

## Decision Summary BA23003

This document summarizes my reasons for issuing Authorization BA23003 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document BA23003. 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 January 17, 2023, Aljans Farms Ltd. submitted a Part 1 application to the NRCB to construct a manure collection area (MCA) and manure storage facility (MSF) facility at an existing dairy CFO.

The Part 2 application was submitted on February 22, 2023. On February 27, 2023, I deemed the application complete.

The proposed construction involves:

- Constructing a youngstock shelter with an outdoor pen (both with concrete liners) – 110 m x 21 m and 110 m x 18 m

#### a. Location

The existing CFO is located at W½ 34-60-3 W5M in the County of Barrhead, roughly 10 km north of Barrhead, Alberta. The terrain is gently undulating; the nearest common body of water is an intermittent drainage 400 m to the east.

#### b. Existing permits

The CFO was originally permitted by Registration BA05020, which the NRCB issued on September 7, 2006. That registration was superseded by Registration BA05020A, which the NRCB issued on March 11, 2011. This registration allows Aljans Farms to construct and operate a 199 cow dairy CFO (plus dries and replacements). The CFO was also issued Authorizations BA16005, BA17014, and BA20001 to construct an extension to the existing dairy barn, permit the use of an existing dry cow shelter, construct a new heifer barn, and construct a calf barn.

### 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 the County of Barrhead, 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 Protected Areas (EPA), and Alberta Agriculture and Irrigation (AGI).

I received responses from both AHS and AGI, neither had concerns with the application.

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

I have determined that the proposed construction is consistent with the land use provisions of Barrhead 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, with one exception (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS). As explained below in Appendix B, MDS does not apply for this application
- 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 9, the application meets all relevant AOPA requirements. The inapplicability of MDS requirements is discussed in the following parts of this decision summary and in Appendix B.

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

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

Ms. Jenny Bruns, a development officer with the County of Barrhead stated that the application is consistent with the county's municipal development plan (MDP) and its applicable documents. The application's consistency with the county's MDP is addressed in Appendix A, attached. Ms. Bruns also listed the setbacks required by the county's land use bylaw (LUB). The application meets these setbacks.

## **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, 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 8.13.

In this case, the risks posed by Aljans Farms' existing CFO facilities were assessed in 2016. According to that assessment, the facilities posed a low 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.

I also assessed the proposed youngstock shelter with outdoor pen, using the NRCB's risk screening tool, and determined that poses a low risk to groundwater and surface water.

## **8. MDS**

I determined that the proposed youngstock shelter with attached pen is located within the minimum distance separation from 1 residence. As explained in Appendix B, under the Standards Administration Regulation 3(5)(c)(ii) MDS does not apply to this application due to the proposed CFO facility not moving closer to the residence (than the existing CFO facilities) and the CFO not increasing permitting livestock numbers or manure production.

## **9. Terms and conditions**

Authorization BA23003 permits the construction of the youngstock shelter with attached pen.

Authorization BA23003 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 BA23003 includes conditions that generally address construction deadlines, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix C.

## **10. Conclusion**

Authorization BA23003 is issued for the reasons provided above, in the attached appendices,

and in Technical Document BA23003.

Authorization BA23003 must be read in conjunction with Aljans Farms previously issued Registration BA05002A, Authorization BA16005, Authorization BA17014, and Authorization BA20001 which remain in effect.

May 10, 2023

(Original signed)

Nathan Shirley  
Approval Officer

**Appendices:**

- A. Consistency with the municipal development plan
- B. Minimum distance separation requirement
- C. Explanation of conditions in Authorization BA23003

## **APPENDIX A: Consistency with the municipal development plan**

Under section 22 of AOPA, an approval officer may only approve an application for 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.)

Aljans Farms’ CFO is located in the County of Barrhead and is therefore subject to that county’s MDP. The county adopted the latest revision to this plan on August 17, 2010, under Bylaw No. 4-2010.

Part 3.1.3 of the MDP lists 14 agricultural development policies and includes CFOs as among “primary use[s]” in agricultural use area. The first policy recognizes agriculture as the priority land use in rural areas, supports agricultural diversification, encourages siting agricultural industries in agricultural areas, and discourages non-agricultural land uses in intensive agricultural areas. Of the remaining 13 policies, only 10 and 11 relate specifically to CFOs.

Policy 10 states “input shall be provided to the NRCB in responding to applications for new or expanded CFOs based on the technical and locational merits of each application.” This policy is likely not a land use provision because it requires site-specific, discretionary determinations (see NRCB Operational Policy 2016-7, Approvals 8.2.4). Therefore, this policy is not relevant to the MDP consistency determination required by section 22(2.1) of AOPA. At any rate, the application meets the “technical and locational” requirements of AOPA.

Policy 11 states that “minimum distance separations shall conform to standards set out in the Agricultural Operation Practices Act.” “Minimum distance separations” appears to be a reference to the minimum distance separation (MDS) requirement in section 3 of the Standards and Administration Regulation under AOPA. MDP policy 11 is not relevant to my MDP consistency determination because it is based on AOPA’s MDS requirements. (See NRCB Operational Policy 2016-7, Approvals, part 8.2.5). That said, the CFO facility is not required to meet AOPA’s MDS requirements, as explained in Appendix B.

I conclude that the application is consistent with the relevant land use provisions of the County of Barrhead’s MDP.

## **Appendix B: Minimum distance separation requirement**

The proposed construction is located within the footprint of Aljans Farms' CFO. The existing dairy barn does not meet MDS to 1 residence and the proposed youngstock shelter with attached pen will be on the east side of the CFO further away from this residence. Due to this proximity, the applicant's proposed construction does not meet the minimum distance separation (MDS). However, the Standards and Administration Regulation 3(5)(c)(ii) provides approval officers authority to issue an authorization without adhering to the MDS in certain circumstances.

Under part 1 of the Standards and Administration Regulation, section 3(5)(c)(ii), an approval officer may issue an authorization without adhering to MDS if the applicant is applying to build an additional building on the site of the CFO and the amount of manure, composting materials and compost produced annually will not increase.

Section 1(1)(d)(ii) of the Part 2 Matters Regulation under AOPA defines "expansion" as the construction of additional facilities to store more manure, compost materials or compost. Aljans Farms' proposed youngstock shelter with attached pen is moving further away from the nearest residence. They are not proposing to increase livestock numbers, so they will not be increasing the annual amount of manure the CFO will produce. Additionally, the operation will not be moving any closer to the nearest residence.

Considering each of these factors, I have concluded that the Standards and Administration Regulation, section 3(5)(c)(ii) applies to this application and therefore the MDS requirement does not apply.

## **APPENDIX C: Explanation of conditions in Authorization BA23003**

Authorization BA23003 includes several conditions, discussed below:

### **a. Construction Deadline**

Aljans Farms proposes to complete construction of the proposed new youngstock shelter with attached pen by end of 2025. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of December 1, 2025 is included as a condition in Authorization BA23003.

### **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 BA23003 includes conditions requiring:

- the concrete used to construct the liner of the manure collection and storage portion of the youngstock shelter with attached pen to meet the specification for category C (solid manure – wet) (outdoor pen) category D (solid manure – dry) (shelter) in Technical Guideline Agdex 096-93 “Non-Engineered Concrete Liners for Manure Collection and Storage Areas”
- Aljans Farms to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the youngstock shelter with attached pen

The NRCB routinely inspects newly constructed facilities to assess whether the facilities were constructed according to their required design specifications. To be effective, these inspections must occur before livestock or manure are placed in the newly constructed facilities.

Authorization BA23003 includes a condition stating that Aljans Farms shall not place livestock or manure in the manure storage portions of the new youngstock shelter with attached pen until NRCB personnel have inspected the barn and confirmed in writing that it meets the authorization requirements.