

Decision Summary RA19010

This document summarizes my reasons for issuing Approval RA19010 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA19010. 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.

1. Background

On March 22, 2019, Korova Feeders Ltd. (Korova) submitted a Part 1 application to the NRCB to expand an existing beef CFO from 16,000 to 32,000 head of beef finishers. The Part 2 application was submitted on April 16, 2019. On May 14, 2019, I deemed the application complete.

On July 17, 2019, Korova requested to update their application and reduce the proposed capacity from 32,000 to 20,600 head of beef finishers. Korova indicated that they decreased the final animal numbers they are applying for, in order to meet the AOPA minimum distance separation requirements.

There is no new construction, requiring an AOPA permit, proposed with this application. Korova is installing rolled compacted concrete (RCC) on top of the existing compacted clay liners in their existing pens. Doing this will allow them to increase the animal density inside the pens. Installation of RCC on top of an existing liner is considered to be maintenance.

Under AOPA, this type of application requires an approval. (This is one of several types of “permits” issued under AOPA. For an explanation of the different types and when each one applies, see www.nrcb.ca.)

a. Location

The existing CFO is located at NE 27-29-26 W4M in Kneehill County, roughly 3.5 km northwest of Acme, Alberta. The terrain is nearly level sloping west towards Acme Creek.

b. Existing permitted facilities

The CFO was originally permitted by Kneehill County on February 25, 1998 under development permit # 1879-98. The county also issued development permits # 1939-98 and 2189-00 on June 18, 1998 and August 2, 2000, respectively. Collectively, these municipal development permits allow Korova to construct and operate of a cattle feeding CFO with 16,000 heads. The CFO’s existing permitted facilities are listed in an Appendix of Approval RA19010. The CFO’s grandfathered status is explained in Appendix D attached.

2. Notices to affected parties

Under section 19 of AOPA, the NRCB is required to notify (or direct 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 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

On the original application (32,000 head of beef finishers), the notification distance was 4.0 miles. (The NRCB refers to this distance as the “affected party radius”); however, after Korova updated their animal numbers to 20,600 heads of beef finisher, the affected party radius is reduced to 3.0 miles.

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

Mountain View County and the Village of Acme were also an affected party because they boundaries were within the original 4 miles affected party radius; however, after Korova updated their increase in animal numbers, Mountain View County is outside the updated 3 miles affected party radius, and the Village of Acme is still inside the updated 3 miles radius.

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. There were no written responses submitted by individuals that own or reside on land beyond the updated 3.0 miles affected party radius (See section 4 and appendix B for more details).

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 application in the Mountain View Gazette on May 14, 2019 and the Three Hills Capital on May 15, 2019 and posted the full application on the NRCB website for public viewing. The NRCB also mailed referral letters and a copy of the complete application to Kneehill County, Mountain View County, the Village of Acme, Alberta Health Services (AHS), Alberta Environment and Parks (AEP), Harvest Hills Gas Co-op Ltd., and NAL Resources Limited. Six hundred and forty courtesy letters were sent to people identified by Kneehill County, Mountain View County and the Village of Acme as owning or residing on land within the original 4.0 miles affected party radius.

After the deadline for submission of statement of concerns, I also forwarded all traffic concerns to Alberta Transportation (AT).

3. Responses from the municipalities and referral agencies

I received responses from Kneehill County, Mountain View County, AEP, and AHS. At my request, I also received a response from AT. No response was received from the Village of Acme, Harvest Hill Gas Co-op Ltd., and NAL Resources Limited.

Ms. Barb Hazelton, manager of planning and development with Kneehill County, provided a written response on behalf of the county. As noted in section 2, Kneehill County is a directly affected party.

Ms. Hazelton stated that the county (municipal planning commission) has no concerns with this application. Ms. Hazelton indicated that the county's transportation department has a concern regarding potential damage to roads. This concern, and the application's consistency with Kneehill County's municipal development plan (MDP), are addressed in appendix A and B, attached.

Ms. Peggy Grochmal a development and permitting officer with Mountain View County, provided a written response on behalf of the county, indicating that the county has no concerns with this application.

The NRCB also received a response from Mr. Keith Lee, an AHS executive officer / public health inspector, he did not raise concerns with the application. At my request, the officer provided a second written response addressing the health related concerns raised by some of the directly affected individuals (See Appendix B for a summary of this response).

Ms. Michele Buchwitz, a development & planning technologist with AT, responded to my request to address the traffic and safety concerns. In her response letter, Ms. Buchwitz, indicated that there is no need for a development permit from AT, and that the department does not foresee any problems with the proposed expansion of the feedlot (See Appendix B for a summary of this response).

4. Responses from other directly affected parties

The NRCB received seven responses from 11 individuals.

All of the 11 people who submitted responses own or reside on land within the updated 3 mile radius for affected persons. Because of their location within this radius, they are presumed to be directly affected by the application. There were no written responses submitted by individuals that own or reside on land beyond the updated 3.0 miles affected party radius.

The directly affected parties raised concerns regarding:

- Increase in odours, noise, and flies
- Groundwater quality
- Groundwater supply and usage
- Surface water
- Health issues
- Animal welfare
- Increase of truck traffic and its implication into traffic safety and dust
- Property values
- Increase in transient workers

These concerns are addressed in Appendix B.

5. Environmental risk screening of existing facilities

As part of my review of this application, I assessed the risk to surface water and groundwater posed by the CFO's existing manure storage facilities. I used the NRCB's environmental risk

screening tool for this purpose (see NRCB Operational Policy 2016-7: *Approvals*, part 8.13). The 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/Groundwater and Surface Water Protection on the NRCB website at www.nrcb.ca.)

All of the CFO's existing facilities pose a low potential risk to groundwater and surface water (The CFO's existing facilities are listed in the Appendix to Approval RA19010.)

6. Other factors considered

The application meets all relevant AOPA requirements, with the terms and conditions summarized in part 7.¹

In addition, the proposed CFO expansion is consistent with the land use provisions of Kneehill County's municipal development plan. (See Appendix A for a more detailed discussion of the county's planning requirements.)

With respect to the act's technical requirements, the proposed CFO expansion:

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the "minimum distance separation" requirements, or 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's nutrient management requirements regarding the land application of manure
- Meets AOPA groundwater protection requirements for the design of floors and liners of manure storage facilities

In addition, I assessed the effects of the proposed CFO expansion on the environment. Consistent with NRCB policy, I determined that these effects are acceptable because the application meets all of AOPA's technical requirements. As set out in Appendix B, I have carefully considered the concerns raised by the directly affected parties, and in my view, those concerns have been addressed, and mitigated, by the application and conditions. I also presumed that the application's effects on the economy and community are acceptable, and that the proposed CFO expansion is an appropriate use of land. Under NRCB policy, these determinations are based on the application's consistency with the municipal development plan. (See NRCB Operational Policy 2016-7: *Approvals*, part 8.7.3.) After considering the concerns from the directly affected parties, the comments from the referral agencies, and the feedback from Kneehill County, I find these presumptions are not rebutted.

When preparing this decision summary, I received technical assistance from Scott Cunningham, an environmental specialist with the NRCB.

7. Terms and conditions

Approval RA19010 specifies the new permitted livestock capacity as 20,600 head beef finishers.

Approval RA19010 also contains terms that the NRCB generally includes in all AOPA approvals, including terms stating that the applicant must follow AOPA requirements and must adhere to

1. For a summary of these requirements, please see the [2008 AOPA Reference Guide](http://www.nrcb.ca/about/documents), available on the NRCB website at www.nrcb.ca/about/documents.

the project descriptions in their application and accompanying materials.

In addition to the terms described above, Approval RA19010 includes a condition that:

- Requires Korova Feeders to keep ongoing records of the number and type of livestock on site.

For an explanation of the reasons for this condition, see Appendix C.

a. Conditions carried forward from previously issued permits

For clarity, and pursuant to NRCB policy, I consolidated Kneehill County development permit #s 1879-98, 1939-98 and 2189-00 with Approval RA19010 (see NRCB Operational Policy 2016-7: *Approvals*, part 10.5). Consolidating permits generally involves carrying forward all relevant terms and conditions in the existing permits into the new permit, with any necessary changes or deletions of those terms and conditions, and then cancelling all existing permits once the new permit is issued. This consolidation is carried out under section 23 of AOPA, which enables approval officers to amend AOPA permits on their own motion.

Therefore, in addition to containing the new terms and conditions summarized above, Approval RA19010 includes all existing terms and conditions in Kneehill County development permit #1939-98, except the terms and conditions noted below. Construction conditions that are being carried forward and that have been met, are identified and included in an appendix to the new approval.

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that several conditions from development permit #1939-98, should be deleted and therefore are not carried forward to Approval RA19010. My reasons for deleting these conditions are provided in Appendix C.

8. Conclusion

Approval RA19010 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA19010.

Korova Feeders' deemed approval, including municipal development permit #s 1879-98, 1939-98 and 2189-00, are therefore cancelled, unless Approval RA19010 is held invalid following a review and decision by the NRCB's board members or by a court, in which case development permit #s 1879-98, 1939-98 and 2189-00 will remain in effect.

August 28, 2019

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

Appendices:

- A. Consistency with the municipal development plan
- B. Concerns raised by directly affected parties
- C. Explanation of conditions in Approval RA19010
- D. Grandfathering determination

APPENDIX A: Consistency with the municipal development plan

Under section 20 of AOPA, an approval officer may approve an application for an approval only if the approval officer finds that the application is consistent with the “land use provisions” of the applicable municipal development plan (MDP).

The NRCB interprets the term “land use provisions” as covering MDP policies that provide generic directions about the acceptability of various land uses in specific areas and that do not call for discretionary judgements relating to the acceptability of a given confined feeding operation (CFO) development. (See NRCB Operational Policy 2016-7: *Approvals*, part 8.2.5.) Under this interpretation, the term “land use provisions” also excludes MDP policies that impose procedural requirements. In addition, section 20(1.1) 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.”)

Korova’s CFO is located in Kneehill County and is therefore subject to that county’s MDP. Kneehill County adopted the latest revision to this plan on July 18, 2017, under Bylaw #1735.

As relevant here:

Policy 11 of the MDP states that “no new or expansions of existing confined feeding operations (CFOs) will be allowed in the following areas:

- (i) In hazard lands or environmentally sensitive lands as defined by the province,
- (ii) Within 1.6 kilometres (1 mile) of any hamlet or grouped Country Residential development, or
- (iii) Within 1.6 kilometres (1 mile) of an urban fringe area or an Inter-municipal Development Plan boundary

Korova’s CFO is not located within any of these setbacks or exclusion zones.

For these reasons, I conclude that the application is consistent with the land use provisions of Kneehill County’s MDP. The county’s response supports my conclusion.

In my view, under the sections for Agriculture, and for Plan Implementation and Monitoring, the MDP clearly intends to incorporate Kneehill County’s Land Use Bylaw (LUB) #1773 (see NRCB Operational Policy 2016-7: *Approvals*, part 8.2.3). Accordingly, I considered the LUB. Under that bylaw, the subject land is currently zoned agriculture district. CFOs are not specifically listed within the land use bylaw as permitted or discretionary use. Ordinarily, a land use that is not listed as either permitted or discretionary in a district is meant to be prohibited in that district. However, I interpret this omission of CFOs as reflecting the county’s intent not to address CFOs in its LUB (given the NRCB’s permitting role since AOPA came into effect in 2002).

For these reasons, I conclude that the proposed CFO expansion is not inconsistent with the LUB.

APPENDIX B: Concerns raised by directly affected parties

The following individuals, who submitted a response, own or reside on land within the “affected party radius,” as specified in section 5(c) of the Agricultural Operation, Part 2 Matters Regulation.

There were no additional responses submitted by individuals beyond the updated 3.0 miles affected party radius, and up to the original 4.0 miles affected party radius.

Alexander and Krysten Corbel
NW 31-29-26 W4M

Darwin Eaket
SE 3-30-26 W4M

Brain and Sera Fradgley
SE 26-29-26 W4M

Glenn Harding
224 Main Street, Acme

Peter and Linda Henley
NE 34-29-26 W4M

Todd and Bonnie Hopkins
418 Fowler Street, Acme

JK Sawchuk
SE 26-29-26 W4M

The directly affected parties raised a number of concerns which are listed and summarized below, together with my analysis and conclusions:

- 1. Increase in odours (air quality), noise, flies and pests** – Many of the individuals expressed concern about a potential increase in odours, noise (from truck traffic), flies, and the impact on air quality and their quality of life due to odours.

Approval officer’s conclusions:

AOPA’s minimum distance separation (MDS) is a means for mitigating odour and other nuisance impacts from confined feeding operations (CFOs). Korova’s CFO is located outside of the required 884 m MDS from existing residences. The closest respondent’s residence is located more than 1,060 from the CFO.

Notwithstanding the CFO’s distances to its nearest neighbours, it is reasonable to expect that they will experience some odours and other potential nuisances when the CFO increases their animal numbers.

Operators are expected to control flies, and other pests, at their operation. The Standards and Administration Regulation requires “the owner or operator of a CFO to employ reasonable measures to control the level of infestation of flies (section 20(1)).”

Often, any issues that arise relating to the operation of a CFO, and other disagreements, can be resolved through good communication between neighbours and the CFO operator. However, if a member of the public has concerns regarding a CFO, including whether or not the operation is complying with AOPA, they may contact the NRCB through its toll free response line (1-866-383-6722 or 310-0000). An NRCB inspector will follow up on the concern.

- 2. Groundwater supply** - The potential impact on groundwater quantity was a significant concern for some of the parties. The respondents expressed concerns that the increase in animal numbers at the CFO will have an impact on the aquifer that the surrounding community also uses.

Approval officer's conclusions

Alberta Environment and Parks (AEP) is responsible for licencing and monitoring the supply of groundwater in the province. The water licencing process includes an opportunity for neighbours to provide input. Therefore, for efficiency and to avoid inconsistent regulation, NRCB approval officers generally do not consider water supply concerns when reviewing AOPA permit applications, other than ensuring that applicants sign one of the water licensing declarations listed in the Part 2 application form. (This declaration is on page 3 of Technical Document RA19010.)

In an email addressed to Korova, a senior water administrator technologist at AEP requested the annual water requirement for the operation, and indicated that if the annual water requirement is greater than the water authorized by existing licences or registrations, then Korova must apply for a licence under the *Water Act*.

Korova is reminded that they are responsible for obtaining the appropriate water licence for the proposed expansion in animal numbers at the CFO. If Korova expands the CFO after I issue Approval RA19010, but before receiving its water licence, any such expansion is at their own risk if the water licence application is denied.

A copy of this decision will also be forwarded to AEP for its information.

- 3. Groundwater quality** - Several individuals raised concerns that manure and urine would contaminate groundwater. The concerns included the potential contamination with e-coli and coliforms.

Approval officer's conclusions

As noted in the decision summary above, and documented in Technical Document RA19010, the existing CFO facilities meet all AOPA technical requirements. AOPA requirements do not, of course, guarantee zero risk. Nevertheless, several of these requirements are designed to prevent or minimize manure leakage from CFO facilities and thus to prevent manure from reaching and contaminating groundwater. Because the existing CFO facilities meet or exceed these requirements, I concluded that the level of groundwater risk posed by these facilities is low.

As noted in section 5 of the decision summary, I assessed the CFO's existing facilities, using the NRCB's environmental risk screening tool (ERST), in order to determine the level of risk they pose to groundwater. The CFO's facilities pose a low risk to groundwater.

Regulations under AOPA set nutrient application limits to prevent the soils from being overloaded with nitrogen and minimize the potential for groundwater to be impacted by manure (Standards and Administration Regulation, section 25). AOPA also requires operators to test soils on farmland to which manure is applied for salts and nitrogen at least every three years, and to make these records available for inspection by the NRCB.

- 4. Surface water** – A few of the concerns received by the NRCB were related to the impact of the CFO on the quality of the surface water, and runoff to surrounding waterways.

Approval officer's conclusions

AOPA and its regulations contain several requirements to prevent or minimize manure leakage from CFO facilities and thus to prevent CFO manure from reaching and contaminating surface water. Two of these requirements are the setbacks from springs and common bodies of water set out in section 7(1)(a) and (c) of the Standards and Administration Regulation, which prohibits the construction of a manure storage facility or manure collection area less than 100 m from a spring and less than 30 m from a common body of water. "Common body of water" is a defined term in the legislation.

During my site visits, I did not note any springs or common bodies of water within 100 m and 30 m, respectively, of where the existing CFO is located. I also verified these distances by reviewing available air photos. The proposed CFO expansion meets these AOPA requirements.

As noted in section 5 of the decision summary, I assessed the CFO's existing facilities, using the NRCB's ERST, in order to determine the level of risk they pose to surface water. The CFO's facilities pose a low risk to surface water.

The information included in the decision summary above, and further documented in Technical Document RA19010, indicates that the proposed CFO expansion meets all AOPA technical requirements. Because the CFO meets or exceeds these requirements, I concluded that the level of risk to surface water posed by the CFO facilities is low.

Incidences of non-compliance can be reported to the NRCB's 24 hour a day response line 1-866-383-6722 or 310-0000 (toll free line). NRCB inspectors investigate all complaints.

- 5. Health issues** – One of the respondents was concerned about the health impacts due to the CFO expansion in animal numbers.

Approval officer's conclusions

AOPA does not expressly require approval officers to consider the health effects of a proposed development, when deciding whether to issue an approval under the act.

Approval officers, however, refer all applications to Alberta Health Services (AHS) for its information, and for AHS to identify any potential health issues related to the proposed developments.

In a letter dated June 13, 2019, an AHS Executive Officer/ Public Health Inspector described the feedlot site, the topography of the site, the water wells and common bodies of water on site, the manure management used by the feedlot, and the dead animal disposal used by the feedlot. The officer/inspector stated that the CFO appears to be well managed and operated, that the site is organized and tidy, that the pens are in good

repair, and that AHS has not received any public health concerns about the CFO.

The AHS officer/inspector concluded his response indicating that AHS has no objections to the propose increase in animal capacity at the existing CFO, as long as the CFO is operated and maintained in accordance to all applicable regulations, codes and standards.

As per NRCB Operational Policy 2016-7: *Approvals*, part 8.8., I referred the application to AHS for its comments. After the deadline for submission of statement of concerns, I also referred all SOC's that identified health concerns and issues to AHS.

The AHS officer/inspector submitted a second letter to the NRCB on July 30, 2019, addressing the health related statement of concerns. AHS' response stated the following:

“Contamination of Water Supplies – Water Quality (groundwater & surface water):

Areas where manure is stored must have a hydraulic conductivity that meets the requirements of Alberta Environment and the NRCB. Alberta Health Services does not oversee this requirement, however, if the hydraulic conductivity requirements are met, it should provide an adequate degree of protection of groundwater resources. Final disposal of manure will be by application onto land that the applicant owns or has access to (in writing). Land application of animal manures is an acceptable method of disposal provided that it does not contaminate any surface water or groundwater sources, and is conducted in accordance with industry standards and Codes of Practice. It is recommended that water wells for domestic use be completed in a confined aquifer, which offers protection from contaminants migrating vertically from the surface down. Alberta Health Services does not recommend consuming water from unconfined aquifers (first groundwater layer or shallow wells) without treatment including adequate filtration and disinfection, regardless of whether there is a CFO nearby or not.

As for the six water wells that are currently in use for the CFO, I don't foresee any significant impacts to these wells as long as the runoff control system is in place and is working as intended and designed.

Noise Pollution:

Concerns regarding the noise generated from grain trucks and cattle liners is not typically a health related concern, but it may be a municipal concern if Kneehill County has a noise bylaw in place.

Objectionable Odors:

There will always be odors associated with confined feeding operations, particularly when it comes to beef feedlot facilities. Odors, in and by themselves, from CFOs are generally not considered to be a health hazard provided that all aspects of the CFO are being operated in accordance with industry standards and codes of practice. However, there are a number of strategies that could be employed that will help to reduce or minimize the impact of odors on neighboring residences. Some of the strategies are provided in the web links below.

Enjoyment of Land & Property:

This is not a health-related issue.

Decreased Property Values:

This is not a health-related issue.

Loss of Water Resource – Water Quantity:

Groundwater allocation and licensing is the mandate of Alberta Environment, not of AHS. There are protocols in place to determine whether a license should be granted, and it does take into account the effect on water wells in the vicinity of the CFO. If a license is denied due to potential impact on surrounding water wells, then the proponent will have to find an alternate water source in order to sustain the CFO. Kneehill County municipal water is available in the vicinity of the CFO and this could be utilized if a water license is not granted.

Animal Welfare:

This is not a health related issue and is best addressed by agencies such as the SPCA.

Traffic and Safety:

In the area where this CFO is located, I would not consider this to be a health related issue, however, it is important that such vehicles and drivers follow the rules of the road. Driving concerns should be reported to the RCMP and to other driving enforcement agencies.

Property Theft and Vandalism:

This is not a health related issue.

Dust and Fly Control:

Dusts and flies from a CFO facility is well documented and there are a number of strategies that could be implemented, as described in the web links below. Dusts and flies from a CFO are generally not considered to present a significant health concern unless there are specific types of facilities close by such as food establishments, healthcare facilities, and the like.

Web Site links:

1. <https://nutrition.ansci.illinois.edu/sites/default/files/ESS803-C.pdf> 2.
2. <https://www.ag.ndsu.edu/manure/documents/nm1391.pdf>
3. https://www.mla.com.au/globalassets/mla-corporate/research-anddevelopment/program-areas/feeding-finishing-and-nutrition/manure-handbook/section3-odour-dust-and-flies-2016_07_28.pdf
4. [https://www1.agric.gov.ab.ca/\\$Department/deptdocs.nsf/all/epw12257/\\$FILE/feedlots.pdf](https://www1.agric.gov.ab.ca/$Department/deptdocs.nsf/all/epw12257/$FILE/feedlots.pdf) ...”

The health officer concluded his letter indicating that he spoke with Kendra Donnelly, at Korova Feeders, and she informed him that the expansion has been modified, and the total number of cattle has been reduced from 32,000 to just over 20,000. This reduction in cattle numbers from the original application is significant, and the impacts may not be as great as initially suspected (based on 32,000 cattle).

As noted in section 6 of the decision summary above, and further documented in Technical Document RA19010, the proposed CFO expansion meets all AOPA technical requirements, including: setbacks from all nearby residences; setbacks from springs,

common bodies of water, and water wells; having sufficient means to control surface runoff of manure; nutrient management requirements regarding the land application of manure; and groundwater protection requirements for the existing floors and liners of manure storage facilities.

AOPA and the NRCB strives to pre-empt mismanaged manure handling practices. As described above, AOPA and its regulations contain rules to protect surface water, groundwater and soils.

The NRCB compliance division can get involved if there is a risk to the environment or an inappropriate disturbance.

Throughout the application process, I have provided guidance, information and resources to Korova Feeders to facilitate their awareness of AOPA and its regulations. Their application demonstrates that they are able to meet the AOPA requirements.

6. Animal welfare – One of respondents was concerned with the animal welfare at the CFO.

Approval officer's conclusions

Animal welfare is the responsibility of the Food Safety and Animal Welfare Division of Alberta Agriculture and Forestry, other agencies, and livestock groups. Animal welfare does not fall under AOPA and is therefore not considered as part of my review of the application. Operators are responsible for the welfare of the livestock under their care and control.

7. Road use and traffic – Most of the parties were concerned about an increase in heavy truck traffic on highway 575 and in the county roads. The respondents were concerned about the increase in traffic and its implications to safety (obeying traffic signs and speed limits), and the increase in dust.

Approval officer's conclusions

Traffic on highway 575 and the county roads may increase as a result of the CFO expansion. However, no concerns about a potential increase in traffic, or dust for these roads were raised by Alberta Transportation (AT), and Kneehill County which have jurisdiction over the management of these roads.

The transportation department at Kneehill County had a concern regarding the potential damage to the roads.

County road use and maintenance does not fall under AOPA and, therefore I did not consider it as part of my review of the application. Kneehill County has the jurisdiction over the management of these roads.

After the deadline for submission of statement of concerns, I forwarded all traffic concerns to Ms. Michele Buchwitz, a development and planning technologist with AT. In her response letter, Ms. Buchwitz, indicated that there is no need for a development permit from AT.

Ms. Buchwitz, also indicated that an operations engineer from the Hanna district of their department, completed an analysis of the intersection at range road 262 and highway 575,

and based on the information provided, regarding the increase in the number of trucks and traffic, no change or upgrade should be required for the intersection.

She concluded her letter, by indicating that AT does not foresee any problems with the proposed expansion of the feedlot.

Several board panel decisions have made it clear that traffic and road use matters are outside of the approval officer's purview under AOPA.

- 8. Property values** – Several parties indicated that the CFO expansion will devalue their property.

Approval officer's conclusions

In several review decisions, the NRCB's board members have stated that concerns regarding effects on land or property values are "not a subject for [the board's] review under AOPA" or for approval officers' consideration of permit applications. According to the board, impacts on property values are a land use issue which is a "planning matter dealt with by municipalities in municipal development plans..." *Zealand Farms*, RFR 2011-02 , p. 5; see also, e.g. *Pigs R Us Inc.*, RFR 2017-11, p. 6 (stating that effects on land values are "not a relevant Board consideration when the development is consistent with the MDP's land use provisions.")

As explained in Appendix A above, Korova's application is consistent with the land use provisions of the county's MDP, which indicates that the proposed CFO expansion is an appropriate land use in the area.

- 9. Transient workers** – One respondent was concerned that there will be an increase in the number of outside workers, and therefore, an increase in theft and vandalism.

Approval officer's conclusions

The safety risk to neighbours due to transient and seasonal workers is not a required consideration under AOPA. While this may relate to "effects on the community" when viewed in its broadest sense, it is my opinion that the phrase likely was intended to refer only effects from odour, water pollution, and other nuisance-type effects from manure.

At any rate, the concern is not sufficiently documented or demonstrated to warrant further consideration even if it was relevant under AOPA.

APPENDIX C: Explanation of conditions in Approval RA19010

Approval RA19010 includes a new condition, discussed below, and carries forward a number of conditions from Kneehill County development permit # 1939-98 (see sections 1 and 2 of this appendix).

a. No change in livestock numbers

The original application stated a proposed capacity of 32,000 head of beef finishers, by increasing the animal density within the existing feedlot pens. Because the original application was to use only existing facilities, there is the potential that more livestock than the new permitted capacity of 20,600 head of beef finishers could be housed at the CFO.

To ensure that Korova Feeders does not exceed the new permitted capacity, a condition is included in Approval RA19010 stating that Korova Feeders must keep an ongoing record of the number and type of livestock on site and provide that record to the NRCB upon request.

1. Conditions carried forward from Kneehill County Permit #1939-98 (condition numbers as included in the county's development permit)

Construction conditions #s 1, 2, 3, 7, 8, 9, 10, 14, 15, 17, 18, 19, and 21, from Kneehill County permit #1939, have been met, and are being carried forward, and are included in an appendix to the new approval.

Condition 16. The operation shall be in accordance with the information contained within the Application for Development Permit and all information relating thereto.

This condition will be carried forward, and revised to reflect the NRCB's current permit drafting terminology. These type of conditions are included as general terms in all NRCB permits; and therefore, are not necessary to be included as separate conditions. Additionally, since the municipal development permit is being cancelled through this approval, this conditions is no longer relevant.

2. Conditions not carried forward from Kneehill County Permit #1939-98 (condition numbers as included in the county's development permit)

Condition 4. The minimum separation distance shall apply to the spreading of manure in the proximity of residences not occupied by the owner/employee of an intensive livestock operation. The MDS for manure spreading shall not apply if the manure is injected into the soil or permission is granted in writing by the adjacent landowner.

This condition contains three sub conditions or sections. The first relates to MDS being applied to manure application on land near residences "not occupied by the owner/employee of an intensive livestock operation". The second states that this requirement will not apply if the manure is injected to the soil. The third is that the requirement will not apply if permission is granted in writing by the adjacent land owner.

The first sub section is more stringent than the AOPA requirements (Standards and Administration Regulation, section 24) and would normally be carried forward during a permit consolidation. Kneehill County sent a letter to the NRCB, on January 24, 2017, indicating that they are in agreement to amend the county's permit conditions relating to manure spreading setbacks to the legislated [AOPA] standards.

The second and third subsection are equivalent to the requirements in section 24 of the Standards and Administration Regulation. For these reasons, this condition, and sub conditions, will be rewritten as the statement in AOPA permits, where the permit holder shall comply with the requirements of AOPA and the regulations passed pursuant to that act.

Condition 5. Spreading of manure shall not be less than one mile (1.6 km) from the nearest boundary of a multi-parcel country residential or hamlet (category 2 C of P), or an urban municipality (Category 3 C of P).

As discussed in condition 4 (above), this condition is more stringent than AOPA requirements. However, as noted above, the county's letter issued in 2017, merits the condition being rewritten as the standard permit term which states: *the permit holder shall comply with the requirements of the Agricultural Operation Practices Act (AOPA) and the regulations passed pursuant to that act.*

Condition 6. Spreading of manure shall be no less than 400 feet (122 m) from a water course or water body which is not entirely surrounded by the parcel of land, unless suitable containment facilities are constructed to the satisfaction of the development officer. C of P section 3.

Again, as discussed above (conditions 4 and 5), this condition is more stringent than AOPA requirements. Based on the county's response noted above and the county's explanation that they are satisfied that the legislated manure spreading setbacks are sufficient for manure spreading requirements, as discussed above, this condition will be rewritten as the standard permit term which states: *the permit holder shall comply with the requirements of the Agricultural Operation Practices Act (AOPA) and the regulations passed pursuant to that act.*

Condition 11. Land application of animal manure shall consider meteorological, topographical, soil conditions and application time and rate to avoid watercourse or groundwater contamination. The sustainable use of manure shall include the total crop management system. To keep with recommended application rates, sufficient land must be available for spreading. The use of acceptable methods of incorporation in to the soil within 48 hours of application

This condition is equivalent to sections 22 through 25 and 27 of the Standards and Administration Regulation. As such, this condition will not be carried forward as written, rather it will be re-written as a general term that states *the permit holder shall comply with the requirements of the Agricultural Operation Practices Act (AOPA) and the regulations passed pursuant to that act.*

Condition 12. The operator shall ensure that the manure stays on the lands on which it was disposed;

This condition is equivalent to AOPA requirements (sections 24(4) and 27(1), Standards and Administration Regulation) and will therefore not be carried forward.

Condition 13. Dead animals shall be properly handled, stored and/or disposed of within 48 hours of death to minimize odours, flies, transmission of disease and threat of pollution.

The disposal of dead animals is directly regulated by Alberta Agriculture and Forestry under the *Animal Health Act*. Concurrent oversight of dead animal disposal under AOPA would be inefficient and might lead to inconsistent approaches (in addition, the requirements in these regulations arguably provide an appropriate benchmark for defining “acceptable” disposal practices).

This condition has none of the prescribed regulatory distance setbacks, terms, or definitions, as provided in the *Animal Health Act*, and it is arguably less stringent than existing regulations. For these reasons, and pursuant to the NRCB policies referenced above, this condition will not be carried forward. (See Operational Policy 2016-1: *Amending Municipal Permit Conditions*, section 2.1 and *Conditions related to dead animal disposal*, section 2.2.4.)

Condition 20. Regular soil testing is recommended to monitor levels of nutrients, especially phosphorus as this nutrient has been found to accumulate if application rates are based solely on crop nitrogen requirements, as per Alberta Agriculture.

This condition will not be carried forward because it does not provide any guidance in terms of phosphorus limits and is therefore not enforceable. Nonetheless, AOPA has requirements to protect soil, groundwater, and surface water from excessive application of manure. These include soil testing requirements, soil salinity limits, nitrate-nitrogen limits, and setbacks from water bodies, water wells, and residences. Operators are required to keep manure spreading and soil sampling records for five years and must provide them to the NRCB upon request. This condition is therefore redundant and will not be carried forward.

APPENDIX D: Grandfathering determination

The CFO was originally permitted by Kneehill County on February 25, 1998 under development permit # 1879-98, and received additional development permit #s 1939-98 and 2189-00 on June 18, 1998 and August 2, 2000, respectively. Collectively, these permits allows the construction and operation of a cattle feeding CFO with a total capacity of 16,000 head. These development permits are a deemed (i.e. grandfathered) approval under section 18.1(1)(b) of AOPA. The CFO's deemed facilities are listed in an Appendix of Approval RA19010.

The NRCB published a notice of the application in the Three Hills Capital. The notice included an opportunity to provide input on the CFO's livestock type, livestock capacity, and facilities as they existed on or around January 1, 2002. The NRCB did not receive any comments or concerns regarding the existing livestock capacity of 16,000 beef finishers included in the application.

Therefore, I determined that the CFO had a deemed capacity of 16,000 head of beef finishers.