

May 31, 2019

Kirsten Pedersen
Executive Director, BCFIRB
PO Box 9129, Stn Prov Govt
Victoria, BC V8W 9B5
Email: firb@gov.bc.ca

Sent via email

Dear Ms. Pedersen,

Subject: **Succession Planning and Non-Family Members**

The BC Milk Marketing Board (Milk Board) would like to thank the BC Farm Industry Review Board (FIRB) for its comments regarding the Milk Boards submission on non-family member succession planning. Over the past year, the Milk Board has considered the purpose, desired consequence and most importantly the long-term success of a policy for non-family succession. The Board is committed to the necessity of this policy and that it should be conducted as an off-exchange transfer with no assessments taken. The transfer that is proposed is one that is administrative and should not impact production at the farm level.

The Board engaged with stakeholders regarding the proposed policy through the spring and fall producer meetings from 2017-2019 and used feedback given to develop proposed policy changes to support the succession of non-family members.

Throughout the Milk Boards consultations, the Board was provided feedback on four primary areas of concern. These points were raised in the Milk Board submission on August 28, 2018 and are summarized below;

(1) Preventative Farm Consolidation

The current option for corporations without successors is to sell the quota through a going concern sale, farm sale or through the quota exchange. A going concern sale requires the farm to grow only through the quota exchange for the first ten years as all the quota is acquired in one lump sum and no quota mergers are allowed. A farm sale allows the merging of quota immediately as only 50% of the quota is acquired by the corporation and the balance is sold on the quota exchange. In all three options, the Board takes retractions prior to the sale or transfer.

With either a farm sale or going concern, the opportunity to consolidate the farms is a possibility whether it be immediately or 10 years away. In BC, the average farm is already over twice the national average (77 cows). By encouraging the consolidation of farms, we run the risk of developing larger farms which can create supply risks to the industry. For example, if the farms continue to consolidate than processor milk supply would be dependent on the well being of a fewer farms, so in the case of fire, disease, and/or environmental issues, the removal of milk supply from one farm could affect the Boards ability to serve the market.



Although it is not a Milk Board mandate, the Board is aware of the need to sustain and renew farming operations to support the provincial dairy industry. The Board is still responsible to ensure milk supply is not at risk, short-term and long term. When you have fewer dairy farms, you have quota redistributed to existing dairy farms which could mean more quota on fewer farms.



As of December 2018, 33% of producers in BC are considered small sized farms (0-85 kg/day) and own 8.93% of the production quota 33% of the producers in BC are considered medium (average) sized farms (86-185 kg/day) and own 22.78% of the production quota 33% of the producers in BC are considered large sized farms (over 186 kg/day) and own 68.29% of the production quota.

(2) Limitation of lost dairy land

Due to the stringent requirements to conduct a going concern or farm sale, this type of transfer is not always feasible. For example, if the land is not owned by the same corporation that owns the quota or the land is leased, then these transfers are not permitted. The only option for the corporation would be to sell the assets separately and the quota would be sold on the exchange.

The Board is concerned that the land that is given up for dairy farming will be sold to another commodity. It is common knowledge that in certain areas within the province, there are competing interests for land which creates a challenge for those starting in the dairy industry. This type of issue can limit the Milk Boards ability to support the start of new farms as quota may not be the only issue.

The Milk Board cannot mandate the use of farm land but can facilitate (through policy) that the farm on that land remains a dairy farm.

(3) Lowering barriers to entry

The Milk Board supports new entrants in the dairy industry through its New Entrant Program (NEP), Cottage Industry Program (CIP) and through off exchange transfers for exempt persons, siblings, going concerns and farm sales.

Each program or policy has differing criteria which correspond with the benefits received and risks incurred by the producer. For example, a NEP candidate has specific requirements that must be met to qualify for the quota allocated to start a new, independent operation. In contrast, the requirements for the CIP are different as the program is intended to nurture artisan operations where raw milk does not need to enter or leave the operation. The farm employee requirements are structured to support an existing business operation in which the transferrer and transferee continue to work together. The farm employee policy conditions provide a way to assess value to the operation whereas the NEP policy conditions assess the ability of an individual to succeed in owning and operating an independent operation. The responsibility and skills required are vastly different.

By adding a provision that allows the transfer of quota to a farm employee, the Milk Board is adding a policy that looks forward and creates another opportunity for the entry of non-related parties into the dairy industry.



(4) Policy alignment with current business practices

The Milk Board continues to believe a policy that allows non-family member transfers will be required in the future as farms continue to grow and the business structure of the farm changes, specifically the growth of corporate farms in the dairy industry. Currently over 70% of the farms licensed by the Milk Board are some form of corporate structure rather than a sole proprietorship. Therefore, in the future, if corporate farms are to remain they will require a mechanism that allows the transfer of shares rather than the quota on its own.

The Milk Board has developed a policy that provides congruence between business practices in British Columbia and the Milk Board orders. For example, it is a standard business practice to issue shares in a business unit to generate capital or to keep valuable resources involved with the success of the company. Due to current transfer limitations on quota, farm business units can only allow exempt persons to hold these shares.



Without other options farms without exempt persons to transfer shares too will have to dissolve the business structure and leave the industry.



In summary, the Milk Board supports the addition of an off-exchange transfer to a farm employee based on the concerns presented and recognizes that policy changes will continue to be required to support farms and the resources needed to succeed long-term.

The Milk Board respectfully proposes the following changes to its orders for your consideration;

The Milk Board is recommending the following changes to the September 1, 2013, Consolidated Order;

1. Section 3 of Consolidated Order of September 1, 2013 will be amended by adding the following definition:

“Farm Employee” means a Person employed by a Producer who:


- (a) *has permanent resident status in the Province of British Columbia;*
- (b) *has served in a senior executive or managerial capacity with respect to the Producer’s Dairy Farm for not less than 5 consecutive years as evidenced by T4 statements;*
- (c) *has derived the majority of his or her income from employment as a senior executive or manager with respect to the Producer’s Dairy Farm for the past 5 years; and*



This definition provides the criteria of what constitutes a farm employee with respect to qualifying for an off-exchange transaction. The definition does not include a specified transfer percentage or maximum transfer amount to facilitate valid requests for non-family succession.

2. Paragraph 19(1)(d) of the Consolidated Order of September 1, 2013 will be amended as follows:

- (d) through the Quota Exchange, excepting:
 - (v) **Transfers to a Farm Employees, provided that such Transfer is prior-approved by the Board;**

In this section item 19(1)(d) v is added to identify the transfer as an off-exchange transaction for a farm employee and requirement of the Milk Boards prior approval. The Board recognizes that each request for non-family succession will have its own unique set of challenges. 

3. Subsection 23(7) of the Consolidated Order of September 1, 2013 will be amended as follows:

- (7) A surrender of Continuous Daily Quota is not required where:
 - (b) **Continuous Daily Quota is Transferred to a Farm Employee, provided that such Transfer is prior-approved by the Board**

In this section item 23(7)b is added to reflect that no retractions will be applied when the quota is transferred.

The Milk Board looks forward to further discussion on this policy change.

Sincerely yours,



Ben Janzen