

## Decision Summary LA20011

This document summarizes my reasons for issuing Authorization LA20011 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA20011. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at [www.nrcb.ca](http://www.nrcb.ca) under Confined Feeding Operations (CFO)/CFO Search. 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 February 19, 2020, Gouw Quality Onions Ltd. (Gouw) submitted a Part 1 application to the NRCB to construct facilities at an existing beef CFO. The Part 2 application was submitted and deemed on June 9, 2020. Gouw proposes construction of the following:

- feedlot pens (243.9 m x 71.6 m)
- manure storage pad (104.9 m x 53.3 m),
- catch basin (64.3 m x 53.3 m x 4.6 m deep)

There is no proposed increase in livestock.

Under AOPA, this type of application requires 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 34-11-16 W4M and NE 33-11-16 W4M in the Municipal District (MD) of Taber, roughly 17 km north of Taber. The terrain is gently undulating with the Oldman River located approximately 750 m to the north.

#### b. Existing permitted facilities

The CFO was originally permitted by Approval LA19011 which the NRCB issued on October 30, 2019. This approval allows a beef CFO with permitted capacity for 5,800 beef feeders. The CFO’s existing permitted facilities are feedlot pens (335 m x 292 m total area) and a catch basin (70 m x 50 m x 3.5 m deep)

### 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 7.11.2.)

The MD of Taber is both an affected and directly affected party because the proposed facilities are located within its boundaries.

On June 9, 2020, the NRCB emailed referral letters and a copy of the application to the MD of Taber; Alberta Health Services (AHS); Alberta Environment and Parks (AEP); Alberta Transportation; and the Taber Irrigation District (TID).

### **3. Responses from the municipality and referral agencies**

I received responses from the MD of Taber, Alberta Transportation, and the TID. No response was received from AHS or AEP.

Mr. Kirk Hughes, director of planning and economic development, provided a written response on behalf of the MD of Taber. As noted in section 2, the MD of Taber is a directly affected party.

Mr. Hughes stated that the application is consistent with the MD of Taber's municipal development plan and that there are no other planning type documents which would apply to the subject area. The application's consistency with the MD of Taber's municipal development plan is addressed in Appendix A, attached.

Mr. Hughes also stated that the application appears to meet the setbacks as outlined in the MD of Taber's land use bylaw (LUB).

Ms. Leah Olsen, a development and planning technologist, provided a written response on behalf of Alberta Transportation. Ms. Olsen stated a permit would not be required from Alberta Transportation.

Mr. Christopher Gallagher, district manager, provided a written response on behalf of the TID. Mr. Gallagher indicated the TID had no objections to the application.

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

As part of my review of this application, I assessed the risk to surface water and groundwater posed by the proposed manure storage facilities. I used the NRCB's environmental risk screening tool for this purpose (see NRCB Operational Policy 2016-7: Approvals, part 8.13). The 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/Groundwater and Surface Water Protection on the NRCB website at [www.nrcb.ca](http://www.nrcb.ca).)

When reviewing a new authorization 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, within either a low, moderate, or high risk range. (A complete description of this tool is available under CFO/Groundwater and Surface Water Protection 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 Gouw's existing CFO facilities were assessed in 2019. The assessment indicated that the risks to surface water and groundwater were low. I also assessed the proposed new feedlot pens, manure storage pad, and catch basin, using the NRCB's risk screening tool, and determined that they all pose a low risk to groundwater and surface water.

## **5. Other factors considered**

The application meets all relevant AOPA requirements, with the terms and conditions summarized in part 6.

In addition, the proposed construction is consistent with the land use provisions of the MD of Taber's municipal development plan. (See Appendix A for a more detailed discussion of the county's planning requirements.)

With respect to the act's technical requirements, the proposed construction:

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS)
- Meets the required AOPA setbacks from water wells, springs and common bodies of water
- Has sufficient means to control surface runoff of manure
- Meets AOPA groundwater protection requirements for the design of floors and liners of manure storage facilities

As required by section 4(1) of the South Saskatchewan Regional Plan (SSRP), I considered that document's Strategic Plan and Implementation Plan and determined that the application is consistent with those plans. In addition, there are no notices or orders under the Regulatory Details portion of the SSRP that apply to this application.

## **6. Terms and conditions**

Authorization LA20011 permits the construction of the feedlot pens, manure storage pad, and a catch basin.

Authorization LA20011 also contains terms that the NRCB generally includes in all AOPA authorizations, including terms stating that the applicant must follow AOPA requirements and must adhere to the project descriptions in their application and accompanying materials.

In addition to the terms described above, Authorization LA20011 includes conditions that:

- Requiring Gouw to immediately contact the NRCB if the water table is encountered during construction of the catch basin
- Set a deadline of November 30, 2022 for the approved construction to be completed
- Prohibit Gouw from placing manure or livestock in the feedlot, manure storage pad, or from allowing manure contaminated runoff from entering the catch basin, until the facilities have been inspected by the NRCB following their construction

For an explanation of the reasons for these conditions, see Appendix B.

## **7. Conclusion**

Authorization LA20011 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA20011.

Authorization LA20011 should be read in conjunction with previously issued Approval LA19011, which remains in effect.

July 20, 2020

(Original signed)  
Joe Sonnenberg  
Approval Officer

### **Appendices:**

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization LA20011

## **APPENDIX A: Consistency with the municipal development plan**

Under section 22 of AOPA, an approval officer may approve an application for an authorization only if the approval officer finds that the application is consistent with the “land use provisions” of the applicable municipal development plan (MDP).

The NRCB interprets the term “land use provisions” as covering MDP policies that provide generic directions about the acceptability of various land uses in specific areas and that do not call for discretionary judgements relating to the acceptability of a given confined feeding operation (CFO) development. (See NRCB Operational Policy 2016-7: *Approvals*, part 8.2.5.) Under this interpretation, the term “land use provisions” also excludes MDP policies that impose procedural requirements. In addition, section 22(1.1) of the act precludes approval officers from considering MDP provisions “respecting tests or conditions related to the construction of or the site” of a CFO or manure storage facility, or regarding the land application of manure. (These types of MDP provisions are commonly referred to as MDP “tests or conditions.”)

Gouw’s CFO is located in the MD of Taber and is therefore subject to that MD’s MDP. The MD of Taber adopted the latest revision to this plan on August 13, 2019 under Bylaw #1951.

Sections 5.1.13 – 5.1.15 of the MDP provide policies “related to confined feeding operations.” The stated purposes of these policies include providing the NRCB with “requirements that the council of the MD of Taber wish to have considered when applications for CFOs are evaluated for approval....”

The text in sections 5.1.13-5.1.15 is not clear as to whether these policies were intended to apply to applications for both new CFOs and for expansions of existing CFOs. However, a broad reading of these provisions suggests that they were meant to cover new CFOs as well as CFO expansions. Therefore, I presume these sections apply to Gouw’s proposed construction.

Each of the applicable sections are discussed below.

### *Section 5.1.13*

This section states that CFOs should be discouraged in the areas shown in Map 2 as “restricted”. Gouw’s CFO is not within any of the “restricted” areas in Map 2.

### *Sections 5.1.14(a)-(d)*

These sections list setbacks for CFOs from roads and property lines. Gouw has previously consolidated the impacted quarter sections. Therefore, Gouws proposed construction is not within any of these setbacks.

### *Section 5.1.15*

Under this section, the MD requests that the NRCB consider the four following items:

- (a) the proximity of the operation to open bodies of water and the topography of the surrounding lands in order to minimize any negative impacts to drinking water supplies;

- (b) the cumulative effect of a new approval on any area near other existing confined feeding operations;
- (c) environmentally sensitive areas shown in the report, MD of Taber Environmentally Sensitive Areas in the Oldman River Region;
- (d) give[ing] notice to adjacent landowners even in the case of applications for registration or authorization.

Neither (a) or (b) are likely “land use provisions,” as they call for site-specific judgements about the acceptability of an individual operation in light of certain criteria (“proximity,” magnitude and nature of cumulative effect, effect on environmentally sensitive areas). As such, these two MDP policies are not relevant to my MDP consistency determination. (See Operational Policy 2016-7: *Approvals*, part 8.2.5.). Even if (a) and (c) are relevant, Gouw’s proposed construction is consistent with them, as discussed below.

At any rate, Gouw’s’ proposed construction meets requirements related to item (a), which refers to the impact of the operation on drinking water supplies. Several of the requirements under AOPA and its regulations are designed to prevent or minimize leakage from CFO facilities and thus to prevent manure from reaching and contaminating surface water and groundwater. Because Gouw’s proposed construction meets these requirements, this facility will not pose a material risk to surface water or groundwater (and therefore potential drinking water supplies).

The CFO is not located in an environmentally sensitive area as indicated in item 5.1.15(c) above.

Policy 5.1.15(d) is a procedural requirement so it is likely not a “land use provision.” Therefore it is not relevant to my MDP consistency determination.

For these reasons, I conclude that the proposed construction is consistent with the land use provisions of the MD of Taber’s MDP. The MD’s response supports my conclusion.

## **APPENDIX B: Explanation of conditions in Authorization LA20011**

Authorization LA20011 includes several conditions, discussed below:

### **a. Construction above the water table**

Sections 9(2) and (3) of the Standards and Administration Regulation under the *Agricultural Operation Practices Act* (AOPA) prohibit construction of a manure storage facility if its bottom is less than one metre above the water table at the site “at the time of construction.”

Based on this information, the proposed catch basin may meet the one metre requirement of sections 9(2) and (3). However, because the height of the water table can vary over time, a condition is included requiring applicant to cease construction and notify the NRCB immediately if the water table is encountered during construction.

### **b. Construction Deadline**

Gouw proposes to complete construction of the proposed new feedlot pens, manure storage pad, and catch basin by November 30, 2022. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of November 30, 2022 is included as a condition in Authorization LA20011.

### **c. Post-construction inspection and review**

The NRCB routinely inspects newly constructed facilities to assess whether the facilities were constructed according to their required design specifications. To be effective, these inspections must occur before livestock or manure are placed in the newly constructed facilities. Authorization LA20011 includes a condition stating that Gouw shall not place livestock or manure in the manure storage portions of the new feedlot pens, manure storage pad, or allow manure contaminated runoff to enter the catch basin, until NRCB personnel have inspected the facilities and confirmed in writing that they meets the authorization requirements.