

Decision Summary RA24050

This document summarizes my reasons for issuing Authorization RA24050 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA24050. 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 November 25, 2024, Antoon and Ingrid van der Kamp operating as Paradise Dairy Ltd. (Paradise Dairy) submitted a Part 1 application to the NRCB to construct a manure storage facility (MSF) at an existing dairy CFO.

The Part 2 application was submitted on March 27, 2025. On April 24, 2025, I deemed the application complete.

The proposed construction involves:

- Constructing a new youngstock/heifer/dry cow barn – 61.0 m x 20.1 m

a. Location

The existing CFO is located at NE 21-46-27 W4M in the County of Wetaskiwin roughly 3.5 km northwest of Falun, Alberta. The terrain is flat to gently rolling. No surface water bodies exist within 800 m of the CFO.

b. Existing permits

The CFO is already permitted under Registration RA16013.

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 ½ mile (805 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 County of Wetaskiwin, which is the municipality where the CFO is located. There is no other municipality located within the notification distance.

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 Keyera Rimbey Ltd., Apex Utilities Inc., Plains Midstream Canada ULC, Pembina Pipeline Corp., and TC Energy as they are right of way/easement holders.

A representative from AGI responded and provided the name of the milk inspector assigned to this application.

Two representatives from Plains Midstream responded. Ms. Lisa Uhl, a land analyst, stated that they had no concerns with the application at this time. Joel Kokaram, damage prevention analyst, responded stating that the applicant is required to log a one call ticket, if they have not already done so. The applicant is reminded of this requirement.

No other responses were received.

Authorization RA24050 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 the County of Wetaskiwin'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:

- 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 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, the application meets all relevant AOPA requirements. The exemption that is required to address the AOPA requirements around a water well setback is discussed in the following parts of this decision summary and Appendix B.

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

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

Ms. Mickelson also listed the setbacks required by the County of Wetaskiwin'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 and 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 Paradise Dairy's existing CFO facilities were assessed in 2016 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 youngstock/heifer/dry cow barn 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 well's characteristics, as well as the indoor nature of the

proposed barn.

9. Terms and conditions

Authorization RA24050 permits the construction of the new youngstock/heifer/dry cow barn.

Authorization RA24050 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 RA24050 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 RA24050 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA24050.

Authorization RA24050 must be read in conjunction with previously issued Registration RA16013 which remain in effect.

June 25, 2025

(Original signed)

Lynn Stone
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Exemption from water well setback
- C. Explanation of conditions in Authorization RA24050

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.)

Paradise Dairy’s CFO is located in the County of Wetaskiwin and is therefore subject to that county’s MDP. The County of Wetaskiwin adopted the latest revision to this plan on April 11, 2023, under Bylaw # 2023/05.

As relevant here, section 11.6 of the MDP aims to “support” CFOs while “minimizing conflicts with surrounding land uses and negative impacts on the environment through land stewardship best practices.” Additionally, the MDP notes that, while CFOs are under provincial jurisdiction, it is the County’s intent to “restrict new or expanded CFOs only in those locations where they are incompatible with neighbouring land uses or negatively impact sensitive environmental features”. The MDP also reports the County’s view that the *Municipal Government Act* “requires” the County to identify where new CFOs should be located.

Objective 11.6.1 supports CFOs at “appropriate locations”. Paradise Dairy’s existing CFO is located in an area designated as Agricultural and is not located in an exclusion zone. Therefore, the application is consistent with this policy.

Objective 11.6.2 references the requirements of AOPA in determining Minimum Distance Separation for CFOs. This is likely not a land use provision; however, the application meets the MDS requirements as set out in AOPA.

Objective 11.6.3 states 5 areas in which the County prohibits new or expanded CFOs within specified distances of the areas listed in the objective. Paradise Dairy’s CFO is located outside all the specified setbacks, and therefore, the application is consistent with this objective.

Objective 11.6.4 states that, notwithstanding objective 11.6.3, the County will support expanding or upgrading existing CFOs where “upgrades in technology and/or practices result in improved manure management and/or mitigation of negative impacts on surrounding land uses and the environment”. As noted in section 8 of the decision summary, the CFO’s proposed facilities pose a low potential risk to both groundwater and surface water, which arguably may “result in improved manure management and/or mitigation of negative impacts on surrounding land uses

and the environment”. However, this policy likely isn’t a “land use provision” because it calls for discretionary judgements about what applications the County will support.

In addition, this policy may well be precluded from my consideration under section 22(2.1) of AOPA, which precludes an approval officer from considering MDP provisions “respecting tests or conditions related to the construction of or the site for a confined feeding operation or manure storage facility” and regarding the land application of manure.

Objective 11.6.5 refers to CFOs within the setbacks in 11.6.3 that are “not in operation for a period of ten (10) years or more”, in which case the County considers these operations to be “without proper authorization to resume operation or expand”.

AOPA is provincial legislation that determines which above-threshold operations have “authorization” to operate. AOPA sets out the conditions for a CFO operating and obtaining a permit, including a few circumstances where the NRCB can cancel a permit. An MDP policy that purports to override AOPA’s regulation on that point cannot be a valid land use provision; and therefore, I am precluded from considering this provision. Nevertheless, Paradise Dairy’s CFO is not within these setbacks.

Objective 11.6.6 states the County’s support for “new residences where the residence is associated with a CFO within the Minimum Distance Separation of an existing CFO”. I interpret this to be a requirement as relating to the development of residences near CFOs, not development of CFOs. The permitting of residences is within the municipality’s jurisdiction.

Objective 11.6.7 states that the County requires CFO proponents to “demonstrate that their development will not result in environmental impacts from their proposed operation” and *may* recommend to the NRCB that an “Environmental Impact Assessment” be submitted along with the application. This is likely not a land use provision and the NRCB Board has guided approval officers to disregard requests for environmental impact assessments for being a “test or condition” (RFR 2008-02 *Hutterian Brethren of Silver Springs*, at page 4). Nevertheless, the County has made no such request for this application. Additionally, the proposed construction meets AOPA’s environmental protection standards.

Objective 11.6.8 states that the County “requests” the NRCB to include conditions in their decisions requiring CFO proponents to “enter into agreements with the County, which may include dust control, road use, and off-site levies...”. The NRCB does not have direct responsibility for regulating road use. Section 18 of the *Municipal Government Act* gives counties “direction, control and management” of all roads within their borders. In addition, municipalities have the knowledge, expertise, and jurisdiction to implement and enforce road use agreements. Nevertheless, the County has made no such request for this application.

For the above reasons, I consider the application to be consistent with the land use provisions of the County of Wetaskiwin’s MDP. The County’s response to the application supports this conclusion.

APPENDIX B: Exemption from water well setback

1. Water Well Considerations

The proposed youngstock/heifer/dry cow barn is to be located less than 100 m from a water well. I have confirmed that one water well is located approximately 35 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)/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
- d. Whether the well is up- or down-gradient from the MSF 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.

The water well:

Based on information provided by the applicant and from the Alberta Environment and Protected Areas (EPA) water well database, the water well located approximately 35 m east of the proposed youngstock/heifer/dry cow barn is likely EPA water well ID # 132787. This well is reported to have been installed in 1988 and has a perforated or screened zone from 27.43 m to 57.91 m below ground level across stratigraphy. The well was installed with an above ground casing. This well is used for non-domestic purposes. I note that in my conversations with the applicant, the water well is only used presently for livestock use. The well's log identifies protective layer or layers from ground surface to 3.05 m below ground level. The well has a driven seal from ground surface to 26.82 m below ground level (across the clay, rocks, and sandy clay layers). The well appeared to be in good condition at the time of my site inspection and it was enclosed in a shack. The well is cross gradient of the CFO and MSF.

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 RA24050.

Under the regulation, an approval officer may require a groundwater monitoring program of the water well in question. In my view, given meeting AOPA technical requirements, low risk level assessment, and the indoor nature of both the barn and the well, 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 youngstock/heifer/dry cow barn.

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 Authorization RA24050

a. Construction Deadline

Paradise Dairy proposes to complete construction of the proposed new barn by January 2026. In my opinion, a timeframe that allows for two full construction seasons is more appropriate for the proposed scope of work. The deadline of December 31, 2026, is included as a condition in Authorization RA24050.

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 RA24050 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the youngstock/heifer/dry cow barn to meet the specification for category D (solid manure – dry) in Technical Guideline Agdex 096-93 “Non-Engineered Concrete Liners for Manure Collection and Storage Areas”.
- b. Paradise Dairy to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the youngstock/heifer/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. Authorization RA24050 includes a condition stating that Paradise Dairy shall not place livestock or manure in the manure storage or collection portions of the new youngstock/heifer/dry cow barn until NRCB personnel have inspected the barn and confirmed in writing that it meets the authorization requirements.