



Decision Summary LA18058A – Amendment of County of Warner issued permit #98-25

This document summarizes my reasons for issuing Approval LA18058A, an amended version of municipal permit #98-25, for Nelson Family Ranches Ltd. who is the current owner of the confined feeding operation (CFO) located at NE 07-006-19 W4M in the County of Warner. This amended approval is issued under section 23(1) of the *Agricultural Operation Practices Act* (AOPA). My decision is based on the act and its regulations, the policies of the NRCB, and the information contained in the permit file.

1. Background

The Nelson Family Ranches Ltd. (Nelson's) CFO located at NE 07-006-19-W4M was last permitted by the County of Warner under Development Permit #98-25 which was issued on October 20, 1998. The County of Warner permit authorized an "increase in intensive livestock operation from 3,000 to 7,000" [head cattle].

As the feedlot was constructed pursuant to a development permit issued before January 1, 2002, and it was operating above the AOPA threshold minimums, the site is considered to have a "deemed permit" under section 18.1(1) of the *Agricultural Operation Practices Act* (AOPA). This deemed permit includes Development Permit #98-25. The purpose of this amendment is to formalize permitted livestock numbers for the site and to amend a dust control related condition to improve its clarity and enforceability. An official assessment of the CFO's grandfathered footprint will not be made as part of this approval.

On October 4, 2018, I provided a notification letter to Nelson's indicating my intention to amend their permit under Section 23 of AOPA. A copy of the notification letter is attached in Appendix A, attached.

As a courtesy, I also copied this letter to the neighbour who resides immediately adjacent to the CFO. The county waived the recommended setback distances to these residences when municipal permit #98-25 was issued.

2. Approval Officer Amendment

Approval LA18058A is issued as an approval officer amendment, under section 23(1) of AOPA. Section 23(1) allows an approval officer, under their own motion on notifying the holder, to amend an approval, registration, or authorization.

In the issuance of Approval LA18058A, I considered the following:

- Development Permit #98-25 authorized an increase in capacity from 3,000 to 7,000, but does not specify a beef animal category. Further, the Development Permit application included reference to multiple beef livestock types which are not included in the municipal permit. I was not able to find any reference to how these livestock numbers were dealt with in the municipal permit itself. However, an Alberta Agriculture letter dated September 25th, 1998 which accompanied Development Permit #98-25, included information clarifying what was being proposed. It stated that "the proposed expansion is slated for the feeding of weaner calves through to full slaughter weight". As such, I determined it is appropriate to clarify the total permitted livestock capacity at the CFO as 7,000 beef finishers.

Should the permit holder want to operate above this stated livestock capacity, they would be required to obtain an AOPA permit authorizing the desired expansion.

- Development Permit #98-25 has a condition requiring “a dust control program within the feedlot be implemented”. It does not clearly state what would be considered to be an acceptable dust control program. Since 1998 numerous complaints about dust have been received from neighbours to this CFO. The NRCB Compliance division has followed up on these complaints and the operator has been involved in the development of a dust control program for the CFO. In order to clarify this municipal condition I am amending it to include reference to the current written dust control program.
- I am also taking this opportunity to eliminate repetitive permit conditions, and permit conditions which fall outside of the NRCB’s jurisdiction under AOPA. Several of these conditions are now covered by other legislation enforced by other departments and agencies. This is being carried out in accordance with NRCB Operational Policy 2016-7: *Approvals*, part 10.5. A discussion of the conditions being carried forward, amended, or deleted, can be found in Appendix B, attached.

Approval LA18058A therefore:

- Clarifies the permitted animal capacity for the site. Approval LA18058A states that the permitted maximum livestock capacity of the CFO is 7,000 beef finishers.
- Amends the municipal dust control permit condition to state the CFO must maintain an NRCB approved dust control plan. The condition will also require Nelson Family Ranches to revise that plan when required to do so by the NRCB in writing.

All other applicable conditions contained in Development Permit #98-25 will be carried forward to Approval LA18058A, aside from the repeated conditions discussed in Appendix B below which will not be carried forward.

3. Terms and conditions carried forward from municipal permit #98-25

For convenience, I am issuing an entirely new, amended approval and cancelling municipal permit #98-25, rather than issuing a separate amendment and leaving municipal permit #98-25 in place.

Amended Approval LA18058A contains all of the terms in municipal permit #98-25, except the terms that are replicated, or not under the NRCB’s regulatory mandate. The permitted livestock capacity has also been clarified. Construction conditions in municipal permit #98-25 are carried forward as an appendix to Approval LA18058A.

4. Conclusion

Approval LA18058A is issued for the reasons provided above.

Municipal permit #98-25 is therefore cancelled, unless Approval LA18058A is held invalid following a review and decision by the NRCB’s board members or by a court, in which case municipal permit #98-25 will remain in effect.

December 5, 2018


Joe Sonnenberg
Approval Officer

Appendix A: Permit Holder Notification Letter



Agriculture Centre, 100, 5401 - 1 Avenue S
Lethbridge, Alberta T1J 4V6
T (403) 381.5166 F (403) 381.5806
Toll Free 310.0000 www.nrcb.ca

October 4, 2018

Nelson Family Ranches Ltd.
Box 128
Stirling, AB T0K 2E0

Attention: Shawn and Jeff Nelson

Dear Shawn and Jeff:

SUBJECT: NRCB Amendment of Nelson Family Ranches Development Permit 98-25

The Nelson Family Ranches operation, located at NE 7-6-19-W4M, was last permitted by the County of Warner under Development Permit 98-25 which was issued on October 20, 1998. The County of Warner permit was obtained for an "increase in intensive livestock operation from 3,000 to 7,000".

As the feedlot was operating above the AOPA threshold minimums prior to January 1, 2002 the Natural Resources Conservation Board (NRCB) considers the site to have a "deemed permit" under section 18.1(1) of the Agricultural Operation Practices Act (AOPA). This letter is notice of my intention to amend Development Permit 98-25. This will be done by an Approval Officer Amendment under Section 23(1) of AOPA.

The purpose of the amendment is to:

1. Formalize the permitted animal numbers for the site. Development permit 98-25 states an increase from 3,000-7,000, but does not specify a beef animal category. We intend to amend the permit to clarify that the permitted livestock capacity of the CFO is 7,000 beef finishers.
2. Incorporate an NRCB approved dust control plan and the ability to revise that plan when required in writing.

The remaining terms and conditions in Development Permit 98-25 will also be carried forward.

Ordinarily we do not provide notice of an upcoming Approval Officer Amendment to neighbours. In this case, as a courtesy, I have copied this letter to the Hofer's.

Upon receipt of your amended permit, there will be an opportunity to request a review within 10 working days of the date you receive the written decision. This can be requested under Sections 13(1) & 15(1) of the AOPA Administrative Procedures Regulation.

If you have any questions about the Approval Officer Amendment process, please do not hesitate to contact myself or NRCB Inspector Denny Puszkars.

Regards,

A handwritten signature in blue ink, appearing to read 'Joe Sonnenberg', is written over a light blue horizontal line.

Joe Sonnenberg
NRCB Approval Officer
joe.sonnenberg@nrcb.ca
403-381-5822

cc. Richard Hofer
Rodney Hofer
Denny Puszkars, NRCB Inspector

Appendix B: Explanation of conditions in Approval LA18058A

Approval LA18058A includes several conditions, discussed below, and carries forward a number of conditions from municipal permit #98-25 (see sections 2 and 3 of this appendix).

1. Conditions carried forward from municipal permit #98-25 with modification

The portion of an unnumbered condition in municipal permit #98-25 is as follows:

“A dust control program within the feedlot will be implemented”

Approval LA18058A revised condition:

“A dust control program, as approved by the NRCB in writing, must be enacted at the site. The NRCB may amend the dust control plan, from time to time, in writing.”

2. Conditions not carried forward from municipal permit #98-25

Conditions not carried forward from Appendix A- Alberta Agriculture, Food, and Rural Development Comments

Portion condition d)

Manure should be incorporated within 48 hours of application, weather permitting. Due care and consideration should be exercised when spreading manure on lands near neighboring residences by maintaining an adequate separation distance.

This was a recommendation from Alberta Agriculture, Food, and Rural Development. The Development Permit #98-25 stated that these recommendations should be adhered to except for those waived by the County. Because the County imposed its own manure incorporation condition in condition d) of Development Permit #98-25, this recommendation was not a condition.

Condition f)

Water Provisions

The provision of drinking water for the animals, with the appropriate permits, as detailed in the development application should be adequate for the feedlot and expansion. It is estimated that the peak water demand will be approximately 375m³/ day (75,000 gal/day) for the entire feedlot.

Water licensing and usage is under the jurisdiction of the Water Act which is administered by Alberta Environment and Parks. As such, the NRCB has no authority under the AOPA to enforce this condition. The permit holder is reminded it is their responsibility to ensure adequate licenced water is available for their operation. As such, this condition will be deleted in accordance with section 2.2.5 of Operational Policy 2016-1 “Amending Municipal Permit Conditions”.

Condition g)

Dead Animal Disposal

Dead animals are to be disposed of in a prompt and acceptable manner in accordance with the Livestock Diseases Act and Public Health Act. Dead animals should be properly handled, stored and/or disposed of within 48 hours of death to minimize odors, flies, transmission of disease and threat of pollution. The existing feedlot uses a rendering service for dead animal disposal which is an acceptable method of disposal.

The disposal of dead animals is directly regulated by Alberta Agriculture and Forestry under the *Animal Health Act*. Concurrent oversight of dead animal disposal under AOPA would be inefficient and might lead to inconsistent approaches (In addition, the requirements in these regulations arguably provide an appropriate benchmark for defining “acceptable” disposal practices.).

This condition has none of the prescribed regulatory distance setbacks, terms, or definitions, as provided in the *Animal Health Act*; it is arguably less stringent than existing regulations. For these reasons, and pursuant to the NRCB policies referenced above, this condition will not be carried forward. (See Operational Policy 2016-1: *Amending Municipal Permit Conditions*, section 2.1 and *Conditions related to dead animal disposal*, section 2.2.4.)

Conditions not carried forward from Appendix B- Chinook Health Region Comments

Condition #5

1. *Manure should be incorporated within 48 hours after application.*

This was a recommendation from the Chinook Health Region. The Development Permit #98-25 stated that these recommendations should be adhered to except for those waived by the County. Because the County imposed its own manure incorporation condition in condition d) of Development Permit #98-25, this recommendation was not a condition.

Condition #6

“There should be containment area for deads, and provision for removal or burial within 48 hours.”

The disposal of dead animals is directly regulated by Alberta Agriculture and Forestry under the *Animal Health Act*. Concurrent oversight of dead animal disposal under AOPA would be inefficient and might lead to inconsistent approaches (In addition, the requirements in these regulations arguably provides an appropriate benchmark for defining “acceptable” disposal practices.).

This condition has none of the prescribed regulatory distance setbacks, terms, or definitions, as provided in the *Animal Health Act*; it is arguably less stringent than existing regulations. For these reasons, and pursuant to the NRCB policies referenced above, this condition will not be carried forward. (See Operational Policy 2016-1: *Amending Municipal Permit Conditions*, section 2.1 and *Conditions related to dead animal disposal*, section 2.2.4.)

Condition 7:

“A fly control program is required”

This condition was superseded by another added by the municipality in permit #98-25. As such it will not be carried forward. The county condition which supersedes the above now appears as operating condition #5 in Approval LA18058A.