

Decision Summary RA24052

This document summarizes my reasons for issuing Authorization RA24052 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA24052. 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 December 3, 2024, Herman Verhoef on behalf of Verhoef Dairy Ltd. (Verhoef Dairy) submitted a Part 1 application to the NRCB to expand a manure storage facility (MSF)/manure collection area (MCA) and to construct additional MSF/MCAs at an existing dairy CFO.

The Part 2 application was submitted on February 7, 2025. On February 18, 2025, I deemed the application complete.

The proposed construction involves:

- Constructing an addition to the dairy barn - 27.4 m x 42.6 m (total length 80.7 m)
- Constructing a heifer barn – 70.1 m x 18.3 m
- Constructing a solid manure storage pad – 25 m x 25 m

a. Location

The existing CFO is located at NE 1-41-2 W5M in Lacombe County, roughly 8 km northwest of Bentley, Alberta. The terrain is undulating with a general slope to the north and northwest.

b. Existing permits

The CFO is already permitted under Registration RA18039.

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 Lacombe 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 Gull Lake Deer Creek Gas Co-op Ltd., Journey Energy Inc., and Fort Calgary Resources Ltd. as they are right-of-way holders at this land location.

Ms. Laura Partridge, a sr. water administration officer at EPA stated that no additional water licensing is required under the *Water Act*.

No other responses were received.

4. Municipal Development Plan (MDP) consistency

I have determined that the proposed construction is consistent with the land use provisions of Lacombe 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 protective layers of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 8 and Appendix B, the application meets all relevant AOPA requirements.

6. Responses from the 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." Lacombe County is an affected party (and directly affected) because the proposed construction is located within its boundaries.

Ms. Allison Noonan, a planning services administrative assistant with Lacombe County, provided a written response on behalf of the County. Ms. Noonan stated that the application is consistent with Lacombe County's land use provisions of the municipal development plan (MDP). The application's consistency with Lacombe County's MDP is addressed in Appendix A, attached.

Ms. Noonan also noted that the application meets the setbacks required by Lacombe County's land use bylaw (LUB).

7. Environmental risk of facilities

New MSF/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 surface or groundwater monitoring for the facilities. In this case a determination was made, and 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 Verhoef Dairy'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 RA24052 permits the construction of the heifer barn, solid manure storage pad, and the addition to the existing dairy barn.

Authorization RA24052 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 RA24052 includes conditions that generally address construction deadlines and construction inspections. For an explanation of the reasons for these conditions, see Appendix B.

9. Conclusion

Authorization RA24052 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA24052.

Authorization RA24052 must be read in conjunction with previously issued Registration RA18039 which remains in effect.

April 4, 2025

(Original signed)
Francisco Echegaray, P. Ag.
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization RA24052

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.)

Verhoef Dairy’s CFO is located in Lacombe County and is therefore subject to that county’s MDP. Lacombe County adopted the latest revision to this plan on July 6, 2017, updated March 13, 2025, under Bylaw No.1238/17.

Section 3.3.1 states that “[A]ll lands in the County shall be deemed to be agricultural lands unless otherwise designated by the Municipal Development Plan, an approved statutory or non-statutory plan, the Land Use Bylaw, or provincial legislation.”

I consider this section to be procedural in nature and not a valid land use provision. However, it does provide insight for the interpretation of the remaining portions of the MDP and land use bylaw (LUB).

Section 3.9.1 states, “[T]he County shall provide input on applications for confined feeding operations to the Natural Resources Conservation Board (NRCB) under the *Agricultural Operation Practices Act*. The County’s support is subject to the following:

- a) no new confined feeding operation shall be permitted less than 1.6 kilometres (1 mile) from the boundary of:
 - (i) a town, village, summer village or hamlet;
 - (ii) an area developed or designated for multi-lot residential use; or
 - (iii) a provincial or municipal park or recreation area, or other area used or intended to be used for a recreational facility development,except that where provincial regulations require a larger setback distance, that distance shall apply.

Further restrictions on the development of confined feeding operations may apply as directed by an Intermunicipal Development Plan or other plan approved by Council.”

Verhoef Dairy’s application is for the expansion of a dairy barn, and the construction of a heifer barn and a manure storage pad at an existing CFO; not for the development of a new CFO. Regardless the CFO is located outside all of these 1.6 km setbacks.

As for section 3.9.1's reference to intermunicipal development plans (IDP) or other plans approved by the County's Council, this CFO is not located within lands identified as part of an IDP or any other plans.

For these reasons, I conclude that the application is consistent with the land use provisions of Lacombe County's MDP that I may consider. This conclusion is consistent with the County's written response to the application.

APPENDIX B: Explanation of conditions in Authorization RA24052

Authorization RA24052 includes several conditions, discussed below:

a. Groundwater protection requirements

Verhoef Dairy proposes to construct the floors of the heifer barn, solid manure storage pad, and the addition to the existing dairy barn with a 2.6 metre thick naturally occurring protective layer. Section 9 of AOPA's Standards and Administration Regulation specifies a maximum hydraulic conductivity for this type of protective layer in order to minimize leakage.

Verhoef Dairy measured the hydraulic conductivity of the protective layer by installing a monitoring well (or water table well) at the time of borehole drilling. This approach provides an adequate representation of the protective layers proposed to be used to protect the groundwater resource.

The regulations provide that the actual hydraulic conductivity of a 10 metre thick naturally occurring protective layer must not be more than 1×10^{-6} cm/sec.

In this case, the in-situ measurement was 2.6×10^{-7} cm/sec. This value is below the maximum value in the regulations. Therefore, the proposed naturally occurring protective layer meets the hydraulic conductivity requirement in the regulations and no additional conditions are required.

b. Construction Deadline

Verhoef Dairy proposes to complete construction of the heifer barn, solid manure storage pad and the addition to the existing dairy barn by March 1, 2028. This timeframe is considered to be reasonable for the proposed scope of work. The deadline of March 1, 2028, is included as a condition in Authorization RA24052.

c. Post-construction inspection

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 RA24052 includes conditions stating that Verhoef Dairy shall not place livestock or manure in the manure storage or collection portions of the heifer barn or the addition to the existing dairy barn, or place manure on the solid manure storage pad, until NRCB personnel have inspected the facilities and confirmed in writing that they meet the authorization requirements.