

Decision Summary RA25037

This document summarizes my reasons for issuing Authorization RA25037 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA25037. 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 May 15, 2025, Will Kingma, on behalf of Kingdom Farms Inc. (Kingdom Farms), submitted a Part 1 application to the NRCB to construct a manure collection area (MCA) at an existing swine CFO.

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

The proposed construction involves:

- Decommissioning the western half of existing barn 1
- Constructing a new gilt barn on the western half of barn 1 – 64 m x 17.4 m x 0.6 m deep

Due to the proposed replacement of the concrete liner in the western half of existing barn 1 (new gilt barn), an authorization is required.

a. Location

The existing CFO is located at NE 15-40-1 W5M and NW-14-40-01 W5M in Lacombe County, roughly 1.2 km south of Bentley, AB. The terrain is mostly flat with a general slope to the west towards the Blindman River, which is greater than 800 meters from the CFO.

b. Existing permits

The CFO is already permitted under Lacombe County Development Permit No.113/97 and NRCB issued Authorizations RA14024B and RA19040.

2. Notices to affected parties

Under section 21 of AOPA, the NRCB notifies all parties that are “affected” by an authorization application. Section 5 of AOPA’s Part 2 Matters Regulation defines “affected parties” as:

- the municipality where the CFO is located or is to be located
- in the case where part of a CFO is located, or is to be located, within 100 m of a bank of a river, stream or canal, a municipality entitled to divert water from that body within 10 miles downstream

- any other municipality whose boundary is within a notification distance. In this case, the notification distance is 1.5 miles (2414 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 Lacombe County, which is the municipality where the CFO is located, and to the Town of Bentley, whose boundary lies 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 Transportation and Economic Corridors (TEC).

I also sent a copy of the application to ATCO Gas and Pipelines Ltd., EQUUS, and Gull Lake Deer Creek Gas Co-op Ltd. as they are right of way holders.

Mr. David Toop, a senior water administration hydrogeologist with EPA, responded to the application on behalf of EPA and stated that the applicant currently holds three Agricultural water licenses, and because the application does not propose an increase in livestock numbers, no additional licensing will be required.

Ms. Brittany Van Norman, an assistant development and planning technologist with TEC, responded to the application by stating that the application will not require a permit from TEC.

I did not receive any other responses.

Authorization RA25037 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 Lacombe County's municipal development plan. (See Appendix A for a more detailed discussion of the County's planning requirements.) The CFO site is not subject to any intermunicipal development plan (IDP).

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 (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS) with 2 exemptions under Section 3(5)(c) of the Standard and Administration Regulation. The proposed MSF/MCA is within the footprint of the existing CFO and there is no proposed increase to the annual amount of manure produced
- 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 exemptions that are required to address the AOPA requirements around water well setbacks are discussed in the following parts of this decision summary.

6. Responses from municipalities

Directly affected parties are entitled to a reasonable opportunity to provide evidence and written submissions relevant to the application and are entitled to request an NRCB Board review of the approval officer's decision.

Municipalities that are affected parties are identified by the Act as "directly affected". Lacombe County is an affected party (and directly affected) because the proposed facility is located within Lacombe County's boundaries. Additionally, the Town of Bentley is considered an affected party (and directly affected) because the town's boundaries are located within the notification distance of the CFO, and because they submitted a response to the application.

Ms. Allison Noonan, a planning services administrative assistant with Lacombe County, provided a written response on behalf of Lacombe County. Ms. Noonan stated that the application is consistent with Lacombe County's land use provisions of the municipal development plan. The application's consistency with Lacombe County's municipal development plan is addressed in Appendix A, attached.

Ms. Noonan also listed the setbacks required by Lacombe County's land use bylaw (LUB) and noted that the application meets these setbacks.

Mr. Marc Fortais, CAO with the Town of Bentley, provided a written response on behalf of the Town of Bentley. Mr. Fortais stated that the Town has had odour concerns in the past with the CFO, however because the application is not for a change in livestock/manure production or operating practices, the Town does not have any concerns.

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 presumption that the new gilt barn poses a low potential risk to groundwater and surface water; nevertheless, a water well monitoring condition is already in place for this CFO under Authorization RA14024B which remains in effect. Thus, further water well monitoring conditions will not be included in this authorization.

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 Kingdom Farms's existing CFO facilities were assessed in 2013 under the NRCB's risk-based compliance (RBC) program, as well as in 2014 and 2019 using the ERST. The RCB program used the NRCB's environmental risk screening tool to determine whether the facilities pose any risks to surface or groundwater. The assessment found that the EMS' located on NE-15-40-01-W5M, as well as the catch basin area, pose a moderate risk to groundwater and a moderate to high risk to surface water. The assessment also found that barn 2 poses a moderate risk to groundwater. All the other facilities assessed in 2014 and 2019 were found to pose a low risk to surface water and groundwater.

The compliance division of the NRCB is conducting further investigations, including electromagnetic surveys, before determining what further action needs to be taken to address the identified moderate and high risks. As mentioned above, a condition was included in Authorization RA14024B to test the water wells within 100 m of the CFO facilities which will remain in effect.

The circumstances have not changed since those assessments were done. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

8. Exemptions

I determined that the proposed gilt barn is to be located within the required AOPA setback from two water wells. As explained in Appendix B, exemptions to the 100 m water well setback are warranted due to the maintenance of the wells, and the fully enclosed concrete nature of the proposed construction.

9. Terms and conditions

Authorization RA25037 permits the construction of the new gilt barn.

Authorization RA25037 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 RA25037 includes conditions that generally address construction deadline, document submission, construction inspection and decommissioning. For an explanation of the reasons for these conditions, see Appendix C.

10. Conclusion

Authorization RA25037 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA25037.

Authorization RA25037 must be read in conjunction with Kingdom Farms' deemed approval, including Lacombe County Development Permit No. 113/97, and previously issued NRCB Authorizations RA14024B and RA19040 which remain in effect.

July 31, 2025

(Original signed)

Sarah Neff
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Exemptions from water well setbacks
- C. Explanation of conditions in Authorization RA25037

APPENDIX A: Consistency with municipal land use planning

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) and any applicable intermunicipal development plan (IDP). In this case, no IDP applies.

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.)

Kingdom Farms’ CFO is located in Lacombe County and is therefore subject to that county’s MDP. Lacombe County adopted the latest revision to this plan on July 6, 2017, under Bylaw No.1238/17, which was updated on March 13, 2025. As relevant here:

Section 3.3.1 states that “[A]ll lands in the County shall be deemed to be agricultural lands unless otherwise designated by the Municipal Development Plan, an approved statutory or non-statutory plan, the Land Use Bylaw, or provincial legislation”.

I consider this section to be a source of insight for the interpretation of the remaining portions of the MDP and land use bylaw (LUB).

Section 3.9.1 of the County’s MDP states that the “County shall provide input on applications for confined feeding operations to the Natural Resources Conservation Board (NRCB) under the *Agricultural Operation Practices Act*. The County’s support is subject to the following:

- a) no new confined feeding operation shall be permitted less than 1.6 kilometres (1 mile) from the boundary of:
 - i) a town, village, summer village or hamlet;
 - ii) an area developed or designated for multi-lot residential use; or
 - iii) a provincial or municipal park or recreation area, or other area used or intended to be used for a recreational facility development,

except that where provincial regulations require a larger setback distance, that distance shall apply.

Further restrictions on the development of confined feeding operations may apply as directed by an Intermunicipal Development Plan or other plan approved by Council.”

Kingdom Farms’ application is not for a new CFO; therefore, this provision does not apply. As for section 3.9.1’s reference to intermunicipal development plans (IDP) or other plans approved by the County’s Council, the existing CFO is not located within land identified as part of an IDP or any other plans.

For these reasons, I conclude that the application is consistent with the land use provisions of Lacombe County's MDP that I may consider. The County's response to the application supports this conclusion.

APPENDIX B: Exemptions from water well setbacks

1. Water Well Considerations

The proposed gilt barn is to be located less than 100 m from water wells. I have confirmed that two water wells are located approximately 3 m south and 64 m northeast 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 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 351652:

Based on information provided by the applicant and from the Alberta Environment and Protected Areas (EPA) water well database, the water well located approximately 3 m south of the proposed gilt barn is likely EPA water well ID 351652. This well is reported to have been installed in 1990 and has a perforated or screened zone from 26.5 m to 61 m below ground level across the shale and sandstone layers. The well has above ground casing and is used for non-domestic purposes. I note that in my conversations with the applicant, the water well is only used presently for livestock purposes. The well's log identifies a protective layer from 0.6 m to 5.5 m below ground level. The well has a driven seal from ground surface to 26.5 m below ground level (across the sandy clay and shale 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.

Water well ID 362078:

Based on information provided by the applicant and from the Alberta Environment and Protected Areas (EPA) water well database, the water well located approximately 64 m northeast of the proposed gilt barn is likely EPA water well ID 362078. This well is reported to have been installed in 1992 and has a perforated or screened zone from 57.8 m to 82.3 m below ground level across the shale and sandstone layers. The well has an above ground casing and is used for non-domestic purposes. I note that in my conversations with the applicant, the water well is only used presently for livestock purposes. The well's log identifies a protective layer from ground surface to 4.6 m below ground level. The well has a driven seal from ground surface to 30.8 m below ground level (across the clay, shale and sandstone 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 likely for well ID 362078, and less likely for well ID 351652, as seen in Technical Document RA25037.

Under the regulation, an approval officer may require a groundwater monitoring program of the water wells in question. In my view, because there is already a water well monitoring condition in place from Authorization RA14024B requiring testing of all water wells within 100 m of the CFO, additional monitoring is not required in this permit.

Based on the above, I am prepared to grant an exemption to the 100 m water well setback requirement for the new gilt 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 RA25037

Authorization RA25037 includes several conditions, discussed below:

a. Construction Deadline

Kingdom Farms proposes to complete construction of the proposed new gilt barn by November 30, 2025. It is my opinion that a longer timeframe would be more reasonable for the proposed construction. Therefore, the deadline of November 30, 2026, is included as a condition in Authorization RA25037.

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 RA25037 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portions of the new gilt barn 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. Kingdom Farms to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the gilt 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 RA25037 includes a condition stating that Kingdom Farms shall not place livestock or manure in the manure storage or collection portions of the new gilt barn until NRCB personnel have inspected the barn and confirmed in writing that it meets the authorization requirements.

c. Facility decommissioning

As noted in part 1 above, Kingdom Farms has proposed to decommission and rebuild a portion of barn 1. A condition has been included in Authorization RA25037 requiring the western half of barn 1 to be decommissioned in accordance with Technical Guideline Agdex 096-90 "Closure of Manure Storage Facilities and Manure Collection Areas" prior to constructing the new gilt barn.