

# CHAPTER THREE

## DAFF's administration of the citrus canker outbreak

### AQIS' role and response to the 2001 allegations of illegal importation

3.1 In addition to its quarantine role, one of the central roles of AQIS is its investigatory role where there is evidence that the Quarantine Act or the Export Control Act has been breached. It is AQIS' Compliance and Investigations Unit which is charged with gathering evidence for submission to the Commonwealth Director of Public Prosecutions (DPP) who then makes a decision regarding whether there is sufficient evidence to prosecute.<sup>1</sup>

3.2 AQIS was first made aware of the possible illegal entry of plant material into the Emerald region on 12 June 2001. A telephone call made to the AQIS 'Redline' number, alleged that the owner and employees of Evergreen Farms (owned by Pacific Century Production Pty Ltd) had been involved in smuggling plant cuttings into Australia.<sup>2</sup>

3.3 The caller (Mr Wayne Gillies) alleged that the persons concerned had been involved in the illegal importation of grapes, lychees and citrus cuttings as well as paw-paw and melon seeds.<sup>3</sup>

3.4 AQIS officers responded to the allegations of illegal importation by checking "AQIS databases to determine whether permits had been granted to import material; obtaining a statement of disease risk; checking on the travel movements of the people associated with the Evergreen Farms property and making enquiries with the State and Territory departments of agriculture to determine if the citrus variety 'Ponkan' was already in Australia. They also took a statement from Mr Gillies."<sup>4</sup> Those steps took several weeks to complete, following which AQIS applied for a search warrant to investigate the Evergreen Farms property.

#### *Execution of search warrant*

3.5 The search warrant was granted on 23 July 2001, six weeks after the Redline call and it was executed on the morning of 26 July 2001. AQIS had previously contacted officers of the Queensland Department of Primary Industries and Fisheries (QDPI) to request that an entomologist assist AQIS by identifying

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1 Ms Meryl Stanton, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 22 June 2005, p. 2

2 *Submission 12*, Department of Agriculture, Fisheries and Forestry, p. 2

3 *Submission 12*, Department of Agriculture, Fisheries and Forestry, p. 8

4 *Submission 12*, Department of Agriculture, Fisheries and Forestry, p. 8

any established insect pests in order to eliminate them from investigations of possible exotic insect species (no insect pests were found on the plants inspected).

3.6 The team executing the warrant also included AQIS Compliance and Investigations Unit officers, AQIS scientists, and quarantine officers based both in Brisbane and Gladstone. As is normal practice, the local Queensland Police were also notified of the action in case of any breaches of the peace.<sup>5</sup>

3.7 In executing the search warrant, AQIS officers searched those parts of the property identified by the informant (Mr Wayne Gillies) and took cuttings of both the grape and citrus plants which were alleged to have been illegally imported.

### ***Questioning of Evergreen Farms employees***

3.8 AQIS gave evidence to the committee that, on the day that the warrant was executed, its officers questioned a number of staff in relation to the allegations but that, apart from the original informant, five Evergreen Farms' staff members questioned denied any knowledge of illegal imports of bud wood.<sup>6</sup>

3.9 The committee notes that in evidence to its inquiry, several of those staff members challenged AQIS' version of events and stated that AQIS had failed to interview them:

**Chair:** You were not interviewed back when this all occurred and when the place was put into quarantine?

**Mr Ienco:** No

**Chair:** There was no approach?

**Mr Ienco:** No<sup>7</sup>

**Mr Iddles:** I asked him (the nursery manager, Robin Price) whether he would come forward with information or talk to us. He was only too pleased to help and when asked whether he had been questioned by the AQIS officers he said, 'Only very briefly.' They sort of brushed past him and did not really want to know him.<sup>8</sup>

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5 *Submission 9*, Department of Primary Industries and Fisheries, Queensland, p. 8

6 Answers to Questions on Notice put by the committee at Canberra Public Hearing, 22 June 2005, p. 4 and *Submission 12*, Department of Agriculture, Fisheries and Forestry, p. 2

7 Mr Ienco, *Committee Hansard*, 15 June 2005, pp. 9, 25 and 29

8 Mr Iddles, *Committee Hansard*, 28 June 2005, p. 2

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**Mr Price:** No. I have never been interviewed by any government department... I have never formally been interviewed. AQIS has spoken to me... There has been no, what I call, formal interview.<sup>9</sup>

3.10 In contrast, AQIS' Queensland Regional Compliance Manager, Mr Young, gave evidence that all Evergreen staff members (with the exception of Mr Gillies) were questioned by him for up to 15 minutes about possible illegal importation on 26 July 2001 – in the presence of their employer:

We were not able to speak to them in private on the property because Michelle King, the director of Evergreen Farms, accompanied them and us while we conducted the search.<sup>10</sup>

3.11 Mr Young also told the committee that he went back to Emerald in 2001, to give potential witnesses the opportunity to speak to him 'off the property' and again, after the 2004 outbreak of citrus canker:

I went back to Emerald. I made two trips to Emerald in an attempt to obtain evidence from any witness who was prepared to come forward. People in the industry up there had made contact with the people who were still employed, at that time, on Evergreen. They were given the opportunity to speak to me off the property as I had no legal right to go back onto the property. That offer was not accepted by those people, including Mr Ienco. I then contacted him earlier this year. He recalls our conversation on the property on the day we executed the warrant, so what he said about not being spoken to is not factual. I did speak to him on the day and I asked him the same questions as I asked all the other employees.

3.12 The committee notes that the widely-held perception in Emerald and among Queensland Citrus Growers that AQIS lacked resolve in pursuing its investigations is based on a perception that AQIS failed to interview the former employees of Evergreen Farms who were willing to tell their story:

There were obvious lines of investigation that we could see that they did not appear to follow. We could only scratch our heads and say: 'Why didn't they look into this? Why didn't they look into that?' There were a number of people they did not interview, as we have already seen this afternoon. I just felt that they were not really determined to get to the bottom of it.<sup>11</sup>

3.13 Those employees were certainly willing witnesses to the committee's inquiry. However, the committee's inquiry was held four years after the event. By then Emerald had suffered the devastation of citrus canker – an imported plant disease. The committee does not discount the possibility that its inquiry came at a time when those witnesses who had first-hand knowledge of the unusual plant

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9 Mr Price, *Committee Hansard*, 15 June 2005, pp.19 and 29

10 Mr Young, *Committee Hansard*, 22 June 2005, p. 3

11 Mr Simpson, *Committee Hansard*, 15 June 2005, p. 48

material that they were being asked to plant at Evergreen farms, decided that it was time to back Mr Gillies' allegations.

3.14 It is also possible that, under parliamentary privilege and with the benefit of hindsight, they were willing to reveal things to the Senate inquiry that they might not have been prepared to talk about in 2001 when AQIS was trying to ask them questions to corroborate Mr Gillies' allegations.

3.15 The committee is aware that in April 2005, just before it began its inquiry into the outbreak, Emerald citrus growers posted a reward of \$250,000 dollars to "anyone with information that leads to a successful prosecution under the (Queensland) Plant Protection Act 1989".<sup>12</sup>

3.16 The committee notes that the affidavit from Mr Steve Watson, dated 7 August 2001 and tendered to the federal court of Australia suggests that Mr Watson (one of AQIS' Senior Compliance officers who executed the search warrant at Evergreen Farms on 26 July 2001) believed that there may have been prohibited plant material at Evergreen.<sup>13</sup> It is a pity that, on that day, the AQIS' team failed to force entry to the locked room next to the laundry (which it had the power to do under the provisions of the search warrant) and that it failed to pursue subsequently, the many employees and potential witnesses who had been reluctant to talk to them on 26 July 2001, in the presence of Ms Michelle King, the director of Evergreen Farms.

### ***Sample testing and identification of virus***

3.17 Initial testing of the citrus material taken from Evergreen Farms on 26 July 2001 showed no evidence of citrus canker, but indicated the presence of citrus tatter leaf virus (CTLV) and the possible presence of citrus tristeza virus (CTV). Further tests resulted in the final report confirming that:

- samples were positive for citrus tatter leaf virus; and
- samples were positive for genotypes of citrus tristeza virus that have not previously been characterised in Australia.<sup>14</sup>

3.18 However, QDPI explained to the committee that it was never "conclusively demonstrated that an exotic strain of the (CTV) virus was involved...the virus could be endemic, but not previously detected, or could have evolved independently from local strains."<sup>15</sup>

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12 ABC National Rural News, Friday, 8 April 2005.

13 Steve Watson, Affidavit dated 7 August 2001, Document No. 9 provided to the Committee by DAFF

14 *Submission 12*, Department of Agriculture, Fisheries and Forestry, pp. 2 and 9 and *Submission 9*, Department of Primary Industries and Fisheries, Queensland, p. 9

15 *Submission 9*, Department of Primary Industries and Fisheries, Queensland, p. 10

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### ***Involvement of consultative committee***

3.19 Following the detection of CTLV and CTV, the Commonwealth Chief Plant Protection Officer convened a meeting of the Consultative Committee on Emergency Plant Pests (CCEPP). The meeting was held via teleconference on 14 November 2001, to discuss the progress of disease testing on the citrus samples from Evergreen Farms and the possibility of conducting a survey of the Emerald district for the presence of CTLV and exotic strains of CTV.

3.20 Participants in the teleconference included representatives of commonwealth, state and territory authorities, industry representatives (including the owners of the 2PH property) and legal representatives from Evergreen Farms.<sup>16</sup>

3.21 One of the key decisions of the CCEPP was that the Office of the Chief Plant Protection Officer, AQIS and the QDPI would develop a proposal for sampling and testing citrus in the Emerald area for evidence of CTLV and CTV; since these two viruses had been isolated from material seized by AQIS from Evergreen Farms.

3.22 QDPI told the committee in their submission that the department had developed a protocol to enable surveillance of Emerald citrus orchards for CTV and CTLV. All citrus growing properties in the district were to be surveyed and sampled commencing in May 2002.

### ***The failed surveillance plan***

3.23 QDPI explained that the proposed CTV and CTLV surveillance program did not go ahead because:

- the confidential agreement involved controls over movement of plant material and on-going surveillance on the property by AQIS inspectors but not QDPI inspectors;
- even though it had been agreed nationally that surveys be undertaken, conduct of the surveys depended on cooperation of Emerald growers in giving inspectors permission to enter their properties;
- despite extensive negotiations, permission was not provided by growers for QDPI inspectors to enter properties; and
- action could not be taken under the *Plant Protection Act 1989* because its provisions related to exotic pests and diseases, and as no exotic pest had been found on the property, the power to enter any premises and take samples was not available.<sup>17</sup>

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16 *Submission 12*, Department of Agriculture, Fisheries and Forestry, p. 12

17 *Submission 9*, Department of Primary Industries and Fisheries, Queensland, p. 12

3.24 In his evidence, Mr John Pressler denied vigorously that he had refused to cooperate with the authorities regarding the proposed surveillance program. Mr Pressler indicated that he had merely stated the conditions under which he would cooperate.<sup>18</sup>

We were prepared to continue negotiating but they (Bill Roberts's group, plant health) just said: 'No, we're not going to do it.'<sup>19</sup>

3.25 QDPI gave evidence to the committee that, on being contacted, they advised lawyers for 2PH Farms to contact the Commonwealth Chief Plant Protection Officer regarding the release of survey and sampling results. The lawyers were told that:

- it is normal practice for the Consultative Committee to release only general information about any survey;
- detailed results from an individual property are only provided to the owner of that property; and
- the Consultative Committee was unable to give any undertaking regarding the release of survey or sampling results.<sup>20</sup>

3.26 DAFF and QDPI told the committee that there were indications that all citrus growers in the district were willing to cooperate but the key property was 2PH because it represented over fifty per cent of the citrus trees growing in Emerald at that time.<sup>21 22</sup>

3.27 By the time the committee conducted its inquiry, the other citrus growers in Emerald disagreed with AQIS' and QDPI' claims that they had been willing to go ahead with the surveillance plan without conditions attached. They gave evidence that they too were only willing to give permission for QDPI to survey their property on condition that the surveillance provisions in the Deed of Arrangement between PCP and AQIS be made public.<sup>23</sup>

3.28 In view of the subsequent outbreak of citrus canker at Emerald, it is particularly unfortunate that the proposed surveillance program did not go ahead. The committee recognises that the surveillance was for other viruses than canker (CTV and CTLV) but greater vigilance might have assisted early detection.

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18 Note: The conditions being that he be given access to the details of the confidential Deed of Arrangement between AQIS and PCP, as well as the results of the tests done on all other properties.

19 Mr J Pressler, *Committee Hansard*, 28 July 2005, p. 21

20 *Submission 9*, Department of Primary Industries and Fisheries, Queensland, p. 11

21 *Submission 12*, Department of Agriculture, Fisheries and Forestry, p. 12

22 *Submission 9*, Department of Primary Industries and Fisheries, Queensland, p. 11

23 Note: The Deed of Arrangement was finally made public only in July 2004

3.29 The committee notes that Queensland has since amended its legislation and now has the power to enter onto private property and undertake surveys and testing if QDPI has reasonable grounds to believe that property to be infested with a quarantinable disease.<sup>24</sup> The owners' express permission is no longer required.

3.30 The committee urges all the states and territories to examine their legislation to ensure that they have the power to inspect and quarantine properties when there are grounds to believe that an exotic plant or plants may be present. The situation that arose in Queensland when there was suspicion of illegal importation but no power to enter and inspect the premises to confirm it, shows this to be a crucial issue.

3.31 In evidence to the Committee, AQIS affirmed its belief that its powers under the Quarantine Act are adequate to enable it to move quickly and list a disease that is not currently listed on the schedule to the Act, should listing become necessary.<sup>25</sup> The Committee is very concerned that illegal importation of plants combined with climate change may cause new strains of diseases to spread in areas where they may not have posed a threat previously.

3.32 The Committee would find it unacceptable for AQIS to discover after the event that an exotic disease has been allowed to spread while AQIS has been focussing its attention on getting it listed in the Quarantine Act rather than devoting all its resources to combating the disease.

### ***Handling of plant material taken from Evergreen Farms***

3.33 Queensland Citrus Growers Inc. submitted to the committee that in the view of its members, there were several unsatisfactory aspects to the way AQIS executed the search warrant on 26 July 2001:

With samples being handled poorly with some of them dying, becoming damaged, or being lost in transit (industry was concerned about evidence being lost).<sup>26</sup>

3.34 In response to the criticism that the search warrant had not been conducted in a professional manner, DAFF told the committee:

Contrary to the suggestion of some, the plant material taken from the property was handled carefully. The grape and citrus cuttings were packaged in plastic bags by the AQIS Senior Plant Pathologist and placed inside a sealed polystyrene box which was in turn placed inside a cardboard carton and sent to the AQIS Eastern Creek Post Entry Plant Quarantine

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24 *Submission 12*, Department of Agriculture, Fisheries and Forestry, p.3

25 Ms J Gordon, *Committee Hansard*, 1 March 2006, p. 14

26 *Submission 1*, Queensland Citrus Growers Inc, p. 3

Facility (Eastern Creek) for testing to determine the variety and disease status.<sup>27</sup>

3.35 DAFF gave evidence that subsequent testing, completed in February 2002, did identify an atypical strain of CTV, but that there was insufficient evidence to confirm whether the strain of CTV found is exotic to Australia. It told the committee that the CTV strain identified, "was not under State quarantine control, nor was there evidence that it caused overt disease in the citrus on Evergreen Farms or neighbouring properties."<sup>28</sup>

3.36 Citrus plants grown from the material seized from Evergreen Farms on 26 July 2001 are still being held at the Eastern Creek Post Entry Plant Quarantine facility. It is important to note, that in the nearly five years that have elapsed since 2001, the plants have fruited three times and continue to show no evidence of citrus canker.

3.37 Tests conducted on the grape material collected from Evergreen Farms have also shown no evidence of exotic diseases, including Pierce's Disease.

3.38 AQIS could not establish either whether the citrus variety involved was Emperor (which is grown in Australia) or Ponkan (which is not grown here) because the testing technology currently available does not allow it to distinguish between the two varieties.<sup>29</sup> The committee believes that is one of many factors that have contributed to citrus growers' lack of confidence in the federal department's processes and commitment to stamping out illegal importation.

3.39 It is significant that, while the results of the tests might have proven that the plants were foreign to this country, they would not have constituted proof of illegal importation by the particular grower involved. AQIS' Executive Director, Ms Stanton, pointed this out to the committee:

It gives you no indication whatsoever about where that material may have come from, whether it has been illegally imported and, if so, by whom.<sup>30</sup>

### ***Investigation after the 2004 outbreak***

3.40 AQIS completed its inquiries into the 2001 allegations in October 2003 and put a brief of evidence for the consideration of the Commonwealth Director of Public Prosecutions (CDPP). In April 2004, the CDPP advised that he had come to the conclusion that there was insufficient evidence to mount a successful prosecution against any individual or company.

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27 *Submission 12*, Department of Agriculture, Fisheries and Forestry, p. 9

28 *Submission 12*, Department of Agriculture, Fisheries and Forestry, p. 9

29 Dr Roberts, *Committee Hansard*, 22 June 2005, p. 10

30 Ms Stanton, *Committee Hansard*, 22 June 2005, p. 16



3.41 The AQIS investigation into possible illegal importation of plant material by Mr Phillip Cea of Pacific Century Production Pty Ltd and Evergreen Farms was re-opened after the Senate committee heard evidence in public, in July 2005, from several former employees of Evergreen Farms. Witnesses gave evidence for example that the bud wood they were being asked to plant in 2001 had been 'different' to the norm.

3.42 Mr Price, the nursery manager at Evergreen Farms from March 2000 to April 2002 told the committee:

I do not know where the material came from. At the time, particularly in relation to the citrus, the boys that were working with me and I thought it was dodgy.

**Senator Ferris:** Why did you think it was dodgy?

**Mr Price:** Mainly because the bud wood, or bud sticks, were old. They were not good, fresh buds; they were very flat, old buds... It looked a lot different.<sup>31</sup>

3.43 Witnesses appearing before the committee were critical of several aspects of AQIS' investigation, including the apparent failure to pursue with Mr Cea, the provenance of the bud wood that he had asked his employees to plant in 2000:

It is relatively easy to know where they came from... Obviously, if there is a block of 500 or 600 trees in an area, and you are asked where they came from, and you said they came from say, Mountain Creek Nursery, or if you were asked, 'Where's your receipt?' and you said, 'I've lost it' or something, wouldn't you go back to Mountain View Nursery, and say, 'Maurie Iddles got 600 trees from here,' and they would be able to go back through their records and trace it that way?... Even with bud wood, you are able to trace where the bud wood comes from.<sup>32</sup>

3.44 It is not clear to the committee why AQIS' investigators did not pursue issues such as the provenance of the bud wood. The committee deplores this attitude. It would like to stress its view that it is of the utmost importance to send a strong message to potential offenders against Australia's quarantine laws that they will be pursued. The committee is deeply concerned that that message was not sent on this occasion.

3.45 When AQIS presented the second brief of evidence to the Commonwealth DPP in late 2005, CDPP advised that:

Although there are grounds for suspecting that Mr Cea or others under his direction committed one or more offences against section 67(1), the

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31 Mr Price, *Committee Hansard*, 15 June 2005, pp. 19 and 20

32 Mr Iddles, *Committee Hansard*, 28 June 2005, p. 6

available evidence is not sufficient to justify the commencement of prosecution proceedings against him.<sup>33</sup>

### **The management of the emergency response – quarantine protocols**

3.46 On 26 July 2001, the same day that it executed the search warrant, AQIS issued an Order under Section 55 of the Quarantine Act to place Evergreen Farms, the property owned by Pacific Century Production (PCP) under quarantine in order to manage the risks associated with the possible existence of illegal plant material on the property. A further Order was issued on 27 July 2001 to prevent the unauthorised removal of the quarantine signage on the property.

3.47 On 1 August 2001, PCP challenged the validity of the quarantine order in the Federal Court.<sup>34</sup> AQIS received legal advice on the issues raised by PCP in their application to the Court and subsequently issued a new Order into Quarantine under Section 35 of the Quarantine Act. The new Order limited quarantine control to the plants, plant material and the machinery associated with the elected plant and plant material that was allegedly illegally imported. The Order was in force for a period of six weeks – the estimated amount of time the initial disease testing would take to complete.

3.48 On 17 August 2001, the Court found that the AQIS officer responsible had information before him sufficient to form an opinion that the plants were likely to be affected with a quarantinable disease. The Court also found that the applicants had been provided with the opportunity to respond to the allegations and that the requirements of procedural fairness had been met.

3.49 On 18 September 2001, the Quarantine Order was extended to 13 November 2001, to allow further testing of the seized plant material to be completed. PCP subsequently appealed the Court's decision to the Full Federal Court. On 12 October 2001, the Court ruled that the Quarantine Order was valid.

3.50 During this time, PCP continued to seek approval from AQIS to harvest the grape crop from the Evergreen Farms property, and argued that the quarantine arrangements were resulting in significant commercial losses – particularly as it was the height of the picking season. Legal advice obtained by AQIS at the time indicated that if quarantine restrictions were maintained in the face of PCP's demands and no quarantine risk material was ultimately detected, AQIS would be open to legal action by PCP to recover substantial damages for commercial losses.

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33 Tabled document, Advice dated 14 February 2006, from the Commonwealth Director of Public Prosecutions to Mr A Young, Manager, AQIS Compliance and Investigations, Qld

34 Note: It is worth noting that while PCP was challenging all of AQIS' actions in court, it was also seeking support from QDPI to assist it in having the quarantine removed, (see *Submission 9*, Department of Primary Industries and Fisheries, Queensland, p. 8)

3.51 AQIS was also concerned that without hard evidence of a quarantinable disease or illegal importation, it wouldn't be able legally to continue to maintain a Quarantine Order on the plants on the Evergreen Farms property. Therefore, in order to be able to monitor the grapes on the property over a long period and ultimately determine whether they were infected with a quarantinable disease, AQIS indicated that it would be prepared to lift the Quarantine Order under certain conditions. The conditions involved PCP agreeing to destroy all of the citrus in block 182 (the block identified by Mr Wayne Gillies) in addition to allowing regular AQIS monitoring of the entire property for up to three years.<sup>35</sup>

3.52 AQIS' initial offer was rejected by PCP on 8 October 2001, and PCP sought instead to enter into a Compliance Agreement under Section 66B of the Quarantine Act to harvest the grape crop. AQIS formally refused that application on 10 October 2001, indicating that a Compliance Agreement would have allowed PCP to harvest the grape crop without any on the spot supervision. AQIS wanted to be in a position to supervise the picking and packing of the grape crop to ensure that no vegetative material left the property prior to confirmation that no illegal importation had occurred and that no quarantinable disease existed. PCP lodged an appeal against the AQIS decision and a hearing was set down for 23 October 2001.

3.53 AQIS was particularly concerned about the potential for Pierce's Disease – a disease that was devastating grape crops in California – to be introduced into Australia. Pierce's disease was of particular concern because the informant (Mr Wayne Gillies) had indicated that the illegal grape material had been smuggled from California.

3.54 As mentioned in paragraph 3.23, at the time, Queensland DPI did not have the legislative power to enter Evergreen Farms to survey plants or control the movement of plants from the property. Both QDPI and AQIS received legal advice in relation to the interpretation of the *Quarantine Act 1908* and possible action under the *Plant Protection Act 1989* that indicated that the best course of action would be to negotiate a quarantine undertaking with the land owners to allow a surveillance program to be implemented.

3.55 It was against this background, and with a view to maintaining the capacity to pursue its investigations and monitor both the citrus and grape plants on the property for signs of exotic diseases that AQIS entered into a Deed of Arrangement with PCP Ltd on 22 October 2001 – the day before PCP's appeal was to be heard.

3.56 The Deed set out arrangements which:

- allowed PCP to harvest their grape crop under the supervision of AQIS;
- required PCP to destroy (under AQIS supervision) the citrus that had allegedly been illegally imported;

- gave AQIS the right under specified conditions to go onto the property and monitor the grape and citrus plants on the property for up to eighteen months; and
- provided for the terms to remain confidential between the parties (which is in accordance with normal practice for agreements to settle legal actions).<sup>36</sup>

### ***AQIS monitoring of Evergreen Farms property***

3.57 Under the terms of the Deed of Arrangement, AQIS undertook four surveys on Evergreen Farms. The citrus trees were inspected on 24 October 2001, 5 December 2001, and 10 December 2002 and the grape plants were surveyed on 1 May 2002.<sup>37</sup>

3.58 According to AQIS, the surveys of the property were planned following discussions with the Commonwealth Chief Plant Protection Officer and specifically targeted those parts of the orchards adjacent to the areas identified in the initial allegations of illegal importation.

3.59 In its submission, AQIS told the committee that its officers inspected plants for symptoms of disease and took samples for testing. Other than CTV, no signs of quarantinable diseases were found. The blocks inspected repeatedly included block 182, (inspected three times) the area mentioned in the informant's call to AQIS, and also blocks 171, 172 and 173 (inspected twice). Nine other citrus blocks were also inspected.<sup>38</sup>

### ***A scientific approach***

3.60 AQIS explained to the committee that the final survey was conducted in December 2002 on the advice of the Chief Plant Protection Officer, who advised that the period during the initial wet season growth was the most appropriate time for conducting inspections and testing for diseases. Any additional surveillance towards the end of the wet season was judged unlikely to yield additional evidence.

3.61 It is easy to assess a situation with the benefit of hindsight and the committee does not underestimate the difficulty of making decisions in a crisis situation such as the one posed by the citrus canker outbreak. It is nevertheless important to point out that, in the committee's view, the decision to terminate the surveying at this point was an example of over-reliance on scientific data to the exclusion of other considerations.

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36 *Submission 12*, Department of Agriculture, Fisheries and Forestry, p. 11

37 Answers provided to AQIS02 and AQIS04, Questions on Notice, Budget Estimates, 25 and 26 May 2005, pp. 19 and 21

38 Answer provided to AQIS 04, Questions on Notice, Budget Estimates, 25 and 26 May 2005, p. 21

3.62 While not discarding the crucial role of scientific advice in combating a pest outbreak of this type (a role recognised and valued by industry)<sup>39</sup> one industry group, Growcom, told the Committee that:

The NMG and other consultative and advisory groups remained steadfast behind a 'scientific approach' (and) therefore did not include the social or economic perspectives when analysing information and making decisions.

3.63 Growcom asserts that government departments and regulators have a propensity to default to their own 'in-house' scientific data/information sources when an outbreak occurs, which has the effect of limiting their ability to assess the situation in a holistic manner.<sup>40</sup>

3.64 This narrow-focussed scientific approach had some disastrous consequences for Emerald. The worst aspect of it was that it was applied with less flexibility than what was called for. The NMG pursued for almost a year, the so-called 'Florida protocol' to combat the outbreak. The protocol had been agreed as part of the *Draft Contingency Plan for Citrus Canker* as the method of choice to fight small outbreaks: it is only in the face of the third farm becoming infected that that approach was abandoned for the more drastic complete destruction of all trees in the district.

3.65 The result increased the citrus industry's scepticism that the best decisions were those based on what the NMG thought was sound science without recourse to the practical advice of those facing the disease on their farms. Matters were not helped by the failure of those managing the citrus canker response to visit the affected farms and the Emerald area. This failure to visit the area was a major contributor to the breakdown in communications between government and the growers. Growcom commented:

The National Management Group and Scientific Advisory Panel did not visit the Emerald quarantine area to gain "on the ground" knowledge of the incursion. This did not bridge the gap, but rather contributed to it, between government and industry.<sup>41</sup>

### ***Communications***

3.66 As stated earlier, under the Australian federal system a prospective quarantine matter is managed by two levels of government, one federal and one state. Thus, unless there are firm protocols to guide the management of the flow of information to those affected, confusion can reign and lead to frustration on the part of stakeholders. This is what happened in this case.

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39 *Submission 11* Growcom, pp. 5 and 11

40 *Submission 11* Growcom, p. 11

41 *Submission 11*, Growcom, p. 11

3.67 The majority of witnesses to the inquiry were highly critical of the lack of information coming from AQIS following the signing of the Deed of Arrangement between AQIS and PCP Ltd on 22 October 2001. The committee understands that it is standard legal practice for such out of court settlements to be confidential. The committee is of the opinion, however, that AQIS could have made a greater effort to establish a communication bridge to the Emerald citrus growers and to explain the reason why the Deed had to remain confidential.

3.68 The confidentiality clause was non-negotiable but the perception developed in Emerald that it was cloaked in secrecy because AQIS favoured PCP Ltd in some way. Unfounded as this idea was, it became a widely-held view among Emerald citrus growers and others. To this day, it colours the local growers' perception of how the initial investigations and the subsequent canker outbreak were managed by both the government agencies involved.<sup>42</sup>

3.69 This is in spite of the fact that Queensland Citrus Growers, for example, acknowledged in evidence to the committee that in the early stages of managing the citrus canker outbreak, the Queensland state agency kept the lines of communication open:

At the grass roots level the DPI&F communicated fairly well with the Queensland industry, until the latter stages of the program. Growers were kept informed of every development in the program through the frequent Citrus Canker Updates, and the DPI&F's Biosecurity manager regularly participated in QCG teleconferences to brief the QCG of developments.<sup>43</sup>

3.70 Queensland Citrus Growers pointed to tensions later on:

However, briefings dropped off after the initial emergency phase, and as the DPI&F and QCG's views diverged on issues such as the total destruction proposal.

3.71 At that stage, and in the absence of anyone else to act as a source of information for growers, QCG assumed the role of 'communicator' but citrus grower groups resented the fact that this interfered with QCG's "lead role as the conduit and champion of the industry."<sup>44</sup>

3.72 In its submission to the committee, QDPI recognised that communications had broken down when it became more difficult to resolve the issues that arose. It advocated the appointment of a 'Relationships Manager' to enable "response authorities to deal specifically with affected individuals, parties and industries in a

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42 See, for example, Queensland Citrus Growers, *Committee Hansard*, 15 June 2005, Growcom, *Committee Hansard*, 15 June 2005 and Mr J. Pressler, 2PH Farms, *Committee Hansard*, 28 July 2005

43 *Submission 2*, Australian Citrus Growers, p. 17

44 *Submission 11*, Growcom, p. 11

response situation."<sup>45</sup> Growcom bemoaned the fact that a stated intention for the NMG to appoint an 'Industry Liaison' person was never pursued and recommended that such a person be appointed in future to keep stakeholders and the public informed of the decisions of the NMG.<sup>46</sup>

### ***Criticisms of the NMG and the CCEPP***

3.73 The National Management Group (NMG) was made up of representatives nine different organisations, including six state governments. The Consultative Committee on Emergency Plant Pests (CCEPP) had more members than the NMG because in addition to the federal and state governments representatives and the Plant Health Australia representative, it had three industry representatives compared to the NMG's one.

3.74 Of the six state government representatives on both committees, at least five became rather less concerned about the citrus canker outbreak when, after the first six weeks, it became obvious that the disease had not spread beyond Queensland. According to the industry representatives represented on CCEPP, this had a negative effect on the way in which the Consultative Committee operated. Queensland Citrus Growers (QCG) explained in its submission that:

Notwithstanding their qualifications, the interstate government members of CCEPP had little knowledge of citrus canker. For the most part the CCEPP relied on the acquired expertise of the QDPI&F, and mostly rubber-stamped proposals and recommendations put forward by Queensland...

...CCEPP participants often exhibited a lack of confidence resulting in considerable indecision. They frequently took a "follow-the-leader" approach to decision making after one person was prepared to take a decision. Accordingly, their decisions tended to be overly conservative, being made on the basis of caution in the face of lack of knowledge, rather than with confidence on the basis of sound science.<sup>47</sup>

3.75 Another industry group, Growcom, stated that the CCEPP did not operate in the most efficient way:

CCEPP meetings were normally arranged at short notice, lacked structure and had inadequate follow-up/reporting mechanisms. This resulted in a disjointed approach to information gathering and dissemination.<sup>48</sup>

3.76 Even if the crisis situation in which CCEPP had to operate at first explains the first two criticisms made by Growcom (meetings at short notice and lack of structure of those meetings), there is no excuse for the lack of follow-up which is a

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45 *Submission 9*, Department of Primary Industries and Fisheries, Queensland, pp. 42-43

46 *Submission 11*, Growcom, p. 5 and 12

47 *Submission 1A*, Queensland Citrus Growers Inc, pp. 5 and 6

48 *Submission 11*, Growcom, p. 6

crucial aspect of managing the effect of a crisis situation on those facing severe loss.

3.77 Both industry groups pointed to the confidentiality in which NMG and CCEPP operated as being a problem:

The processes and decisions of the NMG were confidential therefore adding to the confusion ...It is strongly suggested that future NMG processes and decisions be visually accountable and that the decisions are conveyed to the relevant stakeholders and the general public in a prompt manner.<sup>49</sup>

Confidentiality of CCEPP and NMG meetings has made it difficult for QCG and other industry representatives to communicate decisions and outcomes back to the industry bodies, and to the growers they represent. This improved with time when CCEPP released discussion points for general distribution.<sup>50</sup>

3.78 Australian Citrus Growers Inc. submitted to the committee that, while recognising the difficult challenges involved in doing so, the major consultative bodies managing the response to a pest outbreak must change their focus on a scientific approach to the exclusion of other factors:

SAP (Scientific Advisory Panel), CCEPP and the National Management Group (NMG) look at the technical issues in isolation, without considering the social and economic implications to growers.<sup>51</sup>

3.79 This view was echoed by both Growcom and QCG who expressed the growers' frustration that decisions affecting their daily lives and income were being taken elsewhere and that the NMG did not visit Emerald to gain 'on the ground' knowledge of the incursion.<sup>52</sup>

QCG believes that the CCEPP has been remiss in not having visited Emerald to inspect the outbreak site and acquire a first hand appreciation of the program they have been managing. Many decision making problems observed at CCEPP meetings stemmed from a lack of knowledge of the local geography and conditions, of the industry in the local area, or an understanding of the implementation of the program at the coal-face.<sup>53</sup>

3.80 This failure to establish a connection with the growers and their plight was a key contributor to the growing gap between the positions of government and the industry, although both groups had a common goal – to eradicate canker as efficiently as possible.

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49 *Submission 11*, Growcom, p. 6

50 *Submission 1A*, Queensland Citrus Growers, p. 6

51 *Submission 2*, Australian Citrus Growers, p. 11

52 *Submission 11*, Growcom, p. 11

53 *Submission 1A*, Queensland Citrus Growers, p. 6



3.81 It is the view of the committee, on the basis of the evidence put to it, that the operations of the CCEPP and the NMG must be reviewed to assess whether a smaller decision-making group might not work better in some circumstances.

### **Recommendation 1**

**The committee recommends that Plant Health Australia immediately review the operations of both the National Management Group (NMG) and of the Consultative Committee on Emergency Plant Pests (CCEPP) to improve their performance during pest incursion emergencies. Regular reviews should also be conducted at least monthly during the management of such emergencies.**

#### *Awareness raising*

3.82 The committee notes that in the five years since the allegations of illegal plant importation were made, the federal government has funded an extensive information campaign (*Quarantine Matters!*) to raise the level of awareness of each individual's responsibility in regard to bringing potentially dangerous material into Australia from overseas.<sup>54</sup>

3.83 Farm employees generally, including the many travellers who work as casual fruit pickers on fruit farms need to be particularly aware of the danger they could pose unwittingly if they do not take care. Growers have a special responsibility to ensure that their employees exercise the greatest vigilance. QDPI stated in its submission that:

Early detection is essential to maximise the chances of eradication and minimise the impacts of incursion. While state and territory agencies have specific roles and responsibilities in surveillance, the greatest capacity for surveillance exists within the group that is constantly in contact with crops and therefore most likely to make the earliest possible detection – the growers themselves.<sup>55</sup>

3.84 From the point of view of managing a pest incursion, the lesson to be learnt from the citrus canker situation in Emerald is that industry groups have a large role to play in providing a lead for affected growers. The EPPRD will be the framework in which this can happen. The committee understands that PHA is concentrating on getting each agricultural industry group to develop Industry Biosecurity Plans and Incursion Management Plans to be better prepared in the event of an emergency.<sup>56</sup> The committee urges all industry groups to take heed of the lessons learnt in the citrus canker disaster and to focus on developing the appropriate plans.

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54 *Submission 12*, Department of Agriculture, Fisheries and Forestry, p. 17

55 *Submission 9*, Department of Primary Industries and Fisheries, Queensland, p. 35

56 *Submission 12*, Department of Agriculture, Fisheries and Forestry, p. 17

