

Decision Summary RA25027

This document summarizes my reasons for issuing Authorization RA25027 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA25027. 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 March 24, 2025, A. M. Bamentloo on behalf of Fasna Farms Ltd. (Fasna Farms), submitted a Part 1 application to the NRCB to modify a manure storage facility (MSF)/manure collection area (MCA) at an existing swine CFO.

The Part 2 application was submitted on March 24, 2025. On March 28, 2025, I deemed the application complete.

The proposed construction involves:

- Constructing an addition to barn #1 - 12.2 m x 27.4 m x 0.6 m deep (122.6 m x 12.2 m x 0.6 m deep total dimensions)

a. Location

The existing CFO is located on the south half of NE 20-50-18 W4M in Beaver County, roughly 5 km southeast of Tofield, Alberta. The terrain is relatively flat, sloping to the east with a common body of water (wetland) roughly 112 metres to the southwest.

b. Existing permits

The CFO is already permitted under Authorization RA18048 and deemed municipal development permits no. 99-07-13-02, no. 97-05-27-04 and no. 87-6-29-3.

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 Beaver 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 Transportation and Economic Corridors (TEC).

I also sent a copy of the application to Sequoia Resources Corp. as they are right of way holders.

Ms. Laura Partridge, a senior water administration officer with EPA, submitted a response directly to the applicant on behalf of EPA. In her response, Ms. Partridge stated the current registration associated with the CFO site and added that additional licensing will be required for the existing CFO. The applicant is reminded that it is their responsibility to ensure they have sufficient licensing under the *Water Act* for their operation.

Ms. Cindy Skjaveland, a property technologist with TEC, responded to the application on behalf of TEC. Ms. Skjaveland stated that TEC does not have any concerns with the application, however due to proximity of the proposed construction to Highway 14, a roadside development permit will be required. This response has been forwarded to the applicant for their information and action.

I did not receive any other responses to the application.

Authorization RA25027 does not relieve the permit holder from complying with other applicable laws, such as safety codes, other municipal bylaws, provincial legislation (e.g. *Historical Resources Act*), and federal legislation (e.g. *Migratory Birds Convention Act*).

4. Municipal Development Plan (MDP) consistency

I have determined that the proposed construction is consistent with the land use provisions of Beaver 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 nearby residences with an exemption under Section 3(5)(c) of the Standard and Administration Regulation. The proposed barn addition is within the footprint of the existing CFO and is to be located further away than existing CFO MSF/MCA relative to neighboring residences
- 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 and Appendix C, 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." Beaver County is an affected party (and directly affected) because the proposed construction is located within its boundaries.

Ms. Shauna France, planner, development officer with Municipal Planning Services, provided a written response on behalf of Beaver County. Ms. France stated that the application is consistent with Beaver County's land use provisions of the municipal development plan. The application's consistency with Beaver County's municipal development plan is addressed in Appendix A, attached.

Ms. France also listed the setbacks required by Beaver County's land use bylaw (LUB) and noted that the application 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. The information on this file supports the assumption that risks to groundwater and surface water are low; therefore, groundwater 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 Fasna Farms' existing CFO facilities were assessed in 2018 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

The circumstances have not changed since that assessment was 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 barn addition 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 well construction and maintenance, as well as its location upslope from the CFO.

9. Terms and conditions

Authorization RA25027 permits the construction of the addition to barn #1.

Authorization RA25027 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 RA25027 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 RA25027 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA25027.

Authorization RA25027 must be read in conjunction with Fasna Farms' deemed municipal development permits no. 99-07-13-02, no. 97-05-27-04 and no. 87-6-29-3, and previously issued NRCB Authorization RA18048, which remain in effect.

June 2, 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 RA25027

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.)

Fasna Farms’ CFO is located in Beaver County and is therefore subject to that county’s MDP. Beaver County adopted the latest revision to this plan in December 2024, under Bylaw 24-1153.

Section 3.0 of the MDP addresses agriculture, generally.

Policy 3.3 clarifies that the “primary use of the Agricultural Area” area is for both “extensive and intensive agricultural uses and confined feeding operations”. As a general guiding principle, this is not considered a land use provision and therefore is not relevant to my MDP consistency determination. However, the application is consistent with this policy.

Policy 3.8 states that the NRCB “have jurisdiction over certain [CFOs] and [MSFs] in that they require an authorization, registration, or approval under [AOPA].” The County’s policy is that “[CFOs] and [MSFs] fully satisfy all the requirements and regulations adopted under that Act, specifically the minimum distance separation requirements and the land base requirements.” I do not consider this to be a land use provision, but rather a “test or condition” that relates to MDS, so I am precluded from considering this policy. Regardless, the application meets MDS requirements.

Policy 3.9 states “[h]aving acknowledged the jurisdiction of the [NRCB] over certain [CFOs] and [MSFs] the following policies shall apply:”

- a) In an effort to achieve orderly and effective development within Beaver County, the County shall notify adjacent landowners of the proposed CFO, as calculated from the centre of the proposed CFO parcel using the minimum distance separation (MDS) requirements provided through regulation adopted under the *Agricultural Operation Practices Act*. In the event a quarter section of land is not fully within the notification area or has been subdivided, the notification area will include all land within that quarter section.
- b) The County shall notify the landowner/applicant of the CFO and the NRCB of any recent developments within the twelve (12) month period prior to the CFO application date, as determined by the NRCB, in the vicinity of the proposed CFO, as calculated from the centre of the proposed CFO parcel using the minimum distance separation (MDS)

requirements provided through regulation adopted under the *Agricultural Operation Practices Act*.

Sections a) and b) are likely not land use provisions, as they are procedural in nature and provide direction to the County regarding notification for CFO applications. Regardless, I do not consider these sections to be relevant to my MDP consistency determination.

- c) The County shall recognize its responsibility and inherent right to effectively plan the location of [CFO's] and [MSFs] to avoid conflicting land uses within the County. In addition to the minimum distance separation (MDS) requirements provided through regulation adopted under the *Agricultural Operation Practices Act*, the County shall not allow [CFOs] requiring registrations or approvals and [MSFs] requiring authorizations under that Act within areas of potential conflict, such as hamlets, villages, towns, or natural areas including areas such as Beaverhill Lake. Restriction areas are outlined in Maps 3-12 of this Plan.

Fasna Farms' CFO meets the minimum distance separation requirements set out in AOPA and is not located in any of the aforementioned areas of conflict. The application is therefore consistent with this section.

Policy 3.10 states that the County "shall not allow [CFOs] or [MSFs]" requiring a permit under AOPA where "multi-lot country residential subdivisions predominate, specifically, on the south side of Highway 14 and west of Range Road 201, as outlined in Map 11 of this Plan". Fasna Farms' CFO is not located in any of these restricted areas and is therefore consistent with this policy.

Policy 3.11 sets out to recognize the County's responsibility in managing road infrastructure "in relation to the location of a [CFO] and/or [MSF]" and that the County "shall maintain its right to require that as a condition of the granting of an approval, registration or authorization, the applicant enter into an agreement with the County to do any or all of the following:

- a) To construct or pay for the construction of a road required to give access to the development; and/or
- b) To maintain or pay for the maintenance of any and all municipal roads that service the development, to the most reasonable extent possible, taking into consideration all other traffic using the road(s)."

NRCB policy is to not include conditions requiring operators to enter into road use agreements, because municipalities have direct authority to manage road use (NRCB Operational Policy 2016-7, Approvals, part 9.13). Additionally, the County's response did not specifically indicate that a road use agreement would be required for the application.

Policy 3.12 "consider[s] the minimum distance separation formula in the review of non-farm proposals which are in close proximity to existing [CFO]s". This is not an applicable policy for my MDP consideration and appears to provide guidance to the County with respect to proposed developments near CFOs.

Policy 3.13 states CFOs may be granted a reduced setback within the restricted areas provided they "meet a separation distance equivalent to no less than a 99% annoyance-free frequency, as calculated by the Odour from Feedlots Setback Estimation Tool". This policy is likely not a land use provision because it requires site-specific, discretionary determinations (see Operational Policy 2016-7, Approvals 9.2.7). Therefore, this policy is not considered to be relevant to my MDP consistency determination.

Policy 3.14 states CFOs “[N]otwithstanding the establishment of CFO restriction areas as outlined in policy 3.9 c above, the County may allow [CFO]s, and seasonal feeding and bedding sites, as defined by [AOPA], that existed on January 1, 2002, to expand”, but shall be limited to “a size not exceeding the maximum number of animals for operations requiring a registration under the Act. In the case of an [MSF] that existed on January 1, 2002, the County may allow expansion, but only to the extent required for an agricultural operation, the expansion of a [CFO] or seasonal feeding and bedding site, or to achieve longer-term storage requirements for an existing [CFO]. The County shall require all expansions under this Section to meet all other requirements of this Plan, the County’s Land Use Bylaw, the *Agricultural Operation Practices Act*, and any other applicable legislation.”

As stated in policy 3.8, the MDP acknowledges the NRCBs jurisdiction over certain CFOs; therefore, I interpret policy 3.14 to relate to the restricted areas identified in policy 3.9. Fasna Farms’ application is for an existing CFO and does not involve an “expansion” as defined in AOPA. Additionally, the existing CFO is not located within these restricted areas. My interpretation is also supported by Beaver County’s response stating that the application is consistent with the MDP.

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

APPENDIX B: Exemption from water well setbacks

The proposed barn addition is to be located less than 100 m from a water well. I have confirmed that one water well is located approximately 90 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 well:

- a. How the well was constructed
- b. Whether the well is being properly maintained
- c. The distance between the well and the proposed MSF/MCA
- d. Whether the well is up- or down-gradient from the MSF/MCA and whether this gradient is a reasonable indication of the direction of surface and groundwater flow between the two structures

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

Water well ID 1889047

Based on information provided by the applicant and from the Alberta Environment and Protected Areas (EPA) water well database, the water well located approximately 90 m north of the barn expansion is likely EPA water well ID 1889047. This well is reported to have been installed in 2011 and has a perforated or screened zone from 9.1 m to 15.2 m below ground level across sand/clay layers. The well has above ground casing and is used for domestic and non-domestic purposes. The well's log identifies protective layers from ground surface to 13.7 m below ground level. The well has a bentonite seal from 3 m to 4.6 m below ground level (across the clay/sand 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 well is up-gradient of the CFO and MSF/MCA.

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 RA25027.

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

Under the regulation, an approval officer may require a groundwater monitoring program of the water well in question. In my view, given that the application meets AOPAs technical requirements and is presumed to be low risk to surface water and groundwater, monitoring is not required.

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

APPENDIX C: Explanation of conditions in Authorization RA25027

Authorization RA25027 includes several conditions, discussed below:

a. Construction Deadline

Fasna Farms proposes to complete construction of the proposed barn addition by December 2025. In my opinion, this timeframe does not allow for potential construction or material delays. Therefore, the deadline of December 31, 2026, is included as a condition in Authorization RA25027.

b. Post-construction inspection and review delete the plural if only one condition applies

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 RA25027 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the barn addition to 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".
- b. Fasna Farms to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the barn addition.

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 RA25027 includes a condition stating that Fasna Farms shall not place livestock or manure in the manure storage or collection portions of the new barn addition until NRCB personnel have inspected the facility and confirmed in writing that it meets the authorization requirements.