



Decision Summary LA20012

This document summarizes my reasons for issuing Approval LA20012 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA20012. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at 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.

Under AOPA this type of application requires an approval. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

Schapansky Farms has operated a seasonal feeding and bedding site (SFBS) at this location which does not require a permit under the Agricultural Operation Practices Act (AOPA).

On February 20, 2020, David Schapansky of Schapansky Farms Ltd. (Schapansky Farms) submitted a Part 1 application to the NRCB to construct a new 1,500 head beef feeder confined feeding operation (CFO). In their Part 2 application, David and Jesse Schapansky, both of Schapansky Farms updated and changed the capacity of the proposed feedlot to 750 beef finishers.

The Part 2 application was initially submitted on September 22, 2020. On October 20, 2020, following the submission of additional information, I deemed the application complete. Additional information consisting of a road setback waiver from Lethbridge County was provided on April 22, 2021 and an additional minimum distance separation (MDS) waiver was provided on May 12, 2021.

The proposed CFO involves: permitting two sets of feedlot pens (North pens and South pens), constructing two runoff control catch basins – one for each set of feedlot pens, and permitting a capacity of 750 head of beef finishers.

a. Location

The proposed CFO is located at NW 21-08-20-W4 in Lethbridge County, roughly eight kilometres east of Lethbridge. The site is relatively flat with a slight slope toward the north. There is an irrigation canal approximately 700 m east of the site. There is also a low spot in the quarter section to the north and west of the land location on which the CFO will be located which collects surface runoff. This is located across a road intersection from the CFO location. Drainage from the land on which the feedlot is located does not flow into it.

There are residences on land zoned as rural agriculture in close proximity to the proposed feedlot and a grouped country residential development located approximately 820 m to the west of the proposed feedlot.

2. Notices to affected parties

Under section 19 of AOPA, the NRCB notifies (or directs the applicant to notify) all parties that are “affected” by an approval application. Section 5 of AOPA’s Part 2 Matters Regulation defines “affected parties” as:

- In the case where part of a CFO is located, or is to be located, within 100 m of a bank of a river, stream or canal, a person or municipality entitled to divert water from that body within 10 miles downstream
- the municipality where the CFO is located or is to be located
- any other municipality whose boundary is within a specified distance from the CFO, depending on the size of the CFO
- all persons who own or reside on land within a specified distance from the CFO, depending on the size of the CFO

For the size of this CFO the specified distance is one mile. (The NRCB refers to this distance as the “affected party radius.”)

A copy of the application was sent to Lethbridge County, which is the municipality where the CFO is to be located. Since this proposed CFO is not located within one mile of another municipality or within 100 m of a river, stream or canal no other municipalities were notified.

The NRCB gave notice of the application by public advertisement in the Sunny South News on October 20, 2020. The Sunny South News is a weekly newspaper in circulation in the community affected by the application. The full application was posted on the NRCB website for public viewing. As a courtesy, thirty letters were sent to people identified by Lethbridge County as owning or residing on land within the affected party radius.

3. Notice to other persons or organizations

Under section 19 of AOPA, the NRCB also notifies persons and organizations the approval officer considers appropriate. This includes sending applications to referral agencies which have a potential regulatory interest under their respective legislation.

Referral letters and a copy of the complete application were emailed to, Alberta Health Services (AHS), Alberta Environment and Parks (AEP), Alberta Transportation, and the St Mary’s River Irrigation District (SMRID).

4. Alberta Land Stewardship Act (ALSA) regional plan

Section 20(10) of AOPA requires that an approval officer must ensure the application complies with any applicable ALSA regional plan.

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.

5. Municipal Development Plan (MDP) consistency

I have determined that the proposed CFO is consistent with the land use provisions of Lethbridge County's municipal development plan (and Land Use Bylaw) with the issuance of a road setback waiver provided by the County for the north pens. (See Appendix A for a more detailed discussion of the county's planning requirements.)

6. AOPA requirements

With respect to the technical requirements set out in the regulations, the proposed CFO:

- Meets the minimum distance separation (MDS) requirements in AOPA with the provision of two MDS waivers from the owner of the two closest residences. It meets the required MDS setbacks to other nearby residences.
- 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's nutrient management requirements regarding the land application of manure
- Meets AOPA groundwater protection requirements for protective layers of manure storage facilities and manure collection areas

7. Responses from the municipality and other directly affected parties

Directly affected parties are entitled to a reasonable opportunity to provide evidence and written submissions relevant to the application, and are entitled to request an NRCB Board review of the approval officer's decision. Not all affected parties are "directly affected" under AOPA.

Municipalities that are affected parties are identified by the act as "directly affected." The County of Lethbridge is an affected party (and directly affected) because the proposed CFO is located within its boundaries.

Ms. Hilary Janzen, the supervisor of planning and development with the County of Lethbridge, provided a written response on behalf of the county on November 10, 2020. Ms. Janzen stated that the application is not consistent with the County of Lethbridge municipal development plan (MDP) because the land parcel size does not meet the requirements of section 6.6.2.d.V. of the MDP. She did note that the applicant could amalgamate their two adjacent land parcels and that this would then meet this MDP requirement. The county also identified that no development is permitted within specified distances of road rights-of-way and property lines. The application's consistency with the County's MDP, is addressed in appendix A, attached. A copy of the county's response was provided to the applicant for their information and action.

A copy of a roadway setback waiver was received from the county on April 22, 2021. The waiver allows the relaxation of the setback from the centerline of range road 20-4 from 38.1 m to 32.6 m for the north pens. This setback waiver addresses the roadway setback inconsistency identified by the county in their November 10, 2020 letter.

Apart from municipalities, any member of the public may request to be considered "directly affected." The NRCB received seven responses from eleven parties. They are: Peter and Hesta Noletta Von Lind, Judy Meckelborg, Kenneth Schlaht and Nicole Lazar, Dr. Robert Rice, Elisha

Rasmussen, Brad and Caylee Low, and Frank and Rosie Kacsinko. All of the parties who submitted responses own or reside on land within the one mile notification radius for affected persons. Because of their location within this radius, and because they submitted a response, they qualify for directly affected party status. (See NRCB Operational Policy 2016-7: *Approvals*, part 6.2.)

The NRCB considers a person who owns a residence within the MDS of the CFO, and who waives the MDS requirements in writing, when required, to be automatically considered a directly affected (See NRCB Operational Policy 2016-7: *Approvals*, part 6.2). Steve Gulyas and Rose Niedermier provided MDS waivers. Mr. Gulyas does not reside within the MDS, but does reside within the notification radius for the application and the submission of an MDS waiver, even though it was not required, is considered to be a response. In accordance with NRCB policy, both Rose Niedermier and Steve Gulyas are therefore considered to be directly affected parties.

No response was received from any other person, organization, or member of the public.

8. Environmental risk of CFO facilities.

New CFO facilities which clearly meet or exceed AOPA requirements are automatically assumed to pose a low risk to surface and groundwater. However, there may be circumstances where, because of the proximity of a shallow aquifer, or porous subsurface materials, an approval officer may require ongoing monitoring, additional soils testing, or construction supervision. In this case, because the soils at the site provide a naturally occurring protective layer that meets or exceeds AOPA requirements and because there are no water wells within a mile of the site, no ongoing monitoring or soil testing is required.

9. Other factors

Ms. Janzen listed the setbacks required by the County's land use bylaw (LUB) in her response. The original application was not able to meet the road setback for the north pens. Since this response was received from Ms. Jansen, the Schapansky's applied to the County and were granted a waiver for the road setback to the north pens. With this waiver the application now meets these setbacks.

I have considered the effects the proposed CFO may have on natural resources administered by provincial departments and based on the responses from the referral agencies, determined that these are acceptable.

I am not aware of any applicable statement of concern submitted under section 73 of the Environmental Protection and Enhancement Act or under section 109 of the Water Act, or any written decision of the Environmental Appeals Board or Director under the Water Act relating to the CFO site.

Finally, I considered the effects of the proposed CFO on the environment, the economy, and the community, and the appropriate use of land.

Consistent with NRCB policy (Approvals Policy 8.7.3), I presumed that the economic and community effects are acceptable because the application can meet all of AOPA's technical requirements and the MDP land use requirements. In my view, this presumption is not rebutted and the directly affected parties' concerns have been addressed (see Appendix C).

I also presumed that the proposed CFO is an appropriate use of land because the application is consistent with the land use provisions of the municipal development plan (See NRCB Operational Policy 2016-7: *Approvals*, part 8.7.3.). In my view, this presumption is not rebutted because the application meets the land use requirements and setbacks in the County MDP and LUB (see Appendix A).

10. Terms and conditions

Approval LA20012 specifies the total permitted livestock capacity as 750 beef finishers, and permits the construction of the catch basins and allows the use of the north and south pens as CFO facilities.

Approval LA20012 contains terms that the NRCB generally includes in all AOPA approvals, 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, Approval LA20012 includes conditions that generally address the construction deadline, construction supervision and document submission, and construction completion inspection. For an explanation of the reasons for these conditions, see Appendix E.

11. Conclusion

Approval LA20012 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA20012.

May 12, 2021

(Original signed)
Andy Cumming
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Determining directly affected party status
- C. Concerns raised by directly affected parties
- D. Responses from referral agencies
- E. Explanation of conditions in Approval LA20012

APPENDIX A: Consistency with Lethbridge County's municipal development plan

Under section 20 of AOPA, an approval officer may approve an application for an approval 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 20(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.")

Schapansky Farms CFO is located in Lethbridge County and is therefore subject to that county's MDP. Lethbridge County adopted the latest revision to this plan on December 5, 2019, under Bylaw #19-043.

Section 6.6 Confined Feeding Operations lists several policies under subsection 6.6.3:

a) Urban Fringe: *"The County shall exclude the development of CFOs in the Urban Fringe land use districts."*

The proposed CFO is not within this zoning category as shown on Map 11B.

b) Impacts:

I. *County Council will actively lobby the provincial government for additional funding to counteract impacts to the local transportation infrastructure created by the high density of CFOs within the County.*

This policy refers to lobbying for funding to counteract the impact of CFOs on County infrastructure. Municipal funding is not under the jurisdiction of the NRCB. Therefore, I will not include this policy in my MDP consistency determination.

c) Location:

I. *County Council or the relevant approval authority shall consider the results of a Minimum Distance Separation (MDS) calculation using the Agricultural Operations Practices Act Standards when considering:*

- *The re-designation of a parcel to grouped country residential or other district that may allow uses sensitive to CFO's*
- *Any development, or*
- *Any subdivision application*

- II. The County will apply the MDS to the dwelling or building (restaurant, schools, etc.) wall for an existing structure and it will be measured and applied to the property line for a vacant parcel subdivision.*
- III. For a new proposed subdivision located within a designated urban fringe district where there is an existing CFO operation in the vicinity and also within the fringe, the County shall apply the applicable MDS measurement (from the Agricultural Operation Practices Act [AOPA] Standards and Administration Regulation) from the closest point of a CFO operation to the dwelling or property boundary, depending on the situation.*

The three listed items under this policy section refer to a reciprocal MDS for residential development in the vicinity of CFOs. Development permits for residential development are under the jurisdiction of the municipality. Therefore, I will not discuss this policy any further.

d) NRCB

I) Given the County's unique perspective regarding CFOs, the County will be proactive when discussing regulation amendments regarding CFOs with Alberta's NRCB.

This policy is likely not a land use provision but rather describes how the County plans to act when considering regulation amendments. I will therefore not discuss this policy in any more detail.

II) The NRCB in its approval review should also consider:

- The cumulative effect of a new approval on any area near other existing confined feeding operations*
- Environmentally sensitive areas as shown in the report, County of Lethbridge: Environmentally Sensitive areas in the Oldman River Region (see maps in Appendix C)*
- Giving notice to adjacent landowners even in the case of applications for registration or authorizations, and*
- Applying MDS calculations to all county residential clusters whether or not designated in the land use bylaw.*

The first of these four considerations is likely not a land use provision because of its project-specific focus (viewed cumulatively with other existing CFOs), and its request the NRCB to make a discretionary judgement about the degree of cumulative effects that are acceptable. Because of this, this consideration is not relevant to my MDP consistency determination. (See Operational Policy 2016-7: *Approvals*, part 8.2.5.)

The second provision is likely not a land use provision because of its referral to a specific site. However, I considered it in respect to the CFOs impact on the environment as discussed above. At any rate, the CFO is not located in any of the environmentally significant areas noted in the County's report.

The third consideration is likely not a land use provision because it requests notification to adjacent landowners about registration and authorization applications. Sections 19 and 21 of AOPA provide details on notification requirements for AOPA applications. In this case, the application is for an approval size CFO. AOPA requires public notification,

and as identified previously in section 2 of this decision summary, public notice was given.

The fourth consideration appears to refer to AOPA's MDS requirements. Under NRCB policy, approval officers should not consider MDP provisions that rely on or change the MDS formulas or MDS requirements under AOPA. (See also Operational Policy 2016-7: *Approvals*, part 8.2.5.) At any rate, there are no country residential clusters in the immediate vicinity of the CFO and the CFO meets the AOPA MDS requirements with the MDS waivers provided.

III) The NRCB is requested to take into consideration the requirements and policies of the County Council when making decision on such applications.

This provision is likely not a land use provision because it requests the consideration of requirements and policies of the county's council. AOPA is very specific in what approval officers must consider when determining consistency with the MDP (section 20(1)) and only refers to the MDP document. The provision is also not specifically a land use provision. At any rate, the application was sent to Lethbridge County for their input which has been considered for this application.

IV) CFOs "shall not be approved in the areas shown and designated on Figure 11B as exclusion areas".

Schapansky Farms CFO is not located in any of the designated CFO exclusion areas, so the application is consistent with this provision.

V) CFOs "shall not be approved on parcels less than 64.7 hectares (160 acres) or an un-subdivided quarter section, having a minimum of 4.0 hectares (10 acres) of registered exceptions of rights-of-way"

This provision is not a land use provision because it refers to specifics in respect to a site of a CFO, rather than the use of specified lands. I also consider it to be a test or condition which AOPA directs me not to consider. Additionally while the County identified that the parcel size on which the CFO is proposed does not meet this provision they identified that the provision can be met by consolidating and adjacent land parcel the applicant owns. I have therefore not taken this into consideration in my MDP consistency determination.

VI) The NRCB should consider the requirements and regulations as stipulated in the Lethbridge County Land Use Bylaw and Animal Control Bylaw, including the exclusion of confined feeding operations on parcels less than the specified sizes as specified in those bylaws.

In my view, this section provides a clear intent to adopt provisions from the land use bylaw (LUB). Following the NRCB Operational Policy 2016-7: *Approvals*, part 8.2.3, I therefore also considered Lethbridge County's Land Use Bylaw #1404 (consolidated to Bylaw 19-016). Under those bylaws, the subject land is currently zoned Rural Agriculture. CFOs are a discretionary use under this zoning category.

As stated in Part 2 (RA) section 3(3) in this bylaw, the minimum parcel size for CFOs is 64.7 hectares (160 acres).

This provision is the same as section 6.6.3.d) V. in the MDP which has been addressed above.

The subsequent sections (Rural Agriculture) in this land use bylaw, require minimum setbacks (sections 4 to 7). These include setbacks to property lines, roadways, canals and distance to neighbouring residences (section 6(6)). Apart from the MDS requirement which has been discussed previously, these requirements could be defined as being 'siting' requirements and would subsequently be exempt from consideration by an approval officer. Nevertheless, I am of the opinion that they ensure proper development of the rural areas in respect to future development and hence dictate a land use or are related to safety issues and will therefore be considered as impact on the community. At any rate, the already constructed facilities meet these setbacks with the provision of the road setback waiver which was issued by the County.

Subsection 6.6.3.d) VI of the MDP also seems to clearly incorporate the Animal Control Bylaw (Bylaw17-008). Given that this is not a land use provision, I determined that the Animal Control Bylaw does not apply to my MDP consistency determination. In any event, this operation will hold a permit under AOPA.

e) Development Setbacks

This provision requires CFO developments to meet the setbacks to roadways and property lines as set out in the LUB.

The development meets these setbacks with the roadway setback waiver issued by the County.

I therefore conclude that this application is consistent with the land use provisions in Lethbridge County's MDP.

APPENDIX B: Determining directly affected party status

The following individuals qualify for directly affected party status because they own a residence within the minimum distance separation (MDS) and waived the MDS requirement in writing: Rose Niedermier. See NRCB Operational Policy 2016:7 – *Approvals*, part 6.2.

The following individuals qualify for directly affected party status because they submitted a response to the application and they own or reside on land within the “affected party radius,” as specified in section 5(c) of the Agricultural Operation, Part 2 Matters Regulation:

- Peter and Hesta Noletta Von Lind,
- Judy Meckelborg,
- Kenneth Schlaht & Nicole Lazar,
- Dr. Robert Rice,
- Elisha Rasmussen,
- Brad and Caylee Low, and
- Frank and Rosie Kacsinko.

In addition Steve Gulyas provided an MDS waiver, despite his residence not being within the required MDS for the operation. Because he also lives within the notification distance and provided a response he is considered to be a directly affected party. See NRCB Operational Policy 2016:7 – *Approvals*, part 6.2.

No other individuals submitted a response to the application.

APPENDIX C: Concerns raised by directly affected parties

The directly affected parties raised the following concerns:

1. Groundwater and surface water contamination
2. Nuisance impacts: Noise, odour, dust, insects
3. Increased traffic, carrying capacity of roads, damage to county infrastructure (roads) leading to potential increase in taxes
4. Decreased property values
5. Proximity to high density / grouped country residential
6. Negative impact on standard of living
7. Rural crime

1. Groundwater and surface water contamination

As noted in the decision summary above, and documented in Technical Document LA20012, the proposed CFO facilities meet all AOPA technical requirements. AOPA requirements are designed to prevent or minimize manure leakage from CFO facilities and thus to prevent manure from reaching and contaminating groundwater and contaminating surface water.

During my site visits, I did not note any springs and water wells within 100 m, or common bodies of water within 30 m, of where the proposed CFO facilities will be. Additionally, there is no record of water wells within one mile of the proposed CFO based on AEP's water well database.

Because the proposed CFO facilities meet or exceed these requirements, I concluded that the level of surface and groundwater risk posed by these facilities is low.

2. Nuisance impacts: Noise, odour, dust, insects

The minimum distance separation (MDS) in AOPA is a means of mitigating most nuisance impacts associated with CFO's. The MDS for this CFO has been met or exceeded to neighbouring residences with the exception of two residences. The owner of those residences has provided MDS waivers for the proposed CFO. While the MDS will minimize nuisance impacts neighbours may experience, there may be occasions when neighbours might experience impacts from the CFO such as when manure is being cleaned from the pens.

Parties who have concerns related to the CFO can call the NRCB 24 hour reporting line (1-866-383-6722) and an inspector will follow up on the concern.

3. Increased traffic, carrying capacity of roads, damage to county infrastructure (roads) leading to potential increase in taxes

Roads immediately adjacent to the CFO are the responsibility of the county. The county did not raise any concerns related to roads or road use associated with the proposed CFO. The application was also forwarded to Alberta Transportation who confirmed that a permit from them was not required. Several NRCB board panel decisions have made it clear that road

traffic, road use and property taxes are outside of an approval officer's purview under AOPA. I will therefore not be addressing them as part of my decision.

4. Decreased property values

In previous board decisions the NRCB's board members have consistently stated that concerns regarding effects on land or property values are "not a subject for [the board's] review under AOPA or for approval officers' consideration." According to the board, impacts on property values are a land use issue, which is a "planning matter dealt with by municipalities in municipal development plans and land use bylaws." (See, Pigs R Us Inc., RFR2017-11/BA17002 at 6). As explained in Appendix A above, Schapansky Farms' application is consistent with the land use provisions of the county's MDP, and with the county's LUB, which indicates that the proposed CFO is an appropriate land use in the area.

5. Proximity to high density / grouped country residential

There are a number of country residential residences within a mile of the proposed CFO. I consulted with the municipality regarding the land use zoning of the lands near the CFO and used that information in my consideration of the application. The MDS to residences located on land zoned as country residential is greater than that for residences located on land zoned for agricultural purposes. The proposed CFO exceeds the MDS requirements for residences located on land zoned as country residential.

While the MDS requirements are met for this CFO, there may be occasions when neighbouring residences experience nuisance impacts from the CFO. Should parties have concerns related to the CFO they can call the NRCB 24 hour reporting line (1-866-383-6722) and an inspector will follow up on the concern.

6. Negative impact on standard of living

I understood this concern to be related to quality of life as opposed to standard of living since a person's standard of living is more directly influenced by their income which is outside of the scope of AOPA. As identified previously the proposed CFO meets the AOPA technical requirements which includes measures aimed to minimize the potential impact a CFO may have on neighbouring residences. It also meets the land use zoning requirements set out in the county MDP. Because it meets these requirements I determined that it is an appropriate use of the land.

Parties who have concerns related to manure or a CFO can call the NRCB 24 hour reporting line (1-866-383-6722) and an inspector will follow up on the concern.

7. Rural crime

Rural crime falls outside of what I am to consider under AOPA. Any rural crime should be reported to the appropriate policing agency for their information and potential action.

APPENDIX D: Responses from referral agencies

a. Alberta Health Services (AHS)

No response was received from AHS.

b. Alberta Environment and Parks (AEP)

In an email dated November 17, 2020, Mr. Gutsell an AEP hydrogeologist stated that AEP has no concerns with the application.

c. Alberta Transportation

In a letter dated October 21, 2020, Ms. Olsen, a development/planning technologist stated that a permit from Alberta Transportation is not required for this CFO.

d. St. Mary River Irrigation District (SMRID)

In a letter dated October 20, 2020, Ms. Park a Land Administrator with the SMRID, stated that the existing water allocation is insufficient for the proposed CFO and that additional water allocation will need to be purchased.

The applicant is reminded that it is their responsibility to ensure that they have sufficient water allocation for their proposed development.

APPENDIX E: Explanation of conditions in Approval LA20012

Approval LA20012 includes several conditions, discussed below:

Construction completion deadline

The applicant proposed that the construction would be completed by May 31, 2021. This timeframe is considered to be too short given the date the permit is issued. Therefore a construction completion deadline of October 31, 2022 will be included. This allows two full construction seasons for the work to be completed.

Post construction report

Conditions will be included requiring the applicant to provide a report from a qualified third party to confirm that the facilities are constructed in their approved locations and that the property line and road setbacks are met.

Post construction inspections

The NRCB routinely inspects newly constructed facilities to assess whether the facilities were constructed according to their permit requirements. To be effective, and to reduce risk to the operator, these inspections must occur before livestock or manure are placed in the newly constructed facilities. Conditions will be included stating that runoff must not be allowed to enter the catch basins, until NRCB personnel have inspected them and confirmed in writing that they meet the approval requirements.

Sand lenses

Conditions will be included for the catch basins requiring that any sand lenses encountered during their excavation must be over-excavated and replaced with compacted low-permeability clay fill. This must be documented and a copy of the information provided to the NRCB if sand lenses are encountered during the catch basin's excavation.

Construction above the water table

Conditions will be included requiring that construction of the catch basins stop, and the NRCB informed, if the water table be encountered at the time of construction.