

Decision Summary RA21045

This document summarizes my reasons for denying Approval RA21045 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA21045. 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 approval. For additional information on NRCB permits please refer to www.nrcb.ca.

I have determined that the proposed CFO would pose materially negative and long-lasting effects on the community, I have also concluded that it would not be an appropriate use of the land. See Part 9 below and Appendix F, attached for more detail.

1. Background

On September 13, 2021, G & S Cattle Ltd. submitted a Part 1 application to the NRCB to construct a new 4,000 beef finisher CFO.

The Part 2 application was submitted on December 7, 2021. On March 10, 2022, I deemed the application complete. On July 21, 2022 an updated drawing to relocate the catch basin further away from a seasonal drain was submitted. On August 22, 2022 another updated drawing was submitted that further relocated and deepened the catch basin by 0.25 m.

The proposed CFO involves:

- Permitting 4,000 beef finishers
- Constructing 4 rows of pens – 304.8 m x 32.97 m (each)
- Constructing 1 catch basin – 96 m x 66 m x 1.75 m

a. Location

The proposed CFO is to be located at NW 3-47-2 W5M in Wetaskiwin County, roughly 6 km west from the Summer Village of Poplar Bay and 15 km northwest from the Hamlet of Westeros AB. The terrain is sloping to the southeast towards an adjacent seasonal drain which flows into a tributary to Pigeon Lake. The drain is approximately 33 m to the east of the proposed CFO.

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

Under AOPA, if 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 are considered affected parties. The seasonal drainage near the proposed CFO site is clearly not a river or canal. According to Alberta Environment data the common body of water near the proposed CFO is an intermittent stream (seasonal drain) (see page 5 RA21045 Technical Document), which I was able to confirm during several site visits and by using several government mapping sources.

In the available maps, it appears that this seasonal drainage from the proposed CFO location runs for approximately 1 mile before it joins a permanent stream as identified on the map. By Oxford Languages dictionary definition a stream is:

1. *a small, narrow river.*
2. *a continuous flow of liquid, air, or gas*

In this case, the seasonal drainage next to the proposed CFO is intermittent (and mapped as such) and not a permanent stream in the same category as a river or irrigation canal. Therefore, the 100 m distance for inclusion does not apply; the 10 miles downstream consideration does not apply; and persons or municipalities downstream from the seasonal drainage are not entitled to notice, or to be “affected” parties.

For the size of this CFO the specified distance is 1.5 miles, which is a calculation prescribed by Section 5(c) of the Part 2 Matters Regulation (the NRCB refers to this distance as the “notification radius”).

A copy of the application was sent to Wetaskiwin County, which is the municipality where the CFO is to be located. Also, though not required, a copy of the application was sent to Leduc County, as a courtesy, because they share an intermunicipal development plan (IDP) with Wetaskiwin County and the notification radius includes a portion of the area covered by the IDP plan boundary (Leduc County land is not within the 1.5 mile radius).

As authorized under section 31(1) of the Administrative Procedures Regulation under AOPA, the NRCB gave notice of the application by public advertisement in a newspaper in circulation in the community affected by the application. In this case, public advertisement was in the *Pipestone Flyer* on March 10, 2022. The full application was also posted on the NRCB website for public viewing. The public notice identified a response deadline of April 7, 2022. As a courtesy, 63 letters were sent to persons identified by Wetaskiwin County as owning or residing on land within the 1.5 mile notification 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) and Alberta Environment and Parks (AEP).

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 proposed CFO is to be located.

5. Municipal Development Plan (MDP) consistency

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

6. AOPA requirements

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

- 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 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

The application does not meet the setback to water wells, though this could be remedied through a water well decommissioning condition. However, as I am denying the application due to inappropriate use of land and unacceptable effects on community, conditions to address this are not necessary. If the NRCB Board were to overturn my decision following a review hearing, a condition to address the existing two water wells located at the proposed feedlot should be considered.

The application meets AOPA groundwater protection requirements for the design of floors and liners/protective layers of manure storage facilities and manure collection areas, with the exception of the updated proposed catch basin. On August 22, 2022, the applicant provided me with another updated site plan. The revised plan moves the catch basin and increases the depth of the catch basin which will now be an additional 0.25 m below ground level. Upon investigating this change I concluded that based on the information available, the proposed catch basin in its new location (see page 55 RA21045 Technical Document) likely does not meet AOPA's protective layer requirements, nor the requirement for 1 m separation between the facility and the uppermost groundwater resource. Additional geotechnical work could be completed to better assess the proposed catch basin's new location and increased depth.

However, as I'm denying the application due to the inappropriate use of land and unacceptable effects on community, I did not require the additional geotechnical work at this point. If the NRCB Board reviews this decision and considers reversing my denial, I would recommend that additional geotechnical investigative work be carried out for the updated catch basin location to determine if the catch basin is able to meet the AOPA groundwater protection requirements in that location.

7. Responses from municipalities 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 under section 19(6) of AOPA as "directly affected." Wetaskiwin County is an affected party (and directly affected) because the proposed CFO is located within its boundaries.

Wetaskiwin County provided two responses to the application. The first response was received on March 23, 2022, in which Mr. Jarvis Grant, a development officer with the County, provided a written response on behalf of Wetaskiwin County. Mr. Grant stated that the application is consistent with the County's land use provisions in their municipal development plan. He also included details from the MDP and Land Use Bylaw and, for information, details from the Pigeon Lake Watershed Management Plan, and the Pigeon Lake Watershed Area Concept Plan. The County did not identify any concerns with the application. The application's consistency with Wetaskiwin County's municipal development plan is addressed in Appendix A, attached.

The second response from Wetaskiwin County, received by email on April 20, 2022 (after obtaining an extension), was submitted by the Reeve and provided clarification on planning matters and documents as well as requesting additional work to be completed by the applicant prior to an approval. This response is discussed in further detail in Appendix E, below.

Leduc County was provided a courtesy notice. Although the notification radius overlapped with the area covered by the IDP between Wetaskiwin County and Leduc County, the radius did not actually cross the county border of Wetaskiwin County and therefore Leduc County is not considered directly affected. Ms. Charlene Haverland, Manager of Development Services, responded on behalf of Leduc County. In her response dated April 8, 2022 (this submission was accepted), Ms. Haverland noted that as the application is not located within or directly adjacent to Leduc County, the County did not have comments regarding the proposed CFO.

Apart from municipalities, any member of the public may request to be considered "directly affected." By the response deadline of April 7, 2022, the NRCB received responses from 388 other respondents (from individuals, summer villages, Indigenous communities, corporations, and other organizations).

The NRCB received and continued to receive many submissions after the deadline identified in the public notice. Following NRCB Operational Policy 2016-7: Approvals at part 7.11.5, I considered whether there were exceptional circumstances that warranted considering these late submissions nonetheless.

In this case, two of the individuals (Dawna Thomas and Heidi Hokanson) and 4 communities (Samson Cree Nation, Montana First Nation, Ermineskin Cree Nation, Métis Nation of Alberta) identified exceptional circumstances as to why they were unable to provide a response by April 7, 2022. I accepted the reasons provided to me and therefore accepted their submissions as part of my decision (see Appendix C). I could not identify exceptional circumstances for the lateness of the other submissions received after the deadline, so I did not accept those submissions.

Of the 388 respondents whose submissions were filed by the response deadline, 37 own or

reside on land within the 1.5 mile notification radius for affected persons. Because of their location within this radius, and because they submitted a written response by the response deadline, they automatically qualify for directly affected party status. (See NRCB Operational Policy 2016-7: Approvals, part 6.2)

The other 351 of the 388 respondents whose responses were filed by the deadline do not own or reside on land within the 1.5 mile notification radius for affected persons. Several of these responses were from summer villages, community groups, or Indigenous communities. Of these 351 respondents, I consider 4 to be directly affected by the approval application. Appendix C sets out my reasons for determining who are considered to be a directly affected party.

The directly affected parties raised concerns regarding odour and nuisances, traffic and road use, groundwater usage and licensing, groundwater quality, surface water from proposed location, surface water from manure spreading lands, cumulative effects, need of environmental impact assessments, property values, disposal of livestock mortalities, historical animal burial site, predators, livestock disease and its risk to public health, location in Pigeon Lake watershed, ongoing environmental issues regarding the health and vitality of Pigeon Lake as a natural and recreational water body, and effects on community, economy, and the environment. These concerns are addressed in Appendix D.

8. Environmental risk of CFO facilities

As part of my review of this application, I assessed the risk to the environment posed by the CFO's proposed 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.)

During my initial review of the application the ERST assessment indicated that the proposed facilities (in their former locations) pose a low potential risk to groundwater and surface water. From a review of other information gathered in the course of this application, I was satisfied that this initial screening provided by the ERST was adequate.

However, as explained above in Section 6, on August 22, 2022 the applicant sent me an updated drawing moving the location of the catch basin and increasing the depth below ground. Upon my review of this proposed change, it appears that the proposed catch basin's new location likely does not meet the 1 m separation between the facility's naturally occurring protective layer and the uppermost groundwater resource as required in section 9 of the Standards and Administration Regulation. As such, it appears that the proposed naturally occurring protective layer now will not meet the AOPA groundwater protection requirements. This is based on the information currently available in the application.

The boreholes provided in the geotechnical report (see pages 79-89 RA21045 Technical Document) indicate a shallow "mudstone" lithology which, using the water well lithologies for the location, correspond with a sandstone layer. Through my investigation, I found that several water wells within 1 mile of the proposed CFO are shallow and identified that they are drawing water from a shallow sandstone layer. Because of this I presumed the shallowest occurrence of sandstone on site to be the top of the uppermost groundwater resource (UGR). Based on the borehole information provided with the application, nearest to where the catch basin is now

proposed, the sandstone is very shallow. Because the 1 m separation from UGR will likely not be met, the catch basin would be considered to pose a potentially high risk to groundwater. As I'm denying the application for other reasons, I did not require additional geotechnical work be completed to be able to better assess the new location for the catch basin, as mentioned above in Section 6.

9. Other factors

I went on to consider other factors that section 20(1)(b) of AOPA requires or allows me to consider.

AOPA requires me to consider matters that would normally be considered if a development permit were being issued. The NRCB interprets this to include aspects such as property line and road setbacks related to the site of the CFO. (see NRCB Board decision in *Grow North*, RFR 2011-01 at page 2). Approval officers are limited to what matters they can consider though as their regulatory authority is limited.

Mr. Grant, from Wetaskiwin County, listed the setbacks required by Wetaskiwin County's land use bylaw (LUB) and noted in his response that the application meets these setbacks.

I have considered the effects the proposed CFO may have on natural resources administered by provincial departments. A copy of the application was provided to AEP and AHS. Both provided a response which are discussed in Appendix E.

I have considered whether there are any statements of concern submitted under section 73 of the *Environmental Protection and Enhancement Act* or under section 109 of the *Water Act* in respect of the subject matter of this application. I'm unaware of any active *Water Act* applications or EPEA applications regarding the location. AEP confirmed there is water licensing available at the proposed location and that if additional water is required a water license application will be required.

I am not aware of any written decision of the Environmental Appeals Board for this location (<http://www.eab.gov.ab.ca/status.htm>, accessed August 25, 2022).

Finally, I considered the effects of the proposed CFO on the environment, the economy, and the community, and the appropriate use of land.

Due to the updated catch basin location and increased depth below ground level, submitted on August 22, 2022 consistent with NRCB policy (Approvals Policy 8.7.3), I cannot presume that the effects on the environment are acceptable because the application does not clearly meet the AOPA groundwater protection requirements for the catch basin. Based on the information I currently have, I cannot fully assess whether relocation and increased depth of the catch basin would make the proposed CFO's effects on the environment acceptable or unacceptable.

Consistent with NRCB policy (Approvals Policy 8.7.3), if the application is consistent with the County MDP then the proposed development is presumed to have an acceptable effect on the economy and community. In my view, however, this presumption of acceptability is rebutted by the significance, variety, and substance of the concerns expressed by the directly affected parties. In particular, the effects on the community due in part to the location being in a sensitive watershed, the high use of the greater area by recreational users, and the efforts by the community to improve lake health (see Appendix C). These concerns have not been adequately

addressed by the application and in my opinion cannot be remedied with the imposition of conditions.

Under the same NRCB policy, I presume that the proposed CFO is an appropriate use of land as it is consistent with the MDP and a permitted use according to the zoning defined in the LUB (See Approvals Policy 8.7.3.). In my view, however, this presumption of the proposed CFO being an appropriate use of land is rebutted by several planning documents provided by both Wetaskiwin County and included with some of the responses received. The principles and guidelines in various land use planning documents discourage CFOs in the lake watershed, and how these principles and guidelines were developed with the ongoing collaboration of numerous government, environmental, and municipal bodies.

After considering these planning documents (the Pigeon Lake Watershed Management Plan and the Pigeon Lake Area Concept Plan) together with the other submissions, I conclude that the proposed CFO development is not an appropriate use of land at this location.

10. Conclusion

Approval RA21045 is denied due to it not being an appropriate use of land and due to unacceptable effects on community. These reasons are discussed further, in the attached appendices.

August 31, 2022

(Original signed)

Nathan Shirley
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. List of directly affected parties
- C. Determining directly affected party status
- D. Concerns raised by directly affected parties
- E. Responses from referral agencies and Wetaskiwin County
- F. Use of land and effects on the community

APPENDIX A: Consistency with the municipal development plan

Under section 20 of AOPA, an approval officer may only approve an application for an approval or amendment of an approval 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 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.”) “Land use provisions” also do not impose procedural requirements on the NRCB. (See NRCB Operational Policy 2016-7: Approvals, part 8.2.5.)

G & S Cattle’s CFO is located in Wetaskiwin County and is therefore subject to that county’s MDP. Wetaskiwin County adopted the latest revision to this plan in 2020 under Bylaw 2020/58.

Objective 1.4 of the MDP aims to “minimiz[e] ... land use conflict” between CFOs and “surrounding land uses.” Following this statement, the MDP notes that, while CFOs are under provincial jurisdiction, it is the County’s intent to “minimiz[e]” the “negative effect” of CFOs. The MDP also reports the County’s view that the *Municipal Government Act* “requires” the County to identify where new CFOs may be located.

These statements are likely not “land use provisions” by themselves, but they provide context for considering five policies listed under Objective 1.4.

The first of five policies in Objective 1.4 states that the “minimum distance setback of Alberta Agriculture Code of Practice, as amended, should be maintained.” It is unclear whether this policy was meant to apply to only new or also expanding CFOs, and whether it was meant to apply to CFOs that are now permitted by the NRCB in addition to those permitted by the county.

In addition:

- The code of practice referenced in this policy was effectively replaced by AOPA in 2002. Thus, the reference to the Code’s MDS provisions “as amended” likely now refers to the MDS requirements in the Standards and Administration Regulation under AOPA (if it applies to NRCB-permitted CFOs).
- NRCB policy is clear that approval officers should not consider MDP provisions that are based on or modify the MDS requirement under AOPA. See NRCB Operational Policy 2016-7: Approvals, part. 8.2.5.

At any rate, as noted in Technical Document RA21045, the proposed CFO meets the MDS requirements under AOPA to all surrounding residences.

The second policy in Objective 1.4 does not apply to this application as it relates to “intensive livestock operations” that are still permitted by the county.

Objective 1.4.3 lists setbacks for new CFOs. The proposed CFO meets the specified 2.4 km setback to urban developments, schools, and hospitals. It also meets the 1.6 km setback to specified lakes, and the AOPA setback (30 m) to non-specified lakes, wetlands, and water courses (common bodies of water). The application meets these setbacks, as the applicant submitted updated drawings relocating the catch basin so that it is located approximately 33 m away from the adjacent seasonal drainage.

The map included in the MDP (figure 3) lists setbacks that differ from those listed in Objective 1.4.3. This discrepancy is likely due to it being an older map from the previous version of the MDP. The details of this map are not specifically clear as it provides blue coloured areas but then states that these are for illustrative purposes only (the proposed CFO does not appear to be within one of these areas). Specifically, this map lists the following setbacks:

- 3.2 km from a city, town, hamlet, summer village
- 1.6 km from multi-lot residential and First Nation reserves, lakes
- 0.8 km from water courses.

As noted above, the application meets the AOPA technical requirements which Objective 1.4.3 requires, but I note that the application does not meet the MDP's 0.8 km setback from a watercourse as required in figure 3 (many locations would be unable to meet this requirement). Due to the lack of clarity on the map, text referring to AOPA, and the county's response indicating that the application meets the MDP, I believe this map not being updated to match the text of the revised MDP is an oversight on the county's part. In the case of any discrepancy, I used the written portion of the MDP (Objective 1.4.3) to assess consistency of the application with the MDP.

Neither of the two remaining policies under Objective 1.4 apply to this application as 1.4.4 and 1.4.5 relate to the siting of new residences in the county and those near the Millet-Wetaskiwin Acreage Study Area. This application is for the construction of a new CFO, not a residence.

For the above reasons, I consider the application to be consistent with the land use provisions in the Wetaskiwin County MDP. The county's response to the application supports this conclusion.

Appendix B: List of directly affected parties

As set out in Appendix C, below, in addition to Wetaskiwin County and the applicant, the following people are considered directly affected by the application.

1) Johannes & Jolanda Appelman SE 32-46-2 W5M	2) Wayne Archibald & Audrey Klein NE 34-46-2 W5M	3) Ron & Sheena Baumann SE 4-47-2 W5M
4) Michael & Gaylene Bodnaresk SW 34-46-2 W5M	5) Randy, Gloria, & Cody Booth Pt. SE 3-47-2 W5M	6) Bernard & JoAnne Brodersen NE 27-46-2 W5M SE 34-46-2 W5M
7) Karin & Cole Brodersen NW 27-46-2 W5M	8) Edward & Mary Buczny Pt. SE 33-46-2 W5M	9) Rosemarie Creighton Pt. NE 2-47-2 W5M
10) Martin Foy & Family Pt. NE 32-46-2 W5M	11) Heidi Hokanson Pt. NW 10-47-2 W5M	12) Deanna Klatt SW 2-47-2 W5M Pt. SW 11-47-2 W5M
13) Martin Klatt Pt. SW 11-47-2 W5M SW 2-47-2 W5M	14) Madison Klatt Pt. SW 11-47-2 W5M	15) Makenna & Jaxon Klatt Pt. SW 11-47-2 W5M
16) Nicole Klatt Pt. SW 11-47-2 W5M	17) Michael Labutes NE 34-46-2 W5M	18) Dave Labutis SE 3-47-2 W5M SE 2-47-2 W5M
19) Ozzie & Jennie Labutis Pt. 3-47-2 W5M Pt. 2-47-2 W5M	20) Stephanie Labutis NE 3-47-2 W5M	21) Kenneth & Sharon LeLacheur SW 34-46-2 W5M
22) Donald & Gloria Leonhardt SE 11-47-2 W5M	23) Ernie & Lorraine Leonhardt Pt. SE 11-47-2 W5M	24) Reginald Lindgren & Bernadette Sereda SW 34-46-2 W5M
25) Lancelot & Haimie Mitchell NE 32-46-2 W5M	26) Kenneth & Leslie Nieradka SE 33-46-2 W5M	27) Richard & Patricia Paradis SE 34-46-2 W5M
28) Darrel & Debbie Phippen SE 35-46-2 W5M SW 35-46-2 W5M	29) Derk Rolfsma SE 34-46-2 W5M	30) Tom & Roxanne Rose SW 34-46-2 W5M
31) Julie Roussel SW 3-47-2 W5M	32) Patti Silliker Pt. SE 34-46-2 W5M	33) Doug Tabler NW 35-46-2 W5M
34) Dawna Thomas SE 5-47-2 W5M	35) James & Nina Thomas Pt. SE 5-47-2 W5M	36) Norman Weikman Pt. SW 11-47-2 W5M
37) Terence & Barbara Wildman SW 33-46-2 W5M NW 28-46-2 W5M		
1) Montana First Nation	2) Ermineskin Cree Nation	3) Samson Cree Nation
4) Métis Nation of Alberta		

APPENDIX C: Determining directly affected party status

The individuals in Table C1 below qualify for directly affected party status because they submitted a response to the application by the published response deadline of April 7, 2022 and they own or reside on land within the “notification radius,” as specified in section 5(c) of the Agricultural Operations, Part 2 Matters Regulation: See NRCB Operational Policy 2016:7 – Approvals, part 6.2.

Several individuals and communities requested extensions and provided reasons for the extension. In this case, I found exceptional circumstances existed and granted extensions to: Dawna Thomas, Heidi Hokanson, Samson Cree Nation, Ermineskin Cree Nation, and the Métis Nation of Alberta.

On August 22, 2022, another group of two individuals (who are directly affected) and one organization (not directly affected) submitted four addenda to be included with their responses. I did not consider the four addenda, either on whether the organization was directly affected, or on whether the proposed CFO application should be approved. The submission did not establish exceptional circumstances to warrant an extension.

One person requested to be allowed to amend their written statement (which had been submitted by the deadline), under section 8(4) of the Administrative Procedures Regulation under AOPA. I did not allow the amendment because, in my view, the content of the proposed amendment went far beyond the original submissions, and on balance there was no rationale or content that would materially assist me in my decision. Further, as the person is not directly affected, I did not consider the original submission.

Table C1: Individuals living on or owning land within radius, who responded by the deadline

1) Johannes & Jolanda Appelman SE 32-46-2 W5M	2) Wayne Archibald & Audrey Klein NE 34-46-2 W5M	3) Ron & Sheena Baumann SE 4-47-2 W5M
4) Michael & Gaylene Bodnaresk SW 34-46-2 W5M	5) Randy, Gloria, & Cody Booth Pt. SE 3-47-2 W5M	6) Bernard & JoAnne Brodersen NE 27-46-2 W5M SE 34-46-2 W5M
7) Karin & Cole Brodersen NW 27-46-2 W5M	8) Edward & Mary Buczny Pt. SE 33-46-2 W5M	9) Rosemarie Creighton Pt. NE 2-47-2 W5M
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13) Martin Klatt Pt. SW 11-47-2 W5M SW 2-47-2 W5M	14) Madison Klatt Pt. SW 11-47-2 W5M	15) Makenna & Jaxon Klatt Pt. SW 11-47-2 W5M
16) Nicole Klatt Pt. SW 11-47-2 W5M	17) Michael Labutes NE 34-46-2 W5M	18) Dave Labutis SE 3-47-2 W5M SE 2-47-2 W5M
19) Ozzie & Jennie Labutis Pt. 3-47-2 W5M Pt. 2-47-2W5M	20) Stephanie Labutis NE 3-47-2 W5M	21) Kenneth & Sharon LeLacheur SW 34-46-2 W5M

22) Donald & Gloria Leonhardt SE 11-47-2 W5M	23) Ernie & Lorraine Leonhardt N½ & SE 11-47-2 W5M	24) Reginald Lindgren & Bernadette Sereda SW 34-46-2 W5M
25) Lancelot & Haimie Mitchell NE 32-46-2 W5M	26) Kenneth & Leslie Nieradka SE 33-46-2 W5M	27) Richard & Patricia Paradis SE 34-46-2 W5M
28) Darrel & Debbie Phippen SE 35-46-2 W5M SW 35-46-2 W5M	29) Derk Rolfsma SE 34-46-2 W5M	30) Tom & Roxanne Rose SW 34-46-2 W5M
31) Julie Roussel SW 3-47-2 W5M	32) Patti Silliker Pt. SE 34-46-2 W5M	33) Doug Tabler NW 35-46-2 W5M
34) Dawna Thomas SE 5-47-2 W5M	35) James & Nina Thomas Pt. SE 5-47-2 W5M	36) Norman Weikman Pt. SW 11-47-2 W5M
37) Terence & Barbara Wildman SW 33-46-2 W5M NW 28-46-2 W5M		

Mr. Tabler submitted a statement of non-opposition to the application and as he owns land within the notification radius he is also automatically considered directly affected.

A person who is not specified in section 5 of the Part 2 Matters Regulation as an affected party can also qualify for directly affected party status. However, they have the burden to demonstrate that they are directly affected by the application. The following people who submitted a response to the application by the published response deadline of April 7, 2022 may fall under this category:

Table C2: Individuals or corporations who do not live on or own land within radius but responded by the deadline

1) NO LAST NAME, ANDY PATTERSON ESTATES	2) ABOUSSAFY, JACK MA-ME-O BEACH	3) AINSLIE, JANE & BRUCE SE 27-46-1 W5M GRANDVIEW
4) ALBERG, KENNY & BETTY SE 13-46-1 W5M VIOLA BEACH	5) ARMSTRONG, SHERRY & DALE NW 28-46-1 W5M POPLAR BAY	6) ASSALY, DENISE & FAMILY MA-ME-O Beach
7) ASSALY, ELAINE MA-ME-O BEACH	8) ASSALY, RICHARD MA-ME-O BEACH	9) ASSELIN, RICHARD & ESTELLE SE 29-47-1 W5M SUNDANCE BEACH
10) AVIS, MICHELLE & ROB NW 25-46-3 W5M	11) BACHMAN, LESLIE & BRENT SILVER BEACH	12) BAIN, MICHAEL & LAUREL TWP 470
13) BAINES, JOHN & HOLLY SE 30-47-1 W5M	14) BALKAN, PHYLLIS & BRIAN ITASKA BEACH	15) BAMBER, DORIANNE GRANDVIEW
16) BARKER, JOHN & DEIRDRE NORRIS BEACH	17) BEASLEY, ALDYTH MA-ME-O BEACH	18) BEAUDRY, MARCUS ARGENTIA BEACH

19) BEAUDRY, SANDY ARGENTIA BEACH	20) BECK, JULIA POPLAR BAY	21) BENEDETTO, RANDY WESTEROSE
22) BEREZNICKI-KOROL TERESA SILVER BEACH	23) BERLIN, DARRIN & CATHY CRYSTAL SPRINGS	24) BETTS, DOROTHY POPLAR BAY
25) BIAMONTE, BRADLEY & NANCY MA-ME-O BEACH	26) BILINSKE, WALTER M ARGENTIA BEACH	27) BOHLENDER, BEVERLEY & DARREL NE 14-46-1 W5M CRYSTAL KEY
28) BOSWELL, GARY & LAVERNE SE 30-47-1 W5M	29) BOUCLIN, DONALD & DARLENE CRYSTAL SPRINGS	30) BOYCHUK, BRENDA SW 19-46-27 W4M
31) BRADLEY, IAN Plan 1695HW / Plan 1695HW	32) BRANDSTROM, TANIA E 22-45-1 W4M	33) BREBBER, BILL MA-ME-O BEACH
34) BRECKON, CAMERON (CAM) & TESSA (TESS) CRYSTAL SPRINGS	35) BRECKON, ROBERT (ROB) & MARIAN CRYSTAL SPRINGS	36) BRECKON, SEAN & STACEY CRYSTAL SPRINGS
37) BRENNAN, KELSEY & ASHLEY DAWN NORRIS BEACH	38) BRENNAN, LYNNE BATTLE LAKE SE 1-46-1 W5M	39) BRIAND, ALAIN WESTEROSE
40) BRIAND, MAVIS WESTEROSE	41) BRINKER, JAYLENE; BISANZ, JEFF NORRIS BEACH	42) BROWN, RON & JUDY CRYSTAL SPRINGS
43) BUFFIE, CATHERINE; CARTER, ALLEN SUNSET HARBOUR	44) *BULL, AYL No address provided	45) BUNNIN, DAVE JR. SILVER BEACH
46) CAMPBELL, JARRETT ITASKA BEACH	47) CANTAFIO, APRIL MA-ME-O BEACH	48) CAREW, GARY POPLAR BAY
49) CARLSON, JOHN & DENA SILVER BEACH	50) CASALT, W.A. BILL FISHER HOME	51) CHAPMAN, BARBARA; DAWSON, ROBERT SUNDANCE BEACH
52) CHURCHILL, DENISE NE 16-47-2 W5M	53) CLINE, CHELSEA Pt. 4-12-47 W5M	54) CLINE, MICHAEL Pt. 4-12-47 W5M
55) COLBORNE, MIKE BATTLE LAKE	56) COLBORNE, RICK BATTLE LAKE	57) COLE, WARREN CRYSTAL SPRINGS
58) CRAIG, VINCE PIGEON LAKE	59) CRAMER, TREVOR SUNDANCE BEACH	60) CROOK, RICHARD & NICHELE ARGENTINA BEACH
61) DAVIDSON, MADELINE GRANDVIEW	62) DAVIES, KEVIN POPLAR BAY	63) DE BOER, ALLEN (AL) & SHERYL POPLAR BAY
64) DE MILLE, LAURIE & RICK GRANDVIEW	65) DENHAM, LEN & SHIRLEY POPLAR BAY	66) DETHERIDGE, KELLY & KATHRYN Pt. SE 32-46-1 W5M
67) DONOVAN, BLAIR SILVER BEACH	68) DOUCETTE, DARREN & CAROL MISSION BEACH	69) DOZOREC, JAMES & ELIZABETH SW 19-46-27 W4M
70) DREBERT, JON COVENANT BAY	71) DUGGAN, JANE RENAUD, KEITH & FAMILY CRYSTAL SPRINGS	72) DUNCALFE, KERRY & ROBERTA MA-ME-O BEACH

73) DUNCAN, AUDRA MA-ME-O BEACH	74) DUNCAN, RUSS MA-ME-O BEACH	75) DUNCAN, SANDRA MA-ME-O BEACH
76) DUTCZAK, MATTHEW POPLAR BAY	77) DYCK, ROBERT & EVELYN CRYSTAL SPRINGS	78) EDWARDS, CARLA; LIGHT JASON SW 25-47-2 W5
79) EHMANN, DAVID SILVER BEACH	80) ELIASON, GRANT & NADINE SW 5-47-1 W5 POPLAR BAY	81) ELLIS, PHYLLIS & LESLIE; KINNIBURGH, CATHERINE GRANDVIEW
82) *ERICKSEN, GRANT No address provided	83) FALICA, JOE MISSION BEACH	84) FAULKNER, BARBARA GAIL POPLAR BAY
85) FAULKNER, BRIAN POPLAR BAY	86) FISHER, DEBBIE NW 24-47-3 W5M	87) FLORENCE, EDYTH PLAN 337ET
88) FONTAINE, DEL & GLADYS (GAIL) SW 27-46-2 W5M, NW 16-46-1 W5M SW 21-46-1 W5M	89) FORD, ANNE SW 23-46-1 W5M	90) FRICK, CARMON NE 22-46-3 W5M
91) FROST, TREVOR SE 30-47-1 W5M	92) GARDINER, CRAIG; WILSON, SHANA PLAN 4972KS	93) GARNER, JASON NW 13-47-2 W5M
94) GARNER, LORNE NW 13-47-2 W5M GILWOOD BEACH	95) GERBRANDT, SHAE LYNN & DARCY CRYSTAL SPRINGS Pt. SW 23-46-1 W5M	96) GEROLAMY, BARBARA ARGENTIA BEACH
97) GOBEIL, EUGENE; GARNER-GOBEIL, MICHELLE NW 13-47-2 W5M	98) GOUDREAU, JACQUELINE; JARVIS, PAUL NW 25-45-1 W5M	99) GOULD, MONTY & GEORGINA NW 11-47-1 W5M GOLDEN DAYS
100) GRAHAM, LAURA & KEITH GRANDVIEW	101) GRAHAM, TARA & KEVIN CRYSTAL SPRINGS	102) GUTHRIE, JANET SUNDANCE BEACH
103) GWYNNE, KEITH & SHERRY GOLDEN DAYS	104) HAAS, SAYLISH MISSION BEACH	105) HAGGART, TED PIGEON LAKE
106) HALIBURTON, JACK NE 24-47-2 W5M	107) HALIBURTON, WILLIAM (BILL) & FLORENCE (FLO) SW 30-47-1 W5M	108) HALKIER, KAREN SUNDANCE BEACH
109) HALKIER, LAUREL SUNDANCE BEACH	110) HALL, JEANNETTE SW 10-47-4 W5M S 2-46-3 W5M	111) HANAS, CINDY HWY 771
112) HANSON, JULIE Pt. SW 36-46-3 W5M	113) HARDER, CATHY CRYSTAL SPRINGS GOLDEN DAYS	114) HAWKSWELL, MARK NORRIS BEACH
115) HAYES, BRAD SE 4-46-1 W5M	116) HAYTER, STAN & LORRAINE NW 13-46-25 W4M MA-ME-O BEACH	117) HENLEY, STEVE SUNDANCE ESTATES

118) HERMAN, MARY ELLEN MA-ME-O BEACH	119) HERTLEIN, KIM ARGENTIA BEACH	120) HICKS, PATRICK MULHURST
121) HIGGINS, RILLA & PAUL SE 13-46-1 W5M	122) HILL, BLAINE SILVER BEACH	123) *HILL, MARK No address provided
124) HILLENBRAND, KRISTIN Plan 3924HW	125) HOLT, KARIE SILVER BEACH	126) HOLTZ, RON & LISA SW 28-47-2 W5M CRYSTAL SPRINGS
127) HOWARD, KEVIN EDMONTON	128) HUMMELLE, KAREN SW 23-46-28 W4M MA-ME-O BEACH	129) IRVING, JAMES SILVER BEACH
130) JEWETT, DONNA NW 13-47-2 W5M	131) JOA, BRYAN & KATHY NW 14-46-1 W5M CRYSTAL KEY	132) JODOIN, RAYMOND & SHARRON GRANDVIEW
133) JUBA, GLENN & DONNA POPLAR BAY	134) KACHMAR, MARK & DARIA SV OF ITASKA BEACH	135) KACHMAR, PRISCILLA ITASKA BEACH
136) KAIN, TIM & FRAN MA-ME-O BEACH	137) KALDENHOVEN, KEN & SHERRI BEACHSIDE ESTATES	138) KAVANER, MICHAEL & TERESA GRANDVIEW
139) KENEALEY, GLEN & RUTH MA-ME-O BEACH	140) KENNEDY, DAVID GILWOOD BEACH	141) KIMURA, PAT; HUMPHREY, DENNIS POPLAR BAY
142) KIRBY, DEBBIE & O'BRIEN SW 19-46-27 W4M	143) KLAUSE, MICHAEL & HEATHER GRANDVIEW	144) KLEMENT, JOE & JUDY; KLEMENT, DAVID SW 19-46-24 W4M
145) KNIGHTS, FRANCES M SILVER BEACH	146) KONIDAS, LEE GRANDVIEW	147) KUSHNIRUK, NADIA & CAROL SILVER BEACH
148) LABERGE, RAYMOND & BEVERLY Pt. 28-46-1 W5M POPLAR BAY	149) LABRIE, RAYMOND GRANDVIEW	150) LAKE, BRAD NE 24-47-2 W5M
151) LANGE, DAN MULHURST BAY	152) LAPRATTE, LYNNETTE & PIERRE MA-ME-O BEACH	153) LARSEN, NANCY S 15-46-28 W4M
154) LAWRENCE, GORDON RGE RD 10	155) LAWRENCE, GARY & VALETTA MULHURST BAY	156) LECLAIR, SUSAN; FELIX, CARLOS CRYSTAL SPRINGS Pt. W 23-46-1 W5M
157) *LEFEBVRE, MAURICE & DONNA No address provided	158) LEIA, SANDRA & GREG MA-ME-O BEACH	159) LEIGH, IRENE & TERRY VIOLA BEACH
160) LEONHARDT, CINDY S½ of SW 12-47-2 W5M	161) LEONHARDT, KEVIN SW 12-47-2 W5M	162) LEWIS, KEN Plan 3585HW
163) LIKNES, RON; LEE-LIKNES, JANICE NW 13-47-2 W5M	164) LITTLE, JIM WINFIELD	165) LUDVIGSEN, DONNA SILVER BEACH

166) LUEBKE, JUERGEN & NICOLE POPLAR BAY 32-46 1 W5M	167) LUPU, MICHAEL & LILLIAN HWY 771	168) *MACAULAY, BERNADETTE No address provided
169) MACDONALD, SUZANNE GOLDEN DAYS	170) MACKAY, SHARI & PETE VIOLA BEACH	171) MACKENZIE, ROXANNE MULHURST BAY
172) MACINNIS, KEN MA-ME-O BEACH	173) MACISAAC, CLAUDETTE POPLAR BAY	174) MAHON, MIKE & MAUREEN MA-ME-O BEACH
175) MAITLAND, CONSTANCE MA-ME-O BEACH	176) MALO, BRENDA MULHURST BAY	177) MANSELL, GORDON & LAURIE NW 13-46-1 W5M NORRIS BEACH
178) *MASON, CALEIGH No address provided	179) MCBAIN, AMY ITASKA BEACH	180) MCBRIDE, KEVIN & DAWN TWP RD 470
181) MCCOY, DIANNE GOLDEN DAYS BEACH	182) MCDONALD, CAROLE WESTEROSE	183) MCEWEN, TOM ARGENTIA BEACH
184) MCFARLAND, CHRISTINE NE 21-46-1 W5M	185) MCFARLAND, LENNARD NE 21-46-1 W5M	186) MCINTOSH, GEORGE & KARLA SV OF GOLDEN DAYS
187) MCKAY, JERRY SUNDANCE BEACH	188) MCKENZIE, PAIGE; KENNEDY, DAVID GILWOOD BEACH	189) MCMURRAY CYM & LISA GOLDEN DAYS
190) MEADS, DAVID & ELIZABETH MA-ME-O BEACH	191) MEAKIN, SHIRLEY NORRIS BEACH	192) MICHAELS, ALICE GRANDVIEW
193) MICHAELS, CRAIG SE 28-46-1 W5M GRANDVIEW	194) MICHAELS, KARLYNNE NE 14-46-4 W5M CRYSAL KEY	195) MIELKE, GARY & MARCIA GOLDEN DAYS
196) MILLER, DORIE MA-ME-O BEACH	197) MILLIGAN, TIM & CHRISTINE CRYSTAL SPRINGS	198) MINSOS, OVE & SUSAN GRANDVIEW
199) MITCHELL, ROBERT & JACQUELINE NE 24-47-2 W5M	200) MOERTH, CAROL CRYSTAL SPRINGS	201) MOFFATT, BILL & JOANNE GOLDEN DAYS
202) MOHN, KEN & KIM PLAN 4916 KS	203) MONES, SANDRA PIGEON LAKE	204) MORGAN, KERRY & DARLENE PIGEON LAKE
205) MORRIS, KEN & DIANNA SILVER BEACH	206) MOSTER, HOWARD SE 13-47-1 W5M	207) NEDELEC, GREG & RONDA PIGEON LAKE

208) NELDNER, HAL & MARION SE 28-46-1 W5M GRANDVIEW	209) *NELSON, CINDY No address provided	210) *NELSON, GARRY No address provided
211) NEUFELD, EVA & STAN NW 21-47-1 W5M	212) NILES, AUDREY & WARREN SE 26-46-3 W5M	213) ODELL, DON ARGENTINA BEACH
214) OLEKSHY, VAL GOLDEN DAYS	215) *OLSON, JEFF No address provided	216) OSHRY, CLIVE PLAN 932 2438
217) OSHRY, HEIDI PLAN 932 2438	218) OZEE, BARBARA J. NW 13-47-2 W5M	219) PAGE, BILL & TRISH ITASKA BEACH
220) PALECHEK, ALLEN; PALECHEK, PHILLIP AND FAMILIES CRYSTAL SPRINGS	221) PARKINS, JOHN NORRIS BEACH	222) *PARSONS, ROBERT No address provided
223) PATERSON, DAVID & DEBBIE SW 14-47-28 W4M MULHURST BAY	224) PATRICK, LYNN & DOREEN SUNDANCE BEACH ESTATES	225) PAWLUK, JANELLE CRYSTAL SPRINGS
226) PAWLUK, RICK CRYSTAL SPRINGS	227) PAWLUK, RONALD; YARETZ, CARMEN CRYSTAL SPRINGS	228) PEARCE, DIANNE GRANDVIEW BEACH
229) PELLATT, PETER & ANNE PLAN 4816HW	230) PHIPPEN, JOHN N 26-46-3 W5M	231) PHIPPEN, VERNA N 26-46-2 W5M
232) PIERCE, TOM PLAN 772 0358	233) PIGEON LAKE ESCAPES RV RESORT SW 19-46-27 W4M	234) PLAIZIER, EDDY NW 28-46-1 W5M POPLAR BAY
235) *PLAMONDON, MO No address provided	236) POTYONDI, DENNIS & KAREN GRANDVIEW	237) *PRATT, BONNIE & BARRIE No address provided
238) PROVOST, CAM & MONIKA POPLAR BAY	239) PURDON, NATALIE GOLDEN DAYS	240) PYTEL, BLAINE & SHANNON SUNDANCE BEACH
241) RAWLYK, JEFFREY MITCHELL NW 15-46-3 W5M	242) REISER, CLINT & HOLLI SW 1-47-2 W5M	243) RHB RANCH; MURRAY, HEATHER; BARDEN RONA NE 21-46-1 W5M
244) RILEY, TIMOTHY; MCAULEY, CLAIRE NE 22-47-2 W5M	245) RIPLEY, DOUG & CAROLYN MA-ME-O BEACH	246) RITCHIE, DANA GRANDVIEW
247) ROGERS, LAURIE & GLORIA NW 28-46-1 W5M	248) ROLINGHER, SOL PIGEON LAKE	249) ROSS, JANINE & AVERILL NE 24-47-2 W5M
250) ROSSALL, JON P & SHAUNA CONROY ARGENTIA BEACH	251) ROTH, GARTH & DEBBIE GRANDVIEW	252) ROTH, STEWART SILVER BEACH
253) ROUSSEAU, JUSTIN & MELANIE NE 45-22-1 W5M	254) ROWLEY, DEBORAH MA-ME-O BEACH	255) RUBULIAK, BERNICE SW 19-46-27 W4M

256) RUBULIAK, JIM SW 19-46-27 W4M	257) RUSSELL, SUZETTE; ROWELL, SANDRA SW 15-36-7 W5M	258) SADDLEBACK, STEVE SAMSON CREE NATION
259) SALM, KAREN & GERRY MA-ME-O BEACH	260) SAUNTER, TINA & EDWARD MA-ME-O BEACH	261) SCHEDLOSKY, AMIE; SCHMIDT, DARYL NW 13-46-1 W5M
262) SCHETTLER, HOWARD & JOAN MULHURST BAY	263) SCOT, WILLIAM; BERGLUND, EVELYN SW 12-47-2 W5M	264) SCOTT, BRUCE & SANDRA MULHURST BAY
265) SEMENIUK, ERNIE NW 12-47-2 W5M	266) SEPER, JASON & JAQUELINE GRANDVIEW	267) SHANNON, DON SE 14-47-28 W4M
268) SHUTTLE, KATHERINE & PETER NW 13-47-2 W5M FISHER HOME	269) SIEVER, NANCY & DAVE SW 23-46-1 W5M CRYSTAL SPRINGS	270) SINCLAIRE, SHELLEY GRANDVIEW
271) SJOBERG, TERA CRYSTAL SPRINGS	272) SLATER, JOHN & SHELAGH NW 14-46-28 W4M MA-ME-O BEACH	273) SOLLID, BRENDA MA-ME-O BEACH
274) SOLLID, MIKE MA-ME-O BEACH	275) SOMERVILLE, JANE CRYSTAL SPRINGS	276) SOMMERVILLE, MARK MA-ME-O BEACH
277) SOMMERVILLE, PAUL & JULIE MA-ME-O BEACH	278) SMITH, DANA MISSION BEACH	279) SMITH, DARREN & SHARON S 27-46-1 W5M
280) *SMITH, DAVID No address provided	281) SMITH, HAL ITASKA BEACH	282) *SMITH, MICHELLE No address provided
283) STANLEY, BRENDA & MICHAEL GOLDEN DAYS	284) STANTON, SUSAN POPLAR BAY	285) STEIER, MARILYN & LLOYD ITASKA BEACH
286) STEVENS, MARGARET (PEGGIE) VIOLA BEACH	287) STEWART, KEVIN EDMONTON	288) STODDARD, SANDRA SUNSET HARBOUR
289) STRANG, JEREMY & RHONDA PIGEON LAKE	290) SUNSET HARBOUR CONDO CORP. SW 12-47-2 W5M	291) TAYLOR, GRANT & SHARON GRANDVIEW VILLAGE
292) TAYLOR, MERLE & NEIL POPLAR BAY	293) TAYLOR, RON Plan 6101 KS	294) TAYLOR, SUSAN GRANDVIEW
295) TERRIFF, DAVE POPLAR BAY	296) THOMPSON, PETER F CRYSTAL SPRINGS	297) THOMSEN, ERIC; JORGENSEN, TAMMY MA-ME-O BEACH
298) THORSELL, KAREN & KYLE NW 28-46-1 W5M POPLAR BAY	299) THORSELL, KYLE NW 28-46-1 W5M POPLAR BAY NE¼ SEC 36-46-2 W5M	300) TOMCZYK, BART Plan 052 4206
301) TOOLE, JAMES MA-ME-O BEACH	302) TRENDEL, BRIAN EDMONTON	303) TROFIMUK, EVELYN & J. TIMOTHY POPLAR BAY

304) TSANG, DELENA; DANSER, BRIAN & CHAYTON SE 25-47-02 W5	305) TURNER, BILL & BRENDA SE 13-46-1 W5M VIOLA BEACH	306) TURNER, RAY & LORI KERR CAPE
307) TWEDDLE, ROD; SERNA, CARLA CRYSTAL SPRINGS	308) VALPY, ROBERT CRYSTAL SPRINGS	309) VANDENBERG, DAN SW 10-47-4 W5M
310) VAN STEENIS, KIM KERR CAPE ESTATES	311) VERDEIJEN, GIJS & ELLEN SUNDANCE BEACH	312) WABISCA, LESLEY & GREG JOHNSONIA BEACH
313) WARD, JIM & LINNEA POPLAR BAY	314) WARSHAWSKI- CONRAD, KASSIA ARGENTIA BEACH	315) WARSHAWSKI, SEAN & PEARL ARGENTIA BEACH
316) WATERHOUSE, BRIAN & ROSEMARIE SUNDANCE BEACH	317) WATKINS, MONICA & BILL GRANDVIEW	318) WATSON, PETER D & ELAINE GRANDVIEW
319) WEIR, BETTY LOU GILWOOD BEACH	320) WESTON, BRYANNE MULHURST BAY	321) WESTON, ROB MULHURST BAY
322) WILKES, BRIAN & JANE; STARKO, LINDSEY CRYSTAL SPRINGS	323) WILSON, ROBERT CRYSTAL SPRINGS	324) WILSON, VICTORIA ITASKA BEACH
325) WOOD, AUDREY & BRIAN MULHURST BAY	326) WOODALL, KAREN SW 28-47-1 W5M KERR CAPE ESTATES	327) WOODING, TOM & DEBRA SEC 13-47-1 W5M ARGENTINA BEACH
328) WOODS, MIKE & CHRISTINE SE 13-46-3 W5M	329) WRIGHT, SANDY MA-ME-O BEACH	330) YELLOWBIRD, AMBER PIGEON LAKE RESERVE 138A
331) *YELLOWBIRD, JOEDY No address provided	332) YOUNG, BENJAMIN R NW 13-47-2 W5M	333) ZIMMERMAN, DOUG & SHERRY MA-ME-O BEACH
334) ZIOBER, CAROLINE & DAVID SW 28-47-1 W5M SUNDANCE BEACH KERR CAPE ESTATES		

Some of the responses failed to provide legal land locations or addresses and therefore I was not able to determine where the respondent lives or owns lands (these submissions are noted above in Table C2 with a *). Section 8(3) of the Administrative Procedures Regulation under AOPA requires that submissions include addresses, presumably in part for this reason. Because of this, these responses could not be considered as part of my decision. Additionally, a few respondents appear to own land several miles to the west of the CFO location, well beyond the notification radius and in another surface water catchment area, or appear to not own any property in the area, providing only mailing addresses in other communities/cities.

Under NRCB policy, a person who does not automatically qualify as a directly affected party has the burden of demonstrating that they are directly affected by an application. In order to meet their burden of proof, the person has to demonstrate all the following five elements (see NRCB Operational Policy 2016:7 – Approvals, part 6.3):

1. A plausible chain of causality exists between the proposed project and the effect asserted
2. The effect would probably occur
3. The effect could reasonably be expected to impact the party
4. The effect would not be trivial; and
5. The effect falls within the NRCB regulatory mandate under AOPA.

I carefully considered each one of these responses against these factors. I established that none of the parties listed above in Table C2 have demonstrated to my satisfaction that they are directly affected by the proposed application. My reasons for this view are set out below. I therefore did not consider submissions from these respondents in my decision.

Several responses referred to riparian rights which, according to the Alberta Environment fact sheet (Riparian Rights and Shoreline Modifications, 2011), refers to the ability for lakefront landowners to accrete to their property as a lake permanently recedes (after applying to Land Titles). This does not pertain to AOPA or the application under consideration and does not in my view give these respondents directly affected party status.

In referring to riparian water rights, several respondents appeared to mean their ability to access or divert water from adjacent water bodies. I note that there are many water wells located around the lake, and it seems reasonable to infer that the vast majority of water for personal use most likely comes from onsite water wells as well as municipal water supplies. In my research using the Alberta Environment info viewer I was unable to find any water diversion permits for Pigeon Lake with the exception of a few stock/fish watering permits allowing water to be obtained from other tributaries around the Lake. As such, there was no plausible chain of causality between the proposed CFO and personal consumption of water, access to the lake is not altered, and the Alberta Environment fact sheet on riparian rights is not pertinent.

Many respondents indicated that they will be directly impacted due to the presence of the blue-green algae as a result of manure runoff from the proposed CFO and manure spreading lands. It was, however, noted in several responses that the presence of blue-green algae already persists on Pigeon Lake and has been an issue for many years. The presence of this algae is a previously existing and potentially ongoing issue. The responses did not establish that the proposed CFO would make the existing situation materially worse.

AOPA land application requirements do provide a level of protection for surface water and groundwater when adhered to. Additionally, AOPA does not restrict manure spreading activities on watershed lands, therefore the practice of manure spreading is not driven by, or contingent on, this application being approved or denied.

Many of the concerns revolved around odour and how that will affect neighbouring land uses and therefore the greater community and economy. AOPA's minimum distance separation (MDS) requirements are a proxy for minimizing odours, flies, and other nuisance impacts from CFOs. The proposed CFO meets the MDS to all neighbouring residences. Accordingly, nuisances would not reasonably be expected to impact the parties who not only own or reside on land outside the MDS, but also outside the notification radius.

For the reasons above, I conclude that the people listed in Table C2 are not considered directly affected by the application. However, I acknowledge that these individuals' perception of effects are not trivial to them. It's also noted that most of the concerns raised by these individuals are

the same as, or very similar to, those raised by the directly affected parties, and discussed below in Appendix D, below.

Two statements of support were received from outside the notification radius.

Table C3: Responses of support, not within radius, received by deadline

1) Blackmore, Robert SW 36-46-2 W5M	2) Falt, Tannis TWP 454	
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As these parties reside outside the notification radius and did not provide information to show why they should be considered directly affected, I find them to be not directly affected by the application.

The following municipal communities also submitted responses to the application:

Table C4: Responses from Summer Villages, not within radius, received by deadline

1) Summer Village of Crystal Springs	2) Summer Village of Itaska Beach	3) Summer Village of Norris Beach
4) Summer Village of Ma-Me-O Beach	5) Summer Village of Poplar Bay	6) Summer Village of Silver Beach
7) Summer Village of Sundance Beach	8) Summer Village of Grandview	

The Summer Villages submitted statements of concern on behalf of their residents. These submissions included the following concerns:

- Impacts on odour and nuisance, surface water, water supply and riparian diversion rights, public health, environment, economy, community, government efforts, and regional planning

The villages were assessed on the same merits as other parties outside the notification radius. In this case the responses were similar to those received from the directly affected parties. Based on the five-point test I conclude that the Summer Villages are not considered directly affected due to their remoteness from the proposed CFO, the low probability of occurrence of the issues they identified.

The following Indigenous communities also submitted responses to the application:

Table C5: Responses from Indigenous communities

1) Montana First Nation	2) Ermineskin Cree Nation	3) Samson Cree Nation
4) Métis Nation of Alberta		

Below is a summary of evidence provided by Indigenous communities in relation to why they may be directly affected:

1. Montana First Nation

In their response, the Montana First Nation identified that the proposed CFO is in their traditional land use territory and near areas that their members use for hunting, trapping, and harvesting plants and trees for medicinal and ceremonial purposes. The lake is used as a fishing station and a place to build relationships. The Montana First Nation felt that no meaningful consultation has occurred to address impacts on their treaty and Aboriginal rights and traditional land uses as the application is located approximately 16 km from Pigeon Lake reserve #138A (which is shared among the Samson Cree Nation, the Montana First Nation, the Louis Bull Tribe, and the Ermineskin Cree Nation). The Montana First Nation identified the following concerns:

- Impacts on traditional and cultural use, plant and tree harvesting, hunting and trapping, disturbance of historical, archeological, anthropological, or ceremonial sites; for example, historically (19th century), the lake was a gathering place for First Nation peoples and missionaries attempting to convert them to Christianity (Rundle Mission)
- Impacts on human health, water, air quality, greenhouse gases and climate change

2. Ermineskin Cree Nation

In their response, the Ermineskin Cree Nation stated that they have a long history with Pigeon Lake (over 200 years) and have seen many changes over generations. They identified the following concerns:

- Impacts to water, disease, antibiotic use, animal ethics, air quality, nutrient runoff, odour

3. Samson Cree Nation

In their response, the Samson Cree Nation identified that reserve #138a is shared among the Samson Cree Nation, Ermineskin Cree Nation, Montana First Nation, and Louis Bull Tribe (the four Maskwacis Nations). They stated that Pigeon Lake is a culturally, historically, and environmentally significant lake as part of their traditional territory and they raised the following concerns:

- Impacts to human health, water (ground and surface), air quality, greenhouse gases and climate change, cumulate effects

4. Métis Nation of Alberta

In their response, the Métis Nation of Alberta claimed they are authorized to represent their citizens in any Crown-directed process that may adversely impact Métis rights under section 35 of the Constitution. The Métis Nation of Alberta stated that they have a long history with Pigeon Lake and have seen many changes over generations. In particular, they mentioned harvesting (including fishing), which plays a “key role in mental, physical, and spiritual health of the Métis people.” They noted increased nutrients (and other substances) will impact their harvesting rights, especially in Crown land areas, including the ability of Métis harvesters to pass on knowledge to generations, engage in cultural activities, and engage in a harvesting economy. They also mentioned two annual camps on the northwest shore of Pigeon Lake (Camp Wohelo), one youth camp and one family camp. They identified the following concerns:

- Impacts to water, disease, antibiotic use, animal ethics, air quality, nutrient runoff, odour

In the case of this application, the Samson Cree Nation, Ermineskin Cree Nation, and Montana First Nation occupy land with residences on the east end of Pigeon Lake. All these Indigenous groups raised concerns that are linked to the traditional importance of the lake, the historical area, and the access and use of the natural resources. The five-point test for directly affected party status (stated earlier in this Appendix) does not fit neatly with standing based on traditionally or constitutionally based rights and interests. However, especially as Canada and the NRCB are focusing on reconciliation with Indigenous groups, the traditional and historical use and value are considered to be very important and can't be understated. Due to the historical and traditional importance of this area I find these four Indigenous groups directly affected by the application.

Additionally, the following groups also submitted responses to the application:

Table C6: Responses from incorporated societies, not within radius, received by deadline

1) Alberta Conservation Association NE 15-47-2 W5M NW 14-47-2 W5M	2) Itaska Audubon Society	3) Pigeon Lake Watershed Association
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1. Alberta Conservation Association

In their response, the Alberta Conservation Association (ACA) raised several concerns including the effects on wildlife and fish. Their submission included the following concerns:

- Environment (including wildlife, fisheries, and fisheries spawning), economy, surface water, government efforts to improve the lake and regional planning

2. Itaska Audubon Society

In their response, the Itaska Audubon Society raised concerns regarding wildlife and environmental protection of the Pigeon Lake area. Their submission included the following concerns:

- Environment (including wildlife and biodiversity), community, surface water, government efforts to improve the lake and regional planning, and water licensing

3. Pigeon Lake Watershed Association

In their response, the Pigeon Lake Watershed Association (PLWA) submitted a lengthy detailed report on the history, geography, and science behind Pigeon Lake and its watershed, along with the following concerns:

- Public health, environment (including wildlife and biodiversity), economy, community, surface water, property values, government efforts and regional planning, and water licensing

Their submission also included names and messages in support of the PLWA submission from over 300 people (many of whom also submitted their own responses). The PLWA later advised they had a formal collaboration with David Labutis and Gloria Booth (both of whom are listed as directly affected parties in Table C1).

AOPA Part 2 Matters Regulation at section 5(c) identifies in part an affected person as “a municipality within and a person who resides on or owns land ...[within the radius]”. A “person” can include a corporation or an incorporated society (*Interpretation Act*, section 28(1)(nn)). There is no public interest standing provided for in AOPA or its regulations, which would be required before I could grant a public interest type or directly affected party status. Of these three groups, the ACA owns property on Tide Creek, though outside of the notification radius. As such the ACA may be eligible to be considered a directly affected party provided they can demonstrate that they are directly affected by the proposed CFO. I did not find them to be directly affected parties, as they did not meet the five-point test due to their location in relation to the proposed CFO, and the likelihood of occurrence of the issues they identified. Neither the Itaska Audubon Society nor PLWA own land and are not eligible to be considered as directly affected parties on their own. As noted above, the concerns raised by these three groups are similar in nature to those raised by several directly affected parties.

Significantly, while the PLWA itself is not a directly affected party, many responses from those deemed directly affected adopted the submission of the PLWA. In addition, the PLWA stated it had a formal collaboration with David Labutis and Gloria Booth, both of whom are directly affected. Therefore, the PLWA’s submission was reviewed and considered as being incorporated into the directly affected parties’ responses.

APPENDIX D: Concerns raised by directly affected parties

The directly affected parties (see Appendix B for a list) raised the following concerns: odour and nuisances, traffic and road use, groundwater usage and licensing, groundwater quality, surface water from proposed location, surface water from spreading lands, cumulative effects, environmental impact assessment, property values, notification radius, antibiotic use, wildlife and fisheries, disposal of deads and predators, livestock disease, location in watershed, ongoing environmental issues regarding Pigeon Lake, effects on community, economy, and environment, climate change, catch basin capacity, worker safety.

As per NRCB practice, copies of the directly affected parties' responses were provided to the applicant for their information and consideration should they wish to respond to any or all of the concerns. The applicant chose not to respond to any of the concerns.

The directly affected party concerns are identified below, together with my analysis.

- 1. Odours and nuisances** – concern was raised over the negative effects of odours and the negative impacts on air quality and quality of life.

Approval officer's conclusion:

AOPA's minimum distance separation (MDS) requirements are a proxy for minimizing odours, flies, and other nuisance effects from CFOs. The proposed CFO meets the MDS to all neighbouring residences. It is presumed that nuisance effects from a proposed CFO will be acceptable if the MDS has been met.

Nuisance and other impacts outside of the MDS for a CFO are typically not considered when making a permitting decision, unless there is a direct and adverse impact greater than what may be normally expected, and which can be directly linked to the application. These effects are considered in the analysis on 'effects on the community' in an approval officer's decision (under section 20(1)(b)(ix) of AOPA – see Appendix F). Although MDS is met, as discussed further in Appendix F, Pigeon Lake is a high use recreational area of cultural value and I have found the odour and nuisances are part of the unacceptable negative impacts on community, and I have found the proposed CFO would not be an appropriate use of land.

- 2. Increased traffic including traffic noise, dust, and road wear and tear** – concern was raised about increased traffic in the area and the associated effects.

Approval officer's conclusion:

The County has jurisdiction of local roads. The NRCB does not require applicants to enter into road use agreements with counties or municipalities. However, the County may require that agreement, on its own.

In its second response the County indicated they would like a traffic impact assessment done (along with several stipulations that the applicant would have to pay for). None of these are required under AOPA. At any rate this request is summarized and discussed in Appendix E, below

- 3. Groundwater usage and licensing** – Concern was raised over the depletion of groundwater used by surrounding area residences.

Approval officer's conclusion:

Alberta Environment and Parks (EP) is responsible for licensing the use of groundwater and surface water in the province. The water licensing 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 application, other than ensuring that applicants sign one of the water licensing declarations listed in the Part 2 application form.

G & S Cattle chose the declaration indicating that they will be applying for water licensing separately from the AOPA process. EP has confirmed that the applicant must contact them to apply for water licensing if additional water is required.

- 4. Groundwater quality** – concern was raised regarding groundwater contamination from manure storage facilities at the proposed CFO.

Approval officer's conclusion:

Several AOPA technical requirements (e.g. sections 7 and 9 of the Standards and Administration Regulation) are designed to prevent or minimize manure leakage from CFO facilities and thus to prevent CFO manure from reaching and contaminating groundwater. As noted above in this decision summary and in Technical Document RA21045, the proposed catch basin's latest location does not clearly meet all of the AOPA groundwater protection requirements. As I am denying the application on other grounds I did not require further geotechnical be completed in order to better assess the groundwater protection at the revised location of the catch basin.

- 5. Surface water** – concern was raised regarding the potential for contamination of surface water from manure runoff from the CFO facilities.

Approval officer's conclusion:

As noted in this decision summary above, and further documented in Technical Document RA21045, the CFO meets AOPA technical requirements designed to protect surface water (e.g. sections 5, 6, 7, 10-19, 24 of the Standards and Administration Regulation), and thus to prevent CFO manure from reaching and contaminating surface water. The proposed CFO would, if constructed, meet these requirements through the use of a catch basin. If the NRCB Board were to review and overturn my denial I would none the less recommend additional landscaping to control runoff towards the seasonal drain.

- 6. Manure application** – concern was raised regarding manure spreading, including runoff concerns, nutrient loading, and the location of these manure spreading lands.

Approval officer's conclusion:

AOPA includes several provisions for manure spreading to protect surface water and to minimize potential runoff of manure into surface water bodies.

Manure application is addressed in sections 24(1), and 24(5) of the Standards and Administration Regulation. Manure application on land is not a permitting consideration, except that applicants are required to demonstrate that they have enough arable land available to apply manure for the first year of operation. The regulations provide rules for manure application as an ongoing operating matter, rather than a permitting matter. Section 24 requires manure to be incorporated within 48 hours of application when it is

applied to cultivated land. Incorporation reduces odours by working the manure into the soil.

Alternatively, Section 24(5)(a) allows manure to be applied (without incorporation) on tame forage and directly seeded crops, which is often done in order to conserve the soil. The manure must be applied at least 150 m away from any residence and must meet the setback requirements to common bodies of water.

Complaints about CFO-related issues can be reported to the NRCB's 24-hour reporting line (1-866-383-6722). Neighbours can also call any NRCB office during regular business hours if they have questions about permit conditions or ongoing AOPA operational requirements.

AOPA has requirements to protect the soil, groundwater, and surface water from excessive application of manure nutrients (Section 25 Standards and Administration Regulation). 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 and must provide them to the NRCB upon request.

- 7. Existing cattle herd** – concern was raised regarding permitted status of the existing cattle herd on the nearby legal land location also owned by the applicant.

Approval officer's conclusion:

The NRCB has not completed a formal grandfathering determination for the livestock on the neighbouring land location. The applicant provided written confirmation, in the course of this application, stating that they use the existing livestock facilities on the neighbouring land as a seasonal feeding and bedding site for their cow-calf herd. Seasonal feeding and bedding sites do not require a permit under AOPA as they are excluded from the definition of "confined feeding operation." The application under consideration is for a new CFO on a different legal land location to the seasonal feeding and bedding site. The proposed CFO requires a permit under AOPA.

- 8. Cumulative effects of area on the watershed and Pigeon Lake** – concern was raised about the cumulative effects from all industries and land uses in the watershed affecting Pigeon Lake.

Approval officer's conclusion:

AOPA does not expressly require approval officers to consider the cumulative effects of proposed developments together with those of other existing activities in the area (CFO-related or otherwise). The NRCB's Board members have directed approval officers not to consider cumulative effects in their permitting decisions. For example, in a 2011 decision, the Board stated that consideration of cumulative effects is "not within the Board's regulatory mandate. As a statutory decision maker, the Board takes its direction from the authorizing legislation. AOPA does not provide for cumulative effects assessment." (see NRCB Board decision in *Zealand Farms*, RFR 2011-02 at pg 5.)

- 9. Location in the Pigeon Lake Watershed** – concern was raised about siting the proposed CFO (and its manure spreading lands) within the Pigeon Lake watershed.

Approval officer's conclusion:

One of the reasons I am denying this application is because it is not an appropriate use of land at this location.

Watersheds are not expressly considered in AOPA for the siting of CFOs. Municipalities are responsible for land use planning within their municipality and AOPA requires approval officers to assess whether the proposed site for a CFO meets the municipal development plan land use provisions for the municipality in which it is proposed. In this case, the application is consistent with the land use provisions of the Wetaskiwin County municipal development plan. Under NRCB policy, this consistency gives rise to a presumption that the proposed CFO is an appropriate use of land.

However, I have determined that the presumption of an appropriate use of land is rebutted in this circumstance, in large part due to the proposed location being situated within the Pigeon Lake watershed. Please see further discussion on the appropriate use of land in Appendix E, below.

Manure spreading lands proposed in an AOPA application are not tied to the specific application and may change over time for a CFO. Instead, rules and regulations regarding manure spreading are included in the AOPA regulations (see discussion at point 6 of this Appendix, above). These are aimed at protecting surface water and groundwater.

- 10. Environmental Impact Assessment** – concern was raised about the lack of an environmental impact assessment (EIA) for the greater watershed area/lake in regard to the proposed application. In addition to this, in their second response, Wetaskiwin County requested that an EIA be completed.

Approval officer's conclusion:

EIAs are not required under AOPA (unlike the NRCB Act, where the EIA is the trigger for a statutory review for non-energy natural resources projects). Instead, applications under AOPA are assessed based on the requirements set out in AOPA and its regulations.

- 11. Property Values** – concern was raised that the proposed CFO would reduce property values as well as negatively impact the value of neighbouring livestock.

Approval officer's conclusion:

In several review decisions, the NRCB's Board members have consistently 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 and land use bylaws." (see, e.g. the Board decision in *Brad Towle*, RR 2017-09 at pg. 3.)

- 12. Disposal of deads, historical disposal of elk, and increase in predators** – concern was raised about the disposal of dead cattle, a former burial site for deceased elk, and the increase in predators.

Approval officer's conclusion:

The disposal of deceased livestock in Alberta is not within the regulatory mandate of the NRCB under AOPA but is regulated by Alberta Agriculture, Forestry and Rural Economic Development (AFRED) under the *Animal Health Act*. Given AFRED's regulatory role,

concurrent oversight of dead animal disposal and associated concerns by the NRCB would be inefficient and might lead to inconsistency with AFRED requirements.

Any former mass burial that was completed is also not within the AOPA regulatory mandate. When I spoke with the provincial veterinarian on the matter, he indicated that he was unaware of any recent burials on the proposed site for the CFO. One of the responses referred to a different legal land location some distance away from the proposed site of the CFO. This is outside of the scope of what I am to consider regarding this application.

- 13. Notification radius** – concern was raised that notification should have been sent to a wider radius of people.

Approval officer's conclusion:

The notification radius for this size of application is 1.5 miles, which is prescribed by the Part 2 Matters Regulation based on the size of the CFO (type and number of livestock). Courtesy letters were mailed to people who live or own land within the notification radius of the operation, based on the names and addresses provided by Wetaskiwin County. The courtesy letters identified what was being proposed and when and where the official notice would be published. The official public notice was posted in the *Pipestone Flyer* on March 10, 2022. Notice was also posted on the NRCB's website. This notice was completed in accordance with AOPA requirements, and approval officers do not have discretion to alter the prescribed notification radius.

- 14. Health** – concern was raised over the negative effects on people's health from the CFO both due to gases (such as ammonia) and groundwater and surface water contamination.

Approval officer's conclusion:

Specific health concerns were sent to AHS for their review and comment. AHS identified that many of these concerns are addressed through AOPA requirements and concluded that the NRCB is responsible for the final decision. At any rate, the application is being denied in part due to negative effects on the community.

- 15. Antibiotic use in cattle and impacts on the surrounding environment** – concern was raised about the use of antibiotics in cattle and their fate in the environment.

Approval officer's conclusion:

Animal health and the use of antibiotics is governed by other legislation monitored by other agencies and not included in AOPA. It is outside of the scope of what I am to consider under AOPA.

- 16. Wildlife and fisheries** – concern was raised that the proposed CFO, including the manure spreading lands, will have a detrimental effect on wildlife including migratory birds and fish.

Approval officer's conclusion:

Effects of an application on the environment in general is considered under Section 20(1)(ix) of AOPA. However, wildlife matters, including fisheries, are not regulated under AOPA. AOPA addresses surface water, groundwater, and soil nutrient levels, as discussed above.

- 17. Effects on the community, economy, and environment** – concern was raised about the negative effects of the proposed CFO on the Pigeon Lake community, economy, and environment.

Approval officer's conclusion:

This concern is largely founded. As Appendix F sets out, below, I am denying this application in part due to materially negative and long-lasting effects on the community. The application is consistent with the land use provisions in Wetaskiwin County's MDP. However, the high use of the greater area by recreational users, the traditional use of the area, and the efforts put in place by the community to improve lake health, all create significant considerations related to this proposed CFO in this location, within this unique community context. See Appendix F, below for more details.

- 18. Climate change and greenhouse gases** – concern was raised about climate change and how the proposed application could make it worse. This included gases such as ammonia, methane, and hydrogen sulfide which would be emitted from the proposed CFO.

Approval officer's conclusion:

AOPA does not address climate change nor greenhouse gases among considerations in CFO permitting. In terms of gases as local disturbances, MDS, as explained previously (see 1. Odours and nuisances above), is used as a proxy to address potential nuisance impacts from CFOs.

- 19. Catch basin capacity** – concern was raised that, in the engineer's reports, it was recommended to add an additional 60% capacity to the proposed catch basin.

Approval officer's conclusion:

Under AOPA the applicant must be able to control runoff from a one day rainfall that has a one in 30 year probability. The applicant's proposed runoff control catch basin dimensions meet this requirement.

- 20. Worker safety** – concern was raised regarding on-site working safety of the CFO's employees.

Approval officer's conclusion:

The occupational health and safety requirements for an employer and its employees is outside the AOPA mandate and governed by other legislation. It is recommended that concerns related to safety of workers be raised with Alberta Occupational Health and Safety.

APPENDIX E: Responses from referral agencies and Wetaskiwin County

a. Alberta Health Services (AHS)

In their response, an AHS executive officer submitted several comments:

- That water wells for human consumption be protected from possible contaminants and that any unused or abandoned wells be properly decommissioned
- All manure be planned for accordingly per legislation
- That potential nuisance impacts be considered and appropriate control measures implemented
- That disposal of deads be completed as per applicable legislation
- That manure be compliant with nuisance and general sanitation regulations 2003 (and any other applicable legislation)
- That day-to-day operations and processes not create or become a nuisance.

Lastly, AHS discussed its monitoring program at selected beaches for Enterococci bacteria and Cyanobacteria. The results of the studies indicated that exceedances found at Zeiner Campground at Pigeon Lake Provincial Park appear to be linked to birds and, in one instance, (2021) trace amounts were linked to ruminant animals (however noted as detected, not quantifiable). Due to the proposed CFO location in the watershed and the presence of seasonal creeks in the area, AHS recommended regular and routine monitoring [surface water] be included for the proposed CFO.

Upon my request, on July 6, 2022, AHS commented briefly on several individuals' responses that pertained to specific health concerns. AHS identified that many of these concerns are addressed through AOPA requirements and ultimately concluded that the NRCB is responsible for the final decision.

b. Alberta Environment and Parks (AEP)

In their response, an AEP Sr. Water Administration Officer stated that there are 2 water licenses from three wells at the proposed location and an additional *Water Act* license is associated with the applicant's other land location. They identified that a *Water Act* application is required if the annual water requirement for the proposed CFO were to exceed what the existing water licenses allow.

c. County of Wetaskiwin (a directly affected party)

On April 19, 2022, the Wetaskiwin County's Reeve provided a follow-up letter as a second response to the application. In this letter the County recommended that an environmental impact assessment be completed as well to ensure all environmental standards outlined by Government of Canada and Alberta are mandated by the NRCB.

The County raised a specific concern regarding road and bridge infrastructure with an increased amount of heavy traffic. The County requested that the applicant complete a Traffic Impact Assessment based on the typical traffic patterns to the CFO. The County also requested that, if deemed necessary, the applicant should enter into a road use agreement with the County and Alberta Transportation. This may, if necessary, commit the applicant to costs for any mitigation of direct and indirect impacts to County infrastructure, including intersection treatments, provision of dust suppression to mitigate dust caused by the traffic from the CFO, as well as paying the County for ongoing road repair and maintenance.

The County also raised concerns regarding nutrient loading on manure spreading lands and the quality of water leaving the land (runoff) in respect to pathogens, phosphorus, and chemicals (amongst other possible contaminants).

In its initial response of March 23, 2022, the County had advised of a Pigeon Lake Watershed Management Plan. In its April 19, 2022 follow-up, the County clarified that references in their initial correspondence had related to the 2000 Edition of the Pigeon Lake Watershed Management Plan, not to the more recent 2018 Edition. The County pointed out Objective 2(e) of the 2018 Edition, which states “*Statutory land use restrictions on new or expanded intensive livestock operations (including CFO’s) are supported in this Watershed Management Plan*”. The County noted that at this present time neither the MDP nor LUB yet include restrictions of this nature, however noted that at a meeting on June 8, 2018 Council resolved to work collaboratively to implement the Pigeon Lake Watershed Management Plan (2018), and to reference it in developing statutory plans and in ordinary business.

In the County’s initial response (March 23, 2022), they also referenced the Pigeon Lake Area Concept Plan for informational purposes but pointed out that it is superseded by the MDP.

The County’s concern regarding nutrient and pathogen content in the soil has been discussed above as part of the concerns raised by directly affected parties (see Appendix D part 6 and 14). Regarding land use documents and requested requirements/conditions, please see Appendix F, below for further discussion.

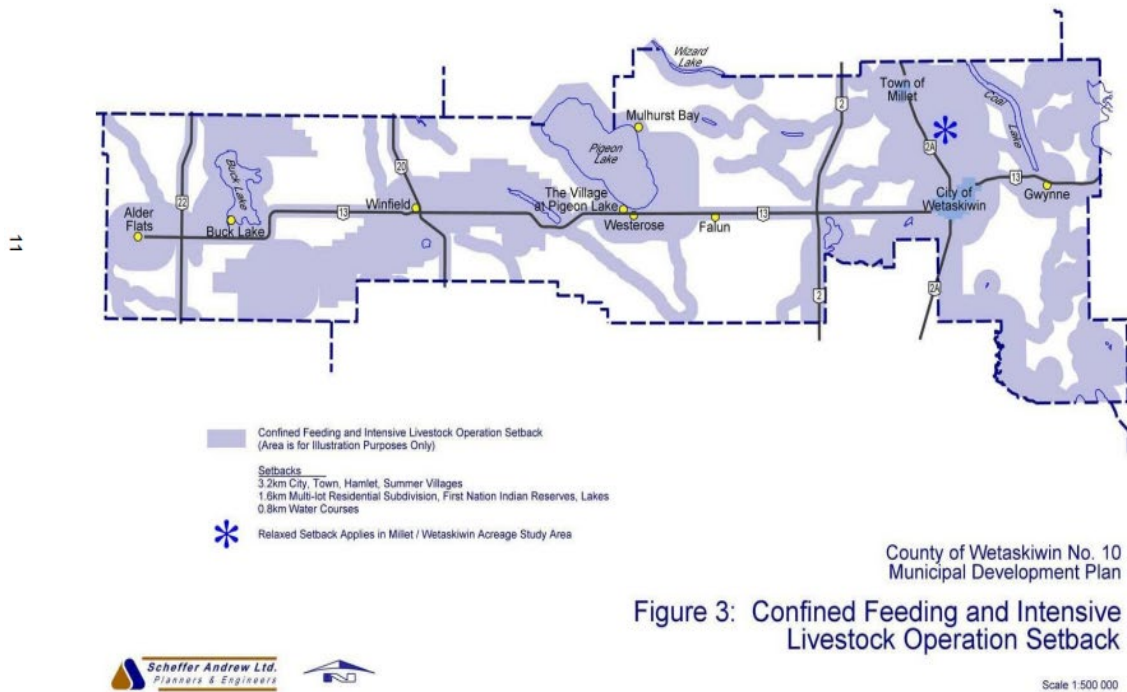
APPENDIX F: Use of land and effects on the community

Section 20(1)(ix) of AOPA requires an approval officer to consider the effects of an application on the environment, economy, and the community, and the appropriate use of land. In general, under NRCB Operational Policy 2016-7: Approvals at part 8.7.3, if an application is consistent with the MDP land use provisions, the proposed development is presumed to pose acceptable effects on the community, and to be an appropriate use of land. However, the policy also notes that this presumption can be overcome by contrary evidence.

As stated above in section 9 of this decision summary, based on the evidence discussed below, I have determined that the presumptions of both the appropriate use of land and acceptable effects on the community are rebutted and because of this I am denying the application. I find that effects of this application on the community would not be acceptable, and that the proposed CFO would not be an appropriate use of this land. Below is my analysis of these two parts.

Use of Land

The County's MDP (as discussed in Appendix A) states at Objective 1.4.3 that *b) Under no circumstances can a new CFO be located within 1.6km (1 mile) of the following named lakes: Battle Lake, Buck Lake, Coal Lake, Pigeon Lake, Red Deer Lake, Wizard Lake and Twin Lakes.* The application meets this setback as pointed out in the County's initial response to the application. Figure 3 below from the County's MDP lists setbacks that differ from the Objective 1.4.3. It is not clear why they differ; however, in my opinion, the proposed location at any rate does not appear to be within the purple shaded area. (see Appendix A, for further discussion)

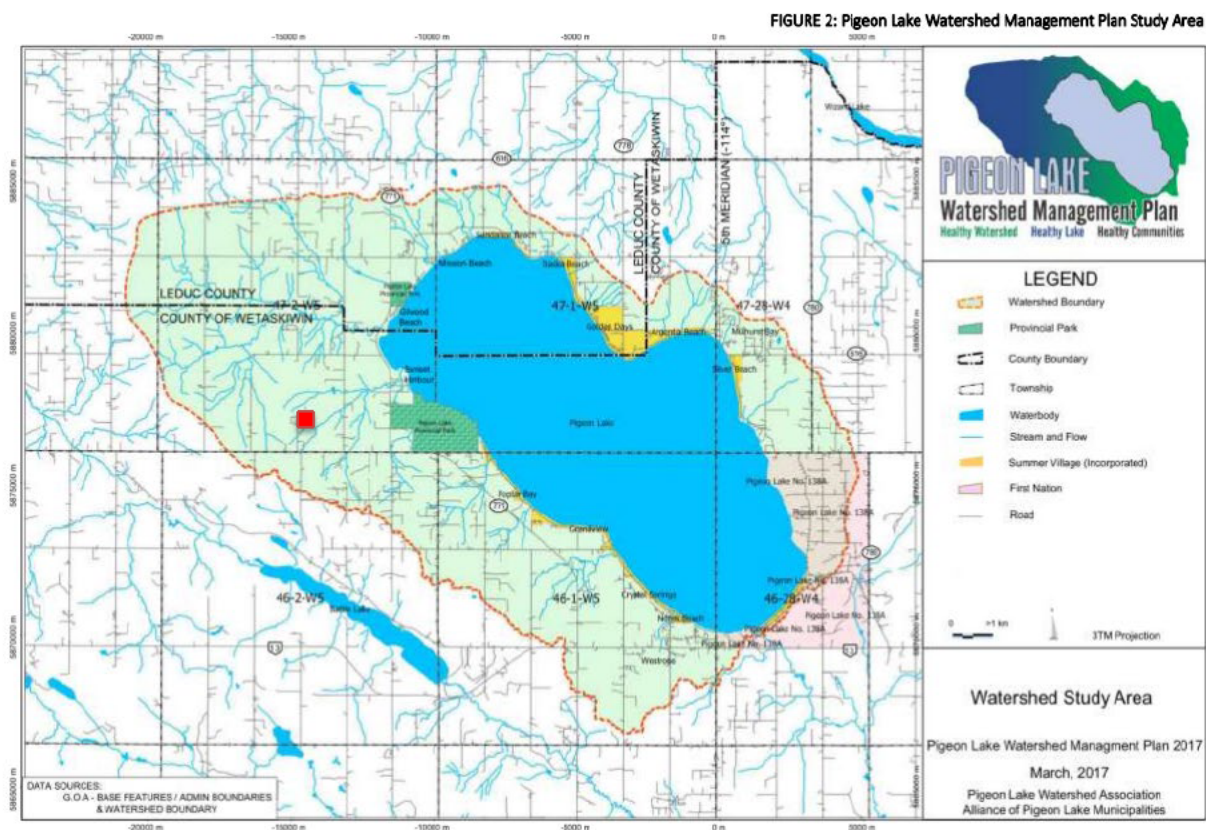


In my view, an analysis of whether the proposed CFO would be an appropriate use of land in this area does not end at the MDP. Below, I discuss two other key land use planning documents: the Pigeon Lake Watershed Management Plan (PLWMP), and the Pigeon Lake Area Concept Plan (PLACP).

1) The PLWMP

The Pigeon Lake Watershed Management Plan Steering Committee developed the Pigeon Lake Watershed Management Plan (PLWMP, dated May 4, 2018). This document was created in collaboration and with support from 12 local municipalities, provincial government, 4 First Nations, and various other groups. One of the endorsing organizations of the PLWMP is the Pigeon Lake Watershed Association. Many responses to the application from directly affected parties reference and incorporate the submission of the Pigeon Lake Watershed Association, including its “CFO Adverse Effects Background Report” (April 2022). As such, I considered the PLWMP and the CFO Adverse Effects Background Report in this application.

The map below shows the Pigeon Lake Watershed as represented in the 2018 PLWMP. I have added the red square onto the map to indicate the proposed location of the CFO in the watershed (green).



The red square has been added to indicate the proposed CFO location.

These documents advise that Pigeon Lake’s watershed is the primary source of water entering the lake. This, combined with the long water residence time of the lake (sources indicate ~100

years), makes Pigeon Lake susceptible to nutrient accumulation and possible overloading over time. There is a variety of sources contributing to the nutrient influx, including agricultural and possibly domestic, that have led to problems in the past. In the responses received from directly affected parties, it was pointed out that many people, groups, and government have invested considerable time and resources to rehabilitate the overall health of the lake.

In the County’s follow-up response dated April 19, 2022 (as discussed above in Appendix E), the County noted that their previous response referenced the wrong watershed management plan (2000) and provided clarification to reference the 2018 Pigeon Lake Watershed Management Plan. They also clarified that that Council on June 8, 2018 resolved the following:

“That Council approve the recommendation presented by the Pigeon Lake Watershed Management Plan Steering Committee and having read and considered the Pigeon Lake Management Plan – 2018, resolves as follows:

- 1. The County of Wetaskiwin will work collaboratively with other Pigeon Lake watershed municipalities, the Pigeon Lake Watershed Association and the Pigeon Lake Watershed steering Committee to implement the Pigeon Lake Management Plan – 2018.*
- 2. The County of Wetaskiwin will reference and consider the recommendations of the Pigeon Lake Management Plan -2018 in the development of new or updated Statutory Plans required under the Municipal Government Act and in the ordinary business of the municipality”*

This resolution clearly indicates an intention and willingness of the County to work with the various interest groups involved in the land use planning around Pigeon Lake, more importantly, the PLWMP was adopted as a guiding principle for future land uses in this area. It is therefore my opinion that the PLWMP is key in the assessment of whether the CFO would be an appropriate use of land. Below is an excerpt from the PLWMP (2018) document: “Land Use and Phosphorus Management” “OBJECTIVE 2 Improve phosphorus management for all land uses to achieve a net reduction in nutrient runoff and promote biodiversity.”

RECOMMENDATIONS	Type	Roles	Time Frame	Success Measure
<i>2e New or Expanded Intensive Livestock Operations: Statutory land use restrictions on new or expanded intensive livestock operations (including CFO’s) are supported in this Watershed Management Plan</i>	<i>Policy</i>	<i>Lead: Mun. Support: APLM, GoA, PLWA</i>	<i>Ongoing</i>	<i>No Intensive Livestock Operations</i>

Based on the “success measure” the document’s objective is to have no new or expanding Intensive Livestock Operations (or CFOs) located in the Pigeon Lake watershed. The proposed CFO is contrary to this objective.

Further, I note that on page 33, the County’s MDP states “The county will undertake projects and studies to implement the Municipal Development Plan..... – Lake Management Plans update for Pigeon Lake and Wizard Lake”.

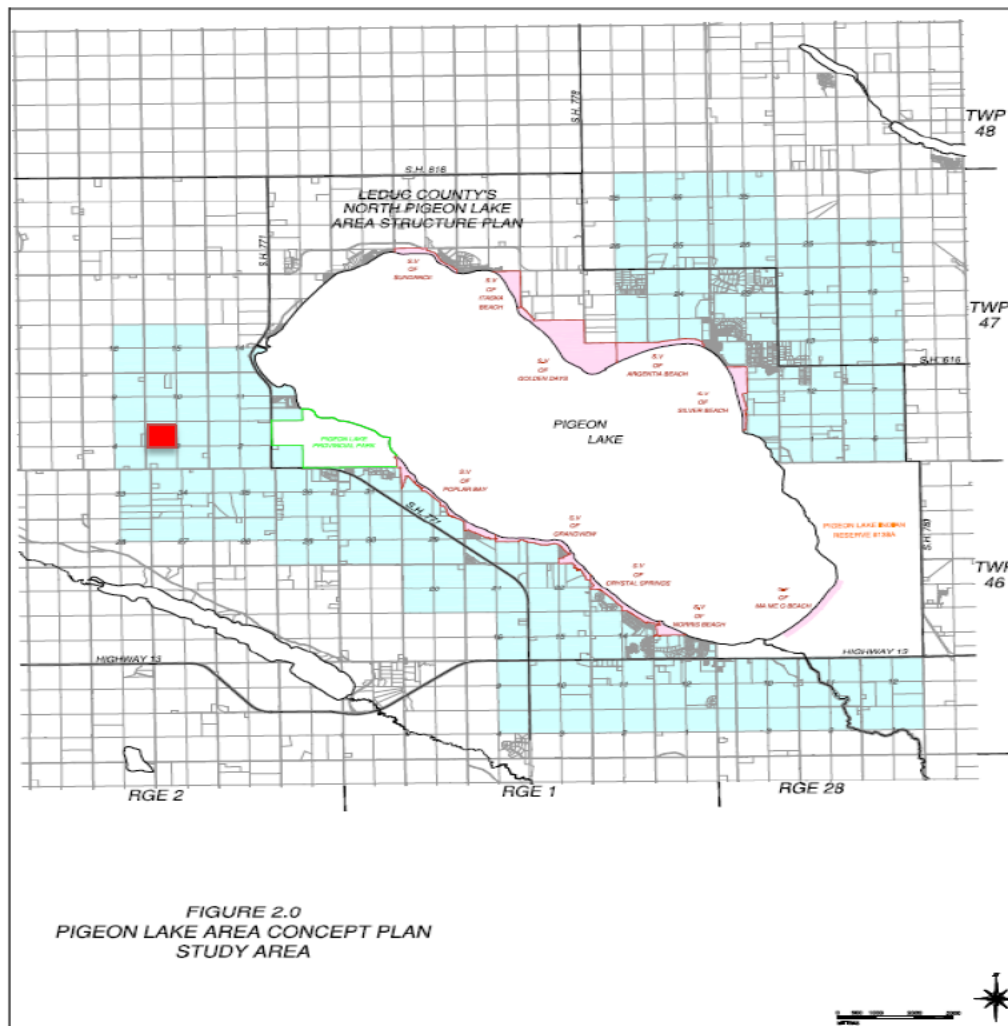
The County's last revision of the MDP was in 2012 prior to the 2018 PLWMP being released. In the County's second response to the CFO application (April 19, 2022), they indicated a willingness to consider the 2018 PLWMP. It is unclear if the County will update the MDP (it is currently under review) to include further restrictions for new or expanding CFOs in the Pigeon Lake watershed area or, alternatively, consider each application on a case-by-case basis. As noted above, the County Council resolved in June 2018 to consider the PLWMP both in updating statutory plans and "in the ordinary business of the municipality."

2) The PLACP

Many responses from directly affected parties, including the County, identified the Pigeon Lake Area Concept Plan (PLACP), as an additional planning document. This document was also identified in the County's initial response and was pointed out as a planning document (albeit not a statutory plan, and one that is superseded by the MDP).

The County approved the PLACP on Feb 6, 2014. Based on the maps in the document the proposed CFO site would be located inside the western boundary of the PLACP.

The following figure is from the PLACP with a red square added indicating the location of the proposed CFO and blue being the plan study area.



The red square has been added to indicate proposed CFO location.

The County's website states:

The purpose of an Area Concept Plan (ACP) is to present a comprehensive planning policy framework and a generalized future land use concept which will be used by the County to:

- *Guide the preparation of detailed Area Structure Plans undertaken by developers.*
- *Promote orderly development within the area encompassed by the plan boundaries.*
- *Provide guidance to Administration and Council in reviewing future zoning, subdivision and development proposals.*

Pigeon Lake Area Concept Plan – The purpose of the Pigeon Lake Area Concept Plan (PLACP) is to set out principles and policies to act as a guideline for new development and redeveloped areas.

In the introduction to the PLACP, the County states:

“Through the County's strategic planning process, Council recognized the need for long range plans in areas experiencing growth pressures. The 2010 Municipal Development Plan draws specific attention to areas in the County meriting special attention for administration to develop plans to better guide future development, and Pigeon Lake is named as one of these areas.”

This statement shows the County's intention to have the PLACP provide clarity and more detailed planning for the area and therefore the PLACP is relevant to the application.

Section 5.5.2 of the PLACP states “Large-scale confined animal operations are not appropriate in the Pigeon Lake watershed.” It is unclear based on this document what constitutes “Large-scale” however the use of “confined” implies it refers to AOPA-approved CFOs. This plan's “study area” includes the quarter section on which the CFO is proposed and therefore the proposed CFO does not accord with the PLACP. As the County includes the PLACP on their website and references it in their response, the PLACP provides valuable context regarding how the watershed of Pigeon Lake is viewed by the County and how they could use this document for their own planning purposes.

As the PLACP is not a statutory plan, I have not considered the consistency of the application with the PLACP to assess consistency with the MDP land use provisions (see Appendix A). However, in considering whether the proposed CFO would be an appropriate use of land, I am not restricted to looking at statutory plans under the *Municipal Government Act*. In my view, the PLACP – like the PLWMP – demonstrates that the County is well aware of, and supports, the objectives and land use principles in the PLACP. In that sense, the PLACP is highly relevant in considering whether the proposed CFO would be an appropriate use of land.

For additional planning context, although the application is not for a land location in Leduc County, both Leduc and Wetaskiwin Counties have a shared interest in terms of lands within the watershed and surrounding Pigeon Lake. It should be noted that in Leduc County their portion of the watershed lands is located in the North Pigeon Lake Area Structure Plan (which is a statutory plan). Within this plan “new or expanded CFOs are prohibited” within the watershed boundary. Leduc County through these planning documents have indicated clearly their development planning expectations for Pigeon Lake and its watershed.

Given the totality of planning documentation for the watershed area, I determine that the County's recommendation that I consider the PLWMP and the PLACP is warranted based on

the County's submissions. Given the responses received from directly affected parties, and based on the PLWMP, PLACP, and Leduc County's ASP documents in collaboration with the County's mandate in their MDP to "protect specific lakes," I conclude that the proposed CFO would not be an appropriate use of land.

Effects on Community

The greater Pigeon Lake community has voiced a great deal of concern regarding the proposed application.

As pointed out in NRCB Board Decision 2015-01 *Folsom Dairy Ltd.*, community impacts overlap with, but are broader than, "appropriate use of land" and should include broader considerations that take into account the "totality of the impacts, both positive and negative, on the citizens living and working in proximity of the CFO" (p 7). In addition to considerations of appropriate use of land, there are several issues arising from this application that warrant a closer look in relation to its effects on the community. These include – as mentioned above (in Appendix D) – nuisance impacts and the general effects the development would have on the community both with respect to use of the lake and the overall area. As the majority of the responses have pointed out, Pigeon Lake is one of the more popular recreation lakes in Alberta and therefore is important to many Albertans who live near the lake, who traditionally use the lake area, and who visit the area.

Pigeon Lake is heavily used by cabin/home owners who use the lake for various activities. It also has several golf courses, RV resorts, provincial parks, and camps around it which many people use and frequent to enjoy the area.

In documents that show the defined watershed map (e.g. the PLWMP), the proposed CFO is located within the watershed and approximately 1 mile beyond the boundary of the CFO exclusion zone identified in the MDP. The watershed for Pigeon Lake itself is not very large, indicating that the water captured in this area is very important to, and will have a direct and lasting impacts on, the lake's water quality and therefore health. Along with this, many respondents pointed out that given the small size of the watershed, the history of lake rehabilitation efforts, and the long residence time of water in the lake, the proposed CFO would be incompatible with the way the lake has been used, and how the community envisions the future uses and health of the lake.

A majority of the responses referenced the use of the lake and area for recreational purposes as well as the impact the proposed CFO would have on their enjoyment and use of the area, local businesses and investments (e.g. a nearby RV park). The content of the submissions reflected the concerted and coordinated work put into lake improvement over the past couple of decades, and the use of the lake and overall area by many people for various activities. In that light, the evidence indicates a strong likelihood for the proposed CFO to negatively impact the community in a material way and duration if the CFO were approved.

I acknowledge that the application meets the required minimum distance separation from neighbouring residences (as well as other AOPA technical requirements) and meets Wetaskiwin County's MDP. However, on weighing the written submissions from directly affected parties with their breadth and depth of community-based concerns, as well as the land planning documents referred to by municipalities, I find that the proposed CFO would create conflicting land uses and an overall negative effect on the greater community. This might not be the case in every community around a lake that is located near a CFO. In the application that is before me, in the

unique context of location and community investment, and given the nature of this particular lake, in my opinion the effects of this proposed CFO on this community would be unacceptable.

Therefore, I am denying application RA21045 under Section 20(1)(ix) of AOPA due to it not being an appropriate use of land and due to unacceptable effects on the community.