

Emergency Order No. EM 20-03

EMERGENCY ORDER

*Made under section 42.1 of the
Agricultural Operation Practices Act, RSA 2000, c A-7 (AOPA)*

Date Issued: July 3, 2020

Issued by: Kevin Seward, Inspector, Compliance Division
Natural Resources Conservation Board (NRCB), Lethbridge

Issued to: Hutterian Brethren of Thompson, George Tschetter, and Marvin Tschetter
Box 160, Fort Macleod, Alberta, T0L 0Z0

This is an Emergency Order with respect to a confined feeding operation (CFO) and related agricultural facilities and operations located on the North Half of Section 34, Township 05, Range 27, West of the 4th Meridian, in the County of Willow Creek, in the Province of Alberta.

In the early morning of July 1, 2020, I received a phone call from George Tschetter, the boss of the Hutterian Brethren of Thompson. Mr. Tschetter indicated that the catch basins at their feedlot were full and currently “seeping over” and eventually flowing into the Waterton River via Scotts Coulee Creek. Mr. Tschetter stated they had received five inches of rainfall over the last couple days. I directed Mr. Tschetter to do what they can to control any runoff from flowing out of the catch basins, including placing straw bales and a berm along the edge where it is seeping. I also stated they must not in any way assist the overflow of the catch basins. Mr. Tschetter stated he understood and agreed.

In the later afternoon of July 1, 2020, I inspected the feedlot site and associated catch basins under authority of section 30 of the Agricultural Operation Practices Act. As I approached the feedlot site I observed a large amount of dark liquid flowing in the county ditch and down into Scotts Coulee. When I arrived at the feedlot catch basins, I could see a significant amount of runoff flowing from the east end and out of the east catch basin. This runoff was then subsequently flowing north east into the county ditch and into Scotts Coulee Creek. Upon further inspection I did observe a lot of tractor type tracks around the east end of the catch basin and a trench that was cut through the catch basin berm. The trench was approximately two feet wide, 2-3 feet deep and about six feet long. The catch basin contents were flowing out of the catch basin via this trench, with the trench being at least half full of running flow.

I then continued west along the north side of the feedlot, between the feedlot pens and the catch basins. At the furthest west catch basin I observed another trench, cut in the east side of the west catch basin berm, and a significant amount of tractor tracks. This trench was about 3-4 feet wide, 4-5 feet deep and about 25 feet long. Catch basin contents were flowing from the west catch basin into the east catch basin via this trench. At the time the trench was half full of flowing catch basin contents.

I followed the liquid flowing from the east catch basin trench (which was dark and smelly) east for approximately 0.5 kilometers parallel to highway 507. At Scotts Coulee Creek I could see that the catch basin contents were entering the flowing creek about 30 feet south of highway 507. From there Scotts Coulee Creek and the catch basin contents flowed approximately 2 kilometers before entering the Waterton River. I took samples of the catch basin runoff flow just prior to it entering the Scotts Coulee Creek flow. I submitted those samples in the morning of July 2, 2020 to Down to Earth Lab in Lethbridge, Alberta for testing for E-coli, total coliforms, ammonia-N, total phosphorus, nitrates and other routine water parameters.

I contacted both Marvin Tschetter, the manager of the feedlot, and George Tschetter at this time and explained the situation. George was unaware that the trenches had been cut. He advised he was not currently on site and was travelling home from Saskatchewan. Marvin met me at the feedlot site and I explained that they cannot cut trenches to drain the catch basins into the river. Marvin did not think it was an issue as the catch basins were starting to overflow anyways and that it was backing up into the feedlot pens and possibly affecting the cattle. I explained that he must not assist the overflow and should have taken extra measures to control any overflow. Marvin understood and stated he would fill in both trenches. I remained on site and supervised the filling of the east catch basin trench. Marvin then proceeded to also fill in the west catch basin trench. Once the east trench was filled in all flow from the catch basins ceased.

It is my opinion that there was a release of manure into the environment. It is also my opinion that the overflow of the catch basins were extremely intensified from the cutting of the two trenches through the catch basin berms. The catch basins are designed to capture any manure runoff from the feedlot pens. Part of this design is to allow the catch basin contents to back up into the feedlot pens themselves when they reach full capacity, thereby providing additional volume for the runoff. By cutting a trench in to the catch basin berms this relinquished any ability to backup into the pens. This resulted in more catch basin runoff flowing into the creek than would have happened had the catch basin contents just backed up into the feedlot pens.

This deliberate intensified release of manure into the environment posed an “immediate and significant risk to the environment” because it did flow into and potentially contaminate a surface water course and a common body of water. The only mitigating fact is that currently both Scotts Coulee Creek and the Waterton River are currently experiencing extremely high flows also as a result of the large rainfall amounts.

For these reasons, and under section 42.1 of the Agricultural Operation Practices Act, I consider that the following emergency measures are necessary, and you are hereby ordered to:

1. Take immediate action to temporarily repair the berms on both catch basins where the trenches were excavated.
2. A professional engineer must sign off and provide a report that the excavated trenches and surrounding areas are back filled and properly compacted to ensure the original integrity of the berms are restored.
3. Item #2 above must be completed and the report provided to the NRCB as soon as conditions allow, but no later than July 20, 2020.
4. If any future overflow is occurring or is imminent, immediately contact the NRCB. This is also a condition in the Hutterian Brethren of Thompson's NRCB Approval LA17056.

Any deadlines noted above may be extended or modified by the NRCB if agreed to by the NRCB in writing.

Please note that, under section 43 of AOPA, all persons named in an emergency order are jointly responsible for carrying out the terms of the order.

CONSEQUENCES OF NON-COMPLIANCE

Under section 42.2 of AOPA:

1. If the person to whom an emergency order is issued fails to comply with the emergency order the Board may take whatever action the Board considers necessary to carry out the terms of the emergency order;
2. Costs incurred by the Board under this section are recoverable by the Government in an action in debt against the person(s) to whom the emergency order was issued.

INSPECTOR:

Kevin Seward
Kevin Seward
Inspector, Compliance Division
Natural Resources Conservation Board

Date: July 3, 2020