



January 18, 2002

File: 44200-35/VMC GLB

DELIVERED BY FAX - ORIGINAL TO FOLLOW

Chair and Members
BC Vegetable Marketing Commission
201 7560 Vantage Way
Delta BC V4G 1H1

Dear Sirs/Mesdames:

On December 17, 2001, you notified the British Columbia Marketing Board (BCMB) that the British Columbia Vegetable Marketing Commission (Vegetable Commission) has decided to recommend that the BCMB approve the appointment of Global Greenhouse Produce Inc. as an agency of the Vegetable Commission. On December 18, 2001, the BCMB wrote the Vegetable Commission attaching its *Procedural Policy for the Appointment or Designation of Agencies* and requested the Vegetable Commission to provide the record of its proceedings. The BCMB struck a panel of four members to consider the application under s. 12(4) of the *Natural Products Marketing (BC) Act*.

By January 7, 2002, the BCMB Panel was in receipt of the record and the Vegetable Commission's reasons for decision. On January 8, 2002, the BCMB Panel wrote to interested persons advising that it would entertain written submissions regarding the Vegetable Commission's recommendation. On January 11, 2002, the BCMB received a submission from counsel for BC Hot House Foods Inc. (BC Hot House). On January 14, 2002, submissions in response were received from counsel for Global Greenhouse Produce Inc. and the Vegetable Commission. Submissions were also received from individual greenhouse growers.

The BCMB Panel has assessed the Vegetable Commission's recommendation both in its process and in its substance.

The BCMB Panel is satisfied that, as a matter of process, the Vegetable Commission has complied with its own General Orders and with the BCMB's Procedural Policy referred to above. The BCMB Panel is also satisfied that all parties have received a fair and balanced hearing of their positions. In particular, the BCMB Panel considers that it was entirely appropriate for the Vegetable Commission to have heard evidence from the marketing agents, taking account of the absence of customer lists in considering the

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weight to be given to that evidence. The BCMB Panel also concludes that the Vegetable Commission's consideration of the state of the industry did not give rise to unfairness to BC Hot House, who – for the reasons stated by the Vegetable Commission in its January 14, 2002 letter - had fair notice that this is a relevant consideration on an agency application.

The BCMB Panel is also satisfied that the Vegetable Commission's decision, and the conditions attached to that decision, are sound and appropriate as a matter of marketing policy. Experience in the regulated marketing system has shown that consideration of agency appointments requires a careful balancing and weighing of the costs and benefits of that proposed course of action. For this reason, the BCMB Panel has given this matter very careful consideration and scrutiny, particularly in light of the arguments made by BC Hot House and individual growers concerning the potential effects of such action on their interests and on the industry. Having reviewed the Commission's decision in light of the record and in light of the arguments made before the BCMB Panel, the BCMB Panel endorses the Commission's public policy approach to this matter, for the reasons the Commission has given.

It is the decision of the BCMB that subject to the terms and conditions established by the Vegetable Commission, the designation of Global Greenhouse Produce Inc. is approved. This approval is also subject to the additional requirement that the Commission notify producers of the following disclaimers:

1. BCMB approval is not a warranty to producers concerning any aspect of the agency's business, including the ability of the agency to pay for products delivered to them. Each producer should independently and consistently assure themselves of the financial viability of the entity to which they sell product.
2. The conferring of an agency designation is a privilege under the *Natural Products Marketing (BC) Act*. It is non-transferable and is not approved in perpetuity. The designation of agency may be reviewed by the Vegetable Commission from time to time and upon any material changes in the conditions giving rise to the initial approval. In the event of a proposed sale of the business of the agency, by way of sale of assets or shares, the party seeking to continue the business must receive the Vegetable Commission's prior approval. Without prior approval, the agency designation will terminate.

Yours truly,

(Original signed by:)

Ross Husdon, P.Ag.
Chair

cc: Global Greenhouse Produce Inc.
BC Hot House Foods Inc.
BC Hot House Growers' Association