

Tremblay, Céline L (FPCC)

AUG 07 2015

From: John O'Kane <jokane@civiladmincounsel.com>
Sent: August-07-15 3:55 PM
To: Levesque, Dominique
Cc: Vanasse, Nathalie; Pellerin, Laurent; Devost, H  l  ne; Tremblay, C  line L (FPCC); PHIL BOYD TFC; ssingh@tfc-edc.ca; Janice Height; Geoff Spurr
Subject: RE: Complaint pursuant to paragraph 7(1)(f) of the Farm Products Agencies Act with regard to Turkey Farmers of Canada's decision made on June 11, 2015, and with regard to the TFC Multiplier Breeder Policy and Turkey Farmers of Ontario

TO C  line, Nathalie, H  l  ne, Marc, Bill

ACTION BY / DUE

Ms. Levesque:

I confirm receipt of Mr. Spurr's letter to Council today seeking a further extension of Council's August 8th deadline so that TFO and TFC can finalize an Arbitration Agreement and then TFO file a withdrawal of its Complaint to Council.

I apologize that this communication is not in letter format but I am currently out of the office this afternoon. I will have this response formalized into a letter and I will send that to you in the morning.

TFC agrees to a further extension however, TFC believes that the Arbitration Agreement can, and should be, concluded by August 19th, rather than the end of August.

In the circumstances, to assist Council considering the further extension request, the following substantive points of the arbitration process have been agreed to by TFO and TFC:

- TFO would be the complainant challenging the TFC's June 11th, 2015 decision.
- TFC would be the respondent defending the TFC's June 11th, 2015 decision.
- Limited intervenor status would be afforded to provincial commodity boards and to the two processor associations (CPEPC and FPPAC).
- The outcome of the arbitration would be final and binding on TFO, TFC and any provincial commodity board and processor association intervenors, with no rights of appeal or review.
- The arbitration panel will be comprised of three arbitrators with the following experience/expertise: (1) one arbitrator will be a retired judge who will serve as the Chair; (2) one arbitrator will be an expert in the turkey breeding industry; (3) one arbitrator will be experienced in administrative law and the supply management sector.
- As a condition of pursuing arbitration, TFO will be obliged to withdraw its July 10th, 2015 Complaint to FPCC.
- TFC Directors may attend the arbitration hearing as observers.
- The costs of the arbitration panel will be paid in equal shares by TFC and TFO.
- The arbitration will proceed expeditiously.
- The parties will work cooperatively to develop an Agreed Statement of Facts but each party will retain the right to present additional evidence, including expert evidence.
- The evidence in the arbitration will be presented by sworn affidavits.
- The parties will have the right of cross-examination on the affidavit evidence provided the cross-examinations are conducted expeditiously.

- The parties will enter into an appropriate arbitration agreement that embodies the above terms, as well as any additional process and timing matters.

I trust that in these circumstances, Council will see that TFO and TFC have worked earnestly to develop a sound alternative approach to bring speedy resolution to the outstanding issues and that keeping the process moving forward is in the best interests of all concerned.

Regards,

John

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