

October 16, 2023

The hearing of October 10, 2023, heard a variety of testimony and questions from the participants, yet boiled down to one overarching theme; “whether the CFO has changed ownership during the period of disuse and, if so, whether the new owner purchased the CFO in reliance on the seller’s promise, or on some other basis for reasonably expecting, that the CFO was permitted under AOPA”. Beyond a doubt it was established that during due diligence prior to purchasing this location by myself that multiple calls were made to the NRCB, specifically AO Francisco Eshegary (Hereafter referred to as the AO), and that it was confirmed to me that the existing permit was “valid”, that it does not “expire”, and that permits “transfer with the land to the new owner(s)”. The AO testified that 2 to 3 calls were made in February of 2022 for this purpose. He also confirmed that abandonment was never discussed until February of 2023, after parts one and two of the application process were filed, accepted, and deemed complete. This is undisputed by everyone! Simply, the NRCB itself confirming a permit is valid, is an incredibly reasonable basis to think a NRCB permit is valid. To claim abandonment a year later is inherently unfair and unreasonable to myself and my business.

While this alone should be sufficient to overturn the AO’s decision I would like to recap some specifics. The AO testified that there was 2 to 3 calls made in on this subject in Feb of 2022 while I testified there were 3 to 4. Undisputed is that there were multiple made. Also notable is that there were no other dealings between myself and the NRCB or the AO previous to this; this was the only topic discussed. The AO also testified that I “probably” told him the facilities were empty. Under cross, when reminded of other parts of our conversations, this was amended to “definitely” told. There was no misrepresentation on my part as to what was at the site.

As for conditions of the buildings, not once have I claimed that all were in good shape. We all saw a number of photos of the barns taken by the AO in early February of 2023, some show poor conditions, others show buildings in good condition. The omissions in the photos are important, building one is not shown at all. Heated areas of building 2 and 3 are not shown at all. It was undisputed in the testimony that heat is present in some areas, and that electrical is functional. Small insignificant floor cracks can be seen but no major concrete issues in barns 1,2, and 3. Barn 3 is shown being used for storage (the picture with the boat), but what is not shown is that this barn is completely heated, electrified, ventilated, and water is the turn of a valve away. It could be converted back to livestock within hours, and had abandonment been raised in Feb of 2022 instead of 2023, there would not be a boat in it at all. Ceiling issues were raised, yet the only picture the AO had to this effect from barns 1,2, and 3 was recanted under cross to become a light fixture with an open inspection door hanging down. Actual problems with ceilings are in the other barns, *which I have never claimed to be viable buildings*. Section 2.1.1 bullet 3 of AOPA Section 29 asks what steps are being taken to keep facilities such that they could resume holding livestock. Barns 1 through 3 are being kept up. Water is partially present, and available throughout within hours. Natural gas is still attached, electrical has been maintained. Ventilation still

functions, and all are still connected to the EMS. The final bullet of 2.2.1 deals with value of the facility. I testified that I've been quoted \$33000 for labour only for a 40' by 80' concrete pad with 4' grade beam for a potential calf barn. Granted that this is new and built to purpose but what would barns 1 to 3 be worth in comparison? Now add plumbing, electrical and HVAC into the equation. Furthermore, is NRCB trained to assess "value"? Define value, is it \$100? \$1000? \$100000? Nowhere can I find it quantified on the NRCB website yet it is supposed to factor into the AO's decision. Threshold levels were also discussed when the AO testified, but why only barn 1 when 2 and 3 are also in good condition? Why should threshold numbers matter at this junction and not back in February of 2022 when due diligence was done?

Timing of events is critical in this determination so I would like to recap it as it indicates how unfair this process has become. In Jan of 2022 the site was offered for sale from Kieth Rasmuson to my brother Cory and I. After discussion within our family, my son Damien and I decided to investigate further. In Feb of 2022 multiple calls were made to the NRCB about the permit attached to the land. The County of Wetaskiwin (hereafter the "County") MDP was examined which indicated that while a new CFO could not be built due to the proximity of Coal Lake, an existing one could be expanded. This analysis, for this date and existing MDP, was confirmed correct in testimony from the County. In April of 2022 a deal was struck to purchase the land with the expectation of a valid NRCB permit coming with it, which it did at the time. According to County testimony, September of 2022 was the first public indication of an upcoming change in the MDP, therefore there was no previous opportunity at the time of the land purchase to assess the implications and plan for them. I attended an open house in early November of 2022 that showcased the changes, and County testimony also confirmed that I attended council meetings after this to provide feedback directly to County council. The proposed new MDP would not allow expansion at my site so I filed Part 1 of my NRCB application in November of 2022, part 2 in December, and after it was deemed complete prior to Christmas was posted to the public in early January of 2023. February of 2023 was the first-ever mention of abandonment and was followed by the AO's disputed decision before us. April of 2023 saw the new County MDP passed, well after the point that my application should have been approved if it had not been for this erroneous decision by the AO and the delays inherent to the appeal process that followed.

The process to determine the abandonment of an NRCB-permitted facility is flawed. The testimony given on October 10 clearly demonstrates the shortcomings in this process. The potential for a facility to be deemed abandoned needs to be dealt with early, transparently, and at the first and slightest suggestion that it could be a factor. Anything less than this can create a situation such as this one, where examining it at the end the process has caused financial waste for myself, significant stress, delay in planning, and many frustrating hours spent dealing with the entire process. Public questions and actions by some County personnel have also added a layer of complexity and stress that all could have been avoided had abandonment been addressed at the outset. The purchase of this location was not a spur-of-the-moment decision. Significant due diligence was done, calls were made to the NRCB specifically about the existing permit, the County MDP was examined, and tax professionals were consulted. There were zero indications of any problems. When an Approval Officer of the NRCB says the current permit is still valid, and transfers to the new owner upon purchase of the land that it is attached to, how can that

possibly not be a reasonable expectation of being able to proceed successfully? How inherently unfair is it when this is suddenly turned upside down in the last moments of the approval process, and by that same AO? How unfair is it that the delay in the process and the complexity of an appeal with all of the mandatory time allowances has now allowed a new MDP to pass and who bears the responsibility for this? This AO decision needs to be overturned, and the unnecessary delay needs to be accounted for with respect to the new MDP. This approval should have been dealt with before the end of February 2023. The NRCB needs to create a significantly better protocol to follow for its employees to avoid these problems. I trust that you will agree with me.

Respectfully submitted,

Darrin Rasmuson