



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region08

Ref: 8 Montana

SENT VIA EMAIL
DIGITAL READ RECEIPT REQUESTED

Ken Kleinsser
Big Sky Colony
ken.bigsky@colonymt.com

Re: Inspection Report for Big Sky Colony, unpermitted

Dear Mr. Kleinsser:

On June 13, 2023, a representative of the U.S. Environmental Protection Agency inspected the Big Sky Colony's Concentrated Animal Feeding Operation (CAFO) in Cut Bank, Montana. At the time of the inspection, the CAFO was not covered by a National Pollutant Discharge Elimination System (NPDES) permit for animal feeding operations. The inspection was conducted under the authority of Section 308 of the Clean Water Act (Act). Enclosed is a report of the inspection.

Based on the information reviewed and obtained during the inspection, I did not document any findings and am not requesting additional information at this time; however, recommendations have been proposed in the body of the inspection report.

Please contact me at 406-457-5022 or prideaux.lisakay@epa.gov if you have any questions regarding this letter or the enclosed report.

Sincerely,
Prideaux,
LisaKay

Lisa-kay Prideaux
NPDES and Wetlands Enforcement Section
Enforcement and Compliance Assurance Division

 Digitally signed by Prideaux,
LisaKay
Date: 2023.08.21 10:51:57 -06'00'

Enclosures:

- 1) NPDES CAFO Inspection Report – Big Sky Colony
- 2) NPDES Inspection Photo Log – Big Sky Colony

cc: The Honorable Illif 'Scott' Kipp Sr, Chairperson, Blackfeet Tribe (electronic)
Gerald Wagner, Environmental Director, Blackfeet Tribe (electronic)
Barry Adams, Water Quality Coordinator, Blackfeet Tribe (electronic)

NPDES Inspection Report – Concentrated Animal Feeding Operations

National Database Information	
Inspection Date: June 13, 2023	Inspection Type: Concentrated Animal Feeding Operation
Entry/Exit Time: 15:00 / 16:30	NPDES ID Number: Unpermitted Site
NAICS Code: 112112	Inspection ID: 202307 MTU000700
Lead inspector and affiliation: Lisa-kay Prideaux, EPA Region 8 Montana Operations Office	

Facility Location Information (Name/Location/ Mailing Address)	
Site/Facility Name & Location: Big Sky Colony (b) (6)	Email Report to: Ken Kleinsser Ken.bigsky@colonymt.com

Contact Information	
	Name(s)/Title
Facility Contacts:	Ken Kleinsser / Plumber / Big Sky Colony / present during the inspection
Person/Company meeting definition of “Operator”	Big Sky Colony
Authorized Official(s)	Dan Wipf / Manager / Big Sky Colony (not present) Ken Kleinsser / Plumber / Seville Colony (present)

Permit Information		
Is the permit on site and available? N/A, the site is not permitted	Effective Date: N/A Expiration Date: N/A	
Receiving Water(s): No Discharge	Latitude (from inspection): (b) (6)	Longitude (from inspection): (b) (6)
Regulatory Inspector’s source of information: Conversations with Facility contacts, field observations made during site visit, previous inspections, Integrated Compliance Information System (ICIS), and Enforcement and Compliance History Online (ECHO).		
Weather conditions during inspection (e.g., temperature, sky, precipitation): Clear, partly sunny and 79°F, no precipitation within the previous 24-hours		

Areas Evaluated During Inspection		
Permit	Self-Monitoring Program	Pretreatment
<u>Records</u>	Compliance Schedule	Pollution Prevention
<u>Facility Site Review</u>	Laboratory	Stormwater
Effluent/Receiving Waters	<u>Operations and Maintenance</u>	Combined Sewer Overflow
Flow Measurement	Sludge Handling/Disposal	Sanitary Sewer Overflow

Site Information					
Permitted Capacity of Facility		N/A	Type of Confinement		Roofed confinement
Max. Capacity of Facility		Unknown	Annual Report Submission		N/A
Animal Type	# confined	Large/Medium Definition	Animal Type	# confined	Large/Medium Definition
Cattle	0	≥1,000/≥300	Sheep	0	≥10,000/≥3,000
Dairy mature	150	≥700/≥200	Dairy (heifers)	150	≥1,000/≥300
Swine (farrow to finish)	5,000	≥2,500/≥750	Swine (<55#)	500	≥10,000/≥3,000
Chickens (solid manure)	40,000	≥125,000/≥37,500	Chickens (liquid manure)	0	≥30,000/≥9,000
Turkeys	0	≥55,000/≥16,500	Other (specify) _____	0	

Report Review and Signature		
Drafter Name	Address/Phone Number	Date
Prideaux, LisaKay Digitally signed by Prideaux, LisaKay Date: 2023.08.21 10:53:28 -06'00'	U.S. EPA Region 8, Montana Operations Office 10 West 15th Street, Suite 3200 Helena, Montana 59626	07/28/2023
Lisa-kay Prideaux	406-457-5022	
Management Signature/Name	Address/Phone Number	Date
EMILIO LLAMOZAS Digitally signed by EMILIO LLAMOZAS Date: 2023.08.21 14:54:45 -06'00'	U.S. EPA Region 8 1595 Wynkoop Street 8ENF-W-NW Denver, Colorado 80202	08/18/2023
Emilio Llamozas	303-312-6407	

Inspection Narrative and Site Description

The inspection was conducted at the Big Sky Hutterite Colony (facility) located in Cut Bank, Montana to evaluate the facility's discharge status and permit application status. Currently, the facility is unpermitted. The facility is located within the boundaries of the Blackfeet Reservation. The EPA is responsible for implementing the NPDES program in Indian Country within the State of Montana. The inspection was announced approximately one week prior to the inspection to coordinate logistics and ensure a facility representative would be on site. On June 13, 2023, I, U.S. Environmental Protection Agency (EPA) inspector Lisa-kay Prideaux, met with the Big Sky Hutterite Colony plumber, Ken Kleinsser. I presented credentials and had an opening conference to explain the purpose of the inspection. I then proceeded to ask questions of Mr. Kleinsser to help me evaluate the facility's discharge status, and to obtain facility information for NPDES permit coverage. Throughout the inspection, I noted my observations in a field notebook. Photographs taken during the inspection are included in the attached photo log.

The Big Sky Hutterite Colony was founded in 1978 and is a certified organic multi-animal species farm. At the time of the inspection, the facility had approximately 40,000-layer chickens (organic) and 5,000 farrow to finish swine with approximately 500 sows within confinement buildings and a partial open lot/confinement area with approximately 150 milking dairy cows. The facility also has adjacent feed storage and handling areas and manure containment structures. Wastewater generated from animal confinement areas flows to three open lagoons with a combined capacity of approximately 18-million-gallons.

The production area is approximately 30 acres, and approximately 3,000 acres of cropland is available for land application of solids and liquid waste. Mr. Kleinsser manages the records for animal inventory and mortality, records of liquid waste sample analyses, soil sample analyses for all land application fields, and type of crop with crop yield for each field. Mr. Kleinsser indicated this information is submitted to a certified crop advisor (CCA), who manages the Nutrient Management Plan (NMP). The CCA calculates the appropriate dry/liquid waste application rates for each field, which is followed and recorded by the facility. Mr. Kleinsser stated best management practices (BMPs) for the land application areas include conservation or reduced tillage, riparian buffers or vegetative filter strips, and manure spreader. Mr. Kleinsser indicated inspections are conducted and documented around the facility including the animal barns, water lines, waste storage structure, and stormwater diversion ditches; however, I did not review them. Mr. Kleinsser described the stormwater management for the facility; the 'working' area on the farm is all crushed rock for infiltration, and there are wide shallow ditches (clean water ditches) throughout the facility to collect and divert stormwater from the barns/production area and housing area into two stormwater areas. The northern portion of the property collects stormwater and pipes it to a reservoir located west of the dairy cow barns; the southern portion of the property collects stormwater through pipes and swales to discharge into a vegetated field (not crop fields) located southeast of the chicken barns. I then asked about permit coverage and indicated that although the facility does not currently discharge, a permit is required if the facility were to discharge or has plans to discharge. Mr. Kleinsser stated the facility does not discharge and has no plans in the future to discharge. The wastewater lagoons sit approximately 715 feet to the north of an unnamed intermittent channel. The channel flows southeast through a series of intermittent channels for approximately 34 miles before joining Cut Bank Creek, which is a navigable water.

After the records review, Mr. Kleinsser escorted me throughout the facility grounds. I observed the location of the stormwater reservoir (photos 653 & 654) which collects stormwater from the northern portion of the property as well as storm drains (photo 665) and open ditches collecting stormwater from the southern portion of the property flowing into a field. Mr. Kleinsser stated the facility uses stormwater collected in the reservoir to irrigate the Colony gardens. We then traveled to the wastewater lagoon

system. The facility has a 3-cell lagoon system which is total retention, and I did not observe any outlet structures. Wastewater flows to the first cell located as the northern most cell and to the east of the two domestic wastewater lagoon cells. Cell 1 is approximately 1.5-acre in size (photos 658 & 659) and at the time of the inspection had a layer of crusted sludge on the top of the pond. Wastewater moves through piping in the southwest corner to the second lagoon cell located to the south and is approximately 3-acres in size (photo 660). Wastewater then moves through piping in the center south of the pond to the third lagoon cell located south and east (photos 661-663). At the time of the inspection there was two layers of visible erosion on the inside of the south dike wall (photo 662). The first layer of erosion appeared to have some vegetative growth underneath, but not the second layer, which was close to the water's edge. Mr. Kleinsser stated that the erosion occurs due to wave action from high winds throughout most of the year. Mr. Kleinsser stated facility typically operates the system in series. He also stated the irrigation pumps (photo 664) (located between cells 2 and 3) for center pivots can pull from either cell 2 or 3. Mr. Kleinsser stated the slurry used is approximately a 15:1 liquid slurry mix to spread in the fields. The dike walls for all lagoon cells are not vegetated; allowing a visual assessment of any stormwater rills and/or rodent damage, which there were none noted. Mr. Kleinsser also stated that approximately 70,000 gallons of wastewater from the domestic lagoons is pulled to clean the approximately 8 miles of land application irrigation lines in the fall. Mr. Kleinsser then brought me by the chicken barn (1), the hog barns (2), and the dairy cow barn (1) and pens. There are two outdoor pens not connected to the barn, for dairy cows and calves, and a 15-acre outdoor area for chickens.

At the end of the inspection, I held a closing conference with Mr. Kleinsser where I discussed the recommendation to stabilize the southern end of the third lagoon pond, to submit an application for permit coverage for the facility, and the process for the inspection report. The inspection concluded at approximately 4:30 pm.

After the inspection was complete, a review of rules and regulations was conducted, and it was determined the facility does not meet the definition of a CAFO. In 40 CFR Part 122.25(b)(6) defines a medium CAFO to include (i) the type and number of animals that fall within defined ranges; and (ii) either (A) discharge pollutants into waters of the United States through a designated conduit, or (B) discharge pollutants indirectly through direct contact with the confined animals. The facility meets the threshold number for animals; however, the facility does not have a discharge to surface water, or animals having access to pass through a surface water. Therefore, the facility as it currently operates does not meet the definition. If the facility changes operations to include discharging from the animal waste lagoons or allowing animals direct access to surface waters, the facility will then meet the definition of a medium CAFO and would require permit coverage.

Findings, Corrective Actions and Recommendations

Recommendation #1: Submit an application for NPDES permit coverage prior to discharge.

If Big Sky Colony changes its current operation as a non-discharging facility, to include discharging from the animal waste lagoon, or allowing animals direct access to surface waters, permit coverage would be required.

Regulatory requirement:

In accordance with 40 C.F.R. 122.23(f), "A CAFO must be covered by a permit at the time that it discharges."

40 C.F.R. 122.23(d)(1) states "A CAFO must not discharge unless the discharge is authorized by an NPDES permit. In order to obtain authorization under an NPDES permit, the CAFO owner or operator

must either apply for an individual NPDES permit or submit a notice of intent for coverage under an NPDES general permit.”

Recommended Action:

If the facility changes operations and/or an emergency arises where a discharge is eminent; the facility is required to prepare and submit a permit application for NPDES permit coverage. Provide a copy of the permit application to the EPA and the Blackfeet Tribe if the facility plans to discharge.

Recommendation #2: Visual erosion was observed on the south end of animal waste lagoon #3.

Specifically, two levels of erosion were noted on the south end of animal waste lagoon cell #3 (photo 662). Erosion most likely occurs due to wave action from high winds throughout most of the year.

Regulatory requirements:

40 CFR § 122.41(e) requires, at all times, the proper operation and maintenance of all facilities and systems of treatment and control (and related appurtenances) which are installed or used.

Recommended Action:

EPA recommends the south bank of the waste lagoon cell 3 be stabilized to maintain integrity of the lagoon walls.