

Milk imports from Canada blocked

COURT RULING: Ontario farmers in violation of marketing requirements
(Watertown Daily Times, NY) By MARC HELLER

For several years, trucks have quietly rolled through the heart of New York's cow country to carry Canadian milk to U.S. dairy plants — much of it with the written approval of New York's Department of Agriculture and Markets.

But that practice is about to end, the result of a Canadian court ruling that effectively blocks the shipments.

A provincial court in Ontario ruled Feb. 13 that the handful of Canadian farmers who clung to the exports were breaking rules that dictate how milk is produced and sold in Canada, and it handed down an injunction that forces the farmers to keep their milk in the country.

The ruling does not affect much milk. Only four farmers were still shipping milk to the United States, down from more than two dozen a few years ago.

But it is a symbolic victory for New York dairy farmers who saw Canadian competitors selling milk in their own backyard, and it appears to close an embarrassment for Agriculture and Markets, which had inspected the Ontario farms and issued an import license to let the milk enter the state.

The Ontario Superior Court of Justice found that the Canadian farmers illegally broke away from the province's quota system, by which farmers' milk production is managed. The court agreed with a complaint by the province's dairy marketing board, Dairy Farmers of Ontario, that all milk produced in the province must be marketed through that organization, which a spokesman said does not ship milk into the United States and has no plans to try.

"The decision essentially means they cannot market raw milk except through us," said Bill Mitchell, a spokesman for Dairy Farmers of Ontario.

He said Dairy Farmers of Ontario ships no milk to the United States, except in rare circumstances when, for instance, plants there are shut down during a storm. In those cases, milk may move south to be processed, then exported back to Canada.

The imports put the New York Department of Agriculture and Markets into the awkward position of allowing the milk into the state at Buffalo, but complaining that milk was being imported. Officials believed that U.S. law required them to permit the imports as long as the milk was safe, and that refusing to allow it would invite a lawsuit, a spokeswoman at the department has said.

Agriculture Commissioner Patrick Hooker hailed the ruling in a press release that did not mention his department's role in allowing the imports.

"This long-awaited court decision brings hope to resolving the issue of imported Canadian milk in New York," Mr. Hooker said. "For at least five years now, there have been a number of dairy producers in Ontario who have defiantly shipped milk to the U.S. and I am pleased that the court's decision acts to put a stop to this situation."

Mr. Hooker called on the U.S. Trade Representative's Office to enforce the ruling. A spokesman for the office did not immediately return a call for comment Wednesday.

The court ruling is a result of a long-standing dairy trade dispute between the countries. In 2000, the United States and New Zealand won a complaint at the World Trade Organization that Canada subsidized its milk exports, violating world trade rules. Canada responded by creating a program that allowed farmers to contract with U.S. buyers, outside of the country's quota system.

The farmers sold their milk through the Georgian Bay Milk Co.

In 2002, the WTO's appellate body ruled that the new program broke the rules as well, and Dairy Farmers of Ontario ended it. But the farmers appealed to the Canadian government.

In 2007, Georgian Bay stopped selling milk to U.S. buyers. A handful of farmers created a new corporation called BTU36094 Group Ltd., taking over those sales. By late in the year, however, the farmers' numbers dwindled as most either went out of business or found other markets for milk.