Note to Readers of this File:

To view the attachments, set the Zoom view on the lower right hand side to 46.6%

Laura Friend
403-297-8269
Laura.friend@nrcb.ca

From: [redacted]
To: Laura Friend
Subject: Rebuttal
Date: June 6, 2024 8:59:40 AM

to address concerns raised in attached appeal letter.
1; ems capacity
attachment 1a; technical requirements pg. 21 of 21 of RA23012
attachment 1b; ems volume calculator as per page 16 of Emily Low's report, Professional Engineer at Envirowest Engineering
attachment 1c; credentials

2; Every year my husband and I soil sample all the land we farm, then meet with an advisor and discuss which areas would best benefit from the manure considering the planned crop. Then move forward with liquid manure hauling and fertilizing accordingly. (all documentation can be provided if necessary) Following AOPA's regulations for manure spreading we have video documentation as well as our "farm Journal " documenting when and where manure is applied, and worked in. Some land is cultivated; however, some is forage.
attachment 2a and b AOPA regulations.

3; "... the well located 61 meters from proposed new barn..."
attachment 3a AOPA regulation
attachment 3b addresses in 2008 permit
attachment 3c continues to be addressed in 2024 permit

4; "... water use document..."
attachment 4a and b Water license

5;"... grandfathered..." and "...set back rules..."
attachment 5a AOPA guidelines
attachment 5b AOPA guidelines

6; "...property..." also referred too on page 3 of 5 in RFR
attachment 6a Alberta's Line Fence Act for Alberta Municipalities suggesting this is a municipal issue.

Sincerely;
Everhard and Deanna Ridder
Ridder Farms Ltd

Attachment "A" - Issues

Liquid manure:

(1) There is no data that suggest the existing earthen manure pit has the capacity to hold liquid manure for 240 milking cows as well as dries and replacements. Instead a personal opinion "This type of land application is typically limited to once or twice a year, and are typically of short duration." With data, NRCB should have been able to calculate the time needed for this inconvenience. As it stands the ridders have applied liquid manure twice this year and (2) didn't work it in.

Water:

(3) Someone, or some authority established a 100 meter set back location, There is no data to support, that that authority was contacted about the well located 61 meters from a proposed new barn or that data was provided to show that the use of that well would (4) not exceed the volume permit in the water use document. Again another personal decision was listed "I felt the following..." There are professional people in the water well business that you failed to contact to support your decision.

Credibility:

→ Were not the originally permitted party

The Ridder's were permitted for 70 milking cows in 1996. In 2008 where the Ridders still abiding with that permit? Who (5) "grandfathered them and for what reason?". Was the permit being abused or infringed upon? A personal decision? That being said, why did NRCB not subjugate all the set back rules at that time? Or when they approved the earth manure storage.

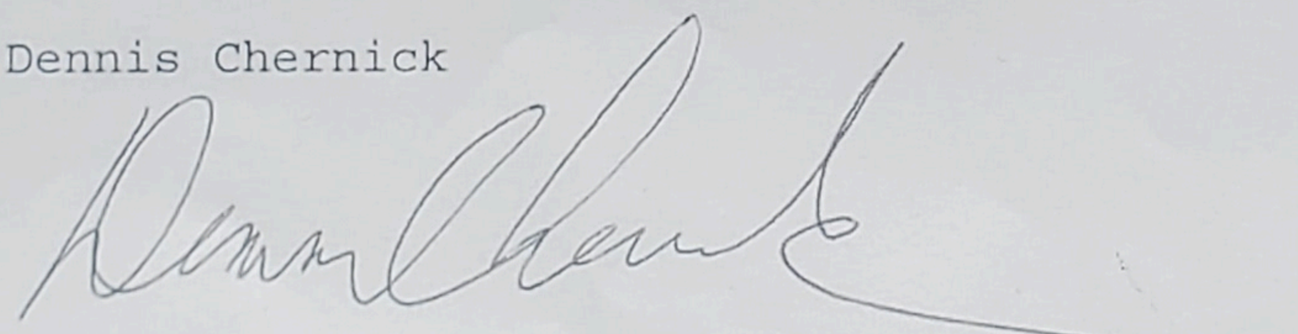
The application was submitted with aerial photos and the Ridders knowingly outline areas that where not their property. They provided false information. If an affected party had not seen this (6) infringement then NRCB would have approved the application thinking everything was OK. Instead another personal opinion and it was deemed "has been pasture land." I have never seen a black dirt pasture, it was housing livestock and cropped.

Fences are municipal

So in closing will NRCB monitor the 170 milking cow permit until the new barn is built and approved before allowing milking of an excess of 170.

Thank you

Dennis Chernick



(1a)

Part 2 — Technical Requirements

NRCB Natural Resources Conservation Board

Application under the *Agricultural Operation Practices Act* for a confined feeding operation, manure collection area and/or manure storage facility(ies)

NRCB USE ONLY **LIQUID MANURE STORAGE VOLUME CALCULATOR (if applicable)**	
Facility 1	
Name / description EMS Earthen Manure Storage	Capacity 10,852 cubic metres
Facility 2	
Name / description Barn pits (existing barn)	Capacity Type text here
Facility 3	
Name / description Barn pits (new barn)	Capacity
Facility 4	
Name / description	Capacity
TOTAL CAPACITY	more than 10,852 cubic metres
REQUIRED 9 MONTH STORAGE CAPACITY	7740 cubic metres
MEETS THE REQUIREMENTS FOR A MINIMUM OF 9 MONTHS STORAGE	☒ YES ☐ NO

16

Earthen Manure Storage Volume Calculator

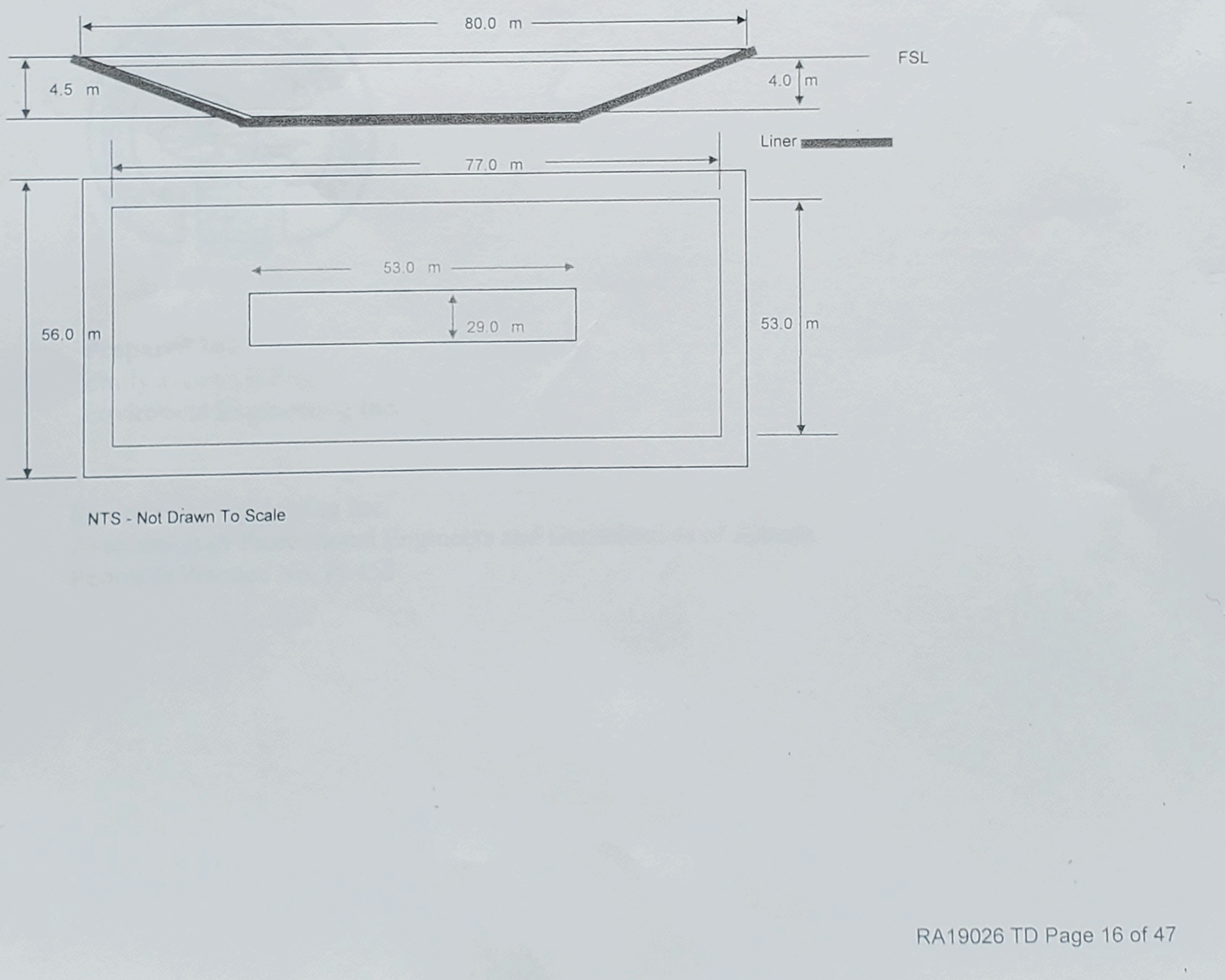
Dimensions of EMS	Metric		English Units	
Capacity of EMS			**Capacity of EMS**	
Length*	80.0	m	262.47	Feet
Width*	56.0	m	183.73	Feet
Total Depth*	4.5	m	14.76	Feet
Water Depth	4.00	m	13.12	Feet
End Slope*		run:rise	3	run:rise
Side Slope*		run:rise	3	run:rise
Length of Bottom	53.0			
Width of Bottom	29.0			
Total Capacity @ top of Bank	12,992	m^3	458,790	ft^3
			2,857,729	Imp. Gal.

* Only cells in blue can be changed.

Volume of Liquid Manure at Specified Depth			Volume at Freeboard	
Length (liquid manure level)	77.0	m	252.62	Feet
Width (liquid manure level)	53.0	m	173.88	Feet
Depth	4.5	m	14.76	Feet
Water Depth	4.00	m	13.12	Feet
End Slope	3	run:rise	3	run:rise
Side Slope	3	run:rise	3	run:rise
Total Volume@ freeboard depth	10,852	m^3	383,235	ft^3
			2,387,105	Imp. Gal.
Surface Area of Liquid Manure	4,081	m^2	43,928	ft^2

Nine Month Storage Requirement
5,483 m^3
193,613 ft^3
1,205,981 Imp. Gal.

<--- Use Sheet "1. Nine Month Storage Calc" to calculate this number



NTS - Not Drawn To Scale

(12)

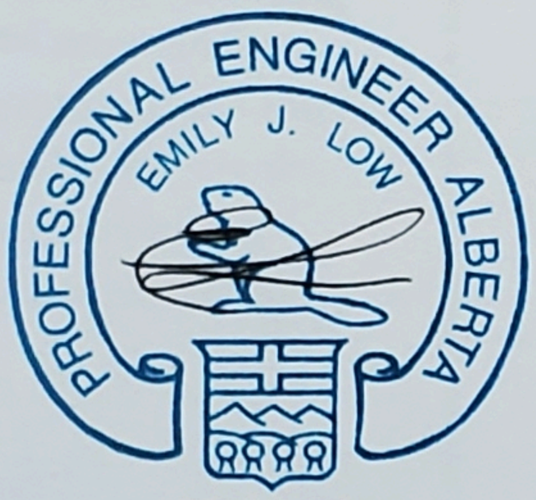
7.0 Closure

Envirowest Engineering Inc. is pleased to submit the report on the site and soil assessment to Ridder Farms. The information and conclusions contained in this report are for their sole use and such parties as may be normally involved in the approval process for such a facility. No other party is to rely upon the information contained within the report without the express written authorization of Envirowest Engineering Inc..

The review has been conducted in accordance with generally accepted environmental engineering practices. No other warranty is expressed or implied.

We trust that this report meets your present needs. Please feel free to contact the undersigned, should you have any questions or require additional information.

Respectfully submitted,



07-05-19

Prepared by:
Emily J. Low, P.Eng.
Envirowest Engineering Inc.

Envirowest Engineering Inc.
Association of Professional Engineers and Geoscientists of Alberta
Permit to Practice No. P6458

the standard

Environmental Standards for Alberta's Livestock Industry

Revised Sept 2015

Agdex 096-5

Manure Spreading Regulations

> "The purpose of AOPA is to ensure that the province's livestock industry can grow to meet the opportunities presented by local and world markets in an environmentally sustainable manner."

The *Agricultural Operation Practices Act* (AOPA) includes regulations for spreading manure or compost for all livestock operations in Alberta. The manure spreading regulations include requirements for manure incorporation, soil nitrogen and salinity limits, setback distances, record keeping and soil testing.

The term manure in this publication includes the livestock excreta, straw, other bedding material, litter, soil, wash water and feed in the manure. Composted manure has the same requirements as manure. Terms used in this publication have been simplified to make it easier to read. Complete definitions are found in Section 1 of the legislation.

For more information on the regulations, please refer to the contacts listed at the end of this publication.

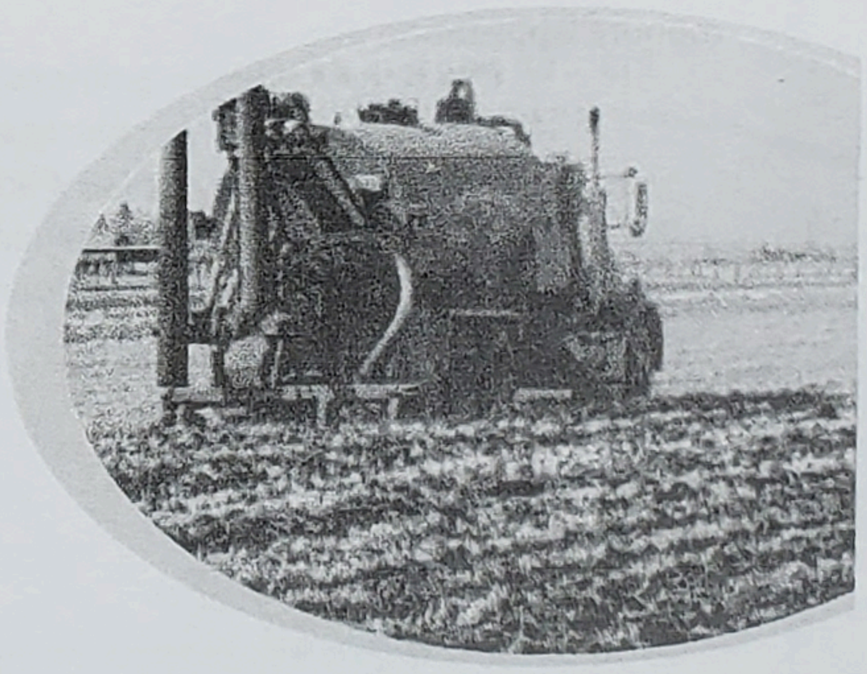
Manure incorporation requirements

Manure must be incorporated within 48 hours when applied to cultivated land (except when applied to forages or direct-seeded crops, frozen or snow-covered land or unless an operation has a permit that specifies a different incorporation requirement). Additional requirements related to manure incorporation are outlined in the sections on setback distances in this publication.

Soil nitrogen and salinity limits

The regulation sets soil nitrate-nitrogen and salinity limits. It should be noted that these limits can only be exceeded if a producer has a nutrient management plan that has been approved by the Natural Resources Conservation Board (NRCB).

To ensure the salts in manure do not affect plant growth, the regulations specify that manure must not be applied to soils that have an electrical conductivity (salinity) greater than 4 deciSiemen per metre (dS/m) from the top 0 to 15 cm of the soil. Manure should not be applied at levels that may increase the soil salinity (after manure is applied) by more than 1 dS/m from a soil depth of 0 to 15 cm.



Alberta Government

NRCB

Natural Resources Conservation Board

(26)

Manure spreading regulations

Manure Incorporation

The Standards and Administration Regulation (SAR) under the Agricultural Operation Practices Act (AOPA) includes requirements for spreading manure and compost for all agricultural operations in Alberta. The Natural Resources Conservation Board (NRCB) is responsible for ensuring compliance with manure spreading regulations, which include requirements for manure incorporation, soil testing, setback distances, and record keeping. This factsheet is supplemental to the Manure Spreading Regulations Factsheet, Agdex 096-5.

Update to the 48-hour manure incorporation requirement

Under the SAR, when manure is applied to land, it must be incorporated within 48 hours unless:

- Applying manure to forages or direct-seeded crops,
- Applying on frozen or snow-covered land, or
- An operation has a permit that specifies a different incorporation requirement.

> "A person must apply manure, composting materials or compost only to arable land and, subject to subsections (5) to (7), if applied to cultivated land, the manure, composting materials or compost must be incorporated within 48 hours of the time when manure is first applied, unless to do so would be impracticable." (SAR, s.24(1))

The regulation was amended in December 2020 to clarify that the 48-hour manure incorporation clock starts when the manure is first applied, unless that incorporation "would be impracticable." This is meant to cover uncontrollable circumstances preventing incorporation, such as unforeseen inclement weather or equipment breakdowns.

Impracticability depends a great deal on the facts, but it generally means something that is impossible or that cannot be done without great difficulty or expense. This is different than "impractical", which is something that is unwise to practice.

> **"Impracticable"** – means something has become impossible in practice; so difficult or expensive, it would be absurd to expect somebody to meet the requirement. It does not apply to regular fluctuations in prices, costs, or the difficulty of a task, unless very extreme.

The "impracticable" standard still requires a person to explore every reasonable way to incorporate manure within 48 hours, and can require going above and beyond what would be normal or cost effective. An "impracticable" circumstance is an extraordinary one like extreme weather, or when expensive essential equipment breaks down. For example, when a tractor pulling an incorporation tool breaks down, it would be impracticable to buy a new tractor rather than wait until the broken tractor can be fixed or try to make temporary arrangements for another tractor.

Each decision regarding whether incorporating manure is impracticable will be made on a case-by-case basis by the NRCB. If a person cannot incorporate within 48 hours when manure is first applied, they should contact the NRCB.

www.alberta.ca/manure-management-guidelines-and-legislation

Alberta

barn, the floor of a feedlot pen and a catch basin where manure collects. It does not include the floor of a livestock corral. (Act, Section 1).

Setbacks

Common Body of Water - Manure storage facilities or manure collection areas must be constructed at least 30 metres from a common body of water. This does not apply if the owner or operator demonstrates to the NRCB, prior to construction, that either:

- The natural drainage• from the facility or area is away from the common body of water, or
- A berm or other secondary protection for the common body of water constructed by the owner or operator protects the common body of water from contamination (Standards and Administration Regulation, Section 7).

Flooded Areas - A manure storage facility or manure collection area must not be in an area that floods.

- The 1:25 year maximum flood level at a manure storage facility or manure collection area must not be less than one metre below any part of the facility where run-on can come into contact with the stored manure. •
- If the 1:25 year maximum flood level cannot be determined, the manure storage facility or manure collection area must be not less than one metre below any part of the facility where run-on from the highest known flood level can come into contact with the stored manure (Standards and Administration Regulation, Section 8).

Natural Water and Wells - Manure storage facilities and manure collection areas must be constructed at least 100 metres away from a spring or water well. This does not apply if the owner or operator:

3a

- Demonstrates to the NRCB, prior to construction, that an aquifer from which the spring rises, or into which the water well is drilled, is not likely to be contaminated by the facility, and
- Implements a groundwater monitoring program if required by the NRCB (Standards and Administration Regulation, Section 7).

Groundwater Resource Protection

AOPA addresses groundwater resource protection for all manure storage facilities and manure collection areas (for both solid and liquid manure). These structures must have either a protective layer or liner that lies below the bottom of the facility and above the uppermost groundwater resource of the site and also meets regulatory requirements (Standards and Administration Regulation, Section 9).

Protective Layers - These are one or more layers of naturally occurring materials that individually or in aggregate restrict the migration of the contents of the manure storage facility or the manure collection area. The base of the protective layer must be 1 metre or more above the top of the groundwater resource.

A protective layer for a manure storage facility and a manure collection area must provide equal or greater protection than that provided by naturally occurring materials:

NRCB | Natural Resources Conservation Board

new barn extension, concrete compressive strength, method of sulphate protection, reinforcing size and spacing and method of sealing joints and extrusions in areas that contain manure.

2. Construction Completion
   a. Construction of the manure storage portions of the new barn extension must be completed prior to January 31, 2011 unless otherwise agreed upon by the NRCB.
   b. The manure storage portions of the new barn extension must be inspected by NRCB personnel prior to animals or manure being placed in the new barn.

Operating Conditions

3. Water Well Testing Reporting
   a. Drinking water quality tests for chlorides and nitrates must be conducted annually on the water well(s) within 100 metres of the confined feeding operation with the results submitted annually to the NRCB by June 1, beginning in 2009.

This Authorization becomes effective immediately. The Authorization conditions will remain in effect unless amended by the NRCB.

May 1, 2008

(original signed by)

Sandi Roberts, P.Eng.
Approval Officer

3c

NRCB | Natural Resources Conservation Board

Natural Resources Conservation Board
303, 4920 51 Street
Red Deer, AB T4N 6K8

Regarding Approval RA23012
NE-23-43-26-W4M

Water Well Monitoring Requirements

The purpose of this statement is to outline the water well monitoring requirements in Approval RA23012. Operating Condition 7 of Approval RA23012 reads:

> *"The permit holder shall sample and test raw groundwater from water well #86874, according to water well monitoring requirements prescribed by the NRCB in writing. The NRCB may, based on the monitoring results and at its discretion, revise those requirements from time to time, in writing."*

Based on the risk screening results, and to reflect the NRCB's current monitoring practices, the NRCB has determined that the water well monitoring requirements for this facility should be amended as follows:

Monitoring Frequency
Annually, with results submitted to the NRCB by June 1 of each year

Water Well Test Parameters
Chlorides and nitrate-nitrogen

Water Wells to be used for Monitoring
86874

These monitoring requirements become effective on the date of this letter and supersede any previously issued monitoring requirements at this CFO.

May 14, 2024

L Stone

Lynn Stone
Approval Officer

(Ag)

Alberta Environment and Parks

Operations
Regulatory Approvals Centre
5th Floor, South Petroleum Plaza
9915 – 108 Street
Edmonton, Alberta T5K 2G8
Canada
Telephone: 780)643-1675
Fax: 780 422-0154
www.aep.alberta.ca

File: 00073505

September 20, 2019

Everhard Ridder
Ridder Farms Ltd.
RR 4 SITE 1 BOX 11
PONOKA AB T4J 1R4

Dear Mr. Ridder:

RE: Amendment to a Licence under the *Water Act*
For the Purpose of Agricultural (Confined Feeding Operation_
at NE 23-043-26-W4

Enclosed is Amendment No. 00249992-00-01 showing change of ownership of Licence 00249992-00-00 from Berend Rider & Marrigje Ridder to Ridder Farms Ltd. (the Licensee).

A copy of the Licence is attached. Please retain the Amendment with your Licence.

Licensee must notify Environment and Parks in writing should there be a change in the ownership of the land to which this Licence is attached, or an increase in water use.

If you have any questions, please contact Laura Partridge at 403-340-7113.

Sincerely,

Cheryl Tweten
Water Applications Coordinator
Regulatory Approvals Centre

Enclosure

cc. Laura Partridge, Red Deer-North Saskatchewan Region, Red DeerOffice

4b

Alberta Government

LICENCE AMENDMENT

PURSUANT TO THE PROVISIONS OF THE *WATER ACT*

LICENCE No. 00249992-00-00

FILE No. 00073505

PRIORITY No. 2008-08-15-002

AMENDMENT No. 00249992-00-01

LICENSEE: Ridder Farms Ltd.

The Licence is amended as follows:

1. Change the Licensee from Berand Ridder & Marrigje Ridder to Ridder Farms Ltd. (the Licensee).

Designated Director under the Act
Todd Aasen, P.Eng.

September 16, 2019
Dated

Scenario 2: The municipality dropped or waived its permitting requirement for CFO expansions or modifications that were made *after* the CFO was originally permitted.

Scenario 3: The CFO owner constructed new facilities or added livestock numbers beyond those authorized by the owner's municipal permit, in violation of the municipality's permitting requirements. However, in the NRCB's experience, municipal enforcement of these permit requirements varied widely. In many instances, the municipality did not appear to have vigorously enforced its permit requirement when such construction or expansion occurred.

Scenario 4: The CFO didn't expand its facilities after receiving its municipal permit but, as of January 1, 2002, its municipally-permitted facilities were physically capable of confining more livestock than the total number allowed by its permit. In some instances, these CFOs were actually confining and feeding more livestock than their permitted number on January 1, 2002. In other instances, CFOs had stayed below their permitted maximum of livestock, but are now requesting a deemed capacity based on their physical capacity.

3. Fairness considerations in determining deemed capacity

Field services staff will apply the "physical capacity method" in sub-section 18.1(2)(a) of AOPA to establish the deemed capacity of any grandfathered CFO whose physical capacity on January 1, 2002 was greater than its permitted capacity. The reasons for this approach are explained below.

3.1 No permit was required for the CFO expansion

Under a plain reading of sub-section 18.1(2)(b), if a grandfathered CFO had a municipal permit with a cap on the CFO's capacity, the cap should be the CFO's deemed capacity. In other words, the "permitted capacity rule" should apply.

Applying the permitted capacity rule makes sense for a CFO that was originally permitted by a municipality, and then later expanded under a new municipal permit. However, it would be unfair to the CFO owner, and absurd, to apply the permitted capacity rule as directed in AOPA if the municipality did not require a permit for the expansion. (This is the second scenario discussed above.)

When interpreting legislation, courts generally presume that legislatures do not intend to produce "absurd" results.[4] For this reason, the NRCB believes that the legislature did not intend the permitted capacity method in sub-section 18.1(2)(b) to apply to CFOs in this scenario. The physical capacity method in sub-section 18.1(2)(a) provides a much fairer and more logical result for this scenario.

3.2 A permit was required for the CFO expansion

From the NRCB's experience, in practice, many municipalities did not require permits for CFO expansions, even when their permitting requirement was still officially in effect. This approach led some CFO owners to believe that it was unnecessary to apply for a permit to expand beyond their original permitted capacity. In addition, since AOPA came into effect on January 1, 2002, municipalities have rarely expressed any concerns to the NRCB about unauthorized CFO expansions before that date. In these circumstances, it would be unfair to use the permitted capacity rule in sub-section 18.1(2)(b) to determine the CFO's deemed capacity.

4. E.g. R.V. Thinktank Advertising & Design Inc., 2012 ABCA 48 (CanLII) at para. 22 (noting this presumption as a "'well established principle of statutory interpretation....") (citing Rizzo & Rizzo Shoes Ltd. (Re), [1998] 1 SCR 27 at para. 27).

AOPA

Technology Factor is the effect a manure storage or handling system will have on reducing the odour nuisance level. It allows applicants who choose to use odour mitigating technology in their operation to request an adjustment of the MDS requirement accordingly. Operators wanting to benefit from this are required to provide, to the satisfaction of the Approval Officer, information that substantiates the use of a different technology factor.

Dispersion Factor allows for a variance to the MDS, based on unique climatic and topographic influences at the site that can influence odour dispersion and can include:

- Topography. The effect of topographical features, such as hills and valleys, on air dispersion.
- Screening. The effect of natural or constructed screening, such as windbreaks, trees, fences or screens, on air dispersion from the manure storage facility.
- Microclimate. Meteorological data may show a significant alteration in odour intensity or frequency in relation to neighbouring land use. Some of these factors include temperature, humidity, predominant wind direction and intensity.

Expansion Factor is only applicable to operations that are increasing the size of the facility to store more manure or to accommodate more livestock. This factor may only be applied if three or more years have passed since the completion of the most recent approved construction. The expansion factor to be used is 0.77. This allows the CFO to double the number of animals at the site while retaining the MDS it had before.

Who is Considered an Affected Party?

An "affected party" must be notified when an application for an approval or registration for a CFO is received by the NRCB. Affected parties can provide comments on a new or expanding operation's application. Affected parties include:

- The applicant.
- A person who resides on or owns land that is within the greater of 0.8 kilometres or the MDS of a registration-sized operation.
- A person or municipality that is entitled, under the *Water Act*, to divert water from the river, stream or canal within 16 kilometres downstream, as measured along the water course, if any part of the CFO facility is located or is to be located within 100 metres of the bank of a river, stream or canal.
- A person or municipality who resides on or owns land that is within the following distances from the boundary of a parcel of land on which an approval-sized CFO is located or is to be located:

Table 2 – Affected Party Notification Reference

Distance of affected party from the boundary of the land on which the CFO is or is to be located.	**Total proposed animal units**
0.8 kilometres (0.5 mile)	500 or fewer
1.6 kilometres (1 mile)	501-1,000
2.4 kilometres (1.5 miles)	1,001-5,000

CASUAL LEGAL: GOOD FENCES MAKE GOOD NEIGHBOURS

← News

municipal

By Jessica Fleming
Reynolds Mirth Richards Farmer LLP
Alberta Municipalities Casual Legal Service Provider

Alberta's ***Line Fence Act*** sets out rules and obligations that apply when a fence is erected for the purposes of keeping livestock belonging to one party from entering the adjoining land of another.

In essence, the Act sets out that when a fence is put in place to prevent the movement of livestock onto the property of one's neighbour, the adjoining landowners bear the cost of building and maintaining the fence equally. Where one property owner builds the fence, as soon as its neighbour receives the benefit of the fence, that neighbour's monetary obligations with respect to building and maintaining the fence become due.

In the event that adjoining land owners disagree with respect to the quality of the fence, the proportion of its value to be born by a landowner, the expenses incurred for maintaining the fence, the proper location of the fence, the obligations incurred regarding its repair or the amount of compensation due from one party to the other with respect to costs of repair, the parties must each appoint an arbitrator, who will proceed to deal with the dispute in accordance with Alberta's Arbitration Act. If one party fails to appoint an arbitrator, the other may apply to a justice of the peace, who will appoint an arbitrator for the person who has failed to do so. If the arbitrators are unable to agree, they will appoint an umpire to make a final determination.

It is important to note that the Line Fences Act only applies to fencing situations where livestock is involved. And while the Act sets out rules governing the erection and maintenance of fences, it does not impose a positive obligation to do so. Moreover, the Line Fences Act operates separate and apart from any common law rules regarding liability in trespass, etc. that can be incurred where livestock wanders outside its owner's property.

To access Alberta Municipalities Casual Legal Helpline, Alberta Municipalities members can call toll-free to 1-800-661-7673 or send an **email** and reach the municipal legal experts at Reynolds Mirth Richards and Farmer LLP. For more information on the Casual Legal Service, please send an **email** or call 310-MUNI (6864) to speak to Alberta Municipalities Risk Management staff. Any Regular or Associate member of Alberta Municipalities can access the Casual Legal Service.

DISCLAIMER: This article is meant to provide information only and is not intended to provide legal advice. You should seek the advice of legal counsel to address your specific set of circumstances. Although every effort has been made to provide current and accurate information, changes to the law may cause the information in this article to be outdated.

Feb 24
2022