

March 1, 2022

File No.: 582211-1

**Sent Via E-mail (Kirsten.Pedersen@gov.bc.ca)**

Kirsten Pedersen, Executive Director  
British Columbia Farm Industry Review Board  
1st Floor 2975 Jutland Rd.  
Victoria, BC V8T 5J9

Dear Ms. Pedersen:

**Re: MPL British Columbia Distributors Inc. ("MPL") Agency Designation**

We write further to Ms. Thiesson's letter of February 18, 2022 and your letter of January 24, 2022, in response to our prior correspondence of January 18, 2022.

As you know, on January 12, 2021 the British Columbia Farm Industry Board ("BCFIRB") received the BC Vegetable Marketing Commission's (the "BCVMC") decision granting MPL an agency designation, pending the approval of BCFIRB. In Ms. Thiesson's correspondence of February 18, 2022, it was noted that the approval process of BCFIRB under Section 8 of the *Natural Products Marketing (BC) Act*, RSBC 1996, c. 330 (the "NPMA") is currently under way.

MPL BC has been seeking formal approval for an agency licence in British Columbia since its first application to the BCVMC on September 10, 2020. At that time, the BCVMC maintained a moratorium over new agency and producer-shipper applications. This moratorium had been in place since June 28, 2019. On October 21, 2020, a panel of BCFIRB, constituted to hear the 2019-2020 Vegetable Supervisory Review, directed the BCVMC to lift its moratorium effective immediately. In coming to this finding, the panel noted that "lifting the moratorium is critical as it is not sound marketing policy to put business on hold indefinitely."

While we understand that the approval of agencies is not a routine matter, there are issues that we wish to raise with respect to the timing of BCFIRB's review of the BCVMC's decision on MPL's application for a Class 1 agency licence.

Under the policies of the BCVMC, producers seeking to transfer from one agency to another are required to provide advanced notice to the BCVMC and their agency of record by October 31st of a calendar year. Since MPL's first application to the BCVMC in September 2020, this deadline has now been missed twice. From a practical standpoint, an entire opportunity for the upcoming season is lost many months prior to the October 31st deadline. It is an industry recognized fact that agencies and producers require time to plan for the upcoming season at the beginning of the calendar year. Agencies and Producers must file their Gower Marketing Agreement ("GMA") by June 1st. In furtherance of the GMA for the

Fernanda Lopes & Associados ► Guevara & Gutierrez ► Paz Horowitz Abogados ► Sirote ► Adepetun Caxton-Martins Agbor & Segun ► Davis Brown ► East African Law Chambers ► Eric Silwamba, Jalasi and Linyama ► Durham Jones & Pinegar ► LEAD Advogados ► Rattagan Macchiavello Arocena ► Jiménez de Aréchaga, Viana & Brause ► Lee International ► Kensington Swan ► Bingham Greenebaum ► Cohen & Grigsby ► Sayarh & Menjra ► For more information on the firms that have come together to form Dentons, go to [dentons.com/legacyfirms](https://www.dentons.com/legacyfirms)

following calendar year, propagation of tomatoes, peppers and cucumbers (the primary regulated crops at issue for MPL BC) occurs typically in October/November of the prior year. Harvest starts around March through December. Clean-out, sanitation and preparation for incoming plant material occurs in December/January, and the cycle continues thereafter. Accordingly, the first quarter of every year is the most critical time for agencies to have meaningful discussions and negotiation with producers to coordinate and plan for the following season, which includes, allocation of acreage, varietal selections, securing seed commitments and inventory from the seed companies, forecast planning, logistics planning, arrange for propagation space, and agencies design and negotiation of sales plans with national, regional and domestic customers based on the foregoing and other factors.

BCFIRB noted in its recent communications identified above that MPL's affiliate, Mastronardi Produce British Columbia Inc., has the ability to operate under its Wholesale Licence during the Supervisory Review of the Commission's approval of MPL's agency application. The status of a Wholesale Licensee, however, is not tantamount to agency status and does not give producers the confidence nor a clear path to plan and develop agency/producer relationships with MPL in the current climate. The result is that MPL is in dire jeopardy of losing a third season as an agency, and in turn, the BC Producer industry suffers another lost opportunity to take advantage of what MPL has to offer, which has been clearly recognized by the Commission.

In addition, although there are currently appeals underway of the BCVMC decision of January 24, 2022, these are appeals of MPL's competitors seeking to further delay the process of MPL's application, resulting in another lost growing season.

As a result of the above, MPL respectfully requests that BCFIRB continue to proceed with the agency designation review process in a timely manner. While MPL acknowledges the importance of BCFIRB's supervisory role, there are significant preparations that must be completed at this very moment, well in advance of the October 31, 2022 producer transfer deadline and the January 1, 2023 start of the greenhouse vegetable crop year.

In consideration of the above, we respectfully request that this correspondence be brought to the attention of the panel considering the review and approval of MPL's agency application under Section 8 of the NPMA.

Yours truly,

**Dentons Canada LLP**



Morgan L. Camley  
Partner

MLC/rb