

Decision Summary RA22014

This document summarizes my reasons for issuing Approval RA22014 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA22014. 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 March 10, 2022, Joe Luyks, on behalf of Springbrook Poultry Ltd. submitted a Part 1 application to the NRCB to construct a new poultry CFO with 175,000 chicken broilers.

The Part 2 application was submitted on March 28, 2022. On April 7, 2022, I deemed the application complete.

The proposed CFO involves:

- Constructing four poultry barns (128 m x 20.7 m each)

a. Location

The proposed CFO will be located at NE 19-39-27 W4M in Lacombe County, roughly 3.8 kms west of the town of Blackfalds, Alberta. The terrain is undulating with a general slope to the southeast.

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 0.5 miles. (The NRCB refers to this distance as the “affected party radius.”)

A copy of the application was sent to Lacombe County, which is the municipality where the CFO is to be located. The application was not sent to other municipalities as none are located within 0.5 miles of the proposed site. Further the CFO is not located within 100 m of the bank of the river, stream, or canal.

The NRCB gave notice of the application by public advertisement in the Lacombe Express on April 7, 2022. The full application was posted on the NRCB website for public viewing. As a courtesy, 27 letters were sent to people identified by Lacombe County as owning or residing on land within the affected party radius.

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

I also sent a copy of the application to right of ways holders, Plains Midstream Canada, Trans-Northern Pipe Line and Vesta Energy

I received responses from AHS, AEP and Trans-Northern Pipe Line.

Mr. Quentin Schatz, public health inspector / executive officer, responded on behalf of AHS. Mr. Schatz stated that due to the proximity to the Town of Blackfalds (3.2 km) the town should be consulted. He also provided additional comments regarding the construction of the CFO according to the technical requirements provided in the application, and to not construct any water well within 100 m of the lagoon.

As indicated in section 2 of the decision summary, under section 19 of AOPA, the NRCB notifies all parties that are “affected” by an approval application. Section 5 of AOPA’s Part 2 Matters Regulation defines “affected parties”, in part as:

- any other municipality whose boundary is within a specified distance from the CFO, depending on the size of the CFO, in this case the specified distance is 0.5 miles.

As the Town of Blackfalds is located roughly 3.8 km away, I only sent a copy of the application to Lacombe County, which is the municipality where the CFO is to be located.

At my request, the public health inspector / executive officer provided a second written response addressing the health-related concerns raised by several directly affected individuals (See Appendix C for a summary of this response).

Ms. Laura Partridge, a senior water administration officer with AEP, indicated that applicant has applied for a water licence.

Ms. Renée Flowerday, a property and right of way administrator, indicated that Trans-Northern Pipe Line (TNPI) has no concerns with the proposed development outside of their right-of-way (RoW); however they request any building development on the property to be setback 10 m from the boundary of the TNPI RoW. Any development plans within the controlled area (30 m

from the pipeline) and/or RoW will require a crossing or proximity agreement.

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 proposed CFO is to be located.

5. Municipal Development Plan (MDP) consistency

I have determined that the proposed CFO 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.)

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 of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 10, and further explained in Appendix D, the application meets all relevant AOPA requirements.

7. Responses from the 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 is located within its boundaries.

Ms. Allison Noonan, planning services administrative assistant with Lacombe County, provided a written response on behalf of the county. Ms. Noonan stated that the application is consistent with Lacombe County's municipal development plan (MDP), and that the county has no issues or concerns with the proposal. The application's consistency with Lacombe County's MDP is addressed in Appendix A, attached.

Apart from municipalities, for an approval application, any member of the public may request to be considered "directly affected." The NRCB received 11 responses.

Of the 11 parties who submitted responses, six own or reside on land within the 0.5 miles notification radius for affected persons. Because of their location within this radius, and because they submitted a timely response, they qualify for directly affected party status. (See NRCB Operational Policy 2016-7: Approvals, part 6.2)

Five of the respondents do not own or reside on land within the 0.5 miles radius for affected persons. Appendix B sets out my reasons for determining which respondents are directly affected.

The directly affected parties raised concerns regarding:

- Nuisance impacts (noise, odour, air quality and quality of life, prevailing winds, flies, and pests)
- Road use, safety, traffic, and noise
- Groundwater quality, usage, and licensing
- High density of residences, commercial and industrial land
- Property values
- Type of manure storage and management
- Disposal of dead animals
- The type of poultry operation on site (broilers, hatching, and slaughtering)
- Health risk (air quality and quality of life)
- Surface water
- Manure application and landbase for manure application
- Previous experience with applicant's old operation in Blackfalds
- No community consultation by applicant.
- Crystal and Springbrook Poultry operations should be one
- Owners live somewhere else
- Excavation and construction before decision was issued
- Method of heating the barns
- Wrong legal land description of nearby residence

These concerns are addressed in Appendix C.

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 surface and/or groundwater monitoring for the facility. In this case a determination was made and monitoring is not required.

Nonetheless, as part of my review of this application, I assessed the risk to the environment posed by the CFO's proposed manure storage facilities and manure collection areas. I used the NRCB's environmental risk screening tool (ERST) to assist in my assessment of risk to surface water and groundwater (see NRCB Operational Policy 2016-7: Approvals, part 8.13). The tool provides for a numeric scoring of risks, which can fall within 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.)

The assessment indicated that the potential risks to surface water and groundwater were low.

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. Noonan also noted that the application meets the setbacks required by Lacombe County's land use bylaw (LUB).

I have considered the effects the proposed CFO may have on natural resources administered by provincial departments. AEP 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 received a response from AEP indicating that Springbrook Poultry has applied for a water licence. Furthermore, the application meets AOPAs technical requirements.

I am not aware of any written decision of the Environmental Appeals Board for this location (<http://www.eab.gov.ab.ca/status.htm>, accessed July 8, 2022).

Finally, I considered the effects of the proposed CFO 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 referral agencies and Lacombe County, submissions of other directly affected parties, and my own observations from two site visits

Consistent with NRCB policy (Approvals Policy 8.7.3), 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 and the directly affected parties' concerns have been addressed.

Consistent with NRCB policy (Approvals Policy 8.7.3), if the application is consistent with the MDP then the proposed development is presumed to have an acceptable effect on the economy and community. In my view, this presumption is not rebutted and the directly affected parties' concerns have been addressed.

I also presumed that the proposed CFO 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 8.7.3.). In my view, this presumption is not rebutted, and I note that the County of Lacombe's response states that the application is consistent with their MDP.

10. Terms and conditions

Approval RA22014 specifies the permitted livestock capacity as 175,000 chicken broilers and permits the construction of four poultry barns.

Approval RA22014 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 RA22014 includes conditions that generally address a construction deadline, document submission, construction inspection and confirmation of the distance to residences. For an explanation of the reasons for these conditions, see Appendix D.

11. Conclusion

Approval RA22014 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA22014.

August 3, 2022

(Original Signed)
Francisco Echegaray, P.Ag
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Determining directly affected party status
- C. Concerns raised by directly affected parties
- D. Explanation of conditions in Approval RA22014

APPENDIX A: Consistency with the municipal development plan

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).

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 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 8.2.5.)

Springbrook Poultry’s CFO is located in Lacombe County and is therefore subject to that county’s MDP, April 8, 2021 (updated on April 14, 2022), under Bylaw 1238/17. As relevant here:

Section 3.3.1 states that “All 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.”

Springbrook Poultry’s proposed CFO is located outside any of these 1.6 km setbacks. The proposed CFO would be 3.8 km beyond the boundary of the Town of Blackfalds.

As for section 3.9.1’s reference to intermunicipal development plans (IDP) or other plans approved by the county’s council, the proposed CFO is located outside the plan boundaries of

the Lacombe County-Town of Blackfalds IDP, the Highway 2 West Area Structural Plan, or any other local plans.

For these reasons, I conclude that the application is consistent with the land use provisions of Lacombe County's MDP. This conclusion is consistent with the county's written response to the application.

APPENDIX B: Determining directly affected party status

The following individuals qualify for directly affected party status because they submitted a timely response to the application and they own or reside on land within the “affected party radius,” as specified in section 5(c) of the Agricultural Operation, Part 2 Matters Regulation (See NRCB Operational Policy 2016:7 – Approvals, part 6.2.)

Real and Rachelle Bouffard
NW 19-39-27 W4M

Terry Copland
SE 19-39-27 W4M

Christopher Demers and Victoria Lapointe
NW 20-39-27 W4M

Dennis and Linda Jaffray
SW 29-39-27 W4M

Glen and Patricia Rachul
SE 30-39-27 W4M

Darwin Russell
NW 19-39-27 W4M

A person who is not specified in section 5 of the Part 2 Matters Regulation as an affected party can also qualify for directly affected party status. However, they have the burden to demonstrate they are directly affected by the application. The following individuals that submitted a response to the application may fall under this category:

Gary and Liz Cruickshank
NE 24-39-28 W4M

Len and Sheila Machacek
NE 30-39-27 W4M

McMurray Family c/o Punk McMurray
NW 16-39-27 W4M
NE 17-39-27 W4M
SW 17-39-27 W4M

Paul and Kathy Miller
SE 20-39-27 W4M

Joe Walter
NE 24-39-28 W4M

Under NRCB policy, a person has the burden of demonstrating that they are directly affected by an application. In order to meet their burden of proof, the person has to demonstrate all the following five elements (see NRCB Operational Policy 2016:7 – Approvals, part 6.3):

1. A plausible chain of causality exists between the proposed project and the effect asserted;
2. The effect would probably occur;
3. The effect could reasonably be expected to impact the party;
4. The effect would not be trivial; and
5. The effect falls within the NRCB regulatory mandate under AOPA.

The individuals raised concerns regarding the proposed CFO's proximity to homes (13 homes), notification by other landowners, nuisances (odours, flies, and noise), loss of quality of life and property values, negative impacts to groundwater and surface water, runoff towards the Blindman River and fish bearing ponds, water quantity, increase in traffic, health concerns, manure spreading, and experience with the old chicken operation in the Town of Blackfalds.

Using the above mentioned factors, I concluded that all of these individuals are located outside of the affected party radius and did not establish a sufficient chain of causality between the effects they asserted and the proposed CFO. This is partly due to distance from the proposed CFO, which also lessens the probability of the effects occurring and the reasonable expectation of impact upon these individuals. As such, they will not be considered directly affected parties in my review of this application.

I would like to note that all of the concerns raised by these individuals are also the concerns raised by the directly affected parties. Those concerns are discussed in Appendix C, below.

APPENDIX C: Concerns raised by directly affected parties

Springbrook Poultry responded to some of the issues raised in the written responses. Their full response is included on pages 17 to 21 of 32 of Technical Document RA22014.

The directly affected parties (DAPs) raised the following concerns which are listed and summarized below, together with my analysis and conclusions, as well as parts of the applicant's response:

1. **Increase in odours, noise, and flies (nuisances)** – Many of the individuals expressed concern about a potential increase in odours, noise, flies, and the impact on air quality (ammonia, H₂S, chicken dust) and their quality of life due to odours, and included several scientific, and other types of, reports found on the internet. The respondents indicated that the application did not include odour controls. Some of them also noted that they live southeast of the proposed site and the prevailing winds come from the northwest. Some of the respondents indicated that the application included the wrong distance, legal land description and /or names to some residences. One individual stated that the same residents live in agricultural and country residential residences, and therefore, the minimum distance should be the same for both.

Applicant's response:

The applicant indicated that to control odours they use the newest innovative technology for ventilation controlled by computer.

They also stated that ...” After birds are shipped, the barn's dust is blown down onto the manure, and pushed out of barn”...

Approval officer's conclusions:

AOPA's minimum distance separation (MDS) is a means for mitigating odours and other nuisance impacts from CFO facilities. Springbrook Poultry's proposed CFO will be located outside of the required MDS from other existing residences. The closest neighbouring residence will be more than 400 m away from the nearest CFO facility. This distance exceeds the required 306 m MDS to that residence. It is presumed that nuisance effects from the CFO facilities are acceptable if the MDS has been met.

Nuisance and other impacts outside of the MDS for a CFO are typically not considered when making a decision, unless there is a direct and adverse impact greater than what may be normally expected, which can be directly linked to the CFO. These effects would be considered in the analysis on 'effects on the community' in an approval officer's decision. In this case, the land zoning within one mile of the operation is 'Agriculture'. Although I do not consider nuisance concerns as 'trivial' in nature, I presume the impacts of the proposed CFO as acceptable, because of the land zoning and MDS requirements as laid out in AOPA have been met.

It is reasonable to expect that there will be some odour emissions and other potential nuisances when the new CFO is developed.

The NRCB measured the distances to the nearest houses using air photography; however, there are no constructed CFO buildings to use as a reference to measure these distances. In order to ensure that Springbrook Poultry builds the CFO facilities

while maintaining the distance to neighboring residences, a condition will be included in the approval requiring them to provide documentation, from a qualified third party, of the distance from the closest manure collection or storage facility to the nearest neighbouring residence.

Operators are expected to control flies at their operation. If necessary, the NRCB can require the operator to adopt a fly control program.

The applicant included some wrong and/or missing information in the application, regarding the legal land description and/or name of a nearby neighbour; however, the NRCB has measured the distance to all of the residences nearby, and the proposed CFO is to be located outside of the required minimum distance separation (MDS) from all existing residences.

Schedule 1 of the Standards and Administration Regulation (AR 267/2001), states that the odour objective factor to calculate the MDS is determined according to the land zoning and residential type. To determine the residential type, the NRCB relies on the land zoning identified by Lacombe County and their land use bylaw. In their response, Lacombe County indicated that all land within 1,600 metres of the proposed site is zoned Agricultural “A” district; and therefore, I used “Category 1” residences to evaluate compliance with the MDS.

Often, any issues that arise relating to the operation of a CFO, and other disagreements, can be resolved through good communication between neighbours and the CFO operator. However, if a member of the public has concerns regarding a CFO, including whether the operation is complying with AOPA, they may contact the NRCB through its toll free reporting line (1-866-383-6722 or 310-0000). An NRCB inspector will investigate the concern.

2. **Road use, safety, and traffic (noise and dust)** – Most of the parties were concerned about an increase in truck traffic (trucks hauling feed and chicken) on the county road and the access to it from the Aspelund Road (Highway). School buses use these roads.

Applicant’s response:

The applicant stated the following:

...”We will be using existing driveway off Range Rd 275 not Aspelund Rd.
Traffic: 7-10 loads of feed trucks per month—6 loads of live chicken per barn, the chickens are at different ages so will not be shipped all at one time”...

Approval officer’s conclusions

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. Because of this it would be impractical and inefficient for the NRCB to attempt to manage road use through AOPA permits (see Operational Policy 2016-7 Approvals, part 8.9). In addition, municipalities own the roads within their jurisdiction, have the knowledge and expertise to determine what is required in road use agreements, and have the jurisdiction to implement and enforce road use restrictions and road use agreements

3. **Groundwater quality** - Several individuals raised concerns of contamination of the aquifer due to the waste (mainly liquid waste) from the CFO's manure storage facilities and manure application. Some of the respondents questioned whether a base line testing will be implemented and who will pay for it.

Applicant's response:

The applicant stated the following:

..."Manure is dry mixed with straw (not liquid).

After birds are shipped, the barn's dust is blown down onto the manure, and pushed out of barn, and will be trucked off the property in a timely manner to farmers fields where it will be used for fertilizer, soil samples are taken yearly following Agricultural Operation Practices Act

Some manure stays on this site for the compost and fertilizer for this quarter

Barns are washed and waste water goes into drains, then into septic tank system"...

Approval officer's conclusions

As noted in the decision summary above, and documented in Technical Document RA22014, the proposed CFO 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.

As noted in section 8 of the decision summary, I assessed the CFO's proposed facilities, using the NRCB's environmental risk screening tool (ERST), in order to determine the level of risk they pose to groundwater. The CFO's proposed facilities pose a low potential risk to groundwater. Therefore, a determination was made and groundwater monitoring is not required.

Regulations under AOPA set nutrient application limits to prevent the soils from being overloaded with nitrogen and minimize the potential for groundwater to be impacted by manure. The Standards and Administration Regulation under AOPA also requires operators to test soils on farmland to which manure is applied for salts and nitrogen at least every three years, and to make these records available for inspection by the NRCB.

4. **Groundwater supply** - the potential impact on groundwater quantity was a significant concern for most of the parties. Parties expressed concern that the CFO would remove water from the same aquifer that the 19 wells in the surrounding community also use, with the consequence of depleting the aquifer, especially in the last few drought years. Several parties questioned who will provide a remedy if the CFO depletes their wells.

Applicant's response:

The applicant stated the following:

... “we are working with Alberta Environment; already completed the 24hr flow test to make sure there is ample supply

Chickens don’t use as much water as other livestock”...

Approval officer’s conclusions

Alberta Environment and Parks (AEP) is responsible for licencing the use of groundwater and surface water in the province. The water licencing process includes an opportunity for neighbours to provide input. Therefore, for efficiency and to avoid inconsistent regulation, NRCB approval officers generally do not consider water supply concerns when reviewing AOPA permit applications, other than ensuring that applicants sign one of the water licencing declarations listed in the Part 2 application form. (This declaration is on page 3 of 32 of Technical Document RA22014.)

AEP indicated in the response to the referral letter that Springbrook Poultry has submitted a licence application to AEP.

The monitoring of groundwater levels and usage is regulated by Alberta Environment and Parks under the *Water Act*.

A copy of this decision will also be forwarded to AEP for its information.

5. **High density of residences, commercial and industrial area** – Most of the parties indicated that there are many residences in the area that will be impacted by this new CFO. Some people own land that is zoned commercial/industrial, in addition to the heavily commercial/industrial park nearby that should have been consulted. The Town of Blackfalds is located within 2 miles of the CFO.

Approval officer’s conclusions

There are a substantial number of residences and acreages in the area. However, all of them have been considered in terms of AOPA’s required MDS setback to residences. In addition, as noted in Appendix A above, the proposed CFO is consistent with the land use provisions in the county’s municipal development plan. This consistency suggests that the proposed CFO is an appropriate land use for the area.

Section 19 of AOPA, the NRCB notifies all parties that are “affected” by an approval application. Section 5 of AOPA’s Part 2 Matters Regulation defines “affected parties”, in part as:

- the municipality where the CFO will 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, in this case the specified distance is 0.5 miles.

The Town of Blackfalds is located roughly 3.8 km away (outside the 0.5 miles affected party radius), additionally, the proposed CFO is located outside the plan boundaries of the Lacombe County-Town of Blackfalds IDP. Therefore, I only sent a copy of the application to Lacombe County, which is the municipality where the CFO is to be located. The NRCB also gave notice of the application by public advertisement in the

Lacombe Express on April 7, 2022, and as a courtesy, 27 letters were sent to people identified by Lacombe County as owning or residing on land within the 0.5 mile distance.

6. **Property values** – Most of the parties indicated that the CFO will reduce the value of their and the surrounding properties (residences and/or commercial lots).

Approval officer’s conclusions

In several review decisions, the NRCB’s board members have consistently stated that concerns regarding effects on land or 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 at 5, and Pigs R Us Inc. RFR 2017-11/BA17002 at 6.

As explained in Appendix A above, Springbrook Poultry’s application is consistent with the land use provisions of the county’s MDP, which suggests that the proposed CFO is an appropriate land use in the area.

7. **Manure storage and management** (stockpiling, methods of storage and disposal) – Some of the respondents questioned the type of manure that will be produced by the CFO (liquid or solid), and what type of storage will be used (including winter storage). One person indicated that stockpiles should be considered storage. A few people mentioned that there are already stockpiles on some of the spreading lands. Some respondents asked where the waste water will go.

Applicant’s response:

The applicant stated the following:

... ”After birds are shipped, the barn’s dust is blown down onto the manure, and pushed out of barn, and will be trucked off the property in a timely manner to farmers fields where it will be used for fertilizer

Some manure stays on this site for the compost and fertilizer for this quarter

Barns are washed and waste water goes into drains, then into septic tank system”...

Approval officer’s conclusions

In his response to the concerns, the applicant indicated that there will be temporary storage of manure on site some of the time. The applicant indicated that they will haul most of the manure to the spreading lands when they clean out the barn after each production cycle.

Chicken manure is dry manure that can be stockpiled. Waste water from washing the barns will be collected in a septic tank.

Section 5 of the Standards and Administration Regulation specifies that storing solid

manure, composting material or compost for a short term is not considered a manure storage facility. AOPA has manure application regulations, and requirements that govern the storage of manure, including short term solid manure storage. The applicant is aware of all regulations pertaining manure storage and application and has demonstrated in their application that they are able to meet them.

The applicants own land within one mile of the proposed site and they indicate that they receive and apply manure according to the regulation.

If a member of the public has concerns regarding a CFO's manure storage and/or manure application procedure, they are invited to phone the NRCB toll free reporting line 1-866-383-6722. An NRCB inspector will respond to the complaint.

8. **Dead animal disposal** (predators, pests, and animal disease transmission) – Many of the individuals raised concerns about the disposal of dead animals and the resulting potential increase in the number of predators attracted to the area, and animal disease transmission.

Applicant's response:

The applicant stated the following

... "Composting will take place on site back behind barns we will be following Disposal of Dead Animals Regulation, the compost pile is also trucked off property.

All Commercial Poultry Farms in Canada follow strict mandatory guidelines from The Canadian Chicken Farmers of Canada, On Food Farm Safety and Animal Care Program. There is an Audit done yearly, to be sure we follow all the protocols.

We are strictly monitored by Canadian Food Inspection Agency and Alberta Chicken in case of any outbreaks"...

Approval officer's conclusions

AOPA does not require approval officers to assess or consider dead animal disposal when considering CFO applications. 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 AFRED has expertise in this area, the NRCB defers to this greater expertise and refers related concerns to AFRED.

In its response to concerns, Springbrook Poultry stated that they will compost the dead chickens. Composting of dead birds is a permitted disposal method under the *Animal Health Act*, provided the operator follows the composting requirements under the Act.

All landowners or occupants of land are responsible for controlling pests, under the *Agricultural Pests Act* of Alberta.

AFRED monitors livestock diseases within the province through the office of the provincial veterinarian and is able to address disease concerns should they arise. AOPA does not address transmission of animal diseases and therefore does not require approval officers to assess or consider animal disease transmission as part their review of a permit application. Owners and operators of CFOs are acutely aware of the potential for disease transmission and take steps to ensure that they protect their livestock, often requiring strict biosecurity protocols.

9. **Type poultry operation and numbers** – A couple of the parties questioned whether the CFO will raise just chicken broilers or whether it will also be a hatching and/or slaughtering facility, and the actual number of chicken broilers.

Applicant's response:

The applicant stated the following:

... "We bring in chicks from a Edmonton Hatchery and grow these chicks in new barns with the latest computer technology and controls on concrete floors with straw bedding, we use natural gas to heat the barns, manure is dry mixed with straw (not liquid) Growing chickens to market weight and then shipped out live to a processing plant"...

Approval officer's conclusions

The application is only for chicken broilers; it did not include a hatching CFO. Therefore, the approval does not allow Springbrook Poultry to confine and feed hatching hens.

The application also does not include a slaughtering facility. AOPA does not provide for the NRCB's regulation of slaughtering facilities.

The application is for a chicken broiler CFO with a capacity of 175,000 chicken broilers. The broiler chicks come from a hatching operation, and the finished bird are shipped to be slaughtered.

10. **Health risk and air quality**– Several of the respondents were very concerned that the operation will increase the amount of flies, rodents and predators, and the diseases they carry. Other respondents attached scientific journals found through the internet, and other reports, regarding gas and chemical emissions from CFOs (nitrous oxide, ammonia, particulate matter, hydrogen sulfide). Some people indicated that their family members suffer from asthma and/or need oxygen, and all these health effects will affect their quality of life.

Approval officer's conclusions

Approval officers generally refer applications to Alberta Health Services (AHS) for its information, and for it to respond to any potential health issues related to the proposed developments.

As per NRCB Operational Policy 2016-7: *Approvals*, part 8.8., I referred the application to AHS for its comments. After the deadline for submission of written responses, I also referred all responses that identified health concerns and issues to AHS.

A summary of AHS' response to the health-related statement of concerns is as follow:

- Potential nuisance sources have been considered. The primary concern for Environmental Public Health (“EPH”) is drinking water quality. Based on their risk assessment using the information provided soil water retention exceeds the minimum requirement of at least 90-day travel retention time.
- EPH recommended that concerned residents who use their well water as their primary source of drinking water, monitor the water quality on a routine basis to ensure safe drinking water.
- If there are any abandoned and/or unused wells on this property, they should be properly decommissioned.
- Complaints or concerns regarding potential air quality issues, groundwater usage and potential surface water contamination should be directed to Alberta Environment and Parks.

The health inspector concluded his letter by stating that the Natural Resources Conservation Board (NRCB) is responsible for the final decision of any applications. Complaints or concerns, including those involving odours, manure handling and water quality, should be directed to the NRCB.

As noted in the decision summary, and further documented in Technical Document RA22014, the proposed CFO meets all AOPA technical requirements. Several of these requirements are intended to protect surface and groundwater from manure contamination.

11. **Surface water** - The NRCB received several concerns related to the impact of the CFO facilities into the quality of the surface water, runoff and leaching from the facilities. Many of the respondents indicated that there are many bodies of water (springs, intermittent streams, sloughs, ponds, drainage ditches, wetlands, fish ponds on a conservation area) on the property, or in the near vicinity. The individuals were concerned that the bodies of water will be contaminated by nutrients and pathogens, which can affect wildlife and people's health. They indicated that the CFO will be located on a hillside that eventually drains into the Blindman River which is part of the Red Deer River Watershed (used by 300,000 people). Some of the parties identified examples of surface water that has been affected by agricultural or industrial development. People questioned whether base line testing of the water is necessary and who will pay or be responsible if it is contaminated. A few people indicated that the application wrongly indicated distances to springs, sloughs, and other bodies of water.

Applicant's response:

In the response to the statement of concerns, the applicant included an air photo with a site plan with updated distances to bodies of water:

- 140 m to a pond on site
- 200 m to a slough on the southeast of the quarter section
- 306 m to a runoff on the southeast of the quarter section
- 430 m to a runoff on the northeast of the quarter section
- 1,538 m to the Boulder Lake – Fish Pond

Approval officer's conclusions

AOPA and its regulations contain several requirements to prevent or minimize manure leakage from CFO facilities and thus to prevent CFO manure from reaching and contaminating surface water. Two of these requirements are the setbacks from springs and common bodies of water set out in Section 7(1)(a) and (c) of the Standards and Administration Regulation, which prohibits the construction of a manure storage facility or manure collection area less than 100 m from a spring and 30 m from a common body of water.

The applicant included some wrong and/or missing information in the application, regarding the distance to bodies of water and spring water. In a response to the concerns, the applicant provided more accurate distances to bodies of water on site. Additionally, I conducted site visits to identify the bodies of water and measured the distance to the proposed barns.

During my site visits, I did not note any springs or common bodies of water within 100 m and 30 m, respectively, of the proposed CFO facilities. I also verified these distances by reviewing available air photos. The proposed CFO meets all of these AOPA setbacks requirements.

As noted in section 8 of the decision summary, I assessed the CFO's proposed facilities, using the NRCB's ERST, in order to determine the level of risk they pose to surface water. The CFO's proposed facilities pose a low risk to surface water.

As noted in the decision summary above, and further documented in Technical Document RA22014, the proposed CFO meets all AOPA technical requirements. Because the CFO meets or exceeds these requirements, I concluded that the level of risk to surface water posed by the proposed CFO facilities is acceptable. Therefore, a determination was made and monitoring is not required.

Sections 24(9) and (10) of the Standards and Administration Regulation, define the setbacks for manure application from a common body of water and water wells, as well as setbacks based on the slope of the terrain to common bodies of water. The operator is responsible to follow these requirements.

Incidences of non-compliance can be reported to the NRCB's 24 hour a day toll free reporting line 1-866-383-6722 or 310-0000 (toll free line). NRCB inspectors follow up on all complaints.

12. **Manure application and land base for manure application**– a few of the respondents raised concerns regarding manure spreading, including odour during manure application, manure application setback to nearby residences and to bodies of water (river, creeks, sloughs) due to high slope (impact into surface water which provides habitat for waterfowl), and runoff concerns. The respondents ask about the frequency of manure spreading, and whether the applicant has enough land base for manure spreading, as some of the land listed are already used by other poultry producers (Hillside Poultry, Crystal Poultry, Brunning Poultry) or they are zoned commercial.

Approval officer's conclusion:

Manure application is regulated under sections 24 and 25 of the Standards and Administration Regulation.

Under section 24(3)(d) of the regulation, one option for manure application is for a permit applicant to satisfy an approval officer that they have access to sufficient land base to apply their manure for the first year following the granting of the application.

For this proposal, 355 hectares of land in the black soil zone are required for manure spreading. Springbrook Poultry has secured 450 hectares of land for manure spreading. Therefore, the application meets the land base requirement in section 24(3)(d) of the regulation.

Section 24(1) of the Regulation requires manure to be incorporated within 48 hours of application when it is applied to cultivated land.

Incorporation reduces odours and runoff by working the manure into the soil. This type of land application of manure is typically limited to once or twice per year and is typically of short duration. Odours from manure spreading typically do not persist for extended periods of time.

Under section 24(5)(a) of the Regulation, manure does not need to be incorporated after surface application on forages, or on no-till cropland, in order to conserve the soil. However, the manure must be applied at least 150 m from any residence. This setback helps mitigate the odour from manure spreading without incorporation.

The Standards and Administration Regulation has other requirements to protect the soil, groundwater, and surface water from excessive application of manure (sections 25 and 28). These include soil testing requirements, soil salinity limits, nitrate-nitrogen limits, setbacks based on the slope of the terrain to common bodies of water, and setbacks to water wells and residences. Under the Regulation, the operator must also keep manure spreading and soil sampling records for five years and provide those records to the NRCB upon request.

Sections 24(9) and (10) of the Standards and Administration Regulation, define the setbacks for manure application from a common body of water and water wells, as well as setbacks based on the slope of the terrain to common bodies of water. The operator is responsible to follow these requirements.

When followed, all of these AOPA requirements will provide protection to neighbours from manure runoff, nutrient leaching, and nuisances from manure spreading. It will also

minimize impacts of manure spreading on runoff and waterfowl habitat.

In the response to these concerns, the applicant included a list of all of the lands available for manure application from their other two poultry operations in Lacombe and Ponoka Counties (See page 20 of 32 in Technical Document RA22014).

The applicant included 1,140 acres of land available for Sprucelane Poultry and 1,374 acres of land available for Crystal Poultry, in addition to the land available for the current application.

Complaints about CFO-related issues can be reported to the NRCB's 24 hour toll free reporting line (1-866-383-6722) and will be followed up on by an NRCB inspector within 24 hours. Neighbours can also call any NRCB office during regular business hours if they have questions about permit conditions or ongoing AOPA operational requirements.

13. **Previous experience with the applicant's old operation in Blackfalds and with their previous application within 1 mile of the town.**- A few people responded indicating that the old operation owned by the applicant in the Town of Blackfalds was very smelly and created conflicts between residents and the operation. One of the respondents indicated that a previous application (under Crystal Poultry) within one mile of Blackfalds was objected by the town; however, it was approved and a permit issued.

Approval officer's conclusion:

The NRCB's database has no records of non-compliance or complaints regarding the previous poultry operation, when it was located within the Town of Blackfalds.

The AOPA permit decision process is based on the merits of current permit applications. In addition, the nature and location of the applicant's previous operation are sufficiently distinct that the supposed impacts of that operation shed little light on the potential impacts of the proposed new operation outside of the Town's boundary.

14. **No community consultation or consultation by applicant.** – One respondent indicated that there are 13 residences within ½ mile of the proposed CFO and there was not community consultation according to the NRCB application process guide (January 8, 2020)

Approval officer's conclusion:

The NRCB application process guide describes the application process for obtaining an NRCB permit under AOPA. The guides indicates that applicants are not required to meet these practices but should consider them when applying for a permit for a CFO, manure collection area, manure storage facility, or agricultural composting facility.

Section 5.2 of the guide, included in the response, states that "Applicants are **encouraged** to contact their neighbours and other parties who may be affected by the proposed development" [emphasis added]... This section suggests applicants to contact neighbours; however, it is just a suggestion and is not mandatory.

As required by AOPA, the NRCB notified Lacombe County, several referral agencies, and placed a public notification in the Lacombe Express on April 7, 2022. The full

application was also posted on the NRCB website for public viewing. In addition, courtesy letters informing parties of the application, were sent to landowners or occupants within the ½ mile affected party radius set out in AOPA, as identified by Lacombe County (see section 2 of Decision Summary RA22014).

- 15. Should Crystal Poultry and Springbrook Poultry be one operation** – A couple of the respondents questioned whether an existing chicken broiler operation owned by Crystal Poultry and the proposed CFO should be considered one operation.

Approval officer’s conclusion:

Crystal Poultry’s existing 200,000 chicken broilers operation (Crystal Poultry) is located more than 15 km north of the proposed CFO.

Section 3(11) of the Standards and Administration Regulation only requires an approval officer to determine if two CFOs are one if they are under the control of a single owner or operator, and located on “adjacent land parcels.” The proposed CFO is not on adjacent land parcel to the existing CFO (Crystal Poultry)

- 16. Owner lives somewhere else** – Some neighbours questioned why the applicants are not living at this location, indicating that probably they do not want to be smelling the odours of their own operation.

Approval officer’s conclusion:

AOPA does not prescribe whether a CFO operator must live at their CFO; regardless, Mr. Luyks indicated that he is currently living at a residence at this location.

- 17. Excavation and construction before decision was issued** – Many of the applicants included in their responses that the applicant has started construction, and they have built a water drainage ditch to the southeast.

Approval officer’s conclusion:

These concerns were addressed by the compliance division of the NRCB. NRCB records suggest that an inspector responded to the neighbours’ complaints by verifying that no construction or drainage of any body of water has taken place at this location.

- 18. Method of heating the barns** - One person asked the method to heating the barns (natural gas, straw, wood or other) as they have noticed that other poultry operations emit smoke

Applicant’s response:

The applicant stated the following:

... “We use natural gas to heat the barns”...

Approval officer's conclusion:

AOPA does not prescribe what source of energy CFO operators must use to heat their CFO facilities.

- 19. Wrong legal land description (LLD) of nearby residence** – A few respondents indicated that the application has the wrong LLD and names of the residents on a residence.

Approval officer's conclusion:

The applicant included some wrong and/or missing information in the application; however, the NRCB has measured the distance to all of the residences nearby, and the proposed CFO will be located outside of the required minimum distance separation (MDS) from all existing residences.

APPENDIX D: Explanation of conditions in Approval RA22014

Approval RA22014 includes several conditions, discussed below:

a. Construction Deadline

Springbrook Poultry proposes to complete construction of the proposed new poultry barns by November 30, 2025. This time frame is considered to be reasonable for the proposed scope of work. The deadline of November 30, 2025 is included as a condition in Approval RA22014.

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 RA22014 includes a condition requiring:

the concrete used to construct the liner of the manure collection and storage portion of the four poultry barns 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.” Springbrook Poultry shall provide evidence or written confirmation from a qualified third party that the concrete used for the manure collection and storage area meets the required specifications.

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. Approval RA22014 includes a condition stating that Springbrook Poultry shall not place birds or manure in the manure storage or collection portions of the new poultry barns until NRCB personnel have inspected them and confirmed in writing that they meet the approval requirements.

c. Distance to neighboring residences

Springbrook Poultry is constructing a new CFO on a piece of land that has no constructed CFO facilities. In order to ensure that they build the CFO facilities while maintaining the distance to neighboring residences as set out in the application, a condition will be included in the approval requiring Springbrook Poultry to provide documentation, from a qualified third party, of the distance from the closest manure collection or storage facility to the nearest neighbouring residence.