



Decision Summary LA22016

This document summarizes my reasons for issuing Registration LA22016 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA22016. 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 February 24, 2022, the Hutterian Brethren Church of Stahlville (Stahlville Colony) submitted a Part 1 application to the NRCB to construct a new CFO for 15,000 chicken layer operation that includes the construction of a layer barn (61 m x 17 m) and a manure storage (16 m x 14 m) which will be attached to the layer barn.

The Part 2 application was submitted on July 18, 2022. On July 27, 2022, I deemed the application complete.

a. Location

The proposed CFO is located at NW 12-28-24 W4M in Wheatland County, roughly 18 km east of the Village of Beiseker. The terrain is sloping to the east southeast. The closest common body of water is an ephemeral creek approximately 600 m to the east. This creek is part of the coulee system draining into the Rosebud River.

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 land zoning on which the CFO is located would require a minimum distance separation of 266 metres. Therefore, the notification distance is 805 metres (½ mile). (The NRCB refers to this distance as the “affected party radius.”)

A copy of the application was sent to Wheatland County, which is the municipality where the CFO is to be located, and to Kneehill County which has a boundary within ½ mile (805 m) of the CFO.

The new CFO is not 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

I did not send the application to the right-of-way holders on this quarter section because waivers were submitted outlining the agreement these companies reached with Stahlville Colony in respect to potentially encroaching on their setbacks.

The NRCB gave notice of the application by public advertisement in a weekly newspaper in circulation in the community affected by the application. In this case, public advertisement was in the Strathmore Times on July 27, 2022. The full application was made available for viewing during regular business hours and was posted on the NRCB website for public viewing. As a courtesy, five letters were sent to people identified by Wheatland County and Kneehill County as owning or residing on land within the notification distance.

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), Alberta Transportation (AT).

The NRCB received responses from Carol Brittain, a public health inspector with AHS, and Trevor Richelhof, a planning technologist with AT.

Ms. Brittain stated in her response that AHS has no concerns with this application. Mr. Richelhof stated that Stahlville Colony will need a permit from his department (AT) and requested that the existing highway access shall be removed and that the site shall be accessed through the municipal road only. A copy of the response was forwarded to the applicant for their information and action.

No other responses were received.

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

Municipal Development Plan (MDP) consistency

I have determined that the proposed CFO is consistent with the land use provisions of Wheatland County'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 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

6. Responses from municipalities 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.” Wheatland County is an affected party (and directly affected) because the proposed CFO is located within its boundaries.

Ms. Suzanne Hayes, a development officer with Wheatland County, provided a written response on behalf of Wheatland County. Ms. Hayes stated that the application is consistent with Wheatland County’s land use provisions of the municipal development plan. The application’s consistency with Wheatland County’s municipal development plan is addressed in Appendix A, attached.

Ms. Hayes also listed the setbacks required by Wheatland County’s land use bylaw (LUB) and noted that the application meets these setbacks.

Kneehill County is also a directly affected party because it is within the notification radius. Ms. Barb Hazelton, manager planning & development of Kneehill County stated in her response that Kneehill County has no concerns with this application. She also stated that the proposed site does not fall within any of the MDP buffer zones and that it is within the IDP boundary (IDP between Kneehill County and Wheatland County).

No other responses were received.

7. 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

8. Terms and conditions

Registration LA22016 specifies the cumulative permitted livestock capacity as 15,000 chicken layers and permits the construction of the layer barn with attached manure storage.

Registration LA22016 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 LA22016 includes conditions that generally address a construction deadline, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

9. Conclusion

Registration LA22016 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA22016.

October 3, 2022

(Original signed)
Carina Weisbach
Approval Officer

Appendices:

- A. Consistency with the municipal development plan and intermunicipal development plan
- B. Explanation of conditions in Registration LA22016

APPENDIX A: Consistency with the municipal development plan and intermunicipal 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.)

Stahlville Colony’s CFO is located in Wheatland County and is therefore subject to that county’s MDP. Wheatland County adopted the latest revision to this plan in 2018, under Bylaw #2013-18 Amendment 2018-40.

Section 3.1.3.1. of the MDP states that the county shall act as referral agency and respond in accordance with the MDP and LUB when the Natural Resources Conservation Board is processing applications for CFOs. In my interpretation, this is not a land use provision. Therefore, I will not consider this section in my consistency determination. Regardless, I notified the county.

As relevant here, section 3.1.3.2 of the MDP states that the county encourages CFOs on parcels on land of 160 acres or more. Stahlville Colony’s CFO is proposed to be located on a full quarter section and therefore meets this requirement.

In my view, the text in 4.4.2 of Wheatland County’s MDP also provides a clear intent to adopt provisions from the land use bylaw (LUB). Following the NRCB Operational Policy 2016-7: *Approvals*, part 8.2.3, I also consider Wheatland County’s Land Use #2016-01 (with its last amendment on March 24, 2020 under Bylaw 2020-04). Under that bylaw, the subject land is currently zoned as Agricultural General District. Confined feeding operations are not listed as a permitted, discretionary, or prohibited use. There is a general listing “Agricultural Operation” which does not require a permit. Section 4.2.7 of Part 4 specifies these as ‘an agricultural operation as defined in the Act on a parcel designated AG. This is understandable as Section 8.6 of the LUB states that the NRCB has full authority over CFOs and manure storage facilities and that applicants/landowners are responsible for obtaining the necessary permits required by the NRCB under AOPA.

In the county’s response, Ms. Hayes requested that the development observes all applicable setbacks. The new chicken layer barn meets all setbacks. I therefore determined that the development is consistent with the MDP and the county’s LUB.

Stahlville Colony is also located within the Intermunicipal Development Plan (IDP) boundary between Wheatland County and Kneehill County. The IDP was adopted by Kneehill County on March 24, 2020, under Bylaw #1806 and Wheatland County on May 19, 2020, under Bylaw #2019-33.

Stahlville Colony's CFO is not located in an area identified as needing environmental considerations or has historic resource value (Map 3 and 4). The lands where the CFO is located and the lands within a one mile radius are identified as Agriculture General. There are no other policies in the IDP that would directly relate to CFOs. I therefore conclude that this development is consistent with the IDP.

APPENDIX B: Explanation of conditions in Registration LA22016

a. Construction Deadline

Stahlville Colony proposes to complete construction of the proposed new layer barn with attached manure storage by January 31, 2024. This timeframe is considered to be reasonable for the proposed scope of work. The deadline of January 31, 2024 is included as a condition in Approval Registration LA22016.

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, Registration LA22016 includes conditions requiring:

- The concrete used to construct the liner of the manure collection and storage portion of the layer barn and 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.”
- Stahlville Colony to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the layer barn and attached manure storage.

The NRCB routinely inspects newly constructed facilities to assess whether the facilities were constructed according to their required design specifications. To be effective, these inspections must occur before livestock or manure are placed in the newly constructed facilities. Registration LA22016 includes a condition stating that Stahlville Colony shall not place livestock or manure in the manure storage portions of the new layer barn and attached manure storage until NRCB personnel have inspected the layer barn and confirmed in writing that they meet the approval requirements.