



COMPLIANCE DIRECTIVE

AGRICULTURAL OPERATION PRACTICES ACT Revised Statutes of Alberta 2000 Chapter A-7

Directive no.: CD 19-02

Date issued: June 5, 2019

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

Issued to: Westcoast Holsteins Ltd.
Manager Jamison Ward
47749 Prairie Central Road
Chilliwack, BC V2P 6H3

This directive relates to unauthorized construction at a dairy confined feeding operation (CFO). The CFO is located at NW 35-042-25 W4, in Ponoka County, approximately four kilometers southeast of Ponoka, Alberta. The CFO is operated under the name Westcoast Holsteins Ltd., which is managed by Jamison Ward.

Background

On May 24, 2019 I was conducting annual follow up inspections to the conditions of RA05006. During my site inspection I noticed construction of a solid manure storage facility (Bedding Master) at the CFO site for which Westcoast Holsteins Ltd. does not hold a permit under the *Agricultural Operation Practices Act* (AOPA). The unauthorized construction of the Bedding Master is located east of the existing dairy barns and consists of semi enclosed building constructed on concrete flooring.

I inspected the facility and confirmed with the manager that the new Bedding Master facility was constructed in April 2019. The facility was constructed and already being used as a Bedding Master facility. During my inspection, I met with Westcoast Holstein Ltd Manager Jamison Ward who noted that the new facility was arranged by his corporate office in BC. He also said they did not realize that they needed a new AOPA permit to construct and operate the Bedding Master facility.

The Bedding Master system uses manure generated from the dairy operation. It processes the manure and converts it to compost which is then used as bedding material in the dairy barn. This facility is considered a manure storage facility as the manure is stored in the facility as it composts,

and the composted material is also stored in this facility until it can be utilized as bedding in the dairy.

On May 24 I issued an inspection report requiring the operator to:

- Apply to have the solid manure storage facility (Bedding Master) permitted by NRCB by December 1, 2019 or to cease using facility as a solid manure storage facility.

Unauthorized Construction

Section 14 of AOPA prohibits any person from commencing construction (or expansion or modification) of a manure storage facility (MSF) or manure collection area (MCA), for which an authorization is required pursuant to the regulations under the act. Section 4(2) of the Agricultural Operations, Part 2 Matters Regulation, in turn, states that an “authorization” is required to commence construction of a MSF or MCA that is part of a CFO, unless the CFO owner already holds a permit for that MSF or MCA.

AOPA does not define the terms “commence” or “construction.” In its policy, the NRCB has interpreted “construction” as including any pouring of concrete for a MCA or MSF, and any work to install a foundation for a CFO facility. (NRCB Operational Policy 2012-1: *Unauthorized Construction* (updated Aug. 17, 2017), part 2.1.)

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 neighbors. In addition, since the NRCB started enforcing AOPA in 2002, and especially in the last three years, the NRCB has made considerable efforts to educate the intensive livestock industry about AOPA’s permit requirements. These efforts include sending newsletters and making presentations at industry conferences, and working with industry trade groups—including Alberta Milk—who have also committed to educating their members about AOPA.

Based on the NRCB and industry groups’ outreach, it is reasonable to expect CFO owners and operators to now be aware of AOPA’s basic permit requirement.

As noted above, my investigation indicates that Westcoast Holstein Ltd. contravened section 14 of AOPA by constructing a manure storage facility. The Bedding Master facility is considered a manure storage facility and the pouring of concrete constitutes “construction” activity. Neither the owner nor the operators had an authorization under AOPA for the construction of the new Bedding Master facility.

For these reasons, constructing the new Bedding Master facility is unauthorized construction, and therefore is a violation of section 14 of the act. The Westcoast Holsteins Ltd.’s belief that the manure storage facility (Bedding Master facility) did not need a permit does not excuse a violation of section 14, or the need for them to obtain a permit to complete construction and to operate the Bedding Master facility.

If you continue to violate section 14 of the act, you should be aware that:

- a) Under section 39 of the act, the NRCB may issue an enforcement order if the NRCB has the opinion that a person is contravening the act or the regulations.
- b) Under section 35 of the act, a person who contravenes section 14 of the act is guilty of an offence and is liable for a fine of not more than \$5,000, or \$10,000 if the contravention was knowingly done.

This is the first enforcement action that this owner/operator has received. Under the NRCB compliance policy, therefore, a compliance directive is being issued rather than an enforcement order at this time. Accordingly, this directive is to remedy the violations noted above and to mitigate any possible risks to the environment and to any affected neighbours.


DIRECTIVE:

By December 1, 2019:

- Westcoast Holsteins Ltd. must have all the manure and compost material removed from the newly constructed Bedding Master facility, and
- Westcoast Holsteins Ltd. must cease using the facility as a manure storage facility

unless an NRCB permit or written authorization from the NRCB has been obtained authorizing the use of the facility. This date can be changed if required, in writing by the NRCB. These requirements remain in effect until otherwise directed by the NRCB in writing.

If you fail to comply with this directive, the NRCB may take additional enforcement action.



Kaří Lišowski
Inspector, Compliance and Enforcement Division
Natural Resources Conservation Board

Cc: Ponoka County
Jeff Froese, NRCB