



July 28, 2004

File: 44200-35/CrMB A DESIG

DELIVERED BY ELECTRONIC MAIL

Chair and Members
British Columbia Cranberry Marketing Board
c/o 71 – 4002 Old Clayburn Road
Abbotsford BC V3G 1C5

Gentlemen:

Conditional approval of designation of Berryhill Foods Inc.

This will acknowledge receipt of the decision of July 19, 2004 of the British Columbia Cranberry Marketing Board (Cranberry Board) to designate Berryhill Foods Inc. as an agency of the Cranberry Board and to recommend that the British Columbia Farm Industry Review Board (FIRB) approve this designation as required in section 8 of the *Natural Products Marketing (BC) Act Regulations*.

A panel of three members of the FIRB has considered the Cranberry Board's decision and the submissions and materials used by the Board in arriving at the decision. The Panel has assessed the Cranberry Board's decision both in its process and in its substance.

The Panel understands that the Berryhill Foods Inc. (Berryhill) application is the first new application for an agency to be considered by the Cranberry Board in many years and the Cranberry Board has recently established the review process, utilizing the FIRB guidelines and policy regarding designation of agency, as well as the guidelines of the BC Vegetable Marketing Commission. The process and documentation requirements were reviewed with Berryhill before the process began. The Panel is satisfied that the Cranberry Board has complied with this process and that all parties have received a fair and balanced hearing of their positions.

The Cranberry Board has recommended that Berryhill be designated as an agency to market the regulated product received from producers under contract. The Cranberry Board does not propose to delegate any of its authority to the agency and does not propose to authorize the agency to conduct pools. The Panel understands that the Cranberry Board is still in the process of finalizing its expectations of designated agencies and these have yet to be reviewed with Berryhill.

British Columbia
Farm Industry Review Board

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Website: www.firb.gov.bc.ca

Based on our review of the information provided to date, the FIRB is prepared to conditionally approve your recommendation. Prior to a final approval decision being made the following conditions must be satisfied.

1. That the Cranberry Board finalize terms and conditions for agency operations that will set out the roles and responsibilities of the Board, the growers and the agency, which might include: expectations for licencing, submitting information, collecting and remitting levies, setting service fees to be charged by the agency, providing for the transfer of producers between agencies and the review and/or approval of contracts between the agency and growers.
2. That the Cranberry Board meet with Berryhill Foods Inc. to review the terms and conditions and confirm the agency understands and will comply with the conditions imposed by the Board including the requirement that the agency will be subject to periodic reviews of all agency designations, and that the nature of the agency designation is as described in item 17 of the FIRB Guidelines for Approving the Appointment of Designated Agencies:

The conferring of an agency designation is a privilege under the *Natural Products Marketing (BC) Act*. It is non-transferable and is not approved in perpetuity. The designation of agency may be reviewed by the Cranberry Board from time to time and upon any material changes in the conditions giving rise to the initial approval. In the event of a proposed sale of the business of the agency, by way of sale of assets or shares, the party seeking to continue the business must receive the Cranberry Board's prior approval. Without prior approval, the agency designation will terminate.

3. That the Cranberry Board develop contingency plans in the event that any designated agency has financial problems.
4. That the Cranberry Board send notice to growers as follows:

On July 27, 2004, the British Columbia Farm Industry Review Board (FIRB) granted conditional approval to a British Columbia Cranberry Marketing Board recommendation that Berryhill Foods Inc. be approved as an agency of the Cranberry Marketing Board.

If FIRB approval is granted, Berryhill Foods Inc. would be designated as an agency for purposes of receiving and marketing regulated product from producers under contract. As with any agency designation, FIRB approval is not a warranty to growers concerning any aspect of the agency's business, including the ability of the agency to pay for products delivered to them. Growers should independently and consistently assure themselves of the financial viability of the entity to which they sell product.

One of the conditions that must be addressed before the FIRB makes a final approval decision is that this notice be sent to all producers and existing agencies, and that any party who objects to final approval do so in writing to the FIRB by noon on August 18, 2004. If any person wishing to respond requires additional information, they should contact this office, or Brenda Coutts, Manager, Regulated Marketing, FIRB.

The FIRB will issue a decision regarding final approval subject to the above points being addressed, and subject to review of any objections received in the notification process.

Yours truly,

(Original signed by):

Ross Husdon, P.Ag.
Chair