

Compliance Directive

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

Directive #: CD 22-04

Date issued: December 12, 2022

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

Issued to: David Slingerland
Box 964
Coaldale, Alberta T1M 1M8

Attention: David Slingerland

This directive relates to non-compliance at a livestock site that formerly operated as a seasonal feeding and bedding site for a cow-calf herd. The site is now being used as a confined feeding operation (CFO) to feed beef calves and feeders.

The operation is located at SE-27-009-19-W4M, in Lethbridge County, in the Province of Alberta approximately 8.5 kilometers east of the Town of Coaldale. The operation is owned and managed by David Slingerland, under the operating name of "Tempest Red Angus."

Background and investigation

On November 15, 2022 the NRCB received a complaint regarding the possible unauthorized construction of a confined feeding operation feedlot at this site. Of specific concern was that Tempest Red Angus had illegally expanded without an *Agricultural Operation Practices Act* ("AOPA") permit from the NRCB.

A site inspection and interview with the operator on November 21, 2022 confirmed that David Slingerland is feeding approximately 775 beef calves and feeders. The cattle arrived at the feedlot in early October 2022 and are planned to leave in late-April / mid May 2023, once they reach 850-900 pounds.

The operator also stated that he would like to continue feeding beef animals at the site year-round. He is aware that an AOPA permit will be required to operate a confined feeding operation. He submitted a Part One application to the NRCB on November 30, 2022.

The NRCB has not issued any permits to this site and has not made a grandfathering determination.

File review of the site determined that in 2004 the operation transitioned from a dairy to cow-calf only operation. This transition was documented by the NRCB in a letter dated October 20, 2004, which made it clear to Martin Slingerland (former owner who is also David's uncle) that the operation could only be operated as a cow/calf facility unless proper permits were issued by the NRCB for a change in use.

Historical imagery of the site is very limited, however a printed aerial image was found in NRCB complaint log LC04238 and shows hand-drawn corrals in their present location. According to the operator, the pen layout has not changed since 2004.

Unauthorized construction of a confined feeding operation

Section 13 of AOPA 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 includes "fenced or enclosed land or buildings where livestock are confined for the purpose of growing, sustaining, finishing, or breeding by means other than grazing." The definition expressly excludes a "seasonal feeding and bedding site," which has historically included cow-calf animals.

Under the Part 2 Matters Regulation under AOPA, the thresholds for requiring an AOPA permit for beef feeder calves is 360, and for beef feeders is 200. In this case, the feeding of beef calves and feeders in permanent pen infrastructure constitutes a CFO requiring an AOPA permit.

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.

DIRECTIVE:

For the reasons provided above, David Slingerland shall take all necessary and appropriate measures to comply with AOPA and its regulations. In particular, David Slingerland shall:

1. No later than April 15, 2023, cease confining livestock above AOPA threshold numbers, in the existing pen infrastructure, if the operation does not hold an AOPA permit to confine livestock in those pens.

2. No later than April 15, 2023, remove all manure from the existing pen infrastructure and spread or store the manure according to the Standards and Administration Regulation under AOPA, if the operation does not hold an AOPA permit to collect manure in those pens.
3. Not begin any construction of new CFO infrastructure until allowed to do so by an NRCB Approval Officer.

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 David Slingerland fails to comply with this directive, or if the NRCB has cause to identify a risk to the environment or an inappropriate disturbance, the NRCB may take additional enforcement action.

Any of the deadline dates contained above may be extended in writing, but only by the NRCB, at the sole discretion of the NRCB.

(original signed)

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

Cc: Hilary Janzen, Lethbridge County