



Decision Summary LA22024

This document summarizes my reasons for issuing Authorization LA22024 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA22024. 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 March 21, 2022, Silver Sage Colony Farming Co. Ltd. / Silver Sage Hutterian Brethren (Silver Sage) submitted a Part 1 application to the NRCB to construct a dry cow shed (24.4 m x 91.4 m (80 ft. x 300 ft.)) and pens (61.0 m x 91.4 m (200 ft. x 300 ft.)) at an existing multi species CFO.

The Part 2 application was submitted on March 21, 2022 and I deemed the application complete the same day.

a. Location

The existing CFO is located at NE 19-6-9 W4M in the County of Forty Mile, roughly 16 km east of the Village of Foremost. The terrain is flat with the nearest common body of water being an unnamed tributary to Chin Coulee located approximately 1.5 km northwest of the site.

b. Existing permits

Silver Sage is currently permitted under Approval LA05041B issued November 20, 2015 and under Authorization LA20025 issued July 31, 2020, Authorization LA18041 issued July 25, 2018 and Authorization LA18025 issued June 22, 2018. These permits allow the operation of a multi species livestock CFO. The CFO's deemed facilities are listed in the appendix of Approval LA05041B, and the subsequent NRCB issued authorizations

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.

A copy of the application was sent to the County of Forty Mile, 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), Alberta Environment and Parks (AEP), and Alberta Transportation.

I received responses for AEP and Alberta Transportation. No concerns relating to the application were raised.

4. Municipal Development Plan (MDP) consistency

I have determined that the proposed construction is consistent with the land use provisions of the County of Forty Mile'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 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 of Forty Mile is an affected party (and directly affected) because the proposed facilities are located within its boundaries.

Mr. Nathan Ogden a development officer with the County of Forty Mile, provided a written response on behalf of the County of Forty Mile. Mr. Ogden stated that the application is not inconsistent with the County of Forty Mile's land use provisions of the municipal development plan. The application's consistency with the County of Forty Mile's municipal development plan is addressed in Appendix A, attached.

Mr. Ogden also listed the setbacks required by the County of Forty Mile's land use bylaw (LUB). The application meets these setbacks.

7. Environmental risk of facilities

When reviewing an authorization application for an existing CFO, NRCB approval officers normally assess the CFO's existing buildings, structures, and other facilities, using the NRCB's environmental risk screening tool to determine the level of risk they pose to surface water and groundwater. This tool 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/Guides 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 done 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 Silver Sage's existing CFO facilities were assessed in 2018 and 2020. According to those assessments, the facilities pose a low potential risk to surface water and groundwater.

As the proposed cow shed and pens meet all AOPA requirements, I presume they pose a low risk to groundwater and surface water.

8. Terms and conditions

Authorization LA22024 permits the construction of the dry cow shed and pens.

Authorization LA22024 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 LA22024 includes conditions that generally address construction deadline, and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

9. Conclusion

Authorization LA22024 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA22024.

Authorization LA22024 must be read in conjunction with Silver Sage's NRCB previously issued Approval LA05041B, and Authorizations LA18025, 18041, and LA20025 which remain in effect.

April 19, 2022

(Original signed)
Joe Sonnenberg
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization LA22024

APPENDIX B: Consistency with the municipal development plan

Under section 22 of AOPA, an approval officer may grant an authorization only if the approval officer finds that the application is consistent with the “land use provisions” of the applicable municipal development plan (MDP).

Silver Sage’s confined feeding operation (CFO) is located in the County of Forty Mile and is therefore subject to that county’s MDP (The county adopted the latest revision to this plan on September 2009 under Bylaw 9/2009.).

Part 3.2 of the MDP, titled “Intensive Agriculture”, is most directly relevant to CFOs. As relevant here, section 3.2(b) of the MDP states that, pursuant to AOPA, the county “may designate areas where confined feeding operations are to be encouraged or discouraged”. Section 3.2(c) then states that CFOs “will be excluded from the areas shown on Figure 3.1 unless otherwise approved by the County”. This section likely refers to *Map 3.1*, titled: Confined Feeding Operation Exclusions Area Map. Silver Sage’s CFO is not within any of the exclusion zones marked on this map.

One other relevant section is 3.2(d) which states: “The County expects developers to implement those technologies that are most effective at reducing adverse effects on the environment, especially with respect to odour and groundwater contamination.” By referring to acceptable technologies rather than acceptable land uses, this section is likely not a “land use provision” and therefore is likely not relevant to my MDP consistency determination. At any rate, regulations under AOPA require a minimum distance separation to nearby residences, which is effective at reducing conflicts due to nuisance and odour. The regulations also include several requirements to protect groundwater. The application meets or exceeds all AOPA requirements and I therefore conclude that it is consistent with section 3.2(d) of the MDP.

For these reasons, I conclude that the application is consistent with the land use provisions of the county’s MDP. This conclusion is supported by the county’s written response to the application notice.

The CFO is also subject to the County of Forty Mile Land Use Bylaw #10/2009 (LUB) which is referenced in the MDP. Under that bylaw, the subject land is currently zoned as Agricultural District. CFOs are not listed as either a permitted or discretionary use under this zoning. However, the general purpose of this district is “to permit activities associated with the primary production of agricultural goods and services,” which implicitly includes CFOs. In addition, Schedule B of the LUB, titled “Protection of existing confined feeding operations,” makes it clear that the county contemplates the occurrence of CFOs within the Agricultural District. Based on these provisions, I conclude that the county considered CFOs to be an acceptable land use within the Agricultural District, notwithstanding that CFOs are not expressly listed as either permitted or discretionary land uses.

APPENDIX B Explanation of conditions in Authorization LA22024

Authorization LA22024 includes several conditions, discussed below:

a. Construction Deadline

Silver Sage proposes to complete construction of the proposed new dry cow shed and pens by November 30, 2024. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of November 30, 2024 is included as a condition in Authorization LA22024.

b. Post-construction inspection

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 LA22024 includes a condition stating that Silver Sage shall not place livestock or manure in the manure storage or collection portions of the new dry cow shed and pens until NRCB personnel have inspected the facilities and confirmed in writing that they meet the authorization requirements.