

J.D. Irving Limited loses private wood appeal

Court of Appeal rules company must deal through forest marketing boards

CBC News, July 3, 2014

The New Brunswick Court of Appeal has ruled against J.D. Irving Limited and the company's practice of signing contracts directly with private woodlot owners.

A three-judge panel has ruled the company must work with the province's seven forest marketing boards.

J.D. Irving Limited must deal through the province's forest marketing boards rather than directly with private woodlot owners, the Court of Appeal has ruled. (Jacques Boissinot/Canadian Press)

The marketing boards have the authority to regulate contracts for the sale of wood from private land, the 17-page decision states.

The judges dismissed J.D. Irving Limited's allegation of the marketing boards being biased against the company, citing a lack of sufficient evidence.

JDI is still reviewing the June 26 decision, company vice-president Mary Keith said in an emailed statement to CBC News on Thursday.

"We do know that [purchasing] wood from private woodlot owners has and continues to [sustain] thousands of forest products jobs in New Brunswick," said Keith.

"In April we communicated our intention to purchase nine per cent more wood than last year. We hope the current decision will provide for fair and efficient transactions between willing buyers and sellers of wood."

Boards must update regulations

Lawyer David Young, who represented the marketing boards in the appeal, says nothing will change as a result of the decision for the time being.

The judges ruled the marketing boards must update their regulations first to create clear rules for companies to follow when signing contracts for private wood, he said.

The marketing boards, set up in the 1980s, oversee 1.7 million hectares of private forest.

JDI, New Brunswick's largest forestry company, had started bypassing the marketing boards, entering into direct sale contracts with woodlot owners.

In May 2012, JDI entered into a written "stumpage agreement" with a private woodlot owner whose land was located within the administrative boundaries of the Southern New Brunswick Forest Products Marketing Board.

The board requested the agreement be submitted for its approval and refused to approve the agreement.

That decision was appealed to the New Brunswick Forest Products Commission, which upheld the jurisdiction of the marketing boards on Oct. 28, 2013, but said the system to review and approve contracts was insufficient and lacked details.

JDI then appealed to the Court of Appeal.

The case, J.D. Irving Limited v. North Shore Forest Products Marketing Board et al., was heard on Feb. 12.

The other respondents included: the Madawaska Forest Products Marketing Board, Northumberland County Forest Products Marketing Board, Carleton-Victoria Forest Products Marketing Board, York-Sunbury-Charlotte Forest Products Marketing Board, South East New Brunswick Forest Products Marketing Board and Southern New Brunswick Forest Products Marketing Board

The three-judge panel included: J.T. Robertson, Alexandre Deschênes and Marc Richard.