

Decision Summary LA21054

This document summarizes my reasons for issuing Registration LA21054 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA21054. 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 a registration. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On November 4, 2021, MacMillan Hutterian Brethren (MacMillan Colony) submitted a Part 1 application to the NRCB to construct a new poultry CFO.

The Part 2 application was submitted on March 14, 2022. On March 23, 2022, I deemed the application complete.

The proposed CFO involves:

- Permitting 20,000 chicken layers and 12,000 chicken pullets
- Constructing a layer barn (118 m x 26 m) with an attached indoor manure storage area (15 m x 10 m)
- Constructing a pullet barn (63 m x 13.5 m) with an attached indoor manure storage area (19 m x 10 m)

The initial Part 1 application originally proposed the above-mentioned chicken layers and pullets, as well as chicken broilers, geese, and ducks. However, the applicant modified their livestock numbers on the Part 2 to only include the layers and pullets. Since this is a reduction in permitted livestock numbers, a second Part 1 application was not required.

a. Location

The proposed CFO is located at NE 26-17-1 W5M in Foothills County, roughly 13 kilometers northwest of Cayley, Alberta. The terrain is flat, with an overall slope to the south. The nearest common water body is a seasonal water course approximately 1,750 m to the southeast.

2. Notices to affected parties

Under section 21 of AOPA, the NRCB notifies (or directs the applicant to notify) all parties that are “affected” by a registration 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 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 ½ mile (805 m) from the CFO
- all persons who own or reside on land within the greater of ½ mile (805 m) or the minimum distance separation for the land on which the CFO is located

The CFO is not located within 100 m of the abovementioned waterways.

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

The NRCB gave notice of the application by public advertisement in two weekly newspapers in circulation in the community affected by the application. In this case, public advertisement was in the Nanton News on March 23, 2022 and the High River Times on March 25, 2022. The full application was posted on the NRCB website for public viewing. As a courtesy, four letters were sent to people identified by Foothills County as owning or residing on land within the notification distance.

The land zoning on which the proposed CFO is located would require a minimum distance separation of 304 metres for land zoned as agricultural, and 405 metres for land zoned as country residential. Since the MDS is a shorter distance than 0.5 mile (805 m), the notification distance (referred to as the “affected party radius”) is 0.5 mile (805 m).

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 (AT).

Ms. Carol Brittain, a public health inspector, responded on behalf of Alberta Health Services. Ms. Brittain stated that AHS has no concerns with the application at this time.

Mr. Trevor Richelhof, a development/planning technologist, responded on behalf of Alberta Transportation. Mr. Richelhof indicated that the proposed development does not fall within the permit area of a provincial highway; therefore a permit is not required from AT.

No other responses were received from other organizations.

4. Alberta Land Stewardship Act (ALSA) regional plan

Section 22(9) of AOPA requires that an approval officer must ensure the application complies with any applicable ALSA regional plan.

As required by section 4(1) of the South Saskatchewan Regional Plan (SSRP), I considered that document’s Strategic Plan and Implementation Plan and determined that the application is consistent with those plans. In addition, there are no notices or orders under the Regulatory Details portion of the SSRP that apply to this application.

5. Foothills Municipal Development Plan (MDP) consistency

I have determined that the proposed CFO is consistent with the land use provisions of Foothills County's municipal development plan. (See Appendix A for a more detailed discussion of the county's planning requirements.)

6. AOPA requirements

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

- 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/protective layers of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 9, 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." Foothills County is an affected party (and directly affected) because the proposed CFO is located within its boundaries.

Ms. Heather Hemingway, director of planning, provided a written response on behalf of Foothills County. Ms. Hemingway stated that the application is not consistent with Foothills County's land use provisions of the municipal development plan because there are two dwellings within a half mile of the proposed CFO and MDS (policy 9 of the MDP), and that the applicant does not own all lands within MDS (policy 10.2 of the MDP). She added that the CFO generally complies with the remaining policies. The county's concerns and the application's consistency with Foothills County's municipal development plan are addressed in Appendix A, attached.

Ms. Hemingway also listed the setback sections in Foothills County's land use bylaw (LUB) and noted that the application appears to meet all setbacks, with the exception of two existing dwellings located "within one half mile of the MDS."

Ms. Hemmingway also drew attention to the County's Dark Sky Bylaw.

Apart from municipalities, an owner or occupant of land within the notification distance may request to be considered "directly affected."

Of the 22 parties who submitted responses before the deadline, three own or reside on land within the 0.5 mile notification distance for affected persons. Because of their location within this

distance, and because they submitted a timely response, they are affected parties and qualify for directly affected party status. (See NRCB Operational Policy 2016-7: Approvals, part 6.2).

The directly affected parties' concerns are addressed in Appendix B.

Nineteen of the respondents do not own or reside on land within the 0.5 mile notification distance for affected persons. By operation of Section 21 of AOPA, these respondents are not considered affected persons and therefore cannot apply for directly affected party status.

The NRCB received one submission after the submission deadline in the public notice. I considered whether there were exceptional circumstances that warranted considering the submission nonetheless. In this case, I could not identify exceptional circumstances for the lateness of the submission, so I did not consider nor address this submission in my registration decision.

8. Environmental risk of CFO facilities

New CFO facilities 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 groundwater monitoring for the facility. In this case a determination was made that groundwater monitoring is not required.

9. Terms and conditions

Registration LA21054 specifies the cumulative permitted livestock capacity as 20,000 chicken layers and 12,000 chicken pullets and permits the construction of the chicken layer barn and chicken pullet barn.

Registration LA21054 contains terms that the NRCB generally includes in all AOPA registrations, 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, Registration LA21054 includes conditions that generally address construction deadlines, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix C.

10. Conclusion

Registration LA21054 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA21054.

June 24, 2022

(Original signed)
Lynn Stone
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Concerns raised by directly affected parties
- C. Explanation of conditions in Registration LA21054

APPENDIX A: Consistency with the municipal development plan

Under section 22 of AOPA, an approval officer may only approve an application for a registration or amendment of a registration 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.)

MacMillan Colony’s CFO is located in Foothills County and is therefore subject to that county’s MDP. Foothills County adopted the latest revision to this plan on October 11, 2017, under Bylaw #52/2016. Foothills County also provided reference to their Dark Sky Bylaw, and their Growth Management Strategy. Neither of these documents are relevant to determining consistency of this application to the land use provisions of the MDP. However, I draw the applicant’s attention to these two other municipal documents.

Policies 8 to 11, and 13 relate to CFOs (Policy 12 relates to proposed developments near existing CFOs). None of the CFO references in these five policies are specifically to “new” CFOs or to “expansions” of existing CFOs. However, it seems reasonable to interpret these policies as having been intended to apply to new CFOs and to expansions, (that is, increases in animal numbers or manure production) of existing CFOs.

Each of the policies is quoted (in italics) and discussed further below.

As another preliminary matter, policies 8-10 all refer to the term “minimum distance separation (MDS)”. The MDP does not define this term; I therefore presume that it refers to the MDS requirements in AOPA.

8. Ensure that each confined feeding operation (CFO) meets the minimum distance separation (MDS).

Under NRCB policy, approval officers should not consider MDP provisions that are based on or modify the MDS requirements in AOPA. (See Operational Policy 2016-7: *Approvals*, part 8.2.5). That said, MacMillan Colony’s application meets the AOPA MDS requirements, so it is consistent with this policy (see Technical Document LA21054 for more details).

9. Encourage each CFO to own the land included within the MDS.

MacMillan Colony’s proposed CFO does not meet this policy because there are other land owners within the MDS of the proposed CFO. However, this policy’s use of the word “[e]ncourage,” in contrast with the word “ensure” in policies 8 and 10, strongly suggests that

this policy was meant to call for a preference, rather than provide a hard and fast or non-discretionary rule. In my view, land ownership preferences are not land use provisions.

In addition, this policy seeks to modify the MDS provisions under AOPA which do not require a CFO owner to own all the land within the CFO's MDS.

For both of these reasons, I will not consider this policy.

10. *Ensure that the CFO and the MDS does not fall within a minimum of:*
 - 10.1. *3.2 km (2 miles) of any urban municipality or hamlet and does not encroach into any intermunicipal development plan boundaries*
 - 10.2. *0.8 km (1/2 mile) of a neighbouring dwelling*

Part of this policy enlarges and therefore modifies setbacks under AOPA by adding the 3.2 and 0.8 km setbacks in 10.1 and 10.2.

I observe that the proposed site does not fall within the setback in 10.1, and is not located on an intermunicipal development plan boundary. The MDP does not appear to identify a rationale for this county-wide setback.

Two dwellings are located within ½ mile (0.8 km) from the proposed CFO. However, in my view, section 10.2 effectively attempts to modify the MDS setback under AOPA. Under NRCB policy, approval officers should not consider MDP provisions that are based on or modify the MDS requirements under AOPA. (See Operational Policy 2016-7: *Approvals*, part 8.2.5). Therefore, this part of this policy is not relevant to my MDP consistency determination.

11. *CFOs should be located in an area where there will be minimal conflict with existing land uses and must take into consideration future expansion areas when looking at surrounding land uses.*

The “minimal conflict” and “consideration” tests in this policy section both require site-specific and CFO-specific judgements about the individual operation. For this reason, I would not consider this policy to be a “land use provision.” It is therefore not relevant to my MDP consistency determination.

13. *Encourage CFOs on parcels of 160 acres or more.*

The policy is also likely not relevant under section 22(1.1) of AOPA, which precludes approval officers from considering MDP provisions “related to ... the site for a confined feeding operation....” At any rate, the CFO is on a parcel that is 160 acres, so policy 13 is satisfied.

MacMillan Colony's application is consistent with all of the other relevant land use provisions of Foothills County's MDP. The municipality's response states the application is consistent with the MDP, aside from the setback to dwellings, and owning all the land within the MDS, which I determined I cannot consider under AOPA.

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

APPENDIX B: Concerns raised by directly affected parties

Submitted responses:

- Murray & Dawn Giles, W ½-25-17-1-W5M
- Donald & Kirsten Smith, SE-26-17-1-W5M
- Robert & Jennifer Marks, SW-26-17-1-W5

Concerns from owners/occupants of land within the notification distance

Section 21 of AOPA limits these directly affected parties to making submissions respecting whether the application meets the requirements of the regulations.

The directly affected parties raised the following concerns: Application not complete, different livestock numbers, presence of springs, high water table, consistency with MDP/LUB, road access, multiple residences/housing density, proximity to existing colony, water use, traffic/road dust, air quality, property value, surface water contamination, ground water contamination, odour, avian influenza, run off, distance to neighbours, vermin/wildlife, and future expansions.

Application not complete

One party raised concerns regarding incomplete information in the application, such as typos in legal land locations, and residences not shown in area plans.

Approval Officer's comments:

As part of the application review process, I determine if the application is consistent with AOPA's technical requirements. Part of that determination consists of verifying the applicant's information with other resources available to NRCB staff. These include (but are not limited to) government mapping tools, water well databases, and land owner records. I am satisfied that the applicant has supplied sufficient information to meet the requirements of AOPA.

Different livestock numbers

A few parties raised concerns about inconsistencies between the livestock numbers listed in the Part 1 application and the Part 2 application.

Approval Officer's comments:

The applicant's Part 2 application is the complete application that is sent to neighbours and municipalities during the public notice consultation period. In the case of MacMillan Colony's application, the March 14, 2022 Part 2 stated that the application was for 20,000 chicken layers and 12,000 chicken pullets. This was stated in the complete Part 2 application, as well as in the newspaper advertisement and courtesy letters to neighbouring residents.

The applicant's Part 1 application was originally submitted on November 4, 2021. The livestock numbers listed there included the chicken layers and pullets, but also included chicken broilers, geese, and ducks. The Part 1 was posted on the NRCB's website, but was not circulated to neighbours.

It is not unusual that livestock numbers change between the submission of the Part 1 and Part 2 applications. Part 1 applications are generally a preliminary proposal, while the Part 2 is a final proposal.

Because the Part 2 application *decreased* the requested livestock numbers, in accordance with NRCB policy re-notification of the decreased numbers was not required.

Presence of springs

A few responses expressed concern over the presence of springs in the land surrounding the CFO.

Approval Officer's comments:

I completed a site visit and inspected the proposed CFO area, and surrounding land. I did not observe any evidence of springs being present. However, springs are subject to groundwater conditions, and often fluctuate over seasons or over years. It can be difficult to determine if springs are present, and their location.

AOPA does not preclude sites with springs from being eligible for CFO applications. Section 7(1) of AOPA's Standards and Administration Regulation states that manure storage facilities/manure collection areas must be a minimum of 100 m from a spring. Sections 7(2)(a) and (b) provide conditions in which the 100 m setback does not apply.

In their application, the applicant has stated that there are no springs within 100 m of the proposed MSF/MCA. This is consistent with my site observations. However, to allow for seasonal variation, I will also place a condition on the registration requiring the applicant to notify the NRCB if a spring is observed within 100 m of a MSF/MCA. NRCB staff will also be conducting post-construction site inspections as a condition of this registration.

High water table

One party raised concerns that there is a high water table.

Approval Officer's comments:

Water table levels can be difficult to determine as they vary based on the season and precipitation levels. AOPA's Standards and Administration Regulation under section 9(3)(a) states that the bottom of a liner must be at least 1 m above the water table of the site at the time of construction. A condition will be placed on the registration requiring the applicant to notify the NRCB if the groundwater is encountered within 1 m of the liner during construction.

Consistency with Municipal Development Plan and Land Use Bylaw

One party raised concerns that the application is not consistent with sections 10.2 (no dwellings within ½ mile of the CFO & MDS) and 11 (CFOs should be located in an area with minimal conflict...) of the MDP. The party also raised concerns about section 12 (other uses and subdivisions shall be discouraged within the MDS of an existing CFO) of the MDP.

Approval Officer's comments:

The application's consistency with the land use provisions of the MDP, including sections 10.2 and 11, are discussed in Appendix A.

Section 12 of the MDP refers to other uses and subdivisions of lands within the MDS of the existing CFO. Permitted land uses and subdivisions is under the jurisdiction of the Foothills County, and is therefore not a part of my consistency determination.

Legal access to property

One party raised concerns that there is not a developed road allowance to the property.

Approval Officer's comments:

Local road development and use is under the jurisdiction of the Foothills County. In their response, the Foothills County stated that the undeveloped road allowance will be required to be developed to current County Road Construction Standards. The County stated that, prior to any road construction on public road allowances, a municipal development agreement will be required to be fully executed to the satisfaction of the County.

The applicant is reminded that they need to meet this requirement from the County.

Multiple residences/housing density

One party raised concern about the applicant constructing multiple residences, and stated that a multi-housing facility is not appropriate with agricultural use under the Land Use Bylaw.

Approval Officer's comments:

Permitting for residences is not under the jurisdiction of the NRCB. Residential developments are under the jurisdiction of the municipality. It is not a requirement or a prohibition under AOPA to have residences on a CFO property. If the applicant wishes to develop residences, they are required to apply to the Foothills County.

Proximity to the existing Colony

Several parties raised concerns about this site being in close proximity to an existing Colony.

Approval Officer's comments:

Under AOPA, there is no minimum distance separation requirement between two CFO sites.

Water Use

Several parties raised concerns about the amount of water required for the site, and how it might impact their aquifer.

Approval Officer's comments:

As noted in Technical Document LA21054, MacMillan Colony acknowledges that they must obtain adequate water licensing. Alberta Environment and Parks (AEP) is directly responsible for licensing the use of groundwater and surface water under the *Water Act*. Part of the licensing process involves ensuring that others using the same aquifer are not impacted by additional water consumption. Neighbours have the opportunity to provide input on the water license as the process includes providing public notice.

Traffic/Road Dust

Several parties raised concerns about the increase in traffic volume on the existing gravel road infrastructure, the weight of these vehicles, and increased dust.

Approval Officer's comments:

Road use and dust control on roads are not under the jurisdiction of the NRCB, but instead under the authority of Alberta Transportation and the local municipality.

The application was forwarded to Alberta Transportation, who hold jurisdiction over provincial roads. In their response, Alberta Transportation indicated that a roadside development permit is

not required for this development. Municipalities have jurisdiction over local roads. In their response, the Foothills County indicated that the applicant would be required to enter into a Road Use Agreement.

The applicant is reminded of this requirement.

Air Quality/Odour

Two parties raised concerns about air quality. One party specified they were concerned about ammonia levels and health impacts. One party raised concern about odours from the site.

Approval Officer's comments:

AOPA's minimum distance separation (MDS) is a means for mitigating odour and other nuisance impacts from CFOs. MacMillan Colony's proposed CFO meets the required MDS from other existing residences.

Given the concern about health impacts relating to ammonia, I referred the letter to Alberta Health Services.

In her follow up response, Ms. Brittain, a public health inspector with AHS, indicated that provincial legislation, such as AOPA, and Nuisance and General Sanitation Regulations, are tools to protect public health. While Ms. Brittain did not identify any health risks associated with the proposed site, she encouraged members of the public to contact their local public health centre if they have concerns in the future.

Property values

One party raised concerns about what impact the CFO would have on property values.

Approval Officer's comments:

The NRCB's board has consistently stated that concerns regarding effects on property values are "not a subject for [the board's] review under AOPA" or for approval officers' consideration of permit applications. According to the board, impacts on property values are a land use issue which is a "planning matter dealt with by municipalities in municipal development plans..." *Zealand Farms*, RFR 2011-02, p.5; see also, e.g. *Pigs R Us Inc.*, RFR 2017-11, p. 6 (stating that effects on land values are "not a relevant Board consideration when the development is consistent with the MDP's land use provisions.").

Surface Water Contamination

A few parties raised concerns about run off and possible surface water contamination from the site.

Approval Officer's Comments:

The proposed poultry barns with attached manure storage areas are indoor facilities and are covered by a roof. It is unlikely that surface water would become impacted from manure inside the facility.

Section 24 of AOPA's Standards and Administration Regulation outlines the requirements for spreading manure. Many of these regulations are designed to protect surface water from the risk of runoff from spreading lands. MacMillan Colony is required to abide by these regulations.

Groundwater contamination

One party expressed that they were concerned about groundwater contamination, but did not provide further details.

Approval Officer's Comments:

Without further detail, it is difficult to assess the nature of their concern. However, the proposed facilities meet all AOPA technical requirements. Several of these requirements are designed to prevent or minimize manure leakage from CFO facilities and thus to prevent manure from reaching and contaminating groundwater. Because the proposed CFO facilities meet or exceed these requirements, they are presumed to pose a low risk to groundwater. I conclude the level of groundwater risk posed by these facilities is acceptable.

Avian influenza

A few parties raised concerns about Avian Influenza and the risks associated with this application being for poultry facilities.

Approval Officer's Comments:

The Canadian Food Inspection Agency (CFIA) is currently responding to cases of avian influenza in farmed birds across Canada.

Avian influenza is a reportable disease under a *Health of Animals Act* regulation. The NRCB does not have jurisdiction under this legislation.

On their website, the CFIA's response to avian influenza is to encourage anyone with farmed animals to have good biosecurity controls, and to report any cases to the CFIA. The CFIA's Animal Health office in Calgary can be reached via phone at 587-230-2468.

Distance to neighbours

One party expressed concern about the proposed location of the CFO, as there are multiple residential properties nearby. They questioned if a different location would be possible that would minimize impact on neighbours.

Approval Officer's Comments:

AOPA's minimum distance separation (MDS) is a means to mitigate nuisance impacts from CFOs in relation to residences. MacMillan Colony's proposed CFO meets the required MDS from existing residences.

Wildlife/Vermin

One party raised concerns about the risks of attracting predatory wildlife such as coyotes, foxes, wolves, cougars, etc, but did not provide more details.

Approval Officer's Comments:

AOPA does not have any requirements relating to CFOs potentially attracting wildlife or vermin.

Other legislation may potentially address these concerns. For example, dead birds could attract other wildlife. Dead animal disposal is regulated by the *Animal Health Act* enforced by the Animal Health and Assurance Division of Alberta Agriculture, Forestry and Rural Economic Development (AFRED). Because they have expertise in this area, the NRCB defers to their knowledge and refers related concerns to them.

Future colony expansions

One party raised concerns about future expansions from the Colony.

Approval Officer's Comments:

This application is strictly for the proposed poultry facilities. If the applicant intends to expand their CFO in the future, they will be required to go through the AOPA permitting process again. The NRCB's board has stated that they have no authority to evaluate the likelihood of the success of any future expansion applications (*Korova* RFR 2019-06 at p.4). A proposal to increase permitted livestock numbers would include providing public notice, and allowing the public to provide input on the application.

APPENDIX C: Explanation of conditions in Registration LA21054

Registration LA21054 includes several conditions, discussed below:

a. 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.”

Because this is a greenfield site, it is unclear if the proposed poultry facilities meet 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 MacMillan Colony to cease construction and notify the NRCB immediately if the water table is observed to be one metre or less from the bottom of the liner during construction.

b. Springs

Section 7(1)(a) of the *Standards and Administration Regulation* under the *Agricultural Operation Practices Act* (AOPA) requires that a manure storage facility or manure collection area not be constructed within 100 m of a spring.

While springs were not observed during my site inspection in March 2022, it is possible that they exist and could discharge at times when the groundwater levels are high. A condition is included requiring MacMillan Colony to notify the NRCB immediately if springs are encountered within 100 m of the proposed facilities.

c. Water well logs

As stated in Technical Document LA21054, as the site is currently undeveloped, it is difficult to determine the uppermost groundwater resource (UGR).

Section 9(3)(b) of the *Standards and Administration Regulation* under the *Agricultural Operation Practices Act* (AOPA) requires that the bottom of the liner is more than 1 m above the top of the uppermost groundwater resource.

I have reviewed data from other nearby water wells and other resources, and believe that the application meets this requirement. However, as an added precaution, I have added a condition requiring MacMillan Colony to submit a copy of their completed drillers report, done by a qualified third party, to the NRCB if a water well is developed on the site. The report must be submitted directly to the NRCB within a month of the water well being completed.

d. Construction Deadline

MacMillan Colony did not provide a timeline to construct the proposed new chicken layer barn and chicken pullet barn (with attached manure storage facilities). In my experience, constructing a new CFO site generally requires three construction seasons. Therefore, a deadline of November 30, 2024 is included as a condition in Registration LA21054.

e. 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, Registration LA21054 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the chicken layer barn (with attached manure storage) and chicken pullet barn (with attached manure storage) 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. MacMillan Colony to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the chicken layer barn and chicken pullets barn (both with attached manure storage facilities).

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. Registration LA21054 includes a condition stating that MacMillan Colony shall not place livestock or manure in the manure storage or collection portions of the new chicken layer barn nor the chicken pullet barn (both with attached manure storage facilities) until NRCB personnel have inspected the barns and storage facilities and confirmed in writing that they meet the registration requirements.