

Compliance Directive

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

Directive #: CD 22-03

Date issued: August 4, 2022

Issued by: David Smejkal, Inspector
Compliance and Enforcement Division
Natural Resources Conservation Board (NRCB), Red Deer Office

Issued to: 1160132 Alberta Ltd. and Samson Tribal Enterprises Ltd. (owners) and
Cor Koelman (manager)
Box 218
Maskwacis, Alberta T0C 1N0

Attention: 1160132 Alberta Ltd., Samson Tribal Enterprises Ltd. and Cor Koelman

This directive relates to the unauthorized expansion of the Samson Tribal Enterprises Ltd. confined feeding operation (CFO). Specifically, the southern pens were decommissioned in 2009 and the recent use of the decommissioned southern pens has been done without a permit under the Agricultural Operation Practices Act (AOPA). The CFO facility is located at the NE 12-044-26 W4M, in Ponoka County, in the Province of Alberta, just off Highway 2, approximately 8 kilometres northwest of the town of Menaik. The facility is owned by 1160132 Alberta Ltd., and Samson Tribal Enterprises Ltd. is a 100 percent shareholder of 1160132 Alberta Ltd. (Samson). This operation has operated under the name Samson Tribal Enterprises Ltd. (“Samson”) since 2005. The CFO is managed, operated and leased by Mr. Cor Koelman.

The NRCB has no records on file that indicate the facility had been issued an NRCB permit for the use of the southern pens since they were decommissioned (animals, manure removed and not used anymore) in 2009 (as part of NRCB Enforcement Order 05-02). The southern pens can be seen in Appendix A. Therefore, the NRCB finds that the use of the southern pens at the NE 12-044-26 W4M feedlot for confined feeding purposes has been and is unauthorized for being an expansion of a CFO without a permit under section 13 of AOPA. Further, using the southern pens for confined feeding is in non-compliance with a document that Samson submitted to the NRCB (in 2006) in order to reduce the risk to the environment.

The NRCB has worked closely with Samson to mitigate environmental concerns with regards to the feedlot located at NE 01-044-26 W4M (south feedlot) and the northern pens of the NE 12-044-26 W4M feedlot (north feedlot). For the purposes of this Compliance Directive, only the use of the southern pens located at the NE 12-044-26 W4M is in question, therefore only these feedlot pens will be covered in this Compliance Directive.

Background

In January 2005, the NRCB received complaints with regards to Bonnett Feedlot who owned and operated the feedlot at that time. That same month, the Bonnett feedlot went into formal receivership, followed by bankruptcy. In May of 2005, the land title for the former Bonnett feedlot operation was registered in the new owner's name of 1160132 Alberta Limited (Samson). In June 2005, the Samson Band directed the NRCB to speak to Dennis Samson, who was the manager of their farm and cattle operations, and was responsible for the former Bonnett feedlot.

The complaints received in January 2005 were based on concerns that manure impacted runoff was leaving the southern pens of the northern feedlot site, which went into the County ditch, then flowed into Maskwa Creek. After the NRCB investigated the CFO, the NRCB issued Enforcement Order 05-02 (Appendix B). A condition in that Enforcement Order included the following.

"1160132 Alberta Limited is to submit to the NRCB in writing its environmental plan to mitigate the identified risks to the environment in Appendix "B". This plan is to be submitted to the NRCB for review and approval no later than November 01, 2005".

Based on this condition, Samson submitted a four year plan to the NRCB in June of 2006 (Appendix C) to help fix/mitigate environmental concerns with regards to the southern pens at the northern feedlot. This four year plan letter Samson submitted to the NRCB stated the following for the first year (2006):

*"Begin to decommission fences in south lot, **south pens in North lot**, and East pens in the North lot area". [bolding added]*

It's worth noting that the southern pens might have been grandfathered, but due to runoff issues from these pens, Samson decided it was best to decommission them in their four year plan document (Appendix C). So once Samson decommissioned the southern pens, they are then considered abandoned and lose any grandfathering status and require a permit to be used again.

In response to the Samson four year plan letter, the NRCB sent Samson a letter in August of 2006, (Appendix D) accepting the Samson four year plan to resolve the environmental risk concerns of the southern pens at the northern feedlot.

In October 2008, Samson submitted a letter to the NRCB giving an update with regards to the four year plan (Appendix E). This letter in reference to the northern lot (NE 12-044-26 W4M) stated the following:

"...we have started taking down the pens on the south side of the main lot".

In July 2009, Samson submitted a progress report letter to the NRCB giving an update with regards to the four year plan (Appendix F). This letter stated the following:

"90% of the south part of the main feedlot has been decommissioned and landscaped".

In September 2009, Samson submitted a consideration letter to the NRCB (Appendix G). This letter stated the following:

“As you are aware the pens on the south side of the feedlot have been decommissioned”.

In September of 2009, the NRCB sent a letter to Samson (Appendix H) acknowledging that Samson had met all of the conditions from Enforcement Order 05-02. In November 2009, the NRCB stated in an overview letter to the former Bonnett owners (Appendix I) the following:

“In the north feedlot, all pens located in the south half were cleared of manure and all pens and catch basins were deconstructed and decommissioned and the area will no longer be used as a confined feeding operation.”

2022 Investigation

On May 27, 2022, the NRCB received a complaint that manure impacted runoff was leaving the southern pens at the NE 12-044-26 W4M feedlot, which then entered the County ditch and into Maskwa Creek. I spoke to the current manager of the feedlot, Cor Koelman, about the complaint a couple times and on June 6, 2022, I conducted a site inspection. Please note that cattle were in the southern pens, and these pens were being used for confined feeding purposes at the time of the inspection. He acknowledged that manure had entered the County ditch, which looked to be already cleaned up at the time of the inspection, and Mr. Koelman stated that he didn't feel as though manure entered Maskwa Creek. No manure impacted runoff was entering Maskwa Creek at the time of the inspection. Mr. Koelman stated that he started managing and leasing the feedlot around 2018, and runoff hasn't been an issue up to this year due to the large amounts of precipitation the area has received. He also mentioned that he probably didn't do the best job maintaining the snow and manure in the pens this spring, which also could have added to the runoff problem. I walked by the southern pens with Mr. Koelman and we identified three low spots by the pens that would require berms to help stop manure impacted runoff from leaving the pens. I filled out an inspection report giving the operator until July 8, 2022, to build the berms, and he mentioned to me that runoff shouldn't be an issue until that date. Mr. Koelman was instructed to contact the NRCB immediately if manure impacted runoff was leaving the pens and entering the County ditch and Maskwa Creek.

On June 15, 2022, the NRCB received another complaint that manure impacted runoff was leaving the southern pens again at the NE 12-044-26 W4M feedlot and entering into Maskwa Creek. This was due to a large amount of rain the area received. I conducted an inspection that same day and I observed that manure impacted runoff was entering the County ditch, which was then flowing into Maskwa Creek. I issued Emergency Order EM 22-01 (Appendix J) to Mr. Koelman requiring him to immediately build berms at the three locations mentioned in the June 6, 2022, site inspection, as well as a fourth low spot that was identified at the time of the June 15, 2022, inspection. Also, any manure that left the pens had to be cleaned up no later than June 22, 2022, stockpiled, and spread at a later date. Mr. Koelman and the NRCB are currently working on resolving this Emergency Order.

On June 21, 2022, the NRCB received a complaint suggesting that Samson should not be using the southern pens at the NE 12-044-26 W4M feedlot for confined feeding purposes and wanted the NRCB to look into it. I spoke to Mr. Koelman about the use of the southern pens on June 22,

2022, and he stated that when he took over managing and leasing the site in 2018, nothing was mentioned to him about not being able to use the southern pens for confined feeding. He stated that the perimeter fence around the southern pen area was there from when he took over managing the feedlot. I mentioned that I reviewed the historical documentation which stated that the southern pens were decommissioned in 2009 and were not to be used for confined feeding purposes.

On June 27, 2022, I sought assistance from the NRCB compliance manager in relation to the historical documentation (see Appendices). After discussion, we concluded that there was enough documentation that the southern pens at the NE 12-044-26 W4M feedlot were to be decommissioned and not to be in use for confined feeding purposes going forward. On June 30, 2022, I met with Mr. Koelman at the site and went through the historical documentation with him. I explained to him that there is unauthorized use of the southern pens. Mr. Koelman then proceeded to explain that the perimeter fence, feed bunks and watering stations were still there when he took over the management of the feedlot in 2018, so he didn't know that those pens were not to be in use for confined feeding purposes. I mentioned that even if those structures were still there, the expansion of the CFO to use the southern pens for confined feeding purposes was still unauthorized.

Unauthorized Use of Pens

This directive relates to the unauthorized expansion of the Samson CFO to use the southern pens for confined feeding purposes. The southern pens were decommissioned in 2009 with no indication they could be restored for confined feeding in the future. The recent use of the decommissioned southern pens for confined feeding purposes has been done without a permit under the AOPA, which contravenes section 13 of AOPA. Furthermore, the use of the southern pens is in violation of the Samson four year plan document (Appendix D), which was in response to Enforcement Order 05-02 (Appendix B), due to the southern pens' risk to the environment.

Recent risks to the environment and manure impacted runoff entering Maskwa Creek resulted in an Emergency Order in 2022 (Appendix J) and is a reminder as to why the southern pens were decommissioned back in 2009 and should not be in use for confined feeding purposes.

The NRCB has no records on file that indicate the CFO had been issued an NRCB permit for the use of the southern pens since they were decommissioned in 2009. Therefore, the NRCB finds that the use of the southern pens at the NE 12-044-26 W4M feedlot for confined feeding purposes is considered to be unauthorized expansion. This means that Samson is in non-compliance with the Samson four year plan document (Appendix D) and with section 13 of AOPA, which prohibits construction or expansion of a CFO unless they hold a permit for it.

The issue at hand is the expansion of the CFO to use the decommissioned southern pens for confined feeding purposes without a permit as required by the AOPA. AOPA's permit requirements are intended to reduce the potential for groundwater and surface water runoff contamination, and to lessen the nuisance impacts of CFOs on neighbors. Without a permit, the regulatory objects in AOPA may be compromised.

It's worth noting that this operation has been owned by Samson since Enforcement Order 05-02 was issued in 2005 (Appendix B). Since Mr. Koelman was unaware that the southern pens were not to be used for confined feeding purposes when he took over management of the CFO in 2018, 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 neighbors.

Directive:

For the reasons provided above, 1160132 Alberta Ltd., Samson Tribal Enterprises Ltd. and Cor Koelman shall take all necessary and appropriate measures to comply with this compliance directive. In particular, 1160132 Alberta Ltd., Samson Tribal Enterprises Ltd. and Cor Koelman shall:

1. By February 28, 2023, depopulate the southern pens and no longer use them for CFO purposes, if the operation does not hold an AOPA permit for the southern pens by that date. If the pens are populated or have manure in them before the February 28, 2023 deadline, runoff must be controlled and not allowed to leave the property or enter a common body of water.
2. By March 31, 2023, or before spring runoff, whichever occurs first, all manure in the southern pens must be cleaned and removed, if the operation does not hold an AOPA permit for the southern pens. The manure can be either short term stockpiled according to section 5 of the Standards and Administration Regulation under AOPA, or land applied if the land is **not** considered snow-covered or frozen.

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

If 1160132 Alberta Ltd., Samson Tribal Enterprises Ltd., or Cor Koelman fails to comply with this directive, the NRCB may take additional enforcement action.

Sincerely,

David Smejkal
Inspector, Compliance and Enforcement Division
Natural Resources Conservation Board

Appendices:

- A. Samson Tribal Enterprises Ltd. Feedlot NE12-044-26 W4M Google Earth Map
- B. Enforcement Order 05-02 (September 26, 2005)
- C. Samson Tribal Enterprises Ltd. Four Year Plan (June 26, 2006)
- D. NRCB Four Year Plan Approval Letter (August 11, 2006)
- E. Samson Tribal Enterprises Ltd. Update Letter (October 30, 2008)
- F. Samson Tribal Enterprises Ltd. Progress Report (July 7, 2009)
- G. Samson Tribal Enterprises Ltd. Consideration Letter (September 1, 2009)
- H. NRCB Enforcement Order Letter (September 28, 2009)
- I. NRCB Overview Letter (November 25, 2009)
- J. Emergency Order 22-01 Samson Tribal Enterprises Ltd. (June 15, 2022)