

Decision Summary BA22001

This document summarizes my reasons for issuing Authorization BA22001 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document BA22001. 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 February 2, 2022, Malda Farms Ltd. submitted a Part 1 and Part 2 application to the NRCB to construct a pullet barn (94.5 m x 21.3 m) at an existing poultry broiler breeder CFO. On February 2, 2022, I deemed the application complete.

a. Location

The proposed barn is located at NW 15-58-3 W5M in the County of Barrhead, roughly 10 km South of Barrhead Alberta. The terrain is sloping to the South East towards the Peanut Lake located 950 m away.

b. Existing permits

The CFO is already permitted under Approval BA07004 and is permitted for 20,000 broiler breeders. Malda Farms is changing in livestock category to account for the pullets (see Technical Document BA22001).

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 0.5 mile from the CFO

A copy of the application was sent to the County of Barrhead, which is the municipality where the CFO is located.

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 Health Services (AHS) and Alberta Environment and Parks (AEP).

4. Municipal Development Plan (MDP) consistency

I have determined that the proposed construction is consistent with the land use provisions of the County of Barrhead'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:

- 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 groundwater protection requirements for the design of floors and liners/protective layers of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 8, the application meets all relevant AOPA requirements.

6. Responses from the 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. Not all affected parties are "directly affected" under AOPA.

Municipalities that are affected parties are identified by the act as "directly affected." The County is an affected party (and directly affected) because the proposed barn is located within its boundaries.

Ms. Jenny Bruns, a development officer with the County of Barrhead, provided a written response on behalf of the county. Ms. Bruns stated that the application is consistent with the county's land use provisions in their municipal development plan. The application's consistency with the county's municipal development plan is addressed in Appendix A, attached.

Ms. Bruns also listed the setbacks required by the county's land use bylaw (LUB). The application meets these setbacks.

7. Environmental risk of facilities

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, 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 Malda Farms existing CFO facilities were assessed in 2007. The assessment indicated that the potential risks to surface water and groundwater were low.

Since the 2007 risk assessment, the ERST has been updated. For this reason, I reassessed the risks posed by the CFO's existing facilities. My reassessment found that they pose a potential low risk to surface and groundwater.

New manure collection areas which clearly meet or exceed AOPA requirements are automatically assumed to pose a low risk to surface and groundwater. However, there may be circumstances where, because of the proximity of a shallow aquifer, or porous subsurface materials, an approval officer may require construction supervision or an exemption monitoring for the facility. In this case a determination was made and monitoring is not required.

8. Terms and conditions

Authorization BA22001 permits the construction of the pullet barn.

Authorization BA22001 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 BA22001 includes conditions that generally address construction deadlines, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

9. Conclusion

Authorization BA22001 is issued for the reasons provided above, in the attached appendices, and in Technical Document BA22001.

Authorization BA22001 must be read in conjunction with Malda Farms' NRCB previously issued Approval BA07004, which remains in effect.

March 14, 2022

(Original signed)

Nathan Shirley
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization BA22001

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.

Conversely, “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 8.2.5.)

Malda Farms’ CFO is located in the County of Barrhead and is therefore subject to that county’s MDP. The county’s adopted the latest revision to this plan on August 17, 2010, under Bylaw No. 4-2010.

Part 3.13 of the MDP lists 14 agricultural development policies and includes CFOs as among “primary use[s]” in agricultural use area. The first policy recognizes agricultural as the priority land use in rural areas, supports agricultural diversification, encourages siting agricultural industries in agricultural areas, and discourages non-agricultural land uses in intensive agricultural areas. Of the remaining 13 policies, only 10 and 11 relate specifically to CFOs.

Policy 10 states “input shall be provided to the NRCB in responding to applications for new or expanded CFOs based on the technical and locational merits of each application.” This policy is likely not a land use provision because it requires site-specific, discretionary determinations (see NRCB Operational Policy 2016-7, Approvals 8.2.4). Therefore, this policy is not relevant to the MDP consistency determination required by section 22(2.1) of AOPA. At any rate, the application meets the “technical and locational” requirements of AOPA.

Policy 11 states “minimum distance separations” appears to be a reference to the minimum distance separation (MDS) requirement in section 3 of the Standards and Administration Regulation under AOPA. MDP policy 11 is not relevant to my MDP consistency determination because it is based on AOPA’s MDS requirements. (See NRCB Operational Policy 2016-7, Approvals, part 8.2.5). That said, the CFO meets the MDS requirements under AOPA and is therefore consistent with this MDP policy.

I conclude that the application is consistent with the relevant land use provisions of the County of Barrhead’s MDP.

APPENDIX B: Explanation of conditions in Authorization BA22001

a. Construction Deadline

Malda Farms proposes to complete construction of the proposed new pullet barn by October 2022. This time-frame is considered to be reasonable however, to allow for construction disruptions a deadline of December 1, 2023 will be included as a condition in Authorization BA22001.

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 BA22001 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the pullet 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. Malda Farms to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the pullet barn.

The NRCB routinely inspects newly constructed facilities to assess whether the facilities were constructed according to their required design specifications. To be effective, and to reduce risk to the operator, these inspections must occur before livestock or manure are placed in the newly constructed facilities. Authorization BA22001 includes a condition stating that Malda Farms shall not place livestock or manure in the manure storage or collection portions of the new pullet barn until NRCB personnel have inspected the barn and confirmed in writing that it meets the authorization requirements.

c. No change in livestock numbers

As explained in Technical Document BA22001 Malda farms currently operates below their permitted number of breeders and will continue to do so to account for the pullets. This constitutes a change within livestock category and they are not to exceed the permitted manure production or odour production. To ensure that Malda farms does not exceed this, a condition is included in Authorization BA22001 requiring Malda to keep an ongoing record of the number and type of livestock on site and provide that record to the NRCB upon request.