

## Decision Summary RA24032

This document summarizes my reasons for issuing Authorization RA24032 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA24032. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at [www.nrcb.ca](http://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](http://www.nrcb.ca).

### 1. Background

On June 18, 2024, Berend and Karin Ridder operating as Buffalorock Farm Ltd. (Buffalorock) submitted the Part 1 and Part 2 applications to the NRCB to construct a new manure storage facility (MSF) at an existing dairy CFO.

On June 20, 2024, I deemed the application complete.

The proposed application involves constructing an addition to the existing dairy barn to include a sand lane and manure storage facility - 45 m x 17 m.

#### a. Location

The existing CFO is located at SW 3-32-28 W4M in Mountain View County, roughly 14 km southeast of Olds, Alberta. The terrain is nearly level with a gentle slope towards Lone Pine Creek, which is located approximately 500 m south and southwest from the CFO.

#### b. Existing permits

The CFO is already permitted under Approval RA10067, Authorization RA18015A and municipal permit DP-047-01.

### 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 Mountain View 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.

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 Crossroads Gas Co-op Ltd. and to Ember Resources Inc. as they are right of way holders.

No responses were received.

### **4. Municipal Development Plan (MDP) consistency**

I have determined that the proposed construction 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.)

### **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." Mountain View County is an affected party (and directly affected) because the existing CFO is located within its boundaries.

Ms. Peggy Grochmal, a permitting and development officer with Mountain View County, 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 Mountain View County's municipal

development plan is addressed in Appendix A, attached.

Ms. Grochmal also listed the setbacks required by Mountain View County's land use bylaw (LUB). The application meets these setbacks.

The response also stated that a road use agreement will be required, and that the County will work with the applicant to ensure that road infrastructure is protected. The applicant is reminded of this requirement.

## **7. Environmental risk of facilities**

New MSF 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 an approval officer may require groundwater monitoring for the facility. A determination was made that groundwater monitoring is not required due to the concrete liner, and construction at grade.

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](http://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 Buffalorock's existing CFO facilities were assessed in 2018 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

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 RA24032 permits the construction of an addition to the dairy barn for a sand lane and manure storage facility.

Authorization RA24032 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 RA24032 includes conditions that generally address construction deadline, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

## 9. Conclusion

Authorization RA24032 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA24032.

Authorization RA24032 must be read in conjunction with Buffalorock's previously issued Mountain View County's municipal development permit DP-047-01 together with previously issued NRCB Approval RA10067 and Authorization RA18015A which remain in effect.

August 29, 2024

(Original signed)

Lynn Stone  
Approval Officer

### Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization RA24032

## **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.)

Buffalorock’s 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.

Buffalorock’s 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 Agricultural 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. Buffalorock’s 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 existing; therefore, this provision does not apply. Nevertheless, Buffalorock’s 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, Buffalorock’s 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: Explanation of conditions in Authorization RA24032**

### **a. Construction Deadline**

Buffalorock proposes to complete construction of the proposed new addition to the existing dairy barn by December 2024. A timeframe allowing for two construction seasons is more appropriate to account for unexpected delays. The deadline of December 1, 2025, is included as a condition in Authorization RA24032.

### **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 RA24032 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the sand lane and manure storage facility to meet the specification for category B (liquid manure shallow pits) in Technical Guideline Agdex 096-93 "Non-Engineered Concrete Liners for Manure Collection and Storage Areas."
- b. Buffalorock to provide documentation from a third party to confirm the specifications of the concrete used to construct the manure storage and collection portions of the sand lane and manure storage facility.

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 RA24032 includes a condition stating that Buffalorock shall not place manure in the manure storage or collection portions of the new sand lane and manure storage facility until NRCB personnel have inspected the sand lane and manure storage facility and confirmed in writing that it meets the authorization requirements.