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## **NRCB approves AAA Cattle Company's application under the *Agricultural Operation Practices Act***

Edmonton (April 21, 2005) - The Natural Resources Conservation Board (NRCB) has approved AAA Cattle Company's application under the *Agricultural Operation Practices Act* for an 18,200 head beef feedlot comprised of a combined 16,200 head beef feeder and a 2,000 head beef finisher facility on SW 8-31-27-W4 in Mountain View County.

AAA Cattle supplemented their application to the NRCB on January 7, 2005 subsequent to an Alberta Court of Appeal ruling of November 8, 2004 that had quashed an earlier NRCB board decision (03-04) and the Approval resulting therefrom. In accordance with the Act and the decision of the Court of Appeal, the board directed the application back to the approval officer for reconsideration.

The reconsideration of the application focused on the direction of the Court of Appeal and involved a review of the environmental risk of AAA Cattle's pre-existing facilities and the effect they may have on the integrity of the larger cattle operation.

In reconsidering AAA Cattle's application, the approval officer reviewed submissions from Mountain View County, Calgary Health Region, Alberta Environment, Alberta Transportation, the Committee for Lone Pine, neighbours and members of the community. Issues raised in their submissions were identified, thoroughly reviewed and addressed by the approval officer in Decision Report RA02001L.

Some of the findings of the decision report include:

- The proposed application and the review of it address the direction of the Court of Appeal's November 8, 2004 ruling.
- AAA Cattle's proposed development meets the environmental requirements set out in the *Agricultural Operation Practices Act*;
- The proposed development meets the technical requirements of the Act including minimum distance separation, requirements relating to natural water and wells, proximity to flooded areas, run-on and run-off controls, catch basins, manure storage volumes, water table (aquifer) protection, erosion protection, groundwater protection, nutrient management, manure application, fly and dust control, safety, and access; and
- The proposed development meets the land use provisions of Mountain View County's Municipal Development Plan;

The Natural Resources Conservation Board is an independent and quasi-judicial decision-making body. It issues fair and impartial decisions after consideration of all the facts.

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Backgrounder attached. The full text of the decision is available on the NRCB website at <http://www.nrcb.gov.ab.ca>.

**For more information, please contact:**

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# Background

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## Natural Resources Conservation Board Decision on AAA Cattle Company's application.

### Background

AAA Cattle Company is a confined feeding operation in Mountain View County.

The company applied on January 4, 2002 for an Approval to construct and operate a combined 2,000 beef finisher and 16,200 head beef feeder facility. Through a development permit issued by the County on December 19, 2000, AAA Cattle Company was already authorized to operate a 2,500 head beef feedlot.

On November 1, 2002 an Approval Officer with the Natural Resources Conservation Board denied the application as it was felt there was insufficient information to determine whether the proposed liner for the feedlot and the catch basin would meet the regulated requirements.

AAA Cattle Company requested a hearing to review the decision. The board granted the hearing and heard arguments from AAA, the Committee for Lone Pine and Mountain View County in February 2003. The review panel determined that the proposed operation and facilities, in association with the additional commitments of AAA Cattle Company, met or exceeded the technical requirements of the *Agricultural Operation Practices Act*. The panel was satisfied that the proposed development, with a conscientiously applied monitoring program, in combination with the conditions imposed by Alberta Environment and the Natural Resources Conservation Board, would ensure groundwater protection.

The review panel's decision was appealed to the Court of Appeal by the Committee for Lone Pine.

On November 8, 2004 AAA had 6300 cattle on the site and had constructed new holding pens, which were in compliance with the Approval it received in July 2003, following the February 2003 decision of the review panel.

The Court of Appeal decision that was issued verbally on November 8, 2004 put the operation into non-compliance. The decision of the Court upheld the pre-January 1, 2002 municipal development permit that allowed AAA to have 2500 head, but quashed the Approval resulting from the NRCB review panel decision. The effect of the Court's decision was to limit the operation to using the original facilities that were constructed prior to the *Agricultural Operation Practices Act* coming into force in 2002.

The enforcement order issued on November 24, 2004 reflected the decision of the Court. It required the operator to reduce the herd to 2500 by 1000 head each week and to put in place a plan to remove the new pens.

A review of the enforcement order was sought by AAA and a review hearing was held by a panel of the NRCB on January 18, 2005. This resulted in a partial stay of the enforcement order pending the outcome of the revised application under consideration. The animal capacity permitted at the AAA site was limited to 5261 head by the review panel.

On December 20, 2004, the Board directed the amended application back to the Approval Officer for reconsideration, in accordance with the decision of the Court of Appeal and the *Agricultural Operation Practices Act*.

On April 21, 2005, the NRCB approved AAA Cattle Company's application.

The reconsideration of the application by the NRCB in part focused on the direction of the Court of Appeal and included a review of the environmental risk of AAA Cattle's pre-existing facilities and the effect they may have on the integrity of the larger cattle operation. The balance of the findings of the Board were not

attacked and were left intact by the Court of Appeal. The review also looked at the application and its compliance with the regulations set out in the *Agricultural Operation Practices Act*.

The review of the application found that the proposed development addresses the direction of the Court of Appeal's November 8, 2004 ruling and that the environmental risk posed by the preexisting facilities has not posed any measurable risk to date, and will continue to be monitored to ensure that an environmental risk does not develop in the future; meets the environmental and technical requirements set out in the *Agricultural Operation Practices Act*; and meets the land use provisions of Mountain View County's Municipal Development Plan. The decision also addresses submissions from Mountain View County, Calgary Health Region, Alberta Environment, Alberta Transportation, the Committee for Lone Pine, neighbours and members of the community.

The full text of the decision is available on the NRCB website at <http://www.nrcb.gov.ab.ca>.

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**Questions and Answers**

NRCB Decision on AAA Cattle Company's application.

**Why was the NRCB able to consider this application after their earlier decision which was quashed by the Court of Appeal?**

The *Agricultural Operation Practices Act* statute obliges the Board to review and reconsider the application. This process is not inconsistent with the Court decision.

**What is different about this application now?**

The Court directed the Board to look at additional considerations relating to the preexisting operation. The application provides additional information which goes to addressing the considerations relating to the preexisting operation.

**What environmental inspections have been conducted on the operation?**

The operation has been inspected by Alberta Agriculture, Food and Rural Development, Natural Resources Conservation Board field inspectors, Alberta Environment and the Calgary Health Authority. The inspections have included all of the structures and water wells in their inspections. The existing facilities at the AAA confined feeding operation have been found to not pose an environmental risk.

The operation is also subject to ongoing monitoring to identify any emerging risk to groundwater.

**Does the operation have any effect on the local community?**

The *Agricultural Operation Practices Act* requires the board to consider effects on the environment, economy, the community and the appropriate use of land, including the effect on adjacent properties, surface and groundwater, and air and soil quality.

The Approval Officer determined that the operation does not pose a risk to the environment. In addition the operation meets the requirements of the Mountain View County Municipal Development Plan (MDP). The MDP is a planning tool that sets out acceptable development and land uses within the area covered by the plan and therefore is a planning document for the community. The effects on the community are therefore within the parameters that the County and its residents have adopted.

The operation is located in an area that is zoned for agricultural land use.

### **What's next?**

Directly affected parties have 10 days to request a review of the Approval Officer's decision. The Board may either schedule a review or if it determines that the issues were adequately dealt with by the Approval Officer, it may decline to conduct a review.

### **Does this decision have any affect on other confined feeding operations?**

No. Every operation reviewed by the Natural Resources Conservation Board is considered on its own merits.

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