

A. Stafford, Manager

RESPONDENT

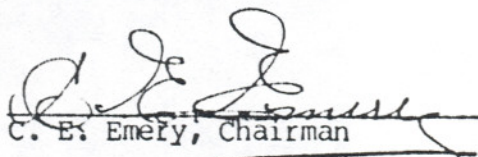
DATE OF HEARING

JULY 8, 1987

1. The matter before the British Columbia Marketing Board ("the Board") is an appeal by Bellewood Farms Ltd. from a final determination of the B.C. Chicken Marketing Board ("the Chicken Board") in their memo dated April 16, 1987, not to review the cancellation of secondary quota as a result of farm sales in 1977 and 1978.
2. The appeal was filed with the Board on May 6, 1987 and was heard in Richmond, B.C. on July 8, 1987.
3. Both the Appellant and the Respondent were represented by legal counsel and were given the opportunity to call and cross-examine witnesses, present documentary evidence, file written submissions and make oral submissions on the facts and the law.
4. The Appellant states that he purchased his first farm at 1280 Powerhouse Road in March, 1968. As of December 13, 1973 he received a 5,000 bird secondary quota. On August 25, 1977 the Appellant purchased a second farm located at 41307 Old Yale Road. Prior to the purchase the Yale Road farm had a 5,000 secondary quota. Upon notification of the sale to the Appellant, the Chicken Board cancelled the secondary quota on the Yale Road farm. The Appellant requested the Chicken Board to reinstate the secondary quota. This request was denied by the Chicken Board. The Appellant states that he sold the farm on Powerhouse Road on December 7, 1977 and applied to have the 5,000 bird secondary quota attached to that farm transferred to his Yale Road farm. This application was also denied by the Chicken Board by letter of January 2, 1979.
5. The Appellant asserts that in accordance with section (iii) 2.(b) of Regulation 1M-76-1973 which states, "No secondary quota issued pursuant to this Order may be transferred to any purchaser of a farm unless the secondary quota to be transferred has been issued and in effect for at least three years prior to the date of application for transfer.", both applications for transfer of the secondary quota should have been approved by the Chicken Board because the secondary quota had been in existence for four years one month on the Powerhouse Road premises and three years eight months on the Old Yale Road premises.
6. The Appellant asserts that Regulation 1M-76-1973 was not amended until August 31, 1978 with the issuance of Regulation 1M-120-1978 and submits as evidence the Reasons for Decision in the Appeal by Roger Lefebvre against the B.C. Broiler Marketing Board dated April 9, 1980.
7. The Appellant further asserts that because of outdated information contained in the Chicken Board's mailing list he was not properly advised of amendments to regulations concerning quota policy and therefore was not aware of the full facts to enable him to appeal these decisions until February 9, 1987. Consequently, the Appellant submits that the time limit for the filing of the appeal should be determined by Section 6(4)(a) of the Limitations Act.
8. The Respondent asserts that the Appeal is an attempt to reverse a quota decision made ten years earlier and exceeds the time limit established by the provisions of the Natural Farm Products Marketing (BC) Act.

9. The Respondent states that Regulation 1M-76-1973 was amended to prohibit all transfers of secondary quota with farm sales on or after January 1, 1977 during a meeting of the Chicken Board on July 8, 1976.
10. The Chicken Board further states that its decisions reflected the consistent application of its policy of the day which was well known to producers in the industry and submitted a list of 19 other cases where secondary quotas were cancelled after farm sales in 1977 and 1978.
11. The Board finds that:
 - a) The major focus of the Appellant's grievance is based on decisions made by the Chicken Board in 1977 and 1979. Section 11(1) of the Natural Farm Products Marketing (BC) Act states "Where a person is aggrieved or dissatisfied by an order, decision or determination of a marketing board or commission, he may appeal the order, decision or determination to the Provincial board by serving on it, not more than 30 days after he has notice of the order, decision or determination, written notice of his appeal." The Appellant's appeal is barred by the limitation period.
 - b) Further, had the statutory time limit not expired, the Board finds that Section (iii) 2(b), Regulation 1M-76-1973, merely sets a pre-condition for the transfer of secondary quota and the Chicken Board as a matter of policy decided the transfer would not take place.
 - c) The Appellant was treated in a manner consistent with all other producers who had completed farm sales during this period.
 - d) Although information and correspondence forwarded by the Board may have been misdirected, the Appellant was, by his own admission, in receipt of the pertinent information prior to February, 1987.
12. The Board notes that the Chicken Board has been lax in following established procedures for adopting and amending Board Orders, and was remiss in not ensuring that their records of producer information were up-to-date..
13. Hence, the Appellant's claims cannot be entertained, and the appeal is hereby dismissed.
14. In accordance with this Board's rules of appeal, the whole of the Appellant's deposit shall be forfeit.

Dated this 21 day of *September* in Richmond, British Columbia.


C. E. Emery, Chairman