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national farmers union
In Union Is Strength

FOR IMMEDIATE RELEASE

MARCH 2, 2007

**LETTER TO MINISTER SAYS
BARLEY VOTE PROCESS FILLED WITH FLAWS**

“Our organization has never encountered a voting process so riddled with errors, so handicapped by misdesign, so disdainful of accepted democratic safeguards, so unlikely to yield a meaningful result,” said NFU President Stewart Wells in an open letter sent today to federal Minister of Agriculture Chuck Strahl.

In the seven-page letter, Wells outlined a host of shortcomings plaguing Strahl’s barley vote process: no public voters’ list, victory conditions that will be set by the Minister after the vote count, no third-party spending limits, uncertainty around ballot secrecy. “The safeguards modern democracies use to ensure fair votes are almost all absent in this vote,” Wells told Strahl.

The NFU letter made several recommendations to the Minister and requested that the Minister respond regarding issues such as vote count scrutiny, clarification of victory conditions, and spending controls.

The full text of the letter to Minister Strahl is attached to this release. It is also available by email or fax upon request to the NFU National Office: call (306) 652-9465 or email nfu@nfu.ca .

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Attachment to the NFU's March 2, 2007 news release

March 1, 2007

AN OPEN LETTER TO
The Honourable Chuck Strahl
Minister responsible for the Canadian Wheat Board
Sir John Carling Building
930 Carling Avenue
Ottawa, Ontario
K1A 0C5

VIA FAX: (613) 759-1081

Dear Minister Strahl:

The National Farmers Union (NFU) has grave concerns regarding your Barley Vote process. The safeguards modern democracies use to ensure fair votes—public voters' lists, clear ballot questions, transparent victory conditions, scrutinized vote counts, third-party spending limits—are almost all absent in this vote. Our concerns include the following:

1. This is a vote without a public voters' list

Unlike other votes (federal and provincial elections, commodity organization elections, the 1996/97 barley vote, CWB Directors' elections, etc.) your barley plebiscite is proceeding without a voters' list. You may eventually create a list of voters who returned ballots—those that voted—but that is not the same thing as a voters' list. To appreciate this distinction, contemplate the following: without a voters' list, you cannot even determine the percentage of eligible voters who cast ballots.

Since there is no voters' list, there can be no *public* list available for scrutiny. Further, it is not even clear whether the list that the government will eventually compile—its list of those who voted—will be available for public scrutiny. During the last federal vote on barley, in 1996/97, representatives of the NFU and other organizations scrutinized the public voters' list.

The NFU strongly urges the federal government, in order to begin mitigating the unfairness and mishandling of this election, to immediately allow farm organization scrutineers to examine the list of parties to whom ballots were sent. Further, we strongly urge you to commit to have farm organization representatives present to scrutinize the list of entities that return ballots. Please inform us where and when our representatives will be able to scrutinize the list of ballot recipients and when and where we will be able to scrutinize the list of those that returned ballots.

2. Organizations on one side of the debate have access to lists of probable voters

Worse than there being no voters' list at all, groups representing one side of the debate have access to a de facto voters' list in some regions. Groups hostile to the Canadian Wheat Board, such as the Alberta Barley Commission, have a list of names and phone numbers of probable voters in their regions.

The NFU strongly urges the federal government to take decisive action to ensure that organizations that collect names of farmers through government-mandated “check-off” legislation are prevented from using those contact lists to influence this vote. Please inform us, in detail, of the actions you are taking to ensure that one side in this vote does not take advantage of its possession of de facto voter contact lists.

3. Vote count scrutiny

In addition to the need for public scrutiny of the list of entities to which ballots were sent and the list of those that returned ballots, public scrutiny of the vote count process is also critical. During the last federal vote on barley, in 1996/97, representatives of the NFU and other organizations scrutinized the vote count.

Please inform us where and when our representatives will be able to scrutinize the vote count process for your plebiscite.

4. There are no stated victory conditions

In virtually every election and plebiscite, the “winning conditions” are clear, objective, generally accepted, and understood well before the vote count. In your barley vote, this is not the case. It is anathema to a fair and democratic process to leave the subjective determination of victory to you, especially when you have so aggressively campaigned on one side of this issue.

We can gain some further insight into the issue of proper victory conditions by examining Canada’s *Clarity Act*, legislation that lays out the need for a clear question and a “clear majority” in any future referendum on Quebec sovereignty. Though the *Clarity Act* was a Liberal government bill, the *Act* was conceived and first championed by your party and its immediate predecessors—the Reform and Alliance parties. Consider these quotes:

“Following the narrow victory for Canada in Quebec’s 1995 referendum 10 years ago this past Sunday, Harper and Manning came up with the idea of a Clarity Act.” (Licia Corbella, Calgary Sun, November 3, 2005).

"If one were to trace the federal clarity law on Quebec secession back to its true origins, the exercise would lead straight to Stephen Harper. In the matter of his government's main initiative on the unity front, Prime Minister Jean Chretien is merely a foster parent to Harper's love child." (Chantal Hebert, Toronto Star).

Thus, as Prime Minister Harper and you know, the *Clarity Act* requires, before moving forward with any negotiations on sovereignty, the “House of Commons to take into account...*the size of the majority of valid votes cast in favour of the secessionist option [and] the percentage of eligible voters voting in the referendum.* [emphasis added]” Further, the *Act* stipulates four times the need for a “clear majority” in any such question. Almost unanimously, commentators interpret this “clear majority” requirement as ruling out separation on a close result.

Minister Strahl, unlike other elections and votes, your Barley Vote has no clear victory conditions. Worse, it is almost certain that this ambiguity is intentional—you know you

cannot get the support of a clear majority on a clear question. Worst of all, the way in which you will use this intentional ambiguity is easily predictable: your hope is to be able to *add* the percentages of voters who support options 2 (“choice”) and 3 (“open market”) to justify a spurious claim that “the majority” of farmers want the CWB’s monopoly eliminated.

Further, because of the way you designed this process, we will never know what percentage of eligible voters returned ballots, because we will never know the number of eligible voters.

Would Prime Minister Harper, the recognized progenitor of the *Clarity Act*, allow Quebec to separate if 25% of Quebec voters voted for separation, 30% voted for negotiations toward sovereignty association, and 45% voted to stay in Canada? He would not. Whereas your government has demanded crystal clarity on the question of Quebec, you have proceeded to proliferate fog, uncertainty, and deceit regarding the future of the CWB. Your *Clarity Act* throws into sharp contrast the shortcomings of your Barley Vote process. The protections you demand in one instance, you refuse in another.

In the 1973 Canola vote, the threshold for changing the marketing structure for canola was set at 60%. The Clarity Act essentially rules out the possibility of significant changes to Quebec’s federal position if sovereigntists won a small majority. The NFU strongly urges the federal government to clarify the victory conditions for this Barley Vote, and we urge you to set a 60% threshold for any government mandated changes to the CWB. Most important, we urge you to acknowledge that if no option receives a clear majority vote, that the government then has no mandate to make any change. Please inform us, well before the ballots are counted, what thresholds you will be using in determining how to interpret the Barley Vote results.

5. A twisted question

The comments made above about the *Clarity Act* and the need for a clear majority apply equally to the need for a clear *question*. You have not posed such a question.

The essence of sections 1(3) and 1(4) of the *Clarity Act* is this: “a clear expression...could not result from... a referendum question that envisages other possibilities in addition to secession ..., such as economic or political arrangements ..., that obscure a direct expression of the will of the population of that province on whether the province should cease to be part of Canada.” Essentially, federalism does not have a dual market option.

In the current context, a Barley Vote *Clarity Act* would almost certainly say something like this: “a clear expression...could not result from... a referendum question that envisages other possibilities in addition to termination of the CWB ..., such as economic or political arrangements ..., that obscure a direct expression of the will of farmers on whether the CWB should cease to exist.”

Your government and Canadians would not tolerate, on the question of Quebec separation, the type of manipulative and dishonest question that you have put to farmers regarding the future of the CWB. Your three-pronged question is clearly part of a government of Canada attempt to mislead farmers and to engineer an outcome for this vote that suits your political purposes.

Finally, not only is your question at odds with generally accepted standards for democratic elections and the standards set out in the *Clarity Act*, your question is at odds with the will of the Parliament of Canada and the will of the vast majority of farmers. On October 17, 2006,

farm organizations representing the vast majority of western farmers united to endorse clear and appropriate wording for any vote on CWB marketing. On December 12, 2006, the Parliament of Canada passed a motion calling on the Minister, in any vote on CWB marketing, to utilize the clear question outlined by farm organizations.

Given that the ballots have already been mailed out, the NFU strongly suggests that the only way to rescue a clear question from the fuzzy one that you have contrived is to ignore the second option—the almost-universally-acknowledged-as-impossible dual market. This will allow you to proceed to make policy changes based on support for the only real options on the ballot: the first (a continued CWB monopoly) and the third (the open market).

6. Third Party spending limits

There appear to be no limits on third-party spending during this vote. Given the Alberta government's past propensity to spend millions undermining the CWB, and given the huge windfall that would befall Cargill, ADM, and other transnational grain companies should your government end or erode the CWB's monopoly, third-party spending limits seem essential.

Further, you cannot argue that spending limits are ineffective or unnecessary: you made it a priority to strictly limit the CWB's spending. Clearly, you believe that spending and advertising can affect farmers' choices. In light of your position, we're puzzled why you would not impose restrictions on grain companies and governments similar to those you have imposed on the CWB.

One example of industry spending during this vote is a pamphlet from the Brewers Association of Canada sent to farmers (with the assistance of Conservative MPs). The pamphlet twice makes the point that "Brewers are consistently paying [barley] prices higher than farmers see." The implication is that, without the CWB, farmers would reap these higher prices.

The NFU requests, in the strongest possible terms, that you immediately lift the gag order on the CWB or that you impose similar zero-spending limits on the other parties in this election.

7. MP spending

One particularly disturbing area of election spending is spending by Conservative MPs. MPs Yellich, Benoit, Breitzkreuz, and others have recently purchased ads in local newspapers. You have said that "the federal government...[is] not spending money" to influence the vote (John Gormley open line program, Saskatoon). Yet taxpayers are seeing ads labelled "A message from your Member of Parliament." Such ads are incompatible with your assertion that your government will not spend money. Further, such ads are hypocritical and intolerable coming from MPs who worked to gag farmers' marketing agency, the CWB.

The NFU requests, in the strongest possible terms, that you immediately lift the gag order on the CWB or that you impose similar zero-spending limits on the other parties in this election, especially your own government..

8. Ballot secrecy and trust

Many NFU members have raised concerns about ballot secrecy. Similar concerns have been widely reported in the media. Despite your assurances, a large number of farmers have significant doubts about the secrecy of their ballots in your plebiscite.

Trust is currently very low. It is largely a result of the government's poor planning and flawed balloting system (lack of a voters' list, etc.) that farmers find themselves having to rely on *trust* to ensure ballot secrecy. This is unacceptable. The issue is not whether farmers can trust unknown employees at a far-away accounting firm (they have no idea whether they can or cannot): the issue is that in properly run elections, ballot secrecy does not come down to trust: in properly run elections secrecy is built into the structure and process of the election.

The NFU strongly urges the federal government, in order to begin to address the legitimate lack of trust that farmers have in the secrecy of your flawed balloting system, to have farm organization scrutineers present from the moment that ballot envelopes are opened to the moment when those ballots are destroyed.

9. One farmer, one vote?

The language of the "Producer Self-Declaration" included in the ballot package is unclear and confusing and can be read in opposite ways. The Self-Declaration says "Each farming entity, whether a single producer, groups, a partnership, cooperatives or corporations farming as a single operation, will be eligible for one vote." That can be read to mean one farm (entity), one vote, or it can be read to mean its opposite: every "entity" on the farm is entitled to a vote. It's hard to imagine a process that could be more confusing to legitimate voters, or more open to abuse by those inclined to take all possible advantages in getting what they want.

While many will misunderstand the eligibility criteria, many of those who do understand it will object to your chosen criteria. The number of ballots accorded each person is arbitrary. To take two examples, by your rules, a three-generation family that has chosen to do all its farming within a single corporation is eligible for one ballot. However, a single person that has set up two farming corporations is eligible for three ballots. It is literally true that at extreme ends of these possible scenarios, some people will receive the equivalent of ten (or more) times the number of votes of people at the other end. Further, the very high number of ballots that you mailed out—over 83,000 in total—raises serious concerns that you did not make sufficient attempts to reduce the number of people receiving multiple ballots. This haphazard allocation of ballots is shoddy, unnecessary, indefensible, and alien to any proper notion of democracy.

The magnitude of the federal government's mishandling of this voting process make it virtually impossible to recommend remedies. Anything short of a recommendation to declare the results of this vote void would, in essence, be a partial endorsement of a fatally flawed methodology.

10. Safeguards

The 1996/97 barley vote, also conducted by KPMG, employed numerous safeguards to eliminate duplicate/fraudulent voters (random audits, etc.) Will there be similar safeguards employed in this vote? What are the penalties for those who vote fraudulently? The huge

number of ballots mailed out dramatically increases the opportunity for ineligible people to vote or for people to cast more votes than they are actually entitled to. To borrow a term often heard when designing safety net programs, your decision to send out so many ballots has created significant “moral hazard” for farmers. In light of this increased potential for vote irregularities, it is important that you have in place procedure to investigate fraud and penalties for those who commit such acts.

The NFU strongly urges the federal government to pursue multiple, effective strategies against voter fraud. We also request that you inform farm organizations of the steps you will be taking and the results of your efforts.

11. Websites

The media has widely reported the opportunistic behaviour of the Marketing Choice Alliance in setting up a website with a URL almost identical to the official KPMG site. These sort of bad faith actions only serve to confuse an already muddled process.

The official Barley Vote site set up by KPMG (2007barleyvote.ca) is completely encircled by other sites with almost identical URLs, set up by groups hostile to the CWB. Most damning, however, is that at least one of these URLs (2007barleyvote.com) was registered on January 22—more than a week before the KPMG site was publicly placed on the internet. This indicates a leak of information from KPMG or from the government.

Conclusions

Minister Strahl, our organization has never encountered a voting process so riddled with errors, so handicapped by misdesign, so disdainful of accepted democratic safeguards, so unlikely to yield a meaningful result. Nevertheless, we have offered some recommendations that can help to minimize some of the most negative effects. We ask that you promptly act on our recommendations and answer our questions. I look forward to your reply.

Sincerely,

Stewart Wells
President
National Farmers Union