

Decision Summary RA24047

This document summarizes my reasons for issuing Authorization RA24047 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA24047. 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

During a post-construction site visit of the Hutterian Brethren Church of Valley View's (Valley View Colony) new dairy facilities on November 15, 2024, I observed that construction was underway for a dry cow/heifer barn that was not included in Approval RA23004. On November 20, 2024, Sr. Inspector Fraser Grant issued Compliance Directive 24-10, requiring Valley View Colony to cease all construction and use of the barn, unless an NRCB permit has been obtained.

On November 22, 2024, Valley View Colony submitted a Part 1 application to the NRCB to obtain a permit for the already constructed (but unpermitted) dry cow/heifer barn at an existing multi-species CFO.

The Part 2 application was submitted on February 6, 2025. On February 7, 2025, I deemed the application complete.

The application involves permitting a dry cow/heifer barn – 91.7 m x 13.5 m (previously constructed, not yet permitted).

a. Location

The existing CFO is located at N½ 9-32-26 W4M and S½ 16-32-26 W4M in Kneehill County, roughly 6 km southwest of Torrington, Alberta. The terrain is generally flat, with a general slope to the east. An intermittent creek exists approximately 1.2 km east of the proposed facility.

b. Existing permits

The CFO is already permitted under Approval RA23004.

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 (2414 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 Kneehill 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), Alberta Agriculture and Irrigation (AGI), and Alberta Transportation and Economic Corridors (TEC).

I also sent a copy of the application to Ember Resources Inc. and Crossroads Gas Co-op Ltd. as they are right of way holders.

AGI responded to provide the name for the inspector assigned to this application. They did not provide any additional comments.

Brittany Van Norman, assistant planning and development technologist with TEC, responded and stated that they had no concerns or requirements with respect to this proposal. A permit is not required.

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 Kneehill 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)
- 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.

Municipalities that are affected parties are identified by the Act as "directly affected." Kneehill County is an affected party (and directly affected) because the proposed facility is located within its boundaries.

Ms. Barb Hazelton, the planning and development manager with Kneehill County, provided a written response on behalf of Kneehill County. Ms. Hazelton stated that she has no concerns with the application. The application's consistency with Kneehill County's municipal development plan is addressed in Appendix A, attached.

Ms. Hazelton did not list the setbacks required by Kneehill County's land use bylaw (LUB). I have reviewed the setbacks in the LUB and determined that the dry cow/heifer barn meets these setbacks.

7. Environmental risk of facilities

New MSF/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 monitoring for the facility. A determination was made that monitoring is not required for this facility as it has an adequate liner, is covered by a roof, and is not in an area with a shallow aquifer.

When reviewing a new approval 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 8.13.

In this case, the risks posed by Valley View Colony's existing beef feedlot and catch basin were assessed in 2013 and 2023 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 feedlot facilities is not required.

The feedlot facilities appear to be the CFO's highest risk facilities, as they are the only outdoor facilities.

Because the feedlot and catch basin are the CFO's highest risk facilities, I presume that the CFO's other existing facilities also pose a low potential risk to both groundwater and surface water. From a review of other information gathered in the course of this application, I am satisfied that the screening provided by the ERST is adequate and that the presumption is not rebutted. A further assessment of the risks posed by these other facilities, using the ERST, is not necessary.

8. Terms and conditions

Authorization RA24047 permits the use of the already constructed dry cow/heifer barn.

Authorization RA24047 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 RA24047 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA24047.

Authorization RA24047 must be read in conjunction with previously issued Approval RA23004.

April 14, 2025

(Original signed)
Lynn Stone
Approval Officer

Appendices:

A. Consistency with the municipal development plan

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.)

Valley View Colony’s CFO is located in Kneehill County and is therefore subject to that county’s MDP. Kneehill County adopted the latest revision to this plan on March 11, 2025, under Bylaw 1905.

Policy 12 of the MDP under Agriculture, states that “no new or expansion of existing confined feeding operations (CFOs) will be allowed in the following areas:

- (i) In Hazard Lands or Environmentally Sensitive Lands as defined by the province and the 2010 Summit Report,
- (ii) Within 1.6 kilometres (1 mile) of any hamlet
- (iii) Within 1.6 kilometres (1 mile) of any urban boundary. (Where a portion of the quarter falls within the mile exclusion zone, the entire quarter has been included in the exclusion zone.) Please see section with attached maps.”

Valley View Colony’s application is not located within any of these setbacks or exclusion zones.

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