



Growcom's

**Submission to the Senate Rural
and Regional Affairs and
Transport Committee**

Inquiry into the Citrus

INTRODUCTION

As the peak body representing Queensland horticultural producers, Growcom welcomes the Senate Rural and Regional Affairs and Transport Legislation Committee's inquiry into the Citrus Canker Outbreak.

The citrus canker outbreak is the key biosecurity issue facing the horticulture industry. It has had since the first detection in June 2004 a direct impact on Emerald citrus growers and allied industries, seen the imposition of quarantine restrictions affecting Emerald, and for a shorter time, Queensland growers' access to intrastate and interstate markets, shaken our trading relationship with other countries and the accompanying reputation as a producer of high quality, disease-free fruit. It has resulted in the decision to remove all citrus trees from Emerald, ending production there for at least four years. It also has broader implications as to how industry, state and federal government deal with future biosecurity matters.

Growcom believes it is very important to establish clarity on the background to the disease outbreak, the issues about how the outbreak has been managed and most importantly, about how future pest and disease incursions are dealt with.

Stakeholders need in place a system where we learn from past errors to improve our biosecurity management processes. Growcom hopes the Committee's Inquiry will assist with this process.

TERMS OF REFERENCE

The Department of Agriculture, Fisheries and Forestry's administration of the citrus canker invasion with particular reference to:

1. AQIS' response to the allegations of illegal importation of plant material;
2. The adoption of the quarantine protocols and management of the emergency response;
3. Cooperation between the Commonwealth and States, including funding issues;
4. The impact of the incursion on the Australian citrus industry;
5. Prevention and management of future incursions; and
6. Other related matters

TOR 1: AQIS' RESPONSE TO THE ALLEGATIONS OF ILLEGAL IMPORTATION OF PLANT MATERIAL

The Australian Quarantine and Inspection Services' response to the allegations of imported plant material needs to be examined in a clear and transparent manner to resolve the uncertainty surrounding how these allegations were addressed. This should provide confidence that our quarantine regulations and surveillance regimes are actively enforced.

We understand that AQIS' investigations that began with a call to the AQIS red line on 12 June 2001 are ongoing, however the Committee's sitting on 22 June 2005 has provided a degree of clarity on events surrounding those initial allegations, which we believe is necessary as the reasons behind the confidential Deed of Agreement between AQIS and Evergreen Farms were not explained (now understandably) at the time and were a cause for concern amongst growers and their industry bodies. It is still unclear, however, whether plant material was illegally imported and whether AQIS has sufficient powers to act effectively in these situations. If legal action can be reasonably taken by AQIS, it should proceed as a matter of urgency. However, if AQIS powers in this matter are found to be less than adequate, serious consideration should then be given to improving the regulatory basis in which it operates.

Growcom's (then Queensland Fruit & Vegetable Growers) attitude in 2001 towards allegations of illegal importation of plant material was that there seemed to be some facts emerging that needed to be questioned.

There was a feeling that there was more under the surface of this issue than was apparent. That is one of the reasons that we felt that the inquiry process would be a good mechanism for drawing those issues out and getting them out into the public domain as much as possible.

During the Committees' public hearing of 15 June 2005, Growcom Industry Sustainability Manager Mark Panitz undertook to provide for the Committees' consideration a chronology of QFVG's/Growcom's activities in the 2001-2002 events surrounding allegations of the illegal importation of plant material to Emerald. This chronology is provided at Appendix A .

TOR 2: THE ADOPTION OF THE QUARANTINE PROTOCOLS AND MANAGEMENT OF THE EMERGENCY RESPONSE

The eradication program for the Citrus Canker outbreak has been managed through the National Citrus Canker Eradication Program (NCCEP or program), a nationally cost-shared eradication program, attracting 50 per cent funding from the Commonwealth Government, with the remaining 50 per cent shared between the other citrus producing states based on their local net value of production. The Queensland Department of Primary Industries and Fisheries (DPIP&F) is the lead management and delivery agency.

The NCCEP is constituted under PLANTPLAN, Australia's generic emergency plant response plan developed by Plant Health Australia. PLANTPLAN provides national guidelines for managing and responding to emergency plant pest incursions in Australia. Growcom is a member of Plant Health Australia. The citrus canker outbreak is the first time PLANTPLAN has been tested in a real situation.

The program was activated following the detection of citrus canker in a commercial citrus orchard located approximately south of Emerald in June 2004.

PLANTPLAN places an organisational structure on the program to aid coordination between federal, state and local levels. Key groups involved in the management and implementation of the eradication program include:

- The National Management Group (NMG) which has primary responsibility for key policy and financial decisions relating to the eradication program.
- The Consultative Committee of Emergency Pests (CCEPP) - the technical committee that makes recommendations to NMG in incursion management responses.
- The Scientific Advisory Panel (SAP) which provides expert technical advice and recommendations to the CCEPP on various aspects of the eradication program.
- The State Pest Control Headquarters (SPCHQ) which is the emergency operations centre for statewide coordination of all the eradication program operations. The SPCHQ develops the incursion response strategies and policies and facilitates the implementation of these strategies and policies at an operational level. Following completion of the emergency response phase of the eradication program, the NCCEP's Program Management Unit based in Brisbane has taken responsibility for this role under the longer-term citrus canker eradication program.
- The Local Pest Control Centre (LPCC) which is the main command, control and coordination centre for local field operations. The LPCC's role has been transferred to dedicated NCCEP operational staff in various centres throughout the state.

In regard to quarantine protocols and management of the emergency response, plant industries (members of Plant Health Australia) are moving into a new regime of managing pest and disease incursions through ratification of the Emergency Plant Pest Response Deed (EPPRD). Under these arrangements both state and federal governments and industry partners are playing a shared role in the management of incursions. The implementation of the Deed will enable more timely, effective and efficient responses to Emergency Plant Pests. Plant industries will have far greater involvement in decision making during a response to an incursion. There will also be a strong incentive for individuals to report the presence of a possible pest as there will be provision for reimbursement of costs incurred, including crops lost as a direct result of a pest eradication campaign.

However, this particular incursion has occurred right in the middle of those negotiations, without the citrus industry or the Queensland Government having ratified the EPPRD. As a result, cost sharing arrangements and industry involvement were not as clear as they could have been. The outbreak can serve as a good example of how exotic biosecurity incursions are managed and how better systems can be employed in the future. The resultant frictions between the State and Federal governments and industry were attributed, in part, to this unclear cost sharing process.

In terms of the response to the 2004-2005 outbreaks, Growcom's view is that the initial reaction in mobilising staff and imposing quarantine restrictions in place, was undertaken well and that the capacity with which the Queensland Department of Primary Industries and Fisheries has responded is much better in this instance than it would have been five or ten years ago. Over the last 10 years in Queensland we have had a number of incursions. The papaya fruit fly outbreak in the mid to late 1990s as an example of an incursion which had a massive impact on industry. At that time, government agencies were not as well prepared to respond then as they were with citrus canker. With canker the Department was both quick to mobilize staff to implement PLANTPLAN and to provide access to senior Departmental and Ministerial staff.

Communications became more difficult later on because of a number of reasons

1. National Management Group (NMG) was made up of
 - a. Federal government representative
 - b. Representatives from each of the six State governments
 - c. Plant Health Representative
 - d. Representative from Australian Citrus Growers [AGC]
2. Consultative Committee for Emergency Pests (CCEP) was made up on
 - a. Federal government representative
 - b. Representatives from each of the six State governments
 - c. Plant Health Representative
 - d. Industry representatives (Growcom, Australian Citrus Growers [AGC], Queensland Citrus Growers [QCG])
3. CCEP 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.
4. Scientific Advisory Panel was not established until November 2004 therefore technical advice could not be provided in a timely manner or at an appropriate standard. Prior to this date the technical advice was provided by representatives from other States, whom openly admitted they did not have the level of expertise to provide appropriate advice on the citrus canker incursion
5. At the beginning of the process the NMG stated there would be an "Industry Liaison" person appointed to ensure communication was accurate, concise and timely. There was no evidence that this person was ever appointed therefore a process to adopt an issues and status reporting mechanism was lacking.
6. Due to the number of stakeholders and the lack of a clear communication process the industry and, for that matter, government was struggling to keep abreast with changes. This also facilitated the imposition of individual paradigms and agendas that did not add value to the process.
7. States other than Queensland had a large representation on all management, consultative and advisory committees however citrus canker was not a high priority for these states because the quarantine areas were isolated to Queensland.

Adoption of the Florida Protocol

Growcom, early in January 2005, requested the Department of Primary Industries and Fisheries (DPI&F) prepare a scientific, economic and social impact analysis on both options i.e. the Florida protocol versus the 'clear all the trees' model. This request was made of the Minister of DPI&F and the Director General of DPI&F in the presence of Queensland Citrus Growers and other stakeholders. This request was subsequent to the grower proposal, called the Pressler Plan, which was presented to government in November 2004 and stated the industry was prepared to destroy all commercial trees in return for a substantial funding package. Growcom did not have the opportunity to compare both models together and have not been provided with any rationale as to why this request was not actioned.

Throughout this process, Growcom requested the Florida protocol be investigated thoroughly to ascertain whether, or not, it was an appropriate protocol that was aligned to

1. The Australian and Queensland citrus industry dynamics
2. The crop cycle of the Queensland citrus industry
3. The climatic circumstances in Queensland and Australia

In considering which approach to take, we understand that there cannot be a 100 per cent certainty, even if that is in absolute statistical terms, of there being zero risk of canker being eradicated.

Our understanding of the situation is that the clearing all trees option would have given greater confidence of getting rid of citrus canker, however, the costs of it may have been higher than those of the Florida protocol approach. That is why we asked for all the detail of both the options to be put on the table so a proper transparent decision can be made.

In June 2005, the National Management Group (NMG) decreed that all trees in the Emerald Quarantine Area would be destroyed because the adoption of the Florida protocol was not effective in stopping the spread of the disease

TOR 3: COOPERATION BETWEEN THE COMMONWEALTH AND STATES, INCLUDING FUNDING ISSUES

On the third item, regarding cooperation between the Commonwealth and State governments, the reality is that the more people who have a role, the easier it becomes for communications and reporting relationships to become unclear. Sometimes this can get in the way of doing good business rather than assisting good business. It is the view of Growcom that political bi-play between the respective Federal and State Ministers did not add value to the process at all. Similar could also be said for certain industry stakeholders.

There is anecdotal evidence that policy and regulatory interpretation varied between the various government stakeholders, which resulted in delays and debates that have not assisted the process.

Growcom believes that at a political level, there have been significant signs of tension, particularly between the Queensland and Federal governments. Growcom's view is that this is not conducive to exploring probable solutions. It interfered with the real issue of managing and eradicating canker. While there has been a certain level of political maneuvering around the outbreak, at a professional bureaucratic level there has been reasonable discussion, cooperation and cohesion among the technical and bureaucratic staff involved in responding to and managing the outbreak. One of the fundamental issues that we need to deal with is that under this revised shared arrangement everything needs to be done with absolute professionalism, because industries and governments will be looking to invest in biosecurity matters and will only do so where there is confidence in the operations and implementation of those investments.

In July 2005 there were Ministerial changes at both the Federal and State level, which has resulted in a collaborative approach to the development of a shared solution. This new found desire to work together and to put the paradigms of their respective predecessors behind them was demonstrated when both of the new Ministers traveled to Emerald with Growcom to discuss the situation. The outcome was the immediate commencement of the development of a financial package on a 40% Federal government, 40% State government and 20% industry cost sharing arrangement. Growcom, in consultation with industry, has assumed the role of facilitator in achieving the industry 20% contribution.

State and Federal governments had the majority of representation on the National Management Group (NMG) and the Queensland Department of Primary Industries and Fisheries (DPI&F) assumed the lead agency role in this group. Because of this role the DPI&F was in a position to exert considerable influence over the NMG and its decisions. The processes and decisions of the NMG were confidential therefore adding to the confusion created by information asymmetry. 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.

As mentioned previously in this submission the Emergency Plant Pest Response Deed (EPPRD) was in the development phase when this incursion occurred therefore responsibility for the cost of management and eradication of citrus canker became victim of debate. At the time of writing, this agreement has been signed by Growcom. The citrus industry's national body, Australian Citrus Growers (ACG), have completed an extensive consultation process that has indicated support for the agreement. However final sign off has not occurred and is pending AGC Board approval. The Queensland government, while supporting the Deed in principle, has advised their signature is imminent.

TOR 4: THE IMPACT OF THE INCURSION ON THE AUSTRALIAN CITRUS INDUSTRY

In 2004 there were significant concerns regarding citrus production in the region due to the two Citrus Canker outbreaks that had already occurred, with indications from the regions producers in October 2004 that they were prepared to remove all citrus trees in the region in order to protect the rest of the Australian citrus industry. While there has been a great deal of controversy and some souring of relations between some Government and industry bodies, the decision has now been taken to remove all trees.

More detailed information on the citrus industry and the Emerald production region are discussed at Appendix B.

The impact on the Australian citrus industry can be broadly covered in three areas. First is the impact on domestic trade, secondly there are some broader implications to international trade and citrus, while thirdly there is the impact on the individual growers concerned and the region around Emerald, where citrus is one of the major economic mainstays. We must not forget the impact on that region as well as on those individual growers.

Impact on the industry

In 2004-2005, with the emergence of Citrus Canker in the region and the resultant quarantining of the area, the per unit value of citrus fell considerably. There is currently uncertainty concerning the regions future citrus production as further outbreaks prompted growers in the region to seek assistance to remove all citrus trees in the region. As stated above full scale destruction of all commercial trees has been decreed and an assistance package negotiated.

This will obviously have a major effect on future citrus production and flow on benefits associated with input purchases and labour usage. To date approximately 600,000 trees have been destroyed. Due to eradication protocols and production cycles it will take at least four (4) years to significantly re-establish the industry in the Emerald region. A further lead in time will be required to enable the new trees to mature into full commercial production.

Biosecurity and market access implications for the citrus industry

A number of response strategies¹ to control, contain and eradicate the citrus canker outbreak have been implemented, including:

- quarantine and movement controls on host materials
- surveillance and tracing to delimit the extent of the outbreak and establish pest free areas; and
- eradication of the disease by identification and destruction of infected plant material.

- elimination of inoculum sources by destruction of infected plants and other host plants that could harbour canker
- chemical treatments for containment

In July 2004 the New Zealand Government ruled that Australian citrus required prescribed post-harvest treatments and relevant packer certification. These conditions applied until Australia had undertaken official field surveys to establish state/area or property freedom for citrus canker. These surveys were completed in November 2004 for South Australia, in March 2005 for Victoria and in April 2005 for New South Wales.

In July 2004, the United Arab Emirates refused to permit the entry of Queensland citrus due to the detection of citrus canker.

Also in July 2004, Queensland nurseries were prevented from selling or moving citrus plants under regulations imposed to control the citrus canker outbreak. This included all citrus – related plants, both fruit and ornamentals including *Murraya spp*, which had to be treated with an approved copper compound and certified by the Department of Primary Industries and Fisheries. The ban on nursery stock already in the distribution chain was lifted in August 2004.

The declaration of quarantine locked Emerald growers out of domestic and canker-free export markets and this situation continues.

Progressively, growers have had some export markets opened up to them as long as they followed quarantine protocols. In effect, the Emerald producers' ability to market and stay in business has been significantly reduced. More broadly around Queensland they were initially locked out of markets as well until certain protocols were put in place to allow them to domestic markets.

The recent decision by the NMG to destroy all commercial and non-commercial citrus and other high-risk host material in the PQA has meant that the third round of surveillance will concentrate on regrowth compliance both at the sites of destroyed citrus trees and native citrus and the identification of native citrus within the native citrus destruction zones around the commercial citrus blocks and Emerald township.

The impact on the rest of the country has been, firstly, nervousness about potentially getting citrus canker and secondly, nervousness about any impact that citrus canker being found in Emerald might have on their export markets, as well as on applications by countries with citrus canker to export citrus fruit to Australia.

TOR 5: PREVENTION AND MANAGEMENT OF FUTURE INCURSIONS; AND

Growcom believes stakeholders need to make full use of this and other review processes to identify lessons learnt and ways to improve biosecurity arrangements.

This would cover areas such as management of the incursion, how the science behind the incursion is interpreted and applied, how regulatory or legislative frameworks are dealt with (such as whether they are adequate or inadequate or whether they need to be boosted), whether adequate systems and structures in place, and whether we have the correct funding arrangements to make sure that these can happen smoothly. Holistic commitment, by industry and government, to the cost sharing agreement (Emergency Plant Pest Response Deed [EPPRD]), will enhance the management and funding of future incursions.

As a result of the citrus canker outbreak on-farm biosecurity measures have been developed across most citrus growing regions (including Emerald) in order to prevent the spread of the disease. While this has been positive for the industry in enhancing awareness and preparedness, the industry has borne the cost of implementing these programs.

The goal of learning from outbreaks by tracing the source of pest and disease outbreaks is to detect and prevent loopholes in our quarantine systems.

Growcom first wrote in July 2004 to then Agriculture minister Hon Warren Truss MP welcoming the quick response to identify, control and eradicate the disease, and to express our expectation that a thorough and transparent investigation into the entry pathway of the bacterium be undertaken as soon as was practicable. This concern was raised relatively early as after earlier outbreaks of South African Citrus Thrips and black Sigatoka, industry called for similar investigations, however these investigations did not eventuate. One lesson that must be learned from the citrus canker outbreak is that we increase the likelihood of another incursion by not thoroughly investigating the entry pathways of earlier outbreaks.

Lessons for the future

At this stage of the eradication of Citrus Canker, it would be reasonable to assume that the full implications and lessons from the outbreak remain to be revealed. Earlier in 2005 the Minister for Agriculture, Fisheries and Forestry initiated a review into the technical aspects of management of the outbreak, while at a Queensland level both the Department of Primary Industries and Fisheries and the Queensland Biosecurity Advisory Council are reviewing how the program has been run.

The Australian citrus industry currently has no mechanism to raise industry funds to assist the Emerald growers in any compensation scheme however in light of the recent developments (joint government and industry package that has been negotiated) Growcom, in partnership with industry stakeholders, has assumed the role of facilitating industry funds collection to add to those promised by government. An approach to the Commonwealth to collect a voluntary levy on behalf of the industry was unsuccessful, and other avenues are currently being explored. Australian Citrus Growers is progressing towards signing the Cost Sharing Agreement (Growcom has also signed the agreement). This will involve industry consultations for the raising of a biosecurity levy to share the costs of future pest incursions. It will also ensure that, as part of this, grower reimbursements for removal, etc will be covered under the terms of the Deed.

Growcom believes a prior written agreement would have minimised the debates about the cost of the eradication program and the share between governments and industry, along with the response to the incursion e.g. the "Florida protocol" versus deeming all Emerald citrus infected and removing all orchards. With an agreement in place, the fundamental principles of funding the program would not have been an issue. Rather, the technical approach to responding to the outbreak e.g. this risk of native citrus species being able to spread the disease, could have been the prime focus of all stakeholders. The current outbreak should serve as an impetus for industry and government to adopt these arrangements.

TOR 6: OTHER RELATED MATTERS

1. Through the NMG Emerald growers were given unrealistic expectations regarding market access therefore they continued to comply with the Florida protocol and the management of their citrus crops in anticipation of being able to sell the fruit onto the domestic market.
2. 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.
3. Based on industry dynamics and at the request of Queensland's citrus industry, Queensland Citrus Growers (QCG) assumed the lead role as conduit and champion of the industry. There is some doubt as to the capacity of QCG to be effective and broadly representative in this role.
4. The NMG and other consultative and advisory groups remained steadfast behind a "scientific approach" therefore did not include the social or economic perspectives when analysing information or making decisions.
5. Growcom asserts 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. This protection of the "pure scientific" approach serves the interests of the department and individuals within it however the benefits to the broader industry and economy are questionable. This paradigm must change to ensure the Cost Sharing Agreement, which is based on a partnership philosophy, is implemented effectively.
6. Industry, by its very nature, does not have direct/immediate scientific expertise to the level required to deal with incursions such as citrus canker therefore its capacity to directly self-manage bio-security issues is limited. This leads to industry relying on the relevant government departments for guidance when an outbreak initially occurs. In making the statements in this comment (point 6) there are a number of points that must be clarified. These are based on experience in this outbreak and other incursions that have occurred in Queensland over the past ten years.
 - a. Industry has commercial business and social perspectives when analysing the impact of incursions, which is broader and sometimes incongruent to that taken by the "pure scientific" approach of government and regulators.
 - b. Because of the direct business impact industry stakeholders have a propensity to source a broader range of expertise relevant to the particular incursion and this is normally not limited to what is available in Australia.
 - c. Due to industry being directly affected economically and socially by any incursion it responds quickly when sourcing expertise and information regarding the incursion and how to manage it.
 - d. Industry recognises that government and its regulators is not normally the only and best source of information relevant to an incursion and / or the subsequent management.

RECOMMENDATIONS

The entire citrus industry has had to live with the threat that the disease could escape the quarantine area, both closing markets to citrus growers and serving to weaken Australia's image as a relatively disease-free horticultural producer. This strong bio-security status is to be promoted and protected domestically and internationally to ensure industry sustainability.

In the interests of preventing and managing future incursions, Growcom believes the following measures should be implemented

1. A whole of industry approach to the development of contingency plans is required to ensure that all stakeholders are aware of incursion management processes and their consequences. In addition, this process will clearly identify roles and responsibilities including funding issues.
2. Clear frameworks for the operation of National Management Groups, Consultative Committees and Scientific Advisory Panels are required to ensure all information is fed into these groups and that the subsequent decisions are promptly and accurately distributed to the public including industry stakeholders.
3. The appointment and funding of a specific industry liaison officer must occur at the commencement of any incursion to ensure all stakeholders are informed equitably and promptly. This will facilitate trust and good decision making.
4. It is essential that all governments and industry stakeholders become signatories of the Emergency Plant Pest Response Deed (EPPRD) as a matter of priority to ensure that funding arrangements are clear and accountable. This will also allow industry to develop strategies that are flexible and effective.
5. All incursion management / eradication options are to be thoroughly explored from the outset to ensure all stakeholders are well informed and have the ability to make decisions or provide policy input that is based on equity.
6. Lead agencies for incursion management, normally the relevant scientific department in the State subject to the incursion, must adopt a holistic approach to sourcing scientific data and assistance. This will require a willingness to objectively assess the incursion by utilising all available science from government and non-government sources from within Australia and overseas.
7. An education program is required to ensure all industry stakeholders, including value chain components and government, understand the political, legal, social, economic, commercial, scientific and policy issues surrounding bio-security and the management / eradication of any incursion.
8. Build capacity within government and industry to facilitate responsive decision making processes that incorporate a holistic approach to stakeholder needs.

APPENDIX A

Chronology of Growcom's involvement in the management of Citrus Canker



*Letter sent
to →
RB
2/19*

MP
RR
AM

HON WARREN TRUSS MP

Minister for Agriculture, Fisheries and Forestry

31 AUG 2004

Mr Paul Ziebarth
Chairman
Growcom
PO Box 202
FORTITUDE VALLEY QLD 4006

Dear Mr Ziebarth

Thank you for your letter of 16 July 2004 on behalf of Queensland Fruit and Vegetable Growers (now Growcom) seeking an inquiry into the source of the Emerald, Queensland citrus canker outbreak.

I share Growcom's concerns about the entry of citrus canker into Australia and the consequences of the outbreak, particularly for Queensland growers. Please be assured that all possible efforts are being made to re-establish trade for affected areas with conditions in place to prevent the spread of citrus canker to other areas of Australia. As you would be aware, for international and domestic trade to continue these activities are essential so that Australia can maintain 'area freedom' from citrus canker for areas outside of the quarantined zone.

The primary focus of the Australian Government is to assist the citrus canker eradication programme and to restore trade. Additionally, all efforts are being made to find the cause of the outbreak. The Australian Quarantine and Inspection Service (AQIS) is assisting Queensland Department of Primary Industries and Fisheries in their trace back investigations into the circumstances of the outbreak.

sp It is standard practice when there is an exotic disease outbreak for there to be a thorough investing of the source of the outbreak. In reference to the outbreak of the banana disease, black Sigatoka, in the Tully area of north Queensland and the entry of South African citrus thrips into the Brisbane area, I understand that extensive investigations were undertaken to discover how black Sigatoka entered Australia. These investigations included comparative deoxyribonucleic acid (DNA) fingerprinting of samples of the disease organism from Tully with samples of DNA of black Sigatoka from around the world. Surveillance for the disease in Tully has been underway since the end of the black Sigatoka eradication campaign. The results of the surveillance programme are currently being analysed and a report is expected in the coming weeks.

The entry of South African citrus thrips into the Brisbane area was one of the issues examined by the Review of Plant Research Biosecurity Protocols (the Review)

commissioned by Primary Industries Standing Committee and chaired by Dr John Radcliffe, Special Adviser to the Chief Executive of CSIRO and ex Director-General of Agriculture in South Australia.

The report of the Review was completed in July 2003 and is available on the Australian Government Department of Agriculture, Fisheries and Forestry's (the Department) website at <http://www.affa.gov.au>. Follow the links "Product Integrity/Animal and Plant Health/Plant Health/Publications and News/Publications" to the Review. The Review concluded that the framework for biosecurity arrangements for plant health in Australia is generally satisfactory. However, issues were identified that need to be addressed to ensure the maintenance of Australia's unique plant health status. Implementation of the Review recommendations is currently being undertaken and is expected to be completed by mid-2005.

I can assure you that the Australian Government and I are doing all that we can to assist the citrus industry to recover from the effects of the citrus canker outbreak. I have asked Dr Graeme Hamilton, the Chief Plant Protection Officer of the Department, to take a leading role in the coordination of the implementation of any improvements to our national biosecurity arrangements which may be necessitated by the lessons being learnt from the citrus canker outbreak.

Thank you again for bringing Growcom's concerns to my attention and for your organisation's interest in national plant biosecurity.

Yours sincerely



WARREN TRUSS



Queensland
Fruit & Vegetable
Growers

16 July 2004

Hon Warren Truss MP
Minister for Agriculture, Fisheries and Forestry
House of Representatives
Parliament House
CANBERRA, ACT 2600

Dear Minister,

The current outbreak in Emerald of Citrus Canker serves as a reminder of the importance of effective biosecurity and quarantine systems in ensuring our pest free status and the significant competitive advantage that it brings for Australian producers.

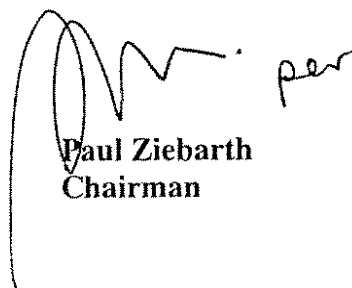
Queensland Fruit & Vegetable Growers welcomes the quick response to identify, control and eradicate the disease and looks forward to the timely re-establishment of market access for Queensland citrus.

While the efforts of Government and industry efforts is presently and rightly focused on eradicating this destructive disease, our expectation is that as soon as is practicable, a thorough and transparent investigation is undertaken into entry pathway of the bacterium.

With earlier outbreaks of South African Citrus Thrips and black Sigatoka, industry has called for similar investigations, however these enquiries have not eventuated. We submit that wherever possible, the source of pest and disease outbreaks must be traced to detect and prevent loopholes in our quarantine systems.

We look forward to a productive enquiry into the source of this outbreak.

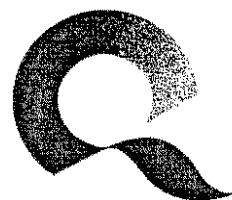
Yours sincerely



per

Paul Ziebarth
Chairman

Minutes



Queensland
Fruit & Vegetable
Growers

Meeting: **CITRUS COMMITTEE**
Date: 5th August 2002
Location: Boardroom 3, Queensland Fruit & Vegetable Growers, Brisbane Markets, Sherwood Rd, Rocklea
Attendance: A Meyer (Chairman); A Jenkin F Robinson; I MacLennan, C Iacutone; S Pressler-McHugh
Apologies: N Ulcoq; R Page
Staff: C. Simpson; J Uhr (whole meeting) J Davis CEO; E Thomson; B Harris; J Pritchard; J Clark (part meeting)
Visitors: Dr Bill Roberts, Chief Plant Protection Officer, AFFA
Ref: C64/02

Minutes:

1. Opening

The Chairman welcomed delegates and declared the meeting open.

2. Minutes of Previous Meeting – 13 & 14 May 2002

MOVED MR MACLENNAN SECONDED MR IACUTONE
THAT THE MINUTES OF THE PREVIOUS MEETING (13 & 14 MAY 2002) BE
TAKEN AS READ AND CONFIRMED AS A TRUE RECORD OF THE MEETING.
CARRIED

3. Financial Reports

3.1 Year-to-Date – 30 June 2002

	\$	\$
Levy Income		301,235
Expenses		
General Board	139,794	
Governance and Shared	125,545	
Commodity/Industry	71,397	
Specific Direct	102,799	
Total Expenses		437,535
Plus industry and member services share		88,575
Net Result		-47,725

Cash Book Balance (as at 1 June 2002)	
Grower Services	\$531,169
Research	\$234,945
Promotions	-\$35,477
TOTAL	\$730,637

The Promotions Manager was called to explain the Promotions shortfall. He pointed out that the citrus season goes over 2 financial years and agreed to arrange for a calendar year budget to be presented later in the meeting. He was sure that when the seasonal cycle was taken into account, the budget would still be in surplus.

3.1 Levy Report

The Levies Manager reported on levy payments to date and the timing and payment arrangements for growers paying direct. QFVG was giving growers the option to pay in line with their BAS statements – monthly for larger growers and quarterly for smaller growers.

Month of July total citrus levies were \$193,000 against \$211,000 forecast, down \$18,000 for the month – with payments from some significant marketing groups still to come.

In May, QFVG wrote to all citrus growers about direct levy payments, but this met with only a limited response.

The Program Co-ordinator pointed out that all of the big production groups, and the majority of significant independent producers were already paying direct, and the majority of production was already covered by direct payment arrangements. It was necessary to ensure that growers actually made these direct payments.

The Program Co-ordinator then referred to the calendar year levy spreadsheet (Grower Services). Payments were significantly down on budget (\$90,000). There were 3 main factors influencing this:

- the season was late and a lot of the payments were still to come in
- the new direct payment cycle with some growers moving to quarterly, or a single end of season payment, and
- levy leakage, with many merchants no longer prepared to collect citrus levies.

QFVG would have to see how levies come in over the rest of the season to gauge the extent of the problem.

The Program Co-ordinator reported on visits in May involving the Chairman and himself to Abbotsleigh Citrus and Golden Mile, to discuss levy matters.

4. Citrus Tristeza at Emerald

Ms Pressler-McHugh advised that 2PH was eager to co-operate in a survey of the Emerald District by the plant health authorities, but wanted to have the results of all tests for all of the properties be made available to the industry. If there was no commitment to this by plant health authorities, 2PH would not be prepared to co-operate.

The Committee agreed that 2PH's demands to have the results released to industry was a reasonable expectation. The Committee agreed to wait to see what the Chief Plant Protection

Officer, Dr Bill Roberts, would have to say when he attended later in the meeting, and would then consider a letter of support for the stance taken by 2PH.

5. Australian Citrus Growers Inc.

5.1 ACG Board Meeting – 23 and 24 June 2002 (C59/02)

Mr Jenkin reported on the ACG Board meeting of 23 and 24 June 2002.

- ACG was committed to a national debate on reinstating the national marketing levy on all citrus varieties,
- levies would be included as a topic for discussion at the forthcoming R&D forums in September – ACG was seeking advice on the format and location for the forums
- will use existing marketing reserves for a major consumer research project – research will look at all citrus, including mandarins
- ACG Board discussed the need for strengthening orderly marketing controls (for exports to the USA) - primarily in response to the Productivity Commission report
- Discussed the need to reduce the number of importers on the Taiwan panel (currently 12) and felt that they would get a better result if there was only 4
- Push for reintroduction of minimum maturity standards for some export markets – proposed 8:1 for Taiwan
- HAL would be supplying market intelligence information to importers to help manage and market the product they were receiving – a weekly e-mail of shipping to Taiwan would be sent to importers and exporters alike
- ACG suggested that AQIS supply information (volumes and destination) of all shipments leaving Australia on a weekly basis – AQIS not prepared to make this information public at this stage, but ACG is pursuing it
- C31 carton issue – national citrus packers keen to move from the C6 heavy pack to the C31; but the commercial reality appears to be that there will be no change

5.2 Citrus IAC

Mr Jenkin and the Program Co-ordinator reported further on certain outcomes of the Citrus IAC meeting held last week (on behalf of Mr Page).

- IAC had overspent on its promotion and marketing budget, and was drawing upon funds from the “export reserves” for additional domestic market initiatives
- IAC had approved the national plantings database project at a cost of \$790,000 (3 years) – the project would commence on 1 October 2002. QFVG would employ a GIS Project Officer and a field officer for its involvement in the project.

6. Incorporation of Citrus Committee

QFVG staff were asked to leave the meeting whilst the Committee held an in-camera session. After this, the following motion was recorded:

MOVED MR ROBINSON SECONDED MS PRESSLER-MCHUGH
THAT THE CITRUS COMMITTEE BECOME AN INCORPORATED ENTITY
CARRIED

The Program Co-ordinator asked for clarification of the Committee's expectations with regard to implementation of this decision. He said if it was to be "within" QFVG he could work on it, but if it was to be "outside" QFVG he could play no role in setting up a new body.

Mr Robinson said he believed it should be outside QFVG, and therefore "they" would have to get their own lawyers to do it.

The Chairman said it could be a group outside QFVG, although QFVG could come up with other options to consider.

The Program Co-ordinator said there were wider implications that would have to be taken into account, such as QFVG's "citrus" reserves.

The Committee agreed that a lot of issues needed to be considered further, including models proposed by QFVG.

7. Import/Export Issues

7.1 USDA Visit

The Program Co-ordinator reported on a visit to the Central Burnett and Emerald by Mr Dennis Hannapel, Agricultural Attache at the USA Embassy in Canberra, accompanied by Biosecurity Australia and AQIS officers. This was a familiarisation visit, in the context of the application for access for Queensland citrus to the USA. The visitors inspected various packing sheds and industry facilities, and discussions were held on existing access arrangements to other export markets (eg Japan), and on pest and disease measures in the districts.

The main quarantine impediments were fruit fly and citrus black spot. Mr Hannapel was confident that the USA's fruit fly requirements could be met, and with the field controls already in place felt that the Queensland growing areas could be classified as "low prevalence" areas, which was a precursor background requirement, with a cold disinfestation treatment being required on top of that. The black spot issue was more difficult, but the arguments put forward by Queensland growers and researchers were considered to have merit, and could form the basis of an argument in the access submission.

Rather than a two stage process Mr Hannapel encouraged a single application, and was keen to see the technical submission prepared by Biosecurity Australia and put into the system as soon as possible.

8. Domestic Issues

8.1 Productivity Commission Inquiry into Citrus Growing and Processing – Final Report

- Final report has been released, and was generally considered to be a non-event
- The draft report recommended abolition of the orderly marketing arrangements (for exports to the USA and some other markets)
- ACG opposed this in its submission on the draft, and also instigated a vigorous lobbying effort, and as a result the final report significantly watered down these recommendations
- Report now basically chronicled the adjustment of southern states over the past 10 years from processing to fresh fruit varieties and an export focus
- The report did include a recommendation that government investigate the superannuation guarantee charge, and how it applied to short term Australian residents, eg backpackers. The

9% was paid in by the employer but was often never collected by the employee, and therefore was "lost" to the system. This should be followed up, because superannuation payment made by growers were not serving their intended purpose.

8.2 National Crop Forecasting Proposal

- Project had been approved by the Citrus IAC as previously indicated
- Project would commence on 1 October 2002

8.3 Area Wide Fruit Fly Suppression Project

Mr Jenkin provided an update on this project as follows:

- meeting held in Mundubbera last week – attended by the 3 local consultants, nominated representatives from Gayndah and Mundubbera LPAs, and DPI
- Dr Annice Lloyd (QHI) would be Project Leader
- Extension horticulturist Peter Wishart would be local co-ordinator with 30% of his time funded under the project
- Would be run under the auspices of CBHC (which would need to become incorporated)
- Submission was being prepared seeking \$30,000 seed funding from HAL
- Rest of VC would come from growers putting in money they would have otherwise spent on fruit fly chemicals (male annihilation traps); these funds would be aggregated and matched by HAL – this would be the operating budget for the project; and it would effectively not cost growers anything
- Implementation would be in line with ICA-28 procedures – to demonstrate to states that don't presently allow it, that ICA-28 works well
- Would involve a lot of support from Mundubbera and Gayndah Shire Councils who, through their Environmental Health Officers, would carry out fruit fly control within the towns
- Project would continue on indefinitely

8.4 Access to WA (C58/02)

- advice received from QDPI on changed entry conditions for citrus to WA
- dimethoate dip no longer an accepted treatment, except for mandarins
- this follows concerns by WA Agriculture about the efficacy of dimethoate as a treatment for fruit fly
- will now only accept cold treatment, and fumigation with fenthion (but fenthion was not registered for use in Queensland)
- Program Co-ordinator felt this was an unjustified decision to make without consultation
- overlooks underlying Constitutional principle of free trade between the states
- should be asked to justify action on the basis of fruit fly problems (outbreaks/detections) from Queensland citrus (not aware of any)
- questions over efficacy were a problem technically, but in commercial/orchard practice, there have been no outbreaks
- WA approach is also inconsistent in that they have not chosen to ban mandarins
- Further, Queensland has been putting forward alternatives (ICA-28 Bait Spray and Inspection protocol) and WA has more reticent than other states in moving to accept this
- No one has ever formally brought to the notice of the Queensland industry, the new research that has apparently cast a shadow over dimethoate; and surely there should have been consultations before the precipitous action of banning Queensland citrus
- will write to WA Agriculture along the above lines

- will also write to Queensland Minister requesting that he take up the matter with his WA counterparts – QDPI share the view that this WA action is over the top, and at odds with constitutional free trade principles

8.5 Season 2002 Crop Statistics

The Program Co-ordinator had liaised with John Owen-Turner about carrying out the production survey for season 2002, as agreed at the last meeting.

The Committee suggested that this be deferred, pending the national plantings database project, which could duplicate some of the proposed work.

9. Imperial Mandarin Production and Marketing Plan

9.1 Update

- With the program effectively complete it was now necessary to pull threads together and evaluate its performance for the 2002 season
- would look at the written plan and prepare an inventory of what components had and had not been carried out
- one further edition of Mandelicious to be put out – would give an overview of the implementation of the plan in 2002, and would also include a repeat of the season 2000 grower survey

9.2 Mandelicious Newsletter

- Mr Robinson voiced concern that the views on the season expressed in Mandelicious were not quite accurate – particularly comments attributed to chain stores
- Mr Robinson considered that product quality was not up to scratch - growers generally started too early, and the fruit this season was somewhat “sour”, there were anthracnose problems early, immature fruit, and after this a breakdown problem (caused by rain). He said comments in Mandelicious made the season appear to be better than it really was
- Mr MacLennan said his shed started later than most growers, and had quite a good run.

9.3 Wrap Up of Program for 2002

- The Program Co-ordinator said a lot of good things had been achieved – quality, fruit thinning, retail pricing and marketing, looking for export markets (involvement in FHA 2002 in Singapore). Some aspects not done – research into dryness, and thinning/fruit size, etc.
- Mr Robinson believed generally that chains did the right thing; they tried to support the product, and this led to increased sales and increased customer satisfaction. The dry, hot weather didn't help this year, making it more difficult to get good colour and fruit size
- The Program Co-ordinator said that there would always be variability in the performance of growers, and in the marketing of the crop by the wholesalers and retail chains. However in broad terms consumers were exposed to pretty good product all season, the prices it was marketed for (retail) were pretty good all season (the returns to growers may be another issue), retail prices were \$2/\$3/\$4 for most of the season and there were no 99 cent specials like the previous year (nothing less than \$1.99 in mainstream supermarkets).
- The Promotions and Marketing Manager provided further positive feedback from the retail chains, and suggested that the Committee write to Coles, Woolworths etc to thank them for their efforts with the product this season; to keep them motivated to maintain the correct way of handling Imperials in the future.

10. Promotions Report

10.1 Finances

The Marketing and Promotions Manager advised that the budget presented to the Growers Meeting in Gayndah on 26 March was for an expenditure of \$777,000 – which did not include the FHA2002 exercise. The actual expenditure, year-to-date was \$684,000, which was under budget (although there may still be a small amount to come).

The original budget for the 2001/02 financial year was formulated in February 2001 and finalised in May 2001. Accordingly, it was set in concrete well before the season 2002 levies and expenditure programs could be considered, and all that could be reported after that time were variations. This explained the confusion with the promotions finances earlier in the meeting.

10.2 Promotions Update

The Marketing and Promotions Manager then reviewed the promotions as follows:

- was presently in the process of preparing a formal evaluation of the season, which would include price monitoring
- achieved \$144,000 worth of bonus spots on television (more than in previous years)
- all supermarkets participated with point-of-sale material - various leaflets and ticket-toppers
- in-store demonstrations went well
- public relations – free publicity to the value of \$177,000 was achieved (for a cost of \$25,000 in the PR budget)
- new costume character for school visits and schools promotions.

10.3 Citrus IAC

The Marketing and Promotions Manager was invited to the HAL Citrus IAC meeting last week, and made a presentation, a summary of which follows:

- history of mandarin campaign – started with IQs, then broadened to a more generic approach
- co-ordinated, united approach generally achieved better results
- advertising focussing on the product
- values - what makes them different from other fruit (important in building the category)
- promotion would be more effective if combined with other initiatives – eg. better quality
- television was important in influencing the consumer, so it was necessary to have adequate budgets
- support of industry, ownership by growers, and good consultations with growers, was a key factor – retail support was also essential

10.4 Consumer Research

Strategic Intent

To provide QFVG with consumer feedback to help maximise the potential of the mandarin season now and into the future.

Methodology

- focus groups

Where do mandarins fit?

- The Mandarin season is not eagerly anticipate by most
- The season is not anticipated like summer fruit
- Unfortunately mandarins are in 'no-mans land' between staple and 'exotic'
- Being a winter fruit is a key opportunity for mandarins

Mandarins have three key usage occasions

- fruit bowl snack
- lunch boxes
- after dinner nibble (not dessert)

In summary why are mandarins so good for snack occasions?

- Their size
- Easy to peel and eat
- Sweet (and almost dessert like)
- Not messy

In the consumers mind's eye the perfect mandarin is:

- Easy to peel
- Sweet and juicy
- Glossy and shiny peel
- Strong aroma
- none/few pips
- No dry bits in corners
- White pith that is easy to peel
- Rich orange colour
- A range of sizes

Consumers feel that quality is not consistent

- Consumers are confused by the variability of quality and a bad experience can put them off buying

Many consumers said they will only buy where they can taste

- perhaps point of sale encouraging this tasting should be developed

Quality variation leads to confusion about the picking and storage process

Consumers do not understand the different mandarin varieties

- but they were very interested in information on this topic provided in the POS material

The Emotional Side of Mandarins

- Firstly, the research had difficulty finding it
- Emotional territory was in four areas
 - .. childhood memories of mandarin trees in the backyard
 - .. Mandarins being a treat when young
 - .. The evocative smell of mandarins
 - .. Childhood fun squeezing and playing with mandarins

Six Key Issues with Mandarins

- Mandarins are neither a staple or exotic fruit – they don't stand for anything in particular
- There is a lack of emotional connection with mandarins
- Mandarin usage is limited to snack occasions
- Pith, pips (& size) are a real barrier to extending usage via cooking/baking/juicing
- Mandarin quality is perceived as highly variable
- Consumers are not educated about the picking and storage processes or the different varieties of mandarin

Communication

- The ad does an excellent job of announcing that mandarins are back in season
- It is a very likeable ad, that Mums take on face value

- The tone and style of the current ad is generally well received
 - All the scenes work together to create this tone and communicate the messages
- An emotional benefit would need to bring something "extra" to the mandarin story*
- Can we utilise the evocative smell of mandarins
 - Mandarins as a 'ray of sunshine' among winter fruit
 - Both of these areas have potential, but the 'ray of sunshine' idea leverages a feeling that is directly relevant to the fruit and it's seasonality

11 Quarantine Issues

11.1 Citrus Tristeza Virus – Emerald (C54, 55, 56/02)

The Chairman welcomed Dr Bill Roberts, Chief Plant Protection Officer, AFFA to the Committee meeting.

The Program Co-ordinator advised that Dr Roberts had accepted the Committee's invitation to come to talk about the discovery of an exotic strain of citrus tristeza virus and citrus tatterleaf virus at Emerald. This was in the context of a broader quarantine investigation at Emerald being undertaken by AQIS.

The Committee's interests in this matter were:

- To see that AQIS had responded effectively, comprehensively and efficiently to the allegations of the presence of illegally imported plant material on the property, to the full extent provided for under the Quarantine Act.
- To ensure that the plant health authorities had responded effectively, comprehensively and efficiently to the discovery of the exotic diseases citrus tristeza virus and citrus tatterleaf virus in samples taken from Emerald.
- To ensure that any citrus diseases which may be present on properties in the area are contained and eradicated, and that measures are taken to ensure that they are not spread to other orchards in the area or further afield.

The latter two of these issues were within the realm of responsibility of the CPPO.

Dr Roberts firstly provided background on the system to manage incursions of exotic diseases:

- typically, a grower (or other person) may suspect an exotic disease and would report it to State authorities
- the State department of agriculture would do some initial investigation work
- if they had enough evidence to believe it was an exotic disease, they would contact the Office of the Chief Plant Protection Officer
- working with the State government, they may do some further investigation work
- the CPPO would then convene the National Consultative Committee process – consists of representatives from the Commonwealth and every State
- the National Consultative Committee makes recommendations to SCARM (Standing Committee of Agriculture and Resource Ministers)
- the ultimate responsibility rests with the Commonwealth and States working together
- the Office of the CPPO provides support for this process
- however, there is no direct legislative or regulatory responsibility at the Commonwealth level

In relation to the Emerald situation, the testing of samples taken from a property had discovered what appeared to be a new strain of citrus tristeza virus and citrus tatterleaf virus.

- Subsequent activity on the property resulted in the destruction of all material that was suspect
- Follow up testing took place, and no further citrus tristeza was found on the property

- The normal response would have been to carry out a targeted survey to discover the extent of the problem, and to ascertain whether it had spread from the original property (or alternatively whether it had spread from somewhere else onto the property)
- In this case there were some concerns about the proposed survey work – it was viewed as a “needle-in-a-haystack” approach; also if it had spread, it may take some time to become manifest in plants and to be detectable
- The surveying would also target citrus suppliers i.e. where the material was said to have come from
- The survey itself would be carried out by the State department; ie. QDPI
- QDPI had put out an information sheet advising of its intention to survey citrus through the Emerald area, and seeking the co-operation of growers
- Methodology – they would take small quantities of plant material from the properties; it would be budded onto indicator plants at the quarantine facility at Eastern Creek (NSW)
- the indicator plants would be grown on – they would undertake biological indexing, and molecular techniques would also be applied to test for tristeza strains
- The present situation was they had been unable to obtain the co-operation of all citrus growers in the area
- If they cannot get this co-operation, they would probably concentrate on the citrus suppliers and leave the field survey untouched for the present time – and it was unlikely that they would push the issue
- All programs in the past had been done on the basis of co-operative programs, and they had never resorted to legal powers of access before
- Also, the Consultative Committee doesn't rely on legal powers (and has no legal powers of its own), and would not request State departments (who carry out the survey) to go down the regulatory path if growers were not prepared to co-operate voluntarily
- The surveying would be undertaken at no direct costs to the industry
- The general results would be released to industry
- The specific results for individual properties would be released directly to the owners of those properties
- The issue that has arisen was demands for the release of all of the detailed results to the industry. Dr Roberts hoped that in the end they could do this, but he was unable to give such an undertaking in advance.

The Citrus Committee reaffirmed its view that it important that the survey take place, and was therefore hopeful that a compromise could be reached between 2PH and the regulatory authorities to enable this to occur.

Although the CPPPO had not agreed to the specific conditions that 2PH has proposed before agreeing to allow access to the property, the Committee felt that the information provided and undertakings given by Dr Roberts, should for the most part, address the areas of concern that 2PH had.

In further discussion, Dr Roberts assured that his inability to give an advance commitment to release the detailed results for each farm was unrelated to the confidentiality provisions of the Evergreen case. Dr Roberts said it was a general policy not to release information which identified farms; experience had shown that most incursion reports (average 40 per year) were false alarms, and it was therefore inappropriate to deal with them in a public manner.

Further discussion took place on the level of detail that would be included in a general report. Dr Roberts said it would probably include information on the number of samples taken, the number of positives, and how many farms were involved. Also industry would be represented through the Consultative Committee process, and would be privy to further details though this forum.

After Dr Roberts left the meeting, the Committee formed the view that the information required by 2PH could be ascertained in other ways. The CPPO would provide district information through the general report, and Emerald growers could co-operatively share their detailed reports, and this would enable them to put together the rest of the picture. This would expose the outcome for any property owner not prepared to co-operate in the sharing of information. If there were positive results on any non co-operating property, this would ultimately come to light through the Consultative Committee process and through further action that would have to take place on the property.

11.2 South African Citrus Thrips

Dr Roberts took the opportunity of his visit to provide a briefing on the incursion of South African Citrus Thrips at the Alan Fletcher Research Centre at Sherwood (Brisbane) in March 2002:

- QDPI had been managing the control/eradication/quarantine program
- There had been a survey of all hosts with 500m of the station, as well as at risk contact properties
- 160 sites had been inspected and over 80 samples submitted - and no additional detections have been found since the original one
- QDPI follow-up surveys of "at risk" sites had not found any further positives, including indicator trap plants
- AQIS was working with the Alan Fletcher Research Station to find out what had gone wrong. However, they had been unable to identify exactly what happened and how the pest came in
- Nevertheless they have put in place further restrictions on the operations of the research station – operational procedures, restrictions on the movement of people in and out of high security areas, protective clothing in high security areas, etc.

11.3 Incursion Record for Australia

Dr Roberts gave a general overview of Australia's plant health status and the effectiveness of quarantine controls

- there was a perception that there was a flood of diseases coming into Australia
- however, this was incorrect and in fact there had been no change in the long term trend
- 40 incidents per year were reported Office of the Chief Plant Protection Officer – most were false alarms
- over 20-25 years there is no identifiable change in the long term trend

12. **Pest Management Report**

The Pest Management Officer reported that the consultant was writing up the outcomes of the Pest Management Workshop, and next meeting there would be a strategy document for the Committee to look at.

Access to Fenthion for Mareeba Citrus Growers (and for Queensland citrus to WA)

- at the last meeting the Committee asked the PMO to obtain quotes for both a permit for Mareeba, and for full registration for citrus
- however, have found it was not as simple as that
- QDPI have cast doubt that fenthion might not be the right product to aim for – there may be an opportunity to argue to WA (and other states) that bait spraying and post harvest dipping

14. Central Burnett Horticultural Committee

The next CBHC would be held on 4 September 2002, and the agenda had been circulated for information.

15. QFVG Board Report

The Chairman welcomed the Chief Executive Officer to the meeting: She reported on Board matters as follows:

15.1 QFVG 2003 Transition

- The Board had made a number of key decisions about what the new QFVG would look like
- Process for consultation with growers about the changes – the Board will sign off on a process next week
- decisions of the board at the May meeting centred around the structure of the Board of the new QFVG – agreed that it would be structured as a board of growers elected by members who did not have any representational interests – will be 7 grower directors elected by the membership at large, and provision for 2 appointed directors (not necessarily growers)
- Currently developing a matrix for electing board directors.

15.1 Update on the Sale of Brisbane Markets

- the CEO provided an update on the bid process for the Brisbane Markets
- essentially, QFVG was awaiting the government's final decision.

16. QFVG Transition 2003

The CEO reported:

- The Board had made decisions about the future structure of the Organisation.
- The Board had now requested a proposition for commodity committees as to how they would fit in – different versions.
- Also agreed that there would be an LPA workshop later in the year, bringing all LPAs together, to look at how they would fit in with the new QFVG.
- Membership packages would be signed off by the Board in the near future.

It was noted that the Citrus Committee decided earlier in the meeting to become incorporated, and the CEO was asked how this could fit in with the new QFVG model.

The CEO said that citrus could do this if it wished, and the type of relationship it could have with QFVG would depend on the provisions in its constitution. For its part, the QFVG Board could develop a model that provided a formal relationship with QFVG – eg. there could be an MOU or like arrangement. QFVG would need to look at how it interfaced the citrus orientated activities that it would do within QFVG, with what the Committee does. These matters needed to be discussed further, and the growers needed to indicate what the envisaged role of the incorporated body would be. The QFVG Board's attitude also had to be ascertained. They would also have to look at the membership overlaps of the new QFVG and the incorporated citrus body, to ensure that their directions were aligned.

Mr Robinson recapped on the previous stages of the transition process. He said the fundamental criteria for citrus from the start was that it wanted to have control of its own money. This lead to

some discussion on the transitional QFVG constitution, and the process for the constitution to be changed in June 2003.

Mr Jenkin said the delegates saw an incorporation arrangement as the best option for citrus for the future – in line with the template prepared by the Committee Chairman some time previously. The CEO said that QFVG had a responsibility to ensure that the needs of its citrus grower members were met; and accordingly, it was necessary to ensure that there was an alignment between the two organisations, if the incorporated body was going to determine how citrus growers money in QFVG was to be spent.

Citrus Workshop

The workshop planned for 3 July was postponed, due to the Board having its own planning session on that date. The Committee agreed that a workshop still needed to be held, and agreed to reschedule to a suitable date in October.

17. Correspondence

Program Manager received a request from John Chapman (DPI) for a letter of support be sent to the QHI Director, seeking exemption from water restrictions for the Bundaberg Research Station.

18. Next Meeting

The next Citrus Committee meeting would be held on 15 November 2002.

19. Retirement of Allan Meyer

The Chairman, Mr Meyer announced his intention to retire as Chairman and as a member of the Citrus Committee, and member of the QFVG Board, and tendered his letter of resignation to the Program Co-ordinator.

The Program Co-ordinator read the letter of resignation to the Committee, and advised that the Chairman had a distinguished record of service, having served as a delegate for 23 years, and as Chairman of the Committee for 17 years.

**MOVED MR ROBINSON SECONDED MR JENKIN
THAT THE QFVG CITRUS COMMITTEE EXPRESSES ITS THANKS FOR HIS 23
YEARS OF DISTINGUISHED SERVICE AS A MEMBER AND CHAIRMAN OF THE
QFVG CITRUS COMMITTEE.**

CARRIED BY ACCLAMATION

On behalf of himself and his family, Mr Robinson thanked Mr Meyer sincerely for his enormous commitment and efforts on behalf of the citrus industry over many years.

Delegates and QFVG staff in turn expressed their appreciation and paid tribute to the contribution made by the outgoing Chairman to the industry over his long and distinguished period of service.

20. Election of Chairman

MOVED MR ROBINSON SECONDED MR JENKIN
THAT A VOTE BE HELD FOR THE ELECTION OF CHAIRMAN AT THE
COMMENCEMENT OF THE NEXT MEETING OF THE CITRUS COMMITTEE ON 15
NOVEMBER 2002.

CARRIED

21. Acting Chairman

MOVED MR JENKIN SECONDED MR MACLENNAN
THAT THE VICE CHAIRMAN ACT AS CHAIRMAN OF THE CITRUS COMMITTEE
UNTIL THE NEXT MEETING.

CARRIED

22. Vacancy on QFVG Board

the Committee agreed to consider the vacant citrus position on the QFVG Board by teleconference, when all delegates could be present.

23. Vacancy in Electorate N° 3

It was agreed that the Program Manager would write to the Mundubbera Fruit Growers Association, inviting them to recommend a grower for appointment to the vacant position in Electorate No 3, at the next meeting.

24. Close

As there was no further business, the meeting was closed at 5.30pm.

Meeting with AQIS

28 February 2002

Present

Industry

Judith Damiani – ACG
Chris Simpson – QFVG

Andrew Green - CBSA (part)
Pat Barkley - AusCitrus

AQIS

Meryl Stanton – Executive Manager
Jenni Gordon – National Manager – Animal
& Plant
Bill Roberts – CPPO

The meeting commenced with discussion on the confirmation of tristeza, as dealt with at the teleconference; and Pat Barkley and Bill discussed various aspects of the sampling methodology – the design of a targeted testing regime.

Chris Simpson started asking a series of pre-planned questions, the first of which was the results of the testing of material taken from Evergreen.

The AQIS officers said they were not in a position to discuss the details of the Evergreen matter, because of the confidentially provisions of the deed of arrangement with Evergreen.

They justified this stance explaining that allegations had been made against the principals of Evergreen, however they were entitled to a presumption of innocence as they had not been convicted of any offence – and there were natural justice issues, and the provisions of the Privacy Act had to be observed.

Chris Simpson referred to the Nairn Review of Quarantine and the published policies introduced since then – *Quarantine – a shared responsibility* and asked whether AQIS handling of this manner was inconsistent with these policies, and denied other stakeholders the basic right to be informed about what is going on.

AQIS officials said Evergreens rights to natural justice, and Privacy Act considerations were constraints in this balancing act. However, if there were any pest or disease issues to come out of the investigation, which may have a bearing on other stakeholder, they were passed on to Bill Roberts, as CPPO, to deal with.

It was noted that Hickey Lawyers for Evergreen, at today's teleconference, and the previous teleconference in December 2001, had volunteered the information that the suspect trees had been destroyed. It was confirmed that it was the whole block, not just the specific trees in question. Hickey lawyers also let on that there had been further followup sampling and testing of material taken from the property.

In response to a question from Pat Barkley, AQIS officials said that AQIS does have standard operating procedures for quarantine raids such as the one on Evergreen, and these procedures were followed.

Chris Simpson asked if the AQIS investigation was still proceeding with the same vigour as the early stages.

AQIS said there had been claims made, and counterclaims against others, and the investigation into all of these claims was still going on.

Discussion took place on the original quarantining of the property, the Evergreen appeal against this (all of which was public and on the record), and the subsequent lifting of the quarantine and AQIS entering into a deed, which was made confidential. Chris asked why it was done this way.

AQIS said the courts would not allow a quarantine order to be held in place indefinitely. This one had already been to court (and was upheld). However, AQIS was not confident that this could be sustained, and decided that a deed with Evergreen was the next best option moving forward. Evergreen insisted on the deed being made confidential, and without this provision AQIS would not have got the deed, and the whole thing could well be over by now, without a satisfactory result.

AQIS also said they need to be careful how they handle their information. They don't want the courts to throw out any potential case because AQIS had not handled their evidence correctly.

Chris Simpson asked whether the finding of triteza in the samples tested, with the matter then handed over to Bill Roberts, CPPO, should be regarded as a new chapter, and should be outside the scope of the deed, and the confidentiality clause.

Meryl Stanton and Jenni Gordon agreed with this proposition. Bill Roberts said he could not give this undertaking. There were areas where the 2 issues crossed over, and in these areas they would have to be careful.

However, Bill said that industry now had access to ALL of the material directly relevant to the incursion management aspects of this matter, via the teleconferences, and in particular the report on the testing results, provided to participants in today's teleconference.

Tristeza – Emerald District

Plant Health Teleconference – 28 February 2002

Convened – Bill Roberts – Chief Plant Protection Officer

Present – cast of about 30.

Opening

Bill Roberts commenced with a roll call.

Bill advised that his office had received a report of a new strain of citrus tristeza virus (ctv) not previously found in Australia, from material taken from a property in Queensland.

A full report prepared by Dr Deborah Hailstones had been circulated to teleconference participants.

At the request of David Cartright (SA) he provided some background to the matter.

Scott Ellis (?) of Hickey Lawyers (for Evergreen) said that the ctv had been found in material from the block that had been destroyed. He said sampling had been carried out on other citrus near the same block, and it had come up negative.

Bill Roberts referred to discussion on this matter at the last teleconference. What was required was

- further sampling
- establish the source of the disease
- establish whether it has spread

Scott Ellis (?) asked if it was feasible that the ctv could have been a mutation from something previously known.

Bill Roberts said it was possible, but unlikely as it would be expected to show a greater relationship to current strains.

Scott Ellis said on his reading of the report, the test results seemed fairly inconclusive..

Bill Roberts said scientists when preparing reports like this, were fairly cautious with their findings.

Bill Roberts then said the issue now at hand was to confirm whether there is a new strain of ctv. He proposed to embark on a program of sampling other citrus in the Emerald district and in other areas of Australia.

Jane Moran (?) said if the testing was limited to Australian isolates it would only present half the picture. She said they also needed to look at overseas isolates to get a good picture of the situation.

Bill Roberts said there were 2 main possibilities:

Evans

1383

Meeting of Representatives of the Australian Citrus Growers and Staff of the
Office of the Chief Plant Protection Officer, Canberra, 28 February 2002

PURPOSE

Meeting convened to discuss progress on the development of an Incursion Management Plan for Citrus and 'the way forward'.

INTRODUCTION

This project emerged out of a request to the staff of the former Bureau of Rural Resources from RIRDC to develop generic incursion management plans for pests, weeds and pathogens. With the benefit of some hindsight the project was seen to contain major conceptual deficiencies and preparation of such plans would serve little use. At the OCPPO's behest, RIRDC gave approval to refocus the project to develop an industry plan¹ that would be comprehensive in its coverage and serve as a template for other industries to follow. The ACG agreed to collaborate to develop an incursion management plan for the citrus industry.

Work done that is of relevance to this project covers:

- An industry profile;
- Review of the role ^{of} cost/benefit analysis in considering response actions;
- Analysis of most likely threats (target lists) based on pathway analysis and likelihood that pests² will establish and spread in Australia;
- Review of procedures and capabilities for identifying new incursions;
- Preparation of a discussion paper covering the above and matters that need to be addressed to bring forward an incursion management plan for the citrus industry;
- Preparation of joint ACG/OCPPO application for funding from HAL to progress the plan
 - Specifically for workshopping issues with practising citrus health scientists and industry, and
 - For considering the form of material for promoting awareness among industry and others of exotic pests.

While the Office has been focussing on a strategic plan that would mitigate risks posed by exotic pests, Pat Barkley has indicated that industry would like to have available an emergency response plan providing a blueprint for addressing the finding of a new exotic pest of citrus in Australia.

¹ In the time since, this Office has prepared two reviews on incursion management planning for Plant Health Australia, thus providing a good understanding of the strengths and weaknesses of existing plans and the matters that need to be addressed in a comprehensive industry plan.

² Herein the term pest is used in a generic sense to include pathogens such as viruses, phytoplasmas, bacteria, nematodes and fungi.

The discussion paper prepared by the OCPPO on target lists, diagnostics, awareness and pre-emptive R&D is a strategic approach to managing risk. There is of course scope for both, but this Office would argue that it is better to take pre-emptive steps to mitigate threats than to have all one's eggs in a basket that seeks to address incursions after these are detected.

MEETING ADENDA

1. Incursion Management Plan vs Emergency Response Plan
2. Developing/refining diagnostic protocols
 - refining detail drawing on o/s work on citrus pests (rather than reinventing the wheel)
 - identifying domestic and o/s capability
 - setting benchmarks for competency , and
 - auditing performance.

3. HAL sponsored workshop

Workshop will provide a forum for discussing issues presented in the Discussion Paper prepared by the OCPPO, but more importantly to consider additional and unresolved matters and work through scenarios, specifically

- issues of notification and industry consultation following detection of a new incursion
- interventions following detection (raises matters of cost sharing and compensation now being worked through by Plant health Australia)
- cost /benefit analysis and its use by decision makers confronted with a new pest incursion
- form of awareness material.

3. Development of Emergency Response Plans

- selecting examples (impossible to have more than a couple of examples to highlight the issues show the way forward)
- industry participation .

- that this was a new introduction of a virus – and it was necessary to check whether it had spread before the plants in question were destroyed; or
- it could have come from another property in the district onto this property.

Richard Walker (NSW) proposed that Pat Barkley be consulted on the design of a sampling regime. This was supported by others, including Bill Roberts.

Rob Allen (Qld) said if QDPI engaged in the exercise it would not be a simple matter.

General discussion took place on the sampling methodology and arrangements.

Bill Roberts summed up the views of participants that there should be a targeted survey in the Emerald area, and then a reassessment of what then needed to happen.

The states one by one agreed with this.

Peter Merriman (Vic) reiterated that Pat Barkley should be involved, and she should speak to Adrian Gibbs (bio mathematics) to help with the interpretation of the results.

Ken Priestly asked whether there would be cooperation from local growers.

Chris Simpson said growers generally would support a targeted sampling approach. However, it would have to be carefully designed concentrating first on the known area of infection, and working out from there. Pat Barkley should be involved in the design of the sampling methodology, and Dan Smith should (entomologist) should also be consulted on the likely movement of aphids, etc. Chris acknowledged that the level of cooperation of local growers was an issue. He was unable to speak for certain growers in the area, but believed the key would be a transparent process. Growers would need to see all of the details of the proposed sampling program, be satisfied that the district is being covered fully, with the highest priority and focus being placed on the Evergreen property – ground zero.

Ken Priestly said QDPI could do this legally by declaring a pest quarantine area, but they would prefer to do it without these formal arrangements, with the co-operation of local growers.

Scott Ellis (??) provided an assurance of co-operation on behalf of his clients, saying that Evergreen would co-operate in any way with any further sampling and surveying/testing.

Bill Roberts said the next issue to consider was the movement of budwood out of the Emerald district to other parts of Australia, including other areas of Queensland.

Chris Simpson asked if there was already (still) a ban on the movement of material from Evergreen. Bill Roberts said he was not prepared to answer that question.

Scott Ellis (??) said the ctv on Evergreen has only been found in the trees that had now been removed; and his clients farm should be regarded as no different from other farms in the district.

It was agreed that there needed to be discussions with those affected to see what the demand was for the movement of material from the district, and other associated conditions, before banning the movement of budwood.

The movement of fruit was also considered. There was nothing in the literature to suggest that the movement of fruit was an issue with tristeza; and the meeting agreed that there was no need for a ban on the movement of fruit.

David Letham (BA) suggested that the program also test for citrus tatterleaf virus, and the meeting agreed with this.

Chris Simpson asked about the timeframes for this exercise, and Bill Roberts said he would have discussions with Pat Barkley next week, with a view to commencing the sampling in the next few weeks.

Rob Allen said there also time of year considerations to be taken into account with respect to ctv

At that point Bill Roberts summed up the recommendations and closed the teleconference.



Queensland
Fruit & Vegetable
Growers

REF: C13/02

MEMO TO: Citrus Committee
DATE: 29th January 2002
SUBJECT: Evergreen Farms

Sonja Pressler has forwarded the attached questions on behalf of Emerald Growers, and has asked that they be placed on the agenda for discussion at the next meeting of the Committee.

These questions have been communicated to:

- Ms Jenni Gordon – AQIS
- Dr Bill Roberts – Chief Plant Health Officer
- Mrs Pat Buckley

and I have asked them to provide information which may answer some or all of the questions raised by Emerald.

Chris Simpson
Program Manager – Citrus

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**QUESTIONS REQUIRING ANSWERS IN RELATION TO
NEWLY INTRODUCED EXOCIT DISEASES OF CITRUS.**

WE UNDERSTAND THAT SEVERAL STRAINS OF TRISTEZA, NEW TO AUSTRALIA, WERE ISOLATED FROM CITRUS PLANT SMAPLES TAKEN FROM EVERGREEN FARMS. THE EFFECTS THAT THESE NEW TRISTEZA STRAINS WOULD HAVE ON OUR CITRUS VARIETIES IF ALLOWED TO ESCAPE, WOULD POTENTIALLY BE ENOUMOUSLY DAMAGING, NOT ONLY TO THE LOCAL CITRUS INDUSTRY, BUT TO THE WHOLE AUSTRALIAN CITRUS INDUSTRY.

CITRUS APHIDS ARE A KNOWN EFFICIENT VECTOR FOR THE SPREAD OF TRISTEZA VIRUS AND APHIDS ARE FREQUENTLY FOUND IN LARGE NUMBERS ON CITRUS IN THE EMERALD AREA. WINGED INDIVIDUALS ARE CAPABLE OF FLYING CONSIDERABLE DISTANCES IN AIR CURRNETS.

BECAUSE OF THE CONDIDERABLE TIME LAPSE BETWEEN THE ALLEGED ILLEGAL IMPORTATION OF CITRUS BUDWOOD BY EVERGREEN FARMS AND THE REPORTING OF THIS TO AQIS, IT IS REASONABLE TO EXPECT THAT THE NEW STRAINS OF TRISTEZA WOULD HAVE SPREAD TO OTHER CITRUS TREES PLANTED AT EVERGEEEN FARMS.

THE AUSTRALIAN CITRUS INDUSTRY DESERVES TO KNOW WHAT HAS BEEN DONE AND IS BEING DONE BY AQIS TO PREVENT THE FURTHER SPREAD OF UNWANTED STRAINS OF TRISTEZA

HAVE ALL PLANTS DEVELOPED FROM ILLEGALLY IMPORTED CITRUS BUDWOOD BEEN DESTROYED AT EVERGREEN FARMS?

HAVE PLANTS IN THE VICINITY OF THE IMPORTED MATERIAL TREES BEEN ERADICATED?

IS THERE AN ONGOING PROGRAM OF TESTING OF CITRUS TREES AT EVERGREEN FARMS TO MONITOR FOR THE NEW STRAINS OF TRISTEZA INTRODUCED WITH THE ALLEGED ILLEGAL PLANT MATERIAL?

IS THERE AN ONGOING PROGRAM OF REGULAR SPRAYING TO COMPLETELY SUPRESS APHIDS AT EVERGREEN FARMS?

WHY DID AQIS REFUSE AN EARLIER OFFER BY QFVG VIA CHRIS SIMPSON TO ORGANISE A CONSULTATIVE PANEL OF EXPERTS TO DISCUSS THE EVERGREEN PROBLEM AND DISEASE CONTAMINATION STRATIGIES WITH AQIS?

WHY CANNOT THE CITRUS INDUSTRY BE FULLY INFORMED ON MEASURES TAKEN, OR BEING TAKEN BY AQIS, TO ENSURE THAT

INTRODUCED DISEASES ARE NOT ALLOWED TO SPREAD TO THE OTHER ORCHARDS AT EMERALD AND EVENTUALLY TO ALL AUSTRALIAN CITRUS AREAS?

HOW CAN A RESPONSIBLE PUBLIC SERVICE ORGANIZATION LIKE AQIS ENTER INTO A SECRET AGREEMENT WITH EVERGREEN FARMS ON SUCH A VITAL MATTER AS THIS AND STILL EXPECT TO RETAIN THE RESPECT AND CONFIDENCE OF THE AUSTRALIAN CITRUS INDUSTRY?

REGARDING THE INITIAL RAID BY AQIS ON EVERGREEN FARMS

-WHY DID AQIS TAKE SO LONG (MONTHS) TO TAKE ANY ACTION AFTER BEING NOTIFIED THAT PLANT MATERIAL HAD BEEN ILLEGALLY IMPORTED BY EVERGREEN FARMS?

-WAS THE RAID PROPERLY PLANNED AND EXECUTED IN AN EFFICIENT AND LEGALLY SUPPORTABLE MANNER?

-WERE INSPECTIONS AND SAMPLING OF PLANT MATERIAL PROPERLY CARRIED OUT SO AS TO ENABLE THE DEVELOPMENT OF GOOD LEGALLY SUPPORTABLE SCIENTIFIC EVIDENCE?

-DOES AQIS HAVE IN PLACE A SET OF PLAN THAT SPECIFY THE REQUIREMENTS WHEN RAIDS, SUCH AS THAT CARRIED OUT AT EVERGREEN FARMS, ARE PLANNED AND EXECUTED?

#NEW STRAINS OF TRISTEZA POTENTIALLY ENORMOUSLY DAMAGING

#APHIDS CHRONIC PEST AT EMERALD. APHIDS SPREAD TRISTEZA

#APHIDS WOULD HAVE SPREAD TRISTEZA FROM INFECTED TREES FOR MONTHS BEFORE AQIS RAIDS ON EVERGREEN

#INDUSTRY DESERVES ANSWERS

#WHAT TREES AT EVERGREEN HAVE BEEN ERADICATED?

#IS DISEASE TESTING ONGOING AT EVERGREEN?

#ARE APHIDS BEING REGULARLY SUPPRESSED AT EVERGREEN?

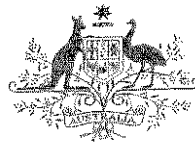
#WHY DID AQIS REFUSE QFVG OFFER OF EXPERT CONSULTATIVE PANEL?

#WHY CANNOT INDUSTRY BE INFORMED ON AQIS ACTION AT EVERGREEN?

#IS A SECRET AGREEMENT BY AQIS A RESPONSIBLE ACTION.?

#REGARDING THE AQIS RAID ON EVERGREEN

- **WHY THE LONG DELAY?**
- **-WAS RAID WELL PLANNED AND EXECUTED?**
- **-WAS SAMPLING PROPERLY DONE?**
- **-DOES AQIS HAVE A SET OF GROUND RULES AND REQUIREMENTS GOVERNING SUCH RAIDS?**



Reference Number: C77/01

HON WARREN TRUSS MP

Minister for Agriculture, Fisheries and Forestry

Mr Allan Meyer
Chairman
QFVG Citrus Committee
PO Box 19
BRISBANE MARKET QLD 4106

18 SEP 2001

Dear Mr Meyer

Thank you for your letter of 4 September 2001 regarding QFVG Citrus Committee's strong support for the action taken by the Australian Quarantine and Inspection Service (AQIS) against Pacific Century Production Pty Ltd, the owner and operator of Evergreen Farms at Emerald, Queensland.

As you highlight in you letter AQIS has a responsibility to protect Australian agriculture from unwanted pest and disease incursions. In particular, allegations about the illegal introduction of high-risk nursery stock into any production area is a grave concern and must be dealt with quickly and thoroughly to ensure that any illegally imported plant material does not compromise Australia's disease status by introducing exotic diseases not currently present in Australia.

I am advised that the decision to place a Quarantine Order on citrus and grape material on Evergreen Farms would only have been taken after full and proper consideration of the evidence available. This decision was upheld by the Federal Court on 17 August 2001. An appeal against the Federal Court's decision was heard by the Full Federal Court on 6 September 2001, but as judgement has been reserved it is not appropriate for me to comment further.

I would like to assure the QFVG Citrus Committee that AQIS is working to resolve this matter as quickly as possible in the interests of the Australian horticulture industry.

Thank you for bringing your concerns to my attention.

Yours sincerely

WARREN TRUSS



1901-2001
Centenary of Federation

Reference No: C93/01



Queensland
Fruit & Vegetable
Growers

4 September 2001

The Hon Warren Truss MP
Minister for Agriculture, Forestry and Fisheries
Parliament House
CANBERRA
ACT 2600

COPY

Dear Minister

The QFVG Citrus Committee is most alarmed about the alleged presence of illegally imported citrus and grape plant material on Evergreen Farm at Emerald.

The citrus material is said to be the variety Ponkan, sourced from Southern China. We couldn't think of a worse place to procure citrus budwood, as China has a poor plant health status, with the serious citrus diseases Canker and Greening being endemic and uncontrolled in all areas of the country.

The alleged illegal importation of this material, and its propagation in one of Queensland's main citrus producing districts - Emerald - presents the gravest risk imaginable for the Queensland citrus industry.

The QFVG Citrus Committee therefore fully backs the action being taken by AQIS, in the imposition of a quarantine ban on the property. We expect to see the strongest action possible taken to remove and destroy all illegally imported and potentially disease-infected citrus and grape plants, and punitive action taken against any proven offenders as a disincentive to them doing it again, and to send a strong message to others that Australia's quarantine laws must be observed.

The Committee notes that the current quarantine order on Evergreen Farm is for a period of only six weeks, and will expire on 18 September 2001. Plant pathologists have advised us that this is by far insufficient time for the absence of citrus greening disease to be determined with certainty. They suggest that the plant samples taken will need to be grown-on for 12-18 months before conclusive tests of the health status of this material can be undertaken.

The Citrus Committee draws your attention to the formal post-entry quarantine process required for the legal importation of citrus budwood, even from high health status sources such as secure repositories in the USA. A period of up to two years in quarantine is required - for observation, testing, and disease clean-up procedures such as shoot tip grafting.

It is essential that the alleged illegally imported material on Evergreen Farm be put through at least an equivalent process (with an equivalent time frame) - albeit in-situ on the property. The Citrus Committee therefore asks that the quarantine ban on Evergreen Farm be extended for 12-18 months, or longer if necessary, whilst the most stringent post-entry quarantine processes are applied.

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The Citrus Committee suggests that AQIS facilitate a panel of plant pathologists with expertise in the diseases in question, to advise on the length of time required, and to develop a screening / testing regime that should be applied to all material on the property.

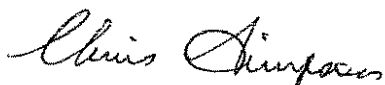
Of course a preferable outcome would be the removal of all potentially disease-infected plants as soon as possible. This may well be a cheaper option, and it would provide more comfort for Queensland citrus growers, by eliminating the risk without any further delay.

The worst outcome for the citrus industry would be to see the alleged offenders get away with it. We have seen instances in the past where growers who illegally imported the grape variety Superior / Menindee Seedless were ultimately able to keep their ill-gotten plants, because they were found to be disease-free. These growers ultimately benefited and prospered by flouting Australia's quarantine laws.

If growers see this happen again, Australia's quarantine laws will be effectively emasculated. Those with contempt for the law will again have benefited, whilst the good industry citizens who follow the correct processes, will again be seen to be mugs.

Minister, the QFVG Citrus Committee fully supports the action being taken to date by AQIS in the matter. However, we ask that AQIS maintain its resolve, and proceed with appropriate technical, compliance and legal action for as long as is necessary to ensure that the disease risk to the Queensland citrus industry is totally eliminated.

Yours sincerely



Ger
Allan Meyer
Chairman
QFVG Citrus Committee



Queensland
Fruit & Vegetable
Growers

To Citrus Committee
Company
Fax No

From **Chris Simpson**
Program Manager, Queensland Fruit & Vegetable Growers

Phone 07-3213 2472
Fax 07-3213 2480

Date 17 August, 2001
Number of Pages (including this page)

MESSAGE

Dear All

Evergreen Farms, Emerald

I have been advised by AQIS that Evergreen Farm's application to the Federal Court to have the quarantine lifted has been refused.

This is good news for AQIS, and they believe it is a vote of confidence in the strength of their evidence - for the next action they will most likely take (when the DNA testing is done).

In the meantime, the quarantine order on Evergreen Farm remains in place.

Regards

Chris

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Extract from Citrus Committee Meeting - 15 August 2001

Suspected Illegal Importation of Citrus Budwood

On 26 and 27 July AQIS conducted a search of Evergreen Farm at Emerald, under warrant, for suspected illegally imported plant material. Samples of citrus material, said to be the variety Ponkan from China, and grape material said to have come from California, were taken by AQIS for DNA testing. The purpose of the testing was to establish its disease status, and to identify the variety to establish the source of the material. Evergreen Farm has been placed under quarantine – preventing the movement from the property of:

- All citrus and grape plants, and all plant material and plant products derived from those plants located on the property, and
- All machinery and equipment located on the property that has come into contact with the plants in question, or has traversed the fields or blocks on the property used for citrus or grape production.

Mr Pressler reported to the Committee on the background to the matter as he understood it. That being reports of activities that allegedly occurred on Evergreen Farm, the reporting of these matters to AQIS, and the trials and tribulations (and delays) leading up to the AQIS search of the property and the imposition of the quarantine.

The Program Manager reported on his subsequent involvement in detail. He had been in regular contact with AQIS on the action being taken, to ascertain the strength of AQIS' response, and to ensure that AQIS was doing everything possible to eliminate any risk of disease for the Queensland citrus industry. AQIS was advised that it had the fullest support from QFVG and Queensland citrus growers on this matter.

The current status was:

- AQIS was compiling evidence with a view to prosecuting the alleged offenders for the alleged illegal importation of plant material. However, it was estimated that the DNA test results would not be available for 4 to 6 weeks, and AQIS action would take place after this.
- Evergreen Farm had applied to the Federal Court to have the quarantine ban on the property lifted, and the case was being heard today in the Federal Court in Brisbane.

The Committee discussed the situation at length.

It was agreed that the Program Manager would continue to liaise with quarantine officials, and obtain copies of the court papers when they become available. QFVG would be on stand-by to take whatever action deemed necessary at the appropriate time, as the legal processes unfolded.

Media Release

6 August 2001

QFVG supports strong quarantine stance

Queensland Fruit & Vegetable Growers has supported the Australian Quarantine and Inspection Service's actions in quarantining a central Queensland farm with suspect imported plant materials.

QFVG was advised AQIS searched an Emerald farm about two weeks ago for illegally imported plant materials and removed samples of grape and citrus plants for testing.

The horticultural property was placed under quarantine, stopping all movement of plant materials and associated machinery.

QFVG understands AQIS is testing the plant materials to identify varieties, disease status and possibly the country of origin.

QFVG Assistant General Manager Mark Panitz said QFVG would reserve comment on the growers involved until all details and findings were available. He said he trusted AQIS had followed due process and had based its actions on reliable information.

"It is imperative we maintain strict quarantine measures and the illegal importation of plant materials puts us all at risk," Mr Panitz said.

"Australia has an international reputation for clean, green produce because of the absence of many devastating diseases common throughout the rest of the world.

"The illegal importation of plant materials can undermine our position," Mr Panitz said.

"We already have seen the outbreak of papaya fruit fly, black sigatoka and asparagus rust in recent years and we certainly don't need any more. AQIS must maintain strict vigilance.

"This is why QFVG and other horticulture bodies often rally against import applications from countries with devastating diseases. One undetected case could ruin our industry and indeed our environment.

"Of course, we face a tougher challenge when materials are brought in under the quarantine radar."

Mr Panitz said QFVG would continue to monitor the case.

For further comment: Mark Panitz Assistant General Manager on 07 3213 2470 or 0418c151 908

*Issued by: Chris Murphy Communications Manager on 07 3213 2452
(Ref:cwm.nr.AQISquarantine)*

REF NO. C53/01
G11/01



Queensland
Fruit & Vegetable
Growers

27 July 2001

MEMO TO: QFVG BOARD
CITRUS COMMITTEE
TABLE GRAPE COMMITTEE

FAXED
27/7/01

SUBJECT: AQIS SEARCH – SUSPECTED ILLEGALLY IMPORTED
PLANTING MATERIAL

This memo advises that on Thursday 26 July 2001 (yesterday), AQIS conducted a search, under search warrant, of Evergreen Farm at Emerald for suspected illegally imported planting material.

Samples have been taken for DNA testing to determine the varietal type/origin, and disease status of the material.

Evergreen Farm has been placed under quarantine, thus preventing the movement of planting material and machinery both into and out of the property.

AQIS is reluctant to provide any information at present so as not to jeopardise their investigations. They did ask though, that if anyone has any information which may assist in their investigations (which is not hearsay information), could they please call Tony Redrup on 07-3246 8600.

Further information will be provided as it comes to hand.

Chris Simpson
Program Manager - Citrus

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FEDERAL COURT OF AUSTRALIA**Pacific Century Production Pty Ltd v Watson [2001] FCA 1139**

ADMINISTRATIVE LAW - Judicial Review - Quarantine - citrus and grape plants ordered into quarantine - opinion of quarantine officer that plants likely to be infected with imported diseases - quarantinable diseases - nature of opinion to be formed - whether absence of evidence before quarantine officer - whether risk of infection remote - must be a real possibility of the existence of disease - latency of diseases - underlying premise that plant material imported - whether requirements of procedural fairness met - whether requirements of procedural fairness should be limited

STATUTES - meaning to be given to a word will be affected by its statutory context - consideration of objects of statute

WORDS AND PHRASES - "likely"

Statutes

Administrative Decisions (Judicial Review) Act 1977 (Cth) ss 5(1)(h), 5(3)(b)

Quarantine Act 1908 (Cth) ss 4(b), 5, 16A, 35, 55A, 67(1)

Quarantine Proclamation of 1998 s 58

Cases

Annetts v McCann (1990) 170 CLR 596

Australian Telecommunications Commission v Krieg Enterprises Pty Ltd (1975) 14 SASR 303

Bailey v Forestry Commission of New South Wales (1989) 67 LGRA 200

Boughey v The Queen (1986) 161 CLR 10

Drummoyne Municipal Council v Roads and Traffic Authority of New South Wales (1989) 67 LGRA 155

Fares Rural Meat and Livestock Co Pty Ltd v Australian Meat and Live-Stock Corporation & Ors (1990) 96 ALR 153

Jarassius v Forestry Commission of New South Wales (No 1) (1988) 71 LGRA 79

Kioa v West (1985) 159 CLR 550

Sheen v Fields Pty Ltd (1984) 58 ALJR 93

**PACIFIC CENTURY PRODUCTION PTY LTD v STEPHEN RONALD WATSON
Q 169 OF 2001**

**KIEFEL J
17 AUGUST 2001
BRISBANE**

GENERAL DISTRIBUTION

IN THE FEDERAL COURT OF AUSTRALIA
QUEENSLAND DISTRICT REGISTRY

Q 169 OF 2001

BETWEEN: PACIFIC CENTURY PRODUCTION PTY LTD
APPLICANT

AND: STEPHEN RONALD WATSON
RESPONDENT

JUDGE: KIEFEL J

DATE OF ORDER: 17 AUGUST 2001

WHERE MADE: BRISBANE

THE COURT ORDERS THAT:

1. The amended application for an order of review is dismissed.
2. The respondent pay the applicant's costs in the proceedings up to and including 7 August 2001.
3. The applicant pay the respondent's costs of the proceeding after 7 August 2001.
4. Liberty to the applicant to file and serve further submissions concerning the basis for taxation of the costs under Order 2, within three (3) days in which case the respondent is to respond within a further three (3) days.

Note: Settlement and entry of orders is dealt with in Order 36 of the Federal Court Rules.

GENERAL DISTRIBUTION

IN THE FEDERAL COURT OF AUSTRALIA
QUEENSLAND DISTRICT REGISTRY

Q 169 OF 2001

BETWEEN: PACIFIC CENTURY PRODUCTION PTY LTD
APPLICANT

AND: STEPHEN RONALD WATSON
RESPONDENT

JUDGE: KIEFEL J
DATE: 17 AUGUST 2001
PLACE: BRISBANE

REASONS FOR JUDGMENT

1 The applicant is a company which owns a large fruit-growing property near Emerald, Queensland called "Evergreen Farms". It is owned by a company in which Mr Phillip Cea holds one-half of the issued shares. Mr Cea and his two children, Mr Darwin King and Ms. Michelle King, appear to have had the management and control of the applicant at relevant times. The respondent is a quarantine officer with the Australian Quarantine and Inspection Service ("AQIS"). On 26 and 27 July 2001 the respondent made two quarantine orders with respect to the applicant's property. These orders followed the receipt of information from a recent employee, Mr Gillies, and inspections of the property and crops growing on it by AQIS officers and others on those dates and in the company of Mr Gillies. Judicial review of those decisions was urgently sought, one of the bases for review being the width of the orders, which were unlimited in time. When the matters first came on for hearing, on 7 August 2001, it was conceded that the orders were liable to be set aside and that course was taken. On the same day however the respondent had made and given notice to the applicant of another order into quarantine. It identified as the subject of the order the following goods:

1. *All citrus and grape plants, and all plant material and plant products derived from those plants located on the property known as Evergreen Farms, Gregory Highway, Emerald, Queensland.*
2. *All machinery and equipment located on that property that:*

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- (a) *has come into contact with any plants, plant material or plant products referred to in Clause 1; or*
- (b) *has traversed fields or blocks on that property used for citrus or grape production."*

It ordered that the goods be detained and held under quarantine control at the applicant's property until a time six weeks from the date of the order. A further direction was given that no goods subject to the order were to leave the property.

2 Section 35 of the *Quarantine Act 1908 (Cth)*, which appears in "*Part IV - Quarantine of vessels, persons and goods*", provides in relevant parts:

"35(1) A quarantine officer may, by order in writing, order into quarantine any ... goods (whether subject to quarantine or not), being or likely to be, in his or her opinion, infected with a quarantinable disease or quarantinable pest or a source of infection with a quarantinable disease or quarantinable pest."

3 "*Goods*" is defined, in s 5, to include plants. Section 16A also confirms that, notwithstanding Part V (which relates to quarantine of animals and plants), Part IV applies in relation to plants as well as other goods. It is not suggested that Part V (and in particular s 55A of it) is applicable in this case. It concerns, and may be seen as limited to, imported plants. The orders here relate to both those plants which are thought to contain imported budwood or cuttings and plants which might not contain such material but to which infection may have spread. Section 58 of the *Quarantine Proclamation of 1998* provides that the diseases mentioned in a Schedule to the Proclamation are quarantinable diseases.

4 Mr Gillies had been employed by the applicant since late May 1999 as Production Manager and was responsible for citrus and grape plants, although there is some controversy about the extent of his involvement with grapes. On 12 June 2001 Mr Gillies telephoned a "*Redline*" service operated by AQIS and provided information concerning the alleged importation of budwood or cuttings to the applicant's farm by Mr Cea. This was later reduced to writing by Mr Watson, who interviewed Mr Gillies by telephone on 13 July 2001. Mr Watson had assumed the conduct of the investigation on 25 June 2001 and had made his initial enquiries into the ownership of the property identified by Mr Gillies, the persons associated with it and their travel movements into and out of Australia. The statement by Mr Gillies was signed on 17 July 2001, which is said to coincide with the date his employment

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was terminated. In it Mr Gillies advised that the property was made up of a number of orchard areas of various fruit trees - approximately eighty acres of lychee trees, half an acre of paw paw trees, five hundred acres of citrus and seven hundred acres of grape vines. Mr Gillies alleged that between September and November 2000 Mr Cea, whom he described as the owner of the property, told him that he had imported a large amount of budwood and seeds without quarantine approval. In particular he had informed Mr Gillies that he had imported budwood in the form of two red varieties and one white variety of grape cuttings (of which some six hundred cuttings were grafted onto vines and approximately forty of which were still growing); fifteen hundred lychee cuttings; and mandarin cuttings (of which five hundred cuttings of budwood had survived). The lychee and mandarin cuttings came from China and the grape vine cuttings from California. The lychee cuttings were no longer alive at the time of the quarantine order. Mr Gillies went on to say that Mr Cea also told him that he had brought in six thousand paw paw seeds from the Philippines, some of which had been planted and some stored in the nursery, and a quantity of watermelon seeds from China. Mr Cea is alleged to have said that the cuttings were smuggled in bags of tea. Mr Cea had advised Mr Gillies that he would worry about quarantine if and when quarantine discovered the importation and that he would then pay the fine and let the plants grow out of their quarantine time. Mr Gillies himself supervised the grafting of the cuttings and the planting of seeds that Mr Cea had advised had been brought into the country.

5 After Mr Watson first undertook the investigation and after he had spoken to Mr Gillies, he contacted various experts and enquired whether there were any mandarins of the variety in question in commercial production in Australia and was advised that there were not. He also sought advice from Dr Brake, a quarantine plant pathologist, who provided a "Statement of Disease Risk in the matter of Evergreen Farm [sic]". The Statement lists a number of pathogens and diseases relating to citrus, mandarin, grape and lychee plants unknown to Australia. Dr Brake went on to point out a particular concern to the grape industry as being Pierce's disease, which presently threatens the Californian grape industry. Control of the insect vectors was said to be extremely difficult and there was no known cure for the disease. Different strains of the pathogen could infect other crops such as citrus. All of the diseases listed might affect other plant species, other agricultural crops and native floras. There is no issue taken about the matters referred to in the Statement.

6 Mr Watson gave evidence:

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"As a result of receiving the information from Mr Gillies and receiving advice from Dr Vanessa Brake and from the enquiries which I had made, I formed the opinion that there may have been prohibited plants at the Applicant's Farm at Emerald and, furthermore, that the presence of these plants meant there was a high risk that exotic disease may also be present which would potentially threaten Australia's agricultural industry."

7 As a result, he applied for and obtained an "Offence Related" search warrant. He attended at the property in the presence of Dr Brake, two entomologists and three AQIS officers, together with Mr Gillies. They had with them a map drawn by Mr Gillies indicating the location of certain plantings. Cuttings were taken and areas including packing sheds and part of a house were inspected. Nothing in these areas is said to have thrown further light on the matter so far as Mr Watson was concerned, save for an area where the soil had been disturbed around the base of some grape plants. This area was one identified by Mr Gillies. Mr Watson noticed that some soil had been moved around the base of grape plants and some stays moved. Its appearance suggested the possible removal and relocation of plants. The explanation given by the applicant's employees was that some weed eradication had been undertaken in these areas. Mr Watson was not satisfied with the explanation.

8 Mr Watson supplied Ms King with a copy of the search warrant, which appeared to her to relate to illegally imported plant material. She made a general denial which she said was ignored. She was not told of the specific allegations made by Mr Gillies, although she observed him directing the AQIS officers to specific parts of the farm. There is nothing to suggest that she was told that she could not attend during the inspections and it would appear that she did so, or at least for part of them. Ms King says that AQIS officers accused her, on more than one occasion, of causing "*harm to the industry*", as if the allegations against her and others connected with the farm were considered to be true. She found this particularly offensive.

9 After 27 July 2001 (and prior to swearing his affidavit on 7 August) Mr Watson also spoke to those persons whose task it had been to introduce the budwood to root stock on the property, Mr Miller and Mr Richards. Mr Miller said that he had collected bunches of budwood from the residence on the property and that there was some black leaf material amongst the cuttings. There was also a peculiar smell which seemed to come from the leaf material. One of them said that it may have been like tea. Mr Miller said that the cuttings were unusually short in comparison with normal grafting budwood. Mr Miller has since

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sworn an affidavit to this effect.

10 At the time of the third order into quarantine, which is the subject of the present application for review, Mr Watson said that he had taken into account evidence put forward by the applicant up to that time in forming his view:

"... that the citrus and grape plants at the Applicant's Farm at Emerald are likely to be infected by a quarantinable disease or diseases, namely:

- (i) Citrus Greening*
- (ii) Citrus canker*
- (iii) Satsuma dwarf virus*
- (iv) Tristeza virus*
- (v) Pierce's disease"*

and that this view was reached having regard to:

- "(a) the observations which I made whilst at the Applicant's Farm;*
- (b) the investigations which I have undertaken;*
- (c) the advice which I received from Dr Brake;*
- (d) the affidavit of William Phillip Roberts."*

11 Dr Roberts' opinion had been sought on 2 August 2001 *"on the likelihood of the seized material and of plants, goods or equipment on the farm being infected with a quarantinable disease or being a source of infection with such a disease"*, by AQIS officers who had informed him of the quarantine order and that plant material had been seized. He was also asked to give his opinion on the diseases which had been nominated and the extent of any dangers they posed to the Australian horticultural industry. It is not necessary to detail the latter discussion. There is no dispute that the diseases nominated are quarantinable pursuant to the Quarantine Proclamation. As to the *"likelihood of infection"* Dr Roberts said that because of the range of serious exotic diseases of citrus in China, which are absent from Australia, legally imported citrus material from China undergoes a post-entry quarantine period of at least eighteen months during which extensive testing is undertaken. In most cases, only material derived from the original matter and not the primary material itself is released to the importer. He concluded:

"In my opinion citrus material sourced from China that does not pass through the normal quarantine system is likely to be infected with quarantinable diseases because of the widespread nature of these diseases in China."

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12 In relation to diseases of grape vines absent from Australia but present in California, planting material legally imported also undergoes a post-entry quarantine period of at least eighteen months and usually secondary material only is released. He likewise concluded:

"In my opinion grapevine material sourced from California that does not pass through the normal quarantine system is likely to be infected with quarantinable diseases. In particular, Pierce's disease is widespread in California and material sourced from there is likely to carry the disease."

13 The likely effect on the applicant, and its business, of the order into quarantine was said to be extremely adverse, in particular because it was unable to continue its negotiations with buyers at a critical point in the growth of the plants and it had to scale down its harvesting. On that basis the matter was set down for urgent hearing. Clearly quarantine orders have the potential to cause serious damage to the reputation of a business and for that reason alone there is a valid claim to urgency. Evidence however revealed that some of the other concerns expressed were likely to have been overstated, but nothing turns on this now.

14 Evidence was gone into by the applicant, it was explained, in order that it might be shown that its claims to lack of procedural fairness had some basis. There were many questions which might have been asked and which may have thrown light upon the veracity of an acceptance of Mr Gillies' allegations. In particular, it could have been explained that Mr Gillies was a disgruntled employee whose employment had been recently terminated and that he harboured a malicious disposition towards the applicant and Mr Cea. The allegations could have been shown to have been unsustainable because Mr Cea was absent from the property in November 2000, when the budwood is said to have arrived. The weather was inappropriate for planting in April or May 2001, when it was alleged to have taken place and there was insufficient irrigation. Ms King, then the managing director of the applicant, also contended that she could have shown that all plants on the property were derived from local sources. Insofar as this may assume any relevance it seemed to me plain, on examination, that this evidence did not go that far.

15 A local agronomist, it was said, could also have explained that no disease was evident upon inspection, although I did not understand any of the experts called by AQIS to suggest that it was. Indeed that was part of the problem. It was said that had Mr Watson spoken to Mr Cea, his son or his daughter, they would have strongly denied any importation and told him of the applicant's capital investment of some \$80M, to make the point that the applicant

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would hardly be likely to want to jeopardise such an investment where there was no obvious advantage accruing to it either in economies of planting or future sales.

16 Mr Gillies' credibility was directly attacked. In this respect, it was pointed out, and put to him, that he had himself been guilty of an offence in directing the budding and planting from the material in question. The relevance of this and the other evidence summarised above on an application for judicial review is doubtful. For completeness however, I should note that Mr Gillies' acknowledged the wrongfulness of his own actions, denied that he was motivated by a desire to harm the applicant, and asserted that he had tried to explain the requirements of quarantine and what might occur if plants were illegally imported, but said that Mr Cea did not appear to take it seriously. He said that he made the call to AQIS prior to his employment being terminated and that his employment was terminated only after he had refused to sign a false affidavit in other litigation which Mr Cea was intending to bring on behalf of the applicant against a supplier. Coincidentally, these events and the signing of his statement for Mr Watson occurred on the same day.

17 The applicant also points to matters which, it was submitted, could not be taken by Mr Watson to corroborate the information he had received. With respect to the freshly turned soil which had aroused his suspicion, it is pointed out that there was nothing to suggest anyone at the property had notice of the search. He had alluded to a "locked room", from which reference it had been inferred that he was also suspicious, but it was plain, on examination, that this was not taken into account by him in forming his opinion.

18 It was not suggested by Senior Counsel for the applicant that it was open to the Court to itself form a view about the parties' actions or motivations or to consider whether Mr Watson should have weighed one factor over another to come to a different view. The calling of and examination of evidence was persisted in, it was said, to show that there was information which could have been put forward, but this does not explain all of the factual analysis that took place. It was further submitted that the mere holding of an opinion by Mr Watson was not conclusive of his power to make the order. So much may be accepted. It was then sought to show that there was no basis in fact for the making of the order. Properly understood this ground is simply that there was no evidence, but such a contention is quite different from one which depends upon the rejection or acceptance of evidence which, it seemed to me, was the course the applicant largely undertook in pursuing its ground of

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"unreasonableness".

19 Before turning to the grounds of review stated in the Amended Application, it is necessary to set out one particular factor which was listed in written submissions as relevant to Mr Watson's opinion, since it assumes some importance in connexion with further submissions made at the conclusion of the hearing. It was said:

"He [Mr Watson] knew that the diseases concerned had a degree of latency of unspecified duration (Roberts: 23), but had no evidence as to whether, relative even to the last budding, that the latency period was such that neither in the grape nor citrus crops was it 'likely' that there would still be no symptoms visible to the trained eye."

20 The grounds upon which review of the decision of 7 August 2001 are sought are:

"7. A breach of the rules of natural justice occurred in relation to the making of the decision in that:

- (a) the decision to issue the order involved, inter alia, the reliance by the respondent on a complaint by one Wayne Gilles [sic], a former production manager of the applicant, made in excess of six weeks prior to the making of the order that Phillip Medina Cea, a principal shareholder of the applicant, had, between September and November 2000, made admissions to Mr Gillies of breaches of s. 67(1) of the Quarantine Act 1908 ("the Act");*
- (b) more than 6 weeks elapsed after the making of the complaint by Mr Gillies until the obtaining of an offence related warrant on 23 July 2001 and a subsequent search of the property;*
- (c) thereafter, on 7 August 2001, but only after challenge by judicial review application in this Honourable Court, the respondent has signified that it will not oppose the setting aside of two earlier quarantine orders made by him on 26 and 27 July 2001;*
- (d) on 7 August, prior to giving that signification, but without prior notice to the applicant of the material upon which he proposed to act and conclusions he thought open on that material, and without affording the applicant an opportunity to be heard as to whether an order should be made, the respondent made, or at least purported to make the further order under the Act the subject of this amended application.*
- (e) in these premises, the respondent was obliged to afford the applicant an opportunity to be heard prior to making the decision of 7 August 2001;*
- (f) further or alternatively, that obligation arose from the foregoing,*

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together with the published policy known as the "AQIS Service Charter" of the Service of which the applicant was a member of "ensuring people get a fair go".

8. *the decision was so unreasonable that no reasonable person could have made the decision in that the decision is made on material that does not logically admit of the formation of the opinion required to be formed by s. 35 of the Act prior to the making of the order that the respondent has purported to make.*
9. *there was no evidence or other material to justify the making of the decision.*
10. *the decision was based on an opinion as to a fact namely, that the goods the subject of the order were likely to be infected with a quarantinable disease having its origins in plant material unlawfully imported from China or, as the case may be, California in the United States of America, when in fact no such material had been so imported."*

21 Apart from the ground referable to procedural fairness, it would seem to me that the main issues are as to the nature of the opinion to be formed under s 35 and as to whether there was an absence of evidence to found that opinion. In turn it is necessary to consider the critical fact relied upon, namely the importation of plant material.

22 Section 35 provides some discretion in a quarantine officer with respect to ordering the plants, persons and premises, into quarantine. This is dependant upon the officer forming an opinion that the potential object of the order, here plants, was "*likely to be ... infected with a quarantinable disease*". The first question which arises is what level of satisfaction is necessary about the prospect of infection. Subject to that, it may be said here that there is at least a prospect if citrus and grape cuttings have been brought in from China and California.

23 The applicant submits that for an infection with a quarantinable disease to be "*likely*" the officer must hold an opinion that it is "*probable, more likely than not, an 'odds on chance'*" and refers to the discussion by Bray CJ in *Australian Telecommunications Commission v Krieg Enterprises Pty Ltd* (1975) 14 SASR 303, 309-13.

24 It is clear, and the applicant accepts, that the meaning to be given to the word "*likely*" will be affected by its statutory context. Its ordinary meaning has however been taken to be a "*'real and not remote' chance regardless of whether it is less or more than 50 per cent*":

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Boughey v The Queen (1986) 161 CLR 10, 21 per Mason, Wilson and Deane JJ. Gibbs CJ in *Sheen v Fields Pty Ltd* (1984) 58 ALJR 93, 95 endorsed the description of a "likelihood" as "something less than probability but more than a remote possibility".

25 The object of quarantine measures, by s 4(b) of the Act, is said to be:

"... the prevention or control of the introduction, establishment or spread of diseases or pests that will or could cause significant damage to human beings, animals, plants, other aspects of the environment or economic activities."

26 The degree of harm that can be inflicted by the spread of diseases brought into the country can be readily appreciated, as can the high level of risk of infection that many imported diseases pose. In some cases the existence of a disease will not be apparent and examination or testing required. The prevention or control of diseases would, it seems to me, be rendered difficult and in some cases not possible if a quarantine officer in every case needed evidence to support a probability of the existence of disease in imported plants or goods. No basis for such a level of satisfaction can be found in the Act and its objects. "Likely" in my view is here to be understood in its ordinary sense. The cases, to which Senior Counsel for the respondent has referred me, support the interpretation, in an analogous context of environmental legislation, of "likely" as involving a "real chance" of pollution or affect (*Jarasius v Forestry Commission of New South Wales (No 1)* (1988) 71 LGRA 79; *Bailey v Forestry Commission of New South Wales*(1989) 67 LGRA 200; *Drummoyne Municipal Council v Roads and Traffic Authority of New South Wales* (1989) 67 LGRA 155).

27 It is of course obvious that quarantine orders may be productive of great harm to individuals and businesses. The prospect of the existence of the disease must therefore be real and not only a remote possibility. To require more however would seem to me to put the individual above the wider stated objects of protection from disease which may affect many persons and enterprises, and perhaps the environment itself.

28 The risk of infection from a disease here is real and not remote in the case of importations of citrus plants from China or grape vines from California, or cuttings from such plants which might be used in cultivation. The information founding such an opinion was before the officer.

29 A further point, not readily apparent from the grounds of review, was also raised in

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submissions by the applicant, namely that the officer could not find any opinion, not even to the level of a real but not remote chance, as to the currency of any infection at the time the order into quarantine was made on 7 August 2001. Whilst it was explained that the disease was latent, it had not been said that it was likely to be in existence some nine months or more after its alleged introduction into Australia and when nothing had become apparent on a visual examination. This ground was not in my view squarely raised in the Amended Application nor is it apparent from a reading of the submissions. Were it not the fact that no issue has properly been raised on the evidence concerning this ground, I would not be inclined to permit it to be raised in final submissions. In any event, it seems to me something of a false issue. The opinion stated by the officer implies currency of the disease. The opinion of Dr Roberts, upon which Mr Watson relied, implied that the disease might be present for eighteen months or more because that is the period nominated for quarantine and even then the original material is usually withheld. If it was desired to establish that a plant once affected might not remain so after a particular period, or that an absence of symptoms on visual explanation in July 2001 might bear upon the question, it was incumbent upon the applicant to produce evidence to that effect. It did not do so.

30

The applicant also attacks the underlying premise upon which the officer acted, namely that the goods were likely to be imported. Much of its case however seeks to challenge the veracity of Mr Gillies' information, which was the only real source for the officer's belief. Whether or not the officer was obliged to give the applicant an opportunity to put forward information to counter Mr Gillies' allegations is a separate matter, which I shall deal with shortly. For present purposes, Mr Gillies' information stands as evidence to support Mr Watson's conclusion as to the fact of importation. Beyond that it is for Mr Watson to weigh the possibilities of the truth or untruth of the statements and not the Court (albeit that he has gone into evidence to explain how, in some minor respects, he considers it was corroborated). If the applicant challenges the finding of fact as to importation as having no basis the *Administrative Decisions (Judicial Review) Act 1977(Cth)* (the "ADJR Act") requires that it show that the fact did not exist: s 5(1)(h) and s 5(3)(b). In cases such as these proof that there had been no importation will be exceedingly difficult as Senior Counsel for the applicant conceded. The applicant has not been able to do so here. I should add that, in oral submissions, the respondent accepted that in this case it could be assumed that the fact of importation must be capable of being determined on balance of probabilities. It does not seem to me that that adds to the enquiry.

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31 The remaining ground alleged, want of procedural fairness, requires further consideration of the legislation and the circumstances in which orders into quarantine are likely to be made and the consequences which would follow.

32 If procedural fairness is not to be afforded there must be a strong manifestation in the statute of an intention to effect that exclusion: see *Annetts v McCann* (1990) 170 CLR 596, 598; *Kioa v West* (1985) 159 CLR 550, 585. In my view there is nothing in the Act from which one could conclude that procedural fairness was to be excluded altogether and on every occasion, although one might infer that in some circumstances it may be limited in some respects. Given that there will be interests which may be seriously affected by an order into quarantine, and given that the order might be made on unproven allegations, the prospect that some form of procedural fairness might be required is raised. Balanced against that are the circumstances in which such orders will often be made. Sometimes prompt action will be required, when the requisite opinion is formed, to prevent movement of potentially infected plants. Nevertheless, unless real urgency is involved, there seems no practical reason why persons likely to be affected should not be given some opportunity to put forward any explanation or facts that they have and which may bear upon the decision to be made. Procedural fairness after all conveys the notion of a flexible obligation to adopt fair procedures which are appropriate to the circumstances of the particular case: *Kioa v West*, 585.

33 Here, prior to the making of the first two orders, the allegations came from one source and were not independently verifiable. In some cases there will need to be a decision made, having regard to the stage reached in an investigation, whether a source of information should be identified. Here however Mr Gillies was obviously that source when Mr Watson and the others came to the property. It is not plain that Ms King was denied any opportunity to confirm him as the source, nor to explain what his motives against the applicant might be, although it is possible that she was dissuaded from this course by an apparent acceptance, on the part of the AQIS officers, of the truth of the allegations, without hearing from her or others. It was clear to Ms King that a general allegation, that plant material had been imported and used or stored on the property, had been made. There seems to me no reason why she could not have been made aware of the detail of the allegations and given an opportunity to put forward any facts which might show them to be wrong or unlikely, for example the fact that an illegal importation of this kind would involve great risk to the

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applicant's investment without a corresponding benefit. I do not however consider that this obligation equates with one to ask particular questions of the applicant and its employees, as the applicant contended.

34 The pressures of time and the effect this might have on the opportunity to be afforded to those who would be affected by an order was adverted to in submissions. It would not however seem to me that an opportunity was therefore to be denied in every case. Further, at a practical level, whilst I can understand that an AQIS officer might not wish to alert persons to the prospect of an order and then allow time to pass, during which plants might be moved before they could be examined and samples taken for testing, in the present case these procedures were carried out at the same time as Ms King was made aware of the allegation of importations of some kind. In my view a more meaningful opportunity could have been afforded on 26 July to the applicant to identify factors which it hoped might weigh against the making of an order and the acceptance that an importation may have occurred.

35 In the present case however the matter proceeded beyond the first two orders. By the time the third order was made Mr Watson had had the benefit of the matters put forward by the applicant and says that he took them into account. In these circumstances it does not seem to me possible to say that procedural fairness required more. The applicant's case, which was probably higher than could have been put forward in the time available prior to the making of the original orders, was presented. The fact that the additional exercise by Ms King, in an endeavour to show the plantings were derived locally, had not yet been put forward does not alter my view of the obligation with respect to procedural fairness as at 7 August 2001.

36 Whilst I am of the view that the obligation to afford procedural fairness is likely to remain in cases involving prospective quarantine orders, subject to the exigencies of the particular case, it does not necessarily follow that the Court would set aside a quarantine order aside on the ground that the obligation had been breached. As Gummow J pointed out in *Fares Rural Meat and Livestock Co Pty Ltd v Australian Meat and Live-Stock Corporation & Ors* (1990) 96 ALR 153, 170, the remedial powers of the Court under s 16 of the *ADJR Act* are couched in the terms of discretion. They may be contrasted with the narrow discretion sometimes attributed to some administrative law remedies under the general law, such as mandamus. If a quarantine order was otherwise not liable to be set aside, there being some

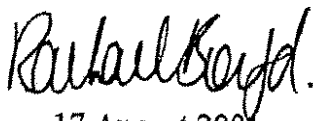
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basis for it, there may be concerns about setting aside an order of this nature. In the present case I would not have been minded to do so. I add that this does not affect the expectation that procedural fairness be observed. Other consequences might follow a failure to do so.

37 For these reasons the application will be dismissed with costs. My present view in relation to the question of costs in the proceedings up to and including 7 August 2001 is to award them in favour of the applicant but on the ordinary basis. It does not seem to me that the circumstances warrant a position of indemnity costs. I will however allow counsel to provide further submissions if they are instructed to pursue a contrary order.

I certify that the preceding thirty seven (37) numbered paragraphs are a true copy of the Reasons for Judgment herein of the Honourable Justice Kiefel.

Associate:



Dated: 17 August 2001

Counsel for the Applicant: Mr J Logan SC with Mr M Plunkett
Solicitor for the Applicant: Hickey Lawyers
Counsel for the Respondent: Mr D Jackson QC with Ms S Brown
Solicitor for the Respondent: Minter Ellison
Date of Hearing: 7, 13, 14 August 2001; 16 August 2001 (Further Submissions)
Date of Judgment: 17 August 2001

APPENDIX B

About the citrus industry and Emerald

Australian citrus production over the last five years has averaged 680,000 tonnes, with Queensland production accounting for about a quarter of total productionⁱⁱ. The gross value of production for the Australian citrus industry in 2002/03 was \$508 million. Of this \$111.8 million (22%) was produced in Queensland. Of the \$200 million (25%) of the Australian citrus crop exported, \$38.3 million were exported from Queensland (\$33.7 million were export mandarins). The citrus industry is Australia's largest fresh fruit exporting industry, with citrus exports valued at \$201 million in 2002/03 and \$153 million in 2003/04.

856 tonnes of citrus exported in 2002/03 with the major destinations being the US, Hong Kong, Malaysia, Japan, Singapore and Indonesiaⁱⁱⁱ.

Although traditionally known as a predominantly cotton, cattle and grain producing region, Emerald is a significant producer of early season citrus, particularly mandarins, with the harvest period for fruit extending from March until October. While a relatively new area for citrus growing, production increased by 140.7 per cent between 1993 and 2001^{iv}, with a gross value production in 2001 of \$7.3million, over half the total value of fruit and vegetable production for the region.

Emerald horticultural enterprises tend to have a relatively high degree of specialisation in one or two crops, for example citrus and table grapes, with minor production of others. The scale of many citrus industry businesses in the region is above that of the industry average^v.

Contribution to the local economy

The indicative *direct* contribution made by fruit and vegetable production to the region's economy and its linkages with other business sectors is summarised as follows. The gross value of production of \$12.9 million for fruit and vegetable grown in the Central Inland region is made up of^{vi}:

- Purchase of the order of \$3 million worth of goods and services (inputs) from other businesses in the Central Inland.
- purchase around \$4 million worth of goods and services of imports of around \$4 million, of which approximately \$3 million are from interstate or overseas; and,
- add value of approximately \$6 million. Value added represents the different between the cost of purchases made before any transformation is made to the products, and the price received for the product by fruit and vegetable growers. It includes payments of wages and salaries, profits, taxes paid etc and represents the change in value that occurs at this stage of the product transformation process.

Of the outputs from horticulture the approximate value of purchases made by businesses within the Central Inland as inputs to their processes are:

- \$2 million as inputs to fruit and vegetable processors and other agricultural enterprises within the region
- \$0.2 million as inputs to accommodation, cafes and restaurants within the region
- \$1 million as inputs to other food manufacturers within the region
- \$7 million to exports of which around \$3 million is destined for interstate or overseas
- \$1.5 million to final household consumption.

The gross value of horticultural production in the region (which includes Emerald and Peak Downs Shires) in 2001 was \$12.9 million. Of this, it is estimated that around \$3 million was spent purchasing inputs and / or services from other businesses in the region. Using Queensland Treasury multipliers for the "Other Agriculture" industry sector in the Fitzroy Statistical Division for 1996/97, the estimated total impact on the Central Inland economy, including flow-on effects from its output, purchases and employment, is a contribution of the order of:

- \$6 million to gross regional product (value-added)
- \$25 million to regional output (or sales)
- supporting 276 full time equivalent jobs in the region.

ⁱ <http://www.dpi.qld.gov.au/citruscanker/16772.html>

ⁱⁱ Australian Citrus Growers Inc www.austcitrus.org.au.

ⁱⁱⁱ Horticulture Australia Limited, *Australian Horticulture Statistics Handbook 2004*, Horticulture Australia Limited

^{iv} CDI Pinnacle Management and Street Ryan and Associates, *HG3039 Economic Contribution of Horticulture Industries to the Queensland and Australian Economies*, Growcom & Horticulture Australia Limited 2004.

^v CDI Pinnacle Management and Street Ryan and Associates, *HG3039 Economic Contribution of Horticulture Industries to the Queensland and Australian Economies*, Growcom & Horticulture Australia Limited 2004.

^{vi} CDI Pinnacle Management and Street Ryan and Associates, *HG3039 Economic Contribution of Horticulture Industries to the Queensland and Australian Economies*, Growcom & Horticulture Australia Limited 2004.