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**FARRIS**

File No: 32958-0005-0000

December 10, 2019

BY EMAIL

Wanda Gorsuch  
Manager, Issues and Planning  
B.C. Farm Industry Review Board  
780 Blanshard Street  
Victoria, BC V8W 2H1

Dear Mesdames/Sirs:

**Re: Vegetable Supervisory Review and Prokam Enterprises Ltd.**

I am counsel to BC Fresh Vegetables Inc. ("BCfresh") and write to provide the submissions invited by BC FIRB in its letter of December 4, 2019 in regard to the above captioned matter. Submissions were invited in regard to the following questions:

1. Production

- (a) What is Prokam's delivery allocation as set by the Commission for 2020/21 and what was included in the calculation (years and volumes)?

This question is for the BC Vegetable Marketing Commission (BCVMC).

- (b) What acreage is Prokam planning on planting to produce the delivery allocation?

This question is for Prokam to answer. BCfresh is not presently aware of Prokam's planning intentions.

As referenced in your December 4, 2019 letter, there is currently an agency agreement in place with Prokam. BCfresh is making its plans for next year and it needs to know Prokam's growing intentions in order to prepare and coordinate Prokam's planting intentions into its marketing and sales plans.

BCfresh is unaware of any circumstance that would preclude Prokam from undertaking its planning for planting for the 2020/21 season.

- (c) Is there a sound marketing policy reason for this amount of delivery allocation to be modified for 2020/21? Please explain why or why not.

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BCfresh reserves the right to respond and provide comments after receiving and reviewing the answers by the BCVMC and Prokam to questions 1(a) and (b).

2. Marketing

- (a) Is the current Grower Marketing Agreement (GMA) between Prokam and BCfresh directed by the Commission to continue for 2020/21 viable? (Is this a viable marketing option?) Why or why not?

In BCfresh's submission, this is a viable marketing option. As BCfresh advised in its evidence in the underlying proceedings, BCfresh stands ready to abide by the terms of the GMA and will market and sell the produce of Prokam according to the General Orders of the BCVMC. BC Fresh has always welcomed Prokam as a grower and has been prepared to work with Prokam. BCfresh has also advised that Prokam's returns would be superior by shipping through BCfresh compared to shipping in bulk as they had previously through Thomas Fresh.

- (b) Apart from BCfresh, is any other agency a viable option for use by Prokam? Why or why not?

It is BCfresh's understanding that all other agencies have declined to enter into a GMA with Prokam

- (c) What are the risks and benefits to orderly marketing of issuing Prokam a producer-shipper licence?

BCfresh strongly opposes the granting of a Producer-Shipper licence to Prokam. As described at Part VIIA of the VMC's General Orders, a Producer-Shipper licence is an extraordinary licence issued only under exceptional circumstances. Prokam does not meet the criteria for the exceptional circumstances as contemplated in the General Orders.

In particular, Producer-Shipper licences should only be granted in circumstances where the history, geography and economics associated with the applicant reflect that, as a producer, it is without an economic opportunity to market and distribute its produce if required to market its produce through an agency. Producer-Shipper licences are not

intended to be issued to growers in circumstances where Prokam has an opportunity to market and distribute its product, on an economic basis, through an agency.

There would be substantial risks to orderly marketing if Prokam was issued an interim Producer-Shipper licence. There is no indication at present that Prokam stands ready to abide by the VMC's General Orders, if a Producer-Shipper licence were to be issued.

In BCfresh's view, the only way to maintain orderly marketing in this interim period while the Supervisory Review is underway is for Prokam to sell its produce through an agency. Other growers abide by the terms of the VMC's General Orders, in particular where, considering geographical locations, there is an economic and viable opportunity to market and sell produce through an agency as required by the General Orders.

On any application for a Producer-Shipper license, there should be broad consultation with the industry, including those stakeholders who have previously stated their opposition to Prokam being issued a Producer-Shipper license. Prokam is viewed by other growers as wanting to bypass the Delivery Allocation and regulatory system in applying for a Producer-Shipper license. There are substantial concerns in the industry as to an erosion of market share for growers who have faithfully served the market over time in accordance with the marketing scheme.

Thank you for providing BCfresh the opportunity to participate. We look forward to receiving the responses of the BCVMC and Prokam and we will reply in the time allowed.

Yours truly,

FARRIS LLP

Per:



Robert J. McDonell

RJM/lis

c.c.: Robert Hrabinsky, counsel for BCVMC  
Claire Hunter, Q.C. and Ryan Androsoff, counsel for Prokam Enterprises Ltd.  
Murray Driediger, BC Fresh Vegetables Inc.