

Decision Summary RA25015

This document summarizes my reasons for issuing Authorization RA25015 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA25015. 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 an authorization. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On February 21, 2025, Karen Pierik on behalf of Pleasant Hill Farms Ltd. (Pleasant Hill) submitted a Part 1 application to the NRCB to modify a manure storage facility (MSF)/manure collection area (MCA) at an existing dairy CFO.

The Part 2 application was submitted on February 21, 2025. On February 25, 2025, I deemed the application complete.

The proposed modification involves:

- Converting the milking parlour into freestalls – 14 m x 10 m

The applicant indicated they are proposing to convert the milking parlour to freestalls to allow for more space for their livestock. There is no proposed increase in livestock numbers or manure production with this application.

a. Location

The existing CFO is located at NW 16-42-26 W4M in Ponoka County, roughly 8 km southwest of Ponoka, Alberta. The terrain is undulating. The CFO is located on top of a hill that slopes southeast toward a creek approximately 1.6 km away.

b. Existing permits

The CFO is already permitted under Approval RA08002 and Authorizations RA13040, RA16051, RA18033 and RA21039. Collectively, these NRCB permits allow the construction and operation of a 400 milking cow (plus associated dries and replacements) dairy CFO.

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 mile (1,609 m) from the CFO

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

I also sent a copy of the application to ATCO Gas & Pipelines Ltd. as they are a right of way holder.

I received a response from a representative of AGI who indicated the livestock inspector responsible for the file.

I received a response from Laura Partridge, a senior water administration officer with EPA. In Ms. Partridge's response, she indicated that no additional licensing is required at this time.

I did not receive a response from ATCO Gas & Pipelines Ltd.

4. Municipal Development Plan (MDP) consistency

I have determined that the proposed modification is consistent with the land use provisions of Ponoka 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 modification:

- 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 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

I determined that the conversion of a milking parlour to freestalls within the existing freestall barn is located within the required AOPA setback from a water well. However, as explained in Appendix B, this warrants an exemption from the 100 m water well setback due to the well's construction and location upslope from the barn.

With the terms and conditions summarized in part 9, 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." Ponoka County is an affected party (and directly affected) because the existing CFO is located within its boundaries.

Ms. Robin Dubitz, a development officer with Ponoka County, provided a written response on behalf of Ponoka County. Ms. Dubitz stated that the application is consistent with Ponoka County's land use provisions of the municipal development plan. Ms. Dubitz also stated that land zoning of the application is designated as Agricultural District (AG) and is not in an Area Structure Plan. The application's consistency with the Ponoka County's municipal development plan is addressed in Appendix A, attached.

While Ms. Dubitz did not list the setbacks required by Ponoka County's land use bylaw (LUB), she noted that the application appears to meet these setbacks.

7. Environmental risk of 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 and/or surface water monitoring for the facility. In this case, a determination was made, and 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.) 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 Pleasant Hill's existing CFO facilities were assessed in 2013, 2016, 2018, and 2021 using the ERST. According to those assessments, the facilities pose a low potential risk to surface water and groundwater.

The circumstances have not changed since those assessments were done. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

8. Exemptions

Approval RA08002 included exemptions for all facilities that were located within 100 m of a water well. I have completed a new exemption screening for the existing freestall barn, as Pleasant Hill has proposed to renovate the barn with a new manure collection and storage liner. What is proposed may now impact the previous exemption's considerations of that facility. As the other CFO facilities are not being altered as part of this application, the exemptions that were issued in Approval RA08002 for those facilities are still valid.

I determined that the proposed conversion of a milking parlour to freestalls within the freestall barn is located within the required AOPA setback from a water well. As explained in Appendix B, an exemption to the 100 m water well is warranted due to the well's location upgradient of the barn, the well's construction, and how the barn is proposed to be renovated.

9. Terms and conditions

Authorization RA25015 permits the conversion of the existing milking parlour to freestalls.

Authorization RA25015 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 RA25015 includes conditions that generally address construction deadline, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix C.

10. Conclusion

Authorization RA25015 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA25015.

Authorization RA25015 must be read in conjunction with previously issued Approval RA08002 and Authorizations RA13040, RA16051, RA18033 and RA21039 which remain in effect.

April 11, 2025

(Original signed)
Kelsey Peddle
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Exemption from water well setbacks
- C. Explanation of conditions in Authorization RA25015

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.

“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.)

Pleasant Hill’s CFO is located in Ponoka County and is therefore subject to that county’s MDP. Ponoka County adopted the latest revision to this plan in September 2023, under Bylaw 6-08-MDP.

Section 2 of the MDP contains eight numbered policies that relate to applications for CFOs under AOPA. These eight policies are discussed below. Three other MDP policies relate to CFOs below the AOPA permit threshold or to proposed residential developments near existing CFOs and as such, are irrelevant to my MDP consistency determination.

Under policy 2.1, the County “encourages” the development of CFOs to add value to crop production and provide “more employment and income per acre of land”. However, policy 2.1 also states that the environment and neighbours’ rights “must be protected”. This policy likely isn’t a “land use provision” but provides a general context for interpreting and applying the other policies in section 2.

Policy 2.2 states the County’s “belie[f] that very large CFOs are inappropriate in this part of Alberta and requests the NRCB not to allow them here”. This policy defines “very large” as “more than ten times” the threshold for approvals in the Part 2 Matters Regulation under AOPA. This policy likely isn’t a “land use provision”, as it calls for discretionary judgement about which sizes of CFOs are acceptable in the County. Regardless, no increase of livestock numbers is proposed with this application.

Policy 2.3 has two parts. The first part lists three setbacks and two exclusion zones for new CFOs. Pleasant Hill’s CFO is an existing CFO. Therefore, this part is irrelevant to this application.

The second part of policy 2.3 calls for “very strict conditions on manure handling and storage” in the Chain Lakes and Maskwa Creek watersheds. This policy likely isn’t a “land use provision” because it calls for discretionary judgements about what conditions are “very strict”. In addition, this policy may be precluded from my consideration under section 22(2.1) of AOPA, which precludes an approval officer from considering MDP provisions “respecting tests or conditions

related to the construction of or the site for a confined feeding operation or manure storage facility” and regarding the land application of manure. Regardless, the existing CFO meets AOPA’s technical requirements for manure handling and storage and those requirements are arguably “very strict”. Therefore, the existing CFO would be consistent with this policy, if it applied.

Policy 2.4 calls for the NRCB to “set strict rules for the timely incorporation of manure within a mile of any urban municipality or rural residence”. This is a “test or condition” respecting application of manure under section 22(2.1) of AOPA. Therefore, I am precluded from considering this policy. Regardless, Pleasant Hill’s CFO is subject to the Standards and Administration Regulation under AOPA. This regulation provides rules for the land application of manure, including timely incorporation in specified circumstances. These rules are arguably “strict”, which is consistent with this policy.

Policy 2.5 precludes the siting of CFOs within two miles of “any lake” unless the “regulators” are “convinced” that the CFO’s manure management system is “fail-safe”, and the CFO poses “no reasonable risk of contamination of the lake”. I interpret this policy to refer to the siting of new CFOs. Pleasant Hill’s CFO is an existing CFO and therefore, I find this policy not relevant to my MDP consistency determination.

Policy 2.6 precludes new or expanded CFOs where there is “any risk that runoff will contaminate domestic water supplies”. Policy 2.6 likely isn’t a “land use provision” because it calls for discretionary judgements about acceptable risks. On its face, “any risk” is a low-risk threshold, but the threshold is presumably more than “minor” or “insignificant”. At any rate, the existing CFO meets AOPA’s operational and construction requirements, which are designed to minimize the risks to surface water and groundwater.

Policy 2.8 states that “where a *new* CFO is proposed, the MDS should be contained entirely within land owned by the operator of the CFO...” Pleasant Hill’s application is for an existing CFO; therefore, this section does not apply.

Policy 2.11 states that the County “may develop policies to reduce nuisance cause by the spreading of manure near residences,” including ones that require immediate incorporation of manure and limits on the timing or rate of manure application. I am unaware of any manure application policies that the County has developed under policy 2.11. Regardless, section 22(2.1) of AOPA precludes me from considering policy 2.11 because it relates to the application of manure.

For these reasons, I conclude that the application is consistent with the land use provisions of Ponoka County’s MDP that I may consider.

APPENDIX B: Exemption from water well setbacks

1. Water Well Considerations

The proposed conversion of a milking parlour to freestalls within the existing freestall barn is to be located less than 100 m from a water well. I have confirmed that one water well is located approximately 45 m from it during a site visit, from information provided by the applicant, and from the Alberta Environment and Protected Areas (EPA) database. This is in conflict with section 7(1)(b) of the Standards and Administration Regulation (SAR) under AOPA.

Section 7(2), however, allows for exemptions if, before construction, the applicant can demonstrate that the aquifer into which the water well is drilled is not likely to be contaminated by the manure collection area (MCA), and, if required, a groundwater monitoring program is implemented.

The potential risks of direct aquifer contamination from the MSF/MCA are presumed to be low if the applicant's proposed MSF/MCA meets AOPA's technical requirements to control runoff and leakage. Approval officers also assess whether the water well itself could act as a conduit for aquifer contamination.

In this case, I felt the following factors were relevant to determine the risk of aquifer contamination via 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 proposed 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
- e. The contents of the application related to the proposed manure collection and storage liner

These presumptions and considerations are based on NRCB Operational Policy 2016-7: Approvals, part 9.10.2.

Water Well ID 286665

Based on information provided by the applicant and from the Alberta Environment and Protected Areas (EPA) water well database, the water well located approximately 45 m SW of the freestall barn is likely EPA water well ID # 286665. This well is reported to have been installed in 1996 and has a perforated or screened zone from 65.53 m to 73.15 m below ground level across shale. The well's log identifies protective layers of sandy clay from ground surface to 22.86 m below ground level. There is a bentonite seal from ground surface to 62.48 m below ground level across gravel, sandstone, and shale layers. This well is used for domestic and non-domestic purposes. The well is located near the house and appeared to be in good condition at the time of a site inspection. The well has an above ground casing and is up-gradient of the freestall barn.

The proposed barn renovation includes a manure collection and storage liner that meets AOPA requirements with conditions discussed in Appendix C.

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.¹

In this case, the results of the water well exemption screening tool suggest that an exemption is likely as seen in Technical Document RA25015. Based on this, I am prepared to grant an exemption to the 100 m water well setback requirements for the conversion of a milking parlour to freestalls within the existing freestall barn.

Despite the above, previously issued Approval RA08002 includes a condition that requires annual testing of water wells within 100 m of the CFO. The above determination does not affect the previously existing permit condition.

¹ A complete description of this tool is available under CFO/Groundwater and Surface Water Protection on the NRCB website at www.nrcb.ca.

APPENDIX C: Explanation of conditions in Authorization RA25015

Authorization RA25015 includes several conditions, discussed below:

a. Construction Deadline

Pleasant Hill proposes to complete construction of the proposed modification by spring/summer 2025. I consider this time frame to be unrealistic due to the time required for the permitting process, as well as the length of time needed to obtain the liner materials. It is my opinion that a longer time frame that allows for an almost full construction season is more reasonable for the proposed scope of work. The deadline of October 31, 2025, is included as a condition in Authorization RA25015.

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 RA25015 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the conversion of existing milking parlour to freestalls to meet the specification for category C (solid manure – wet) in Technical Guideline Agdex 096-93 “Non-Engineered Concrete Liners for Manure Collection and Storage Areas”.
- b. Pleasant Hill to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the conversion of existing milking parlour to freestalls.

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. Authorization RA25015 includes a condition stating that Pleasant Hill shall not place livestock or manure in the manure storage or collection portions of the freestalls converted from the existing milking parlour until NRCB personnel have inspected the facility and confirmed in writing that it meets the authorization requirements.