

## Decision Summary LA17029A

This document summarizes my reasons for issuing Authorization LA17029A under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA17029A. That document and the full application are available from the decisions search engine on the Natural Resources Conservation Board (NRCB) website at [www.nrcb.ca](http://www.nrcb.ca). My decision is based on the act and its regulations, the policies of the NRCB, the information contained in the application, and all other materials in the application file.

### 1. Background

On October 1, 2018 Ewelme Farming Co. Ltd. (Ewelme Colony) submitted an application for an amendment of Authorization LA17029 to the NRCB. The amendment proposed a change in dimensions for the existing feedlot pens. Authorization LA17029 had been issued for feedlot pens with the following dimensions: three rows, each row 243.8 m x 61 m, for a total feedlot pen dimension of 243.8 m x 183 m. During the post construction inspection completed on August 21, 2018, it was determined that each row exceeded those dimensions by 44 m x 61 m. The amendment proposes the following change in dimension: three rows, each row 287.8 m x 61 m, for a total feedlot pen dimension of 287.8 m x 183 m. On January 10, 2019, I deemed the application complete.

The amendment to the pen dimensions is located east of the permitted area, 44 metres closer to an unnamed creek to the east. The new proposed dimensions are located 233 metres from the creek.

Under AOPA, this type of application requires an amendment to an authorization. (This is one of several types of “permits” issued under AOPA. For an explanation of the different types and when each one applies, see [www.nrcb.ca](http://www.nrcb.ca).)

#### a. Location

The existing CFO is located at NW 7-6-26 W4M in the Municipal District (M.D.) of Willow Creek, roughly 28 km southwest of the Town of Fort Macleod. The terrain is undulating, sloping towards the south.

#### b. Existing permitted facilities

Ewelme Colony’s permit history and grandfathered status is explained in Decision Summary LA17029.

The CFO’s deemed facilities are listed in the appendix to Authorization LA17029.

## 2. Notices to affected parties

Under section 21 of AOPA, notice of an authorization application must be provided to municipalities that are “affected” by the application. Section 5 of AOPA’s Part 2 Matters Regulation lists the categories of municipalities that are affected parties. These categories include the municipality where the existing CFO is located. Under section 21(2) of the act, all affected municipalities are automatically also “directly affected” parties. The NRCB interprets

section 21(3) as allowing affected municipalities to provide written submissions regarding whether the application meets the requirements of the regulations under the act. (See Operational Policy 2016-7: *Approvals*, part 7.9.2.)

The M.D. of Willow Creek is both an affected and directly affected party because the feedlot pens are located within its boundaries.

On January 10, 2019, the NRCB emailed referral letters and a copy of the application to the M.D. of Willow Creek (the municipality).

### **3. Responses from the municipality**

Ms. Cindy Chisholm, the manager of planning and development with the M.D. of Willow Creek, provided a written response on behalf of the municipality. As noted in section 2, the M.D. of Willow Creek is a directly affected party.

In her response, Ms. Chisholm stated that the county had no comments and noted that the proposed development is in keeping with the intent of the policies in the existing MDP that address CFOs. She also stated the subject lands are not affected by any other planning documents or subject to any known environmental concerns that would be outlined in the MDP.

She also noted that the proposed development also appears to meet the setback requirements of Land Use Bylaw (LUB) No. 1616. The subject lands are zoned Rural General-RG, for which the proposed development is considered a permitted use under LUB No. 1616.

### **4. Environmental risk screening of existing and proposed facilities**

When reviewing a new application for an existing CFO, NRCB approval officers normally assess the CFO's existing buildings, structures, and other facilities, using the NRCB's environmental risk screening tool to determine the level of risk they pose to surface water and groundwater. This tool provides for a numeric scoring of risks, which can fall within either a low, moderate, or high risk range. (A complete description of this tool is available under CFO/Guides on the NRCB website at [www.nrcb.ca](http://www.nrcb.ca).) However, if those risks have previously been assessed, the approval officer will not conduct a new assessment unless site changes are identified that require a new assessment, or the assessment was done with a previous version of the risk screening tool and requires updating. See NRCB Operational Policy 2016-7: *Approvals*, part 8.13.

In this case, the risks posed by the feedlot pens permitted under Authorization LA17029 were assessed in 2017. The existing feedlot pens and catch basin were also reassessed at that time. According to that assessment, these facilities pose a low risk to groundwater and a low risk to surface water. The risk assessment is documented in Technical Document LA17029.

A new assessment was completed based on the amended dimensions to the feedlot pens. According to this assessment, the proposed amendment also poses a low risk to groundwater and a low risk to surface water.

## 5. Other factors considered

The application meets all relevant AOPA requirements, with the terms and conditions summarized in part 6.<sup>1</sup>

As noted in Decision Summary LA17029, the feedlot pens are consistent with the land use provisions of the M.D. of Willow Creek municipal development plan. Altering the pen dimensions does not affect that municipal development plan consistency determination. (See Appendix A of Decision Summary LA17029 for a more detailed discussion of the Municipality's planning requirements.)

With respect to the act's technical requirements, the pens were constructed using a naturally occurring protective layer that meets the AOPA groundwater protection requirements for the design of floors and liners of manure storage facilities, as noted in Technical Document LA17029.

The subject feedlot pen area meets the required AOPA setback from existing water wells.

## 6. Terms and conditions

Authorization LA17029A permits the use of the additional area of 44 metres x 61 metres for each of the three rows of pens. The pens have already been constructed with the expanded dimensions.

Authorization LA17029A carries forward all of the terms and conditions in Authorization LA17029.

### a. Conditions carried forward from previously issued permits

For clarity, and pursuant to NRCB policy, I consolidated the Authorization LA17029 with Authorization LA17029A (see NRCB Operational Policy 2016-7: *Approvals*, part 10.5). Consolidating permits generally involves carrying forward all relevant terms and conditions in the existing permit into the new permit, with any necessary changes or deletions of those terms and conditions, and then cancelling the existing permit once the new permit is issued. This consolidation is carried out under section 23 of AOPA, which enables approval officers to amend AOPA permits on their own motion.

Therefore, Authorization LA17029A includes all existing terms and conditions from Authorization LA17029, with exception to the feedlot pen dimensions discussed above.

## 7. Conclusion

Authorization LA17029A is issued for the reasons provided above and in Technical Document LA17029A.

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1. For a summary of these requirements, please see the [2008 AOPA Reference Guide](#), available on the NRCB website at [www.nrcb.ca/Guides](http://www.nrcb.ca/Guides).

Authorization LA17029 is therefore cancelled, unless Authorization LA17029A is held invalid following a review and decision by the NRCB's board members or by a court, in which case Authorization LA17029 will remain in effect.

February 6, 2019

(original signed)  
Adria Snowdon  
Approval Officer