



## **BOARD DECISION**

### **RFR 2020-10 / LA19032**

In Consideration of a Request for Board Review filed under the *Agricultural Operation Practices Act* in relation to Decision Summary LA19032

Corner's Pride Farms Ltd.

December 15, 2020

**The Board issues this decision document under the authority of the *Agricultural Operation Practices Act (AOPA)*, following its consideration of four requests for Board review of Decision Summary LA19032.**

## **Background**

On October 28, 2020, Natural Resources Conservation Board (NRCB) Approval Officer Carina Weisbach issued Decision Summary LA19032 and Approval LA19032 with conditions, to construct a new beef finisher feedlot confined feeding operation (CFO) as proposed by Corner's Pride Farms Ltd. (Corner's Pride), to be located at NE 7-7-20 W4M in Lethbridge County. The construction includes:

- A new 2,500 beef finisher feedlot CFO
- Six pens with shelter (19.5 m x 137.2 m each)
- Catch basin (75 m x 35 m x 4.5 m deep)

Pursuant to section 20(5) of the *Agricultural Operation Practices Act (AOPA)*, four Requests for Board Review (RFR) of Decision Summary LA19032 were filed by directly affected parties, all of which met the 10-day filing deadline, being November 19, 2020, as established by AOPA.

Pursuant to AOPA, section 20(6), the Board received a request to reconsider the approval officer's finding that Charles and Meridel Graves were not directly affected by Application LA19032. This request was filed as part of the group submission (RFR #2) and therefore met the 10-day filing deadline established by AOPA.

Under the authority of section 18(1) of the *Natural Resource Conservation Board Act*, a division of the Board consisting of L. Page Stuart (panel chair), Indra L. Maharaj, and Earl Graham was established on November 20, 2020 to consider the RFRs. The Board convened to deliberate on the RFRs on November 24, 2020 and again on November 30, 2020.

As established by the approval officer, all directly affected parties and the parties determined not directly affected were notified of the Board's intent to review these requests and provided with a copy of the RFRs on November 20, 2020. Parties that had an adverse interest to the matters raised in the RFRs were given the opportunity to submit a rebuttal. On November 26, 2020, the Board received one rebuttal from Corner's Pride, which was filed prior to the rebuttal deadline.

The Board sent a letter to all parties on December 3, 2020. That letter advised parties of the Board's decision to deny all RFRs, with reasons to follow.

## Jurisdiction

The Board's authority for granting a review of an approval officer's decision is found in section 25(1) of AOPA, which states:

- 25(1) The Board must, within 10 working days of receiving an application under section 20(5), 22(4) or 23(3) and within 10 working days of the Board's determination under section 20(8) that a person or organization is a directly affected party,*
- (a) dismiss the application for review, if in the opinion of the Board, the issues raised in the application for review were adequately dealt with by the approval officer or the issues raised are of little merit, or*
  - (b) schedule a review.*

The Board considers that a party requesting a review has the onus of demonstrating that there are sufficient grounds to merit review of the approval officer's decision. Section 13(1) of AOPA's Administrative Procedures Regulation (AOPA Procedures Regulation) describes the information that must be included in each request for Board review.

## Documents Considered

The Board considered the following information in reaching this decision:

- Decision Summary LA19032, dated October 28, 2020
- Approval LA19032, dated October 28, 2020
- Technical Document LA19032, dated October 28, 2020
- RFR filed by Murray Charles and Carmen Mack (RFR#1), dated November 18, 2020
- RFR filed as a group submission (RFR#2), dated November 18, 2020:
  - Kim, Linda, Justin, and Travis Jensen
  - Cory and Cara Rasmussen
  - Darlene Urban
  - Helen Crombez
  - Joe and Danielle Miko
  - Antonio Ramirez
  - Tom Reich
  - Ian and Susan Wishaw
  - Carole and Dean Jenkins
- RFR filed by the Jensens, the Grants, and Barclay Lutz represented by Michael B. Niven (RFR #3), dated November 19, 2020
- RFR filed by Hugh and Lynne Grant, Ian and Susan Wishaw, Tom Reich, and Barclay Lutz (RFR #4), dated November 19, 2020
- Portion of group submission RFR#2 filed by Charles and Meridel Graves requesting directly affected status, dated November 19, 2020

- Portions of the public record maintained by the approval officer
- Rebuttal filed by Corner's Pride Farms Ltd., dated November 26, 2020
- Lethbridge County Municipal Development Plan
- Lethbridge County Land Use Bylaw No. 1404
- Lethbridge County & County of Warner Intermunicipal Development Plan, October 2019

## **Eligibility to File an RFR**

### **The directly affected parties**

The Board must consider an RFR filed by a directly affected party within the statutory time frame. Four RFRs were filed by the directly affected parties (some parties filed twice in separate RFRS – the Jensens, the Wishaws, the Grants, Barclay Lutz, and Tom Reich).

### **Parties asking for a review of their status**

Charles and Meridel Graves applied to the Board for a review of whether they are directly affected parties. In support of their request they stated that they are 300 metres from the manure application site.

The Board's approach is the same as outlined by the approval officer in Decision Summary LA19032. The onus is on the party requesting directly affected party status to demonstrate that:

- a plausible chain of causality exists between the proposed project and the effect asserted,
- the effect would probably occur,
- the effect could reasonably be expected to impact the party,
- the effect would not be trivial, and
- the effect falls within the NRCB regulatory mandate under AOPA.

The Board agrees with the approval officer that parties may experience some odours when manure spreading takes place; however, the infrequency and short duration of manure spreading reduces impacts to a level the Board finds trivial. The Board finds that Charles and Meridel Graves have not established that they would be directly affected by the matters addressed in the application.

## **Board Deliberations**

The Board met on November 24 and 30, 2020, to consider the issues raised in the various RFRs. While the RFRs covered a number of issues, they focused on the following:

- Legislative and regulatory compliance
- Water quality

- Effects on environment, economy and community

As referenced above, the Board must consider whether the party requesting a review has identified sufficient grounds to merit review of the approval officer's decision. This process includes a consideration by the Board of whether the issues raised in the RFR were adequately considered by the approval officer.

The Board has reviewed each of the matters raised by the directly affected parties in their RFRs and, in each case, is satisfied that these issues were adequately considered by the approval officer for the reasons stated below.

## **Legislative and Regulatory Compliance**

### *Part 2 Filing Deadline*

RFR#1 and RFR#2 asserted that the Part 2 approval application (Part 2) submission deadline was extended twice by the approval officer, with a final date extending beyond the one year limit defined in AOPA's Procedures Regulation.

A letter dated August 8, 2019 from the approval officer to the Corner's Pride CFO stated that the Part 1 of the approval application (Part 1) was received by the NRCB on August 1, 2019, and that Part 2 was required to be submitted by February 8, 2020. Corner's Pride requested extensions on January 22, 2020 and March 27, 2020. The approval officer granted the first extension, setting August 10, 2020 as the new Part 2 filing deadline. The approval officer acknowledged receipt of Part 2 on August 4, 2020.

The Board accepts that Part 1 was received by the NRCB on August 1, 2019. The Board notes that the approval officer had the authority to extend the Part 2 filing deadline pursuant to Part 1, section 2(5) of AOPA Procedures Regulation, which states:

*2(5) An approval officer may extend the time for filing Part 2 of an application on the written request of an applicant, but in no event may the time be extended beyond one year from the filing of Part 1 of the application.*

Further, section 7 of the *Interpretation Act* states that:

*(7) If an enactment provides that anything is to be done within a time after, from, of or before a specified day, the time does not include that day.*

In reading these two sections together, the Board agrees that the approval officer had the authority to extend the Part 2 filing date for a period of time up to one year from the date that Part 1 was filed. Referring to the *Interpretation Act*, section 7, the Board concludes that the calculation of "one year" would commence on August 2, 2019. Accordingly, the approval officer had the authority, pursuant to section 2(5) of AOPA's Procedures Regulation to extend the deadline to August 1, 2020.

As August 1, 2020 fell on a Saturday (a holiday) and August 3, 2020 — the first weekday following August 1, 2020 — was a statutory holiday, the Board refers to section 22(1) of the *Interpretation Act*, which states:

*22(1) If in an enactment the time limited for the doing of a thing expires or falls on a holiday, the thing may be done on the day next following that is not a holiday.*

The Board concludes that the first business day following the filing date for Part 2 would have been August 4, 2020. Despite that the approval officer extended the Part 2 filing date to August 10, 2020, a date beyond one year from the Part 1 submission, there is no dispute that Part 2 was received by the NRCB on August 4, 2020, the latter meeting the statutory obligation.

The Board finds that Corner's Pride filed Part 2 within one year of the date of filing of Part 1, and therefore, the issue of a late Part 2 filing is without merit.

### *Section 8(3) of the NRCBA*

The parties represented in RFR#3 cited Section 8(3) of the *NRCB Act* as the basis for their request for a hearing. Section 8(3) of the *NRCB Act* states:

*(3) Where the Board receives a written objection in respect of an application and the objection is submitted by a person who the Board considers is directly affected by the proposed project, the Board shall hold a hearing in respect of the application unless it considers the objection to be vexatious or of little merit.*

Section 8(3) of the *NRCB Act* applies only to reviewable projects as defined in section 4 of the NRCBA.

The Board finds that the assertion of non-compliance with the NRCBA is without merit.

### *Operator Compliance with Legislation and Regulations*

RFR#1 included concerns related to past irrigation practices by the applicant that allegedly violated the "terms and conditions set out in the approval". The RFR stated that poor watering techniques would cause undesirable runoff to enter neighbouring yards and lands, which has allegedly occurred repeatedly over the last number of years in the spring and summer months on the property owned by the directly affected parties Charles and Mack.

In the decision summary, the approval officer addressed the role of the NRCB with respect to matters of compliance:

*Once a complaint has been made to the NRCB about a CFO or manure, a NRCB inspector will investigate the complaint. This includes contacting the operator and, as required, a site visit. Irrespective of who the owner and operator of the CFO are, the NRCB will respond to concerns and ensure that AOPA requirements are being met. The NRCB inspector will communicate with those parties who they consider appropriate to*

*communicate with. If a person or party has concerns regarding manure collection or storage facilities, spreading or other CFO related issues, those concerns can be reported to the NRCB's 24 hour reporting line (1-866-383-6722). The call will be followed up on by an NRCB inspector. Neighbours and concerned parties can also call any NRCB office during regular business hours if they have questions about permit conditions or ongoing AOPA operational requirements.*

The Board reminds all parties that compliance with AOPA and its associated regulations is enforceable under AOPA. NRCB inspectors have the authority to issue enforcement orders, emergency orders, and compliance directives for unauthorized construction, all of which are posted on the NRCB website until compliance is established. These incidents form a permanent part of the record of an operation. Nonetheless, the anticipation of future non-compliance is not a matter for consideration by the Board.

The Board finds that the approval officer adequately dealt with issues related to operator compliance.

### *Out-of-Province Ownership*

RFR#1 included a concern that Corner Pride's parent company is located in British Columbia, citing negative impacts on local infrastructure and economy, a resultant increase in taxes, and the degradation of residents' quality of life.

In the decision summary, the approval officer stated that land purchase is not under the jurisdiction of the NRCB and, specifically, that there are no provisions in AOPA that restrict the establishment and operation of CFOs to local residents or community members at large.

The Board agrees that AOPA does not include any requirement pertaining to the residency of the owner or operator of a CFO, and finds that out-of-province ownership is a matter outside of AOPA's mandate.

### *Public Notice and Procedural Fairness Matters*

RFR#1 and RFR#2 included general assertions related to a number of procedural issues, including the perceived inequality of assistance available to project opponents versus project applicants, neighbours not being consulted during site visits, project opponents not being heard in the appeal process, inaccuracies with respect to resident and landowner information within the 1.5 mile radius of the CFO, and irregularities with respect to the time limits for directly affected parties to complete various steps in the process.

RFR#2 stated that in January 2020, one directly affected party unknowingly purchased a quarter section of land 65 feet from the proposed CFO location as a result of the lack of community consultation and there being no obligation for NRCB to notify Alberta Land Titles of the pending application.

The approval officer asserted that there is no requirement under AOPA for an applicant to consult with neighbours in advance of a CFO development application, and that that public notice is given to inform residents and landowners in the case of approvals and registrations. With respect to the AOPA process and the order in which communications are structured during the approval evaluation process, the approval officer submitted the following:

*AOPA describes in detail how the application and approval process has to proceed. Therefore, public notice is given once the application is deemed to be technically complete which includes all pertinent soil investigations and construction plans. In general, it seems logical to have all necessary information about an individual proposal before making a decision if and in which way a person might be affected by it or what concerns might remain.*

Referencing AOPA section 19(1), the approval officer detailed that courtesy letters were sent based on names and addresses provided by the municipality, but noted these letters are intended only to refer recipients to where the official notice is published; in this case, the Lethbridge Herald. The approval officer granted a one-week extension to a party who requested additional time to submit a statement of concern. No other parties requested extensions. The approval officer addressed the opportunity of parties to communicate concerns:

*Public consultation is a process that is widely used to gather input from the general public and is, as one of the respondents pointed out, the time to voice concerns, opposition or support. In this case, we received multiple responses to the application notice that all have been carefully evaluated during the decision making process.*

The approval officer addressed the question of directly affected parties having unknowingly purchased a quarter section of land across from the proposed CFO location, by confirming that AOPA does not prevent residential developments from being established adjacent to or within the MDS of a CFO, and that land subdivision and housing developments are within the jurisdiction of the municipality in which they are proposed. The approval officer stated that a comprehensive evaluation of residences within the 1.5 mile affected party radius was conducted.

The Board notes that the RFRs do not provide specific evidence of procedural errors, and finds that the approval officer addressed the issues brought forward in the statements of concern. The Board relies on the prescribed statutory MDS radius, along with the AOPA public notice requirements.

The Board notes that the date that Part 1 (Schedule 1) of the application is received is the date at which the minimum distance separation (MDS) is established, as is referenced in the AOPA Standards and Administration Regulation 3(2), which states:



*(2) The minimum distance separation must be calculated using Schedule 1 as of the date the application is received by an approval officer or the Board.*

AOPA clearly outlines the application process for proposed CFO facilities. The Board finds the approval officer executed a process consistent with AOPA, its regulations, and NRCB policy.

The Board finds that the assertions related to public notice and procedural fairness are adequately addressed by the approval officer, or are without merit.

## **Water Quality**

### *Stormwater Management*

RFR#1 raised the concern that the County of Warner is vulnerable to uncontrolled runoff from the CFO should there be heavy rain, snow, or uncontrolled irrigation, affecting the residents to the south, west and east of the CFO. RFR#1 also suggested that the approval officer should have contacted Mr. Tyler Nelson, development officer for the County of Warner, regarding the calls that county received from concerned residents.

The approval officer mailed the completed Corner's Pride CFO application to affected municipalities and referral agencies, including Lethbridge County, the County of Warner, and the Raymond Irrigation District (RID). Ms. Jansen, representing Lethbridge County, stated that the application was consistent with Lethbridge County's municipal development plan (MDP) and requested a storm water management plan be included as a condition should a permit be issued. Ms. Jansen also confirmed that the application meets the setback required by Lethbridge County's land use bylaw.

The approval officer also referenced a response from Mr. Tyler Nelson with the County of Warner, who stated that the proposed CFO is within 0.5 miles of the boundary of the County of Warner and is within the intermunicipal development plan (IDP) planning area. Mr. Nelson also confirmed that the county had received a number of calls from concerned residents. The approval officer confirmed that the IDP is cross-referenced in Lethbridge County's MDP and therefore formed part of the MDP consistency analysis, which is a standard component of the approval application process under AOPA.

The approval officer confirmed that Corner's Pride intended to implement a runoff control system that will provide runoff storage volume of 4992 m<sup>3</sup>, exceeding the calculated requirement of 4593 m<sup>3</sup> required for a one in 30-year rainfall event under AOPA. Corner's Pride stated that they would control all run-on to the facility (mainly coming from the northeast and north) by diverting water around the facility to prevent run-on water from being contaminated with manure.

The Board has regard for the concerns of the directly affected parties as they relate to stormwater events. However, the Board first notes that none of the referral municipalities or

agencies objected to the application. Further, the proposed CFO is not within any of the exclusion or restricted areas identified within the IDP area. As well, the run-on and runoff control system proposed by the Corner's Pride CFO meets the requirements of AOPA as described by the approval officer. The Board references AOPA's Standards and Administration Regulation and notes the applicant's proposal meets the technical requirement for catch basins, as set out in section 19(2), which states:

*19(2) The catch basin must have a storage capacity that can accommodate at least a one day rainfall that has a one in 30 year probability, as calculated in accordance with Schedule 2.*

The Board notes the commitment of Corner's Pride, in a filed rebuttal, that they do not intend to populate the site with cattle until the RID has finished current supply line construction asserted to improve local drainage conditions.

The Board finds that the proposed surface water control system meets the requirements established by AOPA.

The Board finds that the approval officer adequately dealt with stormwater management.

#### *Surface and Groundwater Quality Risk – CFO Site*

RFR#1 included generally stated concerns relating to contamination of groundwater and well water.

The approval officer confirmed that the proposed CFO satisfies the technical requirements of AOPA, including an assessment using the Environmental Risk Screening Tool that the risk to groundwater and surface is low.

The Board agrees that the technical requirements of AOPA have been met, and that the RFR has not met the burden of finding an issue that was not adequately considered by the approval officer. The Board finds that the approval officer adequately addressed risk to surface and groundwater.

#### *Surface Water Contamination from Manure Spreading and Flooding*

All four RFRs identified concerns relating to the lands identified for manure spreading, citing clay soils with slow absorption rates, areas of frequent flooding, and a high water table, as key issues. The directly affect parties stated that the majority of the lands owned by the applicant, and proposed to accept the manure from the CFO, are adjacent to a common body of water (the irrigation drain) already compromised by the additional use of conveying irrigation water to nearby farmers. They asserted that, as a result, the drain is not properly sized to handle both irrigation water and runoff during rainfall and water shedding events. The RFRs stated that these factors, combined with the nearly level, low-lying lands adjacent to this drain, resulted in periodic flooding.

RFR#4 also included concerns that contaminants from manure spreading will remain on the surface of the soil until irrigation or drain overflows move them downstream, resulting in surface and groundwater contamination. RFR#4 stated: “Recognizing the risk that applying manure to Corner's Pride land poses to both our land and the environment, Corner's Pride does not have access to sufficient suitable land to manage the manure on. Without access to sufficient land, there is no way approval can be granted for the CFO.”

The approval officer confirmed that Corner’s Pride identified manure spreading lands exceeding the calculated requirement of 383 irrigated acres required by section 24(2)(a) of AOPA’s Standards and Administration Regulation.

The approval officer also acknowledged that respondents submitted photos showing significant flooding. The approval officer noted that, in response to the statements of concern, Corner’s Pride committed to refrain from spreading manure in the months of snowmelt or higher rainfall events on any lands that experience flooding, mainly NW 5-7-20 W4 and SW 5-7-20 W4. Further, the approval officer imposed condition #6 in Approval LA19032 stipulating that “The permit holder shall not apply manure on the W½ 5-7-20 W4 during March 1 to June 30”, and confirmed that this commitment is included as an ongoing condition.

The Board notes that the AOPA Standards and Administration Regulation provides that an applicant must only demonstrate that they have sufficient land base for manure spreading for the first year following the granting of the application (section 25(2)(a)). The Board is satisfied that the Corner’s Pride has met the requirements to identify potential manure spreading lands, and notes that Corner’s Pride is not bound to use these identified lands for manure spreading.

The Board reminds parties that CFO operators must have regard for the AOPA Standards and Administration Regulation’s nutrient management, including sections 22 to 27. For example, section 24 stipulates setbacks to common bodies of water for manure spreading that are intended to provide reasonable and adequate protection for water resources, including decreasing the risk of runoff. Non-compliance becomes a matter for the NRCB’s compliance division.

The Board finds that the approval officer adequately dealt with concerns related to surface water contamination from manure spreading and flooding.

## **Effects on Environment, Economy and Community**

### *CFO Location*

RFRs #1, #2, and #3 referenced concerns related to the increasing concentration of residences within a two-mile radius of the proposed CFO. RFR#2 asserted that “the applicant should be responsible to select a site that does not disrupt his neighbours and surrounding community

negatively and he should be fully responsible for the buffer zone.” RFR#2 further expressed concerns regarding family succession plans.

In the decision summary, the approval officer stated that municipalities establish their own rules for regulation and housing development, through land use considerations and related municipal permitting processes. The approval officer stated that “AOPA does not require an applicant to justify a selected site for a proposed development relative to other possible sites, but rather if the proposed site is able to meet the various requirements of the legislation.”

The Board agrees that there is no evidence that the CFO location is inconsistent with AOPA’s technical requirements, nor are there any demonstrated inconsistencies with the IDP, MDP or related land use considerations.

The Board finds that the approval officer adequately dealt with the issue of CFO location.

### *Nuisance Impacts*

RFR#1 and RFR#3 expressed nuisance concerns including odour, traffic related dust, noise, flies and pests, and raised concerns about the risk of increased health issues and an inability to enjoy the outdoors.

In the decision summary, the approval officer addressed the relationship between AOPA’s MDS requirements and the nuisance effects from CFOs.

The approval officer commented that when a given proposed CFO can meet the MDS to all neighbouring residences, it is presumed that nuisance effects from the CFO facilities are within an acceptable range of effects. The approval officer noted that most of these parties reside on or own land that is approximately two to three kilometers south and southwest of the CFO site. The required MDS from the CFO to the nearest residence is 531 metres for land zoned agriculture (Category 1), and 709 metres for residences on land zoned country residential (Category 2). The closest existing residence was determined to be over 1,000 metres south of the proposed CFO.

The approval officer noted that increased traffic along township road 70 might be expected, but that dust should be limited because this township road has a paved surface. The approval officer commented that “to minimize road dust, the operator has the option to enter into an agreement with the county to treat specific sections of the road.”

The approval officer made specific mention of fly infestations, with respect to the requirement under section 20(1) of AOPA’s Standards and Administration Regulation, which stipulates that an owner or operator of a CFO must employ reasonable measures to control the level of infestation of flies at a location occupied by the operation.

The approval officer also referred to the Alberta Health Services (AHS) referral letter, which included the Corner's Pride CFO application and the statements of concern. The approval officer noted that AHS did not respond.

The approval officer noted that odours are likely to result from land application of manure. In this regard, the approval officer referenced section 24 of the AOPA Standards and Administration Regulation, which stipulates that manure shall not be applied within 150 metres from a residence, a setback intended to minimize normal odours from manure spreading. The decision summary included reference to the Corner's Pride CFO's commitment to reduce odour from manure spreading by "either [spreading] manure on fields that will be reseeded which will allow the manure to be incorporated within 48 hours of spreading, or [irrigating] the fields with one inch of water within 48 hours where manure has been spread on forage or other standing crop".

The approval officer reminded parties that incidences of non-compliance can be reported to the NRCB's 24-hour a day reporting line (1-866-383-6722 or 310-0000 toll free)." A specific condition is included in Approval LA19032 relating to the irrigation condition.

The Board notes with interest the condition described as a method to mitigate odour due to manure spreading, given that AOPA's Standards and Administration Regulation provides only that an applicant demonstrate they have sufficient land base for manure spreading for the first year following the granting of the application and notes that the Corner's Pride CFO has agreed to the condition. The Board provides only a cautionary note: In no event can a condition be imposed (for example, the land application of irrigation water during high rainfall conditions), where it would have a reasonable likelihood of contravening AOPA or its associated regulations (for example, those described in AOPA's Standards and Administration Regulation, relating to manure spreading).

The Board accepts that the purpose of applying an MDS between CFOs and neighbouring residences is to mitigate the impact of nuisance effects on the local community. Further, the Board is satisfied that the approval officer addressed concerns related to odour, traffic related dust, noise, flies and pests, health and enjoyment issues.

The Board finds that the approval officer has adequately dealt with the concerns relating to nuisance impacts and health.

### *Taxes, Property Value, and Impact to Community Infrastructure*

RFR#1 and #2 asserted that negative impacts to the community surrounding the CFO include property devaluation, impact on road infrastructure, and a general negative economic impact accompanied by an inevitable increase in taxes.

The approval officer sent referral letters to Lethbridge County and the County of Warner and commented that, consistent with Section 18 of the *Municipal Government Act*, neither the County of Warner nor Lethbridge County made any comments on the potential increase in maintenance costs and subsequent increase in property taxes to compensate for these expenses. With respect to road use, the approval officer asserts the following:

*The NRCB does not have direct responsibility for regulating road use. Section 18 of the Municipal Government Act gives counties “direction, control and management” of all roads within their borders. Because of this it would be impractical and inefficient for the NRCB to attempt to manage road use through AOPA permits. (See Operational Policy 2016-7: Approvals, part 8.9.)*

The decision summary addressed property value as a matter that is not a subject for Board review under AOPA, or for approval officers’ consideration.

The Board agrees that consequential community costs, such as property taxes, are the responsibility of the county. Additionally, the Board agrees that the impact on property values is related to land use planning, a matter dealt with by municipalities in municipal development plans and land use bylaws.

The Board finds that the approval officer adequately dealt with the issues related to taxes, property value, and impact to community infrastructure, either in determining they are matters outside of AOPA’s mandate, or are otherwise related to municipal land use planning.

### *Environmental impacts*

RFR#2 and RFR#4 included concerns relating to environmental impact, citing increased CO<sub>2</sub> and ammonia emissions.

In the decision summary the approval officer assessed the effects of the proposed CFO on the environment, concluding that, consistent with NRCB policy, the effects are presumed acceptable given the application meets all of AOPA’s technical requirements. The approval officer further noted that the proposed CFO is an appropriate use of land, based on NRCB policy interpretation that the application is consistent “with the municipal development plan and land use bylaw (See NRCB Operational Policy 2016-7: Approvals, part 8.7.3)”, and that the concerns have not been rebutted.

The Board notes that cumulative effects issues, including impacts due to CO<sub>2</sub> or ammonia, fall within the *Alberta Land Stewardship Act* and thus are matters beyond AOPA’s statutory scheme.

The Board finds the approval officer adequately dealt with the issue of environmental impacts.

## Board Decision

As a result of its deliberations, the Board finds that each of the issues raised in the filed Requests for Review were adequately considered by the approval officer, or have no merit. The RFRs are denied.

DATED at EDMONTON, ALBERTA, this 15<sup>th</sup> day of December, 2020.

*Original signed by:*

\_\_\_\_\_  
L. Page Stuart

\_\_\_\_\_  
Indra L. Maharaj

\_\_\_\_\_  
Earl Graham

Contact the Natural Resources Conservation Board at the following offices. Dial 310.0000 to be connected toll free.

**Edmonton Office**

4th Floor, Sterling Place, 9940 - 106 Street  
Edmonton, AB T5K 2N2  
T (780) 422.1977

**Calgary Office**

19<sup>th</sup> Floor, 250 – 5 Street SW  
Calgary, AB T2P 0R4  
T (403) 297.8269

**Lethbridge Office**

Agriculture Centre, 100, 5401 - 1 Avenue S  
Lethbridge, AB T1J 4V6  
T (403) 381.5166

**Morinville Office**

Provincial Building, #201, 10008 - 107  
Street  
Morinville, AB T8R 1L3  
T (780) 939.1212

**Red Deer Office**

Provincial Building, #303, 4920 - 51 Street  
Red Deer, AB T4N 6K8  
T (403) 340.5241

NRCB Response Line: 1.866.383.6722

Email: [info@nrcb.ca](mailto:info@nrcb.ca)

Web Address: [www.nrcb.ca](http://www.nrcb.ca)

Copies of the *Agricultural Operation Practices Act* can be obtained from the Queen's Printer at [www.qp.gov.ab.ca](http://www.qp.gov.ab.ca) or through the NRCB website.