



Decision Summary RA23007

This document summarizes my reasons for issuing Approval RA23007 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA23007. 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.

Under AOPA this type of application requires an approval. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

Westway Farms Ltd. (Westway) has a large cow/calf and grain operation. In May of 2022, the NRCB received a complaint about Westway having an unauthorized beef feedlot. NRCB staff investigated the complaint and found that while the site had traditional cow/calf facilities, they also had constructed additional feedlot pens. Westway had agreed to use these additional pens as seasonal feeding and bedding facilities, or as feedlot pens for beef animals below the AOPA threshold animal numbers. During the site inspections, NRCB staff explained to Westway that if they intended to operate these additional pens as a feedlot above the threshold limit, they would require an NRCB permit. Westway confirmed their understanding in a letter.

On February 15, 2023, Envirowest Engineering, acting as an agent for Westway Farms, submitted a Part 1 application to the NRCB to construct a new beef feeder CFO and to permit the previously constructed feedlot pens.

The Part 2 application was submitted on August 16, 2023. I sent the applicant and agent a deficiency letter on August 23, 2023.

On August 21, 2023, the NRCB received a complaint about the site operating as an above threshold feedlot. The NRCB investigated and found that the site was feeding approximately 800 beef finishers (AOPA's threshold for requiring a permit is 149 beef finishers). On September 6, 2023, NRCB Inspector David Smejkal issued Westway Farms a compliance directive (CD 23-08), requiring them to depopulate the feedlot by February 15, 2024, if they did not obtain an NRCB permit for the site. The directive also included requirements to adequately remove the stockpiled manure, after the depopulation. Inspector Smejkal has since extended the due date for Westway to meet these conditions until May 31, 2024.

On October 31, 2023, I deemed the application complete.

On January 30, 2024, Westway notified me that they were no longer intending to use the proposed borrow material to line the catch basin with. On March 8, 2024, I received a soils investigation report for the new borrow material.

The proposed CFO involves:

- Permitting 1000 beef feeders
- Constructing a catch basin – 45 m x 45 m x 3.8 m deep

- Permitting the previously constructed, but unpermitted feedlot pens, and constructing additional pens – 320 m x 160 m (total combined area)
- Decommissioning the three northern most pens that were built over the property line into the NW 10-31-01 W5M
- The applicant also requested variances under section 17 of AOPA of the prohibition against manure storage facilities and manure collection areas less than 100 metres away from water wells. That variance request is discussed in Appendix D and section 9, below.

a. Location

The proposed CFO is located at SW 10-31-01 W5M in Mountain View County, roughly four kilometres southeast of the Town of Didsbury, Alberta. The terrain is generally flat, with an overall slope to the east. The Rosebud River is approximately 400 m to the west/southwest of the proposed feedlot pens. The Town of Didsbury’s municipal lagoon is located on an adjacent quarter section (NW 10-31-1 W5), approximately 60 m north of the closest existing (unpermitted) pens.

During my assessment of the site, I found that the three northernmost unpermitted feedlot pens were constructed on the Town of Didsbury’s property and over top of the property line between Westway’s property, and the Town of Didsbury’s land. The existing three northernmost pens end approximately 50 m into the Town of Didsbury’s quarter section. The applicant has proposed to decommission these pens.

2. Notices to affected parties

Under section 19 of AOPA, the NRCB notifies (or directs the applicant to notify) all parties that are “affected” by an approval application. Section 5 of AOPA’s Part 2 Matters Regulation defines “affected parties” as:

- 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 person or municipality entitled to divert water from that body within 10 miles downstream;
- the municipality where the CFO is located or is to be located;
- any other municipality whose boundary is within a specified distance from the CFO, depending on the size of the CFO;
- all persons who own or reside on land within a specified distance from the CFO, depending on the size of the CFO.

For the size of this CFO the specified distance is 0.5 mile. (The NRCB refers to this distance as the “notification distance”.)

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

A copy of the application was sent to Mountain View County, which is the municipality where the CFO is to be located.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in The Albertan newspaper in circulation in the community affected by the application on October 31, 2023, and

- sending nine notification letters to people identified by Mountain View County as owning or residing on land within the notification distance.

The full application was made available for viewing during regular business hours at the NRCB's Red Deer Office.

3. Notice to other persons or organizations

Under section 19 of AOPA, the NRCB may also notify persons and organizations the approval officer considers appropriate. This includes sending applications to referral agencies which have a potential regulatory interest under their respective legislation.

Referral letters and a copy of the complete application were emailed to Alberta Health Services (AHS) and Alberta Environment and Protected Areas (EPA).

I also sent a copy of the application to the Town of Didsbury, Whitecap Resources Inc., Foothills Natural Gas Co-op Ltd., EQUUS, and Gryphon Petroleum Corp. as utility right of way holders.

Ms. Cortney Hlady, a land use specialist/public health inspector, responded on behalf of AHS. Ms. Hlady provided general comments regarding protection of water wells, and how AHS would work with the NRCB if any complaints are received from the future. No concerns were raised.

Ms. Tiffany Armstrong, an operations administrator, responded on behalf of Foothills Natural Gas Co-op Ltd. Ms. Armstrong stated that they do not have any comments on the application.

Ms. Lee-Ann Gaudette, a development officer, responded on behalf of the Town of Didsbury. The town's response identified concerns about setbacks from the feedlot site to the town's municipal lagoon, construction over the lagoon pipeline right of way, and groundwater monitoring. I have detailed these concerns in Appendix C, attached.

No other responses were received.

Due to the unique layout of the site and close proximity to the municipal lagoon, I contacted additional groups that I felt may have a regulatory interest in the application.

Alberta Environment and Protected Areas did not respond to the application during the initial notice. I sought additional comments from EPA, based on EPA's regulatory authority over wastewater treatment facilities. I received a response to my inquiry from Ms. Jasmine Wang, municipal approvals engineer for EPA. Ms. Wang stated that under the *Standards and Guidelines (S&G) for Municipal Waterworks, Wastewater and Storm Drainage Systems*, minimum setback distances exist between wastewater lagoons and roads, property lines, and schools, hospitals, food establishment sites, or residential sites. Ms. Wang stated that since CFOs are not included in this list, the setbacks do not apply. I also provided Ms. Wang with the concerns raised by the Town of Didsbury. I've referred to Ms. Wang's response in Appendix C, attached.

Municipal Affairs also has oversight of municipal wastewater treatment facilities. I contacted Ms. Shelley Der, a Municipal Planning Advisor at Municipal Affairs. In a phone call, Ms. Der indicated that under the Matters Related to Subdivisions and Development Regulations, under the *Municipal Government Act (MGA)*, section 17(3)(a) requires a minimum of a 300 m setback from a wastewater treatment plant for schools, hospitals, or residences. No requirements are

specified for CFO facilities.

4. Alberta Land Stewardship Act (ALSA) regional plan

Section 20(10) of AOPA requires that an approval officer must ensure the application complies with any applicable ALSA regional plan.

There is no ALSA regional plan for the area where the proposed CFO is to be located.

5. Municipal Development Plan (MDP) consistency

I have determined that the proposed CFO is consistent with the land use provisions of Mountain View County's municipal development plan. (See Appendix A for a more detailed discussion of the county's planning requirements.)

6. AOPA requirements

With respect to the technical requirements set out in the regulations, the proposed CFO:

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS)
- Meets the required AOPA setbacks from springs and common bodies of water
- Has sufficient means to control surface runoff of manure
- Meets AOPA's nutrient management requirements regarding the land application of manure
- Meets AOPA groundwater protection requirements for the design of floors, liners, and protective layers of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 11 and Appendix E, the application meets all relevant AOPA requirements. The variances that are required to address the AOPA requirements around water well setbacks are discussed Appendix D of this decision summary.

7. Responses from municipality and other directly affected parties

Directly affected parties are entitled to a reasonable opportunity to provide evidence and written submissions relevant to the application and are entitled to request an NRCB Board review of the approval officer's decision. Not all affected parties are "directly affected" under AOPA.

Municipalities that are affected parties are identified by the Act as "directly affected." Mountain View County is an affected party (and directly affected) because the proposed CFO is located within its boundaries.

Ms. Peggy Grochmal, a permitting and development officer with Mountain View County Planning and Development Services department, provided a written response on behalf of Mountain View County. Ms. Grochmal stated that the application is consistent with Mountain View County's land use provisions of the municipal development plan. The application's consistency with the land use provisions of Mountain View County's municipal development plan is addressed in Appendix A, attached.

In my discussions with Mountain View County staff, concerns about the application's consistency with Mountain View County's Land Use Bylaw (Bylaw 21/21, latest revision June 21, 2023) were raised. Westway Farm's CFO is located on land zoned as Agricultural District

(A). Under section 11.1, additional setbacks are listed for developments in this district. As an “other setback”, a 300 m (984.3 ft) setback is listed from sewage lagoons & treatment plants. I inquired with Ms. Grochmal about if the county intended this setback to apply to CFO facilities, given the municipal lagoon on the adjacent quarter section. Ms. Grochmal stated that the 300 m setback generally applies to residential uses, and that Mountain View County had no concerns about the location of the proposed and existing CFO facilities.

This section of the land use bylaw also lists property line setbacks. As discussed in section 10 of this decision summary, the site does not currently meet these setbacks. Conditions will be added to Approval RA23007 requiring that the site meets the appropriate setbacks.

The NRCB considers a person who owns a residence within the MDS of the CFO, and who waives the MDS requirements in writing to be automatically considered a directly affected (see NRCB Operational Policy 2016-7: Approvals, part 7.2.1). Mark Fleming provided an MDS waiver, although one is not required. However, since he resides within the 0.5 mile notification distance and he submitted a response, he is considered to be a directly affected party.

Any member of the public may request to be considered “directly affected.” The NRCB received responses from one (1) party, the Town of Didsbury.

The Town of Didsbury owns land within the 0.5 mile notification distance for affected persons. Because of their location within this distance, and because they submitted a response, they qualify for directly affected party status. (See NRCB Operational Policy 2016-7: Approvals, part 7.2.1)

The Town of Didsbury is also a utility right of way holder on the subject property. Their response raised concerns regarding their right of way, required setbacks under EPA, and groundwater monitoring. These concerns are addressed in Appendix C. A condition has been attached to the approval to address concerns about the right of way setback (see Appendix E).

8. Environmental risk of CFO facilities

New CFO facilities which clearly meet or exceed AOPA requirements may be assumed to pose a low risk to surface and groundwater. There may be circumstances where, because of the proximity of a shallow aquifer, or porous subsurface materials, and surface water systems an approval officer may require groundwater monitoring for the facility. The information on this file supports the presumption that risks to groundwater and surface water are low.

However, since some of the CFO facilities were already constructed without a permit, I completed a risk assessment for the existing feedlot pens. The assessment indicated that the potential risks to surface water and groundwater are low.

9. Variances

The applicant applied for a variance of the requirement for a water well to be at least 100 m away from a manure storage facility/manure collection area. I determined that the existing feedlot pens, which were constructed without a permit, are located within the required AOPA setback from two existing water wells. As explained in Appendix D, I am prepared to issue variances to the 100 m water well setback from the feedlot pens due to the two wells’ construction, location up-gradient from the pens, and presence of a naturally occurring protective layer.

10. Other factors

Because the approval application is consistent with the MDP land use provisions, and meets the requirements of AOPA and its regulations, I also considered other factors.

AOPA requires me to consider matters that would normally be considered if a development permit were being issued. The NRCB interprets this to include aspects such as property line and road setbacks related to the site of the CFO. (Grow North, RFR 2011-01 at page 2). Approval officers are limited to what matters they can consider though as their regulatory authority is limited.

Ms. Grochmal listed the setbacks required by Mountain View County's land use bylaw (LUB). In the course of our conversations during the notice period, I advised Ms. Grochmal that the existing (unpermitted) feedlot pens were constructed over the property line with the NW quarter. Therefore, the pens also did not meet property line setbacks. The applicant has proposed to decommission the pens that were constructed over the property line. I am including a condition in the approval that those existing (unpermitted) feedlot pens be decommissioned in order to meet the property line setbacks. From the application, it is not clear that the proposed new feedlot pens and catch basin will meet the property line setback. A condition will be added requiring that the new and existing feedlot pens and the catch basin meet these property line setbacks.

I have considered the effects the proposed CFO may have on natural resources administered by provincial departments. EPA has not made me aware of statements of concern submitted under section 73 of the *Environmental Protection and Enhancement Act* or section 109 of the *Water Act* in respect of the subject of this application. Furthermore, the application meets AOPA's technical requirements.

I am not aware of any written decision of the Environmental Appeals Board for this location (<http://www.eab.gov.ab.ca/status.htm>, accessed April 9, 2024).

Finally, I considered the effects of the proposed CFO on the environment, the economy, and the community, and the appropriate use of land. In doing so, I had before me information in the application, views from Mountain View County, and my own observations from a site visit.

Consistent with NRCB Operational Policy 2016-7: Approvals, part 9.10.9, I presumed that the effects on the environment are acceptable because the application meets all of AOPA's technical requirements. In my view, this presumption is not rebutted and the directly affected parties' concerns have been addressed, as detailed in Appendix C.

Consistent with NRCB Operational Policy 2016-7: Approvals, part 9.10.9, if the application is consistent with the MDP then the proposed development is presumed to have an acceptable effect on the economy and community. In my view, this presumption is not rebutted and the directly affected parties' concerns have been addressed.

I also presumed that the proposed CFO is an appropriate use of land because the application is consistent with the land use provisions of the municipal development plan (see NRCB Operational Policy 2016-7: Approvals, part 9.10.9). In my view, this presumption is not rebutted. I note that Mountain View County's response states that the application is consistent with their MDP.

11. Terms and conditions

Approval RA23007 specifies the cumulative permitted livestock capacity as 1,000 beef feeders and permits the previously constructed feedlot pens and construction of the catch basin and additional feedlot pens.

Approval RA23007 contains terms that the NRCB generally includes in all AOPA approvals, including terms stating that the applicant must follow AOPA requirements and must adhere to the project descriptions in their application and accompanying materials.

In addition to the terms described above, Approval RA23007 includes conditions that generally address construction deadlines, document submission, construction inspection, right of way setback verification, and decommissioning. For an explanation of the reasons for these conditions, see Appendix E.

12. Conclusion

Approval RA23007 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA23007.

April 10, 2024

(Original signed)
Lynn Stone
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Determining directly affected party status
- C. Concerns raised by the Town of Didsbury
- D. Variances
- E. Explanation of conditions in Approval RA23007

APPENDIX A: Consistency with municipal land use planning

Under section 20 of AOPA, an approval officer may only approve an application for an approval or amendment of an approval if the approval officer holds the opinion that the application is consistent with the “land use provisions” of the applicable municipal development plan (MDP).

This does not mean consistency with the entire MDP. In general, “land use provisions” cover MDP policies that provide generic directions about the acceptability of various land uses in specific areas.

“Land use provisions” do not call for discretionary judgements relating to the acceptability of a given confined feeding operation (CFO) development. Similarly, section 20(1.1) of the Act precludes approval officers from considering MDP provisions “respecting tests or conditions related to the construction of or the site” of a CFO or manure storage facility, or regarding the land application of manure. (These types of MDP provisions are commonly referred to as MDP “tests or conditions.”) “Land use provisions” also do not impose procedural requirements on the NRCB. (See NRCB Operational Policy 2016-7: Approvals, part 9.2.7.)

Westway Farms’ CFO is located in Mountain View County and is therefore subject to that county’s MDP. Mountain View County adopted the latest revision to this plan on September 14, 2022, under Bylaw No. 20/20.

As relevant here, section 2.0 of the MDP provides a “growth management strategy” that is reflected in the land use map in Figure 3 of the MDP. Because the land use designations in Figure 3 are not meant to be definitive, the MDP’s “growth management strategy” based on these designations is not considered to be a “land use provision”, rather it helps to identify where the location of CFO’s would be considered to be more suited within the county.

Westway Farms’ CFO is within the “Agricultural Preservation Area” marked on Figure 3. Section 2 of the MDP explains that the “majority” of this area is subject to the “applicable Land Use Policies outlined in section 3.0 of the MDP...”.

3.3.1 states that all lands in the County are deemed to be agricultural, unless otherwise designated for other uses. Westway Farms’ land is designated as agricultural.

As relevant here, sub-section 3.3.15 precludes new CFOs within 1.6 km (1 mile) of any identified growth centre or of an IDP with adjacent urban municipalities. The CFO is not within this 1.6 km setback for either the growth centre or an IDP.

Sub-section 3.3.17 states that applications for new or expanding CFOs “shall meet all Provincial standards.” This sub-section likely isn’t a “land use provision” and therefore is not relevant to my MDP consistency determination. Regardless, Westway Farms’ application meets AOPA requirements.

For these reasons, I conclude that the application is consistent with the land use provisions of Mountain View County’s MDP that I may consider.

APPENDIX B: Determining directly affected party status

The following parties qualify for directly affected party status because they submitted a response to the application and they own or reside on land within the “affected party distance,” as specified in section 5 of the Agricultural Operation, Part 2 Matters Regulation (See NRCB Operational Policy 2016-7: Approvals, part 7.2.1.):

- Mark Fleming (SE 9-31-1 W5)
- Town of Didsbury (NW 10-31-1 W5)

Mr. Fleming submitted a minimum distance separation (MDS) waiver. Although the waiver was not required, I am still considering Mr. Fleming a directly affected party as he submitted a response and resides within the affected party distance. Mr. Fleming did not raise any concerns with the application.

The Town of Didsbury is both a utility right of way holder on the subject land, and an adjacent landowner to the subject property. The town raised several concerns, which are addressed in Appendix C.

APPENDIX C: Concerns raised by the Town of Didsbury

The Town of Didsbury is both a utility right of way holder and a directly affected party to this application. The town raised three concerns to this application.

1. That the CFO appears to be within the standard EPA 300 m setback from the town's municipal lagoon. The town requested a follow up with EPA to ensure that the municipality will not face regulatory issues in the future when a lagoon expansion is warranted.
2. The town requested copies of as-built drawings for the CFO site, including the location of the town's pipeline right of way. The town added that the applicant shall not construct over their right of way.
3. The town requested groundwater monitoring wells and an annual testing program to ensure that no contamination from the CFO enters the lagoon's subdrain collection system.

Approval officer's analysis and conclusions:

As stated in section 3 of this decision summary, I contacted Ms. Jasmine Wang, municipal approvals engineer with EPA, to discuss this site. I provided Ms. Wang with a copy of the Town of Didsbury's response.

Ms. Wang stated that under the *Standards and Guidelines (S&G) for Municipal Waterworks, Wastewater and Storm Drainage Systems*, minimum setback distances exist between wastewater lagoons and roads, property lines, and schools, hospitals, food establishment sites, or residential sites. Ms. Wang stated that since CFOs are not included in this list, the setbacks do not apply.

With respect to the as-built drawings request, it is not clear if the town is requesting the drawings before, or after the additional feedlot pens and catch basin are constructed. The town received a copy of the application during the notice period and did not raise concern that the current facilities are constructed in the right of way. In order to ensure that the municipal pipeline right of way is not impacted, I have placed a condition on Approval RA23007 requiring that Westway Farms provide the NRCB with a letter, signed by a qualified third party, that the new and existing feedlot pens, and catch basin, are not built in the right of way and meet the right of way setback requirements. This letter must be provided to the NRCB prior to the new feedlot pens being populated, and manure impacted runoff allowed to enter the catch basin. I strongly encourage Westway Farms to consult with a qualified third party and the Town of Didsbury on the location of the discharge pipeline and the required setback *prior* to the start of construction.

The NRCB typically considers groundwater monitoring programs on higher risk facilities, or those that may not meet AOPA's requirements. Westway Farm's existing and proposed facilities can meet AOPA's groundwater protection requirements, including the liner specifications for the proposed catch basin. The purpose of an adequate liner is to minimize groundwater contamination from manure, or manure impacted runoff. My risk assessment of the existing and proposed facilities found that they pose a low potential risk to groundwater. Furthermore, the site naturally slopes to the east/south-east. This, combined with proper feedlot pen construction and sloping, allows for runoff to flow to the catch basin, and not towards the municipal lagoon. Therefore, I am declining to include a monitoring condition.

If the town or any other member of the public has concerns regarding a CFO, they may contact the NRCB through its toll-free reporting line (1-866-383-6722). An NRCB inspector will look into the concern.

APPENDIX D: Variances

The existing (unpermitted) feedlot pens are located less than 100 m from water wells. I have confirmed that two water wells are located approximately 18 m and 60 m from the nearest feedlot pen during a site visit. This is in conflict with the section 7(1)(b) of the Standards and Administration Regulation (SAR).

Approval officers must not grant variances lightly or in the absence of substantive evidence they will produce equivalent levels of protection (see Board Decision 03-04, *AAA Cattle Ltd.* p 24). I will consider whether a variance is warranted to the water wells separately below.

On October 26, 2023, the CFO operator requested a variance to the water well setback requirement on the grounds that the two wells are newer, and adequately constructed.

In this case, the facility has already been constructed (without a permit). For that reason, an exemption under section 7(2) of the SAR is not available. I therefore need to either deny the application or alternatively consider if variances are warranted under AOPA's section 17(1). It is my opinion that considering variances is appropriate in this case.

In this case, I have used the same tools that I would normally use to determine if an exemption is warranted. I consider the water well exemption framework as useful for assessing the degree of protection for the water well in relation to a manure collection area (MCA; the pens are MCAs). In this case, I presume that the risks of direct aquifer contamination from the MCA are low if the MCA meets (or otherwise meets) AOPA's technical requirements to control runoff and leakage. However, when determining whether an MCA that otherwise meets AOPA's technical requirements provides the same or greater protection and safety as provided for by the regulations, I also assess whether water wells themselves could act as conduits for aquifer contamination.

One indicator that a variance provides the same or greater protection and safety is if the aquifer into which the well is drilled is not likely to be contaminated by the MCA.

The potential risks of direct aquifer contamination from the MCA are presumed to be low if the applicant's MCA meets AOPA's technical requirements to control runoff and leakage. Approval officers may also assess whether the water well itself could act as a conduit for aquifer contamination.

In this case, I felt the following factors were relevant to determine the protection of the aquifer in relation to the water well:

- a. How the well was constructed
- b. Whether the well is being properly maintained
- c. Whether the well is up- or down-gradient from the MCA and whether this gradient is a reasonable indication of the direction of surface and groundwater flow between the two structures

The water wells:

Based on information provided by the applicant and from the Alberta Environment and Protected Areas (EPA) water well database, the water well located approximately 18 m west of the feedlot pens is likely EPA water well ID # 2090951. This well is reported to have been installed in 2020 and has a perforated or screened zone from 64.01 m to 77.72 m below ground

level across clay and siltstone. The well was installed with an above ground casing. This well is reported to be used for non-domestic purposes. I note that in my conversations with the applicant, the water well is presently only used for livestock. The well's log identifies a protective layer from ground surface to 5.49 m below ground level. The well has a bentonite seal from ground surface to 61.01 m below ground level. The well appeared to be in good condition at the time of my site inspection and its casing was protected by a steel fence. The well is up-gradient to the overall slope of the feedlot pens.

Based on information provided by the applicant and from the Alberta Environment and Protected Areas (EPA) water well database, the water well located approximately 60 m west of the feedlot pens is likely EPA water well ID # 1245294. This well is reported to have been installed in 2007 and has a perforated or screened zone from 67.06 m to 83.82 m below ground level across clay and sandstone. The well was installed with an above ground casing. This well is reported to be used for non-domestic purposes. I note that in my conversations with the applicant, the water well is only used presently for the shop. The well's log identifies protective layer from ground surface to 16.76 m below ground level. The well has a bentonite seal from ground surface to 65.97 m below ground level. The well appeared to be in good condition at the time of my site inspection. The well is up-gradient to the feedlot pens and catch basin.

The NRCB has developed a "water well exemption screening tool," based on the factors listed above, to help approval officers assess the groundwater risks associated with a nearby water well¹. This tool is useful in gauging the level of protection of groundwater.

We use the water well exemption screening tool to determine if a water well is going to be impacted when an exemption is considered under section 7(2) of the SAR. The water well exemption screening tool indicates that for both water wells, there is a low potential for groundwater to be impacted by the MSF/MCA. It is my opinion that in this case, the water wells provide an equivalent level of protection if an exemption was considered.

Based on the above information it is my assessment that varying the 100 m setback rule for the feedlot pens would offer the same degree of protection and safety as that provided for by the regulations for the following reasons:

1. The slope of the feedlot pens will direct runoff away from the water wells
2. The young age of the wells, and high level of construction
3. The naturally occurring protective layer found underneath the feedlot pens

Based on the above, I am prepared to grant variances to the 100 m water well setback requirement from both wells for the feedlot pens.

¹ A complete description of this tool is available under CFO/Groundwater and Surface Water Protection on the NRCB website at www.nrcb.ca.

APPENDIX E: Explanation of conditions in Approval RA23007

a. Construction Deadline

Westway Farms proposes to complete construction of the proposed new catch basin and additional feedlot pens by November 2024. In my opinion, a longer timeline may more realistically allow for unexpected weather or construction delays. The deadline of November 30, 2025 is therefore included as a condition in Approval RA23007.

b. Post-construction inspection and review

The NRCB's general practice is to include conditions in new or amended permits to ensure that the new or expanded facilities are constructed according to the required design specifications. Accordingly, Approval RA23007 includes conditions requiring:

- a. Westway Farms to provide an engineer's completion report certifying that the catch basin was constructed with the same liner material as that used for hydraulic conductivity testing and that the catch basin was constructed according to the proposed procedures and design specifications.

The NRCB routinely inspects newly constructed facilities to assess whether the facilities were constructed in accordance with the permit requirements. To be effective, these inspections must occur before livestock or manure are placed in the newly constructed facilities. Approval RA23007 includes a condition stating that Westway Farms shall not place livestock or manure in the manure storage or collection portions of the new feedlot pens, nor manure impacted runoff in the catch basin until NRCB personnel have inspected the feedlot pens and catch basin and confirmed in writing that they meet the approval requirements.

c. Decommissioning

The existing northernmost feedlot pens were constructed over the property line and into the NW quarter section. They were also constructed over the required property line setback (see Technical Document RA23007 at page 5 of 91). The applicant has proposed to decommission these pens. The pens must be decommissioned in order to meet the property line setback requirements under Mountain View County Bylaw #21/21 (updated June 21, 2023) of a minimum 15.0 m (49.2 ft). The permit holder shall decommission these pens in accordance with Technical Guideline Agdex 096-90, "Closure of Manure Storage Facilities and Manure Collection Areas". This shall be completed by September 1, 2024. The applicant is required to notify the NRCB within 7 calendar days of these pens being decommissioned.

d. Property line verification

Westway Farms is required to provide a letter, signed by a qualified third party, that the existing and proposed feedlot pens, and catch basin meet the property line setback requirements. This letter must be provided before the new feedlot pens and catch basin can be used.

e. Right of way verification

Westway Farms is required to provide a letter, signed by a qualified third party, that the existing and proposed feedlot pens, and the catch basin, are not built in the Town of Didsbury's right of way, and meet the right of way setback requirements. This letter must be provided before the proposed feedlot pens and catch basin can be used. Westway Farms is encouraged to consult with a qualified third party and the Town of Didsbury on the location of the discharge pipeline and the required setback prior to the start of construction.