

Decision Summary RA21001A

This document summarizes my reasons for issuing an amended version of Approval RA21001 under the *Agricultural Operation Practices Act (AOPA)*. Additional reasons are in Technical Document RA21001A. 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 amendment to an existing approval. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On August 12, 2021, the NRCB issued Approval RA21001 to Adrianus (Arie) and Antonia VandenBroek (VandenBroek) which allowed the construction of a new dairy confined feeding operation. The approval permitted, among other facilities, the construction of a synthetically lined, round liquid manure storage facility (32 m in radius at floor, and 5.3 m deep).

On May 9, 2023, VandenBroek applied to amend Approval RA21001, to modify the liner type from synthetic to compacted clay. (The liquid manure storage facility will now be referred to as an earthen manure storage or EMS). I deemed the amendment complete on May 23, 2023.

The liquid manure storage facility will be constructed in the same location and with the same dimensions that were proposed in the original application, and permitted in Approval RA21001. 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 CFO is located at NE 21-32-27 W4M in Mountain View County, roughly 23 kilometers southeast of Olds, Alberta. The terrain is generally flat, with a gentle slope to the west. Spruce Creek is located approximately 1.5 kilometers to the northeast.

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 0.5 miles. (The NRCB refers to this distance as the “affected party radius.”)

A copy of the application was sent to Mountain View County, which is the municipality where the CFO is located.

The NRCB gave notice of the amendment application by public advertisement in The Albertan on May 23, 2023. The full application was posted on the NRCB website for public viewing. As a courtesy, six letters were sent to people identified by Mountain View 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 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), Alberta Environment and Protected Areas (EPA), and Alberta Agriculture and Irrigation (AGI).

A staff member responded on behalf of AGI, advising of the inspector assigned to this application.

No other responses were received.

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.

There is no ALSA regional plan for the area where the CFO is to be located.

5. Municipal Development Plan (MDP) consistency

I have determined that the CFO is consistent with the land use provisions of Mountain View County’s municipal development plan. (See Appendix A in Approval RA21001 for a more detailed discussion of the county’s planning requirements.)

6. AOPA requirements

The previous application RA21001 met all AOPA requirements. The proposed change to the liner type has no impact on that determination, which still stands. Additionally, the terms and conditions in Approval RA21001 will be carried forward into this amendment, except for the condition related to the liner material. That condition will be changed to reflect the proposed compacted liner.

7. 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." Mountain View County is an affected party (and directly affected) because the CFO where the applicant is proposing changes to is located within its boundaries.

Ms. Peggy Grochmal, a permitting and development officer with Mountain View County, provided a written response on behalf of Mountain View County. Ms. Grochmal stated that the municipal planning commission had no further recommendations for this amendment.

I considered this application's consistency with Mountain View County's municipal development plan when I issued previous Approval RA21001. VandenBroek's present application is consistent with that MDP for the same reasons as those provided in Appendix A of Decision Summary RA21001.

No other responses were received.

8. Environmental risk of CFO facilities

The potential risks posed by VandenBroek's CFO facilities were assessed in 2021. According to the assessment, the facilities (including the liquid manure storage facility) pose a low potential risk to surface water and groundwater. The proposed new compacted clay liner meets AOPA requirements. Therefore, a new assessment of the potential risks posed by the CFO's permitted facilities is not required.

9. Other factors

The previous Approval RA21001 discussed how the application is consistent with other factors, including property line setbacks, natural resources, the environment, economy, the community and the appropriate use of land. The change of liner type for the liquid manure storage facility has no impact on these determinations.

10. Terms and conditions

Rather than issuing a separate "amendment" to Approval RA21001, I am issuing a new approval (RA21001A) with the required amendment. Approval RA21001A therefore contains all of the terms and conditions in RA21001, but with a new condition to replace and reflect the liner material of the liquid manure storage facility/EMS. For an explanation of the reasons for this condition, see Appendix A below.

11. Conclusion

Approval RA21001A is issued for the reasons provided above, in decision summaries RA21001 and RA21001A, and in Technical Documents RA21001 and RA21001A.

Approval RA21001 is therefore superseded, and its content consolidated into this Approval RA21001A, unless Approval RA21001A is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval RA21001 will remain in effect.

July 26, 2023

(Original Signed)
Lynn Stone
Approval Officer

Appendices:

A. Explanation of conditions in Approval RA21001A

APPENDIX A: Explanation of conditions in Approval RA21001A

Approval RA21001A includes a new condition, discussed below, and carries forward a number of conditions from Approval RA21001 (see section 2 of this appendix).

1. New conditions in Approval RA21001A

Earthen Manure Storage

The co-permit holders shall provide the NRCB with a written construction completion report for the new EMS. The report shall be stamped and signed by a “professional engineer”, as defined in the Standards and Administration Regulation, and shall:

- a. certify that the EMS was constructed at the location specified in the site plan provided with the application;
- b. certify that the liner material used in the EMS is the same material that was submitted for hydraulic conductivity testing;
- c. certify that the EMS was constructed according to the recommended construction procedures in the May 8, 2023 Site and Soil Assessment by Envirowest Engineering Inc.; and
- d. provide the constructed EMS dimension, including elevations below and above grade, liner thickness, berm height, and side slopes.

This report must be provided to the NRCB before the inspection referenced in condition #9, or by a later date stated by the NRCB.

2. Conditions carried forward from Approval RA21001

All conditions from Approval RA21001 are carried forward, except for conditions #7, 8, 9, and 10, which will be modified to reflect the change from a synthetic liner to a compacted clay liner.