

Decision Summary RA25035

This document summarizes my reasons for issuing Approval RA25035 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA25035. 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 approval. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On May 8, 2025, Henk and Lizette Schrijver on behalf of New Mars Dairy Ltd. (New Mars Dairy) submitted a Part 1 application to the NRCB to expand an existing beef CFO.

The Part 2 application was submitted on May 13, 2025. On June 5, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing the permitted number of beef feeders from 250 to 350
- Increasing the permitted number of beef feeder calves from 250 to 800
- Constructing a livestock pen (south pen) – 122 m x 36.5 m
- Constructing a heifer shed (south shed) – 122 m x 20 m
- Constructing a catch basin (south catch basin) – 120 m x 13 m x 1.5 m deep

a. Location

The existing CFO is located at NW 9-47-27 W4M in the County of Wetaskiwin, roughly 5.5 km west from the community of Pipestone. The terrain is mainly flat crop and pastureland, sloping generally to the south/southeast. The nearest major surface water body is Long Lake, located approximately 2.3 km northeast of the CFO.

b. Existing permits

To date, the CFO has been permitted under NRCB Registration RA23018. That permit allowed the construction and operation of a beef CFO with a livestock capacity of 250 beef feeders and 250 beef feeder calves. The CFO's existing permitted facilities are listed in the appendix to Approval RA25035.

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 ½ 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 the County of Wetaskiwin, 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 Pipestone Flyer newspaper in circulation in the community affected by the application on June 5, 2025, and
- sending 8 notification letters to people identified by the County of Wetaskiwin as owning or residing on land within the notification distance.

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

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 Transportation & Economic Corridors (TEC).

I also sent a copy of the application to Battle River Power Coop., ATCO Gas and Pipelines Ltd., Imperial Oil Resources Ltd., West Wetaskiwin Rural Electrification Association Ltd., and Integrity Land Inc. (as agent for Evolve Exploration Ltd.) as they are right of way and/or easement holders.

Matthew Osinowski, a senior water administration hydrogeologist with EPA, responded to the notice on behalf of EPA. In his response, which was sent directly to the applicant, Mr. Osinowski stated the existing groundwater authorizations for the operation and asked the applicant to provide further information regarding how many days they anticipate watering the cattle and that in doing so, a more accurate water requirement can be calculated. Mr. Osinowski further stated that should the water requirement exceed what the operation is currently authorized for, the applicant may be required to submit a *Water Act* license application. The applicant is reminded that it is their responsibility to ensure they have appropriate water licensing for the proposed expansion.

Brittany Van Norman, an assistant development and planning technologist with TEC, responded to the notice on behalf of TEC. Ms. Van Norman stated that the proposed development will

require a permit from TEC as it is to be located within the setback to highways. Ms. Van Norman's response has been forwarded to the applicant for their information and action.

Approval RA25035 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 located.

5. Municipal Development Plan (MDP) consistency

I have determined that the proposed expansion 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.) There is no applicable intermunicipal development plan (IDP) for where the existing CFO is located.

6. AOPA requirements

With respect to the technical requirements set out in the regulations, the proposed expansion:

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS)
- Meets the required AOPA setbacks from water wells, 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 10 and in Appendix B, the application meets all relevant AOPA requirements.

7. Responses from municipality and other directly affected parties

Directly affected parties are entitled to a reasonable opportunity to provide evidence and written submissions relevant to the application and are entitled to request an NRCB Board review of the approval officer's decision. Not all affected parties are "directly affected" under AOPA.

Municipalities that are affected parties are identified by the Act as "directly affected". The County of Wetaskiwin is an affected party (and directly affected) because the proposed expansion 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's MDP is addressed in

Appendix A, attached.

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

8. Environmental risk of CFO facilities

New CFO facilities which clearly meet or exceed AOPA requirements may be assumed to pose a low risk to surface and groundwater. There may be circumstances where, because of the proximity of a shallow aquifer, or porous subsurface materials, and surface water systems an approval officer may require groundwater monitoring for the facility. Based on the information gathered through the course of the application, as well as from a site visit, I am of the opinion that the presumption of low risk to groundwater and surface water is sound, and therefore monitoring is not required.

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.) 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 New Mars Dairy's existing CFO facilities were assessed in 2024 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

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

9. 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.

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.

I have considered the effects the proposed CFO 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 AOPAs technical requirements, and the applicant has been reminded that it is their responsibility to ensure they receive 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 August 6, 2025.

Finally, I considered the effects of the proposed CFO 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 the County of Wetaskiwin, and my 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. The land where the CFO is located is zoned as agriculture. In my view, this presumption is not rebutted.

I also presumed that the proposed CFO 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.

10. Terms and conditions

Approval RA25035 specifies the cumulative permitted livestock capacity as 350 beef feeders and 800 beef feeder calves, and permits the construction of the south heifer shed, south livestock pen and south catch basin.

Approval RA25035 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 RA25035 includes conditions that generally address construction deadlines, document submission, and construction inspections. For an explanation of the reasons for these conditions, see Appendix B.

For clarity, and pursuant to NRCB policy, I consolidated the following permit with Approval RA25035: Registration RA23018 (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 B discusses which conditions from the historical permit are or are not carried forward into the new approval.

11. Conclusion

Approval RA25035 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA25035.

Registration RA23018 is therefore superseded, and its content consolidated into this Approval RA25035, unless Approval RA25035 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Registration RA23018 will remain in effect.

August 13, 2025

(Original signed)

Sarah Neff
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Explanation of conditions in Approval RA25035

APPENDIX A: Consistency with municipal land use planning

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) and any applicable intermunicipal development plan (IDP). In this case, there is no IDP applicable to the existing CFO.

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.)

New Mars 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 may be located.

Objective 11.6.1 supports CFOs at “appropriate locations”.

Objective 11.6.2 references the requirements of AOPA in determining Minimum Distance Separation for CFOs. I do not consider this a land use provision, regardless, the application meets MDS requirements.

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. New Mars Dairy’s proposed CFO expansion 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”. This policy likely isn’t a “land use provision” because it calls for discretionary judgements about what applications the County will support; therefore, this objective is not relevant to my MDP consistency determination.

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; therefore, I am precluded from considering this provision. Regardless, the CFO is in operation.

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 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). Additionally, as noted in sections 6 and 8, the application meets AOPA’s technical requirements and is presumed to have an acceptable effect on the environment.

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.

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

APPENDIX B: Explanation of conditions in Approval RA25035

Approval RA25035 includes several conditions, discussed below. Construction conditions from historical Registration RA23018 that have been met are identified in the appendix to Approval RA25035.

a. Groundwater protection requirements

New Mars Dairy proposes to construct the new catch basin with a one-metre-thick compacted soil liner. Section 9 of AOPA's Standards and Administration Regulation specifies a maximum hydraulic conductivity for this type of liner in order to minimize leakage.

To demonstrate compliance with this standard, New Mars Dairy provided lab measurements of the hydraulic conductivity of the materials that will be used to construct the compacted soil liner. Lab measurements of hydraulic conductivity are made in a precisely controlled setting and are typically based on a small soil sample. Therefore, the NRCB generally multiplies lab-measured hydraulic conductivity values by a factor of 10 to reflect the potential variability in actual liner materials and conditions that can reasonably be expected to be achieved in the field.

The regulations provide that the actual hydraulic conductivity of a one-metre-thick compacted soil liner must not be more than 1×10^{-7} cm/sec.

In this case, the lab measurement was 3.8×10^{-9} cm/sec. With the required ten-fold modification, the expected field value is 3.8×10^{-8} cm/sec. This expected value is below (better than) the maximum value in the regulations. Therefore, the proposed liner meets the hydraulic conductivity requirement in the regulations.

To provide additional assurance that the new catch basin adequately protects groundwater, Approval RA25035 includes a condition requiring New Mars Dairy to provide an engineer's completion report certifying that the catch basin was constructed with the same liner material as that used for hydraulic conductivity testing and that the catch basin was constructed according to the proposed procedures and design specifications.

b. Construction above the water table

Section 9(3) of the Standards and Administration Regulation under the *Agricultural Operation Practices Act* (AOPA) requires the bottom of the liner of a manure storage facility or manure collection area to be not less than one metre above the water table of the site "at the time of construction."

According to the 2023 Envirowest Engineering report "Site and Soil Assessment", the water table was measured at around 3.7 meters below ground surface. New Mars Dairy is proposing a 1.5 meter deep catch basin with a one meter thick compacted clay liner.

Based on this information, the proposed catch basin meets the one metre requirement of section 9(3). However, because the height of the water table can vary over time, a condition is included requiring New Mars Dairy to cease construction and notify the NRCB immediately if the water table is encountered during construction.

c. Construction Deadline

New Mars Dairy proposes to complete construction of the proposed new facilities by December 1, 2026. It is my opinion that a longer timeframe would be more appropriate for the scope of the proposed construction. Therefore, the deadline of December 1, 2027, is included as a condition in Approval RA25035.

d. Post-construction inspection and review

The NRCB's general practice is to include conditions in new or amended permits to ensure that the new or expanded facilities are constructed according to the required design specifications. Accordingly, Approval RA25035 includes conditions requiring:

- a. New Mars Dairy to provide a written construction completion report for the compacted soil lined south catch basin and livestock pen. The report shall be stamped and signed by a "professional engineer," as defined in the Standards and Administration Regulation, and shall:
 - Certify that the catch basin and livestock pen were constructed in accordance with the proposed procedures and design specifications detailed in the Envirowest Engineering Site and Soil Assessment (2023) report, and with the same liner material as that used for hydraulic conductivity testing;
 - Certify that the catch basin and livestock pen were constructed at the location specified in the site plan provided with the application; and
 - Provide the constructed catch basin and livestock pen dimensions, including depth below ground, side slopes, and liner thickness (1 m for the catch basin and 0.5 m for the livestock pen).
- b. The concrete used to construct the liner of the manure collection and storage portions of the south heifer shed 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." New Mars Dairy to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the south heifer shed.

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 RA25035 includes conditions stating that New Mars Dairy shall not place livestock or manure in the manure storage or collection portions of the south heifer shed or livestock pen or allow manure contaminated runoff to enter the south catch basin until NRCB personnel have inspected the facilities and confirmed in writing that they meet the approval requirements.