

IN THE MATTER OF THE NATURAL PRODUCTS
MARKETING (BC) ACT

AND

IN THE MATTER OF AN APPEAL FROM THE BRITISH COLUMBIA MILK
MARKETING BOARD BEING FILED WITHIN THE 30-DAY STATUTORY
TIME LIMIT

BETWEEN:

ALBERNI VALLEY DAIRYMEN

APPELLANT

AND:

BRITISH COLUMBIA MILK MARKETING BOARD

RESPONDENT

DECISION

APPEARANCES:

British Columbia
Marketing Board

Mr. Doug Kitson, Chair
Ms. Christine Dendy, Vice Chair
Mr. Gurmit Brar, Member
Ms. Christine Moffat, Member
Ms. Karen Webster, Member
Mr. Jim Collins, Secretary

Appellant

Mr. Terry Shannon
Mr. Robert Collins
(via written submission only)

Respondent

Mr. Steven Stark, Counsel
(via written submission only)

Date and Place of
Hearing:

December 5, 1994
Harrison Hot Springs, British
Columbia

The matter before the British Columbia Marketing Board is whether an appeal by the Alberni Valley Dairymen from the British Columbia Milk Marketing Board was filed within the 30-day statutory time limit and if not, whether there are special circumstances sufficient to warrant an extension.

Facts

Based on the review of the written submissions, the British Columbia Marketing Board has determined the following.

1. The Appeal concerns actions of the British Columbia Milk Marketing Board which first came to the attention of the Appellants not later than February 3, 1993.
2. As parties to the separate legal action before the Supreme Court of British Columbia, the Appellants could have appealed the subsequent decision of Madam Justice Newbury to the British Columbia Court of Appeal.
3. The Appellants were notified June 28, 1994, of the British Columbia Milk Marketing Board's decision not to appeal Madam Justice Newbury's decision.
4. The British Columbia Marketing Board received notice of appeal from the Appellants on September 8, 1994.

Findings

Based on this review of the written submissions, the British Columbia Marketing Board makes the following findings.

5. That the August 16, 1994 letter of the British Columbia Milk Marketing Board merely amplified the decision communicated to the Appellants on June 28, 1994.
6. That the appeal is out-of-time.
7. That there are no special circumstances sufficient to warrant an extension of the 30-day statutory time limit.

Dated at Richmond, British Columbia, this 22nd day of
December, 1994.

Christine M. Dendy

C. Dendy, Vice Chair
for the
British Columbia Marketing Board