



**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 domestic lagoon in Cut Bank, Montana. At the time of the inspection, Big Sky Colony was not covered by a National Pollutant Discharge Elimination System general permit for Wastewater Lagoon Systems in Indian Country. 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.

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

 Digitally signed by Prideaux,
LisaKay
Date: 2023.08.21 11:24:34 -06'00'

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

Enclosures:

- 1) NPDES Lagoon 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: Domestic Lagoon
Entry/Exit Time: 15:00 / 16:30	NPDES ID Number: Unpermitted Site
NAICS Code: 112112	Inspection ID: 202307 MTU000703
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

Report Review and Signature		
Drafter Name	Address/Phone Number	Date
Prideaux, LisaKay Digitally signed by Prideaux, LisaKay Date: 2023.08.21 11:25:57 -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 15:02:34 -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 Colony plumber, Ken Kleinsesser. I presented credentials and had an opening conference to explain the purpose of the inspection. I then proceeded to ask questions of Mr. Kleinsesser 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 multi-animal species farm. The facility serves approximately 120 residences within the Colony. Wastewater from the housing complex is collected and transferred through piping to a two-celled bentonite lined treatment lagoon system located directly west of the animal waste lagoon cell 1. The Colony generates approximately 100,000 gallons of domestic wastewater per year. Both lagoon cells are approximately 0.45-acres in size and are operated in series. The lagoon system does not have a discharge pipe.

Mr. Kleinsesser escorted me around the housing complex and to the treatment lagoons (photos 655 & 656). Mr. Kleinsesser stated that approximately 70,000 gallons/year of treated wastewater is used to clean the approximately 8 miles of land application irrigation lines in the fall; wastewater is drawn from cell 2.

At the end of the inspection, I held a closing conference with Mr. Kleinsesser where I discussed the process for the inspection report. The inspection concluded at approximately 4:30 pm.



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

David Hofer
Seville Colony

(b) (6)

Re: Inspection Report for Seville Colony, unpermitted

Dear Mr. Hofer:

On June 14, 2023, a representative of the U.S. Environmental Protection Agency inspected the Seville Colony 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

Digitally signed by Prideaux,
LisaKay
Date: 2023.08.21 10:14:26 -06'00'

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

Enclosures:

- 1) NPDES CAFO Inspection Report – Seville Colony
- 2) NPDES Inspection Photo Log – Seville 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 14, 2023	Inspection Type: Concentrated Animal Feeding Operation
Entry/Exit Time: 8:00 am / 10:00 am	NPDES ID Number: Unpermitted Site
NAICS Code: 112112	Inspection ID: 202307 MTU000071
Lead inspector and affiliation: Lisa-kay Prideaux, EPA Region 8 Montana Operations Office	

Facility Location Information (Name/Location/ Mailing Address)	
Site/Facility Name & Location: Seville Colony (b) (6)	Email Report to: David Hofer (b) (6)

Contact Information	
	Name(s)/Title
Facility Contacts:	David Hofer / Plumber / Seville Colony / present during the inspection
Person/Company meeting definition of “Operator”	Seville Colony
Authorized Official(s)	Edward G. Waldner / Manager / Seville Colony David Hofer / Plumber / Seville Colony

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, previous permit, Integrated Compliance Information System (ICIS), and Enforcement and Compliance History Online (ECHO).		
Weather conditions during inspection (e.g., temperature, sky, precipitation): Clear, sunny and 68°F, no precipitation within the previous 24-hours		

Areas Evaluated During Inspection		
<u>Permit</u>	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	250	≥700/≥200	Dairy (heifers)	1,000	≥1,000/≥300
Swine (farrow to finish)	300	≥2,500/≥750	Swine (<55#)	300	≥10,000/≥3,000
Chickens (solid manure)	30,000	≥125,000/≥37,500	Chickens (liquid manure)	30,000	≥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 10:15:37 -06'00'	U.S. EPA Region 8, Montana Operations Office 10 West 15th Street, Suite 3200 Helena, Montana 59626	07/21/2023
Lisa-kay Prideaux	406-457-5022	
Management Signature/Name	Address/Phone Number	Date
EMILIO LLAMOZAS Digitally signed by EMILIO LLAMOZAS Date: 2023.08.21 14:35:45 -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 Seville Hutterite Colony Concentrated Animal Feeding Operation (CAFO or 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 14, 2023, I, U.S. Environmental Protection Agency (EPA) inspector Lisa-kay Prideaux, met with the Seville Colony plumber, David Hofer. I presented credentials and had an opening conference to explain the purpose of the inspection. I then proceeded to ask questions of Mr. Hofer 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 Seville Hutterite Colony was founded in 1983 and is a certified organic multi-animal species farm. At the time of the inspection, the facility had approximately 30,000-layer chickens (organic) and 300 farrow to finish swine within confinement buildings and a partial open lot/confinement area with approximately 250 milking dairy cows, and 750 heifers and calves. The facility also has adjacent feed storage and handling areas and manure containment structures. Wastewater generated from animal confinement areas flows to an underground 'holding pond' and then to the separator building. Solid material is stored on an open stacking pad (dry manure) and liquid waste is stored in three open lagoons with a combined capacity of approximately 22-million-gallons.

The production area is approximately 30 acres, and approximately 14,000 acres of cropland is available for land application of solids and liquid waste. Mr. Hofer manages the records for animal inventory and mortality, records of dry manure and liquid waste sample analyses, soil sample analyses for all land application fields, and type of crop with crop yield for each field. Mr. Hofer 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. Hofer stated best management practices (BMPs) for the land application areas include conservation or reduced tillage, riparian buffers or vegetative filter strips, and manure injection or incorporation. Mr. Hofer indicated weekly 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. Hofer described the stormwater (clean water ditches) throughout the facility and stated they collect and divert stormwater from the barns/production area and housing area into two stormwater ponds: one north of the dairy cow barns and one north of the hog 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. Hofer stated the facility does not discharge and has no plans in the future to discharge. The wastewater lagoons sit approximately 580 feet to the southwest of an unnamed intermittent channel. The channel flows southeast for approximately 6 miles before joining Cut Bank Creek, which is a navigable water.

After the records review, Mr. Hofer escorted me throughout the facility grounds. I observed the location of the underground holding tank where all waste from the barns collects (photo 674). Following the waste stream, I observed the separator building (photo 675) where waste from the underground storage tank flows into a rotary press separating liquid and solid wastes. Solid waste is transferred via conveyor belt to the west of the building and is deposited on the stacking pad. Mr. Hofer described a portion of the

stacking pad is where dead animals and facility organic wastes are composted. I observed the stacking pad is a concrete pad with concrete walls on three sides and slopes inward to prevent runoff. There is a drain in the stacking pad area to collect any stormwater and pipes it to the wastewater lagoon. Following the liquid waste, which flows from the separator building to the wastewater lagoons. 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 in the center of the lagoon complex. Cell 1 is approximately 1-acre in size (photos 666 & 667) and was within inches of overtopping. Mr. Hofer stated they were filling the cell with water from cell 3 and getting ready to send the slurry out to an irrigation pivot within the week. Wastewater moves through piping to the second lagoon cell located to the north and is approximately 2.5-acres in size (photos 668 & 669). The third cell appears as two cells, though they are connected at the surface in the middle of the ponds. Cell 3 encompasses approximately 3.9-acres and is located west of cell 1 and south of cell 2 (photo 673). The facility pulls water from this cell to center pivots for irrigation during the summer. The facility also pulls water from this lagoon and adds it to cell 1 to create a more liquid slurry to spread in the fields. In total, the three lagoon cells hold approximately 22 million gallons of waste. The dike walls for all lagoon cells are not vegetated; allowing a visual assessment of for any stormwater rills and/or rodent damage, which there were none noted. Mr. Hofer then brought me by the new chicken barn (1), the hog barns (4), and the dairy cattle barns (2) and pens. There are four outdoor pens connected to the barn, and two additional uncovered areas for dairy cows and calves. The pens drain via gravity flow to the north and east where it is collected in the underground piping system to the underground holding basin (photo 674).

Stormwater conveyance structures were noted throughout the site as shallow and wide ditches as to still allow farm vehicles to easily cross. Stormwater ditches directs flow to a stormwater pond southeast of the animal waste lagoon cell 1 and south of the domestic waste lagoon (photo 672). There are several other areas on-site which collect storm water; however, they are natural low spots and not designed stormwater ponds. These areas do not have outlets and dry up in the summer. One location is west of animal lagoon pond 3 and another is located south of the facility gardens.

At the end of the inspection, I held a closing conference with Mr. Hofer where I discussed the recommendation to submit an application for permit coverage for the facility, and the process for the inspection report. The inspection concluded at approximately 10:00 am.

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 Seville 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: Water levels in lagoon cells above operational level.

Specifically, the facility’s lagoon water level in cell 1 is well above operational level and almost breaching the banks (photos 666 and 667). Any wastewater overtopping the lagoon walls would be considered an instance of noncompliance which may endanger human health and/or the environment.

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:

Transfer wastewater into cells 2 and 3 and/or consider crop irrigation to drop water levels in all cells, specifically cell 1.