

Decision Summary RA25004

This document summarizes my reasons for issuing Registration RA25004 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA25004. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at 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 a registration. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On September 24, 2024, Brett Beechinor (Beechinor) submitted a Part 1 application to the NRCB to construct a new dairy CFO.

The Part 2 application was submitted on January 7, 2025. A new Part 1 application, which included a revision to animal numbers, was submitted on January 9, 2025. On January 23, 2025, I deemed the application complete.

The proposed CFO involves:

- Permitted livestock capacity of 175 milking cows (plus associated dries and replacements)
- Constructing a dairy barn – 95.7 m x 35.6 m with an in-barn manure pit (3.6 m x 3.6 m x 3.6 m deep)
- Constructing an earthen manure storage facility (EMS) – 61 m x 61 m x 3.7 m deep

a. Location

The proposed CFO is located at NW 12-40-1 W5M in Lacombe County, roughly 3.5 km southeast of the Town of Bentley. The terrain is generally flat. The closest common body of water is a seasonal creek, located approximately 800 m south of the proposed facilities.

2. Notices to affected parties

Under section 21 of AOPA, the NRCB notifies (or directs the applicant to notify) all parties that are “affected” by a registration 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 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 ½ mile (805 m) from the CFO
- all persons who own or reside on land within the greater of ½ mile (805 m) or the minimum distance separation for the land on which the CFO is located

The land zoning on which the CFO is located would require a minimum distance separation of 332 metres. Therefore, the notification distance is ½ mile (805 metres).

None of the CFO facilities are located within 100 m of a bank of a river, stream or canal.

A copy of the application was sent to Lacombe County, which is the municipality where the CFO is to be located.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in the Sylvan Lake News newspaper in circulation in the community affected by the application on January 23, 2025, and
- sending 8 notification letters to people identified by Lacombe County as owning or residing on land within the notification distance.

The full application was made available for viewing during regular business hours at the Red Deer NRCB office.

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 Environment and Protected Areas (EPA) and Alberta Agriculture and Irrigation (AGI).

I also sent a copy of the application to Gull Lake Deer Creek Gas Co-op and Canadian Natural Resources Ltd. as they are utility right of way holders.

No responses were received.

4. Alberta Land Stewardship Act (ALSA) regional plan

Section 22(9) 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 Lacombe County's municipal development plan. (See Appendix A for a more detailed discussion of the County's planning requirements.)

6. AOPA requirements

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

- 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's nutrient management requirements regarding the land application of manure
- Meets AOPA groundwater protection requirements for the design of floors, liners and protective layers of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 9 and in Appendix B, the application meets all relevant AOPA requirements.

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

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

Ms. Noonan also stated that the application meets all setbacks listed in Lacombe County's land use bylaw (LUB).

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

8. Environmental risk of CFO facilities

New CFO facilities 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, or porous subsurface materials, and surface water systems an approval officer may require groundwater monitoring for the facility. A determination was made that due to the presence of a naturally occurring protective layer, additional monitoring is not required.

9. Terms and conditions

Registration RA25004 specifies the cumulative permitted livestock capacity as 175 milking cows (plus associated dries and replacements) and permits the construction of the dairy barn and EMS.

Registration RA25004 contains terms that the NRCB generally includes in all AOPA registrations, 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, Registration RA25004 includes conditions that generally address construction deadlines, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

10. Conclusion

Registration RA25004 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA25004.

March 4, 2025

(Original signed)
Lynn Stone
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Registration RA25004

APPENDIX A: Consistency with the municipal development plan

Under section 22 of AOPA, an approval officer may only approve an application for a registration or amendment of a registration 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.

“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 9.2.7.)

Beechinor’s proposed 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 13, 2024, under Bylaw No. 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.”

Beechinor’s proposed CFO is not within the setback of these areas listed above.

As for section 3.9.1's reference to intermunicipal development plans (IDP) or other plans approved by the County's Council, the proposed CFO is not located within land identified as part of 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 Registration RA25004

a. Construction above the water table

Sections 9(2) of the Standards and Administration Regulation under the *Agricultural Operation Practices Act* (AOPA) requires the bottom of the manure storage facility or manure collection area to be not less than one metre above the water table of the site “at the time of construction.”

Beechinor’s soils investigation report measured the depth to water table at 4.21 m below grade, and a proposed depth of their EMS of 3.2 m below grade.

Based on this information, the proposed EMS meets the one m requirement of section 9(2). However, because the height of the water table can vary over time, a condition is included requiring Beechinor to cease construction and notify the NRCB immediately if the water table is encountered during construction.

b. Construction Deadline

Beechinor did not include a date to complete construction of the proposed new dairy barn and EMS. In my opinion, allowing for three full construction seasons is appropriate for a new CFO. Therefore, the deadline of November 30, 2027 is included as a condition in Registration RA25004.

c. 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, Registration RA25004 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the dairy barn to meet the specification for category B (liquid manure shallow pits) and category C (solid manure – wet) in Technical Guideline Agdex 096-93 “Non-Engineered Concrete Liners for Manure Collection and Storage Areas.”
- b. Beechinor to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the dairy barn.
- c. Beechinor to provide documentation from a qualified third party to confirm the EMS’ constructed dimensions

The NRCB routinely inspects newly constructed facilities to assess whether the facilities were constructed in accordance with the permit requirements. To be effective, these inspections must occur before livestock or manure are placed in the newly constructed facilities. Registration RA25004 includes conditions stating that Beechinor shall not place livestock or manure in the manure storage or collection portions of the new dairy barn, nor allow manure in the EMS until NRCB personnel have inspected the dairy barn and EMS and confirmed in writing that they meet the registration requirements.