

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

AND

IN THE MATTER OF AN APPEAL FROM THE BRITISH COLUMBIA MILK
MARKETING BOARD CONCERNING THE REDUCTION OF MANUFACTURED
MILK QUOTA

BETWEEN:

WINNERS HOLSTEIN FARMS LTD.

APPELLANT

AND:

BRITISH COLUMBIA MILK MARKETING BOARD

RESPONDENT

DECISION

Appearances:

British Columbia
Marketing Board

Mr. Doug Kitson, Chair
Ms. Karen Webster, Member
Ms. Christine Moffat, Member
Mr. Jim Collins, Secretary

Appellant

Mr. J. Lyle MacMillan, Counsel

British Columbia Milk
Marketing Board

Mr. Arne Mykle, Chair

Date and Place of
Hearing:

March 22, 1995
Surrey, British Columbia

The matter before the British Columbia Marketing Board is an appeal by Winners Holstein Farms Ltd. from a decision of the British Columbia Milk Marketing Board, as communicated in a letter dated January 11, 1995, to reduce the Appellant's manufactured milk quota.

Facts

1. Page 2 of the British Columbia Milk Marketing Board's Consolidated Order, dated July 21, 1994, provides the following definition:

"catastrophe" includes severe illness or death of the quota holder, sudden death of a significant part of the producing herd, destruction of the production facilities by fire or flood, or severe infection of the herd by disease which requires slaughter of the heard by order of health authorities.

2. Section 7.02(d) of the British Columbia Milk Marketing Board's Consolidated Order, dated July 21, 1994, reads:

"A producer's provincial manufactured milk quota may be reinstated if, in the opinion of the Board, the failure to supply 90% of provincial manufactured milk quota was due to a catastrophe or for other reasons which the Board considers appropriate in the circumstances."

Findings

3. The British Columbia Marketing Board finds, based on the evidence presented during the hearing, that the British Columbia Milk Marketing Board's interpretation of their own Consolidated Order does not meet the intent of their Consolidated Order. That their own order defining "catastrophe" establishes broader parameters than have been considered by the British Columbia Milk Marketing Board in this case.

4. Specific to this appeal, the British Columbia Marketing Board finds, based on the evidence presented during the hearing, that the British Columbia Milk Marketing Board did not consider any factors under "catastrophe" other than "severe illness or death of the quota holder, sudden death of a significant part of the producing herd, destruction of the production facilities by fire or flood, or severe infection of the herd by disease which requires slaughter of the herd by order of health authorities."

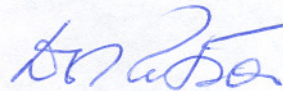
Direction

5. In accordance with section 11(8)(b) of the Natural Products Marketing (BC) Act, the British Columbia Marketing Board is hereby referring this matter back to the British Columbia Milk Marketing Board for resolution not later than April 21, 1995.

Failing such resolution, the British Columbia Marketing Board will issue an order that it considers appropriate in the circumstances.

Dated at Victoria, British Columbia, this 4th day of March, 1995.

15th APRIL



D. Kitson, Chair