

Decision Summary RA22025

This document summarizes my reasons for issuing Authorization RA22025 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA22025. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at www.nrcb.ca under Confined Feeding Operations (CFO)/CFO Search. My decision is based on the act and its regulations, the policies of the NRCB, the information contained in the application, and all other materials in the application file.

Under AOPA this type of application requires an authorization. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On September 6, 2022, Dennis Wickersham on behalf of Chinook-Ridge Poultry Farm Ltd. (Chinook-Ridge) submitted a Part 1 application to the NRCB to build a new broiler breeder laying barn (67.6 m x 13.1 m) (barn #5) at an existing chicken broiler breeder CFO. The application also includes decommissioning one of the existing broiler breeder laying barns (barn #2).

The Part 2 application was submitted on February 27, 2023. On March 6, 2023, I deemed the application complete.

The application also notified the NRCB of the proposed construction of a connecting walkway between the new and an existing barn #4 (12.2 m x 6.7 m). This facility is an “ancillary structure,” under section 1(1)(a.1) of the *Agricultural Operations, Part 2 Matters Regulation*, because it will not be used to store or collect manure or to confine livestock. Therefore, under section 4.1 of that regulation, this structure does not need to be permitted under the act.

a. Location

The existing CFO is located at SE 5-31-25 W4M in Kneehill County, roughly 3.5 km north of Linden, Alberta. The terrain is slightly undulating sloping to the west.

b. Existing permits

The CFO is already permitted under Approval RA16008.

2. Notices to affected parties

Under section 21 of AOPA, the NRCB notifies all parties that are “affected” by an authorization application. Section 5 of AOPA’s Part 2 Matters Regulation defines “affected parties” as:

- the municipality where the CFO is located or is to be located
- in the case where part of a CFO is located, or is to be located, within 100 m of a bank of a river, stream or canal, a municipality entitled to divert water from that body within 10 miles downstream
- any other municipality whose boundary is within a notification distance. In this case, the notification distance is 0.5 mile(s) (805 m) from the CFO

A copy of the application was sent to Kneehill County, which is the municipality where the CFO is located. The CFO is not located within 100 m of the bank of the river, stream or canal.

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 Protected Areas (EPA), and Alberta Transportation and Economic Corridors (TRAN).

I also sent a copy of the application to Harvest Hills Gas Co-op Ltd., Ember Resources Inc., and Canadian Utilities Limited (a subsidiary of ATCO).

I did not receive responses from any these organizations.

4. Municipal Development Plan (MDP) consistency

I have determined that the proposed construction is consistent with the land use provisions of Kneehill 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 construction:

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS) with an exemption under Section 3(5)(c) of the Standard and Administration Regulation (The proposed barn is within the footprint of the existing CFO and away from the closest neighboring residences).
- Meets the required AOPA setbacks from water wells, springs, and common bodies of water
- Has sufficient means to control surface runoff of manure
- Meets AOPA groundwater protection requirements for the design of floors and liners of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 8, the application meets all relevant AOPA requirements.

6. Responses from the municipality

Directly affected parties are entitled to a reasonable opportunity to provide evidence and written submissions relevant to the application and are entitled to request an NRCB Board review of the approval officer's decision. Not all affected parties are "directly affected" under AOPA.

Municipalities that are affected parties are identified by the act as "directly affected." Kneehill County is an affected party (and directly affected) because the proposed construction is located within its boundaries.

Ms. Barb Hazelton, the manager of planning and development with Kneehill County, provided a written response on behalf of the county. Ms. Hazelton stated that the county has no concern with this application. The application's consistency with Kneehill County's municipal development plan is addressed in Appendix A, attached.

7. Environmental risk of 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 or groundwater monitoring for the facility. In this case a determination was made, and monitoring is not required.

When reviewing a new authorization application for an existing CFO, NRCB approval officers assess the CFO's existing buildings, structures, and other facilities. In doing so, the approval officer considers information related to the site and the facilities, as well as results from the NRCB's environmental risk screening tool (ERST). The assessment of environmental risk focuses on surface water and groundwater. The ERST provides for a numeric scoring of risks, which can fall within either a low, moderate, or high risk range. (A complete description of this tool is available under CFO/Groundwater and Surface Water Protection on the NRCB website at www.nrcb.ca.) However, if those risks have previously been assessed, the approval officer will not conduct a new assessment unless site changes are identified that require a new assessment, or the assessment was supported with a previous version of the risk screening tool and requires updating. See NRCB Operational Policy 2016-7: Approvals, part 8.13.

In this case, the risks posed by Chinook-Ridge's existing CFO facilities were assessed in 2016 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

The circumstances have not changed since that assessment was done. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

8. Terms and conditions

Authorization RA22025 permits the construction of the broiler breeder laying barn #5.

Authorization RA22025 contains terms that the NRCB generally includes in all AOPA authorizations, including terms stating that the applicant must follow AOPA requirements and must adhere to the project descriptions in their application and accompanying materials.

In addition to the terms described above, Authorization RA22025 includes conditions that generally address a construction deadline, document submission, a construction inspection, and decommissioning of a barn. For an explanation of the reasons for these conditions, see Appendix B.

9. Conclusion

Authorization RA22025 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA22025.

Authorization RA22025 must be read in conjunction with NRCB previously issued Approval RA16008 which remains in effect.

May 5, 2023

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

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization RA22025

APPENDIX A: Consistency with the municipal development plan

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

Chinook-Ridge’s CFO is located in Kneehill County and is therefore subject to that county’s MDP. Kneehill County adopted the latest revision to this plan on February 23, 2021, under Bylaw #1829.

As relevant here:

Policy 11 of the MDP under Agriculture, states that “no new or expansions of existing confined feeding operations (CFOs) will be allowed in the following areas:

- (i) In hazard lands or environmentally sensitive lands as defined by the province and the 2010 Summit Report,
- (ii) Within 1.6 kilometres (1 mile) of any hamlet or grouped Country Residential development, or
- (iii) Within 1.6 kilometres (1 mile) of an urban fringe area or an Inter-municipal Development Plan boundary

Chinook-Ridge’s application is not for a new CFO or an expansion of a CFO; regardless, the CFO is not located within any of these setbacks or exclusion zones.

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

APPENDIX B: Explanation of conditions in Authorization RA22025

Authorization RA22025 includes several conditions, discussed below:

a. Construction Deadline

Chinook-Ridge proposes to complete construction of the proposed broiler breeder laying barn by August 15, 2023. This time frame is unrealistic due to the time required for the permitting process, as well as the length of time needed to obtain the liner materials. It is my opinion that a deadline that allows more construction seasons is more reasonable for the proposed scope of work. The deadline of November 30, 2025 is included as a condition in Authorization RA22025.

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, Authorization RA22025 includes a condition requiring:

the concrete used to construct the liner of the manure collection and storage portion of the broiler breeder laying barn 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.” Chinook-Ridge shall provide documentation 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. Authorization RA22025 includes a condition stating that Chinook-Ridge shall not place livestock or manure in the manure storage or collection portions of the new broiler breeder laying barn until NRCB personnel have inspected it and confirmed in writing that it meets the authorization requirements.

c. No livestock or manure allowed in the existing broiler breeder laying barn #2.

As noted by the applicant, the existing broiler breeder laying barn #2 is no longer being used to store manure or house animals. Therefore, Authorization RA22025 includes a condition prohibiting Chinook-Ridge from placing manure or livestock in this facility.