

IN THE MATTER OF THE  
*NATURAL PRODUCTS MARKETING (BC) ACT*  
AND AN APPEAL REGARDING A DECISION OF THE BRITISH COLUMBIA  
MILK MARKETING BOARD

**BETWEEN**

**RICHARD LANCASTER**

**APPELLANT**

**AND:**

**BRITISH COLUMBIA MILK MARKETING BOARD**

**RESPONDENT**

**DECISION**

**APPEARANCES:**

For the British Columbia Farm Industry  
Review Board

Garth Green, Member, Panel Chair  
Dave Merz, Member  
Ron Bertrand, Member

For the Appellant

Richard Lancaster

For the Respondent

Robert P. Hrabinsky, Counsel  
Ken McCormack, General Manager  
Chris Bowser, Staff

Interveners

Henry Bremer, President, Kamloops  
Okanagan Dairymen's Association  
Art Postma, Director, Mainland Milk  
Producers Association  
Andy Jacobsen

## INTRODUCTION

1. The appellant, Richard Lancaster, operates a dairy farm near Walhachin in the Thompson River valley. His dairy farm is considered to be in a “remote” location by the British Columbia Milk Marketing Board (“BCMMB”). This means it does not fall geographically within one of the eight designated freight hauling zones within the province as defined by the BCMMB’s Consolidated Order.
2. The appellant purchased the property in Walhachin in 1997 with the intent of moving his existing dairy farm in Matsqui to that location. He did not, however, complete the move and commence shipping milk from the Walhachin site until 2006. At the time of purchase of the property in Walhachin, and until the BCMMB amended its Consolidated Order in 2004, the appellant understood that the Walhachin property was within the Okanagan milk hauling region.
3. In 2003, the BCMMB defined the eight regional milk hauling zones by publishing their geographic coordinates. They also set the milk hauling rate policy for farms outside the defined zones. The appellant’s Walhachin farm was in a remote location based on the published coordinates and the BCMMB assigned a rate for milk pickup from his location at that time.
4. The appellant contends that he was assured by BCMMB staff in 2004 that the existing rate would be “grandfathered” and he would be assigned that rate when he commenced shipping milk from the Walhachin farm. However, when the appellant started shipping milk from the new location in 2006, he was assigned a higher milk hauling rate than the one promised. He did not appeal that decision.
5. By letter dated July 29, 2008, the BCMMB increased the appellant’s hauling rate to \$172.50 plus the provincial pooled freight rate plus an \$8 stop charge<sup>1</sup>. The appellant asked the BCMMB to reconsider its decision based on his unique circumstances. In its decision of September 19, 2008, the BCMMB agreed to amend the rate “based on the closest zone boundary” to \$101.25. The appellant disagreed with the BCMMB’s amended rate and filed an appeal to the British Columbia Farm Industry Review Board (BCFIRB). He argues that the BCMMB has in the past adjusted freight zones to accommodate other shippers with similar circumstances to his and that it should amend the Okanagan freight zone boundaries to similarly include his Walhachin farm.
6. The Kamloops Okanagan Dairymen’s Association, the Mainland Milk Producers Association and Andy Jacobsen were all granted partial intervener status to make a submission and answer questions from the panel, appellant and respondent.
7. The matter proceeded to hearing on December 4, 2008 in Kamloops, British Columbia.

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<sup>1</sup>As a result of pooling, all British Columbia milk producers in defined milk hauling zones pay the same per hectoliter rate for milk pickup. This is termed the “provincial pooled freight rate”.

## **ISSUE**

8. The BCMMB erred in its determination of the raw milk hauling rate for Mr. Lancaster's Walhachin farm by failing to grandfather the existing rate from 2004 and by not amending a milk hauling zone boundary to include his farm.

## **INTERVENERS SUBMISSIONS**

9. The Kamloops Okanagan Dairymen's Association ("KODA") argues that the current milk hauling system in British Columbia is fair and equitable for all producers. Truck routes for hauling milk will continually change as production and plant locations change. The current zone system encourages the production of milk in defined areas and this makes it possible to assemble loads into cost efficient quantities. They note that the appellant is not on a route via which Okanagan milk is normally transported and that when picking up the appellant's milk a truck needs to travel "out of way" to assemble a cost efficient load. KODA does not support changing the boundaries of the Okanagan zone to include the appellant's farm. They support the extra charges to the appellant and submit that the "board has shown discretion in charging rates relevant to the extra distance trucks need to travel to pick up milk".
10. The Mainland Milk Producers Association ("MMPA") drew attention to the continuing increase in the cost to producers to haul milk to processors. In their view, Lower Mainland milk producers pay a disproportionate amount of this cost; particularly in light of their close proximity to major processing plants. The BCMMB has the clear authority and responsibility to limit these increases through a containment policy based on zones, as is currently in place. The MMPA contends that the appellant "purchased the land and built his dairy operation knowing that he was not in a dairy production area of the province. He took advantage of the lower land costs in the belief that he would receive a subsidized freight charge with provincial pooling." The MMPA endorses the BCMMB policy and believes that if the appellant's argument succeeds "expanding the boundary for Mr. Lancaster would set a precedent for other producers who may want to move dairy production to remote regions." They also requested that "the BCFIRB and BCMMB look at limiting the expansion of milk production in regions without sufficient milk processing in order to stop the escalation of hauling costs for all producers in the province".
11. Andy Jacobsen was granted intervener status in this hearing but chose not to participate.

## **DECISION**

12. In this appeal, the appellant argues that the BCMMB erred in its exercise of discretion and failed to establish a freight rate appropriate to his particular circumstances. He

prefaced his arguments by referring to the job description for the BCMMB chair which states that the incumbent, and other board members, must have the “ability to make fair, consistent and timely decisions”. He argues that in this case, the evidence shows that BCMMB’s decisions made in regard to his situation were not fair, consistent or timely and therefore the BCMMB erred in not exercising its duties in an appropriate manner.

13. The appellant maintains that there is a long history between himself and the BCMMB that supports the discretionary relief (a grandfathered rate from 2004 or an amendment to the Okanagan zone boundary) he seeks from this panel. He began actively working at relocating his existing dairy operation from Matsqui in the Lower Mainland to Walhachin in 1998. He introduced letters from a consulting engineering firm (July 22, 1998) that he intended to retain to do his design and a letter (January 6, 1998) from his accountant to the British Columbia Assessment Authority indicating that he would be moving his operation to the Walhachin site.

14. The appellant argues that the 2001 Consolidated Order defined of the Okanagan region as follows:

“**Okanagan**” means that region within the Province of British Columbia south of Clearwater and 100 Mile House, east of Lytton and west of Arrow Lake, excluding Greenwood and any areas east of Greenwood;

The appellant noted that his proposed Walhachin farm site fell within the definition of the Okanagan region at that time.

15. The appellant argues that it was reasonable for him to expect the BCMMB to advise him of the milk hauling rate for his Walhachin location. He points to the BCMMB minutes of June 11, 2003 that record the BCMMB’s discussions regarding freight zones and the necessity to precisely define these zones. The minutes state that “the Board will advise a successful startup producer of the full compensatory freight rate for a non-traditional milk producing area”. The appellant argues that he took this to mean that the BCMMB had the authority and the responsibility to advise him of his freight rate in advance of shipping milk from the Walhachin site.

16. The appellant argues that it was not until its newsletter of January 2004 that the BCMMB published its newly defined geographical coordinates for milk hauling zones within the province. This was the first time the appellant became aware that the Walhachin farm site was considered to be in a “remote region” and would therefore be subject to an alternative milk hauling rate calculation.

17. The appellant points to an email of February 16, 2004 from BCMMB member Ben Janzen to fellow board members. He argues that this email demonstrates both his ongoing efforts to keep the BCMMB aware of his pending plans and the BCMMB’s efforts to find an accommodation for the Walhachin site using a rate based on proximity to a freight route rather than location within a defined zone. In his email, Mr. Janzen outlined the appellant’s concerns regarding the new board policy on

remote region farms and the ongoing problems Mr. Lancaster had experienced keeping people informed “but the players have changed”. The email states:

“I talked to Warren<sup>2</sup> about this and there might be a solution. We could charge him the cost to haul his milk to a ‘freight route’ rather than a ‘freight zone’, plus the pooled freight rate. This would likely be the cost to haul the milk to the junction of the Number 1 highway and the Number 5 highway at Kamloops. Can we have this item added to the (teleconference call) on Friday?”

18. The appellant submits that this email is evidence that proximity to a freight route was a valid proposal; a board member had even suggested to other board members that it was something to be considered.
19. At a February 20, 2004 teleconference, the BCMMB noted that Mr. Lancaster had asked for clarification of his actual freight rate should he start milking in Walhachin. At this meeting, the “Board directed staff to add this item to the agenda for the next regular meeting”. However, the BCMMB conceded that this matter was not discussed at the next regular meeting on March 9, 2004. The appellant submits that he was not informed of any of the BCMMB’s discussions and he argues that the failure of the BCMMB to make him aware of its deliberations and its failure to discuss his situation at the March 9 board meeting, contributed to him not being granted either a milk hauling rate based on proximity to a route or the Okanagan region milk hauling rate.
20. The appellant argues that the BCMMB erred in failing to exercise its discretion in his favour and outlined the cases of two “remote region” dairy farmers, Phil Owen and Gordon Fox, who he contends received special consideration from the BCMMB.
21. Mr. Owen was an existing milk shipper in Agassiz who sought to relocate his farm operation to Barnhartvale, outside of Kamloops. Mr. Owen wrote the BCMMB on January 5, 2005 requesting the “shipping rate for shipping out of Barnhartvale B.C.”. The BCMMB initially took the position that the proposed new location was 43 km from the nearest milk zone boundary and the minimum charge of \$100.00 per pickup would apply. Mr. Owen asked for reconsideration of the rates for his proposed location. In its “Issue Document” prepared for Mr. Owens’s situation, the BCMMB noted that “Most if not all of the loads hauled out of the Okanagan pass both ends of the Barnhartvale/Old Vernon Hwy Road” and concluded with a recommendation “that Mr. Owens’s Barnhartvale location is 15 kilometers from a major freight route; a charge that equals \$2.30 per kilometer to the freight route (\$34.50) could be considered.” Ultimately, however Mr. Owen did not relocate to Barnhartvale but moved his farm to Lumby, near Vernon. He advised the BCMMB that the farm he was contemplating buying was one km outside of the Okanagan freight zone boundary and asked that this farm location be included within that zone. The BCMMB Issue Document of March 13, 2006 regarding Mr. Owens’s circumstances states:

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<sup>2</sup> Referring to Warren Penner, BCMMB staff person responsible for milk hauling at the time.

“the minimum incremental charge of \$100.00 per delivery seems to be very high considering the location falls 1 kilometre outside the freight zone. Other options are to charge him the incremental cost of \$2.30 per kilometer on each delivery based on the actual distance that he falls outside of the zone or to change the boundary to include his proposed new location in the Okanagan freight zone.”

The BCMMB minutes of March 23, 2006 show that “the current charge of \$2.30 will be applied; however, once the property is purchased the producer may make written request to have the charges set aside.”

22. The other shipper, Mr. Fox, wrote the BCMMB on February 4, 2005 indicating that he wanted to relocate his dairy farm from Saanich to Westwold (outside the Okanagan zone) between Armstrong and Kamloops. He wrote that the proposed location was “right off Highway 97 where all the milk trucks drive by every day.” The BCMMB considered a presentation on the Okanagan zone boundaries and according to board minutes “decided to revise the coordinates having consideration for road allowances and geographic boundaries to make more land available within the zone.” The appellant argues that this revision required an amendment to the Consolidated Order and suggests that this could easily be done to accommodate his circumstances as well.
23. The appellant pointed to maps of the boundaries of the Okanagan region subsequent to the revisions of January 1, 2004 and amendments of March 2, 2005. He noted that the boundaries have been enlarged considerably and include a large area between Kamloops and the previous western boundary of the zone. He states this new land included in the region as a result of the boundary change is mostly inaccessible and largely unusable for dairy farming. He drew the panel’s attention to BCMMB minutes of February 15, 2005 wherein the BCMMB instructed its staff to change the geographic coordinates of the Okanagan region to those incorporated in the Consolidated Orders on March 2, 2005. The minutes disclose that “(the Board decided to revise the coordinates having consideration for road allowances and geographic boundaries to make more land available within the zone”. The appellant argues that the same logic should be applied to his location to include his Walhachin farm in the Okanagan zone.
24. From early 2004 until February of 2006, the appellant states that he did not contact the BCMMB as he was busy with the details around the construction of his new facility in Walhachin; he did not feel it was necessary to contact the BCMMB given that he had notified them in 2004 that he would be moving. The appellant did notify the BCMMB just prior to its January 16, 2006 meeting that his move to Walhachin was imminent. The minutes of the BCMMB meeting of January 16, 2006 confirm that the appellant advised that he was nearing start-up at the Walhachin location and he was requesting the Okanagan zone rate without penalty. The minutes also confirm that BCMMB directed its staff to search for information pertaining to its past dealings with the appellant on this matter.

25. The appellant referred to a letter from the BCMMB Transportation and Logistics Manager, Jim Eisen, on February 27, 2006 wherein Mr. Eisen informed him that:

“As you are aware producers who are located outside of the freight zones as outlined in the Consolidated Order are responsible for the incremental cost for the transport of their milk to the closest border of the next closest region. The levy is the greater for \$100.00 for each delivery of milk or \$2.30 per kilometer for each delivery of milk. In your situation you are located 136 kilometres round trip outside the Okanagan freight zone.

The decision of the Board was that you will be responsible for the incremental compensatory rate that exceeds the provincial pool rate. The Board has also decided that this rate will be based upon the distance traveled from the closest transportation route. Specifically in your situation that route would be Hwy. #5. Most of the year there is milk from the Okanagan being transported down that Highway to the Fraser Valley for processing. This will reduce your incremental compensatory rate down to 96 kilometres round trip. The incremental cost would be 96 km. \* \$2.30 per km. in addition to the pooled freight rate. Furthermore, the transporter will try to pick you up with a unit coming down from the Bulkley Valley when possible in which case the kilometer charge would be 48 km. \* \$2.30 per km. in addition to the pooled freight rate. This will be dependant on whether there is room in the trailer for your milk and if the milk from the Bulkley Valley is coming down to the Fraser Valley and not to Edmonton.”

The appellant says he did not agree with this decision but that he was too busy getting ready for his farm move and did not appeal it at the time.

26. Then in a letter dated July 29, 2008, Chris Bowser, BCMMB Transportation and Logistics Manager, wrote to the appellant and advised that the BCMMB had made an error and had been incorrectly charging him too little for milk pick up. Although the BCMMB had charged the wrong rate for 2 years, the letter indicated that it would not make the correction retroactive and effective August 1, 2008, the new rate would be “\$172.50 plus monthly provincial freight plus \$8 stop charge”. In the letter, Mr. Bowser identified the appellant’s farm in Walhachin as being “150 kilometres round trip from the Okanagan freight zone boundary”.
27. The appellant argues that upon reading this letter, he became concerned that the BCMMB was unaware of his history and arranged a meeting to explain his circumstances. At the meeting of September 17, 2008, the appellant outlined his concerns and presented his chronology of dealings with the BCMMB. He pointed out before the BCMMB, as he has on this appeal, that in part his problems were compounded by the BCMMB failing to address his situation when notified in 2004 and again in 2006. He argued then, as here, that he should be “grandfathered” into the Okanagan freight zone (and pay only the provincial pooled freight rate and the \$8.00 stop charge). He also asked to be reimbursed for the difference in rates paid since his move to the new farm location in May 2006. The BCMMB considered the appellant’s request and in its decision of September 19, 2008, which is the subject of this appeal, stated:

As you are aware producers who are located outside the freight zone as detailed in the Consolidated Order are responsible for the incremental cost for the transport of their milk to the closest boundary of the next closest region. The levy is the greater of \$100.00 or \$2.30 per

Transporter route kilometers for each pick up of milk. You are located 140 kilometres round trip from the Okanagan freight zone boundary.

The Board reviewed the facts with the knowledge and understanding that you were originally a producer in the Fraser Valley and had purchased a farm in Wallhachin, BC with the intent of moving prior to zones being established in the Consolidated Order. As a result of these circumstances the Board has made a principal based decision that we believe meets your needs and still maintains the integrity of the Board orders.

It was the decision of the Board not to approve your proposed amendment to include your farm within Zone 7 boundary, but to have you pay the compensatory rate based on the closest zone boundary as negotiated with the transporter which is currently \$101.25 per occasion to your farm effective September 1, 2008.

The appellant contends that there is enough evidence of him making the BCMMB aware of his circumstances and of lax administrative practices at the BCMMB to support his contention that he is entitled to a more favourable discretionary decision on his milk hauling rates (either the grandfathered rate from 2004 or an amendment to the Okanagan zone boundary).

28. The BCMMB argues that as a public regulatory body, it can only make discretionary decisions in situations exhibiting obvious “special circumstances”. It argues that to do otherwise would compromise the integrity of its Consolidated Order. Under the category of special circumstances, it argues that it can only countenance applying discretion when either one or both of the following applies: extreme geographical proximity to freight zone or extreme temporal proximity to the date at which the freight rules were implemented. In the appellant’s case, the BCMMB acknowledged that he meets the extreme temporal proximity test and that his situation does present obvious special circumstances stating that: “he was an existing producer in B.C. and he did purchase his farm with the intention of moving his farming operation at the time of the changes in Consolidated Orders”.
29. The BCMMB has set rates for producers who chose to establish farms outside of the established freight zones. The zone boundaries, based on geographic coordinates, and the rates for shippers in remote regions are published in the Consolidated Order. Producers with farms outside established zones are required to pay the “greater of \$100.00 for each delivery of milk or cream, or \$2.30 per transporter route km for each delivery of milk or cream calculated at the distance between the producer’s dairy farm and the closest border of the next closest region”.
30. The BCMMB acknowledges that at the time the freight zones were established, there were a number of dairy farms outside zone boundaries. Areas of the province outside of zone boundaries were termed “remote regions”. The BCMMB did not feel it was appropriate to extend the boundaries to include these farms as it would make the zones too large. Instead, outlying farms were “grandfathered” into a zone and the provincial pooled freight rate was applied. The BCMMB argues however, that the appellant’s case cannot be “equated with those producers who were already dairy farming within a remote region at the time the rules were implemented, so something less than grandfathering to a zone rate is appropriate”.

31. Regarding the remedy of expansion of the Okanagan zone to include the appellant's Walhachin operation, the BCMMB argues that the appellant has misunderstood the reason why zone boundaries were redrawn. Contrary to the view of the appellant, the zone boundaries were not redrawn at the request of a producer but rather were redrawn in recognition of the fact that a regional processor, Blackwell Dairy in Kamloops, was outside the Okanagan zone. In keeping with the BCMMB's intent to include regional processors in zones, the Okanagan zone boundary was extended to include Blackwell Dairy. By doing so, the proposed Owen and Fox locations fell within the revised Okanagan zone boundary but "this was not an attempt to accommodate any 'special circumstances' advanced by Mr. Owen or Mr. Fox". The BCMMB also argues that this exercise of discretion did not compromise the integrity of the existing rules.
32. The BCMMB further argues that Mr. Owen is an example of a shipper in "extreme geographical proximity to freight zone". When Mr. Owen relocated to a site approximately 1 km outside the Okanagan zone boundary, the BCMMB argues that it was appropriate to charge him the \$2.30 per km rate for the distance he was beyond the closest zone boundary. The BCMMB argues that exercising its discretion in these special circumstances does not compromise the integrity of the existing rules.
33. The BCMMB argues that current and prospective milk shippers are obligated to stay abreast of developments in the industry. The BCMMB rejects that it had any obligation to actively keep the appellant aware of changes that may affect his plans. There may have been a hiatus in activity on this issue from 2004 to 2006, during which there was no contact with or by the appellant but there was no obligation on the BCMMB to keep the appellant aware of the changes in provincial milk hauling regulations. Rather, it was the obligation of the appellant, running a large business, to exercise due diligence and keep abreast of the changes in the regulatory climate affecting his enterprise and to consider the ramifications of any such changes on his circumstances. The BCMMB argues that the appellant's request for clarification in February 2004 was just that and it cannot be interpreted now as a request for BCMMB to exercise discretion to give the appellant special consideration.
34. Turning to the decision under appeal, BCMMB observes that the change to the appellant's hauling rate set in 2006 was precipitated by the request of a prospective producer, Andy Jacobsen in 2008 for a determination of the milk hauling rate for his proposed farm in Clinton<sup>3</sup>. Mr. Jacobsen argued that his rate should be based on his proximity to a hauling route. This was contrary to the BCMMB's Consolidated Order and Mr. Jacobsen did not receive special consideration. During the process of reviewing Mr. Jacobsen's application, the BCMMB became aware that the appellant was being charged a rate based on his proximity to a hauling route, contrary to the provisions of the Consolidated Order. The BCMMB moved to rectify that situation

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<sup>3</sup> Mr. Jacobsen subsequently filed an appeal with FIRB. The appeal was heard on December 3, 2008 and a decision was issued on February 20, 2009.

and bring the appellant's hauling rate in line with the methodology outlined in the Consolidated Order for shippers in remote locations.

35. The BCMMB points out that it was the decision to adjust the appellant's hauling rate that caused him to seek an audience with the BCMMB on September 18, 2008 and resulted in the BCMMB hearing the appellant's history in this matter and acknowledging his temporal proximity to the implementation of the zone hauling regime. Based on its assessment of the situation, the BCMMB made a discretionary decision to charge the appellant a "compensatory rate" for milk hauling of \$101.25 per pickup (in addition to the provincial pooled rate and the stop charge of \$8.00). The BCMMB notes that this is a significant reduction from the \$322.00 per pick up rate that would apply on strict application of the Consolidated Order.
36. The panel has considered the arguments of the parties on whether the BCMMB erred in exercising its discretion in granting the appellant an accommodation from the strict application of the Consolidated Order. The panel finds that the appellant has demonstrated a basis for special consideration supporting the exercise of discretion in his favour by the BCMMB. Relevant factors include the appellant's early notice of his intention to move (1998), the potentially misleading communication between the appellant and a board member, misleading verbal assurances from BCMMB staff contrary to the provisions of the Consolidated Order, the use of an incorrect basis for the hauling rate charged (based on proximity to a hauling route not zone boundary) and the almost two year hiatus in communications between the appellant and the BCMMB wherein we find the BCMMB could have done more to monitor the appellant's circumstances. It is also significant that the BCMMB does not take issue with the history presented by the appellant and concedes that there was administrative laxity. However, the BCMMB maintains that after hearing from the appellant, it has made the appropriate discretionary decision that recognizes the unique circumstances of the appellant. The BCMMB argues that its decision does not compromise the integrity of the Consolidated Order and thereby maintains certainty around this issue for existing and prospective milk shippers.
37. The panel accepts that the BCMMB has the authority to exercise discretion in making decisions regarding the application of freight rates to individual circumstances. In this particular situation, we find that it did just that. The BCMMB understood that it had discretion to give the appellant the relief sought. This is not a case where the BCMMB rigidly adhered to its policy. As this same panel noted in *Andy Jacobsen v. British Columbia Milk Marketing Board*, February 20, 2009, the BCMMB's handling of this, and other applications for "discretionary decisions on freight rates, demonstrates that the BCMMB recognized the dynamic nature of the regional freight zone system. Over time and as circumstances warranted, the BCMMB has adapted and amended its system. In future, the Milk Board will need to continue to adapt and amend the milk hauling system to reflect changes in circumstances and government policy."

38. The appellant argues however, that the discretionary decision made by the BCMMB falls short of what it should have done based on the evidence. The panel observes that any public regulatory body making a discretionary decision that is at odds with its regulations must do so on a principled basis. In this case, we find that the BCMMB had in place a set of principles or criteria that it applied to applications for freight relief by remote producers; its decision to grant relief to the appellant accorded with those principles. We also find that the BCMMB has followed a rational and principled approach to exercising its discretion. The BCMMB acknowledged the appellant's special circumstances before turning its mind to the appropriateness of the discretionary relief sought. The BCMMB also considered the impact of any discretionary decision on the existing regulatory framework and whether an exercise of discretion would negatively impact that framework from which the relief is being sought. By so doing, the BCMMB has made this discretionary decision with the intention of preserving the integrity of existing rules.
39. The panel observes that the decision made by the BCMMB in the appellant's case gives him considerable monetary relief from the full impact of the milk hauling rate methodology outlined in the Consolidated Order. We disagree with the appellant that the BCMMB erred in its exercise of discretion in the appellant's favour. Instead, we find that the BCMMB's decision recognized the appellant's special circumstances while at the same time did not compromise the integrity of the Consolidated Order. The BCMMB's reasons for giving the appellant relief are clear and fact based following an opportunity to heard.
40. Accordingly, we find no error by the BCMMB in the exercise of its discretion in this matter and as such, the appeal is dismissed.
41. There is no order as to costs.

Dated at Victoria, British Columbia this 19<sup>th</sup> day of March, 2009.

**BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD**

**Per:**

*(Original signed by)*

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Garth Green, Panel Chair, Member  
Dave Merz, Member  
Ron Bertrand, Member