

January 20, 2022

**Sent Via E-mail**

British Columbia Farm Industry Review Board  
780 Blanshard Street  
Victoria, BC V8W 2H1

**Attention: Peter Donkers, Chair and  
Wanda Gorsuch**

Dear Sirs/Mesdames:

**Re: British Columbia Farm Industry Review Board ("BCFIRB") 2021 Supervisory Review**

I write further to the January 17, 2022 letter of Ms. Hunter, Q.C. applying, in part, for an adjournment of the BC Farm Industry Review Board's review hearing currently scheduled to start on January 31, 2022.

MPL British Columbia Distributors Inc. ("MPL") supports Prokam's application for an adjournment of the review hearing to a later date for the reasons set out in Ms. Hunter, Q.C.'s letter and below.

As submitted by Ms. Hunter, Q.C., the review panel's purpose is a truth-seeking one and the parties to this proceeding are entitled to a high degree of procedural fairness. This high degree of fairness has previously been recognized by both hearing counsel and the review panel.

In order for the review panel to be able to fulfill its purpose, it is imperative that a thorough investigation be completed and the panel have before it a fulsome record of all relevant evidence. However, based on hearing counsel's December 24, 2021 investigative update, it is clear that the investigation is far from complete and there is no realistic prospect of it being completed prior to the currently scheduled January 31, 2022 review hearing start date.

In Ms. Hunter, Q.C.'s submissions, dated January 17, 2022, Ms. Hunter, Q.C. identified a number of investigative steps hearing counsel has failed to take that should be completed prior to the start of the supervisory review hearing. In addition to the steps identified by counsel for Prokam, we note that hearing counsel has also neglected or chosen not to interview non-participant witnesses identified by MPL as potentially having relevant evidence and has refused to seek certain relevant documents identified by MPL.

Specifically, in November and December 2021, MPL identified the following individuals as potentially having evidence relevant to the issues raised in this matter:

- Steven Newell, President/CEO of Windset Farms
- Jeff Madu, Windset employee
- Dawn Glyckherr, D2M Consulting
- Ravi Cheema, Creekside

Despite MPL identifying (prior to hearing counsel conducting their December 2021 interviews) Mr. Newell, Mr. Madu, Ms. Glyckherr and Mr. Cheema as all having potentially relevant evidence, it appears that, as of at least December 24, 2021, hearing counsel had not interviewed any of these potential witnesses.

Further, with respect to Steven Newell, it appears that hearing counsel actually requested that Steven's brother John Newell (who has an interest in these proceedings and is a named Defendant in MPL's Notice of Civil Claim) make inquiries of Steven Newell with respect to the issues raised by MPL. Aside from the fact that it is hearing counsel's obligation and prerogative pursuant to sections 18 and 19 of the Final Rules of Procedure to collect evidence and interview anyone he believes may have information or records that have any bearing upon the subject matter of the Supervisory Review, the parties have still not been advised as to the results of any inquiries made of Steven Newell.

In addition, on December 3, 2021, counsel for MPL wrote to hearing counsel requesting certain document production for these proceedings, which MPL considered may be relevant to the issues raised, including:

- An email understood to have been circulated by Andre Solymosi in February 2021 to growers enclosing a transcript of the minutes of an October 19, 2020 meeting between the Commission and a subset of the British Columbia Greenhouse Growers' Association (the "BCGGA"). Counsel for MPL noted that MPL understood that at the meeting certain negative comments were made about MPL by Commission members.
- Interview notes, recordings, any informal or formal reporting of Dawn Glyckherr of DM2 Consulting Inc.'s findings with regards to her strategic plan review for the BCGGA, correspondence from the BCGGA in relation to same, and any review or comments in whatever form by Commissioners or employees of the Commission.

On December 24, 2021, hearing counsel advised counsel for MPL that they did not consider the requested documents to be relevant and, as a result, had not sought them. It also appears from the witness interview notes that hearing counsel provided that hearing counsel also did not ask the non-participant witnesses who were interviewed about the requested documents. Hearing counsel did not provide an explanation for how they determined that these documents were not relevant without reviewing or inquiring about them.

In addition to the foregoing, it should be noted that despite Prokam and MPL providing significant disclosure to hearing counsel in the summer of 2021, hearing counsel did not provide their investigative update and document disclosure until Christmas Eve, December 24, 2021. Hearing counsel's document disclosure was voluminous, the meeting minutes alone account for approximately 140 pages, and was provided during the holiday season, at a time when it should have been expected that both counsel and

their clients would have reduced availability. The result of this is an obvious disparity between the parties in terms of having adequate time for them to properly review the disclosure and prepare for the hearing.

In MPL's submissions, given the issues raised in the review hearing, it is imperative that the investigation be thorough and completed sufficiently in advance of the hearing for the parties to properly prepare. In light of the number of witnesses that have not been interviewed and the outstanding document requests, it is simply not possible for the investigation to be completed in advance of January 31, 2022.

In the circumstances, MPL supports Prokam's request for an adjournment of the January 31, 2022 hearing date and requests that the whole hearing be adjourned to a later date.

Yours truly,

**Dentons Canada LLP**



Emma Irving  
Partner