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November 29, 2013

Jim Collins
Executive Director
British Columbia Farm Industry Review Board
PO Box 9129 Stn Prov Govt
Victoria, British Columbia
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Email: firb@gov.bc.ca

Dear Mr. Collins,

**RESPONSE TO THE NOVEMBER 22, 2013 SUBMISSIONS OF VANCOUVER ISLAND PRODUCE
"VIP" AND ISLAND VEGETABLE COOP ASSOCIATION "IVCA"**

Response to the VIP Submission

1. *BCfresh* is very concerned about the October 22, 2013 Submission of VIP. *BCfresh* and VIFP have proactively attempted to provide a legitimate regulatory and business solution to the problems surrounding the former shareholders of VIP. We did not believe this process was put in place as a forum to engage in personal attacks. The lack of professionalism displayed by the current principles of VIP within their submission has no place in this industry nor in a civilized society.
2. It is also important for the FIRB Panel to make a decision based on facts, not rhetoric, and not smoke and mirrors. We believe that there has been a deliberate attempt to misconstrue some of the facts and mislead the panel.
3. Throughout this application process both *BCfresh* and VIFP have been consistent and on topic in their submissions and responses, sticking to the facts and being transparent with the VMC Panel and the FIRB Panel. Conversely, VIP and IVCA have been contrarian and subversive in both their arguments and inconsistent application of the facts. In each subsequent submission/response they contradict their own previous statements and purposefully misinterpret the statements of others.

4. Furthermore, staffing and management choices are a confidential and strategic decision and not in the scope of this application nor review process. Opinions are one thing but the libelous statements of VIP against Mr. Collins should be addressed and are totally inappropriate.
5. There are three categories of regulated vegetable crops grown on Vancouver Island; regulated greenhouse vegetables, regulated root vegetables, and regulated potatoes (also a root crop but separated for explanatory purposes).
6. VIP does not have any legitimate arguments about the orderly marketing of greenhouse vegetables produced by the four growers marketing through VIFP. As a family owned potato farm that does not grow or market any greenhouse vegetables, VIP should not have any standing on the issue. The authority of VIP to market greenhouse vegetables should have been extinguished when all their greenhouse growers left in 2012. IVCA was granted interim approval by the VMC to market organic greenhouse bell peppers for the 2013 season. VIFP markets conventionally grown greenhouse vegetables. Whether IVCA receives approval from the VMC to market organic greenhouse vegetables in 2014 is unknown. In any event, VIFP does not market any organically grown greenhouse vegetables. Therefore IVCA nor VIP have any legitimate arguments about the marketing of greenhouse vegetables by VIFP as there is no conflict.
7. The second category is regulated root vegetables. Neither VIP nor VIFP grow or market regulated root vegetables other than potatoes. As such there is no Island conflict. Therefore, all of the rhetoric in front of FIRB, in reality, is about the growing and marketing of potatoes on Vancouver Island.

8. VIP claims that *"350 acres of potato production has already been lost under VIFP management"* and further states *"why would the BCVMC approve this agency..... which will effectively push another 400 acre farm out of business"*. They go on to say that *"300 acres and two growers have been lost on Vancouver Island"*. These wild and inconsistent allegations play very loose with the facts. The facts are thus: There were originally four potato farms marketing through VIFP; one of the farms discontinued operations due to production problems, not due to any failure to market their product. These facts are well known to all involved.
9. The other potato farm referenced by VIP that was *"allegedly lost due to VIFP mismanagement"* sold their operations and acreage this spring to another potato grower marketing through BCfresh. The transfer of their Delivery Allocation formed part of the purchase. The net result of these ownership changes was a temporary reduction of 25 acres of potato production for 2013/2014 in the Comox/Courtenay region. Not 350 acres, not 300 acres as indicated, but 25 acres. Although the potato acreage was now part of BCfresh, the potatoes continued to be marketed jointly with VIFP through an inter-agency agreement at the request of all parties involved. This was addressed at the hearing and reiterated in previous submissions. However, VIP chooses to continue to misconstrue the facts. The VMC encourages Agencies to

work together. The unforeseen sale and subsequent purchase of this potato farm in season required two Agencies to work through some logistical and marketing issues. Through the cooperation of VIFP and BC*fresh* these potatoes are being marketed in an orderly fashion despite this unexpected event.

10. As the VMC permits multiple registrations within a family farming unit, it is often used to inflate the number of actual farms in production, and leads to Agency “chest puffing”. We need to put the actual number of farms involved in the growing of potatoes on Vancouver Island into perspective as there are only five actual potato farms in total. IVCA has one Vancouver Island based potato farm marketing through them and it is common knowledge this farm is growing approximately 40-50 acres of potatoes annually. VIP is a single potato farm owned by the Walsh family. They have two grower registrations with the BCVMC for which they have an interim Agency license, but one actual potato farm. Our industry knowledge is that they grow approximately 100-125 acres of potatoes annually, which is slightly less than the 400 acres that they allude to. VIFP has two potato farms marketing through them and their acreage is 120-130 acres annually. BC*fresh* has one potato farm on Vancouver Island marketing through them with about 265 acres this year. Therefore, the number of actual potato farms allegedly impacted within IVCA and VIP by this application is two, together representing 26%-30% of the production on Vancouver Island. Under our joint proposal, three of the five potato farms representing 70%-74% of the potato production on Vancouver Island will be marketed by VIFP with any surplus moved to the mainland and marketed by BC*fresh*.
11. Whether the BC*fresh*/VIFP proposal is approved or not, BC*fresh* has a plan in place to restore the unplanted 25 acres of potato production in the region for the 2014/2015 crop year. There is no increase or decrease in historic production on Vancouver Island as part of the application therefore there is no additional risk to VIP.
12. For the record, there is a Federal Government quarantine for golden nematodes prevents much of the farm land in the Saanich Peninsula from growing potatoes. Any future growth must be concentrated in the central and northern parts of the island.
13. VIP has alleged, as has IVCA, that VIFP was not financially viable without joining BC*fresh*. This is not true and this misconception was addressed very clearly twice at the Hearing. The actual statement that Mr. Sieffert made was “We would not be able to continue to exist as we are now.....”. It was made very clear at the Hearing in closing arguments on page 115 of the transcripts that to maintain VIFP financial viability some degree of restructuring would be required. The budget and potential need for prudent downsizing was also disclosed to the VMC panel during an in-camera session to their apparent satisfaction. It was addressed again in our written submissions following the Hearing. It is very misleading for both VIP and IVCA to yet again, to take Mr. Sieffert’s comments out of context.

14. VIP has raised the issue of “Fraser Valley Grown” product being marketed under a VIFP label. We would like to address this as there was, and is, no intent to mislead consumers. The VIFP potato farm that went bankrupt and referred to in clause 10 above, transferred their Delivery Allocation to a lower mainland grower prior to bankruptcy. The intention of the lower mainland grower is to eventually move to Vancouver Island and grow potatoes. Under an inter-agency agreement with *BCfresh* that expires shortly, some potato acreage was grown in the lower mainland in 2013 using the (Provincial) Delivery Allocation and marketed through VIFP. One of the conditions of this inter-Agency agreement, and insisted upon by both Agencies, was that the potatoes could not be sold as Vancouver Island grown. VIFP bags were used with an emblem that clearly stated “Fraser Valley Grown” to eliminate any confusion. Marketing integrity was maintained throughout the process. It was a temporary solution until permanent packaging could be developed. This solution was not illegal and not misleading. We concur it was not the preferable solution albeit temporary.
15. VIP claims that the VIFP/*BCfresh* proposal will result in an increase of product marketed on Vancouver Island which will increase competition. It should be noted that IVCA, an island based Agency, has a Fraser Valley potato grower marketing through them. Some of this production is marketed on Vancouver Island in direct competition with VIP but that is deemed acceptable. There is an inherent double standard within all of the IVCA and VIP arguments.
16. The VIP allegation that potatoes imported and marketed by *BCfresh* can cause financial harm to Vancouver Island growers is inaccurate. *BCfresh* is a 12-month supplier of all core products which is essential for a vendor dealing with national accounts. We only import during our supply gaps for short periods of the year and supply this service to many of our customers. As mentioned previously, the VMC General Orders encourages inter-Agency transactions. When *BCfresh* supply is extinguished, *BCfresh* regularly purchases regulated product from other Agencies to assist in cleaning up the BC supply as IVCA can attest. *BCfresh* next sources from western Canadian supply partners and lastly from the US. When importing product and remarketing under our import brands, our selling prices are inevitably higher than standard BC product pricing. For VIP to suggest that they cannot compete with a higher priced imported potato offered on our price list, suggests a lack of experience as a marketer or perhaps other underlying issues. Why would Vancouver Island customers, who we have all agreed are loyal to Vancouver Island producers, purchase a higher priced imported product instead of a lower priced local product?
17. For the record, *BCfresh* has offered to purchase potatoes off of VIP previously, but it requires willing partners.
18. VIP has suggested that *BCfresh* should have consulted Vancouver Island based customers before submitting this application. The fact is we did. We would not have been short-sighted enough to move forward with our application if VIFP or *BCfresh* did not have the support or respect of Vancouver Island based customers.

19. Throughout their submission, VIP has warned of the irreparable harm to Vancouver Island growers if this application is approved and VIFP becomes a sub-Agency of BCfresh. What we find most curious about their most recent submission is that VIP actually stated at the Hearing that it was their preference for the VIFP growers to join BCfresh and BCfresh could market their product on Vancouver Island under a BCfresh Vancouver Island Grown label. They could not understand why the VMC would waste time creating a new category (sub-Agency) when there was an opportunity to just join BCfresh (page 55 of the hearing transcripts). It is curious how VIFP, marketing their product on Vancouver Island as a sub-Agency, will cause irreparable harm to all Vancouver Island growers, yet BCfresh establishing a Vancouver Island based sales office and marketing the very same product under a BCfresh Vancouver Island Grown label is ok. Only a dog chasing its tail could follow this rationalization.
20. The answer is actually quite simple. The infighting on Vancouver Island amongst the former shareholders of VIP has become personal. It has ceased to be about business or orderly marketing. It has ceased to be about the regulatory system, as the system is now just a means to the end. It has become personal as was clear in the attacks on Mr. Collins, and the lack of respect VIP has shown for their former growers and business partners. Of the 10 farms who previously marketed through VIP, nine of them left to form VIFP. The Walsh family has launched litigation against the other two potato growers in VIFP, Mr. Sieffert and Mr. Hiebert and they have outstanding litigation against Mr. Collins. They now suggest that the Island should be united under one Agency? We do not believe the principles of VIP warrant the privileges and authority bestowed upon a Licensed Agency of the VMC, nor should they interfere with the remaining growers who choose to do business together willingly and without rancor.

Response to the Submission of IVCA

21. IVCA has stated in their Submission that the VIFP growers *“should simply have been directed, once it was determined that they could not settle their differences, to join another Agency”*. They, like VIP, would not have been opposed to the VIFP growers joining BCfresh but are opposed to them operating as a sub-Agency of BCfresh? This despite the fact there are more commercial farms growing regulated vegetables and likely higher annual sales marketing through VIFP than through IVCA. The number of Vancouver Island based growers and acreage marketing through IVCA has declined over the years. Yet they believe they deserve an Agency and the VIFP growers should be required to join another Agency and not at least operate as a sub-Agency?
22. In their summary, IVCA has requested that the entire regulatory system *needs to be over hauled*. While we strongly disagree with this statement, it should be noted this is not the appropriate time to raise such a philosophical debate on the future of the regulated industry. They appear to be imposing a scorched earth policy which is unacceptable to the rest of the growers and Agencies within the regulatory system.

It should be noted that three BC greenhouse vegetable Agencies and the only other root vegetable Agency in BC (Okanagan Grown) were represented on the panel that approved of our application and recommended approval to FIRB. This IVCA response is also indicative of IVCA's recent conduct, whenever they do not get what they want, the entire system needs overhauling. It is always someone else's fault. It is the classic tactic, offense is the best defense.

Closing Comments

23. IVCA and VIP have both requested a single Vancouver Island Agency. It is clear to all that the Island growers cannot operate under one umbrella. VIP continues to litigate, slander and criticize their former shareholders and management. You would think the first step would be for VIP and IVCA to amalgamate. If they believe so strongly in a single Agency why have they not already done so? They have repeatedly sided together throughout this process. They do not believe the Island should have three Agencies, so why do they not take the lead and amalgamate themselves? They have accused the VMC for their lack of leadership. Where is theirs?
24. *BCfresh* has consistently opposed single farm Agencies. In the case of VIP, we believe their interim approval solved a temporary political situation but has no practical regulatory or market necessity. Furthermore, the designation of an Agency is a privilege, not a right. The Walsh family has become the most litigious family farm in the history of the VMC. The long history of mediated disputes, hearings, and appeals are numerous dating back almost 20-years. We do not believe that the actions of VIP or their principles warrant the privilege of operating a designated Agency. If they cannot amalgamate with IVCA willingly, they should be directed by FIRB to do so.
25. There are no longer District boundaries in this regulated system. They have been removed by the Provincial government as they were viewed as an impediment to competitiveness under a previous core review. IVCA has taken advantage of this change by adding a Fraser Valley grower to their company as permitted. However, both VIP and IVCA are opposed to any marketing structure on Vancouver Island where they do not have control. They are used to having veto power over the production and marketing of regulated product on Vancouver Island. It is also clear that it is only permitted to market regulated product grown on Vancouver Island if done through them.
26. It should be noted that *BCfresh*, its management and its growers have no issue with the growers of IVCA. We respect them. We have interacted with them within the industry for decades. We have purchased their products through inter-Agency transactions. But we cannot accept the opinion of their President Mr. Vantreight.

27. Mr. Vantreight is advocating a scorched earth policy. He wants the entire regulatory system overhauled. The problems on Vancouver Island are not the result of the regulatory system consisting of Agencies, Delivery Allocations and Minimum Pricing. It is the result of stakeholders using every means necessary to resist resolution of the problems. The reality is that IVCA and VIP probably represent less than 2% of the gross sales of the regulated vegetable industry in BC. We feel the panel should consider this fact and weigh their opposition for what it is, a veiled attempt by a few to deter any competition or restructuring on Vancouver Island. IVCA and VIP want to control the flow of BC grown product to Vancouver Island consumers through self serving entities. Perhaps we do not need a regulatory solution and the focus could be on growing high quality product and servicing our customers. The market will decide who wins and who loses.
28. The adage “justice delayed is justice denied” has never been more appropriate. For 2-years there have been meetings, mediation, hearings, appeals and now a Supervisory Review by FIRB is an obscene abuse of process by anyone’s standards. The filing of another appeal by IVCA and VIP yesterday, 24-hours before the deadline of this submission, is just a further abuse of process.
29. *BCfresh* and VIFP filed their joint application and requested an expedited process as critical business decisions needed to be made within certain timelines. IVCA and VIP were aware of these timelines yet have deliberately delayed the process at every opportunity. They do not care if they are impeding and disrupting the business decisions required by other growers in this industry. It shows a complete lack of respect for others in this industry.
30. In addition to the 2-years of opportunities they have had to resolve Vancouver Island issues prior our application and the August 29, 2013 hearing, they have had the following:
- Intervener status at the hearing August 29, 2013 hearing.
 - An opportunity to file a written submission to the VMC following the same hearing
 - An opportunity to file a response to the other written submissions to the VMC
 - An opportunity to file another written submission to FIRB
 - An opportunity to file a written response to the other written submissions to FIRB
31. Now they have filed yet another appeal. Their actions should be judged for what they are, a deliberate and desperate abuse of the regulatory system. *BCfresh* and its growers are making final planning decisions for 2014 now. The ability to provide strategic direction to its growers in cooperation with VIFP is being delayed until a FIRB decision is made. IVCA has suggested that the VMC regulatory system needs to

be overhauled. The only regulatory system that requires overhauling is one in which self-serving interests are allowed to perpetuate this nonsense.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'M. Driediger', is written over a large, hand-drawn oval. A long horizontal line extends from the right side of the signature across the page.

Murray Driediger
President & CEO
BCfresh

cc BC*fresh* Board
VIFP
IVCA
Okanagan Grown
VIP
BCVMC