

Environmental Law Centre

January 13, 2001

Our File:

Albert Klapstein, MLA
Chairman, The Sustainable Management of the Livestock Industry in
Alberta Committee
513 Legislature Building, 10800 - 97 Avenue
Edmonton, Alberta
T5K 2B6

via e-mail: dwillis@assembly.ab.ca

Dear Mr. Klapstein:

**RE: Sustainable Management of the Livestock Industry in Alberta
Committee - Public Meetings and Written Submissions**

On behalf of the Environmental Law Centre, I thank you for giving us the opportunity to participate in the Sustainable Management of the Livestock Industry in Alberta Committee hearings regarding the proposed regulatory framework for livestock feeding operations in Alberta. We have elected to present a written submission.

The Environmental Law Centre is a non-profit organization that has operated in Alberta since 1982. The Environmental Law Centre provides services in environmental law education and assistance, environmental law reform and environmental law research to achieve its objective of making the law work to protect the environment. It is in pursuit of these objectives that we provide our comments regarding the future of intensive livestock operations in Alberta.

Although our comments will focus on the three issues that the Committee has listed in its terms of reference (provincial and municipal roles, approval processes, and monitoring and enforcement) we also discuss other issues that we consider important.

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General Comments

We strongly agree that Alberta requires a new regulatory framework for intensive livestock operations (ILO's). We are pleased to see an updated *Code of Practice for Responsible Livestock Development and Manure Management*.

We strongly agree with provincial involvement in the process. We recommend an expanded and stronger role for the provincial government, in particular, an expanded role for Alberta Environmental Protection (AEP).

A stronger, and more clearly defined provincial role will ensure that there is adequate expertise to assess environmental and health effects of all existing and future operations, and ensure consistent standards throughout the province, which are lacking at the present. It would ensure that the health of all Albertans is protected equally, no matter where they live in Alberta.

We recommend improved notice requirements and expanded public involvement in the decision making process.

We also recommend a stricter monitoring and enforcement regime. We do not want to see a Walkerton situation occur in Alberta. We believe that responsibility for avoiding a Walkerton situation lies with the provincial government through strict and consistent regulations rigorously enforced.

Proposed Standards Document for Intensive Livestock Operations

The "Proposed Standards Document for Intensive Livestock Operations" (the "Document") outlines the requirements for the siting, design and construction of ILO's. The Document states that the "Standards Document will be reviewed at least every five years after the legislation comes into effect." We agree that the Document be reviewed, but recommend "every two years". We recommend full public review of the Document, which is

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currently not the case. Currently the Document states that "All proposed amendments to this Standards Document will be reviewed by government and other stakeholders."

Existing Intensive Livestock Operations

Section 1 of the "Proposed Regulations for Intensive Livestock Operations" states that "New and expanding intensive livestock operations must obtain Approvals". We recommend that *all* existing Intensive Livestock Operations be required to obtain Approvals, and hence meet the new standards. This would ensure a consistent standard throughout the province, would ensure more active public participation, and better protect the health of Albertans. There needs to be a provincial mechanism for identifying and monitoring *all* ILO's in the province for potential negative environmental effects, as well as for enforcement and compliance.

Provincial and Municipal Roles in Intensive Livestock Operations

We strongly recommend a greater and more clearly defined role for the provincial government in the ILO process. This will ensure that there is adequate expertise to assess environmental and health effects of all existing and future operations, and ensure consistent standards from municipality to municipality. It would ensure that the health of all Albertans is protected equally, no matter where they live in the province. It would also provide the industry and potential operators with more certainty when applying for an Approval.

We accept Alberta Agriculture, Food and Rural Development (AAFRD) as administrator, provided staff, in a department that has traditionally supported major expansion of livestock operations, have the expertise to administer the legislation and are not placed in a conflict of interest.

We strongly recommend an expanded role for Alberta Environmental Protection (AEP) and Alberta Health (AH) in regulating feeding operations than is currently the case. The legislated mandates of these departments are the protection of the environment and public health,

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which is a major concern with ILO's.

If these mandates are fulfilled, Albertans will have defined what level of livestock production is sustainable in the province. Clear definition within the regulatory framework is required of the relationship of the proposed legislation regarding livestock operations to *The Alberta Environmental Protection and Enhancement Act* and *The Public Health Act* and the specific roles and responsibilities of AEP and AH. Who will address cumulative effect?

We also recommend that the role and responsibilities of municipal governments be more clearly defined.

Approval Process

We recommend greater provincial involvement in the Approval granting process.

We agree that final authority for Approvals should be left to the local municipality. However, it is our position that *all* applications, not just those deemed to be environmentally sensitive by the municipality, should be submitted to AAFRD for examination after the municipality has received them back from the regional health authority for review and comment. It is our position that AAFRD is better equipped and has more expertise to deal with this issue. It would also ensure consistent provincial involvement, and would ensure that a consistent standard is applied across the province.

We also recommend that each application be subject to an Environmental Assessment at some stage, and an Environmental Impact Assessment Report be issued before an Approval is granted or refused by a municipality. This process would allow for full public participation *before* a decision is made, ensure a consistent standard across the province, and ensure that ILO development occurs in an environmentally responsible and orderly manner. This would especially satisfy the need for expanded public involvement in the process. Currently, only proposals deemed

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extremely sensitive are forwarded to AEP for a possible Environmental Approval.

We recommend that ILO's not be allowed at all in certain environmentally sensitive areas. The "Proposed Regulations for Intensive Livestock Operations", section 2, currently states that "New and expanding livestock operations that are located: (i) in a 1-in-100 year flood plain, (ii) within 100 metres of a open body of water or irrigation works, spring, or (iii) over a groundwater source which has less than 4 metres of soil between the manure storage facility and the water bearing formation must obtain an Approval from Alberta Agriculture, Food and Rural Development (AAFRD) prior to construction." We suggest that ITO's not be allowed in these areas.

Enforcement and Monitoring

The "Proposed Act for Intensive Livestock Operations", section 52, states that "A person who: (a) does not obtain an Approval, or Authorization, or (b) provides false or misleading information, or (c) fails to provide information is liable for a fine of not more than \$5,000." It is our opinion that this amount is too low and will have a limited deterrent effect. The same can be said regarding fines levied in sections 53, 54, and 55. We recommend that these amounts be substantially increased.

Section 26 of the "Proposed Regulations for Intensive Livestock Operations" states that "The operators of intensive livestock operations must keep records ... for 5 years." We recommend that this time period be extended, to say 10 years. It is also recommended that records be submitted periodically to AAFRD for review, say once every 2 years.

Section 42 of the "Proposed Act for Intensive Livestock Operations" states that "A Peer Review process shall be established to investigate complaints ...". Section 43 then states that "When AAFRD receives a complaint, it can initiate a peer review process when appropriate...." We agree with the concept of a Peer Review process. However, we recommend that this process be mandatory upon AAFRD receiving a complaint, and that

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section 43 should read "When AAFRD receives a complaint, it shall initiate a peer review process."

We strongly oppose any form of voluntary compliance in the ITO regime.

As a final comment, the Committee should be aware that Mr. Andrew Hudson, former Staff Counsel at the Environmental Law Centre, was a member of the Livestock Regulations Stakeholder Advisory Group. Be advised that the views expressed in this submission are those of the writer and the Environmental Law Centre, and are not necessarily those of Mr. Hudson.

On behalf of the Environmental Law Centre, I thank you for considering our comments. Should you have any questions regarding them, please do not hesitate to contact me at (780) 424-5099, extension 306.

Sincerely,

Robert R.G. Williams
Staff Counsel

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