

2. FACTORS CONSIDERED IN MAKING THE ORDERS

[6] Section 6 of the [*Rules of the Review Tribunal \(Canada Agricultural Review Tribunal\)*](#) grants me the authority to extend the time limit for the admission of documents prescribed by Section 52.

[7] Admission of a Party's document does not signify acceptance of their assertion that the document proves what is being asserted. The Parties are expected to speak to the appropriate weight to be afforded the document at the hearing.

[8] Fairness requires that the evidence be considered as a whole and thus no one piece of the evidence ought be dismissed merely because it as a piece of the whole.

[9] In their request and reply for admission of documents, the Applicant appears to now dispute a previous agreed material fact, namely where the cattle were loaded. If this is the Applicant's intention, this development may change the case the Respondent must meet. Fairness requires that the Respondent be afforded the opportunity to request the admission of additional documents and amend their witness list.

[10] In their communication with the Tribunal, the Applicant indicates that they wish to call two additional witnesses although only Dr. Shacklady is named.

3. ORDERS

[11] I **ORDER** that all of the Applicant's and Respondent's documents will be admitted and given due consideration during the forthcoming hearing.

[12] I **ORDER** that the Applicant confirm in writing by March 15, 2019, their intention to dispute the Ministry's finding with regarding where the cattle in question were loaded.

[13] In the event the Applicant confirms their intention to dispute the Ministry's finding as to where the cattle in question were loaded, I **ORDER** that the Respondent submit a request to admit additional documents in response by April 1, 2019.

[14] I **ORDER** that a subsequent Case Management Conference Call be held to finalize the list of witnesses to appear at the hearing.

Dated at Saskatoon, Saskatchewan, on this 7th day of March 2019.

Patricia L. Farnese
Part-time Member
Canada Agricultural Review Tribunal