



Report Date: September 17th, 2024

File: AG230350

Report Number: 230350

Spa Hills Farm Inc.
2223 Yankee Flats Road SW,
Salmon Arm, BC

Dear Spa Hills Farm Inc.,

Re: Warning Letter

On July 16th, 2024, Ministry of Environment and Climate Change Strategy (Ministry) Environmental Protection Officer Rebecca Benham (Ministry Staff) conducted an on-site inspection of the composting facility and agricultural site operated by Spa Hills Farm Inc. (Spa Hills), located at 2223 Yankee Flats Road Southwest, Salmon Arm, BC (Facility). The purpose of the inspection was to follow-up with complaints, received by the Ministry, regarding the processing and storage of manure, in order to verify compliance with the Code of Practice for Agricultural Environmental Management (COPAEM).

Present during the inspection were Josh Mitchell (Co-Owner, Spa Hills Farm Inc.) and Caleb Mitchell (Operator, Spa Hills Farm Inc.).

By discharging waste into the environment not in accordance with sections [34 and 37] of the *Code of Practice for Agricultural Environmental Management*, Spa Hills Farm Inc. commits an offence under EMA. Section 120(3) of EMA states as follows:

EMA 120 (3) A person who contravenes any of the following commits an offence and is liable on conviction to a fine not exceeding \$1000000 or imprisonment for not more than 6 months, or both:

(a) section 6 (2), (3) or (4) [waste disposal];

It should also be noted that, as an alternative to prosecution of the offence referenced above, the Ministry may initiate action to impose an administrative penalty against Spa Hills Farm Inc.. The Administrative Penalties Regulation (EMA) (B.C. Reg. 133/2014) (APR) was brought into force in 2014. The APR describes the prescribed provisions of EMA as well as that of specified regulations under which administrative penalties can be assigned. The applicable section(s) of the APR state(s) as follows:

12 (1) A person who contravenes section 6 (2) of the Act is liable to an administrative penalty not exceeding \$75 000.

13 (1) A person who contravenes sections 34(d) of the Code of Practice for Agricultural Environmental Management is liable to an administrative penalty not exceeding \$75000.

Contravention of sections [34 and 37] of *Code of Practice for Agricultural Environmental Management* is an offence under the Waste Discharge Regulation (WDR). Section 6 of WDR states as follows:

6(1) A person who is exempt from section 6 (2) or (3) of the Act because of compliance with section 4 (1) [exemption by compliance with code of practice] of this regulation must also comply with the requirements of the code of practice not described in section 4 (1) (c) of this regulation.

(2) A person who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$200 000.

**Ministry of Environment
and Climate Change
Strategy**

Compliance and
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It should also be noted that, as an alternative to prosecution of the offence referenced above, the Ministry may initiate action to impose an administrative penalty against Spa Hills Farm Inc.. The Administrative Penalties Regulation (EMA) (B.C. Reg. 133/2014) (APR) was brought into force in 2014. The APR describes the prescribed provisions of the EMA as well as that of specified regulations under which administrative penalties can be assigned. Section 13 of the APR states as follows:

13 (1)A person who contravenes any of sections 11 (2), 27 (1) (a), 34 (a) (ii) or (d), 40 (a.2) (ii) or (d), 43.2 (a) (ii) or (d), 47 (1), 51 (1) (b), 52 (1) (b) (i), 60 (2), 62 (b) or (d) (ii) and 75 (1) (b) of the Code of Practice for Agricultural Environmental Management is liable to an administrative penalty not exceeding \$75 000.

(2)A person who contravenes any of sections 6, 9, 10 (2) or (3), 11 (1), 12, 13, 17, 19 (2), 22 (a) to (c), 23, 24 (a), (b) or (d), 25, 27 (1) (b) to (d) or (2) to (4), 28, 29, 32, 33 (1) or (2) (c) to (e), 34 (a) (i), (b), (c) or (e), 35, 36 (1) or (3), 37 (1) (a), (c) or (e), 38 (1), 40 (a), (a.1), (a.2) (i), (b), (c) or (e), 41, 42 (1) (a), (c) or (d), 43.2 (a) (i), (b), (c) or (e), 45 (b) (ii), 46, 49, 50 (2), 51 (1) (a), (c) or (d), 52 (1) (a), (b) (ii) or (c), 53 (1), 54 to 57, 58 (4), 59 (1) (b), (2) or (3), 60 (3), 62 (a), (c) or (d) (i), 63, 64 (1) to (3), 67 (2) to (4), 68 (a) to (e), 69, 70, 71 (1) (a) to (c) or (2) (b), 72 (1), 73 (2) to (4), 74 (1) (a) to (c) or (2) (a) or (b), 75 (1) (a) or (2) (b), 77, 78 (2) (b) or (c) or (3) (b) to (d) or (f) and 80 (4) of the Code of Practice for Agricultural Environmental Management is liable to an administrative penalty not exceeding \$40 000.

(3)A person who contravenes any of sections 3 (2), 10 (1), 14, 22 (d), 24 (c), 26, 30, 33 (2) (a) or (b), 34 (f), 36 (2), 37 (1) (b) or (d) or (2), 38 (2), 40 (f), 42 (1) (b) or (2), 43 (2) to (4), 43.1 (1), 43.2 (f), 51 (2), 52 (2), 59 (1) (a) or (c), 64 (4), 65, 68 (f), 71 (1) (d), (2) (a) or (3), 72 (2), 73 (5), 74 (1) (d), (2) (c) or (3), 75 (2) (a), 76, 78 (3) (a) or (e) and 79 of the Code of Practice for Agricultural Environmental Management is liable to an administrative penalty not exceeding \$10 000.

The Ministry requests that Spa Hills Farm Inc. immediately implement the necessary changes or modifications to correct the non-compliance(s) listed below. Further, the Ministry requests that Spa Hills Farm Inc. notify this office in writing, by email or letter within 30 days of the receipt of this letter, advising what corrective measures have been taken, and what else is being done, to prevent similar non-compliances in the future.

As a result of this Warning, this authorization will be prioritized for follow-up inspection. The corrective measures will be reviewed by an Officer as part of the next inspection.

Finally, if you fail to take the necessary actions to restore compliance, you may be subject to escalating enforcement action. This Warning Letter and the alleged violations and circumstances to which it refers, will form part of the compliance history of Spa Hills Farm Inc. and will be taken into account in the event of future violations.

Inspection Details:

The inspection assessed compliance for the period from January 4th, 2024 to July 16th, 2024 (Inspection Period).

Compliance Assessment

Based on the information reviewed, this report documents all of the non-compliances identified as a result of this inspection.

Requirement Description:

Environmental Management Act, Code of Practice for Agricultural Environmental Management (EMA)

2 (2.1)(a): Subject to subsection (4), rearing or keeping livestock, poultry or insects, or growing and harvesting agricultural products, is an agricultural operation for the purposes of this code if done for one or more of the following purposes:(a) for consumption or use by humans, including as food, fibre or fuel;

Details/Findings:

Ministry Staff were informed by the Co-owner that Spa Hills rears poultry for the consumption or use by humans, this was observed, by Ministry Staff, during the on-site inspection. Therefore this Code applies.

Compliance:

In

Requirement Description:

Environmental Management Act, Code of Practice for Agricultural Environmental Management (EMA)

34: A person who stores agricultural by-products must ensure all of the following: (a) that any leachate generated during storage is (i) collected or contained, and (ii) not discharged directly to land or water; (b) that runoff is diverted away from the storage structure or storage area; (c) that the storage structure or storage area is maintained so as to prevent contaminated runoff, leachate, wastewater and solids from escaping; (d) if contaminated runoff, leachate, wastewater or solids escape from storage, they do not enter a watercourse, cross a property boundary, or go below the water table; (e) that air contaminants from stored agricultural by-products do not cross a property boundary; (f) that agricultural by-products are stored in a manner that will deter the attraction of, and access by, domestic pets, wildlife and vectors.

Details/Findings:

During the on-site inspection, Ministry Staff observed that Spa Hills stores agricultural by-products (including manure) in a temporary field storage (Photo 1). Ministry Staff observed (a) that any leachate generated during storage is not (i) collected or contained, and was discharge directly to land; (b) that runoff is not diverted away from the storage area; (c) that the storage area is not maintained to prevent contaminated runoff, leachate and solids from escaping; (d) that the contaminated runoff, leachate and solids that had escaped did not enter a water course or cross a property boundary. Ministry Staff could not verify that (e) air contamination from the stored agricultural by-products did not cross the property boundary. In addition, Ministry Staff did not observe (f) agricultural by-products that are stored were not stored in a manner that deters the attraction of, and access by, domestic pets, wildlife and vectors.

At the time of inspection, contaminated runoff and leachate from the stored agricultural by-products were observed entering a ditch on the property and being discharged to the ground which traveled along the property (Photos 2 and 3). Therefore Spa Hills is out of compliance for Sections 34 (a), (b), (c) and (f) of COPAEM.

Compliance:

Out

Actions to be taken:

Immediately cease the unauthorized discharge of leachate to ground and ensure the following:

- Collect or contain leachate from stored agricultural by-products and ensure there is no direct discharge to the land or water;
- Divert runoff from the stored agricultural by-products; and
- Maintain the stored agricultural by-products to prevent contaminated runoff, leachate, and solids from escaping.

Requirement Description:

Environmental Management Act, Code of Practice for Agricultural Environmental Management (EMA)

37 (1): A person who uses temporary field storage to store solid agricultural by-products must ensure all of the following: (a) that field storage is not located (i) in any area in which there is standing water or water-saturated soil, or (ii) on any low-lying area of a field prone to annual seasonal flooding, during the flood season or when flooding is imminent; (b) that field storage is monitored at least once each week to ensure compliance with this code; (c) that, before the end of the growing period, but no later than 7 months after storage begins, all field-stored solid agricultural by-products are (i) used, (ii) moved to a permanent storage structure, if storage is allowed under section 32 (a) or (b) [allowable storage and use of solid agricultural by-products], or (iii) transported away from the agricultural land base; (d) that vegetation is grown on the storage location after the field-stored solid agricultural by-products are used, moved or transported in accordance with paragraph (c), either in the current or next growing season; (e) that, if field storage is for a period of more than 2 weeks, temporary field storage does not occur in the same location again for at least 3 years.

Details/Findings:

During the on-site inspection, Ministry Staff observed that Spa Hills stored agricultural by-products (chicken manure) in the form of temporary field storage, north of the property within close proximity to the compost facility, also carried out on the same land base. The Co-Owner informed Ministry Staff that (a) the agricultural by-products are not located on standing water or low-lying areas that are prone to annual seasonal flooding; (b) the field storage is not monitored and no weekly inspection records were provided for the stored agricultural by-products; (c) the agricultural by-products are stored at this location until used as feedstock for the composting facility, also carried out on at the Facility, within 7 months; (d) no vegetation is grown on the storage location afterwards; (e) the agricultural by-products are stored for more than 2 weeks and the same location is used annually.

Therefore, Spa Hills is out of compliance for Sections 37(1) (b), (d) and (e) of COPAEM.

Compliance:

Out

Actions to be taken:

Ensure the requirements under Section 37(1) for temporary field storage of agricultural by-products, and monitor the stored materials weekly, and keep a record according to Section 37(2).

Requirement Description:

Environmental Management Act, Code of Practice for Agricultural Environmental Management (EMA)

37 (2): A person who uses temporary field storage must keep a record of all of the following: (a) the type and source of the materials being stored and the date that storage began; (b) the location of the temporary field storage; (c) the weekly results of monitoring conducted under subsection (1) (b).

Details/Findings:

During the on-site inspection, Ministry Staff observed that Spa Hills stored agricultural by-products (chicken manure) in the form of temporary field storage. Spa Hills did provide weekly monitoring records for the stored agricultural by-products. Ministry Staff were informed by the Co-Owner, by phone, that there are no records kept for the temporary field storage.

Compliance:

Out

Actions to be taken:

Keep a record of each temporary field storage, as required under Section 37(2) of COPAEM.

Requirement Description:

Environmental Management Act, Code of Practice for Agricultural Environmental Management (EMA)

45: A person may do one or both of the following, but only if the wood residue is subsequently used in agricultural operations: (a) bring wood residue onto the person's agricultural land base; (b) store wood residue on the person's agricultural land base (i) in a permanent storage structure, or (ii) as temporary field storage for a period of no more than 12 months.

Details/Findings:

During the inspection, Ministry Staff observed wood residue, specifically sawdust, being stored at the north of the property (Photo 4). The Co-owner informed Ministry Staff, that the wood residue is brought onto the agricultural land base to be used as animal bedding and is stored in a temporary field storage for no longer than 6 weeks.

Compliance:

In

Compliance History:

This is the first electronic compliance record for this authorization since **January 1, 2012**.

The Ministry of Environment Compliance and Enforcement Policy and Procedure (C&E Policy) prescribes common requirements and procedures for all Ministry staff to ensure consistent and risk-based assessment and response to non-compliance. Using the Non-Compliance Decision Matrix, the compliance determination for this inspection has been assessed as **Level 2, Category A, Warning Codes and Regs.**

More information about Environmental Compliance, the Non-Compliance Decision Matrix, and reporting and data submission requirements can be found at the links below:

General compliance information:

www.gov.bc.ca/environmentalcompliance

Non-Compliance Decision Matrix information:

www.gov.bc.ca/environment/how-compliance-is-assessed

Reporting and data submission requirements (to be sent to EnvAuthorizationsReporting@gov.bc.ca):

<https://www2.gov.bc.ca/gov/content/environment/waste-management/waste-discharge-authorization/comply>

Please be advised that this inspection report may be published on the provincial government website within 7 days.

Below are attachments related to this inspection.

If you have any questions about this warning, please contact the undersigned.

Yours truly,

Rebecca Benham

Environmental Protection Officer

Attachments:

- 1) Photo 1. Stored agricultural by-products (including manure) in a temporary field storage in close proximity to compost operation.
- 2) Photo 2. Contaminated runoff and leachate, from the stored agricultural by-products, being discharged to the ground and travelling along the property.
- 3) Photo 3. Contaminated runoff and leachate, from the stored agricultural by-products, being discharged to the ground and travelling along the property.
- 4) Photo 4. Wood residue being stored as temporary field storage at the north of the property.

Deliver via:

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**Ministry of Environment
and Climate Change
Strategy**

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DISCLAIMER:

Please note that sections of the permit, regulation or code of practice referenced in this inspection record are for guidance and are not the official version. Please refer to the original permit, regulation or code of practice.

To see the most up to date version of the regulations and codes of practices please visit

<http://www.bclaws.ca>

If you require a copy of the original permit, please contact the inspector noted on this inspection record.

It is also important to note that this inspection record does not necessarily reflect each requirement or condition of the authorization therefore compliance is noted only for the requirements or conditions listed in the inspection record.



Photo 1. Stored agricultural by-products (including manure) in a temporary field storage in close proximity to compost operation.



Photo 2. Contaminated runoff and leachate, from the stored agricultural by-products, being discharged to the ground and travelling along the property.



Photo 3. Contaminated runoff and leachate, from the stored agricultural by-products, being discharged to the ground and traveling along the property.



Photo 4. Wood residue being stored as temporary field storage at the north of the property.