



BRITISH COLUMBIA

File: 44200-50/VMC 01-06
44200-50/VMC 01-09

May 17, 2001

DELIVERED BY FAX

Mr. Graeme James
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British Columbia Vegetable
Marketing Commission
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Ms. Lillian Posch
General Manager
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Dear Sirs/Madam:

APPEALS FROM DECISIONS OF THE BRITISH COLUMBIA VEGETABLE MARKETING COMMISSION CONCERNING POOLING OF SALES AND AGENCY FEE STRUCTURE

By letter dated April 30, 2001, Mr. Graeme James of Glenmore Valley Greenhouses seeks production of On-Farm Food Safety Reports (“the Reports”) pertaining to Interior Greenhouse Producers from the British Columbia Vegetable Marketing Commission (the “Vegetable Commission”). The Vegetable Commission opposes the production of the Reports for individual farms arguing they are not relevant Mr. James’ appeal seeking exemption from pooling.

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British Columbia
Marketing Board

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In coming to this decision, the Panel has received and reviewed the following information:

- a) Letter from Mr. James dated April 30, 2001;
- b) Letter in response from the Vegetable Commission dated April 30, 2001;
- c) Letter from Mr. James dated May 1, 2001;
- d) Letter from the Vegetable Commission dated May 3, 2001; and
- e) Letter from Mr. James dated May 9, 2001.

The Appellant argues that the Reports are relevant to his appeal. He argues that cleanliness and general hygiene practices in a greenhouse have a direct influence on the quality and condition of the product. An ill-kept greenhouse is a breeding ground for pests and organisms, which greatly affects product quality. Poor growing conditions lead to poor product that in turn has a direct impact on pool pricing.

The Vegetable Commission maintains that the Reports are not relevant to this appeal. In addition, the Reports were prepared as part of a national initiative to develop On-Farm Food Safety Guidelines for the entire Canadian horticultural industry.

Producers in British Columbia have participated in this program on a purely voluntary basis. Participating producers are visited by a consultant who provides advice on areas of greenhouse operations relating to record keeping, worker hygiene, manure use and water quality. The Vegetable Commission keeps copies of each producer's report on file. The Vegetable Commission is concerned that the release of a particular producer's report would be detrimental to their efforts to raise the standard of food safety in BC. If the Vegetable Commission is directed to disclose reports they will cease to carry out the On-Farm Food Safety program, as the integrity of the process would be compromised.

In addition, the Vegetable Commission argues that food safety criteria are separate and distinct from the quality control of pools at various agencies. Pools are defined by commodity, product type, pack size and grade. Pools are not created or defined based on the quality of either the equipment or facilities used for production.

DECISION

The Panel has considered the arguments of both parties. In this case, we are not prepared to order the Vegetable Commission to disclose the Reports of particular producers. There is no evidence to suggest that these reports formed the basis of the Vegetable Commission's deliberations with respect to the decision under appeal.

In addition, the Panel is not convinced that the Reports are necessary or relevant to an appeal that seeks exemption from the pool. If the Appellant wishes to argue that his product is superior to other product in the pool such that his returns are compromised, this evidence can be introduced directly through the pool records. Presumably the Vegetable Commission and Interior Vegetable Marketing Agency (“the IVMA”) keep or have access to records regarding product that enters the pool, including product that is of inferior quality, grades poorly and/or is returned by the IVMA’s customers. The Appellant must demonstrate that forcing him to sell his product through the pool works a particular hardship on him.

Proving that certain farms have food safety issues does not assist the Appellant in his argument that his operation should be exempted from the pool. In addition, the Panel has concerns that the disclosure of this type of information could seriously undermine the Vegetable Commission’s efforts to improve On-Farm Safety.

Given that the Reports are only marginally relevant to this appeal, the potential harm in their disclosure and the availability of direct evidence regarding product quality issues within the pool, the Panel is not prepared to order disclosure of the reports. As such the Appellant’s request is denied.

BRITISH COLUMBIA MARKETING BOARD
Per

(Original signed by):

Christine J. Elsaesser, Vice Chair