

Decision Summary RA25002

This document summarizes my reasons for issuing Approval RA25002 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA25002. 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 January 7, 2025, Harm Philipsen on behalf of Arie and Dineke Philipsen, operating as Philipsen Farm Ltd. (Philipsen Farm), submitted a Part 1 application to the NRCB to expand an existing dairy CFO.

The Part 2 application was submitted on June 6, 2025. On June 26, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing the permitted number of milking cows from 400 to 800 (plus associated dries and replacements)
- Constructing a free stall barn – 129.8 m x 81.1 m
- Constructing a sand barn (separation and storage) – 82.9 m x 21.3 m (with pits)
- Constructing a calving and prefresh barn – 65.8 m x 40.5 m
- Decommission a portion of the existing heifer barn
- Converting the existing free stall barn and parlour building to a heifer and dry cow barn

The application also notified the NRCB of the proposed construction of a milking parlour building (78.6 m x 29.6 m). This facility is an “ancillary structure”, under section 1(1)(a.1) of the *Agricultural Operations, Part 2 Matters Regulation*, because it will not be used to store or collect manure or to confine livestock. Therefore, under section 4.1 of that regulation, this structure is part of the CFO but does not need to be permitted under the Act.

a. Location

The existing CFO is located at E ½ 18-41-26 W4M in Lacombe County, roughly 3.5 km north of Lacombe, AB. The terrain is hummocky, with an overall slope to the south towards a small lake on the property. The closest common body of water is Whelp Brook, located approximately 340 m west of the proposed sand barn.

b. Existing permits

The CFO is currently permitted under NRCB issued Authorization RA18021 and Approval RA16003B. Collectively, these NRCB permits allow Philipsen Farm to construct and operate a dairy CFO with a permitted livestock capacity of 400 milking cows (plus associated dries and replacements). The CFO’s existing permitted facilities are listed in the appendix to the Approval

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 1.5 miles. (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 Lacombe 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 Lacombe Express newspaper in circulation in the community affected by the application on June 26, 2025 and
- sending 54 notification letters to people identified by Lacombe County 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 NRCB 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 Agriculture and Irrigation (AGI).

I also sent a copy of the application to ATCO Gas and Pipelines Ltd. as they are a utility right of way holder.

Ms. Laura Partridge, a senior water administration officer, responded on behalf of EPA. Ms. Partridge stated that the existing water licence needs to be renewed. She confirmed their licensed water allocation and provided additional resources for the applicant if they required

additional water. The applicant is reminded that they need to hold sufficient water licensing for their expansion.

A representative from AGI responded and provided the name and contact information for the milk inspector responsible for the application.

No other responses were received.

Approval RA25002 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. MDP, IDP consistency

I have determined that the proposed expansion 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.)

There is no IDP applicable for Philipsen's site.

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 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 the water well setback is discussed in the following parts of this decision summary and Appendix B.

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”. Lacombe County is an affected party (and directly affected) because the proposed CFO expansion is located within its boundaries.

Mr. Will Cebuliak, a planning intern, provided a written response on behalf of Lacombe County. Mr. Cebuliak stated that the application is consistent with Lacombe County’s land use provisions of the municipal development plan (MDP). The application’s consistency with the land use provisions of Lacombe 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, 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 groundwater monitoring is not required. Nevertheless, the site has an existing water well monitoring condition, which will be carried forward into this approval.

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 8.13.

In this case, the risks posed by Philipsen Farm’s existing CFO facilities were assessed in 2014, 2016 and 2018 using the ERST. According to those assessments, 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 those assessments were done. As a result, a new assessment of the risks posed by the CFO’s existing facilities is not required.

9. Exemptions

I determined that the proposed free stall barn and calving/prefresh barn are located within the required AOPA setback from a water well. As explained in Appendix B, an exemption to the 100 m water well is warranted due to the well’s construction and indoor nature of the proposed barns. As an added precaution, an existing water well monitoring condition from Approval RA16003B will be carried forward into this approval.

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. Cebuliak also noted that the application meets the setbacks required by Lacombe County's land use bylaw (LUB) with the exception of the property line setback on the NE/SE boundary of section 18, as the proposed and existing facilities span the quarter section line. Mr. Cebuliak stated that the County has no concerns; however, they asked that the applicant apply to consolidate the two lots in order to be in compliance with the LUB. The applicant is reminded of this request.

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.

I am not aware of any written decision of the Environmental Appeals Board for this location (<http://eab.gov.ab.ca/status.htm>, accessed August 7, 2025).

Finally, I considered the effects of the proposed expansion on the environment, the economy, and the community, and the appropriate use of land.

Consistent with NRCB Operational Policy 2016-7: Approvals, part 9.10.9, I presumed that the effects in 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 and any applicable IDP, then the proposed development 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 municipal development plan (see NRCB Operational Policy 2016-7: Approvals, part 9.10.9). The zoning for the land where the CFO is located is agricultural. In my view, this presumption is not rebutted.

11. Terms and conditions

Approval RA25002 specifies the cumulative permitted livestock capacity as 800 milking cows (plus associated dries and replacements) and permits the construction the new free stall barn, sand barn, and calving/prefresh barn. Approval RA25002 also permits the decommissioning of a portion of the existing heifer barn, and the conversion of the existing free stall barn and milking parlour to a dry cow and heifer barn. This approval also recognizes the construction of the parlour building as an ancillary facility.

Approval RA25002 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 RA25002 includes conditions that generally address construction deadlines, 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 permits with Approval RA25002: Authorization RA18021 and Approval RA16003B (see NRCB Operational Policy 2016-7: Approvals, part 11.5). Permit consolidation helps the permit holder, municipality, neighbours and other parties to 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 RA25002 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA25002.

Previously issued Authorization RA18021 and Approval RA16003B are therefore superseded, and their content consolidated into this Approval RA25002, unless Approval RA25002 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Authorization RA18021 and Approval RA16003B will remain in effect.

August 19, 2025

(Original signed)

Lynn Stone
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Exemptions from water well setbacks
- C. Explanation of conditions in Approval RA25002

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). There is no IDP for this site.

This does not mean consistency with the entire MDP. In general, “land use provisions” cover 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 or IDP 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 provisions are commonly referred to as “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.)

Municipal Development Plan (MDP)

Philipsen Farm’s 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 March 13, 2025, under Bylaw No.1238-17.

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.”

This provides insight for the interpretation of the remaining portions of the MDP.

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

Philipsen Farm’s application is for the construction at an existing CFO; regardless, the CFO is located outside any of these 1.6 km setbacks, and there are no IDPs or other plans for this site.

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

APPENDIX B: Exemption from water well setbacks

1. Water well considerations

The proposed free stall barn and calving/prefresh barn are to be located less than 100 m from a water well. I have confirmed that one water well is located approximately 23 m southeast from the proposed calving/prefresh barn, and 45 m from the free stall barn 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 indoor nature of the proposed facilities
- d. The existing water well monitoring condition

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 23 m southeast of the proposed calving/prefresh barn, and 45 m southeast from the free stall barn is likely EPA water well ID # 291848. This well is reported to have been installed in 1998 and has a perforated or screened zone from 89.92 m to 97.54 m below ground level across stratigraphy. The well has 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 a protective layer from ground surface to 16.15 m below ground level. The well has a driven seal from ground surface to 47.24 m below ground level (across the clay and till layers). The well appeared to be in good condition at the time of my site inspection. The well is cross-gradient to the proposed barns.

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

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

In this case, the results of the water well exemption screening tool suggest that an exemption is likely as seen in Technical Document RA25002.

Under the regulation, an approval officer may require a groundwater monitoring program of the water well in question. There is already an existing water well monitoring condition in place for this well that will be carried forward into Approval RA25002.

Based on the above, I am prepared to grant an exemption to the 100 m water well setback requirement for the free stall barn and calving/prefresh barn.

APPENDIX C: Explanation of conditions in Approval RA25002

Approval RA25002 includes several conditions, discussed below, and carries forward a number of conditions from Approval RA16003B (see sections 2 and 3 of this appendix). Construction conditions from historical permits RA16003B and RA18021 that have been met are identified in the appendix to Approval RA25002.

1. New conditions in Approval RA25002

a. Construction deadline

Philipsen Farm proposes to complete construction of the proposed new facilities by December 2029. This timeframe is considered to be reasonable for the proposed scope of work. The deadline of December 31, 2029, is included as a condition in Approval RA25002.

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 RA25002 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the calving/prefresh barn and the conversion of the old parlour to become a dry cow/heifer barn to meet the specification for category D (solid manure – dry); and the new free stall barn to meet the requirements for category C (solid manure-wet); and the sand barn to meet the requirements 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. Philipsen Farm to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the calving/prefresh barn, conversion of parlour to dry cow/heifer barn, free stall barn, and the sand 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 RA25002 includes conditions stating that Philipsen Farm shall not place livestock or manure in the manure storage or collection portions of the new barns until NRCB personnel have inspected the barns and confirmed in writing that they meet the approval requirements.

2. Conditions carried forward and modified from Approval RA16003B

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that condition 8 from Approval RA16003B should be carried forward, with the wording updated to reflect current monitoring practices.

3. Conditions not carried forward from Approval RA16003B

Approval RA25002 includes the terms and conditions from RA16003B and RA18021, except those noted below.

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that conditions 9, 10, 11 and 12 from Approval RA16003B should be deleted and therefore are not carried forward to Approval RA25002. My reasons for deleting these conditions are as follows:

Condition 9 states that manure contaminated run-off needs to be fully contained on the owner's property. It further states that manure must stay on the land in which it is spread, and that drainage courses or bodies of water must be protected. All CFO operators are required to follow AOPA's manure management requirements, which provide clear requirements for managing runoff, spreading manure, and protecting surface water from manure. Because these requirements are already a part of AOPA, they will not be carried forward.

Condition 10 states that no winter spreading of manure is to occur, and that all spreading of land is to be done so in accordance with AOPA. These provisions are already a part of AOPA, so they will not be carried forward.

Condition 11 states that dead animals must be stored and/or disposed of in a prompt and acceptable manner, and that designated collection sites must not be visible by public. This condition is impossible to enforce as "prompt and acceptable manners" is vague. All producers are already required to dispose of animals in accordance with the *Dead Animal Disposal Act*; therefore, for increased clarity and to avoid duplication, this condition will be removed.

Condition 12 states that owner/operator is to ensure that sufficient land base is available at all times for manure spreading, based on AOPA and the results of soil testing. Because this requirement is already a part of AOPA, it will not be carried forward.