

Decision Summary RA24007

This document summarizes my reasons for issuing Authorization RA24007 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA24007. 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 authorization. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On February 21, 2024, Theo Broekman operating as Broekman Hog Farms Ltd. (Broekman Hog Farms) submitted a Part 1 application to the NRCB to construct a manure collection area (MCA) at an existing hog CFO.

The Part 2 application was submitted on March 5, 2024. On March 11, 2024, I deemed the application complete.

The proposed construction involves:

- Constructing a hog finisher barn – 35.4 m x 25.8 m
- Constructing an alley between barns (connecting alley) – 24.4 m x 1.8 m

There is no proposed increase in livestock.

a. Location

The existing CFO is located at SW 25-33-27 W4M in Kneehill County, roughly 32 km northeast of Olds, AB. The terrain surrounding the CFO gently slopes to the east while land at the CFO is relatively flat.

b. Existing permits

The CFO is already permitted under Approval RA05011, Approval RA05011A, and Authorizations RA13023 and RA17019 which collectively allow Broekman Hog Farms to construct and operate a 330 sow (farrow to finish) swine CFO. The CFO's permitted facilities are listed in the appendix to Authorization RA17019.

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 ½ mile (805 m) from the CFO

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 Kneehill County, which is the municipality where the CFO is located.

3. Notice to other persons or organizations

Under NRCB policy, 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.

A referral letter and a copy of the complete application was emailed to Alberta Environment and Protected Areas (EPA).

I also sent a copy of the application to Crossroads Gas Co-op Ltd. and Ember Resources Inc. as right of way holders.

I received a response from Ms. Laura Partridge, a senior water administration officer with EPA, advising the deeming package had been forwarded to the appropriate region in remediation of a mailing error. No further comments were received.

No responses were received from any other organizations.

4. Municipal Development Plan (MDP) consistency

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

5. AOPA requirements

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

- 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 water wells, springs, and common bodies of water
- Has sufficient means to control surface runoff 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 8, the application meets all relevant AOPA requirements.

6. Responses from municipality

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.

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

Ms. Barb Hazelton, the planning and development manager with Kneehill County, provided a written response on behalf of Kneehill County. Ms. Hazelton stated that the application is consistent with the land use provisions in the County's municipal development plan. The application's consistency with Kneehill County's municipal development plan is addressed in Appendix A, attached.

I also reviewed the setbacks required by Kneehill County's land use bylaw (LUB) and noted that the application meets these setbacks.

7. Environmental risk of facilities

New manure storage facilities (MSF)/manure collections areas (MCA) 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, porous subsurface materials, or surface water systems an approval officer may require groundwater or surface water monitoring for the facility. In this case, a determination was made that those circumstances are not present, and therefore monitoring is not required.

When reviewing a new authorization 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 Broekman Hog Farms' existing CFO facilities were assessed in 2017 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater, except for both of the EMS facilities. The NRCB's compliance division are currently working with Broekman Hog Farms to better understand and address the moderate risk to groundwater posed by these facilities. Therefore, I will not further address their risk to the environment in this decision.

The circumstances have not changed since that assessment was done. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

8. Terms and conditions

Authorization RA24007 permits the construction of the new hog finisher barn with connecting alley.

Authorization RA24007 contains terms that the NRCB generally includes in all AOPA authorizations, 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, Authorization RA24007 includes conditions that generally address the construction deadline, document submission and post construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

9. Conclusion

Authorization RA24007 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA24007.

Authorization RA24007 must be read in conjunction with previously issued Approval RA05011, Approval RA05011A, and Authorizations RA13023 and RA17019 which remain in effect.

May 8, 2024

(Original signed)
Sarah Neff
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization RA24007

APPENDIX A: Consistency with the municipal development plan

Under section 22 of AOPA, an approval officer may only approve an application for an authorization or amendment of an authorization 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 22(2.1) 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.)

Broekman Hog Farms’ CFO is located in Kneehill County and is therefore subject to that county’s MDP. Kneehill County adopted the latest revision to this plan on February 23, 2021, under Bylaw #1829.

As relevant here:

Policy 11 of the MDP under Agriculture, states that “no new or expansions of existing confined feeding operations (CFOs) will be allowed in the following:

- (i) In hazard lands or environmentally sensitive lands as defined by the province and the 2010 Summit Report,
- (ii) Within 1.6 kilometres (1 mile) of any hamlet or grouped Country Residential development, or
- (iii) Within 1.6 kilometres (1 mile) of an urban fringe area or an Intermunicipal Development Plan boundary”

Broekman Hog Farms’ CFO is not located within any of these setbacks or exclusion zones.

For this reason, I conclude that the application is consistent with the land use provisions of Kneehill County’s MDP that I may consider.

APPENDIX B: Explanation of conditions in Authorization RA24007

a. Construction Deadline

Broekman Hog Farms proposes to complete construction of the proposed new finisher barn and connecting alley by the end of 2027. This timeframe is considered to be reasonable for the proposed scope of work. The deadline of November 30, 2027, is included as a condition in Authorization RA24007.

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, Authorization RA24007 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portions of the new finisher barn and connecting alley to meet the specification for category B (liquid manure shallow pits), and category C (solid manure - wet) in Technical Guideline Agdex 096-93 "Non-Engineered Concrete Liners for Manure Collection and Storage Areas."
- b. Broekman Hog Farms to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the new finisher barn and connecting alley.

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. Authorization RA24007 includes a condition stating that Broekman Hog Farms shall not place livestock or manure in the manure storage or collection portions of the new finisher barn with connecting alley until NRCB personnel have inspected the finisher barn and alley, and confirmed in writing that they meet the authorization requirements.