

SENT VIA EMAIL

October 12, 2018

R. Phillip M. North, Q.C.
North & Company LLP
600 Chancery Court
220 – 4th Street South
Lethbridge, Alberta T1J 4J7
Email: p-north@north-co.com

Dear Mr. North,

Re: Nelson Feedlot

I am responding to your letters to myself and to Fiona Vance dated September 19, 2018. In these letters, you set out several concerns and queries that I would like to address.

Allegation of bias

In both letters, you express concern on behalf of the Hofers that Kevin Seward, Acting Compliance Manager, Natural Resources Conservation Board (NRCB), had conducted the investigation into the allegation of bias against NRCB Inspector Denny Puszkas and the Lethbridge office. You also requested that a follow-up investigation be conducted into the allegation of bias and that Mr. Seward should also be a subject of the investigation. Because the NRCB takes these allegations seriously, I appointed Dr. Mike Iwanyshyn to investigate the allegations contained in your May 22 and September 19 letters. Dr. Iwanyshyn is a Calgary-based Senior Environmental Specialist in the Science and Technology Division at the NRCB who has never been an approval officer or inspector and has never worked in the Lethbridge office. To be clear, Dr. Iwanyshyn's role will be limited to investigation of the allegation of bias – he will not be reviewing or commenting on other aspects of the file.

With regards to the role of Mr. Seward, I would like to clarify that he has never been the "primary inspector" dealing with the Nelson Feedlot file. Denny Puszkas has been the primary inspector on this file since 2015. Prior to Mr. Puszkas's involvement, the primary inspector was Karl Ivarson, also in our Lethbridge office. Mr. Seward assumed the role of Acting Compliance Manager in February 2018. In that capacity he provides advice and guidance to inspectors – the inspectors are ultimately responsible for decisions they make on a file.

Animal numbers

In your September 19, 2018 letter to me you expressed concern about concrete feed bunks that remain in a "newly added pen of 500 head of cattle." I understand that the pen you are referring to is used by the Nelsons to confine and feed heifers used for their breeding stock. Based on our knowledge of how the pen is being used, we consider it to be a seasonal feeding and bedding site (SFBS) since it meets most of the criteria in the NRCB Operational Policy 2015-2 *Distinguishing Between Confined Feeding Operations and Seasonal Feeding and Bedding Sites (for cattle operations)* that was in effect at the time the pen was constructed. Notably, the area has barbed wire fencing (the six steel pipe panels you refer to in your letter were used to facilitate cattle management in the pen), the pen is not used for confined feeding of cattle when grazing is available, and the pen area is seeded to silage crop during the period when grazing is available. This year, cattle from the pen were removed on May 28, 2018.

SFBS do not require a permit from the NRCB to operate if they do so according to the factors in the NRCB's operating policy.

Approval Amendment

The Nelson Feedlot received a permit from the County of Warner on October 20, 1998 for an "increase in intensive livestock operation from 3,000 to 7,000". The NRCB considers the feedlot to have a "deemed permit" since it was operating above the AOPA threshold minimums on January 1, 2002 (when AOPA was introduced). Based on a review of previous records, it is the NRCB's view that the feedlot has a maximum capacity of 7,000 "beef finishers". The NRCB plans to amend the Nelson Feedlot permit to clarify this capacity. The Hofers were sent a courtesy copy of the October 4, 2018 letter from the approval officer proposing the amendment.

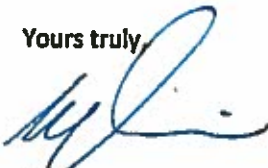
Based on information from the Nelsons, it is our understanding that animal numbers at the feedlot can fluctuate depending on the business cycle, but the maximum amount of manure produced does not exceed 15,400 tonnes (this is the maximum amount of manure that can be generated by 7,000 beef finishers). For example, feeders and feeder calves are typically introduced in the fall to replace finishers that are sold. At this time, the animal numbers may be as high as 11,000, but the manure production is only 12,760 tonnes since the smaller animals produce less manure. According to Section 2(2) of the AOPA Part 2 Matters Regulation, an owner or operator of a CFO is not required to apply for an amendment for an approval or for another approval when the owner or operator wishes to change the type of livestock within the same category if the amount of manure produced on an annual basis does not increase.

The NRCB has followed up with the Nelsons about their obligations under Section 2(3) of the AOPA Part 2 Matters Regulation, and the Nelsons have provided detailed information about their seasonal cycles of feeder calves, feeders and finishers in a given year. We observe that, given the practical management cycles in feedlots in the province, it is our view that advance notice under section 2(3) was likely intended for situations where the operation plans to undergo a complete change of livestock type that is not inherent in the seasonal cycle of an operation.

Practice Review Committee

In your letter, you sought an up-to-date explanation of how the Practice Review Committee recommended dust control has been implemented so far in 2018. The November 23, 2017 recommendation from the Practice Review Committee requires that the NRCB continue to monitor and ensure that Nelson Family Ranches Ltd. comply with the 2017 Dust Control Plan, including regular inspections of the Nelson Feedlot and the Hofer property during periods when dust is most likely to occur. The role of the NRCB in the Practice Review Committee process is otherwise restricted and there is no mechanism for us to forward anything else to the Practice Review Committee. As required by the Practice Review Committee, the NRCB will be providing a report to the Farmer's Advocate Office outlining what Nelson has implemented regarding the dust control plan. If you have inquiries about process, you may wish to contact the Practice Review Committee.

Yours truly,



Walter Ceroci
Acting Chief Executive Officer

cc: Fiona Vance, Chief Legal Officer, NRCB