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May 5, 2017

SENT VIA EMAIL

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Dear Mr. North:

**Re: Dust control programs for the Nelson & Highway 52 feedlots**

Thanks again for your phone call on April 26, 2017, on behalf of your client Richard Hofer.

In that call, you asked what measures the NRCB was taking or could take to enforce the "dust control plans" for the Nelson and Highway 52 feedlots.

By way of background, the NRCB's understanding is that, before January 1, 2002, both feedlots existed as "confined feeding operations" (CFOs), and were permitted by the County of Warner. The NRCB considers these county permits to be "deemed permits" under section 18.1(1) of the *Agricultural Operation Practices Act* (AOPA).

Under that act, CFOs must comply with their deemed or NRCB-issued permits, and CFOs are also subject to requirements in the Standards and Administration Regulation relating to CFOs' ongoing operation.

As relevant here, section 20(2) of that regulation states that the NRCB "may require" the owner or operator of a CFO or manure storage facility, to "use a specific dust ... control program at a location occupied, facility or site."

In addition, one of the conditions in the county permit for Nelson Ranches states that a "dust control program within the feedlot will be implemented." (County of Warner Development Permit 98-25.) The county permit for Highway 52 Beef Producers Ltd. does not have this dust condition. (Development Permit 93-32.)

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Pursuant to section 20(2) of the Standards Regulation (and the dust control condition in Nelson's deemed permit), the NRCB will continue to work with the operators to distill the key dust control measures from the dust control systems they've described to us. Then we will write those key measures in clear and readily enforceable terms in written dust control programs for each of the two feedlot operations. Depending on the dust control measures chosen, these written programs may include monitoring and reporting protocols to assist the NRCB in confirming that the operators are fulfilling their dust control commitments and to assess how well the committed dust control measures are working.

In addition to developing written dust control programs, NRCB field staff will endeavor to visit the CFOs at least once per week from now through at least the end of September, 2017, and once per month through next winter.

These inspections will help ensure that the feedlots are complying with their dust control programs, and will also provide useful information on the types of dust control measures that are effective, the conditions when dust is a problem, and the practical problems of controlling dust.

This information could lead to further refinements of the operations' dust control programs.

To be clear, the NRCB does not expect that these efforts will completely *eliminate* the feedlots' dust emissions. (The efforts will also not affect dust emissions from non-feedlot uses of local roads and from other agricultural activities in the area.) Dust emissions are an expected and likely inevitable result of large feedlots.


Mr. Hofer's residence is quite close to the Nelson and Highway 52 feedlots. That proximity resulted from land use and permitting decisions that preceded the Legislature's enactment of AOPA. As such, the proximity is now a significant limitation on the NRCB's ability to prevent the feedlots' dust emissions from ever affecting the Hofer residence.

That said, the NRCB is committed to working with the Nelson and Highway 52 feedlots to develop reasonable improvements to their dust control systems. The NRCB will also continue to use its available tools to enforce the operations' dust control programs. (The NRCB's compliance and enforcement policy can be viewed here:

<https://cfo.nrcb.ca/QuickLinks/OperationalPolicies.aspx>.)

Please do not hesitate to contact me if you have any further questions.

Yours truly,



Walter Cerolci  
Director, Compliance, Science and Technology, NRCB