



Decision Summary RA23012

This document summarizes my reasons for issuing Approval RA23012 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA23012. 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

On March 21, 2023, Deanna Ridder on behalf of Ridder Farms Ltd. (Ridder Farms) submitted a Part 1 application to the NRCB to expand an existing dairy CFO.

The Part 2 application was submitted on January 22, 2024. On February 28, 2024, I deemed the application complete.

The proposed expansion involves:

- Increasing livestock numbers from 170 to 240 milking cows (plus associated dries and replacements)
- Constructing a new dairy barn – 110 m x 110 m
- Converting the existing milk parlor to calf pens – 11.9 m x 26.2 m
- Decommissioning a pen – 30 m x 27 m

During a site visit, I observed that the 30 m x 27 m pen had already been decommissioned.

a. Location

The existing CFO is located at NE 23-43-26 W4M in Ponoka County, roughly 7 km northwest of the Town of Ponoka. The terrain is gently undulating. The site gently slopes to the east.

b. Existing permits

The CFO was originally permitted by Ponoka County on February 12, 1996, under development permit # D-96-11. This permit allowed the construction and operation of a dairy CFO with 70 milking cows.

The NRCB issued Authorization RA08010 on May 1, 2008 to construct a dairy barn addition. A grandfathering determination for 170 milking cows (plus dries and replacements), as well as the EMS, 70 m x 40 m corrals with shelters, and a dairy barn was included as part of this decision. On June 25, 2019, Authorization RA19026 was issued by the NRCB allowing the construction of a new earthen manure storage (EMS), and decommissioning the old EMS. Collectively, these NRCB permits, and the deemed registration including municipal permit, allow Ridder Farms to construct and operate a 170 milking cow (plus associated dries and replacements) CFO.

The CFO's existing permitted facilities are listed in the appendix to the Approval RA23012.

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 ½ 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 Ponoka County, which is the municipality where the CFO is located.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in the Ponoka News newspaper in circulation in the community affected by the application on February 28, 2024, and
- sending six notification letters to people identified by Ponoka County as owning or residing on land within the notification distance.

The full application was made available for viewing during regular business hours.

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 Environment and Protected Areas (EPA) and Alberta Agriculture and Irrigation (AGI).

I also sent a copy of the application to Black Crane Energy Corp., Apex Utilities Inc., Keyera Energy Ltd. as they are utility right of way holders on the subject land, and to Marringje Ridder as a lease interest holder.

Mr. Wade Horton, an inspection and investigation specialist with AGI, responded on AGI's behalf, and said that they have no concerns as no new milk house is being constructed. Mr. Horton concluded that he will be completing a follow up inspection at the site later this year.

No other responses were received.

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 expansion is consistent with the land use provisions of Ponoka 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 expansion:

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS), using expansion factor
- 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 and liners of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 11 and in Appendix D, the application meets all relevant AOPA requirements. The exemption that addresses the AOPA requirements around the water well setback is discussed part 9 and Appendix C of this decision summary.

7. Responses from the 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." Ponoka County is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Ms. Robin Dubitz, a development officer with Ponoka County, provided a written response on behalf of Ponoka County. Ms. Dubitz stated that the application is consistent with the land use provisions of Ponoka County's municipal development plan. The application's consistency with the land use provisions of Ponoka County's municipal development plan is addressed in Appendix A, attached. Ms. Dubitz also highlighted the existence of the North-West Ponoka Area Structure Plan (October 25, 2018), and notes that this application aligns with the plan.

Apart from municipalities, any member of the public may request to be considered "directly affected." The NRCB received responses from two parties, Ms. Joanne Volk (SW-24-43-26-

W4M); and Mr. Dennis Chernick and Ms. Leslie Chernick (NW-23-43-26-W4M).

Both of the two parties who submitted responses own or reside on land within the ½ 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 directly affected parties raised concerns regarding a misaligned fence line/property line, road allowance, pipeline right of way, water licensing, odour, impact of manure spreading on groundwater, and traffic. These concerns are addressed in Appendix B.

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. A determination was made that no such circumstances exist on this site, and groundwater monitoring is not required for this CFO site.

When reviewing a new approval application for an existing CFO, NRCB approval officers assess the CFO's existing buildings, structures, and other facilities. In doing so, the approval officer considers information related to the site and the facilities, as well as results from the NRCB's environmental risk screening tool (ERST). The assessment of environmental risk focuses on surface water and groundwater. The ERST 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/Groundwater and Surface Water Protection 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 supported with a previous version of the risk screening tool and requires updating. See NRCB Operational Policy 2016-7: Approvals, part 9.17.

In this case, the risks posed by Ridder Farms' existing CFO facilities were assessed in 2019 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

There have been no changes related to groundwater or surface water protection, water wells, or CFO facilities since that assessment was done. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

9. Exemptions

I determined that the proposed dairy barn is located within the required AOPA setback from a water well. As explained in Appendix C, an exemption to the 100 m water well setback is warranted due to the well's construction and location upslope from the dairy barn. A water well monitoring condition that was placed on the well in previously issued NRCB Authorization RA08010, will continue to be in effect (see Appendix C).

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. Dubitz also listed the setbacks required by Ponoka County's land use bylaw (LUB) from a road and noted that the application needs to meet this setback from Township Road 434.

I have considered the effects the proposed expansion 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 17, 2024).

Finally, I considered the effects of the proposed expansion on the environment, the economy, and the community, and the appropriate use of land.

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.

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 expansion 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). Furthermore, the application is also aligned with the applicable ASP as an expanding, existing CFO (see Appendix A). In my view, this presumption is not rebutted.

11. Terms and conditions

Approval RA23012 specifies the cumulative permitted livestock capacity as 240 milking cows (plus associated dries and replacements) and permits the construction of the new dairy barn and the conversion of the existing milking parlor to calf pens.

Approval RA23012 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 RA23012 includes conditions that generally address construction deadlines, document submission, and construction inspection. For an explanation of the reasons for these conditions, see Appendix D.

For clarity, and pursuant to NRCB policy, I consolidated the following permits with Approval RA23012: NRCB Authorizations RA08010 and RA19026, Ridder Farms' deemed registration, and Ponoka County development permit D-96-11 (see NRCB Operational Policy 2016-7: Approvals, part 11.5). Permit consolidation helps the permit holder, municipality, neighbours and other parties keep track of a CFO's requirements, by providing a single document that lists all the operating and construction requirements. Consolidating permits generally involves carrying forward all relevant terms and conditions in the existing permits into the new permit, with any necessary changes or deletions of those terms and conditions. This consolidation is carried out under section 23 of AOPA, which enables approval officers to amend AOPA permits on their own motion. Appendix D discusses which conditions from the historical permits are or are not carried forward into the new approval.

12. Conclusion

Approval RA23012 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA23012.

Ridder Farms' deemed registration, including municipal development permit # D-96-11, and NRCB-issued Authorizations RA08010 and RA19026 are therefore superseded, and their content consolidated into Approval RA23012, unless Approval RA23012 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Authorizations RA08010 and RA19026, and the deemed registration, will remain in effect.

May 14, 2024

(Original signed)

Lynn Stone
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Concerns raised by directly affected parties
- C. Exemptions from water well setbacks
- D. Explanation of conditions in Approval RA23012

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.)

Ridder Farms’ CFO is located in Ponoka County and is therefore subject to that county’s MDP. Ponoka County adopted the latest revision to this plan in October 2018, under Bylaw 06-08 MDP.

Section 2 of the MDP contains eight numbered policies that relate to applications for CFOs under AOPA. These eight policies are discussed below. (Three other MDP policies relate to CFOs below the AOPA permit threshold or to proposed residential developments near existing CFOs.)

Under policy 2.1, the county “encourages” the development of CFOs to add value to crop production and provide “more employment and income per acre of land.” However, policy 2.1 also states that the environment and neighbours’ rights “must be protected.” This policy likely isn’t a “land use provision,” but it provides a general context for interpreting and applying the other policies in section 2.

Policy 2.2 states the county’s “belie[f] that very large CFOs are inappropriate in this part of Alberta, and requests the NRCB not to allow them here.” This policy defines “very large” as “more than ten times” the threshold for approvals in the Part 2 Matters Regulation under AOPA. In this case, a “very large” dairy CFO would have over 2000 milking cows. This policy likely isn’t a “land use provision”. Nevertheless, Ridder Farms’ proposed expansion is for only 240 milking cows, so the proposed expansion is consistent with this policy.

Policy 2.3 has two parts. The first part lists three setbacks and two exclusion zones for new CFOs. Ridder Farms’ CFO is an existing CFO; therefore these policies do not apply to this application.

The second part of policy 2.3 calls for “very strict conditions on manure handling and storage” in the Chain Lakes and Maskwa Creek watersheds. This policy likely isn’t a land use provision because it calls for discretionary judgements about what conditions are “very strict.”

In addition, this policy may well be precluded from my consideration under section 20(1.1) of AOPA, which precludes an approval officer from considering MDP provisions “respecting tests

or conditions related to the construction of or the site for a confined feeding operation or manure storage facility” and regarding the land application of manure. Regardless, the existing CFO meets AOPA’s technical requirements for manure handling and storage and those requirements are arguably “very strict.” In addition, the CFO is not within either of these watersheds. Therefore, the existing CFO would be consistent with this section, if the section applied.

Policy 2.4 calls for the NRCB to “set strict rules for the timely incorporation of manure within a mile of any urban municipality or rural residence.” This is a “test or condition” respecting application of manure under section 20(1.1) of AOPA, so I am precluded from considering this policy. At any rate, Ridder Farms’ CFO will be subject to the Standards and Administration Regulation under AOPA. This regulation provides rules for the land application of manure, including timely incorporation in specified circumstances. These rules are arguably “strict,” which is consistent with this MDP policy.

Policy 2.5 precludes the siting of CFOs within two miles of “any lake” unless the “regulators” are “convinced” that the CFO’s manure management system is “fail-safe” and the CFO poses “no reasonable risk of contamination of the lake.” There are no lakes within 2 miles of the existing CFO, and therefore, the existing CFO would be consistent with this section, if the section applied.

Policy 2.6 precludes new or expanded CFOs where there is “any risk that runoff will contaminate domestic water supplies.” Policy 2.6 likely is not a “land use provision” because it calls for discretionary judgements about acceptable risks. (On its face, “any risk” is a low risk threshold, but the threshold is presumably more than “minor” or “insignificant.”). At any rate, the existing CFO meets AOPA’s operational and construction requirements, which are designed to minimize the risks to surface and groundwater.

Policy 2.8 states that “where a *new* CFO is proposed, the minimum distance separation (MDS) should be contained entirely within land owned by the operator of the CFO...” Ridder Farms’ application is for an existing CFO; therefore this section does not apply.

Last, 2.11 states that the county “may develop policies to reduce the nuisance caused by the spreading of manure near residences,” including ones that require the immediate incorporation of manure and limits on the timing or rate of manure application. I am unaware of any manure application policies that the county has developed under policy 2.11. At any rate, section 20(1.1) of AOPA precludes me from considering policy 2.11 because it relates to manure application.

For these reasons, I conclude that the application is consistent with the relevant land use provisions of Ponoka County’s MDP. As noted above, Ponoka County’s response did not raise any concerns with this application, which supports my conclusion.

Ridder Farms’ CFO is also located in the area covered by the North-West Ponoka Area Structure Plan. Ponoka County adopted this plan on October 25, 2018.

According to this plan, Ridder Farms’ CFO is located in a CFO exclusion zone (see Map 5 of the area structure plan). However, policy 7 of the plan states that “existing CFOs will be allowed to expand...subject to AOPA rules”. Ridder Farms’ CFO is existing; therefore, the proposed expansion of this CFO is permissible. This is supported by Ponoka County’s response.

APPENDIX B: Concerns raised by directly affected parties

The following individuals 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 radius,” as specified in section 5(c) of the Agricultural Operation, Part 2 Matters Regulation (see NRCB Operational Policy 2016-7: Approvals, part 7.2.1.):

- Ms. Joanne Volk (SW-24-43-26-W4M)
- Mr. Dennis Chernick and Ms. Leslie Chernick (NW-23-43-26-W4M)

Concerns from directly affected parties

The directly affected parties raised the following concerns:

1. **Property line**-One party raised concerns about a misaligned property line, and Ridder Farms’ cattle on the respondents’ neighbouring land. The party also explained that there is an undeveloped road allowance that the CFO site is infringing on, as well as the presence of a pipeline running along this same area. The respondent expressed concerns regarding inaccuracies in the applicant’s maps.

Approval officer’s comments:

As part of my investigation into this concern, I initially reviewed current and historical aerial photography, land parcel boundaries, and the applicable land titles. It appears that the fence line may not be in alignment with the property line. Historical imagery suggests that the fence line location has not changed in over 20 years. I have included an aerial image of the site, with the relevant areas of concern identified (TD RA23012 page 9)

I discussed the respondents’ concerns with Ponoka County staff, both via phone/email with the development officer, and in person at Ridder’s site with the public works superintendent. The county staff members indicated that the fence line does not appear to be on the property line, as historically property lines were “eyeballed”. They also confirmed that a road allowance was taken off of Ridder’s property in 1893, as part of the Chief Sharphead’s Indian Reservation. Ponoka County has confirmed that it is unlikely that the road allowance will ever be developed, and that there are options for the road allowance to be leased, or possibly have it amalgamated back to Ridder’s property. The county staff members stated that a surveyor would need to assess and mark the existing property line; however, they recommended that it may be beneficial to wait and complete a survey after the road allowance status is addressed to avoid duplicating work.

Property line adjustments, road allowance usage, and fence line development and maintenance are outside of the scope of AOPA. These issues are under the jurisdiction of the municipality, as well as Alberta Agriculture and Irrigation as part of the *Line Fence Act*. However, CFO facilities and their location (including if they meet property line setbacks), are under the jurisdiction of the NRCB under AOPA.

The Ridders are aware of the presence of a pipeline along the property line and fence line. During my site visit with them, I reminded Ridders that if any changes are made to the fence line, they are required to meet any requirements of the pipeline company. I note that the proposed dairy barn will be more than 150 metres from this pipeline, and that a copy of the application was sent to all listed right of way holders on the site.

I reviewed the concerns with NRCB inspector Fraser Grant. Mr. Grant and I reviewed Ridders' prior CFO permits, including the grandfathering assessment carried out in 2008. Mr. Grant and I concluded that the outdoor pens with attached sheds (40 m x 70 m), located in the northwest corner of the CFO site, were deemed grandfathered as a CFO area in 2008. However, the adjacent fenced area (that is located alongside the property line shared with Ridders and the respondent) has been pasture land. Pastures are not CFO facilities; therefore, they are not regulated under AOPA. For clarity, the NRCB has never permitted this adjacent area.

During a site visit, Inspector Grant requested that a fence be re-installed to contain cattle in the NRCB-permitted pen area, and to prevent cattle from having free access to the adjacent area. Ridders immediately complied and installed the fence the same day. Mr. Grant and I reminded Ridders that the adjacent area cannot be used as a CFO facility, without an NRCB permit, or as a seasonal feeding and bedding site. If the adjacent area is vegetated, it may be used to graze livestock during grazing season. Inspector Grant and I are satisfied that with the new fence and direction not to use the adjacent area as a CFO site, all AOPA requirements are met.

I have reviewed Ridders' application, including their site plan and maps. I've also reviewed their past permits and applications and assessed the site during several site visits. I'm satisfied with the accuracy of information they have provided.

- 2. Water usage**-Both parties raised concerns about if there was sufficient water available to support the proposed increase in livestock numbers, particularly with an anticipated drought this year.

Approval officer's comments:

Alberta Environment and Protected Areas (EPA) is directly responsible for licensing the use of groundwater and surface water under the *Water Act*. Should additional water licensing be required, the application process through EPA includes a notice period. This gives directly affected neighbours opportunity to provide input. Therefore, for efficiency and to avoid inconsistent regulation, NRCB approval officers generally do not consider water supply concerns when reviewing AOPA permit applications, other than ensuring that applicants sign one of the water declarations listed in the Part 2 application form (page 3 of TD RA23012).

As noted on page 3 of TD RA23012, Ridder Farms has committed to ensuring that they have adequate licensed water for their CFO. During the application process, the Ridders have provided me with copies of their existing water licences. Ridder Farms is reminded that they are required to obtain all applicable licences and permits.

A copy of this decision will be forwarded to EPA for its information.

- 3. Odour from site and spreading lands**- one party raised concerns about odours from both the spreading fields and from the CFO site.

Approval officer's comments:

AOPA's minimum distance separation (MDS) is a means for mitigating odours and other nuisance impacts from CFO facilities. Ridders' proposed expansion meets the required

MDS. It is presumed that nuisance effects from the CFO facilities are acceptable if the MDS has been met.

The applicant is required to follow all AOPA requirements; section 24 of the Standards and Administration Regulation discusses manure application.

Subsection 24(1) of this section states that manure must be incorporated within 48 hours of application when it is applied to cultivated land. Incorporating reduces odours by working the manure into the soil. This type of land application of manure is typically limited to once or twice per year, and are typically of short duration. Odours from manure spreading typically do not persist for extended periods of time.

Section 24(5)(a) states that manure does not need to be incorporated after surface application on forages, or on no-till cropland. However, the manure must be applied at least 150 m from any residence. This setback helps mitigate the odour from manure spreading without incorporation.

Complaints about CFOs, including manure spreading and odour, can be reported to the NRCB's 24 hour reporting line (1-866-383-6722). An NRCB inspector will follow up on the concern.

- 4. Groundwater concerns on spreading lands**-One party raised a concern about groundwater contamination on spreading lands.

Approval officer's comments:

As mentioned in the previous concern, the applicant is required to follow all AOPA requirements. Section 24 of the Standards and Administration Regulation details manure spreading requirements, and section 25 speaks to soil protection.

Section 24(3) details how applicants are required to show that they have access to a sufficient amount of spreading land. As detailed in pages 10 and 18 of TD RA23012, Ridder Farms has shown that they have access to sufficient lands to satisfy this requirement.

Section 25 of the Standards and Administration Regulation explains the requirements CFO permit holders must meet for soil protection. This includes soil testing, and nutrient application limits. Ridder Farms is aware that they are required to adhere to these requirements.

- 5. Impact on local roads**-One party raised a concern about the impact of additional farm traffic on local roads.

Approval officer's comments:

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, 9.13). In addition, municipalities own the roads within their jurisdiction, and have the knowledge and expertise to determine what is required for use and maintenance for these roads, and have the jurisdiction to implement and enforce road use restrictions.

APPENDIX C: Exemption from water well setbacks

1. Water Well Considerations

The proposed new dairy barn is to be located less than 100 m from a water well or water wells. I have confirmed that one water well is located approximately 61 m from it during a site visit. This is in conflict with the section 7(1)(b) of the Standards and Administration Regulation (SAR) under AOPA.

Section 7(2), however, allows for an exemption if, before construction, the applicant can demonstrate that the aquifer into which the water well is drilled is not likely to be contaminated by the manure collection area (MCA), and, if required, a groundwater monitoring program is implemented.

The potential risks of direct aquifer contamination from the MCA are presumed to be low if the applicant's proposed MCA meets AOPA's technical requirements to control runoff and leakage. Approval officers 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 risk of aquifer contamination via the water well:

- a. How the well was constructed
- b. Whether the well is being properly maintained
- c. The distance between the well and the proposed MCA
- d. Whether the well is up- or down-gradient from the MCA

These presumptions and considerations are based on NRCB Operational Policy 2016-7: Approvals, part 9.10.2.

The water well:

Based on information provided by the applicant and from the Alberta Environment and Protected Areas (EPA) water well database, the water well located approximately 61 m west of the proposed new dairy barn is likely EPA water well ID # 86874. This well is reported to have been installed in 1988. No perforations are listed. The well was installed with an above ground casing. This well is used for domestic and stock purposes. The well's log identifies protective layer or layers from ground surface to 7.01 m below ground level. The well has a driven seal from ground surface to 13.41 m below ground level (across the clay and into the shale layers). The well appeared to be in good condition at the time of my site inspection. The well is up-slope of the CFO and MCA.

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 well.¹

In this case, the results of the water well exemption screening tool suggest that an exemption is likely as seen in Technical Document RA23012.

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

Under the regulation, an approval officer may require a groundwater monitoring program of the water well in question. Ridder Farms already tests this water well annually as an NRCB condition of Authorization RA08010, which is being consolidated into Approval RA23012. As explained in Appendix D, I am continuing this condition, as well as updating the wording of it to reflect our current monitoring practices.

Based on the above, I am prepared to grant an exemption to the 100 m water well setback requirement for the new dairy barn.

APPENDIX D: Explanation of conditions in Approval RA23012

Approval RA23012 includes several conditions, discussed below, and carries forward a number of conditions from RA08010 (see sections 2 and 3 of this appendix).

1. New conditions in Approval RA23012

a. Construction Deadline

Ridder Farms proposes to complete construction of the proposed new dairy barn and the conversion of the parlour to calf pens by 2025. In my opinion, allowing for three full construction seasons is more appropriate for the proposed scope of work. The deadline of November 30, 2026 is included as a condition in Approval RA23012.

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 RA23012 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the new dairy barn to meet the specification for category B (liquid manure shallow pits) and category C (solid manure – wet); and the manure collection and storage portion of the new calf pens to meet the specification for category D (solid manure – dry) in Technical Guideline Agdex 096-93 “Non-Engineered Concrete Liners for Manure Collection and Storage Areas.”
- b. Ridder Farms to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the new dairy barn and calf pens.

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 RA23012 includes conditions stating that Ridder Farms shall not place livestock or manure in the manure storage or collection portions of the new dairy barn or the calf pens until NRCB personnel have inspected the barn and pens and confirmed in writing that they meet the approval requirements.

2. Conditions carried forward and modified from RA08010

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that condition 3 from Authorization RA08010 should be carried forward, and updated to reflect the NRCB's current monitoring practices. A water well monitoring statement is included with Approval RA23012.