

Universal Ostrich Farms Inc.
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Email: universalostrich@gmail.com

Date: November 1, 2025

BY EMAIL AND COURIER

To:

The Honourable Heath MacDonald, P.C., M.P.

Minister of Agriculture and Agri-Food Canada

1341 Baseline Road

Ottawa, Ontario K1A 0C5

aafe.minister-ministre.aac@agr.gc.ca

heath.macdonald@parl.gc.ca

cc:

The Honourable Lawrence Hanson

Deputy Minister of Agriculture and Agri-Food Canada

lawrence.hanson@agr.gc.ca

Re: Urgent – Ministerial Reconsideration Request – Response Required Before November 6, 2025

Dear Honorable Minister MacDonald,

This letter supersedes and takes precedence over our letter sent to your offices dated October 31st, 2025.

This correspondence follows our Request for Ministerial Reconsideration, submitted September 9–10, 2025, under sections 48 and 13(2)(a) of the *Health of Animals Act*, concerning the CFIA's "Notice to Dispose" dated December 31, 2024.

We understand that as of May 13, 2025, you hold the office of Minister of Agriculture and Agri-Food. Our original submission was addressed to your predecessor, the Hon. Lawrence MacAulay; accordingly, we now direct this matter to your immediate attention as the current statutory decision-maker.

It has been nearly two months without acknowledgment or decision from your Office. Meanwhile, CFIA has continued to act as though it were the decision-maker, contrary to the *Health of Animals Act*, which assigns this authority exclusively to the Minister.

The delay is now causing irreparable harm to the owners and to the welfare of the animals still under CFIA custody. Moreover, the Supreme Court of Canada docket indicates that a judgement in this matter will be rendered on November 6, 2025.

Given that the Supreme Court of Canada is scheduled to render its decision on November 6, 2025, we respectfully request that your office immediately acknowledge and formally seize jurisdiction of this matter under section 48 of the *Health of Animals Act*. Upon doing so, we further request that you notify the Attorney General of Canada and the Supreme Court Registrar that a Ministerial Reconsideration is underway. Such notification will ensure that the Court is aware a statutory review process is active within your authority, preventing conflicting or premature determinations and preserving judicial economy. This action would demonstrate that your Office has assumed direct oversight and is actively exercising its lawful discretion over the matter.

Accordingly, pursuant to your duty of fairness and s. 18.1(3) of the *Federal Courts Act*, we formally demand immediate Ministerial action as follows:

1. Acknowledgment within 24 hours that our September 9, 2025, submission is before the Minister under *Health of Animals Act* s. 48.
2. Confirmation within 48 hours of the Minister's designated decision-maker and file number.
3. Confirmation that the Attorney General of Canada and the Supreme Court Registrar have been contacted.

We ask the Minister to use Duty of Fairness, Procedural Fairness and your Mandated Fairness in a timely manner.

If no response is received by the stated deadline, we will consider that the Minister has declined to exercise jurisdiction under section 48 of the *Health of Animals Act* and will reserve all rights and remedies available under Canadian law.

For reference, the initial pages of our September 9, 2025, submission are attached.

Respectfully,



Universal Ostrich Farms Inc.

Karen Espersen, President
Dave Bilinski, Vice-President

November 2, 2025
Date

UNIVERSAL OSTRICH FARMS INC.

ADDENDUM TO REQUEST FOR MINISTERIAL RECONSIDERATION

(Originally filed September 9, 2025 – Universal Ostrich Farms Inc.)

To:

The Honourable Heath MacDonald, P.C., M.P.
Minister of Agriculture and Agri-Food Canada
aafc.minister-ministre.aac@agr.gc.ca
heath.macdonald@parl.gc.ca

cc:

The Honourable Lawrence Hanson
Deputy Minister of Agriculture and Agri-Food Canada
lawrence.hanson@agr.gc.ca

From:

Universal Ostrich Farms Inc.
301 Langille Road
Edgewood, BC V0G 1J0

Date: November 1, 2025

1. Purpose

This Addendum supplements the Request for Ministerial Reconsideration submitted September 9, 2025, under section 48 of the *Health of Animals Act* (HAA), from Universal Ostrich Farms Inc. (UOF) to the Minister of Agriculture and Agri-Food, and included the Canadian Food Inspection Agency (CFIA) President and Chief Veterinary Officer. It clarifies jurisdictional errors that have delayed a lawful Ministerial decision and presents new scientific, economic, and international evidence warranting immediate Ministerial action.

2. Jurisdictional Clarification

The HAA grants exclusive authority to the Minister to “review, amend, cancel, or confirm any order” issued under the *Act*. The CFIA’s letter of September 22, 2025, purporting to respond to the reconsideration request was *ultra vires* and without legal effect. Only the Minister may lawfully render a decision. Accordingly, the September 9, 2025 application remains pending before the Minister.

3. Need for Immediate Ministerial Action

The Supreme Court of Canada has scheduled its decision for **November 6, 2025**. A timely Ministerial determination is required, to ensure that the Court has before it, a complete and lawful executive record reflecting Ministerial, not agency, oversight.

4. Factual and Scientific Basis for Reconsideration

- No confirmed Highly Pathogenic Avian Influenza (HPAI) was established.
- There has been no illness or death for over 290 days since January 14, 2025, proof that the infection burned out naturally under CFIA quarantine.
- Serious animal welfare violations occurred at UOF while the herd was under CFIA custody.
- Assertions that maintaining the Universal Ostrich Farms herd poses a trade risk are unfounded.
- Ostriches do not fall within the definition of “poultry” under the World Organization for Animal Health (WOAH) definition.
- Errors in applying Foreign Animal Disease Emergency Support plan (FADES) and CFIA Animal Health Functional Plan (AHFP).
- FADES explicitly states that “stamping-out applies to HPAI in food-producing birds.” UOF operates a controlled research and breeding facility, not a slaughter or egg operation for food.
- Destroying this herd would cause irreparable economic and scientific loss and violate FADES’s own mandate to consider “social, economic, and environmental recovery.”
- This has National and International security implications.
- Unauthorized airspace restriction over UOF and neighbouring properties under CFIA quarantine.
- Discrepancies in reporting avian flu cases between WOAH and CFIA’s databases indicate significant differences.
- Breach of Property Rights, Stay Order, and Unlawful Occupation.

5. Hybrid Pathogenicity Confirmed

The strain detected was hybrid, containing both high-pathogenic (HPAI) and low-pathogenic (LPAI) markers. With only about 15% mortality in the UOF ostrich herd from an illness showing Pseudomonas-like symptoms between December 14 and January 14, 2025 (31 days) and none since, this pattern aligns with both natural immunity and low-pathogenic influenza virus.

Please refer to the following Affidavits:

- Dr. Byram Bridle March 3, 2025
- Dr. Steven Pelech September 21, 2025

Expert Reports formerly submitted September 9, 2025:

- Dr. Steven Pelech January 29, 2025
- Dr. Steven Pelech February 10, 2025
- Dr. Steven Pelech March 31, 2025
- Dr. Steven Pelech April 5, 2025

6. Natural “Burn-out” proven by Universal Ostrich Farms

Since January 14, 2025, no illness or illness-related deaths have occurred among the herd, which now, as of November 1, 2025, is over 290 days. All birds remain healthy under quarantine.

This constitutes clear evidence of natural viral “burn-out”, precisely the scenario contemplated by CFIA’s own expert, Dr. Abed Harchaoui, who testified that the 2013 National Avian Influenza Hazard-Specific Plan permitted a “burn-out” approach for low-pathogenic infections on remote, non-commercial premises.

WOAH recognizes natural “burn-out” after one year disease-free. UOF is approaching this milestone.

UOF’s results confirm the effectiveness of that “burn-out” approach in practice. Continuing to enforce a destruction order despite the complete absence of disease is **scientifically indefensible and legally disproportionate** under section 48 of the *Health of Animals Act*.

7. Serious Health and Welfare Violations under CFIA custody

Serious welfare violations have occurred at UOF while the herd is under CFIA custody. Multiple ostriches have sustained injuries, and at least one bird *Spirit* died after being left unattended while in visible distress, lying on a manure pile and exposed to the elements without timely veterinary care. Reports indicate that the birds have not been provided with adequate feed or proper access to clean water. UOF, as the experts in caring for their birds, have instructed CFIA multiple times on proper ostrich husbandry, such as adequate consistent clean water and feed, veterinary care, etc., however, CFIA has ignored or denied critical instructions, leaving the ostriches in peril.

These conditions constitute a clear failure to meet basic animal welfare standards, raise grave concerns regarding CFIA’s compliance with federal animal care obligations and internationally recognized research ethics, and may violate Section 445.1 of the **Criminal Code of Canada**, which prohibits causing unnecessary suffering to animals.

8. Canada’s Trading Partners have Increased

The UOF is located in its own control zone and does not affect materially the international poultry trade, most of which is with the United States.

Agricultural trade between Canada and the United States remains historically strong and continues to grow. In 2024, bilateral agri-food trade exceeded CAD \$95 billion, with over 60 percent of Canada's agricultural exports bound for the United States.

Destroying this herd would eliminate a unique biotechnological resource of shared North American importance, contradicting both the One Health cooperative principles and the stated goals of the U.S. Department of Agriculture and Health and Human Services regarding natural immunity research.

In correspondence addressed to your Ministerial office from Robert F. Kennedy Jr., US Secretary of Health and Human Services (HHS), dated July 15, 2025, the United States formally expressed interest in preserving the UOF research, stating:

“If Canada prefers not to host continued research, the Department would appreciate the opportunity to engage with the CFIA to discuss options to perform this research in the United States.”

According to Statistics Canada, “*Canada's Exports of Poultry and Egg Products 2023-24*”, poultry exports have increased significantly: by 20.56% to Mexico, 51.39% to Taiwan, and 70.54% to China. This is despite over 130 outbreaks of influenza virus in domestic bird farms in 2023 and 107 further outbreaks in 2024 in Canada. (Reference: Canadian Food Inspection Agency. *Reportable Avian Influenza in Domestic Birds: High Pathogenicity Avian Influenza in Domestic Birds*).

9. Ratites Are Not Poultry – Misclassification Under WOA and Domestic Law

Ostriches are ratites, not poultry. They belong to a distinct avian order (*Struthioniformes*) and are recognized internationally as separate from poultry for purposes of disease surveillance and trade. Both WOA and the *Health of Animals Regulations* distinguish ratites from “food-producing poultry.”

The WOA definition for poultry: “all domesticated birds, including backyard poultry, used for the production of meat or eggs for consumption, for the production of other commercial products, for restocking supplies of game, or for breeding these categories of birds, as well as fighting cocks used for any purpose. Birds that are kept in captivity for any reason other than those reasons referred to in the preceding paragraph, including those that are kept for shows, races, exhibitions, competitions or for breeding or selling these categories of birds as well as pet birds, are not considered to be poultry”.

By applying poultry stamping-out policies to ostriches, CFIA acted contrary to both international and domestic classifications.

WOAH's *Terrestrial Animal Health Code* lists Avian Influenza primarily in relation to "poultry", while separate provisions address ratites only when explicitly stated.

The 2019 BC FADES plan further limits stamping-out to "***Highly Pathogenic Avian Influenza in food-producing birds.***" UOF's ostriches are neither poultry nor food-producing, making the invocation of poultry-based eradication measures legally and scientifically unfounded.

This misclassification alone warrants Ministerial intervention and reconsideration of CFIA's Notice to Dispose.

10. Framework Error under FADES and AHFP

The 2019 BC Foreign Animal Disease Emergency Support (FADES) plan applies to confirmed Foreign Animal Diseases (FADs) **in food-producing birds**. UOF's ostriches are neither food-producing, poultry, or confirmed HPAI cases; therefore, the FADES framework was never lawfully triggered.

FADES is a support and coordination plan built on the CFIA Animal Health Functional Plan (AHFP); it does not create new authority beyond the HAA. CFIA's "stamping-out" application to UOF was thus procedurally and jurisdictionally improper.

Under FADES, Agriculture and Agri-Food Canada (AAFC) is tasked with policy oversight and economic recovery not front-line enforcement confirming that the Minister is the proper decision-maker for this review.

11. Food-Production Limitation

FADES explicitly states, that "stamping-out applies to HPAI in food-producing birds." UOF operates a controlled research facility, not a slaughter or egg operation for consumption. Applying a food-supply eradication policy to a non-food research herd contradicts both the intent of FADES and the principle of proportional response under the HAA.

12. Economic and Reputational Consequences

Destroying this herd would result in profound and irreversible economic, scientific, and reputational harm. Such an action would also contradict FADES's own mandate to promote social, economic, and environmental recovery:

- **Loss of irreplaceable scientific value:** The herd represents a uniquely immune-tested ostrich population with decades of genetic lineage, antibody data, and research potential. The UOF ostrich herd possess antibodies against the SARS-CoV-2 virus spike protein following antigen exposure and antibodies against the influenza H5N1 avian virus due to natural infection.
- **Disruption of active U.S.–Canada research partnerships:** The population serves as a critical research resource jointly supported by the U.S. Department of Health and Human Services (HHS), the National Institutes of Health (NIH), and the Food and Drug Administration (FDA).

- **Official U.S. request for collaboration:** In letters dated May 23, 2025, and July 15, 2025, U.S. HHS Secretary Robert F. Kennedy Jr. urged the President of CFIA, Mr. Paul MacKinnon, and the Minister of Agriculture and Agri-Food, Heath MacDonald, respectively, to avoid culling and instead to continue collaborative studies on long-term H5N1 immunity at the UOF.
- **Severe financial and reputational impact:** Culling would inflict significant financial losses on Canadian farm owners and researchers, while inflicting lasting damage to Canada’s reputation as a trustworthy partner in scientific innovation and agricultural stewardship.

13. National and International Security Implications

Secretary Kennedy’s letter concluded that culling would provide no public health benefit months after initial detection and would “squander valuable data on immune recovery and antibody development.”

This international appeal underscores the global scientific importance of preserving the UOF herd, warning that the loss of ongoing research on ostriches and their antibodies could pose a potential international security issue, given their relevance to pandemic preparedness, zoonotic disease prevention, biosecurity research and biodefence.

Given that the **National Centre for Foreign Animal Disease (NCFAD)** is designated and recognized by the **World Organisation for Animal Health (WOAH)** and the **Food and Agriculture Organization of the United Nations (FAO)** as such, data generated from Canada’s animal health systems must be carefully managed. Any ratification of natural immune research without Ministerial review could compromise Canada’s contributions to international obligations and diminish the integrity of its global partnerships in disease preparedness.

14. Unauthorized Airspace Restriction

Section 2.8 of the **2019 BC Foreign Animal Disease Emergency Support (FADES) plan – Annex** outlines the responsibilities of the Ministry of Transportation and Infrastructure (TRAN) during a disease response.

TRAN’s authority extends only to ground-level transportation and access control, such as:

- Coordinating with local officials to determine which roads may be closed around the periphery of quarantine zones.
- Arranging traffic control devices and signage.
- Issuing special permits for the transport of soil, carcasses, or debris.
- Assisting in vehicle decontamination operations.

Nowhere in the FADES plan, the *Health of Animals Act*, or any associated federal statute is CFIA or TRAN granted authority to restrict airspace or issue a “No-Fly Zone” over a quarantined premise.

Despite this, CFIA ordered a “**No-Fly Order**” over UOF, prohibiting drone or aerial observation of the property. This constitutes administrative overreach and interference with private property rights and transparency.

Such restrictions fall exclusively under **Transport Canada** and **NAV CANADA**, pursuant to the *Aeronautics Act*, and cannot lawfully be enacted by CFIA or any provincial Ministry under the FADES framework.

The imposition of an airspace ban without Ministerial authorization or judicial order not only exceeds the CFIA mandate but also undermines public confidence, due process, and the open administration of justice.

15. Discrepancies Between CFIA and WOAAH Event Reporting

Discrepancies in reporting avian flu events between WOAH and CFIA’s databases indicate significant differences. In Canada, since September 2007 WOAAH shows a total of 9 HPAI and LPAI events whereas since December 2021 CFIA shows a total of 584 HPAI and LPAI cases. Importantly, CFIA states that the UOF case was reported to WOAAH, however, the case could not be located on the WOAAH events management data system.

16. Canadian Bill of Rights Breach

On or about September 22, 2025, CFIA officials, accompanied by RCMP officers, forcibly removed property owners **David Bilinski** and **Karen Espersen** from their privately owned land in Edgewood, BC, disabled and cut security cameras, and established an ongoing occupation of the premises. These actions occurred while a valid **Supreme Court of Canada Stay Order** was pending. The removal of the owners and destruction of private surveillance equipment was not authorized by any warrant or judicial order and directly contravenes the intent of the Stay Order, issued September 24, 2025, which preserved the status quo and prohibited interference with the owners’ lawful care of their animals and property. The continued occupation of more than 200 acres of agricultural land has prevented essential farm maintenance and constitutes a serious infringement of the owners’ right to enjoyment of property protected by **section 1(a)** of the *Canadian Bill of Rights*. It may further amount to **contempt of court** under *Criminal Code* s. 127 and **mischief to property** under s. 430.

17. Requested Ministerial Determination

Given that the Supreme Court of Canada is scheduled to render its decision on November 6, 2025, we respectfully request that your office immediately acknowledge and formally seize jurisdiction of this matter under section 48 of the *Health of Animals Act*. Upon doing so, we further request that you notify the Attorney General of Canada and the Supreme Court Registrar that a Ministerial Reconsideration is underway. Such notification will ensure that the Court is aware a statutory review process is active within your authority, preventing conflicting or premature determinations and preserving judicial economy. This action would demonstrate that your Office has assumed direct oversight and is actively exercising its lawful discretion over the matter.

Universal Ostrich Farms Inc. respectfully requests that the Minister:

1. **Acknowledge, immediately**, the pending Request for Ministerial Reconsideration submitted September 9, 2025.
2. Declare that the CFIA's response to the Request for Ministerial Reconsideration on September 22, 2025, is invalid.
3. Set aside the Notice to Dispose dated December 31, 2024.
4. Provide a written decision before November 6, 2025.
5. Order a full, independent investigation into the reported animal welfare breaches under CFIA custody, ensuring compliance with the Criminal Code of Canada (Section 445.1) and other federal animal welfare regulations.
6. Restore immediate custody and care to the UOF owners.
7. Direct the immediate removal of any CFIA/RCMP-imposed airspace restrictions and ensure that any future flight or media access limitations are coordinated exclusively through Transport Canada in accordance with federal law.
8. Substitute a Risk-Managed Alternative Control Protocol Under Section 13(2)(a) of the *Health of Animals Act*.
9. Investigate the accuracy and legitimacy of CFIA's reporting with WOAHA.
10. Direct the CFIA to immediately withdraw all personnel from the property and to restore possession and control to the lawful owners.
11. Initiate a formal investigation into CFIA's and RCMP's conduct for potential breaches of the *Health of Animals Act*, the *Criminal Code*, and the Supreme Court's Stay Order.

Conclusion

Given the scientific facts, international support, and absence of disease for nearly ten (10) months, immediate Ministerial intervention is both legally and morally necessary to prevent irreparable harm and to uphold Canada's commitment to sound science and fair governance.

Respectfully submitted,



Karen Espersen
President, Universal Ostrich Farms Inc.
Date: November 2, 2025



David Bilinski
Vice-President, Universal Ostrich Farms Inc.
Date: November 2, 2025

Attachments

1. Original Ministerial Reconsideration Request submitted September 9, 2025
2. CFIA's response to Ministerial Reconsideration Request dated September 22, 2025
3. Affidavit of Dr. Byram Bridle dated March 3, 2025
4. Affidavit of Dr. Stephen Pelech dated September 21, 2025
5. Letter from U.S. Secretary of HHS Robert F. Kennedy Jr. dated May 23, 2025
6. Letter from U.S. Secretary of HHS Robert F. Kennedy Jr. dated July 15, 2025
7. 2019 BC FADES plan
8. 2019 BC FADES Annexes