



Enforcement Order No. EO 25-02

*Made under section 39 of the
AGRICULTURAL OPERATION PRACTICES ACT, RSA 2000, c A-7 (AOPA)*

Date issued: March 24, 2025

Issued by: Morgan Schindel, Inspector
Compliance and Enforcement Division
Natural Resources Conservation Board (NRCB), Lethbridge Office

Issued to: Hutterian Brethren Church of West Raley (West Raley Colony)
David M. Waldner & Dave C. Waldner
Box 2700 Cardston, AB T0K 0K0

Basis for Order: Unauthorized construction of a manure storage facility

I, Morgan Schindel, Inspector appointed by the Natural Resources Conservation Board, issue this enforcement order under section 39(1) of the *Agricultural Operation Practices Act* (AOPA) against:

**Hutterian Brethren Church of West Raley, and David
M. Waldner & Dave C. Waldner, of West Raley Colony**

on the basis that that they have failed to operate in accordance with AOPA and its regulations. Specifically, this enforcement order relates to unauthorized construction of a manure storage facility (MSF) contrary to Section 14 of AOPA, at West Raley Colony, which is a mixed livestock Confined Feeding Operation (CFO).

The operation is located at SE-13-004-25-W4, in Cardston County, in the Province of Alberta, 3 Kilometers west of Raley, Alberta. The CFO is owned by the Hutterian Brethren Church of West Raley and operated by Dave C. Waldner. The CFO is currently permitted by NRCB Approval LA19028, and Authorization LA24033. Application LA24041 has been deemed complete, but not issued, and is the subject of this enforcement order.

Background and investigation

On September 26, 2024, the NRCB received a Part 1 Application, LA24041, from West Raley Colony to construct a new lagoon.

On March 13, 2025, the NRCB received the Part 2 Application for LA24041 and LA24041 was deemed technically complete.

On March 13, 2025, I was informed by Approval Officer Carina Weisbach that West Raley Colony had constructed their new lagoon, a manure storage facility (MSF), without the issuance of the NRCB permit, where the application has only been deemed complete.

As a result of the information provided to me regarding the unauthorized construction of the MSF, I attended West Raley Colony that same day to inspect the alleged construction of the MSF. Upon inspection I determined the MSF had been fully constructed however it was not yet being used to store manure. During my site inspection I was in the company of Dave C. Waldner's son, also Dave Waldner, who indicated he thought the MSF was constructed sometime in November of 2024. While onsite I took measurements and photographs of the MSF (Appendix A) in order to provide this information to the approval officer who has carriage of this file. I also completed an inspection report for Dave Waldner (son) directing West Raley Colony to cease any further construction and to not use the MSF to store manure until an NRCB permit is received for that purpose. Dave Waldner (son) agreed on behalf of West Raley Colony to not use the MSF for any manure storage until an NRCB permit is received.

On March 18, 2025, I contacted Dave C. Waldner, to discuss the inspection report that I issued to West Raley Colony on March 13, 2025, and to discuss why West Raley Colony decided to construct the MSF without an NRCB permit. Dave C. Waldner indicated that they made a mistake by constructing the MSF without first receiving their NRCB permit to commence this construction and apologized for what happened. Dave C. Waldner confirmed that the MSF has not been used to store any manure to date. Dave C. Waldner also indicated that construction of the lagoon commenced sometime in December 2024 and January 2025.

I indicated to Dave C. Waldner that I would be issuing an enforcement order to West Raley Colony for unauthorized construction and the order would also state that West Raley Colony shall refrain from using the MSF for any manure storage until an NRCB permit is received. Dave C. Waldner agreed to this verbal direction over the telephone with me and confirmed West Raley Colony would not use the MSF for any manure storage until they received a permit from the NRCB authorizing them to do so.

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 objects in AOPA may be compromised.

AOPA at section 14 prohibits a person from constructing, expanding, or modifying a manure storage facility (MSF) 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.

Under section 4(2) of the Part 2 Matters Regulation, an authorization is required for construction of an MSF 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 Dave Waldner (son) and Dave C. Waldner of West Raley Colony, and my site inspection on March 13, 2025, I conclude that West Raley Colony has contravened section 14 of AOPA for the reason that they constructed an MSF without first receiving an NRCB permit authorizing that construction.

Under Section 39(1) of AOPA, if in the opinion of the Natural Resources Conservation Board, a person is contravening or has contravened AOPA or its regulations, the Board may issue an enforcement order:

- (b) directing the person to create a plan to ensure compliance with this Act, the regulations and the approval, registration, authorization, variance or cancellation;
- (c) directing the person to stop engaging in anything that is described in the enforcement order, subject to any terms or conditions set out in the order;
- (d) directing the person to undertake any investigation, construction, alteration, repair or other measures specified in the enforcement order, within the time specified in the enforcement order;
- (e) suspending an approval, registration or authorization until a specified time or until specified conditions are met;
- (f) specifying the measures that must be taken in order to effect compliance with the approval, registration, authorization, variance, cancellation, this Act or the regulations.

The Board has delegated me, as an Inspector, the authority to form opinions and issue enforcement orders under section 39 of AOPA.

West Raley Colony has eight previous NRCB permit applications and as such is familiar with the NRCB permitting process. In my view, West Raley Colony circumvented the application process by constructing the MSF without an NRCB permit which constitutes unauthorized construction. Unauthorized construction is a serious contravention of AOPA and needs to be strongly deterred. As such, this Enforcement Order is being issued rather than a Compliance Directive as West Raley Colony ought to have known that construction of the MSF should not have commenced unless and until an NRCB permit was received authorizing the construction.

ORDERS:

To mitigate any possible risks to the environment and potential nuisances to any affected neighbours, West Raley Colony shall take all necessary and appropriate measures to comply with AOPA and its regulations. In particular, West Raley Colony shall:

1. Not use the MSF to store any manure until an NRCB Permit is received.
2. If the MSF is not able to meet AOPA requirements and as a result is unable to be permitted, return the MSF site back to its original condition by May 26, 2025.

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

West Raley Colony shall allow the NRCB access at any reasonable hour, with or without advance notice, to the CFO's land and structures for the purpose of assessing compliance with the orders contained in this enforcement order.

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 posts all enforcement orders on the NRCB public website.

CONSEQUENCES OF NOT COMPLYING WITH THIS ORDER

If any person to whom this enforcement order is directed fails to comply with any part of this enforcement order, the Natural Resources Conservation Board may apply to the Court of King’s Bench for an Order of the Court directing those persons to comply with the enforcement order, under section 42 of the *Agricultural Operation Practices Act*.

When an enforcement order is issued to more than one person, all persons named in the Order are jointly responsible for carrying out the terms of the Order, under section 43 of the *Agricultural Operation Practices Act*.

NOTE: Under section 39(3), if a person to whom this enforcement order is directed complies with the Order, no prosecution may be commenced under the *Agricultural Operation Practices Act* for the offence with respect to the facts that gave rise to this enforcement order.

(original signed)

Morgan Schindel
Inspector, Compliance and Enforcement Division
Natural Resources Conservation Board

Cc: Cardston County, Development and Planning

Appendix

A. West Raley Colony Site Photos of constructed MSF (March 13, 2025)

SERVICE OF ORDER:

Delivered to: Dave C. Waldner of West Raley Colony
Method of Delivery: Personally
Date of Delivery: March 24, 2025

INFORMATION: RIGHT TO REQUEST A REVIEW OF THIS ENFORCEMENT ORDER

Under section 41 of AOPA, you may request that the NRCB's board members (the "Board") "review and confirm, vary, amend or rescind" this enforcement order. The Board has discretion whether to hold a review or not.

Please note that, under section 41(2), this enforcement order takes effect at the time prescribed in the order. This enforcement order will remain in effect unless the Board suspends the operation of this enforcement order.

Under section 13 of the AOPA Administrative Procedures Regulation, AR 106/2017, your request, must include:

- a) a clear and concise statement of the facts relevant to your request
- b) the grounds on which your request is made
- c) a brief explanation of the harm that has resulted or will result from the enforcement order addressed in your request
- d) a brief description of the remedy you seek; and
- e) the name, address in Alberta and telephone number, and the fax number and email address, if any, of you or your representative (if you have one).

If you want the enforcement order suspended until the Board's review is completed, you must also be clear about this in your written request for review, and provide your reasons for asking for a suspension of this enforcement order.

Under section 15(2) of the *AOPA Administrative Procedures Regulation*, a request for a review of the enforcement order must be filed with the Board within 10 working days of the date you received the enforcement order or by any later date specified in the order.

Because this enforcement order does not extend the 10 working day deadline in section 15(2) of the Regulation, the deadline for you to file a request for review by the Board is **4:30 p.m. on April 7, 2025**.

If you wish to have the Board review this order, please submit a written request to Laura Friend, Manager, Board Reviews by email at laura.friend@nrcb.ca. If you have any questions about requesting a review or about the review process, please call Ms. Friend at 403-297-8269.

Appendix A: West Raley Colony Site Photos of constructed MSF (March 13, 2025)

West Raley Colony Site Photos of constructed lagoon – SE-13-4-25-W4 - 13 March 2025

Exterior banks of constructed lagoon.



Interior slope.



Interior of lagoon with snow melt accumulation.

