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**DELIVERED BY EMAIL**

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Farm Industry Review Board  
PO Box 9129 Stn Prov Govt  
Victoria, BC  
V8W 9B5

**Attention: Wanda Gorsuch, Manager, Issues and Planning**

Dear Ms. Gorsuch:

**Re: Supervisory Review re BC Vegetable Marketing Commission**

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We write on behalf of Bajwa Farms Ltd. ("Bajwa Farms") in response to the August 17, 2022 letter from Chair Donkers. Specifically, Chair Donkers invited submissions on the August 12, 2022 letter from Mr. McEwan, QC, in which Mr. McEwan suggested establishing new terms of reference to address the process suggested by Hearing Counsel in his July 27, 2022 letter.

Bajwa Farms agrees with the August 23, 2022 submission of MPL that the BC Farm Industry Review Board ("BCFIRB") lacks the jurisdiction to investigate the complainant participants' conduct regardless of whether new terms of reference are established or whether the BCFIRB proceeds on the basis of the existing terms of reference. This is clear from the section 7.1(1)(a) of the *Natural Products Marketing (BC) Act* (the "Act") which gives the BCFIRB "general supervision over all marketing boards or commissions established under this Act".

We note that the May 26, 2021 Notice of Supervisory Review specifically referred to the BCFIRB's role in supervising the BC Vegetable Marketing Commission (the "Commission") (see page 4, section II). The scope and focus of the supervisory review and initial terms of reference clearly demonstrate that the focus of the hearing was on the conduct of the Commission (see page 5), consistent with the BCFIRB's statutory mandate under section 7.1(1)(a) of the Act.

The May 26, 2021 Notice of Supervisory Review invited other industry stakeholders to raise similar allegations related to Commission decisions and activities, to which Bajwa Farms responded. Bajwa Farms' allegations were included in the scope of the review, and Bajwa Farms participated in the supervisory review on the understanding that the purpose was to investigate allegations against the Commission. Nothing in the May 26, 2021 Notice of Supervisory Review



or the final terms of reference suggested that the conduct of the complainant participants was in issue.

It would be a breach of procedural fairness for the BCFIRB, having invited the complainants to participate in order to assist the BCFIRB in discharging its statutory mandate to supervise the Commission, to now establish new terms of reference to investigate the conduct of the complainant participants.

The BCFIRB's investigation of allegations related to the Commission's decisions and activities concluded with the issuance of the July 14, 2022 decision. As noted in the August 23, 2022 submissions of MPL, the BCFIRB is now *functus officio*.

In summary, there is no basis for the BCFIRB to establish new terms of reference or to amend the existing terms of reference.

Sincerely,

**DLA Piper (Canada) LLP**  
Per:

A handwritten signature in blue ink, appearing to read 'D Dalke', written over a horizontal line.

Dean Dalke  
DXD