

## Decision Summary RA21044

This document summarizes my reasons for issuing Authorization RA21044 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA21044. 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.

Under AOPA this type of application requires an authorization. For additional information on NRCB permits please refer to [www.nrcb.ca](http://www.nrcb.ca).

### 1. Background

On September 2, 2021, an NRCB inspector attended the site as part of the CFO verification program. During that site inspection, the inspector noted that a feedlot pen was constructed without a permit, prior to the current owners taking over the site. The inspector issued a compliance directive for the unauthorized construction, requiring the operator to not use the unauthorized pen to store livestock or manure, unless they obtain a permit from the NRCB for the pen.

On September 13, 2021, Signal Ridge Farms Ltd. (Signal Ridge) submitted a Part 1 application to the NRCB to permit an already constructed, but unpermitted feedlot pen at an existing beef CFO.

The Part 2 application was submitted on March 11, 2022. On March 21, 2022, I deemed the application complete.

The proposed application involves permitting the previously constructed, but unpermitted feedlot pen. There is no proposed change in livestock numbers.

#### a. Location

The proposed MSF (manure storage facility) is located at SE 5-37-18 W4M in the County of Stettler, roughly 18 kilometers south of Botha. The terrain is undulating, with the feedlot pens sloped to the centre of the site. The nearest water body is a dugout on the CFO site.

#### b. Existing permits

As the CFO existed on January 1, 2002, the CFO is grandfathered with a deemed approval under section 18.1 of AOPA. A grandfathering determination was completed for the site in 2008, and concluded that the deemed approval allows for the construction and operation of a 800 beef animal feedlot.

### 2. Notices to affected parties

Under section 21 of AOPA, the NRCB notifies all parties that are “affected” by an authorization application. Section 5 of AOPA’s Part 2 Matters Regulation defines “affected parties” as:

- the municipality where the CFO is located or is to be located
- 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 municipality entitled to divert water from that body within 10 miles downstream
- any other municipality whose boundary is within a notification distance.

A copy of the application was sent to the County of Stettler, which is the municipality where the CFO is located. There were no other affected parties.

### **3. Notice to other persons or organizations**

Under NRCB policy, the NRCB may also notify 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) and Alberta Environment and Parks (AEP).

Mr. Balraj Deol, a public health inspector, responded on behalf of AHS. Mr. Deol stated that AHS has no objections to the application and provided several comments. The comments were general in nature and provided references to the Guidelines for Canadian Drinking Water, Disposal of Dead Animal Regulations, dust and odor strategies, communication with neighbours, and the Public Health Act and General Sanitation Regulation. The applicant is reminded that they are required to follow all applicable legislation included in Mr. Deol's response.

Ms. Laura Partridge, a senior water administration officer, responded on behalf of AEP. Ms. Partridge stated that no additional water licensing is required at this time. She also provided references for how the applicant can change the name on the current water license and registration from the previous owner to the current applicant. The applicant is reminded that they are required to follow all requirements under the Water Act and other applicable legislation.

### **4. Municipal Development Plan (MDP) consistency**

I have determined that the proposed construction is consistent with the land use provisions of the County of Stettler's municipal development plan. (See Appendix A for a more detailed discussion of the county's planning requirements.)

### **5. AOPA requirements**

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

- Meets AOPA setbacks which are known as the "minimum distance separation" requirements (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/protective layers of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 8, the application meets all relevant AOPA requirements.

## **6. Responses from municipality**

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 Stettler is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Ms. Jacinta Donovan, director of planning services with the County of Stettler, provided a written response on behalf of the County of Stettler. Ms. Donovan stated that the application is consistent with the County of Stettler's land use provisions in their municipal development plan. The application's consistency with the County of Stettler's municipal development plan is addressed in Appendix A, attached.

Ms. Donovan also listed the setbacks required by the County of Stettler's land use bylaw (LUB) and noted that the application meets these setbacks.

## **7. Environmental risk of facilities**

New MSF/MCA 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 groundwater monitoring for the facility. In this case a determination was made, and groundwater monitoring is not required.

As part of my review of this application, I assessed the risk to the environment posed by the CFO's existing manure storage facilities and manure collection areas. I used the NRCB's environmental risk screening tool (ERST) to assist in my assessment of risk to surface water and groundwater (see NRCB Operational Policy 2016-7: Approvals, part 8.13). The tool provides for a numeric scoring of risks, which can fall within 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).)

For the sake of efficiency, I first assessed the CFO's existing feedlot pens using the ERST. These appear to be the CFO's highest risk facilities, because of the proximity to the dugout. The assessment found that these facilities pose a low potential risk to groundwater and surface water. Because these are the CFO's highest risk facilities, I presume that the CFO's other existing facilities also pose a low potential risk to both groundwater and surface water. From a review of other information gathered in the course of this application, I am satisfied that the screening provided by the ERST is adequate and that the presumption is not rebutted. A further assessment of the risks posed by these other facilities, using the ERST, is not necessary.

## **8. Terms and conditions**

Authorization RA21044 permits the already constructed feedlot pen #7.

Authorization RA21044 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.

## **9. Conclusion**

Authorization RA21044 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA21044.

Authorization RA21044 must be read in conjunction with Signal Ridge's deemed approval, including the July 23, 2008 grandfathering, which remains in effect.

May 31, 2022

(Original signed)

Lynn Stone  
Approval Officer

## **Appendices:**

A Consistency with the municipal development plan

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

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

This does not mean consistency with the entire MDP. In general, “land use provisions” cover MDP policies that provide generic directions about the acceptability of various land uses in specific areas.

Conversely, “land use provisions” do not call for discretionary judgements relating to the acceptability of a given confined feeding operation (CFO) development. Similarly, section 22(2.1) 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.”) “Land use provisions” also do not impose procedural requirements on the NRCB. (See NRCB Operational Policy 2016-7: Approvals, part 8.2.5.)

Signal Ridge’s CFO is located in the County of Stettler and is therefore subject to that county’s MDP. The County of Stettler adopted the latest revision to this plan on June 25, 2014, under Bylaw #1414-09.

Subsection 4.15(d) states that the CFO site “must be located” in either the Agricultural District or the Agricultural Preserve District under the county’s land use bylaw, otherwise the county will ask the NRCB to include a condition in the permit requiring the applicant to obtain rezoning from the County. This CFO is located within the Agricultural District. Therefore, the application is consistent with this MDP policy.

Subsection 4.15(e) states that the “proposed location of a CFO structure must comply with the minimum front, side and rear yard setbacks for farm buildings as described in the land use bylaw.” The proposed feedlot pen meets these setbacks.

Subsection 4.15(f) states that the county *may* request that the NRCB include a condition in the permit requiring the applicant to enter into a road use agreement with the county. This is likely not a land use provision. Nevertheless, the county has made no such request for this application. Further, NRCB policy is not to use AOPA permit conditions to require applicants to enter into road use agreements (see NRCB Operational Policy 2016-7: *Approvals*, part 8.9.)

Subsections 4.15(h) and (i) preclude new or expanding CFOs within any exclusion zones identified in an intermunicipal development plan or in any area structure, concept and outline plans listed in those subsections. Signal Ridge’s CFO is not within any of these exclusion zones.

For the reasons stated above, I conclude that the application is consistent with the land use provisions of the County of Stettler’s MDP. This conclusion is supported by the county’s response letter.