

From: [Fiona Vance](#)
To: [Laura Friend](#)
Cc: [Bill Kennedy](#); [Francisco Echeagaray](#); [Andy Cumming](#); taryl.abt@specialareas.ab.ca
Subject: NRCB RFR Ference Land and Cattle RA24001 - Field Services submission
Date: May 7, 2024 3:33:15 PM
Attachments: [20240507 Ference RFR - FS, AO submission.pdf](#)

Good afternoon,

I am legal counsel for NRCB Field Services and the Approval Officer in this request for review ("RFR").

We take no position on the outcome of this RFR. Attached you will find brief clarifications, as well as two documents:

1. Compliance Directive CD 23-06 issued on September 15, 2023; and
2. Mr. Clark's response to application RA24001 dated February 14, 2024.

I have blind-copied Craig Ference (for Ference Land and Cattle Corp.) and Kevin Clark.

Regards,

Fiona N. Vance (*she/elle*)
Chief Legal Officer - Operations, NRCB
Fiona.Vance@nrcb.ca
(780) 999-3197

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In the matter of a Request for Review
under section 25(1) of the
Agricultural Operation Practices Act, RSA 2000, c A-7
of a decision by an Approval Officer set out in
Decision Summary RA24001

**SUBMISSION OF THE
APPROVAL OFFICER AND NRCB FIELD SERVICES**

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Introduction

1. One directly affected party has requested that the Board review the decision of the Approval Officer in file RA24001 (FERENCE Land and Cattle Corp.). NRCB Field Services and the Approval Officer have reviewed the request for review (RFR) filed by Kevin Clark on May 1, 2024.

2. The Legislature has set out the task of the Board in this application in section 25(1) of the *Agricultural Operation Practices Act* ("AOPA"), as follows:

25(1) The Board must, within 10 working days of receiving an application under section 20(5), 22(4) or 23(3) and within 10 working days of the Board's determination under section 20(8) that a person or organization is a directly affected party,

- (a) dismiss the application for review, if in the opinion of the Board, the issues raised in the application for review were adequately dealt with by the approval officer or the issues raised are of little merit, or
- (b) schedule a review.

3. The Approval Officer takes no position on whether the Board should dismiss the application for review (RFR), or schedule a review. The Approval Officer also takes no position on what matters should be included in a review, if the Board were to grant a review.

4. NRCB Field Services does not routinely make submissions on RFRs. However, most of the issues raised in the RFR are not directed at the application decision, and the following clarifications may assist the Board.

Clarifications

5. On September 15, 2023, the NRCB issued Compliance Directive CD 23-06 relating to unauthorized construction of a confined feeding operation. For ease of reference, **Appendix "A"** to this submission is a copy of **Compliance Directive CD 23-06** (compliance directives are also available on the NRCB's website via the CFO Search tool). The file for Compliance Directive CD 23-06 was closed once Approval RA24001 was issued.

6. Relating to the 2016 complaint, it may be helpful to refer to Decision Summary RA24001 at Appendix B, #6, p 12.

7. Relating to direction of run-off, it may be helpful to refer to Decision Summary RA24001 at Appendix B, #3, p 11.

8. Mr. Clark expresses concern that his response was modified in Decision Summary RA24001. **Mr. Clark's response to application RA24001** dated February 14, 2024 is attached as **Appendix "B"** to this submission.

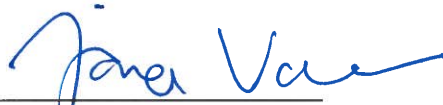
9. The NRCB does not disclose the identity of complainants, consistent with section 35 of the *Administrative Procedures Regulation* under AOPA, which provides:

Confidentiality of complainant

35 The NRCB shall not release the identity of a person who submits a complaint about an agricultural operation to the NRCB if the complaint is submitted in confidence.

10. The NRCB's Compliance and Enforcement division receives complaints through its 24-hour reporting line at 1-866-383-6722, or online at www.nrcb.ca through the green "File a Complaint" button. Future issues around compliance of this CFO with AOPA, including new information, can be reported in these ways.

RESPECTFULLY SUBMITTED THIS 7^m DAY OF MAY, 2024.



Fiona N. Vance
Legal Counsel, NRCB Field Services

Appendix A: Compliance Directive CD 23-06 dated September 15, 2023 (10 pp)

Appendix B: Mr. Clark's response to application RA24001 dated February 14, 2024 (5 pp)



Compliance Directive

AGRICULTURAL OPERATION PRACTICES ACT, RSA 2000, c A-7

Directive #: CD 23-06

Date issued: September 15, 2023

Issued by: Fraser Grant, Inspector
Compliance and Enforcement Division
Natural Resources Conservation Board (NRCB), Red Deer Office

Issued to: Craig Ference and
Ference Land & Cattle Corp.
Box 707
Kirriemuir AB T0C 1R0

Attention: Craig Ference

This directive relates to the unauthorized construction of a confined feeding operation (CFO) consisting of two feedlot type pen rows (12 pens) at the Ference Land & Cattle Corp. CFO. This construction has been done without a permit under the *Agricultural Operation Practices Act* (AOPA). The CFO is located at E1/2 17-34-02 W4M (the site), in Special Area 4, in the Province of Alberta, approximately 4 km east of Kirriemuir, Alberta. The CFO land is owned and operated under the name Ference Land & Cattle Corp. (FLCC).

The site has operated under the FLCC name since July 30, 2015. According to the operator, the land was previously operated and managed by members of the Ference family. To date, 12 pens have been constructed that are considered unauthorized construction. Prior to construction of these pens, the site operated as a cow-calf facility. This cow-calf operation is still present at the time of this compliance directive. According to Craig Ference (a shareholder and operator of FLCC), the previously utilized cow-calf pens will be utilized for CFO purposes in the future.

Part 2 of the AOPA came into effect on January 1, 2002. The CFO did not receive a municipal development permit prior to that date, nor a Natural Resources Conservation Board (NRCB) permit for expansion of the CFO after that date. According to a Valtus air photo taken on a date in-between 1999-2003 (Appendix A), seven pens were likely constructed at the site before 2002. According to Mr. Ference, these pens were utilized for a cow-calf operation. Cow-calf facilities are considered seasonal feeding and bedding sites and not regulated under AOPA. Therefore, these pens are not considered to be a grandfathered CFO facility.

Sometime between 2013 (Appendix B) and 2018 the eastern feedlot pen row (consisting of six pens) was constructed. The 2015 aerial photograph (Appendix C) shows four pens, and an additional two pens were constructed before 2018 (Appendix D). According to Mr. Ference, around 2020 the western feedlot pen row (consisting of six pens) was constructed (Appendix D). As the operator did not obtain an NRCB permit for the two feedlot pen rows (consisting of 12 pens), the two feedlot pen rows are considered unauthorized construction.

Background and Investigation

On August 9, 2023, the NRCB received a complaint regarding surface water runoff and the possible unauthorized expansion of a CFO facility.

Prior to contacting the operator, I reviewed aerial imagery from 1999-2003, 2013, 2015, and 2018. Based on this review there was a potential for unauthorized construction of feedlot pens on the northern portions of the site. I contacted Craig Ference on August 15, 2023, and discussed the complaint I received as well as potential unauthorized construction. Mr. Ference verbally confirmed that feedlot pens had been constructed and that he was unaware of the permitting requirements. As Mr. Ference was out of the province we agreed to meet at site on August 29, 2023, to conduct an inspection and review the next steps regarding unauthorized construction.

I conducted a site inspection and met with Craig Ference on August 29, 2023. I confirmed that he had constructed and populated two feedlot pen rows (consisting of 12 pens) without receiving a permit from the NRCB. Mr. Ference stated that at the time of construction he was unaware of the requirements under AOPA and did not know that FLCC was required to obtain a permit. According to Mr. Ference the unauthorized feedlot pen rows have the capacity to confine 4,000 beef finishers.

In addition to the feedlot, FLCC manages a cow-calf operation of approximately 800 cows. At the time of the inspection, the cow-calf pens were being recontoured (Appendix D). Mr. Ference stated that he is considering converting the cow-calf pens to feedlot pens which would allow him an additional 2,000 beef finishers. Due to limited grazing available this season, FLCC has placed cow-calf pairs in over-wintering sites located adjacent to the two feedlot pen rows (Appendix D). Mr. Ference informed me that this is the first season he has had to utilize the over-wintering pens.

Mr. Ference informed me that runoff from his feedlot pens goes to the north and does not leave his property. Runoff from his cow-calf pens goes to the south and has the potential to flow through a culvert connecting to the neighbouring property to the south. One of the reasons why FLCC is recontouring the cow-calf pens is to re-direct runoff to a collection area west of the cow-calf area.

CFO Permit Required

AOPA's permit requirements are intended to reduce the potential for groundwater contamination and surface water runoff, and to lessen the nuisance impacts of CFOs on neighbours. Without complying with permit requirements, the regulatory objects in AOPA may be compromised.

The *Agricultural Operation Practices Act* (“AOPA”) at section 13(1) prohibits a person from constructing a CFO for which an approval or registration is required unless they hold that permit.

“Confined feeding operation” is defined in AOPA as:

fenced or enclosed land or buildings where livestock are confined for the purpose of growing, sustaining, finishing or breeding by means other than grazing and any other building or structure directly related to that purpose but does not include residences, livestock seasonal feeding and bedding sites, equestrian stables, auction markets, race tracks or exhibition grounds;

Under section 2 of the Part 2 Matters Regulation, an approval permit is required for a CFO containing 350 or more head of beef finishers. Based on my observations, my conversations with Craig Ference, and my site inspection on August 29, 2023, I conclude that Ference Land & Cattle Corp. has contravened section 13(1) of AOPA for the reason that they have constructed and are operating a CFO without a permit, when a permit is required.

Under Section 39(1) of AOPA, the NRCB may issue an enforcement order to a person if, in the NRCB's opinion, the person is, among other things, contravening the act or its regulations. However, as this is the first enforcement action at this site and following the NRCB Compliance and Enforcement Policy, a compliance directive is being issued at this time rather than an enforcement order.

Directive

To mitigate any possible risks to the environment and potential nuisances to any affected neighbours, Craig Ference and Ference Land & Cattle Corp. shall take all necessary and appropriate measures to comply with AOPA and its regulations. In particular, Craig Ference and Ference Land & Cattle Corp. shall:

1. After April 15, 2024, you must not use the two feedlot pen rows (12 pens) to confine livestock or collect or store manure if an NRCB permit for this facility has not been obtained; and,
2. By April 30, 2024, you must remove all the manure and decommission the two feedlot pens rows according to Technical Guideline Agdex 096-90 *Closure of Manure Storage Facilities and Manure Collection Areas* for a solid manure storage facility, if an NRCB permit has not been obtained. The manure can be either short term stockpiled according to section 5 of the Standards and Administration Regulation under AOPA, or land applied if the land is not considered snow-covered or frozen.

Any of the deadline dates contained above may be extended in writing, but only by the NRCB, at the sole discretion of the NRCB.

Craig Ference and Ference Land & Cattle Corp. are reminded of the following:

1. If you plan to convert the under-construction cow-calf pens to feedlot pens a permit from the NRCB must be obtained prior to any conversion.

2. Over-wintering pens adjacent to the unauthorized feedlot rows may only be utilized for cow-calf purposes. If you plan to over-winter any beef backgrounders or feeders, you must adhere to the seasonal feeding and bedding requirements or obtain an NRCB permit for use of these facilities. Seasonal feeding and bedding requirements can be found in NRCB Operational Policy 2015-2 *Distinguishing Between Confined Feeding and Seasonal Feeding and Bedding Sites (For Cattle Operations)*.

All actions required above shall be in compliance with AOPA and its implementing regulations and shall not violate any other law. These requirements, including any deadlines, remain in effect until otherwise directed by the NRCB in writing.

The NRCB may access the land and structures for the purpose of assessing compliance with this directive.

Given the seriousness of unauthorized construction, the NRCB posts compliance directives for unauthorized construction on the NRCB's public website.

If Ference Land & Cattle Corp. and Craig Ference fail to comply with this directive, the NRCB may take additional enforcement action.

(Original signed)

Fraser Grant
Inspector, Compliance and Enforcement Division
Natural Resources Conservation Board

Cc: Special Areas No. 4, Development and Planning

Appendices

- A. Valtus Air Photo 1999-2003: CFO at E1/2 17-34-02 W4M
- B. Google Earth Imagery September 2013: CFO at E1/2 17-34-02 W4M
- C. Valtus Air Photo 2015: CFO at E1/2 17-34-02 W4M
- D. Google Earth Imagery October 2018: CFO at E1/2 17-34-02 W4M

Natural Resource Conservation Board



0.1 0 0.04 0.1 Kilometers

Projection: NAD_1983_10TM_AEP_Forest

Map Scale: 4,514

Printed on: August 21, 2023 9:07:53 -06:00



Comments:

E1/2-17-34-02 W4 1999-2003

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Legend

Paved Road Label (20K)





-- Spillway

Paved Road (20K)

-  Primary Divided
-  Primary Undivided 4L
-  Primary Undivided 2L
-  Primary Undivided 1L
-  Interchange Ramp
-  Secondary Divided
-  Secondary Undivided 4L
-  Secondary Undivided 2L
-  Secondary Undivided 1L

Gravel Road Label (20K)



Gravel Road (20K)

-  Primary Undivided 2L
-  Primary Undivided 1L
-  Secondary Undivided 2L
-  Secondary Undivided 1L




Lake/River (20K)

-  Lake or River
-  Reservoir
-  Icefield
-  Major Canal
-  Oxbow
-  Quarry
-  Dugout

Intermittent Lake (20K)

-  Intermittent Lake
-  Intermittent Oxbow






Sandbar / Wetland / Lagoon

-  Sandbar
-  Wetland
-  Lagoon

Stream (20K)

-  Stream
-  Canal
-  Oxbow
-  Ditch

Intermittent Stream / Aqueduct / Spillway

-  Recurring Stream
-  Indefinite Stream
-  Arbitrary Flow
-  Recurring Oxbow
-  Aqueduct

E1/2-17-34-02 W4

September 2013

Google Earth

Image © 2023 Maxar Technologies

Rd 342

Double F Farms
Township Rd 342

Township Rd 342

Ranger R

2000 ft



Natural Resource Conservation Board



0.1 0 0.07 0.1 Kilometers

Projection: NAD_1983_10TM_AEP_Forest

Map Scale: 9,028

Printed on: August 21, 2023 9:06:34 -06:00



Comments:

E1/2-17-34-02 W4 2015

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Legend

Paved Road Label (20K)

-- Spillway

Paved Road (20K)

- Primary Divided
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- Primary Undivided 2L
- Primary Undivided 1L
- Interchange Ramp
- Secondary Divided
- Secondary Undivided 4L
- Secondary Undivided 2L
- Secondary Undivided 1L

Gravel Road Label (20K)

Gravel Road (20K)

- Primary Undivided 2L
- Primary Undivided 1L
- Secondary Undivided 2L
- Secondary Undivided 1L

Lake/River (20K)

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- Intermittent Lake
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Sandbar / Wetland / Lagoon

- Sandbar
- Wetland
- Lagoon

Stream (20K)

- Stream
- Canal
- Oxbow
- Ditch

Intermittent Stream / Aqueduct / Spillway

- Recurring Stream
- Indefinite Stream
- Arbitrary Flow
- Recurring Oxbow
- Aqueduct

E1/2-17-34-02 W4

October 2018

~2020 Feedlot pens (not visible in 2018 aerial imagery)

~2015 Feedlot pens

Over-wintering pen

Over-wintering pen

Cow-calf pens (pens are no longer present as operator is re-contouring the area, future use intended for feedlot)

Google Earth

Image © 2023 Maxar Technologies

Rd 342

Double F Farms
Township Rd 342

Township Rd 342

Ranger R

2000 ft



APPENDIX "B"

From: [REDACTED]
To: [Francisco Echegaray](#)
Subject: Application RA 24001 - Notification Letter
Date: Wednesday, February 14, 2024 8:48:41 AM
Attachments: [CCF_000466.pdf](#)
[CCF_000467.pdf](#)
[Double F Farms at E1.pdf](#)
Importance: High

Caution! This message was sent from outside your organization.

[Allow sender](#) | [Block sender](#)

Francisco Echegaray

Please see attached my questions and concerns regarding Ference Land and Cattle Corp and or Double F Farms.

Should you have any question please call me [REDACTED]

Thanks

Kevin Clark

E1/2-08-034-2w4

NRCB

Re: Application RA 24001 – Notification Letter

Ference Land and Cattle Corp at E1/2-17-034-2w4

Att: Fraser Grant

In response to notification letter dated Jan 18, 2024. Is this application for 6000 additional feeders, on top of the 12,000 feeders, they are already feeding? The article in Top Crop in 2018 states Double F Farms (Ference Land and Cattle Corp) is feeding 8000 head of feeders and they also have 4000 head of cows. Then in a recent article in 2022 in the Country Guide, Double F Farms (Ference Land and Cattle Corp) states they are feeding 12000 head of feeders in a CFO and 4000 head of cows.

How many gallons of water per day will be consumed for 18000 head of feeders?

Has Double F Farms produced records of where they are spreading the manure? Has Double F Farms produced manure spreading logs for the last 5 years? Soil Tests for Nitrogen levels? Have Nitrate levels been tested in surrounding sloughs and ground water wells?

In 2016 there was a complaint filed from the Special Areas regarding Double F Farms CFO to the NRCB. What was the outcome of the complaint.

Double F Farms states that only cow calf run off goes to the south. This is false. With 12000 head of feeders Double F Farms is using all their pens including the barbwire pens on the south side of Double F's operation.

Is the current 12000 feeders CFO operation on the E1/2-17-34-2w4? Or are their multiple CFO operations and if so are they permitted? And when were they permitted? Or umbrella companies like Echo Sands Ranch?

Implementing changes that matter

Maybe there used to be one tried-and-true path to farm success. Today, for farmers like Craig and Jinel Ference, it's about seeking new ideas and getting creative about how to integrate them



By Angela Lovell

Reading Time: 12 minutes

Published: March 31, 2022

Features, Guide Business



"It's having those long-term thoughts," Jinel Ference says, when asked what it takes to build an inclusive farm. "What do you want for your farm, for your community? How does that look?" Photo: David Stobbe

Right now, we're focusing on streamlining, simplifying and making things more efficient," Craig Ference says. "That's kind of our next expansion ... making what we have a lot better. Improving our production, our land and our cattle to get a better gross margin from our current asset base."

READ ALSO



If you build it on HR...

If you want something done, ask a busy person. We all sometimes say this, and there's a good reason why...

Yup, that's a farmer. The same or similar words could be said by other farmers all across the country. They're all expert at production and they know the value of getting better at it every day.

Except Craig may be more committed to using big changes to get there than most.

ADVERTISEMENT



Third-generation farmers Craig and Jinel Ference of Double F Farms are based at Kirriemuir in southeastern Alberta, a farm founded by Craig's parents, Harvey and Joyce. It consists of 18,000 acres of grain land, a 4,000-head cow-calf operation, 12,000 head feedlot and a custom operating business.

"You can't afford land at today's prices by doing the same practices," Craig says. "So, we changed our whole cattle model. Rather than the traditional graze in the summer, feed in the winter, we're kind of the opposite; we graze in the winter and feed in the summer. We delayed calving, so we can feed the calves off the land. In summer, we have to grow an awful lot of corn to be able to produce the biomass to enable us to do that."

It's bold thinking, aimed right at the productive and economic heart of the business, just like so much of the dynamic, transformative thinking here.

Around eight years ago, for example, the Ferences began switching from annual cash crops. Today, 80 to 90 per cent of their grain acres are growing corn for feed.

They have paid special attention to their cow genetics, too, to ensure that they have animals that will be best suited for their operations.

"We don't have wild cows, so even with a large herd they can be handled easily by a few people," Craig says.



News

Craig and Jinel Ference of Double F Farms chosen as Alberta's Outstanding Young Farmers

More than 60 people gathered to honour fourth generation farmers Craig and Jinel Ference of Double F Farms (located in Kirriemuir) as Alberta's Outstanding Young Farmers for 2018. The winners were announced at the Alberta regional event held at the Pomeroy Inn & Suites in Olds, Alta., on February 9.

After receiving university degrees, in Ag-business for Craig and Education for Jinel, they returned to take on the responsibilities of full-time farming in 2004 and today crop 10,000 acres, manage an 8,000 head feedlot and 4,000 mother cows, as well as a number of custom farming contracts. Their goal today continues to be one of creating a diverse business that involves many agriculture sectors.

As caretakers of the land, Craig and Jinel focus on improving the