



March 13, 2006

File: 44200-60/SPEC REV
44200-60/ORDERS

DELIVERED BY EMAIL

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/QUOTA
TRANSFERS**

The British Columbia Farm Industry Review Board (FIRB) has completed an initial review of the specialty, new entrant and quota transfer-related amendments to the draft Consolidated Orders of the British Columbia Milk Marketing Board (Board). This initial review has raised questions to which FIRB would appreciate receiving answers, clarification or amendments to the draft Orders. The Board's response is required not later than April 13, 2006.

Please note a change in procedure from our review of the draft orders of the British Columbia Chicken Marketing Board and the British Columbia Broiler Hatching Egg Commission. FIRB provided its questions to those boards without publishing those questions on our website. This caused some confusion later in the process when interested persons attempted to identify the changes that had been made to the draft and revised draft orders posted on the FIRB website. As a result, other letters of this type to the boards will be published on our website alongside each board's draft orders.

In a general sense, it appears the Board's draft Orders are supported by the mainstream producers as indicated by letters from some of these producers or their industry organizations. Specialty producers and processors, however, view the draft Orders as being inadequate, not reflective of previous proposals, and more restrictive of producing for new and emerging markets.

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Farm Industry Review Board

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The manner in which the draft Orders are worded provide the Board with considerable discretion to vary from the Orders in most areas. As a result, it is difficult to assess the actual impact of the Orders.

The draft Orders do not appear to fully address FIRB's policy principles in 3 key areas – facilitating growth and development of specialty markets, providing reciprocity in quota administration, and applying quota transfer assessment.

1. Exempt producers – The draft Orders provide that a producer's spouse, children and children's spouses are classified as exempt for certain matters (i.e. transfer assessment). As well, the draft Orders provide that the Board may determine any other person to be exempt. Please clarify the Board's rationale for providing exemption to "such other person as the Board may determine" and under what conditions the Board would foresee providing such dispensation. (See also Item #10.)
2. Specialty Milk Products – The draft Orders define specialty milk as that which is substantively different than mainstream milk. Certified organic milk is defined as a type of specialty milk. All other milk is mainstream milk. Please clarify the criteria the Board applied in defining certified organic milk as specialty and the criteria it would apply in defining some other type of milk as specialty, and to affirm that all milk other than certified organic is currently mainstream milk.
3. Specialty Product Total Production Quota (STPQ) – The draft Orders create specialty quota, and provide that it is similar to Total Production Quota (TPQ) except that it is restricted to producing only the designated specialty milk product and it is subject to a different transfer assessment schedule. Please clarify the terms and conditions, if any, under which milk from holders of STPQ would be sold into mainstream milk channels.
4. Licensing – Class C producer licenses require all producers to hold a minimum of 1500 kg of quota, and that they sell their milk through the Board. Holders of restricted TPQ will be required to have Class C licenses, except Cottage Industry Program (CIP) producers who require Class D licenses. The Board pools milk. To date, organic milk has not been pooled. Previous proposals from the Board have included intentions to pool organic milk production and marketing while some participants have opposed this approach. Please outline the Board's intentions and plans regarding pooling of organic milk production and marketing.
5. Allotment of TPQ among quota holders – It appears that the draft Orders treat all quota as a pool, and most quota holders, regardless of type of quota held, are eligible for a pro-rata share of any quota adjustments, up or down, that may occur in response to increased quota allotments. This suggests that differential growth between specialty and mainstream milk is intended to be accommodated by new entrants, the conversion of mainstream quota to specialty quota, or approval by the Board for a mainstream quota holder to produce organic milk. Please clarify how the Board envisions responding to market demand and provide for the supply of organic milk to grow at a rate faster than

mainstream milk and how it intends to distribute this growth among quota holders – STPQ, TPQ and others.

6. The role of the Specialty Milk Production Advisory Committee (SMPAC) in Allotment of TPQ – The draft Orders seem to indicate that all new quota issuance will be referred to the SMPAC for advice and recommendation prior to any TPQ issuance, and that the new quota issuance will be restricted TPQ. Please clarify the role of SMPAC in allotting new TPQ, and specifically whether it intends all new quota will be issued as restricted TPQ.
7. Declining Quota Transfer Assessment (10/10/10) – The draft Orders appear to implement the 10/10/10 assessment schedule by using “restricted” TPQ. Restricted TPQ will be issued to new entrants, to cottage industry producers, and as STPQ. It appears restricted quota is intended to be converted to transferable quota at a rate of 10% p.a. for 9 years. It is not clear that restricted quota will be issued to existing TPQ holders as allotments are increased and distributed pro-rata to all quota holders. If this is the case, the 10/10/10 assessment would not be applicable to new issuances of TPQ. Please clarify the situations that will give rise to the issuance of restricted quota and how the 10/10/10 assessment is applied to new issues of quota to existing quota holders when allotments are increased.
8. Transfers through the Quota Exchange (QE) – The Board provides that all quota must transfer through the QE except transfers to exempt persons, going concern sales, partial quota sales, quota swaps and transfers where beneficial ownership does not change. Please clarify under what conditions quota will be required to be transferred through the QE and how it foresees the application of transfer assessment on QE transfer impacting the volume of quota traded through the exchange.
9. Transfer Assessment – the Board provides for an assessment of 2.5% on all quota transferred, including through the QE, subject to exceptions. Please clarify the Board’s rationale for not applying the 5% assessment to transactions through the QE.
10. Transfer Assessment Exceptions – The Board provides that exempt persons, including spouses, children and children’s spouses, brothers and sisters in certain circumstances, transfers where beneficial ownership remains unchanged, quota swaps and “any other person as the Board may determine” are not subject to transfer assessment. From a policy perspective, if the intent is to provide exceptions for direct family members to support the concept of the family farm, then it would seem reasonable that transfers to siblings would be exempt without the condition of having to leave it on the original farm site. Please outline the types of transfer that will incur a transfer assessment, and under what terms and conditions the Board would exercise its discretion to determine “any other person” to be exempt.
11. DDPIP – The Domestic Dairy Product Innovation Program is mentioned once in the draft Orders at Sec. 27.2 in regards to allocation of supply among processors. In previous documents the Board has made several proposals to address concerns raised regarding

being able to capitalize on organic milk market opportunities, allocation and clawback of DDPIP quota, and distribution of increased allotment (TPQ) resulting from DDPIP contracts. These matters do not appear to be addressed in the draft Orders. Please clarify the Board's intentions regarding existing DDPIP contracts, contractors, and quota involved with the production and marketing of organic milk together with its plans for increasing organic milk production to meet market requirements.

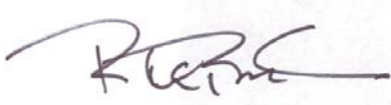
12. Organic Milk Premiums – The draft Orders provide that all milk must be marketed through the Board, milk is pooled, and producers receive equalized payments from the pool. Organic milk premiums are paid to each contracted organic milk producer direct from the processor to the producer: there is no pooling of organic milk premiums. The Board has proposed that the SMPAC will be requested to “make substantiated recommendations for revision to the premium amount.” There has been previous discussion and proposals from the Board that included pooling of organic milk. Again, please clarify the Board's intentions regarding pooling of organic milk.
13. Conversion from mainstream to specialty production – In the draft Orders under the section defining the SMPAC it is noted that the Committee will be responsible to provide advice to the Board concerning the “number of new producers to be invited to convert their mainstream production to certified organic milk for Specialty Product.” This appears to be the only direct reference in the draft Orders to allowing production of specialty milk using unrestricted TPQ. Please clarify the Board's intentions regarding the terms and conditions by which TPQ holders will be authorized to produce certified organic milk.
14. Graduated Entry Program – The draft Orders propose no change to the existing GEP. The GEP program appears to meet FIRB's policy objectives, including that new entrants prepared to produce a specialty product (i.e., certified organic) will be provided the first opportunity as new entrants when it is determined new entrant invitations will be issued. Regional needs are not addressed in the GEP. Please clarify how the Board intends to apply the priority for specialty production needs.
15. Cottage Industry Program – It appears the major changes in the existing CIP are to replace the quota clawback schedule with a quota incentive program. In the existing program, participants were provided up to 10,000 kg of temporary TPQ which was fully clawed back 20% per annum. The proposed changes will mean participants will be provided 5000 kg of restricted TPQ, and an additional 2000 kg of restricted TPQ matched against an equal amount of TPQ purchased. The restricted TPQ is transferable to TPQ at a rate of 10% per annum for 9 years. The effect of the changes is that CIP participants have the opportunity to receive up 6300 kg of transferable quota over 9 years while in the previous program they got the use, or free rent, of temporary quota, and the free use diminished to zero over 5 years. There do not appear to be any limitations on the number of CIP participants, subject to them fulfilling the requirements of the program. Please confirm that the number of participants is limited only by each participant fulfilling the program eligibility conditions, and provide the Board's assessment of the anticipated

impact of these changes on existing CIP participants, including particularly the amounts of quota each existing participant will be required to purchase to ensure their existing production levels can be sustained.

16. Cottage Industry Program – The application criteria exclude applicants who have previously been in the CIP program and those who are applying from a property that had previously been issued TPQ under the program. Please clarify the Board's intent in restricting eligibility based on a property's prior involvement in the CIP.
17. Quota Exchange – The QE is required to be used for all transfers, except transfers to exempt persons, going concern sales, partial quota sales, quota swaps, deemed transfers within a partnership or corporation, and transfers where beneficial ownership does not change. The change, coupled with the reduction to 2.5% from 5% assessment on certain transfers not transacted through the QE, appears to equalize assessment levels. Please explain the conditions and situations that would likely cause a producer to favour a QE transaction as compared to a non-QE transaction.
18. Specialty Milk Production Advisory Committee (SMPAC) – the draft Orders provide for the establishment of a specialty advisory committee. The terms of reference for the SMPAC include providing advice and recommendations concerning specialty levy rates, specialty volume requirements, organic milk premiums, specialty transportation levies and the number of mainstream producers to be provided invitation to convert to specialty milk production. The proposed composition of the Committee provides for 1 specialty producer, 1 specialty processor, 1 CIP producer, a Board member, an independent Chair, and others at the Board's discretion. Please clarify if the Board intends that the Committee can address other specialty matters felt by the Committee to be relevant and worthy of review for the purpose of providing the Board advice and recommendations, and how the Board intends to ensure that specialty producers and marketers comprise a majority of the Committee.

Please have your staff contact the FIRB office if there are any questions about this letter.

Yours truly,



Richard Bullock
Chair

pc: FIRB Website