

Decision Summary LA25018

This document summarizes my reasons for issuing Approval LA25018 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25018. 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 February 24, 2025, Riley Liefting, on behalf of Prairie Brooks Poultry Ltd. (Prairie Brooks Poultry), submitted a Part 1 application to the NRCB to expand an existing poultry CFO.

The Part 2 application was submitted on March 3, 2025. On March 11, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing chicken broiler breeder numbers from 16,000 to 24,000
- Decommissioning the outdoor manure storage
- Constructing lay barn 3 – 91.4 m x 12.8 m

a. Location

The existing CFO is located at SW 5-10-20 W4M in Lethbridge County, roughly 10 km northeast of Lethbridge, Alberta. The terrain is mostly flat, sloping slightly to the southwest towards Eight Mile Lake approximately 400 m away.

b. Existing permits

To date, the CFO has been permitted under NRCB Approval LA15020. That permit allowed the construction and operation of a 16,000 chicken broiler breeders and 8,000 chicken pullets CFO. The CFO's existing permitted facilities are listed in the appendix to the Approval LA25018.

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 0.5 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 Lethbridge 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 Sunny South News newspaper in circulation in the community affected by the application on March 11, 2025, and
- sending 24 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 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), Alberta Transportation & Economic Corridors (TEC), and the St. Mary River Irrigation District (SMRID).

I also sent a copy of the application to Canadian Western Natural Gas Company Ltd., Hollandale Water Society, Equus Rea Ltd., and South Alta Rural Electrification Association Ltd. as they are right-of-way holders on the subject land.

In their response, a water administration technologist with EPA stated that there are no groundwater, surface water, or agricultural registrations for the land location of the CFO. They stated that the applicant is required to provide the licence numbers from any quarters that may supply water to the land locations specified in the application for the additional water requirements so they can be confirmed by EPA. He stated that should it be determined that additional water is required, options for obtaining legal water sources for the additional diversion(s) can be discussed with EPA. The response from EPA was forwarded to the applicant for their information and action. The applicant is reminded it is their responsibility to ensure they have adequate water licensing for their entire operation's requirements.

In their response, a land administrator with SMRID acknowledged that Prairie Brooks Poultry indicated on the application that they will use potable water from COLRWA and that the district needs verification of their intended water supply.

In their response, a development and planning tech with TEC stated that they do not have any concerns with the application and a permit from Alberta Transportation is not required.

Approval LA25018 does not relieve the permit holder from complying with other applicable laws, such as safety codes, other municipal bylaws, provincial legislation (e.g. Historical Resources Act), and federal legislation (e.g. Migratory Birds Convention Act).

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.

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 expansion is consistent with the land use provisions of Lethbridge County'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 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 of manure storage facilities and manure collection areas

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

Ms. Hilary Janzen, manager, 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 because it does not meet the minimum parcel size. The application's consistency with the land use provisions of Lethbridge County's municipal development plan is addressed in Appendix A, attached.

Lethbridge County raised concerns about the long-term manure management at the CFO. As noted in Section 6, Prairie Brooks Poultry meets AOPA's nutrient management requirements as they have provided sufficient manure spreading agreements for the proposed expansion.

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

8. Environmental risk of CFO facilities

New MCA which clearly meet or exceed AOPA requirements may be assumed to pose a low risk to surface and groundwater. There may be circumstances where, because of the proximity of a shallow aquifer, porous subsurface materials, or surface water systems an approval officer may require monitoring for the facility. In this case, a determination was made, and monitoring is not required.

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 Prairie Brooks Poultry's existing CFO facilities were assessed in 2010 and 2015 using the ERST. According to those assessments, the facilities pose 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. Hilary Janzen listed the setbacks required by Lethbridge County's land use bylaw (LUB) and noted that the application appears to meet these setbacks. She also stated that the CFO is not within an intermunicipal development plan or area structure plan area.

I have also considered the effects the proposed expansion 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* or under section 109 of the *Water Act* in respect of the subject of this application.

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 April 30, 2025).

Finally, I considered the effects of the proposed CFO expansion on the environment, the economy, and the community, and the appropriate use of land. In doing so, I had before me information in the application, responses from Lethbridge County and referral agencies, and my own observations from site visits.

Consistent with NRCB Operational Policy 2016-7: *Approvals*, part 9.10.9, I presumed that the effects on 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 expansion is presumed to have an acceptable effect on the economy and community. In my view, this presumption is not rebutted (see discussion of the MDP in Appendix A).

I also presumed that the proposed CFO 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 LA25018 specifies the cumulative permitted livestock capacity as 24,000 chicken broiler breeders and 8,000 chicken pullets and permits the construction of lay barn 3.

Approval LA25018 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 LA25018 includes conditions that generally address construction deadline, monitoring, document submission, construction inspection, and decommissioning. For an explanation of the reasons for these conditions, see Appendix B.

For clarity, and pursuant to NRCB policy, I consolidated the following permit with Approval LA25018: Approval LA15020 (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 B discusses which conditions from the historical permit are or are not carried forward into the new approval.

11. Conclusion

Approval LA25018 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25018.

Prairie Brooks Poultry's NRCB-issued Approval LA15020 is therefore superseded, and its content consolidated into this Approval LA25018, unless Approval LA25018 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval LA15020 will remain in effect.

May 1, 2025

(Original signed)
Kailee Davis
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Approval LA25018

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.)

Prairie Brooks Poultry’s 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 existing CFO is located in a CFO exclusion area. This application is for the expansion of an existing CFO, not a new CFO. Therefore, this policy is not applicable to the application.

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.

The CFO is not within an urban fringe district and is therefore consistent with this policy.

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 CFO is located near, but not 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 proposed construction of lay barn 3 meets the setbacks described in this policy. This is supported by Lethbridge County’s response to the application.

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 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 76.08 acres and not the 80 acres stipulated in this policy. In my view, this provision is a test or condition that I am unable to consider as section 20(1.1) 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.

Sections 3.8, 3.9, 3.10, and 3.11 discuss CFO operational practices with respect to AOPA, manure spreading in CFO exclusion areas, the use of a reciprocal MDS, and collaboration with the NRCB, respectively.

These policies are not land use provisions (test or condition, not applicable, procedural) 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.

APPENDIX B: Explanation of conditions in Approval LA25018

Approval LA25018 includes several conditions, discussed below, and carries forward a number of conditions from Approval LA15020. Construction conditions from historical permits that have been met are identified in the appendix to Approval LA25018.

1. New conditions in Approval FA17005

a. Construction deadline

Prairie Brooks Poultry proposes to complete construction of lay barn 3 by December 2025. To account for unforeseen circumstances, it is my opinion that a longer time frame is appropriate for the proposed construction. Therefore, the deadline of November 30, 2027 is included as a condition in Approval LA25018.

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 LA25018 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the lay barn 3 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. Prairie Brooks Poultry to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of lay barn 3.

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 LA25018 includes a condition stating that Prairie Brooks Poultry shall not place livestock or manure in the manure storage or collection portions of lay barn 3 until NRCB personnel have inspected the facility and confirmed in writing that they meet the approval requirements.

c. Decommissioning

A condition will be included in the approval requiring the permit holder to decommission the outdoor manure storage according to Technical Guideline Agdex 096-90 “Closure of Manure Storage Facilities and Manure Collection Areas”.

2. Conditions carried forward from Approval LA15020

The following conditions will be carried forward as written (or re-written) and re-numbered in Approval LA25018:

5. *The permit holder shall conduct leak detection monitoring for the solid manure collection area and the solid manure storage facility according to a groundwater monitoring system prescribed and authorized in writing, and as amended from time to time where appropriate, by the NRCB.*
10. *Poultry litter is not to be applied within 100' of the canal on the east side of the property and 50' of the drain on the north, nor on weekends.*

AOPA prohibits the spreading of manure within 30 m (100') from common bodies of water, which includes canals. Prohibiting spreading manure within 15m (50') of a common body of water is less stringent than AOPA. Therefore, these parts of the condition will not be carried forward. However, AOPA does not prohibit spreading manure on weekends. Because this is more stringent than AOPA, this condition will be re-written, re-numbered, and carried forward.

3. Conditions not carried forward from Approval LA15020

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that operating conditions 6-9 and 11-13 from Approval LA15020 should be deleted and therefore are not carried forward to Approval LA25018.

6. Dead birds are to be disposed of by an approved, on site incinerator.

This condition relates to the disposal of dead animals which is regulated by Alberta Agriculture and Irrigation. All livestock owners are required to dispose of livestock mortalities in accordance with the Animal Health Act. Given Alberta Agriculture and Irrigation's direct oversight for the disposal of dead animals and the regulatory requirements, this condition will not be carried forward to Approval LA25018.

7. The development is to be constructed of as a "dry" manure system only. No water is to be used in the movement of manure.

The first part of this condition is a construction condition that has already been met. The latter part does not pertain to the operation of this CFO as it operates as a dry manure system. Therefore, this condition will not be carried forward.

8. Manure storage is to be emptied and land applied every 6 months.

AOPA requires that CFOs have a minimum of nine months of manure storage. This condition will not be carried forward as it is less stringent than current AOPA requirements.

9. Poultry litter is not to be applied on snow covered or frozen ground.

This condition is considered redundant as current AOPA legislation does not permit the application of manure on frozen or snow covered ground without the prior approval of the NRCB. Therefore, this condition will not be carried forward.

11. Poultry litter is to be incorporated within 48 hours of application.

This condition will not be carried forward as it is equivalent to AOPA requirements. Section 24(1) of the Standards and Administration Regulation requires the incorporation of manure within 48 hours of spreading manure.

12. Manure from other sites is not to be accommodated at this location.

This condition will not be carried forward as it is impractical or impossible to enforce as written as it is unclear what "accommodate" means. Additionally, operators have to adhere to AOPA and its regulations, including keeping manure records.

13. A suitable row of trees is to be placed around the facility adhering to County right-of-way distance setback requirements.

This condition is a construction condition that has been met. Therefore, it will not be carried forward.