

## Decision Summary RA24048

This document summarizes my reasons for issuing Authorization RA24048 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA24048. 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 November 22, 2024, Craig Ference, on behalf of Ference Land and Cattle Corp. (Ference), submitted a Part 1 application to the NRCB to permit a manure collection area (MCA) at an existing beef CFO.

During a post construction site inspection completed November 5, 2024, for application RA24030, a catch basin constructed without a permit was found. The purpose of the catch basin was to collect water from one row of pens (pens numbered 28-30). Upon this finding Ference Land and Cattle Corp. applied for an authorization to permit the facility. On November 25, 2024, an NRCB inspector issued Compliance Directive CD 24-09, directing Ference not to populate pens 28-30 until the unauthorized catch basin was permitted, and confirmed by inspection, by the NRCB.

The Part 2 application was submitted on November 22, 2024. On November 22, 2024, I deemed the application complete.

The proposed application includes:

- Permitting the already constructed north catch basin #3 – 50 m x 50 m x 2 m deep

#### a. Location

The existing CFO is located at E½ 17-34-2 W4M and SW 17-34-2 W4M in Special Area No. 4, approximately 4 km east of Kirriemuir, Alberta. The terrain is slightly hummocky with a general slope to the south and southwest, as well as to the north and northeast.

#### b. Existing permits

The CFO is already permitted under Approval RA24030 for 9,000 beef finishers.

### 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 2 miles (3219 m) from the CFO

None of the CFO facilities are located within 100 m of a bank of a river, stream, or canal, and no other municipality has a boundary within the notification distance.

A copy of the application was sent to Special Area No. 4, 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.

A referral letter and a copy of the complete application was emailed to Alberta Environment and Protected Areas (EPA).

I also sent a copy of the application to Dry Country Gas Co-op Ltd. and Telus as they are utility right of way holders.

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

I have determined that the proposed construction is consistent with the land use provisions of Special Area No. 4's municipal development plan. (See Appendix A for a more detailed discussion of the Special Area'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 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 protective layers of the manure collection area

With the terms 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.

Municipalities that are affected parties are identified by the Act as "directly affected." Special Area No. 4 is an affected party (and directly affected) because the proposed facility is located within its boundaries.

Ms. Taryl Abt, a development officer, with Special Area No. 4, provided a written response on behalf of Special Area No. 4. Ms. Abt stated that the application is consistent with Special Area No. 4's land use provisions of the municipal development plan. She also stated that the application is within the land use provision under the Agricultural District, and not within a restricted area under the Land Use Order. The application's consistency with the land use provisions of Special Area No. 4's municipal development plan and the land use order is addressed in Appendix A, attached.

Ms. Abt also listed the setbacks required by Special Area No. 4's Land Use Order (LUO) and noted that 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 9.17.

In this case, the risks posed by Ference's existing CFO facilities were assessed in March 2024 using the ERST (for Application RA24030). According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

With the construction of the new catch basin the circumstances have changed since that assessment was done; however, as explained below, the already constructed catch basin meets all AOPA requirements. The construction of this catch basin does not change the factors previously used when assessing the potential risk to groundwater and surface water of the other facilities.

New MCA which clearly meet or exceed AOPA requirements may be assumed to pose a low risk to surface and groundwater. There may be circumstances where, because of the proximity of a shallow aquifer, porous subsurface materials, or surface water systems an approval officer may require groundwater, surface water, construction supervision, or an exemption monitoring for the facility. In the consideration of the proposed catch basin, I did not find any circumstances that require addressing as all AOPA technical requirements are met.

## **8. Terms**

Authorization RA24048 permits the use of catch basin #3.

Authorization RA24048 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.

## **9. Conclusion**

Authorization RA24048 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA24048.

Authorization RA24048 must be read in conjunction with previously issued Approval RA24030, which remains in effect.

January 23, 2025

(Original signed)

Nathan Shirley  
Approval Officer

## **Appendices:**

A. Consistency with municipal land use planning

## **APPENDIX A: Consistency with municipal land use planning**

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).

The Special Areas Board is constituted under the Special Areas Act. 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.

Ference Land & Cattle’s CFO is located in Special Area No. 4 and is therefore subject to the Special Areas Board LUO. (The LUO was enacted on August 24, 2024, under Ministerial Order No. MSD:064/24.) The LUO may be helpful for the purposes of AOPA’s MDP consistency requirement. See NRCB Operational Policy 2016-7: Approvals, part 9.2.5.

The Special Areas Board does have an MDP that was approved on February 23, 2021. It does not have any specific mention of CFOs, rather the agriculture section provides guiding principles regarding the promotion of the agriculture sector within the area. It states that they will “review the Land Use Order for opportunities to support agricultural diversification...”. Based on this the LUO will be used for assessing land use provisions consistency.

While I will treat the Special Areas Board’s LUO as an MDP, I will still 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 9.2.7) Under this interpretation, the term “land use provisions” also excludes policies that impose procedural requirements. In addition, section 22(2.1) of AOPA 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.

Under the LUO, the subject land is currently zoned as Agricultural District. Section 4.5 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 are not listed as either permitted or discretionary uses for this land use category, nor are CFOs “similar in character and purpose” to any such listed use. I interpret the land use bylaw as meaning that either the Special Area intended CFOs to have the same effective status as the listed permitted (or discretionary) order, or that the Special Area simply does not intend to address CFOs in its LUO (given the NRCB’s permitting role under AOPA).

In their response letter, the Development Officer, on behalf of Special Area No. 4 indicated that the application is consistent with the municipal development plan and confined feeding operations are not listed under the current Land Use Order as they are permitted by the NRCB.

Based on this information and the application meeting the AOPA requirements, I conclude that the application is consistent with the relevant land use provisions of the Special Areas Board LUO.