



## Decision Summary RA22011

This document summarizes my reasons for issuing Authorization RA22011 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA22011. 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 February 11, 2022, Bles Wold Dairy Inc. (Bles Wold) submitted a Part 1 application to the NRCB to construct a calf barn (73 m x 22 m) at an existing dairy CFO. Bles Wold is also proposing to convert their existing calf barn into a shop.

The purpose of the proposed calf barn is to replace an old calf barn to better manage the young animals at the dairy.

The Part 2 application was submitted on March 2, 2022. On March 4, 2022, I deemed the application complete.

The application also notified the NRCB of the proposed construction of a storage area attached to the calf barn (22 m x 4 m). This structure is an “ancillary structure,” under section 1(1)(a.1) of the *Agricultural Operations, Part 2 Matters Regulation*, because it will not be used to store or collect manure or to confine livestock. Therefore, under section 4.1 of that regulation, this structure does not require a permit under the act.

#### a. Location

The CFO is located at SE 25-41-27 W4M in Lacombe County, roughly 6.4 km northwest of the City of Lacombe, Alberta. The terrain is nearly level with a general slope to the northeast.

#### b. Existing permits

The CFO is permitted under Approval RA17060.

### 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 1 mile (1,610 m) from the CFO

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 Health Services (AHS); Alberta Environment and Parks (AEP); and Alberta Agriculture, Forestry and Rural Economic Development (AFRED).

I did not receive responses from these referral agencies.

### **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 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/protective layers of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 9, the application meets all relevant AOPA requirements. The exemption that is required to address the AOPA requirements around the 100 m water well setback is discussed in the following parts of this decision summary.

### **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. Not all affected parties are "directly affected" under AOPA.

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 facilities are located within its boundaries.

Ms. Allison Noonan, 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 municipal development plan (MDP), and that the county has no issues or concerns with the proposal. The application's consistency with Lacombe County's MDP is addressed in Appendix A, attached.

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

New CFO facilities which clearly meet or exceed AOPA requirements are automatically assumed to pose a low risk to surface and groundwater. However, there may be circumstances where, because of the proximity of a shallow aquifer, or porous subsurface materials, an approval officer may require surface and/or groundwater monitoring for the facilities. In this case a determination was made that 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, 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 8.13.

In this case, the risks posed by Bles Wold's existing CFO facilities were assessed in 2016 and 2017 using the ERST. According to those assessments, the facilities posed a low potential risk to surface water and groundwater.

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

## **8. Exemptions**

I determined that the proposed calf barn is located within the required AOPA setback from a water well. As explained in Appendix B, an exemption to the 100 metre water well is warranted due to the construction and location of the water well from the proposed barn. In addition the calf barn having a concrete floor to protect groundwater, and walls and a roof to prevent surface runoff.

## **9. Terms and conditions**

Authorization RA22011 permits the construction of a calf barn.

Authorization RA22011 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 RA22011 includes conditions that generally address construction deadlines, document submission, converting a CFO facility into a shop, and construction inspections. For an explanation of the reasons for these conditions, see Appendix C.

## **10. Conclusion**

Authorization RA22011 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA22011.

Authorization RA22011 must be read in conjunction with NRCB issued Approval RA17060 which remains in effect.

May 17, 2022

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

### **Appendices:**

- A. Consistency with the municipal development plan
- B. Exemption from water well setbacks
- C. Explanation of conditions in Authorization RA22011

## 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.

Conversely, “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 8.2.5.)

Bles Wold’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 April 8, 2021, under Bylaw 1238/17. As relevant here:

Section 3.3.1 states that “All 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 a 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 of the county’s MDP states that the “County shall provide input on applications for confined feeding operations to the Natural Resources Conservation Board (NRCB) under the *Agricultural Operations 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 restriction on the development of confined feeding operations may apply as directed by an Intermunicipal Development Plan or other local plan approved by Council.”

Bles Wold’s application is for the construction of a new calf barn at an existing CFO; regardless the CFO is located outside any 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 land identified as part 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. This conclusion is consistent with the county's written response to the application.

In my view, under sections 1.3.4 and 3.3, the MDP clearly intends to incorporate Lacombe County's LUB #1237/17 (see NRCB Operational Policy 2016-7: *Approvals*, part 8.2.3). Accordingly, I considered the LUB.

Under that bylaw, the subject land is currently zoned as Agricultural "A" District. CFOs are not listed as either a permitted or discretionary use within that zoning category. However, section 3.2(2)(j) of the LUB states that CFOs do not require a development permit. I interpret this provision as meaning either that the county intended CFOs to have the same effective status as listed permitted uses, or that the county simply does not intend to address CFOs in its LUB (given that the NRCB's permitting role since AOPA came into effect in 2002). Under either interpretation, the CFO does not conflict with the LUB.

## APPENDIX B: Exemption from water well setbacks

### Water Well Considerations

The proposed calf barn is to be located less than 100 m from a water well. During a site visit I have confirmed that one water well is located approximately 20 m from it. 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 exemptions 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 storage facility (MSF)/manure collection area (MCA), and, if required, a groundwater monitoring program is implemented.

The potential risks of direct aquifer contamination from the MSF/MCA are presumed to be low if the applicant's proposed MSF/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 MSF/MCA
- d. Whether the well is up- or down-gradient from the MSF/MCA and whether this gradient is a reasonable indication of the direction of surface and groundwater flow between the two structures

These presumptions and considerations are based on NRCB Operational Policy 2016-7: Approvals, part 8.7.1.

The water well:

Based on information provided by the applicant and from the Alberta Environment and Parks (AEP) water well database, the water well located approximately 20 m south of the proposed barn is likely AEP water well ID #1035024. This well is reported to have been installed in 2003 and has a perforated or screened zone from 45.1 m to 54.9 m below ground level across stratigraphy. The well has an above ground casing. This well is used for non-domestic purposes. The well's log identifies protective layer or layers from ground surface to 6.7 m below ground level. The well has a driven seal from ground surface to 37.2 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 welded steel cage. The well is up-gradient from the CFO and MCF.

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.<sup>1</sup>

---

1. 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).

In this case, the results of the water well exemption screening tool suggest that an exemption is likely as seen in Technical Document RA22011. Additionally, a groundwater monitoring program for the water wells, within 100 metres of the CFO facilities, was included as a condition under Approval RA17060. That condition is still in effect.

## **APPENDIX B: Explanation of conditions in Authorization RA22011**

Authorization RA22011 includes several conditions, discussed below:

### **a. Construction Deadline**

Bles Wold propose to complete construction of the proposed calf barn by December 2022, within the same construction season as when the authorization is issued. It is my opinion that a deadline that allows for at least two full construction seasons is more reasonable for the proposed scope of work. The deadline of November 30, 2023 is included as a condition in Authorization RA22011.

### **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 RA22011 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the calf barn 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.” Bles Wold shall provide evidence or written confirmation from a qualified third party that the concrete used for the manure collection and storage area meets the required specifications.

The NRCB routinely inspects newly constructed facilities to assess whether the facilities were constructed according to their required design specifications. To be effective, and to reduce risk to the operator, these inspections must occur before livestock or manure are placed in the newly constructed facilities. Authorization RA22011 includes a condition stating that Bles Wold shall not place livestock or manure in the manure storage or collection portions of the calf barn, until NRCB personnel have inspected it and confirmed in writing that it meets the authorization requirements.

### **c. No livestock or manure allowed in existing calf barn**

As noted by the applicant, the old calf barn will converted and used as a shop. Therefore, Authorization RA22011 includes a condition prohibiting Bles Wold from placing manure or livestock in this facility, after the new calf barn has been constructed and approved for use.