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**DELIVERED BY EMAIL, FAX OR MAIL**

Blaine Gorrell  
Chair  
British Columbia Milk Marketing Board  
200 – 32160 South Fraser Way  
Abbotsford, BC V2T 1W5

Dear Mr. Gorrell:

**REVIEW OF SPECIALTY PRODUCTION AND NEW ENTRANT PROGRAMS –  
IMPROVING ACCESS TO THE SUPPLY MANAGEMENT SYSTEM**

On September 1 and 2, 2005, the British Columbia Farm Industry Review Board (FIRB) issued general directions to the five supply managed commodity Boards in British Columbia. These directions followed a two year review by FIRB and the Ministry of Agriculture and Lands (the Ministry) concerning how specialty production, new entrant and quota programs were to be administered by the five Boards.

The Boards were required to draft Orders in compliance with the general directions and submit their Orders to FIRB by October 31, 2005 for review and prior approval before implementation. Interested persons were also provided opportunity to provide written submissions with respect to the draft Orders.

The British Columbia Milk Marketing Board (Milk Board) requested and was granted an extension to January 31, 2006 for filing its draft Orders. FIRB's initial review of the Milk Board's proposals resulted in FIRB writing to the Milk Board seeking clarification with respect to certain provisions. The Milk Board provided its response on April 13, 2006. These responses were provided to the industry for comment.

At its meetings of May 11 and July 12, 2006, FIRB gave further consideration to the provisions of the Milk Board's draft April 1, 2006 Consolidated Orders relating to specialty, new entrants, small lot production and quota transfers taking into account the Board's March 6, 2006 letter, the Board's April 13, 2006 letter, various discussions and meetings with the Board and industry stakeholders, and written comments received from other interested parties up to May 10, 2006. FIRB subsequently determined that it would prior approve the Board's proposal, subject to the amendments outlined below, effective the date of this letter and based on the following understandings.

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First and foremost, Milk Board allocation policies and decision-making are expected to be in accordance with the Ministry's "Regulated Marketing Economic Policy" and FIRB's September 1, 2005 directions. This includes being responsive to specialty, niche and other innovative marketing opportunities on an ongoing basis. FIRB is of the firm opinion that B.C. producers should have the first opportunity to fully serve B.C.'s markets, including specialty segments.

Second, FIRB is generally satisfied that the Orders, once amended in accordance with the direction provided below, are in alignment with the policy expectations outlined in the September 1, 2005 directions. There has been significant input and expertise that has informed the policy judgments that will be reflected in the amended Orders. Nevertheless, regulatory changes of this nature necessarily require regulators to monitor, on an ongoing basis, whether and to what extent the proposed changes are achieving their policy objectives. Accordingly, FIRB recognizes that certain aspects of the Orders as they relate to specialty markets and new entrant programs will be the subject of ongoing dialogue and review, and that adjustments and amendments may still need to be made based on practical experience gained in applying and managing the Orders.

FIRB requires the Milk Board to be proactive and timely in responding to issues that emerge from the implementation of its new Orders. In responding to these issues and the potentially differing points of view and interpretations of the Orders, the Milk Board must act progressively, fairly, transparently and equitably. FIRB expects the Milk Board's Specialty Milk Product Advisory Committee to have a key role in support of the Board and suggests that the Committee be engaged on issues as soon as possible.

### **Directions Regarding Orders Proposed by the Milk Board**

The Milk Board is directed to amend its draft Consolidated Orders dated April 1, 2006 to incorporate the following requirements:

#### Designation of Specialty Products

1. FIRB agrees that currently only organic milk is qualified to be designated as specialty for quota management and administration purposes. FIRB also agrees that production changes restricted solely to "*feeding and husbandry programs do not [necessarily] confer specialty status on milk.*" (Milk Board letter dated April 13, 2006).
2. The Milk Board, with input from the Specialty Milk Product Advisory Committee (SMPAC), is to establish criteria providing for the designation of other specialty milk in the future. These criteria are to be established by July 31, 2007.

#### Innovation

3. The Milk Board has been a leader among the supply managed sectors in fostering innovation through a national program known as the Domestic Dairy Product Innovation Program (DDPIP).
4. In accordance with FIRB's September 1, 2005 Directions, the Milk Board is to establish policy and procedure "*for the pursuit of new and innovative product/market segments in the future*" where such new innovations may not qualify to be designated as specialty products.
5. FIRB requires the Milk Board to have a provincial program to stimulate and promote innovative approaches to producing and marketing milk that have the potential to create sustainable demand

for milk produced in B.C. This program may build on the DDPIP; however, the DDPIP program may not be the sole vehicle for promoting innovation in milk production and marketing in the province. FIRB requires the Board to provide a report, together with any necessary Consolidated Order amendments, to FIRB concerning measures it is taking or plans to take to promote innovation by July 31, 2007.

#### Allocation

6. FIRB recognizes the Milk Board has proposed to provide for growth in supply of organic milk by providing Graduated Entry Program (GEP) priority to producers intending to produce organic milk and by authorizing holders of Total Production Quota (TPQ) to convert from mainstream milk production to organic milk production.
7. FIRB recognizes the Milk Board has proposed to allocate quota pro-rata among all quota classes – TPQ and Specialty TPQ (STPQ).
8. In accordance with FIRB's September 1, 2005 directions, the Milk Board is to "*establish principles and procedures for distributing the provincial allocation...to the different [classes of quota] based on differential market growth.*" [emphasis added] Accordingly, the Board is to provide for a reasonable differential growth spread between TPQ and STPQ in making allocations to meet specialty market requirements. For clarity, allocation is to be pro-rata within TPQ and STPQ classes, but not necessarily between them.

#### Conversion from Mainstream to Specialty Production

9. FIRB accepts that mainstream producers holding TPQ should have the opportunity to produce for specialty market segments subject to certain conditions.
10. The Milk Board is to provide opportunities for holders of TPQ to utilize some or all of their TPQ for the production of specialty milk subject to there being unfilled market demand after new entrants have been selected on the basis of the specialty priority and after existing holders of STPQ have been allocated growth in accordance with differential allocation procedures as outlined in paragraph 8 above.
11. FIRB supports the Board's approach of having the SMPAC provide input on requests for holders of TPQ to utilize their quota to produce specialty milk.
12. FIRB approves that holders of TPQ authorized to produce specialty milk will retain their rights to produce mainstream milk and transfer their quota as TPQ, subject to any time conditions applied by the Milk Board to their specialty production authorization.
13. The Milk Board is to establish, in consultation with the SMPAC, clearly defined procedures by which TPQ holders may be approved to convert back to mainstream milk production. These procedures must not cause short term supply shortages in the specialty milk segment.

#### Pooling of Specialty Production

14. FIRB accepts that pooling is fundamental to the current management and administration of the milk supply management system in B.C. and Canada.

15. FIRB accepts the Milk Board's proposal that organic milk should be pooled. The Milk Board may proceed with pooling as proposed, including pooling of premiums and requiring 95% premium guarantee from processors, and subject to meeting any requirements of producers, processors and the Board necessary to retain the integrity of the organic milk.
16. Nevertheless, FIRB is of the view that pooling of future innovative production or new types of specialty production should not occur until such time as the Milk Board determines it is warranted by sustainable market demand.

#### Quota Transfer

17. FIRB recognizes that the Milk Board has operated a Quota Exchange to provide transparent and equitable opportunity for all producers to offer quota for transfer and to seek to acquire quota by transfer. This approach has had benefits for all producers, particularly those in regions outside the Fraser Valley.
18. The Milk Board is to require all quota to be transferred through the Quota Exchange except transfers for which assessment exemptions are provided at paragraph 24. In addition, the Milk Board may choose to except a whole-farm transfer (milk production unit and quota) from the exchange when the farm and quota stay intact. In this situation, the transfer assessment provisions still apply except as provided in paragraph 24.

#### Quota Transfer Assessment

19. The Milk Board is to impose a five percent (5%) transfer assessment on all transfers of quota that was issued prior to September 1, 2005, except as specifically exempted (see paragraph 24).
20. All new quota, including both TPQ and STPQ, allocated to B.C. producers is to be subject to the 10/10/10 declining transfer assessment.
21. All quota transferred is to be subject to the "last in, first out" rule whereby a producer must transfer the most recently issued quota first.
22. All quota realized by the Board from assessments is to be made available for the New Entrant Program, the Cottage Industry Program, and new product/market innovations. For clarity, quota realized from assessment is not to be redistributed among existing quota holders until adequate quota has been provided to all other programs and then only in accordance with the allocation criteria, including supplying B.C.'s specialty markets with B.C. production and providing for differential growth between TPQ and STPQ. The criteria by which these allocations are determined must be prior approved by FIRB in accordance with the September 1, 2005 directions.
23. FIRB requires the Milk Board to provide an annual report detailing all transfers made in the year, the assessments made and the exemptions granted, and the actual and/or planned distribution of quota realized from assessment. This report is to be provided when the Milk Board submits its Annual Report to FIRB or pursuant to reporting requirements that may be required of the Chair pursuant to the Memorandum or Understanding between the Minister, the FIRB Chair, and the Chair of the Milk Board.

### Quota Transfer Assessment Exemptions

24. Exemptions from quota transfer assessment are to be limited to family members, defined as spouses, sons and daughters, for business reorganizations where the ownership percentages do not change, and quota swaps where each party to the swap begins and ends with the same amount of quota and the swap is solely for the purpose of balancing annual production within quota.
25. The Milk Board may not provide any other exemptions from transfer assessment.

### Cottage Industry Program

26. The Milk Board is to provide for the establishment of a minimum of one new CIP producer annually.
27. The Milk Board is to give first priority to CIP applicants planning to produce and process designated specialty milk or produce new, innovative processed products, second priority to applicants planning to produce outside the Fraser Valley, and third priority to applicants planning to produce inside the Fraser Valley.
28. In the event that there is more than one eligible applicant in a year and the Milk Board has insufficient quota realized from assessments to fund more than one new CIP producer, the Board is to establish waiting list procedures based on principles similar to those provided for the New Entrant Program.
29. Successful CIP applicants are to be provided up to 10,000 kg of TPQ or STPQ, depending upon the type of milk planned to be produced. This quota allocation is to be subject to the 10/10/10 transfer assessment rule and is to be transferable off the site after 15 years of use by the applicant. For clarity, quota issued under the CIP program may be transferred with the business, including the fixed assets, during the first 15 years after issuance and would be subject to the 10/10/10 quota assessment during this time. After 15 years, the quota may be transferred independently of the fixed assets, and would be subject to a 10% assessment at that time in accordance with the 10/10/10 quota assessment schedule.
30. The Milk Board is to consider a plan for authorizing CIP producers to purchase milk either from the Board through the pool or by direct local contract for the purpose of growing their processed milk products business. FIRB requires the Board's proposal in this regard not later than October 31, 2006.

### Permit Conversion.

31. In accordance with FIRB's September 1, 2005 Directions, existing specialty, DDPIP, CIP or other permits "*are to be converted to quota of a class applicable to the type of product produced, ... [ and ] ... production volumes recognized for quota should be equal to the permittee's production in the twelve (12) months ending December 2004, or the nearest applicable quota period ending after December 2004.*"
32. FIRB requires the Milk Board to submit a detailed report outlining the permit conversion criteria applied together with the details proposed for each producer utilizing the DDPIP and/or CIP programs. This report is to be provided to FIRB no later than October 31, 2006.

33. FIRB will review the proposed conversion details and either approve them as submitted or direct alternative approaches.

#### New Entrant Programs

34. The Milk Board has been a leader in providing new entrant opportunities for individuals wishing to enter the milk industry. FIRB acknowledges that the Milk Board's program has adapted over time to changing needs and experience.
35. FIRB recognizes and respects that the Milk Board has committed to provide a minimum of three (3) new entry invitations annually.
36. The Milk Board is to issue invitations based on providing priority to applicants planning to produce designated specialty products, subject to there being unfilled market demand, and to applicants planning to produce outside the Fraser Valley. The Milk Board should also require that there be a demonstrated milk transportation plan either to a regional processor or in conjunction with other regional producers shipping jointly outside the region.
37. FIRB recognizes and accepts the Milk Board's current plan of issuing 5,000 kg of quota plus 2,000 kg of quota to match the acquisition of 2,000 kg by the new entrant. Any quota issued under the New Entrant Program is to be fully transferable in accordance with the 10/10/10 transfer assessment restrictions.

#### Specialty Milk Products Advisory Committee

38. FIRB accepts the Milk Board's approach to the Advisory Committee, subject to the Board ensuring that, at all times, the majority of members on the Committee represent specialty and CIP producers and that the Board member on the Committee be non-voting.
39. FIRB requires that the Board consult with specialty and CIP producers to determine their preferred appointee(s) prior to making any final appointments.
40. FIRB encourages the Milk Board to consider appointing an independent Committee Chair only if the industry members appointed by the Board are unable to agree to nominate a Chair from among themselves.
41. FIRB encourages the Milk Board to establish the SMPAC as soon as possible, and requests that the Board communicate its membership to FIRB at its earliest convenience.
42. FIRB encourages the Milk Board to establish at the outset, or charge the SMPAC with establishing, clear Committee procedures concerning meetings, quorum, decision-making, voting, minutes, and reporting to the Board.

FIRB requires the Milk Board to make the necessary amendments to its Consolidated Orders dated April 1, 2006 based on the above noted directions and have these in effect no later than July 31, 2006 or some later date approved by FIRB at the Milk Board's request. FIRB also requires that the Milk Board submit a final copy of its Consolidated Orders clearly showing with a black-line version all changes from the currently in force Orders.

FIRB will continue to monitor developments as the new Orders are implemented. This monitoring will include continued dialogue between FIRB and the Milk Board respecting these Milk Board

Orders and concerning issues that may arise. FIRB reserves the right to issue further supervisory directions to the Milk Board to ensure that its directions in this letter are carried out.

There will be performance expectations relating to the specialty and new entrant programs flowing from Memoranda of Understanding between the Minister of Agriculture and Lands, the Chair of FIRB and the chairs of the five supply managed boards. FIRB will also conduct a formal review of all specialty and quota transfer programs in three years time (2009).

The Specialty Review has been a challenging task and FIRB appreciates the contributions Milk Board members and staff have made to the process.

Yours truly,



Richard Bullock  
Chair

pc: Daphne Stancil, Assistant Deputy Minister  
Strategy, Policy and Legislation  
Ministry of Agriculture and Lands

Bruce Cook, Chair  
British Columbia Broiler Hatching Egg Commission

Ron Kilmury, Chair  
British Columbia Chicken Marketing Board

David Taylor, Chair  
British Columbia Egg Marketing Board

Ron Charles, Chair  
British Columbia Turkey Marketing Board

Specialty Review Distribution List  
FIRB Website