



June 2, 2015

File: 44200-60 MILK QUOTA  
REVIEW

**DELIVERED BY E-MAIL**

Jim Byrne  
Chair  
BC Milk Marketing Board  
200 – 32160 South Fraser Way  
Abbotsford, BC V2T 1W5

Dear Mr. Byrne:

**MILK MARKETING BOARD QUOTA GOVERNANCE REVIEW – GRADUATED  
ENTRY PROGRAM**

On September 23, 2014, the BC Farm Industry Review Board (BCFIRB) issued its “Supervisory Review Decision - BC Milk Marketing Board Quota Governance Review”<sup>1</sup> (Quota Review Decision). In this decision, BCFIRB accepted and adopted the Milk Board’s recommendations with respect to the Graduated Entrant Program (GEP) subject to the following condition:

Prior to the Milk Board undertaking its recommended actions on the GEP it must satisfy BCFIRB that the proposed approach to clearing the current wait list will mitigate “double dipping”.

The purpose of this letter is to summarize the Milk Board and BCFIRB processes and decisions to date on addressing “double dipping” in relation to the GEP and to affirm that the Milk Board’s final GEP rules reflect the conditions set out by BCFIRB in the December 2, 2015 conditional approval decision (December Decision).<sup>2</sup>

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<sup>1</sup> September 23, 2014. BCFIRB. [Supervisory Review Decision – BC Milk Marketing Board Quota Governance Review](#).

<sup>2</sup> December 2, 2014. BCFIRB. [Follow-up to BCFIRB September 23, 2014 decision – Milk Marketing Board Quota Governance Review – GEP](#).

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## **Background**

“Double dipping” is a situation where a new producer receives GEP quota from the Milk Board (at no cost) then shortly thereafter receives further quota from a family member where that quota transfer is excluded from a transfer assessment. In BCFIRB’s view, “double dipping” does not meet the principles underlying the 2005 Specialty Review in general and new entrant programs in particular. It also can impact public confidence in new entrant programs. These views were expressed to the Milk Board through correspondence, meetings and other communications.

On November 17, 2014 the Milk Board recommended to BCFIRB the following GEP revision:

The Board moved and seconded to address FIRB direction regarding changing the current GEP program by exhausting the current GEP waitlist in five years and not allowing exempt family transfer for ten years. If a GEP entrant requests a family transfer within ten years, then retract all GEP benefits which includes the initial GEP quota allocation, allocation from the initial GEP quota, and matching quota plus allocation from matching quota.

Based on the information received, in its December Decision BCFIRB determined that:

...the Milk Board may finalize its GEP “double-dipping” rules for clearing the waitlist based on the results of its upcoming consultations, so long as the rules clearly reflect BCFIRB’s condition stated above [conditions in the December 2, 2014 letter]. If the rules do not reflect BCFIRB’s condition, BCFIRB’s approval is withdrawn.

On May 4, 2015 the Milk Board distributed a Notice to Producers, reviewing its full GEP consultation process and outcomes and providing the final Milk Board decision on changes to current GEP rules to mitigate double dipping as it exhausts the current waitlist.

## **Affirmation of Decision**

In its December Decision, BCFIRB stated:

We are prepared to give conditional approval on the understanding that any amendment to the Milk Board’s Consolidated Order will clearly reflect the requirement that GEP recipients cannot receive benefits in the form of quota transfers exempt from transfer assessments in addition to GEP benefits for a period of ten years following receipt of GEP quota.

This requirement is consistent with the September 23, 2014 BCFIRB approval of the Milk Board recommendations on future changes to the GEP program. Under the previously approved recommendations, exempt transfers will not be permitted for a period of ten years following receipt of GEP quota.

Having now completed its review, BCFIRB affirms the Milk Board’s GEP Rules as reflected in the May 4, 2015 Notice to Producers (also available on the Milk Board web site<sup>3</sup>) meet the conditions established in its December decision.

BCFIRB members noted a discrepancy between the wording on page 3 of the Notice to Producers setting out the Milk Board decision and the wording on page 4 describing the changes to be made to the Consolidated Orders.

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<sup>3</sup> <http://bcmilkmarketing.worldsecuresystems.com/>

Page 3 refers to retracting GEP benefits should an exempt family transfer take place within 10 years of receiving GEP quota while page 4 refers to exempt family transfers being prohibited.

*Page 3:*

Effective May 1, 2015, if a GEP entrant receives an exempt family transfer within ten years of the BC Milk Marketing Board allocating continuous daily quota for the sole purpose of the start of the Graduated Entrant Program, the Board will retract all Graduated Entrant Program benefits which includes but is not limited to, the initial GEP quota allocation, allotments from the initial GEP quota allocation, matching quota allocation plus allotments from the matching quota allocation.

*Page 4:*

...the addition of the BCMMB decision to prohibit exempt family transfers for a period of ten years from the start date of entry into the program;

BCFIRB staff confirmed with Milk Board staff that the term “prohibit” will not be used in amendments to the Consolidated Order. The Consolidated Order amendments will reflect that while exempt family transfers are allowed, the program intent is to retract all GEP benefits if a GEP entrant receives an exempt family transfer within ten years of being allocated GEP quota.

BCFIRB expects the Milk Board will ensure future communications and any changes to the Consolidated Order clearly reflect the Milk Board decision that although exempt family transfers may be made to a GEP entrant, if a GEP entrant receives an exempt family transfer within ten years of receiving their GEP quota the Milk Board will retract all GEP benefits.

In general, clear communication is an on-going challenge for all boards and commissions, as well as BCFIRB. It is important for the purpose of transparency (including the right of appeal) that public documents can be understood by producers and as well as other stakeholders who may not be as familiar with the system and industry terms.

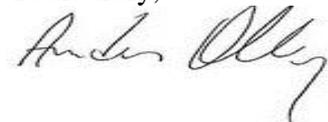
## **Closing**

In accordance with s. 57 of the *Administrative Tribunals Act*, “an application for judicial review of a final decision of (BCFIRB) must be commenced within 60 days of the date the decision is issued.”

Administrative decisions made by the Milk Board in the implementation or application of its recommendations – as approved by BCFIRB – are appealable under s. 8 of the *Natural Products Marketing (BC) Act* within 30 days of a Milk Board decision.

If you have any questions, please contact BCFIRB.

Yours truly,



Andreas Dolberg  
Vice Chair

cc: BCFIRB web site