

EPA Defends Aerial Screening

Cattlemen dissatisfied with EPA explanation of aerial surveillance.

Story & photos by **Troy Smith**

Cattle feeders weren't entirely satisfied with an Environmental Protection Agency (EPA) explanation of how and why aerial surveillance is used to monitor livestock feeding facilities. During a July 2 meeting in Lexington, Neb., EPA personnel sought to justify the flyover program, whereby the agency takes photographs of potential sources of contamination to surface waters. The photographs are then studied for evidence of violations of the Clean Water Act.

According to Karl Brooks, administrator of the Region 7 office in Kansas City, aerial photography has augmented EPA's various inspection and compliance activities for close to a decade. Brooks said eight of 10 agency regions have used this type of surveillance, with Region 7 adopting it most recently. Region 7 includes the states of Iowa, Missouri, Kansas and Nebraska, and represents a significant portion of the Missouri-Mississippi watershed. Brooks said flyover photography of confined animal feeding operations (CAFOs) within the region began about two and a half years ago, first in Iowa and then in Nebraska.

Controversy erupted when the public

became aware of the EPA's activities. Cattlemen's groups and others questioned the legality of the operations and expressed concern for the privacy of livestock producers who live on or near operations being photographed. Rumors of a fleet of military-style unmanned drones being used to spy on American citizens surfaced in press reports and spread rapidly via social media. Legislators from Iowa and Nebraska voiced concern. Though unsuccessful, Nebraska's congressional delegation sponsored a measure to halt EPA's use of aerial surveillance.

EPA defends practice

The EPA maintains its activities are both legal and cost-effective. Brooks said the Lexington meeting; an earlier session in West Point, Neb.; and another scheduled for Aug.

30 in Carroll County, Iowa, were organized to explain the program and exchange dialogue with livestock producers.

"First of all, the EPA does not have drones. We use a small airplane. That's just an example of the misinformation and exaggeration that we're trying to correct," Brooks stated. "We want you to know what we're doing. We're not trying to hide anything, and we want your feedback."

EPA Region 7 CAFO Enforcement Coordinator Stephen Pollard explained how the agency contracts for a four- or six-seat

aircraft and pilot to conduct surveillance flights at altitudes of 1,500-2,000 feet (ft.). Typically, Pollard takes the photos himself, using a digital camera fitted with a global positioning system (GPS).

Pollard said decisions about where to conduct flyovers are based on the concentrations of CAFOs in areas with a history of impaired surface waters. In Nebraska, flights were conducted in northeast and south-central portions of the state.

Impairments to surface waters could include higher-than-normal bacteria counts or high levels of certain nutrients. Pollard said he and other EPA personnel know that water impairment can result from a variety of sources, and the flyover program is not meant to be an indictment of livestock operations. Still, the purpose of the flights is to locate operations that may warrant further investigation.

"It's a screening process that allows us to focus in on operations that may not be in compliance," said Pollard, noting that conducting an "average" flight over multiple livestock operations costs the EPA about \$1,500. When there is evidence that runoff from a livestock operation might reach a creek, river or other surface waters, the operation may be selected for on-the-ground inspection. A full-blown inspection can cost the agency close to \$10,000.

"We do not take enforcement actions based solely on photos taken on an over-flight," Pollard emphasized. "We always perform an on-the-ground inspection before taking action."

Pollard said an inspection of a cattle-feeding operation is likely if photos show evidence that discharge from manure management structures or manure stockpile sites is finding its way to surface waters. Other

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►Flyover photography of CAFOs within Region 7 began about two and a half years ago, first in Iowa and then in Nebraska, said Karl Brooks, EPA Region 7 administrator.



►The flyovers provide a screening process of multiple operations at a cost of about \$1,500 compared to a single on-site inspection that may cost \$10,000, said Stephen Pollard, EPA Region 7 CAFO enforcement coordinator. Greater than 90% of livestock operations are in compliance.

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potential sources include runoff from feed storage sites (such as silage bunkers) and certain winter-feeding areas on cow-calf and stocker operations. Surface water contamination from these sources may occur when runoff flows to road ditches, field drainage tiles or other man-made conveyances not intended for that purpose.

“Most of the operations we’re seeing just don’t have any issues. Photos of the operations show them to be clean, well-maintained and in compliance,” stated Pollard, explaining that

greater than 90% of feeding facilities showed no evidence of violation.

EPA personnel also explained the on-the-ground inspection process, noting that managers of operations may be given 24- to 48-hour notice or no notice prior to inspection. Formal notification of any violations and instructions for bringing an operation into compliance may follow within 60 days of an inspection, but it can take longer.

Cattlemen still question

Cattlemen in the audience questioned the slow response time and also asked why the EPA does not inform the producer as an affirmation of compliance when an inspection reveals no violations. Several audience members praised the Nebraska Department of Environmental Quality (NDEQ) practice of prompt communication in such instances, while EPA leaves producers waiting and wondering.

Cattlemen also wanted to know why the

EPA appears to be acting separately from state environmental agencies. Since the EPA has authorized NDEQ to implement the Clean Water Act, including responsibility for issuing CAFO permits and making inspections of Nebraska feeding operations, audience members suggested the EPA's independent action amounts to a duplication of effort at taxpayer expense.

"There are a lot of aspects about the federal-state relationship that look a bit clumsy," Brooks admitted, "but we are in

constant communication [with state agencies] about how we do inspection work."

Brooks also admitted that when first informed about EPA plans for aerial surveillance of livestock operations, NDEQ Director Mike Linder expressed concern. According to Brooks, Linder recognized EPA's authority to perform aerial surveillance but did not approve of the program. Telling, perhaps, was the absence of Linder and invited NDEQ personnel during the Lexington meeting.

Regarding the EPA's controversial flights, many livestock producers in Nebraska and Iowa have expressed displeasure with EPA's "Big Brother" approach. Many have echoed a statement by Kristen Hassebrook, natural resources director for the Nebraska Cattlemen (Association), who said, "We continue to think they are intrusive, a waste of money and not necessary."

