



Decision Summary LA22038A

This document summarizes my reasons for issuing Approval LA22038A, an amended version of Approval LA22038. This amended approval is issued on my own motion, under section 23 of the *Agricultural Operation Practices Act* (AOPA). My decision is based on the act and its regulations, the policies of the NRCB, and all other materials in the permit file.

1. Background

Barrhill Feeders Inc. owns and operates an existing beef finisher confined feeding operation (CFO) on N½ 07-12-21 W4. The existing CFO is approximately 12 km north of the Town of Picture Butte, Alberta. The terrain is predominantly sloping to the north. The closest common body of water is an irrigation canal approximately 840 m to the east, running in a north-south direction.

On December 2, 2022, the NRCB issued Approval LA22038. Approval LA22038 permitted the construction of additional feedlot pens (421 m x 404 m), a catch basin (95 m x 65.5 m x 4 m deep), and an increase of animal numbers to 50,000 beef finishers. Approval LA22038 also included a determination that the CFO is grandfathered (i.e. holds a 'deemed' approval) under section 18.1(1) (b) of AOPA, with a deemed capacity of 25,000 beef finishers. The deemed approval includes development permit #2001-10 issued in May 2001.

When I issued Approval LA22038, a clerical error occurred by overlooking five permit conditions that became part of Lethbridge County's development permit #2001-10 after an appeal hearing. These conditions should have been carried forward Approval LA22038. Generally, consolidating permit conditions is done for clarity and efficiency, and in accordance with NRCB policy (see NRCB Operational Policy 2016-7: *Approvals*, part 10.5).

As a default, municipal permit conditions continue to apply unless removed (see section 18.1(4) of AOPA). As stated in an email sent September 26, 2022, as part of Application LA22038, Barrhill Feeders did not wish to amend any of the conditions in this permit. Omitting conditions 10-14 from development permit #2001-10 was inadvertent on my part. On February 14, 2023 under section 9 of the AOPA Administrative Procedures Regulation, I notified the permit holder of this planned approval amendment, and the reasons for it. The permit holder confirmed they had no objection or comment on the amendment except for Condition 14 (see Appendix A below).

Hence, I am updating the permit conditions in an amended Approval LA22038A to add these conditions into the new amended permit (Approval LA22038A), which will supersede the previously issued Approval LA22038. Having said that, two of the conditions in development permit #2001-10 (condition 12 and 14) need to be updated as discussed in Appendix A below and will not be carried forward as written; and one condition has already been met (condition 13).

This consolidation is completed under section 23 of AOPA, which enables approval officers to amend AOPA permits on their own motion.

No other changes will be made.

2. Terms and conditions

Approval LA22038A specifies the permitted livestock capacity as 50,000 beef finishers and permits the construction of the feedlot pens and catch basin.

Therefore, Approval LA22038A contains all of the relevant terms from Approval LA22038. Approval LA22038A restores several conditions that should have been carried forward as part of Approval LA22038.

3. Conclusion

Approval LA22038A is issued for the reasons provided above.

Barrhill Feeders Inc.'s NRCB-issued Approval LA22038 is therefore superseded, unless Approval LA22038A is held invalid following a review and decision by the NRCB's Board members or by a court, in which case Approval LA22038 will remain in effect.

March 1, 2023

(Original signed)

Carina Weisbach
Approval Officer

Appendix A

Condition 12 states:

"The installation of a minimum of six monitoring wells are required and are to be located in the vicinity of both the catchment basin area and the proposed feedlot perimeter to ensure groundwater safety. Monitoring is to occur on an annual basis with the supervision of Alberta Environment (now Alberta Environment and Protected Areas) with the results reported back to Alberta Agriculture and the County of Lethbridge."

Since the time this development permit was issued, reporting of monitoring results from monitoring wells adjacent to CFOs has moved to the NRCB. Therefore, this condition should be updated to say that the results should be submitted to the NRCB rather than the county and Alberta Agriculture (now Alberta Agriculture and Irrigation). The monitoring requirements will be stated in a separate monitoring statement that will accompany this approval.

Condition 14 states:

"The low area on the adjacent quarter section to the east (NE1/4 7-12-21 W4M) shall be left as is – grassed and treed – to provide for secondary containment as a catch basin overflow. All drainage must flow towards the northeast corner of the site."

As mentioned above, I sent Barrhill an email to inform them about this amendment. In their response, Barrhill stated that *"this condition is part of our emergency management plan and allows for containment of runoff during an extreme catch basin overflow event. It is for emergency purposes only and is not intended to be used for manure or run off storage. Having this in place ensures that we can contain any potential overflow on our own land. We feel that the grassed and treed area, as it is today, provides the best protection to the environment, common bodies of water, and the neighbouring lands during extreme rainfall events."* Barrhill then continued to state that this condition was included in response to the concern raised during the appeal hearing for development permit 2001-10 and that they *"do not believe it is correct to assume that those concerns are no longer important to manage."*

Although this emergency runoff mitigation might have been acceptable at the time the development permit was issued, the suggested form of emergency runoff control using surface water bodies such as wetlands is no longer acceptable. One of the goals of AOPA and its regulations is to minimize the risk CFOs pose to surface water and groundwater by requiring, amongst other things, runoff control from manure collection and storage sites. For this reason, the wetland on that quarter section cannot be used as an emergency catch basin overflow because this practice would result in a substantial risk to this surface water body and contradict current regulations.

Therefore, I am of the opinion that the part of the condition referring to the area as secondary containment for catch basin overflow should be deleted. However, the wetland area should remain in its natural state – grassed and treed. As is current practice, should the approved runoff control catch basins be at risk to overflow, the operator should contact the NRCB compliance division directly or use the 24 hour response line to report a potential overflow and an NRCB inspector will give direction on required actions.