



**IN THE MATTER OF THE *NATURAL PRODUCTS MARKETING (BC) ACT* AND
A REVIEW OF A PROBATIONARY AGENCY DESIGNATION
AND CERTAIN AGENCY APPLICATIONS**

August 21, 2024

On August 15, 2024, MPL submitted a request to the Commission as follows:

We write to request the following:

1. an extension of time for the deadline for MPL BC to file written submissions, to Friday, September 13, 2023; and
2. that MPL BC be permitted to file a redacted version of its written submissions, to protect confidential information that it may contain;

Regarding the first request, the undersigned is MPL BC's lead counsel, and is away from the office, August 16- 30, 2024. Co-counsel are either also away or unavailable due to conflicting hearing schedules. Further, key team members at MPL BC are also unavailable during this period, which will impair our ability to obtain instructions. For instance, Paul Mastronardi, CEO of MPL BC, is out of the country in all-day meetings for most of the 14-day period granted for the submissions. In the circumstances, we respectfully request that the Commission extend the deadline for filing MPL BC's written submissions to Friday, September 13, 2024. The MPL BC and Red Sun materials could then be circulated by the Commission on September 16, with responses due September 30, and replies on October 15.

Regarding the second request, we anticipate that MPL BC's written submissions may contain confidential and proprietary information that should not be circulated widely in the industry. For instance, we anticipate MPL BC will be reporting on progress made on the projections it made in its agency application. This data had been redacted when circulated by the Commission to industry stakeholders, as well as when submitted to BCFIRB in the course of the supervisory review, as well as during the Windset/GGFI's judicial review challenging the BCFIRB decision. We respectfully request that the Commission direct MPL BC to file, concurrently, redacted and unredacted versions of its written submissions, and that it commit to circulating only the redacted version to industry stakeholders.

A copy of MPL's August 15, 2024 letter was circulated to industry stakeholders on August 16, 2024, and industry stakeholders were invited to file any responding submissions no later than 2:00pm, Monday, August 19, 2024.

Responding submissions were received by the Commission from Richard Wierks, GGFI and Windset, and Red Sun. Copies of those submissions are attached.

GGFI and Windset were not opposed to MPL's request for an extension, but noted that "the extension should also apply to Red Sun Farms and that industry stakeholders may respond to both applications." With respect to redactions, GGFI and Windset argued that "[i]t is important that the redactions are not so broad as to remove all context from the submissions such that industry participants are afforded an opportunity to comment meaningfully on their substance." Mr. Wierks expressed general opposition to both of MPL's requests. Finally, Red Sun expressed its opposition to MPL's request for an extension to the extent that it might detrimentally affect Red Sun: "Any delay at this point would have a material and negative impact on Red Sun Farms Agency Application as time is of the essence with the industry stakeholder review, the BCVMC panel's final recommendation and if successful, BCFIRB final approval, all before the October 31st agency transfer deadline by growers."

The Commission empathizes with Red Sun’s concern about further delay. However, the process must be conducted in a fair and thorough manner, even if that jeopardizes the prospect of a decision being made “before the October 31st agency transfer deadline by growers.” Having reviewed and considered all submissions, the Commission has determined that it is appropriate to grant the extensions sought by MPL. Therefore, the directions set out in paragraphs 26(b) through (f) of the Interim Process Decision dated August 14, 2024 are replaced with the following:

(b) On or before September 13, 2024:

- (i) MPL must file a written submission with the Commission addressing: the extent to which MPL has discharged its obligations under the probationary terms imposed by the BCFIRB; the considerations listed in paragraphs 23(1)(a) through (j) of the Agency Order; why MPL should be designated as an agency having regard to “the capacity of existing Agencies or other prospective Agencies to market Regulated Product”; and any other matters that may bear upon the exercise of the Commission’s discretion. The written submission should be provided in an unredacted form, together with a proposed, redacted version that is suitable for circulation by the Commission to industry stakeholders. This proposed, redacted version of the submissions should be accompanied by an explanation for each proposed redaction.
- (ii) Red Sun must provide the Commission with a proposed, redacted version of its application, that is suitable for circulation by the Commission to industry stakeholders. This proposed, redacted version of the application should be accompanied by an explanation for each proposed redaction. In addition, Red Sun must file any supplementary written submissions with the Commission addressing why its application should be granted, having regard to “the capacity of existing Agencies or other prospective Agencies to market Regulated Product”, and any other matters that may bear upon the exercise of the Commission’s discretion.

(c) On or before September 18, 2024, the Commission will endeavor to circulate the application and written submissions, bearing redactions approved by the Commission, among MPL, Red Sun, and industry stakeholders.

(d) On or before September 30, 2024, MPL, Red Sun and participating industry stakeholders must file any responding written submissions with the Commission. The Commission will circulate all such responding submissions among MPL, Red Sun, and industry stakeholders.

(e) MPL and Red Sun will have until October 15, 2024 to file any written reply submissions.

The Commission reserves its ability to make determinations with respect to the appropriateness of the proposed redactions by both Red Sun and MPL. Industry stakeholders will receive Red Sun’s application and supplementary submissions, together with MPL’s submissions, bearing redactions as approved by the Commission. In this regard, the Commission agrees with the submission made by GGFI and Windset that “[i]t is important that the redactions are not so broad as to remove all context

from the submissions such that industry participants are afforded an opportunity to comment meaningfully on their substance.” MPL and Red Sun are directed to ensure that their redactions are as narrow in scope as possible, such that any redactions are clearly justifiable as being necessary to protect highly sensitive or proprietary information.



Derek Sturko, Chair

Attachments:

1. Richard Wierks Submission
2. GGFI and Windset Submission
3. Red Sun Submission

From: rgwierks@shaw.ca
To: [BCVMC – Diana Milligan](#)
Subject: RE: BCVMC NOTICE: Invitation to Respond to MPL Requests: Agency Application and Review of a Probationary Agency Designation
Date: August 16, 2024 10:20:40 AM

Quite frankly they are on holidays and if this was that important to their company I am sure that they could find someone to represent their company.
How much longer will this legal back and forth go on, wasn't this the same company trying to sue BC Producers?

The time line is the time line, lets move forward and as for redacting, NO

There Must be "Trust" otherwise the commission can be blind sighted.

Quit playing games.....

Thanks

Richard Wierks
0717260BC LTD
Cheam View Greenhouse
1501 Johnson Road
Agassiz BC
V0M1A2
Cell 604-703-3409
Fax 604-796-3643

From: BCVMC – Diana Milligan <Diana@bcveg.com>
Sent: August-16-24 9:45 AM
To: BCVMC – Info <info@bcveg.com>
Cc: BCVMC – Andre Solymosi <asolymosi@bcveg.com>
Subject: BCVMC NOTICE: Invitation to Respond to MPL Requests: Agency Application and Review of a Probationary Agency Designation

RE: Agency Application and Review of a Probationary Agency Designation

INVITATION TO RESPOND to MPL's Requests

Submissions Due: Monday, August 19th, 2024, by 2pm

On August 14, 2024, the Commission issued an Interim Decision that provides further directions regarding the process by which the Commission will review MPL's probationary agency designation and Red Sun's agency application.

On August 15, 2024, the Commission received a letter from MPL's legal counsel requesting:

1. an extension of time for the deadline for MPL BC to file written submissions, to Friday, September 13, 2023; and
2. that MPL BC be permitted to file a redacted version of its written submissions, to protect confidential information that it may contain.

A copy of this letter is attached.

Any person who wishes to respond to MPL's submissions may do so by providing written submissions to the Commission on or before 2:00PM, Monday, August 19, 2024. Any submissions received will be reviewed by the panel. Thereafter, the panel will issue any further directions or orders with respect to the process.

If you have any questions please contact Diana Milligan, Administrative Coordinator.

Attachment:

2024-08-14 LT BCVMC re Extension for MPL BC Agency License Review Written Submissions.pdf



Diana Milligan | Administrative Coordinator

#207, 15252 – 32nd Avenue, Surrey BC V3Z 0R7

toll free: 1.800.663.1461 | direct line: 604.542.9734 Ext.122 | fax: 604.542.9735

diana@bcveg.com | bcveg.com



Suite 1600 Cathedral Place
925 West Georgia Street
Vancouver, BC
Canada V6C 3L2
T: 604.685.3456

August 19, 2024

VIA EMAIL

(asolymosi@bcveg.com)

BC Vegetable Marketing Commission
#207 – 15252 32nd Avenue
Surrey, BC V3Z 0R7

Attention: Andre Solymosi, General Manager

To Andre Solymosi:

MPL Agency Review - Agency Application and Review of a Probationary Agency Designation

We are counsel to Greenhouse Grown Foods Inc. and Windset Farms (Canada) Ltd. (“**GGFI and Windset**”). We are in receipt of the August 15, 2024 letter of counsel for MPL British Columbia Distributors Inc. (“**MPL BC**”) and the August 14, 2024 letter of the BC Vegetable Marketing Commission (the “**Commission**”) with respect to a proposed schedule for the concurrent review of MPL BC’s agency designation review and the consideration of the Red Sun Farms agency application.

We do not disagree with the proposal of MPL BC’s counsel for an extension of time, and suggest that the extension should also apply to Red Sun Farms and that industry stakeholders may respond to both applications. Accordingly, GGFI and Windset propose the following schedule for the submissions for these agency reviews:

1. MPL BC and Red Sun Farms submit written submissions to the Commission on Friday, September 13, 2024;
2. MPL BC and Red Sun Farms applications are circulated to industry stakeholders on or before September 16, 2024;
3. Industry stakeholders may file their responding written submissions by September 30 2024; and
4. MPL BC and Red Sun may file any written reply submissions by October 15, 2024.

Craig A.B. Ferris, K.C.
D: 604.631.9197
F: 604.641.2818
cferris@lawsonlundell.com

With respect to MPL BC's request for redactions, GGFI and Windset say that the MPL BC and Red Sun Farms written submissions should only be redacted to the extent necessary to protect any proprietary information. It is important that the redactions are not so broad as to remove all context from the submissions such that industry participants are afforded an opportunity to comment meaningfully on their substance.

We look forward to receiving the Commission's decision on the above and further directions.

Yours very truly,

LAWSON LUNDELL LLP

A handwritten signature in blue ink, appearing to read 'CAF', is positioned below the firm name.

Craig A.B. Ferris, K.C.*

*Law Corporation

CAF/pdl

cc. Morgan L. Camley, Dentons Canada LLP (morgan.camley@dentons.com)

Robert P. Hrabinsky, Affleck Hrabinsky Burgoyne LLP (rhrabinsky@ahb-law.com)



Date: August 19, 2024
To: BCVMC Agency Review Panel
Re: Invitation to respond to MPL's Requests (August 15)

Dear Chair Sturco & BCVMC Agency Review Panel Members,

Please accept the following written submission to the Commission relating to MPL BC legal counsel's request for:

1. an extension of time for the deadline for MPL BC to file written submissions to Friday September 13th (from August 28th).
2. that MPL BC be permitted to file a redacted version of its written submissions, to protect confidential information that it may contain.

When considering the above requests, Jem-D International dba Red Sun Farm's ("Red Sun"), does so with the benefit of the communications circulated the week of August 12th. This includes Mucci Farms Agency Application being summarily dismissed and the further direction provided regarding the process and timelines by which the Commission will review MPL BC's probationary agency designation and continue the review of Red Sun's agency application.

Upon reading the Commission's timelines/process for the continued review of Red Sun's application and MPL BC's probationary agency designation, we believe the time allotted is completely reasonable due to the tight requirements for the applications to be reviewed by industry stakeholders and BCFIRB prior to the October 31st deadline for growers to move agencies.

With respect to MPL's request for an "Extension to Deadline for Filing Written submissions" we note that MPL continues to maintain a litigious vs collaborative approach to their application. Additionally, their request reinforces the appearance that MPL BC lacks any BC-based leadership that is capable or empowered to provide the oversight for the review to continue under the reasonable timelines published by the Commission. The example provided by MPL BC that Mr. Paul Mastronardi, their Ontario based CEO, along with lead and co-counsels are all unavailable for two weeks during the prime BC growing season further supports our concern that the requested extension is an erroneous opportunity by MPL to attempt to further delay the review process. Any delay at this point would have a material and negative impact on Red Sun Farms Agency Application as time is of the essence with the industry stakeholder review, the BCVMC panel's final recommendation and if successful, BCFIRB final approval, all before the October 31st agency transfer deadline by growers.

Should the panel agree to grant the MPL BC's Request for Extension, we respectfully ask that our application no longer proceed contemporaneously with the Commission's review of MPL BC's probationary agency license. Instead, we ask that the Red Sun application proceed per the timelines noted on the August 14th, directions by the Commission. We would also note that Red Sun Farms agency application and business plan were created and submitted with MPL BC as an active, designated agency and is in no way contingent on MPL BC operating or not as an agency in 2025.



Regarding MPL BC's request to be permitted a redacted version of its written submissions, we trust the Commission will assess what is in the best interest of BC growers and hold MPL BC and all other agencies or prospective agencies to the same standard.

Red Sun's BC-based management team is fully prepared to provide redacted versions of their Agency Application by end of day August 21st, and the supplementary written submissions required on August 28th as we seek to successfully gain an Agency License for the 2025 season.

Unless we hear differently from the Commission, we will continue to focus our efforts on the established procedural timelines provided in support of our application.

Thank you and best regards,

Mike Reed – Commercial Managing Director – Western Region

David Bell – Business Development Director – Western Region

Rob Jackson – Senior Account Manager – Western Region

Dagdish Khella – Operations GM – Western Region