

Compliance Directive

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

Directive #: CD 24-09

Date issued: November 25, 2024

Issued by: Fraser Grant, Senior Inspector
Compliance and Enforcement Division
Natural Resources Conservation Board (NRCB), Airdrie Office

Issued to: Craig Ference and
Ference Land & Cattle Corp.
Box 707
Kirriemuir AB T0C 1R0

Attention: **Craig Ference**

This directive relates to unauthorized construction of a manure collection area. Ference Land & Cattle Corp (FLCC), which is a beef feedlot confined feeding operation (CFO), has constructed an earthen catch basin without obtaining a permit for the catch basin under the *Agricultural Operation Practices Act (AOPA)*.

The CFO is located at E½ 17-34-02 W4M and SW 17-34-2 W4M (the site), in Special Area No. 4, approximately 4 km east of Kirriemuir, Alberta. The CFO land is owned and operated under the name Ference Land & Cattle Corp. The CFO has received two permits (RA24001 and RA24030) from the NRCB and is currently permitted for 9,000 beef finishers.

Background and investigation

On November 5, 2024, NRCB Approval Officer Nathan Shirley and I attended the FLCC CFO to conduct a post construction inspection of facilities permitted by NRCB Approval RA24030 (RA24030). During the post construction Mr. Ference informed us that he had to deviate from the catch basin design permitted by RA24030. RA24030 permitted the expansion of one northern catch basin to accommodate runoff from proposed pens 12, 13, 20, and 28-30 (Appendix A). The design was to extend the existing permitted northern catch basin to accommodate runoff from all northern pens. The location of this catch basin is directly north of pens 12, 13, and 20.

During construction, Mr. Ference determined that this plan was not feasible and that runoff from pens 28-30 would not be able to flow towards the permitted catch basin. As a result, Mr. Ference did not expand the existing northern catch basin. Instead, he constructed two new catch basins. The first one is a smaller catch basin adjacent (to the east) of the existing northern catch basin. This catch basin is within the footprint of

the proposed catch basin expansion permitted in RA24030. The catch basin dimensions are smaller than the permitted expansion, though provides enough capacity to accommodate runoff from newly permitted pens 12, 13, and 20. Given that this catch basin is within the proposed footprint of the permitted expansion and the dimensions are smaller than what was proposed, I am not considering this catch basin unauthorized construction. I will require that these changes be reflected in either a permit amendment or a new NRCB permit. At the time of this inspection, Mr. Ference had submitted a Part 1 application for an increase in livestock number and the construction of additional new feedlot pens. If a permit is obtained the revised dimensions can be updated; if a permit is denied, an amendment to Approval RA24030 will be required.

During the inspection, Mr. Ference informed us that the second new catch basin had been constructed to accommodate runoff from pens 28-30, which is located north of this pen row. This new catch basin was not permitted under RA24030, and does not fall within the footprint of facilities permitted under either Approval RA24001 or RA24030. I consider this catch basin as unauthorized construction. According to Mr. Ference, he thought that if the catch basins had enough capacity to accommodate runoff, he could alter the design and location. I informed Mr. Ference that this is not the case and that if he deviates from his NRCB application and approved design, a permit amendment would be required. Mr. Ference was apologetic for the unauthorized construction and immediately contacted his engineer to come to site to collect soil samples from the unauthorized catch basin. Mr. Ference has initiated conversation with Approval Officer Nathan Shirley regarding the submission of an application for an authorization for the unauthorized catch basin.

The unauthorized catch basin measured approximately 20 m x 20 m x 2m. At the time of the post construction inspection, pens 28-30 were not populated and runoff had not entered the unauthorized catch basin. I verbally directed Mr. Ference to not populate pens 28-30 or use the unauthorized catch basin unless an NRCB permit was obtained for the catch basin.

The FLCC CFO has previously received a compliance directive for unauthorized construction of a beef feedlot (CD23-06). Given that this compliance directive is a result of the operator deviating from a permitted plan (going from one proposed northern catch basin to two northern catch basins) I feel that issuing a compliance directive is the appropriate enforcement direction to take. I informed Mr. Ference that if unauthorized construction were to occur in the future, he would be subject to heightened enforcement action.

Unauthorized construction

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.

The *Agricultural Operation Practices Act* ("AOPA") at section 14 prohibits a person from constructing, expanding, or modifying a manure storage facility (MSF) or manure collection area (MCA) that requires a permit under the regulations unless they hold a permit. A catch basin is considered a manure collection area.

With the information I have and my investigation, I find that the second earthen catch basin (approximately 20m x 20m x 2m) has been constructed in contravention of section 14.

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. However, as the operator has already submitted a permit application, has been cooperative with the NRCB in working towards receiving his permit, and has not populated the feedlot pens where runoff would flow from into the unauthorized catch basin, a compliance directive is being issued at this time rather than an enforcement order.

DIRECTIVE:

To mitigate any possible risks to the environment and potential nuisances to any affected neighbours, Craig Ference and Ference Land & Cattle Corp. shall take all necessary and appropriate measures to comply with AOPA and its regulations. In particular, Craig Ference and Ference Land & Cattle Corp. shall:

1. Not populate pens 28-30 until:
 - a. an NRCB permit, new or amended, has been issued for the unauthorized catch basin; and
 - b. an NRCB post construction inspection has been completed for the unauthorized catch basin and you have received confirmation, in writing, from the NRCB that confirms the catch basin has been completed as proposed.
2. Ensure that their next permit application to the NRCB reflects the changes to the catch basin permitted under RA24030 (the NE catch basin).

Any of the directives contained above may be altered, in writing, but only by the NRCB, at the sole discretion of the NRCB.

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

Given the seriousness of unauthorized construction, the NRCB posts compliance directives for unauthorized construction on the NRCB's public website.

The NRCB may access the land and structures for the purpose of assessing compliance with this directive.

If Ference Land & Cattle Corp. and Craig Ference fail to comply with this directive, the NRCB may take additional enforcement action.

(Original signed)

Fraser Grant

Senior Inspector, Compliance and Enforcement Division
Natural Resources Conservation Board

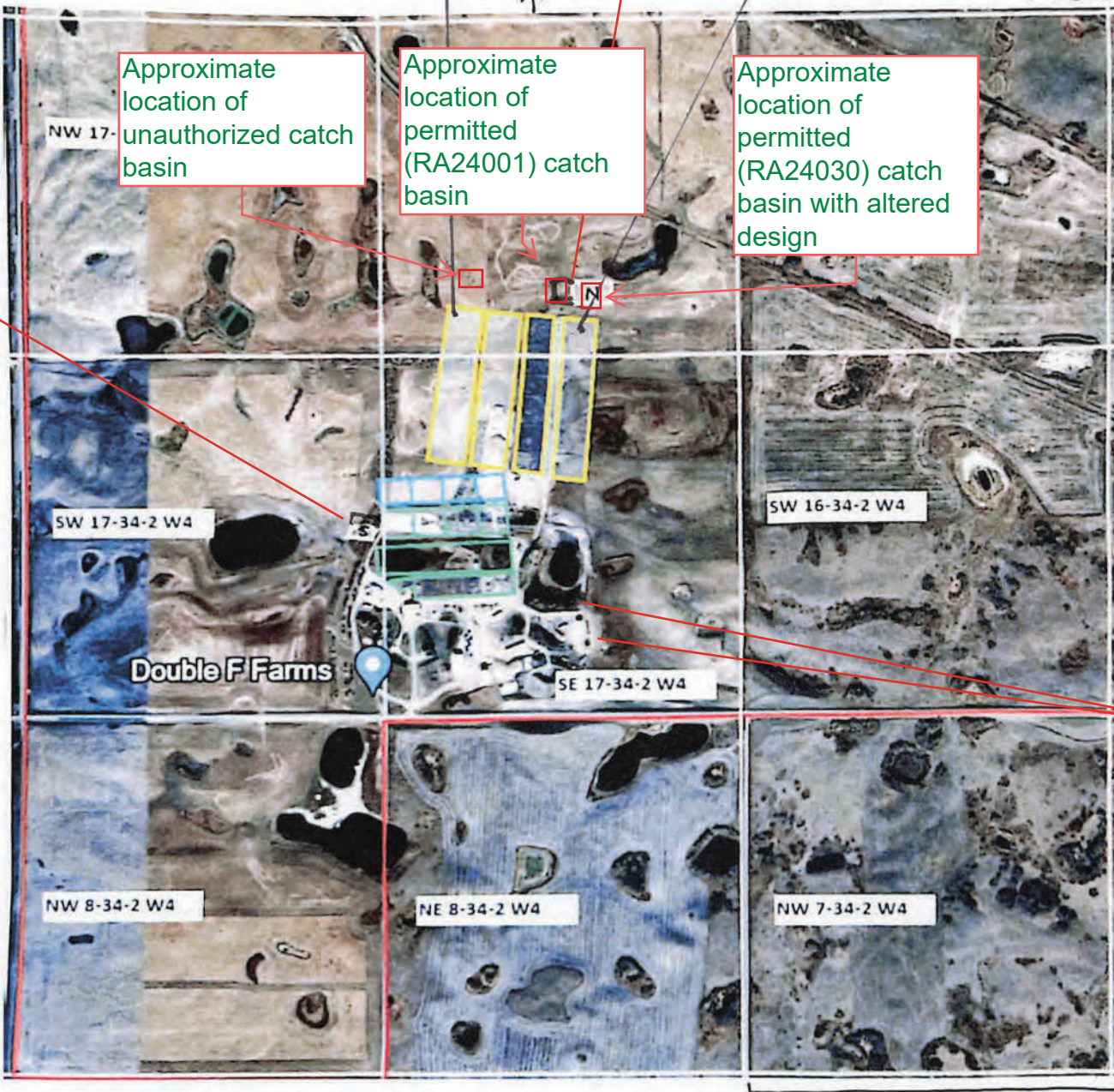
Cc: Special Areas No. 4, Planning and Development

Appendices

A. RA24030 TD 06 Sep 24 Page 6 – additional labelling by Fraser Grant

pen 29-30
 Catch basin North
 pen 12, 13, 20

FIGURE #1



Yellow = North Pens (335m x 137m)
 Green = South Pens (198m x 174m)
 Blue = Proposed Pens (238m x 62m) Blue pens 61, 71, 81, 91
 White North = Catch Basin (40m x 70m x 5m)
 White South = Catch Basin (40m x 40m x 5m)

Cow calf Pens 10 & 11