

Decision Summary RA25012

This document summarizes my reasons for issuing Authorization RA25012 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA25012. 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 12, 2025, Pete Heidelberg on behalf of Five Star Cattle Co. Ltd. (Five Star) submitted a Part 1 application to the NRCB to construct a manure collection area (MCA)/manure storage facility (MSF) at an existing dairy CFO.

The Part 2 application was submitted on February 12, 2025. On February 13, 2025, I deemed the application complete.

The proposed construction involves constructing a heifer shed (open-faced shelter) (126 m x 26 m) with an attached manure storage pad (15.2 m x 26 m).

a. Location

The existing CFO is located at SE 18-41-25 W4M in Lacombe County, roughly 10 km northeast of Lacombe, Alberta. The topography slopes gently down to the south and southwest. The closest common body of water is a potential ephemeral drainage course located approximately 119 m to the west.

b. Existing permits

The CFO is already permitted under Approval RA22018.

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 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 Lacombe County, which is the municipality where the CFO is located. No other municipalities exist within the notification radius.

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 Pembina Pipeline Corp. and ATCO Gas & Pipelines Ltd. as they are right of way holders.

Ms. Laura Partridge, a sr. water administration officer, responded on behalf of EPA. Ms. Partridge indicated that no additional water licensing is required at this time.

A representative from AGI responded and provided the name of the inspector responsible for this location.

Mr. Russ Leedham, land use planner, responded on behalf of Pembina Pipeline Corp. Mr. Leedham stated that they had no concerns with the application.

No other responses were received.

4. Municipal Development Plan (MDP) consistency

I have determined that the proposed construction 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.)

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), with the use of an exemption. Under AOPA's Standards and Administration Regulation 3(5)(c), MDS does not apply if the applicant is seeking to build a new MCA/MSF, but is not increasing manure production. Furthermore, the proposed facility is within the overall footprint of the existing site and is located farther away from the closest neighbours than the existing facilities.
- 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 and Appendix B, 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." Lacombe County is an affected party (and directly affected) because the existing 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 (MDP). The application's consistency with Lacombe County's MDP is addressed in Appendix A, attached. I contacted Ms. Noonan a second time to advise that the applicant intended to include the solid manure pad in the application, as the pad was not listed in the deemed application. Ms. Noonan stated that they had no objections to this addition.

Ms. Noonan also stated that the application would meet setbacks required by Lacombe County's land use bylaw (LUB).

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 due to the solid nature of the manure and because the proposed concrete liner meets AOPA requirements.

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 Five Star's existing CFO facilities were assessed in 2017 and 2022 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. Terms and conditions

Authorization RA25012 permits the construction of the heifer shed with attached solid manure storage pad.

Authorization RA25012 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 RA25012 includes conditions that generally address construction deadlines, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

9. Conclusion

Authorization RA25012 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA25012.

Authorization RA25012 must be read in conjunction with previously issued Approval RA22018 which remains in effect.

April 17, 2025

(Original signed)
Lynn Stone
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization RA25012

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.)

Five Star’s 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 March 13, 2025, under Bylaw No. 1238/17.

Section 3.3.1 states that “[A]ll 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 plan, the Land Use Bylaw, or provincial legislation”.

This provides insight for the interpretation of the remaining portions of the MDP.

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 Operations 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.”

Five Star’s application is for the construction at an existing CFO; regardless, the CFO is located outside any of these 1.6 km setbacks.

As for section 3.9.1’s reference to intermunicipal development plans (IDP) or other plans approved by the County’s Council, this 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 consistent with the County's written response to the application.

APPENDIX B: Explanation of conditions in Authorization RA25012

a. Construction Deadline

Five Star proposes to complete construction of the proposed new heifer shed and attached manure storage pad by August 2025. In my opinion, this timeframe may be too short for the proposed scope of work. A deadline that extends for two full construction seasons is more reasonable as it allows for unforeseen construction delays. The deadline of November 30, 2026, is included as a condition in Authorization RA25012.

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 RA25012 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the heifer shed to meet the specification for category D (solid manure – dry) and the solid manure storage pad to meet the specifications for category C (solid manure – wet) in Technical Guideline Agdex 096-93 “Non-Engineered Concrete Liners for Manure Collection and Storage Areas”.
- b. Five Star to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the heifer shed with attached solid manure storage pad.

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 RA25012 includes conditions stating that Five Star shall not place livestock or manure in the manure storage or collection portions of the new heifer shed, nor allow manure on the solid manure storage pad, until NRCB personnel have inspected the heifer shed and the solid manure storage pad and confirmed in writing that they meet the authorization requirements.