

## Decision Summary RA20043A

This document summarizes my reasons for issuing amended Approval RA20043A under the *Agricultural Operation Practices Act* (AOPA). Additional reasons, as well as the full application, are in Technical Document RA20043A. 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 December 4, 2020, the NRCB issued Approval RA20043 to Lucky Hill Dairy Ltd. (Lucky Hill), which allowed the expansion of a dairy confined feeding operation (CFO). The approval permitted, amongst other facilities, the construction of a liquid manure storage concrete tank (diameter of 48.8 m x 4.3 m deep).

On September 16, 2021, Lucky Hill applied to amend Approval RA20043, in order to modify the shape (dimensions) and liner of the liquid manure storage from a round concrete tank to a rectangular synthetically lined liquid manure storage (100 m x 50 m x 5 m deep).

The liquid manure storage will be constructed in the same location that was proposed in the original application, and permitted in Approval RA20043. No increase in livestock numbers or manure production is proposed.

Under AOPA, this type of application requires an amendment to an approval.

#### a. Location

The existing CFO is located at SE 14-40-28 W4 in Lacombe County, roughly 10 km southwest of the City of Lacombe. The terrain is slightly undulating with a general slope to the northwest towards Gull Lake located more than 3 km away.

### 2. Notices to “Affected Parties”

Under section 19 of AOPA, notice for an amendment of an approval application must be provided to all parties that are “affected” by an approval application. Section 5 of AOPA’s Part 2 Matters Regulation defines “affected parties” as:

- the municipality where the CFO is 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 individuals who own or reside on land within a specified distance from the CFO, depending on the size of the CFO

For this application, the distance is one mile. (The NRCB refers to this distance as the “affected party radius.”)

Municipalities that are affected parties are defined by the act to be “directly affected” and are entitled to provide evidence and written submissions. Lacombe County is an affected party (and therefore also a directly affected party) because the proposed CFO is located within its boundaries.

All other parties who receive notice of the application may request to be considered “directly affected.” Under NRCB policy, all individuals who own or reside on land within the affected party radius are presumed to be “directly affected” if they submit a written response to the notice within the prescribed timeline. See NRCB Operational Policy 2016-7: *Approvals*, part 6.2.

Under section 20 of the act, all directly affected parties are entitled to a reasonable opportunity to provide evidence and written submissions regarding the application.

All directly affected parties are also entitled to request an NRCB board review of the approval officer’s decision on the approval application.

The NRCB published notice of the amendment application in the Lacombe Express on September 30, 2021 and posted the full application on the NRCB website for public viewing. The NRCB also emailed referral letters and a copy of the complete application to Lacombe County, Alberta Health Services (AHS), Alberta Environment and Parks (AEP), and Alberta Agriculture and Forestry (AF). Forty seven courtesy letters were sent to people identified by Lacombe County as owning or residing on land within the affected party radius.

### **3. Responses from the municipality, referral agencies and other directly affected parties**

I received responses from the Lacombe County and AHS. No responses were received from individuals or other non-government parties.

The NRCB received a written response to the application notice from Ms. Allison Noonan, planning services administrative assistant with Lacombe County. As noted in section 2, Lacombe County is a directly affected party.

In her response, Ms. Noonan indicated that the county has no concerns with this application. The county adopted its current MDP on July 6, 2017 under Bylaw 1238/17. This is the same MDP that I considered when I issued Approval RA20043 in December 4, 2020. Lucky Hill’s present application is consistent with that MDP for the same reasons as those provided in Appendix A of Decision Summary RA20043.

Mr. Quentin Schatz, an AHS executive officer/public health inspector, has no concerns with this application.

### **4. Environmental risk screening of existing facilities (including the constructed EMS)**

When reviewing new permit applications 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.

The potential risks posed by Lucky Hill's permitted CFO facilities were assessed in 2017. The liquid manure storage facility was assessed in 2020 under Approval RA20043. According to those assessments, the facilities, including the liquid manure storage, pose a low potential risk to surface water and groundwater. The proposed changes to the liquid manure storage in shape (including different dimensions) and liner meet the AOPA requirements

For these reasons, a new assessment of the risks posed by the CFO's permitted facilities is not required.

## **5. Factors Considered**

The previous application RA20043 met all relevant AOPA requirements. The proposed change to the shape and liner of the liquid manure storage has no impact on that determination, which still stands. Additionally, the terms and conditions summarized in section 6, include the terms and conditions from Approval RA20043, except the condition related to the liner material; which will be changed to reflect the proposed synthetic liner.

## **6. Terms and Conditions**

Rather than issuing a separate "amendment" to Approval RA20043, I am issuing a new approval (RA20043A) with the required amendment. Approval RA20043A therefore contains all of the terms and conditions in RA20043, but with a new condition to replace and reflect the modifications to the shape (dimensions) and liner material of the liquid manure storage. For an explanation of the reasons for this condition, see Appendix A.

## **7. Conclusion**

Approval RA20043A is issued, for the reasons provided above, in decision summaries RA20043 and RA20043A, and in Technical Documents RA20043 and RA20043A, and in the attached appendix. In the case of a conflict between these documents, the latest ones will take precedence.

Approval RA20043 is therefore cancelled, unless Approval RA20043A is held invalid following a review and decision by the NRCB's board members or by a court, in which case the previous permit will remain in effect.

November 9, 2021

(Original Signed)  
Francisco Echegaray, P.Ag.  
Approval Officer

## **Appendix:**

A. Explanation of the new condition in Approval RA20043A

## **APPENDIX A: Explanation of conditions in Approval RA20043A**

Approval RA20043A includes a new condition, discussed below, and carries forward a number of conditions from Approval RA20043A (see section 2 of this appendix).

### **1. New conditions in Approval RA20043A**

#### **a. Post-construction review**

The NRCB's general practice is to include conditions in new or amended permits to ensure that the new or expanded facilities are constructed according to the required design specifications. Accordingly, Approval RA20043A replaces and deletes the concrete requirements for the liquid manure concrete tank, and includes a condition requiring the Lucky Hill to provide a completion report, stamped by a professional engineer, certifying that the synthetically lined liquid manure storage:

- has been constructed in accordance with the proposed design including the size, depth and dimensions;
- is constructed in the approved location;
- has the same liner material as what has been proposed;
- has a liner installed in accordance with the liner manufacturer's requirements, including under membrane surface preparation and proper sealing at all seams.

### **2. Conditions carried forward from Approval RA20043**

All condition from Approval RA20043 are carried forward, with the exception of conditions #4, 5 and 6 that will be deleted and/or modified to reflect the change from a concrete liner to a synthetic liner.