



BOARD REQUEST FOR REVIEW DECISION

RFR 2023-03 / EO 23-02

In Consideration of a Request for Board Review filed under the *Agricultural Operation Practices Act*

The "5" Freedoms Ranch Rescue and Rehabilitation

July 5, 2023

The Board issues this decision under the authority of the *Agricultural Operation Practices Act (AOPA)*, following its consideration of a request for the Board’s review (RFR) of Enforcement Order No. EO 23-02.

Background

On June 9, 2023, a Natural Resources Conservation Board (NRCB) inspector issued Enforcement Order No. EO 23-02 (the EO or order) to The “5” Freedoms Ranch Rescue and Rehabilitation (“5” Freedoms). The EO was issued on the basis that the confined feeding operation (CFO) was causing an inappropriate disturbance due to improper manure management. The background portion of the EO included information outlining compliance interaction on manure management starting with complaints prior to May 18, 2022. The background portion of the EO also indicated that deadlines in the EO were the same as those “5” Freedoms had agreed to in an approved April 28, 2023 manure management plan. The existing CFO is located at SW 13-52-22 W4 (Block C, Pan 2330RS) in Strathcona County.

“5” Freedoms sent emails to the Board on June 14 and June 20 requesting an extension to the June 15, 2023 EO deadline to scrape and remove manure from pens #1 through #5. The extension date sought was June 25, 2023. The June 14 communication stated that the work would be done on June 25, and the June 20 communication stated that no further extensions would be sought. The Board accepted these collectively as a combined RFR and an application to suspend the EO under s. 41 of the AOPA (RFR # 1/suspension application). The Board issued a decision on the suspension application on June 21: *The “5” Freedoms Ranch Rescue and Rehabilitation*, RFR 2023-02. The decision suspended the EO to the end of day June 25. The decision also noted that any further review of the EO by the Board would require a further RFR filing by no later than June 30, 2023.

The Board received a further RFR of the EO from “5” Freedoms, asking the Board to amend or vary the order. The RFR met the filing deadline of June 30.

Under the authority of section 18(1) of the *Natural Resources Conservation Board Act*, a division of the Board (panel) consisting of Peter Woloshyn (chair), Sandi Roberts, Rich Smith, and Darin Stepaniuk was established to consider the RFR and decide whether a review is warranted.

As used here, a “review” is a quasi-judicial hearing in which the parties can submit expert and witness testimony and other evidence, when relevant, to the issues selected by the Board to be considered at the hearing.¹ (References to the “Board” in this document are to findings of the panel of Board Members established specifically for this file.)

The Board notes there are some uncertainties as to the application of Part 2 of AOPA to this operation. An equine rehabilitation and rescue operation that depends in whole or in part on donations is not a typical confined feeding operation. However, the application of Part 2 of AOPA was not raised as an issue in the RFR.

¹ For more information on Board reviews, see NRCB, *Board Reviews & Court Decisions – Board Review Process*, [online](#).

Documents Considered

The Board considered the following information:

- Enforcement Order No. EO 23-02, dated June 9, 2023
- RFR #1/suspension application dated June 14 and 20, 2023
- RFR filed by “5” Freedoms, dated June 30, 2023
- Strathcona County Bylaw 53-2022, Responsible Livestock Ownership Bylaw, fall 2022
- Strathcona County Land Use Bylaw 6-2015
- Strathcona County Municipal Development Plan (MDP), Bylaw 20-2017, consolidated March 2023

Note: “5” Freedoms sent emails to the Board additional to its RFR on July 1 and July 4, 2023. As these were sent after the June 30, 2023 RFR deadline, they have not been considered.

Board Jurisdiction

The Board’s authority for granting a review of an inspector’s decision is found in section 41(1) of AOPA, which states:

- 41(1) The Board may, on the request of a person to whom an enforcement order is directed, review and confirm, vary, amend or rescind the enforcement order.

A party requesting a review of an EO has the onus of showing that a review is appropriate or warranted.²

Board Deliberations

Summary of the Order and “5” Freedoms Request for Review

Enforcement Order No. 23-02 was issued on the basis that the confined feeding operation (CFO) was causing an inappropriate disturbance due to improper manure management. The background portion of the EO included information outlining compliance interaction on manure management starting with complaints prior to May 18, 2022. The EO also indicated that deadlines in the EO were the same as those “5” Freedoms had agreed to in an approved April 28, 2023 manure management plan.

The RFR referred to the following grounds in support of the requested review:

- The EO was prompted by many complaints from a neighbour that “5” Freedoms has had difficulties with.
- “5” Freedoms’ tractor was not working for 1 year.
- As a charitable organization that relies on donations, “5” Freedoms faces resource constraints.
- The operator stated that the needed work would be completed in the next couple of weeks.

² See *Beumer Cattle*, RFR 2010-04 at 2; cf *Paragon Livestock Exchange*, NRCB Decision 03-07 at 26 (noting that a party seeking a review of an enforcement order “must demonstrate that there is a need for a review”).

Board Views

The Board has determined that granting a review of the EO is not warranted. The RFR is denied. This determination is based on the following:

1. The Board notes that, based on the filed materials, the operator has a well-established history of missing deadlines and not meeting a minimum standard of manure management.
2. "5" Freedoms did not complete work by June 25, 2023, contrary to the undertaking set out in its RFR #1/suspension application.
3. The requirements outlined in the EO are consistent with normal manure management requirements. Manure needs to be managed to protect against creating a risk to the environment or an inappropriate disturbance.
4. The operator has acknowledged the need to address manure management in the April 28, 2023 manure management plan, and its commitment to meeting the manure management conditions in the EO. In its RFR, the operator stated, "At no time have we not agreed this needs to be done we just needed equipment to complete this."
5. The RFR does not provide any compelling reasons for varying the EO. The enforcement order was issued following numerous complaints confirmed through a number of on-site inspections by the NRCB. The operator has not challenged the point that the operation is causing an inappropriate disturbance.

Board Decision

As a result of the Board's deliberations, it has determined that granting a review based on the RFR filed by The "5" Freedoms Ranch Rescue and Rehabilitation is not warranted. The RFR is denied.

DATED at EDMONTON, ALBERTA, this 5th day of July, 2023.

Original signed by:

Peter Woloshyn (chair)

Sandi Roberts

Rich Smith

Darin Stepaniuk