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## BC Farm Industry Review Board

January 30, 2022

File: 44200-60\AREV

### DELIVERED BY EMAIL

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Dear All:

### RULING REGARDING CABINET CONFIDENCE

On January 30, 2022, I received an application from Hearing Counsel pursuant to Rule 8 of the Final Rules of Practice and Procedure concerning the BC Vegetable Marketing Commission's ("Commission") assertion of privilege, specifically cabinet confidence, over the following three categories of documents:

1. BCVMC-A1-PRIV-0001 to BCVMC-A1-PRIV-00089 ("Written Brief");
2. Additional documents or categories of documents connected to the Joint Standing Committee which have not been listed by the Commission ("Related Unlisted Documents"); and,
3. BCVMC-A1-PRIV-00090 to BCVMC-A1-PRIV-00145 and BCVMC-E-PRIV-00173 to BCVMC-E-PRIV-00312 ("Additional Documents").

I have reviewed and taken into account Hearing Counsel's letter of January 30, 2022, and the enclosed submissions received from Prokam Enterprises Ltd. ("Prokam") and the Commission.

Counsel for Prokam has taken the position that none of these categories of documents are properly withheld on the basis of cabinet confidence. Counsel for the Commission has advised that it has withheld these records because of a perceived obligation to

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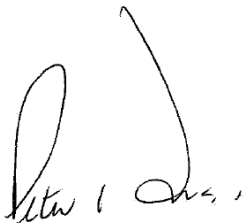
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protect the interests of government with respect to these records due to the operation of s. 39 of the *Canada Evidence Act*. Counsel for the Commission indicates that an order from the BC Farm Industry Review Board (BCFIRB) compelling production of these records would fully address its perceived obligations. Hearing Counsel takes the position that s. 39 of the *Canada Evidence Act* has no application to this proceeding.

I am mindful of the need for a quick decision on this issue, given that the oral hearing of this matter is set to begin tomorrow (January 31, 2022). I agree with and adopt the reasoning of Hearing Counsel that s. 39 of the *Canada Evidence Act* does not apply to this proceeding, and order production of the documents.

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: Mark Underhill  
Kate Phipps  
Nazeer Mitha, Q.C.

BCFIRB web site