

## Decision Summary LA21053XA

This document summarizes my reasons for issuing Approval LA21053XA, an amended version of Approval LA21053X, under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA21053XA. 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 amendment to an existing approval. For additional information on NRCB permits please refer to [www.nrcb.ca](http://www.nrcb.ca).

### 1. Background and reasons for the amendment

On July 11, 2022, John Schooten and Sons Custom Feedyard Ltd. (Schooten) received Approval LA21053X for the expansion of their existing feedlot to a total of 75,000 beef finishers and the construction of 80 additional feedlot pens and a catch basin. The dimensions of the catch basin in Approval LA21053X were: 200 m x 90 m x 3 m deep.

During the post construction inspection of the catch basin and the first two rows of feedlot pens on March 21, 2023, Karl Ivarson and Morgan Schindel, inspectors with the NRCB, and I noticed that the catch basin was constructed much deeper than permitted under Approval LA21053X. The location has not changed.

The amendment application notes the depth of the catch basin to be 3.29 m. However, the actual depth below ground is 8 m. In a follow up conversation with the applicant, Schooten confirmed that the dimensions given in the application reflect the dimensions at the depth of 4.7 m below ground where the swale enters the catch basin.

The application for amendment was received on May 4, 2023, and on May 24, 2023, I deemed the application complete.

No other changes to the CFO are proposed.

The information about location and permit history can be found in Decision Summary LA21053.

There are no other changes proposed. The minimum distance separation (MDS) has not changed. There has been no amendment of the Vulcan County's Municipal Development Plan (MDP), or of the Intermunicipal Development Plan (IDP) between Vulcan County and Wheatland County, that concerns this area. Accordingly, a new MDP consistency determination and a new assessment of the effects on the economy and community was not done in conjunction with this permit amendment. I adopt the analysis in Decision Summary LA21053.

A new environmental risk assessment of the proposed facilities was also not undertaken. The results of the risk assessment as discussed in Decision Summary LA21053 is still valid.

## **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:

- the municipality where the CFO is located or is to be located
- all persons who own or reside on land within a specified distance from the CFO, depending on the size of the CFO

The specified distance of this CFO remains at four miles. (The NRCB refers to this distance as the “affected party radius.”)

A copy of the application was sent to Vulcan County, which is the municipality where the CFO is located, and to Wheatland County, which has a boundary within the affected party radius.

A copy of the application was also sent to the Siksika Nation I.R. 146, which has a boundary within the affected party radius.

The NRCB gave notice of the application by public advertisement in a weekly newspaper in circulation in the community affected by the application. In this case, public advertisement was in the Vulcan Advocate on May 24, 2023. The full application was also posted on the NRCB website for public viewing. One hundred and forty-five (145) notification letters were also sent to people identified by Vulcan County as owning or residing on land within the affected party radius.

Neither Wheatland County nor Siksika Nation I.R. 146 provided names and addresses for people owning or residing on land within the affected party radius.

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

Under section 19 of AOPA, 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 Environment and Protected Areas (EPA), Alberta Transportation and Economic Corridors, Alberta Health Services (AHS), and ROW Easements (TAQA).

The NRCB received a response from Jeff Gutsell, hydrogeologist with EPA. In his response, Mr. Gutsell stated that he has no questions or concerns with this application. Ms. Leah Olsen, a planning technologist with Alberta Transportation and Economic Corridors, stated in her response that there are no concerns or requirements in respect to this proposal. Ms. Natalie Robertson, a surface land administrator with TAQA stated that TAQA’s infrastructure will not be affected by the amendment to the catch basin.

## **4. AOPA requirements**

With respect to the technical requirements set out in the regulations, the catch basin, as constructed, continues to meet all AOPA requirements (see Technical Document LA21053XA).

## **5. Responses from 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." Vulcan County is an affected party (and directly affected) because the proposed catch basin is located within its boundaries.

Ms. Anne Erickson, manager of development services with Vulcan County, provided a written response on behalf of Vulcan County. Ms. Erickson stated that the application is consistent with Vulcan County's land use provisions of the municipal development plan. As stated above, a new consistency determination of this application with Vulcan County's municipal development plan has not been undertaken (see Appendix A of Decision Summary LA21053).

Wheatland County is also a directly affected party because a part of Wheatland County is within the affected party radius. Ms. Suzanne Hayes, a development officer with Wheatland County, responded on behalf of the county and stated that the CFO expansion does not appear to be within the CFO exclusion area of the IDP between Vulcan County and Wheatland County, that it is not within the Speargrass Area Structure Plan, and that the proposal is consistent with the county's MDP.

No responses were received from the Siksika Nation I.R. 146.

Apart from municipalities, any member of the public may request to be considered "directly affected."

The NRCB received responses from three individuals which are discussed in Appendix A.

The NRCB also received submissions from Ruth Ann Sherstabetoff and Sue Archibald after the submission deadline in the notice (June 21). Following NRCB Operational Policy 2016-7: Approvals at part 7.11.5, I considered whether there were exceptional circumstances that warranted considering the submissions nonetheless. In this case, I could not identify exceptional circumstances for the lateness of the submission, so I did not consider and address their submission in the approval decision.

## **6. Terms and conditions**

For clarity and efficiency, and in accordance with NRCB policy, I am amending Approval LA21053X. Rather than issuing a separate amendment document, I am issuing a new, amended approval (LA21053XA) which supersedes Approval LA21053X. The amended approval will have the same terms and conditions as Approval LA21053X, with the only revision being the dimensions of the catch basin. An explanation of these conditions can be found in Appendix B of Approval LA21053X.

## **7. Conclusion**

Approval LA21053XA is issued for the reasons provided above, in the attached appendices, and in Technical Document LA21053XA and becomes effective immediately.

July 12, 2023

(Original Signed)  
Carina Weisbach  
Approval Officer

### **Appendix:**

A. Determining directly affected party status and concerns raised

## **APPENDIX A: Determining directly affected party status and concerns raised**

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 (See NRCB Operational Policy 2016:7 – Approvals, part 6.2):

- Ian and Serena Donovan (NE 36-20-25 W4M) and
- Wayne Robinson (NW 11-21-25 W4M).

Mr. and Mrs. Donovan did not have any concerns with this operation.

Mr. Robinson stated that they encountered a spring during construction of the catch basin. In a follow up conversation on June 21, 2023, Mr. Robinson clarified that the spring was found during construction of the existing catch basin(s) located at the south end of the CFO. He had no information about the new catch basin. He was also concerned about possible seepage from the catch basin into ground water. He was also questioning why they had to deepen the catch basin and if that would allow them to overpopulate the CFO.

During a conversation, Schooten explained that they installed roller compacted concrete (RCC) as a secondary liner on top of the approved naturally occurring protective layer. RCC, producing a firm, concrete-like surface, reduces infiltration of surface water and increases runoff volume from the feedlot pens. To accommodate the increased runoff volume, combined with a design change of the runoff channel that conveys runoff to the catch basin, Schooten decided to deepen the catch basin which allows the runoff channel to enter the catch basin approximately 2-3 m below ground level. Subsequently, the catch basin dimensions as approved in Approval LA21053X did not suit the new design and resulted in the change in depth. As confirmed by the engineer in their report (see Technical Document LA21053XA), the catch basin with its revised depth can still meet AOPA groundwater protection requirements.