

Decision Summary RA25007

This document summarizes my reasons for issuing Authorization RA25007 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA25007. 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 January 21, 2025, Nanning Zeldenrust on behalf of Falona Springs Holstein Ltd. (Falona Springs) submitted a Part 1 application to the NRCB to construct manure collection areas (MCA) at an existing dairy CFO.

The Part 2 application was submitted on February 11, 2025, which I also deemed complete that day.

The proposed construction involves:

- Constructing a calf barn – 48.8 m x 12.5 m
- Constructing a group hutch area (with a fully covered roof) – 40 m x 10 m

a. Location

The existing CFO is located at NE 12-45-27 W4M in the County of Wetaskiwin, roughly 3.5 km northwest of Usona, Alberta. The terrain is generally flat to gently undulating.

b. Existing permits

The CFO is currently permitted under Approval RA16072A.

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 one 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 the County of Wetaskiwin, 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), Alberta Agriculture and Irrigation (AGI), and Alberta Transportation and Economic Corridors (TEC).

I also sent a copy of the application to Apex Utilities Inc., Axiom Oil & Gas Inc., Mancal Energy Inc., and Lynx Energy as they are right of way and easement holders.

Ms. Cindy Skjaveland, a property technologist with TEC, responded to the application and stated that a Roadside Development permit would not be required for the proposed construction.

AGI responded to the application stating the inspector that will be responsible for the application. I did not receive any comments in respect to the application.

Apex Utilities Inc. responded to the application by stating they have no objections to the proposed construction.

Ms. Tera-Lyn Faulconbridge, a third-party administrator with Axiom Oil & Gas Inc. responded to the application and stated that Axiom has no concerns with the proposed construction.

Ms. Laura Partridge, the senior water administration officer with EPA, responded directly to the applicant and stated that additional water licencing is outstanding for the CFO since the increase in livestock from the current Approval RA16072A. The applicant is reminded that it is his responsibility to ensure they have sufficient water licencing under the *Water Act*.

4. Municipal Development Plan (MDP) consistency

I have determined that the proposed construction is consistent with the land use provisions of the County of Wetaskiwin'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 construction:

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS) in accordance with section 3(5)(c) of the Standards and Administration Regulation
- 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

With the terms and conditions summarized in part 9, the application meets all relevant AOPA requirements. The exemption that is required to address the AOPA requirements around water well setbacks is discussed in the following parts of this decision summary.

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." The County of Wetaskiwin is an affected party (and directly affected) because the existing CFO is located within its boundaries.

Ms. Kim Mickelson, a development planner with the County of Wetaskiwin, provided a written response on behalf of the County of Wetaskiwin. Ms. Mickelson stated that the application is consistent with the County of Wetaskiwin's land use provisions of the municipal development plan (MDP). The application's consistency with the County of Wetaskiwin's MDP is addressed in Appendix A, attached.

Ms. Mickelson also listed the setbacks stated by the County of Wetaskiwin's land use bylaw (LUB) and noted that the application meets these setbacks.

7. Environmental risk of facilities

New MCAs 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 monitoring and/or an exemption. In this case, I determined that an exemption from the water well setback requirements as laid out in AOPA can be granted.

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 Falona Springs' existing CFO facilities were assessed in 2008, 2013 and 2017 using the ERST. According to those assessments, the facilities posed 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

I determined that the proposed calf barn is located within the required AOPA setback from 2 water wells. As explained in Appendix B, an exemption to the 100 m water well setback is warranted due to the ongoing water well monitoring conditions set out in Approval RA16072A.

9. Terms and conditions

Authorization RA25007 permits the construction of calf barn (2025) and the group hutch area (with a fully covered roof).

Authorization RA25007 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 RA25007 includes conditions that generally address a construction deadline, document submission, construction inspection, and water well decommissioning. For an explanation of the reasons for these conditions, see Appendix C.

10. Conclusion

Authorization RA25007 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA25007.

Authorization RA25007 must be read in conjunction with previously issued Approval RA16072A which remains in effect.

April 10, 2025

(Original signed)
Sarah Neff
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Exemption from water well setbacks
- C. Explanation of conditions in Authorization RA25007

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.)

Falona Springs’ CFO is located in the County of Wetaskiwin and is therefore subject to that county’s MDP. The County of Wetaskiwin adopted the latest revision to this plan on April 11, 2023, under Bylaw 2023/05.

As relevant here, section 11.6 of the MDP aims to “support” CFOs while “minimizing conflicts with surrounding land uses and negative impacts on the environment through land stewardship best practices”. Additionally, the MDP notes that, while CFOs are under provincial jurisdiction, it is the County’s intent to “restrict new or expanded CFOs only in those locations where they are incompatible with neighbouring land uses or negatively impact sensitive environmental features”. The MDP also explains the County’s view that, the *Municipal Government Act* “requires” the County to identify where new CFOs “should” be located.

Objective 11.6.1 supports CFOs at “appropriate locations”. The proposed construction is located within an “appropriate location” as considered by the County and is therefore consistent with this objective.

Objective 11.6.2 references the requirements of AOPA in determining Minimum Distance Separation for CFOs. This is likely not a land use provision, however the application meets the MDS requirements as set out in AOPA.

Objective 11.6.3 states 5 areas in which the County prohibits new or expanded CFOs within specified distances of the areas listed in the objective.

Falona Springs’ CFO is located outside all the specified setbacks, and therefore, the application is consistent with this objective.

Objective 11.6.4 states that, notwithstanding objective 11.6.3, the County will support expanding or upgrading existing CFOs where “upgrades in technology and/or practices result in improved manure management and/or mitigation of negative impacts on surrounding land uses and the environment”.

As noted in section 7 of the decision summary, the CFO's proposed facilities pose a low potential risk to both groundwater and surface water, and meet the technical requirements set out in AOPA. However, this policy likely isn't a "land use provision" because it calls for discretionary judgements about what applications the County will support.

Objective 11.6.5 refers to CFOs within the setbacks in 11.6.3 that are "not in operation for a period of ten (10) years or more", in which case the County considers these operations to be "without proper authorization to resume operation or expand".

AOPA determines which above-threshold operations have "authorization" to operate. AOPA sets out the conditions for a CFO operating and obtaining a permit, including a few circumstances where the NRCB can cancel a permit. An MDP policy that purports to override AOPA's regulation on that point cannot be a valid land use provision; and therefore, I am precluded from considering this provision. Regardless, Falona Springs' CFO is currently in operation.

Objective 11.6.6 states the County's support for "new residences where the residence is associated with a CFO within the Minimum Distance Separation of an existing CFO".

I interpret this to be a requirement as relating to the development of residences near CFOs. The permitting of residences is within the municipality's jurisdiction.

Objective 11.6.7 states that the County requires CFO applicants to "demonstrate that their development will not result in environmental impacts from their proposed operation" and may recommend to the NRCB that an "Environmental Impact Assessment" be submitted along with the application.

This is likely not a land use provision and the NRCB Board has guided approval officers to disregard requests for environmental impact assessments for being a "test or condition" (RFR 2008-02 *Hutterian Brethren of Silver Springs*, at page 4). Nevertheless, the County has made no such request for this application. Additionally, the proposed construction meets AOPA's environmental protection standards.

Objective 11.6.8 states that the County "requests" the NRCB to include conditions in their decisions requiring CFO proponents to "enter into agreements with the County, which may include dust control, road use, and off-site levies...".

The NRCB does not have direct responsibility for regulating road use. Section 18 of the *Municipal Government Act* gives municipalities/counties "direction, control and management" of all roads within their borders. In addition, municipalities have the knowledge, expertise, and jurisdiction to implement and enforce road use agreements. Nevertheless, the County has made no such request for this application.

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

APPENDIX B: Exemption from water well setbacks

1. Water Well Considerations

The proposed calf barn is to be located less than 100 m from 2 water wells. I have confirmed that both water wells are located approximately 95 m from it during a site visit and via aerial imagery. This is in conflict with the 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 storage facility (MSF)/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 wells:

- a. Whether the wells are being properly maintained
- b. The distance between the wells and the proposed MSF/MCA
- c. Existing water well monitoring conditions

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

Water well ID 132155:

Based on information provided by the applicant and from the Alberta Environment and Protected Areas (EPA) water well database, the water well located approximately 95 m west of the proposed calf barn is likely EPA water well ID 132155. This well is reported to have been installed in 1970 and does not have any information as to where the perforated or screened zone was placed. This well is used for domestic and non-domestic purposes as a backup source. The well's log identifies a protective layer from ground surface to 6.1 m below ground level. The well has a driven seal but does not indicate the depth of the seal. The well appeared to be in good condition at the time of my site inspection and its casing was protected by a welded steel cage.

House well:

The house well is not included in the EPA database and therefore, details are not available regarding what soil or bedrock layers the well was drilled into, or how it was sealed or perforated. I note that in my conversations with the operator, the well is a pit-less well and is used daily for domestic purposes. The well is approximately 95 m west of the proposed calf barn.

The current Approval RA16072A includes exemptions and monitoring conditions for the house well and for water well ID 132155, which remain in place. Although there is a lack of information regarding the house well, I believe it is unlikely that manure contaminated runoff will enter the water well and contaminate the aquifer, as the proposed calf barn is a fully enclosed building

with a concrete liner that meets AOPA requirements. Additionally, there is an ongoing monitoring condition in place for the well.

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 RA25007.

Under the regulation, an approval officer may require a groundwater monitoring program of the water wells in question. As noted above, water well monitoring is required for both wells as set out in Approval RA16072A. That condition is still in effect.

Based on the above, I am prepared to grant an exemption to the 100 m water well setback requirement for the proposed calf barn.

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 RA25007

Authorization RA25007 includes several conditions, discussed below:

a. Construction Deadline

Falona Springs proposes to complete construction of the proposed new calf barn and group hutch area by September 2026. It is my opinion that a longer timeframe would be appropriate to account for possible construction or material delays. Therefore, a deadline of September 30, 2027, is included as a condition in Authorization RA25007.

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 RA25007 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the calf barn and group hutch area to meet the specification for category D (solid manure – dry) in Technical Guideline Agdex 096-93 “Non-Engineered Concrete Liners for Manure Collection and Storage Areas”.
- b. Falona Springs to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the new calf barn and group hutch area.

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 RA25007 includes a condition stating that Falona Springs shall not place livestock or manure in the manure storage or collection portions of the new calf barn or group hutch area until NRCB personnel have inspected the facilities and confirmed in writing that they meet the authorization requirements.

c. Water well decommissioning

Falona Springs has committed to decommissioning water well ID 132156. Water well ID 132156 (located south of the proposed construction) must be fully decommissioned prior to September 30, 2027, and documentation must be provided to the NRCB confirming that it was completed according to Alberta Environment and Protected Areas' standards. Upon request, this deadline may be extended by the NRCB in writing.