



File: 44200-50/CMB 00-10

June 16, 2000

DELIVERED BY FAX AND REGISTERED MAIL

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Association
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Dear Sirs:

**RE: AN APPEAL BY ANTHONY VAN DER WERELD FROM A DECISION OF THE
BRITISH COLUMBIA CHICKEN MARKETING BOARD CONCERNING ITS
F.O.B. FARM GATE POLICY**

Due to the urgent nature of the matter, the British Columbia Marketing Board (BCMB) heard the subject appeal by telephone conference call on Friday, June 16, 2000. The BCMB's decision follows.

Issue

Lilydale Co-operative Ltd. (Lilydale) did not set eggs for the Appellant's chicken farm on June 12, 2000, as regularly scheduled, since there was no agreement on the payment of "actual ferry costs". This refers to the cost of transporting off Vancouver Island the live chicken grown from the chicks hatched from these eggs and placed on the Appellant's farm.

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British Columbia
Marketing Board

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Remedy

The Appellant requests the BCMB to order the British Columbia Chicken Marketing Board (Chicken Board) to direct Lilydale to place chicks and pay F.O.B. prices in accordance with Interim Order #365 of the Chicken Board.

Positions

The Vancouver Island Chicken Growers' Association (Association) supports the Appellant.

The Chicken Board supports its F.O.B. policy at Order #365, however, processors such as Lilydale have the option of not placing chicks on Vancouver Island if it is uneconomic for them to do so.

Lilydale will place chicks if it is not responsible for actual ferry costs for transporting live chicken off Vancouver Island.

Discussion

The Chicken Board is responsible for paying actual ferry costs for chicks placed on Vancouver Island chicken farms up to and including June 3, 2000.

The Government of British Columbia has granted \$300,000 to Vancouver Island chicken growers "for whatever purposes meet their immediate and long-term needs."

On June 14, 2000, the Association agreed to use part of this grant to pay for actual ferry costs for chicks placed on Vancouver Island farms during the next broiler production cycle (up to and including July 29, 2000). The Appellant is eligible for this funding.

Lilydale is still able to place chicks on the Appellant's farm on the original placement date if a resolution is in place by June 16, 2000.

Decision

As there is an interim remedy available to the Appellant, the BCMB will not order the Chicken Board to direct that Lilydale be responsible for actual ferry costs for chicks placed on the Appellant's farm prior to July 29, 2000.

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Order

Order in Council No. 761 and the \$300,000 grant indicates that the Government considers that there is a future for the Vancouver Island chicken industry. The Chicken Board has an F.O.B. farm gate pricing policy, however, processors will not place chicks on Vancouver Island chicken farms if they are obliged to pay actual ferry costs. As a result there is confusion, if not inconsistency, surrounding this issue.

The Chicken Board is directed to clarify the issue of actual ferry costs, as it relates to its F.O.B. farm gate policy, prior to the broiler production period commencing July 30, 2000.

Recommendation

That the Appellant and Lilydale make immediate arrangements to ensure that chicks are placed on the original placement date.

Due to the circumstances outlined in our Order above, and the restricted nature of the proceedings, an appeal on the merits of this issue is premature pending further consideration of this issue by the Chicken Board.

The parties are advised as follows:

If a person, marketing board or commission is aggrieved or dissatisfied by an order or referral of the BCMB under section 9(1) of the *Natural Products Marketing (BC) Act*, the person, marketing board or commission may appeal the order or referral on a question of law to the Supreme Court if the appeal is commenced within 30 days of being served with a copy of the order or referral.

BRITISH COLUMBIA MARKETING BOARD

Per

(Original signed by):

Ross Husdon, Chair