

February 25, 2025

SENT BY EMAIL

To All Eligible Parties [Mitchel Kroetsch, Flagstaff County, Arthur Congdon, Heidi Rohe, Thomas Rohe, Lorraine Congdon, Norman Congdon, Dallas Oberg, Ruth and Bob Burke, Nancy and Richard Hewson, John Congdon, Fiona Vance]

**Board Review of Decision to Permit a Confined Feeding Operation (CFO) operated by Mitchel and Lindy Kroetsch in Flagstaff County**

Approval RA23022 permitting a new beef feeder/finisher CFO in Flagstaff County was released on August 20, 2024, by the NRCB approval officer reviewing the application of Mitchel and Lindy Kroetsch (the Operator). Several requests for review (RFR) were submitted by directly affected parties within the statutory deadlines. After review by a division of the Natural Resources Conservation Board (Board), that included new evidence since Approval RA2302 had been issued, the decision was reached that several of the RFRs raised issues of sufficient merit to require a hearing (Decision RFR 2024-06 / RA23022). Due to the new evidence, the hearing was suspended pending further action initiated by the Operator. The Operator amended the application, and an amended permit was issued on January 31, 2025, under Amendment Approval RA23022A.

No further RFRs were received following the release of the amended permit and a hearing on the issues selected for review by the Board in Decision RFR 2024-06 / RA23022 may now proceed.

As a first step, the Board requests submissions from the parties with respect to the Board Review of Decision Summaries RA23022 and RA23022A.

**Background**

On August 20, 2024, the approval officer issued Decision Summary RA23022 which granted Approval RA23022 to the Operator to construct and operate a new beef feeder/finisher CFO located at NW 15-42-16 W4M in Flagstaff County.

Following the issuance of Approval RA23022, the Board received RFRs and a division of the Board consisting of Sandi Roberts, Walter Ceroici and Daniel Heaney was established to consider the RFRs and decide whether a review was warranted.

On September 10, 2024, the approval officer was informed by the Operator that, during some preliminary trenching work at the site in the area of proposed catch basin #1, he encountered water at a depth of less than 4 metres below grade. Since the proposed catch basins were designed to a depth of 3.5 metres below grade, and as the bottom of the liner must not be less than 1 metre

above the water table at the time of construction in accordance with the *Agricultural Operation Practices Act (AOPA)*, the approval officer directed the Operator to not proceed with construction of the catch basin until the next steps were decided, which could include a redesign of the catch basins and submission of an application to amend the permit.

On September 24, 2024, in Decision RFR 2024-06 / RA23022, the Board directed a review of the Operator's measures with respect to groundwater and surface water quality (Board Review). Although the Board found that the approval officer's original determination that the feedlot pens and catch basins posed a low potential risk to groundwater and surface water and met the technical requirements set out in the AOPA regulations, the new evidence provided by the Operator suggested that there was a high water table in the feedlot area which could affect the performance of the synthetic liners proposed for the catch basins and, consequently, the groundwater and surface water quality. The Board found that the risk of surface and groundwater contamination, in view of the new evidence suggesting a high water table, raised questions of environmental risk that required a review.

The Board determined that other issues raised in the RFRs – including the suitability of the location given the number of rural residences, water supply concerns, nuisance concerns, human health impacts, road impacts, and property value impacts – were not appropriate matters for review as the approval officer had adequately addressed the concerns or the issues fell outside the authority of the NRCB. Consequently, the Board Review is limited to surface and groundwater contamination issues.

In deciding to conduct the Board Review on the groundwater and surface water quality issues, the Board recognized that the specific circumstances required special procedural considerations. The Board determined that should the Operator proceed with an application for an amendment to his approval, normal application amendment procedures would apply and affected parties would receive notice and have an opportunity to comment. While existing parties did not need to restate their concerns on the amendment application, they could state any specific concerns related to any changes to manure storage facilities included in the amendment application. The Board suspended the Board Review pending further action initiated by the Operator. Any approval officer decision on an amendment application would be open to filing of new RFRs; however, the Board would merge the approval officer decision on any amendment application with the Board Review.

On October 23, 2024, the approval officer received an amendment application from the Operator, which was updated on October 30, 2024, and deemed complete on November 13, 2024 (Amendment Application). Affected parties and those parties the approval officer considered appropriate were notified of the Amendment Application.

The Amendment Application proposed modifying the dimensions of the two catch basins to shallower depths in order to meet the one metre setback to the water table requirement, at the time of construction. The width of both catch basins was also increased. In addition, the Operator proposed to construct a barrier around the catch basins to protect the liner.

On January 31, 2025, the approval officer issued Amendment Approval RA23022A which modified only the dimensions of the catch basins. The remainder of Approval RA23022, and its terms and conditions, remained in effect. Additionally, a condition was added for the Applicant to construct a barrier around the catch basins to protect the liner.

No RFRs with respect to RA23022A were received by the deadline date of February 14, 2025.

On February 18, 2025, the Chair of the Board designated the panel for the RA23022 and RA23022A hearing to be Sandi Roberts (Panel Chair), Laura Dunham and Daniel Heaney. This designation supersedes the panel that was appointed on September 9, 2024.

### Request for Submissions

The Board recognizes the specific circumstances of this Board Review require special procedural considerations. To assist it in determining the process going forward, the Board requests written submissions from the parties.

Written submissions, together with any supporting evidence, are restricted to the Operator's measures relating to maintaining groundwater and surface water quality as identified in Approval RA23022 as amended by Amendment to Approval RA23022A. The Board previously determined that the other issues raised in the RFRs have no merit and thus will not consider any issues other than those relating to groundwater and surface water quality.

While not limiting the submissions of any of the parties within this scope, the Board would find it helpful if the Operator addresses the following matters in his submission:

1. Confirmation of the method used to determine the depth to the water table, why this method was chosen, and the risks associated with using this method.
2. How the catch basins and barrier are expected to protect the quality of the surface water.
3. How the size of the catch basins was determined.
4. Whether the design of the catch basins effectively mitigates any adverse effects that could be experienced with water table fluctuations during the year.
5. How the construction condition requiring a minimum distance of 1 metre from the bottom of the catch basin to the water table at time of construction will be met through measurement and verification.
6. Whether other mitigation measures should be considered during construction to mitigate possible water table fluctuations.

All submissions are to be emailed to Laura Friend, Manager of Board Reviews, at [laura.friend@nrcb.ca](mailto:laura.friend@nrcb.ca), by the deadlines provided below. All submissions will be posted online on the NRCB website project page.

**Deadline for Submissions:** **March 17, 2025**

**Deadline to Reply to the Submissions:** **March 31, 2025**

### Next Steps

Once the Board has had an opportunity to review the submissions it will direct next steps, which may include written interrogatories or scheduling a hearing date.

Should you have any questions, please contact the NRCB Reviews Manager, Laura Friend, at 403-297-8269 or at [laura.friend@nrcb.ca](mailto:laura.friend@nrcb.ca).

Yours sincerely,

  
Bill Kennedy  
General Counsel