

Federal Court



Cour fédérale

Date: 20250131

Docket: T-294-25

Toronto, Ontario, January 31, 2025

PRESENT: The Honourable Justice Battista**BETWEEN:****UNIVERSAL OSTRICH FARMS INC.****Applicant****and****CANADIAN FOOD INSPECTION AGENCY****Respondent****ORDER**

UPON the Applicant's motion for an injunction prohibiting the execution of the Notice issued by the Canadian Food Inspection Agency [CFIA] on December 31, 2024, requiring the Applicant to dispose of animals in its possession, and for an amendment to the Requirement to Quarantine notice dated December 28, 2024;

AND UPON considering that a party seeking an injunction must satisfy the following three-part test: (1) that the application for judicial review raises a "serious question to be tried"; (2) that the moving party will suffer irreparable harm if a stay were refused; and (3) that the balance of convenience (*i.e.*, the assessment of which party would suffer greater harm from the granting or

refusal of the stay pending a decision on the merits) favours granting the stay (*RJR-MacDonald Inc v Canada (Attorney General)*, 1994 CanLII 117 (SCC), [1994] 1 SCR 311 [*RJR*] at 334);

AND UPON considering that the Applicant has demonstrated that the main application raises at least two serious questions, first, whether the Notice requiring disposal of the animals was reasonable in light of the discretion available to the Respondent to require either disposal or vaccination of the animals under subsections 48(1) and (2), respectively, of the *Health of Animals Act*, SC 1990, c 21 [*HAA*] (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 108) and second, whether the Notice is an incursion upon provincial responsibility under the *British Columbia Animal Health Act*, SBC 2014, c 16;

AND UPON being satisfied that the Applicant has demonstrated that irreparable harm would result if the injunction is not granted, in the form of the closure of its 25-year old business and the loss of the Applicant's decades-long efforts in cultivating a unique herd of ostriches;

AND UPON being satisfied that the balance of convenience favours the Applicant in granting the Order, considering that refusing the injunction would expose the Applicant to irreparable harm and render the main application for judicial review moot, and that the Respondent has a range of options under the *HAA* to address its concerns regarding public safety;

THIS COURT ORDERS that:

1. The Notice dated December 31, 2024 requiring the Applicant to dispose of the ostriches pursuant to subsection 48(1) of the *HAA*, is stayed until a decision is rendered in the underlying application for judicial review;
2. The request to amend the Requirement to Quarantine notice is denied;

3. There is no order regarding costs.

"Michael Battista"

Judge