

Compliance Directive

AGRICULTURAL OPERATION PRACTICES ACT, RSA 2000, c A-7

Directive #: CD 20-02

Date issued: June 9, 2020

Issued by: Denny Puszkur, Inspector
Compliance and Enforcement Division
Natural Resources Conservation Board (NRCB), Lethbridge Office

Issued to: Van Driel Farms Ltd.
Manager: Pieter Van Driel
Box 2664
Fort Macleod, Alberta T0L0Z0

Attention: Pieter Van Driel

This directive relates to the unauthorized construction of confined feeding operation (CFO) pens and a catch basin at Van Driel Farms Ltd. without a permit under the *Agricultural Operation Practices Act (AOPA)*. The facility is located at NE-22-008-25-W4M, in the Municipal District (MD) of Willow Creek, in the Province of Alberta, approximately 10 kilometres southeast of Fort Macleod. The facility is operated under the name Van Driel Farms Ltd., which is owned and managed by Pieter Van Driel.

The CFO was originally permitted by the MD of Willow Creek in 1989 (43-89) as a dairy farm. Since then the operation has received several NRCB permits with the most recent being in 2012 (LA12014) to operate a 107 milking cow dairy along with 1,746 dairy calves in feedlot type facilities. The newly constructed pens and catch basin are not covered in any of the permits issued and therefore are considered unauthorized construction.

Background

On May 22, 2020 the NRCB received a complaint regarding the possible unauthorized construction of additional CFO feedlot pens at the site. Of specific concern was that Van Driel Farms Ltd. had illegally expanded without a permit or prior consent from the NRCB.

A site inspection and phone call with Mr. Pieter Van Driel on May 22, 2020 confirmed that Van Driel Farms Ltd. had built and populated four pens and constructed a catch basin without receiving a permit the NRCB. Mr. Van Driel understood an NRCB permit was required for the additional facilities prior to construction.

Unauthorized Construction

Section 13 of AOPA prohibits a person from constructing or expanding a CFO that requires a permit under the regulations unless they hold a permit.

Section 14 of AOPA prohibits any person from commencing construction (or expansion or modification) of a manure storage facility (MSF) or manure collection area (MCA), for which an authorization is required pursuant to the regulations under the Act. Section 4(2) of the Agricultural Operations, Part 2 Matters Regulation, in turn, states that an “authorization” is required to commence construction, expansion or modification of an MSF or MCA that is part of a CFO, unless the CFO owner already holds a permit for that MSF or MCA.

The construction of the four feedlot pens and the catch basin is a violation of section 14 of AOPA. Furthermore, if the additional pens also allowed for an increase in the animal numbers beyond those permitted NRCB approval LA12014 then a violation of section 13 of AOPA also exists.

AOPA’s permit requirements are intended to reduce the potential for groundwater contamination and surface water runoff, and to lessen the nuisance impacts of CFOs on neighbours. Without a permit, the regulatory objects in AOPA may be compromised.

Under Section 39(1) of AOPA, the NRCB may issue an enforcement order to a person if, in the NRCB's opinion, the person is, among other things, contravening the act or its regulations. This is the first enforcement action at this site and following the NRCB Compliance and Enforcement Policy, a compliance directive is being issued at this time rather than an enforcement order.

Accordingly, this directive is to remedy the violations noted above and to mitigate any possible risks to the environment and potential nuisances to any affected neighbours.

An inspection on June 2, 2020 confirmed that a soils investigation was conducted by Amec Foster Wheeler Environment and Infrastructure on the site. It concluded that the naturally occurring materials at the site satisfy the requirements under AOPA. While this does not constitute a permit, it does provide the NRCB assurance that the environmental risk is likely minimal enough to allow the continued use of the catch basin until the operator is able to obtain an AOPA permit.

If a permit cannot be obtained for the unauthorized pens and existing catch basin, they must be decommissioned.

DIRECTIVE:

For the reasons provided above, Van Driel Farms Ltd. shall take all necessary and appropriate measures to comply with AOPA and its regulations. In particular, Van Driel Farms Ltd. shall:

1. By June 15, 2020, cease to operate the four unauthorized pens for the confined feeding of livestock. This includes the removal of all animals and manure.

2. Before Van Driel Farms Ltd. uses the four pens to confine livestock, they must first obtain an AOPA permit from the NRCB.
3. If an AOPA permit is not received for the unauthorized pens and catch basin, they must be decommissioned according to NRCB policy by November 1, 2020.

All actions required above shall be in compliance with AOPA and its implementing regulations, and shall not violate any other law. These requirements remain in effect until otherwise directed by the NRCB in writing.

If Van Driel Farms Ltd. fails to comply with this directive, the NRCB may take additional enforcement action.



Denny Puszkar
Inspector, Compliance and Enforcement Division
Natural Resources Conservation Board

Cc: Cindy Chisholm, Municipal District of Willow Creek