

BC FARM INDUSTRY REVIEW BOARD

**MPL BRITISH COLUMBIA DISTRIBUTORS INC. (MPL BC) AGENCY PRIOR
APPROVAL PROCESS**

**WRITTEN SUBMISSIONS OF
WINDSET FARMS (CANADA) LTD. AND GREENHOUSE GROWN FOODS INC. IN
RESPONSE TO QUESTIONS PRESENTED IN FIRB LETTER
DATED MARCH 27, 2023**

I. Overview

1. This is a supervisory review regarding the British Columbia Vegetable Marketing Commission's (the **Commission**) decision dated December 21, 2021, recommending that MPL British Columbia Distributors Inc. (**MPL BC**) be designated as an agency under the *Natural Products Marketing (BC) Act*¹ (the **Decision**). Supervisory reviews are an exercise of the British Columbia Farm Industry Review Board's (the **Board** or **BCFIRB**) supervisory power, and are typically employed where cross-sector or systemic industry issues exist.
2. In our submission, the Commission's process leading to the Decision was procedurally unfair and substantively wrong. Industry stakeholders were effectively blocked from effective participation at different phases of the process, such as when MPL BC made its submissions regarding the Application. The Decision does not provide adequate reasons. It is not apparent from the reasons that the panel considered any evidence in rendering its conclusions. It is also not clear from the reasons that the panel meaningfully considered the submissions of any industry stakeholder.
3. The Commission had at its disposal guidance with respect to how to conduct a fair process and render a supportable decision, including the SAFETI principles and the BC Council of Administrative Tribunals' *BC Administrative Decision-maker's Manual*.² The Commission did not follow this guidance in making decisions with respect to its process and in rendering the Decision. The result is that the process lacked procedural fairness and the Commission's reasons in its Decision were insufficient.
4. In our submission, the Board ought to consider the procedural and substantive flaws in the process and in the Decision and exercise its supervisory power to remit the Application to the Commission for re-consideration. In addition, we recommend that the Board provide directions to the Commission to ensure the Commission's processes, particularly related to agency designations, are discharged in accordance with the SAFETI principles.
5. The within submissions are supported by 14 producers, representing 56.8% of regulated greenhouse producers (as determined by area in production). The within submissions are supported by 4 of 10 agencies. Please refer to Appendix "A" for letters of support for these written submissions. We note that this number of producers and agencies has increased from the number who filed an appeal from the Commission's Decision designating MPL BC as an agency.
 - a. **History**
6. On September 10, 2020, MPL BC applied to be designated as an agency. On May 27, 2021, MPL BC submitted an amended application for a Class 1 designated agency licence to the Commission (the **Application**).

¹ RSBC 1996 c-330 (the **NPMA**).

² British Columbia Council of Administrative Tribunals, *BC Administrative Decision-maker's Manual*.

7. On September 17, 2021, the Commission panel hearing the Application (the **Panel**) sent a notice to industry stakeholders regarding the timeline that had been established for the Application. It was not until this time – more than a year since MPL BC first filed its application and more than four months since it filed the amended application – that the Panel decided to consult industry stakeholders.
8. On October 1, 2021, the Panel advised MPL BC that it would hear oral submissions from MPL, but no one else.
9. On October 8, 2021, the Panel heard oral submissions from MPL BC. Industry stakeholders were not given an opportunity to hear these submissions.
10. On October 13, 2021, the Panel provided MPL BC's Application, with redactions completed by MPL, to industry stakeholders, along with notice that industry stakeholders had until October 25, 2021, to make written submissions regarding the Application. No opportunity was provided to comment on whether the redactions were appropriate, and no information on the oral submission made by MPL BC was given to industry stakeholders.
11. On October 19, 2021, Windset Farms (Canada) Ltd. (**Windset**), Greenhouse Grown Foods Inc. (**GGFI**) and other stakeholders requested an extension of time for submissions.
12. On October 22, 2021, the panel provided three-hours notice to stakeholders and MPL to provide further comments regarding the extension of time.
13. On October 22, 2021, the Commission extended the deadline for written submission from industry stakeholders by one week to November 3, 2021. Despite MPL BC having had more than a year to make its Application, the Commission provided no reasons for the short timeline provided to industry stakeholders.
14. On November 3, 2021, industry stakeholders submitted their written submissions to the Commission.
15. In or around this time, Windset and GGFI requested that the Commission obtain independent expert advice regarding the Application. We received no reply.
16. On November 15, 2021, MPL BC submitted its reply to the Panel.
17. The Decision was delivered on December 21, 2021.
18. The Commission, as an administrative decision maker, owed the applicant MPL BC and all other affected parties a robust basket of procedural rights. With respect to *substantive rights*, the industry stakeholders were the only parties with substantive rights that could be affected by the Decision. It must be borne in mind from the outset that as an applicant who had not yet been designated as an agency at the time of the Application, MPL BC had no *substantive rights* in its Application before the Commission.
19. Despite significant opposition from both producers and other designated agencies in BC, and while MPL BC was pursuing civil actions against members of the Commission, the

Commission recommended that MPL BC be designated as an agent. The Commission's reasons for decision do not exhibit any consideration of submissions of any other participants, despite the fact that no one had more at stake than the greenhouses in British Columbia with existing quotas.

b. Purpose of Supervisory Hearing

20. Thirteen industry stakeholders appealed the Decision. Section 8(8) of the NPMA provides that where the Board considers that all or part of the subject matter under appeal would be more appropriately dealt with by way of supervisory hearing, the appeal panel may hear such subject matter at a supervisory hearing.
21. The Board commenced this supervisory review into the recommendation in the Decision. Supervisory reviews are typically used by the Board to "address either cross-sector of systemic industry issues".³ In other words, it is uncommon for the Board to conduct supervisory reviews into a specific application of this nature. In 2013, the Board conducted a supervisory review to determine whether certain agency designations were made in accordance with sound marketing policy.⁴
22. BCFIRB has the "Guidelines for Approving the Appointment of Designated Agencies for the Marketing of Regulated Products by Marketing Boards and Commissions" (the **Guidelines**).⁵ Section 3 of the Guidelines sets out that

The appointment of a marketing agency to carry out or perform certain functions or duties for the marketing of a regulated product under the jurisdiction of a board or commission is subject to approval by the [BCFIRB].

23. The Commission must get the prior approval of the BCFIRB for the designation of agency through which a regulated product shall be marketed.⁶

c. Submission

24. As set out in the Board's March 27, 2023, letter, the purpose of the questions posed by the Board is to assist the Board in preparing for its upcoming oral supervisory review, including understanding the scope of the issues and any deficiencies in the Commission's agency designation process and the information that it considered.
25. In our submission, the Commission's process was fundamentally flawed. The chronology of the Decision, set out above and at paragraphs 4-17 of the Decision, shows that industry stakeholders were not provided with the level of procedural fairness to which they are entitled in light of the fact that only their substantive interests were in issue in the

³ BCFIRB, "Regulated Marketing: Supervisory Reviews", available [online](#).

⁴ *In the matter of the Natural Products Marketing (BC) Act and a Supervisory Review of the British Columbia Vegetable Marketing Commission Central Vancouver Island Agency Designations*, January 7, 2013.

⁵ Please see Appendix "B".

⁶ *Natural Products Marketing (BC) Act Regulations*, B.C. Reg. 328/75, at s. 8.

proceeding before the Commission. In short, an agency licence is only to be granted if it is in the best interests OF producers – yet producers were effectively shut out of the Commission’s process.

26. For example, industry stakeholders were not provided with an opportunity to hear MPL BC’s submissions on October 8, 2021. One would expect that industry stakeholders – the only participants with substantive rights that were engaged – would have had an opportunity to hear the submissions of MPL BC, as was the case in past agency designation application processes which had public hearings. That industry stakeholders did not receive such an opportunity certainly appears to be contrary to the right of affected parties to know the case they have to meet.
27. This submission will proceed as follows:
- a) Overview of submissions that were put to the Commission regarding MPL BC’s application;
 - b) Commentary regarding the Commission’s Decision;
 - c) Specific responses to the BCFIRB’s questions; and
 - d) Conclusions and recommendations.

II. Stakeholders’ Submissions before Commission

28. On November 3, 2021, Windset and GGFI made written submissions to the Commission. Among other things, the submissions provided the following evidence to the Commission:
- a) In reply to MPL BC’s assertion that the British Columbia market was stagnating in comparison to the Ontario market, that British Columbia is served by more agencies than Ontario, per acres of greenhouse vegetables;
 - b) In reply to MPL BC’s assertion that the British Columbia produce market has become stagnant, generally, that many

BC greenhouse producers have expanded in recent years, including Randhawa Farms/ Group, Sunnyside Greenhouses/ Group, Sunnybay Greenhouses/ Group, Westcoast Vegetables/ Group, Creekside Hothouse/ Group, Mount Lehman Greenhouses/ Group, 16th Avenue Greenhouses/ Group, Vandermeulen Greenhouses/ Group, Marcus Calais Farms/ Group and others. Furthermore, there is currently approved quota for new builds for Aljane, Windset Farms, Fresh [*sic*], Canadian Valley Growers, and others;
 - c) Using the example of MPL BC’s relationship with Walmart Canada, that MPL BC had already introduced price erosion into the British Columbia market by the sale of Mexican produce in British Columbia overlapping the British Columbia growing season;

- d) That MPL BC’s relied-upon information was at times dated;
 - e) That MPL BC had already demonstrated that it had no intention to abide by regulations; and
 - f) That MPL BC did not have support from multiple producers, and certain of the producers that did support MPL BC being designated as an agency were in the process of exiting the industry.
29. On November 3, 2021, Village Farms made written submissions to the Commission. Among other things, Village Farms raised the following:
- a) The Commission must be satisfied of all ten criteria in General Order. Part XIV, s. 2(6) before granting an agency designation;
 - b) There is no “market requirement” for MPL BC because “the “demand increase” that MPL BC alleged would allegedly occur could only be achieved by displacing existing volume that would take away business from existing licensed agencies without any added benefit to grower returns” (Part XIV, s. 2(60(a)); and
 - c) That MPL BC was not supplying a new product nor was there a newly added demand that justified the addition of a new Agency (Part XIV, s. (2)(6)(b)).

III. Commission’s Decision

a. First Principles Regarding a Tribunal’s Reasons for Decision

30. While reasons for decision are not required for all administrative decisions, they are required under various circumstances. Such circumstances include where the decision-making process gives the parties participatory rights; where an adverse decision would have a significant impact on an individual; and where there is a right of appeal.⁷
31. While reasons do not need to be perfect, they must be adequate. The central question regarding the adequacy of reasons is whether or not the reasons provided are sufficient to permit a reviewing or appellate body to fulfill its role.⁸
32. A Tribunal’s reasons must be sufficient to:
- a) explain why the Tribunal arrived at its decision by demonstrating a logical connection between the decision and the basis for the decision;
 - b) provide public accountability; and

⁷ *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 77.

⁸ *Correa v Ontario Civilian Police Commission*, 2020 ONSC 133 at paras 32-25.

- c) permit effective appellate review.⁹

33. The Supreme Court in *Vavilov* affirmed the principle that

where reasons are required, they are the primary mechanism by way administrative decision makers show that their decisions are reasonable – both to the affected parties and the reviewing courts. It follows that the provisions of reasons for an administrative decision may have implications for its legitimacy, **including in terms of both whether it is procedurally fair** and of whether it is substantively reasonable.¹⁰

[Emphasis added.]

b. The Commission’s Decision

34. The Decision is a brief, 30 paragraph decision, comprising less than ten pages. The Decision does not set out any evidence and, accordingly, does not weigh the evidence of the applicant MPL BC against the evidence proffered by industry stakeholders. The Decision can be summarised as follows:

- a) **Background:** Pages 1-3, paras 1-15.
- b) **Issues:** From the end of page 3 to the end of page 5, paras 16-21, the panel sets out the issue it appears to be considering (competition reducing producer returns). The panel quotes from cases (paras 17-20), and writes two paragraphs about marketing policy (16 and 21)
- c) **Sections from General Order:** At pages 6 to middle of page 8, paragraph 22, the panel sets out Part XIV, s.1(4) and s. 2(5) and (6). These provisions lay out the criteria for the grant of a new agency designation.
- d) **Consideration of Evidence:** Paragraph 23: Without setting out any evidence of MPL BC or other stakeholders, the panel asserts at paragraph 23 that it has “carefully considered MPL BC’s application, together with the submissions of industry stakeholders, **even though it may not refer to every point raised in the application of those submissions**”. [Emphasis added,]
- e) **Conclusions:** From the end of page 8 through page 9, at paragraphs 24-29, the Commission sets out its conclusions. There is no analysis, and no weighing of evidence.

⁹ *CAMPP Windsor Essex Residents Association v. Windsor (City)*, 2020 ONSC 4612 at para. 57. The Ontario Superior Court of Justice premised its summary of these principles on the Supreme court of Canada decisions of *R. v. Sheppard*, 2002 SCC 26 at para. 24, and *R. v. R.E.M.*, 2008 SCC 51, at para. 15 and 55. Pursuant to *Vavilov*, despite the differences between the administrative and judicial context, reasons generally serve many of the same purposes, and principles related to adequacy of reasons are generally the same.

¹⁰ *Vavilov* at para. 81.

- f) **SAFETI:** Page 10, paragraph 30 sets out the Panel’s conclusions slotted into the SAFETI framework using the BCFIRB’s language.¹¹ Despite the additional guidance in the Board’s SAFETI Definitions and Guidance document,¹² the Decision shows minimal, if any, analysis respecting how the panel arrived at its SAFETI conclusions.
35. As correctly set out in the Decision, Part XIV of the General Order requires the Commission to consider many criteria. Part XIV, section 1(4) sets out seven criteria; and section 2(6) sets out ten criteria (together, these are the **Part XIV Criteria**). The Commission must consider all of the Part XIV Criteria.
36. Based on the reasons, it appears that the Panel ultimately made its decision based on only one actual consideration, which we have bolded in the following excerpt from the Decision, paragraph 29:
- Producers are likely to be better served when their produce is marketed by an agency that has better and more direct access to key retailers throughout North America. In this regard, the panel does not think that preservation of the status quo is itself a valid objective. **If the interests of producers can be better served through a new agency, with better and more direct access to key customers throughout North America, then the high threshold established under Part XIV of the General Order can be met, despite the disruption to existing agencies.** In short, while it is generally undesirable to permit a proliferation of agencies that might simply compete each other resulting in price erosion, the Commission must be alive to the possibility that a new agency can have better and more direct access to key markets than existing agencies. [Emphasis added.]
37. The Commission wrote that there is a high threshold in order to delegate an entity as a designated agency. In our submission, despite the Commission’s own requirement that it be satisfied of the Part XIV Criteria, the Commission appears to have concluded that “being alive to the possibility” of access to unsubstantiated and untested “key customers throughout North America” is adequate to satisfy the “**high threshold** established under Part XIV of the General Order despite the disruption to existing agencies” [emphasis added].
38. This appears to conflict with the mandatory consideration of all of the Part XIV Criteria, which includes, among other things, that the proposed Agency will “not be disruptive to orderly marketing”.
39. In addition, the speculative language, which we have underlined, in paragraph 29 does not rise to the high threshold established under the General Order.

¹¹ Please see Appendix “E” for a side-by-side comparison of the panel’s reasons related to the SAFETI analysis.

¹² BCFIRB’s 6 Higher-Level Principles – Definitions and Guidance, September 13, 2011, available [online](#) (**SAFETI Guidance**).

40. Part XIV, s. 1(4) requires that an applicant seeking agency designation must demonstrate various criteria to “the satisfaction of the Commission”. Part XIV, s. 2(6) reads that “the panel will grant designated agency status **only** where it is satisfied that” the applicant meets ten different requirements [emphasis added]. It does not appear in keeping with meeting these various criteria that producers are only “likely” to be better served. Similarly, the Commission being “alive to the possibility” that a new agency may have access to different markets does not meaningfully establish that the high threshold has been met.
41. Finally, missing from this analysis of meeting the high threshold is that the speculative conclusions of the Commission are connected to maximizing returns for growers. Even if the Commission’s speculative conclusions are, in fact, true, the Commission has not exemplified how access to these customers will yield a beneficial impact on returns to growers.
42. In our submission, paragraph 29 exemplifies the inadequacy of the Panel’s reasons. The reasons do not demonstrate the required “logical connection between the decision and the basis for the decision”.¹³ Especially in light of the significant impact that the Decision will have on producers and other agencies, the reasons do not establish how or why the Decision was made.

IV. Did the Commission conduct a SAFETI-based process in reaching its recommendation on MPL BC’s agency designation?

a. Defects in Process

43. While the Panel purported to conduct a proper SAFETI analysis, there are only bare conclusions for each aspect of the SAFETI analysis. We have set out the conclusions, alongside the Board’s SAFETI definitions, at Appendix “E”.
44. In our submission, one would expect a true analysis of each SAFETI element, especially given the extent of opposition to MPL BC’s application. This would be in keeping with the principles underpinning the adequacy of reasons for decisions set out above.
45. Regarding the “Strategic” element, the Panel wrote that the Decision “reflects the panel’s identification of key opportunities”. Despite stakeholders’ submissions to the contrary, there is no evidence, weighing of evidence, analysis or consideration anywhere in the Decision that sets out the scope of those opportunities and why they cannot be met by existing agencies.
46. Regarding the “Accountable” element, the Panel wrote that it met this element by “discharging its responsibilities according to the detailed criteria for new agency applications published in Part XIV of the General Order”. However, as set out above, the Decision does not set out any analysis for how it considered the evidence and submissions when considering the Part XIV Criteria for new agency applications.

¹³ *R. v. R.E.M.*, 2008 SCC 51 at para. 17.

47. Regarding the “Fair” element, the Panel baldly asserted that it “has ensured procedural fairness by providing industry stakeholders with a fulsome opportunity to express their positions with respect to MPL BC’s application”. However, the Commission provided industry stakeholders only 12 days’ notice to make submissions regarding the Application, despite MPL BC having had over a year to make its Application. In addition, industry stakeholders were not provided an opportunity to hear MPL BC’s submissions regarding its application, nor were they provided an opportunity to make submissions about the redactions to MPL BC’s business plan. Procedural fairness requires more than simply providing participants with an opportunity to be heard. Fairness also requires that affected participants know the case they have to meet.
48. Furthermore, the reasons for Decision do not set out any evidence or analysis; do not they consider each element (or even several elements) of the Part XIV Criteria; and do not provide a logical connection between the Decision and the basis for the Decision. These inadequate reasons are themselves a breach of procedural fairness.
49. Regarding the “Effective” element, the panel wrote the following:
- the high threshold for the grant of an agency designation, as well as the process by which such applications are to be made, are both clearly defined in Part XIV of the General Order. The Commission’s expectations are therefore clearly defined for both the applicant and for industry stakeholders.
50. While we agree that Part XIV of the General Order does set out what was intended to be considered, the Decision does not reflect that consideration. While the process itself may have been designed to be effective, the actual process does not rise to the standard the Commission set out for itself.
51. Regarding the “Transparent” element, the Panel wrote that the processes had been “open, accessible and fully informed”. The Panel further wrote that
- Though some aspects of the application have been redacted to protect confidential or proprietary information, stakeholders have been provided with a fulsome opportunity to express their positions.
52. In the SAFETI Guidance, the Board provides that commodity boards must make their decisions, with reasons, broadly accessible. While the Decision is accessible, the reasons are inadequate. As discussed above, despite the impact on affected parties and the widespread opposition to the Application, the reasons do not weigh evidence nor set out any analysis. The conclusions in the Decision are merely stated. It is not clear how the Decision was arrived at.
53. In our submission, the Commissions satisfies the Transparent element in form only, and not at all in substance.
54. Regarding the “Inclusive” element, the Decision provides that “the panel has taken all appropriate steps to ensure that appropriate interests are considered”. While the

Commission invited industry stakeholders to make submissions, the Decision does not reflect that submissions were actually considered. In fact, there are only two paragraphs in the Decision that reference submissions from affected participants:

Stakeholder opposition to MPL BC's application was generally expressed on the basis that the grower community is currently being well served from within the status quo. Another theme that arises from the submissions made by stakeholders opposed to the application is the grant of agency status to MPL BC will have a detrimental impact on existing BC agencies.

The panel accepts that a grant of agency status to MPL BC could create significant disruption to some existing agencies. However, the Commission's primary obligation is to producers; not to the agencies themselves. As noted, the agency system exists to enhance orderly marketing, promote the development of the industry, and ensure that producer returns are maximized. Agencies are the tools through which these regulatory objectives are pursued, rather than an end to themselves.¹⁴

55. The reduction of the submissions of affected parties to two main "themes" is inappropriately simplistic and does not support that the process was "inclusive". As set out earlier in this submission, stakeholder submissions covered many issues. Further, as earlier stated in this submission, stakeholders are the only parties with *substantive rights* that will be affected by the outcome of the Application. In addition, the Commission does not connect how its primary obligation of ensuring that producer returns are maximized is connected to its Decision. In our submission, this element of SAFETI cannot be met by such simplistic, reductive analysis.

b. How could the panel rectify these defects?

56. In our submission, the Board ought to decline to approve the Commission's recommendation to designate MPL BC as a designated agent. Instead, the Board ought to send the Application back to the Commission for reconsideration with specific guidance, including:

- a) All intervenors should be provided with an opportunity to make submission regarding redactions to MPL BC's Application and business plan, to ensure that the redactions are as minimal as possible and do not exclude evidence relevant to the Application;
- b) All intervenors should be provided an opportunity to hear the submissions of MPL BC;
- c) Given the widespread opposition to the Application, all interested intervenors should be provided an opportunity to make oral submissions, lead evidence, and cross examine MPL BC's witnesses;

¹⁴ Decision at paras. 26 and 27.

- d) The Commission should engage an independent market expert to conduct its own analysis concerning the impact of a new agency on the producers in British Columbia, particularly with respect to the expectation of price erosion; and
- e) The Commission should prepare a decision that shows a logical connection between the decision and the basis for decision, including weighing evidence and analysing each of the Part XIV Criteria.

V. Is there any information that was put before the Commission that the Commission did not consider in making its decision?

57. As we have set out above, the reasons for the Decision are inadequate. In particular, the reasons do not set out any evidence that was before the Commission, or how that evidence before the Commission was weighed or considered. Accordingly, it is impossible to know what was precisely before the Commission. A simple list of what was filed with the Commission, which is how we understand the Commission intends to respond to this question, tells the Board nothing about what the Commission actually considered in reaching the Decision.

58. If the reasons are to speak for themselves, we submit that the following information was not considered by the Commission:

- a) The existing number of agencies;
- b) The ability of existing agencies to service the local and regional market;
- c) The effect of a new agency on producers in British Columbia and, in particular, its effect on price erosion;
- d) The effect of a new agency in British Columbia with no investment in actual production, including its ability to swap out local produce for foreign-grown producer;
- e) The impact of a new agency in British Columbia with no investments in actual production on the food security of British Columbians;
- f) The willingness of MPL BC to comply or not comply with the regulatory scheme, as evidenced by their reliance on litigation when faced with regulatory hurdles that they do not agree with;
- g) The way in which growers' product gets to market, including the type of agreements used;
- h) Market data with respect to the marketing of British Columbia greenhouse vegetables on a long-term contract versus a spot pricing basis; and
- i) The location of MPL BC's product.

59. Stakeholders' written submissions to the Commission, submitted to the Commission on November 3, 2021, canvas many of these topics. The Decision does not reflect any consideration of this information, and it is therefore deficient.

VI. Is there any relevant information that the Commission did not have before it in reaching its recommendation on MPL's agency designation?

60. We reiterate that the reasons for the Decision are inadequate. Accordingly, it is impossible to know what was precisely before the Commission. However, based on our understanding of the submissions, we submit that the following information was not before the Commission:

- a) The population that is served by designated agencies regulated under the NPMA;
- b) The comparative number of agencies in other jurisdictions, such as Ontario, based on, for example, the ratio of the amount of population within a 13-hour radius of the major growing centres versus the number of approved agencies, or the ratio of the square metres of greenhouses measured against the number of approved agencies according to the population per million people;
- c) Expert evidence regarding the addition of another agency in the British Columbia market and the effect an additional agency will have on growers, supply, and food security in British Columbia;
- d) Publicly available information regarding MPL BC's impact on other markets (e.g. AppHarvest);
- e) Information that is available to the Commission from existing agencies with respect to customers, pricing, and fulfillment;
- f) Regulatory compliance record of MPL BC in other jurisdictions, and the tactical use of litigation in British Columbia and elsewhere; and
- g) Distinctions between other North American markets versus the I-5 market.

61. In our submission, given the Commission's mandate, they ought to have ensured they had this information in advance of making a decision that would impact stakeholders.

VII. Are there any public interest or sound marketing policy arguments that the Commission did not consider in making its decision?

62. The Commission considered the effect of a new agency on existing agencies at surface level only. At paragraph 27, the Commission wrote:

The panel accepts that a grant of agency status to MPL BC could create significant disruption to some existing agencies. However, the Commission's primary obligation is to producers; not to the agencies themselves. As noted, the agency system exists to enhance orderly

marketing, promote the development of the industry, and ensure that producer returns are maximized. Agencies are the tools through which these regulatory objectives are pursued, rather than an end to themselves.

63. Based on this reasoning, it appears that the Panel did not consider the “trickle down” effect that an additional agency could have on the regulated market. For example, each agency will have a balance of producers that meets the needs of the agency’s specific customer basis. If one producer switches agencies, the original agency may not be able to satisfy customer contracts. In that case, the customer would have their contracts met elsewhere. The remaining producers with the original agency will have their returns drastically diminished.
64. In other words, increased competition amongst agencies is likely to reduce producer returns.
65. While the panel emphasizes that its “primary” obligation is to producers, this does not mean that the interest of agencies are irrelevant. The British Columbia market is relatively small, compared to a market like Ontario. The balance of agencies and producers is currently profitable for both producers and agencies. If the Commission decides to add a new designated agency, one would expect the full effect on producers and agencies to be considered.
66. In addition, the health and viability of existing agencies is a key factor in ensuring profitable returns for producers.
67. As stated above, there is no indication in the Decision that the panel considered any expert evidence about the effect of introducing a new agency into the British Columbia market. Considering the significant change that would be occasioned by adding a new agency, one would expect the Commission to consider such evidence. This is true especially where in other markets the trend has been toward the consolidation of existing agencies.
68. Finally, on the face of the Commission’s reasons, there is nothing to suggest that it considered any economic policy or analysis prior to making its recommendation.
69. In our submission, these are failings which can be remedied by remitting the matter to the Commission for re-consideration with directions from the Board.

VIII. Conclusions and Recommendations

70. The supervisory hearing process is a process the Board typically uses where there are specific or systemic issues arising in a regulated industry. We are pleased to have had an opportunity to make submissions to the Board in this respect.
71. As set out in the Board’s March 27, 2023, letter, the purpose of the above-answered questions is to assist the Board in preparing for the upcoming oral supervisory review, including understanding the scope of issues, and any deficiencies in the Commission’s agency designation process and the information that it considered.

72. In our submission, the Decision highlights significant issues of procedural fairness for impacted industry stakeholders. In addition, on the face of the Decision, a wide array of important considerations – ranging from factual to expert evidence to policy-based – were missing from the Commission’s determinations.
73. We recommend that this matter be remitted to the Commission for reconsideration, along with specific recommendations from the Board on how to appropriately make this important decision under the NMPA and the Commission’s General Order.

A handwritten signature in blue ink, appearing to read 'CAF', is positioned above the name of the signatory.

Craig A.B. Ferris, K.C.

Dated: April 6, 2023

Appendix “A”

**Letters of Support from Producers and Agencies for Windset Farms (Canada) Ltd. and
Greenhouse Grown Foods Inc.**

April 4, 2023

BY EMAIL – wanda.gorsuch@gov.bc.ca

British Columbia Farm Industry Review Board
1st Floor 2975 Jutland Road
Victoria, BC V8T 5J9

Attention: Wanda Gorsuch, Manager, Issues &
Planning

Dear Ms. Gorsuch:

MPL British Columbia Distributions Inc. (MPL BC) Agency Prior Approval Process

We are a licensed producer under the *Natural Products Marketing (BC) Act*, licensed to grow a greenhouse crop. We write today to support the written submissions of Greenhouse Grown Foods Inc. (**GGFI**) and Windset Farms (Canada) Ltd. (**Windset**) in relation to the prior approval agency review process for MPL BC. We support GGFI and Windset's position in the supervisory hearing. We oppose the granting of agency designation to MPL BC.

Yours very truly,

Mark Van Spronsen



16th Avenue Farms Ltd.

CC: firb@gov.bc.ca

Aljane Farms

Wayne Soo

Director

13444 McKechnie Rd
Pitt Meadows, BC
604 512-8888
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Ms. Gorsuch:

1st Floor 2975 Jutland Road
Victoria, BC V8T 5J9
Wanda.Gorsuch@gov.bc.ca
Manager, Issues & Planning

April 3, 2023

Dear Ms. Gorsuch:

MPL British Columbia Distributions Inc. (MPL BC) Agency Prior Approval Process

We are a licensed producer under the *Natural Products Marketing (BC) Act*, licensed to grow a greenhouse crop. We write today to support the written submissions of Greenhouse Grown Foods Inc. (**GGFI**) and Windset Farms (Canada) Ltd. (**Windset**) in relation to the prior approval agency review process for MPL BC. We support GGFI and Windset's position in the supervisory hearing. We oppose the granting of agency designation to MPL BC.

Sincerely,



Wayne Soo

April 5, 2023

BY EMAIL – wanda.gorsuch@gov.bc.ca

British Columbia Farm Industry Review Board
1st Floor 2975 Jutland Road
Victoria, BC V8T 5J9

Attention: Wanda Gorsuch, Manager, Issues &
Planning

Dear Ms. Gorsuch:

MPL British Columbia Distributions Inc. (MPL BC) Agency Prior Approval Process

We are a licensed producer under the *Natural Products Marketing (BC) Act*, licensed to grow a greenhouse crop. We write today to support the written submissions of Greenhouse Grown Foods Inc. (GGFI) and Windset Farms (Canada) Ltd. (**Windset**) in relation to the prior approval agency review process for MPL BC. We support GGFI and Windset's position in the supervisory hearing. We oppose the granting of agency designation to MPL BC.

Yours very truly,



Richard Wierks

Cheamview Greenhouses

CC: firb@gov.bc.ca



April 4, 2023

CVG Veg Products Ltd.

BY EMAIL – wanda.gorsuch@gov.bc.ca

British Columbia Farm Industry Review Board
1st Floor 2975 Jutland Road
Victoria, BC V8T 5J9

Attention: Wanda Gorsuch, Manager, Issues &
Planning

Dear Ms. Gorsuch:

MPL British Columbia Distributions Inc. (MPL BC) Agency Prior Approval Process

We are a licensed producer under the *Natural Products Marketing (BC) Act*, licensed to grow a greenhouse crop. We write today to support the written submissions of Greenhouse Grown Foods Inc. (**GGFI**) and Windset Farms (Canada) Ltd. (**Windset**) in relation to the prior approval agency review process for MPL BC. We support GGFI and Windset's position in the supervisory hearing. We oppose the granting of agency designation to MPL BC.

Yours very truly,

A handwritten signature in black ink, appearing to be 'Wanda Gorsuch', written over a faint, larger signature or stamp.

CC: firb@gov.bc.ca

April 6, 2023

British Columbia Industry Review Board
1st Floor 2975 Jutland Road
Victoria, BC
V8T 5J9

Attention: Ms. Wanda Gorsuch
Manager, Issues and Planning at BC Farm Industry Review Board

Dear Ms. Gorsuch

Via Email: wanda.gorsuch@gov.bc.ca
firb@gov.bc.ca

Subject: MPL British Columbia Distribution Inc. (MPL BC) Agency Prior Approval Process

Global Greenhouse Produce Inc. is a designated Agency with the BC Vegetable Marketing Commission, under the Natural Products Marketing (BC) Act.

We are writing you today to support the written submissions of Greenhouse Grown Foods Inc (GGFI) and Windset Farms (Canada) Ltd (Windset) in relation to the prior Agency review process for MPL BC.

Global Greenhouse Produce Inc. supports GGFI and Windset's position in the supervisory hearing and opposes the granting of an Agency designation to MPL BC.

Yours truly



Mark Voth
Global Greenhouse Produce Inc.

April 6, 2023

BY EMAIL – wanda.gorsuch@gov.bc.ca

British Columbia Farm Industry Review Board
1st Floor 2975 Jutland Road
Victoria, BC V8T 5J9

Attention: Wanda Gorsuch, Manager, Issues &
Planning

Dear Ms. Gorsuch:

MPL British Columbia Distributions Inc. (MPL BC) Agency Prior Approval Process

We are a licensed producer under the *Natural Products Marketing (BC) Act*, licensed to grow a greenhouse crop. We write today to support the written submissions of Greenhouse Grown Foods Inc. (**GGFI**) and Windset Farms (Canada) Ltd. (**Windset**) in relation to the prior approval agency review process for MPL BC. We support GGFI and Windset's position in the supervisory hearing. We oppose the granting of agency designation to MPL BC.

Yours very truly,



Mark Voth

Merom Farms Ltd.

CC: firb@gov.bc.ca

Humble Farmer Ltd.
32241 Huntingdon Rd.
Abbotsford, BC V2T 5Y7
778.552.2432

April 4, 2023

BY EMAIL – wanda.gorsuch@gov.bc.ca

British Columbia Farm Industry Review Board
1st Floor 2975 Jutland Road
Victoria, BC V8T 5J9

Attention: Wanda Gorsuch, Manager, Issues &
Planning

Dear Ms. Gorsuch:

MPL British Columbia Distributions Inc. (MPL BC) Agency Prior Approval Process

We are a licensed producer under the *Natural Products Marketing (BC) Act*, licensed to grow a greenhouse crop. We write today to support the written submissions of Greenhouse Grown Foods Inc. (**GGFI**) and Windset Farms (Canada) Ltd. (**Windset**) in relation to the prior approval agency review process for MPL BC. We support GGFI and Windset's position in the supervisory hearing. We oppose the granting of agency designation to MPL BC.

Yours very truly,



GORDY TOOR

CC: firb@gov.bc.ca

Humble Farmer Ltd.
32241 Huntingdon Rd.
Abbotsford, BC V2T 5Y7
778.552.2432

April 4, 2023

BY EMAIL – wanda.gorsuch@gov.bc.ca

British Columbia Farm Industry Review Board
1st Floor 2975 Jutland Road
Victoria, BC V8T 5J9

Attention: Wanda Gorsuch, Manager, Issues &
Planning

Dear Ms. Gorsuch:

MPL British Columbia Distributions Inc. (MPL BC) Agency Prior Approval Process

We are a licensed producer under the *Natural Products Marketing (BC) Act*, licensed to grow a greenhouse crop. We write today to support the written submissions of Greenhouse Grown Foods Inc. (**GGFI**) and Windset Farms (Canada) Ltd. (**Windset**) in relation to the prior approval agency review process for MPL BC. We support GGFI and Windset's position in the supervisory hearing. We oppose the granting of agency designation to MPL BC.

Yours very truly,



GORDY TOOR

CC: firb@gov.bc.ca

April 5, 2023

BY EMAIL – wanda.gorsuch@gov.bc.ca

British Columbia Farm Industry Review Board
1st Floor 2975 Jutland Road
Victoria, BC V8T 5J9

Attention: Wanda Gorsuch, Manager, Issues &
Planning

Dear Ms. Gorsuch:

MPL British Columbia Distributions Inc. (MPL BC) Agency Prior Approval Process

We are a licensed producer under the *Natural Products Marketing (BC) Act*, licensed to grow a greenhouse crop. We write today to support the written submissions of Greenhouse Grown Foods Inc. (**GGFI**) and Windset Farms (Canada) Ltd. (**Windset**) in relation to the prior approval agency review process for MPL BC. We support GGFI and Windset's position in the supervisory hearing. We oppose the granting of agency designation to MPL BC.

Yours very truly,

Jarnail S. Purewal

MB Greenhouses, Ltd.



CC: firb@gov.bc.ca

April 05, 2023

BY EMAIL – wanda.gorsuch@gov.bc.ca

British Columbia Farm Industry Review Board
1st Floor 2975 Jutland Road
Victoria, BC V8T 5J9

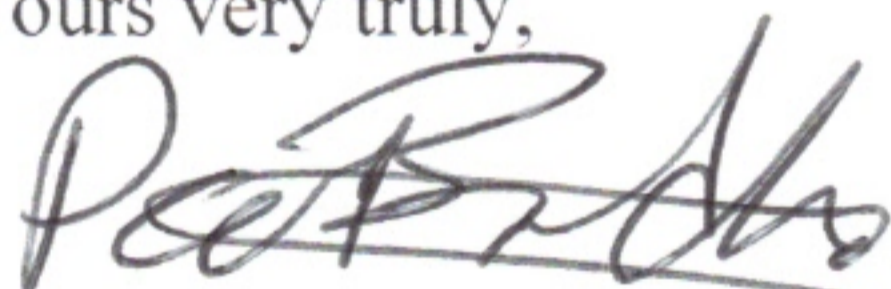
Attention: Wanda Gorsuch, Manager, Issues &
Planning

Dear Ms. Gorsuch:

MPL British Columbia Distributions Inc. (MPL BC) Agency Prior Approval Process

We are a licensed producer under the *Natural Products Marketing (BC) Act*, licensed to grow a greenhouse crop. We write today to support the written submissions of Greenhouse Grown Foods Inc. (**GGFI**) and Windset Farms (Canada) Ltd. (**Windset**) in relation to the prior approval agency review process for MPL BC. We support GGFI and Windset's position in the supervisory hearing. We oppose the granting of agency designation to MPL BC.

Yours very truly,



Paramjit Badhesa

CELL: 604-825-0682

EMAIL: mtlveg@hotmail.com

MT LEHMAN VEGETABLE FARMS INC.

MT LEHMAN GREENHOUSES LTD.



CC: firb@gov.bc.ca

Okanagan Grown Produce Ltd

April 6, 2023

British Columbia Industry Review Board
1st Floor 2975 Jutland Road
Victoria, BC
V8T 5J9

Attention: Ms. Wanda Gorsuch
Manager, Issues and Planning at BC Farm Industry Review Board

Dear Ms. Gorsuch

Via Email: wanda.gorsuch@gov.bc.ca
firb@gov.bc.ca

Subject: MPL British Columbia Distribution Inc. (MPL BC) Agency Prior Approval Process

Okanagan Grown Produce Ltd is a designated Agency with the BC Vegetable Marketing Commission, under the Natural Products Marketing (BC) Act, licensed to grow greenhouse vegetables.

We are writing you today to support the written submissions of Greenhouse Grown Foods Inc (GGFI) and Windset Farms (Canada) Ltd (Windset) in relation to the prior Agency review process for MPL BC.

Okanagan Grown Product Ltd Supports GGFI and Windset's position in the supervisory hearing and opposes the granting of an Agency designation to MPL BC.

Yours truly



Lillian Posch
General Manager
Okanagan Grown Produce Ltd



PEPPERTREE FARMS LTD. Greenhouse Vegetable Division

April 4, 2023

BY EMAIL – wanda.gorsuch@gov.bc.ca
British Columbia Farm Industry Review Board
1 st Floor 2975 Jutland Road
Victoria, BC V8T 5J9

Attention: Wanda Gorsuch, Manager, Issues & Planning

Dear Ms. Gorsuch:

MPL British Columbia Distributions Inc. (MPL BC) Agency Prior Approval Process

We are a licensed producer under the Natural Products Marketing (BC) Act, licensed to grow a greenhouse crop. We write today to support the written submissions of Greenhouse Grown Foods Inc. (GGFI) and Windset Farms (Canada) Ltd. (Windset) in relation to the prior approval agency review process for MPL BC. We support GGFI and Windset's position in the supervisory hearing. We oppose the granting of agency designation to MPL BC.

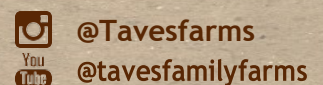
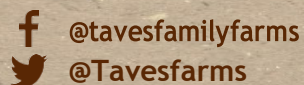
Yours very truly,

Loren Taves,
Owner of Peppertree Farms Ltd.

CC: firb@gov.bc.ca

CONTACT US:

333 Gladwin Rd, Abbotsford, BC V2T 5Y1
604.853.3108 | tavesfamilyfarms.com



April 4, 2023

BY EMAIL – wanda.gorsuch@gov.bc.ca

British Columbia Farm Industry Review Board
1st Floor 2975 Jutland Road
Victoria, BC V8T 5J9

Attention: Wanda Gorsuch, Manager, Issues &
Planning

Dear Ms. Gorsuch:

MPL British Columbia Distributions Inc. (MPL BC) Agency Prior Approval Process

We are a licensed producer under the *Natural Products Marketing (BC) Act*, licensed to grow a greenhouse crop. We write today to support the written submissions of Greenhouse Grown Foods Inc. (**GGFI**) and Windset Farms (Canada) Ltd. (**Windset**) in relation to the prior approval agency review process for MPL BC. We support GGFI and Windset's position in the supervisory hearing. We oppose the granting of agency designation to MPL BC.

Yours very truly,

Bram Maerzhan



Sunnyside Produce LTD

CC: firb@gov.bc.ca

Uppal Farms & Greenhouses Ltd.
34050 Hallert Road
Abbotsford BC
V3G1P9 Canada

April 5, 2023

BY EMAIL – wanda.gorsuch@gov.bc.ca
British Columbia Farm Industry Review Board
1st Floor 2975 Jutland Road
Victoria, BC V8T 5J9


Attention: Wanda Gorsuch, Manager, Issues &
Planning

Dear Ms. Gorsuch:

MPL British Columbia Distributions Inc. (MPL BC) Agency Prior Approval Process

We are a licensed producer under the *Natural Products Marketing (BC) Act*, licensed to grow a greenhouse crop. We write today to support the written submissions of Greenhouse Grown Foods Inc. (GGFI) and Windset Farms (Canada) Ltd. (Windset) in relation to the prior approval agency review process for MPL BC. We support GGFI and Windset's position in the supervisory hearing. We oppose the granting of agency designation to MPL BC.

Yours very truly,



Pawanbir Uppal
Uppal Farms and Greenhouse Ltd.

CC: firb@gov.bc.ca



April 6, 2023

British Columbia Industry Review Board
1st Floor 2975 Jutland Road
Victoria, BC
V8T 5J9

Attention: Ms. Wanda Gorsuch
Manager, Issues and Planning at BC Farm Industry Review Board

Dear Ms. Gorsuch

Via Email: wanda.gorsuch@gov.bc.ca
firb@gov.bc.ca

Subject: MPL British Columbia Distribution Inc. (MPL BC) Agency Prior Approval Process

VF Operations Canada, Inc. is a designated Agency with the BC Vegetable Marketing Commission, under the Natural Products Marketing (BC) Act.

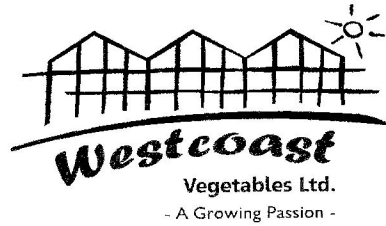
We are writing you today to support the written submissions of Greenhouse Grown Foods Inc (GGFI) and Windset Farms (Canada) Ltd (Windset) in relation to the prior Agency review process for MPL BC.

VF Operations Canada, Inc. supports GGFI and Windset's position in the supervisory hearing and strongly opposes the granting of an Agency designation to MPL BC.

Yours truly,

A handwritten signature in black ink, appearing to read "M. DeGiglio", with a long horizontal flourish extending to the right.

Michael A. DeGiglio
Director
VF Operations Canada, Inc.



April 4, 2023

BY EMAIL – wanda.gorsuch@gov.bc.ca

British Columbia Farm Industry Review Board
1st Floor 2975 Jutland Road
Victoria, BC V8T 5J9

Attention: Wanda Gorsuch, Manager, Issues &
Planning

Dear Ms. Gorsuch:

MPL British Columbia Distributions Inc. (MPL BC) Agency Prior Approval Process

We are a licensed producer under the *Natural Products Marketing (BC) Act*, licensed to grow a greenhouse crop. We write today to support the written submissions of Greenhouse Grown Foods Inc. (**GGFI**) and Windset Farms (Canada) Ltd. (**Windset**) in relation to the prior approval agency review process for MPL BC. We support GGFI and Windset's position in the supervisory hearing. We oppose the granting of agency designation to MPL BC.

Sincerely

Ray VanMarrewyk
CFO/Owner

CC: firb@gov.bc.ca

Appendix “B”

“Guidelines for Approving the Appointment of Designated Agencies for the Marketing of Regulated Products by Marketing Boards and Commissions”

British Columbia Marketing Board

**Guidelines for Approving the Appointment of Designated Agencies
for the Marketing of Regulated Products by
Marketing Boards and Commissions**

Introduction

1. The purpose of these guidelines is to direct the process of evaluating and making decisions regarding the appointment of agencies to market regulated product(s).
2. Differences between commodities may require variations peculiar to a particular product or product range, but nevertheless the broad principles contained in this document should be duly considered and applied.
3. The appointment of a marketing agency to carry out or perform certain functions or duties for the marketing of a regulated product under the jurisdiction of a board or commission is subject to approval by the British Columbia Marketing Board (BCMB).
4. The individual marketing board or commission should determine the necessity for appointing an agency or agencies. Once approval has been given by the BCMB, the marketing board or commission should monitor, on an ongoing basis, the authority given to an agency in a manner consistent with the board or commission's requirements.

Economic and Financial Considerations

5. The proposed agency should prepare its business plan outlining such factors as:
 - a) short and long term goals;
 - b) the regulated products it intends to market;
 - c) the proposed start-up date;
 - d) the method and time limits for existing growers to transfer to the proposed agency;
 - e) the identity of the principals of the proposed agency or agencies;
 - f) the identity of all individuals with a financial interest in the proposed agency or agencies;
 - g) a rationale for establishing the proposed agency or agencies including such factors as:
 - an indication of market place requirements and potential requirements that the proposed agency will address, including probable customer support where this can be clearly shown;
 - a description of the benefits to the primary producers of marketing the regulated product(s) in question through the proposed agency;
 - anticipated benefits to the industry as a whole;
 - possible consequences, beneficial or adverse to other existing agencies.

6. The proposed agency should submit a statement of financial worth, along with a forecast of anticipated earnings, cash flow and other salient information to indicate the fiscal viability of the agency's proposed operations.
7. The proposed agency should be otherwise legally entitled to carry on its proposed agency business (for example, be in possession of a business licence).

Physical Plant and Staffing

8. The proposed agency should be required to maintain appropriate facilities such as office(s), warehouse(s), etc., on a site or sites approved by the board or commission. The proposed agency should be required to show proof that:
 - a) the facilities meet the necessary standards set by all levels of government (federal, provincial, municipal or regional) for the proper and legal operation of the venture;
 - b) adequate equipment has been, or will be, procured as required.
9. The proposed agency should be required to demonstrate that it has, or will have available, management and staff sufficiently experienced and skilled for its purpose.
10. The proposed agency would be required to demonstrate that it has taken reasonable steps to assure adequate quality assurance, particularly with regard to such matters as:
 - a) food safety;
 - b) grade compliance;
 - c) handling and distribution;
 - d) record keeping;
 - e) legal requirements
 - f) good manufacturing practice, as applicable.

Board and Commission Specific Responsibilities

11. Boards and commissions should consider the following criteria when recommending new agencies and in reviewing existing agencies that market regulated product(s):
 - a) that the terms and conditions outlined in this document have been met and that, where an exception may have been made, such exception(s) is duly noted;
 - b) that where a potential conflict of interest exists in the appointment of an agency by a board or commission, the matter is to be referred to the BCMB;
 - c) that existing agencies be given adequate notice of the commencement of the proposed agency, sufficient to enable the submission to the board or commission of:
 - (i) oral or written comment and/or objection;
 - (ii) proposals for the co-ordination of the existing agency or agencies with the proposed organization;
 - d) that other agencies affected by the addition of the proposed agency be advised of such application;
 - e) that affected growers be given the same opportunity to address the proposal on the same basis as outlined in item c) above;

- f) that affected processors be given the same opportunity to address the proposal on the same basis as outlined in item c) above;
- g) that the board or commission consider contingency plans in instance that the agency has financial problems;
- h) that the proposed agency be made aware of such matters as the board's or commission's regulations concerning pricing, fees, levies, accounting requirements, record keeping and other such information or matters related to the functioning of the proposed agency.
 - (i) all boards and commissions, in discharging its governance responsibilities, expect all agencies to cooperate with each other and the respective marketing board or commission.

Review

- 12. Each marketing board or commission shall develop procedures and guidelines for considering agency applications, including the terms and conditions specific to that regulated product(s) and the licensing, information collecting and remittance of levies, etc.
- 13. Each marketing board or commission shall establish procedures to conduct periodic reviews of existing agency designation.
- 14. Reviews of prospective agencies, which have been in operation for over two years, may not be as extensive as that for new applicants seeking agency status.

Approval

General

- 15. In the normal course of approval, independent investigation will not be made by the BCMB. Boards and commissions should be responsible to ensure that these guidelines are followed prior to requesting BCMB approval and should advise the BCMB accordingly.
- 16. The individual marketing board or commission should determine the necessity for appointing an agency or agencies. Once approval is given by the BCMB, the marketing board or commission should monitor, on an ongoing basis, the authority given to the agency in a manner consistent with the board or commission's requirements.

Disclaimer

- 17. BCMB approval is not a warranty to producers concerning any aspect of the agency's business, including the ability of the agency to pay for products delivered to them. Each producer should independently and consistently assure themselves of the financial viability of the entity to which they sell product.

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 an agency may be reviewed by a marketing board or commission 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 board or commission prior approval. Without prior approval, the agency designation will terminate.

The approval of any agency is subject to the condition that the commodity board or commission involved has advised its producers of these disclaimers.

Appendix “C”

Comparison of BCFIRB SAFETI Definitions and Decision

BCFIRB Definition¹⁵	Language in Decision
<p>Strategic</p> <p>Identifying key opportunities and systemic challenges, and plan for actions to effectively manage risks and take advantage of future opportunities</p>	<p>The decision reflects the panel’s identification of key opportunities as well as systemic challenges. While the panel recognizes that a decision to grant agency status to MPL BC is likely to cause disruption to existing agencies, it is also cognizant that its main obligation is to producers, rather than to the agencies themselves. The panel believes that producers will be better served when they have the opportunity to market through an agency that has better and more direct access to key customers throughout North America.</p>
<p>Accountable</p> <p>Maintaining legitimacy and integrity through understanding and discharging responsibilities and reporting performance.</p>	<p>The panel has maintaining legitimacy and integrity by discharging its responsibilities according to the detailed criteria for new agency applications published in Part XIV of the General Order</p>
<p>Fair</p> <p>Ensuring procedural fairness in processes and decision making.</p>	<p>The panel has ensured procedural fairness by providing industry stakeholders with a fulsome opportunity to express their positions with respect to MPL BC’s application.</p>
<p>Effective</p> <p>Ensuring clearly defined outcomes with appropriate processes and measures.</p>	<p>The high threshold for the grant of an agency designation, as well as the process by which such applications are to be made, are both clearly defined in Part XIV of the General Order. The Commission’s expectations are therefore clearly defined for both the applicant and for industry stakeholders.</p>
<p>Transparent</p> <p>Ensuring that processes, practices, procedures, and reporting on how the mandate</p>	<p>The panel has taken all appropriate measures to ensure that processes, practices, procedures,</p>

¹⁵ BCFIRB’s 6 Higher-Level Principles – Definitions and Guidance, September 13, 2011, available [online](#).

<p>is exercised are open, accessible and fully informed.</p>	<p>and reporting on how the mandate is exercised are open, accessible and fully informed. Though some aspects of the application have been redacted to protect confidential or proprietary information, stakeholders have been provided with a fulsome opportunity to express their positions</p>
<p>Inclusive</p> <p>Ensuring that appropriate interests, including the public interest, are considered.</p>	<p>The panel has taken all appropriate steps to ensure that appropriate interests are considered.</p>