

Compliance Directive

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

Directive #: CD 23-03

Date issued: June 8, 2023

Issued by: Cathryn Thompson, Inspector
Compliance and Enforcement Division
Natural Resources Conservation Board (NRCB), Morinville Office

Issued to: MCF Holdings Ltd.
Suite 100, 101 Riel Drive
St. Albert, AB T8N 3X4

and Brian Nilsson

Attention: Sheldon Wilcox

This directive relates to the unauthorized construction of two manure collection areas (catch basins) at MCF Holdings Ltd, which is a beef confined feeding operation (CFO). This construction has been completed without a permit under the *Agricultural Operation Practices Act* (AOPA).

The operation is located at SE-07-56-18-W4, in Lamont County, in the Province of Alberta 15 kilometres northeast of Lamont. At the time the unauthorized construction took place, the CFO was operated and owned by MCF Holdings Ltd. The CFO is permitted by Approval BA05018B from the Natural Resources Conservation Board (NRCB).

Background and Investigation

In 2006, the NRCB amended the CFO's pre-2002 municipal development permit by issuing Approval BA05018A. The pre-2002 municipal development permit allowed 10,000 beef finishers and 20 horses. The NRCB subsequently issued amendment Approval BA05018B in 2017. Neither NRCB amendment changed the permitted livestock, and both amendments removed construction conditions that had been met, and altered manure handling and spreading conditions.

On May 1, 2023, I met with MCF Holdings Ltd. manager Sheldon Wilcox to investigate a fly control complaint. A site inspection of the CFO was conducted and during this inspection Sheldon pointed out two catchment ponds (catch basins) that were excavated approximately two years ago to catch manure runoff from some of the feedlot pens. These catch basins are located in two existing feedlot pens (Appendix A).

It was also mentioned to me at this time that MCF Holdings Ltd. had sold the feedlot and the new owner would be taking possession soon.

On May 16, 2023, I spoke to Sheldon on the phone and told him that I believe that the two catch basins that were recently excavated required a permit. I suggested that we meet with an NRCB approval officer to determine if a permit is required.

On May 17, 2023, NRCB approval officer Nathan Shirley and I met with an employee of MCF Holdings Ltd. and conducted a site inspection of the two catch basins. During this site inspection, Nathan and I confirmed that these catch basins require an NRCB permit.

On May 23, 2023, I spoke to Sheldon on the phone and informed him of Nathan's and my findings and informed him that a permit is required for the two catch basins. Sheldon told me that the new owner is taking possession of the feedlot on June 1, 2023 and that he would work with us and the new owner to get the correct permits in place.

Unauthorized Construction

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 a permit, the regulatory objectives in AOPA may be compromised.

The *Agricultural Operation Practices Act* ("AOPA") at section 14 prohibits a person from constructing, expanding, or modifying a manure storage facility (MSF) or manure collection area (MCA) that requires a permit under the regulations unless they hold a permit.

A MCA is defined as the floor of a barn, the under-floor pits of a barn, the floor of a feedlot pen and a catch basin where manure collects but does not include the floor of a livestock corral.

Under section 4(2) of the Part 2 Matters Regulation, an authorization is required for an MSF or MCA that is part of a CFO unless the owner or operator already holds a permit authorizing the construction, expansion, or modification.

As discussed above, my investigation indicates that MCF Holdings Ltd. conducted unauthorized construction activities in the construction of the two catch basins. The two catch basins are considered MCAs and they are not covered by MCF Holdings Ltd. existing Approval.

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 AOPA or its regulations. However, this is the first enforcement action involving the owners responsible for the unauthorized catch basins (MCF Holdings Ltd.) at this site, and the operator self-reported. Following the NRCB Compliance and Enforcement Policy, a compliance directive is being issued at this time rather than an enforcement order.

It is important to note that, at the time the two unauthorized catch basins were constructed, the owner and operator of the CFO was MCF Holdings Ltd. Sheldon Wilcox was the

individual at MCF Holdings Ltd. who made day-to-day decisions at the feedlot, including the decision to construct the two unauthorized catch basins. For these reasons, this compliance directive is issued to MCF Holdings Ltd. and Sheldon Wilcox jointly.

DIRECTIVE:

To mitigate any possible risks to the environment and potential nuisances to any affected neighbours, MCF Holdings Ltd. and Sheldon Wilcox shall take all necessary and appropriate measures to comply with AOPA and its regulations. In particular, MCF Holdings Ltd. and Sheldon Wilcox shall:

1. Within two weeks of receiving this Compliance Directive, remove all existing run-off from the two unauthorized catch basins.
2. At any time the two catch basins reach 50% capacity level, empty the two catch basins within 14 days. This directive shall commence immediately and remain in place until the catch basin has an AOPA permit.
3. By October 31, 2023, fully decommission the two catch basins according to Technical Guideline Agdex 096-90 *Closure of Manure Storage Facilities and Manure Collection Areas* if an NRCB permit for these facilities has not been obtained.

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

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.

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

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

If MCF Holdings Ltd. or Sheldon Wilcox fail(s) to comply with this directive, the NRCB may take additional enforcement action.

original signed

Cathryn Thompson
Inspector, Compliance and Enforcement Division
Natural Resources Conservation Board

Cc: Lamont County, Planning and Development
Nathan Shirley, Applications Division, NRCB

Appendices

- A. Google Earth Imagery 2020: SE-07-56-18-W4. Labeled by Cathryn Thompson.

Appendix A – Google Earth Imagery 2020: SE-07-56-18-W4. Labeled by Cathryn Thompson

