



BC VEGETABLE MARKETING COMMISSION

**IN THE MATTER OF THE *NATURAL PRODUCTS MARKETING (BC) ACT* AND
A REVIEW OF A PROBATIONARY AGENCY DESIGNATION
AND CERTAIN AGENCY APPLICATIONS**

INTERM DECISION

Issued

September 17, 2024

In its Further Interim Decision dated August 21, 2024, the Commission issued the following directions, among others:

On or before September 13, 2024:

- (i) MPL must file a written submission with the Commission addressing: the extent to which MPL has discharged its obligations under the probationary terms imposed by the BCFIRB; the considerations listed in paragraphs 23(1)(a) through (j) of the Agency Order; why MPL should be designated as an agency having regard to “the capacity of existing Agencies or other prospective Agencies to market Regulated Product”; and any other matters that may bear upon the exercise of the Commission’s discretion. The written submission should be provided in an unredacted form, together with a proposed, redacted version that is suitable for circulation by the Commission to industry stakeholders. This proposed, redacted version of the submissions should be accompanied by an explanation for each proposed redaction.
- (ii) Red Sun must provide the Commission with a proposed, redacted version of its application, that is suitable for circulation by the Commission to industry stakeholders. This proposed, redacted version of the application should be accompanied by an explanation for each proposed redaction. In addition, Red Sun must file any supplementary written submissions with the Commission addressing why its application should be granted, having regard to “the capacity of existing Agencies or other prospective Agencies to market Regulated Product”, and any other matters that may bear upon the exercise of the Commission’s discretion.

On August 21, 2024, the Commission received the following materials from Red Sun

(available [here](#)):

1. Email dated August 21, 2024 from Red Sun;
2. Redacted Version of Red Sun's Agency Application dated May 31, 2024;
3. Redacted Version of Red Sun's Appendix A dated July 9, 2024;
4. Redacted Version of Red Sun's Response dated July 25, 2024; and
5. Red Sun's Redaction Summary.

On September 13, 2024, the Commission received the following materials:

1. Letter from MPL’s counsel dated September 13, 2024;
2. Redacted and unredacted versions of MPL’s written submissions;
3. Redacted and unredacted versions of MPL’s Book of Documents;
4. Red Sun’s Supplementary Submissions.

Copies of: (a) MPL's counsel's letter dated September 13, 2024; (b) the redacted version of MPL's written submissions; (c) the redacted version of MPL's Book of Documents; and (d) Red Sun's Supplementary Submissions, are available [here](#).

The Commission has reviewed the redactions proposed by Red Sun and MPL.

Red Sun

Red Sun's proposed redactions are summarized in its Redaction Summary. In general terms, it is the Commission's view that Red Sun's proposed redactions are grossly excessive. The redactions are so broad that they remove necessary context, such that industry participants would not have a reasonable opportunity to comment meaningfully on their substance. Further, the redactions cannot all be justified as being necessary to protect highly sensitive or proprietary information. In particular:

1. Red Sun's redacted application dated May 31, 2024 does not include any of the 24 embedded files in the original, unredacted application. Red Sun is directed to provide a copy of its May 31, 2024 application for distribution to industry stakeholders that includes complete copies of each of the 24 embedded files, bearing only such redactions as are necessary to protect highly sensitive or proprietary information, and then only in accordance with the directions herein.
2. The redactions on page 8 of Red Sun's May 31, 2024 application are not justified, except with respect to the specified percentages.
3. The redactions on page 11 of Red Sun's May 31, 2024 application are not justified.
4. The support letters embedded on page 21 of Red Sun's May 31, 2024 application should be provided for distribution to industry stakeholders, bearing only such redactions as are necessary to protect the identity of the customers.
5. The redactions on page 23 of Red Sun's May 31, 2024 application are not justified. In addition, the support letters embedded on page 23 of Red Sun's May 31, 2024 application should be provided for distribution to industry stakeholders without redactions.
6. The first redaction at the top of page 23 of Red Sun's May 31, 2024 application is not justified.
7. With respect to pages 42 and 43 of Red Sun's May 31, 2024 application, the embedded files are to be provided for distribution to industry stakeholders, bearing only such redactions as are necessary to protect highly sensitive or proprietary information.
8. The redactions on pages 44 and 45 of Red Sun's May 31, 2024 application are not justified. The embedded files on both pages should be provided for distribution to industry stakeholders without redactions.

9. With respect to page 46 of Red Sun's May 31, 2024 application, the embedded file is to be provided for distribution to industry stakeholders without redactions.
10. With respect to pages 47, 48, 49 and 50 of Red Sun's May 31, 2024 application, the embedded files are to be provided for distribution to industry stakeholders, bearing only such redactions as are necessary to protect highly sensitive or proprietary information.
11. None of the redactions made to Red Sun's July 25, 2024 response to the Commission are justifiable. Red Sun is directed to provide an unredacted copy of its July 25, 2024 response for distribution to industry stakeholders.

The Commission is satisfied that the redactions made to Red Sun's Appendix "A" are appropriate.

For greater certainty, Red Sun is directed to comply with the above directions on or before 5:00 pm, September 20, 2024.

MPL

With respect to MPL's proposed redactions:

1. The redactions appear on the following pages in its Written Submission: 4 (footnote 12), 9 (footnote 17), 13 (paragraph 36), 14 (footnote 22), 22, 23, 24, 29, 31, 35 and 48. In the Commission's view, the redactions are not so broad as to remove all context from the submissions such that industry participants will be afforded an opportunity to comment meaningfully on their substance, and the redactions are justifiable as being necessary to protect highly sensitive or proprietary information.
2. With respect to MPL's Book of Documents, MPL advises in its counsel's letter dated September 13, 2024 that "the redactions made to MPL BC's agency application follow the redactions that were previously made and accepted by both the Commission itself and the BCFIRB, in the course of BCFIRB's supervisory review for pre-approval of MPL BC's agency designation." The balance of the redactions appear on the following pages: 119, 123, 134, 135, 137, 139, 141, 142, 146, 147, 150 – 167, 251, 253, 254, 255 and 256. Subject to receiving clarification from MPL on one point, it is the Commission's view that the redactions are not so broad as to remove all context from the submissions such that industry participants will be afforded an opportunity to comment meaningfully on their substance, and the redactions are justifiable as being necessary to protect highly sensitive or proprietary information. However, clarification is sought with respect to page 185 of the Book of Documents, which appears to show a redaction in both versions of the Book of Documents. MPL is asked to advise whether this is a redaction and, if so, what the basis for the redaction is. An unredacted copy of that page should be provided to the Commission. MPL's response on this point should be received by the Commission on or before 5:00 pm, September 20, 2024.

Other Matters

The following deadlines (originally expressed in the Commission's Interim Decision dated August 14, 2024, and extended by the Commission's Further Interim Decision dated August 21, 2024) are further extended as follows:

1. On or before September 25, 2024, the Commission will endeavor to circulate the application and written submissions, bearing redactions approved by the Commission, among MPL, Red Sun, and industry stakeholders.
2. On or before October 7, 2024, MPL, Red Sun and participating industry stakeholders must file any responding written submissions with the Commission. The Commission will circulate all such responding submissions among MPL, Red Sun, and industry stakeholders.
3. MPL and Red Sun will have until October 22, 2024, to file any written reply submissions.



Derek Sturko, Chair