

## Decision Summary RA25024

This document summarizes my reasons for issuing Approval RA25024 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA25024. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at [www.nrcb.ca](http://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 approval. For additional information on NRCB permits please refer to [www.nrcb.ca](http://www.nrcb.ca).

### 1. Background

On March 20, 2025, DeBruyn Cattle Company Ltd. (DeBruyn Dairy) submitted a Part 1 application to the NRCB to expand an existing dairy CFO.

The Part 2 application was submitted on March 28, 2025. On April 9, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing the permitted number of milking cows (plus associated dries and replacements) from 199 to 300
- Constructing a new dry cow barn – 51.8 m x 16.5 m x 0.9 m deep

#### a. Location

The existing CFO is located at NE 3-39-6 W5M in Clearwater County, roughly 11 km southeast of Rocky Mountain House, AB. The terrain gently slopes to the southwest.

#### b. Existing permits

To date, the CFO has been permitted under NRCB Registration RA17068. That permit allows the construction and operation of a 199 milking cow (plus associated dries and replacements) dairy CFO. The CFO's existing permitted facilities are listed in the appendix to the Approval RA25024.

### 2. Notices to affected parties

Under section 19 of AOPA, the NRCB notifies (or directs the applicant to notify) all parties that are “affected” by an approval 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 person or 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 specified distance from the CFO, depending on the size of the CFO

- all persons who own or reside on land within a specified distance from the CFO, depending on the size of the CFO

For the size of this CFO the specified distance is one mile. (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 Clearwater County, 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 The Western Star, a newspaper in circulation in the community affected by the application on April 9, 2025, and
- sending 30 notification letters to people identified by Clearwater County as owning or residing on land within the notification distance.

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

### **3. Notice to other persons or organizations**

Under section 19 of AOPA, 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 Rocky Gas Co-op Ltd. as they are a right of way holder.

I received a response from AGI indicating the inspector that will be responsible for the application.

I did not receive any other responses.

Approval RA25024 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. Alberta Land Stewardship Act (ALSA) regional plan**

Section 20(10) of AOPA requires that an approval officer must ensure the application complies with any applicable ALSA regional plan.

There is no ALSA regional plan for the area where the existing CFO is to be located.

## **5. Municipal Development Plan (MDP) consistency**

I have determined that the proposed expansion is consistent with the land use provisions of Clearwater County'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 nearby residences, with four exceptions (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS). The owners of the residences have signed a written waiver of the MDS requirement to their residence
- 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

With the terms and conditions summarized in part 11 and in 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.

## **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." Clearwater County is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

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

No responses were received from any other person, organization, or member of the public.

The NRCB considers a person who owns a residence within the MDS of the CFO, and who waives the MDS requirements in writing to be automatically considered directly affected (see NRCB Operational Policy 2016-7: Approvals, part 7.2.1). Rick & Marilyn Leinweber, Ilonka (Jetje) & Willie Geverink, and Walter & Teresa Skrocki all provided an MDS waiver and are directly affected parties.

## 8. Environmental risk of CFO 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. Due to the proximity of two water wells to the proposed construction, a water well monitoring condition will be included in Approval RA25024, and a water well monitoring condition from Registration RA17068 will be carried forward.

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](http://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 DeBruyn Dairy's existing CFO facilities were assessed in 2014, 2016 and 2018 using the ERST. According to these assessments, the facilities posed a low potential risk to surface water and groundwater except for the old youngstock barn and the free stall barn pits, which were found to pose a moderate potential risk to groundwater. The old youngstock barn has since been converted into a non-CFO facility and is presently used as a shop. The freestall barn pits have not been modified (nor has there been an application to alter them in this application). To address the moderate potential risk to groundwater, Registration RA17068 included a water well monitoring condition for water well ID 456022, which will be carried forward into this Approval. Additionally, a water well monitoring condition will be included in Approval RA25024 requiring annual sampling of water well ID 456021, to address the results of a water well exemption screening tool that I completed (see section 9 and Appendix B). I am of the opinion that no further action or conditions are required at this time to address the risk posed to the environment by the freestall barn pits.

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

Due to the history of moderate potential risk to groundwater at this CFO, and to exercise caution, I carried out a risk screening using the ERST for the proposed dry cow barn. The assessment found that this facility poses a low potential risk to groundwater and surface water.

## 9. Exemptions

I determined that the proposed dry cow barn is located within the required AOPA setback from 2 water wells. As explained in Appendix B, exemptions to the 100 m water well setback is warranted due to maintenance of the wells and the fully enclosed concrete nature of the proposed construction. A water well monitoring condition will be required in the permit to address the results of a water well exemption screening that I completed (see Appendix B,

below). Additionally, a water well monitoring condition will be carried forward into this approval from Registration RA17068.

## 10. Other factors

Because the approval application is consistent with the MDP land use provisions, and meets the requirements of AOPA and its regulations, I also considered other factors.

AOPA requires me to consider matters that would normally be considered if a development permit were being issued. The NRCB interprets this to include aspects such as property line and road setbacks related to the site of the CFO. (*Grow North*, RFR 2011-01 at page 2). Approval officers are limited to what matters they can consider though as their regulatory authority is limited.

Mr. Bisson did not list the setbacks in Clearwater County's land use bylaw (LUB), but instead stated that the County recognizes CFOs are regulated by the NRCB and are therefore exempt from municipal control under the LUB. Regardless, the application meets the requirements set out in the LUB.

I have considered the effects the proposed expansion may have on natural resources administered by provincial departments. EPA has not made me aware of statements of concern submitted under section 73 of the *Environmental Protection and Enhancement Act* or section 109 of the *Water Act* in respect of the subject of this application. Furthermore, the application meets AOPA's technical requirements, and the applicant has been reminded that it is their responsibility to ensure they have received the appropriate water licensing for the proposed CFO expansion.

I am not aware of any written decision of the Environmental Appeals Board for this location (<https://eab.gov.ab.ca/status.htm>), accessed June 5, 2025.

Finally, I considered the effects of the proposed expansion on the environment, the economy, and the community, and the appropriate use of land. In doing so, I had before me information in the application, views from Clearwater County, and my own observations from a site visit.

Consistent with NRCB Operational Policy 2016-7: Approvals, part 9.10.9, I presumed that the effects on the environment are acceptable because the application meets all of AOPA's technical requirements. In my view, this presumption is not rebutted.

Consistent with NRCB Operational Policy 2016-7: Approvals, part 9.10.9, if the application is consistent with the MDP then the proposed expansion is presumed to have an acceptable effect on the economy and community. In my view, this presumption is not rebutted.

I also presumed that the proposed expansion is an appropriate use of land because the application is consistent with the land use provisions of the MDP (see NRCB Operational Policy 2016-7: Approvals, part 9.10.9). In my view, this presumption is not rebutted.

## 11. Terms and conditions

Approval RA25024 specifies the cumulative permitted livestock capacity as 300 milking cows (plus associated dries and replacements) and permits the construction of the new dry cow barn.

Approval RA25024 contains terms that the NRCB generally includes in all AOPA approvals, 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, Approval RA25024 includes conditions that generally address construction deadline, monitoring, document submission and construction inspection. 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 Approval RA25024: Registration RA17068 (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. Appendix C discusses which conditions from the historical permits are or are not carried forward into the new approval.

## **12. Conclusion**

Approval RA25024 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA25024.

Previously issued Registration RA17068 is therefore superseded, and its content consolidated into this Approval RA25024, unless Approval RA25024 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Registration RA17068 will remain in effect.

June 18, 2025

(Original signed)

Sarah Neff  
Approval Officer

## **Appendices:**

- A. Consistency with the municipal development plan
- B. Exemptions from water well setbacks
- C. Explanation of conditions in Approval RA25024

## APPENDIX A: Consistency with the municipal development plan

Under section 20 of AOPA, an approval officer may only approve an application for an approval or amendment of an approval 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 20(1.1) 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.)

DeBruyn Dairy’s CFO is located in Clearwater County and is therefore subject to that county’s MDP. Clearwater County adopted the latest revision to this plan on May 9, 2023, under Bylaw No. 1132/22. As relevant here:

Section 5.2.6 states “Confined feeding operations are approved pursuant to the *Agricultural Operation Practices Act* and Clearwater County is not the approving authority.” However, subsequent sections of the MDP indicate that the County shall provide guidance on the location of CFOs.

Section 5.2.7 of the MDP states that within specified exclusion zones, the County shall indicate its opposition to an application for a new operation and may indicate its opposition to an application to expand a confined feeding operation:

- a) all land within 3.2 kilometres (2 miles) of a corporate boundary of a Town, Village or Summer Village, or as otherwise directed in an intermunicipal development plan adopted by the County;
- b) all land within 3.2 kilometres (2 miles) of a hamlet the boundaries of which may be defined in a statutory plan or outline plan approved by the County; and
- c) all land within 0.8 kilometres (0.5 miles) of an area contained in an area structure plan that provides for multi-lot residential development

DeBruyn Dairy’s CFO is not located in any of these exclusion zones. Therefore, the application is consistent with this section.

Section 5.2.8 indicates that in its response to the NRCB, the County will consider the location, scale of operation, surrounding land uses, and provisions in the MDP and other applicable plans. This is a procedural provision which provides discretion to the County regarding how the County shall respond to the NRCB. Since this provision is procedural and calls for site specific information, it is not considered to be a land use provision and therefore is not relevant to my MDP consistency determination. Regardless, the County’s response indicates that the proposed CFO expansion fully conforms to the requirements of the MDP.

Section 5.2.9 states that “[i]n directing and approving land uses that may be incompatible with a [CFO]” the County shall “refer the application to the [NRCB] to ascertain the applicable minimum

distance separation.” I do not consider this to be a land use provision, as it is procedural in nature and provides direction to the County regarding application referrals. Therefore, this section is not relevant to my MDP consistency determination.

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



## **APPENDIX B: Exemptions from water well setbacks**

### **1. Water Well Considerations**

The proposed dry cow barn is to be located less than 100 m from 2 water wells. I have confirmed the wells are located approximately 66 m southeast and 75 m east 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 collection area (MCA), and, if required, a groundwater monitoring program is implemented.

The potential risks of direct aquifer contamination from the MCA are presumed to be low if the applicant's proposed 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 well is being properly maintained
- b. The fully enclosed concrete nature of the proposed construction

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

#### **Water well ID 456022:**

Based on information provided by the applicant and from the Alberta Environment and Protected Areas (EPA) water well database, the water well located approximately 66 m southeast of the proposed dry cow barn is likely EPA water well ID 456022. This well is reported to have been installed in 1968 and has a perforated or screened zone from 17.4 m to 25.9 m below ground level across the sandstone and shale layers. The well has above ground casing and is used for domestic and non-domestic purposes. The well's log identifies a protective layer from 12.8 m to 15.2 m below ground level. The well log does not indicate the type or placement of a 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.

#### **Water well ID 456021:**

Based on information provided by the applicant and from the Alberta Environment and Protected Areas (EPA) water well database, the water well located approximately 75 m east of the proposed dry cow barn is likely EPA water well ID 456021. This well is reported to have been installed in 1988 and has a perforated or screened zone from 21 m to 39.6 m below ground level across the clay/gravel, shale and sandstone layers. The well is a pit well and is located inside a fully enclosed building. The well is used for domestic and non-domestic purposes. The well's log identifies a protective layer from 0.3 m to 6.1 m below ground level and identifies a driven seal placed from ground level to 11.9 m below ground surface. The well appeared to be in good condition at the time of my site inspection and is protected by a solid wooden cover.

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.<sup>1</sup>

In this case, the results of the water well exemption screening tool suggest that an exemption is likely for both water wells, however action is required for water well ID 456021 as seen in Technical Document RA25024.

Under the regulation, an approval officer may require a groundwater monitoring program of the water wells in question. In my view, a monitoring program is required due to the well’s proximity to the proposed construction, as well as the results from the water well exemption screening tool. Therefore, a condition requiring annual sampling and testing of water well ID 456021 will be included in Approval RA25024. Additionally, Registration RA17068 contains a condition requiring annual sampling and testing of water well ID 456022. This condition will be carried forward to Approval RA25024.

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

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<sup>1</sup> A complete description of this tool is available under CFO/Groundwater and Surface Water Protection on the NRCB website at [www.nrcb.ca](http://www.nrcb.ca).

## **APPENDIX C: Explanation of conditions in Approval RA25024**

Approval RA25024 includes several conditions, discussed below, and carries forward a condition from Registration RA17068 (see sections 2 and 3 of this appendix). Construction conditions from historical RA17068 that have been met are identified in the appendix to Approval RA25024.

### **1. New conditions in Approval RA25024**

#### **a. Construction Deadline**

DeBruyn Dairy proposes to complete construction of the proposed new dry cow barn by January 1, 2028. This timeframe is considered to be reasonable for the proposed scope of work. The deadline of January 1, 2028, is included as a condition in Approval RA25024.

#### **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, Approval RA25024 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portions of the dry cow barn to meet the specifications for category B (liquid manure - shallow pits) and category C (solid manure – wet) in Technical Guideline Agdex 096-93 “Non-Engineered Concrete Liners for Manure Collection and Storage Areas”.
- b. DeBruyn Dairy to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the dry cow barn.

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. Approval RA25024 includes a condition stating that DeBruyn Dairy shall not place livestock or manure in the manure storage or collection portions of the new dry cow barn until NRCB personnel have inspected the barn and confirmed in writing that it meets the approval requirements.

### **2. Conditions carried forward and modified from Registration RA17068**

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that operating condition 15 from Registration RA17068 should be carried forward as modified to include an additional water well and to better reflect updated NRCB policies.

Operating condition 4:

The permit holder shall sample and test raw groundwater on an annual basis, from water well ID 456022 and water well ID 456021 according to the water well monitoring requirements prescribed by the NRCB in writing (“Sampling for Water Well Monitoring” Fact Sheet). The NRCB may, based on the monitoring results and at its discretion, revise those requirements in writing. (See Water Well Monitoring Requirements)

### **3. Conditions not carried forward from Registration RA17068**

Approval RA25024 includes the terms and conditions in Registration RA17068, except those noted below.

14. Leakage detection system reporting

The permit holder shall conduct leak detection monitoring annually, beginning in 2018 for the existing (old) EMS. The annual test results should be provided to the NRCB by September 30 of each year, unless otherwise directed in writing by the NRCB.

16. Livestock numbers

Unless otherwise directed by the NRCB in writing, the permit holder shall maintain and make available to the NRCB, upon request, an ongoing monthly record of the number of milking cows at the CFO to demonstrate that the number remains at or below the permitted capacity of 199 milking cows. This monthly record must be maintained for a minimum of at least five years.

Condition 14 was included in Registration RA17068 because, at the time, the old EMS had yet to be decommissioned and thus the condition addressed the potential risk to the environment posed by that facility. The old EMS has since been decommissioned according to Technical Guideline Agdex 096-90 "Closure of Manure Storage Facilities and Manure Collection Areas". Therefore, I have determined that operating condition 14 from Registration RA17068 should be deleted and not carried forward into Approval RA25024.

Condition 16 was included in Registration RA17068 because, at the time, Debruyn Dairy had increased space but did not apply to increase dairy cow numbers. Since the current application proposes an increase in numbers, the condition is no longer required. Therefore, pursuant to section 23 of AOPA (approval officer amendments), I have determined that operating condition 16 from Registration RA17068 should be deleted and therefore are not carried forward to Approval RA25024.