

Decision Summary RA21040A

This document summarizes my reasons for issuing Authorization RA21040A, an amended version of Authorization RA21040, under the *Agricultural Operation Practices Act* (AOPA). Additional reasons, as well as the full application, are in Technical Document RA21040A. 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.

1. Background

On May 3, 2022, the NRCB issued Authorization RA21040 to 556232 Ontario Ltd., operated by Stuart and Rosemary Vander Ploeg (the Vander Ploegs), which allowed them to construct a dry cow/young stock barn and a solid manure pad at an existing dairy confined feeding operation (CFO). The Vander Ploegs have constructed the barn in a north to south orientation, which is different than the east to west orientation approved under Authorization RA21040.

This modification is considered to be unauthorized construction, and therefore, the NRCB's compliance division is aware and involved in this application.

On January 26, 2024, the Vander Ploegs applied to amend that authorization in order to modify the orientation of the dry cow/young stock barn.

Under the proposal, the barn was built using the same concrete and compacted clay liners that were previously permitted for the original barn. No increase in livestock numbers or manure production is proposed.

Under AOPA, this type of application requires an amendment to an authorization.

a. Location

The CFO is located at E½ 5-43-24 W4M in Ponoka County, roughly 9 km east of the town of Ponoka, Alberta. The terrain is gently undulating with a general slope to the west.

2. Notices to “Affected Parties”

Under section 21 of AOPA, the NRCB notifies all parties that are “affected” by an authorization application. Section 5 of AOPA's Part 2 Matters Regulation defines “affected parties” as:

- the municipality where the CFO is located or is to be located
- 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 municipality entitled to divert water from that body within 10 miles downstream
- any other municipality whose boundary is within a notification distance. In this case, the notification distance is 1 mile (1,610 m) from the CFO

None of the CFO facilities are located within 100 m of a bank of a river, stream, or canal.

On January 26, 2024, a copy of the application for amendment was sent to Ponoka County, which is the municipality where the CFO is located.

Also on January 26, 2024, the NRCB emailed referral letters and a copy of the application for amendment to Alberta Environment and Protected Areas (EPA), Alberta Agriculture and Irrigation (AGI), and Chain Lakes Gas Co-op Ltd.

3. Responses from Municipality and Referral Agencies

I received responses from the County and AGI.

The NRCB received an oral response to the application notice from Peter Hall, the chief administrative officer with Ponoka County. As noted in section 2, Ponoka County is a directly affected party.

In his response, Mr. Hall indicated that the County has no concerns with this application. The County adopted its current MDP on October 2018, under Bylaw 6-08-MDP. This is the same MDP that I considered when I issued Authorization RA21040 on May 3, 2022. The Vander Ploegs' present application is consistent with that MDP for the same reasons as those provided in Appendix A of Decision Summary RA21040.

Mr. Wade Horton, an inspection and investigation specialist with AGI, indicated that his department has no concerns with this application.

4. Environmental risk screening of existing facilities and proposed new MSF

When reviewing new permit applications for an existing CFO, NRCB approval officers normally assess the CFO's existing buildings, structures, and other facilities, using the NRCB's environmental risk screening tool, to determine the level of risk they pose to surface water and groundwater. This tool provides for a numeric scoring of risks, which can fall within either a low, moderate or high-risk range. (A complete description of this tool is available under CFO/Guides on the NRCB website at www.nrcb.ca.) However, if those risks have previously been assessed, the approval officer will not conduct a new assessment unless site changes are identified that require a new assessment, or the assessment was done with a previous version of the risk screening tool and requires updating.

In this case, the risks posed by the Vander Ploegs' CFO facilities were assessed in 2022. According to that assessment, the facilities posed a low risk to surface water and groundwater. Additionally, under application RA21040, I used the NRCB's environmental risk screening tool to determine the level of risk the proposed dry cow/young stock barn and manure storage pad posed to surface water and groundwater. The risk assessment found that the new barn and manure storage pad posed a low risk to groundwater and surface water.

With the exception of the constructed barn's orientation permitted by Authorization RA21040, the circumstances have not changed since that assessment was done. The constructed barn has the same concrete and compacted clay liner as the barn permitted by Authorization RA21040.

For these reasons, a new assessment of the risks posed by the CFO's existing facilities, and the constructed barn is not required. The risk posed by the modified barn is therefore presumed to be low.

5. Factors Considered

The previous application RA21040 met all relevant AOPA requirements. The proposed change to the orientation of the barn has no impact on that determination, which still stands. Additionally, the terms and conditions summarized in section 6, include the terms and conditions from Authorization RA21040.

6. Terms and Conditions

Rather than issuing a separate “amendment” to Authorization RA21040, I am issuing a new authorization (RA21040A) with the required amendment. Authorization RA21040A therefore contains all of the terms and conditions in RA21040, except for the modification in regard to the orientation of the dry cow/young stock barn.

7. Conclusion

Authorization RA21040A is issued for the reasons provided above, in Decision Summaries RA21040 and RA21040A, and in Technical Documents RA21040A. In the case of a conflict between these documents, the latest ones will take precedence.

Authorization RA21040 is therefore superseded, unless Authorization RA21040A is held invalid following a review and decision by the NRCB’s board members or by a court, in which case the previous permit will remain in effect.

July 16, 2024

(Original signed)

Francisco Echegaray, P.Ag.
Approval Officer