

Decision Summary RA25009

This document summarizes my reasons for issuing Approval RA25009 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA25009. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at www.nrcb.ca under Confined Feeding Operations (CFO)/CFO Search. My decision is based on the Act and its regulations, the policies of the NRCB, the information contained in the application, and all other materials in the application file.

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

1. Background

On January 28, 2025, Neudorf Hutterian Brethren (Neudorf Colony) submitted a Part 1 application to the NRCB to increase the permitted livestock numbers at an existing multi-species CFO.

The Part 2 application was submitted on January 28, 2025. On February 11, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing the permitted number of milking cows from 85 to 120 (plus associated dries and replacements)
- Increasing the permitted number of sows farrow to finish from 400 to 600
- Increasing the permitted number of chicken broilers from 2,000 to 3,000
- Increasing the permitted number of turkeys from 300 to 500
- Increasing the permitted number of ducks from 900 to 1,100

No construction is proposed in this application as the existing facilities can accommodate the additional animals.

a. Location

The existing CFO is located at E½ 7-29-27 W4M in Mountain View County, roughly 12 km east and 7 km south of Carstairs, Alberta. The terrain on the site is relatively flat. The Rosebud River flows from the northwest quarter to the southeast quarter of section 7-29-27 W4M and is approximately 114 metres from the nearest manure storage facility at the CFO.

b. Existing permits

To date, the CFO has been permitted under NRCB Approval RA24029. That permit allowed for the construction and operation of a multi-species CFO consisting of 85 milking cows (plus associated dries and replacements), 400 sows farrow to finish, 2,000 chicken broilers, 40,000 chicken layers, 22,000 chicken pullets, 300 turkeys and 900 ducks. The CFO's existing permitted facilities are listed in the appendix to the Approval RA25009.

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 Mountain View County, which is the municipality where the CFO is located, and to Rocky View County which has a boundary within the affected party radius.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in The Albertan and the Rocky View Weekly newspapers in circulation in the communities affected by the application on February 11, 2025, and
- sending 58 notification letters to people identified by Mountain View County and Rocky View 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 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 Environment and Protected Areas (EPA), and Alberta Agriculture and Irrigation (AGI).

I also sent a copy of the application to Rocky View Gas Co-op Ltd., TAQA North Ltd., AltaLink Management Ltd., and Fortis Alberta Inc. as they are right of way holders.

A representative from AGI replied and provided the name of the dairy inspector responsible for the file.

No other responses were received.

4. Alberta Land Stewardship Act (ALSA) regional plan

Section 20(10) of AOPA requires that an approval officer must ensure the application complies with any applicable ALSA regional plan.

There is no ALSA regional plan for the area where the existing CFO is located.

5. Municipal Development Plan (MDP) consistency

I have determined that the proposed expansion is consistent with the land use provisions of Mountain View County's municipal development plan. (See Appendix A for a more detailed discussion of the County's planning requirements.)

The site is not subject to an intermunicipal development plan or an area structure plan.

6. 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 AOPA's nutrient management requirements regarding the land application of manure

With the terms and conditions summarized in part 10 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." Mountain View County is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Ms. Peggy Grochmal, a permitting and development officer with Mountain View County, provided a written response on behalf of Mountain View County. Ms. Grochmal stated that the application is consistent with Mountain View County's land use provisions of the municipal development plan. The application's consistency with the land use provisions of Mountain View County's municipal development plan is addressed in Appendix A, attached.

Rocky View County is also a directly affected party because the municipality's border is within the notification radius.

Ms. Elena Moezzi, a regional planner, responded on behalf of Rocky View County. Ms. Moezzi stated that the application is consistent with Rocky View County's MDP, and that no IDP applies to the site. Ms. Moezzi did not raise any concerns with the application.

Apart from municipalities, any member of the public may request to be considered "directly affected." The NRCB received three responses from one individual and two other parties.

All of the people 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 water usage and the increase in traffic. These concerns are addressed in Appendix B.

8. 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.) 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 Neudorf Colony's existing CFO facilities were assessed in 2016 and 2024 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.

9. Other factors

Because the approval application is consistent with the MDP land use provisions, and meets the requirements of AOPA and its regulations, I also considered other factors.

AOPA requires me to consider matters that would normally be considered if a development permit were being issued. The NRCB interprets this to include aspects such as property line and road setbacks related to the site of the CFO. (*Grow North*, RFR 2011-01 at page 2). Approval officers are limited to what matters they can consider though as their regulatory authority is limited.

Ms. Grochmal also listed the setbacks required by Mountain View County's land use bylaw (LUB). Because the application is not proposing new construction, an assessment of the setbacks is not required.

I have considered the effects the proposed expansion may have on natural resources administered by provincial departments. EPA has not made me aware of statements of concern submitted under section 73 of the *Environmental Protection and Enhancement Act* or under 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 any written decision of the Environmental Appeals Board for this location (<http://www.eab.gov.ab.ca/status.htm>, accessed March 27, 2025).

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 and the directly affected parties' concerns have been addressed.

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 and the directly affected parties' concerns have been addressed.

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.

10. Terms and conditions

Approval RA25009 specifies the cumulative permitted livestock capacity as:

- 120 dairy cows (plus associated dries and replacements),
- 600 sows farrow to finish,
- 3,000 chicken broilers,
- 40,000 chicken layers,
- 22,000 chicken pullets,
- 500 turkeys, and
- 1,100 ducks.

Approval RA25009 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.

For clarity, and pursuant to NRCB policy, I consolidated Approval RA24029 with Approval RA25009 (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. Appendix C discusses which conditions from the historical permits are or are not carried forward into the new approval.

11. Conclusion

Approval RA25009 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA25009.

Previously issued Approval RA24029 is therefore superseded, and its content consolidated into this Approval RA25009, unless Approval RA25009 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval RA24029 will remain in effect.

April 8, 2025

(Original signed)
Lynn Stone
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Concerns raised by directly affected parties
- C. Explanation of conditions in Approval RA25009

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.)

Neudorf Colony’s CFO is located in Mountain View County and is therefore subject to that county’s MDP. Mountain View County adopted the latest revision to this plan on September 14, 2022, under Bylaw No. 20/20.

As relevant here, section 2.0 of the MDP provides a “growth management strategy” that is reflected in the land use map in Figure 3 of the MDP. Because the land use designations in Figure 3 are not meant to be definitive, the MDP’s “growth management strategy” based on these designations is not considered to be a “land use provision”, rather it helps to identify where the location of CFO’s would be considered to be more suited within the County.

Neudorf Colony’s CFO is within the “Agricultural Preservation Area” marked on Figure 3. Section 2 of the MDP explains that the “majority” of this area is subject to the “applicable Agricultural Land Use Policies outlined in Section 3.0 of the MDP...”.

3.3.1 states that “[A]ll lands in the County are deemed to be agricultural, unless otherwise designated for other uses”. Neudorf Colony’s land is designated as agricultural.

As relevant here, sub-section 3.3.15 precludes new CFOs within 1.6 km (1 mile) of any identified growth centre or of an IDP with adjacent urban municipalities. The CFO is existing and therefore this provision does not apply. Nevertheless, Neudorf Colony’s CFO is not within this 1.6 km setback for either the growth centre or an IDP.

Sub-section 3.3.17 states that applications for new or expanding CFOs “shall meet all Provincial standards”. This sub-section likely isn’t a “land use provision” and therefore is not relevant to my MDP consistency determination. Regardless, Neudorf Colony’s application meets AOPA requirements.

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

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 7.2.1)

- Gerald and Linda Gatez, NW-33-28-27-W4M
- Ross and Tracy Laut, SE-14-29-28-W4M
- Cameron Laut, SE-14-29-28-W4M

Concerns from directly affected parties

The directly affected parties raised the following concerns: water usage and increase in traffic

Water usage- All parties expressed concern about the increase in water needed to support the additional livestock. The Gatezes shared that some neighbouring CFOs had wells that ran out of water last year. Ross and Tracy Laut stated that since 1992, their water well production has decreased substantially and suggested that the Colony is depleting their aquifer. Cameron Laut expressed general concern about the stress on the local water systems.

Applicant's response- The applicant engaged their hydrogeologist to respond to the neighbour's water usage concerns. I've summarized the hydrogeologist's responses below.

Gatez well: The Gatez site is approximately 5 km southeast of the new water supply wells that are being licensed by Neudorf Colony. Based on geological mapping, it appears likely that the wells supplying the Gatez are in a similar aquifer to at least some of the new wells at Neudorf. However, the distance between the new wells at Neudorf and the Gatez site is favorable as less drawdown would be experienced with increasing distance. The water levels in the Gatez well in 2017 was similar to the same water levels observed at Neudorf in 2024. Observation wells were installed at Neudorf Colony (which are in close proximity to the Neudorf supply wells) and the water levels were measured. This is done to ensure that declines in water levels in the aquifer due to production from the Neudorf supply wells will be observed before pumping from the supply wells causes adverse effects to the Gatez wells.

Laut well (Ross, Tracy, and Cameron): The Lauts have at least three wells on their site, approximately 4 km west of the new water supply wells that are being licensed by Neudorf Colony. Based on geological mapping, it appears likely that the wells supplying the Lauts are in a similar aquifer to at least some of the new wells at Neudorf. However, there is insufficient water level data in the Laut wells to see if the declining water levels may indicate aquifer dewatering. The distance between the new wells at Neudorf and the Lauts sites is favorable as less drawdown would be experienced with increasing distance. Drawdown in the aquifer would be expected to be less as precipitation and aquifer recharge would lower the drawdown amount. More importantly, the Rosebud River is between the Lauts and the Neudorf water supply wells, which would serve as a source of aquifer recharge. In their letter, the Lauts expressed that they experienced a sudden drop in water well productivity after the establishment of Neudorf Colony. It is unlikely that the establishment of the Colony caused this sudden reduction, as aquifer dewatering is a slow and long-term effect. The hydrogeologist suggests that it is more likely that the withdrawal was caused by the deterioration of the Laut's well bore, as this can result in a sudden loss of productivity. The hydrologist went on to suggest a testing protocol to address the cause of the Laut's loss of well productivity. Observation wells were installed at Neudorf Colony

(which are in close proximity to the Neudorf supply wells) and the water levels were measured. This is done to ensure that declines in water levels in the aquifer due to production from the Neudorf supply wells will be observed before pumping from the supply wells causes adverse effects to the Laut wells.

Approval Officer's comments- Alberta Environment and Protected Areas (EPA) is responsible for licencing the use of groundwater and surface water in Alberta. The water licencing process includes an opportunity for members of the public to provide input. Therefore, for efficiency and to avoid inconsistent regulation, NRCB approval officers generally do not consider water supply concerns when reviewing AOPA permit applications, other than ensuring that applicants sign one of the water licencing declarations listed in the Part 2 application form. (See NRCB RFR 2024-04 Ridder Farms Ltd. at p 6.)

Neudorf Colony chose the declaration indicating that they will be applying for water licensing separately from the AOPA process. (See page 4 of 13 in Technical Document RA25009). A copy of this application and decision were submitted to EPA for their information and follow up.

Increase in traffic- one individual expressed concern about how the increase in livestock will result in further traffic. The individual stated that the main road from the Colony is already very busy.

Approval officer's comments- The NRCB does not have direct responsibility for regulating road use or maintenance. Section 18 of the *Municipal Government Act* gives counties "direction, control and management" of all roads within their borders. Because of this it would be impractical and inefficient for the NRCB to attempt to manage road use through AOPA permits (see NRCB Operational Policy 2016-7 Approvals, part 9.13).

In addition, municipalities own the roads within their jurisdiction and have the knowledge and expertise to determine if road use agreements are required and have the jurisdiction to implement and enforce road use restrictions and road use agreements. A copy of this application was sent to both Mountain View County and Rocky View County for their comments. Neither municipality expressed concern about traffic.

APPENDIX C: Explanation of conditions in Approval RA25009

Approval RA25009 does not include any new conditions but carries forward all of the conditions from Approval RA24029. Condition 5 (dairy cow number verification) has been updated to reflect the new permitted dairy numbers.