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## BC Farm Industry Review Board

September 15, 2021

File: 44200-60VAREV

### DELIVERED BY EMAIL

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Dear all:

### INTERIM ORDERS PANEL AMENDMENT: VEGETABLE COMMISSION ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY REVIEW:

On September 9, 2021, counsel for the Commission wrote to advise that Commissioner Royal has sold his farm effective September 16, 2021, which raised the issue of his standing to continue to serve as a Commission member and sit on the panels identified in my interim order of August 20, 2021.

In response to my request for further details of the Commission's position, counsel clarified in a letter dated September 13, 2021 that since Mr. Royal will no longer "operate" a farm, it is the Commission's position that he will not meet the definitions of "producer", and thus "commercial producer" in the British Columbia Vegetable Marketing Scheme ("Scheme"). Accordingly, pursuant to s. 3(2)(b) of the Scheme, Mr. Royal can no longer serve as a Commissioner.

I agree with the Commission's position. The Scheme is clear that only active regulated vegetable producers, registered with the Commission, can serve as Commissioners, and thus once Mr. Royal ceases operating a farm, he will not be eligible to serve.

The effect of Mr. Royal being removed from the panels identified in my August 20 interim order is that those panels will be comprised of four members. Like the Commission, I do not see any issue arising with respect to quorum. Without Mr. Royal, the composition of the Commission will be seven members and one chair. Quorum for Commission panels will therefore be four members.

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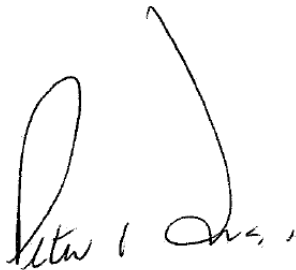
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I am therefore amending paragraph 28(c) and (d) of my August 20 interim order as follows:

- c. The following panel shall hear and decide applications or requests made, or to be made, by Prokam [Prokam Enterprises Ltd] and CFP [CFP Marketing Corporation]: Chair Etsell and commissioners Newell (greenhouse sector), VanderMeulen (greenhouse sector), and Lodder (storage crop sector).
- d. The following panel shall hear and decide applications or requests made, or to be made, by MPL [MPL British Columbia Distributors Inc]: Chair Etsell, and commissioners Reynolds and Husband (all non-greenhouse sector) and VanderMeulen (greenhouse sector).

I do not see that Mr. Royal's absence would alter the waivers given by Prokam, CFP and MPL. However, if, the absence of Mr. Royal on these panels has changed any of the parties' position on that issue, they must inform me **no later than September 17, 2021**. Otherwise, the above amendment to my August 20 order will take effect as of that date.

Regards,

A handwritten signature in black ink, appearing to read "Peter Donkers". The signature is written in a cursive style with a large, sweeping initial "P".

Peter Donkers  
Chair

cc: Nazeer Mitha, Q.C.  
Mark Underhill  
Kate Phipps  
BCFIRB web site