



## **BOARD DECISION**

### **RFR 2010-03 / RA03022A**

In Consideration of Requests for Board Review filed under the *Agricultural Operation Practices Act* in relation to Amended Approval RA03022A.

741900 Alberta Ltd. (Marcel Rupert)

June 23, 2010

## **Introduction**

On May 11, 2010, NRCB Approval Officer Sandi Roberts issued Approval Officer Amendment RA03022A, amending the Approval issued to 741900 Alberta Ltd. by revising the groundwater monitoring requirements in Approval RA03022A. The operation is an 800 sow farrow to finish hog facility located at S ½ 32-30-22-W4M, in Kneehill County.

The deadline to request a review of the Approval Officer's decision was established as June 2, 2010. A Request for Review was filed on June 2, 2010 by Doreen Varga and Shannon Varga. A response to the Request for Review was filed by 741900 Alberta Ltd. on June 11, 2010. The Board met on June 15, 2010 to consider the Request, and as per their deliberations outlined below, determined that a review was not warranted.

## **Jurisdiction**

The Board's authority for granting a review of an Approval Officer's decision is found in Section 25(1) of *AOPA*, which states:

- 25(1) The Board must, within 10 working days of receiving an application under section 20(5), 22(4) or 23(3) and within 10 working days of the Board's determination under section 20(8) that a person or organization is a directly affected party,*
- (a) dismiss the application for review, if in the opinion of the Board, the issues raised in the application for review were adequately dealt with by the approval officer or the issues raised are of little merit, or*
  - (b) schedule a review.*

The Board considers that a party requesting a review has the onus of demonstrating that there are sufficient grounds to merit review of the Approval Officer's decision. Section 14 of the *Board Administrative Procedures Regulation* describes the information that must be included in each Request for Board Review.

## **Background**

In 2008, the NRCB initiated a program to assess groundwater monitoring requirements at all confined feeding operations in Alberta that have leak detection monitoring requirements in their permits. This program utilizes a risk screening tool to measure the potential risk to groundwater and provide an objective method to determine the need and scope of monitoring for manure storage facilities regulated by the NRCB.

Approval RA03022 was issued to 741900 Alberta Ltd. on October 28, 2004 and contained a number of conditions. These conditions included specific provisions for leakage detection monitoring wells. As part of these conditions the operator of the confined feeding operation was required to conduct annual testing and reporting of the monitoring wells and a specified fresh water well. Approval Amendment RA03022A replaces the specific monitoring requirements with what is referred to by the Approval Officer as a "flexible" monitoring condition. The Approval Officer Groundwater Monitoring Statement issued on the same date as the Approval Amendment suspends the monitoring requirements for the earthen manure storage and the fresh water well based on the Approval Officer's interpretation of the risk screening conducted by the Operations Division for this site.

## **Documents Considered**

The Board considered the following information in arriving at its decision:

- Decision Summary RA03022, dated October 28, 2004;
- Approval Officer Amendment for Approval RA03022A, dated May 11, 2010;
- Approval Officer Groundwater Monitoring Statement regarding Approval RA03022A dated May 11, 2010;
- Request for Board Review filed by Doreen Varga and Shannon Varga, dated June 1, 2010;
- Rebuttal submission of 741900 Alberta Ltd. (Marcel Rupert), dated June 11, 2010; and,
- NRCB Risk Screening File obtained from the Approval Officer.

## **Board Deliberations**

The Request for Review filed by Doreen Varga and Shannon Varga stated that they were concerned about the relaxation of the monitoring requirements and that they believed that they should remain as stated in the 2004 Approval document. The RFR stated concern both with respect to water quantity and water quality.

Water quantity issues are a matter for Alberta Environment who oversee water licensing and water use issues in Alberta. As the NRCB does not have jurisdiction over water quantity issues it views the concern related to water quality as one that cannot go to review by the Board. Concerns related to surface or groundwater use are matters that should be raised directly with Alberta Environment.

The only specific concern related to groundwater quality raised in the RFR was the potential risk to groundwater from injecting manure in the fields. The Vargas state that manure from the confined feeding operation is spread by injection on a parcel of land next to the Vargas' land and not far from their main water well. The Board finds that the issue of well contamination from manure spreading is not related to the presence or absence of monitoring at the site of the manure storage facilities. For this reason the Board believes that the Request for Review does not raise an issue that merits conducting a review of Approval Amendment RA03022A.

## **Decision**

The Board finds that the RFR does not raise an issue that merits granting a review; the application for review is therefore dismissed.

DATED at CALGARY, ALBERTA, this 23<sup>rd</sup> day of June, 2010.

*Original signed by:*

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**Vern Hartwell, Chair**

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Copies of the *Agricultural Operation Practices Act* can be obtained from the Queen's Printer at [www.qp.gov.ab.ca](http://www.qp.gov.ab.ca) or through the NRCB website.