

ACCOUNTABILITY AGREEMENT

THIS AGREEMENT MADE IN DUPLICATE THIS 1 DAY OF November, 2006

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA
AS REPRESENTED BY THE MINISTER OF ALBERTA ENVIRONMENT**
(the "Minister of Environment")

- and -

NATURAL RESOURCES CONSERVATION BOARD
(collectively referring to the "NRCB Board" and the "NRCB")

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA
AS REPRESENTED BY THE MINISTER OF ALBERTA AGRICULTURE, FOOD,
AND RURAL DEVELOPMENT**
(the "Minister of Agriculture")

Since the Natural Resources Conservation Board and Alberta Environment share responsibility to manage Alberta's environmental management system, and

Since the Minister of Environment has amended the *Water (Ministerial) Regulation* under the Water Act, as an interim, temporary measure, to enable a qualified Approval Officer, employed by the NRCB and appointed under the Agricultural Operation Practices Act, to make determinations regarding the placing, constructing, installing, maintaining or operating works to prevent surface water from flowing through or from or both through or from, a confined feeding operation or a manure storage facility as defined in *Agricultural Operation Practices Act*; and since a qualified Approval Officer will determine the adequacy of the design of the works to meet the environmental performance outcomes required for an exemption from an approval, under s.2(n) of Schedule 1 of the *Water (Ministerial) Regulation*.

Since the Minister of Agriculture and Alberta Agriculture, Food and Rural Development are responsible for Agricultural Operation Practices Act the regulations passed pursuant to Agricultural Operation Practices Act, confined feeding operation policy and guidelines.

Therefore, it is understood by the parties to this Agreement that:

- The setting of appropriate environmental and water resource management policy is the responsibility of the Minister of Environment.
- Determinations regarding the design and performance of works to control surface water at confined feeding operations or manure storage facilities as defined in the Agricultural Operation Practices Act are made in accordance with the established Water Act policy is the responsibility of the NRCB.
- Upon review, determinations regarding the design and performance of works to control surface water at confined feeding operations or manure storage facilities as defined in the Agricultural Operation Practices Act are made in accordance with the established Water Act policy is the responsibility of the Board of the NRCB ("the NRCB Board").
- Assurance that environmental protection is being maintained and water resource is appropriately managed is the responsibility of the Minister of Environment.
- Alberta Agriculture, Food and Rural Development has the responsibility for the development and content of the Agricultural Operation Practices Act.
- While the NRCB is not a servant, employee or an agent of the Minister of Environment and the NRCB has no general authority to bind the Minister of Environment in any manner whatsoever, it is recognized determinations by the NRCB within the context of the Water Act regarding works to control surface water do bind Alberta Environment to the extent specified in s.2(n) of Schedule 1 of the *Water (Ministerial) Regulation*.
- With respect to determination made by the NRCB under s.2(n) of Schedule 1 of the *Water (Ministerial) Regulation*, the operational goals of the NRCB will align with the adopted policies of Alberta Environment and performance expectations of Alberta Environment.

- Upon review, determinations made by the NRCB Board under s.2(n) of Schedule 1 of the *Water (Ministerial) Regulation*, the operational goals of the Board will align with the adopted policies of Alberta Environment and performance expectations of Alberta Environment.
- Maintaining an appropriate level of environmental and water resource protection by the application of accepted standards through the delivery of Agricultural Operation Practices Act approvals, registrations and authorizations is the overall goal of the relationship.
- In the event the Minister of Environment proposes to amend regulations affecting works to control surface water at confined feeding operations including, but not limited to, the *Water (Ministerial) Regulation*, the Minister of Environment shall give reasonable notice and consult with the NRCB and the Minister of Agriculture.
- In the event the Minister of Agriculture or the NRCB proposes to amend regulations affecting works to control surface water at confined feeding operations including, but not limited to, the regulations passed pursuant to Agricultural Operation Practices Act, the Minister of Agriculture shall give reasonable notice and consult with the Minister of Environment.
- The Minister of Environment is accountable for maintaining environmental outcomes and water resource management through determinations made under the *Water (Ministerial) Regulation* in Alberta.
- The NRCB will use existing standards, requirements and expected outcomes published and adopted by Alberta Environment with regards to determinations made under s.2(n) of Schedule 1 of the *Water (Ministerial) Regulation*.
- Alberta Environment will provide NRCB staff with training regarding published standards, requirements and expected outcomes.

The NRCB must ensure that the determinations made by either the staff or the NRCB Board are consistent and transparent and meet the outcomes of the Water Act and published policy.

- The relationship must support the Ministers of Environment and Agriculture's accountability to the Legislature and Albertans, and support the NRCB's accountability to the Minister of Environment and the Minister of Sustainable Resource Development.
- Upon review, the relationship must support the Ministers of Environment and Agriculture's accountability to the Legislature and Albertans, and support the NRCB Board's accountability to the Minister of Environment and the Minister of Sustainable Resource Development.
- The NRCB Board shall not delegate or assign any functions of the approval officer or Board under the Water Act, the *Water (Ministerial) Regulation* or this Agreement.
- This Agreement shall have no application to nor shall it affect the NRCB Board's role pursuant to the Natural Resources Conservation Board Act.

- For the purpose of determinations made under the *Water (Ministerial) Regulation*, the definitions in the Water Act and the *Water (Ministerial) Regulation* shall apply.

Based on the principles stated above, in order to clarify the roles, responsibilities and working relationships, the parties agree as follows:

Roles and Scope of Determination Permitted to be Made for Works to Control Surface Water Under the *Water (Ministerial) Regulation*

The Minister of Environment provides the legislative and policy framework, including the adoption of codes and standards, for the management of water resources as defined in the Water Act and the associated regulations.

Pursuant to Schedule 1, section 2 (n.1) of the *Water (Ministerial) Regulation* as amended, the Minister of Environment allows NRCB Approval Officers, or the NRCB Board upon review, to determine, in writing, whether the design of works to control surface water meet the performance conditions set out in section 2(n)(i) through (iv) of Schedule 1, and therefore the works qualify for an exemption from an approval under the Water Act for a confined feeding operation or a manure storage facility as defined in the Agricultural Operation Practices Act.

The NRCB has agreed to qualified approvals officers with appropriate engineering backgrounds making determinations or supervising other approval officers in making determinations regarding this portion of the *Water (Ministerial) Regulation*, as it is appointed regulatory authority pursuant to the Agricultural Operation Practices Act, regarding confined feeding operations and manure storage facilities and has also entered this Accountability Agreement with the Minister of Environment.

The NRCB and the NRCB Board is required to carry out its determinations under the *Water (Ministerial) Regulation* in accordance with the terms of this Accountability Agreement and to ensure that determinations are appropriately discharged.

With respect to works that control surface water, the NRCB Board shall not process applications or information, or make other determinations or decisions under the Water Act with the exception of the NRCB Board's jurisdiction to review approval officer determinations.

NRCB approval officers shall not process applications or information, or make other determinations or decisions under the Water Act with the exception of the NRCB's jurisdiction make determinations with respect to works that control surface water.

Regarding works that control surface water the NRCB Board and NRCB approval officers will not:

- a) process information regarding a Water Act activity, pursuant to a notification or a Code of Practice, including:
 - Code of Practice for Outfall Structures on Water Bodies
 - Code of Practice for Pipelines and Telecommunication Lines Crossing a Water Body
 - Code of Practice for Watercourse Crossings

- b) process applications and make a decision regarding a water licence application for diversion or use.
- c) process applications and make a decision regarding an approval for works to control surface water where the applicant has:
 - had a Professional Engineer fulfill the exemption prerequisites under section 2(n) of the *Water (Ministerial) Regulation*, or
 - applied to Alberta Environment for an approval under the Water Act.

The NRCB will coordinate enforcement activities with Alberta Environment while remaining within its compliance and enforcement jurisdiction pursuant to the AOPA.

The NRCB will ensure complaints regarding NRCB accepted exempted works to control surface water are received and tracked, and will coordinate its approach to compliance and inspection matters with Alberta Environment for compliance and enforcement purposes.

The NRCB will notify Alberta Environment of reviews being requested and reviews being granted for operations based on issues related to works to control surface water.

Accountability and Quality Management

The NRCB will employ appropriately qualified approvals officers with appropriate engineering backgrounds to review and make determinations or to supervise approval officers in reviewing and making determinations in accordance with the Water Act.

The NRCB agrees that it will monitor and inspect works to control surface water and that appropriate management level employees will monitor the activities of approval officers and inspectors in connection with works to control surface water to ensure they are performing their duties according to the expectations of Alberta Environment.

The NRCB will ensure complaints or appeals regarding NRCB accepted exempted works to control surface water are received and tracked.

The NRCB will ensure appropriate application information, and programs for monitoring, inspections, and audits are employed to assess all determinations that have been made.

Reporting and Performance Measures

The NRCB shall provide to the Ministers a summary and performance report for each year on a date accepted by the Board and Ministers, that details:

- (a) a summary of applications and indicating where works to control surface water were required, which applications engineered plans were required and which applications were appealed based on issues related to works to control surface water, and any previously approved confined feeding operations at which compliance or enforcement issues arose, and
- (b) an assessment of the process and outcomes for works to control surface water determinations for works to control surface water, based on performance measures agreed upon by the Parties.

The Minister of Environment and his officials shall meet yearly with the NRCB to review the performance of the NRCB with respect to section 2(n) of Schedule 1 of the *Water (Ministerial) Regulation*.

The Ministers shall review the summary and performance information provided annually and if the Ministers believe that action is required they will identify for the NRCB the areas for change, consult with the NRCB on the appropriate changes and the NRCB will ensure appropriate action is taken.

The Ministers and the NRCB will review this Agreement each year following the annual review of the performance of the Board.

Records Management and Freedom of Information and Protection of Privacy

For records created or maintained in the course of making determinations under the *Water (Ministerial) Regulation* pursuant to s.2(n) of Schedule 1:

- The Minister of Environment has full and unfettered access.
- All information and records become and remain the property of Alberta Environment, and will be transferred should this Agreement be terminated.
- All records in the custody of the NRCB are subject to Alberta Environment's policies and practices, including disposition schedules, developed in compliance with the *Records Management Regulation*
- The NRCB will ensure that records are publicly available in accordance with Section 15 of the *Water (Ministerial) Regulation*.

When any request for access to information is made to the NRCB, under the Freedom of Information and Protection of Privacy Act, or any other authority, the NRCB will notify the FOIP office of Alberta Environment. The NRCB will co-ordinate with Alberta Environment for processing and release of any records.

Survival of Terms

Notwithstanding any other provision of this Agreement, those clauses which by their nature continue after the expiry or termination date of this Agreement shall continue after such expiry or termination.

Amendment/Termination Provisions

The parties may only change this Agreement by written amendment to this Agreement by their duly authorized representatives, and by appropriate changes to respective legislation.

The Ministers and the NRCB agree that his Agreement will be amended as required to accommodate any changes to the Water Act or the *Water (Ministerial) Regulation*.

Liaison

The parties agree to advise each other regarding significant issues and content of statements prior to issuing any formal statement related to the matters pertaining to the services or matters addressed in this Agreement.

The Ministers designate the Deputy Ministers as the Ministers' representative for this Agreement.

The Board designates the Chief Executive Officer of the Board as the representative for this Agreement.

Notices

Any notice to be made under this Agreement shall be deemed given to the other party if in writing and personally delivered, sent by regular mail, or sent by facsimile transmission, addresses as follows:

<p>The Minister of Environment: c/o Deputy Minister of Environment Alberta Environment 10th Floor, South Petroleum Plaza 10155-102 Street Edmonton, Alberta, T5J 4L4 Fax: (780) 427-0923</p>	<p>The Board: c/o Chief Executive Officer of the Board NRCB 4th Floor, Sterling Place, 9940-106 Street Edmonton, Alberta Fax: (780) 427-0607</p> <p>The Minister of Alberta Agriculture, Food and Rural Development c/o Deputy Minister Alberta Agriculture, Food and Rural Development 300, J.G. O'Donoghue Building 7000 - 113 Street Edmonton, Alberta T6H 5T6 Fax: (780)</p>
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The address of either party may be changed to any other address in Alberta by notice in writing to the other party.

General

This Agreement (including the documents and legislation referred to herein) contains the whole agreement between the parties and supercedes all prior agreements, both written and oral, between the parties with respect to the subject matter of the Agreement.

In the case of conflicts, discrepancies, errors, or omissions among the documents forming part of this Agreement, this document takes precedence.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

HER MAJESTY THE QUEEN in the right
of Alberta, as represented by the Minister
of Alberta Environment

[Handwritten Signature]

Signature

Deputy Minister

Title

October 18, 2006

Date

NATURAL RESOURCES
CONSERVATION BOARD

Peter W. Woodley

Signature

CEO, NRCB

Title

Oct 2/06

Date

HER MAJESTY THE QUEEN in the right
of Alberta, as represented by the Minister
of Alberta AAFRD

[Handwritten Signature]

Signature

Deputy Minister

Title

Nov. 1/06

Date

[Handwritten Signature]

Signature of Witness or Corporate Seal

WINKPEN

Print Name

Memorandum of Understanding

DATED: 17th June 2002

Between:

**The Natural Resources Conservation Board
(NRCB)**

and

**Alberta Environment
(AENV)**

INTRODUCTION

With the recent amendments to the *Agricultural Operations Practices Act (AOPA)*, the NRCB is now responsible for regulation of various aspects of Alberta's livestock industry, including the review and approval of new or expanding confined feeding operations (CFOs), manure storage facilities and the monitoring and enforcement of manure management practices. Many CFOs will also require a licence or an approval under the *Water Act* and possibly the *Environmental Protection and Enhancement Act (AEPEA)*. The NRCB and AENV have agreed to harmonize their regulatory procedures with the goal of minimizing the regulatory burden on agricultural operators.

GUIDING PRINCIPLES

Four principles will guide how the NRCB and AENV will coordinate and undertake their respective responsibilities:

- One window to government
- Consistent decisions (i.e. all approvals or none)
- Common standards and practices
- Timely decisions

NRCB COMMITMENTS

The NRCB will act as the one window contact for all approvals, licences and other required provincial level dispositions for the development of new or expanding confined feeding operations or manure management facilities.

The NRCB will implement and use the joint regulatory review process set out in the attached appendix, and will meet regularly with AENV, AAFRD and SRD to review the operation of the joint regulatory review process, and to establish criteria and benchmarks for processing standards and timelines.

The NRCB will provide a summary report on the operation of the joint regulatory review process to the Deputy Ministers of AENV, AAFRD and SRD on a quarterly basis.

AENV COMMITMENTS

AENV will implement the joint regulatory review process within the agreed upon standards, process and timelines.

AENV will ensure the NRCB is informed of legislative or policy issues, restrictions, guidelines or criteria associated with water allocation and licensing under the *Water Act* in a timely manner. AENV will also ensure the NRCB is informed of changes to general environmental legislative or policy matters that relate to CFOs.

AENV will provide advice to the NRCB on necessary revisions to AOP A to address issues that may arise through operation under the joint regulatory review process.

JOINT COMMITMENTS

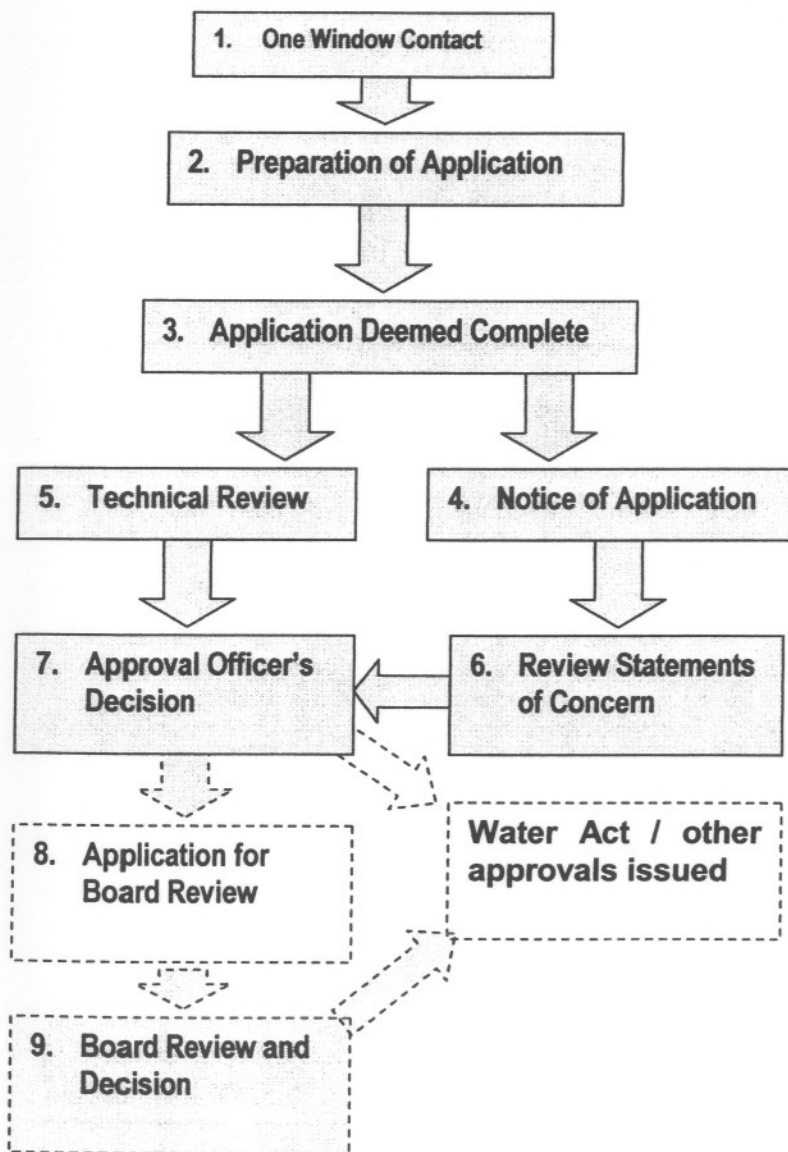
The agreement is effective on this date.

The Chair and Deputy Minister of Environment, Agriculture, Food and Rural Development and Sustainable Resource Development will meet every six months to review the benchmarks established to assess the effectiveness of the joint regulatory review process and to ensure that the goals and the spirit of the agreement are continuing to be met.

Brian Bietz, Chair, NRCB

Roger Palmer, Deputy Minister, AENV

NRCB/AENV JOINT REGULATORY REVIEW PROCESS



One –Window Contact

Producer will learn what type of NRCB and other required provincial approvals and information are required.

Preparation of the application

Producer designs project, conducts studies and completes and submits a single application form that addresses all required provincial approvals and dispositions.

Application deemed complete

NRCB Approval Officer determines that application is complete and submits it to AENV and other agencies for confirmation that it contains all the required information. Applicant may be required to submit additional information

Notice of application

Affected parties are notified of the application. For registrations and authorizations, only the applicant and the municipal government are notified. For approvals, potentially affected parties are notified by letter or public notice and they are asked to provide written statement of concern (SOC) that explains how they would be directly affected. If an approval is required under the Water Act, a joint notice or a separate notice may be required.

Technical review of application

NRCB, AENV and other relevant agencies conduct technical reviews to determine whether the application meets the requirements of relevant legislation, regulations and standards. Copies of the application may also be submitted to regional health authorities and other agencies for their views on the application.

Review Statements of Concern

Approval Officer shares SOC's with AENV and other relevant agencies and makes determination of which parties would be directly affected. The applicant is given the opportunity to address outstanding concerns.

Approval Officer Decision

Approval Officer determines whether application contravenes any of the regulations, standards or the municipal plan and then considers the SOC's and other information to determine whether application is in the public interest. Application can be denied or approved with appropriate conditions.

Application for Board Review

Parties can seek Board review of any of Approval Officer's decision by submitting a letter within 10 working days of receiving that decision. If no concerns are received, the decision stands.

Board Review

Board can choose whether to hold review, and what issues and who will be heard if it decides to conduct a review. Parties will be asked to provide written submissions and evidence, and will be allowed to ask questions of others. The Board can decide to confirm or reverse the Approval Officer's decision and add or modify any terms and conditions.