

Decision Summary RA22021

This document summarizes my reasons for issuing Approval RA22021 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA22021. 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 June 30, 2022, Zealand Farms Ltd. (Zealand) submitted a Part 1 application to the NRCB to construct a new 120,000 poultry broiler operation with the construction of two poultry barns (131.7 m x 20.1 m each).

The Part 2 application was submitted on July 11, 2022. On July 20, 2022, I deemed the application complete.

a. Location

The proposed CFO is located at NE 11-42-24 W4M in Ponoka County, roughly 17 km southeast of Ponoka, Alberta. The terrain is undulating with a general slope to the east, the southwest and 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 mile. (The NRCB refers to this distance as the “affected party radius.”)

A copy of the application was sent to Ponoka County, which is the municipality where the CFO is to be located. 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 Ponoka News on July 20, 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, 9 letters were sent to people identified by Ponoka 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 holder Ember Resources.

I received responses from AHS and AEP.

Mr. Gord Watt, an AHS environmental health officer/executive officer, indicated that AHS has no concerns with this application and included some comments under the Public Health Act and its regulations (see Appendix C for more details).

Ms. Laura Partridge, a senior water administration officer with AEP, indicated that application for water licensing and a groundwater evaluation report under the *Water Act* are required. The applicant is reminded that they need to obtain all applicable licences and permits.

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 Ponoka 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, 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." Ponoka County is an affected party (and directly affected) because the proposed CFO is located within its boundaries.

Mr. Peter Hall, the assistant chief administrative officer with Ponoka County, provided a written response on behalf of Ponoka County. Mr. Hall stated that the application is consistent with Ponoka County's land use provisions of the municipal development plan (MDP). The application's consistency with Ponoka County's MDP is addressed in Appendix A, attached.

Apart from municipalities, any member of the public may request to be considered "directly affected." The NRCB received five responses.

Of the five parties who submitted responses, three own or reside on land within the 0.5 mile 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)

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

The directly affected parties raised concerns regarding:

- Odours
- Increase in traffic
- Groundwater quantity and quality
- Property values
- Disposal of dead animals and predators
- Livestock diseases from manure piles, and avian flu
- Health risk (gases and diseases)
- Surface water quality (including manure application) and modification of the natural water drainage
- Power supply
- Completion of an environmental impact study
- Expansion on one of their existing operations instead of a new one

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.

Mr. Hall also noted that the application meets the setbacks required by Ponoka 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 Zealand must apply 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 September 7, 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 Ponoka County, submissions of other directly affected parties, and my own observations from a site visit

Consistent with NRCB policy (Approvals Policy 8.7.3), I presumed that the effects in 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 Ponoka County's response states that the application is consistent with their MDP.

10. Terms and conditions

Approval RA22021 specifies the cumulative permitted livestock capacity as 120,000 chicken broilers and permits the construction of two poultry barns.

Approval RA22021 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 RA22021 includes conditions that generally address construction deadlines, document submission and construction inspections. For an explanation of the reasons for these conditions, see Appendix D.

11. Conclusion

Approval RA22021 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA22021.

October 5, 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 RA22021

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.)

Zealand’s proposed CFO is located in Ponoka County and is therefore subject to that county’s MDP. Ponoka County adopted the latest revision to this plan on October 2018, under Bylaw #6-08 MDP.

Section 2 of the MDP contains eight numbered policies that relate to applications for new CFOs under AOPA. These eight policies are discussed below. (Three other MDP policies relate to CFOs below the AOPA permit threshold or to proposed residential developments near existing CFOs.)

Under policy 2.1, the county “encourages” the development of CFOs to add value to crop production and provide “more employment and income per acre of land.” However, policy 2.1 also states that the environment and neighbours’ rights “must be protected.” This policy likely isn’t a “land use provision,” but it provides a general context for interpreting and applying the other policies in section 2.

Policy 2.2 states the county’s “belief[] that very large CFOs are inappropriate in this part of Alberta, and requests the NRCB not to allow them here.” This policy defines “very large” as “more than ten times” the threshold for approvals in the Part 2 Matters Regulation under AOPA. In this case, a “very large” poultry CFO would have over 600,000 chicken broilers. Zealand’s proposed CFO is for only 120,000 chicken broilers, so the proposed CFO is consistent with this policy.

Policy 2.3 has two parts. The first part lists three setbacks and two exclusion zones for new or expanded CFOs. Zealand’s proposed CFO is not within any of these restricted areas.

The second part of policy 2.3 calls for “very strict conditions on manure handling and storage in the Chain Lakes and Maskwa Creek watersheds. This policy likely isn’t a “land use provision” because it calls for discretionary judgements about what conditions are “very strict.”

In addition, this policy may well be precluded from my consideration under section 20(1.1) of AOPA, which precludes an approval officer from considering MDP provisions “respecting tests or conditions related to the construction of or the site for a confined feeding operation or manure

storage facility” and regarding the land application of manure. Regardless, the proposed CFO meets AOPA’s technical requirements for manure handling and storage and those requirements are arguably “very strict.” In addition, the CFO is not within either of these watersheds. Therefore, the proposed CFO would be consistent with this section, if the section applied.

Policy 2.4 calls for the NRCB to “set strict rules for the timely incorporation of manure within a mile of any urban municipality or rural residence.” This is a “test or condition” under section 20(1.1) of AOPA, so I am precluded from considering this policy. At any rate, Zealand’s proposed CFO will be subject to the Standards and Administration Regulation under AOPA. This regulation arguably provides rules for the land application of manure, including timely incorporation in specified circumstances. These rules are arguably “strict,” which is consistent with this MDP policy.

Policy 2.5 precludes the siting of CFOs within two miles of “any lake” unless the “regulators” are “convinced” that the CFO’s manure management system is “fail-safe” and the CFO poses “no reasonable risk of contamination of the lake.” Policy 2.5 is likely not a “land use provision” because its “fail-safe” and “reasonable risk” tests call for discretionary, CFO-specific judgements. The provision may also be a “test or condition,” which I am precluded from considering by AOPA section 20(1.1). There are no lakes within 2 miles of the proposed CFO, and therefore, the proposed CFO would be consistent with this section, if the section applied. (McLean’s Lake is located approximately 3.5 km east of the proposed CFO location).

Policy 2.6 precludes new or expanded CFOs where there is “any risk that runoff will contaminate domestic water supplies.” Policy 2.6 likely is not a “land use provision” because it calls for discretionary judgements about acceptable risks. (On its face, “any risk” is a low risk threshold, but the threshold is presumably more than “minor” or “insignificant.”). At any rate, the proposed CFO meets AOPA’s operational and construction requirements, which are designed to minimize the risks to surface and groundwater.

Policy 2.8 states that “where a *new* CFO is proposed, the minimum distance separation (MDS) should be contained entirely within land owned by the operator of the CFO.” Policy 2.8 goes on to state that this requirement may be waived if the other party (neighbour) agrees to the MDS encroachment in writing.

Policy 2.8 uses, but essentially modifies, AOPA’s MDS requirements by measuring the AOPA-derived minimum distance of separation to the edge of an adjacent landowner’s property. In AOPA, the MDS is measured to the residential building located on that property rather than to the property line.

The NRCB’s board (see *Wyntjes*, Board Decision 2007-11 at 6 et seq.) and approvals policy (see NRCB Operational Policy 2016-7: *Approvals*, part 8.2.5) have made it clear that approval officers should not consider MDP provisions that are based on, but modify and render more stringent, AOPA’s MDS requirements. Thus, this policy cannot be considered for purposes of my MDS consistency determination. Regardless, Zealand’s proposed CFO application meets the AOPA MDS requirement, as noted in part six above.

Last, 2.11 states that the county “may develop policies to reduce the nuisance caused by the spreading of manure near residences,” including ones that require the immediate incorporation of manure and limits on the timing or rate of manure application. I am unaware of any manure application policies that the county has developed under policy 2.11. At any rate, section 20(1.1) of AOPA precludes me from considering policy 2.11 because it relates to manure application.

For these reasons, I conclude that the application is consistent with the relevant land use provisions of Ponoka County's MDP. As noted above, Ponoka County's response did not raise any concerns with this application, which confirms my conclusion.

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.)

Kerry & Lesley Grose and Michael & Jade Grose
Pt. SE 11-42-24 W4M

Kale & Tanya Jones
SE 11-42-24 W4M

Arvit & Rudolph Konrad
SE 11-42-24 W4M
NW 12-42-24 W4M
SW 12-42-24 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:

Jonathan McCaughey & Loretta Fairbrother
W1/2 10-42-24 W4M

Michael & Samantha Yadlos
NW 22-42-24 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 impacts to groundwater and surface water, modification of runoff, water quantity, increase in traffic (safety), livestock health, predators, concentration of many CFOs within 5 mile radius, stockpiling of manure, impact in the future of the community, and environmental impact study.

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 the 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 most 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

The directly affected parties (DAPs) raised the following concerns which are listed and summarized below, together with my analysis and conclusions:

1. **Increase in odours** – A couple of the people responding to the application expressed concern about a potential increase in odours and harmful gases. They live southeast of the proposed site and the prevailing winds come from the northwest.

Approval officer's conclusions:

AOPA's minimum distance separation (MDS) is a means for mitigating odours and other nuisance impacts from CFO facilities. Zealand's proposed CFO will be located outside of the required MDS from other existing residences. The closest neighbouring residence will be more than 740 m away from the nearest CFO facility. This distance exceeds the required 266 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 permitting 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 mostly 'Agriculture' (there is one country residential residence located 1,390 m from the proposed CFO). 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.

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). An NRCB inspector will investigate the concern.

2. **Road traffic and safety** – one of the parties was concerned about an increase in traffic posing a safety risk.

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** - Contamination of groundwater.

Approval officer's conclusions

As noted in the decision summary above, and documented in Technical Document RA22021, 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, I determined that groundwater monitoring is not required.

Regulations under AOPA set nutrient application limits to prevent 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** - Potential impact on groundwater quantity

Approval officer's conclusions

Alberta Environment and Parks (AEP) is responsible for licensing the use of groundwater and surface water in the province. The water licensing 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 licensing declarations listed in the Part 2 application form. (This declaration is on page 3 of 20 of Technical Document RA22021.)

AEP indicated in its response that an application for a water license and a groundwater evaluation report under the *Water Act* are required. The applicant is reminded that they need to obtain all applicable licences and permits

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

5. **Property values** – One of the parties indicated that the CFO will reduce the value of their farm property.

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, Zealand'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.

6. **Dead animal disposal and livestock diseases** - (predators, and animal disease transmission including avian flu) – A couple 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. Animal disease transmission including avian flu from the operation and the manure piles.

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.

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, including strict biosecurity protocols.

7. **Health risk and air quality (gases)** – A couple of the respondents were concerned about the transmission of zoonotic diseases, gas and chemical emissions from CFOs (pesticides, disinfectants, and litter treatments).

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.

In a letter dated July 21, 2022, an AHS Environmental Health Officer reviewed the application, and under the Public Health Act 2000 and its regulations, AHS has the following comments:

- That the water wells, that supply water for human consumption for the property served, as well as, any neighboring water wells, will be protected from possible contaminants from the manure and related sewage/manure handling equipment and storage. The closest neighbor's water well is reported as >600 meters away from the proposed site of the new barns.
- If there are any abandoned and/or unused wells on this property, they should be properly decommissioned.

- That the solid and liquid wastes generated from this nature and scope of operation, have been calculated and planned for accordingly, as per applicable Provincial legislation.
- That potential nuisances (for example – dust generation, flies, excessive noise, etc.) have been considered, so that appropriate control measures/best practices can be implemented, before impacting nearby residences and businesses.
- That the disposal of any dead chickens will be compliant with the Nuisance and General Sanitation Regulations, 2003 and any other applicable legislation.
- That the generation of any other type of solid and/or liquid wastes from this size and scale of operation, be compliant with the Nuisance and General Sanitation Regulations 2003, and any other applicable legislation.
- That the day-to-day operations and processes do not create or become, now or in the future, a nuisance.

The executive officer/public health inspector concluded his response by indicating that AHS has no objections to this application.

As the NRCB stated in its referral letter to the AHS, the NRCB is not responsible for enforcing the Nuisance and General Sanitation Regulations; however, Zealand is reminded that they are responsible for complying with this regulation.

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; however, at the time of issuing this decision, AHS has not yet submitted a letter addressing the health-related concerns.

As mentioned on the previous subsection # 7, AFRED monitors livestock diseases within the province and is able to address disease concerns should they arise.

Based on my experience, and from previous responses by AHS to similar health related concerns, general air quality is addressed and mitigated by the minimum distance separation (MDS), guidelines and industry best practices. AOPA's MDS is a means for mitigating odours and other nuisance impacts from CFO facilities. Zealand's proposed CFO will be located outside of the required MDS from other existing residences. The closest neighbouring residence will be more than 740 m away from the nearest CFO facility. This distance exceeds the required 266 m MDS to that residence. It is presumed that nuisance effects from the CFO facilities are acceptable if the MDS has been met.

8. **Surface water and modification of the natural water drainage** – All respondents have concerns related to the impact of the CFO on surface water quality. One of the respondents indicated that there are many bodies of water in the near vicinity (Palby Creek and Chain Lakes) that flow into Buffalo Lake. The individuals were concerned that the bodies of water will be contaminated. All the responses alleged that the applicants have conducted some dirt work activities regarding water drainage and modification of the natural water drainage and spring runoff.

Applicant's response:

A response to this concern submitted by the applicants on September 8, 2022 states the following:

... "We broke up the pasture on section 14 and we improved the land by cleaning up rock piles and filling in the holes that were left behind.

We also mowed the overgrown ditches and cleaned them up as the water was eroding the land because they were not maintained.

As we talked about in our conversation we have not done any dirt work in the field where the proposed CFO is going"...

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.

During my site visit, 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 the AOPA setbacks requirements.

Additionally, I consulted a topographic map to determine the general slope of the land. I found that the terrain at the site, where the poultry barns will be constructed, is undulating with a general slope to the east. Other areas of the land west and south of the location of the proposed barns are also undulating with a general slope to the west and southwest, and southeast, respectively.

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 RA22021, 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.

During a site visit on August 19, 2022, I did not notice any indication of any drainage work or runoff modification on the land where the proposed CFO will be constructed.

At the time of the site visit, and on their written response, the applicants indicated that they have not made any earth work or drainage modification of the land of the proposed CFO location. They have indicated that they have improved the land on section 14 north of the proposed CFO site, by cleaning up rock piles and filling in the holes towards the land on the south.

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

9. **Should the applicants expand one of their existing operations instead of a new one** – one respondent questioned that as Zealand already has multiple operations, why not build on one of these existing operations instead of contaminating other farm lands.

Approval officer's conclusion:

AOPA does not prescribe where a CFO should be located, or that must expand an existing operation before constructing a new one. AOPA stipulates only that the location must be consistent with the county's MDP, which is a county planning document, and that it must meet the required minimum distance separation from neighboring homes.

10. **Power usage** - One person had a concern regarding the impact of the power supply, cost, energy data usage.

Approval officer's conclusion:

AOPA does not prescribe the source of energy CFO operators must use at their CFO facilities.

11. **Environmental impact study** – Respondents questioned if an environmental and ecological study has been completed to see how the proposed changes to this land will impact the environment.

Approval officer's conclusion:

AOPA does not require that applicants must complete an environmental/ecological study as part of their application. The application must meet all AOPA requirement, including technical requirement set out in the regulations.

As indicated in section 6 of Decision Summary RA22021, the application meets all relevant AOPA requirements.

APPENDIX D: Explanation of conditions in Approval RA22021

Approval RA22021 includes several conditions, discussed below:

a. Construction Deadline

Zealand 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 RA22021.

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 RA22021 includes conditions requiring:

the concrete used to construct the liner of the manure collection and storage portion of the two 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.” Zealand 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 RA22021 includes conditions stating that Zealand shall not place livestock 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.