

Compliance Directive

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

Directive #: CD 20-03

Date issued: June 10, 2020

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

Issued to: Schapansky Farms Ltd.
Manager: Dave Schapansky
83069 Range Road 204
Lethbridge County, Alberta T1J 5N7

Attention: Dave Schapansky

This directive relates to non-compliance at a livestock site that operated as a seasonal feeding and bedding site. The operation is located at NW-21-008-20-W4M, in Lethbridge County, in the Province of Alberta approximately 8 kilometres east of the City of Lethbridge. The facility is operated under the name Schapansky Farms Ltd., which is owned and managed by Dave Schapansky.

Background

On November 7, 2019 the NRCB received a complaint regarding the possible unauthorized construction of a confined feeding operation (CFO) feedlot at your facility. Of specific concern was that Schapansky Farms Ltd. had illegally expanded without a permit from the NRCB.

A site inspection on November 7, 2019 confirmed that Schapansky Farms Ltd. has been seasonally feeding cattle for many years. The cattle are typically fed from November to March and consist of some of their own animals as well as some custom feeding.

A follow-up inspection on December 10, 2019 confirmed that Schapansky Farms Ltd. was feeding approximately 800 head of beef feeder cattle. Approximately 200 head are owned by Schapansky Farms, 600 head are custom fed cattle. The cattle arrive between mid-October and mid-November and typically leave in March.

There are two distinct pen areas that are subject to this directive: the north pens and the southeast pens. See attached aerial image. According to the operator and confirmed by Google aerial imagery, roughly the north half of the north block of pens as well as the entire southeast block of pens were built sometime in 2018. A permit was not received for this construction.

Unauthorized Construction

The *Agricultural Operation Practices Act* (“AOPA”) at section 13 prohibits a person from constructing a CFO that requires a permit under the regulations unless they hold a permit. The definition of “confined feeding operation” under AOPA expressly excludes a “seasonal feeding and bedding site,” which in turn is defined as “an over-wintering site where livestock are fed and watered.”

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.

In order to clarify the functional distinction between CFOs and seasonal feeding and bedding sites (SFBSs), the NRCB developed operational policy “Distinguishing Between Confined Feeding Operations and Seasonal Feeding and Bedding Sites (For Cattle Operations)” (most recently revised July 5, 2018).

After reviewing the July 5, 2018, NRCB policy and the characteristics listed in Table 2, I have determined that several aspects of the Schapansky operation are specifically inconsistent with the concept of a SFBS.

1. Bedding site: the bedding sites are permanent as opposed to being moved within or across years
2. Feeding area: during the winter of 2019 / 2020 the facility utilized a fence-line feeding system area, as opposed to 360 degree access feeding system required in Table 2.
3. Manure Management: the manure is concentrated in the pens and must be removed and spread or stockpiled.
4. Density of confinement: The total pen area of both the north and southeast pens is approximately 2.75 acres. The number of animals is approximately 800. This equates to 291 animals per acre. This is significantly higher than <100 animals per acre, which would be indicative of a SFBS.
5. Infrastructure: the facility currently has, and did have during the same time period listed above, permanent wood slat fence forming a significant portion of boundary of the facility. Concrete feeding bunks are also present. This contradicts little or no permanent infrastructure required in Table 2 for a SFBS.

6. Vegetation: both pen areas do not contain any vegetation as opposed to being pasture or annually cropped.

As such, Schapansky Farms Ltd. is considered to have constructed a confined feeding operation without receiving a permit from the NRCB. If Schapansky Farms Ltd. changes the operation and management of the facility so that it is consistent with the concept of a SFBS under the policy, and is truly a “seasonal feeding and bedding site” under AOPA, then the facility will not require a permit. If the facility is operated, in fact, as a CFO, then Schapansky Farms Ltd. must hold a permit in order to avoid contravening section 13 of AOPA.

DIRECTIVE:

For the reasons provided above, Schapansky Farms Ltd. shall take all necessary and appropriate measures to comply with AOPA and its regulations with respect to the NRCB July 5, 2018 policy for Distinguishing Between Confined Feeding Operations and Seasonal Feeding and Bedding Sites (For Cattle Operations). In particular, Schapansky Farms Ltd. shall:

1. Immediately cease to operate the north pens and the southeast pens at the existing location unless the NRCB confirms in writing that the pens are not being operated as a CFO.
2. If Schapansky Farms Ltd. chooses to operate a SFBS in the same areas at any time, inform the NRCB of their intent and not place any cattle in that area until written permission from the NRCB has been obtained.
3. If Schapansky Farms Ltd chooses to operate the same areas as a CFO according to AOPA, they must obtain an appropriate permit from the NRCB before cattle or manure are placed there.

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



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

Cc: County of Lethbridge

Encl: NRCB Operational Policy 2015-2: Distinguishing Between Confined Feeding Operations and Seasonal Feeding and Bedding Sites (For Cattle Operations)

Aerial Image

