

## Decision Summary LA24048

This document summarizes my reasons for issuing Registration LA24048 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA24048. 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 a registration. For additional information on NRCB permits please refer to [www.nrcb.ca](http://www.nrcb.ca).

### 1. Background

On November 20, 2024, Simon John and Sharon Erkelens, on behalf of Craft Quality Poultry Ltd. (Craft Quality Poultry), submitted a Part 1 application to the NRCB to construct a new poultry CFO.

The Part 2 application was submitted on November 26, 2024. On January 7, 2025, I deemed the application complete.

The proposed CFO involves:

- permitting 20,000 quail layers
- permitting 300 chicken layers
- converting the existing quonset into a quail layer barn – 15.2 m x 27.4 m
- converting the existing chicken coop into a chicken layer barn – 4.6 m x 9.1 m
- constructing a solid manure pad (with pony wall) – 7.3 m x 7.3 m

In the past, the chicken coop was used to house below-threshold chicken layers for personal use. Therefore, it was not considered an AOPA facility. The proposed CFO is now over threshold and requires that this facility meets AOPA standards.

Section 5.1 of the Part 2 Matters and Regulations states that an approval officer may determine anything necessary to apply the regulations if a type of livestock is not listed in the Schedules. Quail are not included in the Schedules, but NRCB and Alberta Agriculture and Irrigation have developed “Interim Guideline for Quail and Pheasants – Threshold Numbers and Factors for Calculating MDS – Feb. 9, 2017” that states that two quail is equal to one broiler chicken. I used this equivalency for determining minimum distance separation and land base for manure spreading.

The current owner of the parcel of land where the CFO is proposed to be located is Marie Horvath. The owner of the CFO is Craft Quality Poultry Ltd. For these reasons, and under NRCB Operational Policy 2016-7: Approvals, part 6, the co-permit holders are identified as Marie Horvath and Craft Quality Poultry Ltd. I understand that a sale of the parcel of land, as well as a subdivision, is anticipated to go ahead soon after this permit is issued. A person who buys land containing CFO facilities permitted under AOPA automatically becomes a permit holder. Under section 28 of AOPA, the new owner must notify the NRCB of the change in ownership.

## **a. Location**

The proposed CFO is one of the parcels located on NE 26-9-21 W4M in Lethbridge County, roughly five km northeast of Lethbridge, Alberta. The terrain is relatively flat and the nearest common body of water is Eight Mile Lake roughly 3.5 km northeast of the proposed CFO.

## **2. Notices to affected parties**

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

- in the case where part of a CFO is located, or is to be located, within 100 m of a bank of a river, stream or canal, a municipality entitled to divert water from that body within 10 miles downstream
- the municipality where the CFO is located or is to be located
- any other municipality whose boundary is within a ½ mile (805 m) from the CFO
- all persons who own or reside on land within the greater of ½ mile (805 m) or the minimum distance separation for the land on which the CFO is located

The land zoning on which the CFO is located would require a minimum distance separation of 150 m. Therefore, the notification distance is 805 m (½ mile).

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 Lethbridge County, which is the municipality where the CFO is to be located.

No other municipality has a boundary within the notification distance.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in the Sunny South News newspaper in circulation in the community affected by the application on January 7, 2025 and,
- sending 13 notification letters to people identified by Lethbridge County as owning or residing on land within the notification distance.

The full application was made available for viewing during regular business hours.

## **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 Environment and Protected Areas (EPA), Alberta Transportation and Economic Corridors (TEC), and the St. Mary River Irrigation District (SMRID). After receiving a response to the application citing health concerns, I also notified Alberta Health Services (see details in Appendix B).

I also sent a copy of the application to ATCO, Alpha Bow Energy Ltd., and County of Lethbridge Rural Water Association Ltd (COLRWA) as they are easement or right of way holders at this land location.

In their response, an EPA water administration technologist stated that there are no groundwater or surface water diversion authorizations and that there appears to be one unlicensed water well on the NE 26-9-21 W4M. EPA also noted that the applicant claimed that they have sufficient water through SMRID and COLRWA for the proposed operation.

In their responses, a TEC development and planning tech stated that the proposed development falls within the permit area of a provincial highway outlined in the Highways Development and Protection Act/Regulation and that a permit will be required from Alberta Transportation. I received a second response notifying that a development permit had been approved.

In their response, a land administrator with SMRID noted that the applicant indicated that they would be using water from the COLRWA and SMRID. They stated that the applicant is not currently permitted to use SMRID water and would need to enter into a conveyance agreement with the district to do so. The applicant is reminded that they are required to obtain necessary water licenses.

#### **4. Alberta Land Stewardship Act (ALSA) regional plan**

Section 22(9) of AOPA requires that an approval officer must ensure the application complies with any applicable ALSA regional plan.

As required by section 4(1) of the South Saskatchewan Regional Plan (SSRP), I considered that document's Strategic Plan and Implementation Plan and determined that the application is consistent with those plans. In addition, there are no notices or orders under the Regulatory Details portion of the SSRP that apply to this application.

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

I have determined that the proposed CFO is consistent with the land use provisions of Lethbridge County's municipal development plan. (See Appendix A for a 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 9 and in Appendix C, 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." Lethbridge County is an affected party (and directly affected) because the proposed CFO is located within its boundaries.

Ms. Hilary Janzen, manager of planning and development with Lethbridge County, provided a written response on behalf of Lethbridge County. Ms. Janzen stated that the application is not consistent with Lethbridge County's municipal development plan (MDP) because it states that CFOs are to be excluded from being established on parcels less than 80 acres, and the parcel in question is 47.54 acres and was recently approved for subdivision to 12.71 acres. The application's consistency with the land use provisions of Lethbridge County's MDP and the county's concerns are addressed in Appendix A, attached.

Ms. Janzen stated that the CFO is proposed to be on land zoned Rural Agricultural, that the road and property line setbacks appear to be met, and that it is not within an Intermunicipal Development Plan area or an Area Structure Plan area. Ms. Janzen noted that the proposed CFO does not meet the setback requirements to adjacent residences, and that the smaller parcel size creates concerns for long-term manure management.

Apart from municipalities, an owner or occupant of land within the notification distance may request to be considered "directly affected." The NRCB received one response from two individuals.

The two individuals who submitted responses own or reside on land within the 805 metre 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 7.2.2)

The directly affected parties raised concerns regarding health impacts, disease transmission to humans via manure, disposal of dead animals, increased predator population, property values, and nuisance impacts.

These concerns are addressed in Appendix B.

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

New CFO facilities which clearly meet or exceed AOPA requirements may be 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.

## **9. Terms and conditions**

Registration LA24048 specifies the cumulative permitted livestock capacity as 20,000 quail layers and 300 chicken layers, and permits the conversion of the quail layer barn, chicken layer barn, and construction of the solid manure pad.

Registration LA24048 contains terms that the NRCB generally includes in all AOPA registrations, including terms stating that the applicant must follow AOPA requirements and must adhere to the project descriptions in their application and accompanying materials.

In addition to the terms described above, Registration LA24048 includes conditions that generally address construction deadlines, document submission (including surveyor report), and construction inspections. For an explanation of the reasons for these conditions, see Appendix C.

## **10. Conclusion**

Registration LA24048 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA24048.

February 19, 2025

(Original signed)  
Kailee Davis  
Approval Officer

### **Appendices:**

- A. Consistency with the municipal development plan
- B. Concerns raised by directly affected parties
- C. Explanation of conditions in Registration LA24048

## **APPENDIX A: Consistency with the municipal development plan and other concerns raised by Lethbridge County**

Under section 22 of AOPA, an approval officer may only approve an application for a registration or amendment of a registration if the approval officer holds the opinion that the application is consistent with the “land use provisions” of the applicable municipal development plan (MDP).

This does not mean consistency with the entire MDP. In general, “land use provisions” cover MDP policies that provide generic directions about the acceptability of various land uses in specific areas.

“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 9.2.7.)

Craft Quality Poultry’s proposed CFO is located in Lethbridge County and is therefore subject to that county’s MDP. Lethbridge County adopted the latest revision to this plan on March 10, 2022, under Bylaw #22-001.

The policies pertaining to CFOs are in part 4, section 3 “Intensive Livestock/Confined Feeding Operations.”

Section 3.0 states that the county is supportive of CFOs in areas that are less prone to conflict and where municipal infrastructure can support such developments.

This is likely not a land use provision as it is subjective what can or cannot be supported by municipal infrastructure and that is not within NRCB’s discretion.

Section 3.1 and 3.2 states that new CFOs are not permitted in the MDP CFO exclusion areas (Maps 2A and 2B), IDP CFO exclusions areas, or in CFO exclusion zones of high density residential growth centres.

The proposed CFO is not in any exclusion areas identified in these policies and is therefore consistent with this policy.

Section 3.3 states that existing operations within an urban fringe district may be permitted to expand or make improvements with consideration to any IDP that allows for such.

This proposed CFO is not an existing operation, therefore this policy does not apply. Nevertheless, it is not located in an urban fringe district.

Section 3.4 pertains to the consistency of CFO exclusion zones across the county's planning documents.

This policy is procedural in nature and is not a land use provision. Therefore, it is not relevant to my MDP consistency determination.

Section 3.5 states that CFOs shall not be supported to establish or expand within environmentally sensitive areas identified in the *Cotton Wood Report: County of Lethbridge: Environmentally Significant Areas in the Oldman River Region (1987)*.

The proposed CFO is not located within any environmentally sensitive areas identified in that report and is therefore consistent with this policy.

Section 3.6 states that "no part of a CFO building, structure, corrals, compost area, or stockpile is to be located within the property line and public roadway setbacks, including provincial highways, as outlined in the municipal Land Use Bylaw."

The application meets the setbacks outlined in Lethbridge County's Land Use Bylaw and is therefore consistent with this policy. The response received from Lethbridge County supports this finding.

Section 3.7 states that CFOs are discretionary uses only in areas zoned as Rural Agriculture with a minimum parcel size of 80 acres.

As noted in Lethbridge County's response, the proposed CFO is within a land use district zoned as Rural Agricultural. In their response, they also stated that the proposed CFO is inconsistent with the MDP because the parcel size is approved to be subdivided from 47.54 acres to 12.71 acres, and is not the minimum 80 acres stipulated in this policy. In my view, this provision is a test or condition that I am unable to consider as section 22(2.1) of AOPA states that approval officers shall not consider provisions respecting tests or conditions related to the site for a CFO. The restriction on parcel size is a condition for the site for a CFO. The application is consistent with the parts of this policy that I may consider.

Section 3.9 states that the county expects that the standards and procedures of AOPA and the Standards and Administration Regulation be consistently applied in regards to the land application of manure on lands designated as CFO Exclusion Areas.

I do not consider this a land use provision which precludes me of considering this policy. Regardless, in their response, the County had concerns about the long-term management of manure as the parcel is approved to be subdivided to 12.71 acres. The proposed CFO will be subject to the Standards and Administration Regulation under AOPA. This regulation provides rules for the land application of manure, including access to sufficient land for application of manure to prevent nutrient overloading. Craft Quality Poultry has provided sufficient land through a land spreading agreement to meet the AOPA requirement (see page 18 of Technical Document LA24048).

Sections 3.8, 3.10, and 3.11 discuss CFO operational practices with respect to AOPA, the use of a reciprocal MDS, and collaboration with the NRCB, respectively.

These policies are not land use provisions and therefore not relevant to my MDP consistency determination.

For these reasons, I conclude that the application is consistent with the land use provisions of Lethbridge County's MDP that I may consider.

In their response, Lethbridge County also stated that the application does not meet setbacks to adjacent residences. Under AOPA, minimum distance separation (MDS) is a requirement that stipulates the minimum distance that a manure collection area or manure storage facility must be from residences. Section 3(3) of the Standards and Administration Regulation further specifies that the minimum MDS is 150 m. As noted in Technical Document LA24048, this requirement is met as the nearest residence appears to be 154 m away from the proposed CFO. A condition will be included that requires a survey confirming the MDS of 150 m has been met.



## APPENDIX B: Concerns raised by directly affected parties

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 (see NRCB Operational Policy 2016-7: *Approvals*, part 7.2.2.)

- Edward and Gwen Umeris, NW 25-9-21 W4M

Section 21 (3)(b) of AOPA limits these directly affected parties to making submissions respecting whether the application meets the requirements of the regulations. Other than manure management and MDS and nuisance issues, the submission from the Umerises did not raise concerns related to AOPA requirements and in which way the application meets these requirements. Therefore, I am not able to address most of these concerns. However, as a courtesy and in recognition that they took time and effort to file a response, I will discuss the concerns briefly below.

The directly affected parties raised the following concerns:

Health concerns and disease transmission to humans via manure and water contamination - the respondents stated health concerns, specifically about avian flu, biosecurity protocols, and the transmission of diseases and zoonotic infections to humans via manure and water contamination from manure spreading.

I forwarded a copy of the application and the directly affected parties response to Alberta Health Services (AHS) for their review and comment. AHS responded stating that these issues fall under NRCB’s jurisdiction as an approval officers assesses an applications compliance with AOPA.

As detailed in Technical Document LA24048 and Section 6 of this Decision Summary, Craft Quality Poultry’s proposed CFO meets AOPA requirements designed to protect ground and surface water. It is presumed that the proposed CFO poses a low risk to surface water and ground water as it meets the technical requirements of AOPA. AOPA’s Standards and Administration Regulation (section 24) outlines requirements for manure spreading. This includes application limits, incorporation practices, and setback distances to common bodies of water. These requirements are designed to prevent or minimize nutrient overloading and the potential of manure contaminated runoff and subsequent contamination of surface water (and groundwater). Operators must adhere to these regulations. Additionally, ensuring that CFOs meet the minimum distance separation (MDS) to neighbouring residences reduces potential nuisance impacts, which may include the concentration of air emissions, such as ammonia. Some of the parties outside of the MDS may experience odours and other nuisance impacts, however, the frequency of these exposures will likely be limited and of short duration.

AOPA’s requirements for groundwater and surface water are designed to minimize potential risk that may impact human health. Complaints regarding manure related issues can be reported to the NRCB’s 24-hour reporting line (1-866-383-6722) and will be followed up on by an NRCB inspector.

Disposal of dead animals – the respondents expressed concern about the disposal of dead animals.

The disposal of dead animals is not under the jurisdiction of the NRCB and I am precluded from considering this as part of my review of the application. Alberta Agriculture and Irrigation (AGI) has jurisdiction under the *Animal Health Act*. Concerns about dead animal disposal can be brought forward to AGI.

Increased predator population and safety – the respondents expressed concern about the potential increase in predator populations and the safety of their family and pets.

Pests and other nuisance animals are not under the jurisdiction of the NRCB. I am precluded from considering this as part of my review of the application. AGI has jurisdiction of pests and nuisance animals under the *Agricultural Pests Act*. Concerns about pests and nuisance animals can be brought forward to AGI.

Impact on property values – the respondent expressed concern that the proximity to the proposed CFO will devalue their land.

The NRCB's Board has consistently stated that concerns regarding effects on 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, p. 5). I have determined that the application is consistent with the land use provisions of Lethbridge County's MDP.

Odour and other nuisances – the respondents expressed concern about smell and other nuisances as they are located downwind of the proposed CFO.

Minimum distance separation (MDS) is an AOPA requirement that is designed to minimize nuisance impacts such as odor and noise from CFOs based on land zoning. According to Lethbridge County's land use bylaw, the land surrounding NE 26-9-21 W4M is zoned 'rural agricultural'. The minimum MDS required from a manure storage area or manure collection area to a nearby residence is 150 m. The proposed CFO meets this requirement. It is presumed that nuisance effects from a proposed CFO will be acceptable if the MDS has been met. As a precaution, I have included a condition requiring a professional surveyor confirm that the CFO meets the minimum MDS requirement.

As stated above, complaints regarding manure related issues can be reported to the NRCB's 24-hour reporting line (1-866-383-6722) and will be followed up on by an NRCB inspector.

## **APPENDIX C: Explanation of conditions in Registration LA24048**

Registration LA24048 includes several conditions, discussed below:

### **a. Construction Deadline**

Craft Quality Poultry proposes to complete construction of the proposed quail layer barn, chicken layer barn, and solid manure pad by July 15, 2025. This timeframe is not considered to be reasonable for the proposed scope of work as it does not take contractor availability and construction delays into consideration. The deadline of November 30, 2027 is included as a condition in Registration LA24048.

### **b. Post-construction inspection and review**

The NRCB's general practice is to include conditions in new or amended permits to ensure that the new or expanded facilities are constructed according to the required design specifications. Accordingly, Registration LA24048 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the proposed quail layer barn and chicken 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”; and
- b. the concrete used to construct the liner of the manure collection and storage portion of the proposed solid manure pad to meet the specification for category C (solid manure – wet) in Technical Guideline Agdex 096-93 “Non-Engineered Concrete Liners for Manure Collection and Storage Areas”; and
- c. documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the conversion into a layer barn and quail barn, and the construction of the solid manure storage pad.
- d. Written confirmation, from a professional surveyor, that the chicken layer barn is located at least 150 m from the residence directly to the north, indicated as ‘property #5’ on pages 13 and 16 of Technical Document LA24048

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. Registration LA24048 includes conditions stating that Craft Quality Poultry shall not place livestock or manure in the manure storage or collection portions of the quail layer barn, chicken layer barn, or place manure on the solid manure pad until NRCB personnel have inspected them and confirmed in writing that they meet the registration requirements.