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March 31, 2022

BY EMAIL

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

Attention: Kirsten Pedersen, Executive Director

Dear Ms. Pedersen:

**GGFI & Windset Farms Ltd. et al v. BC Vegetable Marketing Commission (the “Appeals”)  
MPL British Columbia Distributors Inc. Agency Designation Prior Approval Process**

We are counsel to Greenhouse Grown Foods Inc. (“**GGFI**”) and Windset Farms (Canada) Ltd. (“**Windset**”). We write further to the letter from the British Columbia Farm Industry Review Board (the “**Board**”) dated March 21, 2022, in which Presiding Member Joshi ordered that further consideration of the Appeals be deferred until the Board’s supervisory process (the “**Prior Approval Process**”) reviewing the January 12, 2022 decision of the BC Vegetable Marketing Commission (the “**Commission**”) designating MPL British Columbia Distributors Inc. as an agency (the “**Commission’s Decision**”) is complete. We ask that you bring this letter to the attention of Chair Donkers, who we understand is presiding over the Prior Approval Process.

As the Board is aware, thirteen different entities—twelve of which are producers representing the overwhelming majority of greenhouse-grown vegetable production in British Columbia—have commenced the Appeals challenging the Commission’s Decision. As evidenced by the Appeals, the production volume represented by the appellants, and the substantive and procedural grounds asserted for appeal, there is wide-ranging industry concern about the Commission’s Decision. This is, in large part, due to the fact that the Commission’s Decision will have significant implications for all stakeholders in the greenhouse-grown vegetable industry in British Columbia.

As the Board is also aware, and as referenced above, each of the thirteen appellants challenge the Commission’s Decision on not only the merits but on the ground that the Commission breached the duty of procedural fairness it owed to the appellants.

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In its decision dated March 21, 2022, the Board wrote:

“Accepting Chair Donker’s representation that the prior approval process will “evaluate the Commission’s process and outcome in light of sound marketing policy”, I see the potential for significant overlap with the procedural fairness and substantive issues raised in these appeals. As there is a strong likelihood that the supervisory panel will make findings on matters under appeal, the most efficient course is to allow the supervisory process to complete. If there are issues not addressed, the appellants could give notice of their intention to proceed with their appeals under s. 8(8.4).”

Given that may be “significant overlap” between the appeal of the Commission’s Decision, and the review by the Board in the Prior Approval Process, it is essential that Windset, GGFI and others be given the opportunity to participate. To deny the opportunity to participate would, in our submission, be a breach of the duty of procedural fairness.

We therefore ask that the Board exercise its discretion under section 7.1(2) of the *Natural Products Marketing (BC) Act* and Rule 5 of the *British Columbia Farm Industry Review Board Supervisory Rules* to establish a procedure for the Prior Approval Process that ensures that all industry stakeholders who are interested are afforded an effective, fulsome and procedurally fair opportunity to participate in the Prior Approval Process. More specifically, we request that the Board establish a procedure for the Prior Approval Process that provides for the following:

- The opportunity for any industry stakeholders with an interest in the Commission’s Decision and the Prior Approval Process, including those who did not participate in the process leading to the Commission’s Decision, to participate fully in the Prior Approval Process;
- Public notice of the proposed scope and focus of the Prior Approval Process;
- An opportunity to provide submissions on the proposed scope and focus of the Prior Approval Process;
- An opportunity to put forward and rely on evidence (including documentary evidence, direct evidence, and expert witness evidence);
- The disclosure of evidence to be relied on by participants in the Prior Approval Process;
- An opportunity to make written submissions on any questions of fact, law or policy at issue in the Prior Approval Process;
- Disclosure of and an opportunity to respond to the written submissions of other participants;
- An oral hearing which includes the right for participants to:
  - Present evidence (including documentary evidence, direct oral evidence, and expert witness evidence);
  - Cross-examine lay and expert witnesses put forward by other participants; and
  - Make oral submissions on any questions of fact, law or policy at issue in the Prior Approval Process.

The adoption of these procedures will assist in ensuring a fair and effective consideration by the Board of the Commission’s Decision. GGFI and Windset look forward to participating in the Prior Approval Process.

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, Q.C.

CAF

Cc: Debbie Etsell, Chair, BC Vegetable Marketing Commission (bcvmc.chair@bcveg.com)  
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