

## Decision Summary RA22017

This document summarizes my reasons for issuing Authorization RA22017 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA22017. 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 May 17, 2022, Jason Prinse, on behalf of Prinse Farms Ltd. (registered in B.C. as 0099856 B.C. Ltd. referred to here after as Prinse Farms), submitted a Part 1 application to the NRCB to construct a 27.9 m x 18.9 m addition onto an existing calving, maternity, and youngstock barn, at an existing dairy CFO.

The Part 2 application was submitted and deemed complete on May 24, 2022.

#### a. Location

The CFO is located at SE 29-37-1 W5M in Red Deer County, roughly nine kilometers south of the Town of Sylvan Lake. The terrain at the site slopes gently to the northeast. The nearest body of water is an intermittent creek located approximately 100 metres down gradient of the existing earthen liquid manure storage.

#### b. Existing permits

The CFO is already permitted under a deemed or grandfathered registration, Registration RA12014 and Authorization RA16037 for 150 milking cows, plus associated dry cows and replacements.

### 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 0.5 miles from the CFO

A copy of the application was sent to Red Deer County, which is the municipality where the

CFO is located. It was not sent to other municipalities as none are located within 0.5 miles and the CFO is not located within 100 metres of a river, stream, or canal.

### **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), Alberta Agriculture, Forestry and Rural Economic Development (AFRED), and Alberta Transportation.

Sonam Khaira, an executive officer with AHS, provided comments related to the application, best management practices, dead animal disposal requirements and water wells. The AHS response did not raise concerns with the application.

Laura Partridge, a senior water administration officer with AEP, indicated that additional water licensing (under the *Water Act*) was not required at this time. She did not raise concerns with the application.

Anne Han, a development and planning technologist with Alberta Transportation, indicated that a roadside development permit was required, but did not object to the application.

These responses were forwarded to the applicant. No response was received from AFRED.

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

I have determined that the proposed modification is consistent with the land use provisions of Red Deer 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 modification:

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS) in accordance with section 3(5)(c)(iii) of the Standards and Administration Regulation (the proposed barn addition is within the footprint of the existing CFO site and there is no proposed increase to the annual amount of manure produced)
- 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/protective layers of manure storage facilities and manure collection areas

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

## 6. Response 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. Not all affected parties are "directly affected" under AOPA.

Municipalities that are affected parties are identified by the act as "directly affected." Red Deer County is an affected party (and directly affected) because the CFO is located within its boundaries.

Mr. Richard Moje, a planner with Red Deer County, provided a written response on behalf of the county. He stated that the county council offered no objections to the application. The application's consistency with the county's land use provisions in the municipal development is addressed in Appendix A, attached.

## 7. Environmental risk of facilities

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 Prinse Farms' existing CFO facilities were assessed in 2016. The assessment indicated that the potential risks to surface water and groundwater were low.

Since the 2016 risk assessment, it was clarified that a water well was operational when it was previously indicated to be inoperative (see the "residential" water well, Technical Document RA22017, page 6). For this reason, I reassessed the risks posed by the CFO's existing facilities. My reassessment found that the earthen liquid manure storage (EMS), which was constructed as part of the deemed permit, poses a moderate potential risk to groundwater and low potential risk to surface water.

I discussed the moderate potential groundwater risk with Dr. Mike Iwanyshyn, the chair of the NRCB's monitoring review team. Several potential methods to address the potential risk posed by the EMS were brought up including but not limited to decommissioning the water well, proving the EMS's liner construction (to meet AOPA's hydraulic conductivity requirements), or having the applicant come up with an alternate plan to address the potential groundwater risk.

I presented these options to the applicant, who provided a plan where the water well would be relegated to non-domestic uses and the water tested in a laboratory on an annual basis.

While the plan presented by the applicant may not fully address the concerns identified by the ERST, it does start the process towards better understanding of the risk. It also includes a commitment that water from this well will not be consumed by people

I also assessed the environmental risk posed by the calving, maternity and young stock barn, including the proposed addition, and determined that it poses a low potential risk to surface water and groundwater.

## **8. Terms and conditions**

Authorization RA22017 permits the construction of the barn addition.

Authorization RA22017 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 RA22017 includes conditions that generally address a construction deadline, monitoring, the usage of a water well, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

## **9. Conclusion**

Authorization RA22017 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA22017.

July 11, 2022

(Original signed)

Jeff Froese  
Approval Officer

## **Appendices:**

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization RA22017

## 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.)

Prinse Farms’ CFO is located in Red Deer County and is therefore subject to that county’s MDP. Red Deer County adopted the latest revision to this plan on September 21, 2021, under Bylaw #2020/20.

Section 3.5 of the MDP relates to CFOs. The subsections relevant to this application are discussed below:

3.5.1 States that the county “encourages the development of Confined Feeding Operations (CFOs) at appropriate locations, as a means of supporting the local economy and creating employment.” This subsection likely isn’t a relevant “land use provision” but it provides a general context for interpreting and applying the other parts of section 3.5.

3.5.2 Lists six “criteria used [by the county] in responding to applications for new CFOs or expansions to existing CFOs...” This subsection is titled “*Criteria for Input*” (emphasis added). This subsection is intended to be used only by the county to prepare its responses to AOPA applications.

In addition, the criteria require site- and CFO-specific discretionary considerations rather than providing generic direction for appropriate land uses. As such, the six criteria are not considered by the NRCB to be “land use provisions.” (See Operational Policy 2016-7: Approvals, part 8.2.5.) Therefore, they are not relevant to this MDP consistency determination.

3.5.3 Contains three parts under the heading “Conditions for County Support of CFOs”:

a. States that the county shall provide input to the Natural Resources Conservation Board (NRCB) in responding to applications for new or expanded CFOs. As with subsection 3.5.2, discussed above, this subsection focuses on the county’s response and therefore is not a land use provision and is not relevant to my MDP consistency determination.

b. Relates to the establishment of new CFOs. This application is for an addition to an existing barn at an already existing CFO, not the establishment of a new one, and is not applicable to this application.

c. Relates to expanding CFOs and states that “applications made to the NRCB ... may be supported if they:

- i. are located within an Intermunicipal Development Plan (IDP) and are in accordance with the policies contained within the IDP regarding new CFOs and expanding CFOs; and
- ii. are compatible with adjacent land uses.”

Prinse Farms is not located in the area covered by an IDP. Under the county’s land use bylaw, the CFO and surrounding lands are zoned as agricultural district. CFOs are listed as a permitted land use on agriculturally zoned parcels that are 32 ha or 80 acres or larger. Based on this, this CFO is compatible with adjacent land uses.

For these reasons, I conclude that the application is consistent with the land use provisions of Red Deer County’s MDP. As noted above, the response from Red Deer County to this application did not state any objections with this application.

## **APPENDIX B: Explanation of conditions in Authorization RA22017**

Authorization RA22017 includes several conditions, discussed below:

### **a. Construction Deadline**

Prinse Farms proposes to complete construction of the proposed barn addition by October 31, 2022. This time-frame is considered to be reasonable for the proposed scope of work under ideal conditions. Despite this, poor climatic conditions or limited access to building materials or contractors may require a longer deadline. Because of this I am of the opinion that including an additional full construction season would be more appropriate. The deadline of October 31, 2023 is therefore included as a condition in Authorization RA22017.

### **b. Addressing risk to groundwater posed by earthen liquid manure storage**

Prinse Farms proposes to no longer use the “residential” water well (see Technical Document RA22017, page 6) for domestic purposes and to test water well samples.

#### **1) Commitment to not use the water well for domestic purposes**

The applicant has committed to use the “residential” water well for non-domestic purposes only. Accordingly, a condition will be added to the permit that prohibits the permit holder from using the “residential” water well for domestic purposes.

#### **2) Water well testing**

The applicant has committed to test the “residential” water well on a regular basis. Accordingly, a condition will be added to the permit requiring the “residential” water well be tested in accordance with the monitoring requirements set out in an associated monitoring statement.

### **c. Post-construction inspection and review**

The NRCB’s general practice is to include conditions in new permits to ensure that the new or expanded facilities are constructed according to the required design specifications. Accordingly, Authorization RA22017 includes conditions requiring the concrete used to construct the liner of the manure collection and storage portion of the barn addition 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.”

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 RA22017 includes a condition stating that Prinse Farms shall not place livestock or manure in the new barn addition until NRCB personnel have inspected it and confirmed in writing that it meets the authorization requirements.