

## Decision Summary RA21048

This document summarizes my reasons for issuing Approval RA21048 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA21048. 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 approval. For additional information on NRCB permits please refer to [www.nrcb.ca](http://www.nrcb.ca).

### 1. Background

On December 13, 2021, an NRCB inspector and I attended Madge Farms Ltd. (Madge Farms) in response to an unauthorized construction complaint. The inspector and I found that the site had been expanded from a small seasonal feeding and bedding site to a beef feedlot in 2016, without an NRCB permit. Madge Farms was directed to depopulate the pens unless they obtained an NRCB permit for the site. No CFO permits (either deemed or issued by the NRCB or Special Area 2) exist for the site.

The site is owned by Judith Madge, James Madge, and Carrie Madge.

On December 14, 2021, Madge Farms submitted a Part 1 application to the NRCB for 6,000 beef finishers.

The Part 2 application was submitted on May 9, 2022. On May 25, 2022, I deemed the application complete.

On August 30, 2022, Madge Farms requested to modify the proposed catch basin dimensions.

The application was placed on hold from October 2022 until April 2023, while Madge Farms attempted to obtain an additional MDS waiver. They were unable to do so; therefore, on April 14, 2023, Madge Farms requested that I modify their application to permit 2,290 beef finishers.

The application consists of:

- Permitting 2,290 beef finishers
- Constructing new feedlot pens – 200 m x 170 m
- Constructing a catch basin – 72 m x 70 m x 5 m
- Permitting the already constructed but unpermitted feedlot pens (numbered 1 to 13, approximately 93,733 m<sup>2</sup>)
- The applicant also requested a variance under section 17 of AOPA of the requirement that manure storage facilities and manure collection areas must be more than 100 metres away from water wells. That variance request is discussed in Appendix B

## **a. Location**

The proposed CFO is located at SW 28-30-11 W4M in Special Area 2, roughly 29 kilometers southeast of the town of Hanna. The site is also approximately 1450 m northeast of the centre of the hamlet of Stanmore. The terrain is generally flat and has an overall slope to the south and east. The closest water body is a surface runoff water dugout located on the applicant's property.

## **2. Notices to affected parties**

Under section 19 of AOPA, the NRCB notifies (or directs the applicant to notify) all parties that are "affected" by an approval application. Section 5 of AOPA's Part 2 Matters Regulation defines "affected parties" as:

- 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 person or municipality entitled to divert water from that body within 10 miles downstream
- the municipality where the CFO is located or is to be located
- any other municipality whose boundary is within a specified distance from the CFO, depending on the size of the CFO
- all persons who own or reside on land within a specified distance from the CFO, depending on the size of the CFO

For the size of this CFO, at time of public notice (6,000 finishers), the specified distance was 2 miles. (The NRCB refers to this distance as the "affected party radius.") With the decrease in livestock numbers, the new notification radius reduces to 1.5 miles. However, irrespective of this, I will treat anyone who responded to this application that lives or owns land within the original 2 mile radius as directly affected.

The site is not located within 100 m of a river, stream, or canal.

A copy of the application was sent to Special Area 2, which is the municipality where the CFO is to be located. While AOPA does not expressly provide for CFOs constructed in special areas, under policy (Approvals Operational Policy 2016-7) the NRCB treats special areas as municipalities for the purposes of applications under AOPA.

The NRCB gave notice of the application by public advertisement in a weekly newspaper in circulation in the community affected by the application. In this case, public advertisement was in the Hanna Herald on May 25, 2022. The full application was made available for viewing during regular business hours and was posted on the NRCB website for public viewing. As a courtesy, 26 letters were sent to people identified by Special Area 2 as owning or residing on land within the 2 mile original affected party radius.

## **3. Notice to other persons or organizations**

Under section 19 of AOPA, 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), and Alberta Environment and Parks (AEP).

I also sent a copy of the application to Canadian Natural Resources Limited, Atco Electric Ltd, and East Central Gas Co-op as they hold right of ways on the subject property.

Mr. Balraj Deol, a public health inspector, responded on behalf of AHS. Mr. Deol summarized the application and provided some general comments.

Ms. Ashley Gross, general manager, replied on behalf of East Central Gas Co-op. Ms. Gross indicated that feedlot pens cannot be built over top of gas lines; however, she indicated that it appears to be fine based on the site layout.

#### **4. Alberta Land Stewardship Act (ALSA) regional plan**

Section 20(10) of AOPA requires that an approval officer must ensure the application complies with any applicable ALSA regional plan.

There is no ALSA regional plan for the area where the proposed CFO is to be located.

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

I have determined that the proposed CFO is consistent with the land use provisions of Special Area 2's municipal development plan, as well as the Special Areas' land use order. (See Appendix A for a more detailed discussion.)

#### **6. AOPA requirements**

With respect to the technical requirements set out in the regulations, the proposed CFO:

- Meets the required AOPA setbacks from nearby residences, with one exception (AOPA setbacks are known as the “minimum distance separation” requirements, or MDS). The owners of that residence have signed a written waiver of the MDS requirement to their residence
- Meets the required AOPA setbacks from springs, and common bodies of water
- Has sufficient means to control surface runoff of manure
- Meets AOPA's nutrient management requirements regarding the land application of manure
- Meets AOPA groundwater protection requirements for the design of floors and protective layers of manure storage facilities and manure collection areas

The initial application was for 6,000 beef finishers, rather than the amended 2,290 beef finishers. The 6,000 beef finishers resulted in a larger MDS than what is required for 2,290 beef finishers. Madge Farms provided three waivers in support of the initial application; however only one is required now with the reduced MDS.

With the terms and conditions summarized in part 11 and Appendix C, the application meets all relevant AOPA requirements. The variances that are required to address the AOPA requirements around water well setbacks are discussed in Appendix B.

#### **7. Responses from municipality and other directly affected parties**

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.” Special Area 2 is an affected party (and directly affected) because the proposed CFO is located within its boundaries.

Ms. Brett Richards, a development officer, provided a written response on behalf of Special Area 2. Ms. Richards stated that the application is not consistent with the land use order relating to Special Area 2 as it does not meet the setbacks to the Hamlet of Stanmore. Ms. Richards then stated that given the hamlet’s small population, and lack of previous complaints, the application would be consistent with the general goals of Special Area 2, if the application had support of the hamlet occupants. In relation to a February 2021 MDP of Special Areas 1, 2, and 3, Ms. Richards did not indicate whether the application was consistent with the MDP’s land use provisions. The application’s consistency with Special Area 2’s land use order (LUO) is addressed in Appendix A, attached.

No responses were received from any other person, organization, or member of the public.

The NRCB considers a person who owns a residence within the MDS of the CFO, and who waives the MDS requirements in writing to be automatically considered directly affected (See NRCB Operational Policy 2016-7: Approvals, part 6.2). Orland & Catherine Thuroo provided a MDS waiver that was required, and are considered a directly affected party.

## **8. Environmental risk of CFO facilities**

As part of my review of this application, I assessed the risk to the environment posed by the CFO’s existing (unauthorized) manure storage facilities and manure collection areas, as well as the proposed (not yet built) facilities. I used the NRCB’s environmental risk screening tool (ERST) to assist in my assessment of risk to surface water and groundwater (see NRCB Operational Policy 2016-7: Approvals, part 8.13). The tool provides for a numeric scoring of risks, which can fall within 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).)

I found that the existing (unauthorized) feedlot pens, the proposed new feedlot pens, and the proposed catch basin all pose a low potential risk to groundwater and surface water.

## **9. Variances**

Madge Farms applied for a variance of the requirement for water wells to be at least 100 m away from a manure storage facility or manure collection area. I determined that several of the feedlot pens, that were constructed without a permit, are located within the required AOPA setback from existing water wells. As explained in Appendix B, I am prepared to issue a variance to the 100 metre water well setback due to the wells’ construction, and location upslope from the feedlot pens.

## **10. Other factors**

Because the approval application is consistent with the land use provisions of the LUO and the MDP, and meets the requirements of AOPA and its regulations, I also considered other factors.

AOPA requires me to consider matters that would normally be considered if a development permit were being issued. The NRCB interprets this to include aspects such as property line and road setbacks related to the site of the CFO. (Grow North, RFR 2011-01 at page 2). Approval

officers are limited to what matters they can consider though as their regulatory authority is limited.

Ms. Richards did not include the setbacks required by Special Area 2's land use order (LUO). I reviewed the LUO governing land zoned Agricultural, and found that it specifies setbacks from the right-of-way of municipal road allowance, abutting parcels of land, and as required by Alberta Transportation (in the case of provincial highways).

It appears to me that the site meets the setbacks from abutting parcels of land; furthermore, the site is not located adjacent to a provincial highway, so setbacks from Alberta Transportation would not apply.

It is difficult for me to determine if the application meets the municipal road setbacks, as it is not clear where the right-of-ways of the municipal road allowances (whether developed or not) exist. However, given the required setback of 30.48 m from the road allowance right-of-way for front, side, and rear yards, it seems unlikely that this site meets these requirements.

Under AOPA, approval officers must consider "matters that would normally be considered if a development permit were being issued" (section 20(1)(b)(i)). The NRCB interprets this to section to include matters such as property line setbacks (*Approvals*, Section 8.4). I therefore am required to consider if a property line condition should be added to this approval.

Ms. Richard's response did not discuss the setbacks, nor did she raise concerns about the site not meeting these setbacks. I note that while the existing (unauthorized) pens appear to not meet the setbacks, several other non-AOPA facilities and buildings (mechanical shop, grain bins, residence) may also not meet these setbacks. I followed up on the setbacks with Ms. Richards; she verbally stated that while the feedlot pens do not meet the setbacks, she does not have any concerns as long as overly tall structures (such as large windbreaks) are not present. While I did not observe any tall structures or windbreaks in the unauthorized pens along the road, Madge Farms is reminded to discuss this with Special Area 2 if they wish to add structures like these in the future.

I have considered the effects the proposed CFO may have on natural resources administered by provincial departments. AEP has not made me aware of statements of concern submitted under section 73 of the *Environmental Protection and Enhancement Act* or under section 109 of the *Water Act* in respect of the subject of this application. Furthermore, the application meets AOPA's technical requirements. I am not aware of any written decision of the Environmental Appeals Board for this location (<https://www.eab.gov.ab.ca/status.htm>, accessed April 21, 2023).

Finally, I considered the effects of the proposed CFO on the environment, the economy, and the community, and the appropriate use of land.

Consistent with NRCB policy (Approvals Policy 8.7.3), I presumed that the effects on the environment are acceptable because the application meets all of AOPA's technical requirements. In my view, this presumption is not rebutted.

Consistent with NRCB policy (Approvals Policy 8.7.3), if the application is consistent with the MDP (and in this case the Special Areas land use order), then the proposed development is presumed to have an acceptable effect on the economy and community. In my view, this presumption is not rebutted.

I also presumed that the proposed CFO is an appropriate use of land because the application is consistent with the land use provisions of the MDP and land use order (See NRCB Operational Policy 2016-7: Approvals, part 8.7.3.). In my view, this presumption is not rebutted.

## **11. Terms and conditions**

Approval RA21048 specifies the cumulative permitted livestock capacity as 2,290 beef finishers and permits the construction of the feedlot pens and catch basin and permits the already constructed feedlot pens (#1 - #13).

Approval RA21048 contains terms that the NRCB generally includes in all AOPA approvals, 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, Approval RA21048 includes conditions that generally address construction deadline, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix C.

## **12. Conclusion**

Approval RA21048 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA21048.

May 24, 2023

(Original signed)  
Lynn Stone  
Approval Officer

### **Appendices:**

- A. Consistency with land use provisions
- B. Variances
- C. Explanation of conditions in Approval RA21048

## APPENDIX A: Consistency with land use provisions

Under section 20 of AOPA, an approval officer may only approve an application for an approval or amendment of an approval if the approval officer holds the opinion that the application is consistent with the “land use provisions” of the applicable municipal development plan (MDP).

The Special Areas Board is constituted under the *Special Areas Act*. However, Special Areas 2,3, and 4 have developed an MDP (February 2021) under the *Municipal Government Act*. Part 8 of this MDP addresses agriculture, although in general terms that are likely not land use provisions. In the MDP there is very little guidance on agriculture at all, and nothing specific to CFOs.

More usefully, the Special Areas Board has also adopted a Land Use Order (LUO) to regulate and control the use and development of lands and buildings within Special Areas 2, 3 and 4, and to facilitate orderly and economic development in those areas. Under these circumstances, the NRCB views the LUO as equivalent to an MDP for the purposes of AOPA’s MDP consistency requirement. I will focus on the LUO’s “land use provisions.”

The NRCB interprets the term “land use provisions” as covering policies that provide generic directions about the acceptability of various land uses in specific areas and that do not call for discretionary judgements relating to the acceptability of a given confined feeding operation (CFO) development. (See NRCB Operational Policy 2016-7 Approvals, part 8.2.5). Under this interpretation, the term “land use provisions” also excludes policies that impose procedural requirements. In addition, section 20(1.1) 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.”) Therefore, any tests or conditions in the LUO will not be considered.

Madge Farms’ CFO is located in Special Area No. 2, and is therefore subject to the Special Areas Board LUO. (The LUO was enacted on March 3, 2015 under Ministerial Order No. MSL: 007/15).

Under the LUO, the subject land is currently zoned as Agricultural District. Section 19 of the order states that the “purpose and intent” of this district is to “provide for extensive agriculture, while accommodating similar and compatible uses.” CFOs do not fall within the LUO’s definition of “extensive agriculture.” Nor does the LUO’s list of permitted or discretionary uses for the Agricultural District, in section 19, include CFOs. However, Appendix 2 of the LUO (entitled “Land Use Planning for Confined Feeding Operations”) states that CFOs “may be located only within the Agricultural District”, which logically implies that CFOs may be located within that district. Appendix 2 of the LUO also includes four sections that provide further guidance regarding locating CFOs within the Agricultural District.

Section 1. States that “confined feeding operations shall be excluded” from numerous named locations, from provincially recognized “Historical or Cultural sites,” and from an 800 metre zone adjacent to the banks of the Red Deer and South Saskatchewan Rivers.

Madge Farms’ site is not located in these areas.

Section 2. Areas requiring mitigation – Indicates areas within Special Areas where mitigation is required if CFOs are located there.

Madge Farms' CFO complies with the environmental protection requirements set out in AOPA which do address these recommendations and mitigation.

### Section 3. Recommended Facility Setback.

- (1) From occupied dwellings, confined feeding operation facilities shall be setback according to the Category 4 Minimum Distance Separation (MDS), with a 1,600.00 metres minimum from occupied dwellings not owned or under the control of the CFO operator, without written consent of the owner/occupant.
- (2) Notwithstanding the above, circumstances may dictate an increased MDS based upon localized environmental aspects of topography, wind, and open spaces between the proposed facility and an occupied dwelling not under the control of the CFO. The Municipal Planning Commission shall be provided with the opportunity to provide a substantiated recommendation on any increased MDS.
- (3) From towns, villages, hamlets (with multiple dwellings), and community recreational facilities, confined feeding operation facilities shall be set back according to the Category 4 Minimum Distance Separation, with a minimum 3,200.00 metres from the North and West and a minimum 2,400.00 metres from the South and East. The purpose of varied setback distances is to recognize the differing impacts of odour and noise that may be generated by a CFO and carried along the prevailing winds.
- (4) Facility setback distances may be reduced through the use of technological developments such as odour limiting biofilters at the facility.

Section 3 refers to the term "minimum distance separation (MDS)". The LUO does not define this term; I therefore presume that it refers to the MDS requirements in AOPA.

The proposed CFO appears to not meet this LUO policy because of the requirement to meet Category 4 MDS for residences with a minimum of 1,600 metres from other residences not owned by the CFO operator, and a minimum of 2,400 metres southeast and 3,200 northwest of a town, village, or hamlet.

However, this policy's use of the word "[r]ecommended", in contrast with the word "restricted" in section 1, strongly suggests that this policy was meant to call for a preference, rather than provide a hard and fast or non-discretionary rule.

Further, in my view section 3 of Appendix 2 of the Special Areas LUO enlarges and effectively purports to modify the MDS setback under AOPA. Under NRCB policy, approval officers should not consider provisions that are based on or modify the MDS requirements under AOPA. (See Operational Policy 2016-7: Approvals, part 8.2.5). Therefore, for these reasons, this part of this policy is not relevant to my land use provision consistency determination. That being said, the CFO site meets AOPA's Category 4 MDS to the Hamlet of Stanmore, with the exception of one residence, which provided a waiver.

Section 4. Recommended Setback for Manure Disposal - Discusses required setbacks for manure spreading from neighbouring residences, using category 4 Minimum Distance Separation. A minimum manure disposal setback of 1 mile for occupied residences is included. A minimum manure disposal setback of 1.5 to 2 miles



(depending on direction) for hamlets with multiple residences and community recreation facilities is also included.

Section 20(1.1) of AOPA states: “In considering ... whether an application is consistent with the municipal development plan land use provisions, an approval officer shall not consider ... any provisions respecting tests or conditions related to the construction of or the site for a confined feeding operation...nor... the application of manure, composting materials or compost.” I have reviewed parts of section 3 and all of section 4 of Appendix 2 of the Special Areas LUO and I have determined them to be provisions respecting tests or conditions related to the construction of a CFO or the application of manure; and therefore, these sections will not be considered. Irrespective, the operator is required to meet the environmental protection requirements set out in AOPA which do address these recommendations.

For these reasons, I conclude that the application is consistent with the relevant land use provisions of the Special Areas Board LUO.

## APPENDIX B: Variances

Several of the constructed (but unauthorized) feedlot pens, as illustrated on page 37 of Technical Document RA21048, are located less than 100 m from a water well. I have confirmed that 5 water wells are located between approximately 10 m to 90 m from the pens during a site visit and by reviewing aerial photography. This is in conflict with the section 7(1)(b) of the Standards and Administration Regulation (SAR).

An exemption to the setback requirement is allowed under SAR section 7(2), but only before a facility or area is constructed. In this case, the pens have already been constructed (without a permit). As the exemption under section 7(2) is unavailable, I therefore need to either deny the application or alternatively consider if a variance is warranted under AOPA's section 17(1).

Approval officers must not grant variances or exemptions lightly or in the absence of substantive evidence they will produce equivalent levels of protection (see Decision 03-04, *AAA Cattle Ltd.* p 24). I will consider whether a variance is warranted to the water wells separately below.

On December 13, 2021, the CFO operator requested a variance to the water well setback requirement on the grounds that all of the wells are upslope from the CFO facilities on site.

In this case, I have used the same tools that I would normally use to determine if an exemption is warranted. I consider the water well exemption framework as useful for assessing the degree of protection for the water well in relation to a manure collection area (MCA). In this case I presume that the risks of direct aquifer contamination from the MCA are low if the MCA meets (or otherwise meets) AOPA's technical requirements to control runoff and leakage. However, when determining whether a MCA that otherwise meets AOPA's technical requirements provides the same or greater protection and safety as provided for by the regulations, I also assess whether water wells themselves could act as conduits for aquifer contamination.

One indicator that a variance provides the same or greater protection and safety is if the aquifer into which the well is drilled is not likely to be contaminated by the MCA.

In this case, I felt the following factors were relevant to determine the protection of the aquifer in relation to 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 MCA
- d. Whether the well is up- or down-gradient from the MCA and whether this gradient is a reasonable indication of the direction of surface and groundwater flow between the two structures

### **The water well: 1435411 (Site well #1)**

Based on information provided by the applicant and from the Environment and Protected Areas (EPA) water well database, the water well located approximately 15 m W of the feedlot pens is likely EPA water well ID #1435411. This well is reported to have been installed in 2017 and has a perforated or screened zone from 48.77 m to 91.44 m below ground level across stratigraphy. The well was installed with above ground casing. This well is reported to be used for non-domestic purposes. I note that in my conversations with the applicant, the water well is only used presently for livestock/commercial purposes. The well's log identifies protective layer or layers from ground surface or 0 m to 27.13 m below ground level. The well has a bentonite seal

from ground surface to 48.77 m below ground level. The well appeared to be in good condition at the time of my site inspection and its casing was above grade. The well is up-gradient of the pens.

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>.

In this case, the results of the water well exemption screening tool suggest that an exemption related to Site well #1 would be likely.

**The water well: 1435412 (Site well #2)**

Based on information provided by the applicant and from the Environment and Protected Areas (EPA) water well database, the water well located approximately 48 m W of the feedlot pens is likely EPA water well ID #1435412. This well is reported to have been installed in 2017 and has a perforated or screened zone from 60.96 m to 91.44 m below ground level across stratigraphy. The well was installed with above ground casing. This water well is reported to be used for non-domestic purposes. I note that in my conversations with the applicant, the water well is only used presently for livestock purposes. The well’s log identifies protective layer or layers from ground surface or 0 m to 22.86 m below ground level. The well has a bentonite seal from ground surface to 59.44 m below ground level. The well appeared to be in good condition at the time of my site inspection and its casing was above grade. The well is up-gradient of the pens.

The results of the water well exemption screening tool suggest that an exemption related to Site well #2 would be likely.

**The water well: 1435410 (Site well #4)**

Based on information provided by the applicant and from the Environment and Protected Areas (EPA) water well database, the water well located approximately 10 m N of the feedlot pens is likely EPA water well ID #1435410. This well is reported to have been installed in 2017 and has a perforated or screened zone from 48.77 m to 146.30 m below ground level across stratigraphy. The well was installed with above ground casing. This water well is reported to be used for non-domestic purposes. I note that in my conversations with the applicant, the water well is only used presently for livestock purposes. The well’s log identifies protective layer or layers from ground surface or 0 m to 27.74 m below ground level. The well has a bentonite seal from ground surface to 45.72 m below ground level. The well appeared to be in good condition at the time of my site inspection and its casing was above grade. The well is up-gradient of the pens.

The results of the water well exemption screening tool suggest that an exemption related to Site well #4 would be likely.

**The water well: No well ID given, but drilling report provided (Site well #5)**

Water well #5 does not have an EPA water well ID. However, the applicant provided me with a signed water well drilling report. Normally these reports are uploaded to the EPA database; however, this report was not available online. Based on information provided by the applicant, this water well is located approximately 48 m W of the feedlot pens. This well is reported to have

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<sup>1</sup> 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).

been installed in 2015 and has a perforated or screened zone from 54.86 m to 91.44 m below ground level across stratigraphy. The well was installed with above ground casing. This water well is reported to be used for non-domestic purposes. I note that in my conversations with the applicant, the water well is only used presently for livestock purposes. The well's log identifies protective layer or layers from ground surface or 0 m to 61.87 m below ground level. The well has a bentonite seal from ground surface to 53.34 m below ground level. The well appeared to be in good condition at the time of my site inspection and its casing was above grade. The well is up-gradient of the pens.

The results of the water well exemption screening tool suggest that an exemption related to Site well #5 would be likely.

**The water well: Unknown (Site well #8)**

Water well #8 exists on site, but no information is available about how the well was constructed. The well is approximately 90 m W of the feedlot pen. The well was formerly a pit well; however, the operator converted it to bring it above grade. The well is housed in a shack.

Without information about how the well was constructed, it is difficult to accurately assess it. I used the "worst case scenario" in the water well exemption screening tool. I assigned the highest amount of points for screening factors in which the information about this well is unknown.

The results of the water well exemption screening tool suggest that an exemption related to Site well #8 would be likely.

For these reasons, it is my opinion that under section 17(1) of AOPA, varying the 100m setback to these five water wells provides the same or greater degree of protection and safety as that provided for by the regulations.

## **APPENDIX C: Explanation of conditions in Approval RA21048**

### **1. New conditions in Approval RA21048**

#### **a. Construction Deadline**

Madge Farms did not provide a date to complete construction of the proposed new feedlot pens and catch basin. In my experience, allowing for three full construction seasons is reasonable for the proposed scope of work. The deadline of November 30, 2025 is included as a condition in Approval RA21048.

#### **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, Approval RA21048 includes a condition requiring the co-permit holders to provide written confirmation from a qualified third party confirming the final constructed dimensions.

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. Approval RA21048 includes conditions stating that Madge Farms shall not place livestock or manure in the manure storage or collection portions of the new feedlot pens and shall not allow manure impacted runoff to enter into the catch basin until NRCB personnel have inspected the pens and catch basin and confirmed in writing that they meet the approval requirements.