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**Subject:** EO 21-01 Schooten - response to request for interim suspension  
**Date:** Wednesday, October 13, 2021 1:26:54 PM

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Good afternoon Laura,

I understand that a panel of the NRCB Board will be considering whether to schedule a review of Enforcement Order EO 21-01 issued by NRCB Inspector Karl Ivarson. I imagine the Board would also be considering the request from the Schootens that the Board “suspend the enforcement order until the Board makes its decision(s).” I thought it may be helpful for the Board to know Mr. Ivarson’s position on this request.

Mr. Ivarson takes no position on whether the operation of EO 21-01 should be suspended. As a regulator, the NRCB would suffer only minor prejudice if the deadlines in EO 21-01 were extended.

The Board has discretion whether to suspend the operation of Enforcement Order EO 21-01. The *Agricultural Operation Practices Act* (AOPA) expressly provides for this mechanism under section 41(2), which provides:

41(2) An enforcement order takes effect at the time prescribed in the enforcement order and its operation is not suspended by a request for a review, but the Board may, if it thinks fit, suspend the operation of an enforcement order when a review is requested until a decision on the review is rendered.

The Schootens’ letter indicates some concern about the fall calf run. On behalf of Mr. Ivarson, I would like to clarify a few items for the Board. First, there are no orders in EO 21-01 to reduce livestock population in any feedlot. Rather,

- Order 1.a. requires JS&S to provide quarterly feedlot pen inventories to the NRCB, starting on October 15, 2021. The next reporting date after that would be January 15, 2022.
- Order 1.b. requires JS&S to seek a grandfathering determination from the NRCB by October 15, 2021, if they wish to dispute the assumed permitted capacity numbers for the Diamond City and North feedlots.

That said, I would also like to clarify that the terms and conditions in permits for all four feedlots are not changed by the operation of EO 21-01 – or, conversely, by its possible suspension. JS&S is expected still to comply with their permits’ terms and conditions.

Finally, section 41(2) of AOPA authorizes the Board to suspend the “operation” of an enforcement order on an interim basis. If the Board chooses to suspend the operation of EO 21-01, EO 21-01 would remain on the NRCB’s public website, though we could mark it as “operation suspended.”

I have copied John Schooten and Sons Custom Feedyards Ltd., Shane Schooten (blind copied), Cody Metheral, and Vulcan County on this e-mail.

Regards,

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