

Decision Summary RA24026

This document summarizes my reasons for issuing Registration RA24026 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA24026. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at www.nrcb.ca under Confined Feeding Operations (CFO)/CFO Search. My decision is based on the Act and its regulations, the policies of the NRCB, the information contained in the application, and all other materials in the application file.

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

1. Background

On May 27, 2024, Courtney and Annabelle Unruh (Unruh) submitted a Part 1 application to the NRCB to construct a new poultry confined feeding operation (CFO).

The Part 2 application was submitted on December 19, 2024. On January 21, 2025, I deemed the application complete.

The proposed CFO involves:

- Permitted livestock capacity of 10,000 chicken layers
- Constructing a layer barn – 85.3 m x 18.3 m (280 ft. x 60 ft.) with attached manure storage pad – 15.2 m x 15.2 m (50 ft. x 50 ft.)

The application also notified the NRCB of the proposed construction of an egg handling area 15.2 m x 18.3 m (50 ft. x 60 ft.). 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 is part of the CFO but does not need to be permitted under the Act.

a. Location

The proposed CFO is located on the northeast corner of SE 2-54-4 W4M in the County of Vermilion River, roughly 6 km northeast of Dewberry, AB. The terrain is rolling with a valley creek system adjacent to the property and the nearest common body of water being a seasonal creek 180 m to the north.

2. Notices to affected parties

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

- in the case where part of a CFO is located, or is to be located, within 100 m of a bank of a river, stream or canal, a municipality entitled to divert water from that body within 10 miles downstream
- the municipality where the CFO is located or is to be located

- any other municipality whose boundary is within a ½ mile (805 m) from the CFO
- all persons who own or reside on land within the greater of ½ mile (805 m) or the minimum distance separation for the land on which the CFO is located

The land zoning on which the CFO is located would require a minimum distance separation of 230 metres. Therefore, the notification distance is ½ mile (805 metres). (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 the County of Vermilion River, which is the municipality where the CFO is to be located.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in Vermilion Voice newspaper in circulation in the community affected by the application on January 21, 2025, and
- sending 7 notification letters to people identified by the County of Vermilion River as owning or residing on land within the notification distance.

The full application was made available for viewing during regular business hours at the Red Deer NRCB office.

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.

A referral letter and a copy of the complete application was emailed to Alberta Environment and Protected Areas (EPA). Ms. Laura Partridge, a senior water administration officer with EPA replied to the application informing the applicant that there is no existing water licence for the proposed land location and that one is required. The applicant has been made aware of this requirement from both Ms. Partridge and myself, and has been provided information on this process for their follow-up.

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.

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 the County of Vermilion River’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 9 and in Appendix B, 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.” The County of Vermilion River is an affected party (and directly affected) because the proposed CFO is located within its boundaries.

Mr. Robert Garnett, the director of planning with the County of Vermilion River, provided a written response on behalf of the County of Vermilion River. Mr. Garnett stated that the application is consistent with the County of Vermilion River’s land use provisions of the municipal development plan (MDP). The application’s consistency with the land use provisions of the County of Vermilion River’s MDP, is addressed in Appendix A, attached.

Mr. Garnett also noted that the application meets the setbacks required by the County of Vermilion River’s land use bylaw (LUB).

No responses were received from any other person, organization, or member of the public.

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 monitoring for the facility. In this case a determination was made, and monitoring is not required.

9. Terms and conditions

Registration RA24026 specifies the cumulative permitted livestock capacity as 10,000 chicken layers and permits the construction of the layer barn and attached manure storage pad.

Registration RA24026 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 RA24026 includes conditions that

generally address construction deadlines, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

10. Conclusion

Registration RA24026 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA24026.

March 6, 2025

(Original signed)

Nathan Shirley
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Registration RA24026

APPENDIX A: Consistency with the municipal development plan

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

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

“Land use provisions” do not call for discretionary judgements relating to the acceptability of a given confined feeding operation 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.)

Unruh’s proposed CFO is to be located in the County of Vermilion River and is therefore subject to that county’s MDP. The County of Vermilion River adopted the latest revision to this plan in May 2022, under Bylaw 19-03.

Part 5.9 of the MDP states the goal is to conserve agricultural land. This part includes their objectives, which includes “[p]reserving existing productive farmland for agricultural use from incompatible, non-farming related uses and support the continuation of agricultural operations and agriculture support activities in the County.”

Policies 5.9.2 (b), (c), (d), (e) and (f) of the MDP relate specifically to CFOs.

Policy 5.9.2. (b) of the MDP states that the County’s response to a CFO application will be based on the “technical and locational merits of each application.” As this provision is directed specifically at the County’s response, it likely is not directly relevant to the NRCB’s own “MDP consistency” determination. This policy also states that CFOs must “fully satisfy all the requirements and regulations” under AOPA, “specifically the minimum distance separation requirements and the land base requirements”. Policy 5.9.2 (c) similarly states that “[m]inimum distance separations for CFOs shall conform to standards set out in” AOPA. These two policies are likely not relevant “land use provisions”. However, the application meets the MDS and all other AOPA requirements, so it is consistent with these policies.

Policy 5.9.2 (d) states that “[i]n addition to the minimum distance separation requirements provided through regulations adopted under the Agricultural Operation Practices Act, the County’s policy is that confined feeding operations requiring registration or approval and manure storage facilities requiring authorization under that Act must be sustainable within 2.4 km (1.5 miles) of the corporate boundaries of any urban municipality within the County of Vermilion River or within 0.8 km (0.5 miles) of the Community Areas designated on Map 1, which areas shall be considered an urban fringe when calculating the regulations approved under the Agricultural Operation Practices Act.

Unruh's proposed CFO location is outside of all the setbacks stated in the policy, therefore meets this policy.

Policy 5.9.2 (e) states that "CFO's will be discouraged from locating in environmentally sensitive areas where slope instability and or groundwater contamination may be of concern".

This policy is likely not a "land use provision", because it calls for a discretionary judgment regarding the merits of each application, therefore, it is not relevant to my MDP consistency determination. At any rate, the CFO site is not in an area where slope instability is a concern, and as previously noted in section 8 of this decision summary, the CFO's proposed facilities pose a low potential risk to groundwater as the application meets the requirements in AOPA's regulation, so the application is consistent with this MDP policy.

Policy 5.9.2 (f) requires that in addition to meeting the requirements of AOPA and the County's MDP, the application must meet the County's Area Structural Plan. Unruh's proposed CFO is not part of an Area Structural Plan.

Based on my review of the County's MDP, I conclude that the application is consistent with the land use provisions in the County's MDP.

APPENDIX B: Explanation of conditions in Registration RA24026

Registration RA24026 includes several conditions, discussed below:

a. Construction Deadline

Unruh proposes to complete construction of the proposed new layer barn with attached manure pad by December 31, 2026. This timeframe is considered to be reasonable for the proposed scope of work. The deadline of December 1, 2026 is included as a condition in Registration RA24026.

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 RA24026 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the layer barn and manure pad 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. Unruh to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the layer barn and manure pad.

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 RA24026 includes conditions stating that Unruh shall not place livestock or manure in the manure storage or collection portions of the new layer barn, nor place manure on the manure pad until NRCB personnel have inspected the facilities and confirmed in writing that they meet the registration requirements.