

B&L bélanger longtin

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Longueuil, July 24, 2015

**BY EMAIL**

Nathalie Vanasse, Registrar  
Farm Products Council of Canada  
Central Experimental Farm, Building 59  
960 Carling Avenue  
Ottawa, ON K1A 0C6

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**Subject: Complaint involving OBHECC pursuant to paragraph 7(1)(f) of the *Farm Products Agencies Act*, R.S.C. 1985, c F-4**  
**Our file: 800883-22**

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Dear Ms. Vanasse,

We are counsel for the *Syndicat des producteurs d'oeufs d'incubation du Québec* (hereinafter the *Syndicat*), which is a signatory to the Federal-Provincial Agreement for Broiler Hatching Eggs and is covered by the Canadian Hatching Egg Producers Proclamation.

We have reviewed the complaint filed by the Ontario Broiler Hatching Egg and Chick Commission (hereinafter the OBHECC) pursuant to paragraph 7(1)(f) of the *Farm Products Agencies Act*, R.S.C. 1985, c. F-4, as stated in the letter from Scott Snider of Turkstra Mazza dated July 8, 2015.

We have also reviewed your opinion dated July 21, 2015, in which you ask our client, the *Syndicat*, to send you its comments regarding the complaint filed by OBHECC.

It appears that, on the basis of that opinion dated July 21, 2015, the Farm Products Council of Canada (hereinafter FPCC) responded in the affirmative to the suggestion that it offer to facilitate discussions between OBHECC and the Canadian Hatching Egg Producers (hereinafter CHEP) as a first step. Moreover, it seems clear to us that FPCC is about to initiate a mediation process as a result of the consent of OBHECC and CHEP to that effect, as appears from the second paragraph of your letter of July 21, 2015.

Non nova, sed nove

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The following are the preliminary comments of our client regarding both OBHECC's complaint and the mediation process that FPCC is preparing to initiate shortly.

As FPCC will see from reviewing OBHECC's complaint, there is a direct reference to Quebec, at least as appears from the table in the complaint at the "Grounds & Rationale for Complaint" section.

Without naming it directly, the allusions to Quebec's conduct, although implied, are clear and thus directly involve one of the signatories to the Federal-Provincial Agreement, namely, the *Syndicat*. Moreover, we note that this complaint follows numerous unsuccessful attempts at negotiation and mediation in recent years between Quebec and Ontario with respect to the Eastern Ontario chick market. It is important that the Committee reviewing this complaint be aware of the content and progress of these discussions so as to completely and objectively assess the situation.

The *Syndicat* is hereby advising you that it strongly disagrees with a number of the facts stated in OBHECC's complaint and that it also strongly disagrees with the arguments and conclusions of law drawn by counsel for OBHECC.

In addition, initiating mediation between OBHECC and CHEP means that our client is excluded from the process. Because of the statements made by CHEP's President and CEO in recent months regarding the subjects raised in the OBHECC'S complaint, the *Syndicat* believes that its position with respect to the complaint cannot be validly and objectively expressed on its behalf by CHEP, and it therefore requests that its point of view on the facts and the law be directly set out in mediation through its own representatives.

To do otherwise would infringe the most fundamental rights of the *Syndicat* and the producers it represents to put forward their point of view on the facts and the law at every step of the complaint process.

Similarly, and relying on the same principles of natural justice and procedural fairness, our client does not understand why FPCC is exempting CHEP from the obligation in section 7.f. of the *Complaint Guidelines* to provide a document setting out the substance of its position with respect to the complaint within 7 days of the filing of the complaint. By doing this, you are inviting the interveners to seek intervener status and to comment on an incomplete file. Accordingly, our client is entitled to request and receive this document in a timely manner in order to adequately review it prior to the mediation.

The proposed mediation process could result in an agreement between OBHECC and CHEP, which could be contained in a FPCC mediation report. This agreement could be very prejudicial to our client without it being able to validly put forward its point of view or even be heard. Thus, our client would be put in an unacceptable, intolerable and highly questionable *fait accompli* situation.

As a result of the foregoing, our client is requesting intervener status for the purposes of both the mediation proposed by FPCC and a formal complaint hearing should that eventually take place.

In addition, and in order for the complaint to be handled effectively, we strongly suggest that FPCC prepare, in conjunction with counsel for the parties and the interveners, a complete timetable with specific dates for the disclosure and exchange of documents by each organization prior to the mediation. The timetable should respect everyone's fundamental rights and also take into account the summer vacations that several of the representatives had already planned. For this purpose, we suggest that you hold a pre-hearing conference by telephone once you know the identity of all the interveners.

Yours truly,

Pierre Brosseau, Counsel

**BELANGER LONGTIN, LLP**

c.c. Pierre Bellau, General Secretary, SPOIQ  
Françoise Gauthier, President, Régie des marchés agricoles et alimentaires du Québec  
Scott Snider, Lawyer (Counsel for OBHECC)