

Decision Summary LA24039

This document summarizes my reasons for issuing Registration LA24039 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA24039. 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 10, 2024, Quintus Dairy Ltd. (Quintus Dairy) submitted a Part 1 application to the NRCB to expand an existing multi species CFO.

The Part 2 application was submitted on February 26, 2025. On March 5, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing milking cow numbers from 73 to 102 milking cows (plus associated dries and replacements)
- Expanding the dairy barn by 60.4 m x 24.4 m to the north (plus transfer pit: 3 m x 3.65 m x 3 m deep)

In order to fit the dairy barn expansion, the footprint of the existing sheep pens will be decreased by a total of 983 m² (Please see Technical Document LA24039 for the areas that will be decommissioned). A condition will be included stating that the decommissioning shall be undertaken according to Technical Guideline Agdex 096-90.

a. Location

The existing CFO is located at SW 9-20-13 W4M in the County of Newell, roughly 12 km northeast of the Town of Brooks. The terrain is flat. The closest common body of water to the CFO is an ephemeral creek 70 m to the west and 810 m to a creek.

b. Existing permits

This CFO is permitted under Registration LA20034 which permits 73 milking cows (plus associated dries and replacements), and 130 sheep ewes (plus lambs). The deemed facilities are listed in the appendix to Registration LA24038.

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 280 metres. Therefore, the notification distance is 804 metres/ 0.5 miles. (The NRCB refers to this distance as the “notification distance”).

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 County of Newell, which is the municipality where the CFO is located.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in Brooks Bulletin newspaper in circulation in the community affected by the application on March 5, 2025, and
- sending 11 notification letters to people identified by the County of Newell as owning or residing on land within the notification distance.

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

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), Alberta Transportation and Economic Corridors (TEC), and the Eastern Irrigation District.

I also sent a copy of the application to Torxen Energy Ltd., The Alberta Gas Truck Line Co. Ltd., Dinosaur Gas Coop Ltd., and Journey Energy Inc. who are right of way holders on this land.

The NRCB received a response from:

- Ms. Leah Olson, a development/planning technologist with TEC. In her response, she stated that there are no concerns or requirements in respect to this application.
- A representative with AGI who stated who will be the responsible inspector. However, the response did not indicate if there are any concerns with this application.

I have not received any other responses from organizations or persons that were notified of this application.

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.

As required by section 4(1) of the South Saskatchewan Regional Plan (SSRP), I considered that document's Strategic Plan and Implementation Plan and determined that the application is consistent with those plans. In addition, there are no notices or orders under the Regulatory Details portion of the SSRP that apply to this application.

5. Municipal Development Plan (MDP) consistency

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

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

The exemption that is required to address the AOPA requirements around setbacks to a water well are discussed in the following parts of this decision summary.

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." The County of Newell is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Ms. Maria Jackson, supervisor of planning and development with the County of Newell, provided a written response on behalf of the County of Newell. Ms. Jackson stated that the application is consistent with the County of Newell's land use provisions of the municipal development plan. The application's consistency with the land use provisions of the County of Newell's municipal development plan, are addressed in Appendix A, attached.

Ms. Jackson also listed the setbacks listed in the County of Newell's land use bylaw (LUB) but did not state if these setbacks are met.

No other responses were received.

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 monitoring for the facility. In this case, I determined that the risk to groundwater from the barn extension is also low. However, due to the closeness of the barn to the water well 183331, I will, as a precautionary measure, include a condition that requires monitoring of this water well.

When reviewing a new registration 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 Quintus Dairy's existing CFO facilities were assessed in 2020 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

There have been no changes related to groundwater or surface water protection, water wells, or CFO facilities since that assessment was done. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

9. Exemptions

I determined that the proposed dairy barn extension is located within the required AOPA setback from a water well. As explained in Appendix B, an exemption to the 100 m water well setback is warranted due to the depth of the aquifer and the construction of the water well. A water well monitoring condition will also be implemented as a precautionary measure and to address the results of a water well exemption screening that I completed (see Appendix B, below).

10. Terms and conditions

Registration LA24039 specifies the cumulative permitted livestock capacity as 102 milking cows (plus associated dries and replacements), and 130 sheep ewes (plus lambs), and permits the expansion of the dairy barn by 60.4 m x 24.4 m and the manure transfer pit.

Registration LA24039 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 LA24039 includes conditions that generally address construction deadlines, monitoring, document submission, construction inspection, and decommissioning. For an explanation of the reasons for these conditions, see

Appendix C.

For clarity, and pursuant to NRCB policy, I consolidated the following permit with Registration LA24039: Registration LA20034 (see NRCB Operational Policy 2016-7: Approvals, part 11.5). Permit consolidation helps the permit holder, municipality, neighbours and other parties keep track of a CFO's requirements, by providing a single document that lists all the operating and construction requirements. Consolidating permits generally involves carrying forward all relevant terms and conditions in the existing permits into the new permit, with any necessary changes or deletions of those terms and conditions. This consolidation is carried out under section 23 of AOPA, which enables approval officers to amend AOPA permits on their own motion. All conditions of Registration LA20034 have been carried forward into the new registration. Construction conditions that have been met are included in the appendix of this registration.

11. Conclusion

Registration LA24039 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA24039.

Quintus Dairy's NRCB-issued Registration LA20034 is therefore superseded, and its content consolidated into this Registration LA24039, unless Registration LA24039 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Registration LA20034 will remain in effect.

April 16, 2025

(Original signed)
Carina Weisbach
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Exemption from natural water well setbacks
- C. Explanation of conditions in Registration LA24039

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.)

Quintus Dairy’s CFO is located in the County of Newell and is therefore subject to that county’s MDP. The County of Newell adopted the latest revision to this plan in May 2023, under Bylaw #2057-23.

The MDP policies relating to CFOs are in Section 3.5 Protecting farmland and stewarding intensive development – sections are h) to j).

Subsection h states that no new or expanding CFOs are allowed within CFO restricted areas as shown on the maps in section 6 of the MDP.

Quintus Dairy is not located within any of the areas identified as CFO restricted areas.

Subsection i) states that existing CFOs are allowed to continue to operate in these areas.

This section does not apply as explained above.

Subsection j) states that the NRCB should consider two points. The first is to firmly enforce AOPA provisions that are in place to protect any surface water. The second part is the request to include conditions into the permit of new CFOs to enter into road use agreements.

In order to approve applications, all AOPA requirements have to be met. This application is therefore consistent with this provision.

The second part is not a land use provision. It is also not applicable because the CFO is not a new CFO. In addition, and as stated in NRCB board decision Hutterian Brethren of Murray Lake RFR 2020-09, p. 4, municipalities own the roads within their jurisdiction. I therefore believe that I cannot consider this section in my MDP consistency determination.

For this reason, I conclude that the application is consistent with the land use provisions of County of Newell’s MDP.

APPENDIX B: Exemption from natural water and well setbacks

1. Water Well Considerations

The proposed dairy barn expansion is to be located less than 100 m from a water well. I have confirmed that one water well is located approximately 10 m from it during a site visit. 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), and, if required, a groundwater monitoring program is implemented.

The potential risks of direct aquifer contamination from the MSF are presumed to be low if the applicant's proposed MSF 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

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

Based on information provided by the applicant and from the Alberta Environment and Protected Areas (EPA) water well database, the water well located approximately 10 m west of the dairy barn extension is likely EPA water well ID # 183330. This well is reported to have been installed in 1985 and has a perforated or screened zone from 70.1 m to 74.07 m and 79.25 m to 82.60 m below ground level across stratigraphy. The well is a pit less well and is well protected. This well is used for domestic and non-domestic purposes. The well's log identifies protective layers from ground surface to 17.68 m and a thick shale layer below 26.52 m below ground level. The well has a driven seal from ground surface to 67.06 m below ground level (across all layers). 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.

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 less likely as seen in Technical Document LA24039. However, due to the construction of the well, the proposed concrete liner, and the depth of the aquifer, I will grant an exemption but will include a water well monitoring condition as explained in the attached monitoring statement as a precautionary measure.

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 Registration LA24039

Registration LA24039 includes several conditions, discussed below, and carries all conditions from Registration LA20034. Construction conditions from historical Registration LA20034 that have been met are identified in the appendix to Registration LA24039.

Registration LA24039 includes several conditions, discussed below:

a. Groundwater monitoring

As noted in Decision Summary LA24039 and Technical Document LA24039, the proposed facility poses a low risk to groundwater. However, as a precautionary measure, it is advisable for Quintus Dairy to monitor the groundwater near the facility. Thus, a condition is included requiring Quintus Dairy to conduct ground water monitoring according to a groundwater monitoring system prescribed and authorized in writing by the NRCB, and to report the results. When appropriate, these requirements may be amended from time to time by the NRCB, in writing.

b. Construction deadline

Quintus Dairy proposes to complete construction of the proposed new dairy barn expansion by December 31, 2027. This timeframe is considered to be reasonable for the proposed scope of work. The deadline of December 31, 2027, is included as a condition in Registration LA24039.

c. Decommissioning of sheep pens

The proposed dairy barn extension will be partially constructed on the footprint of existing sheep pens. These areas must therefore be decommissioned prior to commencing construction. A condition will be included requiring Quintus to close these areas according to Technical Guideline Agdex 096-90 for facilities posing a low risk to groundwater and surface water.

d. 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 LA24039 includes conditions requiring:

- a. Proof that the concrete used to construct the liner of the manure collection and storage portion of the dairy barn expansion and the manure transfer pit can meet the specification for category B (liquid manure shallow pits) in Technical Guideline Agdex 096-93 "Non-Engineered Concrete Liners for Manure Collection and Storage Areas."

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 LA24039 includes a condition stating that Quintus Dairy shall not place livestock or manure in the manure storage or collection portions of the new dairy barn expansion and manure transfer pit until NRCB personnel have inspected the dairy barn expansion and manure transfer pit and confirmed in writing that they meet the registration requirements.