

IN THE MATTER OF THE NATURAL PRODUCTS
MARKETING (BC) ACT

AND

IN THE MATTER OF AN APPEAL TO THE
BRITISH COLUMBIA MARKETING BOARD
AGAINST A DECISION OF THE BRITISH COLUMBIA MUSHROOM MARKETING BOARD
TO GRANT AN AGENCY LICENCE, ON TERMS, TO PACIFIC FRESH MUSHROOMS INC.

BETWEEN:

FRASER VALLEY MUSHROOM GROWERS CO-OPERATIVE ASSOCIATION

APPELLANTS

AND:

BRITISH COLUMBIA MUSHROOM MARKETING BOARD

RESPONDENT

REASONS FOR DECISION

Appearances: Fraser Valley Mushroom Growers Co-operative Association
J. Hunter, Legal Counsel
D. Holland, Mushroom Grower
W. Loeffler, Mushroom Grower
B. Scott, Mushroom Grower
K. Duewel, General Manager, F.V.M.G.C.A.

APPELLANT

British Columbia Mushroom Marketing Board
H. Blackmore, Legal Counsel

RESPONDENT

DATE OF HEARING

NOVEMBER 12, 1987

1. The matter before the British Columbia Marketing Board ("the Board") is an appeal by the Fraser Valley Mushroom Growers Co-operative Association against a decision of the British Columbia Mushroom Marketing Board ("the Mushroom Board") to grant an agency licence to Pacific Fresh Mushrooms Inc.
2. The Appeal was filed with the Board on September 23, 1987 and was heard in Richmond, British Columbia on November 12, 1987.
3. The Appellant and Respondent were represented by Counsel and were permitted to present witnesses and make oral submissions on the facts and the law.
4. The facts revealed at the hearing of this appeal are as follows:

The Appellant stated that:

- (a) The Fraser Valley Mushroom Growers Co-operative Association and many mushroom producers are opposed to the designation of a second agency.
- (b) If a second agency is designated at this time, then the scheme and general order would have to be amended.
- (c) The timing of the designation of another agency at this time is inappropriate.

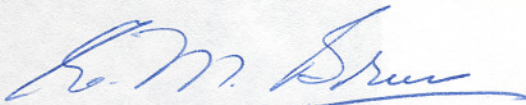
The Respondent stated that:

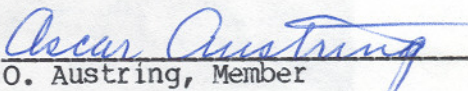
- (a) The Mushroom Board, in May, 1986 realized for the first time that there might be an interest in having a second agency. It therefore then decided to develop criteria and objective qualifications in advance of any request for designation of a second Agency, and that in November 1986 those criteria and qualifications were developed and adopted.
 - (b) The Mushroom Marketing Board made a decision September 10, 1987 that it favoured the designation of a second agency, and more particularly, the designation of Pacific Fresh Mushrooms Inc. Then the Mushroom Board also realized that changes would be necessary in the Scheme and General Orders. A letter confirming this designation on certain conditions was sent to Mr. C. Emery, Chairman of the Board, the solicitor for Pacific Fresh Mushrooms Inc., as well as the General Manager of the Fraser Valley Mushroom Growers Co-operative Association on September 11, 1987. In its submission the Mushroom Board indicated that it would be advantageous for the growers to have a choice of two agencies.
5. The Board confirms the Mushroom Board's decision to grant an Agency licence to Pacific Fresh Mushrooms Inc. and finds that:
 - (a) The Mushroom Board acted within its authority when it approved the designation of Pacific Fresh Mushroom Inc. as a second agency in the mushroom industry.

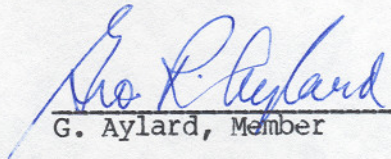
- (b) The Mushroom Board notified the Fraser Valley Mushroom Growers Co-operative Association immediately following their decision to appoint Pacific Fresh Mushrooms Inc. as a second Agency.
 - (c) All interested parties were advised by the Mushroom Board of their intention to designate Pacific Fresh Mushrooms Inc. as the second agency.
6. In accordance with its Rules of Appeal, the Board orders the forfeiture of the deposit by the Appellants.

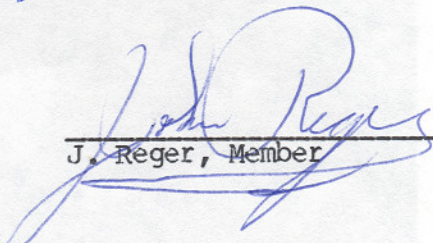
Dated this 8th day of March, 1988 in Victoria, British Columbia


C. E. Emery, Chairman


E. M. Brun, Vice Chairperson


O. Austring, Member


G. Aylard, Member


J. Reger, Member