

DELIVERED BY ELECTRONIC MAIL

July 5, 2019

To All Potato Producers and Designated Storage Crop Agencies,

RE: BULLETIN: Update - Prokam/IVCA/TF Reconsideration - Invitation for Written Submissions

The Commission issued a bulletin on June 11th, 2019 inviting all potato producers and designated agencies to make submissions **with respect to order 48.1**.

***48.1** - Effective February 1, 2018, BCfresh is the designated Agency for Prokam. Prokam is to sign a GMA with BCfresh under the Agency's standard terms.*

Furthermore, Persons making submissions:

- 1) May address, among other things, any findings made by the BCFIRB concerning the Commission's decision to designate BCfresh as the agency for Prokam;
- 2) Are expected to specifically address, among other things, the Commission's analysis as set out in its written decision and reasons therefor dated December 22nd, 2017, and as set out its written decision dated January 30th, 2018;
- 3) May also make submissions concerning the possibility of granting a producer-shipper license to Prokam; and
- 4) Are expected to specifically support their position with a S.A.F.E.T.I. analysis.

The June 11th, 2019 notice can be found on the BCVMC website at the following link:
<http://www.bcveg.com/news-and-notice.html>

This due date for submissions will now be extended to **July 19th, 2019** for the reason to follow.

Subsequent to issuing the June 11th bulletin there has been a communication document shared with the Commission that may be relevant to submissions that stakeholders may wish to make on the reconsideration issue. This document is linked to the decision that was issued by the Commission Friday June 28th, 2019 that summarily dismissed the CFP Marketing Corporation (CFP) agency licence application and imposed a moratorium on agency and producer-shipper applications. Background on the subsequent information is provided below.

BACKGROUND ON SUBSEQUENT INFORMATION

- On February 29th, 2019, following a BCFIRB hearing presided over by BCFIRB Chair, John Les, the BCFIRB directed (in its appeal decision) the Commission reconsider its decision to issue order 48.1:

***48.1** - Effective February 1, 2018, BCfresh is the designated Agency for Prokam. Prokam is to sign a GMA with BCfresh under the Agency's standard terms.*

- By letter dated April 10th, 2019, Thomas Fresh and Prokam made the following submission:

... we understand that there may be an application to approve the establishment of a new lower mainland Agency to which Prokam would, if approved, seek to be directed as an alternative to BCfresh or IVCA. Prokam's position is that the timeline for submissions should include a date by which any application for a new Agency to which Prokam would request to be directed be made so that any such application may be considered together with the other alternatives for Prokam.

- By letter dated April 23rd, 2019, the Commission stated:

The Commission will not entertain submissions from any party concerning the possibility of directing Prokam to an agency that has not yet been approved or designated by the Commission. Any request that might be made by Prokam to transfer to another agency may only be made in relation to agencies that are approved and designated by the Commission.

Subsequently, the Commission received an application from “CFP Marketing Corporation” for a new marketing agency. At that time, the Commission learned that Mr. Les, who was the presiding member of the panel that ordered the reconsideration of order 48.1, had joined CFP Marketing Corporation as a director, together with the principal Prokam.

The application of CFP was summarily dismissed by the Commission. A copy of that decision is available here: <http://www.bcveg.com/news-and-notice.html>.

- CFP has now appealed that decision to the BCFIRB.
- On July 3rd, 2019, Mr. Les circulated a letter of resignation regarding his position as a director of CFP Marketing Corporation. The letter, a copy of which is attached in Appendix A, was copied to the Commission; to the Deputy Minister of Agriculture; and, to the BCFIRB. In that letter, Mr. Les expressed his view that:

1. *“the development of [CFP] has the potential of encouraging more BC domestic vegetable production, replacing foreign imports of all types, and providing for a more equitable marketing environment”; and*
2. *“CFP is entitled [to an agency licence]”.*

Though the Commission did not, and does not, want to “mix together” the agency application with the reconsideration process, the fact that the presiding member of the BCFIRB panel that had ordered the reconsideration has expressed the view that “CFP is entitled [to an agency licence]” could be relevant to submissions that stakeholders may wish to make on the reconsideration issue.

Furthermore, in particular, because the letter of resignation was copied to the BCFIRB, it might also appear that the presiding member of the BCFIRB panel that ordered the Commission to reconsider its decision to direct Prokam to BCfresh, is now making submissions to the BCFIRB on the very issue over which he presided.

The materials are circulated for the purpose of providing stakeholders with an opportunity to make comment on the content of the resignation letter to the extent that it may relate to the appeal and the reconsideration process.

REVISED SUBMISSION PROCESS

The deadline for submissions is hereby extended to **July 19th, 2019.**

Any stakeholder that has already made a submission may file a supplementary submission on this narrow issue no later than **July 19th, 2019.**

Persons making submissions:

- 5) May address, among other things, any findings made by the BCFIRB concerning the Commission's decision to designate BCfresh as the agency for Prokam;
- 6) Are expected to specifically address, among other things, the Commission's analysis as set out in its written decision and reasons therefor dated December 22nd, 2017, and as set out its written decision dated January 30th, 2018;

A copy of these BCVMC decisions can be found on the BCVMC website or at the following link:
<https://www.dropbox.com/sh/inr90ebuh87rz8a/AADRfblxJ4FrhAH0Z5HTHmRka?dl=0>

- 7) May also make submissions concerning the possibility of granting a producer-shipper license to Prokam; and
- 8) May also make submissions on the content of the resignation letter submitted by Jon Les to the extent that it may relate to the appeal and the reconsideration process;
- 9) Are expected to specifically support their position with a S.A.F.E.T.I. analysis.

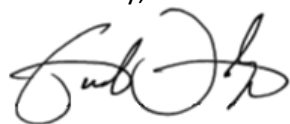
Link to background information on S.A.F.E.T.I. (strategic, Accountable, Fair, Effective, Transparent, Inclusive) principles:
<https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/boards-commissions-tribunals/bc-farm-industry-review-board/bcfirb-governance?keyword=S.A.F.E.T.I.>

Submissions that are received by the Commission will be provided to Thomas Fresh, Prokam and IVCA so that each may have the opportunity to make a brief reply to the submission before the matter is tabled before the Panel for consideration.

Thomas Fresh, Prokam and IVCA reply submissions will be due Friday **August 2nd, 2019.**

Please call me if you have any questions. Thank you.

Yours truly,



Andre Solymosi
General Manager

APPENDIX A

July 3, 2019

Bob Gill, President

CFP Marketing Corp.

3219 Tolmie Rd.

Abbotsford, B.C.

V3G 2T9

Dear Bob:

For reasons that follow, I am hereby tendering my resignation as a director of CFP Marketing Corp., (CFP) effective immediately.

When I was initially approached by Robin Smith to join CFP, I was intrigued by the opportunity to contribute to the development of a vegetable marketing agency that has the potential of encouraging more BC domestic vegetable production, replacing foreign imports of all types, and providing for a more equitable marketing environment. Also, I was impressed with CFP's plans to invest in bringing innovative marketing concepts to the vegetable industry, as well as early evidence of grower interest in being associated with CFP. I joined the Board in early May of this year as an independent, non-shareholder director and looked forward to providing advice, guidance and oversight to assist in the future success of CFP.

To accomplish its goals, CFP required an agency licence from the BC Vegetable Marketing Commission (BCVMC). Mr. Smith authored an application which, accompanied by yourself and me, we delivered to the Commission Chair and General Manager at their offices on May 9, 2019. Receipt of the application was acknowledged, in writing, by Commission staff. At no time was any suggestion made that there was a moratorium in place relating to agency applications.

On June 19, 2019 I received an email from the current chair of the BC Farm Industry Review Board (BCFIRB). (As a matter of courtesy, I had previously alerted BCFIRB staff regarding my involvement with CFP). In his letter the chair asked for assurances that I had destroyed all BCFIRB

files from my term as BCFIRB chair, in response to which I provided that assurance. He also stated he was aware that CFP had applied for an agency licence (although he mistakenly suggested that ProKam had made the application). Of concern however, he went on to suggest that my “participation in this new agency application.....will create challenges”. I was taken aback by this assertion. It seemed as if CFP was being singled out inappropriately, in advance, simply because of my involvement.

Subsequently, to our great surprise, on June 28, 2019, an email was then received from the General Manager of the BCVMC summarily rejecting CFP’s agency application.

Two reasons were advanced for this decision: firstly that my involvement with CFP created an apprehension of bias given my previous role as Chair of the BCFIRB, and more particularly my involvement as chair of a panel which heard an appeal by ProKam Industries (the president of which is also a director of CFP) against the BCVMC in 2018.

I have already indicated in previous correspondence that my appointment as chair of BCFIRB was rescinded on November 15, 2018, and I was not an author of, or signatory to the eventual decision published in February, 2019.

In deciding to accept a role with CFP, I was aware that it is not unusual for individuals to assume different positions within the regulatory environment of food production and marketing in BC. For example, my predecessor as chair of BCFIRB, almost immediately upon leaving BCFIRB became a consultant to the chicken processing industry. The former Executive Director of BCFIRB, who was intimately involved in all files, was appointed by cabinet to be the Chair of the BC Hatching Egg Commission within about six months of his leaving BCFIRB. This appointment was widely acclaimed and rightly so. Further we have seen the former chair of the BC Chicken Marketing Board appointed to BCFIRB within a few months after leaving the Chicken Board, and the former General Manager of the BC Egg Marketing Board also appointed to BCFIRB.

As is prudent and expected, I had taken steps to ensure I acted appropriately at all times. Upon my appointment to BCFIRB being rescinded, I immediately destroyed all of my BCFIRB files. I also

considered that, while I had chaired the 2018 appeal referenced earlier, I was joining the board of CFP, a new entity the governance of which is largely unrelated to ProKam. Also, all of the evidence heard in the ProKam appeal was heard in a public forum. As well, the details of any materials related to interlocutory decisions I made have long since escaped my memory; the only remaining impression I have at this point is that all of that information is now out-of-date and irrelevant in any event.

The second reason that was advanced for summarily rejecting the CFP agency application was an alleged or purported moratorium in place on issuance of agency applications. This was the first suggestion of any such moratorium having been applied.

All of the above notwithstanding, given the extreme negative reaction and apparent obsession of the BCVMC regarding my involvement with the CFP board, as evidenced in its June 28 decision and associated rationale, I determined it is best for me to resign. I simply do not wish to be a distraction in the application process, nor do I wish to serve as a contrived excuse for the refusal of the agency licence to which I believe CFP is entitled, and which can serve as a very useful addition to the vegetable marketing environment in BC.

Please take the necessary steps to remove me officially from the CFP board of directors.

I wish CFP all the best and much success in its future endeavors.

Yours truly

John Les