

# Compliance Directive

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

**Directive #:** CD 24-06

**Date issued:** October 31, 2024

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

**Issued to:** El-Shaddai Dairies Inc.  
49378 Range Road 224  
Leduc County, AB T0B 3M3

**Attention:** **Geoff Volkman and Dieter Gagelmans**

This directive relates to construction of a confined feeding operation (CFO) without a permit, when a permit is required. El-Shaddai Dairies Inc. is a dairy CFO. This CFO has constructed a dairy barn addition without a permit.

The operation is located at NE-20-49-22-W4, in Leduc County, in the Province of Alberta 26km east of Leduc. The CFO is operated by Geoff Volkman and Dieter Gagelmans, and owned by El-Shaddai Dairies Inc. The operation does not have any NRCB permits or municipal development permits.

### **Background and Investigation**

In September 2024, the NRCB received a complaint regarding possible unauthorized expansion of the number of milking cows at El-Shaddai Dairies Inc.

I reviewed El-Shaddai Dairies Inc. paper file at the NRCB. On May 6, 2002, El-Shaddai Dairies Inc. submitted a permit application to the NRCB for a dairy barn and a new earthen liquid manure storage facility. In this application, El-Shaddai Dairies Inc. indicated that the dairy barn capacity is 89 [milking cows]. On March 31, 2003, El-Shaddai Dairies Inc. withdrew this application.

From historical NRCB records, I also found documentation regarding a site visit that an NRCB inspector did at El-Shaddai Dairies Inc. in 2005. During this site inspection, the inspector reported that El-Shaddai Dairies Inc. was an 80 cow dairy.

On September 18, 2024 I contacted Dieter Gagelmans (co-operator, shareholder, and

manager of El-Shaddai Dairies Inc.), and informed him that I received a complaint about possible unauthorized construction at El-Shaddai Dairies Inc. Dieter told me that they are currently building an expansion onto the dairy barn which includes the addition of stalls.

I asked Dieter if any other construction was done on the barn in recent years. Dieter stated that a sick pack was built approximately four years ago. Dieter said that, in approximately 2020, he contacted the NRCB to inquire if a permit was needed for this sick cow pack expansion on the east side of the dairy barn, and an NRCB inspector advised that a permit was not needed as long as there was not an increase in milking cow numbers. Dieter said that at this time, the NRCB was made aware that El-Shaddai Dairies Inc. was milking 110 cows. I asked Dieter how many cows El-Shaddai Dairies Inc. is currently milking, and Dieter told me there they are milking 140 cows. The milking cow herd has gradually increased over the past 10 years. I explained to Dieter that a permit will be required for the current expansion happening on the dairy barn.

On September 19, 2024 I contacted Geoff Volkman (co-operator and shareholder of El-Shaddai Dairies Inc.), and informed him that I received a complaint about possible unauthorized construction at El-Shaddai Dairies Inc. Geoff told me about the dairy barn expansion that is currently being built and noted that they are building additional stalls with this expansion. Geoff mentioned that El-Shaddai Dairies Inc. has been milking 90-100 cows for the last 15 years and there has been a steady increase in the herd to where they are today, milking 140 cows.

I inquired with Geoff about El-Shaddai Dairies Inc.'s 2002 NRCB permit application that was withdrawn in 2003. Geoff explained that the "new" dairy barn was built in 2002 and at this time the NRCB advised that a permit was required for this barn. Geoff said that it was later decided that a permit was not required for this barn as it was considered grandfathered. El-Shaddai Dairies Inc. then withdrew the permit application.

On September 20, 2024 myself and Approval Officer Nathan Shirley inspected the CFO and met with Dieter Gagelmans. The dairy barn expansion was still under construction at the time of this inspection. See Appendix A for a depiction of the dairy barn expansion. Dieter, Nathan and myself discussed permitting requirements for this CFO and I advised Dieter that I would be issuing a written directive for the expansion of the dairy barn. At the time of this inspection, Dieter filled out a Part 1 permit application which included the dairy barn expansion, and submitted it to the NRCB.

The NRCB has not done a formal grandfathering determination on this operation. The operator claimed there was capacity in the barn for 89 milking cows in 2002, and the NRCB recognized an 80 milking cow dairy in 2005. Having spoken with Geoff Volkman on October 25, 2024, he advised that they were milking 89 cows in 2002, although there were stalls for 120 milking cows in the barn. At 4.1 of the NRCB Operational Policy 2023-01: Grandfathering (Deemed Permit) allows for preliminary deemed capacity estimate in this situation. In this case, the operator was inconsistent with the information about the capacity of the barn. The NRCB will need to complete a formal grandfathering determination soon, which may take place during the permit application process. Because the preliminary deemed capacity estimate is unsettled at this time, I am issuing a compliance directive only for unauthorized construction of the dairy barn addition. Compliance action for overpopulation beyond the deemed capacity of the

operation is still possible in the future.

### **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 complying with permit requirements, the regulatory objects 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 MSF is defined as a facility for the storage of manure, composting materials and compost and a facility for composting but does not include such a facility at an equestrian stable, an auction market, a race track or exhibition grounds.

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.

Based on my observations, my conversations with Geoff Volkman and Dieter Gagelmans, and my site inspection on September 20, 2024, I conclude that El-Shaddai Dairies Inc. have contravened section 14 of AOPA for the reason that they expanded a MCA (the dairy barn) without a permit, when a permit was 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, El-Shaddai Dairies Inc., Geoff Volkman, and Dieter Gagelmans shall take all necessary and appropriate measures to comply with AOPA and its regulations. In particular, El-Shaddai Dairies Inc., Geoff Volkman, and Dieter Gagelmans shall:

1. by May 1, 2025, stop using the 2024 dairy barn addition (see Appendix A) as a manure collection area, unless a new NRCB permit for the use of this area as a manure collection area has been obtained.

Order 1 includes the removal of all livestock and manure.

2. by May 1, 2025, if an NRCB permit has not been obtained stating the animal numbers, the NRCB will commence a stand-alone grandfathering determination.

**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.

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 El-Shaddai Dairies Inc, Geoff Volkman and Dieter Gagelmans fail to comply with this directive, the NRCB may take additional enforcement action.



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

Cc: Leduc County

## **Appendix**

A. Google Earth Imagery 2023. NE-20-49-22-W4. Labeled by Cathryn Thompson.

**Appendix A**

