

***Court of Appeal for British Columbia***

**ORAL REASONS FOR JUDGMENT:**

**Before:**

The Honourable Mr. Justice Hinkson  
The Honourable Mr. Justice ~~Finch~~ HOLLINRAKE  
The Honourable Mr. Justice Donald

October 6, 1995

Vancouver, B.C.

**BETWEEN:**

**TRANS NORTH DEVELOPMENTS LTD.**

**APPELLANT  
(PETITIONER)**

**AND:**

**MINISTER OF FORESTS**

**RESPONDENT  
(RESPONDENT)**

S. Tick and D. Byl  
T. Leadem

appearing for the Appellant  
appearing for the Respondent

- 1 HINKSON, J.A.: In 1987, the appellant applied pursuant to the provisions of the *Forest Act* and regulations for the grant of a Pulpwood Agreement described as PA 13. In support of its application, the appellant filed with the Minister a Pulpwood Agreement proposal which outlined in considerable detail the nature

and extent of the proposal being advanced on behalf of the appellant. The Minister declined to entertain that application because no deposit accompanied the application. In the Minister's view of the matter, such a deposit was necessary.

2           In those circumstances, in 1988 the appellant brought on an application before Mr. Justice Murray in Chambers pursuant to the provisions of the *Judicial Review Procedure Act* seeking a direction that the Minister consider the application on its merits. Mr. Justice Murray's decision turned on whether or not a bid deposit was required in respect of the application then before the Minister. He looked at the provisions of the *Forestry Act* and the regulations made pursuant to it, and he considered the Pulpwood Agreement proposal, and concluded that the situation was that if an expansion of a mill was not proposed, no bid deposit was required by the application to tender. On the other hand, if an expansion of a mill was contained within the proposal, then such a deposit was required.

3           Murray, J. said:

... After looking at the application closely, however, I find that it cannot be said that the Petitioner's application did not involve the expansion of a sawmill. Phase two of that application makes it abundantly clear that a sawmill is to be constructed or expanded.

He therefore concluded that the relief sought by the appellant could not be granted by him.

4           A long time has elapsed since Mr. Justice Murray disposed of this matter in that way, but today we have heard submissions on the merits of the appeal as well as submissions with respect to certain technical matters that could arise for consideration on this appeal.

5           In my opinion, Mr. Justice Murray arrived at the right conclusion on the merits. I am not persuaded that he fell into error.

6           For those reasons, I would dismiss the appeal.

HOLLINRAKE  
~~FINCH~~, J.A.:           I agree.

DONALD, J.A.:           I agree.

HINKSON, J.A.:           The appeal is dismissed.

*By*  
*Hinkson*  

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The Honourable Mr. Justice Hinkson