

**BRITISH COLUMBIA VEGETABLE MARKETING COMMISSION**

**Decision Regarding  
an Application by  
Vancouver Island Farm Products Inc.  
to be Designated as an Agency of the Commission**

**COMMISSION PANEL:**

David Taylor, Chair  
Hugh Reynolds, Member  
Armand Vander Meulen, Member  
Cory Gerrard, Member

Tom Demma, Registrar

**APPLICANT:**

Vancouver Island Farm Products Inc.  
("VIFPInc")

**INTERVENORS:**

V. I. P. Produce Ltd.  
("VIP")

BC Fresh Vegetables Inc.  
("BC Fresh")

Island Vegetable Co-operative Association  
("Island Veg")

Okanagan Grown Produce Ltd.  
("OGP")

**A. Issue Requiring Decision**

1. The applicant has applied to the BC Vegetable Marketing Commission ("Commission") to be designated as an Agency of the Commission pursuant to Part XIV of the General Order, March 16, 2005, as amended. The application has regard to both storage and greenhouse vegetable crops.
2. In accordance with Section 8 of the *Natural Products Marketing (BC) Act ("NPMA") Regulations (Reg. 328/75)*, an Agency designated by the Commission will not have effect until it is subsequently approved in writing by the Provincial Board, the B.C. Farm Industry Review Board ("FIRB").
3. The purpose of the Hearing is to examine the application in accordance with Sections 3 and 9 of Part XIV – *Procedures for Designation of Agencies* - of the General Order and to

hear presentations from parties having an interest in the application so that a Panel of the Commission can make a decision.

4. The decision the Panel is to make is whether to approve or deny the designation of VIFP Inc. as an Agency of the Commission, and, if approved, whether any conditions are to apply.

## **B. Definitions**

5. In this decision document the following names will be used to identify different parties irrespective of the current legal name:
  - a. "VIFP Inc" refers to Vancouver Island Farms Products Inc., the applicant.
  - b. "BC Fresh" refers to BC Fresh Vegetables Inc., an Agency designated by the Commission to only market regulated storage crops.
  - c. "Island Veg" refers to the Island Vegetable Co-operative Association, an Agency designated by the Commission to only market regulated storage crops
  - d. "OGP" refers to Okanagan Grown Produce Ltd. , an Agency designated by the Commission to market regulated storage and greenhouse vegetable crops
  - e. "VIP" refers to V. I. P. Produce Ltd., an Agency designated by the Commission to only market regulated storage crops

## **C. Background and Chronology of Events**

6. On November 1, 2011 the BC Vegetable Marketing Commission (hereinafter "VMC") received *Storage Crop Producer Application for Transfer Between Agencies* forms from four Vancouver Island licensed storage crop and root crop producers; namely, Lazo & Tye Farm Ltd.; Comox Valley Farms Ltd.; L. Hiebert, and Comox Valley Production 2003 Inc. Together the mentioned licensed storage crop producers form the storage crop complement of the applicant group.<sup>1</sup>
7. The agency transfer documents were dated October 31, 2011; indicated that the Agency transferring from is Vancouver Island Produce Ltd. (sic V. I. P. Produce Ltd.); indicated the Agency transferring to was "to be determined;" the forms originated from one location and were received by way of facsimile transmission at the VMC on November 1, 2011.
8. On December 19, 2011 the VMC received by way of facsimile a document signed by eight VMC licensed storage and greenhouse vegetable producers and one unlicensed producer informing of the group's interest to be a VMC designated agency.<sup>2</sup> The name of the farm group set out on the referenced document was Field & Green House Growers of Vancouver Island and intended agency name was Vancouver Island Growers Association. It is noted that over time the name of the applicant changed to VIFP Inc.<sup>3</sup>

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<sup>1</sup> Hearing Exhibit 1

<sup>2</sup> Hearing Exhibit 2

<sup>3</sup> Hearing Exhibit 3

9. Subsequent to receiving the information from the nine Vancouver Island producers, the VMC received another document titled Agency Application.<sup>4</sup> The VMC considers this document the initial application for agency designation.
10. Following the 2011 Christmas season the VMC was in telephone communication with R. Sieffert. During the communications information about the applicant's interests were received by the VMC. As the VMC understood there were differences between the producers and producer-shareholders shipping through VIP, the VMC offered third-party mediation services with costs to be paid by the VMC. The VMC intended using alternate dispute resolution to settle both identified and perhaps unidentified differences that were the basis of the dispute.
11. On March 28, 2012 D. Taylor, VMC Chair, travelled to Courtenay, BC to meet with licensed producers and to assess whether the parties were interested in using alternate dispute resolution to solve matters of the dispute. Mr. Taylor was able to obtain agreement from one disputant; namely VIP, to make use of alternate dispute resolution. He was unable to craft mutual agreement amongst the other disputing parties.
12. On March 29, 2012 during a regular VMC meeting, it was decided to hold a Hearing regarding the VIPInc application for agency designation and a Panel of the Commission was established. The Panel composition is D. Taylor, Chair; H. Reynolds, A. Vander Meulen and C. Gerrard, all members of the Commission.
13. On April 3, 2012 a Notice of Hearing was issued by the VMC that was circulated to the applicant, all licensed producers, Designated Agencies, and other sector stakeholders. The notice informed of the date and location of the Hearing and how interested parties could gain Intervenor standing in the Hearing proceedings.
14. The VMC received four in-time Intervenor requests and one late Intervenor request. Prior to the Hearing date of April 25, 2012 the VMC approved all of the Intervenor requests it had received.
15. On April 16, 2012 a pre-hearing telephone conference call was held. Meeting participants included representatives of the applicant and Intervenors that were granted standing by the VMC. The conference call meeting addressed preliminary matters including: the deadline for written submissions to be received by the VMC; Intervenor representatives expected to attend the Hearing; whether or not any party to the Hearing required an in-camera session; and whether or not one or more parties intended to be represented by legal counsel at the Hearing.
16. The deadline for the VMC to receive written submissions was established as April 18, 2012. By this date the VMC received written submissions from some of the Intervenors as well as the amended agency designation application from VIFPInc.<sup>5</sup>

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<sup>4</sup> Hearing Exhibit 2

<sup>5</sup> Hearing Exhibit 3

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17. The Hearing was held in Nanaimo, BC starting at 10:00 AM on Wednesday, April 25, 2012. VIFP Inc was represented by R. Sieffert, L. Hiebert, I. Rage and J. LeGrand. VIP was represented by J. Walsh; BC Fresh was represented by M. Driediger; and Island Veg was represented by I. Vantreight. OGP was not represented at the Hearing; however, it had earlier provided the VMC with an in-time written submission.
18. The Hearing proceeded according to the earlier circulated *Hearing Order of Presentation* document forming Tab 5 of the Hearing Information Binder. The information binder was circulated to the applicant and to all parties with standing in the Hearing prior to the Hearing date.
19. The Panel of the Commission discussed the application after the Hearing concluded and during two separate occasions on April 27, 2012. This document records the Panel's decision and reasons for decision. It conforms to the April 27, 2012 issuance of a VMC Decision Without Reasons.

**D. Marketing BC Storage and Root and Greenhouse Vegetables**

20. The VMC is constituted in accordance with the *Natural Products Marketing (BC) Act* and the *B.C. Vegetable Scheme*. Storage and root crop and greenhouse vegetable crop production and marketing are regulated by the referenced act and regulation. The definition of storage and root crops and greenhouse vegetable crops is set out in the VMC General Order. Accordingly, the production and marketing of storage and root crops and greenhouse vegetable crops is subject to regulations established by the VMC and these are set out in its General Order.
21. In broad terms, the purpose of the VMC is to promote and control the production, transportation, packing, storage and marketing of regulated products, including storage and root crops and greenhouse vegetable crops produced in the Regulated Area which are marketed intra-provincially, inter-provincially, or in export trade.
22. Notwithstanding the regulatory authorities provided to fulfill this purpose, greenhouse vegetable production and marketing is international in scale, and there are few impediments to the flow of products between countries. In BC storage crop and root crop production and its marketing occur mostly within the province. There are some limitations affecting the movement of potatoes inter-provincially and in export trade. These limitations are provided in the *Fresh Fruit and Vegetable Regulations* pursuant to the *Canada Agricultural Products Act*.
23. In the absence of border controls, the VMC's primary role is to facilitate fair and orderly marketing among producers so that they all have the opportunity to be successful and competitive compared to other producing jurisdictions. The VMC does not, however, guarantee the returns of any producer or group of producers. The VMC sets minimum prices for regulated storage crops and root crops but does not do so for regulated greenhouse vegetable crops.

24. Among the tools available to the VMC to coordinate orderly marketing are the licensing of all producers and marketers, the designation of Agencies, and the direction of producers to market through a particular Agency.
25. Agencies only exist by virtue of the VMC designating them as such in accordance with the Act and Scheme. In practical terms, Agencies serve as the first receiver of a producer's regulated products. Agencies are designated by the VMC to market certain regulated products produced by growers. Agencies are founded on the principle that growers working together could realize the critical mass necessary to effectively market to a limited number of buyers. By reducing competition between growers for markets, prices would be stabilized and better net returns would be realized.
26. Presently, there are five Agencies authorized by the VMC to market greenhouse vegetables and five agencies authorized to market storage and root crops. Among the 10 agencies two of them have authority to market both storage and root crops and greenhouse vegetable crops. One of these agencies, OGP, is located in the Interior and the other, VIP, is located on Vancouver Island.
27. The VMC relies on each Agency to treat all producers shipping through it fairly and equitably in accordance with the General Order and terms and conditions set out in a written agreement between the Agency and the producer. The individual agreement, termed a Grower Marketing Agreement, stipulates that the Agency is to market all of the production of each producer affiliated with it; to regularly and accurately record production information for each producer so that aggregated marketing information can be submitted to the VMC; and to collect and remit annual levies owing by producers to the VMC.

**E. Agency Designation Application by Vancouver Island Farms Products Inc.**

28. Annually, the applicant intends to market regulated storage and root crops during the June through to February period; greenhouse vegetable crops during the March through to October period; and other unregulated vegetables and fruits, in particular sweet corn, during the June through to September period.
29. By way of written and oral submissions the applicant provided reasons why it should be granted an Agency licence:
  - a. Marketplace confidence restored with respect to both the quality of the products to be marketed and the services provided to customers and producers;
  - b. Internal relationship amongst growers shipping through the agency will be harmonious because the interests of producers will be balanced by providing equal opportunity to purchase shares, take part in management; and ensure that no one producer-shareholder has undue control and influence on agency affairs;
  - c. In the long term producers marketing through the agency will attain farm business stability;

- d. Marketed sales value for like product shipped that is not price pooled dampens the incentive for a grower to ship lower quality product;
- e. Long standing retail and food service customer relationships maintained;
- f. As much as possible customer supply requirements for high quality Vancouver Island products satisfied;
- g. Benefitting producer net farm income by minimizing and containing operational overhead costs;
- h. Making use of experienced and seasoned staff well versed in marketing fresh produce will benefit the industry overall;
- i. No disturbance anticipated to local markets; and
- j. Fair and affordable distribution of excess funds to occur.

30. To satisfy the requirements of Sections 3 and 9 of Part XIV – *Procedures for Designation of Agencies* – of the General Order, the applicant submitted pro forma financial information regarding agency operations.

31. The information put before the Panel was for one option alone. The table below summarizes the submitted pro forma financial information.

Table 1 - Vancouver Island Farm Products Inc.

Revenue, Operating Expenses and Net Earnings/ (loss)  
 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5
Storage and Root Crops	\$55,900	\$61,490	\$60,372	\$65,403	\$70,434
Greenhouse Vegetable Crops	127,500	150,000	136,000	136,000	136,000
Other Crops	11,050	19,550	25,410	33,110	40,810
<b>TOTAL REVENUE</b>	<b>194,450</b>	<b>231,040</b>	<b>221,782</b>	<b>234,513</b>	<b>247,244</b>
Operating Expenses	167,142	162,790	166,220	170,110	174,420
<b>Net Earnings/(loss)</b>	<b>27,308</b>	<b>68,250</b>	<b>55,562</b>	<b>64,403</b>	<b>72,824</b>

Note: Revenue means fees and charges paid by the producers to the Agency to pay for agency operating expenses.

32. In regard to Section 3(h) of Part XIV – *Procedures for Designation of Agencies* – of the General Order, the applicant provided information demonstrating that it is a registered British Columbia company with the names of the listed shareholders identical to those set out in the agency designation application information.

33. The applicant's marketing strategy contains both short and long term goals. Chief among them is to market quality Vancouver Island regulated storage and root crops and greenhouse vegetable crops to known Vancouver Island customers. The applicant

informed that to maintain orderly marketing it is prepared to work with other Agencies to manage inventory situations as they arise.

34. In the initial application received by the VMC, which forms Schedule D of the amended application<sup>6</sup>, the applicant informs that there will be no pooling. The testimony during the Hearing informed that there is to be no pooling and the amended application is silent on the question. In the amended application the section headed Benefits of Primary Producers the applicant informs of "its belief that the fair management and revenue sharing of the Applicant will lead to long term stability among the producers who avail themselves of its marketing services."
35. In the amended application and mentioned in its opening statement the applicant also informed of the following:
- a. It would not operate a central warehouse facility. Activity for preparing crops for marketing, including grading and packing to industry standards, is to occur at each affiliated grower's farm premises;
  - b. It will follow proper agency record keeping practices, including issuance to producers of specifically numbered transport orders;
  - c. Provisions will be in place permitting trace back and recall in the event of a food borne illness outbreak;
  - d. It will establish a bad debt reserve fund based on an established marketing fee with said funds to be received by producers involved in no-pay situations;
  - e. It will develop a unique label that reflects that its regulated product is Vancouver Island grown;
  - f. Other than for the first operating year, annual excess revenue is to be returned to growers (i.e. shareholders) by pro rata per share dividends;
  - g. Intention is to commence agency operations as soon possible once VMC and FIRB approval is received;
  - h. Opined that the VIP Grower Marketing Agreements are not enforceable;
  - i. All producers would be welcome to affiliate with the agency;
  - j. Agency staff to be comprised of one full time and perhaps two part time staff persons;
  - k. Customers of the agency were identified; and
  - l. Acknowledged that pursuant to the *Natural Products Marketing (BC) Act Regulations* that no designation of agency shall have effect unless approved in writing by the Provincial Board (BC Farm Industry Review Board (FIRB)).

**F. V. I. P. Produce Ltd.'s Position**

36. On April 11, 2012 the Commission granted full Intervenor status to VIP to participate in the Hearing. In keeping with the provisions of the issued Hearing notice, on April 18, 2012 the Commission received a written submission from VIP. A VIP representative participated in the Hearing.

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<sup>6</sup> Hearing Exhibit 3

37. VIP feels that: approving the applicant's agency designation request is not in the best interest of orderly marketing; approving another Vancouver Island agency will be disruptive to marketing on Vancouver Island and not remedy current destabilized Vancouver Island marketplace; and the VMC is responsible to ensure that its decisions do not financially disadvantage or injure an individual grower.
38. VIP informs that despite the disproportionate crop value attributable to the greenhouse vegetable producers it remains prepared to market the regulated products of the producers forming the bloc of growers identified in the agency designation application.
39. VIP purports that a designated agency is to operate in an environment where there is a business relationship between and among the growers comprising it. It further states that policies regarding fairness and equity considerations are to be in place and should be the result of transparent communication.
40. VIP stated that, as it has all along, it remains prepared to meet and work with the shareholders to resolve the matters that now divide them.

**G. BC Fresh Vegetables Inc.'s Position**

41. On April 11, 2012 the Commission granted full Intervenor status to BC Fresh to participate in the Hearing. In keeping with the provisions of the issued Hearing notice, on April 18, 2012 the Commission received a written submission from BC Fresh. A BC Fresh representative participated in the Hearing.
42. BC Fresh's written submission primarily focuses on storage and root crops as it this crop category that it markets. It offered the view that the limited supply of Vancouver Island potatoes is not large enough to support the marketing activity of three agencies.
43. BC Fresh informed that a VMC decision must consider: the whole of the Vancouver Island supply; Vancouver Island market conditions; the future of VIP; and the consequences that may befall the regulated storage crop sector should a single producer operate as an Agency. BC Fresh registered its opposition to a single producer agency.
44. BC Fresh stated that when the storage and root crop sector is compared to the greenhouse vegetable sector there are significant differences to the extent that the latter is export dependent while the former is geared to servicing domestic markets. The former relies more heavily on the orderly marketing system to determine individual grower market access and to optimize grower returns within a competitive marketplace where supply originates both within and outside of BC.
45. BC Fresh informed that when its predecessor agency, Lower Mainland Vegetable Distributors Inc., was forming it looked to VIP articles of incorporation to model its own governance and shareholder structure. It further related that with the gradual contraction of VIP shareholder numbers (IE producers) over time, the small number of remaining shareholders became exposed to the risk that a single large shareholder could control



corporate election outcomes. The now outmoded articles of incorporation led to the conflict between the remaining VIP shareholders.

46. BC Fresh related that differences among producers within an Agency may be reason for the VMC to approve agency designation. However, BC Fresh also put forward that, in the alternative of approving a new agency, the VMC might direct the affected growers to market through one of the other existing Agencies.
47. BC Fresh indicated that it is receptive to new growers joining its agency and that it is prepared to consider the bloc of Vancouver Island greenhouse vegetable and storage and root crop producers to affiliate with it.

#### **H. Island Vegetable Co-operative Association's Position**

48. On April 16, 2012 the Commission granted full Intervenor status to Island Veg to participate in the Hearing. A written submission was not received by the VMC prior to the Hearing.
49. In a written document<sup>7</sup> submitted during the Hearing and upon speaking to it, Island Veg informed that it did not support the application. It informed the Panel that Island Veg directors met on April 16, 2012 and passed a motion that serves as the basis for its position.
50. Island Veg cautioned that the presence of another Vancouver Island agency was not in the best interests of growers generally, Vancouver Island growers specifically, and more over for orderly marketing of regulated vegetables in BC.
51. Island Veg informed that having another Vancouver Island central desk seller will only heighten competition when there will be no greater number of Vancouver Island customers to purchase Vancouver Island regulated products,. It emphasized that receiving higher market prices is an unlikely outcome when there are more selling desks than warranted.
52. The Island Veg motion set out in Exhibit 10 expressed concern about private, internal Agency issues or problems being insufficient reason for the VMC to grant new agency designation. It is concerned that this would be precedent setting whereby others may look to the VMC to obtain agency designation.
53. Island Veg indicated that it is receptive to have more storage and root crop producers affiliate with it, but should more growers join the agency it did not see reason to operate another office.

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<sup>7</sup> Hearing Exhibit 10

**I. Okanagan Grown Produce Ltd.'s Position**

54. On April 11, 2012 the Commission granted full Intervenor status to OGP to participate in the Hearing. In keeping with the provisions of the issued Hearing notice, on April 18, 2012 the Commission received a written submission from OGP. An OGP representative did not participate in the Hearing.
55. OGP supports the application for agency designation and asks the VMC to consider all of the information before it when reaching its decision.
56. The basis of OGP's position is its assessment that (1) there are differences among the producers that will likely escape resolution and (2) Vancouver Island producers enjoy a high degree of customer loyalty that may be lost if the agency designation is not granted by the VMC.
57. Further, OGP put forward the position that if a single-producer Agency remains, this could set an unwelcome precedent for orderly marketing. It is opposed to this occurring.

**J. Commission Findings and Reasons**

58. The Panel understands that, because growers currently have perishable production ready, the decision before it is of critical importance to the Vancouver Island greenhouse vegetable growers who are part of the applicant bloc of producers. Moreover, storage and root crop growers who are part of the applicant bloc of producers will have early potato production available for marketing in early to mid- June, thus there is urgency for a decision.
59. Section 3 of Part XIV - *Procedures for Designation of Agencies* - of the General Order outlines the application requirements for parties wishing to be considered for Agency designation. In the Panel's opinion, the applicant has fulfilled the requirements with the exception of articles 'k' and 'l'.
- a. Article 'k' requires that Agencies have a business license, and the Agency would be expected to operate as a legal entity distinct from the grower entity. Since the applicant indicated that it is prepared to fulfill this condition, the Panel does not find this is a material matter.
  - b. Article 'l' addresses the facilities out of which the Agency will operate, including office, warehouse and other facilities necessary for marketing regulated product. The Panel heard and finds acceptable that what is to occur in the way of washing, grading and packing or any combination thereof is similar to what commonly occurs on other storage and root crop and greenhouse vegetable farms affiliated with an agency for marketing.
60. The Panel observes that the bloc of greenhouse vegetable crop growers within the applicant group are a distinctive group that for sometime have contemplated operating cooperatively and collaboratively with one another to market their regulated products in a manner consistent with the BC Vegetable Scheme and the VMC General Order. The
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- Panel also observes that the greenhouse vegetable growers would use a business model that is less complex than the one required of storage and root crop agencies where the matrix of individual growers' potato and root crop delivery allocations used to determine each producer's market access must be carefully managed within an agency's go-to-market strategy.
61. The Panel further observes that the greenhouse vegetable producer affiliation with VIP has proven beneficial over recent years. However, with upwards of 65 percent of VIP business activity reflecting greenhouse vegetables, the knitting together of the varied and different interests of greenhouse vegetable producers with those of storage and root crop producers has proven challenging.
62. The Panel concurs with the representations that describe the likelihood of a changing Vancouver Island market place characterized by (1) retail grocery store consolidation continuing; and (2) present day retailer sourcing practices changing due to tightening food safety and traceability practices. Accordingly, retailer sourcing trends favour warehouse delivery where quality assurance is conducted. Therefore, it is best that Vancouver Island root and storage crop producers strategically position themselves to not rely on the status quo and to prepare themselves accordingly to meet changing market requirements.
63. The Panel heard and concurs that any outcome that leaves a single producer (a multiple registration farm) as the lone remaining affiliated producer of an existing Agency is a situation that the VMC should not allow.
64. With the exception of just one of the five potato producers that comprised VIP all others filed with the VMC their intention to transfer from one agency to another effective for the 2012-2013 crop year. Despite a minor date discrepancy for when agency transfer forms are to be filed with it, the VMC finds that the requests are to be considered received 'in-time' and the producers are eligible to affiliate with one of the other existing agencies authorized to market storage and root crops for the 2012-2013 crop year.
65. The Panel heard and concurs that the Application for Agency Designation is the result of internal corporate friction as opposed to demonstrating to the VMC whether there is a market requirement for another agency and whether the designation of another Agency would benefit the industry as a whole as provided by Section 8, Sub (a) of Part XIV – *Procedures for Designation of Agencies* - of the General Order.
66. This year, for the first time, BC Fresh will represent a new Vancouver Island potato producer's crop for marketing. Until now only two agencies marketing Vancouver Island potatoes at any one time has been the custom. Therefore, the Panel considered it best that when the potato producers who are exercising their election to transfer from one agency to another agency complete this action, there should be no resultant increase in the number of agencies marketing Vancouver Island potatoes.
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**K. Decision of the Commission**

67. In accordance with the General Order, the Commission recommends to FIRB that VIFPInc be a designated agency of the Commission for the marketing of regulated greenhouse vegetables grown in the Regulated Area based on the conditions set out in clauses 66-72 below. Further, and regardless of dates set out elsewhere in this decision, agency designation will not have effect until the Commission issues an Annual Agency License to VIFPInc. The Commission will only issue this license once it receives the annual agency license fee of \$1,160.00. This amount is due by no later than May 18, 2012.
68. VIFPInc is to establish the Designated Agency as a separate legal entity. It is to represent and market the regulated greenhouse vegetables produced by those growers affiliated with it. In the event that there are two or more growers of a like greenhouse vegetable, returns are to be determined on the basis of a "revenue/price" pool. The pooling model is to be pre-approved by the Commission.
69. The VMC decision is also conditional on other elements VIFPInc is to put into place, namely:
- a. Agency Financial Statements: In a timely manner, VIFPInc is to submit to the Commission Agency financial statements for the first 6, 12, 18, and 24 months and then yearly thereafter;
  - b. Meeting minutes: Minutes for all meetings are to be recorded and held by VIFPInc available for inspection by the Commission; and
  - c. Food Safety Policy: VIFPInc is to submit to the Commission by June 30, 2012 an agency food safety policy acceptable to the Commission.
70. For the purpose of helping to ensure that all B.C. greenhouse vegetable growers are able to realize better returns from selling in British Columbian, Canadian, and North American markets, VIFPInc is to cooperate with other designated Greenhouse Vegetable Agencies of the Commission. This includes assisting other Agencies to balance temporary long and short positions during the season through inter-agency sales.
71. By no later than May 20, 2012, which is the start of Marketing Week 21, the Commission expects VIFPInc to be fully engaged as the marketing agent for the four Vancouver Island greenhouse vegetable producers listed in the agency designation application. The mentioned times may be affected by when a FIRB decision becomes available. In the interim period, April 30 – May 19, 2012, each of the four referenced greenhouse vegetable growers may, for the interim period only, conduct direct marketing of their regulated greenhouse vegetables. This may include working collaboratively and cooperatively with one another to achieve market access and to optimize grower returns. After VIFPInc commences operation, licensed greenhouse vegetable producers may elect to enter or leave it in accordance with then prevailing Commission agency transfer policy.
72. At all times VIFPInc is to be in compliance with all elements of the Commission's agency designation decision; the General Order; and any Commission decision or directive issued to it. VIFPInc is to regularly submit, in a timely and accurate manner, quarterly volume and
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value data pertaining to greenhouse vegetable sales. Further, and, as provided for in the General Order, VIFPInc is to collect annual Producer levies applicable to licensed greenhouse vegetable growers and, in keeping with instructions so provided at the time when levies are to be collected, remit them to the Commission without delay.

73. The Commission expects VIFPInc will remain in compliance with the entirety of the General Order, and in particular the General Order provisions and Commission policies pertaining to and not to the exclusion of others: Grower Marketing Agreements; the annual administrative process of producers adjusting their crop year greenhouse vegetable crop mix; applications for issuance and assignment of new greenhouse vegetable Production Allocation; and grower agency transfer.
74. Having regard to Grower Marketing Agreements (GMA), VIFPInc is to have signed, written agreements with all of its regulated greenhouse vegetable producers that among other elements includes: a term not to exceed 3 years; clear provision for when notice to transfer agency is to be provided by the producer to the agency; and terms and conditions of “revenue/price” pooling, sales commissions and other charges and fees to be paid by the producer to the agency. In no instance is the GMA to contain a provision that is inconsistent with the marketing authority sub-delegated to VIFPInc by the Commission. Further, on a timely basis, all GMAs are to be filed with the Commission when first signed and on renewal.
75. Regardless of the presence or absence of a Grower Marketing Agreement and whether or not an application to transfer agency was received by the Commission, all producers growing for marketing regulated storage crops affiliated with and having V. I. P. Produce Ltd. their Designated Agency of record as at July 1, 2011 are ordered as follows:
- a. Immediately commence any and all necessary activity for formally affiliating with either BC Fresh Vegetables Inc. or Island Vegetable Co-operative Association with said affiliation to be documented with a signed Grower Marketing Agreement that is consistent with Commission policy and the affiliation is to remain unchanged until the producer and agency are otherwise notified in writing by the Commission;
  - b. Complete Designated Agency affiliation by no later than May 22, 2012
76. Should a producer fail to complete agency election by May 22, 2012 the Commission will rely upon Section 16 of Part VII – *Agency Responsibilities* – of the General Order to direct an agency to accept for marketing the producer’s regulated storage crops.
77. Effective May 5, 2012 the agency designation of V. I. P. Produce Ltd. is revoked and in keeping with Section 8 of the Natural Products Marketing (BC) Act Regulations the Commission will recommend to FIRB that in an expeditious manner it so approve the revocation of V. I. P. Produce Ltd.’s agency designation.
78. In the event that Echo Valley Farm or Vancouver Island Cranberry Company Inc. has unsold potato inventory that will not be sold before May 5, 2012, the VMC will work with these two growers so that the crop is marketed in an orderly fashion.
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79. Effective April 30, 2012 V. I. P. Produce Ltd. is to cease the active marketing of regulated greenhouse vegetables. Further, the Commission expects V. I. P. Produce Ltd. to continue to remain engaged in a limited manner beyond April 30, 2012, but not beyond May 5, 2012 so it may complete obligations it has established for the delivery of regulated greenhouse vegetables ordered prior to April 30, 2012. In no event and in no manner is V. I. P. Produce Ltd. to be engaged in the marketing of regulated products beyond May 5, 2012.
80. On the basis of the decision elements above and in accordance with the *Natural Products Marketing (BC) Act*, the *Natural Products Marketing (BC) Act Regulations*, the *BC Vegetable Scheme*, and the *BC Vegetable Marketing Commission General Order*, the Commission will request FIRB to reach its decision pursuant to Section 8 of the *Natural Products Marketing (BC) Act Regulations*, in an expedited manner.
81. Subject to when requisite FIRB decisions become available, the Commission reserves the right to revise the dates contained in this decision.

Issued this 10<sup>th</sup> day of May 2012 at Surrey, British Columbia

A handwritten signature in dark ink, appearing to read 'D. Taylor', is centered on the page. The signature is fluid and cursive, with a large initial 'D' and a long, sweeping tail.

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David Taylor, Chair  
BRITISH COLUMBIA VEGETABLE MARKETING COMMISSION