

## Decision Summary LA23037

This document summarizes my reasons for issuing Approval LA23037 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA23037. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at [www.nrcb.ca](http://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](http://www.nrcb.ca).

### 1. Background

On August 22, 2023, Wild Rose Hutterian Brethren (Wild Rose) submitted a Part 1 application to the NRCB to expand an existing multi species CFO.

The Part 2 application was submitted on November 9, 2023. On November 22, 2023, I deemed the application complete.

The proposed expansion involves:

- Increasing livestock numbers from 15,000 to 30,000 chicken layers
- Constructing a new poultry layer barn – 77.4 m x 15.2 m
- Constructing a new under-roof dry cow / replacement shed – 123.6 m x 40.6 m

#### a. Location

The existing CFO is located at the W ½ 30-16-25 W4M and SE 30-16-25 W4M in Vulcan County, roughly 10 km southwest of the town of Vulcan, Alberta. The terrain slopes gently to the north. The closest surface water body is an ephemeral creek approximately 340 m west of the proposed layer barn, which drains into a marsh in the NW corner of the section.

#### b. Existing permits

The CFO is grandfathered under section 18.1 of AOPA, with a deemed approval (including municipal development permits #88-004, #88-017, and #89-008). To date, the CFO is permitted under NRCB Approval LA17017. The approval officer's decision for Approval LA17017 determined the CFO's deemed facilities.

Approval LA17017 allowed the construction and operation of a 120 dairy milking cows (plus dries and replacements), 340 swine farrow to finish, 15,000 chicken layers, 15,000 chicken pullets, 800 ducks, 350 geese, and 1,000 chicken broilers CFO. The CFO's existing permitted facilities are listed in the appendix to the Approval LA23037.

## **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 1.5 miles. (The NRCB refers to this distance as the “notification distance”.)

None of the CFO facilities are located within 100 m of a bank of a river, stream or canal.

A copy of the application was sent to Vulcan County, which is the municipality where the CFO is located. The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in Vulcan Advocate online newspaper in circulation in the community affected by the application on November 22, 2023, and
- sending 12 notification letters to people identified by Vulcan County as owning or residing on land within the notification distance.

The full application was also made available for viewing at the NRCB’s Lethbridge office during regular business hours.

## **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), Alberta Environment and Protected Areas (EPA), and Alberta Transportation & Economic Corridors (TEC).

I also sent a copy of the application to Sunshine Gas Coop Ltd. and Fortis Alberta Inc. as they are right of way (ROW) easement holders.

The NRCB received responses from Courtney Hlady, a land use specialist / public health inspector with AHS; Jeff Gutsell, a hydrogeologist with EPA, and Leah Olsen, a development and planning technologist with TEC. These responses did not object to the proposed expansion.

Leah Olsen stated in their response that a permit will not be required from TEC. The responses received from AHS and EPA are discussed further in Appendix C.

No responses were received from ROW easement holders.

## **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.

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.

## **4. Municipal Development Plan (MDP) consistency**

I have determined that the proposed expansion is consistent with the land use provisions of Vulcan 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 expansion:

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS)
- Meets the required AOPA setbacks from water wells, springs, and common bodies of water
- Has sufficient means to control surface runoff of manure
- Meets AOPA's nutrient management requirements regarding the land application of manure
- Meets AOPA groundwater protection requirements for the design of floors and liners/protective layers of manure storage facilities and manure collection areas

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

## **6. 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." Vulcan County is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Alena Matlock, a development officer with Vulcan County's planning and development department, provided a written response on behalf of Vulcan County. Alena stated that the application is consistent with the land use provisions in Vulcan County's municipal development plan (MDP) and the CFO falls outside the confined feeding operation exclusion zone. Additionally, Alena stated that the land zoning for the surrounding areas (1,600 m) is rural general, and it appears the proposal meets the required setbacks, however it was not confirmed in the application. The application's consistency with the land use provisions of Vulcan County's municipal development plan is addressed in Appendix A, attached.

Apart from municipalities, any member of the public may request to be considered “directly affected.” The NRCB received responses from 2 parties.

All of the 4 people (2 parties) who submitted responses own or reside on land within the 1.5 mile notification distance for affected persons. Because of their location within this distance, and because they submitted a response, they qualify for directly affected party status. (See NRCB Operational Policy 2016-7: Approvals, part 7.2.1)

The directly affected parties raised concerns regarding expansion and the concerns they have encountered with the existing CFO. These concerns are addressed in Appendix B.

## **7. Environmental risk of CFO facilities**

When reviewing a new approval 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](http://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 9.17.

In this case, the risks posed by Wild Rose’s existing CFO facilities were assessed in 2017 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

There have been no changes related to groundwater or surface water protection, water wells, or CFO facilities 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. 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.

Alena Matlock stated the application appears to meet the setbacks required by Vulcan County’s land use bylaw (LUB) however, they could not confirm as the distances were not illustrated. The facilities’ proposed locations are illustrated on the site plan of page 3 of Technical Document LA23037. According to the site plan the applicant submitted, the proposed facilities are more than 38.1 m from the centre line of Range Road 260 and Township Road 164. Property lines were not identified by the County or the applicant. Upon review of the *Vulcan County Ownership Map* (Alberta, Canada, 2023), the proposed facilities are more than 7.6 m from the property lines.

I have considered the effects the proposed facilities may have on natural resources administered by provincial departments. EPA has not made me aware of statements of concerns submitted under section 73 of the *Environmental Protection and Enhancement Act* / section 109 of the *Water Act* in respect of the subject of this application. Furthermore, the application meets AOPA's technical requirements.

I am not aware of a written decision of the Environmental Appeals Board for this location (<http://www.eab.gov.ab.ca/status.htm>), accessed January 9, 2024.

Finally, I considered the effects of the proposed expansion on the environment, the economy, and the community, and the appropriate use of land.

Consistent with NRCB Operational Policy 2016-7: Approvals, part 9.10.9, 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.

Consistent with NRCB Operational Policy 2016-7: Approvals, part 9.10.9, 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.

I also presumed that the proposed expansion 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 9.10.9). In my view, this presumption is not rebutted.

## 9. Terms and conditions

Approval LA23037 specifies the cumulative permitted livestock capacity as:

- 120 dairy milking cows (plus dries and replacements)
- 340 swine farrow to finish
- 30,000 chicken layers,
- 15,000 chicken pullets,
- 800 ducks,
- 350 geese, and
- 1,000 chicken broilers

Approval LA23037 also permits the construction of the proposed layer barn and under-roof dry cow / replacement shed.

Approval LA23037 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 LA23037 includes conditions that generally address construction deadline(s), document submission, and construction inspection. For an explanation of the reasons for these conditions, see Appendix D.

For clarity, and pursuant to NRCB policy, I consolidated the following permit with Approval LA23037: LA17017 (see NRCB Operational Policy 2016-7: Approvals, part 11.5). Permit consolidation helps the permit holder, municipality, neighbours and other parties keep track of a

CFO's requirements, by providing a single document that lists all the operating and construction requirements. Consolidating permits generally involves carrying forward all relevant terms and conditions in the existing permits into the new permit, with any necessary changes or deletions of those terms and conditions. This consolidation is carried out under section 23 of AOPA, which enables approval officers to amend AOPA permits on their own motion.

## **10. Conclusion**

Approval LA23037 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA23037.

Wild Rose's NRCB-issued Approval LA17017 is therefore superseded, and its content consolidated into this Approval LA23037, unless Approval LA23037 is held invalid following a review and decision by the NRCB's board members or by a court, in which case LA17017 will remain in effect.

January 17, 2024

(Original signed)  
Cailyn Wilson  
Approval Officer

## **Appendices:**

- A. Consistency with the municipal development plan
- B. Determining directly affected party status and concerns
- C. Responses from Alberta Health Services (AHS) and Environment and Protected Areas (EPA)
- D. Explanation of conditions in Approval LA23037

## **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.

“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 9.2.7.)

Wild Rose’s CFO is located in Vulcan County and is therefore subject to that county’s MDP. Vulcan County adopted the latest revision to this plan on April 4, 2012, under Bylaw 2012-003.

Part 4 of Vulcan County’s MDP deals specifically with CFOs. Sections 4.1 to 4.3 of the MDP provide specific provisions for proposed CFO expansions.

Section 4.1 precludes CFO expansions in any of the exclusion zones shown in Appendix B of the MDP. Wild Rose’s CFO is not located in any of the exclusion areas shown in this appendix.

Sub-sections 4.2(a), (c) and (d) of the MDP establish several setbacks to roads. None of the proposed CFO facilities are within any of these setbacks.

Sub-section 4.2(b) states that applications for CFOs near a highway “should be referred to Alberta Transportation for a roadside development permit.” This is likely not a land use provision (and, therefore, is not relevant to my MDP consistency determination), because of its procedural focus. At any rate, as noted in part 3 of the decision summary above, the NRCB notified Alberta Transportation of the Wild Rose’s application and that department stated that no such permit is necessary.

Sub-sections 4.3(a) and (b) of the MDP list two factors that the NRCB “should consider” in its review of approval applications. These factors are:

- (a) the cumulative effects of a new approval on any area near other existing confined feeding operations [and]
- (b) impacts on environmentally sensitive areas shown in the report, “Vulcan County: Environmentally Sensitive Areas in the Oldman River Region”

Sub-section (a) is likely not a “land use provision,” because it calls for project-specific, discretionary judgements about the types of cumulative effects that should be considered and the acceptable maximum levels of each of those effects.

Sub-section (b) is also likely not a “land use provision,” as it calls for project-specific, discretionary judgements about the acceptable levels of impacts on environmentally sensitive areas. Nevertheless, Wild Rose’s CFO site is not within any environmentally sensitive area shown in the report referenced in the MDP.

Sub-section 4.3(c) calls for “*giving notice to adjacent landowners*” of AOPA permit applications. This policy is likely not a “land use provision” because of its procedural focus and is therefore not part of my consistency determination. Having said that, as required by AOPA, the NRCB notified Vulcan County, several referral agencies and placed public notification in the Vulcan Advocate on November 22, 2023. In addition, courtesy letters informing parties of the application, were sent to landowners or occupants within a 1.5 mile radius, as identified by Vulcan County. (see section 2 above).

Lastly, sub-section 4.3(d) of the county’s MDP calls for the NRCB to consider:

*“proof of the availability of water, specifically, confirmation of access and appropriate provision of the sufficient quantity and suitable quality of the required water supply.”*

This sub-section is likely not a “land use provision”. Therefore, this sub-section is likely not relevant to my MDP consistency determination (beyond the MDP consistency context, under NRCB policy, approval officers will consider water supply issues only to the extent of requiring applicants to sign one of the water licensing declarations on page 6 of Technical Document LA23037. See Operational Policy 2016-7: Approvals, part 8.15). Additionally, Wild Rose submitted their “*Licence to Divert Water*” with application LA23037.

For these reasons, I conclude that the application is consistent with the land use provisions of Vulcan County’s MDP. The county’s response supports my conclusion.



## APPENDIX B: Determining directly affected party status and concerns

The following individuals qualify for directly affected party status because they submitted a 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:

- Arlene Andrews-Irwin and D. Larraine Andrews (C.H. Andrews Farms Ltd.)
  - E ½ 32-16-25 W4M
- Chris Irwin and Arlene Andrews-Irwin (Krleen Farms Ltd.)
  - E ½ 32-16-25 W4M

C.H Andrews Farms and Krleen Farms Ltd. individually submitted responses to application LA23037. These two responses collectively had the following concerns, followed by my comments. Responses were forwarded to Wild Rose for their consideration and opportunity to reply.

See NRCB Operational Policy 2016-7: Approvals, part 7.2.1.

### Concerns

#### **a.) Odour from operations**

*Sow farrow to finish barns and manure that is spread at the CFO emit odours any time of the year. Odour is inescapable with south westerly winds. Proposed expansion has similar concerns.*

#### Approval officer comments:

Both parties had concerns regarding the odour associated with the CFO, and more specifically, the two hog barns (swine farrow to finish barns) permitted in municipal development permit # 88-004. These concerns were extended to the proposed expansion. This application is specific to the proposed construction of a poultry layer barn, and a under-roof dry cow / replacement shed, not the existing and permitted swine facilities, therefore I will address this concern specific to the proposed facilities in this application.

AOPA’s minimum distance separation (MDS) requirements are a proxy for minimizing odours, flies, and other nuisance effects from CFOs. The proposed CFO meets the MDS to all neighbouring residences. It is presumed that nuisance effects from a proposed CFO will be acceptable if the MDS has been met. Complaints about CFO-related issues can be reported to the NRCB’s 24-hour reporting line (1-866-383-6722). Neighbours can also call any NRCB office during regular business hours if they have questions about permit conditions or ongoing AOPA operational requirements.

#### **b.) Non-compliance and enforcement (previous and future)**

*Sow farrow to finish barns permit requirements have been ignored. Complaints from neighbours have been ignored. Future complaints and non-compliance will be ignored.*

#### Approval officer comments:

AOPA provides the NRCB with regulation of the on-site storage and land application of manure produced by CFOs. All CFO operators are required to comply with the act’s requirements, and the conditions of their AOPA permits. Section 2.4 of the *Compliance and Enforcement Operational Policy* (See Operational Policy 2016-8) states that:

*“Voluntary compliance with legislation, regulations, and permit conditions is encouraged and expected. The NRCB assumes that individual operators are responsible, law abiding citizens who share an interest in, and a commitment to, the agricultural community and to society in general. The NRCB will use appropriate enforcement action with those operators who choose not to be part of this group. Public and industry confidence in the NRCB’s regulatory mandate depends on actions the NRCB takes to assure that activities are conducted in accordance with the legislation.” (NRCB Operational Policy 2010-1: Compliance and Enforcement, p. 3)*

Under NRCB policy, approval officers will generally not address the applicant’s past compliance record as part of their decision to issue a permit, unless there is evidence of intentional and persistent past non-compliance (See Operational Policy 2016-7: *Approvals*, part 9.16.2). To date, the NRCB has not taken any enforcement action relating to this CFO.

Complaints about CFO-related issues can be reported to the NRCB’s 24-hour reporting line (1-866-383-6722). Neighbours can also call any NRCB office during regular business hours if they have questions about permit conditions or ongoing AOPA operational requirements.

### **c.) Manure application**

*Manure is not “shanked” in and is spread openly on surrounding fields.*

#### Approval officer comments:

AOPA includes several provisions for manure spreading to protect surface water and to minimize potential runoff of manure into surface water bodies.

Manure application is addressed in sections 24(1), and 24(5) of the Standards and Administration Regulation. Manure application on land is not a permitting consideration, except that applicants are required to demonstrate that they have enough arable land available to apply manure for the first year of operation. The regulations provide rules for manure application as an ongoing operating matter, rather than a permitting matter. Section 24 requires manure to be incorporated within 48 hours of application when it is applied to cultivated land. Incorporation reduces odours by working the manure into the soil.

Alternatively, Section 24(5)(a) allows manure to be applied (without incorporation) on tame forage and directly seeded crops, which is often done in order to conserve the soil. When this is done manure must be applied at least 150 m away from any residence and must meet the setback requirements to common bodies of water.

AOPA has requirements to protect the soil, groundwater, and surface water from excessive application of manure nutrients (Section 25 Standards and Administration Regulation). These include soil testing requirements, soil salinity limits, nitrate-nitrogen limits, and setbacks from water bodies, water wells, and residences. Operators are required to keep manure spreading and soil sampling records and must provide them to the NRCB upon request.

Operating condition 11 in Approval LA17017 addresses manure application, and many of the concerns raised by the directly affected parties. Operating condition 11 will be carried forward into Approval LA23037.

**d.) Climate change (higher temperatures, reduced rainfall, and overall drought)**

*Concern of the threat to assured sourced of water to meet existing human and livestock consumption with ongoing effects of climate change.*

Approval officer comments:

The impact of climate change is outside the current technical requirements in the Standards and Administration Regulation of AOPA. However, climate change could be submitted in a response as an “effect on the community”. This concern, however, is too general to be meaningfully remedied in the permitting context.

**e.) Effects of operation on water table, and potential for groundwater contamination**

*Possible water contamination with operation*

Approval officer comments:

Several sections of the Standards and Administration Regulation under AOPA are intended to prevent groundwater contamination from manure storage facilities. Sections 9(2) and (3) of the regulation prohibit construction less than one metre above the water table at the site “*at the time of construction.*”

A geotechnical site investigation, submitted as part of Authorization LA04026, indicates that the depth of groundwater is variable, with the shallowest groundwater encountered at 3.5 m below grade (some boreholes however were dry). All facilities are proposed to be constructed at grade. Therefore, all facilities meet the requirement.

As for the potential impact on groundwater, several of AOPA’s technical requirements are specifically designed to prevent or minimize manure seepage from CFO facilities and thus to prevent CFO manure from reaching and contaminating groundwater. Because the proposed CFO facilities meet these requirements, they pose a low risk to groundwater.

**f.) Decline in quality of life**

*Odour decreases the quality of life of surrounding residents*

Approval officer comments:

This factor is relevant to my consideration of “effects on the community.” As explained in part 9 of the decision summary, above, following NRCB policy, I presumed that the effects of the proposed CFO expansion on the community are acceptable because the application meets the land use provisions of the municipal development plan, and the municipality didn’t specifically preclude CFOs from this area under its land use bylaw.

The application’s consistency with the South Saskatchewan Regional Plan (see part 9 above), provides further support for my conclusion that its effects on the community are acceptable. As explained previously, the nuisance effects will likely be within an acceptable range because the CFO meets the MDS requirements. MDS is a means for mitigating nuisance impacts.

**g.) Decline in property value**

*Consequent erosion in property value*

Approval officer comments:

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 and land use bylaws." (see, e.g. the Board decision in Brad Towle, RR 2017-09 at pg. 3.)

**h.) Water availability and demands**

*Unrealistic demands of water with the proposed expansion*

Approval officer comments:

Alberta Environment and Protected Areas (EPA) 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 application, other than ensuring that applicants sign one of the water licensing declarations and source of water listed in the Part 2 application form.

Wild Rose chose the declaration indicating additional water licences are not required for the proposed expansion. Additionally, Wild Rose submitted a copy of their current "Licence to Divert Water" from the Little Bow River, indicating the annual water allocation of 38,271 m<sup>3</sup> (see page 9 -11 Technical Document LA23037).

In their response to application LA23037, EPA states that Wild Rose must assess their total water requirements for their current operation (animals and people). Wild Rose has been reminded that they are responsible for obtaining sufficient licenced water for their proposed expansion. EPA's response is discussed further in Appendix C.

**i.) Courtesy notice radius**

*The 1.5-mile notification radius is unrealistic with wind strength (chinooks). Should be a 5-mile radius.*

Approval officer comments:

The notification distance for this size of application is 1.5 miles (prescribed by section 5 of the Part 2 Matters Regulation), is based on the size of the CFO (type and number of livestock). Notification letters were mailed to people who live or own land within the notification distance of the operation, based on the names and addresses provided by Vulcan County.

The notification letters identified what was being proposed. The notice was posted in the *Vulcan Advocate* on November 22, 2023. Notice was also posted on the NRCB's website. This notice was completed in accordance with AOPA requirements, and approval officers do not have discretion to alter the prescribed notification distance.

Irrespective, parties living outside of the notification distance are free to respond to the notice to express their support for or concerns with what is being applied for.

Alberta Agriculture and Irrigation is responsible for developing and updating AOPA and its associated regulations, while the NRCB is responsible for administering the regulations. Inquiries and comments relating to AOPA requirements can be submitted directly to Alberta Agriculture and Irrigation.

## **APPENDIX C: Responses from Alberta Health Services (AHS) and Environment and Protected Areas (EPA)**

### **a. Alberta Health Services (AHS)**

As noted in part 3 above, AHS did not object to the application. However, in their response letter, an AHS land use specialist / public health inspector provided several comments quoted below, followed by my response:

*As there are existing wells on the subject property, all efforts should be made to ensure adequate protection of groundwater, surface water and drinking water during all phases of construction and operation of the facilities on site. Regardless of their intended use, AHS-EPH strongly recommends that a full assessment of all water wells on the property be conducted and, where necessary, appropriate mitigation measures be put in place to protect the groundwater from becoming contaminated.*

Under section 7(2)(b) of the Standards Regulation, an approval officer may require an owner of a manure storage facility to monitor groundwater from a water well as a condition for granting an exemption from the 100 m setback requirement. When granting water well setback exemptions, approval officers consider relevant risks to determine whether water well monitoring is required. These risks include factors such as the well's construction, the proximity to the manure storage facility, the site characteristics and measures taken to protect the well from contamination (i.e. mounding around the well). The NRCB's water well exemption screening tool is also used to determine whether an exemption should be granted.

Approval LA17017 exempts water well ID #160201 as it is located with 100 m from the permitted calf barn and dairy barn additions. As discussed in this decision summary, there are no water wells within 100 m of the proposed facilities associated with this application.

Several of AOPA's requirements are designed to prevent or minimize manure leakage from CFO facilities and prevent CFO manure from reaching and contaminating both groundwater and surface water. Because the proposed CFO meets these requirements, it is not considered to pose a material risk to groundwater or surface water.

*Given the location of the neighboring residences, AHS would suggest a process be established (if not already in place) to allow for open communication with potentially affected parties to address any complaints that could arise pertaining to noise, odors or other elements of concern.*

The NRCB encourages operators to communicate with neighbours with respect to concerns or issues that may be related to manure or the CFO itself. In any event concerns or non-compliance can be directed towards the NRCB's complaint line at 1-866-383-6722. An NRCB inspector will follow up on the complaint.

*If complaints are received by AHS-EPH with respect to construction or operations on the subject lands, AHS-EPH will work in association with NRCB to address any public health issues. This could include the implementation of appropriate mitigation strategies (e.g., odor management, emissions monitoring, groundwater monitoring etc.) as deemed appropriate.*

NRCB inspectors respond to complaints received about the ongoing operation of a CFO. (Complaints can be reported through the NRCB's 24-hour complaint line: 1-866-383-6722 or toll free at 310-0000. The NRCB welcomes receiving any complaints that are submitted to AHS and NRCB inspectors will endeavor to work with AHS, as appropriate, to resolve those complaints.

*If any evidence of contamination or other issues of public health concern are identified at any time, AHS-EPH wishes to be notified.*

It is NRCB protocol to inform AHS if the NRCB becomes aware of human health-related impacts arising from a CFO.

As noted in the decision summary above, and further documented in Technical Document LA23037, the proposed expansion meets all AOPA technical requirements. Several of these requirements are designed to prevent or minimize manure leakage from CFO facilities and thus to prevent CFO manure from reaching and contaminating groundwater. Because the proposed expansion meets these requirements, it will not pose a material risk to groundwater. The proposed facilities meet MDS requirements, which mitigate nuisance impacts.

#### **b. Environment and Protected Areas (EPA)**

As noted in part 3 above, EPA did not object to the application. However, in their response letter, an EPA hydrogeologist provided several comments below, followed by my response:

EPA stated in their response that Wild Rose has not submitted an application for a groundwater licence to address water needs, and it is unclear whether the applicant has sufficient water volumes for their operation. Additionally, Wild Rose is not within an irrigation district, and must assess their total water requirements for their current and expanding operations (humans and animals), and determine if there is legal, and sufficient water allocations.

In their response, EPA also stated that there are a number of groundwater and surface water diversion authorizations on the legal land description the CFO is located on. According to the Alberta Water Well Information Database, 12 water well logs are located SE and W ½ 30-16-25 W4M, with 9 of these water wells appearing to be active.

As explained in Appendix B above, EPA is responsible for licencing the use of water in the province. Wild Rose submitted a *Licence to Divert Water* from the Little Bow River to the SE 30-016-26 W4M, allowing the diversion of 38,271 m<sup>3</sup> annually, and *Licence Amendment* to correct a clerical error of no expiry date to September 7<sup>th</sup>, 2030 (pages 9- 11 of Technical Document LA23037). During the site visit on November 26<sup>th</sup>, 2023, the applicant stated that the attached surface water agreement is used for their agricultural purposes and *chose Option 3: Additional water licence not required of the Declaration and Acknowledgment of Applicant Concerning Water Act Licence* (see page 6 of Technical Document LA23037).

## **APPENDIX D: Explanation of conditions in Approval LA23037**

Approval LA23037 includes several conditions, discussed below, and carries forward all non-redundant terms and conditions from Approval LA17017. Construction conditions from historical NRCB permits and municipal development permits that have been met are identified in the appendix to Approval LA23037.

### **1. New conditions in Approval LA23037**

#### **a. Construction Deadline**

Wild Rose proposes to complete construction of the proposed new poultry layer barn and dry cow-calf shed by November 30, 2027. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of November 30, 2027, is included as a condition in Approval LA23037.

#### **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 LA23037 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the poultry layer 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.”
- b. the concrete used to construct the liner of the manure collection and storage portion of the under-roof dry cow / replacement shed 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.”
- c. Wild Rose to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the poultry layer barn and under-roof dry cow / replacement shed.

The NRCB routinely inspects newly constructed facilities to assess whether the facilities were constructed in accordance with the permit requirements. To be effective, these inspections must occur before livestock or manure are placed in the newly constructed facilities. Approval LA23037 includes a condition stating that Wild Rose shall not place livestock or manure in the manure storage or collection portions of the new poultry layer barn under-roof dry cow / replacement shed until NRCB personnel have inspected the facilities and confirmed in writing that it meets the approval's requirements.