

## Decision Summary RA23013

This document summarizes my reasons for issuing Authorization RA23013 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA23013. 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 April 11, 2023, Bradley Schakel on behalf of Brando Holsteins Inc. (Brando Holsteins) submitted a Part 1 application to the NRCB to construct a new parlour barn at an existing dairy CFO.

The Part 2 application was submitted on July 17, 2023. On July 19, 2023, I deemed the application complete.

The proposed parlour barn includes a rotary milking parlour, cow holding area, sorting area, manure flush pit (4.7 m x 4.7 m x 4.27 m deep), mechanical space, offices, break room, and locker room.

With the exception of the manure pit, the rest of the facility is considered 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 need to be permitted under the act.

#### a. Location

The CFO is located at SW 18-39-25 W4M in Lacombe County, roughly 12 km southeast of Blackfalds. The terrain is rolling with a gentle slope towards Jones Creek which is located approximately 2.5 km to the east.

#### b. Existing permit

The CFO is permitted under Approval RA20019.

### 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 1.5 miles from the CFO.

A copy of the application was sent to Lacombe County, which is the municipality where the proposed facility and existing CFO are located.

The CFO is not located within 100 m of a bank of a river, stream or canal; therefore, additional notification is not required.

### **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), Alberta Agriculture and Irrigation (AGI), and Alberta Transportation and Economic Corridors (TEC).

I also sent a copy of the application to Chain Lakes Gas Co-op Ltd., DEL Canada GP Ltd., Lynx Energy, and EQUUS.

AGI responded, and indicated the name of their inspector that is assigned to this application.

Anne Han, a development and planning technologist, responded on behalf of TEC. Ms. Han indicated that TEC has no objections to this application. However, a roadside development permit from TEC is required.

Yvonne Qiyun Liang, a public health inspector, responded on behalf of AHS. Ms. Liang indicated that AHS has no objections to this application.

No other responses were received.

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

I have determined that the proposed facility 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 facility:

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS), as MDS does not apply. The proposed manure storage facility (MSF) is within the footprint of an existing CFO, 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 of manure storage facilities and manure collection areas

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

## **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." Lacombe County is an affected party (and directly affected) because the proposed facility is located within its boundaries.

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

Ms. Noonan also stated that the setbacks required by Lacombe County's land use bylaw (LUB) are met.

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

New MSF 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 groundwater monitoring for the facility. In this case, I determined that groundwater 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](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 Brando Holsteins' existing CFO facilities were assessed in 2020 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater, with the exception of the EMS, which was addressed in the previous permit.

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 RA23013 allows the construction of the the parlour barn (as an ancillary structure) and permits the in-barn manure pit.

Authorization RA23013 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 RA23013 includes conditions that generally address a construction deadline, document submission, and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

## **9. Conclusion**

Authorization RA23013 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA23013.

Authorization RA23013 must be read in conjunction with previously issued Approval RA20019 which remains in effect.

September 11, 2023

(Original signed)  
Lynn Stone  
Approval Officer

## **Appendices:**

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization RA23013

## **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.)

Brando Holsteins’ 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 June 22, 2023, under Bylaw #1238/17.

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, the Land Use Bylaw, or provincial legislation.”

I consider this section to be a source of insight for the interpretation of the remaining portions of the MDP and land use bylaw (LUB). The county’s LUB is discussed further below.

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 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 local plan approved by Council.”

This application is to construct a new manure storage, not for the development of a new CFO, therefore the above 1.6 km setbacks are not relevant to my MDP consistency determination.

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 supported by the county's response to the application.

## **APPENDIX B: Explanation of conditions in Authorization RA23013**

Authorization RA23013 includes several conditions, discussed below:

### **1. New conditions in Authorization RA23013**

#### **a. Construction deadline**

Brando Holsteins proposes to complete construction of the proposed new parlour barn by fall of 2024. In my opinion, allowing for two full construction seasons is more appropriate for the proposed scope of work. The deadline of October 31, 2025 is included as a condition in Authorization RA23013.

#### **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 RA23013 includes conditions requiring:

- a. The concrete used to construct the liner of the manure collection and storage portion of the manure pit to meet the specification for category B (liquid manure shallow pits) in Technical Guideline Agdex 096-93 "Non-Engineered Concrete Liners for Manure Collection and Storage Areas."
- b. Brando Holsteins to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the manure pit.

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 RA23013 includes a condition stating that Brando Holsteins shall not place manure in the manure storage or collection portions of the new manure pit until NRCB personnel have inspected the manure pit and confirmed in writing that it meets the authorization requirements.