

AGRICULTURAL OPERATION PRACTICES ACT
REVISED STATUTES OF ALBERTA 2000 CHAPTER A-7

ENFORCEMENT ORDER 03-08

Date Issued: May 20, 2003
File Number: LC02014
Inspector: Karl Ivarson

Paragon Livestock Exchange Inc.
Box 971, Coalhurst, Alberta
T0L 0V0

This letter constitutes an order under Section 39(1) of the Agricultural Operations Practices Act Chapter A-7 to Paragon Livestock Exchange Inc., and to Jerry Beusekom, Operator and Owner of Paragon Livestock Exchange Inc. of Coalhurst, Alberta, a livestock truck wash operation located on the South East Quarter of Section Twenty Seven, Township Nine, Range Twenty Two, West of the Fourth Meridian.

Background:

Today, May 20, 2003, Mr. Gerry Beusekom of Paragon Livestock Exchange Inc. (Paragon) advised the NRCB office that he intended to empty the contents of containment cell # 3 by irrigation starting at noon today.

Condition 6 (g) of NRCB Authorization No. LA 02001 issued to Paragon reads as follows:

Only earthen liquid manure storage cell contents which have been aerated and kept in a non-odorous state (odours are to be consistent with aerobically treated waste) can be applied to the land through a sprinkler irrigation system.

Furthermore, Condition 8 (a) of NRCB Authorization LA 02001 issued to Paragon reads as follows:

Non-aerated contents of earthen liquid manure storages are to only be applied through subsurface injection or surface applied and incorporated within 48 hours.

Inspection:

An on-site inspection by this Inspector and Alberta Agriculture Food and Rural Development (AAFRD) Technical Services Centre staff was conducted on the afternoon of May 20th to assess whether or not the contents of cell # 3 were in a non-odorous state.

Odour sampling by AAFRD staff concluded unanimously (3 independent observers) that the contents of cell # 3 were odorous in that there was a distinct odour of manure.

At the conclusion of the site inspection, Mr. Beusekom was advised that the contents of cell # 3 were found to be odorous, and as a result he was not to use sprinkler irrigation equipment to apply the contents of the cell to land. He was also advised that the use of sprinkler irrigation equipment to apply the contents of cell # 3 would be a contravention of Condition 6 (g) of NRCB Authorization LA 02001.

After the site inspection Mr Beusekom contacted the NRCB and advised that he believes he is in his right to use irrigation equipment to apply and incorporate the contents of cell No.3, irrespective of previous findings and discussions.

Reasons:

Under Section 39(1) of the Agricultural Operation Practices Act, the Natural Resources Conservation Board may, if in the opinion of the Board a person is creating a risk to the environment or an inappropriate disturbance or is contravening or has contravened an approval, registration, authorization, variance, terms or conditions of a cancellation, this Act or the regulations, the Board may, whether or not the person has been charged or convicted in respect of the contravention, issue an Enforcement Order to that person directing them to stop engaging in anything that is described in the Enforcement Order or to undertake any investigation, construction, alteration, repair or other measures required to rectify the situation.

As the operator has indicated his intent to proceed with the use of sprinkler irrigation equipment contrary to Condition 6 (g) of NRCB Authorization LA 02001 and contrary to the direction of this Inspector, I believe an Enforcement Order is required to prevent an inappropriate disturbance from being created for adjacent neighbours and to prevent non-compliance with NRCB Authorization LA 02001.

ORDER:

Therefore, I, Karl Ivarson, Field Inspector, Natural Resources Conservation Board, pursuant to Section 39 (1) of the Agricultural Operations Practices Act do hereby direct that paragon Livestock Exchange Inc., and Jerry Beusekom, owners/operators of a livestock truck wash operation on the South East Quarter of Section Twenty Seven, Township Nine, Range Twenty Two, West of the Fourth Meridian, shall take the following measures:

1. The use of sprinkler irrigation equipment to apply the contents of Cell # 3 is a contravention of Condition 6 (g) of NRCB Authorization LA 02001 and is therefore prohibited.

2. The contents of Cell # 3 must be applied by subsurface injection or surface applied and incorporated within 48 hours.

Failure to abide by the above conditions may result in additional enforcement actions by the Natural Resources Conservation Board.

Karl Ivarson, Inspector
Natural Resources Conservation Board

CONSEQUENCES OF NON-COMPLIANCE

Agricultural Operations Practices Act, section 42(1) states “If a person to whom an enforcement order is directed fails to comply with the enforcement order, the Board may apply to the Court of Queens Bench for an Order of the Court directing the person to comply with the enforcement order.”

SERVICE OF ORDER:

Delivered to: _____

Method of Delivery: _____

Date of Delivery: _____

RIGHT TO REQUEST A REVIEW

Under Section 41 of the Agricultural Operation Practices Act, you have the right to request that the Natural Resources Conservation Board (the Board) conduct a review of this enforcement order:

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.

(2) An enforcement order takes effect at the time prescribed in the enforcement order and its operation is not suspended by a request for a review, but the Board may, if it thinks fit, suspend the operation of an enforcement order when a review is requested until a decision on the review is rendered.

(3) A written copy of the Board's decision under subsection (1) must be served on the persons to whom the enforcement order that is being reviewed is directed.

If you wish to have the Board review this order, please submit a written request to John Thompson, Head, Hearing Coordination, 4th Floor, Sterling Place, 9940 - 106 Street, Edmonton, Alberta T5K 2N2. Your request must clearly explain whether you want the Board to vary, amend or rescind the enforcement order and provide your reasons. If you want the enforcement order suspended until the Board review is completed, you must also include this in your written request and provide your reasons for suspending the order. If you have any questions about requesting a review or about the review process please call John Thompson at (780) 422-2960.